

**LEXINGTON COUNTY  
COMMUNITY DEVELOPMENT  
BLOCK GRANT PROGRAM**



**APPLICATION HANDBOOK**

**PROGRAM YEAR 2013  
JULY 1, 2012 – JUNE 30, 2013**

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## **SECTION 1**

### **INTRODUCTION**

The intent of this handbook is to provide information about the Lexington County Community Development Block Grant (CDBG) Program and the federal and local requirements that apply to the program. The handbook also provides participating towns/cities, and nonprofit organizations with an understanding of their responsibilities in preparing an application and, if selected for funding, the administrative role that they must assume. Lexington County Grant Programs staff is available to provide technical assistance; however, it is the responsibility of the applicant to understand the federal regulations that govern the CDBG program. For more detailed information on HUD guidelines, visit HUD's website at [www.hud.gov](http://www.hud.gov). For more information on the Lexington County CDBG program visit our website at:

[http:// www.lex-co.sc.gov/departments/DeptAH/communitydevelopment/Pages/default.aspx](http://www.lex-co.sc.gov/departments/DeptAH/communitydevelopment/Pages/default.aspx)

#### **I. LEXINGTON COUNTY – CDBG HISTORY**

Signed into law by President Gerald R. Ford on August 22, 1974, Title I of the Housing and Community Development Act created the Community Development Block Grant (CDBG), a federal block grant funding program. It became effective January 1, 1975. Since then, the CDBG program has been continually reauthorized by Congress.

The CDBG Program was a major shift in how the U.S. Department of Housing and Urban Development provided funds to state and local governments for housing and neighborhood preservation, and for improving the quality of life. The CDBG program resulted as a compromise between Democratic leaders in Congress and the Nixon Administration. Congress in an attempt to fund a comprehensive housing program, agreed to President Nixon's demand that more power be given to state and local governments by consolidating the many categorical grants that dealt with housing and community development. CDBG replaced eight categorical grant and loan programs that funded specific projects such as urban renewal; neighborhood development program grants; open space; urban beautification and historic preservation grants; public facilities loans; water and sewer; and neighborhood facilities grants.

The CDBG Program provides, on an annual basis, an allocation of funds to local governments for a wide-range of eligible housing and community development activities. The stated purpose of the program is:

*“The development of viable urban communities, by providing decent housing and a suitable living environment and expanding economic opportunities, principally for persons of low and moderate income.”*

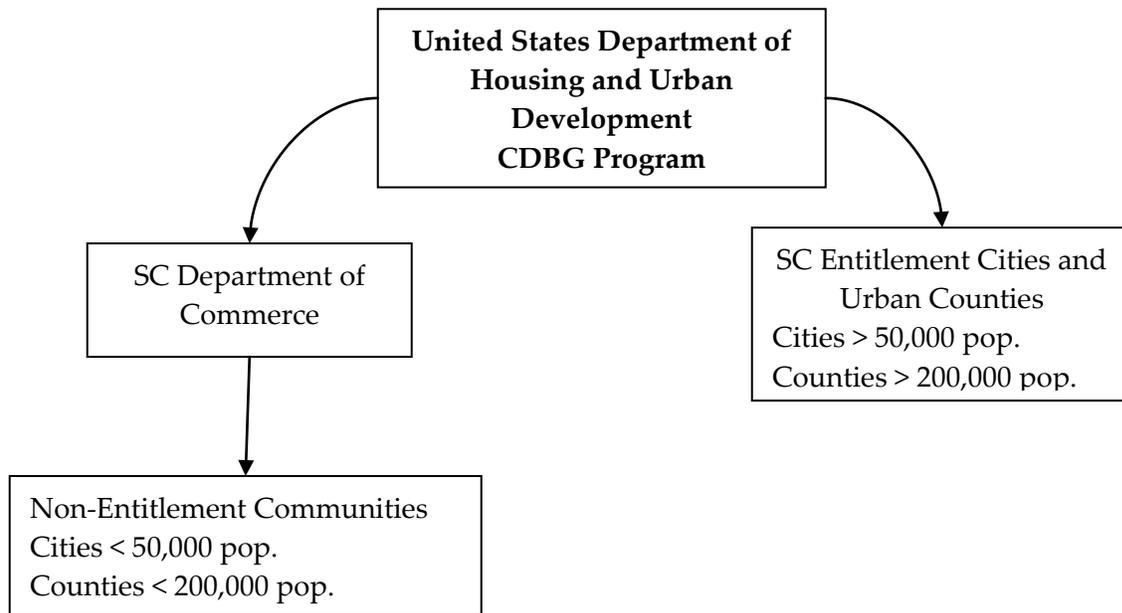
Under the CDBG program, there is no federal project-by-project application and approval process as in the past. Instead, an entitlement community can develop a flexible, locally designed, comprehensive community development strategy.

All counties with a population over 200,000, excluding the population of the entitlement cities within its borders, automatically receive CDBG money directly from HUD as “urban counties”. Additionally, all central cities of metropolitan statistical areas (MSA) and cities with more than

50,000 residents receive an annual CDBG allocation from HUD. These are known as “entitlement cities.” CDBG funds awarded directly to a County or City are known as “entitlement funds”.

With a population exceeding 200,000, Lexington County is a designated urban county. Lexington County received its first CDBG entitlement funds in 2000. The County has subsequently qualified each year for entitlement funds and is not required to include the populations of any incorporated town/city to receive an allotment of funds.

Other urban counties in South Carolina include Richland County, Charleston County, Greenville County and Spartanburg County. Entitlement cities include the City of Columbia, City of Aiken, City of Greenville, City of Spartanburg, City of Charleston, City of Myrtle Beach, City of Anderson, and the City of Florence. The balance of CDBG funds (based on the HUD CDBG formula for all of SC) not assigned to urban counties and entitlement cities is awarded to the State of South Carolina (SC Department of Commerce) to convey to smaller counties and towns.



**II. COOPERATIVE AGREEMENTS**

Lexington County has cooperative agreements for the CDBG program with the following fourteen towns/cities:

- |                             |                    |                        |
|-----------------------------|--------------------|------------------------|
| City of Cayce               | Town of Gilbert    | Town of South Congaree |
| City of West Columbia       | Town of Irmo       | Town of Springdale     |
| Town of Batesburg-Leesville | Town of Lexington  | Town of Summit         |
| Town of Chapin              | Town of Pelion     | Town of Swansea        |
| Town of Gaston              | Town of Pine Ridge |                        |

These cooperative agreements allow each town/city to apply to the County’s CDBG Program for funding. It also permits County CDBG funds to be expended in these fourteen communities.

**III. CDBG ENTITLEMENT FUNDS**

Lexington County receives an annual entitlement based upon a formula determined by HUD. In 2012, the County received \$1,352,172. The CDBG award for 2012 was divided among the following activities following the competitive grant award process:

- Public Facilities and Improvements: 31%
- Neighborhood Revitalization: 22%
- Affordable Housing: 11%
- Public Services: 15%

**IV. CDBG PROJECT EXAMPLES**

CDBG funds can be spent in many different ways to improve communities. Below is a non-exhaustive list of some potential types of CDBG projects:

Code Enforcement	Handicap Accessibility	Machinery/Equipment
Job Training	Water Treatment / Distribution	Homeownership Assistance
Sewer Collection / Treatment	Storm Sewers / Drainage	Asbestos Inspection / Removal
Drainage Facilities	Streets or Roads	Working Capital
Senior Center	Community Center	911 Emergency Systems
Engineering / Design	Centers for the Disabled	Property Clearance / Demolition
Libraries	Historic Properties	Purchase Land/Building
Lighting	Parking Facilities	Facility Construction/Renovation
Bridges	Sidewalks	Housing Repair
Recycling or Conversion Facilities	Parks and Recreation Facilities	
Fire Protection & Equipment	Fire Stations	
Police Substations	Solid Waste Disposal Facilities	
Other Utilities	Assistance to Non-profit Agencies	
Prescription Assistance	Youth Programs	
Meals on Wheels Programs	Legal Services	
Fair Housing Activities	Planning	
Commercial or Industrial Facilities	Natural Gas Lines	
Electrical Distribution Lines	Rail Spurs	
Security Fencing	Site Preparation	

## SECTION 2

### GOALS and OBJECTIVES

#### I. FEDERAL CDBG OBJECTIVE

Title I of the Housing and Community Development Act of 1974, as amended, states that: “the primary objective of this title is the development of viable urban communities, by providing decent housing and a suitable living environment and expanding economic opportunities, principally for persons of low- and moderate-income.” The Code of Federal Regulations, 24 CFR 570 Subparts A through O, governs how this objective is to be carried out.

#### II. LEXINGTON COUNTY’S PRIORITY OBJECTIVES

The County has identified a number of strategies in its Consolidated Plan that eligible applicants are to consider when applying for CDBG funds. A local government should also consider local development goals and/or objectives in support of a specific activity for which block grant funds are requested.

As stated in the County’s 2010-2014 Consolidated Plan, Lexington County’s priority needs are:

- Priority Need 1: Ensure adequate and dependable public facilities are available to provide for basic and essential needs and services.
- Priority Need 2: Ensure adequate and safe infrastructure to meet basic needs of residents.
- Priority Need 3: Establish or support programs that provide needed public services and/or increase the level of service provided by existing programs.
- Priority Need 4: Support and provide assistance to nonprofit and for-profit entities that create, increase or retain employment opportunities for LMI persons.
- Priority Need 5: Provide and/or support adequate, safe and affordable housing.
- Priority Need 6: Provide mechanisms and forums for collaboration, coordination, and capacity building.

#### III. PERFORMANCE MEASUREMENT

On March 7, 2006 HUD established its standards for performance measurement through the publication of the *Notice of Outcome Performance Measurement System for Community Planning and Development Formula Grant Programs* in the Federal Register. As described in the Federal Register, the outcome performance measurement system enables HUD to collect information on the outcomes of activities funded with CPD formula grant assistance and to aggregate that information at the national, state, and local level.

