



Community Development Block Grant (CDBG) Policies and Procedures Manual

City of Bismarck Community Development Department

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Bismarck, ND

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CDBG PROGRAM OVERVIEW

Community Development Block Grant Program Overview

The City of Bismarck receives a yearly Community Development Block Grant (CDBG) as an Entitlement grantee from the US Department of Housing and Urban Development (HUD). To continue participation in this program, the City contractually agrees to implement the program in accordance with the Housing and Community Development Act of 1974, the related CDBG program regulations in 24 CFR 570, and all cross-cutting federal regulation.

The City's CDBG grants management system is structured to comply with the U.S. Department of Housing and Urban Development's and the Office of Management and Budgets regulations for governmental and public agencies.

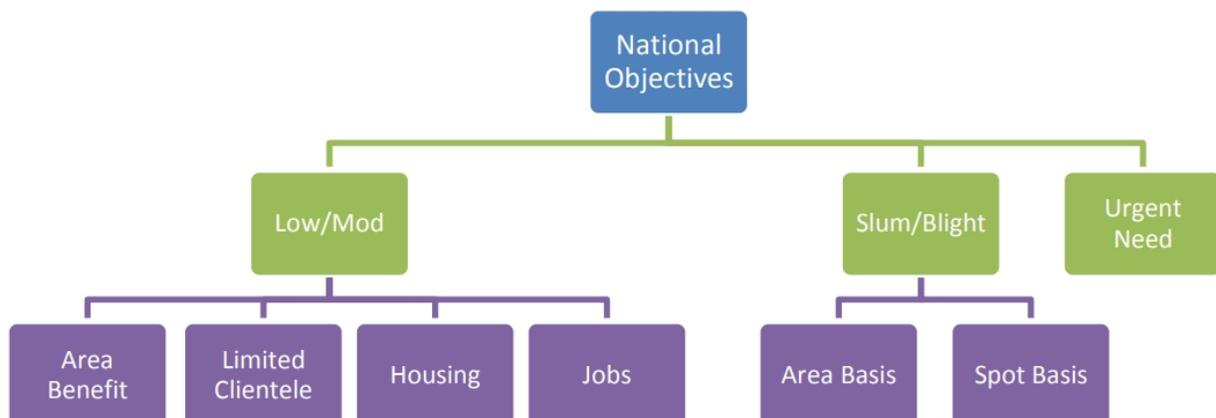
The CDBG program is a complex federal program that grew from eight distinct national programs. The CDBG regulations were dramatically revised from 1995 to 2006, primarily to increase flexibility for grantees in carrying out funded activities, to reflect statutory changes, and to respond to audits of the program by the Inspector General. Program Information can be found at <https://www.hudexchange.info/programs/cdbg/> and <https://www.bismarcknd.gov/1041/HUD-Grant-Programs>

CDBG National Objectives

When considering funding activities with CDBG, the City will ensure that each activity meets one of the three (3) HUD authorized National Objectives for the program.

Benefit low and moderate income (LMI) individuals, families, or neighborhoods,
Prevention or elimination of slums or blight, or
Address community development needs having a particular urgency because existing conditions pose a serious and immediate threat to the health or welfare of the community for which other funding is not available.

Prior to undertaking or funding an activity, the program's administering staff will document which of the following National Objective categories will be met.



The Planning Manager will approve funding for all activities. As part of the approval process, staff will review the proposed activity and confirm that it is an eligible activity and meets a

national objective as per 24 CFR Part 570. The request for approval submitted to the Planning Manager will include the regulatory reference that deems the activity as eligible, the national objective being met and a brief description of how the activity meets the respective national objective. If city staff is unsure of whether a proposed activity is eligible or what national objective is being met, staff will seek guidance from their assigned CPD representative.

Benefit to Low- And Moderate-Income Households and/or Individuals (LMI)

This national objective stipulates that clients must primarily have low- and moderate-incomes as calculated annually by HUD. To be eligible for CDBG funding under this National Objective, each activity must meet one of the criteria listed in 24 570.208(a):

Area Benefit (LMA)

Limited Clientele Benefit (LMC)

Housing Activities (LMH)

Job Creation Activities (LMJ)

Eligible activities must serve persons of low and moderate income. Extremely Low- income is defined as a household that does not exceed 30 percent of HUD Income Limits. Low-income is defined as a household that does not exceed 50 percent of HUD Income Limits. Moderate-income is defined as a household that has an income that does not exceed 80 percent of Area Median Incomes.

Seventy percent of Bismarck's CDBG allocation must provide benefit to low-and moderate-income households or individuals.

Low- And Moderate-Income Area Activity Criteria (LMA)

An activity, the benefits of which are available to all the residents in a particular area, where at least 51 percent of the residents are low- and moderate-income persons.

Low- And Moderate-Income Limited Clientele Activity Criteria (LMC)

A limited clientele activity is an activity that benefits a specific group of people, rather than all the residents in a particular area. The limited clientele activities addressed in this section are intended to benefit at least 51% low-and moderate-income individuals. However, housing activities and activities designed to create or retain jobs may not qualify under this category. To qualify under this category, the activity must either:

1. Exclusively benefit a clientele who are generally presumed to be principally low- and moderate- income (L/M) individuals. The following groups are currently presumed by HUD to meet this criterion: abused children, elderly, battered spouses, homeless, disabled, illiterate individuals, persons living with AIDS and migrant farm workers;
2. Require information on household size and income so that it is evident that at least 51% of the clientele are individuals whose family income does not exceed the L/M limit;
3. Have income eligibility requirements that limit the activity exclusively to low- and moderate- income individuals; or
4. Be of such nature and location that it is obvious the clientele benefiting from the activity will be low-and moderate-income individuals.

Low- And Moderate-Income Housing Activity Criteria (LMH)

An eligible activity carried out for the purpose of providing or improving permanent residential structures which, upon completion, will be occupied by LMI households. This would include, but not necessarily be limited to, the acquisition or rehabilitation of property by the recipient, a subrecipient, a developer, an individual homebuyer, or an individual homeowner.

Low- And Moderate-Income job Creation and Retention Criteria (LMJ)

An activity designed to create or retain permanent jobs where at least 51 percent of the jobs, computed on a full time equivalent (FTE) basis, involve the employment of low- and moderate-income persons.

Elimination of Slum & Blight - Area Basis

To qualify under the national objective of slums/blight on an area basis, an activity must meet all of the following criteria:

The area must be officially designated by the grantee and must meet a definition of a slum, blighted, deteriorated or deteriorating area under State or local law. (For these purposes, it is not necessary to follow the formal procedures under State law for designating a slum or blighted area.)

The area must exhibit the following physical signs of blight or decay:

- There must be a substantial number of deteriorated or deteriorating buildings throughout the area. As a "safe harbor," HUD will consider this test to have been met if either the proportion of buildings in the area that are in such condition is at least equal to that specified in the applicable State law for this purpose; or
- In the case where the applicable State law does not specify the percentage of deteriorated or deteriorating buildings required to qualify the area, then at least one quarter of all the buildings in the area must be deteriorated or deteriorating; or
- The public improvements throughout the area must be in a general state of deterioration. (For this purpose, it would be insufficient for only one type of public improvement, such as a sewer system, to be in a state of deterioration; rather, the public improvements taken as a whole must clearly exhibit signs of deterioration.)

Documentation must be maintained by the grantee on the boundaries of the area and the conditions which qualified the area at the time of its designation.

Activities to be assisted with CDBG funds must be limited to those that address one or more of the conditions which contributed to the deterioration of the area. (Note that this does not limit the activities to those that address the blight or decay itself, but it allows an activity to qualify if it can be shown to address a condition that is deemed to have contributed to the decline of the area.)

Elimination of Slum & Blight - Spot Basis

To comply with the national objective of elimination or prevention of slums or blight on a spot basis, i.e., outside a slum or blighted area, an activity must meet the following criteria:

- The activity must be designed to eliminate specific conditions of blight or physical decay;

- Not located in a designated slum or blighted area; and
- The activity must be limited to one of the following:
 - Acquisition (but see the discussion about this category under the section entitled Documenting Compliance later in this chapter);
 - Clearance;
 - Relocation;
 - Historic Preservation; or
 - Rehabilitation of buildings, but only to the extent necessary to eliminate specific conditions detrimental to public health and safety.

Urgent Need

The use of the urgent need national objective (24 CFR 570.208 (c)) is rare. It is generally used for activities to alleviate emergency conditions. Examples include:

- Acquisition of property located in a flood plain that was severely damaged by a recent flood;
- Public facility improvements like the reconstruction of a publicly-owned hospital that was severely damaged by a tornado;
- Demolition of structures that are severely damaged by a major earthquake;
- 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.

As noted above, City personnel assigned responsibility for determining National Objectives are also responsible for ensuring appropriate data and evidence of income are collected in support of the determination. Acceptable forms of documentation are summarized in the following table for ease of administration:

National Objective		Income Documentation Tool	Minimum LMI	Period
Low/Mod Benefit	Area Benefit	Description of Service Area with: <ul style="list-style-type: none"> - Map with Boundaries - Documentation that Area is primarily residential - Documentation of Income Characteristics (Census Block Area or Survey) 	51% of residences residing in census tracts are <80% AMI	At Project Concept Stage

National Objective	Income Documentation Tool	Minimum LMI	Period	
	<p>Limited Clientele</p>	<p>Limited Clientele persons (or groups of persons) are presumed to be principally LMI, according to HUD. Limited Clientele projects are those that exclusively serve a group defined as limited clientele. If this criterion is met, such as through self-certification, then no further LMI documentation, either by census or by survey is necessary. Demographic and head-of-household status must still be documented for each individual served.</p> <p>If the project is not exclusive or designed for only the presumed group or groups, then LMI eligibility must be proven by another method.</p> <p>Presumed benefit individuals include:</p> <ul style="list-style-type: none"> - Abused children - Battered spouses - Elderly persons - Severely disabled adults - Homeless persons - Illiterate adults - Persons with AIDS - Migrant farm workers <p>(24 CFR 570.208(a)(2)(i)(A) and 24 CFR 570.506(b)(3)(i))</p>	<p>51%</p>	<p>At Intake (Services)</p>
	<p>Housing Benefit</p>	<p>Income Documentation for each household served:</p> <ul style="list-style-type: none"> - Certification of Income and Demographic Form 	<p>51% of units per building</p>	<p>At intake for single family. At initial occupancy rental</p>
	<p>Jobs Benefit</p>	<p>Income Documentation for each individual served:</p> <ul style="list-style-type: none"> - Certification of Income and Demographic Form 	<p>At least 1 Job per \$35k CDBG in aggregate or \$50,000 for individual projects</p>	<p>At hiring (if new hire) or at project completion (if retention)</p>

National Objective	Income Documentation Tool	Minimum LMI	Period
	<p>Documentation of Slum / Blight Area Basis involves a designation process, which the City presently has not undertaken. This may be an area of opportunity to address future community needs through CDBG funding.</p> <p>In general, establishing an Area Basis determining involves establishing those 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:</p> <ul style="list-style-type: none"> - 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 <p>Documentation must be maintained by the grantee (the City) on the boundaries of the area and the conditions that qualified the area at the time of its designation. The designation of an area as slum or blighted must be re-determined every 10 years for continued qualifications</p>	51%	N/A
	<p>Spot Basis</p> <p>Activities that eliminate specific conditions of blight or physical decay on a case-by-case determination.</p> <p>Activities under this category are generally limited to acquisition, clearance, relocation, historic preservation, remediation of environmentally contaminated properties, and building rehabilitation activities. Rehabilitation is further limited to the extent necessary to eliminate a specific condition detrimental to public health and safety.</p>	N/A	At intake

National Objective	Income Documentation Tool	Minimum LMI	Period
Urgent Need	<p>The use of the urgent need national objective is rare. It is generally used for activities to alleviate emergency conditions. Urgent need qualified activities must meet the following criteria:</p> <ul style="list-style-type: none"> • 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. 	N/A	TBD

The City will follow the CDBG documentation requirements contained in HUD’s [CDBG Guide to National Objective and Eligible Activities for Entitlement Communities \(hudexchange.info\)](http://hudexchange.info)
CDBG Eligible Activities

Entitlement Communities such as the City of Bismarck develop their own programs and funding priorities. However, maximum priority is to be given to activities which benefit low- and moderate-income persons. While each activity must meet one of the three national objectives detailed above, the CDBG program provides great flexibility. Examples of eligible projects include but are not limited to:

1. Acquisition of real property for any public purposes other than the general conduct of government.
2. Disposition of property acquired with Community Development Block Grants funds.
3. Acquisition, construction, rehabilitation, or installation of public facilities and improvements carried out by the City or other public or private nonprofit entities. Generally, this does not apply to new construction.
4. Public services (limited to 15% of the City’s total CDBG entitlement) which are directed toward improving the community’s public services and facilities, including, but not limited to, those concerned with employment, welfare reform, childcare, health, drug abuse, education, job training assistance, recreational needs, crime prevention, or energy conservation.
5. Removal of architectural barriers, which restrict the mobility of elderly and/or persons with disabilities. All publicly and privately owned buildings and facilities are eligible for funding.
6. Rehabilitation and preservation for:
 - Low and moderate-income owner-occupied houses.
 - Low and moderate-income public housing.
 - Publicly owned non-residential buildings and improvements otherwise eligible for assistance.

- Publicly or privately owned historic properties.
- Commercial or industrial facility for job creation or retention
- Public Facilities
- Affordable housing or mixed income housing
- Low and moderate-income senior housing
- Businesses that agree to hire, retain and/or serve low- and moderate-income persons

CDBG Ineligible Activities

The following activities may not be assisted with CDBG funds:

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

ORGANIZATION AND PROGRAM FUNCTIONS

PROCEDURES MANUAL

The primary purpose of this manual is to serve as the City of Bismarck's administrative policy and procedures (P&P) manual for its Community Development Block Grant (CDBG) program specifically, where "safe-harbor" and cross-cutting requirements apply for other programs. It serves as a source of information and guidance when conducting CDBG, General Administration and other U.S. Department of Housing and Urban Development (HUD) assisted activities.

This manual is not meant to be a substitute for CDBG regulations, but as a supplement to them. It is not exhaustive regarding all considerations affecting the use of CDBG funds. The City of Bismarck's Community Development Department reserves the right to add, remove or change policies, procedures, or forms in this manual. Each page carries a footer which identifies the date that the information contained on a given page was added to the manual. Notwithstanding any information contained herein, where a conflict of language or omission of requirements occurs, the requirements of Federal Notices and U.S. Department of Housing and Urban Development (HUD) Regulations on CDBG, may be amended from time to time, and therefore, shall prevail.

If a city department or subrecipient is unsure how to proceed after reading the manual, they are encouraged to call the City of Bismarck's Community Development Department at (701) 355-1840 for assistance. There are several on-line resources available both at the City of Bismarck <https://www.bismarcknd.gov/1041/HUD-Grant-Programs> and HUD website <https://www.hud.gov/>

Citizen Participation

The City of Bismarck has completed and adopted a Citizen Participation Plan, which provides for and encourages citizen participation in the CDBG programs. The plan is located at: <https://www.bismarcknd.gov/1041/HUD-Grant-Programs>. The plan is an essential element of the City's community development process and has been developed to comply with the regulations of the CDBG programs as administered by HUD.

Subrecipients should provide for adequate citizen information and involvement including, if appropriate, the establishment of advisory committees composed of affected citizens to oversee the planning and implementation of activities.

Community Development Program

Authorized by Title I of the Housing and Community Development Act of 1974 (HCD Act) as amended, the Community Development Block Grant program provides annual grants on a formula basis to entitled cities and counties to develop viable urban communities by providing decent housing and a suitable living environment, and by expanding economic opportunities, principally for low- and moderate-income persons. Grants are awarded to entitlement communities to carry out a wide range of community development activities directed toward neighborhood revitalization, economic development, and the provision of improved community facilities and services.

Community Development Block Grant (CDBG) resides in the Community Development Department's Planning Department and is responsible for the administration, management and monitoring of CDBG-assisted activities. The City's CDBG funding is provided in the form of annual allocations, which are appropriated by Congress in addition to program income generated by CDBG-assisted activities.

As a CDBG entitlement recipient, the Mayor and Bismarck City Commission are ultimately responsible for ensuring that the activities of the CDBG Program are conducted in compliance with the federal implementing regulations. All policies relevant to program implementation, as well as final approval of the application for funds, must be approved by the Mayor and City Commission.

Additional Information

Additional sources of information about the City's CDBG program include:

- Housing and Community Development's website: <https://www.bismarcknd.gov/1041/HUD-Grant-Programs> U.S. Department of Housing and Urban Development's CDBG website at: https://www.hud.gov/program_offices/comm_planning/communitydevelopment/programs.
- Various federal circulars and regulations that are available at the Housing and Community Development Division; and
- A list of commonly used abbreviations and federal regulations applicable to the CDBG Program is provided in Appendix A, Appendix B and Appendix C.

ENVIRONMENTAL REVIEW

Synopsis

Community Development Block Grant (CDBG) regulations require the preparation of a project Environmental Review Record (ERR) and environmental clearance before funds are expended or costs incurred. The ERR contains all the environmental review documents, public notices and written determinations or environment findings required by 24 CFR Part 58. The environmental review process covers all phases of a project, whether the project is funded in whole or in part with CDBG funds. For projects that are not administrative or under a Tier review, the ER will be completed in HEROs. Do not start your project before signing the grant contract. Contact the Grant Administrator before starting any construction projects.

