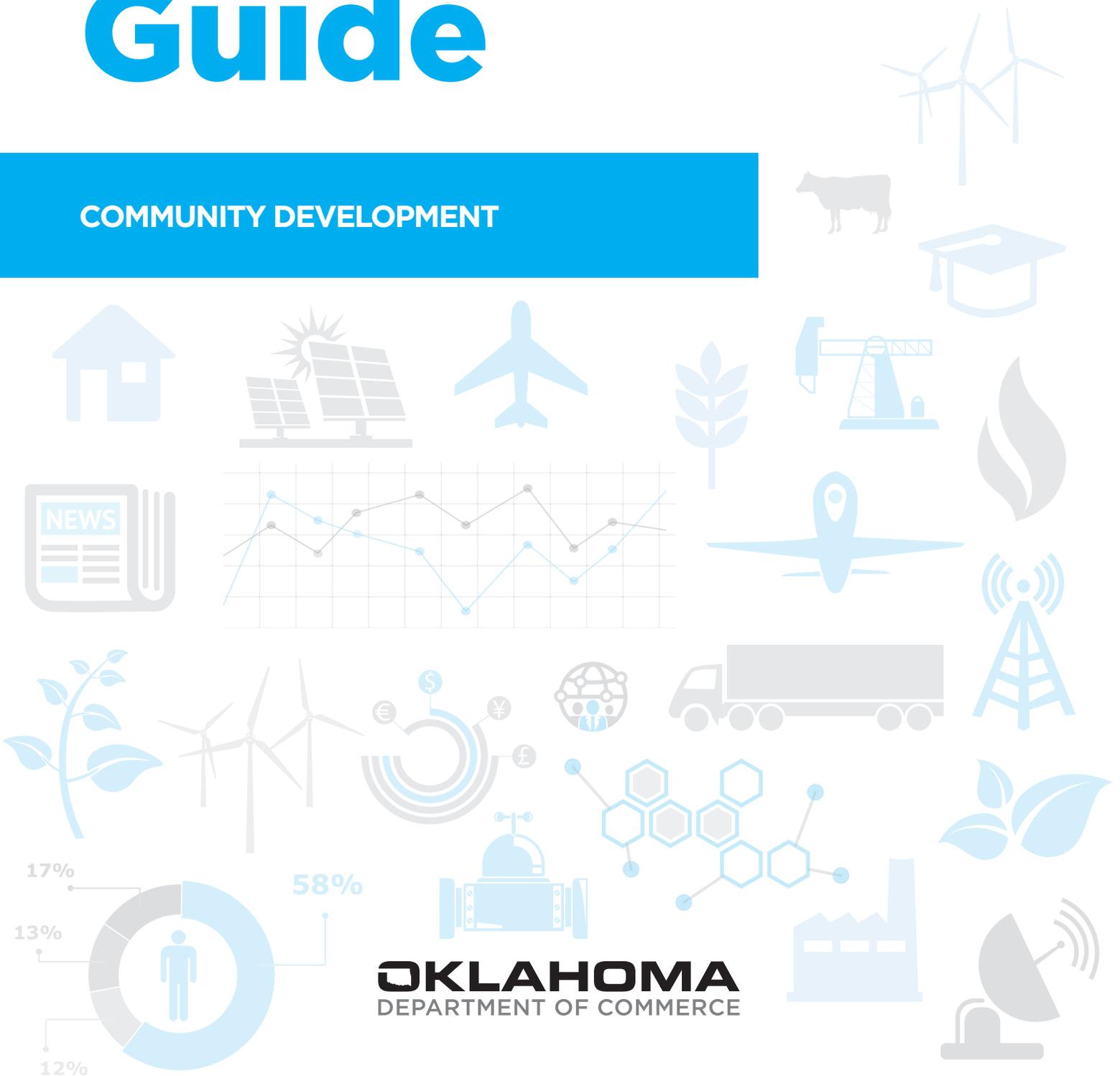


CDBG Project Management Guide

COMMUNITY DEVELOPMENT



OKLAHOMA
DEPARTMENT OF COMMERCE

**OKLAHOMA DEPARTMENT OF COMMERCE
COMMUNITY DEVELOPMENT
COMMUNITY DEVELOPMENT BLOCK GRANT (CDBG) PROGRAM**

Effective July 7, 2014

Introduction

The Community Development Block Grant (CDBG) Project Management Guide is designed for practitioners of local CDBG contracts. The manual is divided into 10 sections, with each section building from the preceding, and generally will be in order from contract implementation to closeout. By using this manual, grantees will be able to complete a project according to the contract, state, and federal guidelines.

The procedures documented in this manual address the required recordkeeping systems, reporting requirements, monitoring and modification procedures, in addition to specific program requirements, regulations, and definitions.

This manual sets forth the minimum requirement to be followed. Whenever there are conflicts between local, state and federal requirements, the more strict of the three regulations always take precedence.

The application forms, contract, Release of Funds, Payment Requests, and Expenditure Reports can be found in OKGrants. The forms contained in this manual are designed to be fillable and are uploaded in OKGrants.

Technical Assistance

Technical Assistance is available to all grantees and consultants. Project Managers from ODOC will contact each Grantee upon awarding contracts to determine if technical assistance is appropriate. Grantees and consultants that are new to the process will automatically receive technical assistance. Technical assistance visits may also be made by staff, if requested, or if it is determined that it would best suit the grantee and the State's investment of grant dollars. Technical assistance visits are made to assist the grantee toward achieving successful project completion. The experience of the staff toward problem resolution and recommending alternative solutions is a source and a benefit that every grantee who needs assistance should utilize.

New administrators/staff are required to participate in TA.

**OKLAHOMA DEPARTMENT OF COMMERCE
COMMUNITY DEVELOPMENT
COMMUNITY DEVELOPMENT BLOCK GRANT (CDBG) PROGRAM**

**CONTRACTORS IMPLEMENTATION MANUAL
Effective July 2014**

TABLE OF CONTENTS

		<u>Page No.</u>
REQUIREMENT 401: PROGRAM MANAGEMENT		
I.	Contractual Requirements	401-1
II.	Removing Contract Conditions (Release of Funds).....	401-1
III.	Updated Disclosure Report	401-3
IV.	Project and Budget Modifications.....	401-4
V.	Administering the Program.....	401-7
VI.	Records.....	401-8
VII.	Citizen Participation	401-10
VIII.	Attachments	401-12
	1. Program Records Checklist.....	401-13
 REQUIREMENT 402: PROPERTY ACQUISITION & RELOCATION		
I.	Property Acquisition	402-1
II.	Relocation	402-10
III.	Replacement of Low- to Moderate-Income Housing Units.....	402-11
IV.	Residential Anti-Displacement and Relocation Assistance Plan	402-12
V.	Summary	402-14
VI.	Attachments	402-14
	1. Voluntary Notice to Specific Owners	402-15
	2. Sample Voluntary Notice to Several Owners	402-16
	3. Sample Notice to Tenants Not Displaced.....	402-17
	4. Sample Notice to Tenants Who May Be Displaced.....	402-18
	5. Sample Letter Notification of Date of Appraisal and Invitation to Accompany	402-19
	6. Sample Notification of Fair Market Value	402-20
	7. Sample of Notice of Decision Not to Acquire a Property.....	402-21
	8. Property Acquisition, Individual Parcel File Requirements.....	402-22
	9. Sample Notice of Interest in Acquiring Property, Non-Voluntary Acquisition	402-23
	10. Sample Waiver of Required Appraisal	402-24
	11. Sample Agreement to Waive Rights to Full Compensation	402-25
	12. Sample Statement of the Basis for Determining Just Compensation.....	402-26
	13. Sample Statement of Settlement Costs	402-27
	14. Relocation, Individual Household File Requirements	402-28
	15. Sample Residential Anti-Displacement and Relocation Assistance Plan	402-29
	16. Notice to Prospective Buyers of Properties Located in Clear Zones and Clear Zones/Accident Potential Zones	402-30

REQUIREMENT 403: ENVIRONMENTAL REVIEW

I.	Overview of the Process	403-1
II.	Procedures.....	403-2
III.	Attachments	403-12
	1. Sample Request for Agency Comment Letter	403-13
	2. Environmental Review Cross-Reference Chart	403-14
	3. Fish and Wildlife Blanket Clearance Letter	403-17
	4. Corps of Engineers Information Sheet.....	403-20
	5. Oklahoma Scenic Rivers Blanket Clearance	403-21
	6. List of Tribal Governments.....	403-22
	7. Executive Order 11988, Eight-Step Decision-Making Process (Floodplains)	403-24
	8. Distribution List	403-32

REQUIREMENT 404: CIVIL RIGHTS, EQUAL OPPORTUNITY, FAIR HOUSING, SECTIONS 3 AND 504

I.	Contractual Requirements	404-1
II.	Attachments	404-20
	1. Compendium of Federal Civil Rights Laws	404-21
	2. 504 Accessibility Self-Evaluation	404-24
	3. 504 Transition Plan for Disabled Accessibility	404-25
	4. Suggested Fair Housing Activities	404-26
	5. Sample Fair Housing Ordinance.....	404-27
	7. Sample Fair Housing Resolution	404-33

REQUIREMENT 405: PROCUREMENT

I.	Introduction	405-1
II.	Pre-Contract Costs.....	405-2
III.	Regulatory/Statutory Requirements	405-2
IV.	Methods of Procurement.....	405-4
V.	Procurement of Construction Contracts	405-9
VI.	Procurement of Professional Services	405-21
VII.	Procurement of Independent Auditors	405-28
VIII.	Non-Competitive Proposals (Sole Source)	405-29
IX.	Attachments	405-30
	1 A. Procurement Methods and Procedures Chart-Counties	405-31
	1 B. Procurement Methods and Procedures Chart-Cities/Towns.....	405-33
	2. Administrative Responsibilities	405-35
	3. Request for Proposals for Administrative Services for the Community Development Block Grant	405-38
	4. Statement of Price	405-45
	5. Minority/Women Owned Business Information	405-47

REQUIREMENT 406: FINANCIAL MANAGEMENT

I.	Introduction.....	406-1
II.	Accounting System Requirements.....	406-1
III.	Drawing Down Funds	406-13
IV.	CDBG Monthly Expenditure Report	406-13
V.	Audit Requirements	406-14
VI.	Attachments.....	406-15

1.	Sample CDBG Ledger	406-16
2.	CDBG Time Sheet	406-17

REQUIREMENT 407: CONTRACT DEVELOPMENT

I.	Introduction	407-1
II.	General Requirements	407-1
III.	Specific Contract Requirements.....	407-2
IV.	Bonding	407-5
V.	Notice of Contract Award	407-5
VI.	Subrecipient Interlocal Agreements	407-6
VII.	Attachments	407-8
1.	Required Provisions in Non-Construction Contracts.....	407-9
	Required Provisions in Construction Contracts	407-10
	Required Contract Provisions	407-11
2.	Federal Equal Opportunity and Non-Discrimination Provisions (Non-Construction Contracts)	407-13
3.	Interlocal Cooperation Agreement	407-16
4.	Sample Contract for Administrative Services.....	407-19
5.	Sample Construction Contract Documents.....	407-26

Requirement 408: LABOR STANDARDS & CONSTRUCTION MANAGEMENT

I.	Introduction	408-1
II.	The Pre-Construction Conference	408-1
III.	Change Orders.....	408-3
IV.	Construction Supervision, Inspections and Contract Payments	408-4
V.	Labor Standards Administration	408-4
VI.	Summary	408-12
VII.	Attachments	408-12
1.	Payroll (WH-347)	408-13
2.	Fringe Benefit Determination	408-15
3.	Record of Employee Interview - English/Spanish	408-16
4.	Construction Management Files	408-20

REQUIREMENT 409: REPORTING AND MONITORING

I.	Evaluating Grant Recipient Performance (Monitoring).....	409-1
II.	Closeout	409-4
III.	Required Documentation	409-5
IV.	Post-Closeout Responsibilities.....	409-7
V.	Attachments	409-8
1.	Closeout Documents.....	409-9

SECTION 10: FORMS

- 1.1 CDBG Certification of Leverage
- 1.2 Applicant/Recipient Disclosure/Update Report
- 3.1 Statutory Checklist
- 3.2 Compliance Documentation Checklist
- 3.3 Notice Abatement Control
- 3.4 Certification of Exemption for HUD Funded Projects
- 3.5 Certification of Categorical Exclusion (not subject to 58.5)
- 3.6 Certification of Categorical Exclusion (subject to 58.5)
- 3.7 Environmental Certification
- 3.8 Notice of Intent to Request Release of Funds
- 3.9 Environmental Assessment Checklist
- 3.10 Finding of No Significant Impact
- 3.11 Combined Notice of Finding of No Significant Impact and Intent to Request Release of Funds
- 3.12 Certification of Continued Environmental Compliance
- 3.13 CDBG Engineer's Acknowledgement
- 4.1 Municipality/County Staff Composition Form
- 5.1 Davis-Bacon Determination Request Form
- 7.1 Notice of Contract Award
- 8.1 Pre-Construction Checklist
- 8.2 Notice to Proceed
- 8.3 Payroll Certification
- 9.1 CDBG Program Beneficiary Report-Program Benefits
- 9.2 Final Wage Compliance Report
- 9.3 Engineer's Certificate of Completion
- 11.1 Income Certification Form
- 11.2 Instructions for Job Creation and Beneficiaries Quarterly Report
- 11.3 Job Creation and Beneficiaries Quarterly Report
- 11.4 Job Tracking Log
- 11.5 Placement Plan

Oklahoma Department of Commerce

CDBG Project Management Guide

Recent Additions and Revisions

July 2014

- “Useful Websites” – Links updated

October 2014

- “Useful Websites” – Links updated
- Notice of Award form revised with updated link to sam.gov
- CDBG Certification of Leverage has been reworked

List of Useful Websites for Implementation of the Community Development Block Grant Program

Housing and Urban Development

<http://www.hud.gov/>

Oklahoma Department of Commerce

<http://www.okcommerce.gov/>

Housing and Urban Development Community Development Block Grant

(State Program) Code of Federal Regulations – 24 CFR 570

http://www.access.gpo.gov/nara/cfr/waisidx_04/24cfr570_04.html

Oklahoma Statutes Online

<http://www.oscn.net>

Executive Orders Disposition Tables Index

(List of all Executive Orders with links to text of Orders)

<http://www.archives.gov/federal-register/executive-orders/disposition.html>

Wage Rate Determinations

<http://www.wdol.gov>

U.S. Citizenship and Immigration Services

<http://www.uscis.gov>

Excluded Parties List System

<https://www.sam.gov/portal/SAM/#1>

ODOC Policy and Procedures Manual

<http://www.sos.state.ok.us>

Click on “Office of Administrative Rules”

“View Code”

“Title 150 - Oklahoma Department of Commerce”

“Chapter 1”

“Chapter 21”

Federal Labor Standards

<http://www.hud.gov/offices/adm/hudclips/forms/files/4010.pdf>

Environmental Review Procedures for CDBG

<http://www.hud.gov/offices/pih/ih/codetalk/onap/docs/24cfr58.pdf>

Floodplain Management

http://www.access.gpo.gov/nara/cfr/waisidx_04/24cfr55_04.html

<http://www.fema.gov/plan/prevent/floodplain/index.shtm>

Floodplain Maps

<http://www.fema.gov/business/nfip/mscjumppage.shtm>

FEMA Schedule of Equipment Rates

<http://www.fema.gov/government/grant/pa/eqrates.shtm>

US Fish & Wildlife – Oklahoma

<http://www.fws.gov/southwest/es/oklahoma/default.htm>

“Making Davis-Bacon Work”

<http://www.hud.gov/offices/adm/hudclips/forms/files/4813-LR.pdf>

“Record of Employee Interview”

<http://www.hud.gov/offices/adm/hudclips/forms/files/11.doc>

“Historial de Entrevista del Empleado”

<http://www.hud.gov/offices/adm/hudclips/forms/files/11SP.doc>

Federal Civil Rights Laws

<http://www.eeoc.gov/policy/laws.html>

Relocation

<http://www.hud.gov/relocation>

Oklahoma Tribal Nations

http://www.ok.gov/oia/Tribal_Nations/index.html

Section 3 Summary Report

<http://www5.hud.gov:63001/apps/po/e/srs/Public/form.cfm>



Section 1

Program Management

July 7, 2014

Section 1 Program Management

There are many steps involved with the implementation of a Community Development Block Grant (CDBG). The required paperwork may seem overwhelming and can quickly frustrate new Grantees. However, this section was developed to minimize the confusion and easily guide new Grantees through the process of managing a project. This section will cover:

1. Contractual Requirements
2. Removing Contract Conditions
3. Updating Disclosure Reports
4. Administering the Program
5. Record Keeping
6. Citizen Participation

NOTES

**OKLAHOMA DEPARTMENT OF COMMERCE
COMMUNITY DEVELOPMENT
COMMUNITY DEVELOPMENT BLOCK GRANT (CDBG) PROGRAM**

**REQUIREMENT NO. 401
PROGRAM MANAGEMENT**

Effective July 7, 2014

I. CONTRACTUAL REQUIREMENTS

- A. Community Development Block Grant (CDBG) Grant Recipients shall not obligate or expend funds for any activity including matching/leveraged funds specifically conditioned in the contract until such condition is removed by the Oklahoma Department of Commerce, Office of Community Development (ODOC).

The announcement and subsequent award of CDBG contract does not authorize the Grant Recipient to incur costs or obligate the expenditure of funds whether paid with grant or leverage/matching funds.

- B. Obligating or expending funds for a conditioned activity that has not yet been cleared by ODOC is an ineligible use of contract funds and the CDBG contract will be de-obligated. **FUNDS CANNOT BE USED TO REIMBURSE THE GRANT RECIPIENT FOR COSTS INCURRED PRIOR TO THE BEGINNING DATE OF THE CONTRACT.** [See Requirement #405-2 Section II for the only exception to this rule.]

II. REMOVING CONTRACT CONDITIONS

- A. Every contract has two basic sets of conditions, i.e., standard and special. Some of the standard conditions are applicable throughout the life of the project. Examples of these include but are clearly not limited to:
1. Procurement standards and procedures;
 2. Affirmative action;
 3. Financial management practices and procedures;

4. Contract management; and
 5. Reporting.
 6. Engineer Acknowledgement Document
- B. Some standard conditions and at times special conditions must be satisfied or cleared before the project funds can be requested. The Grant Recipient is required to take the actions necessary to satisfy these conditions and, after the actions are completed, submit the Request for Authority to Use Grant Funds using OKGrants.
1. Environmental Review:
 - a. Every activity is subject to one of five levels of environmental review:
 - (1) Exempt;
 - (2) Categorically excluded not subject to CFR 24-58.5
 - (3) Categorically excluded subject to CFR 24 – 58.5
 - (4) Environmental Assessment
 - (5) Environmental Impact Statement (rarely seen in our CDBG Program)
 - b. Each activity must be cleared separately, using specific procedures and forms designed for that purpose. The Grant Recipient may draw down funds to carry out various project activities after appropriate reviews have been conducted and cleared and a Notice of Removal of Contract Conditions and Authority to Use Grant Funds is received from ODOC. **[See Requirement 403 for further detailed guidance.]**
 3. Insurance and Bonding: The Grant Recipient shall submit evidence of:
 - a. The grantee's **current** policy showing general liability insurance covering the funded activities; and

b. Bonding of all officials who are responsible for financial transactions relating to this contract.

4. Anti-Displacement Plan:

All grant recipients must have a current anti-displacement plan adopted by council resolution on grant recipient's letterhead. **[See Requirement 402, Attachment 15]**

5. Special Conditions:

Any special conditions are identified in Part II of the contract between ODOC and the Grant Recipient.

III. UPDATED DISCLOSURE REPORT

1. Prior to signing your contract agreement, you completed an initial Disclosure Report. You either submitted a partial or full Report, depending on several factors. You are required to submit an updated Report if:

- a. Omissions were made in the initial Disclosure Report;
- b. Additional persons can be identified as interested parties who were not identified in the initial Disclosure Report;
- c. There is an increase in the amount of pecuniary interest of a person or entity identified in the last report, if the total interest is more than \$50,000 or 10% of the contract amount, whichever is lower;
- d. There is a change in the other governmental assistance previously reported by more than \$250,000 or 10%, whichever is lower; or
- e. There is a change in the sources or uses of funds since the last report which exceeds the amount of all previously disclosed sources and uses of funds by more than \$250,000 or 10%, whichever is lower.

2. Updates must be submitted to ODOC within 30 days of the occurrence of any of these circumstances and as frequently as they occur throughout the life of the contract.

IV. PROJECT AND BUDGET MODIFICATIONS

NOTE: Project and budget modifications will be done on OKGrants. Please contact your project manager or consult the CDBG resources page in OKGrants for instructions. The information described below will be necessary for any contract changes.

- A. Changes to the scope, budget or completion date of the project are accomplished by a modification.
- B. A modification is a change from the original project description as a result of:
 1. New or additional activities; and/or
 2. Changes in the proposed scope of services or beneficiaries; and/or
 3. Changes in the project location or target area; and/or
 4. Extensions of the contract ending date; and/or
 5. Changes in the amount of any budget line item (or total budget).
- C. When revision of a budget line item is necessary, the Grant Recipient must Contact the ODOC Project Manager for instructions or consult the CDBG resources page in OKGrants. All modifications must be submitted on OKGrants.
- D. Project expansion: During the course of implementation of the grant project there are occasions when project costs are less than anticipated. During these occasions the grant recipients may be able to undertake additional work that is the same scope of the original project. The grant recipient is required to notify ODOC using an uploaded letter in OKGrants.

Examples are listed below:

Example #1: A grant recipient has a grant for street resurfacing. At the completion of the project the overall cost of the project was less than projected. The grant recipient has available funds to do additional street resurfacing. This is not considered a change of scope.

The grant recipient may use remaining funds to resurface additional streets as long the individuals benefiting from the street resurfacing meet the requirement of being at least 51% low to moderate income.

Example #2: A grant recipient has a grant for installation of sewer lines. Upon completion of the project as described in the application the grant recipient has funds remaining. The grant recipient desires to utilize the remaining funds to install a new lift station. This would be an example of a change of scope.

Regardless of whether the project is simply a project expansion or Change of Scope, the additional work must have been achieved environmental clearance.

- E. For All Projects: Requests for a program modification (Change of Scope) must provide the following documentation:
1. Narrative explanation of reasons, including:
 - a. A detailed description of the new or significantly altered activities, existing activities being altered or eliminated (if any) and why these changes are being proposed. Submit a revised Project Description, along with a technical/engineering justification; and
 - b. A detailed description of any changes in the number, percentages or scope of services that are to be provided to low- and moderate-income persons and/or other project beneficiaries. This may require revisions to existing or new beneficiary documentation (income surveys, census data, etc., as appropriate).
 2. If the proposed modification involves reduced and/or substantially altered activities from the original contract:

- a. Documentation confirming the public notice and conduct of a public hearing or posting consistent with the Grant Recipient's Citizen Participation Plan is required;
- B. The Grant Recipient's legislative body must adopt a resolution supporting the modifications and submit;
 - (1) Either a Certification of Continued Environmental Compliance or, if appropriate, documentation of a different level of environmental review; [**See Requirement 403**]
 - (2) Documentation of permits or regulatory approvals from appropriate agencies, if applicable;
 - (3) Determination of whether an Updated Disclosure Report must be submitted. If the modification causes any changes from the Initial Disclosure Report, the Updated Report must be submitted with the modification request.
- E. ODOC will evaluate the proposed modification against the following criteria:
 - 1. Eligibility: Will the proposed changes still be eligible for CDBG funding?
 - 2. Ratability: Would the proposed changes have caused a lower scoring on the original application? Would this lower score have meant that the application would not have been competitive and, subsequently, not have been authorized to enter into a contract agreement? If the answer to this question is "yes", **the modification will not be approved.**
 - 3. Note: No increases above the maximum established by ODOC in either the administrative or engineering line items will be approved.
- F. The project modification may trigger the need for a budget modification. If the existing budget is modified, a Request for

Budget Modification must be submitted with a detailed letter of justification. The form and letter are required even if the revised budget is not a result of any project modification.

- G. Any modification will be completed on OKGrants. Contact your project manager for specifics on how to enter the information, or consult the CDBG resource page.

V. ADMINISTERING THE PROGRAM

- A. The chief elected official shoulders the ultimate responsibility for contract performance. Grant Recipients have two options in managing the daily activities of a CDBG-funded project:

1. Assign the responsibility to someone on the Grant Recipient's staff; or
2. Utilize the services of a certified CDBG Administrator (whether for-profit or non-profit). [See Requirement 405 for procurement procedures.] The Certified Grants Administrators list can be found on the OkCommerce.gov website or CDBG resource page in OKGrants.

- B. Consultants assisting the Grant Recipient must be certified by ODOC as a CDBG administrator. Beyond this minimum expectation and given the complexities of most projects, utilization of an experienced, certified CDBG administrator to assist with some or all of your project activities is often good advice.

- C. The decision to employ a certified CDBG administrator is influenced by the following factors:

1. The size of the municipality and, more importantly, the number of municipal employees who can devote some significant time to routine contract administrative requirements; and
2. The complexity of the project.

- D. ODOC will not recommend any individual or firm for providing these services. ODOC will, however, provide the following:

1. A list of all firms or individuals currently certified to administer CDBG grants;
 2. A referral to other similar communities with similar projects
- E. Keep in mind that if you elect to retain the services of an administrator, you must understand the CDBG process and its requirements well enough to evaluate your administrator's work and progress.

VI. RECORDS

- A. Forms and documents which are native to OKGrants (Notice of Award, Request for Funds, Expenditure Reports, etc) do not need to be physically maintained at the grant recipients offices.

Forms and documents which are uploaded to OKGrants are not required to be physically maintained at grant recipients offices. However, it is recommended that the original documents are maintained with the grant records until the contract is formally closed.

If there is an iron law of Federal grant administration, it is "document, document and document some more". The reason for this is actually fairly simple. First, these are public funds and they demand a high level of accountability. Second, the only way to confirm what you have done is to have it in writing.

- B. It is the responsibility of the grant recipient to maintain all official grant related records and documents at the City/Town Hall. Grant records and documents should be kept in a metal filing cabinet. Grant recipients should take reasonable caution to protect the records and documents from destruction such as flood damage. The grant administrator is encouraged to maintain a duplicate copy of the grant records and documents; however the official copy must be maintained by the grant recipient. ODOC will not keep a hard copy of any documents.

1. Organization and Content:

- a. Grant recipients are required to maintain records sufficient to document compliance with all CDBG program requirements. All original files must be maintained in one central location of the Grant Recipient. Administrators may only retain copies of files.
 - b. While ODOC does not specifically mandate the exact structure of a Grant Recipient's filing system, Grant Recipients are encouraged to utilize the instructions provided. **[Attachment 1]**
2. Record Retention: All records pertaining to activities funded under a single contract agreement must be retained for three years after ODOC formally closes out that contract. The three-year rule can be extended under extenuating circumstances.
 - a. Any litigation, claim or audit is started before the expiration of the three-year period. In this instance, the records will be retained until all actions involving the records have been resolved; or
 - b. The records pertain to non-expendable property acquired with CDBG funds. Such records must be retained for five years after the final disposition of such property; or
 - c. ODOC transfers records to its custody or to HUD's when ODOC determines that the records possess long-term retention value.
3. Access to Records: Except for confidential records, all documents required to be maintained by, or reasonably considered as pertinent to, the contract agreement must be available for viewing and/or examination by:
 - a. Any citizen, pursuant to the requirements of State law and local ordinance; and
 - b. Representatives of ODOC, HUD, the Inspector General, the Attorney General, the General Accounting

Office, the Comptroller General of the United States or the State Auditor's office.

4. Confidential Records:

- a. Grant recipients may receive confidential information. In some cases, an individual's right to privacy protection will necessitate that confidential records be maintained. In other circumstances, the individual's job security and safety require that information be kept confidential. The latter is particularly true where worker-provided information results in a finding that labor standards are being violated. Confidential records include but are not limited to: Staff personnel files, labor and civil rights complaints and the incomes of project beneficiaries.
- b. Access to confidential records is strictly limited. They are to be kept in a locked file cabinet separate from other records accessible only to the CDBG Administrator. If a Grant Recipient delegates the responsibility to an administrator or sub recipients for tasks which may yield confidential records, very specific controls must be established in the contract to assure that the Grant Recipient understands the responsibility for maintaining confidential records. The Grant Recipient is responsible for protecting these records. Any violations of confidentiality requirements, including a determination by State monitors that proper records management procedures are not being employed, could result in a serious finding of deficiency and adversely affect the Grant Recipient's right to apply for funds.

VII. CITIZEN PARTICIPATION

- A. The Grant Recipient is required to conduct at least one public hearing during the application phase of the project. The purpose of this public hearing is to advise citizens of the proposed project.

- B. The requirements for all other public hearings are essentially the same as for the hearing conducted prior to the original submission of an application for funding. These requirements include:
1. Reasonable advance notice, as stated in the Citizens Participation Plan, prior to conducting the meeting, not including the date of notice or posting of the day of the hearing;
 2. Publication of a notice specifying the purpose, date, time and location of the hearing in a newspaper of general circulation in the municipality or posting of a legal notice in at least three public places within the municipality;
 3. Holding the hearing at a location that is convenient to the low- and moderate-income persons who are affected by the project;
 4. Conducting the meeting in a manner that accommodates the disabled and meets the needs of non-English speaking residents who might be expected to participate;
 5. Providing citizens with the address, phone number and times for submitting complaints and grievances; and
 6. Providing written answers to written complaints and grievances within 15 working days, where applicable.
- C. The Grant Recipient must take thorough minutes of the hearing. The project files must contain:
1. Signed minutes of the hearing;
 2. An attendance roster;
 3. Written complaints, if any;
 4. Responses to those complaints;
 5. A copy of the legal notice with a notation of where and when the three notices were posted; and

6. Proof of publication from the newspapers.

VIII. ATTACHMENTS:

1. Program Records Checklist

CDBG: CD/EDIF PROGRAM RECORDS CHECKLIST

Forms and documents which are native to OKGrants (Notice of Award, Request for Funds, Expenditure Reports, etc) do not need to be physically maintained at the grant recipients offices.

Forms and documents which are uploaded to OKGrants are not required to be physically maintained at grant recipients offices. However, it is recommended that the original documents until the contract are formally closed.

Following is a summary of files and records that every Grant Recipient must maintain. Since the list is a summary, it does not provide detailed guidance as to all specific documentation required. See the various Requirements in this manual for specifics. In order to provide assistance to our grant recipients in maintaining grant related records along with the utilization of the OKGrants system we have placed in parenthesis the format that the grant related documents should be maintained. The recommendation will be either OKGrants or Paper Copy maintained at the grant recipient's offices.

FILE	RECORDS	CHECK
Application (OKGrants system)	<ul style="list-style-type: none"> • CDBG Application • Revisions • Public Hearing Minutes and sign in sheets, clips, affidavits • Survey tabulations • Resolution and needs Statement • Correspondence 	<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>
ODOC Contract (OKGrants System)	<ul style="list-style-type: none"> • Contract • Request for Authority to Use Grant Funds • Release of Funds from ODOC 	<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>
Environmental Review Record (OKGrants System)	<ul style="list-style-type: none"> • Exempt or Categorical Excluded/Exempt • Categorical Exclusion <u>not subject to</u> • Categorical Exclusion <u>subject to</u> • Statutory or Assessment Checklists • 8 step Flood Plain Notices • Noise Abatement • Engineer Acknowledgement • Compliance Documentation Checklist • Notice of Intent or Combined Notice • FONSI • Distribution list 	<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>

		<input type="checkbox"/>
Labor Standards, Fair Housing, Civil Rights (Paper copy at grantee office)	<ul style="list-style-type: none"> • Equal Opportunity Officer Identified • Section 3 Affirmative Action Plan • Documentation of Fair Housing Activities • Fair Housing Complaints • Employment Affirmative Action Plan • 504 Accessibility Self-evaluation • 504 Transition Plan • Staff Composition of Grantee • Local Personnel Policies • EEO Tagline on Advertisements for Bids and Employee Recruitment • Posting of Compliance Posters 	<input type="checkbox"/> <input type="checkbox"/>
FILE	RECORDS	CHECK
Financial Management (OKGRANTS System/Paper copy at grantee office)	<ul style="list-style-type: none"> • Drawdown Requests (invoices, requests for payment) • Bank Records (cancelled checks, bank statements, deposit slips, etc.) • Monthly Expenditure Reports. • All invoices and correspondence related to the CDBG Grant • Purchase Orders • General Ledger 	<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>
Citizen Participation (Paper copy at grantee office)	<ul style="list-style-type: none"> • Public Hearing Notices • Participant Sign-in Sheets • Citizen Inquiries/Complaints/Responses • Citizen Participation Plan 	<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>
Site Monitoring and Inspection (OKGrants System)	<ul style="list-style-type: none"> • ODOC management letters or monitoring reports • Response to ODOC management letters • Other correspondence relating to monitoring visits • Evidence clearing any monitoring findings 	<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>
Audits (OKGrants System / Paper copy at grantee office)	<ul style="list-style-type: none"> • Documentation of selection of auditor • Auditors Agreement • Audit Copy • Evidence clearing all exceptions 	<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>

Closeout Reports (OKGrants System) Economic Development	<ul style="list-style-type: none">• Final Closeout Reports• Income Certification Forms• Job Tracking Forms• Quarterly Reports	<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>
--	--	--



Section 2

Property Acquisition

July 7, 2014

Section 2 Property Acquisition

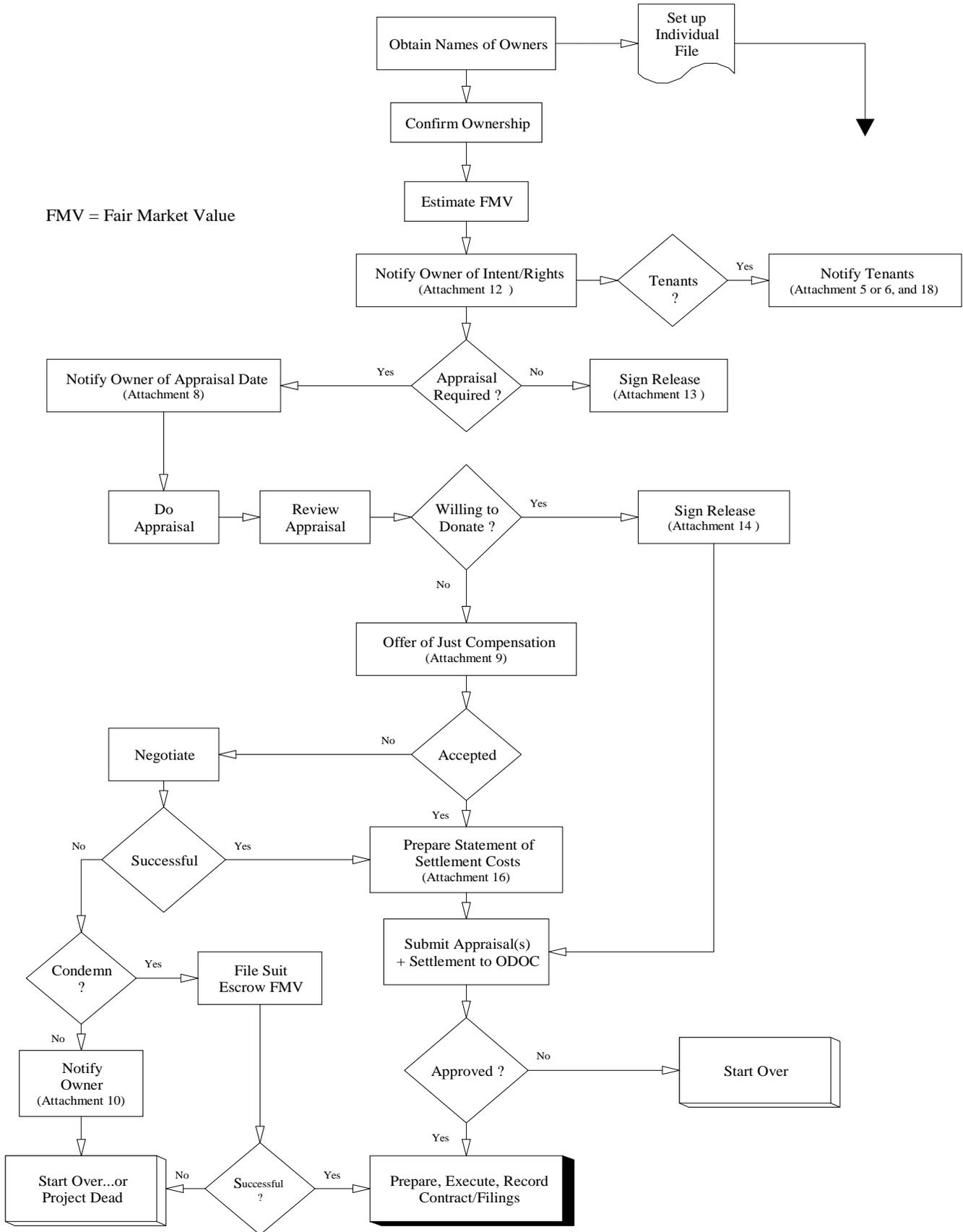
Many projects funded by CDBG involve some form of property acquisition. The acquisition may be temporary, such as a construction easement, or it may be permanent. Permanent property acquisition may range from “partial”, such as securing an easement, to outright purchase and transfer of ownership. Whichever the case, there are very specific procedural requirements imposed on Grant Recipients when they must acquire private property to carry out their community development programs. The guiding principle in these procedures is the fundamental rights of the property owners to receive just compensation when their property is needed or desired to achieve public purposes.

