

# ATTACHMENT C

## CDBG GRANTEE POLICY



# **Community Development Block Grant**

## **Policies and Procedures Manual**

CDBG Grantee Policy; version October 2021

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## **INTRODUCTION**

The City of New Braunfels, Texas receives an annual Community Development Block Grant (CDBG) entitlement grant from the U.S. Department of Housing and Urban Development (HUD). To continue participation in this program, the City contractually agrees with HUD to implement the Housing and Community Development Act of 1974 and related CDBG program regulations in 24 CFR 570. All CDBG awards are subject to the regulations detailed in 2 CFR Part 200.

The City of New Braunfels utilizes CDBG funds to improve community facilities and services, revitalize neighborhoods, fund public services, expand affordable housing, and expand economic opportunities that benefit low- to moderate-income persons. The City must use at least 70% of the entitlement for activities that either directly benefit low- to moderate-income persons or serves an area where the majority of the residents are low- to moderate-income.

**The City of New Braunfels' Community Development Block Grant Policies and Procedures Manual (CDBG Grantee Policy) applies to all CDBG funds awarded by the City of New Braunfels.** The purpose of this document is to provide guidance for the City's Finance Department's Grants Division representative(s) and supporting staff, hereafter collectively referred to as "CDBG Program Staff", regarding project eligibility and management support to CDBG-funded subrecipients and activities. It is designed to help CDBG-funded subrecipients understand the requirements that apply to the use of federal funds for the delivery of the CDBG Program and its eligible activities. This document supports CDBG funding for multiple HUD programs including, but not limited to, the CDBG Entitlement Program, the CDBG-CV Program initiated by the CDBG CARES Act, etcetera. Program-specific details are provided in the awarded Subrecipient Agreements.

It is a **supplement** to applicable regulations, standards, and policies. The basic program regulations, government management, and financial systems for the CDBG Program are contained in the Code of Federal Regulations Title 24 and various Federal guidelines, particularly 2 CFR Part 200, referenced in this document.

This document does not replace or amend any of the provisions included in the awarded Subrecipient Agreement executed between the City and subrecipient Agencies and should not be used in lieu of reading the articles of the Agreement. Should there be any disagreement between the executed Agreement and this manual, the provisions contained within the Agreement will take precedence. The Agreement refers to the executed contract, service level agreement or memorandum of understanding with the Agency.

The procedures prescribed in this manual represent minimum requirements and controls that must be embodied within the Subrecipient's accounting, internal controls, and financial reporting systems. They are not intended to replace existing procedures used by the Subrecipient that achieve the same results.

The CDBG Grantee Policy is provided in addition to the Agreement(s) entered into by the City and Subrecipients for the operation of CDBG-funded projects. Each Subrecipient must comply with the minimum requirements and procedures prescribed in this document to the maximum extent feasible. In addition, each Subrecipient must ensure that a copy of the CDBG Grantee Policy is accessible to all personnel responsible for compliance with requirements and procedures contained in the manual.

The approval of the City's Finance Department, Grants Division, must be obtained for any deviation from the minimum requirements contained in this document that may be necessitated by the organizational structure, staffing level, or other limitations of a particular Subrecipient. Any proposed deviations will be considered by the CDBG Program Staff upon receipt of a written request submitted by the Subrecipient and are not considered to be in effect until receipt of approval by CDBG Program Staff.

This CDBG Grantee Policy and any revisions that may be occasionally issued will be effective until superseded or canceled by appropriate notice from the CDBG Program Staff. Comments and suggestions for changes, modifications, or improvements are encouraged, and should be submitted in writing to the CDBG Program Staff.

## **WELCOME TO CDBG**

### **Purpose of CDBG Grantee Policy**

The City of New Braunfels' Finance Department provides this document as a valuable resource for those considering applying for CDBG funds, and program administrators implementing CDBG-funded programs and projects.

### ***CDBG Grantee Policy Revisions***

This document is subject to updates. Information within the document may change for a variety of reasons, including changes in federal regulations, state requirements, and in the interpretation of a federal regulation or clarification of a requirement. Updated CDBG Grantee Policies will be provided to all currently funded Subrecipients and made available on the City's website.

#### **Important Revision Date(s)**

1. July 6, 2020
2. October 30, 2020

### **CDBG Program Overview**

The CDBG Program is authorized under Title I of the Housing and Community Development Act of 1974 (HCD Act), as amended, codified at 42 U.S.C. §5301 et seq.

The primary objective of the CDBG Program is to develop viable communities by providing the following, principally to persons of low- and moderate-income:

- Decent housing;
- A suitable living environment; and
- Expanded economic opportunities.

All activities must meet one of the following national objectives for the program:

- Benefit low- and moderate-income persons,
- Prevent or eliminate slums or blight, and/or
- Fulfill community development needs that have a particular urgency because existing conditions pose a serious and immediate threat to the health or welfare of the community.

The United States Department of Housing and Urban Development (HUD) administers the CDBG Program. The regulations created by the Office of the Assistant Secretary of Community Planning and Development that pertain to Community Development Block Grants are contained within 24 CFR Part 570.

### **Federal Funding Restrictions**

Unless otherwise stated by the granting agency, the directives of “no supplanting” or “supplement, not supplant” are common requirements for many federally funded grants, especially those made by HUD, as the federal government has a strict restriction against the duplication of benefits.

The term supplant means to replace, so a “no supplanting” requirement means all costs billed to the grant must be new costs.

HUD requires grantees and subrecipients to use funds awarded or secured for a particular service or activity and prohibits those funds from being diverted for other purposes when federal funds are available. Federal funds must supplement (add to) programs and services offered with state and local funds. When federal funds are used to enhance or expand a program or activity, then the funds must be separately identified and clearly distinguishable in the grantee and subrecipients financial records and files from the overall activities of the program/services.

### **Citizen Participation**

The HUD-approved Citizen Participation Plan fulfills the statutory requirements for citizen participation included in federal regulations for the CDBG program and the 5-Year Consolidated Plan (Con Plan), including the 1-Year Annual Action Plans. These policies guide the management of the City’s CDBG Program, ensuring opportunities for area residents to participate in all phases of the program.

The policies are designed to ensure that citizens, particularly low- and moderate-income residents, are provided reasonable and timely information about the City’s CDBG program, including the amount of funds available and the types of activities that are eligible for funding; and have the opportunity to participate in the processes for planning and determining the use of CDBG funds.

## Public Hearings

The City holds public hearings on the development of the Con Plan and Annual Action Plans. By encouraging open and effective communication, it is anticipated that both citizens and city officials will gain a greater understanding of community and neighborhood concerns and for one another through the citizen participation process.

The City ensures the provision of reasonable notice of hearings and that hearings are held at times and locations convenient to potential or actual project beneficiaries. Notices are printed in English and Spanish. Meetings are accessible for persons with disabilities and those with limited English language proficiency. In addition to public hearings, the City hosts stakeholder meetings and focus groups in order to have information on housing and supportive service needs for special populations.

## Community Development Advisory Committee

The Community Development Advisory Committee (CDAC) is a 9-member committee appointed by City Council. The purpose of the committee is to provide advice and feedback to Staff and City Council. The main duty of CDAC is to review subrecipient applications for CDBG funding and to make funding recommendations for eligible projects to be included in the Annual Action Plan to City Council.

The meetings conform to the Texas Open Meetings Law, enabling citizens to attend and participate in the discussion of any CDBG related matter. The CDAC meets monthly January through September but will schedule additional meetings October through December when necessary.

## Standard Timeline for CDBG Program Year

**NOTE:** The timeline is subject to change; City will communicate dates/times to subrecipients.

October	New CDBG Program Year begins
October	Subrecipient Post-Award Workshop and signing of Contracts
October	Previous PY projects closed out and new projects set-up in IDIS
October	Submit required semi-annual and annual reports to HUD
October – November	Fund projects in IDIS when HUD releases funds
October – December	CAPER prepared and submitted to HUD by 12/30
December	15-Day Comment Period published in newspaper and on City's website
January	CDAC meets and reviews Subrecipient application process, and CDBG Program Staff provides any updates to CDBG program
January	Notice of Funding Availability published in newspaper, City's website, and by direct communication to/with prospective



	applicants
January	Pre-Application Workshop hosted by City; application available
February	Applications due and reviewed by CDBG Program Staff for eligibility
February – April	City hosts Stakeholders meeting and focus group meetings
February – April	In Con Plan years, a needs assessment survey is available on the City's website, with paper copies at City Hall, the main library and distributed to non-profit agencies and community centers
March	CDAC reviews and discusses applications at monthly meeting
March	CDAC hosts a public meeting for CDBG Applicants to respond to clarifying questions from CDAC to assist with their review
April	CDAC finalizes funding recommendations for City Council
May – June	1 <sup>st</sup> Public Hearing hosted; notices in newspaper and City's website
June	Draft Annual Action Plan available for public review on City's website, and at City Hall and the Library. Every 5 years, drafts of the Consolidated Plan will be available for public review.
June	30-Day Comment Period Begins
June – July	2 <sup>nd</sup> Public Hearing hosted; draft plan and funding recommendations presented to City Council for review and discussion
July	30-Day Comment Period Ends; CDBG Program Staff drafts final changes to Plan
July	City Councils approves the Annual Action Plan and/or the Consolidated Plan
August	Plan is submitted to HUD for review and approval
August – September	Environmental Review completed for projects; Request for Release of Funds, if applicable, is submitted to HUD

## **Subrecipient Funding**

### **Successful Implementation of a CDBG Grant**

Recipients of a CDBG grant (Subrecipients) must be able to implement their program soon after the award and complete performance within the specified time frame. All tasks undertaken with the CDBG grant must comply with the CDBG contract, federal regulations, and all guidelines listed in this document. Additionally, all CDBG grants must fulfill the national objective and performance objectives outlined in their funding application and subsequent subrecipient contract.

Prior to contract execution, if applicable, all subrecipients must submit any changes to documentation previously provided with the original application for review/approval by CDBG Support Staff. Documentation includes, but is not limited to, the following:

- Updated Scope of Work, including project timeline

- Updated Budget, including any confirmed cost matching resources
- Procurement Plan including a minimum of 3 bids, WBE/MBE outreach efforts, etcetera
- Necessary federal, state and local permits and licenses
- Updated audit, if available

Additionally, all subrecipients are strongly encouraged to attend City-hosted meetings such as the following:

- Annual Program Workshop;
- Annual Fiscal Workshop;
- One-on-one Contracting Session; and
- Any other trainings required throughout the year.
- Pre-Application Workshop is not mandatory but is highly recommended for all CDBG applicants

Failure to comply with any of the above may result in forfeiture of the CDBG funding provided to subrecipients under the awarded Subrecipient Agreement.

### **Written Agreement with City**

A written agreement must be entered into between the City and all subrecipients receiving CDBG funds. The written agreement forms the basis for the contractual obligation between the parties to fund and implement the activity or program. The agreement will denote responsibilities attributable to each party and will outline in exact measure the scope of services to be provided, methods of accountability, and the approved budget. Execution of the awarded Subrecipient Agreement binds the Subrecipients for a specified period. Requests for contract amendments must be submitted in writing and approved by the City. No program or activity changes can be made until written authorization from the City is received. Compliance with the stipulations in this document is a requirement of the written agreement.

### **Limitation of Expenditures**

- Any funds for the Subrecipient's CDBG-funded program/project that are expended prior to the full execution of the Subrecipient's CDBG contract, or subsequent to the suspension or termination of the contract, are **not** eligible for reimbursement by the City.
- Subrecipients **must** ensure that all expenditures comply with HUD's prohibition against supplanting funds, also referred to as duplication of benefits.
- Expenditures must be made in conformance with the approved budget and must meet the criteria established for allowable costs.
- Expenditures must be in direct support of the program that is the subject of the contract. The Subrecipients will notify the City in writing of any expenditure for items jointly used for any other program(s) and the expenditures will be apportioned according to the percentage of direct use in the program.

## **CDBG National Objectives**

The primary emphasis of the CDBG grant program is to ensure that each activity meets and complies with one of HUD's three broad objectives, which are:

1. Benefit to low- and moderate-income households and/or persons\*
2. Prevention and/or elimination of slum and blight
3. Addressing other community development needs having a particular urgency

*\* Low-Income Persons are defined as households under 80% of Area Median Income.*

Income Limits are updated annually by HUD. The most recent limits are provided with the reporting forms for that program year. The HUD-issued Income Limits are available on HUD's website, but the CDBG Program Staff also typically notifies all CDBG-funded Subrecipients when the income limits are updated by HUD. Subrecipients are responsible for ensuring they are using the most current income limit.

These objectives are broken down into smaller categories. Each activity funded under CDBG must meet one of the following categories for the CDBG National Objective.

### **Area Benefit**

The **area benefit** category is the most commonly used national objective for activities that benefit a residential neighborhood that is primarily low- to moderate-income (LMI). An area benefit activity is one that benefits all residents in a particular area where, typically, at least 51% of the residents are LMI persons. The City of New Braunfels is considered an "exception grantee" by HUD so the exception rate is less than 51% for the City but changes based upon several factors, so the actual rate is provided to subrecipients during the appropriate CDBG program year.

Examples of area benefit activities may include the following when they are located within a predominately LMI neighborhood:

- Improvements to neighborhood park
- Improvements to public infrastructure like the installation of gutters and sidewalks
- Development or improvements of a community center

### **Limited Clientele Benefit**

Activities in the **limited clientele** category provide benefits to a specific group of persons rather than everyone in an area. It may benefit particular persons without regard to their residence, or it may be an activity that provides a benefit to only particular persons within a specific area.

Under this category, 51 percent of the beneficiaries of an activity have to be Low- to Moderate-Income persons.

In contrast to the area benefit category, it is not the LMI concentration of the service area of the

activity that determines whether the activity will qualify or not, but rather the actual number of LMI persons that benefit from the activity.

Examples include:

- Food Banks
- Children and Youth Programs
- Homeless Services
- Nutrition/Hunger Programs
- Domestic Violence Centers and Programs

### **Housing Benefit**

The **housing** category of LMI benefit national objective qualifies activities that are undertaken for the purpose of providing or improving permanent residential structures which, upon completion, will be occupied by LMI households. In order to meet the housing LMI national objective, structures with one unit must be occupied by an LMI household. If the structure contains two units, at least one unit must be LMI occupied. Structures with three or more units must have at least 51 percent occupied by LMI households.

Examples include:

- Owner-Occupied Housing Rehabilitation
- Owner-Occupied Minor Home Repair
- Homeownership Assistance

### **Jobs Benefit**

The **job** creation and retention LMI benefit national objective addresses activities designed to create or retain permanent jobs, at least 51 percent of which, computed on a full-time equivalent basis, will be made available to or held by LMI persons. The following requirements must be met for jobs to be considered created or retained.

- If grantees fund activities that **create** jobs, then there must be documentation indicating that at least 51 percent of the jobs will be held by, or made available to, LMI persons.
- For funded activities that **retain** jobs, then there must be sufficient information documenting that the jobs would have been lost without the CDBG assistance and that one or both of the following applies to at least 51 percent of the jobs:
  - The job is held by an LMI person; or
  - The job can reasonably be expected to turn over within the following two years and steps will be taken to ensure that the job will be filled by, or made available to, an LMI person.

For the purpose of determining if the preceding requirements are met, a person may be presumed to be LMI if:

- The person resides in a Census tract/block numbering area that has a 20 percent poverty rate or a 30 percent poverty rate if the area includes the central business district; and the area evidences pervasive poverty and general distress; or
- The person lives in an area that is part of a Federally designated Empowerment Zone (EZ) or Enterprise Community (EC); or
- The person resides in a Census tract/block numbering area where at least 70 percent of the residents are LMI.

Typically, each assisted business will be considered a separate activity for purposes of determining whether the activity qualifies under the job creation and retention category for meeting a national objective.

However, in certain cases, such as where CDBG funds are used to acquire, develop or improve a real property e.g., a business incubator or an industrial park, the requirement may be met by measuring jobs in the aggregate for all the businesses that locate on the property, provided such businesses are not otherwise assisted by CDBG funds.

Additionally, where CDBG funds are used to pay for the staff and overhead costs of an entity making loans to businesses from non-CDBG funds, this requirement may be met by aggregating the jobs created by all of the businesses receiving loans during any program year.

### **Slum Blight Area Basis**

The **Slum Blight Area Basis (SBA)** category is for activities that aid in the prevention or elimination of slums or blight in a designated area. To qualify under this category, the area in which the activity occurs must be designated as slum or blighted. The following tests apply:

- The designated area in which the activity occurs must meet the definition of a slum, blighted, deteriorated or deteriorating area under state or local law;
- Additionally, the area must meet either one of the two conditions specified below:
  - Public improvements throughout the area are in a general state of deterioration; or
  - At least 25 percent of the properties throughout the area exhibit one or more of the following:
    - Physical deterioration of buildings/improvements;
    - Abandonment of properties;
    - Chronic high occupancy turnover rates or chronic high vacancy rates in commercial or industrial buildings;
    - Significant declines in property values or abnormally low property values relative to other areas in the community; or
    - Known or suspected environmental contamination.
- Documentation must be maintained by the grantee on the boundaries of the area and the conditions that qualified the area at the time of its designation. The designation of an area as slum or blighted must be re-determined every 10 years for continued qualifications.

As stated above, qualified activities must address the identified conditions that contributed to the slum and blight.

