



Community Development Block Grant (CDBG) & HOME Investment Partnerships Program (HOME)

POLICY AND PROCEDURE MANUAL

City of Moreno Valley, California

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City of Moreno Valley, Financial & Management Services Department
CDBG and HOME Program

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I. INTRODUCTION

This Policy and Procedures Manual establishes a framework for guiding the operation of the City of Moreno Valley (City) Community Development Block Grant (CDBG) and HOME Investment Partnerships (HOME) programs. It provides an approach for making decisions and ensuring that the City's programs are operated in a fair and consistent manner. The Policy and Procedures Manual provides information for organizations receiving program awards (Subrecipients) in the management of their projects/programs and how to achieve and maintain compliance with federal, state, and local requirements. This information compliments the City's 2018-2023 Consolidated Plan (Consolidated Plan), which identifies community needs and objectives and describes the structure and process for the administration of the CDBG and HOME programs.

The following policies were developed within the guidelines of the CDBG and HOME regulations established by the U.S. Department of Housing and Urban Development (HUD) and may be revised at any time as necessitated to be in conformance with Federal mandates.

1.1- BACKGROUND

The City participates in federal grant programs through HUD to promote affordable housing and community development. The City became a CDBG entitlement community in 1988 and a HOME participating jurisdiction in 1995. The City Council (Council) is legally responsible for administration of these programs in compliance with HUD regulations and requirements and has responsibility for the final allocation of funds for program activities. Council has designated responsibility for management of both programs to the CDBG & HOME staff of the City's Financial & Management Services Department. The CDBG & HOME staff are responsible for policy analysis, conducting the annual planning process, assisting community partners to develop project activities and managing and implementing approved program activities throughout the year.

Participation in these entitlement programs requires that the City develop a strategic five-year plan, known as the Consolidated Housing and Community Development Plan or Consolidated Plan. Community members along with stakeholders create this plan that provides local direction. The Consolidated Plan establishes community needs, goals and strategies, as well as identifying and prioritizing local objectives, within the parameters of the national objectives for these entitlement programs. After approval by Council, the plan is submitted to HUD and becomes part of our contractual agreement to pursue stated objectives with funding priorities. The plan is renewed and resubmitted for approval every five years. The current Consolidated Plan is for the period July 1, 2018 through June 30, 2023. The City must submit an annual Action Plan to HUD to formally request allocated program funds. The Action Plan includes a review of projects and organizations that the City has selected CDBG | HOME Policy and Procedure Manual to fund for the following program year. In this plan, the City also describes how selected activities meet local objectives. Upon approval by Council, a grant agreement is executed between HUD and the City and funds become available for local distribution.

At the conclusion of a program year, the City is required to file with HUD a Consolidated Annual Performance Evaluation Report (CAPER). The CAPER outlines how funds from both CDBG and HOME were expended, including how the funds were used to meet the priorities, goals and objectives outlined in the Consolidated Plan.

1.2 - FEDERAL OBJECTIVES

The CDBG program was developed to give local jurisdictions the flexibility to develop their own funding priorities. However, the authorizing statute of the CDBG program requires that each activity funded must meet one of three national objectives. The three national CDBG objectives and subcategories include:

1. Benefit to low- and moderate- income (LMI) persons and/or households. The LMI objective is often referred to as the primary objective because the statute requires that HUD award recipients expend 70 percent of their CDBG funds to meet the LMI objective, using one of the following four subcategories:

a. Area Benefit Activities: Project benefits all residents in an area, where at least 51 percent are low/moderate-income residents

b. Limited Clientele Activities: Project beneficiaries include at least 51 percent low/moderate income residents

c. Housing Activities: Project provides housing for at least 51 percent low/moderate income residents

d. Economic Development Activities: Project creates or retains jobs for at least 51 percent low/moderate income residents

2. Aid in the prevention or elimination of slums or blight

3. Meet a need having a particular urgency (referred to as urgent need)

HOME is the largest federal block grant to state and local governments designed exclusively to create affordable housing for low-income households. HOME funds may be applied to a broad range of eligible activities such as providing home purchase or rehabilitation financing assistance to eligible homeowners and new homebuyers; build or rehabilitate housing for rent or ownership; or for "other reasonable and necessary expenses related to the development of non-luxury housing," including site acquisition or improvement, demolition of dilapidated housing to make way for HOME-assisted development, and payment of relocation expenses. HOME funds may be applied to provide tenant-based rental assistance contracts of up to 2 years if such activity is consistent with an approved Consolidated Plan and justified under local market conditions.

1.3 - LOCAL FUNDING OBJECTIVES

The current funding objectives as described in the [2018-2023 Consolidated Plan](#) are:

1. Establish and Maintain a Suitable Living Environment
2. Ensure Decent Affordable Housing
3. Expand Economic opportunities principally for low- and moderate-income persons.

1.4 - COMPLIANCE REQUIREMENTS

Use of these federal funds must clearly demonstrate both program integrity and program results. In return for federal funding, not only does the City have compliance requirements in the form of reporting, administration and documentation, but each Subrecipient receiving a CDBG or HOME award from the City assumes these as well. Every Subrecipient is responsible for knowing and following the guidelines and providing access for review by City and federal staff.

There are substantial documentation and data collection requirements for funded projects including:

- Program activities
- Program Results
- Data collection on populations served
- Personnel Involved
- Expenditure Detail
- Procurement Procedures
- Records Retention Policy
- Internal Controls
- Conflicts of Interest Policy

This guidebook was developed to improve regulatory compliance and ensuing documentation requirements. There is an overview of key processes and a list of references which point to the regulations guiding the process. This information is not a substitute for reading and understanding the federal regulations.

1.5 – FEDERAL OUTCOME CATEGORIES

The City is responsible to report on activities through the outcome and performance measurement system established by HUD. The system is designed to provide the opportunity for the federal government to collect information on outcomes funded with grant assistance, and thereby demonstrate program results.

The HUD system identifies three overarching objectives and three measurable outcomes. When a proposal is reviewed, staff will determine how the specific activities including intended results, benefits or objectives fall within the outcome parameters outlined by HUD. The intent when funding an activity determines which of the three objectives best describes the purpose of the activity. The three objectives include:

1. Suitable Living Environment: In general, this objective relates to activities that are designed to benefit communities, families, or individuals by addressing issues in their living environment.

2. Decent Housing: The activities that typically would be found under this objective are designed to cover the wide range of housing possible under CDBG or HOME. This objective focuses on housing programs where the purpose of the program is to meet individual family or community needs and not programs where housing is an element of a larger effort, since such programs would be more appropriately reported under Suitable Living Environment.

3. Economic Opportunities: This objective applies to the types of activities related to economic development, commercial revitalization, or job creation.

The three outcome categories are described:

1. Availability/Accessibility: This outcome category applies to activities that make services, infrastructure, public services, public facilities, housing, or shelter available or accessible to low- and moderate-income people, including persons with disabilities. In this category, accessibility does not refer only to physical barriers, but also to making the affordable basics of daily living available and accessible to low and very low income people where they live.

2. Affordability: This outcome category applies to activities that provide affordability in a variety of ways in the lives of low- and moderate-income people. It can include the creation or maintenance of affordable housing, basic infrastructure hook-ups, or services such as transportation or day care.

3. Sustainability: Promoting Livable or Viable Communities: This outcome applies to projects where the activity or activities are aimed at improving communities or neighborhoods, helping to make them livable or viable by providing benefit to persons of low and moderate income or by removing or eliminating slums or blighted areas, through multiple activities or services that sustain communities or neighborhoods. Each outcome category can be connected to one of the overarching objectives, producing nine result statements. Each proposed activity must intend to have one of the following results. Sometimes an adjective such as new, improved, or corrective may be added to refine the outcome results statement.

	Outcome 1: Availability or Accessibility	Outcome 2: Affordability	Outcome 3: Sustainability
Objective 1: Suitable Living Environment	Enhance Suitable Living Environment through Improved or New Accessibility	Enhance Suitable Living Environment through Improved or New Affordability	Enhance Suitable Living Environment through Improved or New Sustainability
Objective 2: Decent Housing	Create Decent Housing with Improved or New Availability	Create Decent Housing with Improved or New Affordability	Create Decent Housing With Improved or New Sustainability
Objective 3: Economic Opportunities	Provide Economic Opportunity through Improved or New Accessibility	Provide Economic Opportunity through Improved or New Affordability	Provide Economic Opportunity through Improved or New Sustainability

CPD Performance Measurement Guidebook July 7, 2006 Exhibit 2-1: Link between Objectives, Outcomes and Outcome Statements

1.6 - COMMUNITY PARTNERS

The City of Moreno Valley values community partnerships. Staff works with applicants to receive funding and then to implement eligible activities for both the CDBG and HOME programs. Key definitions:

Community Housing Development Organization (CHDO): A nonprofit subrecipient, with the capacity to develop affordable housing under the HOME program. Additional certification is required.

Contractor: Selected in accordance with procurement requirements to provide goods or services in accordance with the contract.

Recipient: Receives federal funding directly from HUD; the City is the recipient who disburses funds to alleviate targeted needs in the community.

Subrecipient: A public or nonpublic entity receiving federal money administered and disbursed by the City. The Subrecipient, also known as “Agency” or “Organization”, is accountable to the City for the use of the funds provided and subject to the same compliance requirements as the City.

1.7 - COMMUNITY HOUSING DEVELOPMENT ORGANIZATION (CHDO) (Title 24 CFR 92 Subpart G)

A Community Housing Development Organization (CHDO) is a private non-profit, community-based service organization that has obtained or intends to obtain staff with the capacity to develop or manage affordable housing.

In order to receive HOME funding under CHDO guidelines, an organization must:

- Submit a complete application with up to date supporting documentation to the City every year that the CHDO seeks funding
- Receive certification approval from the City
- Demonstrate organizational capacity for carrying out HOME funded activities
- Have a history of serving the community
- Possess a qualifying tax-exempt status, such as a 501(c)(3) or 501 (c)(4) ruling from the IRS
- Have among its purposes the provision of decent housing that is affordable to low- and moderate-income persons, as evidenced in its charter, articles of incorporation, resolutions, or bylaws
- Document that at least one-third of its governing board is composed of residents of low-income neighborhoods or elected representative of low-income neighborhood Organizations
- Public officials & employees of a governmental entity may comprise no more than one-third of the board.

Per HOME regulations funding is set aside for CHDO use as follows:

15% of total HOME funding allocation is reserved for CHDOs to develop, sponsor or own housing (Up to 10% of this 15% may be used for project specific assistance; see additional information at Title 24 Section 92.301)

Up to 5% of the total HOME funding allocation can be used directly for operating expenses for a CHDO per fiscal year, contingent upon the CHDO entering an Agreement to use HOME funds to develop, sponsor or own housing within 24 months (Title 24 CFR 92.208(a))

At no time, in any fiscal year, may a CHDO receive more than 50 percent or \$50,000, whichever is greater, of the organization's total operating expenses from a combination of HOME resources (Title 24 CFR 92.300(f)).

1.8 - CITIZEN PARTICIPATION

The City of Moreno Valley has established a Citizen Participation Plan to provide opportunities for citizen involvement in the process of developing and implementing the Community Development Block Grant (CDBG) Program, the HOME Program and other HUD programs administered by the U. S. Department of Housing and Urban Development (HUD). The Citizen

Participation Plan outlines when, where and how citizens can access information, review and comment on major community plans and comment on progress of funded activities under these programs. It can be found on the City website. <http://www.moval.org/departments/financial-mgmt-svcs/prog-CDBG.html#tab-3>

1.9 - APPEALS AND GRIEVANCE

If an application for a loan or grant is denied by Grant Administration Staff grantsadmin@moval.org .

a. City of Moreno Valley Grant Admin staff will notify the applicant/borrower/sub-recipient in writing and state the reason for the denial and process to appeal (see below)

- i) Applicant/borrower/sub-recipient must prepare an appeal letter
- ii) Submit appeal letter the Chief Financial Officer (CFO) within 30 days of date of denial letter
- iii) Letter must include a reason for appeal – in what way the denial was contrary to regulations or in some other way inequitable

Appeals process:

a. The CFO will consider the appeal and provide a written response within 15 working days of receipt of an appeal. Evaluation will look at whether:

- i) The grounds of the denial were stated factually, objectively
- ii) Validity of denial (based in regulations)
- iii) Validity of the evidence – do the facts presented support the grounds for denial
- iv) In areas of discretion, the matter will be evaluated for consistency

b. The written response will include a:

- i) Final decision
- ii) Brief statement of the reasons for the final decision

c. If the decision to deny is overturned as a result of the appeal, processing will resume and the applicant/borrower/sub-recipient will be notified of the next step in the process

Subrecipients should address all communication related to denials to the City of Moreno Valley's Chief Financial Officer.

Appeal Language – for denial letter from City of Moreno Valley staff. To appeal this decision, please submit a letter to the Chief Financial Officer, PO Box 88005, Moreno Valley, CA 92552-0805, within 30 days of the date of this letter. Include a reason for the appeal, specifically in what way was the denial contrary to regulation or in some other way inequitable.

1.10 – DUPLICATION OF BENEFITS – CDBG

The City has established the following policy to the Duplication of Benefits (DOB) pursuant to

- I. Requirement that any person or entity receiving CDBG assistance (including subrecipients and direct beneficiaries) must agree to repay assistance that is determined to be duplicative. This may be documented through a subrogation agreement or similar clause included in the agreement with the person or entity. The grantee should establish a protocol to monitor compliance based on risk of duplication of benefits for each activity.

2. Method of assessing whether the use of these funds will duplicate financial assistance that is already received or is likely to be received (such as insurance proceeds) by acting reasonably to evaluate the need and the resources available to meet that need. Grantees should evaluate current programs available at the local, county, state, and federal level as well as current and anticipated non-governmental assistance from nonprofits or faith-based groups and establish lines of communication for preventing duplication of benefits. HUD has prepared a list of active Federal CARES Act and coronavirus response programs and funding sources to help grantees evaluate potential risk for duplication for each activity and applicant. HUD encourages grantees to target CDBG activities to address unmet needs and gaps to reduce the risk of duplication of benefits.

1.11 – DISPUTE RESOLUTION

If a grant or loan recipient is dissatisfied during the course of work together with either the City or with a contractor paid for through the City, a pro-active approach to conflict resolution outlined by the following steps should be followed:

- a. The grant or loan recipient should discuss their area of concerns or disagreement with the Program Division Manager.
- b. The grant or loan recipient may contact the Program Director to review their concerns.
- c. The grant or loan recipient may submit a formal written statement delineating their concerns and areas of disagreement.
- d. The concern may be reviewed by the City Attorney’s Office if necessary.

II. PROJECT REVIEW AND SELECTION

The City of Moreno Valley program year begins July 1st and runs through June 30th of the following year. A *Public Notice* is published in the local papers and on the City website around December of each year announcing that applications are being accepted for the next program year. However, available funding amounts are estimated based on the anticipated federal budget. The actual amount available is received from HUD at the beginning of the program year. While minimum and maximum award amounts are set as follows, consideration may be made on a case by case basis for additional funding.

- \$15,000 – City minimum grant amount for CDBG project or services

Maximum CDBG awards are set by HUD regulations, e.g. Public Services program maximum is 15% of CDBG annual award.

- \$25,000 – City minimum grant amount for HOME projects

Note: these amounts are reviewed periodically and updated as needed

Dates and deadlines – are announced through a notice of funding availability (NOFA) at the beginning of the funding cycle and published in the newspaper and on the city website. Application formats are clearly established with instructions and deemed a critical component, significantly incomplete or irregular applications will not be reviewed.

The schedule follows (approximate):

- October - City holds a community meeting to assess community needs.
- December – City posts Notice of Funding Availability and grant application to the public.
- January 31st – Applications due to the City of Moreno Valley by 5pm.
- February – Applications are viewed, and additional information is solicited from applicants.
- February – Applications reviewed by City selected Grant Review Committee.
- March – Applicants are interviewed by Committee.
- March/April – Prioritized projects submitted to City Council for Approval.
- May – Public Hearing in front of City Council for final approval of project funding.
- May – Approved projects submitted to HUD in Annual Action Plan.

Online application system – The City publishes applications and application guidelines on Planet Bids to collect program/project proposals for CDBG and HOME funding. The annual application guidelines are updated prior to the start of the application process and posted to the City Web site.

1. *Application & Proposal* – Includes Subrecipient’s agency information, program and/or project proposal including detailed information about the project budgets, timelines, statistical goals, engineers or construction estimates, funding commitment letters, and a sources and uses statement with commitment letters or contracts.

2. *Presentation* – Applicants will be provided an opportunity to give a presentation to the Grant Review Committee. This will take place sometime during March. Audio visual equipment will be available.

Scoring –

- Each application is reviewed by the Grant Review Committee to determine the objective scores. These scores are based on City standards for program experience, current goals, budgeted costs and matching funds, if required.
- A public meeting is held to allow Subrecipients to address the Grant Review Committee and compliance consultant’s prior final prioritization.
- The applications are final scored, prioritized and recommendations provided to City Council.

Funding priority will be given to projects that –

- Impact a significant number and/or percentage of low- and moderate-income persons.
- Projects that reduce homelessness or the risk of homelessness.
- Meet the Strategic Plan Objectives provided in the Consolidated Plan.
- Have adequate community support and support an identified community need.
- Maximize the use of outside funds, match and services which are coordinated with other public and private efforts.
- Established means for program evaluation and accomplishment tracking;
- Have a clearly defined scope, location, need, budget, goals;
- Demonstrate the applicant has the capacity and the capability to carry out the project successfully including meeting all of the HUD regulatory requirements;

- Stimulate employment in the community.
- Can begin immediately and finish within the contracted time.

Subrecipient Agreements – Agreements between the City (“Recipient”) and Subrecipients are typically executed after the City receives the formal HUD Funding Approval/Agreement, usually in August or September. Program services may be commenced on July 1st of the program year; however, *no expenditures or work initiated will be processed for payment prior to execution of the Agreement and delivery to the Subrecipient of a Notice to Proceed.* Agreements include, among other terms, a program budget, an implementation schedule and expiration date, instructions for submitting invoices for reimbursement, and statistical accomplishment report forms. Modifications within certain guidelines may be enacted or may be negotiated.

2.1 – DEFINITIONS

HUD: The **United States Department of Housing and Urban Development**, also known as HUD, is a cabinet department in the executive branch of the United States federal government. HUD’s mission is to create strong, sustainable, inclusive communities and quality affordable homes for all.

CDBG: The **Community Development Block Grant (CDBG)** program provides communities with resources to address a wide range of unique community needs. Beginning in 1974, the CDBG program is one of the longest continuously run programs at HUD. The CDBG program provides annual grants on a formula basis to states and local jurisdictions. The CDBG program works to ensure decent affordable housing, to provide services to the most vulnerable in our communities, and to create jobs through the expansion and retention of businesses. CDGG program regulations are under Title 24 Code of Federal Regulations (CFR) Part 570 and can be found at <https://www.ecfr.gov/>

HOME: The **HOME Investment Partnerships Program (HOME)** is authorized under Title II of the Cranston-Gonzalez National Affordable Housing Act, as amended. HOME is the largest federal block grant to state and local governments designed exclusively to create affordable housing for low-income households. Program regulations are under Title 24 CFR Part 92 and can be found at <https://www.ecfr.gov/>

Income Levels: Funding is limited to serving low income persons which is a percentage of the median family income for the area as determined and published annually by HUD: Extremely Low (30%), Very Low (50%) and Low (80%) Current information can be found on both the City website and on the HUD website at www.huduser.org/portal/datasets/il.html

2.2 - ELECTRONIC APPLICATION SUBMITTAL

In line with advances in technology and adopting a sustainable strategy, the City requires that all grant applications be made electronically through Planetbids. The Planetbids application link is made available to the public on the City website in December.

2.3 - PROJECT RANKING CRITERIA

Ranking criteria is based on current community needs. Therefore, this criterion may be updated annually and presented during the funding application process. However, each project is assessed

based on the criteria below. The specific criteria and scoring values are included in the annual grant application made available online through Planetbids on the City website and are updated annually.

- **Administrative Capacity** - Experience/Past Performance; Organization and Staffing
- **Identification of Local Needs** - Documentation of local needs; Identification and priority of needs based on Consolidated Plan and Community Development Objectives
- **Program Design** – Clear and responsible methodology; Goals clearly defined and sustainable; Established means for program evaluation and accomplishment tracking; Benefit 51% or more percentage of low- and moderate-income persons
- **Program Budget** – Reasonable budget for City residents served in relation to overall program; Leveraging of funds from other sources
- **Technical Quality** – Application is clear, complete and includes all required supporting documentation and certifications

2.4 - ELIGIBLE ACTIVITIES

CDBG funds may be used for including, but are not limited to (24 CFR 570.201):

- Acquisition of real property;
- Relocation and demolition;
- Rehabilitation of residential and non-residential structures;
- Construction of public facilities and improvements, such as water and sewer facilities, streets, neighborhood centers, and the conversion of school buildings for eligible purposes;
- Public services, within specific criteria;
- Activities relating to energy conservation and renewable energy resources;
- Provision of assistance to profit-motivated businesses to carry out economic development and job creation/retention activities;
- Salaries, wages, and other employee compensation and benefits for new or existing staff;
- Contracting for services, i.e. bookkeeping, organizational development consultants, etc.;
- General operating costs, such as rent, utilities, purchase of equipment, supplies, etc.

HOME funds are available as loans and grants to provide decent, affordable housing to low income people or people with special needs. Housing may be either transitional or permanent (24 CFR 92.205).

