

2019

CDBG & HOME GUIDEBOOK



City of Bremerton Community
Development Block Grant Program

Equal Housing Opportunity



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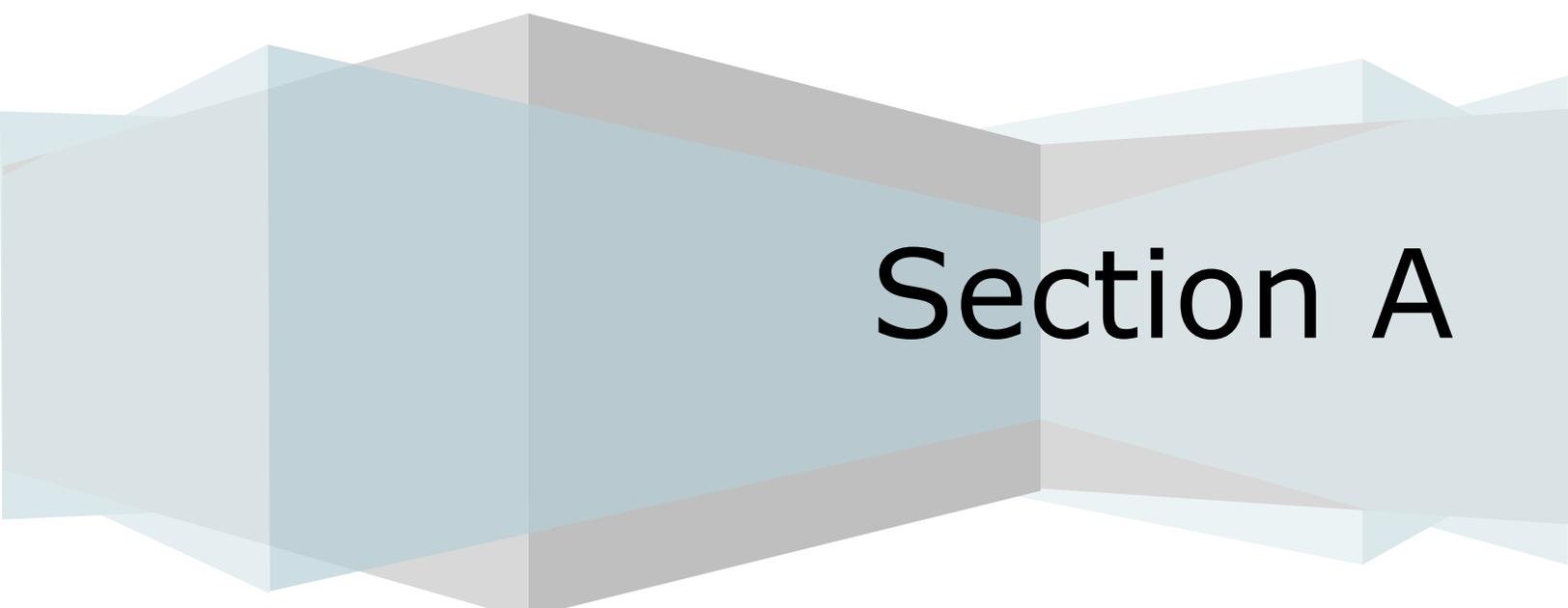
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Introduction

CDBG/HOME Guidebook



Section A

INTRODUCTION

Congratulations on being selected to receive a Community Development Block Grant (CDBG) or HOME Investment Partnership (HOME) award! The City of Bremerton CDBG and HOME programs are funded by the federal Department of Housing and Urban Development (HUD), and administered by the City's Department of Community Development.

One of our responsibilities, as grant administrators, is to ensure that federal and local program requirements are met. Federal requirements are included in a number of statutes and federal administrative interpretations. The purpose of this Guidebook is to provide a reference manual for you as a recipient of a CDBG or HOME grant award and to ensure you are aware of and manage your project in a manner consistent with federal and local requirements.

In certain aspects of program activity, federal requirements may be quite detailed; in other areas they may be somewhat vague. The Guidebook provides policies and procedures to help your organization comply with the requirements of both CDBG and HOME as well as other applicable federal regulation. We have also provided the regulatory citation to assist you in understanding where the regulation can be found in the federal code.

Grant recipients are cautioned that federal requirements may apply to non CDBG or HOME funded portions of a project or to activities which are undertaken prior to receipt of a grant award. For example, federal labor requirements may apply to demolition activities necessary for construction of a CDBG or HOME funded facility, even if the subrecipient uses their own funds for the demolition. Similarly, for a HOME funded housing project the Uniform Relocation Assistance regulations may apply, even though private funds may have been used for the acquisition of the project and HOME dollars for the rehabilitation of the units. Agencies with CDBG or HOME funds for capital projects are strongly encouraged to review this guidebook and discuss their project with Block Grant staff before entering into legally binding agreements or performing work at the project site.

The Guidebook is divided into nine chapters which describe the various procedures and requirements for subrecipients of CDBG and HOME funds. In addition, other useful information referenced in the text is included in the attached appendices. If you have questions please do not hesitate to contact the Block Grant office, our contact information has been provided on the next page. Our goal is to partner with you to accomplish your federally funded project.

Staff Contacts

City of Bremerton CDBG/HOME

<http://www.ci.bremerton.wa.us/198/Federal-Grants---CDBG>

Mailing Address: City of Bremerton
Department of Community Development
345 6th Street, Suite 600
Bremerton, WA 98337-1873

Staff Contacts: Sarah Achaoui, CDBG Administrator, City of Bremerton
(360) 473-5375
sarah.achaoui@ci.bremerton.wa.us

Kitsap County CDBG/HOME

http://www.kitsapgov.com/hr/block_grant_program/block_grant_program.htm

Mailing Address: Kitsap County Block Grant Office
Department of Community Development
345 6th Street, Suite 400

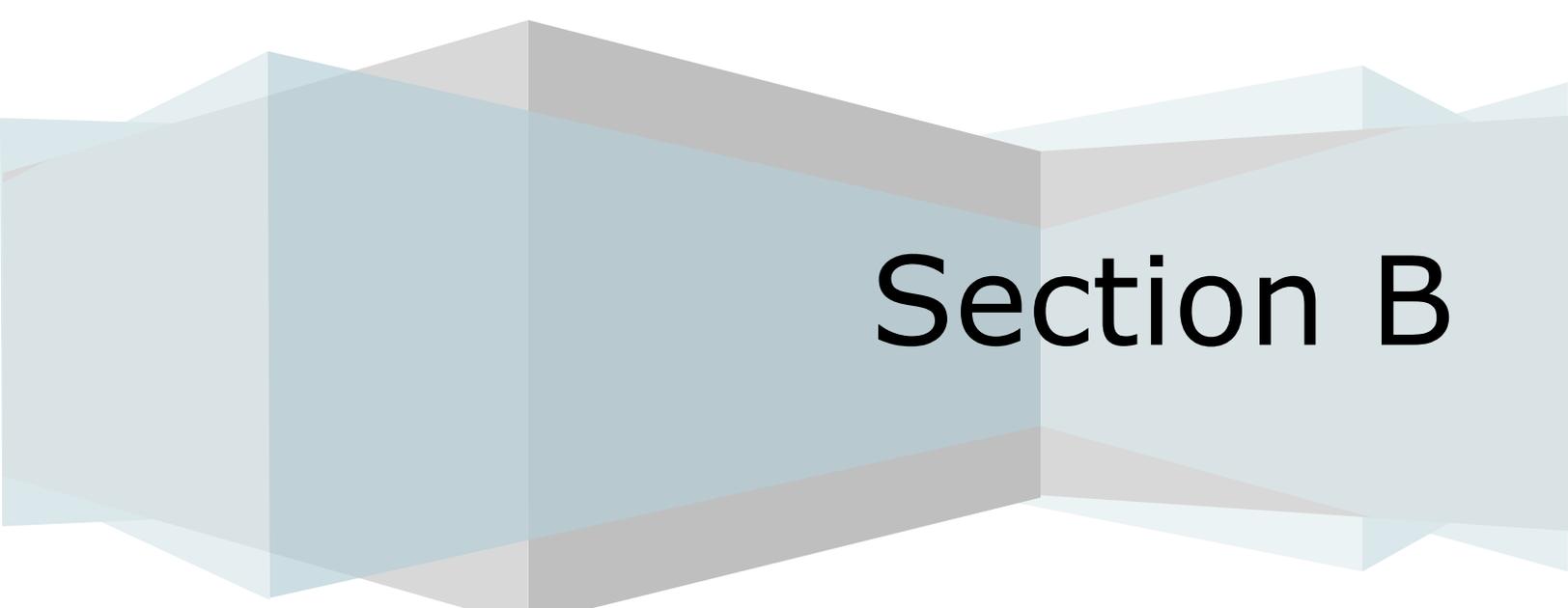
Staff Contacts: Bonnie Tufts, Program Manager, Kitsap County
(360) 337-4606
btufts@co.kitsap.wa.us

Shannon Bauman, Block Grant Planner, Kitsap County
(360) 337-7272
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Managing Your Grant Award

CDBG/HOME Guidebook



Section B

MANAGING YOUR GRANT AWARD

This section of the Guidebook outlines steps involved in managing your CDBG or HOME grant award.

STEP 1: Receipt of Award.

STEP 2: Establishing a record keeping system & reporting

STEP 3: Preparation of the Environmental Review.

STEP 4: Development and Execution of the Contract.

STEP 5: Reimbursement submittal & processing

STEP 6: Addressing Special Federal Requirements.

STEP 7: Monitoring and Project Closeout.

1. Receipt of Award

The amount of funds awarded to your program or project will be included in the Action Plan which is approved, after a public hearing in November, by the Bremerton City Council. The Action Plan is then submitted to HUD.

The amount of funds awarded to your program or project is an estimate and will not be finalized until the City has a contract from HUD which includes final allocation amounts for CDBG and HOME. Your organization may receive an increase or decrease depending on the allocation of CDBG and HOME funds from HUD. The Action Plan contains a contingency explaining what will happen if there is an increase or decrease in funding. Your agency will receive a letter early in the program year with information about your award and when we expect funds to be available.

Funds will not be available for reimbursement until your organization has a written agreement executed with the City. This typically occurs from April to July. However, the timeline for funding availability will vary from year to year depending on when the federal budget is passed by Congress.

2. Establishing a Record Keeping System & Reporting

The City of Bremerton is responsible for collecting pertinent data from grant recipients and reporting it to HUD. Organizations must keep accurate records which conform to federal requirements as outlined in the chapters contained in the Guidebook.

Your organization must be able to fully document CDBG and HOME projects so that compliance with all applicable regulations can be demonstrated. The filing system established should provide a historic account of each project and the files should be maintained in a central location.

Filing System

The following is a suggested filing system for projects:

1. General Project File
 - a) Project Proposal(application)
 - b) Project Agreement (Contract) with the City
 - c) Environmental Review Record and Notice to Proceed
 - d) Quarterly Reports & HOME Completion Reports
 - e) Equal Employment Opportunity data
 - f) Project Correspondence
 - g) Record of monitoring visits

2. Financial Records
 - a) Notices of grant awards
 - b) Contracts
 - c) Budget revisions
 - d) Invoices for payment
 - e) Copies of reimbursement requests sent to the City.
 - f) Payroll time sheets (if costs are being covered by CDBG)
 - g) Audit records
 - h) Approved indirect cost allocation plan, if applicable.
 - i) Project budget reports
 - j) Records documenting source and amount of other project funding

3. Procurement
 - a) Written procurement policy, approved or adopted by board
 - b) Bid Advertisements
 - c) Affidavit of Publication
 - d) Requests for Proposals (RFP) or Requests for Qualifications (RFQ)
 - e) Bids/Proposals
 - f) Bid/Price Analysis
 - g) All Third Party Contracts
 - h) Preconstruction Conference Notes
 - i) Change Orders
 - j) Copies of contracts
 - k) Davis Bacon/Federal Prevailing wage documents (if applicable)
 - l) Site inspection reports
 - m) Correspondence

Reporting

Grant recipients will be required to collect data and report to the City on a quarterly basis, and for HOME funds, also at project completion. It is important to establish a system for collecting data which starts at the beginning of the CDBG/HOME program year Jan. 1st, even though you may not yet have a contract. Quarterly reports are due by the 15th of the month following the end of the quarter.

The type of project and funding will determine which type of reports your agency will need to submit.

CDBG:

Quarterly Performance Report (quarterly)
Demographics & Statistic Report (quarterly)

CDBG Economic Development Job Creation/Retention:

Quarterly Performance Report (quarterly)
Employer Statement (as required by written agreement)
Employee Statement (as required by written agreement)

HOME:

Quarterly Performance Report (quarterly)
HOME Completion Reports (at project completion when beneficiaries occupy the HOME units)

For more information on the type of information needed to complete required reports please see **Section D: Reporting and Monitoring** in the Guidebook.

Report forms are available from your project contact person and will be sent via email. Information collected in the reports is input into HUD's reporting system and used by Block Grant staff to track projects for timeliness and compliance with contract requirements.

3. Preparation of the Environmental Review

CDBG and HOME regulations require the preparation of a project Environmental Review Record (ERR) and environmental clearance before **any** funds (federal or otherwise) are expended or costs incurred. The environmental review process covers all phases of the project, whether the project is funded in whole or in part by CDBG or HOME funds. The overall governing regulation is the National Environmental Policy Act (NEPA).

Some activities, such as public services that will not have a physical impact or result in any physical change to the environment, are Exempt. The environmental

review for these types of activities will be completed by staff at the beginning of the program year so projects may begin to incur costs.

Most other types of activities will require some level of review and grant recipients may be asked to assist in the development of the ERR by providing additional information, maps, site data or specialized study or site assessment. The level of review will depend on the type of activity. For more information on the Environmental Review process and timeline please see **Section F: Environmental Review** in this Guidebook.

Some capital projects which require permits through the County or City may also trigger an environmental review under the State Environmental Policy Act (SEPA). For these types of projects special conditions and mitigation measures required by the SEPA will be included in the NEPA review. These reviews can run concurrently however the NEPA requires additional time for public comment and issuance of an Authority to Use Grant Funds before the project can proceed.

4. Development and Execution of the Agreement

In order for your organization to receive funds an agreement (contract) must be executed between the City and your organization. The contract contains the scope of services and financial conditions as well as federal, state and local regulatory requirements.

Once the City has received their actual allocation of funds from HUD, we will begin working with agencies on contracts. Your agency will receive an email with forms for contract language and budget to be filled in. If your project or program has been funded by both the City and County, you will have two separate contracts. The contracting requirements of the City and County are slightly different and you will receive a letter from the appropriate agency with instructions to begin the contracting process.

There are a number of forms that must be submitted and these will be outlined in the letter. Contracts will not be executed without the requested information. The timeline for executing a contract will vary depending on the complexity of the agreement, receipt of all necessary information from the grant recipient and work load of staff reviewing the contract.

5. Reimbursement Submittal & Processing

CDBG and HOME funds awarded are paid on a reimbursement basis only. Once your agency has an executed contract and a Notice to Proceed, you will be able to submit reimbursement requests for allowable costs.

A properly documented reimbursement request will typically take a minimum of two weeks to process. Once processed through the City, funds will be issued by check and mailed. Agencies with multiple contracts with Kitsap County

may have an electronic transfer of funds agreement in place, in this case funds will be transferred electronically and a direct deposit made to your financial institution.

Additional information about financial procedures including authorizations, allowable costs, reimbursements & source documentation, is included in this Guidebook under **Section C: Financial Management**.

6. Addressing Special Federal Requirements

In addition to the rules and requirements imposed by CDBG and HOME program regulations, there are several additional broad Federal rules that organizations must be aware of, and in compliance with, when a project is funded with CDBG or HOME. These Federal requirements include:

A. Fair Housing, Equal Opportunity and Accessibility

- Title VI of the Civil Rights Act of 1964
- The Fair Housing Act
- Equal Opportunity in Housing
- Age Discrimination Act of 1975
- Equal Employment Opportunity
- Section 3 of the Housing and Urban Development Act of 1968
- Minority/Women's Business Enterprise
- Americans with Disabilities Act
- Section 504

For information on compliance with these Federal requirements please see **Section G: Equal Opportunity & Accessibility** of this Guidebook.

B. Acquisition, Relocation and Demolition

If your project includes acquisition of real property, relocation of existing residents, tenants in a business, or demolition, your project is subject to specific requirements under the Uniform Relocation Assistance and Real Property Acquisition regulations at 49 CFR Part 24. For more information on applicability and compliance see **Section H: Acquisition & Relocation**.

C. Procurement

If your project includes the purchase of goods or services you will need to have written procurement policies that address federal requirements. The requirements are detailed in **Section E: Procurement**.

D. Labor Standards

If your project includes construction you will need to be aware of specific requirements under Davis Bacon as well as regulations regarding hazardous materials such as lead and asbestos. These requirements are covered in **Section I: Labor Standards and Construction**.

7. Monitoring & Project Closeout

The City Block Grant Programs conduct monitoring of all grant recipients annually. The City and Kitsap County conducts joint on-site monitoring visits for agencies which have open contracts with both. Typically these visits will be scheduled in January or February. During the on-site monitoring staff will review some or all of the following areas, depending on the activity type and issues that may have come up over the contract period.