General Responsibility

Federal regulations require Community Development Department to determine if project activities will cause adverse impacts to the human environment. The human environment is defined as the natural and physical environment and the relationship of people with that environment. The overall governing legislation is the National Environmental Policy Act (NEPA).

The Community Development Department must also determine whether the project meets other applicable statutory and regulatory requirements such as those of the Bismarck Historic Commission and SHPO on Historic Preservation and the Environmental Protection Agency.

Subrecipient Requirements

No project or activity will be initiated until the Community Development Department completes an environmental review and all necessary approvals have been secured. The HUD rules and regulations that govern the environmental review process can be found at 24 CFR Part 58. In no uncertain terms may subrecipients spend either public or private funds (CDBG, other Federal or non-Federal funds), or execute a legally binding agreement for property acquisition, rehabilitation, conversion, repair, or construction pertaining to a specific site until environmental clearance has been achieved. Contact the CDBG Administrator before the start of any CDBG funded project.

CDBG Requirements

Community Development Department will review the checklist (if applicable) and use it as the basis for developing an ERR. The time required for completion of the ERR can vary from three weeks to three months. If the initial Environmental Assessment determines that an Environmental Impact Statement (EIS) is necessary, the subrecipient will be required to make appropriate budget modifications to assure the costs of the EIS is paid from project funds.

After completing the ERR, HCD will publish a notice (if required) of a Combined/Concurrent Notice of Finding of No Significant Environmental Impact (FONSI) and Notice of Intent to Release of Funds (NOI/RROF). After the release of the funds by HUD, HCD will provide the Subrecipient a written notice to proceed with the project. Subrecipients shall NOT implement any project activities or incur any project costs until receipt of the notice to proceed with the project.

Subrecipient Documentation

Subrecipients shall retain a copy of the Environmental Assessment Checklist (if applicable) and Community Development Department's written notice to proceed.

PROCUREMENT

Synopsis

The procurement of goods and services by government entities and CDBG subrecipients must follow the standards and procedures outlined in the following: 2 CFR 200-Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards (effective for grant funds awarded after December 26, 2014).

These standards are to ensure that purchases of materials and services are obtained efficiently, economically, and in compliance with the provisions of applicable federal law. In addition, all local procurement procedures must be followed. HUD procurement guidelines can be found at Appendix L.

General Responsibility

Regulations governing the purchase and procurement of goods and services with CDBG funds must be followed to assure that:

- Procurement transactions are conducted in a manner that provides maximum free and open competition.
- National goals (equal employment opportunity, participation of Minority Business Enterprises (MBE's), Section 3 and Fair Labor Standards) are attained throughout the procurement process.
- Small, minority-owned businesses, women's business enterprises, Section 3 qualified and project area firms have an opportunity to bid on CDBG-assisted projects.
- Unnecessary or duplicate purchases are not made.

Subrecipient Requirements

As non-federal entities, subrecipients must comply with the provision of §200.318. In short, the subrecipient must comply with its own established policies and procedures. All monitoring and reporting performance for the non-federal entity (subrecipient) can be found at §200.328.

- In addition, subrecipients must comply with Additional terms and Conditions tied to the grant contract agreement with the City of Bismarck. Those terms are attached to each grant agreement.
- Quarterly reports are required for all CDBG-funded subrecipient agreements regardless of whether an activity took place. Information obtained in the reports will be used to evaluate a subrecipient's progress in meeting federal program requirements and contractual obligations. The cumulative data is included in the Consolidated Annual Performance and Evaluation Report (CAPER) submitted by the City at the end of the program year to the federal Department of Housing and Urban Development (HUD). HUD will review this information for consistency with federal regulations and the City's Consolidated Plan. Reports are due fifteen (15) days after the end of each quarter. Reports must be current in order for the City to release payment under the subrecipient

agreement. A separate sheet is to be completed for each CDBG-funded activity.

Contract Language

Grantees and subrecipients shall comply with 2 CFR 200, "Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards," except that:

1. Section 200.305 "Payment" is modified for lump sum drawdown for financing of property rehabilitation activities, in accordance with § 570.513.
2. Section 200.306 "Cost sharing or matching" does not apply.
3. Section 200.307 "Program income" does not apply. Program income is governed by § 570.504.
4. Section 200.308 "Revisions of budget and program plans" does not apply.
5. Section 200.311 "Real property" does not apply, except as provided in § 570.200(j). Real property is governed by § 570.505.
6. Section 200.313 "Equipment" applies, except that when the equipment is sold, the proceeds shall be program income. Equipment not needed by the subrecipient for CDBG activities shall be transferred to the recipient for the CDBG program or shall be retained after compensating the recipient.
7. Section 200.333 "Retention requirements for records" applies to all subrecipients except for those that:
 - The retention period for individual CDBG activities shall be the longer of 3 years after the expiration or termination of the subrecipient agreement under, 24 CFR 570.503 (b) (2) or 3 years after the submission of the annual performance and evaluation report, as prescribed in § 91.520 of this title, in which the specific activity is reported on for the final time.
 - Records for individual activities subject to the reversion of assets provisions at § 570.503(b)(7) or change of use provisions at § 570.505 must be maintained for as long as those provisions continue to apply to the activity.
 - Records for individual activities for which there are outstanding loan balances, other receivables, or contingent liabilities must be retained until such receivables or liabilities have been satisfied.
8. Section 200.343 "Closeout" applies to closeout of subrecipients.

See Appendix B: Citations for Basic Elements of Subrecipient Agreement and Other Program Requirements

Labor Standards

Subrecipients must comply with certain regulations on wage and labor standards. For CDBG, every contract for construction, including rehabilitation and installation, triggers the requirements (in the case of residential construction, projects with a total of eight (8) or more units).

- Davis-Bacon (40 U.S.C. 276(A)-7) is triggered when construction work over \$2,000 is financed in whole or in part with CDBG funds. It requires that workers receive no less than the prevailing wages being paid for similar work in the same area. Davis-Bacon does not apply to the rehabilitation of residential structures containing less than eight units or force account labor (construction carried out by employees of the grantee). HUD should be contacted if there is any situation where the applicability of Davis-Bacon is in

question. For more information refer to Appendix M.

- The Copeland Anti-Kickback Act (40 USC, Chapter 3, Section 276c and 18 USC, Part 1, Chapter 41, Section 874; and 29 CFR Part 3) requires that workers be paid weekly, that deductions from workers' pay be permissible, and that contractors maintain and submit weekly payrolls.
- The Contract Work Hours and Safety Standards Act (40 USC, Chapter 5, Sections 326-332; and 29 CFR Part 4, 5, 6 and 8; 29 CFR Part 70 to 240) applies to contracts over \$100,000 and requires that workers receive overtime compensation (time and one-half pay) for hours they have worked in excess of 40 hours in one week. Violations under this Act carry a liquidated damages penalty (\$10 per day per violation).
- Section 3 of the Housing and URBAN Development Act of 1968 as amended requires the provision of opportunities for training and employment that arise through HUD-financed projects to lower-income residents of the project area. Also required is that contracts be awarded to businesses that provide economic opportunities for low- and very low-income persons residing in the area. More information can be found in Appendix N.

On-Site Interviews

The labor standards requirements include periodically conducting job site interviews with workers. The purpose of the interviews is to capture observations of the work being performed and to get direct information from the laborers and mechanics on the job as to the hours they work, the type of work they perform and the wage they receive. Interviews should occur throughout the course of the construction and include a sufficient sample of job classifications represented on the job as well as workers from various companies to allow for a reasonable judgment as to compliance. Information gathered during an interview is recorded on the Record of Employee Interview form (HUD-11).

- The interview should take place on the job site and conducted privately (this is a one-on-one process).
- The interviewer should observe the duties of workers before initiating interviews. Employees of both the prime contractor and subcontractors should be interviewed.

To initiate the interview, the authorized person shall:

- Properly identify himself/herself.
- Clearly state the purpose of interview; and
- Advise the worker that information given is confidential, and his/her identity will be disclosed to the employer only with the employee's written permission.

When conducting employee interviews, the interviewer should pay particular attention to:

- The employee's full name.
- The employee's permanent mailing address.
- The last date the employee worked on that project and number of hours worked on that day.
- The interviewer should make it clear that these questions relate solely to work on the project and no other work.
- The employee's hourly rate of pay. The aim is to determine if the worker is being paid at least the minimum required by the wage decision.

The interviewer should be sure the worker is not quoting their net hourly rate or "take-home" pay.

If it appears the individual may be underpaid, the interviewer should closely question the worker:

1. Ask for any records.
2. Arrange to re-interview the employee.
3. Enter the worker's statement of his/her classification.
4. Observe duties and tools used:

If worker's statements and observations made by the interviewer indicate the individual is performing duties conforming to classification, indicate this on the Record of Employee Interview form.

If there are discrepancies, detailed statements are necessary.

1. Enter any comments necessary.
2. Enter date interview took place.
3. The HUD-11s must be compared to the corresponding contractor and subcontractor payroll information.
 - If no discrepancies appear, "None" should be written in the comment space of the Record of Employee Interview form, and it should be signed by the appropriate person.
 - If discrepancies do appear, appropriate action should be initiated. When necessary, action has been completed, the results must be noted on the interview form.
 - If there are wage complaints, the interviewer should complete the Federal Labor Standards Complaint Intake Form (HUD Form 4731). The complaint must be investigated and resolved.
 - Contact HUD if necessary.

HUD has published 2 guides available for downloading from its web site on labor standards requirements at:

1. [Davis-Bacon Labor Standards: Agency/Contractor Guide and Contractor Addendum](#)
2. [Davis-Bacon and Labor Standards Contractor Guide Addendum](#)
 - Additional information is available on HUD's office of Davis-Bacon and Labor Standards (DBLS) web site at https://www.hud.gov/program_offices/davis_bacon_and_labor_standards

Contracting and Procurement Practices

The CDBG programs are subject to certain Federal procurement rules. In addition, State and City procurement laws and rules apply. Grantees must take measures to avoid hiring debarred or suspended contractors or subcontractors and conflict of interest situations.

- Procurement: The City of Bismarck's Procurement policies apply. For nonprofit organizations receiving Federal funds.
- Conflict of Interest: The conflict-of-interest provisions are detailed in Section One:

Consolidated Plan and Action Plan Procedures of this document.

- Debarred and Suspended Contractors: Federal funds may not be used to employ directly or indirectly, award contracts to or otherwise engage the services of any contractor or Subrecipient during any period of debarment, suspension or placement of ineligible status.
- All contractors, subcontractors, lower-tier contractors and sub-contractors should be checked against the Federal publication that list debarred, suspended or ineligible contractors. Further information may be found at 24 CFR Part 24 570.609.
- When purchasing goods and services with federal funding, the City of Bismarck will ensure that the contractor or vendor is not debarred or suspended from doing business with the federal government nor delinquent in a debt to the United States. The City of Bismarck will use the System for Award Management (SAM.GOV) to check the status of contractor registration and exclusion records.

REAL PROPERTY ACQUISITION/DISPLACEMENT/RELOCATION

Synopsis

The property acquisition requirements contained in the Federal Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, and its amendments, apply to CDBG funded activities when a unit of local government purchases property which is not voluntarily offered for sale by an owner.

- The use of CDBG funds in a project involving the demolition or conversion of lower income dwellings may also further federal oversight under Section 104(d) of the Housing and Community Development Act of 1974.
- The relocation of any person (owner or renter) which results from a voluntary, as well as an involuntary, sale of property is also subject to relocation requirements.
- Because of the complexity and length of the applicable CDBG regulations regarding relocation and displacement, all subrecipients are required to coordinate the purchase of any real property with HUD's Relocation Specialist for Region VIII
<https://www.hud.gov/states/shared/working/r8/cpd/staff>
- The use or planned use of real property within the recipient's control acquired or improved in whole or in part using CDBG funds in excess of \$25,000 may not be changed except in those cases where the new use qualifies as one of the national objectives and is not for general conduct of government; or the CDBG program is reimbursed the amount of the current fair market value of the property less any portion attributable to expenditures of non-CDBG funds.
 - Those qualifying real property assets are to be tracked by the subrecipient and are subject to monitoring by the Grantee
 - These standards shall apply from the date CDBG funds are first spent for the property until five years after closeout of an entitlement recipient's participation in the entitlement CDBG program or, with respect to other recipients, until five years after the closeout of the grant from which the assistance to the property was provided, unless otherwise stated

General Responsibilities

Property to be acquired as a result of a voluntary offer, must be appraised to ascertain fair market value as of a specific date. The purpose of the appraisal is to ensure that the subrecipient

does not pay an amount in excess of the fair market value of the property. The cost of the appraisal can be paid with CDBG funds.

Whenever the relocation and acquisition regulations apply, the subrecipient must keep all affected persons fully informed of anticipated actions. Tenants must be advised of the need to relocate and informed of their rights under the Relocation Act and under local policy.

Subrecipients must also notify tenants of their rights to relocation assistance under the local displacement policy.

All subrecipients are required to enter into a Right of Entry agreement with the city for any facility constructed, acquired, or rehabilitated with CDBG funds. The Right of Entry Agreement guarantees that the subrecipient will operate the facility for the original purpose for which it received funds (see No. 4., Right of Entry Agreements, this Section).

Responsibilities and Procedures

A. Real Property Acquisition. Property may be acquired by either voluntary or involuntary means. When acquisition of real property is the result of a voluntary proposal, which has been submitted by an owner in response to a public invitation or solicitation for offers, it is referred to as voluntary acquisition. In contrast, acquisition of property by the state or local government entity, which is not voluntarily offered for sale is referred to as involuntary acquisition. In both cases specific procedures, identified below, must be followed by the subrecipient.

1. Voluntary Acquisition:

- Arrange for an independent appraisal of the property by a qualified appraiser.
- Obtain a statement from the property owner indicating a willingness to voluntarily offer the property in question for sale.

2. Involuntary Acquisition:

- Issue a preliminary acquisition notice to the owner, and provide a copy of the HUD brochure, "When a Public Agency Acquires Your Property".
- Arrange for at least one independent appraisal of the property by a qualified appraiser.
- Give the owner a written invitation to accompany each appraiser.
- Arrange for a review appraisal to assure appraisal meets applicable standards.
- Establish just compensation for the property by official resolution.
- Promptly make a written purchase offer to the owner. The offer shall include a summary of the basis for the offer of just compensation.
- After negotiations, make a final offer indicating that if the offer is not acceptable, the subgrantee will institute condemnation proceedings. This applies to public entities only.
- Provide written notice to vacate the property to all owners and tenants at least 90 days in advance.

The "initiation of negotiations" for the purchase of real property has several different definitions; the subrecipient is urged to coordinate all aspects of the acquisition with Community Development Department prior to providing an offer to purchase any property, in order to determine the

necessary actions affecting tenant displacement.

- B. Relocation Assistance. Relocation is defined as the permanent movement of occupants/tenants, required as a result of CDBG assisted acquisition by a government agency. Limited technical assistance for relocation will be provided by Community Development. Federal regulations require that if any individuals, families, businesses, or farms are displaced as a result of property acquisition, the subrecipient must:
1. Provide a general written description of the HCD relocation program to those affected.
 2. Inform those affected that displacement may occur and describe the relocation payments for which those affected may be eligible, the basic conditions of eligibility, and procedures for obtaining payment.
 3. Inform those affected that they will be given reasonable relocation advisory services, including referrals to replacement properties, and help in filing payment claims.
 4. Provide those affected with a description of the person's right to appeal any determinations for assistance under the Uniform Relocation and Real Property Acquisition Act (49 CFR, Part 24).
 5. Provide notice that those affected will not be required to move without ninety days advance written notice, and that those affected cannot be required to move permanently unless at least one comparable replacement dwelling has been made available.
 6. Assure that persons relocated receive their full replacement housing payments and moving and related expenses.
 7. Provide copy of appropriate HUD Brochure (available at HCD):
 - "Relocation Assistance to Displaced Homeowners" (HUD Brochure).
 - "Relocation Assistance to Tenants Displaced from Their Homes" (HUD Brochure).
 - "Relocation Assistance to Displaced Businesses, and Farms" (HUD Brochure).

Subrecipient Documentation

All correspondence should be sent by certified mail and/or hand delivery with signature so that receipts are available for documentation purposes. The following records should be maintained:

- A. Real Property Acquisition Records:
- Proof of official decision to pursue acquisition.
 - Proof prior to the initiation of negotiations that the subrecipient established the amount of just compensation for the property. The amount shall not be less than the approved appraisal of the fair market value of the property.
 - Date of initiation of negotiation, preliminary acquisition notice, date of transmittal to owner, and evidence that owner has received notification.
 - Written invitation to owner to accompany appraiser.
 - Copy of each appraisal report.
 - Copy of resolution or other document showing the determination of just compensation.
 - Written purchase offer of just compensation, including all basic terms and conditions, and date of delivery to owner.
 - Statement showing the basis for just compensation and an indication that it was delivered to the owner with the written purchase offer.
 - Purchase agreement, deed, declaration of taking and other documents used in

- conveying the property.
- Copy of the settlement cost reporting statement.
- Evidence that owner received the purchase payment.
- Copy of the notice giving ninety days to surrender possession of the premises.