**Each project or activity funded by the Lexington County CDBG Program falls under one of the three objectives that relate to the statutory purposes of the Program:**

- 1. Creating a Suitable Living Environment:** In general, this objective relates to activities that are designed to benefit communities, families or individuals by addressing issues in their living environment. It relates to activities that are intended to address a wide range of issues faced by LMI persons from physical problems with their environment, such as poor quality infrastructure, social issues such as crime prevention, literacy, or health services.
- 2. Providing Decent Housing:** The activities that typically would be found under this objective are designed to cover the wide range of housing possible under CDBG. This objective focuses on housing programs where the purpose of the program is to meet individual family or community needs.
- 3. Creating Economic Opportunities:** This objective applies to types of activities related to economic development, commercial revitalization, or job creation.

**For each objective selected for a specific project, one of three outcome categories that best reflect what is proposed to be achieved by funding that activity is chosen. The three outcome categories are:**

- 1. Improving Availability or Accessibility:** This outcome category applies to activities that make services, infrastructure, public services, housing, or shelter available or accessible to low- and moderate-income persons, including those with disabilities. In this category, accessibility not only refers to physical barriers, but also to making the affordable basics of daily living available and accessible (i.e., increased access to various services, housing units, or facilities) to low- and moderate-income persons. Where a service or facility did not exist, the assistance provided results in “new” access to that service or facility. Where a service or facility was limited in size or capacity, and the assistance expanded the existing service or facility, the result would be improved access.
- 2. Improving Affordability:** This outcome category applies to activities that provide affordability in a variety of ways in the lives of low- and moderate-income people. It can include creating or maintaining affordable housing, basic infrastructure hookups, or services such as transportation or daycare.
- 3. Improving Sustainability:** This outcome applies to projects where the activity or activities are aimed at improving communities or neighborhoods, helping to make them livable or viable by providing benefit to persons of low- and moderate-income or by removing or eliminating slums or blighted areas, through multiple activities or services that sustain communities or neighborhoods.

The three objectives are combined with the three outcome categories to come up with a matrix of nine potential outcome statements. These objectives, outcomes and outcome strategies are reviewed and assigned to each project and entered into HUD’s IDIS system to comply with the performance measurement standards.

OUTCOME STATEMENT MATRIX			
	<b>Outcome 1:</b> Availability or Accessibility	<b>Outcome 2:</b> Affordability	<b>Outcome 3:</b> Sustainability
<b>Objective 1:</b> Suitable Living Environment	Enhance Suitable Living Environment through Improved Accessibility	Enhance Suitable Living Environment through Improved or New Affordability	Enhance Suitable Living Environment through Improved or New Sustainability
<b>Objective 2:</b> Decent Housing	Create Decent Housing with Improved or New Availability	Create Decent Housing with Improved or New Affordability	Create Decent Housing With Improved or New Sustainability
<b>Objective 3:</b> Economic Opportunities	Provide Economic Opportunity through Improved or New Accessibility	Provide Economic Opportunity through Improved or New Affordability	Provide Economic Opportunity through Improved or New Sustainability



### **SECTION 3**

#### **ELIGIBILITY REQUIREMENTS**

CDBG funds may only be used to assist a proposed activity that addresses a National Objective and is an Eligible Activity based on the CDBG regulations at 24 CFR Part 570.201.

#### **I. NATIONAL OBJECTIVES**

The Housing and Community Development Act of 1974, as amended, established three National Objectives for the CDBG program. All proposed projects must meet one of these three National Objectives.

##### **1. BENEFIT TO LOW AND MODERATE-INCOME PERSONS**

An activity will be considered to benefit low- and moderate-income persons only if it meets **one** of the following criteria:

###### **AREA BENEFIT**

The activity must be carried out in, and benefit, a primarily residential area consisting of a minimum of 51% low- and moderate-income persons. An activity that serves an area that is not primarily residential in character shall not qualify under this criterion. The designated area must be the entire area served by the activity. The appropriateness and reasonableness of the service area should be based on the nature and magnitude of the activity. All applicants are advised to verify with the County's Grant Programs staff that the proposed activity is located within a low and moderate income service area.

An area may qualify if an income survey is conducted and it demonstrates that 51% or more of the persons residing in the service area are low and moderate income. Instructions for the survey are available from the County's Grant Programs staff upon request.

###### **LIMITED CLIENTELE**

An activity which benefits a limited clientele, at least 51 percent of whom are low- or moderate-income persons. To qualify as a limited clientele benefit the activity must meet one of the following tests:

- √ Benefit a clientele who are generally presumed to be principally low and moderate income persons. Activities that exclusively serve a group of persons in any one or a combination of the following categories may be presumed to benefit persons, 51 percent of whom are low- and moderate-income: abused children, battered spouses, elderly persons, adults meeting the Bureau of the Census' Current Population Reports definition of "severely disabled," homeless persons, illiterate adults, persons living with AIDS, and migrant farm workers;
- √ Require information on family size and income so that it is evident that at least 51 percent of the clientele are persons whose family income does not exceed the low and moderate income limit;

- √ Have income eligibility requirements which limit the activity exclusively to low and moderate income persons; or
- √ Be of such nature and be in such location that it may be concluded that the activity's clientele will primarily be low and moderate income persons; or
- √ An activity that serves to remove material or architectural barriers to the mobility or accessibility of elderly persons or of adults meeting the Bureau of the Census' Current Population Reports definition of "severely disabled" will be presumed to qualify under this criterion if it is restricted, to the extent practicable, to the removal of such barriers by assisting: (1) The reconstruction of a public facility or improvement, or portion thereof, that does not qualify as an area benefit activity; or (2) The rehabilitation of a privately owned nonresidential building or improvement that does not qualify as an area benefit activity or a job creation/retention activity; or (3) The rehabilitation of the common areas of a residential structure that contains more than one dwelling unit and that does not qualify as a low and moderate income housing activity.
- √ Where information on income by family size is required, the subrecipient may substitute evidence establishing that the person assisted qualifies under another program having income qualification criteria at least as restrictive as that used in the CDBG definition of "low and moderate income person" such as the Workforce Investment Act (WIA) and welfare programs.

**HOUSING**

An activity carried out for the purpose of providing or improving residential structures that, upon completion is or will be occupied by low- and moderate-income persons; or

**JOB CREATION OR RETENTION**

The activity will create or retain permanent jobs where at least 51% of the total jobs created or retained are held by or are made available to low- and moderate-income persons.



**2012 HUD Income Limits  
Extremely Low, Low, and Moderate Income Persons  
Lexington County, South Carolina**

<b>FY 12 Income Limits Category</b>	<b>1 person</b>	<b>2 person</b>	<b>3 person</b>	<b>4 person</b>	<b>5 person</b>	<b>6 person</b>	<b>7 person</b>	<b>8 person</b>
Extremely Low Income (30%)	\$22,600	\$25,800	\$29,050	<b>\$32,250</b>	\$34,850	\$37,450	\$40,000	\$42,600
Low Income (50%)	\$13,550	\$15,500	\$17,450	<b>\$19,350</b>	\$20,900	\$22,450	\$24,000	\$25,550
Moderate Income (80%)	\$36,150	\$41,300	\$46,450	<b>\$51,600</b>	\$55,750	\$59,900	\$64,000	\$68,150



## 2. PREVENTION OR ELIMINATION OF SLUMS OR BLIGHT

An activity will be considered to aid in the elimination of slums or blight only if it meets **one** of the following criteria:

### AREA BASIS

An activity will be considered to address prevention or elimination of slums or blight in an area if:

- √ The area, delineated by the subrecipient, meets a definition of a slum, blighted, deteriorated or deteriorating area under State or local law;
- √ Throughout the area there is a substantial number of deteriorated or deteriorating buildings or the public improvements are in a general state of deterioration;
- √ Documentation is maintained by the subrecipient on the boundaries of the area and the condition which qualified the area at the time of its designation; and
- √ The assisted activity addresses one or more of the conditions which contributed to the deterioration of the area.
- √ The subrecipient must include the following in its application for funding: (1) the local definition of "substandard"; (2) a pre-rehabilitation inspection report describing the deficiencies in each structure to be rehabilitated; and (3) details and scope of CDBG assisted rehabilitation, by structure.

### ACTIVITIES TO ADDRESS SLUMS OR BLIGHT ON A SPOT BASIS

An activity will be considered to address prevention or elimination of slums or blight on a spot basis if:

- √ The activity is designed to eliminate specific conditions of blight or physical decay not located in designated slum or blighted area; and
- √ The activity is limited to one of the following: Acquisition, clearance, relocation, historic preservation and building rehabilitation to the extent necessary to eliminate specific conditions detrimental to public health and safety.
- √ The subrecipient must include the following in its application for funding: A description of the specific condition of blight or physical decay treated; and, if building rehabilitation is proposed to be carried out under this category, a description of the specific conditions detrimental to public health and safety which were identified and the details and scope of the CDBG assisted rehabilitation by structure.

## 3. URGENT NEED

Use of this objective is extremely rare. This objective can be achieved **ONLY when ALL FOUR** of the following requirements are met at the time the application is submitted:

- √ The determination of "immediate threat" has been made in consultation with the appropriate state or federal agency. Documentation from that

agency noting this "immediate threat" must be included with the application.

- √ The applicant is unable to finance the activity. Documentation certifying this fact must be included with the application.
- √ Other sources of funding must have been investigated and must be unavailable. Documentation certifying this fact must be included with the application.
- √ The problem the activity addresses has not existed for more than **18 months prior to the application**. Documentation certifying this fact must be included with the application.

## II. ELIGIBLE ACTIVITIES

In addition to meeting one of the National Objectives, the activity proposed for funding must qualify as an "eligible" activity as listed in the Code of Federal Regulations.

### 24 CFR Subpart C, 570.201 Basic Eligible Activities

- A. Acquisition of Real Property** (24 CFR 570.201(a)  
Acquisition by purchase, lease, or otherwise, of real property (including air rights, water rights, right-of-ways, easements, and other interest therein) for public purposes.
- B. Disposition** (24 CFR 570.201(b)  
Disposition through sale, lease, or otherwise, of any real property acquired with CDBG funds or its retention for public purposes, provided that the proceeds from any such disposition shall be treated as program income.
- C. Public Facilities and Improvements** (24 CFR 570.201(c)  
Acquisition, reconstruction, rehabilitation or installation of public facilities and improvements carried out by the recipient or other public or private nonprofit entities. In undertaking such activities, design features and improvements that promote energy efficiency may be included. Such activities may also include the execution of architectural design features, and similar treatments intended to enhance the aesthetic quality of facilities and improvements receiving CDBG assistance, such as decorative pavements, railings, sculptures, pools of water and fountains, and other works of art. Activities may be directed to the removal of material and architectural barriers that restrict the mobility and accessibility of elderly or severely disabled persons to public facilities and improvements.  
  