- Contract Management Systems Review
- Project Status
- Eligibility Requirements
- General Record Keeping
- Financial Management Systems
- Cost Eligibility
- Procurement Standards & Bid Requirements
- Section 504 Compliance
- Environmental review Compliance
- Property Acquisition/Relocation
- Property Standards
- Rent, Occupancy & Income Requirements for Housing

After the on-site monitoring visit a letter will be sent to the agency. If concerns or findings of non-compliance with federal regulations are identified, staff will send the agency instructions for corrective action in the monitoring letter.

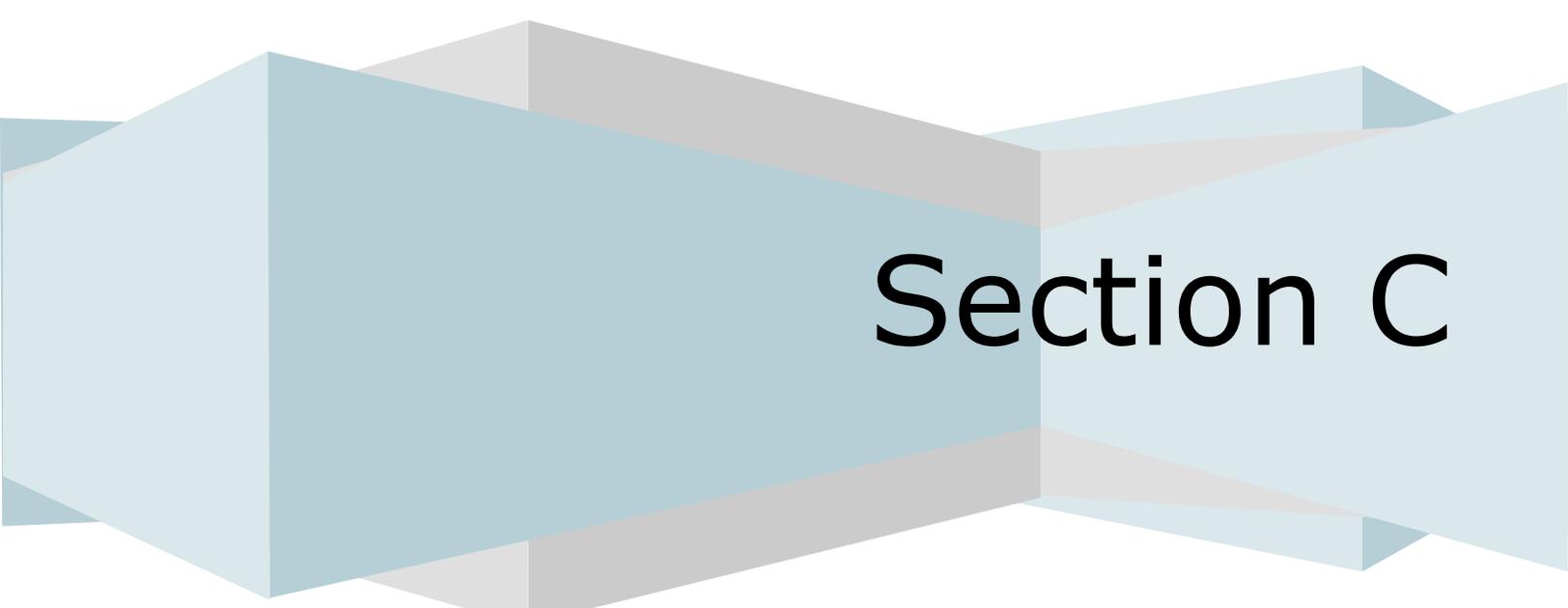
Projects will not be closed out until all monitoring issues are resolved and all reimbursements have been processed. Agencies will receive a letter when the project is closed out.

HOME funded projects remain open through the period of affordability. In addition to annual monitoring of open contracts, County and City staff conduct annual period of affordability monitoring of HOME funded projects. On-site monitoring is conducted annually, biannually, or every third year depending on the project. These visits, which may also include unit inspections, are typically scheduled in November and December.

For additional information on project closeout and monitoring please see **Section D: Reporting & Monitoring** and **Section J: Project Closeout & on-going monitoring**.

Financial Management

CDBG/HOME Guidebook



Section C

UNIFORM ADMINISTRATIVE REQUIREMENTS

The City of Bremerton, receives annual appropriations of federal CDBG and HOME funds from HUD. The City is therefore charged with a fiduciary responsibility to see that the taxpayers' money is used appropriately and to require proper accountability from the recipients of its awards.

Acceptance of a grant from the City creates a legal obligation to use the funds in accordance with the terms of the grant and to comply with the grant's provisions and conditions. The grant recipient thus assumes full responsibility for the conduct of project activities and becomes accountable for meeting Federal standards in the areas of financial management, internal control, audit and reporting.

The financial management system required for organizations awarded CDBG and HOME funds is governed by:

Governmental and Non-Governmental entities must comply with the requirements and standards of:

- 2 CFR Part 200, *Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards*.

FINANCIAL MANAGEMENT STANDARDS 2 CFR 200 Subpart D

Many alternative methods exist for implementing financial management systems, and your organization should choose methods appropriate for your particular scale of operations and develop written policies & procedures. The Board of Directors should be aware of, and if appropriate approve or adopt, the policies as part of their fiduciary responsibility.

If the organization is unable to meet the standards that are covered here, funding may be terminated and the organization may be deemed ineligible to receive subsequent grant awards.

- a) Grant recipients must have accounting structures that provide accurate and complete information about all financial transactions related to each Federally-supported project.
- b) Grant expenditure records must be at least as detailed as the cost categories indicated in the approved budget (including indirect costs that are charged to the project). Actual expenditures are to be compared with budgeted amounts.
- c) Accounting records are to be maintained on a current basis and balanced monthly.
- d) Costs to be reimbursed by the grant may be incurred only during the term of the agreement (contract).
- e) The records must be supported by source documentation such as cancelled checks, invoices, contracts, and personnel activity reports.
- f) The same costs cannot be claimed and reported on more than one Federal grant.
- g) For every employee whose salary is charged, in whole or in part to the grant, personnel activity reports (i.e. timesheets) must be maintained to account for all compensated time, including time spent on other activities.
- h) The applicable OMB cost principles and the terms and conditions of the grant award shall be followed in determining the reasonableness, allowability and allocability of costs.
- i) Requests for payment shall be limited to reimbursement for costs already incurred; CDBG and HOME funds cannot be paid in advance.

Internal Controls

Organizations must provide safeguards for all grant property, whether cash or other assets, and assure that it is used solely for authorized purposes. Control will be enhanced if the duties of the members of the organization are divided so that no one person handles all aspects of a transaction from beginning to end. Although a complete separation of functions may not be feasible for the small organization, some measure of effective control may be obtained by planning the assignment of duties carefully.

Organizations must ensure the following:

An organizational chart setting forth the actual lines of responsibility of personnel involved in financial transactions;

Written definition and delineation of duties among key personnel involved in financial transactions;

An accounting policy and procedures manual that:

- Includes specific approval authority for financial transactions and guidelines for controlling expenditures.
- A set of written procedures for recording of transactions that utilizes a chart of accounts.

Separation of duties is adequate so that no one individual has authority over a financial transaction from beginning to end. In other words, one person should not have responsibility for *more than one* of the following functions:

- Authorization to execute a transaction.
- Recording of the transaction.
- Custody of the assets involved in the transaction.

Hiring policies ensuring that staff qualifications are commensurate with job responsibilities.

Control over assets, blank forms and confidential documents so that these types of documents are limited to authorized personnel only.

Periodic comparisons of financial records to actual assets and liabilities (i.e., reconciliation).

Budget Controls

Organizations must have procedures in place to compare and control expenditures against approved budgets for CDBG and HOME funded activities and document the following:

- Maintain accounting records and the amounts budgeted for eligible activities;
- Periodically compare actual obligations and expenditures to date against planned obligations and expenditures, and against projected accomplishments for such outlays; and
- Report deviations from budget and program plans, and request approval for budget and program plan revisions

Cost Principles

Beginning with the submission of an application for CDBG or HOME funds, staff will review your project for allowable costs. When funds are awarded to your organization a written agreement (contract) will be executed and will contain a project budget which has been reviewed to make sure the costs covered by CDBG or HOME funds are eligible for reimbursement.

Indirect Costs – Public Agencies

For grant recipients who are also a public agency, 2 CFR§200.414 establishes requirements for indirect costs.

Indirect Costs – Nonprofits

For nonprofit subrecipients, 2 CFR§200.414 methods for allocating indirect costs. Each method is applicable to certain specific circumstances.

Simplified allocation method:

- Used when a nonprofit organization has only one major function, or where all its major functions benefit from its indirect costs to approximately the same degree.
- The indirect cost rate is calculated by separating the organization's total costs for the base period (e.g., fiscal year) as either direct or indirect, and dividing the total allowable indirect costs by an equitable distribution base (total direct costs, direct salaries or other equitable distribution base).

Multiple allocation base method:

- Used when major functions benefit in varying degrees from indirect costs.
- Costs are separated into distinct groupings, and each grouping is then allocated to benefiting functions by means of a base which best measures relative benefits. An indirect cost rate must be developed for each grouping.

Direct allocation method:

- This method may be used for those nonprofits that treat all costs as direct costs *except* general administration and general expenses.
- These joint costs are prorated individually as direct costs to cost objectives using a base most appropriate to the particular cost being prorated. The base must be established in accordance with reasonable criteria and must be supported by current data.

Indirect cost rates must be submitted to and approved by the federal agency that provides the largest dollar value of funds to the nonprofit. The Block Grant program will check to ensure a written agreement is executed between the nonprofit and the approving federal agency signifying the approval of the proposed indirect cost rate.

Audit Standards

Non-profit organizations that expend \$750,000 or more in a year in Federal awards (this includes all federal funds, not just CDBG or HOME) must have a single or program-specific audit conducted for that year in accordance with the provisions of 2 CFR§200.501.

- A-133 audits are performed by independent public accounting firms engaged by the grantee organizations.

- Costs for A-133 audits are borne by the grantee organizations but are allowable as charges to grant projects; they may be considered either direct costs or allocated indirect costs as determined by the Federal cost principles. When arranging for audit services, organizations must follow procurement standards found in 2 CFR §200.318. Whenever possible, small businesses, minority-owned firms, and women’s business enterprises, should be included when soliciting proposals.

Non-profit organizations that expend less than \$750,000 in a year in Federal awards are not required to have an A-133 audit for that year; however, records must be available for review or audit by appropriate officials of the federal agency, pass-through entity and the Government Accountability Office (GAO).

- Agencies are encouraged to have an audit, if not annually at least every few years, to ensure sound financial management practices are in place and reduce the risk of improper use of agency funds.

Shortcomings to Avoid

Monitoring conducted by HUD has uncovered some common deficiencies in the administration of federal grants. Among these were:

- Personnel costs charged to grant projects were not supported by adequate documentation. (For example, personnel activity reports should be maintained that show the actual activity of each employee, whose compensation was charged, in whole or in part, to CDBG/HOME projects.)
- Reported grant project costs did not agree with the accounting records, i.e., the financial status reports were not prepared directly from the general ledger or subsidiary ledgers or from worksheets reconciled to the accounts.
- Section 504 Self-Evaluation checklists were not on file as required.
- No documented basis was provided to support the amount allocated to the CDBG/HOME grant project for common (indirect) costs which benefitted all projects and activities of the organization.
- Independent audits required by 24 CFR §200.501 were not performed or did not meet the standards for audits of Federal grants.
- Grantees' financial management systems lacked adequate internal controls (for example, proper segregation of duties to safeguard resources or procedures for comparing actual outlays with the budget).

Accounting Procedures

Procedures clarify the roles (who does what) and tell the “doers” how to do it – which steps to take, which forms to use, where to file documentation, who to inform about activities, etc. The level of detail in accounting procedures will depend to some degree on how complex your organization is and how many people are involved in financial decision making. At a minimum, your organization should consider the following areas when developing procedures.

- A. Cash management: Deposits, Reconciliations, Credit Cards, Cash Receipts and Account Receivable.
- B. Capital Assets: Acquisition & disposal, dollar thresholds, useful lives, property management & control.
- C. Revenue Sources: Contributions, special events, program service fees, grants, unrelated business income.
- D. Payroll

Allowable Costs & Reimbursement Procedures for your Grant

Authorizations

In order to assure the budget, budget revisions and requests for payment are properly authorized; all forms will require the signature of an individual designated by the subrecipient to submit the documents to the County or City.

- It may be helpful to obtain two or three signatures to assure the availability of required authorized signers at any given time.
- The chief executive or certifying officer must authorize these persons to sign budgets, budget revisions and requests for payment by executing the **Signature Authorization** form after obtaining the necessary signatures.
- If the authorized signers change for any reason, a new signature authorization form is required.

Allowable Costs

A cost is allowable under the CDBG or HOME program if:

- The expenditure is necessary, reasonable, and directly related to the grant
- The expenditure has been authorized by the County or City.
- The expenditure is not prohibited under Federal, state, or local laws or regulations
- The expenditure is consistently treated

- The cost must be allocable to the CDBG or HOME program

Reimbursement and Source Documentation

When grant recipients receive billings or incur costs for projects, the amount due must be paid and then reimbursement may be requested from the County or City. To request payment for projects, the **Request for Reimbursement** must be completed. This form includes the amount requested by line items according to the budget for the project. A **Reimbursement Summary** must also be attached which summarizes the total costs incurred and a breakdown of the portion paid with CDBG or HOME funds. Block Grant staff will provide an example of the summary for use in developing one appropriate to your project.

Supporting documentation is necessary to show that the costs charged against CDBG or HOME funds were incurred during the effective period of the agreement (contract). Documentation needed to support reimbursement requests should at a minimum include the following:

<u>Cost Category</u>	<u>Backup Documentation</u>
Personnel:	Copies of times sheets signed and dated by both the employee and the supervisor, copies of payroll checks, and copies of canceled checks (front and back) unless previous arrangements have been made.
Supplies/Equipment	Copies of invoices, receipts or contracts for expenditures with transaction dates, copies of checks paying for expenditures.
Administration	Receipts for any allowable travel or meal expenditures, the number of miles traveled, location/destination and cost per mile, copies of phone bill and identification of long distance calls related to project, copy of invoice and receipt for rent and utilities and copies of checks paying for expenditures.
Acquisition Costs	Copies of Promissory Notes, Real Estate Closing Statements, Real Estate Contract and other relevant real estate documents.

Developmental Soft Costs	Work performed by appraisers, architects, engineers, or consultants must include a statement of the work completed which justifies the requested billing. A spreadsheet of the bid items and units completed for the pay period can be attached. This should include the Request for Payment signed by the owner, contractor and architect or engineer. Evidence that your agency has authorized and paid the billing should be attached.
Developmental Hard Costs	Copies of invoices, receipts or contracts for expenditures with transaction dates, copies of checks paying for expenditures.
Other Costs	Copies of invoices, receipts or contracts for expenditures with transaction dates, copies of checks paying for expenditures relating to relocation, operating/maintenance expenses.

- Some projects may be able to use the **Reimbursement Summary** form with minimal attached supporting documentation. Your project contact person will work with you to establish the appropriate level of documentation to attach to your request. However, all supporting documentation listed above must still be retained at the agency, with the appropriate reimbursement request, for review during monitoring.

Program Income

Program income is defined as the gross income that is received by an organization and has been directly generated from the use of CDBG or HOME funds. Program income includes:

- Repayments of principal and interest on loans made using CDBG or HOME funds.
- Interest earned on program income.
- Proceeds from the disposition of real property that has been acquired or improved with CDBG or HOME funds where the disposition occurs during the period of restricted use (CDBG) or the period of affordability (HOME).

The contract between each grant recipient and the County or City requires the reporting of any program income to the County or City. Program income must be used in accordance with the terms of the contract.

