GEORGIA DEPARTMENT *of* COMMUNITY AFFAIRS

2026

CDBG Recipients' Manual

INTRODUCTION

The Georgia Department of Community Affairs (DCA) receives Community Development Block Grant (CDBG) funds from the U.S. Department of Housing and Urban Development (HUD) for the purpose of making sub-grant awards to non-entitlement cities and counties in furtherance of the objectives of the Housing and Community Development Act of 1974, as amended.

This *Recipients' Manual* is for use by local Recipients in the day-to-day administration of the program. Though not all-inclusive, it covers all the major areas of CDBG administration and compliance, provides both required and suggested forms and instructions, and references applicable laws and regulations. Whenever a suggested form or procedure is included, its non-mandatory character is clearly identified.

To provide technical assistance of a more specialized nature, DCA makes available manuals on such topics as housing rehabilitation, environmental assessments, Davis-Bacon compliance, etc. In addition, workshops of a technical nature are frequently scheduled.

For more information or assistance, the Recipient is encouraged to contact his/her Program Representative at DCA. The general telephone number for the Office of Community Development is (404) 679-0604. You can also visit DCA's web site at https://dca.georgia.gov/. Email addresses for staff are available at the web site. Electronic communications, such as; sole source requests, conflict of interest exception requests, environmental documentation, responses to findings letters, etc. can be sent to CDBG.Biz@dca.ga.gov.

Other electronic communications, such as special condition clearance, extension requests, budget amendments, quarterly reports, and draw requests, may be submitted through the GrAAM system by accessing the features on the Award Dashboard.
Other useful web sites include the following:
https://dca.georgia.gov/financing-tools/infrastructure/community-development-block-grants-cdbg (DCA Resources)
https://www.hud.gov (HUD Resources)
https://www.hudexchange.info (HUD Resources)
https://www.hudexchange.info/programs/affh/ (FHEO Resources)

The Georgia Department of Community Affairs is committed to providing all persons with equal access to it services, programs, activities, education and employment regardless of race, color, sex, religion, national origin, family, disability, national origin, or age. For a reasonable accommodation or if you need an alternative format or language, please contact Kathleen Vaughn at: (404) 679-0594 or email fairhousing@dca.ga.gov.

GEORGIA CODE OF ETHICS FOR GOVERNMENT SERVICE

§45-10-1. Establishment and text of code of ethics for government service generally: There is established for and within the state and for and in all governments therein a code of ethics for government service which shall read as follows:

CODE OF ETHICS FOR GOVERNMENT SERVICE

Any person in government service should:

I. Put loyalty to the highest moral principles and to country about loyalty to persons, party, or government department.

II. Uphold the Constitution, laws, and legal regulations of the United States and the State of Georgia and of all governments therein and never be a party to their evasion.

III. Give a full day's labor for a full day's pay and give to the performance of his duties his earnest effort and best thought.

IV. Seek to find and employ more efficient and economical ways of getting tasks accomplished.

V. Never discriminate unfairly by the dispensing of special favors or privileges to anyone, whether for remuneration or not, and never accept, for himself or his family, favors or benefits under circumstances which might be construed by reasonable persons as influencing the performance of his governmental duties.

VI. Make no private promises of any kind binding upon the duties of office, since a government employee has no private word which can be binding on public duty

VII. Engage in no business with the government, either directly or indirectly, which is inconsistent with the conscientious performance of his governmental duties.

VIII. Never use any information coming to him confidentially in the performance of governmental duties as a means for making private profit.

IX. Expose corruption wherever discovered.

X. Uphold these principles, ever conscious that public office is a public trust.

FY 2026 RECIPIENTS' MANUAL

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Chapter 1: General Information

Section 1: Award and Acceptance of CDBG Funds

Upon approval of an application for Community Development Block Grant (CDBG) funds, the Georgia Department of Community Affairs (DCA) will transmit to the Recipient's certifying representative the following documents:

1. The Statement of CDBG Award signed by the Commissioner and the Statement of General Conditions, Special Conditions, and Budget Summary. If applicable, an original of a Statement of Revisions will also be included.

   The Recipient's certifying representative (Mayor, Chairman of County Commission or other authorized official) should examine these documents closely and understand them before signing and dating all copies. **Award documents signed by an "other authorized official" must submit a copy of the resolution/certified minutes authorizing the official to sign on the Recipient's behalf.**

   As evidence of grant acceptance, the signed Statement of CDBG Award, Statement of General Conditions, Statement of Special Conditions (if any), and Statement of Revisions (if any) must be returned to DCA's Office of Community Development within thirty (30) days of the grant award. This documentation can initially be submitted through the GrAAM (eCivis) system, which can be accessed at the following link https://portal.ecivis.com/#/login. The following completed forms must be emailed to CDBG.Biz@dca.ga.gov: Authorized Signature Card, Supplier Vendor Management, Banking Letter, and W-9.

   The Recipient should retain a copy of the signed Statement of CDBG Award, the Statement of General and Special Conditions, the Statement of Revisions (if any), and the Budget Summary, which includes the CDBG and Match & Leverage Budgets.

2. The Recipient should complete and return to DCA a **Supplier (Vendor) Management Form.** Additionally, the Recipient should submit a letter from the bank signed by a bank officer verifying the account number and routing number, which states the account is a non-interest bearing account. The letter is required to set-up the wire transfer process. See Appendix 1 for samples.

3. For a Recipient to request payment (draw down) of grant funds, DCA must have a current **Authorized Signature Card.** The Authorized Signature Card must be signed by at least two signatories; one of whom must be a local government employee. The Recipient should check the box designating either one (1) or two (2) signatures are required for a draw-down request. (NOTE: If the authorized official designates himself/herself for drawdown, the two (2) signatures required box must be checked.) The Recipient's certifying representative should also sign the card to certify the individuals named on the Authorized Signature Card are, indeed, authorized to request payment and to verify the signatures are authentic. No erasures or corrections may appear on this form. **Important: For draw downs, at least one local government representative's (elected official or employee) signature must be on the drawdown form.**

Samples of the aforementioned forms are in Appendix 1.

Section 2: General and Special Conditions and Revisions

The Statement of CDBG Award may include General Conditions, Special Conditions, a Budget Summary and/or a Statement of Revisions. Along with the Statement of CDBG Award, these inclusions must be signed and returned to DCA.

The General Conditions are applicable to all grants. Prior to the Recipient obligating grant funds to covered grant activities, the General Conditions require an environmental review. Please consult Chapter 2, Section 2 for detailed information regarding compliance with environmental review responsibilities. **NOTE: The environmental review must be completed before any project funds are obligated, except for exempt activities, such as administration or architectural/engineering services.**

The Special Conditions will vary from grant to grant and may address a number of different issues. Generally, the Special Conditions will restrict the drawdown of funds until the conditions have been cleared. The Recipient should be cognizant of the grant award's Special Conditions and should make every effort to promptly clear them. Special Conditions will appear in the Awards Dashboard section of GrAAM as a pending task.

Once a Special Condition is cleared, DCA will issue a Grant Adjustment Notice. Generally, a Special Condition's clearance is contingent upon receipt of and evidence of compliance. The Recipient should retain the Grant Adjustment Notice in its grant file.

The Statement of Revisions, if applicable, will also vary from grant to grant. The Statement of Revisions will list any DCA changes to the Recipient's grant application. For example, a Statement of Revisions may include a budget revision to the application.

DCA reserves the right to cancel any grant award, temporarily suspend payments, or to take other actions in the event a CDBG Recipient materially fails to comply with any of the Grant Award terms. See Section 15: Sanctions.

Policies and Procedures Special Condition for Neighborhood Revitalization and Multi-Activity Grants. Following the award of a neighborhood revitalization or multi-activity grant, no activities may be undertaken until a draft copy of the Policies and Procedures (P/P) has been submitted to DCA for review and approval. Please see the Neighborhood Revitalization Manual and individual Grant Special Conditions for further details regarding this requirement.

Code of Ethics
Please note the following General Condition has been added to all Grant Award Packages.

The Recipient agrees and certifies that all activities and endeavors carried out in concert with CDBG monies will strictly adhere to and follow the Code of Ethics for Government Service as established within Title 45, Chapter 10 and Section 1 of the Official Code of Georgia Annotated.

The Georgia Code of Ethics for Government Service is located at the front of this Manual.

Section 3: Cash Depositories

Funds drawn under CDBG Programs must be deposited as follows:

1. A separate non-interest bearing bank account must be established for each CDBG grant.

Only CDBG funds should be deposited into this account. Match and other funds should not be deposited into this account.

2. The separate bank account must be established in a financial institution with Federal deposit insurance coverage and the balance exceeding the coverage must be collaterally secured.

3. Consistent with the national goal of expanding the opportunities for minority business enterprises, Recipients are encouraged to use minority owned banks.

Section 4: Monitoring Program Performance and Compliance

Recipients must constantly monitor performance to ensure time schedules are being met, projected milestones are being accomplished, and other performance goals are being achieved in accordance with the approved application. In addition, all activities must be conducted in compliance with federal and state requirements.

Problems, delays, or adverse conditions affecting the Recipient's ability to meet grant objectives or time schedules should be reported to DCA. The Recipient may report these matters via the Quarterly Expenditure and Progress Report form or may contact DCA, as appropriate, at any other time.

DCA will conduct site visits, as necessary, to provide technical assistance. In addition to providing technical assistance, the Department will, at appropriate times during program activities, review Recipients' records to ensure all applicable state and federal requirements are being met. The Department's emphasis will be on preventing and correcting problems before they develop into serious obstacles to program implementation. For instance, under normal circumstances, a Recipient's records would first be reviewed for compliance with applicable citizen participation and environmental requirements. During this review, the DCA representative might also offer technical assistance in drafting rehabilitation program policies or acquisition procedures, etc. During the next visit, the DCA representative might find the Recipient beginning to implement the rehabilitation project and a formal rehabilitation review would take place**. Program representatives will use the Review Checklists, in this Manual's Appendix 2, to review local programs.**

Leverage Funds are a component of the rating and ranking of CDBG applications. DCA will verify that the leverage and activities proposed by the local government, have, in fact, been provided. Grants will not be closed and final payments may not be made prior to this verification.

In addition, the following policy will apply to leveraged funds in the event of cost under-runs and grant de-obligations:

1. In the event of cost under-runs/grant de-obligations, the amount of leverage pledged to the amended CDBG grant will be required to be the same proportional amount as pledged under the original grant award unless otherwise approved by DCA.

2. DCA will consider reducing the required amount of leveraged funds upon written request by the Recipient, and DCA will review the petition and take into account the following factors: 1) the impact of the reduction in leverage on the CDBG project and its intended

beneficiaries; 2) the impact of the reduction in leverage on the original application score; and 3) other factors that may be pertinent to the situation. It is important to note that impact of leverage on the CDBG project affects the overall competitiveness of an application. Therefore, careful consideration must be made prior to reducing the overall leverage to project.

3. Unless approved by DCA, in no event will a reduction in leverage be more than an amount that results in the leverage contribution percentage falling below the original leverage contribution percentage identified in the grant award's Source and Use Statement or that results in an amended original application score lower than the cutoff score for the last award funded for the applicable Annual Competition. Please note DCA may, upon its discretion, approve an exception to the leverage contribution percentage.

Leverage Monitoring. DCA has established a detailed cash match verification/leverage assessment form. (See Appendix 2, Project Review Checklists.) The form will be prepared by the DCA field representative prior to the last CDBG draw. The form will also require the DCA field representative to make a recommendation regarding payment of the final CDBG draw in light of progress toward meeting leverage requirements. Match and leverage will again be reviewed/verified at the closeout site visit.

Section 5: Implementation Timeframes

Completion of program activities within the timeframes established in the approved application is extremely important. DCA may choose to exercise its right to recapture all unobligated CDBG funds after twenty-four (24) months of grant award or to take other sanctions described in this Manual.

However, if for reasons beyond the Recipient's control, it appears a grant extension (the approved grant period is shown on the Statement of CDBG Award) will be necessary, a written request for a grant period extension should be sent to DCA. The grant extension request should be sent to DCA prior to the grant's expiration date. The extension request should outline the reasons for the delay and specify the projected completion date. All DCA grant extension approvals will be made in the form of a Grant Adjustment Notice.

All 2026 Annual Competition Recipients will have the following General Condition included in their Grant Award Package:

The Department of Community Affairs reserves the right to cancel the Grant Award if sufficient progress is not being made toward completion of the project. If the following timeliness standards are not met, funds may be subject to deobligation and recapture by DCA: 1) clearance of all Grant Award conditions within six months of grant award; 2) release of funds by DCA, clearing the Environmental Review requirement, within six months of grant award; 3) satisfactory evidence of completion of all engineering/design work within 9 months of grant award; 4) completion of all needed acquisition activities within 12 months of grant award; 5) start advertising for bids on the Georgia Procurement Registry no later than 15 months of grant award; 6) start of construction no later than 18 months after grant award; and 7) draw down of all funds within 36 months of grant award.

In addition, the Grant Award may be canceled at any time if it becomes apparent to DCA that the Recipient has not initiated the administrative activities necessary to allow the project to proceed.

Section 6: Drawdown of Funds

When requesting a drawdown of grant funds, Recipients should submit a DCA "Request for Drawdown of CDBG Funds" form. (See Appendix 1, Item 5 and 6 for the form and instructions). In general, grant drawdown requests should not be more frequently than weekly.

Prior to the first drawdown of grant funds, the Recipient must complete and provide to DCA the following originals, as applicable:

- Statement of CDBG Award
- Statement of General Conditions
- Statement of Special Conditions (if any)
- Statement of Revisions (if any)
- Supplier (Vendor) Management Form
- Authorized Signature Card
- Bank letter on official letterhead signed by the appropriate bank representative
- W-9 form

Note: A sample bank letter is located in Appendix 1. For the above, please refer to Sections 1 and 2 of this chapter.

Additionally, any Special Conditions restricting drawdown of funds must have been satisfied and the environmental review (except for exempt activities) must be completed. Additionally, DCA requires a completed Notice of Contract Action before ***construction draws*** may be reviewed and processed.

Important: For drawdowns, at least one authorized local government representative's (elected official or employee) signature must be on the drawdown form.

Requests for drawdowns should be submitted through the GrAAM system as a financial report. Financial reimbursements can be requested by selecting "Submit Financial Report" from the Award Dashboard.

The Recipient must minimize the time elapsing between the receipt of grant funds and their subsequent disbursement: for grant funds totaling $5,000 or more, a period of **three (3) working days or less** is considered acceptable (Refer to Chapter 3, Section 1, Financial Management Systems).

Whenever cash on hand exceeds $5,000 and appears to exceed the next 3 working days' needs, the excess should be immediately returned to DCA.

When a Recipient demonstrates an inability to enact procedures minimizing the time elapsing between cash advances and disbursements, cannot adhere to laws, regulations or special conditions, engages in the improper award and administration of contracts, or is unable to submit reliable and/or timely reports, DCA may terminate drawdowns and/or require operation of the program on a reimbursement basis only, and/or take additional actions as described in this Manual.

Generally, CDBG draws are prepared on Tuesdays and Thursdays. The grant funds should be available to the Recipient within ten days from the day DCA processes the Recipient's request.

It is the Recipient's responsibility to anticipate cash needs. As such, the Recipient should submit draw requests that will allow for the timely receipt of funds.

In addition, the following requirements are applicable to all new and existing CDBG Recipients, regardless of time of award, unless otherwise noted:

1. Recipients may not draw down more than 25 percent of their administrative funds prior to clearance of environmental conditions.

2. The last 10 percent of administrative funds may not be drawn down until all other CDBG funds have been expended. Additionally, in instances in which there are no CDBG funds budgeted for administrative costs, at least $50,000 of the budgeted CDBG construction funds must remain until the final draw.

Exceptions will only be approved on a case-by-case basis. The Department may require an acceptable certification from the Recipient stating that it will provide the additional administrative funds necessary to allow the project to proceed in a timely fashion.

Section 7: Reporting Requirements

1. Quarterly Expenditures and Progress Report:

Quarterly Expenditures and Progress Reports are to be submitted through the GrAAM system by accessing the features on the Award Dashboard.

***Please note: The Quarterly Reporting process is subject to change.**

The Quarterly Expenditures and Progress Report are due within 30 days from the close of each calendar quarter. It should be noted, the first Quarterly Expenditures and Progress Report is due after the first full calendar quarter in which grant funds are received (e.g., if the first grant funds are received in October, the first Quarterly Expenditures and Progress Report will be due for the quarter ending March 31.) The final Quarterly Expenditures and Progress Report will be submitted when all funds are drawn and expended, all activities are completed, and all benefit to low- and moderate-income persons have been reported.

No drawdown of funds shall be authorized by DCA if one or more Quarterly Expenditures and Progress Reports are delinquent.

Recipients should contact their Program Representative if assistance is needed in the preparation of the reports. Assistance in using the system is available by sending email to CDBG.Biz@dca.ga.gov.

3. Labor Compliance Reports:

Federal Labor (Davis Bacon, etc.) compliance and reporting requirements are described in Chapter 2, Section 3, and include a Final Wage Report.

4. **Beneficiary and Civil Rights Data Reports:**

   Throughout a project's progress, data will be required on the number of persons benefiting from the project and the number of these persons who are low- and moderate-income. Data will also be required on race, ethnicity and other demographic characteristics as required by HUD. This data is needed to report program accomplishments to Congress, HUD and citizens. Beneficiary data will be reported on Quarterly Reports, **as they occur**, and the Actual Accomplishments form.

4. **Other Reports:**

   The Recipient should review General Condition Number 2; which states that additional reports may be required. For example, information on the number of acquisitions, by type, and amounts paid for acquisition parcels, may be periodically required.

   Financial reports, including those required for internal management and those required by DCA, should be prepared in a timely manner. Financial reports submitted to DCA should be prepared using the accrual basis of accounting, which recognizes revenue when earned and expenses when incurred, regardless of when cash is actually paid out. Account records need not be maintained on the accrual method on a day-to-day basis; however, it must be possible to accumulate the necessary accrual information when the financial reports are prepared. Typically, these would include receivables and payables, in addition to accruals for interest and salaries. Quarterly Reports must be fully supported by accounting records.

Section 8: Citizen Participation Requirements

The Housing and Community Development Act places emphasis on efforts to involve citizens, especially low- and moderate-income citizens, in all aspects of the CDBG Program.

As required by the Housing and Community Development Act, DCA has adopted a written Citizen Participation Plan as part of the Consolidated Planning process. The Plan is also applicable to Applicants for and Recipients of CDBG funds.

Applicants for and Recipients of CDBG funds certify that they will follow the Citizen Participation Plan. The Citizen Participation Plan requires local units of government to provide for and encourage citizen participation in the planning, implementation, and assessment of their CDBG program.

1. Applicants and Recipients must, at a minimum, meet the following requirements.

   1. At least one (1) public hearing must be held in the locality before submission of an application to DCA. The purpose of this hearing is to obtain citizen views, respond to proposals, and answer questions concerning previous CDBG funded projects (if any) and to obtain citizen participation in the development of new proposals including identification of community needs and proposed activities.

   2. **Within 60 days of the grant award, at least one (1) public hearing must be held to discuss the approved activities.** This hearing must include the estimated grant fund amount awarded for the activities benefitting low- and moderate-income persons. Also, the Recipient must address plans for minimizing the displacement of

persons as a result of CDBG-funded activities and to assist persons actually displaced as a result of such activities. (See sample notice in Appendix 1, Item 4.)

3. At least one (1) public hearing must be held if a grantee proposes a substantive amendment to the project, as defined in Section 9 of this Chapter.

4. At the completion of the project, the Recipient shall prepare a detailed Final Quarterly Report, which describes the accomplishments of the project. The Recipient shall make the report available to the public and solicit comments on performance before grant close-out. A Public Notice must be published stating the availability of the Report and soliciting comments. This Notice can be combined with the "close-out" Public Hearing. (See Appendix 1.)

5. At the completion of the project, the Recipient will hold a Public Hearing. See Chapter 1, Section 11: "Close-Out Procedures".

6. The public hearings required by this section shall be held only after publication of a notice not less than five (5) full days prior to said hearing. The notice should be placed in the non-legal section of a general circulation local newspaper in block form. Local governments are encouraged to provide for other forms of public notice to persons known to be interested in the project.

A full five days must pass from the Public Notice publication date to the public hearing date. The first full day is the day after the Notice is published. For example: If the Notice is published on a Thursday the earliest the Hearing can be held is the following Wednesday. Another example: The hearing is scheduled for a Friday afternoon. Counting backward, day one (1) is Thursday and day five (5) is Sunday. The notice must be in a paper earlier than Sunday, i.e.: Saturday's paper or earlier.

7. Hearings must be held at times and locations convenient to potential or actual beneficiaries and with accommodation for the handicapped. Public hearing notices should include information to accommodate special needs.

8. The needs of non-English speaking residents must be met in the case of public hearings where a significant number of non-English speaking residents can be reasonably expected to participate. Also, see DCA's Language Access Plan Guidance for CDBG at https://dca.georgia.gov/fair-housing-policy-resources for further information regarding times when public hearing notices must also be published in another language (usually Spanish). New CDBG Recipients will also be required to prepare a local Language Access Plan (LAP) (see the Grant Award Special Conditions for details). Similarly, Recipients with existing LAPs, adopted within the past five (5) years, will be required to update the plan, making considerations for the new target area(s) and its language access needs. To maintain compliance with the requirements set forth in Executive 13166 and other LEP related guidance, LAPs must be re-evaluated every five (5) years.

9. Recipient files must contain documentary evidence that the actions listed in this section have been taken, including tear sheets of actual notices and minutes of hearings.

10. Applicants and Recipients must provide technical assistance to groups representative of persons of low- and moderate-income that request such assistance in developing

proposals, with the level and type of assistance to be determined by the local unit of government.

11. As required by HUD regulations and state law, citizens must be provided with reasonable and timely access to local meetings, information, and records relating to the local government's proposed and actual use of CDBG funds.

12. The recipient must maintain detailed minutes of this hearing, a "tear sheet" or affidavit pertaining to the public notice and documentation as to whether or not meeting "special needs" was required and, if applicable, addressed."

13. In the event the Recipient receives a written complaint or grievance concerning the CDBG project, a timely written response must be made within 15 working days.

14. This section may not be construed to restrict the responsibility or authority of the Recipient for the development and execution of its Community Development Block Grant project.

2. Should DCA receive a citizen's complaint regarding a Recipient's CDBG project, DCA will adhere to the following:

1. DCA will only take action if complaints indicate noncompliance with law, regulation, or policy. Other complaints regarding the project should be addressed at the local level.

2. Upon receipt of a complaint, DCA shall transmit a copy of the complaint to the Recipient and request a response within fifteen (15) calendar days;

3. If the response indicates the Recipient is in noncompliance with law, regulation or policy, DCA shall require corrective action and advise the complainant of its decision;

4. DCA shall respond to written complaints only and then only if evidence indicates that relief has previously been sought at the local level.

Location of Program Records:

Although Recipients may designate the location of the program records, DCA must be officially informed of their location. In addition, in order to ensure citizen access to CDBG program records, if the location of the records is different from the Recipient's normal place of business, the following minimum information must be on file in a designated place at the Recipient's normal place of business and be available for public inspection:

- The application;
- The citizen participation plan (if different from the State's Plan);
- The standard performance/financial reports, including Quarterly Reports;
- Other pertinent information deemed appropriate by the Recipient, such as engineering plans;
- The environmental review record; and
- CDBG bank account statements, invoices, canceled checks, and all program accounting records.

See Chapter 2, Section 5 for information regarding Homeowner Participant files for

CDBG-funded housing rehabilitation and reconstruction activities.