NOTES

PROPERTY ACQUISITION PROCESS

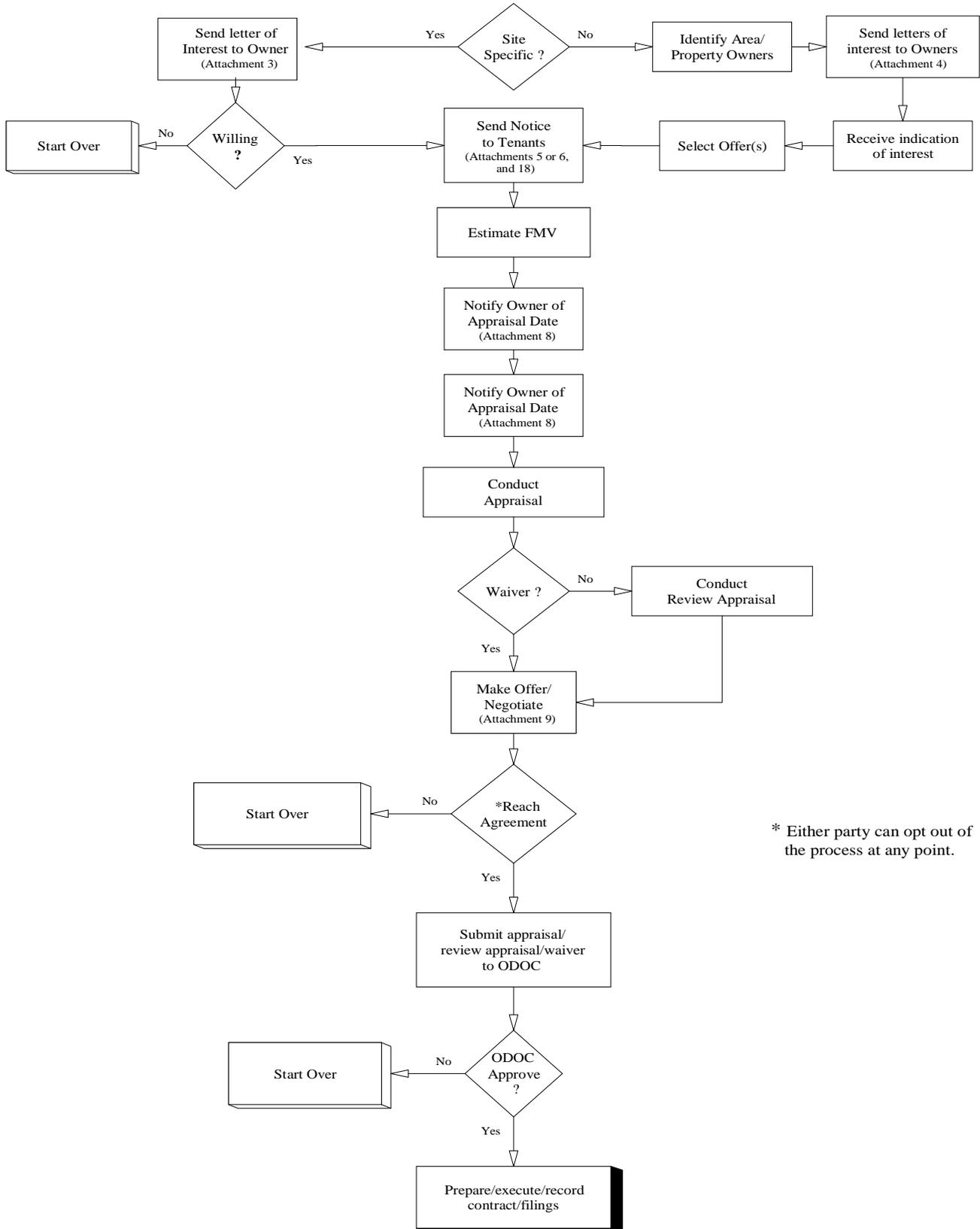
NON-VOLUNTARY TRANSACTION

FMV = Fair Market Value



PROPERTY ACQUISITION PROCESS

VOLUNTARY TRANSACTION



* Either party can opt out of the process at any point.

**OKLAHOMA DEPARTMENT OF COMMERCE
COMMUNITY DEVELOPMENT
COMMUNITY DEVELOPMENT BLOCK GRANT (CDBG) PROGRAM**

**REQUIREMENT NO. 402
PROPERTY ACQUISITION & RELOCATION**

July 7, 2014

I. PROPERTY ACQUISITION

A. Many projects funded by CDBG involve some form of property acquisition. The acquisition may be temporary, such as a construction easement, or it may be permanent. Permanent property acquisition may range from "partial", such as securing an easement, to outright purchase and transfer of ownership. Whichever the case, there are very specific procedural requirements imposed on Grant Recipients when they must acquire private property in order to carry out their community development programs. The guiding principle in these procedures is the fundamental rights of property owners to receive "just compensation" when their property is needed or desired to achieve public purposes. **[Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended (42 USC 4601, et seq.) 49 CFR 24, Subpart B] The Final Rule of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 and updated Booklets that provide guidance on acquisition and relocation procedures are located at the end of this requirement.**

B. These procedures may apply even if the property was acquired prior to submission of the grant application and even if CDBG funds are not involved in the actual acquisition costs. If the property was or is acquired with the express intent of using it for the activities for which CDBG funds are requested, that acquisition must have been and/or be conducted in conformance with the requirements spelled out in this Requirement. **[HUD Handbook 1378, Chapter 5]**

<http://www.vhcb.org/pdfs/homehandbook/11a.pdf>

<http://www.hud.gov/offices/cpd/library/relocation/policyandguidance/handbook1378.cfm>

C. Property acquisition procedures fall into two distinct areas: Voluntary and non-voluntary. In order to determine which procedures must be followed, the Grant Recipient must answer the following questions:

1. Does the entity which is carrying out project activities and which will be acquiring the property have the power of eminent domain?
2. If the entity has the power of eminent domain, will it use this power, if necessary, to secure the property needed to carry out the project?

Answering "yes" to both these questions requires the Grant Recipient to follow the non-voluntary procedures.

D. The rest of this Requirement provides specific guidance for meeting the procedural requirements of these two methods of property acquisition.

E. Voluntary Acquisition:

1. In a voluntary acquisition, the Grant Recipient notifies the property owner of an interest in acquiring the property, with a clear statement that it cannot or will not condemn the property in order to obtain it for the project. **[Attachment 1]** The purpose of notification is to determine if the property owner is interested in negotiating the sale of the property. If the owner is not interested, the Grant Recipient must determine if the project can proceed at any alternative location. If it cannot, the project may not proceed further and the grant will be de-obligated.

- a. If the Grant Recipient opts to go the voluntary route in a site-specific project and fails to find a willing seller, it may not start over with the non-voluntary approach. This would amount to after-the-fact coercion against a property owner. If the property is crucial to the project, the Grant Recipient should think long and hard about the method used to acquire it.

- b. If the project does not require a very specific parcel, i.e., it can be undertaken on any site within a given geographic area, the Grant Recipient sends a notice to a limited number of property owners in the area. The purpose of this notice is to determine if there are any owners who are actively interested in selling their property. If the Grant Recipient receives an expression of willingness from one or more owners, it should develop a priority list of such properties based on the characteristics (location, likely cost, etc.) which are most advantageous to it. **[Attachment 2]**
 - c. All notices must be personally served to owners and occupants or sent by registered first-class mail, return receipt requested.
- 2. Assuming there is at least one willing owner or that the site-specific property owner is willing to consider a voluntary transaction, the next step is to determine if there are any tenants involved, excluding the owner. If there are, the Grant Recipient must notify each tenant and advise him/her that it is considering acquiring the property on which they reside for the purposes of carrying out a project. The notice must also alert all tenants that they will not be eligible for any relocation assistance if they move out at this time. **[Attachment 3 or 4]**
- 3. Following tenant notification, the Grant Recipient must make a preliminary estimate of property value and use. The purpose of this estimate is to determine if a formal appraisal will be necessary. An appraisal is not required if:
 - a. The owner is donating the property and releases the Grant Recipient from its obligation to appraise the property; or
 - b. The Grant Recipient determines that an appraisal is unnecessary because the valuation problem is uncomplicated and the anticipated value of the proposed acquisition is estimated at \$10,000 or less, based on a review of available data. When an appraisal is determined to be unnecessary, the Grant

Recipient shall prepare a waiver valuation. A waiver valuation is the valuation process used and the product produced when the Grant Recipient determines that an appraisal is not required, pursuant to appraisal waiver provisions in 24 CFR 24.102(2). The person performing the waiver valuation must have sufficient understanding of the local real estate market to be qualified to make the waiver valuation.

[When hiring an appraiser, refer to HUD Handbook 1378, Appendix 20: Agreement for Appraisal Services.]

4. If an appraisal is not required, skip to step 5. If an appraisal is required, the appraiser must notify the property owner of the date the appraisal is going to be conducted and invite the owner to accompany the appraiser [Attachment 5]. The Grant Recipient is responsible to ensure that the appraisals meet appraisal requirements as listed in 49 CFR 24.103(a).
5. When the appraisal and review appraisal, if applicable, have been conducted and fair market value established. **[Review appraisals are required in all non-voluntary acquisitions. See 49 CFR 24.104.]:**
 - a. The Grant Recipient must submit a written offer to purchase the property.
[Attachment 6 (Insert Option A) the Fair Market Value (FMV) established by the Grant Recipient must be based on the appraised value. Other considerations may include the timing of the sale and length of time the property is off the market.]
 - b. The offer may not be more than the appraised FMV; however, the sale price may be less than the appraised value.
 - c. At this point, negotiation begins. The owner has the option of accepting the offer, making a counteroffer or rejecting the offer outright. If, at any point in this process, the Grant Recipient decides it does not wish to acquire the property, regardless of the reason, it must notify the property owner of this fact.

6. The Grant Recipient must submit a copy of the appraisal, review appraisal (if appropriate) and any other documentation for the established FMV to ODOC for review and approval, regardless of whether CDBG funds will be used to pay for the acquisition. If CDBG funds are to be used, this documentation must be submitted with the request for payment. Unjustified payments in excess of the appraised value may be disallowed at ODOC's discretion.
 7. Complete the acquisition by preparing and executing the appropriate legal documentation (contract for sale, deeds, etc.). If applicable, the property owner and/or tenant is provided a ninety-day (90-day) advance written notice to vacate and remove any personal belongings from the property acquired.
 8. Note: Grant Recipients are strongly encouraged not to execute any binding documents for purchase of property prior to ODOC approval. If ODOC determines that the process fails to comply with any requirements, the Grant Recipient will not be allowed to use any CDBG funds for acquisition, leaving the Grant Recipient financially liable. If some form of offer and acceptance is crucial prior to ODOC approval, it should be contingent upon formal ODOC approval.
- F. Non-Voluntary Acquisition: Whenever the Grant Recipient undertaking the CDBG-funded project has the power of eminent domain and will use it, if necessary, to acquire specific parcels of property in order to carry out project activities, it must follow the non-voluntary procedures of acquisition. **[Refer to HUD Handbook 1378, Chapter 5, for detailed guidance. Grant Recipients are strongly encouraged to contact ODOC for technical assistance as soon as the contract is executed.] This procedure is very similar to the voluntary procedure. [Attachment 9]**

1. Since going through this process assumes the individual parcels needed to undertake the project are or will be known, the first step is to identify each parcel and confirm the ownership of that parcel. A file should be set up for each parcel. **[Enclose the publication "When a Public Agency Acquires Your Property".]**
2. The next step is to determine if an appraisal is required.
3. After the specific parcel(s) and ownership have been confirmed and the need for an appraisal tentatively confirmed, the property owner is to be notified in writing of the Grant Recipient's intent to acquire the property. This notification specifically advises the property owner of his/her rights and gives him/her the option of waiving his/her right to fair compensation (donation) and/or his/her right to have an appraisal conducted, whether they are donating or not. **[Attachment 9]**
 - a. At this stage, if the property owner requests an appraisal, the Grant Recipient must conduct it, even if the estimated FMV is less than \$10,000. If the appraisal is neither required nor requested, skip to step 5.
 - b. If the property owner waives his/her right to an appraisal, a release to this effect must be executed.
4. If an appraisal is required or requested, the next step is to conduct the appraisal. The appraiser must advise the property owner of the date the appraisal will be conducted and invite the property owner to accompany the appraiser. The same steps are followed for the conduct of a second, or review, appraisal. **[Attachment 5]**
5. When the appraisal and review appraisal have been finished **[Review appraisals are required in all non-voluntary acquisitions. See 49 CFR 24.104.]**
 - a. If the property owner had previously indicated a willingness to donate the property but requested an appraisal prior to doing so, a copy of the appraisal

report must be provided to the owner. At this time, the waiver of rights release must be executed, if not done previously. Skip to step 8.

b. If the property owner had not indicated a willingness to donate the property, the Grant Recipient prepares a written statement basis for just compensation. The dollar value of this statement may not be less than the FMV established by the appraisal/ review appraisal.

c. Note: Donation of property most commonly occurs when the Grant Recipient is asking for easement rights. The property owner will usually be receiving a new or improved service (water, sewer, etc.) in exchange for donating a partial use of his/her property to locate the service. The property owner may waive his/her right to an appraisal if they believe that the FMV is apt to be zero, i.e., the loss in value due to damage or partial interest is offset by the value of the improvements.

6. The Grant Recipient must submit an offer of just compensation with attached statement of basis. **[Attachment 6 (insert Option B)]**

7. If the property owner accepts the offer of just compensation, either immediately or after a period of successful negotiation, the Grant Recipient must prepare and submit a statement of settlement costs. **[Attachment 13]** This statement reflects the price agreed upon plus incidental costs associated with transfer of title, e.g., recording fees, transfer taxes, etc. If the Grant Recipient pays in excess of the FMV, this is called an administrative settlement and the file must contain a written justification of the excess costs. Unjustified payments in excess of the FMV may be disallowed at ODOC's discretion.

8. Submit a copy of the appraisal, review appraisal, basis of cost, offer of just compensation and summary of settlement costs to ODOC for review and approval. This must be done prior to or along with the acquisition cost request for payment if CDBG funds are to be used to cover these costs.

9. If the Grant Recipient and property owner are unable to negotiate a settlement, the Grant Recipient must decide which of two options to pursue:
 - a. A decision not to acquire the property. If this decision is made, the Grant Recipient must notify the property owner of this decision in writing [**Attachment 7**]; or
 - b. A decision to initiate condemnation proceedings.
10. Complete the acquisition by preparing and executing the appropriate legal documentation (contract for sale, deeds, etc.). If applicable, the property owner and/or tenant are provided a ninety-day (90-day) advance written notice to vacate and remove any personal belongings from the property acquired.
11. Note on Condemnations:
 - a. Exercising the power of eminent domain by condemning private property for a public purpose is absolutely the final, last-ditch step in the acquisition process. It is a step which should be taken only after all other alternatives have been exhausted and the Grant Recipient determines that the property in question is so crucial to an important public purpose that no other alternative is possible.
 - b. While ODOC recognizes that this action is sometimes inevitable, it is not bound by either the delays that might occur or the compensation the court determines. Grant Recipients should be mindful when proceeding with a condemnation that a prolonged legal fight may jeopardize the ability of the Grant Recipient to implement the project within the contract time period. Further, ODOC will not increase the grant award if the court decision exceeds the amount budgeted in the grant for acquisition and no other savings can be realized in other grant line items.

12. Points to Keep in Mind:

- a. If the acquisition of only a portion of a property would leave the owner with a remnant that was not economic (not large enough for any reasonable use), the Grant Recipient must offer to purchase this remnant along with the portion needed for the project.
- b. If the owner, in response to the offer, provides additional information that indicates the need for a new appraisal or if there has been a significant delay since the appraisal was conducted, an updated or new appraisal must be conducted and the acquiring Grant Recipient must re-establish its offer.
- c. The Grant Recipient or sub-recipient (whichever is acquiring the property) must guard against both the existence and appearance of a conflict of interest in using CDBG funds to acquire property. Special measures must be taken if an officer or employee of the acquiring Grant Recipient sells property to the Grant Recipient.

G. Qualifications of Appraisers and Review Appraisers:

The Grant Recipient shall establish criteria for determining the minimum qualifications and competency of appraisers and review appraisers. Qualification should be consistent with the scope of work for the assignment. The Grant Recipient shall review the experience, education, training, certification/licensing, designation(s), and other qualifications of appraisers and use only those determined to be qualified. If contracting with an appraiser for a fee, such appraiser shall be State licensed or certified in accordance with Title XI of the Financial Institutions Reform, Recovery and Enforcement Act of 1989 (FIRREA) (12.U.S.C. 3331 *et seq*).

The review appraiser is responsible for examining the analysis and presentation of data, assuring that all appraisal requirements are met, and that the appraisal meets the requirements as listed in 49 CFR 24.103(a). The review appraiser can accept the appraisal as recommended and that complies with all requirements. During the

review, the review appraiser shall consult with the appraiser(s) to clarify report conclusions. If the review appraiser prepares an independent valuation it must meet 49 CFR 24103 appraisal requirements. The review appraiser must prepare a written report on the results of the review, and if appraisal is not accepted, such person must include the reason for not accepting.

In accordance with 49 CFR 24.102(n), appraisers, review appraisers, and waiver valuation preparers shall not have any interest in the property, shall not be subject to influence or coercion regarding the valuation, and may be authorized to act as negotiator where valuation role is for acquisition less than \$10,000.

II. RELOCATION www.hud.gov/relocation

- A. If the property owner or tenant is forced to move, either temporarily or permanently, as a result of CDBG-funded activities, that person or household is considered to be displaced. A displaced person is entitled to certain services, including counseling, payments for relocation and, in certain circumstances, assistance in obtaining replacement housing. The provision of this assistance is never optional for the Grant Recipient or its subrecipient and the burden of proof for demonstrating compliance falls squarely on the Grant Recipient.
- B. The Grant Recipient must determine who might be affected if displaced, make reasonable efforts to provide the required assistance and document that the process has been followed. This is an involved and detailed process. For that reason, it will not be repeated in this Manual. A separate Handbook is available to Grant Recipients and will be provided by ODOC, upon request. **[HUD Handbook 1378, Tenant Assistance and Real Property Acquisition]**
- C. While the specific procedural and record-keeping requirements are detailed, the basic outline of the process is as follows:
 - 1. Determine which persons or households may have to be displaced and whether the displacement is permanent or temporary;

2. Make certain that affected persons or households receive notice not to relocate (move) before they are eligible to receive assistance and that they understand their rights for assistance;
 3. Provide the assistance to which displaced persons or households are entitled, not more or less **[Under 49 CFR 24 (URA) and 24 CFR 570.104]**;
 4. Keep outstanding, detailed records on every aspect of the process.
 5. Note: These requirements apply only to a non-voluntary property acquisition.
- D. Note: The single most common mistake made by Grant Recipients in the acquisition or relocation process is failure to provide required notices in a timely fashion, especially to tenants. Provide proper notices at the right times. Failure to do so exposes the Grant Recipient to legal challenges and additional expenses.

III. REPLACEMENT OF LOW TO MODERATE INCOME HOUSING UNITS

- A. Section 104(d) of the Housing and Community Development Act (the "Barney Frank Amendment") imposes specific obligations on Grant Recipients with respect to the replacement of low- and moderate-income housing units and for the provision of relocation assistance to displaced low- and moderate-income families or persons. **[See 24 CFR 570.4488(c) and HUD Handbook 1378, Chapter 7.]**
- B. In brief, these special provisions are triggered when any CDBG-funded activity causes the conversion of low- to moderate-income housing (including vacant occupiable units) into **[24 CFR 570.488(c)]**;
 1. Non-housing, i.e., demolition of housing units to make room available for some other purpose such as a shopping center or community center; or

2. A smaller number of units, i.e., conversion of a multi-family unit to fewer units and/or to fewer net bedrooms; or
 3. Non-low- to moderate-income housing, i.e., upgrading a low-rent apartment building into an upscale condominium.
- C. In other words, any CDBG-funded activity which causes a reduction in the number of residential units/bedrooms available to and occupied by low- and moderate-income persons in the Grant Recipient's jurisdiction must be offset by an equal replacement of the lost units. In addition, displaced low- and moderate-income families are eligible to receive either the normal URA relocation assistance or, potentially, more generous benefits available under HUD regulation. The choice of benefits is the displaced person's.
- D. Replacement housing must meet the following criteria **[Some exemptions from these criteria are possible]**:
1. It must be located within the Grant Recipient's jurisdiction and, preferably, within the same neighborhood as the units replaced;
 2. The number of replacement bedrooms must at least equal the number removed **[Because the obligations under this provision of the law can be extremely technical, the Grant Recipient should contact ODOC for detailed guidance]**;
 3. The replacement units must be in standard condition;
 4. Replacement units must be made available for occupancy within an approximate four-year time period; and
 5. Replacement units must remain affordable for 10 years from date of initial occupancy.

IV. RESIDENTIAL ANTI-DISPLACEMENT AND RELOCATION ASSISTANCE PLAN [Attachment 15]

- A. The Grant Recipient must prepare and adopt a Residential Anti-Displacement and Relocation Assistance Plan (Plan), regardless

of whether displacement or relocation is or is not anticipated. Submission of the Plan is one of the contract conditions that must be cleared prior to release of funds by ODOC. The Grant Recipient will recall that it certified it would take all reasonable steps to minimize the displacement of persons (families, individuals, businesses, non-profit organizations and farms) as a result of activities assisted with CDBG funds.

- B. The two major components of the Plan are requirements to:
1. Replace all occupied and vacant occupiable low and moderate income dwelling units that are demolished or converted to a use other than low- and moderate-income housing as a result of the CDBG-funded activity [**HUD Handbook 1378, 701**]; and
 2. Provide certain relocation assistance to any low- or moderate-income person displaced as a direct result of demolition or conversion to other use as a result of the CDBG-funded activity.
- C. The nature and extent of a given Plan are dependent on whether the Grant Recipient anticipates any kind of displacement. If the nature of the project is such that no demolition or conversion is expected, the Plan is essentially a certification that required procedures for replacement and relocation assistance will be followed in the unlikely event that demolition or conversion occurs.
- D. If the Grant Recipient knows from the beginning that displacement will occur as a result of project activities, the Plan must be very specific in terms of:
1. The nature of project activities (a description of the project);
 2. The location of units to be displaced (by size and number);
 3. The location of comparable replacement units (by size and number);
 4. The source(s) of funding and time schedule for providing the replacement units;

5. The basis for concluding that replacement units qualify; and
 6. Other requirements of the regulations.
- E. If developments during project implementation cause unforeseen displacement, the Plan must be amended.

V. SUMMARY

- A. As mentioned at the outset of this Requirement, few issues have more legal or emotional impact than the rights of property owners and tenants. It is crucial that these rights be scrupulously protected and observed when undertaking any public project.
- B. Grant Recipients are strongly encouraged to seek out technical assistance from ODOC at the earliest stages of project implementation. Grant Recipients are also strongly encouraged to read the more detailed guidance referenced in this Requirement if they are undertaking any property acquisition or will displace any persons or households. Finally, the Grant Recipient must take great care to avoid the existence or appearance of coercion.

VI. ATTACHMENTS

1. Sample Voluntary Notice to Specific Owners
2. Sample Voluntary Notice to Several Owners
3. Sample Notice to Tenants Not Displaced
4. Sample Notice to Tenants Who May Be Displaced
5. Sample Letter Notification of Date of Appraisal/Invitation to Accompany
6. Sample Notification of Fair Market Value
7. Sample of Notice of Decision Not to Acquire Property
8. Property Acquisition, Individual Parcel File Requirements
9. Sample Notice of Interest in Acquiring Property, Non-Voluntary Acquisition
10. Sample Waiver of Required Appraisal
11. Sample Agreement to Waive Rights to Full Compensation
12. Sample Statement of the Basis for Determining Just Compensation
13. Sample Statement of Settlement Costs
14. Relocation, Individual Household File Requirements
15. Sample Residential Anti-Displacement and Relocation Assistance Plan
16. Notice to Prospective Buyers of Properties Located in Runway Clear Zones and Clear Zones/Accident Potential Zones

Voluntary Notice to Specific Owners

[*Grant Recipient Letterhead*]

Date

Address of Property Owner

Dear: *Property Owner Name*

This is to inform you that *Grant Recipient Name* is interested in purchasing the property located at *Street Address, Map, Lot Number or other identification*. The *Grant Recipient Name* has received a Community Development Block Grant from the Oklahoma Department of Commerce for the purpose of *briefly describe project*. Acquisition of the above-referenced property is needed in order for the project to be implemented and its benefits to be enjoyed by the community.

This sale is **voluntary**. If you do not wish to sell, the *Grant Recipient* will **not** acquire the property. The *Grant Recipient* [*does not have the power to acquire your property by condemnation / will not use the power of eminent domain to acquire the property*]. Since the purchase would be a voluntary, arm's-length transaction, you would not be eligible for relocation payments or other relocation assistance available under Federal law. However, tenants are eligible for relocation benefits.

If you are interested in considering the sale of this property to the *Grant Recipient*, an appraisal *and review appraisal* will be conducted to establish the fair market value of the property, which will be the basis for determining the offer to be made for purchasing the property. Please be aware that this letter does not constitute an offer to purchase your property but is intended solely to determine if you have any interest in pursuing such a sale.

Again, please understand that if you do not wish to sell your property, the *Grant Recipient* will take no further action to acquire it. If you are interested in discussing this further, please contact *Name, Address, and Phone Number, if different than letterhead*.

Sincerely,

Name
Title

Italic type = customize as appropriate.

[/] = select the appropriate option.

SAMPLE
Voluntary Notice to
Specific Owners

Voluntary Notice to Several Owners

[*Grant Recipient Letterhead*]

Date

[*Address of Property Owner*]

Dear *Property Owner Name*:

The *Name of Grant Recipient* has received a Community Development Block Grant from the Oklahoma Department of Commerce for the purpose of *briefly describe project*.

In order to provide these services, we are inviting offers from property owners in *describe geographic area* to sell or donate land. All sales or donations will be on a voluntary basis. The *Grant Recipient* [*does not have the power to acquire property by condemnation / will not use the power of eminent domain to acquire the property*]. If mutually acceptable terms and conditions of such acquisition cannot be reached, the *Grant Recipient* will not take further action to acquire such property. Since the purchase would be a voluntary, arm's-length transaction, you would not be eligible for relocation payments or other relocation assistance otherwise available under Federal law; however, tenants are eligible for relocation benefits.

If you are interested in considering the sale of suitable property to the *Grant Recipient*, an appraisal *and review appraisal* will be conducted to establish the fair market value of the property, which will be the basis for determining the offer to be made for its purchase. Please be aware that this letter does not constitute an offer to purchase your property but is intended solely to determine if you have any interest in pursuing such a sale.

Again, please understand that if you do not wish to sell your property, the *Grant Recipient* will take no further action to acquire it. If you are interested in discussing this further, please contact *Name, Address, and Phone Number, if different than letterhead*.

Sincerely,

Name
Title

Italic type = customize as appropriate.

[/] = select the appropriate option.

<p>SAMPLE Voluntary Notice to Several Owners</p>

Notice to Tenants Not Displaced

[Grant Recipient Letterhead]

Date

[Address of Tenant]

Dear Tenant Name:

On date, Property Owner submitted an application to Grant Recipient Name for Community Development Block Grant funds to rehabilitate the [building / residence] which you occupy at street address/apartment number.

This notice is to inform you that, if the requested funding assistance is provided and the building is rehabilitated, you will not be forced to vacate the premises or otherwise be displaced. Neither the property owner nor the [Grant Recipient] have any reason to believe that temporary or permanent relocation will be required as a result of the proposed rehabilitation work. You are urged not to move anywhere at this time for reasons having to do with the proposed rehabilitation. Should you elect to move for reasons of your own choice, you will not be provided any relocation assistance should it become available.

If the application is approved, you will be able to lease and occupy your present [residence / apartment, or another suitable, decent, safe and sanitary unit in the same building complex upon completion of the rehabilitation]. Of course, you must comply with standard lease terms and conditions.

Again, you are urged not to move at this time. You have certain rights to relocation assistance, if relocation is required as a result of the rehabilitation. **By moving prematurely, you waive your rights to such assistance.**

This letter is important and should be retained. If you have any questions concerning this project or your rights, please contact Name, Title, at Address, Telephone Number.

Sincerely,

Name
Title

Italic type = customize as appropriate

[/] = select the appropriate option

SAMPLE
Notice to Tenants
Not Displaced

Notice to Tenants Who May be Displaced

[Grant Recipient Letterhead]

Date

[Address of Tenant]

Dear Tenant Name:

On date, Property Owner submitted an application to Grant Recipient Name for Community Development Block Grant funds to rehabilitate the [building / residence] which you occupy at street address/apartment number.

This notice is to inform you that, if the requested funding assistance is provided and the [residence] is rehabilitated, you may be forced to vacate the premises, either temporarily or permanently. Should this occur, you will be eligible for relocation assistance. This is not a notice for you to vacate the premises; you are urged not to move anywhere at this time for reasons having to do with the proposed rehabilitation. Should you elect to move for reasons of your own choice, you will not be provided any relocation assistance. Please contact us before you make any plans to move.

You should continue to pay your rent. Failure to meet your obligations as a tenant may be cause for eviction and loss of any potential relocation assistance. You are also urged not to sign any agreement to purchase or lease a new unit before receiving formal notice of your eligibility for relocation assistance.

If the application is approved and you become eligible for relocation assistance, you will be given advisory services, including referrals to replacement housing, and at least a 90-day advance written notice of the date you will be required to move. You will also receive a payment for your moving and out-of-pocket expenses and may be eligible for financial assistance to help you rent or purchase a replacement house. This assistance is more fully explained in the enclosed brochure, Relocation Assistance to Tenants Displaced from Their Homes.

Again, this is not a notice to vacate and does not establish eligibility for relocation payments or other relocation assistance. **By moving prematurely, you may waive your rights to relocation assistance which might otherwise be available to you.**

This letter is important and should be retained. If you have any questions concerning this project or your rights, please contact Name, Title, at Address, Telephone Number.

Sincerely,

Name
Title

Enclosure

Italic type = customize as appropriate
[/] = select the appropriate option

SAMPLE
Notice to Tenants Who
May be Displaced

Date of Appraisal and Invitation to Accompany

[Appraiser's Letterhead]

Date

[Address of Property Owner]

Dear *Property Owner Name*:

The firm of *Appraisal Company Name* has been retained by *Grant Recipient Name* to prepare an appraisal of your property located at *Street Address*. The purpose of the appraisal is to determine the fair market value and the just compensation to be offered to you for acquiring rights to the property.

The appraisal of your property will be based on nationally-recognized appraisal standards and techniques to the extent that such principles are consistent with the concepts of values and the rules of evidence of value under the eminent domain provisions of the State of Oklahoma.

I wish to invite you or your agent to accompany me on the inspection of your property. My inspection is scheduled for *Date and Time*. If this is inconvenient, please contact me at *Telephone Number* so a mutually agreeable inspection can be scheduled.

Sincerely,

Appraiser Name
License or Certification Number

SAMPLE
Date of Appraisal and
Invitation to Accompany

Fair Market Value

[Grant Recipient Letterhead]

Date

[Address of Property Owner]

Dear Name of Property Owner:

The Name of Grant Recipient recently had your real property, located at Street Address appraised by Name of Appraisal Company on Date. The purpose of this appraisal was to establish the fair market value of the property.

* Insert Option A {to be used if this is a voluntary transaction}

This appraisal has been reviewed by a qualified review appraiser and all documentation has been reviewed for its accuracy. The Name of Grant Recipient is prepared to compensate you in the amount of Spell out Dollar Amount (\$) for the purchase of the above-referenced property. By this action, the Name of Grant Recipient initiates negotiations to acquire this property. As you were advised earlier, if negotiations fail the Name of Grant Recipient will not acquire the property. Attached is a copy of the appraisal report.