B. Displacement/Relocation Records

- Name, address, ethnicity, date of initial occupancy, and relocation needs of each person or business to be displaced.
- Description of the services and assistance provided, including referrals to alternate housing or business locations, a description of that property, and its price or rent.
- Copy of the payment voucher or statement of relocation payments.
- Address, inspection sheet and date for each housing referral, including amount of rent and utilities.
- Claim forms and supporting documentation signed by person displaced.
- Documents used to determine eligibility for relocation payments and amount of payments.
- Copy of any grievance or appeal filed and description of actions taken to resolve it.
- A description and location identification of the real property and the interest in the real property to be acquired.
- An identification of the buildings, structures, and other improvements (including removable building equipment and trade fixtures) which are considered to be part of the real property. Any separately held ownership interest in the property shall be identified, e.g., a tenant owned improvement, and indicate that such improvement or interest is not covered by the offer.

C. HUD brochures which should be provided to the owner and/or displace during the acquisition and relocation process (available at HCD):

- When a Public Agency Acquires Your Property.
- Relocation Assistance to Tenants Displaced from Their Homes.
- Relocation Assistance to Displaced Homeowners; and
- Relocation Assistance to Displaced Businesses, Nonprofit Organizations and Firms.

FINANCE/ACCOUNTING

Synopsis

This section addresses the financial and accounting aspects of the CDBG Program. The following procedures are guidelines that should be adhered to in financial transactions in order to meet federal requirements.

General Responsibilities

All subrecipients must meet the audit requirements as specified in 2 CFR §200.501. Additionally, all financial transactions with CDBG monies are subject to federal audit. Subrecipients must be prepared to explain how transactions were made, why, and be able to account for any funds expended.

During an audit, the auditor will examine records to ascertain if:

- Funds are properly budgeted and approved.
- Budget revisions have been documented and approved.
- Personnel charges are properly allocated to the block grant and based on payroll documents such as time and attendance records.
- All expenditures can be traced to source documents (i.e., purchase orders, invoices, canceled checks).
- Drawdowns have been timely.
- Only allowable activities have been claimed as costs toward the project.
- The subrecipient's accounting system reflects all assets, liabilities, etc.
- Property has been managed and inventoried properly.
- In kind costs and costs billed to other funds are clearly documented.
- If there are billings for indirect costs, an indirect cost allocation plan has been approved by the U.S. Department of Health and Human Services.

In addition, the auditor will ascertain if the subrecipient's program has been accomplished in the manner set out in the application and/or the contract with the City.

Financial Procedures

To assist subrecipients in meeting the financial guidelines, The City of Bismarck has developed standard procedures under the following:

- A. **Authorization.** The CDBG Grant Agreement must be signed by an Authorized or a person who has been given authority to commit the organization or subrecipient into a contract(s). A delegation of Authority (a letter from the board of Directors) is required for all CDBG Grant Agreement signers unless the person is the organization's President, VP, Treasurer or CEO.
- B. **Accounting and Reimbursement Request.** All CDBG expenditures should be itemized (see *sample Reimbursement request form pg. 2*) of the request for payment form) and paid invoices sent along with each reimbursement request This is used by the Finance Department to track expenditure of CDBG funds. Project costs incurred must be paid in full before submitting a request for reimbursement payment. The cost incurred must be within the project scope and allowable under 2 CFR 200 subpart E.
 - **Record Retention:** All records related to the contract, including financial, client, and administrative files must be maintained for a period of no less than four years from the date of project/program close-out, per 24 CFR 570.502(b)(3)(ix). This includes complete source documentation, used for financial reimbursement and to determine client eligibility. Exceptions to this "four-year rule" exist which require records to be maintained for longer periods of time. The most common exceptions include litigation, claim, or audit findings, and real property and equipment acquisitions. All exceptions to the "four-year rule" are listed under 24 CFR 84.53(b)
 - **Submitting Requests for Reimbursement:** Requests must be reviewed and authorized by the agency's Executive Director prior to submission to the Department. The Department will advise agencies of updates or revisions to forms and/or procedures (e.g., online, hard copy, etc.). Source documents showing eligible expenses were accrued and paid, must be submitted with the reimbursement request. Support documentation may include items such as invoices, architect/engineer certification of work done/payment due, documentation of payroll data (for service activities), canceled checks and copies

of other appropriate documents to substantiate expenses. Source documents must be legible. If invoices and cancelled checks do not appear to reconcile, reimbursement may be delayed or withheld.

- Reimbursement Process: A reimbursement check will normally be issued within fourteen (14) working days of submitting a complete and accurate reimbursement request. Monthly reimbursement requests should be submitted by the agency no later than the third week of each month for the month preceding (e.g., July's request would be submitted by the third week of August). Subrecipients are required to submit the final reimbursement along with aggregated number of beneficiaries served with each specific grant.
 - Reimbursement: Any concerns in performance, monitoring, or accounting must be resolved or payment may be held until there is appropriate resolution. Reimbursement checks will be sent by mail along with a Project Transaction Report detailing invoices paid and remaining balance of the grant. Subrecipients should inform the CDBG Administrator in a timely manner if there is an accounting discrepancy.
 - Spend-Down or Drawdown Subrecipients are required to draw on their grant allocation in a timely manner (12month from signing the grant contract) Any delays must be communicated ahead of time.
- C. Race and Ethnicity. Subrecipients must report their beneficiary race and ethnicity with each reimbursement request. The final request for reimbursement should aggregate the number of beneficiaries assisted with each grant. Subrecipients must keep beneficiary data (income verification forms and all beneficiary Personal Protected Information (PPI) for a period of 5 years (see reimbursement request form).
- D. Construction Projects. All rehab/construction projects must complete pg. 4 and 5 of the reimbursement request form
- E. Subrecipient Monitor. The City of Bismarck reserves the right to monitor your organization's expenditure of CDBG grant at any time. In the event of a monitoring session, the City of Bismarck may ask for the submission of these and other CDBG program documents. Technical assistance in establishing proper internal controls and record keeping is available through the Department of Community Development HUD Programs. However, subrecipients are ultimately responsible for management of their project and budget.
- F. Timeliness The subrecipient must deliver funded project scope in a timely manner (within 12months of grant agreement signature). Any anticipated delays must be communicated to the City of Bismarck's CDBG Administrator. Failure to comply may result in reallocation of funding to another subrecipient.
- G. Internal Controls. The grantee acknowledges the regulations in 24 CFR 570.200 which limits program administration costs to 20% of the annual entitlement grant for any program year. Accounting methods in partnership with Finance staff ensure this cap is not exceeded through data entries into formulated tracking spreadsheets and the review of calculations upon entry of project budgets into internal accounting programs.

2 CFR Part 200 Subpart E – Cost Principles

2 CFR Part 200 Subpart E provides basic guidelines for determining whether a cost is

allowable. To be allowable under CDBG (and other federal programs), cost must meet the following general criteria.

- Be necessary and reasonable for proper and efficient performance and administration of the federal award.
- Be allowable to the federal award under the provisions of 2 CFR Part 200
- Be authorized or not prohibited under state or local laws or regulations.
- Conform to any limitations or exclusions set forth in 2 CFR Part 200, federal laws, terms and conditions of the federal award, or other governing regulations as to types or amounts of cost items.
- Be consistent with policies, regulations and procedures that apply uniformly to both federal awards and other activities of the governmental unit.
- Be 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.
- Be determined in accordance with generally accepted accounting principles.
- Not be included as a cost or used to meet cost sharing or matching requirements of any other federal award in either the current or a prior period, except as specifically provided by federal law or regulation.
- Be the net of applicable credits (that is, any credits such as discounts or price adjustments must be deducted from the total costs charged).
- Be adequately documented.

2 CFR Part 200 Subpart E also contains a “selected” list of costs that are allowable or unallowable. However, the fact that an item of cost is not included does not mean it’s unallowable. Rather the cost’s allowability is determined by reference to the basic guideline

CDBG Reimbursement Request Process

Cost Reimbursement Method

1. The cost reimbursement method of payment entails the payment of CDBG funds to the subrecipient based on actual expenditures that the subrecipient has already paid.
2. Subrecipients should submit all paid invoices along with supporting documentation.
3. In order for a subrecipient to receive payment on the cost reimbursement method, the subrecipient must submit a payment request form (see [Request for Reimbursement and Progress Report Form](#)), including all supporting documentation to the CDBG Program Administrator at the City of Bismarck’s Planning Department.
4. All costs that the subrecipient is requesting reimbursement for shall be reviewed through DocuSign by the CDBG Program Administrator, the Planning Manager and the Finance Department to ensure their completeness and accuracy. The subrecipient agreement will be consulted to ensure that costs are consistent with the scope of work and fall within the budget outline agreement.
5. All costs on the [Request for Reimbursement and Progress Report Form](#) must meet the criteria set forth under 2 CFR-200. Costs reimbursements are generally allowable if the following conditions are met.
 - The expenditure is necessary, reasonable and within the grant agreement project scope.
 - The expenditure was adequately documented.
 - The expenditure is not prohibited by the Federal, State or Local law regulations.

- The expenditure is consistent with the generally acceptable accounting standards to calculate cost for CDBG and non-CDBG expenditures.
 - The cost is allocable to the CDBG program in accordance with 2 CFR-200.
 - The net cost reimbursement request does not exceed the original grant allocation and combined program income.
 - All matching (if any) payment obligations have been met and are adequately documented.
6. If the payment request is not accurate or is incomplete, the CDBG Program Administrator will notify the subrecipient by email and attempt to obtain additional information. If this process is unsuccessful, the payment request will be returned to the subrecipient.
 7. If the payment request is accurate and complete, the CDBG Program Administrator, the Planning Manager and the Finance Department will approve the request in DocuSign and initiate the payment request. The Planning Manager will approve IDIS voucher, a PO# will be created in New World ERP software and request forwarded to accounting department.
 8. Subrecipient shall receive payment in form of a check. The check will be sent out with a detailed Project Transaction Report. Any inconsistencies in balance and/project transactions should be reported in a timely manner to the CDBG Program Administrator

Note: Click [here](#) to access and download the CDBG Reimbursement and Progress Report form.

AUDITS

Subrecipients must provide HCD with a copy of their most recent independent financial audit including responses to findings or have one prepared that meets general accepted auditing standards (American Institute of Certified Public Accountant) and 2 CFR 200.501.

Subrecipient Documentation

Subrecipients managing more than one CDBG project shall maintain separate files for each project. ALL project documents must be kept for a period of up to 5 years.

Other Federal Requirements

- Fair Housing
- Section 504/ADA
- Lead-Based Paint
- Equal Employment opportunity
- Limited English Proficiency, Affirmative Marketing

Synopsis

The CDBG Program triggers several additional cross-cutting federal requirements that affect CDBG projects. To assure compliance with these requirements, CDBG subrecipient agreements identify several duties and obligations of the project owner with respect to federal regulations.

General Responsibilities

- A. Fair Housing Activities. Subrecipients of CDBG-assisted projects are responsible for taking necessary and appropriate actions to prevent discrimination in federally assisted housing and lending practices related to loans insured or guaranteed by the Federal Government. Further, subrecipients should strive to promote a strategy for increasing the choice of

housing opportunities for low- and moderate-income persons including minorities and female-heads of households. See <https://www.bismarcknd.gov/1041/HUD-Grant-Programs>

B. Section 504/Accessibility

1. American with Disabilities Act: The Americans with Disabilities Act provides comprehensive civil rights to individuals with disabilities in the areas of employment, public accommodations, state and local government services and telecommunications. The Act, referred to as the ADA, states that discrimination includes the failure to design and construct (built for first occupancy after January 26, 1993) that are accessible to and usable by persons with disabilities. The ADA requires the removal of architectural and communications barriers that are structural in nature in existing facilities. Removal must be readily achievable, easily accomplished, and able to be carried out without much difficulty or expense.
2. Section 504 Accessibility Policy: Section 504 was enacted as part of the Rehabilitation Act of 1973. It prohibits discrimination based on disability in all programs and activities receiving federal assistance and, in 1978, it was amended to apply to all programs conducted by the Federal Government. This regulation provides that no qualified individual with a disability shall, because a recipient's facilities are inaccessible to or unusable by individuals with disabilities, be denied the benefits of, be excluded from participation in, or otherwise be subjected to discrimination under any program or activity that receives federal financial assistance.
3. Structures built or rehabilitated must be made accessible to persons with a disability. Structures designed, built, or altered (rehabilitated) with CDBG funds shall conform to the Uniform Federal Accessibility Standards (UFAS), which was published in the Federal Register on August 7, 1984 (49 CFR 13518). The UFAS technical requirements meet or exceed comparable provisions of ANSI 117.1-1980 Specifications for Making Buildings and Facilities Accessible to and Useable by Physically Disabled People.
4. All recipients of the City's CDBG funds are required to conduct a Section 504 Assessment and develop a Transition Plan as applicable. Technical assistance is available through staff of the City's Housing and Community Development Division. Additionally, agencies with 15 or more employees are required to designate a Section 504 Coordinator.

- C. Equal Employment Opportunity. Nondiscrimination is a requirement of employment and employment practices. Employment opportunities may not be denied on the basis of race, color, national origin, gender, gender orientation/sexual identify, age, religion, familial status, or disability. Affirmative action and equal employment opportunity policies are fundamental aspects of CDBG funded activities.

The Americans with Disabilities Act modifies and expands the Section 504 Rehabilitation Act of 1973 to prohibit discrimination against "a qualified individual with a disability" in employment and public accommodations. The ADA requires that an individual with a physical or mental impairment who is otherwise qualified to perform the essential functions of a job, with or without reasonable accommodation, be afforded equal employment opportunity in all phases of employment.

- D. Lead-based Paint (applies to residential housing projects/programs). CDBG recipients must certify that no lead-based paint will be used in residential units assisted with CDBG

funds and must document that all occupants of structures built before 1978 have been notified of the hazard of lead-based paint.

The federal requirements pertaining to lead-based paint are contained in 24 CFR Part 35. A fact sheet containing information about current efforts to protect children from lead-based paint poisoning prepared by the Environmental Protection Agency can be obtained from HCD.

1. Notification Requirements: Landlords renting units in structures built before 1978 must utilize the pamphlet entitled Protect Your Family from Lead in Your HOME to notify their tenants of the potential hazards of lead-based paint (copies of the pamphlet are available from HCD). The pamphlet must also be used to notify buyers of homes built prior to 1978 of the hazards of lead-based paint. The landlord/seller must document that the tenant/buyer was provided the pamphlet.
2. Identification of Defective Paint Surfaces: Subrecipients must complete visual inspections for defective surfaces in all properties constructed prior to 1978. All interior and exterior surfaces, including those in common areas must be examined.
3. Surfaces identified as being defective shall require further analysis and shall require interim controls (a set of measures designed to temporarily reduce human exposure to lead-based paint hazards). The presence of lead-based paint may ultimately require lead-based paint abatement.
4. Lead Hazard Evaluations: Federal regulations required that Lead Hazard Evaluation be performed by EPA-certified inspectors on all pre-1978 homes receiving over \$5,000 in federal funds. The chewable surfaces of any home occupied by a child under seven years old who has an identified blood lead level must be tested for lead content using an approved lead detection method. Lead-based paint remediation efforts must be taken if chewable surfaces test positive for lead.
5. For both CDBG and CDBG-CV, a waiver applies for the use of housing units for emergency rental assistance, if only used for 100 days after the initial payment or assistance provided, and a lease renewal or extension cannot occur. All non-exempt CDBG-only assisted units should continue to be visually assessed. The City of Bismarck's Lead Safe Housing Policies and Procedures Manual, EPA Lead-Based Paint brochure and EPA Lead-Based Paint Disclosure form is available [online here](#).

Lead-Based Paint –

Lead-Based Paint 24 CFR Part 35 (effective 9/15/2000) and Section 401(b) of the Lead-based Paint Poisoning Prevention Act apply to federally funded acquisition, rehabilitation, maintenance and construction Applicants for federally funding assistance, tenants and prospective purchasers of property built before 1978 must be notified of the following, before rehabilitation, purchase, or rental of federally assisted housing:

- That the property may contain lead-based paint.
- The hazards of lead-based paint.
- The symptoms and treatment of lead-based paint poisoning.
- The precautions to be taken to avoid lead-based paint poisoning (including maintenance and removal techniques for removing such hazards)
- The advisability and availability of blood lead level screening for children under six-years old
- That in the event lead-based paint is found on the property, appropriate abatement measures must be undertaken and are an eligible use of federal funds

Note: Subrecipients providing subsistence assistance to their beneficiaries must take [LSHR Amendment Training for HUD Funded Recipients Who Administer TBRA](#)

Further guidance on Lead-Based Paint can be found in the City of Bismarck's Lead Safe Housing Policy and Procedures Manual

- E. Limited English Proficiency. CDBG recipients through the City of Bismarck must develop a Language Assistance Plan (LAP) in accordance with guidelines provided by the City of Bismarck, the U.S. Department of Justice and the U.S. Department of Housing and Urban Development. Please see <http://fairhousingforum.org/lep-limited-english-proficiency-resources/> for additional information and guides to assist in developing and maintaining a LAP.
- F. Affirmative Marketing Plan. All agencies receiving funds through the City of Bismarck's CDBG Programs are required to develop and maintain an Affirmative Marketing Plan specific to the project or activity being funded. Below is a guide for developing an affirmative marketing plan. Please consult with City staff regarding this requirement. Each recipient of CDBG funding and recipients of CDBG funding is required to carry out an affirmative program to attract all segments of the eligible population (especially those groups designated as least likely to apply) and all minority and non-minority groups regardless of their race, color, religion, sex, national origin, disability, or familial status. Racial groups include White, Black or African American, American Indian or Alaska Native, Asian, Native Hawaiian or Other Pacific Islander. Other groups who may be subject to discrimination include, but are not limited to, Hispanic or Latino persons, persons with disabilities, and families with children. CDBG recipients shall describe in the Affirmative Marketing Plan the proposed activities to be carried out during the advance marketing and application period. The affirmative marketing program must ensure that any group(s) of persons ordinarily not likely to apply without special outreach know about the housing, program or service, and feel welcome to apply. This may include members of any of the groups listed above and those with limited English proficiency.