Section 9: Program Amendments, Budget Revisions or Other Adjustments

All programmatic amendments, budget revisions, and extension requests must be submitted through the GrAAM system. These types of requests can be submitted by selecting "Request Grant Amendment" from the Award Dashboard. Recipients must request a program amendment and receive prior approval from DCA in the following instances:

1. If the addition of a new activity or the deletion of an approved activity is proposed.
2. If a decrease in excess of 10% in the scope of an approved activity is proposed.
3. If any activity is proposed in an area other than the approved target area. This includes a proposed change in location or use of any building proposed to be constructed with CDBG assistance.
4. If a budget revision is proposed that will result in a transfer between approved activities or in a change in any activity's allocation of an accumulative amount in excess of 10% of the grant award.

Please note: An amendment should not be submitted for the purpose of an adjustment to the budget, to increase the expenditure rate, resulting in maintaining eligibility for the annual round competition.

Before approving any budget revision, the Department may also review the revision's effect on locally committed match or leverage.

If a substantive amendment to the program is proposed, at least one (1) public hearing must be held. Recipients are advised to modify the format of the post award public hearing notice to advise the public of the status of the on-going grant as well as the amendment proposed. (See Section 8 of this chapter.) Substantive amendments may include, but are not limited to, new or amended target areas, elimination of activities, significant changes in project scope, and adverse impacts on proposed beneficiaries.

A request for program amendment must provide sufficient narrative information to adequately explain and justify the proposed amendment and must include: 1) a copy of the public hearing notice and minutes of the meeting (in cases of substantial amendments); 2) a revised map; 3) a revised Low and Moderate-Income Calculation form (DCA-6); 4) a revised Proposed Accomplishments form (DCA-2); and 5) the Budget Analysis Form (DCA-8).

In most instances, project amendment narratives need to be supported by an engineer's summary of proposed changes and engineering cost estimates (including considerations for the Buy America Preference). For Housing or Multi-Activity Grants, see the Rehabilitation Manual for detailed requirements regarding grant modifications and extension requests for housing activities. Please note that extension and amendment requests must indicate why an extension/amendment is required AND provide a synopsis as to the status of all proposed units.

Please note: Should a substantive amendment greatly reduce the target area and/or reduce the number of beneficiaries by a significant amount, additional public hearing efforts must be made to ensure the public/beneficiaries in the target area are informed of the proposed changes. It is

recommended that the additional public hearing be held at a time that is convenient for target area residents. These additional public hearing outreach efforts will encourage citizen participation from the affected beneficiaries/households. Such efforts may include but are not limited to signs posted within the target area, certified mail, mail inserts and or door tags (to the Target Area households).

All forms should reflect **all grant and match and leverage** funds and all beneficiaries, rather than those funds subject only to the amendment request.

After reviewing the Recipient's proposed grant amendment, DCA will inform the Recipient of the approval or denial via a Grant Adjustment Notice.

Whenever a project amendment is proposed, Recipients should review Chapter 2, Section 2, concerning the re-evaluation of environmental assessment findings. Also, the Recipients should review Chapter 3, Section 4, regarding compliance with applicable procurement requirements.

Note: Should the Recipient proceed with the proposed project amendment prior to DCA approval, DCA may disallow costs associated with the proposal.

Section 10: Retention of Records

From the date DCA issues notification that close out procedures are complete, and as required by law, the Recipient's financial, programmatic, and other supporting documentation for all project transactions must be retained for three (3) years. However, the following exceptions apply:

1. If any litigation, claim or audit is begun before the expiration of the three (3) year period, the records must be kept until all litigation, claims or audit findings involving the records have been resolved.

2. Records for non-expendable property (as defined in Chapter 3, Section 6 - "Property Management Standards") must be retained for three (3) years after final disposition of the property.

   The Georgia Department of Community Affairs, the U.S. Department of Housing and Urban Development, the Comptroller General of the United States, or any of the aforementioned entities' authorized representatives, shall have access to any pertinent books, documents, papers, or records of CDBG Recipients and Sub-recipients for the purposes to make audits, examinations, excerpts, and transcripts. In addition, public access to grant records shall not be restricted unless the Recipient can demonstrate exception from disclosure under the Georgia Open Records Act (Official Code of Georgia Annotated, Title 50, Chapter 18, Article 4).

Section 11: Close-Out Procedures

1. Within 30 days of project completion, the Recipient should inform DCA that the CDBG program is ready for close-out. Additionally, the Recipient should advise DCA when the Recipient's next annual audit is scheduled.

2. DCA will conduct a review to ensure monitoring findings have been resolved and excess grant funds held by the Recipient have been refunded.

3. Local governments should maintain data on project beneficiaries and this data should be available for monitoring. Data should be in a form that makes it possible to determine demographic characteristics of project beneficiaries (such as persons with a disability, female head of household, ethnic classification, etc.). See the Quarterly Expenditures and Progress Report Form and Instructions for data requirements.

   Note that for housing direct benefit activities in which a person submits an application to the government or implementing agency and receives a financial benefit (such as housing rehabilitation or relocation assistance), this data must be available both for Applicants and Recipients of the assistance. In addition, the data for direct benefit activities must also be categorized by four family income levels: Very Low Income (up to 30% of median), Low Income (up to 50%), Moderate Income (up to 80%) and Above Moderate Income (above 80%). DCA will provide appropriate income limits to make these determinations.

4. Recipients are required to hold a Public Hearing at project completion to review accomplishments and to receive citizen comments. The Hearing must be publicized in a manner similar to other Public Hearings as described in Georgia's CDBG Citizen Participation Plan. Certified minutes of the Public Hearing must be kept. (A sample hearing notice is found in Appendix 1.)

Your DCA Program Representative **must** be notified at least one week prior to the Hearing.

   The Hearing and Notice can be combined with the requirement to publicize the Final Quarterly Report. (See Section 8, Point A. 4)

   At program close-out, the Actual Accomplishments form should be provided to your DCA Program Representative.

5. DCA, after review and final resolution of any findings, will notify the Recipient of conditional close-out. The conditional close-out is contingent upon receipt of an acceptable audit.

6. DCA will issue a final close-out letter after the Recipient's final audit has been reviewed and accepted. The review of the Recipient's audit(s) will consist of, among other matters, an accounting for all CDBG project funds.

Section 12: Conflict Of Interest Prohibition

The following prohibited Conflicts of Interest (COI) should be avoided:

1) When a CDBG Recipient contracts for the procurement of goods and services, the Conflict of Interest provisions in the "Common Rule" (24 CFR 85.36) are applicable. (See Chapter 3, Section 4: *Procurement Standards* of this Manual.) **These rules prohibit local officials and staff from being a party to any contract assisted with CDBG funds.**

2) In addition, the Conflict of Interest prohibition at 24 CFR Part 570.489 (h) (see Appendix 2) is applicable to all CDBG grants and activities. This rule, generally, prohibits elected

officials, and staff who are in a position to influence decisions, from receiving any benefit in a CDBG-assisted project. This includes the benefit from living or owning property in a CDBG target area that receives CDBG improvements.

The following summarizes this regulation:

A. **Conflicts prohibited**. No persons described in paragraph B. below who exercise or have exercised any functions or responsibilities with respect to activities assisted with CDBG funds or who are in a position to participate in a decision making process or gain inside information with regard to these activities, may obtain a financial interest or benefit from a CDBG-assisted activity, or have an interest in any contract, subcontract or agreement with respect thereto, or in the proceeds thereunder, either for themselves or those with whom they have family or business ties, during their tenure or for one year thereafter.

B. **Persons Covered**. The conflict of interest provisions of paragraph A. above applies to any person who is an employee, agent, consultant, officer, or elected official or appointed official of the state, or of a unit of general local government, or of any designated public agencies, or subrecipients which are receiving or administering CDBG funds.

C. **Definition of Family or Business Ties**. DCA defines the meaning of the term "family or business ties" as follows:
- Family: "A group of people related by ancestry or marriage; relatives."
- Business: "The buying and selling of commodities and services; commerce, trade."
- Ties: "Something that connects, binds or joins; bond; link."

D. **Exceptions:** Upon written request, **DCA may grant an exception** to the provisions of paragraph A above, on a case-by-case basis, **before federal funds are expended. Exceptions can only be granted when DCA determines that the exception will serve to further the purposes of the CDBG Program** and the effective and efficient administration of the CDBG program or project. To seek an exception, **a written request for an exception must be submitted** by the Recipient to DCA which:

- Fully discloses the conflict or potential conflict of interest, prior to the unit of government undertaking any action which results or may result in a conflict of interest, real or apparent;
- Describes how the conflict of interest was publicly disclosed;
- Includes a map showing the location of any target area property indicated in the potential conflict of interest, if applicable;
- Includes a written opinion of the local government's attorney that the conflict of interest for which the exception is sought would not violate state or local law; and,
- Includes a written statement signed by the Chief Elected Official, Authorized Representative, city or county attorney, or by the official designated by the governing body to sign such statement addressing the factors DCA must consider when allowing a prohibited conflict of interest. See item G below for more information on the factors DCA must take into account.

E. **Public Disclosure:** The request for an exception must include a description of how the conflict of interest was publicly disclosed. DCA requires, at a minimum, that the recipient include a complete description of the COI on the agenda for the public meeting where the COI will be disclosed, that the agenda be posted/advertised as required by law, that

the COI be fully disclosed at a public meeting, and that the discussion of the COI be included in the minutes of the meeting. Note that state law requires the agenda to be posted prior to public meetings. **The description of the method of disclosure, the public meeting announcement and the minutes of the public meeting must be included with the request for an exception.**

F. **Non-Involvement:** One factor included in DCA's decision to grant a COI exception is whether or not the involved officials have abstained from involvement with the grant. The request for an exception must include an explanation of the extent of involvement of covered persons with any votes or discussion of the grant. Officials should abstain from any involvement as soon as any COI is foreseen.

G. **Factor to be considered for exceptions:** In determining whether to grant a requested exception after the CDBG Recipient has satisfactorily met the requirement of paragraph D. above, DCA will consider the cumulative effect of the following factors, where applicable:

1. Whether the exception would provide a significant cost benefit or an essential degree of expertise to the program or project which would otherwise not be available;

2. Whether the person affected is a member of a group or class of low-income persons intended to be the beneficiaries of the assisted activity, and the exception will permit such person to receive generally the same interests or benefits as are being made available or provided to the group or class;

3. Whether the affected person has withdrawn from his or her function or responsibilities, or the decision-making process with respect to the specific assisted activity in question;

4. Whether the interest or benefit was present before the affected person was in a position as described in paragraph (B) above;

5. Whether undue hardship will result either to the participating jurisdiction or to the person affected when weighed against the public interest served by avoiding the prohibited conflict; and

6. Any other relevant considerations presented to DCA.

H. **Owners and Developers of Housing:** No owner, developer or sponsor of a project assisted with CDBG funds (or officer, employee, agent or consultant of the owner, developer or sponsor) whether private, for profit or non-profit, may occupy a CDBG assisted affordable housing unit in a project. Any exceptions must be approved in advance by DCA and then only when the local government CDBG Recipient can demonstrate to DCA that the exception will serve to further the purposes of the CDBG program.

This provision does not preclude an income-eligible, volunteer/owner participating in the construction of a single-family dwelling unit as part of a self-help homeownership program (e.g., Habitat for Humanity) when the individual is not an official, employee, agent, or consultant of the developer.

NOTE: If you have any questions regarding who may or may not be covered under the conflict of interest provisions above, please call DCA immediately to discuss such matters ***prior to*** *entering into contracts or disbursing money.*

Section 13: Residential Anti-displacement and Relocation Assistance Certification

Section 104(d) of the Housing and Community Development Act requires that CDBG Recipients certify that they are following a "residential anti-displacement and relocation assistance plan". The plan has three components: (1) Identification of the steps it will take to minimize the displacement of persons from their homes as a result of an assisted project; (2) A plan to replace all occupied and "vacant occupiable" low/moderate-income dwellings that are converted to another use or demolished; and (3) A plan to provide relocation assistance to low/moderate-income families and individuals displaced as a direct result of the project.

The required Certification is a part of the Certified Assurances included in the CDBG applications and applies, **regardless of the type of project.** Recipients using funds to demolish any dwelling unit or rehabilitate rental units or convert the use of any low- and moderate-income dwelling unit will need to submit the additional information described in Number 2 below, prior to undertaking the activity.

1. **One-for-One Replacement Unit:** All occupied and "vacant occupiable" "low/moderate-income dwellings units" that are demolished or converted in conjunction with the project must be replaced with another housing unit. "Vacant occupiable" includes units in standard condition or in substandard condition but suitable for rehabilitation. "Vacant occupiable" units also include units in **any** condition which are occupied at any time within the period beginning three (3) months before the date of execution of the rehabilitation or demolition contract.

   A "low/moderate income dwelling unit" is defined as a unit with a market rental, including utility costs, that does not exceed the applicable Fair Market Rent (FMR) for existing housing under the HUD Section 8 Program.

   Replacement units must be provided during the period beginning one year prior to the date of submission of the plan and within three (3) years of the demolition or conversion, and must be:

   - Designed to remain low/moderate income units for at least 10 years;
   - At least equal to the number of bedrooms removed and sufficient in number of bedrooms and size to house at least the number of occupants that could have been housed in the unit(s) demolished or converted, as determined in accordance with local codes,
   - Provided in standard condition, and
   - Located in the Recipient's jurisdiction.

Note: Rehabilitated units that were vacant for three (3) months prior to date of construction contract and those in which the previous tenant was not displaced as a direct result of an assisted activity will qualify if all the above are met.

Replacement units can include Public Housing units, Section 8 existing units, and/or vacant units that have been raised from substandard to standard condition (if vacant three months prior to execution of the construction contract and no one was displaced as a direct result of the rehabilitation).

Before obligating funds for an activity covered by this rule, the local Recipient must make public and submit to DCA a specific Anti-displacement and Replacement Housing Plan, including a schedule for replacement.

2. **Relocation Assistance under Section 104(d):** The second part of the rule provides that each low/moderate income tenant household displaced as a direct result of a CDBG activity must be provided with a **choice of relocation assistance** under the Uniform Act rules or under the Section 104(d) rules. Persons choosing to rent must be offered either (1) a Section 8 voucher or certificate (with referrals to **available** units) or (2) cash assistance.

Section 14: Financial Interest Disclosure Requirements

Section 102 of the HUD Reform Act of 1989, as amended, is intended to ensure accountability and integrity in the way in which HUD assistance is made available.

A "Disclosure Report Form" is a part of application for CDBG assistance (See Appendix 1, DCA Form 13) and must be kept up-to-date by Recipients.

A full Disclosure Report must be made by:

- Any Applicant/Recipient of more than $200,000 of CDBG funds, or
- Any Applicant/Recipient of less than $200,000 of CDBG funds, but who has received or expects to receive other covered HUD assistance which, when added to the CDBG amount, exceeds $200,000.

The initial Disclosure Report included in the application must disclose the following:

- Other governmental assistance (Federal, State, or Local) that is to be used with the CDBG project.
- The identification of persons and entities with a reportable financial interest in the project. If an entity is being disclosed, the disclosure must include an identification of each officer, director, principal stockholder, or other official of the entity. **All consultants, developers, or contractors involved in the application for CDBG assistance, or in the planning, development or implementation of the CDBG project, must be disclosed as an interested party.**
- The pecuniary interest of any other person in the project which exceeds $50,000 or 10% (whichever is lower) of the CDBG assistance. Pecuniary interest is defined as any financial involvement in the project, including (but not limited to) situations in which a person or entity has an equity interest in the project, shares in any profit or resale or any distribution of surplus cash or other assets of the project or receives compensation for any goods or services provided in connection with the project.

- The source and use of all funds to be used in the project.

Note that the following are not considered interested parties: Local government CDBG staff, Recipients of housing rehabilitation assistance, and Rehabilitation contractors, as long as the rehabilitation agreement (contract) is between the property owner and the contractor.

An **Updated Disclosure Report** (See Appendix 1, DCA Form 13) must be submitted if any of the following conditions apply:

- Additional persons or entities can be identified as interested parties, such as when a contract is awarded.

- There is an increase in the amount of pecuniary interest of a person or entity identified in the last report, if this increased interest is more than $50,000 or 10% (whichever is lower) of the pecuniary interest (for that person or entity) listed in the initial or last updated report.

- There is a change in other governmental assistance. An updated report is required when the total amount of other assistance reported in the initial or last update has increased by $200,000 or 10% (whichever is lower).

- There is a change in the source and/or use of funds from that which was provided in the initial or last updated report that exceeds the amount of all previously disclosed sources and/or uses by $200,000 or 10% (whichever is lower).

An updated report must be submitted within 30 days of any change that meets the criteria listed above. This requirement ends when the grant is closed.

An "Updated" Disclosure Report is included in Appendix 1. Only submit those pages that must be updated. Instructions are on the form.

Section 15: Sanctions

Whenever DCA determines that a unit of local government Recipient of CDBG assistance has failed to comply with the requirements of the CDBG Program, including those requirements listed in this Manual, DCA shall notify the Chief Elected Official of the unit of local government of the noncompliance and shall request appropriate compliance action.

Noncompliance includes failure to implement the proposed project as described in the approved CDBG application or violation of applicable laws, regulations, or policy. If within a reasonable period the local government fails or refuses to comply, then DCA may:

(1) Terminate payments to the Recipient;
(2) Reduce payments to the Recipient by an amount equal to the amount of such payments which were not expended in accordance with the requirements of the CDBG Program;
(3) Prohibit the city or county from participation in one or more future CDBG competitions;
(4) Limit the availability of payments to programs or activities not affected by such failure to comply;
(5) Require repayment of funds spent improperly;

(6) Refer the matter to the Attorney General with a recommendation that an appropriate action be instituted; or
(7) Take such other action as may be provided by law or regulation.

Opportunity for a consultation: Prior to a reduction, withdrawal, or adjustment of a grant or other appropriate action, taken pursuant to this section, the Recipient shall be notified of such proposed action and given an opportunity, within a reasonable prescribed time period, for an informal consultation.

Non-compliance of CDBG Professionals
Whenever DCA determines that a Recipient has failed to comply with the requirements of the CDBG Program, including those requirements listed in this Manual, causing delays in implementation or findings, due to the actions or inaction of its Grant Administrator, Engineer/Architect, or other CDBG Professional, DCA shall notify the Recipient of the CDBG Professional's noncompliance and shall require appropriate action by the Recipient.

Noncompliance includes failure to implement the proposed project as described in the approved CDBG application or violation of applicable laws or regulations. If within a reasonable period, the CDBG Professional fails or refuses to comply, then DCA may take actions such as:

(1) Temporarily or permanently terminate payments to the Recipient for administrative/professional activities;
(2) Require the Recipient to repay some or all the CDBG payments made to the Recipient for CDBG administrative/professional activities;
(3) Refer the matter to the Attorney General with a recommendation that an appropriate action be instituted; or
(4) Take such other action as may be provided by law or regulation.

Opportunity for a consultation: Prior to one or more appropriate actions taken pursuant to this section, the Recipient shall be notified by DCA and the Recipient will be given an opportunity, within a reasonable, prescribed time period, for an informal consultation.

Section 16: Continued Use of Facilities

Every CDBG award for a new or rehabilitated facility will have a Special Condition requiring the Recipient to submit a certification regarding the use of the facility over a 10-year period. The following language must be included on a Certification signed by the Recipient and submitted to DCA prior to drawdown any CDBG funds.

"DCA expects facilities constructed or improved in whole or in part with CDBG funds are to be used for the approved use throughout the life of the facility. DCA should be contacted immediately if there is a proposed change in use or beneficiaries. Prior to DCA consideration of the request the local government must hold a Public Hearing to afford affected citizens an opportunity to comment on the proposed change. DCA will determine if in fact the new use is an eligible and appropriate activity. DCA will generally require and the CDBG Recipient agrees to the repayment of grant funds to the State if the facility is converted to an ineligible use as determined by DCA. The repayment will be based on 10-year straight-line depreciation, except 100% repayment of the grant funds will be required to be repaid during the first 5 years after the Grant Close-out Date. Local governments that violate the agreement and fail to respond to a DCA finding with regards to an inappropriate change of use of a facility will be sanctioned and face penalties up to and including loss of their CDBG eligibility."

Section 17: Limitations on Use of Administration Funds

The CDBG Applicants' Manual explains in detail limitations on administrative and professional fees. (See Part 2: General Award Information and Requirements.). In addition, the following requirements are applicable to all new and existing CDBG Recipients, regardless of time of award, unless otherwise noted:

1. Recipients may not draw down more than 25 percent of their administrative funds prior to clearance of all environmental conditions.

2. The last 10 percent of administrative funds may not be drawn down until all other CDBG funds have been expended. Additionally, in instances in which there are no CDBG funds budgeted for administrative costs, at least $50,000 of the budgeted CDBG construction funds must remain until the final draw.

Exceptions will only be approved on a case-by-case basis. The Department may require an acceptable certification from the Recipient stating that it will provide the additional administrative funds necessary to allow the project to proceed in a timely fashion.

Section 18: Requirements for All Administrative Contracts

Recipients at a minimum must include in all administrative contracts the following:

1. A clear description of the scope of work to be performed by the consultant or other service provider.

2. A listing of specific responsibilities, tasks, goals, and milestones along with dates and deadlines that are clearly described in the contract along with provisions for recourse if the consultant or other service provider fails to perform by the deadlines imposed.

3. A reference to the applicable CDBG Applicants' and Recipients' Manuals and a statement requiring the consultant or other service provider to adhere to all requirements in the manuals, as well as, to other directives issued by DCA.

4. Applicable dates of the contract and provisions for termination.

Chapter 2: Major Compliance Requirements and Procedures

Section 1: Applicable Laws and Regulations

Certain State and Federal laws, as well as regulations and Executive Orders, are applicable in part or in whole to the Community Development Block Grant (CDBG) program. To assist Recipients in meeting applicable requirements, the Department of Community Affairs (DCA) provides guidance in the form of this Manual, on-site technical assistance, and through the sponsorship of workshops and training conferences. To obtain copies of federal publications, requests should be addressed to:

The Superintendent of Documents
U.S. Government Printing Office
Washington, D.C. 20402

Many of the specific federal laws, regulations, and Executive Orders pertaining to Housing, Community Development, Fair Housing, Labor, and Environmental regulations are also available on the World Wide Web. A good starting point is www.hud.gov or www.hudexchange.info/. Information is also available from:

Code of Federal Regulations: https://www.ecfr.gov/
Community Connections @ 1-800-998-9999

The applicable laws, regulations and Executive Orders (classified in general by compliance area) include but are not limited to:

General:

1. The Housing and Community Development Act of 1974, as amended and as implemented by the most current HUD regulations (24 CFR Part 570)
2. Annual Action Plan and State of Georgia CDBG Method of Distribution (MOD) for FFY 2021/2022 Consolidated Funds
3. State Community Development Block Grant Program Regulations (24 CFR Part 570, Subpart I)
4. Title 50, Chapter 18, Article 4, Official Georgia Code, Georgia Open Records Act

Financial Management:

5. 2 CFR Part 200, Subpart F (formerly Federal OMB Circular A-133)

Civil Rights:

6. Title VI - Civil Rights Act of 1964 and implementing regulations at 24 CFR Part 1.
7. Section 109 - Title I - Housing and Community Act of 1974 and implementing regulations at 24 CFR Part 6.
8. Title VIII of the Civil Rights Act, 1968 (Fair Housing Act), as amended
9. Section 504 of the Rehabilitation Act of 1973, and the Americans with Disabilities Act of 1990
10. Executive Order 11246 - Equal Employment Opportunity, as amended by Executive Order 11375, Parts II and III
11. Executive Order 11063 - Equal Employment Opportunity, as amended by Executive Order 12259.

