Grantee Handbook
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(Updated January 2020)

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2/25/2020

1990 Anti-Lobbying Certification

On Wednesday, December 20, 1989, a Notice was published in the Federal Register (page 52070) advising recipients and subrecipients of Federal contracts, grants, cooperative agreements, and loans of a new prohibition mandated by Congress. Section 319 of Public Law 101-121, signed on October 23, 1989, generally prohibits recipients of Federal contracts, grants, and loans from using appropriated funds for lobbying the Executive or Legislative branches of the Federal Government in connection with a specific contract, grant, or loan.

The Federal Register guidance specifically forbids the Department of Housing and Urban Development from awarding contracts, grants, cooperative agreements, or loans unless the recipient has made an acceptable certification regarding lobbying.

This new requirement has since been narrowed to signed certifications for **all awards of Federal monies over $100,000.** This begins with the State's award and goes to grantees, contractors, subcontractors, and suppliers, etc., over $100,000 in all grants.

Failure of the grantee to obtain this certification from all awards of $100,000 or more will result in a program finding.

Included herein is a copy of this certification.

Certification Regarding Government-Wide Restriction on Lobbying (For Contracts Over $100,000)

The undersigned certifies, to the best of his or her knowledge and belief, that:

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

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

3. The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, cooperative agreements) over $100,000, and that all subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by Section 1352, Title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than $10,000 and not more than $100,000 for each such failure.

_____	_____
Date	Principal

Kansas Department of Commerce
Conflict of Interest Policy

The State of Kansas agreed, when it accepted the CDBG program in 1983, to abide by 24 CFR 570.611 of the Federal regulations (conflict of interest) for the program. The Kansas Department of Commerce developed a conflict of interest policy on April 22, 1994, relating to housing. This policy has been broadened to cover all areas of participation in all programs funded by CDBG monies. In an attempt to clarify this issue for the State's program, the State has adopted, as of July 1, 1996, the following position on conflict of interest, incorporating the April 22, 1994, policy and extending the policy further to address other areas as provided in 24 CFR 570.611 and 2 CFR Part 200.

Standard of Conduct Involving Conflict of Interest

I. Persons Covered: The conflict of interest provisions of this policy shall apply to any person who is an employee, elected or appointed official, agent, consultant, officer, or any immediate family member or business partner of the above, of the recipient, or of any designated public agencies, or subrecipients which are receiving funds from the Kansas Community Development Block Grant program.

II. Applicability:

A. In the area of procurement of supplies, equipment, construction, and services by recipients, subrecipients, or designated public agencies, the conflict of interest provisions in Public Law 103-355 or 2 CFR Part 200, as applicable, shall apply.

B. In all cases not governed by PL 103-355, the provisions of this policy shall apply. Such cases include the acquisition and disposition of real property and the provisions of assistance by the recipient or subrecipients to individuals, businesses and other private entities in the form of grants, loans, or other assistance through eligible activities of the program which authorize assistance.

III. Conflicts Prohibited: Except for approved eligible administrative or personnel cost, no persons described in I. above who exercise or have exercised any functions or responsibilities with respect to CDBG activities assisted under the State program or who are in a position to participate in a decision-making process or gain inside information with regard to such activities, may obtain a personal or financial interest or subcontract or agreement with respect thereto, or the proceeds thereunder, either for themselves or those with whom they have family or business ties, during their tenure or for one year thereafter. For the State CDBG Economic Development program, the above restrictions shall apply to all activities that are a part of the funding approval for all projects, and shall cover any such interest or benefit during, or at any time after, such person's tenure.

A. An exception may be considered only after the grant applicant has provided the following:

1. A disclosure of the nature of the conflict accompanied by an assurance that there has been a public disclosure of the conflict and a description of how the public disclosure was made;

2. A recording of the disclosure in the official minutes of the governing body of the grantee; and

3. An opinion of the recipient's attorney that the interest for which the exception is sought would not violate State or local law.

B. In determining whether to grant an exception, after the above three items have been received, the State shall consider the following factors, where applicable:

1. Whether the exception would provide a significant cost benefit or an essential degree of expertise to the program or project which would otherwise not be available;

2. Whether an opportunity was provided for open competitive bidding or negotiation;

3. Whether the person affected is a member of a group or class of low- or moderate- income persons intended to be the beneficiaries of the assisted activity, and the exception will permit such person to receive generally the same interests or benefits as are being made available or provided to the group or class;

4. Whether the affected person has withdrawn from his or her functions or responsibilities, or the decision-making process with respect to the specific assisted activity in question;

5. Whether the interest or benefit was present before the affected person was in a position as described in Section III;

6. Whether undue hardship will result either to the recipient or the person affected when weighted against the public interest served by avoiding the prohibited conflict; and

7. Any other relevant considerations.

If after all considerations, determination is made to grant an exception, the State shall issue a waiver noting such exception and the conditions and the basis for the issuance of same.

It is the policy of the CDBG program that no waiver will be issued concerning benefit to the chief elected official or governing body members of the grantee, except in dire circumstances affecting performance. (i.e.: natural disaster)

Disclosure Requirements

On March 16, 1991, HUD published in the Federal Register a final rule entitled, "Accountability in the Provision of HUD Assistance." This rule was amended on January 16, 1992. This final rule implements Section 102 of the HUD Reform Act of 1989. Section 102 contains provisions to ensure greater accountability and integrity in the way in which HUD assistance is made available.

Subpart C of Section 102 is applicable to Commerce administered CDBG program. Subpart C requires certain applicants for CDBG assistance to make a number of disclosures. Since Subpart C applies to all CDBG applications that are submitted after March 16, 1992, all applicants will be required to submit a Disclosure Report with the applications. It is hoped that the following provides a general understanding of the disclosure requirements. Please review this material and the attached Disclosure Form and Instructions carefully. If you have any questions, please contact the Department of Commerce at (785) 296-3004, TTY: 711

Subpart C of 24 CFR Part 12 requires applicants for state-administered CDBG funds to make a number of disclosures if they meet a dollar threshold for the receipt of certain covered assistance.

Who Must Make the Disclosures?

Full Disclosure Reports must be made by the following:

⇒ Any applicant applying for more than $200,000 of CDBG funds.

⇒ Any applicant applying for less than $200,000 of CDBG funds, but has received or could receive other covered assistance when added to the CDBG funds exceeds $200,000.

An applicant is applying for CDBG funds amounting to $200,000 or less, and will not be receiving other covered assistance, is not required to make full disclosures, but must complete and submit Part I of the Disclosure Report with its application.

Guidance Regarding Disclosures

Applicants must submit an initial Disclosure Report with their CDBG applications. Those applicants required to submit full initial reports must also submit update reports as required by Section B below.

A. Initial Reports

Applicants required to submit full initial reports must disclose the following:

1. Other government assistance (federal, state, and/or local) that is to be used in conjunction with the CDBG project.

2. The pecuniary interest of any developer, contractor, or consultant involved in the application for CDBG assistance or in the planning, development, or implementation of the CDBG project.

3. The pecuniary interest of any other person in the project that exceeds $50,000 or 10 percent, whichever is lower, of the CDBG assistance applied for.

4. The sources of all funds to be used in the project (including those sources identified for Number 1 above) and the uses to which these funds are to be placed.

B. Update Reports

Subsequent to the submission of CDBG applications, those applicants/grantees that are required to submit full initial reports are required to submit updated Disclosure Reports at any time any of the following occurs:

1. The applicant/grantee discovers that information was omitted from its initial report or last update report.

2. Additional persons or entities can be identified as interested parties. These are persons or entities that did not have a pecuniary interest when the initial or last update report was submitted, but who can now be identified as having a pecuniary interest that is required to be reported.

3. There is an increase in the amount of pecuniary interest of a person or entity identified in the last report, if this increased pecuniary interest is more than $50,000 or 10 percent (whichever is lower) of the pecuniary interest (for that person or entity) listed in the initial or last update report.

4. There is a change in other government assistance from that which was provided in the last report. An updated report must be submitted if the total amount of other assistance reported in the initial or last update report has increased by $250,000 or 10 percent (whichever is lower).

5. There is a change in the source and/or use of funds from that which was provided in the initial or last update report that exceeds the amount of all previously disclosed sources and/or uses of funds by $250,000 or 10 percent (whichever is lower).

Grantees must constantly monitor their projects to ensure that an updated Disclosure Report is submitted within 30 days of any change meeting one of the five criteria discussed above. Updated reports are required until the project is closed out.

Commerce Responsibilities

Commerce is prohibited from contracting CDBG funds to a local government applicant until that applicant has submitted a Disclosure Report.

Commerce must make all initial and updated Disclosure Reports available to the public for five years. Commerce will notify the public that it retains applicant/grantee Disclosure Reports for the state-administered CDBG program and provide information on how the public may obtain access to this material.

Public reporting burden for this collection of information is estimated to average 2.0 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. This agency may not conduct or sponsor, and a person is not required to respond to, a collection information unless that collection displays a valid OMB control number.

Privacy Act Statement. Except for Social Security Numbers (SSNs) and Employer Identification Numbers (EINs), the Department of Housing and Urban Development (HUD) is authorized to collect all the information required by this form under section 102 of the Department of Housing and Urban Development Reform Act of 1989, 42 U.S.C. 3531. Disclosure of SSNs and EINs is voluntary. HUD is authorized to collect this information under the Housing and Community Development Act of 1987 42 U.S.C.3543 (a). The SSN or EIN is used as a unique identifier. The information you provide will enable HUD to carry out its responsibilities under Sections 102(b), (c), and (d) of the Department of Housing and Urban Development Reform Act of 1989, Pub. L. 101-235, approved December 15, 1989. These provisions will help ensure greater accountability and integrity in the provision of certain types of assistance administered by HUD. They will also help ensure that HUD assistance for a specific housing project under Section 102(d) is not more than is necessary to make the project feasible after taking account of other government assistance. HUD will make available to the public all applicant disclosure reports for five years in the case of applications for competitive assistance, and for generally three years in the case of other applications. Update reports will be made available along with the disclosure reports, but in no case for a period generally less than three years. All reports, both initial reports and update reports, will be made available in accordance with the Freedom of Information Act (5 U.S.C. §552) and HUD's implementing regulations at 24 CFR Part 15. HUD will use the information in evaluating individual assistance applications and in performing internal administrative analyses to assist in the management of specific HUD programs. The information will also be used in making the determination under Section 102(d) whether HUD assistance for a specific housing project is more than is necessary to make the project feasible after taking account of other government assistance. You must provide all the required information. Failure to provide any required information may delay the processing of your application, and may result in sanctions and penalties, including imposition of the administrative and civil money penalties specified under 24 CFR §4.38.

Note: This form only covers assistance made available by the Department. States and units of general local government that carry out responsibilities under Sections 102(b) and (c) of the Reform Act must develop their own procedures for complying with the Act.

Instructions

Overview.

A. Coverage. You must complete this report if:

(1) You are applying for assistance from HUD for a specific project or activity and you have received, or expect to receive, assistance from HUD in excess of $200,000 during the during the fiscal year;

(2) You are updating a prior report as discussed below; or

(3) You are submitting an application for assistance to an entity other than HUD, a State or local government if the application is required by statute or regulation to be submitted to HUD for approval or for any other purpose.

B. Update reports (filed by "Recipients" of HUD Assistance): General. All recipients of covered assistance must submit update reports to the Department to reflect substantial changes to the initial applicant disclosure reports.

Line-by-Line Instructions.

Applicant/Recipient Information.

All applicants for HUD competitive assistance, must complete the information required in blocks 1-5 of form HUD-2880:

1. Enter the full name, address, city, State, zip code, and telephone number (including area code) of the applicant/recipient. Where the applicant/recipient is an individual, the last name, first name, and middle initial must be entered.

Form **HUD-2880** (3/13)

2. Entry of the applicant/recipient's SSN or EIN, as appropriate, is optional.
3. Applicants enter the HUD program name under which the assistance is being requested.
4. Applicants enter the amount of HUD assistance that is being requested. Recipients enter the amount of HUD assistance that has been provided and to which the update report relates. The amounts are those stated in the application or award documentation. NOTE: In the case of assistance that is provided pursuant to contract over a period of time (such as project-based assistance under section 8 of the United States Housing Act of 1937), the amount of assistance to be reported includes all amounts that are to be provided over the term of the contract, irrespective of when they are to be received.
5. Applicants enter the name and full address of the project or activity for which the HUD assistance is sought. Recipients enter the name and full address of the HUD-assisted project or activity to which the update report relates. The most appropriate government identifying number must be used (e.g., RFP No.; IFB No.; grant announcement No.; or contract, grant, or loan No.) Include prefixes.

Part I. Threshold Determinations – Applicants Only

Part I contains information to help the applicant determine whether the remainder of the form must be completed. **Recipients filing Update Reports should not complete this Part.**

If the answer to ***either*** questions 1 or 2 is No, the applicant need not complete Parts II and III of the report, but must sign the certification at the end of the form.

Part II. Other Government Assistance and Expected Sources and Uses of Funds.

A. Other Government Assistance. This Part is to be completed by both applicants and recipients for assistance and recipients filing update reports. Applicants and recipients must report any other government assistance involved in the project or activity for which assistance is sought. Applicants and recipients must report any other government assistance involved in the project or activity. Other government assistance is defined in note 4 on the last page. For purposes of this definition, other government assistance is expected to be made available if, based on an assessment of all the circumstances involved, there are reasonable grounds to anticipate that the assistance will be forthcoming.

Both applicant and recipient disclosures must include all other government assistance involved with the HUD assistance, as well as any other government assistance that was made available before the request, but that has continuing vitality at the time of the request. Examples of this latter category include tax credits that provide for a number of years of tax benefits, and grant assistance that continues to benefit the project at the time of the assistance request.

The following information must be provided:

1. Enter the name and address, city, State, and zip code of the government agency making the assistance available.
2. State the type of other government assistance (e.g., loan, grant, loan insurance).
3. Enter the dollar amount of the other government assistance that is, or is expected to be, made available with respect to the project or activities for which the HUD assistance is sought (applicants) or has been provided (recipients).
4. Uses of funds. Each reportable use of funds must clearly identify the purpose to which they are to be put. Reasonable aggregations may be used, such as "total structure" to include a number of structural costs, such as roof, elevators, exterior masonry, etc.

B. Non-Government Assistance. Note that the applicant and recipient disclosure report must specify all expected sources and uses of funds - both from HUD ***and any other source*** - that have been or are to be, made available for the project or activity. Non-government sources of funds typically include (but are not limited to) foundations and private contributors.

Part III. Interested Parties.

This Part is to be completed by both applicants and recipients filing update reports. Applicants must provide information on:

1. All developers, contractors, or consultants involved in the application for the assistance or in the planning, development, or implementation of the project or activity and
2. any other person who has a financial interest in the project or activity for which the assistance is sought that exceeds $50,000 or 10 percent of the assistance (whichever is lower).

Note: A financial interest means any financial involvement in the project or activity, including (but not limited to) situations in which an individual or entity has an equity interest in the project or activity, shares in any profit on resale or any distribution of surplus cash or other assets of the project or activity, or receives compensation for any goods or services provided in connection with the project or activity. Residency of an individual in housing for which assistance is being sought is not, by itself, considered a covered financial interest.

The information required below must be provided.

1. Enter the full names and addresses. If the person is an entity, the listing must include the full name and address of the entity as well as the CEO. Please list all names alphabetically.
2. Entry of the Social Security Number (SSN) or Employee Identification Number (EIN), as appropriate, for each person listed is optional.
3. Enter the type of participation in the project or activity for each person listed: i.e., the person's specific role in the project (e.g., contractor, consultant, planner, investor).
4. Enter the financial interest in the project or activity for each person listed. The interest must be expressed both as a dollar amount and as a percentage of the amount of the HUD assistance involved.

Note that if any of the source/use information required by this report has been provided elsewhere in this application package, the applicant need not repeat the information, but need only refer to the form and location to incorporate it into this report. (It is likely that some of the information required by this report has been provided on SF 424A, and on various budget forms accompanying the application.) If this report requires information beyond that provided elsewhere in the application package, the applicant must include in this report all the additional information required.

Recipients must submit an update report for any change in previously disclosed sources and uses of funds as provided in Section I.D.5., above.

Notes:

1. All citations are to 24 CFR Part 4, which was published in the Federal Register. [April 1, 1996, at 63 Fed. Reg. 14448.]
2. Assistance means any contract, grant, loan, cooperative agreement, or other form of assistance, including the insurance or guarantee of a loan or mortgage, that is provided with respect to a specific project or activity under a program administered by the Department. The term does not include contracts, such as procurements contracts, that are subject to the Fed. Acquisition Regulation (FAR) (48 CFR Chapter 1).
3. See 24 CFR §4.9 for detailed guidance on how the threshold is calculated.
4. "Other government assistance" is defined to include any loan, grant, guarantee, insurance, payment, rebate, subsidy, credit, tax benefit, or any other form of direct or indirect assistance from the Federal government (other than that requested from HUD in the application), a State, or a unit of general local government, or any agency or instrumentality thereof, that is, or is expected to be made, available with respect to the project or activities for which the assistance is sought.
5. For the purpose of this form and 24 CFR Part 4, “person” means an individual (including a consultant, lobbyist, or lawyer); corporation; company; association; authority; firm; partnership; society; State, unit of general local government, or other government entity, or agency thereof (including a public housing agency); Indian tribe; and any other organization or group of people.

Form **HUD-2880** (3/13)

Applicant/Recipient Disclosure/Update Report

U.S. Department of Housing and Urban Development

OMB Approval No. 2510-0011 (exp. 11/30/2018)

Instructions. (See Public Reporting Statement and Privacy Act Statement and detailed instructions on page 2.)

Applicant/Recipient Information

Indicate whether this is an Initial Report ☐ **or an Update Report** ☐

1. Applicant/Recipient Name, Address, and Phone (include area code):	2. Social Security Number or Employer ID Number:
3. HUD Program Name	4. Amount of HUD Assistance Requested/Received

5. State the name and location (street address, City and State) of the project or activity:

Part I Threshold Determinations

1. Are you applying for assistance for a specific project or activity? These terms do not include formula grants, such as public housing operating subsidy or CDBG block grants. (For further information see 24 CFR Sec. 4.3).

☐ **Yes** ☐ **No**

2. Have you received or do you expect to receive assistance within the jurisdiction of the Department (HUD) , involving the project or activity in this application, in excess of $200,000 during this fiscal year (Oct. 1 - Sep. 30)? For further information, see 24 CFR Sec. 4.9

☐ **Yes** ☐ **No**.

If you answered "**No**" to either question 1 or 2, **Stop**! You do not need to complete the remainder of this form. ***However***, you must sign the certification at the end of the report.

Part II Other Government Assistance Provided or Requested / Expected Sources and Use of Funds.

Such assistance includes, but is not limited to, any grant, loan, subsidy, guarantee, insurance, payment, credit, or tax benefit.

Department/State/Local Agency Name and Address	Type of Assistance	Amount Requested/Provided	Expected Uses of the Funds

(**Note**: Use Additional pages if necessary.)

Part III Interested Parties. You must disclose:

1. All developers, contractors, or consultants involved in the application for the assistance or in the planning, development, or implementation of the project or activity and
2. any other person who has a financial interest in the project or activity for which the assistance is sought that exceeds $50,000 or 10 percent of the assistance (whichever is lower).

Alphabetical list of all persons with a reportable financial interest in the project or activity (For individuals, give the last name first)	Social Security No. or Employee ID No.	Type of Participation in Project/Activity	Financial Interest in Project/Activity ($ and %)

(**Note**: Use Additional pages if necessary.)

Certification

Warning: If you knowingly make a false statement on this form, you may be subject to civil or criminal penalties under Section 1001 of Title 18 of the United States Code. In addition, any person who knowingly and materially violates any required disclosures of information, including intentional non-disclosure, is subject to civil money penalty not to exceed $10,000 for each violation.

I certify that this information is true and complete.

Signature: X	Date: (mm/dd/yyyy)

Form **HUD-2880** (3/13)

Signage on CDBG Construction Projects

All Community Development Block Grant (CDBG) projects will be required to construct or have constructed a sign which indicates that the project is funded in part or in whole from the Kansas Department of Commerce, Community Development Block Grant program (with the exception of Housing and Urgent Need grants) and the U.S. Department of Housing and Urban Development (HUD) that funds the CDBG program. The following specifications are to be used for this signage:

1. Prior to start of construction, secure the services required to provide the layout of the Project Sign to be provided and installed by the Contractor. The sign should be mounted to obtain the maximum public visibility. This is an eligible construction expense, which should be included in the bid specifications.

2. Upon completion of the work, the sign should be removed from the premises by the contractor.

3. Unless otherwise approved by the project architect or engineer, there should be no other signs or advertising on the job site.

4. The following must be included on the signage:

    a. U.S. Department of Housing and Urban Development
    b. Community Development Block Grant
    c. Kansas Department of Commerce and grant amount
    d. Name of Grantee and project number
    e. Name of City/County Officials
    f. Name of Consultants: grant administrator, architect, engineer
    g. Name of Contractor(s) and Subcontractors, if applicable.

5. A proposed layout and sample are attached hereto. Maximum cost of sign should be no more than $500. Any cost above $500 is not CDBG eligible.

SAMPLE

City of Urban
U.S. Department of Housing and Urban Development
Community Development Block Grant
PROJECT # 20-PF-120
Kansas Department of Commerce $400,000

CITY OFFICIALS:

Mayor John Doe
Council Member Jane Smith
Council Member Jim Jones

CONTRACTOR:

Anyone Construction, Inc.
Anywhere, Anyplace, KS

ARCHITECT:

Everyone, P.A.
Anywhere, Anyplace, KS

PLUMBING:

No One & Sons, Inc.
Anywhere, Anyplace, KS

ENGINEERS:

Busyone Company
Anywhere, Anyplace, KS

ELECTRICIAN:

Someone's Services, Inc.
Anywhere, Anyplace, KS

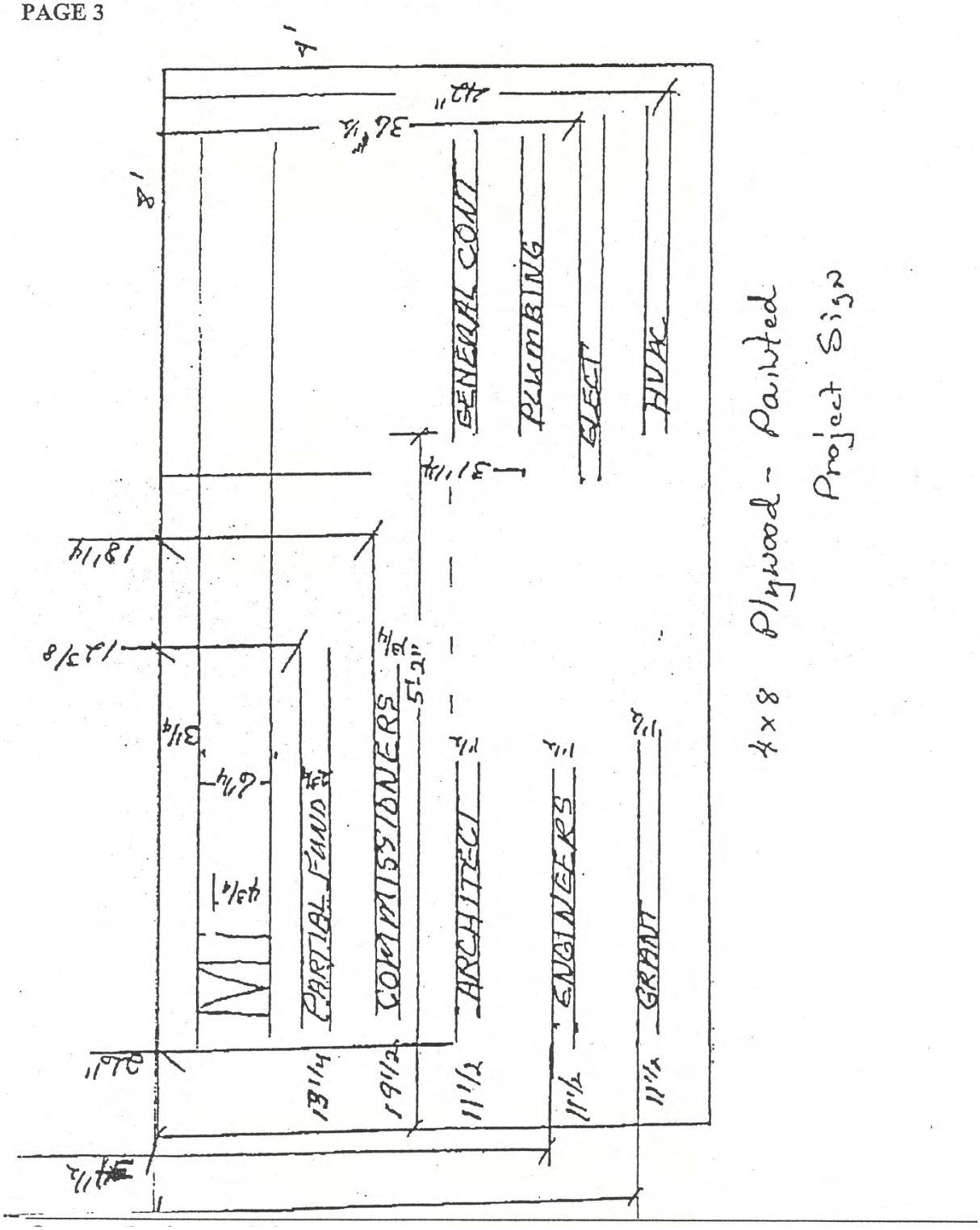
GRANT ADMINISTRATOR:

Joe Jones
Anywhere, Anyplace, KS

HVAC:

Workingone Company
Anywhere, Anyplace, KS

SIGNAGE ON CONSTRUCTION PROJECTS
PAGE 3



Section 1: Citizen Participation Plan

The State of Kansas, Department of Commerce, hereby establishes the following Citizen Participation Plan for the purpose of promoting and encouraging active and meaningful participation in public activities, especially those in relation to community development and housing needs in accordance with Title I of the Housing and Community Development Act of 1974, as amended. The following are in addition to the present requirements of Section 104(a) of the Act and are in accordance with Section 508 of the Housing and Community Development Act of 1987:

A. Recipients must demonstrate that reasonable efforts to ensure involvement of citizens or citizen organizations throughout all stages of the program shall be, or have been, undertaken. There shall be the opportunity for involvement of low- and moderate-income persons, members of minority groups, residents of areas where Small Cities Community Development Block Grant-assisted activity is proposed or ongoing, residents of slum or blighted areas, the elderly, the disabled, the business community and civic groups concerned about the program. Citizens and citizen organizations shall be provided the opportunity to assess and submit comments on all aspects of the Community Development Program performance. All records of above efforts shall be made a part of grant files.

B. All applicants for, and recipients of, Community Development Block Grant funds, shall be required to conduct all aspects of the Community Development program in an open manner with access to records on the proposed and actual use of funds for all interested persons. All records of applications and funded grants must be kept at the recipient's/grantee's offices and be available during normal working hours. Any activity of the Community Development program, with the exception of confidential matters relating to the Housing and Economic Development programs, LMI surveys and payrolls with names, shall be open to examination by all citizens.

C. The applicant/recipient must provide technical assistance to groups representative of persons of LMI that request such assistance in developing proposals at the level of expertise available at the City Hall or County Courthouse within 15 working days of request. The technical assistance to be provided does not involve providing any money for such assistance. All application materials and instructions shall be provided at no cost to any such group requesting same.

D. Citizens shall be provided adequate and timely information, so as to enable them to be meaningfully involved in important decisions at the various stages of the program.

I. PUBLIC HEARING REQUIREMENTS

A. Applicants/grantees must provide information to involve citizens in three distinct areas: help in the development of needs, to review any proposed activities and to review past program performance. This requires that an applicant must conduct at least one public hearing prior to a CDBG application being submitted to Commerce. A sample of the public hearing notice for a proposed application is provided in the application package for each specific grant type. A sample "Community Improvement Application Notice" is included herein for example.

B. A second hearing is held at the conclusion of the project prior to close-out to inform the citizens of the project's successful or unsuccessful completion and to obtain input on the grantee's performance. In order to facilitate public comment as to project performance, written and oral participation shall be encouraged. All written complaints must be addressed in writing within 15 working days of the public meeting. A sample "Performance Public Hearing Notice" is provided for your use. At a minimum, the public hearing notice must contain the grant number and a description of the specific activity proposed and actually carried out with the CDBG funds. Examples are, but not limited to, number of jobs to be created/retained and how many were actually accomplished; number of linear feet of water, sewer or streets proposed and what was actually accomplished; the number of square feet renovated or newly constructed in a building.

C. At a minimum, the public hearings shall be scheduled at times and at locations felt to be most likely to make it possible for the majority of interested citizens to attend without undue inconvenience.

D. Notification of any and all hearings shall be given no fewer than five full days before (starting one day after publication date and not counting the date of the hearing, i.e., a total of seven days) but no more than 20 days before the date of the hearing.

E. All hearings must be accessible to disabled persons.

F. Provisions for interpretation shall be made available at all public hearings for non-English speaking residents, if 15 percent or more of such residents are expected to be in attendance.

G. The Mayor's or Presiding Commissioner's office shall receive and relate to appropriate persons or groups any views or proposals submitted to aforesaid office within the decision making time.

II. COMPLAINT PROCEDURE

Any criticism or complaint submitted in writing at any time shall be answered in writing within 15 working days of receipt by the Mayor's or Presiding Commissioner's office. If the complaint is not resolved, it shall be referred to the Governing Body for final disposition.

III. SAMPLE COMMUNITY IMPROVEMENT APPLICATION PUBLIC HEARING NOTICE

The city/county of _____ will hold a public hearing on (day), (date), at (time), in the (location), for the purpose of considering an application to be submitted to the Kansas Department of Commerce for Small Cities Community Development Block Grant funds under the Community Improvement category. A specific project application to be discussed is (description) in an area generally bounded by (location) which will consist of (specific activities). The estimated project cost is $_____ with the grant request for $_____ of the project cost. Other project proposals introduced at the hearing will be considered. Oral and written comments will be recorded and become a part of (city/county) CDBG Citizen Participation Plan.

Reasonable accommodations will be made available to persons with disabilities. Requests should be submitted to _____ by (date).

IV. SAMPLE PERFORMANCE PUBLIC HEARING NOTICE

(Published in the (name of paper), (date))

The city/county of _____ will hold a public hearing on (day), (date), at (time), in the (location) for the purpose of evaluating the performance of Grant No. _____ which was for (list specific activity with proposed and actual accomplishments). This grant was funded, all or in part, from the Kansas Department of Commerce, Small Cities Community Development Block Grant (CDBG) funds. All aspects of the grant will be discussed and oral and written comments will be recorded and become a part of the city/county of _____ CDBG Citizen Participation Plan.

Reasonable accommodations will be made available to persons with disabilities. Requests for accommodations should be submitted to _____ by (date).

IIV. COST ESTIMATES

Applicant must avoid using a specific cost estimate from a specific vendor to base the application on. If a vendor's cost estimate is used as the basis for an application, said vendor may not bid on the project. This would constitute a conflict of interest.

Section 2: Quarterly Progress Report

I. REPORTING REQUIREMENTS

Small Cities Community Development Block Grant recipients are required to submit quarterly progress reports to Commerce. This information will be used to compare actual performance to the implementation schedule and budget targets established in the Grant Agreement. The Department will provide technical assistance to recipients in the preparation of the reports and will offer follow-up assistance to recipients whose reported performance may be lagging.

The information requested in the CDBG Quarterly Progress Report is critical to the State's own reporting requirements. Each year the Department is required to submit an Annual Performance Evaluation Report to the U.S. Department of Housing and Urban Development consisting of financial and performance data related to the State's total grant allocation. By aggregating data from all recipients, the Department is able to meet this requirement. The data is also useful for evaluation purposes, allowing the Department to measure accomplishments in relation to overall program goals.

In addition to serving the Department's need, the cost, accomplishment and beneficiary data developed for reporting purposes supports program and financial monitoring by local officials and administrators. Based on a clear definition of current status, resources may be reallocated to achieve objective; staff assignments may be clarified; and closer supervision of grant sponsored contractors may be provided.

Recipient reports shall be developed as of the following dates:

March 31
June 30
September 30
December 31

and submitted in accordance with the reporting schedule established in the Grant Agreement. Reports are due at the Department offices **within 10 days** after the established report submission deadline.

II. INSTRUCTIONS FOR COMPLETING THE QUARTERLY STATUS REPORT - PAGE 1

A. Grantee Data – enter the grantee data as requested

B. Financial Status

1. Total Grant – total amount of the CDBG grant.

2. Drawdowns received to date – list only those drawdowns that have been received by the quarter ending date listed above, unless it is a final quarterly submitted with the close-out which must include the final draw.

3. Drawdowns requested and not yet received – list any drawdowns that have been submitted and not yet received at end of quarter date.

4. Total Grant Available – the total grant minus drawdowns received and drawdowns requested.

5. Total Local Injection – amount of funds committed from local and other sources.

6. Local spent to date – amount of funds spent from local and other sources.

7. Check box if initial and/or final monitoring has been completed by Commerce.

C. Contracts Awarded This Quarter With All Monies

This report is to be used by CDBG grantees to record a list of all contracts and agreements including professional services (such as engineering or auditing), regardless of size. All contracts and agreements for professional services must be entered for the quarter being reported. In addition, purchases over $500 for materials, supplies, or equipment must also be entered on the form. Each contract or purchase must be recorded regardless of whether it is the same vendor.

Section 3 of the Housing and Urban Development Act of 1974 provides that contracts awarded through CDBG should be awarded to businesses located in the project area or businesses owned, in substantial part, by residents of the project area who are 51 percent low/moderate income. (See definition of Section 3 businesses under Section 10 of this handbook.) Section 3 covered projects are those in which a **combined** (or aggregate) amount of covered funding exceeding $200,000, is invested into activities involving demolition, rehabilitation or other public construction-i.e., roads, sewers, community centers, etc.

1. Name & Address, DUNS# – enter the name, address and DUNS# for each firm being utilized.

2. Contract Amount – the amount of the contract or purchase (round to the nearest dollar).

3. Local $ or CDBG $ - please check.

4. Activity Number – activity number as indicated in the grant budget.

5. Activity Title – activity title as indicated in the grant budget.

6. Type of Procurement – competitive bidding, small purchases, competitive or non-competitive negotiations.

7. Section 3 Business – yes or no.

8. MBE (Minority Business Enterprise) – enter by type – categories are listed at the end of the section.

9. WBE (Women Business Enterprise) – enter by type – categories are listed at the end of the section.

10. Davis-Bacon - yes or no.

D. Describe in detail any accomplishments, planned activities, technical assistance needs. Examples: completed tasks, change orders, specific or anticipated dates, bidding information (dates, pre-bid conference), project delays and issues/concerns, meetings and important conversations, major staff changes (grantee, contractor, engineer, administrator), time extensions with details and equipment issues/delays. When details are not provided your CDBG project manager will contact you for additional information.

III. INSTRUCTIONS FOR COMPLETING THE QUARTERLY PROGRESS REPORT - PAGE 2

A. Complete this side if you have:

1. A Community Improvement or Urgent Need grant and you are completing your first or final report.

2. An Economic Development grant.

3. Attach updated housing log for housing projects in lieu of page 2.

B. LMI Benefits

Beneficiaries are persons with access to the benefits of the grant activity(ies); example – the number of persons with access to a community center or park or the number of persons with access to water/sewer connections. For Economic Development projects, beneficiaries are persons who have obtained jobs generated from the project, or whose jobs have been retained as a result of the project. For demolition projects, these are the number of units demolished.

1. Number of Beneficiaries – Target: Record the projected total number of persons, targeted to benefit from the project, as identified in the approved grant application.

   Number of Beneficiaries – Total to Date: Record the actual total number to date of persons who have benefited from the project, including their demographic breakdowns.

2. Number of LMI Beneficiaries – Target: Record the projected total number of Low-Moderate Income individuals targeted to benefit from the project, as identified in the approved grant application.

   Number of LMI Beneficiaries – Total to Date: Record the actual total number to date of Low-Moderate Income individuals who have benefited from the project, including their demographic breakdowns.

3. Record the total number of households benefiting to date based on the actual numbers recorded in item 1 above.

4. Based on the total number of households recorded in item 3, record how many are female heads of household.

5. Based on the actual total number of individuals recorded to date, record how many of these individuals are disabled. It should match the application unless there is a change of scope.

C. Economic Development Grants Only

1. Record the number of jobs planned to be retained each quarter and the total. Refer to contract and project benefit and schedule form.

2. Record the number of LMI jobs planned to be retained each quarter and the total.

3. Record the number of jobs planned to be created each quarter and the total.

4. Record the number of LMI jobs planned to be created each quarter and the total.

5. Record the total number of planned jobs generated from the project.

6. a. Record the total number of planned jobs retained for the quarter you are reporting. (First Quarterly Report should match the number in line 1, quarter 1 – Second Quarterly Report should match line 1, quarter 2.)
   b. Record the total number of jobs retained during the quarter of the report.
   c. Record the total number of jobs retained completed to date. Total of this report, plus the number reported on previous quarterly reports.

7. Same as item 6 a., b., c., -- except insert LMI jobs retained.

8. Same as item 6 a., b., c., -- except substitute Jobs Created for Jobs Retained.

9. Same as item 6 a., b., c., -- only substitute LMI Jobs Created for Jobs Retained.

10. Explain any variances from planned to completed.

QUARTERLY PROGRESS REPORT - PAGE 1
KANSAS DEPARTMENT OF COMMERCE
SMALL CITIES COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAM

Grantee: _____ Report #: _____

Grant #: _____ Quarter Ending: _____

Address: _____ Contract Award End Date: _____

Company Name (ED Projects): _____ Date Prepared: _____

Current Chief Elected Official: _____

Name and telephone number of person who prepared this report:

Name Telephone Number

Financial Status:

Total Grant: $ _____ Total Local Injection $ _____

Drawdowns received to date: $ _____ Local spent to date $ _____

Drawdowns requested and not yet received: $ _____ Initial Monitoring Conducted ☐

Total Grant available $ _____ Final Monitoring Conducted ☐

Contracts Awarded This Quarter With All Monies: *

Name & Address, DUNS#	Total Contract Amount	Local	CDBG	Activity		Contractor Data				
				No.	Title	Type of Procurement	Section 3	** MBE	** WBE	Davis-Bacon
		☐	☐							
		☐	☐							
		☐	☐							
		☐	☐							
		☐	☐							
		☐	☐							
		☐	☐							
		☐	☐							
		☐	☐							
		☐	☐							
		☐	☐							
		☐	☐							

* Attach additional pages if needed.

** Categories are: 1-White, 2-Black/African American, 3-Asian, 4-American Indian/Alaskan Native, 5-Native Hawaiian/Other Pacific Islander, 6-American Indian/Alaskan Native & White, 7-Asian & White, 8-Black/African American & White, 9-American Indian/Alaskan Native & Black/African American, 10-Other Multi Racial, 11-Hispanic, 12-Non-Hispanic

Describe project accomplishments this quarter:

Planned activities next quarter:

Technical assistance or other concerns/needs:

QUARTERLY PROGRESS REPORT - PAGE 2

You must complete this page if you have a:

1. Community Improvement or Urgent Need grant and this is your **first** or **final** report
2. Economic Development grant
3. Attach housing log for housing projects

Complete for all circumstances listed above:

		Number of Beneficiaries	Number of LMI Beneficiaries
1.	Target		
2.	Total to Date		

*		White	BAA	BAA/W	AI/AN	NH/PI	A	A/W	AI/AN/BAA	AI/AN/W	Other
1.	Total Beneficiaries										
2.	Hispanic Beneficiaries										

*BAA-Black African American; BAA/W-Black African American & White; AI/AN-American Indian or Alaskan Native; NH/PI-Native Hawaiian or Pacific Islander; A-Asian; A/W-Asian & White; AI/AN/BAA-American Indian or Alaskan Native & Black African American; AI/AN/W-American Indian or Alaskan Native & White

3. Total Number of Households Benefiting to Date _____
4. Total Number of Female Heads of Households Benefiting _____
5. Total Number of Disabled Persons Benefiting _____

NOTE: Beneficiaries are to be reported cumulatively as they occur

Economic Development Grants only:

Proposed (FTE - Jobs Count)

			QTR 1	QTR 2	QTR 3	QTR 4	QTR 5	QTR 6	QTR 7	QTR 8
1.	Total Jobs Retained	_____								
2.	Total LMI Jobs Retained	_____								
3.	Total Jobs Created	_____								
4.	Total LMI Jobs Created	_____								
5.	Total Jobs to be generated	_____								

Accomplishments

		a. Planned this Quarter	b. Completed this Quarter	c. Completed to Date
6.	Number of Jobs Retained			
7.	Number of LMI Jobs Retained			
8.	Number of Jobs Created			
9.	Number of LMI Jobs Created			

10. Explain any variances from planned number of jobs:

Section 3: Monitorings

Monitorings are usually conducted twice during the course of a CDBG project. For most projects, the initial monitoring visit occurs after the first construction pay request has been received. For housing projects, the first monitoring is scheduled **after the first three homes are completed**. For economic development projects, the first monitoring is held approximately half way through the project. The second monitoring occurs when all payrolls are reviewed and all bills are paid except for the final $2,000 or 10 percent that is withheld until close-out is received. A small group of projects can expect only one monitoring visit. These projects generally fall into a "Categorical Excluded Not Subject To" environmental review level (i.e., fire trucks, ambulances).

The Commerce project manager will contact the administrator and/or grantee to schedule a date and time for these monitorings. To prepare for monitoring, it is recommended that the grantee review the monitoring packet in this section. This will help the grantee understand and have ready all documentation needed for the project manager to complete the packet.

After the monitoring, the field representative will write a letter to the chief elected official to summarize the findings of the visit. If deficiencies are noted in the letter, the grantee will have 30 days to resolve the findings. The grantee's administrator can help in this process. The chief elected official must respond with a cover letter that outlines all the supporting documents addressing the requested items. This information is to be emailed to the monitoring staff member who will respond in writing as to the current status of the monitoring visit.

If there are any questions about this process, contact should be made with the monitoring staff member or project manager.

Section 3: Kansas Department of Commerce CDBG Field Staff Monitoring Packet

Grant Number: _____ Date Monitored: _____

Grantee Name: _____

Mayor/Presiding Chairman: _____

Address: _____

Subgrantee/Multi-jurisdictional: _____

Commencement Date: _____ End Date: _____

Project Activity: _____

Interim Monitoring: _____ Close-Out Monitoring: _____ Special Monitoring: _____

Parties Present at Monitoring:

Name	Title

(Rev. 2/2020)

National Objective Monitoring Review

1. LOW- AND MODERATE- INCOME BENEFIT

   a. Percentage of benefit shown on application: _____

   b. Benefit is: ☐ City/County Wide ☐ Target Area
   ☐ Economic Development ☐ Limited Clientele ☐ Housing

   c. Forms reviewed to support tabulation:
   ☐ Census ☐ Survey ☐ Direct Beneficiaries ☐ N/A ☐ Hsg Application
   ☐ Previously approved letter

   d. Is project area acceptable: ☐ Yes ☐ No

   e. Is survey acceptable: ☐ Yes ☐ No

   f. Total beneficiaries: _____ LMI: _____ %: _____

   g. Attach support documentation.

2. SLUMS OR BLIGHT

   a. Proposed project area is identified as slum or blight: ☐ Yes ☐ No

   b. Scope of work addresses selected blight criteria: ☐ Yes ☐ No

   c. Proposed project activities are located outside a slum or blighted area: ☐ Yes ☐ No

   d. Is the activity eligible: ☐ Yes ☐ No

3. URGENT NEED

   Nature of Urgent Need: _____

Comments: _____

_____

_____

_____

_____

_____

_____

Financial Journal Review

ERR Date: _____

Date Deposited	Amount	Date Deposited	Amount

Invoice Date	Vendor	Date of Check	Check Number	CDBG Amount	Local Amount	Activity Line Item

Total Grant Amount: $ _____
Total CDBG Expended: $ _____
Remaining Balance: $ _____

Total Local Pledged: $ _____
Total Local Expended: $ _____
Remaining Balance: $ _____

Has the city disbursed CDBG funds within three working days? ☐ Yes ☐ No

Financial Management

1. Where are financial records kept? _____
2. Is Grantee:
   a. Paying employees salaries with CDBG monies? ☐ Yes ☐ No ☐ N/A
   b. In-kind match? ☐ Yes ☐ No ☐ N/A
      If yes, were time sheets reviewed? ☐ Yes ☐ No ☐ N/A
      Was documentation sufficient? ☐ Yes ☐ No ☐ N/A
3. Are all activities eligible? ☐ Yes ☐ No
4. Is the Grantee ledger accurate on:
   CDBG? ☐ Yes ☐ No
   Local? ☐ Yes ☐ No
5. Are all original signatures on file for all CDBG requests? ☐ Yes ☐ No
6. Has there been a time extension or budget amendment? ☐ Yes ☐ No
   If yes, was it approved by council and in official minutes? ☐ Yes ☐ No
7. Percentage of construction completed? _____

Comments: _____

Property Management

Were any pieces of equipment or supplies purchased with CDBG funds with a value of $300 or greater? ☐ Yes ☐ No

If yes, complete remainder of page.

1. Who is responsible for purchasing the equipment or supplies? _____
2. Does the grantee maintain a register for CDBG funded property? ☐ Yes ☐ No ☐ N/A
   Does register include: the date acquired, description, location, quantity, cost or value and disposition? ☐ Yes ☐ No ☐ N/A
3. Has grantee been informed to notify Commerce of intention to dispose of equipment over $5,000? ☐ Yes ☐ No ☐ N/A
4. Is personal property identified with an inventory tag or other control? ☐ Yes ☐ No ☐ N/A
5. Does property have an inventory tag or other control? ☐ Yes ☐ No ☐ N/A
6. List tagged items and value of each:

Comments: _____

Environmental Review – Initial Monitoring

(Bold items will be reviewed at the monitoring. Remaining items must be checked when ERR is submitted.)

Environmental Determination: ___CENST ___CEST ___CEST converts to exempt ___EA ___EIS

Were funds obligated or did work proceed prior to release of funds? ☐ Yes ☐ No

Were there any public questions/comment? ☐ Yes ☐ No

Were the project descriptions complete and all items disclosed during review? ☐ Yes ☐ No

Did the grantee receive responses from all appropriate agencies? ☐ Yes ☐ No

(Supported by agency sheet attached.)

Date of Determination of Level of Review submitted: _____

Date Letters sent to agencies and others: _____

If Floodplain:

Early Floodplain Notice - Date Notice published _____ End of Comment period: _____

Notice of Explanation - Date Notice published _____ End of Comment period: _____

Signing date of EA or Statutory Checklists (Appendix D or E): _____

If project converts to exempt, date of clearance: _____

Date Notice published: _____ End of Comment period: _____

Appropriate and correct notice published? ☐ Yes ☐ No

Date the Chief Elected Official signed RROF Certification: _____

Date submitted to Field Representative: _____ End of Comment period: _____

If an assessment was necessary, did it meet all requirements? ☐ Yes ☐ No

Date of Environmental Clearance (ERR): _____

Is the Environmental Review Record available for the public? ☐ Yes ☐ No

Other comments/concerns:

_____

_____

_____

_____

_____

_____

_____

_____

_____

_____

_____

Environmental Review

(Complete the following at the Final/Closeout monitoring)

Were there any substantial changes in the project scope? ☐ Yes ☐ No

If yes, what were the changes?

_____

_____

_____

_____

Were there clearances for the scope of work change? ☐ Yes ☐ No

_____

_____

_____

_____

What were the mitigation measures/or conditions of the initial clearance?
Was each one addressed and how resolved?

_____

_____

_____

_____

Other comments/concerns:

_____

_____

_____

_____

Procurement and Bonding

A. General

1. Does grantee have written local procurement procedures? ☐ Yes ☐ No ☐ N/A
   Does it include:
   - ☐ Small purchases
   - ☐ Competitive bidding
   - ☐ Competitive negotiations
   - ☐ Non-competitive negotiations
2. Is there a written Code of Conduct? ☐ Yes ☐ No
   Does it prohibit elected officials, staff or agents from personally benefitting, prohibit favors or gratuities? ☐ Yes ☐ No
   Does it have sanctions or penalties? ☐ Yes ☐ No
3. Does this project have any conflict of interest concerns? ☐ Yes ☐ No
   If so, did they receive a conflict of interest waiver? ☐ Yes ☐ No
4. Did grantee sign any contracts prior to grant award involving CDBG or local funds? ☐ Yes ☐ No ☐ N/A

B. Competitive Negotiation

1. Name of awarded contract: (administrator only) _____
   Pre-selected? ☐ Yes ☐ No
   Amount: _____ Date: _____ Funding source: ☐ CDBG ☐ Local
   a. Did the grantee prepare a request for proposals (RFP)? ☐ Yes ☐ No ☐ N/A
   b. Did the RFP/RFQ identify all significant evaluation factors? ☐ Yes ☐ No ☐ N/A
   c. Did the grantee send a RFP to all qualified firms? ☐ Yes ☐ No ☐ N/A
   d. Does the file contain supporting documentation of the selection criteria for contract award? ☐ Yes ☐ No ☐ N/A
   e. Were less than two proposals received? ☐ Yes ☐ No ☐ N/A
      If yes, was approval to award obtained from Commerce? ☐ Yes ☐ No ☐ N/A
   f. Were unsuccessful firms notified in writing? ☐ Yes ☐ No ☐ N/A
   g. Did grantee complete Subrecipient vs. Contractor Classification Checklist ☐ Yes ☐ No ☐ N/A
2. Name of awarded contract: (engineer/architect/other) _____
   Design Amount: _____ Date: _____ Funding source: ☐ CDBG ☐ Local
   Pre-selected? ☐ Yes ☐ No
   Inspection Amount: _____ Date: _____ Funding source: ☐ CDBG ☐ Local
   a. Did the grantee prepare a request for qualifications (RFQ)? ☐ Yes ☐ No ☐ N/A
   b. Did the RFQ identify all significant evaluation factors? ☐ Yes ☐ No ☐ N/A
   c. Did the grantee send a RFQ to all qualified firms? ☐ Yes ☐ No ☐ N/A
   d. Does the file contain supporting documentation of the selection criteria for contract award? ☐ Yes ☐ No ☐ N/A
   e. Were fewer than two proposals received? ☐ Yes ☐ No ☐ N/A
      If yes, was it approved by Commerce? ☐ Yes ☐ No ☐ N/A

f. Were unsuccessful firms notified in writing? ☐ Yes ☐ No ☐ N/A

g. Does the contract have a Not to Exceed Clause? ☐ Yes ☐ No ☐ N/A

h. Did grantee complete Subrecipient vs. Contractor Classification Checklist ☐ Yes ☐ No ☐ N/A

C. Procurements Utilizing Competitive Sealed Bids (exclusive of contractual provisions discussed under "Labor Standards Monitoring Review")

Name of awarded contract: (Construction) _____

Amount: _____ Date: _____ Funding Source: ☐ CDBG ☐ Local

Change order: #_____ $_____ Date: _____
Change order: #_____ $_____ Date: _____
Change order: #_____ $_____ Date: _____
Change order: #_____ $_____ Date: _____
Change order: #_____ $_____ Date: _____
Change order: #_____ $_____ Date: _____
Change order: #_____ $_____ Date: _____

1. Was the contract awarded to the lowest responsible bidder? ☐ Yes ☐ No ☐ N/A
   If not, explain: _____
2. Does this contract require contractor to obtain bid and performance bonds? ☐ Yes ☐ No ☐ N/A
   Is roofing involved in the contract? If so, is proper certification on file? ☐ Yes ☐ No ☐ N/A
3. If contract price is over $25,000, did recipient utilize competitive sealed bids? ☐ Yes ☐ No ☐ N/A
4. Where appropriate, did the bids contain language relating to labor provisions bonding and equal employment opportunity? ☐ Yes ☐ No ☐ N/A
5. Were efforts made to send invitations to bid to all qualified firms? ☐ Yes ☐ No ☐ N/A
6. Were descriptions of items or services to be purchased on the invitations to bid clear and without reference to specific brand requirements unless the brand was used as an example of functional or quality requirements? ☐ Yes ☐ No ☐ N/A
7. Did grantee publish an Invitation For Bid (IFB)? _____ ☐ Yes ☐ No ☐ N/A
   Did it include Section 3, Section 109, Civil Rights Act of 1964 and EO 11246? ☐ Yes ☐ No ☐ N/A
8. Was a public meeting held to open bids? ☐ Yes ☐ No ☐ N/A
9. Were fewer than two bids received in any contract? ☐ Yes ☐ No ☐ N/A
10. If one bid was received, was there a request for single bid? ☐ Yes ☐ No ☐ N/A
11. Was this one bid approved by Commerce? ☐ Yes ☐ No ☐ N/A
12. Were unsuccessful bidders notified in writing? _____ ☐ Yes ☐ No ☐ N/A
13. Did grantee complete Subrecipient vs. Contractor Classification Checklist ☐ Yes ☐ No ☐ N/A

D. Small Purchases (less than $25,000)

1. Did the grantee determine that the purchase was necessary to carry out the approved CDBG program? ☐ Yes ☐ No ☐ N/A
2. Is there a listing of vendors and price quotations in the file? ☐ Yes ☐ No ☐ N/A
3. Was a purchase order/contract issued to the most advantageous vendor or formal contract if over $2,000? ☐ Yes ☐ No ☐ N/A
4 If the contract was between $501- $25,000 were bids in writing? ☐ Yes ☐ No ☐ N/A
5. If between $1 - $50 was phone solicitation completed and documented? ☐ Yes ☐ No ☐ N/A
6. Was it necessary to inventory tag the small purchases? ☐ Yes ☐ No ☐ N/A

E. Noncompetitive Negotiation

1. Was the item desired available from only one source? ☐ Yes ☐ No ☐ N/A
2. Did Commerce authorize noncompetitive negotiation? ☐ Yes ☐ No ☐ N/A
3. Was competition determined to be inadequate after a number of sources had been solicited? ☐ Yes ☐ No ☐ N/A
4. Were the goods or services needed rapidly to meet a public emergency? ☐ Yes ☐ No ☐ N/A

F. Contract Files

1. Are all contracts for this CDBG project on file in city hall or the county courthouse? ☐ Yes ☐ No ☐ N/A
2. Are files divided into categories and coded to facilitate placement and retrieval? ☐ Yes ☐ No ☐ N/A
3. Was cost plus percentage of cost ever used in contracts for the project? ☐ Yes ☐ No ☐ N/A
4. Any discrepancies in any of the procurement? _____

_____

_____

G. Civil Rights Requirements in Procurement and Contracting

1. Did the community develop lists of minority, female and persons with disabilities-owned businesses as well as project area businesses for use in soliciting bids? ☐ Yes ☐ No

2.