Below is a suggested format and guidance for preparing a narrative Affirmative Marketing Plan:

1. Identify your organization's name, its address and phone number.
2. Indicate the name of the housing, program, or service and include a brief description. If the activity is housing, indicate if it is transitional housing, residential care, tenant-based rental assistance, rental housing, or for-sale housing, whether it is elderly or non-elderly housing, and the number of units and bedrooms, etc.
3. List the address(es) of the housing or where the housing, program or service will be implemented.
4. Identify whether the housing, program or services is CDBG funded (or both) in addition to other sources of funding.
5. Indicate the service area or the market area (neighborhood, census tract(s), etc.) served by the housing, program or service.
6. Indicate which group(s) in the market area are least likely to apply for the housing, program, or service because of its location and other factors without special outreach (i.e. Hispanic or Latino, White, Black or African American, American Indian or Alaska Native, Asian, Hawaiian or Other Pacific Islander, Persons with Disabilities, Families with Children, and those with Limited English Proficiency).
7. Indicate how your housing, program, or service will be marketed using commercial media

- (i.e. newspapers/publications or a general or targeted circulation, radio, TV, billboards, etc.), which group (see #6) is targeted through each media, and when or during what time period you will use this media.
8. Indicate how you will market the housing, program, or service using brochures, signs, etc. Describe which group (see #6) is targeted through each media, and when or during what time period you will use this media. Brochures describing services may be displayed in the City of Bismarck's Division of Housing and Community Development, the office of the City of Bismarck City-Ada County Housing Authority, and at other agencies serving low- and moderate-income persons.
 9. Indicate other ways you will appropriately market the housing, program, or service. This may include, but not be limited to: websites, links from and to other websites, e-mails, 2-1-1 Care Line, newsletters, school newsletters, mailings to a targeted mailing list (attach it), publications and messages in languages other than English, information booths, presentations or information displayed in business, civic, government agencies, service organizations, immigrant assistance organizations, shelters, affordable housing providers, neighborhood associations, employers, labor organizations, employment centers, schools, minority and women's organizations, disability advocates, faith-based and other groups serving or advocating for populations that may be least likely to apply. Describe which group (see #6) is targeted through each media, and when or during what time period you will use this media. (Be specific, e.g., which newspaper? How often?...quarterly/monthly?), etc.
 10. Indicate the date of the last Section 504 Self-Assessment or when it will be prepared or scheduled for an update. Indicate if a Section 504 "transition plan" has been adopted and the date it was adopted. If you have 15 or more employees, indicate the name of the Section 504 Coordinator and attach a job description. Indicate Section 504 training requirements for staff and the physical and program accessibility aspects of the housing, program, or service. Indicate Section 504 information sources available to staff. Indicate if Section/504 poster/notice is in an accessible location.
 11. Indicate if you list your TTY number or the number for the North Dakota Relay Service (7-1-1 or 800-377-3529) on printed materials, letterhead, etc. (or when you will) for people with hearing impairments.
 12. If you are a housing provider and five (5) or more units of housing are involved, indicate if you use the equal housing logo and caption on printed materials, letterhead, website, etc. (or when you will begin using the logo).
 13. If this is a housing program and five (5) or more units are involved, indicate if you have posted the HUD Fair Housing Poster in English and Spanish in an accessible location.
 14. Indicate the date of the four-part language needs self-assessment or when it will be prepared or is scheduled for an update. Indicate if a Language Assistance Plan has been adopted and this date. Indicate Language Assistance Plan training requirements and information sources available to staff.
 15. If this a housing activity (regardless of the number of units), indicate the instruction and training provided or to be provided to staff on the federal and state fair housing laws, accessibility requirements, reasonable accommodation requests, etc.
 16. Indicate how the success of your affirmative marketing plan will be evaluated including the schedule or for what reasons it will be updated and modified. [Compare racial/ethnic/disability data on applicants with City of Bismarck demographics, review the percentage of applicants that converted to beneficiaries in each racial, ethnic or disability category, look at patterns of complaints and review actions taken on requests for reasonable accommodation to participate in marketing activities, take surveys and review other feedback information from applicants and clients, etc. What is this information revealing? What changes or improvements in affirmative marketing are planned?]

17. The Affirmative Marketing Plan should be signed and dated by your executive director. Background documentation should include an approval action by the Board of Directors.

The City of Bismarck will monitor affirmative marketing activities and may request modifications in the format, content, or implementation of the affirmative marketing plan (see Affirmative Marketing Monitoring Guide) based on that monitoring. HUD representatives may also perform monitoring and reviews at a time and place of its choosing.

DOCUMENTATION, RECORDS & MONITORING

Synopsis

The City of Bismarck is responsible for collecting pertinent qualifying and performance data from subrecipients for the Consolidated Annual Performance and Evaluation Report and for project monitoring. Subrecipients must keep accurate records, which conform to the reporting requirements as outlined below.

This section will explain record keeping and reporting requirements for program benefit information, fair housing actions, project activity summary, displacement, and minority business enterprise participation.

Documentation and record keeping of other program components are covered in other sections of this manual on financial documentation, labor standards compliance, citizen participation, and property acquisition/relocation.

Filing Systems

Files will be maintained electronically and/paper and kept for a period of up to 5 years.

- A. **Project Files.** Subrecipients must be able to fully document their CDBG projects, so that compliance with all applicable regulations can be demonstrated. The filing system established must provide a historic account of each project. The following is a suggested outline for file categories and contents of files for each project.

1. **General Project File:**

- Agency Documents (Application, Cross Cutting Federal Regulations, Budget, etc.)
- Annual Report
- Communication
- Contract
- Eligibility Analysis
- Environmental Review
- Miscellaneous
- Monitoring
- Monthly Report (Beneficiary Data)
- Reimbursement Requests

2. **Financial Records:**

- Notice of Grant Award

- Authorizations, Motions, or Resolutions
- Project Agreement with The City of Bismarck
- Contracts (Note: All third-party contracts must be approved by The City of Bismarck)
- Budget Revisions
- Bills for payment
- Copies of Reimbursement Requests
- Copies of approved vouchers and warrants
- Payroll Time Sheets
- Records of technical assistance monitoring visits
- Latest subrecipient audit and audit records
- Approved indirect cost allocation plan, if applicable
- Project income records
- Records documenting source and amount of supplemental (matching) resources

3. Procurement:

- Bid Advertisements
- Affidavit of Publications
- RFP's
- Bids/Proposals
- Price or Cost Analysis
- All Contracts
- Change Orders
- Pay Estimates
- Site Inspection Reports
- Section 3 Documentation
- Preconstruction Conference Notes
- Correspondence

B. Records Retention. All records pertaining to CDBG awards must be retained for no less than Five years after expiration of the contract and any amendments, completion and resolution of the audit and/or any litigation, whichever is later. If there is any litigation, claim or audit findings that extend beyond this five-year period, subrecipients must retain the records until all litigation, claims or audit findings involving the records are resolved.

- Records for property acquired with CDBG funds must be retained for five years after final disposition. Records for any displaced persons must be retained for five years after persons have received final relocation benefits.

Records/Documentation

Section 200.333 identifies that the record retention for recipients (the City of Bismarck) shall be a period of four (5) years from the date of execution of the closeout agreement for a grant. Records for individual activities subject to the reversion of assets provisions as 570.503(b)(7) or the change of use provisions at 570.505 must be maintained for three (3) years after those provisions no longer apply to the activity; and records for individual activities for which there are outstanding loan balances, other receivables, or contingent liabilities must be retained for three (3) years after the receivables or liabilities have been satisfied.

C. Documentation of Program Benefits

- Limited Clientele and Direct Benefit Projects: The benefits of CDBG funded projects must be available to anyone regardless of ethnicity, sex, age, national origin or physical or mental handicap. Minorities and low- and moderate-income persons in particular are expected to benefit from CDBG Programs. Project subrecipients must document the number of minorities and low- and moderate-income persons served within the City's municipal boundaries. In addition, outreach efforts must be documented for projects that provide direct services to clients. Action must also be taken to correct conditions that have had limited minority participation in the past.

Area-wide and Direct Benefit Projects: Data sources such as surveys and census data, which qualified a project on an area-wide basis must be retained in subrecipient files.

D. Project Activity Summary – Project subrecipients must retain information regarding the status of the project and accomplishments through the project as well as at completion of the project. Record Keeping Responsibilities: The following examples of measures of project progress and accomplishment must be documented and made available for review:

- Total number of square feet, linear feet, wheelchair ramps, etc., constructed or installed
- Number of houses rehabilitated
- Number of people assisted with subsistence emergency payments
- Number of homeless people assisted

Consolidated Plans and Documentation

For Annual Action Plans, Five-Year Consolidated Plans, and Consolidated Annual Performance Evaluation Reports (CAPER), the City of Bismarck will submit Amendments at the end of the program year but prior to the start of the CAPER.

- Allocation of CDBG funds to Subrecipients is guided by the City's Consolidated Plan and Annual Action Plan. The city is required to submit a Consolidated Plan under Federal Regulations at 24CFR Part 91. The Consolidated Plan must be prepared every five years and must be updated annually via the preparation of an Annual Action Plan for the use of the formula grant funds received from HUD.
- The purpose of the Consolidated Plan is to assess the City's housing and community development needs; analyze the City's housing market; establish housing and community development priorities, goals, and strategies to address the identified needs; identify the resources to address them; and to stipulate how funds will be allocated to housing and community development activities.
- Projects funded can broadly be classified as either service or rehabilitation (or rehab). Generally, services have included transitional housing, emergency shelter, special needs housing, rental assistance, health access and legal services for fair housing. Rehab projects include renovation of public or assisted housing or towards the production of new housing for the Low-to-Moderate Income (LMI) renters and owners.

1. Refer to Appendix D-J for project eligibility and classification.
2. CDBG applicants should align their project goals with the identified Consolidated Plan (Con-Plan) priorities.

Low-to Moderate-Income Limits & Census Blocks

For activities meeting the Low-to Moderate-Income (LMI) Clientele national objective, at least 70% of spending must benefit low to moderate income persons. In addition to meeting the 70-percent test, subrecipients must ensure that the activities proposed, when taken as a whole, will not benefit moderate-income persons to the exclusion of low-income persons (see CFR [see §570.208(a)]. This does not mean that each activity must include both low- and moderate-income beneficiaries, but it further ensures that the CDBG program will primarily benefit low-income persons. Income limits can also be viewed on HUD's User System, select North Dakota then Burleigh County.

CDBG Income Determination

Income eligibility determination is an important part of documenting national objective compliance for activities carried out with CDBG-CV funds. Income eligibility is verified a little differently, depending upon the activity you fund.

- Generally, direct benefit activities documented under the LMI national objective, such as economic development loans and assistance to microenterprises, must be documented as LMI using full income determination and documentation.
- For individual applicants for assistance, earnings and leave statements, letters identifying the amount of unemployment benefits, Form 1040 tax forms, and letters from other programs that an individual participates in that has the same or more stringent income requirements as the CDBG program may be provided to document income.
- Eligibility Calculator, an interactive tool that makes determining the income eligibility and assistance amounts for beneficiaries of Community Planning and Development (CPD) programs. Subrecipients should print out the summary and include it as part of the beneficiary file. The Calculator performs income eligibility and assistance amount calculations for CDBG and other CPD programs. ELIGIBILITY CALCULATOR
- A verifiable self-certification is where the beneficiary states and signs-off on their income at the time of assistance. In some cases, such as the national objective of limited clientele, community development grantees may choose to use a verifiable self-certification to document the annual income of beneficiaries for the community development block grant program (CDBG) program. This form can be completed and included in beneficiary files. Please note that using a self-certification approach to income documentation can put the activity at possible risk if a beneficiary is later audited and determined to be over the applicable income limit. The CDBG Self-Certification of Annual Income Form is available here. See Appendix O for the template.
- For owners of microenterprises that state they are low and moderate income, Form 1040 tax forms and tax forms filed by the business that show the businesses' income may be provided to document the owner's or owners' status as low- and moderate-income.
- For CDBG-CV, HUD has granted a waiver for the LMI jobs national objective to streamline income verification by accepting annual wage information from an assisted business demonstrating that individuals that apply for or hold jobs earn less than the Section 8 low-income limit for a one-person family. For other activities such as public services (e.g., provision of food from a food bank or health services (coronavirus

testing)) that don't meet the LMI Area Benefit criteria, self-certifications of income are acceptable.

More information on determining Income and calculating rent visit
https://www.hud.gov/sites/documents/DOC_35649.PDF

Subrecipients can use either of these two methods to verify and collect income documentation. Please note that these records must be kept for a period of 5 years. Verification of income for LMI individuals must be consistent and income limits more restrictive than those used by HUD must be documented accordingly.

Duplication of Benefits (DOB)

A duplication of benefits (DOB) occurs when a person, household, business, government, or other entity receives subsistence assistance for services from multiple sources for the same purpose within the same time period, and the total assistance received for that purpose is more than the total need for assistance. Within the CDBG-CV program, all grantees are bound by Section 312 of the Stafford Act, as amended by the Disaster Recovery Reform Act, and the OMB Cost Principles within 2 CFR part 200 that require all costs to be "necessary and reasonable for the performance of the Federal award."

For subrecipients receiving emergency funds, as the result of an emergency declared pursuant to the Disaster Recovery Reform Act; the City will request information to ensure that agencies are not over- supplemented with federal resources. This information will include, but is not limited to:

- Activity funding sources available for the activity.
- The order the funds will be received (based on application for the resources).
- Non-duplicative benefits.
- Identify the maximum amount allowed for with CDBG funds Reassess unmet need, as applicable.

As part of the request for reimbursement process, the City of Bismarck requires each subrecipient to complete a DOB section of the reimbursement request form indicating that they have taken proper protocols to ensure non-duplication of benefits. If payment is found to be duplicative, subrecipient may be asked to repay assistance.

To comply with DOB requirements, you are required by the CARES Act to establish and follow policies and procedures to ensure that DOB does not occur. Establishing a process to effectively identify and prevent duplication of benefits is critical for you to manage the multiple active funding streams related to coronavirus response and efficiently target CDBG-CV resources to meet unmet needs within your community.

General Responsibilities

- All subrecipients are responsible for adopting DOB Policies and Procedures and ensuring compliance for projects at the activity and rental assistance level. Subrecipients are responsible for using the following process to analyze and determine if a DOB exists at the activity or financial assistance level.
- For any subrecipients providing rental assistance or other financial assistance, duplication of benefit provisions must be established for the individual or entity receiving

the cash payment. For example, if the subrecipient (or its provider) makes a rental assistance payment on behalf of a program participant to a landlord that is later deemed to be duplicative in nature, the subrecipient must collect the duplicated payment from the landlord and cannot collect the duplicated payment from the program participant without prior written authorization from the City of Bismarck.

- Subrecipients are responsible for monitoring beneficiaries to ensure that all activities are carried out in accordance with the subrecipient's DOB Policies and Procedures.
- The City of Bismarck will periodically monitor subrecipients to ensure compliance with duplication of benefits requirements. The City of Bismarck may ask for reimbursement of funds if the subrecipient is found to have been duplicated.

For more information on Prevention of Duplication of Benefits

Duplication of Benefits Analysis Steps – Activity Level

Duplication of Benefits Certification

When providing financial assistance for housing relocation and stabilization services (24 CFR 576.105(a) as amended by CPD Notice 21-08) through homeless prevention or rapid re-housing program components, subrecipients and/ or service providers are encouraged to do the following:

- Use a checklist as part of intake to document other assistance being provided.
- Ensure that the landlord or property manager is aware that duplicated assistance must be repaid.
- Document any 3rd party lease agreement with the landlord/property manager
- Sign the Reimbursement request form establishing proper procedures were followed in ensuring the non-duplication of benefits.

On-Site Monitoring

The City of Bismarck periodically conducts on-site monitoring of randomly selection subrecipients to ensure projects' conformance with HUD's regulations. The City of Bismarck will monitor 30% of its subrecipients annually between February and March.

Step 1 Send Notification

The CDBG Administrator sends a Notification Letter at least one week prior to visit. Confirming the following:

- Confirm the dates and scope of monitoring visit.
- Provide a description of the information that will be reviewed.
- Provide applicable HUD monitoring checklist

Step 2 Entrance Interview

The CDBG Administrator convenes an entrance interview with the subrecipient to review the monitoring process and procedures. The CDBG Administrator uses the HUD Monitoring Checklist to guide the on-site monitoring process

Step 3 Conduct Monitoring Review

The Community Development Specialist leads program and compliance monitoring components (as listed above) for a specific program year(s). The Community Development Specialist completes all of the applicable worksheets, documenting the monitoring review.

Step 4 Exit Interview

The Community Development Specialist will present tentative conclusions, request information to clarify any concerns, and suggest improvements. Inform them that a formal letter with final conclusion will be sent.