12. Section 3 of the Housing and Development Act of 1968, as amended Section 118 of Title I, Community Development and Housing Act, 1974, and implemented by HUD regulations
13. Georgia Department of Community Affairs Civil Rights Compliance Certification Form
14. Age Discrimination Act of 1975
15. Executive Order 12432: National Priority to Develop Minority and Women Owned Businesses
16. Section 504 of the Rehabilitation Act of 1973 and implementation regulation (24 CFR Part 8)
17. Section 104 of Title I of the Housing and Community Development Act of 1974 and the implementing regulations at 24 CFR Parts 5, 91, 92, 570, 574, 576, and 903

Labor Standards:

18. The Contract Work Hours and Safety Standards Act (40 U.S.C. 327-330), as supplemented by Department of Labor regulations
19. The Davis-Bacon Act (40 U.S.C. 276(a) to (a-7), as supplemented by Department of Labor Regulations
20. The Copeland "Anti-Kickback" Act (18 U.S.C. 874), as supplemented by Department of Labor regulations

Acquisition/Relocation:

21. The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970. (46 U.S.C. 4601) and Regulations at 49 CFR, Part 24
22. Georgia Real Estate Appraiser Licensing and Certification Act (O.C.G.A. Section 43-39-A-1 thru 43-39 A-27)
23. The Georgia Relocation Assistance and Land Acquisition Policy Act of 1973
24. The Georgia Urban Redevelopment Law (OCGA, Section 36-61-1, et. seq.)

Housing:

25. The Truth in Lending Act (Regulation Z)
26. Title I Consumer Protection Act (PL 90321)
27. The Lead Base Paint Poisoning Prevention Act (42 U.S.C. 4831-5 et al) and HUD implementing regulations (24 CFR Part 35)
28. The Residential Lead-Based Paint Hazard Reduction Act of 1993 (PL 102-550).
29. The National Manufactured Housing Construction and Safety Standards Act of 1974 (42 U.S.C., 5401 et. seq., as amended)
30. Manufactured Housing Act (O.C.G.A. Sections 8-2-130 and 160 et. seq.)
31. Construction Industry Licensing Board Act (O.C.G.A. Section 43-14-8)
32. Georgia State Uniform Construction Codes Act (O.C.G.A. Section 8-2-21)
33. The Fire Administration Authorization Act of 1992 (PL 102-522)

Environmental:

34. The National Environmental Policy Act (NEPA) of 1969, as amended by Executive Order 11991 of May 24, 1977 and the Council on Environmental Quality's (CEQ) NEPA Regulations, 40 CFR Parts 1500-1508
35. Environmental Review Procedures for the CDBG Program, 24 CFR Part 58
36. The National Historic Preservation Act of 1966, as amended, particularly Section 106
37. Executive Order 11593, Protection and Enhancement of the Cultural Environment, May 13, 1971
38. The Reservoir Salvage Act of 1960, as amended, particularly Section 3, as amended by the Archeological and Historic Preservation Act of 1974
39. Flood Disaster Protection Act of 1973, as amended
40. Executive Order 11988, Floodplain Management, May 24, 1977
41. Executive Order 11990, Protection of Wetlands, May 24, 1977

42. Georgia Air Quality Act of 1978 (OCGA Section 12-9-1, et. seq.) to regulate air pollution and protect air quality
43. Shore Assistance Act of 1977 (OCGA Section 12-5-230, et. seq.)
44. Georgia Hazardous Waste Management Act (OCGA 12-8-60, et. seq.)
45. Georgia Health Code (OCGA 31-3-1, et. seq.) regulates individual sewerage treatment systems
46. The Coastal Zone Management Act of 1972, as amended
47. The Safe Drinking Water Act of 1974, as amended
48. The Endangered Species Act of 1973, as amended, particularly Section 7
49. The Archeological and Historic Preservation Act of 1974
50. The Coastal Resources Barriers Act of 1982
51. The Wild and Scenic Rivers Act of 1968, as amended
52. The Clean Air Act Amendments of 1970, as amended
53. HUD Environmental Standards (24 CFR, Part 51) Environmental Criteria and Standards
54. Georgia Coastal Marshlands Protection Act of 1970
55. Georgia Groundwater Use Act of 1972 (OCGA Section 12-5-170, et. seq.)
56. Georgia Safe Drinking Water Act of 1977 (OCGA Section 12-7-1, et. seq.)
57. Georgia Erosion and Sedimentation Act of 1975 (OCGA Section 12-7-1, et. seq.)
58. Georgia Solid Waste Management Act (OCGA Section 12-8-20, et. seq.) for collecting garbage or operating a landfill
59. Georgia Water Quality Control Act (OCGA Section 12-5-20, et. seq.)
60. Farmland Protection Policy Act of 1981 (and the regulations at 7CFR Part 658)

Other:

61. Georgia Handicap Accessibility Law (OCGA, Title 30, Chapter 3) concerning handicapped accessibility to public buildings
62. Georgia House Bill 1079 as amended by House Bill 513 (O.C.G.A § 36-91-1 through §36-91-95) Note: DCA has adopted this as the procurement regulation for CDBG
63. OCGA 13-10-90: Contracts for Public Works, Security and Immigration Compliance
64. OCGA 50-36-1: Verification of Lawful Presence within United States
65. Federal Funding Accountability and Transparency Act (FFATA)
66. Build America, Buy America (BABA) Act 41 U.S.C. 8301 note
67. Violence Against Women Act (VAWA, 34 U.S.C. § 12471 et seq.)

Section 2: Environmental Review Requirements

General Environmental Condition: Environmental review responsibilities, as outlined in this section, are a general condition of all CDBG grants and must be completed prior to implementation and committal (obligation) of any funds for the approved project. Generally, this is accomplished through submittal of the proper documentation, as outlined below.

The federal regulation governing the environmental review process is 24 CFR Part 58 and can be found in the Appendix 1 of this Manual or on the Web at https://www.hudexchange.info/programs/environmental-review/.

A recipient may not drawdown, obligate, or expend funds for a covered activity until DCA has approved the Request for Release of Funds and Certifications. Unless, however, the recipient has completed and/or submitted a Finding of Exemption and a Statutory Checklist (if applicable) as specified in this section.

Environmentally Related Special Conditions: All applications funded have been reviewed

by the Georgia Historic Preservation Division for compliance with Georgia environmental laws and regulations. As a result of this review, grants may have Special Conditions attached to specific budget line items. These Special Conditions specify actions which must be taken by the Recipient prior to implementation. In some cases (such as floodplain or historic preservation compliance) these Special Conditions must be complied with as part of the environmental review. CDBG funds cannot be drawn down, obligated, or expended for any activity, with a Special Condition until the Special Condition has been cleared by DCA. The Recipient will be notified through issuance of a Grant Adjustment Notice when a Special Condition has been cleared.

Environmental Special Conditions usually concern:

- Historic Preservation (Section 106 Review)
- Floodplain Requirements
- Wetland Requirements

It is important to note in the area of environmental review compliance, meticulous adherence to all procedures is the only safeguard against costly delays, potential refunds of CDBG money, and/or legal actions. Use of the forms found in this Manual will assist in providing proper documentation. Any deviation may endanger the Recipient's CDBG funds.

The recipient's Certifying Official is responsible for ensuring that all the project's environmental requirements are met. The Certifying Official must sign any official environmental documents.

The Certifying Official must be the Chief Elected Official or a person designated as the Certifying Official by resolution of the Recipient's governing body.

The Environmental Review Record (ERR): Each CDBG program must have a written record of the environmental review undertaken. The purpose of the ERR is to document that the Recipient has complied with all environmental laws and regulations and considered the environmental effects of the project prior to committing funds for construction.

This Environmental Review Record (ERR) must be available for public review. The ERR must contain a description of the program and of each of its activities, as well as any other document, notice or information, and public comments received pertinent to the environmental review carried out by the Recipient. The ERR will vary in length and content depending upon whether the activities are exempt from all environmental reviews, categorically excluded from NEPA requirements, are found to have no significant impact on the environment, or require preparation of a full environmental impact statement.

The Environmental Review Record generally will contain the following documents:

- Environmental Review for Activity/Project that is Exempt or Categorically Excluded not subject to 24 CFR 58.5, or
- Environmental Review for Activity/Project that is Categorical Excluded subject to 24 CFR 58.5 and complete narrative and documentation (required maps, plans, etc.) for each Compliance Factor for all the laws and authorities, or
- Environmental Assessment and complete narrative and documentation (required maps, plans, etc.) for each Compliance Factor for all laws and authorities.
- Statutory Checklist and evidence of compliance with the laws listed at 24 CFR Part 58.5
- Compliance Documentation Checklist and evidence of compliance with the laws listed at 24 CFR Part 58.6
- Certification of Exemption for grant administration and design costs;
- Copies of Environmental Public Notices (including proof of publication), including:

- Concurrent Notice of the Finding of No Significant Effect and Notice of Intent to Request Release of Funds,
- Notice of Early Public Review (Floodplains and Wetlands);
- Notice of Explanation (Floodplains and Wetlands).

- Correspondence with environmental regulatory agencies (including documentation that the Concurrent Notice was submitted);
- Comments received pursuant to the Public Notices and the response from the local government;
- Evidence the Request for Release of Funds was submitted to DCA, and
- Release of Funds Letter from DCA.

The basic compliance steps [compliance with the National Environmental Policy Act (NEPA)] in the environmental review process and other applicable environmental laws and regulations are as follows:

Step 1: Exempt Projects/Activities:
Determine if any activity is exempt from NEPA requirements and other environmental reviews. If it is exempt, the Recipient is only required to document in writing that the activity is exempt and meets the conditions for exemptions. This documentation must be maintained in the Recipient's ERR file. Use of the Environmental Review for Activity/Project that is Exempt or Categorically Excluded Not Subject to Section 58.5 form is required as a means of establishing documentation and compliance.

A copy of the Environmental Review for Activity/Project that is Exempt or Categorically Excluded Not Subject to Section 58.5 for **grant administration and design costs** does not have to be sent to DCA. The Recipient shall maintain this form for these activities in the program files.

All other activities found to be exempt or excluded must be included on an Environmental Review for Activity/Project that is Exempt or Categorically Excluded Not Subject to Section 58.5 form and sent to DCA. Once DCA has cleared the general conditions, funds may be drawn down using standard procedures for the activity exempted.

Exempt Activities Include:

- Environmental studies, including historic preservation clearances necessary to comply with applicable laws
- Design and engineering costs associated with carrying out an approved eligible CDBG activity
- Eligible administrative costs
- Public services that will not have a physical impact or result in any physical changes, including but not limited to services concerned with employment, crime prevention, childcare, health, drug abuse, education, counseling, energy conservation and welfare or recreational needs
- Inspections and testing of properties for hazards or defects
- Purchase of insurance
- Purchase of tools, and
- Technical assistance and training

Any of the categorical exclusions listed in Step 2, below, can also become exempt **provided** that there are no circumstances which require compliance with any other environmentally related federal laws (such as floodplains, wetlands or historic preservation) listed in Section 1 of this Chapter. **The Environmental Review for Activity/Project that is Categorically Excluded Subject to 58.5 form must be submitted to DCA to document that they do not apply.**

Step 2: Categorically Excluded Projects/Activities:
If the activity or project is not exempt from NEPA assessment requirements, the Recipient should next determine if it is categorically excluded from NEPA.

Categorical exclusion refers to a category of activities for which no environmental assessment and finding of no significant impact under NEPA is required, except in extraordinary circumstances [see 24 CFR 58.2(a) (3)] in which a normally excluded activity may have a significant impact.

The following activities are excluded from NEPA requirements **but not from the requirements of the "other environmental laws or regulations" which are listed at 24 CFR Part 58.5** (See Appendix 1). Part 58.5 includes flood plain, wetland and historic preservation compliance requirements.

- Acquisition, repair, improvement, reconstruction, or rehabilitation of public facilities and improvements (other than buildings) when the facilities and improvements are in place and will be retained in the same use without change in size or capacity of more than 20 percent (e.g., replacement of water or sewer lines, reconstruction of curbs and sidewalks, repaving of streets).
- Activities funded because of imminent threats to health and safety, ***if*** they do not alter environmental conditions and are for improvements limited to actions necessary only to stop or control the effects of imminent threats or physical deterioration. This includes most Immediate Threat and Danger Grants. Consult with DCA prior to determining that an activity is exempt based on an imminent threat to health and safety.
- Special projects directed at the removal of material and architectural barriers that restrict the mobility of and accessibility to elderly and handicapped persons.
- Rehabilitation of buildings and improvements when the following conditions are met:
  - In the case of multifamily residential buildings:
    - ✓ Unit density is not changed more than 20 percent;
    - ✓ The project does not involve changes in land use from residential to non-residential; and
    - ✓ The estimated cost of rehabilitation is less than 75 percent of the total estimated cost of replacement after rehabilitation.
  - In the case of non-residential structures, including commercial, industrial, and public buildings:
    - ✓ The facilities and improvements are in place and will not be changed in size or capacity by more than 20 percent; and
    - ✓ The activity does not involve a change in land use, such as from non-residential to residential, commercial to industrial, or from one industrial use to another.
- An individual action on a one to four-family dwelling or an individual action on a project of five or more units developed on scattered sites when the sites are more than 2,000 feet

apart and there are not more than four units on any one site.

- Acquisition or disposition of an existing structure or acquisition of vacant land provided that the structure or land acquired or disposed of will be retained for the same use.
- Combinations of the above activities.

Categorical exclusions not subject to 58.5.
When the following kinds of activities are undertaken, the responsible entity does not have to publish a NOI/RROF or execute a certification and the Recipient does not have to submit a RROF to DCA.

- Tenant-based rental assistance;
- Supportive services including, but not limited to, health care, housing services, permanent housing placement, day care, nutritional services, short-term payments for rent/mortgage/utility costs, and assistance in gaining access to local, state, and federal government benefits and services;
- Operating costs including maintenance, security, operation, utilities, furnishings, equipment, supplies, staff training and recruitment and other incidental costs;
- Economic development activities, including but not limited to, equipment purchase, inventory financing, interest subsidy, operating expenses and similar costs not associated with construction or expansion of existing operations;
- Activities to assist homeownership of existing or new dwelling units not assisted with federal funds, including closing costs and down-payment assistance to home buyers, interest buy-downs and similar activities that result in the transfer of title to a property;
- Affordable housing pre-development costs including legal, consulting, developer and other costs related to obtaining site options, project financing, administrative costs and fees for loan commitments, zoning approvals, and other related activities which do not have a physical impact.

The Environmental Review Record (ERR) must contain a well-organized written record of the process and determinations made under this section (STEP 2).

Important Note: If a Project consists of several activities, some of which are categorically excluded from review and some of which are not excluded from review, the Recipient must conduct an environmental assessment on the **entire project,** (STEP 3).

Step 3: Complete the Environmental Assessment:
If a project is neither exempt nor categorically excluded from review, the Recipient must prepare an Environmental Assessment using the Environmental Assessment Determinations and Compliance Findings for HUD-assisted Projects 24 CFR Part 58 form for the entire project. Note that the project includes all activities, no matter what the funding source.

The Environmental Assessment form is found in Appendix 1, and on DCA's website at: https://dca.georgia.gov/financing-tools/infrastructure/community-development-block-grants-cdbg/compliance-administration-0

For assistance, the Recipient should contact its CDBG Program Representative or the CDBG Compliance Officer at (470) 698-8166.

When completing the environmental assessment, the Recipient should review the following essential points:

1. Complete one assessment for the entire project, including all component activities no matter what the source of funds. Define the project area and identify all potential impacts, whether beneficial or adverse.
2. Document how each item on the checklist was considered, including how determinations of "not applicable" were made. Determinations of "not applicable" must be supported with written explanations and all required documentation. Documentation should be verifiable and include the person(s) contacted, the date of contact, and/or the authority/report/map being used as documentation. Note maps and other documentation must be current and from the appropriate or required source (e.g., the National Wetlands Inventory (NWI) maps must be used to make initial determinations of wetlands status). Although web links are acceptable as part of the ERR, these documents must also be printed out and made part of the ERR to allow easy access for the public.

   Use the HUD Environmental Assessment Tool found at the following website for assistance with documentation:

   https://www.hudexchange.info/programs/environmental-review/

3. Consider and discuss all alternatives to the project, including different locations, and the "no build alternative".
4. Consider and discuss any possible mitigation measures to minimize or alleviate any possible negative effects.
5. Anticipate any possible citizen or public interest group objections and include an assessment of their concerns.
6. Coordinate the assessment with all agencies responsible for environmental compliance, such as Georgia Department of Natural Resources, U.S. Fish and Wildlife Service, etc.

Other Requirements:
In addition to the laws and authorities specified in 24 CFR Part 58.5, grantees must comply with and address the following requirements regardless of whether the activity is exempt or categorically excluded:

- Flood Disaster Protection Act of 1973
- Coastal Barrier Resources Act, and
- Runway Clear Zone as defined in 24 CFR part 51

The environmental review of multi-family housing with five or more dwelling units (including leasing) or the development of non-residential property (buildings such as Head Start Centers, Senior Centers, etc.) must include, as part of the environmental assessment, an evaluation of previous uses of the site or other evidence of contamination on or near the site to ensure that the occupants of proposed sites are not adversely affected by hazardous materials, contamination, toxic chemicals and gases, and radioactive substances. Typically, this would be a "Phase One Environmental Assessment" conducted in accordance with American Society for Testing and Materials (ASTM) E1527-05 Standard.

Continued Validity and Use of Prior Phase I ESAs (E1527 Section 4.6-4.7)	
Less than 180 days since Phase I preparation	Presumed valid
Between 180 days and 1 year	Update the following components: • Interviews • Searches for environmental liens • Government records review • Site reconnaissance • Report and EP declaration • Must also satisfy user responsibilities (user-provided information)
More than one year	• All Phase I components to be completed • Prior report can be used as a reference

Grantees shall use current techniques by qualified professionals to undertake any investigations determined necessary [24CFR Part 58.5 (i)(2)(ii)].
The Environmental Professional must be a:

- Professional Engineer or Geologist with 3 years of relevant fulltime experience; or
- Licensed or certified to perform All Appropriate Inquiries (AAI) and three years of relevant fulltime experience; or
- Engineering of Science Baccalaureate degree or higher and three years of fulltime relevant experience; or
- The equivalent of 10 years relevant experience.

All completed Phase One Environmental Assessments must be submitted with the Request for Release of Funds.

➢ **Important Update**: HUD's Policy for including Radon in the Environmental Process has been published. The Policy – "Notice CPD-23-103: Departmental Policy for Addressing Radon in the Environmental Review Process" – went into effect April 10, 2025, for all Responsible Entities. The Policy requires consideration of radon gas for projects with a CEST, EA, or EIS level of review and when the project proposes structures occupied or intended to be occupied at least four (4) hours a day. Within the environmental review process, Radon will be considered within the contamination analysis required under HUD's contamination regulations. Additional information for complying with Notice CPD-23-103 is available in Appendix 1, Environmental Compliance section.

Step 4: Public Notice: Finding of No Significant Impact and Intent to Request Release of Funds (Concurrent Notice)
If the assessment indicates that the project will have no significant impact on the quality of the human environment, the Recipient should:

1. Have the Certifying Officer sign the "Finding of No Significant Impact",

2. Publish a "Concurrent Notice" in a local newspaper of general circulation. All environmental notices may be published either in the legal or non-legal section of the paper.

   Important Note on the New Option for Online Publication: The Federal Flood Risk Management Standard (FFRMS) Final Rule updated HUD regulations at 24 CFR Part 58 to allow online publication of Notices of Intent to Request Release of Funds (NOI-RROF) and Findings of No Significant Impact (FONSI), effective June 24, 2024. This means that in

addition to the traditional options of physical posting or newspaper publications, Responsible Entities may now post the same notices on their own government websites. Examples of appropriate government websites would be pre-existing sites related to HUD programs and plans, including Consolidated Plans, as well as any sites where the Responsible Entity as a unit of government displays notices on a regular basis. The online publication can be combined with existing publication and posting practices. Ideally, the notices should be made through all means necessary to create a reasonable opportunity for public involvement. In furtherance of supplying a reasonable opportunity for public involvement, the government website must be accessible to individuals with disabilities and provide meaningful access to individuals with Limited English Proficiency. The Responsible Entity is required to maintain proof of publication and notice to the public. For online publications, required documentation may include: a print to PDF of the web hosting that includes the website address and date of printing; certification from the Certifying Officer or other agency official to include the dates of publication and website address along with a copy of the publication made; or other like affidavit of publication that includes the notice, date of the notice, and website address where it was published. This proof of publication will need to be provided with the Form 7015.15 Requests for Release of Funds submitted to DCA.

The Concurrent Notice is a notice to the public that the Recipient has conducted an environmental review and found that the project will have no significant environmental effects and intends to request from DCA release of funds. The public is given at least 15 days (not counting the day of publication) to comment before the Recipient requests release of funds. There is a provision for 30 days public comment and/or a Public Hearing for projects that are expected to generate local controversy.

A sample "Concurrent Notice" is found in Appendix 1. Pay special attention to including the proper dates (comment periods) and the other required information that must be added to the Notice by the Recipient prior to publication.

3. Send copies of the published "Concurrent Notice" to the following:

   Georgia Department of Community Affairs
   Office of Community Development
   60 Executive Park South, NE
   Atlanta, Georgia 30329-2231
   or
   cdbg.biz@dca.ga.gov

The Recipient should document in its ERR that the Notice has been sent to the above address.

4. No sooner than 16 days after publication, upon expiration of the 15-day local comment period, and after acting on any local comments received, the Recipient should submit to DCA a signed Request for Release of Funds and Certification (RROF/Certification) form with a copy of the published Notice. The RROF must be properly completed and signed by the Certifying Officer of the Recipient. DCA cannot approve the RROF/Certifications before 15 calendar days have elapsed from the time of its receipt or from the time specified in the Notice, whichever is later. This time period is to allow DCA to consider any public objections. (See 24 CFR 58.75 in Appendix 2 for permissible bases for objections.)

If no public objections are received, and upon expiration of the period for objections to the Release of Funds, DCA will issue a letter releasing the funds for the activity and clearing the environmental general condition.

Re-evaluation of Assessment Findings (Amendments, Revisions, etc.)
A Recipient must re-evaluate its environmental assessment when:

1. An amendment to the activity or program is proposed,
2. New circumstances and environmental conditions are discovered during implementation which may affect the project or have a bearing on its impact, or
3. An alternative not considered in the original environmental assessment is selected for implementation.

The purpose of the re-evaluation is to determine if the original Finding of No Significant Effect is still valid. If it is valid, but data or conditions upon which it was based are changed, the Recipient must amend its original assessment and update the ERR. The Recipient's update must include the re-evaluation and its determination based on its findings. This update should be sent to DCA.

If the Recipient determines that the original Finding is no longer valid, the Recipient must notify DCA and prepare a new Environmental Assessment according to the procedures specified in Step 3 above.

Environmental Impact Statement
If the Environmental Assessment indicates that the activity may significantly affect the quality of the human environment, and that an Environmental Impact Statement will be required, the Recipient should immediately contact DCA for assistance.

Floodplain and Wetlands Compliance Requirements
Except for actions covered by 24 CFR Part §55.12(a), the decision-making process for making determinations on floodplain management and protection of wetlands contains eight steps, including public notices and an examination of practicable alternatives when addressing floodplains and wetlands. HUD published its final rule Floodplain Management and Protection of Wetlands; Minimum Property Standards for Flood Hazard Exposure; Building to the Federal Flood Risk Management Standard on April 23, 2024. This final rule implements the Federal Flood Risk Management Standard (FFRMS), required by E.O. 13690 *Establishing a Federal Flood Risk Management Standard and a Process fir Further Soliciting and Considering Stakeholder Input*. This rule expands the floodplain of concern from the 100-year floodplain to a newly defined "FFRMS floodplain." The FFRMS floodplain is an expanded area both horizontally and vertically from the 100-year floodplain that is based on future flood risk. The rule requires that newly constructed or substantially improved structures within this newly defined floodplain be elevated or floodproofed to this higher FFRMS floodplain elevation for protection.