Projects with program income will be required to report it on the Reimbursement Request form

Budget Amendment and Fund Reallocation

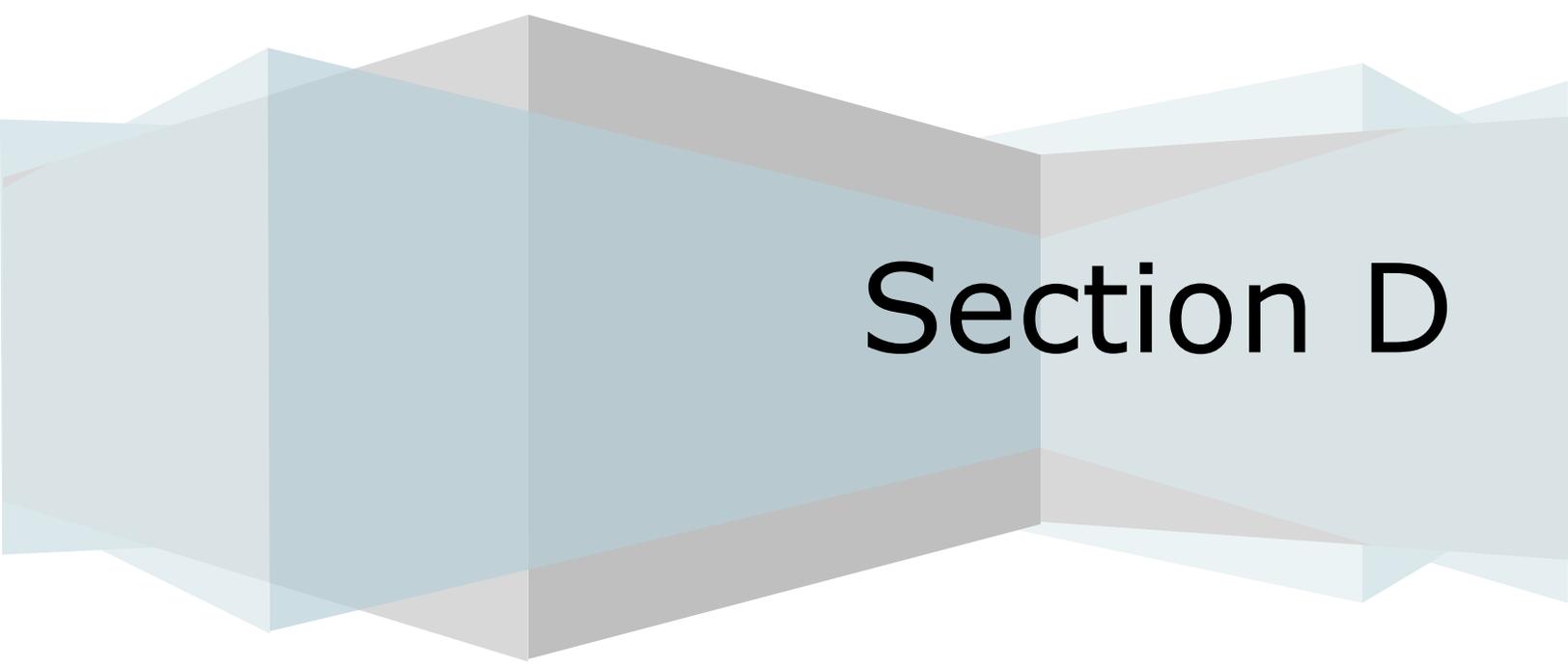
Changes to the approved project budget of less than 10% of the total grant amount require a submission of a **Request for Budget Revision** form to the appropriate Block Grant office. The form must be signed by the authorized signer and submitted for approval.

Changes to the project budget greater than 10% require a contract amendment. Contract amendments must be reviewed and executed in the same manner as the original agreement. Requests to amend the contract must be made in writing. Your project contact will work with you to determine the timeline for approval of the amendment.

If there are unspent funds at the close-out of the project, any remaining funds will be included in the next application cycle for re-allocation to an eligible project.

Reporting & Monitoring

CDBG/HOME Guidebook



Section D

REPORTING REQUIREMENTS

Reporting on grant progress is required through the term of the written agreement (contract). This section describes the reports and due dates. Note that not all of the reports are applicable to every project. All reports are available in electronic format and will be emailed by the Block Grant Program. Subrecipients should use the most current form when submitting reports. Your project manager will provide assistance, if needed, with completing required reports.

Quarterly Reports – Public Service & Economic Development Microenterprise activities

There are two reports due on a quarterly basis for Public Service contracts. These reports are due on the 15th of the month following the end of the quarter. These reports can be completed and emailed to the Block Grant project manager.

The Quarterly Reports are designed to collect information for both City and County CDBG or HOME funds when projects have both sources of funds. If you have contracts from both the City and County please refer to your contract or contact the Block Grant office for assistance in reporting on the number of individuals served.

Performance Report: This is a narrative report (MSWord format) on progress made in providing the services described in the contract. It should include information on meeting items included in the “Agency Shall” section of the contract as well as any notable delays/challenges the project is experiencing. This report should include the name of the individual authorized to submit reports on the “Authorized Signature” line of the report.

Demographics Report: This is a workbook in MS Excel designed to capture income and race/ethnic data on individuals served by your project. The workbook contains an “Instructions” tab and tabs for each quarter. Detailed instructions are included in the instructions tab for completing the table. The quarters are linked so data from one quarter will carry to the next quarter for cumulative totals. Please use the most current HUD Income Limits to determine which income category individuals are in. Income Limits can be obtained from the following web site:

<http://www.huduser.org/portal/datasets/il.html>

HUD has also developed and Income Calculator to assist in determination of income. The Calculator is easy to use and is available at:

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

Quarterly Reports – Capital Projects

Reports will vary somewhat for capital projects depending on funding. All projects are required to submit quarterly Performance Reports during the term of the contract until project completion, regardless of when CDBG or HOME funds are spent. These reports are due on the 15th of the month following the end of the quarter and can be emailed to the Block Grant project manager.

Performance Report: This is a 2 page narrative report (MSWord format) on progress made on the scope of work described in the contract. It should include information on meeting items included in the “Agency Shall” section of the contract as well as any notable delays/challenges the project is experiencing. The second page of the report collects information on contractors hired for the project. This report should include the name of the individual authorized to submit reports on the “Authorized Signature” line of the report.

Capital projects are also required to submit one of the following reports depending on whether they are funded with CDBG or HOME:

CDBG Activities – Quarterly Demographics Report:

This report is triggered when beneficiary data becomes available. It is not required for new construction until the project is occupied and then data must be collected for the period indicated in the contract. This report is a workbook in MS Excel designed to capture income and race/ethnic data on individuals served by the project. The workbook contains an “Instructions” tab and tabs for each quarter. Detailed instructions are included in the instructions tab for completing the table. The quarters are linked so data from one quarter will carry to the next quarter for cumulative totals. Please use the most current HUD Income Limits to determine which income category individuals are in. Income Limits can be obtained from the following web site:

<http://www.huduser.org/portal/datasets/il.html>

HUD has also developed an Income Calculator to assist in determination of income. The Calculator is easy to use and is available at:

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

HOME Set-Up & Completion Reports: These reports are completed when beneficiary information is available and the HOME funded unit is occupied. The type of report will depend on the activity:

- Rental Set Up & Completion Report
- Homeowner Rehabilitation Set Up & Completion Report
- Homebuyer Set Up & Completion Report

Economic Development Reports: Capital projects funded with CDBG Economic Development funds must report specific information related to job creation/retention and public benefit. Information must be collected for the employer and for employees hired or retained. The following report forms will be required:

- Employer Statement: This form collects information on the business assisted with CDBG funds.
- Employee Statement: This form collects information for each new employee including name, address, job title, job description, race/ethnicity, disability, and income at hiring.

Monitoring

Desk monitoring of organizations with open contracts occurs during the program year as Reimbursement Requests are submitted. Reports are reviewed and agencies are contacted as needed regarding additional information specific to their project. Agencies are encouraged to communicate with their project manager regarding any questions or concerns that arise during the program year.

Block Grant staff also conducts annual on-site monitoring with all agencies that have open contracts for CDBG/HOME funds. Monitoring visits generally take place during December/January. During the on-site visit a Monitoring Checklist is used to review project compliance and covers the following areas:

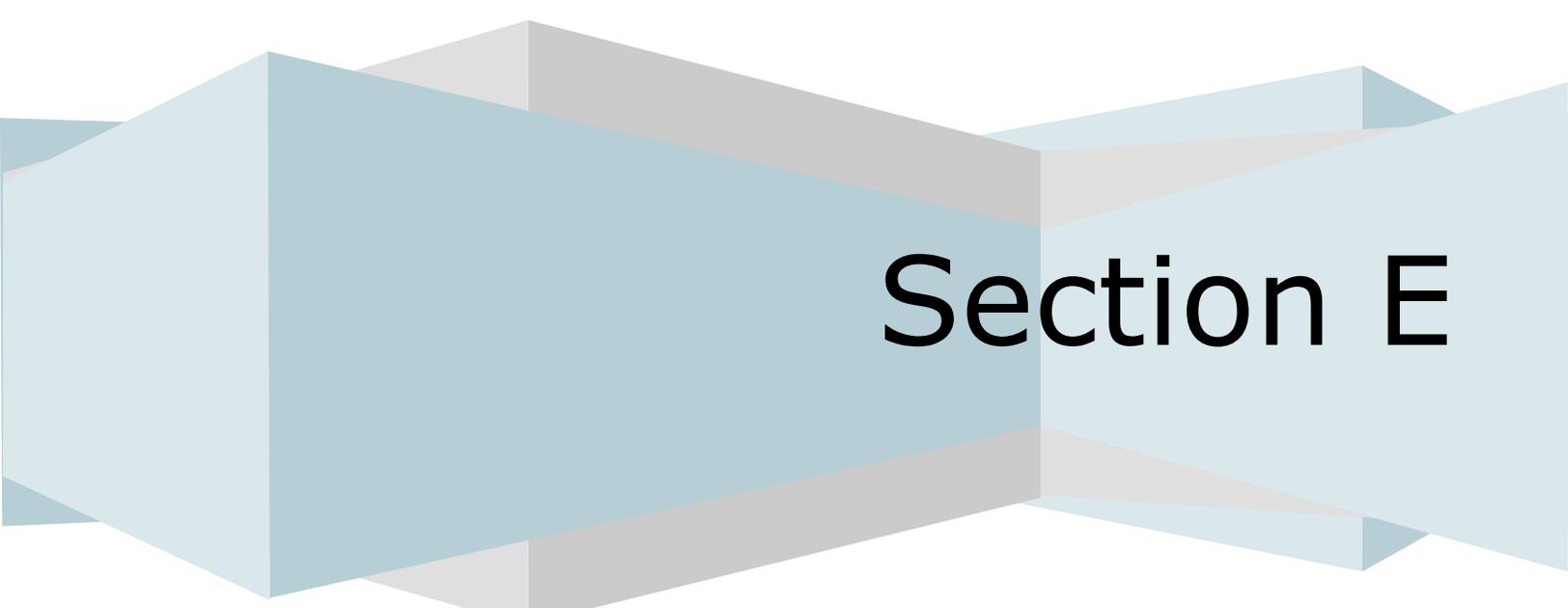
- ✓ Management System Review
- ✓ General Record Keeping
- ✓ Eligibility Requirements
- ✓ Financial Management
- ✓ Cost Eligibility
- ✓ Program Income
- ✓ Procurement Standards
- ✓ Compliance with other Federal Regulations
- ✓ Project Specific compliance

Block Grant staff will review files and meet with project staff to complete the checklist and discuss questions or concerns they may have. Block Grant staff will then prepare a monitoring letter and note any concerns and required corrective actions, including a date for completion. Once all issues have been satisfactorily resolved, a monitoring close-out letter will be sent.

For information on project close out and on-going monitoring of capital projects please refer to **Section J: Project Closeout and On-going Monitoring**.

Procurement for Goods & Services

CDBG/HOME Guidebook



Section E

Overview

The purpose of the procurement requirements is to ensure that services and materials are purchased as efficiently and economically as possible, and to ensure compliance with applicable federal law.

Procurement requirements are contained in **2 CFR part 200, Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards Subpart D- Post Federal Awards**. Organizations who receive CDBG funding or HOME funds as a subrecipient (not as an owner/sponsor/developer) are subject to these requirements.

General Procurement Provisions

Any grant recipient using CDBG or HOME funds to purchase goods or services must have written procurement procedures in place (2 CFR Part 200.319 (c)). Whether you are a small agency purchasing occasional office supplies or a large organization contracting for millions of dollars of construction services, the requirements governing the purchasing process are designed to ensure that you:

Follow a **free and open competitive process** in securing those products or services.

Properly **document** your purchasing activities and decisions.

Observe the special **rules for particular kinds of purchases** (small purchases, competitive sealed bids, competitive proposals, and sole source procurements).

Properly bond and insure work involving large construction contracts and/or subcontracts.

Use **local businesses** and contract with **small, minority and/or women-owned businesses** to the maximum extent feasible.

The essence of good procurement can be summarized as follows:

- Identify and clearly specify standards for the goods or services your organization wants to obtain;
- Seek competitive offers to obtain the best possible quality at the best possible price;
- Use a written agreement that clearly states the responsibilities of each party; Keep good records; and
- Have a quality assurance system that helps your organization get what it pays for.

Solicitations must clearly explain all requirements that the bidder/offeror must fulfill in order for his or her bid/offer to be evaluated by the organization. Solicitations for
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goods and services must be based on a clear and accurate description of the material, product, or service to be procured, and cannot contain features with unduly restrict competition. Some of the situations considered to be restrictive of competition include, but are not limited to:

- Placing unreasonable qualifying requirements on firms.
- Requiring unnecessary experience and excessive bonding.
- Specifying only “brand name” products instead of allowing “an equal” product.
- Noncompetitive pricing practices between firms or affiliated companies.
- Noncompetitive awards to consultants on retainer contracts.

Methods of Procurement

There are four methods of procurement that are identified in federal regulations:

- Micro-purchases;
- Small purchase procedures;
- Sealed bids;
- Competitive proposals; and
- Non-competitive proposals

I. Micro-purchase

- ❑ The micro-purchase procedures allows the purchase of supplies or services totaling **no more than \$3,000**, using a simplified acquisition procedure.
- This method of procurement is a subset of an entity’s small purchase procedures.
- Allows an entity to expedite the completion of its lowest-dollar small purchase transactions and minimize the administrative burden and cost.

II. Small Purchase Procedures

- ❑ The small purchase procedures to purchases over \$3000 and under \$150,000 (the current simplified acquisition threshold at 48 CFR Subpart 2.1) and allows recipients to acquire goods and services without publishing a formal request for proposal or invitation for bid.
- This method of procurement is typically used to purchase commodities such as equipment or other materials. The process is relatively simple, informal and does not necessarily involve competitive sealed bidding.
- Under the small purchase method, a grant recipient would send a request for quotes to potential vendors with a detailed description of the goods or services needed. In return, they receive competitive written quotations from an adequate number of qualified sources. A minimum of three competitive price quotes should be obtained.

- No cost or price analysis is required.
- The small purchase method can also be used to acquire eligible types of services, such as professional consulting, environmental review, or planning. In general, the small purchase procedures should not be used to acquire construction contractors. It is recommended that these occur under the sealed bid approach.

II. Sealed Bids (Formal Advertising)

- ❑ Sealed bids (Formal Advertising) should be used for all construction contracts or for goods costing more than \$150,000.
- ❑ Competitive sealed bidding requires publicly solicited sealed bids and a firm-fixed-price lump sum or unit price contract is awarded to the responsible bidder whose bid, conforming to all the material terms and conditions of the invitation for bids, is lowest in price.
- ❑ In order for formal advertising to be feasible, the following minimum conditions must be present:
 - A complete, adequate and realistic specification or purchase description is available.
 - Two or more responsible suppliers are willing and able to compete effectively for the work.
 - The procurement lends itself to a firm fixed-price contract, and the selection of the successful bidder can appropriately be made principally on the basis of price.
- ❑ When the competitive sealed bid (formal advertising) process is used, the following requirements apply:
 - Publication Period: The invitation for bids must be publicly advertised and bids solicited from an adequate number of suppliers. The publication should be published at least once in a newspaper of general circulation, providing sufficient time prior to bid opening. If the publication period is not of sufficient time to attract adequate competition, the bid may have to be re-advertised.
 - Invitation to Bid & Bid Package: See **Appendix 1** for bid and contract provisions.
 - Clear Definition: The invitation for bids, including specifications and pertinent attachments, must clearly define the items or services needed in order for bidders to properly respond to the invitation.
 - Public Opening: All bids must be opened publicly at the time and place stated in the invitation for bids, and opened publically for local governments. The public is allowed at that time to review bids.

- Selection and Contracting: A firm-fixed-price contract award must be made by written notice to the responsible bidder whose bid, conforming to the invitation for bids, is lowest. Where specified in the bidding documents, factors such as discounts, transportation costs and life cycle costs must be considered in determining which bid is lowest. Payment discounts are only used to determine low bid when prior experience indicates such discounts are usually taken advantage of.
- Rejection of all Bids: All bids may be rejected when sound documented reasons exist. Such documentation shall be made a part of the files.

III. Competitive

- ❑ Competitive proposals are used to purchase professional services where the total cost will exceed \$150,000 and conditions are not appropriate for the use of sealed bids such as to purchase professional services. Under this procurement method, the subrecipient should publish a written request for submissions and then review these submissions based on established selection criteria.
- ❑ Under this approach, there are two possible methods of soliciting proposals.
 1. A Request for Proposals (RFP) asks that offerers submit both qualifications and cost information.
 2. A Request for Qualifications (RFQ) can be used for purchasing architecture and engineering services. It only asks for information on the offerer's expertise/experience and not on cost, subject to a negotiation of fair and reasonable compensation. When acquiring services other than architecture or engineering, the full RFP process should be used.
- ❑ When Competitive Proposals are utilized, the following requirements apply.
 - Publication Period: Proposals must be solicited from an adequate number of qualified sources and an advertisement must be published. RFP's/RFQ's should be published in a sufficient timeframe before they are due.
 - Clear Definition: The RFP/RFQ must identify the general scope of work and all significant factors of evaluation, including price where appropriate, and their relative importance.
 - Technical Evaluation: A written method for technical evaluation of the proposals received, determinations of responsible offerer and the selection for contract award should be established.

- Award: Award must be made to the responsible offerer whose proposal will be most advantageous to the procuring party, price and other factors

considered. Unsuccessful offerers should be notified promptly. The contract can be either a fixed price or a cost reimbursement type.

IV. Non-competitive Proposals

- ❑ Non-competitive procurement should only be used when the award of a contract is infeasible under small purchase procedures, sealed bids, or competitive proposals and one of the following circumstances applies:
 - Where the item is available only from a single source;
 - Where a public emergency or urgent situation is such that the urgency will not permit a delay beyond the time needed to employ one or the other procurement methods; or
 - Where after solicitation of a number of sources, competition is determined inadequate.
 - The Block Grant Program, as the Federal awarding agency, expressly authorizes noncompetitive proposals in response to a written request from the subrecipient.