Facilities designed to provide shelter for persons having special needs are considered public facilities and are not subject to the prohibition on new housing construction. Such facilities include shelters for the homeless; convalescent homes; hospitals; nursing homes; battered spouse shelters; half-way houses for run-away children; drug offenders or parolees; group homes for mentally retarded persons and temporary housing for disaster victims. In certain cases, nonprofit entities and subrecipients may acquire title to public facilities.

- D. Clearance Activities** (24 CFR 570.201(d))  
Clearance, demolition and removal of buildings and improvements, including the movement of structures to other sites. Demolition of HUD assisted-units must have HUD approval.
- E. Public Services** (24 CFR 570.201(e))  
Provision of public services, including but not limited to those concerned with employment, crime prevention, childcare, health, drug abuse, education, energy conservation, welfare, or recreational needs. In order to be eligible for CDBG assistance, public services must be either:
- A new service, or
  - A quantifiable increase in the level of service above that provided by or on behalf of the unit of general local government in the twelve calendar months prior to the submission of the statement. This requirement is intended to prevent the substitution of CDBG funds for recent support of public service agencies by the County using State or local funds.
- F. Interim Assistance** (24 CFR 570.201(f))  
The following activities may be undertaken on an interim basis in areas exhibiting objectively determinable signs of physical deterioration where the recipient has determined that immediate action is necessary to arrest the deterioration and that permanent improvements will be carried out as soon as practicable:
1. The repairing of streets, sidewalks, parks, playgrounds, publicly owned utilities, and public buildings;
  2. Conducting special garbage, trash, and debris removal, including neighborhood cleanup campaigns, but not the regular curbside collection of garbage or trash in an area.
- G. Payment of Non-Federal Share** (24 CFR 570.201(g))  
When required in connection with a Federal grant-in-aid program undertaken as part of CDBG activities, provided that such payment shall be limited to activities otherwise eligible under this program.
- H. Urban Renewal Completion** (24 CFR 570.201(h))  
Payment of the cost of completing an urban renewal project funded under Title I of the Housing Act of 1949 as amended.
- I. Relocation** (24 CFR 570.201(i))  
Relocation payments and assistance for permanently or temporarily displaced individuals, families, businesses, nonprofit organizations, and farm operations, in conjunction with a CDBG activity.
- J. Loss of Rental Income** (24 CFR 570.201(j))  
Payments to housing owners for losses of rental income incurred in holding, for temporary periods, housing units to be utilized for the relocation of individuals, and families displaced by program activities.

- K. Housing Services (24 CFR 570.201(k))**  
Housing services, such as housing counseling in connection with tenant-based assistance and affordable housing activities assisted under Title II of the Cranston-Gonzalez National Affordable Housing Act. Energy auditing, preparation of work specifications, loan processing, inspections, tenant selection, management of tenant-based rental assistance, and other services related to assisting owners, tenants, contractors, and other entities participating or seeking to participate in housing activities assisted under Title II of the Cranston-Gonzalez National Affordable Housing Act.
- L. Privately Owned Utilities (24 CFR 570.201(l))**  
CDBG funds may be used to acquire, construct, reconstruct, rehabilitate, or install the distribution lines and facilities of privately owned utilities, including the placing underground of new or existing distribution facilities and lines.
- M. Construction of Housing (24 CFR 570.201(m))**  
CDBG funds may be used for the construction of housing assisted under section 17 of the United States Housing Act of 1937.
- N. Homeownership Assistance (24 CFR 570.201(n))**  
Subject to statutory authority, CDBG funds may be used to provide direct homeownership assistance to low- and moderate-income households, as provided in section 105(a)(24) of the Act.
- O. Microenterprise Assistance (24 CFR 570.201(o))**  
The provision of assistance either through the recipient directly or through public and private organizations, agencies, and other subrecipients (including nonprofit and for-profit subrecipients) to facilitate economic development.
- P. Technical Assistance (24 CFR 570.201(p))**  
Provision of technical assistance to public or nonprofit entities to increase the capacity of such entities to carry out eligible neighborhood revitalization or economic development activities.
- Q. Assistance to Institutions of Higher Education (24 CFR 570.201(q))**  
Provision of assistance by the recipient to institutions of higher education when the grantee determines that such an institution has demonstrated a capacity to carry out eligible activities under this subpart C.

**24 CFR Subpart C, 570.202 Eligible Rehabilitation and Preservation Activities**

- A. Rehabilitation (24 CFR 570.202(a))**  
CDBG funds may be used to finance the rehabilitation of:
  1. Privately owned buildings and improvements for residential purposes;
  2. Low-income public housing and other publicly owned residential buildings and improvements;

3. Publicly or privately owned commercial or industrial buildings, except that the rehabilitation of such buildings owned by a private for-profit business is limited to improvements to the exterior of the building and the correction of code violations;
  4. Nonprofit-owned nonresidential buildings and improvements not eligible under 570.201(c); and
  5. Manufactured housing when such housing constitutes part of the community's permanent housing stock.
- B. Types of Assistance** (24 CFR 570.202(b))  
Lists types of rehabilitation activities, and related costs.
- C. Code Enforcement** (24 CFR 570.202(c))  
Costs incurred for inspection for code violations and enforcement of codes (e.g., salaries and related expenses of code enforcement inspectors and legal proceedings, but not including the cost of correcting the violations) in deteriorating or deteriorated areas when such enforcement together with public or private improvements, rehabilitation, or services to be provided may be expected to arrest the decline of the area.
- D. Historic Preservation** (24 CFR 570.202(d))  
CDBG funds may be used for the rehabilitation, preservation, and restoration of historic properties, whether publicly or privately owned. Historic properties are those sites or structures that are either listed in or eligible to be listed in the National Register of Historic Places, or listed in a state or local landmark or historic district by appropriate law or ordinance.
- E. Renovation of Closed Buildings** (24 CFR 570.202(e))  
CDBG funds may be used to renovate closed buildings, such as closed school buildings, for use as an eligible public facility, or to rehabilitate such buildings for housing.

**24 CFR Subpart C, 570.203 Special Economic Development Activities**

A recipient may use CDBG funds for special economic development activities in addition to other activities authorized in this subpart, which may be carried out as part of an economic development project.

**24 CFR Subpart C, 570.205 Eligible Planning, Urban Environmental Design and Policy-Planning-Management-Capacity Building Activities**

A recipient may use CDBG funds for planning activities, which consist of all costs of data gathering studies, analysis, and preparation of plans and the identification of actions that will implement such plans.

**24 CFR Part 35 Lead-Based Paint Hazard Evaluation and Reduction**

CDBG funds may be used to meet the Requirements for Notification, Evaluation, and Reduction of Lead-Based Paint Hazards in Federally Owned Residential Property and Housing Receiving Federal Assistance (Final Regulation, September 15, 1999).

### III. INELIGIBLE ACTIVITIES

There are certain activities that are specifically ineligible for funding. The general rule is that any activity that is not authorized as an Eligible Activity under 24 CFR Subpart C Part 570.201 – 570.206 (or, where applicable, the statute) is ineligible to be assisted with CDBG funds. The following activities may not be carried out using CDBG funds:

- ⊗ Buildings or portions thereof used for the general conduct of government except for removal of architectural barriers.
- ⊗ General government expenses.
- ⊗ Political activities. CDBG funds shall not be used to finance the use of facilities or equipment for political purposes or to engage in other partisan political activities, such as candidate forums, voter transportation, or voter registration.
- ⊗ The purchase of equipment with CDBG funds is generally ineligible.
- ⊗ Construction equipment is generally ineligible.
- ⊗ The purchase of equipment, fixtures, motor vehicles, furnishing, or other property not an integral structural fixture is generally ineligible.
- ⊗ Expenses associated with repairing, operating or maintaining public facilities, improvement and services is ineligible. Examples include: maintenance and repair of publicly owned streets, parks, playgrounds, water and sewer facilities, neighborhood facilities, senior centers, centers for persons with disabilities, parking and other public facilities and improvements; payment of salaries for staff, utility costs and similar expenses necessary for the operation of public works and facilities.
- ⊗ New construction of low or moderate income housing is generally ineligible except under certain circumstances as outlined under Section 570.207(b) (3) of the CDBG regulations.
- ⊗ CDBG funds shall not be used for income payments. Income payments means: a series of subsistence-type grant payments made to an individual or family for items such as food, clothing, housing (rent or mortgage) or utilities, but excludes emergency grant payments made over a period of up to three consecutive months on behalf of an individual or family.



## SECTION 4

### **CDBG REGULATIONS**

Regulations are developed in response to, or in fulfillment of, Federal statutes that govern the CDBG Entitlement program, both those specific to the CDBG program and those addressing other Federal laws or policies that apply to the CDBG program (e.g., National Environmental Policy Act, Americans with Disabilities Act, Davis-Bacon Act).

The basic program regulations governing management and financial systems for the CDBG program are contained in *24 CFR Part 570, Subparts J and K*. They are applicable both to grantees and subrecipients in the public and private sectors:

a) *Subpart J (24 CFR 570.500–570.513)* addresses general responsibilities for grant administration, including the applicability of uniform administrative requirements, provisions of Subrecipient Agreements, program income, use of real property, record keeping and reporting, and closeout procedures.

b) *Subpart K (24 CFR 570.600–570.613)* deals with **other program requirements** of the CDBG program, including civil rights; labor standards; environmental standards; flood insurance; relocation; displacement; acquisition; employment and contracting opportunities; lead-based paint; use of debarred, suspended, or ineligible contractors; uniform administrative requirements and cost principles; and conflicts of interest.

In addition to the basic regulations of the CDBG program contained in 24 CFR Part 570, there are three other categories of requirements that affect the administrative systems and procedures subrecipients must have in place to receive support:

- Federal regulations governing administrative and audit requirements for grants and cooperative agreements (governmental subrecipients) for which HUD has oversight responsibilities.
- Administrative circulars from the Office of Management and Budget (OMB) and Department of the Treasury governing cost principles, administrative systems, fiscal procedures, and audit requirements for grantees and subrecipients.
- Executive Orders from the Office of the President implementing various equal employment opportunity and environmental policies.

