
Introduction

Welcome to the Community Development Block Grant Program

How to Use the CDBG Management Guide

Planning, administering, and operating a CDBG project is a rewarding – but challenging – venture. The regulations with which recipients must comply can be very complex. The Iowa Economic Development Authority (IEDA) Community Development Division provides you with this Guide as a tool to help you manage your CDBG award smoothly.

Management Guide Format

The CDBG Management Guide serves as the basic administrative reference manual for CDBG recipients. The Guide is divided into nine chapters:

Chapter 1: Introduction (pg. 1-13)

- CDBG Program Overview (pg. 3)
- Getting Started (pg. 5)
- Next Steps (pg. 6)
- Down the Road (pg. 7)
- Role of a Grant Administrator (pg. 8)

Chapter 2: Federal Requirements (pg. 14-46)

- National Objective (pg. 14)
- Procurement (pg. 16)
- Civil Rights and Fair Housing (pg. 21)
- Labor Standards (pg. 23)
- Required Contract Provisions (pg. 28)
- Project Construction Sign (pg. 28)
- Build America, Buy America (pg. 28)
- Site and Easement Acquisition and Relocation (pg. 36)
- Acquisitions Procedure (pg. 36)
- Relocation Procedure (pg. 40)
- Prohibited Activities (pg. 41)
- Monitoring Policy (pg. 41)

Chapter 3: Section 106 Review (pg. 47-55)

- Overview: Section 106 of the National Historic Preservation Act (pg. 47)
- Step 1: Initiating the Section 106 Process (pg. 47)
- Step 2: Identifying and Evaluating Historic Properties (pg. 48)
- Step 3: Assessing Effects and Choosing a Federal Finding (pg. 50)
- Step 4: Resolving Adverse Effects (pg. 51)
- Tribal Consultation (pg. 51)
- Section 106/Tier II Submittals in IowaGrants (pg. 52)
- Documenting Section 106 Compliance in the ERR (pg. 52)

Chapter 4: Environmental Review (pg. 56-66)

- Overview (pg. 56)
- Preparing to Conduct an Environmental Review (pg. 58)
- Determining the Level of Environmental Review (pg. 59)

Chapter 5: Financial Management (pg. 67-76)

- Financial Management Systems and Practices (pg. 67)
- Requesting CDBG funds and Reporting on Activity Status (pg. 71)
- Grant Administration Funds (pg. 72)
- Program Income and Recaptured Funds (pg. 73)

Chapter 6: Housing Programs (pg. 77-81)

- Program Requirements (pg. 77)
- CDBG Upper Story Project Management (pg. 79)

Chapter 7: Downtown Revitalization Program (pg. 82-90)

- Critical Components (pg. 82)
- Contract Conditions (pg. 83)
- CDBG Regulations & DTR (pg. 84)
- Project Management (pg. 86)

Chapter 8: Section 3 Requirements (pg. 91-99)

- Overview (pg. 91)
- Implementing Section 3 (pg. 93)
- Oversight and Compliance (pg. 95)
- Resources (pg. 97)

Chapter 9: Green Streets Criteria (pg. 100-104)

- Overview (pg. 100)
- Iowa Green Streets Project Criteria (pg. 101)
- Implementing Iowa Green Streets (pg. 101)

Forms and Supplements

The appendices at the end of the Guide contain all referenced forms and supplemental materials. There is an appendix associated with each chapter. For example, Appendix 4 contains forms and documents related to Chapter 4 of the guide (Environmental Review). A list of items contained in the applicable appendix is included at the end of each chapter.

Additional Assistance

While this Guide is intended to provide you the information you need to manage a CDBG project, you may encounter problems or have questions you do not find addressed here. Do not hesitate to contact IEDA for additional assistance. IEDA staff members – particularly the project manager assigned to your project – are available to help you. A list of staff members and their contact information is included in the appendix to this Chapter.

CDBG Program Overview

Authorization and Allocation

The Community Development Block Grant (CDBG) program was authorized in 1974 via Title I of the Housing and Community Development Act (HCDA). It is managed by the U.S. Department of Housing and Urban Development (HUD).

“...primary objective of this chapter and of the community development program of each grantee under this chapter is the development of viable urban communities, by providing decent housing and a suitable living environment and expanding economic opportunities, principally for persons of low and moderate income.”
(Title 1, HCDA)

Appropriation amounts are determined annually by Congress or by a continuing resolution. The HCDA requires that 70% of CDBG funds be allocated to entitlement communities (i.e., cities with a population of over 50,000 or the principal city of a metropolitan statistical area [MSA]) and 30% be allocated to states. The funds are distributed using one of two formulas, whichever provides the higher grant amount:

- Formula A: Population (25%), poverty rate (50%), and overcrowded housing (25%)
- Formula B: Population or growth lag (20%), poverty rate (30%), and pre-1940's housing (50%)

Iowa's CDBG allocation varies from year to year, based on the allocation from Congress. The state can create its own programs and funding priorities, based on community needs.

National Objectives and Eligible Activities

Every activity funded with CDBG dollars must meet one of three national objectives, with 70% of all funding supporting the low-to-moderate income (LMI) benefit:

- Low-to-moderate income benefit, where LMI is defined as being 80% or below of the area median income (note that this national objective has four categories: area benefit, limited

clientele, housing, and jobs; for more information on this and other national objectives, see chapter two of this guide)

- Prevention or elimination of slum and blight, on either an “area” or “spot” basis
- Meet an urgent need

Not only must a CDBG-funded project meet a national objective, but it must also be an *eligible activity* as well. 24 CFR 570.201 describes the CDBG eligible activities; if an activity is not specifically authorized, it is ineligible for funding. Additionally, there several activities that are explicitly prohibited, such as assistance to buildings for “general conduct of government,” political activities, operations maintenance, etc. For a complete list of the eligible and explicitly prohibited ineligible activities, please see 24 CFR 570.201.

There are ways to mix and match an eligible activity with a national objective; in fact, some activities can meet more than one national objective. For example, if a public facility serves all residents in an LMI community (at least 51%), the low-mod area benefit (LMA) national objective can be used, or if the public facility is in a slum/blighted area and improvements will eliminate slum and blight, that national objective could be used instead. It should be noted that there are certain CDBG eligible activities that require the use of a specific national objective. For example, housing projects require the use of the low-mod housing (LMH) national objective, and special economic development almost always requires the use of low-mod jobs (LMJ) national objectives.

IEDA will generally not require communities or grant administrators to determine eligible activities or national objectives. Both of those are typically determined by IEDA through program creation/design.

Plans and Reports

As a state CDBG recipient, IEDA is required to prepare and submit several plans/reports to HUD, all of which are prepared in conjunction with the Iowa Finance Authority (IFA) as these plans include information on all HUD-funded programs (e.g., HOME, ESG, etc.).

The Consolidated Plan is submitted every five (5) years (the current Plan is for 2020-2024). It is designed to help states and local jurisdictions to assess their affordable housing and community development needs and market conditions, and to make data-driven, place-based investment decisions. The Plan establishes goals for meeting these needs over a five-year period that reflect anticipated resources and past performance. These goals are then carried out through the state’s Annual Action Plan.

The Annual Action Plan is submitted each year in the spring. It includes a summary of the actions, activities, and the specific federal and non-federal resources that will be used each year to address the needs and goals identified by the Consolidated Plan. Any program and/or policy changes are required to be included in the Annual Action Plan.

The Consolidated Annual Performance and Evaluation Report (CAPER) is a progress report that is submitted in March of each year on behalf of all HUD programs. It is number-heavy, consisting of expenditures, the number of persons served under each program, etc., and ties back to each of the goals established in the Consolidated Plan.

The State of Iowa is required to develop and follow a Citizen Participation Plan for all HUD-related planning activities. This plan is designed to encourage citizen participation and input in the Consolidated and Annual Action Planning processes, the most recent of which are always available on the IEDA website here <https://www.iowaeda.com/cdbg/plans-reports/>. All plans and

reports, once prepared, are open for public comment before they are submitted, including any amendments to plans.

Resources

For more historic and contextual CDBG resources, including online training modules, laws, and other best practices, please follow either of these links:

[Basically CDBG - HUD Exchange \(https://www.hudexchange.info/trainings/basically-cdbg/\)](https://www.hudexchange.info/trainings/basically-cdbg/)

[Community Development Block Grant Program | HUD.gov / U.S. Department of Housing and Urban Development \(HUD\) \(https://www.hud.gov/program_offices/comm_planning/cdbg\)](https://www.hud.gov/program_offices/comm_planning/cdbg)

Getting Started

You have received your award letter and have this Guide in hand. What do you do next (after you read this Guide carefully, of course)? Here are five steps you should take – if you have not already – to get started.

- 1) **Determine who will handle project administration.** CDBG recipients should plan to contract with a certified CDBG administrator for the day-to-day management of their project. Recipients must follow federal procurement requirements when selecting a grant administrator. Procurement instructions are outlined in Chapter 2. Recipients choosing to contract for administrative services with local Regional Planning Commissions or Councils of Governments do not have to complete the competitive procurement process. More information about the role of a grant administrator and the certification program can be found at the end of this chapter.
- 2) **Review contract documents from IEDA.** Please carefully review contract documents upon receiving those from IEDA. If there are changes that should be made, notify your IEDA project manager immediately. The contract should be signed by the Chief Elected Official (CEO) for the project. Return the documents electronically to Teri Taylor-Wolf at IEDA. Once fully executed, a copy of the contract will be uploaded into lowagrants.gov.
- 3) **Enter into a subrecipient agreement if necessary.** If you submitted your CDBG application on behalf of another entity (e.g., day care center, rural water association), you must establish a formal relationship with that entity. This entity will serve as a subrecipient. Before receiving any CDBG reimbursements, you must **execute a written agreement with the subrecipient** and provide IEDA with a copy of the signed agreement. The appendix to this Chapter includes a list of the minimum required provisions for, and a sample of, a subrecipient agreement.
- 4) **Adopt CDBG Policies.** The local government must adopt a Prohibition on the Use of Excessive Force policy, a Residential Anti-displacement and Relocation Assistance Plan (RARA), a Code of Conduct, a Fair Housing policy, and an Equal Opportunity Policy. These policies are required for local governments to receive CDBG funds and should be re-adopted based on the most current version if older than five (5) years. Copies of the policies must be provided to IEDA before funds will be released. Samples of these policies are included in the appendix to this Chapter.
- 5) **Complete signature authorization forms, if necessary.** The authorized signatory for your project is established when your contract is signed. If you want another person to be able to

sign official documents related to the project, or if someone other than the original signatory takes over as CEO, you must complete the Alternate Signature Authorization and/or the Signature Authorization for Change in CEO Form, as applicable. These forms are included in the appendix to this Chapter.

Next Steps

You are on your way, but there are still some major tasks to complete. Here are six more steps to take:

- 1) **Begin the environmental review process.** The environmental review process required by federal law has some built-in time constraints. You should begin the environmental review as early as possible after signing your contract with IEDA. The process involves using a review checklist to document that the project will not have an adverse impact on the environment and contacting other agencies for comments on the environmental impact of your project. This process is described step-by-step in Chapters 3 and 4 and Appendices 3 and 4. **Remember: CDBG recipients cannot go out to bid, sign construction contracts, acquire property, and/or start construction until you have completed the environmental review and received a Release of Funds from IEDA.**
- 2) **Clear contract conditions.** Your contract may have some special conditions that must be cleared before you can incur costs on your project. Examples of possible contract conditions include receipt of building permits or clearance by other state agencies. You should clear any contract conditions and submit notification to IEDA so construction can begin on schedule. If you have any questions about the conditions in your contract, contact your assigned project manager.
- 3) **Acquisition & relocation.** If you are acquiring any property or may be temporarily or permanently relocating any person(s), business or operations as part of the CDBG project, refer to Chapter 2 to learn about– acquisition and relocation requirements.
- 4) **Procure technical services, architectural and/or engineering services.** IEDA guidance instructs applicants to procure for architectural, engineering, grant administration and technical services prior to applying for CDBG funds. However, if there is a need to procure for additional services after an award is made, you must follow procurement requirements as outlined in the Procurement section of this chapter.

Community facility and stormwater project design teams will consult with Iowa Department of Agriculture and Land Stewardship (IDALS) Urban Conservation Program Team on project stormwater management designs at 30, 60, 90 percent, and final design. The Recipient will secure and upload as a supporting document to the wage rate request in www.iowagrants.gov the Milestones Checklist from IDALS confirming stormwater management designs meet the requirements of the Iowa Green Streets Criteria and the [Iowa Stormwater Management Manual \(http://www.iowadnr.gov/Environmental-Protection/Water-Quality/NPDES-Storm-Water/Storm-Water-Manual\)](http://www.iowadnr.gov/Environmental-Protection/Water-Quality/NPDES-Storm-Water/Storm-Water-Manual).

The IEDA intends to make available to CDBG community facility and stormwater project recipients a design consultant team with expertise in stormwater, energy efficiency, building design, and construction best practices. This team will be available for a limited number of hours to assist your project's design professionals in delivering high performing projects

designed to meet many of the Iowa Green Streets Criteria. Contact your assigned IEDA project manager to request design assistance. Specific procurement requirements are described in Chapter 2.

- 5) **Prepare to contract for construction.** If your project will involve construction, you must follow applicable labor laws. You must follow competitive bidding procedures to select contractors. Bid documents should include required Section 3 language (refer to Chapter 8 for more information on Section 3)

When applicable, the Iowa Green Streets project plan, checklist and criteria must be included in or linked to the bid package provided to contractors. Stormwater projects may be required to follow the specifications in the Iowa Stormwater Management Manual. In most cases, a wage rate determination will be necessary.

You should request a wage rate determination from IEDA 30 days before advertising for bids. 10 days before the bid opening date, you should call IEDA to determine if the wage rate has been modified or superseded. Before awarding any contract, you must check to verify that the selected contractor is not on a federal or state debarred list. You should inform IEDA of the date construction will begin. Specific procurement and labor requirements are described in Chapter 2 and Appendix 2.

Do not go out to bid for your project until after you have received a release of funds letter from IEDA and have completed any required Tiered historical review.

- 6) **Establish your financial management and reporting procedures.** There is a specific process for drawing down federal funds. Additionally, there are some important financial management and reporting requirements with which recipients must comply. Review Chapter 5 carefully for instructions on financial management and how to request CDBG funds.

Down the Road

As your CDBG project moves forward, it pays to think ahead. Here are more activities you will encounter as you move forward with your project:

- 1) **Project Monitoring.** It may be months, or even years away, but it is never too soon to think about project monitoring. Your IEDA project manager will perform a desk top review or on-site monitoring of your project. The purpose of this visit is to assess your performance and compliance with program requirements and to provide you with any technical assistance you may need. The monitoring visit will go more smoothly if you have kept good records from the very beginning, documenting the progress of the project and the actions you have taken to satisfy the various federal requirements. The appendix to this Chapter includes a record-keeping checklist. The monitoring checklist is available on the IEDA website (<https://www.iowaeda.com/cdbg/management-guide/>). Recipients and grant administrators should review the checklist prior to a monitoring visit to ensure information IEDA staff will need to review is available at the visit.

Remember- Recipients are responsible for monitoring the performance of any third-party contractors under any general administration or subrecipient agreement. The recipient is responsible for ensuring that all activities comply with all Federal and state regulations.

- 2) **Public hearing on the status of funded activities (SOFA).** Section 508 of the Housing and Community Development Act of 1987 requires local governments to comply with the State's Citizen Participation Plan. You should have already had a public hearing on your CDBG application. You must also have a public hearing on the status of funded activities (SOFA) during the project; This hearing should not be held after project activities are complete. The status of funded activities hearing should be held when the project is at 50% completion. Once a project is reported at 50% complete, IEDA will not process any draw requests until documentation from the public hearing has been provided. A list of requirements for the public hearing is included in the appendix to this Chapter.
- 3) **Contract amendments.** If you encounter some unforeseen change to your project after contract execution, you must submit a contract amendment request through lowagrants.gov. A contract amendment is a formal, substantive change to the contract. Changes to the contract may include time extensions, budget updates or adjustments, and/or adding new activities or alteration of existing activities that will change the scope, location, objectives or scale of the approved activities or beneficiaries. Instructions for contract amendments are included in the appendix to this Chapter.
- 4) **Grantee Performance Report (Form 3-D), if applicable.** For Community Facilities and Services and Career Link Employment Transportation projects, you must submit Form 3-D to report project beneficiaries. Career Link Employment Transportation projects should submit this form annually; Community Facilities projects will submit this form at the end of the project. This report is available in lowagrants.gov. Please note that storm water projects funded under Community Facilities and Services do not require a Form 3-D. Some CDBG-CV projects also require this 3-D form as well.
- 5) **Green Street Criteria, if applicable.** For projects following Iowa Green Streets Criteria, upon completion of your project, submit through lowagrants.gov completed Iowa Green Streets Criteria Appendices D and E (see Chapter 9 for more information).
- 6) **Updated Applicant/Recipient Disclosure/Update Report.** This report provides a listing of any persons with a financial interest in the project. An initial report should have been included as part of your CDBG application. However, if there are any changes in the information that was provided in the initial report, an updated report must be submitted to IEDA. The report form and instructions are included in the appendix to this Chapter.
- 7) **Audit and closeout procedures.** The appendix to this Chapter includes guidelines on audit and closeout procedures. It is a good idea to understand these requirements early in your project as an audit may be required prior to project completion.

The appendix to this Chapter contains copies of the federal regulations governing the CDBG program. You should familiarize yourself with these rules and regulations and refer to those as necessary.

Role of a Grant Administrator

Description of Responsibilities

Local governments (i.e., cities and counties) are legally and financially responsible for all CDBG projects. However, IEDA requires all local governments to identify a grant administrator for each

funded project. Grant administrators should coordinate the day-to-day activities associated with the CDBG award on behalf of the city/county. Grant administrators assist with the immediate post-award activities, reimbursements, compliance and reporting, project updates, project monitoring, and close out.

Grant administrators should assist the local government with compliance with all state and federal requirements associated with an award.

There are several immediate post-award activities. These include the environmental review process, the release of funds, gathering and uploading various policies and required documents, and setting up record-keeping systems. The grant administrator also assists with the reimbursement process by ensuring that funds are drawn every six months and by collecting and submitting source documentation. This Chapter, Chapter 3, Chapter 4, and Chapter 5 cover these items in greater detail.

Chapter 2 will describe the various compliance and reporting requirements of a CDBG project, such as procurement, labor standards, Section 3, and civil rights and fair housing. In addition to this compliance, the grant administrator will ensure that the LMI documentation is complete and accurate and will review and implement other program-specific compliance (e.g., Downtown Revitalization [DTR], Upper Story Housing, CDBG-CV, etc.).

A grant administrator should know the status of projects and be able to provide updates to IEDA staff. They should respond to general information requests and act as a liaison between the local government and IEDA. The grant administrator should contact IEDA with any issues or questions to ensure that the project moves forward successfully.

Every project will be monitored at least once (see Chapter 2 for more information). In preparation for project monitoring, the grant administrator will create filing systems, upload documents to IowaGrants.gov, and provide follow-up documentation after the monitoring visit as required.

Finally, the grant administrator is involved in the project close out. They will ensure that projects are closed by the contract end date and that all final claims are submitted on time as well. If necessary, they will also assist with submitting contract extension or amendment requests.

Certified Grant Administrator Program

Starting in 2022, IEDA has implemented a new certified grant administrator program. The program will increase training opportunities for administrators, increase administrator capacity, improve performance, and further professionalize the industry. Communities must have a certified grant administrator (CGA) on staff or hire/procure a certified administrator to manage a CDBG award.

To administer a CDBG award, individuals must complete the IEDA training and pass the required test to become a certified CDBG grant administrator. A grant administrator is any staff member that works on any portion of CDBG project compliance. Thus, staff involved in any aspect of administration of a CDBG project must be a CGA.

Individuals seeking to become a CGA will undergo IEDA training and take an exam. Those who do not successfully complete the training and the exam will not be certified; IEDA will maintain a list of CGAs and will share this list on the website. It should be noted that certification is tied to the *individual* and not the *agency*.

Both the trainings and the testing will take place online, with the testing to occur after all training sessions are completed. The exam is open book, and a score of 85% or higher is required to pass. One retest will be allowed; if the individual does not pass the retest, certification training must be completed again prior to testing a third time. IEDA may require CGAs to attend additional training throughout the year, for example to learn about new rules or policies. The CGA will also need to be recertified every three (3) years (and be in good standing to do so).

If an agency hires a new employee between annual CGA training opportunities, IEDA will offer conditional certification (including training materials and an exam) that will be good through the next offered certification training. At that point the staff must a) attend the training, b) be in good standing, and c) pass another test in order to become fully certified.

The following is a description of what “good standing” looks like for a CGA:

- The CGA has completed and submitted the environmental review documents to IEDA within six (6) months of the contract start date and the environmental review documents are complete upon submittal and are correct
- Forms submitted to IEDA including claims, compliance forms, etc., are correct: forms should not need to be sent back for corrections multiple times for the same errors and omissions
- The CGA is timely in responding to IEDA staff with information requests and project updates
- The CGA has submitted draw request at least every six (6) months for both activity and admin expenses in each CDBG project
- The CGA completes monitoring visits with no findings/issues, *or* any such issue is minor and can be easily remediated within thirty (30) days of IEDA’s final monitoring report
- The CGA has submitted all project close-out materials within sixty (60) days of a contract end date *or* has requested a contract extension prior to the contract end date
- The CGA attends mandatory CDBG trainings
- The CGA has not committed any action that would lead IEDA to initiate decertification

CGAs that have accumulated three (3) good standing violations within two (2) years will be placed in probation for up to one (1) year. IEDA will document all reasons for the probationary status. A CGA on probation may continue to administer current CDBG contracts but may not administer new ones during that one-year period. If there are no further documented good standing violations within the probationary period, the CGA may be fully reinstated.

