

CDBG Applicable Laws and Regulations

There are a number of federal and state regulations that jurisdictions receiving Community Development Block Grant funds must follow. These laws cover a wide range of activities, such as labor practices, environmental impacts and civil rights. Listed below are some of the more important laws and regulations that could apply to projects involving CDBG funds. This is a preliminary list and by the time funds are released, it could change, depending upon actions by the federal government. Each regulation is annotated to give the applicant some idea of the requirements that must be met. Since this is only a summary and is not meant to be a comprehensive description of each law, please contact the Kansas Department of Commerce if you need more detailed information. We will keep applicants informed of any changes in this list as we learn of them.

FEDERAL LAWS AND REGULATIONS

Fair Housing Amendments Act of 1988

CDBG grant recipients must comply with the provisions of “Fair Housing Amendments Act of 1988.” The act provides that no person in the United States shall, on the grounds of race, color, religion, sex, national origin, age, disability, or familial status be denied the benefits of, be excluded from participation in, or be subjected to discrimination under any program or activity receiving federal financial assistance.

Public Law 90-284, Title VIII of the Civil Rights Act of 1968 (42 U.S.C. 3601 et seq.)

Grant recipients shall comply with the provisions of Title VIII of the Civil Rights Act of 1968 (42 U.S.C. 3601 et seq.). The law states that it is the policy of the United States to provide, within constitutional limitation, for fair housing throughout the United States and prohibits any person from discriminating in the sale or rental of housing, the financing of housing or the provisions of brokerage services, including in any way making unavailable or denying a dwelling to any person, because of race, color, religion, sex, disability, familial status or national origin. The grantee must administer programs and activities relating to housing and urban development in a manner which affirmatively promotes fair housing. 42 U.S.C. 3535(d), and 5301–5320.

Subpart A-General Provisions, (42 U.S.C. 3535(d), and 5301-5320)

In § 570.3, the definitions of “family” and “household” are revised to read as follows: § 570.3 Definitions. Family refers to the definition of “family” in 24 CFR 5.403. Household means all persons occupying a housing unit. The occupants may be a family, as defined in 24 CFR 5.403; two or more families living together; or any other group of related or unrelated persons who share living arrangements, regardless of actual or perceived, sexual orientation, gender identity, or marital status.

Executive Order 11063, as amended by Executive Order 12259 (24 CFR Part 107)

CDBG grant recipients must comply with the provisions of Executive Order 11063, as amended by Executive Order 12259, which directs the recipient to take all action necessary and appropriate to prevent discrimination because of race, color, religion, creed, sex, or national origin.

Title VI of the Civil Rights Act of 1964

Recipients must comply with Title VI of the Civil Rights Act of 1964 that states, no person shall, on the grounds of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving federal financial assistance.

Section 109 of the Housing and Community Development Act of 1974, as amended

Recipients must comply with the provisions of Section 109 of the Housing and Community Development Act of 1974 requiring 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 community development funds made available pursuant to Title I of the Act.

Age Discrimination Act of 1975, as amended (42 U.S.C. 6101 et seq.)

CDBG recipients shall comply with the Age Discrimination Act of 1975, as amended, which provides that no person shall be excluded from participation, denied program benefits, or subjected to discrimination on the basis of age under any program or activity receiving federal funding assistance.

Section 102 of the Housing and Urban Development (HUD) Reform Act of 1989 (24 CFR Part 12)

Recipients must comply with the provisions of Section 102 of the HUD Reform Act of 1989 if the recipient receives at least \$200,000 in covered assistance from HUD, states or local units of government, during the fiscal year the application is submitted. This requires the recipients to disclose:

- assistance from other government sources in connection with the project;
- the financial interests of persons in the project;
- the expected sources and uses of funds that are to be made available for the project or activity.

Applicants must update the disclosures within 30 days of any substantial change.