The amount offered does not include any partial acquisition for the real property or compensation for damages, if any, to the remaining real property.

* Insert Option B {to be used if this is a non-voluntary transaction}

This appraisal has been reviewed by a qualified review appraiser and all documentation has been reviewed for its accuracy. The Name of Grant Recipient is prepared to compensate you in the amount of Spell out Dollar Amount (\$) for the purchase of the above-referenced property. By this action, the Name of Grant Recipient initiates negotiations to acquire this property. Attached is a Summary Statement of the Basis for Determination of Just Compensation.

The amount offered does not include any partial acquisition for the real property or compensation for damages, if any, to the remaining real property. Also, this offer does not include any relocation payments either the owner or tenants may be entitled to receive.

We believe this offer is fair and equitable and we urge your favorable consideration and acceptance. If this offer meets with your approval, the Name of Grant Recipient will prepare a written sales agreement for your signature.

Sincerely,

Name
Title

Enclosure: Summary Statement of the Basis for Determination of Just Compensation

(Italic type = customize as appropriate)

SAMPLE
Fair Market Value

Decision Not to Acquire Property

[*Grant Recipient Letterhead*]

Date

[*Address of Property Owner*]

Dear *Name of Property Owner*:

A decision has been made by the *Grant Recipient Name* **not** to acquire the property located at *give location*.

* Insert if this is a non-voluntary transaction.

Upon receipt of this notice, any person moving from the above address will not be eligible for relocation benefits. Please disregard any previous written notice of eligibility for relocation assistance. Since no displacement will occur as a result of Federally-funded actions, there is no basis for providing relocation assistance.

If you have any questions concerning this letter, please feel free to contact the *Grant Recipient Name* at *Telephone Number*.

Sincerely,

Name
Title

Italic type = customize as appropriate

<p>SAMPLE Decision not to Acquire Property</p>

**PROPERTY ACQUISITION
INDIVIDUAL PARCEL FILE REQUIREMENTS**

The following information on each parcel acquired, as appropriate, must be included in the files:

File	Voluntary	Non-Voluntary
1. Title search/Clearance of Title	√	√
2. Notice of Interest in Acquiring Property	√	
3. Notice of Intent to Acquire Property (plus verification of receipt)		√
4. Notice to Tenants	√	√
5. Notice of Appraisal/Invitation to Accompany Appraiser	√	√
6. Appraisal Report	√	√
7. Documentation supporting waiver of review appraisal	√	
8. Review Appraisal	√	√
9. Estimate of Fair Market Value	√	√
10. Written Offer to Property Owner (plus verification of receipt)	√	√
11. Summary Statement of Basis of Just Compensation		√
12. Statement of Settlement	√	
13. Documentation to Support Waiver of Submission to ODOC	√	√
14. Documentation of Final Offer		√
15. Contract of Sale (plus other legal documentation)	√	√
16. Payment Documentation	√	√
17. Waiver of Appraisal Rights	√	√
18. Waiver of Just Compensation Rights		√
19. Notice of Intent Not to Acquire (plus verification of receipt)	√	√
20. Evidence of Court Deposit	X	√
21. Court Resolution	X	√
22. General Correspondence	√	√
23. ODOC Monitoring Documentation	√	√

√ Applicable

X Not permitted

Notice of Interest in Acquiring Property (Non-Voluntary)

[*Grant Recipient Letterhead*]

Date

[*Address of Property Owner*]

Dear *Name of Property Owner*:

This is to inform you that the *Name of Grant Recipient* is interested in acquiring [an easement / partial fee interest / fee simple title in your property located at *Street Address or other description*. This property is needed to enable the implementation of *Describe Project*.

You have the right to be compensated for this property *or you may choose to donate the property*. In either case, an independent appraisal will be made of the above-referenced property in order to establish its fair market value, unless you elect to waive your rights to an appraisal. An independent appraiser will be hired. You have the right to accompany the appraiser on his/her inspection of the property; a letter inviting you to accompany him/her will be sent by the appraiser at least five days prior to the scheduled visit.

Enclosed for your information is the brochure, "When a Public Agency Acquires Your Property", which gives more details about your rights as a property owner.

This is **not** a notice to vacate the property and does not establish eligibility for relocation payments or other relocation assistance.

If you have any questions about this matter, please feel free to contact *Name* at *Address, Phone Number*.

Sincerely,

Name
Title

Enclosure

Italic type = customize as appropriate

[/] = select appropriate option

SAMPLE

WAIVER OF REQUIRED APPRAISAL

I understand that the *Grant Recipient Name* requires [an easement / partial fee interest / fee simple title interest] in the following property which I own for the purpose of implementing *Describe Project*.

[*Insert Legal Description*]

I further understand that the *Grant Recipient Name* is required, under the provisions of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended, to provide an independent appraisal and review appraisal in order to establish the fair market value of such property and that such valuation forms the basis for just compensation to which I am entitled.

Having been fully informed of my rights to have appraisals performed for the above-referenced property, I do hereby waive my rights to have such appraisals conducted and do hereby release the *Grant Recipient Name* from its obligations to have such appraisal conducted.

(Signature of Owner) (Date)

(Signature of Witness) (Date)

(Signature of Acquiring Official) (Date)

Italic type = customize as appropriate

[/] = select appropriate option

SAMPLE

AGREEMENT TO WAIVE RIGHTS TO FULL COMPENSATION

I understand that the *Grant Recipient Name* requires [an easement / partial fee interest / fee simple title interest] in the following property which I own for the purpose of implementing *Describe Project*.

[*Insert Legal Description*]

I further understand that the *Grant Recipient Name* is required, under the provisions of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended, to offer to purchase the above-referenced rights in such property for an amount not less than the fair market value as established by an independent appraisal and review appraisal of the property. I certify, by my signature below, the *Grant Recipient Name* has, in fact, advised me fully of my rights and offered to purchase the property as stipulated above.

Having been informed of my right to just compensation for any interest in my real property which is acquired *Grant Recipient Name*, I freely and without duress agree to give and convey to the *Grant Recipient Name* the interest described above and to decline any right to compensation or payment of the fair market value for the aforementioned property or interest therein and do hereby release the *Grant Recipient Name* from said obligations.

(Signature of Owner) (Date)

(Signature of Witness) (Date)

(Signature of Acquiring Official) (Date)

Italic type = customize as appropriate

[/] = select appropriate option

SAMPLE

STATEMENT OF THE BASIS FOR DETERMINING JUST COMPENSATION

❑ Description and Location of Property to be Acquired

Indicate the street address, lot and block number or other location description of the property to be acquired.

❑ Interest to be Acquired

Indicate whether the acquisition is an easement, partial fee or fee simple title.

❑ Description of Buildings, Structures and Other Improvements

Identify structures which are considered to be part of the real property for which compensation is made. Include building equipment and trade fixtures, if appropriate.

❑ Description of Separately Held Ownership Interest

Identify, if appropriate, any tenant-owned improvements, indicating that such interest is not covered by the offer.

❑ Amount Offered

Indicate the total compensation to be offered. If this is a partial acquisition, any payments for damages should be listed separately from the compensation paid for the property rights.

Approved for the *Grant Recipient Name*

(Signature of Acquiring Official)

(Date)

SAMPLE

STATEMENT OF SETTLEMENT COSTS

Name of Property Owner:

Identification of Acquired Property:

Expenses Incidental to Transfer of Title	Paid by Grant Recipient	Paid by Owner
1. Recording Fees		
2. Transfer Taxes		
3. State Tax Stamps		
4. Survey and Legal Description		
5. Pre-Payment Penalties		
6. Pro-rata Portion of Prepaid Taxes and Public Service Charges		
7. Other (Describe)		
TOTALS		

This Statement of Costs is certified as true and correct:

Signed: _____
 (Closing Attorney)

 (Date)

SAMPLE

**RELOCATION
INDIVIDUAL HOUSEHOLD FILE REQUIREMENTS**

The following information must be included in the General Relocation File:

1. Displacement Policy
2. Demographic Profile of Tenants
3. General Correspondence
4. Tenant Occupancy Form
5. ODOC Monitoring Documentation

The following information on each person or household that is displaced as a result of project activities must be included in the files:

1. Copies of Notice (plus verification of receipt)
2. Income Data of Tenant or Business
3. Description of Relocation Payment Requirements
4. Documentation of Rent Determination
5. Temporary Relocation Documentation
6. Inspection of New Dwelling
7. Displacement Notice (plus verification of receipt)
8. Record of Advisory Services
9. 90 Day Notice
10. 30 Day Notice
11. New Dwelling Inspection Receipts
12. Payment of Claims
13. Last Resort Housing
14. Inspection
15. Appeals
16. General Correspondence
17. Replacement Housing Records

[Grant Recipient Letterhead]

**RESIDENTIAL ANTI-DISPLACEMENT
And
RELOCATION ASSISTANCE PLAN**

The _____ [City / County] _____ of _____ will undertake public facility improvements funded through the Community Development Block Grant Program. No demolition or conversion of low- and/or moderate-income dwelling units is anticipated by the _____ [City / County] of _____ in conjunction with the activities assisted with these funds. Under Section 104(d) of the Housing and Community Development Act of 1974, as amended, if such demolition or conversion occurs, before obligating or expending funds that will directly result in such demolition or conversion, the _____ [City / County] _____ of _____ will make public and submit to the Oklahoma Department of Commerce the following information in writing:

1. A description of the proposed assisted activity;
2. The location on a map and number of dwelling units by size (number of bedrooms) that will be demolished or converted to a use other than as low- and moderate-income dwelling units as a direct result of the assisted activity;
3. A time schedule for the commencement and completion of the demolition or conversion;
4. The location on a map and number of dwelling units by size (number of bedrooms) that will be provided as replacement dwelling units;
5. The source of funding and a time schedule for the provision of replacement dwelling units;
6. The basis for concluding that each replacement dwelling unit will remain a low- and moderate-income dwelling for at least ten (10) years from the date of initial occupancy; and
7. Information demonstrating that any proposed replacement of dwelling units with smaller dwelling units is consistent with the housing needs of low- and moderate-income households in the jurisdiction.

If displacement of low- and moderate-income households occurs in conjunction with the public facilities improvements funded with CDBG funds, the _____ [City / County] _____ will provide relocation assistance as described in 570.606 (b) to each low- and moderate-income-household displaced by the demolition of housing or by the conversion of a low- and moderate-income dwelling to another use as a direct result of assisted activities.

SAMPLE

**NOTICE TO PROSPECTIVE BUYERS OF PROPERTIES
LOCATED IN RUNWAY CLEAR ZONES
AND CLEAR ZONES/ACCIDENT POTENTIAL ZONES**

(In accordance with 24 CFR Part 51, Section 51.303(a)(3), this notice must be given to anyone interested either in buying an existing HUD property, or using HUD assistance to buy an existing property, which is located in either a Runway Clear Zone at a civil airport or a Clear Zone/Accident Potential Zone at a military installation.)

The property which you are interested in purchasing at _____ is located in the Runway Clear Zone/Clear Zone/Accident Potential Zone for _____.

Studies have shown that if an accident were to occur it is more likely to occur within the Runway Clear Zone/Clear Zone/Accident Potential Zone than in other areas around the airport/airfield. Please note that we are not discussing the chances that an accident will occur, only where one is most likely to occur.

You should also be aware that the airport/airfield operator may wish to purchase the property at some point in the future as part of a Runway Clear Zone/Clear Zone/Accident Potential Zone acquisition program. Such programs have been underway for many years at airports and airfields across the country. We cannot predict if or when this might happen since it is a function of many factors, particularly the availability of funds, but it is a possibility.

We wanted to bring this information to your attention. Your signature on the space below indicates that you are now aware that the property you are interested in is located in a Runway Clear Zone/Clear Zone/Accident Potential Zone.

Signature of prospective buyer

Date

Type or print name of prospective buyer

(This notice must be maintained as part of the file on this action.)



Section 3 Environmental Review

July 7, 2014

Section 3 Environmental Review

This section will cover the environmental regulations that must be followed on all CDBG funded grants. The purpose of the environmental review process is to analyze the effect the proposed project will have on the people and natural environmental components within the project area.

To begin the process, the Grantee must first determine the environmental classification of each project activity. This section will focus on the four environmental classifications that are recognized under the CDBG program.

- Exempt
- Categorically Excluded
- Assessed
- Environmental Impact Statement

NOTES

**OKLAHOMA DEPARTMENT OF COMMERCE
COMMUNITY DEVELOPMENT
COMMUNITY DEVELOPMENT BLOCK GRANT (CDBG) PROGRAM**

**REQUIREMENT NO. 403
ENVIRONMENTAL REVIEW**

Effective July 2014

Please note that the web-sites included in this section will help provide additional guidance with the environmental review process.

I. OVERVIEW OF THE PROCESS

- A. Grant Recipients shall comply with the National Environmental Policy Act of 1969 (NEPA) and the Environmental Review Procedures for the Community Development Block Grant, 24 CFR 58, covering the following areas: Historic Properties, Floodplains, Wetlands, Noise, Manmade Hazards, Air Quality, Water Quality, Endangered Species, Farmlands Protection, Wild and Scenic Rivers, Solid Waste, Fish and Wildlife, Environmental Standards, sole source aquifers, clear zones, and environmental justice.
- B. Grant Recipients shall not obligate or expend CDBG, matching/leveraged or any type of in-kind funds until the environmental review process is complete and a notice of removal of contract conditions is received from ODOC.

Obligating or expending funds prior to the environmental review process is an ineligible use of contract funds and such expenditures will be disallowed and the CDBG Contract will be de-obligated.

- C. Environmental responsibilities have both legal and financial ramifications. A Grant Recipient assumes the role of Federal official under the provisions of NEPA and 24 CFR 58.
- D. The Grant Recipient's chief executive official will assume overall responsibility for the environmental review process, including making determinations and signing required certifications. This environmental duty may not be delegated, although certified

CDBG administrators, staff and/or State resources may provide technical assistance to support local efforts.

Local officials should review the liability and indemnification statutes as well as the status and coverage of local liability insurance policies when accepting responsibility under environmental laws. If a suit is filed against a program in Federal court on findings/environmental grounds, the chief executive official will be named the respondent.

- E. In administering the program, the State of Oklahoma accepts no responsibilities or liabilities for the quality or accuracy of the local environmental review process. ODOC's responsibility is to ensure that the Grant Recipient has complied with the procedural requirements of various environmental statutes, regulations and executive orders.
- F. Contract responsibilities require a complete environmental review of all project activities related geographically or functionally even if some activities are funded by other sources or provided by any type of volunteer or in-kind resources (24 CFR 58.32).

II. PROCEDURES:

<https://www.onecpd.info/resources/documents/Overview-Exempt-CENST-Activities.pdf>

The certifications of Exempt and Categorically Excluded Not subject To 24 CFR 58.34 and 58.35(b) activities have been addressed in the contract with ODOC. Once both parties have signed the contract, the Grant Recipient is released from any further environmental requirements for these activities only.

- A. Exempt Activities (24 CFR 58.34, subject to CFR 58.6): Certain activities are exempt from the environmental review requirements of NEPA and the environmental requirements of other applicable Federal laws and requirements under 24 CFR 58.6. (Examples include grant administrative costs, advertisements, engineering, architecture, testing, and planning)
- B. Categorically Excluded Activities 24 CFR 58.35b, (Not Subject to 24 CFR 58.5 Federal Laws and Authorities, subject to CFR 58.6): Purchase of Equipment. The Grant Recipient is still required to

address the requirements under 24 CFR 58.6. (Examples include purchase of equipment, fire-trucks, and ambulances).

C. Categorically Excluded Activities 24 CFR 58.35a, (Subject To 24 CFR 58.5):

1. Certain activities are "excluded" from NEPA requirements; however, other Federal laws and authorities listed in 24 CFR 58.5 are applicable. These Categorically Excluded Activities can be found in 24 CFR 58.35.
2. To complete the environmental requirements for categorically excluded activities and document compliance with 24 CFR 58.5, contact in writing, the applicable Statutory and Regulatory agencies found on the Environmental Cross-Reference Chart. Document the agencies' responses along with any mitigating measures required on the Environmental Statutory Checklist [**Form 3.1**] and the Compliance Documentation Checklist [**Form 3.2**].
See sample 1 letter.

- a. [HUD.GOV - Historic Preservation](#): Determine if the project activities will affect historic properties or archeological concerns. Request concurrence from the [State Historic Preservation Office – Section 106 Process](#), and [Oklahoma Archeological Survey](#)
- b. [HUD.GOV - Floodplain Management](#): 24 CFR Part 55 determines whether or not a project activity is affected by or may modify the base 100-year flood hazard area. This may be done by reviewing the applicable **Flood Hazard Boundary Map** or the **Flood Insurance Rating Map**. Floodplain maps may be obtained at [FEMA.gov - Map Service Center](#) , if activities are located in a floodplain, the Grant Recipient must follow Executive Order 11988, the Eight-Step Decision-Making Process. This process includes the publication of two public notices at least 16 days apart: an Early Public Notice identifying the activity and soliciting comments, and a Notice of Explanation, including a judgment whether the benefits of the activity outweigh the environmental considerations and a determination

that there are no practical alternatives to the activity site. These notices must be part of the Grant Recipient's Environmental Review Record (ERR) and a copy must be submitted to ODOC.

The floodplain map number, panel number and date must be kept in the environmental files.

NOTE: The Corps of Engineers may charge a fee to review floodplain compliance requests. If the applicable Flood Hazard Boundary Map or Flood Insurance Rating Map shows that the project activity is **not** located within the 100-year flood hazard area, the Corps of Engineers need not be contacted.

- c. [Protection of Wetlands](#): Determine, by site visit if necessary if wetlands are affected by a project activity. Executive Orders 11990 and 11988 are effective the same as above. Request concurrence from **U.S. Fish and Wildlife**, the **Conservation Commission**, **NRCS**, and the **U.S. Corps of Engineers**.
- d. [HUD.GOV - Noise Abatement and Control](#): Noise assessments are recommended for noise sensitive projects such as for housing, libraries, etc. **Please refer to: [Form 3.3]**
[Barrier Performance Module](#) and
[Sound Transmission Classification Assessment Tool User Guide - V1.0](#).
- e. [Manmade Hazards](#): Determine if a project activity is near a hazard operation handling petroleum products or chemicals of an explosive or flammable nature or within an aircraft clear zone. Request concurrence from the **Environmental Protection Agency (EPA)** [EPA Region 6](#); and the **Department of Environmental Quality (DEQ)**; [DEQ Oklahoma](#); along with site evaluation. Project cannot increase density or subject citizens or buildings to above-ground storage tanks greater than 100 gallons. Acceptable Separation Distance (ASD) must be determined.

- f. [ODEQ Air Quality](#); Determine if the project conforms to the latest approved State Implementation Plan (SIP) regarding air quality. Request concurrence from **EPA** and **DEQ**.
- g. [ODEQ Water Quality](#); Determine if the project activity will affect an aquifer recharge area which is a primary source of local drinking water or involving dredging, filling or disposal of dredged materials upon water bodies. Request concurrence from **EPA**, **DEQ** and the **U.S. Corps of Engineers** [Corps of Engineers - Tulsa District](#); [**See Attachment 4**].
- h. Coastal Areas: Not applicable to Oklahoma.
- i. [Endangered Species - Project Reviews in Oklahoma](#): Determine if project activity will endanger species of wildlife or if habitat areas are impacted. Request concurrence from **U.S. Fish and Wildlife**.

NOTE: If it is determined that there will be no impact, document the checklist and do not contact the agency.

- j. [HUD.GOV - Prime Farmland](#): Determine if a proposed activity converts farmland to non-agricultural uses; request concurrence from [Natural Resources Conservation Service](#) & [NRCS Web Soil Survey Instructions](#).
- k. [Oklahoma Scenic Rivers Commission](#): Determine if a project activity impacts a designated wild and scenic river in Oklahoma. Any construction or modification projects outside Adair, Cherokee, Delaware, Sequoyah, Leflore or McCurtain Counties are exempt from review by OSRC. Place a copy of the Blanket Clearance Letter [**Attachment 5**] in the ERR if the project is not in one of the listed counties.
- l. Environmental Standards: Determine if the properties being proposed for use are free of hazardous materials, contamination, toxic chemicals and gases,

and radioactive substances that could affect the health and safety of the occupants. The environmental review of multifamily housing with five or more dwelling units (including leasing), or non-residential property, must evaluate previous uses of the site or other evidence of contamination. This evaluation must include any proposed site in or near areas such as dumps, landfills, industrial sites, or other locations that have, or may have, contained hazardous waste. Obtain the services of qualified professionals who use current techniques to undertake the investigations that are considered necessary. A Phase I Report or equivalent analysis as appropriate may comply with this part.

[HUD.GOV Choosing and Environmentally Safe Site:](#)

A Phase I Environmental Site Assessment is a report prepared for commercial property that identifies potential or existing environmental contamination liabilities. It is to assess past and present land use practices, site operations and conditions, and to identify the potential presence of hazardous substances and soil and/or groundwater contamination at the site. It typically addresses both the underlying land as well as physical improvements to the property.

- m. [HUD.GOV Tribal Directory Assistance Tool;](#)
Please also refer to the ODOC resource page.

- n. [HUD.GOV Environmental Justice:](#)
The fair treatment and meaningful involvement of all people regardless of race, color, national origin, or income with respect to the development, implementation and enforcement of environmental laws, regulations and policies. Fair treatment means that no group of people, including racial, ethnic or socioeconomic group should bear a disproportionate share of the negative environmental consequences resulting from industrial, municipal, and commercial operations or the execution of federal, state, local and tribal programs and policies. The goal of this “fair treatment” is not to shift risks among populations but to

identify potential disproportionately high and adverse effects and identify alternatives that may mitigate these impacts.

Executive Order 12898 – to ensure that each Federal agency makes achieving environmental justice part of its mission by identifying and addressing, as appropriate, disproportionately high and adverse human health or environmental effects of its programs, policies, and activities on minority populations and low-income populations. For NEPA compliance, implement the following steps:

1. Analyze environmental effects, including human health, economic, and social effects of federal actions, including the effects on minority communities; and
2. Address significant and adverse environmental effects of proposed federal actions on minority communities and low-income communities with mitigation measures outlined or analyzed in the environmental assessment or in the environmental impact statement; and
3. Provide opportunities for community input in the NEPA process, including identifying potential effects and mitigation measures in consultation with affected communities and improving accessibility of public meetings, official documents, and notices to affected communities.

You should request concurrence from the Environmental Protection Agency (EPA), if a significant impact is anticipated.

- o. In addition to the above Statutory/Regulatory compliance, Environmental Reviews at the community level must be addressed. Areas of concern include: Water quality, solid waste disposal, fish and wildlife and State or local statutes.

3. Finding of Categorical Exclusion/Exempt from Release of Funds Publication:

When it is determined, after contacting the applicable Statutory/Regulatory agencies and completion of the Statutory Checklist **[Form 3.1]**, that the other Federal laws and authorities in CFR 58.5 and 58.6 are not applicable to a categorically excluded activity, the activity will convert to exempt.

4. Finding of Categorical Exclusion (not subject to 58.5) [Form 3.5] Purchase of Equipment.

5. Finding of Categorical Exclusion:

When it is determined that the other Federal laws and authorities in CFR 58.5 and 58.6 are applicable to a categorically excluded activity, a Finding of Categorical Exclusion Subject to **[Form 3.6]** must be made. The Finding, which identifies the activity and states the statutory authority for the exclusion, must be part of the Grant Recipient's ERR and a copy must be submitted to ODOC using the OKGrants System.

After completion of the review and after the Finding has been made, the Grant Recipient's chief elected official will sign the completed Environmental Certification **[Form 3.7]** and publish or post a Notice of Intent to Request Release of Funds [Form 3.8] and send the notice that same day to individuals and groups known to be interested in the activities and to the appropriate tribal, local, State and Federal agencies; to the Regional Office of the Environmental Protection Agency having jurisdiction and to the HUD field office (or State where applicable).

(For additional information please refer to the CDBG Resource page for complete distribution list)

When Publishing: The Notice must be published in a newspaper of general circulation, which informs interested parties of the Grant Recipient's intent to request a Release

of Funds from ODOC. The publication must allow seven (7) calendar days for public comments to the Grant Recipient.

When Posting: The Notice may be posted in lieu of publication. It must be prominently displayed in public buildings such as the local Post Office as well as other public buildings within the project area. It must be posted for ten (10) calendar days for public comments to the Grant Recipient.

When the comment period has elapsed and all public comments have been addressed, the Grant Recipient will submit the Request for Authority to Use Grant Funds (Release of Funds) on the OKGrants System. (This form is now a hard loaded form on the OKGrants system) and the required documentation to ODOC. Comments received as a result of the posting of the Notice should be included in the Grant Recipient's ERR and copies sent to ODOC.

Upon receipt, ODOC must hold the Environmental Review for an additional fifteen (15) calendar days for public comment.

D. Activities Requiring an Environmental Assessment (EA):

1. Activities which are neither Exempt nor Categorically Excluded (i.e., new construction) will require an EA to document not only compliance with the other Federal laws and authorities, but the requirements of NEPA 24 CFR 58.5 and 58.6.
2. For activities requiring an environmental assessment, the applicable statutory/regulatory agencies found on the Environmental Cross Reference Chart [**Attachment 2**] must be contacted and the agencies' responses and any mitigating measures required, documented on the Environmental Assessment Checklist [**Form 3.9**]. All other Impact Categories (NEPA) on the Environmental Assessment Checklist must also be addressed and documented. By performing the assessment, the Grant Recipient will make a finding of level of clearance for the

activity. The assessment will determine if an activity will significantly affect the quality of the human environment. A FONSI **[Form 3.10]** must be signed by the Certifying Officer and made a part of the ERR. A copy of the finding must be submitted to ODOC by use of the OKGrants system.

If an activity is one that will significantly affect the quality of the human environment, contact ODOC before preparing an Environmental Impact Statement (EIS).

3. After completion of the review and after the Finding has been made, the Grant Recipient's chief elected official will sign the completed Environmental Certification **[Form 3.7]** and publish or post a Combined Notice of FONSI and Intent to Request Release of Funds **[Form 3.11]** and send the notice that same day to individuals and groups known to be interested in the activities and to the appropriate tribal, local, State and Federal agencies; to the Regional Office of the Environmental Protection Agency having jurisdiction and to the HUD field office or State where applicable.
(Please refer to ODOC's CDBG Resource page)

When Publishing: The Notice must be published in a newspaper of general circulation, which informs interested parties of the Grant Recipient's intent to request a Release of Funds from ODOC. The publication must allow fifteen (15) calendar days for public comments to the Grant Recipient.

When Posting: The Notice may be posted in lieu of publication. It must be prominently displayed in public buildings such as the local Post Office as well as other public buildings within the project area. It must be posted for Eighteen (18) calendar days for public comments to the Grant Recipient.

When the comment period has elapsed and all public comments have been addressed, the Grant Recipient will submit the Request for Authority to Use Grant Funds (Release of Funds) and the required documentation to

ODOC. Comments received as a result of the posting of the Notice should be included in the Grant Recipient's ERR and copies uploaded and submitted to ODOC by use of the OKGrants system.

Upon receipt, ODOC must hold the Environmental Review for an additional fifteen (15) calendar days for public comment.

E. Engineer Acknowledgement

1. The Grant Recipient must submit to ODOC a Certification of Engineer Acknowledgement (**Form 3.13**) as part of the Request for Release of Funds. This requirement may be waived if and only if there is no engineering activity involved in the project.

F. Re-Evaluation of the Environmental Review Process:

1. The Grant Recipient must re-evaluate the results of its original review process if it:
 - a. Makes substantial changes in the nature, magnitude or extent of the project, including adding new activities; or
 - b. Discovers new circumstances and environmental conditions that may affect the project or the environment.
 - c. Has been over twelve (12) months since any action has been taken.
- a. The purpose of a re-evaluation is to determine if the new circumstances still justify and support the environmental finding originally issued. If the original finding is still valid, the Grant Recipient needs only to provide appropriate documentation to the ERR file. However, if the re-evaluation is the result of a change in the scope of work requiring an amendment to the contract, the Grant Recipient must submit a Certification of Continued Environmental Compliance [**Form 3.12**] with its request to ODOC for amendment approval.

- b. If the Grant Recipient determines that the original finding is no longer valid, it must re-initiate the appropriate review process following the procedures outlined above.

III. ATTACHMENTS:

1. Sample Request for Agency Comments Letter
2. Environmental Review Cross-Reference Chart
3. Blanket Clearance Letter - United States Department of Interior Fish and Wildlife
4. US Army Corps of Engineers Information Sheet
5. Blanket Clearance Letter - Oklahoma Scenic Rivers Commission
6. List of Tribal Governments
7. Floodplain Eight-Step Decision-Making Process, Executive Order 11988
8. Distribution List for Combined Notice or Notice of Intent

IV. FORMS

- 3.1 Statutory Checklist and Instructions
- 3.2 Compliance Documentation Checklist
- 3.3 Noise Abatement and Control Checklist
- 3.4 Certification of Exemption
- 3.5 Certification of Categorical Exclusion (Not Subject to 58.5)
- 3.6 Certification of Categorical Exclusion (Subject to 58.5)
- 3.7 Environmental Certification
- 3.8 Notice of Intent to Request Release of Funds
- 3.9 Environmental Assessment Checklist and Instructions
- 3.10 Finding of No Significant Impact (FONSI)
- 3.11 Combined Notice of FONSI and Intent to Request Release of Funds
- 3.12 Certification of Continued Environmental Compliance
- 3.13 Certification of Engineer's Acknowledgement

**City/County Letterhead
(Sample Request for Agency Comments letter)**

(Date)

(Environmental Review Agency)

Re: (Grant Recipient)
(Project)

(Salutation)

(Grant Recipient) has received a Community Development Block Grant (CDBG) from the Oklahoma Department of Commerce (ODOC) for (project). Compliance with the National Environmental Protection Act of 1969 (NEPA) and the Environmental Review Procedures for CDBG, 24 CFR 58 is required. The environmental review must cover the following areas: Historic Properties, Floodplains, Wetlands, Noise, Manmade Hazards, Air Quality, Water Quality, Endangered Species, Farmlands protection, Wild and Scenic Rivers, Solid Waste, Fish and Wildlife, and Environmental Standards and tribal interests.

A detailed project description and a location map of the project are enclosed. We have determined that this project will have no significant impact on environmental impacts of concern to (historic properties, endangered species etc.). Please reply with your concurrence or non-concurrence of our determination.

Your immediate attention to this request will be appreciated. If you have any questions or need additional information, please contact (name of contact person) at (telephone number).

Sincerely,

(Name of Sender)
(Title of Sender)

Enclosures

Sample

ENVIRONMENTAL REVIEW CROSS-REFERENCE CHART

	1	2	3	4	5	6	7	8	9	10
	EPA	CC	F&W	NRCS	SHPO	ARCH	CORPS	FEMA	DEQ	OSRC
Historic Property										
Floodplain										
Wetlands										
Noise										
Air Quality										
Manmade Hazards										
Water Quality										
Solid Waste										
Endangered Species										
Farmland										
Wild and Scenic Rivers										
Environmental Standards										
1. Environmental Protection Agency										
2. Conservation Commission										
3. U.S. Fish & Wildlife										
4. Natural Resources Conservation Service										
5. State Historic Society										
6. Oklahoma Archaeological Society										
7. U.S. Army Corps of Engineers										
8. Federal Emergency Management Agency										
9. Oklahoma Department of Environmental Quality										
10. Oklahoma Scenic Rivers Commission										
11. Tribal Governments										

1	Environmental Protection Agency Region 6 1446 Ross Avenue Dallas, TX 75202-2733 214-655-7451 [Coordination not required unless significant impact(s) determined] (See Note A on the following page)
2	Conservation Commission 2800 North Lincoln Suite 160 Oklahoma City, OK 73105 405-521-2384 Fax # 405-521-6686 www.conservation.ok.gov
3	U.S. Fish and Wildlife 9014 E. 21st Tulsa, OK 74129 918-382-4501 (See Note B on the following page)
4	Natural Resources Conservation Service Oklahoma County Offices
5	State Historic Society State Historic Preservation Officer 800 Nazih Zuhdi Dr. Oklahoma City, OK 73105 405-521-6249 Fax # 405-522-0816 www.okhistory.org/shpo/shpom.htm

6	Oklahoma Archaeological Survey 111 East Chesapeake, Building 134 Norman, OK 73019-0575 405-325-7211 Fax # 405-325-7604
7	Department of the Army, Corps of Engineers Floodplain , Attn: Joe Remondini Wetland , Attn: David Manning 1645 South 101 East Avenue Tulsa, OK 74129 918-669-7366 See Note C on the following page.
8	Federal Emergency Management Agency Region VI, Federal Center, 800 North Loop 288 Denton, TX 76209-3698 940-898-5399 (Contact only if Floodplain Mgr. Is not known) See Note E on following page.
9	Department of Environmental Quality Attn.: Margaret Graham 707 N. Robinson (P.O. Box 1677) Oklahoma City, OK 73102 (73101-1677) 405-702-9122 (1-800-869-1400) Fax # 405-702-1001
10	Oklahoma Scenic Rivers Commission P.O. Box 292 Tahlequah, OK 74465 918-456-3251 Fax # 918-456-8466 See Note D on the following page.
11	Tribal Governments See Attachment 6.

ENVIRONMENTAL REVIEW CROSS-REFERENCE CHART

Note A Unless the project entails extraordinary circumstances which would require an analysis of whether a significant environmental impact is possible, EPA does not need to be contacted for the following project activities:

- Replacement or upgrade of existing water supply or wastewater infrastructure which does not expand capacity by more than 30%;
- Minor housing rehabilitation;
- Improvements to existing facilities to meet ADA or public safety requirements, e.g., fire, police, medical, etc.; or
- New housing involving four units or less.

Note B [Oklahoma Project Reviews](#)

The U.S. Fish and Wildlife Service do not need to be contacted if the project exhibits the following characteristics:

- Rehabilitation of existing houses and similar building, including structures attached to or associated with those buildings, particularly where no new soil disturbance is anticipated, and any loans or mortgages affiliated with such rehabilitation.
- Acquisition of existing houses and other buildings, including structures attached to or associated with those buildings, and any loans or mortgages affiliated with such acquisition.
- Removal of dead or dying trees in urban, residential areas.
- Construction of safe rooms and storm shelters within existing structures or in previously developed urban areas and any loans or mortgages affiliated with such construction.
- Removal of trash and debris provided such removal does not involve significant soil disturbance.
- Resurfacing of existing streets, runways, and taxiways.
- Administrative and similar activities that do not include any physical land disturbance or alteration.

Projects involving larger areas of clearing of native vegetation or ground disturbance are likely candidates for review.