The applicability of these administrative requirements depends upon the public or private status of the organization receiving funds. For subrecipients that are private, non-profit organizations, the key regulations defining administrative requirements are:

**24 CFR Part 84 “Uniform Administrative Requirements for Grants and Agreements with Institutions of Higher Education, Hospitals, and Other Non-profit Organizations”:** These regulations implement OMB Circular A-110 and specify standards relative to cash depositories, bonding and insurance, retention and custodial requirements for records, financial management systems, monitoring and reporting on performance, property management, and procurement.

**OMB Circular A-122 “Cost Principles for Non-profit Organizations”:** A publication of OMB, this document establishes principles for determining costs that are allowed to be charged to Federal grants, contracts, and other agreements with non-profit organizations (except educational institutions). The principles are designed to ensure that the Federal Government will bear its fair share of costs except where restricted or prohibited by law.

**OMB Circular A-21 “Cost Principles for Educational Institutions”:** This document covers much of the same subject matter as OMB Circular A-122, only it is aimed at educational institutions (public and private).

**OMB Circular A-133 “Audits of States, Local Governments and Non-profit Organizations”:** This circular defines audit requirements for both governments and non-profits receiving Federal funds. The document addresses mandated frequency and scope of audits, allowability of audit costs, and the process of auditor selection.

For “governmental subrecipients” (a public agency that is independent of the grantee government, such as a public housing authority, parks commission, or a jurisdiction cooperating with an urban county CDBG grantee), the key administrative requirements are:

**24 CFR Part 85 “Uniform Administrative Requirements for Grants and Cooperative Agreements to State, Local, and Federally-recognized Indian Tribal Governments” (also known as “the Common Rule”):** For governmental entities and public agencies, Part 85 of Title 24 of the CFR details standards for financial management systems, payment, allowable costs, property management, procurement, monitoring and reporting program performance, financial reporting, record retention, and termination.

**OMB Circular A-87 “Cost Principles for State and Local Governments”:** For governmental entities receiving CDBG or other Federal funds, this document is the equivalent of OMB Circular A-122. The circular establishes the principles for determining the allowable costs of programs administered by public entities under grants or contracts from the Federal Government. The principles are designed to provide the basis for a uniform approach to determining costs and to promote efficiency.

**OMB-133 “Audits of State, Local Governments and Non-profit Organizations”:** For state and local governments which receive Federal aid, this document describes audit requirements, including frequency and scope of audit, audit standards, and auditor selection procedures.

The above referenced sections of Title 24 regulations and OMB circulars may be accessed at the HUD Web site at <http://www.hudclips.org/cgi/index.cgi>.



## **SECTION 5**

### **FINANCIAL MANAGEMENT**

#### **I. OVERVIEW**

The requirements for financial management systems and reporting are found in 24 CFR Part 85.20 for governmental subrecipients and in 24 CFR Part 84.21-28 as amended by 570.502, for non-profit subrecipients.

#### **II. INTERNAL CONTROLS (SEE 24 CFR 85.20(B)(3) AND 84.21(A)(3))**

The soundness of any organization's financial management structure is determined by its system of internal controls. "Internal controls" consist of a combination of procedures, specified job responsibilities, qualified personnel, and records that together create accountability in an organization's financial system and safeguard its cash, property, and other assets.

Some of the basic elements that a subrecipient should consider in developing its system of internal control include:

- An organizational chart setting forth the actual lines of responsibility of individuals involved in approving or recording financial transactions.
- Written definition of the duties of key employees.
- A formal system of authorization and supervision sufficient to provide accounting control over assets, liabilities, receipts, and expenditures. This should include:
  - √ Maintenance of a policy manual specifying approval authority for financial transactions and guidelines for controlling expenditures.
  - √ Written procedures for the recording of transactions as well as an accounting manual and a chart of accounts.
  - √ Adequate separation of duties, so no one individual has authority over an entire financial transaction. Separation of duties specifically involves the separation of three types of functional responsibilities: (a) authorization to execute a transaction, (b) recording of the transaction, and (c) custody of the assets involved in the transaction. No one person should have control of more than one of these functional responsibilities.
- Hiring policies to ensure that staff qualifications are commensurate with job responsibilities.

- Control over access to assets, blank forms, and confidential documents. Physical access to records, blank forms, cash, and other assets should be limited to authorized personnel only. For example, access to accounting records should be limited to only those individuals having record-keeping or supervisory responsibility for them.
- Periodic comparisons of financial records to actual assets and liabilities (reconciliation), with corrective action taken in response to any discrepancies. As with separation of duties, this is a crucial exercise to uncover and correct inadvertent record-keeping errors in a timely manner. It is also essential for identifying potential weaknesses in an organization's system for safeguarding resources as well as possible instances of fraud or misuse of assets.

### III. ACCOUNTING RECORDS (SEE 24 CFR 85.20(B)(2) AND 84.21)

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

- √ *A chart of accounts.* This is a list of names and the numbering system for the individual accounts that contains the basic information about particular classifications of financial transactions for the organization.
- √ *A cash receipts journal.* This journal documents chronologically when funds were received, in what amounts, and from what sources.
- √ *A cash disbursements journal.* This journal documents chronologically the expenditures of the organization (e.g., when the expense was incurred, how much was spent, to whom funds were paid, and for what purpose).
- √ *A payroll journal.* This journal documents the organization's expenses on salaries and benefits and distinguishes different categories for regulatory purposes.
- √ *A general ledger.* After a transaction is entered in a journal, that information also should be transferred to the proper accounts contained in the general ledger. The general ledger summarizes chronologically the activity and financial status of all the accounts of an organization.

#### Sources and Uses of Funds

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

- Federal grant awards (or subgrant allocations) received by the organization.
- Current authorizations and obligations of CDBG funds.
- Unobligated balances (funds remaining available for distribution).
- Assets and liabilities.
- Program income.
- Actual outlays or expenditures, with further breakdowns by:

- The grant program from which the funds are derived.
- The “eligible activity” classifications specified in 24 CFR 570.201–570.206 (housing rehabilitation, economic development, public facilities, public services, etc.) or similar classifications which clearly indicate use of program funds for eligible activities.

### **Maintenance of Records**

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

- Journal entries are properly approved and explained/supported.
- Posting and trial balances are performed regularly.
- Fidelity bond coverage is obtained for responsible officials of the organization.

### **IV. ALLOWABLE COSTS (SEE 24 CFR 85.22 AND 84.27)**

The standards for determining the reasonableness, allowability, and allocability of costs incurred as part of CDBG-financed activities are found in OMB Circular A-87 for governmental subrecipients, OMB Circular A-122 for non-profit subrecipients and OMB Circular A-21 for educational institutions.

According to basic guidelines contained within these OMB circulars, a *cost is allowable* under the CDBG program if:

1. The expenditure is necessary, reasonable, and directly related to the grant
2. The expenditure has been authorized by Lexington County
3. The expenditure is not prohibited under Federal, state, or local laws or regulations.
  - ☞ For example, OMB Circular A-87, Attachment B, and OMB Circular A-122, Attachment B, explicitly prohibit expenditure of Federal funds for entertainment, contributions and donations, fines and penalties, and bad debts.
  - ☞ In addition, the regulations specific to the CDBG program (at 24 CFR 570.207) prohibit the use of program funds for: Buildings used for the general conduct of government, General governmental expenses, Political activities.
4. The expenditure is consistently treated, in the sense that the subrecipient applies generally accepted accounting standards in computing the cost, and utilizes the same procedures in calculating costs as for its non-Federally assisted activities.
5. The cost must be allocable to the CDBG program. A cost is allocable to a particular cost objective (e.g., grant, program, or activity) in proportion to the relative benefits received by that objective.

6. The cost is net of all applicable credits. Any credits such as purchase discounts or price adjustments must be deducted from total costs charged. The subrecipient is not allowed to make a profit from any costs charged to CDBG funds.

#### **V. SOURCE DOCUMENTATION**

The general standard is that all accounting records must be supported by source documentation (see 24 CFR 85.20(b)(6) and 84.21(b)(7)). Supporting documentation is necessary to show that the costs charged against CDBG funds were incurred during the effective period of the subrecipient's agreement with the grantee, were actually paid out (or properly accrued), were expended on allowable items, and had been approved by the responsible official(s) in the subrecipient organization.

#### **VI. BUDGET CONTROLS**

Subrecipients must have procedures in place to monitor obligations and expenditures against their approved budget(s) for CDBG-funded activities. The subrecipient needs to have an ongoing system to compare actual receipts, encumbrances, and expenditures with the CDBG budget. Any pattern of line item overruns should prompt a careful re-assessment of whether the available resources will still be sufficient to achieve the agreed-upon objectives.

#### **VII. BANKING**

Regular banking procedures may be followed without any separate bank account or special bank eligibility requirements. Subrecipients are advised, however, to obtain information on bank ratings before depositing CDBG funds with a financial institution.

## SECTION 6

### ENVIRONMENTAL REQUIREMENTS

#### I. OVERVIEW

The National Environmental Policy Act of 1969 (NEPA) is the basic national charter for the protection of the environment. HUD applies NEPA policy, goals and agency regulations regarding environmental review in 24 CFR Part 50, "Protection and Enhancement of Environmental Quality." HUD is responsible for conducting environmental reviews for any HUD programs which may impact the environment, however, statutory authority allows other qualified entities to assume this responsibility for certain programs.

Lexington County is a grantee of CDBG funds, and is considered the "Responsible Entity" (RE) accountable for implementing environmental reviews and rules under 24 CFR Part 58, "Environmental Review Procedures for Entities Assuming HUD Environmental Responsibilities." Lexington County must implement CDBG funded activities in accordance to NEPA and 24 CFR Part 58 in the following areas:

- Air Quality
- Coastal Zones
- Endangered Species
- Farmlands Protection
- Fish and Wildlife
- Floodplain
- Historic Properties
- Built Hazards
- Noise
- Solid Waste Disposal
- Water Quality
- Wetlands

The environmental review must be conducted and approved before any funds may be committed to a project. Applicants for CDBG funding will be required to assist Lexington County staff to the fullest extent possible in the preparation of the environmental review.