If additional violations are documented, however, the probationary period ends, and the decertification process will proceed. Decertification begins with a written notice from IEDA. The CGA may request a further opinion from the IEDA Director or the Director’s designee. If a CGA is decertified by IEDA, it is effective for two (2) years and all projects must be transferred to another CGA. Decertified CGAs will then be required to attend certification training and pass the exam to become certified again.

Please be aware that IEDA may immediately decertify an administrator after determining that any of the following has occurred:

- The CGA consistently circumvents federal or state policies and regulations

- The CGA fails to disclose a conflict of interest that the administrator has with the project
- The CGA takes inappropriate actions that result in de-obligation or refund of CDBG funds
- IEDA has received multiple, written, substantiated complaints from a grantee (either employee or elected official) regarding the CGA
- The CGA has engaged in any conduct that is significantly prejudicial to the administration of the CDBG program
- The CGA allows other staff that are not CGAs to carry out administrative or compliance duties associated with a CDBG project

In the Appendix to Chapter 1

- IEDA Community Development Staff List
- Definitions and Acronyms
- Requirements for Subrecipient Agreements
- Required Policies for CDBG Projects
- CDBG Project Signature Authorizations
- Record-Keeping Checklist
- Citizen Participation Requirements
- Contract Amendment Procedures
- Applicant/Recipient Disclosure/Update Report
- Audit and Closeout Requirements
- Unique Entity ID (UEI) Guide
- Federal CDBG Regulations (24 CFR Part 570, Subpart I)
- Title 1 of the Housing and Community Development Act of 1974, Section 105(a)
- CDBG Application and Administration Steps and References

Your Notes

Federal Requirements

This Chapter describes all the federal requirements that apply to the CDBG program, except for the Environmental and Section 106 Historic Review. Recipients should review this Chapter carefully and refer to it as necessary to ensure compliance. The various chapter components include:

- National Objective (pg. 14)
- Procurement (pg. 16)
- Civil Rights and Fair Housing (pg. 21)
- Labor Standards (pg. 23)
- Required Contract Provisions (pg. 28)
- Project Construction Sign (pg. 28)
- Build America, Buy America (pg. 29)
- Site and Easement Acquisition and Relocation (pg. 36)
- Acquisitions Procedure (pg. 36)
- Relocation Procedure (pg. 40)
- Prohibited Activities (pg. 41)
- Monitoring Policy (pg. 41)

National Objective

The authorizing statute of the CDBG program requires that each activity funded, except for program administration and planning activities, meet one of three national objectives. The three national objectives are:

- 1) Benefit to low- and moderate- income (LMI) persons.** The LMI national objective is often referred to as the primary national objective because statute requires that recipients expend 70 percent of their CDBG funds to meet the LMI national objective. There are four subcategories that can be used to meet the LMI national objective:

Area benefit activities (Low/Mod Area or LMA): An area benefit activity is one that benefits all residents in a particular area (primarily residential), where at least 51 percent of the residents are LMI persons.

Programs that use this National Objective: Water and Sewer Fund, Community Facilities and Services Fund, Opportunities and Threats Fund, and/or CDBG-CV (Covid)

Limited clientele activities (Low/Mod Limited Clientele or LMC): Under the LMC national objective, at least 51 percent of the beneficiaries of an activity must be LMI persons. Activities in this category provide benefits to a specific group of persons rather than everyone in an area or benefit a clientele that is generally presumed to be principally LMI such as:

- abused children,
- battered spouses,
- elderly persons,
- severely disabled adults,
- homeless persons,
- illiterate adults,
- persons living with AIDS and migrant farm workers,
- or have income eligibility requirements limiting the activity to LMI persons only; or be of such a nature and in such a location that it can be concluded that clients are primarily LMI.

Programs that use this National Objective: Community Facilities and Services Fund benefiting a certain clientele like Senior Centers and Childcare Centers, and/or CDBG-CV (Covid).

Housing activities (Low/Mod Housing Activities or LMH): The LMH national objective applies to activities that provide or improve permanent residential structures which, upon completion, will be occupied by LMI households.

Programs that use this National Objective: Housing Fund and/or CDBG-CV (Covid)

Job creation or retention activities (Low/Mod Job creation or retention activities or LMJ): The LMJ national objective applies to activities designed to create or retain permanent jobs. Under this objective, at least 51 percent of created or retained jobs will be held by or made available to LMI persons.

Programs that use this National Objective: CDBG-CV (Covid)

- 2) Aid in the prevention or elimination of slums or blight.** Activities under this national objective must address one or more of the conditions which have contributed to the deterioration of a blighted building or area. The focus of activities is a change in the physical environment of a deteriorating area. Under the elimination of slum and blight national objective, determining the extent of, and physical conditions that contribute to, blight is central to qualifying an activity.

There are two categories that can be used to qualify activities under this national objective:

Prevent or eliminate slums and blight on an area basis (SBA): This category covers activities that aid in the prevention or elimination of slums or blight in a designated area. 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.

Programs that use this National Objective: Downtown Revitalization Fund, Opportunities and Threats Fund, and/or CDBG-CV (Covid)

Prevent or eliminate slum and blight on a spot basis (SBS). These are activities that address issues of public health and safety by eliminating specific conditions of blight or physical decay on a “spot” basis and are not necessarily located in a designated slum or blighted area.

Programs that use this National Objective: Opportunities and Threats Fund and/or CDBG-CV (Covid)

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

Programs that use this National Objective: Opportunities and Threats Fund and/or CDBG-CV (Covid)

Procurement

CDBG recipients must comply with the procurement policy/standards in Appendix 2 of this guide. These regulations direct that all supplies, equipment, construction, and services be acquired efficiently and economically, through open and fair competition. You must use sound business judgment, not only in the acquisition of supplies, equipment, construction, and services, but in the settlement of all contractual and administrative issues, protests, disputes, and claims.

As required by the Procurement Standards (Replaces 2 CFR 200 Part 318), recipients must adopt the IEDA written procurement policy and a code of conduct. The policies are included in the appendix to this Chapter and should be uploaded to lowaGrants.gov prior to the first draw.

Recipients will need to certify that CDBG project procurement was and will be completed throughout the duration of the contract following the requirements. The Certification of Compliance form, available in Appendix 2, should be signed and uploaded into lowaGrants.gov prior to the first draw.

Recipients must ensure nondiscrimination in the solicitation and award of contracts funded in whole or in part with CDBG funds. Nondiscriminatory practices must be incorporated into the advertising and distribution of solicitations, bid specifications and bid evaluation criteria, and contracting processes. Recipients and subrecipients must take affirmative steps to use small businesses and minority- and women-owned businesses when possible as sources of supplies, equipment, construction, and services. For clearinghouses for solicitation of minority-owned and female-owned businesses, see Appendix 2.

All contracts involved in a CDBG project, regardless of how they are funded or whether or not they are included in the grant budget, must include the required CDBG federal language provisions.

Types of Procurement (Replaces 2 CFR 200.320) (based on Iowa Code section 11.117 & 11.118)

The procurement method used by the subrecipient is determined by what is being procured: construction, professional services (such as architectural, engineering, or technical services), or other general goods and/or services.

For construction, subrecipients shall refer to and follow Iowa Code chapter 26 (<https://www.legis.iowa.gov/docs/code/26.pdf>). Be aware that there are differing contract dollar thresholds depending upon the type of project and the type of subrecipient (e.g., county, city with a population of less than 50,000, city with a population over 50,000, etc.). These thresholds are periodically updated; please check the Code for the most current information. Please also note that regardless of Iowa Code chapter 26, HUD still requires that formal, competitive procurement, including construction bid notices, is published in a newspaper of general circulation.

For professional services (such as architectural, engineering, or technical services), subrecipients shall use a formal *competitive selection* process to procure the services. The technique of competitive proposals is normally conducted with more than one source submitting an offer, and either a fixed price or cost-reimbursement type contract is awarded. For more detail, see the fourth method of procurement below, “competitive proposals.”

For other general goods and/or services, subrecipients shall adhere to one of the four following methods depending upon anticipated *aggregate total purchase cost*, not individual line-item cost. Note that this may result in utilizing several methods of procurement. For example, if certain goods/services can be procured from a particular pool of vendors, that group of goods/services should be batched together, and the anticipated total purchase price of those items would determine the procurement method. The process would then be repeated for any remaining goods/services. (Please note that regardless of price or source of funding, any service [e.g., asbestos testing, archeological survey, etc.] requires a contract be drawn up and signed; the contract must include the CDBG required contract provisions. Purchases of goods/materials only, if less than \$5,000, do not require a contract.)

1. **Small:** Estimated annual value does not exceed \$5,000 and does not exceed \$15,000 for multiyear contracts: The subrecipient does not need to solicit competitive quotations if the subrecipient considers the price to be reasonable. To the extent practicable, the subrecipient must distribute such procurement equitably among qualified suppliers.

2. **Simple:** Estimated annual value exceeds \$5,000 but less than \$50,000 per year and does not exceed \$150,000 for multiyear contracts: The subrecipient may use an informal competitive selection process to engage a service provider. Informal selection means price or rate quotations must be obtained from an adequate number of qualified sources. The subrecipient may contact the prospective service providers in person, by telephone, fax, email, or letter. The subrecipient should solicit at least three prospective service providers. The subrecipient must justify, to IEDA's satisfaction, contacting fewer than three service providers. The justification shall be included in the contract file.

3. **Sealed bids:** (formal advertising): Estimated annual value exceeds \$50,000 per year and exceeds \$150,000 for multiyear contracts: **Bids** are publicly solicited (i.e., published in a newspaper of general circulation) and a firm fixed price contract (lump sum or unit price) is awarded to the responsible bidder whose bid, conforming with all the material terms and conditions of the invitation for bids, is the lowest in price. The procurement lends itself to a firm fixed price contract and the selection of the successful bidder can be made principally on the basis of price. A complete, adequate, and realistic specification or purchase description will be developed before bidding.

If this method is used, the following requirements apply:

1. Bids must be solicited from an adequate number of known suppliers, providing them sufficient response time prior to the date set for opening the bids, and the invitation for bids must be publicly advertised in a newspaper of general circulation (not required for nonprofit entities);
 2. The invitation for bids, which will include any specifications and pertinent attachments, must define the items or services in order for the bidder to properly respond;
 3. All bids will be opened at the time and place prescribed in the invitation for bids, and the bids must be opened publicly.
 4. The subrecipient shall enter into a firm fixed price contract award with the lowest responsive and responsible bidder. Where specified in bidding documents, factors such as discounts, transportation cost, and life cycle costs must be considered in determining which bid is lowest. Payment discounts will only be used to determine the low bid when prior experience indicates that such discounts are usually taken advantage of; and
 5. Any or all bids may be rejected if there is a sound documented reason.
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4. **Competitive Proposals:** Estimated annual value exceeds \$50,000 per year and exceeds \$150,000 for multiyear contracts: The technique of **competitive proposals** is normally conducted with more than one source submitting an offer, and either a fixed price or cost-reimbursement type contract is awarded. It is generally used when a sealed bidding process is not appropriate, generally for service contracts. Apart from **professional services** such as architectural/engineering (A/E) services or technical assistance (which uses this method regardless of contract price), this method is not commonly used for traditional CDBG projects. If you believe your projects warrants this method for anything other than the professional services identified above, please consult with your IEDA project manager prior to initiating the process.

If this method is used, the following requirements apply:

1. Requests for proposals must be publicized (i.e., in a newspaper of general circulation) and must identify all evaluation factors and their relative importance. Any response to publicized requests for proposals must be considered to the maximum extent practical;
2. Proposals must be solicited from an adequate number of qualified sources;
3. The subrecipient must have a written method for conducting technical evaluations of the proposals received and for selecting recipients;
4. Contracts must be awarded to the responsible firm whose proposal is most advantageous to the program, with price and other factors considered; and
5. The subrecipient may use competitive proposal procedures for qualifications-based procurement of architectural/engineering (A/E) professional services whereby competitors' qualifications are evaluated and the most qualified competitor is selected, subject to negotiation of fair and reasonable compensation. The method, where price is not used as a selection factor, can only be used in procurement of A/E professional services. It cannot be used to purchase other types of services though A/E firms are a potential source to perform the proposed effort.

Note: Noncompetitive proposals: Procurement by noncompetitive proposals is procurement through solicitation of a proposal from only one source and may be used only when one or more of the following circumstances apply:

1. The item is available only from one possible source. This type of procurement is referred to as sole-source procurement but it is incredibly rare;
2. The public exigency or emergency for the requirement will not permit a delay resulting from competitive solicitation;
3. The Federal awarding agency or pass-through entity expressly authorizes noncompetitive proposals in response to a written request from the non-Federal entity; or
4. After solicitation of a number of sources, competition is determined inadequate. This type of procurement is referred to as single-source procurement.

If a Recipient has undergone the appropriate formal, competitive procurement process but has only received one response (i.e., "single-source procurement"), they must request and receive IEDA approval prior to entering into a contract with the lone bidder. A letter, signed by the authorized signatory of the city/county, must be sent to IEDA describing the procurement process and the resulting single response/bid. The following four items of backup documentation should be included with the letter: a) the bid specifications or RFP, b) proof of publication newspaper affidavit, c) bid/response tabulation sheet, and d) the single bid/proposal received. If the single bid came in over budget, the letter should also communicate the funding source(s) and amount that has been committed to cover the overage. After IEDA has reviewed the request letter and supporting documentation, a letter from IEDA will be returned communicating either the approval or denial of the single-source procurement.

Exception for Certain Administrative Contracts

Recipients who plan to contract for administrative services with their local regional or planning commission or councils of government, established pursuant to Chapter 28H, Code of Iowa, may do so without regard to the provisions of 2 CFR 200.320. Services must be billed on an actual cost basis. IEDA has determined that a primary function of regional planning commissions/

councils of governments, under Iowa Code Chapters 28E and 28H, is to provide assistance to units of local government, under the direct supervision and control of elected officials from the local units of government served. The public purpose served by the regional planning commissions or councils of governments, combined with their local control, tends to provide protection equal to those contemplated by the provisions of Subpart 320. However, nothing prevents any recipient from complying with the provisions of Subpart 320 when procuring administrative services if the recipient deems compliance to be equitable and in the best interest of the program.

Conflicts of Interest

Recipients must avoid conflicts of interest, in the procurement of property and services. If a person is an employee, agent, consultant, elected official or appointed official of a recipient or subrecipient of CDBG funds and has project-related responsibilities or access to inside information, he or she may not obtain a financial benefit or interest from the project for himself or herself or those with whom he or she has family or business ties during his or her tenure or for one year thereafter. For more detail, see the Procurement Policy in Appendix 2.

Recipients considered to be “State”

200.317 Procurements by states. 24 CFR 570.489(g) (which supersedes 200.317) states: ***(g) Procurement.** When procuring property or services to be paid for in whole or in part with CDBG funds, the state shall follow its procurement policies and procedures. The state shall establish requirements for procurement policies and procedures for units of general local government, based on full and open competition. Methods of procurement (e.g., small purchase, sealed bids/formal advertising, competitive proposals, and noncompetitive proposals) and their applicability shall be specified by the state. Cost plus a percentage of cost and percentage of construction costs methods of contracting shall not be used. The policies and procedures shall also include standards of conduct governing employees engaged in the award or administration of contracts. (Other conflicts of interest are covered by §570.489(h).) The state shall ensure that all purchase orders and contracts include any clauses required by Federal statutes, executive orders and implementing regulations.*

Entities that are considered “State” include state agencies such as Iowa Department of Natural Resources (DNR), Iowa Department of Agriculture and Land Stewardship (IDALS), and Iowa Homeland Security and Emergency Management (HSEMD), and the Iowa Civil Rights Commission (ICRC). These agencies should follow the state’s procurement policy as interpreted by their respective agencies.

Iowa State University (ISU), University of Iowa (UI), and University of Northern Iowa (UNI) are considered state agencies and are governed by the Board of Regents, State of Iowa. Purchasing authority is delegated from the Board of Regents through the Universities in accordance with the statutes and administrative rules of the State of Iowa and the procedures of the Board of Regents. All University purchases are made in accordance with University Policy, regardless of source of funds.

If goods are procured by entities defined as “State” Iowa Code 8A.316 and 11.117 as interpreted by their respective state agencies will apply.

Civil Rights and Fair Housing

CDBG contracts with IEDA include several federal regulations related to civil rights, equal opportunity, and fair housing. These regulations mandate that no person in the United States shall, on the grounds of race, color, national origin, religion, creed, age, sex, disability, familial status, political affiliation, citizenship, gender identity, or sexual orientation be denied benefits or be subjected to discrimination under any program funded in whole or in part with federal funds. By signing a contract, recipients certify they will comply with the laws and regulations listed. Recipients should contact their project manager with questions regarding these requirements. While some of the civil rights and fair housing regulations simply prohibit discrimination, others require recipients to take affirmative steps or action, such as are addressed below.

Affirmatively Furthering Fair Housing

Title VIII of the Civil Rights Act of 1968 and Title I of the Housing and Community Development Act of 1974 require that recipients take some action to affirmatively further fair housing in their communities. Acceptable actions range from using the equal housing opportunity logo on your letterhead to sponsoring fair housing training for landlords, real estate agents and lenders.

A list of mandatory & elective affirmative fair housing actions is included in the appendix to this chapter. **All grantees receiving CDBG funds through the State must complete all mandatory actions and at least one elective strategy regardless of the CDBG funded project. This requirement is not limited to CDBG housing projects.** Recipients should document all activities and results, including date(s) actions were taken. At project monitoring, the project manager will review the actions taken by the recipient to affirmatively further fair housing, so grant administrators should ensure that all fair housing actions have been taken and documented by the time the project reaches 50% expended.

Affirmative Action in Soliciting Minority/Women Business Enterprises

Executive Orders 11625, 12432 and 12138 require recipients to make every effort to solicit the participation of minority- and women-owned business enterprises (MBE/WBE) in their projects. Recipients must specify the outreach actions they will take to ensure the inclusion, to the maximum extent possible, of minorities and women and entities owned by minorities and women, in all contracts.

Per the CDBG procurement policy in Appendix 2, recipients must take the following affirmative steps to solicit MBE/ WBEs:

1. Place qualified small and minority businesses and women's business enterprises on solicitation lists,
2. Assure that small and minority businesses and women's business enterprises are solicited whenever they are potential sources,
3. Divide total requirements, when economically feasible, into smaller tasks or quantities to permit maximum participation by small and minority businesses and women's business enterprises,
4. Establish delivery schedules, where the requirement permits, which encourage participation by small and minority businesses and women's business enterprises,
5. Use the services and assistance, as appropriate, of such organizations as the Small Business Administration and the Minority Business Development Agency of the Department of Commerce, and

6. Require the prime contractor, if subcontracts are to be let, to take the affirmative steps listed in in the steps above.

Recipients should include qualified MBEs and WBEs on your solicitation lists and solicit their participation whenever they are potential sources of goods or services you need. A list of clearinghouses for solicitation of MBEs and WBEs is included in the appendix to this Chapter.

Recipients should also utilize the state of Iowa's Targeted Small Business (TSB) directory to help identify MBE/ WBEs that can provide services associated with your CDBG project. Iowa's TSB directory can be found at <https://iowaeda.microsoftcrmportals.com/tsb-search/> Recipients should share Section 3 information with those businesses on the State's TSB directory to see if they may also qualify as a Section 3 business.

At project monitoring, the project manager will review the efforts taken to solicit MBE/WBE participation and the results. Recipients will also be asked to report on achievements in this area after your project is completed.

Section 3

The purpose of Section 3 of the Housing and Urban Development Act of 1968 (12 U.S.C. 1701u) (Section 3) is to ensure that employment and other economic opportunities generated by certain HUD financial assistance shall, to the greatest extent feasible, and consistent with existing Federal, State and local laws and regulations, be directed to low- and very low-income persons, particularly those who are recipients of government assistance for housing, and to businesses which provide economic opportunities to low- and very low-income persons.

Section 3 applies to CDBG funding and required Section 3 language must be incorporated into all procurement documents. Section 3 requirements and documentation are covered in Chapter 8 and Appendix 8 of the Management Guide.

Section 504 of the Rehabilitation Act of 1973 / Americans with Disabilities Act

Section 504 and the ADA require accessibility of CDBG projects to persons with disabilities. The law requires that new facilities assisted with federal funds be designed and constructed to be readily available to and usable by individuals with disabilities. Alterations to existing (non-housing) facilities shall, to the maximum extent feasible, be made to be readily accessible to and usable by individuals with disabilities. For existing (non-housing) facilities, recipients shall operate programs and activities receiving CDBG assistance so that the program or activity, when viewed in its entirety, is readily accessible to and usable by individuals with disabilities. In order for housing projects to comply with Section 504, a minimum of five (5) percent of the total dwelling units in a multi-family (8 or more units) housing project shall be made accessible for persons with mobility impairments. An additional two (2) percent of units in such a project shall be accessible for persons with hearing or vision impairments.

Recipients should work closely with their architect/engineer to ensure plans comply with Section 504 and ADA.

Labor Standards

Federal laws and regulations relating to labor standards include the following:

- The Davis-Bacon Act
- The Copeland “Anti-Kickback” Act
- The Contract Work Hours and Safety Standards Act

As applicable, recipients must comply with these laws, and make sure contractors and subcontractors comply as well. These laws apply to all construction contracts in excess of \$2,000.

Davis-Bacon Act

Davis-Bacon requires that the wage paid to employees must be equal to or higher than the U.S. Department of Labor’s (DOL) determination of the prevailing wage rates for the project type and locality in which the work is being done. Note that housing conversion projects with seven (7) or fewer units are exempt from Davis-Bacon.

Copeland “Anti-Kickback” Act

The basic requirements of the Copeland “Anti-Kickback” Act are as follows:

- 1) Payment to employees must be made at least once a week and without subsequent deductions or rebate on any account, except for “permissible” salary deductions.
- 2) You must obtain and review payroll forms, including the “Statement of Compliance” from contractors and subcontractors, on a weekly basis.
- 3) You must retain these documents for five years after work completion; each employer must maintain records supporting the payrolls for three years after work completion.