Specifically, funds may be used for:

- Acquisition of housing
- New construction
- Homeownership
- Rehabilitation
- Tenant Based Rental Assistance (TBRA)
- Rental housing
- Community Housing Development Organizations (CHDOs) operating expenses

2.5 - INELIGIBLE ACTIVITIES

Generally, the following types of activities are ineligible for CDBG funding (24 CFR 570.207)

- Acquisition, construction, or reconstruction of buildings for the general conduct of

- government
- Political activities
- Regular operation and maintenance of public facilities
- Purchase of equipment or other personal property
- Construction of new permanent housing by units
- Payment of subsistence income to individuals or families

Generally, the following types of activities are ineligible for HOME funding (24 CFR 92.214):

- Prepayment of Low-Income Housing mortgages
- Provide non-federal matching contributions required under any other Federal program
- Pay delinquent taxes
- Any other activity prohibited under 24 CFR 92.214

These costs must be excluded from the total development cost to determine the total HOME-eligible development costs.

If HOME funds paid for costs incurred up to 24 months before the date the HOME funds were committed to the project, those costs must be limited to architectural, engineering or related professional services required to prepare plans, drawings, specifications or work write-ups, and the written agreement must expressly permit the use of HOME funds for such costs.

2.6 - NON-PROFIT SUBRECIPIENT PROJECTS THAT BENEFIT ENTIRE COMMUNITY

Projects that serve people in both the City and Riverside County jurisdictions, such as those that serve the homeless, may apply for a jointly funded project. The maximum combined amount awarded to a joint project is \$400,000. The allocation is divided between the City and the County, by the proportion of the target population that lives within city limits.

2.7 - FUNDING ALLOCATION

The City may utilize up to 20 percent of CDBG funds for general administration and planning and up to a maximum of 15 percent for public service activities. Additionally, the City may utilize up to 10 percent of HOME funds for general administration and planning and a minimum of 15 percent funding for Community Housing Development Organizations (CHDO). Allocations to program applicants is based on the HUD annual award for CDBG and HOME, the number of applications received, and the criteria listed in Section 2.3 above.

2.8 - ACQUISITION WITH RELOCATION

Federal law regarding acquisition and relocation as a result of projects assisted with HUD funds is complex and involves an extensive series of notifications and actions within prescribed timelines. Rigorous documentation and recordkeeping standards are also outlined. Therefore, a Subrecipient considering such action **must contact the City prior to any choice-limiting actions**. Choice-limiting actions include but are not limited to the expenditure or commitment of either federal or non-federal funds, or execution of any contract. City staff will work closely with any applicant pursuing such a project.

For more information see:

Federal Register/Vol. 73, No. 142 /Wednesday, July 23, 2008 /Notices **42895**

Section 104(d) of the Housing and Community Development Act of 1974, as Amended
Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (URA), as Amended

24 CFR 42 Displacement, Relocation Assistance, and Real Property Acquisition for HUD and HUD-Assisted Programs

24 CFR 92.353 Displacement, Relocation, and Acquisition

24 CFR 570.606 Displacement, Relocation, Acquisition, and Replacement of Housing

49 CFR 24 Uniform Relocation Assistance and Real Property Acquisition for Federal and Federally Assisted Programs

42 USC Chapter 44 Sec. 3537 (c) Prohibition of Lump-sum Payments

2.9 - LEVERAGING OTHER FUNDS

The City encourages the leveraging of funds from both public and private resources to finance projects. Further, the City will work with applicants to assist in applying for all available funds and leveraging other resources to implement the housing strategies and programs.

Applicants must document funding commitments and leverage sources to complete the program goals and objectives. Applicants will need to submit a capital campaign plan if applicable. In addition, applicants must disclose other funding requested and the status of that request.

All funds necessary for the development of a project must be committed during the term of the award. The City will not execute documents until all funding commitments are confirmed.

2.10 - HOME PROGRAM – MATCHED RESOURCES REQUIREMENT (24 CFR 92.218-220)

The City is required to document a 25% annual matching contribution to HOME funding. Matching contributions can include private, in-kind donations or state funds. Other Federal grants or awards may not be counted toward the match. Additional sources include the Affordable Housing funds (HB2060), Homeless Housing funds (HB2163), Community Services Block Grant (CSBG), as well as various foundation grants and awards. City staff will work with HOME applicants to identify and access match funds that can help satisfy this 25% match requirement. An excess match in one fiscal year may be carried over to subsequent fiscal years.

2.11 - HOME PROGRAM – IDENTIFYING HOME-ASSISTED UNITS

HOME funded projects are subject to a Minimum Per-Unit Assistance, a Maximum Per-Unit Subsidy Amount and Subsidy Layering according to 24 CFR 92.205 and 92.250 as described below. Additional detail provided in CPD 98-2 *Allocating costs and identifying HOME-assisted units in multi-unit projects*.

Minimum amount of assistance: The minimum amount of HOME funds that must be invested in a project involving rental housing or homeownership is \$1,000 times the number of HOME assisted units in the project.

Maximum per-unit subsidy amount: The total amount of HOME funds that a participating jurisdiction may invest on a per-unit basis in affordable housing may not exceed the per-unit dollar

limitations established under section 221(d)(3)(ii) of the National Housing Act (12 U.S.C. 17151(d)(3)(ii)) for elevator-type projects that apply to the area in which the housing is located. These limits are available from the Multifamily Division in the HUD Field Office. If the participating jurisdiction's per-unit subsidy amount has already been increased to 210% as permitted under section 221(d)(3)(ii) of the National Housing Act, upon request to the Field Office, HUD will allow the per-unit subsidy amount to be increased on a program-wide basis to an amount, up to 240% of the original per unit limits. These limits are available from the Los Angeles HUD Field Office by contacting 213-894-8000. The City will keep the results of its required evaluation in each project file.

Allocating Costs: HOME funds may be used to assist one or more housing units in a multi-unit project. Only the actual HOME eligible development costs of the assisted units may be charged to the HOME program. If the assisted and non-assisted units are not comparable, the actual costs may be determined based on a method of cost allocation. If the assisted and non-assisted units are comparable in terms of size, features and number of bedrooms, the actual cost of the HOME assisted units can be determined by pro-rating the total HOME eligible development costs of the project so that the proportion of the total development costs charged to the HOME program does not exceed the proportion of the HOME-assisted units in the project. Costs included in the budget are used for allocating costs.

2.12 - HOME PROGRAM – SUBSIDY LAYERING

Section 212 (f) of the Cranston-Gonzalez National Affordable Housing Act of 1990 (NAHA) and 24 CFR Part 91.425, Certifications requires a Participating Jurisdiction (a City) to provide a certificate with the consolidated plan to approve layering guidelines. This certificate asserts that prior to the commitment of funds to a project, the City will evaluate the project in accordance with the guidelines that it adopts for this purpose and will not invest more HOME funds in combination with other governmental assistance than is necessary to provide affordable housing.

Underwriting and Subsidy Layering: HUD establishes limits on the amount of HOME funds that may be invested in affordable housing on a per-unit basis for specific areas as specified below:

1. Before committing funds to a project that combines the use of any other local, State or Federal assistance, the City of Moreno Valley will evaluate the project in accordance with guidelines that it has adopted, to ensure that the City does not invest any more HOME funds than are necessary to provide affordable housing.
2. The City of Moreno Valley will conduct a subsidy layering review in accordance with the guidelines presented in HUD Notice CPD-98-01. These guidelines include review of the following project documents:
 - a. Sources and/or uses of funds: CHDOs/Developers/Subrecipients are required to provide the City of Moreno Valley the sources/uses of funds statement for the project with supportive documentation. This statement should reflect the project development budget and should list:

- i. All proposed sources (both private and public) of funds and the dollar amounts for each respective source;
 - ii. Construction costs; and
 - iii. Financing costs and professional fees associated with the project.
- b. Certification of governmental assistance: CHDOs/Developers/Subrecipients must provide a formal certification as to whether or not additional governmental assistance will be provided to the project, and if so, what kind of assistance.
- c. Project development budget: CHDOs/Developers/Subrecipients must provide the City of Moreno Valley the project development budget so that the City can determine whether the development costs are necessary and reasonable. The budget should include all costs associated with the development of the project, regardless of the funding sources.
- d. “Reasonableness” of costs will be based on all of the following three factors:
- i. Costs of comparable projects in the same geographical area;
 - ii. Qualifications of the cost estimators that developed the various budget line items; and
 - iii. Comparable costs published by recognized industry cost index services.
- e. Proforma: The City of Moreno Valley will determine the reasonableness of the rate of return on an equity investment by looking at the CHDOs/Developers/Subrecipients proforma (project income and expense statement).
- i. The proforma should include achievable operating expenses.
 - ii. It should also specify the consequences of tax benefits, if any, and any other assumptions used in calculating the project cash flow.
 - iii. The proforma should represent, at a minimum, the term of the HOME affordability requirements, or longer if other funding sources require longer affordability terms.

Market Assessment: Before committing funds to a project, in accordance with the HOME Rule at §92.250(b)(2) the City of Moreno Valley will assess “the current market demand in the neighborhood in which the project will be located.” The following factors to be considered include:

- Evaluate general demographic, economic, and housing conditions in the community.
- Delineate the market area by identifying the geographic area from which the majority of a project’s tenants or buyers are likely to come. This may or may not coincide with census tract or neighborhood boundaries.
- Quantify the pool of eligible tenants or buyers in terms of household size, age, income, tenure (homeowner or renter), and other relevant factors. Not all residents of the market area are potential or likely tenants or buyers of any given project.
- Analyze the competition by evaluating other housing opportunities with an emphasis on other affordable rental developments or sales opportunities in the market area, including those financed through either the HOME program or other federal programs.

- Assess the market for the planned units and determine if there is sufficient demand to sell the HOME-assisted housing within nine months of construction completion (§92.254(a)(3)) or to rent the HOME-assisted housing within 18 months of project completion (§92.252).
- Evaluate the effective demand and the capture rate, usually expressed as a percentage (the project's units divided by the applicant pool). The capture rate is the percentage of likely eligible and interested households living nearby who will need to rent units in the proposed project in order to fully occupy it. The lower this rate, the more likely a project is to succeed.
- Estimate the absorption period. Plan how many units can be successfully leased or sold each month and how long it will take to achieve initial occupancy/sale of the HOME units and stabilized occupancy for the project as a whole.

The HOME market assessment will seek to quantify and document demand for a specific project that is, what is a prospective renter or buyer - willing to pay to rent or buy the unit, in this location, with these amenities, and the size of the pool of potential tenants or buyers.

Developer Capacity Assessment: The City of Moreno Valley will conduct a developer capacity assessment in accordance with the HOME Rule. The assessment will focus on two elements. (A) the experience and the capacity of the developer (including the entity staff and project team) to implement the project and (B) the fiscal soundness of the developer to meet its financial obligations and risks of the project.

A. EXPERIENCE

The City of Moreno Valley will assess the experience of the developer by determining whether the developer has the technical and managerial experience, knowledge, and skills to successfully complete the development. When assessing the developer's experience, the City of Moreno Valley will consider both prior experience and the current capacity of the organization. It will consider:

- The corporate or organizational experience of the development entity;
- The experience of the staff assigned to the project and overall quality of the development team; and
- The prior experience of the individuals compared to their roles in the proposed project.
- For rental projects, a developer/owner needs specific skills and capacity including property management, asset management, service provision (as applicable), and special financing skills.
- For homebuyer projects, the development team must demonstrate its capacity to market and sell the units.

B. FINANCIAL CAPACITY

- The City of Moreno Valley will examine whether the developer has the financial capacity necessary to complete the proposed project. This will help determine the following:
- Adequate financial management systems and practices; and
- Sufficient financial resources to carry the project to completion or through initial lease-up, as the case may be.

The City will examine financial statements and audits to determine the developer's net worth, portfolio risk, pre-development funding, and liquidity.

Project Review: Before committing HOME funds, the City of Moreno Valley will evaluate a proposed project to ensure that funds are invested such that the project is likely to succeed over time. To verify this, the City will assess all of the assistance that has been, or is expected to be, made available to that project. The City will take into account all the factors relevant to project feasibility, which may include, but are not limited to: total development costs and available funds; impacts of HOME restrictions such as eligible costs, maximum subsidy limits, cost allocation, and rent/utility allowance limitations; rates of return to owners, developers, sponsors, or investors; resale or recapture limitations for homebuyer projects; and the long-term needs of rental projects and tenants. There are two types of documents that the City will review in order to assess and underwrite a project:

- A sources and uses statement; and
- An operating pro-forma. For homebuyer development projects, the pro-forma will take the form of a sales and revenue plan.

A. SOURCES AND USES STATEMENT

The Sources and Uses of Funds statement must list:

- All Sources (both private and public) of funds with dollar amount(s) and timing of availability for each source, and
- All Uses of funds (for example acquisition costs, site preparation and infrastructure costs, rehabilitation/or construction costs, financing costs, professional fees, developer fees and other soft costs) associated with the project.

The following will be requested for project sources:

- Firm commitment letters with all terms and conditions for all mortgages, grants, bridge (interim) loans and investment tax credits (historical, low-income, if applicable);
- If the applicant is a partnership or limited liability corporation, a copy of the partnership agreement or operating agreement, which will indicate the cash contributions by the partner(s) or member(s); and
- If equity is committed by the developer or owner(s), evidence of available equity funds.

As part of the project sources review, the subsidy layering analysis requires the City of Moreno Valley to determine that the total amount of HOME assistance is reasonable and necessary. This includes evaluation of the following:

- Are total funding sources adequate and timely in their availability to cover development costs at all phases of the development – acquisition, construction/rehabilitation, and permanent loan? Before committing HOME funds, the City of Moreno Valley will determine that all necessary financing is available to cover reasonable costs of development.
- Are the other funding sources compatible with HOME, or do they contain different requirements that affect the structure of the project, including unit mix, and are these differences accommodated in the project plan? In its review of written commitments for other funding sources, the City of Moreno Valley will determine whether there are provisions that: (1) conflict with HOME requirements; or (2) are not reflected in the project plan.
- Are the funding sources firmly committed? The City of Moreno Valley will assess all firm written financial commitments to ensure that they are in fact firm commitments that are consistent with the City of Moreno Valley underwriting of the project. Documentation of firm financing can include award letters, offer letters, final term sheets, or other commitments which are conditioned upon the receipt of HOME funds. But, these may not include automatic self-expiring clauses or highly conditioned language and must have all substantial terms tied to a specific project.

The following will be requested for project uses:

- Uses are the project costs that are budgeted to be paid during the development phase. The City of Moreno Valley will review all costs of the project because the determination of the amount of HOME assistance needed is based on the gap between uses and other sources. Even costs not being paid with HOME funds must be necessary and reasonable, as the inclusion of excessive costs inflates the apparent need for public subsidy in a project.

In its review of the Sources and Uses statement, the City will assess the detailed breakdown of costs, including all hard and soft costs of the project, and review documentation or explanations of the basis of the calculation.

The City will request and review documentation for all line item costs in the budget, including:

- Acquisition documentation, such as purchase agreement, option or closing statement and appraisal or other documentation of value;
- Construction cost estimate, construction contract or preliminary bid(s);
- Contracts, quotes or other agreements substantiating key professional costs and the basis for estimating other soft costs and working capital items, including capitalized reserves;

- Agreements governing the various reserves which are capitalized at closing (to verify that the reserves cannot be withdrawn later as fees or distributions);
- A third-party appraisal (to substantiate the value of the land and the value of the property after rehabilitation or the structure being built);

The City's review of project uses will address the following question:

- Are all of the proposed costs of development "necessary and reasonable" in compliance with OMB cost principles contained in 2 CFR part 200? Costs are considered "necessary" if they are required to implement the project in full compliance with all program standards. According to 2 CFR part 200, a cost is reasonable if it "does not exceed that which would be incurred by a prudent person under the circumstances prevailing at the time the decision was made to incur the cost." The determination of reasonable cost should include the following factors:
 - Costs of comparable projects in the same geographical area
 - The qualifications of the cost estimators for the various budget line items
 - Comparable costs published by recognized industry cost index services.

The City will also review if the proposed costs are sufficient to achieve all program requirements, including property standards, to provide quality housing for at least the affordability period? The City will ensure that the project budget is adequate to meet and maintain the property standards of §92.251 and all other HOME and cross-cutting federal requirements that apply to its development. The completion of a capital needs assessment or estimate of the property's useful life is essential to this analysis in rehabilitation projects. Determine if the costs proposed to be paid with HOME funds eligible under the HOME rule? Refer to the HOME rule at §92.206 for additional guidance on eligible costs.

B. OPERATING PRO FORMA

The City will require the rental project applicant to furnish an operating pro forma (project income and expense statement) projected for the HOME period of affordability at a minimum. The City's underwriting and subsidy layering guidelines will need to establish minimum criteria for the content and/or format of the pro-forma.

The City will evaluate the reasonableness of the financial assumptions of the project to establish minimum total per unit operating costs. To do so, the City will evaluate the sufficiency of both specific line item and total operating costs. A City will also ensure that long-term operating projections over the period of affordability are based on reasonable assumptions and demonstrate that project can cover expenses and debt service throughout the affordability period.

Long-term operating projections should be based on reasonable assumptions about how revenues and operating costs are expected to change over time, and demonstrate the project is

expected to operate within normal operating parameters throughout the affordability period. A PJ should assume that operating costs increase at a faster rate than revenues.

1) Projected Income

Operating revenues must be based on achievable rent levels, reasonable vacancy and collection loss, and conservative estimates of non-residential sources of incomes.

2) Projected Expenses

All operating costs must be in sufficient detail to compare line items against properties that are similar in physical type and size, so that the City may determine whether the planned expenditures are sufficient and reasonable. The operating budget should include general management expenses, maintenance and operating costs, any project paid utilities, taxes, insurance premiums, and adequate deposits to replacement reserves. In most cases, evaluation of total operating costs should be summarized in “per unit per year” amounts rather than as a percentage of projected revenue.

When available the City will rely on the evaluation completed by the California Tax Credit Allocation Committee (CTCAC) which is the State’s tax credit allocation authority. In the case of projects including other federal funding such as 811 or 202, the City will rely upon the guidelines developed and evaluation conducted by the federal agencies.

Single-Family Rental Housing (1-4 units): When using HOME funds for single-family rental housing of 1 to 4 units. Note: If the: (1) is the rental project owner-occupied? and (2) is the owner-occupied unit being rehabilitated with Federal funds?

If the answers to both questions is YES, the rental income for the owner’s units (had the project not been owner-occupied) must be excluded from the income analysis of the proforma.

2.13 - LOAN FUNDING TERMS

The City of Moreno Valley provides a variety of loans for different CDBG and HOME funded projects and programs.

1. The loan shall be secured by a Promissory Note and/or Deed of Trust.
2. Loan terms are finalized at time of project negotiation.
3. Loan amounts are based on project budget and capacity for debt

Loan Servicing and Delinquent Payments: The City of Moreno Valley ’s Financial Department (finance) services all loans. Finance informs CDBG and HOME staff of any delinquent payments. City staff will work with property owner regarding rectifying any delinquency. If necessary legal remedies will be pursued.

Deferred Payment Loans are available to borrowers who are utilizing the Housing Rehabilitation Loan Program and have a household income of less than 80% of area median income. There are no pre-payment penalties. This loan has a 3% simple interest calculation added

and is defined as 3% of the total balance. The Deferred Payment Loan is due and payable when one or more of the following occurs:

1. a change in property ownership,
2. refinance
3. termination of owner occupancy

Please note: If an application for a loan is denied, the applicant must wait one year from the date of denial before submitting another application for the Housing Rehabilitation Program.

Forgivable Loans are loans that can be forgiven or deferred for a period of time if the borrower is in compliance with the terms and conditions of the loan. This type of loan is used for projects that serve the whole community but do not generate income.

Non-Profit Subrecipient Loans are available to sub-recipients and developers approved for CDBG and HOME funding. Loans are negotiated at time of contract with general terms are generally at 1-3% with a 5-20-year amortization. Repayments are always expected on income producing properties.

Share Equity/Principal Reduction Loans were available to first time homebuyers through an approved program and require annual certifications that verify primary residency, current insurance, and property taxes are current. Upon property transfer or refinance the loan payoff is calculated using a method outlined in the homebuyer section which includes payoff of the original amount plus a share of the equity.

2.14 - ANNUAL ACTION PLAN

The annual Action Plan describes projects and funding for the upcoming year according to the City's identified objectives and outcomes. City Council holds a public hearing to approve the Action Plan in early May. The Action Plan must be sent to HUD 45 days prior to the start of the program year, which begins on July 1st.

From time to time, amendments to the plans will be necessary as conditions change. Amendments of a minor nature will be made as needed throughout the year. However, the public will be invited to review and comment on substantial amendments to adopted plans, in accordance with the Citizen Participation Plan. The definition of a "substantial amendment" to the Consolidated and Annual Action Plans is defined as:

1. A change in the use of CDBG, HOME, or ESG money from one activity to another.
2. The elimination of an activity originally described in the Annual Action Plan.
3. The addition of an activity not originally described in the Annual Action Plan.
4. A change in the purpose of an activity, such as a change in the type of activity or its ultimate objective – for example, a change in a construction project from housing to commercial.
5. A meaningful change in the location of an activity.
6. A change in the type or characteristics of people benefiting from the activity. Among the "characteristics" are:
 - a. The HUD-recognized income levels of 0-30 percent of Area Median Income (AMI); between 31 and 50 percent AMI; and between 51 to 80 percent AMI
 - b. Race or ethnicity

- c. Renter or homeowner
 - d. Single households, small households (two to four persons), large households (five or more persons)
7. A 20% decrease in the number of low and moderate-income people benefiting from an activity.
 8. A change in the scope of an activity, such that there is a 20% increase or decrease in the amount of money allocated to the activity.

III. FUNDING AWARD AND PROJECT OPERATION

3.0 - OVERVIEW

Agencies whose projects are approved for funding by Council will receive an initial award letter. Subrecipient Agreements are awarded based on the application for funding, including the scope of the identified problem, the proposed project activities, and the resources and administrative capacity of the applicants. Grants less than the original amount requested may be awarded at the discretion of the City. Receipt of the award letter does not imply approval of all activities or specific costs proposed in your application. The proposed project activities and budget are subject to modification, during agreement negotiations between the Subrecipient and the City.