There are several regulations which govern the process of environmental reviews in HUD-assisted programs. The following is a list of some of the key regulations, which may be referred to in an environmental review.

- 24 CFR Parts 50: Protection and Enhancement of Environmental Quality
- 24 CFR Parts 58: Environmental Review Procedures for Entities Assuming HUD Environmental Responsibilities
- 24 CFR Parts 51: Environmental Criteria and Standards
- 24 CFR Parts 55: Floodplain Management
- 36 CFR Parts 800: Protection of Historic Properties
- 40 CFR Parts 1500-1508: Council on Environmental Quality Implementation of NEPA Procedural Provisions
- 7 CFR Parts 658: Farmland Protection Policy Act

Certain activities are defined in Parts 50 and 58 as exempt from environmental review or not subject to NEPA and other environmental laws and authorities. Even though certain activities are categorically excluded from NEPA, some of these still require compliance actions for their specific category of the environment, e.g. historic preservation, clean air, etc.

There are three types of environmental review for CDBG funded activities.

1. Exempt activities
2. Categorically excluded activities, and
3. Activities requiring an environmental assessment

## **II. EXEMPT ACTIVITIES**

Certain activities funded by HUD are exempt from NEPA environmental review requirements and other Federal laws, including: Planning studies, Environmental studies, Project planning, Administrative costs, Preliminary project engineering and design costs for a proposed eligible activity, Urban renewal loan payments, Section 108 loan payments, Interim assistance activities and activities correcting imminent threats to health and safety, Continuation of social and economic (non-physical) public services.

## **III. CATEGORICALLY EXCLUDED ACTIVITIES**

The following activities are categorically excluded from NEPA environmental review requirements, but must comply with other Federal environmental laws:

- Acquisition, construction, reconstruction, rehabilitation, or installation of public facilities, other than buildings, (A)If acquisition is for retention or existing use or (B) Provided the facilities are currently in place and will be retained for the same use without change in size or capacity of more than 20 percent.
- Special projects for the removal of material and architectural barriers.
- Rehabilitation of buildings and improvements when the following conditions are met:
  - A. For 1-4 unit residential buildings, where unit density is not increased, the land use is not changed, and the building footprint is not increased in a floodplain or wetland.
  - B. For multifamily residential buildings, where unit density has not changed more than 20 percent, the land use has not changed to non-residential, and cost of rehab is less than 75 percent of the total estimated replacement after rehab.
  - C. For non-residential structures, where its size and capacity will not change by more than 20 percent, and the activity does not involve a change in land use.
- Housing rehabilitation where unit density is not increased by more than 20 percent, there are not changes in land use or residential class, and the cost of rehabilitation is less than 75 percent of the cost of replacement value after rehabilitation.

#### IV. ACTIVITIES REQUIRING AN ENVIRONMENTAL ASSESSMENT

Projects that are neither exempt nor categorically excluded require an Environmental Assessment (EA) or an Environmental Impact Statement (EIS) that considers a broad range of impacts in addition to compliance with NEPA and other specific federal laws and authorities.

#### V. ENVIRONMENTAL REVIEW DOCUMENTS

The Environmental Review contains all the environmental review documents, public notices and written determinations or environmental findings required as evidence of review, decision making and actions pertaining to a particular project. The document includes:

- A description of the project and the activities that the recipient has determined to be part of the project;
- An evaluation of the effects of the project or the activities on the human environment;
- Documentation of compliance with applicable statutes and authorities, in particular those cited in 58.5 and 58.6; and
- A record of the written determinations and other review findings required (e.g., exempt and categorically excluded projects determinations, findings of no significant impact).

#### VI. ENVIRONMENTAL ASSESSMENT PROCESS

An Environmental Assessment concludes with either a finding of No Significant Impact (FONSI) or a Finding of Significant Impact (FOSI). In the latter case, the review moves on to preparation of a full EIS. However, most HUD projects do not require preparation of an EIS. Once the environmental review is completed, the responsible entity must notify the public of its intent to request a release of funds from HUD for projects that are categorically excluded or that required an EA or EIS. The public notice/HUD approval process typically takes 45 days.



## SECTION 7

### PROCUREMENT AND CONTRACTING

#### I. GENERAL PROCUREMENT PROVISIONS

The requirements governing the purchasing process are designed to ensure that you:

- Follow a free and open competitive process in securing those products or services.
- Properly document your purchasing activities and decisions.
- Observe the special rules for particular kinds of purchases (small purchases, competitive sealed bids, competitive proposals, and sole source procurements).
- Properly bond and insure work involving large construction contracts and/or subcontracts.
- Use local businesses and contract with small, minority and/or women-owned businesses to the maximum extent feasible.

The standards and procedures for procurement are intended to ensure that supplies, equipment, construction and other services acquired in whole or in part with Federal funds are:

- a) Obtained as efficiently and economically as possible.
- b) Procured in a manner that provides, to the maximum extent practical, open and free competition.

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

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

Awards are to be made to the bidder/offeror whose bid/offer is responsive to the solicitation and is most advantageous to the subrecipient, price and other factors considered. Any and all bids may be rejected when it is in the subrecipient’s interest to do so. The subrecipient must ensure that the award is only made to responsible contractors possessing the ability to perform successfully under the terms and conditions of the proposed procurement. Consideration should be given to such matters as contractor integrity, compliance with public policy, record of past performance, and financial and technical resources.

The Federal guidelines for contracting are designed to further ensure that contracts are structured and managed in a way that is consistent with good administrative practices and sound business judgment.

The Federal requirements for these administrative areas are found in 24 CFR 85.36 for governmental subrecipients and in 24 CFR 84.40-48 for subrecipients that are non-profit organizations. Because the procurement standards in 24 CFR Part 85 are generally more specific than those found in Part 84, the former will be used as the principal basis for applicable requirements. Whenever there is a clear distinction between the requirements of 24 CFR Parts 85 and 84, the text will distinguish between the two sets of requirements. However, in general, the standards set forth in 24 CFR Part 85 for procurement may be viewed as a “safe harbor” for satisfying the Federal requirements.

The general requirements for procurement include the following:

- According to 24 CFR 85.36(b)(9), a subrecipient must maintain records to detail the significant history of a procurement. These records include, not are not limited to, files on the rationale for selecting the methods of procurement used, selection of contract type, the contractor selection/rejection process, and the basis for the cost or price of a contract (for non-profit subrecipients, 24 CFR 84.46 specifies that procurement records and files for purchases in excess of the small purchase threshold fixed at 41 U.S.C. 403(ii), currently \$100,000, must include the basis for contractor selection, justification for lack of competition when competitive bids or offers are not obtained, and the basis for the award cost or price).
- Pre-qualified lists of vendors/contractors, if used, must be current, developed through open solicitation, include adequate numbers of qualified sources, and must allow entry of other firms to qualify at any time during the solicitation period (24 CFR 85.36(c)(4)).
- As part of its efforts to eliminate unfair competitive advantage, a subrecipient should exclude contractors that develop or draft specifications, requirements, statements of work, invitations for bids, and/or requests for proposals from competing for such procurement (24 CFR 84.43).
- A subrecipient must ensure that awards are not made to any party which is debarred or suspended or is otherwise excluded from or ineligible for participation in Federal assistance programs under Executive Order 12549, “Debarment and Suspension” (24 CFR 85.35).
- There must be written selection procedures for procurement transactions, and the procedures must be adequate to ensure that:
  - √ The purchase of unnecessary or duplicate items is avoided. Where appropriate, an analysis should be made of lease versus purchase alternatives (24 CFR 85.36(b)(4) and 84.44(a)(1)-(2));
  - √ Whenever possible, use of Federal excess and surplus property or intergovernmental agreements for procurement or use of common goods and services should be considered as a way to foster greater economy and efficiency (24 CFR 85.36(b)(5) and (6));

- √ All purchase orders (and contracts) are signed by the authorized official(s) of the subrecipient;
  - √ Items delivered and paid for are consistent with the purchase order and/or contract for the goods or services;
  - √ Timely payment to vendors occurs once the order is delivered, inspected, accepted, and payment authorized;
  - √ A cost or price analysis is performed for every procurement action, including contract modifications, and documentation to that effect is maintained in the subrecipient files. The method and degree of analysis is dependent on the facts surrounding the particular procurement situation, but as a starting point, subrecipients must make independent estimates before receiving bids or proposals (24 CFR 85.36(f) and 84.45);
  - √ Profit or fee is negotiated separately from price where competition is lacking or whenever a cost analysis is performed. To establish a fair and reasonable profit, consideration will be given to the complexity of the work to be performed, the risk borne by the contractor, the contractor's investment, the amount of subcontracting, the quality of past performance, and industry rates for the area (24 CFR 85.36(f)(2)); and,
  - √ The list of provisions in 24 CFR 85.36(i) or 84.48, as applicable, must be included in any contracts.
- Subrecipients must not use "cost plus a percentage of cost" pricing for contracts (24 CFR 85.36(f) (4) and 84.44(c)); in addition, subrecipients should use "time and material" type contracts only after a determination is made that no other contract is suitable and the contract includes a ceiling price that the contractor exceeds at its own risk (24 CFR 85.36(b)(10)).
  - Subrecipients must have protest procedures in place to handle and resolve disputes relating to their procurement and in all instances report such disputes to the grantee (24 CFR 85.36(b)(12)).
  - There must be a documented system of contract administration for determining the adequacy of contractor performance (24 CFR 85.36(b)(2)).
  - A subrecipient must have a written code of conduct governing employees, officers, or agents engaged in the award or administration of contracts (24 CFR 85.36(b)(3) and 84.42).

## II. PERMITTED APPROACHES TO PROCUREMENT

Depending on the scarcity of the item or service desired, and the size of the purchase, different methods of procurement are appropriate.

### **Small Purchases (\$15,000 or Less)**

- Purchases < \$1,500: Must obtain and document an adequate number of price or rate quotations from qualified sources.
- Purchases \$1,500 - \$5,000: Must obtain and document at least (3) three verbal or written quotations and record on a bid tabulation sheet.
- Purchases \$5,000 - \$15,000: Must obtain and document at least (3) three written bids and record on a bid tabulation sheet.