	Adm.	Eng/Arch	Const.	Other
Total number of bids received:				
Total number of bids received from minorities:				
Total number of bids received from females:				
Total number of bids received from disabled persons:				

H. Contract Provisions: Did CDBG project contracts include the following:

		Adm.	Eng/Arch	Const.	Other
1.	Title VI Civil Rights Act of 1964				
2.	Title VIII Civil Rights Act of 1968				
3.	Section 109 Certifications				
4.	Section 504 Certifications				
5.	Age Discrimination Act of 1975				
6.	Executive Order 11063 Certifications				
7.	Kansas Act Against Discrimination				
8.	Section 3 Certifications				
9.	Executive Order 11246 Certifications				
10.	Restriction on lobbying contracts over $100,000				
11.	Section 503 Rehabilitation Act				
12.	Section 912, Cranston-Gonzales National Affordable Housing Act of 1990				
13.	Davis-Bacon				
14.	Copeland Anti-Kickback				
15.	Contract Work Hours				
16.	E-Verify				

I. Section 3:

A. Is the activity (regardless of funding source) $200,000 or more?
Yes - go to B. No - does not meet threshold, go to next section. ☐ Yes ☐ No

B. Does this activity have any contracts $100,000 or more?
Yes - go to 1. No - does not meet threshold, go to next section. ☐ Yes ☐ No

1. Did grantee provide public notice? (Opportunity to Work) ☐ Yes ☐ No

Date: _____

Is it prior to bidding? ☐ Yes ☐ No

Was notice displayed at Public Housing Authority? ☐ Yes ☐ No

2. Did contractor complete Section 3 Plan? ☐ Yes ☐ No

3. Did contractor submit Tables C & D at completion of construction? ☐ Yes ☐ No

a. Number of new hires: _____
b. Number of Section 3 hires: _____
c. Number of trainers: _____
d. Number of hours worked by all staff: _____
e. Number of hours worked by Section 3 staff: _____
f. Number of hours worked by trainers: _____

Comments on Deficiencies: _____

_____

_____

_____

Labor Standards

1. Does the grantee maintain a labor standards file? ☐ Yes ☐ No ☐ N/A
2. Was contractor(s)/subcontractor(s) eligibility verified in all contracts? ☐ Yes ☐ No ☐ N/A
3. Were wage rates requested prior to contract solicitation? ☐ Yes ☐ No ☐ N/A
4. Date wage rates sent by Commerce: _____ Wage Rate # _____ Dated: _____
5. Date of bid opening: _____
6. Date of 10 day confirmation requested: _____
7. Was there an indicated change in wage rates? ☐ Yes ☐ No ☐ N/A
   If yes, did grantee issue an addendum? ☐ Yes ☐ No ☐ N/A
8. Date new rates sent by Commerce: _____ Wage Rate# _____ Dated: _____
9. Is Notice of Start of Construction on file? ☐ Yes ☐ No ☐ N/A
10. Was a preconstruction conference held? ☐ Yes ☐ No ☐ N/A
11. Does the grantee have a Labor Standards Officer? ☐ Yes ☐ No ☐ N/A
12. Were payrolls submitted weekly? ☐ Yes ☐ No ☐ N/A
13. Were payrolls numbered (initial, second, final)? ☐ Yes ☐ No ☐ N/A
14. Did contractors submit the Certification of Understanding & Payroll Authorization form? ☐ Yes ☐ No ☐ N/A
15. Were payrolls signed by employer representative? ☐ Yes ☐ No ☐ N/A
16. Do the reports contain: (name, last 4 numbers of social security number, classification, hourly rates of wages paid, daily number of hours worked, weekly hours worked, deductions, actual wages paid)? ☐ Yes ☐ No ☐ N/A
17. Was a signed Statement of Compliance submitted with each payroll? ☐ Yes ☐ No ☐ N/A
18. Are payrolls initialed and dated by the Labor Standards Officer? ☐ Yes ☐ No ☐ N/A
19. Are apprentice/trainee registration records available? ☐ Yes ☐ No ☐ N/A
20. Was restitution required? ☐ Yes ☐ No ☐ N/A
    If yes, did records include: notarized acknowledgement of receipt of resolution and front and back copy of check(s)? ☐ Yes ☐ No ☐ N/A
21. Is overtime pay correct? ☐ Yes ☐ No ☐ N/A
22. Was the Labor Standards Provision present in the project specifications book? ☐ Yes ☐ No ☐ N/A

Employee Interviews: (G=general / S=subcontractor)

Company	G/S	#	Company	G/S	#

Describe any discrepancies that were noted: _____

_____

_____

_____

Wage Rate Compliance Review

Wage Decision Number: _____

Employer	Payroll #	Date	Employee Name	Work Classification	Hourly Rate Paid	Fringes	Total	Wage Decision Rate	OK

Civil Rights and Fair Housing

AFFIRMATIVELY FURTHERING FAIR HOUSING

1. The city/county contact (position that would handle any fair housing/civil rights complaints):

_____

2. What action has the grantee taken to affirmatively further fair housing this calendar year?

_____

_____

_____

_____

Are the actions up-to-date for this grant? ☐ Yes ☐ No

3. Does the activity inform the public? ☐ Yes ☐ No

4. Does the grantee have a written Civil Rights/Fair Housing complaints policy in place? ☐ Yes ☐ No

5. Has the city/county received any civil rights or fair housing complaints? ☐ Yes ☐ No

If yes, describe: _____

_____

_____

_____

_____

_____

_____

_____

_____

_____

_____

_____

_____

_____

_____

_____

_____

Miscellaneous Review

1. Did citizen participation file contain any public comments, inquiries or complaints regarding the project? Were there any problems identified or complaints received? ☐ Yes ☐ No ☐ N/A

2. Disclosure Report

   If over $200,000, is there a current CDBG Disclosure Report on file with Commerce? ☐ Yes ☐ No ☐ N/A

   Was information omitted from initial report? ☐ Yes ☐ No ☐ N/A

   Have additional contracts been issued over $50,000? If so, ☐ Yes ☐ No ☐ N/A

   When were the contracts signed? _____

   When was the Disclosure Report submitted? _____

   Did the submittal meet the 30 day deadline? ☐ Yes ☐ No ☐ N/A

   Has the match been increased by more than $250,000 or 10 percent? If so, ☐ Yes ☐ No ☐ N/A

   How much? $ _____

   Source? _____

   Did the submittal meet the 30 day deadline? ☐ Yes ☐ No ☐ N/A

   Has the source of funds changed? ☐ Yes ☐ No ☐ N/A

   If so, please describe? _____

   _____

   Did the submittal meet the 30 day deadline? ☐ Yes ☐ No ☐ N/A

   Is the original Disclosure Report in the file? ☐ Yes ☐ No ☐ N/A

3. Has grantee been informed to maintain project files for <u>three</u> years after HUD has closed this year out? ☐ Yes ☐ No ☐ N/A

4. Quarterly Progress Reports up-to-date and filed timely? ☐ Yes ☐ No ☐ N/A

   Were there any payments made with CDBG dollars that appeared on Financial Management that did not appear on the QPR? ☐ Yes ☐ No ☐ N/A

   Were all contracts reported on QPR's? ☐ Yes ☐ No ☐ N/A

   Were QPR's accurate and complete? ☐ Yes ☐ No ☐ N/A

   Complete address and DUNS #? ☐ Yes ☐ No ☐ N/A

5. Is the project within the same time frame as the application stated? ☐ Yes ☐ No ☐ N/A

6. For ADA projects or new building construction, does the file contain a certification from the project engineer/architect that all activities are compliant with the **2010 ADA Standards**? ☐ Yes ☐ No ☐ N/A

7. Construction Site Visit

   a. Is appropriate construction sign in place at site? ☐ Yes ☐ No ☐ N/A

   b. Are the following posted in an area accessible by all employees?

      1. Copy of applicable Federal Wage Decisions ☐ Yes ☐ No ☐ N/A
      2. "EEO is the Law" poster ☐ Yes ☐ No ☐ N/A
      3. WH Publication 1321 ☐ Yes ☐ No ☐ N/A
      4. "Job Safety & Health Protection" poster ☐ Yes ☐ No ☐ N/A
      5. WH Publication 1462 ☐ Yes ☐ No ☐ N/A

   c. Was there an environmental condition or issue that was not addressed in the environmental process?

Comments: _____

Acquisition

1. Has any acquisition been completed? ☐ Yes ☐ No
2. Current acquisition report filed: ☐ Yes ☐ No
3. Number of transactions completed: _____ Remaining: _____

	Land Acquisition			Permanent Easement		
	Y	N	N/A	Y	N	N/A
4. Did file identify property and property owner(s)?						
5. Did owner receive written notice of grantee's intent to acquire property?						
6. Did the owner receive the HUD or Commerce brochure?						
7. Did owner sign appraisal release waiver?						
EXEMPTIONS (if applicable)						
1. Was exemption submitted by grantee?						
2. Was exemption approved/rejected by Commerce?						
APPRAISALS						
1. Was the owner invited to accompany appraiser on inspection of property?						
2. Were properties appraised by a qualified independent appraiser?						
3. Was the appraisal reviewed by a qualified independent appraiser?						
4. Does the appraisal provide a basis for establishing fair market value?						
OFFER TO PURCHASE						
1. Did the grantee provide a written offer to the owner?						
2. Did summary statement accompany written offer?						
3. Did owner have any concerns?						
4. Did grantee address concerns?						
SETTLEMENT						
1. Did owner accept written offer?						
2. Did grantee pay incidental acquisitions expense?						
3. Was owner reimbursed for incidental expenses?						
4. Was deed filed with Register of Deeds?						
5. Did the owner receive payment?						
APPEALS						
1. Were any appeals filed?						
2. If so, were grantee determinations correct?						
3. Were owners informed of right to appeal to Commerce?						

Comments: _____

_____

_____

Permanent Relocation

TOTAL DISPLACEMENT:

Number of persons displaced under Uniform Act: _____ Remaining: _____

Number of persons displaced under Section 104(d): _____ Remaining: _____

Number of businesses, non-profit organizations and farms displaced under Uniform Act: _____ Remaining: _____

Number of businesses, non-profit organizations and farms displaced under Section 104(d): _____ Remaining: _____

TOTAL RELOCATION:

Number of persons relocated: _____

Number of minorities relocated: _____

Number of female heads of household relocated: _____

Number of persons with disabilities relocated: _____

NOTIFICATION OF RIGHTS AND GENERAL ADVISORY SERVICES:

1. Did recipient receive a 90-day written notice of eligibility for relocation assistance and HUD's brochure? ☐ Yes ☐ No
2. Was recipient personally interviewed to determine relocation needs and preferences? ☐ Yes ☐ No
3. Were social services provided? ☐ Yes ☐ No
4. Was there any appearance of discrimination? ☐ Yes ☐ No

REPLACEMENT HOUSING:

1. Has grantee prepared Relocation Plan? ☐ Yes ☐ No
   If so, was it followed? ☐ Yes ☐ No
2. Is replacement housing unit comparable? ☐ Yes ☐ No
3. Does replacement housing unit meet standards? ☐ Yes ☐ No
4. Was recipient satisfied with replacement home? ☐ Yes ☐ No
   If so, was assistance provided? ☐ Yes ☐ No

90-DAY NOTICE/VACATE NOTICE:

1. If a person was ordered to vacate, did he/she receive proper 90-day notice? ☐ Yes ☐ No
2. If a 90-day notice was issued, did person receive prior referral to comparable replacement housing? ☐ Yes ☐ No
3. If applicable, was a 30-day vacate notice delivered? ☐ Yes ☐ No

PAYMENTS:

1. Were payment determinations correct? ☐ Yes ☐ No
2. Were payments made promptly, including advance payments, where appropriate (check for receipt of payment)? ☐ Yes ☐ No

OCCUPANCY AFTER ACQUISITION:

1. Was rental exceeding FMR values? ☐ Yes ☐ No
2. Were dwelling units maintained in safe habitable and accessible condition? ☐ Yes ☐ No

TENANTS NOT DISPLACED FROM DWELLING:

1. If temporarily relocated, was person reimbursed for out-of-pocket expenses (i.e. increased housing costs and moving expenses to and from temporary unit)? ☐ Yes ☐ No
2. Was housing decent, safe, sanitary and accessible? ☐ Yes ☐ No
3. Did tenant receive lease with rent and other terms and conditions in accordance with applicable standards? ☐ Yes ☐ No

APPEALS:

1. Were grantee determinations on appeals correct? ☐ Yes ☐ No
2. Were persons whose appeal was partially or fully denied informed of right to appeal to the state? ☐ Yes ☐ No

RELOCATION OF BUSINESSES, NONPROFIT ORGANIZATION AND FARMS:

1. Did grantee provide referrals to suitable replacement location? ☐ Yes ☐ No
2. Did grantee provide appropriate technical aid to help person re-establish operations? ☐ Yes ☐ No

HOUSING

1. Number of units to be rehabilitated:_____
2. Number of units rehabilitated to date:_____
3. Date Commerce approved Housing Plan (HP): _____
4 Is grantee following HP? ☐ Yes ☐ No
5 Is the Housing Log updated? ☐ Yes ☐ No
6. Is there any potential conflict of interest? ☐ Yes ☐ No
   a. Was request for waiver submitted? ☐ Yes ☐ No
   b. Was waiver granted? ☐ Yes ☐ No
7. Is there a Housing Board? ☐ Yes ☐ No
   a. If yes, is there a Housing Board Ordinance? ☐ Yes ☐ No
   b. Is it detailed and complete? ☐ Yes ☐ No

PROCUREMENT

8. Date grantee approved contractor guidelines: _____
9. Are contractor guidelines being followed? ☐ Yes ☐ No
10. What date did the grantee start the call for contractors? _____
   a. Was it publicly advertised? ☐ Yes ☐ No
   b. How many contractors were notified? _____
   c. Were DBE's notified? ☐ Yes ☐ No
11. Number of contractors on the bid list:_____
12. Were the bid documents complete and meet all requirements? Did they include: general specifications, work write-up, LBP summary page, sample contract, lien prevention document? ☐ Yes ☐ No
13. Was there ever only one bid received? ☐ Yes ☐ No
   If so, did Commerce issue approval to award? ☐ Yes ☐ No
14. Were there any problems with procurement? ☐ Yes ☐ No
   If so, what? _____
15. Was there Verification on Contractor Eligibility for all contractors? ☐ Yes ☐ No
16. How many individual rehabilitation files were reviewed? _____
17. How many rehabilitation sites were inspected? _____
18. Amount of Rehabilitation dollars spent on Abatement? _____
19. Name of HQS inspector? _____
20. Name of Risk Assessor (RA)? _____
21. Has the RA been certified by KDHE? ☐ Yes ☐ No
   Certification Number: _____

Comments: _____

_____

_____

INSPECTION/LEAD BASE PAINT (LBP)

1. Date LBP Notice "Protect Your Family" signed: _____
2. Date of HQS Inspection: _____
3. Date of RA: _____
4. Date of receipt of Lead Hazard Evaluation Notice (RA): _____

   Was it received within 15 business days? _____
5. Were all children under five and women of child bearing capacity temporarily relocated during this rehabilitation? ☐ Yes ☐ No

   If no, what action plan was created to assure compliance? _____
6. Was it to a lead safe location? ☐ Yes ☐ No
7. Did the contractor submit certification that notifications were posted? ☐ Yes ☐ No
8. Date of Final HQS Inspection: _____
9. Was the Certificate of Completion signed by:
   a. Inspector: ☐ Yes ☐ No Date:_____
   b. Contractor: ☐ Yes ☐ No Date:_____
   c. Homeowner: ☐ Yes ☐ No Date:_____
10. Date of Clearance testing: _____
11. Notice of Lead of Hazard Clearance receipt date: _____
12. Notice of Lead Hazard Reduction receipt date: _____
13. Did more than 15 business days elapse between clearance date and receipt date? ☐ Yes ☐ No
14. Did the file clearly document receipt of all four LBP notices? ☐ Yes ☐ No
15. Is renovation firm license on file? ☐ Yes ☐ No
16. How many working on site: _____

    Was LSWP Certification on file for all workers/subcontractors? ☐ Yes ☐ No
17. Did all workers/subcontractors have Certified Renovators Licenses? ☐ Yes ☐ No
18. Is roofing a part of the contract? ☐ Yes ☐ No
    a. If yes, does the general contractor have proper roofing certification? ☐ Yes ☐ No
    b. Is a sub-contractor completing the work? ☐ Yes ☐ No
    c. If yes, does the sub-contractor have proper roofing certification? ☐ Yes ☐ No
19. Was the contractor's Liability & Workman's Comp insurance on file? ☐ Yes ☐ No

INDIVIDUAL HOUSING REHABILITATION (if owner occupied)

1. Owner Name:_____
2. Property address: _____
3. Date application signed: _____
4. Verification of:
   a. Property ownership: ☐ Yes ☐ No
   b. Paid property taxes: ☐ Yes ☐ No
   c. Paid utilities: ☐ Yes ☐ No
   d. Property insurance paid and current with city listed as insured: ☐ Yes ☐ No
5. LMI verification on file? ☐ Yes ☐ No
6. Date of verification: _____
7. Total persons in household: _____ Total household income: _____
8. HUD income limits: _____ Does household income qualify? ☐ Yes ☐ No
9. Have new income taxes been filed since the last verification? ☐ Yes ☐ No
   a. Bid Letting date? _____
   b. Date of re-verification? _____
   c. Total persons: _____
   d. Total income $_____
10. Date of Self-Help agreement (if applicable): _____
11. Any children under six? ☐ Yes ☐ No
    a. If so, were all children under six given a blood test? ☐ Yes ☐ No
    b. Results of test: _____
12. Date of Historical Society Clearance: _____
13. Procurement
    a. What round was this property bid? _____
    b. Number of bidders to receive IFB? _____
    c. Date of IFB? _____
    d. Bid Tour date? _____
    e. Bid opening date? _____
    f. Number of bids received? _____
       If only one bid, did Commerce approve award? ☐ Yes ☐ No
    g. Was it awarded to lowest bidder? _____
    h. Are all bids on file? ☐ Yes ☐ No
14. Was high cost waiver required? ☐ Yes ☐ No
    If so, date approval given: _____

15. Contract Execution Date: _____

16. Was the contract signed by contractor, owner and City? ☐ Yes ☐ No

17. Does it include Civil Rights provisions and other certifications? ☐ Yes ☐ No

18. Is there a ledger for this property? ☐ Yes ☐ No

Invoice Date	To Whom	Check #	Check Date	Amount

Does this total payment match the contract? ☐ Yes ☐ No

19. Date of Lien Prevention Document (Part 1): _____

Is it complete? ☐ Yes ☐ No

20. Total Rehabilitation Cost $ _____ CDBG $_____ LOCAL $_____

21. Where did Local funds come from? _____

22. Were the funds collected prior to contract signing? ☐ Yes ☐ No

23. Notice to Proceed Date:_____ Completion Date: _____

24. Does Contract or Notice to Proceed include appropriate time frames? ☐ Yes ☐ No

25. Was a time extension required? ☐ Yes ☐ No

26 Was time extension signed by contractor, owner and City? ☐ Yes ☐ No

27. Were there change orders? ☐ Yes ☐ No

a. If so, was it legitimate? ☐ Yes ☐ No

b. Was it signed by the inspector? ☐ Yes ☐ No

28. Did payment match contract amount? ☐ Yes ☐ No

29. Was more than 10 percent spent on LSWP? ☐ Yes ☐ No

30. Is repayment agreement signed and filed?

Date: _____ Book: _____ Page Number: _____

31. Was the Lien Prevention Document (Part 2) submitted prior to final payment? ☐ Yes ☐ No

Was it complete with release given by all sub-contractors/ suppliers? ☐ Yes ☐ No

SITE VISIT

32. Did the property meet CDBG requirements? ☐ Yes ☐ No

33. Is the owner satisfied with the work completed at the home? ☐ Yes ☐ No

34. Are the premises free from rubbish and debris left by the owner or contractor? ☐ Yes ☐ No

Any concerns: _____

_____

_____

_____

INDIVIDUAL HOUSING REHABILITATION (if rental unit)

1. Owner Name: _____
2. Tenant's Name: _____
3. Property Address: _____
4. Date application signed:_____
5. Current Rent amount: _____
6. Verification of:

Property ownership:	☐ Yes	☐ No
Paid property taxes:	☐ Yes	☐ No
Paid utilities:	☐ Yes	☐ No
Property insurance paid and current with city listed as insured:	☐ Yes	☐ No

7. Is Landlord (owner) LMI? ☐ Yes ☐ No
   a. If so, is LMI verification on file? ☐ Yes ☐ No
   b. Date of verification: _____
   c. Total persons in household _____ Total household income? _____
   d. HUD income limits: _____ Does owner income qualify? ☐ Yes ☐ No
   e. Have new income taxes been filed since last verification? ☐ Yes ☐ No
      i. Bid Letting date:_____
      ii. Date of re-verification: _____
      iii. Total persons: _____
      iv. Total income $: _____
8. Is Tenant LMI? ☐ Yes ☐ No
   a. If so, is LMI verification on file? ☐ Yes ☐ No
   b. Date of verification: _____
   c. Total persons in household _____ Total household income? _____
   d. HUD income limits? _____Does household income qualify? ☐ Yes ☐ No
   e. Have new income taxes been filed since last verification? ☐ Yes ☐ No
      i. Bid Letting date: _____
      ii. Date of re-verification: _____
      iii. Total persons: _____
      iv. Total Income $: _____

9. Date of Self-Help agreement (if applicable): _____

10. Any children under six? ☐ Yes ☐ No

    a. If so, were all children under six given a blood test? ☐ Yes ☐ No

    b. Results of test: _____

11. Date of Historical Society clearance: _____

12. Procurement:

    a. What round was this property bid? _____

    b. Number of bidders to receive IFB? _____

    c. Date of IFB? _____

    d. Bid Tour date? _____

    e. Bid Opening date? _____

    f. Number of bids received? _____

    If only one, did Commerce approve award? ☐ Yes ☐ No

    g. Was it awarded to lowest bidder? _____

    h. Are all bids on file? ☐ Yes ☐ No

13. Was high cost waiver required? ☐ Yes ☐ No

    If so, date approval given: _____

14. Contract Execution Date: _____

15 Was the contract signed by contractor, owner and City? ☐ Yes ☐ No

16. Does it include Civil Rights provisions and other certifications? ☐ Yes ☐ No

17. Is there a ledger for this property? ☐ Yes ☐ No

Invoice Date	To Whom	Check #	Check Date	Amount

Does this total payment match the contract? ☐ Yes ☐ No

18. Date of Lien Prevention Document (Part 1):_____

    Is it complete? ☐ Yes ☐ No

19. Total Rehabilitation Cost $ _____ CDBG $_____ LOCAL $_____

20. If owner non-LMI did they contribute 25 percent? ☐ Yes ☐ No

21. Any other Local funds? ☐ Yes ☐ No

22. Where did Local funds come from? _____

23. Were the funds collected prior to contract signing?

24. Notice to Proceed Date:_____ Completion Date: _____

25. Does Contract or Notice to Proceed include appropriate time frames? ☐ Yes ☐ No

26. Was a time extension required? ☐ Yes ☐ No

27. Was time extension signed by contractor, owner and City? ☐ Yes ☐ No

    If so, where did they come from? _____

28. Were there change orders? ☐ Yes ☐ No

    a. If so, was it legitimate? ☐ Yes ☐ No

    b. Was it signed by the inspector? ☐ Yes ☐ No

29. Did payment match contract amount? ☐ Yes ☐ No

30. Was more than 10 percent spent on LSWP? ☐ Yes ☐ No

31. Rental Freeze agreement:

    a. Fair market rent $_____

    b. Anti-Displacement clause: _____

    c. LMI Agreement: _____

32. Is repayment agreement signed and filed? ☐ Yes ☐ No

    Date: _____ Book: _____ Page Number: _____

33. Was the Lien Prevention Document (Part 2) submitted prior to final payment? ☐ Yes ☐ No

    Was it complete with release given by all sub-contractors/ suppliers? ☐ Yes ☐ No

SITE VISIT

34. Did the property meet CDBG requirements? ☐ Yes ☐ No

35. Is the owner satisfied with the work completed at the home? ☐ Yes ☐ No

36. Are the premises free from rubbish and debris left by the owner or contractor? ☐ Yes ☐ No

    Any concerns: _____

_____

_____

_____

_____

Demolition with Housing Rehabitation

1. Has the grantee developed a demolition plan that includes, but is not limited to: target area(s) location; eligible and ineligible activities; demolition standards; application procedures; demolition contract procedures; complaint procedures, etc.? ☐ Yes ☐ No

   A. Is the demolition plan complete and acceptable? ☐ Yes ☐ No ☐ N/A

   B. Is the grantee following the demolition plan? ☐ Yes ☐ No ☐ N/A

   C. Date approved by Commerce: _____

2. Are demolition contracts let by unit or group? ☐ Unit ☐ Group

3. How are contractors selected? _____

   _____

   _____

4. Has any relocation occurred? ☐ Yes ☐ No ☐ N/A

   If yes, explain: _____

   _____

5. Number of properties to be demolished: _____

6. Number of properties demolished to date: _____

7. How many individual demolition files were reviewed? _____
   (attach the individual demolition file checklists to this monitoring report)

8. How many demolition projects were inspected? _____

Comments: _____

_____

_____

_____

Individual Demolition Files

1. Owner name: _____

2. Property address: _____

3. Demo cost: $ _____ Inspection cost: _____ Total cost: _____

4. Is application signed and dated? ☐ Yes ☐ No

5. Verification of:

   Property ownership: ☐
   Paid property taxes: ☐
   Historical Society date: _____
   Date of:
   Inspection: _____
   Asbestos inspection: _____
   Bid opening: _____

6. Number of bids received: _____

7. All bids on file: ☐ Yes ☐ No

8. Bid amount awarded: $ _____

9. Contractors name: _____

   Address: _____

10. Other bidders: _____

    _____

11. Date of verification of contractor eligibility received from Commerce: _____

12. Date of: Construction contract: _____
    Notice to proceed: _____

13. Documentation of:
    Construction specifications: ☐ Yes ☐ No
    Workers Comp insurance: ☐ Yes ☐ No
    Liability insurance: ☐ Yes ☐ No
    Contract contains all necessary
    Civil Rights, etc. information: ☐ Yes ☐ No

14. Date of Start of Construction: _____

    Date Demolition Notification Form submitted to KDHE: _____

    Was form submitted 10 working days prior to demolition? ☐ Yes ☐ No

Economic Development

A. Desk Review (from application):

1. Private business involved: _____
2. Base employment (12 months previous to grant award): _____
3. Number of jobs to be retained: _____
4. Number of jobs to be created: _____
5. Number of LMI benefit of new jobs: _____ Retained: _____
6. Total funds to be spent by private industry: _____
7. Local (grantee) contribution: $ _____

B. Field Review:

1. Current employment: _____
2. Number of jobs retained: _____ LMI retained: _____
3. Number of jobs created: _____ LMI created: _____
4. Were other training programs used? ☐ Yes ☐ No

   If yes, describe the program: _____

   _____
5. Total funds spent by industry to date: $ _____
6. Source of above information (i.e. bills paid, invoices, etc): _____

   _____
7. For each draw request, was there support for the claimed expenditure? ☐ Yes ☐ No
8. Local (grantee) contribution to date: $ _____
9. Source of above information (i.e. bond sale, bills paid, etc.): _____
10. Describe how the grantee is monitoring the firm: _____
11. Has UCC or mortgage been filed on all purchases CDBG has a lien on? ☐ Yes ☐ No

    Is it current? ☐ Yes ☐ No Date Filed _____
12. Is the company current in all payments? ☐ Yes ☐ No

    If not, why and how far behind? _____

    _____

Demolition Only

1. How many units or structures were demolished with CDBG funds? _____
2. How many structures were proposed for demolition in the funding approval? _____
3. Was a demolition contractor procured? ☐ Yes ☐ No ☐ N/A
4. Were structures vacant for more than 12 months? ☐ Yes ☐ No ☐ N/A
5. If not, is Section 104d One-for-One Plan available for review? ☐ Yes ☐ No ☐ N/A
6. Is the 104d Plan in compliance (old104d replacement units affordable to LMI families)? ☐ Yes ☐ No ☐ N/A
7. SAMPLE FILE REVIEW

	House #____ Yes, No, N/A	House #____ Yes, No, N/A	House #____ Yes, No, N/A
a. Was there a demolition inspection write-up for each demolished unit or a bid specification document?	_____	_____	_____
b. Were the units inspected for asbestos?	_____	_____	_____
c. Was the asbestos inspector certified by KDHE?	_____	_____	_____
d. Did the inspector find friable asbestos?	_____	_____	_____
e. If so, was a licensed abatement contractor procured?	_____	_____	_____
f. Was the asbestos waste disposed of at a sanitary landfill, demolition landfill or a hazardous waste facility?	_____	_____	_____
g. Is an asbestos notification form in the file for each demolition unit or structure and properly submitted to KDHE?	_____	_____	_____
h. Was the demolition debris disposed of at a sanitary landfill or demolition landfill?	_____	_____	_____
i. Are landfill receipts in each demolition file?	_____	_____	_____
j. Was there hazardous waste in any demolition debris?	_____	_____	_____
k. If so, was the hazardous waste disposed of at a facility that specializes in hazardous waste disposal?	_____	_____	_____
l. Are receipts from the hazardous waste facility in the file of each such demolition?	_____	_____	_____

8. Is the grantee's file for this compliance area complete? ☐ Yes ☐ No

Comments: _____

_____

_____

_____

Section 4: Record Keeping Requirements

I. NATIONAL OBJECTIVE

Grantee shall ensure that the following records are maintained and kept up-to-date:

A. A full description of each activity carried out (or being carried out) in whole, or in part, with CDBG funds, including the nature and purpose of the activity, its location (if the activity has a geographical location), and the amount of CDBG funds budgeted, obligated and expended for the activity.

B. Records demonstrating that each activity undertaken meets one of the National Objectives. At a minimum, such records shall include the following information:

1. For each activity determined to benefit LMI persons based on the area served by the activity:

    a. The boundaries of the service area; and
    b. The income characteristics of households and unrelated individuals in the service area.

2. For each activity determined to benefit LMI persons based on the incomes of the households directly benefiting from the activity where the activity involves the submission of an application or the completion of a personal record:

    a. The size of each household receiving benefits; and
    b. The income of each such household.

3. For each activity determined to benefit LMI persons because the activity involves a facility or service designed for use predominately by LMI persons, documentation demonstrating that the predominant users are LMI persons.

4. For each multi-family rehabilitation activity determined to benefit LMI persons.

    a. The local definition of "affordable to LMI household";
    b. The rent charged (or to be charged) after rehabilitation, for each dwelling unit in each structure rehabilitation; and
    c. The total number of dwelling units in each structure rehabilitated and the percent of units in each structure which are occupied by LMI households.

5. For each activity which benefits LMI persons based on job creation, the grantee must provide documentation that these jobs were held by LMI persons.

   The required documentation for created jobs which will be held by LMI persons shall include, for each business assisted, a copy of a written agreement attached to the grant agreement containing:

   a. A written commitment from the business that at least 51 percent of all created jobs will be held by LMI persons.
   b. A list (by job title) of all permanent jobs to be created, noting which are part-time.

      (1) A list (by job title) of all permanent jobs filled, indicating which jobs were initially held by LMI persons.

      (2) Data on the family size and annual family income (prior to hiring) of each LMI person hired.

6. For each activity which benefits LMI persons based on job retention, the grantee must provide, for each business assisted:

   a. Clear and objective evidence that without the CDBG assistance the jobs would be lost.
   b. A list (by job title) of all permanent jobs to be retained, indicating:

      (1) Jobs which are part-time.

      (2) Jobs known to be held by low- and moderate-income persons at the time assistance is provided.

      (3) Where applicable, identification of any retained jobs not known to be held by LMI persons but projected to become available to such persons through job turnover within two years of the time assistance is provided.

   NOTE: Information upon which the job turnover projections were based shall also be included. Turnover of a job already held by a low- or moderate-income person cannot be counted again.

   c. Data on the family size and family annual income of each LMI person for jobs claimed to be held by such persons at the time of the assistance.

7. For each activity determined to aid in the prevention or elimination of slums or blight based on addressing one or more of the conditions which qualified an area as a slum or blighted area:

a. The area meets a definition of slum, blighted, deteriorated or deteriorating area under state or local law;
b. There are a substantial number of deteriorated or deteriorating buildings throughout the area;
c. The boundaries of the area and description of the conditions which qualified the area at the time of its designation; and
d. The assisted activity is designed to address one or more of the conditions which contributed to the deterioration of the area.

8. For each activity determined to aid in the prevention or elimination of slums or blight based on the elimination of specific conditions of blight or physical decay not located in a slum or blighted area.

9. For each activity determined to meet a community development need having a particular urgency:

a. The nature and degree of seriousness of the condition requiring assistance;
b. Evidence that the grantee certified that the CDBG activity was designed to address the urgent need;
c. Information on the timing of the development of the serious conditions; and
d. Evidence confirming that other financial resources to alleviate the needs were not available.

II. CIVIL RIGHTS

A. Documentation of the action(s) the grantee has carried out (or is carrying out) to affirmatively further fair housing, including records on funds provided, if any, for such actions.

B. For direct benefit activities, data on the extent to which persons have participated in, or benefited from, any program or activity funded in whole, or in part, with CDBG funds. Records must be kept by race, ethnicity, disability status and gender of heads of households. For area wide activities, documentation on the area and the services being provided to the area and the race and ethnicity of the service area must be maintained.

C. For direct benefit activities, records must be maintained on all applicants for the benefit, regardless of whether or not they were selected to benefit.

D. Data indicating the race and ethnicity of households, and disability status of persons displaced as a result of CDBG activities, including the address to which each displaced household relocated. Where activities cause a significant level of displacement of business, data indicating the impact on businesses owned by minorities and women.

E. Documentation of actions undertaken to meet the requirements of Section 3 of the Housing and Urban Development Act of 1968, including Section 3 requirements in construction contracts $100,000 or more in project activities of $200,000 or more.

F. Data indicating the racial/ethnic character of each business entity that receives a contract or subcontract paid, or to be paid, with CDBG funds. Data indicating which of those entities are women's business enterprises as defined in Executive Order 12138 and the amount of the contract or subcontract. Outreach efforts to all Minority Business Enterprises (MBE's) and Women Business Enterprises (WBE's) must be documented.

G. Documentation of the affirmative actions the local government has taken to overcome the effects of prior discrimination as determined through a formal compliance review or court proceeding, where the grantee has previously discriminated against persons on the grounds of race, color, national origin or sex in administering a program or activity funded in whole, or in part, with CDBG funds.

H. Documentation of <u>all</u> civil rights requirements in contracts over $10,000.

I. A certification from the grantee's architect must be obtained on a removal of architectural barriers (ADA) project that the activities being carried out with CDBG monies are ADA compliant. This must be obtained after the work is completed. In the case of new construction, the architect must certify a building or improvement is in compliance with ADA regulations.

III. ELIGIBILITY OF ACTIVITIES

A. A full description of each activity being carried out in whole, or in part, with CDBG funds.

B. A description of the nature and purpose of the activity.

C. The location of the activity (if the activity has a location focus).

D. The amount budgeted for each activity.

E. The amount obligated and expended for each activity.

F. Records which demonstrate that the Grantee has made the determinations required as a condition for eligibility of certain activities, as prescribed in HUD rules and regulations.

IV. LABOR STANDARDS

A. Copy of Request for Wage Determination.

B. Record of written follow-up for wage decision modifications (10-Day Call). Confirmation of wage rates.

C. Wage decisions and all modifications, including additional classifications, if applicable.

D. Preconstruction conference minutes (if applicable).

E. Verification of Contractor Eligibility within 10 days of contract award

F. Notification of Start of Construction form.

G. Original weekly payrolls, consisting of either a WH-347 or an approved equivalent with a Statement of Compliance.

H. Record of Employee Interview forms.

I. Copies of all memoranda and/or correspondence relating to labor standards.

J. Records of restitution affected which includes notarized acknowledgment of receipt of restitution plus front and back of checks issued for any restitution.

K. Notice of Completion/Final Wage Compliance Report.

L. Bid bond and performance bond.

M. Contracts containing proper and applicable labor standards provisions.

N. Apprentices – copies of apprenticeship contracts, if applicable.

V. UNIFORM RELOCATION ASSISTANCE AND REAL PROPERTY ACQUISITION

The following information shall be maintained for three years after HUD program year is closed.

A. Acquisition – The requirements apply to acquisition activities under the Uniform Act. Documentation must include the following:

1. Identification of property and property owner(s)

2. Evidence owner was informed on a timely basis about acquisition and his or her rights, including receipt of a copy of the booklet, “When a Public Agency Acquires Your Property.”

3. Copy of any waivers signed by property owners of their rights to just compensation and/or appraisals.

4. Copy of each appraisal report, including review appraiser's report, and evidence that owner was invited to accompany each appraiser on appraiser's inspection of property.

5. Copy of written purchase offer and summary statement of the basis for the determination of just compensation and date of delivery to owner.

6. Copy of purchase contract and document(s) conveying property.

7. Copy of settlement statement and evidence that owner received net proceeds due from sale.

8. Evidence of acquired property being filed with the county.

9. Copy of any appeal or complaint filed and grantee response.

B. Relocation – The requirements apply to Uniform Act and Non-Uniform Act relocation activities. Documentation must include the following:

1. Identification of person, displacement property, racial/ethnic group classification, age and sex of all members of household, monthly rent and utility costs, type of enterprise, relocation needs and preferences.

2. Evidence person received timely statement describing available relocation payments (and basic eligibility conditions), advisory services, and, if applicable, right to comparable replacement housing.

3. Evidence person received timely written notice informing him or her of eligibility for relocation assistance and related information.

4. Evidence and dates of personal contacts; a description of services provided.

5. Identification of referrals to replacement properties; date of referral, sale price or rent/utility costs; date of availability; reason(s) for declining referral.

6. Replacement dwelling inspection report; date of inspection.

7. Copy of each approved claim form-related documentation; evidence that person received payment.

8. Copy of any appeal or complaint filed and grantee response.

VI. ENVIRONMENT

A. For every project, the grantee must maintain an Environmental Review Record (ERR) that includes:

1. Description of project and activities;

2. All environmental assessments including their findings, source documents and determinations;

3. Affidavits of public notices or postings;

4. Responses from agencies affected by project;

5. Request for Release of Funds; and

6. State's approval of environmental certification and notice of release of funds.

B. Project Consisting of Categorical Exclusions:

1. Consultation with Other Agencies:

   a. Evidence that grantee initiated, consulted and coordinated with other concerned federal and state agencies.
   b. Evidence of completion of action required under other applicable laws and authorities.

2. Status statement signed by chief elected official that project activities meet the requirements for categorical exclusion from National Environmental Protection Agency (NEPA) requirements.

3. Evidence that Notice of Intent to Request a Release of Funds (NOI/RROF) was published at least seven calendar days before submitting to the state, or posted for 10 days using the HUD format. Record of comments and how they have been taken into account.

4. Evidence that NOI/RROF, environmental certification and status statement were submitted to state.

5. If the project is converted to exempt, only Items 1 and 2 above are applicable.

C. Environmental Assessment (EA) for Projects Not Classified as Exempt or Categorically Excluded:

1. Consultation with Other Agencies.

a. Evidence that grantee initiated, consulted and coordinated with other concerned federal and state agencies.
b. Evidence of completion of action required under other applicable laws and authorities.

2. Copy of EA, using HUD format.

3. If Finding of No Significant Impact (FONSI) determination is made, evidence that a combined notice of FONSI and NOI/RROF were prepared.

4. Evidence that notices were published at least once in local area-wide newspaper or posted within grantee locations.

5. Evidence that 15-day local comment period was provided for combined FONSI notice and NOI/RROF or posted for 18 days. Record of comments received and how they have been taken into account. Records of any determination extending comment period.

6. Evidence that FONSI or NOI/RROF and certifications were submitted to state.

D. Release of Funds and Certification Approval:

1. Documentation of objections received from agencies or public, if any received during the state comment process, and their disposition.

2. Approval of the release of funds and certification.

3. Documentation of the implementation of environmental review decisions.

VII. FINANCIAL MANAGEMENT

A. Ledger denoting line items of approved budget and record of receipts and expenditures of all funds in each category.

B. Copy of Authorized Signature Form.

C. Copy of Designation of Depository Form.

D. Copy of Electronic Transfer Form.

E. Copies of all checks and invoices for CDBG funds and all local funds committed to the project.

F. Originals of all pay requests and supporting invoices.

G. Originals of all contracts for CDBG and local funds.

H. Timesheets for any grantee in-kind matching funds.

I. All program income receipts and disbursals (if applicable).

J. A listing of all fixed assets acquired with CDBG funds.

VIII. PROCUREMENT

A. The written procurement policy of the grantee must be placed in the CDBG files.

B. Documentation of all procurement for all contracts issued under the CDBG program. All purchases of goods and/or services over $2,000 must be supported by contracts. For purchases or services under $2,000, purchase orders, agreements or signed proposals must be maintained.

C. For purchases of goods and/or services under $500, records must be kept of solicitation carried out to obtain same and paid invoices must be provided for completion.

D. Evidence of efforts to procure MBE's and WBE's for all goods and/or services.

IX. HOUSING

Housing grantees must refer to the Housing Handbook for recordkeeping requirements specific to housing, including lead-based paint requirements.

X. LEGAL RECORDS – Economic Development Grants

The grantee's "loan" to the borrowing business is the same as a loan by a bank to a borrower. Certain collateral may be required. The collateral may be in the form of personal guarantees, mortgages on real estate or UCC-1 financing statements on personal property of the borrower or all three types of collateral. Record keeping is important. If a default occurs in the loan arrangement, the grantee city or county must have records readily available in order to pursue a foreclosure or other contractual claim against the corporation or its principals.

Such records often include but are not limited to promissory notes, security agreements, loan agreements, signed guaranty contracts, UCC financing statements and mortgages, and accompanying letters regarding these documents. Copies of these documents are required to be available to CDBG.

Closeouts of economic development projects sometimes occur long before the loan is finally paid. This is because while meeting LMI, jobs can occur quickly and the project closed out, a company may be given a lengthy repayment period. The grantee's responsibilities are not over until the entire loan is repaid or concluded to Commerce's satisfaction.

We suggest that the grantee's attorney or records custodian take great care to insure the integrity of these documents for however long the project remains incomplete. Over the years, we have seen grantees fail to maintain adequate legal documentation, especially in the filing of original mortgages, or original filings and continuation statements under the UCC Article IX. The laws governing such filings are important and we suggest you continually involve your legal counsel in this process.

If you have questions or need assistance on ideas for maintenance of these records, please contact:

Kansas Department of Commerce
Attorney, CDBG Division
1000 S.W. Jackson St., Suite 100
Topeka, KS 66612-1354
(785) 296-3004

Section 5: Financial Management

Federal regulations mandate that the State of Kansas in administering the HUD Small Cities Community Development Block Grant program "establish record keeping requirements" of their grantees which are adequate to determine whether CDBG funds have been expended in accordance with federal and state law.

These Financial Management Guidelines address specific aspects of the overall financial management systems for CDBG grantees. Each section includes a description of the governing legal requirements, the steps needed to comply with those requirements and the required documentation and reporting forms.

Please note that federal regulatory provisions which apply to several aspects of the financial management system may be downloaded from our website at www.kansascommerce.gov/cdbg. These include:

- 2 CFR Part 200 HUD Overview for Grantees (in part) that governs cost principals for state and local governments.
- 24 CFR Part 85, "Common Rule."

I. FINANCIAL MANAGEMENT SYSTEMS

A. General Guidelines

1. A grantee's financial management system must provide for accurate, current and complete disclosure of the finances of each grant program.

2. The records must identify the source and application of funds for grant supported activities. These records must contain information pertaining to the CDBG award and authorization, obligations, unobligated balances, assets, liabilities, outlays and income.

3. Grantees must safeguard all funds, property, and other assets through effective internal control and accountability and ensure they are used solely for the purposes authorized.

4. The system must provide for a comparison of actual outlays with budgeted amounts for each line item. This includes grant funds and matching funds.

5. The grantees must have a procedure for determining if costs are reasonable, allowable and allocable in accordance with 2 CFR Part 200 and/or 24 CFR Part 85.

6. Accounting records must be supported by source documentation (invoices, bills of lading, vouchers, etc.). All employees to be paid in whole or in part from local matching cash are required to prepare time sheets allocating time to the specified activity for each pay period during which they have worked on CDBG. A payroll analysis indicating the distribution of payroll among the grantee's program must be maintained.

B. Accounting Procedures and Documents

1. Grantees have the responsibility for using a fiscal organization and management system that ensures proper and efficient administration of the grant. These basic principles should guide the development of your system.

   a. Procedures should be formalized so they can be applied consistently.
   b. Procedures should be designed to ensure internal control of funds.
   c. Financial transactions should be documented to create an audit trail.

   Regardless of the system used, separate accounting records must be maintained for CDBG grant funds distinguishing them from all others so that CDBG revenues and expenditures can be readily identified in the accounting records.

2. The system should include the following accounting documents or their equivalent:

   a. Cash Receipt Journal: This journal should record the receipt of all funds applied to the CDBG program. It should include the date of receipt, the amount received, the source of funds and the accounts into which funds were assigned.
   b. Cash Disbursement Journal: This will record all checks issued for payment of program costs, including date of payment, payee, check number, amount and the account from which disbursement was made.
   c. General Ledger: Summarizes the monthly receipts and disbursements for each activity included in the project.
   d. Journal Voucher: Records, explanations and amounts of adjustments to general ledger accounts.
   e. Fixed Asset or Property Management Ledger: A listing of all fixed assets acquired with CDBG funds.
   f. CDBG Cash Register: A record of requests for payment, checks

D. Audit Requirements

See the Audit Section of this handbook for audit requirements.

II. RECEIPT AND DISBURSEMENT OF FUNDS

A. In General

The primary documents relating to the establishment of the community's grant account and requesting its CDBG funds are Federal Register Chapter 24: Section Part 85 and 31 CFR Part 205. The first requires the state to keep track of amounts authorized and disbursed for the Small Cities program. The second, 31 CFR Part 205, allows the state, and subsequently its grantee (local governments), to request funds in advance of having to disburse their own funds. They may do this only if they expend the amount requested within a minimum amount of time after the funds are deposited in the grantee's checking account. The Circular also provides that the state (and grantees) must maintain an adequate record keeping system, and ensure that funds will be quickly expended, or it will lose the privilege of drawing advances on its grant account and have to obtain future funds on a reimbursement basis.

B. Drawing Grant Funds from the Department

1. Authorized Signature Form: The original form must be on file with Commerce before any requests for payment of CDBG funds can be processed. It is suggested that a minimum of three signatures be listed to ensure availability of persons to sign the pay requests when needed. No person outside of elected or employed personnel may sign for the grantee.

2. Automated Clearing House (A.C.H.) accounts are required. Both the "Designation of Depository: Direct Deposit" and "Authorization for Electronic Deposit of Vendor Payment" must be on file with Commerce before any requests for payment of CDBG funds will be processed. The account number on the forms must match. Early submission of these forms is recommended so as not to hold up payments.

   Please note that the bank forms, Authorization for Electronic Deposit of Vendor Payment and Designation of Depository: Direct Deposit, will be included with the grant contract. Grantees must include a voided check when returning the bank forms.

3. Payment Request Forms. Funds are requested by using a Request for Payment of CDBG Funds (Form No. RP-1) and an Cash Disbursement Report (Form CDBG-F-CD). Prepare the forms and retain the original in the grantee files. Submit a signed electronic copy to Commerce for payment.

   The amount of CDBG monies drawn, once construction starts, must be requested proportionally to the amount of local expenditures in accordance with the contract budget except for housing and economic development. In addition, at grant closeout, the overall total of all expenditures should be proportional to the local expenditures as indicated in the grant contract.

   In order for Commerce to approve the payment request, the data on the forms must be complete and accurate.

   For economic development projects, support for the claimed expenditures must accompany the payment request. Such support should take the form of a legible listing of the invoice number and amount, the billing company, and the earliest of the order/shipping/invoice date.

   Payment requests for all grants should be emailed to your CDBG project manager.

4. Amount and Timing of a Payment Request. Requests for payment should be only in amounts necessary to meet current disbursement needs. "Current disbursement needs" are defined as the funds that will be expended within **three** working days of receipt from Commerce. The grantee should have invoices or billings from contractor or vendors in hand when submitting a payment request to Commerce. CDBG funds must pay a portion of the **first** construction invoice or pay estimate that is received by the grantee. Timing is important on the local level to ensure payment of all contracts in a timely manner.

The **minimum** amount on a payment request is **$3,000**, unless there is less than $3,000 remaining on the grant award. The **maximum** amount on a single payment request is **$200,000**, unless a larger disbursement is needed to handle the acquisition of real estate or the purchase of a single shipment of machinery and equipment.

Under normal conditions, Commerce will electronically transfer (A.C.H.) the funds within two weeks or 10 working days of receipt of a valid payment request.

5. **Ten Percent Holdback and Final Request. An amount equal to 10 percent of the CDBG share of administrative costs will be held back until the close-out certifications have been received and accepted by Commerce. If no administrative costs are to be charged to the grant, $2,000 of the grant will be held until close-out. Administration can be no more than 10 percent total of CDBG dollars.**

   To obtain these funds, the grantee <u>must</u> submit a payment request on the normal forms with the close-out documents.

C. Expenditure of Funds

Grant funds should be **expended** within **three** working days of receipt.

D. Bank Accounts

It is not required but highly recommended that a grantee set up a separate bank account for CDBG funds. If a separate account is established, it must be a **non-interest bearing account**. If the grantee uses an existing interest bearing account, there must be a substantial amount of other funds flowing through the account so the interest income cannot be traced to the CDBG funds. If interest income is earned on CDBG funds, it must be returned to the U.S. Treasury through Commerce.

E. Administration Costs

1. The first draw of funds will be processed after the "Notice of Approval for the Release of Funds" has been issued by Commerce, Authorized Signature Form, and the bank forms have been received. The "Notice of Approval for the Release of Funds" is normally issued after the contract has been signed by all parties and the environmental requirements have been satisfied. The distribution of administrative drawdowns is as follows:

   a. The first draw of funds can include up to 25 percent of administrative expenses.
   b. Fifty percent of the budgeted administrative funds can be drawn after the first drawdown of construction funds.
   c. Seventy-five percent of administrative funds can be drawn after 50 percent of the construction drawdowns of CDBG funds.
   d. Up to 90 percent administrative funds can be drawn prior to receipt of final close-out paperwork and clearance of all monitoring findings.

2. For housing projects, the 50 percent allowance will be after completion of the first three housing rehabilitation projects. For economic development projects a 10 percent hold of administrative funds for the final close-out paperwork is the only similarity to the above mentioned distribution.

III. RETENTION OF RECORDS

A. Grantees are required to retain all records pertinent to the grant program for a minimum of **three years** after HUD closeout of the year and/or final repayment on an Economic Development grant. The exception to this requirement would be if the grant is in litigation at the end of the applicable period. The starting point for the **three** year period is when all grants awarded for that program year (January 1 to December 31) have been closed by CDBG and the program close-out for the **program year** has been accepted and acknowledged by HUD.

B. Such records shall be accessible to authorized representatives of Commerce, the Secretary of HUD, the Inspector General of the United States and the General Accounting Office.

C. Any contract or agreement entered into by the Grantee shall contain the provisions of Item B above to assure accessibility by authorized personnel to the pertinent records of any sub-recipient, contractor or subcontractor.

IV. PROGRAM INCOME

Program income is an amount received by a grantee or its sub-recipient that has been generated from the use of CDBG funds. Such income may include proceeds from the sale of real or personal property, from interest earned on revolving funds, from service fees and from admission fees. Certain funds that may be so generated are designated "program income" and require special handling.

A. Program Income

1. Program income includes, but is not limited to:

- Proceeds from the disposition by sale or long term lease of real property purchased with CDBG funds;
- Income from the temporary use or leasing of properties acquired with CDBG funds pending the disposition or use for which the property was acquired;
- Payments of principal and interest on loans made using CDBG funds; and
- Interest earned on program income pending disposition of such income.

2. Program income does not include interest earned on cash advances from Commerce. Such interest will be remitted to the U.S. Treasury.

During the grant period, all such income shall be committed to the grantee's current CDBG program and expended prior to making additional drawdowns.

3. Program income shall be:

- Treated as income of an active grant;
- Used prior to drawdown of additional grant funds;
- Subject to the Administrative Requirements for Economic Development;
- Used in accordance with requirements of Title I of the Housing and Community Development Act; and
- Program income shall not be used to increase the amount approved as necessary or appropriate for assistance to a for-profit entity.

NOTE: Grantees are required by federal law to return to the federal government any interest earned on grant funds advanced for a CDBG program, except interest earned on revolving funds.