Checklist for On-Site Monitoring of a Subrecipient

Subrecipient _____
Project Name/Agreement No. _____
Project Director _____

In-house review and general oversight conducted on _____
On-site monitoring visit(s) conducted on _____
Monitoring letter sent on _____
Follow-up monitoring visit conducted/letter sent on: _____

A. National Objective and Eligibility

1. Which National Objective does this project meet (24 CFR 570.208)?

Benefit to Low- and Moderate-Income Persons

- Low/Mod Area Benefit
- Limited Clientele Benefit
- Low/Mod Housing Benefit

Aid in the Prevention or Elimination of Slums or Blight

- on an Area Basis
- on a Spot Basis

An Urgent Need

- Needs having a Particular Urgency

2. Which eligibility category does the project meet? (24 CFR 570.201–6)?

B. Conformance to the Subrecipient Agreement

- Contract Scope of Services: Is the full scope of services listed in the Agreement being undertaken? List any deviation.
- Levels of Accomplishments: Compare actual accomplishments at the point of monitoring with planned accomplishments. Is the project achieving the expected levels of performance (number of persons served, number of units rehabilitated,

- etc.) and reaching the intended client group? Explain any problem the subrecipient may be experiencing. Acknowledge major accomplishments.
- Time of Performance: Is the work being performed in a timely manner (i.e., meeting the schedule as shown in the Agreement)? Explain.
 - Budget: Compare actual expenditures versus planned expenditures. Note any discrepancies or possible deviations.
 - Requests for Payment: Are requests for payment being submitted in a timely manner and are they consistent with the level of work accomplished? Is program income properly accounted for and recorded? Explain.
 - Progress Reports: Have progress reports been submitted with payment requests (where required) on time and were they complete and accurate?
 - Special Conditions: Does the project conform to any special terms and conditions included in the Subrecipient Agreement? Explain.

C. Record-Keeping Systems (24 CFR 570.506)

Records should demonstrate that each activity undertaken meets the criteria for National Objectives compliance. Such records should be found in both the grantee's project file and the subrecipient file.

- Filing System: Are the subrecipient's files orderly, comprehensive, secured for confidentiality where necessary, and up to date? Note any areas of deficiency.
- Documentation (activities, costs, and beneficiaries): Do the Housing and Community Development project files and subrecipient records have the necessary documentation supporting the National Objective being met, eligibility, and program costs as they relate to 24 CFR 570.506? Do the project files support the data the subrecipient has provided for the CAPER?
- Record Retention: Is there a process for determining which records need to be retained and for how long?
- Site Visit (where applicable): Is the information revealed by a site visit consistent with the records maintained by the subrecipient and with data previously provided to the grantee? Explain any discrepancies.
 - i. Is the project manager located on-site and running the day-to-day operations? Do the staff seem fully informed about program requirements and project expectations? Explain.
 - ii. Is the project accomplishing what it was designed to do? Explain any problems.

D. Financial Management Systems (2 CFR Part 200)

- Systems for Internal Control: Are systems in compliance with accounting policies and procedures for cash, real and personal property, equipment, and other assets (2 CFR Part 200.)
- Components of a Financial Management System: Review the chart of accounts, journals, ledgers, reconciliation, data processing, and reporting system. Note any discrepancies.
- Accounting: Compare the latest performance report, drawdown requests, bank records, payroll records, receipts/disbursements, etc. Note any discrepancies.

- Eligible, Allocable, and Reasonable Costs: See 2 CFR Part 200. Pay particular attention to the time distribution records where the subrecipient has employees who work on both CDBG and non-CDBG funded activities. Note any discrepancies.
- Cash Management/Drawdown Procedures: See 2 CFR Part 200. Has all cash been promptly drawn down and deposited? Are all drawdowns of Federal funds properly recorded? Note any discrepancies.
- Management of Program Income: If the subrecipient generates program income, refer to 24 CFR 570.504 and the Subrecipient Agreement about its use. Note any discrepancies.
- IPA Audit Reports/Follow-up: (2 CFR Part 200) Determine if the subrecipient has expended \$750,000 or more in Federal funds for the subject program year.
 - i. IPA Audit Required Yes___ No___ N/A___
 - ii. Date Conducted _____
 - iii. Any findings related to CDBG activity? Status? Explain.
- Maintenance of Source Documentation: (2 CFR 200) Note any discrepancies in sample records, invoices, vouchers, and time records traced through the system.
- Budget Control: Do actual expenditures match the line-item budget? Refer to 2 CFR 200. Note any discrepancies.

E. Insurance

- Has the subrecipient submitted a current copy of its Certificate of Insurance?
- Is the City named as an additional insured?

F. Procurement

- Procurement Procedures: Do the procedures the subrecipient uses for procurement of goods and services meet CDBG requirements? Review a sample number of procurements.
- Conflict of Interest: How does the subrecipient assure there was no conflict of interest, real or apparent? Review the process and comment.

G. Equipment and Real Property

- Has the subrecipient acquired or improved any property it owns in whole or in part with CDBG funds in excess of \$25,000? If yes, review for compliance with 2 CFR 200.313.
- Has the subrecipient purchased equipment with CDBG funds? Does the subrecipient maintain the records required at 2 CFR Part 200?
- Has a physical inventory taken place and the results reconciled with property records within the last two years?
- If the subrecipient disposed of equipment/property that was purchased with Federal funds within the last five years:
 - i. Were proceeds from the sale reported as program income?

- ii. Did the grantee approve expenditure of program income?
- iii. Was the program income returned to the grantee?

H. Non-Discrimination and Actions to Further Fair Housing

- Equal Employment Opportunity: Refer to 24 CFR 570.506, 601, and 602. Note any deficiencies.
- Section 3: Opportunities for Training and Employment for Local Residents – Refer to 24 CFR 570.506(g)(5) and 24 CFR 570.607(a) (affirmative action). Note any deficiencies.
- Fair Housing Compliance: Refer to 24 CFR 570.904 and 24 CFR 570.601(b). Note any deficiencies.
- Requirements for Disabled Persons: Refer to 8.6. Note any concerns.
- Women and Minority Business Enterprises: Refer to 24 CFR 570.506(g) and 2 CFR Part 200, affirmative steps documentation. Note any concerns.

I. Conclusion and Follow-up

- Is the subrecipient meeting the terms of the Subrecipient Agreement and HUD regulations? Discuss both positive conclusions and any weaknesses identified.
- Identify any follow-up measures to be taken by the grantee and/or the subrecipient as a result of this monitoring review.
 - i. List the required schedule for implementing corrective actions or making improvements.
 - ii. List the schedule for any needed technical assistance or training and identify who will provide the training.

Project Monitor

Date

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Appendix A: Key Terminology and Common Acronyms

Annual Action Plan: The Consolidated Plan is carried out through Annual Action Plans, which provide a concise summary of the actions, activities, and the specific federal and non-federal resources that will be used each year to address the priority needs and specific goals identified by the Consolidated Plan. The current plan is hosted on City of Bismarck’s Community Development website.

CAPER: Consolidated Annual Performance and Evaluation Report. Grantees report on accomplishments and progress toward Consolidated Plan goals in the CAPER.

CDBG: Community Development Block Grant Program, a federally funded, competitive grant program designed to help small cities and towns meet a broad range of community development needs.

Community Advisory Committee (CAC): A Bismarck City focus group consisting of up to 13 local community members. The group acts in an advisory capacity on the current needs of the community and oversee the selection of suitable CDBG applications to meet the needs. The Citizen Participation Plan outlines their duties.

CDBG – CV: Community Development Block Grant CARES Act

CFR: Code of Federal Regulations, is the codification of the general and permanent regulations published in the Federal Register by the executive departments and agencies of the federal government of the United States. The CFR is divided into 50 titles that represent broad areas subject to federal regulation.

Consolidated Plan: The Consolidated Plan 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 consolidated planning process serves as the framework for a community-wide dialogue to identify housing and community development priorities that align and focus funding from the CPD formula block grant programs. The current plan is hosted on the City of Bismarck’s website.

Davis-Bacon Act: Establishes the requirement for paying the local prevailing wages and fringe benefits, as determined by the U.S. Department of Labor, laborers and mechanics. It applies to contractors and subcontractors performing on federally funded or assisted contracts in excess of \$2,000.

Draw Down: The process of requesting and receiving CDBG funds. Funds from a line of credit established by HUD, while subrecipients typically draw down funds from grantees.

Entitlement Community: A city in a metropolitan area with a population of 50,000 or more, a principal city of a metropolitan area, or an urban county with a population of at least 200,000 (excluding the population of metropolitan cities located therein) that receives an annual allocation of CDBG funds directly from HUD under the CDBG Entitlement Program. An Entitlement Community is sometimes referred to by HUD as a grantee or recipient.

Grantee: The pass-through entity that receives a CDBG grant and administers CDBG funding (The City of Bismarck is the grantee).

HUD: The United States Department of Housing and Urban Development.

LMI: Low- and moderate-income. A low- and moderate- (L/M) income person is defined as a member of a family having an income equal to or less than the Section 8 Housing Assistance Payments Program low-income limits established by HUD applicable to the size of the person's family. A family is defined as all persons living in the same household who are related by blood, marriage, or adoption. An individual living in a housing unit that contains no other person(s) related to him/her is a one-person family for this purpose. Adult children who continue to live at home with their parent(s) are considered as part of the family for this purpose and their income must be counted in determining the total family income. A dependent child who is living outside of the home (e.g., students living in a dormitory or other student housing) is considered for these purposes to be part of the family upon which he/she is dependent, even though he/she is living in another housing unit.

MBE: Minority-owned Business Enterprise

Presumed Eligible: Exclusively benefit a clientele who are generally presumed by HUD to be principally LMI income persons. The following groups are currently presumed by HUD to be made up principally of LMI income persons: with abused children, with elderly persons, with battered spouses, with homeless persons, w adults meeting Bureau of Census' definition of severely disabled persons*, with illiterate adults, with persons living with AIDS, and w migrant farm workers.

Quarterly Report: Required documentation submitted by Subrecipients four times each program year, to detail the progress toward accomplishments as described in the Subrecipient Agreement

RFP: Request for Proposal

Subrecipient: A public or private nonprofit agency, authority, or organization, or a for-profit entity authorized under §570.201(o) to provide microenterprise assistance, receiving CDBG funds from the grantee to undertake activities eligible under the CDBG program.

Subrecipient Agreement: The subrecipient agreement is a contract between the Subrecipient and the Town of Arlington, which outlines the grant award, project, and terms of the grant.

Technical Assistance: Assistance to an entity by another entity more knowledgeable in the applicable subject field, resulting in increased capacity or knowledge of the assisted entity.

Timeliness: Carrying out CDBG-funded activities in a timely manner.

Timeliness Spending Test: A test conducted sixty days prior to the end of the current program year, to ensure that the amount of entitlement grant funds available to the City of Bismarck under grant agreements but undisbursed by the U.S. Treasury is not more than 1.5 times the entitlement grant amount for the current program year.

USC: United States Code is the codification by subject matter of the general and permanent laws of the United States.

Urgent Need: Activities designed to alleviate existing conditions of recent origin (18 months) that pose serious threats to the health and welfare of the community; this objective may only be used if the community cannot finance necessary activities with other source.

WBE: Women-Owned Business Enterprise

*Severely disabled persons: As defined in the 1994 Census survey, a person with a severe disability is one who is unable to perform one or more activities of daily living has one or more specific disabilities or is a long-term user of assistive devices such as wheelchairs, crutches, and walkers.

Appendix B: Regulatory References of Basic Subrecipient Agreement

Provisions	24 CFR 570	2 CFR 200	Other Federal Regulations
1. National Objective Compliance/ Eligibility	570.200(a)(1)+(2), 570.201-570.209, 570.506		
2. Scope of Work	570.503		
3. Time of Performance	570.503		
4. Compensations and Method of Payment	570.502	200.305	
5. Program Income	570.500(a), 570.502(a)(3), 570.503(b)(3), 570.504		
6. Record-Keeping Requirements	570.502(a)(7), 570.506	200.333-335	
7. Reporting Requirements	570.502, 570.507	200.327-329	24 CFR 91.520
8. Public Access to Program Records	570.502, 570.508	200.336-337	
9. Grant Closeout Procedures	570.502, 570.509	200.343-345	
10. Uniform Administrative and Program Management Standards	570.502, 570.503(b)(4), 570.610	200.101-102	2 CFR 200
11. Reversion of Assets	570.502(a)(7), 570.503(b)(7), 570.505		
12. Real Property	570.502(a)(7), 570.503(b)(7), 570.505		
13. Other Program Requirements	570.503(b)(5), 570.600-603, 570.605-614		
14. Termination	570.502(a)(7), 570.503 (b)(6)	200.339	
15. Compliance with Laws/Regulations	570.501(b), 570.503(b)(5)	200.302(a), 303	
16. Antidiscrimination/Affirmative Action and EEO	570.601, 570.602, 570.607	200.300, 200.321	
17. Financial Management	570.502, 570.610	200.302-305, 200.327,	
18. Audits	570.502, 570.610	200.501	
19. Religious and Political Activities	570.200(j), 570.207		
20. Budget Modifications	570.502(a)(4), 570.503(b)(1)		
21. Monitoring	570.501(b), 570.503(b)(1)	200.328, 331	
22. Conflict of Interest	570.611	200.112, 318	
23. Procurement Methods	570.502	200.218-326	
24. Budget	570.503		
25. Project Schedule/Milestones	570.503		
26. Environmental Review	570.503(b)(3)(1)		

Other Program Requirements

Requirements	Federal Regulations	Other References
1. Federal Labor Standards <ul style="list-style-type: none"> • Davis-Bacon • Copeland Act (Anti-kickback) • Contract Work Hours and Safety Standards 	24 CFR 570.603 29 CFR 1, 3, and 5	Section 110, Housing and Community Development Act of 1974 (HCDA); 40 U.S.C. 276a-276a-5; 40 U.S.C. 276c; 40 U.S.C. 327 et seq.
2. Equal Employment Opportunity	24 CFR 570.601-602 24 CFR 570.607 41 CFR 60	Executive Orders 11246 and 12086 , 12 U.S.C. 1701u
3. List of Debarred or Ineligible Contractors	24 CFR 570.609 24 CFR 24	
4. Non-Discrimination	24 CFR 8 24 CFR 570.601 24 CFR 570.602	Section 504 of Rehab. Act of 1973, Americans with Disabilities Act of 1990, Exec. Order 11063
5. Fire Safety Codes		Local
6. Building, Housing, and Zoning Codes; Housing Quality Standards	24 CFR 570.208(b)(1)(iv) and (b)(2)	Local
7. Lead-Based Paint	24 CFR 570.608 24 CFR 35	42 U.S.C. 4821 et seq.
8. Lump Sum Drawdowns	24 CFR 570.513	
9. Environmental/Historic Preservation/ National Environmental Policy Act/ Flood Insurance Requirements <ul style="list-style-type: none"> • Siting Near Airports and Coastal Barrier Resources • Fish and Wildlife Protection • Flood Plain • National Historic Preservation • Noise Abatement & Control • Wetlands • Air Quality • Coastal Zones • Endangered Species • Thermal/Explosive Hazards • Flood Insurance 	24 CFR 570.503(b)(5)(i) 24 CFR 570.604 24 CFR 570.202 24 CFR 58 24.CFR 58.5 24 CFR 570.605 24 CFR 58.6	Sec. 104(g), HCDA 42 U.S.C. 4001 et seq.
10. Relocation, Real Property Acquisition, and One-for-One Housing Replacement <ul style="list-style-type: none"> • Uniform Relocation Act • Residential anti-displacement and relocation assistance • One-for-One Replacement 	24 CFR 570.201(i) 24 CFR 570.606 49 CFR 24 24 CFR 570.606(c)(1)	Sec. 104(d) and 105(a)(11) of HCDA, www.hud.gov/relocation
11. Definition of Computation of Units of Services	24 CFR 570.503(b)(1)	IDIS instructions
12. Section 108 Loan Guarantees	24 CFR 570.700-570.709	Sec. 108 of HCDA
13. Applicable Credits		A-87

Appendix C: Real Property Acquisition, Rehabilitation AND Demolition

GENERAL INFORMATION

The use of Federal funds administered by the City of Bismarck's Housing and Community Development Division (Community Development Block Grant (CDBG) funds, to assist in whole or in part, real property acquisition, rehabilitation or demolition activities, subjects these activities to the requirements of the Uniform Relocation Assistance and Real Property Acquisition Policies Act (URA) of 1970, as amended.

CDBG-assisted activities involving real property acquisition, rehabilitation, conversion from lower income housing and/or demolition, are subject to the URA and the additional requirements of section 104(d) of the Housing and Community Development Act (Section 104(d), as amended). These requirements (URA and/or Section 104(d)) apply regardless of whether these activities are conducted by the City of Bismarck or another public or private agency.

This document is not intended to set forth the full requirements of the URA or section 104(d), but instead is intended to create an awareness by the agency or city department conducting the acquisition, rehabilitation, conversion from lower income housing and/or demolition activity(s) of 1) the existence of these requirements and; 2) the city's policies relative to these requirements and; 3) the importance of following the procedures in Part II in order to ensure compliance.

Those agencies or city departments conducting activities subject to the requirements of URA and/or Section 104 (d) must familiarize themselves with the requirements at 49 CFR Part 24 as well as U.S. Department of Housing and Urban Development (HUD) Handbook 1378 "Tenant Assistance, Relocation and Real Property Acquisition".

The involuntary displacement of any tenant-occupant as a result of acquisition, rehabilitation, conversion from lower income housing and/or demolition activity(s), subjects the activity(s) to the relocation requirements of the URA. If CDBG assistance is/will be provided for the activity, the additional requirements of Section 104 (d) will apply.

PART I: ACQUISITION POLICIES UNDER THE URA

When acquisition of real property is the result of a voluntary proposal submitted by an owner in response to a public invitation or solicitation for offers, or property is voluntarily offered for sale, it is referred to as voluntary acquisition.