[Oklahoma Blanket Clearance Letter](#)

Note C To determine whether you need to contact the U.S. Army Corps of Engineers, ask the following questions:

- Would the proposed action involve physical disturbance to lands or waters, regardless of property ownership? (Issue = Wetlands and water bodies)
- Would the proposed action raise the ground surface or involve construction above ground?
(Issue = Floodplains)

- Would the proposed action occur on or directly impact lands owned by and operated by the U.S. Army Corps of Engineers? (Issue = Federal government property)

If the answer to any of the above is yes, contact the Corps of Engineers relevant to that issue.

Permits/Wetlands: Regulatory Branch, 918-669-7401

Floodplains: Floodplain Management Services, 918-669-7182

Government Lands: Internal Environmental Compliance, 918-669-7585

When requesting information regarding the impacts of a proposed project, provide the following:

- Site map with specific location of proposed action marked "USGS 7.5". (Quadrangle maps provide a good base map.);
- Legal description of project location in quarters, Section, Township, and Range (Lot/block numbers are not helpful.);
- Full description of the type of construction or action to be accomplished.

Note D Before contacting the Oklahoma Department of Scenic Rivers Commission, determine in which county the project is located. Any construction or modification project outside of Adair, Cherokee, Delaware, Sequoyah, Leflore or McCurtain Counties is exempt from environmental review by the Oklahoma Scenic Rivers Commission.

Note E [Oklahoma Floodplain Administrators List](#); as of 12/27/12.



United States Department of the Interior

FISH AND WILDLIFE SERVICE
Division of Ecological Services
9014 East 21st Street
Tulsa, Oklahoma 74129-1428
918/581-7458 / (FAX) 918/581-7467



ACTIONS WITH NO IMPACTS TO FEDERALLY-LISTED SPECIES OR OTHER FEDERAL TRUST RESOURCES

The U.S. Fish and Wildlife Service (Service) believes the following types of actions, individually and/or cumulatively, have no impacts on any federally-listed species, federally-designated critical habitat, or any other federal trust fish and wildlife resources in Oklahoma.

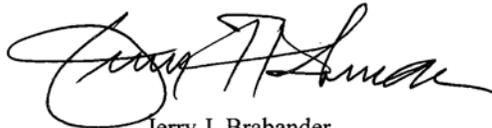
- Administrative activities that do not include any physical land disturbance or alteration.
- Demolition and construction or placement of a single- or multi-family residence within a developed lot, and/or any loans or mortgages affiliated with such construction, demolition or placement, provided they are not within 750 feet of habitat for federally-listed species or 300 feet of National Wetland Inventory (NWI) mapped wetlands, wildlife refuges, fish hatcheries, wildlife management areas, or related significant fish and wildlife resources.
- Rehabilitation or renovation activities associated with existing structures (*e.g.*, houses, buildings), including additional structures attached to or associated with the primary structure, and/or any loans or mortgages affiliated with such rehabilitation or renovation.
- Acquisition of existing structures (*e.g.*, houses, buildings), including additional structures attached to or associated with the primary structure, and/or any loans or mortgages affiliated with such acquisition.
- Construction of safe rooms and storm shelters within existing structures or developed lots and/or any loans or mortgages affiliated with such construction.
- Purchase and placement of playground equipment within existing parks.
- Resurfacing, repairing, or maintaining existing streets, sidewalks, curbs, trails, parking lots and/or any other existing paved surfaces where additional ground disturbance, outside of the existing surface, is not necessary.
- Resurfacing, repairing, or maintaining existing airport runways, taxiways, and/or any other existing paved surfaces where additional ground disturbance, outside of the existing surface, is not necessary.
- Removal of trash and debris provided such removal does not involve soil disturbance.
- Removal of dead or dying trees in urban areas.

ACTIONS WITH NO IMPACTS TO FEDERALLY-LISTED SPECIES OR OTHER FEDERAL TRUST RESOURCES. Document prepared by the U.S. Fish and Wildlife Service, Oklahoma Ecological Services Field Office, 9014 East 21st Street, Tulsa, Oklahoma 74129-1428. For the most recent information visit our website, <http://ifw2es.fws.gov/oklahoma/>, write, or call (918) 581-7458. 11/6/2006

Page 2 of 2

- Placement of antennae assemblies on existing structures (e.g., towers, buildings, water tanks, smokestacks, etc.), provided such activities do not result in total structure height greater than 199 feet, require the addition of guy wires or require alteration of the existing lighting scheme.
- Repair, maintenance, or replacement of existing communication towers and/or equipment (e.g., painting, antenna or panel replacement, upgrading of existing equipment, etc.), provided such activities do not result in total structure height greater than 199 feet, require the addition of guy wires, require alteration of existing lighting scheme, do not involve soil disturbance, or increase the size of the existing pad site or equipment shelter.
- Construction or placement of self-supported (i.e., no guy wires), unlighted communication towers less than 200 feet in height that are not in grassland habitat, within 750 feet of habitat for federally-listed species, or within 300 feet of wildlife refuges, fish hatcheries, wildlife management areas, or related significant fish and wildlife resources.
- Replacement of power or utility poles in existing rights-of-way.

While unusual circumstances can occur, negating such blanket approval, our experience in reviewing similar requests over the past several years indicates that such unusual circumstances rarely occur for the above types of projects. **This letter is your blanket approval for the above defined actions in Oklahoma from the Oklahoma Ecological Services Field Office of the U.S. Fish and Wildlife Service. These projects may proceed without first contacting the Service for approval. This blanket approval is valid until rescinded by the Service.**



Jerry J. Brabander
Field Supervisor

Section 7 Consultations – Oklahoma

The Oklahoma Ecological Services Field Office reviews hundreds of projects each month for potential impacts to Federally-listed species in Oklahoma. To expedite the review process for your project, please supply the following information:

- A complete description of the project, including all associated actions, methods, equipment, and a timeline for beginning and completing the project.
- A legal description of the project site.
- Name of county where project is located.
- A photocopy of a U.S. Geological Survey quadrangle map (with quadrangle name) and a legend; the project location should be clearly highlighted.
- The project coordinates (latitude and longitude) formatted in decimal degree units.
- A datum used to collect the latitude and longitude [North American Datum 1927 (NAD27), North American Datum 1983 (NAD83), World Geodetic System 1984 (WGS84), etc.]
- A brief description of the habitat
- Clearly marked pipeline routes, appurtenance locations, etc.
- Clear distinction between existing and proposed construction.
- A description of the methods of construction used in wetlands, streams, etc. – such as directional boring, trenching, and blasting.
- Appropriate contact information – name, address, organization name, telephone number, FAX number, and email address.
- When possible on smaller projects, a panoramic set of photographs of the project site.

Additional information related to:

- Communication tower projects.
- American Burying beetle surveys (PDF Document 5.24MB) and Project Evaluation Form (PDF Document 26 KB).
- Recommended Best Management Practices for Proposed Activities in Karst Areas.

Please allow 30 days for the processing of your complete request, starting with the day this office receives it. All requests should be mailed to:

U.S. Fish and Wildlife Service
Oklahoma Ecological Services Field Office
222 S. Houston, Suite A
Tulsa, OK 74127

**US Army Corps
of Engineers
Tulsa District**

INFORMATION SHEET

CORPS OF ENGINEERS REGULATORY PROGRAM AUTHORITIES

Section 10 of the Rivers and Harbors Act (RHA) of 1899

The U.S. Army Corps of Engineers is directed by Congress through Section 10 (33 USC 403) to regulate all work or structures in, over, under, or otherwise affecting the course, condition, or capacity of navigable waters of the United States. The intent of this law is to protect the navigable capacity of waters important to interstate commerce.

Section 404 of the Clean Water Act (Federal Water Pollution Control Act of 1972)

The Corps is directed by Congress through Section 404 (33 USC 1344) to regulate discharges of dredged or fill material into navigable water, lakes, rivers, streams, mudflats, sand-flats, wetlands, playa lakes, and other natural water bodies. The intent of this law is to protect these waters from the indiscriminate discharge of material capable of causing pollution and to restore and maintain their chemical, physical, and biological integrity. Activities requiring a permit under Section 404 include any placement of fill material, excavation, ditching, channelization, or heavy mechanized land-clearing within a wetland or other water body subject to the jurisdiction of Section 404.

CORPS OF ENGINEERS FLOOD PLAIN AUTHORITY

Water Resources Development Act of 1990

As authorized by Section 321 of the Water Resources Development Act of 1990 (Public Law 101-640), the Corps of Engineers Flood Plain Management Services office can provide technical assistance on flood plain matters to state agencies, local governments, and Indian tribes without charge. Flood plain assistance is offered to Federal agencies and private concerns on a cost-recovery basis.

ASSISTANCE AND INFORMATION REQUESTS

To determine whether you need to contact the U.S. Army Corps of Engineers, ask the following questions:

- a. Would the proposed action involve physical disturbance to lands or waters, regardless of property ownership? (Issue = Wetlands and Water bodies)
- b. Would the proposed action raise the ground surface or involve construction above ground? (Issue = Flood Plains)
- c. Would the proposed action occur on or directly impact lands owned and operated by the U.S. Army Corps of Engineers? (Issue = Federal government property)

If the answer to any of the above questions is yes, contact the Corps of Engineers relevant to that issue.

When requesting information from the Corps regarding the impacts of a proposed project upon wetlands, flood plains, or government property, please provide the following information so that your request may be answered in a timely manner.

1. Site map with specific location of proposed action marked (USGS 7.5" Quadrangle Maps provide a good base map).
2. Legal description of project location in quarters, Section, Township, and Range (lot/block numbers are not helpful).
3. Full description of the type of construction or action to be accomplished in the project.

CONTACT

Permits and Wetlands: Mr. David A. Manning, Chief, Regulatory Branch, (918) 669-7400.

Flood Plains: Mr. Joe Redmondini, Flood Plain Management Services Coordinator, (918) 669-7197

Government Land: Mr. Loren Mason, PhD, District Internal Environmental Compliance Manager, (918) 669-7409.

Mailing Address: Corps of Engineers, P.O. Box 61, Tulsa, OK 74121-0061

Street Location: 1645 S. 101st E. Ave, Tulsa, OK 74128

ED FITE
ADMINISTRATOR



BRAD HENRY
GOVERNOR

STATE OF OKLAHOMA
OKLAHOMA SCENIC RIVERS COMMISSION

March 16, 2005

Mr. D. Scott Myers
Community Infrastructure Team
Office of Community Development
Oklahoma Department of Commerce
P. O. Box 26980
Oklahoma City, OK 73126-0980

Re: Blanket Clearance Letter for Community Development Block Grant Projects

Dear Mr. Myers:

This letter is provided to inform you that any construction or modification project your agency has outside of Adair, Cherokee, Delaware, Sequoyah, LeFlore or McCurtain counties would be exempt from environmental review by our office. All designated Oklahoma Scenic Rivers are within the six above-mentioned counties and are the only counties requiring environmental review.

Of course, we would certainly be happy to continue environmental review of projects outside this six-county area, if you desire. However, only Adair, Cherokee, Delaware, Sequoyah, LeFlore or McCurtain Counties require such. Please contact me if you have any questions.

Sincerely,

A handwritten signature in black ink, appearing to read "Ed Fite, III".

Ed Fite, III
Administrator

OKLAHOMA INDIAN AFFAIRS COMMISSION TRIBAL GOVERNMENTS, OFFICIALS AND LOCATIONS

TRIBAL GOVERNMENT	OFFICIAL	ADDRESS	PHONE NO.	FAX NO.
ABSENTEE SHAWNEE TRIBE www.absenteeshawneetribe-nsn.gov	George Blanchard, Governor	2025 S. Gordon Cooper Shawnee, OK 74801	405 275-4030	405 275-5637
ALABAMA QUASSARTE TRIBAL TOWN	Tarpie Yargee, Chief	P.O. Box 187 Wetumka, OK 74863	405 452-3987	405 452-3968
APACHE TRIBE	Ponce Leon, Chairman	P.O. Box 1220 Anadarko, OK 73005	405 247-9493	405 247-2686
CADDO TRIBE www.caddonation-nsn.gov	Brenda Shemayne Edwards, Chairperson	P.O. Box 487 Binger, OK 73009	405 656-2344	405 656-2892
CHEROKEE NATION www.cherokee.org	Bill Baker, Principal Chief	P.O. Box 948 Tahlequah, OK 74465	918 453-5000	918 458-5580
CHEYENNE-ARAPAHO TRIBES www.cheyenne-arapaho.org	Janice Boswell, Chairman	P.O. Box 38 Concho, OK 73022	405 262-0345	405 422-7424
CHICKASAW NATION www.chickasaw.net	Bill Anoatubby, Governor	P.O. Box 1548 Ada, OK 74821	580 436-2603	580 436-4287
CHOCTAW NATION www.choctawnation.com	Greg Pyle, Chief	P.O. Drawer 1210 Durant, OK 74702	580 924-8280	580 924-1150
CITIZEN POTTAWATOMIE NATION (www.potawatomi.org)	John A. Barrett, Jr., Chmn.	1601 S. Gordon Cooper Shawnee, OK 74801	405 275-3121	405 275-0198
COMANCHE NATION www.comanchenation.com	Willy Owens, Chairman	P.O. Box 908 Lawton, OK 73502	580 492-4988	580 492-3796
DELAWARE NATION www.delawarenation.org	T. J. Watkins, President	P.O. Box 825 Anadarko, OK 73005	405 247-2448	405 247-9393
DELAWARE TRIBE OF INDIANS www.delawaretribeofindians.nsn.us	Paula Pechonick, Chief	170 NE Barbara Bartlesville, OK 74006	918 336-5272	918 337-6591
EASTERN SHAWNEE TRIBE www.easternshawmee.org	Glenna J. Wallace, Chief	P.O. Box 350 Seneca, MO 64865	918 666-2435	918 666-2186
FORT SILL APACHE TRIBE www.footsillapache.com	Jeffrey Haozous, Chairman	Route 2, Box 121 Apache, OK 73006	580 588-2298	580 588-3133
IOWA TRIBE OF OKLAHOMA www.iowanation.org	Gary Pratt, Chairman	RR 1, Box 721 Perkins, OK 74059	405 547-2402	405 547-5294
KAW NATION OF OKLAHOMA www.kawnation.com	Guy Munroe, Chairman/CEO	P.O. Box 50 Kaw City, OK 74641	580 269-2552	580 269-1157
KIALEGEE TRIBAL TOWN	Jeremiah Hobia, Town King	P.O. Box 332 Wetumka, OK 74883	405 452-3262	405 452-3413
KICKAPOO TRIBE OF OKLA.	Gilbert Salazar, Chairman	P.O. Box 70 McLoud, OK 74851	405 964-2075	405 964-6211
KIOWA TRIBE	Amber Toppah, Chairman	P.O. Box 369 Carnegie, OK 73015	580 654-2300	580 654-2188
MIAMI NATION www.miamination.com	Doug Lankford, Chief	P.O. Box 1326 Miami, OK 74355	918 542-1445	918 542-7260

TRIBAL GOVERNMENT	OFFICIAL	ADDRESS	PHONE NO.	FAX NO.
MODOC TRIBE	Bill Follis, Chief	418 "G" SE Miami, OK 74354-8224	918 542-1190	918 542-5415
MUSCOGEE (CREEK) NATION www.muscogeenation-nsn.gov	George Tiger, Principal Chief	P.O. Box 580 Okmulgee, OK 74447	918 732-7600	918 758-1434
OSAGE NATION	John RedEagle, Principal Chief	PO Box 778 Pawhuska, OK 74056	918 287-5555	918 287-5562
OTOE-MISSOURIA TRIBE	John R. Shotton, Chairman	8151 Highway 177 Red Rock, OK 74651	580 723-4466	580 723-4445
OTTAWA TRIBE	Ethel Cook, Chief	P.O. Box 110 Miami, OK 74355	918 540-1536	918 542-3214
PAWNEE NATION OF OK www.pawneenation.com	Marshall Gover, President	P.O. Box 470 Pawnee, OK 74058	918 762-3621	918 762-6446
PEORIA TRIBE OF INDIANS OF OK www.peoriatrIBE.com	John P. Froman, Chief	P.O. Box 1527 Miami, OK 74355	918 540-2535	918 540-2538
PONCA NATION www.ponca.com	Earl Howe III, Chairman	20 White Eagle Drive Ponca City, OK 74601	580 762-8104	580 762-2743
QUAPAW TRIBE OF OKLAHOMA www.quapawtribe.com	John Berrey, Chairman	P.O. Box 765 Quapaw, OK 74363	918 542-1853	918 542-4694
SAC & FOX NATION www.sacandfoxnation-nsn.gov	George Thurman, Principal Chief	Route 2, Box 246 Stroud, OK 74079	918 968-3526	918 968-1142
SEMINOLE NATION www.seminolenation.com	Leonard Harjo, Principal Chief	P.O. Box 1498 Wewoka, OK 74884	405 257-7200	405 257-7209
SENECA-CAYUGA TRIBE OF OK www.sctribe.com	William Fisher, Chief	P.O. Box 1283 Miami, OK 74355	918 542-6609	918 542-3684
SHAWNEE TRIBE	Ron Sparkman, Chairman	P.O. Box 189 Miami, OK 74355	918 542-2441	918 542-2922
THLOPTHLOCCO TRIBAL TOWN	George Scott, Chairman	P.O. Box 188 Okemah, OK 74859-0188	918 560-6198	918 560-6196
TONKAWA TRIBE www.tonkawatribe.com	Don Patterson, President	2 Rush Buffalo Road Tonkawa, OK 74653	580 628-2561	580 628-3375
UNITED KEETOOWAH BAND OF CHEROKEES (www.unitedkeetoowahband.org)	George Wickliffe, Chief	P.O. Box 746 Park Hill, OK 74465	918 431-1818	918 431-1873
WICHITA & AFFILIATED TRIBES www.wichita.nsn.us	Terri Parton, President	P.O. Box 729 Anadarko, OK 73005	405 247-2425	405 247-2430
WYANDOTTE NATION www.wyandotte-nation.org	Billy Friend, Chief	64700 E. Highway 60 Wyandotte, OK 74370	918 678-2297	918 678-2944
YUCHI (EUCHEE) TRIBE OF INDIANS	Andrew Skeeter, Chairman	P.O. Box 10 Sapulpa, OK 74067	918 224-3065	918 224-3065

**EXECUTIVE ORDER 11988
EIGHT-STEP DECISION-MAKING PROCESS**

STEP

1. Determine whether or not the site is to be located in an identified 100-year floodplain. If the site is located in a floodplain, follow steps 2 through 8.
2. Publish a newspaper public notice of the intent to carry out an action in the floodplain. This should be done at the earliest possible time. The notice will have a 15-day comment period.
3. Identify, evaluate, and list practicable alternatives considered to locating the 100-year floodplain. In discussing practicality of alternative address:
 - a. Natural environment
 - b. Social concerns
 - c. Economic aspects
 - d. Legal constraints
4. Discuss direct or indirect adverse impacts associated with the modification of the floodplain. Issue a statement as to whether or not the action conforms to applicable floodplain protection.
5. Mitigate adverse impacts.
6. Re-evaluate alternatives and mitigation measures:
 - a. Is it still practicable?
 - b. If project is practicable, acceptable flood-proofing measures shall be applied.
7. Publish a second public notice in the newspaper after the comment period expires on the Notice of Intent, explaining the final decision and that there are no practicable alternatives to locating in a floodplain. This notice will have a 7-day comment period.
8. Review implementation and post-implementation of flood proofing measures to insure that they are in compliance with mitigation measures.

NOTE: If the above procedures are not followed, ODOC will not participate in the projects.

**ALL FLOOD PLAIN NOTICES MUST BE PUBLISHED IN A PAPER
OF GENERAL CIRCULATION. POSTING IS NOT ALLOWED WHEN
COMPLYING WITH FLOOD PLAIN REQUIREMENTS.**

Public Notice for Early Public Review

 (Name of Grant Recipient) is proposing to expend Federal funds in an area that is subject to flooding as identified by the Federal Emergency Management Administration. The subject funds are Community Development Block Grant funds administered by the Oklahoma Department of Commerce. *

The (Name of Grant Recipient) is proposing to undertake the following activities in the area:

Describe the project, being specific as to location of proposed activities and total number of acres of floodplain involved.

The purpose of this notice is to give an early opportunity for interested agencies, persons or groups to comment on the proposed action(s). The (Name of Grant Recipient) is desirous of considering any feasible alternatives or adjustments to the anticipated project which might minimize any potential adverse effects upon the floodplain as a result of the project.

The (Name of Grant Recipient) has additional information concerning this project available for public review and copying, upon request, at (location) . Any comments relative to this proposed expenditure of Federal funds in an area identified as a flood hazard area should be submitted in writing to *(Name and address)* on or before (Date **) .

* Mention any other federal funds involved, if applicable.

** Must be 16 days after the date of publication.

Notice of Explanation of Project Located In a Floodplain

The (Name of Grant Recipient) has determined that there is not a practicable alternative to locating the proposed Community Development Block Grant project described below in a floodplain.

Description of project and project activities.

The improvements must be located in the floodplain because *(state reasons why the project must be located in the floodplain; include other alternatives that were considered and mitigating measures to be taken to minimize adverse effects.)*

By publication of this notice, (Name of Grant Recipient) is inviting any final comments prior to undertaking the proposed action. All comments should be addressed to (Name and address) , not later than (Date *) .

* No less than 8 days after date of publication.
--

FLOOD INSURANCE COVERAGE

Question:

What duration and amount of flood insurance coverage is required?

Answer:

The Flood Disaster Protection Act of 1973 ([42 U.S.C. 4001-4128](#)) as amended by the National Flood Insurance Reform Act of 1994 (Pub.L. 103-325, 108 Stat. 2160) prescribes the duration and dollar amount of flood insurance under Sections 3 and 102 of the Act.

Duration of Coverage:

The statutory period for such coverage may extend beyond project completion. For loans, loan insurance or guaranty, coverage must be continued for the term of the loan. For grants and other non-loan forms of assistance, coverage must be continued for the life of the property, regardless of transfer of ownership of such property. Section 582(c) of the Community Development and Regulatory Improvement Act of 1994 mandates that "...The requirement of maintaining flood insurance shall apply during the life of the property, regardless of transfer of ownership of such property." ([42 U.S.C. 5154a](#))

Dollar Amount of Coverage:

For loans, loan insurance or guaranty, the amount of coverage need not exceed the outstanding principal balance of the loan. For grants and other non-loan forms of assistance, the amount of coverage must be at least equal to the development or project cost (less estimated land cost, if any) or to the maximum limit of coverage made available by the Act with respect to the particular type of building involved (i.e., single family, other residential, or non-residential), whichever is less. The development or project cost is the total cost for acquiring, constructing, reconstructing, repairing, or improving the building. This cost must include both the Federally assisted and non-Federally assisted portion of the cost, including any machinery, equipment, fixtures, and furnishing. If the Federal assistance includes any portion of the cost of any machinery, equipment, fixtures or furnishing, the total cost of that item must be covered.

U.S. Department of Homeland Security
Mitigation Directorate
Washington, D.C.



October 7, 2008

Dear Friend of the NFIP,

This year we have all witnessed again the devastation that seasonal weather patterns can bring. An historic flood event soaked the Nation's heartland, a large-scale tropical storm drenched the State of Florida, and Hurricanes Gustav, Hanna, and Ike brought yet another round of intense rain, storm surge, and widespread flooding to the Gulf Coast, the Atlantic States, and parts of the Midwest. As you well know, we have not seen the last of such storms and the floods they bring. They are a part of life – events we cannot prevent. They are also events from which individuals must be able to recover more effectively.

As I watch the news and visit flood-ravaged areas, my heart goes out to those who have lost so much to rising waters. But when I talk to the victims, I also feel intensely frustrated because so many failed to take a simple step that could have saved, or at least helped to salvage, the day: the purchase of flood insurance.

Lack of flood insurance protection is a serious national problem that costs us all dearly. FEMA's analysis following the Midwest floods this summer showed that fewer than 9 percent of residents who live in the highest risk areas in Midwestern States carried a flood insurance policy. Even more striking: on average, fewer than 2 percent of residents living in moderate- to low-risk areas were covered. These starkly low rates of coverage occur despite a Federal law requiring many to carry flood insurance as a condition of their mortgage; a flood hazard mapping effort that identifies areas at a heightened risk for flooding; a low-cost Preferred Risk Policy available for areas where insurance is not a requirement; and a marketing campaign to help people learn their risk and locate a nearby insurance agent. Americans continue to believe that unless flood insurance is required by their lender or, in some cases, even when it is required, they don't need it. They could not be more wrong.

In response to these serious misperceptions, FEMA recently issued an open letter to the American public and another to insurance agents (links to open letters can be found below). But much more needs to be done, and accomplishing it requires your help.

I am issuing you this personal challenge to do all you can to encourage flood insurance protection for those you serve. Your commitment to this effort is crucial, and your ideas and input for how we can, in partnership, meet a higher mark for flood mitigation and protection are personally important to me. I look forward to hearing from you and working with you to address this challenge. The president or CEO of your company has also received this letter. Please work with them to share your organization's current best practices and your own ideas of new means, messages, and methods to lessen the financial impact of flood disasters.

Sincerely,

A handwritten signature in black ink that reads "Edward L. Connor". The signature is written in a cursive, flowing style.

Edward L. Connor, Acting Federal Insurance Administrator, National Flood Insurance Program

Protecting our homes and businesses against flooding is critical.

August 25, 2008

An open letter to all Americans:

Again this year, thousands of people have experienced the terrible consequences of flooding. Those in the Midwest and the South have been hit particularly hard recently. Some have suffered the total loss of their homes to floodwaters. Others are still dealing with the difficult and costly work of making their homes livable again.

Time and time again, we see too many Americans shoulder these burdens without the cushion of flood insurance. And when the next flood strikes, many others could find themselves in the same position. **It does not have to be this way.**

As Federal Insurance Administrator, I want you to know that you have options for protecting your home and business against flooding. **The best way to decrease financial burdens from flood losses is with flood insurance.** Flood insurance is available for most homeowners, renters and businesses, covering buildings and their contents. Please, take a moment now to consider the facts about flood risks and insurance.

1. Homeowners insurance does not cover flooding. A separate flood insurance policy is typically the only way to protect against flood losses.

2. In high-risk areas,* there's a reason why flood insurance is required. By law, most mortgage lenders require flood insurance in these areas because there is a significant risk that you will be flooded. Even if your mortgage is paid off and flood insurance is no longer required by your lender, you can still purchase flood insurance.

**For insurance purposes, a high-risk area is defined as an area with at least a one-in-100, or 1 percent, chance of being flooded in any given year. If your community participates in the National Flood Insurance Program (most do), the entire community is eligible to purchase flood insurance, inside and outside of high-risk areas. Underwriting restrictions apply in certain limited circumstances.*

3. Flood insurance is also available if you live outside a high-risk area, and at lower cost. Floods occur in lower-risk areas, too. A quarter of all flood insurance claims come from lower-risk areas where flood insurance is not required. "Not required" doesn't mean "not needed." Flood insurance is a good idea whether or not a lender requests it.

4. If you live near a levee, you can, and should, purchase flood insurance. Many levees and flood control structures were resilient during recent floods. But levees can fail or overtop, and, as we've seen, with disastrous consequences.

5. Flood insurance can be purchased through most leading insurance companies. Rates are federally set and will not differ from company to company. For more information or help in finding an agent near you, please visit the National Flood Insurance Program (NFIP) website, www.FloodSmart.gov.

The fact is floods do not have to be a financial disaster. We don't know when the next flood will occur. But they have happened recently—and they will happen again. Taking steps now to cover your building and contents with flood insurance can make a world of difference for your property, your savings and your future.

Please consider the risk. Consider the consequences. Talk with your insurance agent. Make the choice to protect your greatest investment. For more information about flood insurance, call 888-724-6973.

David I. Maurstad, Federal Insurance Administrator
National Flood Insurance Program
Mitigation Directorate, Federal Emergency Management Agency
Department of Homeland Security
Washington, D.C.

An Open Letter to Insurance Agents:

Again this year, thousands of people are living with the terrible consequences of heavy rains and massive flooding. Some have suffered the total loss of their home. Others are still dealing with the difficult and costly work of replacing walls, floors, utilities and damaged possessions.

Flooding is America's number one natural disaster. Yet too many property owners remain uninformed about flood risk and flood insurance. When floods struck the Midwest this summer, fewer than 10 percent of residents in the high-risk areas of flooded communities had flood insurance. Less than one percent of those in lower-risk areas were insured. They were left without a financial backstop and we were left with the question....Why were so many uninsured?

Property owners continually report that they were unaware they could buy flood insurance, thought they were ineligible for coverage or were told they didn't need it. Many do not know their homeowners insurance doesn't cover flood damage. Some did not believe a flood could happen to them. These tragic misconceptions have to end.

What you can do

As a trusted professional, you can make a real difference. You can:

- *Dispel the myth that flood insurance is only for buildings in high-risk¹ area.* Low-to-moderate risk areas also flood, and a quarter of all National Flood Insurance Program (NFIP) claims come from these areas. Most home and business owners, condominium unit owners and renters will qualify for a Preferred Risk Policy, the lowest-cost policy offered by the NFIP.

1. For insurance purposes, a high-risk area is defined as an area with at least a one-in-100, or 1 percent, chance of being flooded in any given year. If the community participates in the NFIP (most do), the entire community is eligible to purchase flood insurance, inside and outside of high-risk areas. Underwriting restrictions apply in certain limited circumstances.

- *Give them the facts about flood insurance costs.* Even in high-risk areas, buildings that meet floodplain management requirements can be insured at an affordable rate.

- *Make clear that "not required" doesn't mean "not needed."* By law, federally regulated and insured lenders require flood insurance for buildings in high-risk areas. But, all properties are at risk, regardless of the flood zone!

- *Provide your clients with helpful information.* Give them a copy of the *Standard Flood Insurance Policy*, the booklet, *Answers to Questions about the National Flood Insurance Program* and the *Summary of Coverage* brochure. These and other materials are available at the NFIP website: www.fema.gov/business/nfip/.

- *Refer your clients to http://www.floodsmart.gov/floodsmart/?cid=Search_BingYahoo_FEMA_Brand* for information about flood risk, flood insurance claims and flood mitigation measures.

How the NFIP can help

The NFIP is committed to helping you meet the needs of prospects and clients. Many resources are available through <https://agents.floodsmart.gov/manageagent/>, a secure website for insurance agents. You can find out about NFIP training seminars and online courses, and, once trained, sign up for the Flood Smart Advertising Coop Program, direct mail support and the Flood Smart Agent Referral Program, which refers interested prospects directly to you.

The NFIP Team

You are an essential part of the NFIP mission. With your help, we can ensure that no one has to recover from flood damage without the help of flood insurance.

Edward L. Connor, Deputy Assistant Administrator for Insurance
Mitigation Directorate, Federal Emergency Management Agency
U.S. Department of Homeland Security
Washington, D.C.

For more information about flood insurance, call 888-379-9531.

DISTRIBUTION LIST

Please refer to pages 403 – 8 and 403 – 10 for instructions regarding compliance with issuing notices to those agencies on the distribution list.

The following agencies must be provided a copy of the Concurrent Notice **[Form 3.10]** or Notice of Intent **[Form 3.7]**:

Department of Environmental Quality
Attn: Environmental Officer
707 N. Robinson
Oklahoma City, OK 73102

Oklahoma Department of Commerce
Office of Community Development
900 N. Stiles
Oklahoma City, OK 73104-3234

Oklahoma Historic Preservation Office
Oklahoma Historical Society
2401 N. Laird Ave.
Oklahoma City, OK 73105

Federal Emergency Management Agency
FEMA Region VI, Federal Regional Center
800 N. Loop 288, Room 206
Denton, TX 76209-3698

U.S. Department of Housing & Urban Development
Attn: Environmental Officer
301 N.W. 6th St, Ste 200
Oklahoma City, OK 73102

U.S. Environmental Protection Agency
EPA Regional Office
1445 Ross Avenue
Dallas, TX 75202

Area Substrate Planning District

Area Community Action Agency

Local Special Interest Group

County Health Department

Individuals and Groups known to be interested

Local News Media

Appropriate Tribal Governments



Section 4 Civil Rights

July 7, 2014

Section 4 Civil Rights

Federal civil rights laws, whether they address hiring, housing, contracting or access, were enacted to ensure that no group or individual would be subject to any kind of discrimination, particularly when spending taxpayer funds.

Generally, these laws prohibit discrimination based on race, national origin, religion, age, sex, disability and family status. Identified groups included under Title 7 and ADA are:

- African Americans
- American Indians
- Alaskan Natives
- Asians
- Native Hawaiians
- Pacific Islanders
- Hispanics and Latinos
- Older Americans
- Handicapped
- Gender

NOTES

**OKLAHOMA DEPARTMENT OF COMMERCE
COMMUNITY DEVELOPMENT
COMMUNITY DEVELOPMENT BLOCK GRANT (CDBG) PROGRAM**

**REQUIREMENT NO. 404
CIVIL RIGHTS, EQUAL OPPORTUNITY,
FAIR HOUSING, SECTIONS 3 & 504**

Effective July 2014

The forms for civil rights, equal opportunity, and fair housing do not have to be submitted to ODOC. Original forms must be kept in the grant recipients file.

I. CONTRACTUAL REQUIREMENTS

- A. Federal civil rights laws, whether they address hiring, housing, contracting or access, were enacted to ensure that no group or individual would be subject to any kind of discrimination, particularly when spending taxpayers' money, e.g., CDBG grants. Specific laws, the persons those laws cover and the types of discrimination prohibited are outlined at the end of this Requirement. **[Attachment 1]**
- B. Generally, these laws prohibit discrimination based on race, national origin, religion, age, sex, disability and family status. Identified groups included under these categories are:
1. Minorities, i.e., Blacks, African Americans, American Indians, Alaskan Natives, Asians, Native Hawaiians, Pacific Islanders, Hispanics and Latinos;
 2. Women;
 3. Age groups (specifically those over 40); and
 4. Handicapped persons (mental and/or physical).
 5. Sexual Orientation for Housing Projects

- C. CDBG Grant Recipients and their sub-recipients must comply with these laws, demonstrate efforts made to comply and document those efforts in various aspects of project activities.
- D. Employment Practices:
1. The Grant Recipient's employment policies need to be examined (or re-examined) in light of the Civil Rights and non-discrimination statutes. Providing equal opportunity in the hiring process and in the evaluation of current employees is paramount. Grant Recipients are also required to make affirmative action (redress for past discrimination) a part of local policies.
 2. Evidence of efforts to provide equal opportunity and take affirmative action steps in the recruitment, selection and compensation of employees must be documented. **[Form 4.1]** Other actions that can demonstrate non-discriminatory practices of the Grant Recipient as an employer include but are not limited to the following:
 - a. Upgrading, demotions or transfers;
 - b. Recruitment and advertisements for employees;
 - c. Layoffs or terminations;
 - d. Changes in rates of pay or other forms of compensation;
 - e. Selection for training, including apprenticeships; and
 - f. Participation in recreational and educational activities.
 3. All employment notices should be posted in conspicuous places available to both employees and applicants and must contain the following provisions of this discrimination clause:

"All qualified applicants will receive consideration for employment without regard to race, color, religion, creed, age, sex, national origin or disability."