### **Competitive Sealed Bids (Over \$15,000) – Typically Construction Activities**

- Must prepare written Invitations for Bids (IFB).
- Sole source, proprietary and emergency purchases must be submitted to Lexington County for approval prior to selection of vendor.
- The procurement must lend itself to a firm, fixed price contract (lump sum or unit price) where the selection can be principally made on the basis of price.
- A subrecipient must advertise the Invitation for Bid (IFB) in publications of general circulation.
- The IFB must include complete and accurate specifications and pertinent attachments and clearly define items or services needed, in sufficient detail for the bidders to properly respond.
- Bids must be opened publicly at the time and place stated in the IFB.
- A subrecipient must receive at least (2) two or more responsible bids for each procurement transaction, however, at least (3) bids should be attempted.
- If awarded, the contract must be given to the lowest responsive and responsible bidder (the subrecipient, however, can decide *not* to make the award to *any* of the bidders).

### **Competitive Proposals**

- Only used when conditions are not appropriate for formal advertising.
- The Request for Proposal (RFP) must clearly and accurately state the technical requirements for the goods and services required.
- Must publicize the RFP, and to the maximum extent practicable, honor reasonable requests by parties to have an opportunity to compete.
- Proposals must be solicited from at least three (3) qualified sources, consistent with the nature and requirements of the procurement.
- Must conduct a technical evaluation of the submitted proposals to identify the responsible offerors.
- Can conduct negotiations with those offerors who are deemed responsive and responsible and fall within a competitive price range, based on the subrecipient's evaluation of the bidders' pricing and technical proposals. After negotiations, these bidders may be given the opportunity to submit a "best and final" offer.

- The subrecipient must award the contract to the most responsive and responsible offeror after price and other factors are considered through scoring the proposals (or “best and final” offers) according to predetermined evaluation criteria. The successful proposal/offeror must clearly be the “most advantageous” source of the goods and services for the subrecipient.
- **Architect/Engineering Services**
  - ☞ For architecture or engineering (A/E) services, competitors’ qualifications are evaluated and the most qualified competitor is selected, subject to negotiation of fair and reasonable compensation.
  - ☞ Price is *not* used as a selection factor.
  - ☞ Once the most-qualified firm is identified, only that firm is asked for a price proposal that is subject to negotiation of a fair and reasonable price.
  - ☞ If negotiations with the selected firm are unsuccessful, this process is repeated with the next highest-ranked firm, until a fair and reasonably priced contract can be awarded.
  - ☞ The subrecipient must be careful to document the bases for its determination of the most qualified competitor and the reasonableness of the contract price.
  - ☞ The qualifications-based approach to the competitive proposals method may *not* be used to purchase other than A/E services. (See 24 CFR 85.36(d)(3)(v).)
  - ☞ In addition, the Federal procurement regulations generally *discourage the use of local geographical preferences in the evaluation of bids or proposals (except where mandated by Federal statutes)*, due to the restrictions on open competition which result. However, in procuring A/E services, geographic location is permitted as a selection criteria provided this criterion leaves an appropriate number of qualified firms (24 CFR 85.36(c)(2)).

### **Noncompetitive Proposals / Sole Source Procurement**

- Must obtain prior approval from County.
- The item or service only available from a single source.
- Must document that another method of procurement was infeasible because:
  - ☞ The item or service was only available from a single source.
  - ☞ A public emergency or condition requiring urgency existed which did not permit the use of competitive procurement.
  - ☞ Competition was determined to be inadequate after receiving proposals from numerous sources.

### III. BONDING

The requirements for bonding in procurement are as follows:

- For construction or facility improvement (sub) contracts exceeding \$100,000, the following *minimum Federal requirements (24 CFR 85.36(h) or 84.48(c))* for bid guarantees, performance bonds, and payment bonds must be met. These include:
  - ☞ A bid guarantee from each bidder equivalent to 5 percent of the bid price. The “bid guarantee” must be a firm commitment in the form of a bid bond, certified check, or other negotiable instrument as assurance that the bidder is prepared to execute a contract within the time specified for the bid amount.
  - ☞ A performance bond from the (sub) contractor for 100 percent of the contract price to secure the (sub) contractor’s fulfillment of all obligations under the contract.
  - ☞ A payment bond from the (sub) contractor for 100 percent of the contract price to assure payment of all persons supplying labor and material under the contract.
- For contracts or subcontracts awarded for construction or facility improvement equal to or less than \$100,000, a subrecipient follows its own policies for bid guarantees, performance bonds, and payment bonds, however, the Lexington County Procurement Manager should be contacted to confirm the correct bonding amounts.

### IV. USE OF LOCAL BUSINESSES; CONTRACTING WITH SMALL, MINORITY, AND/OR WOMEN-OWNED BUSINESSES

Federal regulations, both CDBG and non-CDBG, make it very clear that subrecipients should make every effort to use local business firms and contract with small, minority-owned and/or women-owned businesses in the procurement process. Specifically,

- A subrecipient must take affirmative steps to use small firms, minority-owned firms, women-owned firms, or labor surplus area firms in its CDBG-financed activities (24 CFR 85.36(e) or 84.44(b)). The efforts which a subrecipient should make include:
  - ☞ Incorporating such businesses in solicitation lists whenever they are potential sources.
  - ☞ Ensuring that such businesses are solicited when identified as potential sources.
  - ☞ Dividing procurement requirements, when economically feasible, to permit maximum participation of such businesses.
  - ☞ Requiring prime contractors, when subcontracts are let, to take affirmative steps to select such firms.
- In conformance with the requirements of Section 3 of the Housing and Community Development Act of 1968, to the greatest extent feasible, subrecipients must award contracts for work to be performed to eligible business concerns located in or owned by residents of the target area to ensure that the employment and other economic opportunities generated by Federal financial assistance for housing and community

development programs shall, to the greatest extent feasible, be directed toward low- and very low-income persons, particularly those who are recipients of governmental assistance for housing (see 24 CFR 570.607(b)).

Subrecipients should note, however, that the desire to award contracts to local firms is not a legitimate excuse for avoiding an open and competitive procurement process.



## SECTION 8

### **LABOR STANDARDS REQUIREMENTS**

The Fair Labor Standards apply to proposed activities that involve construction or residential rehabilitation.

ONLY CONSTRUCTION CONTRACTS UNDER \$2,000 AND RESIDENTIAL REHABILITATION IN STRUCTURES WITH LESS THAN EIGHT UNITS ARE EXEMPTED FROM THE FOLLOWING LABOR STANDARDS.

#### **I. DAVIS-BACON ACT**

The Davis-Bacon Act (DBA) provides that contracts in excess of \$2,000 to which the United States is party for the construction, alteration, and/or repair, including painting and decorating, of public buildings or public works, which involve the employment of laborers and/or mechanics shall contain provisions with respect to minimum wages, fringe benefits, payments without deductions or rebates, withholding funds from contractors to ensure compliance with the wage provisions, and termination of the contract or debarment for failure to adhere to the required provisions.

#### **II. CONTRACT WORK HOURS AND SAFETY STANDARDS ACT**

This Act (CWHSSA) applies to both direct Federal contracts and indirect federally assisted contracts except where the assistance is solely in the nature of a loan guarantee or insurance. CWHSSA provides that work in excess of 40 hours per week shall be compensated for at rates not less than one and one-half times the basic rate of pay. The Act mandates that, all contracts requiring the employment of laborers and mechanics (and watchmen and guards) in the performance of work in connection with such activities contain implementing provisions which will render the contractor and any subcontractor responsible for violation liable to the affected employees for their unpaid wages and to the United States for liquidated damages. The Act establishes an appeals procedure and makes intentional violations of the Act a Federal criminal misdemeanor.

#### **III. COPELAND ACT (ANTI-KICKBACK ACT)**

The Copeland Act makes it a criminal offense for any person to induce, by any manner whatsoever, any person employed in the construction, prosecution, completion, or repair of any public building, public work, or building or work financed in whole or in part by loans or grants from the United States, to give up any part of the compensation to which he is entitled under this contract of employment. The Act also provides for the submission of weekly statements of compliance and weekly payrolls by all contractors.

#### **IV. THE FAIR LABOR STANDARDS ACT**

The Fair Labor Standards Act (FLSA) is applicable to HUD-assisted construction and provides for minimum wages for construction workers, overtime pay (forty-hour work week), record-keeping and child labor standards. The Department of Labor is responsible for the enforcement of the Fair Labor Standards Act. It is the responsibility of the contractor to request rulings from the Department of Labor relative to the applicability of FLSA and limitations on child labor.

## V. COMPLIANCE

Compliance with labor standards provisions is a condition for receipt of CDBG assistance. These responsibilities include the following:

- Designating appropriate staff before the start of construction to ensure compliance with all applicable labor standards requirements and to act for and in liaison with the county (appoint a Labor Standards Officer).
- Establishing a construction contract management system.
- Informing all contractors and subcontractors performing contract construction work of their labor standards obligations at the pre-construction conference (payroll compliance, employee interviews, etc.).
- Ensuring that all bid documents, contracts, and subcontracts contain Lexington County CDBG Special Provisions, Federal labor standards provisions and the applicable United States Department of Labor wage determination, and that no contractor is ineligible for federally assisted work (federal debarment).
- Conducting on-site activity inspections, which include employee interviews of all contractors and subcontractors, and checking for posting of the Federal/State Labor Laws, the wage determination as well as the review of weekly contractor payrolls.
- Correcting all violations of labor standards promptly.
- Maintaining full documentation attesting to all administrative and enforcement activities with respect to Federal labor standards requirements, such documentation to be made freely available for HUD review. Such documentation shall include all weekly payrolls, copies of wage determinations and any applicable changes or modifications, notices of start of construction, on-site inspection reports and employee interviews, and any other records utilized in enforcement administration including records of wage and restitution made and pre-construction conference minutes.
- Complying with requirements imposed by HUD concerning special requirements of law, program requirements, and other administrative requirements.