The Subrecipient Agreement negotiation process includes:

1. Defining project objectives and measurable outcomes
2. Reviewing the CDBG | HOME Policy and Procedure Manual
3. Finalizing the program budget
4. Finalizing the implementation schedule (the project must be completed within four years of the date the HOME funds were committed to the project)
5. Identifying special conditions to be included in the contract

While the process is underway, no funds can be obligated pending the following actions:

1. Execution of a Subrecipient Agreement between HUD and the City
2. Completion of an Environmental Review by the City
3. Execution of the Subrecipient Agreement between the Subrecipient and the City
4. Issuance of a written Notice to Proceed by the City

In some situations, Subrecipient Agreements and therefore funding is held pending the Subrecipient securing additional funding to complete the project. The Subrecipient Agreement is the legal document governing the administration of the CDBG or HOME funding. Each agreement consists of provisions common to CDBG and HOME, generally referred to as 'boilerplate' language, as well as provisions specific to the agreement between the Subrecipient and the City.

These provisions include:

1. Amount of the funding
2. Agreement termination, modification and amendment
3. Method of payment
4. Policy requirements
5. Program budget
6. Program implementation schedule
7. Requirement to comply with applicable laws and regulations

8. Scope of services to be provided

By signing the Agreement, the Subrecipient is agreeing to meet federal regulations for financial management, procurement standards and nondiscrimination, as well as certifying to various operating standards and codes of behavior. The Subrecipient's final application and this policy and procedure manual is incorporated into the binding agreement of the contract, as funding is approved in part based on the information contained in the Subrecipient's application.

3.1 - REQUIRED WRITTEN POLICIES

Described in detail throughout this manual, agencies are required to have or develop written policies for the following items:

- Accounting Records Grievance and Complaint Process
- Affirmative Marketing Internal Control
- Allowable Costs Nondiscrimination
- Budget Control Procurement Transactions
- Cash Management Property Management
- Conflict of Interest Travel
- Drug Free Workplace Wage Laws
- Duplication of Costs

3.2 - COMMON ELEMENTS OF THE AGREEMENT

The contractual obligations that a Subrecipient assumes on becoming a subrecipient of federal funds are many. The Subrecipient should be aware of the various elements that will by necessity inform daily program operations. This section will address some of the elements of the Agreement.

3.2.1 - AMENDMENTS OR MODIFICATIONS

Either party may request modifications in the scope of services, terms or conditions of the Agreement. Proposed modifications which are mutually agreed upon will be incorporated by written amendment to the agreement. Modification must be requested at least 30 days in advance.

3.2.2 - CONSTRUCTION MANAGEMENT

Subrecipient must select a qualified construction manager for project. Subrecipient shall keep bids, change orders and construction progress meeting notes, cost certification, 504 certifications and occupancy permits and all Davis Bacon certified payrolls on file. For housing projects, Subrecipient must contact City staff to complete a housing quality inspection prior to occupancy. For housing rehabilitation projects, City staff shall review scope of work prior to construction in order to comply with the city's local rehabilitation standards.

3.2.3 - COPYRIGHT

If any activities of the proposal results in any copyright material, the City reserves the right to royalty-free, nonexclusive and irrevocable license to reproduce, publish or otherwise use, and to authorize others to use the work for governmental purposes.

3.2.4 - COVENANT AGAINST CONTINGENT FEES

To prevent the actual or attempted exercise of improper influence, agencies are required to warrant that no agent or employee has been engaged to obtain CDBG or HOME funds for a contingent fee. Contingent fees are defined as any payments conditioned upon the success an entity has in securing a government contract. Should it be discovered that a contract with the City involved contingent fees, the City may nullify the Agreement without penalty or pursue other measures to recover the full amount of such payment.

3.2.5 - DUPLICATION OF COSTS

Upon being awarded federal funds by the City, a Subrecipient agrees to certify that the work performed does not duplicate any work that will be charged against any other agreement, contract, statement of work or received from another source.

3.2.6 - FUNDING CONTINGENCIES AND FUTURE SUPPORT

The City recognizes the value of the Subrecipient and its work at the time the project is selected for funding. However, the City makes no obligation for additional or continuing support. Should the City's anticipated sources of revenue be withdrawn, reduced, or limited in any way, then the Subrecipient will be immediately notified in writing and the City will be released from all contractual liability for funding. Should a reduction in funding occur, the Subrecipient must immediately develop a plan to take appropriate and reasonable action to reduce its spending of the affected funds.

3.2.7 - HOLD HARMLESS AND INDEMINIFICATION

The Subrecipient is financially responsible (liable) for any irregularities that occur due to its negligence or failure to comply with the terms of the Agreement or City program policy. The Subrecipient must release, indemnify, and promise to defend and save harmless the City, its elected officials, officers, employees and agents from and against any and all liability, loss, damages, expense, action and claims, including costs and reasonable attorneys' fees incurred by the City, its elected officials, officers, employees and agents in its defense thereof, asserting or arising directly or indirectly on account of or out of the performance of service pursuant to the Agreement. In making such assurances, the Subrecipient specifically agrees to indemnify and hold harmless the City from any and all bodily injury claims brought by employees of the Subrecipient and expressly waives its immunity under the Industrial Insurance Act as to those claims which are brought against the City.

3.2.8 - INSURANCE

All insurance purchased and maintained shall be from a company with a current minimum Best Insurance Guide rating of "A -VII" or authorized by the City Manager or their assignees. Prior to starting any activity covered by the Agreement, the Subrecipient shall provide the City with a copy of all required insurance instruments or certifications from the issuing insurance company or evidence of self-insurance. Cancellation of insurance is grounds for termination of the contract. Documentation should show:

- Coverage details
- Coverage period

- Amount of coverage; submitted on an ACORD form and the City named as an additional insured
- Policy endorsement stating that coverage shall not be suspended, voided, canceled, nor reduced in coverage or in limits, without a 30-day written notice by certified mail with a return receipt requested to the City.

1. The SUBRECIPIENT shall obtain evidence of general casualty (commercial liability) insurance to protect against legal liability arising out of activities associated with the Agreement. The insurance shall include a Products/Completed Operations aggregate. Such insurance shall provide a minimum of \$1,000,000 per occurrence and \$2,000,000 per general aggregate limit.

2. If the SUBRECIPIENT uses motor vehicles in conducting activities under the Agreement, liability insurance covering bodily injury and property damage shall be provided either through a self-insurance program or through a commercial insurance policy. Such insurance shall have minimum limits of \$1,000,000 per occurrence, combined single limit for bodily injury liability and property damage with no aggregate limit.

3. The SUBRECIPIENT shall ensure that every officer, director, or employee who is authorized to act on behalf of the SUBRECIPIENT for the purpose of receiving or depositing funds into program accounts or issuing financial documents, checks, or other instruments of payment for program costs shall be bonded or be covered by fidelity insurance to provide protection against loss. The insurance or bond must be secured for the term of the contract and must name the City as beneficiary. The bond or certificate shall show the bonding or insurance coverage, the designated beneficiaries, who is covered, and the amounts. If the SUBRECIPIENT chooses to purchase fidelity insurance, the coverage must include employee theft per loss, employee theft per employee, and theft (disappearance and destruction).”

4. The SUBRECIPIENT shall require any architect, engineer, land surveyor, or other licensed professional to obtain and maintain a professional Errors and Omissions insurance policy to protect against legal liability arising out of contract activity. Such insurance shall provide a minimum of \$2,000,000 per occurrence.

5. The SUBRECIPIENT shall purchase and maintain property insurance for all structures improved or constructed with funds under this agreement. Property insurance shall be in the amount of the initial construction contract as well as subsequent modifications thereto for all construction at the site on a replacement costs basis. For new construction, property insurance shall be on an all-risk form (builder’s all-risk) and shall insure against the perils of fire and extended coverage and physical loss or damage including, without duplication of coverage, theft, vandalism, malicious mischief, collapse, false work, temporary buildings and debris removal.

6. The SUBRECIPIENT shall purchase ALTA title insurance for any property purchase made under the Agreement. Title insurance shall name the SUBRECIPIENT and the City and shall be in an amount not less than the amount of HOME and CDBG funds provided under the Agreement.

7. The SUBRECIPIENT shall purchase an ALTA Extended Coverage 1970 form (with 1984 amendments) loan policy of title insurance in the amount of the loan. The policy shall name the City as beneficiary.

8. The SUBRECIPIENT shall purchase and maintain fire and extended coverage insurance policies for all structures improved or constructed with funds under the Agreement. The fire and extended coverage insurance policies shall be in the amount of 100% of the insurable value of the structure and improvements.

9. All insurance purchased and maintained shall be from a company with a current minimum best rating of VII-A.

10. Prior to starting any activity covered by the Agreement, the SUBRECIPIENT shall provide the City with a copy of all required insurance instrument(s) or certification of the same from the insurance issuing Subrecipient or, if appropriate, evidence of self-insurance. The insurance instrument(s) shall show the coverage, period and amount of coverage submitted on an ACORD form and shall name City of Moreno, the City of Moreno Valley Community Services District, and the Moreno Valley Housing Authority and each of their officers, employees, agents, and volunteers as an additional insured. The policy shall be endorsed to state that coverage shall not be suspended, voided, canceled, reduced in coverage or in limits without a 30 day written notice by certified mail with a return receipt requested to the City of Moreno Valley CDBG & HOME Program. Cancellation of policy is grounds for termination of the Agreement.

3.2.9 - LICENSING, PERMITS, ACCREDITATION AND REGISTRATION

The Subrecipient must comply with all applicable local, state, and federal licensing, accreditation and registration requirements or standards necessary for the performance of the contract. The loss of a required license, certification, or accreditation will be grounds for termination of a contract by the City, if the presence of such is a legal prerequisite to performing the service. The Subrecipient must obtain all necessary and appropriate land use permits, zoning approvals, and any other permits and approvals required by local, city, state, and federal law.

3.2.10 - NON-ASSIGNABILITY OF CLAIMS

No claim arising under any Agreement shall be transferred or assigned by the Subrecipient.

3.2.11 - NON-SUBSTITUTION FOR LOCAL FUNDING

The Subrecipient shall not use funds provided under the Agreement to supplant local, state or other federal funds. The Subrecipient shall not use these funds to replace funding that would otherwise be made available to the Subrecipient had this funding not been provided.

3.2.12 - OWNERSHIP OF MATERIALS

Work products developed as a result of the funded activity will be jointly owned by the applicant and the City. Such work products may include but are not limited to reports, maps, charts, materials, software systems and any other product created as a result of the work performed under the Agreement.

3.2.13 - PROGRAM INCOME

The term “**program income**” means any gross income received by the Subrecipient that was directly generated from the use of CDBG or HOME funds. When income is generated by an activity that is only partially assisted with these funds, the income must be prorated to reflect the percentage of federal funds invested. Program income received by the Subrecipient must be reported to the City.

Program Income may be utilized by the Subrecipient according to their Agreement. Program Income includes:

- Proceeds from the disposition by sale or long-term lease of real property purchased or improved with federal funds.
- Proceeds from the disposition of equipment purchased with federal funds.
- Gross income from the use or rental of real or personal property acquired or owned and constructed or improved by a subrecipient with federal funds, less the costs incidental to the generation of the income.
- Funds collected through special assessments made against properties owned and occupied by households not of low-income, where the special assessments are used to recover all or part of the federal portion of a public improvement.
- Gross income paid to the subrecipient from the ownership interest in a for-profit entity acquired in return for the provision of federal assistance.

3.2.14 - PROMISSORY NOTE, DEED OF TRUST AND COVENANT

Agencies that specifically receive HOME and, in some cases, CDBG funds may have to enter into a promissory note, deed of trust and covenant with the City. These run with the land for the period of affordability, as established by HUD regulations for repayment of the loan and shared equity. In addition, these legal conveyances may impose conditions including maintaining:

- Property insurance to full insurable value of the structure
- Property free and clear of all other charges, liens, or encumbrances impairing the security of the deed
- Operation of the facility for the original purpose for which it received federal funding.

3.2.15 - REVISIONS TO APPROVED BUDGET

Any change in line item expenditure that will exceed 20% of its allocated funding will require a formal modification to the signed Agreement. Requests for budget revisions must specifically state the reasons for the requested increase and, if applicable, a justification for the corresponding decreases in another budget category.

3.2.16 - TAXES

Receipt of this federal funding does not relieve the Subrecipient of typical financial responsibilities. The Subrecipient is responsible for all payments accrued on account of payroll taxes, unemployment contributions, the Subrecipient’s income or gross receipts, any other taxes, insurance or expenses incurred by the Subrecipient or its staff.

3.2.17 - TERMINATION

If the Subrecipient is unable or fails to comply with any of the provisions of the Agreement, the Agreement may be terminated, and the Subrecipient may be required to return all or a portion of funding to the City. Individual Agreements will detail the specifics of termination. Some projects are contingent upon securing additional funding sources. In these cases, a time limit will be established in the Agreement, by which all funding must be secured or the Agreement will be terminated, and all funds returned.

3.2.18 - TRANSFER SALE AND CHANGE OF USE

The City places a Deed of Trust on each property assisted with funding from CDBG or HOME. If the property ceases to be used as an eligible activity as outlined in the deed. The City will collect on the note. Basic information is included below; further details are included in the deed. As used in a Deed of Trust, "interest in the property" shall mean any legal or beneficial interest in all or any part of the property. If all or any part of the property or any interest in the property is sold or transferred, or if there is a change of use or other transfer, and if such action or failure to act occurs without prior written consent of the City, the Subrecipient may be required to immediately provide payment in full of all sums secured by the Deed of Trust.

Notwithstanding anything to the contrary in the Deed of Trust, the following shall not be considered a transfer, sale or change of use and shall not trigger the City's right to declare any amounts secured by this Trust Deed due and payable:

1. A transfer of a limited partnership or limited liability company interest in the Borrower or its assigns;
2. The transfer of a security interest in the property for purposes of financing or refinancing done with the knowledge and consent of the City;
3. A sale, transfer or assignment of Borrowers interest in the property to a partnership, limited liability company or other entity of which Borrower or Borrower's affiliate is a partner, member or shareholder or to another 501(c)(3) organization or governmental entity reasonably acceptable to the City; and
4. The transfer of a leasehold interest to a residential tenant in the ordinary course of Grantor's business.
5. Removal of the General Partner by the Limited Partner pursuant to the Borrower's Partnership Agreement;

Shared Equity/Shared Net-Proceeds: The borrower and the City will share the appreciation at the time of sale or refinance. The calculation and payment of appreciated value of the property is described below:

Determining Value:

- The value is determined by an appraisal satisfactory to the City; the sales price if sold; the appraised value if refinanced; or any insurance or condemnation proceeds received; or an appraisal required for condemnation or insurance proceeds. The appraisal shall take into account any covenants or restrictions which will remain in place; less
- The actual reasonable approved costs of sale (if the Property is sold), including appraisal, real estate commissions, real property excise tax, escrow fees, recording fees, title and insurance premiums; less

- Cost of depreciable improvements made to the Property subsequent to completion of the work funded or financed by this loan.

Shared Appreciation (SA):

- The Shared Appreciation is due and payable at the time any property is sold, refinanced or discontinued in service to the population it was intended to serve.
- Shared Appreciation is the Borrower’s proportionate share of the appreciated value of the Property, together with the appreciated value of the improvements constructed on the property.

Shared Appreciation (SA) is represented in the following formula:

SA=(NP-TODC) x (OP/TODC) where (SA) is the product of the Net Proceeds (NP) less Total Original Development/Purchase Costs (TODC) multiplied by the fraction whose numerator is the Original Principal (OP) amount of the City of Moreno Valley Program Award (loan) and whose denominator is the total Original Development/Purchase Costs.

TODC costs include:

The appraised fair market value of the Property at the time of the loan or certification of cost if mutually agreed upon by the parties.

Net Proceeds shall be calculated as follows:

The value is determined by an appraisal satisfactory to the City; the sales price if sold to a bona fide third party; the appraised value if refinanced; or any insurance or condemnation proceeds received; or an appraisal required for condemnation or insurance proceeds. The appraisal shall take into account any covenants or restrictions which will remain in place; less

1. The actual reasonable approved costs of sale (if the Properties are sold), including appraisal, real estate commissions, real property excise tax, escrow fees, recording fees, title and insurance premiums, less
2. Cost of capital improvements made to the Properties subsequent to completion of the work funded or financed by this loan. Improvements must meet the Capital Improvement section of this policy.

3.3 - CERTIFICATIONS

In order to receive federal funds, each Subrecipient must attest or certify to the following:

3.3.1 - ANTI-LOBBYING

In accordance with federal regulations, all agencies, including subcontractors, must sign and submit an anti-lobbying certification to certify that they have not used federal funding to lobby a position. In addition, agencies must disclose the use of any other money used for such purpose by completing the OMB Form SF-LLL. When an organization seeks reimbursement for indirect costs, total lobbying costs shall be separately identified in the indirect cost rate proposal, and thereafter treated as other unallowable activity costs. Agencies are also required to include an anti-lobbying clause in all of their contractual arrangements connected to the CDBG or HOME project.

3.3.2 - CERTIFICATION OF DEBARMENT

Agencies must certify that neither the Subrecipient, nor its principals, officers, employees and subcontractors are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any federal department or Subrecipient. In addition, agencies agree that they will not knowingly hire or enter into contract with any subcontractor who is debarred, suspended, declared ineligible, or voluntarily excluded from participation, unless authorized by the City. Agencies are required to include such a clause in all of their contractual arrangements with respect to this federally funded activity and maintain evidence of compliance in personnel files or with the subcontractor's documents. Agencies are required to verify that a vendor is not on the federal government list of debarred vendors by visiting the following website: <http://www.sam.gov> . Verification must be included in the file.

3.3.3 - CONFLICT OF INTEREST

Federal regulations require recipients of federal funds to comply with conflict-of-interest provisions. In general, no person, nor their family or business partners, who may exercise any function with respect to a federally funded activity may obtain a personal or financial benefit from the activity during their tenure and for one year after. In addition, any potential conflict of interest on the part of the applicant or its employees must be disclosed to the City.

3.3.4 - DRUG FREE WORKPLACE

Participation in these grant programs requires that agencies adopt their own policy to ensure a drug free workplace. Specifically, agencies must make a good faith effort to maintain a drug-free workplace by:

Publishing a drug-free workplace statement that is given to each employee who will be engaged in the performance of any federal award and that:

1. Informs employees that the manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited in the Subrecipient workplace;
2. Specifies the actions that the Subrecipient will take against employees for violating that prohibition; and
3. Informs employees that as a condition of employment under any award, he or she will abide by the terms of the statement and must notify the Subrecipient in writing if he or she is convicted for a violation of a criminal drug statute occurring in the workplace and must do so no more than five calendar days after the conviction.

Establishing a drug-free awareness program for Subrecipient employees about:

1. The dangers of drug abuse in the workplace;
2. The policy the Subrecipient has of maintaining a drug-free workplace;
3. Any available drug counseling, rehabilitation, and employee assistance programs; and
4. The penalties that the Subrecipient may impose upon them for drug abuse violations occurring in the workplace.

Taking action when an employee is found in violation of drug statutes governing the Workplace including:

1. Notify the City in writing within 10 days of learning of the conviction. Include the employee's position title and identification number of the affected award.
2. Take appropriate personnel action against the employee which may include termination or required participation in an approved rehabilitation program.

Agencies must also identify all known workplaces funded in part by CDBG or HOME funds.

3.3.5 - NONPARTICIPATION IN POLITICAL ACTIVITIES

The applicant must agree that no funds provided, nor personnel employed under the contractual agreement, shall be in any way or to any extent engaged in the conduct of political activities in violation of the Hatch Act (USC Title V, Chapter 15).

3.3.6 – VIOLENCE AGAINST WOMEN ACT

The applicant must agree that all Violence Against Women Act (VAWA) requirements (set forth in 24 CFR part 5, subpart L and 24 CFR 92.359) apply to all HOME tenant-based rental assistance and rental housing assisted. These requirements shall be included in the written agreement and shall include:

1. Notice Requirements
2. Obligations under emergency transfer plan
3. Bifurcation of lease requirements
4. Imposition of all VAWA requirements for the duration of the HOME period of affordability

3.3.7 – BROADBAND ACCESS

For new commitments made after January 19, 2017 for a new construction housing project of a building with more than 4 rental units, the construction must include installation of broadband infrastructure, as this term is defined in 24 CFR 5.100, except where the participating jurisdiction determines and, in accordance with §92.508(a)(3)(iv), documents the determination that:

(A) The location of the new construction makes installation of broadband infrastructure infeasible; or

(B) The cost of installing the infrastructure would result in a fundamental alteration in the nature of its program or activity or in an undue financial burden.

3.4 - PROGRAM OPERATION

3.4.1 - INCOME DETERMINATION

The City calculates income for the **Housing Rehabilitation** program using the IRS Form 1040 Adjusted Gross Income method. The HUD website <https://www.onecpd.info/incomecalculator/>

allows for easy income calculations. The **HOME Rental Housing** activities use Annual Income as determined in 24 CFR Part 5. These two programs require that the family income must be at or below 80% of Area Median Income meeting. The calculations can also be completed on the HUD website above. See the program policies for additional detail.

Generally, the following documentation received for both of these programs includes:

- Copies of your most recent Federal and State income tax returns (including all schedules).
- Most recent W2's (wage and salary) and 1099's (misc. income received).
- Current bank statements for all checking, savings, money markets, stocks, bonds, mutual funds, Treasury bills, certificates of deposits and any other liquid assets for all household members.
- Last three months of pay-check stubs showing year-to-date amounts for all household members. *

*Note: If you are retired, disabled, or unemployed, please bring proof of your current income received from all sources.

- If self-employed, bring past tax returns for the last two years.
- Social Security Annual Statement(s) (Form SSA-1099).
- Pension statement(s).
- Proof of child support and/or spousal support received.
- Proof of child support and/or spousal support paid.
- Current mortgage statement for all mortgages for other liens on property.
- Current credit report. A free credit report may be obtained at www.annualcreditreport.com.