### **Slum Blight Spot Basis**

The **Slum Blight Spot Basis (SBS)** category is for activities that eliminate specific conditions of blight or physical decay on a spot basis and are not located in a slum or blighted area. The designated spot must meet the definition of a slum, blighted, deteriorated or deteriorating area under state or local law. Activities under this category are limited to acquisition, clearance, relocation, historic preservation, remediation of environmentally contaminated properties, and building rehabilitation activities.

Furthermore, rehabilitation is limited to the extent necessary to eliminate a specific condition detrimental to public health and safety.

### **Urgent Need**

Use of the **Urgent Need (URG)** national objective category is rare. It is designed only for activities that alleviate emergency conditions. Urgent need qualified activities must meet the following criteria:

- The existing conditions must pose a serious and immediate threat to the health or welfare of the community;
- The existing conditions are of recent origin or recently became urgent, generally, within the past 18 months;
- The grantee is unable to finance the activity on its own; and
- Other sources of funding are not available.

Examples include:

- Acquisition of property located in a flood plain that was severely damaged by a recent flood;
- Public facility improvements like the reconstruction of a publicly owned hospital that was severely damaged by a tornado;
- Demolition structures that are severely damaged by a major earthquake;
- Public services like additional police protection to prevent looting in an area damaged by a recent hurricane;
- Interim assistance such as emergency treatment of health problems cause by a flood; and
- Special economic development assistance to a grocery store that was damaged by an earthquake

### **Determining Beneficiary Income**

Every Subrecipient must serve persons of low- and moderate-income:

- Very low-income is defined as a household that does not exceed 50 percent of HUD Section 8 Rental Income Limits.

- Low-income is defined as a household that has an income that does not exceed 80 percent of Section 8 Rental Income Limits.

HUD updates these limits on an annual basis. It is the responsibility of the Subrecipients to adhere to all new guidelines from the date they receive them. The most current income guidelines are available at <https://www.hudexchange.info/resource/5334/cdbg-income-limits/>. It is the responsibility of the Subrecipients to document that the beneficiaries of the CDBG-funded activity are confirmed to be low- to moderate-income persons.

<b>National Objective</b>	<b>Income Documentation Tool</b>	<b>Minimum LMI</b>	<b>Period</b>
Area Benefit	Description of Service Area with: Map with Boundaries Documentation that Area is primarily residential Documentation of Income Characteristics (Census Block Area or Survey)	51%	At Project Conception
Limited Clientele Benefit	Income Documentation for each individual served: 3 <sup>rd</sup> Party Verification; required if financial assistance is distributed Self-Declaration of Income	51%	At Intake
Housing Benefit	Income Documentation for each household served: 3 <sup>rd</sup> Party Verification	51%, or 1 of 2 units	6 months before occupation of unit
Jobs Benefit	Income Documentation for each individual served: 3 <sup>rd</sup> Party Verification; required if financial assistance is distributed Self-Declaration of Income	At least 1 Job	At hiring (if new hire) and at project completion (if maintaining job)

## **CDBG Application Process**

The CDBG Entitlement Program provides annual grants from the Department of Housing and Urban Development (HUD) to entitled cities and counties on a formula basis. The standard practice of City of New Braunfels to utilize this funding to provide grants to eligible entities via a

competitive grant process.

All applicants are encouraged to attend the Pre-Application Workshop and to speak with CDBG Program Staff regarding the proposed project or activity prior to submitting an application for funding.

### **CDBG Funding Allocation Restrictions**

By Federal regulation, a maximum of 15% of the CDBG appropriation can be allotted to public services. Generally, the City will allocate 15% of the grant to be awarded to eligible organizations for the purpose of providing public service programs that will address the low- and very low-income persons of New Braunfels.

### **Subrecipient Eligibility**

The following entities are eligible to apply for funding from the CDBG Program:

- All non-profit 501(c)(3), tax exempt agencies; administrative capacity to support the program/project must be demonstrated as part of the application process or by past performance.
- Governmental entities and departments
- Neighborhood organizations are eligible **only** if they seek a non-profit 501(c)(3) status or seek sponsorship through a City Department or a non-profit agency.
- For-profit agencies/businesses that facilitate economic development by providing credit or loans, providing technical assistance, advice and general business support services to micro-enterprises.

Agencies must have a local board of directors or advisory board that governs the agency. The board must be of sufficient size to be representative of the diversity of the community served.

### **Application Eligibility Criteria**

Applications will be received by CDBG Program Staff to determine eligibility for CDBG funding. The following criteria must be met:

- The agency is seeking or has obtained a 501(c)(3) designation from the IRS. This does not apply if the agency is a governmental agency or for-profit agency/business that meets other application criteria.
- The application **must** address a local CDBG funding priority.
- The application must propose a program or project listed as an eligible activity in HUD regulations at 24 CFR 570.201 – 206.
- The proposed activity must meet a National Objective of the CDBG program.
- Staff and CDAC reserves the right to revise scoring criteria prior to release of application within each annual application cycle.
- Requested funding must not supplant other previously budgeted funding. Subrecipients must



provide documentation to demonstrate that the grant request is not supplanting existing or expected funding and/or that the grant award is supplemental to other federal and/or non-federal funding sources for the program and its activities.

### **Local CDBG Funding Priorities**

Every five years, the City will prepare a new Consolidated Plan for Housing and Community Development (Con Plan) that will prioritize each category below as a high, medium, low or “no such” community need. The Con Plan will also establish specific program objectives expressed in measurable units such as housing units or numbers of clients served. CDBG funding priorities will be determined by citizen and staff input with the approval of the City Council. In the year that a Con Plan is written, input in the form of surveys, focus groups and/or community consultations will be sought per the CDBG Citizen Participation Plan.

In the year that a Con Plan is developed, it will not be possible to identify all the Housing and Community Development priorities, goals, and objectives before the release of the CDBG application. The Annual Action Plan outlining funded projects is adopted and submitted to HUD at the same time as the Con Plan. Housing and Community Development applications will be open to all categories. Special attention will be given to the needs analysis and statistics portion of the proposal which will be particularly useful to the CDAC as it selects projects and recommends new priorities. In each subsequent year, the Con Plan priorities will serve as the basis for selection criteria and for development of an Annual Action Plan.

For Public Service needs, priorities have been adopted in the Con Plan as determined by the latest Community Needs Assessment performed by the City. As part of the Con Plan process, CDBG Program Staff evaluates the services and needs identified and makes prioritized recommendations. These services are then reviewed by the New Braunfels City Council and an approved prioritized list of desired services are then included in the Con Plan. Public Service Programs must either be a new service or project a quantifiable increase in the level of an existing service.

The list of priorities is derived from CDBG-eligible activities per 24 CFR 570.201 – 206. The most current priorities are discussed at the Pre-Application Workshop and included within the application packet.

### **Applications**

Applications must address at least one CDBG-eligible activity per 24 CFR 570.201-206. Examples include housing rehabilitation; rehabilitation and improvements of public facilities in CDBG-eligible areas of the City or for programs that service low-moderate income persons; public service activities which serve low- and moderate-income persons and families or; technical assistance and loans to small businesses if it can be documented that the assistance creates/retains jobs for low- and moderate-income persons. If an applicant is not sure of an

activity's eligibility, CDBG Program Staff is available for consultation.

Applicants are to list proposed service goals and objectives within their application for proposed performance objectives. Objectives must be measurable with outcome indicators that directly affect the problem that the service was designed to address, not simply a count of numbers served. Each proposed objective should have at least one measurable indicator.

Applications must include a detailed description of an agency's qualifications for managing the proposed program. There must be program staff who have experience managing a program similar to that for which CDBG funds are being requested. There must also be experience on staff or on the subrecipients' board of directors for providing financial management of grant funds as required by the City in its reporting to HUD.

An agency must demonstrate that additional funds are being sought for the activity or provide an explanation of why CDBG is the sole source of funding and provide information to ensure that CDBG funds are not supplanting other activity funding.

The Subrecipient's past history in meeting goals and objectives measures and timeliness and accuracy of reports will be considered for applicants who have been previously received CDBG funding.

CDBG Program Staff will make applications available at the Pre-Application Workshop, on the City's website, and directly to organizations providing services and housing in New Braunfels.

## **Process**

CDBG Program Staff will make all possible efforts to ensure that the community is aware of the availability and purpose of the CDBG Program. In January, CDBG Program Staff will typically publish a "Notice of Funding Availability" in the local newspaper of record announcing the availability of funds through the CDBG program and the date/location of the Pre-Application Workshop.

Copies of the Request for Application (RFA) packet will be available at the Pre-Application Workshop. Additionally, applications will be available on the City's website, and provided directly to agencies upon their request.

The scoring criteria utilized during review of the proposals is provided in the application packet.

Applications will only be accepted during the period of time advertised. Applications submitted after the deadline will not be considered.

Deadlines, policies and procedures, priorities, identified community needs, and other pertinent information will be included in the RFA packet. Applications to the program are usually due in

February or March.

The CDAC will usually conduct a review of all requests beginning in March. All eligible applications submitted will receive a consistent review and discussion based on the criteria.

Eligible applicants will be invited to a public meeting hosted by the City, during which time they are able to provide clarifying responses to any questions that the CDAC may have regarding the information provided in the organization's application.

The CDAC, who are an advisory body for the City Council, will make final recommendation on the funding through a proposed CDBG budget which is typically presented to the City Council for their consideration in June.

The Annual Action Plan and/or Consolidated Plan will be submitted for public comment in June and returned to City Council for final review, a public hearing, possible revision, and adoption in July.

No applications will be considered for funding after adoption of the CDBG budget unless a request is initiated by the City Council, the City Manager, or in a supplemental Request for Applications in extenuating circumstances such as needing to reallocate funds.

### **Application Review**

The CDBG review process for applications regarding funding consists of a five-phase cycle:

1. CDBG Program Staff review for eligibility purposes;
2. Review by the CDAC for funding recommendation purposes;
3. City Council Review;
4. Incorporation into the Annual Action Plan; and
5. Public Hearing and final City Council approval.

At the January CDAC meeting, the CDAC members review the proposed application and make comments and or changes to the content and the scoring criteria.

After the application period has closed, the CDBG Program Staff will initially conduct an "eligibility review" of all applications. During this review, staff will determine:

1. If the organization is a non-profit or has submitted an application for a 501(c)(3) status with the IRS;
2. If the organization is a qualified for-profit agency or business;
3. The program meets a national objective; and
4. The program addresses an eligible CDBG activity.

All CDAC members will then be provided copies of the eligible applications for review. Committee

members and staff are responsible for reviewing the applications to determine if they meet minimum criteria and requirements.

If the program meets all criteria (1-4), the proposal will be considered eligible for consideration of funding.

A second review of eligible programs/projects will be conducted by CDBG Program Staff and CDAC to consider factors such as whether the program has clear goals and quantifiable objectives, sound financial and program management, and that the program has sufficient leveraging of funds. While reviewing applications, the CDAC and CDBG Program Staff may request additional information, make site visits, request a conference with the applicant, or take other steps to assure a fair and equitable selection/award process.

After CDAC has had the opportunity to review eligible applications, CDBG Program Staff will schedule a public meeting where applicants may be asked to provide a brief overview for eligible projects and/or answer clarifying questions posed by members of the CDAC and CDBG Program Staff regarding their application. Eligible programs will be scored and ranked by the CDAC per scoring criteria announced in the application packet.

The CDAC and CDBG Program Staff will then host a public meeting to discuss and finalize funding recommendations. The final budget recommendations will be voted on by the CDAC in an open meeting allowing citizen input, and subsequent funding recommendations will be presented to City Council for approval.

The budget and proposed activities will be incorporated into an Annual Action Plan and released for a 30-day comment period followed by a public hearing before the City Council.

If a resident is unable to attend the public hearing, they may forward comments in writing or by email to the CDBG Program Staff for inclusion in the Annual Action Plan. The City Council will consider comments and will give final approval or adopt revisions by its second meeting in July.

### **Criteria for Decision Making**

Proposals will be considered regarding in aspects such as, program, management, and finances. The CDBG Program Staff comments accompanying the proposal will summarize the proposal in each of these areas, specify any staff questions or concerns in relation to the proposals, and summarize the comments from the CDAC's review.

**Program:** Consistency with CDBG guidelines, responsiveness to community needs as identified in the latest Consolidated Plan for Housing and Community Development, documented need in New Braunfels, documented impact and effectiveness of program, clear objectives and measures of performance.

**Management:** Capable and qualified staff, demonstrated administrative capacity, appropriate fiscal controls, and a knowledgeable and involved board.

**Finances:** Overall cost-effectiveness of program, reasonableness of costs for services, need for CDBG funding, ability to leverage CDBG funding with other sources, efforts towards self-support, and plans for future funding.

The City Council is responsible for making the final decisions regarding program funding. Following Council approval, CDBG Program Staff submits the information to HUD for their review. Upon receipt of approval from HUD, the CDBG Program Staff initiates contracts with each of the selected subrecipients to commence with the new program year. If the approved funding level is different than that stated on the proposed budget, the subrecipient must submit a revised budget and adjusted proposed performance objectives to CDBG Program Staff before a subrecipient contract is executed.

### **CDBG-Eligible Activities**

**The following activities are eligible in CDBG under CFR 570.200-570.210.** Additional information regarding the activities is provided within this section.

- Disposition
- Public Facilities and Improvements
- Clearance
- Public Services
- Interim Assistance
- Relocation
- Loss of Rental Income
- Privately-Owned Utilities
- Rehabilitation
- Construction of Housing
- Code Enforcement
- Special Economic Development Activities
- Microenterprise Assistance
- Special Activities by CBDO
- Homeownership Assistance
- Planning and Capacity Building
- Program Administration Costs
- Miscellaneous Other Activities
- Technical Assistance
- Assistance to Institutions of Higher Education
- Housing Services

## Public Services

Under this category, CDBG funds may be used to provide public services, including labor, supplies, materials and other costs, provided that the following criteria is met. The public service must be either:

- A new service; or
- A quantifiable increase in the level of service above that which has been provided by or on behalf of the local government or received from the State during the 12 months prior to submission of the grantee's applicable Action Plan. This requirement is intended to prevent the substitution of CDBG funds for recent support of public services using local or State government funds.

It is very important to note that there is a **15% cap** on the amount on CDBG funds that a city may obligate within a program year to support public service activities as per HUD guidelines.

Paying the cost of operating and maintaining that portion of a facility in which the service is located is also considered to fall under the basic eligibility category of Public Services, even if such costs are the only contributions made by CDBG for those services.

The following Public Services are **not** eligible under this category:

- Political activities;
- Inherently religious activities, such as worship, religious instruction, or proselytizing as part of the services funded.
- Ongoing grants or non-emergency payments which are defined as more than 3 consecutive months to individuals for their food, clothing, rent, utilities, or other income payments;
- Administrative costs: CDBG funds in this category may only cover the delivery and supervision of services;
- Payment of interest on mortgages: CDBG funds should not contribute to debt

### **Examples of Public Service Activities with HUD-Issued Matrix Codes**

<i>05A Senior Services</i>	<i>05B Handicapped Services</i>	<i>05C Legal Services</i>
<i>05D Youth Services</i>	<i>05E Transportation Services</i>	<i>05F Substance Abuse Services</i>
<i>05G Services for Battered and Abused Spouses</i>	<i>05H Employment Training</i>	<i>05I Crime Awareness/Prevention</i>

<i>05J Fair Housing Activities</i>	<i>05K Tenant/Landlord Counseling</i>	<i>05L Child Care Services</i>
<i>05M Health Services</i>	<i>05N Services for Abused and Neglected Children</i>	<i>05O Mental Health Services</i>
<i>05P Screening for Lead Poisoning</i>	<i>05Q Subsistence Payments</i>	<i>05R Homeownership Assistance (not direct)</i>
<i>05S Rental Housing Subsidies</i>	<i>05T Security Deposits</i>	<i>05U Housing Counseling</i>
<i>05V Neighborhood Cleanups</i>	<i>05W Food Banks</i>	<i>03T Operating Costs of Homeless/AIDS Patients Programs</i>

### **Public Facilities and Infrastructure Improvements**

CDBG funds may be used by the grantee or other public or private nonprofit entities for the:

- Acquisition, including long term leases for periods of 15 years or more,
- Construction,
- Reconstruction,
- Rehabilitation, including removal of architectural barriers to accessibility, or
- Installation of public improvements or facilities except for buildings for the general conduct of government.

“Public facilities” and “public improvements” are broadly interpreted to include all improvements and facilities that are either publicly owned or that are traditionally provided by government, or owned by a non-profit, and operated so as to be open to the general public.

The regulations specify that facilities that are designed for use in providing shelter for persons having special needs are considered to be public facilities, and not permanent housing, and thus are covered under this category of basic eligibility.

This category does **not** authorize expenditures for buildings for the general conduct of government, unless CDBG funds are being used to remove barriers from such buildings that restrict the mobility and accessibility of elderly or severely disabled persons.