Section 104(1) of the Housing and Community Development Act, as amended

Section 104(1) provision states that no CDBG funds may be obligated or expended to any unit of general local government that fails to adopt and enforce a policy of prohibiting the use of excessive force by law enforcement agencies within its jurisdiction against any individuals engaged in non-violent civil rights demonstrations; or fails to adopt and enforce a policy of enforcing applicable state and local laws against physically barring entrance to or exit from a facility or location that is the subject of such non-violent civil rights demonstration within its jurisdiction.

Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. 794)

Recipients must comply with Section 504 of the Rehabilitation Act of 1973, as amended, which provides that no otherwise qualified individual shall, by reason of his or her handicap, be solely excluded from participation (including employment), denied program benefits, or be subjected to discrimination under any program or activity receiving federal assistance funds.

American with Disabilities Act (ADA) (P.L. 101-336; 42 U.S.C. 12101)

ADA provides disabled people access to employment, public accommodations, public services, transportation, and telecommunications. The ADA extends Section 504's mandate of non-discrimination based on disability to most of the private sector and to state and local government agencies not covered by section 504. Recipients of federal assistance should note that the ADA complements, but does not replace, Section 504.

Section 3 of the Housing and Community Development Act of 1968 (12 U.S.C. 1701u)

CDBG grantee shall to the greatest extent feasible, comply with the provisions of Section 3 of the Housing and Urban Development Act of 1968 when planning and implementing projects assisted by a CDBG. Section 3 requires opportunities for training and employment be given to lower-income persons residing within the unit of local government or the non-metropolitan county in where the project is located, and that contracts for work in connection with the project be awarded to eligible business concerns that are located in, or owned in substantial part by residents of the project area. The recipient must assure good faith efforts toward compliance with the statutory directive of Section 3.

Executive Order 11246, as amended by EO 11375

CDBG recipients must comply with Executive Order 11246, as amended, which provides that grantees and any subcontractors shall not discriminate against any employee or applicant for employment because of race, color, religion, sex, or national origin and shall take affirmative action to assure same.

Section 110 of the Housing and Community Development Act of 1974, as amended

CDBG recipients shall comply with the provisions of Section 110 of the Housing and Community Development Act of 1974, as amended through 1983. These provisions require that in all construction contracts all laborers and mechanics assisted under the Act shall be paid wages at rates not less than those prevailing on similar construction in the locality as determined by the Secretary of Labor in accordance with the Davis-Bacon Act, as amended (40 U.S.C. 276a-276a-5). The exception to this is for rehabilitation of residential property which is for use by less than eight families.

Davis-Bacon Act, as amended (40 U.S.C. 276a-s), Section 2; June 13, 1934, as amended (48 Stat. 948.40 U.S.C. 276(c)), as amended to USC 3145, Popularly Known as the Copeland Act

Recipients shall comply with all amendments of the Davis-Bacon Act, including the Copeland Act, which requires that all laborers and mechanics be paid unconditionally and at least once a week with only "permissible" salary deductions. Wage rates must be not less than those contained in the prevailing local wage determination issued by the U.S. Department of Labor.

Contract Work Hours and Safety Standards Act (40 U.S.C. 327 et seq.)

CDBG recipients shall comply with the provisions of the Contract Work Hours and Safety Standards Act. According to this act, no contract work may involve, or require laborers or mechanics to work in excess of 40 hours in a workweek, unless compensation of not less than one and one-half times the basic rate is paid for the overtime hours.

Section 104(h) of the Housing and Community Development Act of 1974, as amended

Recipients shall comply with Section 104(f) of the Housing and Community Development Act of 1974 which expresses the intent that the policies of the National Environmental Policy Act of 1969 and other provisions of law which further the purpose of the National Environmental Policy Act shall be effectively implemented in community development projects.