**SECTION 9**  
**EQUAL OPPORTUNITY REGULATIONS**

All proposed activities are subject to Equal Opportunity Regulations that include the following:

**I. TITLE VI OF THE CIVIL RIGHTS ACT OF 1964 - NONDISCRIMINATION IN FEDERALLY ASSISTED PROGRAMS**

Title VI provides that no person shall on the grounds of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance. It directs each Federal department or agency which extends financial assistance to any program or activity through grants, loans, or contracts, except contracts of insurance or guaranty, to issue rules or regulations to be approved by the President to carry out the purposes of the Title. Title VI authorizes the termination of the refusal to grant or continue Federal assistance under any program or activity involving a recipient as to whom there has been an express finding on the record of failure to comply but only, after due notice, an opportunity for hearing and a determination that compliance cannot be secured by voluntary means.

**II. SECTION 109 OF THE HOUSING AND COMMUNITY DEVELOPMENT ACT OF 1974**

Section 109 states that "No person in the United States shall on the grounds of race, color, national origin or sex be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity funded in whole or in part with funds available under this title."

**III. SECTION 3 OF THE HOUSING AND URBAN DEVELOPMENT ACT OF 1968**

Section 3 requires that, to the greatest extent feasible, opportunities for training and employment be given to lower income residents of the activity area. And that contracts for work in connection with the activity are awarded to business concerns which are located in, or owned in substantial part by persons residing in, the area of the activity.

**IV. EXECUTIVE ORDER 11063 (NOVEMBER 20, 1962)**

This Order requires all Federal departments and agencies to take all action necessary and appropriate to prevent discrimination because of race, color, creed, or national origin in the sale or rental of residential property and related facilities owned or operated by the Federal Government or provided with Federal financial assistance. The Order also prohibits discrimination in lending practices in so far as such practices relate to loans insured or guaranteed by the Federal Government.

**V. EXECUTIVE ORDERS 11246 (SEPTEMBER 24, 1965) AND 11375 (OCTOBER 13, 1967).**

Executive Order 11246 was issued on September 24, 1965, superseding Executive Orders 10590, 10722, 10925, 11114, and 11162 and abolishing the President's Committee on Equal Employment Opportunity. Part I of this Order prohibits discrimination in Government employment because of race, color, creed or national origin, disability, or familial status. It directs each executive department and agency to establish and maintain a positive program of equal employment opportunity for all civilian employees and applicants for employment. It authorizes the Civil Service Commission to supervise and provide leadership and guidance for the programs. The Secretary of Labor is responsible for the administration of Parts II and III of the Orders and for

issuing rules and regulations relating respectively to "Nondiscrimination Provisions in Federally Assisted Construction Contracts." On October 13, 1967, Executive Order 11375 amended Executive Order 11246 to add the prohibition of discrimination because of sex.

## VI. COMPLIANCE

Equal Opportunity Records That Recipients and Subrecipients Must Maintain Includes:

- Demographic data by census tract. The data shall include prevailing population characteristics relating to race, ethnic group, sex, age, head of household, and income.
- Data showing the extent to which these categories of persons have participated in, or benefited from programs and activities funded under the Community Development Block Grant Program.
- Data which records its affirmative action in equal opportunity employment, including but not limited to employment, upgrading, demotions, transfers, recruitment or recruitment advertising, layoffs or terminations, pay or other compensation, and selection for training.
- Data which records its good faith efforts to identify, train and or hire lower income residents of the activity area and to utilize business concerns which are located in or owned in substantial part by persons residing in the area of the activity.



## **SECTION 10**

### **MONITORING**

#### **Overview**

Community Development Block Grant staff will conduct on-site monitoring of agencies receiving CDBG funds at least once during a grant period. Additional visits and technical assistance may also be conducted during the project to address any administrative, program or financial management concerns.

Monitoring by CDBG staff will typically include the use of a monitoring checklist. This checklist is made available to the subrecipient prior to the monitoring to assist in preparation for the monitoring visit. The subrecipient should review all items on the checklist and make sure there is adequate documentation for each area.

HUD representatives may also make on-site visits as a part of their monitoring visits to Lexington County.

The purposes of monitoring include:

- ☞ To verify appropriate documentation is being maintained related to the project;
- ☞ To determine the level of progress made, and
- ☞ To document the agency's compliance with all applicable HUD regulations.

#### **Inadequate Performance or Non-compliance**

If a subrecipient or its CDBG funded activity is found to be in non-compliance with any of the areas addressed in the monitoring process or with any of the terms stipulated in the subrecipient agreement, funding may be withheld until compliance is achieved. In the event that compliance cannot be achieved, funding may be terminated. Additionally, funding may be withheld from any agency which does not submit required reports in a timely manner. Disbursement will recommence with acceptable reporting procedures.

If program performance is found to be substantially inadequate for the stated objectives and measures, the agency may be required to submit a written explanation. Inadequate program performance may adversely affect future CDBG funding requests to the County.

An agency may appeal a decision to terminate funding. An appeal must be submitted in writing with documentation included. If appropriate, meetings may be arranged between the County and the agency to determine the most appropriate course of action.



## SECTION 11

### PROPERTY MANAGEMENT AND DISPOSITION

#### I. OVERVIEW

The relevant Federal regulations governing the management and disposition of property are 24 CFR 570.503 for all subrecipients, 24 CFR 84.34(g) as amended by 570.502(b)(3)(vi) for private sector subrecipients, and 85.32, as modified by 570.502(a)(8), and 85.33-34 for governmental subrecipients.

For the purposes of these Federal regulations, “property” is classified according to the following distinct categories:

- Real property: “real property” means land, including any improvements to and structures located on the land, but excluding any movable machinery or equipment.
- Personal property: “personal property” is basically any kind of property other than real property. Personal property can be *tangible* (such as supplies, furniture, and equipment), or *intangible* (such as copyrights, patents, and inventions).

Further distinctions can be made between:

- Non-expendable personal property, which generally is considered to include *tangible* personal property having a useful life of more than 1 year and an acquisition cost of \$300 or more per unit.
- Expendable personal property, which includes all *tangible* personal property other than non-expendable personal property.

The Federal requirements relating to property are organized according to title (ownership), use, and disposition. In general, a subrecipient’s property management system must provide for accurate records, the conduct of regular inventories, adequate maintenance and control, and proper sales procedures. Subrecipients must follow sales procedures that provide for competition, to the extent practicable, and that result in the highest possible return.

#### II. EQUIPMENT

For governmental subrecipients (24 CFR 85.32):

- **Title:** Title to equipment acquired with CDBG funds is vested in the subrecipient, subject to the conditions described in the following section.
- **Use:** Equipment purchased with CDBG funds or other forms of Federal assistance must be used by the subrecipient in the program or project for which it was acquired, and as long as needed, whether or not the program or project continues to be supported by Federal funds.
  - When no longer needed for the original program or project, the equipment may be used in other activities currently or previously supported by a Federal agency.
  - The subrecipient also must make the acquired equipment available for use on other projects or programs currently or previously supported by the

Federal Government provided that such use will not interfere with the work on the project or program for which the equipment was originally acquired.

- A subrecipient is prohibited from using CDBG-acquired equipment to provide services for a fee to compete unfairly with private companies that provide equivalent services unless specifically authorized by Federal statute.
  - With the approval of the grantee, equipment acquired with CDBG funds may be used as a trade-in on replacement property.
- Management requirements: For equipment (including replacement equipment) acquired in whole or in part with CDBG funds, the subrecipient must have procedures and control systems in place to:
    - Keep adequate equipment records, which must include information on:
      - √ Property description.
      - √ Identification.
      - √ Funding source (grant number).
      - √ Title holder.
      - √ Acquisition date and cost.
      - √ Federal share of cost.
      - √ Location, use, and condition.
      - √ Unit acquisition cost.
      - √ Disposition data.
    - Conduct a physical inventory of the property no less often than every 2 years, with a reconciliation of the inventory results with the equipment records.
      - ☞ Ensure adequate safeguards for preventing loss, damage, or theft of property.
      - ☞ Maintain the equipment in good condition.
  - Disposition: When original or replacement equipment acquired with CDBG funds is no longer needed for the original project or program or for other activities currently or previously assisted with Federal funds, the following rules of disposition will apply to governmental subrecipients:
    - 1) Equipment with a current per-unit fair market value of less than \$5,000 may be retained, sold, or otherwise disposed of by the subrecipient after notice to the grantee, subject to the conditions in 3) in the following section.
    - 2) Equipment with a current per-unit fair market value of \$5,000 or more may after notice to the grantee be retained or sold by the subrecipient with the grantee having the right to compensation in an amount equal to multiplying the current fair market value or the proceeds from sale by the Federal share (percentage) in the original acquisition price of the equipment.

- 3) The grantee may reserve the right to transfer title of the equipment to the Federal Government or a third party (24 CFR 85.32(g)).

In addition, per 24 CFR 570.502(a)(8), in all cases when equipment purchased with CDBG funds is sold, the net proceeds are considered program income.

For non-profit subrecipients (24 CFR 84.34):

- Title: Title to personal property acquired with CDBG funds is vested with the subrecipient, subject to the following conditions:
  - √ In all cases in which personal property is no longer needed by the subrecipient for CDBG activities, it must be transferred to the grantee for the CDBG program or can be retained by the subrecipient after compensation to the grantee (per 24 CFR 570.502(b)(3)(vi)(B)).
  - √ The grantee may reserve the right to transfer title of the equipment to the Federal Government or a third party (84.34(g)(4)).
  - √ In all cases in which personal property is sold, the proceeds will be considered program income (24 CFR 570.502(b)(3)(vi)(A)).

### III. SUPPLIES

For governmental subrecipients (24 CFR 85.33):

- Upon termination of the subrecipient's agreement with or award from the grantee, if there is a residual inventory of unused supplies exceeding \$5,000 in total aggregate fair market value, and if such supplies are not needed for any other Federally sponsored programs or project, the subrecipient must compensate the grantee for the share of such supplies which were acquired with CDBG funds.

For non-profit subrecipients, the requirements of 24 CFR 84.35 apply; that is,

- The residual inventory of unused supplies exceeding \$5,000 not needed by the subrecipient for CDBG activities must be transferred to the grantee for the CDBG program or can be retained after compensating the grantee.
- In all cases in which the residual inventory of supplies is sold, the proceeds are considered program income.