Contract Provisions

- ❑ Agreements made for professional services or construction should contain provisions or conditions that allow for administrative, contractual, or legal remedies in instances in which a contractor violates or breaches the contract terms as well as provisions for termination. Construction contracts or subcontracts must also contain provisions for bonding.
- ❑ Grant recipients who are subject to Section 3 requirements must include the Section 3 clause in contracts for construction, demolition, and rehabilitation work in excess of \$100,000 (See **Appendix 2**).
- ❑ All contracts awarded must also contain the applicable procurement provisions of 2 CFR Part 200 (see **Appendix 1**). These provisions address:
 - Equal Employment Opportunity
 - Copeland "Anti-Kickback" Act (18 U.S.C. 874 and 40 U.S.C. 276c)
 - Davis-Bacon Act (40 U.S.C. 276a to a-7)
 - Contract Work Hours and Safety Standards Act (40 U.S.C. 327-333)
 - Rights to Inventions Made Under a Contract or Agreement (37 CFR Part 401)
 - Clean Air Act (42 U.S.C. 7401) and the Federal Water Pollution Control Act (33 U.S.C. 1251).
 - Byrd Anti-Lobbying Amendment (31 U.S.C. 1352)

- Debarment and Suspension (E.O.s 12549 and 12689).

Bonding

The requirements for bonding in procurement are detailed in **Appendix 1**.

For construction or facility improvement contracts or sub-contracts exceeding \$150,000, the following *minimum Federal requirements* (2 CFR 200.325) for bid guarantees, performance bonds, and payment bonds must be met.

For non-profit grant recipients, 24 CFR 84.48(c) states that for contracts or subcontracts awarded for construction or facility improvement **equal to or less than \$100,000**, the grant recipient must follow its own policies for bid guarantees, performance bonds, and payment bonds.

Conflict of Interest

Activities covered by CFR provisions:

- ❑ In the procurement of property and services by grant recipients the conflict-of-interest provisions at 2 CFR 200.318 must be followed. These regulations require subrecipients to maintain written standards governing the performance of their employees engaged in awarding and administering contracts. At a minimum, these standards must:
 - Require that no employee, officer, agent of the grant recipient shall participate in the selection, award or administration of a contract supported by CDBG or HOME if a conflict-of-interest, either real or apparent, would be involved;
 - Require that employees, officers and agents of the grant recipient not accept gratuities, favors or anything of monetary value from contractors, potential contractors or parties to subagreements; and
 - Stipulate provisions for penalties, sanctions or other disciplinary actions for violations of standards.

A conflict would arise when any of the following has a **financial or other interest** in a firm selected for award:

- A employee, agent or officer of the organization;
- Any member of an employee's, agent's or officer's immediate family including partner; or
- An organization that employs or is about to employ an employee, agent or officer of the grant recipient.

Activities covered by HOME regulations:

- ❑ In cases not covered by 2 CFR Part 200, the HOME regulations at 24 CFR 92.356 governing conflict-of-interest apply. These

provisions cover employees, agents, consultants, officers and elected or appointed officials of the subrecipient. The HOME regulations state that no person covered who exercises or has exercised any functions or responsibilities with respect to HOME activities or who is in a position to participate in decisions or gain inside information:

- May obtain a financial interest or benefit from a HOME activity; or
 - Have an interest in any contract, subcontract or agreement for themselves or for persons with business or family ties.
- ❑ This requirement applies to covered persons during their tenure and for one year after leaving the organization.
- ❑ The HOME Final Rule includes a provision which states that no owner, developer or sponsor of HOME-assisted housing, including their officers, employees, agents, consultants or elected or appointed officials, may occupy a HOME-assisted unit in a development. This provision **does not** apply to:
- An individual receiving HOME funds to acquire or rehabilitate his/her principal residence, or
 - An individual living in a HOME-assisted rental housing development where he/she is a project manager or a maintenance worker in that development.

Contract Retainage

- ❑ The County/City will withhold up to 15% of the CDBG or HOME award amount included in the written subrecipient agreement until all federal compliance requirements are met.
- ❑ All construction contracts between a grant recipient and contractor shall have 10% of payment retained until fulfillment of federal compliance is documented.

Excluded Parties

- ❑ Grant recipients must not enter into any contract with any organization which is debarred or suspended or is otherwise excluded from or ineligible for participation in Federal assistance programs under Executive Order 12549, "Debarment and Suspension". All contractors must be registered in the System for Awards Management, go to <http://sam.gov>. This applies to any CDBG or HOME assisted contract at any tier in the process. **Firms or contractors must be checked on the federal database before a contract is signed.**

References

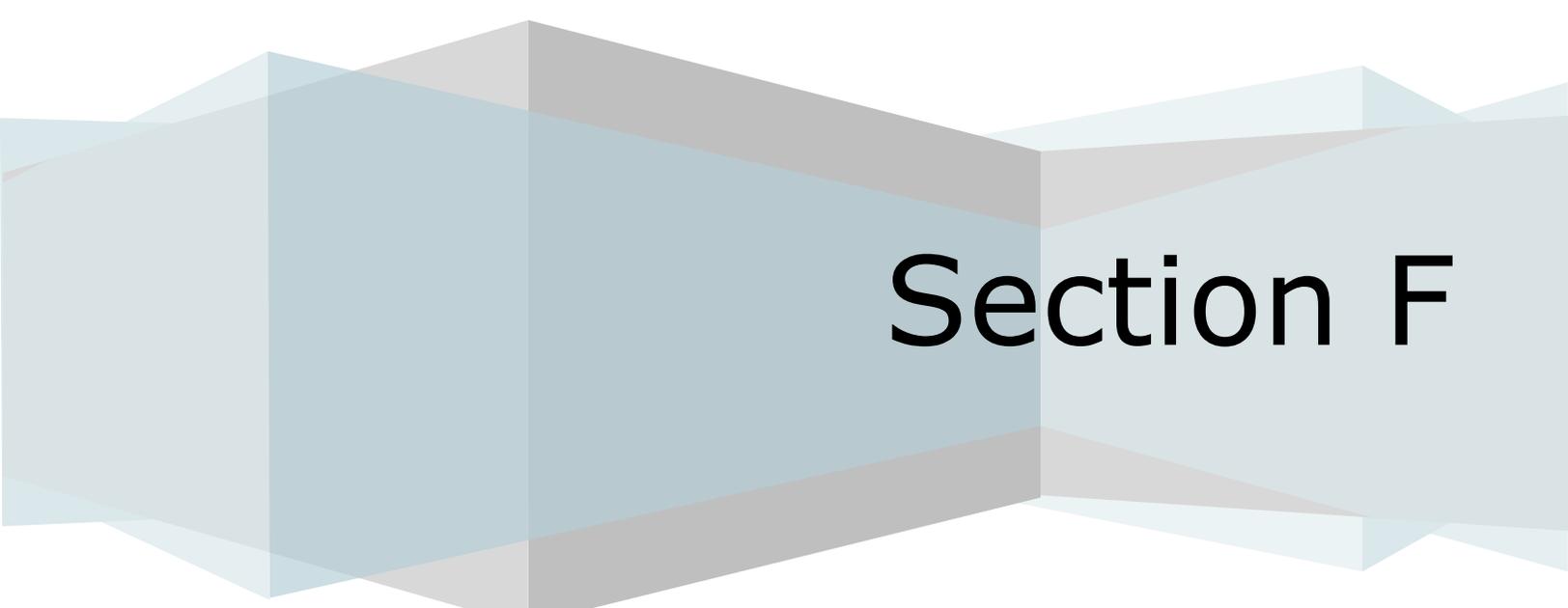
“Playing by the Rules, A Handbook for CDBG Subrecipients on Administrative Systems”, Chapter 3.0 Procurement and Contracting,
http://portal.hud.gov/hudportal/HUD?src=/program_offices/comm_planning/communitydevelopment/library/subrecipient

“HOME Certified Specialist Administration, training manual”, Chapter 3: Choosing Qualified Partners, U.S. Department of Housing and Urban Development, August 2008.

2 CFR Part 200 – Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards,
<http://www.gpo.gov/fdsys/pkg/FR-2013-12-26/pdf/2013-30465.pdf>

Environmental Review

CDBG/HOME Guidebook



Section F

Environmental Review

Introduction to the Environmental Review

CDBG and HOME regulations require the preparation of a project Environmental Review Record (ERR) and environmental clearance from HUD before **any** funds (federal or otherwise) are expended or costs incurred. The environmental review process covers all phases of the project, whether the project is funded in whole or in part by CDBG or HOME funds. The overall governing regulation is the National Environmental Policy Act (NEPA).

Some activities, such as public services that will not have a physical impact or result in any physical change to the environment, are Exempt. The environmental review for these types of activities will be completed by staff at the beginning of the program year so projects may begin to incur costs.

All other types of activities will require some level of review and the organization carrying out the project may be asked to assist in the development of the ERR by providing additional information, maps, site data or specialized study or site assessment. The level of review will depend on the type of activity.

Some capital projects which require permits through the County or City may also trigger an environmental review under the State Environmental Policy Act (SEPA). For these types of projects special conditions and mitigation measures required by the SEPA will be included in the NEPA review. These reviews can run concurrently however the NEPA requires additional time for public comment and issuance of an Authority to Use Grant Funds notice from HUD before the project can proceed.

Federal Regulation

The environmental review process consists of all the actions that a Responsible Entity must take to determine compliance with federal regulations at 24 CFR Part 58. HUD requires that Responsible Entities (RE) shall assume the responsibility for environmental review, decision-making, and action that would otherwise apply to HUD under NEPA and other provisions of law that further the purposes of NEPA, as specified in 24 CFR Part 58.5.

The City of Bremerton Block Grant Program staff act as the Responsible Entity for all City-funded CDBG and HOME projects, while the Kitsap County Block Grant Program staff act as the Responsible Entity for all County-funded CDBG, HOME, projects. Therefore, depending on the location of the project, the appropriate jurisdiction will facilitate the environmental review and will work closely with your organization toward an action. In the case that one project is jointly funded by both agencies, there will be two separate NEPA actions taken by each, though the review itself may be the same.

Under HUD regulation, there are four types of environmental review:

1. Exempt Activities (24 CFR 58.34)

Exempt activities include such things as:

- Environmental and other studies, resource identification, and the development of plans and strategies;
- Information and financial services;
- Administrative and management activities;
- Public services that will not have a physical impact or result in any physical changes;
- Inspections and testing of properties for hazards or defects;
- Purchase of insurance;
- Purchase of tools;
- Engineering or design costs;
- Technical assistance and training;
- Other activities that will not have a physical impact or result in physical changes, as determined by HUD.

The most common type of environmental review exemption is that of public services. So long as your organization’s public service project or program funded by CDBG will not have a physical impact or result in any physical changes, staff will complete an environmental review exemption and your project will be able to begin incurring costs upon such notification.

Conversely, all capital projects funded by CDBG or HOME will require an environmental review at some level, depending on the scope of the project, as described below.

2. Categorical Exclusion (24 CFR 58.35)

Categorical exclusion refers to a category of activities for which no Environmental Impact Statement (EIS) or Environmental Assessment (EA) and finding of no significant impact under NEPA is required, except in extraordinary circumstances in which a normally excluded activity may have a significant impact. There are two types of categorical exclusions, those that are subject to part 24 CFR 58.5 and those that are not subject to part 24 CFR 58.5.

Activities that are categorically excluded under NEPA, but may still be subject to review under 24 CFR 58.5 include actions such as acquisition, repair, improvement, reconstruction, or rehabilitation of facilities and improvements, so long as the use remains the same and the size or capacity is not changed by more than 20%. Other actions that are subject to this type of review include: removal of architectural barriers restricting mobility of and accessibility to elderly and disabled

persons, rehabilitation of buildings and improvements under certain circumstances, and any individual action on up to four dwelling units.

The following activities are categorically excluded under NEPA and **not** subject to review under 24 CFR 58.5:

1. Tenant-based rental assistance
2. Supportive Services
3. Operating Costs
4. Economic Development Activities (not associated with construction or expansion)
5. Activities to assist homeownership of existing or dwelling units under construction not assisted with Federal funds including closing costs and down payment assistance to homebuyers and interest buydowns or other actions resulting in transfer of title
6. Affordable housing pre-development costs
7. Approval of supplemental assistance (including insurance or guarantee) to a project previously approved under Part 58, if:
 - a. the same responsible entity conducted the environmental review on the original project and re-evaluation of the environmental findings is not required under Section 58.47

Since these projects are not subject to review under 24 CFR 58.5, the project will not be reviewed for the same environmental impacts as would be required of projects that are subject to 24 CFR 58.5. However, the project must still be reviewed for its potential impact on the environment as described under "Other Federal Requirements" at 24 CFR 58.6. These categories include flood disaster protection, coastal barrier resources, and airport runway clear zones. If there are no potential impacts to these categories, or if potential impacts can be appropriately mitigated, your organization will be sent a "Notice to Proceed," at which point you may begin to incur costs related to the project. No public comment period is required.

3. Environmental Assessment (24 CFR 58.36)

If a project is not exempt or categorically excluded, as described above, an Environmental Assessment (EA) must be conducted. An EA is a much more in-depth review of the project and examines all of the project's potential impact on environmental conditions, including socioeconomic impact, community facilities and services, and natural features. This review is triggered when there are federal funds in a project involving:

- Acquisition of vacant land;

- Construction of a new public facility or housing; or
- Acquisition and/or major rehabilitation, reconstruction or improvement to an existing building.

The EA is the most common type of review for these types of projects, vary rarely is an EIS required. This type of review is often conducted concurrently with a SEPA review which is performed by the local jurisdiction when an application for permit is submitted. It will include any mitigation measures included in the SEPA determination. The agency carrying out the project is then responsible for implementing the specific mitigation measure to lessen an environmental impact and the RE is responsible for ensuring that such mitigation is implemented appropriately.

4. Environmental Impact Statement (24 CFR 58.37)

In such instances where the complexity of the project exceeds the scope of an EA, or the project has potentially significant impacts on the surrounding environment, an Environmental Impact Statement (EIS) may be required according to 24 CFR 58.37. An EIS is a detailed written statement for a proposed major Federal action significantly affecting the quality of the human environment. Since an EIS deals with a project that may potentially significantly affect the environment, the review is understandably much more in-depth and comprehensive. An EIS is generally prepared by a third party environmental consultant offering expertise in the area, since the capacity needed to prepare the EIS is greater than either the County or the City Block Grant Programs.

Satisfactory fulfillment of NEPA and Timelines

In order to proceed with your project you must receive written environmental clearance from the County and/or City, proving that the environmental review has fulfilled the requirements under NEPA. The type of clearance will differ depending on the level of environmental review.

Exempt Activities and Categorically Excluded Activities

Due to the nature of projects falling under the exempt or categorically excluded reviews, fulfillment of NEPA requirements is relatively straightforward and expeditious. Once the review is complete your organization will receive a "Notice to Proceed" which will allow you to begin to incur costs.

The timeline for these types of reviews will vary depending on the type of project from a few days for a public service activity to several weeks for a typical project involving minor rehabilitation.

Environmental Assessment Activities

The more in-depth review required of the Environmental Assessment (EA) is indicative of its more rigorous requirements for fulfillment of NEPA. Additionally, for this type of review there is a required public comment period and subsequent response to public comments if received.

The timeline for the EA will depend on several factors including:

- Completion of project appropriate site studies such as a Phase I Environmental Site Assessment, Geotechnical Report, Traffic Analysis, Habitat Management Plan, Wetland Review, etc;
- Submission of project application to the local jurisdiction triggering a SEPA review;
- Additional requirements for further studies as determined through the environmental review process (i.e. Traffic Impact Study, Cultural Site Assessment).
- Public comment periods.

The EA will require two public comment periods; a 15-day comment period when the Block Grant office issues a Determination and another 15-day comment period published by HUD for the release of funds. Typically an EA will take about 4 months from the time of initiation of the review (assuming all necessary documentation such as a Phase I ESA has been provided to our office) until we have the Release of Funds notification from HUD and can issue a Notice to Proceed.