The National Environmental Policy Act of 1969 (42 U.S.C. Section 4321, et seq. and 24 CFR Part 58)

CDBG recipients shall comply with the provisions of the National Environmental Policy Act of 1969. The purpose of this Act is to attain the widest use of the environment without degradation, risk to health or safety, or other undesirable and unintended consequences.

The Clean Air Act, as amended (42 U.S.C. 7401, et seq.)

Recipients shall comply with the Clean Air Act, that prohibits (1) engaging in, (2) supporting in any way or providing financial assistance for, (3) licensing or permitting, or (4) approving any activity which does not conform to the state implementation plan for national primary and secondary ambient air quality standards.

HUD Environmental Standards (24 CFR, Part 51, Environmental Criteria and Standards and 44 F.R. 40860-40866, July 12, 1979)

CDBG recipients shall comply with HUD Environmental Standards, prohibit HUD support for most new construction (of unacceptable noise-sensitive uses) on sites having unacceptable noise exposure.

Executive Order 11990, May 24, 1977: Protection of Wetlands (42 F.R. 26961, et seq.)

Recipients shall comply with Executive Order 11990. The intent of this executive order is: 1) to avoid, to the extent possible, the long and short term adverse impacts associated with the destruction or modification of wetlands, and 2) to avoid direct or indirect support of new construction in wetlands wherever there is a practical alternative.

The Wild and Scenic Rivers Act of 1968, as amended (16 U.S.C. 1271, et seq.)

CDBG recipients shall comply with the Wild and Scenic Rivers Act. The purpose of this act is to preserve selected rivers or sections of rivers in their free-flowing condition, to protect the water quality of such rivers, and to fulfill other vital national conservation goals. Federal assistance cannot be provided to water resources construction projects that would have a direct and adverse effect on any river included or designated for study or inclusion in the National Wild and Scenic River System.

Executive Order 11988, May 24, 1978: Floodplain Management (42 F.R. 26951, et seq.)

Recipients shall comply with the provisions of Executive Order 11988. If the grantee proposes to conduct, support, or allow an action to be located in the floodplain, the grantee must consider alternatives to avoid adverse effects.

The Endangered Species Act of 1973, as amended (16 U.S.C. 1531, et seq.)

Recipients shall comply with the Endangered Species Act of 1973, as amended. The intent of this act is to ensure that all federally assisted projects seek to preserve endangered or threatened species. Federally authorized and funded projects must not jeopardize the continued existence of endangered and threatened species or their habitat.

The Reservoir Salvage Act of 1960 (16 U.S.C. 469 et seq.), Section 3 (16 U.S.C. 469 a-1), as amended by the Archaeological and Historic Preservation Act of 1974

Under the Reservoir Salvage Act, CDBG recipients must comply with provisions for the preservation of historical and archaeological data (including relics and specimens) that might otherwise be irreparably lost or destroyed as a result of any alteration of the terrain caused as a result of any federally financed projects.

The Safe Drinking Water Act of 1974 (42 U.S.C. Section 201, 300(f) et seq. and U.S.C. Section 349) as amended, particularly Section 1424(e) (42 U.S.C. Section 300H-303(e))

Recipients must comply with the Safe Drinking Water Act, as amended, that is intended to protect underground sources of water. No federal financial assistance may be given any project that may contaminate an aquifer that is the sole or principal drinking water source for an area.

The Federal Water Pollution Control Act of 1972, as amended including the Clean Water Act of 1977, Public Law 92-212 (33 U.S.C. Section 1251, et seq.)

CDBG recipients must assure compliance with the Water Pollution Control Act, as amended, which provides for the restoration of chemical, physical, and biological integrity of the nation's water.

The Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976 (42 U.S.C. Section 6901, et seq.)

Recipients must assure compliance with the Solid Waste Disposal Act, as amended. The purpose of this act is to promote the protection of health and the environment and to conserve valuable material and energy resources.

The Fish and Wildlife Coordination Act of 1958, as amended (16 U.S.C. Section 661, et seq.)