Public facilities and improvements authorized under this category also do **not** include:

- Costs of operating or maintaining public facilities/improvements;
- Costs of purchasing construction equipment;
- Costs of furnishings and other personal items such as uniforms; or
- New construction of public housing

**Examples of Public Facilities and Improvements with HUD-Issued Matrix Codes**

<i>03A Senior Centers</i>	<i>03B Handicapped Centers</i>	<i>03C Homeless Facilities (not operating costs)</i>
<i>03D Youth Centers</i>	<i>03E Neighborhood Facilities</i>	<i>03F Parks or Recreational Facilities</i>
<i>03G Parking Facilities</i>	<i>03H Solid Waste Disposal Improvements</i>	<i>03I Flood Drainage Improvements</i>
<i>03J Water/Sewer Improvements</i>	<i>03K Street Improvements</i>	<i>03L Sidewalks</i>
<i>03M Child Care Centers</i>	<i>03N Tree Planting</i>	<i>03O Fire Stations/Equipment</i>
<i>03P Health Facilities</i>	<i>03Q Facilities for Abused and Neglected Children</i>	<i>03R Asbestos Removal</i>
<i>03S Facilities for AIDS Patients (not operating costs)</i>	<i>03 Other Public Facilities/Improvements</i>	<i>16B Non-Residential Historic Preservation</i>

**Privately-Owned Utilities**

The grantee, other public agencies, private nonprofit entities, and for-profit entities may use CDBG funds to:

- Acquire,
- Construct,
- Reconstruct,
- Rehabilitate, or
- Install the distribution lines and related facilities for privately-owned utilities.

**Definition:** A privately-owned utility may be defined as a publicly regulated service which is



provided through the use of physical distribution lines to private properties and that is owned and operated by a non-public entity. Utilities include, but are not necessarily limited to, natural gas, electricity, telephone, water, sewer, and television cable services.

### **Relevant HUD-Issued Matrix Code**

*11 Privately Owned Utilities*

## **Housing**

CDBG funds may be used to finance the costs of rehabilitation of residential property, whether privately or publicly owned and homebuyer assistance. This includes manufactured housing when such housing constitutes part of the community's housing stock. In order to be eligible for CDBG funds, a residential property must be:

- A single- or multi-family residence;
- The principle residence of the property owner or lessee;
- A low- to moderate- income household.

### *Eligible types of assistance*

- **Costs:** Costs of labor, materials, supplies and other expenses required for the rehabilitation of property, including repair or replacement of principal fixtures and components of existing structures e.g., the heating system.
- **Property acquisition:** Assistance to private individuals and entities, whether profit or not-for-profit, to acquire for the purpose of rehabilitation and to rehabilitate properties for use or resale for residential purposes.
- **Homeownership Assistance:** Assistance to low- to moderate-income homebuyers; up to 50% of down payment; closing costs; principal write-down; subsidize interest rates; mortgage insurance
- **Security devices:** Installation costs of sprinkler systems, smoke detectors and dead bolt locks, and other devices for security purposes.
- **Insurance:** The costs of initial homeowner warranty premiums and, where needed to protect the grantee's interest in properties securing a rehabilitation loan, hazard insurance premiums as well as flood insurance premiums for properties covered by the Flood Disaster Protection Act of 1973.
- **Conservation:** Costs required to increase the efficient use of water e.g., water-saving faucets and shower heads, and improvements to increase the efficient use of energy in structures through such means as installation of storm windows and doors, insulation, and modification or replacement of heating and cooling equipment.
- **Water and sewer:** Costs of connecting existing residential structures to water distribution lines or local sewer collection lines.

- **Tools:** Costs of acquiring tools to be lent to owners, tenants and others who will use the tools to carry out rehabilitation.
- **Barrier removal:** Costs to remove material and architectural barriers that restrict the mobility and accessibility of elderly and severely disabled persons to buildings and improvements that are eligible for rehabilitation under this category.
- **Landscaping, sidewalks, and driveways:** The costs of installation or replacement of landscape materials, sidewalks, and driveways when incidental to other rehabilitation of the property.
- **Renovation of closed buildings:** The conversion of a closed building from one use to another e.g., the renovation of a closed school building to residential use.
- **Historic preservation:** This category also authorizes the costs of preserving or restoring residential properties of historic significance, whether privately or publicly owned.
- **Lead-based paint hazard evaluation and reduction:** The costs of evaluating and treating lead-based paint may be undertaken under this category whether alone or in conjunction with other rehabilitation.
- **Rehabilitation services:** Staff costs and related expenses required for outreach efforts for marketing the program, rehabilitation counseling, screening potential applicant households and structures, energy auditing, preparing work specifications, loan underwriting and processing, inspections, and other services related to assisting owners, tenants, contractors, and other entities who are participating or seeking to participate in rehabilitation activities under this categories.

Rehabilitation does **not** include:

- Creation of a secondary housing unit attached to a primary unit;
- Installation of luxury items, such as a swimming pool;
- Labor costs for homeowners to rehabilitate their own property; or
- Costs of equipment, furnishings, or other personal property not an integral structural fixture, such as:
  - a window air conditioner; or
  - a washer or dryer
    - Exception: a stove or refrigerator is allowed

#### **Examples of Housing Assistance with HUD-Issued Matrix Codes**

<i>14A Rehab: Single-Unit Residential</i>	<i>14B Rehab: Multi-Unit Residential</i>	<i>14C Rehab: Public Housing Modernization</i>
<i>14D Rehab: Other Publicly Owned Residential Buildings</i>	<i>14F Rehab: Energy Efficiency Improvements</i>	<i>14G Rehab: Acquisition</i>

<i>14I Lead-Based Paint/Lead Hazards Testing/Abatement</i>	<i>14J Housing Services</i>	<i>16A Residential Historic Preservation</i>
<i>13 Direct Homeownership Assistance</i>		

## **Economic Development – Rehabilitation**

CDBG funds may be used to finance the costs of rehabilitation of commercial or industrial property. Where such property is owned by a for-profit, rehabilitation under this category is limited to exterior improvements of the building and the correction of code violations.

### *Eligible types of assistance*

- **Costs:** Costs of labor, materials, supplies and other expenses required for the rehabilitation of property, including repair or replacement of principal fixtures and components of existing structures e.g., the heating system.
- **Security devices:** Installation costs of sprinkler systems, smoke detectors and dead bolt locks, and other devices for security purposes.
- **Conservation:** Costs required to increase the efficient use of water e.g., water-saving faucets, and improvements to increase the efficient use of energy in structures through such means as installation of storm windows and doors, insulation, and modification or replacement of heating and cooling equipment.
- **Tools:** Costs of acquiring tools to be lent to owners, tenants and others who will use the tools to carry out rehabilitation.
- **Barrier removal:** Costs to remove material and architectural barriers that restrict the mobility and accessibility of elderly and severely disabled persons to buildings and improvements that are eligible for rehabilitation under this category.
- **Landscaping, sidewalks, and driveways:** The costs of installation or replacement of landscape materials, sidewalks, and driveways when incidental to other rehabilitation of the property.
- **Renovation of closed buildings:** The conversion of a closed building from one use to another e.g., the renovation of a closed school building to residential use.
- **Historic preservation:** This category also authorizes the costs of preserving or restoring properties of historic significance, whether privately- or publicly owned, except that buildings for the general conduct of government may not be restored or preserved with CDBG assistance.
- **Lead-based paint hazard evaluation and reduction:** The costs of evaluating and treating lead-based paint may be undertaken under this category whether alone or in conjunction with other rehabilitation.
- **Rehabilitation services:** Staff costs and related expenses required for outreach efforts for

marketing the program, rehabilitation counseling, screening potential applicant households and structures, energy auditing, preparing work specifications, loan underwriting and processing, inspections, and other services related to assisting owners, tenants, contractors, and other entities who are participating or seeking to participate in rehabilitation activities under this categories.

Rehabilitation does **not** include:

- Installation of luxury items;
- Costs of equipment, furnishings, or other personal property not an integral structural fixture, such as a window air conditioner.
- Labor costs for business owners to rehabilitate their own property.

**Examples of Economic Development – Rehabilitation with HUD-Issued Matrix Codes**

<i>16B Non-Residential Historic Preservation</i>	<i>17A CI: Acquisition/Disposition</i>	<i>17B CI: Infrastructure Development</i>
<i>17C CI: Building Acquisition, Construction, Rehabilitation</i>	<i>17D CI: Other Improvements</i>	

**Special Economic Development Activities**

CDBG funds may be used for the following special economic development activities, given that there is sufficient public benefit to warrant assistance:

- Commercial or industrial improvements carried out by the grantee or a nonprofit recipient, including:
  - Acquisition,
  - Construction,
  - Rehabilitation,
  - Reconstruction, or
  - Installation of commercial or industrial buildings or structures and other related real property equipment and improvements.
- Assistance to private for-profit entities for an activity determined by the City to be appropriate to carry out an economic development project. This assistance may include, but is not limited to:
  - Grants;
  - Loans;
  - Loan guarantees;
  - Interest supplements;

- Technical assistance; or
- Any other form except for those described as ineligible in 570.207(a), such as political activities.

Under this type of assistance, the grantee will minimize, to the extent practical, displacement of existing businesses and jobs in neighborhoods.

- Economic development services in connection with the above subcategories, including outreach efforts to market available forms of assistance, screening of applicants, reviewing and underwriting applications for assistance, preparation of agreements, management of assisted activities, and the screening, referral and placement of applicants for employment opportunities generated by CDBG-eligible economic development activities. The costs of providing necessary job training for persons filling those positions may also be provided.

Special economic development activities may include:

- Construction of a business incubator designed to provide inexpensive space and assistance to new firms to help them become viable businesses,
- Loans to pay for the expansion of a factory or commercial business,
- Technical assistance to a business facing bankruptcy

Special economic development activities do **not** include:

- Assistance to a for-profit business in the form of lobbying or other political activities.
- New Housing Construction. When a project to be assisted includes new construction of housing as part of a commercial structure e.g., a “mixed use” project, those costs clearly attributable to the commercial portion of the project may be eligible as a special economic development activity.
- Planning for economic development projects, including conducting market surveys to determine an appropriate type of business to attempt to attract to a particular area, developing individual commercial or industrial project plans, and identifying actions to implement those plans.
- Job training, unless part of a CDBG-eligible economic development activity that will create or retain permanent jobs. Such other training may be eligible under the categories of Public Services.

#### **Relevant HUD-Issued Matrix Codes**

<i>17B CI: Infrastructure Development</i>	<i>18A ED: Direct Financial Assistance to For-Profits</i>	<i>18B ED: Technical Assistance</i>
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## **Microenterprise Assistance**

Under this category, grantees and other public or private organization may use CDBG funds to facilitate economic development through the establishment, stabilization and expansion of microenterprises. "Microenterprise" means a business having five or fewer employees, one or more of whom owns the business.

This category authorizes the use of CDBG funds to provide financial assistance of virtually any kind to an existing microenterprise or to assist in the establishment of a microenterprise. It also authorizes the provision of:

- Technical assistance to a new or existing microenterprise or to persons developing a microenterprise, and
- General support to owners of microenterprises or to persons developing a microenterprise

Note that under the subcategory of "general support," CDBG funds may be used to provide services of any kind that may be needed by the owner of or person developing a microenterprise to enable the establishment, stabilization, or expansion of the business. This could include, for example, childcare, transportation, counseling, and peer support programs. Any such services provided under this authority are not subject to the cap on public services regardless of the entity providing the service.

### **Relevant HUD-Issued Matrix Code**

<i>18C ED: Micro-Enterprise Assistance</i>
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## **Acquisition, Disposition, Clearance, and Relocation**

### ***Acquisition***

The statute and regulation authorize the use of CDBG funds by a grantee or a public or private nonprofit entity to acquire real property in whole or in part by purchase, long-term lease, donation or otherwise. In order to be considered acquisition, a permanent interest in the property must be obtained. Long-term leases constitute a permanent interest for this purpose if the lease is for a period of 15 years or more.

More specifically, CDBG funds may be used under this category by:

- The grantee,
- Any other public agency,
- A public nonprofit entity, or
- A private nonprofit entity to acquire real property for any public purpose. This authority is subject to the limitations which would preclude the acquisition cost attributable to a building to be used for the general conduct of government and which would preclude the acquisition of

property to be used for political activities.

Real property to be acquired may be:

- Land,
- Air rights,
- Easements,
- Water rights,
- Rights-of-way,
- Buildings and other real property improvements, or
- Other interests in the real property

Costs that may be paid for with CDBG funds under this category include the cost of surveys to identify the property to be acquired, appraisals, the preparation of legal documents, recordation fees, and other costs that are necessary to effect the acquisition.

**Relevant HUD-Issued Matrix Code**

*01 Acquisition of Real  
Property*

***Disposition***

Under this category, CDBG funds may be used to pay costs incidental to disposing of real property acquired with CDBG funds, including its disposition at less than fair market value, provided the property will be used to meet a national objective of the CDBG program.

The property may be disposed via the following methods:

- Sale,
- Lease,
- Donation, or
- Otherwise.

CDBG funds may also be used under this category to pay reasonable costs of temporarily managing such property, or property acquired with Urban Renewal funds, until final disposition of the property is made.

Disposition costs include preparation for legal documents, as well as fees paid for:

- Appraisals,
- Surveys,
- Marketing,

- Financial services, and
- Transfer taxes and other costs involved in the transfer of ownership of property

Care should be taken to avoid spending CDBG funds to manage properties for which there are no plans for disposition in the near future or where the market is such that it is not likely to be sold in the near future.

**Relevant HUD-Issued Matrix Code**

<i>02 Disposition of Real Property</i>
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***Clearance***

Under this category, CDBG funds may be used for:

- Demolition of buildings and improvements;
- Removal of demolition products e.g., rubble and other debris;
- Physical removal of environmental contaminants or treatment of such contaminants to render them harmless; and
- Movement of structures to other sites

**Relevant HUD-Issued Matrix Codes**

<i>04 Clearance and Demolition</i>	<i>04A Cleanup of Contaminated Sites</i>
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***Relocation***

CDBG funds may be used for relocation payments and assistance to persons who will be displaced, including:

- Individuals,
- Families,
- Businesses,
- Non-profit organizations, and
- Farms.

CDBG activities that involve displacement or relocation, temporary or permanent, or which involve the demolition or conversion of residential units occupied by low-income households must comply with the requirements of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (URA).



Under URA, grantees must minimize the displacement/relocation of persons. When relocation is needed, grantees must provide reasonable opportunity to lease and occupy a suitable, decent, safe, sanitary and affordable replacement dwelling. The grantee must also ensure that proper funds are available to comply with relocation regulations.

All households participating in any CDBG-funded program/project who may be eligible for relocation benefits must have their relocation rights explained.

### **Relevant HUD-Issued Matrix Code**

<i>08 Relocation</i>
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### ***Loss of Rental Income***

CDBG funds may be used to pay housing owners for the loss of rental income incurred in holding, for temporary periods, housing units to be used for the relocation of individuals and families displaced by CDBG-assisted activities.

The statutory requirements concerning displacement require certain replacement housing to be made available to those displaced. If the displaced household requires a type of housing unit that is scarce in that community, it may be necessary for the grantee to have an existing, available unit held open for the household for a short period until the displacement actually occurs.

### **Limitations of CDBG Funding**

**The following activities may not be assisted with CDBG funds:**

1. Buildings for the general conduct of government. This includes operating and maintenance expenses. Exceptions are operation and maintenance associated with public service activities, interim assistance, and CDBG program staff.
2. General government expenses except to carry out the CDBG program.
3. Political or religious activities.
4. Construction equipment.
5. Fire protection equipment unless part of a public facility.
6. Personal furnishing or property.
7. Food not related to direct service delivery to clients.
8. Furnishings that are not integral structural fixtures.
9. New housing construction except for land acquisition and other specific circumstances.
10. Income payments and other subsistence payments made to individuals or a family.

### ***Funding requests from faith-based organizations***

In 2004, HUD issued guidelines for ensuring equal treatment of faith-based organizations. Faith-based organizations are encouraged to apply for CDBG funds provided that the activities funds with CDBG comply with the guidance outline in HUD CPD Notice 04-10 of September 29, 2004.

Broadly, the notice provides the following rules:

Organizations may not use direct HUD funds to support inherently religious activities such as worship, religious instruction, or proselytization. Faith-based organizations may use HUD funds to support non-religious social services that are separate in time or location from their inherently religious activities.

Faith-based organizations, like all organizations implementing HUD-funded programs, must serve all eligible beneficiaries without regard to religion. Faith-based organizations may not require participants to attend or take part in any religious activities. Faith-based organizations may invite participants to religious activities that take place at a different time or location, but these participants must be reassured that their decision to participate or not will affect their ability to receive the services that are being providing with HUD funds.

Faith-based materials, supplies, literature may not be acquired with HUD funds.

Faith-based organization may use HUD funds to pay the salary to staff or members of a faith-based organization provided that the staff or members do not engage in religious activities while being paid with public dollars.

### ***Public Service Cap***

HUD regulations place a cap on the amount an entitlement agency may allocate towards Public Service programs. This means the City, as an entitlement agency, can only allocate that portion (15%) each year towards public services. All public services must be provided to low- or moderate-income residents of the City of New Braunfels.

## **Contract Agreements and Amendments**

Each subrecipient will enter into a legally binding Subrecipient Agreement with the City of New Braunfels. The contract will detail the grant term, funding amount, scope of work, performance measures and reporting requirements.

The Grantee or Subrecipient may amend this awarded Subrecipient Agreement at any time prior to August 1 provided that such amendments make specific reference to this Agreement, and are executed in writing, signed by a duly authorized representative of each organization, and approved by the Grantee's Authorized Official or authorized designee. Such amendments will not invalidate this Agreement, nor relieve or release the Grantee or Subrecipient from its obligations under this Agreement.