B. Receipts Not Considered Program Income

Funds received by a grantee which are not considered program income are those derived from the operation of a public works or facility, the construction of which was assisted through a CDBG grant. Such funds would include admission fees paid for use of a recreational facility and service fees paid by users of a water facility. These receipts are not subject to the CDBG regulations and should be considered miscellaneous revenue to the recipient.

C. Program Income Reuse from a Revolving Loan Fund Prior to Close-out

If a grantee decides to retain program income and reuses any portion of that program income at any time prior to the close-out of their grant contract with Commerce, with prior approval from Commerce, the following requirements must be met:

1. The reuse must meet one of the national objectives.
2. The new activity must be eligible under Section 105(a) of the Act.
3. The new activity must be the same activity from which the program income is generated, as described in the application materials submitted by the local government and approved by the state.
4. The project must meet the "necessary or appropriate" criteria if the original program income generating activity was economic development.
5. A grant amendment will be required for inclusion of the additional activities and a budget revision.
6. CDBG citizen participation requirements must be met (public hearings) for each project funded.
7. All CDBG project reporting requirements must be met during the new activity period. This new activity will be monitored by Commerce until all stated benefits and results are achieved.
8. A new economic development loan agreement between the grantee and the business must be made and approved by Commerce. This agreement must include all provisions required by Commerce including job creation commitment.

9. All other statutory and regulatory provisions and requirements must be adhered to.

D. Retained Program Income (after Close-out) Plan Required

1. Program income shall be returned to the state except where the grantee can demonstrate its ability to follow the state-wide Reuse Plan included in the General Requirements only for projects funded after January 1, 1989, unless mandated by the federal agency to make the plan retroactive.

   This plan requires that program income be utilized to provide another loan to the "same activity" within a "reasonable time." For economic development projects, "same activity" is defined as another loan to the same business from which the program income was received; "reasonable time" is defined as the three month period of time starting at the point in time at which the repayment of the original loan principal began. The business must expand the state's economic base by selling or having the potential to sell products or services to non-state markets; or by replacing or competing with products or services imported into the state. Also, the business must be unable to obtain adequate funds from non-grant sources to expand or retain its base employment. For non-economic development projects, "same activity" is defined as another project in the same category as that producing the program income. "Reasonable time" is defined as successful completion of the initial grant in 24 months from the date of execution of the contract with the state and successful close within three months of project completion.

2. Prior to execution of the close-out agreement, each grantee retaining program income must submit a plan and strategy for program income reuse to be approved by the state which must address the following:

   a. A detailed statement of the community development/economic development eligible activities the funds will be used for;
   b. Establish a decision making system, policies, a financial management system and administrative procedures for the use of program income and a commitment to ensure that administrative costs will not exceed 7 percent of the total program income funds;
   c. The grantee must have a commitment to ensure that at least 51 percent of the income will be used to benefit LMI persons;
   d. How changes to the reuse plan will be made (any changes must be approved by Commerce).

3. In order for the state to comply with its federal grant responsibilities, a grantee retaining program income for reuse is required to submit semi-annual reports for the six month period ending June 30 and December 31. Reports are due within 30 days of the end of the reporting period and will contain the following information:

   a. Amount of program income deposited to the fund this past year;
   b. The fund balance and any activities undertaken with the fund; and
   c. How the city is complying with the specifications of the reuse plan.

V. PROPERTY MANAGEMENT STANDARDS

The local grantee must follow standards and procedures for the acquisition, use and disposition of property acquired in whole or in part with CDBG. The local standards must be at least as stringent and restrictive as those called for by the CDBG program. Requirements are set forth in Section 13 herein, Property Management.

VI. BUDGET AMENDMENTS AND OTHER CHANGES

During the course of implementing the grant project, it may be necessary for the grantee to modify the CDBG budget for one or more line activities, or request a time extension. All modifications require an amendment to the contract agreement.

The process for an amendment to the grant agreement is as follows:

1. Determine content of amendment;
2. Acquire approval of the governing body, which must be documented in the official minutes;
3. Submit the following items to the Small Cities program office:
   a. Completed "Contract Amendment/Request" form in duplicate, both with original signatures of chief elected official.
   b. Any materials needed to document need for change.
   c. Cover letter containing reasons for request from grantee.

The grantee will be notified of approval or non-approval as soon as possible. No action may be assumed prior to approval and no monies requested until the amendment process is complete. It is recommended that grantees contact CDBG staff prior to preparing the "Contract Amendment/Request" form to discuss the feasibility of the requested action.

VII. CHANGE IN SCOPE OF THE PROJECT

1. A request must be submitted in writing by the grantee before any changes are made.
2. The grantee will receive approval/disapproval in writing from the CDBG program.

VIII. CHANGE ORDERS

Change orders to construction contracts in excess of $50,000 (cumulative) must receive prior CDBG approval. The grantee will be required to submit:

1. An official request from the grantee asking for approval of the change order.
2. The grantee's letter may be accompanied by a letter from the project engineer justifying the change order.

The CDBG program will evaluate the grantee's request and respond with a written response to the grantee.

INSTRUCTIONS: SUBMIT TO COMMERCE TWO ORIGINALLY SIGNED COPIES WITH COVER LETTER CONTAINING REASON(S) FOR REQUEST.

CONTRACT AMENDMENT/REQUEST #_____

Grantee Name: _____ Grant #: _____
Address, City, Zip: _____

Date of Request: _____
Contract Award Date: _____
Current Completion Date: _____

Check as Applicable:
Time Extension ☐
Budget Amendment ☐

If requesting time extension, indicate amount of time needed to complete the project and give explanation below. Additional _____ months needed. New completion date _____.

For budget change(s), enter each line item -- **regardless of whether budget item changed or not**. If approved, this new project budget will supersede any previous budget(s).

No.	Activity Item	Existing Grant Budget	Revised Grant Budget	% Change
	TOTALS			

Explanation of Request (attach additional sheets, if needed):

The amendment shall become effective on _____, 20____. All other terms and conditions of the contract or any amendments thereto, shall remain unchanged. IN WITNESS WHEREOF, the parties hereto execute this agreement.

_____
Authorized Signature – Chief Elected Official

_____
Typed Name and Title

_____
Date

Kansas Department of Commerce

_____
CDBG Program

_____
Date

AUTHORIZED SIGNATURE FORM

Grantee Name: _____ Grant No.: _____

Street Address: _____

City, State, Zip: _____

AUTHORIZED SIGNATURES FOR REQUEST FOR PAYMENT

Typed Name and Title

Name: _____

Title: _____

_____
(Signature)

Typed Name and Title

Name: _____

Title: _____

_____
(Signature)

Typed Name and Title

Name: _____

Title: _____

_____
(Signature)

Typed Name and Title

Name: _____

Title: _____

_____
(Signature)

I hereby certify that the above signatures are authorized to sign the Request for Payment of CDBG funds (Form No. RP-1).

Typed Name and Title

Date: _____

Name: _____

Title: _____

_____
(Signature of Certifying Official)

INSTRUCTIONS AUTHORIZED SIGNATURE FORM

1. GRANTEE NAME AND ADDRESS –
   Insert name and complete address of grantee.

2. GRANT NO. –
   Enter assigned Grant Agreement Number.

3. AUTHORIZED SIGNATURES FOR REQUEST FOR PAYMENT –
   Enter the typed name, title and signature of the individuals who are authorized to sign the Request for Payment of CDBG funds (Form No. RP-1). **It is suggested that a minimum of three persons be designated as signees on this form to assure availability of personnel. No person outside of elected or employed personnel may sign for the grantee. You must be listed as authorized to sign requests.**

4. SIGNATURE OF CERTIFYING OFFICIAL –
   Enter the typed name, title and signature of the **highest elected official** to certify that the signatures are authorized to request payment of CDBG funds. Please enter the date the Authorized Signature Form was signed.

Click here to access the Request for Payment and Cash Disbursement Report

FORM NO. RP-1 1/2018 (Rev)

REQUEST FOR PAYMENT OF CDBG FUNDS

CFDA 14.228

PART I: REQUEST FOR PAYMENT INFORMATION

GRANTEE - NAME _____ GRANT NO. _____

STREET ADDRESS _____ REQUEST NO. _____

PO BOX _____

Grantee's - E-mail address for notifying about ACH deposit

CITY, STATE, ZIP _____

Administrator - E-mail address for notifying about ACH deposit

PART II: STATUS OF CDBG FUNDS

		AMOUNT
1	PAYMENT DUE & AMOUNT OF THIS REQUEST	_____
2	CDBG GRANT AWARD	_____
3	PROGRAM INCOME AND OTHER RECEIPTS	_____
4	**TOTAL FUNDS (2 + 3)**	_____
5	CDBG FUNDS RECEIVED TO DATE	_____
6	**TOTAL (1 + 5)**	_____
7	**REMAINING CDBG FUNDS (4 - 6)**	_____

PART III: CERTIFICATION

I HEREBY CERTIFY THAT THE DATA REPORTED ABOVE IS CORRECT AND THAT THE AMOUNT REQUESTED IS NOT IN EXCESS OF CURRENT NEEDS

DATE_____ SIGNATURE _____ TITLE _____

DATE_____ SIGNATURE _____ TITLE _____

PART IV: APPROVAL (FOR KANSAS DEPT. OF COMMERCE USE ONLY)

CDBG APPROVAL:

1. CONTRACT TERMINATION DATE: _____
2. AUTHORIZED SIGNATURE: _____
3. MONITORING RESOLUTION: CURRENT / PAST DUE / NA
4. QUARTERLY PROGRESS REPORTS: CURRENT / PAST DUE

FIELD REPRESENTATIVE _____ DATE _____

FISCAL _____ DATE _____

Kansas Department of Commerce
Small Cities Community Development Block Grant

CASH DISBURSEMENT REPORT

(For Economic Development Grants, please attach a copy of summary of payment)

GRANTEE: _____
GRANT NUMBER: _____
REPORTING PERIOD: _____
REPORT NUMBER: _____

Kansas Dept of Commerce
1000 SW JACKSON STREET, SUITE 100
TOPEKA, KS 66612-1354

CDBG-F-CD
6/2017 (REV)

	ACTIVITY	BUDGET			CDBG $			LOCAL/OTHER $		
NO.	NAME (As on Budget Form)	CDBG	LOCAL	TOTAL COST	EXPENDED THIS RFP	EXPENDED TO DATE	AVAILABLE BALANCE	EXPENDED THIS RFP	EXPENDED TO DATE	AVAILABLE BALANCE
	TOTALS									

Total Expended this DD, CDBG and Local **Total Expended**

Total Invoices this DD _____ _____ _____

CDBG/Local Ratio **#DIV/0!** **#DIV/0!** **#DIV/0!** **#DIV/0!** **#DIV/0!** **#DIV/0!**

INSTRUCTIONS - REQUEST FOR PAYMENT AND STATUS OF CDBG FUNDS

PART I – REQUEST FOR PAYMENT

-- GRANTEE NAME AND ADDRESS
As it appears on your Grant Agreement.

-- GRANT NO.
As it appears on your Grant Agreement.

-- REQUEST NO.
Sequential number of your request.

-- E-mail address
Enter grantee and administrators e-mail address for notification of ACH deposit.

PART II – STATUS OF CDBG FUNDS

1. PAYMENTS DUE & AMOUNT OF THIS REQUEST
Enter total amount of all CDBG payments due.

Enter amount being requested on this Request for Payment (cannot be less than $3,000 or no more than $200,000.
Must be in exact amount (dollars and cents) supported by invoices, bills or vouchers, that will be verified at project monitoring.

PART II – STATUS OF CDBG FUNDS CONT.

2. CDBG GRANT AWARD
Enter amount of award.

3. (ADD) PROGRAM INCOME
Enter total amount of program income received on this grant.

4. TOTAL
Enter amount of grant award plus any program income received.

5. CDBG FUNDS RECEIVED TO DATE

6. TOTAL
Add lines 1 & 5.

7. REMAINING CDBG FUNDS
Enter the balance of funds in the grant which are unrequested to date. Line 4 minus line 6.

PART III – CERTIFICATION

-- Signatures must be exact as they appear on the Authorized Signature Form.

PART IV -- APPROVAL

-- Will be completed by Commerce for state processing.

(rev 2-2017)

*** The amount of CDBG monies drawn, once construction starts, must be requested proportionally to the amount of local expenditures in accordance with the contract budget.**

*** Final draws on CDBG administration must be no more than 10 percent of final CDBG cost if the project is less than awarded.**

Instructions - Cash Disbursement Report

1. In the upper left hand corner, record the Grantee Name, the Grant Number, the Reporting Period and the Report Number. The Reporting Period is the date of the last Request for Payment to the date of this Request for Payment.

2. The Activity, Budget and Total Cost Columns refer to the line items found on the Project Budget Form [CDBG-A(0l)] in the grant contract. List all line items and number as shown on the contract budget.*

3. The CDBG $ and Local/Other $ Columns also refer to the line items found on the Project Budget Form [CDBG-B(0l)], and are to show the cash disbursements for this Request for Payment (RFP), the disbursements to date and the available balance. The disbursements to date column includes this disbursement, plus all previous disbursements.

4. Add up each column and enter the totals on the bottom line of the chart (if you use more than one page, enter page subtotals on each page and a final total on the last page of the report).

5. Email the Cash Disbursement Report Form with your Request for Payment to your Commerce Project Manager:

   * For Economic Development the RFP shall include a summary listing invoice numbers, dates, payroll references, check numbers/dates/amounts and other information to substantiate uses of federal funds and local funds by source.

HELPFUL TIPS:

The total of CDBG Expended this RFP should always match Line #1 on Request page.
The total of CDBG Expended to Date should always match Line #6 on Request page.
Finally, the total of CDBG Available Balance should always match Line #7.

Section 6: Procurement

All recipients of federal grant funds are required to have written procurement procedures. These procedures must address the four types of procurement discussed herein. Grantees are also required to have a written Code of Conduct which specifically prohibits elected officials, staff or agents from personally benefiting from CDBG procurements; it must prohibit the solicitation or acceptance of favors or gratuities from contractors or potential contractors; and it must provide sanctions or penalties for violations of the Code of Conduct by either city/county officials, staff or agents or by contractors or their agents.

All procurements, regardless of dollar amount, must be conducted to provide "maximum open and free competition." Many times competition can be restricted by organizational conflict of interest or noncompetitive practices among contractors. Grantees should be alert to issues of this nature that may adversely affect procurement practices.

Minority Business Enterprises (MBE) and Women Business Enterprises (WBE) must be solicited on all procurement in a CDBG project, regardless of the size or type of contract. You can access the list of certified contractors by link to the KDOT website at www/kdotapp.ksdot.org/dbecontractorlist/. The Department of Commerce also maintains a Directory of Minority and Women Owned Business. You can access this online directory at www.kansascommerce.gov/231/Minority-Women-Business-Development under the Office of Minority and Women Owned Business.

I. PROCUREMENT PROCEDURES

The State of Kansas Community Block Grant program has elected to adopt Public Law 103-355 and 2 CFR Part 200 as the procurement procedures applicable to the CDBG program. The exceptions to adopting Public Law 103-355 and 2 CFR Part 200 are that the CDBG program opted not to include the micro purchaser procurement option and small purchases are set at $25,000 in lieu of $150,000. The procedures outlined below are in accordance with this law and CFR notice.

If CDBG funds are used to pay for a product or service, or any part thereof, CDBG procurement procedures apply unless the local procurement policy is stricter. If CDBG funds are not used for any part of a contract, the grantee's written procurement procedures applies.

The recipient's procurement procedures must describe how services or supplies are to be obtained. The procurement policy should address at a minimum the following requirements:

- Procurement should be reviewed to avoid unnecessary and duplicate purchases and to ensure costs are "reasonable."
- Invitation for bids or requests for proposals must be clearly written and describe the technical requirements of the equipment or services.
- Positive effort must be made to use small, minority and/or female-owned businesses.
- The method of contracting (fixed price, cost plus fixed fee, purchase orders, etc.) should be appropriate. Cost plus percentage of cost contracts must be specifically prohibited if CDBG funds are involved in a project.

The local procedures must include four methods of procurement as allowed by PL 103-355 and 2 CFR Part 200.318: small purchases; competitive sealed bids; competitive negotiations; and noncompetitive negotiations. Bonding requirements for contracts are included herein.

A. Small Purchases

Small Purchases is a relatively simple and informal method used where goods or services do not cost in the aggregate of more than $25,000.

1. Price or rate quotations should be obtained in writing from an adequate number of qualified sources (generally at least three sources). Written specifications should be provided to assure all responders are bidding on the same product or service. If the dollar amount is less than $500, phone solicitation is allowed. A public bid opening may be held on a small purchase, i.e., housing rehabilitation, if the situation warrants it.

2. Documentation regarding the businesses contacted and the prices submitted should be maintained.

3. Written documentation regarding basis for selection and cost should be maintained.

4. Preparation and signing of a contract formalizing a scope of work and the terms of compensation is required for all construction contracts over $2,000.

B. Competitive Sealed Bids

Competitive sealed bids are initiated by publishing an Invitation for Bids (IFB) when the cost is estimated to be over $25,000. Adequate time should be allowed for preparation of bids.

1. Detailed specifications for the goods or services to be procured must be prepared. The primary basis for award is cost.

2. All bids received must be tabulated and reviewed according to the written criteria given to prospective bidders.

3. The contract awarded must be a firm, fixed-price contract (lump sum or unit price). **The negotiations with the low bidder are not allowable under the CDBG programs. (This has always been the CDBG policy.)**

4. Preparation and signing of a contract formalizing a scope of work and the terms of compensation is required, after confirming the contractor is not on the Federal debarred list (see Labor Standards Section).

5. All unsuccessful bidders must be notified in writing.

C. Competitive Negotiations

Competitive negotiations are initiated by making public a Request for Proposals (RFP) or a Request for Qualifications (RFQ). Although newspaper publication is not required, it may be used if an adequate number of service providers are available in the circulation area. **At a minimum, all qualified firms should be notified.** The RFP is used when price is a factor in selection; the RFQ is used when price is considered after selection (this is usually applicable only for architectural and engineering services).

1. In both the RFP and RFQ, the services to be procured are clearly defined, as are the factors to be used in evaluation and selection. A written basis of selection must be prepared.

2. All proposals received are to be reviewed according to the written criteria given to prospective bidders and the review should be in writing, i.e., basis of selection must be documented.

3. For RFQ's, an invitation is made to one or more respondents to negotiate a price or fee.

4. Preparation and signing of a contract formalizing a scope of work and the terms of compensation is required.

5. All unsuccessful bidders must be notified in writing.

D. Non-Competitive Negotiations

Non-competitive negotiations can be used only when (1) the use of competitive negotiations is not feasible, such as only one supplier, (2) there is some public emergency or (3) the results of the competitive negotiations are inadequate.

1. Negotiations are conducted with the selected company regarding a scope of work and price.

2. Preparation and signing of a contract formalizing a scope of work and the terms of compensation is required.

Commerce must approve all types of procurement prior to award when only one response is received from the procurement efforts or prior to use of non-competitive negotiation.

II. PROCURING PROFESSIONAL AND PERSONAL SERVICES CONTRACTS

No engineering or architectural firm or any principal or employee thereof can perform both administrative and engineering/architectural services on a grant, regardless of the source of payment of either. Engineering, architectural or administrative services may not be eliminated as a line item

activity in the project budget form for purposes of circumventing this policy. The grantee has the option of administering the CDBG program themselves, contracting with the regional planning commission or hiring a private consultant. The grantee is reminded that all applicable procurement procedures must be followed if the consultant is paid with CDBG funds with the exception of the four regional planning commissions within the State. Commerce maintains a list of persons interested in administering CDBG grants at this link: Administrator Territories.

Prior to executing an administrative contract, the grantee shall review its content to ensure that the required provisions are included. Exhibit I, "Standard Form of Agreement Between Owner and Consultant for Professional Services" is included as a sample contract.

A. Procedure – The competitive negotiation method is the normal method used to procure professional services.

1. A Request for Proposals (RFP) or a Request for Qualifications (RFQ) is issued. The RFP is used when price is a factor in selection; the RFQ is used when price is considered after selection (generally only for engineering/architectural services). The first step in both processes is to determine which services are needed. The services and the factors to be used in evaluation and selection must be clearly defined.

2. If a statement of qualifications is used, each submittal must be reviewed and ranked according to previously established selection criteria of qualifications. This review must be documented in writing. Upon determination of the best statements, an invitation is made to one or more respondents to negotiate a price or fee. The reason the firm is chosen and that the price established is reasonable must be documented.

3. If an RFP is issued, it should specify the scope of services to be provided and type of contract to be used: cost reimbursement, fixed price or per diem contract. Cost plus a percentage of cost contracts cannot be used.

4. The RFP should also specify that cost and price 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. Additionally, any materials such as reports, maps and site plans to assist interested firms in preparing responsive proposals should be provided.

5. The RFP or RFQ should also include:

    a. Scope of services, which includes a detailed description of extent and character of the work to be performed.

b. Time for performance and completion of contract services, including project milestones, if any.

c. Specification of materials or other services to be provided by both parties, e.g., maps, reports, printing, etc.

d. Method of compensation, amount of contract and provisions for compensation for services including fee and/or payment schedules and specification of maximum amount payable under contract.

6. State and Federal Standard Provisions. All professional contracts must state that the contracting firm will abide by the laws and regulations described in the "Applicable Laws and Regulations" sections of the Kansas Small Cities CDBG Program Guidelines found at www.kansascommerce.gov/cdbg

B. Review Process – After response of either statements of qualifications from an RFQ or proposals in response to an RFP, the review process can begin according to the established selection criteria.

The review process should be uniform and well documented. The preferred method is that the review be conducted by a committee composed of at least three people who have technical knowledge of the type of project you are considering. However, these reviewers must not have apparent conflicts of interest with any of the firms or individuals under review. Examples are family relationships, close friendships or business dealings. Some of the evaluation criteria to be considered includes:

1. Specialized experience or technical expertise of the firm and its personnel in connection with the type of services to be provided and complexity of the project.

2. Past record of performance on contracts with the locality and other clients, including quality of work, timeliness and cost control.

3. Capacity of firm to perform the work within time limitation, taking into consideration the current and planned work load of the firm.

4. Familiarity of the firm with the type of problems applicable to the project.

The relative importance of each of these factors can be determined beforehand by assigning value to each (for example, specialized experience may be assigned 40 points out of a total possible 100 points). Evaluation consideration for local firms can be established if familiarity with local conditions is an important element for a successful project. Selection criteria should be shared with all prospective bidders. No criteria may be established which would eliminate specific vendors.

C. Contract Revisions – Once a firm is chosen and the basis of selection is documented along with the reasonability of cost, the preparation of a contract with the successful individual or firm may be completed. The contract must include the following general administrative provisions:

1. Effective date of contract.

2. Names and addresses of the locality and firm.

3. Names of representatives of locality and firm who will act as liaison for administration of the contract.

4. Citation of the authority of the city/county under which the contract is entered into and source of funds.

5. Conditions and terms under which contract may be terminated by either party, both termination for cause and termination for convenience and remedies for violation/breach of contract.

6. Appropriate Civil Rights Laws, Executive Orders and Regulations – Appendix B of Civil Rights section of the Grantee Handbook.

III. COMPETITIVE BIDDING

When a cost estimate for purchase of supplies, equipment or for construction is in excess of $25,000, the Competitive Bidding process is applicable.

A. Procedure

1. An Invitation for Bids (IFB) notice for all procurements requiring sealed bids is issued. This notice should be published at least once in at least one official newspaper of general circulation within the community 30 days before bid date or an adequate time to allow bid preparation. Bids from responsible prospective bidders should be solicited by sending them a copy of the notice, including MBE/WBE's. If the project is complicated, a pre-bid conference may be held with qualified and interested parties to discuss the project.

2. The IFB should include a general description of the goods or services to be procured, the location where bids or specifications may be secured, and the time and place for opening bids. Bid award must be made to the lowest responsible bidder.

   The newspaper notice must also contain language which calls to the attention of bidders all applicable requirements which must be complied with such as: Section 3 of the 1968 Housing Act, Section 109 of the 1984 Housing and Community Development Act, the Civil Rights Act of 1964, and Executive Order 11246.

3. The sealed bids must be opened and tabulated to the public at the time stated in the IFB. The IFB must also state the public opening be located within the jurisdiction of the grantee.

B. Review Process – The following evaluation criteria may be used with varying weights to determine if the bidder is a responsible bidder.

1. Character, integrity, reputation, judgment and experience of the firm.

2. Ability of the vendor to provide the material or service promptly or within the time specified.

3. Quality of performance by the vendor on previous contracts, orders or services.

4. Ability of the vendor to provide future maintenance and service for all equipment purchased from the vendor.

5. The grantee has the responsibility to prove or disapprove the "responsible" bidder criteria. If a lowest bidder is rejected, he/she must be notified in writing and the reason for rejection of his/her low bid fully stated. Reasons for rejection must be documented.

The review should be thorough, uniform and well documented. Once a contract has been awarded, <u>all unsuccessful bidders must be informed in writing of the bid award</u>.

When a locality receives only one response to any procurement solicitation, including competitive bidding, the solicitation should be reviewed to determine whether it was unduly restrictive or geared to a particular contractor and <u>must be submitted to the Kansas Department of Commerce for approval prior to awarding the contract</u>.

The community may cancel an Invitation for Bids or reject all bids if it is determined in writing that it is in the best interest of the city.

If it is determined that a rebid is needed for all or part of the bid schedule, the grantee and/or professional should contact the field representative of the area for consultation and guidance.

C. Contract Provisions

1. Once a firm is chosen, preparation of a contract with the successful individual or firm may be carried out. The contract must include all of the previously mentioned provisions: scope of services, contract amount, effective date of contract, method of compensation and the State and Federal standards described in the "Applicable Laws and Regulations" section of the CDBG Application General Requirements. All engineering and architectural contracts must have a Not to Exceed Clause.

2. All applicable Labor Standards requirements should be reviewed and administered (see Labor Standards section).

3. The statement of work should be prepared by the grantee in accordance with procurement procedures. It must describe as precisely as possible the tasks to be completed, specify timetables for completion, identify the products and/or services to be delivered and stipulate the method of payment. The statement of work could be used as a tool to measure performance, but only if the desired outcomes are clearly specified in measurable products.

4. Applicable federal regulations are included herein.

5. Bonding requirements are included herein to assure awareness of requirements (see Exhibit I – Procurement).

D. Maintaining Procurement Files – Grantees must maintain a separate file for each procurement in excess of $2,000. All files should include copies of advertisements, a list of notified firms, RFP/RFQ, a list of where bid packages were sent, copies of all bids or proposals received and a written review of the proposals including cost data and the basis of selection. If a contract is non-competitively negotiated, the file should include Commerce's approval for award. The file must always include a cost and price detail documentation statement explaining the basis of selection. All unsuccessful bidders must be notified in writing, and files should contain copies of letters to that effect.

The primary requirement is that the process of securing services with CDBG funds is open, competitive and well documented.

E. Any vendor that provides a cost estimate in the application phase may not bid on the project once it is funded.

EXHIBIT I – PROCUREMENT

BONDING AND INSURANCE REQUIREMENTS

A. The government-wide grants management common rule, "Uniform Administrative Requirements for Grants to State and Local Governments," contains bonding requirements only for circumstances when a grantee contracts for construction or facility improvement (including alteration and renovation) and the bids and contracts exceed $100,000. The following types of bonds are required in the procurement" section of the common rule:

- A bid guarantee equal to at least five percent of the proposed contract amount, secured through a bid loan or a certified check;
- A 100 percent "performance bond" on the part of the contractor to secure fulfillment of all the contractor's obligations under the contract; and
- A 100 percent "payment bond" on the part of the contractor to assure payment, as required by law, of all persons supplying labor and materials as part of work provided under the contract.

B. The State of Kansas CDBG program, through adoption of the federal policy and amending it to fit the State's program needs, extends the above bonding requirements to cover all contracts that exceed $25,000. Allowance is made for local requirements to prevail for contracts between $25,000 and $100,000 as long as the bid and the subsequent contract is secured to protect the grantee and the Federal funds. CDBG also recommends some type of security on all construction contracts under $25,000, such as a line of credit, cash deposit in bank for term of project, etc.

C. The Department reserves the right to promulgate and enforce bonding procedures and requirements applicable to any project.

D. All bonds shall be procured from a surety company registered and licensed to do business in the State of Kansas and countersigned by its Kansas resident agent.

E. Grantees are advised to review the requirements to ensure contracting occurs in accordance with state law.

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
WASHINGTON, DC 20410-7000

OFFICE OF COMMUNITY PLANNING
AND DEVELOPMENT

December 17, 2015

MEMORANDUM FOR: All CPD Field Office Directors

FROM: Renee D Ryles, Director of the Office of Field Management, DOF

SUBJECT: Use of Lowest Bidder on CPD Funded Projects

Please be advised that within 60 days (no later than February 9, 2015) of receiving this message, you are to issues written guidance to all CPD grantees advising them that they must use the lowest bidder, in a sealed bid process, unless they are able to provide sufficient support in compliance with 24 CFR 85.36 to remove the bidder from the procurement process.
Supporting Documentation: (pdf to be uploaded in ARCATS)

TO: All CPD Formula Grantees
FROM: CPD Director
SUBJECT: Use of Lowest Bidder on CPD Funded Projects

Please be advised that all CPD grantees must use the lowest bidder, in a sealed bid process, unless they are able to provide sufficient support in compliance with 24 CFR 85.36 to remove the bidder from the procurement process.

www.hud.gov espanol.hud.gov

Subrecipient vs. Contractor Classification Checklist

The Uniform Guidance (effective December 26, 2014) implements new definitions of Contractor and Subrecipient. Generally, determination of the relationship with an external entity is verified through review of the proposal, budget, and other related documents. When the relationship remains unclear, this form can be used to provide assistance in making an accurate determination and provide documentation of the decision made.

Definitions from Uniform Guidance (2 CFR Part 200):

Subrecipient:

200.93 Subrecipient means a non-Federal entity that receives a subaward from a pass-through entity to carry out part of a Federal program; but does not include an individual that is a beneficiary of such program. A subrecipient may also be a recipient of other Federal awards directly from a Federal awarding agency.

Contractor:

200.23 Contractor means an entity that receives a contract as defined in 200.22 Contract.

200.22 Contract means a legal instrument by which a non-Federal entity purchases property or services needed to carry out the project or program under a Federal award.

Instructions

Complete sections one and two by marking all characteristics that apply to the outside entity receiving Federal funds. The section with the greatest number of marked characteristics indicates the likely type of relationship the entity will have with the agency. On occasion there may be exceptions to the type of relationship indicated by the checklist. In these situations, the substance of the relationship should be given greater consideration than the form of agreement between the agency and the outside entity. Section three should be used to provide documentation on the use of judgment in determining the proper relationship classification.

Name of Outside Entity: _____

Contract number: _____

CFDA number: _____14.228_____

Section 1-Subrecipient

Description: *A subaward is for the purpose of carrying out a portion of a Federal award and creates a Federal assistance relationship with the subrecipient. Characteristics which support the classification of the non-Federal entity as a subrecipient include when the non-Federal entity:*

☐ 1. Determines who is eligible to receive what Federal assistance.

☐ 2. Measures performance based on meeting objectives of Federal program.

☐ 3. Is responsible for programmatic decision making.

☐ 4. Is responsible for ensuring Federal requirements outlined in the award are followed.

☐ 5. Uses the Federal funds to carry out a program of the organization as opposed to providing goods or services.

Section 2-Contractor

Description: *A contract is for the purpose of obtaining goods and services for the non-Federal entity's own use and creates a procurement relationship with the contractor. Characteristics indicative of a procurement relationship between the non-Federal entity and a contractor are when the non-Federal entity receiving the Federal funds:*

☐ 1. Provides the goods and services within normal business operations.

☐ 2. Provides similar goods or services to many different purchasers.

☐ 3. Normally operates in a competitive environment.

☐ 4. Provides goods or services that are ancillary to the operation of the Federal program.

☐ 5. Is not subject to compliance requirements of the Federal program as a result of the agreement.

Optional-Section 3 –Use of Judgment

Description: *In determining whether an agreement between a pass-through entity and another non-Federal entity casts the latter as a subrecipient or contractor, the substance of the relationship is more important than the form of the agreement. All of the characteristics above may not be present in all cases, and the pass through entity must use judgment in classifying each agreement as a subaward or a procurement contract.*

Explanation of Use of Judgment Determination:

Final Determination:

Subrecipient ☐ **Contractor** ☐

1st Reviewer Name & Title: _____

Reviewer Signature: _____

Date: _____

2nd Reviewer Name & Title: _____

Reviewer Signature: _____

Date: _____

Section 7: Environmental Review

I. ENVIRONMENTAL REVIEW REQUIREMENTS

The National Environmental Policy Act of 1969 established national policy for protecting, restoring, and enhancing environmental quality. For the Community Development Block Grant program, units of general local government assume responsibility for compliance with NEPA and NEPA-related federal environmental authorities through execution of a grant agreement with the State and by the grantee's certification to the State (as evidenced by execution of form HUD-7015.15, "Request for Release of Funds and Certification"). The HUD regulations for compliance with NEPA by local governments, a.k.a., "Responsible Entities," are found at 24 CFR Part 58. The grantee is also required to comply with other federal, state and local environmental laws and authorities, as applicable.

Important Points:

- Once the grantee anticipates applying for CDBG funding, no choice limiting action can be taken on the project by any party in the development process, including contractors, until the environmental review for the project has been approved in accordance with Part 58. This specifically precludes any construction or choice limiting action from occurring until the project receives environmental approval. Choice limiting actions include real property acquisition, repair, rehabilitation, construction, demolition, site clearance or leasing activities. In addition, until the environmental review is approved, neither CDBG funds nor non-CDBG funds can be committed to the project for any choice limiting activity.

- This section only provides general guidance for environmental compliance. Grantees with particular concerns or questions should refer to HUD Part 58, Environmental Review Procedures, review related state-provided training materials, and/or consult with Commerce staff to ascertain compliance requirements.

- No CDBG funds can be released, obligated or incurred until the environmental review process is completed and cleared by the State.

- All micro-loan and local revolving loan projects (LRLF) – as with any CDBG-assisted project – must be initially reviewed to determine which review level is required. Any city and/or county that have been awarded a CDBG Micro-loan grant since 1998 or opted to retain a Revolving Loan Fund locally once their Economic Development grant was completed must follow required procedures regarding the environmental review. This review is conducted for each business that receives any CDBG funds according to the type of activities that the business has chosen to be the total project. As with any project, the total project includes all activities regardless of funding source for the activity, whether funded with CDBG, private or local funds.

In the preparation of an environmental review, the following guidelines should be kept in mind:

- Environmentals for all LRLF's must be approved prior to the disbursement of any local funds.
- All grantees must maintain an Environmental Review Record regardless of the type of project. The ERR is the written documentation of the grantee's environmental review, decision-making and action. The ERR is a legal document and must be retained by the grantee and be available to public review.
- The environmental review process evaluates the impact of projects upon the human and natural environment, and describes any actions or conditions that are needed to mitigate or minimize adverse impacts.
- A grantee should consider environmental issues as early as possible in the project's planning.
- Each grantee is required to designate an environmental review officer who will be responsible for managing the environmental review process and ensuring the environmental review is completed properly.
- The most relevant and recent sources of information, people, reports, maps, etc., should be used in preparing the environmental review.

II. THE ENVIRONMENTAL REVIEW PROCESS

A. <u>Creating the Environmental Review Record (ERR)</u>

The grantee must maintain a written record of the environmental review undertaken for each project and make the record available for public review at the grantee's address. The ERR must provide a clear description of the proposed project and environmental review process carried out from start to finish including, but not limited to, the following:

1. Detailed project description that includes all funding sources and all project activities. The project description must be supplemented, as appropriate, with maps, site plans, building plans, elevations, photographs and other information that clearly convey the full extent of the project's potential impact.

2. Describe the pre-existing environmental conditions at the project site.

3. "Determination of Level of Environmental Review" form, signed by the grantee's Certifying Officer.

4. Completed State approved environmental review forms, as applicable (e.g. "Statutory Checklist" or "Environmental Assessment").

5. Supporting documentation found acceptable for all factors in the Statutory Checklist or Environmental Assessment. These include maps, web-based material, color photographs, record of site visits and agency consultation, and agency comments and clearances, etc. Documentation must be based on verifiable and qualified sources. Proprietary material and special studies must be included in the ERR (Examples: noise analysis, archeological study, wetland delineation, Phase I or II environmental site assessment, radon study, memorandum of agreement.)

6. For an Environmental Assessment, a description of project alternatives must be considered (at least three).

7. Clear description of the conditions of environmental approval and mitigation or minimization measures required for the project, as appropriate.

8. Evidence of public involvement and copies of the published or posted public notices. If posted the grantee must include a certification from grantee of where it is posted.

9. "Request for Release of Funds and Certification" (form HUD-7015.15).

10. State's formal release of funds/authority to use grants funds.

11. Grantee also needs to update ERR to record compliance with mitigation measures. Any conditions or mitigation measures must be addressed and documented in the file.

The ERR is a legal document. It is the best, and sometimes only, defense to prove that compliance was achieved with applicable laws and regulations. It should result in a complete record supporting each step of the environmental process ending in the final determination of the level of impact.

B. Developing the Project Description

The project description is critical in determining the level of environmental review required. A reader should be able to clearly understand the location, scope, scale, nature and extent of the proposed project from the description in the ERR. At a **minimum**, the project description should contain the following:

1. ALL proposed project activities in detail, regardless of funding source.

2. Entire project scope and all phases of the project from beginning to end.

3. Exact project location, supported by a location map.

4. Photographs, site plans, project plans, renderings and maps (e.g. topographic, aerial).

5. Estimated project costs by all funding sources.

6. Explain existing environmental conditions at and around the project site. In addition, how this is expected to change because of the project.

7. Temporary impacts anticipated by construction activities and a timeline for construction.

8. Other information as recommended by Commerce.

III. THE ENVIRONMENTAL REVIEW PROCESS

It is important that the grantee is aware that through certification of the "Request for Release of Funds and Certification" (Appendix J), the grantee assumes the role of responsible federal official under NEPA and accepts the jurisdiction of the Federal courts for any enforcement action that may be brought in connection with grantee's environmental review, decision-making and action. The chief elected official assumes this responsibility for the community when he/she signs the Certification.

NOTE: Grantees should not rely solely on agency comments to complete the preparation of environmental reviews. A project's compliance with certain applicable laws and authorities cited at §58.5 may require compliance with procedures or requirements that lie outside the direct purview of federal, state and local agencies. Compliance with certain authorities may require the preparation of special studies or analysis by qualified professionals. This is applicable for all levels of review (except for projects that are Exempt).

Five levels of environmental review apply to CDBG funded projects. The Determination of Review Level (Appendix C) must always be completed and submitted to Commerce. The Determination of Level of Review is completed as part of a CDBG application. In the case of the LRLF's it is completed as part of the review.

- Exempt
- Categorically Excluded
  - "Subject To" authorities at §58.5
  - "Not Subject To" authorities at §58.5
- Environmental Assessment
- Environmental Impact Statement

Each level is briefly summarized below:

Exempt Projects (24 CFR Part 58.34)

Certain eligible activities are exempt from the requirements of NEPA and other environmental laws cited at §58.5. Project activities considered exempt have been determined not to alter any conditions that would require a review or compliance determination under the federal laws and agencies.

NOTE: The State of Kansas program rarely funds projects that fall under the exempt classification. For complete list of the twelve exemptions, see 24 CFR Part 58.34.

Categorically Excluded Projects (24 CFR Part 58.35)

Categorically excluded (CE) activities do not individually or cumulatively have a significant impact on the environment. There are two classifications of Categorically Excluded activities. By regulation, these are Categorically Excluded NOT SUBJECT TO related authorities as per Part 58.35(b), and Categorically Excluded "SUBJECT TO related authorities as per Part 58.35(a).

NOTE: The following is not an all-inclusive listing. The references only include projects typically funded by the State of Kansas CDBG program. For a complete listing of CE projects, refer to 24 CFR Part 58.35. The numbering used below corresponds to the regulation.

Categorically Exclusions Not Subject To (CENST)

(3) Operating costs including equipment (fire trucks & ambulances).

(4) Economic development activities, that includes but is not limited to: equipment purchase, inventory financing, operation costs not associated with construction or expansion of existing operations (e.g. business job retention).

These activities would not alter any conditions that would require a review or compliance issue under any federal laws and authorities. The grantee does not have to publish any notice; however, the Determination of Review Level (Appendix C) is required to be submitted to your project manager.

Categorically Exclusions Subject To (CEST)

(1) Acquisition, repair, 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 no more than 20 percent (e.g. replacement of water or sewer lines, reconstruction of curbs and sidewalks, repaving of streets).

(2) Removal of material and architectural barriers that restrict the mobility and accessibility of elderly and disabled persons.

(3) Rehabilitation of buildings and improvements when the following conditions are met:

(i) In the case of a building for residential use (with one to four units), the density is not increased, the land use is not changed, and the footprint of the building is not increased in a floodplain or in a wetland;

(iii) In the case of a non-residential structures, including commercial, industrial, and public buildings:

(A) The facilities and improvements are in place and will not be changed in size or capacity by more than 20 percent; and

(B) The activity does not involve a change in land use, such as from non-residential to residential, commercial to industrial, or from one industrial use to another.

(5) Acquisition (including leasing) or disposition of, or equity loans on an existing structure, or acquisition (including leasing) of vacant land if the structure or land acquired, financed or disposed of will be retained for the same use.

(6) Combinations of the above activities.

Grantees need to coordinate activities with federal, state and local agencies responsible for implementing environmental laws applicable to the project. Written clearance may be obtained from the agencies that have comments or questions regarding each project. A sample list of appropriate federal and state agencies has been provided (Appendix A). The Statutory Checklist (Appendix D) are to be used for the review of applicable statutes and regulations. After completing the Statutory Checklist, if Box "A" has been marked for all authorities the project can convert to Exempt per §58.34(a)(12). Submit the Statutory Checklist with supporting documentation to your project manager.

If Box "B" has been marked for any of the authorities a public notice, is required. The notification "Notice of Intent to RROF" (Appendix F) must be published or posted.

1) If published, it must appear at least once in a newspaper of general circulation in the affected community(ies). For publication there is a minimum of seven day waiting period for comments. All comments must be directed to the unit of general local government.

2) It can also be posted in grantees locations for 10 days. Posting of locations and dates must be documented. If posted the notice must inform the public where the comments will be received. All comments must be directed to the unit of general local government. Suggested locations for posting include: web site, grantee office, any areas that have public activity. Examples of acceptable documentation are screen shots and photos with dates. The grantee must submit a certification of posting.

The grantee must start counting the day after the publication or posting. If the end of the comment period falls on a weekend or holiday, use the next working day. After the comment period (7 or 10 days) has elapsed, the Release of Certification must be printed front to back or on one page (Appendix J), Statutory Checklist (Appendix D), supporting documentation, a copy of notice (published or posted), and grantee certification must be submitted to our office.

Upon receipt of these documents, Commerce allows 15 days (or the period stated in the public notice, if longer) for objections by the public concerning procedural issues. If no permissible objection about the project is made during the comment period, Commerce will release funds for the project by providing the grantee written authority to use CDBG funds, upon the receipt of which the grantee is free to undertake the choice limiting activities described in the projects ERR.

The steps to take for Categorical Exclusion Projects can be found in Appendix B-2.

Environmental Assessment Projects (24 CFR Part 58.36)

New construction and/or an increase of 20 percent or more capacity will automatically trigger a full environmental assessment. Any project that entails a choice-limiting action that cannot be classified as an activity or project that is CE, as listed above, by default is a project for which an Environmental Assessment (EA) must be prepared. Example: If a project contains demolition (by itself or in conjunction with other activities), an EA is required.

The EA is used to identify and assess the significance of potential environmental impacts an activity may cause. The EA determines the degree of significance for a project, which is reflected in either a Finding of No Significant Impact (FONSI) or a Finding of Significant Impact (FOSI).

When preparing an assessment, the grantee needs to follow 24 CFR Part 58.36:

(a) Determine existing conditions and describe the character, features and resources of the project and its surroundings.
(b) Identify all potential environmental impacts, whether beneficial or adverse, and the conditions that would change because of the project.
(c) Identify, analyze, and evaluate all impacts to determine the significances of their effects on the environment and whether the project will require further compliance under related laws and authorities.
(d) Examine and recommend feasible ways in which the project or external factors relating to the project could be modified in order to eliminate or minimize adverse environmental impacts.
(e) Examine alternatives, a minimum of three, to the project itself including the alternative of no action.
(f) Complete all environmental review requirements necessary of the project compliance with appropriate authorities.
(g) Based on the steps above (a – f), the grantee will determine the project to be:
    (1) A Finding of No Significant Impact (FONSI), in which the grantee determines that the project is not an action that will result in a significant impact on the quality of the environment. The grantee may proceed with publications.
    (2) Finding of Significant Impact (FOSI), in which the project is deemed an action, which may significantly affect the quality of the environment. The grantee must then proceed to an Environmental Impact Statement (EIS).

The format for the EA that will need to be completed is provided in Appendix G.

If the grantee determines the project will not have a significant impact on the environment, a combined Notice of Finding of No Significant Impact (FONSI) and Notice of Intent to Request Release of Funds (NOI/RROF) (Appendix H) is published or posted.

1) If published, this notice must inform the public where comments will be received for a minimum of 15 days. All comments must be directed to the unit of general local government.
2) It can also be posted for 18 days. Posting of locations and dates must be documented. If posted the notice must inform the public where the comments will be received. All comments must be directed to the unit of general local government. Suggested locations for posting include: web site, grantee office, any areas that have public activity. Examples of acceptable documentation are screen shots and photos with dates. The grantee must submit a certification of posting.

The grantee must start counting the day after the publication or posting. If the end of the comment period falls on a weekend or holiday, use the next working day. After the comment period (15 or 18 days) has elapsed, the Release of Certification must be printed front to back or on one page (Appendix J), Environmental Assessment (Appendix G), supporting documentation, a copy of notice (published or posted), and grantee certification must be submitted to our office.

Upon receipt of these documents, Commerce allows 15 days (or the period stated in the public notice, if longer) for objections by the public concerning procedural issues. If no permissible objection about the project is made during the comment period, Commerce will release funds for the project by providing the grantee written authority to use CDBG funds, upon the receipt of which the grantee is free to undertake the choice limiting activities described in the projects ERR. The steps to take for EA projects can be found in Appendix B-3. The agencies that may be contacted for environmental clearance can be found in Appendix A.

Environmental Impact Statements (24 CFR Part 58.37)

Compliance guidance for projects that may cause a significant impact is not discussed in this section. Projects that have the potential to cause significant impact require preparation of an Environmental Impact Statement (EIS). If the outcome of the EA is a finding of significant impact or if it is apparent that the project could result in a significant impact, Commerce staff must be consulted for direction. Environmental impacts may be significant individually or in combination with other impacts, including impacts that are indirect and impacts that are cumulative.

If the grantee determines the proposed project is a "major federal action that will affect the quality of the human environment", an Environmental Impact Statement (EIS) must be prepared. Projects that constitute a major federal action include, but are not limited to, the construction or acquisition of land for 2,500 or more residential units or water/sewer projects that would service 2,500 or more residential units. Projects that would "remove" the habitat of any endangered animal or plant life may also be classified as a major federal action.

Since the preparation of an EIS is rare in the CDBG program, the procedures for an EIS are not outlined. In cases where conditions may require an EIS, the grantee should contact the CDBG Environmental Review Officer for direction.

IV. FEDERAL LAWS AND AUTHORITIES (24 CFR Part 58.5), relating to CDBG

All projects classified as CEST or EA must comply with other relevant federal state, and local laws and authorities. Written clearance needs to be obtained from the agencies that may have comments or questions regarding each project. The grantee must assume responsibility and certify that it has complied with the requirement that would apply to HUD under these laws and authorities and must consider the criteria, standards, policies and regulation of the following laws and authorities.

a. Historical Preservation
   1. The National Historic Preservation Act of 1966 particularly Sections 106 and 110
   2. Executive Order 11593, Protection, and Enhancement of the Cultural Environment
   3. Federal historic Preservation: 36 CFR Part 800
   4. The Reservoir Salvage Act of 1960 as amended by the Archeological and Historic Preservation Act of 1974

b. Floodplain Management and Wetland Protection
   1. 24 CFR Part 55.20, 8-Step Process
   2. Executive Order 11988, Floodplain Management
   3. Executive Order 11990, Protection of Wetlands

c. Coastal Zone Management (no coastal zones in Kansas)

d. Sole Source Aquifers
   1. The Safe Drinking Water Act of 1974
   2. Sole Source Aquifers (Environmental Protection Agency – 40 CFR Part 149)

e. Endangered Species – The Endangered Species Act of 1973

f. Wild and Scenic Rivers – The Wild and Scenic Rivers Act of 1968

g. Air Quality
   1. The Clean Air Act
   2. Environmental Protection Agency – 40 CFR Part 6, 51, and 93

h. Farmlands Protection
   1. Farmland Protection Act of 1981
   2. Farmland Protection Policy (Dept. of Agriculture – 7 CFR Part 658)

i. HUD Environmental Standards
   1. Applicable criteria and standards specific to Part 51
      HUD policy on site contamination and toxic substances

j. Environmental Justice. Executive Order 12898

Other requirements (24 CFR Part 58.6), relating to CDBG

Flood Disaster Protection Act (Flood Insurance)
Coastal Barrier Resources Act/Coastal Barrier Improvement Act (no coastal barriers in Kansas)
Airport Runway Clear Zone

V. RE-EVALUATION OF ENVIRONMENTAL ASSESSMENTS and other environmental findings (24 CFR Part 58.47), relating to CDBG

(a) A grantee must re-evaluate the environmental findings when:

(1) Substantial change is proposed in the nature, magnitude or extent of the project, including adding new activities not anticipated in the original scope of the project;
(2) There are new circumstances and environmental conditions that may affect the project or have a bearing on its impact, such as concealed or unexpected conditions discovered during the implementation of the project or activity which is proposed to be continued; or
(3) The grantee proposes the selection of an alternative not in the original finding.

(b) (1) If the original findings are still valid but the data or conditions upon which they were based have changed, the grantee must affirm the original findings and update its ERR by including this re-evaluation and its determination based on its finding. Under these circumstances, if a FONSI notice has already been published, no further publication is required.

(2) If the grantee determines that the original findings are no longer valid, it must prepare an EA or an EIS if its evaluation indicates potentially significant impacts.

The purpose of a re-evaluation of the EA is to update the environmental record and determine if the FONSI is still valid. If the FONSI is still valid, but the data or conditions upon which it was based have changed, the grantee must amend the original assessment and update the ERR with this re-evaluation and its new findings. If the grantee determines the FONSI is no longer valid, it must prepare a new EA or an EIS, if its evaluation indicates potentially significant impact(s).

VI. SUMMARY

To summarize, it is important to remember the following:

A. An Environmental Review Record (ERR) must be maintained for all projects.

B. No CDBG funds can be released, obligated or incurred until the environmental review process has been completed and cleared by the State.

C. The chief elected official assumes this responsibility for the community when he/she signs the Certification for Request for Release of Funds.

D. Projects that are not Exempt or Categorically Excluded Not Subject To (CENST) must undergo a formal environmental review in the form of a Statutory Checklist or an Environmental Assessment, as appropriate.

E. Environmental notices must be sent to the appropriate state and local agencies, individuals and groups known to be interested in the project activities for both Categorically Excluded Subject To (CEST) projects and projects that require an Environmental Assessment. However, grantees should not rely solely on agency comments to complete the preparation of environmental reviews.

F. Participation in the National Flood Insurance Program (NFIP) is required for the Grantee when any part of the project is located within the 100-year floodplain. Also, the complete 8-step Floodplain Management process must be followed and submitted to the department when applicable. See HUD Guide to Environmental Compliance (Matrix). No project can convert to exempt if it is in the floodplain.

G. Commerce will send a Notice of Approval for the Request for Release of Funds (RROF) to the Grantee once the state objection period has elapsed.

H. Any significant changes in a project requires the re-assessment of the projects impacts/findings with possible state and local agencies contacted, public notices and a new Request for Release of Funds Certification to be submitted to Commerce.

I. Grantees must comply with other applicable laws found in 24 CFR Part 58.5. These include historic preservation, endangered species, floodplain management, farmlands protection, wetland protection, air quality, water quality – sole source aquifers, airport clear zones, contamination and toxic substances, environmental justice, explosive and flammable operations, noise control, asbestos, and radon.

J. LRLF's may not be disbursed until environmental clearance has been submitted.

K. Flood Insurance: Mandatory [Flood Disaster Protection Act of 1973, Section 3(a)(4)]

- HUD Assistance **shall not be provided** to a project located in a SFHA in a community that is eligible to participate in the NFIP but which does not participate. (exceptions noted later) [§ 55.1(b)].
- **Mandatory purchase of flood insurance in SFHA** (100-year floodplain).
- **Highly prescriptive.** Strict prohibition against any (insurable) federal action in SFHA without flood insurance.
- Insurance is on the building (not land), plus machinery, equipment, fixtures and furnishings contained within the building.