Specifically, this rule establishes a preference for (but does not yet require) use of a Climate Informed Science Approach (CISA) to determine the floodplain of concern for HUD-funded projects, when possible. The floodplain identified using CISA provides the elevation and flood hazard area that results from using a climate-informed science approach based on best-available, actionable hydrologic and hydraulic data. CISA maps can provide more accurate and forward-looking information than existing Flood Insurance Rate Maps (FIRMs), many of which have not been updated in years or decades. When CISA maps are not available for a particular HUD-funded project, the rule provides multiple alternate approaches to identify the FFRMS floodplain. This means with or without available CISA mapping, there will be a predictable, practicable option for compliance with the rule that still promotes resilience.

To implement the framework described in this rule, this final rule defines the FFRMS floodplain in a new 24 CFR 55.7. Additionally, projects within the FFRMS floodplain are required to complete the 8-Step Process unless excepted under 24 CFR 55.12 or 55.13 or permitted to complete an abbreviated 5-step process under 24 CFR 55.14. The 8-Step Process is used to ensure HUD and responsible entities consider how their actions affect floodplains and/or wetlands. The rule also allows for public notices required for environmental reviews to be published online on appropriate government websites. The steps to be followed in the decision-making process are described in 24 CFR Part §55.20 and at the following link: https://dca.georgia.gov/financing-tools/infrastructure/community-development-block-grants-cdbg/compliance-administration-0.
Note: Appendix 1 includes sample notices for activities in FFRMS Floodplain and Wetland.

A summary of the eight-step process is below.

Step 1. Determine whether the proposed action is located in the 100-year floodplain (500-year floodplain for critical actions) or results in new construction in a wetland.

Step 2. Notify the public and agencies responsible for floodplain management or wetlands protection at the earliest possible time of a proposal to consider an action in a 100-year floodplain (or a 500-year floodplain for a Critical Action) or wetland and involve the affected and interested public and agencies in the decision-making process.

Step 3. Identify and evaluate practicable alternatives to locating the proposed action in a 100-year floodplain (or a 500-year floodplain for a Critical Action) or wetland.

Step 4. Identify and evaluate the potential direct and indirect impacts associated with the occupancy or modification of the 100-year floodplain (or the 500-year floodplain for a Critical Action) or the wetland and the potential direct and indirect support of floodplain and wetland development that could result from the proposed action.

Step 5. Where practicable, design or modify the proposed action to minimize the potential adverse impacts to and from the 100-year floodplain (or the 500-year floodplain for a Critical Action) or the wetland and to restore and preserve its natural and beneficial functions and values.

Step 6. Reevaluate the proposed action.

Step 7. (1) If the reevaluation results in a determination that there is no practicable alternative to locating the proposal in the 100-year floodplain (or the 500-year floodplain for a Critical Action) or the wetland, publish a final notice that includes: (i) The reasons why the proposal must be located in the floodplain or wetland; (ii) A list of the alternatives considered; and (iii) All mitigation measures to be taken to minimize adverse impacts and to restore and preserve natural and beneficial functions and values.

Step 8. Upon completion of the decision-making process in Steps 1 through 7, implement the proposed action. There is a continuing responsibility on HUD (or on the responsible entity authorized by 24 CFR part 58) and the recipient (if other than the responsible entity) to ensure that the mitigating measures identified in Step 7 are implemented.

NOTE: HUD has implemented Regulatory Changes to the Floodplain Management and Protection of Wetlands (located in the Appendix 2).

A) Prohibition on Construction of New Structures and Facilities in Coastal High Hazard Areas (V Zones) [24 CFR part 551(c)].

Structures are defined by FEMA regulations at 44 CFR 9.4 to mean walled or roofed buildings, including mobile homes and gas or liquid storage tanks. Infrastructure includes roads, bridges, and utility lines.

B) Use of Preliminary Flood Maps and Advisory Base Flood Elevations [24 CFR part 55.2(b)(1)]

The change requires the use of FEMA preliminary flood maps and advisory base flood elevations, where available. The rule clarifies that, when available, the latest interim FEMA information, such as an Advisory Base Flood Elevation or preliminary map or study, is the best available information for the designation of flood hazard areas or equivalents. If the latest information has a lower Base Flood Elevation (BFE) than the effective Flood Insurance Rate Map (FIRM), the latest FEMA information is then used for Part 55 purposes and throughout the decision making process. If FEMA information is unavailable or insufficiently detailed, other Federal, state, or local data may be used as "best available information" in accordance with Executive Order 11988. However, a base flood elevation from an interim or preliminary or non-FEMA source cannot be used if it is lower than the current FIRM and Flood Insurance Study (FIS).

C) Broadened use of the 5 Step Process for selected actions [24 CFR part 55.12(a)]

Rehabilitation of residential and nonresidential properties that is not a substantial improvement, does not significantly increase the footprint in a floodplain or wetland, does not result in a 20 percent increase in the number of dwelling units or in the average peak number of customers and employees, and does not convert a nonresidential to a residential land use may use the 5 Step process.

The 5 Step Process foregoes Steps 2, 3, and 7 of the 8 Step process.

If any activity is proposed to take place in a designated 100-year floodplain or a wetland area, the Recipient must do the following prior to completing the environmental review:

1. Provide early notice and information to the public and interested parties so they can comment. Publish "Notice of Early Public Review". It must be published at least 15 days prior to the Concurrent Notice, in the same manner and sent to the same agencies and groups, as well to as the Federal Emergency Management Agency (FEMA) (3003 Chamblee-Tucker Rd, Atlanta, Ga. 30341 Telephone: (770) 220-5224).
2. Identify and evaluate practical alternatives and possible adverse impacts. Use the Environmental Assessment Checklist to document this step.
3. Where avoidance of floodplains or wetlands cannot be achieved, design the project so as to minimize effect to or from floodplain or wetlands.
4. Prepare and circulate a "Notice of Explanation" that there is no practicable alternative to locating an action in or affecting a floodplain or wetland. The same audience and means of distribution used in #1 above should be used for this finding. This second notice can be published at the same time as the "Concurrent Notice" concerning environmental review.

Copies of the two required notices are found in Appendix 1.

Additional Wetland Compliance Requirements
All Recipients must also comply with Executive Order 11990 and Section 404 of the Clean Water Act which pertain to protection of wetland areas.

Executive Order 11990 is a public notification, planning, and review process similar to the process described for floodplain compliance (Notice of Early Public Review and Notice of Explanation). As part of that process, if a wetland must be affected, a Section 404 Permit from the Army Corps of Engineers may be required. The Section 404 Permit can be used in lieu of the first five steps of the 8 Step Process. The recipient can submit the Army Corps of Engineers Section 404 permit and will be required to complete only the last three steps of the 8 Step Process and avoid the requirements of §55.20 (a) through (e).

Proposed actions in both a floodplain and a wetland require the 8 step process regardless of the issuance of a Section 404 permit. If the Section 404 permit is required, it must be obtained prior to publication of the Notice of Explanation.

Only individual Section 404 permits issued by State Agencies may be used in lieu of the first five steps of the E.O. 11990 process under this regulation.

Each step must be documented in the Recipient's ERR and completed prior to publication of the Concurrent Notice or FONSI.

The initial step is to determine if the Recipient's project is located in a wetlands area. This is done by consulting the National Wetland Inventory maps that are available through the U.S. Fish and Wildlife Service for most of Georgia. https://www.fws.gov/program/national-wetlands-inventory/wetlands-mapper
If the activity is located in a wetlands area, a mitigation plan to deal with possible adverse effects may be required by the Corps of Engineers as part of the Section 404 permit.

Historic Preservation (Section 106) Compliance
Generally, CDBG grants no matter what the project are subject to compliance with Section 106 of the National Historic Preservation Act and the Regulations of the Advisory Council on Historic Preservation (36 CFR Part 800).

The Advisory Council web site has additional information about the regulation at https://www.achp.gov/.

Outline of Historic Preservation Compliance

1.Determine if National Register eligible properties are in the project impact area (Recipient and HPD).

2. Determine effect of project on eligible properties: (Recipient and HPD.)

   a. If **no effect,** document the file and complete environmental review.

   b. If effect is **not adverse,** report to Historic Preservation Division for concurrence. Document file and complete environmental review once concurrence is received.

   c. If effect **is adverse**:

i. Examine alternatives and mitigation possibilities.
ii. Develop a Memorandum of Agreement (MOA) between the Recipient, HPD, and possibly the Advisory Council, to specify what steps will be taken to minimize or mitigate the identified adverse effect.
iii. Complete environmental review once MOA is signed.
iv. Implement the MOA, including mitigation.

Housing Activities Compliance with Section 106
During 1997, DCA entered into a Programmatic Agreement with the State Historic Preservation Division and the Advisory Council on Historic Preservation. This Agreement changes the way historic preservation compliance works for housing related projects and is applicable to **all** housing activities. A copy of the Agreement is on the DCA Website and in Appendix 2.

Public Facility Compliance with Section 106
Prior to funding, each public facility application was reviewed by the Historic Preservation Division (HPD) at the Georgia Department of Community Affairs (DCA). The purpose of the review is to identify properties which might be eligible for the National Register of Historic Places and which might be affected by the project.

If eligible properties are affected, the Historic Preservation regulations must be followed as part of the environmental review process.

Compliance with Section 106 regulations must be completed **prior** to publication of the environmental public notice(s).

Special Conditions related to historic preservation concerns and compliance may be placed on grants identified by the HPD. These conditions must be cleared before funds are obligated for construction.

Requirement to Consult with Native Americans
Completion of the Tribal Consultation portion of the Environmental Review was a Threshold Requirement for the 2023 Annual CDBG Competition. This information is included as a reference only.

On June 15, 2012, HUD published a Notice stating that CDBG Recipients "must consult with tribes to determine whether a project may adversely affect historic properties of religious and cultural significance, and if so, how the adverse effect could be avoided, minimized or mitigated." This is applicable to projects on and off tribal lands and to many of Georgia's CDBG Recipients. The HUD Notice (CPD-12-006) and the HUD Assessment Tool describe in detail the required protocol. Note that the revised Request for Release of Funds and Certification (form HUD 7015.15) includes a certification that this protocol was followed. Not all projects that require Section 106 review require consultation with Indian tribes. Consultation with federally-recognized tribes is required when a project includes activities that have the potential to affect historic properties of religious and cultural significance to tribes. These types of activities include: ground disturbance (digging), new construction in undeveloped natural areas, introduction of incongruent visual, audible, or atmospheric changes, work on a building or structure with significant tribal association, or transfer, lease or sale of historic properties of religious and cultural significance.

A copy of the HUD Notice can be found in Appendix 2 of this Manual and on the web at the following website:

https://www.hud.gov/sites/documents/12-06cpdn.doc

If the tribe does not respond to the invitation to consult within 30 days (if e-mailed) or 35 days (if mailed), the grantee should document the invitation and lack of response in the ERR, further consultation is not required.

Tribal consultations must come from the chief elected official of the unit of general local government.

Tiered Environmental Reviews

When used appropriately, tiering, as defined in 40 CFR 1508.28, is a means of making the environmental review process more efficient by allowing parties to "eliminate repetitive discussions of the same issues and to focus on the actual issues ripe for decision at each level of environmental review" (40 CFR 1502.20). A tiered review consists of two stages: a broad-level review and subsequent site-specific reviews. The broad-level review should identify and evaluate the issues that can be fully addressed and resolved, notwithstanding possible limited knowledge of the project. In addition, it must establish the standards, constraints, and processes to be followed in the site-specific reviews. As individual sites are selected for review, the site-specific reviews evaluate the remaining issues based on the policies established in the broad-level review. Together, the broad-level review and all site-specific reviews will collectively comprise a complete environmental review addressing all required elements. Funds cannot be spent or committed on a specific site or activity until both the broad-level review and the site-specific review have been completed for the site.

Most State of Georgia CDBG projects are not appropriate for tiered reviews since sites of proposed projects are generally known at the time of application. If the recipient of funds believes that tiering would be appropriate, please contact the DCA CDBG Environmental Specialist before proceeding and consult with the HUD Exchange web page at:

https://www.hudexchange.info/programs/environmental-review/tiered-environmental-reviews/

Further Assistance for Completing Environmental Reviews

Additional tools for compliance and standards for documentation can be found at the following HUD Exchange websites:

https://www.hudexchange.info/programs/environmental-review/ and
https://www.hudexchange.info/programs/environmental-review/federal-related-laws-and-authorities/

Environmental Review Process
(To Be Conducted by Responsible Entity)

Section 3: Federal Labor Standards and Requirements

The major applicable laws and regulations relating to labor standards are:

- The Davis-Bacon Act.
- The Copeland "Anti-Kickback" Act.
- The Contract Work Hours and Safety Standards Act.

In addition, the U.S. Department of Labor (DOL) has issued Regulations that supplement the laws listed above. Please note that Labor Standards laws and regulations are also applicable to construction contracts administered by another party on behalf of the Recipient, including the Department of Transportation (DOT), Regional Development Centers (RDCs), Consultants, etc. The Recipient must remember that it is ultimately responsible for its CDBG program. Therefore, Recipients are strongly encouraged to closely monitor their contracts. Recipients are also required to maintain all applicable records in their official CDBG files.

a. **The Davis-Bacon Act** is applicable to **all** contracts for construction, alteration and/or repairs in excess of $2,000 which involve CDBG funds (including Redevelopment Fund projects, Immediate Threat and Danger, and EIP direct loans), with the exception of rehabilitation of a "project" designed for residential use by fewer than 8 families. If CDBG funds are used to finance only a portion of the construction work, labor standards are applicable to the entire construction work. Contact the DCA Field Representative if you have any questions about applicability, especially regarding projecting which include demolition.

The requirements of Davis-Bacon include:

1. The minimum wages to be paid to contract laborers and mechanics (including apprentices) must be based on DOL's determination of the prevailing wage rates for the locality.

2. Recipients can obtain wage rate determinations by submitting a request to DCA's CDBG Administration Section using a Request for Determination form. (A sample form DCA-WRI can be found in the Appendix 1.) **The request for a wage rate determination should be submitted to DCA, through CDBG.Biz@dca.ga.gov, at least 30 days in advance of the anticipated bid advertising date. It should not be requested so early as to cause multiple modifications to be issued. Requests must include the type of construction (Heavy, Highway, Residential, or Building) and must include descriptions of the type of work to be performed under the contract.**

3. The CDBG Recipient should examine the Wage Rate Determination to ensure all needed classes of laborers or mechanics are listed in the wage determination. The Recipient must request additional classifications not included to be added to the wage decision. Note that superintendents and the Recipient must make this request in writing to Ms. Nina Abbas, Federal Compliance and Reporting Consultant. The request must include a Letter from the City/County where the project is taking place, and a letter from the contractor who employs the workers whose jobs need to be classified. The letter from the contractor must include the job classifications, rates of pay, and fringe benefits (if applicable) for the additional classifications. Subcontractor requests for additional classifications must go through the prime contractor to be considered acceptable to DOL. Note that requests to DOL have a 30-day turnaround time.

4. Ten (10) days before the bid opening date, the Recipient must contact DCA to verify the wage determination and ensure the determination has not been updated with any new modifications. This can be accomplished by submitting the 10-Day Wage rate check form (located in Appendix 1) to CDBG.Biz@dca.ga.gov.

5. Changes, modifications, etc., to wage decisions published less than 10 days prior to bid opening do not apply if the Recipient's files include documentation establishing that reasonable time to notify all participants was not available.

6. If the Recipient fails to include a wage decision, or for any reason the wrong wage decision is included, the Department of Labor may issue a special wage decision reflecting the proper rates. Those rates must be incorporated into the contract and be retroactive to the beginning of the construction. The Recipient can either terminate and re-solicit or incorporate the wage decision by change order, provided the contractor is compensated for any increases in wages resulting from the change.

7. If a contract has not been executed within 90 days of bid opening, the Recipient must confirm the correct wage rate determination to be used by contacting Ms. Nina Abbas, Federal Compliance and Reporting Consultant. If a contract has ***not*** been executed within 90 days of bid opening, the execution date is used as the date that determines the applicable wage decision and must be the wage decision used throughout the period of construction. Ten (10) days prior to the contract execution, a new wage decision must be requested by submitting the 10-Day Wage rate check form (located in Appendix 1) to CDBG.Biz@dca.ga.gov.

8. Cross withholding allows for agency withholding of funds for wage restitution from a prime contractor under a current Davis-Bacon contract for under payments made under an unrelated Davis-Bacon contract which may have been with another agency.

b. **The Copeland "Anti-Kickback" Act requires that:**

1. Payment to employees must be made *at least once a week* and without subsequent deductions or rebate on any account except for "permissible" salary deductions.

2. The Recipient must obtain **original** payrolls and "Statements of Compliance" from contractors and subcontractors (through the general) weekly. These documents must be maintained by the Recipient for three (3) years after completion of the work. The Recipient must check these payrolls upon receipt for accuracy and compliance with requirements.

3. The basic records supporting the payrolls must also be maintained by each employer and the Recipient for three years after completion of the work. The records must include the employee's last phone number and email address.

c. **The Contract Work Hours and Safety Standards Act requires that for contracts of $100,000 or more:**

1. Laborers and mechanics shall not work in excess of forty (40) hours in any workweek unless they receive overtime compensation at a rate not less than one and one-half times the basic rate of pay for those overtime hours. The contractor or subcontractor

shall be liable to any affected employee for his unpaid wages.

2. Contractors in violation of the Contract Work Hours and Safety Standards Act (overtime law) are also liable to the federal government for liquidated damages, computed at $10.00 per day for each employee who worked overtime and was not paid overtime wages. Funds may be withheld from contractors and subcontractors to satisfy unpaid wages and liquidated damages. (See information concerning wire transfer of these CDBG funds at d. (16) below.)

3. Contractors and subcontractors must be advised in writing that if they are aggrieved by the withholding of a sum of liquidated damages, they have the right to appeal within 50 days. Written appeal must state the reason for liquidated damages and should be addressed to DCA.

Department of Labor (DOL) guidelines include a number of other requirements listed below. Recipients should note that they are responsible for insuring compliance by contractors and subcontractors. Inclusion of appropriate clauses in the contracts, as well as monitoring by the Recipient, is therefore very important.

DOL guidelines require that:

1. The prime contractor shall be responsible for compliance by any subcontractor with all labor provisions.

2. The contractor must make pertinent records available for review and permit on the job interviews of employees.

3. Contractors and subcontractors may be terminated for noncompliance and will be liable for any excess cost involved in completing the work.

4. **Prior to awarding any prime contract, Recipients must submit to DCA the name of the proposed prime contractor for clearance**. (This can be done by using the sample Clearance of Prime Contractor form included in Appendix 1 and emailing the form to CDBG.Biz@dca.ga.gov). Any person or firm who has been declared ineligible because of previous instances of noncompliance may not participate in any contract involving CDBG funds.

5. The contractor must furnish a certification from the Bureau of Apprenticeship and Training for each apprentice employed on the project. All apprentices must be identified in each payroll submission. The ratio of apprentices to journeymen must not exceed the approved ratio under their respective program and their wage rate must not be less than prescribed under those programs.

6. All applicable Equal Employment Opportunity requirements, Copeland Act requirements, and Contract Work Hours and Safety Standards Act requirements must be met. See the "Sample Contract Clauses" package available from the Office of Grant Administration.

7. All contracts entered into by the contractor with subcontractors must include the same provisions as those of the major contract with respect to federal laws.

8. Exceptions are made for volunteer services on a case-by-case basis. Contact DCA for

information and approval.

9. Wage decisions and DOL posters must be displayed in a permanent place on the jobsite.

10. The Recipient must monitor the construction *and conduct on-the-job interviews* with workers on the jobsite. A suggested form (DCA-WR3) is included in Appendix 1. The purpose of these interviews is to ensure workers are properly classified and paid and are not forced to give up part of their pay. A representative number from each trade and subcontractor should be interviewed.

11. Underpayment of wages and fringe benefits of $1,000 or more must be reported to DCA and the Department of Labor.

12. A **pre-construction conference** must be held with all interested parties to discuss labor standards and compliance requirements. Minutes should be taken and a copy maintained in the Recipient's file.

13. Contractors should be informed of the requirements to comply with Section 3 during the Conference.

The DCA CDBG Program Representative should be notified of the Pre-Construction Conference.

14. A **Notice of Contract Action** should be completed and sent to DCA each time a contract is executed. (See Form DCA-WR6.) The Notice of Contract Action should be submitted within seven days of contract execution. A copy of the certified and itemized bid tabulation must be attached. Additionally, DCA requires a completed Notice of Contract Action before ***construction draws*** may be reviewed and processed.

15. A **Final Wage Compliance Report** must be submitted to DCA before final close out of the grant. (See Form DCA-WR4.)

16. Note that any funds collected because of violations of Federal Labor Standards resulting in liquidated damages or wage restitution must be transferred to the U.S. Treasury via a wire transfer. In the event this situation arises, DCA will provide you with detailed instructions regarding the wire transfer procedures.

SAMPLE LABOR FORMS (Located in Appendix 1)

DCA-WR1	Request for Wage Rate Determination
DCA-WR2	Clearance of Prime Contractor
DCA-WR3	Record of Employee Job Site Interviews
DCA-WR4	Final Wage Compliance Report
DCA-WR6	Notice of Contract Action
DCA-WR7	10-Day Wage rate check form
WH-347	Weekly Payroll Report for Contractors and Subcontractors—May use substitute if all info is included
WH-348	Statement of Compliance for Weekly Payroll -used if an alternate Payroll form is used

Force Account

Under certain circumstances, and subject to DCA approval, a grantee may use existing, qualified local government employees to perform construction work on projects assisted by the State CDBG Program. Force account labor occurs when municipal or county employees complete construction work rather than the work being completed by a contractor. Using local government employees is an exception to competitive bidding requirements that grantees may use for projects. Labor standards provisions do not apply to force account workers (force account workers may not be prison inmates). Materials and equipment acquired from outside vendors, and all subcontracted labor, remain subject to applicable competitive procurement requirements, in accordance with state and federal laws and regulations, and policies and procedures. For local government equipment costs, the Recipient must provide two quotes from equipment rental providers to establish the value of this contribution or use established Georgia Department of Transportation rates. Hours of use of the equipment must also be provided.

Recipients must maintain adequate supporting documentation to substantiate costs incurred in a project that utilizes force account labor. Supporting documentation should address the following items:

- Employee salaries and benefits, and other labor costs;
- Materials;
- Freight, fuel, and hauling;
- Overhead expenses;
- Workers' compensation premiums; and
- All other items of cost and expense, including a reasonable allowance for all tools and equipment used.

At a minimum, supporting documentation for force account labor must include employee time sheets, employee wage rates, and benefits. Documentation for equipment and materials must include, as applicable, procurement documentation and invoices, materials inventory, equipment use, time sheets and operating costs, requests for reimbursement, and cancelled checks as applicable. See Appendix 1 for sample forms.

Prison Inmates

There is no prohibition against the use of prison inmate labor on CDBG-funded construction work. Prison inmates shall not be considered "volunteers" for the purposes of this exemption based solely on their status as inmates. The construction work performed by prison inmate laborers are exempt from the Davis-Bacon wage rate coverage. For all CDBG projects, the Georgia Department of Corrections must provide a letter stating prison labor will be used.

Section 4: Acquisition of Property and Relocation Requirements

The acquisition of property, including rights-of-way, permanent easements, fee simple acquisition, demolition of occupied or occupiable housing units, and the displacement of any person or business in any project that includes CDBG funds is regulated by federal law and regulations. Disposition or the sale of property acquired with federal funds is also regulated by state law. The major applicable related laws and regulations include:

- The Uniform Relocation Assistance and Real Property Acquisition Act of 1970, as

amended, (The Uniform Act) and as implemented by DOT regulations at 49 CFR Part 24. This law and regulation governs the acquisition of property and easements and also requires relocation benefits be paid to any person(s) (regardless of their income) or business displaced as a result of a CDBG assisted project. A copy of the regulation, 49 CFR Part 24 is available from DCA or on the web at https://www.ecfr.gov/current/title-49/subtitle-A/part-24.