Environmental Impact Statement

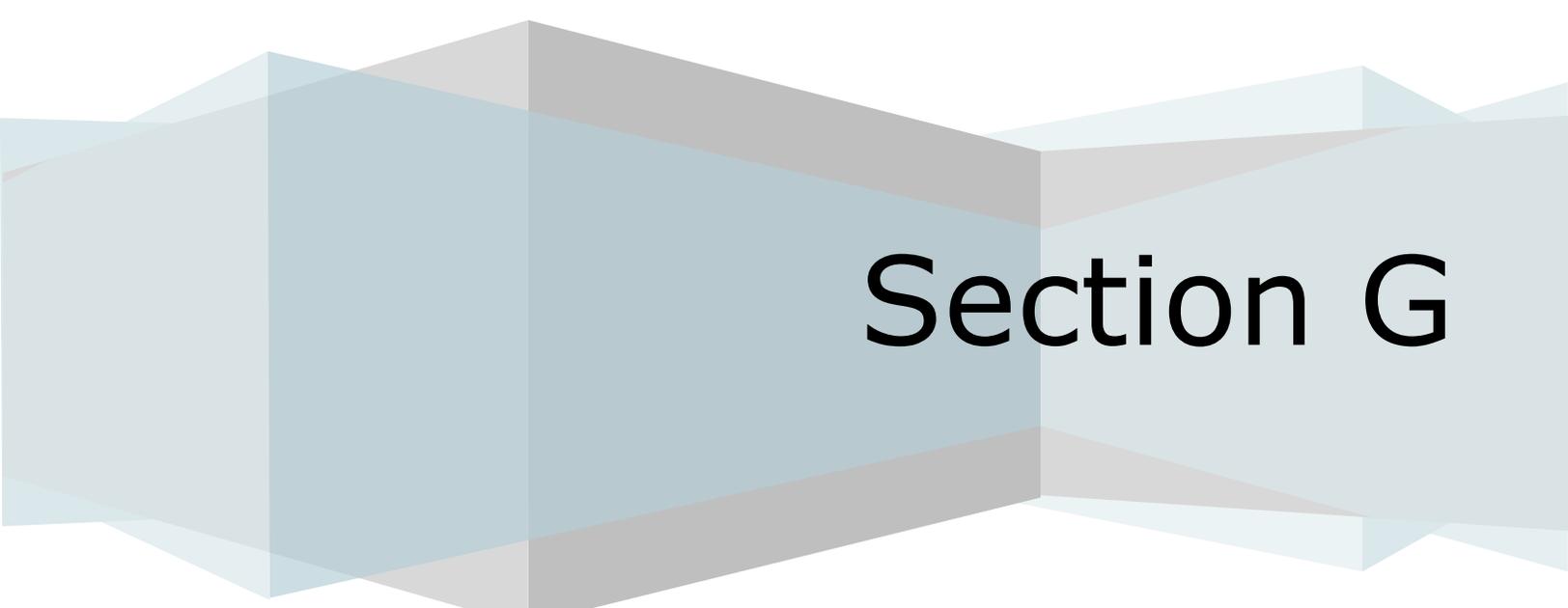
Like the EA, the more in-depth review required of the Environmental Impact Statement (EIS) will require additional time as well as a required public comment period and subsequent response to public comments if received. The timeline for completion of an EIS is difficult to estimate and depends on the complexity of the project. Projects that trigger an EIS will need to allow a significant amount of time for completion based on estimates provided by qualified professionals with experience in the preparation of this type of review. As mentioned previously, most projects funded will not require this level of review.

Record Keeping

All documents that are a part of the environmental review record (ERR) are required to be kept by the County and/or City as documentation of the process that was undertaken. Your organization will be provided a Notice to Proceed which should be maintained in the project file.

Equal Opportunity & Accessibility

CDBG/HOME Guidebook



Section G

OVERVIEW OF FEDERAL REGULATORY REQUIREMENTS

In addition to the rules and requirements for HOME and CDBG, there are other additional broad Federal rules that must be followed. The Federal requirements in this section address non-discrimination and equal access to programs and projects funded with HOME or CDBG. Grant recipients must ensure that no persons or group is denied project benefits or employment, training, business, contracting or housing opportunities on the basis of race, national origin, religion, color, sex, age, or handicap.

The applicable laws, executive orders and regulations are summarized below. Additional information about applicability and compliance with some of these regulations is included in the appendix and referenced below.

Fair Housing and Equal Opportunity

No person in the United States shall on the grounds of race, color, national origin, religion or sex be excluded, denied benefits or subjected to discrimination under any program funded in whole or in part by CDBG or HOME funds. This applies to employment and contracting, as well as to marketing and selection of program participants.

- Title VI of the Civil Rights Act of 1964: No person may be excluded from participation in, denied the benefits of, or subjected to discrimination under any program or activity receiving Federal assistance on the basis of race, color or national origin (24 CFR Part 1).
- Equal Opportunity in Housing: Prohibits discrimination against individuals on the basis of race, color, religion, sex or national origin in the sale, rental, leasing or other disposition of residential property, or in the use or occupancy of housing assisted with Federal funds (24 CFR Part 107).
- Age Discrimination Act of 1975: Prohibits age discrimination in programs receiving Federal financial assistance (24 CFR Part 146).

Any grant recipient that receives CDBG or HOME funds must have a written and adopted policy of non-discrimination and equal opportunity. This policy should cover employees, volunteers and program participants.

- The Fair Housing Act: Prohibits discrimination in the sale or rental of housing, the financing of housing or the provision of brokerage services against any person on the basis of race, color, religion, sex, national origin, handicap or familial status (24 CFR Part 100-115).

The Fair Housing Act covers most housing. In some circumstances, the Act exempts owner-occupied buildings with no more than four units, single-family housing sold or rented without the use of a broker, and housing operated by organizations and

private clubs that limit occupancy to members. If your project is for housing your organization will want to be aware of requirements under the Fair Housing Act and develop appropriate policies to ensure compliance. See Appendix 3 for additional information on the Fair Housing Act.

Grant recipients that receive HOME funds for housing projects with 5 or more HOME assisted units must have an affirmative marketing plan. This plan should address:

1. Methods for informing tenants about fair housing laws;
2. A description of what will be done to affirmatively market the housing;
3. A description of what the property owner/manager will do to inform persons not likely to apply for housing without special outreach;
4. Maintenance of records to document actions taken to affirmatively market the housing and assess marketing effectiveness.

Handicapped Accessibility

- Americans with Disabilities Act: Provides comprehensive civil rights to individuals with disabilities in the areas of employment, public accommodations, state and local government services and telecommunications. The Act, also referred to as the ADA, also states that discrimination includes the failure to design and construct facilities that are accessible to and usable by persons with disabilities. The ADA also requires the removal of architectural and communication barriers that are structural in nature in existing facilities. Removal must be readily achievable, easily accomplishable and able to be carried out without much difficulty or expense.
- Section 504 of the Rehabilitation Act of 1973: Section 504 of the Rehabilitation Act of 1973 prohibits discrimination in federally assisted programs on the basis of handicap. Section 504 imposes requirements to ensure that “qualified individuals with handicaps” have access to programs and activities that receive Federal funds.
 - ✓ For any grant recipient principally involved in housing or social services, **all** of the activities of the agency – not just those directly receiving Federal assistance – are covered under Section 504.
 - ✓ Contractors and vendors are subject to Section 504 requirements only in the work they do on behalf of a grant recipient.
 - ✓ Under Section 504, grant recipients are not required to take actions that create undue financial and administrative burdens or alter the fundamental nature of the program.

The specific requirements under Section 504 are summarized in Appendix 3.

Equal Opportunity for Employment and Contracting

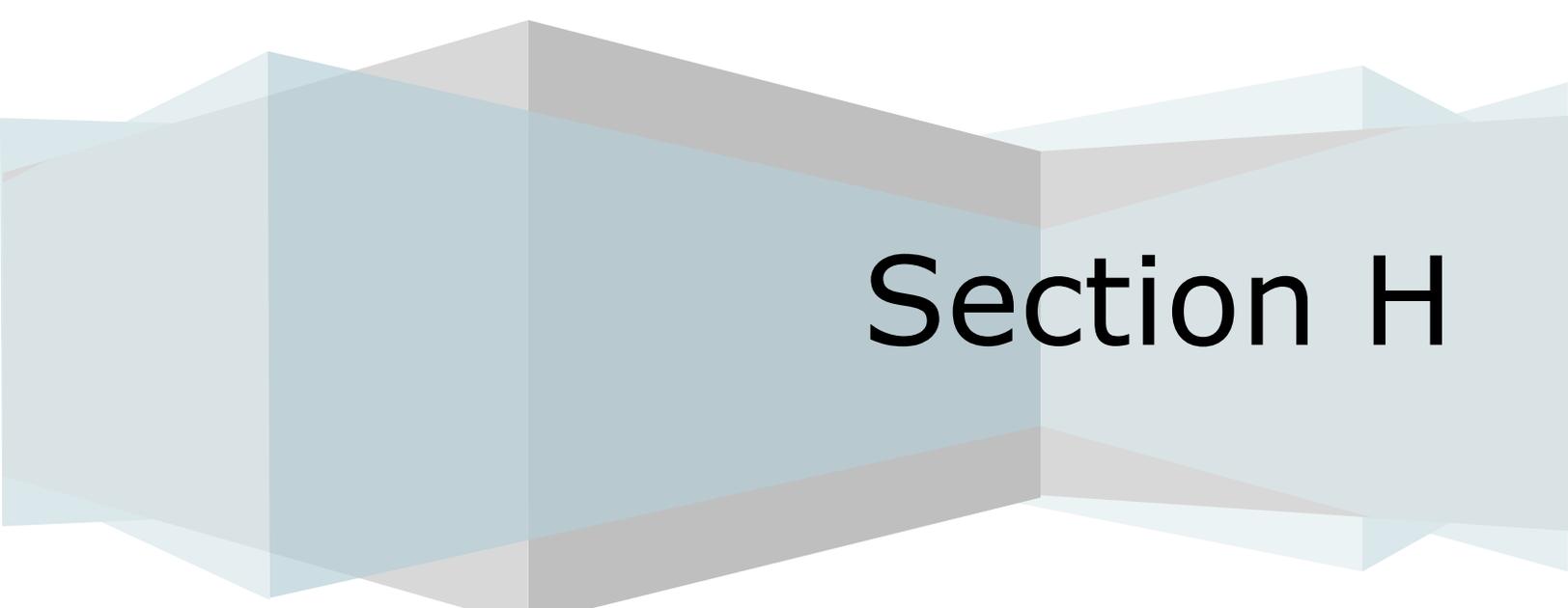
CDBG and HOME require compliance with the regulations discussed below governing employment and contracting opportunities. These concern equal opportunity, labor requirements and contracting/procurement procedures.

- Equal Employment Opportunity: Prohibits discrimination against any employee or applicant for employment because of race, color, religion, sex or national origin. Provisions to effectuate this prohibition must be included in all construction contracts exceeding \$10,000. (41 CFR Part 60)
- Minority/Women's Business Enterprise: Requires outreach to include, to the maximum extent possible, minority and women owned businesses in contracting. (24 CFR 85.36(e)).
- Section 3 of the Housing and Urban Development Act of 1968: Requires that, to the greatest extent feasible, opportunities for training and employment arising from an award of CDBG or HOME assistance over \$200,000 will be provided to low-income persons residing in the program service area. Also, to the greatest extent feasible, contracts for work (all types) to be performed in connection with CDBG or HOME will be awarded to business concerns that are located in or owned by persons residing in the program service area.

For more information on compliance with Section 3 requirements, including when the requirements are triggered and how to demonstrate compliance, see Appendix 2. If your agency receives \$200,000 of CDBG/HOME funds and you plan to do hiring of any kind you are encouraged to consult with your project contact in the Block Grant office for guidance.

Acquisition & Relocation

CDBG/HOME Guidebook



Section H

ANTI-DISPLACEMENT & RELOCATION ASSISTANCE PLAN

Introduction

Applicants for federal funds must comply with the **Uniform Relocation Assistance and Real Property Acquisition Policies Act** of 1970, referred to as URA. URA regulations, at 49 CFR Part 24, apply to any federally-assisted project involving acquisition, demolition or rehabilitation. This is true whether or not CDBG or HOME actually funded the acquisition, demolition or rehabilitation itself. URA applies to the project as a whole.

The URA protects all persons who are displaced by a federally assisted project, regardless of their income. This is in contrast to Section 104(d) which only protects displaced persons whose income is at or below 80% of the area median income. The URA also protects businesses located in a building acquired, demolished or rehabilitated with federal funds.

The URA's main objectives are:

- To provide uniform, fair and equitable treatment of persons whose real property is acquired or who are displaced in connection with federally-funded projects.
- To ensure relocation assistance is provided to displaced persons to lessen the emotional and financial impact of displacement.
- To ensure that no individual or family is displaced unless Decent, Safe and Sanitary housing is available within the displaced person's financial means.
- To help improve the housing conditions of displaced persons living in substandard housing.
- To encourage and expedite acquisition by agreement and without coercion.

This section of the guidebook briefly highlights key URA relocation requirements and concepts. However, it does not contain everything you need to know about relocation, or real estate acquisition requirements under the URA or other applicable federal rules such as Section 104(d). Subrecipients are encouraged to review the **HUD Handbook 1378 Tenant Assistance Relocation and Real Property Acquisition** which can be found on HUD's web site at: www.hud.gov/relocation . You are also encouraged to contact Block Grant staff and ask questions before you begin a project.

Real Property Acquisition

- A. When acquisition of real property is the result of a voluntary proposal which has been submitted by an owner in response to a public invitation or solicitation for offers, it is referred to as voluntary acquisition. In contrast, acquisition of property by the local government entity which is not voluntarily

offered for sale is referred to as involuntary acquisition. Voluntary Acquisition must adhere to the following procedures:

- a) Determine if the housing unit is a low/moderate income dwelling unit and if so contact the Block Grant Program office.
 - b) Clearly advise the owner that in the event negotiations fail to result in an agreement the property will not be acquired.
 - c) Arrange for a full independent narrative appraisal of the property by a qualified appraiser.
 - d) Inform the owner of what the agency believes to be fair market value of the property and that the agency does not have the authority to acquire the property by eminent domain. (HUD Guideform **Notice of Voluntary Arms Length Transaction** is available from the Block Grant Office)
- B. All acquisitions must go through real estate escrow. The escrow agent must be a neutral third party to the acquisition.
- C. All acquisitions must have title insurance.
- D. All acquisitions will need a notice of some kind. All occupants are entitled to timely notice explaining whether or not they will be displaced.
- Occupants to be displaced must be informed of their eligibility for relocation assistance and the nature of the assistance.
 - Occupants not to be displaced must be informed of the terms and conditions under which they may occupy the property upon completion of the project.

Notices

- **General Information Notice (GIN)**: Informs occupants of a possible project and of their rights under URA. Stresses that the occupants should not move at this time.
- **Move-in Notice** informs tenants moving into potential projects after the application that may be displaced and that they will not be entitled to assistance.
- **Notice of Non-Displacement** informs occupants who will remain in the project after completion of the assisted activity of their rights and of the terms and conditions of their remaining at the property.
- **Temporary Relocation Notice** informs occupants who will be temporarily relocated of their rights and of the conditions of their temporary move.
- **Notice of Eligibility** informs occupants to be displaced of their rights and levels of assistance under federal law.
- **90 and 30 Day Notices** informs displaced occupants of the day by which they must vacate the property.

These and other Guideform Notices from HUD can be obtained by contacting the Block Grant Office.

Planning For Relocation Under URA

- A. Minimizing Displacement: It is the policy of the Kitsap County and City of Bremerton Community Development Block Grant (CDBG) and HOME Investment Partnership (HOME) Programs to minimize displacement of people or businesses as a result of activities assisted with CDBG or HOME funds. This means:
- a) Considering whether displacement will occur and how this would affect the feasibility of the project.
 - b) Identifying potential relocation workload and resources early.
 - c) Assuring, whenever possible, that residential occupants of buildings to be rehabilitated are offered an opportunity to return.
 - d) Planning rehabilitation projects to include "staging" where this would minimize displacement.
- B. Relocation Assistance for Displaced Residents
Relocation is defined as the permanent movement of occupants/tenants, required as a result of a CDBG or HOME activity. Federal regulations require that if any individuals, families, businesses or farms are displaced the grant recipient must:
- a) Inform the person(s) that they may be displaced and generally describe the relocation payment(s) for which they may be eligible, the basic conditions of eligibility, and the procedures for obtaining payment(s).
 - b) Inform the person that they will not be required to move without at least 90 days advance written notice and that the person to be displaced cannot be required to move permanently unless at least one comparable replacement dwelling unit has been made available.
 - c) Inform the person that they will be given reasonable relocation advisory services, including referrals to replacement properties, help in filing payment claims, and other necessary assistance to help them relocate.
 - d) Provide the person with a description of their right to appeal any determinations for assistance under the Uniform Relocation and Real Property Acquisition Act (49 CFR, Part 24).
 - e) Assure that those persons who are required to relocate receive their full replacement housing payments, moving, and related expenses.
- C. Rights of Residents who Remain in the Project
- a) Remaining Households must be offered affordable Housing.

- Tenants who are intended to remain in the project must receive the offer of a “suitable” unit which can be rented at an “affordable” price. Determining which tenants will be able to remain in the project is a key component of determining the feasibility of an occupied project.

b) Temporary Relocation

- Residents who will remain in the project after rehabilitation may be required to move temporarily during rehabilitation.
- The temporary dwelling must be suitable and decent, safe and sanitary but not necessarily comparable.
- In addition to the Notice of Non-displacement, the resident must, as a minimum, receive reasonable advance written notice of the date and approximate duration of the planned temporary move; information about the terms and conditions under which the tenant will be returning to when the project is completed; and reimbursement for all reasonable out-of-pocket expenses incurred in connection with the temporary move.

c) Permanent Moves Within the Project

- Tenants may be allowed to remain in a project after rehabilitation, but not necessarily in the same unit.
- Permanent moves within the same project must be to suitable, decent, safe and sanitary - but not necessarily comparable - units.
- In addition to the Notice of Non-displacement, the resident must, as a minimum receive reasonable advance written notice of the date of the planned move to an alternate unit and; reimbursement for all reasonable out-of-pocket expenses incurred in connection with the move.

Section 104(d) - Replacement of Housing

Section 104(d) of the Housing and Community Development Act of 1974 as amended requires the one-for-one replacement of low/moderate income occupied or occupiable dwelling units which are demolished or converted to a use other than low/moderate income housing as a direct result of CDBG or HOME assistance. Under this section relocation assistance shall be provided in accordance with 24 CFR Part 42.350. One for one replacement of units shall be provided in accordance with 24 CFR Part 42.375.