Regulatory Agencies with Environmental Review Oversight of CDBG Projects

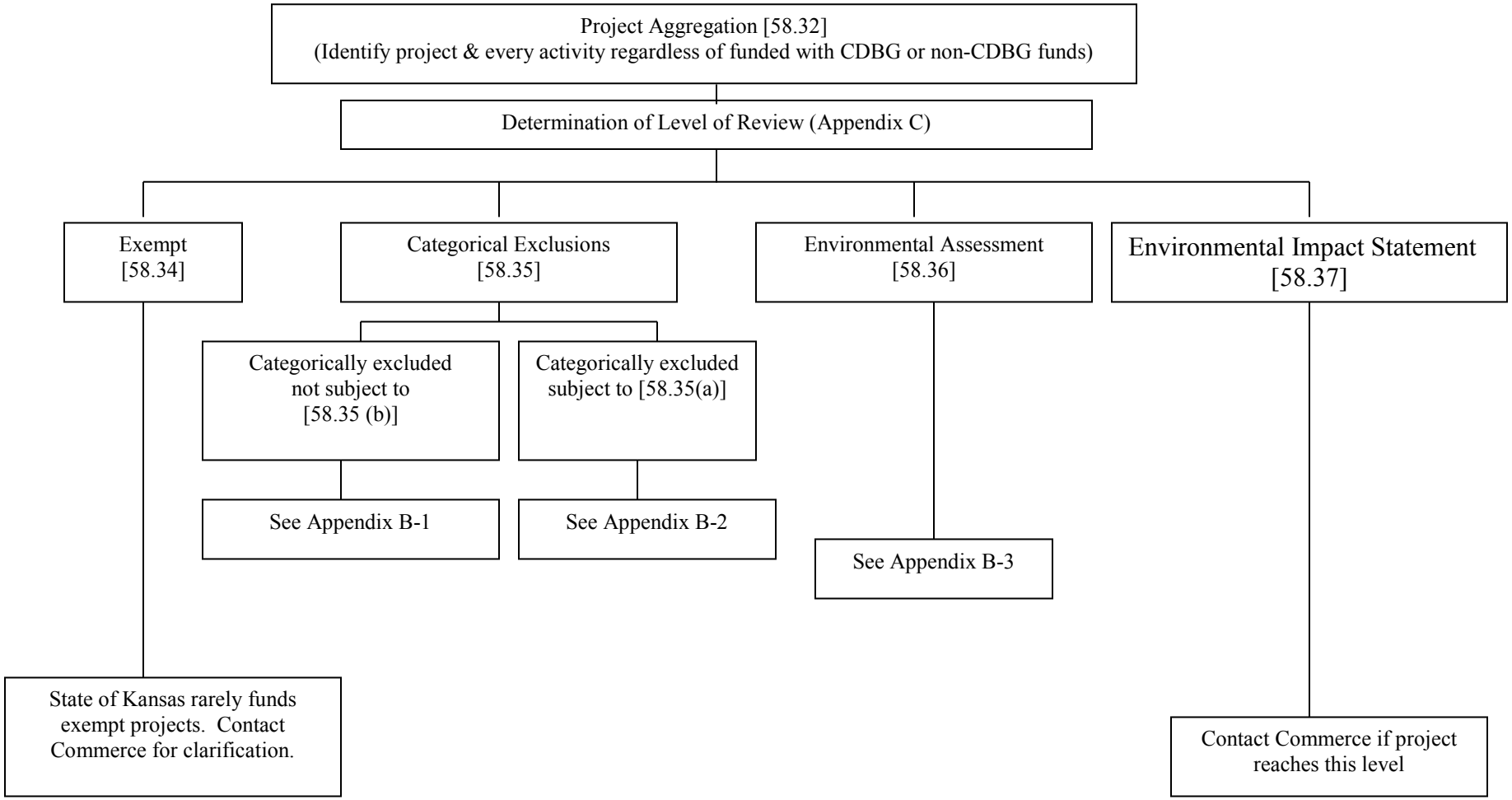
State or Federal Agency	Address
Kansas Department of Health & Environment **Division of Environment** http://www.kdheks.gov/waste/ http://www.kdheks.gov/water/index.html	1000 S.W. Jackson, Suite 400 Topeka, KS 66612-1366 Waste: (785) 296-1600 Water: (785) 296-5500
Kansas Water Office http://www.kwo.org	900 SW Jackson Street, Suite 404 Topeka, KS 66612-1249 Phone: (785) 296-3185
Kansas Department of Agriculture **Division of Water Resources** http://agriculture.ks.gov/divisions-programs/dwr	1320 Research Park Drive Manhattan, KS 66502 Phone: (785) 564-6700
Kansas Department of Wildlife, Parks & Tourism http://www.kdwpt.state.ks.us/	512 S.E. 25th Avenue Pratt, KS 67124 Phone: (620) 672-5911
United States Department of Agriculture http://www.ks.nrcs.usda.gov/	Natural Resources Conservation Service 760 South Broadway Blvd. Salina, KS 67401-4604 Phone: (785) 823-4500 Fax: (855) 533-5070
Kansas Historical Society http://www.kshs.org/	6425 S.W. 6th Avenue Topeka, KS 66615-1099 Phone: (785) 272-8681 x 225
US Fish & Wildlife Service http://www.fws.gov/	2609 Anderson Avenue Manhattan, KS 66502-2801 Phone: (785) 539-3474 Fax: (785) 539-8567
US Environmental Protection Agency http://www.epa.gov/	US EPA Region 7 11201 Renner Blvd. Lenexa, KS 66219 Phone: (913) 551-7003

Other contacts that may be useful on specialized projects

State or Federal Agency	Address
Federal Emergency Management Agency (FEMA) Region VII http://www.fema.gov/region-vii-ia-ks-mo-ne	Federal Emergency Management Agency Hazard Identification and Risk Assessment 9221 Ward Parkway, Suite 300 Kansas City, MO 64114-3372 Phone: (816) 283-7061
Kansas Corporation Commission http://www.kcc.state.ks.us/	1500 S.W. Arrowhead Road Topeka, KS 66604-4027 Phone: (785) 271-3100 Fax: (785) 271-3354
Kansas Geological Survey http://www.kgs.ku.edu/	1930 Constant Avenue Lawrence, KS 66047-3724 Phone: (785) 864-3965 Fax: (785) 864-5317
US Army Corps of Engineers http://www.nwk.usace.army.mil/home.aspx	Kansas City District Attention: OD-R 601 East 12th Kansas City, MO 64106 Phone: (816) 389-2000
US Army Corps of Engineers	Kansas State Regulatory Office 1645 South 101st East Avenue Tulsa, OK 74128-4609 Phone: (918) 669-7366

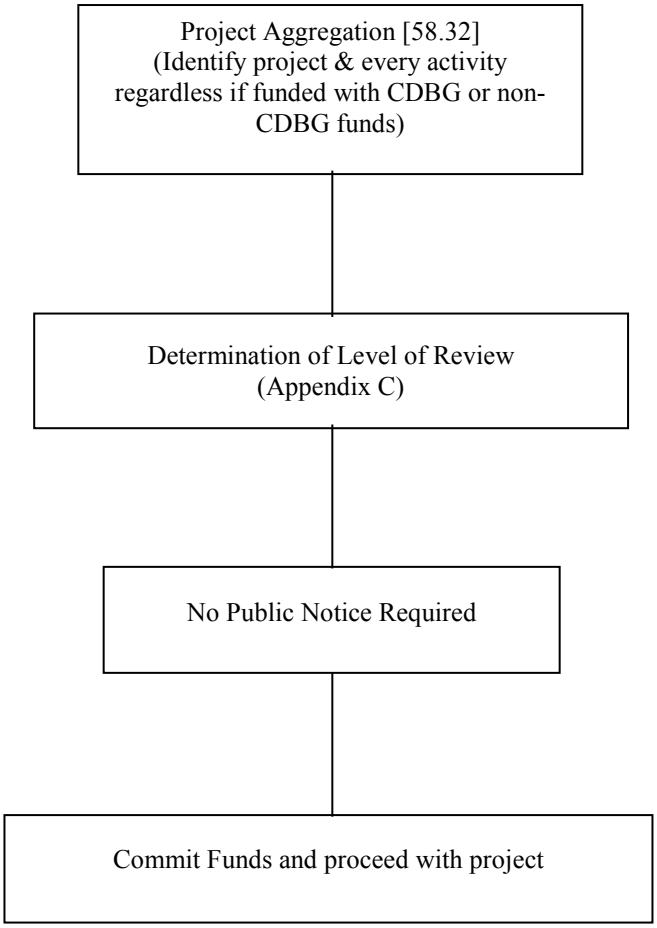
Rev 1/2018

ENVIRONMENTAL REVIEW PROCESS FLOWCHART



ENVIRONMENTAL REVIEW PROCESS FLOWCHART

CATEGORICALLY EXCLUDED
NOT SUBJECT TO
(CENST) 58.35(b)



ENVIRONMENTAL REVIEW PROCESS FLOWCHART

CATEGORICALLY EXCLUDED SUBJECT TO

(CEST) 58.35(a)

Project Aggregation [58.32]
(Identify project & every activity regardless if funded with CDBG or non-CDBG funds)

Complete Determination of Level of Review - Appendix C (Part of application)

Begin Statutory Checklist (Appendix D)
Send out letters and document resolution of all environmental concerns.

*Chairman/Mayor signs and dates above document. Make sure all forms and supporting documentation are in the ERR file available for public review.
Complete Statutory Checklist

If Box "A" can be checked for all authorities the project can be converted to Exempt, per 58.34(a)(12), since the project is in compliance with all measures.

Submit to Commerce:
Copies of the Statutory Checklist (Appendix D), with copies of all letters of clearance/supporting documentation.

Commerce approves Release of Funds

Commit funds and proceed with project

If Box "B" has been checked for one or more authorities the project cannot be converted to Exempt.

Publish or post NOI/RROF (Appendix F)
(Day 1: public notice in newspaper or posted)

7/10-Day local comment period
(Day 2: starts timeframe)

Complete and have chairman/mayor sign RROF Certification (Appendix J)
Submit to Commerce:
An original RROF Certification (Appendix J), and copies of the Statutory Checklist (Appendix D), the NOI/RROF affidavit or posting and copies of applicable letters of clearance/supporting documentation.

15-Day State objection period
(Day 2: start 15-day timeframe)

Day 16: Commerce approves Release of Funds

Commit funds and proceed with project

ENVIRONMENTAL REVIEW PROCESS FLOWCHART

Environmental Assessment (EA) 58.36

Project Aggregation [58.32]
(Identify project and every activity regardless of funded with CDBG or non-CDBG funds)

Determination of Level of Review - Appendix C (Submitted with application)

Send out letters and document resolution of all environmental concerns.
Complete Environmental Assessment (EA) - Appendix G

***Chairman/Mayor signs and dates this document. Make sure all forms and supporting documentation is in the ERR file available for public review.**

Publish or Post Combined Notice (FONSI & NOI/RROF – Appendix H)
(Day 1: public notice in newspaper or posted)

15/18-Day local comment period
(Day 2: start timeframe)

Complete and have chairman/mayor sign RROF Certification (Appendix J)
Submit to Commerce:
An original RROF Certification (Appendix J), copies of the Environmental Assessment (Appendix G) with all supporting documentation, and the Combined Notice affidavit

15-Day State objection period
(Day 2: start 15-day timeframe)

Day 16: Commerce approves Release of Funds

Commit funds and proceed with project

Kansas Department of Commerce
Community Development Block Grant (CDBG) Program
1000 S.W. Jackson St., Suite 100
Topeka, KS 66612-1354

DETERMINATION OF LEVEL OF REVIEW

ENVIRONMENTAL REVIEW RECORD (ERR)

Grantee Name & Project Number: _____

Project Location: _____

Project Description: _____

The subject project has been reviewed pursuant to HUD regulations 24 CFR Part 58, "Environmental Review Procedures for Entities Assuming HUD Environmental Responsibilities," and the following determination with respect to the project is made:

☐ Exempt from NEPA review requirements per 24 CFR 58.34(a)(___)

☐ Categorical Exclusion NOT Subject to §58.5 authorities per 24 CFR 58.35(b)(___)

☐ Categorical Exclusion SUBJECT to §58.5 authorities per 24 CFR 58.35(a)(___)

☐ An Environmental Assessment (EA) is required to be performed.

☐ An Environmental Impact Statement (EIS) is required to be performed.

The ERR (see §58.38) must contain all the environmental review documents, public notices and written determinations or environmental findings required by Part 58 as evidence of review, decision making and actions pertaining to a particular project. Include additional information including checklists, studies, analyses and documentation as appropriate.

_____ Chief Elected Official (print name/title)	_____ Chief Elected Official's Signature
_____ Date	

STATUTORY CHECKLIST

Use this worksheet for projects that are Categorically Excluded under 24 CFR §58.35(a).

PROJECT NAME: _____

ERR FILE # _____ (optional)

An **"ERR Determination"** form should be provided as a cover to this checklist.

This checklist is a component of the Environmental Review Record (ERR) [§58.38]. Supplement the ERR, as appropriate, with photographs, site plans, maps, narrative and other information that describe the project.

24 CFR §58.5 – NEPA-Related Federal Statutes and Authorities

DIRECTIONS – For each authority, check one of the appropriate boxes under "Status."

"**A box**" The project is in compliance, either because: (1) the nature of the project does not implicate the authority under consideration, or (2) supporting information documents that project compliance has been achieved. In either case, information must be provided as to **WHY the authority is not implicated, or HOW compliance is met**; *OR*

"**B box**" The project requires an additional compliance step or action, including but not limited to consultation with or approval from an oversight agency, performance of a study or analysis, completion of remediation or mitigation measure, or obtaining of license or permit.

IMPORTANT: Compliance documentation consists of verifiable source documents and/or relevant base data. Appropriate documentation must be provided for each law or authority. Documents may be incorporated by reference into the ERR provided that each source document is identified and available for inspection by interested parties. Proprietary material and studies that are not otherwise generally available for public review shall be included in the ERR. Refer to HUD guidance for more information.

Statute, Authority, Executive Order, Regulation or Policy cited at 24 CFR §58.5	STATUS A	STATUS B	Compliance Documentation
1. Air Quality [Clean Air Act sections 176(c) & (d), and 40 CFR 6, 51, 93]	☐	☐	
2. Airport Hazards (Clear Zones and Accident Potential Zones) [24 CFR 51D]	☐	☐	
3. Coastal Zone Management [Coastal Zone Management Act sections 307(c) & (d)]		☐	No coastal zone management programs exist in the states of HUD Region VII, as established by Nat'l Oceanic & Atmospheric Administration, Office of Ocean and Coastal Resource Manag't. (http://coastalmanagement.noaa.gov/mystate/welcome.html)
4. Contamination and Toxic Substances [24 CFR 58.5(i)(2)]	☐	☐	
5. Endangered Species [50 CFR 402]	☐	☐	

6. Environmental Justice [Executive Order 12898]	☐	☐	
7. Explosive and Flammable Operations [24 CFR 51C]	☐	☐	
8. Farmland Protection [7 CFR 658]	☐	☐	
9. Floodplain Management [24 CFR 55, Executive Order 11988]	☐	☐	
10. Historic Preservation [36 CFR 800]	☐	☐	
11. Noise Control [24 CFR 51B]	☐	☐	
12. Water Quality (Sole Source Aquifers) [40 CFR 149]	☐	☐	
13. Wetland Protection [24 CFR 55, Executive Order 11990]	☐	☐	
14. Wild and Scenic Rivers [36 CFR 297]	☐	☐	

DETERMINATION:

☐ **Box "A" has been checked for <u>all</u> authorities.** The project can convert to Exempt, per §58.34(a)(12), since the project does not require any compliance measure (e.g., consultation, mitigation, permit or approval) with respect to any law or authority cited at §58.5. The project is now made Exempt and **funds may be drawn down;** OR

☐ **Box "B" has been checked for <u>one or more</u> authority.** The project cannot convert to Exempt since one or more authority requires compliance, including but not limited to consultation with or approval from an oversight agency, performance of a study or analysis, completion of remediation or mitigation measure, or obtaining of license or permit. Complete pertinent compliance requirement(s), publish NOI/RROF, request release of funds (HUD-7105.15), and obtain HUD's Authority to Use Grant Funds (HUD-7015.16) per §§ 58.70 & 58.71 **before committing funds;** OR

☐ The unusual circumstances of this project may result in a significant environmental impact. The project requires preparation of an Environmental Assessment (EA). Prepare the EA according to 24 CFR Part 58 Subpart E.

Part 58.6 Requirements [24 CFR §58.6]

Complete the following table for all projects.

§58.6 Requirements	Status (Y/N)	Source Documentation
Flood Disaster Protection Act [Flood Insurance] [§58.6(a)]		
Coastal Barrier Resources Act/Coastal Barrier Improvement Act [§58.6(c)]	YES	No Costal Barrier Resource Areas in MO/KS/NE/IA. http://coastalmanagement.noaa.gov/mystate/welcome.html
Airport Runway Clear Zone Disclosure & Notification [§58.6(d)]		

PREPARER:

SIGNATURE: _____ DATE:_____

PREPARER NAME & TITLE: _____

PREPARER'S AGENCY (If Different from Responsible Entity):

RESPONSIBLE ENTITY APPROVING OFFICIAL:

SIGNATURE: _____DATE:_____

APPROVING OFFICIAL NAME & TITLE: _____

Appendix F

Sample of

NOTICE OF INTENT TO REQUEST RELEASE OF FUNDS

Date of Publication: ***(date published or posted)***
Expires: ***(date 7/10 days after date of publication/posting)***

Name of Grantee
Address (Street #, or P.O. Box, City/State/Zip Code)
Grantee's Telephone Number

On or after ***insert date at least one day after the end of the comment period, Grantee's name*** will submit a request to the State of Kansas for the release of Federal Funds from the Community Development Block Grant program under Title 1 of the Housing and Community Development Act of 1974, as amended (PL 93-383) to undertake the following project:

Project Number: ***CDBG Grant Number***
Project Name: ***name of project***
Project Type: ***description/scope/purpose of project***
Project Location: ***address/ specific location of the project***
Estimated HUD/CDBG Funds: ***estimated CDBG funding***
Estimated Total Project Cost: ***estimated total project cost - include all funding sources***

The activities proposed are categorically excluded under HUD regulations at 24 CFR Part 58 from National Environmental Policy Act (NEPA) requirements. An Environmental Review Record (ERR) that documents the environmental determinations for this project is on file at ***name and address of Grantee's office and name and address of other locations where the record is available for review*** and may be examined or copied ***Days/Time _____ a.m. to_____ p.m.***

PUBLIC COMMENTS

Any individual, group, or agency may submit written comments on the ERR to the ***Grantee's designated office responsible for receiving and responding to comments***. All comments received by ***publication date plus seven days or posting date plus 10 days*** will be considered by ***the name of Grantee*** prior to authorizing submission of a request for release of funds.

RELEASE OF FUNDS

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

OBJECTIONS TO RELEASE OF FUNDS

The State of Kansas will accept objections to its release of funds and the grantee's certification for a period of 15 days following the anticipated submission date or its actual receipt of the request (whichever is later) only if they are on one of the following bases: (a) the certification was not executed by the Certifying Officer of the grantee; (b) the grantee has omitted a step or failed to make a decision or finding required by HUD regulations at 24 CFR Part 58; (c) the grant recipient or other participants in the development process have committed funds, incurred costs or undertaken activities not authorized by 24 CFR Part 58 before approval of a release of funds by the State of Kansas; or (d) another Federal agency acting pursuant of 40 CFR Part 1504 has submitted a written finding that the project is unsatisfactory from the standpoint of environmental quality. Objections must be prepared and submitted in accordance with the required procedures (24 CFR Part 58, Sec. 58.76) and shall be addressed to the Kansas Department of Commerce, CDBG Program, 1000 S.W. Jackson St., Suite 100, Topeka, KS 66612. Potential objectors should contact Commerce to verify the actual last day of the objection period.

_____

Name and Title of Certifying Officer

_____

Name and Address of Grantee

Instructions for Completing the "Notice Of Intent To Request Release Of Funds"

This Notice is used to request the environmental release of funds for Categorically Excluded projects (24 CFR Part 58, Section 58.35(a)) or for projects for which a Notice of Finding of No Significant Impact was previously issued. Specific Grantee information is to be inserted where words are in bold and italics type.

The seven/ten-day local comment period is the minimum time period required by regulation prior to submission of a Request for Release of Funds and Certification (form HUD-7015.15) to the State of Kansas. The Grantee may choose to allow a longer comment period. The 15 day State objection period is a statutory requirement. The State objection period commences following the submission date specified in the Notice, or the actual date of receipt by the State, whichever is later.

U.S. Department of Housing
and Urban Development
Great Plains Office – Region VII
400 State Avenue
Kansas City, Kansas 66101-2406

Environmental Assessment
for HUD-funded Projects

[HUD recommended format per 24 CFR 58.40]

Project Name: _____

Responsible Entity: _____
[24 CFR 58.2(a)(7)]

Certifying Officer Name & Title: _____
[24 CFR 58.2(a)(2)]

Environmental Review Record (ERR) File # _____

Environmental Assessment

Project Location: _____

Estimated Total Project Cost (all sources): _____

Amount of HUD Assistance: _____ **HUD Grant Program:** _____

Grant Recipient (if different from Responsible Entity):
[24 CFR 58.2(a)(5)]
____

Recipient Address & Phone: _____

RE Project Contact Name & Phone: _____

Conditions for Approval: (List all mitigation and project modification measures adopted by the responsible entity to eliminate or minimize adverse environmental impacts. These conditions must be included in project contracts and other relevant documents as requirements.) [24 CFR 58.40(d), 40 CFR 1505.2(c)]

FINDING: [58.40(g)]

☐ **Finding of No Significant Impact (FONSI)**
(The project will not result in a significant impact on the quality of the human environment.)

☐ **Finding of Significant Impact**
(The project may significantly affect the quality of the human environment.)

PREPARER SIGNATURE: _____ DATE: _____

PREPARER NAME & TITLE: _____

PREPARER'S AGENCY (If Different from RE): _____

RE APPROVING OFFICIAL SIGNATURE: _____ DATE: _____

RE APPROVING OFFICIAL NAME & TITLE: _____

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

Description of the Project: Include all contemplated actions that are logically either geographically or functionally a composite part of the project, regardless of the source of funding. [24 CFR 58.32, 40 CFR 1508.25] As appropriate, attach maps, site plans, renderings, photographs, budgets and other descriptive information.

Existing Conditions and Trends: Describe the existing conditions of the project area and its surroundings, and the trends likely to continue in the absence of the project. [24 CFR 58.40(a)]

Part I: Statutory Checklist [24CFR §58.5]

DIRECTIONS – For each authority, check one of the appropriate boxes under "Status."

"**A box**" The project is in compliance, either because: (1) the nature of the project does not implicate the authority under consideration, or (2) supporting information documents that project compliance has been achieved. In either case, information must be provided as to **WHY the authority is not implicated, or HOW compliance is met**; *OR*

"**B box**" The project requires an additional compliance step or action, including but not limited to consultation with or approval from an oversight agency, performance of a study or analysis, completion of remediation or mitigation measure, or obtaining of license or permit.

IMPORTANT: Compliance documentation consists of verifiable source documents and/or relevant base data. Appropriate documentation must be provided for each law or authority. Documents may be incorporated by reference into the ERR provided that each source document is identified and available for inspection by interested parties. Proprietary material and studies that are not otherwise generally available for public review shall be included in the ERR. Refer to HUD guidance for more information.

Statute, Authority, Executive Order

Regulation or Policy cited at 24 CFR §58.5	STATUS A	STATUS B	Compliance Documentation
1. Air Quality [Clean Air Act sections 176(c) & (d), and 40 CFR 6, 51, 93]	☐	☐	
2. Airport Hazards (Clear Zones and Accident Potential Zones) [24 CFR 51D]	☐	☐	
3. Coastal Zone Management [Coastal Zone Management Act sections 307(c) & (d)]	☒	☐	No coastal zone management programs are in the states of HUD Region VII, per Nat'l Oceanic & Atmospheric Administration, Office of Ocean and Coastal Resource Management. (http://www.ocrm.nos.noaa.gov)
4. Contamination and Toxic Substances [24 CFR 58.5(i)(2)]	☐	☐	
5. Endangered Species [50 CFR 402]	☐	☐	
6. Environmental Justice [Executive Order 12898]	☐	☐	
7. Explosive and Flammable Operations [24 CFR 51C]	☐	☐	
8. Farmland Protection [7 CFR 658]	☐	☐	
9. Floodplain Management [24 CFR 55, Executive Order 11988]	☐	☐	

10. Historic Preservation [36 CFR 800]	☐	☐	
11. Noise Control [24 CFR 51B]	☐	☐	
12. **Water Quality** (Sole Source Aquifers) [40 CFR 149]	☐	☐	
13. Wetland Protection [24 CFR 55, Executive Order 11990]	☐	☐	
14. Wild and Scenic Rivers [36 CFR 297]	☐	☐	

Part II: Environmental Assessment Checklist

[Environmental Review Guide HUD CPD-782, 24 CFR 58.40; 40 CFR 1508.8 &1508.27]

For each impact category, evaluate the significance of the effects of the proposal on the character, features and resources of the project area. Enter relevant base data and credible, verifiable source documentation to support the finding. Note names, dates of contact, telephone numbers and page references. Then enter the appropriate determination of impact: None Anticipated, Potentially Adverse or Potentially Beneficial. Attach additional material as appropriate. Note conditions or mitigation measures required.

Impact Categories	*Anticipated or Potential Impact* • Adverse • Beneficial • No Impact	*Source Documentation* *and* *Mitigation or Modification Required*

Land Development

Conformance with Comprehensive Plans and Zoning		
Land Use Compatibility and Urban Impact		
Urban Design - Visual Quality and Scale		
Slope		
Erosion		
Soil Suitability		
Hazards and Nuisances, including Site Safety		

Noise - Effects of Ambient Noise on Project & Contribution to Community Noise Levels		
Air Quality - Effects of Ambient Air Quality on Project & Contribution to Community Pollution Levels		
Energy Conservation		

Socioeconomic Factors

Demographic Character Changes		
Displacement		
Employment and Income Patterns		

Community Facilities and Services

Educational Facilities		
Commercial Facilities		
Health Care		
Social Services		
Solid Waste		
Waste Water		
Storm Water		
Water Supply		
Public Safety • Police		
• Fire		
• Emergency Medical		

Open Space and Recreation • Open Space		
• Recreation		
• Cultural Facilities		
Transportation		

Natural Features

Water Resources		
Surface Water		
Unique Natural Features and Agricultural Lands		
Vegetation and Wildlife		

Part III: Other Requirements [24 CFR §58.6]

Complete the following table or attach a separate §58.6 Checklist.

Compliance

§58.6 Requirements	Status (Y/N)	Source Documentation
Flood Disaster Protection Act [Flood Insurance] [§58.6(a)]		
Coastal Barrier Resources Act/Coastal Barrier Improvement Act §58.6(c)]	YES	No Costal Barrier Resource Areas in MO/KS/NE/IA. http://www.fema.gov/nfip
Airport Runway Clear Zone Disclosure & Notification [§58.6(d)]		

SUMMARY OF FINDINGS AND CONCLUSIONS

Project Alternatives Considered [24 CFR 58.40(e), Ref. 40 CFR 1508.9] (As appropriate, identify other reasonable courses of action that were considered and not selected, such as other sites, design modifications, or other uses of the subject site. Describe the benefits and adverse impacts to the human environment of each alternative and the reasons for rejecting it. Include consideration of the No Action Alternative, that is, not implementing the preferred alternative).

Mitigation and Project Modification Measures Recommended

[24 CFR 58.40(d), 40 CFR 1508.20]
(Recommend feasible ways in which the proposal or its external factors should be modified in order to minimize adverse environmental impacts and restore or enhance environmental quality.)

Additional Studies Performed

(List the reports, studies or analyses performed for this assessment, and attach studies or summaries.)

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

(List agencies and persons consulted for this assessment.)

Appendix H

Sample of Combined Notice

NOTICE OF FINDING OF NO SIGNIFICANT IMPACT

AND

NOTICE OF INTENT TO REQUEST RELEASE OF FUNDS

Date of Publication: ***(date published or posted)***
Expires: ***(date 15/18 days <u>after</u> date of publication/posting)***

Name of Grantee
Address (Street # or P.O. Box/City/State/Zip Code)
Grantee's Telephone Number

These notices shall satisfy two separate but related procedural requirements for activities to be undertaken by the ***name of the Grantee.***

<u>REQUEST FOR RELEASE OF FUNDS</u>

On or after ***insert date at least one day after the end of the comment period, Grantee's name*** will submit a request to the State of Kansas for the release of Federal funds from the Community Development Block Grant program under Title I of the Housing and Community Development Act of 1974, as amended (PL 93-383) to undertake the following project:

Project Number: ***CDBG Grant Number***
Project Name: ***name of project***
Project Type: ***description/scope/purpose of project***
Project Location: ***address/ specific location of the project***
Estimated HUD/CDBG Funds: ***estimated CDBG funding***
Estimated Total Project Cost: ***estimated total project cost - include all funding sources***

<u>FINDING OF NO SIGNIFICANT IMPACT</u>

The name of Grantee has determined that the project will have no significant impact on the human environment. Therefore, an Environmental Impact Statement under the National Environmental Policy Act of 1969 (NEPA) is not required. Additional project information is contained in the Environmental Review Record (ERR) on file at ***name and address of Grantee's office where ERR can be examined and name and address of other locations where the record is available for review*** and may be examined or copied ***Days/Time ___a.m. to ___p.m.***

<u>PUBLIC COMMENTS</u>

Any individual, group or agency may submit written comments on the ERR to the ***Grantee's designated office responsible for receiving and responding to comments.*** All comments received by ***publication date plus fifteen days or posting date plus 18 days*** will be considered by ***the name of Grantee*** prior to authorizing submission of a request for release of funds. Comments should specify which Notice they are addressing.

RELEASE OF FUNDS

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

OBJECTIONS TO RELEASE OF FUNDS

The State of Kansas will accept objections to its release of funds and the grantee certifications for a period of 15 days following the anticipated submission date or its actual receipt of the request (whichever is later) only if they are on one of the following bases: (a) the certification was not executed by the Certifying Officer of the grantee; (b) the grantee has omitted a step or failed to make a decision or finding required by HUD regulations at 24 CFR Part 58; (c) the grant recipient or other participants in the development process have committed funds, incurred costs or undertaken activities not authorized by 24 CFR Part 58 before approval of a release of funds by the State of Kansas; or (d) another Federal agency acting pursuant to 40 CFR Part 1504 has submitted a written finding that the project is unsatisfactory from the standpoint of environmental quality. Objections to the release of funds must be prepared and submitted in accordance with the required procedures (24 CFR Part 58, Sec. 58.76) and shall be addressed to the Kansas Department of Commerce, CDBG program, 1000 S.W. Jackson Street, Suite 100, Topeka, KS 66612. Potential objectors should contact Commerce to verify the actual last day of the objection period.

_____

Name and Title of Certifying Officer

_____

Name and Address of Grantee

Instructions for Completing the "Combined Notice"

Specific Grantee information is to be inserted where words are ***bolded and italicized***. If there is more that one Grantee, list them all. For instance, in the case of multi-jurisdictional projects there is typically a lead grantee and other participating grantees. If all are included in the project, then all should be listed in the notice, including the name and title of the Certifying Officer for each jurisdiction.

The 15/18-day local public comment period is the minimum time period required by regulation prior to submission of a Request for a Release of Funds and Certification form HUD-7015.150 to the State of Kansas. The Grantee may choose to allow a longer comment period. 24 CFR Part 58 requires "time delays for exceptional circumstances," including a 30-day comment period for controversial or unique projects or those similar to projects normally requiring preparation of an Environmental Impact Statement. The 15/18-day State objection period is a statutory requirement. The State objection period commences following the submission date specified in the Notice, or the actual date of receipt by the State, whichever is later.

SAMPLE

FLOODPLAINS AND WETLANDS NOTICES

Early Public Notice

The City of West Linn, Kansas, is proposing to construct a new water treatment plant located on the corner of 10th Street and Mulberry in Census Tract 10. The project will involve 5.3 acres located in the 100 year floodplain. The City is interested in discussing alternatives to this project and securing public perceptions of possible adverse impacts that could result from the project and possible mitigation measures. Please SEND written comments to Tom Tyron, City Hall, Room 200, West Linn, Kansas 66000 or call (913) 555-5555. Comments will be accepted until (date).

Honorable Tom Tyron
Mayor, City of West Linn

THE EARLY PUBLIC NOTICE MUST ALLOW A FULL 15-DAY LOCAL COMMENT PERIOD FROM THE DATE OF PUBLICATION.

Notice of Explanation

The City of West Linn, Kansas, intends to undertake the construction of a new water treatment plant located on the corner of 10th Street and Mulberry in Census Tract 10. This project is needed to improve water quality and meet the existing demand for potable water. This project is located in the 100 year floodplain. The project cannot be undertaken in any other location because of the land topography and number of acres required for the project. Therefore, there is not a practicable alternative to the proposed project. The City considered the following alternatives:

1) Locating the treatment plant on the corner of west Avenue and Route B.
2) Constructing a mechanical treatment facility rather than a lagoon system.

The proposed project is designed to minimize adverse impacts and preserve the natural floodplain. Failure to provide these improvements would result in the continued deterioration of the City's water supply and outweighs consideration of Executive Order 11988 and 11990. A more detailed description of the project and the FIA flood maps are available for citizen review at City Hall, Room 200, West Linn, Kansas 66000,

Honorable Tom Tyron
Mayor, City of West Linn

THE NOTICE OF EXPLANATION SHALL NOT BE PUBLISHED UNTIL AFTER THE COMMENT PERIOD OF THE EARLY PUBLIC NOTICE HAS ENDED.

(You can find the document for Request for Release of Funds Form by clicking on this link.)

Request for Release of Funds and Certification

U.S. Department of Housing and Urban Development
Office of Community Planning and Development

OMB No. 2506-0087
(exp. 03/31/2020)

This form is to be used by Responsible Entities and Recipients (as defined in 24 CFR 58.2) when requesting the release of funds, and requesting the authority to use such funds, for HUD programs identified by statutes that provide for the assumption of the environmental review responsibility by units of general local government and States. Public reporting burden for this collection of information is estimated to average 36 minutes per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. This agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless that collection displays a valid OMB control number.

Part 1. Program Description and Request for Release of Funds (to be completed by Responsible Entity)

1. Program Title(s) Community Development Block Grant	2. HUD/State Identification Number	3. Recipient Identification Number (optional)
4. OMB Catalog Number(s) CFDA 14.228	5. Name and address of responsible entity	
6. For information about this request, contact (name & phone number)		
8. HUD or State Agency and office unit to receive request Kansas Department of Commerce 1000 SW Jackson Street, Suite 100 Topeka KS 66612-1354	7. Name and address of recipient (if different than responsible entity)	

The recipient(s) of assistance under the program(s) listed above requests the release of funds and removal of environmental grant conditions governing the use of the assistance for the following

9. Program Activity(ies)/Project Name(s)	10. Location (Street address, city, county, State)

11. Program Activity/Project Description

Previous editions are obsolete

form **HUD-7015.15** (1/99)

Part 2. Environmental Certification (to be completed by responsible entity)

With reference to the above Program Activity(ies)/Project(s), I, the undersigned officer of the responsible entity, certify that:

1. The responsible entity has fully carried out its responsibilities for environmental review, decision-making and action pertaining to the project(s) named above.
2. The responsible entity has assumed responsibility for and complied with and will continue to comply with, the National Environmental Policy Act of 1969, as amended, and the environmental procedures, permit requirements and statutory obligations of the laws cited in 24 CFR 58.5; and also agrees to comply with the authorities in 24 CFR 58.6 and applicable State and local laws.
3. The responsible entity has assumed responsibility for and complied with and will continue to comply with Section 106 of the National Historic Preservation Act, and its implementing regulations 36 CFR 800, including consultation with the State Historic Preservation Officer, Indian tribes and Native Hawaiian organizations, and the public.
4. After considering the type and degree of environmental effects identified by the environmental review completed for the proposed project described in Part 1 of this request, I have found that the proposal did ☐ did not ☐ require the preparation and dissemination of an environmental impact statement.
5. The responsible entity has disseminated and/or published in the manner prescribed by 24 CFR 58.43 and 58.55 a notice to the public in accordance with 24 CFR 58.70 and as evidenced by the attached copy (copies) or evidence of posting and mailing procedure.
6. The dates for all statutory and regulatory time periods for review, comment or other action are in compliance with procedures and requirements of 24 CFR Part 58.
7. In accordance with 24 CFR 58.71(b), the responsible entity will advise the recipient (if different from the responsible entity) of any special environmental conditions that must be adhered to in carrying out the project.

As the duly designated certifying official of the responsible entity, I also certify that:

8. I am authorized to and do consent to assume the status of Federal official under the National Environmental Policy Act of 1969 and each provision of law designated in the 24 CFR 58.5 list of NEPA-related authorities insofar as the provisions of these laws apply to the HUD responsibilities for environmental review, decision-making and action that have been assumed by the responsible entity.
9. I am authorized to and do accept, on behalf of the recipient personally, the jurisdiction of the Federal courts for the enforcement of all these responsibilities, in my capacity as certifying officer of the responsible entity.

Signature of Certifying Officer of the Responsible Entity	Title of Certifying Officer
X	Date signed

Address of Certifying Officer

Part 3. To be completed when the Recipient is not the Responsible Entity

The recipient requests the release of funds for the programs and activities identified in Part 1 and agrees to abide by the special conditions, procedures and requirements of the environmental review and to advise the responsible entity of any proposed change in the scope of the project or any change in environmental conditions in accordance with 24 CFR 58.71(b).

Signature of Authorized Officer of the Recipient	Title of Authorized Officer
X	Date signed

Warning: HUD will prosecute false claims and statements. Conviction may result in criminal and/or civil penalties. (18 U.S.C. 1001, 1010, 1012; 31 U.S.C. 3729, 3802)

Previous editions are obsolete

form **HUD-7015.15** (1/99)

U.S. Department of Housing and Urban Development
Great Plains Regional Office, HUD Region VII
400 State Avenue, Room 200
Kansas City, Kansas 66101-2406
Tel: (913) 551-5818; Fax: (913) 551-5477

Instructions for Completing the Request for Release of Funds and Certification [form HUD-7015.15]

Part 1. Program Description and Request for Release of Funds (completed by Responsible Entity)

Block 1. Program Title(s): Enter the HUD program name - e.g., Community Development Block Grant, HOME, Supportive Housing, Shelter Plus Care, Section 8 Moderate Rehabilitation Single Room Occupancy, Housing Opportunities for Persons with AIDS, etc.

Block 2. HUD/State Identification Number: Enter the HUD grant number under which the proposed activity will be funded, e.g., B-10-MC-20-0100.

Block 3. Recipient Identification Number: No entry required; the Responsible Entity may use this for internal filing purposes, like a number that corresponds to the activity's Environmental Review Record.

Block 4. OMB Catalog Number(s): Enter the designated OMB number from the Catalog of Federal Domestic Assistance that corresponds to the HUD program. Examples include:

CFDA No. 14.218, Community Development Block Grant (CDBG)
CFDA No. 14.228, Community Development Block Grant (CDBG) State/Small Cities
CFDA No. 14.235, Supportive Housing Program (SHP)
CDFA No. 14.239, HOME
CFDA No. 14.247, Self-Help Homeownership Opportunity Program (SHOP)
CDFA No. 14.251, Economic Development Initiative (EDI)-Special Projects

The OMB Catalog is available on line at http://www.cfda.gov
(Click "By Agency," then "Housing and Urban Development" to obtain HUD Programs listing).

Block 5. Name and Address of Responsible Entity: Enter the name and address of the unit of local government or State agency/department responsible for the environmental review under Part 58.

Block 6. For Information about this request, Contact (name & phone number): Enter the name of person to contact concerning completion of this form, HUD-7015.15, and/or the environmental review.

Block 7. Name and Address of Recipient (if different than responsible entity): If applicable, enter the name of the organization (e.g., non-profit, for-profit, housing authority) directly receiving HUD grant funds.

Block 8. HUD or State Agency and Office Unit to Receive Request: Enter the name and address of the HUD Program or State Agency to whom form HUD-7015.15 will be submitted. Addresses for Community Planning and Development (CPD) Program Offices in HUD Region VII are:

- Kansas and Western Missouri:
  Director, Office of Community Planning and Development
  U.S. Department of Housing & Urban Development
  400 State Avenue, Room 200
  Kansas City, Kansas 66101-2406

- Eastern Missouri:
  Director, Office of Community Planning and Development
  U.S. Department of Housing & Urban Development
  1222 Spruce Street
  St. Louis, Missouri 63103-2836

- Nebraska and Iowa:
  Director, Office of Community Planning and Development
  U.S. Department of Housing & Urban Development
  1616 Capitol Avenue, Suite 329
  Omaha, Nebraska 68102-4908

Block 9. Program Activity/Project Name: Enter the name of the activity/project for which the request for release of funds is being submitted. Examples: Activities in the 2010 Action Plan; Construction of Maple Woods Apartments; Renovation of XYZ Community Center.

Block 10. Location (Street address, City, County, and State): Enter the location of the activity/project. If an address is not available, describe using common language directions, e.g., NW corner of intersection of Main Street and Elm Avenue, Polk City, Missouri, Jackson County.

Block 11. Program Activity/Project Description: Enter a clear, complete and concise description of the activity/project to which this form pertains. Include all project activities, including non-HUD funded actions. Example: Acquisition of 10-acre parcel and construction of a 2-story residential building, to provide (10) 3-bedroom and (20) 2-bedroom apartments, for a total of 30 residential units for the elderly plus related parking, walking path and outdoor recreational area.

Part 2. Environmental Certification (to be completed by Responsible Entity)

Item 3: Check either the first or second box. The second box is usually checked.

Signature of Certifying Officer of the Responsible Entity:

After the end of the required public comment period, the Certifying Officer signs his/her name, title, and the date. The Certifying Official is the chief elected official of the government (local, tribal, or state). The chief elected official or legislative body of the responsible entity may authorize the Certifying Officer's legal responsibility to reside with another official of the RE if the other official is acceptable. For purposes of being authorized to carry out this responsibility, HUD requires that the substituted official provide evidence, in the form of a formal delegation by the chief elected official or resolution by the legislative body of the RE, that the substituted official has the authority to consent on behalf of the chief elected official to federal court jurisdiction and to bind the RE to satisfy any judgment entered in federal court relating to the RE's performance of environmental responsibilities under 24 CFR Part 58 and as set forth in Items 1 through 8 in Part 2 of the RROF.

If the Responsible Entity is also the grant Recipient, the completed form HUD-7015.15, and a copy of all posted or published environmental Notice(s), including floodplain management notices, as applicable, is then submitted to the appropriate HUD (or State, if applicable) Office Division Director.

Part 3. To be completed when the Recipient is not the Responsible Entity

If the Responsible Entity is not the grant Recipient, form HUD-7015.15 must be transmitted by the Responsible Entity to the Recipient, with a copy of the completed, signed and dated Environmental Review Record and the posted or published environmental Notices.

Signature of Authorized Officer of the Recipient:

The "Authorized Officer" of the Recipient signs and dates the HUD-7015.15, then submits the completed form HUD-7015.15 along with a copy of the posted or published public Notice(s) to the appropriate HUD (or State, if applicable) Office Division Director. The Recipient retains the copy of the Environmental Review Record for its official project file.

NOTE: The Recipient, by signing form HUD-7015.15, agrees to implement any special environmental conditions resulting from the environmental review prepared by the Responsible Entity and to notify the Responsible Entity of any proposed change in scope of the project or any change in environmental conditions.

When To Consult With Tribes Under Section 106

Section 106 requires consultation with federally-recognized Indian tribes when a project may affect a historic property of religious and cultural significance to the tribe. Historic properties of religious and cultural significance include: archeological sites, burial grounds, sacred landscapes or features, ceremonial areas, traditional cultural places, traditional cultural landscapes, plant and animal communities, and buildings and structures with significant tribal association. The types of activities that may affect historic properties of religious and cultural significance include: ground disturbance (digging), new construction in undeveloped natural areas, introduction of incongruent visual, audible, or atmospheric changes, work on a building with significant tribal association, and transfer, lease or sale of properties of the types listed above.

☐ **If a project includes any of the types of activities below, invite tribes to consult: significant ground disturbance (digging)**
Examples: new sewer lines, utility lines (above and below ground), foundations, footings, grading, access roads

☐ **New construction in undeveloped natural areas**
Examples: industrial-scale energy facilities, transmission lines, pipelines, or new recreational facilities, in undeveloped natural areas like mountaintops, canyons, islands, forests, native grasslands, etc., and housing, commercial, and industrial facilities in such areas

☐ **Incongruent visual changes**
Examples: construction of a focal point that is out of character with the surrounding natural area, impairment of the vista or viewshed from an observation point in the natural landscape, or impairment of the recognized historic scenic qualities of an area

☐ **Incongruent audible changes**
Examples: increase in noise levels above an acceptable standard in areas known for their quiet, contemplative experience

☐ **Incongruent atmospheric changes**
Examples: introduction of lights that create skyglow in an area with a dark night sky

☐ **Work on a building with significant tribal association**
Examples: rehabilitation, demolition or removal of a surviving ancient tribal structure or village, or a building or structure that there is reason to believe was the location of a significant tribal event, home of an important person, or that served as a tribal school or community hall

☐ **Transfer, lease or sale of a historic property of religious and cultural significance**
Example: transfer, lease or sale of properties that contain archeological sites, burial grounds, sacred landscapes or features, ceremonial areas, plant and animal communities, or buildings and structures with significant tribal association

☐ **None of the above apply**

_____ _____

Project Reviewed By **Date**

Section 8: Acquisition and Relocation

I. SCOPE OF ACQUISITION AND RELOCATION

The purpose of this section is to inform the grantees of the basic regulatory requirements and related guidance covering real property acquisition and the relocation of persons who may be displaced as a result of a Community Development Block Grant. To assist grantees in complying with these requirements, the Appendices to this section contain materials (sample letters, flowcharts, regulations and other guidance materials) that comply with the regulations. The use of guidance materials should be reviewed and files should contain specified applicable documents.

Since relocation of persons within the CDBG project is infrequent and the process of relocating persons/businesses is extensive, only the acquisition process will be detailed. Any relocation assistance will be handled on a case-by-case basis and separate directives will address relocation regulations. Therefore, should any project cause the relocation of persons, businesses or remove a vacant occupiable dwelling unit, the grantee must contact the Acquisition/Relocation Specialist for information.

II. APPLICABLE LAWS AND REGULATIONS

A. Uniform Relocation Act (URA)

The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended (URA) and HUD implementing regulation at 49 CFR Part 24 govern the acquisition of real property for CDBG-assisted activity and the displacement of persons. The rule applies to all CDBG-assisted projects.

If federal financial assistance is used in any part of the activity, the URA governs the grantee's acquisition of real property and may govern any resulting displacement. It is important the grantee comprehend that the involvement of federal assistance in the project is the cause of URA application and that funding source is not a factor. The URA requirement applies, whether CDBG funds, local funds or zero funds (the real property is donated) are expended.

B. Section 104(d)

Section 104(d) of the Housing and Community Development Act of 1974, as amended (HCD Act), and implementing regulations at 24 CFR 570.496a (state CDBG program) govern the displacement of any lower income person as a direct result of the demolition of any housing unit or the conversion of occupied or vacant occupiable low- and moderate-income housing to a use other than low- and moderate-income housing for a CDBG project, as well as the URA requirements. This regulation requires certification of a residential antidisplacement and relocation plan if federal funds are involved. If housing stock is reduced, one-for-one replacement units will be

required on all demolition or conversion of low-and moderate-income housing units. Replacement must occur within three years of the demolition of the unit(s).

C. Program Regulations

Most HUD program regulations contain additional requirements regarding displacement, including displacement not covered by the URA or Section 104(d). Examples of such requirements include:

Program:	Additional Policies:
Rental Rehabilitation Program (RRP)	24 CFR 511.14
Special Purpose Grants	24 CFR 770.410

As a condition for the approval of its block grant, the grantee certifies it will ensure that all CDBG activities are in compliance with applicable requirements to the URA and Section 104(d).

III. BASIC REQUIREMENTS, REAL PROPERTY ACQUISITION

A. Applicability of Acquisition Requirements

The URA regulations apply to the following four kinds of transactions:

- Acquisition of parcel simple fee;
- Acquisition of fee title that is subject to retention of a life estate or a life use;
- Acquisition by leasing where the lease term, including options(s) for extension, is 50 years or more; and
- The acquisition of permanent and temporary easements and right-of-ways.

There are three types of transactions which can exempt the grantee from the requirements of the URA in regard to acquiring property. If the circumstances relating to the acquisition qualify the transaction as an exemption, and the grantee chooses to utilize this exemption method, the grantee must submit documentation to the CDBG Acquisition/Relocation Specialist to support the exemption. Documentation should be submitted on the form "Request for Acquisition Exemption" located as Appendix A. Should the Small Cities program concur with the exemption, the grantee may proceed with acquiring the real property without further regard to URA requirements.

Exemptions to the requirements of the URA include:

1. An acquisition that is clearly a voluntary, arm's length transaction. Such transaction must meet each of the following conditions:

    a. No specific site or property is designated for acquisition. Where a grantee wishes to purchase more than one site within a geographic area on this basis, all owners will be treated similarly. The property to be acquired shall not be part of an intended, planned, or designated project area where all or substantially all of the property within the area is to be acquired within specific time limits; and
    b. The grantee informs the owner in writing that it will not use its power of eminent domain to acquire the property if negotiations fail to result in an amicable agreement (Appendix L); and
    c. The grantee informs the owner of its estimate of the fair market value of the property. The notice must be in writing and provided before the seller enters into the contract for sale on which the purchase is based. An appraisal and review appraisal are required for all property estimated over $25,000.

2. An acquisition by an agency (e.g., a person, private developer) that does not have authority to acquire the property by eminent domain, if, before the seller enters into the contract of sale, the agency (person) informs the seller:

    a. That it does not have the power of eminent domain and, therefore, will not acquire the property if negotiations fail to result in an amicable agreement (Reference: Appendix L); and
    b. Of its estimate of the fair market value of the property. An appraisal and review appraisal are required.

    The above information shall be provided before making the purchase offer. In those cases where there is an existing option or contract, the seller must be provided the opportunity to withdraw from the agreement after this information is provided.

    The grantee is reminded that this second method of exemption is an option. The grantee may acquire the real property by meeting the requirements of the URA, in which no Acquisition Exemption Form (Appendix A) would be filed with the Small Cities program.

3. An acquisition of real property from a federal agency, state or governmental unit, if the grantee making the purchase does not have authority to acquire the property through condemnation.

It is important for the grantee to understand that if this third exemption is granted, the grantee cannot determine at a later date (should negotiations fail) that a property must be acquired for a project and allows a person (private developer) to perform as an agent of the grantee (with the power of eminent domain) to acquire the property.

B. Basic Acquisition Process

The grantee is to make every reasonable effort to acquire the real property expeditiously by negotiation. A flow chart outlining the URA acquisition process is included (Appendix B).

Details of the basic acquisition requirements are provided in the following paragraphs. Commerce has developed a pamphlet describing the basic acquisition requirements for distribution to landowners to help explain the process for obtaining easements only. The pamphlet (Appendix E-1) is available from Commerce or can be found on our website. This is not the same nor does it replace the pamphlet discussed below to acquire parcels of land or larger sites.

1. Notice to Owner. As soon as feasible, the owner shall be notified of the grantee's interest in acquiring the real property and the basic protections applicable, including the grantee's obligation to secure an appraisal. Grantees may meet the requirement to notify the owner of the basic protections available by providing and explaining, as appropriate, the HUD information brochure, "When a Public Agency Acquires Your Property".

   References: Appendix D-Preliminary Notice and Appendix E-Copy of HUD brochure.

2. Appraisal and Invitation to Owner. Before the initiation of negotiations, the real property to be acquired shall be appraised and the owner, or the owner's designated representative, shall be given an opportunity to accompany the appraiser during the appraiser's inspection of the property, unless:

   a. The transaction is uncomplicated and fair market value of the property is less than $25,000. The grantee, after reviewing available data, determines the valuation problem is uncomplicated and the fair market value of the property does not exceed $25,000. The determination shall be based on review by a person who is familiar with real estate values and the basis for the determination shall be documented. If the owner requests an appraisal, the grantee shall obtain an appraisal. A review appraisal is required of any certified appraisal conducted.

      Since accurate appraisals are the heart of the acquisition process, it is important the grantee select qualified appraisers. References should be obtained through appropriate inquiries among users of appraisal services, particularly other public agencies and their condemnation trial attorneys and attorney expected to handle any condemnation

litigation for the grantee. **All appraisals must be reviewed by a <u>second qualified appraiser</u> prior to any offer being made.**

The appraiser and review appraiser must be procured as a professional service if CDBG funds are paying for these services. The appraisers must be qualified professional appraisers.

The object of the appraisal process is to furnish an accurate estimate of value in accordance with the definition and concepts of value and the rules on the admissibility of evidence of value.

The review appraisals should assure that the initial appraisal meets applicable appraisal requirements and, prior to acceptance, seek necessary corrections or revisions. If the review appraiser is unable to approve the appraisal as an establishment of just compensation, and it is not practical to obtain an additional appraisal, the review appraiser may support an approved value. The review appraiser's value must explain the basis for approval. The initial offer to the property owner may not be less than the amount of the review or approved first appraisal.

When acquiring commercial property and/or property with tenant-owned improvements, the grantee should provide the appraiser with appropriate legal guidance with respect to the classification as to ownership and type of property of all buildings, structures, fixtures and other improvements. The grantee may contact the Small Cities program for instructions for preparing property analysis (contained in Article 4(j) of Agreement for Appraisal Services) (49 CFR 24.102).

The tenant-owner of a real property improvement should be invited to accompany the appraiser on his/her inspection of improvement.

b. Donations. An owner whose real property is to be acquired, after being fully informed by the grantee of the right to receive just compensation and his/her right to an appraisal, <u>may waive the right to an appraisal and donate such property without compensation</u>. **If an owner waives his/her right to an appraisal, the real property may be fully donated. No payment may be made for any property where the fair market value has not been established by an appraisal (property over $25,000) or qualified individuals (property value under $25,000).** The owner may then completely or partially waive compensation. Whenever a grantee acquires real property under this donation provision, the grantee must obtain the written consent of the owner. Such consent must indicate the owner understands that under the URA he/she cannot be required to sell the real property for less than its appraised fair market value.