4. It is important to remember that another part of the Civil Rights laws prohibits sex discrimination in the payment of wages to women and men performing substantially equal work in the same establishment. **[The Equal Pay Act of 1963]** One law prohibits job discrimination and requires affirmative action to employ and advance in employment qualified Vietnam era veterans. **[Section 402 of the Vietnam Era Veterans Readjustment Assistance Act of 1974]** Special outreach should be made to notify minority or disadvantaged groups of employment opportunities. The Grant Recipient should have written employment and personnel policies and practices available for review by ODOC representatives. A Self-Evaluation Plan for Handicapped Accessibility, displaying the local government's current staffing arrangements, would supplement the written policies. A sample of a Transition Plan demonstrates format and how various programs might be addressed. **[Attachment 2 & 3]**

E. Contracts and Subcontracts **[Executive Order 11246: Equal Employment Opportunity - Contracts and Subcontracts]**:

1. Contracting is another part of your program, which must be non-discriminatory. You must ensure non-discrimination in the soliciting and awarding of contracts generated through CDBG funding. Advertisement and distribution of solicitation must not discriminate. Be sure to keep records of all contacts with minority- or women-owned firms. Bid specifications and/or evaluation criteria used to review bids must not be discriminatory. This is also an issue in the award of contracts. **[See Requirement 407]**
2. It is also your responsibility to ensure that your Grant Recipients include equal opportunity provisions and certifications in their contracts. Language appropriate for

use in contracts can be found in Requirement 407 for construction contracts.

3. Section 3:

a. Grant recipients must make a special effort to provide training and employment opportunities to lower-income residents and contract opportunities to businesses in the project area. **[Section 3 of the Housing and Urban Development Act of 1992]** This requirement applies to:

(1) A local government (Grant Recipient), including private entities receiving CDBG funds, if it receives CDBG funds for housing rehabilitation and/or public construction and the CDBG assistance exceeds \$200,000 for any one activity; and

(2) Construction contractors and subcontractors when the activity has been determined to be covered by Section 3 for the construction contractor and the construction contract or subcontract exceeds \$100,000. **[See Requirement 407.]**

b. At a minimum, Contractors must include Specific Section 3 language in all solicitations (RFPs and bid documents.) **[Housing and Community Development Act of 1992, as Amended; Title VIII of the Civil Rights Act of 1968, as Amended; 42 U.S.C 3601, et seq., also known as the Fair Housing Act of 1988]**

F. Affirmatively Furthering Fair Housing:

1. Fair housing is generally defined as the ability of persons of similar income levels to have available to them a like range of housing choices regardless of race, color, sex, religion, national origin, marital status, family status, age or mental or physical disability. Local governments, because of their influence and power, are in the most effective position to promote fair housing.
2. The Grant Recipients must provide documentation of steps taken to affirmatively further fair housing, regardless of the type of CDBG activity funded by ODOC, *for each fiscal year the Grant Recipient has received a CDBG contract.*
3. While the Grant Recipient has already certified that it practices fair housing, it must demonstrate that it is affirmatively furthering fair housing on a continual basis, not merely as a requirement of spending CDBG dollars. **[See Attachment 4 for suggested activities.]** Efforts should be made to identify discriminatory housing patterns and alleviate them by working with developers, landlords, realtors, residents and government agencies.
4. Both State and Federal laws should be cited in all applicable contracts dealing with housing. Efforts should be made and documented to end discriminatory housing policies and to provide information to the general public regarding fair housing matters. When rehabilitating investor-owned property, you should advise the owner of the requirements for fair housing/equal employment opportunity clauses in advertising for vacant units. In addition, when rehabilitating all housing units, making those units accessible to the disabled should be taken into consideration where applicable. **[Executive Order 11063: Equal Opportunity in Housing]**
5. ODOC requires all CDBG Grant Recipients to either adopt a Fair Housing Ordinance or pass a Fair Housing Resolution as the first step in affirmatively furthering fair housing. **[Sample, Attachment 4 and 5]**

6. In addition, ODOC requires the Grant Recipient to undertake at least one (1) new activity per year in an effort to affirmatively further fair housing. The Grant Recipient is not required to undertake multiple fair housing activities if it has multiple CDBG contracts open in any one year.

G. Complaints:

1. Since the Grant Recipient may receive complaints related to the various aspects of civil rights, equal opportunity and fair housing, a file to document such complaints must be established. **[It would be wise to appoint an individual who would be responsible for handling any complaints, doing necessary follow-up and maintaining documentation on complaints received and their resolutions.]** This file should contain any relevant paperwork as well as follow-up efforts (within 15 working days) and eventual resolution.
2. All complaints may not refer to a violation of a particular civil rights law or laws. A complaint should be viewed as a civil rights complaint when the complainant:
 - a. Indicates the belief that he/she has been denied benefits or opportunities, has been treated differently, etc.; and
 - b. Alleges his or her race, ethnicity, and gender, status as a disabled person or age was the basis for his / her belief of discrimination.
3. Any person or specific class of persons who believes that he/she/they have been subject to any discrimination prohibited by the laws referenced in this Requirement may file a complaint. Advise your ODOC representative if you receive a civil rights complaint, as it will need to be referred to HUD's regional office, which deals directly with such complaints. **For additional guidance refer to HUD's website at <https://www.onecpd.info/resource-library/>**

Since this Requirement only summarizes applicable laws and gives general guidance to aid in compliance with those laws, a Grant Recipient and its legal counsel may want to refer to the actual statute if questions about a specific regulation arise.

H. Evaluating Municipal Accessibility (Section 504):

1. Section 504 of the Rehabilitation Act of 1973, as amended, establishes policies, goals and procedures for assuring that no otherwise qualified individual with disabilities is, solely on the basis of the disability, denied benefits, subjected to discrimination or excluded from participation in any program or activity receiving Federal assistance. HUD has issued regulations to establish the manner in which recipients of CDBG funds are required to comply with the provisions of Section 504. **[24 CFR 8]**
2. Inasmuch as the law has been in effect for more than 25 years, it is possible that the Grant Recipient has already met many, if not all, of its requirements. If this is the case, providing evidence of meeting these requirements will be little more than providing documentation. However, it is almost always likely that there is more to be done in order to truly meet the spirit, as well as the letter, of the law. CDBG Grant Recipients must conform to HUD's procedural requirements as a condition of receiving these Federal funds. There are ways your community may need to modify its customary way of doing business to ensure that all local services, not only grant-related activities, are accessible to your disabled citizens and that local programs do not discriminate against them. **[See also, Architectural Barriers Act of 1968, as amended; the Americans with Disabilities Act; and the Fair Housing Amendments Act of 1988.]**
3. Additional Actions:

- a. All CDBG Grant Recipients must take the following actions regarding disabled persons, regardless of the number of persons employed by the Grant Recipient:
 - (1) Establish effective communication methods, e.g., auxiliary aids, information regarding accessible services, activities and facilities;
 - (2) Demonstrate non-discriminatory employment practices;
 - (3) Conduct a self-evaluation of policies, practices and programs; and
 - (4) Develop a Transition Plan for compliance. See attachment 3.
- b. Grant recipients employing fifteen or more individuals must also:
 - (1) Designate a "504 contact person" and publish a Notice of Non-Discrimination; and
 - (2) Develop grievance procedures.
- c. Though not required by either state or regulation, ODOC encourages all Grant Recipients to take these additional actions.

4. Summary of Requirements:

a. Effective Communication:

- (1) The Grant Recipient is required to take appropriate actions to ensure that applicants, participants and members of the general public with disabilities have communication access that is equally effective as that provided to people without disabilities. To overcome communication barriers, equipment and other services are

frequently used by individuals who are blind, visually impaired, hearing impaired, speech impaired or who have cognitive impairment. The Grant Recipient must furnish auxiliary aids and services as necessary, which may include:

(a) For Persons with Hearing Impairments:

- [1] Qualified sign language interpreters;
- [2] Note takers;
- [3] Telecommunication devices for deaf persons (TDDs);
- [4] Telephone handset amplifiers;
- [5] Assertive listening devices (devices that increase the sound in large group settings);
- [6] Flashing lights (where aural communication is used, such as warning bells);
- [7] Transcription services;
- [8] Closed and open captioning.

(b) For Persons with Vision Impairments:

- [1] Qualified readers;
- [2] Written materials translated into alternative formats, e.g., Braille, audio tape, large print, etc.
- [3] Aural communication (bells or other sounds used where visual cues are necessary).

- (2) The Grant Recipient must pay attention to the requests and needs of the disabled person(s) within the community when determining which auxiliary aids or services are necessary. For the purpose of Section 504 compliance, the target population includes: The hearing impaired, visually impaired, mobility impaired, developmentally disabled and those persons requiring in-home care or institutional care.
- (3) Grant Recipients are not required to provide individually prescribed devices such as glasses, hearing aids, readers for personal use or study or any other device of a personal nature.
- (4) When a Grant Recipient communicates by phone a TDD or other equally effective communication system must be used. Further, the Grant Recipient must communicate in such a manner that disabled persons may obtain the information they need regarding the Grant Recipient's programs. All public hearings must be held in locations accessible to the disabled. It is acceptable to require that persons with disabilities provide adequate advance notice that they may need a particular auxiliary aid or service. All communications must clearly outline the specific procedures, which must be followed if an individual with disabilities intends to request an auxiliary aid or service.
- (5) If the requested aid or service cannot be provided as requested by the disabled individual, the Grant Recipient must advise the individual immediately of the specific reasons why the request cannot be granted and the reasons why the decision was made.

- (6) The Grant Recipient is not required to undertake any action which would, if taken, result in a fundamental alteration of the program or which would result in an undue financial and/or administrative burden. If it is determined this would be the case, you should contact ODOC for further advice.
- b. Non-Discriminatory Employment Practices: The Grant Recipient must take the following actions or make the following assurances:
- (1) It will provide an assurance that no qualified individuals will, solely on the basis of disability, be subjected to discrimination in employment under any program or activity receiving Federal financial assistance;
 - (2) It will not limit, segregate or classify applicants or employees in any way that adversely affects their opportunity or status because of a disability. The Grant Recipient must assure that this prohibition against discrimination applies to the following activities: Recruitment, layoff, advertising, termination, employment application processing, right of return from layoff, hiring, upgrading, job assignments, promotion, job classifications, award of tenure, organizational structures, transfer, injury or compensation, position descriptions, lines of progression, seniority lists, leave, sick leave of absence, fringe benefits, selection and financial support for training, selection for leaves of action for training, employer-sponsored activities (recreational or social), other terms, conditions or privileges of employment.
 - (3) It will not participate in a contractual or other relationship that has the effect of subjecting qualified applicants or employees with disabilities to discrimination;

- (4) It will provide reasonable accommodations for the known physical or mental limitations of an otherwise-qualified applicant with disability. Reasonable accommodations may include: Accessible facilities, job structuring, job relocation, part-time or modified work schedules, acquisition or modification of equipment or devices, provision of readers or interpreters.
- (5) It will make a determination of whether an individual with disability is qualified for the position at the time of the employment action. This involves two steps:
 - (a) Determine if the individual satisfies the prerequisites for the position in terms of appropriate education, skills, licenses, etc.
 - (b) Determine whether the individual can perform the essential functions of the position held or desired, with or without reasonable accommodation. Essential functions are ones the individual who holds the position must be able to perform unaided or with the assistance of reasonable accommodation;
- (6) Reasonable Accommodation:
 - (a) Grant recipients make a reasonable accommodation to the known physical or mental limitations of an otherwise-qualified applicant for employment or employee with a disability, unless the Grant Recipient can demonstrate the accommodation would impose an undue burden on its operations. There are three categories of reasonable accommodation:

- [1] Accommodations required ensuring equal opportunity in the application process;
- [2] Accommodations enabling the Grant Recipient's employees with disabilities to perform the essential functions of the position held or desired; or
- [3] Accommodations enabling the Grant Recipient's employees with disabilities to enjoy equal benefits and privileges of employment as are enjoyed by employees without disabilities.

(b) A reasonable accommodation in employment may include but is not limited to one or more of the following actions:

- [1] Making existing facilities used by employees readily accessible to and usable by individuals with disabilities;
- [2] Restructuring, including part-time or modified work schedules or reassignment to a vacant position;
- [3] Acquisition or modifications of devices or equipment;
- [4] Appropriate adjustment or modifications of examinations, training materials or policies; or
- [5] The provision of qualified readers or interpreters.

c. Self-Evaluation of Policies, Practices & Programs:

- (1) Each Grant Recipient must, after consulting with interested persons (including individuals with disabilities or organizations representing such individuals) evaluate its current policies and practices to determine whether or not they constitute barriers to participation by the disabled. The self-evaluation process should be viewed as the starting point toward achieving compliance with Section 504 requirements. The self-evaluation process is a comprehensive review of all current policies and practices to determine whether or not there are barriers to participation by the disabled in programs or services. **[Attachment 2 is a sample evaluation form.]**
- (2) The self-evaluation includes communication and employment, as well as the policies and practices for all services, programs and activities. Information to be included in the plan includes:
 - (a) A list of persons consulted about the self-evaluation;
 - (b) A description of the areas examined and any problems identified; and
 - (c) A description of any modifications made to the policies, procedures, services and programs.
- (3) Areas to be evaluated include but are not limited to:
 - (a) Buildings and/or facilities for physical accessibility;
 - (b) All programs, activities and services;
 - (c) All outreach and communications;

- (d) Eligibility and admission criteria and practices;
 - (e) Employment practices and guidelines;
 - (f) Complaint processing procedures.
- (4) It should be noted that the self-evaluation must include all aspects of the Grant Recipient's organization and not just those portions that pertain or relate to the CDBG-funded program and its administration.
- (5) The self-evaluation may determine that some non-structural modifications may be necessary, along with staff training on how to make reasonable modifications to achieve program accessibility. The self-evaluation may also determine that some structural modifications may be necessary. These should be identified early in the process so modifications can be budgeted for and completed on a timely basis.
- (6) The regulations also require the Grant Recipient to consult with persons with disabilities and/or representative organizations throughout the self-evaluation process. The regulations do not stipulate how many people to consult, how to select the members, whether there should be a group or individual consultation or how long the consultation process should take. ODOC recommends that no less than four and no more than seven individuals should comprise a citizen's advisory committee. It is also recommended that the committee consist of a wide variety of members. Following are some suggestions for soliciting persons to compose the self-evaluation committee:

- (a) Solicit one or two local officials;
 - (b) Draw upon local agencies or chapters of disability advocate organizations;
 - (c) Check with local veterans' groups;
 - (d) Publicize widely in appropriate media accessible to persons with disabilities;
 - (e) Ask for the help of the local school system;
 - (f) Include persons within the community known to have disabilities;
 - (g) Check with the nearest vocational rehabilitation service;
 - (h) Advertise on local radio and/or television;
 - (i) Advertise in local and regional newspapers;
 - (j) Contact appropriate State agencies, boards and commissions.
- (7) By establishing a citizens' advisory committee made up of the above types of individuals, the Grant Recipient will be able to:
- (a) Ensure the most complete evaluation of programs and policies and uncover any impediments or barriers to participation by persons with disabilities;
 - (b) Receive information from persons or experts from organizations representing disabled individuals who are in an excellent position to recommend the least costly,

most innovative solutions to accessibility problems;

- (c) Demonstrate a commitment to the goals of Section 504 and ADA and help to foster support from all citizens for the handling of this compliance issue.

- (8) Records must be maintained for three years following final closeout of the contract.

d. Transition Plan for Compliance:

- (1) If your programs and activities cannot be made accessible by making administrative changes, structural changes will be necessary. Develop a Transition Plan for any structural changes. Interested citizens, especially disabled citizens, should be recruited to help develop the Plan. A copy of the Plan must be made available for public inspection. The Plan should:
 - (a) Identify the physical obstacles that limit the program's accessibility to disabled persons. The Grant Recipient should consider utilizing the Uniform Federal Accessibility Standards (UFAS) Checklist;
 - (b) Describe in detail the method to be used in making the facilities in question accessible;
 - (c) Set forth the schedule of tasks, identifying actions to be taken within the first year, if the total project will exceed one year.
 - (d) Identify the official responsible for implementing the Plan; and
 - (e) Identify those who assisted the Grant Recipient in preparing the Transition Plan.

- (2) The Grant Recipient must make reasonable accommodations to the known physical or mental impairments of an otherwise-qualified participant or employee with disabilities, unless the Grant Recipient can demonstrate that such accommodations would impose undue financial and/or administrative burdens. Accommodations could include but are not limited to:
 - (a) Conducting home visits;
 - (b) Assigning aides to assist beneficiaries;
 - (c) Locating programs or services in accessible facilities;
 - (d) Adding or redesigning equipment or furnishings;
 - (e) Selectively altering existing facilities or acquiring or building new facilities;
 - (f) Changing management policies or procedures;
 - (g) Job restructuring;
 - (h) Modifying work schedules;
 - (i) Providing readers or interpreters.
- (3) If reasonable accommodation, as requested by an individual with disabilities, cannot be provided, the following steps should be taken:
 - (a) Notify the individual immediately with the specific reasons why the request cannot be granted and the reasons why the decision was made;

- (b) When claiming fundamental alteration or undue burden, document the basis for the decision in a written statement and demonstrate that all resources available for the funding and operation of the service, activity or program were taken into consideration;
 - (c) Obtain the written concurrence of both the chief elected official and the chief executive officer.
- e. Contact Persons and Notice of Non-Discrimination:
 - (1) At least one individual should be designated as the Section 504 Coordinator and should be the single point of contact for all Section 504 activities. **[Americans with Disabilities Act of 1990, 42 USC 12131 as amended by the ADA Amendment Act of 2008 P.L. 110-325]** This individual should be a permanent, full-time employee of the Grant Recipient. Responsibilities of the Section 504 Coordinator include:
 - (a) Overseeing formation of the citizen's advisory committee;
 - (b) Receiving and investigating grievances;
 - (c) Organizing training activities;
 - (d) Ensuring the recommendations identified in the self-evaluation and Transition Plan is implemented;
 - (e) Serving as the single point of contact for individuals who are disabled; and

- (f) Keeping abreast of changes in laws and regulations.
- (2) The Grant Recipient must assure that appropriate initial and continuing steps are taken to notify participants, beneficiaries, applicants and employees, including those with impaired vision or hearing and unions with professional agreements with the Grant Recipient that it does not discriminate on the basis of disability.
- 3. The Grant Recipient must conspicuously post or publish in a newspaper of general circulation the notice "Policy of Non-Discrimination on the Basis of Disability Status". The Section 504 Compliance file should contain the printer's affidavit for the Notice and other evidence of compliance with the notification policy.

II. ATTACHMENTS

- 1. Compendium of Federal Civil Rights Laws
- 2. 504 Accessibility Self-Evaluation
- 3. 504 Transition Plan for Disabled Accessibility
- 4. Suggested Fair Housing Activities
- 5. Fair Housing Ordinance
- 6. Sample Fair Housing Resolution

III. FORMS – SECTION 10

- 4.1 Staff Composition Form

**COMPENDIUM OF FEDERAL
CIVIL RIGHTS LAWS**

LAW/EXECUTIVE ORDER	DISCRIMINATION PROHIBITED	COVERAGE
<p>Title VI of the Civil Rights Act of 1964, 42 USC 2000D</p> <p>Nondiscrimination in programs or activities receiving federal financial assistance. Extends to all federal departments and agencies empowered to extend financial assistance to any program or activity by way of grant, loan or contract other than contract of insurance guaranty.</p>	<p>No person shall be excluded from participation in, be denied the benefits of, including employment or selection of contractors, or be subjected to discrimination on the basis of handicap, i.e. physically disabled, speech or hearing impaired, or visually handicapped</p>	<p>Public building accessibility</p> <p>Communication aids</p> <p>Program policies and guidelines</p> <p>Grantees' activities shall include, but not be limited to, the following: employment, upgrading, demotion or transfer, recruitment or recruitment advertising, layoff or termination, rate of pay or other forms of compensation and selection for training, including apprenticeship</p>
<p>Section 109 of Title I of the Housing and Community Development Act of 1992, as Amended</p> <p>Nondiscrimination in any program or activity subject to the provision of this title</p>	<p>No person in the United States shall, on the ground of race, color or national origin be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity funded in whole or in part under this title.</p>	<p>Construction contracts (housing and non-housing)</p> <p>Non-construction contracts (e.g., professional services contracts)</p> <p>Recruitment</p> <p>Program policies and guidelines</p>
<p>Age Discrimination Act of 1975, as Amended</p> <p>Provides that no person shall be excluded from participation in, denied program benefits or subjected to discrimination on the basis of age under any program or activity receiving federal funding assistance</p>	<p>No persons shall, on the basis of age, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving federal financial assistance.</p> <p>Any prohibition against discrimination on the basis of age or with respect to an otherwise handicapped individual as provided in Section 504 of Rehabilitation Act of 1973 shall also apply to any such program or activity</p>	<p>Construction contracts of over \$10,000 (housing and non-housing)</p> <p>Non-construction contracts</p> <p>Program policies and guidelines</p>
<p>Section 504 of the Rehabilitation Act of 1973, as Amended</p> <p>No otherwise qualified individual shall, solely by reason of his or her handicap, be excluded from participation in (including employment), denied program benefits or subjected to discrimination under any program or activity receiving federal assistance funds.</p>	<p>The grantees and subcontractors, if any, shall not discriminate against any employee or applicant for employment because of physical or mental handicap, if qualified. The grantee and any sub-contractors, shall take affirmative action to ensure that applicants are employed, and that employees are treated without discrimination based upon their physical or mental handicap</p>	<p>Contracts (housing and non-housing)</p> <p>Employee Recruitment</p> <p>Program policies and guidelines</p> <p>Grantees' activities shall include, but not be limited to, the following: employment, upgrading, demotion or transfer, recruitment or recruitment advertising, layoff or termination, rate of pay or other forms of compensation and selection for training, including apprenticeship.</p>

LAW/EXECUTIVE ORDER	DISCRIMINATION PROHIBITED	COVERAGE
<p>Vietnam Era Veterans Readjustment Assistance Act of 1974, Section 402</p>	<p>No person shall be discriminated against because he or she is a disabled veteran or veteran of the Vietnam Era</p> <p>Discrimination because of race, color, creed, religion, sex or national origin</p>	<p>Construction contracts (housing and non-housing)</p> <p>Non-construction contracts</p> <p>Employee recruitment</p> <p>Program policies and guidelines</p>
<p>Executive Order 11246: Equal Opportunity</p>	<p>Discrimination because of race, color, creed, religion, sex or national origin.</p>	<p>Construction contracts (housing and non-housing)</p> <p>Non-construction contracts (e.g., professional services contracts)</p> <p>Recruitment</p> <p>Program policies and guidelines</p>
<p>Executive Order 11063: Equal Opportunity in Housing, as Amended by Executive Order 12259</p>	<p>Race, color, religion, creed, sex or national origin.</p>	<p>Construction contracts - housing</p> <p>Program policies and guidelines</p>
<p>Section 3 of the Housing and Community Development Act of 1968 as amended by the Housing and Community Development Act of 1992</p>	<p>Provides that to the greatest extent feasible training and employment opportunities shall be made available to lower-income residents of the unit of local government or metropolitan area (or non-metropolitan county) in which the project is located, and that contracts be awarded to small businesses located within, or owned in substantial part by residents of the same metropolitan (or non-metropolitan county) as the project.</p>	<p>Construction contracts (housing and non-housing)</p> <p>Employee recruitment</p> <p>Program policies and guidelines</p>

LAW/EXECUTIVE ORDER	DISCRIMINATION PROHIBITED	COVERAGE
<p>Fair Housing Amendments Act of 1988, Amends Title VIII of The Civil Rights Act of 1968</p> <p>(to include prohibition against discrimination based on handicap and family status)</p> <p>The Fair Housing Law provides protection against the following acts, if they are based on race, color, religion, sex, national origin, handicap or family status:</p> <ul style="list-style-type: none"> • 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 to persons of a certain race, color, religion, sex, national origin, handicap or family status. • Denying that housing is available for inspection, sale or rent when it really is available. • Persuading owners to sell or rent housing by telling them that minority groups are moving into the neighborhood. • Directing renters and prospective homebuyers to certain areas. 	<p>Race, color, religion, sex, national origin, handicap or family status</p>	<p>Construction contracts - housing.</p> <p>Program policies and guidelines.</p> <ul style="list-style-type: none"> • Single-family housing owned by private individuals when: <ul style="list-style-type: none"> - A broker or other person in the business of selling or renting dwellings is used; - Discriminatory advertising is used; • Single-family houses not owned by private individuals; • Single-family houses owned by a private individual who owns more than three such houses or who, in any two-year period, sells more than one in which the individual was not the most recent resident; • Multi-family dwellings of five or more units; • Multi-family dwellings containing four or fewer units, if the owner does not reside in one of the units. • Not covered: The sale or rental of single-family houses owned by a private individual of three or fewer such single-family housing with certain conditions: • Rentals of rooms or units in owner-occupied multi-dwelling units for 2-4 families, if discriminatory advertising is not used. • The sale, rental or occupancy of dwellings which a religious organization owns/operates for other than commercial purpose to persons of the same religion. • Limit to its own members rental or occupancy of lodgings owned by a private club for other than commercial purposes

504 ACCESSIBILITY SELF-EVALUATION
CITY OF _____

Completion Date: _____

	ACCESSIBLE	NOT ACCESSIBLE	VISION IMPAIRED	HEARING IMPAIRED	MOBILITY IMPAIRED	SENIORS
CITY BUILDINGS						
City Hall	XXX		<i>Braille Elevator</i>	<i>TDD Number</i>	<i>Assistance</i>	<i>Assistance Number</i>
Police Station	XXX		NO	<i>TDD Number</i>	911	NO
Fire Station	XXX		NO	<i>TDD Number</i>	911	NO
Museum		XXX	NO	NO	NO	NO
Library		XXX	YES	NO	NO	<i>Bookmobile</i>
Community Center	XXX		NO	NO	YES	YES
PROGRAMS						
Library Transportation	YES		YES	YES	YES	YES
Youth Recreation Program	YES		NO	NO	YES	N/A
Meals on Wheels	YES		NO	NO	YES	YES
Child Care	YES		NO	NO	YES	N/A
Fuel Assistance	N/A		YES	NO	YES	YES
Housing Rehab (City Hall)	YES		YES	YES	YES	YES
POLICIES: <i>City Personnel /Employment Guidelines</i> <i>Most recent update was June 30, 1992. In the process of updating policies.</i> <i>Disabled groups contacted on a regular basis.</i>						

City of _____
504 Transition Plan for Disabled Accessibility

Purpose: Section 504 of the Rehabilitation Act of 1973 and Americans with Disabilities Act provides that no otherwise qualified individuals with disabilities shall, solely on the basis of their disability, be excluded from participation in, be denied the benefits of or be subjected to discrimination under any program, activity or governmental unit that receives Federal financial assistance.

In its intent to comply with the terms of Section 504 and the American with Disabilities Act, the City of _____ has conducted an evaluation of its buildings and policies. The evaluation was made to determine if any structures contained physical barriers to disabled persons. The evaluation also assessed what City-adopted policies might prevent disabled persons from fully participating in services, programs, government or employment opportunities.

City Buildings: City Hall, Police Station, Fire Station and the Community Center are all disabled accessible. There is also an operating TDD phone number available at the City Hall and the Police and Fire Stations. The only City buildings that are not accessible are the Museum and the Library.

- * Administrative actions to be taken in the interim (before City Meeting): A telephone number will be made available for persons who are disabled and wish to make use of the Library or the Museum. Assistance to these structures will be available.
- * A TDD machine will be made available for the Community Center.
- * Structural Actions to be taken: It is the ultimate goal of the City of _____ to make all City buildings and programs accessible to all persons. A proposal will be put before the voters at City meeting (March 1993) that will include approximately \$50,000 to make both structures barrier free.

Programs: A Commission for the Disabled has been proposed by the City Council. It shall include at least one Council member and any interested persons for the City. Their purpose is to keep up to date on any changes in relevant laws that would affect the operations of the City and its residents. Their primary function shall be to contact groups that assist disabled persons, to assess whether their groups' needs are being met in relation to full participation in City functions and activities. The adoption of the new Commission shall be addressed at City Meeting.

Youth Recreation Program: These programs are held at the community center. A TDD phone will be made available. The Association for the Blind and The Association for the Deaf will be contacted for input on what programs can be made available to blind and deaf youth.

Meals on Wheels: Currently there is not an available TDD number. Arrangements will be made to either purchase a device or make the City Hall number a reference for this group. The Association for the Blind will be contacted so that if any member of their group wishes to participate in this program, arrangements can be made.

Child Care: Currently this program is being held at the Community Center. There are no blind or deaf children. The program is not licensed to accommodate the needs of these children.

Personnel Policies: The Selectmen have taken \$5,000 of miscellaneous revenues generated from a closed-out CDBG grant to contract with a Human Resources Consultant to generate a computer tracking system for its employees. This system will be tied into the payroll system so that reports can be generated that gives a complete employment and demographic history for each employee. Included in this contract will be a completely revised set of Personnel Guidelines that will include such items as a Sexual Harassment Policy, Parental Leave Guidelines and Grievance Procedures.

This new system shall be available for use before the end of the reporting year

Suggested Fair Housing Activities

In order to ensure that all citizens in your community are aware that affirmatively furthering fair housing is a priority, you are encouraged to consider undertaking one or more of the following:

1. Enact or strengthen your Fair Housing Ordinance and/or publish it in a local newspaper. (A *sample ordinance can be found at Attachment 6.*)
 2. Require the use of affirmative marketing and advertising practices by private developers as a condition for obtaining local licenses and permits.
 3. Develop public awareness of Fair Housing during April, which is nationally recognized as Fair Housing Month.
 4. Sponsor a poster contest with a Fair Housing theme in your local schools.
 5. Disseminate information concerning housing services and activities through agencies and organizations that routinely provide services to protected groups.
 6. Review and propose revisions to contract instruments used by recipients and lending institutions participating in local programs, if the existing instruments imply discriminatory intent or practice.
 7. Evaluate criteria for selecting recipients of housing services or assistance for any discriminatory effect.
 8. Initiate a public education program on fair housing involving, for example, representatives of fair housing groups, human relations and minority organizations, members of the real estate industry, local government and the media.
 9. Evaluate, for discriminatory effect, policies guiding the provision of relocation housing and services for persons displaced by housing activities funded through the CDBG activities.
 10. Provide information and positive assistance to minority group persons in locating housing in non-minority areas of the community.
 11. Improve community facilities and public services in racially integrated neighborhoods to help preserve their mixed character.
- ✓ Be sure to *document* any activities undertaken and *file* them for both public review and ODOC monitoring.

FAIR HOUSING ORDINANCE

Sample

I. Policy

It is the policy of the [City/County] of _____ to provide, within constitutional limitations, for fair housing throughout the [City/County].

II. Definitions

- A. *Dwelling* means any building, structure or portion thereof which is occupied as or designed or intended for occupation as a residence by one or more families and any vacant land which is offered for sale or lease for the construction or location thereon of any such building, structure or portion thereof.
- B. *Family* includes a single individual.
- C. *Person* includes one or more individuals, corporations, partnerships, associations, labor organizations, legal representatives, mutual companies, joint-stock companies, trusts, and unincorporated organizations, trustees in bankruptcy, receivers and fiduciaries.
- D. *To rent* includes to lease, to sublease, to let or otherwise to grant for a consideration the right to occupy premises owned by the occupant.
- E. *Discriminatory housing practice* means an act that is unlawful under sections IV, V and VI.

III. Unlawful Practices

Subject to the provisions of subsection B and Section VII, the prohibitions against discrimination in the sale or rental of housing set forth in Section III shall apply to:

- A. All dwellings except as exempted by subsection B.
- B. Nothing in Section IV shall apply to:
 - 1. Any single-family house sold or rented by an owner, provided that such private individual owner does not own more than three such single-family houses at any one time; provided further that, in the case of the sale of any such single-family house by a private individual owner not residing in such house at the time of such sale or who was not the most recent resident of such house prior to such sale, the exemption granted by this subsection shall apply only with respect to one such sale within any twenty-four month period; provided further that such bona fide private individual owner does not own any interest in, nor is there owned or reserved on his behalf, under any express or voluntary agreement, title to or any right to all or a portion of the proceeds from the sale or rental of more than three such single-family houses at any one time; provided further that the sale or rental of any such single-family house shall be excepted from the application of this Title only if such house is sold or rented:
 - a. Without the use in any manner of the sales or rental facilities or the sales or rental services of any real estate broker, agent or salesman or of such facilities or services of any person in the business of selling or renting dwellings or of any employee or agent of any such facilities or services of any person in the business of selling or renting dwellings or of any employee or agent of any such broker, agent, salesman or person; and,
 - b. Without the publication, posting or mailing, after notice, of any advertisement or written notice in violation of Section IV.C of this Ordinance. However, nothing in this provision shall prohibit the use of attorneys, escrow agents, abstractors, title companies and other such professional assistance as is necessary to perfect or transfer the title; or
 - 2. Rooms or units in dwellings containing living quarters occupied or intended to be occupied by no more than four families living independently of each other, if the owner actually maintains and occupies one of such living quarters as his residence.

- C. For the purposes of subsection B, a person shall be deemed to be in the business of selling or renting dwellings if:
1. He has, within the preceding twelve months, participated as principal in three or more transactions involving the sale or rental of any dwelling or any interest therein;
 2. He has, within the preceding twelve months, participated as an agent, other than in the sale of his own personal residence, in providing sales or rental facilities or sales or rental services in two or more transactions involving the sale or rental of any dwelling or any interest therein; or
 3. He is the owner of any dwelling designed or intended for occupancy by, or occupied by, five or more families.

IV. Discrimination in the Sale or Rental of Housing

As made applicable by Section III and except as exempted by sections III.B and VII, it shall be unlawful:

- A. To refuse to sell or rent after the making of a bona fide offer or to refuse to negotiate for the sale or rental of or otherwise make unavailable or deny a dwelling to any person because of race, sex, color, religion, national origin, disability or familial status.
- B. To discriminate against any person in the terms, conditions or privileges of sale or rental of a dwelling or in the provision of services or facilities in connection therewith because of race, sex, color, religion, national origin, disability or familial status.
- C. To make, print or publish or cause to be made, printed or published any notice, statement or advertisement with respect to the sale or rental of a dwelling that indicates any preference, limitation or discrimination based on race, sex, color, religion, national origin, disability or familial status or an intention to make any such preference, limitation or discrimination.
- D. To represent to any person because of race, sex, color, religion, national origin, disability or familial status that any dwelling is not available for inspection, sale or rental when such dwelling is, in fact, so available.
- E. To induce or attempt to induce any person to sell or rent any dwelling, for profit, by representations regarding the entry or prospective entry into the neighborhood of a person or persons of a particular race, sex, color, religion, national origin, disability or familial status.