- Acquisition of real property, by an agency having the power of eminent domain, which is not voluntarily offered for sale is referred to as involuntarily acquisition.
- This document does not address the use of Federal financial assistance to assist with involuntary acquisition of real property. In those instances where the agency conducting the acquisition can appropriately justify the involuntary acquisition and approval is granted by the mayor and city council, the agency or city department conducting the acquisition will be required to directly coordinate the acquisition through the City of Bismarck City attorney's office.

BUYERS RESPONSIBILITIES TO SELLER

In order to avoid triggering the acquisition requirements set forth at 49 CFR 24, Subpart B, the acquisition must be a voluntary transaction. Any agency with the power of eminent domain (city

agency, redevelopment agency, state agency etc.) must meet each of the following requirements when attempting to acquire real property:

- Determine and inform the owner in writing that it will not use its power of eminent domain to acquire the property if negotiations fail to result in an amicable agreement (The agency must not have designated a specific site to be acquired. The property to be acquired cannot be part of an intended, planned or designated project area where all or substantially all of property within the area is to be acquired within specific time limits); and;
- Determine and inform the owner in writing of the agency's estimate of the fair market value of the property before entering into a contract for sale with the owner. An agency that does not have authority to acquire property by eminent domain must inform the seller, before the seller enters into a contract for sale:
 - That the agency does not have the power of eminent domain and therefore will not acquire the property if negotiations fail to result in an amicable agreement; and
 - Of the estimate fair market value of the property. An appraisal is not required; however, the agency must document and make available for the city's review prior to entering into the contract for sale, the basis of the estimate.

Whenever feasible, this information is to be provided before making the purchase offer. In those instances where this is not feasible, the seller must be provided an opportunity to withdraw from the agreement, without penalty or further obligation, upon receipt of the results of the real property appraisal.

The failure or inability of any agency or city department to fully comply with the provisions outlined above, will trigger applicability of the full scope of real property acquisition requirements set forth at 49 CFR Part 24, Subpart B and further described in Chapter 5, Sections 5-2 through Section 5-9 of HUD Handbook 1378.

BUYERS RESPONSIBILITIES TO TENANT-OCCUPANT(S)

All tenant-occupants of any property to be acquired with Federal financial assistance must be provided with timely notice of the planned activity. The format of the notice will vary depending upon whether the tenant occupant will be displaced as a result of the acquisition.

Specific examples of the notices to be provided are included within the Appendices of HUD Handbook 1378.

Those agencies conducting acquisitions involving tenant-occupants must fully comply with the requirements at 49 CFR 24.203 and Chapter 2 of HUD Handbook 1378. The displacement and/or relocation must also comply with the City of Bismarck's residential Anti-displacement and Relocation Assistance (RARA) Plan.

Relocation is defined as a permanent movement of tenant-occupants because of an activity assisted with Federal financial assistance. Federal regulations require that if any individual, family, business or farm is displaced as a result of property acquisition, the acquiring agency must:

- Provide assistance (at least two referrals) in finding alternate housing which is

- decent, safe, sanitary and affordable.
- Assure that persons relocated receive their full replacement housing payments and moving and related expenses.
- Provide copy of appropriate HUD Brochure
 - i. “Relocation Assistance to Displace Homeowners” (HUD Brochure HUD-1044-CPD).
 - ii. “Relocation Assistance to Tenants Displaced from Their Homes” (HUD Brochure HUD-1041-CPD).
 - iii. “Relocation Assistance to Displaced Businesses and Farms” (HUD Brochure HUD- 1043-CPD).

More information

Tenant Assistance, Relocation and Real Property Acquisition Handbook (1378.0)

REHABILITATION/ACQUISITION WITH REHABILITATION

Any agency applying for Federal financial assistance for rehabilitation of real property must provide the Housing and Community Development division with information on all individuals living on the property. General information notices will be provided by the Housing and Community Development division to all tenant occupants of the property informing them of the application, the assistance available and their rights under the URA.

Site occupant records will be completed by Housing and Community Development staff on each tenant/occupant residing at the property at the time of application. Through assessment of this record and a personal interview with the tenant/owner, the Housing and Community Development division will determine the type of assistance needed and the relocation preferences should displacement or relocation become necessary.

At the time the commitment for assistance is made to the agency, a notice will be mailed to all tenant-occupants detailing the City of Bismarck’s none-displacement policy, an explanation of any assistance provided and an explanation of temporary relocation policies. During the course of rehabilitation, inspections will be made to ensure that residences remain decent, safe and sanitary and that the rehabilitation has not resulted in an increase in out-of-pocket expenses for the tenant-occupant.

If displacement is necessary, notice will be given explaining the relocation assistance available including cost and location of comparable replacement dwellings and an explanation of relocation payments, services, eligibility conditions, filing procedures and the basis for determining maximum replacement housing payments.

A minimum of ninety (90) days’ notice will be given in the event of displacement. Referrals will be given to the tenant-occupant for inspection of replacement units. All referrals will have been inspected to insure decent, safe and sanitary conditions.

In all instances, assistance will be given in preparation of claims and all payments will be issued promptly.

In those instances where relocation assistance will be required, estimates will be made of the

probable costs and the agency may be required to place that amount in an escrow account for payment to the tenant-occupant before proceeding with the activity.

BUYERS RESPONSIBILITY TO OBTAIN AN APPRAISAL

Real property may only be acquired after an independent fee appraisal has been performed and an original copy of the appraisal is submitted and reviewed by the Housing and Community Development Division.

- The purpose of the appraisal is to establish the fair market value of the property. The appraisal must be conducted by an appraiser appropriately licensed by the State of North Dakota, Board of Occupational Licenses.
- If the cost of the independent fee appraisal is determined to be an allowed use of Federal financial assistance and is intended to be paid in whole or in part with Federal funds, the procurement of these professional services by a governmental agency (city, redevelopment agency, state agency) must comply with the requirements at 24CFR Part 85 "Administrative Requirements For Grants and Cooperative Agreements to State Local and Federally recognized Indian Tribal Governments".
- The procurement of professional services by a non-governmental agency must comply with office of Management and Budget Circular A-110 "Uniform Administrative requirements for Grants and Agreements with Institutions of Higher Education, Hospitals and other Nonprofit Organizations". In addition, the procurement of any professional service must also comply with city's procurement policy (if conducted by the city) or the agency's procurement policy for an independent agency.

BUYERS RESPONSIBILITY TO REQUEST AN ENVIRONMENTAL REVIEW

An environmental review is required for any property that is intended to be acquired or rehabilitated with Federal financial assistance. The review is to be completed by staff of the Community Development Department. No real property will be acquired or rehabilitated until the environmental review is completed.

Those agencies contemplating activities involving acquisition or rehabilitation must coordinate these activities with the Community Development Department prior to entering into an earnest money or option agreement with the seller. This is necessary in order to avoid the selection of site(s) that will not meet the environmental review requirements.

DEMOLITION OR CONVERSION OF LOW/MODERATE INCOME DWELLINGS

All low/moderate income dwelling units demolished or converted to a use other than low/moderate income housing must be replaced with comparable unit(s) on a one-to-one basis within three years unless the housing is determined to be in substandard condition not suitable for rehabilitation. "*Substandard housing*" is defined as not meeting City of Bismarck City Housing Code and/or meeting HUD'S Section 8 Housing Quality Standards (HQS). "*Not suitable for rehabilitation*" is defined as a housing unit that does not meet applicable local or state building code and/or HUD'S Section 8 Housing Quality Standards (HQS) and could not be brought up to code and/or HQS for more than 75% of the unit's replacement cost. Low/moderate income dwelling units are those housing units with rents that do not exceed the current Fair Market Rents including utilities for the particular area.

- To determine if a vacant or owner-occupied housing unit meets the criteria for a

low/moderate income dwelling unit, calculate the principal and interest payment based on the market value established by the appraisal (apply the current Federal Housing Administration (FHA) 30-year mortgage rate). Then, add property taxes, homeowners' insurance, and the appropriate Section 8 utility allowance.

In addition to complying with the acquisition and relocation assistance requirements of the URA, demolition and/or conversion activities require the provision of public notice of the intent to assist the demolition/conversion activity and specific authorization form HUD.

Prior to obligating or expending Federal financial assistance for any activity that will directly result in the demolition of any low/moderate income dwelling unit(s) or the conversion of low/moderate income dwelling units to another use, the agency or city department conducting the activity must submit the following information to the Community Development Department:

- Description of the proposed activity.
- General location on a map and approximate number of dwelling units by size (number of bedrooms) that will be demolished or converted to a use other than for low/moderate income dwelling units as a direct result of the assisted activity.
- Time schedule for the commencement and completion of the demolition or conversion.
- General location on a map and approximate number of dwelling units by size, number of bedrooms that will be provided as replacement dwelling units.
- Source of funding and a time schedule for the provision of replacement dwelling units.
- Basis for concluding that each replacement dwelling unit will remain a low/moderate income dwelling unit for at least ten (10) years from the date of initial occupancy.

Upon receipt of this information, the Community Development Department will make the proposed activity public and submit this information to appropriate staff of the HUD Field office for review and authorization to proceed.

LEASEHOLD AGREEMENTS

All agencies are required to enter into a standard leasehold agreement with the City of Bismarck for any facility constructed, acquired or rehabilitated in whole or in part with Federal financial assistance which is to be operated by that agency. The leasehold establishes a landlord/tenant relationship between the agency and the City. It guarantees that the agency will operate the facility for the original purpose for which it received federal financial assistance during the useful life of the facility.

- Leasehold agreements will impose conditions which the city determines are necessary to protect the investment of Federal financial assistance.

When a leasehold agreement is necessary, the following requirements apply:

- i. Leasehold agreements shall be executed within thirty (30) days of acquisition or substantial completion of any construction activity.
- ii. The term of the agreement for new construction shall be twenty

- (20) years.
- iii. The term of the agreement for renovating existing structures or facilities shall be ten (10) years.

REQUIRED DOCUMENTATION

Agencies or city departments conducting activities subject to the requirements of the URA, or Section 104 (d) must keep records in sufficient detail to demonstrate compliance with these requirements. These records must be retained until at least three (3) years after the latest of:

- The date by which all persons displaced from the property and all persons whose property is acquired for the project have received the final payment for which they are entitled.
- The date the project has been completed; or
- The date required by the application program regulations.

Records will be submitted to the Community Development Department for retention. The records maintained by the city and/or the agency to demonstrate compliance with the requirements of the URA and/or Section 104 (d) are confidential and will not be made available as public information without written authorization from the City of Bismarck City attorney's office.

All required correspondence should be sent by certified mail or hand delivered in order to obtain evidence of receipt. At a minimum, the following records must be maintained:

A. Real Property Acquisition records

- Evidence of official decision to pursue acquisition.
- Preliminary acquisition notice, date of transmittal to owner, and evidence that owner has received it.
- Written invitation to owner to accompany appraiser.
- Original copy of each appraisal report.
- Copy of resolution or other document showing the determination of just compensation.
- Written purchase offer of just compensation, including all basis terms and conditions, and date of delivery to owner.
- Statement showing the basis for just compensation and an indication that it was delivered to the owner with the written purchase offer.
- Purchase agreement, deed and other documents used in conveying the property.
- Copy of the settlement cost reporting statement.
- Evidence that owner received the purchase payment.
- Copy of the notice giving 90 days to surrender possession of the premises.

B. Displacement/Relocation Records

- Name, address and relocation needs of each person or business to be displaced.
- Description of the services and assistance provided, including referrals to alternate housing or business locations, a description of that property and its price or rent.
- Copy of the payment voucher or statement of relocation payments.
- Address, inspection sheet and date for each housing referral, including amount of rent and utilities.

- Claim forms and supporting documentation signed by person displaced.
- Documents used to determine eligibility for relocation payments and amount of payments.
- Copy of any grievance filed and description of actions taken to resolve it.

HUD brochures which should be provided to the owner and/or displaced during the acquisition and relocation process are available at [HUD Relocation Publications](#). The following brochures should be provided to those affected:

- “When a Public Agency Acquires Your Property” (HUD Brochure HUD -1041-CPD)
- “Relocation Assistance to Tenants Displaced from Their Homes” (HUD Brochure HUD-1042-CPD)
- “Relocation Assistance to Displaced Homeowners” (HUD brochure HUD-1044-CPD)
- “Relocation Assistance to Displaced Businesses; Nonprofit Organization and Farms (HUD Brochure HUD-1043-CPD).

MONITORING FOR COMPLIANCE WITH THE REQUIREMENTS OF THE URA

The Community Development Department is responsible for monitoring federally assisted activities that are subject to the requirements of the URA to assure compliance. Because of the substantial monetary liabilities which can be imposed in the event of non-compliance with these requirements, agencies or city departments conducting acquisition, rehabilitation and/or demolition activities are encouraged to closely coordinate these activities with both the Community Development Department’s CDBG Administrator and HUD’s Relocation Specialist at [Region 8 Relocation and Real Estate Division](#)

- Original copies of the required documentation must be submitted to HUD. If subsequent audits or monitoring results in the disallowance of certain costs and/or the determination that additional payment(s) are required, the agency or city department conducting the activity will be held responsible for the payment and/or reimbursement.
- All subrecipient agreements and departmental work orders authorizing activities subject to the URA and/or Section 104 (d) requirements include language establishing these responsibilities in addition to language which authorizes the Housing and Community Development division of the City of Bismarck, HUD or the General Accounting Office (GAO) to review the records of the agency and to contact all parties to the transaction including the seller(s) and current and former tenant-occupants.

PART II: PROCEDURES FOR THE ACQUISITION OF REAL PROPERTY

STEP 1: PLAN THE PROJECT

- Is acquisition an allowable use of funds under the intended funding source?
- Is the acquisition necessary for the activity or are there other alternatives such as rental or leasing?
- What is the total estimated cost of the acquisition?
- Is there adequate funding available?
- Are the staff knowledgeable of the requirements of the URA and Section 104 (d)?

- If not, can training be obtained within a reasonable period of time?
- Are the record keeping systems in place that meet the requirements of the URA and Section 104 (d)?
- Submit request for preliminary approval from city's Housing and Community Development division.

STEP 2: SELECT GENERAL AREA OR NEIGHBORHOOD AND POTENTIAL SITES SUITABLE FOR PROJECTS

- Is the planned use of the property permitted by local zoning ordinances? Will a conditional use permit or a variance be required?
- Does the site lend itself to the intended use?
- Is the property subject to any obvious environmental problems (flooding, wetland, historic property contamination from storage of hazardous chemicals, etc.)?
- What are the current or prior uses of the intended site?
- Submit request to Housing and Community Development division for environmental review.
- Will CDBG funding to be used in this project? If so, will Section 104 (d) be triggered by demolition, rehabilitation, or conversion? How will the one-for-one replacement requirements be met?

STEP 3: DETERMINE IF THE TENANT-OCCUPANTS ARE LOCATED ON THE PROPERTY

If so, consider the following:

- Have the required steps been taken to plan for relocation?
- How much will the relocation cost?
- Does the cost of the relocation make the project prohibitive?
- How will the relocation costs be paid?

STEP 4: INFORM OWNER OF AGENCY'S INTEREST IN ACQUIRING THE PROPERTY

- Provide owner with written notification that agency is only interested in acquiring property as a voluntary transaction and will not use (or does not have) the power of eminent domain.
- Provide owner with agency's estimate of the fair market value of property prior to executing a contract for purchase. If this is not feasible, the owner must be provided with an opportunity to withdraw from the contract after the results of appraisal have been obtained.

STEP 5: SUBMIT REQUEST FOR WRITTEN AUTHORIZATION TO PROCEED FROM HOUSING AND COMMUNITY DEVELOPMENT DIVISION

- Provide Housing and Community Development staff with current tenant list.
- Housing and Community Development staff will conduct tenant interviews, provide general information notices and notices of non-displacement (if applicable) to all tenant-occupants at the initiation of negotiations.

STEP 6: DETERMINE LEGAL INSTRUMENT TO BE USED FOR PURCHASE OFFER

- Earnest Money Agreement

- Option to Purchase Agreement
- Lease with Option to Purchase
- Other

STEP 7: SECURE AN INDEPENDENT FEE APPRAISAL

- Invite owner to be present during appraiser's inspection of property.
- Submit original copy of appraisal report to Housing and Community Development division for review.
- Provide owner with results of appraisal if applicable, re-negotiate agency's offer of just compensation and/or provide owner an opportunity to withdraw from the contract for sale.

STEP 8: SECURE EVIDENCE OF MARKETABLE AND INSURABLE TITLE TO PROPERTY

- Request that owner(s) provide agency with preliminary commitment for title insurance.
- Submit preliminary commitment for title insurance to Housing and Community Development staff for review.

STEP 9: PREPARE TO TAKE POSSESSION OF PROPERTY

- Schedule closing date.
- Obtain insurance binder.
- Request funds for closing. If funds are being requested from the city, submit the preliminary estimate of closing costs prepared by the closing agent.

STEP 10: SUBMIT ORIGINAL COPIES OF REQUIRED DOCUMENTATION TO CITY FOR RETENTION

- Real property acquisition records.
- Displacement/Relocation records.
- Other necessary information as requested by HUD.