The Uniform Act in general requires property be appraised prior to acquisition and the payment of Fair Market Value based on the appraisal.

- Section 104(d) of the Housing Community Development Act of 1974, as amended, and as implemented by HUD regulations at 24 CFR Part 570.606 and 24 CFR Part 42. This is available from DCA or on the above-listed website. This regulation requires the replacement of any occupied or occupiable "low and moderate income housing unit" demolished or converted as a result of a CDBG assisted activity and requires additional relocation assistance (generally beyond what would be required by the Uniform Act) for low and moderate income tenants actually displaced.

- The Georgia Urban Redevelopment Act, OCGA, Section 36-61-1, et. seq. This State law sets forth the requirements which must be followed when a public agency acquires private property for reuse or redevelopment by another private entity.

- Real Estate Appraiser, Licensing and Certification Act, OCGA, 43-39A-1 through 43-39A-27 and the rules of the Real Estate Appraisers Board. These requirements are in addition to the minimum appraisal standards in the Uniform Act regulations.

Before proceeding with any relocation activity or property acquisition, Recipients should review the Uniform Act regulations, the HUD Handbook 1378, "Tenant Assistance Relocation and Real Property Acquisition", and applicable HUD regulations described above. DCA also offers written material, including the required brochures available in Spanish and English and on-site compliance assistance.

Section 5: Neighborhood Revitalization/Multi-Activity Requirements

Homeowner Participant Files: Recipient and Program Administrator Responsibilities.

1. All program records including *original homeowner participant's files* must be maintained at a secure location in control of the recipient political jurisdiction. Under no circumstances will individual Homeowner Participant files, information, data, statistics, income, or other identifying information contained therein be available for public review or inspection, except as may be required by law.

2. The Program Administrator, if a separate entity not affiliated with, or under direct control of the recipient governmental body, may maintain a copy of Homeowner Participant files in an off-site location until such time as the grant has been closed. All off-site program records, including homeowner participant's files must be maintained at a secure location under the direct control of the Program Administrator. Under no circumstances will individual Homeowner Participant files, information, data, statistics, income, or other identifying information contained therein be available to any third party not affiliated with the recipient

jurisdiction, the Department of Housing and Urban Development (HUD), the Georgia Department of Community Affairs (DCA), its agents or other individuals authorized by DCA except as may be required by law.

3. All copies of homeowner participant files under the control of the Program Administrator including information, data, statistics, income, or other identifying information contained within the participant files will be turned over to the recipient within three business days of the close of the grant.

4. All records pertaining to the awarded DCA grant created, developed, obtained, copied, or otherwise reproduced by the Program Administrator including all contracts, documents, plans, specifications, information, financial data, statistics, income, or other identifying information contained within the participant files are considered the property of the Recipient Political Jurisdiction.

Recipients not following these requirements are subject to sanctions by DCA.

A: General

Housing rehabilitation can be a complex and varied activity. Although each Recipient's local rehabilitation program will be different, reflecting different property standards and approaches to solving local housing needs, some basic requirements are applicable to all since they are based in law or regulation.

For the most part, these laws and regulations which are generally applicable include the following:

- **DCA Procurement Standards** – (See Chapter 3, Section 4 of this manual. Applies if the local government is a direct party of the construction contract.)

- **Federal Labor Standards** - only in certain situations (see Chapter 2, Section 3 of this manual).

- The **Lead-Based Paint Hazard Elimination in CDBG Programs** (24 CFR Part 35). These rules have recently been updated and expanded to include inspection, testing, risk assessments, hazard control or abatement, safe work practices, clearance and notification/disclosure requirements.

- **Section 3 Clause of the Urban Development Act of 1968,** and as implemented by HUD regulations at 24 CFR Part 75 applies (regardless of the dollar amount of the contract) in the following situations:

  - If the Recipient contracts directly for rehabilitation services or acts as an agent for the homeowner, i.e., signs the rehabilitation contract.

  - If the Recipient provides homeowners with a list of contractors eligible to participate in the local rehabilitation program, the Recipient should assure that eligible Section 3 business concerns located or owned in part by residents of the area are also included on the list.

  - If the individual homeowner contracts directly for rehabilitation services and the Recipient is not a party to the contract, the Section 3 requirements do not have to be

followed.

- All the requirements of DCA's Section 3 Policy and Solicitation Package unless otherwise noted above.

- **Section 104(d) of the Housing and Community Development Act** is applicable if rental units are converted to non "low and moderate income dwelling units" or if occupied or occupiable housing units are demolished. See HUD regulations at 24 CFR Part 570.606 and 24 CFR Part 42 included in the Appendix.

- **The Uniform Relocation Assistance and Real Property Acquisition Act of 1970,** as amended, and as implemented by DOT regulations 49 CFR Part 24, is applicable if tenants or homeowners (regardless of income) are displaced in conjunction with a CDBG activity.

- **The Truth-In-Lending Act (Regulation Z) (USC 1601, et. seq.)** which applies to any loan transaction between the Recipient and the homeowner provided the Recipient meets the criteria of being a "creditor", as defined by the Federal Reserve System.

  For specific aid on how to implement a rehabilitation program, DCA staff is available on request to provide technical assistance. A manual entitled **Guidelines for CDBG Residential Rehabilitation Programs** is also available. It includes sample forms as well as suggested approaches and procedures to assist Recipients in implementing rehabilitation programs. In addition, a housing rehabilitation workshop will be offered by DCA. Attendance at this workshop is essential for all grantees doing or considering housing activities.

B. Substantial Reconstruction of Housing

The "substantial reconstruction" of housing is an eligible activity under the Housing and Community Development Act. While the term "substantial reconstruction" is not defined, it includes constructing a replacement house on the same property when the need for the reconstruction was determined prior to or during rehabilitation.

Substantial reconstruction of housing is limited to housing owned and occupied by low and moderate-income persons and must be located on the same property as the original residential structure. The existing foundation does not have to be used if it is not feasible to do so.

When this activity for a particular identified house is included in the approved CDBG Application, no additional actions are required. In addition, on a case-by-case basis, the CDBG recipient can request approval of reconstruction in situations where rehabilitation was planned but later deemed not feasible upon a detailed inspection or after rehabilitation work begins.

Approval by DCA is based on the demonstrated economic viability of reconstruction as an alternative to acquisition and/or relocation if the dwelling unit is not feasible for rehabilitation.

C. Escrow Account Policies (Optional)

The following are DCA policies and procedures for administering optional escrow accounts for single family rehabilitation:

1. Terms of the construction contract between the owner and the contractor must expressly provide for payments through the escrow account. The owner must authorize the recipient (in writing) to maintain the account and provide a written statement accounting for all funds deposited and disbursed from the account at the completion of the rehabilitation.

2. All rehabilitation funds drawn down and placed in the escrow account must be deposited into **one interest bearing checking account** in an FDIC-insured financial institution. Separate bank accounts shall not be established for individual loans and grants. The account should be reconciled each month.
3. The amount of funds deposited into an escrow account shall be limited to the amount expected to be disbursed within 10 working days from date of deposit.

4. If the escrow account, for whatever reason, at any time contains funds exceeding 10 days cash needs, the grantee must immediately transfer the excess funds to its program account. In the program account, the excess funds shall be treated as funds erroneously drawn in accordance with DCA Financial Management requirements and must be returned to DCA if they exceed $5,000.

5. Recipients may initially establish and maintain a reasonable balance if required by the depositor to earn interest and avoid a service charge. This exception must be approved in advance by DCA. A request for an exception should include documentation from the depository concerning the interest rate paid, account type and minimum balance requirements to earn interest.

6. A recipient is permitted to draw down funds initially for deposit into an escrow account only **after** the property owner has executed the contract with the contractor selected to perform the rehabilitation work.

7. Interest earned on the escrow account must be remitted to DCA on a quarterly basis.

8. Rehabilitation Escrow Funds cannot be intermingled with other CDBG funds. An approved accounting system must be in place to assist monitors and auditors to effectively track the deposit and disbursement of escrow funds on an individual case basis.

9. In situations where there is more than one private lender participating in a leverage loan program, recipients may establish an escrow account at each participating institution. <u>This exception must be approved in advance by DCA</u>. All other escrow requirements will apply to this exception.

10. If a recipient fails to comply with these policies, DCA reserves the right to prohibit the continued use of their rehabilitation escrow account and may impose other program sanctions.

D. Lead-Based Paint Hazard Control Policies

The U.S. Department of Housing and Urban Development (HUD) has regulations in place to protect young children from lead-based paint hazards in housing financially assisted by the federal government or being sold by the government. The final regulation, "Requirements for Notification, Evaluation and Reduction of Lead-Based Paint Hazards in Federally Owned

Residential Property and Housing Receiving Federal Assistance," was published in the Federal Register on September 15, 1999 and became effective September 15, 2000. The requirements apply to housing built before 1978, the year lead-based paint was banned nationwide for consumer use.

The regulation puts all of HUD's lead-based paint regulations in one part of the Code of Federal Regulations (24 CFR Part 35), making it much easier to find HUD policy on the subject. HUD estimates that about 2.8 million housing units were affected by the regulation during its first five years.

Lead poisoning can cause permanent damage to the brain and other organs, and can result in reduced intelligence and behavioral problems. More than 800,000 children younger than 6 years old living in the United States have lead in their blood that is above the level of concern set by the Centers for Disease Control and Prevention (CDC).

A large portion of these children are in families of low income and are living in old homes with heavy concentrations of lead-based paint. The most common sources of childhood exposure to lead are deteriorated lead-based paint and lead-contaminated dust and soil in the residential environment.

HUD estimates that the regulation will protect more than two million children from exposure to lead. The estimated net benefits (that is, benefits minus costs) from the first five years are $2 billion, mostly from increased lifetime earnings, but also including reductions in medical and special education costs. Additional benefits that have not been estimated in dollar terms include reduced family time and anxiety involved in caring for lead-poisoned children, increased stature and hearing ability, reduced hypertension in later life, and reduced juvenile delinquency and crime.

The regulation is issued under sections 1012 and 1013 of the Residential Lead Based Paint Hazard Reduction Act of 1992, which is Title X of the Housing and Community Development Act of 1992. Sections 1012 and 1013 of Title X amended the Lead-Based Paint Poisoning Prevention Act of 1971, the basic law covering lead-based paint in federally assisted housing. The new regulation appears within title 24 of the Code of Federal Regulations as part 35 (24 CFR 35).

The regulation sets hazard identification and reduction requirements that give much greater emphasis than existing regulations to reducing lead in house dust. Scientific research has found that exposure to lead in dust is the most common way young children become lead poisoned. Therefore, the new regulation requires dust testing after paint is disturbed to make sure the home is lead-safe.

Specific requirements as they pertain to CDBG-assisted housing rehabilitation depend on the type and amount of financial assistance, the age of the structure, and whether the dwelling is rental or owner-occupied.

A summary of the hazard reduction requirements for the various types of housing programs is attached to the Questions and Answers issued in association with this regulation and has been provided to CDBG grantees. More detailed information is available in training and guidance material, in the regulation itself, and in HUD's explanation of the regulation, published in the Federal Register and available from DCA.

Common renovation activities like sanding, cutting, and demolition can create hazardous lead dust and chips by disturbing lead-based paint, which can be harmful to adults and children. On April 22, 2008, EPA issued a rule requiring the use of lead-safe practices and other actions aimed at preventing lead poisoning. Under the rule, beginning in April 2010, contractors performing renovation, repair and painting projects that disturb lead-based paint in homes, child care facilities, and schools built before 1978 must be certified and must follow specific work practices to prevent lead contamination.

More information about the Renovation, Repair, and Painting Rule can be found at the following web site: https://www.hud.gov/program_offices/healthy_homes/lbp/hudguidelines.

Types of Housing Covered

- Housing receiving CDBG and/or CHIP assistance for rehabilitation, down payment assistance, reducing homelessness, and other special needs;
- Federally-owned housing being sold;
- Housing receiving a federal subsidy that is associated with the property, rather than with the occupants (project-based assistance);
- Public housing;
- Housing occupied by a family (with a young child) receiving a tenant-based subsidy (such as a voucher or certificate);
- Multifamily housing for which mortgage insurance is being sought

Types of Housing Not Covered

- Housing built since January 1, 1978, when lead paint was banned for residential use;
- Housing exclusively for the elderly or people with disabilities, unless a child under age 6 is expected to reside there;
- Zero-bedroom dwellings, including efficiency apartments, single-room occupancy housing, dormitories, or military barracks;
- Property that has been found to be free of lead-based paint by a certified lead based paint inspector;
- Property where all lead-based paint has been removed;
- Unoccupied housing that will remain vacant until it is demolished;
- Non-residential property;
- Any rehabilitation or housing improvement that does not disturb a painted surface.

For More Information

Copies of the regulation and additional explanatory material are available from DCA, Office of Grant Administration. General questions can also be answered by the National Lead Information Center at (800) 424-LEAD, or TDD (800) 526-5456 for the hearing impaired. You can also download the regulation and other educational materials at https://www.hud.gov/program_offices/healthy_homes/lbp/hudguidelines.

Section 6: Fair Housing and Equal Opportunity (FHEO)

A. General

The regulations pursuant to Title I of the Housing and Community Development Act require applicants to assure through certification that all activities will be conducted in

accordance with Section 109 of the Act (the nondiscrimination clause), Title VI of the Civil Rights Act of 1964, Title VIII of the Civil Rights Act of 1968, and Executive Orders 11246 and 11063. These requirements are briefly described below:

1. *Title VI of Civil Rights Act of 1968* Nondiscrimination in any programs or activities receiving Federal financial assistance.

2. *Section 109 of Title I - Housing and Community Development Act of 1974*
   Nondiscrimination in any program or activity subject to the provisions of this title.

   No person in the United States shall on the ground 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 part under this Title.

   Any prohibition against discrimination on the basis of age under the Age Discrimination Act of 1975 or with respect to an otherwise qualified handicapped individual as provided in Section 504 of the Rehabilitation Act of 1973 shall also apply to any such program or activity.

3. *Title VIII of the Civil Rights Act of 1968, as amended*
   Prohibition against discrimination based on sex.

4. *The Fair Housing Law*
   Provides protection against the following acts, if they are based on disability, race, color, religion, sex, national origin, or family status:
   - Refusing to sell or rent to, deal or negotiate with any person
   - Discriminating in terms or conditions for buying or renting housing
   - Discriminating by advertising that housing is available only to persons of a certain family status, race, color, religion, sex, or national origin
   - Denying that housing is available for inspection, sale or rent when it really is available
   - "Blockbusting" - For profit, persuading owners to sell or rent housing by telling them that minority groups are moving into the neighborhood
   - Denying to anyone the use of or participation in any real estate services, such as brokers' organizations, multiple listing services or other facilities related to the selling or renting of housing
   - Denying or making different terms or conditions for home loans by commercial lenders, such as banks, savings and loan associations and insurance companies

5. *Executive Order 11063 - Equal Opportunity in Housing, as amended by Executive Order 12259*.
   All departments and agencies are directed to take all action necessary and appropriate to prevent discrimination in housing and related facilities owned or operated by the federal government or provided with federal financial assistance and in the lending practices with respect to residential property and related facilities (including land to be developed for residential use) of lending institutions, insofar as such practices relate to loans insured or guaranteed by the federal government.

6. *Executive Order 11246 - Equal Employment Opportunity, as amended by Executive Order 11375*.
   Part II - Employment under Federal contracts. Non-discrimination in employment

by government contractors and subcontractors.

Part III - Federally assisted construction contracts. Non-discrimination in employment under federally assisted construction contracts. Parts II and III are administered by the Department of Labor.

7. *Section 3 of the Housing and Development Act of 1968*, as amended and as implemented by HUD regulations at 24 CFR Part 75.

   Section 3 provides that to the greatest extent feasible, training and employment opportunities shall be made available to lower income residents of project areas and that contracts be awarded to small businesses located within the project area or owned in substantial part by project area residents. The "project area" is the county in which the grant is made.

   Section 3 Report:
   Note that DCA currently collects information about Section 3 Accomplishments on the CDBG Contracts & Accomplishment Report form.

   The U.S. Department of Housing and Urban Development (HUD) requires that recipients of federal funds capture, record, and report the total number of labor hours, the total amount of Section 3 worker hours, and the total amount of Section 3 Target worker hours. This information must be submitted on the CDBG Contracts & Accomplishment Report form quarterly, with a cumulative report occurring on the second quarterly report of the year (period ending 6/30). The cumulative reporting period is from July 1 of each year to June 30 of the following year.

   All local government recipients (i.e., CDBG, CDBG-R, CDBG-DR, NSP1, NSP 3, EIP, ITAD, and RD grantees) must complete a separate Section 3 Report for each grant award over $300,000 that was under construction during the reporting period.

   All active CDBG Recipients must complete a report. If a project was not under construction during the reporting period (July 1 through June 30), Recipients should indicate this by noting this in the narrative portion of the GrAAM Activity Report .

   Review this HUD website for more information: https://www.hud.gov/section3.

   DCA has adopted a Section 3 Solicitation Package, which are incorporated into all DCA CDBG grant awards through the General Conditions. A copy of the policy can be found in Appendix 2.

B. Equal Opportunity Construction Contract Provisions

Certain types of construction contracts for public works and housing rehabilitation must include specific contract clauses pertaining to the Section 3 Clause, Executive Order 11246 and Title VI of the Civil Rights Act. Refer to Chapter 3, Section 3, for more information or contact the DCA Program Representative.

C. Affirmatively Furthering Fair Housing

Local government officials, in agreeing to accept CDBG funds, certify that they will "affirmatively further fair housing". This section of the Recipients' Manual outlines various

options available to local government in meeting this grant obligation.

While the law does not specify what type of action recipients must take, it is clear that by virtue of receipt of CDBG funds, local government recipients are obligated to take some sort of action to affirmatively further the national goal of fair housing.

DCA does not dictate what sort of action recipients must take. DCA must, however, monitor local government recipients to determine what sorts of actions are taken. To accomplish this monitoring DCA has developed a **Fair Housing Checklist** which will be completed by the CDBG Program Representative as part of the normal project review process. A copy of this checklist is in the Appendix 2 of this Manual.

In order to document what you have done to affirmatively further Fair Housing, it is important to keep records of actions taken. Copies of brochures provided to relocates, minutes of meetings where fair housing is discussed and any other records must be available for review by the DCA CDBG Program Representatives.

The following checklist of possible fair housing activities is not meant to be all inclusive. It is meant to suggest the range of activities which would satisfy the Recipient's obligation. Technical assistance is available from DCA if you wish to implement any of these suggestions.

Possible Actions to Affirmatively Further Fair Housing

- Analyze any impediments to fair housing choice which may exist in your community. Contact HUD or DCA for an analysis of any fair housing complaints from your area.
- Review local zoning laws and procedures to determine whether they contribute to, or detract from, progress in fair housing. Establish a collection of zoning and land use planning material to have available for the use of local fair housing groups as well as recipient staff.
- Provide funding for local fair housing groups (eligible under the CDBG Program) or provide financial or technical assistance to citizens wishing to organize such a group.
- Adopt a local Fair Housing Ordinance or a resolution supporting the state and/or federal law.
- Distribute brochures outlining fair housing law to persons attending community meetings or CDBG Public Hearings.
- Post a fair housing poster at City Hall or Courthouse.
- Require owners of rental property receiving CDBG-assisted rehabilitation loans to sign fair housing agreements as a condition of receiving assistance.
- Develop an active public information and educational campaign to promote fair housing awareness in the community.
- Include a discussion of fair housing in public meeting agendas.
- Provide persons relocated to new housing with fair housing information and referrals.

Remember to document and keep records of everything you do in the area of fair housing.

Fair Housing Resources

- HUD, "Your Housing Rights: Live Where you Want to Live" (Fact Sheet). Copies are available from HUD.
- Fair Housing Poster, available from DCA.
- Sample "Certification of Property Owners Participating in CDBG Rental Rehabilitation Loan Program to Affirmatively Market Vacant Units", available from DCA/CDBG Section.
- See further resources at: https://www.hudexchange.info/programs/fair-housing/.

D. Section 504 Requirements

Local government recipients and sub-recipients must comply with Section 504 of the Rehabilitation Act of 1973, as amended. This requirement is similar to the "Americans with Disability Act" (ADA) which is also applicable. HUD published implementation regulations (24 CFR Part 8) as a final rule on June 2, 1988.

The general requirement is that no otherwise qualified individual with a disability (physical or mental) shall, because a recipient's facilities are inaccessible to or unusable by individuals with disabilities, be excluded from participation in, denied benefits, or otherwise be subjected to discrimination under any program or activity that receives CDBG assistance. The definition of disability includes physical and mental factors and also includes those who may be regarded as handicapped (such as the spouse or children of a person with AIDS). Both building accessibility and employment practices are covered by Section 504.

There are eight (8) specific requirements which have an immediate effect on CDBG Recipients:

1. CDBG recipients must file an assurance of compliance. The Certified Assurances in the CDBG Application included this assurance.

2. CDBG recipients must issue periodic public notices of non-discrimination. This can be accomplished by including appropriate language in public hearing notices. The sample hearing notices included in this Manual reflects this requirement.

3. Employment practices are also covered by Section 504. Any CDBG recipient employing 15 or more persons must:

   a. Designate at least one person to coordinate efforts to comply with the regulation (Section 504 Coordinator); and

   b. Adopt formal grievance procedures that incorporate due process standards and that provide for the prompt and equitable resolution of discrimination complaints.

4. Communications: When a recipient communicates with applicants and beneficiaries by telephone, a telecommunication device for deaf persons (TDD's) or an <u>equally effective system</u> is required. The Georgia Relay Service (voice at 1-800-255-0135 or TDD at 1-800-255-0056 or at 711) is also available to provide this service.

5. All meeting and public hearing spaces must be accessible, and procedures should be in place to ensure that persons with impaired vision or hearing can notify the local government that assistance is required. As applicable, please complete the DCA Meeting Checklist located in Appendix 1.

6. The regulations require each recipient to conduct a self-evaluation. The evaluation must be done in consultation with interested persons, including individuals with handicaps or organizations representing such people.

7. When the self-evaluation identifies structural changes as being required, a written transition plan must also be prepared. The transition plan sets forth the steps

necessary to complete the changes, including a time schedule. The plan should identify the agency official responsible for implementation of the plan.