References: Appendix J - Donation of Property and Appendix K - Partial Compensation.

3. Establishment and Offer of Just Compensation. Before the initiation of negotiations, the grantee shall establish an amount which it believes is just compensation for the real property. The amount shall not be less than the approved appraisal of the fair market value. Promptly thereafter, the agency shall make a written offer to the owner (including tenant-owners) to acquire the property for not less than appraised value.

   Reference: Appendix G - Written Offer to Purchase.

4. Summary Statement. Along with the initial written purchase offer, the owner shall be given a written statement of the basis for the offer of just compensation, which shall include:

   a. A statement of the amount offered as just compensation. In the case of a partial acquisition, the compensation for the real property to be acquired and the compensation for damages, if any, to the remaining real property shall be separately stated.
   b. A description and location identification of the real property and the interest in the real property to be acquired.
   c. An identification of the buildings, structures, and other improvements (including building equipment and trade fixtures) which are considered to be part of the real property for which the offer of just compensation is made. Where appropriate, the statement shall identify any separately held ownership interest in the property, e.g., a tenant-owned improvement, and indicate such interest is not covered by the offer.

   Reference: Appendix H - Basis for Determination of Just Compensation Basis.

5. Basic Negotiation Procedures

   a. Contacting Owner. The grantee shall make reasonable efforts to contact the owner or the owner's representative and discuss its offer to purchase the property, including the basis for the offer of just compensation. The grantee shall explain the basic acquisition policies and procedures that apply, including its payment of incidental expenses. Whenever feasible, personal face-to-face contact and discussion shall take place. The owner shall be given reasonable opportunity to consider the offer and present material which the owner believes is relevant to determining the value of the property and to suggest modifications in the proposed terms and conditions of the purchase.
   b. Updating Offer of Just Compensation. If the information presented by the owner or a material change in the character or condition of the property indicates the need for new appraisal information, or if a significant delay has occurred since the time of the appraisal(s) of the property and it is possible a material increase in the value of the property has occurred, the grantee shall have the appraisal(s) updated or obtain a new appraisal(s). If the latest appraisal information

indicates a change in the purchase offer is warranted, the grantee shall promptly re-establish just compensation and offer that amount to the owner in writing.

c. Coercive Action. The grantee shall not advance the time of condemnation, or defer negotiations or condemnation or the deposit of funds with the court, or take any other coercive action in order to induce an agreement on the price to be paid for the property.

d. Administrative Settlement. The purchase price for the property may exceed the amount offered as just compensation when reasonable efforts to negotiate an agreement at that amount have failed and an authorized grantee official approves such administrative settlement as being reasonable, prudent, and in the public interest. A written justification explaining the basis for the settlement (e.g., recent court awards, estimated trial costs, or valuation problems) shall be included in the grantee's files. Appraisers, including review appraisers, must not be pressured to adjust their estimate of value for the purpose of justifying a settlement. Such action would invalidate the appraisal process.

6. Payment and Transfer of Title

a. Payment Before Taking Possession. Before requiring the owner to surrender possession of the real property, the grantee shall pay the agreed purchase price to the owner, or in the case of a condemnation, deposit with the court for the benefit of the owner, an amount not less than the grantee's approved appraisal of the fair market value of such property or the court award of compensation in the condemnation proceeding for the property. In exceptional circumstances, with the prior approval of the owner, the grantee may obtain a right-of-entry for construction purposes before making payment available to an owner.

b. Expenses Incidental to Transfer of Title. The owner of the real property shall be reimbursed for all reasonable expenses the owner necessarily incurred for:

(1) Recording fees, transfer taxes, documentary stamps, evidence of title, boundary survey and legal description of the real property, and similar expenses incidental to conveying the real property to the grantee. However, the grantee may not pay costs solely required to perfect the owner's title to the real property;

(2) Penalty costs and other charges for prepayment of any pre-existing recorded mortgage entered into in good faith encumbering the real property; and

(3) The pro rata portion of any prepaid real property taxes which are allocable to the period after the grantee obtains title to the property or effective possession of it, whichever is earlier.

Whenever feasible, the grantee shall pay for the incidental expenses directly so the owner will not have to pay such costs and then seek reimbursement from the grantee. To avoid duplicate expenditures, the property owner shall be informed early in the acquisition process of the grantee's intent to make such arrangements.

c. Certain Litigation Expenses. The owner of the real property shall be reimbursed for any reasonable expenses, including reasonable attorney, appraisal, and engineering fees, which the owner actually incurred because of a condemnation proceeding, if:

(1) The final judgment of the court is that the grantee cannot acquire the real property by condemnation; or
(2) The condemnation proceeding is abandoned by the grantee other than under an agreed upon settlement; or
(3) The court having jurisdiction renders a judgment in favor of the owner in an inverse condemnation proceeding or the grantee effects a settlement of such proceeding.

Reference: Appendix I - Sample of Settlement Cost

C. Recordkeeping Requirements

A separate file must be maintained for each transaction of property acquired. The grantee is required to keep a summary of all completed acquisition transactions in their project file for monitoring purposes. The form to be used can be found as Appendix M - Acquisition Report. A SAMPLE of a completed Acquisition Report follows Appendix M. As a reference or checklist, you may find it helpful to refer to the following table regarding required documentation. A copy of the Acquisition Report must be submitted to Commerce when acquisitions are complete.

Document	Appendix Reference	URA Process		Exemption Field		
		Complete	Donation	(1)	(2)	(3)
Concurrence of Exception from Commerce	A			X	X	X
Acquisition Checklist	C	X	X			
Preliminary Acquisition Notice Informing owner of basic rights	D/E	X	X			
Preliminary Acquisition Notice Informing owner of negotiations	L			X	X	
Contract(s) with appraiser	N	X*	X**			
Contract with review appraiser		X*	X**			
Invitation to Accompany Appraiser	F	X*	X**			
Appraisal Report(s)	-	X*	X**	X*	X	
Review Appraisal Report		X*	X**			
Written offer to owner: Basis for determination of compensation	G/H	X*	X**			
Letter: Donation of property	J		X			
Details of negotiation, if applicable		X		X	X	X
Condemnation proceedings, if applicable		X				
Verification of payment of settlement cost (Also copy of any warrants/checks)	I	X	X	X	X	X
Verification of payment to owner for real property Copy of any warrants/checks		X	X**	X	X	X
Final title evidence (copy of recorded/filed title)		X	X	X	X	X
Acquisition report	M	X	X	X	X	X

Exemption to URA: (1) Voluntary; (2) Private Sector; (3) Government to Government

* If acquisition is uncomplicated, and less than $25,000, procedure is optional. However, an estimate of the value must be established. Refer to instructions to determine if acquisition qualifies.

** MAY BE WAIVED BY OWNER. However, grantee must have written documentation signed by owner, specifying waiver (refer to instruction, and Appendix J).

Relocation and Acquisition Appeals Policy

The URA regulations at 49 CFR 24.10 establish an individual's right to appeal either displacement status, the amount of relocation assistance to be provided, or acquisition payments made under 49 CFR 24.106 or 24.107. Under the URA, an appeal must be filed with the displacing Agency within a reasonable time period. The Department of Commerce will provide an aggrieved person 60 days after the person receives written notification of the Agency's determination on the person's claim to file an appeal of that determination. The displacing Agency is the direct HUD recipient (e.g., grantee, Participating Jurisdiction, Public Housing Authority) or in the case of the State CDBG Program, the State recipient not a subgrantee (e.g., subrecipient, project sponsor). The displacing Agency is responsible for ensuring its subgrantee(s) comply with the URA. Under the URA regulations at 49 CFR part 24, an aggrieved person also has the right to seek judicial review; however, no provision is made for further appeal to the federal funding agency.

Department of Commerce will assume responsibility for reviewing any appeal filed on projects funded by the Small Cities CDBG program. Under section 104(d) regulations at 24 CFR 42.390 and some other HUD program regulations (e.g., 24 CFR 574.630(d), 24 CFR 582.335(e), and 24 CFR 583.310(e)), a low- or moderate-income person who is dissatisfied with the displacing Agency's determination on whether the person qualifies as a "displaced person" or with the amount of relocation assistance for which the person is eligible, may submit a written request for Commerce review of that determination. A request for Commerce review of a displacing Agency's determination on URA or section 104(d) eligibility or payments which is based on provisions in HUD program regulations which allow a low- or moderate income person to appeal must be made in writing no later than 60 days after the person receives written notification of the Agency's determination (and such notice informs the person of the 60-day limit). The Commerce may, at its discretion, extend the submission period, where appropriate.

I. Commerce Official(s) Reviewing Appeal

The Business and Community Development Director shall request the assistance of qualified Commerce staff to review such appeals and prepare the Department's response. The Relocation Specialist shall be involved in the review of relocation appeals. Where appropriate, guidance from Commerce Legal Counsel shall be requested.

II. Commerce Review of Appeal

The Department of Commerce staff will make a decision on the issues raised in the appeals request within thirty (30) calendar days of receipt. Commerce may, at its discretion, extend the Agency's response period where appropriate and necessary. Commerce may also ask the Agency to submit its complete case file and may request additional information from the affected individual. In deciding appeals, applicable policies shall be applied in a manner that best fulfills the objective of providing fair and equitable treatment so that affected persons do not suffer disproportionate injuries as a result of programs designed for the benefit of the public as a whole.

The appeal review staff shall draft a recommendation to the Business and Community Development Director and prepare draft responses for his/her signature: 1) To the individual making the appeal, and 2) to the displacing Agency (with a copy of the response to the individual). The responses shall include, but need not be limited to:

(1) Commerce's determination on review of the appeal;

(2) The factual and legal basis upon which the decision is based, including any pertinent explanation;

(3) If any payment or other relief to the person is required to be made by the Agency, the amount and manner of payment should be outlined in the response to the individual along with a statement of the person's right to seek further Commerce assistance in the event such relief is not provided (in such cases, the response to the Agency will need to provide direction regarding Commerce's required corrective action); and

(4) If the full relief requested is not granted, a statement of the person's right to seek additional review.

III. Request for Additional Time

If a person or agency makes a reasonable request for additional time to gather information and prepare for a written appeal or request for Commerce review, he or she shall be granted a reasonable amount of additional time.

IV. HUD Determinations on Persons Not Displaced

The URA defines both a "Displaced Person" and "Persons not Displaced" in 49 CFR 24.2(a)(9). HUD program regulations rely on this definition and, in many cases, include additional program-specific definitions for these terms, including a provision which either allows HUD to make a determination that a person was not displaced as a direct result of acquisition, rehabilitation, or demolition for the project; or that requires HUD concurrence in any such a determination by a recipient (e.g., see 24 CFR 92.353(c)(2)(D), 24 CFR 941.207(h)(2)(iv), or 24 CFR 1000.14(g)(2)(iii)).

Review of a displacing Agency's determination that a person is not displaced under the URA based on HUD program regulations is to be undertaken by the CPD Director in the local field office in the same manner as URA or section 104(d) appeals. Any HUD determination that a person is not displaced must be reviewed by the Relocation and Real Estate Division in Headquarters prior to a final decision being rendered by the CPD Director.

Commerce has assumed responsibility for determining if a person is displaced under URA regulations.

For additional information regarding the requirements of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended (URA), you may contact staff in the Relocation and Real Estate Division in HUD Headquarters or Regional Relocation Specialists. Their names and telephone numbers can be found at www.HUD.gov/relocation under "Contacts."

REQUEST FOR ACQUISITION EXEMPTION

TO: Kansas Department of Commerce
Small Cities CDBG Program
1000 S.W. Jackson St., Suite 100,
Topeka, Kansas 66612-1354

FROM: _____ Grant No.: _____
(City/County)

RE: _____
_____
(Description of real property)

Please provide concurrence that the above property is exempt from the requirements of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (URA).

This acquisition of real property is exempt as defined in 49 CFR, Part 24.101 of the URA.

☐ (1) Voluntary transaction. All procurement requirements specified in 2 CFR Part 200 will be met and this transaction meets the requirements of ALL THREE of the following conditions:

(a) Not acquired under the threat of eminent domain. Advertisements and owners provided written notification to this effect.
(b) A specified site is not necessary and the property to be acquired is not part of a project where substantially all of the property within an area will be eventually acquired.
(c) The owner will be informed of the estimated fair market value of the property.

☐ (2) Property is to be acquired by private sector and before the seller enters into the contract of sale, the buyer informs the seller:

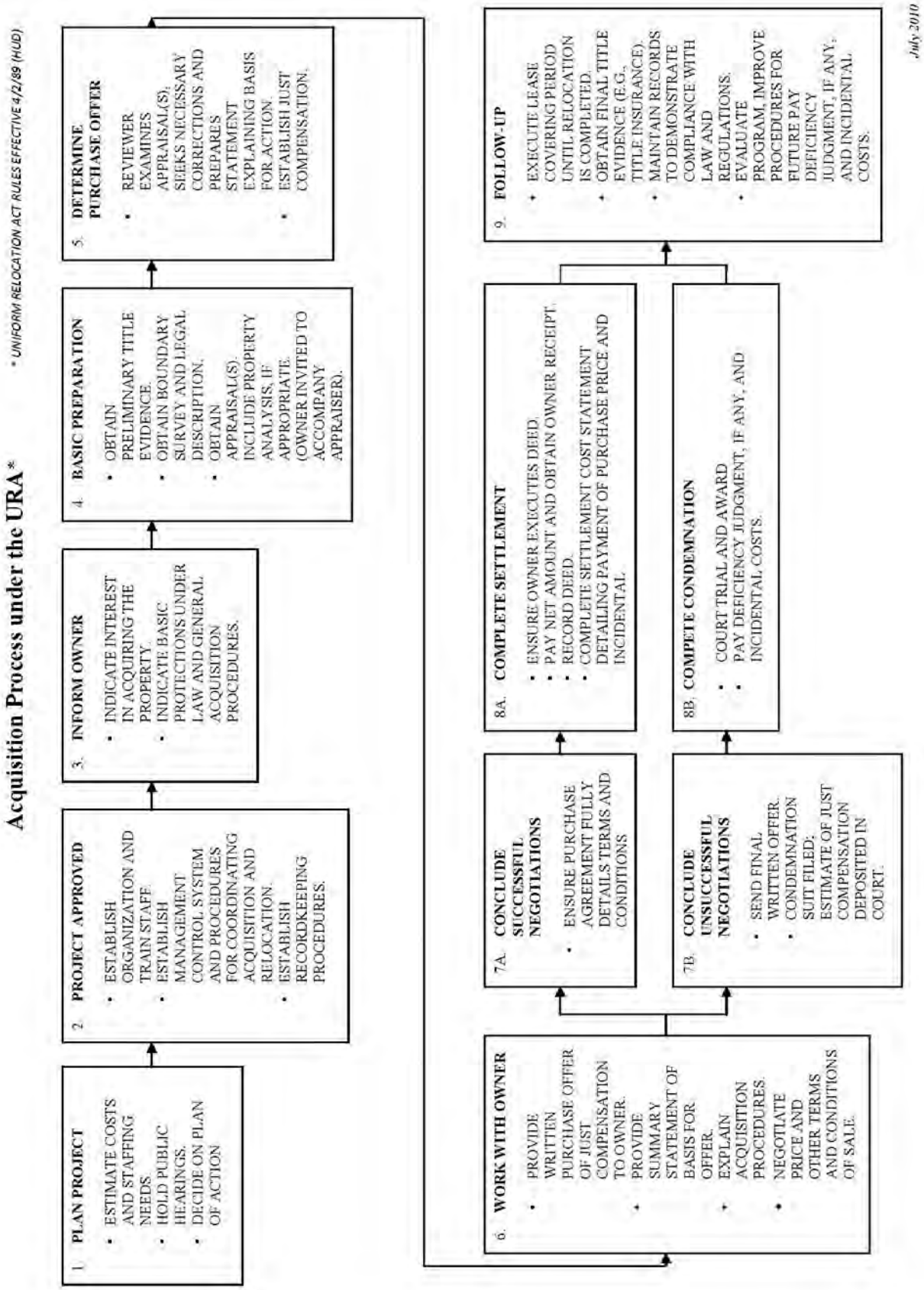
(a) That it does not have the power of eminent domain and should negotiations fail to result in an amicable agreement, the property will not be acquired; and
(b) The owner will be informed of the estimated fair market value of the property. Reference: Appendix L

☐ (3) Property to be acquired is in government ownership and cannot be taken by eminent domain. Property owner is _____.

Supporting data attached _____
_____

SIGNATURE: _____ _____
(Chief Elected Official) (Date)

Small Cities Program Use Only:
☐ Concurrence Signed: _____
☐ Nonoccurrence Title: _____
Date: _____


Acquisition Process under the URA*
* UNIFORM RELOCATION ACT RULES EFFECTIVE 4/2/89 (HUD)
1. PLAN PROJECT
• ESTIMATE COSTS AND STAFFING NEEDS.
• HOLD PUBLIC HEARINGS.
• DECIDE ON PLAN OF ACTION
2. PROJECT APPROVED
• ESTABLISH ORGANIZATION AND TRAIN STAFF.
• ESTABLISH MANAGEMENT CONTROL SYSTEM AND PROCEDURES FOR COORDINATING ACQUISITION AND RELOCATION.
• ESTABLISH RECORDKEEPING PROCEDURES.
3. INFORM OWNER
• INDICATE INTEREST IN ACQUIRING THE PROPERTY.
• INDICATE BASIC PROTECTIONS UNDER LAW AND GENERAL ACQUISITION PROCEDURES.
4. BASIC PREPARATION
• OBTAIN PRELIMINARY TITLE EVIDENCE.
• OBTAIN BOUNDARY SURVEY AND LEGAL DESCRIPTION.
• OBTAIN APPRAISAL(S). INCLUDE PROPERTY ANALYSIS, IF APPROPRIATE. (OWNER INVITED TO ACCOMPANY APPRAISER).
5. DETERMINE PURCHASE OFFER
• REVIEWER EXAMINES APPRAISAL(S); SEEKS NECESSARY CORRECTIONS AND PREPARES STATEMENT EXPLAINING BASIS FOR ACTION.
• ESTABLISH JUST COMPENSATION.
6. WORK WITH OWNER
• PROVIDE WRITTEN PURCHASE OFFER OF JUST COMPENSATION TO OWNER.
• PROVIDE SUMMARY STATEMENT OF BASIS FOR OFFER.
• EXPLAIN ACQUISITION PROCEDURES.
• NEGOTIATE PRICE AND OTHER TERMS AND CONDITIONS OF SALE.
7A. CONCLUDE SUCCESSFUL NEGOTIATIONS
• ENSURE PURCHASE AGREEMENT FULLY DETAILS TERMS AND CONDITIONS
7B. CONCLUDE UNSUCCESSFUL NEGOTIATIONS
• SEND FINAL WRITTEN OFFER.
• CONDEMNATION SUIT FILED; ESTIMATE OF JUST COMPENSATION DEPOSITED IN COURT.
8A. COMPLETE SETTLEMENT
• ENSURE OWNER EXECUTES DEED.
• PAY NET AMOUNT AND OBTAIN OWNER RECEIPT.
• RECORD DEED.
• COMPLETE SETTLEMENT COST STATEMENT DETAILING PAYMENT OF PURCHASE PRICE AND INCIDENTAL.
8B. COMPETE CONDEMNATION
• COURT TRIAL AND AWARD
• PAY DEFICIENCY JUDGMENT, IF ANY, AND INCIDENTAL COSTS.
9. FOLLOW-UP
• EXECUTE LEASE COVERING PERIOD UNTIL RELOCATION IS COMPLETED.
• OBTAIN FINAL TITLE EVIDENCE (E.G., TITLE INSURANCE).
• MAINTAIN RECORDS TO DEMONSTRATE COMPLIANCE WITH LAW AND REGULATIONS.
• EVALUATE PROGRAM, IMPROVE PROCEDURES FOR FUTURE PAY DEFICIENCY JUDGMENT, IF ANY, AND INCIDENTAL COSTS.
July 2010

Appendix C

ACQUISITION CHECKLIST

City/County: _____ Grant No.: _____

RE: _____

(Description of real property)

Owner(s): _____ Tenants: _____

Address: _____ Address: _____

_____ _____

Procedure Implemented:		Appendix References	Date
(a)	Official determination to acquire property (usually execution of grant agreement)	-	
(b)	Preliminary Acquisition Notice mailed and owner informed of basic rights	D/E	
(c)	Enter into contract with appraiser	-	
(d)	Owner provided letter to accompany appraiser	F	
(e)	Property appraised	-	
(f)	Appraisal report received	-	
(g)	Enter into contract with review appraiser	-	
(h)	Receipt of review appraisal report	-	
(i)	Grantee establish purchase offer amount (offer must equal or be above approved appraisal value)	-	
(j)	Owner provided written purchase offer and determination of offer	G/H	
(k)	Settlement cost paid	I	
(l)	Final contract entered (all parties)	-	
(m)	Payment to owner	-	
(n)	Title recorded/filed with court	-	
Condemnation dates*			
(o)	90 days notice to vacate property	-	
(p)	Condemnation proceeding instituted	-	
(q)	Estimated just compensation deposited with courts	-	

Comments: _____

SIGNIFICANT DOLLAR AMOUNTS:

Appraisals:	First $ _____	Second* $ _____	Third* $ _____	Review $ _____
Compensation Amount:	Determined $ _____	Initial Written Order $ _____	Acquisition Price $ _____	
Settlement Costs:	$ _____			

* If applicable 7-98 (REV)

Appendix D

SAMPLE LETTER

PRELIMINARY ACQUISITION NOTICE/BROCHURE

(Date)

Mrs. Elizabeth Richards
4134 Gus Young Avenue
West Linn, Kansas

RE: Project No. 91-PF-001

Dear Mrs. Richards:

This is to inform you the City of West Linn is considering the acquisition of your property on Gus Young Avenue (Lot 8, Square 6, Palmer Extension) to be used for the construction of an addition to the Eden Park Community Service Center.

A copy of a brochure describing your rights and the City's procedures for acquiring property is enclosed for your information. If you have any questions, please call Mr. Garcia Lorca at City Hall at 441-4841. This is not a notice to vacate and does not establish eligibility for relocation payments or other relocation assistance.

The City will be hiring an independent appraiser to appraise your property. You have the right to accompany him on his inspection of the property if you wish to do so. A letter inviting you to accompany him will be sent by the appraiser at least five days prior to his visit.

Sincerely,

Garcia Lorca
Public Works Director

Enclosure: **WHEN A PUBLIC AGENCY ACQUIRES YOUR PROPERTY**

Kansas Department of Commerce
Small Cities CDBG Program

Project Easements

For: _____
(Project Name & Number)

Funded by: _____
(Grantee, District, CDBG, RD, KDHE)

Introduction

Community Development Block Grant funded water and sewer improvements usually involve the installation or replacement of utility lines on the properties of existing or future customers. The donation of easements for these lines is a cost saving mechanism to successfully provide your community with safe water or safe waste disposal. To familiarize you with the donation process, we have prepared this informational brochure.

The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 governs the donation of easements where federal funds are involved in a project. It is commonly referred to as URA. The procedures under the URA can be separated into five steps. They are:

1. Notice of Project
2. Notice of URA Rights
3. Donation and Recording of Easement
4. Negotiations, if necessary
5. Eminent Domain, if necessary

Notice of Project

This easement brochure is your notice of our jointly funded CDBG public facility project and of our need for your easement as part of this project. To make the project more cost effective for all residents, you are respectfully asked to donate your easement for the benefit of this project.

Notice of URA Rights

Under URA, an easement owner has three basic rights:

1. Just compensation
2. Appraisal and review appraisal
3. Right to accompany appraiser

Certified appraisals and review appraisals are not required for easements valued under $25,000, but a determination of market value must be made and documented.

Donation and Recording of Easement

An owner may donate their easement for this project after being informed of the above rights. The donation procedure is a very important tool for public agencies, since most have limited resources. Often, the value of the easement donation is more than offset by the future benefits received by the owner from the publicly owned water or sewer utility that will be provided.

Easement owners, after having been informed of their URA rights, are asked to waive those rights and to donate their easement to the project. After agreeing to donate, the easement owner will be asked to sign a waiver of just compensation and rights to appraisal, and to formally record the easement on their deed. The city, county, or district will pay recording fees.

Negotiation

Although an easement owner is not required to donate to receive the specific water or sewer service provided by the project, we strongly encourage donation for the public good. If instead, you decide to request just compensation, you may accept the city's offer of just compensation based on the appraisal (and review appraisal, if applicable, of the property). In fairness to both property owners and taxpayers, offers must be based on the facts and not on one's ability to negotiate. If you present additional facts or items of value that were not considered in any valuation of your property, an adjustment will be considered and a revised offer may be presented to you. If the amount of just compensation cannot be reached through negotiation, then the laws of condemnation (eminent domain) will have to be exercised by the city, county, or district.

Condemnation/Eminent Domain

The state statute allows a city, county or district to acquire property or an easement by exercising their statutory right of condemnation. The petition to exercise eminent domain procedures for a parcel of land is begun in district court where the property is located. If the court determines the petition is proper, then three condemnation appraisers will be appointed to determine the value of the property or easement. After considering the facts, the appointed appraisers make their determination of value by filing a Report of Appraisers with the district court. If the property owner is not in agreement with the Report of Appraisers, the property owner has a right of appeal. An appeal is filed with the Clerk of the District Court. If both parties agree with the amount suggested in the Report of Appraisers, the parties arrange for payment and transfer of title.

Conclusion

We strongly encourage you to donate your easement for the success of this project. Your donation will result in a more cost-effective public benefit to you and all the users of this public facility project.

If you have any additional questions after reading this brochure, please contact us at:

Agency: _____

Address: _____

_____

Office Hours: _____

Telephone Number: _____

Contact Person: _____

Appendix F

SAMPLE LETTER

INVITATION TO ACCOMPANY AN APPRAISER

(Date)

Mrs. Elizabeth Richards
4134 Gus Young Avenue
West Linn, Kansas

Dear Mrs. Richards:

I have been requested by the City of West Linn to prepare an appraisal of your property on Gus Young Avenue. I will visit the property October 15, 1991. If you wish to accompany me, please telephone me at (913) 331-4705 to arrange a mutually convenient time.

Sincerely,

Robert Baxter
Senior Appraiser

Appendix G

SAMPLE LETTER

WRITTEN OFFER TO PURCHASE

(Date)

Mrs. Elizabeth Richards
4134 Gus Young Avenue
West Linn, Kansas

RE: Project No. 91-PF-001

Dear Mrs. Richards:

The City of West Linn has approved an addition to the Eden Park Community Service Center (Project No. 91-PF-001). To accomplish this project, it will be necessary to acquire your property on Gus Young Avenue (Lot 8, Square 6, Palmer Extension).

As you were informed at an earlier date, the property was appraised on October 15, 1991. The appraiser's report has been analyzed and reviewed by a second appraiser. Based on the appraisal and review appraisal, the City makes you a firm offer of $32,500.00 for the purchase of the above referenced property.

We feel the above offer is equitable and we will be contacting you regarding your consideration of this offer.

[This amount is compensation for your property and DOES NOT INCLUDE moving and relocation benefits. Therefore, a representative of the City will be contacting (you/tenant) shortly to determine eligibility and inform (you/them) of possible moving and relocation entitlements.]*

Thank you for your cooperation in this matter and we hope you will respond favorably to our offer. If you have any questions, please feel free to call.

Sincerely,

Devon Troy
Mayor

Enclosure: Statement of Basis for the Determination of Just Compensation

*[ ] Omit if property unoccupied by tenant or owner.

Appendix H

BASIS FOR THE DETERMINATION OF JUST COMPENSATION

Project: _____ Date: _____
Property (legal description): _____

_____

_____

Just Compensation: $ _____

This determination is not less than its approved appraisal of the "Fair Market Value" of the property.

Fair Market Value is defined as:

"The highest price estimated in terms of money which a property will bring if exposed for sale in the open market allowing a reasonable time to find a purchaser who buys with knowledge of all the uses to which it is adapted and for which it is capable of being used. That price at which a willing seller would sell and a willing buyer would buy, neither being under abnormal pressure. It is the price expectable if a reasonable time is allowed to find a purchaser and if both seller and prospective buyers are fully informed."

If you wish to retain buildings that are located within the property limits, you should advise the negotiating agent, and a retention value will be assigned to each building. The amount determined as the retention value will be deducted from the amount shown as the "TOTAL COMPENSATION AND MEASURE OF DAMAGES".

Basis for Offer:

The amount of just compensation includes the following items:

(a) Real Property to be acquired: _____ (sq. ft. acres)
(b) Easements, if any: Permanent _____(sq. ft. acres)
(c) Inventory of building, structures, fixtures and other improvements which are considered to be of the real property: _____

_____

_____

(d) Replaceable damages: _____

_____

_____

Establishing an Offer:

This offer was established by an appraiser specially trained in real estate appraisal techniques. The original appraisal was reviewed by a reviewing appraiser who also made a visual inspection of your property.

The appraisers did not consider any decrease or increase in the "Fair Market Value" of the real property prior to the date of valuation caused by the proposed project of the city/county. However, the 15 items set forth in K.S.A. 26-513 (listed below), if applicable to your property, were considered in ascertaining the amount of compensation and damages. Other factors may also have been considered. They were not considered as separate items of damages, but were considered only as they affect the total compensation and damages established by the professional appraisers.

(1) The most advantageous use to which the property is reasonably adaptable.
(2) Access to the property remaining.
(3) Appearance of the property remaining, if appearance is an element of value in connection with any use for which the property is reasonably adaptable.
(4) Productivity, convenience, use to be made of the property taken or use of the property remaining.
(5) View, ventilation, and light, to the extent they are beneficial attributes to the use of which the remaining property is devoted or to which is reasonably adaptable.
(6) Severance of division of a tract, whether the severance is initial or is in aggravation of the previous severance; changes of grade and loss or impairment of access by means of underpass or overpass incidental to changing the character or design of an existing improvement being considered as an aggravation of a previous severance, if in connection with the taking of additional land and needed to make the change in the improvement.
(7) Loss of trees and shrubbery to the extent they affect the value of the land taken, and to the extent such loss affects the value of the property remaining.
(8) Cost of new fences or loss of fences and the cost of replacing them with fences of like quality, to the extent such loss affects the value of the property remaining.
(9) Destruction of a legal nonconforming use.
(10) Damage to property abutting on a right of way due to change of grade where accompanied by a taking of land.
(11) Proximity of new improvement to improvements remaining on condemnee's land.
(12) Loss of or damage to growing crops.
(13) That the property could be or had been adapted to a use which was profitably carried on.
(14) Cost of new drains and loss of drains and the cost of replacing them with drains of like quality, to the extent such loss affects the value of the property remaining.
(15) Cost of new private streets, roads or passageways or loss of private streets or passageways and the cost of replacing them with private streets, roads or passageways of like quality, to the extent such loss affects the value of the property remaining.

Offer Price Does Not Include Relocation Benefits:

The appraisals of the "Fair Market Value" concerning your real property did not in any way consider the relocation benefits which are available to you.

The amount determined as just compensation for the purchase of your property DOES NOT INCLUDE any of the relocation benefits to which you may be entitled. As the owner of real property which is acquired by the city/county of _____, Kansas, you may be entitled to certain relocation benefits under Title II of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, and certain settlement costs under the city's determination of just compensation.

If relocation assistance is applicable, you will be fully informed of such assistance by a representative of the city/county.

Negotiations Procedure:

The above offer will not be altered unless additional value information and evidence is presented or otherwise becomes known to the city. In such case, it will then be necessary to have an administrative review to determine if the offer should be changed. Should the offer not be acceptable to you, our only alternative under established procedure is to proceed under the laws of eminent domain (sometimes known as "condemnation" procedure).

In the event of either negotiation or condemnation, you as landowner will be paid the full amount of the negotiated settlement, or the amount of just compensation allowed by the court appraisers, prior to the time the city will require the acquired property to be vacated.

STATEMENT OF SETTLEMENT COSTS

City/County: _____ Project No.: _____
Owner: _____
Identification of Property: _____
Purchase Price: $ _____

Expenses Incidental to Transfer of Title	Paid by City	Paid by Owner
(1) Recording Fees	_____	_____
(2) Transfer Taxes	_____	_____
(3) State Tax Stamps	_____	_____
(4) City/County Tax Stamps	_____	_____
(5) Survey and Legal Description	_____	_____
(6) Penalty Costs Associated with Pre-payment of Pre-existing Recorded Mortgages	_____	_____
(7) Pro-rata Portion of Pre-paid Taxes and Public Services Charges	_____	_____
(a) Real Property Taxes - County	_____	_____
(b) Real Property Taxes - City	_____	_____

This statement of settlement costs is certified as true and correct.

Signed: _____ Date: _____
Closing Attorney

SAMPLE LETTER

DONATION OF PROPERTY

(Date)

The Honorable Devon Troy
Mayor, City of West Linn
West Linn, Kansas

RE: Project No. 91-PF-001; Acquisition of Property;
Property on Gus Young Avenue (Lot 8, Square 6, Palmer Extension)

Dear Mayor Troy:

This letter will serve to verify we were fully informed and advised of our rights provided to us by the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended. We acknowledge receipt of a copy of the booklet "When a Public Agency Acquires Your Property".

We fully understand we have the right to waive an appraisal on this property and wish to donate it to the city.

OR

We understand the appraised value of this property is $_____ and we wish to donate this land to the city.

_____

_____
(Property Owner)

Original: City (CDBG Acquisition file)
Copy: Property Owner

SAMPLE LETTER

COMPENSATION OF PROPERTY

(Date)

The Honorable Devon Troy
Mayor, City of West Linn
West Linn, Kansas

RE: Project No. 91-PF-001; Eden Park Community Service Center;
Property on Gus Young Avenue (Lot 8, Square 6, Palmer Extension)

Dear Mayor Troy:

This letter will serve to verify we were fully informed and advised of our rights provided to us by the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended, as stated in the URA brochure. We fully understand we are not required to sell this property for less than its appraised fair market value.

We wish to inform the City we are willing to accept $_____ as full compensation for the property described above. The difference between the amount of compensation we are receiving and that of the appraised value of $_____ is considered by us to be a donation to the City because of the benefits to be derived as a result of this project.

_____

_____
(Property Owner)

Original: City (CDBG Acquisition file)
Copy: Property Owner

SAMPLE LETTER

PRELIMINARY ACQUISITION NOTICE/INFORMING OWNER OF NEGOTIATIONS

NOTE. Grantee is required to file form, Concurrence of Exemption (Appendix A), in conjunction with this letter

(Date)

Mrs. Elizabeth Richards
4134 Gus Young Avenue
West Linn, Kansas

RE: Project No. 91-PF-001; Acquisition of Property;
Gus Young Avenue (Lot 8, Square 6, Palmer Extension)

Dear Mrs. Richards:

The City of West Linn (is in the process of applying for) (has received the approval to use) federal funds to assist XYZ Manufacturing, Inc., in their undertaking to (relocate) (expand) within West Linn. Please be informed that based upon an appraisal and review appraisal, the fair market value for this property has been determined as $_____.

(It has been brought to our attention that XYZ Manufacturing, Inc., is considering the acquisition of your property on Gus Young Avenue (Lot 8, Square 6, Palmer Extension) for this project. At this time, the City wishes to advise you the property cannot be acquired with the authority of eminent domain. Therefore, please understand the acquiring of this property is voluntary, and should negotiations fail to result in an amicable agreement, the property will not be purchased.)

OR

(It has been brought to our attention that XYZ Manufacturing, Inc., presently has an existing option or contract to purchase your property on Gus Young Avenue (Lot 8, Square 6, Palmer Extension) for this project. Since federal assistance is involved in this project, the City at this time is required to advise you that the property cannot be acquired with the authority of eminent domain, and will provide you with an opportunity to withdraw from the agreement upon providing this information to you. Therefore, should you wish to cancel the existing option or contract to purchase this property, you are to provide written notification to the City within 10 days of receipt of this letter.)

Should you have questions or concerns regarding this matter, please contact me.

Sincerely,

Devon Troy, Mayor

Copy: City (CDBG Acquisition file)
XYZ Manufacturing, Inc.

Submit a copy of this form to Commerce when activities are complete.

ACQUISITION REPORT

Grantee: _____ Grant No: _____
(City/County)

RE: SUMMARY OF ACQUISITION ACTIVITIES: According to the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended (URA)

I. ACQUISITION PROCESS:

A. Complete URA Acquisition Process (condemnation not required)
B. Complete URA Acquisition Process (acquired by condemnation)
C. Owners waived all/partial rights of URA
D. Exception filed; (1) Voluntary
E. Exception filed; (2) Private sector acquiring
F. Exception filed; (3) Government to government transaction

II. SUMMARY REPORT:

Transaction Number	Property Owner's Name(s)	Transaction Type*	Amount Paid**	Date	URA Process***
1.					
2.					
3.					
4.					
5.					
6.					
7.					
8.					
9.					
10.					

* Type of Acquisition Transaction: Permanent Easement (PE) Parcel Simple Fee Title (SF) Permanent Right-of-Way (RW) Other (OT)

** Amount paid to property owners for real property. (Do not include legal fees, title search fees or incidental fees)

*** Indicate Type of Acquisition as defined in Section I, i.e. A, B, C, D, E or F

Sample

ACQUISITION REPORT

Grantee: City of West Linn (City/County) Grant No: 95-PF-001

RE: SUMMARY OF ACQUISITION ACTIVITIES: According to the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended (URA)

I. ACQUISITION PROCESS:

A. Complete URA Acquisition Process (condemnation not required)
B. Complete URA Acquisition Process (acquired by condemnation)
C. Owners waived all/partial rights of URA
D. Exception filed; (1) Voluntary
E. Exception filed; (2) Private sector acquiring
F. Exception filed; (3) Government to government transaction

II. SUMMARY REPORT:

Transaction Number	Property Owner's Name(s)	Transaction Type*	Amount Paid**	Date	URA Process***
1.	John H. Brown	SF	$ 32,500	10-4-95	A
2.	Richard Lee Smith	RW	$ 350	9-1-95	C
3.	Chrysler Corporation	SF	$ 250,000	12-1-95	F
4.	Albert B. & Christine D. Jones	PE	$ ---	9-1-95	C
5.			$		
6.			$		
7.			$		
8.			$		
9.			$		
10.			$		

* Type of Acquisition Transaction: Permanent Easement (PE) Permanent Right-of-Way (RW) Parcel Simple Fee Title (SF) Other (OT)

** Amount paid to property owners for real property. (Do not include legal fees, title search fees or incidental fees)

*** Indicate Type of Acquisition as defined in Section I, i.e. A, B, C, D, E, or F

Appendix N

AGREEMENT FOR APPRAISAL SERVICES (ACQUISITION)

THIS AGREEMENT entered into this _____ day of _____ by and between _____ of the City of _____, State of _____ hereinafter referred to as the "Agency", and _____ hereinafter referred to as the "Appraiser."

WITNESSETH THAT:

WHEREAS, the Agency proposes to acquire certain real property and desires that the Appraiser furnish the Agency certain services with respect to such property, including an appraisal of each parcel of the property, and the Appraiser represents that he or she is fully qualified to perform such services and will furnish such services personally; and

WHEREAS, the services to be provided under this Agreement are necessary to achieve the purposes of _____ and the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended (URA).

NOW, THEREFORE, the Agency and the Appraiser, for the consideration and under the conditions hereinafter set forth, do agree as follows:

ARTICLE 1. Property To Be Appraised. A description of the real property to be appraised, including an identification of any interests in the real property to be specifically excluded from appraisal, are set forth in the attached Exhibit A. A separate appraisal is to be furnished for each "parcel." (The term "parcel" means any tract or contiguous tracts of land in the same ownership, whether any such tract consists of one or more platted lots or a fractional part of a lot. An easement or other separately held interest in two or more parcels shall be considered to be a separate parcel for appraisal purposes and an exception to the title to the parcels so encumbered. An easement in a parcel that is appurtenant to another parcel to be acquired by the Agency shall be considered to be part of such other parcel and an exception to the title of the parcel encumbered.) Each parcel shall be considered to include all right, title, and interest of the owner in or to any adjacent or abutting streets, alleys or other public rights of way.

ARTICLE 2. Purpose and Basis or Valuations.

(a) Purpose and Significance of Appraisals. The appraisals to be furnished under this agreement are required by the Agency for its guidance in making fair and impartial determinations of fair market value and the just compensation to be offered to each property owner. The Appraiser shall be guided by those objectives when estimating values. Appraisal reports will be reviewed carefully by the Agency. Accordingly, the text of each appraisal report must cover all matters germane to the required valuation findings and must provide a full explanation of the Appraiser's

reasoning and his analyses of the evidences of value, so that a reviewer will be able to follow the Appraiser's analyses and understand how he reached his valuation conclusions.

(b) Appraisal Standards. The appraisals under this agreement shall be based on nationally recognized appraisal standards and techniques to the extent that such principles are consistent with the concepts of value and the rules on the admissibility of evidence of value under the eminent domain law of the State. Factors relating to race, color, religion, sex or national origin, or to racial, religious, or ethnic identification of neighborhoods are not relevant to the estimation of value and shall not be considered in connection with appraisals of residential real property.

(c) Date of Valuation. The Appraiser's valuation shall be as of a date concurrent with the preparation of the report unless the Agency has specified some other date of valuation.

(d) Relocation Assistance. The Appraiser's analyses and opinions of property value shall not reflect any allowance for the relocation payments and other assistance provided under the URA.

(e) Influence of Project on Property Value. In forming opinion(s), the Appraiser shall disregard any decrease or increase in the fair market value of the real property to be acquired, prior to the date of valuation, caused by the project for which the property is to be acquired or by the likelihood that the property would be acquired for such project, other than that due to physical deterioration within the reasonable control of the owner. (In the case of a partial acquisition, using the before-and-after method of valuation, the Appraisers opinion of the value of the remaining not-to-be-acquired portion of the property shall reflect any increase or decrease in value attributable to the project.) If the determination of changes in value caused by the project is a problem, the Appraisers report shall cite the ruling followed and its source and shall explain the effect of the ruling on his opinion of value.

ARTICLE 3. Scope of Appraiser's Services. The Appraiser agrees to perform the following services:

(a) Appraise each parcel and prepare and deliver to the Agency, within _____ calendar days after the date of this agreement, copies of the appraisal report(s) conforming to the provisions of this agreement. The Appraiser shall personally inspect each parcel, including all buildings, structures, fixtures and other improvements to the property. The Appraiser shall give the owner or his designated representative an opportunity to accompany the Appraiser during his detailed inspection of the property. If the owner of a compensable interest in the property or a representative of such owner does not accompany the Appraiser during the inspection, the Appraiser shall include in his appraisal report a copy of his notification to the owner of the opportunity to accompany the Appraiser and evidence of the owners receipt of such notification. In the process of inspecting the property, the Appraiser shall, to the extent practicable, ascertain the rights of all parties in possession and note for consideration all factual information and comments furnished by the owner or his representative relevant to the appraisal.

(b) Testify as an expert witness on behalf of the Agency in any judicial proceeding involving any property appraised under this agreement. Such services shall include such reasonable time as

may be required for reinspection of the property, updating the Appraiser's valuation, participation in pretrial conferences with counsel for the Agency and testifying in the judicial proceeding. The compensation for such services shall be determined in accordance with Article 6.

(c) Modify or furnish supplements to any appraisal report furnished under this agreement, without additional cost to the Agency, if (1) applicable principles of law with respect to the valuation of the property require the modification or supplementing of such appraisal, (2) material omissions, inaccuracies, or defects in the appraisal report are discovered after delivery and acceptance of the report by the Agenc, or (3) the Appraiser receives or becomes aware of relevant additional appraisal information in existence prior to the date the Appraiser signed the report. If there is a significant delay between the date of valuation and the date of acquisition of any parcel or if the property has been materially altered since the appraisal by a fire, a revised determination of the boundaries of the property to be acquired, or other cause, the Appraiser shall, if requested by the Agency, furnish the Agency a supplementary report updating this valuation and the supporting data and analyses to a current date. The compensation for such updating of an appraisal shall be determined in accordance with Article 6.

(d) Estimate the value of any right or interest proposed to be reserved by the owner in a property appraised by the Appraiser, such as an easement for access to other property of the owner, the right to continue occupancy for an extended period after the Agency acquires the property, or the right to remove any building, structure, fixture or other improvement. The compensation to be paid to the Appraiser for furnishing any such valuation shall be determined in accordance with Article 6.

(e) Consult with the Agency and its legal counsel regarding services to be performed by the Appraiser, at such time(s) as may be mutually convenient for the parties to this agreement. The Appraiser shall initiate such consultations whenever the Appraiser is in doubt as to whether an element of property is real or personal property or needs legal advise on any aspect of the appraisals to be furnished under this agreement. There shall be no charge by any party for such consultations.

ARTICLE 4. Contents of Appraisal Reports. Each appraisal report to be furnished by the Appraiser under this agreement shall contain certain information and the Appraisers conclusions and opinions, together with the data and analyses by which they were derived, as set forth below. A separate report shall be submitted for each parcel. However, if more than one parcel is to be appraised, all general data may be included in a separate data volume that is referenced in the separate appraisal reports on the individual parcels. The appraisal report on each parcel shall include the following:

(a) A summary headed "Appraisal Report for _____" that provides the following:

(1) Project name and number.

(2) Date of the report.

(3) Parcel number, address of the property, brief identification of all interests in the property appraised and the name of the owner(s) including any tenant-owners.

(4) Date(s) of the Appraiser's inspection of the property with the owner or the owner's designated representative. Include the name of each owner or representative of an owner who accompanied the Appraiser during the inspection and the interest held in the property or the representative capacity of each such person.

(5) The Appraisers estimate of the fair market value of the entire parcel and the fair market value of the same interest in the land, as if vacant.

(6) The limiting conditions or the appraisal, which may include assumptions (i) that the title is good and marketable, (ii) that no responsibility is assumed by the Appraiser for legal matters, especially those affecting the title to the property, (iii) that the legal description of the property and the interest in the property to be appraised, furnished to the Appraiser by the Agency, is correct and (iv) that no survey of the property has been made. Any other appropriate assumption or limiting condition may be added if it has been specifically approved in writing by the Agency.

(7) The certifications of the Appraiser (i) that the Appraiser personally made a thorough inspection of the property, (ii) that, to the best of the Appraiser's knowledge and belief, everything contained in the report is true and no relevant and important fact has been omitted, (iii) that neither the Appraiser's employment nor compensation is contingent on the valuation reported and (iv) that the Appraiser has no past, present or prospective interest (including that of real estate agent or broker) in the property, the parties involved, or any other interest that would conflict in any way with the services performed or the making of an impartial report.

(8) A certification that, in the Appraiser's opinion, the fair market value of the property is [an amount to be stated] as of [the date of valuation].

(9) The signature of the Appraiser.

(b) <u>The name and address of the owner</u> of the property and the name and the address, if known, of any other party known or believed to hold a separate compensable interest in the property.

(c) <u>The street address and an accurate description of each parcel</u> and all interests in the parcel appraised. The property description shall identify all conditions, restrictions, easements, servitudes and reservations affecting the title. The property description shall specifically exclude and describe any separately held interest in the property that is to be acquired separately or as part of another parcel. The description shall also specifically exclude all separately held interests which are not to be acquired and will not be affected adversely by the Agency's project. If there are any separately held interests in a parcel, which are to be acquired with other interests in the same parcel, such as leaseholds, tenant-owned improvements, life estates, easements, and water, gas, oil or mineral rights, a description of each such separate interest and the name of its owner shall be furnished.

(d) <u>Off-record title information</u> concerning interests or instruments that affect title, but are not of record, such as leases, options to renew a lease, contracts of sale and other interests or rights

of parties in possession. Such information shall be reported, and if available facts are sufficient, the Appraiser's report shall be based on such additional title information and so noted in the appraisal report. Otherwise, the Appraiser shall refer the matter to the Agency and defer completion of the appraisal until the question is resolved.

(e) Basic property data including pertinent information with respect to such matters as (1) the environment and location of the property, (2) the zoning and any restrictive covenants, conditions, or servitudes affecting the available use or occupancy of the land, (3) the assessed value of the real property and the current annual real estate tax burden, (4) the use and occupancy of the property at time of appraisal, (5) the public improvements, services and utilities serving and providing access to the property, (6) the character, topography, dimensions and area of the land, (7) the freedom of the property from special hazards, (8) the current rental and rental history of the property, if rented, (9) the estimated annual costs of ownership and for operation and maintenance of the property, and (10) a description of the buildings, structures and other improvements, if any, including relevant information as to type of improvement, designed use, construction materials and finish, equipment, dimensions, floor area, age, condition, space or room arrangement, functional utility and any other characteristics or attributes of the improvements germane to the value of the real property. The appraisal report shall contain a general sketch plat showing the shape and dimensions of the land, the location of the principal improvements on the land, the location of any easements in the land, and the abutting streets, alleys or other public rights of way. The report shall also include such photographs, each clearly identified, as may be appropriate.

(f) Report of any condition or occupancy of the property in violation of law that may affect the value of the property.

(g) The Appraiser's opinion as to the highest and best use for the property. The appraisal report shall also include the Appraiser's opinions as to any other use(s) for which the property is reasonably suitable or adaptable. If the property is unused vacant land or the highest and best use is not self-evident or is found to differ significantly from the present use, the appraisal report shall contain the analyses by which the Appraiser reached the conclusions as to the highest and best use of the property and as to its suitability or adaptability for any other use(s). The analysis of a potential use shall include consideration of relevant matters, such as the suitability of the location, the environment and the legal and physical attributes of the property for such use, the estimated cost, if any, of convening the property to such use, and the supply, sale price levels, and relative desirability of other properties that would compete for the same kind of use. The analysis of the property for the future use or uses found to be the highest and best use is part of the process of appraising the property and, therefore, may be included in the valuation analysis furnished in accordance with Paragraph 4(h) below.

(h) The opinion of the Appraiser as to the fair market value of the property. The appraisal report shall contain a description of the reasoning process used by the Appraiser in reaching the conclusion as to value and all data and analyses needed to explain and support the valuation. The supporting data and analyses furnished in the appraisal report shall include the following:

(1) An analysis of the property, from the point of view of evaluating the effect of its characteristics and attributes on its value for the available use or uses for which the property is best suited. Particular attention shall be given to the characteristics of the property most relevant to its value, such as, in the case of an investment property, the income potential and the expenses of ownership, maintenance and operation.

(2) An identification of the most recent sale of each property appraised and any other sales of such property during the last five (5) years preceding the appraisal. Such sale(s) of the property appraised and all recent sales of comparable properties considered by the Appraiser in forming the opinion(s) of fair market value shall be verified insofar as practical. The information furnished with respect to each such sale shall include, among other pertinent facts, the names of the grantor and grantee, the date of the sale, the sale price, any special terms or conditions or circumstances of the sale that affected the transaction and a description of the property and its condition at time of sale in sufficient detail for use in making the appraisal.

(3) The analyses that constitute the principal basis for the Appraiser's opinion of the fair market value. The appraisal report shall contain the Appraiser's evaluation with respect to previous sales of the property appraised and any recent offer of the owner to sell the property. The appraisal report shall also contain the Appraiser's analysis of each comparable property and its sale in relation to the property appraised. The Appraiser's analysis shall reflect appropriate allowances for the difference in the time of the sale of the comparable properties and the date of appraisal and the differences in the utility, desirability and productivity of the properties that are pertinent to their relative value. The appraisal report shall contain a valuation data map showing the location of the property appraised and the comparable properties referred to in the appraisal report.

(4) All other information, analyses and estimates considered by the appraiser to be relevant to the estimation of the fair market value of the property.

(5) If the property appraised is part of a larger parcel in the same ownership or is less than the entire interest of the owner in the property, the appraisal report shall contain the Appraiser's opinion of just compensation for a taking of such property or interest, using the before-and-after method of valuation as interpreted under State law unless it is obvious that there would be no damages or benefits to the remaining property or interest of the owner. However, if the part or interest to be taken is such a small part of the whole property that the damages for the taking can be more accurately estimated directly, that method may be used if permitted under State law, without estimating the fair market value of the entire property of the owner. The foregoing opinions of the Appraiser shall be supported in the report by the data and analyses, by which the Appraiser reached his/her conclusions.

For information purposes, the appraisal report shall also contain the Appraisers estimates of the fair market value of the to-be-acquired part or interest as part of the

whole property and the net damages or benefits to the remaining property of the owner. If in the opinion of the Appraiser, acquisition of the part of, or interest in, the property proposed for acquisition would leave the owner with an uneconomic remnant, the Appraiser shall furnish a separate estimate of the fair market value of a "parcel" comprising both the parcel proposed for acquisition and the uneconomic remnant. (A remainder parcel or interest shall be considered to be an uneconomic remnant if by itself it has little or no utility or value to the owner.)

(6) Such maps, plans, photographs or other exhibits as are necessary to explain or illustrate the analyses of the Appraiser.

(7) The Appraiser's evaluation of the indications of value deduced from the separate analyses of the various evidences of value and an explanation of how the Appraiser reached his/her final conclusion as to the fair market value of the property.

(i) The opinion of the Appraiser as to the fair market value of the land, as if vacant. The valuation shall be for the same interest in the land as is to be acquired in the real property. The report shall contain information with respect to the available use or uses for which the land would be suitable if vacant, the opinion of the Appraiser as to its highest and best use, and the Appraisers analysis of the evidences of value and of the use potential by which the Appraiser reached his/her conclusions as to the highest and best use of the land and the land value.