To implement a grant modification, the Subrecipients must submit a written request which identifies the reason(s) for the contract adjustment. The request must be specific as to the events that necessitate the change and must be specifically approved by CDBG Program Staff in writing. Modifications to extend the grant term of the executed agreement are considered on a case-by-case basis. Extension requests must be directly related to changes in program staff, services and/or events beyond the Subrecipient's control that have adversely affected the timeline in the contract

The Grantee may, in its discretion, amend this Agreement to conform with Federal, state or local governmental guidelines, policies and available funding amounts, or for other reasons. If such amendments result in a change in the funding, the scope of services, or schedule of the activities to be undertaken as part of this Agreement, such modifications will be incorporated only by written amendment signed by both Grantee and Subrecipient.

## **Fiscal Policies and Procedures**

Subrecipients of CDBG funds must ensure that they are in compliance with all applicable fiscal and administrative requirements issued by the City of New Braunfels and the federal government. These requirements are detailed in the following pages.

All agencies awarded CDBG funds must be in compliance with 2 CFR Part 200, Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards (Uniform Requirements) which superseded, consolidated, and streamlined requirement from OMB Circulars:

- OMB A-122: Office of Management and Budget Circular A-122 discusses the rules for cost principles. These are the rules that non-profit agencies using federal funds must abide by when purchasing goods or services;
- A-21, Cost principles for State, Local and Indian Tribal Governments;
- A-89, Catalog of Federal Domestic Assistance;
- A-102, Grants and Cooperative Agreements with State and Local Governments
- A-110, Uniform Administrative requirements for Grants and Other Agreements with Institutions of Higher Education, Hospitals or other Non-Profit Organizations;
- OMB A-133: Office of Management and Budget Circular A-133 discusses auditing rules for all agencies using federal funds. Effective December 31, 2003, the threshold for an A-133 audit was raised to \$500,000 in federal funding expenditures;
- 24 CFR Part 84 and 85: Code of Federal Regulations that govern non-profit agencies using federal funds;
- The guidance in OMB Circular A-50, Audit Follow-up, on Single Audit Act Follow-up, and;
- 24 CFR Part 570 – Code of Federal Regulations

## **Administrative Oversight**

### **Board of Directors' Responsibilities**

Upon execution of the awarded Subrecipient Agreement between the City and the Subrecipients, the Subrecipients will:

- Immediately report all changes in its articles of incorporation, bylaws, or tax- exempt status to CDBG Program Staff.
- Ensure no member of the Board of Directors is a paid employee, agent or subcontractor.
- Continue to include representation on the Board of Directors, the broadest possible cross-section of the community.
- Ensure all meetings of the Board of Directors are open to the public, except meetings, or portions thereof, dealing with personnel or litigation matters.
- Keep minutes of all regular and special meetings of the Board of Directors, have a regular meeting at least once a year, and upon request, forward copies to CDBG Program Staff.

Subrecipients Administrative/Program Staff responsibilities include:

- Ensure that all expenditures involving the use of federal funds are eligible under the federal and local requirements of the grant
- Approval of purchase orders and contracts to be reimbursed through HUD grant funds
- Receipt and approval of invoices
- Review and approval of requests for payments involving HUD grant funds are coded properly
- Ensure compliance with all HUD regulations, the awarded Subrecipient Agreement, and this document, the City's CDBG Grantee Policy, and
- Implement/Maintain an internal control system.

Subrecipients/entities Financer Officer Responsibilities include:

The finance officer or accountant is responsible for maintaining a computer accounting/bookkeeping system. The finance officer's or accountant's responsibilities include, but are not limited to:

- Control of accounting documents for processing by the subrecipients/entities
- Preparation of financial reports based on accounting records
- Preparation of requests for reimbursement, subject to review by the Subrecipient's/entity's Executive Director or authorized designee
- Execution and oversight of all financial procedures designed to avoid or eliminate waste, fraud, or abuse of grant funds.

Should the CDBG Program Staff determine that the Subrecipient's accountant is not maintaining proper financial records, or processing accurate information, CDBG Program Staff has the right to request that another representative of the Subrecipient assume responsibility for grant oversight.

Internal Controls

Agencies receiving CDBG funding will have:

- A Written Set of Policies and Procedures which define staff qualifications and duties, lines of authority, separation of functions, and access to assets and sensitive documents.
- Written Accounting Procedures, including procedures for approving and recording transactions and regular reconciliation of records to check for completeness and accuracy.

A good internal control system should include several basic features, regardless of the organization's size. These characteristics include:

- An organization plan that safeguards resources by segregating duties;
- A system of authorization and recording procedures that provides effective accounting control over assets, liabilities, revenues, and expenses;
- An established system of procedures followed by each organizational component in performing its duties and functions;
- Personnel capable of performing their responsibilities; and
- An effective system of internal reviews.

The internal control requirements provide for the separation of duties and the secure storage of accounting records in limited access areas. In maintaining these accounting records, a subrecipients/entities should also ensure that:

- Journal Entries are properly approved and explained/supported;
- Posting and trial balances are performed on a regular basis; and,
- Fidelity bond coverage is obtained for responsible officials of the organization.

## **Recordkeeping**

To ensure eligibility of costs, subrecipient files will include copies of:

- CDBG application,
- Awarded Subrecipient Agreement with the City,
- Amendment, if applicable,
- Procurement and bid information for all purchases,
- Contracts with vendors,
- Up to date budget, including copies of budget change requests,
- Expenditure and payment information including supporting documentation,
- Characteristics and location of clients served,
- Program status and progress reports,
- Audits,
- Monitoring reports, and
- Other relevant correspondence

## **Record Retention Policy**

For subrecipients, the record retention period begins from the annual date of submission of the

grantee's Consolidated Annual Performance and Evaluation Report (CAPER) in which the specific activity is reported on for the final time rather than from the date of submission of the final expenditure report for the award unless there is litigation, claims, audit, negotiation, or other actions involving the records, which has started before expiration of the four year period. In such cases, the records must be retained until completion of the action and resolution of all issues which arise from it or the end of the regular four-year period, whichever is longer.

The change to a four-year retention period in 1995 means the CDBG requirements are consistent with Consolidated Plan regulations, which require that grantees maintain information and records relating to the jurisdiction's Consolidated Plan and the use of funds under the programs by the Consolidated Plan, including CDBG, for a period of not less than five years.

Each subrecipient is required to maintain documentation on clients benefiting from activities and programs funded through the City's CDBG program. Information to be retained includes:

- Client name and address
- Gender
- Ethnicity/race
- Head of household status
- Income
- Application for assistance, if applicable
- Client Income Documentation or Certification Form or Documentation of Limited Clientele
- Documentation as to services provided
- Pre- and post-program evaluations, if applicable

#### Access to Records

The City, HUD, and the Comptroller General of the United States, or their authorized representatives, have the right to access subrecipient agency program records. All CDBG grantees are required to provide citizens with reasonable access to records regarding the currently funded programs and past, consistent with applicable State and local laws regarding privacy and confidentiality.

Information may be provided utilizing aggregate statistics. All clients may be lumped into categories, but no personal information may be released. For example, a report may state: 150 clients served this month, 60 Caucasian, 60 African American, 15 Native Americans, 15 Asian. Of those clients, 25 were female head of household, 30 were Veterans, 100 were very low-income, and 50 were moderate-income.

#### Accounting Records

Financial record keeping is one of the primary areas subject to HUD reviews and one which, if inadequate, can lead to serious problems and the possible recapture of funds. Accounting systems must provide reliable, complete, and up to date information about sources and uses of

funds.

These are the financial information and records that must be maintained by the agency:

- A computer accounting system that records the source of income and categorizes expenses for grant activities;
- Written accounting procedures, chart of accounts, written internal controls, administrative controls, accounting journals and ledgers;
- Payment requests and source documentation e.g., bills, receipts, copies or cancelled checks, etcetera;
- Comparison of actual checks written with budgeted amounts for each grant;
- Written procedures for determining what's reasonable and allowable under 2 CFR Part 200 for costs and activities;
- Procurement files e.g., bids, contracts, etcetera, and real property inventory;
- Bank account and payroll records; and
- Financial statements, correspondence and audit files.

Records pertaining to CDBG activities must be kept separately, keeping control over all grant funds, property/equipment, and other assets purchased with CDBG funds. A separate fund should be kept for all grant income and expenses.

#### Maintenance of Records

Subrecipients are required to have accounting records that adequately identify the source and application of CDBG funds provided to them. To meet this requirement, a Subrecipient's accounting system should include the following elements:

- **Chart of Accounts:** This is a list of names and the numbering system for the individual accounts that contains the basic information about particular classifications of financial transactions for the organization. A typical chart of accounts might have, for example, separate account categories for describing assets e.g., cash in a checking account, accounts receivable, pre-paid insurance, etcetera; liabilities e.g., loans, accounts payable, obligated funds, etcetera; revenue e.g., drawdowns from CDBG awards, cash contributions, proceeds from sales, other program income, etcetera; and expenses e.g., rent, wages, utilities, phones, etcetera.
- **A Cash Receipts Journal:** This journal documents, in chronological order, when funds were received, in what amounts, and from what sources. Every transaction is initially recorded in a journal. Therefore, a journal is called a record or book of original entry. Each entry in the journal states the names of the individual accounts to be debited and credited, the dollar amount of each debit and credit, the date of the transaction, and any other necessary explanation of the transaction. Information for a journal entry can come from a variety of sources, such as checks issued or received, invoices, cash register tapes, and time sheets.
- **Cash Disbursements Journal:** This journal documents the expenditures of the organization in chronological order e.g., when the expense was incurred, how much was spent, to whom it

was paid, and for what purpose.

- **Payroll Journal:** This journal documents the organization's expenses on salaries and benefits and distinguishes different categories for regulatory purposes.
- **General Ledger:** After a transaction is entered in a journal, that information also should be transferred to the proper accounts in the general ledger. The general ledger summarizes in chronological order the activity and financial status of all the accounts of an organization. The process of transferring transaction information from a journal to a ledger is known as "posting". The entries in the journal and ledger should be cross-indexed to permit the tracing of any recorded transaction i.e., an "audit trail".
- **Payroll Records:** The largest component of direct cost associated with most awards received by nonprofit organizations is labor. Personnel activity reports or equivalent documentation must meet certain standards. Reports must reflect an after the fact determination of the actual activity of each employee. Reports must be signed by the individual employee, and by a responsible supervisory official having firsthand knowledge of the activities performed by the employees. Further, the proposed distribution of activity should represent a reasonable estimate of the actual work performed by the employee during periods covered by the award.

Subrecipients are required to maintain payroll reports detailing gross salaries, all withholding and employer payments e.g., Medicare, Social Security, SSI or Workman's Compensation Insurance and health insurance. Non-profits are exempt from federal unemployment tax; however, they are liable for state unemployment reports.

Hours worked on the grant must be indicated on the report with proper documentation e.g., timecards and/or time to project logs are required. Employees must keep track of time spent working on CDBG-related activities during the workday. CDBG funds may only be used to reimburse eligible activities which benefit low- and moderate-income residents of the City of New Braunfels.

**Property Register:** To adhere to requirements outlined in the Revisions to 24 CFR Part 570 at subpart J, a listing of all property and/or equipment purchased with Federal grant funds in the amount of \$5,000 or more must be maintained. All use and proposed dispositions of grant-funded property is governed by the provisions under the revisions to 24 CFR Part 570 at subpart J.

## **Budgeting**

### Sources and Uses of Funds

For the CDBG program, these accounting records must contain reliable and up-to-date information about the sources and uses of funds, including:

- Federal grant awards received by the organization;
- Current authorizations and obligations of CDBG funds;
- Unobligated balances i.e., funds remaining available for distribution;
- Assets and liabilities;



- Program income; and
- Actual outlays or expenditures

### Budget Controls

All Subrecipients are required to submit a proposed program budget when making an application for funding. Once the application process has been completed, an up to date and accurate program budget must be created and submitted to the CDBG Program staff for approval and inclusion in the awarded Subrecipient Agreement.

Subrecipients must have procedures in place to monitor obligations and expenditures against their approved budget(s) for CDBG-funded activities. The City of New Braunfels is under no obligation to reimburse a subrecipient for expenditures which exceed approved budget line items or the overall budget for CDBG assisted activities. Therefore, the subrecipients need to have an ongoing system to compare actual receipts, encumbrances, and expenditures with the CDBG budget in order to ascertain in a timely fashion whether it will be necessary to initiate a formal budget revision.

### Budget Categories

Reimbursement will only be provided for allowable costs as approved by the City of New Braunfels and must be directly related to the Grant. Reimbursements should be submitted on a monthly basis and Subrecipients must use the Reimbursement Request Form provided by CDBG Program Staff. When reimbursement requests are submitted, they must include copies of receipts, check registers, payroll reports, and paid invoices. The City of New Braunfels will only reimburse the subrecipients for expenditures actually incurred.

There are typically 5 cost categories within a general budget:

### Non-Administrative Personnel Costs

- **Personnel:** Costs associated with the positions identified on the Staffing Plan and can only be those staff which work directly on the grant. Costs should reflect the actual amount of time each position spends on the program.
- **Fringe Benefits:** Eligible payroll-related costs of health insurance, retirement fund contributions, FICA, Worker's Compensation, and other payments made on the behalf of the employee.
- Support of staff to perform purely Administrative functions is not eligible e.g., time spent by Director for fundraising efforts.
- Federal funds cannot be used to pay for 100% of an Executive Director's salary. Subrecipients must ensure that this threshold is not exceeded when receiving funding from multiple sources.
- IRS employee rules must be applied before determining an employee's status or non-status. People who work for the agency are employees, people who provide training, consulting or are officers of the non-profit are not and cannot be employees of the agency. This is considered a conflict of interest. Employees must have all the pertinent federal deductions and taxes paid.

### Non-Administrative Office Costs

- **Utilities:** Costs associated with gas, electricity, water, and trash removal.
- **Rent:** Rental charges for real property; office space for program.
- **Communication:** Costs of telephone, telephone installation, leasing of phone equipment, and postage.

### General Non-Personnel Costs

- **Supplies:** Consumable commodities that have a useful life of one year or less and which are valued under \$500, except for computer equipment, which must be inventoried and accounted for separately.
- **Direct Client Services:** bus tickets, food, utilities, childcare, and other program costs paid on behalf of clients.
- **Printing:** Cost of copying and printing, whether done in-house or through an outside printer; supplies such as paper or fluids for copy machine owned or leased for program use.
- **Travel (local):** Costs for mileage reimbursement and conference expenses within Texas. Mileage reimbursement includes only travel by staff or volunteers for conducting the business of the subrecipients/entities. No personal mileage will be reimbursed. Mileage from home to work is also not an allowable expense.
- **Travel (other):** All travel and conference expenses to employees and volunteers for actual mileage. Out of state travel requires prior CDBG Program Staff approval.
- **Insurance:** Insurance-related costs required for the operation of the program.
- **Contracted Services:** Professional and technical services not performed by staff.
- **Food/snacks:** Eligible only for clients and must be an integral part of the program such as after school snacks for children or lunch for pre-school.

No costs which may be considered as entertainment in nature will be reimbursed with CDBG funds. Awards ceremonies, banquets, holiday events, trophies, plaques, amusement park field trips, etcetera are not an allowable expense. Subrecipients may contact the CDBG Program Staff for further guidance on this issue prior to planning or expending CDBG funds.

### Capital Assets/Equipment/Computers

- **Equipment Rental:** Costs for the rental of equipment, which is essential for the operation of the program.
- **Equipment Purchase:** Purchase of equipment essential for the operation of the program in those instances where it is more cost effective to purchase equipment rather than rent it. Includes any item with a useful life of more than one year and a cost greater than \$500.

### Improvement/Acquisition Costs

- Expenses associated with rehabilitation and/or acquisition of a facility or property.

## Budget Revisions

Modifications to approved budget line items are allowable but must be directly related to changes in program services and activities and may not increase the budget total. Budget amendments may not be submitted after July 31 unless otherwise approved by Grantee in writing.

To implement a budget modification, the Subrecipients must submit a written request, which identifies the reasons for the adjustment. The request must be specific as to which line items are to be increased and which are to be reduced and must be specifically approved by the City in writing as a change to the awarded Subrecipient Agreement between the City and the Subrecipients.

The City has the authority to grant or deny requests for budget revisions. All approved budget revisions require approval as per the established Amendment process. Budget revision documents must be executed by both the City and the Subrecipient.

## **Allowable Costs**

The standards for determining the reasonableness, allow ability, and allocability of costs incurred as part of CDBG-financed activities are found in 2 CFR Part 200 (in part, formerly OMB Circular A-122) for non-profits Subrecipients/entities. According to basic guidelines, a cost is allowable under the CDBG program if it meets all other regulations and the expenditure is necessary, reasonable, and directly related to the grant.

This standard applies equally to such items as salaries and administrative services contracts, as well as to real property and equipment purchases or leases, travel, and other administrative expenditures. In determining the reasonableness of a given cost, consideration will be given to:

- Whether the cost is of a type generally recognized as ordinary and necessary for the operation of the organization in the performance of the award;
- Whether the individuals concerned acted with prudence in the circumstances, considering their responsibilities to the organization, its members, employees and clients, the public at large, and the Government; and
- Significant deviations from the established practices of the organization which may unjustifiably increase the award costs.