All comparable replacement housing will be provided within one year prior to or three years after commencement of the demolition or conversion. Before entering into a contract committing the County to provide funds for an activity that will directly result in demolition or conversion, Kitsap County will require the applicant

to publish a notice in the newspaper, and Kitsap County will submit to HUD, the following information in writing:

- 1) Description of proposed assisted activity;
- 2) The address, number of bedrooms and map of location of the lower income housing that will be lost as a result of the project;
- 3) Time schedule for start and completion of the demolition or conversion;
- 4) To the extent known, the address, number of bedrooms and map of the location of replacement housing that has or will be provided. If such data are not available at the time of the general submission, Kitsap County will identify the general location on an area map and information identifying the specific location and number of dwelling units by size shall be submitted and disclosed to the public as soon as it is available;
- 5) Basis for concluding replacement housing will remain a low-income unit for at least 10 years from the date of initial occupancy;
- 6) Information demonstrating that any proposed replacement of housing units, that are different in size from those units lost, is appropriate and consistent with housing needs and priorities identified in the Consolidated Plan.

Documents and Record Keeping

Documenting compliance with the Uniform Relocation Assistance and Real Property Acquisition Policies Act is the responsibility of the grant recipient undertaking the project. Proper notification must be undertaken early in the project and copies of all notices provided must be kept. Block Grant staff will assist by providing guidance and applicable guideform notices for use on the project. All correspondence must be kept by the grant recipient and provided to Block Grant staff for review upon request.

DEFINITIONS

Comparable replacement dwelling unit: A unit that meets the criteria of 49 CFR 24.2(d)(1) through (6); and is available at a monthly cost for rent that does not exceed the "Total Tenant Payment" determined under 24 CFR Part 42 813.107.

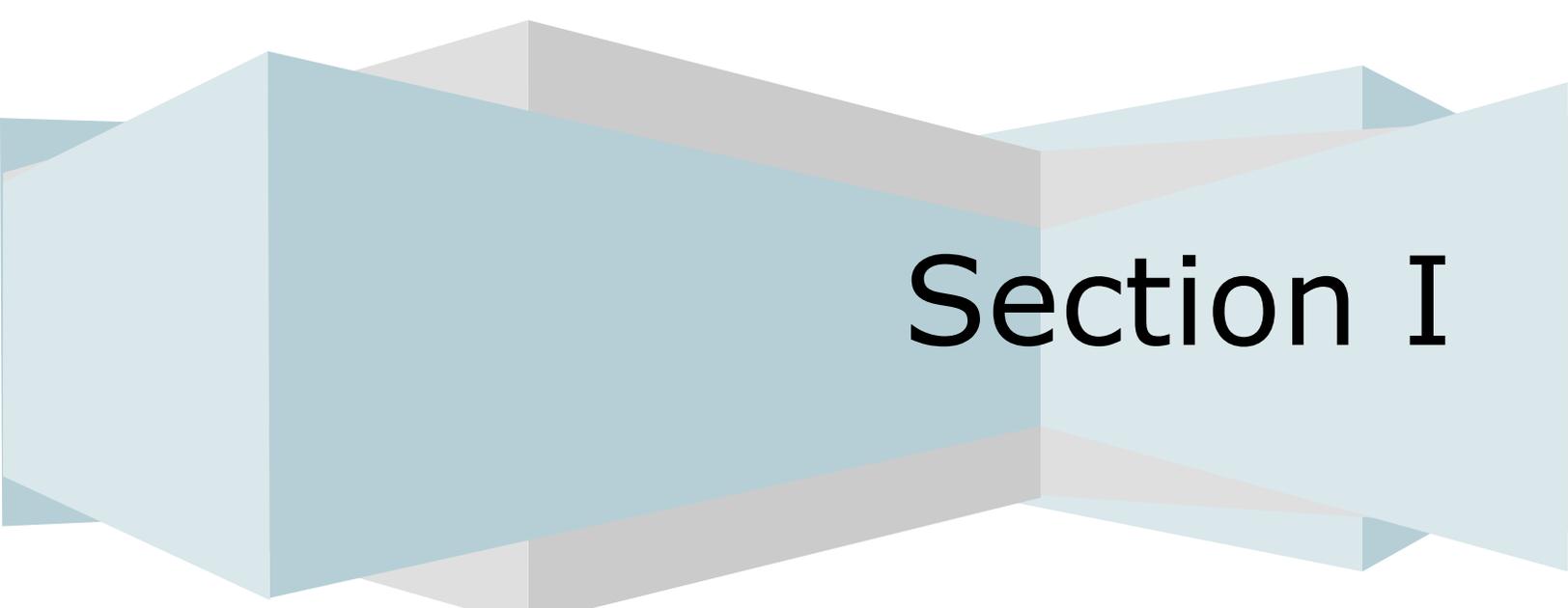
Conversion: This term means altering a housing unit so that it is used for non-housing purposes; used for housing but no longer meets the definition of lower income dwelling unit; or used as an emergency shelter.

Lower-Income Dwelling Unit: A dwelling unit with a market rent (including utility costs) that does not exceed the applicable Fair Market Rent (FMR) for Section 8 existing housing established under 24 CFR part 888. However, the term does not include any unit that is owned and occupied by the same person before and after the assisted rehabilitation.

Vacant occupiable dwelling unit: a vacant dwelling unit that is in a standard condition; vacant dwelling unit that is in a substandard condition but is suitable for rehabilitation; or a dwelling unit in any condition that has been occupied (except by a squatter) at any time within the period beginning 3 months before the date of execution of the agreement by the recipient covering the rehabilitation or demolition.

Labor Standards, Construction & Lead Safe Housing

CDBG/HOME Guidebook



Section I

Overview

This section will cover Labor Standards, Construction/Rehabilitation requirements and Lead Safe Housing requirements for projects funded with CDBG or HOME. Hiring professional services and contractors is covered in Section E Procurement.

Davis-Bacon and Other Labor Laws

The **Davis-Bacon Act** requires the payment of prevailing wage rates (which are determined by the U.S. Dept. of Labor) to all laborers and mechanics on Federal government construction (including rehab.) projects in excess of \$2,000, with some exceptions for housing projects:

HOME funded projects with less than 12 "HOME assisted" units
CDBG funded residential projects with less than 8 units

Other laws applicable to projects involving construction work include:

The Contract Work Hours and Safety Standards Act which requires time and one-half pay for overtime hours (over 40 in any workweek) worked on the covered project.

The Copeland Act makes it a Federal crime for anyone to require any laborer or mechanic employed on a Federally-assisted project to kickback (i.e. give up or pay back) any part of their wages.

The Fair Labor Standards Act contains minimum wage rates, overtime and child labor requirements.

1. Construction Contract Provisions

Each contract subject to Davis-Bacon labor standards requirements must contain **Federal Labor Standards Provisions** (HUD form 4010) and a **Davis-Bacon wage decision**. These documents are normally bound into the contract specifications and can be obtained from Block Grant staff. It is important that any bid solicitations are based on the correct Federal prevailing wage rates. These rates may be different from the State prevailing wage rate or local wage rate for a trade or job classification.

2. Contract Award

Once you have selected a contractor you must check the General or Prime Contractor for Debarment. Go to <http://www.sam.gov> and do a search or contact the Block Grant office and we will perform the search. You cannot contract

with any debarred firm or individual. You should also provide the Block Grant office with a **Davis Bacon Construction Contract Award** form. This form contains basic information about the Prime Contractor.

3. Preconstruction Conference

Once a contractor has been selected for the project a preconstruction conference will be scheduled and includes the agency/project developer, principal contractor selected and staff from the Block Grant office. The principal contractor (also referred to as the prime or general contractor) is responsible for the full compliance of all employers (the contractor, subcontractor and any lower tier subcontractors) with the labor standards provisions applicable to the project.

4. Project Wage Rates & Additional Work Classifications

Wage decisions are multi-paged, cover several counties and are difficult to read. To make it easier to read and understand on larger projects Block Grant Staff can provide a Project Wage Rate Sheet (HUD form 4720). This is a one-page listing of only the wage rates applicable to the specific project and should be posted on the job site. The general contractor will need to provide the information on which job classifications will be working on the project.

For classifications not listed in the Davis Bacon Wage Determination a request must be sent to the Dept. of Labor. This should be completed as early in the project as possible as it can take a month or more to receive a decision. The Prime Contractor must initiate the request for additional job classifications not in the Wage Decision. On Company letterhead the Contractor should list the classification requested, state the base rate and fringe rate for each classification and spell out the tasks for the requested classification. Block Grant will then send the information to HUD's Labor Relations Office.

5. On-site Project Inspections and Wage Interviews

Block Grant staff will make periodic visits to the construction site to:

- Ensure the correct wage determination & any additional classifications and Poster (both English and Spanish) are posted by the contractor at the site.
- Conduct wage interviews, observe the work being performed and obtain information on the hours worked, type of work performed and wages received. Information gathered during the interviews is recorded and compared against the Certified Payrolls submitted on the project.

6. Certified Payroll Reports

The Prime contractor (and any subcontractors) will need to submit weekly certified payroll reports, beginning with the first week they work on the

project and for every week after, to the Block Grant project manager for review. Forms and instructions for completing the payrolls will be provided at the Pre-Construction Conference.

Block Grant staff will work directly with the prime/general contractor's payroll administrator to resolve any payroll errors or issues. Where underpayments of wages have occurred, the employer will be required to pay wage restitution to the affected employees. Block Grant staff will notify the prime/general contractor of any underpayments that are found and will describe the underpayments and provide instructions for computing and documenting the restitution to be paid. The contractor is allowed 30 days to correct the underpayments.

7. Non-Compliance

A dispute about labor standards and compliance can arise for a number of reasons. The labor standards clauses in the contract and DOL regulations provide for administrative review of issues where there is a difference of views. The most common circumstances include:

- Denial of request for additional classification and wage rate by DOL.
- Findings of underpayment

It is important to be aware of unresolved issues related to Davis Bacon before authorizing payment to the Prime Contractor. If wage underpayment or other violations are not corrected within 30 days after written notification to the prime contractor, the Block Grant office or Dept. of Labor may direct the withholding of contract payments to ensure the payment of wages which are believed to be due and unpaid.

Contractors and/or subcontractors that violate the labor standards provisions may face administrative sanctions imposed by HUD and/or Dept. of Labor.

Lead Based Paint

All HOME/CDBG funded housing constructed before 1978 must comply with lead-based paint regulations at 24 CFR Part 35. The purpose of the regulation is to identify and address lead-based paint hazards before children are exposed to lead. If your project includes the acquisition, rehabilitation or leasing of housing, Block Grant staff will provide you with a checklist to determine if your project is Exempt and if not what steps will be necessary to document compliance with the requirements under the regulation.

If your project is subject to Lead Safe Housing requirements, you are required to provide notification to occupants/owners/purchasers of the housing. You may also be required to:

- **Perform a Lead Hazard Evaluation:** The evaluation required depends on the nature of the activity funded and the amount of federal funding. Evaluation methods include visual assessments, paint testing, and risk assessments.
- **Lead Hazard Reduction:** The reduction activity required depends on the nature of the activity funded and the amount of Federal funding. Reduction methods described include paint stabilization, interim controls, standard treatments, and abatement.
- **Ongoing Maintenance:** Ongoing maintenance is required if your project will continue to be monitored by the Block Grant Office during a period of affordability. This includes periodic visual assessments to determine if lead-based paint hazards have reappeared.

Your Block Grant project manager will work with you to document that your project has provided proper notifications and followed correct procedures.

Construction Codes and Standards

1. Housing Quality Standards

All projects involving HOME funded acquisition and/or rehabilitation are required to meet HUD's Section 8 Housing Quality Standards before units can be occupied. Any health or safety deficiency identified during initial inspection must be corrected.

2. HOME Rehabilitation Standards

All Rehabilitation projects funded with HOME must comply with the Block Grant Programs written Rehabilitation Standards. The standard defines the quality of material and workmanship that must be used when a particular repair is made. Rehabilitation standards (sometimes called construction standards) speak to the quality, durability, and aesthetics of the end product.

3. International Energy Conservation Code

All new construction work must also conform to the International Energy Conservation Code and applicable state and local energy conservation codes.

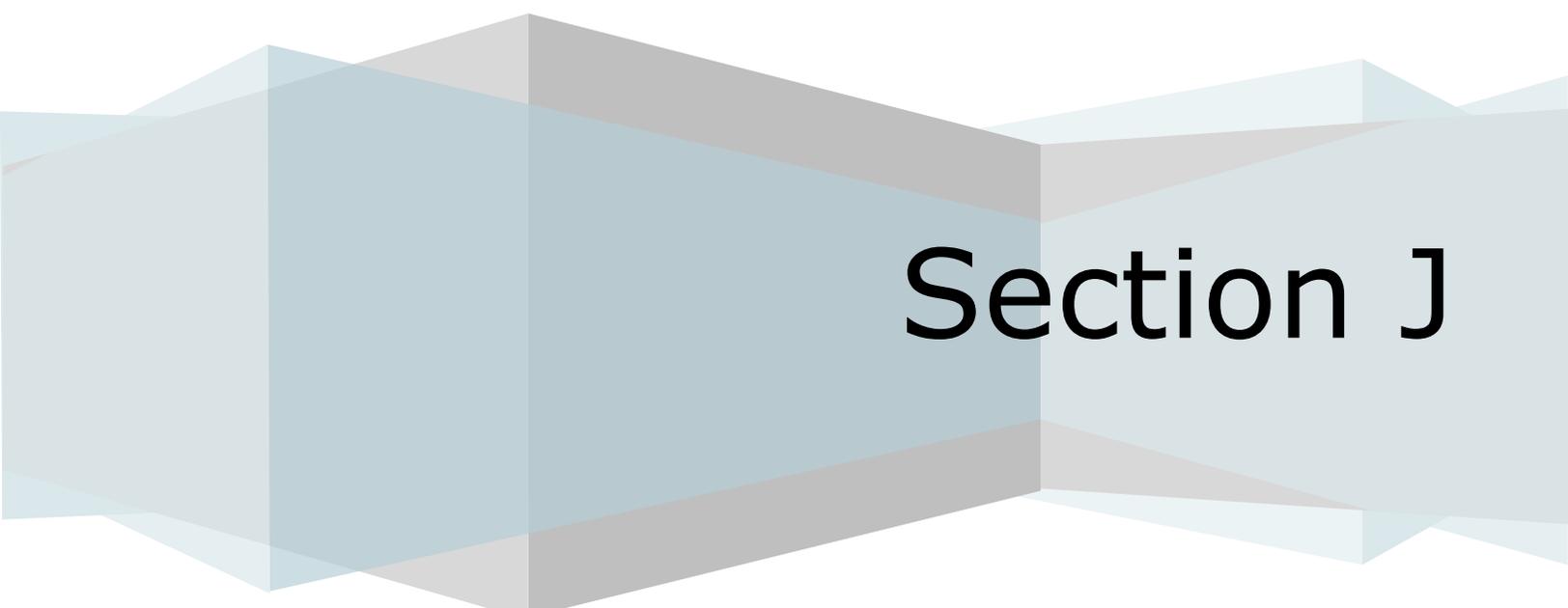
4. Section 504 and Fair Housing

Section 504 and Fair Housing rules impact the design of your project by setting standards for the appropriate number and characteristics of accessible units in your project. The applicability of these standards depends

on the size and type of project. For additional information on Section 504 and Fair Housing see Section G of the Guidebook.

Project Closeout & On-going Monitoring

CDBG/HOME Guidebook



Section J

Project Closeout

CDBG Public Service Contracts

All contracts for Public Services are for a term of one year (Jan. 1-Dec. 31) and cannot be extended. All costs incurred during the term must be submitted for reimbursement to the County or City during the beginning of January of the following year at the very latest. The County and City have different cut off dates for processing final reimbursements and you will be informed in December of the date for your particular contract. Before final close-out of your grant you will need to have all quarterly reports submitted and a final monitoring will be conducted by Block Grant staff. A close-out letter will be sent when all concerns noted during monitoring have been resolved.

CDBG Capital Contracts

Capital contracts have a specific term in the contract, which may be extended in certain circumstances, to facilitate the completion of the project. Project close out for capital contracts will not occur until all contract requirements have been satisfied, the contract retainage has been released and all proper reports and documentation has been submitted to the Block Grant office.

For projects where funds will be used for acquisition, arrangement with the Block Grant office for the transfer of funds at closing must be made in advance. A 10% retainage will be held until the project is completed (construction/rehabilitation work is complete and the building is occupied).

For projects involving new construction or rehabilitation, project closeout will not occur until all issues related to construction (including Davis Bacon requirements and Section 3 requirements) have been resolved. When the final contract retainage is released for reimbursement and all remaining funds disbursed, a close-out letter will be sent. A Restricted Use Covenant will be required to be recorded on the property for the number of years prescribed in the written agreement (contract) and a final inspection of the property conducted.

HOME Capital Contracts

HOME Capital contracts, like CDBG Capital projects, have a specific term in the contract, which may be extended in certain circumstances to facilitate the completion of the project. Project close out for HOME contracts will not occur until all contract requirements have been satisfied, the contract retainage has been released and all proper reports and documentation has been submitted to the Block Grant office. HOME projects require HOME Completion reports which contain beneficiary data. These reports cannot be completed until the HOME units have occupants.