V. Discrimination in Financing or Housing

It shall be unlawful for any bank, building and loan association, insurance company or other corporation, association, firm or enterprise whose business consists in whole or in part in the making of commercial real estate loans to deny a loan or other financial assistance to a person applying therefor for the purpose of purchasing, constructing, improving, repairing or maintaining a dwelling or to discriminate against him in the fixing of the amount, interest rate, duration or other terms or conditions of such loan or other financial assistance because of race, sex, color, religion, national origin, disability or familial status of such person or of any person associated with him in connection with such loan or other financial assistance or the purposes of such loan or other financial assistance or of the present or prospective owners, lessees, tenants or occupants of the dwelling or dwellings in relation to which such loan or other financial assistance is to be made or given, provided that nothing contained in this section shall impair the scope or effectiveness of the exception contained in Section III.B.

VI. Discrimination in the Provision of Brokerage Services

It shall be unlawful to deny any person access to or membership or participation in any multiple-listing service, rental or facility relating to the business of selling or renting dwellings or to discriminate against him in the terms or conditions of such access, membership or participation on account of race, sex, color, religion, national origin, disability or familial status.

VII. Exemption

Nothing in this Ordinance shall prohibit a religious organization, association or society or any non-profit institution or organization operated, supervised or controlled by or in conjunction with a religious organization, association or

society from limiting the sale, rental or occupancy of dwellings which it owns or operates for other than a commercial purpose to persons of the same religion or from giving preference to such persons, unless membership in such religion is restricted on account of race, sex, color, national origin, disability or familial status. Nor shall anything in this Ordinance prohibit a private club not, in fact, open to the public which, as an incident to its primary purpose or purposes, provides lodgings which it owns or operates for other than a commercial purpose, from limiting the rental or occupancy of such lodgings to its members or from giving preference to its members.

VIII. Administration

- A. The authority and responsibility for administering the Ordinance shall be in the Chief Executive Officer of the City of _____.
- B. The Chief Executive Officer may delegate any of these functions, duties and powers to employees of the City or to boards of such employees, including functions, duties and powers, with respect to investigating, conciliating, hearing, determining, ordering, certifying, reporting or otherwise acting as to any work, business or matter under this Ordinance. The Chief Executive Officer shall, by rule, prescribe such rights of appeal from the decisions of his hearing examiners to other hearing examiners or to other officers in the City, to boards of officers or to himself, as shall be appropriate and in accordance with law.
- C. All executive departments and agencies shall administer their programs and activities relating to housing and urban development in a manner to affirmatively further the purposes of this Ordinance and shall cooperate with the Chief Executive Officer to further such purposes.

IX. Education and Conciliation

Immediately after the enactment of this Ordinance, the Chief Executive Officer shall commence such educational and conciliatory activities as will further the purposes of this Ordinance. He shall call conferences of persons in the housing industry and other interested parties to acquaint them with the provisions of this Ordinance and his suggested means of implementing it and shall endeavor, with their advice, to work out programs of voluntary compliance and of enforcement.

X. Enforcement

- A. Any person who claims to have been injured by a discriminatory housing practice or who believes that he will be irrevocably injured by a discriminatory housing practice that is about to occur (hereafter "person aggrieved") may file a complaint with the Chief Executive Officer. Complaints shall be in writing and shall contain such information and be in such form as the Chief Executive Officer requires. Upon receipt of such a complaint, the Chief Executive Officer shall furnish a copy of the same to the person or persons who allegedly committed or are about to commit the alleged discriminatory housing practice. Within thirty days after receiving a complaint or within thirty days after the expiration of any period of reference under subsection C, the Chief Executive Officer shall investigate the complaint and give notice in writing to the person aggrieved whether he intends to resolve it. If the Chief Executive Officer decides to try to eliminate or correct the alleged discriminatory housing practice by informal methods of conference, conciliation and persuasion, nothing said or done in the course of such informal endeavors may be made public or used as evidence in a subsequent proceeding under this Ordinance without the written consent of the persons concerned. Any employee of the Chief Executive Officer who shall make public any information in violation of this provision shall, upon conviction, be fined not more than \$_____ or imprisoned not more than ____ days.
- B. A complaint under subsection A shall be filed within one hundred eighty days after the alleged discriminatory housing practice occurred. Complaints shall be in writing and shall state the facts upon which the allegations of a discriminatory housing practice are based. Complaints may be reasonably and fairly amended at any time. A respondent may file an answer to the complaint against him and, with the leave of the Chief Executive Officer which shall be granted whenever it would be reasonable and fair to do so, may amend his answer at any time. Both complaints and answers shall be verified.
- C. If, within thirty days after a complaint is filed with the Chief Executive Officer, the Chief Executive Officer has been unable to obtain voluntary compliance with this Ordinance, the person aggrieved may, within thirty

days thereafter, file a complaint with the Secretary of the Department of Housing and Urban Development. The Chief Executive Officer will assist in this filing.

- D. If the Chief Executive Officer has been unable to obtain voluntary compliance within thirty days of the complaint, the person aggrieved may, within thirty days thereafter, commence a civil action in any appropriate court against the respondent named in the complaint to enforce the rights granted or protected by this Ordinance insofar as such rights relate to the subject of the complaint. If the court finds that a discriminatory housing practice has occurred or is about to occur, the court may enjoin the respondent from engaging in such practice or order such affirmative action as may be appropriate.
- E. In any proceedings brought pursuant to this section, the burden of proof shall be on the complainant.
- F. Whenever an action by an individual shall come to trial, the Chief Executive Officer shall immediately terminate all efforts to obtain voluntary compliance.

XI. Investigations, Subpoenas, Giving of Evidence

- A. In conducting an investigation, the Chief Executive Officer shall have access at all reasonable times to premises, records, documents, individuals and other evidence or possible sources of evidence and may examine, record and copy such materials and take and record the testimony or statement of such persons as are reasonably necessary for the furtherance of the investigation; provided, however, that the Chief Executive Officer first complies with the provisions of the Fourth Amendment relating to unreasonable searches and seizures. The Chief Executive Officer may issue subpoenas to compel his access to or the production of such materials or the appearance of such persons and may issue interrogatories to a respondent to the same extent and subject to the same limitations as would apply if the subpoenas or interrogatories were issued or served in aid of a civil action in the United States District Court for the district in which the investigation is taking place. The Chief Executive Officer may administer oaths.
- B. Upon written application to the Chief Executive Officer, a respondent shall be entitled to the issuance of a reasonable number of subpoenas by and in the name of the Chief Executive Officer to the same extent and subject to the same limitations as subpoenas issued by the Chief Executive Officer himself. Subpoenas issued at the request of a respondent shall show on their face the name and address of such respondent and shall state that they were issued at his request.
- C. Witnesses summoned by subpoena of the Chief Executive Officer shall be entitled to the same witness and mileage fees as are witnesses in proceedings in United States District Courts. Fees payable to a witness summoned by a subpoena issued at the request of a respondent shall be paid by him. Within five days after service of a subpoena upon any person, such person may petition the Chief Executive Officer to revoke or modify the subpoena. The Chief Executive Officer shall grant the petition if he finds that the subpoena requires appearance or attendance at an unreasonable time or place, that it requires production of evidence which does not relate to any matter under investigation, that it does not describe with sufficient particularity the evidence to be produced, that compliance would be unduly onerous or for other good reason.
- D. In case of contumacy or refusal to obey a subpoena, the Chief Executive Officer or other person at whose request it was issued may petition for its enforcement in the Municipal or State Court for the District in which the person to whom the subpoena was addressed resides, was served or transacts business.
- E. Any person who willfully fails or neglects to attend and testify or to answer any lawful inquiry or to produce records, documents or other evidence, if in his power to do so, in obedience to the subpoena or lawful order of the Chief Executive Officer shall be fined not more than \$_____ or imprisoned not more than ____ days, or both. Any person who, with intent to mislead the Chief Executive Officer, shall make or cause to be made any false entry or statement of fact in any report, account, record or other document submitted to the Chief Executive Officer pursuant to his subpoena or other order or shall willfully neglect or fail to make or cause to be made full, true and correct entries in such reports, accounts, records or other documents or shall willfully mutilate, alter or by any other means falsify any documentary evidence shall be fined not more than \$_____ or imprisoned not more than ____ days, or both.
- F. The City Attorney shall conduct all litigation in which the Chief Executive Officer participates as a party or as amicus pursuant to this Ordinance.

XII. Enforcement by Private Persons

- A. The rights granted herein by Sections III, IV, V and VI may be enforced by civil actions in State or local courts of general jurisdiction. A civil action shall be commenced within one hundred eighty days after the alleged discriminatory housing practice occurred; provided, however, that the court shall continue such civil case brought pursuant to this Section or Section X.D from time to time before bringing it to trial if the court believes that the conciliation efforts of the Chief Executive Officer are likely to result in satisfactory settlement of the discriminatory housing practice complained of in the complaint made to the Chief Executive Officer and which practice forms the basis for the action in court; and provided, however, that any sale, encumbrance or rental consummated prior to the issuance of any court order issued under the authority of this Ordinance and involving a bona fide purchaser, encumbrancer or tenant, without actual notice of the existence of the filing of a complaint or civil action under the provisions of this Ordinance, shall not be affected.
- B. The court may grant as relief, as it deems appropriate, any permanent or temporary injunction, temporary restraining order or other order and may award to the plaintiff actual damages and not more than \$1,000 punitive damages, together with court costs and reasonable attorney's fees in the case of a prevailing plaintiff, provided that the said plaintiff, in the opinion of the court, is not financially able to assume said attorney's fees.

XIII. Interference, Coercion or Intimidation

It shall be unlawful to coerce, intimidate, threaten or interfere with any person in the exercise or enjoyment of or on account of his having exercised or enjoyed or on account of his having aided or encouraged any other person in the exercise or enjoyment of any right granted or protected by Sections III, IV, V or XI. This Section may be enforced by appropriate civil action.

XIV. Separability of Provisions

If any provision of this Ordinance or the application thereof to any person or circumstance is held invalid, the remainder of the Ordinance and the application of the provision to other persons not similarly situated or to other circumstances shall not be affected thereby.

XV. Prevention of Intimidation in Fair Housing Cases

Whoever, whether or not acting under color of law, by force or threat of force, willfully injures, intimidates or interferes with or attempts to injure, intimidate or interfere with:

- A. Any person because of his race, sex, color, religion, national origin, disability or familial status and because he is or has been selling, purchasing, renting, financing, occupying or contracting or negotiating for the sale, purchase, rental, financing or occupation of any dwelling or applying for or participating in any service, organization or facility relating to the business of selling or renting dwellings; or,
- B. Any person because he is or has been or in order to intimidate such person or any other person or class of persons from:
1. Participating without discrimination on account of race, sex, color, religion, national origin, disability or familial status in any of the activities, services, organizations or facilities described in subsection XV.A; or
 2. Affording another person or class of person's opportunity or protection so to participate.
- C. Any citizen because he is or has been or in order to discourage such citizen or any other citizen from lawfully aiding or encouraging other persons to participate, without discrimination on account of race, sex, color, religion, national origin, disability or familial status, in any of the activities, services, organizations or facilities described in subsection XV.A or from participating lawfully in speech or peaceful assembly opposing any denial of the opportunity to so participate shall be fined not more than \$ _____ or imprisoned not more than ____ days,

or both; and if bodily injury results, shall be fined not more than \$_____ or imprisoned not more than _____ days, or both; and if death results, shall be subject to imprisonment for any term of years or for life.

**SAMPLE
FAIR HOUSING RESOLUTION**

LET IT BE KNOWN TO ALL PERSONS OF City/County of _____ that discrimination in the sale, rental, leasing, financing of housing or land to be used for construction of housing or in the provision of brokerage services because of race, color, religion, sex or national origin is prohibited by Title VIII of the 1968 Civil Right Act (Federal Fair Housing Law).

It is the policy of City/County of _____ to implement programs to ensure equal opportunity in housing for all persons regardless of race, color, religion, sex or national origin. The Fair Housing Amendments Act of 1988 expands coverage to include disabled persons and families with children. Therefore, the City/County does hereby pass the following Resolution.

BE IT RESOLVED that within available resources the City/County will assist all persons who feel they have been discriminated against because of race, color, religion, sex, national origin, disability or familial status to seek equity under federal and state laws by filing a complaint with the U. S. Department of Housing and Urban Development, Office of Fair Housing and Equal Opportunity, Compliance Division.

BE IT FURTHER RESOLVED that the City/County shall publicize this Resolution and through this publicity shall encourage owners of real estate, developers, and builders to become aware of their respective responsibilities and rights under the Federal Fair Housing Law and amendments and any applicable state or local laws or ordinances.

SAID PROGRAM will at a minimum include: 1) printing and publicizing of this policy and other applicable fair housing information through local media and community contacts; 2) distribution of posters, flyers and any other means that will bring to the attention of those affected, the knowledge of their respective responsibilities and rights concerning equal opportunity in housing; and 3) prepare an analysis of impediments to fair housing choices and actions to mitigate such impediments.

EFFECTIVE DATE:

This Resolution shall take effect this _____ day of _____, 20__.

Chief Elected Official

ATTEST:



Section 5 Procurement

July 7, 2014

Section 5 Procurement

Once the conditions of the contract have been removed and release of funds obtained, the grantee enters into the implementation phase. This phase involved all of the steps that lead to and include the project's actual construction. In this chapter, procurement is included, including:

- Pre-Contract Costs
- Regulatory and Statutory Requirements
- Methods of Procurement for Counties and Cities/Towns

NOTES

**OKLAHOMA DEPARTMENT OF COMMERCE
COMMUNITY DEVELOPMENT
COMMUNITY DEVELOPMENT BLOCK GRANT (CDBG) PROGRAM**

**REQUIREMENT NO. 405
PROCUREMENT**

Effective July 2014

I. INTRODUCTION

A. The procurement of all purchases utilizing CDBG funds will be subject to the requirements set forth at 24 CFR subpart I, §570.489 (g), “**COMMUNITY DEVELOPMENT BLOCK GRANTS**”, 24 CFR Part 85, Subpart A “**THE COMMON RULE**”, as applicable, Title 19 of the Oklahoma Statutes, as required, the by Competitive Bidding Act and local ordinances where applicable.

B. Grant Recipients shall comply with the requirements set forth in this document in the procurement of all goods and services that utilize CDBG funds. Non-compliance with required procedures may result in disallowance of any or all costs associated with the procurement action.

C. Grant recipients will fall into two categories **Counties** and **Cities/Towns**.

Counties are required to follow the procedures as defined in O. S. 19, et al.

Cities and Towns are required to follow their own procurement procedures as established by local ordinance for the purchase of all goods and services.

In the absence of procurement procedures, Cities and Towns should use the procurement requirements outlined in this manual.

D. Grant Recipients are required to maintain documentation of **all** procurement procedures and actions on file for ODOC review, i.e., Request for Proposals (RFPs), Request for Qualifications (RFQs), news paper divertissements written solicitations, and Board Minutes, etc.

II. PRE-CONTRACT COSTS

- A. CDBG funds shall not be obligated or used for the payment of goods or services received **prior to the start date of the contract, except** for payment of architectural or engineering services delivered prior to the beginning of the term of the contract **ONLY** when:
1. Proper procurement requirements were followed at the time the procurement occurred; and
 2. Services are directly related to the proposed CDBG project and are required for preparation of the application for CDBG funding.
- B. Any request to deviate from these requirements must be submitted in writing and written approval must be received from ODOC prior to taking any procurement action.

III. REGULATORY/STATUTORY REQUIREMENTS

- A. **24 CFR 570, Subpart I, §489(g)** requires that: "The state shall establish requirements for procurement policies and procedures for units of general local government, based on full and open competition. **"FULL AND OPEN"** competition is defined as: Procurement procedures that provide all suppliers of goods and services the ability to be made aware of the proposed procurement action with no restriction placed on their ability to compete. Methods of procurement shall include but not be limited to small purchase, sealed bid, formal advertising, competitive proposals, and sole source procurement.
- B. **Self-Procurement Warning: Any certified administrator who engages in either of the following practices shall be de-certified consistent with the following procedures spelled out in the certification regulations:**
1. Assisting the municipality or county in the conduct of the procurement process, ultimately resulting in the selection of that administrator to provide CDBG administrative services.

2. Offering to prepare an application to ODOC for CDBG funding assistance with the understanding that no fee for preparing the application will be charged if that administrator is selected to administer the project.
- C. Exemptions from Competitive Procurement Requirements: The following are exempt from competitive procurement procedures:
1. Administrative Services: In order for the exemption to apply, Grant Recipients must:
 - a. Furnish ODOC the names of Certified CDBG Administrator or Apprentice employed by:
 - (1) Substate Planning Districts;
 - (2) Community Action Agency
 - b. Negotiate a contract with the exempt entity for all services provided and include in that contract the requirement that the entity will follow all Federal and State program requirements; and
 2. Purchase of equipment or materials from other units of government, including those on state or county contract/bid list(s).
 3. The purchase of used fire equipment when the purchase is made from a reputable company dealing in used that is clearly qualifies as emergency equipment. Vehicles that could be converted to use as an emergency vehicle are not included in this provision.
 4. If a grant recipient chooses to use their leverage/matching funds to pay for engineering, architecture, and/or grant administration the grant recipients are exempted from ODOC competitive procurement requirements.
 5. For exemption from all other competitive procurement requirements written approval from ODOC is required.

IV. METHODS OF PROCUREMENT

The methods of procurement include **Small Purchases, Sealed Bids, Construction Contracts, and Request for Proposals, Sole Source**, per **[24 CFR 85.36(d)]**. The appropriate method for any given product or service is dependent on the estimated cost or price, whether the procurement is for a service or product and the type of contract to be utilized, whether the service or product is unique or available from only one source and whether there is any eligible, qualified competition. The following are brief descriptions of each of the six procurement methods.

See Procurement Charts, Attachment 1 A and 1 B

COUNTIES

- A. Small Purchase: Small Purchases are those made for services, supplies or other items costing **less than \$10,000.00 in the aggregate**. Small purchases may be made directly from local vendors. Grant Recipients are required to obtain the best price possible.
- B. Sealed Bids: If the purchase **exceeds \$10,000 (in the aggregate)**, the Contractor is required to advertise, solicit, and receive sealed bids.
 - 1. In order for formal advertising to be feasible, appropriate conditions must be present. These include:
 - a. A complete, adequate and realistic specification or purchase description;
 - b. Two or more responsible suppliers willing and able to compete effectively for the Contractor's business; and
 - c. The procurement lends itself to a firm, fixed-price contract and selection of the successful bidder can appropriately be made principally on the basis of price.

2. The following steps are to be followed in the sealed bid procurement process:
 - a. Bidder's Instructions are to be prepared, usually by the certified administrator and/or consulting architect/engineer on a construction project. Once completed, these instructions should be reviewed by legal counsel and a determination should be made that all required compliance notices have been included in the package. This information must be communicated to potential bidders at the time bids are solicited and not merely when contracts are to be signed. Proposals or bidders need to be alerted that they are bidding on a project involving Federal funding and that they will be required to comply with several laws and regulations. The Bidder's Instructions should provide cost estimating forms to facilitate both the presentation and review of financial information, including (if unit prices are required) cost formats that correspond exactly to the bid information sought;

NOTE: Davis Bacon Act applies to all construction contracts in excess of \$2,000.00. (See Policy #407, Attachment 1 for all federal provisions.) Additionally, Workers' Compensation and General Liability insurance is required for all construction contracts starting at \$2,500.00 (O.S.61, Sec. 103, A & B, Section 113 A-D (2))

- b. Notice of solicitation of bids shall also be published one time in a newspaper of general circulation in the county. Notices shall be mailed and published at least ten (10) days prior to the date on which the bids are opened. Proof of the mailing shall be made by the affidavit of the person mailing the request for bids and shall be made a part of the official records of the Contractor files.
- c. Bids shall be solicited by mailing a notice to all persons or firms who have made a written request of the Contractor that they be notified of such bid solicitation

and to all other persons or firms who might reasonably be expected to submit bids.

- d. The Grant Recipient, in an open meeting, shall open the sealed bids, and if applicable compare them to the state contract price. The Contractor shall select the lowest and best bid based in accordance with the bid specification. The Contractor shall award the contract within thirty (30) days of the meeting.
- e. Where specified in the bid documents, factors such as availability of materials, transportation cost to the job site and life-cycle costs should be considered in determining which bid is lowest.
- f. The Grant Recipient shall keep a written record of the meeting as required by law, and any time the lowest bid was not considered to be the lowest and the best bid, the reason for such conclusion shall be recorded in the official Board Minutes.
- g. When bids have been solicited as provided and no bids have been received, the Grant Recipient must submit documentation to ODOC that bids were sought (solicitations, proof of publication). Upon notification that no bids were received, ODOC will provide requirements that must be met before an award can be made.

CITIES AND TOWNS

- A. Small Purchases: Small Purchases are those made for services, supplies or other items costing **\$5,000.00 or less in the aggregate**. Small purchases may be made directly from local vendors. Grant Recipients must take documentable steps that indicate that a competitive process was utilized.

- B. Small Purchases: If the Small Purchases costs between \$5,000.00 and \$50,000 the grant recipient must request and receive in writing at least 3 bids or quotes.
- C. If the purchase exceeds \$50,000.00 Sealed Bids must be received by the grant recipients. The grant recipient must advertise as well as take any other steps necessary to assure that fair and open competition was achieved as well as assuring that the grant recipient received the best product/service for funds expended.
1. In order for formal advertising to be feasible, appropriate conditions must be present. These include:
 - a. A complete, adequate and realistic specification or purchase description;
 - b. Two or more responsible suppliers willing and able to compete effectively for the Contractor's business; and
 - c. The procurement lends itself to a firm, fixed-price contract and selection of the successful bidder can appropriately be made principally on the basis of price.
 2. The following steps are to be followed in the sealed bid procurement process:
 - a. Bidder's Instructions are to be prepared, usually by the certified administrator and/or consulting architect/engineer on a construction project. Once completed, these instructions should be reviewed by legal counsel and a determination should be made that all required compliance notices have been included in the package. This information must be communicated to potential bidders at the time bids are solicited and not merely when contracts are to be signed. Proposals or bidders need to be alerted that they are bidding on a project involving Federal funding and that they will be required to comply with several laws and regulations. The Bidder's Instructions should provide cost estimating forms to facilitate both the presentation and review of financial information, including (if unit prices

are required) cost formats that correspond exactly to the bid information sought;

NOTE: REGARDLESS OF WHICH TYPE OF PROCUREMENT PROCESS UTILIZED BY THE GRANT RECIPIENT THE Davis Bacon Act applies to all construction contracts in excess of \$2,000.00. (See Requirement #407, Attachment 1 for all federal provisions.) Additionally, Workers' Compensation and General Liability insurance is required for all construction contracts starting at \$2,500.00 (O.S.61, Sec. 103, B & C, Section 113 d B.4)

- b. Notice of solicitation of bids shall also be published one time in a newspaper of general circulation in the county. Notices shall be mailed and published at least ten (10) days prior to the date on which the bids are opened. Proof of the mailing shall be made by the affidavit of the person mailing the request for bids and shall be made a part of the official records of the Contractor files.
- c. Bids shall be solicited by mailing a notice to all persons or firms who have made a written request of the Contractor that they be notified of such bid solicitation and to all other persons or firms who might reasonably be expected to submit bids.
- d. The Grant Recipient, in an open meeting, shall open the sealed bids, and if applicable compare them to the state contract price. The Contractor shall select the lowest and best bid based in accordance with the bid specification. The Contractor shall award the contract within thirty (30) days of the meeting. This contract MUST include Davis-Bacon prevailing wages if applicable.
- e. Where specified in the bid documents, factors such as availability of materials, transportation cost to the job

site and life-cycle costs should be considered in determining which bid is lowest.

- f. The Grant Recipient shall keep a written record of the meeting as required by law, and any time the lowest bid was not considered to be the lowest and the best bid, the reason for such conclusion shall be recorded in the official Board Minutes.
- g. When bids have been solicited as provided and no bids have been received, the Grant Recipient must submit documentation to ODOC that bids were sought (solicitations, proof of publication). Upon notification that no bids were received, ODOC will provide requirements that must be met before an award can be made.

V. Procurement of Construction Contracts

APPLICABLE TO COUNTIES, CITIES, AND TOWNS

- A. **61 O.S. §101 et seq.** requires the use of the sealed bid procurement process for any public construction project exceeding **\$50,000.00**.

NOTE: THE SPLITTING OF BIDS IN ORDER TO AVOID THE COMPETITIVE BIDDING ACT IS A VIOLATION OF STATE LAW.

- 1. The purpose of the bid document is to provide prospective bidders with sufficient information to know what the exact scope of work, as well as performance requirements, will be. Normally the architect or engineer who designed the project will take the lead in assembling the bid document. Among other things which will be included are:
 - a. Topographic maps, a site plan and a site layout identifying all adjacent structures, utilities, easements, rights-of-way, sewer or drainage services that might have any underground installations within the project area, that are critical to design;

- b. Plans and specifications, including names of manufactured items, model numbers, sizes, colors, styles and all other information necessary for the construction contractor to easily price and secure the products specified (or those "equal to");
- c. Required wage rates, certifications, bid guaranties and affidavits;
- d. Notification of all public utility, gas, water and electrical services;
- e. Deductive alternatives: The use of deductive alternatives is highly recommended if there is any chance that all bids will exceed available funding. The bid document must be specific in describing the method and order in which alternates will be applied in determining the low bid and such alternates in the plans and specifications.

2. Davis-Bacon Wage Rate Determinations:

- a. **Construction Contractors are required to pay their laborers at the "prevailing wage rate" for any project involving CDBG funds, if the project costs more than \$2,000.00.** These rates are periodically adjusted. This request must be submitted **at least 45 days prior** to the date set for formal bid opening. This is a critical step since these rates can significantly impact construction cost estimates.
- b. The Grant Recipient may obtain the wage rates from the web site: <http://www.wdol.gov> and mail email or fax the Wage Rate Request form to ODOC for approval. **[Form 5.1]**
- c. Certified wage rates are valid for 180 days. Contact ODOC by e-mail or by documented telephone call **10 days prior to bid opening** to determine if wage decisions included in the bid document are still current.

If rates have changed, this information must be included in an addendum, which will allow prospective bidders to amend their bids. The Grant Recipient must document the 10-day call for the CDBG file and may use the space provided on Wage Rate Request.

- d. It is normally the responsibility of the certified grant administrator to furnish a current wage rate determination to the architect/engineer for inclusion in the bid document. However, the Grant Recipient is not relieved of the responsibility to ensure the wage rates are correct.
- e. If a specific job classification is not included in the wage determination, contact an ODOC Project Manager for specific instructions.
- f. When the Davis Bacon Determination Request is completed the grant recipient must upload the form on OKGrants in Release of Funds and Email the Project Director the form needs approval. The Project Director will print and sign the form and upload the signed copy for the grant recipient.

3. Other Requirements:

- a. Title VI of the Civil Rights Act of 1964;
- b. Section 3, Housing and Urban Development Act of 1968, as amended;
- c. Section 504 of the Rehabilitation Act of 1973, as amended;
- d. Age Discrimination Act of 1975;
- e. Section 109, Housing and Community Development Act of 1974, as amended;
- f. Section 402, Veterans of Viet Nam Era (if \$10,000.00 or over);

g. Bonding and Insurance Requirements:

- (1) A bond or irrevocable letter of credit.
- (2) A bond in a sum equal to the contract price, with adequate surety, or an irrevocable letter of credit containing terms prescribed by the construction and Properties Division of the Department of Central Services issued by a financial institution insured by the Federal Deposit Insurance Corporation or the Federal Savings and Loan Insurance Corporation for the benefit of the state, on behalf of the awarding public agency, in a sum equal to the contract price, to ensure the proper and prompt completion of the work in accordance with the provisions of the contract and bidding documents;
- (3) A bond in a sum equal to the contract price or an irrevocable letter of credit containing terms as prescribed by the Division issued by a financial institution insured by the Federal Deposit Insurance Corporation or the Federal Savings and Loan Insurance Corporation for the benefit of the state, on behalf of the awarding public agency, in a sum equal to the contract price, to protect the awarding public agency against defective workmanship and materials for a period of one (1) year after acceptance of the project; and
- (4) Public liability and workers' compensation insurance during construction in reasonable amounts. A public agency may require the contractor to name the public agency and its architects or engineers, or both, as an additional assured under the public liability insurance, which requirement, if made, shall be specifically set forth in the bidding documents.

- (5) Effective July 1, 2008, Oklahoma and U. S. Government laws require that all U. S. Employers check to ensure that all employees, regardless of citizenship or national origin, are allowed to work in the United States. If an employee is not a citizen or a lawful permanent resident, he/she may need to apply for an Employment Authorization Document (EAD) to prove that he/she may work in the United States. Contractors may retrieve the appropriate forms from the U. S. Citizenship and Immigration services web site at www.uscis.gov.

Although the project managers under ODOC's CDBG program are required to monitor the CDBG grant recipients and their contractors, the burden to ensure compliance with this requirement lies with the grant recipient.

- h. A single irrevocable letter of credit may be used to satisfy paragraphs 1, 2 and 3 of this section, provided such single irrevocable letter of credit meets all applicable requirements of Subsection B of this section.

If the contractor needs additional time in which to obtain the bonding required, the contractor may request and the awarding agency may allow the contractor an additional sixty (60) days in which to obtain the bonds.

- i. **NOTE:** Many of the regulations regarding contract provisions require specific clauses to be included. These regulations may not be referenced. A sample Construction Contract Document for CDBG-Funded Projects is included for your reference [**Requirement 407, Attachment 5**].

NOTE: 59 O. S. § 46.21 b utilizes the guidelines of the 2003 International Building Codes which requires, in part, that: a **licensed architect** be used in the planning, designing and preparation of drawings and specifications for the alteration or construction of any building to be used as an assembly

hall, municipal building or county building where the reasonably estimated total cost for constructing, remodeling or repairing such building exceeds the sum of One Hundred Fifty Eight Thousand Dollars (\$158,000.00)

4. **Soliciting Bids:**

A. **Bid Notice:**

- (1) The Grant Recipient is required to prepare a Bid Notice. The Bid Notice should include but not be limited to the following:
 - (a) The nature of the proposed project in sufficient detail that all bidders will know exactly what their obligations will be, either in the Bid Notice itself or by reference to the bidding documents. **[Requirement 407, Attachment 5 provides suggested Notice items.]**
 - (b) The name and location (address) of the officer, agent or employee from whom a complete set of bidding documents can be obtained and the cost of obtaining those documents;
 - (c) The date, time and place of opening the sealed bids;
 - (d) The name of the individual and location (address) of the office where bids should be submitted;
 - (e) The publication must call bidders' attention to the requirement for prevailing wages as well as equal opportunity requirements;
 - (f) Grant Recipients must make a good faith effort to seek contracting possibilities with

small businesses, women's business and minority-owned businesses. [Attachment 5]

- (g) Any other information considered appropriate for prospective bidders or the public.
- (2) This notice is to be advertised and distributed as follows:
- (a) Provision of a notice to all known prospective bidders via first class mail at least 20 days prior to the scheduled bid opening;
 - (b) Request for Bids must be published in two (2) consecutive weekly issues of a general circulation newspaper. The first publication must be at least 20 days prior to the date set for opening bids;
 - (c) If the project is expected to exceed \$50,000.00, submit bid notice to industry, trade, or construction publications. However, providing this notice is **not** a requirement to publish the notice in these publications.

B. Pre-Bid Conferences:

- (1) A pre-bid conference may be held by the architect/engineer if there are multiple funding agencies and they desire it or if the project has been determined to be complex. The primary purpose of such a meeting is to explain to prospective bidders the requirements of the project and answer any questions of the bidders.
- (2) If a pre-bid conference is to be held, all prospective bidders and any other interested individuals must be notified at least 10 days prior to holding such a meeting.

- (3) The Grant Recipient may also desire to pre-qualify bidders as a means to ensure that only responsible proposals are submitted. Under this arrangement, the Contractor may evaluate potential bidders to determine that they have the experience, manpower, financial strength or other relevant characteristics sufficient to presume they could undertake the project if selected.

C. Bid Opening and Evaluation:

- (1) The primary purpose of the review process is to find the most qualified construction contractor to do the job at the best possible price. All bids should be logged in with the time and date of receipt, name of offeror and a procurement number. All bids received must remain sealed and in a safe place until the bid opening. Bidders shall accompany their bids with 1) a certified check, cashier's check or bid bond equal to five percent (5%) of the bid, which shall be deposited with the Grant Recipient as guaranty; or 2) an irrevocable letter of credit issued by a financial institution on behalf of the Grant Recipient in an amount equal to five percent (5%) of the bid.
- (2) The process for selecting a construction contractor will normally take the following steps:
 - (a) Bid Opening: The bids must be opened publicly at the time and place stated in the bid advertisement. The bids should be read aloud and the *apparent* low bidder determined. The apparent low bid is the least expensive proposal after the initial tabulation, prior to taking any deductive alternates and *prior* to establish responsiveness. If none of the bids comes in at or below budget, all proposals are reviewed for alternate bids, if stipulated in

original bid documents. As a result of this process, the bidder with the lowest *net* bid may not be the same bidder who had the lowest original bid.

- (b) Evaluation of Responsiveness: After the initial bid tabulation, the next step is to review proposals for responsiveness. Check each proposal to determine that all requirements of the invitation have been met. Any proposal that fails to pass this threshold test is automatically rejected regardless of price. While it is fairly easy to determine the apparent low bid, it can take some time to evaluate proposals for technical merit and responsiveness. The Contractor has 30 days from the bid opening date to award a contract or reject all bids. The Contractor is allowed to extend this period for an additional 90 days, which requires ODOC approval.

[1] Some of the deficiencies that might void a bid are:

- [a] Failure to provide an adequate bid guaranty;
- [b] Failure to include affirmative action certifications;
- [c] Failure to provide necessary affidavits.

[2] Construction Contractors "self-certify" their compliance with debarment requirements by executing the Notice of Award. Grant Recipients are required to confirm construction contractor eligibility to avoid any chance of problems. To check on any

construction contractor's eligibility, please go to the following website: SAM.Gov for a current debarment list. Please print for upload into OK-Grants.