The expenditure should be authorized by the City, generally through approval of the budget for the activity, and must not be prohibited under Federal, state or local laws or regulations. CDBG is a reimbursement grant, meaning that agencies spend the funds and then request to be reimbursed by the City. It is very important that if there are any questions as to eligibility of an expense then agencies must contact the City's CDBG Program Staff. If the expense is not allowed, the agency will have to pay for it from another funding source.

The cost allocable to a particular CDBG program should be in proportion to the relative benefits

received by that objective. This means that:

- If an office is utilized by two programs during the same hours, the costs of the office should be allocated between the two programs equally.
- The same expense cannot be claimed against more than one grant.
- In addition, a cost originally allocable to a particular federal grant program cannot be shifted to another federal grant program in order to overcome funding deficiencies, to avoid restrictions imposed by grant or by law, or for other reasons.

## **Audits**

The awarded Subrecipient Agreement with the City may be subject to a 2 CFR Part 200 Audit, a CPA Audited Financial Statement or a Certified Financial Statement (CFA), depending on expenditures.

The Office of Management and Budget requires that grant recipients who expend \$750,000 or more in federal funds in one fiscal year conduct a Single Audit per 2 CFR Part 200. Subrecipients are responsible for ensuring that their auditors conduct the proper type of audit. Not all Certified Public Accountants (CPA's) are qualified to perform a Federal audit.

Any agency that expends between \$200,000 and \$749,999 in federal funds will be required to have a CPA-Audited Financial Statement. The funds expended may be from one or multiple federal sources. If allowable by program regulations, the City may only pay for the portion of the audit, which represents the percentage of City federal funds in the program budget.

Subrecipients who do not qualify for 2 CFR Part 200 or Audited Financial Statement must submit a Certified Annual Financial Statement (CFA). This is the lowest audit criteria and will only be accepted from those non-profits who can document that they did not qualify for 2 CFR Part 200 or a CPA audited financial statement. The Treasurer and the Board President must sign a statement certifying the CFA. The statement should read as follows:

*We, the undersigned, as Executive Director and Treasurer of (Name of Agency), hereby certify that, to the best of our understanding and knowledge, the attached Financial Statements fairly and accurately represent the financial condition and operations of this organization.*

### **Audit Due Date**

Audits have different due dates depending on the type the agency qualifies to conduct:

- Certified Annual Financial Statements are due three (3) months after the end of the fiscal year;
- CPA conducted audits are due six (6) months after the end of the fiscal year, and
- 2 CFR Part 200 Audits are due nine (9) months after the end of the fiscal year.

All Subrecipients who fall under the requirements of 2 CFR Part 200 Auditing rules must submit a full and complete copy of such audits to the City's Finance Department. It is the responsibility

of the Subrecipients to ensure that audits are completed in a proper and timely manner.

Failure to submit copies of the Audit will render the subrecipients/entities as non-compliant. This means that no funds may be drawn until the City of New Braunfels' Finance Department has received and reviewed the copy of the audit.

### City Internal Audit Reviews

The City reserves the right to have its Finance Department review all Subrecipients records and transactions. Audit findings resulting in monetary repayment to the City will be collected by the City from the Subrecipient's non-federally funded resources.

Progress on the compliance is also monitored. Failure to rectify findings within the given time frame may result in suspension, termination of the awarded Subrecipient Agreement, and/or disbarment from future grant funding.

### Source Documentation

The general standard is that all accounting records must be supported by source documentation. This is necessary to show that the costs charged against CDBG funds were incurred during the effective period of the awarded Subrecipient Agreement with the City, were actually paid out, were expended on allowable items, and had been approved by the responsible officials in the subrecipients/entities organization.

The source documentation must explain the basis of the costs incurred, as well as show the actual dates and amount of expenditures. For example:

- For staff time charged to the CDBG program activity, time and attendance records should be available. If an employee's time is split between CDBG and another funding source, there must be time distribution records supporting the award of charges among the sources. Canceled checks from the employees, payroll service provider, etcetera, or evidence of direct deposits will document the actual outlay of funds.
- Rental or lease agreements, and bills from the respective companies must support space and utilities costs. Both types of expenses will be supported by canceled checks. If the cost is split between CDBG and other sources, there must be a reasonable method in place to allocate the charges equitably among the sources.
- Supplies should be supported by purchase orders or requisition forms initiated by an authorized representative of the subrecipients, an invoice from the vendor which has been signed off by the subrecipients to indicate the goods have been received, the canceled check to the vendor demonstrating payment was made, and information regarding where the supplies are stored and for what cost objectives they are being used.

All source documentation does not have to be located in the CDBG project files, but it must be readily available for review by the City, HUD or other authorized representatives at all times.

By accepting CDBG funds, all of the Subrecipient's organization records are open for review. Subrecipients must develop and maintain a central filing system. This will ensure that audits and monitoring visits go smoothly, and documentation is readily accessible.

In the simplest terms, financial transactions involve writing checks, and receiving reimbursement for eligible activities. Every grant related financial transaction must be recorded immediately in the accounting system.

Source documents, such as invoices or timecards, should provide all details of each transaction or activity. The information contained in the source documents is necessary for accounting purposes and should be recorded in the computer accounting/accounts payable system. The source documents must be readily accessible during monitoring visits.

A variety of source documents and records are needed to properly account for grant transactions. These documents include but are not limited to the following:

- **Invoices:** All Subrecipients are required to retain original invoices or sales receipts for all purchases. If any original document for an expense cannot be located during a monitoring visit, the amount may be deducted from the next reimbursement request or may be required to be repaid.
- **Timesheets:** All Subrecipients will maintain concise documentation for both the time worked and tasks undertaken. The employee and his/her immediate supervisor must sign employee timesheets.
- **Service Contracts:** All grant-funded service contracts e.g., accounting, leases, janitorial, etcetera, must be a written agreement between the Subrecipients and the firm/individual.

## **Program Income**

Interest earned on federal grant funds must be reported to the City on a monthly basis as Program Income and must be used in the operation of the specific grant program.

Organizations providing services funded through a City of New Braunfels' CDBG grant may charge fees to clients to reduce the costs of service delivery. Such fees, or any other earnings generated using CDBG funds, are considered to be program income (PI). PI includes, but is not limited to, fees charged for services, proceeds from the sale of tangible personal or real property, usage or rental fees, and patent or copyright royalties.

Program income must be recorded separately and returned to the City for disposition. Upon approval by the City, income from the Project may be retained by Subrecipients provided that written notification is given to the Finance Department and that the income is to be used for the exclusive benefit of the Program. Such income will be subject to guidelines for use of such income in accordance with HUD regulations.

All PI must be reported. A total amount under \$100 may be reported quarterly rather than in the month in which it is collected.

Donations are defined as free will offerings to an organization not related to receiving a service or benefit. Donations are not PI and do not have to be reported. PI does not reduce the size of the organization's CDBG grant if the PI is spent on eligible items. However, any PI not spent will result in a reduction in the amount of funds reimbursed. Housing development agencies which use CDBG funds for administration only, do not report funds received from the construction of affordable housing units as PI.

### **Reimbursement Requests**

CDBG Program Staff will review each request for reimbursement submitted by the Subrecipient. Questionable or ineligible expenses will be identified and the Subrecipient will be requested to submit clarifications, corrections, or additional information. If a request for payment is reviewed and found to have errors or missing documentation, the invoice will be returned to the Subrecipients with instructions for re-submittal. Requests for payment will not be made until all documentation and information has been satisfactorily provided to CDBG Program Staff, including any outstanding reports or other requests for information. For example, final reimbursement requests for rehabilitation and minor home repair projects must include a complete Scope of Work that has been reviewed and approved by CDBG Program Staff, signed by the homeowner prior to the initiation of the work, and then signed by the homeowner again upon completion of the work to acknowledge acceptance of all work performed.

Housing and Public Facilities subrecipients may submit a reimbursement request as projects are completed or as progress payments are required. Examples of progress payments for City-approved projects include program delivery costs such as the purchase and payment of non-refundable/custom materials, progress payments to licensed subcontractors, and salary and fringe benefits for staff carrying out the activity e.g., staff contractors performing repairs. No additional reimbursement requests will be paid by the City for a rehabilitation project after it has been completed; therefore, Subrecipient must ensure that all work is completed and approved by the homeowner prior to submitting a final reimbursement request.

A Request for Payment must include:

- Coversheet
- Reimbursement Request Form
- Supporting Documentation e.g., timesheets, cancelled checks, evidence of direct deposit, invoices, proof of payment for purchased items, etcetera

**IMPORTANT:** The amount charged to CDBG must be clearly notated on supporting documentation. **Personnel time charged to CDBG must be based on actual time worked.**

Subrecipients must review the request documentation and amounts prior to submission. The City

cannot reimburse for taxes, or items or services paid for prior to the beginning of the contract, or after the end of the program year.

### Spending Requirements

CDBG funds must be spent in a timely manner. Unless an alternative spending plan has been approved in writing, funds must be expended during the program year of the grant award. Unspent funds cannot be carried forward and are forfeited. Sales tax will not be reimbursed.

### Backup Documentation Required for Reimbursement Requests

CDBG funds are paid to subrecipients on a reimbursement basis. Therefore, it is extremely important that subrecipients verify the eligibility of an expense prior to expending funds. Accuracy of submittals is important as errors slow down the process.

When at all possible, subrecipients are strongly encouraged to not use cash as a form of payment for expenditures as it is difficult to form an accurate audit trail with cash payments. When submitting a large reimbursement request that includes non-CDBG expenses, subrecipients must specifically notate the CDBG amount(s) that are to be reimbursed by the City.

For the City to reimburse subrecipients, detailed documentation must be submitted to show who, what, when, and how the invoice was paid. Only copies of paid invoices which must be marked paid will be accepted. A quote or order form will not be accepted. In addition to the paid invoice, proof of payment must be kept onsite at Subrecipient's office. For invoices paid by credit card, submit a copy of the statement showing the invoice was paid.

To streamline the CDBG Program Staff's review of the documentation, subrecipients are encouraged to highlight the amount paid on the receipt, and the reimbursable portion. When charging a percentage, the percentage of participants who are low-income residents of the City of New Braunfels must be documented. To do this, subrecipients must provide a copy of the client roster, with their addresses and highlight the city residents. This permits verification of the percentage.

Copies submitted to CDBG Program Staff must be legible; the original versions of the receipts must remain within the Subrecipient's files at their office. Receipts cannot be dated prior to the execution date of the awarded Subrecipient Agreement or after the end of the program year.

If requesting payroll reimbursement, copies of timesheets and evidence of payment must be submitted.

### Mileage and Travel

Per the IRS/GSA allowances found at <https://www.gsa.gov/travel/plan-book/per-diem-rates>, the CDBG program will reimburse those reasonable mileage and travel costs that are necessary to carry out the services identified in the awarded Subrecipient Agreement with the City. Mileage



and travel expenses not necessary for the program, or of a personal nature, are not eligible for reimbursement.

Volunteers authorized by the program to be reimbursed for mileage relating to services for the program must provide proof of automobile insurance, copies of which must be kept at the Subrecipient's office.

- **Mileage:** Subrecipients must submit written mileage records identifying the driver of the vehicle, the number of miles driven on each day, and the purpose of the trip. Subrecipients must certify the accuracy of the information reported. Travel to and from work is not an eligible expense for mileage reimbursement.
- **Travel:** Reimbursable costs include conferences, lodging, food, and other non-mileage costs. The City's policy requires that all travel costs be kept to a minimum. Supporting documentation must be provided with all requests for travel reimbursement.
  - **Local Travel:** Defined as travel within Texas.
  - **Out-of-State Travel:** Approval for out-of-state travel must be requested in writing from the CDBG Program Staff at least 10 working days prior to the trip. CDBG Program Staff will review the request and provide a response within five (5) working days.

#### Telephone Expenses

The CDBG program will reimburse only those reasonable costs for local and non-local telephone calls necessary to carry out the services identified in the awarded Subrecipient Agreement with the City. Actual costs of phone calls and the monthly cost of supporting the phone system are eligible for reimbursement. Such expenses include equipment rental or lease and monthly service charges. All international calls must be documented with a description of the purpose of the call and its relationship to program activities. The City will not reimburse personal calls.

**Exceptions:** Personal phone calls are not reimbursable. In addition, calls made for the purpose of raising funds are not eligible for reimbursement.

**Pro-rating of Expenses:** If the program receives funding from several sources, only those telephone expenses solely related to the that portion of the activity which is funded out of the Subrecipient's CDBG grant are reimbursable. All such costs must be specifically identified to the City's satisfaction.

Additionally, if the amount of the Subrecipient's CDBG grant is less than the program total budget, phone costs are reimbursable at a percentage equal to the level of CDBG funding as compared to total program funding.

#### **Purchasing and Contracting**

A price or cost analysis must be made in connection with every procurement action in accordance with Purchasing Limits provided below. Price analysis involves comparing the bottom-line price quoted, with typical prices paid for the same or similar materials or services. Cost analysis means

that Subrecipients will make all efforts to obtain the best price with the best service. Typically, a minimum of three bids, quotes, or estimates, is required. Cost analysis is not required for sole source contracts; however, Subrecipient must have detailed justification of necessity for non-competitive, sole source procurement within Subrecipient's files for the associated purchase.

**Subrecipients must meet with CDBG Program Staff to schedule pre-bid and preconstruction meetings and to discuss the compliance process.** Contacting, informing, and including CDBG Program Staff from the beginning of the project ensures compliance with all rules and a smoother contract management process.

#### Purchasing Limits, as defined by 2 CFR 200.320

- **\$0 to \$4,999 (“micro-purchases”):** To the extent practicable, Subrecipient's staff must distribute micro-purchases equitably among qualified suppliers. Micro-purchases may be awarded without soliciting competitive quotations unless required by the Subrecipient's procurement policies.
- **\$5,000 to \$149,999:** Requires 3 competitive quotations submitted with the requisition for the item. One must be from a certified MBE or WBE, if available.
- **\$150,000 and over:** Written specifications are necessary and require a competitive bidding process using a formal solicitation process such as the release of a “Request for Proposal” or “Competitive Bid.” Competitive bidding **must** be publicly advertised for at least 10 business days.

Single/Sole Source Procurement i.e., noncompetitive process is the solicitation of goods and services from only one source. This process is rare and is acceptable only when the competitive process is not possible. Extensive documentation and justification for the single/sole source purchase is required to establish the audit trail.

The agency may make the determination that competition is not feasible if one of the following circumstances exists:

- The item is unique and available only from a sole source e.g., directly from the manufacturer of an item.
- There is a public urgency or emergency that exists that will not permit a delay resulting from a competitive solicitation.
- If repeated attempts to obtain competitive quotes/bids has resulted in only one responding vendor. Subrecipients must include a summary of their competitive attempts in their justification for a non-competitive purchase.

#### Subcontracts

Should a Subrecipient find it necessary to subcontract in order to meet its obligations under its awarded Subrecipient Agreement with the City, it must enter into a written agreement with those individuals or organizations providing services.

All subcontracts require review and approval by the City and must be submitted at least 10 business days prior to an effective date. CDBG Program Staff will typically respond to the request for approval within 7 working days. Subcontracts must be approved by the City prior to contract execution by any of the parties.

#### Provisions Required in Subcontracts

- Name, address, phone number and social security number of Subcontractor.
- A termination clause requiring twenty days' notice by which either party may terminate the agreement.
- A City un-involvement clause releasing the City from any liability for any breach of the subcontract by either party.
- A scope of services.
- The total dollar amount of the subcontract.
- A termination date no later than the end of the current CDBG program year.
- A clause requiring the contractor to comply with conditions of federal funding as required in 2 CFR Part 200. Subrecipient may request this information from Grantee if needed.
- An independent contractor clause stating that the subcontractor is an independent contractor or employee of the Subrecipients/entities. Subcontractor is not an agent or employee of the City, and as such waives any claims to any rights or benefits which accrue to employees of the City.
- Signature of person authorized by Subrecipient/entity's Board of Directors to execute agreements.
- Signature of person authorized by subcontractor to execute agreements.

#### Required Subcontract Documentation

The Subrecipients/entities must maintain the following documentation in its files:

- Summary of bids and proposals received.
- Justification for any non-competitive procurement of contract services and reasons for the selection of the subcontractor.
- Justification for the selection of other than the lowest bidder in a competitive procurement.
- Section 3 compliance documentation, if required.

#### Types of Subcontracts

- Bookkeepers and auditors.
- Contractual personnel services i.e., those not on the Subrecipients/entity's payroll.
- Office equipment rental and space rental.
- Rental of vehicle e.g., van, bus, etcetera to be used on a regular basis for carrying clients of the Subrecipients/entities.

### Codes of Conduct

The recipient must maintain written standards of conduct governing the performance of its employees engaged in the award and administration of contracts.

No employee, officer, or agent will participate in the selection, award, or administration of a contract supported by Federal Funds if a real or apparent conflict of interest would be involved. Such a conflict would arise when the employee, officer, or agent, any immediate family, his or her partner, or an organization which employs or is about to employ any of the parties indicated herein, has a financial or other interest in the firm selected for an award. The officers, employees, and agents of the recipient must neither solicit nor accept gratuities, favors, or anything of monetary value from contractors, or parties to sub agreements. However, recipients may set standards for situations in which the financial interest is not substantial, or the gift is an unsolicited item of nominal value. The standards of conduct must provide for disciplinary actions to be applied for violations of such standards by officers, employees, or agents of the recipient.