Contract Work Hours and Safety Standards Act

The basic requirements of the Contract Work Hours and Safety Standards Act are as follows:

- 1) Employees shall not work in excess of 40 hours in any workweek unless they receive overtime compensation at a rate not less than one and one-half times the basic rate of pay for those overtime hours worked. The contractor or subcontractor shall be liable to any affected employee for unpaid wages.
- 2) Contractors in violation of the Contract Work Hours and Safety Standards Act (overtime law) are liable to the United States government for liquidated damages, computed at \$25 per day for each employee who worked overtime and was not paid overtime wages. The contractor must submit a certified check for the total amount of liquidated damages to IEDA upon request. Funds may be withheld from contractors and subcontractors to satisfy unpaid wages and liquidated damages only after the contractor or subcontractor receives written notification that funds will be withheld to satisfy labor standards provisions.

Labor Standards Compliance Officer

The labor standards described in this section are complicated and require thorough documentation. Therefore, recipients must designate a Labor Standards Compliance Officer.

This person has overall responsibility for labor compliance and for maintaining the project's labor files. The Labor Standards Compliance Officer must do the following:

- 1)** Visit the construction site to confirm the required posters (“Notice to Employees,” “Job Safety and Health Protection” and “Equal Employment Opportunity”) and correct wage determinations are posted in clear view of employees. Copies for your reference are included in the appendix to this chapter; you may receive a complete packet upon request with your wage determination.
- 2)** Collect and examine weekly payrolls as they are submitted so that any necessary corrective action can be initiated immediately. Items to be reviewed include classification of workers, comparison between the classification and wage to verify that the rate is at least equal to that required by the wage rate determination; overtime pay, if applicable; deductions; apprentice/trainee information, and statement of compliance signature by owner or an officer of the construction company. If the compliance signature is from a representative other than the owner or an officer, an authorization for the alternative signature must be provided.
- 3)** Conduct employee interviews. The number of interviews must be sufficient to establish compliance and must represent all classifications of employees.
- 4)** Maintain the labor standards file. The file should include the following:
 - Verification of eligibility of each contractor
 - Wage rate determination
 - Construction bid package
 - Public advertisements for bids
 - Documentation of efforts to solicit minority/women contractor participation
 - List from the general contractor of all subcontractors and lower-tier subcontractors that will work on project
 - Scope of work statement for each contractor and subcontractor
 - Contract documents (with required federal language)
 - Pre-construction conference minutes
 - Indication of construction start date
 - Contractor/subcontractor employee payroll sheets/statement of compliance
 - Employee interview forms (including Section 3 interviews, if applicable)
 - Other related correspondence

Resource Documents:

- Federal Labor Standard Requirements in Housing and Urban Development Programs: HUD Handbook 1344.1 Rev. 2: [Federal Labor Standards Requirements in HUD Programs \(1344.1\)](https://www.hud.gov/program_offices/administration/hudclips/handbooks/sech/13441) (https://www.hud.gov/program_offices/administration/hudclips/handbooks/sech/13441)
- Davis-Bacon and Labor Standards Agency and Contractor Guide, plus the Contractor Guide Addendum: <https://www.hudexchange.info/resource/6717/davis-bacon-and-labor-standards-agency-contractor-guide-and-contractor-addendum/>

Requesting Wage Rate Determinations

Recipients obtain wage rate determinations by making a request in lowagrants.gov. The request should be submitted 30 days in advance of the bid advertisement date. Upon receipt of the request, IEDA will review the information provided and issue the appropriate wage rate determination.

General wage rate determinations published by the DOL Employment Standards Administration, Wage and Hour Division, are effective until superseded or modified in a subsequent published wage rate determination. **You must contact IEDA 10 days before the bid opening date to verify that your wage rate is still current.** Changes to wage rate determinations published less than 10 days before bid opening do not apply if your files include a statement of justification or other documentation establishing that there was not reasonable time available to notify all the contractors planning to submit bids. **You must also contact IEDA for an update if you have not awarded a contract within 90 days after the bid opening.**

Wage rate determinations must be included in all bid solicitations and construction contracts. The construction bid solicitation should include language that the project is a federal project subject to the Davis-Bacon prevailing wage requirements. Contractors must post the wage rate determination in a prominent work site location that is accessible to all workers employed on the project.

Requesting Approval of Additional Classifications

After award, if a contractor or subcontractor must use a craft or category of worker that is not listed on the wage rate determination, the contractor or subcontractor must submit to you, on the company's letterhead, a description of the craft to be employed and the hourly basic rate and fringe benefits to be paid. The rate must fall within the range of other skilled classification rates in the wage determination.

Recipients must forward the information described above to IEDA. A sample form is included in the appendix to this chapter for requesting approval of additional classifications. IEDA will review the request and forward it to the Department of Labor for approval. **Please allow six weeks for this process.**

Contractor Eligibility

Recipients must verify the eligibility status of all contractors and subcontractors to ensure they are not listed on HUD's Consolidated List of Debarred, Suspended and Ineligible Contractors or DOL's Consolidated List of Debarred and Suspended Contractors. This requirement also applies to engineers, architects, other professional service providers, and grant administrators. Recipients must also verify that all contractors are registered in the State of Iowa and have a valid registration number. **Verification must be completed before any contract is awarded.**

Recipients must check the federal SAM database (www.sam.gov) prior to awarding or entering into a contract to ensure contractors are not on the debarred list. Recipients should enter the date that SAM was checked for contractor eligibility in lowagrants.gov. Recipients must then request verification of contractor eligibility by submitting the request in lowagrants.gov as a Contractor Clearance form. Upon receipt, IEDA will verify the listed contractor and confirm contractor eligibility to the recipient by approving the form.

Labor Standards Administration and Compliance

Other DOL administration and compliance activities which recipients and their contractors and subcontractors are responsible for include the following:

- The prime contractor shall be responsible for compliance by any subcontractor or lower-tier subcontractor with all labor provisions.
- You must hold a pre-construction conference with the prime contractor and available subcontractors before the start of construction. Participants must be advised of their responsibilities to abide by labor standards provisions and the wage determination contained in the contract documents. Minutes documenting each conference must contain the project name, location, and description; wage determination number; name of contractor; contract amount; date and place of conference; conference participants; and a summary of items discussed. You should retain minutes of each pre-construction conference in your labor standards file.
- Contractors must make pertinent records available for review and permit on-the-job interviews of employees.
- Contractors and subcontractors may be terminated for noncompliance with labor standards and will be liable for any excess cost involved in completing the work.
- Contractors must be able to furnish certificates from the Bureau of Apprenticeship and Training for apprentices or trainees employed on a particular project. All apprentices must be identified in each payroll submission. The ratio of apprentices to journeymen must not exceed the approved ratio under their respective program and their wage rate must not be less than prescribed under those programs. A DOL Summer Youth Program allows contractors to hire 18-22 year old workers at lower than the prevailing wage. Contractors must secure IEDA approval before using these workers and the lower pay scale.
- All construction contracts covered by Davis-Bacon and subject to labor standards must contain standard provisions and certifications. A copy of the "Federal Labor Standards Provisions" is included in the appendix to this chapter. All subcontracts must include the same provisions and certifications as those of the major contract with respect to federal laws.
- Contractors and subcontractors may use DOL Form WH-347 ("Payroll") or any other alternate form which provides the same information. If an alternate payroll form is used, the certification language on the back of WH-347 must also be attached. Each contractor and subcontractor and any lower-tier subcontractor must submit weekly payrolls to your designated Labor Standards Compliance Officer for each workweek from the time work starts until it is completed. If no work is performed during a workweek, weekly payrolls need not be submitted. Weekly payrolls shall be numbered sequentially, and the final payrolls marked "final." A sample payroll form with instructions is included in Appendix 2. Any subcontractor whose owner is working without any employees on a given work week must be listed on the general contractor's weekly certified payroll.
- You must examine payrolls and related records to ensure compliance with DOL labor standards clauses and applicable federal statutes. You should examine payrolls, related records and employee interviews; verify that apprentices and trainees are registered or certified; ensure the wage rate determination was posted at the worksite; and check the handling of labor-related complaints.

- Employee interviews are required to verify compliance with the prevailing wage requirements. These interview forms (HUD-11 Employee Interview Form) must be compared with the corresponding weekly Certified Payroll Report for the period the interviews are conducted. Once reviewed, the HUD-11 Employee Interview Form must be signed by the person completing the review/payroll examination and any discrepancies noted between the HUD-11 information and that on the payroll report should be noted in the “Remarks” section. If discrepancies are noted, follow-up actions to resolve the discrepancies must be taken.
- Underpayments of \$1,000 or more per employer, contractor or subcontractor must be reported to DOL through IEDA. For further information on reporting requirements, contact IEDA’s labor specialist.

Summer Youth Employment

Contractors employing workers aged 18-22 (who are bona fide high school, technical school, or college students) on HUD-insured or assisted HUD construction projects during the summer (May 15 through September 30) may be exempt from Davis-Bacon and related labor acts.

Requirements and stipulations that must be met before summer youth are employed at less than Davis-Bacon rates are as follows:

- 1) Youth must be sponsored by a responsible employment, training and/or community outreach organization, such as the National Association of Home Builders, Associated Builders and Contractors, Urban Coalition, Private Industry Council, National Urban League, organized labor, a local school, or similar organization, as part of a bona fide Youth Opportunity Program.
- 2) Youth must be bona fide students employed on a temporary basis for the summer.
- 3) Where collective bargaining agreements exist that cover workers performing similar or related activities at the worksite to which youth are stationed, the union or unions representing those workers must provide concurrence as to the design of the employment project and the use of the youth.
- 4) The employment must be provided in accordance with state and federal statutory safety, child labor and minimum wage requirements.
- 5) Competent supervision must be provided to all youth employed on the project worksites. Ratios of youth to such supervisors should be no greater than four to one.

To ensure that the administration of summer youth employment complies with DOL policies and regulations, requests for exceptions to Davis-Bacon must be made to IEDA, which will review the request for its appropriateness and forward it to the HUD Field Office Labor Relations Staff for final disposition. Requests must meet the requirements listed above and include the number of youth to be employed and the name of the referring organization. IEDA will advise the requesting contractor in writing of the HUD Labor Relations Office decision.

Programs sponsored by the Workforce Investment Act of 1998 (which replaced the Job Training Partnership Act) that are registered with the Bureau of Apprenticeship and Training would be recognized as bona fide training programs. Therefore, they could be exempt from complying with Davis-Bacon requirements. Check with IEDA’s Labor Standards Officer if the project employs apprentices under the WIA.

Required Contract Provisions

Recipients must certify that all federal requirements listed in their contracts with IEDA are satisfied. Further, the certifications must be part of every contract and subcontract the recipient executes. A full listing of required contract language is included in the appendix to this chapter.

If the required language is not embedded into the body of the contract but rather included as an attachment or appendix, then that attachment or appendix needs to have a signature/date block and the contractor must sign to agree to the CDBG provisions.

Recipients must ensure that all contracts include the following provisions, as applicable:

- Davis-Bacon Act
- Copeland “Anti-Kickback” Act
- Contract Work Hours and Safety Standards Act
- Access to records by government officials
- Maintenance of records for three years after the closeout of the CDBG grant between HUD and IEDA
- Termination clauses
- Federal Labor Standards Provisions – Form 4010
- Required civil rights provisions
- Equal Employment Opportunity provisions
- Executive Order 11246, for Contracts in excess of \$10,000
- Required provisions for contracts in excess of \$100,000
- Required provisions for contracts in excess of the simplified acquisition threshold currently set at \$150,000
- Clean Air Act and Federal Water Pollution Control Act for contracts in excess of \$150,000 Section 3 clause
- Build America, Buy America
- Debarment and Suspension
- Byrd Anti-Lobbying Amendment
- Mandatory standards and policies relating to energy efficiency
- Procurement of recovered materials
- Rights to Inventions Made Under a Contract or Agreement.

Project Construction Sign

In order to increase awareness of the benefit that CDBG funds provide to communities, please have a sign placed at the construction site during construction. Specifications for the sign can be found in Appendix 2. You should give these sign specifications to the project architect or engineer so they can be included in the construction specifications book that will be given to each contractor bidding on the project. If you have questions about the project construction sign, please call your project manager.

Build America, Buy America

The Build America, Buy America Act (BABA) applies a domestic content procurement preference to federally funded public infrastructure projects. The goal of BABA is to increase a resilient domestic supply chain and manufacturing supply for critical materials both for emerging and existing industries in the United States.

The Buy America Preference was enacted under Division G, Title IX of the Infrastructure Investment and Jobs Act (IIJA). Per Section 70914 of the IIJA, a federal agency may not obligate funds for an “infrastructure project” unless all iron, steel, manufactured products, and construction materials used in the project are produced in the United States or a waiver applies to the domestic content procurement preference.

The following applicable federal guidance regarding BABA has been issued:

1. M-24-02 Guidance Update from the Office of Management and Budget (OMB) dated October 2023.
2. The US Department of Housing and Urban Development (HUD) has outlined their implementation of the Buy America Preference in a document dated November 2, 2023 (CPD-2023-12), and titled CPD Implementation Guidance for the Build America, Buy America Act.

A certification or proof of compliance must be provided, to the satisfaction of IEDA/IFA, by all the suppliers and manufacturers of iron or steel products, manufactured products, and construction materials used in each project. *See Definitions of Categories for more information.*

Implementation of BABA and subsequent expectations varies by each federal agency and is subject to change. This management guide provides summaries of guidance from HUD, several appendices to assist with compliance of the Buy America Preference for HUD programs managed by IEDA/IFA and associated procedures and records requirements. Not every project implementation scenario and circumstances can be foreseen. Therefore, staying in contact with IEDA/IFA about experiences, challenges, and questions is recommended.

The Buy America Preference

Recipients of an award of Federal financial assistance are notified that no funds provided under their award may be used for an infrastructure project unless:

1. All iron and steel used in the project are produced in the United States - this means all manufacturing processes, from the initial melting stage through the application of coatings, occurred in the United States.
2. All manufactured products used in the project are produced in the United States - this means the manufactured product was manufactured in the United States; and the cost of the components of the manufactured product that are mined, produced, or manufactured in the United States is greater than 55 percent of the total cost of all components of the manufactured product, and

3. All construction materials are manufactured in the United States - this means all manufacturing processes for the construction material occurred in the United States.

The Buy America Preference only applies to articles, materials, and supplies that are consumed in, incorporated into, or affixed to an infrastructure project. The Buy America Preference does not apply to:

1. Tools, equipment, and supplies, such as temporary scaffolding, brought to the construction site and removed at or before the completion of the infrastructure project.
2. Equipment and furnishings, such as movable chairs, desks, and portable computer equipment, which are used at or within the finished infrastructure project but are not an integral part of the structure or permanently affixed to the infrastructure project.
3. Materials defined as Section 70917(c) materials, meaning cement and cementitious materials; aggregates such as stone, sand, or gravel; or aggregate binding agents or additives. See Section 70917(c) of the IJA for more information.

Additional guidance on the definition of an infrastructure project is provided in the M-24-02 and CPD-2023-12 memos. Any questions regarding whether BABA applies to a certain project or component should be directed to IEDA/IFA.

Categories of Infrastructure Items

Identifying the category that each infrastructure item meets is a critical step for compliance with BABA. The following are definitions that have relevance to the interpretation and implementation of the Buy America Preference for HUD programs.

For all items planned to be permanently affixed to the infrastructure project, grantees will need to identify the applicable category for each item. An article, material or supply should not be classified into more than one category and must be made based on the status of the article, material, or supply upon arrival to the work site for use on an infrastructure project. The definitions for each category are as follows:

1. "Iron or Steel Products" means articles, materials, or supplies that consist wholly or predominantly of iron or steel or a combination of both.
2. "Predominantly of Iron or Steel or a Combination of Both" means that the cost of the iron and steel content exceeds 50 percent of the total cost of all its components. The cost of iron and steel is the cost of the iron or steel mill products (such as bar, billet, slab, wire, plate, or sheet), castings, or forgings utilized in the manufacture of the product and a good faith estimate of the cost of iron or steel components.
3. "Construction Materials" means articles, materials, or supplies that consist of only one of the following items listed in paragraph (1) of this definition, except as provided in paragraph (2) of this definition. To the extent one of the items listed in paragraph (1) contains as inputs other items listed in paragraph (1), it is nonetheless a construction

material. Minor additions of articles, materials, supplies, or binding agents to a construction material do not change the categorization of the construction material.

(1) The listed items are:

- (i) Non-ferrous metals.
- (ii) Plastic and polymer-based products (including polyvinylchloride, composite building materials, and polymers used in fiber optic cables).
- (iii) Glass (including optic glass).
- (iv) Fiber optic cable (including drop cable).
- (v) Optical fiber.
- (vi) Lumber.
- (vii) Engineered wood.
- (viii) Drywall.

(2) “Not-Listed Construction Materials” means the category of construction materials that are subject to the Buy America Preference, but not included in HUD’s specifically listed construction materials, as defined in the Phased Implementation Waiver. These materials are automatically waived from the BABA requirements until projects with obligated funding on October 1, 2024.

- (i) Plastic and polymer-based products other than composite building materials or plastic and polymer-based pipe and tube.
- (ii) Glass (including optic glass).
- (iii) Drywall.

4. “Manufactured Products” means:

- (1) Articles, materials, or supplies that have been processed into a specific form and shape or combined with other articles, materials, or supplies to create a product with different properties than the individual articles, materials, or supplies.
- (2) If an item is classified as an iron or steel product, a construction material, or a Section 70917(c) material under 2 CFR 184.4(e) and the definitions set forth in 2 CFR 184.3, then it is not a manufactured product. However, an article, material, or supply classified as a manufactured product under 2 CFR 184.4(e) and paragraph (1) of this definition may include components that are construction materials, iron or steel products, or Section 70917(c) materials. *See guidance on the cost of components for manufactured products to help determine compliance with the Buy America Preference.*

5. “Manufactured Products - Cost of Components” means for items that fit the definition of manufactured products, the Buy America Requirement specifies that the cost of components from domestic sources must be greater than 55 percent. In determining whether the cost of components for manufactured products is greater than 55 percent of the total cost of all components, the following instructions must be used by manufacturers:

- (1) For components purchased by the manufacturer, the acquisition cost, including transportation costs to the place of incorporation into the manufactured product

(whether such costs are paid to a domestic firm), and any applicable duty (whether a duty-free entry certificate is issued), or

- (2) For components manufactured by the manufacturer, all costs associated with the manufacture of the component, including transportation costs as described in paragraph (1), plus allocable overhead costs, but excluding profit. Cost of components does not include any costs associated with the manufacture of the manufactured product (*example: labor costs*).

IEDA/IFA recommends that grantees and their representatives confirm manufacturers' understanding regarding the cost of components guidance when reviewing certifications.

6. "Section 70917(c) Materials" means cement and cementitious materials; aggregates such as stone, sand, or gravel; or aggregate binding agents or additives. See Section 70917(c) of the IIJA. These materials are specifically excluded from the definition of construction materials, so projects using those materials do not need to procure them in compliance with the domestic preference requirement under BABA. However, the materials need to be identified and classified as Section 70917(c) materials in project records.

Compliance Procedures (Procurement, Classification and Claims)

Procurement

Grantees must incorporate BABA into procurement procedure and bid solicitations which follow federal regulations under 2 CFR 200. See *separate Management Guide chapter on Procurement Standards*. All contracts, including administration, engineering and construction, must include the BABA language available in Appendix 2 *Required Contract Provisions*.

In addition, the bid packet, prepared by the project engineer or architect, should list all products which are part of the project that are required to meet BABA regulations. This includes all iron and steel, defined construction materials and manufactured products that are part of the project. This is to ensure bidders are prepared to submit manufacturer certifications on each BABA-covered item based on its applicable category.

Manufacturers of iron or steel, construction materials, and manufactured products are expected to provide certification of compliance with Build America Buy America to your project's general contractor. Examples of information that may be included in a certification:

1. A reference to the project.
2. Specific item information.
3. Reference to BABA requirement, classification and how any specific requirements relate to their item (for example, the cost of components of a manufactured product).
4. Location of where item is manufactured or produced.
5. A company representative signature and contact information.

The winning contractor will take the engineer or architect BABA-covered list and provide certifications for each BABA-covered product on the project.

Grant administrators should take the list of BABA-covered products from the engineer or architect and the certifications that the contractor submitted for each product in the project and include them in IEDA/IFA's Project Items BABA Status Worksheet throughout the project. The worksheet should be filled out and uploaded to Iowa Grants under the BABA-compliance tab.

No construction activity claim will be approved without certification that the contractor has met BABA requirements for that respective claim. The expectation is that the certification submittal should begin prior to the start of construction. For each construction activity claim, the contractor and engineer will certify that the materials used in that particular pay request are BABA-compliant. Grantees will provide the form for the engineer and contractor to certify.

Upon submitting a claim on Iowa Grants, the grantee will certify that the claim is BABA-compliant. Grantees should have the certifications on file documenting compliance. The grantee will be required to keep records of the certification documentation consistent with existing records retention.

Classification

For each project, grant administrators must use IEDA/IFA's Project Items BABA Status Worksheet to identify and track all project items and which category they are to be classified. The required certification from each manufacturer regarding BABA compliance may provide additional information regarding product classification based on how it was made and its contents.

Federal requirements provide that the classification of each item as falling into one of the categories must be made on its status at the time it is brought to the work site for incorporation into an infrastructure project. Grantees will need to ensure this requirement as each item is delivered and incorporated into the project.

Records

Grantees should document the process used to analyze if the Buy America Preference applies to your project and collect records to demonstrate compliance with BABA requirements. This can be part of the Project Items BABA Status Worksheet. Records should be consistent with existing records retention requirements.

IEDA/IFA requires use of the Project Items BABA Status Worksheet as minimum documentation. However, grantees are free to develop any system for tracking items used on the project and the accompanying compliance documentation if it helps with implementation and compliance. Helpful data may include product description, quantity required/used, product category (i.e., iron and steel, manufactured product, or construction material as otherwise required), specifications and standards required, status of obtaining certification letter, product cost, and whether the item might qualify under another applicable waiver.