(c) Copies of Board Minutes and copies of bid tabulation **MUST** be placed in the construction contract file.

(d) Competitiveness: The next step depends on whether there are at least two qualified bids left to consider. If there are at least two, there are two options:

[1] Select one bid. The lowest and best cost bid would normally be selected, so long as that bidder was technically qualified to undertake the project. If a bid other than the lowest is selected, the Contractor must prepare a statement of justification, which must be made available for public inspection. In either case, selection of a bid can only be made if the cost of that bid falls within the budget available for the project.

[a] Deductive alternates may be used only if the bid package was specific in defining what they were and how they would be applied.

[b] Deductive alternates must be applied to every bid, not just the lowest original bid.

[2] Reject all bids. Any or all bids may be rejected when there is a sound, documented reason. For example,

this might be appropriate if the pricing of all bids, after taking deductive alternates, exceeds funding available and there is no hope of securing additional funds or rearranging the budget. **[24 CFR 85.36(d) (2)]**

[3] If only one responsible bid was received, ***contact ODOC prior to award. Grant recipient must have written ODOC approval before the contract can be awarded.***

(f) If the lowest responsible bid exceeds the currently available funding, the Contractor has three options (in order of preference):

[1] Select deductive alternates until cost comes under (or near) budget; and/or

[2] Make up the funding shortfall from non-CDBG resources; and/or

[3] Reject all bids.

ODOC will not approve a budget modification if so doing would cause the total grant amount to exceed program limitations, reduce the benefit to low-/ moderate-income families below 51% or alter the circumstances under which the grant award was originally made.

(g) Once a responsible bidder has been selected for a cost within budget, the next step is to issue a Notice of Contract Award to the successful bidder **[Form 7.1]**. The Notice must include a statement signed by the construction firm, certifying that the firm does not appear on the "list of Parties Excluded from Federal Procurement or

Non-Procurement Programs". A copy of the executed Notice of Award is submitted to ODOC. The Grant Recipient shall return a certified check or cashier's check, bid bond, or irrevocable letter of credit to the successful bidder on execution of the contract and required bonds or irrevocable letters of credit and insurance. Checks of unsuccessful bidders shall be returned to them in accordance with the terms of the bid solicitation.

VI. PROCUREMENT OF PROFESSIONAL SERVICES

For the purposes of the implementation and management of a CDBG project professional services shall be separated into three categories:

1. Administrative Grant Administrators/Consultants, inspectors other than engineers,
2. Engineers, Architects, Landscape architects, and Attorneys, etc.
3. Independent Auditors

Procurement of Grant Administrators

Requests for Proposals (RFPs):

Regardless of cost, a Request for Proposal shall be used for the procurement of grant administrators and other professional service providers are not listed below.

NOTE: Any person or firm preparing or assisting in the preparation of RFP documents or providing technical assistance shall be precluded from submitting a proposal.

Grant recipients seeking to obtain and contract with an individual or firm to provide grant administration services may undertake one of two types of competitive methods: Solicitation or Advertisement.

1. Public Advertising Requirements:

When seeking Professional Service contracts as defined in 1 above, the Contractor may choose to advertise in a newspaper with the largest general circulation within the county. When advertising for these services the RFP's or RFQ's must be publicly advertised 10 days prior to opening regardless of cost; or

2. Direct Solicitation:

When seeking Professional Service contracts as defined in 1 above, The Grant Recipient may choose to directly solicit from known individuals or firms in place of public advertisement. A minimum of 3 professional service providers must be contacted to obtain proposals. (For procurement of administrative services, certified administrators must be contacted.) If the Grant Recipient chooses to directly solicit these services, they must maintain documentation of the names and dates of the firms or individuals that were contacted.

The Request for Proposal process requires the following:

1. An RFP must be prepared in advance of soliciting proposals and provided to all interested parties.

Note: The Sample "Request for Proposals for Administrative Services for the Community Development Block Grant" **[Attachment 3]** must be used in its entirety.

This Sample meets the requirements below. If a RFP other than the Sample is developed or if the Sample is altered in format or content, approval from ODOC must be obtained prior to proceeding with the planned procurement.

2. A cover letter clearly identifying the purpose of the RFP. The cover letter is used for transmitting the proposal package to interested parties.
3. Complete information and instructions necessary for interested parties to provide a responsible proposal. The information required to be in the RFP shall include the following:

- (a) The complete scope of services to be provided **[for Administrative Services, See Attachment 2];**
 - (b) General design information regarding the project to be undertaken or specific services to be provided **[For Administrative Services, see Attachment 2];**
 - (c) A statement of price for services to be rendered;
 - (d) Anticipated start and completion dates of both the project and the services being requested;
 - (e) Statement of minimum acceptable qualifications;
 - (f) The method for reviewing and rating all proposals, including a list of all evaluation criteria to be used;
 - (g) A sample of the proposed contract containing all contract terms and conditions so interested parties have the opportunity to know beforehand the specific requirements they must meet **[Administrative Services, See Requirement 407, Attachment 4];**
4. The procurement process shall be carried out only upon completion of the final RFP. The process will include public advertisement as applicable), solicitation of proposals from know service providers, evaluation and selection.
5. All proposals received in response to the RFP shall be equally evaluated in accordance with the evaluation criteria and method of evaluation identified in the RFP (see, also, 1 and 2 below).When necessary, due to the complexity of the procurement or number of responses received, a review committee with knowledge of the proposed project may be selected to perform the reviews. The evaluator(s) should be given a copy of all RFP requirements prior to the beginning of the

review process so they can be provided with any additional information or clarification of the process.

Specific requirements for evaluation of proposals:

- (a) No proposals received after the stated due date for proposals may be evaluated. Proposals received after the due date should be returned to the submitter with appropriate correspondence.
- (b) Only the specific evaluation criteria identified in the RFP shall be applied to each proposal in order to make the final determination. Proposal should not include more information that is required in the RFP. Any additional information received should not be considered in the evaluation process.
- (c) The evaluation process shall be properly documented and adequate files established to enable any State or Federal reviewers to clearly determine the basis for the award to the specific party.

6. Specific evaluation criteria to be used in rating all proposals are listed below:

- (a) Each offeror must provide a Statement of Qualifications in such format as are required to provide a clear determination of the level of qualification. Minimum standards for consideration must be established for qualifications of the offeror.
- (b) Each offeror must provide a brief explanation of their technical competence. Minimum competency standards can be established, if desired.
- (c) **Statement of Price Requirements:**
All RFPs, with the exception of A/E services, shall require a firm, fixed total cost or fee for all services being requested, along with an established rate or fee for each service being delivered [**Attachment 4**].

- (d) For all contracts other than A/E services, the Grant Recipient must request confirmation in writing from ODOC that the selected offeror of the services is not on a Federal or State list of ineligible Grant Recipients before the contract can be executed. This request may be made in advance of the final selection of the successful offeror. The confirmation letter from ODOC must be maintained in the contract file.
- (e) All unsuccessful offer or's should be notified in writing that their proposals were not selected.

NOTE: When less than two (2) responsive proposals are received, the requirements stated below "Use of Non-Competitive Proposals" shall apply.

Procurement of Engineers, Architects, Landscape Architects

Requests for Qualifications (RFQs)

Regardless of cost, a Request for Qualification shall be used for the procurement of Engineers, Architects, and Landscape Architects

Grant recipients must understand that under Oklahoma State Statutes providers of Engineering, Architectural, and Landscape architectural services are not allowed to submit a price for fee until the initial evaluation process has taken place and a qualified individual or firm has been determined.

Grant recipients seeking to obtain and contract with an individual or firm to provide Engineering, Architectural, and Landscape architectural services may undertake one of two types of competitive methods:

Solicitation or Advertisement.

a. **Public Advertising Requirements:**

When seeking Professional Service contracts, the grant recipient

may choose to advertise in a newspaper with the largest general circulation within the county. When advertising for these services the RFQ's must be publicly advertised 10 days prior to opening of the statement of qualifications.

b. **Direct Solicitation:**

When seeking Professional Service contracts The Grant Recipient may choose to directly solicit from known individuals or firms in place of public advertisement. A minimum of 3 professional service providers must be contacted to obtain a statement of qualifications. If the Grant Recipient chooses to directly solicit these services, they must maintain documentation of the names and dates of the firms or individuals that were contacted.

The grant recipient must fully develop a Request of Qualifications. This RFQ must clearly communicate the following:

- Type of service being sought
 - Level of education and experience desired by the grant recipient
 - Exact description of the work/project.
 - List of references.
- 1) A cover letter clearly identifying the purpose of the RFQ. The cover letter is used for transmitting the proposal package to interested parties.
 - (2) Complete information and instructions necessary for interested parties to provide a responsible proposal. The information required to be in the RFQ shall include the following:
 - (a) The complete scope of services to be provided
 - b) General design information regarding the project to be undertaken or specific services to be provided.
 - (c) Anticipated start and completion dates of both the project and the services being requested;

- (d) Statement of minimum acceptable qualifications;
- (e) The method for reviewing and rating all proposals, including a list of all evaluation criteria to be used;

The selection phase of procurement process shall be carried out only upon completion of the final RFQ. The process will include public advertisement or solicitation of RFQs from know service providers followed by evaluation and selection.

All proposals received in response to the RFQ shall be equally evaluated in accordance with the evaluation criteria and method of evaluation identified in the RFQ (see, also, 1 and 2 below). When necessary, due to the complexity of the procurement or number of responses received, a review committee with knowledge of the proposed project may be selected to perform the reviews. The evaluator(s) should be given a copy of all RFQ requirements prior to the beginning of the review process so they can be provided with any additional information or clarification of the process.

- 1) Specific requirements for evaluation of RFQs:
 - (a) No RFQs received after the stated due date for RFQs may be evaluated. RFQs received after the due date should be returned to the submitter with appropriate correspondence.
 - (b) Only the specific evaluation criteria identified in the RFP shall be applied to each proposal in order to make the final determination. Proposal should not include more information that is required in the RFP. Any additional information received should not be considered in the evaluation process.
 - (c) The evaluation process shall be properly documented and adequate files established to enable any State or Federal reviewers to clearly determine the basis for the award to the specific party.

2) Specific evaluation criteria to be used in rating all RFQs are listed below:

(a) Each offeror must provide a Statement of Qualifications in such format as is required to provide a clear determination of the level of qualification.

Minimum standards for consideration must be established for qualifications of the offeror.

(b) Each offeror must provide a brief explanation of their technical competence. Minimum competency standards can be established, if desired.

(c) Once the grant recipient has determined which individual or That is most qualified Final negotiation of the contract between the Contractor and the successful offeror will take place prior to execution of the contract.

(d) All unsuccessful offerors should be notified in writing that their proposals were not selected.

(e) When less than two (2) responsive proposals are received, the requirements stated below "Use of Non-Competitive Proposals" shall apply.

VII. Procurement of Independent Auditors

A. Audit Requirements

1. Each ODOC contract includes an audit requirement. Several factors affect the audit that is required including:

a) Whether the jurisdiction is a municipality or county (11 O.S. Subsection 17-105 or 19 O.S. Subsection 171);

b) The total level of funding received in a given year from all sources; and

- c) The total level of federal funds expended in a given fiscal year (OMB Circular A-133)
2. If the Grant recipient's annual revenue is \$25,000 or more in funds (from any and all sources), it must conduct an annual audit of all funds received which complies with the Oklahoma statute; or
3. If the Grant recipient's revenue is \$25,000 or more, but it's population is less than 2,500, it has the option of having an agreed upon procedures agreement conducted by an independent licensed public or certified accountant in lieu of an independent audit as cited in O.S. 17-105; or
4. If the Grant recipient expends \$500,000 or more in total federal funds (regardless of the source), it is subject to the requirements of the Single Audit Act OMB Circular A-133.

Additional Notes:

- Grant Recipients should consult with ODOC and the ODOC Audit Policies and Procedures Manual for specific guidance.
- Audits should be uploaded on OKGrants in a PDF file. Hard Copies will be accepted if necessary.

VIII. Non-Competitive Proposals (Sole Source):

- A. Non-Competitive Proposals are proposals solicited from only one source. The solicitation may be required by one of the situations listed below or after solicitation through a Sealed Bid or Request for Proposal process from a number of sources results in inadequate competition.
- B. Non-Competitive Proposals require the prior written approval of ODOC and may only be utilized when:

1. The item is available from a single source;
2. The public emergency for the required purchase of goods or services will not permit the delay resulting from competitive solicitation;
3. After solicitation of a number of sources, competition is determined to be inadequate or only one response is received.

IX. ATTACHMENTS

1. A. Procurement Methods and Procedures Chart for COUNTIES
B. Procurement Methods and Procedures Chart for CITIES/TOWNS.
2. Administrative Responsibilities
3. Request for Proposals for Administrative Services for the Community Development Block Grant
4. Statement of Price
5. Minority/Women Owned Business Information

X. FORMS – SECTION 10

- 5.1 Davis Bacon Determination Request

COUNTIES
PROCUREMENT METHODS AND PROCEDURES CHART
As of 7/1/2013

Amount of Purchase ↓	Material Supplies Equipment Lease	Construction General Contractors	Trade Labor License Required (Electrical, Heat/Air, Plumbing, etc.)	Professional Services (Administration, B. Legal, Architectural, Engineering, etc.)
Less than \$10,000	1	1 - A	1 - A	4 - A - B
\$10,001 to \$50,000	2	2 - A	2 - A	4 - A - B
\$50,001 or More	2	3 - A - C	3 - A - C	4 - A - B

1 -- **Small Purchases:** Purchases can be made from local vendors; however, recipients are encouraged to seek the lowest and best price. (See 405 IV.A.)

2 -- **Sealed Bids:** Grant Recipients are required to publicly advertise and solicit one time 10 days prior to bid opening. (See 405 IV.B.)

3 -- **Competitive Bids:** 61 O.S., § 101 et seq. Applies to all Construction contracts where the total costs exceed \$50,000. (See 405 IV.F.)

4 -- **Professional Service:** Recipients may direct solicit via phone quotes or in writing at least 3 professional service providers. See B below.

If phone quotes, you must document in writing the date, time and from whom you solicited. Advertising is also allowed (405, IV. G 1-4)

A -- Refer to Requirement 407, for required provisions in all service contracts.

B -- Certified CDBG Administrators must be used. A minimum of 3 certified administrators must be solicited as in 4 above. (See 405-IV-G. 1-4)

C -- For construction contracts exceeding \$50,000 an irrevocable letter of credit can be submitted in lieu of bonds. See O.S. 61 et seq. before awarding to ensure compliance with Oklahoma State law.

NOTE: No type of formal procurement is required for sole source contracts if documentation can be provided showing the goods or services are available from only one vendor. **All Sole Source Contracts require ODOC approval prior to award.**

TOWNS AND CITIES
PROCUREMENT METHODS AND PROCEDURES CHART
As of 7/1/2013

Amount of Purchase	Materials Supplies Equipment Lease	Construction	Trade Labor License Required (Electrical, Heat/Air Plumbing)	Professional Services Administration Legal Engineering Architectural
Less than \$5,000.00	1	1 – A	1 – A	5 A -B
\$5,001.00 to \$50,000.00	2	2 – A	2 – A	5 – A - B
\$50,000 or greater	3	4 – A - C	4 A- C	5 A - B

- 1 -- **Small Purchases:** Purchases can be made from local vendors; however, recipients are encouraged to seek the lowest and best price. (See 405 IV C.)
- 2.—**written Quotes/Bids:** Grant Recipients are required to obtain written quotes or bids from at least 3 qualified bidders. (See 405 IV D.)
- 3 -- **Sealed Bids:** Grant Recipients are required to publicly advertise one time 10 days prior to bid opening. (See 405 IV.E.)
- 4 -- **Competitive Bids:** 61 O.S., § 101 et seq. Applies to all Construction contracts where the total costs exceed \$50,000. (See 405 IV.F.)
- 5 -- **Professional Service:** Regardless of dollar amount recipients must utilize a competitive process to obtain professional services. If the dollar Amount exceeds \$5,000.00 written formal solicitation is required.
- A** -- Refer to Requirement 405 for required provisions in all service contracts.
- B** -- Certified CDBG Administrators must be used. A minimum of 3 certified administrators must be solicited as in 4 above. (See 405-IV. G 1-4)
- C** -- For construction contracts exceeding \$50,000 an irrevocable letter of credit can be submitted in lieu of bonds. See O.S. 61 et seq. before awarding to ensure compliance with Oklahoma State law.

NOTE: No type of formal procurement is required for sole source contracts if documentation can be provided showing the goods or services are available from only one vendor. **All Sole Source Contracts require ODOC approval prior to award.**

ADMINISTRATIVE RESPONSIBILITIES

I. ADMINISTRATIVE TASKS

When a Grant Recipient enters into a contract for administrative services, the administrator shall comply with all Federal and State laws and all ODOC requirements. However, the Grant Recipient is not relieved of its contractual obligation to ensure compliance. The following list identifies who shall be responsible to ensure the following tasks are completed in a timely manner:

	<u>Contractor</u>	<u>Certified CDBG Administrator</u>
A. Public Hearings	<input type="checkbox"/>	<input type="checkbox"/>
B. Environmental Review	<input type="checkbox"/>	<input type="checkbox"/>
C. Release of Funds	<input type="checkbox"/>	<input type="checkbox"/>
D. Requests for Payment	<input type="checkbox"/>	<input type="checkbox"/>
E. Monthly Expenditure Reports	<input type="checkbox"/>	<input type="checkbox"/>
F. Project Files	<input type="checkbox"/>	<input type="checkbox"/>
G. Land Acquisitions (if Applicable)	<input type="checkbox"/>	<input type="checkbox"/>
H. Bid Documents Notice of Award, Pre- Construction Conference, Notice to Proceed	<input type="checkbox"/>	<input type="checkbox"/>
I. Weekly Payrolls	<input type="checkbox"/>	<input type="checkbox"/>
J. On-Site Interviews	<input type="checkbox"/>	<input type="checkbox"/>
K. Coordinate On-Site Visits (Construction)	<input type="checkbox"/>	<input type="checkbox"/>
L. Closeout Documents	<input type="checkbox"/>	<input type="checkbox"/>
M. Job Tracking (ED Projects)	<input type="checkbox"/>	<input type="checkbox"/>

II. DEFINITIONS: The following are definitions of the above-assigned tasks:

- A. Public Hearing: All public hearings must be held in accordance with the Grant Recipient's Citizen Participation Plan in order to comply with 24 CFR 570.486.
- B. Environmental Review: Prepare environmental review record for all activities. Responsibilities include making a recommendation to the local governing body as to a finding of the level of impact, preparation of all required public notices, preparation for Request for Release of Funds and acquiring adequate documentation. For activities not exempt from environmental assessments, an environmental assessment will be prepared. For activities exempt and/or categorically excluded from environmental assessments, prepare a written Finding of Exemption, which should identify the project or activity and under which of the categories of exemption it falls. Also include

documentation of compliance with requirements of historic preservation, flood plains and wetlands and other applicable authorities.

- C. Release of Funds: Preparation of Environmental Review, leverage/commitment (if applicable, insurance bonding, Residential Anti-Displacement Plan, Placement Plan (ED projects), and Special Conditions (as required). These documents will be presented to the local governing board for approval and signature and submitted to ODOC for processing.
- D. Requests for Payment: Request for funds must be submitted to ODOC on the approved form and prepared in conformance with the instructions provided. **Only** request funds that can be expended within the allotted time (15 days from date funds received). The following information is needed to complete this form: Engineer pay estimates, approved invoices, Non-collusion affidavits and other such documents as required by the governing board. Although the administrator can complete this form, the Grant Recipient must sign it.
- E. Monthly Expenditure Report: The Grant Recipient must report all funds received in a timely manner. A Monthly Expenditure Report must be completed and sent to ODOC by the 10th of the following month in which CDBG funds have been received. The administrator can complete this report; however, it must be signed by an authorized representative of the Grant Recipient. Failure to submit this report will result in Requests for Payment being held until all funds received have been reported.
- F. Project Files: All originals are to be maintained with the Grant Recipient to demonstrate compliance with all applicable State, local and Federal regulations. Monitor project files throughout the program to ensure they are complete and that all necessary documentation is being retained.
- G. Land Acquisition: If property was or is acquired with the express intent of using it for the activities for which CDBG funds are requested, that acquisition must have been and/or be conducted in conformance with the requirements spelled out in Requirement 407 [**HUD Handbook 1378, Chapter 5**].
- H. Bid Documents. Detailed plans developed by engineer for construction contractors.

- I. Notice of Award, Pre-Construction Conference and Notice to Proceed: Preparation of the Notice of Award with certification from the construction contractor that he is not listed on the "Debarred List". Ensure a copy is submitted to ODOC. Conduct the Pre-Construction Conference; prepare a report in conjunction with Contractor, engineer, architect and subcontractor, to explain contract requirements.
- J. Weekly Payrolls: Ensure weekly payrolls and statements of compliance are submitted and compared with Davis-Bacon Wage Rates.
- K. On-Site Interviews: Conduct on-site interviews of the construction contractor and/or subcontractor's employees for each job classification. Interview must be conducted at least once during the course of construction.
- L. On-Site Visits: Coordinate On-Site visits.
- M. Closeout Documents: Transmittal of CDBG Closeout documents, Final Expenditure Report (Final Expenditure Report ED), Contract Closeout Certifications and Beneficiary Report.
- N. Job Tracking: Gather and complete Income Certification Forms, Job Tracking Log and Quarterly Job Status Reports.

REQUEST FOR PROPOSALS FOR ADMINISTRATIVE SERVICES
FOR THE COMMUNITY DEVELOPMENT BLOCK GRANT

I. GENERAL INFORMATION

- A. The _____ is requesting proposals to obtain
(Grant Recipient)
The services of a certified consultant or consulting firm to administer the Community Development Block Grant (CDBG) received from the Oklahoma Dept. of Commerce (ODOC) for _____.
(Identify Project Funded)
All qualified proposals will be considered without regard to race, creed, color, sex, disability or national origin.
- B. Who May Respond: Only firms or individuals who have been certified by ODOC to administer CDBG projects.
- C. Instructions and Proposal Submission:
 - 1. Due Date for Proposals: Proposals must be submitted no later than _____ on _____.
(Time) (Date)
All proposals received will be opened and possible selection made at _____ on _____.
(Time) (Date)
at _____.
(Place)
Following the proposal opening, each proposal will be reviewed in accordance with the evaluation criteria stated later in this RFP.
 - 2. Inquiries: Inquiries should be directed to:
_____.
(Name & Phone Number)
 - 3. Preparation of Proposal Costs: All costs associated with the preparation of a proposal in response to this RFP will be the responsibility of the offeror and will not be reimbursed by the _____.
(Grant Recipient)
 - 4. Composition: All proposals must be submitted in writing. The proposal must include the following separate components:
 - a. Statement of Experience: Four (4) copies;
 - b. Complete Scope of Services to be provided, including "Administrative Responsibilities set forth in **Attachment 2**;

- c. Statement of Price (form enclosed): One (1) copy;
- d. Affidavit (form enclosed): One (1) copy.

5. Submittal of Proposal:

- a. Proposals may be mailed or hand delivered. It is important that the offeror's proposal be submitted in a sealed envelope clearly marked on the lower left-hand corner with the following information:

CDBG	CONTRACT	ADMINISTRATION	PROPOSAL:	DUE:
<hr style="width: 50%; margin-left: 0;"/>				
				(Date of Opening)

SEALED PROPOSAL - DO NOT OPEN

Failure to do so may result in premature disclosure of your proposal or price. Proposals submitted will not be opened and reviewed until the time specified. It is the responsibility of the offerors to ensure that the proposal is received by the date and time specified above.

- b. Proposals are to be submitted to:

(Enter address proposals are to be delivered to)

- 6. Withdrawal/Resubmission of Proposal: The offeror may withdraw the proposal at any time prior to the award of the contract. A proposal may also be retrieved and resubmitted from the above person only prior to the date and time listed for submission. Proper identification and a formal letter will be required to withdraw the proposal.

7. Right to Reject:

- a. Any proposal indicating a total fee in excess of resources allocated to the services being requested will be rejected.
- b. A contract for the accepted proposal will be based only on the factors described in this RFP.

- 8. Small and Minority-Owned Businesses: Efforts will be made to utilize small and minority-owned businesses.

9. Notification of Award: A decision to select the successful administrator will be made within _____ days after the opening of the proposals. All offerors submitting proposals in response to the RFP will be informed in writing of the name of the successful offeror.

10. Anticipated Start and Completion Dates of Contract: The contract is scheduled to start on _____,
(Date)
and will be effective for _____.
(Time Period)

D. **(When applicable, use the following language.)** The _____ has (or will) also contracted
(Grant Recipient)
for engineering or architectural services which will be needed throughout the design and construction phases of the project. The successful administrator is expected to cooperate fully with the engineer in accomplishing the project.

E. **(Briefly describes the community or county, including population, geographic location in the State and any special problems or needs. Also indicate the frequency of board meetings, number of employees and any other relevant characteristics.)**

F. At the discretion of the _____ the
(Grant Recipient)
administrative contract may be extended to coincide with the contract received from ODOC.

II. SPECIFICATIONS

A. Identify who will perform the tasks in **Attachment 2** "Administrative Responsibilities" and ensure these tasks are completed in a timely manner and the necessary documentation submitted to ODOC, as applicable.

B. Statement of Price: The offeror's proposed fees should be submitted on the form provided in this manual and placed in a separate sealed envelope marked: "Statement of Price". Any out-of-pocket expenses such as indirect costs, travel and lodging included in the hourly and total fee may also be included. The contract will be awarded as a "not to exceed" contract; the statement of price or fee must clearly state the fee for providing each of the services required, with a maximum fee for providing all services through completion of the project.

III. OFFEROR'S MINIMUM REQUIREMENTS

Each proposal must include clear information regarding the offeror's prior experience, organization structure and qualifications of the offeror. Minimum qualifications for consideration have been established to ensure that only fully-qualified firms or individuals capable of providing the services desired are considered.

A. Prior Experience: All proposals must meet the following minimum qualifications to be considered:

1. A minimum of _____ separate Federal grants or contracts have been administered by the offeror within the past _____ years for units of local government.
2. The names, addresses and telephone numbers of the units of local governments assisted must be supplied.
3. A brief description of the grants or contracts administered must be given.

B. Organization: The offeror must provide a brief description of the administrator's firm, including the following:

1. Total years in business, including years in business under previous firm names;
2. If the firm qualifies as a small or minority firm (requested for informational purposes only; not a qualifying factor for section);
3. Organizational Structure: Describe how the firm administers a typical project and, where applicable, roles and responsibilities of individuals within the firm who may provide some or all of the services;
4. Complete resumes for all individuals who will be providing any of the required services. Education and experience must be provided for each individual.

C. Qualifications:

1. Offeror must be a certified CDBG Administrator or an apprentice CDBG Administrator in accordance with ODOC regulation 150:15-9-1 (b).
2. Offeror must provide copies of any licenses or certificates required in its field of expertise, i.e., engineering, architect, inspectors, CDBG Administrator or other professional, as required, which they feel may enhance his/her qualifications.

IV. PROPOSAL EVALUATION

- A. Proposals shall be judged non-responsive and removed from further consideration if any of the following occur:
1. The proposal is not received by the submission deadline stated in this RFP.
 2. The proposal does not include all required components of I.C.4. Above.
 3. The affidavit is not properly completed.
 4. The offeror does not meet the minimum required qualifications and experience.
 5. Any conflict of interest is determined.
- B. Proposals shall be rejected from final consideration for the following:
1. Any references contacted report unsatisfactory performance regarding previous administration of Federal programs or contracts.
 2. No references were obtained after attempting to contact nine (9) separate references provided.
 3. Three (3) references are contacted, but all three references decline to respond to the questions.
- C. Evaluation:
1. Evaluation of each proposal will be based on the following criteria and rates as indicated on the attached rating sheets. The proposals will be ranked based upon the total number of points received. The top five offerors, or all if less than five responsive proposals are received, shall be requested to participate in a personal interview with the evaluator(s). Additional rating points will be awarded based upon the personal interview. The proposal with the highest overall rating will be awarded the contract.
 2. Initial Rating Criteria:
 - a. Prior experience;
 - b. Organization;
 - c. Qualifications;

d. Statement of Price;

e. References.

D. In the event of a tie in the ranking of proposals, the lowest total price as indicated in the Statement of Price will be awarded the contract.

STATEMENT OF PRICE

Name of Offeror: _____
FEI No. or SS No., if
Individual

I. STATEMENT OF PRICE REQUIREMENTS

Any costs incurred with the preparation of the attached Proposal shall not be included in determining the proposed fee. The contract will be awarded as a "not to exceed" contract; the fee below must be the maximum fee for providing all services and the offeror may select either of the following options in providing the required supporting fee information:

- A. Option A: Provide a Fee Schedule that lists the individual fee for each service listed on the Scope of Services. Reimbursement will be based upon the progress towards completion of each service, i.e., completion of 25% of a particular service would result in payment of 25% of the stated fee for that service. No form is provided. Offeror shall prepare and attach a Fee Schedule.

- B. Option B: Provide an Hourly Price Schedule which includes: (1) Each individual who will be performing the work and the hourly rate for each individual; and (2) An estimate of the total number of hours required to perform each required Service. Reimbursement will be based on the hourly rate(s) listed, not to exceed the Total Fee. Note, however that actual reimbursement will not exceed the percentage of completion for each service as compared to the total hours required for that service. (Example: 20 hours required for a service; service is 50% complete. Actual number of hours invoiced is 14 hours; reimbursement will be for a maximum of 10 hours, which is 50% of 20 hours.) Cumulative hours per service should be listed. No form is provided. Offeror shall prepare and attach an Hourly Price Schedule.

II TOTAL FEE STATEMENT

_____, as compensation for administrative (Name of Firm or Individual) consulting services described in the Scope of Services, requests a fee not to exceed \$_____. It is understood that, if selected as the Contractor for these services, payment will be on a reimbursement basis and will be made in conformance with the Fee Schedule located in Requirement 404 of the CDBG Implementation Manual. It is further understood that reimbursement will be made only after receipt of itemized invoices. The invoices must list the individual services that were provided, their percentage of completion, the fee requested and identity of each staff member, where applicable, who provided the services.

I certify the above-stated fee is true and correct and that I am authorized to submit this fee on behalf of the offeror.

Signature

Date:

Also find attached:

_____ Fee Schedule

_____ Hourly Price Schedule

MINORITY/WOMEN OWNED BUSINESS INFORMATION

The following organizations certify and maintain listings of disadvantaged or minority-owned businesses.

1. [Oklahoma Department of Commerce](http://okcommerce.gov/community-resources/business-retention-and-expansion/)
<http://okcommerce.gov/community-resources/business-retention-and-expansion/>;
http://okcommerce.gov/assets/files/community-resources/Economic_Development_Resource_Guide.pdf
2. [Oklahoma Department of Transportation](#)
Certifies Women and Minority Owned Businesses as Disadvantaged Business Enterprises (DBE).

Eligible businesses are those that provide services, products or supplies relates to transportation projects or facilities.

3. [SBA.Gov](#)
U.S. Small Business Administration (SBA), Oklahoma District Office, Minority Enterprise Division, 301 NW 6th Street, Suite 116, Oklahoma City, OK 73102, 405-609-8000.

One of SBA's key certification programs is certification as a Small Disadvantaged Business (SDB). The list can be accessed through the Central Contractor Registration (CCR) web site and printed.

[Federal Contractor Registry](#) Click on SAM Status Check.

4. [Oklahoma Minority Supplier Development Council](#); Oklahoma Minority Supplier Development Council (OMSDC), 6701 N. Broadway, Suite #216, P.O. Box 18228, Oklahoma City, OK 73154-0228, 405-767-9900.
Certifies eligible minority businesses as Minority Business Enterprises (MBE).

May charge a fee to provide information to persons other than Council members. You have to contact them to get a copy of their MBE listing or directory.

The information listed above may be used to select small, certified, minority and women owned businesses to include on solicitation lists for your CDBG projects.



Section 6

Financial Management

July 7, 2014

Section 6 Financial Management

In order to assist Grantees in fulfilling financial management obligations, this section will outline the requirements for successful financial management of a CDBG grant.

Many financial forms are now included on the OKGrants system. Forms that are not included in OKGrants must still be retained at Grantee offices.

Please note that Grantees with an open CDBG grant must satisfy all audit requirements prior to disbursement of funds, including timely submission of the required annual audits.

NOTES

**OKLAHOMA DEPARTMENT OF COMMERCE
COMMUNITY DEVELOPMENT
COMMUNITY DEVELOPMENT BLOCK GRANT (CDBG) PROGRAM**

**REQUIREMENT NO. 406
FINANCIAL MANAGEMENT**

Effective July 2014

I. INTRODUCTION

In order to assist you in fulfilling your financial management obligations, this Requirement will spell out the steps for the successful financial management of a CDBG grant. You will find copies of all required forms and a sample ledger page in the Attachments following this Requirement. **[24 CFR 570, Subpart I, §489(d)]**

OKGrants is required for the submission of applications, implementation of projects and subsequent closeout. It is important to note that some documents will be completed on forms that are programmed into OKGrants, certain documents will be completed by the grant recipient and then uploaded into OKGrants and some documents will be maintained by the grant recipient on paper at the grant recipient's offices. ODOC will provide guidance as to what documentation must be uploaded to OKGrants and which documentation has to be maintained at the grant recipient's office on paper.

II. ACCOUNTING SYSTEM REQUIREMENTS

The seven major elements and actions to a complete financial management system including but are not limited to **[11 O.S. §§17-207, 68 O.S. §§3003]**:

A. Setting up the Accounting Records:

1. All Grant Recipients are required by State statute to track Federal dollars by fund. This simply means that a separate set of accounting records (books) must be set up for each CDBG contract received. Each set of books will be considered a fund, much like the funds Grant Recipients are already required by law to operate under, i.e., water, street

and alley, general, special revenue, etc. Within each fund, however, specific accounts are required to track expenditures by budgeted line item activity (construction, administration, engineering, etc.).

2. At a minimum, each fund should contain:
 - a. A cash receipts and disbursements journal. Please note that a grant recipient may utilize a manual accounting, i.e. paper books such as green columnar pad or a computerized set of books. What ODOC strenuously requires is that the accounting system can accurately account for the receipt and disbursement of CDBG funds. **[See Attachment 1 for a sample CDBG Ledger]** This ledger format should also be used to account for the receipt and disbursement of leveraged funds.
 - b. A complete set of expense accounts for each budgeted line item, i.e., construction, engineering, administration, etc;
 - c. A payroll register for any Grant Recipient employees paid from CDBG funds.
3. The accounting records may be maintained on a cash or accrual basis.
4. All entries recorded in the cash disbursements journal must be traceable to some form of source documentation, i.e., invoices, partial pay estimates, employee time sheets, etc. Additionally, you will need to have all original documentation filed in an orderly manner and readily available for review in the event ODOC performs a financial monitoring on your CDBG project.