(j) A property analysis if the property is a commercial, industrial, institutional, governmental or farm property that involves substantial quantities and kinds of fixtures such as machinery and equipment. Any building, structure, fixture or other improvement, which would be real property if owned by the owner of the land, shall be considered to be real property (even if the improvement is the property of a tenant who has the right to remove it or the obligation to remove it at the expiration of the lease term). The property analysis must be approved by the Agency before the appraisal is completed and, as approved by the Agency, shall be included as an exhibit in the Appraiser's report. The property analysis shall list, identify and classify as to ownership and type of improvement, all items of physical property considered to be part of the real property. The property analysis shall also identify tangible personal property located on the premises to the extent reasonably necessary to prevent misunderstandings as to what is regarded as being real or personal property. Buildings, structures, fixtures and other improvements, including their accessories and spare parts, shall be identified and classified as to ownership and type of property as follows:

(1) Ownership.

(i) Owner of the land.

(ii) Each tenant in occupancy.

(iii) Each non-occupant owner of any fixtures or other improvements, or personal property on the premises.

(2) Type of property.

(i) Building, structure or fixed improvement.

(ii) Building equipment, removable.

(iii) Fixtures, classified as to whether economically removable for reuse, removable for salvage only or irremovable.

(iv) Personal property, identified as to types and approximate amounts, or otherwise, as needed to prevent misunderstandings as to the classification of any item.

If any building, structure, fixture or other improvement is not to be acquired, will not be adversely affected by the Agency's project, and will not be required by the Agency to be removed, such as a pipeline in an easement not to be acquired, such improvement shall be identified as excluded from the appraisal.

(k) If machinery and equipment or other fixtures used in a trade or business, farm operation or institutional or governmental function constitute part of the real property, the appraisal report shall contain a separate schedule which provides separate estimates for each such item, as prescribed below. If there is more than one owner of such items, a separate schedule shall be furnished for each owner. The information and conclusions to be furnished on each item are as follows:

(1) Description of the item, including, as appropriate, the manufacturer, model and serial number, size or capacity, age and condition, and degree of obsolescence. Accessories and spare parts, special foundations and power wiring and process piping generally shall be listed separately, following the listing of the item(s) to which they apply.

(2) Estimate of the replacement cost installed of the item as listed and identified (excluding any elements listed separately). Separately identify the basis of estimated replacement cost (new or used).

(3) The contributive (enhancement) value of the item to the fair market value of the real property as a whole.

(4) Estimated fair market value of the item for removal from the property at a purchaser's expense. Such value shall be considered to be the probable selling price if the item were offered for sale for removal from the property at the purchaser's expense, allowing a reasonable time to find a purchaser buying with knowledge of the uses and purposes for which it is adaptable and capable of being used, including salvage for serviceable components and scrap when it appears that will provide the highest value.

The schedule(s) of estimates shall be consistent with the property analysis approved by the Agency, as provided in Paragraph 4(j). The Appraiser is permitted to use the services of such

technical specialists as may be needed to enable the Appraiser to provide valid estimates and sound valuations. The schedule(s) shall be supported by an explanation of the procedures followed in gathering the necessary market information and technical data. The principal purpose of the Appraiser's accompanying narrative, however, must be to explain his analyses and his evaluations of the dollar amount of the overall contribution of the machinery, equipment, and fixtures to the fair market value of the real property as a whole. The report shall contain any layout plans, sketches or photographs that are reasonably necessary for locating or identifying the facilities or illustrating the Appraiser's analyses.

(l) If there are separately held interests in the real property to be acquired, such as easements, leaseholds, air rights, life estates, and oil, gas or mineral rights, and the division of ownership is not of such character as to destroy the practical unity of the property, the Appraiser shall apportion his estimate of the fair market value of the property (all interests in the property to be acquired) to each separately held interest. (However, tenant-owned improvements shall be valued in accordance with Paragraph 4(m) below.) The report shall contain the data, analyses and reasoning by which the Appraiser made the apportionment. If the "unit rule" is regarded as not applicable because the division of ownership is such as to diminish the fair market value of the property as a whole, the separate interests involved shall be appraised separately.

(m) Tenant-owned improvements. If any building, structure, fixture or other improvement to the property is identified as being the property of a tenant who has the right or obligation to remove it at the expiration of the lease term, the Appraiser's estimate of the fair market value of the improvement shall be the greatest of (1) the amount which the improvement contributes to the fair market value of the property, (2) the in-place value of the improvement as part of the real property (the depreciated replacement cost of the improvement installed) or (3) the fair market value of the improvement for removal from the property at the purchasers expense. The appraisal report shall state the basis for the valuation of the improvement and furnish the data and analyses on which the valuation was made.

(n) If the property is a multifamily or mixed-use (residential and nonresidential) property and an owner of a compensable interest in the property also occupies a dwelling in the property, the Appraiser shall furnish an apportionment of the estimate of the fair market value of the whole property to such dwelling and to the remainder of the property. For the purpose of this paragraph, an occupant of a dwelling shall be considered to own a compensable interest in the property if he or she holds fee title, a life estate, a 99-year lease or a lease with not less than 50 years to run from the date of valuation, or holds an interest in a cooperative housing project which includes the right to occupy the dwelling, or is the contract purchaser of any of the foregoing estates or interests or has a leasehold interest with option to purchase. The Appraiser's report shall explain how the apportionment was made.

ARTICLE 5. Services to be Provided by Agency. The Agency agrees to furnish the Appraiser the following:

(a) A map or plat, based on official records, of the property described in Article 1, showing the boundaries and dimensions of the parcels to be appraised. Each parcel shal1 be designated by a

number, and the parcel numbers shown on the Appraiser's reports shall correspond to the parcel numbers shown on the map or plot. However, additional parcel numbers may be assigned by the Appraiser for easements appraised separately or for additional parcels revealed while making the appraisals. The Appraiser shall promptly advise the Agency of any such additions.

(b) An ownership data report for each parcel. That report will show all estates and interests in the parcel as shown of record and consequently shall not be assumed to accurately define the interests to be appraised. The ownership data report on each parcel as shown on the parcel map will include:

(1) The name (and address, if available) of the owner appearing on record;

(2) The legal description of the parcel as shown by the conveyance(s) by which the record owner acquired title;

(3) Identification of the conveyance(s) by which the present owner acquired title, including: the date of the conveyance(s); the date, book and page numbers and place of recordation; the name (and the address, if available) of the grantor of such conveyance; the stated consideration; the amount of any mortgages or encumbrances placed of record or to which title was subject at time of conveyance (so far as determinable from an examination of the conveyance); and the amount of any State or local transfer taxes that were based on the amount of the consideration;

(4) Outstanding estates and other rights or interests of record, including easements, use restrictions, mineral rights, leases and any known, but unrecorded, interests of other parties. Sufficient information shall be furnished to disclose the probable effect of such outstanding interests on the title of the record owner;

(5) Outstanding special assessments, if any, for public improvements such as streets, sidewalks, public utilities and similar public facilities;

(6) The amount of real estate taxes for the current year and the assessed valuation stated separately for land and for improvements.

(c) Legal advice, upon request of the Appraiser, on legal matters affecting the appraisal of any property to be appraised.

ARTICLE 6. Payment. In consideration of the services provided by the Appraiser under this agreement, the Agency agrees to make payments to the Appraiser upon the submission to the Agency of properly certified invoices, as follows:

(a) For appraisal reports accepted by the Agency, and for all other services furnished in accordance with Article 3, except services furnished in connection with judicial proceedings under Paragraph 3(b), the updating of appraisals under Paragraph 3(c) and the valuation of reservations of rights in owners under Paragraph 3(d), the lump sum of _____ dollars, which shall constitute full

payment to the Appraiser for all of such services and for all supplies, materials, and equipment used or furnished by the Appraiser and all expenses incurred by the Appraiser in connection with the performance of such services.

(b) For services furnished by the Appraiser in connection with judicial proceedings as provided in Paragraph 3(b) (except services as an expert witness in such a proceeding), the updating of appraisals as provided in Paragraph 3(c) and the valuation of reservations of rights in owners as provided in Paragraph 3(d), _____ dollars per hour or fraction of an hour actually engaged in performing the services, including travel time. All expenses of the Appraiser, including travel expense and subsistence, shall be borne by the Appraiser.

(c) For services as an expert witness for the Agency in judicial proceedings as provided in Paragraph 3(b), the Appraiser and the Agency hereby agree that the fair and reasonable compensation for the Appraiser's services shall be _____ dollars for each day's attendance in court.

ARTICLE 7. Agreements of Appraiser. As an inducement to the execution of this agreement by the Agency and in consideration of the agreements to be performed by the Agency, the Appraiser agrees that:

(a) Qualifications. The Appraiser is qualified to perform the services to be furnished under this agreement and is permitted by law to perform such services, and all personnel engaged in the work shall be qualified and so permitted to do the work they perform. Attached as Exhibit B, is a statement by the Appraiser, certified by the Appraiser to be true and correct, setting forth the Appraiser's technical qualifications, general appraisal experience, specific experience in appraising properties of the type involved in this agreement, the courts in which he or she has testified as an expert witness and other information pertinent to establishing his or her technical qualifications.

(b) Solicitation of Agreement. The Appraiser has not employed any person to solicit this agreement and has not made and will not make any payment or any agreement for the payment of any commission, percentage, brokerage, contingent fee or other compensation in connection with the procurement of this agreement.

(c) Interest of Appraiser and Appraiser's Employees. The Appraiser does not have any interest (including that of real estate agent or broker), direct or indirect, present or prospective, in any property described in Article 1 or in its sale, or any other interest, whether or not in connection with the property, which would conflict in any manner or degree with the performance of the services and the submission of impartial reports, and has not employed and will not employ, in connection with the services to be furnished under this agreement, any person having any such interest. Until the property is acquired by the Agency or excluded from its project by resolution of its governing body, the Appraiser and any employees of the Appraiser, so long as they are employed by the Appraiser, will not acquire any such interests and will not, for their own account or for other than the Agency, negotiate for any of the property, perform services in connection with the property, or testify voluntarily as a witness in a condemnation or other proceeding with respect to the property.

(d) Services to be Confidential. All services, including reports, opinion, and information to be furnished under this agreement are confidential and shall not be divulged, in whole or in part, to any person, other than to duly authorized representatives of the Agency, without prior written approval of the Agency, except by testimony under oath in a judicial proceeding or as otherwise required by law. The Appraiser shall take all necessary steps to ensure that no member of the Appraiser's staff or organization divulges any such information except as may be required by law.

(e) Facilities and Personnel. The Appraiser has and will continue to have proper facilities and personnel to perform the services and work agreed to be performed. If the Appraiser proposes to employ any person or persons to make any appraisals of machinery and equipment or other specialized elements or attributes of a property appraised under this agreement, the employment of such person or persons for such purpose shall not place the Agency under any obligation to such employee, nor relieve the Appraiser of full responsibility for the faithful performance of the services to be furnished under this agreement.

(f) Equal Employment Opportunity. During the performance of this agreement:

(1) The Appraiser will not discriminate against any employee or applicant for employment because of race, color, religion, sex or national origin. The Appraiser will take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, sex, or national origin. Such action shall include, but not be limited to, the following: employment, upgrading, demotion or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The Appraiser agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the Agency setting forth the provisions of this nondiscrimination clause.

(2) The Appraiser will, in all solicitations or advertisements for employees placed by or on behalf of the Appraiser, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex or national origin.

(g) Assignment. The Appraiser's rights, obligations and duties under this agreement shall not be assigned in whole or in part, but this shall not prohibit the assignment of the proceeds due under this agreement to a bank or financial institution. This agreement may be assigned by the Agency to any corporation, agency or instrumentality having authority to accept the assignment.

(h) Subcontracting. None of the work or services covered by this agreement shall be subcontracted without the prior approval of the Agency.

(i) Records. The Appraiser shall maintain records of all details with respect to the services to be performed under this agreement, including one complete copy of each appraisal report and related notes, for three (3) years after delivering the report or until the property is acquired by the Agency or the acquisition is abandoned, whichever is later.

(j) Affidavits of Compliance. The Appraiser will, if requested by the Agency, furnish the Agency affidavits certifying compliance with the provisions of this Article 7.

ARTICLE 8. Changes. The Agency, by written notice to the Appraiser, may modify the scope or quantity of the services to be furnished under this agreement. If such changes cause an increase or decrease in the amount of services to be provided by the Appraiser or in the time required for their performance, equitable adjustment shall be made in the provisions of this agreement for payments to the Appraiser or for the time for performance of the services or for both, and this agreement shall be modified by agreement of the parties accordingly.

ARTICLE 9. Termination of Agreement for Cause. If, through any cause, the Appraiser shall fail to fulfill in a timely and proper manner his or her obligations under this agreement, or if the Appraiser shall violate any of the provisions of this agreement, the Agency may upon written notice to the Appraiser terminate the right of the Appraiser to proceed under this agreement or with such part or parts of the agreement as to which there has been default, and may hold the Appraiser liable for any damages caused to the Agency by reason of such default and termination. In the event of such termination, any completed reports prepared by the Appraiser under this agreement shall, at the option of the Agency, become its property and the Appraiser shall be entitled to receive equitable compensation for any work completed to the satisfaction of the Agency. The Appraiser, however, shall not thereby be relieved of liability to the Agency for damages sustained by the Agency by reason of any breach of the agreement by the Appraiser, and the Agency may withhold any payments from the Appraiser for the purpose of setoff until such time as the amount of damages due the Agency from the Appraiser is determined. The Appraiser shall not be held liable for damages under this Article solely for reasons of delay if the delay is due to causes beyond his or her control and without his or her fault or negligence, but this shall not prevent the Agency from terminating this agreement because of such delay.

ARTICLE 10. Interest of Members of Agency. No member of the Agency shall participate in any decision relative to this agreement affecting, directly, or indirectly, his or her personal interests. No such member and no other officer, agent or employee of the Agency having any responsibility or function in connection with this agreement shall have any private interest, direct or indirect, in this agreement or the proceeds of this agreement.

ARTICLE 11. Officials not to Benefit. No Member of or Delegate to the Congress of the United States of America, and no Resident Commissioner, shall be admitted to any share or part of this agreement or to any benefit to arise from the same.

ARTICLE 12. Notices. Any action by the Agency under this agreement may be taken by _____ or such other person(s) as the Agency may, by written notice to the Appraiser, designate for such purpose. All notices to the Appraiser shall be considered to be properly given if mailed to the address specified below, or delivered personally to the Appraiser. All notice or other

papers given to the Agency shall be considered if mailed, postage prepaid to _____, at _____or to such other representative or address as the Agency may designate to the Appraiser in writing.

IN WITNESS WHEREOF, the Agency and the Appraiser have executed this agreement on or as of the date first above written.

_____ By: _____

(Appraiser) _____

(Title)

_____

(Street Address)

_____

(City) (State) (Zip Code)

_____

(Agency)

Appendix O

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT (HUD)

Guide for Preparing An Appraisal Scope of Work

The Uniform Relocation Assistance and Real Property Acquisition Policies Act (URA) and its implementing regulations (49 CFR Part 24) set forth minimum requirements for real property acquisition appraisals for Federal and federally-assisted programs. Appraisals subject to the URA must be prepared according to these requirements. The acquiring agency may also have additional supplemental appraisal requirements that may be attached.

The acquiring agency has a legitimate role in contributing to the appraisal process, especially in developing the scope of work and defining the appraisal problem. The scope of work and development of an appraisal under these requirements depends on the complexity of the appraisal problem

The scope of work is a written set of expectations that form an agreement or understanding between the appraiser and the agency as to the specific requirements of the appraisal, resulting in a report to be delivered to the agency by the appraiser. It includes identification of the intended use and intended user; definition of fair market value; statement of assumptions and limiting conditions; and certifications. It should specify performance requirements, or it should reference them from another source, such as the agency's appraisal procedural manual. The scope of work must address the unique, unusual and variable appraisal performance requirements of the appraisal. Either the appraiser or the agency may recommend modifications to the initial scope of work, but both parties must approve changes.

SCOPE OF WORK: The appraiser must, at a minimum:

1. Provide an appraisal meeting the definition of an appraisal found at 49 CFR 24.2(a)(3).

2. Afford the property owner or the owner's designated representative the opportunity to accompany the appraiser on the inspection of the property.

3. Perform an inspection of the subject property. The inspection should be appropriate for the appraisal problem, and the scope of work should address:

   - The extent of the inspection and description of the neighborhood and proposed project area,
   - The extent of the subject property inspection, including interior and exterior areas,
   - The level of detail of the description of the physical characteristics of the property being appraised (and, in the case of a partial acquisition, the remaining property),

4. In the appraisal report, include a sketch of the property and provide the location and dimensions of any improvements. The appraisal report should also include adequate photographs of the subject property and comparable sales, and provide location maps of the property and comparable sales.

5. In the appraisal report, include items required by the acquiring agency, including but not limited to the following:

   - Property right(s) to be acquired, e.g., fee simple, easement, etc.,
   - Value being appraised (usually fair market value), and its definition
   - Appraised as if free and clear of contamination (or as specified),

- Date of the appraisal report and the date of valuation,
- A realty/personalty report as required by 49 CFR 24.103(a)(2)(i),
- Known and observed encumbrances, if any,
- Title information,
- Location,
- Zoning,
- Present use, and
- At least a 5-year sales history of the property.

6. In the appraisal report, identify the highest and best use. If highest and best use is in question or different from the existing use, provide an appropriate analysis identifying the market-based highest and best use.

7. Present and analyze relevant market information. (*Specific requirements for market information should be included in the agency's appraisal procedural manual and should include research, analysis, and verification of comparable sales. Inspection of the comparable sales should also be specified.)*

8. In developing and reporting the appraisal, disregard any decrease or increase in the fair market value of the real property caused by the project for which the property is to be acquired, or by the likelihood that the property would be acquired for the project. (*If necessary, the appraiser may cite the Jurisdictional Exception or Supplemental Standards Rules under USPAP to ensure compliance with USPAP while following this and other Uniform Act requirements.)*

9. Report his or her analysis, opinions, and conclusions in the appraisal report.

ADDITIONAL REQUIREMENTS FOR A SCOPE OF WORK:

INTENDED USE: This appraisal is to estimate the fair market value of the property, as of the specified date of valuation, for the proposed acquisition of the property rights specified (i.e., fee simple, etc.) for a Federally assisted project.

INTENDED USER: The intended user of this appraisal report is primarily the acquiring agency, but its funding partners may review the appraisal as part of their program oversight activities.

DEFINITION OF FAIR MARKET VALUE: This is determined by State law, but includes the following:

1. Buyer and seller are typically motivated;

2. Both parties are well informed or well advised, each acting in what he or she considers his or her own best interest;

3. A reasonable time is allowed for exposure in the open market;

4. Payment is made in terms of cash in U. S. dollars or in terms of financial arrangements comparable thereto; and

5. The price represents the normal consideration for the property sold unaffected by special or creative financing or sales concessions granted by anyone associated with the sale.

CERTIFICATION: The appraisal shall include a certification of the appraiser (see attached sample or insert agency's certification).

ASSUMPTIONS AND LIMITING CONDITIONS: The appraiser shall state all relevant assumptions and limiting conditions. In addition, the acquiring agency may provide other assumptions and conditions that may be required for the particular appraisal assignment, such as:

- The data search requirements and parameters that may be required for the project.
- Identification of the technology requirements, including approaches to value, to be used to analyze the data.
- Need for machinery and equipment appraisals, soil studies, potential zoning changes, etc.
- Instructions to the appraiser to appraise the property "As Is" or subject to repairs or corrective action.
- As applicable include any information on property contamination to be provided and considered by the appraiser in making the appraisal.

CERTIFICATE OF APPRAISER - SAMPLE

I hereby certify:

That on _____ date(s), I personally made a field inspection of the property herein appraised and have afforded the owner or a designated representative the opportunity to accompany me on this inspection. I have also personally made a field inspection of the comparable sales relied upon in making said appraisal. The property being appraised and the comparable sales relied upon in making this appraisal were as represented in the appraisal.

That to the best of my knowledge and belief the statements contained in the appraisal herein set forth are true, and the information upon which the opinions expressed therein are based is correct; subject to the limiting conditions therein set forth.

That I understand that such appraisal may be used in connection with the acquisition of property for a project utilizing U.S. Department of Housing and Urban Development funds.

That such appraisal has been made in conformity with appropriate laws, regulations, and policies and procedures applicable to appraisal of property for such purposes; and that to the best of my knowledge no portion of the value assigned to such property consists of items which are noncompensable under the established law of said State.

That any decrease or increase in the fair market value of real property prior to the date of valuation caused by the project for which such property is acquired, or by the likelihood that the property would be acquired for such project, other than that due to physical deterioration within the reasonable control of the owner, was disregarded in determining the compensation for the property.

That neither my employment nor my compensation for making this appraisal and report are in any way contingent upon the values reported herein.

That I have no direct or indirect present or contemplated future personal interest in such property or in any benefit from the acquisition of such property appraised.

That I have not revealed the findings and results of such appraisal to anyone other than the proper officials of the acquiring agency or officials of the U.S. Department of Housing and Urban Development and I will not do so until so authorized by said officials, or until I am required to do so by due process of law, or until I am released from this obligation by having publicly testified as to such findings.

That I have not given consideration to, or included in my appraisal any allowance for relocation assistance benefits.

That my opinion of the fair market value of the property to be acquired as of the _____ day of _____ 20 _____ is $_____ based upon my independent appraisal and the exercise of my professional judgment.

Name _____ Signature _____

Date _____

*(**Note**: Other statements, required by the regulations of an appraisal organization of which the appraiser is a member or by circumstances connected with the appraisal assignment or the preparation of the appraisal, may be inserted where appropriate.*

Section 9: Labor Standards

Grantees must ensure that all construction contracts in excess of $2,000 comply with all applicable federal labor standards and provisions. The grantee is responsible for monitoring contractors to ensure full compliance. The Construction Checklist (Appendix O) provides a step-by-step guide for grantees to monitor construction projects.

I. APPLICABLE FEDERAL STATUTES AND REGULATIONS

Section 110, Title I, Housing and Community Development Act of 1974, as amended (42 USC 5301) provides that: "All laborers and mechanics employed by contractors or subcontractors in the performance of construction work financed in whole or in part with grants received under this title shall be paid wages at rates not less than those prevailing on similar construction in the locality as determined by the Secretary of Labor in accordance with the Davis-Bacon Act, as amended, provided that this section shall apply to the rehabilitation of residential property only if such property is designed for residential use of eight or more units."

Davis-Bacon Act (40 USC 276a - 276a-5) requires that workers receive no less than the prevailing wages being paid for similar work in their locality. Prevailing wages are computed by the Department of Labor and are issued in the form of federal wage decisions for each classification of work. The law applies to most construction, alteration or repair contracts over $2,000. (Residential rehabilitation contracts involving structures with less than eight (8) contiguous units are exempt.)

Copeland "Anti-Kickback" Act (47 USC 276(c) requires that workers be paid at least once a week without any deductions or rebates except permissible deductions. Permissible deductions include taxes, and other voluntary deductions the worker authorizes in writing and prior to start of job and/or deductions required by court processes. The Act also requires contractors to submit payroll records weekly along with Statements of Compliance to the contracting agency. The Copeland Act applies to all contracts covered by Davis-Bacon.

Contract Work Hours and Safety Standards Act - CWHSSA (40 USC 327 - 333) requires that workers receive "overtime" compensation at a rate of 1-1/2 times their regular hourly wage after they have worked 40 hours on the covered site. Overtime pay is not required for single contracts under $100,000 under this Act; however, contractors must comply with the overtime requirements under the Fair Labor Standards Act which affects all contracts under Davis-Bacon.

Fair Labor Standards Act - FLSA (20 USC 201 et seq.) establishes a minimum wage rate, overtime, record keeping and other regulations that affect employers and laborers. The FLSA is enforced by the U.S. Department of Labor (DOL) and DOL is authorized to investigate any violations and to initiate court action against employers which may result in fines and/or jail terms, payment of double back pay and payment of attorney's fees.

Title 29, Code of Federal Regulations (CFR), Parts 1, 3, 5, 6 and 7 are the regulations and procedures issued by the Secretary of Labor for the administration and enforcement of the Davis-Bacon Act, as amended.

Federal Labor Standards Compliance in Housing and Community Development Programs Administration and Enforcement Handbook (HUD Handbook No. 1344.1), contains policies and procedures to be used by grantees, contractors and subcontractors who are recipients of federal CDBG funds to ensure compliance with applicable federal labor standards, statutes and regulations. Copies may be available by calling HUD at (800) 767-7468.

II. CONTRACTOR RESPONSIBILITIES

Contractors are responsible for paying all employees working on a federally funded project the appropriate Davis-Bacon wage rate on a weekly basis. Other payment schedules such as bi-weekly, bi-monthly, monthly and the like are not acceptable. The Davis-Bacon wage decision has been provided to each contractor as part of the bid documents. Contractors must submit payroll records weekly for each week in which any contract work is performed within 7 calendar days of the payment date. The prime contractor is responsible for submission of payrolls by all subcontractors. These payrolls should be original payrolls, typed without handwriting anywhere on the form apart from original ink signatures. Submission does not include pdf files of signed payrolls attached to an email, or faxed copies of signed payrolls. These methods are comparable to photocopies and are not acceptable submissions. Contractor's should coordinate with the grantee's labor standards compliance officer on the appropriate method for submitting timely payrolls. No payments will be made to any contractor who has not submitted payroll forms for work for which the contractor is requesting payment.

Electricians, plumbers, sheet metal companies, painters, roofers and other trade contractors are responsible for ensuring that an excessive number of "laborers" are not utilized on any CDBG funded projects. Davis-Bacon rules stipulate that persons performing the duties of a journeyman must be paid the appropriate Davis-Bacon wage rate and fringe benefits as indicated in the wage decision. The only exception to this is when a worker is enrolled in an approved bona fide apprentice or trainee program that is registered federally or with the state. See page 179 for further information about apprenticeships and trainee programs. Contractors are responsible to provide all requested documentation regarding apprenticeships and trainee programs promptly to the Labor Standards Officer.

III. GRANTEE RESPONSIBILITIES

Grantees must develop a compliance and enforcement procedure that ensures all applicable labor standards requirements are met. The final responsibility for compliance rests with each grantee. The grantee should fully understand what is required for construction contracts before the process begins. In this way, there will be sufficient time to request technical assistance from Commerce to clarify questions. If these procedures are followed properly, you will enhance your efforts to provide sound fiscal, contractual and program control over construction activities.

Each grantee must designate a labor standards compliance officer. The labor standards compliance officer has overall responsibility for coordinating and ensuring compliance with all appropriate labor standards regulations and ensuring that an accurate filing system is maintained. The officer's name must appear on the Request for Wage Determination Form (Appendix B), Verification of Contractor Eligibility Form CDBG-LS-02 (Appendix D) and the Notice of Start of Construction Form CDBG LS-03 (Appendix E).

The grantee must develop contracting procedures that comply with all federal labor standards provisions and compliance procedures. Briefly, the grantee must obtain applicable federal wage rate decisions, federal labor standards provisions and certifications. This information must be attached to the bid specifications and contracts. Each grantee must also monitor for contractor compliance. The following are more detailed procedures for ensuring compliance with applicable federal labor standards provisions and for coordinating these responsibilities with the equal opportunity provisions.

A. Appointing a Labor Standards Compliance Officer

The grantee's chief administrative officer (i.e., Mayor, City Manager, Chairperson) has the responsibility for appointing a labor standards compliance officer. The grantee must advise Commerce, in writing, of the name, address, and telephone number of the designated Labor Standards Officer, using the Request for Wage Determination (Appendix B). This person has overall responsibility to ensure compliance with all appropriate labor standards requirements and regulations, and that an accurate filing system is maintained. Failure to comply with labor standards requirements may result in liquidated damages, suspension of funds, wage restitution payments, investigative reports, termination of contractor's contract, and contractor debarment. The final responsibility for labor standards compliance rests with the grantee.

B. Obtaining Davis-Bacon Wage Rates

Grantees must obtain federal prevailing wage rates through Commerce. The grantee must mail/e-mail a Request for Wage Determination Form (Appendix B) to Commerce. This form is used to obtain Davis-Bacon wage rates from the U.S. Department of Labor (DOL). It must be properly completed by, the grantee's labor standards compliance officer. Requests for wage rates should include project details to ensure the correct wage rate is provided.

Please submit requests for wage rates to:

TOPEKA:
Kansas Department of Commerce
Small Cities CDBG Program
ATTN: Labor Standards Officer
1000 S.W. Jackson St., Suite 100
Topeka, KS 66612-1354

Each grantee must submit the Request for Wage Determination form (Appendix B) to Commerce at least 15 days prior to advertising for bids to request Davis-Bacon wage rates. Federal wage rates shall be included in bid packages and in all contracts; and must be posted at or near the job site.

Rates for apprentices and trainees are not listed on Davis-Bacon wage determinations. Additional classifications and wage rates are not required for apprentices, trainees and welders on Davis-Bacon covered contracts. Apprentices or trainees are permitted to work at less than the wage rates listed in the contract wage determination for the work they perform only if they meet the requirements of 29 CFR Part 5, Section 5.5(a)(4), such as being registered in a bona fide or certified in an appropriate apprenticeship or training program.

Apprentices are persons individually registered in an approved apprenticeship program registered with DOL or a DOL approved State apprenticeship agency. This also includes individuals in their first 90 days of probationary employment as an apprentice. Copies of the contract with the individual and approved apprenticeship program must be included in the Labor Standards file and must be signed. DOL regulations: 29 CFR 5.2(n)(1) and 5.5(a)(4)(i).

Contractor run apprenticeship programs, also known as silent programs, are not considered approved apprenticeship programs unless they are registered federally or by the state. Individuals who are classified as apprentices on payrolls that are not registered in an approved apprenticeship program must be paid the full Davis-Bacon wage for the work classification that they do work under.

Apprentices and trainees shall work within the allowable ratio specified in the approved program standards or contract for the number of apprentices or trainees to journeymen. Should the specified ratio not be followed, then the apprentice is then entitled to full Davis-Bacon wages for their job classification.

Fringe benefits must be explained in the program standards or contract. If these are not outlined in the document, then the apprentice is entitled to the full fringe benefits for the wage classification they are performing.

A copy of the apprenticeship certificate and full program standards or contract document must be sent to Commerce with any payrolls that list these classifications. It is the contractor's responsibility to provide this information when payrolls are submitted.

Effective October 21, 1993, the "helper" classification, including elevator construction helper and elevator mechanic helper were omitted from the Davis-Bacon wage determination. These types of positions may be employed if duties are clearly defined and distinct from other classifications on the Wage Determination, an established prevailing practice for the employment of Helpers is in the area and the individual is not employed in an informal training program. An additional wage classification can be requested if all the above conditions are met and no other work classification on the Wage Decision performs the work.

Information on establishing an apprenticeship program may be obtained by writing or calling the following agencies:

Kansas Apprenticeship Program
Kansas Department of Commerce
1000 S.W. Jackson St., Suite 100
Topeka, KS 66612
(785) 296-4161
www.kansas@apprenticeship.org

Apprentices are entitled to full fringe benefits as per wage decision or partial fringe benefits per collective bargaining agreement.

C. Requesting Wage Rates for Additional Worker Classifications

Though the U.S. Department of Labor endeavors to compile as complete a list as possible for all trades needed during the construction phase of projects, a number of trades and wage rates may not be included on a wage decision. In such an event, the grantee's Labor Standards Officer will need to request an additional wage classification and rate from the Department of Commerce. The grantee's Labor Standards Officer may submit the request electronically. The procedure is as follows:

1. Advise contractor(s) at pre-construction conference of the possibility that additional worker classifications may be required.

2. Submit the completed (1) Request for Additional Classification and Rate Form (Appendix F) along with (2) a letter from the contractor regarding the wage rate that is to be paid and (3) a copy of the wage decision to the CDBG Labor Standards Officer. This information is then forwarded to DOL for review and final ruling.

3. Provide the date in which the prime contract was awarded in the body of the email requesting the additional classification and rate.

4. Upon receipt of DOL's written response, Commerce will send a copy of DOL's ruling to the Grantee's Labor Standards office.

D. Preparing Bid Documents

The grantee may use a city employee or outside architect or engineer to prepare the technical bid specification. The specifications should provide complete and accurate descriptions of the specifications for materials, products and services to be provided or performed. The grantee must ensure that all applicable labor compliance provisions are included in the bid and contract documents (Guide to Contract Clauses Table, Appendix G). Also available is a Sample Bid and Contract Specification Forms Booklet.

This booklet includes:

a. Applicable Davis-Bacon Wage Rate Determinations.
b. Federal Labor Standards Provisions - HUD 4010 (Appendix H).
c. Conflict of Interest.
d. Contract Work Hours and Safety Standards Act, if contract exceeds $100,000.
e. Federal bonding requirements apply to contracts in excess of $100,000. The State CDBG program requires that contracts between $25,000 - $100,000 be protected through bonding security. The CDBG program recommends that contracts under 25,000 be secured in some manner such as a line of credit, certificate of deposit, etc.
f. Copeland "Anti-Kickback" Act.
g. Equal Employment Opportunity requirements.

E. Advertising for Bids

Bids should be solicited from an adequate number of contractors and/or suppliers and the bid announcement must be publicly advertised. This notice should be published in at least one official newspaper of general circulation within the community 30 days before bid date or an adequate time to allow bid preparation. Grantees must retain a copy of the advertisements in a labor standards folder. Best faith efforts must be made to solicit bids from minority and women-owned businesses. Grantees are encouraged to use the KDOT website www.ksdot.org/ for the DBE Directory and the Department of Commerce Minority and Women Business Directory.

F. Ten Day Call to Confirm Wage Rates

Ten days prior to the bid opening date or entering into a secondary contract in excess of $2,000, the grantee shall contact Commerce by mail or e-mail, to confirm that the wage decision(s) previously issued are current. Grantee is required to furnish the information listed on the Ten Day Call Form (Appendix C). If modified wage rates

are published, the grantee must secure the modification and issue an immediate addendum to all plan holders. This is critical because the grantee may be required to pay any difference if a modification was issued and employees were paid based on a prior wage determination. A copy of the wage decision and Federal Labor Standards Provisions – HUD – 4010 (Appendix H) must be physically included in all bid specifications and subsequent contracts and subcontracts.

G. Maintaining a Bidders' Log

Grantee must maintain a log of bidders who were sent or obtained bid documents. All sealed bids received during the bidding period should be logged in with the name of bidder(s), and time and date of receipt. All bids must be secured in a safe place. Late bids cannot be accepted for any reason.

H. Conducting the Public Bid Opening

All sealed bids shall be opened publicly at the time and place specified in the invitation to bid. All bids should be read aloud during this meeting and minutes of the meeting should be maintained which document the project, time and date of the bid opening, bids received and the bid amounts.

I. Reviewing Bids

The grantee shall review all bids to determine if they were legally and technically responsive. Bidders must be evaluated according to the evaluation criteria described in the bid announcement. Grantees should consider the experience of the firm, their past record of performance, capacity to perform within the stated time period, and the bid price. Award of a contract or rejection of all bids should occur within 30 days from the date of bid opening. All bidders should be notified, in writing, of the name of the successful bidder.

J. Verifying Contractor(s) Eligibility

Prior to awarding the contract, grantees must obtain a verification of contractor eligibility from Commerce. This must be in writing using the Verification of Contractor Eligibility (Appendix D). Upon receipt, Commerce will verify eligibility and return verification results to the grantee via email. It should be filed in the labor standards folder. Grantees must verify the eligibility of **all** prime contractors, sub-contractors and consultants. Said entities must have a current DUNS number. DUNS numbers are issued by Dun and Bradstreet at www.dandb.com.

K. Preparing and Executing the Construction Contract

Prior to executing a construction contract, the grantee should review the contract documents to ensure that all federal and state labor standards contract provisions are included (see Sample Bidding and Contract Specification Forms Booklet provided separately). The contract must contain or reference the current wage decision, federal labor standards provisions, contractor certifications, Section 3 Plan and other documents, as required.

L. Conducting a Pre-Construction Conference

A pre-construction conference is recommended for all construction contracts. A pre-construction conference will help the grantee acquaint the contractor and subcontractor, if applicable, with federal Davis-Bacon, EEO and related labor standards requirements. The grantee should explain the payment process, forms to be used, how to process additional classifications not included in the wage determination and how Commerce will monitor financial, labor and contract compliance. Minutes of this meeting should be prepared to document the items discussed (see Appendix I). At a minimum, the minutes should contain the project name, location, description, wage determination number, name of contractor and subcontractors, contract amount, date and place of conference, conference attendees and a summary of items discussed (e.g., labor standards and EEO requirements).

M. Notice of Start of Construction

The grantee must send a Notice to Proceed to the contractor officially notifying him/her to begin construction. A copy of the Notice of Start of Construction Form (Appendix E) must be sent to the CDBG Project manager.

N. Monitoring On-Site Construction and Posting

The contractor shall erect a weatherproof bulletin board, in an area accessible by all employees. The following items must be posted:

- Copy of applicable Federal Wage Decision.
- "Equal Employment Opportunity is THE LAW" poster (English and Spanish).
- Notice to Employees-Working on Federal or Federally Financed Construction Projects" poster (WH Publication 1321).
- "Job Safety and Health Protection" Poster.
- Notice - Employee Polygraph Protection Act poster (WH Publication 1462).

O. Reviewing Weekly Payroll Records

Once construction is underway, the grantee shall monitor for labor compliance by obtaining and reviewing weekly certified payroll reports of the general contractor and subcontractor, accompanied by the Statement of Compliance Form WH-348 (Appendix Lb), and checked against the wage decision. Payroll Form WH-347 (Appendix La) is the recommended payroll format. Instructions for completing Payroll Form WH-347 (Appendix La) are found as Appendix Lc. A contractor may use an appropriate optional payroll form, if it provides the required information.

The grantee must submit the first three working payrolls to the Department of Commerce for every contractor and subcontractor working on a CDBG project. A copy of any pertinent documentation must accompany the payrolls. All incomplete payrolls will be returned until all pertinent information and documentation is secured.

1. Grantees should establish a standard procedure for conducting compliance reviews, including:

   a. Check for posting of the correct wage rate determination and required posters at the job site.

b. Payrolls must be obtained and examined promptly. The grantee's labor standards compliance officer shall insist upon prompt submission of all payrolls seven days following the date of payment. These should be original payrolls, typed without handwriting, with original ink signatures. Submission does not mean pdf files of signed payrolls attached to an email, or faxed copies of signed payrolls. These methods are comparable to photocopies and are not acceptable submissions. No payments should be made to any contractor who has not submitted payroll forms for work for which the contractor is requesting payment.

c. "No Work" payrolls. "No work" payrolls may be submitted whenever there is a temporary break in work on the project. For example, if the contractor is not needed on the project temporarily but will be returning to the job in a couple of weeks, payrolls should continue to be submitted indicating no work. However, if the contractor will not be working on the project for an extended period of time, a short note may be sent to the grant administrator to let him/her know about the break in work and to give an approximate date when the contractor will return to the project. If a note is sent, the contractor *does not* need to send "no work" payrolls. The payroll reports must be numbered consecutively; however, the numbering should continue where the last payroll report stopped.

d. Payrolls should be date-stamped upon receipt, dated and initialed by the grantees labor standards compliance officer upon review. When examining payrolls, only employee classifications appearing on the wage determination decision are to be used. The payrolls shall be examined upon receipt so that any necessary corrective action may be initiated before the problem multiplies and may be resolved while the workers are still available. Special attention should be given during the early stages of construction in order to determine whether the contractor(s) is meeting his/her responsibilities regarding payroll.

e. Ensure that all subcontractors are submitting payrolls.

f. Ensure that any trainee/apprentice employees have met the DOL requirements for use of these job titles and required documentation is on file.

g. If any classification not in the wage determination decision is being used, require the contractor to submit information needed to add the classification to the decision.

h. Review the deductions to ensure they do not exceed the authorized amount. The Statement of Compliance Form WH-348 (Appendix Lb) must describe the payment of fringe benefits and reasons for any deductions.

(1) Owners of companies (primary contractors) who work on the job must report hours and days worked, but do not have to report their rate of pay. Please refer to letter LR – 96 – 01 on page 312.

(2) Owner/Operators (Mechanics) with no employees must be reported on the payroll of the contractor for which he or she is performing work. The name, work classification, actual hours, and effective hourly wage rate, and the wage payment for each operator must be reported on a weekly basis.

i. Ensure that overtime is paid for work over 40 hours on the covered project (overtime is not required for work over eight hours daily).

The Davis-Bacon Act and CWHSSA requires employers to pay overtime rates for any hours worked over 40 hours per week. Thus, employees are paid 1.5 time the hourly rate for any hours an employee is working over 40 hours per week, plus applicable fringe benefits. Overtime pay can be broadly calculated in one of two ways:

(1) When the employer pays fringe benefits for ALL HOURS worked into approved plans. (payroll certification page 4a):

Hourly Rate $20, Fringe benefit $5, hours worked during a week 45

Regular Hours 40 hours X $20	=	$800
Overtime Hours 5 X ($20X1.5)	=	$150
Total pay	=	$950

Employers must provide a breakdown of fringe benefits paid to their employees' approved fringe benefit plans. The combination of hourly rate plus fringe benefits must always meet or exceed the wage rate shown on the Davis-Bacon wage decision. In the event an employer has underpaid either the wage rate or fringe benefit, restitution must be made by the employer.

(2) When the employer pays fringe benefits in cash (payroll certification page 4b)

Hourly Rate $20, Fringe Benefit $5, hours worked during a week 45

Regular Hours $40 X 20	=	$800
Overtime Hours 5 X (20 X 1.5)	=	$150
Fringe Benefits $5 *45 hours	=	$225
Total	=	$1,175

j. Name and Individual Identifying Number of Worker: Enter each worker's full name and an individual identifying number (e.g., last four digits of worker's social security number) on each weekly payroll submitted. See Page 203 for more instructions on filling out payroll forms.

k. Classification and Wage Rates: Classification and wage rates reported on the payroll shall be compared with the corresponding items on the applicable wage decision to determine whether the rate reported is at least equal to the rate required by the decision. If the rate is less than Davis-Bacon basic wage, determine if the fringe benefits were paid. If

yes, have the contractor provide an itemized list of the fringe benefits for each worker and the hourly value of each fringe benefit. If the basic wage and fringe benefits are less than the total prevailing wage, then restitution is required.

l. Deductions: Deductions shall be reviewed for nonpermissible deductions. Permissible deductions include medical or hospital care, pensions or retirement, compensation for injuries or illness resulting from occupational activity, unemployment benefits, life insurance or accident insurance, vacation, child support, spousal support or holiday pay.

m. Other Deductions: A written, signed, and dated authorization from worker for voluntary deductions prior to start of work is required. For court ordered and union deductions, applicable authorization documentation is required.

n. The Statement of Compliance Form - Appendix Lb must be signed by the owner, officer, or designated payroll officer.

o. Confidentiality of Records: In order to protect the personal privacy interests of employees, copies of weekly payrolls containing the worker's salary, work hours, exemptions, address and social security number shall not be released, without redaction, to outside parties under the Privacy Act of 1974. Release redacted documents per written request only.

P. Employee Interviews

Employee interviews must be conducted during the course of construction of CDBG projects. Employers whether prime or subcontractor, must make their employees available to be interviewed. Employee interviews are used to double check the Davis-Bacon wage rates paid to employees. The information reported on the employee interview sheet will be compared to the applicable Davis-Bacon wage rate for the project. The grantee should use the Record of Employee Interview Form (Appendix M) to document interviews with workers. Grant Administrators will not be required to interview every employee working on a project. Instead, a random classification sampling should be used in determining whom to interview. Due to the diverse size and nature of CDBG projects, there is no set number of interviews that must be conducted. However, a reasonable effort must be made. The employee shall be informed that the information given is confidential, and his/her identity will be disclosed to the employer only with the employee's written permission, and he/she is being interviewed by an employee of the grantee. Disclosure of employee statements are governed by the provisions of the Privacy Act of 1974.

1. Place of Interview: Employees may be interviewed during working hours on the job, provided that the interview can be properly and privately conducted on the premises. In cases of possible falsification of records, fear of reprisals, or intimidation, it may be more advisable to conduct the interview at the employee's home, the agency's office, another suitable place or by mail.

2. Initiating the Interview: The grantee's Labor Standards Officer shall begin the interview by identifying himself/herself to the worker. He/she shall explain the project is being constructed with assistance from the federally-funded Small Cities CDBG program, the payment of prevailing wages on construction projects is required by law and the purpose of the interview is to obtain information for use in determining whether the required wages are being paid. He/she shall inform the worker of the specific location at which the applicable wage determination is posted at the project site.

3. Interview Form. Employee interviews must be recorded on the Record of Employee Interview Form (Appendix M).

Q. Notice of Completion/Final Inspection/ Final Wage Compliance Report Format

The grantee shall complete the Notice of Completion/Final Inspection/Final Wage Compliance Report Form (Appendix N) and submit it to their CDBG Project manager. This form may be submitted with the closeout packet.

R. Exemptions to Davis-Bacon Act Requirements

The wage rate determination and labor standards provisions do not apply in all cases. The rehabilitation of residential property, with less than eight contiguous units, is exempt. The purchase of machinery, goods and/or services is exempt if no installation (of construction), rehabilitation, or new construction is involved. In addition, prime contracts under $2,000 are exempt. Davis-Bacon wage rates are applicable to all water, sewer, electric and gas line extensions, replacements and new installations over $2,000.

Davis-Bacon does not apply to "force account" labor. Force account work is the construction, rehabilitation, repair or demolition of public facilities carried out by city or county employees. The grantee must notify CDBG staff if force account labor is being considered.

Labor standards provisions do not apply to the fabrication of building materials products by a manufacturer; however, Davis-Bacon does apply to labor used to assemble or install a building at a project site.

Grantees are required to submit a Request for Wage Determination (Appendix B) if they feel the project may be exempt. Commerce will review all exemption requests on a case-by-case basis and issue an appropriate written response.

1. If an exemption is approved, the grantee must comply with other labor standards requirements including:

   a. Fair Labor Standards Act (FLSA).
   b. "Equal Employment Opportunity is THE LAW" poster (English and Spanish).
   c. "Notice to all Employees – Working on Federal or Federally Financed Construction Projects" poster (WH Publication 1321).

d. "Job Safety and Health Protection" poster.

e. "Notice – Employee Polygraph Protection Act" poster (WH Publication 1462).

f. "Notice – You have the Right to a Safe and Healthful Workplace (English and Spanish)

2. For specific labor standards file requirements, see Chapter 4.

NOTE: Certain civil rights provisions must be included in all construction contracts. See Civil Rights Section for all applicable laws, executive orders and regulations.

S. Grant administrators will be required to send in the first three working payrolls, including certification pages, for every contractor and subcontractor working on CDBG funded construction projects. Grant administrators will be required to initial and date each payroll prior to sending them via email to the appropriate CDBG Specialist.

T. In the event wage restitution is required, the grant administrator must work with the contractor to determine the amount of wage restitution. The contractor must submit corrected payrolls reflecting the correct hours worked or wage rate earned. The grant administrator must secure proof the employee was paid. This can be in the form of a copy of the check, front and back, or a letter signed by the employee acknowledging receipt of the wage restitution.

LABOR STANDARDS – APPENDICES

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Request for Wage Determination ..... B

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1. Employee Polygraph Protection Action
2. Notice to Employees Working on Federal or Federally Financed Construction Projects
3. Equal Employment Opportunity is the Law (English and Spanish)
4. Job Safety and Health – It's the Law (English and Spanish)

Payroll Form WH-347 ..... La

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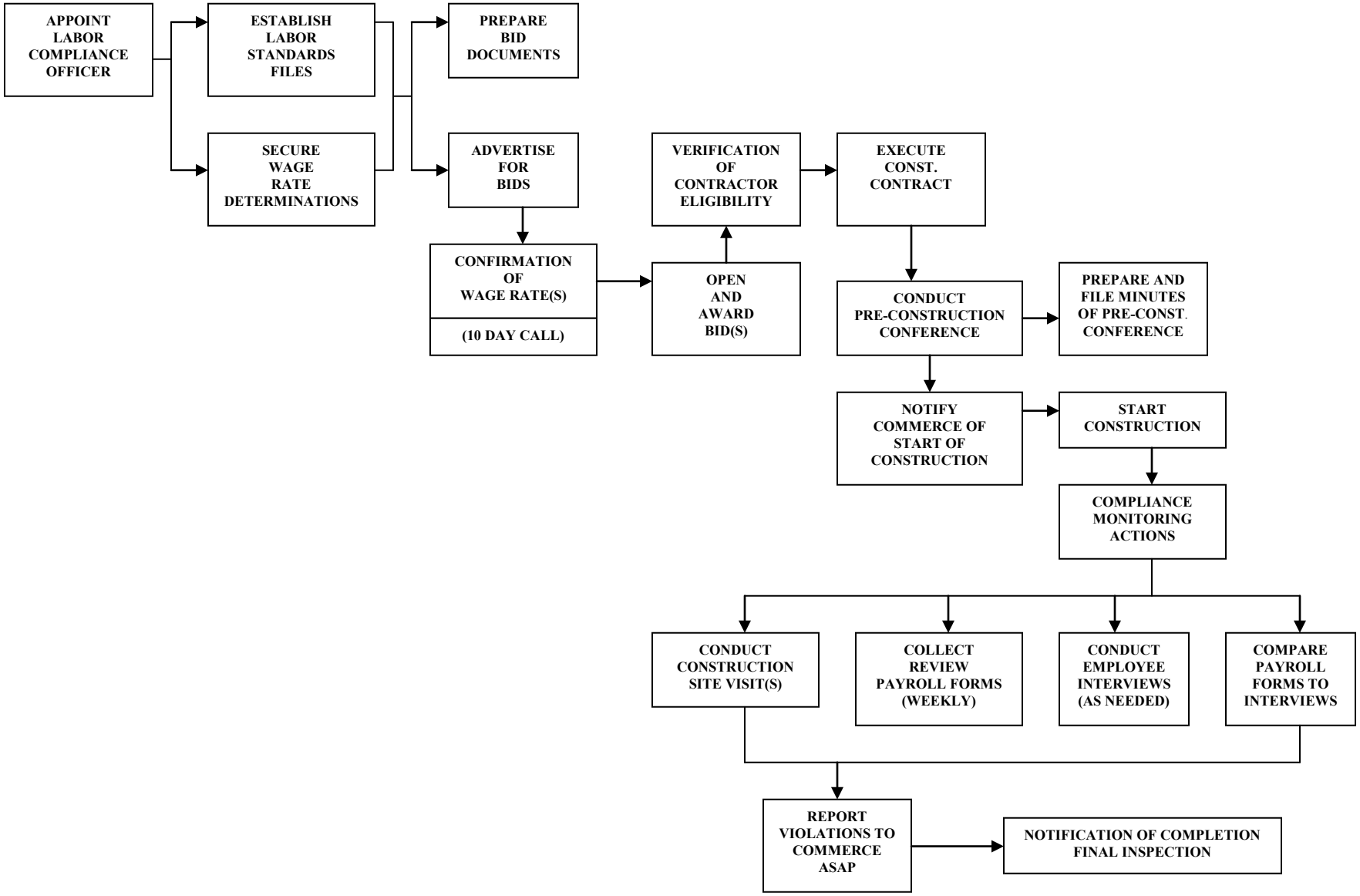
Labor Standards Compliance Requirements, Letter No. LR-96-01 ..... Q

Appendix A

LABOR STANDARDS COMPLIANCE ACTIVITIES CHART



REQUEST FOR WAGE DETERMINATION

Date of Request: _____

1. Grantee Name: _____ Grant No.: _____
2. Project: _____ Phase: _____
3. Location of Project: _____
4. City: _____ County: _____ State: KS
5. Description of Work (be specific): _____

   _____
6. Estimated Dollar Amount of Contract: _____
7. Estimated Bid Advertising Date: _____
8. Labor Standards Officer: **(THIS PERSON WILL RECEIVE THE WAGE DETERMINATION)**

   Name: _____

   Address: _____

   City/Zip: _____

   Phone: _____

   Fax: _____

Forward this request 15 days prior to bid advertising to:
Kansas Department of Commerce

Forward this request 10 days prior to bid to:
Kansas Department of Commerce
CDBG Program

CONFIRMATION/CHANGE OF DAVIS-BACON RATES

Date: _____

To: _____

From: _____

Grantee: _____

County: _____

Grant Number: _____

Project Type: _____

Original Wage Decision #: _____

Wage Decision Publication Date: _____

Original Date Wage Rates Sent: _____

Bid Opening Date: _____

For Department of Commerce use only.

The Kansas Small Cities Community Development Block Grant Program is in receipt of your request for confirmation/change of the Davis-Bacon wage rate determination for your project. This memo and applicable wage rates will be sent via e-mail. The status of your initial request for wage rates is:

☐ No new wages rates issued.

☐ **A <u>new</u> wage decision has been issued and accompanies this form.**

General Decision #: _____ **Modification #:** _____ **Modification Date:** _____

Signature: _____ **Date:** _____

Rev. 2/2017

VERIFICATION OF CONTRACTOR ELIGIBILITY

To: CDBG Project Manager
Kansas Department of Commerce

Grantee: _____

Grant Number: _____

Date: _____

From: _____
Address: _____
_____
_____

Please indicate the estimated date, time, and location of the Pre-construction Conference, if applicable. (Please advise of any changes.)