Subrecipients engaged to provide **public services** through CDBG may ask their clients to self-certify their income. These self-certifications must be maintained on file by the Subrecipient as required by the Agreement. Subrecipient must also submit a statistical report that is included in the Agreement. The statistical report includes required reportable data on those persons served including, but not limited to, information such as the following:

- Number of persons/households who apply and number who receive services
- Income Characteristics
- Race and Ethnicity Information
- Head of Household
- Homeless
- Number of persons who live in City of Moreno Valley

3.4.2 - PROJECT OPERATION

Funds are awarded for the sole purpose of completing the project identified in the application and incorporated into the Agreement. The use of CDBG or HOME funds is expressly limited to the activities described in the Agreement. In the case of facilities funded with CDBG funds, the agencies must maintain and operate facilities for eligible activities, so as to be open for the use of the general public during all normal hours of operation and will not charge a fee that would restrict low-income persons from using the facility. In the event the Subrecipient fails to maintain and operate the project, the City may, at its option, take possession of the project and operate and maintain it for any lawful purpose.

3.4.3 - PROJECT SCHEDULE

A project schedule is made part of the Agreement and is considered a critical element for review in the implementation of the proposal and the monitoring of performance. The Agreement will specify a time period that the agreement is in effect, including a project completion date. Agencies are required to submit quarterly reports and report project milestones. Projects will be periodically reviewed to ensure progress and agencies must requests for project extensions in writing, explaining the reasons for the request. Any request for an extension must follow HUD regulations at 24 CFR 92.205(e)(2), Any funds unspent at the end of the agreement period will be retained by the City for allocation to another CDBG or HOME project.

3.4.4 - PUBLIC INFORMATION

In all news releases and other public notices related to projects funded under the Agreement, agencies must formally identify the source of funds. Depending on the scope of the project, there may be additional notification requirements, such as:

- During construction agencies may be required to erect a durable and adequately visible sign at the construction site, identifying the source of funds.
- Upon the completion of construction, the Subrecipient may be required to place a metal plaque permanently in the highest foot traffic area readily visible to the public. The plaque should identify the funding sources, the project name, and the year constructed. City staff will work with agencies to identify specific project requirements and contracts will carry provisions outlining the specifications of such notifications.

3.4.5 - REAL PROPERTY MANAGEMENT

Real property - land, including land improvements, structures and appurtenances thereto, excluding movable machinery and equipment.

3.4.6 - REAL PROPERTY – CDBG PROGRAM

When a Subrecipient uses in excess of \$25,000 of CDBG funds to acquire or improve real property the Subrecipient may not change the use or planned use of the property without City approval. This standard shall apply for a minimum of five (5) years from the date CDBG funds are first spent for the property. Specific terms will be outlined in the Agreement and deed as required.

3.4.7 - RELIGIOUS ORGANIZATIONS

Organizations that are directly funded under the CDBG or HOME program may not engage in inherently religious activities, such as worship, religious instruction, or proselytization, as part of the programs or services funded under this agreement. If an organization conducts such activities, the activities must be offered separately, in time or location, from the programs or services funded under this part, and participation must be voluntary for the beneficiaries of the HUD-funded programs or services.

3.5 - SPECIFIC TO HOUSING

3.5.1 - MINIMUM PROPERTY STANDARDS

CDBG and HOME funds are available to provide decent, affordable housing. Funds are available for either direct rental assistance or for the construction or rehabilitation of housing. Programs include:

1. Housing Rehabilitation Loan Program: Housing improved through the City program is subject to inspection and approval. Refer to the Housing Rehabilitation Loan Program Policy and Procedure Manual for additional information and requirements. (attached)
2. Manufactured Housing: Construction of all manufactured housing must meet the Manufactured Home Construction and Safety Standards established in 24 CFR 3280 Manufactured Home Construction and Safety Standards. Installation and rehabilitation of manufactured housing must comply with both City and the California Code of Regulations, Title 25, Division I, Chapter 3, Subchapter 2, commencing with section 4000.
3. New Construction or Rehabilitation: Housing that is newly constructed or substantially rehabilitated with federal funds must meet rehabilitation standards, local building codes, fire codes and maintenance standards located at Moreno Valley Municipal Code (VMC) Title 17 Buildings and Construction, and Title 16 Fire Code, as well as the zoning ordinance at VMC Title 20 Land Use and Development Code.
4. Rental Housing: An owner of rental housing assisted with federal funds must maintain the housing in compliance with all local building codes, fire codes and maintenance standards. An HQS is performed according to 24 CFR 92.251.
5. Tenant Based Rental Assistance (TBRA): When federal funding is provided for rental assistance, housing units must be inspected to meet the minimum Housing Quality Standards (HQS) established in 24 CFR 982.401, prior to occupancy. No funds will be released until inspections are completed and approved with documentation in project files.

3.5.2 – RENTAL PROJECTS INCOME: RENT And UTILITY ALLOWANCE

Agencies providing rental housing must follow the rent and income guidelines.

Approval of Rent and Utility Allowance:

1. Subrecipient is provided a copy of the most recent HOME rent limits and a link to the Moreno Valley Housing Authority utility allowances at time of application and in the Agreement for the period of affordability.
2. The Agreement instructs Subrecipient that formal approval for rents and utility allowance must occur prior to rental agreements being negotiated.
3. Prior to completion of construction, City staff will meet with Subrecipient staff to review HOME rental and income limits and proposed leasing and tenant selection information.
4. Subrecipient submits income and rent schedule to City for approval prior to leasing.
5. City will notify Subrecipient each time the income and rent limits are updated by HUD.
6. Upon receipt of new published income and rent limits, Subrecipient will submit current income and rent schedule to city for approval.

Rent Limits:

1. In accordance with 24 CFR 92.252 projects with one to four HOME-assisted units are required to have assisted unit rents not exceed the lesser of the Fair Market Rent or High HOME Rent.
2. Projects with five or more HOME-assisted units are required to have 20% of assisted unit rents not exceed the Low HOME Rent and 80% not exceed the lesser of the Fair Market Rent or High HOME Rent.

3. Rents include utilities and must be reduced for tenant paid utilities.

Income Limits:

1. Participants shall have an annual income that is 60% of the area median income or less, using the most current HUD Income Limits found at the City website.
2. The SUBRECIPIENT shall calculate participant gross income, adjusted income, and total tenant payment using the method found in 24 CFR Part 5, which is the method required for the HUD Section 8 program;
3. The SUBRECIPIENT shall collect income for new participants and review tenant income information for eligibility annually and provide a copy to the City of Moreno Valley annually.

Subsidies:

Subrecipient will not discriminate against potential tenants with rental subsidies.

Over Income Tenants: Households whose incomes rise above 60% of the AMI shall pay a rent not greater than 30% of their income for housing provided a) the rent they pay does not exceed the Fair Market Rent (FMR) established by HUD and b) the amount they pay for rent is not less than the greater of their current rent or the monthly rent that was set in their prior year’s lease agreement. Any resulting increase in rent is subject to the provisions of outstanding leases, and in any event, households shall be given not less than thirty days prior written notice of any increase.

Properties with Five or More HOME-Assisted Units:

1. For rental properties with five or more HOME-assisted units, at least 20 percent of the HOME-assisted rental units must be occupied by families who have annual gross incomes at or below 50 percent of area median income.
2. These units must be rented at no more than the Low HOME Rents. The remaining units can be rented at no more than the High HOME Rents.
3. Very low-income households may occupy High HOME Rent units and pay High HOME Rents.

Unit Designation: The Subrecipient under the Agreement will maintain the number of HOME units as defined in the Agreement and deed. Units will be designated as fixed or floating.

1. Fixed units remain the same throughout the period of affordability.
2. Floating units are designated to maintain conformity with the requirements during the period of affordability so that the total number of HOME designated units remains the same throughout the period of affordability. Each floating HOME unit must be comparable in terms of size, features, and number of bedrooms to the originally designated HOME-assisted unit.
3. Tenant income must be monitored annually, if an over income tenant in residing in the floating unit, the next available unit must be rented to an income eligible tenant.

3.5.3 – MONITORING RENTAL PROJECTS

Agencies will be monitored throughout the period of affordability. Agencies may submit any reports required for tax credits or California Tax Credit Allocation Committee (CTCAC) as an enforcement tool.

- Agencies must maintain documentation of tenant incomes and rents charged and submit to City annually

- Physical inspection of units must be performed annually using the HUD Housing Quality Standards criteria
- Submit information related to rent and income eligibility annually
- Provide annual financial reports for the City funded project as well as the Subrecipient
- Tenant income must be reviewed annually

3.5.4 – RENTAL HOUSING REHABILITATION: An owner of rental housing that is using funds for rehabilitation must provide a list of tenants that are receiving TBRA prior to construction.

3.5.5 – HOME PROGRAM - RESALE AND RECAPTURE

The City administers the federal HOME and CDBG program which allows for a funding mechanism to assist low income people in achieving homeownership. The City will contract with non-profit agencies in the community to administer the program. The contracts and agreements will contain either a resale or recapture clause. Additional information can be obtained in Homebuyer Program Description. The City may demand payment in full for any of the following reasons.

- Change of use of the property
- Transfer of all or any part of the property or interest in the property
- Breach of any stated covenant or failure to satisfy any stated condition or regulation

The specific criteria are detailed in the deed and note attached to the property.

3.5.6 – HOME PROGRAM - PERIOD OF AFFORDABILITY

HOME-assisted rental units carry rent and occupancy restrictions for varying lengths of time, known as the affordability period. The period of affordability begins upon project completion and is enforced by covenant or other legal conveyance between the Subrecipient and the City. Low-income household homebuyer projects also carry a period of affordability which affects the terms of resale or recapture of the property, if sold during the affordability period. Affordability periods do not apply to homeowner rehabilitation or tenant-based rental assistance (TBRA) activities. Agencies will be monitored throughout the period of affordability even as the funded project proceeds through closeout. Agencies must maintain documentation of tenant income and rents charged.

For **Rental** Projects, the length of the affordability period is based on the amount of HOME funds invested in the property, as well as on the nature of the activity funded (24 CFR 92.252).

Activity Average Per-Unit

HOME Minimum Affordability Period

Rehabilitation or Acquisition of Existing Housing

<\$15,000 5 years

\$15,000 - \$40,000 10 years

>\$40,000 15 years

Refinance of Rehabilitation Project: Any dollar amount 15 years

New Construction or Acquisition of New Housing Any dollar amount 20 years

For **Homebuyer** Projects, the length of the affordability period is based on the amount of HOME funds invested in the property (24 CFR 92.254).

HOME Funds Provided Affordability Period

<\$15,000	5 years
\$15,000 - \$40,000	10 years
>\$40,000	15 years

Throughout the period of affordability, the City will conduct on-site inspections of HOME assisted multi-family rental housing. The frequency of visits depends on the total number of project units (including non-HOME units), as shown below:

Total Number of Project Units Frequency of On-site Inspection

- 1 – 4 units Every 3 years
- 5 – 25 units Every 2 years
- More than 25 units Every year

The City will inspect fifteen to twenty percent of the HOME-assisted units in a complex up to 25 total units, and a minimum of one unit in every building. For larger projects with more than 25 total units, the City will inspect a sample of ten to fifteen percent of the units with a minimum of one unit in every building. If compliance problems are identified in the sample units, then the City will inspect the remaining units to ensure that all HOME-assisted units comply with established property standards. In addition to performing a physical inspection, information submitted by the owner, specifically related to rent and income eligibility will be reviewed annually.

3.5.7 - HOME PROGRAM – TENANT LEASES

Agencies receiving HOME funds must enact specific tenant protections. Leases must be for not less than one year, unless by mutual agreement between the tenant and the owner.

Leases may not contain any of the following provisions enumerated at 24 CFR 92.253:

1. Agreement by the tenant to be sued, to admit guilt, or to a judgment in favor of the owner in a lawsuit brought in connection with the lease;
2. Agreement by the tenant that the owner may take, hold, or sell personal property of household members without notice to the tenant and a court decision on the rights of the parties. However, the owner may dispose of personal property left by a tenant in accordance with state law;
3. Agreement by the tenant not to hold the owner or the owner’s agents legally responsible for any action or failure to act, whether intentional or negligent;
4. Agreement of the tenant that the owner may institute a lawsuit without notice to the tenant;
5. Agreement by the tenant that the owner may evict the tenant or household members without instituting a civil court proceeding in which the tenant has the opportunity to present a defense, or before a court decision on the rights of the parties;
6. Agreement by the tenant to waive any right to a trial by jury;
7. Agreement by the tenant to waive the tenant’s right to appeal, or to otherwise challenge in court, a court decision in connection with the lease; and
8. Agreement by the tenant to pay attorney’s fees or other legal costs even if the tenant wins in a court proceeding by the owner against the tenant. The tenant, however, may be obligated to pay costs if the tenant loses.

Any owner may not terminate or refuse to renew the lease except for the following reasons:

- Serious or repeated violation of the terms and conditions of the lease
- Violation of applicable federal, state, or local law

- Completion of the tenancy period for transitional housing
- Good cause

To terminate or refuse to renew tenancy, the owner must serve written notice specifying the grounds for the action at least 30 days before the termination of tenancy. An owner of rental housing must adopt written tenant selection policies and criteria that:

- Are consistent with the purpose of providing housing for very low-income and low-income families;
- Are reasonably related to program eligibility and the applicants' ability to perform the obligations of the lease;
- Provide for the selection of tenants from a written waiting list in the chronological order of their application, insofar as is practicable; and
- Give prompt written notification to any rejected applicant of the grounds for any rejection.

3.5.8 - HOME PROGRAM – TENANT BASED RENTAL ASSISTANCE (TBRA)

A form of direct rent assistance in which the recipient tenant may move from a dwelling unit with a right of continued assistance. See 24 CFR 92.209 for additional detail.

3.5.9 - HOME PROGRAM – HOUSING DEVELOPMENT UNDERWRITING PARAMETERS

Underwriting criteria for project and operating budgets should be guided by the following criteria:

I. Housing Project Development Budgets

- Construction Contingency - Minimums: 10% New Construction, 15% Rehabilitation
- Soft Cost Contingency - Maximum: 5% All Development
- The “Developer Fee” limits below are based on an average project in development and financing complexity. If the proposed Developer Fee for your project is higher than outlined, please provide your rationale. Please note that the developer fee is defined as a percentage of the total project. The “Developer Fee” does not include contract cost for project development consultants.

Total Units in Project Percentage of Total Development Costs

1-20	12-17%
21-35	12-15%
36-60	10-15%
61 and above	10-12%

Housing Operating Budgets

A. Revenue

- Vacancy rate should not be less than 5%.
- If project is restricted to a special population (HUD 811) or is senior housing (HUD 202), you may use a vacancy rate of not less than 4%.
- Non-HUD Capital Grant projects with less than 20 units should use 7.5% or higher vacancy rate to stress test the initial lease-up and long-term operations.

B. Operating Expenses

- Minimum inflation factor: 2%
- Replacement reserves (maintenance and repair)- a minimum of \$300 per year per unit for new construction; \$350 per year per unit for rehabilitation
- Operating reserve – 6 to 9 months of costs
- Project management fee – 7 to 12%.
- Property tax reduction: affordable housing projects and projects owned by nonprofit agencies are eligible for reduction and abatement of property taxes, your project should identify what form of property tax adjustment you anticipate.
- Resident Services: Up to \$300/year/unit affordable at 50% MFI or less
- Total operating expenses - 40% to 50% of gross revenue
- Debt Coverage Ratio (Net Operating Income ÷ Debt Service) – range 1.05 to 2.0
- HOME loan to value ratio - 50 percent or less
- Break-Even Point (gross income and other income ± operating expenses and debt service) ≤ 90%.

IV. ENVIRONMENTAL REVIEW

4.0 - SUMMARY

As part of the Agreement preparation process, the City will conduct an environmental review under the National Environmental Policy Act (NEPA) and 24 CFR § 92.352. *No funds will be formally committed nor expended until the completion of the NEPA.* To expedite the process, the City proceeds with the required environmental review and information gathering prior to the Agreement being signed. The Subrecipient may be required to furnish data, information and assistance as part of the environmental review. Completion of the environmental review process is mandatory, before taking any choice-limiting actions, including the expenditure or commitment of either federal or non-federal funds. Prohibited actions include any physical action on a site such as demolition, movement, rehabilitation, conversion, repair or construction. Further the Subrecipient may not execute a construction contract prior to environmental clearance.

4.1 - HISTORICAL OR CULTURAL ARTIFACTS

In the event that historical or cultural artifacts are discovered at a project site, funded with CDBG or HOME funds, during construction or rehabilitation, the Subrecipient or subcontractor shall immediately stop construction and notify both City staff and the California Native American Heritage Commission. For additional information visit the state website at <http://nahc.ca.gov/>.

4.2 - HISTORIC PRESERVATION

Projects will be reviewed to determine if a historic property is potentially affected by the undertaking. Both properties that are listed in or found to be eligible for inclusion in the National Register of Historic Places and the California Office of Historic Preservation (OHP), will be subject to the requirements of the City's Development code. Alterations to such properties shall be submitted for review and approval at the City's Permit Center located at City Hall. This review will be completed prior to the issuance of the Notice to Proceed.

4.3 - LEAD-BASED PAINT AND LEAD HAZARDS (24 CFR Part 35)

Projects that involve the acquisition or renovation of property built prior to 1978 must be tested for lead-based paint, subject to De minimus levels (24 CFR 35.1350). Interim controls and safe work practices are required during construction. In addition, housing assisted with federal funds is subject to the:

- Prohibition of the use of lead-based paint
- Elimination of immediate lead-based paint hazards in residential structure
- Notification of the hazards of lead-based paint poisoning to purchasers and tenants of residential structures constructed prior to 1978

Paid renovators and multi-family housing maintenance workers who work in pre-1978 housing and child-occupied facilities will be required to meet the training and certification requirements of both HUD - Lead Safe Housing Rule (LSHR) and EPA – Renovation, Repair and Painting Rule (RRP). Paid renovators include renovation contractors, painters and other specialty trades.

4.4 - NATIONAL FLOOD INSURANCE

Funding will not be approved for acquisition or construction for use in any area that has been identified as having special flood hazards and is not participating in the National Flood Insurance Program. For further information, see www.fema.gov/flood-insurance.

4.5 - NEW CONSTRUCTION SITE AND NEIGHBORHOOD STANDARDS

A site for newly constructed housing must meet the site and neighborhood standards listed in 24 CFR 983.57 as applicable. A copy of the site selection and neighborhoods standards review shall be retained by the grantee if utilized.

V. LABOR STANDARDS

5.0 - FEDERAL WAGE LAWS AND LABOR STANDARDS (29 CFR Part 5)

CDBG and HOME activities are subject to federal wage laws and labor standards. Any one of the following activities triggers the Davis Bacon and Related Acts.

For CDBG-funded contracts, the Davis-Bacon Act is triggered when construction work over \$2,000 is financed in whole or in part with CDBG funds. It does not apply to the rehabilitation of residential structures containing less than eight units or construction carried out by employees of the City.

For HOME-funded contracts, the Davis-Bacon Act is triggered for the construction of affordable housing with 12 or more units, including land acquisition or clearing which will result in twelve (12) or more HOME-funded units. Contractors and subcontractors performing work on a construction project funded through the contract must comply with prevailing wage laws by paying the higher of state or federal prevailing wages according to:

1. The Davis Bacon and Related Acts, Title 40 USC 276a to a-7 (Public Law 107-217-Aug. 21, 2002, as amended), and applicable provisions of the implementing regulations at 29 CFR Part 3 and 29 CFR 5.5 and related federal acts provide that all laborers and mechanics employed by contractors or subcontractors shall be paid wages at rates not less than those prevailing on similar construction in the locality as determined by the Secretary of Labor.

2. The Copeland (Anti-kickback) Act (40 U.S.C. 2776c) governs the deductions from paychecks that are allowable. The Act makes it a criminal offense to induce anyone employed on a federally

assisted project to relinquish any compensation to which he/she is entitled. In addition, the Act provides that all laborers and mechanics are entitled to receive pay weekly.

3. Contract Work Hours and Safety Standards Act (40 U.S.C. 327-333), as Amended, is applicable to federally assisted contracts subject to Davis-Bacon standards for construction projects employing mechanics or laborers and states that:

- a. Eight hours is the standard workday, forty hours is the standard workweek.
- b. One and one-half times the basic hourly rate of pay, exclusive of fringe benefit payments must be paid for all hours over forty in a workweek.
- c. No worker shall be required to work in surroundings or under working conditions that are unsanitary, hazardous, or dangerous to health and safety.

5.1 - ENFORCEMENT PROVISIONS

The City CDBG/Home program shall be responsible for monitoring of contractor compliance with the Federal Labor Standards Provisions. Grant Recipients are responsible for supporting the City in its efforts to monitor contractor compliance with Federal Labor Standards Provisions and more importantly are responsible for the enforcement of contractor compliance with the Federal Labor Standards Provisions. A number of actions must be taken at each step of the bidding & construction process for monitoring and enforcement of the Federal Labor Standards Provisions. These actions (generally listed in order of occurrence during the construction process) are as follows:

1. Prior to Bid Advertising-

- a. Subrecipient requests from City staff a copy of Federal Labor Standards Provisions (Supplementary General Conditions) for inclusion in bid document/quote package.
- b. Subrecipient submits draft bid/contract document for review by City at least ten days prior to advertisement of bid.

2. Ten Days Before Bid Opening-

Subrecipient requests a copy of the current federal wage decision from City *ten days before bid opening*. The updated wage decision must be sent to all plan holders in a formal addendum to the bid document. This updated wage decision will apply to all work covered by the construction contract to be awarded under that bid advertisement. An exception to the “lock-in” date described above applies when the construction contract award is delayed 90 days or more after the bid opening. In these cases, changes in the wage decision published between the bid opening and construction contract award date must be included in the construction contract.