You may find that market research is important in determining compliance. While this is not required, IEDA/IFA encourages innovative research and compliance tools to assist with meeting BABA regulations.

Education is another critical component to successfully administering these new requirements. Grantees should educate engineers and contractors on the process to help you administer the project faster, easier and more successfully.

Waivers

The Buy America Preference applies to all infrastructure spending unless HUD issues a waiver in three limited situations:

1. When applying the domestic content procurement requirement would be inconsistent with the public interest.
2. When types of iron, steel, manufactured products, or construction materials are not produced in the United States in sufficient and reasonably available quantities or of a satisfactory quality.
3. Where the inclusion of those products and materials will increase the cost of the overall project by more than 25%.

The following steps are required to be considered for a waiver:

1. The waiver request process will require a significant amount of research and effort. All waiver requests must include a detailed justification for the use of goods, products, or materials mined, produced, or manufactured outside the United States and a certification that there was a good faith effort to solicit bids for domestic products supported by terms included in requests for proposals, contracts, or nonproprietary communications with potential suppliers. First, contact your IEDA/IFA program manager or IEDA/IFA's BABA Coordinator before you begin the waiver process.
2. Documentation of efforts to identify compliant items for the project will need to be summarized and attached to the waiver request form required by IEDA/IFA. Information from suppliers, manufacturers, and bids (if applicable) should be used to develop the waiver request. You must work with your program manager or IEDA/IFA's BABA Coordinator to prepare the waiver form for submittal to HUD. Prior to submission to HUD, the latest Project Items BABA Status Worksheet should be submitted to IEDA for a full picture of the status of BABA compliance for the project.
3. IEDA/IFA will review the information and determine whether to submit the waiver request to HUD. If additional research is warranted, IEDA/IFA will provide additional instructions to complete the waiver request form prior to submittal or guidance regarding potential BABA-compliant alternatives for the project.
4. IEDA/IFA will finalize and submit the waiver request form to HUD. The estimated turnaround time for federal review of the request is at least 90 days. However, it may take longer. This process could significantly delay the project.
5. You must receive HUD approval of the waiver before construction on your project begins, and/or any time during the project when it becomes apparent that a waiver is necessary. If the waiver request is denied, IEDA/IFA will consult with each project on next steps.

Non-Compliance

Additional guidance from HUD on non-compliance may be forthcoming. Below is some information on non-compliance and potential remedies for education purposes only. IEDA/IFA anticipates involvement of HUD when non-compliance is identified.

Examples of non-compliance are provided below:

1. **Improper Implementation:** The award recipient or sub-recipient attempted to comply with the Buy American provisions but did so in an improper manner. Often occurs because of process problems, oversight problems, confusion, or lack of resources.
2. **Mislead by Contractor, Vendor, or Manufacturer:** The award recipient or sub-recipient has been misled by a contractor, vendor, or manufacturer.
3. **Award Recipient Misconduct:** The award recipient or sub-recipient made no genuine attempt to comply with the Buy American provisions.
4. **Fraud:** A vendor/manufacturer knowingly certifies falsely that their product is Buy American Compliant, or an award recipient or sub-recipient states that they are using compliant goods, when they knowingly are not.

Potential remedies for non-compliance:

1. **Cancellation of purchase:** If materials that are non-compliant have been procured, but not installed into the project, those items should not be used.
2. **Removal of the non-compliant materials.**
3. **Absorption of the cost of non-compliant items.**
4. **Reduction of award value by procurement cost of non-compliant materials.**
5. **Withhold payment, suspend, or terminate award.**
6. **Withhold or restrict future awards or debarment from federal assistance, contracts, and subcontracts.**

Appendices

The following files can be found in the Appendix 2 of this Guide:

1. Waiver request form.
2. Sample certification form.
3. Project Items BABA Status Worksheet.

4. Sample language for inclusion in contracts.

Site and Easement Acquisition and Relocation

The requirements in this section apply to acquisition of real property and permanent easements necessary for CDBG projects. The primary source for HUD real estate acquisition and relocation policy is HUD Handbook 1378, available on the HUD website:

https://www.hud.gov/program_offices/administration/hudclips/handbooks/cpd/13780

There are two laws that govern property acquisition when CDBG funds are involved: The Uniform Relocation and Real Property Acquisition Act of 1970 (URA) and Section 104(d) of the Housing and Community Development Act of 1974. The following sections provide a general summary of the most common requirements of CDBG recipients under these laws.

Acquisition and relocation requirements are applicable to the CDBG recipient (City or County government) or the subrecipient (e.g., non-profit organization or Rural Water District, etc.). Regardless of whether property is purchased with CDBG funds or local funds, the purchase must still follow the acquisition and relocation requirements outlined in the following pages.

Section 104(d) requires recipients to provide a one-for-one replacement of all occupied and vacant, occupiable lower-income dwelling units that are demolished or converted to another use in connection with a CDBG-assisted activity, unless the State determines that objective data indicates that there is an adequate supply of vacant lower-income dwellings in standard condition available.

Acquisitions Procedure

If the entity purchasing the property does NOT have the power of eminent domain (such as non-profits, Rural Water Districts, etc.), the following process should be followed:

- 1) The subrecipient notifies the property owner in writing by certified mail that it does not have the power of eminent domain and therefore, it will be unable to acquire the property in the event negotiations fail.
- 2) Inform the owner in writing by certified mail of the fair market value for the property; an appraisal is not necessary, but the offer must include an explanation of how the value was reached.

A sample notice is included in Appendix 2 of this guide.

If the entity purchasing the property DOES have the power of eminent domain (City or County), the recipient must determine if the purchase is voluntary or involuntary.

A **voluntary** purchase must meet all of the following criteria:

- 1) No specific property is needed, but the search for alternative sites may be limited to a general geographic area.
- 2) The property is not part of a planned or designated area where all the property in the area will eventually be acquired.

- 3) The recipient agrees that it will not use its power of eminent domain even if negotiations fail.
- 4) There are no tenants currently or recently living at the property.

If all of the above is true, the recipient must inform the property owner in writing by way of certified mail:

- 5) The power of eminent domain will not be used if negotiations fail, and
- 6) Fair market value for the property; an appraisal is not necessary, but the offer must include an estimate of Fair Market Value. The offer does not have to equal the Fair Market Value.

A sample notice is included in Appendix 2 of this guide.

If all of the above criteria for voluntary acquisition are not met, the purchase is **involuntary**. The recipient must then complete the following:

- 7) **Provide Notice of Interest to the Property Owner:** This notice tells the owner of the recipient's interest in acquiring the property. It should be issued as soon as is feasible, following the recipient's identification of the real property in which it has an interest. The notice must outline the protection available to the owner and should include information on the recipient's process and obligation in conducting an appraisal. The HUD brochure "When a Public Agency Acquires Your Property" found in Appendix 2 (Form HUD-1041-CPD) explains the URA policies. The text of this brochure is included in the appendix to this chapter. Copies of the printed brochure are available upon request from IEDA. This must be given to the property owners.
- 8) **Notice:** Recipient must provide notice, as required, to tenants throughout the process.
- 9) **Appraisal:** After the owner has been notified of the recipient's interest in the property, an appraisal must be conducted. The appraisal should be done before negotiating the purchase price. The property owner or a representative must be given the opportunity to accompany the appraiser while on site.

Appraisals are defined as written statements setting forth the market value of a specific property on a specific date. This analysis must be conducted independently and impartially by a certified appraiser and must be supported by analysis of relevant market information. The market value of a partial acquisition is the value of the whole property less the value of the remaining property. To the extent possible under the law, the appraiser should disregard any enhanced or decreased value to the property to be caused by the project.

Appraisals conducted for the acquisition of property for federally funded projects must follow the Uniform Standards of Professional Appraisal Practice (USPAP). These standards can be found here:

https://www.appraisalfoundation.org/imis/TAF/Standards/Appraisal_Standards/Uniform_Standards_of_Professional_Appraisal_Practice/TAF/USPAP.aspx?hkey=a6420a67-dbfa-41b3-9878-fac35923d2af

Appraisals are not required if the owner is donating the property and releases the recipient from its obligation after being informed in writing of the right to an appraisal. Appraisals are also not necessary when the Agency (i.e., Responsible Entity, in consultation with IEDA) determines that the property valuation problem will be uncomplicated and the available data indicate a market value of less than \$10,000 (up to \$25,000 if the Agency offers the landowner

an appraisal and he refuses it in writing). If the above criteria are met, then the Agency will prepare a waiver valuation drafted by a person having sufficient understanding of the local real estate market. If the property owner requests an appraisal, one will be conducted.

Recipients must establish minimum qualifications for appraisers. These vary according to the difficulty of the review. Inexperienced appraisers should not be asked to examine complex properties. The Financial Institutions Reform, Recovery and Enforcement Act (FIRREA) standards apply to URA. Fee appraisers making a detailed appraisal must be state certified. For a list of state certified appraisers, go to <https://www.asc.gov/appraiser>.

Appraisers must not have any conflicts of interest with the owner or property they are to review. This includes direct and indirect ties. Payment for conducting the appraisal may not be tied to the resulting property value.

The appraiser shall disregard any decrease or increase in the market value of the real property caused by the project for which the property is to be acquired, or by the likelihood that the property would be acquired for the project, other than that due to physical deterioration within the reasonable control of the owner.

10) Review of Appraisal: After the initial appraisal is conducted, the appraisal must be examined by a qualified review appraiser. The review appraiser must examine all appraisals to check for accuracy, documentation, and soundness of opinion. If the review appraiser does not accept an appraisal, a second full appraisal must be sought. If the review appraiser does not agree with the original appraisal and it is not practical to do a second appraisal, the review appraiser may present and analyze market value information to support a recommended value. The reasons for the change and the new value must be set out in a certified document.

11) Purchase Offer and Summary Statement of the Basis for Just Compensation: After an appraisal determines the fair market value of the property and is approved by the review appraiser, the recipient should promptly deliver a Purchase Offer and a Summary Statement of the Basis for Just Compensation to the owners. The Purchase Offer should be an amount not less than the approval appraisal. The Summary Statement of the Basis for Just Compensation is a written explanation of the purchase offer. Please review Helpful Acquisition Information found in Appendix 2 for what it should contain.

If the acquisition will leave the owner with an “uneconomic remnant,” the recipient must offer to buy the full property (an uneconomic remnant is considered to be a parcel of property left after acquisition that has little or no value to the owner). If the owners retain or remove property improvements from the site, the salvage of the improvements should be deducted from the offer of just compensation.

12) Negotiation of Purchase Price: When feasible, negotiations should be conducted in person. Owners have the right to suggest alternatives or additions to the Offer of Just Compensation and to suggest changes in the appraisal. If the owner’s information or suggestions warrant a new appraisal, one must be conducted. A review appraisal also may be needed if significant time has passed since the original appraisal. If the second appraisal suggests an increase in the fair market value, this must be communicated to the owner and a new Offer of Just Compensation must be made.

Recipients may not take any coercive action (e.g., advancing the time of condemnation or depositing just compensation funds with the court) to rush or influence the owner’s decision.

Recipients may allow an owner or tenant to remain on the purchased site at a market rent for the property. However, recipients should ensure that this lease would enable them to legally and readily take possession of the property as required by the project plans.

Recipients may authorize an administrative settlement that exceeds the amount of just compensation. The recipient should document such action with information such as court awards exceeding market value, estimated legal costs or valuation errors. Recipients must not pressure appraisers to change the value of their estimates.

Before taking possession of a property, the recipient must pay the owner the agreed upon price. In the case of a condemnation, money must be deposited with the court for the owner. This amount should be no less than the market value or court award of compensation. Only in exceptional circumstances and with the owner's approval may the recipient enter the property before payment.

The owner of the real property shall be reimbursed for all reasonable expenses the owner necessarily incurred for the following (the final two expenses in this list are less common):

- Recording fees, transfer taxes, documentary stamps, evidence of title, boundary survey and legal description of the real property (however, the recipient is not required to pay costs solely required to perfect the owner's title to the real property);
- Penalty costs and other charges for prepayment of any pre-existing recorded mortgage entered into in good faith encumbering the real property; and
- The pro rata portion of any prepaid real property taxes allocable to the period after the recipient obtains title to the property or effective possession of it, whichever is earlier.
- Whenever feasible, the recipient shall pay for the incidental expenses directly so the owner will not have to pay such costs and then seek reimbursement from the recipient. To avoid duplicate expenditures, the property owner should be informed early in the acquisition process of the recipient's intent to make such arrangements.
- Tenant Assistance: The Recipient must provide advisory services, moving assistance, and relocation payment as applicable

Condemnation Proceedings

If a property is to be taken by eminent domain, the recipient must initiate formal condemnation proceedings. Recipients may not require the owner to prove the taking of his/her property. Inverse condemnations are takings in fact, but not through legal means. For example, an airport is placed next to a property and the noise from planes makes the property unusable. Even though this property has not been taken through legal means, the use of it has been lost and the owner is entitled to compensation.

The owner of the real property shall be reimbursed for any reasonable expenses which the owner actually incurred because of a condemnation proceeding, including reasonable attorney, appraisal, and engineering fees, if:

- The final judgment of the court is that the recipient cannot acquire the real property by condemnation; or

- The condemnation is abandoned by the recipient other than under an agreed upon settlement; or
- The court having jurisdiction renders a judgment in favor of the owner in an inverse condemnation proceeding or the recipient affects a settlement of such proceeding.

Property Donation

If a property owner wishes to donate their property, no appraisal is necessary. The property owner must release the recipient from the obligation to conduct an appraisal in writing. The property owner must also be informed of their rights and be sent a copy of “When a Public Agency Acquires Your Property.” This document is included in Appendix 2.

Relocation Procedure

Relocation Requirements for Acquisition:

If the property that is acquired for the CDBG project includes tenants (households, businesses, non-profit organizations, or farm operations) the buyer must provide to each tenant one of the following Notifications: Notice of Relocation Eligibility (NOE) (49 CFR 24.203(b)) or Notice of Nondisplacement.

Tenant households, businesses, non-profit organizations, or farm operations that occupy the property and are **“displaced persons” as defined in the regulations are eligible for all advisory services and financial benefits under either the URA or Section 104(d)**. The buyer must provide all the required notifications in a timely manner. Property owners cannot waive these rights for tenants of their properties on a voluntary transaction.

The buyer must provide all the required notices to tenant households, businesses, non-profit organizations, or farm operations that occupy the property and are “displaced persons” as defined in the regulations either at URA or 104d. The notices are in the appendices to Handbook 1378 (see link in previous section entitled “Site and Easement Acquisition and Relocation”).

Requirements for Temporary Relocation:

The URA is triggered if a tenant is required to be temporarily relocated due to results of rehabilitation.

Tenants are entitled to be paid for out-of-pocket costs incurred during temporary relocation, such as the fees charged for the temporary unit above their costs for their existing unit, costs to move back and forth from the temporary unit, storage costs for personal belongings. In addition, reasonable advance notice must be provided to the tenant before the tenant is required to move into or out of the temporary unit. Further, the temporary unit they move to must be suitable, decent, safe, sanitary, and similarly accessible. (For more information on URA, consult HUD Handbook 1378.)

Rehabilitation of an owner-occupied housing unit does not trigger the URA. However, a recipient can adopt optional policies that define “hardship” situations for homeowners and pay certain costs related to temporary relocation, such as per day maximum for costs actually incurred for housing needs and meals.

Prohibited Activities

In accordance with 24 CFR 570.207 (a): The following activities may not be assisted with CDBG funds:

- (a) **BUILDINGS OR PORTIONS THEREOF, USED FOR THE GENERAL CONDUCT OF GOVERNMENT AS DEFINED AT § 570.3(D).** This does not include, however, the removal of architectural barriers under § 570.201(c) involving any such building. Also, where acquisition of real property includes an existing improvement which is to be used in the provision of a building for the general conduct of government, the portion of the acquisition cost attributable to the land is eligible, provided such acquisition meets a national objective described in § 570.208.
- (b) **GENERAL GOVERNMENT EXPENSES.** Except as otherwise specifically authorized in this subpart or under 2 CFR part 200, subpart E, expenses required to carry out the regular responsibilities of the unit of general local government are not eligible for assistance under this part.
- (c) **POLITICAL ACTIVITIES.** CDBG funds shall not be used to finance the use of facilities or equipment for political purposes or to engage in other partisan political activities, such as candidate forums, voter transportation, or voter registration. However, a facility originally assisted with CDBG funds may be used on an incidental basis to hold political meetings, candidate forums, or voter registration campaigns, 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.

Monitoring Policy

All CDBG projects will be monitored by an IEDA project manager during the life of the project. CDBG project monitoring provides IEDA with the opportunity to provide technical assistance, determine the status of grant funded activities, review the recipient's grant management system, and evaluate compliance with state and federal rules and regulations. It is IEDA policy to conduct at least one monitoring visit for every CDBG project. This may include a desk monitoring or on-site monitoring or a combination of both. IEDA staff will set-up an on-site monitoring date with the recipient and grant administrator.

Risk Based Monitoring

IEDA will conduct a risk-based assessment annually for all contracts. While each of the activities will be monitored at least once during the life of the grant, the risk-based assessment will assist project managers in determining the timing and frequency of documented monitoring.

The Risk based assessment will be conducted through IowaGrants.gov as a component titled "Risk Assessment." This form will be filled out once a year by the project manager, and based on the outcome score, the project manager will determine when the next monitoring is required. Per 200.331(b), IEDA will evaluate each recipient's risk of noncompliance with Federal statutes, regulations, and the terms and conditions of the subaward for purposes of determining the appropriate level of monitoring, the risk-based assessment will include:

- Financial Risk – how large is the grant

- Submitted Draws – are claims on schedule as outlined in contract
- Program Management/Capacity – is administrator familiar with CDBG and is certified
- Compliance – with all applicable federal/state/IEDA laws and regulations

Monitoring Thresholds

Regardless of the outcome of the risk-based assessment, IEDA will schedule projects for monitoring when the project has drawn 50% of the CDBG funds and the construction is 50% complete. Once a project has met this threshold, the project manager should begin making plans to monitor the project.

Monitoring Procedures

Project managers will complete the relevant fields in the Site Visit component form in www.iowagrants.gov for each monitoring. Monitoring can be documented either in-person on-site with the recipient (and subrecipient, as applicable), or from the Project Manager's desktop. Each monitoring will be recorded in IowaGrants.gov and dated to differentiate monitoring events. Monitoring can assess one, multiple, or all of the areas of review. The final monitoring must make sure the following specific areas have been reviewed at least once during the project contract:

- National Objective / Project Progress
- Citizen Participation
- Environmental
- Financial Management
- Procurement
- Duplication of Benefits (as applicable)
- Administration
- Contract Management (Architectural/Engineering)
- Contract Management (Professional Services)
- Contract Management (Construction)
- Labor Standards
- Housing Review (as applicable)
- Civil Rights (Section 3, EEO, Fair Housing, MBE/WBE)
- Acquisition and Relocation
- Property Management and Photos (as applicable)

While both on-site and desk monitoring will look the same in iowagrants.gov, project managers will ensure the following policies are applied to both types of reviews.

Desk or On-Site Monitoring

Desk monitoring, or sometimes referred to as off-site monitoring, can be used as a substitute for on-site monitoring during the life of the grant. If desk monitoring will be used to replace onsite monitoring the project manager will discuss this decision with the team leader and get their approval. If a desk monitoring is decided upon all the criteria normally reviewed for an on-site visit will be conducted from the office. This process will entail a virtual meeting and/ or uploading all required documents into IowaGrants for review. It will also involve an interview with City officials regarding grant management and financial review. Project managers will also schedule a virtual meeting with the City/County staff and grant administrator following this comprehensive review to go over any deficiencies discovered during the monitoring visit. The project manager will provide a final monitoring report outlining the findings of the visit and any corrective actions required by the recipient.

Desk monitoring can also be conducted on an ongoing basis and may include general review of project activities and communications to determine if the project is on track and the rules and regulations are being followed.

Project managers may conduct an on-site visit to review materials and inspect the project site. All items discussed during a desk monitoring will be covered at an on-site monitoring.

Project managers may request additional information from the recipient or grant administrator during the monitoring process. Recipients and grant administrators should respond to requests for information in a timely manner.

Monitoring Form

Monitoring forms are generated by IowaGrants and are program specific. An example monitoring form can be found here:

<https://www.iowaeconomicdevelopment.com/userdocs/documents/ieda/MonitoringChecklist.pdf>

Monitoring Follow-Up

IEDA project managers will send a final monitoring report following every monitoring visit. Project managers will send this correspondence no later than two months following the date that all monitoring visit information was provided. The monitoring report will include a list of satisfactory activities, areas for improvements and any corrections needed. If the monitoring report identifies significant compliance issues, the report will be reviewed by the Team Leader prior to being sent to the recipient. If the monitoring report includes the need for penalties or repayments, the report will be reviewed by IEDA's Chief Programs officer and COO or Director prior to being sent to the recipient.