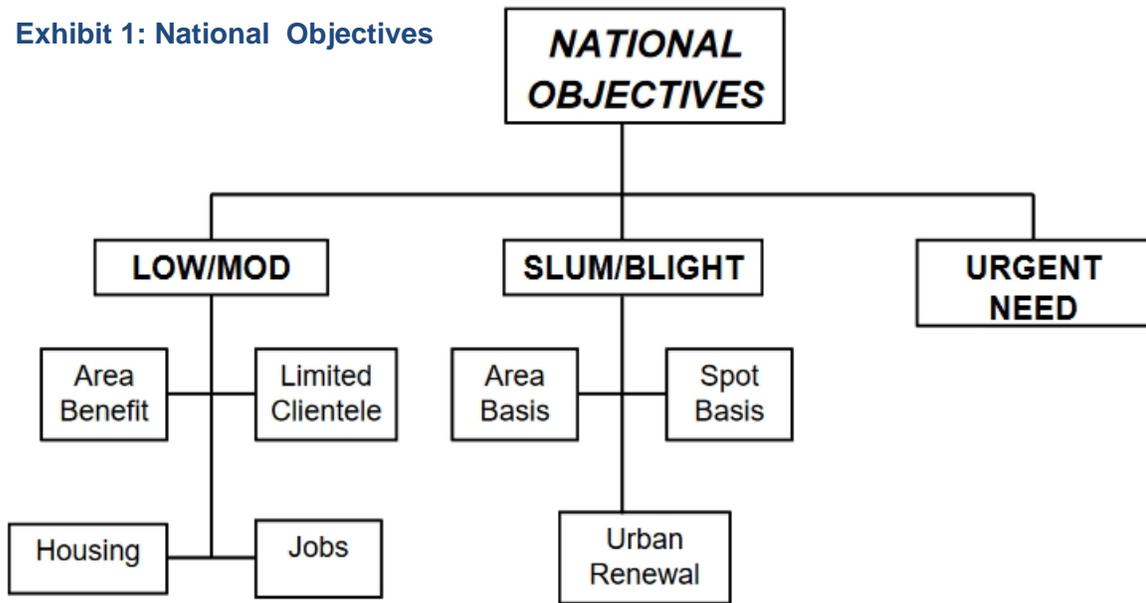
Appendix D: National Objectives and Eligibility

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

1. Benefit low-and moderate-income (LMI) persons
2. Aid in the prevention or elimination of slums or blight
3. Meet a need having a particular urgency (referred to as urgent need)

An activity that does not meet a national objective is not compliant with CDBG requirements and may be subject to remedial actions.

Exhibit 1: National Objectives



- The LMI national objective is often referred to as the “primary” national objective because the statute requires that recipients expend 70 percent of their CDBG funds to benefit LMI persons
- In addition to meeting the 70 percent test, applicants must ensure that the activities proposed, when taken as a whole, will not benefit moderate-income persons to the exclusion of low-income persons. This does not mean that each activity has to include both low- and moderate-income beneficiaries, but it further ensures that the CDBG program will primarily benefit low-income persons

Eligibility

Four eligible categories that can be used to meet the LMI national objective include:

1. Area benefit activities
2. Limited Clientele activities
3. Housing activities
4. Job creation or retention activities (NOTE: the City of Bismarck opts not to use its CDBG allocated funds for activities under this category)

Appendix F: Low Mod Area Benefit (LMA)

The area benefit category is the most used national objective for activities that benefit a residential neighborhood. An area benefit activity is one that benefits all residents in a particular area, where at least 51 percent of the residents are LMI persons.

- Examples of area benefit activities may include the following when they are located in a predominately LMI neighborhood:
 - Acquisition of land to be used as a neighborhood park.
 - Construction of a health clinic.

- Improvements to public infrastructure like the installation of gutters and sidewalks.
 - Development of a community center.
- The activities listed above benefit all LMI residents in a service area and thus are the type of activities that may qualify under the LMI area benefit category for the purposes of meeting a national objective. Factors that should be considered in making a determination on the service area include:
 - The nature of the activity
 - The location of the activity
 - Accessibility issues
 - Any barriers that can separate and preclude persons residing in a nearby areas from taking advantage of a facility to improvement. Other limits to accessibility can include access fees, language barriers, time and duration that an activity is available. Access to transportation and parking etc.
 - Availability of comparable activities.
 - Similar activities within the service area should be taken into account so that the service area does not overlap with the service area of another similar activity.
 - Boundaries for facilities and public services.
 - The service area for some public facilities and services are determined based on specified and established boundaries or districts. Examples of such services and facilities are police precincts, fire stations, and schools.
- An area is considered to meet the test of being LMI if there is a sufficiently large percentage (51 percent) of LMI persons residing in the service area as determined by:
 - The most recently available decennial Census/American Community Survey (ACS) information, together with the Section 8 income limits that would have applied at the time.
 - The income information was collected by the Census Bureau
 - A current survey of the residents of the service area.
- The above data (low/mod income summary data (LMISD)) is available directly from HUD online at:
<http://www.hud.gov/offices/cpd/systems/census/statemap.cfm>
- If the proposed activity's service area is generally the same as a census tract or block group, then the census data may be used to justify the income characteristics of the area served.
- HUD permits an exception to the LMI area benefit requirement that an area contain 51 percent LMI residents. This exception applies to entitlement communities (such as the City of Bismarck) that have few, if any, areas within their jurisdiction that have 51 percent or more LMI residents. These communities are allowed to use a percentage less than 51 percent to qualify activities under the LMI Benefit category.
- This exception is referred to as the "exception criteria" or the "upper quartile".

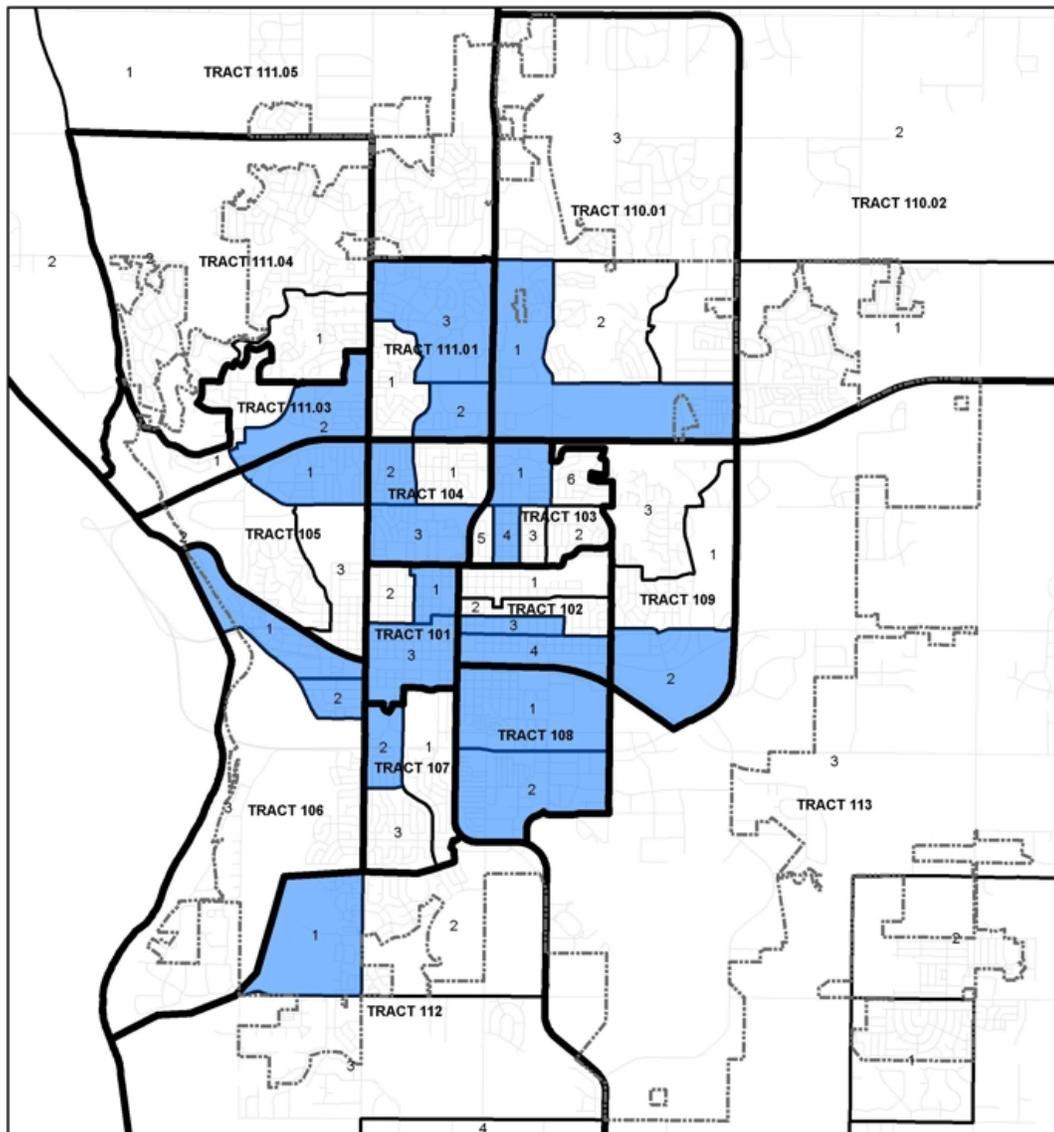
- A grantee qualifies for this exception when fewer than one quarter of the populated block groups in its jurisdictions contain 51 percent or more LMI persons.
- In such communities, activities must serve an area which contains a percentage of LMI residents that is within the upper quartile of all Census block groups within its jurisdiction in terms of the degree of concentration of LMI residents.
- HUD assesses each grantee's census block groups to determine whether a grantee qualifies to use this exception and identifies the alternative percentage the grantee may use instead of 51 percent for the purpose of qualifying activities under the LMI area benefit category.
- HUD determines the lowest proportion a grantee may use to qualify an area for this purpose and advises the grantee accordingly.
- Income surveys are often used to determine LMI area in one of two instances:
 - If HUD data does not indicate the service area contains at least 51 percent LMI persons or if a grantee decides it would be more appropriate to use a methodologically sound survey. This could be based on a change in either population or income of the area since the Decennial Census.
 - Also, when the service area is not generally the same as a census tract or block group, then the grantee should conduct household surveys to determine the LMI percentage for the service area.
- Finally, the service area of the activity must be primarily residential, and the activity must meet the identified needs of LMI persons.
- An activity with a service area that is not primarily residential may not qualify under the LMI area benefit category even if the activity provides benefits to all residents in the service area and 51 percent of the residents are LMI persons.
- This requirement does not apply to the location of the activity itself but rather the service area of the activity. As such it does not mean that activities located in commercial districts cannot be qualified under the LMI area benefit category on the virtue of their geography.
- The primarily residential test is applied to the service area of the activity.
- For example, activities that support the infrastructure of a commercial district composed of institutions and firms that serve a national and international clientele will not qualify under LMI area benefit.
- In contrast, if the commercial district is composed of stores and businesses that serve local customers such that the service area boundaries of the commercial district is around a primarily residential area with the requisite percentage of LMI residents, the activity qualifies under the LMI area benefit category.
- There are activities and facilities that are located in a service area but are designed to meet special needs. These activities cannot be qualified under this category. For example, a senior center would qualify under the LMI limited clientele category and not the LMI area benefit category.
- Activities qualifying for funding based on their location must be in a low-to Moderate-Income Area (LMA).
- An area is considered to meet the test of being LMA if there is a sufficient large percentage (51%) of LMI persons residing in the service area as determined by the most recently available Decennial Census/American Community Survey (ACS) information, together with the Section 8 income limits that would have applied at the time the income

information was collected by the Census Bureau.

- The Office of Community Planning and Development (CPD) provides estimates of the number of persons that can be considered Low-, Low- to Moderate-, and Low-, Moderate-, and Medium-income persons based on special tabulations of data from the 2011-2015 ACS 5-Year Estimates. The following block groups are classified as LMA in the City of Bismarck.

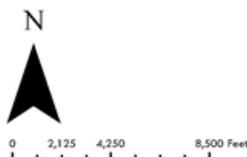
Appendix E: Low Mod Area Benefit (LMA)

2011-2015 LMI Areas - Bismarck, ND



Legend

- 2011-2015 LMI Areas
- 2010 Census Block Groups
- 2010 Census Tracts



Bismarck Community Development Dept. 2/22/2019

This map is for reference purpose only and is not intended as a survey or accurate representation of all map features. Map created by WRH 2/21/19 based on information maintained by the City of Bismarck, US Census Bureau and the US Department of Housing and Urban Development

Appendix F: Low Mod Limited Clientele (LMC)

The limited clientele category is a second way to qualify specific activities under the LMI benefit national objective. Under this category, 51 percent of the beneficiaries of an activity must be LMI persons.

- In contrast to the area benefit category, it is not the LMI concentration of the service area of the activity that determines whether the activity will qualify or not, but rather the actual number of LMI persons that benefit from the activity.
- Activities in this category provide benefits to a specific group of persons rather than everyone in an area. It may benefit particular persons without regard to their residence, or it may be an activity that provides a benefit to only particular persons within a specific area.

- Examples of activities that qualify under the limited clientele category include:
 - Acquisition of a building to be converted into a shelter for the homeless.
 - Rehabilitation of a center for training severely disabled persons to enable them to live independently.
 - Clearance of a structure from the future site of a neighborhood center that will exclusively serve the elderly.
 - Public service activities like the provision of health services.

- The listed examples qualify under the limited clientele category because the beneficiaries can be identified as LMI residents.
- With respect to determining the beneficiaries of activities as LMI and qualifying under the limited clientele category, activities must meet one of the following tests:
 - Benefit a clientele that is generally presumed to be principally LMI. This presumption covers abused children, battered spouses, elderly persons, severely disabled adults (see the Exhibit 2 below), homeless persons, illiterate adults, persons living with AIDS and migrant farm workers.
 - Require documentation on family size and income in order to show that at least 51 percent of the clientele are LMI.
 - Have income eligibility requirements limiting the activity to LMI persons only.
 - Be of such a nature and in such a location that it can be concluded that clients are primarily LMI. An example is a day care center that is designed to serve residents of a public housing complex.

- In addition, the following activities may qualify under the limited clientele national objective:
 - Removal of architectural barriers to the mobility of elderly persons or the severely disabled will be presumed to qualify under this category if it is restricted, to the extent practicable, to the removal of such barriers by assisting.
 - The reconstruction of a public facility or improvement or portion thereof, that does not qualify under the area benefit category.
 - The rehabilitation of a privately owned nonresidential building or improvement that does not qualify under area benefit or job creation or retention category.
 - The rehabilitation of common areas in a residential structure that contains more than one dwelling unit and that does not qualify under the LMI housing category for meeting the national objectives.

- There are two sets of activities that are precluded from qualifying under this category based on statutory limitations:
 - Acquisition, construction, or rehabilitation of property for housing, including homeownership assistance must qualify under the housing national objective which will be discussed below in further detail.
 - Creation or retention of jobs generally qualify under the jobs or the area benefit category of the LMI benefit national objective.

Exhibit 2: Limited Clientele: Severe Disability

Definition of Severely Disabled

Persons are considered severely disabled if they:

- ✓ Use a wheelchair or another special aid for 6 months or longer.
- ✓ Are unable to perform one or more functional activities (seeing, hearing, having one's speech understood, lifting and carrying, walking up a flight of stairs and walking).
- ✓ Need assistance with activities of daily living (getting around inside the home, getting in or out of bed or a chair, bathing, dressing, eating and toileting) or instrumental activities of daily living (going outside the home, keeping track of money or bills, preparing meals, doing light housework and using the telephone).
- ✓ Are prevented from working at a job or doing housework.
- ✓ Have a selected condition including autism, cerebral palsy, Alzheimer's disease, senility or dementia or mental retardation; or
- ✓ Are under 65 years of age and are covered by Medicare or receive Supplemental Security Income (SSI)

Appendix G: Low Mod Housing Activities (LMH)

- The housing category of LMI benefit national objective qualifies activities that are undertaken for the purpose of providing or improving permanent residential structures which, upon completion, will be occupied by LMI households
- Examples of eligible activities include, but are not limited to:
 - Acquisition of an apartment house to provide dwelling units to LMI households at affordable rents, where at least 51 percent of the units will be occupied by LMI households.
 - Site improvements on publicly owned land to serve a new apartment structure to be rented to LMI households at affordable rents.
 - Housing rehabilitation for single family units.

- Conversion of an abandoned warehouse to be reconfigured into new apartments, where at least 51 percent of the units will be occupied by LMI households at affordable rents.
- In order to meet the housing LMI national objective, structures with one unit must be occupied by a LMI household. If the structure contains two units, at least one unit must be LMI occupied. Structures with three or more units must have at least 51 percent occupied by LMI households.
- Rental buildings under common ownership and management that are located on the same or contiguous properties may be considered as a single structure.
- For rental housing, occupancy by LMI households must be at affordable rents, consistent with standards adopted and publicized by the grantee.
- Under the following limited circumstances, structures with less than 51 percent LMI occupants may be assisted:
 - Assistance is for an eligible activity that reduces the development cost of new construction of non-elderly, multi-family rental housing.
 - At least 20 percent of the units will be occupied by LMI households at an affordable rent.
 - The proportion of cost borne by CDBG funds is no greater than the proportion to be occupied by LMI households.
 - When housing activities are conducted by a Community Development Financial Institution (CDFI) or as part of an approved NRSA, multiple units (e.g., scattered site housing) may be aggregated for the purposes of meeting the LMI housing national objective.
 - NOTE: This flexibility does not apply to activities under the Direct Homeownership Assistance eligibility category (570.201(n)).
 - Please refer to the chapter on Revitalization Areas for more information.
- There are a number of activities that generally do not qualify under the LMI Housing national objective. These include code enforcement, interim assistance, microenterprise assistance, public services, and special economic development activities.