3. Before Awarding Construction Contract-

Grant Recipient contacts City staff to verify eligibility (check for debarment) of the general contractor before awarding the construction contract.

4. Before Construction Begins-

Subrecipient holds pre-construction conference with representatives to ensure that federal labor standards requirements are discussed with the general (prime) contractor before construction begins. The City staff shall be responsible for leading the labor standards discussion. In scheduling the pre-construction conference, Subrecipient should ask prime contractor to bring along person(s) responsible for doing company payroll.

5. During Construction-

During the period of construction, the City is responsible for the following:

- a. Inform, advise and support contractor compliance.
- b. Review certified payroll reports for compliance.
- c. Monitor for violations and investigate probable violations and complaints of underpayment.

If it's determined that contractor is in violation of Federal Labor Standards Provisions, Subrecipient shall be required to take enforcement measures (withhold progress payment, assess liquidated damages, take legal action as appropriate and necessary, etc.).

6. Before Releasing Retainage on Construction Contract-

Before releasing retainage, Subrecipient must check with City CDBG staff to make sure construction contractor has satisfied all requirements under the Federal Labor Standards Provisions. Note that for construction projects subject to Federal Labor Standards Provisions, the City shall reserve the final 10% of grant funds budgeted on the construction line item (as specified in Exhibit A of Construction Contract) pending the City's receipt of a complete and correct set of certified payrolls from project contractor(s).

VI. FINANCIAL MANAGEMENT

6.0 - FINANCIAL SYSTEM OVERVIEW

Agencies who receive CDBG and HOME federal funds must establish and maintain a financial system that meets the minimum federal requirement for financial management (2 CFR 200.302). Records must be reliable and up-to-date and are subject to review upon request. The system must be flexible enough to accommodate applicable laws and regulations, and yet also conform to *generally accepted accounting principles* (GAAP). Public agencies must maintain their accounting records in a manner consistent with the Budgeting, Accounting, Reporting System for Counties and Cities, and Other Local Governments (BARS) or equivalent accounting method. In general, a financial system must:

- Provide effective control over and accountability for all funds, property, and other assets.
- Identify the source and application of funds for federally funded activities, including verification of the "reasonableness, allowability, and allocability" of costs and that no funds have been used in violation of any restriction or prohibition.
- Report accurate and complete disclosure of financial results in a timely manner.
- Develop board approved financial policies; a list of required policies is included in the *Funding Award* section.

6.1 - ALLOWABLE COSTS (2 CFR 200.405)

Costs are only eligible for reimbursement if they meet cost principle standards for allowable, reasonable and allocable.

Allowable:

- Necessary for performance or administration of grant award
- Authorized under all pertinent regulations and requirements
- Adequately documented, including source documentation
- Not charged to any other program; not a duplicate cost

Reasonable:

- Cost is ordinary or typical for the purchase
- Purchase benefits client population

Allocable:

- Incurred specifically for the grant award project
- If purchase is for program, rather than project, but can be proportionately prorated
- Is necessary for the overall operation of the organization, although a direct relationship to any cost objective cannot be identified

6.2 - BUDGET CONTROL

Agencies must monitor obligations and expenditures against their approved budget. In addition, financial data should relate to performance data. Whenever practical, unit cost information should be developed.

6.3 - CASH MANAGEMENT

Cash management standards require a strict attention to detail and accuracy and include:

- Accurate and supported information
- Returning erroneously drawn funds to the City immediately
- Transfers that result in using CDBG or HOME funds for any purpose other than that for which it was given are not allowed.

Regular banking procedures may be followed without any separate bank account or special bank eligibility requirements. However, agencies must be able to account for the receipt, obligation and expenditure of funds.

6.4 - INTERNAL CONTROL (2 CFR 200.303)

Agencies must adequately safeguard all property. Assets must only be used in a manner consistent with applicable laws, regulations and policies, and efforts must be made to protect against waste, mismanagement or loss. Elements of internal control which establish a system of checks and balances include:

- An organizational chart setting forth the actual lines of responsibility of individuals involved in approving or recording financial transactions.
- Written definition outlining the separation of employee duties, so no one individual has authority over an entire financial transaction. Key functional responsibilities:
 - a. Authorization to execute a transaction
 - b. Recording a transaction
 - c. Custody of the assets involved in the transaction.
 - d. Reconciliation of all transactions
- Physical access to confidential records, blank forms, cash, and other assets limited to authorized personnel only.
- Periodic comparisons of financial records to actual assets and liabilities with corrective action taken in response to any discrepancies: reconciliation.
- A designated representative who will be legally responsible to cost reimbursement requests and other forms as required throughout the project

- An assigned liaison that will be responsible for overall administration of the CDBG or HOME funded project and coordination with the City Fidelity bond coverage is obtained for responsible officials of the organization; the City May require the applicant to purchase additional fidelity bond coverage in cases where it Believes the normal policy coverage is not sufficient to protect the interest of the government.

6.5 – TRAVEL (2 CFR 200.474)

Travel expenses are recognized as a function of business and are included in the definition of the operating expenses of an organization. Travel expenses are not appropriate for casual or occasional use of a personal vehicle within the local area. The City will only approve travel consistent with the approved budget in the Agreement.

6.6 - ACCOUNTING RECORDS

Records are to be maintained in a manner that costs can be tracked to specific revenue sources. In addition, records should contain information pertaining to grant awards, all obligations, unobligated balances, assets, liabilities, expenditures, and program income. Documentation regarding how much of an obligation or expenditure is attributed to federal funds is required. An accounting system should include the following:

- **A chart of accounts.** A listing of all accounts in the general ledger of the organization; each account should be accompanied by a reference number
- **A cash receipts journal.** A chronological listing of when funds are received, in what amounts, and from what sources
- **A cash disbursements journal.** A chronological listing of the date an expenditure was incurred, how much was spent, to whom funds were paid, and for what purpose.
- **A payroll journal.** Documents the organization’s salaries and benefits expenses, identifies funding sources per employee, and distinguishes various payroll categories.
- **A general ledger.** Chronological summary of the activity and financial status of all the accounts of an organization: cross-indexed with journal entries to permit the tracing of any recorded transaction
- **A trial balance practice.** A listing of the ledger accounts along with their respective debit or credit balances.

6.7 - SOURCE DOCUMENTATION

Accounting records must be supported by source documentation. Source documentation must be readily available for review. Supporting documentation is necessary to explain the basis of the costs incurred, as well as the actual dates and amount of expenditures. Source documentation specific to:

Payrolls

- Employment letters and all authorizations for rates of pay, benefits, and employee withholdings
- Written personnel policies
- W-4 forms
- Time and attendance records; particularly for time charged to City funding
- Time distribution records; to support the allocation of charges among multiple sources

- Canceled checks from the employees, insurance provider, or evidence of direct deposits

Space and Utilities

- Rental or lease agreements
- Utility company bills
- Canceled checks

Supplies

- Purchase orders or requisition forms initiated by an authorized representative
- Detailed invoice from the vendor (which has been signed-off to indicate the goods were received)
- Canceled check from the vendor
- Information regarding where the supplies are being stored and for what cost objective(s) they are being used

6.8 - COST REIMBURSEMENT

The City Agreement with the subrecipient is on a cost reimbursement basis. In limited cases advance funding can be transferred to an escrow account. Indirect costs must be supported by a cost allocation plan. The Subrecipient must provide the City with a copy of their cost allocation plan that defines how direct, shared, and administrative costs are allocated including the methodology. Once a Subrecipient has incurred an expense, a “request for reimbursement form” should be completed and submitted to the City. Requests must include a summary of expenses in support of all cost reimbursement items and staff costs by statement of work number and accompanied by general ledger detail. For services or projects that are funded by multiple parties, the general ledger detail should identify which service, work, or staff costs were funded by the City and which by other parties.

Supporting source documentation should show:

- When the expense was incurred?
- How much was spent?
- To whom funds were paid?
- For what purpose (is the cost allowable)?
- Who approved the expense?
- How much of an obligation or expenditure is attributed to City funds?
- What methodology was used in allocating shared costs to the City funds?

Agencies are required to submit monthly and no less than quarterly for reimbursement. The City will make payment to the Subrecipient *as soon as practicable*, but not more than thirty (30) days after an invoice is received, determined to be accurate and satisfactorily supported by accompanying documentation. Occasionally other payment arrangements are agreed to by both parties. Staff will review requests for reimbursement against supporting documentation and the approved budget. No payment shall be made for any service rendered by the Subrecipient, except for services within the scope of each Agreement.

Please note that any cost submitted for reimbursement must be the net of all applicable credits. Any credits such as purchase discounts or price adjustments must be deducted from total costs charged and documented.

6.9 - 10% HOLD BACK, FUNDING RETAINED UNTIL PROJECT COMPLETION

In cases where City funding is a portion of the purchase, acquisition or construction of a project, ten percent of the amount awarded will be held back pending successful completion. Documentation for completion of the project includes occupancy permits, leased units and an operational program. When constructing housing, the architect must certify that the number of required units meets accessibility standards under Section 504 of the Rehabilitation Act of 1973.

6.10 - DISALLOWED COSTS

Upon signing the Agreement, the subrecipient assumes responsibility for any audit exceptions or disallowed costs incurred by its own organization or that of its subcontractors. The City will expect payments to be returned if costs are considered disallowed. Disallowed costs are defined when the subrecipient has received payments for expenses or services that are outside the scope of the Agreement, prohibited, or paid for by another source. The Agreement may resume when the disallowed costs are recovered, and the corrective action process has been completed.

6.11 - FEDERAL REGULATIONS GOVERNING FINANCIAL MANAGEMENT

Non-Federal entities receiving CDBG and HOME awards are subject to the provisions of HUD Title 2 CFR Part 200, Cost Principles and Audit Requirements for Federal Awards.

VII. PROCUREMENT

7.0 – OVERVIEW

This section outlines requirements for using federal funds to purchase materials, products, or services using contracted funds under the CDBG or HOME program. These funds can only be used to purchase what is necessary to implement the approved proposal, as described and agreed to in the approved budget that is incorporated into the signed Agreement. Whether you are purchasing occasional office supplies or contracting for 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.
- Obtain supplies and services as efficiently and economically as possible.

7.1 – REQUIRED STANDARDS

Every Subrecipient **must have** written procedures for procurement transactions, which at a minimum ensure that:

- Unnecessary purchases and duplicate costs are avoided.

- Items delivered and paid for are consistent with the purchase order and/or contract for the goods or services.
- All purchase orders (and contracts) are signed by the authorized official(s) of the Subrecipient.
- A cost or price analysis is made and documented in connection with every procurement action, including contract modifications, and must be available for review upon request by the City. A cost or price analysis may be accomplished in various ways, including the comparison of price quotations submitted, market prices, and similar indicia, together with discounts. Cost analysis is the review and evaluation of each element of cost to determine reasonableness, allocability and allowability.
- Profit or fee is negotiated separately from price where competition is lacking or whenever a cost analysis is performed. To establish a fair and reasonable profit, consideration will be given to the complexity of the work to be performed, the risk borne by the contractor, the contractor's investment, the amount of subcontracting, the quality of past performance, and industry rates for the area.
- "Cost plus a percentage of cost" pricing is not used for contracts.
- Whenever possible, use of federal excess and surplus property or intergovernmental agreements for procurement or use of common goods and services should be considered as a way to foster greater economy and efficiency.
- There is a documented system of contract administration for determining the adequacy of contractor performance.
- Protest procedures are in place to handle and resolve disputes relating to procurement.
- Timely payment to vendors occurs once the order is delivered, inspected, accepted, and payment authorized.
- Where appropriate, an analysis should be made of lease versus purchase alternatives.
- There is a written code of conduct governing employees, officers, or agents engaged in the award or administration of contracts.
- Procurement records for each purchase are maintained and at a minimum include:
 - a. Rationale for selecting both the method of procurement and the type of contract
 - b. The basis for contractor selection or rejection
 - c. Justification for lack of competition when competitive bids or offers are not obtained
 - d. The basis for the award cost or price.
 - e. The list of provisions in 24 CFR 85.36(i) Public Agencies or 84.48 Non-profit Organizations, as applicable, must be included in any contract.

7.2 – METHODS OF PROCUREMENT (2 CFR 200.320)

Depending on the scarcity of the item or service desired, and the size of the purchase, different methods of procurement are available. Simple purchases are managed with the Small Purchase Procedures, while the three more complex procurement processes all require following a formal solicitation process in addition to the procedural process of the specific procurement method.

- Small purchase procedures
- Sealed bids procurement
- Competitive proposal procurement
- Noncompetitive proposal procurement

7.2.1 – MICRO AND SMALL PURCHASE PROCEDURES

Micro purchases are those purchases for supplies and services that do not exceed \$3,000 or \$2,000 for acquisition or construction subject to Davis-Bacon Act. Such purchases are exempt from competitive quotes but must be reasonable

Small purchases are those purchases that over \$3,000 but less than the **simplified acquisition threshold** currently set at \$150,000 [see 41 USC 403 (11)] and require:

- A cost or price analysis typically from at least three qualified sources.
- The method of analysis is at the discretion of the applicant.
- The analysis must be available for review upon request.

7.2.2 - FORMAL PROCURMENT OR SOLICITATIONS

Solicitations must clearly explain all requirements that the bidder must fulfill in order to be evaluated. Solicitations cannot contain features which unduly restrict competition. Some of the situations considered to be restrictive of competition include:

- 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.

The award is only made to responsible contractors possessing the ability to perform successfully under the terms and conditions of the proposed procurement. Consideration should be given to:

- Contractor integrity
- Compliance with public policy
- Past performance
- Financial and technical resources

Pre-qualified lists of vendors/contractors, if used, must be current, developed through open solicitation, include adequate numbers of qualified sources, and must allow entry of other firms to qualify at any time during the solicitation period. The process should exclude contractors that develop or draft specifications, requirements, statements of work, invitations for bids, and/or requests for proposals from competing for such procurement. Awards are not made to any party which is debarred or suspended or is otherwise excluded from or ineligible for participation in federal assistance programs.

7.2.3 - SEALED BIDS PROCUREMENT

Sealed bids are the preferred method for procuring construction services. Bids are publicly solicited, and a unit price contract is awarded to the responsible bidder whose bid conforms to the terms and conditions of the invitation to bid and is the lowest in price.

For this method to be feasible, you must have:

- A complete, adequate and realistic purchase description
- Two or more responsible bidders willing and able to compete for the business

- The procurement lends itself to a firm fixed price contract
 - The selection of the successful bidder can be made principally on the basis of price
- If sealed bids are used, the following requirements apply:
- The invitation for bids will be publicly advertised
 - The bids shall be solicited from an adequate number of known suppliers providing a reasonable response time
 - The invitation for bids shall define the items or services and will include any specifications or pertinent attachments
 - All bids will be publicly opened as described in the invitation to bid
 - A firm fixed-price contract award will be made in writing to the lowest responsive and responsible bidder.
 - Where specified in bidding documents, factors such as discounts, transportation cost, and life cycle costs shall be considered in determining which bid is lowest. Payment discounts will only be used to determine the low bid when prior experience indicates that such discounts are usually taken advantage of.
 - Any or all bids may be rejected if there is a sound documented reason.

7.2.4 - COMPETITIVE PROPOSAL PROCUREMENT

The technique of competitive proposals is normally conducted with more than one source submitting an offer, and either a fixed-price or cost-reimbursement type contract is awarded. It is generally **used when conditions are not appropriate** for the use of sealed bids. If this method is used, the following requirements apply:

- Requests for proposals, RFPs, will be publicized and identify all evaluation factors and their relative importance.
- Each response must be given reasonable consideration and not dismissed outright.
- Proposals will be solicited from an adequate number of qualified sources.
- Established method for conducting technical evaluations of the proposals received and for selecting awardees must be in place.
- Awards will be made to the responsible firm with consideration for price and other factors.

7.2.5 - ARCHITECTURAL/ENGINEERING (A/E) PROFESSIONAL SERVICES

Competitive proposal procedures may be used for **qualifications-based procurement** whereby competitors' qualifications are evaluated, and the most qualified competitor is selected, subject to negotiation of fair and reasonable compensation. The method, where price is not used as a selection factor, **can only be used in procurement of A/E professional services**. It cannot be used to purchase other types of services though A/E firms are a potential source to perform the proposed effort.

7.2.6 - NONCOMPETITIVE PROPOSAL PROCUREMENT

After solicitation is made to a number of sources and competition is determined inadequate, procurement through solicitation from only one source may be permitted, however purchase will require pre-award review by the City. One of the following circumstances must apply:

- The item is available only from a single source

- The public exigency or emergency for the requirement will not permit a delay resulting from competitive solicitation
- After solicitation of a number of sources, competition is determined inadequate.
- Cost or price analysis verifying the following is required:
- Proposed cost data
- Projections of the data
- An evaluation of the specific elements of costs and profits

7.3 - REQUIRED PROCUREMENT PROCESSES

7.3.1 – BONDING (2 CFR 200.325)

For construction or facility improvement (sub)contracts exceeding \$100,000.

- a. A bid guarantee from each bidder equivalent to 5 percent 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 within the time specified for the bid amount.
- b. A performance bond from the (sub)contractor for 100 percent of the contract price to secure the (sub)contractor’s fulfillment of all obligations under the contract.
- c. A payment bond from the (sub)contractor for 100 percent of the contract price to assure payment of all persons supplying labor and material under the contract.

7.3.2 - CONTRACTING WITH SMALL, MINORITY AND/OR WOMEN-OWNED BUSINESSES (MBE and WBE)

Federal regulations for both CDBG and HOME make it very clear that grant recipients and subrecipients should make every effort to use local business firms and contract with small, minority-owned and/or women-owned businesses while following the procurement process. Affirmative steps to use small firms, minority-owned firms, women-owned firms, or labor surplus area firms in its federally funded activities must be taken. The efforts should include:

- Incorporating such businesses in solicitation lists whenever they are potential sources.
- Ensuring that such businesses are solicited when identified as potential sources.
- Dividing procurement requirements, when economically feasible, to permit maximum participation of such businesses.
- Requiring prime contractors, when subcontracts are let, to take affirmative steps to select such firms.

7.3.3 - NONDISCRIMINATION IN EMPLOYMENT BY GOVERNMENT

In addition, the applicant and all subcontractors will comply with Executive Order 11246 - Nondiscrimination in Employment by Government. The order requires contractors and subcontractors to refrain from discrimination and take affirmative steps to ensure that applicants and employees receive equal employment opportunity regardless of race, color, religion, sex, and/or national origin. Construction contractors and subcontractors must make good faith efforts to employ women and minorities in all crafts and trades in their area where the contracts are to

be performed and must also fully document their affirmative action efforts. In addition, sexual harassment is also a violation of the nondiscrimination provisions of this Executive Order.

7.3.4 - TARGETED USE OF LOCAL BUSINESSES AND LOW- AND VERY LOW-INCOME PERSONS

In conformance with the requirements of **Section 3 of the Housing and Community Development Act of 1968**, to the greatest extent feasible, contracts must be awarded for work to be performed to eligible **business concerns located in or owned by residents of the target area** to ensure that the employment and other economic opportunities generated by federal financial assistance for housing and community development programs shall, to the greatest extent feasible, be directed toward low- and very low-income persons, particularly those who are recipients of governmental assistance for housing. Be advised that the desire to award contracts to local firms is *not* a legitimate excuse for avoiding an open and competitive procurement process.

The preferences provided under this section are based on income-level and location. To the greatest extent feasible, agencies must direct economic opportunities to low- and very low-income persons, particularly persons who are recipients of HUD assistance for housing. As part of signing the contract, agencies are certifying that they will comply with the regulations in part 135, which assure that the objectives of Section 3 are met.

VIII. CIVIL RIGHTS COMPLIANCE

8.0 - NONDISCRIMINATION

In the provision of either employment or services, agencies who receive CDBG or HOME funds must comply with federal, state and city laws and regulations regarding nondiscrimination. Agencies must have policies and procedures to protect the rights of all individuals, employees and clients. Agencies must not discriminate on the basis of:

- Age Disability Marital Status Sex
- Color Familial Status National Origin Sexual Orientation
- Creed Gender Identity Race

8.1 - REQUIRED ACTIONS

8.1.1 - EMPLOYMENT SOLICITATIONS

All solicitations for employment under the Agreement must state that all qualified applicants will be considered. The words “equal opportunity employer” in advertisements will constitute compliance with this section.

8.1.2 - GRIEVANCE AND COMPLAINT PROCEDURES

Subrecipients must have or establish a grievance and complaint process and procedures. The process must allow current employees, applicants or members of the public who believe they have been discriminated against on the basis of a disability to report the incident. The process is subject to review by the City and at a minimum must:

- Be available to any individual requesting a copy
- Be in compliance with federal law regarding discrimination
- Be in writing
- Include both an informal and formal resolution process, including arbitration
- Include timelines for filing a grievance or a complaint
- Include timelines for response or action

8.1.3 - LIMITED ENGLISH PROFICIENCY (LEP)

Receipt of either CDBG or HOME funds requires a Subrecipient to take reasonable steps to provide meaningful access to persons with limited English proficiency.