In the Appendix to Chapter 2

Procurement

- 2 CFR Cross Walk
- Procurement Policy
- Procurement-Related Policies
- Instructions for Procurement of Services for CDBG-Funded projects
- Sample Evaluation Criteria for Recipient Use in the Procurement of Professional Services
- Sample Evaluation Criteria for Recipient Use in the Procurement of Design, Management
- Procurement Frequently Asked Questions

Civil Rights and Fair Housing

- Civil Rights – Fair Housing – Equal Opportunity Applicable Laws and Regulations
- Equal Housing Opportunity Slogan and Logo
- Clearinghouses for Solicitation of Minority-owned and Female-owned Businesses
- Mandatory and Optional Actions to Affirmatively Further Fair Housing

Labor Standards

- CDBG Project Sign Specifications
- Labor Standards Forms
- Report for Additional Classification and Rate Form
- Links to Job Site Posters and Federal Labor Standards Provisions

Required Contract Provisions

- Required Contract Language and Provisions

Build America, Buy America

- BABA Forms, Waivers, and Resources
- Language for Inclusion in Bids and Subcontracts

Acquisition

- “When A Public Agency Acquires Your Property”
- General URA Acquisition Information
- Helpful Acquisition Information
- Acquisition Notices
- HUD Handbooks and Forms for Relocation Activities

Your Notes

Section 106 Review

This Chapter describes the Section 106 Historic Review. For information on the Environmental Review process, please see the following chapter (Chapter 4). The various Section 106 chapter components include:

- Overview: Section 106 of the National Historic Preservation Act (pg. 47)
- Step 1: Initiating the Section 106 Process (pg. 47)
- Step 2: Identifying and Evaluating Historic Properties (pg. 48)
- Step 3: Assessing Effects and Choosing a Federal Finding (pg. 50)
- Step 4: Resolving Adverse Effects (pg. 51)
- Tribal Consultation (pg. 51)
- Section 106/Tier II Submittals in IowaGrants (pg. 52)
- Documenting Section 106 Compliance in the ERR (pg. 52)

Overview: Section 106 of the National Historic Preservation Act

Section 106 of the National Historic Preservation Act of 1966 (NHPA) outlines the process of identifying and assessing the potential effects of a federal undertaking on historic and archaeological resources. The process consists of four steps:

- 1) Initiating the Section 106 process
- 2) Identifying and evaluating historic properties
- 3) Assessing the undertaking's effects on historic properties
- 4) Resolving adverse effects to historic properties

Section 106 consideration is required for all federal undertakings, including CDBG, CDBG-CV, and CDBG-DR projects. CDBG recipients assume responsibility for Section 106 review and the federal finding under the NHPA. If HUD is the lead agency of the project receiving CDBG funds administered through the Iowa Economic Development Authority (IEDA), Section 106 review is documented in a Section 106/Tier II form in IowaGrants and must be approved by the IEDA Historic Preservation Specialist (HPS).

The process for completing Section 106 review for IEDA's CDBG projects is summarized below. For a definitive description of Section 106 requirements, please consult the regulations in 36 CFR Part 800, which can be found at: <https://www.ecfr.gov/current/title-36/chapter-VIII/part-800?toc=1>.

Step 1: Initiating the Section 106 Process

To assist with streamlining the Section 106 process, IEDA has a Programmatic Agreement (PA) with the State Historic Preservation Office (SHPO) that allows IEDA to have qualified, on-site staff to conduct reviews of Section 106 documentation for CDBG, CDBG-CV, and CDBG-DR projects that result in findings of No Potential to Cause Effects, No Historic Properties Affected, and No Adverse Effect to Historic Properties. The PA is available in Appendix 3 of the CDBG Management Guide and outlines the roles and responsibilities of IEDA, SHPO, the Responsible

Entity (RE), and the Advisory Council on Historic Preservation (ACHP). It also includes a list of Programmatically Excluded activities that do not have the potential to affect historic properties.

The RE should review the PA to determine if the project is limited to the Programmatically Excluded activities or if full Section 106 review is needed. Projects cannot be segmented into excluded activities and non-excluded activities, so the **entire** project must be limited to the activities listed in the PA for it to be Programmatically Excluded from full Section 106 review.

If the project is not Programmatically Excluded, it must go through full Section 106 review, and the RE must continue to Step 2 of the process.

If the project's Level of Review for the Environmental Review is Exempt, Categorically Excluded NOT Subject to §58.5, or if the project activities are limited to the activities listed as Programmatically Excluded in the PA, the project does not have to go through full Section 106 review. Instead, the RE must complete an *Exempt from Review, Project Determination* form (located in Appendix B of the PA) and submit it with a Section 106/Tier II form in IowaGrants by following the steps below:

- Complete and sign the *Excluded from Review* form.
- Start a Section 106/Tier II compliance form in IowaGrants.
- Read instructions and complete all relevant fields.
- Select "Yes" for "PA Exempt" and fill out the "Exempt Date Signed" and "PA Exemption" sections.
- Upload the *Excluded from Review* form and supporting documentation under the "Exempt Form" section.
- Submit the Section 106/Tier II form through IowaGrants.

Once submitted, the IEDA HPS has 30 days to review and either provide comments or approve. The Section 106 process ends here for Programmatically Excluded projects.

Step 2: Identifying and Evaluating Historic Properties

Area of Potential Effects (APE)

Once the RE has determined that a full Section 106 review will be needed, they must define the Area of Potential Effect (APE) of the project. The APE is the surface and subsurface geographic area in which the project may directly or indirectly impact historic or archaeological resources.

In determining the APE, the RE must consider direct and indirect effects as well as immediate effects or effects that may occur in the future as a result of the project. The APE usually encompasses the project area as well as all easements, borrow areas, equipment and material storage, and staging areas. The RE should also take into account excavation and other earthmoving activities including three-dimensional parameters (length, width, and depth) of the intended subsurface impacts. A map of the project's APE must be included in the Section 106 submittal.

Identifying Resources

Once the APE has been delineated, the RE should move forward with the identification and evaluation of historic and archaeological resources within the APE.

Previously evaluated resources in the APE can be found in the State of Iowa Inventory. The RE must contact Penny Wilcoxson (Penny.Wilcoxson@iowaeda.com) and Lorinda Bradley (Lorinda.Bradley@iowaeda.com) to request previously inventoried resources within the APE.

The RE should also check the National Register of Historic Places (NRHP) database (located on the National Park Service (NPS) website: <https://npgallery.nps.gov/nrhp>) for copies of National Register Nominations for any listed resources in the APE.

When all *previously evaluated* and *listed* resources in the APE have been identified, the RE must work to identify any *unevaluated* potential historic resources (resources over 50 years of age or of exceptional significance) and archaeological resources within the APE for evaluation. To assist with identifying unevaluated resources, the RE may consider conducting background research of the area, consulting interested parties in the area, contacting local historians, completing field surveys, and/or initiating a Phase I archaeological survey.

Completing Iowa Site Inventory Forms (ISIFs)

An *Iowa Site Inventory Form* (ISIF) must be completed to evaluate or re-evaluate each above-ground resource in the APE that is over 50 years of age or of exceptional significance. A blank copy of the ISIF and instructions are located on the SHPO's website: <https://iowaculture.gov/history/preservation/resources/forms-and-instructions>.

The ISIF should document the existing conditions of the resource at the time it the form is being completed and must not discuss any future alterations or the proposed CDBG project. Previous ISIFs are good for five years; if an ISIF for a previously inventoried resource was completed more than five years ago or has been altered since the previous ISIF, a new ISIF must be completed, and the property must be re-evaluated.

Evaluating Resources

NRHP evaluation is required for all potential historic resources in the APE that are unevaluated or were evaluated more than five years ago, including buildings, districts, objects, structures, and sites. The NPS has developed the National Register Criteria for Evaluation to provide guidance on evaluating properties that may be eligible for the NRHP. The National Register Criteria consist of the following:

- **Criterion A: History/Historical Event** – is the resource associated with an event that made a significant contribution to history?
- **Criterion B: Significant Person** – is the resource associated with the lives of significant persons?
- **Criterion C: Architecture** – does the resource embody the distinctive characteristics of a significant type, period, style, or method of construction?
- **Criterion D: Potential to Yield Information** – does the resource yield or is it likely to yield important information about our nation's history or pre-history? (Archaeology)

If the resource meets **any** of the National Register Criteria, the RE should determine if it retains sufficient integrity to be eligible for listing in the NRHP. There are seven aspects of integrity to consider:

- Location
- Design
- Setting
- Materials
- Workmanship
- Feeling
- Association

If any of the above aspects of integrity have been significantly altered from the resource's period of significance, it may not retain sufficient integrity to be NRHP-eligible.

The RE may consider seeking professional assistance from a qualified consultant if they are unable to document the resource and determine its National Register eligibility.

Technical Assistance

Tallgrass Archaeology, Inc. (Tallgrass) conducts technical review of the ISIFs for IEDA's CDBG housing rehabilitation (HSG) projects. The RE must complete a draft ISIF with a draft narrative description, statement of significance, maps, photos, and any other information. The RE will then send the draft form to Ray Werner (raywerner@tallgrassarchaeology.com) who will review and provide comments and revisions within no more than 10 working days from submittal. The RE must incorporate any revisions into the ISIF prior to submitting the form through IowaGrants.

Tallgrass also offers technical assistance for complex historic properties for IEDA's HSG projects. The RE should contact Ray Werner at Tallgrass in advance and request a Full Evaluation. Tallgrass will then complete a site visit and generate a full ISIF for the RE. This is a separate service from the regular HSG ISIF review and comes at a separate cost for IEDA.

Completing Archaeological Review

If a project includes ground disturbance, the RE must make a reasonable and good-faith effort to identify the presence or potential presence of buried archaeological sites in the APE. The level of archaeological review will depend on the scope and scale of the ground disturbance.

If the project has minimal ground disturbance, the RE may be able to provide supplemental information to show that the APE is unlikely to contain archeological resources and that there is no compelling evidence for further archaeological review. This documentation must include a narrative description and supplemental maps showing the condition of the area and why there is no compelling evidence of archaeological resources. To ensure there are no known archaeological sites in the area where there will be ground disturbance, the RE should also request an Iowa Site File Search from the Office of the State Archaeologist (OSA), which includes information on the types and number of recorded archaeological sites within a 1-mile radius of the project APE. The RE can request a Site File Search on the OSA website: <https://archaeology.uiowa.edu/services/i-sites>

If the project has substantial disturbance or there is information that leads to the probability of archaeological resources, an archaeological survey of the APE must be completed. The RE must procure a qualified archaeologist to conduct the survey. If the Phase I survey results in the recommendation for continued investigation to determine if the site is NRHP-eligible, the RE must either continue with the evaluation of archaeological resources or revise the scope to fully avoid the unevaluated sites. Furthermore, if any pre-historic archaeological sites are identified, the results of tribal consultation must be considered for eligibility determinations.

Step 3: Assessing Effects and Choosing a Federal Finding

Once all the resources within the project APE have been identified and evaluated, the RE must assess the project's effects on any NRHP-eligible or -listed resources. The RE will select a federal finding from the following:

- **No Potential to Cause Effects** (these activities are covered in the PA and in Step 1)
- **No Historic Properties Affected** (there are no eligible or listed resources in the APE)
- **No Adverse Effect to Historic Properties** (there are eligible or listed resources in the APE, but the project has been designed to avoid any adverse effects to those resources)
- **Adverse Effect to Historic Properties** (there are eligible or listed resources in the APE, and there is no way to avoid altering the character-defining features of an eligible or listed resource – SHPO consultation is required)

To avoid adverse effects to eligible or listed resources, the project must comply with the Secretary of the Interior's (SOI) Standards (located on the NPS website: <https://www.nps.gov/tps/standards.htm>) and must avoid diminishing the characteristics that qualify the resource eligible for the NRHP.

If there are No Historic Properties Affected or No Adverse Effects to Historic Properties, the RE can end the Section 106 process here and complete a Section 106/Tier II form documenting compliance.

If the project will result in an Adverse Effect to Historic Properties, the RE must continue to Step 4 of the process.

Step 4: Resolving Adverse Effects

If the project will result in an Adverse Effect to Historic Properties, the PA requires consultation with SHPO and the development, execution, and implementation of a Memorandum of Agreement (MOA). An MOA outlines agreed-upon measures that IEDA and the RE will take to avoid, minimize, or mitigate the adverse effect resulting from the project.

A typical MOA timeline is as follows:

- Consult with SHPO on the “Adverse Effect” finding (30 days).
- SHPO concurs with the “Adverse Effect” finding.
- Notify the Advisory Council on Historic Preservation (ACHP) of the Adverse Effect and invite them to participate in resolution (15 days).
- Notify the public and interested parties of the Adverse Effect and solicit ideas for ways to avoid, minimize, and mitigate the effects.
- Through consultation with SHPO and all identified interested parties, select mitigation measures that are commensurate with the Adverse Effect on the resource. Mitigation measures must be agreed-upon by all parties before they are included in the MOA (especially by the federal agency and SHPO).
- Draft the MOA to outline the agreed-upon mitigation measures and the roles and responsibilities of who will implement them.
- The MOA must clearly state who is responsible for each task.
- Distribute the draft MOA to all signatories and invited signatories for review and comment.
- Once agreed upon, all signatories sign and execute MOA.
- Complete all stipulations of the MOA.

Tribal Consultation

Consultation with the IEDA HPS does not replace the potential need to consult with federally recognized Native American Tribes and Tribal Preservation Officers. HUD's *When to Consult with Tribes under Section 106* form includes a list of projects that would require the RE to contact the tribal authorities. If the project activities are not on the list, the RE does not need to consult with Tribes; instead, the RE must complete and sign the form and include it in the Environmental Review Record (ERR).

If Tribal consultation is required, a list of Tribal contacts can be found in Appendix A of the PA. The RE should also refer to the HUD Tribal Directory tool (<https://egis.hud.gov/tdat/>) to identify the current contacts for Tribes interested in the specific area of the project. **Tribal consultation letters must be on City letterhead from the Chief Elected Official and not from the Grant Administrator.** Once the letters have been sent, Tribes have 30 days to indicate their desire to consult. Copies of the Tribal consultation letters and the distribution list must be added to the Section 106/Tier II form and included in the ERR.

Section 106/Tier II Submittals in IowaGrants

Once the RE has determined a federal finding, they must start a Section 106/Tier II form in IowaGrants and complete the following steps prior to submitting the form to the IEDA HPS:

- Read instructions and complete all relevant fields
- Note the Site Inventory Number on the Section 106/Tier II form if a resource in the APE is previously inventoried
- Select “No” for “PA Exempt” if submitting evaluation documents (ISIFs, archaeological survey, etc.)
- Select a “Finding” (No Historic Properties Affected, No Adverse Effect, Adverse Effect)
- Upload all Supporting Documentation as PDFs
- Submit the Section 106/Tier II form for IEDA review

The Supporting Documentation section of the Section 106/Tier II form should include the following:

- *Authorization for Alternate Signatories* form (per program/city) or *Request for Comment on a HUD Project* form signed by City Official (per address) – blank forms can be found in PA appendices
- APE map
- If work involves above-ground resources over 50 years of age or of exceptional significance:
 - *Iowa Site Inventory Form* (ISIF) with current photographs of all visible elevations, streetscapes, etc.
 - Note that photos must be integrated into the ISIF rather than as a separate document. Even if building or district is listed in NRHP, current condition photographs are still required
- If work involves ground disturbance:
 - Supplemental Archaeological Information or Archaeological Survey
- Scope of work conveying that the proposed project meets SOI standards
 - Include a narrative description of the project work
 - Ideally, also include architect renderings showing any changes to exterior elevations of any NRHP-eligible or -listed properties – otherwise, the IEDA HPS may go back and ask for them
 - Make sure project activities are clearly stated and easy to find
- Copies of tribal letters or other consultation, if required
- Any other supplemental documentation that will help IEDA concur with finding, such as: the Assessor’s webpage, old ISIFs, historic district nominations, window surveys, etc.

Once the Grant Administrator has submitted the Section 106/Tier II form, the IEDA HPS has 30 days to review and provide comments or approve.

Documenting Section 106 Compliance in the ERR

If a federal agency other than HUD (such as DNR, USDA, FEMA, etc.) is the lead agency and completed the Section 106 compliance, Section 106/Tier II forms should **not** be submitted through IowaGrants. Instead, the RE must add copies of the Section 106 compliance and approval from SHPO to the ERR.

If no other federal agency is involved in the project, a Section 106/Tier II form must be completed for the project in IowaGrants:

- For Environmental Assessments (EAs) and projects that are Categorically Excluded Subject to 58.5(a)(3) and do not require a tiered Environmental Review: Once the Section 106 form has been approved, the RE must add a screenshot of the approval and include it in the EA documentation along with the tribal consultation or the *When to Consult with Tribes under Section 106* form.
- For projects that are Categorically Excluded Subject to 58.5(a)(3) that require site-specific Environmental Tier II reviews for Section 106 (such as HSG and DTR projects): The ERR will be completed prior to the individual building/site Section 106/Tier II reviews. Add the tribal consultation or the *When to Consult with Tribes under Section 106* form to the ERR. Once the ERR is complete, submit the ERR and *Request for Release of Funds (RROF)* to IEDA through IowaGrants. Once the ERR has been approved, the RE will then do the individual Section 106/Tier II forms for each location. No bidding or construction can occur prior to the Section 106/Tier II approval.

In the Appendix to Chapter 3

- Programmatic Agreement (PA)
- Section 106 Excluded from Review, Project Determination Form
- Authorization for Alternate Signatories for Section 106 Compliance Forms
- Iowa Site Inventory Form (ISIF)
- When to Consult with Tribes under Section 106
- Addendums to the Programmatic Agreement

Your Notes

Environmental Review

This Chapter describes the Environmental Review. For information on the Section 106 Review process, please see the previous chapter (Chapter 3). The various Environmental Review chapter components include:

- Overview (pg. 56)
- Preparing to Conduct an Environmental Review (pg. 58)
- Determining the Level of Environmental Review (pg. 59)

Overview

The National Environmental Policy Act of 1969 (NEPA) establishes national policies, goals, and procedures for protecting, restoring, and enhancing environmental quality. CDBG recipients must comply with this law and with related federal regulations, which are referenced in 24 CFR Part 58. CDBG recipients must evaluate how projects will affect the environment by complying with the requirements set out in 24 CFR Part 58. The requirements are complex and are only summarized below. For a definitive description of environmental requirements, please consult the regulations, which are found at: <https://www.ecfr.gov/current/title-24/subtitle-A/part-58?toc=1>

CDBG recipients assume the responsibility for environmental review, decision-making, and action that would otherwise apply to HUD under NEPA and other provisions of law that further the purposes of NEPA, as specified in Sec. 58.5.

If another federal agency has funds invested in your project, this agency will also be conducting an environmental review. Recipients are encouraged to coordinate your CDBG environmental review with that agency.

However, recipients must ensure the agency's review is adequate to meet responsibilities under 24 CFR Part 58. **An environmental review completed by a federal agency does not replace the environmental review required under the CDBG program.** While recipients may concur with and incorporate the finding and any assessments conducted by another agency, recipients must ensure the contents of the CDBG environmental review record (discussed later in this section) is complete. Recipients must fulfill the publication and comment requirements outlined in this section.

Recipients should note that regardless of approval from another federal agency, until approval under HUD regulations at 24 CFR Part 58 has been obtained from IEDA, recipients may not commit CDBG or non CDBG funds to the project OR undertake "choice limiting activities." Choice limiting actions include but are not limited to: going out to bid, property acquisition or transfer, site clearing activities, rehabilitation, conversion, lease, repair, construction or demolition.

Incurring Costs (24 CFR Part 58.22) and Submitting Draw Requests

Completion of the environmental review process is mandatory before taking any action on a specific site or making a commitment or expenditure of HUD or any other non-HUD project funds for property acquisition or transfer, rehabilitation, conversion, lease, repair construction or demolition activities. Note: 24 CFR Part 58.22 has limitations on activities pending clearance. “(a) neither a recipient nor any participant in the development process, including public or private nonprofit or for-profit entities, or any of their contractors, may commit HUD assistance under a program listed in 58.1(b) on an activity or project until HUD or the State has approved the recipient’s RROF (Request for Release of Funds) and the related certification from the responsible entity. In addition, until the RROF and the related certification has been approved, neither a recipient nor any participant in the development process may commit non-HUD funds on or undertake an activity or project under a program listed in 58.1(b) if the activity or project would have an adverse environmental impact or limit the choice of reasonable alternatives.”

Recipients can be reimbursed for certain costs incurred prior to the Release of Funds. These costs include:

- Administration costs
- Design costs including architectural and engineering
- Costs associated with the environmental process

These costs must have been incurred after the contract effective date.

For all other project activities, recipients cannot incur costs or draw down funds until the environmental review requirements are satisfied and the IEDA has released funds for the project. If any construction activities, including going out to bid, signing of the construction contract and/or acquiring property are started before IEDA’s approval of the Request for Release of Funds, it will result in all construction costs becoming ineligible for reimbursement.

Steps to Conducting an Environmental Review

1. Define the complete project activities
2. Determine what level of review is required:
 - a. Exempt
 - b. Categorical Exclusions Not Subject to §58.5 (CENST)
 - c. Categorical Exclusions Subject to §58.5 (CEST)
 - d. Environmental Assessment (EA)
 - e. Environmental Impact Statement
3. Initiate contacts with outside sources, e.g., Tribes, IEDA’s Historic Preservation Specialist, etc.
4. Collect data
5. Complete applicable review format, i.e., Statutory Checklist or Environmental Assessment

6. Make environmental determination (i.e., compliance with NEPA-related laws and authorities), **or** finding of no significant impact, **or** finding of significant impact (sign Level of Determination form)
7. Publish or disseminate public notices (unless Exempt or CENST)
8. Submit ERR including the “Request for Release of Funds and Certification” form to IEDA via IowaGrants and also “snail mail” a hard copy of the RROF, Affidavit of Publication, and Level of Determination to the Environmental Officer
9. Wait for release of funds letter to be uploaded to IowaGrants from IEDA
10. Start project – commit funds

Preparing to Conduct an Environmental Review

Defining Project Activities

Defining the project activity is a crucial step in the environmental review process. This step is crucial to determining the level of environmental review and thus sets out the correct path for documenting compliance with 24 CFR Part 58. “Project” means an activity, or a group of integrally related activities, designed by the recipient to accomplish, in whole or in part, a specific objective. When determining the scope of the project one should be sure to include both HUD and non-HUD funds. For example, if non-HUD funds are proposed to acquire property for a community center and HUD funds are planned for construction of the building, both the land acquisition and construction are subject to the environmental review. Likewise, if CDBG funds are being used to acquire a building or site, and non-CDBG funds are used to improve the project or otherwise affect the building or site, all changes to the building and site are reviewed within the same environmental process.