CDBG recipients must assure compliance with the Fish and Wildlife Coordination Act, as amended. This act assures that wildlife conservation receives equal consideration and is coordinated with other features of water resource development programs.

EPA List of Violating Facilities

Recipients shall ensure that the facilities under its ownership, lease, or supervision utilized in the accomplishment of the program are not listed on the U.S. Environmental Protection Agency's (EPA) List of Violating Facilities.

Historic Preservation

CDBG recipients shall, in connection with its performance of environmental assessments under the National Environmental Policy Act of 1969, comply with Section 106 of the National Historic Preservation Act of 1966 (16 U.S.C. 470).

Federal Regulations Protect Historic Properties Affected by Federal Undertakings

Section 106 of the National Historic Preservation Act of 1966, as amended, requires a federal agency head with jurisdiction over a federal, federally assisted, or federally licensed undertaking to take into account the effects of the agency's undertakings on properties included in, or eligible for, the National Register of Historic Places and, prior to the approval of the undertaking, to afford the Advisory Council on Historic Preservation (Council) a reasonable opportunity to comment on the undertaking. The process used by a federal agency to meet these responsibilities is commonly called Section 106 review process. Sometimes the federal agency makes the Section 106 review process. Sometimes the federal agency makes Section 106 review the responsibility of the local government receiving federal funds. When a local government is responsible for Section 106 review, they should contact the State Historic Preservation Officer early in the project planning process to receive recommendations and direction from the State Historic Preservation Officer's staff.

The Council seeks, through the Section 106 review process, to accommodate historic preservation concerns with the needs of federal undertakings. It is designed to identify potential conflicts between the two and to help resolve such conflicts in the public interest. The Council encourages this accommodation through consultation among the federal agency official, the State Historic Preservation Officer, and other interested persons during the early stages of planning.

Integration of the Section 106 review process into the normal administrative process used by federal agencies for project planning ensures early, systematic consideration of historic preservation issues. To this end, the Council encourages federal agencies and their designees to examine their administrative process to see that they provide adequately for the efficient identification and consideration of historic properties, that they provide for participation by the State Historic Preservation Officer, and others interested in historic preservation, that they provide for timely request for Council comment, and that they promote cost-effective implementation of the Section 106 review process. When impediments are found to exist in the agency's administrative process, the agency is encouraged to consult with the Council to develop special Section 106 review procedures suited to the agency's needs.

Copies of the federal regulations for the Section 106 review process (36 CFR 800) are available from the State Historic Preservation Officer, Kansas State Historical Society, 6425 S.W. 6th, Topeka, KS 66615.

Title IV of the Lead-Based Paint Poisoning Prevention Act (42 U.S.C. 4831)

CDBG recipients shall comply with the provisions of the Title IV of the Lead-Based Paint Poisoning Prevention Act (42 U.S.C. 4831) that prohibits the use of lead-based paint in residential structures constructed or rehabilitated with federal assistance of any kind.

HUD 1012/1013 Requirements for Notification, Evaluation, and Reduction of Lead-Based Paint Hazards in Housing Receiving Federal Assistance (24 CFR Part 35, et al.)

CDBG recipients shall comply with the provisions of HUD 1012/1013 lead-based paint notification and evaluation regulation.

The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended, and 24 CFR 570.488

All persons displaced as a direct result of rehabilitation, demolition or acquisition (privately undertaken or public) for a federally assisted project are entitled to relocation payments and other assistance under the URA.

Section 104(d) of Title I, Housing Development Act of 1974, as amended

Requires certification of 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.

Section 105(a)(11) of Title I, Housing Development Act of 1974, as amended

State may make relocation payments and assistance for displaced individuals, families, businesses, organizations, and farm operations when federal funding is involved.

24-CFR-200

STATE LAW REQUIREMENTS

Prevailing Wages

Recipients shall comply with the provisions of K.S.A. 44-201 et seq., that requires prevailing wages be paid to workers performing under contracts with any city, county, or other municipality.