8. Grant recipients and their grantees/contractors share joint responsibility for carrying out activities in conformance with applicable Section 504 requirements. As such, grantees should ensure the following:

   - Take steps to ensure effective communication with applicants, beneficiaries, and members of the public. (24 CFR 8.6)
   - Take steps to ensure that employment activities, including job announcements, recruitment, interviews, hiring, work assignments, promotions and dismissals, do not discriminate on the basis of disability. (24 CFR 8.10 - 8.13)
   - Ensure that all non-housing programs are operated in a manner that does not discriminate on the basis of disability and that new construction and alterations of non-housing facilities are made accessible in accordance with applicable standards. (24 CFR 8.21)
   - Operate existing housing programs in a manner that does not discriminate on the basis of disability, and take steps, as needed, to ensure that existing housing programs are readily accessible to and usable by persons with disabilities. Develop and implement a transition plan to assure compliance. (24 CFR 8.24)
   - Provide reasonable accommodations which may be necessary for a person with a disability to use or participate in the program, service or activity; unless the recipient can demonstrate that the accommodation will result in an undue financial and administrative burden or a fundamental alteration in the nature of the program, service or activity. A reasonable accommodation is an adaptation or modification to a policy, program, service, or workplace which will allow a qualified person with a disability to participate fully in a program, take advantage of a service, or perform a job. Reasonable accommodations may include, but are not limited to, adjustments or modifications to buildings, facilities, dwellings, and may also include provision of auxiliary aids, such as readers, interpreters, and materials in accessible formats.(24 CFR 8.4, 8.11, 8.20, 8.21, 8.24, 8.25, 8.33)
   - Pay for a reasonable accommodation needed by the individual (e.g., a ramp to a unit) unless providing that accommodation would be an undue financial and administrative burden or a fundamental alteration of the program. (24 CFR 8.4, 8.11, 8.20, 8.21, 8.24, 8.25, 8.33)
   - Ensure that all new construction of housing facilities is readily accessible to and usable by persons with disabilities, and meets the requirements of applicable accessibility standards. (24 CFR 8.22 and 8.32)
   - Ensure that substantial alterations, when undertaken, meet the requirements for new construction. [24 CFR 8.23(a)] Ensure that all other alterations, to the maximum extent feasible, meet the requirements of the applicable accessibility standards. [24 CFR 8.23(b)]
   - Conduct any required needs assessments (for recipients who are public housing agencies) to determine the extent to which the housing needs of persons with disabilities are being met in the recipient's program and in the community. (24 CFR 8.25)
   - Distribute accessible dwelling units throughout projects and sites and make such units available in the same ranges of sizes and amenities to provide housing choices for persons with disabilities that are the same as those provided to others. (24 CFR 8.26)

- Adopt suitable means to ensure persons with disabilities are made aware of the availability of accessible units and to maximize use of accessible units by individuals needing the features of these units. (24 CFR 8.27)
- Conduct any required self-evaluations of programs, services, and activities to determine if they are programmatically and physically accessible to persons with disabilities, and involve persons with disabilities in these evaluations. (24 CFR 8.51)
- Recipients with 15 or more employees - designate an employee to ensure the recipients' programs, services and activities meet the requirements of Section 504; adopt a grievance procedure to effect due process standards and prompt and equitable resolutions of complaints. (24 CFR 8.53)
- Recipients with 15 or more employees - notify participants, beneficiaries, applicants and employees of their nondiscriminatory provisions. (24 CFR 8.54)
- Maintain records and reports of efforts to meet the requirements of Section 504, and keep these records on file so that they are available if a complaint is filed, or if HUD conducts a compliance review. (24 CFR 8.55)

Section 7: Illegal Immigration Reform and Enforcement related laws

Caveat

Consult with your local attorney and the applicable Georgia Municipal Association (GMA) or Association of County Commissioners of Georgia (ACCG) web pages regarding the passage of Immigration Reform legislation enacted by Georgia's General Assembly prior to undertaking a Community Development Block Grant (CDBG) project. Because these are state laws, they apply to local governments whether or not a CDBG project is being undertaken. As such, the laws have broad applicability to local government undertakings and reviewing these laws with your attorney is an appropriate first step in order to ensure compliance.

CDBG Recipients and Illegal Immigration Reform and Enforcement related laws

Georgia Immigration Reform laws may impact local government CDBG projects. Because DCA is *not* the state agency charged with enforcement of these laws, we monitor them on a limited basis primarily to alert local governments to their implications for their CDBG projects. See the Sections below regarding monitoring. Note that the Georgia Department of Audits and Accounts (DOAA) is the primary enforcement agency for these laws and that DOAA has the responsibility for auditing compliance, regardless of whether the project or activity is funded with CDBG dollars. In addition, because DCA has only a limited role in monitoring the implementation of these laws, DCA strongly encourages communities to consult primary resources for addressing these laws' requirements. Primary resources include: 1) your local government attorney; 2) the Department of Audits and Accounts; 3) the Department of Law; 4) either the Georgia Municipal Association (GMA) or the Association of County Commissioners Georgia (ACCG). Links are provided below to these sources in the Section entitled *Link to CDBG Monitoring Forms for HB 87 and HB 2.*

Summary of O.C.G.A. 13-10-90 and 91

There are two parts of this law that impact CDBG Recipients: (1) This law requires all public employers to participate in the federal work authorization program (E-verify) to verify the employment eligibility of all newly hired employees. (2) This law also requires local governments to obtain affidavits from their contractors and subcontractors to verify participation in the E-verify system for their newly hired employees.

Note that there are other parts of this law not described here and all local governments should consult their attorney for assistance. GMA and ACCG have also posted extensive compliance assistance on their websites.

The requirement to obtain the applicable affidavits is based on O.C.G.A. §13-10-91(b)(1), which states, in part, "No public employer shall enter into a contract pursuant to this chapter for the physical performance of services within this state unless the contractor registers and participates in the federal work authorization program to verify information of all newly hired employees or subcontractors. Before a bid for any such service is considered by a public employer, the bid shall include a signed, notarized affidavit from the contractor attesting to the following: (A) The affiant has registered with and is authorized to use the federal work authorization program; (B) The user identification number and date of authorization for the affiant; and (C) The affiant is using and will continue to use the federal work authorization program throughout the contract period." These required affidavits are listed under the Section entitled *Links to Contractor and Subcontractor Affidavits.*

Monitoring of O.C.G.A. 13-10-90 and 91
DCA has included the following General Condition in all CDBG Grant Awards:

General Condition: The Recipient, by signing these conditions, is certifying that it will comply with the requirements of O.C.G.A. 13-10-90 and O.C.G.A. 13-10-91 entitled "Security and Immigration Compliance." This requires, among other things, that every public employer, including, but not limited to, every municipality and county, will register and participate in the federal work authorization program to verify employment eligibility of all newly hired employees. For more information, including a link to the Homeland Security website and the I-9 Form requirements for all new employees, see the DCA CDBG Compliance and Administration Page at https://dca.georgia.gov/financing-tools/infrastructure/community-development-block-grants-cdbg/compliance-administration-0.

DCA also monitors all CDBG public works contracts to ensure that the Prime Contractor Affidavit requirement is met. Grant recipients should obtain the affidavits from all contractors and subcontractors as required by law. ***Note that DCA's monitoring of its CDBG or other Community Finance Division grants is not intended to review compliance with all O.C.G.A 13-10-90 and O.C.G.A. 13-10-91 requirements. Please contact your local attorney or GMA or ACCG for all compliance requirements. See the Section below entitled "Links to CDBG Monitoring Forms for HB 87 and HB 2".***

Summary of O.C.G.A. 50-36-1 – 50-36-3
One part of this law affecting CDBG Recipients requires local governments to verify the lawful presence in the United States of any person making application for a state or local public benefit, such as housing rehabilitation assistance or down payment assistance. Thus **O.C.G.A. 50-36-1 – 50-36-3** will be directly applicable to recipients of CDBG funds that result in a housing benefit. For further information regarding the definition of a "public benefit", please review the Department of Law's website found under the Section entitled *Links to State of Georgia Agency Resources.*

Note that there are other parts of this law not described here and all local governments should consult with their local attorney for assistance. GMA and ACCG have also posted extensive compliance assistance on their website.

Please note that the Systematic Alien Verification of Entitlement (SAVE) affidavit for public benefits must be obtained for each and every public benefit the city or county issues. See the following link for the affidavit: SAVE-Affidavit-July-21-2017.pdf (ga.gov)

Public benefits include things like occupational tax certificates (business licenses), alcohol licenses, city employee health benefits, and contracts. This is all contracts, not just public works contracts. Starting on January 1, 2012, all persons including U.S. citizens applying for public benefits with the city or county will also have to provide a *secure and verifiable document* (see link below under *Links to State of Georgia Agency Resources*) before they can receive the public benefit. Currently and moving forward, any person who fills out the SAVE affidavit who checks either the Legal Permanent Resident blank or the Authorized Alien blank must be run through the SAVE program. This law requires an annual report which is due by January 1 of each year to the Department of Community Affairs. See the link here that connects to DCA's report format required by O.C.G.A. 50-36-1 – 50-36-3:
https://dca.georgia.gov/document/qualified-allocation-plans-qaps/immigration-and-public-benefit-affidavit/download

Monitoring of O.C.G.A. 50-36-1 – 50-36-3
DCA has included the following General Condition in all CDBG Grant Awards. The General Condition is applicable to CDBG public benefit activities (such as housing assistance):

General Condition: The Recipient, by signing these Conditions, is certifying that it will comply with the requirements of O.C.G.A. 50-36-1 – O.C.G.A 50-36-3 entitled "Verification of Lawful Presence Within United States" and verify the lawful presence in the United States of any natural person 18 years of age who has applied for state or local public benefits, as defined in 8 U.S.C. Section 1621, or for federal public benefits, defined in U.S.C. Section 1611, that is administered by an agency or a political subdivision of this state.

Note that DCA's monitoring of its CDBG or other grants is not intended to review compliance with all* O.C.G.A. 50-36-1 – 50-36-3 *requirements. Please contact your local attorney or GMA or ACCG for all compliance requirements. See the Section below entitled "Link to CDBG Monitoring Forms" for CDBG Monitoring Forms that address* O.C.G.A. 50-36-1 – 50-36-3*. Note that it will be especially important for all CDBG Neighborhood Revitalization or Multi-Activity Recipients to include on their application intake form the affidavit for public benefits at the following link: http://www.audits.ga.gov/NALGAD/section_17_affidavits.html

Resources for CDBG Recipients for Illegal Immigration Reform and Enforcement related laws

Links to State of Georgia Agency Resources

Department of Audits (DOAA) web site:
https://www.audits2.ga.gov/resources/other/immigration/

Department of Law web site:
http://law.ga.gov/00/channel_title/0,2094,87670814_167693491,00.html

Secure and Verifiable Documents:
https://law.georgia.gov/sites/law.georgia.gov/files/related_files/site_page/Secure%20and%20Verifiable%20Documents%20Under%20O.C.G.A.%2050-36-2.pdf

Georgia Municipal Association (GMA) web site:
https://www.gacities.com/
Association County Commissions of Georgia (ACCG) web site:
https://www.accg.org/index.php

Links to Contractor and Subcontractor Affidavits and Link to Public Benefit Affidavit

Contractor Affidavit under O.C.G.A. §13-10-91(b)(1):
https://www.audits2.ga.gov/wp-content/uploads/2021/10/Contractor_Affidavit_-_Updated_December_2018_-_Final.doc
Subcontractor Affidavit under O.C.G.A. §13-10-91(b)(3):
https://www.audits2.ga.gov/wp-content/uploads/2021/10/AG-x654040-v1-Second_Subcontractor_Affidavit_under_O_C_G_A___247_13-10-91_b__3_.pdf

Sub-subcontractor Affidavit under O.C.G.A. §13-10-91(b)(4):
https://www.audits2.ga.gov/wp-content/uploads/2021/10/Section_3_-_Affidavit_-_OCGA_13-10-91xbx4x.pdf

Public Benefits Affidavit:
https://www.audits2.ga.gov/wp-content/uploads/2022/06/SAVE-Affidavit-July-21-2017.pdf

Links to Federal Agency Resources

E-Verify Website:
https://www.e-verify.gov/

SAVE Website:
https://www.uscis.gov/save

Link to CDBG Monitoring Forms for HB 87 and HB 2

DCA Web Site Link for CDBG Manual and Monitoring Forms:
https://dca.georgia.gov/financing-tools/infrastructure/community-development-block-grants-cdbg/annual-cdbg-competition/cdbg#toc--annual-cdbg-competition-manuals--2

Chapter 3: Financial Management and Administration

The financial management and administration of CDBG programs is generally regulated by this Manual, 2 CFR 200 Subpart F (Audit Requirements), and any federal or state regulations cited herein. In addition, state audit requirements must be met.

The financial system should be able to produce the various financial and compliance reports required for efficient grant administration. (See reporting requirements).

This chapter explains the requirements for CDBG Financial Management and Administration, and suggested formats and procedures have been included wherever appropriate.

Section 1: Financial Management Systems

A. GENERAL REQUIREMENTS:

Recipients' financial management system must:

1. Provide accurate, current, and complete disclosure of the financial activities funded by CDBG awards and adequately meet the reporting requirements described in Chapter 1, of this manual - "Reporting Requirements". Approved Budgets reflect costs **by activity** to be undertaken, and so do the Requests for Drawdown forms and the Quarterly Report forms. Therefore, financial records should be established and maintained in such a manner as to facilitate the reporting and monitoring of expenditures and obligations by activity.

2. Maintain records that identify clearly and adequately the source and application of funds of all CDBG funded activities.

3. Maintain effective control over and accountability for all funds, property, and other assets, safeguarding these assets and insuring that they are used solely for authorized purposes.

4. Provide comparison of actual expenditures to budgeted expenditures.

5. Include procedures to minimize the time elapsing between the drawdown of funds from DCA and the disbursement of those funds by the Recipients. A period of three working days or less shall be considered acceptable. In addition, advances made by the Recipients to **Secondary Recipients** must conform to the same standards of timing and amount as apply to advances from DCA to Recipients. (See Chapter 1, Section 6, - "Drawdown of Funds")

6. Provide procedures for ensuring the reasonableness, allocability and allowability of costs in accordance with applicable state standards and the applicable grant award.

7. Include source documentation to support the accounting records.

8. Provide for audits made by qualified and independent audit firms of management systems and internal control procedures that have been established. An audit shall be conducted annually and in accordance with Chapter 3, Section 2 of this manual "Audit Requirements".

9. Provide for source documents (appropriation ordinances, purchase orders, invoices, journal vouchers, cash receipts, bank deposit receipts, etc.) that support all financial transactions relating to CDBG activities should be filed and maintained.

10. Maintain accounting records that make it possible to identify the source and application of all funds committed to CDBG-supported activities. Local contributions to the program and income applied to the program should also be clearly identified. (See Section 2)

11. Include procedures to ensure that sound internal accounting controls are maintained over financial transactions and that effective control is maintained to safeguard physical assets.

12. Ensure that costs incurred in CDBG activities are allowable only under the following conditions:

    - The award has been properly accepted as described in Chapter 1, Section 1 of this manual.
    - Costs are incurred on or after the date of the Grant Award by DCA (unless pre-agreement cost approval is requested and approved by DCA).
    - Costs for projects or activities (except costs for environmental reviews) are incurred only after all necessary environmental reviews have been completed, and all applicable conditions have been satisfied. (See Chapter 1, Section 2, and Chapter 2, Section 2 of this manual.)
    - Costs are accounted for in accordance with generally accepted accounting principles and are not prohibited by Federal, State or local laws.
    - Costs are authorized in the award made by DCA.
    - Costs are incurred for activities eligible under the State CDBG Program.
    - All appropriate credits have been applied.

In order to meet these requirements, the following procedures are suggested.

B. SUGGESTED ACCOUNTING PROCEDURES, RECORDS AND FILING FORMAT

The accounting issues that your city or county should address to comply with the state and federal requirements include:

- Organization of the accounting system,
- Fund structure and double entry bookkeeping,
- Uniform Chart of Accounts,
- Coding the chart of accounts, and
- Accounting records and files.

Organization of the Accounting System

One individual should be designated to oversee the financial transactions related to CDBG. This individual, who serves as fiscal coordinator, should approve all purchase documents, contract invoices, payroll actions, etc., that affect CDBG funds; however, this person should not perform the disbursing and recording functions which are typically accomplished by the accounting department.

The CDBG accounting system should be designed to maximize internal control. The concept of internal control refers to policies and procedures of your jurisdiction designed primarily to

safeguard assets such as cash, inventory, and equipment.

The person designated as fiscal coordinator might be a member of the finance or accounting department or a member of the mayor's/chairman's or city manager's/county manager's staff. Where a community development department has been established, a fiscal coordinator may be designated within the department to perform these duties.

Fund Structure and Double Entry Bookkeeping

A separate special revenue fund must be established in conformance with the Uniform Chart of Accounts (O.C.G.A. §36-81-3(e)) requirements. This fund must be established for any grant with projected expenditures that exceed two percent (2%) of the general fund's budgeted total operating expenditures. CDBG funds should be accounted for within this fund.

Records must also be available to allow for confirmation of required grant match amounts and to support leverage amounts.

Note that a separate checking account for CDBG funds only must also be established. See page 3 of this Manual.

A complete set of general ledger and subsidiary accounts should be maintained for the fund. Accounting within this fund should be conducted on the double entry basis where Debit and Credit balances are maintained for each general ledger account and the sum of all debits equals the sum of all credits.

Assistance is available from DCA as needed to help CDBG recipients comply with these requirements.

Uniform Chart of Accounts

In 1997, the Georgia General Assembly passed the Local Government Uniform Chart of Accounts and Reporting Act (O.C.G.A. §36-81-3(e)). Beginning fiscal years ending in 2001, local governments must adopt and use a state published uniform chart in their accounting records; audited financial statements, including Comprehensive Annual Financial Reports (CAFRs); and reports to state agencies.

All transactions must be classified in conformity with the Fund, Balance Sheet, Revenue, and Expenditure classification descriptions contained in the state publication Uniform Chart of Accounts for Local Governments in Georgia, available from DCA.

Accounting Records and Suggested Files

The first step in the accounting process is to establish the accounting records and files that should be maintained. These may include the following:

- Open Purchase Order File
- Open Contracts File
- Pending Payment File
- Pending Receipts File
- Personnel Payroll File
- Cash Receipts Register
- Cash Disbursements Register

- General Journal
- General Ledger
- Fixed Assets Ledger
- Cash Control Ledger
- Expenditure Summary Report
- Receivable and Payable Subsidiary Ledgers, and
- Permanent Files

In establishing the accounting records, the following steps are suggested:

1. Establish the **Open Purchase Order File**, which contains purchase orders that have been issued but not filled. These unfilled purchase orders should be filed in sequence according to purchase order number.

2. Establish the **Open Contracts File** with a section for each open contract. Contract summary forms, a copy of the contract, contract invoices, and related correspondence should be filed in each section.

3. Establish the **Pending Payments File,** which contains all invoices and payment vouchers that have been approved for payment. The supporting documentation should be filed by due date with periodic reviews of the file to ensure timely payment.

4. Establish the **Pending Receipts File,** which contains documents to identify payments expected to be received. When the amounts are received, supporting documentation should be attached to the invoice or other form, the transaction should be recorded on the Federal Cash Control Register and posted to the Receivables Subsidiary Ledger, and the funds should be deposited on a timely basis.

5. Establish the **Personnel Payroll File,** which contains a section for each city employee who has worked on CDBG activities. For each employee, the file will contain the following:
    - Personnel Service Rate Computation
    - CDBG Personnel Timesheet (a sample time and attendance format is included in Appendix 1).
    - The file should also contain a section for a copy of the Personnel Payroll Distribution Worksheet.
    - Items within each section should be filed by date.

6. Establish the **Cash Receipts Register.** This register should be maintained in a loose-leaf binder to document all cash receipts.

7. Establish the **Cash Disbursements Register.** This register should be maintained in a loose-leaf binder to document cash disbursements.

8. **General Journal entries** are prepared to record accounting transactions that do not involve cash receipts or disbursements. Journal entries should be prepared for adjustments and special actions such as CDBG budget, year-end accruals, etc.

9. Establish a **General Ledger** account page for each general ledger account in the chart of accounts. These pages can be maintained in a loose-leaf binder so that new accounts or continuation pages can easily be added.

10. Establish a **Fixed Asset Ledger.** This ledger should be maintained in loose-leaf form to

control all fixed assets acquired in whole or in part using CDBG funds.

11. Establish a **Cash Control Register.** Enter the fiscal year at the top. A Separate Cash Control Register should be maintained for each fiscal year.

12. Establish an **Expenditure Summary Report** page for each budget line item. It is possible to combine more than one project on a page, depending on the volume of transactions. These pages should be maintained in loose-leaf form.

13. Establish a **Receivable and Payable Subsidiary Ledger** if advances or loans are made or goods and services are purchased on account. The ledger should be maintained in loose-leaf form. A separate record should be established for each person who has received a loan or advance, and for each individual vendor to whom money is owed.

14. Establish the **Permanent Files,** which should parallel the organization of the aforementioned accounting records, files and reports.

SAMPLE FILING FORMAT

File No.	*Content*
1.	**Grant Application File**: -Copy of Application -Correspondence about application -Low/moderate income data -Target area surveys
2.	**Grant Award File:** -Award Statement -Special Conditions -Revisions -Correspondence -Grant Adjustment Notices
3.	**Drawdown Information:** -Supplier Vendor Management Form -Authorized Signature -Certification -Request for drawdowns
4.	**Reports:** -Quarterly Expenditures and Progress -Annual Program Income Report -Final Wage Compliance Report -Other required reports
5.	**Citizen Participation Documentation**: -Dated Public Hearing Notice(s) -Minutes of hearing(s)

6. **Environmental Review Record (ERR):**
-Environmental Assessment Format II
-Public Notice(s)
-Public comments and response
-Finding of Exemption (if applicable)
-Statutory Checklist
-Request for Release of Funds/Certifications
-Release of Funds letter from DCA

7. **Fair Housing/Equal Opportunity Files**:
-Civil Rights Checklist
-Beneficiary Data (Both applicants and recipients of direct benefits)
-Sex (Female Head of Household)
-Racial and Ethnicity Identity
-Income
-Disability
-Section 3 Reports
-Section 3 Accomplishments
-Actions to Affirmatively Further Fair Housing

8. **Labor and Contract Documentation**:
-Request for Proposals
-Invitation to Bid
-Bid Opening Minutes
-Preconstruction Conference Minutes
-Contracts
-Contract Change Orders
-Contract Budget Spreadsheets
-Contract Monitoring Activities
-Contractor Approval Forms
-Wage Rate Determinations
-Payroll Reports
-Certification of Compliance
-Employee Interviews

9. **Financial Expenditure Documentation:**
-Invoices
-Approved payment forms
-Check copies

10. **Audit Records**

CDBG files should include source documentation concerning program transactions between your community and DCA. The format of the filing system may vary from community to community. However, the basic files listed above should be maintained by all communities to ensure compliance with the conditions of grant award and facilitate day to day administration. In addition, for housing projects, individual contractor and case files should be maintained for each beneficiary.

Section 2: Audit Requirements

1. Recipients must contract for annual independent audits of their financial operations, including compliance with Federal and State law and regulations. The contracts for independent audit must be done in accordance with 2 CFR Part 200, Subpart F, if the following circumstances occur:

   - If Recipient expends $1,000,000 or more in a year in **total federal funds** (CDBG plus any other federal funds), they must submit an annual audit that should be made in accordance with 2 CFR Part 200, Subpart F.

     Note: OMB revised the Uniform Guidance and released the final updated version in April 2025. As part of this guidance, the Single Audit threshold increased to $1,000,000. The effective date for the threshold change is for audits with periods beginning on or after October 1, 2025.
     https://www.federalregister.gov/documents/2025/04/22/2025-07496/guidance-for-federal-financial-assistance

   - This audit should also include a Project Cost Schedule in addition to the required Federal Schedule of Financial Assistance (SEFA) per the guidelines of 2 CFR Part 200, Subpart F.

2. Recipients that expend **less than $1,000,000 in a year in total federal** (CDBG plus any other federal funds) awards are exempt from Federal (but not State of Georgia) audit requirements for that year. However, records must be available for review. In these cases, a copy of the State Audit as well as the Project Cost Schedule and Source and Application Schedule **must** be submitted. CDBG funds may be used to pay for these financial schedules. Please refer to Appendix 1. for a sample of the Project Cost Schedule and Source and Application Schedule.

3. Recipients are required to submit audits according to State laws and regulations.

4. Small business concerns and business concerns owned and controlled by socially and economically disadvantaged individuals shall have the maximum practicable opportunity to participate in the performance of contracts for audit services awarded with CDBG funds. Recipients shall take the following affirmative action to further their goal:

   - Assure that audit firms owned and controlled by socially and economically disadvantaged individuals as defined in PL 95-507 are used to the fullest extent practicable.

   - Make information on forthcoming opportunities available, and arrange timeframes for the audit so as to encourage and facilitate participation by small or economically disadvantaged firms.