8.1.4 - NOTICE OF NONDISCRIMINATION

Agencies must notify each person applying for or receiving services that per federal law:

- No otherwise qualified individual with a disability shall, solely by reason of his or her disability, be excluded from the participation in, be denied the benefits of, or be subjected to discrimination.
- Each person has the right to file a complaint, if they believe that they have been discriminated against in any program funded, in part or whole with CDBG or HOME funds.
- Each person must be informed where they may file such a complaint.
- Notices must be posted in all work areas and must be visible to the public. In rental offices and other appropriate locations, agencies must display the HUD fair housing poster found at https://www.hud.gov/program_offices/fair_housing_equal_opp/marketing

8.2 - ACCESSIBILITY REQUIREMENTS

Participation in the CDBG or HOME program requires adherence to federal regulations governing the accessibility of buildings, facilities and programs. In many cases, new construction of rental projects must meet multiple accessibility construction requirements. Where two or more accessibility standards apply, the housing provider is required to follow and apply all standards, so that maximum accessibility is obtained. A listing of applicable regulations, executive orders, notices and statutes is at the end of this chapter. For further information, visit the following website:

https://www.hud.gov/program_offices/fair_housing_equal_opp/disabilities/accessibilityR

8.2.1 - FAIR HOUSING ACT

- a. Applies to a building designed and constructed for initial occupancy after March 13, 1991; the design and construction requirements in the Fair Housing Act will not apply to rehabilitation projects or activities
- b. Prohibits discrimination in housing practices on the basis of race, color, religion, sex, and national origin
- c. Prohibits discrimination in any aspect of the sale or rental of housing for families with children and persons with disabilities

- e. Establishes requirements for the design and construction of new rental or for sale multifamily housing to ensure a minimum level of accessibility for persons with disabilities
- f. Information about housing designs that provide accessible features in compliance with the Fair Housing Act can be found in HUD's Fair Housing Act Design Manual at <http://www.huduser.org/portal/publications/destech/fairhousing.html>
- g. Under the Fair Housing Act 'covered multifamily dwelling units' are:
 - 1. Dwelling units in buildings consisting of 4 or more units served by one or more elevators,
or
 - 2. Ground floor dwelling units in other buildings with 4 or more units.
 - 3. Covered multifamily dwelling units are required to be designed and constructed in a manner that includes:
 - Public and common use portions of such dwellings are readily accessible to and usable by
 - disabled persons
 - Doors are designed to allow passage into and within the premises of such dwelling units
 - and are sufficiently wide to allow passage by disabled persons in wheelchairs
- h. All premises within such dwelling units contain the following features of adaptive design:
 - 1. An accessible route into and through the dwelling unit;
 - 2. Light switches, electrical outlets, thermostats, and other environmental controls in accessible locations
 - 3. Reinforcements in bathroom walls to allow later installation of grab bars
 - 4. Usable kitchens and usable bathrooms such that an individual in a wheelchair can
 - 5. maneuver about the space

8.2.2 - SECTION 504 of the REHABILITATION ACT of 1973, as AMENDED

Prohibits discrimination against persons with disabilities in any program or activity receiving Federal financial assistance. HUD regulations implementing Section 504 require that new construction of multifamily projects, containing five or more dwelling units, be designed and constructed to be readily accessible to and usable by persons with disabilities. Both the individual units and the common areas in the building must be accessible. Alterations undertaken to a housing project that has 15 or more units with rehabilitation costs 75 percent or more of the replacement cost of the completed facility are considered to be substantial alterations and have the same requirements as new construction, which are:

- A minimum of 5 percent of the dwelling units in the project (but not less than one unit) must be accessible to individuals with mobility impairments
- An additional 2 percent of the dwelling units (but at a minimum, not less than one unit) must be accessible to individuals with sensory impairments such as hearing or vision impairments
- Must be constructed in accordance with the Uniform Federal Accessibility Standards (UFAS) or a standard that is equivalent or stricter.

To the point that it is not a financial or administrative burden, agencies are required to increase mobility accessibility to the minimum requirement when:

- Undertaking less than substantial alterations to units, common areas, facility or elements
Projects may not be broken into multiple elements to avoid the requirement to increase accessibility. Accessible units must be distributed throughout the projects and sites, and must be available in a sufficient range of sizes and amenities so as not to limit choice to the maximum extent feasible.

Agencies must make accessibility features available to tenants by:

- Offering vacant accessible units first to a current occupant requiring such features, then to an eligible qualified applicant on the waiting list requiring the accessibility features, before offering to anyone else Providing accessible features or policy modifications to applicants or tenants requiring them, unless doing so would result in a fundamental alteration in the nature of its program or an undue financial and administrative burden
- Conducting activities and meetings in an accessible location

8.3 - AFFIRMATIVE MARKETING OF HOUSING

By receiving HUD funding, agencies are required to implement affirmative marketing strategies, under which they identify groups, within the eligible population that are least likely to apply, and to conduct special outreach efforts through advertising in local media, including media targeted at persons with limited English proficiency. The HOME program regulation specifically requires implementation of affirmative marketing strategies for rental and homebuyer projects containing 5 or more HOME- assisted housing units. Agencies receiving such funding will need to have their affirmative marketing procedure reviewed and approved by the City. The affirmative marketing requirements and procedures adopted must include:

1. Methods for informing the public, owners, and potential tenants about Federal fair housing laws and the participating jurisdiction's affirmative marketing policy (e.g., the use of the Equal Housing Opportunity logotype or slogan in press releases and solicitations for owners, and written communication to fair housing and other groups);
2. Requirements and practices each owner must adhere to in order to carry out the participating jurisdiction's affirmative marketing procedures and requirements (e.g., use of commercial media, use of community contacts, use of the Equal Housing Opportunity logotype or slogan, and display of fair housing poster);
3. Procedures to be used by owners to inform and solicit applications from persons in the housing market area who are not likely to apply for the housing without special outreach (e.g., use of community organizations, places of worship, employment centers, fair housing groups, or housing counseling agencies);

Additional information can be found in the City's Affirmative Fair Housing Marketing Plan in the Appendix of the current Consolidated Plan.

IX. OUTCOME DATA COLLECTION

9.0 - MONITORING OVERVIEW (2 CFR 200.328)

Monitoring is an ongoing process. Reviews begin as part of the pre-award selection process and continue throughout the term of the Agreement. In some situations, monitoring will continue beyond the term of the Agreement, as a requirement of a major acquisition or construction project. Monitoring includes a review of records, files and signed assurances, as well as reports

generated specifically to document client and project eligibility. All supporting documentation, such as information submitted with cost reimbursement requests is reviewed, as a component of monitoring. During the term of the Agreement, a site visit may be scheduled. By signing the Agreement, the Subrecipient agrees that the City has the right to examine or copy, not only the fiscal components of the organization, but also all other aspects of a Subrecipient and its activities. The City is available to offer any necessary technical assistance to avoid or resolve any monitoring findings. As part of the Agreement process the City will prepare Subrecipient staff for monitoring by reviewing City program policies, HUD program guidelines, as well as reporting requirements. In most cases, only City staff will monitor the Subrecipient's project. However, HUD staff has the authority to visit any local CDBG or HOME project to check compliance with federal regulations.

9.1 - OBJECTIVES

The objectives of monitoring are to determine if agencies are:

- Carrying out federally funded activities as described in contracts.
- Carrying out the program or project in a timely manner, in accordance with the schedule included in the approved contract.
- Charging costs to the program or project that are eligible under applicable regulations.
- Complying with other applicable laws, regulations and terms of the contract.
- Conducting the program in a manner that minimizes the opportunity for fraud, waste and mismanagement.
- Maintaining the capacity to carry out the approved program or project.

9.1.1 - AREAS TO BE MONITORED

- Accounting Records; Financial Management; Internal Control
- Affirmative Marketing for both rental and home buyer projects
- Affirmative Steps; Women & Minority Business
- Labor Standards; Nondiscrimination Policy
- Audit Results
- National Objectives
- Bonding and Insurance
- Budget Control
- Policy and Procedures
- Cash Management
- Procurement Policy
- Code of Conduct Assurances
- Program Income
- Complaint Procedure
- Project Performance
- Cost Allowability
- Record Keeping
- Environmental Review

- Relocation
- Equal Opportunity
- Section 3 of the HUD Act of 1968
- Equipment and Real Property Management
- Source Documentation
- Fair Housing
- Timeliness

9.1.2 - ONSITE MONITORING

The City will schedule a site visit at a mutually agreed upon time. However, the City reserves the right to conduct on-site visits without prior notification. When conducting a monitoring visit the City may:

- Review files, including third party contractor's files at the Subrecipient's administrative office
- Interview Subrecipient staff, third party contractor staff, citizens or citizen groups, to discuss the Subrecipient's performance
- Visit the project implementation site
- Discuss any discrepancy among data resulting from the files examined, interviews and visits to project sites
- Discuss the findings of the monitoring visit

9.1.3 - PRE-AWARD MONITORING

During the review and selection process, applicants must submit a copy of their most recent audited financial statement to assess a Subrecipient's past performance. The City will carefully review any concerns with the Subrecipient and/or the City auditor.

9.1.4 - REQUIRED CORRECTIVE ACTION

Following a site visit or review of records, the City will share results of any findings or concerns with the Subrecipient. Findings are made when there is non-compliance with statutory, regulatory, or established policy requirements. Findings require a response and must be resolved by implementing specific corrective actions. Concerns are not deficiencies in statutory or regulatory requirements, but instead bring to the attention of the grantee areas in which improvement could be beneficial to the program, and if not addressed could be the subject of findings in future program reviews or follow-up visits.

The City will help agencies identify problems, the causes of problems and potential problems and help agencies to correct them. Whenever possible, deficiencies will be corrected through discussion, negotiation or technical assistance. Failure by the Subrecipient to correct deficiencies may result in funds being withheld and possible restrictions on future grants.

The results of the monitoring visit will be provided a monitoring letter following the visit. Corrective actions (detailed in the monitoring findings) may be required. If corrective actions are required, the Subrecipient must submit a corrective action plan within thirty (30) days from the

written notice by the City. Sometimes, as in the case of a material breach, the City may require an immediate corrective action plan and its implementation to avoid termination.

The City will approve or disapprove the Subrecipient's corrective action plan in writing, within fourteen (14) days of receipt of the plan. If approved, the Contracted Subrecipient will be required to implement the plan and ensure correction of the deficiency. If the Subrecipient does not correct the deficiency, submit a corrective action plan within thirty (30) days, or the City deems the plan unsatisfactory, the City will take the necessary action. Such action may include, but is not limited to, reduction in payment or termination in whole or in part of the Agreement.

9.2 - RECORD-KEEPING, REPORTING AND DOCUMENTATION (24 CFR 570.506 & 92.508)

Subrecipients are required to maintain sufficient records determining CDBG or HOME program requirements have been met. Projects funded with CDBG dollars are also required to submit Statistical & Accomplishment Report as detailed in the Agreement. There are certain data elements commonly reported by all programs, although each program may require different specificity. These elements include:

- Signed written agreement including the dated signature of each party to the agreement.
- Number of persons, households, units or beds assisted, as appropriate
- Income levels of persons or households by 30 percent, 50 percent, 60 percent or 80 percent of area median income, per applicable program requirements.
- Race, ethnicity and disability of clients served
- Amount of money leveraged from other federal, state, local and private sources
- In addition, agencies must document the status and accomplishments of a project. Some examples of performance measurements include:
 - Total number of square feet, linear feet, ramps, etc., constructed or installed;
 - Number of houses rehabilitated;
 - Number of jobs filled, training classes held, clients treated; and,
 - Description of equipment or training supplies purchased.

9.2.1 - DATA COLLECTION

For Rental Construction Projects, the Subrecipient shall collect and maintain the following information:

1. Number of units completed
2. Number of units meeting energy star standards
3. Number of Section 504 accessible units
4. Number of units designated for persons with HIV/AIDS (of those, the number for the chronically homeless)
5. Number of units designated for the homeless (of those, the number for the chronically homeless)
6. Name of the household or person assisted
7. Number of bedrooms in each household assisted
8. The amount of monthly rent paid by tenant
9. Income level of assisted household (i.e., very low-income/0-30% of AMI, low-income/31% to 50% of AMI, low/mod-income/51 to 60% of AMI)

10. Race of head of household (White, Black/African American, Asian, American Indian/Alaskan Native, Native Hawaiian/Other Pacific Islander, American Indian/Alaskan, Native & White, Asian & White, Black/African American & White, American Indian/Alaskan Native & Black/African American, Other Multi-Racial)

11. If the head of household is Hispanic/Latino ethnicity

12. Household size – number of persons in the household

13. Household type (single/non-elderly; elderly; single parent; two parents; other)

9.2.2 - REQUIRED RECORDS

The Subrecipient is required to keep the following specific records. If the Contracted Subrecipient sponsors multiple projects, each project must be maintained in a separate file. The SUBRECIPIENT shall maintain all records required by the Federal regulations specified in 24 CFR 570.506 and 24 CFR 92.508 that are pertinent to the activities to be funded under this Agreement. Such records shall include but not be limited to:

1. Records providing a full description of each activity undertaken
2. Records demonstrating that each activity undertaken meets one of the Nation Objectives of the CDBG Program 24 CFR 570.208
3. Records required to determine the eligibility of activities
4. Records required to document the acquisition, improvement, use or disposition of real property acquired or improved with CDBG and HOME assistance
5. Records documenting compliance with the Fair Housing and Equal Opportunity components of the CDBG and HOME programs
6. Finance records as required by 24 CFR 570.502, and 24 CFR 84.21-28.
7. Employment Information. The SUBRECIPIENT will also maintain data which records its affirmative action in equal opportunity employment, and its good faith efforts to identify, train, and/or hire lower-income residents of the project area and to utilize businesses that are located in or owned in substantial part by persons residing in the area of the project.
8. Equal Opportunity. The SUBRECIPIENT shall maintain records containing the following information for each applicant and each assisted person:
 - Name of the household or person assisted; Income category (i.e. extremely low-income (30% AMI), very low-income (50% AMI), or low/mod-income (80% AMI));
 - Racial/ethnic data (White, Black/African American, Asian, American Indian/Alaskan, Native, Native Hawaiian/Other Pacific Islander, American Indian/Alaskan, Native & White, Asian & White, Black/African American & White, American Indian/Alaskan, Native & Black/African American, Other/multi-racial);
 - Gender data; and
 - Disability status.

This is to show the extent people have participated in, or benefited from, the activities carried out under the Agreement. The SUBRECIPIENT will also maintain data which records its affirmative action in equal opportunity employment, and its good faith efforts to identify, train, and/or hire low income residents of the project area and to utilize businesses that are located in or owned in substantial part by persons residing in the area of the project.

9. Affirmative Marketing

- SUBRECIPIENT shall maintain a file containing documentation of all marketing efforts (copies of newspaper ads, memos of phone calls, copies of letters, etc.). These records must be available for inspection by the CITY.

- SUBRECIPIENT must maintain a listing of all tenants residing in each unit.

10. Financial Management. Such records will identify adequately the source and application of funds for activities within the Agreement, in accordance with the provisions of 24 CFR §85.20. These records will contain information pertaining to grant awards and authorizations, obligations, non-obligated balances, assets, liabilities, outlays, and income.

11. Hours Worked. The SUBRECIPIENT will maintain records of the hours worked and rates of compensation for all personnel.

12. Multiple Projects. In the event the Subrecipient sponsors multiple projects, each project will be maintained under a separate file system.

13. Property Acquisition. If the project involves property acquisition, the SUBRECIPIENT's files must contain the following records:

- Official Determination to Acquire - A citation of the action that constitutes the official determination to acquire, the date of the action, and the applicable HUD grant number.
- Notice of Intent to Acquire the Property - A copy of the notice, citation of the date of transmittal to owner, and evidence of receipt by the owner.
- Invitation to Accompany Appraiser - Evidence that owner was invited to accompany each appraiser on his inspection of the property.
- Appraisal Reports - A copy of each appraisal report, on which determination of just compensation was based.
- Review Appraisal - Arrange for a review appraisal to assure appraisal meets applicable standards.
- Determination of Just Compensation - A copy of the resolution, certification, motion or other document constituting the determination of just compensation.
- Purchase Offer - A copy of written purchase offers of just compensation, including all basic terms and conditions of such offer, and a citation of the date of delivery to the owner.
- Purchase Agreement, Deed, Declaration of Taking, Tenant Waivers - A copy of each such document and any similar or related document utilized in conveyance.
- Settlement Cost Reporting Statement - A copy of the statement.
- Purchase Price Receipt - Evidence of owner receipt of purchase price payment.
- Ninety Days' Notice to Surrender Possession of Premises - A copy of the notice. As an alternative, a copy of this notice may be included in the relocation or property management files.
- The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, and HUD's implementing regulations in 24 CFR 42 applies to all real property acquisition by a grantee for an assisted program activity, regardless of the source of funding for the acquisition itself.

14. Other. Such other records necessary to document compliance with Subpart K or 24 CFR Part 570 as required by the City and/or the United States Department of Housing and Urban Development.

15. Separation of Funds. The SUBRECIPIENT must account for CDBG or HOME funds separately from other funds in the SUBRECIPIENT programs.

16. Tenant Selection Procedures. The SUBRECIPIENT must maintain individual tenant files for all families in HOME assisted units. The tenant files must contain all income certifications and verifications along with leases and all correspondence.

9.2.3 - RETENTION OF RECORDS

The SUBRECIPIENT shall retain all financial records, supporting documents, statistical records and all other records pertinent to the Agreement in accordance with 24 CFR 570.506 and 24 CFR 92.508 except that the CITY requires a retention period of at least five (5) years. The retention period begins on the date of the submission of the CITY's annual performance and evaluation report (i.e. CAPER) to HUD in which the activities assisted under the Agreement are reported on for the final time. Notwithstanding the above, if there is litigation, claims, audits, negotiations or other actions that involve any of the records cited and that have started before the expiration of the seven-year period, then such records must be retained until completion of the actions and resolution of all issues, or the expiration of the seven-year period, whichever occurs later. Please note that any record with a longer retention schedule for purposes of public records disclosure under RCW 42.17 will apply. Required records will be retained from the date the property ceases to be used as affordable housing or a public facility or the covenant has expired. In the case of public services, the retention date begins after the final performance report is approved.

- Records that are the subject of audit findings will be retained for the minimum period or until such audit findings have been resolved, whichever is later.
- The retention period for real property and equipment records starts from the date of the disposition, or replacement, or transfer at the direction of HUD.
- Records for any displaced person will be retained for seven years after such person has received final payment.
- Records pertaining to each real property acquisition will be retained for four years after settlement of the acquisition or until disposition of the applicable relocation records in accordance with #3 above, whichever is later.
- Records of the hours worked, and rates of compensation shall be kept for a period of six years from the date of the submission of the final performance report under this Agreement.

9.2.4 - REPORTS & INVOICING

Subrecipients shall submit to the City a Monthly Statistical Performance Report which is due 15 days after the end of the month. The report will typically be customized for the type of CDBG or HOME program being conducted by the Subrecipient. The reports will cover individuals served in Moreno Valley. Monthly reports are required throughout the program year, regardless if funding has been expended prior to the end of the program year. The monthly reports will include, but not be limited to,

- Number of new/unduplicated persons served
- Number of unduplicated Moreno Valley residents receiving assistance,
- Numbers served for HUD Required Accomplishments
- A breakdown of persons meeting certain income limits,

- A breakdown of race and ethnicity of each person served,

Subrecipients shall also submit completed *Compliance Certification* provided in the Agreement. Subrecipients will submit to the City a monthly invoice, which is due 15 days after the end of the month, and shall include the following:

- All monthly and year-to-date program costs and remaining budget amounts related to services provided for under the Agreement
- Request for Payment Form including all items listed in the *Documentation Required for Reimbursement Checklist* provided with the Agreement
- Amount of program income generated, if any

Subrecipients that have periods of performance longer than one fiscal year, such as public facilities projects or home construction, may be allowed a quarterly reporting and invoicing cycle. Quarterly reporting dates are:

- 1st Quarter – January, February, March – **due on April 15th**
- 2nd Quarter – April, May, June – **due on July 15th**
- 3rd Quarter – July, August, September – **due on October 15th**
- 4th Quarter – October, November, December – **due on January 15th**

9.3- AUDIT

9.3.1 - FISCAL AUDIT (2 CFR 200.501)

If the Subrecipient expends \$750,000 or more in federal funds during the Subrecipient's fiscal year, it must have a single audit conducted in accordance with § 200.514 Scope of Audit except when it elects to have a program-specific audit conducted in accordance with paragraph (c) of section 2 CFR 200.507.

Program-specific Audit Election. When an auditee expends Federal awards under only one Federal program (excluding R&D) and the Federal program's statutes, regulations, or the terms and conditions of the Federal award do not require a financial statement audit of the auditee, the auditee may elect to have a program-specific audit conducted in accordance with §200.507 Program-specific audits. A program-specific audit may not be elected for R&D unless all of the Federal awards expended were received from the same Federal agency, or the same Federal agency and the same pass-through entity, and that Federal agency, or pass-through entity in the case of a subrecipient, approves in advance a program-specific audit.

X. CLOSEOUT

The closeout of an Agreement should occur within thirty days of the end of the contract period. All required work under the Agreement must be completed and billed to the City. The City will execute a closeout letter, which may include:

- A final performance or progress report (including beneficiaries)
- A financial status report (including all program income)
- Subrecipient signature on closeout reconciliation that agreement has ended.
- Inventory of property in the Subrecipient's possession that was acquired or improved with CDBG or HOME funds
- Review of tenant income qualification information and leases

- Site visit by City staff to ensure the completed project meets or exceeds minimum property standards.

XI. REFERENCES

11.0 – CITY AND FEDERAL RESOURCES AVAILABLE ONLINE – see Appendix B

APPENDIX A -Adjustments to CDBG Written Standards for Coronavirus Community Development Block Grants (CDBG-CV)

0.0 – PREFACE

The following standards are extracts from the HUD CDBG-CV Funding Approval/Agreement and various HUD memoranda regarding CARES Act standards, procedures and waivers published since April 1, 2020.

1.0 - BACKGROUND

On March 27, 2020, President Trump signed the Coronavirus Aid, Relief, and Economic Security Act (Public Law 116-136) (CARES Act). The CARES Act makes available \$5 billion in CDBG coronavirus response (CDBG-CV) funds to prevent, prepare for, and respond to coronavirus. The nation faces significant public health and economic challenges related to this respiratory disease. To address these challenges, CDBG-CV and CDBG grants are a flexible source of funding that can be used to pay costs that are not covered by other sources of assistance, particularly to benefit persons of low and moderate income.