Project Aggregation (24 CFR Part 58.32)

Recipients must group together and evaluate as a single project all individual activities which are related on either a geographical or a functional basis or are logical parts of a composite of contemplated actions. When grouping activities, the recipient should be aware that several sites, each requiring some degree of environmental review, might be considered for one project (e.g., 40 units being rehabilitated within a target area). The recipient is well served by grouping activities by projects, common locations and functions, and by activity phasing.

Please note that some projects can be considered on an activity-wide basis, while others require site-by-site or (Tier II) analysis. Tier II analysis is appropriate when evaluating a proposal at the early stages of development or, most commonly, when site-specific analysis is not yet feasible (i.e., at project onset). Tier IIs are generally used with CEST-level reviews and involve specific addresses or locations. No additional public notice or RROF are required unless unanticipated impacts or impacts not adequately addressed in the prior Tier I review are discovered during the Tier II process.

Project Activities Taking Place in Floodplains

When project activities take place in floodplains, the RE must go through the “Eight-Step Decision Making Process” and consider “practicable alternatives” to the proposed action (Executive Order 11988 / 24 CFR Part 55). Please refer to Appendix 4 for links to a step-by-step list of items that

need to be addressed. Be sure to pay close attention to steps 2) and 7) because these call for two separate publications. There is an early notice followed by a final notice that can be published simultaneously with the RROF and FONSI.

The Environmental Review Record (24 CFR Part 58.38)

Each CDBG project must have a written record of the environmental review process. This is the “Environmental Review Record” (ERR), which must be available for public review and comment. The ERR must contain a description of the project and all of its activities (including non-HUD assisted activities); a detailed map of the project area showing the project limits; documentation of compliance with environmental laws; other relevant documents, required notices or information; and public comments on the recipient’s environmental review. Public comments and your responses to those comments are extremely important and must be documented in the ERR.

The ERR will vary in length and content by project. Some projects are exempt from NEPA review, categorically excluded from NEPA, found to have no significant impact on the environment, or may require a full environmental impact statement. The steps to comply with NEPA and other applicable laws and regulations are outlined below.

Recipients are required to upload the entire ERR into IowaGrants for IEDA review.

All projects will need to submit the ERR to IEDA prior to a release of funds being issued.

Determine the Level of Environmental Review

Every CDBG project requires some level of environmental review. The level of effort needed to prepare a review and the depth of analysis within should be proportional to the size and complexity of the proposed project. The following are the five levels of environmental review:

- Exempt
- Categorical Exclusions Not Subject to §58.5
- Categorical Exclusions Subject to §58.5
- Environmental Assessment
- Environmental Impact Statement

Exempt Activities (24 CFR Part 58.34)

Few activities funded by the IEDA will be exempt from NEPA requirements and other environmental reviews. For exempt activities, a recipient does not have to submit a RROF and certification, and no further approval from IEDA will be needed by the recipient for the drawdown of funds to carry out exempt activities and projects. However, the responsible entity must document in writing its determination (i.e., “Environmental Determination of Level of Review” form) that each activity or project is exempt and meet the conditions specified for such exemption under this section. The following activities are Exempt under §58.34:

- 1) Environmental and other studies, resource identification and the development of plans and strategies
- 2) Information and financial services
- 3) Administrative and management activities
- 4) Public services that will not have a physical impact or result in any physical changes, including but not limited to services concerned with employment, crime prevention, child care, health, drug abuse, education, counseling, energy conservation and welfare or recreational needs;
- 5) Inspections and testing of properties for hazards or defects
- 6) Purchase of insurance
- 7) Purchase of tools
- 8) Engineering or design costs
- 9) Technical assistance and training
- 10) Assistance for temporary or permanent improvements that do not alter environmental conditions and are limited to protection, repair, or restoration activities necessary only to control or arrest the effects from disasters or imminent threats to public safety including those resulting from physical deterioration
- 11) Payment of principal and interest on loans made or obligations guaranteed by HUD

Categorical Exclusions (24 CFR Part 58.35)

Categorical Exclusions are those activities that are not exempt and require no environmental assessment. There are two types of Categorical Exclusions, **§58.35 (a)** Subject to §58.5 and **§58.35 (b)** Not Subject to §58.5:

§58.35 (b) Categorical exclusion not subject to Sec. 58.5

- Tenant-based rental assistance
- Supportive services including, but not limited to, health care, housing services, permanent housing placement, day care, nutritional services, short-term payments for rent/mortgage/utility costs, and assistance in gaining access to local, State, and Federal government benefits and services
- Operating costs including maintenance, security, operation, utilities, furnishings, equipment, supplies, staff training and recruitment and other incidental costs
- Economic development activities, including but not limited to, equipment purchase, inventory financing, interest subsidy, operating expenses and similar costs not associated with construction or expansion of existing operations
- Activities to assist homebuyers to purchase existing dwelling units or dwelling units under construction, including closing costs and down payment assistance, interest buydowns, and similar activities that result in the transfer of title

- Affordable housing pre-development costs including legal, consulting, developer and other costs related to obtaining site options, project financing, administrative costs and fees for loan commitments, zoning approvals, and other related activities which do not have a physical impact
- Approval of supplemental assistance (including insurance or guarantee) to a project previously approved under this part, if the approval is made by the same responsible entity that conducted the environmental review on the original project and re-evaluation of the environmental findings is not required under Sec. 58.47. If your project is categorically excluded not subject to Sec. 58.5 using the above criteria you must complete the following steps and include the documentation in your ERR:
 - Complete “Environmental Determination of Level of Review” form
 - Complete “Requirements listed at 24 CFR 58.6” form

§58.35 (a) Categorical exclusion subject to Sec. 58.5

- 1) Acquisition, repair, improvement, reconstruction, or rehabilitation of public facilities and improvements (other than buildings) when the facilities and improvements are in place and will be retained in the same use without change in size or capacity of more than 20 percent (e.g., replacement of water or sewer lines, reconstruction of curbs and sidewalks, repaving of streets).
- 2) Special projects directed to the removal of material and architectural barriers that restrict the mobility of and accessibility to elderly and handicapped persons.
- 3) Rehabilitation of buildings and improvements when the following conditions are met:
 - i. In the case of a building for residential use (with one to four units), the density is not increased beyond four units, the land use is not changed, and the footprint of the building is not increased in a floodplain or in a wetland.
 - ii. In the case of multifamily residential buildings:
 - A. Unit density is not changed more than 20 percent,
 - B. The project does not involve changes in land use from residential to non-residential, and
 - C. The estimated cost of rehabilitation is less than 75 percent of the total estimated cost of replacement after rehabilitation.
 - iii. In the case of non-residential structures, including commercial, industrial, and public buildings:
 - A. The facilities and improvements are in place and will not be changed in size or capacity by more than 20 percent, and
 - B. The activity does not involve a change in land use, such as from non-residential to residential, commercial to industrial, or from one industrial use to another.
- 4) Demolition, New Construction or Both
 - i. An individual action on up to four dwelling units where there is a maximum of four units on any one site. The units can be four one-unit buildings or one four-unit building or any combination in between, or
 - ii. An individual action on a project of five or more housing units developed on scattered sites when the sites are more than 2,000 feet apart and there are not more than four housing units on any one site.

- iii. Paragraphs (a)(4)(i) and (ii) of this section do not apply to rehabilitation of a building for residential use (with one to four units) (see paragraph (a)(3)(i) of this section).
- 5) Acquisition (including leasing) or disposition of, or equity loans on an existing structure, or acquisition (including leasing) of vacant land provided that the structure or land acquired, financed, or disposed of will be retained for the same use.
- 6) Combinations of the above activities.

If your project is categorically excluded subject to Sec. 58.5 using the above criteria the recipient must complete these steps and include documentation in your ERR:

- 1) Complete “Environmental Determination of Level of Review” form
- 2) Prepare a “Statutory Checklist” and include supporting source documentation
 - i. Site visit, maps, photographs, screen shots, tables, calculations, letters
- 3) Complete “Requirements listed at 24 CFR 58.6” form
- 4) Publish or disseminate “Notice of Intent to Request a Release of Funds”
 - i. If any comments are received in writing, the local government must consider the comments, respond in writing, and provide copies of all correspondence to IEDA.
- 5) Once the local comment period expires, submit a signed “Request for Release of Funds and Certification” form to IEDA.
 - i. Through the Request for Release of Funds the recipient accepts the role of responsible federal agency should there be a lawsuit concerning environmental laws and regulations. The CEO assumes responsibility for the jurisdiction when he/she signs the Request for Release of Funds and Certification.
- 6) IEDA will issue a Release of Funds letter after the state comment period expires, pending resolution of any conditions or concerns by environmental agencies, individuals, and groups.

After IEDA releases funds, the recipient may draw funds after applicable contract conditions have been satisfied. Following is a **sample** timetable for the RROF process:

- Day 1: RROF notice printed in newspaper (“Notice of Intent to Request a Release of Funds”, aka NOI-RROF)
- Day 2: First day of 7-day Local comment period
- Day 8: Last day of 7-day Local comment period
- Day 9: RROF and Certification sent to IEDA, along with proof of publication of NOI-RROF and the Level of Determination
- Day 12: State receives request
- Day 13: First day of State comment period
- Day 27: Last day of 15-day State comment period

Environmental Assessment (24 CFR Part 58.36 & Subpart E)

If the activity is neither exempt nor categorically excluded, the recipient must prepare an Environmental Assessment (EA). The EA examines and recommends feasible ways to eliminate or minimize adverse environmental impacts and examines alternatives to the project itself, if appropriate.

The EA is a “concise public document” (40 CFR 1508.9) which should focus on issues that are truly important rather than “amassing needless detail” (40 CFR 1500.1) and should be “analytic rather than encyclopedic” (40 CFR 1502.2). The EA should include direct effects (same time & place as the project implementation) as well as indirect effects – those that are “reasonably foreseeable” (40 CFR 1508.8).

A link to the Environmental Assessment Worksheet is included in the appendix to this Chapter. When properly completed, this form serves as the EA and complies with the environmental requirements in 24 CFR Part 58.40.

If your project requires an EA you must complete these steps and include documentation in your ERR:

- 1) Complete “Environmental Determination of Level of Review” form
- 2) Complete “Environmental Assessment Worksheet” and include supporting source documentation
- 3) Publish or disseminate combined “Notice of Finding of No Significant Impact and Notice of Intent to Request a Release of Funds” (FONSI/NOI-RROF)
 - If any comments are received in writing, the local government must consider the comments, respond in writing, and provide copies of all correspondence to IEDA.
- 4) Once the local comment period expires, submit a signed “Request for Release of Funds and Certification” form to IEDA.
 - Through the Request for Release of Funds the recipient assumes the role of the responsible federal agency should there be a lawsuit concerning environmental laws and regulations. The CEO assumes responsibility for the jurisdiction when he/she signs the Request for Release of Funds and Certification. (24 CFR Part 58.4)
- 5) IEDA will issue a Release of Funds letter after the state comment period expires, pending resolution of any conditions or concerns by environmental agencies, individuals, and groups.

After IEDA releases funds, the recipient may draw funds after applicable contract conditions have been satisfied.

If the EA indicates an activity may significantly affect the environment and requires an Environmental Impact Statement, contact IEDA Environmental Officer for assistance.

Following is a **sample** timetable for the FONSI/RROF process:

Day 1: FONSI/NOI-RROF notice printed in newspaper

Day 2: First day of 15-day Local comment period

Day 16: Last day of 15-day Local comment period

Day 17: RROF and Certification sent to IEDA, along with proof of publication of FONSI/NOI-RROF and Level of Determination

Day 20: State receives request

Day 21: First day of State comment period

Day 35: Last day of 15-day State comment period

Day 36: State approves RROF and Certification and issues a Release of Funds Letter

Project Activity Amendments

If an amendment to a project activity is proposed, the recipient must reevaluate its EA findings of no significant impact. An amendment may include new circumstances and/or environmental conditions arising during implementation or if an alternative not considered in the original EA is selected. The reevaluation determines if the FONSI is still valid. If it is, but data or conditions have changed, the recipient must amend the original EA and update the ERR.

If the project site significantly changes, or new or amended activities alter the original EA findings, a new EA must be completed for the new site and or activities.

In the Appendix to Chapter 4

- Commonly Used Environmental Acronyms
- Environmental Review Process Flow Chart
- CDBG Recipient Instructions for Designating a Lead Federal Agency
- Noise Assessment Guidelines
- Radon Information
- Instructions for Request for Release of Funds
- Links to Environmental Review Forms & Program Guidance Resources

Your Notes

Financial Management

This Chapter discusses issues related to requesting and using CDBG funds. Recipients should review this Chapter carefully and refer to it as necessary to ensure financial management compliance. The various chapter components include:

- Financial Management Systems and Practices (pg. 67)
- Requesting CDBG Funds and Reporting on Activity Status (pg. 71)
- Grant Administration Funds (pg. 72)
- Program Income and Recaptured Funds (pg. 73)

Financial Management Systems and Practices

Your financial management system must provide for accurate, current, and complete disclosure of the financial activities related to the CDBG project.

General Expectations

If you use a cash basis accounting system, you are not required to use an accrual system under the CDBG program.

Your records must adequately identify the sources and uses of funds for CDBG projects. The records must contain information pertaining to the CDBG award and authorization, obligations, unobligated balances, assets, liabilities, outlays and income. All local effort (or other funds) must be documented in the same manner as CDBG funds and be incorporated into the project financial records. You must maintain separate records that readily identify the revenues and expenditures of CDBG and local funds.

You must adequately safeguard all funds, property and other assets through effective internal control and accountability and ensure that they are used solely for the purposes authorized. Your financial management system must provide for a comparison of actual outlays with budgeted amounts and show the relationship of financial information to program performance.

You must adopt procedures to minimize the amount of cash on hand (guideline is \$500 maximum if held for ten (10) working days or longer) and the time elapsing between receipt of funds from IEDA and disbursement for project activities. You should make requests for funds – called “draws” – from IEDA as close as possible to the time of disbursement, through a procedure that ensures funds are expended within 10 working days of receipt.

Recipients must draw funds on CDBG project activities at least every six (6) months.

Every six (6) months, funds should be drawn on both the CDBG activity AND grant

administration. Failure to meet this requirement may result in a non-compliance finding at project monitoring.

You should inform your contractors there might be a 4- to 6-week delay between their submission of an invoice and receipt of payment. Best practice is for the recipient to establish a line of credit to pay invoices while waiting for reimbursement from the State.

Allowable Costs

Recipients must have a procedure for determining the reasonableness and allowability of costs in accordance with OMB Circular 2 CRF Part 200, “Principles for Determining Costs Applicable to Grants and Contracts”. This circular provides the principles under which costs are allowable and makes the recipient responsible for grant administration through sound management practices and expenditures in compliance with the contract. Recipients must ensure all costs are reviewed for allowability under the principles adopted by IEDA from 2 CFR Part 200, the Housing and Community Development Act of 1974 as amended, state administrative rules and your CDBG contract.

2 CFR Part 225 describes cost allowability. Costs incurred in CDBG projects are allowable only under the following conditions:

- The CDBG contract with IEDA has been properly executed.
- Administrative and exempt activity costs are incurred on or after the date of receipt of an award letter authorizing such costs or after the effective date of the CDBG contract.
- All other costs are incurred only after all necessary environmental requirements have been completed, the recipient has received a Release of Funds letter, and all applicable special conditions have been satisfied.
- Costs are accounted for in accordance with generally accepted accounting principles and are not prohibited by federal, state or local laws; costs conform to any limitations or exclusions set forth in OMB circulars or other governing regulations as to types of amounts of cost items.
- Costs are authorized in the award made by IEDA and based on the project as defined in the application or otherwise approved as project modifications by IEDA.
- Costs are incurred for activities eligible under the CDBG program and are necessary and reasonable for the performance and administration of the award.
- Costs must be documented in your accounting records (e.g. by invoices, vouchers, etc.).
- Costs are accorded consistent treatment; a cost may not be assigned to the CDBG program as a direct cost if any other cost incurred for the same purpose in like circumstances has been allocated to the program as an indirect cost.
- Costs may not be included as a cost or used to meet cost sharing or matching requirements of any other federal award except as specifically provided by federal law or regulation.
- Costs must be the “net of applicable credits” (i.e., discounts or price adjustments must be deducted from the total costs charged).

2 CFR Part 225 also describes costs that are allocable. Costs are allocable if they are treated consistently with other costs incurred for the same purpose in like circumstances (i.e., recipients must treat costs consistently for all grant programs); are incurred specifically for the CDBG program; benefit both the CDBG program and other work and can be distributed in reasonable

proportion to the benefits received; *or*, are necessary to the overall operation of the organization, although a direct relationship to any particular cost objective cannot be drawn.

Employees paid in whole or in part from CDBG funds or whose time is to be credited to the project as community financial support must prepare timesheets showing the time they worked on the assisted activity each pay period. The recipient must maintain a payroll analysis showing the time and pay associated with CDBG funds.

Expendable personal property costing less than \$5,000 in the aggregate may be purchased without prior approval from IEDA. Such purchases must meet all other tests of allowability. Equipment with a purchase price of \$5,000 or more in the aggregate (“non-expendable personal property”) requires the written approval of IEDA prior to purchase (2 CFR 200.439(b)(2) & (5)). This condition is considered satisfied when such equipment is specifically referenced in the contract (in the project description or budget). For the use of equipment not purchased with federal funds, allowable use or depreciation charges may be allowed. See 2 CFR Part 200 for guidance on determining “allowable” charges.

Interest costs that can be construed as reasonable and necessary for the delivery of CDBG activities and projects are considered project related and eligible. Interest costs are considered reasonable and necessary if the eligible project could not be implemented without incurring the interest costs. Related legal fees and bonding costs are also eligible.

General Accounting Procedures

Recipients must use a financial management system that assures proper and efficient administration of CDBG funds. Three basic principles should guide the development of your financial management system:

- 1) Procedures should be formalized so they can be applied consistently.
- 2) Procedures should be designed to ensure adequate internal control of funds.
- 3) Financial transactions should be documented so they can be clearly tracked in an audit.

Regardless of the financial management system used, separate accounting records must be maintained for CDBG funds to distinguish them from all other funds. CDBG revenues and expenditures must be readily identifiable in your accounting records.

Recommended Accounting Documents

Your financial management system should include the following accounting documents (or their equivalent):

- 4) **Cash Receipts Journal:** A journal to record the receipt of all funds applied to the project. The journal should include the date funds were received, the amount of funds received, the source of funds and the accounts into which funds were assigned. Each receipt should be listed separately.
- 5) **Cash Disbursement Journal:** A journal to record all checks issued for payment of program costs, including the date of payment, the payee, the check number, the amount and the program and expense account to which the charge was made.

- 6) General Ledger: A ledger maintained to summarize monthly cash receipts and disbursements for each activity included in the project.
- 7) Journal Entry Vouchers or General Journal: Records showing explanations and amounts of adjustments to the general ledger accounts.
- 8) Fixed Assets Ledger: A listing of all fixed assets acquired with CDBG funds.
- 9) CDBG Federal Cash Register: A record of draws (requests for funds), federal checks, EFT's, received and balance of CDBG funds.

Please note that financial entries should be supported with source documentation, such as invoices, purchase orders, canceled checks, etc. At a minimum, the invoice will be uploaded to IowaGrants.gov with CDBG reimbursement requests. Other source documentation should be uploaded as well when you have it.

Internal Controls

HUD defines internal controls as “the combination of policies, procedures, job responsibilities, personnel and records that together create accountability in an organization’s financial system and safeguard its cash, property, and other assets.”

Internal controls ensure that resources are protected from waste and mismanagement. They also ensure that resources are used for authorized purposes in a manner consistent with applicable laws and regulations. Basic internal controls can include:

- An organizational chart describing responsibility of personnel involved in financial transactions
- Written definition and delineation of duties among key personnel involved in financial transactions
- An accounting policy and procedures manual that includes approval authority for financial transactions and guidelines for controlling expenditures and procedures for recording of transactions
- Adequate separation of duties so that no one individual has authority over a financial transaction from beginning to end
- Periodic comparisons of financial records to actual assets and liabilities (i.e., reconciliation), and in cases where discrepancies are found, corrective action must be taken to resolve such discrepancies

Audits

Recipients should know if a CDBG project will require an audit. 2 CFR 200.501 states that if a community has received more than \$750,000 in federal funds (from all sources) in a given fiscal year, then the community must have a single audit. Audits are to be completed in accordance with Generally Accepted Government Auditing Standards (GAGAS). IEDA will provide a Single Audit Form each year to determine whether an audit is necessary.

When an audit is required, there are several things to be aware of. First, in arranging for audit services, recipients must follow procurement policies and requirements. Second, the audit must be completed, and the report submitted to the Federal clearinghouse designated by OMB, within the earlier of either thirty (30) days after receipt of the auditor’s report or thirteen (13) months after

the end of the audit period. Finally, the costs of audits made in accordance with the applicable regulations are allowable charges to federal programs.

Receipt and Disbursement of Funds

A critical factor in requesting and expending federal funds is the timing of receipt and disbursement of funds. Since CDBG funds are released on a reimbursement basis for incurred costs, it is a best practice for a community to establish a line of credit to pay expenses. Funds may be drawn down only for immediate cash needs and no more than ten (10) working days may elapse between receipt of funds and disbursement by the recipient. IEDA uses a guideline of \$500 maximum cash on hand following the 10-day limit in determining non-compliance. In cases of non-compliance, IEDA reserves the right to convert the recipient to a mandatory reimbursement system, where the recipient expends its own funds and then requests federal funds to cover the expenditure.

Requesting CDBG Funds and Reporting on Activity Status

Recipients request CDBG funds report both expenditures and report project status using the IowaGrants.gov GAX form. A copy of this form and the instructions are included in the appendix to this Chapter. The GAX form is also available in IowaGrants.gov.

When requesting funds, recipients must submit the electronic claims form and upload the sign GAX form in IowaGrants.gov. In addition, please complete the Contract Activity Status section of the report, including the Status of Special Conditions, included in the IowaGrants.gov electronic claims form.