### III. COPYRIGHTS

For governmental subrecipients (24 CFR 85.34) and for non-profit subrecipients (84.36):

- The Federal Government reserves a royalty-free, nonexclusive, and irrevocable license to reproduce, publish, or otherwise use and to authorize others to use, for Federal Government purposes:
  - √ The copyright to any work developed with CDBG funds.
  - √ Any rights of copyright which a subrecipient or a contractor purchases with CDBG support.

## SECTION 12

### RECORD-KEEPING AND REPORTING REQUIREMENTS

#### I. GENERAL RECORD-KEEPING REQUIREMENTS

Every subrecipient is required to establish and maintain at least three major categories of records:

- Administrative records: These are files and records that apply to the overall administration of the subrecipient's CDBG activities. They include the following:
  - √ Personnel files.
  - √ Property management files.
  - √ General program files: files relating to the subrecipient's application to the grantee, the Subrecipient Agreement, program policies and guidelines, correspondence with grantee and reports, etc.
  - √ Legal files: articles of incorporation, bylaws of the organization, tax status, board minutes, contracts and other agreements.
- Financial records: These include the chart of accounts, a manual on accounting procedures, accounting journals and ledgers, source documentation (purchase orders, invoices, canceled checks, etc.), procurement files, bank account records, financial reports, audit files, etc.
- Project/case files: These files document the activities undertaken with respect to specific individual beneficiaries, property owners, and/or properties.

The general CDBG standard for record keeping is that records must be accurate, complete and orderly. Specific record keeping requirements are found in 24 CFR 570.506. A subrecipient should maintain records sufficient to provide a full description of each activity assisted with CDBG funds, including the location where the activities occur, the amount of CDBG funds budgeted, obligated, and expended for the activity and the regulatory provision under which the activity is eligible.

#### II. RETENTION OF RECORDS

To avoid monitoring findings and facilitate audit reviews, subrecipients are required to retain their records for extended periods of time, even though an activity may be completed for some time:

- For all subrecipients: 24 CFR 85.42 as modified by 570.502(a)(16), or 24 CFR 84.53(b) as modified by 570.502(b)(3)(ix) (A) and (B), as appropriate:

In general, records are to be retained for 4 years from the date of submission of the Lexington County CAPER in which the specific activity is reported for the last time, unless there is litigation, claims, audit, negotiation, or other actions involving the records, which has started before expiration of the 4-year period. In such cases, the records must be retained until completion of the action and resolution of all issues which arise from it or the end of the regular 4-year period, whichever is longer.

### III. ACCESS TO RECORDS

- Representatives of Lexington County, HUD, the Comptroller General of the United States, or of other authorized governmental agencies have the right of access to any pertinent records of a subrecipient to make audits, examinations, excerpts, and transcripts. (24 CFR 85.10 (e) and 84.53 (e))
- Consistent with applicable state and local laws regarding privacy and obligations of confidentiality, the subrecipient also must provide citizens with reasonable access to records on the past use of CDBG funds (24 CFR 570.508).



## SECTION 13 AUDITS

### I. GENERAL AUDIT REQUIREMENTS

Subrecipients that expend \$500,000 or more in total Federal financial assistance in a year are responsible for obtaining an independent audit in accordance with the Single Audit Act of 1984 and OMB Circular A-133 as referenced at 24 CFR 84.26 and 85.26. The computation of the total of such assistance includes all Federal funds received by the entire entity, and not just the department or division receiving the CDBG funding. For purposes of determining the amount of Federal assistance expended, all Federal assistance shall be considered, including that which is received directly from a Federal agency, or passed through a state or local government, or through non-profit organizations, or any combination thereof.

If a subrecipient expends less than \$500,000 per year in Federal financial assistance, it is exempt from Federal audit requirements. However, the subrecipient must still have records available for review by HUD, the grantee, or GAO, and there also may be separate state or local laws prescribing additional audit requirements.

If a subrecipient has expended more than \$500,000 in a year under only one Federal program, the auditee may elect to have a program-specific audit conducted in lieu of a single audit. (A single audit is an audit that includes both the entity's financial statements and the Federal funds it has expended.) If the subrecipient elects this option, the auditor(s) will perform the compliance testing for the individual grant program in accordance with OMB Circular 133.

### INTERNAL CONTROL AND COMPLIANCE REVIEW

The Single Audit Act requires, among other things, that the independent auditor determine and report on whether the organization or governmental entity has internal control systems to provide reasonable assurance that it is managing its Federal assistance programs in compliance with applicable laws and regulations. The auditor will perform tests of these controls to evaluate the effectiveness of the design and operation of the policies and procedures in preventing or detecting material noncompliance.

The auditor will also conduct compliance testing. For the CDBG program, the auditor will examine a sample of transactions to determine whether:

- The amounts reported by the subrecipient as expenditures were for allowable services, and the records show that those who received benefits or services were eligible to receive them.
- Applicable limitations (such as ceilings on administrative costs, or funding for public services, as well as allocations for activities to principally benefit low- and moderate-income individuals) were met.

- The subrecipient's financial reports and claims for advances and reimbursements contain information that is supported by the books and records from which the basic financial statements have been prepared.
- Program income received was properly recorded and used before drawing additional grant funds.
- The expenses claimed by the subrecipient are in accordance with the applicable cost principles and uniform administrative requirements.

#### **AUDIT REPORTS**

Following the completion of the audit, an audit report must be prepared. The audit report must contain at least the following (assuming that it is a single audit as opposed to a program-specific audit):

- An opinion as to whether the subrecipient's financial statements are presented fairly in all material respects, and an opinion as to whether the schedule of expenditures of Federal awards is presented fairly in relation to the financial statements taken as a whole.
- A report on the subrecipient's internal control related to the financial statements and major programs. The report would be expected to identify the significant internal accounting controls and those controls designed to provide reasonable assurance that Federal programs are being managed in compliance with applicable laws and regulations.
- A report on compliance containing: an opinion as to whether each major Federal program was being administered in compliance with applicable laws and regulations; a statement of positive assurance for those items tested; negative assurance for those items not tested; a summary of all instances of noncompliance; and, identification of total amounts questioned.
- A schedule of findings and questioned costs, where applicable.

The audit must generally be completed within 9 months after the end of the audit period and the report submitted within 30 days of receipt of the auditor's report(s). The subrecipient shall submit to the Federal clearinghouse designated by OMB the data collection form used in the audit along with a copy of the reporting package. It shall also submit a copy of the reporting package to Lexington County.

A subrecipient should maintain copies of audit reports on file for a minimum of 4 years from the date of their issuance. Similarly, the subrecipient should ensure that its auditor maintains copies of the audit work papers for a minimum of 4 years from the date of the report issuance. If there remain unresolved audit issues at the end of this 4-year period, the subrecipient should notify the auditor in writing to extend the retention period.

## **SECTION 14**

### **LEXINGTON COUNTY PROGRAM REQUIREMENTS**

In addition to the federal requirements that apply to the CDBG program, Lexington County has established the following local program requirements.

#### **I. ELIGIBLE APPLICANTS**

The fourteen municipalities with cooperative agreements and non-profit organizations are eligible to apply for CDBG funds. Non-profits must provide a letter from the Internal Revenue Service certifying tax-exempt 501(c)(3) status. Individual persons are not eligible to apply for CDBG funds.

An eligible applicant may submit an application that includes subcontracting with other entities, either public or private, to perform any service, activity or undertaking which the subcontracting entity is authorized by law to perform.

#### **II. REQUEST AMOUNTS**

Applicants for funding must request at least \$5,000. There is no maximum request amount.

#### **III. APPLICATION SUMMARY**

A Project Application Summary Proposal is required to be submitted to and approved by Lexington County CDBG staff before a project application will be considered for funding. The summary proposal is designed to give Lexington County CDBG staff basic information on potential projects and allow adequate time to review the feasibility the proposed project and mitigate possible CDBG funding eligibility issues. This will also allow agencies considering applying for CDBG funds to receive feedback on their proposals before submitting a formal application.

#### **IV. CITIZEN PARTICIPATION**

Applicants are encouraged to hold public meetings to obtain citizen input on their proposed project. Meetings are not required to submit an application but they may help demonstrate public support for the project and improve the competitiveness of the application. Documentation of any project-related meetings (sign-in sheets, minutes, etc.) must be provided with the application.

The County CDBG Program holds two public hearings per year and potential applicants are encouraged to attend. The first hearing is held to give citizens the opportunity to comment on the annual performance report and to obtain input on housing and community development needs for the upcoming year. The second hearing is held to give citizens the opportunity to comment on the County's Annual Action Plan (or Five Year Consolidated Plan if applicable). The Annual Action Plan provides a list of the proposed activities for the upcoming program year. Both hearings are advertised in *The State* newspaper and through other means including the e-mail notification list maintained by the Grant Programs staff. To be added to the e-mail list, please contact the County's Grant Programs staff.

#### **V. REIMBURSEMENT**

The Lexington County CDBG program operates on a reimbursement basis. The Reimbursement Request must include complete documentation of all expenses confirming that expenditures were for activities described in the Subrecipient Agreement. Undocumented or ineligible expenses will not be reimbursed.

## **VI. TIMELY EXPENDITURE OF FUNDS**

Lexington County must meet an annual timeliness requirement for the expenditure of its CDBG funds. In order to meet this requirement, the maximum time allowed to complete a project is twenty-four (24) months from the date of the subrecipient agreement. Projects that do not appear to be able to be completed within twenty-four months will not be considered.

## SECTION 15 ADDITIONAL RESOURCES

This manual is to be used as a general guide only. More specific and detailed information can be found in the following documents:

- HUD Community Planning and Development – CDBG Program  
[www.hud.gov/offices/cpd/communitydevelopment/programs](http://www.hud.gov/offices/cpd/communitydevelopment/programs)
- Lexington County Community Development – Grant Programs Division  
[www.lex-co.sc.gov/departments/DeptAH/communitydevelopment/Pages/default.aspx](http://www.lex-co.sc.gov/departments/DeptAH/communitydevelopment/Pages/default.aspx)
- Playing By The Rules – A Handbook for CDBG Subrecipients on Administrative Systems  
[www.hud.gov/offices/cpd/communitydevelopment/library/subrecipient/](http://www.hud.gov/offices/cpd/communitydevelopment/library/subrecipient/)