There are a couple of important things to keep in mind with respect to completion of HOME projects:

- HOME grant recipients have 4 years from the commitment date to complete the project. Project completion means that all construction work and title transfer (if applicable) is completed and the final reimbursement of HOME funds has been completed.
- For HOME funded homebuyer projects a homeownership unit not sold to an eligible buyer within 6 months of completion must be rented in accordance with 24 CFR 92.252.

When all contract requirements have been satisfied, a close-out letter will be sent. A Deed Restriction will be required to be recorded on the property for the Period of Affordability contained in the written agreement (contract). A final inspection of the property will also be conducted.

HOME Period of Affordability Monitoring

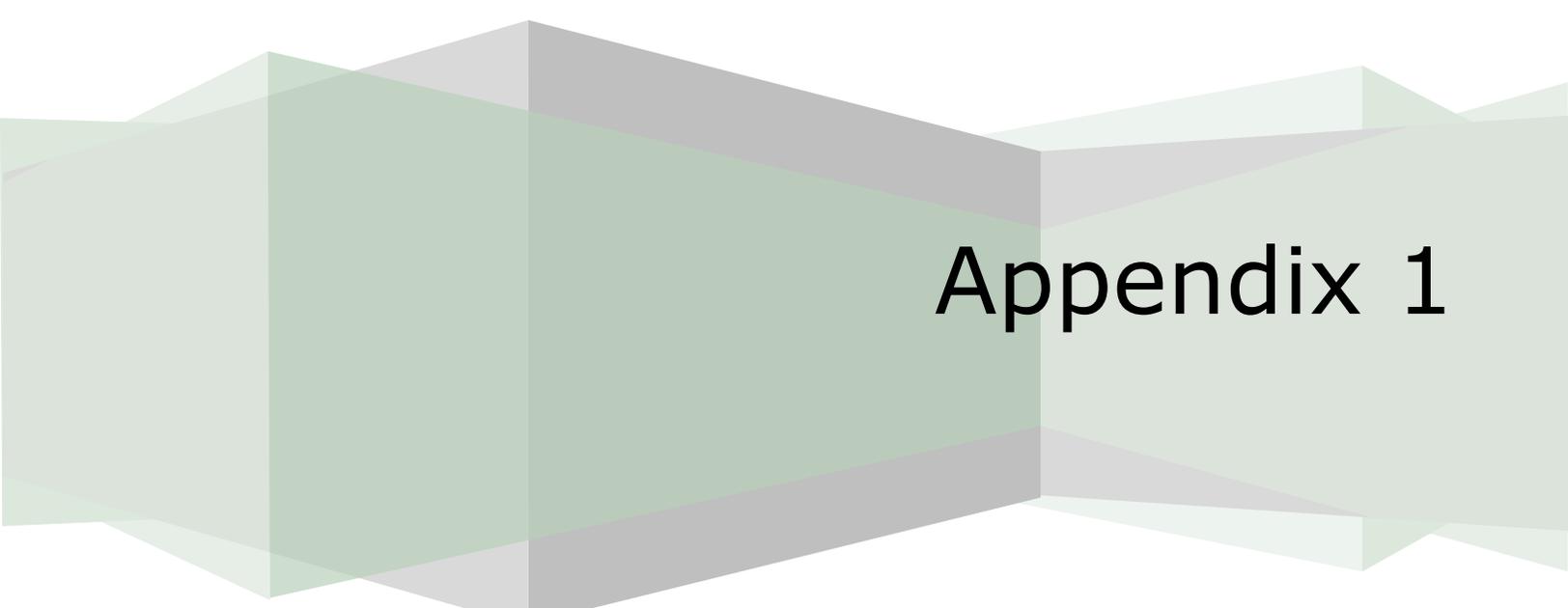
During the on-going period of affordability HOME rental projects are monitored by Block Grant staff to ensure that HOME units:

- Are managed well for both compliance and financial success of the overall project;
- Are rented only to Low income households;
- Have rents below HUD-established limits;
- Are maintained in standard, decent condition; and
- Are rented with leases and fair housing procedures.

Projects are monitored annually, and on-site monitoring is conducted annually, bi-annually or every 3 years depending on project size. Monitoring is typically conducted October-December. Block Grant staff will contact the project owner to request documents for desk monitoring and schedule on-site visits as required. On-site monitoring may also include unit inspections. Once monitoring is completed a monitoring letter will be sent and follow-up items noted. The Block Grant office will work with property managers to ensure that all health and safety issues are resolved immediately.

Bid & Contract Provisions

CDBG/HOME Guidebook



Appendix 1

Bid and Contract Requirements for grant recipients subject to 2 CFR Part 200.

Invitation to Bid

In addition to the language normally included in any advertisement for sealed bid for a construction project, the ad should contain the following:

- 1) ***This project is financed through the Community Development Block Grant program with funds obtained from the U.S. Department of Housing and Urban Development.***
- 2) Equal Opportunity/Affirmative Action: ***Owner is an equal opportunity and affirmative action employer. Small and Minority-owned businesses, women-owned businesses, and labor surplus area firms are encouraged to submit bids.***
- 3) Davis Bacon Works Requirements (if applicable): ***This project is subject to meet Federal Labor Standards Provisions Davis Bacon wage laws as explained in HUD form 4010. All work performed on the project will be subject to the approved wage determination rates in bid documents.***
- 4) Section 3 Preference (if applicable): ***The work to be performed under this contract is subject to the requirements of section 3 of the Housing and Urban Development Act of 1968, 12 U.S.C. 1701 U (section 3). The purpose of section 3 is to ensure that employment and other economic opportunities generated by HUD assistance shall to the greatest extent feasible, be directed to low-and very low income persons. Section 3 businesses are encouraged to submit bid proposals.***

Agencies are encouraged to submit bid documents to locations which will best reach potential bidders and must also follow step 1 below under Bid Package in their own outreach to include minority-owned and women-owned businesses. The following plan centers may be helpful:

Associated Sub Contractors
4033 South Union
Tacoma, WA 98409
Phone (253) 460-4740

Construction Plan Center, CDCC
105 14th Ave., 1st Floor
Seattle, WA 98122
(206)323-0721

Bid Package

The Bid Package should contain the following:

1. Instructions to Bidders; In addition to normal bid instruction the following instructions should be included:
SMALL AND MINORITY AND WOMEN'S BUSINESS ENTERPRISES PARTICIPATION
Contractors are encouraged to take actions that would increase opportunities for small and minority businesses and women's business in subcontracting. Affirmative steps must include, but are not limited to:
 - i. Placing qualified small and minority and women's business enterprises on solicitation lists;

- ii. Assuring that these firms are solicited whenever they are a potential sources;
 - iii. Dividing total requirements, when economically feasible, into smaller tasks or quantities to permit maximum participation by such firms;
 - iv. Establishing delivery schedules, where the requirement permits, which encourage participation by these firms;
 - v. Using the services and assistance of the following:
 - a. Small Business Administration www.northwestmsdc.org
 - b. the Minority Business Development Agency
Department of Commerce
www.Omwbe.wa.gov
2. Agreement, including time limit and liquidated damages;
 3. Federal Labor Standards Provisions, (HUD form 4010, a copy will be provided);
 4. Appropriate Davis-Bacon Wage Decision (copy will be provided);
 5. Specifications and drawings. Brand names can only be used if “or approved equal” is included in their reference.
 6. All new construction or rehabilitation construction contracts must include specifications and drawings to make the structure handicap accessible.
 7. A bid guarantee from each bidder equal to 5% of the bid price. The “bid guarantee” shall consist of a firm commitment such as a bid bond, certified check, or other negotiable instrument accompanying a bid as assurance that the bidder shall, upon acceptance of his bid, execute such contractual documents as may be required within the time specified.
 8. Section 3 language, if applicable.

General Contract Provisions & Bonding Requirements

All contracts, including small purchases, awarded by subrecipients for CDBG/HOME funded work shall contain the provisions of 2 CFR Part 200 Subpart F Appendix II, as follows:

- 1. Breach of Contract** – All contracts for more than the \$150,000 (the simplified acquisition threshold) must have a provision that addresses administrative, contractual or legal remedies in instances where contractors violate or breach contract terms, and provide sanctions and penalties where appropriate.
- 2. Termination for Cause** – All contracts in excess of \$10,000 must address termination for cause and for convenience including the manner by which it will be effected and the basis for settlement.
- 3. Equal Employment Opportunity** – All federally assisted contracts for construction shall contain a provision requiring compliance with Executive Order 11246, “Equal Employment Opportunity,” as amended by E.O. 11375 and as implemented by regulations at 41 CFR part 60. The following equal opportunity clause contained in Section 202 of the order must be included in all contracts and subcontracts.

(1) The contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, or national origin. The contractor

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 contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the contracting officer setting forth the provisions of this nondiscrimination clause.

(2) The contractor will, in all solicitations or advertisements for employees placed by or on behalf of the contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex or national origin.

(3) The contractor will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice, to be provided by the agency contracting officer, advising the labor union or workers' representative of the contractor's commitments under Section 202 of Executive Order No. 11246 of September 24, 1965, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

(4) The contractor will comply with all provisions of Executive Order No. 11246 of Sept. 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.

(5) The contractor will furnish all information and reports required by Executive Order No. 11246 of September 24, 1965, and by the rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the contracting agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.

(6) In the event of the contractor's noncompliance with the nondiscrimination clauses of this contract or with any of such rules, regulations, or orders, this contract may be cancelled, terminated or suspended in whole or in part and the contractor may be declared ineligible for further Government contracts in accordance with procedures authorized in Executive Order No. 11246 of Sept. 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order No. 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.

(7) The contractor will include the provisions of paragraphs (1) through (7) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to Section 204 of Executive Order No. 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The contractor will take such action with respect to any subcontract or purchase order as may be directed by the Secretary of Labor as a means of enforcing such provisions including sanctions for noncompliance: Provided, however, that in the event the contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction, the contractor

may request the United States to enter into such litigation to protect the interests of the United States."

4. Davis Bacon – Federal Labor Standards Provisions (if applicable)

Most contracts in excess of \$2,000 for construction or repair must include the Federal Labor Standards Provisions (HUD form 4010). It must be referenced in the contract and included as an attachment.

The following are not subject to these provisions:

- **HOME** funded housing projects with **fewer than 12** HOME assisted units.
- **CDBG** funded residential rehabilitation if property contains **less than 8 units**.

5. Contract Work Hours and Safety Standards Act – Contracts in excess of \$100,000 that involve the employment of mechanics or laborer must include the following provision for compliance with 40 U.S.C. 3702 and 3704, as supplemented by Department of Labor regulations (29 CFR Part 5).

- Overtime Requirements** – No contractor or subcontractor contracting for any part of the contract work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic in any workweek in which the individual is employed on such work to work in excess of 40 hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of 40 hours in such workweek.
- Working Conditions** – No contractor or subcontractor contracting for any part of the contract work which may require or involve the employment of laborers or mechanics shall require such laborer or mechanic to work in surroundings or under working conditions which are unsanitary, hazardous or dangerous.

6. Rights to Inventions Made Under a Contract or Agreement – Contracts for the performance of experimental, developmental, or research work shall provide for the rights of the Federal Government and the recipient in any resulting invention in accordance with 37 CFR Part 401.

7. Clean Air Act (42 U.S.C. 7401 et seq.) and the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.) as amended – Contracts in excess of **\$150,000** shall contain a provision that requires the recipient to agree to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act and Federal Water Pollution Control Act.

8. Debarment and Suspension (E.O.s 12549 and 12689) – No contract shall be made to parties listed on the governmentwide exclusions in the System for Award Management (SAM). SAM Exclusions contains the names of parties debarred, suspended, or otherwise excluded. All subcontracts must include the following provision:

The contractor agrees to certify that it is not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded by any Federal department or agency in accordance with Executive Orders 12549 and 12689, 24 C.F.R. Pt. 24.

9. Prohibition on the Use of Funds for Lobbying Activities: The Byrd Anti-Lobbying Amendment, 31 U.S.C. 1352, prohibits recipients of federal contracts, awards, cooperative agreements, and loans from using appropriated funds to influence the Executive or Legislative Branches of the federal government in connection with a specific contract, award, cooperative agreement, loan, or any other award covered by §1352. 18 U.S.C. 1913 makes it a crime to use funds appropriated by Congress to influence members of Congress regarding congressional legislation or appropriations. Finally, the following are unallowable charges to award funds or cost sharing: certain electioneering activities, financial support for political parties, attempts to influence federal or state legislation either directly or through grass-roots lobbying, and some legislative liaison activities. The following certification must be included in all subcontracts.

I, (name and title of bidder's official), hereby certify on behalf of (name of bidder) 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 an 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, and cooperative agreements) 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.

10. In addition to the provisions above, construction contracts over \$150,000 require the subrecipient have a bonding policy and requirements are approved by the Block Grant Program and protect the interest of the City

of Bremerton, the Federal awarding agency or the minimum requirements are as follows:

- A **bid guarantee** from each bidder equivalent to **5% of the bid price**. The “bid guarantee” must be a firm commitment in the form of a bid bond, certified check, or other negotiable instrument as assurance that the bidder is prepared to execute a contract, upon acceptance of the bid, within the time specified for the bid amount.
- A **performance bond** from the contractor or sub-contractor for **100% of the contract price** to secure the contractor’s or sub-contractor’s fulfillment of all obligations under the contract.
- A **payment bond from the contractor or sub-contractor for 100% of the contract price** to assure payment of all persons supplying labor and material under the contract.
- Where bonds are required in the situations described herein, the bonds shall be obtained from companies holding certificates of authority as acceptable sureties pursuant to 31 CFR part 223.

Additional Contract Provisions

Conflict of Interest – the following provision shall be included in every contract:

The Contractor covenants that no person, who presently exercises any functions or responsibilities in connection with the City of Bremerton Block Grant Program, will obtain a personal or financial interest from the assisted activity. The Contractor further covenants that he/she presently has no interest in, nor shall he/she acquire any interest, direct or indirect, either for themselves or those with whom they have business, or family, which would conflict in any manner or degree with the performance of his/her services hereunder. The contractor further covenants that in the performance of this Agreement any potential conflict, on the part of the Contractor or his/her employees, will be disclosed to the Agency and the County.

Section 3 Hiring: If a grant recipient receives more than \$200,000 of CDBG or HOME funds for construction, demolition or rehabilitation and enters into a contract over \$100,000 then the contract must contain the Section 3 clause below.

- A. The work to be performed under this contract is subject to the requirements of section 3 of this Housing and Urban Development Act of 1968, as amended, 12 U.S.C. 1701 U (section 3). The purpose of section 3 is to ensure that employment and other economic opportunities generated by HUD assistance of HUD-assisted projects covered by section 3, shall, to the greatest extent feasible, and be directed to low-and very low-income persons, particularly persons who are recipients of HUD assistance for housing.
- B. The parties to this contract agree to comply with HUD's regulations in 24 CFR part 135, which implement section 3. As evidenced by their execution of this contract, the

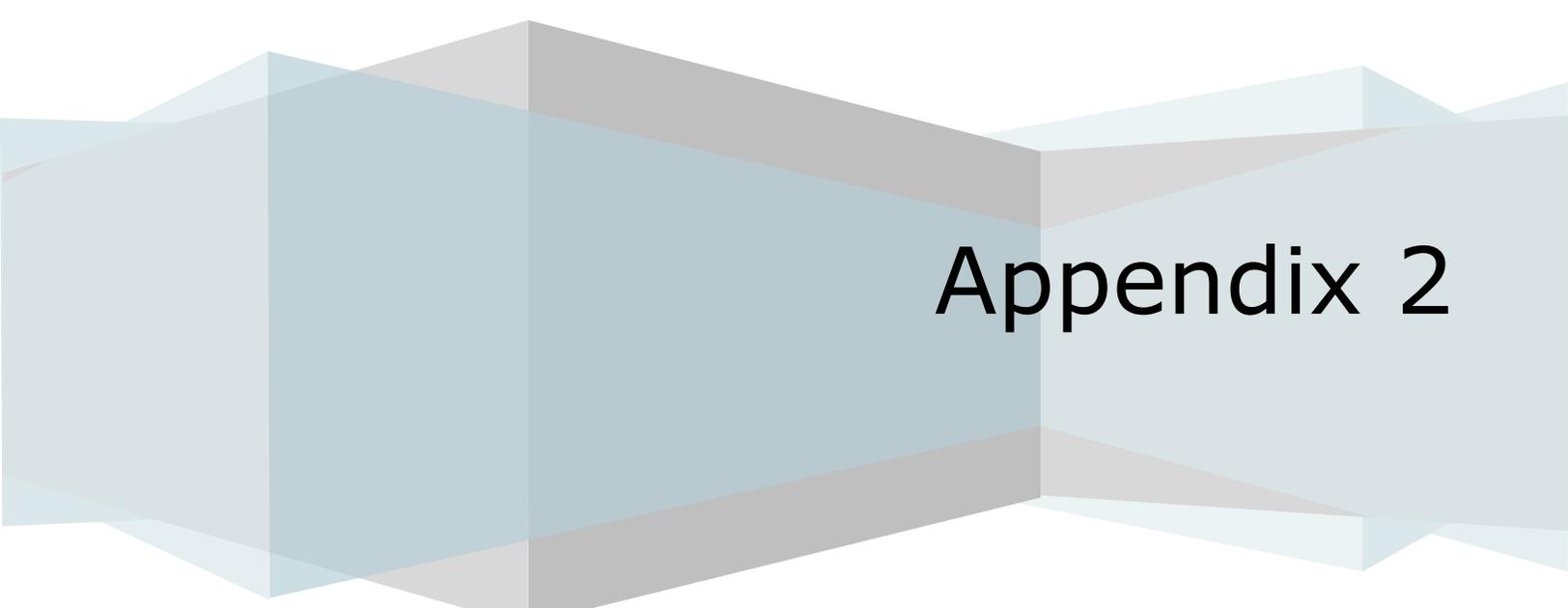
parties to this contract certify that they are under no contractual or other impediment that would prevent them from complying with the part 135 regulations.