You should not automatically request CDBG funds in the amount needed to cover all expenses when portions of those expenses will be paid with local or other funds. Rather, CDBG funds should be drawn down proportionately. Requests for funds are to be made on an accrual basis.

The contract between IEDA and the CDBG recipient requires that requests for CDBG funding, or draws, be made at least every six (6) months from the time the contract is executed. It is critical that CDBG funds be requested in a timely manner, to ensure compliance with HUD requirements. Be sure to factor in time at the local level (i.e., City Council) to prepare and approve the draw requests.

Funds must be drawn down for each activity in whole dollar amounts. Requests should be in amounts of no less than \$500 unless a final draw request.

Requests must be signed by the contract signatory, or by an officer or employee of the recipient designated by the contract signatory and whose attested signature and designation letter are on file at IEDA. See Chapter 1 for more information on designating alternate signatories. Alternate signature forms must be uploaded to electronic documents in IowaGrants.gov

Claims for expenses must be made in the appropriate fiscal year. Recipients should submit claims for reimbursement for the fiscal year by June 30 of each year. Claims should not include expenses incurred over multiple fiscal years.

IEDA staff will review draw requests for completeness, accuracy, proper signature, and reasonableness in relationship to the status of the project. Deficiencies may result in the request not being processed; recipients may be asked to correct and resubmit the draw. If there is a minor deficiency, IEDA may correct it and notify you so that you can correct your records.

Recipients can anticipate a time lapse of 3-4 weeks between IEDA's receipt of a request and the direct deposit of funds in the recipient's designated account.

IEDA will send the recipient the state warrant or separate notification that a direct deposit is occurring. Please note the date of deposit to verify the availability of funds. Typically, funds will appear in the account within three business days from the date shown on the deposit notification. CDBG funds will be transferred to the account the city or county has previously set up with the State of Iowa. If you need to change the account where CDBG funds should be deposited, please contact Tammy Agey at 515.348.6153 or tammy.agey@iowaeda.com.

Grant Administration Funds

Recipients must work with an IEDA-certified Grant Administrator with prior training in the CDBG program area. Recipients should select an administrator in accordance with procurement requirements outlined in the Guide. Please note, there is no competitive procurement process required if the recipient chooses to contract general administrative services with the applicable Regional Planning Commission/Council of Government.

General administrative costs are paid for out of the general administration line item of the budget and cover expenses that ensure the project is in compliance with the HUD/CDBG program requirements. Administration is not the same as technical assistance or services; technical assistance costs move the project forward in some way (e.g., lead/asbestos inspection, writing bid specs, etc.), and the Recipient should procure for and enter into separate contracts for those services.

The following breakdown of grant administration costs is not all-inclusive. All costs must be allowable per Federal requirements.

- Overall program coordination (e.g., establishing financial accounting documents and systems, management, internal controls, and oversight responsibilities, etc.)
- Reporting to the IEDA (e.g., requests for funds, quarterly performance reports, etc.)
- Advertising and marketing (i.e., general information, public outreach) about the activity or project
- Direct costs and salaries of the recipient's staff directly involved in the administration of the activity or project
- Indirect costs, such as office space rent, utilities, insurance, supplies, etc.
- Costs incurred in the procurement of 3rd party administrative services, technical services or in the procurement / purchase of any indirect costs noted above
- Internal monitoring and oversight of funded program activities
- Coordination and resolution of monitoring and/or audit issues
- Audit costs
- Environmental Review preparation (note: professional testing/abatement services are not considered grant administration; publication costs could be either grant administration or technical services)

- Assisting the Recipient with activities to affirmatively further fair housing
- Preparation and adoption of Administrative Plans

Administrative funds should be drawn at the following rates: no more than 20% of admin costs can be drawn down within the first 6 months of the grant period, and no more than 60% of total administrative costs can be drawn until project activities are at least 50% complete. Continuing, no more than 80% of total administration costs can be drawn down until project activities are 75% completed.

Program Income and Recaptured Funds

Definition of Program Income

Program income refers to income a recipient receives that is directly generated from the use of CDBG funds. Program income also includes funds generated by the use of other program income. Examples of program income include the following:

- Payments of principal and/or interest on loans made using CDBG funds (or program income funds);
- Proceeds from the disposition by sale or long-term lease of real property acquired, rehabilitated or constructed with CDBG funds (or program income funds);
- Interest earned on funds held in a revolving loan account; and
- Interest earned on program income pending its disposition.

Please note, per § 570.489(e)(2)(iv)(C), an exclusion allows a unit of general local government funded by a State to retain up to \$100 per year in interest income on deposit of grant funds before disbursement of the funds for activities otherwise paid with CDBG funds. This is not considered Program Income.

Recaptured Funds

Recaptured funds are a different kind of program income and can be received from both open and closed grants. They represent funds that are recouped by recipients when a CDBG-assisted property is no longer the principal residence of the assisted homebuyer for the full affordability period.

Handling Program Income and Recaptured Funds

If you receive program income and have an open CDBG grant: Program income must be used for the same activities from which it was generated, and all CDBG requirements remain in effect. All program income must be reported to IEDA and spent prior to drawing down any further CDBG funds. When program income is generated by projects that are only partially assisted with CDBG funds, the program income amount is pro-rated to reflect the percentage of CDBG funds used.

If you receive program income and have no open CDBG grants: If you receive **less than \$35,000** of program income (cumulative of all closed CDBG grants) in HUD's fiscal year of October 1 through September 30, it is considered miscellaneous revenue and may be used for any purpose deemed appropriate by the recipient. However, if recipients receive **more than**

\$35,000 of program income (cumulative of all closed CDBG grants) in HUD's fiscal year of October 1 through September 30, then the **full** amount of that program income must be returned to IEDA.

De-Obligating Funds

De-obligated grants that do not achieve a National Objective must pay back any funds disbursed to IEDA in full, excepting only administrative and planning expenses. For any projects that do not achieve a CDBG National Objective, the payment of documented administrative funds will be capped at 50% of total budgeted costs for that purpose.

In the Appendix to Chapter 5

- When Documents are Due to IEDA
- Direct Deposit Authorization Form

Your Notes

Housing Program

This Chapter describes the Housing Program component of the Iowa Economic Development Authority's CDBG program, called the "Upper Story Conversion Program," which rehabilitates un-occupiable units or converts existing space of an upper story downtown building into new rental units. Recipients should review this chapter carefully, as well as the guidance and sample documents in Appendix 6 to ensure program compliance. The various chapter components include:

- Program Requirements (pg. 77)
- CDBG Upper Story Project Management (pg. 79)

Program Requirements

Meeting a National Objective:

The Upper Story program uses the "low-and-moderate housing" HUD national objective. This means that in order to be successful, the project must benefit persons of low-to-moderate income (LMI) by leasing units to LMI tenants.

At least 51% of all rental units in the project, rounded up to the nearest whole number, shall be made available to and occupied by LMI tenants. These LMI units must be proportionate in bedroom sizes to the non-LMI units.

During the Period of Affordability, which is defined as three years from the issuance of the Certificate of Occupancy or the date the first lease is signed, the Recipient or Grant Administrator must verify the tenants' income.

- During the initial lease up, income verification must be completed by the administrator.
- When calculating income for tenants, verifications must be completed in accordance with 24 CFR 5.609 ("Part 5"). For more detail on the "Part 5" process, please see the resources in Appendix 6.
- Income verifications are valid for twelve months from the date verification was completed.
- A "Housing Unit Verification" form must be completed in IowaGrants at the time of project completion and the initial lease-up in order to verify that the National Objective was met. The project will not meet the National Objective until ALL units are rented. If the National Objective is not or cannot be met, all funds may be required to be paid back in full.
- For the following two years, the Owner/Developer will recertify the tenants' income annually and provide completed certification forms to IEDA (see "Period of Affordability Documents" in Appendix 6). The original LMI to Market-rate ratio of units must be maintained during this entire period.

Project Preparation and Considerations

As you prepare to undertake the Upper Story project, be sure to keep the following considerations in mind:

- Funding must be proportional to the number of LMI units in the project. For example, if CDBG is funding two thirds of the total project budget, then a minimum of two thirds of the units must be leased to LMI households.
- Maximum rent limits on the CDBG-funded rental units shall not exceed the most current Home Program 65% rent limits (see the “Resource Links” page in Appendix 6).
- The maximum number of new units allowed is seven (7), regardless of funding source.
- In accordance with 24 CFR 5.100, if the project consists of new construction OR substantial rehabilitation, as substantial rehabilitation is defined by 24 CFR 5.100, of a building with more than 4 rental units, installation of broadband infrastructure must be included, except where the recipient documents the determination that:
 - The location of the substantial rehabilitation makes installation of broadband infrastructure infeasible
 - The cost of installing broadband infrastructure would result in a fundamental alteration in the nature of its program/activity or in an undue financial burden; or
 - The structure of the housing to be substantially rehabilitated makes installation of broadband infrastructure infeasible.
- Units shall be designed and constructed in accordance with all locally adopted and enforced building codes and standards. In their absence, the requirements of the Iowa State Building Code shall apply.

Documentation and Project Progression

As the Upper Story project gets underway and progresses toward completion, be sure to attend to the following steps:

- Finalize the securing of all other financial resources above the CDBG funding limitation.
- Complete the Environmental/Historic review.
- Enter into a Development Agreement between the Recipient and the Developer/Owner (see template in Appendix 6).
- Prior to the first construction payment, each property receiving CDBG funds will be required to enter into a three (3) year non-receding forgivable loan/mortgage and agreement for covenants and restrictions in the form of a recorded lien to ensure sufficient insurance and project compliance from the onset of construction (see templates in Appendix 6).
- CDBG funding requires that the Federal Lead-Safe Housing regulations, impacting dwelling units built prior to 1978 must be adhered to (see Lead Summary in Appendix 6).

- For projects opting to use Green Streets, a HERS Rater must complete an assessment when the units are at the point of installing drywall and again at completion of the project to make sure the acceptable rates have been reached.
- Finally, if optional funding for Iowa Green Streets activities was awarded to the project, all units must meet the Green Streets requirements chosen at the time of application when construction is complete.

CDBG Upper Story Project Management

Procurement

CDBG recipients must comply with procurement requirements described in this Guide. These regulations direct that all supplies, equipment, construction, and services be acquired efficiently and economically, through open and fair competition. (Please refer to Chapter 2 and Appendix 2 of the Management Guide for procurement information.)

Reporting

Recipients are required to report on their expenditure of funds and activity status. These reports help keep IEDA and your IEDA Project Manager informed about the project progress and provide the State with information needed for reports submitted to HUD.

Recipients will submit project status information when submitting claims for CDBG funds.

Project Monitoring

The CDBG housing program will be monitored by an IEDA project manager during the life of the program. This may include desk monitoring and/ or on-site monitoring by IEDA staff. The IEDA has a formally established process for conducting project monitoring. (Please refer to Chapter 2 of this Guide for more information regarding project monitoring.)

In the Appendix to Chapter 6

- Upper Story Conversion Record Keeping Checklist
- Upper Story Conversion Lead Summary
- Lead-Based Paint Information Notice
- Links to Lead-Based Paint Documents
- Development Agreement and Associated Documents
- Income Verification Guidance for Recipients
- CDBG Upper Story Housing Program Resource Links

Your Notes

Downtown Revitalization Program

This chapter describes the Downtown Revitalization (DTR) program component of the Iowa CDBG program. Recipients should review this chapter carefully, as well as the sample documents in Appendix 7, to ensure program compliance. The various chapter components include:

- Critical Components (pg. 82)
- Contract Conditions (pg. 83)
- CDBG Regulations & DTR (pg. 84)
- Project Management (pg. 86)

Critical Components

Overview

The CDBG Downtown Revitalization Fund provides grants to communities for activities contributing to comprehensive preservation/revitalization in historic city centers. The program has funded building façade improvements to primarily privately owned buildings that are often part of a larger downtown revitalization initiative.

All projects must:

- Meet the CDBG “slum and blight” national objective
- Be eligible under the CDBG program
- Positively impact the community
- Be ready to proceed and be completed in a timely fashion
- Include community support for a downtown revitalization effort
- Include other funding sources and documentation of applicant efforts to secure the maximum amount of local support for the activity
- Achieve a level of planning for comprehensive downtown revitalization efforts
- Be well thought out, organized, and capably administered

Meeting a National Objective

The Downtown Revitalization Fund meets HUD’s slum and blight national objective. To meet the slum and blight national objective, the applicant must address the documented building-by-building deterioration in the area to be assisted, illustrating that the proposed activity will alleviate or eliminate the conditions causing the deterioration.

Prior to going out for bid, as part of the 106 approval process, the scope of work for each project building must be reviewed by IEDA staff to assure that the majority of, and highest priority of, identified slum and blight items are being addressed.

Documenting meeting the Slum and Blight National Objective is a multi-step process, one that spans the length of the program from application to closeout. The application includes a City resolution identifying a blighted target area. It also provides photo and narrative description of blighted elements common to each building address proposed for funding. The final designs for each building indicate the proposed plan for addressing that blight. And the final “after” photos, contrasted with the initial “before” photos, demonstrate that the blight has indeed been resolved.

Contract Conditions

Administrative Plan

Recipients must submit a program administrative plan to IEDA. The submitted plan must be approved by IEDA prior to the first program draw. An administrative plan is an outline that describes what person or organization is responsible for all key management and communication functions associated with the operations of a Downtown Revitalization Fund project. General operational policies and procedures should also be included in the plan. A model administrative plan outline can be found in Appendix 7. All items cited in the outline must be addressed.

Easement Agreement

An easement agreement between the recipient and the respective property owners is a required document in the DTR Program. The agreement provides the legal means for city officials or parties authorized by the city to enter the property and to perform work. Furthermore, it may describe the process involved in the owner making changes to the facade following project completion. Finally, it requires the owner to maintain the property improvements funded through the DTR Program. The agreement must be signed by both the city and the owner with both signatures notarized. The easement must then be recorded at the county. A sample easement agreement document can be found in Appendix 7. The recipient’s legal counsel should review the document and may, with IEDA consent, edit or add provisions to suit local preferences. An easement agreement must be submitted and approved by IEDA prior to the first program construction draw.

Construction Terms

IEDA believes it is crucial that there be complete understanding and disclosure between the recipient and property owners receiving façade improvement funds. Accordingly, the relationship between the two parties during construction should be clearly defined to prevent problems from arising during the project. Accordingly, the recipient will enter into a construction terms agreement with each property owner participating in the DTR program. The construction terms agreement can also provide for a lien to be placed against the improved property by the recipient, if necessary, to recover costs. A sample Construction Terms Agreement form can be found in Appendix 7. A construction terms agreement needs to be submitted and approved by IEDA prior to the first construction draw.

Bid Solicitation

The contract between the recipient and IEDA stipulates projects must be out for public bid within one year of the contract effective date. As is noted in the IEDA Procurement Policy (see Appendix 2 of this Guide), all construction projects must default to following Iowa Code Chapter 26. However, as is also called out in the Procurement Policy, Recipients are still required to publish the bid notice in a newspaper of general circulation even though Chapter 26

does not require that. Thus, prior to the first construction draw, a copy of the bid notice and the publication affidavit must be submitted and approved by IEDA.

CDBG Regulations & DTR

Environmental & Historic Review

DTR utilizes a tiered environmental and historic review process. Tier I is a broad Environmental Review that encompasses the target area and the type of work to be done without going into building-specific detail. Most DTRs will fall under the “CEST” level of review. For more information on the CEST review process, please see Chapter 4 of this Guide.

After the local comment period and state comment period of the Environmental Review, IEDA will issue a “Release of Funds” letter. However, because DTR is a tiered review program, that Release of Funds Letter does not allow a Recipient to go out to bid. Rather, the Recipient must then complete the Tier II/106 approval process.

Recipients should refer to Chapter 3 of this Guide for instructions concerning the Section 106 Historic Review. However, two things should be of particular note as it concerns DTR. First, DTR requires that the City/County has conducted a historical survey within the past five years. If the Recipient’s most recent historical survey is older than five years at the onset of the award, a new one will need to be completed as the first step to the 106 process. Second, Recipients should include a final design rendering with the 106 submission in IowaGrants. This rendering forms the basis of the plan to address blight (i.e., meet a National Objective), and as such it is reviewed closely by IEDA staff prior to issuing 106 approval. If IEDA has questions or comments as to the degree to which the proposal will adequately address blight, the forms will be put into Correcting status for further information, clarity, and for possible changes to the design.

Finally, Recipients should be aware that deviations from the approved scope of work may have costly and detrimental ramifications to the DTR project if not first discussed with, and approved by, IEDA staff. Although change orders are common and most will not be problematic, the two areas to watch out for concern the historic nature of the building and the slum and blight national objective.

For example, if a change order were to modify an historic element of a building in a way that was not previously detailed and approved in the 106 submission, the Recipient must bring the change order to IEDA for review before authorizing it. If IEDA approves the change order, documentation will be added to the 106 file and the work may proceed. However, if that work is undertaken without IEDA *prior* approval, it will likely be considered an “adverse effect,” which could, if severe enough, prematurely end that building’s participation in the DTR program. Please note that documentation added *after* the work was completed is not sufficient in this instance; IEDA would have needed to give approval *before* the work took place. This is quite serious.

In a similar vein, changing how slum and blight will be addressed on a building must also be reviewed and approved by IEDA. If a change order were to remove from the scope some work that would have fixed a blighted element, the building runs the risk of no longer meeting a HUD National Objective. Alternatively, if a change order proposes an addition to the scope of work which does not address blight and also uses funding that would have dealt with a blighted element of the building such that that element is never repaired/replaced, then that too might

result in not meeting a National Objective. Without a National Objective, IEDA would need to recoup funds from the Recipient and return them to HUD.

When in doubt, Recipients are encouraged to reach out to IEDA staff to discuss change orders as they are proposed prior to authorizing them to ensure that a particular change order will not trigger either of these unfortunate scenarios.

Lead Based Paint

Buildings participating in a CDBG-funded Downtown Revitalization that include a residential component must comply with the Lead Safe Housing regulations (24 CFR 35). A copy of the full regulations can be found in Appendix 6 of this Guide. This includes any occupied or currently unoccupied residential space. Currently unoccupied residential space will be considered as residential if the residential unit is ready, or nearly ready, for occupancy (i.e., it has an operable kitchen, functioning bath, code required egress, etc.). For more information on these regulations and the use of interim controls please reference Chapter 6 and Appendix 6 of this Guide. Please note that any building that contains any space utilized for residential purposes on the first or ground floor is not eligible to receive CDBG DTR funds.

In order to document lead compliance, assess each property by asking, “Does the building have a residential use?”

If no – this is a non-residential building and is exempt from the lead safe housing regs.

If yes- Lead safe work practices (interim controls) are required for all areas where painted surfaces will be disturbed. Projects will be capped at \$24,999 per residential unit, **for all construction hard costs** attributed to that component of the building, unless the building has been determined eligible for or is listed in the National Register of Historic Places either individually or as contributing to an historic district. If historic, the property is still required to comply with lead safe work practices and interim controls, but is not limited to the \$24,999 per unit cap. If construction hard costs exceed \$24,999, full lead abatement will be required.

Example: a non-historic 2-story mixed-use building is participating in a façade project. The first floor is a commercial retail space and the upper story has two occupied residential units. The scope of work calls for replacement of the commercial storefront and entrance (\$20,000), commercial awning (\$2,000), tuck-pointing the upper story brick (\$15,000), parapet repair (\$8,000) and repair of the upper-story windows (\$10,000) for a total building rehab of \$55,000. If the commercial storefront and awning along with ½ the cost of the parapet repair are removed, the residential rehabilitation costs are \$29,000 divided by 2 units = \$14,500/unit and therefore under \$24,999 and in compliance with the use of interim controls. All necessary testing, treatment and cleaning must be conducted in accordance with 24 CFR 35.900.

It is acceptable to subtract out costs that are specifically for commercial improvements such as storefronts and awning, and a proportionate amount of roof/parapet; however, any entryways, doors, common spaces, stairwells that are shared use or for the residential use must be included in the calculation of hard costs.

Project Management

Grant Administration

Recipients must work with an IEDA certified grant administrator with prior training in the CDBG program. DTR recipients should plan to contract for grant administration services. Please note that there is no competitive procurement process required if the recipient chooses to contract for general administrative services with their applicable Regional Planning Commission/Council of Government.

Downtown Revitalization Fund recipients may also utilize an existing staff person to handle a portion of the day-to-day management of their project. If this person is assigned the DTR management task without receiving any corresponding increase in salary or wages, federal procurement will not be required. Alternatively, in rare cases, recipients may contract with or engage a third party for this role. If that were to occur, the recipient must follow federal procurement requirements when selecting a project manager.

Pre-Construction

In addition to the general CDBG instruction found in the earlier chapters of this Guide, the following outlines the steps a DTR Recipient will need to go through to prepare for construction:

1. Write the DTR Admin Plan and upload to IowaGrants, identifying who will be the individuals responsible for the various aspects of the project.
2. Communicate with building owners early and often, ensuring that they understand the nuances of the DTR program requirements, especially the necessity of addressing slum and blight before any other proposed work and the prohibition of performing any other non-DTR work on site from the time of application submission through grant closeout.
3. Complete the Tier I Environmental Review, bearing in mind that the Release of Funds letter does not greenlight going out to bid since this is a tiered review.
4. Submit the Section 106 Historic Review forms in IowaGrants, including the final design renderings that will provide the basis for meeting the slum and blight National Objective.
5. If necessary, revise the 106 submissions based on IEDA consultation, remembering to keep the building owners up to date regarding any adjustments to the design, scope of work, and/or estimated costs.
6. Once the tiered environmental/historic review is complete, have the architect create the construction bid documents, incorporating the IEDA approved scope of work and final design.
7. Draft, but do not yet sign, building owner easements and construction terms agreements, explaining again what the owners will be required to agree to for the duration of the program.
8. Go out to bid for construction, publishing the bid notice in a newspaper of general circulation, as well as complying with the process outlined in Iowa Code Chapter 26, uploading the publication affidavit to IowaGrants when you have it.