2.0 – PROGRAM MODIFICATIONS IN THE CARES ACT

The CARES Act modifies some CDBG program rules and authorizes the Secretary of HUD to grant waivers and alternative requirements. The Community Development Fund heading in title XII of Division B of the CARES Act modifies some CDBG program requirements to provide immediate support for coronavirus efforts. The modifications are summarized below:

- Permits a public comment period of no less than 5 days when citizen participation is required.
- Permits grantees to develop expedited citizen participation procedures and to hold virtual public hearings when necessary for public health reasons.
- Eliminates the public services cap for coronavirus-related activities.
- Allows states and local governments to reimburse allowable costs of eligible activities regardless of the date the costs were incurred.

3.0 – CDBG-CV GRANT RULES, WAIVERS AND ALTERNATIVE REQUIREMENTS

This section describes program flexibilities in the CARES Act and provides waivers and alternative requirements to expedite or facilitate the use of CDBG-CV funds.

3.1 – CDBG-CV GENERAL GRANT REQUIREMENTS

CDBG-CV grants are subject to the requirements of the CARES Act, the authorities and conditions imposed on fiscal year 2020 CDBG grants, and the mandatory provisions of notice FR-6218-N-01 and waivers and alternative requirements. Except as otherwise described, grantees must comply with statutory and regulatory provisions governing the CDBG program. These

include regulations at: 24 CFR part 570 subpart I (states); 24 CFR part 570 subparts A, C, D, E, F, J, K, and O for CDBG (entitlements, non-entitlement Hawaii counties and insular areas).

To facilitate the use of CDBG-CV funds in accordance with the grant requirements, HUD is imposing an alternative requirement that the definitions of CDBG funds in 24 CFR 570.3 (entitlements) and 24 CFR 570.481(a)(2) (states) include CDBG-CV funds. This alternative requirement applies the requirements in 24 CFR part 570 to the use of CDBG-CV funds, except as modified by rules, waivers, and alternative requirements applicable to CDBG-CV grants. CDBG-CV grant agreements will impose requirements by incorporating program rules, waivers, and alternative requirements including FR-6218-N-01 and any future notices.

3.2 – RESPONSIBLE USE OF CARES ACT FUNDS

CDBG-CV funds are subject to additional measures designed to prevent fraud, waste, and abuse. HUD will conduct regular oversight and monitoring activities to determine that use of CDBG-CV funds is consistent with grant requirements and limited to the necessary and reasonable costs of activities to prevent, prepare for, and respond to coronavirus. Measures to increase transparency and accountability include:

- regular reporting on the use of CDBG-CV funds, including reporting that may be required by the CARES Act to conduct audits and reviews of programs, operations, and expenditures relating to funds under the CARES Act and the Coronavirus response; and
- a requirement that grantees prevent the duplication of benefits that is caused when a person, household, business, or other entity receives financial assistance from multiple sources for the same purpose, and the total assistance is more than the total need. The grantee agrees to establish and maintain adequate procedures to prevent any duplication of benefits as required by section 312 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5155), as amended by section 1210 of the Disaster Recovery Reform Act of 2018 (division D of public Law 115-254; 132 Stat. 34421).

3.3 – OVERVIEW OF PROCESS TO RECEIVE CDBG-CV GRANTS

On April 2, 2020, HUD published the first round of CDBG-CV allocations on the hud.gov website and notified jurisdictions of their allocation amounts. On April 9, 2020, John Gibbs, Acting Assistant Secretary for Community Planning and Development, issued a memorandum with the subject, “CARES Act Flexibilities for CDBG Funds Used to Support Coronavirus Response and plan amendment waiver” (“April 9 memorandum”), The memorandum advised grantees to amend or prepare consolidated plan submissions for CDBG-CV grants as soon as possible.

The April 9 memorandum also granted waivers to expedite this process of applying for CDBG-CV funds by permitting application for a grantee’s share of the first \$2 billion through a substantial amendment to a grantee’s most recent annual action plan.

Submitting a substantial amendment may speed access to grant funds because consultation and public hearings are not required. However, the April 9 memorandum does not preclude grantees from applying by submitting a FY 2020 Action Plan that includes the CDBG-CV funds. If the

grantee chooses to include CDBG-CV grant funds in its annual action plan for FY 2020 funds, the grantee must comply with action plan submission procedures in 24 CFR part 91 (including consultation and a public hearing), as modified by the waiver and alternative requirements, which apply the CARES Act citizen participation flexibilities to all consolidated plan formula grant programs.

The following procedures apply regardless of whether the grantee applies for CDBG-CV funds through an action plan or action plan substantial amendment:

- Rather than wait to apply until HUD allocates all available CDBG-CV funds, HUD recommends that grantees apply as soon as possible for CDBG-CV funds that HUD has allocated. Grantees receiving subsequent allocations can make substantial amendments to apply for subsequent allocation amounts after they are announced.
- All grantees may adopt and use expedited procedures to draft, propose, modify, or amend consolidated plans for CDBG-CV and fiscal year 2019 and 2020 CDBG grants. These expedited procedures amend the grantee's citizen participation plan and require it be published for no less than 5 calendar days to solicit public comment.
- Expedited procedures may include using online platforms to hold virtual hearings that provide reasonable notification and access by citizens, and facilitate public access to all questions and responses and provide timely responses from local officials. Additionally, grantees must take appropriate actions to encourage the participation of all residents, including the elderly, minorities, persons with limited English proficiency, as well as persons with disabilities, consistent with the jurisdiction's citizen participation plan.
- The CARES Act does not modify nondiscrimination requirements, a jurisdiction is expected to take whatever actions are appropriate to encourage the participation of all its citizens in virtual and in-person hearings, including minorities and persons with limited English proficiency, as well as persons with disabilities.
- The grantee must publish its application for CDBG-CV funds (whether through a new action plan or action plan substantial amendment) for no less than 5 calendar days to solicit public comment. The comment period can run concurrently with the comment period on changes to add expedited procedures to the citizen participation plan. The grantee must respond to public comments.
- The grantee must submit its application for CDBG-CV funds to HUD for review in accordance with 24 CFR 91.500. To receive a CDBG-CV grant, a grantee must also submit a SF-424, SF-424D and the certifications at 24 CFR 91.225(a) and (b) or 24 CFR 91.325(a) and (b) and 24 CFR 91.425.
- HUD and the grantee will enter a grant agreement and HUD will establish the grantee's line of credit.
- The grantee may draw funds from the line of credit after the Responsible Entity completes applicable environmental review(s) pursuant to 24 CFR part 58 and, as applicable, receives from HUD the Authority to Use Grant Funds (AUGF) form and certification.

3.4 – ALLOWABLE COSTS, ELIGIBLE ACTIVITIES AND NATIONAL OBJECTIVES

The Grantee agrees to comply with the requirements in the CARES Act that apply to CDBG-CV grants and must use the CDBG-CV grant funds to prevent, prepare for and respond to coronavirus. CDBG-CV grants cannot be used for any other purpose.

3.4.1 - REIMBURSEMENTS

The CARES Act provides that CDBG-CV funds may be used to cover or reimburse allowable costs of activities to prevent, prepare for, and respond to coronavirus incurred by a state or locality regardless of the date on which such costs were incurred. This authority is broader than the authority to reimburse costs with other CDBG funds.

The CARES Act also requires that all costs reimbursed with CDBG-CV funds be allowable costs, meaning they comply with all grant requirements. Therefore, HUD is adopting the following waivers and alternative requirements to 24 CFR 570.200(h) and 570.489(b) to facilitate the use of CDBG-CV funds to reimburse allowable costs by modifying current regulations that are inconsistent with CARES Act reimbursement authority and imposing safeguards to help ensure the allowability of all costs charged to the CDBG-CV grant:

- Grantees shall not reimburse costs incurred before January 21, 2020, without written approval from HUD's Office of Block Grant Assistance (OBGA). HUD is imposing a presumption that costs of activities undertaken before January 21, 2020, the date the CDC confirmed the first case of coronavirus in the United States in the State of Washington, are highly unlikely to be eligible for reimbursement because they likely are not costs to prevent, prepare for, and respond to coronavirus.
- HUD is waiving the requirements of 570.200(h) and 570.489(b) to the extent necessary to authorize a grantee to permit reimbursement of pre-application costs of subrecipients, units of general local government, and itself, in addition to pre-agreement and pre-award costs. However, an environmental review must be performed and a release of funds must be obtained in accordance with 24 CFR part 58 prior to committing CDBG-CV funds to reimburse such costs. After the grantee signs a CDBG-CV agreement it may reimburse a unit of general local government or subrecipient for costs incurred before the unit of general local government or subrecipient applies to the grantee for assistance.
- For grantees subject to the entitlement CDBG regulation at 24 CFR 570.200(h), the following waivers and alternative requirements apply: in lieu of the effective date described at 570.200(h), the grantee shall use the date in box 4 of form HUD-7082, Funding Approval/Agreement. Instead, the activity for which costs were incurred must be included in the grantee's CDBG-CV application before CDBG-CV funds are used to reimburse those costs. Or, if the use of CDBG-CV funds for reimbursements is not included in the CDBG-CV application, this use may be included in a subsequent amendment to the annual action plan that describes the use of the CDBG-CV funds (following the grantee's citizen participation plan procedures for amendments). To facilitate the use of funds provided under a one-time grant rather than an annual appropriation, HUD is waiving the time limitation and the monetary limitation on reimbursements in 570.200(h)(1)(v) and (vi) and related provisions at 570.200(h)(2). HUD is not waiving the requirement at 570.200(h)(1)(iii) to comply with the environmental review procedures stated in 24 CFR Part 58.

- All grantees may authorize subrecipients to incur pre-award costs in accordance with pre-award cost authority under 24 CFR 570.200(h) (entitlements). The Grantee may use CDBG-CV funds reimbursement for previously incurred costs, provided that those costs are allowable and consistent with the CARES Act's purpose to prevent, prepare for and respond to coronavirus.
- While provisions of 24 CFR 570.489(b) requiring compliance with 24 CFR Part 58 do not apply prior to an application for CDBG-CV funds, a unit of general local government or state must document compliance with the environmental review requirements at 24 CFR Part 58 following the application to the state or unit of general local government for funding and prior to reimbursement of pre-application costs, per 24 CFR 570.200(h)(1)(iii) and 24 CFR 570.489(b).

3.4.2 – TERMS AND CONDITIONS MADE APPLICABLE BY THE CARES ACT

The CARES Act subjects CDBG-CV funds to the authorities and conditions applicable to annual CDBG grants for fiscal year 2020. Therefore, the following requirements apply to CDBG-CV grants:

3.4.2a – LIMITATIONS ON USE OF FUNDS FOR EMINENT DOMAIN

The grantee shall ensure that no CDBG-CV funds are used to support any Federal, State, or local projects that seek to use the power of eminent domain, unless eminent domain is employed only for a public use. For the purposes of this requirement, public use shall not be construed to include economic development that primarily benefits private entities. Any use of funds for mass transit, railroad, airport, seaport or highway projects as well as utility projects which benefit or serve the general public (including energy-related, communication-related, water-related and wastewater-related infrastructure), other structures designated for use by the general public or which have other common-carrier or public-utility functions that serve the general public and are subject to regulation and oversight by the government, and projects for the removal of an immediate threat to public health and safety or brownfield as defined in the Small Business Liability Relief and Brownfields Revitalization Act (public Law 107-118) shall be considered a public use for purposes of eminent domain.

3.4.2b – PROHIBITION ON CERTAIN FUNDS TRANSFERS

The Grantee or unit of general local government that directly or indirectly receives CDBG-CV funds may not sell, trade, or otherwise transfer all or any such portion of such funds to another such entity in exchange for any other funds, credits or non-Federal considerations, but must use such funds for activities eligible under title I of the Act.

3.4.2c – SPECIAL CONTRACT CONDITION

Notwithstanding any other provision of this agreement, no funds provided under this agreement may be obligated or expended for the planning or construction of water or sewer facilities until receipt of written notification from HUD of the release of funds on completion of the review procedures required under Executive Order (E.O.) t2ST2, Intergovernmental Review of Federal Programs, and HUD's implementing regulations at 24 CFR Part 52. The recipient shall also complete the review procedures required under E.O. 12372 and 24 CFR Part 52 and receive

written notification from HUD of the release of funds before obligating or expending any funds provided under this agreement for any new or revised activity for the planning or construction of water or sewer facilities not previously reviewed under E.O. 12372 and implementing regulations.

3.4.2d – MANDATORY EVALUATION OF SPECIAL ECONOMIC DEVELOPMENT ACTIVITIES

CDBG-CV funds may not be provided to a for-profit entity pursuant to section 105(a)(17) of the Act unless such activity or project has been evaluated and selected in accordance with Appendix A to 24 CFR 570 - “Guidelines and Objectives for Evaluating Project Costs and Financial Requirements.” Given the likelihood that CDBG-CV funds will be used to assist businesses needing working capital financing for everyday operations, such as payroll costs, HUD intends to provide advice or technical assistance on the application of the guidelines and objectives set forth in Appendix A to such assistance. HUD will consider providing advice or technical assistance in recognition of the differences in underwriting assistance for the wide range of economic development projects permitted under section 105(a)(17) (as implemented at 24 CFR 570.203(b)). The City will apply the job creation and retention waivers cited at 3.4.3a(ii) below.

3.4.3a – NATIONAL OBJECTIVES

3.4.3a(i)– USE OF URGENT NEED NATIONAL OBJECTIVE

To meet the urgent need national objective criteria at 24 CFR 570.208(c) (entitlements), a grantee must certify that:

(1) the activity is designed to alleviate existing conditions;

Record keeping:

For CDBG-CV grants, the records the grantee maintains to demonstrate that the activity was designed to alleviate existing conditions can be the same records used to show that grant funds were used to prevent, prepare for, and respond to coronavirus, as required by the CARES Act.

(2) those existing conditions pose a serious and immediate threat to the health or welfare of the community and are of recent origin or recently became urgent; and

Record keeping:

Grantee may certify that the activity is designed to alleviate existing conditions which pose a serious and immediate threat to the health or welfare of the community within 18 months following a date determined by one of the following three methods:

- Referral to a U.S. Department of Health and Human Services issued press release declaring a public health emergency for the entire United States found at www.hhs.gov/about/news/2020/01/31/secretary-azar-declares-public-health-emergency-us-2019-novel-coronavirus.html. The declaration was retroactive to January 27, 2020;
- Referral to the President’s declaration of the ongoing Coronavirus Disease 2019 (COVID-19) pandemic as an emergency of sufficient severity and magnitude to warrant an emergency declaration for all states, tribes, territories, and the District of Columbia pursuant to section 501(b) of the Robert T. Stafford Disaster Relief and Emergency

Assistance Act, 42 U.S.C.32 5121-5207 (the “Stafford Act”). (The President subsequently approved additional major disaster declarations for states); or

- Referral to the effective date of a grantee’s own local or state emergency declaration.

(3) that the grantee, state, or unit of general local government is unable to finance the activity on its own, and that other sources of funds are not available.

Record keeping:

Documentation that the activity will prevent, prepare for, and respond to the coronavirus may be used to demonstrate that a grantee or unit of general local government is unable to finance the activity on its own.

Entitlement grantees must maintain records required by 24 CFR 570.506(b)(12) to document:

- (1) the nature and degree of seriousness of the condition requiring assistance and the timing of its development;
- (2) evidence that the recipient certified that the CDBG activity was designed to address the urgent need; and
- (3) evidence confirming that other financial resources to alleviate the need were not available.

3.4.3a(ii) – MODIFICATION OF LOCATION-BASED PRESUMPTION OF LMI BENEFIT FOR JOB CREATION AND RETENTION NATIONAL OBJECTIVE CRITERIA.

HUD is removing the higher poverty rate required in some cases for central business districts, which is not required by statute. HUD is instituting an alternative requirement to modify the regulations at 24 CFR 570.208(a)(4)(v) by deleting the criteria at 24 CFR 570.208(a)(4)(v)(B). Under this alternative requirement, for purposes of the LMI job creation/retention national objective at 24 CFR 570.208(a)(4) and 24 CFR 570.483(b)(4), a census tract qualifies for the presumptions under the criteria established in regulations at 24 CFR 570.208(a)(4)(v) and 24 CFR 570.483(b)(4)(v) if the poverty rate is at least 20 percent and if it evidences pervasive poverty and general distress using the criteria described in 24 CFR 570.208(a)(4)(v)(C).

This alternative requirement eliminates a requirement that census tracts that contain at least a portion of a central business district must have a poverty rate of at least 30 percent before residents and businesses in the tract are entitled to a presumption of low- and moderate-income (LMI) benefit.

3.4.3a(iii) - LMI JOB CREATION AND RETENTION RECORDS.

HUD is imposing the following waiver and alternative requirement: grantees and employers may consider individuals that apply for or hold jobs to be members of one-person families for activities that prevent, prepare for, and respond to coronavirus. HUD is also modifying related recordkeeping requirements at 24 CFR 570.506(b)(7) by adding the following additional presumption: the recipient may substitute records showing the type of job and the annual wages or salary of the job in lieu of maintaining records showing the person’s family size and income to demonstrate that the person who filled or held/retained the job was a low- or moderate-income person, when required by paragraph 24 CFR 570.506(b)(5)(i)(B), (b)(5)(ii)(C), (b)(6)(iii) or

(b)(6)(v). HUD will consider the person income-qualified if the annual wages or salary of the job is equal to or less than the Section 8 low-income limit established by HUD for a one-person family. Under this alternative requirement, a grantee will have substantially reduced documentation requirements because they will be working with assisted businesses rather than each person, and potentially their households, who received a job.

3.4.3a(iv) – OVERALL BENEFIT TO LMI PERSONS

HUD is establishing an alternative requirement to modify the calculation of overall LMI benefit, so that compliance with the requirement is separated from the annual formula CDBG program calculation of overall benefit. Overall LMI benefit for CDBG-CV grants will be calculated based on the percentage of the CDBG-CV grant that benefits LMI persons.

CDBG-CV grants are subject to the requirement that 70 percent of funds are for activities that benefit LMI persons. The grantee is required to ensure that 70 percent of its CDBG-CV grant is expended for activities that benefit LMI persons.

There is no option for grantees to select the timeframe for compliance. HUD previously instructed grantees to submit certifications required by 24 CFR 91.225. The regulations at 24 CFR 91.225(b)(4)(ii) and 24 CFR 91.325(b)(4)(ii) require grantees to certify that the aggregate use of CDBG funds will comply with the overall benefit requirement during a period specified by the jurisdiction, consisting of one, two, or three specific consecutive program years. As of the effective date of the FR Notice, grantees are not required to carry out the CDBG-CV grant consistent with the mandatory overall benefit certification because HUD has changed the requirement related to overall benefit.

3.5 – ELIMINATION OF AGGREGATE PUBLIC BENEFIT TEST

HUD is waiving the standard for aggregate public benefit that applies to economic development activities described in 24 CFR 570.209(b)(1)-(2).

3.5.1 - MODIFICATION OF INDIVIDUAL PUBLIC BENEFIT STANDARDS

Certain economic development activities described in 24 CFR 570.209 are subject to individual public benefit standards at 24 CFR 570.209(b)(3).

CDBG-CV activities (and for FY2019 or FY2020 activities to prevent, prepare for, and respond to coronavirus) subject to the public benefit standards, grantees must document that:

- a) the activity will create or retain at least one full-time equivalent, permanent job per \$85,000 of CDBG funds used;
- b) the activity will provide goods or services to residents of an area such that the number of LMI persons residing in the area served by the assisted businesses amounts to at least one LMI person per \$1,700 of CDBG funds used; OR
- c) the assistance was provided due to business disruption related to coronavirus (in which case, no monetary standard applies because HUD has determined that there is sufficient public benefit derived from the provision of assistance to stabilize or sustain businesses in the grantee's jurisdiction that suffer disruption due to coronavirus, and that facilitation of business

assistance for this purpose may help to avoid complete economic collapse within the grantee's jurisdiction).

3.6 – ELIGIBLE ACTIVITIES

Grantees may use CDBG-CV funds only for those activities carried out to prevent, prepare for, and respond to coronavirus. By law, use of funds for any other purpose is unallowable.

3.6.1 – EXTENSION OF EMERGENCY PAYMENTS

HUD extends the period that grantees can make emergency grant payments on behalf of individuals and families from three consecutive months to six consecutive months.

The requirements related to emergency payments activities in addition to meeting a national objective include:

- Public services activity is designed to prevent, prepare for, or respond to coronavirus.
- Activity may be assisted with CDBG-CV or FY2019 or FY2020 grant funds.
- Funds may be used to provide emergency payments for individuals or families impacted by coronavirus for items such as food, clothing, housing (emergency rental assistance or mortgage assistance) or utilities for up to six consecutive months.
- Emergency payments must be made to the provider of such items or services on behalf of an individual or family, and not directly to an individual or family in the form of income payments, debit cards, or similar direct income payments.
- Grantees must ensure that proper documentation is maintained to ensure that all costs incurred are eligible.
- Grantees using this alternative requirement must document, in their policies and procedures, how they will determine the amount of assistance to be provided is necessary and reasonable.

3.6.2 – OPPORTUNITY ZONES AND RELATED FLEXIBILITIES FOR ECONOMIC DEVELOPMENT

To facilitate and expedite the use of grant funds for economic development during this time of extraordinary need, HUD is clarifying the existing requirements and adopting an alternative requirement that expands economic development activities that can be carried out with CDBG-CV funds.

Grantees may provide assistance to an economic development project through a for-profit entity that passes the funds through a financing mechanism (e.g., Qualified Opportunity Funds and New Markets Tax Credit (NMTC) investment vehicles). The regulations at 24 CFR 570.203(b) already list forms of support by which grantees can provide assistance to private, for-profit businesses where the assistance is appropriate to carry out an economic development project. HUD has previously interpreted this provision to allow for CDBG assistance to NMTC investment vehicles. This clarification makes clear that such assistance through any financing mechanism (which is not limited to NMTC investment vehicles) is eligible under 24 CFR 570.203(b).