Date: _____
Time: _____
Location: _____

Please verify the eligibility of the following construction contractor(s), subcontractors and consultants:

COMMERCE USE ONLY:
The following contractors are not on the Consolidated List of Debarred, Suspended and Ineligible Contractors as of:

_____

Contractor, Subcontractor, Consultant Name, Address and DUNS Number:

1. _____
_____
_____
_____

2. _____
_____
_____
_____

3. _____
_____
_____
_____

4. _____
_____
_____
_____

Contractor Verification by:

_____
CDBG Project Manager Date

NOTICE OF START OF CONSTRUCTION

To: CDBG Project Manager
Kansas Department of Commerce

Grantee: _____
Grant Number: _____
Date: _____

From: _____
Address: _____
_____
_____

1. **Construction Start Date:** _____
2. Project Description: _____
3. Location of Project: _____
   (Address, City and County)
4. Bid Advertising Date: _____
5. Bid Opening Date: _____
6. Contract Awarded Date: _____
7. Federal Wage Decision No.: _____
8. Date of Wage Decision: _____
9. Estimated Completion Date: _____
10. Contract Amount: _____
11. Name of General Contractor: _____
    Address of General Contractor: _____
    _____
    _____
12. Names of Subcontractor(s): _____
    _____
    _____

(rev 2-2018)

REQUEST FOR AUTHORIZATION OF ADDITIONAL CLASSIFICATION AND RATE	CHECK APPROPRIATE BOX ☐ SERVICE CONTRACT ☐ CONSTRUCTION CONTRACT	OMB Control Number: 9000-0066 Expiration Date: 4/30/2022

Paperwork Reduction Act Statement - This information collection meets the requirements of 44 U.S.C. § 3507, as amended by section 2 of the Paperwork Reduction Act of 1995. You do not need to answer these questions unless we display a valid Office of Management and Budget (OMB) control number. The OMB control number for this collection is 9000-0066. We estimate that it will take .5 hours to read the instructions, gather the facts, and answer the questions. Send only comments relating to our time estimate, including suggestions for reducing this burden, or any other aspects of this collection of information to: U.S. General Services Administration, Regulatory Secretariat Division (M1V1CB), 1800 F Street, NW, Washington, DC 20405.

INSTRUCTIONS: THE CONTRACTOR SHALL COMPLETE ITEMS 3 THROUGH 16, KEEP A PENDING COPY, AND SUBMIT THE REQUEST, IN QUADRUPLICATE, TO THE CONTRACTING OFFICER.

1. **TO:** ADMINISTRATOR, WAGE AND HOUR DIVISION U.S. DEPARTMENT OF LABOR WASHINGTON, DC 20210	2. **FROM:** *(REPORTING OFFICE)*

3. CONTRACTOR	4. DATE OF REQUEST

5. CONTRACT NUMBER	6. DATE BID OPENED *(SEALED BIDDING)*	7. DATE OF AWARD	8. DATE CONTRACT WORK STARTED	9. DATE OPTION EXERCISED (If *APPLICABLE) (SERVICE CONTRACT ONLY)*

10. SUBCONTRACTOR *(IF ANY)*

11. PROJECT AND DESCRIPTION OF WORK *(ATTACH ADDITIONAL SHEET IF NEEDED)*

12. LOCATION (*CITY, COUNTY, AND STATE)*

13. IN ORDER TO COMPLETE THE WORK PROVIDED FOR UNDER THE ABOVE CONTRACT, IT IS NECESSARY TO ESTABLISH THE FOLLOWING RATE(S) FOR THE INDICATED CLASSIFICATION(S) NOT INCLUDED IN THE DEPARTMENT OF LABOR DETERMINATION

NUMBER: _____ DATED: _____

a. LIST IN ORDER: PROPOSED CLASSIFICATION TITLE(S); JOB DESCRIPTION(S); DUTIES; AND RATIONALE FOR PROPOSED CLASSIFICATIONS *(Service contracts only)* *(Use reverse or attach additional sheets, if necessary)*	b. WAGE RATE(S)	c. FRINGE BENEFITS PAYMENTS

14. SIGNATURE AND TITLE OF SUBCONTRACTOR REPRESENTATIVE *(IF ANY)*	15. SIGNATURE AND TITLE OF PRIME CONTRACTOR REPRESENTATIVE	
16. SIGNATURE OF EMPLOYEE OR REPRESENTATIVE	TITLE	CHECK APPROPRIATE BOX-REFERENCING BLOCK 13. ☐ AGREE ☐ DISAGREE

TO BE COMPLETED BY CONTRACTING OFFICER *(CHECK AS APPROPRIATE - SEE FAR 22.1019 (SERVICE CONTRACT LABOR STANDARDS) OR FAR 22.406-3 (CONSTRUCTION WAGE RATE REQUIREMENTS))*

☐ THE INTERESTED PARTIES AGREE AND THE CONTRACTING OFFICER RECOMMENDS APPROVAL BY THE WAGE AND HOUR DIVISION. AVAILABLE INFORMATION AND RECOMMENDATIONS ARE ATTACHED.

☐ THE INTERESTED PARTIES CANNOT AGREE ON THE PROPOSED CLASSIFICATION AND WAGE RATE. A DETERMINATION OF THE QUESTION BY THE WAGE AND HOUR DIVISION IS THEREFORE REQUESTED. AVAILABLE INFORMATION AND RECOMMENDATIONS ARE ATTACHED.
(Send 3 copies to the Department of Labor)

SIGNATURE OF CONTRACTING OFFICER OR REPRESENTATIVE	TITLE AND COMMERCIAL TELEPHONE NUMBER	DATE SUBMITTED

AUTHORIZED FOR LOCAL REPRODUCTION
PREVIOUS EDITION IS USABLE

STANDARD FORM 1444 (REV. 4/2013)
Prescribed by GSA-FAR (48 CFR) 53.222(f)

HUD-4230A (8-03) PREVIOUS EDITION IS OBSOLETE

GUIDE TO CONTRACT CLAUSES

	CONSTRUCTION CONTRACTS		NON-CONSTRUCTION CONTRACTS	
CONTRACT CLAUSES	Over $2,000	Over $10,000	Over $2,000	Housing Rehab (any amount)
CONTRACT REMEDIES	X	X	X	X
CONTRACT TERMINATION	X	X	X	X
CONTRACT WORK HOURS AND SAFETY STANDARDS	X	X		(only if structure is 8 units or more)
COPELAND ACT	X	X		
FEDERAL LABOR STANDARDS PROVISIONS (HUD-4010) DAVIS BACON	X	X		
PERFORMANCE AND BID BONDS		X		
AGE DISCRIMINATION ACT OF 1975	X	X		X
EXECUTIVE ORDER 11063	X	X		X
EXECUTIVE ORDER 11246 POLICY CLAUSE	X	X		X
FAIR HOUSING AMENDMENTS ACT OF 1988	X	X		X
KANSAS ACT AGAINST DISCRIMINATION	X	X		X
EXECUTIVE ORDER 11246		X		X
SECTION 109 OF HOUSING AND DEVELOPMENT ACT OF 1974	X	X		X
SECTION 503, REHABILITATION ACT	X	X		X
SECTION 504, ADA	X	X		
SECTION 912, CRANSTON-GONZALES		X		X
TITLE VI OF THE CIVIL RIGHTS ACT OF 1964	X	X		X
RESTRICTION ON LOBBYING CONTRACTS OVER $100,000				
SECTION 3 (ACTIVITIES $200,000 OR MORE & CONTRACTS $100,000 OR MORE)				
ARCHITECTURAL BARRIERS (NEW CONSTRUCTION OF PUBLIC BUILDINGS)	X	X		
CONFLICT OF INTEREST MEMBERS, OFFICERS	X	X	X	X
EXAMINATION OF BOOKS ACCESS TO RECORDS/MAINTENANCE OF RECORDS	X	X	X	X
FLOOD HAZARD INSURANCE	X	X		X
CLEAN AIR AND WATER POLLUTION (CONSTRUCTION CONTRACTS OVER $100,000 ONLY)				
REPORTING COPYRIGHTS AND PATENT RIGHTS		X	X	

FEDERAL LABOR STANDARDS PROVISIONS – HUD 4010

Wage and Hour Division (WHD)

Civil Money Penalty Inflation Adjustments

On November 2, 2015, President Obama signed into law the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015 to advance the effectiveness of civil money penalties and to strengthen their deterrent effect. Outdated penalties are a problem because civil penalties are less effective when they do not keep pace with the cost of living. Penalties deter violations of the important laws that we enforce, which not only result in safer, more productive workplaces, but also in a more level playing field for responsible employers who have to compete with the minority who try to save money by evading the law. That is why this law modernizing many penalties that have long lost ground to inflation is critical.

The new law directs agencies across the federal government to adjust their penalties for inflation each year in January. Additionally, it directs all agencies to issue a "catch up" penalty adjustment, which must be effective by August 1, 2016. Congress capped the "catch up" increase at 150 percent of the current penalty to ensure that these increases are reasonable and manageable.

Below is a table that reflectsPlea the adjustments that have occurred since the 2015 law was passed. For more information on the adjustment law and rules, please go here.

Contract Work Hours and Safety Standards Act (CWHSSA)

Type of Violation	Statutory Citation	CFR Citation	Maximum Civil Monetary Penalty before 8/1/2016	Maximum Civil Monetary Penalty after 8/1/2016
(1) Failure to pay laborers and mechanics at a rate not less than one and one-half times their basic rate of pay	40 USC 3702(c)	29 CFR 5.8(a) and 29 CFR 5.5(b)(2)	$10	$25

PRE-CONSTRUCTION CONFERENCE MINUTES

PROJECT NAME: _____ DATE: _____

STATE PROJECT NUMBER: _____ TIME: _____

PROJECT LOCATION: _____ PLACE: _____

FEDERAL WAGE DECISION NO.: _____

CONTRACT AMOUNT: _____

NAME OF GENERAL CONTRACTOR: _____

A pre-construction conference concerning labor standards provisions, administration and enforcement was conducted for the above project on this date. In addition to the attached, the following labor standards materials were provided to the prime contractor and were made available for others in attendance:

1. Applicable Federal Wage Decision(s).

2. Federal and State Labor Standards Provisions (Appendix H).

3. Poster WH-1321, Notice to Employees (Appendix J).

4. Payroll Form WH-347 (with instructions) (Appendix La and Lc).

It was requested of each person at the conference to register their name on the attendance sheet and a copy of the attendance sheet is attached and made part of these minutes.

During the course of the conference, all of the labor standards and wage requirements, that are applicable to the construction work to be performed, were discussed in full. These standards and requirements are contained in the following publications: U.S. Department of Labor Regulations, Part 1, 3, and 5; the HUD Handbook 1344.1, federal labor standards provisions; state's Grantee Handbook; and the attached material. Prior to adjournment, the participants were invited to ask questions so there were no misunderstandings of what is necessary in order for the contractor and any subcontractors to demonstrate compliance with the labor standards clauses above.

Special notations for this project or matters that could not be resolved at the conference are listed in the space below:

_____

_____

_____

_____

For additional information, please contact Commerce Labor Standards Officer at (785) 296-3004.

_____ _____

Signature of Grantee Labor Standards Officer Date

_____

Print or Type Name

Attachments

U.S. Department of Labor
Wage and Hour Division

PAYROLL

(For Contractor's Optional Use; See Instructions at www.dol.gov/whd/forms/wh347instr.htm)

Persons are not required to respond to the collection of information unless it displays a currently valid OMB control number.

U.S. Wage and Hour Division
Rev. Dec. 2008

NAME OF CONTRACTOR ☐ OR SUBCONTRACTOR ☐ | ADDRESS | OMB No.: 1235-0008 Expires: 04/30/2021

PAYROLL NO. | FOR WEEK ENDING | PROJECT AND LOCATION | PROJECT OR CONTRACT NO.

(1) NAME AND INDIVIDUAL IDENTIFYING NUMBER (e.g., LAST FOUR DIGITS OF SOCIAL SECURITY NUMBER) OF WORKER	(2) NO. OF WITHHOLDING EXEMPTIONS	(3) WORK CLASSIFICATION	OT. OR ST.	(4) DAY AND DATE / HOURS WORKED EACH DAY							(5) TOTAL HOURS	(6) RATE OF PAY	(7) GROSS AMOUNT EARNED	(8) DEDUCTIONS: FICA	WITH-HOLDING TAX			OTHER	TOTAL DEDUCTIONS	(9) NET WAGES PAID FOR WEEK
			O																	
			S																	
			O																	
			S																	
			O																	
			S																	
			O																	
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While completion of Form WH-347 is optional, it is mandatory for covered contractors and subcontractors performing work on Federally financed or assisted construction contracts to respond to the information collection contained in 29 C.F.R. §§ 3.3; 5.5(a). The Copeland Act (40 U.S.C. § 3145) contractors and subcontractors performing work on Federally financed or assisted construction contracts to "furnish weekly a statement with respect to the wages paid each employee during the preceding week." U.S. Department of Labor (DOL) regulations at 29 C.F.R. § 5.5(a)(3)(ii) require contractors to submit weekly a copy of all payrolls to the Federal agency contracting for or financing the construction project, accompanied by a signed "Statement of Compliance" indicating that the payrolls are correct and complete and that each laborer or mechanic has been paid not less than the proper Davis-Bacon prevailing wage rate for the work performed. DOL and federal contracting agencies receiving this information review the information to determine that employees have received legally required wages and fringe benefits.

Public Burden Statement

We estimate that is will take an average of 55 minutes to complete this collection, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. If you have any comments regarding these estimates or any other aspect of this collection, including suggestions for reducing this burden, send them to the Administrator, Wage and Hour Division, U.S. Department of Labor, Room S3502, 200 Constitution Avenue, N.W. Washington, D.C. 20210

(over)

Appendix J – Notice 1

EMPLOYEE RIGHTS – EMPLOYEE POLYGRAPH PROTECTION ACT - English

EMPLOYEE RIGHTS – EMPLOYEE POLYGRAPH PROTECTION ACT - Spanish

Appendix J – Notice 2

EMPLOYEE RIGHTS UNDER THE DAVIS-BACON ACT - English

EMPLOYEE RIGHTS UNDER THE DAVIS-BACON ACT - Spanish

Appendix J – Notice –3

EQUAL OPPORTUNITY IS THE LAW - ENGLISH

EQUAL OPPORTUNITY IS THE LAW - SPANISH

Appendix J – Notice 4

OSHA – JOB SAFETY AND HEALTH - ENGLISH

OSHA – JOB SAETY AND HEALTH - SPANISH

Date _____

I, _____ _____
(Name of Signatory Party) (Title)

do hereby state:

(1) That I pay or supervise the payment of the persons employed by

_____ on the
(Contractor or Subcontractor)

_____; that during the payroll period commencing on the
(Building or Work)

_____ day of _____, _____, and ending the _____ day of _____, _____,

all persons employed on said project have been paid the full weekly wages earned, that no rebates have been or will be made either directly or indirectly to or on behalf of said

_____ from the full
(Contractor or Subcontractor)

weekly wages earned by any person and that no deductions have been made either directly or indirectly from the full wages earned by any person, other than permissible deductions as defined in Regulations, Part 3 (29 C.F.R. Subtitle A), issued by the Secretary of Labor under the Copeland Act, as amended (48 Stat. 948, 63 Stat. 108, 72 Stat. 967; 76 Stat. 357; 40 U.S.C. § 3145), and described below:

_____

_____

_____

_____

(2) That any payrolls otherwise under this contract required to be submitted for the above period are correct and complete; that the wage rates for laborers or mechanics contained therein are not less than the applicable wage rates contained in any wage determination incorporated into the contract; that the classifications set forth therein for each laborer or mechanic conform with the work he performed.

(3) That any apprentices employed in the above period are duly registered in a bona fide apprenticeship program registered with a State apprenticeship agency recognized by the Bureau of Apprenticeship and Training, United States Department of Labor, or if no such recognized agency exists in a State, are registered with the Bureau of Apprenticeship and Training, United States Department of Labor.

(4) That:

(a) WHERE FRINGE BENEFITS ARE PAID TO APPROVED PLANS, FUNDS, OR PROGRAMS

☐ – in addition to the basic hourly wage rates paid to each laborer or mechanic listed in the above referenced payroll, payments of fringe benefits as listed in the contract have been or will be made to appropriate programs for the benefit of such employees, except as noted in section 4(c) below.

(b) WHERE FRINGE BENEFITS ARE PAID IN CASH

☐ – Each laborer or mechanic listed in the above referenced payroll has been paid, as indicated on the payroll, an amount not less than the sum of the applicable basic hourly wage rate plus the amount of the required fringe benefits as listed in the contract, except as noted in section 4(c) below.

(c) EXCEPTIONS

EXCEPTION (CRAFT)	EXPLANATION

REMARKS:

NAME AND TITLE	SIGNATURE

THE WILLFUL FALSIFICATION OF ANY OF THE ABOVE STATEMENTS MAY SUBJECT THE CONTRACTOR OR SUBCONTRACTOR TO CIVIL OR CRIMINAL PROSECUTION. SEE SECTION 1001 OF TITLE 18 AND SECTION 231 OF TITLE 31 OF THE UNITED STATES CODE.

Department of Labor: Wage and Hour Division (WHD)

Instructions For Completing Payroll Form, WH-347 WH-347 (PDF)

OMB Control No. 1235-0008, Expires 04/30/2021

General: Form WH-347has been made available for the convenience of contractors and subcontractors required by their Federal or Federally-aided construction-type contracts and subcontracts to submit weekly payrolls. Properly filled out, this form will satisfy the requirements of Regulations, Parts 3 and 5 (29 C.F.R., Subtitle A), as to payrolls submitted in connection with contracts subject to the Davis-Bacon and related Acts.

While completion of Form WH-347 is optional, it is mandatory for covered contractors and subcontractors performing work on Federally financed or assisted construction contracts to respond to the information collection contained in 29 C.F.R. §§ 3.3, 5.5(a). The Copeland Act (40 U.S.C. § 3145) requires contractors and subcontractors performing work on Federally financed or assisted construction contracts to "furnish weekly a statement with respect to the wages paid each employee during the preceding week." U.S. Department of Labor (DOL) Regulations at 29 C.F.R. § 5.5(a)(3)(ii) require contractors to submit weekly a copy of all payrolls to the Federal agency contracting for or financing the construction project, accompanied by a signed "Statement of Compliance" indicating that the payrolls are correct and complete and that each laborer or mechanic has been paid not less than the proper Davis-Bacon prevailing wage rate for the work performed. DOL and federal contracting agencies receiving this information review the information to determine that employees have received legally required wages and fringe benefits.

Under the Davis-Bacon and related Acts, the contractor is required to pay not less than prevailing wage, including fringe benefits, as predetermined by the Department of Labor. The contractor's obligation to pay fringe benefits may be met either by payment of the fringe benefits to bona fide benefit plans, funds or programs or by making payments to the covered workers (laborers and mechanics) as cash in lieu of fringe benefits.

This payroll provides for the contractor to show on the face of the payroll all monies to each worker, whether as basic rates or as cash in lieu of fringe benefits and provides for the contractor's representation in the statement of compliance on the payroll (as shown on page 2) that he/she is paying for fringe benefits required by the contract and not paid as cash in lieu of fringe benefits. Detailed instructions concerning the preparation of the payroll follow:

Contractor or Subcontractor: Fill in your firm's name and check appropriate box.

Address: Fill in your firm's address.

Payroll No.: Beginning with the number "1", list the payroll number for the submission.

For Week Ending: List the workweek ending date.

Project and Location: Self-explanatory.

Project or Contract No.: Self-explanatory.

Column 1 - Name and Individual Identifying Number of Worker: Enter each worker's full name and an individual identifying number (e.g., last four digits of worker's social security number) on each weekly payroll submitted.

Column 2 - No. of Withholding Exemptions: This column is merely inserted for the employer's convenience and is not a requirement of Regulations, Part 3 and 5.

Column 3 - Work Classifications: List classification descriptive of work actually performed by each laborer or mechanic. Consult classification and minimum wage schedule set forth in contract specifications. If additional classifications are deemed necessary, see Contracting Officer or Agency representative. An individual may be shown as having worked in more than one classification provided an accurate breakdown or hours worked in each classification is maintained and shown on the submitted payroll by use of separate entries.

Column 4 - Hours worked: List the day and date and straight time and overtime hours worked in the applicable boxes. On all contracts subject to the Contract Work Hours Standard Act, enter hours worked in excess of 40 hours a week as "overtime".

Column 5 - Total: Self-explanatory

Column 6 - Rate of Pay (Including Fringe Benefits): In the "straight time" box for each worker, list the actual hourly rate paid for straight time worked, plus cash paid in lieu of fringe benefits paid. When recording the straight time hourly rate, any cash paid in lieu of fringe benefits may be shown separately from the basic rate. For example, "$12.25/.40" would reflect a $12.25 base hourly rate plus $0.40 for fringe benefits. This is of assistance in correctly computing overtime. See "Fringe Benefits" below. When overtime is worked, show the overtime hourly rate paid plus any cash in lieu of fringe benefits paid in the "overtime" box for each worker; otherwise, you may skip this box. See "Fringe Benefits" below. Payment of not less than time and one-half the basic or regular rate paid is required for overtime under the Contract Work Hours Standard Act of 1962 if the prime contract exceeds $100,000. In addition to paying no less than the predetermined rate for the classification which an individual works, the contractor must pay amounts predetermined as fringe benefits in the wage decision made part of the contract to approved fringe benefit plans, funds or programs or shall pay as cash in lieu of fringe benefits. See "FRINGE BENEFITS" below.

Column 7 - Gross Amount Earned: Enter gross amount earned on this project. If part of a worker's weekly wage was earned on projects other than the project described on this payroll, enter in column 7 first the amount earned on the Federal or Federally assisted project and then the gross amount earned during the week on all projects, thus "$163.00/$420.00" would reflect the earnings of a worker who earned $163.00 on a Federally assisted construction project during a week in which $420.00 was earned on all work.

Column 8 - Deductions: Five columns are provided for showing deductions made. If more than five deduction are involved, use the first four columns and show the balance deductions under "Other" column; show actual total under "Total Deductions" column; and in the attachment to the payroll describe the deduction(s) contained in the "Other" column. All deductions must be in accordance with the provisions of the Copeland Act Regulations, 29 C.F.R., Part 3. If an individual worked on other jobs in addition to this project, show actual deductions from his/her weekly gross wage, and indicate that deductions are based on his gross wages.

Column 9 - Net Wages Paid for Week: Self-explanatory.

Totals - Space has been left at the bottom of the columns so that totals may be shown if the contractor so desires.

Statement Required by Regulations, Parts 3 and 5: While the "statement of compliance" need not be notarized, the statement (on page 2 of the payroll form) is subject to the penalties provided by 18 U.S.C. § 1001, namely, a fine, possible imprisonment of not more than 5 years, or both. Accordingly, the party signing this statement should have knowledge of the facts represented as true.

Items 1and 2: Space has been provided between items (1) and (2) of the statement for describing any deductions made. If all deductions made are adequately described in the "Deductions" column above, state "*See* Deductions column in this payroll." *See* "FRINGE BENEFITS" below for instructions concerning filling out paragraph 4 of the statement.

Item 4 FRINGE BENEFITS - Contractors who pay all required fringe benefits: If paying all fringe benefits to approved plans, funds, or programs in amounts not less than were determined in the applicable wage decision of the Secretary of Labor, show the basic cash hourly rate and overtime rate paid to each worker on the face of the payroll and check paragraph 4(a) of the statement on page 2 of the WH-347 payroll form to indicate the payment. Note any exceptions in section 4(c).

Contractors who pay no fringe benefits: If not paying all fringe benefits to approved plans, funds, or programs in amounts of at least those that were determined in the applicable wage decision of the Secretary of Labor, pay any remaining fringe benefit amount to each laborer and mechanic and insert in the "straight time" of the "Rate of Pay" column of the payroll an amount not less than the predetermined rate for each classification plus the amount of fringe benefits determined for each classification in the application wage decision. Inasmuch as it is not necessary to pay time and a half on cash paid in lieu of fringe benefits, the overtime rate shall be not less than the sum of the basic predetermined rate, plus the half time premium on basic or regular rate, plus the required cash in lieu of fringe benefits at the straight time rate. In addition, check paragraph 4(b) of the statement on page 2 the payroll form to indicate the payment of fringe benefits in cash directly to the workers. Note any exceptions in section 4(c).

Use of Section 4(c), Exceptions

Any contractor who is making payment to approved plans, funds, or programs in amounts less than the wage determination requires is obliged to pay the deficiency directly to the covered worker as cash in lieu of fringe benefits. Enter any exceptions to section 4(a) or 4(b) in section 4(c). Enter in the Exception column the craft and enter in the Explanation column the hourly amount paid each worker as cash in lieu of fringe benefits and the hourly amount paid to plans, funds, or programs as fringe benefits. The contractor must pay an amount not less than the predetermined rate plus cash in lieu of fringe benefits as shown in section 4(c) to each such individual for all hours worked (unless otherwise provided by applicable wage determination) on the Federal or Federally assisted project. Enter the rate paid and amount of cash paid in lieu of fringe benefits per hour in column 6 on the payroll. See paragraph on "Contractors who pay no fringe benefits" for computation of overtime rate.

Record of Employee Interview

U.S. Department of Housing and Urban Development
Office of Labor Relations

OMB Approval No. 2501-0009
(exp.01/31/2021)

Public reporting burden for this collection of information is estimated to average 15 minutes per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. This agency may not collect this information, and you are not required to complete this form, unless it displays a currently valid OMB control number. The information is collected to ensure compliance with the Federal labor standards by recording interviews with construction workers. The information collected will assist HUD in the conduct of compliance monitoring; the information will be used to test the veracity of certified payroll reports submitted by the employer. **Sensitive Information**. The information collected on this form is considered sensitive and is protected by the Privacy Act. The Privacy Act requires that these records be maintained with appropriate administrative, technical, and physical safeguards to ensure their security and confidentiality. In addition, these records should be protected against any anticipated threats or hazards to their security or integrity that could result in substantial harm, embarrassment, inconvenience, or unfairness to any individual on whom the information is maintained. **The information collected herein is voluntary, and any information provided shall be kept confidential**.

1a. Project Name	2a. Employee Name
1b. Project Number	2b. Employee Phone Number (including area code)
1c. Contractor or Subcontractor (Employer)	2c. Employee Home Address & Zip Code
	2d. Verification of identification? Yes ☐ No ☐

3a. How long on this job?	3b. Last date on this job before today?	3c. No. of hours last day on this job?	4a. Hourly rate of pay?	4b. Fringe Benefits?	4c. Pay stub?
				Vacation Yes ☐ No ☐ Medical Yes ☐ No ☐ Pension Yes ☐ No ☐	Yes ☐ No ☐

5. Your job classification(s) (list all) --- continue on a separate sheet if necessary

6. Your duties

CONFIDENTIAL

7. Tools or equipment used

	Y	N		Y	N
8. Are you an apprentice or trainee?	☐	☐	10. Are you paid at least time and ½ for all hours worked in excess of 40 in a week?	☐	☐
9. Are you paid for all hours worked?	☐	☐	11. Have you ever been threatened or coerced into giving up any part of your pay?	☐	☐

12a. Employee Signature	12b. Date

13. Duties observed by the Interviewer (Please be specific.)

14. Remarks

15a. Interviewer name (please print)	15b. Signature of Interviewer	15c. Date of interview

Payroll Examination

16. Remarks

17a. **Signature of Payroll Examiner**	17b. **Date**

Previous editions are obsolete **Form HUD-11 (02/2019)**

Appendix N

CONSTRUCTION CHECKLIST

		DATE
Determine if project is covered by Davis-Bacon		_____
Assign Labor Standards Officer		_____
Obtain federal wage decisions		_____
Review wage decisions, determine if additional decisions are required		_____
If additional classification is necessary, submit Report of Additional Classification and Rate (Appendix F) to Commerce		_____
Ten days before bid opening, determine if wage decisions are still current		_____
Review bid packages for completeness		_____
Federal wage decision	_____	
Federal labor provisions (Appendix H)	_____	
Payroll Form WH-347 (Appendix La)	_____	
Determine if bonding requirements have been met		_____
Review by City/County Attorney		_____
Prepare minutes of bid opening		_____
Tabulate bids		_____
Make recommendation for award		_____
Verify contractor eligibility with Commerce		

CONSTRUCTION CHECKLIST (continued):

Execute contract	_____
Hold pre-construction conference using format in (Appendix I). Obtain signatures at pre-construction conference.	_____
Submit Notice of Start of Construction (Appendix E) to Commerce	_____
Conduct project compliance reviews	_____
Review weekly payrolls and statements of compliance	_____
Contact CDBG Field Representative to schedule monitoring visit	_____
Determine that federal wage decision and Notice to Employees Poster (Appendix J) is posted at job site	
Conduct employee interviews using Record of Employee Interview form (Appendix M)	_____
Submit Notice of Completion/Final Inspection and Final Wage Compliance Report (Appendix N)	_____

Certification of Understanding and Payroll Authorization*

Project Location: _____

Company Name: _____

Address: _____

City: _____ State: _____ Zip Code: _____

Phone Number: _____ Email: _____

This is to certify that the principle(s), and the authorized payroll officer listed below, have read the "Contractor's Guide to Prevailing Wage Requirements for Federally Assisted Construction" and the Federal Labor Standards Provisions (HUD-4010 form) and that both parties understand these requirements.

The following person is designated as the payroll officer for the company and is authorized to sign the Statement of Compliance that will accompany each weekly Certified Payroll Report for the project:

PAYROLL OFFICER: (Individual responsible for signing Statements of Compliance)

_____ _____
Name Title

_____ _____
Signature Date

PRINCIPLE OWNER/GENERAL PARTNER:

_____ _____
Name Title

_____ _____
Signature Date

***If the owner plans to sign the payrolls, disregard this form.**

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
REGION VII
Gateway Tower II, Room 200
400 State Avenue
Kansas City, KS 66101-2406
HUD Home Page: *www.hud.gov*

July 22, 2005

To All Community Development Block Grant (CDBG) Entitlement Communities/State CDBG and HOME Program

SUBJECT: Labor Standards Compliance Requirements for Self-Employed Laborers and Mechanics (aka Working Subcontractors) listed on Certified Payroll Reports (CPR's)

Labor Relations *Letter* LR-96-01 represents an effort to provide guidance for all principal contractors (also referred to as the *prime* contractor) is responsible for the full compliance of all employers (contractors, subcontractors, and any lower-tier subcontractors) with the labor standards provisions applicable to the project. For ease in reference, the term *"prime contractor"* shall mean the principal contractor, the term *"subcontractor"* shall mean all subcontractors and lower-tier subcontractors, and the term *"employer"* shall mean any contractor, subcontractor or lower-tier subcontractor that has engaged the services of laborers or mechanics on the project.

HUD policy clearly affords prevailing wage protection for all laborers and mechanics, regardless of contractual relationship. There is no exception to this protection for self-employed laborers or mechanics, including owners of businesses, sole-proprietors, partners, corporate officers, or others. This policy in no way precludes or limits any business or individual from participating in HUD-assisted construction work. The issue is not one of *eligibility,* whether such persons are permitted to work on HUD-assisted projects, but of compliance standards – what HUD will accept from contractors and subcontractors to demonstrate that proper compliance has been achieved.

In this context, this *Letter* establishes a HUD administrative policy that laborers and mechanics may not certify to the payment of their **own** prevailing wages **EXCEPT** where the laborer or mechanic is the owner of a business working on the site of the work with his/her own crew. (This exception is described in detail in Paragraph III. Owners of businesses working with their crew.

Owners of businesses working with their crew on the same HUD-assisted job site may certify to the payment of their own prevailing wages in conjunction with the prevailing wages paid to their employees. This exception to reporting standards *does not* suggest that such owners are not likewise entitled to prevailing wages for their labor. Rather, it accepts the wage payment certification on weekly payroll reports by the owner for his/her own wages as that certification *accompanies* the certification offered for the payment of prevailing wages to his/her employees. Such owners need only list their name, work classification including "owner," and the daily and total hours worked. (Such owners ***do not*** need to list a rate of pay or amounts earned.)

Also, HUD's Office of Labor Relations responsible for labor standards administration and enforcement ***may not*** accept certified payrolls reporting single or multiple owners (e.g., partners) certifying that they have paid to themselves the prevailing wage for their craft. For example, a sole-proprietor may not submit a payroll reporting himself or herself as simply **"Owner"** signing the certification as to his/her own wage payment from "draws" or other payment methods. Neither may several mechanics submit a payroll reporting themselves as "partners" with one or more certifying as to the payment of their wages or salaries. Such mechanics must instead be carried on the certified payroll of the contractor or subcontractor (the "responsible employer") for whom they are working and with whom they have executed a "contract" for services.

Enclosed is a copy of the Labor Relations *Letter* LR-96-01 for your review.

Should you or members of your staff have any questions concerning this *Letter* they may be directed to Headquarters Office of Labor Relations at (202) 708-0370 or in the case of construction projects/program participants to HUD Labor Relations staff at (913) 551-6882/6883/5577.

Sincerely,

Frank C. Bustamante
Regional Labor Relations Officer

Labor Standards Compliance Requirements

Date: December 2, 1996

(Rev 1) Letter No. LR-96-01

Subject: **Labor standards compliance requirements for self-employee laborers and mechanics (aka *Working Subcontractors*)**

I. **HUD policy on prevailing wage applicability.**
II. **Compliance and certification parameters.**
III. **Owners of businesses working with their crews.**
IV. **Owner-Operators of power equipment.**
V. **Truck drivers.**

The Federal prevailing wage requirements and compliance standards for self-employed laborers and mechanics (also referred to as "working subcontractors") have long been a confusing and contentious area for the Department of Labor (DOL), HUD, the Internal Revenue Service and contractors and subcontractors.

The following policy represents an effort to provide practical guidance for field application. The guidance more specifically concerns the wage certification requirements for self-employed mechanics and laborers on projects subject to Federal labor standards provisions including Davis-Bacon and HUD-determined maintenance and nonroutine maintenance prevailing wage rate determinations. This policy does not attempt to establish whether working subcontractors are subject to Federal labor standards nor whether such working subcontractors are *bona fide*. The clear meaning of statutory provisions and regulatory definitions does not require further examination of applicability. Additionally, statutory and regulatory languages are clear that the question of whether certain self-employed laborers and mechanics are bona fide subcontractors is not germane to the issue of prevailing wage standard applicability.

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I. ***HUD policy on prevailing wage applicability.***

The Davis-Bacon Act (DBA), HUD program Related Acts (DBRA) concerning the payment of prevailing wages as determined by the Secretary of Labor, and the U.S. Housing Act of 1937 concerning the payment of prevailing wage rates established by HUD provide that the wage protections afforded in these statutes apply to laborers and mechanics employed on the covered work. The DBA and DBRA implementing regulations (29 CFR Part 5) specifically stipulate that these protections are provided **regardless of any contractual relationship**

which may be alleged to exist between the contractor and such laborers and mechanics. Additionally, all laborers and mechanics must be paid unconditionally and not less often than once per week. HUD has followed DBA/DBRA prevailing wage parameters in its implementation, administration and enforcement of HUD-determined maintenance and nonroutine maintenance prevailing wage standards. (*NOTE:* The requirement to pay weekly wages is not applicable to the payment of prevailing routine maintenance wage rates related to laborers and mechanics engaged in the operation of PHA and IHA housing developments.)

Therefore, it is HUD policy that in all cases where laborers and mechanics are employed on Federal prevailing wage-covered construction, maintenance and nonroutine maintenance work, laborers and mechanics shall be entitled to compensation (in the case of Davis-Bacon wages, *weekly* compensation) at wage rates not less than the prevailing rate for the type of work they perform **regardless of any contractual relationship alleged to exist between a contractor or subcontractor and such laborers or mechanics**.

The above policy statement is not a departure from previous HUD directives. The guidance presented below establishes uniform HUD-assisted program contract administration and enforcement parameters for labor standards compliance and prevailing wage certification.

II. ***Compliance and certification parameters.***

HUD policy clearly affords prevailing wage protection for all laborers and mechanics, regardless of contractual relationship. There is no exception to this protection for self-employed laborers or mechanics, including owners of businesses, sole-proprietors, partners, corporate officers, or others. This policy in no way precludes or limits any business or individual from participating in HUD-assisted construction, maintenance, or nonroutine maintenance work. The

Issue is not one of *eligibility*, whether such persons are permitted to work on HUD-assisted projects, but of compliance standards - what HUD will accept from contractors and subcontractors to demonstrate that proper compliance has been achieved.

In this context, this Letter establishes a HUD administrative policy that laborers and mechanics may not certify to the payment of their **own** prevailing wages **EXCEPT** where the laborer or mechanic is the owner of a business working on the site of the work with his/her own crew. (This exception is described in detail in Paragraph III. Owner-operators of power equipment are discussed in Paragraph IV; Truck drivers are discussed in Paragraph V.)

The most frequent occurrence of self-employed workers on HUD-assisted projects involves mechanic/trade classifications (i.e., not laborer classifications). (For ease of reference, laborers and mechanics in this context are referred to as "mechanics" and include any case involving laborers.) These mechanics may be represented as sole-proprietors, self-employed mechanics, partners, or corporate officers - all with no direct employees engaged in the covered work.

Accordingly, HUD, and program participants responsible for labor standards administration and enforcement (e.g., PHAs, IHAs, CDBG recipients), may not accept certified payrolls

reporting single or multiple owners (e.g., partners) certifying that they have paid to themselves the prevailing wage for their craft. For example, a sole-proprietor may not submit a payroll reporting himself or herself as simply "Owner" signing the certification as to his/her own wage payment from "draws" or other payment methods. Neither may several mechanics submit a payroll reporting themselves as "partners" with one or more certifying as to the payment of their wages or salaries. Such mechanics must instead be carried on the certified payroll of the contractor or subcontractor (the "responsible employer") for whom they are working and with whom they have executed a "contract" for services.

In these cases, maintenance of an accurate accounting of weekly work hours including any overtime hours for such mechanics is essential. Whatever method of compensation computation is utilized (piecework, weekly contract draw for performance), the amount of weekly compensation divided by the actual hours of work performed for that week must result in an "effective" hourly wage rate for that week that is not less than the prevailing hourly rate for the type of work involved. This computation must take into account overtime pay rates (i.e., one and one half) for all hours worked in excess of 40 hours per

Week, pursuant to the Contract Work Hours and Safety Standards Act (CWHSSA), where applicable, and pursuant to the Fair Labor Standards Act where CWHSSA is not applicable.

The name, work classification, actual hours of work, effective hourly wage rate, and wage payment for each such mechanic must be reported and certified on the responsible employer's weekly payroll. Note that the effective hourly wage rate for such mechanics may fluctuate from week to week. However, the effective hourly wage rate **may not** be less than the minimum prevailing rate for the respective craft. In any case where the effective rate falls below the corresponding craft prevailing wage rate, the responsible employer must compensate the mechanic at no less than the prevailing rate on the wage determination for that craft.

III. ***Owners of businesses working with their crew.***

Owners of businesses working with their crew on the same HUD-assisted job site may certify to the payment of their own prevailing wages in conjunction with the prevailing wages paid to their employees. This exception to reporting standards *does not* suggest that such owners are not likewise entitled to prevailing wages for their labor. Rather, it accepts the wage payment certification on weekly payroll reports by the owner for his/her own wages as that certification *accompanies* the certification offered for the payment of prevailing wages to his/her employees. Such owners need only list their name, work classification including "owner," and the daily and total hours worked. (Such owners *do not* need to list a rate of pay or amounts earned.)

IV. ***Owner-operators of power equipment.***

Frequently, *owner-operators of power equipment* (e.g., backhoes, front-end loaders) will contract for services at a rate for both "man and machine." In these cases, the owner-operator includes liability, equipment maintenance, and salary in an hourly or contract rate for services. Because of the prevalence of such practice and the inherent difficulty in ascribing costs for liability and maintenance costs versus hourly *labor* salary, HUD and its program clients may accept a combined ("man and machine") hourly rate on the responsible

contractor's certified payroll provided that such hourly rate may not be less than the rate on the wage determination for the respective power equipment operator.

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Note: Owner-operators of power equipment, like self-employed mechanics, may not submit their own payrolls certifying to the payment of their own wages BUT must be carried on the responsible contractor's certified payroll report.

V. ***Truck drivers.***

As outlined earlier in this Letter, a DOL administrative policy excludes *bona fide owner-operators of trucks who are independent contractors* from DBRA/CWHSSA provisions concerning their own hours of work and rate(s) of pay. These truck "owner-operators" must be reported on weekly payrolls *but* the payrolls do not need to show the hours worked or rates - only the notation "Owner-operator." ***Note*** that any laborers or mechanics, including truck drivers, employed by the owner-operator/independent contractor are subject to DBRA/CWHSSA provisions in the usual manner.

This policy ***does not*** pertain to owner-operators of other equipment such as backhoes, bulldozers, cranes and scrapers (i.e., power equipment as noted in paragraph IV, above).

These compliance standards shall take effect immediately. Any exceptions to these standards must be approved in advance in writing by HUD Headquarters Office of Labor Relations.

Any questions concerning this *Letter* may be directed to the Office of Labor Relations at (202)708-0370 or, in the case of HUD program participants, to the HUD Field Labor Relations Staff with jurisdiction for your area.

Visit the Office of Labor Relations on the World Wide Web HUD Home Page

(S9 LS Rev. 8-2014)

Section 10: Civil Rights

This section discusses the laws, activities and forms necessary for civil rights compliance.

A. The grantee and all contractors on CDBG projects must comply with civil rights regulations in the following four areas:

1. Demographics/Project Beneficiaries

2. Fair Housing

3. Contracting Opportunities

4. Employment Opportunities

B. Further considerations for grantees:

1. Grantees and contractors must demonstrate they afford equal employment opportunities to all persons;

2. Grantees must take affirmative steps to ensure that minority groups are informed of grant opportunities;

3. Grantees must demonstrate that their program benefits are not awarded in ways that discriminate; and

4. Grantees must take affirmative steps to promote fair and equal access to housing, regardless of the type of grant.

I. APPLICABLE CIVIL RIGHTS LAWS

A. The grantee must follow all civil rights laws, executive orders and regulations applicable to CDBG programs. These requirements are set forth in:

1. Title VI of the Civil Rights Act of 1964

2. Title VIII of the Civil Rights Act of 1968, as amended by the Housing Act of 1974

3. Section 109 of the Housing and Community Development Act of 1974, as amended

4. Section 3 of the Housing and Urban Development Act of 1968, as amended through 1994, and implemented by 24 CFR 135

5. Section 503 of the Rehabilitation Act of 1973, as amended

6. Section 504 of the Rehabilitation Act of 1973, as amended

7. Age Discrimination Act of 1975, as amended

8. Executive Order 11063 (1962)

9. Executive Order 11246 (1965), as amended

10. 24 CFR 85, as modified by CFR 570, Subpart J

11. Title I of the Housing and Community Development Act of 1974, as amended

12. Section 519, Public Law 101-144 (1990 HUD Appropriation Act)

13. Cranston-Gonzales National Affordable Housing Act (Sections 906 and 912)

14. Kansas Act Against Discrimination

15. Fair Housing Amendment Act of 1988

A list of civil rights laws, executive orders and regulations applicable to CDBG projects can be found in Appendix B. The grantee must assure that all applicable provisions are included in all contracts over $10,000.

II. AREAS OF COMPLIANCE

A. Demographics/Project Beneficiaries

The civil rights laws and regulations are designed to protect individuals from discrimination on the basis of race, national origin, religion, color, sex, age, disability or family status. This applies to the grantee of CDBG funds and to all contractors and subcontractors involved. To determine this, demographic data must be maintained on all beneficiaries on the project. For "direct" beneficiary activities, demographic data must be obtained for all applicants for benefits.

1. Direct Beneficiaries

For purposes of the CDBG program, the term "direct beneficiary" is defined as person(s) and/or household(s) receiving a direct service (benefit) for which the beneficiary is required to either (a) complete a personal record form or (b) submit an application for the purpose of demonstrating eligibility under a particular criteria (such as income limit) in order to receive the benefit of that

project activity. Grantees are required to obtain demographic data on all applicants for direct benefit, whether or not the benefit is ultimately provided.

Examples of direct beneficiaries are housing rehabilitation, service lines and hookup for a household into a municipal water or sewer system and job creation or retention in an economic development or commercial rehabilitation project.

2. Indirect Beneficiaries

"Indirect (area) beneficiaries" represent those individuals and households receiving a service (benefit) provided to the whole community or a targeted portion of the community and not directly related to specifically-identified households. Examples would be water/sewer lines, street paving, water tower, community building, etc.

Demographic information on direct and indirect beneficiaries is required to be obtained through project close-out, and reported to HUD as part of the state's annual performance report.

3. The population groups specifically protected by the provisions of the civil rights laws include:

   a. Hispanic & Non-Hispanic; Black African American; Black African American & White; American Indian or Alaskan Native; Native Hawaiian or Pacific Islander; Asian; Asian & White; American Indian or Alaskan Native & Black African American; American Indian or Alaskan Native & White.
   b. Women, persons with disabilities, and families with children.
   c. Title VI of the Civil Rights Act of 1964 and Section 109 of the Housing and Community Development Act of 1974, requires recipients to administer programs and activities in a manner that assures that no person, on the grounds of race, color, national origin, sex, age or disability has been excluded from participation in, denied benefits or otherwise subjected to discrimination. Even in the absence of prior discrimination, a community should take affirmative action to overcome the effects of conditions which would otherwise result in limiting participation by persons of a particular race, color, national origin, sex, age or disability.

      Grantees must complete demographic information on the final Quarterly Report submitted with the close-out.

B. Fair Housing

A major obligation of awarded grantees in all CDBG categories is the documentation of activities that affirmatively further fair housing within the communities. One activity must be conducted and documented each calendar year of an open CDBG project. If a grantee has more than one open CDBG grant, this activity can apply to all grants but must be documented in each separate grant's civil rights files. If a project is closed in the first quarter no new activities for that year are required.

To assist grantees in the development of activities, the Notice of Fair Housing/Civil Rights Contact Person Form is to be filled out and returned to the CDBG office. A copy is provided as Appendix E herein. This form should be submitted with the FIRST Quarterly Progress Report.

1. Samples of Acceptable Fair Housing Activities

In developing a community plan for furthering fair housing, the following list of possible activities is presented for a grantee to evaluate for possible adoption and implementation. This list is certainly not all inclusive and should only be used as a guide. Each grantee should review and evaluate these activities to determine which ones will be most successful in furthering fair housing among their citizens. **REMEMBER**: one activity must be conducted and documented each year of an open CDBG project.

a. Publicize the fact that the city/county government will assist persons experiencing discrimination in housing. Such assistance can be in the form of facilitating the filing of a complaint with HUD or the Kansas Human Rights Commission. Include addresses of these agencies and the hotline number.
b. Establish a system and process of providing, as a local service, housing counseling services designed to assist housing outside areas of concentration. Publish this information.
c. Work with local real estate brokers to formulate housing opportunity educational programs about financing and the housing options available in the community or county for minorities, women and low income persons.
d. Work with real estate agencies and banks to end redlining practices and to post "Equal Lending Opportunity" notices/posters. Document this.
e. In cooperation with local real estate agencies and builders, sponsor fair housing seminars and campaigns.
f. Work with minority and women leaders in the area to promote housing development and increase minority and female participation.
g. Assist local housing developers in developing outreach programs to attract minorities, females and low-income persons. Document this.

h. Review zoning ordinances and comprehensive plans to ensure they promote special deconcentration of assisted housing units. Publish the results.

i. Make city/county owned property located outside areas of concentration available to developers at no or nominal cost for the construction of assisted units, particularly for large family units. Document this.

j. Prepare, develop and implement an area-wide housing opportunity plan. Document this.

k. Following the proper planning and evaluation, consider the creation of a city or county housing authority to meet an established need. Document this.

l. Conduct special studies to ensure the housing needs of minorities, females and persons with disabilities are adequately identified. Publish the results.

m. After careful study and consideration, adopt a code enforcement ordinance which will compel landlords to keep their units in safe and sanitary condition. Publish this activity.

n. Obtain a copy of the Kansas Act Against Discrimination from the Kansas Human Rights Commission and the Fair Housing Amendments Act of 1988, adopted both by resolution, and have BOTH available to any interested citizen. Publish this activity.

<<< SPECIAL NOTICE >>>

The Kansas Legislature has not adopted the new laws set forth in the Federal Fair Housing Amendments Act of 1988. Therefore, adopting the Kansas Act Against Discrimination alone will not be a legitimate activity. Only when the Kansas Act is adopted with the Fair Housing Act of 1988, will the activity be considered legitimate.

o. Develop announcements of the city's/county's commitment and print them on the backs of utility bills, along with information on filing complaints.

p. Produce flyers and display in grocery stores, the public library and other public places.

q. Produce a workshop/contest in the schools on fair housing.

r. Obtain radio spots, or other forms of the media, for public service announcements on fair housing.

s. Develop the complaint forms and other pertinent information in other languages in the community.

t. Contact the Kansas Human Rights Commission for a workshop on fair housing.

u. The Commission also has films, posters, books, etc., to assist in fair housing activities.
v. Develop and produce a fair housing fair/carnival.
w. Negotiate with local newspaper to include Housing Discrimination HOTLINE Number (1-800-669-9777 English/Spanish) in the housing section of the newspaper.
x. Develop a local analysis of impediments to fair housing within your community.
y. Document steps taken to address an impediment to fair housing identified in the local analysis.

2. The Kansas Human Rights Commission

The Kansas Human Rights Commission is a state agency empowered by law to investigate complaints as well as provide education on discriminatory practices involving race, religion, color, sex, physical or mental disability, national origin, ancestry, age, or family status in areas of employment, public accommodation, and housing. The Commission provides consultants, materials, speakers and films on a variety of civil rights issues. These services may be provided free of charge and will assist recipients in meeting the civil rights obligations of the CDBG program.

C. Employment Opportunities

Recipients of CDBG funds may not deny the opportunity for employment in any CDBG program or activity on the basis of race, color, religion, sex or national origin. To the maximum extent possible, grantees must also ensure the lower income residents in their community receive any employment or training provided by CDBG projects. Public or private entities performing services under contract to a unit of general government, such as a Council of Governments/Regional Planning Commission (COG/RPC) administering a CDBG project, are exempt from the specific requirement to track and report this data to Commerce.

D. Contracting Opportunities

Recipients must ensure nondiscrimination in the solicitation and awarding of contracts, including nondiscriminatory practices in:

- advertising and distribution of solicitations;
- bid specifications and evaluation criteria; and
- award of contracts.

1. Section 3

Section 3 covered projects are those in which a **combined** (or aggregate) amount of covered funding exceeding $200,000, is invested into activities involving housing construction, demolition, rehabilitation or other public construction-i.e., roads, sewers, community centers, etc. (Example: Section 3 applies to the combined investment of more than $200,000 into multiple single-family housing rehabilitation projects during a program year.) Contractors or subcontractors that receive contracts in excess of $100,000 for Section 3 covered projects/activities are required to comply with the Section 3 regulations in the same manner as direct recipients. Section 3 applies to the **entire** covered project or activity regardless of whether the activity was fully or partially funded with covered assistance. Section 3 of the Housing and Urban Development Act of 1968, as amended, provides that to the greatest extent feasible preference for economic opportunities such as job training and employment that arise through HUD-assisted projects shall be directed toward Section 3 residents. Section 3 residents are defined as low and very low income residents living in the project area. Preference shall be given first to the resident inside the area covered by the project and second to the resident in the non-metropolitan county in which the project is located. Section 3 contracts awarded in connection with CDBG projects are defined as contracts to:

- Businesses owned by 51 percent or more Section 3 residents;
- Businesses employing Section 3 residents in full-time positions; and
- Businesses who subcontract with other businesses which provide opportunity to Section 3 residents.

A copy of a "Notice to Citizens…Opportunity for Work" is included herein as Appendix D, which can be used for development of Section 3 employment opportunities. Send completed form to: Kansas Department of Commerce, **KANSAS**WORKS, State Operations Director, 1000 S.W. Jackson St., Suite 100, Topeka, KS 66612-1354, Fax (785) 296-1404, Mike.Beene@ks.gov.

The grantee should, in order to accomplish the above, develop a list of Section 3 businesses and residents to be advised of opportunities for participation in project contracts. The chamber of commerce or similar business association in an area can often provide the names of eligible firms. Regional planning commissions and other administrative agencies may also maintain lists on a regional basis. State agencies which may be able to provide similar information include the Kansas Department of Transportation and the Kansas Department of Administration.

A Reference Guide for required construction contract clauses can be found in the Labor Standards Section, Appendix F.

2. Minority-Owned Businesses and Women-Owned Businesses (Disadvantaged Business Enterprises – DBE)

Recipients are required to make affirmative efforts to hire minorities and

women and to maximize opportunities for minority and female-owned firms to secure and/or participate in CDBG contracts.

As a further requirement of this CDBG program and as stated in Executive Order 12432 of July 14, 1963, all grantees are to conduct procurement of contractors and vendors in a manner that will include and encourage participation of minority and women owned businesses. To adhere to this requirement, grantees should:

a. Maintain a list of all minority and women owned businesses and contractors invited to bid on respective projects.

b. Maintain documentation of bid advertisements published in:

   (1) A general circulation newspaper
   (2) Minority newspapers
   (3) Trade publications

c. Maintain documentation of all outreach activities made to minority and women owned businesses.

You can access these certified contractors from the KDOT Web site www.ksdot.org/. In Quick Search type in "Office of Civil Rights". You can access the DBE directory at the top, and it lists both construction and non-construction directories. Also, access the Minority and Women Business Directory on the Kansas Commerce website.

3. The Americans with Disabilities Act (ADA)

On July 26, 1990, President Bush signed into law The Americans with Disabilities Act, the first comprehensive civil rights law for persons with disabilities.

The Americans with Disabilities Act was passed to ensure the 43 million Americans with disabilities will finally be treated as full-fledged citizens with all rights, privileges and protections afforded all American citizens.

The ADA is a strong anti-discrimination law enacted to protect persons with disabilities. It also sends a clear message that all individuals are to be provided equal opportunities and privileges. The ADA embodies the American ideals that treasure the contributions individuals can make when free from arbitrary, unjust or outmoded societal attitudes and practices that prevent the realization of their potential.

a. Who is a person with a disability?

   (1) An individual is covered by the ADA as a "person with a disability" if that individual meets any of the following conditions:

      - Has a physical or mental impairment;
      - Is substantially limited in major life activity(ies);
      - Is regarded as having an impairment;

- Has a history of such an impairment;
- Has an association with a person with a disability.