9. After the bid is selected but before construction begins, have building owners sign the easements and construction terms agreements, recording the easements with the County and uploading all documents to IowaGrants.
10. Notify IEDA at any point during this pre-construction period if a particular building owner decides to drop out of the project or new ones are added in, documenting these changes so that they can eventually be submitted as a contract amendment, and providing slum and blight assessments and 106 forms for any new buildings to IEDA for review/approval.

During Construction

While construction is underway, the Recipient and/or grant administrator will do the following:

- Set up consistent communication channels. Best practice would be to have regular meetings with building owners and other stakeholders (e.g., Admin Plan members) to ensure that the program is moving smoothly and expectations are being met all the way around.
- Monitor to ensure that no additional non-DTR construction work is taking place in the various participating buildings.
- Remember that Davis Bacon applies to DTR: grant administrators need to be reviewing payrolls weekly and visiting the project site to perform interviews. The expectation is that there is at least one interview per subcontractor on the project.
- Review proposed change orders carefully, involve IEDA when necessary, and ensure that all parties are on the same page with any agreed upon changes.
- Take photos throughout the project so that we have a collection of before, during, and after photos for each participating address.
- Alert IEDA of any buildings dropping or adding, or of any changes to the budget overall or amount of local funds. These types of modifications usually result in contract amendments.
- Submit claims and don't forget to complete the "Status Detail" page which will list every participating address and the percentage complete of construction (this is true even before construction begins; the percentage will remain at 0% until it starts).
- Schedule the Status of Funded Activities (SOFA) hearing; suggested timeframe would be to hold that hearing after the grant funds reach 30% expended so that the public has an opportunity to give comment on the project before it is substantially completed.
- Prepare for IEDA to monitor the project when it reaches halfway. This will likely be a hybrid desktop review and on site monitoring. See Chapter 2 of this Guide for more information.

Closing Out

As the project nears its end, review this list of tasks to facilitate a successful close out process. *Please note that the last claim requesting any activity dollars will not be processed for payment until this closeout task list is completed.*

- Prepare any final contract amendments to capture changes to scope or budget.
- Submit Section 3 compliance forms in IowaGrants. Most commonly these forms will simply be marking that Section 3 does not apply; on rare occasion DTR is subject to Section 3 – talk with IEDA if you have questions about this.
- Send IEDA any outstanding missing components from the site monitoring.
- Upload a PDF to IowaGrants with “before” and “after” photos for each participating address. At a minimum the photos should show the full façade, but additional close-up photos of particularly noteworthy features are also welcomed. All photos must be labeled.
- Incur all costs prior to the IEDA contract end date and ensure that there are no further costs to come before submitting the final claim (e.g., punch list items). The final claim may be submitted up to 60 days after the IEDA contract end date, so long as the expenses were incurred prior to that date.

In the Appendix to Chapter 7

- Administrative Plan Content Guidelines
- Sample Easement Agreement
- Terms of Construction Agreement Template

Your Notes

Section 3 Requirements

This chapter describes Section 3 of the Housing and Urban Development Act of 1968 [12 U.S.C. 1701u and 24 CFR Part 75] and its applicability to CDBG projects. The various chapter components include:

- Overview (pg. 91)
- Implementing Section 3 (pg. 93)
- Oversight and Compliance (pg. 95)
- Resources (pg. 97)

Overview

Definitions

Section 3 is HUD's legislative directive for providing preference to public housing residents and low-income residents of the local community (regardless of race or gender), and the businesses that substantially employ these persons, for new employment, training and contracting opportunities resulting from HUD-funded projects. The regulations seek to ensure that public housing residents and low- and very low- income persons, and the businesses that employ these individuals, are notified about the expenditure of HUD funds in their community and encouraged to seek opportunities, if created.

A Section 3 Worker is defined as any worker who currently fits or when hired within the past five (5) years fit at least one of the following categories:

- 1) The worker's income for the previous or annualized calendar year is below the applicable income limits established by HUD;
- 2) The worker is employed by a Section 3 Business Concern;
- 3) The worker is a YouthBuild participant

A Targeted Section 3 Worker is defined as a Section 3 Worker who fits one of the following categories:

- 1) A worker employed by a Section 3 Business Concern;
- 2) A worker who currently fits, or when hired fits, one of the following categories, as documented within the past five (5) years;

- a. Living within one mile of the project, or if fewer than 5,000 people live within one mile of the project, within a circle/ radius centered on the project that is sufficient to encompass a population of 5,000 people;
- b. A YouthBuild participant

A Section 3 Business Concern is defined as a business that is:

- 1) At least 51% owned by low or very low- income persons; or
- 2) Over 75% of the labor hours performed for the business over the prior three-month period are performed by Section 3 Workers; or
- 3) At least 51% owned and controlled by current public housing residents or residents who currently live in Section 8-assisted housing

The Section 3 provision requires that recipients of certain HUD financial assistance, 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. **However, recipients are not required to hire or enter into contracts with Section 3 residents or businesses simply to meet the Section 3 goals—anyone selected for contracting or employment opportunities must meet the qualifications for the job/contract being sought.**

When Section 3 Applies

Section 3 applies to projects/activities involving housing (construction, demolition, rehabilitation) or other public construction—i.e., roads, sewers, community centers, etc. when the recipient has contracted with subcontractors for services, housing and/ or public construction activities AND the CDBG assistance exceeds \$200,000.

Even if HUD assistance is only a portion of the project cost, Section 3 requirements apply to the entire project once the assistance meets the threshold. Section 3 requirements do not apply to materials-only contracts.

Compliance with Section 3

Each recipient has the responsibility to comply with Section 3 in its own operations, and ensure compliance in the operations of its contractors/ subcontractors. This responsibility includes but may not be necessarily limited to:

1. Implementing procedures designed to notify Section 3 residents about training and employment opportunities.
2. Notifying potential contractors for Section 3 covered projects of the requirements of the requirements of this part and incorporating compliance with Section 3 language in all solicitations and contracts.
3. Facilitating the training and employment of Section 3 Workers and the award of contracts to Section 3 Business Concerns.

4. Estimating the number of labor hours utilized per project and the projected number of labor hours to be worked by Section 3 Workers.
5. Assisting and actively cooperating with HUD in obtaining the compliance of contractors and subcontractors with the requirements of this part, and refraining from entering into any contract with any contractor where the recipient has notice or knowledge that the contractor has been found in violation of the Section 3 regulations in 24 CFR Part 75.
6. Documenting actions taken to comply with the requirements of this part, the results of actions taken and impediments, if any.

Recipients and contractors are encouraged to use resources available through Iowa Workforce Development and IowaWORKS offices located throughout the state. IowaWORKS provides a variety of services at no charge for Iowa workers and businesses. IowaWORKS staff can refer workers to appropriate training and help the contractor post-employment and training opportunities available. HUD's Section 3 Business Registry and the Iowa DOT DBE database are resources that contractors will be directed to for connecting with Section 3 Business Concerns. Recipients are encouraged to utilize all available local community resources to meet its Section 3 requirements.

Implementing Section 3

Defining Service Area

"Service area" or the "neighborhood of the project" means an area within one mile of the Section 3 project or if fewer than 5,000 people live within one mile of the project, within a circle centered on the project that is sufficient to encompass a population of 5,000 people according to the most recent U.S. Census.

Procurement & Bid Documents

CDBG recipients must include Section 3 language in all procurement and bid documents applicable under this rule. The required language to be included in these documents can be found in the appendix to this chapter of the CDBG Management Guide. In addition to the required language, recipients must include the "Intent to Comply with Section 3" form with all RFPs, also found in the appendix.

Contractors responding to bids must submit with their bid documents a signed copy of the "Intent to Comply with Section 3" form. This form will be used to collect information that recipients should use when reviewing responses to ensure compliance with Section 3 requirements.

Selecting Contractors with Section 3

In addition to certifying employees' level of income, Section 3 requires recipients make an effort to the "greatest extent feasible" to facilitate contracts to Section 3 Business Concerns. By "greatest extent feasible," HUD means that recipients of Section 3 covered financial assistance should make every effort within their disposal to meet the regulatory requirements. This may mean going a step beyond normal notification procedures for employment and contracting procedures by developing strategies that will specifically target Section 3 residents and

businesses for these types of economic opportunities. Suggestions on strategies for reaching Section 3 businesses is provided later in Appendix 8 of the CDBG Management Guide.

While Iowa procurement procedures require recipients select the lowest responsible bidder when under a competitive sealed bid process, recipients may give preference to Section 3 businesses as a means of evaluation criteria for professional services contracts where proposals are solicited.

In order to give preference to Section 3 Business Concerns during the contract awarding process, recipients must ask the contractor to certify whether or not they are a Section 3 business when soliciting for proposals. The “Intent to Comply With Section 3” form that will be provided with procurement documents and submitted by bidders will capture this information.

Remember, to be considered a Section 3 Business Concern, the business must meet the definition by satisfying one of the following requirements:

- 1) At least 51% owned by low or very low income persons;
- 2) Over 75% of the labor hours performed for the business over the prior three-month period are performed by Section 3 Workers
- 3) At least 51% owned and controlled by current public housing residents or residents who currently live in Section 8-assisted housing

Section 3 Business Concerns must be given priority in contracting for work, to the greatest extent feasible. Recipients should use the following order of priority:

- 1st: Section 3 Business Concerns that provide economic opportunities for section 3 residents in the service area or neighborhood in which the section 3 covered project is located (category 1 businesses); and
- 2nd: Applicants (as this term is defined in 42 U.S.C. 12899) selected to carry out HUD YouthBuild programs (category 2 businesses);
- 3rd: Other section 3 Business Concerns.

It is important to note that Section 3 requirements at 24 CFR 75 provides only preference for contracts and subcontracts to Section 3 businesses; Eligible businesses must demonstrate that they are responsible and are able to perform successfully under the terms and conditions of proposed contracts.

Hiring and Training with Section 3

Recipients and their contractors/subcontractors are required to give hiring and training preference to Section 3 residents, to the greatest extent feasible, when new employment opportunities result from a CDBG funded project.

When a recipient or contractor/subcontractor has identified that new employment or training opportunity will result from the normal completion of the CDBG construction and/or rehabilitation projects, the CDBG grant administrator should work with that entity to assist with advertising the opportunity to Section 3 residents.

Notices of employment/training opportunities must be sent to the Iowa Chapter of the National Association of Housing and Redevelopment Officials (NAHRO). Notices should be sent to the

NAHRO Chapter President. Contact information can be found here: <http://www.ianahro.org/contactus.cfm> NAHRO will share the notice with public housing authorities, in an effort to help reach Section 3 Business Concerns. A sample notice for employment/training opportunities is provided in the appendix to this section of the Management Guide.

Notices of employment/training opportunities must also be posted to HUD's Opportunity Portal (<https://hudapps.hud.gov/OpportunityPortal/>). This portal may also be used by businesses seeking Section 3 Workers for employment opportunities.

Additional suggestions on strategies for reaching Section 3 residents is provided in Appendix 8 of the CDBG Management Guide. Remember, recipients are required to document affirmative steps made to meet Section 3 goals when Section 3 requirements are triggered.

When giving hiring and training preference to Section 3 Workers, recipients and contractor/subcontractors should use the following order of priority:

- 1st: Section 3 Workers residing in the service area or neighborhood in which the section 3 covered project is located (collectively, referred to as category 1 residents).
- 2nd: Participants in HUD YouthBuild programs (category 2 residents).
- 3rd: Other section 3 residents.

Oversight and Compliance

Section 3 Benchmarks

Federal regulations establish numerical goals for employment/training for Section 3 residents and contracts to Section 3 businesses.

Recipients, their contractors and subcontractors will be considered to have complied with Section 3 requirements when:

1. 25% or more of the total number of labor hours worked by all workers on a Section 3 project are Section 3 Workers, inclusive of both regular Section 3 workers and Targeted Section 3 workers, as defined herein and;
2. At least 5% of the total number of labor hours worked by all workers on a Section 3 project are Targeted Section 3 Workers.

A recipient that has not met the numerical goals must explain why it was not feasible to meet the established numerical goals set forth in this section. Please refer to "Reporting requirements/ reporting forms" for more information.

Note: It is important to document efforts made to comply with Section 3. Recipient files should contain any memos, correspondence, advertisements, etc. illustrating attempts to meet Section 3 benchmarks and to support Outreach Efforts reported on the Contractor's report. (e.g., to reach

out to eligible persons regarding employment or training and/or business concerns). IEDA staff will review this documentation during the project on-site monitoring visit.

Penalties for Non-Compliance

Recipients of CDBG funding have the responsibility of complying with Section 3 regulations and ensuring compliance among its contractors and subcontractors. Federal code established penalties for Section 3 violations and non-compliance. (See 135.38(f))

Communities and contractors found in violation of Section 3 requirements may result in:

- Sanctions from HUD
- Termination of contract for CDBG funds
- Debarment or suspension from future HUD assisted (CDBG) contracts

Non-compliance with Section 3 can impact a community's ability to receive CDBG funding in the future. Under federal code, the State of Iowa may not enter into a contract with any entity when the state has knowledge that the entity has been found in violation of the Section 3 regulations.

Reporting Requirements & Forms

To report Section 3 data, recipients must analyze the number of labor hours worked on a Section 3 project, how many labor hours were worked by Section 3 Workers, and how many labor hours were worked by Targeted Section 3 Workers. Even if no hours were worked by Section 3 or Targeted Section 3 Workers, this information must be reported to IEDA.

For all projects employing Section 3 Workers or Targeted Section 3 Workers, the recipient/contractors must maintain one of the following (in order of priority) to demonstrate Section 3 status of the worker:

- 1) Self- certification form. If the worker's income is less than 80% of the area median income, they are considered a Section 3 Worker. Income limits are available on the IEDA website: <https://www.iowaeda.com/cdbg/management-guide/>
- 2) Certification from an employer that the worker's income from the employer is within the income limits if annualized. This may be recorded and affirmed on the Compliance Form spreadsheet found in Appendix 8. Instructions for using the Contractor's Report are contained within the Report.
- 3) Certification from an employer that the worker is employed by a Section 3 Business Concern. This can be demonstrated by a contractor's submission of the Section 3 Business Certification and Compliance Form.
- 4) Certification from a PHA that the worker is a participant in one of its programs.

To report Section 3 data to IEDA, recipient and contractors are encouraged to use the Compliance Form spreadsheet to record labor hours worked by Section 3 Workers and Targeted Section 3 Workers. Even if no Section 3 Workers were utilized, this report must be completed and submitted to IEDA at the completion of the project. This form will be available on IowaGrants.

Recipients will also need to report Section 3 accomplishments and/or provide a detailed explanation as to why Section 3 benchmarks were not met and describe efforts made to identify and engage Section 3 Workers and Businesses. This data may be collected using the Compliance Form and aggregated for submission to IEDA. Grant administrators can use the Qualitative Efforts checklist available in Appendix 8 Files to the CDBG Management Guide to document this when submitting it via IowaGrants.

Resources

Section 3 Business Registry/ Opportunity Portal

The Section 3 Business Registry and Opportunity Portal are two online registries that connect Section 3 Workers to training and employment opportunities and Section 3 businesses to contracting opportunities. Businesses who self-certify that they meet one of the regulatory definitions of a Section 3 Business Concerns will be included in a searchable online database. The database can be used by agencies that receive HUD funds, developers, contractors, and others to facilitate the award of covered construction and non-construction contracts to Section 3 businesses. Section 3 Workers are encouraged to use the Opportunity Portal to identify businesses that may have HUD- funded employment opportunities available. Section 3 Business Concerns are encouraged to post training, employment, and contracting opportunities to the Opportunity Portal. CDBG recipients should utilize HUD's Section 3 Business Registry to find Section 3 Business Concerns that may be able to participate in the CDBG project. Recipients can search through HUD's Section 3 registry here:

<https://hudapps.hud.gov/OpportunityPortal/searchBusiness.action>

Businesses may also use that link to register as a Section 3 Business through HUD's website (click the "Sign in" link on that page):

The Opportunity Portal can be accessed through HUD's website here:

<https://hudapps.hud.gov/OpportunityPortal/>

It is important to note that Section 3 Business Concerns are not entitled to receive contracts simply by being listed in HUD's Section 3 Business Registry database or Opportunity Portal.

Additional Section 3 Resources

More information and resources on Section 3 can be found on HUD's Section 3 website here:

http://portal.hud.gov/hudportal/HUD?src=/program_offices/fair_housing_equal_opp/section3/section3

In the Appendix to Chapter 8

- Section 3 regulations (24 CFR Part 75)
- Steps for Section 3 Compliance
- Section 3 Language for Procurement Documents and Contracts
- Intent to Comply with Section 3 Requirements
- Sample Section 3 Employment Notice
- Section 3 Business Certification Form
- Section 3 Worker Self Certification Form
- Link to Section 3 Compliance Form
- IEDA Section 3 Qualitative Efforts Checklist
- Sample Efforts to Award to Section 3 Businesses
- Sample Efforts to Hire/Train Section 3 Workers
- Section 3 Resources

Your Notes

Iowa Green Streets Criteria

This chapter describes the Iowa Green Streets Criteria requirements that may apply to CDBG projects. Recipients should review the chapter carefully and the full Iowa Green Streets Criteria online at <https://www.iowaeda.com/green-streets/> and refer to it as necessary to ensure compliance. The various chapter components include:

- Overview (pg. 100)
- Iowa Green Streets Project Criteria (pg. 101)
- Implementing Iowa Green Streets (pg. 101)

Overview

Why Iowa Green Streets?

The Iowa Green Streets Criteria promote public health, energy efficiency, water conservation, smart locations, operational savings and sustainable building practices. In addition to increasing resource efficiency and reducing environmental impacts, green building strategies can yield cost savings through long-term reduction in operating expenses. The benefits include improved energy performance and comfort, a healthier indoor environment, increased durability of building components, and simplified maintenance requirements that can lead to financial efficiencies for property managers and owners. Green building practices improve the economics of managing affordable housing and community facilities while enhancing quality of life for residents, visitors, and employees.

Who is Eligible?

Any of the CDBG annual programs can choose to incorporate Iowa Green Streets into a project. It is optional for all programs and no longer required. Some programs may offer additional funding if a recipient chooses to incorporate Iowa Green Streets (e.g., Upper Story Housing or Community Facilities). For more detail on the options available and the particular requirements, please review the funding opportunities and applications in IowaGrants.

Guiding Principles

Guiding principles behind the Iowa Green Streets Criteria ensure that buildings must be cost effective to build, and durable and practical to maintain. In addition, the principles work together to help produce green buildings that:

- Result in a high-quality, healthy living and working environment
- Lower utility costs
- Enhance connections to nature

- Protect the environment by conserving energy, water, materials, and other resources
- Advance the health of local and regional ecosystems

Iowa Green Streets Project Criteria

National Context

The Iowa Green Streets Criteria is based on the national Green Communities Criteria available online at <https://www.greencommunitiesonline.org/>. The Iowa Economic Development Authority thanks Enterprise and its partners for development of the national Green Communities Criteria and the use of those criteria in development of the Iowa Green Streets Criteria.

What are the Green Streets Criteria?

Please be aware that this Iowa Green Streets Criteria document is subject to periodic revision and update. Refer to the Iowa Economic Development Authority's Community Development Division website, <https://www.iowaeda.com/green-streets/> for the most current version.

The Iowa Green Streets Criteria include components in the criteria for the following types of activities or projects

- Community Facilities
- Sustainable Community Demonstration
- Multifamily
- Upper-Story Housing
- Any other projects involving new construction or rehabilitation of an existing building

Implementing Iowa Green Streets

A Reminder Prior to Getting Started

Remember that in submitting the Iowa Green Streets Criteria Green Development Plan and Checklist with your project proposal that your project has committed to and is contractually required to meet the performance requirements of the Iowa Green Streets Criteria.

Design Phase

When procuring technical services, architectural and/or engineering services, remember to also procure the applicable third-party energy system design and rating expertise for your project.

Host an integrated design workshop with your design professionals and energy expertise contractor and as many other people involved with your project as possible. An integrative design process facilitates the design and development team's achievement of green objectives throughout the project life cycle. The outcomes of an integrative design process can include substantially lower development costs and greater health, economic, and environmental benefits for residents, property owners, and communities. Contact the IEDA to identify design expertise

IEDA can make available to assist your project's design team in identifying best practices in design and construction for your project.

Procurement Phase

Develop construction documents that include Appendix F, "Project Plan and Spec Book Checklist," and language notifying potential bidders that the project is following the Iowa Green Streets Criteria and that construction performance meeting the criteria is required. Do not forget this includes language requiring a construction waste management plan that will result in construction and demolition materials being diverted from the landfill via reduction, reuse or recycling.

Submit through www.iowagrants.gov construction plans/specifications and a completed Appendix C, "Certification of Construction Contract Document Compliance," prior to issuing construction bids.

Construction Phase

Following award of the construction contract, work with IEDA CDBG Design Technical Assistance consulting team to arrange a meeting with the general contractor and subcontractors to review the Iowa Green Streets Criteria and the sustainable design practices integrated into the construction documents, the intent of those practices and best practices for installation.

Prior to drywall installation, notify the third-party energy professional to complete a thermal bypass checklist inspection to ensure proper construction techniques were utilized in constructing the building's thermal envelope.

Closeout Phase

Upon project completion work with the third-party energy professional to conduct any final testing protocols to verify attainment of the Iowa Green Streets Criteria energy performance requirements.

Upon project completion, submit through www.iowagrants.gov a completed Iowa Green Streets Criteria Appendix D, "Certification of Compliance at End of Construction," and a completed Iowa Green Streets Criteria Appendix E, "Energy Performance Certification."

Resources

It is very important to fully understand the Iowa Green Streets Criteria early on in the project design process. If you have any questions, please contact your project manager or Jeff Geerts, jeff.geerts@iowaeda.com or 515.348.6211.

In the Appendix to Chapter 9

- [Link to the Iowa Green Streets Criteria](#)

Your Notes