### Equipment Procurement

Equipment is defined as tangible property costing more than \$500 and having a useful life of more than one year. Items which cost less than \$500 and which have a useful life of less than one year are considered to be supplies, except for computer equipment, which must be inventoried and accounted for.

Under HUD regulations, the purchase of equipment, fixtures, or furnishings that are not an integral structural fixture is ineligible except when necessary for use by the City or a Subrecipients in the administration of the overall City CDBG grant or as part of the administration of a public service program. The City does not allow for purchase of vehicles with CDBG funds, unless explicitly approved in writing beforehand.

### Notification Requirements

All purchases of equipment require prior CDBG Program Staff approval. Requests to purchase equipment are to be sent to the CDBG Program Staff at least 45 days prior to the purchase order date. Exceptions may be granted on a case by case basis. The request is to include the cost of the item, where it will be purchased, a detailed explanation of why it should be bought rather than leased or rented, and where the funds for the purchase will come from. If City CDBG funds will only be paying a portion of the purchase, list other funding sources and the respective amounts. CDBG Program Staff will typically review the request and issue a decision within 10 working days. Rationale for a negative decision will be included in the response.

### Reversion to City/HUD

Under HUD regulations, the City/HUD has the option to obtain the equipment from the program when funding stops for the program. The review of the type of equipment to be purchased will include mention of its possible usefulness to the City. The City may also permit the Subrecipients

to retain the equipment at the time the funding ends. All other personal property, supplies and equipment purchased pursuant to the awarded Subrecipient Agreement and not consumed may become property of the City/HUD.

### Inventory Instructions

1. Agency: Name of Agency receiving grant.
2. Description: A brief description of the item of property.
3. Manufacturer's Serial Number: Provide the manufacturer's serial number for all items.
4. Title or Owner: Name of Agency on property's title.
5. Acquisition Date: Date of Purchase.
6. Percentage of Federal Participation: Portion paid by CDBG funds.
7. Cost: Supply the actual purchase price.
8. Disposal Date: Date sold or disposed of.

## **Program Policies and Procedures**

### **Reporting**

Subrecipients are required to submit monthly reports as described in each contract. Subrecipients must report monthly the number of clients served, including their incomes, race/ethnicity, and status of head of household.

Data must be unduplicated i.e., a client receiving a particular service from a Subrecipient three times during the program year must appear only once on a monthly report, and that client should not appear again on any following monthly reports during the program year.

If subrecipients have not fully expended their grant funds by September 30<sup>th</sup>, and the Subrecipient provides assistance in the new grant year to a client who was assisted in the previous program year, then that client should be notated as a new client on the associated monthly report.

Monthly reports are due no later than the 10<sup>th</sup> of the month even if a request for payment has not been submitted.

The monthly status report explains the progress the program has made in relation to the goals and performance indicators outlined in the awarded Subrecipient Agreement's Scope of Work/Services. The monthly report must be submitted on the form provided by CDBG Program Staff, unless approved in writing, in advance. No other format will be accepted. Failure to submit monthly reports may result in delayed reimbursements.

### Program Client Demographics: Race, Ethnicity and Annual Household Income

- Data must be recorded for all unduplicated clients i.e., beneficiaries obtaining services in the program.

- Total client count for each of the Ethnicity, Race, and Annual Household Income categories must be the same as each other as per the following example:

Categories	Persons or Households Assisted												
Ethnicity:	Oct	Nov	Dec	Jan	Feb	Mar	April	May	June	July	Aug	Sept	TOTAL
Hispanic/Latino													0
Non-Hispanic/Latino													0
													TOTAL 0
Race:	Oct	Nov	Dec	Jan	Feb	Mar	April	May	June	July	Aug	Sept	TOTAL
White													0
Black/African American													0
Asian													0
American Indian/Alaskan Native													0
Native Hawaiian/Other Pacific Islander													0
American Indian/Alaskan Native and White													0
American Indian/Alaskan Native and Black/African American													0
Asian and White													0
Asian and Black/African American													0
Black/African American and White													0
Other Multi-Racial													0
													TOTAL 0
Annual Household Income, per current HUD-issued Income Limits													
	Oct	Nov	Dec	Jan	Feb	Mar	April	May	June	July	Aug	Sept	TOTAL
Extremely Low													0
Very Low													0
Low													0
Over 80%													0
													TOTAL 0

- HUD has implemented a reporting system that requests client information for one ethnicity option and 11 options for race. It is very important to note that HUD **does not** consider Hispanic to be a separate race category. Therefore, a client may identify as Hispanic **and** White, Hispanic **and** Asian, Hispanic **and** Asian **and** Black/African American, etcetera.
  - During the client intake process, some clients may state that they are a particular Ethnicity but choose to not select a Race also. In such a situation, HUD has advised that the Subrecipient's staff person performing the intake process should notate the race that they believe to be most likely for the client.

The Annual Household Income for unduplicated clients served is reported in one of three categories: Extremely Low (EL), Very Low (VL), and Low (L). Income Guidelines are updated by HUD annually. CDBG Program Staff monitors HUD communications so that they may provide the most current information to Subrecipients and update the City's website; Subrecipients/entities are responsible for ensuring that the most current information is utilized.

All monthly reporting information must be checked by the Subrecipient for accuracy. Timeliness and accuracy of monthly reports are considerations when Subrecipients apply for additional funding in future program years.

## Closeout Reports

Programmatic close-out will consist of, but will not be limited to, the following:

- Review and verification of annual client statistical and narrative report due 15 days after the end of the program year. Submitting the final monthly report with year-to-date client totals, along with a program narrative, will be sufficient.
- Review of subrecipients/entities record keeping system, including, but not limited to:
  - Activity documentation
  - Personnel files
  - Inventory control files
- Evaluation of activity and program accomplishment

Financial close-out will consist of, but will not be limited to the following:

- Review and verification of information submitted in the final drawdown request.
- Review of subrecipients/entities record keeping system:
  - Accounting records and ledgers
  - Source documentation e.g., invoices, timecards, canceled checks, etcetera
  - Budget documentation e.g., modifications, etcetera
  - Equipment purchases
- Evaluation of activity financial accomplishment

## **Demonstrating Client Eligibility**

For a project or program to be eligible to receive Community Development Block Grant (CDBG) funds, at least 51% of the participants or recipients must have income that is less than 80% of median income.

- **Low-Income Household:** Household with a total income equal to, or less than, the Section 8 low-income limit (80%) established by HUD; adjusted for number of persons in the household.
- **Very Low-Income Household:** Household with a total income equal to, or less than, the Section 8 very low-income limit (50%) established by HUD; adjusted for number of persons in the household.
- **Extremely Low-Income Household:** Household with a total income that is 30 percent or less of the area median income; adjusted for number of persons in the household.

Income Guidelines are updated by HUD annually. CDBG Program Staff monitors HUD communications so that they may provide the most current information to Subrecipients and update the City's website; Subrecipients/entities are responsible for ensuring that the most current information is utilized.

Clients/Beneficiaries must demonstrate to the Subrecipients that they meet the income

requirements through 3<sup>rd</sup> party documentation whenever possible e.g., paystubs, benefit letters, etcetera.

Housing assistance clients must have 3<sup>rd</sup> party verifications of household income. However, for Public Services activities, a client may sign a certification regarding their household income level when 3<sup>rd</sup> party verification is not available. An “Income Self Certification Form” is included in the packet with the reporting forms.

### **SAMPLE COMMUNICATION TO CLIENTS**

#### ***Client Certification of Income and Household Size***

*The program under which you are receiving assistance utilizes City of New Braunfels’ Community Development Block Grant HUD funds. In accordance with the federal regulations governing the use of these funds, please supply the information requested below. This information is confidential and only for use by the public agencies providing this funding.*

- *Client name and address*
- *Gender*
- *Ethnicity/race*
- *Head of household status*
- *Income of all Household members*
- *Household Size*

*Additionally, all applicants must sign to certify the following:*

### **SAMPLE CLIENT CERTIFICATION**

*I/We certify that the information given on household composition and income is accurate and complete to the best of my/our knowledge and belief. I/We understand that false statements or information are punishable under Federal law. I/We also understand that false statements or information are grounds for termination of assistance. I hereby certify that my household size and income are as stated above. I consent to verification of this information by the service provider, the City of New Braunfels, or other governmental officials as required.*

#### **Client Documentation and Records**

Each Subrecipient is required to maintain documentation on clients benefiting from activities and programs funded through the City’s CDBG program. As a condition of receiving the HUD grant, the City, and in turn the Subrecipients, must certify that low- and moderate-income persons are being served. HUD also requires information on the race and ethnic background of the clients, the number of heads of households who are female, clients’ residency in the City, and how many are very low-income. CDBG Program Staff and HUD must have access to the names and addresses of the clients upon request.

Any information regarding applicants for services funded through federal monies must be held in



strict confidence.

To provide confidentiality, Subrecipients may use a Client Identifier number on reports to the City. The Subrecipient must keep a list of the identifier numbers and be able to link those numbers with actual client files when monitored.

#### Required Documentation

All Subrecipients/entities must obtain and maintain at their local offices, the following information on each client served:

- Client name and address;
- Gender;
- Ethnicity/race;
- Head of household status; and
- Income

#### Exceptions to Maintaining Required Income Documentation

Income documentation is not required for the populations that HUD has determined to be Limited Clientele whom are receiving assistance from the Public Services category. However, the CDBG Program Staff requires that clients complete a Self-Certification form which is kept in the client file.

Limited Clientele includes:

- Disabled, according to the Bureau of Census's definition
- Homeless
- Elderly, age 62 or older
- Abused Children
- Victims of Domestic Violence
- Mentally Ill
- Illiterate Adults
- Migrant Farm Workers
- Person living with AIDS

#### File Organization and Maintenance

Subrecipients/entities should structure their project/program files and other records to comply with the general requirements as discussed in this manual. In setting up a program or client file, the following may be helpful:

Program file should contain:

- Original executed copy of the awarded Subrecipient Agreement with the City

- Any amendments to the application and awarded Subrecipient Agreement
- Correspondence relating to the grant award
- Copies of Requests for Reimbursement
- Any other information pertinent to the CDBG Grant
- Program measurable goals and expectations

Client files should contain:

- An application for assistance, if applicable
- Client Income Documentation or Certification Form
- Documentation as to services provided to the client and any outcomes of service, for example, if a client is referred to another agency for services, a follow up contact is required to document the services the client received
- Copies of any program requirements
- Pre- and post-program evaluations, if applicable

Subrecipients must adhere to HUD's legal requirement as contained in 24 CFR Part 570 Subpart J. HUD-funded records must be retained for four years after the submission of the CAPER for that program year or for five years after the completion of the program, in order to allow access for audit and public examination. If audit findings are not resolved, the records must be retained beyond the five years. The retention period starts when the annual or final expenditure report has been submitted or, for non-expendable property, from the date of final disposition.

### **Conflict of Interest**

Conflicts of interest arise when officials or staff may benefit, either directly or indirectly through business partners or relatives, from the awarding or contracting of grant funds. All of those who are involved with CDBG funding, including the City, CDAC, and Subrecipients, are encouraged to avoid conflicts of interest to the greatest extent possible as serious issues may arise for all parties if a conflict of interest issue is overlooked or undisclosed. When conflicts of interest arise, CDBG Program Staff will identify, disclose, and manage them in compliance with Super Circular 2 CFR Part 200.112 Conflict of Interest, and 24 CFR Part 570.611 Conflict of Interest for CDBG.

In the procurement of supplies, equipment, construction, and services by the City and by Subrecipients, the conflict of interest provisions in 2 CFR 200.318 will apply. In all cases not governed by 2 CFR 200.318, this policy will be followed. Such cases include the acquisition and disposition of real property and the provision of assistance by the City or by its Subrecipients to individuals, businesses, and other private entities under eligible activities that authorize such assistance e.g., rehabilitation, preservation, and other improvements of private properties or facilities pursuant to §570.202; or grants, loans, and other assistance to businesses, individuals, and other private entities pursuant to §570.203, 570.204, 570.455, or 570.703(i).

### **CDBG Program Staff and the CDAC**

- CDBG Program Staff and CDAC members directly involved with CDBG will review the conflict of interest policy and sign a disclosure form.
- CDBG Program Staff will notify the City's Chief Financial Officer (CFO) and City Attorney's Office (CAO) for their consideration of any potential conflict of interest exemption requests.
- All CDBG agreements to subrecipients/entities will include a Conflict of Interest statement which includes at a minimum the following:
  - Require that the subrecipients/entities have a conflict of interest statement that meets the federal regulation and,
  - Require that the subrecipients/entities documents the dissemination of the policy to covered persons.

### Conflicts Prohibited, Exemptions Must be Approved by HUD

No persons described under "Persons Covered" who exercise or have exercised or have exercised any functions or responsibilities with respect to activities assisted with CDBG funds or who are in a position to participate in a decision-making process or gain inside information with regard to these activities may obtain a financial interest or financial benefit from a CDBG-funded activity, or have a financial interest in any contract, subcontract, or agreement with respect to the CDBG-funded activity, or the proceeds from such activity, either for themselves or those with whom they have business or immediate family ties, during their tenure or for one year thereafter.

Persons Covered include person who is an:

- employee,
- agent,
- consultant,
- officer,
- elected official, and/or
- appointed official of the City, or of any designated public agencies, or subrecipients which are receiving CDBG funds.

### Exemption Requests

1. If there are income requirements, after it is determined that the applicant is income qualified, persons/agencies seeking CDBG funds will disclose in writing any potential conflict of interest to City staff working directly with the client. Exemption requests will be submitted to CDBG Program Staff and include proof that the Board, if applicable, approved the exemption.

At a minimum, the request will include the following:

- Person's name, position, phone number and address;
- Details of the nature of the conflict of interest e.g., perceived, apparent, or actual; Date of the notification e.g., when the agency was notified of the conflict; and
- Requested action to address the conflict of interest e.g., recusal, exemption request,

etcetera.

2. HUD approval is required.
3. City staff will confirm what the nature of the conflict is and if an exception should be pursued. Nature of the conflict is the relationship to the Persons Covered.

The City considers the following factors when determining if an exemption should be pursued:

- Has the person fulfilled the program requirements?
- HUD granting the exception will serve to further the purposes of the Act and the effective and efficient administration of the recipient's program or project, taking into account the cumulative effect of the following factors, as applicable:
  - Does the exception provide a significant cost benefit or an essential degree of expertise to the program or project that would otherwise not be available;
  - Whether an opportunity was provided for open competitive bidding or negotiation;
  - Is the person a member of a group or class of low- or moderate-income persons intended to be beneficiaries of the assisted activity, and the exception will permit such person to receive generally the same interests or benefits as are being made available or provided to the group or class;
  - Whether the affected person has withdrawn from his or her functions or responsibilities, or the decision-making process with respect to the specific assisted activity in question;
  - When was the benefit available? Was it available before or after the person took the position that created a conflict?
  - Does avoiding the prohibited conflict cause undue hardship; and
  - Any other relevant considerations.
- 4. CDBG Program Staff will provide adequate information to the City's Legal Attorney to prepare an opinion. This opinion will state that the interest for which the exception is sought would not violate State or local law.

#### Public Notification

CDBG Program Staff will ensure the conflict is publicly disclosed. All disclosures will be documented in the Conflict of Interest general file and the project/activity file.

- Examples of acceptable public notifications are as follows:
  - Post on display boards within City Hall
  - Post on the City's website
- Include the following in the public notification:
  - Employee
  - Statement of the nature of the conflict
  - Project information

#### Approval

Conflict exception requests to HUD will include the following when submitted:

- Statement of the nature of the conflict
- Proof of public disclosure of the conflict
- The City Legal opinion that discloses that an exception would not violate State or local law

CDBG Program Staff will ensure all backup documentation and exception determination is placed in the Conflict of Interest file and the project/activity file.

### **Religious Activities**

In accordance with the First Amendment to the United States Constitution regarding the separation of Church/State Principles, CDBG assistance may not be used for religious activities or provided to primarily religious entities for any activities, including secular activities. Subrecipients may not use CDBG funds for the acquisition of property or the construction or rehabilitation of structures to be used for religious purposes or which will otherwise promote religious interests.

However, CDBG funds may be used to rehabilitate buildings owned by primarily religious entities if the primarily religious entity agrees to provide all eligible activities under this program in a manner that is free from religious influences and to be used for a wholly secular purpose under certain conditions, as cited at 24 CFR 570.200(J)(1)(2)(3).

- **Likely Eligible:** A church hosts a weekly soup kitchen in their auditorium. No other activities are hosted in the auditorium. While the building as a whole is a religious institution and volunteers are often members of the congregation, there are no religious requirements or activities surrounding the soup kitchen, and no other activities take place in the auditorium. CDBG funds could thus be used to improve aspects of the auditorium, such as making the entrance of the auditorium handicap accessible.
- **Likely Ineligible:** A church runs a homeless shelter which requires residents to pray daily. This religiously affiliated homeless shelter would not be eligible for CDBG improvements.

### **Political Activities**

Subrecipients must not use CDBG funds to finance the use of facilities or equipment for political purposes or to engage in other partisan political activities, such as sponsoring candidate forums, distributing brochures, voter transportation, or voter registration.