Contracts with Cities and Counties, K.S.A. 12-2908

Any eligible applicant exercising powers jointly with any other public or private agency shall be required to enter contracts pursuant to K.S.A. 12-2908.

K.S.A. 75-4317 et seq., Open Public Meetings Law

CDBG recipients shall comply with the provisions of K.S.A. 75-4317 through 75-4320a that require all public meetings except those where specific provision are made for executive sessions pursuant to K.S.A. 1983 Supp. 75-4319.

K.S.A. 1983 Supp. 45-206 et seq., Open Records Act

CDBG recipients shall comply with the provisions of K.S.A. 1983 Supp. 45-206 et seq., that requires all records of a public agency shall be open to inspection by the public, except to the extent otherwise specifically closed by state or federal law, and specifically K.S.A. 1983 Supp. 45-211.

K.S.A. 58-1301 et seq., Handicapped Accessibility Standards

CDBG recipients shall comply with the provisions of K.S.A. 58-1301 et seq., that require all buildings and facilities constructed with monies appropriated by the state or a political subdivision be made accessible to the physically handicapped.

Articles 10 and 11 of Chapter 44 of the Kansas Statutes Annotated, Kansas Acts Against Discrimination

CDBG recipients shall comply with the provisions of Articles 10 and 11 of K.S.A. Chapter 44, that prohibit discrimination in employment, public accommodations, or housing, on the basis of race, religion, color, sex, disability, national origin, ancestry, or familial status.

STATE LAWS WHICH MAY BE AVAILABLE OR APPLICABLE

K.S.A. 12-2901 et seq., Inter-local Cooperation

The Inter-local Cooperation Act permits units of local government to exercise most powers permitted by law jointly with any other public or private agency. This act may be used by any local government recipient undertaking joint community development projects. Any recipient utilizing the provisions of this act shall comply with K.S.A. 12-2908, relative to contracts with cooperative agencies. Use of this act may be necessary in order to meet capacity requirements.

K.S.A. 12-5219 et seq., Local Residential Housing Finance Law

The Local Residential Housing Finance Law permits cities and counties to contract for home mortgage loans through lending institutions, to make loans, issue bonds to defray the cost of loans, and exercise other powers necessary to make residential housing available.

K.S.A. 12-1742 et seq., Urban Renewal Law

The Urban Renewal Law permits cities to formulate programs of urban rehabilitation through the exercise of various powers, including the power of eminent domain, and the issuance of bonds to finance projects.

K.S.A. 12-1770 et seq., Redevelopment of Central Business District Areas

K.S.A. 12-1770 et seq. permits cities to provide for downtown redevelopment through the use of tax increment financing and the issuance of special obligation bonds repaid from revenues of the project. Caution should be exercised in the decision to utilize this act, to ensure qualification of CDBG funds for such a project.

K.S.A. 12-1781 et seq., Business Improvement Districts

K.S.A. 12-1781 et seq. permits the establishment of business improvement districts to promote economic vitality through the financing of beautification, transportation, or other public service projects.

K.S.A. 74-50, 114 et seq., Kansas Enterprise Zone Act

K.S.A. 74-50,114 et seq. permits cities to create enterprise zones to offer financial incentives to encourage development of business and industry within certain areas of the city. Information pertaining to, and applications for the creation of, an enterprise zone is available through the Kansas Department of Commerce.

K.S.A. 12-1740, Economic Development Revenue Bonds

K.S.A. 12-1740 et seq. permits the issuance of revenue bonds to pay part (or all) of the cost of purchasing, acquiring, constructing, equipping, enlarging, or repairing facilities for agricultural, commercial, hospital, industrial, natural resources, recreational development, and manufacturing purposes. Sales tax and property tax incentives may also be offered.

These are only some of the tools that may be available or made applicable in connection with projects financed with CDBG grants.