- C. The contractor agrees to send to each labor organization or representative of workers with which the contractor has a collective bargaining agreement or other understanding, if any, a notice advising the labor organization or workers; representative of the contractor's commitments under this section 3 clause, and will post copies of the notice in conspicuous places at the work site where both employees and applicants for training and employment positions can see the notice. The notice shall describe the section 3 preference, shall set forth minimum number and job titles subject to hire, availability of apprenticeship and training positions, the qualifications for each; and the name and location of the person(s) taking applications for each of the positions; and the anticipated date the work shall begin.
- D. The contractor agrees to include this section 3 clause in every subcontract subject to compliance with regulations in 24 CFR part 135, and agrees to take appropriate action, as provided in an applicable provision of the subcontract or in this section 3 clause, upon a finding that the subcontractor is in violation of the regulations in 24 CFR part 135. The contractor will not subcontract with any subcontractor where the contractor has notice or knowledge that the subcontractor has been found in violation of the regulations in 24 CFR part 135. The contractor will not subcontract with any subcontractor where the contractor has notice or knowledge that the subcontractor has been found in violation of the regulations in 24 CFR part 135.
- E. The contractor will certify that any vacant employment positions, including training positions, that are filled (1) after the contractor is selected but before the contract is executed, and (2) with persons other than those to whom the regulations of 24 CFR part 135 require employment opportunities to be directed, were not filled to circumvent the contractor's obligations under 24 CFR part 135.
- F. Noncompliance with HUD's regulations in 24 CFR part 135 may result in sanctions, termination of this contract for default, and debarment or suspension from future HUD assisted contracts.
- G. Attachments:
 - Section 3 Instructions
 - Section 3 Plan
 - Section 3 Opportunities Plan with Tables A&B

Section 3

Requirements

CDBG/HOME Guidebook



Appendix 2

Section 3 Requirements

Section 3 Requirements and Compliance

What is Section 3?

Each year the U.S. Department of Housing and Urban Development (HUD) invests billions of federal dollars into communities for projects designed to build and rehabilitate housing, improve roads, develop community centers, and otherwise assist primarily low-income families.

Section 3 regulations recognize that HUD funding typically results in projects/activities that generate new employment, training and contracting opportunities. These economic opportunities not only provide “bricks and mortar”, but can also positively impact the lives of local residents who live in the neighborhoods where HUD funded projects occur.

Section 3 of the Housing and Urban Development Act of 1968 is HUD’s legislative directive for providing preference to low- and very low-income residents of the local community and the businesses that substantially employ these persons, for new employment, training, and contracting opportunities resulting from HUD-funded projects.

As a condition of receiving more than \$200,000 of HUD Community Development Block Grant (CDBG) or HOME Investment Partnership (HOME) funds, grant recipients must comply with the requirements of Section 3 if the funding will be invested into activities involving **housing construction, demolition, rehabilitation, or other public construction – i.e., roads, sewers, community centers, etc.** Section 3 also 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 are required to comply with the Section 3 regulations in the same manner as grant recipient. If the grant recipient receives Section 3 covered funding and invests these funds into projects or activities, but no individual contract exceeds \$100,000, responsibility for complying with Section 3 only applies to the grant recipient.

Triggering the Requirements of Section 3

Section 3 is triggered when the normal completion of construction and rehabilitation projects creates the need for **new** employment, contracting, or training opportunities. This means all employment opportunities arising in connection with the project including management and administrative jobs. Management and administrative jobs include architectural, engineering or related professional

Section 3 Requirements

services; and jobs directly related to administrative support of these activities, e.g., construction manager, relocation specialist, payroll clerk, etc.

If the expenditure of covered funding does not result in new employment, contracting, or training opportunities, the requirements of Section 3 have not been triggered.

Section 3 Residents and Businesses

Section 3 residents are:

- Public housing residents; or
- Low and very-low income persons who live in the Kitsap County.

Determining Income Levels

Low income is defined as 80% or below the Median Family Income as determined by HUD. HUD publishes income limits each year for the Bremerton-Silverdale Metropolitan Statistical Area (MSA). These limits can be requested from the Block Grant office.

Section 3 Business

Section 3 Business concerns are one of the following:

1. Businesses that are 51% or more owned by Section 3 residents;
2. Businesses whose permanent, full-time employees include persons, at least 30% of whom are currently Section 3 residents, or within 3 years of the date of first employment with the firm were Section 3 residents; or
3. Businesses that provide evidence of a commitment to subcontract in excess of 25% of the dollar amount of all subcontracts to be awarded to businesses that meet the qualifications described above.

In accordance with the regulation, residents and businesses seeking Section 3 preference shall certify, or submit evidence to the grant recipient, contractor or subcontractor verifying that they meet the definition provided above. The Block Grant office will provide forms to assist in the verification process. Source documentation to verify Section 3 status includes such things as: proof of residency in a public housing property; proof of federal subsidies for housing, food stamps, or unemployment benefits; and payroll data or other relevant business information.

How Do We Comply with Section 3 Requirements?

Block Grant staff will work with grant recipients to comply with the requirements of Section 3 (forms & examples will be provided). As the recipient of \$200,000 or more of CDBG or HOME funds your responsibility includes:

Section 3 Requirements

1. Implementing procedures to notify Section 3 residents and businesses about training, employment, and contracting opportunities generated by your CDBG or HOME award. When you have determined there will be new hiring, either directly by hiring new employees, or by contracting (i.e. professional services, construction contractor, etc.) you will need to document your efforts to give preference to Section 3 qualified residents or businesses.
2. If the new hiring is to be done by a contractor or subcontractor that receives greater than \$100,000, you will need to provide a form letter to the general contractor, which they will send to the following:
 - Sound Works Job Center
 - Work Source Center
 - Washington State Employment Security
 - Skookum Enterprises
 - Kitsap Community Resources
 - Bremerton Housing Authority, attention Section 3 Coordinator.

This form letter will alert organizations that work with Section 3 residents of the upcoming construction project and potential employment opportunities. These organizations will be asked to make referrals to the general contractor, and to copy the agency on these referrals.

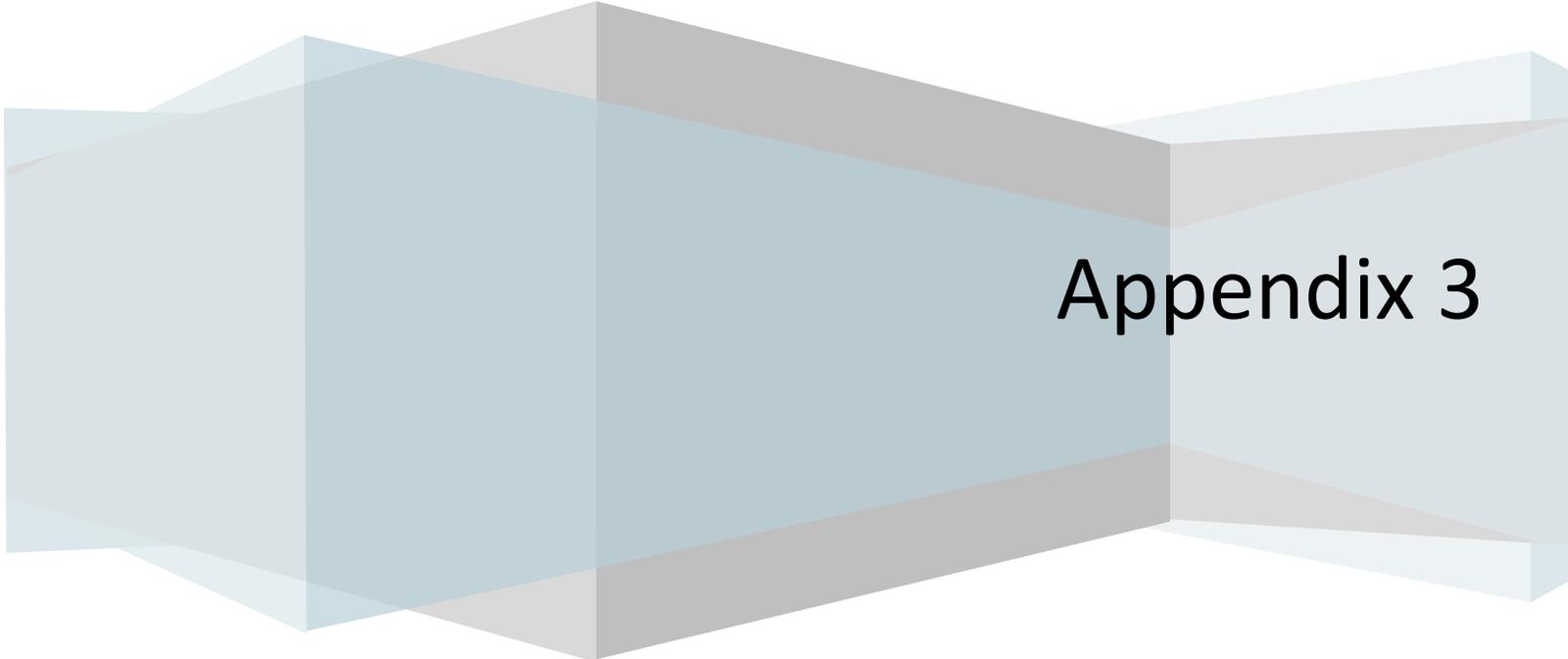
3. Incorporate the Section 3 Clause into all covered solicitations and contracts. All bid packets for contracts in excess of \$100,000 must contain the Section 3 clause and attachments which include:
 - Section 3 Instructions
 - Section 3 Plan
 - Section 3 Opportunities Plan with Tables A&B.
4. Work with contractors and subcontractors to ensure compliance. Information must be provided at the beginning of the project. Covered contractors must be provided the Section 3 forms and contracts must contain the Section 3 Clause (see #3 above).
5. Document actions taken to comply with Section 3.

Forms to be provided by Block Grant Office:

- Section 3 Business Certification
- Example form letter for Contractors
- Section 3 Clause for contracts
- Section 3 Instructions for Contractors
- Section 3 Plan (with signature block) for Contractors
- Section 3 Opportunities Plan with Tables for Contractors

Section 504 Requirements & Fair Housing Act

CDBG/HOME Guidebook



Appendix 3

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Section 504 Requirements

Removal of Physical Barriers

- For **new construction** of multi-family projects, 5 percent of the units in the project (but not less than one unit) must be accessible to individuals with mobility impairments, and an additional 2 percent of the units (but not less than one unit) must be accessible to individuals with sensory impairments.
- The Section 504 definition of **substantial rehabilitation** multi-family projects includes construction in a project with 15 or more units for which the rehabilitation costs will be 75 percent or more of the replacement cost. In such developments, 5 percent of the units in the project (but not less than one unit) must be accessible to individuals with mobility impairments, and an additional 2 percent (but not less than one unit) must be accessible to individuals with sensory impairments.
- When **rehabilitation less extensive than substantial rehabilitation** is undertaken, alterations must, to the maximum extent feasible, make the unit accessible to and usable by individuals with handicaps, until 5 percent of the units are accessible to people with mobility impairments. Alterations to common spaces must, to the maximum extent feasible, make the project accessible.
- Accessible units must be, to the maximum extent feasible, distributed throughout projects and sites and must be available in a sufficient range of sizes and amenities so as to not limit choice.
- Owners and managers of projects with accessible units must adopt suitable means to assure that information regarding the availability of accessible units reaches eligible individuals with handicaps. They also must take reasonable non-discriminatory steps to maximize use of such units by eligible individuals.
- When an accessible unit because vacant, before offering the unit to a non-handicapped individual, the owner/manager should offer the unit: first, to a current occupant of the project requiring the accessibility feature; and second, to an eligible qualified applicant on the waiting list requiring the accessibility features.

- The usual standards for ensuring compliance with Section 504 are the Uniform Federal Accessibility Standards (UFAS), although deviations are permitted in specific circumstances.

Provide Program Accessibility

- Individuals with handicaps must be able to find out about, apply for, and participate in Federally-assisted programs or activities.
- Special communication systems may be needed for outreach and ongoing communication (e.g. Telecommunications Devices for the Deaf (TDD), materials on tape or in Braille, accessible locations for activities and meetings).
- Policies and procedures must be non-discriminatory (e.g. housing providers may not ask people with handicaps questions not asked of all applicants, screen individuals with handicaps differently or assess an individual's ability to live independently).

Make Employment Accessible

- Employers must not discriminate
- Employers must remove physical and administrative barriers to employment.
- Employers must make reasonable accommodations for individuals with known handicaps (e.g., job restructuring, providing readers or sign interpreters, making facilities accessible).

Administrative Requirements

- If grant recipients have 15 or more employees, they must:
 - Designate a Section 504 Coordinator, and
 - Notify program participants and employees of non-discrimination policies.
- All grant recipients must conduct self-evaluations of compliance with Section 504.

Basic Facts about the Fair Housing Act

What housing is covered?

The Fair Housing Act covers most housing. In some circumstances, the Act exempts owner-occupied buildings with no more than four units, single-family housing sold or rented without the use of a broker, and housing operated by organizations and private clubs that limit occupancy to members.

What is Prohibited?

In the Sale and Rental of Housing: No one may take any of the following actions based on race, color, national origin, religion, sex, familial status or handicap:

- Refuse to rent or sell housing
- Refuse to negotiate for housing
- Make housing unavailable
- Deny a dwelling
- Set different terms, conditions or privileges for sale or rental of a dwelling
- Provide different housing services or facilities
- Falsely deny that housing is available for inspection, sale or rental
- For profit, persuade owners to sell or rent (blockbusting) or
- Deny anyone access to or membership in a facility or service (such as a multiple listing service) related to the sale or rental of housing.

In Mortgage Lending: No one may take any of the following actions based on race, color, national origin, religion, sex, familial status or handicap (disability):

- Refuse to make a mortgage loan
- Refuse to provide information regarding loans
- Impose different terms or conditions on a loan, such as different interest rates, points, or fees
- Discriminate in appraising property
- Refuse to purchase a loan or
- Set different terms or conditions for purchasing a loan.

In Addition: It is illegal for anyone to:

- Threaten, coerce, intimate or interfere with anyone exercising a fair housing right or assisting others who exercise that right
- Advertise or make any statement that indicates a limitation or preference based on race, color, national origin, religion, sex, familial status or handicap. This prohibition against discriminatory advertising applies to single-family and owner-occupied housing that is otherwise exempt from the Fair Housing Act.

Additional Protection if You Have a Disability?

If you or someone associated with you:

- Have a physical or mental disability (including hearing, mobility and visual impairments, chronic alcoholism, chronic mental illness, AIDS, AIDS Related Complex and mental disability) that substantially limits one or more major life activities
- Have a record of such a disability or
- Are regarded as having such a disability

Your landlord **may not:**

- Refuse to let you make reasonable modifications to your dwelling or common use areas, at your expense, if necessary for the disabled person to use the housing. (Where reasonable, the landlord may permit changes only if you agree to restore the property to its original condition when you move).
- Refuse to make reasonable accommodations in rules, policies, practices, or services if necessary for the disabled person to use the housing.

Example: a building with a no pets policy must allow a visually impaired tenant to keep a guide dog.

Example: An apartment complex that offers tenants ample, unassigned parking must honor a request from a mobility-impaired tenant for a reserved space near her apartment if necessary to assure that she can have access to her apartment.

However, housing need not be available to a person who is a direct threat to the health or safety of others or who currently uses illegal drugs.

Requirements for New Buildings

In buildings that are ready for first occupancy after March 13, 1991, and have an elevator and four or more units:

- Public and common areas must be accessible to persons with disabilities
- Doors and hallways must be wide enough for wheelchairs
- All units must have:
 - An accessible route into and through the unit
 - Accessible light switches, electrical outlets, thermostats and other environmental controls
 - Reinforced bathroom walls to allow later installation of grab bars and
 - Kitchens and bathrooms that can be used by people in wheelchairs.

If a building with four or more units has no elevator and will be ready for first occupancy after March 13, 1991, these standards apply to ground floor units.

These requirements for new buildings do not replace any more stringent standards in State or local law.

Housing Opportunities for Families

Unless a building or community qualifies as housing for older persons, it may not discriminate based of familial status. That is, it may not discriminate against families in which one or more children under 18 live with:

- A parent
- A parent who has legal custody of the child or children or
- The designee of the parent or legal custodian, with the parent or custodian's written permission.

Familial status protection also applies to pregnant women and anyone securing legal custody of a child under 18.

Exemption: Housing for older persons is exempt from the prohibition against familial status discrimination if:

- The HUD Secretary has determined that it is specifically designed for and occupied by elderly persons under a Federal, State or local government program or

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- It is occupied solely by persons who are 62 or older or
- It houses at least one person who is 55 or older in at least 80 percent of the occupied units, and adheres to a policy that demonstrates an intent to house persons who are 55 or older.

A transition period permits residents on or before September 13, 1988, to continue living in the housing, regardless of their age, without interfering with the exemption.