However, a facility originally assisted with CDBG funds may be used on an incidental basis to host meetings, candidate forums, or voter registration, provided that all parties and organizations have access to the facility on an equal basis and are assessed equal rent or use charges, if any.

### **Hatch Act**

The Hatch Act, Chapter 15, Title 5 U.S. Code (Public Law 76-252), as amended, prohibits local Community Development Program officials or other personnel employed by a Community Development Program from undertaking certain political activities or from using Community Development funds for political activities. In addition, personnel covered under this Act may not be a candidate for elected office unless candidacies are nonpartisan.

The Hatch Act applies to employees of Subrecipients only if the statute through which the organization derives its federal funding contains a provision, which states that recipient organizations will be deemed to be state or local government agencies for the purposes of the Hatch Act.

### **Anti-Lobbying**

Section 319 of Public Law 101-121, of the Department of the Interior Appropriations Act, prohibits subrecipients/entities from using appropriated Federal funds for lobbying the Executive or Legislative Branches of the Federal Government in connection with a specific contract, grant, or loan. Further, the law requires that no Federal appropriated funds have been paid or will be paid, by or on behalf of subrecipients/entities to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

### **Program Income**

Program income must be recorded separately and returned to the City of New Braunfels for disposition. Upon approval by CDBG Program Staff, income from the Project may be retained by Subrecipients provided that written notification is given by CDBG Program Staff and that the income is to be used for the exclusive benefit of the Program.

Such income will be subject to guidelines for use of such income in accordance with HUD regulations.

Program income, as defined in 24 CFR 570.500, includes, but is not limited to, the following:

- Proceeds from the disposition by sale or long-term lease of real property purchased or improved with CDBG funds;
- Proceeds from the disposition of equipment purchased with CDBG funds;
- Gross income from the use or rental of real or personal property acquired by subrecipients/entities with CDBG funds, less costs incidental to generation of the income;
- Gross income from the use or rental of real property, owned by subrecipients/entities, that was constructed or improved with CDBG funds, less costs incidental to generation of the income;
- Payments of principal and interest on loans made using CDBG funds, except as provided in 24

CFR 570.500(a)(3); and

- Interest earned on program income pending its disposition.

### **Anti-Discrimination Policies**

CDBG Subrecipients are prohibited from discriminating on the basis of:

- Race
- Color
- Religion
- National Origin
- Disability Status, including prior alcohol and illegal substance addictions
- Familial status
- Ethnicity
- Gender
- Gender Identity
- Language(s) Spoken
- Literacy
- Sexual Orientation
- Veteran Status

Discrimination is prohibited in delivery of services, program administration, and any enforcement mechanisms.

No person in the United States will on the ground of race, color, national origin, or any of the other items listed above, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving federal funding and/or assistance.

Assistance includes:

- Grants and loans of Federal funds,
- The grant or donation of Federal property and interests in property,
- The detail of Federal personnel,
- The sale and lease of, and the permission to use, on other than a casual or transient basis, Federal property or any interest in such property without consideration or at a nominal consideration, or at a consideration which is reduced for the purpose of assisting the recipient, or in recognition of the public interest to be served by such sale or lease to the recipient, and
- Any Federal agreement, arrangement, or other contract which has as one of its purposes the provision of assistance.

Furthermore, a Subrecipient must be in compliance with the following Federal laws and Executive Orders, and implementing regulations:

- **Section 109 of Title I of the Housing and Community Development Act of 1974**, as

amended (42 U.S.C. 5301 et. seq., particularly 42 U.S.C. 6101 et. seq., and 29 U.S.C. 794): This law mandates that no person will, on the grounds of race, color, national origin, sex, or religion, be excluded from participation, denied the benefits of, or otherwise be subject to discrimination under any activity funded in whole or part with CDBG funds.

- **Title VI of the Civil Rights Act of 1964** (Public Law 88-352 implemented in 24 CFR Part 1): This law states that no person will, on the grounds of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance.
- **Fair Housing Act, Title VIII of the Civil Rights Act of 1968** (Public Law 90-234): The Fair Housing Act prohibits discrimination in housing practices on the basis of race, color, religion, sex, and national origin. The Fair Housing Act was amended in 1988 to provide protections from discrimination in any aspect of the sale or rental of housing for families with children and persons with disabilities. The Fair Housing Act also establishes requirements for the design and construction of new rental or for-sale multi-family housing to ensure a minimum level of accessibility for persons with disabilities.
- **Executive Order 11063, as amended by Executive Order 12259** (implemented in 24 CFR Part 107): This order and its implementing regulations require HUD to take all actions necessary to prevent discrimination because of race, color, religion, sex, or national origin in the use, occupancy, sale, leasing, rental, or other disposition of residential property assisted with Federal loans, advances, grants, or contributions.
- **The Age Discrimination Act of 1975**, as amended: This law provides that no person will be excluded from participation, denied program benefits, or subjected to discrimination on the basis of age under any program or activity receiving Federal assistance.
- **Section 504 of the Rehabilitation Act of 1973**, as amended (implemented at 24 CFR Part 135): This section specifies that no otherwise qualified individual will solely by reason of his or her handicap be excluded from participation, including employment, denied program benefits, or subjected to discrimination under any program or activity receiving Federal assistance. Part 8 requires that recipients ensure that their programs are accessible to and usable by persons with disabilities. Part 8 also prohibits recipients from employment discrimination based upon disability.

### **Access for Persons with Disabilities**

Subrecipients will comply fully with any and all provisions of the Americans with Disabilities Act (ADA) of 1990. This law prohibits discrimination on the basis of disability in employment by state and local governments and in places of public accommodation and commercial facilities.

The ADA also requires that facilities that are newly constructed or altered, by, on behalf of, or for use of a public entity, be designed and constructed in a manner that makes the facility readily accessible to and usable by persons with disabilities.

The Act defines the range of conditions that qualify as disabilities and the reasonable



accommodations that must be made to assure equality of opportunity, full participation, independent living, and economic self-sufficiency for persons with disabilities.

#### Section 504 Non-Discrimination based on Handicap in Programs Funded by HUD

Subrecipients/entities must comply with Section 504 of the Rehabilitation Act of 1974, which prohibits discrimination based on handicap in:

- Information,
- Participation,
- Services,
- Housing,
- Employment,
- Building accessibility or
- Any other aspects of a program funded by HUD

Individuals with Disabilities include:

- Mobility impaired;
- Hearing impaired;
- Visually impaired;
- Developmentally disabled; and
- Persons who remain in-home or institutionalized care settings

#### General Requirements

No qualified individual with disabilities will, solely on the basis of disability, be excluded from participation in, be denied the benefits of, or otherwise be subjected to discrimination under any program funded by HUD, including CDBG.

Subrecipients may not deny the opportunity, provide less of an opportunity or otherwise limit qualified individuals with disabilities from participating in or receiving services and benefits. This includes participating as a member of the planning or advisory boards or occupying a housing unit provided by the agency.

#### Communications

Appropriate auxiliary aids must be provided where necessary or reasonably requested e.g., telecommunication devices for deaf persons, for applicants, clients, and employees of the agency. This does not include wheelchairs, hearing aids, or other devices of a personal nature.

Procedures must be in place to ensure that individuals with disabilities can obtain information on services and their location. This may include the provision of printed materials in Braille, large type, cassette, or disk.

Subrecipients must provide proper notification e.g., in brochures and general printed information to applicants, clients, and employees of the agency, including those with impaired vision or hearing, that the agency does not discriminate based on disability.

The above notifications should include a telecommunications device number for deaf persons (TDD).

### Employment

Subrecipients must not discriminate in their hiring practices against qualified individuals with disabilities. Discrimination in employment also applies to promotions, tenure, transfers, terminations, rates of pay, job assignments, leaves of absences, sick leave, fringe benefits, and any other terms of employment.

Subrecipients must make reasonable accommodations to the known physical or mental limitations of an otherwise qualified applicant or employee with disabilities. This may include the provision of equipment or devices, job relocation, job restructuring, or facilities modifications.

### Building and Program Accessibility

Subrecipients/entities must comply with the following requirements:

- **New Construction:** Non-housing facilities will be designed and constructed to be readily accessible to individuals with disabilities in conformance with the City of New Braunfels' Building Code.
- **Rehab or Alterations:** Rehabilitation of non-housing facilities must be made to be readily accessible to individuals with disabilities in conformance with the City of New Braunfels' Building Code. Rehab does not include re-roofing, interior decorations, or changes to mechanical systems. However, rehab must not be performed in such a manner that it reduces accessibility.
- **Existing Non-Housing Facilities:** An agency must locate and operate each program receiving HUD assistance so the program, when viewed in its entirety, is readily accessible to and usable by individuals with disabilities. An agency may achieve accessibility through methods such as the following:
  - Location of programs or services to accessible facilities or accessible portions of facilities
  - Assignment of aides to assist beneficiaries
  - Home visits
  - The addition or redesign of equipment or furnishings
  - Acquisition or construction of additional facilities
  - Rehab or alterations to facilities on a selective basis

### Additional Requirements Applicable Only to Housing Projects

- New housing projects must be designed and constructed to be readily accessible to and usable

by individuals with disabilities in conformance with the City of New Braunfels' Building Code.

- Renovation to housing projects must, to the maximum extent feasible, be made to be readily accessible and usable by individuals with disabilities in conformance with the City of New Braunfels' Building Code. Once five percent (5%) of the dwelling units are readily accessible, additional units do not need to be accessible, but are encouraged.

### Accessibility Self-Evaluation

Each Subrecipient must conduct a review and self-evaluation of its programs, policies procedures, communications, employment practices, facilities, and other aspect of its programs to determine compliance with regulations concerning accessibility and non- discrimination on the basis of disability.

Furthermore, any practices or policies that do not meet accessibility requirements must be modified by the Subrecipients to achieve accessibility, and any discrimination revealed by the self-evaluation must be corrected.

All Subrecipients must:

- Maintain the results of the above self-evaluation on file and make it available for three years.
- Designate an employee to coordinate compliance with HUD disability regulations.
- Adopt grievance procedures for people with disabilities.
- Provide proper notices that the agency does not discriminate based on disability.

### **Environmental Standards**

According to the National Environmental Policy Act (40 CFR 1500-1508) and Part 58, the Subrecipient is required to ensure that environmental information is available before decisions are made and before actions are taken. In order to achieve this objective, Part 58 prohibits the commitment or expenditure of CDBG funds until CDBG Program Staff has completed the environmental review process.

Subrecipients may not spend either public or private funds (CDBG, other Federal or non- Federal funds), or execute a legally binding agreement for property acquisition, rehabilitation, conversion, repair or construction pertaining to a specific site until environmental clearance has been achieved.

Grantees must avoid any and all actions that would preclude the selection of alternative choices before a final decision is made, that decision being based upon an understanding of the environmental consequences and actions that can protect, restore and enhance the human environment i.e., the natural, physical, social, and economic environment.

Activities that have physical impacts or which limit the choice of alternatives cannot be undertaken, even with the grantee or other project participant's own funds, prior to obtaining environmental

clearance.

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

- Execution of a legally binding agreement such as a property purchase or construction contract;
- Expenditure of CDBG funds;
- Use of non-CDBG funds on actions that would have an adverse impact e.g., demolition, dredging, filling, excavating; and
- Use of non-CDBG funds on actions that would be “choice limiting” e.g., acquisition of real property; leasing property; rehabilitation, demolition, construction of buildings or structures; relocating buildings or structures, conversion of land or buildings/structures.

It is acceptable for grantees to execute non-legally binding agreements prior to completion of the environmental review process. A non-legally binding agreement contains stipulations that ensure the project participant does not have a legal claim to any amount of CDBG funds to be used for the specific project or site until the environmental review process is satisfactorily completed.

### Exemptions

Certain activities which by their nature are unlikely to have any direct impact on the environment may be exempt from the procedural requirements of environmental review. If a project is determined to be exempt, CDBG Program Staff is required to document the conditions for exemption in writing. Listed below are examples of activities which may be exempt from environmental review.

- Public service activities that will not have a physical impact or result in any physical changes;
- Information and financial services;
- Engineering and design costs;
- Environmental and other studies;
- Inspections and testing of properties for hazards or defects;
- Purchase of tools or insurance;
- Technical assistance or training.

### National Flood Insurance Program

Subrecipients must comply with the Flood Disaster Protection Act of 1973, and the regulations in 44 CFR Parts 59 through 79. The 1973 Act made the purchase of flood insurance mandatory for the protection of property located in Special Flood Hazard Areas.

If a community has had notice for more than a year that an area has been identified by the Federal Emergency Management Agency (FEMA) as having special flood hazards, CDBG funds cannot be spent for acquisition or construction purposes in the area unless the community is participating in the National Flood Insurance Program and such insurance has been purchased for the properties in question.

There is also a statutory prohibition against providing Federal assistance to a person who had previously received Federal flood disaster assistance conditioned on obtaining and maintaining flood insurance and the person failed to obtain and maintain such insurance. (24 CFR 58.6(b)).

### **Equal Employment Opportunity**

Subrecipients must comply with Executive Order 11246, which provides for Equal Employment Opportunity. The Executive Order prohibits federal contractors and federally assisted construction contractors and subcontractors, who do over \$10,000 in Government business in one year from discriminating in employment decisions on the basis of race, color, religion, sex, or national origin. It also requires Government contractors to take affirmative action to ensure that equal opportunity is provided in all aspects of their employment.

Section 3 of the Housing and Urban Development Act of 1968 with implementing regulations at 24 CFR Part 75, also applies to employment and contracting opportunities. Section 3 requires that Subrecipients of CDBG funds, to the greatest extent feasible, provide job training, employment, and contracting opportunities for low- or very low-income residents in connection with projects and activities in their neighborhoods.

### **Use of Debarred, Suspended, or Ineligible Contractors/Vendors**

No Contract will be made to parties excluded from receiving Federal contracts, certain subcontracts, and certain types of Federal financial and non-Financial assistance and benefits. Exclusions are also referred to as suspensions and debarments. Subrecipients may use the following link to determine if parties e.g., subcontractors are excluded: <https://sam.gov/content/exclusions>.

Subrecipients/entities must procure goods and services in accordance with Executive Orders 12549 and 12689, "Debarment and Suspension," as set forth at 24 CFR part 24.

### **Limited English Proficiency Access**

Subrecipients must ensure meaningful access to their programs and activities by persons who do not speak English as their primary language and who have limited ability to speak, read, write, or understand English, pursuant to Executive Order 13166. This Executive Order mandates that the federal government reduce language barriers to Limited English Proficiency (LEP) persons with regard to accessing federal benefits.

In certain situations, failure to ensure persons who have Limited English Proficiency have access to CDBG programs or services may violate Title VI's prohibition against national origin discrimination.

If **25% or more** of a CDBG Activity's service clientele has limited English proficiency and speaks

a non-English language, the CDBG Activity must provide key documents translated in that population's language.

If **50% or more** of a CDBG Activity's service clientele has limited English proficiency and speaks a non-English language, the CDBG Activity must make every attempt to provide assistance to a person in their designated language, either through translation services or by employing staff who speak the language.

If CDBG funds are provided for counseling, mental health services, medical services, and/or case management, these services **MUST** be provided in the client's native language, regardless of the size of the population the provider serves.

### **Drug Free Workplace**

The subrecipients/entities agrees that it will comply with the provisions of the Drug-Free Workplace Act of 1988, 24 CFR Part 21, by taking the following steps:

- Publish and give a policy statement to all covered employees informing them that the unlawful manufacture, distribution, dispensation, possession or use of a controlled substance is prohibited in the covered workplace and specifying the actions that will be taken against employees who violate the policy.
- Establish a drug-free awareness program to make employees aware of **a)** the dangers of drug abuse in the workplace; **b)** the policy of maintaining a drug-free workplace; **c)** any available drug counseling, rehabilitation, and employee assistance programs; and **d)** penalties that may be imposed upon employees for drug abuse violations.
- Notify employees that as a condition of employment on a Federal contract or grant, the employee must **a)** abide by the terms of the policy statement; and **b)** notify the employer, within five calendar days, if the employee is convicted of a criminal drug violation in the workplace.
- Notify the contracting or granting agency within 10 days after receiving notice that a covered employee has been convicted of a criminal drug violation in the workplace.
- Impose a penalty on or require satisfactory participation in a drug abuse assistance or rehabilitation program by any employee who is convicted of a reportable workplace drug conviction.
- Make an ongoing, good faith effort to maintain a drug-free workplace by meeting the requirements of the Act.

A contractor or grantee who fails to comply with these requirements is subject to certain penalties.

### **Insurance Requirements**

Subrecipients, at their sole cost and expense, for the full term of their awarded Subrecipient Agreement and any extensions thereof, must obtain and maintain at minimum compliance with all of the following insurance coverage(s) and requirements.

Such insurance coverage will be the primary coverage. Any insurance or self-insurance maintained by the City of New Braunfels must be in excess of the Subrecipient's insurance coverage and must not contribute to it. The City of New Braunfels must be listed as an additional insured.

If the Subrecipient utilizes one or more subcontractors in the performance of their awarded Subrecipient Agreement, the Subrecipient must obtain and maintain independent insurance as to each subcontractor or otherwise provide evidence of insurance coverage for each subcontractor equivalent to that required of the Subrecipient.