   - Consider in the contract process whether firms competing for larger audits intend to subcontract with small or economically disadvantaged firms.

   - Encourage contracting with small or economically disadvantaged audit firms which have traditionally audited government programs, and in such cases where this is not

possible, assure that these firms are given consideration for audit subcontracting opportunities.

- Encourage contracting with consortiums of small or economically disadvantaged audit firms as described in Paragraph A when a contract is too large for an individual small or economically disadvantaged firm.

- Use the services and assistance, as appropriate, of the Small Business Administration, the Minority Business Development Agency of the Department of Commerce, and the Community Services Administration in the solicitation and utilization of small or economically disadvantaged audit firms.

- A copy of all audit reports shall be provided by the Recipient to DCA no later than 30 days after issuance of the reports and no later than one year plus 30 days after the end of the audit period.

5. Audits must include an examination of internal control systems established to ensure compliance with laws and regulations affecting the expenditure of CDBG funds, financial transactions, and accounts and financial statements, and reports of Recipient organizations. These examinations are to determine whether:

   - There is effective control over and proper accounting for revenues, expenditures, assets and liabilities.

   - The financial statements are presented fairly in accordance with generally accepted governmental accounting principles.

   - The quarterly reports to DCA and claims for advances contain accurate and reliable financial data and are presented in accordance with the terms of applicable agreements.

   - CDBG funds are being expended in accordance with the terms of the grant award and those provisions of Federal and State law or DCA regulations that could have a material effect on the financial statements.

6. In order to accomplish the purposes set forth above, a representative number of charges to the CDBG award shall be tested. The test shall be representative of all cost categories that materially affect the award. The test is to determine whether the charges:

   - Are necessary and reasonable for the proper administration of the program.

   - Conform to any limitations or exclusions of the CDBG award itself.

   - Were given consistent accounting treatment and applied uniformly to both CDBG assisted and other activities of the Recipient.

   - Were net of applicable credits.

   - Did not include costs properly chargeable to other programs.

   - Were properly recorded (i.e., correct amount and date) and supported by source documentation.

- Were approved in advance if subject to prior approval.

- Were incurred in accordance with competitive purchasing procedures if covered by Section 4 of Chapter 3 of this manual.

- Were allocated equitably to benefiting activities, including non-CDBG activities.

7. **Audits should be conducted annually until the project closed out.** If an acceptable annual audit is completed within a short period of time prior to close-out of a CDBG program, DCA will request payment documentation of the unaudited funds and then formally close the grant.

8. If the auditor becomes aware of irregularities in the Recipient organization, the auditor shall promptly notify DCA and Recipient management officials above the level of involvement. Irregularities include such matters as conflicts of interest, falsification of records and reports, and misappropriation of funds or other assets.

9. The annual audited financial statements shall include:

   - A statement that the audit was conducted in accordance with 2 CFR Part 200, Subpart F.

   - Financial statements, including the Schedule of Expenditures of Federal awards (if applicable), including footnotes, of the Recipient organization.

   - The auditor's report on the financial statement which should:
     - Identify the statements examined and the period covered.
     - State that the audit was done in accordance with the Generally Accepted Government Auditing Standards.
     - Express an opinion as to whether the financial Statements of the Federal program is presented fairly in all material respects in conformity with the stated accounting policies.
     - Report on internal controls related to the Federal program, which shall describe the scope of testing of internal control and the results of the test.
     - Report on compliance which includes an opinion as to whether the audit is in compliance with laws, regulations, and the provisions of contracts or grant agreements which could have a direct and material effect on the Federal program.
     - Include a schedule of findings and questioned costs for the Federal program.
     - Identify the major programs.
     - State the dollar threshold used to distinguish between programs.
     - Determine whether the audit qualifies as a low-risk audit.

10. The auditor's reports on compliance and internal control should:

    a. Include comments on weaknesses or noncompliance with the systems of internal control, separately identifying material weaknesses.

    b. Report the scope of testing of internal control and the results of the tests, and where applicable, a separate schedule of findings and questioned cost.

c. Include statement that the audit is in compliance with laws, regulations, and the provisions of contracts or grant agreement that could have a direct and material effect on each major program according to the Federal and State law and where applicable, a separate schedule of findings and questioned cost.

d. Provide a Summary Schedule of prior audit findings that report the status of all audit findings included in the prior audit's schedule of findings and questioned costs relative to Federal awards. The Summary Schedule shall also include audit findings reported in the prior audit's schedule of prior audit findings except audit findings listed as corrected.

e. When audit findings were fully corrected, the summary schedule need only list the audit findings and state which corrective action was taken or provide a statement of planned actions taken by Recipient.

f. **A Source and Application of Funds schedule and a Project Cost schedule for all CDBG funds.** The appropriate grant numbers should also be shown. Please note that if the city/county's total federal expenditures meet or exceed the guidelines of 2 CFR Part 200, Subpart F, ($1,000,000), the Federal Schedule of Financial Assistance can be substituted for the Source and Application Schedule.

g. Comments on the accuracy and completeness of financial reports and claims for advances or reimbursement to DCA.

h. Comments on corrective action taken or planned by the Recipient.

11. Work papers and reports must be retained for a minimum of three years from the date of the audit report, unless the auditor is notified in writing by DCA of the need to extend the retention period. The audit work papers must be made available upon request of DCA or its designees and the General Accounting Office or its designees.

12. When an audit discloses significant findings, the Recipient will be called upon by DCA to take corrective action. Depending upon the nature of the inadequacies, Drawdown of Funds, Final Close-Out or subsequent award of a CDBG program may be delayed or denied until corrective action has been taken.

Section 3: Program Income

Program income is the gross income earned or received by Recipients from DCA awarded CDBG funded activities. It includes such items as receipts from the sale of real property acquired for non-administrative purposes, rental fees, and retained bid guarantees, and payments of principal and interest on loans made using CDBG funds.

1. Program income generated by a DCA funded grant generally **must be returned** to DCA. However, see item 2 below for active CDBG Recipients. Any Program Income retained by the Recipient must be clearly identified in the records as to date of receipt, nature of receipt, amount of receipt, and specific CDBG award which generated the income.

2. For active Grantees, **program income is considered "cash on hand" for drawdown of funds purposes**. (See Chapter 1, Section 6 - "Drawdown of Funds" - in this manual.) However, small receipts of program income may be accumulated up to $5,000 in combination

with other cash on hand.

3. CDBG draws must be deposited in non-interest bearing checking accounts. Any interest inadvertently earned on advances is not program income and must be returned to DCA quarterly and may not be used by the Recipient under any circumstances.

4. Proceeds from the sale of real or non-expendable personal property purchased in whole or in part with CDBG funds for the purpose of administering CDBG program must be handled in accordance with Chapter 3, Section 6 - "Property Management Standards" - of this manual.

5. Receipts such as refunds of travel advances and overcharges from vendors are not program income but rather constitute decreases in expenditures. They should be used not less than once a month to pay bills on hand and should be reflected as miscellaneous income on the first drawdown form submitted after receipt of the income. If such refunds, in addition to other cash on hand, exceed $5,000, they should be immediately returned to DCA, in accordance with Chapter 1, Section 6 - "Drawdown of Funds" - of this manual. If there is no active CDBG award at the time of receipt of such refunds, DCA should be immediately advised and instructions for disposition of the funds requested.

6. Proceeds from the amortization of CDBG loans that are deposited into a local DCA approved Revolving Loan Fund (RLF) does not have to be remitted to DCA or used to offset future CDBG draws. Localities can allow program income to accumulate in the RLF while drawing down CDBG funds for other, unrelated projects. For example, if a locality uses an RLF to make economic development loans to small firms, which otherwise would not expand and/or hire additional employees, it could still drawdown CDBG funds to pay for housing rehabilitation projects in a local target area. For more information on this topic, contact DCA. All Recipients with approved RLFs must comply with all RLF reporting requirements.

Section 4: Procurement

A: BACKGROUND

In accordance with 24 CFR 570.489 (g), DCA has chosen to follow its own procurement policies and procedures for procurement of goods and services procured directly by DCA that is paid for in whole or in part with CDBG funds. For local governments (Recipients) and subrecipients, the following policies and procedures are established to ensure full and open competition in the procurement of goods and services when CDBG funds are used, **in whole or in part**, for the implementation of CDBG projects at the local level. Note that DCA's procurement policies and procedures implement the requirements of 24 CFR 570.489 (g) for its Recipients and subrecipients including:

- Full and open competition
- Identification of Methods of Procurement and their applicability
- Prohibition of cost plus a percentage of cost
- Assurance that all purchase orders and contracts include any clauses required by Federal statutes, Executive orders, and implementing regulations
- Subrecipient and contractor determinations shall be made in accordance with the standards in 2 CFR 200.330.

Note that DCA's procurement policies and procedures include standards of conduct governing employees engaged in the selection, award or administration of state contracts. Standards for state employees can be found at: *Georgia Procurement Manual*, Department of Administrative Services, Section I.4.4. Ethical and Professional Conduct, Page 14, Published February 2011. Recipients must establish written standards of conduct governing employees engaged in the selection, award or

administration of local contracts consistent with 1 (b) below.

B: STANDARDS

The Recipient is the responsible authority under its contracts, without recourse to DCA regarding the settlement and satisfaction of all contractual and administrative issues arising out of procurements entered into, in connection with a CDBG program. Matters concerning violation of law are to be referred to such Local, State or Federal authority as may have proper jurisdiction. However, Recipients are encouraged to contact DCA for assistance in any procurement matter.

1. Recipients may use their own procurement regulations which reflect applicable State and Local law, rules and regulations provided that **all procurements made with CDBG funds meet the following standards:**

   a. CDBG Recipients must maintain a contract administration system which ensures that contractors perform in accordance with the terms, conditions, and specifications of their contracts or purchase orders.

   b. CDBG Recipients must maintain a written code of standards of conduct governing the performance of their employees engaged in the award and administration of contracts. No employee, officer or agent of the CDBG Recipient shall participate in selection, or in the award or administration of a contract supported by CDBG funds if a conflict of interest, real or apparent, would be involved. Such a conflict would arise when:

      i. The employee, officer or agent,
      ii. Any member of his immediate family,
      iii. His or her partner, or
      iv. An organization which employs, or is about to employ, any of the above, has a financial or other interest in the firm selected for award. The grantee's or subgrantee's officers, employees or agents will neither solicit nor accept gratuities, favors or anything of monetary value from contractors, potential contractors, or parties to sub-agreements. Grantee and sub-grantees may set minimum rules where the financial interest is not substantial or the gift is an unsolicited item of nominal intrinsic value. To the extent permitted by State or Local Law or regulations, such standards or conduct will provide for penalties, sanctions, or other disciplinary actions for violations of such standards by the grantee's and sub-grantee's officers, employees, or agents, or by contractors or their agents.

2. It is national policy to award a fair share of contracts to small and minority business firms. Accordingly, affirmative steps must be taken to assure that small and minority businesses are utilized where possible as sources of supplies, equipment, construction and services. Affirmative steps shall include the following:

   a. Including qualified small and minority businesses on solicitation lists.

   b. Assuring that small and minority businesses are solicited whenever they are potential sources.

   c. When economically feasible, dividing total requirements into smaller tasks or quantities so as to permit maximum small and minority business participation.

d. Where the requirement permits, establishing delivery schedules which will encourage participation by small and minority business.

e. Using the services and assistance of the Small Business Administration, the Office of Minority Business Enterprise of the Department of Commerce and the Community Services Administration as required.

f. If any sub-contracts are to be let, requiring the prime contractor to take the affirmative steps in a. through e. above.

g. Grantees shall take similar appropriate affirmative action in support of women's business enterprises.

h. Grantees are encouraged to obtain goods and services from labor surplus areas.

3. Competition: All procurement transactions will be conducted in a manner providing full and open competition. Some of the situations considered to be restrictive of competition include but are not limited to:

   a. Placing unreasonable requirements on firms in order for them to qualify to do business,

   b. Requiring unnecessary experience and excessive bonding,

   c. Noncompetitive pricing practices between firms or between affiliated companies,

   d. Noncompetitive awards to consultants that are on retainer contracts,

   e. Organizational conflicts of interest,

   f. Specifying only a brand name product instead of allowing an equal product to be offered and describing the performance of other relevant requirements of the procurement, and

   g. Any arbitrary action in the procurement process.

4. Recipients must have written selection procedures that provide, as a minimum, the following procedural requirements:

   a. Incorporate a clear and accurate description of the technical requirements for the material, product, or service to be procured. Such description must not, in competitive procurements, contain features that unduly restrict competition. The description may include a statement of the qualitative nature of the material, product or service to be procured and, when necessary, set forth minimum essential characteristics and standards to which it must conform to be satisfactory. Detailed product specifications should be avoided if at all possible. When it is impractical or uneconomical to make a clear and accurate description of the technical requirements, a "brand name or equal" description may be used as a means to define the performance or other important requirements of procurement. The specific features of the named brand that must be met by offerors must be clearly stated.

b. Clearly set forth all requirements which offerors must fulfill and all other factors to be used in evaluating bids or proposals.

c. Awards shall be made only to responsible contractors who possess the potential ability to perform successfully under the terms and conditions of a proposed procurement. Consideration must be given to such matters as contractor integrity, compliance with public policy, record of past performance, and financial and technical resources.

d. Proposed procurement actions must be reviewed by Recipient officials to avoid purchasing unnecessary or duplicative items. Where appropriate, an analysis must be made of lease and purchase alternatives to determine which would be the most economical practical procurement. Consideration should be given to consolidated or breaking out to obtain a more economical purchase. To foster greater economy and efficiency, Recipients are encouraged to enter into State and local intergovernmental agreements for procurement or use of common goals and services.

e. Recipients must perform some type of cost or price analysis concerning every procurement action including contract modifications and must only permit allowable costs to be included.

The cost plus the percentage of cost method of contracting shall not be used. In addition, contracts with other public agencies will only allow actual cost to be paid. No profit is allowable when contracting with other public agencies.

f. Recipients must maintain records sufficient to detail the significant history of procurement. These records must include, but are not necessarily limited to, information pertinent to rationale for the method of procurement, selection of contract type, contractor selection or rejection, and the basis for the cost or price.

g. Recipients must maintain a contract administration system that ensures that contractors perform in accordance with the terms, conditions, and specifications of their contracts or purchase order.

h. Time and materials type contracts may not be used without DCA approval.

5. The Recipient is also encouraged to take the following steps to further open and fair competition and cost savings:
   - Use Federal excess and surplus property in lieu of purchasing new equipment and property whenever such use is feasible and reduces project costs
   - Use value engineering clauses in contracts for construction projects of sufficient size to offer reasonable opportunities for cost reductions. Value engineering is a systematic and creative analysis of each contract item or task to ensure that its essential function is provided at the overall lower cost.

6. The Build America, Buy America Act (BABA) was enacted in the Infrastructure Investment and Jobs Act on November 15, 2021. It requires products purchased in connection with infrastructure projects funded by Federal financial assistance programs to be produced in the United States, known as the "Buy America Preference (BAP)". Specifically, this is a statutory requirement that Federal funding for infrastructure projects use "covered materials" that are "American-made." The BAP applies to the following products:

- Iron and steel;
- Manufactured products; and
- Construction materials.

For the purposes of BABA, an infrastructure project is defined as a project that includes, construction, alteration, maintenance, or repair. For purposes of BABA, "infrastructure" includes, at a minimum, the structures, facilities and equipment for roads, highways, and bridges; public transportation; dams; water systems including drinking water and wastewater systems; broadband; electrical transmission facilities and systems; utilities; facilities that generate, transport and distribute energy; and buildings and real property.

HUD issued updated guidance in January 2025 (CPD Notice 25-01) clarifying how the Buy America Preference (BAP) under the Build America, Buy America Act (BABA) applies to Community Planning and Development (CPD) programs, including CDBG.
Through this notice, CPD provides further clarification on when grantees should apply BABA's requirements to housing projects as described in M-24-02.

1. **Housing projects with one to four units are considered "private," consistent with HUD's definition of single-family housing. Housing projects with one to four units, including onsite utilities and related activities are therefore not considered public infrastructure and are not subject to the BAP.**
2. **Housing projects with five or more units are considered public infrastructure. Housing projects with five or more units are therefore subject to the BAP unless another BABA waiver or exemption applies.**

Applicability to CDBG Projects

Three (3) general applicability waivers are currently in effect for HUD programs and apply to all Covered CPD Programs. Each waiver is outlined below:

1. **Phased Implementation** – Waiver published March 15, 2023, establishes a phased implementation schedule for application of the BAP to HUD programs. Funds obligated by HUD after November 14, 2022, are subject to the BAP.
    a. 2023 CDBG awards must comply with the BAP for iron and steel
    b. 2024 CDBG awards must comply with the BAP for iron and steel, and specifically listed materials. Specifically listed construction materials include; Metals other than iron or steel (non-ferrous metals), lumber, composite building materials, plastic and polymer-based pipes/tubes.
    c. 2025 CDBG awards must comply with the BAP for iron, steel, specifically listed construction materials, all other construction materials, and manufactured products. Manufactured products are defined as a material or supply used in an infrastructure project that is not iron or steel or a construction material. When two or more materials are combined, they should be treated as a manufactured product.
2. **Exigent Circumstances** – BAP may be waived if projects must be completed immediately to protect life, ensure safety, or prevent the destruction of property. Effective until November 23, 2027.
3. ***De Minimis*, Small Grants & Minor Components** – BAP waived for projects with a total cost of $250,000 or less. BAP waived for a de minimis portion that

comprises no more than 5 percent of the total cost of covered materials used in a project, up to $1 million. Effective until November 23, 2027.

For more information on HUD's phased approach to BABA's implementation, please refer to the agency's notice "*Public Interest Phased Implementation Waiver for FY 2022 and 2023 of Build America, Buy America Provisions as Applied to Recipients of HUD Federal Financial Assistance*" in Appendix 2.

Project- Specific Waivers

There are three (3) categories of project-specific waivers:

- Public Interest: the application of the preference would be contrary to the public interest;
- Nonavailability: covered materials are not produced in the US in sufficient and reasonably available quantities or of a satisfactory quality; and,
- Unreasonable Cost: inclusion of domestically produced covered materials will increase the cost of the overall project by more than 25 percent.

Please note: DCA CDBG Recipients' wishing to submit a waiver must coordinate this with DCA, as only direct HUD Recipients may submit waiver applications. As such, waiver applications will not be accepted by HUD from DCA CDBG Recipients. If you think a project specific waiver is necessary, please contact DCA at CDBG.Biz@dca.ga.gov .

Demonstrating Compliance

Recipients will ensure the products delivered to the construction site are accompanied by proper documentation that demonstrate compliance with the law and made available to the funding authority upon request. The documentation may be received and maintained in hard copy or electronically. The use of a signed certification letter by the manufacturer for the project is the most direct and effective form of compliance documentation for ensuring products used on site are BABA-compliant prior to their installation; however, other forms of documentation are also acceptable if collectively, the following can be demonstrated:

- Documentation linked to the project. For example, this can be in the form of the project name, project location, contract number, or project number.
- Documentation linked to the product used on the project. For example, description of product(s) (simple explanation sufficient to identify the product(s)), or an attached (or electronic link to) purchase order, invoice, or bill of lading.
- Documentation includes statement attesting that the products supplied to the assistance recipient are compliant with BABA requirement. Reference to the Infrastructure Investment and Jobs Act ("IIJA") or the Bipartisan Infrastructure Law (BIL) are also acceptable. For iron and steel items under BABA, references to the American Iron and Steel (AIS) requirements are also acceptable and reciprocal with BABA for such items.
- Documentation that manufacturing occurred in the United States, which could include, for example, the location(s) of manufacturing for each manufacturing step that is being certified. It is acceptable for manufactured products to note a single point of manufacturing, documenting that the final point of manufacturing is in the United States. Note that each BABA category may require different determinations for compliance.
- Signature of company representative (on company letterhead and signature can be

electronic). The signatory of the certifying statement affirms their knowledge of the manufacturing processes for the referenced product(s) and attests that the product meets the BABA requirements. *Note: our office will not accept electronic signatures that are font based without the audit log or the digital signature stamp.*

In addition to compliance documentation, Grantees or their representatives should also conduct a visual inspection of the product when it arrives to the project site, especially for iron and steel products which are often stamped with the country of origin.

Note: A country of origin stamp alone is not sufficient verification of compliance with BABA and assistance receipts should not rely on it to ensure compliance. Country of Origin compliance documentation will be required prior to the drawdown of construction funds.

Contract Requirements

Compliance with BABA must be spelled out in agreements for services, construction contracts, and procurement contracts. Generally, the architect/engineer's contract should include, as a basic service, obtaining and maintaining all BABA documentation (particularly manufacturers' certifications) during construction, which shall be transferred to the recipient. The architect or engineer will need to certify to this action at the project's end.

At a minimum, the following must be included in all construction contract documents: All requirements of the Build America, Buy America (BABA) Act, 41 USC 8301 note, and all applicable rules and notices, as may be amended, shall be complied with if applicable to the infrastructure project. Pursuant to HUD's Notice, "Public Interest Phased Implementation Waiver for FY 2022 and 2023 of Build America, Buy America Provisions as Applied to Recipients of HUD Federal Financial Assistance" (88 FR 17001), any funds obligated by HUD on or after the applicable listed effective dates, are subject to BABA requirements, unless excepted by a waiver.

Additionally, contractor construction contract(s) must include a requirement to procure and install only items that comply with BABA or are subject to an approved waiver. Contractors must provide manufacturers' certifications for all BABA compliant items to the responsible party before a request for reimbursement to the agency is made. The contractor will be required to certify that all items used on the contract complied with BABAA and that all manufacturers' certifications were provided.

Advertisement for Bids

This agreement is for services related to a project that is subject to the Build America, Buy America Act (BABAA) requirements under Title IX of the Infrastructure Investment and Jobs Act ("IIJA"), Pub. L. 177-58. Absent an approved waiver, all iron, steel, manufactured products, and construction materials used in this project must be produced in the United States, as further outlined by the Office of Management and Budget's Memorandum M-22-11, Initial Implementation Guidance on Application of Buy America Preference in Federal Financial Assistance Programs for Infrastructure, April 18,2022.

Instructions to Bidders

Any request for substitute or "or equal" shall include the Manufacturer's Certification of compliance with the Build America, Buy America Act (BABAA) requirements mandated by Title IX of the Infrastructure Investment and Jobs Act ("IIJA"), Pub. L. 177-58. If the Instructions include a Federal requirements section, include the following: BABAA

requirements apply to this project.

Bid Form
Bidder's representation section: Bidder is familiar with all laws and regulations that may affect cost, progress, and performance of the work, including BABAA requirements.

DCA's BABA Guidance titled: State of Georgia's Non-Entitlement Community Development Block Grant (CDBG) Program, Build America, Buy America (BABA) CDBG Requirements, can be found in Appendix 2 Index.

C: METHODS OF PROCUREMENT

All contracts must be made with responsible contractors who possess the potential ability to perform successfully under the terms and conditions of a proposed procurement. Consideration may be given to such matters as contractor integrity, record of past performance, financial and other technical resources, or accessibility to other necessary resources.

Procurement records or files shall provide, as applicable, at least the following pertinent information: justification for the use of negotiation instead of advertising, contractor selection, basis for the cost or price negotiated.

A system for contract administration must be maintained by the Recipient to assure contractor conformance with terms, conditions, and specifications of the contract or order, and to assure adequate and timely follow-up of all purchases.

There are four methods of procurement that can be used by Recipients, if authorized by locally adopted standards:

1. **Small purchase procedures** which can be used for procurements under $250,000 (**if allowed by local policy**) and which require that price or rate quotations be obtained from an adequate number of qualified sources. Note that this method is not appropriate for procurement of administrative or professional services. [Georgia has increased the small purchase threshold for public works contracts to $250,000, effective July 1, 2025.]