HUD establishes an alternative requirement that expands the authority in section 105(a)(15) of the HCD Act and 24 CFR 570.204 to permit grantees subject to entitlement CDBG regulations

to assist nonprofit organizations serving the development needs of their jurisdiction by carrying out community economic development projects through a financing mechanism. The qualified nonprofit may pass assistance through a financing mechanism to another entity based on the language in section 105(a)(15) of the HCD Act. Grantees subject to entitlement regulations must document that the assisted nonprofit is serving the development needs of the jurisdiction and that the assistance is used for a community economic development project that is necessary to prevent, prepare for, and respond to coronavirus.

3.6.3 – PUBLIC SERVICES CAP

The CARES Act provides that there shall be no per centum limitation for the use of funds for public services activities to prevent, prepare for, and respond to coronavirus. The CARES Act provides this flexibility for all CDBG-CV funds.

3.6.4 – OTHER PUBLIC SERVICE CONSIDERATIONS

CDBG and CDBG-CV funds may only be used for those public service activities that are new or that represent a quantifiable increase above the level of an existing service that has been provided by or on behalf of the unit of general local government (through funds raised by the unit or received by the unit from the state in which it is located) in the 12 calendar months before the submission of the action plan, unless the Secretary finds that the discontinuation of such services was the result of events not within the control of the unit of general local government.

Purchase of personal property and equipment is generally ineligible. However, the entitlement CDBG regulation at 24 CFR 570.207(b)(1), allows grantees to purchase or to pay depreciation in accordance with 2 CFR part 200, subpart E, for personal property, fixtures, and equipment when necessary when such items constitute all or part of a public service.

3.6.5 - CLARIFICATION ON APPLICATION OF REQUIREMENTS IN 2 CFR PART 200.

The Office of Management and Budget (OMB) released two memoranda that allow Federal agencies to grant exceptions to some requirements under 2CFR part 200, the Uniform Administrative Requirements, Cost Principles and Audit Requirements for Federal Awards. HUD reminds grantees that the flexibilities in these memoranda do not automatically apply to grantees. HUD has not approved class exceptions to 2 CFR part 200 for CDBG-CV grants or CDBG grants, so the requirements in 2 CFR part 200 continue to apply.

3.7 – OTHER PROGRAM REQUIREMENTS

3.7.1 – PROGRAM INCOME

To expedite use of grant funds, HUD is clarifying the requirements for CDBG-CV grants on the treatment of program income at 24 CFR 570.504 that is generated by the use of CDBG-CV funds. The receipt and expenditure of program income that is generated by the use of CDBG-CV funds shall be treated as annual formula CDBG program income and recorded as part of the financial transactions of the annual formula CDBG grant program.

- Use of program income before annual formula CDBG grant funds:

Any program income generated from the use of CDBG-CV funds will be receipted in HUD's Integrated Disbursement and Information System (IDIS) as program income to the annual formula CDBG grant program.

- Inapplicability of float-funded activities:
Based on the treatment of income generated from the use of CDBG-CV funds as annual formula CDBG program income, HUD is waiving 24 CFR 570.301(b) and section 104(h) of the HCD Act for CDBG-CV grants. HUD is imposing the following alternative requirement: grantees shall not use CDBG-CV funds for float-funded activities or guarantees.
- Retention of program income by subrecipients:
A grantee may permit subrecipients to retain program income from the use of CDBG-CV funds under this paragraph if the amount held does not exceed the subrecipient's projected cash needs for CDBG activities including activities to prevent, prepare for, and respond to coronavirus.

3.7.2 – RULES FOR ENTITLEMENTS

3.7.2a – ADMINISTRATIVE AND PLANNING COST CAPS

For grants subject to subpart D: no more than 20 percent of the total CDBG-CV grant shall be expended for planning and program administrative costs. There is no program year obligation test for planning and administrative costs of CDBG-CV grants. Additionally, CDBG-CV funds shall not be included in the compliance determination of the program year obligation test applicable to annual formula CDBG funds. Additionally, program income, regardless of the source funding of the activity that generated the income, shall be included in the compliance determination of the administrative and planning cost cap applicable to annual formula CDBG grants and program income, separately from CDBG-CV funds.

CDBG-CV grant funds shall not be used to pay planning and program administrative costs allocable to another grant under the CDBG annual formula program; however, CDBG-CV funds may be used to pay costs that benefit both the CDBG-CV grant and another CDBG award and can be distributed between the grants in proportions that may be reasonably approximated.

3.7.3 – COMPLIANCE WITH ENVIRONMENTAL REVIEW REQUIREMENTS

- Overview of Environmental Review Requirements:
Environmental regulations at 24 CFR 58.22 prohibit CDBG grantees, a recipient, and any other participant in the development process from committing HUD or non-HUD funds to a project until the environmental compliance review process has been successfully completed or until receipt of the Authority to Use Grant Funds, if applicable. In addition, neither a recipient nor any participant in the development process may commit non-HUD funds on or undertake an activity or project if the activity or project would have an adverse environmental impact or limit the choice of reasonable alternatives.

- Clarifying note on emergency environmental review procedures:

Environmental review regulations in 24 CFR part 58 include two provisions that may be relevant for activities to prevent, prepare for, and respond to coronavirus.

1) 24 CFR 58.34(a)(10) provides an exemption for certain activities undertaken in response to a national or locally declared public health emergency. Except for the applicable requirements of 24 CFR 58.6, a responsible entity does not have to comply with the requirements of part 58 or undertake any environmental review, consultation or other action under NEPA and the other provisions of law or authorities cited in 24 CFR 58.5 for exempt activities or projects consisting solely of exempt activities. Exempt activities include assistance for temporary or permanent improvements that do not alter environmental conditions and are limited to protection, repair, or restoration activities necessary only to control or arrest the effects from imminent threats to public safety.

2) streamlined public notice and comment period is in the regulation at 24 CFR 58.33, which may apply in some cases for emergency activities undertaken to prevent, prepare for, and respond to coronavirus. The application of these two provisions following a presidentially-declared or locally-declared public health emergency is discussed in the FR Notice, Guidance on conducting environmental review pursuant to 24 Part 58 for activities undertaken in response to the public health emergency as a result of COVID-19 (CPD-20-07) posted at <https://www.hud.gov/sites/dfiles/OCHCO/documents/2020-07cpdn.pdf>.

3.7.4 – COMPLIANCE WITH LABOR LAWS

CDBG-CV grants are subject to the Davis-Bacon prevailing wage requirements imposed by section 110(a) of the HCD Act. HUD cannot waive this or other labor laws.

Under regulations of the Department of Labor (DOL) at 29 CFR 1.6(g), where Federal assistance is not approved prior to contract award (or the beginning of construction if there is no contract award), Davis-Bacon wage rates apply retroactively to the beginning of construction and must be incorporated retroactively in the contract specifications. However, if there is no evidence that the owner intended to apply for the CDBG-CV assistance prior to the contract award or the start of the construction, HUD may request that DOL allow prospective, rather than retroactive, application of the Davis-Bacon wage rates. DOL may allow prospective application of Davis-Bacon requirements where it finds that it is necessary and proper in the public interest to prevent injustice or undue hardship and it finds no intent to apply for the federal assistance before contract award or the start of construction. The CDBG-CV Grantee should contact a HUD Labor Relations Specialist if such a situation arises.

3.7.5 – RELATIONSHIP TO SECTION 108 LOAN GUARANTEE

Under the Section 108 Loan Guarantee Program, CDBG grantees can borrow up to five times their most recent CDBG grant by issuing federally guaranteed notes. The Notice provides that CDBG-CV funds shall not be factored into a grantee's Section 108 borrowing authority.

In some cases, a grantee may use CDBG-CV funds to make a direct payment of principal, interest, or any fees due under a Section 108 note only if the use of funds is to prevent,

prepare for, and respond to coronavirus.

3.8 PERIOD OF PERFORMANCE, TIMELINESS, AND CLOSEOUT

3.8.1 PERIOD OF PERFORMANCE

The period of performance for the funding assistance specified in the Funding Approval/Agreement ("Funding Assistance") shall be six years. It shall begin on the date specified in item 4 in the Funding Approval/Agreement and shall end six years later, on the month and day specified in item 4. The Grantee shall not incur any obligations to be paid with the Funding Assistance after this period of performance.

Each CDBG-CV grantee must expend at least 80 percent of all CDBG-CV funds (including CDBG-CV funds from additional allocations that are obligated by HUD through amendments to the grant agreement) no later than the end of the third year of the period of performance established by the CDBG-CV grant agreement

If this three-year requirement is not met, and evidence meeting the criteria for extension described in the FR Notice is not provided, an amount equivalent to the difference between the total amount expended at the end of the third year and 80 percent of all CDBG-CV funds will be recaptured from the CDBG-CV grant.

3.8.2 TIMELINESS

CDBG-CV grants are available for limited purposes under the CARES Act. They are subject to a shortened period of performance. CDBG-CV funds will not be included in determining compliance with the requirements of 24 CFR 570.902 and 570.494. (Note that income generated from CDBG-CV activities will be included in timely expenditure compliance determinations for each entitlement grantee's annual formula CDBG program. Grantees should consider the potential effects of additional program income to compliance with timeliness requirements applicable to their annual formula CDBG grant program when they select and design CDBG-CV assisted activities.)

3.8.3 CLOSEOUT

For grantees subject to entitlement regulations, HUD will close out grants in accordance with grant closeout requirements of 2 CFR 200.343. This approach is consistent with the state regulation at 24 CFR 570.489(o). Grantees subject to this alternative requirement must submit all financial, performance, and other reports as required by 24 CFR 91.520.

In general, HUD expects all grantees to comply with all grant requirements and fully close out a grant at the end of the period of performance. However, HUD recognizes that there are many things that could disrupt a grantee's intended timeline for activity completion: litigation, disasters, limited construction seasons due to weather, or other extenuating circumstances. Therefore, HUD may authorize an extension of the three-year expenditure requirement or the overall period of performance if the grantee provides evidence of such extenuating circumstances that would warrant the extension and that they could demonstrate they would meet all program requirements within the extended expenditure period or period of performance.

3.9 REPORTING

The reporting requirements that apply to the use of annual formula CDBG grants also apply to CDBG-CV grants. This includes the annual CAPER.

3.9.1 ADDITIONAL CARES ACT FUNDING

In addition, the CARES Act requires that recipients of \$150,000 or more of CARES Act funding submit, not later than 10 days after the end of each calendar quarter, a report containing: information regarding the amount of funds received; the amount of funds obligated or expended for each project or activity; a detailed list of all such projects or activities, including a description of the project or activity; and detailed information on any subcontracts or subgrants awarded by the recipient.

If additional reporting is necessary, further advice or technical assistance will be provided by the Department.

4.0 - DUPLICATION OF BENEFITS

The CARES Act requires HUD to ensure that there are adequate procedures in place to prevent any duplication of benefits as required by section 312 of the Stafford Act, as amended by section 1210 of the Disaster Recovery Reform Act of 2018 (division D of Public Law 115-254; 42 U.S.C. 5121 et seq.).

Duplication of benefits occurs when Federal financial assistance is provided to a person or entity through a program to address losses resulting from a Federally-declared emergency or disaster, and the person or entity has received (or would receive, by acting reasonably to obtain available assistance) financial assistance for the same costs from any other source (including insurance), and the total amount received exceeds the total need for those costs.

The City has established the following policy to the Duplication of Benefits (DOB) pursuant to

1. Requirement that any person or entity receiving CDBG assistance (including subrecipients and direct beneficiaries) must agree to repay assistance that is determined to be duplicative. This may be documented through a subrogation agreement or similar clause included in the agreement with the person or entity. The grantee should establish a protocol to monitor compliance based on risk of duplication of benefits for each activity.
2. Method of assessing whether the use of these funds will duplicate financial assistance that is already received or is likely to be received (such as insurance proceeds) by acting reasonably to evaluate the need and the resources available to meet that need. Grantees should evaluate current programs available at the local, county, state, and federal level as well as current and anticipated non-governmental assistance from nonprofits or faith-based groups and establish lines of communication for preventing duplication of benefits. HUD has prepared a list of active Federal CARES Act and coronavirus response programs and funding sources to help grantees evaluate potential risk for duplication for each activity and

applicant. HUD encourages grantees to target CDBG activities to address unmet needs and gaps to reduce the risk of duplication of benefits

To analyze DOB, City subrecipients should complete the following steps:

1. Assess Need: Determine the amount of need (total cost)
2. Determine Assistance: Determine the amount of assistance that has or will be provided from all sources to pay for the cost
3. Calculate Unmet Need: Determine the amount of assistance already provided compared to the need to determine the maximum CDBG-CV award (unmet need)
4. Document analysis: Document calculation and maintain adequate documentation justifying determination of maximum award.

5.0 - CITIZENSHIP REQUIREMENTS

The U.S. Department of Homeland Security, U.S. Citizenship and Immigration Services provides that the Immigration Reform and Control Act, 8 U.S.C. 1324a et seq. prohibits employers from hiring and employing an individual for employment in the U.S. knowing that the individual is not authorized with respect to such employment. This generally applicable law also applies to CDBG grantees and their subrecipients and/or contractors/subcontractors (including relating to employees recruited under Section 3).

CATALOG OF FEDERAL DOMESTIC ASSISTANCE:

The Catalog of Federal Domestic Assistance numbers for the CDBG-CV grants under the CARES Act are: 14.218 (Community Development Block Grants/Entitlement Grants)

APPENDIX B - Information Resources

I. CITY RESOURCES REFERENCE

- A. Analysis of Impediments to Fair Housing Choice
<http://www.moval.org/departments/financial-mgmt-svcs/nprog-fairhousing.html>
- B. Annual Action Plan
<http://www.moval.org/departments/financial-mgmt-svcs/prog-CDBG.html#tab-3>
- C. Application Guidelines (REFER TO CITIZEN PARTICIPAITION PLAN AND OBJECTIVES AND POLICIES)
<http://www.moval.org/departments/financial-mgmt-svcs/prog-CDBG.html#tab-1>
- D. Citizen Participation Plan
<http://www.moval.org/departments/financial-mgmt-svcs/pdf/CDBG/FY-2021-22-CitizenParticipation.pdf>
- E. Consolidated Plan
<http://www.moval.org/departments/financial-mgmt-svcs/prog-CDBG.html#tab-3>
- F. Housing Rehabilitation Program Guidelines
<http://www.moval.org/departments/financial-mgmt-svcs/prog-CDBG.html#tab-2>

2. FEDERAL RESOURCES REFERENCE

(the following links are only effective when accessed through Google Chrome browser)

CDBG-CV Federal Register Notice (FR-6218-N-01

<https://www.hud.gov/sites/dfiles/CPD/documents/FR-6218-N-01-CDBG-CV-clean-8-7-20-header-for-posting.pdf>

CARES Act Flexibilities for CDBG Funds Used to Support Coronavirus Response

<https://www.hud.gov/sites/dfiles/CPD/documents/CDBG-CV-FAQs-071020-final.pdf>

Availability of a Waiver and Alternate Requirement for the Consolidated Annual Performance and Evaluation Report (Performance Report) for Community Planning and Development (CPD) Grant Programs in Response to the Spread of Coronavirus.

<https://www.hud.gov/sites/dfiles/CPD/documents/CPD-COVID-19-CAPER-Waiver-050420-signed-JG.pdf>

CDBG-CV Notice FAQs, August 27, 2020, Department of Housing and Urban Development

<https://www.hud.gov/sites/dfiles/CPD/documents/CDBG-CV-Notice-FAQs-OBGA-082720-TOC.pdf>

3. OTHER FEDERAL RESOURCES

2 215 Uniform Administrative Requirements for Grants and Agreements with Institutions of Higher Education, Hospitals, and Other Non-Profit Organizations (OMB Circular A-110)

2 230 Cost Principles for Non-Profit Organizations (formerly OMB Circular A-122)

2 2424 Grants and Agreements Non-procurement Debarment and Suspension

24 I Nondiscrimination in Federally Assisted Programs of the Department of Housing and Urban Development Effectuation of Title VI of the Civil Rights Act of 1964

24 3 Nondiscrimination on the Basis of Sex in Education Programs or Activities Receiving Federal Financial Assistance

24 5 General HUD Program Requirements; Waivers

24 6 Nondiscrimination in Programs and Activities Receiving Assistance under Title I of The Housing and Community Development Act of 1974

24 8 Nondiscrimination Based on Handicap in Federally Assisted Programs and Activities of the Department of Housing and Urban Development

24 9 Enforcement of Nondiscrimination on the Basis of Disability in Programs or Activities Conducted by the Department of Housing and Urban Development

24 24 Governmentwide Debarment and Suspension (Nonprocurement)

24 35 Lead-Based Paint Poisoning Prevention in Certain Residential Structures

24 40 Accessibility Standards for Design, Construction, and Alteration of Publicly Owned Residential Structures

24 41 Policies and Procedures for the Enforcement of Standards and Requirements for Accessibility by the Physically Handicapped

24 50 Protection and Enhancement of Environmental Quality

24 58 Environmental Review Procedures for Entities Assuming HUD Environmental Responsibilities

24 84 Uniform Administrative Requirements for Grants and Agreements with Institutions of Higher Education, Hospitals, And Other Non-Profit Organizations

24 85 Administrative Requirements for Grants and Cooperative Agreements to State, Local And Federally Recognized Indian Tribal Governments

24 87 New Restrictions on Lobbying

24 92 Home Investment Partnerships Program

24 107 Nondiscrimination and Equal Opportunity in Housing under Executive Order 11063

24 121 Collection of Data

24 135 Economic Opportunities for Low- and Very Low-Income Persons

24 146 Nondiscrimination on the Basis of Age in HUD Programs or Activities Receiving Federal Financial Assistance

24 570 Community Development Block Grants

24 982 Section 8 Tenant Based Assistance: Housing Choice Voucher Program

24 3280 Manufactured Home Construction and Safety Standards

28 42 Nondiscrimination; Equal Employment Opportunity; Policies and Procedures

29 1 Procedures for Predetermination of Wage Rates

29 3 Contractors and Subcontractors on Public Building or Public Work Financed in Whole or in Part by Loans or Grants from the United States

29 5 Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction (Also Labor Standards Provisions Applicable to Non-construction Contracts Subject to the Contract Work Hours and Safety Standards Act)

29 1630 Regulations to Implement the Equal Employment Provisions of the Americans with Disabilities Act

36 800 Protection of Historic Properties

41 Chapter 60 Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor

44 1 Rulemaking; Policy and Procedures

45 80 Nondiscrimination under Programs Receiving Federal Assistance through the Department of Health and Human Services Effectuation of Title VI of the Civil Rights Act of 1964

45 1624 Prohibition Against Discrimination on the Basis of Disability

48 52 Solicitation Provisions and Contract Clauses United States Code, USC TITLE PART HEADING

5 15 Political Activity of Certain State and Local Employees

16 Conservation Chapter 1A-Historic Sites, Buildings, Objects and Antiquities

16 Conservation Chapter 1B-Archaeological Resources Protection

31 1352 Limitation on Use of Appropriated Funds to Influence Certain Federal Contracting and Financial Transactions

41 Chapter 10 Drug-Free Workplace

42 Chapter 63 Lead-Based Paint Poisoning Prevention

42 Chapter 69 Community Development §5309 Nondiscrimination in Programs and Activities CPD HOME fires - Vol. 3 No. 2, February 2001

HUD Notice CPD 05-09

HUD Notice CPD 05-10

11470 **Federal Register** / Vol. 71, No. 44 / Tuesday, March 7, 2006 / Notices

21692 **Federal Register** / Vol. 73, No. 78 / Tuesday, April 22, 2008 / Rules and Regulations

24802 **Federal Register** / Vol. 75, No. 87 / Thursday, May 6, 2010 / Rules and Regulations

34044 **Federal Register** / Vol. 70, No. 111 / Friday, June 10, 2005 / Notices

Executive Order 11063, as amended by Executive Order 12259 Equal Opportunity in Housing

Executive Order 11246 (as amended by Executive Orders 11375, 12086 and 12107) — Equal Employment Opportunity Programs

Executive Order 11593 Protection and Enhancement of the Cultural Environment

Executive Order 11625, as amended by Executive Order 12007 Minority Business Enterprises

Executive Order 12138, as amended by Executive Order 12608 Women's Business Enterprise

Executive Order 12432, Minority Business Enterprise Development

Executive Order 12549--Debarment and suspension

Executive Order 12892, as amended, Leadership and Coordination of Fair Housing in Federal Programs: Affirmatively Furthering Fair Housing

Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations

Executive Order 13166, Improving Access to Services for Persons with Limited English Proficiency

Executive Order 13217, Community-Based Alternatives for Individuals with Disabilities

Executive Order 13330, Human Service Transportation Coordination

Accessibility for Persons with Disabilities to Non-Housing Programs funded by Community Development Block Grant Funds -- Section 504 of the Rehabilitation Act of 1973, the Americans With Disabilities Act, and the Architectural Barriers Act

Accessibility Notice: Section 504 of the Rehabilitation Act of 1973 and The Fair Housing Act and their applicability to housing programs funded by the HOME Investment Partnerships Program and the Community Development Block Grant Program

Age Discrimination Act of 1975, as amended

Architectural Barriers Act of 1968 (ABA)

Davis-Bacon and Related Acts (DBRA)

Fair Housing Act, Title VIII of the Civil Rights Act of 1968

Housing for Older Persons Act of 1995 (HOPA)
Section 104(b)(2) of Title I of the Housing and Community Development Act of 1974, as amended
Section 109 of Title I of the Housing and Community Development Act of 1974, as amended
Section 3 of the Housing and Urban Development Act of 1968
Section 3 of the Housing and Urban Development Act of 1968
Section 504 of the Rehabilitation Act of 1973, as amended
Section 508 of the Rehabilitation Act of 1973
The Contract Work Hours and Safety Standards Act (CWHSSA)
The Copeland (Anti-Kickback) Act
Title II of the Americans with Disabilities Act (ADA) of 1990
Title II of the Civil Rights Act of 1968
Title IX of the Education Amendments Act of 1972
Title VI of the Civil Rights Act of 1964, and as amended in 1988