#### Types of Insurance and Minimum Limits

POLICY TYPES		AMOUNTS
1.	Workers Compensation Employers' Liability	Statutory \$1,000,000/\$1,000,000/\$1,000,000
2.	Commercial General (Public) Liability insurance to include the coverage for the following: a. Premises Operations *b. Independent Contractors c. Products/Completed d. Personal Injury e. Contractual Liability *f. Explosion, Collapse, Underground g. Broad form property damage to include fire legal liability	For Bodily Injury and Property Damage of \$1,000,000 per occurrence: \$2,000,000 General Aggregate or its equivalent in Umbrella or Excess Liability Coverage
3.	Crime Coverage Theft, Employee Dishonesty	
4.	Liquor Legal Liability	
5.	Business Automobile Liability a. Owned/Leased Vehicles b. Non-Owned Vehicles c. Hired Vehicles	Combined Single Limit for Bodily Injury and Property Damage of \$1,000,000 per occurrence
6.	Professional Liability	
*7.	Builder's Risk	
*8.	Environmental Impact Liability	
* If Applicable as determined by the City's Risk Manager		

#### Other Insurance Provisions

If any insurance coverage required is provided on a "Claims Made" rather than "Occurrence" form, the Subrecipients/entities agrees to maintain the required coverage for a period of three (3) years after the expiration of their awarded Subrecipient Agreement and any extensions

thereof.

### Endorsements

All required Automobile and Comprehensive or Commercial General Liability Insurance must be endorsed to contain the following clause, with the exception that Endorsement (ii), providing for 30-day notices, is the only endorsement required to be made a part of the Worker's Compensation and Employers' Liability policy coverage.

- (1) "The City of New Braunfels, its employees, officers, agents and volunteers are hereby added as additional insureds, but only as respects work done by, for, or on behalf of the named insured under Agreement with the City of New Braunfels."
- (2) "Thirty (30) days prior written notice must be given to the City of New Braunfels in the event of cancellation, reduction in coverage, or non-renewal of this policy for whatever reason."

### Proof of Coverage

A Subrecipients will provide its insurance broker(s) with a full copy of these insurance provisions and provide the City of New Braunfels on or before the effective date of their awarded Subrecipient Agreement with Certificate of Insurance for all required coverage.

Copies of all the required Endorsements listed above must be attached to the Certificate(s) of Insurance or other evidence of insurance acceptable to the City of New Braunfels, which must be provided by Subrecipient's insurance company as evidence of the stipulated coverage.

### **Rights to Inventions Made Under a Contract or Agreement**

Contracts or agreements for the performance of experimental, developmental, or research work must provide for the rights of the Federal Government and the recipient in any resulting invention in accordance with 37 CFR part 401, "Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements," and any implementing regulations issued by HUD.

### **Clean Air Act and the Federal Water Pollution Control Act**

Subrecipients/entities and their contractors/vendors must comply with the Clean Air Act (42 U.S.C. 7401 et seq.) and the Federal Water Pollution Control Act as amended (33 U.S.C. 1251 et seq.). Violations must be reported to HUD and the Regional Office of the Environmental Protection Agency (EPA).

### **Policies and Procedures for Construction/Improvements/Acquisition**

**Construction Timeline:** Subrecipients must undertake their CDBG activity in accordance with the following schedule/milestones.

#### Pre-Bid and Bid



- Attend Pre-Bid Meeting with CDBG Program Staff to:
  - Review City procurement policy and bid solicitation process
  - Review Davis-Bacon requirements
  - Review Environmental Review requirements/process
  - Receive technical assistance
    - When required by procurement rules, Solicitation of Bids and Advertisement, Advertisement must be placed at least 10 days prior to acceptance of bids. Advertising for two weeks is highly recommended.
    - When required by procurement rules, determine lowest responsible bidder.
    - Conduct reference check.
    - Confirm and obtain Bond and Insurance documentation.
    - Submit documentation of bid process to City.

#### Preconstruction

- Conduct a preconstruction meeting with Contractor to:
  - Review compliance monitoring process and requirements
  - Review requisition process
  - Finalize construction schedule

CDBG Program Staff may attend meeting to support Subrecipient and Contractor with any information regarding requirements for CDBG-funded project.

#### Construction

- Reimbursement requests with required documentation submitted to CDBG Program Staff. Request must include documentation and a detailed description of work completed.
- If applicable, Davis-Bacon payrolls are to be submitted weekly to the CDBG Program Staff.
- Compliance site visits may be conducted randomly by City staff.

#### Project Completion

- Schedule final project inspection with the CDBG Program Staff and other City staff, as applicable.
- Submit final reimbursement.
- Final reimbursement must include a report on the project with appropriate photographs showing the work has been completed satisfactorily.

#### **Labor Standards and Davis Bacon**

Section 110(a) of the Housing and Community Development Act requires the applicability of the Davis Bacon Act in CDBG-funded construction projects in excess of \$2,000 or in residential projects if the building has 8 or more units (CDBG) and 12 or more (HOME).

The Davis-Bacon Act, as amended (40 U.S.C. 276a--276a-5), states that all laborers and mechanics employed by contractors or subcontractors in the performance of federally-funded construction work must be paid wages at rates not less than those prevailing on similar construction in the locality.

Prevailing wage rates are found at the Wage Determinations portion of the beta System for Award Management (SAM): <https://beta.sam.gov/search?index=wd>

A guide for contractors on Davis Bacon can be found online at:  
<https://www.hudexchange.info/resource/2541/making-davis-bacon-work-contractors-guide-prevailing-wage-requirements/>

Even if the largest part of funding for the project is not CDBG, Davis-Bacon still applies if the total cost of the construction project exceeds \$2000.

Subrecipients and their contractors must also comply with the **Contract Work Hours and Safety Standards Act**. Section 102 of the Act requires that certain contracts contain a clause specifying that no laborer or mechanic doing any part of the work contemplated by the contract will be required or permitted to work more than 40 hours in any work week unless paid for all such overtime hours at not less than 1 1/2 times the basic rate of pay. Section 107 of the Act requires that no laborer or mechanic will be required to work in surroundings or under working conditions which are unsanitary, hazardous or dangerous.

#### Copeland "Anti-Kickback" Act (18 U.S.C. 874 and 40 U.S.C. 276c)

All contracts and subgrants in excess of \$2,000 for construction or repair must include a provision for compliance with the Copeland "Anti-Kickback" Act (18 U.S.C. 874), as supplemented by Department of Labor regulations (29 CFR part 3, "Contractors and Subcontractors on Public Building or Public Work Financed in Whole or in Part by Loans or Grants from the United States"). The Act provides that each contractor or subrecipients/entities will be prohibited from inducing, by any means, any person employed in the construction, completion, or repair of public work, to give up any part of the compensation to which he is otherwise entitled. In addition, all contractors and subcontractors must maintain and submit weekly certified payroll records including certification of compliance with the Act. The recipient must report all suspected or reported violations to HUD.

#### **Displacement, Relocation, Acquisition, and Replacement of Housing**

Subrecipients must assure that they have taken all reasonable steps to minimize the displacement of persons e.g., families, individuals, businesses, non-profit organizations, and farms, as a result of CDBG activities pursuant to Part 570.606.

Relocation of displaced persons must be provided in conformance with Section 104D of the Housing and Community Development Act and the Uniform Relocation Assistance and Real Property Acquisition Act of 1970 as amended (URA).

When contemplating any project or program, Subrecipients/entities must:

- Gather complete information identifying all tenants and owners who might be affected.
- Immediately notify CDBG Program Staff if any action under the Subrecipient's grant might result in an owner or tenant, business or residential, moving either temporarily or permanently.
- Immediately inform any tenant or owner that they are entitled to information and counseling and they should not move unless specifically required to do so and until they have received formal notices. Inform them that moving before that has occurred may cause them to give up rights.

Generally, a displaced person under the URA is an individual, family, partnership, association, corporation, or organization which moves from their home, business, or farm or moves their personal property, as a direct result of acquisition, demolition, or rehabilitation for a federally-funded project.

Under URA, CDBG projects are held to BOTH:

- Relocation Assistance for Displaced Persons/Businesses/Occupants, AND
- Replacement of any Housing Units lost as a result of project

Some steps that will be required in the event of acquisitions or displacement include:

- For Real Property Voluntary Acquisition
  - Prior to making an offer for the property, the Subrecipient must clearly advise the owner that it is unable to acquire the property if negotiations fail to result in an agreement; and
  - Inform the owner in writing of what it believes to be the market value of the property.
- For Real Property Involuntary Acquisition, under use of eminent domain
  - Appraise property before negotiations, if possible;
  - Provide the owner with a written offer of just compensation and a summary of what is being acquired;
  - Pay for property before possession; and
  - Reimburse expenses resulting from the transfer of title such as recording fees, prepaid real estate taxes, or other expenses.
- For Residential Displacements
  - Provide relocation advisory services to displaced tenants and owner occupants;
  - Provide a minimum 90 days written notice to vacate prior to requiring possession;
  - Reimburse for moving expenses; and
  - Provide payments for the added cost of renting or purchasing comparable replacement housing.
- For Nonresidential Displacements e.g., Businesses, Farms, and Nonprofit Organizations
  - Provide relocation advisory services.
  - Provide a minimum 90 days written notice to vacate prior to requiring possession.

- Reimburse for moving and reestablishment expenses.

#### Acquisition of Vacant Property

The City of New Braunfels may determine that an appraisal is unnecessary if the valuation problem is uncomplicated and the anticipated value of the proposed acquisition is estimated at \$10,000 or less, based on a review of available data. If this is the case, subrecipients/entities must prepare a waiver valuation.

If personal property is stored on vacant land that is to be acquired, the owner qualifies for payment of his or her actual moving and related expenses. Actual direct loss of tangible personal property incurred by the acquisition must result in the payment of the fair market value of the item or a substitute item that performs a comparable function.

#### Replacement of Affordable Housing

In general, when federal funds are used to eliminate any unit of affordable housing through demolition or downsizing, another affordable unit must be created.

- A unit does not need to be replaced if it is a substandard unit not suitable for rehabilitation that has been vacant for over a year.
- Subrecipients/entities **MUST** replace a vacant occupiable dwelling unit, defined as follows:
  - A dwelling unit in standard condition, regardless of how long it has been vacant;
  - A vacant unit in substandard condition that is suitable for rehabilitation, regardless of how long it has been vacant; or
  - A dilapidated unit, not suitable for rehabilitation which has been occupied, except by squatters, within one year prior to the date of agreement.

#### **Lead-Based Paint**

For all structures constructed prior to 1978, Subrecipients must abide by all applicable local, state, and federal regulations and codes governing lead-based paint hazards. Where regulations differ, Subrecipients/entities are held to the stricter of the standards.

For federal lead regulations, Subrecipients are subject to Lead-Based Paint Poisoning Prevention Act (42 U.S.C. 4821-4846), the Residential Lead-Based Paint Hazard Reduction Act of 1992 (42 U.S.C. 4851-4856), and 24 CFR Part 35, prohibiting the use of lead-based paint in residential structures; AND requiring notification of hazards of lead-based paint poisoning; AND requiring elimination of lead-based paint hazards.

At a minimum, a Subrecipient is required to:

- Notify a purchaser or lessee of the presence of any known lead-based paint and/or lead-based paint hazards;
- Paint test surfaces to be disturbed or removed during rehabilitation for the presence of lead-based paint, or presume lead-based paint and notify the occupants of the results within 15

days of when the evaluation report is received, or the presumption is made;

- Provide occupant(s) in the aforementioned dwelling units with the EPA-approved lead hazard information pamphlet, “Protect Your Family from Lead in Your Home,” or another EPA-approved equivalent;
- Reduce lead hazards as required by the applicable subparts of Part 35 as described in the table below; and
- Perform clearance testing, including dust testing, before re-occupancy after all but minimal (“de minimis”) amounts of paint disturbances.

Level of Assistance in Property	Hazard Reduction Requirements	Summary of Requirements
Assistance of less than 5,000 per unit; some exceptions	Exempt	<p>Typically, the following are exempt from the Hazard Reduction Requirements; not necessarily notice and other requirements:</p> <ul style="list-style-type: none"> <li>• Assistance is Less than 5,000 a Unit</li> <li>• Unit was Built Prior to 1978</li> <li>• Single Room Occupancy Unit</li> <li>• Deed Restricted Elderly Housing</li> <li>• Lead-Free Building</li> <li>• No Disruption of a Painted Service</li> </ul>
Assistance of more than \$5,000 per unit up to and including \$25,000 per unit	Interim controls	<p><b>Interim controls</b> mean a set of measures designed to reduce temporarily human exposure or likely exposure to lead-based paint hazards.</p> <p>This approach provides assurances that lead-based paint, if present, is stable and the unit is “lead safe”. Clearance is conducted for the entire unit; however, it does prevent the reappearance of lead-based paint hazards. On-going maintenance is required.</p> <p>Interim controls include, but are not limited to, repairs, painting, temporary containment, specialized cleaning, clearance, ongoing lead-based paint maintenance activities, and the establishment and operation of management and resident education programs.</p>

Assistance of more than \$25,000 per unit	Abatement of lead-based paint hazards	<p><b>Abatement</b> means any set of measures designed to permanently eliminate lead-based paint or lead-based paint hazards in the entire structure, not just the areas where work is being done.</p> <p>Once work is completed, a passing Lead-Free Certificate must be realized for the exterior, common spaces, and all assisted units.</p> <p>Abatement includes: The removal of lead-based paint and dust-lead hazards, the permanent enclosure or encapsulation of lead-based paint, the replacement of components or fixtures painted with lead-based paint, and the removal or permanent covering of soil-lead hazards; and all preparation, cleanup, disposal, and post-abatement clearance testing activities associated with such measures.</p>
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## **Monitoring**

Subrecipients must adhere to HUD's recordkeeping requirements as contained in 24 CFR Part 570 Subpart J. HUD-funded records must be retained for four years after the submission of the program year CAPER or five years after the completion of the program, in order to allow access for audit and public examination. If audit findings are not resolved, the records must be retained beyond the five years.

### **Monitoring Reviews**

CDBG Program Staff are responsible for monitoring Subrecipients to ensure they comply with all regulations and requirements governing their administrative, financial, and programmatic operations. This includes assuring that performance goals are achieved within the scheduled time frame, budget, and when necessary, taking appropriate actions when performance problems arise. Monitoring is not a "one-time-event", but rather will occur through visits, review of monthly reports, and ongoing contract supervision.

### **Monitoring Visits**

The five basic steps to the formal monitoring visit include:

- **Notification Call or Letter:** Explains the purpose of the visit, confirms date, scope of monitoring and outlines the information that will be needed to conduct the review.
- **Entrance Conference:** Introduces monitoring visit purpose, scope and schedule.
- **Documentation and Data Gathering:** CDBG Program Staff will review and collect data and

document conversations held with Subrecipient's staff, which will serve as the basis for conclusions drawn from the visit. This includes reviewing client files, financial records, and agency procedures.

- **Exit Conference:** At the end of the visit, CDBG Program Staff will meet again with the key agency representatives to present preliminary results, provide an opportunity for the agency to correct misconceptions and report any corrective actions already in the works.
- **Follow-Up Letter:** CDBG Program Staff will forward a formal written notification of the results of the monitoring visit pointing out problem areas and recognizing successes. The agency will be required to respond in writing to any problems or concerns noted.

### Ongoing Monitoring

CDBG Program Staff will conduct an on-going monitoring process in order to review the programmatic and financial aspects of the Subrecipient's activities. CDBG Program Staff will review monthly reports submitted by the Subrecipients for compliance with federal regulations regarding the use of federal funds and the implementation of the program.

The monitoring process is oriented towards resolving problems, offering technical assistance, and promoting timely implementation of programs. As such, CDBG Program Staff may require corrective actions of the Subrecipients.

Following are examples of significant problems, which will trigger corrective action by the Subrecipients/entities:

- Services are not documented;
- Goals are not being met;
- Program files not in order;
- Complaints by clients;
- Required reports not being submitted in a timely manner; and/or
- Expenditure issues

### Programmatic Monitoring

Subrecipients/entities must submit a monthly report detailing the implementation and administration of the activity or program. The programmatic report must include the following:

- Progress in meeting stated goals and objectives;
- Changes in staff or Board of Directors;
- Problems encountered and steps taken to resolve them;
- Other general information as appropriate;
- Client Summary that identifies the income, ethnicity, and household status of clients receiving CDBG-funded assistance within the reporting period.

This report must be submitted to CDBG Program Staff by the 10<sup>th</sup> of each month following the

month when services were provided.

### On-Site Visits

Formal monitoring visits are performed annually. For new subrecipients or those experiencing program challenges, monitoring may be more frequent. The subrecipients are notified via letter and provided with a list of items that will be reviewed including, but not limited to, the following:

- Conformance to awarded Subrecipient Agreement
- Client Files
- Progress Reports
- Management and Financial Systems
- Policies and Procedures
- Equipment Inventory, if CDBG funds were used
- Non-discrimination, and Actions to Further Fair Housing
- Section 3, and Minority Business
- Compliance with Consolidated Plan

The letter includes information that CDBG Program Staff will need to see, as well as any particular staff person that may be needed. If there are any findings during the monitoring visit, these will be included in a letter to the subrecipient, with an expected outcome and time frame to correct the issue(s) identified.