2. **Public Works Construction: Competitive sealed bids**
   DCA, under the authority of 24 CFR 570.489(g), has adopted Title 36, Chapter 91 of the Official Code of Georgia, Georgia Public Works Construction Law, for procurement of public works construction projects. A copy of this law can be found in Appendix 2. The Georgia Municipal Association has published a Guide to the requirements and options available under this state law. The Guide and the text of the law are available on the GMA website at:

   https://www.gacities.com/GMASite/media/PDF/publications/publicworks.pdf

   In addition to the traditional design–bid–construct method of public works projects, the law allows for other alternative construction delivery methods. These include the design-build and construction management methods. Before using alternative methods, the Recipient must consult with DCA and seek the advice of legal counsel.

   The Georgia law's advertising requirements must be followed by CDBG Recipients and include:

- ✓ The contract opportunity must be posted in the governing authority's office;
- ✓ The contract opportunity must be advertised in either the legal organ of the local government, or on the website of the government entity or one identified by the entity and shall include the Georgia Procurement Registry, if the opportunity is valued at $100,000 or more, as required by O.C.G.A. 36-80-27 (see below); and
- ✓ Contract opportunities must be advertised at least two times:
  - The first advertisement must be at least 4 weeks prior to the bid opening date; and
  - The second advertisement must follow at least 2 weeks after the first advertisement.

  Note: Advertisements placed on an Internet website should run continuously for at least four weeks.
- ✓ The invitation for bids, including specifications and pertinent attachments, must clearly define the items or services needed in order for bidders to properly respond to the invitation.
- ✓ All bids must be opened publicly at the time and place stated in the invitation for bids.
- ✓ Contract Opportunities must be posted in at least three (3) locations, such as GPR, government's website, Dodge Room, newspaper, DOL, DFCS. All ads must include this Section 3 language: "This is a Section 3 Covered Contract. Section 3 Business Concerns are encouraged to apply." In order for outreach to be effective, the Section 3 language must be noticeably placed, for recognition, including in internet advertisements.
- ✓ A firm-fixed-price contract (lump sum or unit price) award must be made by written notice to the responsible bidder. Where specified in the bidding documents, factors such as discounts, transportation costs and life cycle costs must be considered in determining which bid is lowest.
- ✓ Any or all bids may be rejected when there are sound documented business reasons that to do so would be in the best interest of the program.
- ✓ Newly enacted requirements (effective April 28, 2019) based on the passage of House Bill 322 that adds Code Section 36-80-27 and reads as follows: If a bid or proposal opportunity is extended by a county, municipal corporation, or local board of education for goods, and services, or both, valued at $100,000.00 or more, such bid or proposal opportunity shall be advertised by such respective local governmental entity in the Georgia Procurement Registry, as established in subsection (b) of Code Section 50-5-69, at no cost to the local governmental entity. Such bid or proposal opportunity shall be advertised on such registry for the same period of time, as set by ordinance or policy, if any, as the county, municipality, or local board of education advertises bid or proposal opportunities in the official legal organ or other media normally utilized by the local governing entity. Each advertisement shall include such details and specifications as will enable the public to know the extent and character of the bid or proposal opportunity. Newly enacted requirements (effective April 28, 2019) based on the passage of House Bill 322 that amends Code Section 36-91-20(b)(1) and reads as follows: Prior to entering into a public works construction contract other than those exempted by Code Section 36-91-22, a governmental entity shall publicly advertise the contract opportunity. Such notice shall be posted conspicuously in the governing authority's office and shall be advertised on the Georgia Procurement Registry as provided for in Code Section 50-5-69 at no cost to the governmental entity. Such advertisement on such registry shall be for the same period of time specified under paragraph (3) of this subsection. Such notice may be advertised in the legal organ of the county or by

electronic means on the website of the governmental entity or any other appropriate websites identified by the governmental entity.

Recipients are encouraged to use additional auxiliary methods of publication in order to ensure maximum competition in the procurement process.

Build America, Buy America (BABA) Bid Requirements

Advertisement for Bids

This agreement is for services related to a project that is subject to the Build America, Buy America Act (BABAA) requirements under Title IX of the Infrastructure Investment and Jobs Act ("IIJA"), Pub. L. 177-58. Absent an approved waiver, all iron, steel, manufactured products, and construction materials used in this project must be produced in the United States, as further outlined by the Office of Management and Budget's Memorandum M-22-11, Initial Implementation Guidance on Application of Buy America Preference in Federal Financial Assistance Programs for Infrastructure, April 18,2022.

Instructions to Bidders

Any request for substitute or "or equal" shall include the Manufacturer's Certification of compliance with the Build America, Buy America Act (BABAA) requirements mandated by Title IX of the Infrastructure Investment and Jobs Act ("IIJA"), Pub. L. 177-58. If the Instructions include a Federal requirements section, include the following: BABAA requirements apply to this project.

Bid Form

Bidder's representation section: Bidder is familiar with all laws and regulations that may affect cost, progress, and performance of the work, including BABAA requirements.

3. **Competitive negotiation** is a method of procurement for professional services where proposals are requested from a number of sources and the Request for Proposal (RFP) or Request for Qualifications (RFQ) is publicized. A fixed-price or cost-reimbursable type contract is awarded, as appropriate. Recipients should perform a systematic analysis of each contract item or task to assure adequate service and to offer reasonable opportunities for cost reductions. Competitive negotiation may be used if conditions are not appropriate for the use of formal advertising. If competitive negotiation is used for procurement under a grant, the following requirements apply:

    a. Proposals must be solicited from an adequate number of qualified sources to permit reasonable competition consistent with the nature and requirements of the procurement. The Request for Proposals must be publicized and reasonable requests by other sources to compete must be honored to the maximum extent practicable. "Solicitation" requests by the Recipient must be specifically addressed to a list of more than one potential proposer identified by the City/County. To "publicize" the RFP, the Recipient must also offer the RFP through publication in a newspaper with adequate circulation or publication by other means such that reasonable exposure to potential proposers can be expected.

b. The Request for Proposal must identify all significant evaluation factors, including price or cost where required and their relative importance.

c. The Recipient must have mechanisms for technical evaluation of proposals received, for determinations of responsible offerors for the purpose of written or oral discussions, and for selection for contract award.

d. Award may be made to the responsible offeror whose proposal will be most advantageous to the procuring party, price and other factors considered. Unsuccessful offerors should be notified promptly.

e. Recipients may use competitive negotiation procedures for procurement of Architectural/Engineering professional services, whereby competitors' qualifications are evaluated and the most qualified competitor is selected, subject to negotiation of fair and reasonable compensation.

f. If "competitive negotiation" is not successful, then the Recipient must receive "sole source" approval from DCA before contracting.

Special Note on Procurement for Grant Administration and other Professional Services

All professional procurements should have been completed prior to CDBG application preparation and submission. For example, prior to CDBG application submission, both grant application services and grant administration services should be solicited using the same Request for Proposal (RFP). This avoids the appearance of a conflict of interest that can be created when a grant writer in a later procurement process submits and receives an award for grant administration services. This approach is also applicable for engineering/architectural services.

Note that this process is not required when contracting with Regional Commissions. These provisions apply, typically, to contracts with private consultants, engineers and architects.

To comply, the recipient government (not the individual or firm proposing to provide services) should:

1.) **Establish or appoint a local Selection Review Committee**. The city or county must establish a Selection Review Committee to determine the evaluation criteria and to rate proposals for services. This committee may consist of the entire local governing body (council/board of commissioners), a subset of this council/ board, as appointed by the Mayor/Chairman, or a combination of elected officials and city/county staff. Cities/counties should have a minimum of three members on the committee. Committee members may not have any potential conflicts of interest with any of the individuals, firms, or agencies under review (e.g., family relationships, close friendships, business dealings) and no person who might potentially receive benefits from CDBG-assisted activities may participate in the selection, award, or administration of a contract supported by CDBG funding if he or she has a real or apparent conflict of interest.

2.) **Determine the Selection Criteria to Evaluate Respondents**. Determine what evaluation criteria will be used to rate the proposals submitted to the city/county. Prepare a Ratings Criterion Score sheet to evaluate and score each proposal received.

3.) **Develop the Request for Proposals (RFP) Package.** Develop a Request for Proposal (RFP) package that includes "evaluation factors" selected by the Review Committee and their level of importance. The RFP package should include the submission deadline and instructions for submission, a local point of contact for any questions regarding the RFP, and a format for a Statement of Qualifications.

*** If the local government is also soliciting for Section 3 businesses, the RFP Package should also include DCA's Section 3 Solicitation Package, which can be found in Appendix 2.**

4.) **Advertise the RFP**. If the local government is soliciting Section 3 Businesses the procedure requires to advertise the RFP in three locations. The three locations include the local government web site and/or by publishing it in the applicant's "legal organ," along with posting the opportunity at any of the following, for a total of 3 locations: A) city hall/county courthouse; B) most widely distributed newspaper; C) Local GA Department of Labor office and/or Local Workforce Board office; D) local DFCS office; E) local Public Health department; F) local Housing Authority management office. If the contract will be for more than $100,000 it must be advertised on the Georgia Procurement Registry (https://ssl.doas.state.ga.us/PRSapp). Allow 30 days for responses. The publication must state this is a Section 3 contract opportunity. Send an email or letter with a copy of the RFP, Statement of Qualifications, and the Section 3 Solicitation Package to "known providers". When soliciting firms to administer projects, RFP's should be sent to at least seven (7) known providers. When soliciting engineering/architectural services, RFP's should be sent to at least ten (10) known providers.

- If sending letters by mail, DCA requires that letters be sent certified return receipt to provide the required documentation. Emails must be sent with a Request Delivery Receipt and Request Read Receipt to provide equivalent documentation when using this method.

- As a service to applicants, recipients and others, DCA maintains a list of consultants who have expressed an interest in making proposals on CDBG projects. This is not an "approved" list. DCA does not approve or disapprove consultants. This is the applicant's or recipient's responsibility. The list can be found on the DCA web site.

5.) **Review and rate proposals.** After the submittal deadline, the committee should review and rate each of the proposals received. Committee members should use the evaluation criteria established in step 2 above. Each committee member should score the proposals; all scores can then be averaged to determine the highest scoring proposal. The firm with the highest average points should be selected. If a Section 3 business submits a bid and requests a preference, the city/county must give priority to the greatest extent possible to the business. In this instance, the city/county should contact Kathleen Vaughn at (404) 679-0594 or kathleen.vaughn@dca.ga.gov for further guidance to ensure compliance with the federal Section 3 requirements.

6.) **Approve the selected contractor and award contract.** The City Council/Board of Commissioners has final authority to award the contract to the selected contractor. The review committee should present a recommendation to the city/county attorney and to the governing board for final approval. A contract for services should be prepared between the city/county and the selected consultant. Letter(s) or emails thanking unsuccessful respondents for making a proposal should then be sent. Based on evaluation criteria contained in the RFP, this letter should briefly state the reasons why the respondent was not hired.

7.) **Record keeping**. The city/county must maintain and make available all documentation utilized during the RFP process, including but not limited to:

- Copy of the full RFP
- Proof of publication of the RFP (by full tear sheet from newspaper or screen shot of web site; photo of posting on bulletin board)
- List of firms/individuals that were sent RFPs
- Copies of proposals received
- Scoring sheet that shows the rankings for each of the submitted proposals
- Meeting minutes indicating the council/board approved the selection of the selected firm for service
- Executed contract for services with applicable federal language
- Documentation of any correspondence with a Section 3 business

Further guidance on competitive negotiation can be found in Appendix 2 of this manual and on DCA's website at the following url:
https://dca.georgia.gov/financing-tools/infrastructure/community-development-block-grants-cdbg/compliance-administration-0

4. **Non-Competitive** or "Sole Source Procurement" requires prior DCA approval and may be considered when:

   a. The item or service is available from only one source;

   b. Urgent public need will not allow for the delay caused by advertising;

   c. Although a number of bids were solicited, only one response was received.

For procurement processes that result in requests for sole source approval from DCA, the procurement process must be fully documented to DCA's satisfaction before DCA will grant approval, including but not limited to the following: 1) a letter from the Chief Elected Official stating that only one proposal/bid response was received and stating that a sole source approval is requested; 2) a description of the procurement process; 3) a tear sheet of the bid advertisement or Request for Proposals/Request for Qualifications; 4) for procurement of professionals, a list of the active, qualified consultants or engineers/architects that were mailed the Request for Proposals/Request for Qualifications; 5) for procurement of professionals, certified return receipt documentation that the Request for Proposals/Request for Qualifications was mailed to the required number of active, qualified consultants or engineers/architects (7 for grant administrators and 10 for engineers/architects), or adequate email documentation that the

Request for Proposals was delivered as required; 6) the local government's attorney has opined the project was advertised/bid in compliance with all applicable laws, rules and regulations, including the Local Government Public Works Construction Law (O.C.G.A. §36-91 et. seq.); and 7) for sealed bid procurements, the local government's engineer/architect has stated that the one bid response's prices were reasonable and appropriate based on independent cost estimates.

D. CONTRACT REQUIREMENTS

The Recipient must include, in addition to the provisions needed to define a sound and complete agreement, the following provisions in all contracts:

1. Contracts other than small purchases must contain such contractual provisions or conditions which will allow for administrative, contractual or legal remedies in instances where contractors violate or breach contract terms, and they must also provide for appropriate sanctions and penalties.

2. All contracts in excess of $10,000 must contain provisions for terminations "for convenience" by Recipient, including when and how termination may occur and the basis for settlement. In addition, all contracts must describe conditions under which the contract may be terminated for default as well as conditions where the contract may be terminated because of circumstances beyond the control of the contractor.

3. All contracts awarded by Recipients and their contractors or sub-grantees having a value of more than $10,000 must contain a provision requiring compliance with Executive Order 11246, entitled "Equal Employment Opportunity", as amended by Executive Order 11375, and as supplemented in the Department of Labor regulations (41 CFR, Part 60).

4. All contracts and sub-contracts over $2,000 for construction or repair must include a provision for compliance with the Copeland "Anti-Kickback" Act (18 U.S.C. 874) as supplemented in Department of Labor regulations (23 CFR, Part 3). This act provides that each contractor or subgrantee shall be prohibited from inducing, by any means, any person employed in the construction, completion, or repair of public work, to give up any part of the compensation to which he is otherwise entitled. The Recipient must report all suspected or reported violations to DCA. (See Chapter 2, Section 3 - "Labor Standards" - of this manual.)

5. All construction contracts awarded by Recipients and their subgrantees in excess of $2,000 must include a provision for compliance with Davis- Bacon Act (40 U.S.C. 27ato a-7) as supplemented by Department of Labor regulations (29 CFR, Part 5). Under this act contractors shall be required to pay wages to laborers and mechanics at a rate not less than the minimum wages specified in a wage determination made by the Secretary of Labor. In addition, contractors shall be required to pay wages not less often than once a week. The Recipient must place a copy of the current Prevailing Wage Determination issued by the Department of Labor in each solicitation and the award of a contract must be conditioned upon acceptance of the wage determination.

The Recipient must report all suspected or reported violations to DCA. (See Chapter 2, Section 3 - "Labor Standards" - of this Manual.)

6. Where applicable, all contracts awarded by Recipients and sub-grantees in excess of

$100,000 for construction contracts which involve the employment of mechanics or laborers must include a provision for compliance with sections 103 and 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C. 327-330) as supplemented by Department of Labor regulations (29 CRF, Part 5). Under Section 103 of the Act, each contractor shall be required to compute the wages of every mechanic and laborer based on a standard workday of 8 hours and a standard workweek of 40 hours.

Work in excess of the standard workweek is permissible provided that the worker is compensated at a rate of not less than 1.5 times the basic rate of pay of all hours worked in excess of 40 hours in the workweek. Section 107 of the Act is applicable to construction work and provides that no laborer or mechanic shall be required to work in surroundings or under working conditions which are unsanitary, hazardous, or dangerous to his health and safety as determined under construction, safety and health standards promulgated by the Secretary of Labor.

These requirements do not apply to the purchases of supplies or material or articles ordinarily available on the open market. (See Chapter 2, Section 3, - "Labor Standards" - of this manual.)

7. All negotiated contracts (except those of $10,000 or less) must include a provision that DCA, HUD, the Comptroller General of the United States, or any of their duly authorized representatives, shall have access to any books, documents, papers, and records of the contractor which are directly pertinent to a specific grant program for the purposes of making audit, examination, excepts, and transcriptions for 3 years after final payment of the Recipient and all pending matters are closed.

8. Contracts, sub-contracts and sub-grants of amounts in excess of $100,000 must contain a provision which requires compliance with all applicable standards, orders, or requirements issued under Section 306 of the Clean Air Act (42 U.S.C. 1857(h) or Section 508 of the Clean Air Act (33 U.S.C. 1368). Executive Order 11738, and Environmental Protection Agency regulations (40 CFR, Part 15), that prohibit the use of facilities included on the EPA List of Violating Facilities.

9. Contracts must recognize mandatory standards and policies relating to energy efficiency which are contained in the State energy conservation plan issued in compliance with the Energy Policy and Conservation Act (PL 94-163).

10. Contracts and sub-contracts must include the Section 3 Clause of the Urban Development Act of 1968 and any additional language required in order to adequately enforce Section 3 requirements.

11. Debarment and Suspension (Executive Orders 12549 and 12689)—A contract award (see 2 CFR 180.220) must not be made to parties listed on the government wide exclusions in the System for Award Management (SAM), in accordance with the OMB guidelines at 2 CFR 180 that implement Executive Orders 12549 (3 CFR part 1986 Comp., p. 189) and 12689 (3 CFR part 1989 Comp., p. 235), "Debarment and Suspension." SAM Exclusions contains the names of parties debarred, suspended, or otherwise excluded by agencies, as well as parties declared ineligible under statutory or regulatory authority other than Executive Order 12549.

12. Byrd Anti-Lobbying Amendment (31 U.S.C. 1352)—Contractors that apply or bid for an

award exceeding $100,000 must file the required certification. Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant or any other award covered by 31 U.S.C. 1352. Each tier must also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the non-Federal award.

13. A non-Federal entity that is a state agency or agency of a political subdivision of a state and its contractors must comply with section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act. The requirements of Section 6002 include procuring only items designated in guidelines of the Environmental Protection Agency (EPA) at 40 CFR part 247 that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition, where the purchase price of the item exceeds $10,000 or the value of the quantity acquired during the preceding fiscal year exceeded $10,000; procuring solid waste management services in a manner that maximizes energy and resource recovery; and establishing an affirmative procurement program for procurement of recovered materials identified in the EPA guidelines.

14. Rights to Inventions Made Under a Contract or Agreement. If the Federal award meets the definition of "funding agreement" under 37 CFR §401.2 (a) and the recipient or subrecipient wishes to enter into a contract with a small business firm or nonprofit organization regarding the substitution of parties, assignment or performance of experimental, developmental, or research work under that "funding agreement," the recipient or subrecipient must comply with the requirements of 37 CFR Part 401, "Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements," and any implementing regulations issued by the awarding agency.

15. The following must be included in all construction contract documents: All requirements of the Build America, Buy America (BABA) Act, 41 USC 8301 note, and all applicable rules and notices, as may be amended, shall be complied with if applicable to the infrastructure project. Pursuant to HUD's Notice, "Public Interest Phased Implementation Waiver for FY 2022 and 2023 of Build America, Buy America Provisions as Applied to Recipients of HUD Federal Financial Assistance" (88 FR 17001), any funds obligated by HUD on or after the applicable listed effective dates, are subject to BABA requirements, unless excepted by a waiver.

Section 5: Bonding and Insurance

The minimum Bonding and Insurance requirements under state law are applicable to public works contracts valued over $250,000 and require:

1. A performance bond from contractors executed in connection with each contract.

2. A payment bond on the part of the contractor for 100% of the contract price.

In addition, for construction contracts over $100,000, the minimum federal requirements are as follows:

a. A bid guarantee from each bidder equal to 5% of the bid price. The bid guarantee may consist of a bid bond, certified check, or other negotiable instrument accompanying the bid.

b. A performance bond from contractors for 100% of the contract shall be executed in connection with each contract.

c. A payment bond on the part of the contractor for 100% of the contract price.

[Note: Effective July 1, 2025, Georgia HB 137 increased the threshold for bonding requirements on public construction projects to $250,000. The law, updates the state's "Little Miller Act" to account for inflation and modern construction costs.]

All bonds shall be obtained from companies holding certificates of authority as acceptable sureties under state and federal requirements.

In addition, DCA requires that Recipients require adequate contractor's liability insurance from all contractors. A minimum coverage of $25,000 property and $50,000 bodily injury coverage must be maintained.

Section 6: Property Management Standards

Recipients shall use their own property management standards and procedures provided that the minimum standards listed below are met. These standards apply to all property acquired with CDBG funds for administrative purposes. Property acquired in carrying out the programmatic activities approved in the award shall be used and disposed of in accordance with the terms and conditions of the CDBG award itself whenever specified in the application.

1. The various kinds of property are defined as follows:

   a. **Real property.** Real property means land, including land improvements, structures and appurtenances thereto, excluding movable machinery and equipment.

   b. **Personal property.** Personal property of any kind except real property. It may be tangible - having physical existence, or intangible - having no physical existence, such as patents, inventions and copyrights.

   c. **Non-expendable personal property.** Non-expendable personal property means tangible personal property having a useful life of more than one year and an acquisition cost of $300 or more per unit.

   d. **Expendable personal property.** Expendable personal property refers to all tangible personal property other than non-expendable property.

   e. **Acquisition cost of purchased non-expendable personal property.** This refers to the net invoice unit price of the property including the cost of modifications, attachments, accessories, or auxiliary apparatus necessary to make the property usable for the purposes for which it was acquired. Other charges such as the cost of installation, transportation, taxes, duty or protection in transit insurance, shall be included or excluded from the unit acquisition cost in accordance with the Recipient's usual accounting practices.

2. The minimum standards are as follows:

a. When the CDBG award under which the property was acquired is closed out, the Recipient may use the property for any subsequent CDBG activities, or if there is no subsequent CDBG award, for any eligible Community Development activities.

b. When the Recipient no longer needs the property for any eligible Community Development activities, the following regulations apply:

(i) The Recipient shall request disposition instructions from DCA for all non-expendable property with a unit acquisition cost of $1,000 or more, for all real property regardless of acquisition cost, and for all expendable personal property with an aggregate fair market value of $1,000 or more.

(ii) Non-expendable property with a unit acquisition cost of less than $1,000 and expendable personal property with an aggregate fair market value of less than $1,000 shall be retained by the Recipient and used or disposed of at his discretion.

3. The Recipient's property management standards for non-expendable personal property shall provide that:

a. Property records are maintained accurately and include a description of the property, a manufacturer's serial number or other identification number, the CDBG grant number with which it was acquired, the acquisition date and cost, the location, use and condition of the property and the date the information was reported, the unit acquisition cost and the ultimate disposition date.

b. A physical inventory shall be taken and the results reconciled with the property records at least once every two years. Any differences shall be investigated to determine the cause.

4. A control system shall be in effect to ensure adequate safeguards to prevent loss, damage or theft of property. Any loss, damage, or theft shall be investigated and fully documented.

5. Adequate maintenance procedures shall be implemented to keep the property in good condition.

6. Where the Recipient is authorized or required to sell the property, proper sales procedures shall be established which would provide for competition to the extent practicable and result in the highest possible return.

7. Shared use. During the time non-expendable personal property is held for use on the project or program for which it was acquired, the grantee shall make it available for use on other projects or programs if such other use will not interfere with the work on the project or program for which the property was originally acquired. First preference for such other use shall be given to other CDBG projects or programs sponsored by DCA. Second preference shall be given to other programs. User charges should be considered if appropriate.

8. Adequate dwelling and liability insurance coverage must be secured by the Recipient whenever it acquires or manages property.