(2) The ADA applies to persons who have disabilities that limit major life activities such as:

- seeing
- hearing
- speaking
- walking
- breathing
- performing manual tasks
- caring for oneself
- working

(3) An individual with epilepsy, paralysis, a substantial hearing or visual impairment, mental retardation, or a learning disability would be covered. But an individual with a minor, nonchronic condition of short duration, such as a sprain, infection, or broken limb, generally would not be covered.

(4) The ADA also prohibits discrimination in regard to a person with a history of a disability such as a history of cancer that is currently in remission, a person with a history of mental illness or a recovered drug or alcohol abuser.

(5) The Act protects individuals who are regarded and treated as though they have disabilities, even though they may not have.

For example, the Act would protect a severely disfigured, but otherwise qualified, individual from being denied employment because an employer feared the "negative reactions" of others.

(6) The ADA protects some persons who may not have a disability. The Act prohibits discrimination based on relationship or association to protect individuals from actions based on the fear or belief that the person's relationship to a person with a disability would affect job performance.

For example, the ADA would protect a person with a spouse who has a disability from being denied employment because of an employer's assumption the applicant would use excessive vacation or sick leave to care for the spouse.

(7) The ADA does not require an employer to hire an individual that is not qualified for the position, regardless of disability status.

b. Who is a "qualified individual with a disability?"

A qualified individual with a disability is a person who meets legitimate skill, experience, education or other requirements of an employment position and who can perform the essential functions of the position with or without reasonable accommodation.

If the individual is qualified to perform essential job functions, except for limitations caused by a disability, the employer must consider whether the individual could perform these functions with a reasonable accommodation.

III. POLICY ADOPTED TO HANDLE COMPLAINTS OF DISCRIMINATION

Citizen complaint procedures are an integral part of civil rights activities. Every grantee must establish a set of procedures for handling complaints of discrimination. These procedures, complaint forms, and other pertinent information should be contained within a file for public access.

Copies of all civil rights complaints received by this office will be retained in the grantee file.

Civil rights complaints received by the Kansas Small Cities Community Development Block Grant program will be those complaints alleging violation of one or more of the following statutes:

- Title VI, Civil Rights
- Title VIII, Civil Rights Act of 1968, as amended by the Housing Act of 1974
- Section 109, Housing and Community Development Act of 1974
- Section 504, Rehabilitation Act of 1973
- Age Discrimination Act of 1975
- Fair Housing Amendments Act of 1988

Each grantee's fair housing/civil rights contact person should:

- Establish procedures for receiving and assisting citizens with complaints.
- Make available HUD 903 forms (OMB No. 63-R 1226), included in this text. Or online at https://portal.hud.gov/FHEO903/Form903/Form903Start.action.
- Submit a copy of each complaint to the Kansas Small Cities program.

All complaints must be submitted to U.S. Department of Housing and Urban Development (HUD).

When a written complaint is sent to the Kansas Small Cities program either directly by a complainant from a CDBG funded city or county, their representative or by the designated intake officer of the aforementioned, the written complaint will be referred to the address in bold type on this page.

Any complaints filed with the Kansas Small Cities program alleging violation of E.O. 11246 (discrimination in employment by construction contractors) will be referred to the address in bold type on this page.

The name(s) of complainant(s) and the name(s) of respondent(s) must not be disclosed to any entity other than HUD.

Fair Housing discrimination complaints may be submitted by phone, by letter and/or a HUD-903 form. All must be submitted to HUD at the address in bold type on this page.

Fair Housing complaints can also be initiated by calling the Housing Discrimination Complaint HOTLINE: 1-800-669-9777.

All housing complaints which have been filed with the Department of Housing and Urban Development (HUD) will be forwarded to the state or local Fair Housing Assistance Program (FHAP) agency for investigation.

Department of Housing and Urban Development
Kansas City Regional Office, Region VII
Office of Fair Housing and Equal Opportunity
Gateway Tower II - 400 State Avenue
Kansas City, Kansas 66101

FHAP agencies for non-entitled areas of Kansas are:

Kansas Human Rights Commission
Landon State Office Building
900 S.W. Jackson - 8th Floor, Suite 851S
Topeka, KS 66612-1258
(785) 296-3206
Fax: (785) 296-0589

Branch Offices

130 South Market, 7th Floor
Wichita, KS 67202
(316) 337-6270
Fax: (316) 337-7376

100 Military Plaza, Suite 220
Dodge City, KS 67801
(316) 225-4804
Fax: (316) 225-4986

200 Arco Place, Suite 449
Independence, KS 67301
(316) 331-7083
Fax: (316) 331-7135

Complainants within FHAP areas may request their complaint be investigated by HUD if they so choose.

Each grantee should identify in the complaint procedures some of the areas in which housing discrimination occurs under Title VIII:

1. To refuse to show, rent, lease, sell or transfer housing.

2. To cause unequal terms, conditions and privileges of housing.

3. To cause unequal terms, conditions and privileges in the obtaining and use of financial assistance for the purpose, construction or maintenance of housing.
4. To segregate and/or separate in the occupancy of housing.

5. To include or honor restrictive covenants which are discriminatory.

6. To advertise any discriminatory preference or limitation in housing.

7. To aid and abet in unfair housing practices.

8. To retaliate against an employee or agent who complies with fair housing practices through such actions as demotion, discharge or unequal compensation.

9. To refuse to receive and transmit any bona fide offer to buy, rent, sell or lease housing.

10. To practice blockbusting, red-lining or steering.

Appendix A

HUD: ARE YOU A VICTIM OF HOUSING DISCRIMINATION - FAIR HOUSING IS YOUR RIGHT - ENGLISH

HUD: ARE YOU A VICTIM OF HOUSING DISCRIMINATION - FAIR HOUSING IS YOUR RIGHT - SPANISH

HUD FORM 903 ONLINE COMPLAINT

Appendix B

SUMMARY OF CIVIL RIGHTS LAWS, EXECUTIVE ORDERS, AND REGULATIONS

CDBG grantees must ensure all project activities will be administered in compliance with all civil rights laws and regulations. The following are summaries of those parts of the civil rights laws and regulations applicable to CDBG activities.

Title VI of the Civil Rights Act of 1964 provides that no person in the United States shall, on the grounds of race, color or national origin, be excluded from participation in, be denied benefits of, or be subjected to discrimination under any program or activity receiving federal financial assistance.

Title VIII of the Civil Rights Act of 1968 (Fair Housing Act), as amended, prohibits discrimination in the sale, rental and financing of dwellings based on race, color, religion, sex or national origin. Title VIII was amended in 1988 (effective March 12, 1989) by the Fair Housing Amendments Act, which: expanded the coverage of the Fair Housing Act to prohibit discrimination based on disability or on familial status (presence of child under age of 18, and pregnant women); established new administrative enforcement mechanisms with HUD attorneys bringing actions before administrative law judges on behalf of victims of housing discrimination; and revised and expanded Justice Department jurisdiction to bring suit on behalf of victims in Federal district courts.

Section 109, Housing and Community Development (HCD) Act of 1974, as amended, provides that no person in the United States shall, on the grounds of race, color, national origin, religion, or sex, be excluded from participation in, be denied the benefits of or be subjected to discrimination under any program or activity funded in whole or in part with funds made available under Title I of the Housing and Community Development Act of 1974.

Section 504 of the Rehabilitation Act of 1973, as amended, provides for nondiscrimination of an otherwise qualified individual solely on the basis of his/her handicap in benefiting from any program or activity receiving federal financial assistance. All recipients must certify to compliance with all provisions of this Section.

Age Discrimination Act of 1975. No person in the United States shall, on the basis of age, be excluded from participation in, be denied the benefits of or subjected to discrimination under, any program or activity receiving federal financial assistance.

Executive Order 11063, as amended, directs all departments and agencies to take all action necessary and appropriate to prevent discrimination in housing and related facilities owned or operated by the federal government or provided with federal financial assistance and in the lending practices with respect to residential property and related facilities (including land to be developed for residential use) of lending institutions, insofar as such practices relate to loans insured or guaranteed by the federal government.

Kansas Act Against Discrimination. It is a policy of the State of Kansas that requires all employers, labor organizations, employment agencies, realtors, financial institutions, or other persons covered by this Act to assure equal opportunities and encourage every citizen regardless of

race, religion, color, sex, age, physical disability, national origin, or ancestry, to secure and hold – without discrimination, segregation, or separation – employment in any field of work or labor for which they are properly qualified, the opportunity for full and equal public accommodations, and to assure full and equal opportunities in housing.

Section 3 of the Housing and Urban Development Act of 1968, as amended, provides that, to the greatest extent feasible, opportunities for training and employment shall be given to recipients of public housing and lower income residents of the unit of local government or the metropolitan area (or non-metropolitan county) in which the project is located, contract work in connection with such projects shall be awarded to business concerns which are owned in substantial part by persons residing in the same metropolitan area (or non-metropolitan county) as the project, employ Section 3 residents in full-time positions, or subcontract with businesses which provide economic opportunities to lower income persons.

Executive Order 11246, as amended, provides that no person shall be discriminated against on the basis of race, color, religion, sex or national origin in any phase of employment during the performance of federal or federally-assisted construction contracts in excess of $10,000. The following civil rights requirements also apply to CDBG grantee performance: grantees shall comply with Executive Order 11246, as amended by Executive Order 12086, and the regulations issued pursuant thereto (41 CFR Chapter 60) which provide that no person shall be discriminated against on the basis of race, color, religion, sex, sexual orientation, gender identity or national origin in all phases of employment during the performance of federal or federally-assisted construction contracts. As specified in Executive Order 11246 and the implementing regulations, contractors and subcontractors on federal or federally assisted construction contracts shall take affirmative action to ensure fair treatment in employment, upgrading, demotion or transfer, recruitment or retirement advertising, layoff or termination, rates of pay or other forms of compensation and selection or training and apprenticeship.

Section 503 of the Rehabilitation Act of 1973, as amended, provides for the nondiscrimination in contractor employment. All recipients of federal funds must certify to the following through all contracts issued:

Affirmative Action for Handicapped Workers

1. The contractor will not discriminate against any employee in regard to any position for which the employee or applicant for employment is qualified. The contractor agrees to make affirmative action to employ, advance in employment and otherwise treat qualified handicapped individuals without discrimination based upon their physical or mental handicap in all employment practices such as the following: Employment upgrading, demotion or transfer, recruitment, advertising, layoff or termination, rates of pay or other forms of compensation, and selection for training, including apprenticeships.
2. The contractor agrees to comply with the rules, regulations and relevant orders of the Secretary of Labor issued pursuant to the Act.
3. In the event of the contractor's noncompliance with the requirements of this clause, action for noncompliance may be taken in accordance with the rules, regulations and relevant orders of the Secretary of Labor issued pursuant to the Act.

4. The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices in the form to be prescribed by the Director, provided by or through the contracting officer. Such notices shall state the contractor's obligation under the law to take affirmative action to employ and advance in employment qualified handicapped employees and applicants for employment and the rights of applicants and employees.
5. The contractor will notify each labor union or representative of workers with which it has a collective bargaining agreement or other contract understanding, that the contractor is bound by the terms of Section 503 of the Rehabilitation Act of 1973, and is committed to take affirmative action to employ and advance in employment physically and mentally handicapped individuals.
6. The contractor will include the provisions of this clause in every subcontract or purchase order of $2,500 or more unless exempted by rules, regulations or orders of the Secretary issued pursuant to Section 503 of the Act, so that such provisions will be binding upon each subcontractor or vendor. The contractor will take such action with respect to any subcontractor or purchase order as the Director of the Office of Federal Contract Compliance Programs may direct to enforce such provisions, including action for noncompliance.

Section 912 of the Cranston-Gonzales National Affordable Housing Act, as amended, Section 109 (a) of the HCD Act to prohibit discrimination on the basis of religion.

E-Verify - CFR 52.222-54 requires federal contracts committing government contractors (subcontractors) to use the USCIS E-Verify system to verify that all of the contractors employees, (existing and new), directly performing work under federal contracts, are authorized to work in the United States.

Appendix C

SAMPLE
CIVIL RIGHTS/FAIR HOUSING POLICY

We, the County/City Commissioners of _____ adopt the following procedures for handling a civil rights/fair housing complaint(s) within our City/County.

1) The County/City Clerk shall receive all complaints within his/her office and the complaint shall then be formally introduced to the County/City Commission at the next regularly scheduled meeting.

2) We, the County/City Commissioners shall try to assist in resolving the conflict between the parties involved. If a resolution of the problem cannot be reached, then we will forward the complaint to the proper authorities.

3) Fair housing discrimination complaints will be submitted to HUD by phone, letter, and/or a HUD-903 form. All such complaints will be submitted to HUD at:

   Department of Housing and Urban Development
   Kansas City Regional Office, Region VII
   Office of Fair Housing & Equal Opportunity
   Gateway Tower II - 400 State Avenue
   Kansas City, KS 66101

   or by calling the Housing Discrimination Complaint HOTLINE 1-800-669-9777.

4) In the event of a civil rights complaint, we agree to also contact the following agencies:

   Kansas Human Rights Commission
   900 Jackson Street - 8th Floor
   Topeka, KS 66612
   (785) 296-3206

   Kansas Department of Commerce
   1000 S.W. Jackson St., Suite 100
   Topeka, KS 66612-1354
   (785) 296-3004

   We do hereby adopt these procedures in resolving any civil rights/fair housing complaints.

_____
Chairman/Mayor

(SEAL)

_____
County/City Clerk

SAMPLE – Section 3
NOTICE TO CITIZENS IN THE CITY/COUNTY OF _____

OPPORTUNITY FOR WORK

The City/County of _____ has received a $_____ Community Development Block Grant from the Kansas Department of Commerce to _____(type of project)_____ in the City/County of _____.

This grant will provide the City/County of _____ the opportunity to search for eligible local citizens interested in participating in the project. Section 3 of the Housing and Urban Development Act of 1968, as amended through 1994, provides that to the greatest extent feasible, preference for economic opportunities will be given to citizens in _____ City/County who are determined to be low- to moderate- income individuals. A low- to moderate-income individual can be calculated by documenting household income of less than 80 percent of the county median income. Opportunities such as job training and employment that arise through this Community Development Block Grant project will be directed toward City/County residents. Contractors can be eligible for a Section 3 contract as awarded in connection with CDBG projects if they meet one of the following definitions:

- Business is owned by 51 percent or more Section 3 residents;
- Business employs Section 3 residents in full-time positions;
- Businesses who subcontracts with other businesses that provide economic opportunity to Section 3 residents.

Section 3 requirements apply to the City/County as a grantee, if the project activity is $200,000 or more, and to all contractors and subcontracts $100,000 or more if the $200,000 threshold is met.

If you wish to determine if you qualify or have an interest in serving as a subcontractor for this project, please contact (Name), (Address), (Phone number).

If you are interested in job training or other employment resources, please contact:
KANSASWORKS services at 1-877-509-6757
www.kansasworks.com

Appendix E

NOTICE OF FAIR HOUSING/CIVIL RIGHTS CONTACT PERSON

TO: Your Project Manager

NOTE: THIS FORM IS TO BE SUBMITTED WITH FIRST QUARTERLY PROGRESS REPORT.

DATE: _____ RE: _____
Grantee

FROM: _____ _____
_____ Grant Number
_____

1. List all grants received in the past three years and the fair housing activity completed for each grant.

Grant Year	Type of Grant	Activity	Closed (Y or N)

2. List activity proposed for first year of this grant: _____
_____

3. The local city/county contact person designated to handle any fair housing/civil rights complaint is: _____
_____

Section 11: Audit Requirements

I. AUDIT REQUIREMENTS

2 CFR Part 200 requires local governments that receive a significant amount of federal grant assistance (including loans) to have an annual audit. More specifically, the requirements are as follows:

A. If the local government disburses or expends $**750,000** or more of federal grant assistance from all programs, it must have an annual audit performed in accordance with 2 CFR Part 200. A 2 CFR Part 200 audit is a financial and compliance audit that covers the entire operations of the local government, rather than being limited to the CDBG project or other federal grants.

B. If the local government expends less than $**750,000** in a fiscal year, it will be the option of the Kansas Department of Commerce to determine if a project specific audit will be required.

C. Grantees will be required to submit the "Audit Information Form" to the Kansas Department of Commerce each fiscal year. This form must be submitted to the Department on or before May 15th of each fiscal year.

II. AUDITOR SELECTION

If a 2 CFR Part 200 audit is required, the audit must be performed by an independent qualified auditor. The local government should follow the regular federal or state procurement standards in the hiring of an auditor if CDBG funds are paying for the audit.

III. DEADLINES

The local governmental entity must make the audit report available for public inspection within 30 days of completion and keep it on file for four years from the date of issuance.

The audits should be submitted to the Department within 30 days of completion and no later than nine months after the end of the audit period. For example, an audit covering the period January 1 - December 31, 20____, must be submitted no later than September 30, 20____.

IV. SUBMISSION OF AUDITS

One copy of the audit should be sent to Commerce. The address is:

Kansas Department of Commerce
Small Cities CDBG Program
Attention: Close-Out/Audit Specialist
1000 S.W. Jackson St., Suite 100
Topeka, Kansas 66612-1354

If the grantee has a 2 CFR Part 200 audit covering more than $**750,000** of federal grant funds, a copy should also be sent to the Single Audit Clearinghouse. The address is:

Single Audit Clearinghouse
Bureau of the Census
Data Preparation Division
1201 East 10th Street
Jeffersonville, Indiana 47132

If the audit covers other federal grants, the federal or state agency administering those grants should also be given a copy of the audit.

V. AUDIT REVIEW

Audits are reviewed by the Department to ensure that federal audit requirements are being met as well as to handle findings of noncompliance or questioned costs relating to the CDBG projects. The Department will notify the local grantee in writing of its formal acceptance or rejection of an audit. (If an audit is rejected, the audit must be revised or a new audit performed.) The Department's audit acceptance letter will take note of any findings or questioned costs relating to the CDBG grants. The local grantee will be required to take action to remedy the findings or questioned costs within a specified time horizon. When sufficient action has been taken, the Department will notify the grantee that the findings are resolved, and the audit is closed.

VI. PRIMARY DOCUMENTS AND REGULATIONS

The Audit Guide of the American Institute of Certified Public Accountants has identified three primary documents governing the performance of single audits:

A. 2 CFR Part 200

B. Government Auditing Standards: Standards for Audit of Government Organizations, Programs, Activities, and Functions;

C. Catalog of Federal Domestic Assistance (CFDA).

NOTE: The CFDA number for the Small Cities Community Development Block Grant is 14.228.

AUDIT INFORMATION FORM

Grantee: _____

Address: _____

_____

_____

_____

Fiscal Year: _____

Is Grantee required to have a 2 CFR Part 200 audit? ☐ Yes ☐ No

Please list all sources and amounts of Federal Financial Assistance expended this year:

CDBG Grant No. _____ Amount $ _____

CDBG Grant No. _____ Amount $ _____

CDBG Grant No. _____ Amount $ _____

Other Federal Grants:

Name: _____ Amount $ _____

Name: _____ Amount $ _____

Name: _____ Amount $ _____

Name: _____ Amount $ _____

Total All Federal Financial Assistance Expended $ _____

_____

Signature of Authorized Elected Official

_____

Title

_____

Date

(Rev. 5/2016)

Section 12: Grant Close-Out

24 CFR 85.50 addresses the timing of grant close-outs as follows: "Within 90 days after the date of expiration or termination of the grant, the grantee must submit all financial, performance, and other reports required as a condition of the grant." Commerce has interpreted the time period to include the requirement of the grant being closed out, with the possible exception of the audit, within 90 days of completion of project activities.

The close-out process encompasses a series of activities to verify that CDBG funds have been properly spent and that the city or county has completed the elements of its program in a timely and acceptable manner. The timeliness and content of information presented at close-out is considered by Commerce to determine future CDBG applications. It is very important that recipients pay careful attention to close-out procedures as a final step in the CDBG management process. The grantee must retain all records for a period of **three years after HUD close-out of the grant year.**

I. PRECONDITIONS FOR CLOSE-OUT

The following six preconditions must be met before a grantee can begin the close-out process: (The sixth precondition applies to Economic Development projects only.)

A. Monitoring Completed – The Department does its best to monitor all CDBG projects at least **twice** throughout the duration of a grant. All findings, concerns or issues arising from monitoring reviews must be resolved. Some projects, ie: fire trucks, playground equipment, may be monitored only once.

B. Prior Year's Audit(s) – Under current federal audit regulations, some grantees will need to have annual audits performed for each year in which they drew federal funds. All required audits for previous years must have been accepted by the Department; any findings or questioned costs must have been resolved.

C. Final Quarterly Progress Report – With one exception, this is the same report the grantee filed each quarter while drawing funds. The exception: this is the report prepared and submitted within 90 days of either the completion of all project activities or the expiration of the state grant agreement.

D. Project Costs Paid – The grantee has paid all costs incurred as part of this project. If CDBG is paying for the final audit, the grant must remain open until the audit and proof of payment has been received by the Department.

E. Public Hearing – A close-out public hearing has been conducted (see Citizen Participation section). A copy of the affidavit of publication is required to be submitted as part of the close-out.

F. The Grantee certifies by filing a Grantee Legal Review and Closeout Report that it has put in place a means of monitoring and tracking the company's adherence to monthly payment schedules, changes to the grant repayment agreements, and amendment or termination of UCC financing statements, mortgages and guaranty contracts (as applicable).

II. CLOSE-OUT

A. Overview – After the grantee completes the project and the preconditions for close-out listed above, the grantee is ready to submit a close-out package to the Department. These documents will be reviewed by your CDBG project manager for report omission(s), who will then forward the close-out package to the Close-Out Specialist for final processing. The Department will issue a Certificate of Completion after it has been determined the close-out package is complete and accurate.

B. Close-Out Materials – The first section of the package includes forms common to all projects receiving CDBG program funds. For Economic Development grants (Business Finance and Infrastructure), there are special forms unique to projects which create a revolving loan fund.

C. Close-Out Instructions – Below are instructions for each of the close-out forms. If you have any questions as you complete the close-out forms, please contact the Close-Out Specialist at (785) 296-7092. **Do not copy forms front to back**.

- Please complete the Grant Close-Out Transmittal form.
- Close-out transmittal forms items 1 through 8 are for all CDBG grants. Form 7 is applicable to all projects containing construction requiring weekly payroll submittal. Economic Development grants such as Business Finance and Infrastructure need to send in the above forms plus reports/worksheets 9 through 11. Form 12 is required for all Housing projects.
- Original signature by the authorized elected official is required on all asterisked forms (*).
- Do not send in substitute forms.
- Please review all forms for completeness and accuracy before sending in the close-out package. If close-out forms are missing or otherwise deficient, they will be returned to the grantee for correction. This delay in processing a close-out package may make some applicants ineligible to submit a grant application in the next round of grant awards.

1. Grantee's Release Form

This form releases the state from all liabilities, obligations, or claims.

Line 1. Enter in the grant agreement number. This is located in the grant agreement.

Line 2. This amount will equal your entry on the certificate of completion form, Line 11(c), CDBG grant amount applied/total costs. This is the original grant less any returned grant funds.

Line 10. Original signature of the authorized elected official must appear here.

Line 12. The attest and seal area must have the signature and title of the person attesting the authorized signature and the official seal.

2. Final Independent Auditor's Report

As part of the close-out process, the Department must make sure that all audit requirements are met by the grantee (see audit requirements in Section 11). Because of the federal audit regulations, the Department has established two close-out designations:

Close-Out with Audit – Under this form, all required audits must have been accepted by the Department. All audit findings and questioned costs must be resolved before the grant can be closed out unconditionally.

Close-Out Pending Audit – For those grantees required to have annual single audits (2 CFR Part 200), it may be desirable for them to submit their close-out package prior to the performance of the last audit. For example, a project may end in February, but a 2 CFR Part 200 would cover the whole fiscal year. The grantee may want to submit the close-out materials at the time the project is complete. Their close-out Certificate of Completion would be issued subject to the submission of an acceptable final year audit and the resolution of any findings and questioned costs contained in the audit. This can only be accomplished if the grantee is paying final audit costs.

Check the appropriate space in front of either A, B or C. If A is checked, no further information is required on this form.

If C is checked, please fill in the name, address, phone number and contact person with the audit firm. Enter the date the audit is to begin. Note whether the audit will be paid for by CDBG or local funds. As stated previously, the grant cannot be closed if CDBG funds are paying for the audit. Enter the date the audit is scheduled to be completed.

3. Final Quarterly Progress Report (Form not included in this section)

Please refer to the instructions in the Grantee Handbook section, Quarterly Progress Reports, when completing the Final Quarterly Progress Report.

The following instructions apply to the Final Quarterly Progress Report.

Page 1, Section I., Grantee Data

Report Number – enter the word "Final".

Contract end date – must reflect any time extensions granted by CDBG.

Section II., Financial Status

Item 1. Total CDBG grant – Must reflect any budget amendments.

Item 2. Drawdowns received – As of date of report, to include final drawdown.

Item 3. Available grant – Amount of unobligated monies remaining for this grant. Line 1 minus lines 2 and 3. This is the amount which will be deobligated. If you are sending a refund check with the close-out, the amount available will include this amount.

Item 4. Total local injection – Enter the amount pledged to this grant.

Item 5. Local spent to date – Enter the total local monies spent at close-out.

Section III., Contracts Awarded this Quarter

Add any contracts awarded CDBG funds since last report.

Page 2 – Complete for all grants using final figures. See Section 2, Quarterly Progress Reports, for instructions.

NOTE: An economic development grant made to a local government and in turn loaned to a business entity for job creation and retention will be repayable to the state upon termination of the grant agreement or at close-out in the event jobs created and/or retained fall short of the number committed to be created or retained in the grant application. Repayment of the grant will be an amount equal to the proportion of jobs not created or retained to the total number committed.

4. Certificate of Completion

Two original reports of this form must be returned to the Department.

The following capital letters are keyed to sections on the form - the numbers or lower case letters refer to lines or columns, respectively.

A. Please use full official/legal name, i.e., "The City of (your City)."

B. Grant Agreement Number

C. Final Statement of Cost

"Program Activity Categories" (lines 1-8) – Use the same categories/titles as the Grant Agreement Budget Form and the Quarterly Progress Report.

"Paid Costs (a)" – All expenditures, to date, including final draw, on this project. This includes both CDBG funds and all other funds.

"Local Unpaid Costs (b)" – Costs incurred during the project which are unpaid at time of submittal of close-out. Explain the amounts shown here in Section E, Unpaid Costs and Unsettled Third-party Claims. **Please note: a grant cannot be closed until all unpaid costs are satisfied**.

"Total Costs (c)" – Sum your entries in column (a) and column (b). They should agree with the costs reported on the Final Quarterly Progress Report and final draw request.

"Total Program Costs" (line 9) – The total of lines 1-8 for each respective column.

"Less Other Funds Applied" (line 10) – The entries in this line should be the same as the Final Quarterly Progress Report (section IV, Local $ column).

"CDBG Grant Amount Applied" (line 11) – Enter eligible costs only. These entries should be the same as the Final Quarterly Progress Report (CDBG $ column). Unallowed or refunded amounts should be set out in Section F, Remarks.

Administration is limited to 10 percent or less of final CDBG costs.

D. "Computation of Grant Balance" – Complete the recipient column by copying the appropriate amounts from Section C to Section D. Line 17 should include the final draw requested.

E. "Unpaid Costs and Unsettled Third-Party Claims" Local Only – Break out any unpaid cost items you entered in Section C, Unpaid Costs. Provide a brief description of same.

F. "Remarks" – List any remarks appropriate to the project or its financing. This is the area to explain or set out information on refunds, questioned costs from audits or monitoring visits or disallowed costs (see also the Explanation of Refund Check form in this package).

G. "Certification of Recipient" – The signature of the authorized elected official certifies the accuracy of the information provided, compliance with grant requirements and assumes for the recipient (local government) any liability for unpaid costs or third-party claims.

H. "Department Approval" – The signature of the Kansas Department of Commerce certifies that the project is complete pending a review and acceptance of a final audit of the local government's accounts.

One original of the final executed Certificate of Completion will be returned to the recipient when all grant close-out conditions have been approved.

5. Property Management Report

24 CFR Part 85, Subpart C, 85.31-33, provides policy guidance and suggested property management procedures as they pertain to CDBG grantees in the implementation of property management standards. It prescribes uniform standards governing the utilization and disposition of property furnished by the federal government, or acquired in whole or in part with federal funds, or whose cost was charged to a project supported by a federal grant. CDBG shall require grantees to observe these standards under the grants from the federal government and shall not impose additional requirements unless specifically required by federal law. The grantees shall be authorized to use their own property management standards and procedures as long as the provisions of Subpart C, 85.31-33 are included (see Property Management Section herein).

NOTE: This is not an inclusive summary and should not be used as a substitute.

6. Explanation of Refund Check

This form is used any time a grantee refunds grant monies to the state. It is included here for use with the Certificate of Completion form, in conjunction with the "Remarks" section.

a. Enter the name of the Grantee, Grant Agreement Number, and the CDBG award total (reflecting any budget revisions). This information is located in the Grant Agreement.

b. Enter the amount of the refund check and the date returned to the Department.

c. Reasons for the refund could include: disallowed costs, money received but not spent, questioned costs on audit reports, interest earned on grant money, etc.

d. If the refund check is returned as part of the close-out, please make a note of this on the Final Quarterly Progress Report under Section II., Total Grant Available.

7. Notice of Completion/Final Inspection and Final Wage Compliance Report Format

The information requested on this form is to assure that all construction payrolls have been checked and restitution made, if applicable, on all grants containing contracted construction where Davis-Bacon wage rates are applicable. This must be signed by the Chief Elected Official.

8. Final Public Hearing – See Citizen Participation Requirements

9. Economic Development Report

The information on this form summarizes the actual accomplishments and the extent of the benefits achieved by the grantee's expenditure of these funds. The capital letters and numbers are keyed to the report form. Items not addressed are self explanatory.

Section I. Direct Beneficiaries

A. Enter the name and address of the private industry directly benefiting from the grant.

B. Number of Jobs to be Retained: Enter the total number of employees to be retained according to the approved grant agreement. This value should also agree with the Final Quarterly Progress Report.

   Number of Jobs to be Created: Enter the total number of jobs to be created according to the approved grant agreement. This value should also agree with the Final Quarterly Progress Report.

   Target Total LMI Percent: Enter the target low- and moderate-income benefit percentage from the approved grant agreement.

C. Number of Jobs Actually Retained: Enter the total number of jobs retained since the grant award announcement. This entry should agree with the Final Quarterly Progress Report.

   Number of Jobs Actually Created: Enter the total number of jobs created since the grant award announcement. This entry should agree with the Final Quarterly Progress Report.

   Percent of LMI Benefit of New Jobs: Enter the percentage of new jobs created that directly benefited LMI individuals.

D. Total Funds Spent by Private Industry: Enter the dollar amount the private industry spent in connection with the approved grant agreement.

E. Total Local Cash Contribution: Enter the dollar amount of local cash contributions spent in connection with the approved grant agreement.

F. Other Local Contributions: Enter the dollar amount any other agency has provided in connection with the approved grant agreement.

Section II. Actual Accomplishments

A. Job Title/Classification: Provide a brief job title or classification for all jobs that were created/retained as a result of the project.

B. Skill Level: For each job title/classification, indicate whether the job is skilled, semi-skilled, or unskilled.

C. Number of Jobs Created/Retained: Enter the number of jobs counted as created or retained for each job title/classification listed in Column A. Please make sure your entry falls on either the Created or Retained side of the divider, as appropriate.

D. Number of Jobs Counted as LMI: Provide the number of jobs included in Column C which were counted as jobs for low- and moderate- income individuals.

   Remember: Semi-skilled are LMI countable as Retained. Semi-skilled are not LMI countable as Created.

E. Salary Level: Indicate the salary level for each job classification listed in Column A at the time of hire or retention.

F. Attach confirmed jobs log from final monitoring.

10. The Grantee's Legal Review and Closeout Report answers basic questions involving legal documents filed to preserve the grantee's position as a lender to the borrowing company. It reminds grantee officials of post-closeout administration monitoring that often accompanies final closeouts. Since continuity is important and law-related matters are the subject of the Report, we suggest the official assigned to this project, or such person's designee, be the grantee's attorney.

11. Program Income Agreement

    When CDBG monies are used to create a Revolving Loan Fund (RLF) that the grantee in turn "loans out" to provide financial assistance to a business venture, the grantee must enter into a Program Income Agreement with the Department. A key concept here is program income – the principal and interest repaid to the fund by the business.

    A RLF is a fund specially created to handle program income and to re-loan the funds to other projects that meet all the federal and state CDBG requirements. In order for the state to approve the establishment of an RLF, the project must attain the national objective, meet its job creation/job retention targets, and be current on the CDBG loan. All program income generated from projects awarded by the state after January 1, 1989, must meet the "same activity" and "reasonable time" provisions. "Same activity" is defined as another loan to the same business from which the program income was generated. "Reasonable time" is defined as another loan made within three months of the time when principal payments began on the original loan. Program income on projects prior to this date must meet all federal requirements and follow guidelines consistent with the respective program year.

The grantee must comply with a special set of regulations regarding program income.

– Business ventures that receive loans from the grantee must enter into a written agreement to repay the loans, plus interest, in a reasonable amount of time. Failure to obtain this agreement makes the grantee liable for the loan amount.

– All projects receiving loans or financial assistance from the grantee must: 1) allow for the retention or creation of jobs available to lower income persons, and 2) comply with CDBG regulations.

– The grantee must have on file with the Kansas Department of Commerce an approved plan for managing the monies in the fund and subsequent repayments. If approval for reuse was not received during the grant award process, it must be done at this time.

– Additionally, the grantee must submit a semi-annual report of activities and accomplishments under the reuse plan each June 30 and December 31.

A brief discussion of the reuse plan appears on the following page and in greater detail in the Economic Development Grantee Handbook.

12. Housing Beneficiary

This form can be completed by using the final housing log. The number of housing owner units, lead paint, and lead hazard remediation actions should represent housing units. Direct benefit data is also by households but is split between owner and renter units which will then give you a total number of households. Everything on this document should represent the number of households.

13. Section 3 – Tables A – D

Completed forms from all contracts where Section 3 is required, must be submitted with close-out.

III. GUIDELINES – LOCAL PLAN FOR THE USE OF CDBG PROGRAM INCOME

A. Strategy for the Use of the Fund

1. Statement of Purpose

Describe the local government's general intent for the establishment of a Revolving Loan Fund. All projects funded must be for the creation or retention of jobs which benefit lower income persons. Include the public participation process afforded to local citizens in the development of this Statement of Purpose and the resulting plan. Enclose a copy of the public hearing notice and minutes of the meeting.

2. Eligible Activities

Describe the types of economic development activities that will be eligible under the local Revolving Loan Fund. Be specific. If funding priorities are established, list them. Identify the geographic boundaries for projects.

3. Types of Assistance

Describe the financial assistance that will be available to eligible businesses, e.g., loans, loan guarantees and interest subsidies.

4. Time of Performance

Describe time restraints placed on a business for completion of a project once it has received assistance from the fund.

IV. DISTRIBUTION AND MANAGEMENT SYSTEM

A. Submission of Applications

Describe the manner in which applicants will be required to submit an application for assistance from the Revolving Loan Fund. Describe the type of information that will be required from the business and the process that will be used to verify this information. Submit a sample of the form that will be required for all applicants. Submit a copy of the local application guidelines.

B. Selection of Applicants

Describe the procedure that will be used to evaluate and make awards to applicants for financial assistance. Include the personnel structure involved in the initial review, verification work, negotiation and decision-making processes. Describe the safeguards for conflicts of interest. In the event of more than one applicant under review at the same time, specify the selection criteria to be used other than the priorities established in Section I(B) above.

C. Compliance with CDBG Regulations

Describe how the local government will assure that all loan recipients will comply with:

1. The National CDBG Objective;

2. Title I of the Housing and Community Development Act of 1974, as amended; and

3. The following laws, regulations and requirements:

   a. Civil Rights and Equal Opportunity Provisions
   b. Environmental Standards and Provisions
   c. Labor Standards and Provisions
   d. Fair Housing Standards and Provisions
   e. Administrative and Financial Provisions
   f. Hatch Act of 1938, as amended

Provide the personnel structure that will be involved in the compliance area. Include the reimbursement schedule for the costs associated with the above.

V. FINANCIAL MANAGEMENT

A. Maintenance of Records

Describe the administrative system that will be established to receive and record payments made to the Revolving Loan Fund. If the system will include other-than-local government staff, describe the arrangement to be secured e.g., contract with local development corporation or financial institution. Describe the method of reimbursement for costs of procuring other than in-house professional services.

B. Interim Investment

Describe the investment strategies that will be considered to promote growth, but assure security and liquidity of the Revolving Loan Fund and personnel involved in investment decisions.

VI. CHANGES AND MODIFICATIONS

A. Amendment Procedures

Describe the method that will be used to amend the original guidelines if it is determined that the local plan is no longer appropriate for local needs. Identify the individuals and groups to be involved in such a determination, and the public participation process to be used.

GRANT CLOSE-OUT TRANSMITTAL FORM

Grantee's Name and Address: _____

_____

_____

Grant Agreement No.: _____

Commencement Date: _____

Completion Date: _____

Please complete this form and items 1 through 6 for all grant types (7 is for applicable grants containing construction), including the Performance Hearing Affidavit to conclude this grant project. If this is a business finance or infrastructure grant, complete 9 through 11 in addition. If this is a housing grant, complete Form 12.

1. Grantee's Release Form *
2. Final Independent Auditor's Report
3. Final Quarterly Progress Report (Section 2)
4. Certificate of Completion (2 originals) *
5. Property Management Report
6. Explanation of Refund Check (if applicable)
7. Notice of Completion/Final Inspection – Final Wage Compliance Report *
8. Performance Hearing Affidavit
9. Economic Development Report, **and**

   Copy of Final Payroll and Employee Certification Report (from final monitoring)
10. Legal Review and Closeout Report (Economic Development)
11. Program Income Assignment Agreement (Economic Development)
12. Housing Rehabilitation and demo data
13. Section 3 Tables A - D

No costs have been incurred after the Completion Date of the above contract. All necessary documents and procedures have been followed, thereby finalizing the above referenced contract.

_____

Preparer's Name

_____

Title Telephone Number

_____

Date

(Rev. 2/2018)

Form 1

GRANTEE'S RELEASE FORM

Pursuant to the terms on Grant Agreement Number _____ and in consideration of the sum of _____ ($_____) which has been or is to be paid under the said contract to _____, grantee upon payment of the said sum by the State of Kansas, Department of Commerce, hereinafter called the grantor, does remise, release, and discharge the grantor, its officers, agents and employees of and from all liabilities, obligations, claims, and demands whatsoever under or arising from the said contract.

IN WITNESS WHEREOF, this release has been executed this _____ day of _____, _____.

Signature of Authorized Elected Official: _____

Typed Name and Title: _____

ATTEST AND SEAL

_____

_____

Form 2

FINAL INDEPENDENT AUDITOR'S REPORT

If the grantee expends $**750,000** or more from all Federal sources in any fiscal year in which the grant is open, a 2 CFR Part 200 audit is required from the grantee. If you expend or expect to expend this amount in the current fiscal year, please indicate below. If required, a copy of the entire audit report must be submitted to Commerce in the required time period.

☐ A. 2 CFR Part 200 audit is not required.

☐ B. Audit is complete and one copy is enclosed.

☐ C. Audit is in progress or not yet begun.

Auditor's Name: _____

Address: _____

_____

Telephone: _____

Contact person with firm: _____

Date audit to begin: _____

How the audit will be paid for: _____

Date audit to be completed: _____

Form 4

CERTIFICATE OF COMPLETION

A. Name of Grant Recipient	B. Grant Agreement Number

C. Final Statement of Cost

	To Be Completed By The Recipient			To Be Completed By CDBG
Program Activity Categories	Paid Costs (a)	Local Unpaid Costs (b)	Total Costs (c)	Approved Total Costs
1.				
2.				
3.				
4.				
5.				
6.				
7.				
8.				
9. Total Program Costs				
10. Less Other Funds Applied				
11. CDBG Grant Amount Applied				

D. Computation of Grant Balance

	To Be Completed By The Recipient	To Be Completed By CDBG
12. Total Amount Applied (Line 11a)		
13. Estimated for Unsettled Third-Party Claims		
14. Subtotal (Line 11c)		
15. Grant Amount Per Agreement (from contract)		
16. Unutilized Grant to be Canceled (Line 15 less Line 14)		
17. Grant Funds Received		
18. Balance of Grant Payable (Refundable) (Line 14 less Line 17)*		

* If Line 17 exceeds Line 14, enter excess as a negative amount. This amount shall be repaid to the Department by check.

E. Unpaid Costs and Unsettled Third-Party Claims (Local Only)

List amounts and describe circumstances

☐ Check if continued on additional sheet and attach

F. Remarks

☐ Check if continued on additional sheet and attach

G. Certification of Recipient

It is hereby certified that all activities undertaken by the recipient with funds provided under the Grant Agreement identified as Item B above have, to the best of my knowledge, been carried out in accordance with the Grant Agreement; that proper provision had been made by the recipient for payment of all unpaid costs and unsettled third-party claims identified in Item E above; that the Department, the State of Kansas, and the United States of America are under no obligation to make any further payment to the recipient under the Grant Agreement in excess of the amount identified on Line 18 above; and that every statement and amount set forth in this instrument is, to the best of my knowledge, true and correct as of this date.

Date	Signature of Chief Elected Official	Typed Name and Title

H. Department Approval

This Certificate of Completion is hereby approved. Therefore, I authorize cancellation of the unutilized contract agreement and related funds reservation and obligations _____ (line 16 above).

Date	Signature for CDBG Program	Typed Name

Form 5

PROPERTY MANAGEMENT REPORT

Grant Agreement No: _____
Grant Recipient: _____

If any property (as defined in 24 CFR Part 85, Subpart C, 85.31-33) has been acquired, in whole or in part with federal funds, as being necessary and reasonable for the administration of this grant, please complete the items below.

A. Description of Acquired Property

Property Description	Date Acquired	Acquired Cost	Inventory Tag? (Y/N)	Inventory Number	Location

B. Disposition of Acquired Property

Property Description	Disposal Date	Asset Value	Method to Determine Fair Market Value

SUBMIT ONLY IF APPLICABLE

Form 6

EXPLANATION OF REFUND CHECK

Name of Grantee: _____
Grant Agreement No: _____
Grant Award Total: _____

A refund check in the amount of $ _____ is enclosed or was returned on _____ (Date).

Explanation of Refund:

_____
_____
_____

SUBMIT ONLY IF APPLICABLE

Form 7

NOTICE OF COMPLETION/FINAL INSPECTION AND FINAL WAGE COMPLIANCE REPORT FORMAT

To: Kansas Department of Commerce
CDBG Program
1000 S.W. Jackson St., Suite 100
Topeka, Ks 66612-1354

Date: _____

Grantee: _____

Grant Number: _____

1. Date of Construction Completion: _____

2. Date of Final Inspection: _____

FINAL WAGE COMPLIANCE REPORT FORMAT

While you or your representative were reviewing the contractor's weekly payrolls, were any laborers or mechanics paid less than the minimum wage rate plus fringe benefits as specified in the Secretary of Labor's Wage Decision that applied to this project?

☐ NO ☐ YES

If yes, provide the following information:

a. Total amount of restitution paid (difference between what was first paid and what was required to be paid): $ _____

b. Method of restitution:

☐ paid by contractor(s)

☐ paid by city with funds withheld from payment to contractor(s).

Name of Contractor or Subcontractor	Name of Affected Employees	Amount of Restitution Paid to Employee	Nature of Violation Leading to Restitution

Date	Signature of Chief Elected Official	Typed Name and Title

Form 9

ECONOMIC DEVELOPMENT REPORT

Date: _____

Grant Agreement No: _____

Grantee: _____

I. Direct Beneficiaries

A. Private Industry Involved:

1) Name: _____

2) Location: _____

B. Grant Agreement:

Number of Jobs to be retained: _____ created: _____

Target total LMI: _____ %

C. Final Performance:

Number of Jobs: actually retained: _____ actually created: _____

Number of Jobs: LMI retained: _____ LMI created: _____ Total LMI: _____ %

Must correspond with information in Section II (below).

D. Total funds spent by private industry: $ _____

E. Total (Recipient) cash contribution: $ _____

F. Other contributions: $ _____

G. Comments: _____

_____

II. Actual Accomplishments (Job summary attached to final monitoring to be used for close-out.)

Form 10

Grantee's Legal Review and Closeout Report

Pursuant to the terms on Grant Agreement No. _____ and in consideration of the sums paid or to be paid to the (City/County) of _____, (hereafter GRANTEE) under said grant by the Kansas Department of Commerce, Small Cities Community Development Block Grant program, (hereafter Commerce/CDBG) and in closeout of said agreement, GRANTEE does hereby represent to Commerce/CDBG the following:

1. That certain UCC financing statements were properly filed with the Kansas Secretary of State or other appropriate filing agency on _____.

2. That such financing statements evidence the GRANTEE's continuing financial interest in the loans made to this project.

3. That _____ (name of GRANTEE official or official designee) who is the _____ (position/title) has been instructed on the importance of proper filing of continuation statements on these financing statements, that such continuation statements must be filed only within the last six months of the five-year period in order to avoid a lapse in coverage by the statement, that any change in collateral by the company will be discussed with Commerce/CDBG before such change is allowed, and that if the loan is paid in full during the period of the UCC financing statement, such official or designee will cause a proper termination statement be filed by GRANTEE in order to avoid statutory lender penalties.

4. That such official will insure that any payments made on this loan are promptly recorded and forwarded to Commerce/CDBG as previously instructed by Commerce/CDBG personnel.

5. That the (County Counselor/County Attorney/City Attorney) has a valid copy of this representation.

Name of Grantee Official: _____
(please type)

_____
Signature

_____
Title

_____
Date

ATTEST & SEAL:

_____

_____

_____
Signature for CDBG Program
Kansas Department of Commerce

Form 11

PROGRAM INCOME AGREEMENT FOR ECONOMIC DEVELOPMENT GRANTS

The _____ (city or county grantee) does hereby agree to adhere to the following conditions relating to future activities involving the use of funds generated by its CDBG Grant Agreement Number _____.

I. The Grantee either has on file at the Kansas Department of Commerce or has attached, a "Local Plan for Use." This plan, previously approved by the Department, sets out how the revolving fund will operate and establishes administrative procedures for handling receipts and disbursements of the fund.

II. The Grantee agrees to submit a semi-annual report of fund activities and accomplishments. The report should include a statement of sources and uses of funds.

III. If the Grantee does not begin to operate the fund in accordance with the plan within 24 months of the grant award date, then the grantee is liable to repay all program income plus interest earned thereon to the Department for deposit in the State's Economic Development Revolving Loan Fund.

_____ _____
Signature of Chief Elected Official Typed Name and Title

ATTESTED: _____
(Signature)

_____
(Typed Name and Title)

_____
(Date)

The above agreement is hereby accepted on the part of the Department and the State of Kansas.

_____
Signature for CDBG Program
Kansas Department of Commerce

ATTESTED: _____
(Signature)

_____
(Typed Name and Title)

_____

Form 12

NUMBERS for HOUSING CLOSEOUT	HOUSING UNITS OR NUMBER OF ITEMS
TOTAL OWNER UNITS:	
Units Occupied by Elderly	
Units moved from Substandard to Standard (HQA or Local Code)	
Section 504 Accessible Units	
Whole House Units Qualified as Energy Star	
Units brought into Compliance with Lead Safety Rules (24 CFR Part 35)	
LEAD PAINT:	
Housing Constructed before 1978	
Exempt units: Constructed 1978 or later	
Exempt costs: Hard costs under $5,000	
Otherwise Exempt:	
LEAD HAZARD REMEDIATION ACTIONS: (rehabilitation only)	
Lead Safe Work Practiced-Hard cost under $5,000 24 CFR 35.930(b)	
Interim Controls or Standard Practices-Hard cost $5,000 - $25,000 24 CFR 35.930(c)	
Abatement - Hard costs over $25,000 24 CFR 35.930 (c)	

DIRECT BENEFIT DATA BY HOUSEHOLD

	OWNER		RENTER		TOTAL HOUSEHOLDS	
RACE	**TOTAL**	**Hispanic/ Latino**	**TOTAL**	**Hispanic/ Latino**	**TOTAL**	**Hispanic/ Latino**
White						
Black/African American						
Asian						
American Indian/Alaskan Native						
Native Hawaiian/Other Pacific Islander						
American Indian/Alaskan Native & White						
Asian & White						
Black/African American & White						
American Indian/Alaskan Native						
Other Multi-Racial						
TOTAL						

Female Head Of Household Total		**# of Demo Units**	

Income Level Total	
Extremely Low (30%)	
Low (50%)	
Moderate (80%)	

Section 13: Property Management

I. REAL PROPERTY

A. Title – Title to real property acquired under a grant will vest in the grantee upon acquisition.

B. Use – Except as otherwise provided by federal statutes, real property will be used for the originally authorized purpose as long as needed for that purpose, and the grantee shall not dispose of or encumber its title or other interests.

C. Disposition – When real property is no longer needed for the originally authorized purpose, the grantee will request disposition instructions from the CDBG program. The instructions will provide for one of the following alternatives:

1. Retention of Title – Retain title after compensating CDBG program. The amount due the program will be computed by applying CDBG's percentage of participation in the cost of the original purchase to the fair market value of the property. However, in those situations where a grantee is disposing of real property acquired with grant funds and acquiring replacement real property under the same program, the net proceeds from the disposition may be used as an offset to the cost of the replacement property.

2. Sale of Property – Sell the property and compensate the CDBG program. The amount due the CDBG program will be calculated by applying CDBG's percentage of participation in the cost of the original purchase to the proceeds of the sale after deduction of any actual and reasonable selling and fixing-up expenses. If the grant is still active, the net proceeds from sale may be offset against the original cost of the property. When a grantee is directed to sell property, sales procedures shall be followed that provide for competition to the extent practicable and result in the highest possible return.

3. Transfer of Title – Transfer title to the CDBG program or to a third-party designated/approved by CDBG. The grantee shall be paid an amount calculated by applying the grantee's percentage of participation in the purchase of the real property to the current fair market value of the property.

II. EQUIPMENT

A. Title – Title to equipment acquired under a grant will vest in the grantee upon acquisition.

B. Use

1. Equipment shall be used by the grantee in the program or project for which it was acquired as long as needed, whether or not the project or program continues to be supported by federal funds. When no longer needed for the original program or project, the equipment may be used in other activities currently or previously supported by a federal agency.

2. The grantee shall also make equipment available for use on other projects or programs currently or previously supported by the federal government, providing such use will not interfere with the work on the projects or program for which it was originally acquired. First preference for other use shall be given to other programs or projects supported by the CDBG program. User fees should be considered, if appropriate.

3. The grantee must not use equipment acquired with grant funds to provide services for a fee to compete unfairly with private companies that provide equivalent services, unless specifically permitted or contemplated by federal statute.

4. When acquiring replacement equipment, the grantee may use the equipment to be replaced as a trade-in or sell the property and use the proceeds to offset the cost of the replacement property, subject to approval of the CDBG program.

C. Management Requirements – Procedures for managing equipment (including replacement equipment), whether acquired in whole or in part with grant funds, until disposition takes place will, at a minimum, meet the following requirements:

1. Property records must be maintained that include a description of the property, a serial number or other identification number, the source of property, who holds the title, the acquisition date and cost of the property, percentage of federal participation in the cost of the property, the location, use and condition of the property and any ultimate disposition data including the date of disposal and sale price of the property.

2. A physical inventory of the property must be taken and the results reconciled with the property records at least once every two years.

3. A control system must be developed to ensure adequate safeguards to prevent loss, damage or theft of property. Any loss, damage or theft shall be investigated.

4. Adequate maintenance procedures must be developed to keep the property in good condition.

5. If the grantee is authorized or required to sell the property, proper sales procedures must be established to ensure the highest possible return.

D. Disposition – When original or replacement equipment acquired under a grant is no longer needed for the original project or program or for other activities currently or previously supported by a federal agency, disposition of the equipment will be made as follows:

1. Items of equipment with a current per-unit fair market value of less than $5,000 may be retained, sold or otherwise disposed of with no further obligation to the CDBG program.

2. Items of equipment with a current per-unit fair market value in excess of $5,000 may be retained or sold and the CDBG program shall have a right to an amount calculated by multiplying the current market value or proceeds from sale by CDBG's share of the equipment.

3. In cases where a grantee fails to take appropriate disposition actions, the CDBG program may direct the grantee to take excess and disposition actions.

E. Federal Equipment – In the event a grantee is provided federally-owned equipment:

1. Title will remain vested in the federal government.

2. Grantees will manage the equipment in accordance with federal agency rules and procedures and submit an annual inventory listing.

3. When the equipment is no longer needed, the grantee will request disposition instructions from the federal agency.

F. Right to Transfer Title – HUD may reserve the right to transfer title to the federal government or a third party named by the CDBG program when such a third party is otherwise eligible under existing statutes. Such transfers shall be subject to the following standards:

1. The property shall be identified in the grant or otherwise made known to the grantee in writing.

2. The CDBG program shall issue disposition instruction within 120 calendar days after the end of the federal support of the project for which it was acquired. If the CDBG program fails to issue disposition instructions within the 120 calendar-day period, the grantee shall follow Item D above, Disposition.

3. When title to equipment is transferred, the grantee shall be paid an amount calculated by applying the percentage of participation in the purchase to the current fair market value of the property.

III. SUPPLIES

A. Title – Title to supplies acquired under a grant will vest, upon acquisition, in the grantee.

B. Disposition – If there is a residual inventory of unused supplies exceeding $5,000 in total aggregate fair market value upon termination or completion of the award, and if the supplies are not needed for any other federally-sponsored programs or projects, the grantee shall compensate the CDBG program for its share.