Appendix H: Slum Blight Area Basis (SBA)

This category covers activities that aid in the prevention or elimination of slums or blight in a designated area.

Examples of activities that qualify when they are located within the slum or blighted area include:

- Rehabilitation of substandard housing located in a designated blighted area when the housing is brought to standard condition.
- Infrastructure improvements in a deteriorated area.
- Economic development assistance in the form of a low-interest loan to a business as an inducement to locate a branch store in a redeveloping blighted area
- To qualify under this category, the area in which the activity occurs must be designated as slum or blighted. The following tests apply:

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

Note: When undertaking residential rehab in a slum/blight area, the building must be considered substandard under local definition and all deficiencies making the building substandard must be eliminated before less critical work is undertaken

Appendix I: Slum Blight Spot Basis (SBS)

These are activities that eliminate specific conditions of blight or physical decay on a spot basis and are not located in a slum or blighted area. Examples include:

- Acquisition and demolition of a dilapidated property.
- Rehabilitation of a decayed community center that eliminates code violations that are detrimental to the health and safety of potential occupants like faulty wiring, falling plaster, or other similar conditions.
- Preservation of a deteriorated building of historic significance.
- Financial assistance to a business to demolish a decayed structure.
- Activities under this category are limited to acquisition, clearance, relocation, historic preservation, remediation of environmentally contaminated properties, and building rehabilitation activities.
- Furthermore, rehabilitation is limited to the extent necessary to eliminate a specific condition detrimental to public health and safety.

Slum Blight Urban Renewal (SBR)

- These are activities located within an Urban Renewal project area or Neighborhood Development Program (NDP) action area that are necessary to complete an Urban Renewal Plan.
- A copy of the Urban Renewal Plan in effect at the time the CDBG activity is carried out, including maps and supporting documentation, must be maintained for record keeping purposes.
- This national objective category is rarely used as there are only a handful of Communities with open Urban Renewal Plan.

Appendix J: Key CDBG Grant Cycle Dates

ACTIVITY	MONTH
CDBG Program Preparation	JAN
<p>1. Applications for the next CDBG program year released February 1st Applications made available on the City's website.</p> <p><input type="checkbox"/> Technical Assistance (TA) on application requirements and City's CDBG priority areas available to prospective applicants.</p> <p><input type="checkbox"/> No late applications will be considered.</p> <p>2. Randomly selected CDBG subrecipients notified about selection for onsite monitoring (refer to subrecipient on-site monitoring checklist)</p>	FEB
<input type="checkbox"/> Subrecipient monitoring begins	MAR
<input type="checkbox"/> Monitoring findings sent to selected subrecipients	APR
<p><input type="checkbox"/> Notification of Grant amount allocation - Applications reviewed. The Community Advisory Committee (CAC) develops funding recommendations.</p> <p><input type="checkbox"/> Preparation of AAP begins</p>	MAY
<input type="checkbox"/> Preparation for Consolidated Annual Performance Report (CAPER) 24 CFR§91.520 to report subrecipient previous FY performance (June 1st – May 31)	JUN
<p><input type="checkbox"/> July 1st The Consolidated Annual Performance Report (CAPER) 24 CFR§91.520 made available on the City's website for a 15day public comment period. Input welcomed from subrecipients and the public</p> <p><input type="checkbox"/> CAPER submission to HUD for review JULY 31 Deadline (90 days after end of FY)</p>	JUL

<input type="checkbox"/> AAP submission HARD Deadline Aug 16	AUG
Subrecipient Orientation and Training – After funds have been allocated and prior to issuance of a contract	SEP
	OCT
	NOV
	DEC

- Activities generally begin in January. The City of Bismarck will hold a public hearing requesting community input on local needs of low and moderate (LMI) persons. Responses may be submitted in person, by mail, e-mail, or phone. Local organizations can access the application form online at [HUD Grant Programs | Bismarck, ND - Official Website \(bismarcknd.gov\)](http://HUD Grant Programs | Bismarck, ND - Official Website (bismarcknd.gov)). All local agencies are welcome to make suggestions on needed activities in the community independent of CDBG funding application.
- Applications for identified needs OR any priority areas in the Con Plan are received in February. The proposed activities are reviewed by an advisory committee who develops funding recommendations. The Community Advisory Committee (CAC) consists of city staff (non-CDBG) and one or more representatives of agencies that provide services/funding to LMI persons.
- Projects recommended for funding by the CAC along with a list of all application received are forwarded to the City Commission. A draft Annual Action Plan is written and available for public comment for a 30-day period. The Annual Action Plan reflects the identified community needs.
- All applicants are made aware of the funding decision after both the Advisory Committee recommendations and final City Commission action. The city initiates contact with successful sub-recipients as soon it receives HUD approval of its Annual Action Plan by sending subrecipient agreements and instructions.

Please note that this schedule is heavily guided by the Department of Housing and Urban Development (HUD) and as such, dates may vary depending on their timeline

Appendix K: Procurement Guide

PROCUREMENT GUIDELINE					
	Small Purchases		Sealed Bids	Competitive Proposals	Non-Competitive
	Micro Purchase up to \$2K	\$2 -100K	\$100k and higher	\$100k and higher	
Obtain bids	Solicit ONE quote in Writing Or Verbally	Solicit reasonable number of quotes In Writing Or Verbally	Specification IFB Advertise Open Publicly	Scope of Work RFP Factors Relative Importance Evaluate Advertise	ONLY ONE BIDDER
Award Contract	Single quote no competition	Requires Competition {recommend a minimum of three} Awarded to "Best Value"	Requires Competition Always an Apparent Low Bidder Awarded to Lowest Cost Fixed Firm Price Contract.	Requires Competition Awarded to Most Advantageous (Best Overall Value)	Available only from a single source. Public exigency or emergency exits. HUD Approves. Lack of competition
Prove Cost Reasonableness	Signature signifies that the cost is reasonable	Apparently obvious or price analysis	Price Analysis	Price Analysis {Qualifications & Cost} Cost Analysis {Qualifications ONLY}	Cost Analysis
Independent cost analysis	Not required	Required	Required	Required	Required
Bonding requirements	Not required	Not Required	Required for construction Contracts.	Not Required	Required for construction contracts
Wage rates	Not required	Required for construction & maintenance contracts	Required for construction & maintenance contracts	Not Required	Required for construction contracts over \$2,000.

Required HUD forms	Not required	General - Table 5.1 Construction HUD 5370-EZ or HUD 5370 Maintenance – Table 5.1 Sect. II-HUD 5370 -C	Non-Construction HUD-5369-B HUD-5369-C HUD-5370-C Construction HUD-5369 HUD-5369-A HUD-5370	Non-Construction HUD-5369-B HUD-5369-C A/E Contract HUD-51915	See small purchases, sealed bids and competitive proposals.
Check List of Parties excluded from Federal procurement	Required	Required	Required	Required	Required
Check list of denial of participation	Required	Required	Required	Required	Required
Documenting rationale for award	Historical data	Historical Data or written summary {Finding of Fact}	Historical Data or written summary {Finding of Fact}	Written Summary {Finding of Fact}	Written Summary {Finding of Fact}

Source: <https://www.hud.gov/sites/documents/PROCUREMENT-CHART.PDF>

For More information on HUD guidelines on procurement standards

24 CFR Part 84: Uniform Administrative Requirements for Grants and Agreements with Institutions of Higher Education, Hospitals and Other Nonprofit Organizations
https://www.hud.gov/sites/documents/DOC_12538.PDF (Under procurement standards - §84.40)

Appendix L: Davis-Bacon Prevailing Wage

The Davis-Bacon prevailing wage is the combination of the basic hourly wage rate and any fringe benefits rate listed for a specific classification of workers in the applicable Davis-Bacon wage determination. The contractor's prevailing wage obligation may be met by either paying each laborer and mechanic the applicable prevailing wage entirely as cash wages or by a combination of cash wages and employer-provided bona fide fringe benefits.

Wage Determination

A wage determination is the list of basic hourly wage rates and fringe benefit rates for each classification of laborers and mechanics ("labor classification") in a predetermined geographic area for a particular type of construction. Wage and Hour Division (WHD) conducts surveys of local wages to determine the prevailing wage rates that are included in wage determinations. These rates updated regularly, subrecipient are encouraged to check the most current wage rates at <https://sam.gov/content/wage-determinations>

There are two types of wage determinations: general determinations and project determinations.

1. **General Wage Determinations:** The most common type and widely used by subrecipients. A general wage determination reflects wage rates determined by WHD to be prevailing in a specific geographic area for a certain type of construction and does not expire. These rates are published online and are available for contracting agencies to incorporate into covered contracts and contractors to post at the job site of covered projects.
2. **Project Wage determinations:** This is option is not common, however if you think you need a project determination, consult with WDH. A project determination is issued at the request of a contracting agency and is applicable to the named project only. These typically expire 180 calendar days from the date of issuance

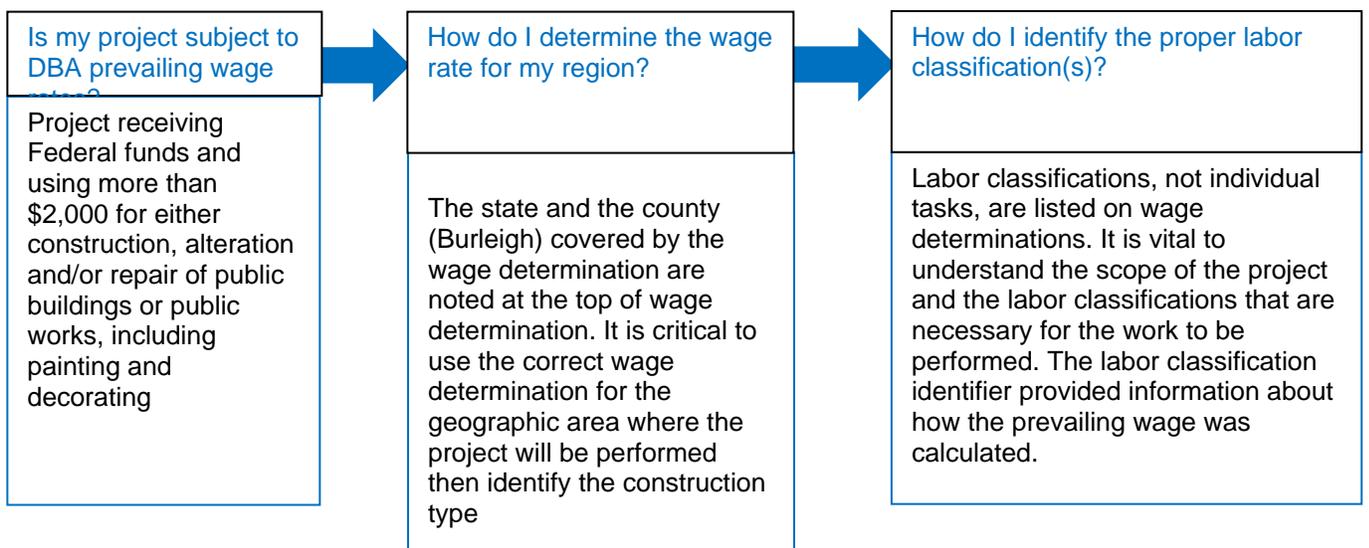


Figure 1

SAM.GOV

Home Search Data Bank Data Services Help

Legacy Website
WDOL

Wage Determinations

A wage determination (WD) is a set of wages, fringe benefits, and work rules that the U.S. Department of Labor has ruled to be prevailing for a given labor category in a given locality.

Help me find a wage determination

I know the WD number
Search by WD Number

e.g. DBA or SCA Identifier

Show active only

I do not know the number
Start your search by selecting a category

Public Building or Works
Wage rates for laborers and mechanics

Service Contracts
Wage rates for service employees

Go to <https://sam.gov/content/wage-determinations> page and search by selecting the labor category highlighted above.

Figure 2

The screenshot displays the SAM.GOV website interface. At the top left is the SAM.GOV logo. A navigation bar contains links for Home, Search, Data Bank, Data Services, and Help. A sidebar on the left lists 'Wage Determination' with sub-links for Overview, Document, and History. The main content area features a 'Follow' button and the heading 'WAGE DETERMINATIONS Davis-Bacon Act WD # ND20220003'. Below this is a summary box with the following information:

Modification #	3
Construction	Residential
Last Revised Date	Apr 15, 2022

Below the summary box, the 'States and Counties' section is shown:

- State: **North Dakota**
- Counties: **Burleigh, Grand Forks, Morton**

Make sure you have the correct geographical area where the project will take place. CDBG funded projects in the City of Bismarck fall under Burleigh, Grand Forks, Morton County – see figure 2 above.

Additional information on contractor requirements and worker protections under the Executive Orders is available at <https://www.dol.gov/agencies/whd/government-contracts>.

Modification Number	Publication Date
0	01/07/2022
1	01/21/2022
2	02/25/2022
3	04/15/2022

BRND0004-002 05/01/2018	
Rates	Fringes
BRICKLAYER.....\$ 32.68	13.42

ELEC0714-004 08/30/2021	
BURLEIGH AND MORTON COUNTIES:	
Rates	Fringes
ELECTRICIAN.....\$ 35.58	11.65+10.5%

ELEC1426-010 06/01/2019	
GRAND FORKS COUNTY:	
Rates	Fringes
ELECTRICIAN	
CABLE SPLICER.....\$ 33.20	11.5%+10.80
ELECTRICIAN.....\$ 30.72	13.23



If the classification considered necessary for performance of work on the contract does not appear on the list, a contractor must submit a conformance request

For More information on Davis-Bacon Act (DBA) Compliance

1. [Davis-Bacon and Labor Standards and related forms](#)
2. [Davis-Bacon Wage Determination Conformance Request Guide](#)
3. [Form SF1444-13e Authorization Request of Additional Classification and Rate](#)
4. [Request the US Department of Labor for Wage Determination and Respond](#)
5. [Davis Bacon Regional Field Staff \(Jurisdiction Regions V, VI & VII\)](#)

Appendix M: Section 3

Each year, HUD invests billions of federal dollars into distressed communities across the country for projects. Projects include:

- Building and rehabilitating housing
- Improving a variety of infrastructures
- Building community centers
- Helping families achieve stability and advancement.

The Section 3 program requires recipients of HUD funding to direct employment, training, and contracting opportunities to low-income individuals and the businesses that employ these persons within their community. Section 3 is a provision of the HUD Act of 1968 and is found at 12 U.S.C. 1701u. The regulations are found at 24 CFR Part 75.

Section 3 applies to projects of a certain scope and monetary amount and is triggered when the following thresholds are met:

- The subrecipient receives more than \$200,000 in grant funds and invests any amount of these funds to carry out new construction or rehabilitation activity (including demolition and lead-based paint abatement).
- A contractor/subcontractor of a project receives a contract for \$100,000 or more in grant assistance.

Once it is determined that Section 3 applies to a project, the Section 3 requirements apply to all contracts, provided that at least \$1 of grant funds is being used.

If the grant administering agency receives more than \$200,000 in grant funds, but no single contractor is awarded more than \$100,000, then the Section 3 requirements apply to the training, employment, and contracting activities of the PJ/grantee, or subrecipient but not to those of the contractor(s) of the project.

This means new hiring and contracting opportunities generated by the subrecipient that is related to work arising in connection with the HUD-assisted new construction or rehabilitation project would be subject to the Section 3 hiring and contracting goals.

For information on Section 3 requirements

<https://www.hudexchange.info/programs/section-3/> or consult the CDBG Administrator

Appendix N: Self Certification Beneficiary Income

INSTRUCTIONS: This is a written statement from the beneficiary documenting the definition used to determine “Annual (Gross) Income”, the number of beneficiary members in the family or household (as applicable based on the activity), and the relevant characteristics of each member for the purposes of income determination. To complete this statement, select the definition of income used, fill in the blank fields below, and check only the b boxes that apply to each member. Adult beneficiary members must then sign this statement to certify that the information is complete and accurate, and that source documentation will be provided upon request.

Definition of Income

<input type="radio"/> HUD 24 CFR Part 5	<input type="radio"/> IRS Form 1040	<input type="radio"/> American Community Survey
---	-------------------------------------	---

<u>Beneficiary Information</u> Last Name:	Beneficiary ID (if applicable):
<u>Member Information</u>	

First Names:	Member IDs (if applicable):	HH	CH	DIS	62+	S≥18	<18	<15
	1							
	2							
	3							
	4							
	5							
	6							

HH = Head of Household; CH = Co-Head of Household; DIS = Person with disabilities; 62+ = Person 62 years of age or older; S≥18 = Fulltime student age 18 or over; <18 = Child under the age of 18 years; <15 = Minor under the age of 15 years

Contact Information

Address Line 1:	City:
Address Line 2:	State: Zip Code:

Income Information

Annual gross income (total of all members) = \$ _____

Certification

I/we certify that this information is complete and accurate. I/we agree to provide, upon request, documentation on all income sources to the HUD Grantee/Program Administrator. I/we certify that this information is complete and accurate. I/we agree to provide, upon request, documentation on all income sources to the HUD Grantee/Program Administrator.

SELF CERTIFICATION OF ANNUAL INCOME BY BENEFICIARY

Printed on:

Effective Date:

Beneficiary ID: -----

HEAD OF HOUSEHOLD		
Signature	Printed Name	Date
OTHER BENEFICIARY ADULTS*		
Signature	Printed Name	Date
Signature	Printed Name	Date

Signature	Printed Name	Date

Attach another copy of this page if additional signature lines are required.