B. Accounting Systems: You may apply your normal accounting systems to CDBG funds, provided that all applicable State and Federal requirements can be met.

1. You may place CDBG funds in either an interest- or non-interest-bearing checking account. If funds are placed in an

interest-bearing checking account, the interest must be tracked. Any interest earned in a one-year period in excess of \$100 must be paid to HUD. The check can be sent to ODOC but must be made payable to HUD. The one-year clock starts ticking from the date of your first deposit into the account. Grant Recipients may keep interest amounts up to \$100 per year if they are able to document allowable CDBG administrative expenses

2. In order to receive CDBG by electronic transfer new grant recipients will need to contact Julie Dvorak with the Oklahoma Management and Enterprise Services (OMES). Julie Dvorak can be contact via the OMES web-site. Once CDBG funds are requested, they will be automatically deposited by electronic funds transfer (EFT) into the checking account that has been designated for receipt of CDBG funds.
3. Grant Recipients, both municipalities and counties, are allowed **fifteen (15) working days** to expend the funds. Any money not expended after the maximum time allowed is considered excess cash on hand and must be returned to ODOC. The returned funds can be drawn at a later date when needed. **[Treasury Circular 1075]**
4. The only exception to the "cash-on-hand" prohibition is that Grant Recipients are allowed to maintain funds (up to \$2,000) after the final drawdown of funds for the payment of the CDBG pro-rata share of a State-required "Yellow Book" audit. Although the Grant Recipient may technically have cash on hand at the time of closeout, these funds will be reported as expended on the closeout documents.

C. Internal Controls: Adequate internal controls must be established to ensure CDBG funds are properly safeguarded. These controls must include the following:

1. Payment approval procedures must be defined. All invoices must be approved by the Municipal Council or Board of County Commissioners prior to payment. You may use an authorized official if normal approval procedures by the

Council or Board cannot be used. **[Per the requirements of 62 O.S. 310.1]**

2. An authorized official is defined as any municipal or county officer or employee the Council or Board gives the authority to approve invoices on their behalf. **[11 O.S. §17A-102]**
3. Grant Recipient ordinance must reflect any departure from the normal approval procedures. An authorized official may approve all invoices prior to payment by initialing and dating each invoice. **[11 O.S. 1996, §§17A-102]**
4. All paid invoices must be defaced by writing the check number and date paid on each invoice or purchase order. A copy of the approved purchase order must be attached to each invoice. **REMEMBER**, purchase orders must be signed and dated prior to ordering goods and services and prior to receipt of the invoice (including contracts). If Council or Board members do not sign purchase orders, documentation of approval of purchase orders as reflected in the meeting minutes must be readily available for review. **Every purchase order issued for invoices paid from CDBG funds must be identified in the meeting minutes.**
5. Non-Collusion Affidavits are required to be attached to all contracts for \$25,000 or more. Grant Recipients executing contracts for goods or services on a continuing basis may accept a single Non-Collusion Affidavit at the time of initial execution of the contract, which applies to all future work, services or materials completed or supplied under the terms of the contract. **[74 O.S. §85.22]**
6. CDBG checks must be pre-numbered and signed by the proper officials as authorized by local ordinance or State statute. In the absence of such ordinance, the treasurer must sign all checks.
7. Blank checks, undelivered checks and signature stamps must be locked in a safe, drawer or file cabinet with access restricted to individuals authorized for their use.

8. Every CDBG bank statement should be reconciled. The statement balance (not including other sources of funds) should be reconciled back to the CDBG general ledger cash account. It is recommended that the reconciliation be performed by someone other than the CDBG accountant. All persons performing the reconciliation must initial and date the reconciliation to indicate approval.
9. CDBG dollars cannot be placed in a petty cash fund.

D. Purchase Order System: Grant recipients must use purchase orders as required by Oklahoma Statute, Title 62, Contracts and Expenditures, §310.1. Please note that this is not an optional requirement but rather a statutory requirement.

1. "Unless otherwise provided by ordinance, officers, boards, commissions and designated employees of cities and towns, hereinafter referred to as the purchasing officer, having authority to purchase or contract against all budget appropriation accounts as authorized by law shall submit all purchase orders and contracts prior to the time the commitment is made, to the officer charged with keeping the appropriation and expenditure records or clerk, who shall, if there be an unencumbered balance in the appropriation made for that purpose, so certify in the following form:

I hereby certify that the amount of this encumbrance has been entered against the designated appropriation accounts and that this encumbrance is within the authorized available balance of said appropriation.

Dated this _____ day of _____, 20_____.

Encumbering Officer or Clerk of _____.

Provided, in instances where it is impossible to ascertain the exact amount of expenditures to be made at the time of recording the encumbrance, an estimated amount may be used and the encumbrance made in like manner as set forth above. Provided, no purchase order or contract shall be valid unless signed and approved by the purchasing officer and certified as above set forth by the officer or clerk charged

with keeping the appropriation and expenditure records. The clerk or encumbering officer shall retain and file one copy of the purchase order.

2. After satisfactory delivery of the merchandise or completion of the contract, the supplier shall deliver an invoice. Such invoice shall state the supplier's name and address and must be sufficiently itemized to clearly describe each item purchased, its unit price, where applicable, the number or volume of each item purchased, its total price, the total of the purchase and the date of the purchase. The appropriate officer shall attach the itemized invoice together with delivery tickets, freight tickets or other supporting information to the original of the purchase order and, after approving and signing said original copy of the purchase order, shall submit the invoices, the purchase order and other supporting data for consideration for payment by the governing board. All invoices submitted shall be examined by the governing board to determine their legality. The governing board shall approve such invoices for payment in the amount the board determines just and correct.

E. Leverage Funds Requirements:

1. The Grant Recipient must also be sure not to overlook the leverage funds requirements. The term leverage refers to any funds other than CDBG funds to be used on the project. These funds were originally identified in the grant application and were given credit (scoring points) in the rating of that application. Since this commitment was part of the basis upon which ODOC awarded financial assistance, the Grant Recipient is responsible for seeing that those funds are expended on the CDBG project. Failure to expend leverage funds on the project may result in disallowance of any or all CDBG funding.
2. Accounting for leveraged/matching funds at a minimum, each fund should contain:
Cash receipts and disbursements journal. Please note that a grant recipient may utilize a manual accounting, i.e. paper books such as green columnar pad or a computerized set of books. ODOC requires that the accounting system can

accurately account for the receipt and disbursement of CDBG funds.

3. For economic development projects, financial leverage is defined as new money, recently contributed to the project for express purpose of implementing the proposed project. The source of the new money may be cash or other valuable consideration, e.g., land, bank loans, proceeds from the sale of stocks or bonds or loans from other public agencies. Private and public investments that do not qualify as financial leverage are existing net worth, existing debt, future operating expenses, and inventory. Additionally, In-Kind Leverage is ineligible.
4. For community development projects, leverage may consist of cash or in-kind contributions. Cash includes other Federal/State grants and loans and local capital improvement funds set aside for a specified purpose in the Grant Recipient budget.

In-kind includes the value of force account labor, voluntary labor, value of services and supplies provided by another local entity, the fair market value of land, buildings or materials that are a part of the project and the cost of using Grant Recipient-owned equipment.

5. **Force account labor** is defined as Grant Recipient labor used on the project that has been paid for from local funds.

Voluntary labor is defined as labor performed by individuals who are not compensated for their services and time. The labor performed must be for services considered to be an integral part of the project and can only be charged at the rate of \$10.00 per hour for non-skilled labor and the current hourly market rate for skilled labor, i.e., electricians, plumbers, etc. If Grant Recipient-owned equipment is used on the project, the FEMA rate schedule will be used as a guide in determining the proper equipment costs.

6. Documentation of leveraged funds must be maintained on file at the Grant Recipient for review.

- a. Documentation includes invoices, partial pay estimates, monthly billings, executed contracts, etc. For in-kind labor, it includes signed time sheets showing the amount of time charged to the CDBG project, the rate per hour paid to each employee and a brief description of the work performed. Each employee/volunteer and the employee's immediate supervisor must sign the time sheets. The employee's payroll records must also be available for review.
- b. Documentation of Grant Recipient-owned equipment use must consist of a written log showing the type of equipment used, the date(s) used, total number of hours used, the appropriate FEMA hourly rate and a brief description of how the equipment was used, and must be signed by the on-site supervisor.
- c. Documentation should also include accounting records and bank statements the leveraged funds were paid from, if applicable. If changes to either the source or use of leverage funding from those identified in the application are required, the Grant Recipient must secure prior ODOC approval. Allowable and unallowable leverage sources will be defined in each year's application for funding.
[See Requirement 401 for guidance on budget revisions.]

- 7. When Other Funds Are Involved: The State has made a conscious decision to reward co-funding by giving increased points in the rating of applications as a means of stretching limited CDBG dollars further, allowing the State to fund additional projects. Such funding may come from a variety of other sources, including other State agencies, local funds, foundations, private sources and Federal agencies.

There are three major issues to keep in mind;

- a. The Grant Recipient should make certain that the level of other funding does not drop below the amount stipulated in the contract agreement with ODOC. This is especially important if the Grant Recipient was

awarded points in its application for leveraging other funds. ODOC must be informed if leverage funds decrease below the stipulated amount in the application. Failure to achieve the promised level of match could affect the basis on which the CDBG contract was awarded.

- b. In some specific instances, ODOC will require that the rate of expenditure of other funds be consistent with the rate of CDBG expenditure. In other words, CDBG funds must be spent at the same rate as other funds. Be certain to review the contract agreement to determine if this requirement is applicable to your project.
- c. When other Federal funds are involved in a project, follow the more stringent requirements of other Federal Agencies. Please contact ODOC for guidance and assistance when conflicting requirements create project implementation problems. Both the State and the Grant Recipient are held accountable by HUD for administering these funds in a manner consistent with HUD regulations, even if another Federal agency takes a more lenient approach to a given compliance area.
- d. Davis Bacon: It is extremely important for grant recipients to know that the Davis Bacon wage rate requirement applies to all leveraged funds associated with the CDBG project.

F. Allowable and Unallowable Expenses:

- 1. At this point, it is important to cover what are considered allowable and unallowable expenses to your CDBG contract. **The single most important thing to remember is that you can only expend funds on the items that are listed in the detailed budget submitted with your application for funding.**
- 2. Your budget has already been reviewed and approved for funding through ODOC, therefore, all costs set out in the budget are considered approved. Any requests to deviate

from the budget must be approved in writing by ODOC. Any CDBG funds expended on items not pre-approved by ODOC will be considered disallowed expenses and must be paid for from local funding sources.

3. Your budget may contain two separate categories for administration. The first category, Direct Grantee Administration, can only be used for payment of Grant Recipient administration expenses. It cannot be used to pay for administrative consulting services. The second category, Public Facilities Administration, can be used to pay for Grant Recipient expenses or contract services, i.e., certified CDBG administrative consulting services.
4. As a general rule, administrative costs for the Grant Recipient may include:
 - a. Contracted certified CDBG administrative consulting services;
 - b. Personnel costs (payroll and fringe) for staff time on the project. The Grant Recipient's payroll account can be reimbursed with CDBG funds rather than creating an additional payroll for employees performing CDBG work activities. Time sheets are required for all employees paid with CDBG funds;
 - c. Pro-rata portion of the annual audit expense;
 - d. Miscellaneous: Legal fees, title opinions, bid advertisement expenses and postage.
 - e. Travel: If you are planning to charge Grant Recipient travel expenses to your CDBG contract, you will need to contact ODOC for the current reimbursement rates.

If the Grant Recipient's existing travel policies are more restrictive than the State's, the more restrictive local policies will take precedence. **[Consistent with 74 O.S. §500.1, et seq.]**

f. Program Income: Program income is simply money received by the Grant Recipient, in the amount of \$25,000 or more per year that has been generated from the use of CDBG funds. **[24 CFR 570, Subpart I, § 489(e)]**

1. Program income is not your initial receipt of CDBG funds but money made from the use of those funds.
2. If the Grant Recipient earns less than \$25,000 per year from the use of CDBG funds, such earnings are not considered program income. The Grant Recipient may keep any amounts of money less than \$25,000 for its own use; however, the Grant Recipient is encouraged to use it for community development-related activities.
3. Any revenue received in the amount of \$25,000 or more per year must be reported to ODOC. As a general rule, all program income must be returned to ODOC.
Examples of PI are:
 - (a.) Proceeds from the sale of real property purchased or improved with CDBG funds;
 - (b.) Proceeds from the sale of equipment purchased with CDBG funds and gross income from the use of real or personal property acquired with CDBG funds, less the costs incurred in creating the program income;
 - (c.) Payment of principal and interest on loans made using CDBG funds.
4. Under certain circumstances, the grant recipient may request in writing to ODOC with an explanation of why they want to keep the PI and how they intend to expend the funds within the parameters of the CDBG program

g. Financial Management Files:

1. With the advent of the OKGrants certain documents will no longer be maintained by the grant recipient in the traditional paper copy format. Certain documents will be maintained on OKGrants.

- a. Requests for Funds: Request for Funds will be initiated and submitted by utilizing OKGrants. However, supporting documentation such as invoices, receipts, and cancelled checks must be maintained at the grant recipients offices.
 - b. Monthly Expenditure Reports: Monthly Expenditure Reports will be submitted to ODOC utilizing OKGrants.
 - c. Any other correspondence between the Grant Recipient and ODOC concerning the financial management of your CDBG contract. Correspondence and other financial management documentation not uploaded in OKGrants must be maintained in the conventional manner at the grant recipient's offices.
 - d. Regarding specific documents grant recipients are encouraged to refer to Requirement 401.
2. The financial management file should be readily available for any ODOC staff for inspection during a CDBG monitoring visit. Additionally, the following financial management records must be available during the CDBG monitoring visit: These documents will be maintained manually at the grant recipient's office and will not be uploaded on the OKGrants Management System.
- a. CDBG General Ledger;
 - b. CDBG and leveraged fund bank statements;
 - c. Cancelled checks or photocopy representation of the checks or warrants that were issued.
 - d. Invoices/purchase orders;
 - e. Board/Council meeting minutes indicating approval of the payments.
 - f. Regarding specific documents grant recipients are encouraged to refer to Requirement 401.

III. DRAWING DOWN FUNDS (Advance/Pay Request)

- A. All requests for payments must be entered into OKGrants. Hard copies will not be accepted. Grant Recipients may request a drawdown of funds necessary to meet immediate needs. This is accomplished through the submission of a Request for Funds initiated and submitted by utilizing OKGrants.

Administrative funds can be requested in accordance with the schedule below.

ADMINISTRATION REMITTANCE SCHEDULE

Maximum Fee	Activity
25%	Release of Funds during project implementation; paid on a pro rata basis as project funds are expended
65%	
10%	Paid upon receipt of Closeout Report

A certified CDBG administrator/writer in OkGrants may prepare this form but the authorized official or financial officer in OkGrants must review and submit.

- B. Be sure to keep in mind that it will take approximately ten to twelve working days from the date ODOC processes your Request for Payment of Contract Funds to receive your money. ODOC will initiate an EFT through OMES to the Treasury and then to Grant Recipient's bank account.

IV. CDBG MONTHLY EXPENDITURE REPORTS:

- A. This report must be entered on OKGrants by the 10th of every month following a month in which there has been a drawdown, expenditure or cash balance of CDBG funds.
- B. Leverage expenditures must also be included on the report. Leverage expenditures must be reported when incurred if there have been no expenditure of leverage funds please place a zero in the appropriate line item.

If there are no CDBG expenses to report during the month, a report for leverage expenditures only must be submitted if leveraged expenditures occurred.

- C. Timely submission of the Monthly Expenditure Report is important. Requests for funds will not be processed if there are any delinquent reports outstanding.
- D. Inaccurate reports will be rejected by the system since it automatically tracks cumulative expenses.

V. Audit Requirements

1. Each ODOC contract includes an audit requirement. Several factors affect the audit that is required including:
 - a) Whether the jurisdiction is a municipality or county (11 O.S. Subsection 17-105 or 19 O.S. Subsection 171);
 - b) The total level of funding received in a given year from all sources; and
 - c) The total level of federal funds expended in a given fiscal year (OMB Circular A-133
 - 1) If the Grant recipient's annual revenue is \$25,000 or more in funds (from any and all sources), it must conduct an annual audit of all funds received which complies with the Oklahoma statute; or
 - 2) If the Grant recipient's revenue is \$25,000 or more, but it's population is less than 2,500, it has the option of having an agreed upon procedures agreement conducted by an independent licensed public or certified accountant in lieu of an independent audit as cited in O.S. 17-105; or
 - 3) If the Grant recipient expends \$500,000 or more in total federal funds (regardless of the source), it is subject to the requirements of the Single Audit Act OMB Circular A-133.

- A. Grant Recipients should consult with ODOC and the ODOC Audit Policies and Procedures Manual for specific guidance.
- B. Audits should be uploaded on OKGrants in a PDF file. Hard Copies will be accepted if necessary.

VI. ATTACHMENTS

- 1. Sample CDBG Ledger
- 2. CDBG Time Sheet

Sample CDBG Ledger

CDBG Contract \$175,000

							\$151,300	\$ 15,700	\$ 6,500	\$ 1,500			
			Cash Rec.	Cash Dis.	Cash Bal.	Grant Rev.	Const.	Engineer	P.F. Adm.	D.G. Adm.	Int. Rec.	Int. Exp.	Int. Bal.
Date		Ref	(Dr)	(Cr)		(Cr)	(Dr)	(Dr)	(Dr)	(Dr)			
30-Jul	ODOC Warrant No. 1		\$ 45,000		\$ 45,000	\$ 45,000							
30-Jul	Williams Construction	#1		\$ 40,000	\$ 5,000		\$ 40,000						
31-Jul	Bowers Engineering	#2		\$ 3,000	\$ 2,000			\$ 3,000					
31-Jul	Interest Received										\$ 10		\$ 10
	Total		\$ 45,000	\$ 43,000	\$ 2,000	\$ 45,000	\$ 40,000	\$ 3,000			\$ 10		\$ 10
1-Aug	Miller & Associates	#3		\$ 800	\$ 1,200				\$ 800				
1-Aug	Daily Times	#4		\$ 200	\$ 1,000					\$ 200			
1-Aug	Bowers Engineering	#5		\$ 1,000				\$ 1,000					
31-Aug	Interest Received										\$ 2		\$ 12
31-Aug	Bank Service Charge											\$ 7	\$ 5
	Total		\$ 0	\$ 2,000	\$ 0			\$ 1,000	\$ 800	\$ 200	\$ 2	\$ 7	\$ 5
	Year to Date Totals		\$ 45,000	\$ 45,000	\$ 0		\$ 40,000	\$ 4,000	\$ 800	\$ 200	\$		\$ 5

CDBG Time Sheet

Employee Name _____

Month _____

Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday	Total Weekly Hours

Total Hours Worked

Total Hours Worked _____ X Hourly Rate _____ = _____

Signature of Employee

Employee Supervisor

Summary of Work Performed:



Section 7

Contract Development

July 7, 2014

Section 7 Contract Development

Once necessary services have been properly procured, it is time to develop the legal instruments necessary to establish contractual obligations and rights. This Requirement provides general guidance concerning the compliance aspects of contract administration. As with all contractual obligations, the Grant Recipient is advised to seek the advice of legal counsel regarding rights, duties, obligations and liabilities arising from these legal arrangements. ODOC will also provide general advice concerning contract administration.

A **contract** is a formal agreement that two or more parties enter into, which is then enforceable by law. The Grantee is required to execute contracts on **all** professional and/or construction-related services. (The Grantee should also obtain copies of any prime contractor/subcontractor agreements).

Contracts must be developed regardless of the source of funds (local/federal) paying for the activity.

NOTES

**OKLAHOMA DEPARTMENT OF COMMERCE
COMMUNITY DEVELOPMENT
COMMUNITY DEVELOPMENT BLOCK GRANT (CDBG) PROGRAM**

**REQUIREMENT NO. 407
CONTRACT DEVELOPMENT**

Effective July 2014

I. INTRODUCTION

Once necessary services have been properly procured, it is time to develop the legal instruments necessary to establish contractual obligations and rights. This Requirement provides general guidance concerning the compliance aspects of contract administration. As with all contractual obligations, the Grant Recipient is advised to seek the advice of legal counsel regarding rights, duties, obligations and liabilities arising from these legal arrangements. ODOC will also provide general advice concerning contract administration. **[See Requirement 405 for additional guidance on required procurement for contracts.]**

II. GENERAL REQUIREMENTS

- A. Contract Format: As a general rule, contracts will include the following provisions:
1. General Administrative Provisions, including effective date of contract, names and addresses of the parties to the contract, reference to the authority of the local unit of government to enter into the contract, conditions and terms for violation or breach of the contract and procedures for contract amendment;
 2. Scope of Services, including a detailed description of the work to be performed and/or products to be delivered, the schedule for performance and specification of materials;
 3. Method of Compensation, including fee or payment schedules, retainage, rates and maximum amounts payable;

4. Special Conditions, including provisions mandated by State and Federal law.
- B. Contract Provisions: There are essentially two issues, which are critical to ensure compliance with the CDBG Program and upon which ODOC will focus its review:
1. Consistency of the contract with the requirements of the contract agreement between ODOC and the Grant Recipient. This is particularly true of those terms and conditions involving scope of project, implementation schedules and method and amount of payments. The contract agreement between ODOC and the Grant Recipient is the "master" contract with which all subsequent contracts between the Grant Recipient and any construction contractors must be consistent and with which they must comply; and
 2. Inclusion of specific provisions required by State and Federal law. These provisions are dependent on a combination of:
 - a. Whether the contract is for construction or non-construction, i.e., professional services such as administration, accounting, legal, etc. **[24 CFR 85.36(L)]**;
 - b. The dollar value of the contract; and
 - c. Statutory mandates.

III. SPECIFIC CONTRACT REQUIREMENTS

- A. Non-Construction Contracts: The Grant Recipient should *carefully* review the citations noted in Attachment 1 to this Requirement to determine which provisions will be required in any *non*-construction contract utilized during the course of the project. **[See Requirement 404 for affirmative action, Section 504 and Section 3 requirements. See Attachment 2 for specific required *non*-construction contract language.]**

B. Construction Contracts:

1. The construction contract will include all items included in the bid package as well as the standard terms and conditions, construction contractor certifications and bond and insurance forms. As this is a legal document, the Grant Recipient is strongly advised to consult legal counsel and obtain the attorney's signed letter certifying that (s)he has reviewed the documents. **[Attachment 5 Sample Bid Document]**
Remember: Neither the cost-plus-a-percentage nor percentage-of-construction cost method of contracting is allowed.
2. Depending on the amount of the contract, various contract clauses must be utilized in CDBG project contracts. Most of the specific clauses included in this chapter are required only if the project is in excess of \$10,000. A matrix has been compiled to assist in selecting the most appropriate package of contract clauses. The Grant Recipient must determine the specific CDBG Program statutory requirements with which they must comply. **[Attachment 1]**
3. The Grant Recipient should be concerned with both the body of the contract as well as the compliance requirements which are frequently included as exhibits to the base contract. Review the following for inclusion in the contract text:
 - a. Parties to the agreement;
 - b. Project location;
 - c. Scope of services;
 - d. Financial commitments;
 - e. Starting and ending dates;
 - f. Performance schedule and milestones;
 - g. Contract representatives;

- (1) Grant Recipient;
 - (2) Construction contractor;
 - (3) Subcontractor(s).
 - h. Conflict of interest;
 - i. Reporting requirements;
 - j. Suspension clause;
 - k. Incorporation of attached requirements [**Requirement 404, Affirmative Action, Section 504 and Section 3 requirements.**]
 - l. Signatures.
 - m. The grant recipient and the contractor, when applicable, shall submit to ODOC a Section 3 Summary Report and a Final Wage Compliance Report as part of the closeout documents.
4. Additional areas that are required by the Federal government and must be incorporated in the contract can be found at: <http://www.dol.gov/ofccp/>; and <http://www.dol.gov/compliance/laws/comp-flsa.htm> those which require specific language and which must be inserted verbatim into the contract are noted. These paragraphs advise construction contractors that they must comply with specific Federal laws pertaining to the environment, civil rights, labor and other laws attached to the CDBG legislation.
5. **Note:** ODOC will review the contract only to ensure compliance with CDBG and other Federal requirements. This review will occur during a scheduled monitoring or technical assistance visit. It is the Grant Recipient's responsibility to ensure that all State and local contract requirements are complied with. While ODOC will provide assistance to Grant Recipients, including sample contracts, ODOC accepts no responsibility for errors or omissions in any contracts between the Grant Recipient and any construction contractor.

IV. BONDING

- A. Bonds are negotiable instruments required from construction contractors as a form of insurance. State law requires that, for project contracts over \$100,000 construction contractors must secure a maintenance bond, a performance bond and a payment bond from surety companies. **[61 O.S. §113]** These surety bonds are then turned over to the Grant Recipient to protect against situations such as:
1. Construction contractor bidding low and then, prior to contract execution, requesting a price adjustment due to "unforeseen" events;
 2. Work not completed as specified and/or the construction contractor refusing to finish the work without a change order or price escalation;
 3. Laborers or subcontractors not being paid for work and suing the Grant Recipient to recover their loss; or
 4. Payment of liquidated damages arising from labor standards violations.
 5. Bonding requirements must be satisfied prior to finalizing contract award.
- B. The law also requires that construction contractors provide public liability and workers' compensation insurance during construction in reasonable amounts.

V. NOTICE OF CONTRACT AWARD

The Notice of Contract Award is a formal method whereby the Grant Recipient reports the execution of contracts and subcontracts to ODOC. **[Form 7.1]**

In the Grant Recipient Information section of the Notice of Award includes type of trade, business ownership, and racial, ethnic, minority and Section 3 status. Please submit this form to ODOC within three (3) days of execution by all parties.

The Notice of Award must be uploaded on OKGrants in Release of Funds, with appropriate status change as necessary and an email notification to the project manager that the upload is complete. Please note that ODOC will not process a payment for construction funds until the Notice of Award has been received.

VI. SUBRECIPIENT INTERLOCAL AGREEMENTS

- A. It is not uncommon for Grant Recipients to carry out project activities through a subrecipient. A subrecipient is defined as a public or private non-profit agency, authority or organization or other eligible entity provided CDBG funds to carry out eligible activities on behalf of the Grant Recipient, rather than directly and immediately *by* the Grant Recipient. If a Grant Recipient plans to carry out eligible activities in conjunction with another entity, the Grant Recipient's legal counsel needs to review the Inter-local Cooperation Act [74 O.S. 31-1001 et. seq.] A typical example might include a rural water district developing new or expanded water service to the City/Town/County residents. **[Attachment 3]**
- B. The most likely scenario under which a Grant Recipient would opt to utilize a subrecipient is when it (the Grant Recipient) wishes to support certain eligible activities that are either being carried out or are the primary responsibility of some agency outside the Grant Recipient. In effect, the Grant Recipient's goals coincide with the sub recipient's and it usually makes more sense to utilize the capacities of an existing organization rather than create the apparatus necessary to carry out project activities.
- C. When is an entity not a subrecipient? An organization or individual is not considered a subrecipient if the assistance is:
1. For the purpose of housing rehabilitation;
 2. For the purpose of relocation payments and assistance when displaced;
 3. For a for-profit business in a special economic development project; or

4. Passed through an agency of the grant recipient, i.e. public authority and becomes the responsibility of the designated public agency of the Grant Recipient.
- D. The Grant Recipient has some latitude in selecting the subrecipient to undertake activities on its behalf. In most cases, the Grant Recipient simply designates a non-profit agency to carry out the activities.
 - E. It is crucial to stress the importance of the Grant Recipient/ subrecipient relationship. The Grant Recipient does not reduce its responsibilities by utilizing a subrecipient to carry out project activities. In fact, many activities cannot be undertaken by anyone but the Grant Recipient (such as environmental findings and requesting funds from ODOC).
All CDBG requirements are applicable to subrecipients in terms of how they carry out project activities (procurement, financial management, labor compliance, etc.).
 - F. In order to protect the Grant Recipient and to ensure the sub recipient's compliance with all relevant requirements, the relationship between the two entities must be formally defined through an agreement or contract. Such an agreement's purposes are to clearly establish the terms and conditions under which the CDBG funding is provided and establish a legal basis for action if those terms and conditions are not met. This agreement must contain the following provisions:
 1. Scope of Work in sufficient detail to provide a sound basis for evaluating performance in schedule and budget;
 2. Records and Reporting specifying the records that must be maintained and reports that must be submitted in order for the Grant Recipient to meet its own record-keeping and reporting responsibilities;
 3. Administrative Requirements specifically requiring compliance with all applicable uniform administrative mandates such as A-110, A-122 and A-133.

4. Program Requirements specifying the conditions for convenience and cause;
5. Reversion of Assets stipulating that, upon expiration of the agreement, the subrecipient must transfer to the Grant Recipient any CDBG funds on hand and any accounts receivable. **[Consistent with 24 CFR 570.503]** This must also include provisions designed to ensure that any real property acquired or improved, in whole or in part, with CDBG funds in excess of \$25,000 is either:
 - a. Used to meet one of the three national objectives for at least five (5) years after the expiration of the agreement or longer if stipulated by the Grant Recipient; or
 - b. Disposed of in manners that result in the Grant Recipient's being reimbursed in the amount of the current fair market value of the property, less any portion of the value attributable to non-CDBG expenditures. (Reimbursement is not required after five years.)
6. Cessation of the Subrecipient providing remedies and procedures in the event the subrecipient ceases to exist;
7. Standard Provisions required of all contracts (such as equal opportunity, Section 3, Section 504, labor, etc.)

VII. ATTACHMENTS

1. Required Provisions in Non-Construction Contracts
Required Provisions in Construction Contracts
Required Contract Provisions
2. Federal Equal Opportunity and Non-Discrimination Provisions (Non-Construction Contracts)
3. Interlocal Cooperation Agreement
4. Contract for Administrative Services
5. Sample Construction Contract Documents for CDBG-Funded Projects

VIII. FORMS – SECTION 10

- 7.1 Notice of Contract Awards

Required Provisions in Non-Construction Contracts

Contract Provision	Citation	< \$2,500	\$2,500 - \$10,000	\$10,000 - \$25,000	\$25,000-\$100,000	> \$100,000
1. Sanctions and penalties	24 CFR 85.36(I)(1)	●	●	●	√	√
2. Termination for cause/convenience	24 CFR 85.36(I)(2)			√	√	√
3. Reporting requirements	24 CFR 85.36(I)(7)	√	√	√	√	√
4. Patent rights	24 CFR 85.36(I)(8)	√	√	√	√	√
5. Copyrights	24 CFR 85.36(I)(9)	√	√	√	√	√
6. Access to records	24 CFR 85.36(I)(10)	√	√	√	√	√
7. Records retention	24 CFR 85.36(I)(11)	√	√	√	√	√
8. Payments & allowable costs	24 CFR 85.21(a)(11)	√	√	√	√	√
9. Environmental compliance	24 CFR 85.36(I)(12)					√
10. Energy efficiency	24 CFR 85.36(I)(13)	■	■	■	■	■
11. Equal Opportunity	41 CFR 1.4(a)			√	√	√
12. Disabled non-discrimination	41 CFR 741-4(a)			√	√	√
13. Disabled/Vietnam Era Veterans	41 CFR 60-250.4			√	√	√
14. Contract work hours/Safety Standards	24 CFR 85.36(I)(6)		☐	☐	☐	☐

- √ Must be included
- Applies only to new building construction, additions or major structural alteration due to change in use or occupancy
- Only if small purchase procurement method **not** used
- ☐ Only if contract involves employment of laborers and/or mechanics

NOTE!!

An engineering or architectural contract that includes on-site inspection services is subject to many of the same provisions as construction contracts. See Attachment 2 for specific citations and provisions that apply to construction-related contracts.

Required Provisions in Construction Contracts

Contract Provision	Citation	< \$2,000	\$2,000 - \$10,000	\$10,000- \$25,000	\$25,000-\$100,000	> \$100,000
1. Sanctions and penalties	24 CFR 85.36(i)(1)	√	√	√	√	√
2. Termination for cause/convenience	24 CFR 85.36(i)(2)			√	√	√
3. Reporting requirements	24 CFR 85.36(i)(7)	√	√	√	√	√
4. Patent rights	24 CFR 85.36(i)(8)	√	√	√	√	√
5. Copyrights	24 CFR 85.36(i)(9)	√	√	√	√	√
6. Access to records	24 CFR 85.36(i)(10)	√	√	√	√	√
7. Records retention	24 CFR 85.36(i)(11)	√	√	√	√	√
8. Payments & allowable costs	24 CFR 85.21	√	√	√	√	√
9. Environmental compliance	24 CFR 85.36(i)(12)					√
10. Energy efficiency	24 CFR 85.36(i)(13)	■	■	■	■	■
11. Equal Employment Opportunity	41 CFR 60-1.4(c)			√	√	√
12. Affirmative Action	41 CFR 60-4.3			√	√	√
13. Disabled non-discrimination	41 CFR 60-741.4(a)			√	√	√
14. Disabled/Vietnam Era Veterans	41 CFR 60-250.4			√	√	√
15. Contract work hours/Safety Standards	24 CFR 85.36(i)(6)		√	√	√	√
16. Prevailing wage rates	24 CFR 85.36(i)(5)		√	√	√	√
17. Anti-Kickback	24 CFR 85.36(i)(4)	√	√	√	√	√
18. Women/Minority Owned Business	24 CFR 85.36(e)(2)(vi)	●	●	●	●	●
19. Performance/Payment Bond	24 CFR 85.36(h)(2)-3)				√	√
20. Contract Opportunities/Employment/Training	24 CFR 135				☼	√
21. Others Imposed by the Grant Agreement		◆	◆	◆	◆	◆

- √ Must be included
- Applies only to new building construction, additions or major structural alteration due to change in use or occupancy.
- ☼ Some provisions are exempt
- ☐ Recommended, not required
- Required of prime construction contractor if subcontracts are let
- ◆ As appropriate
- Not applicable

Required Contract Provisions

All contracts and subcontracts must include the following provisions:

1. Administrative, contractual or legal remedies in instances where construction contractors violate or breach contract terms and provide for such sanctions and penalties as may be appropriate. *Language in your contract agreement with ODOC can serve as an example for meeting this requirement. In any event, consult with your attorney for exact language consistent with local ordinances.*
 2. Termination for cause and for convenience, including the manner by which it will be effected and the basis for settlement. The contract 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 construction contractor and/or municipality/county. *Language in your contract agreement with ODOC can serve as an example for meeting this requirement. In any event, consult with your attorney for exact language consistent with local ordinances.*
 3. Notice of ODOC requirements and regulations pertaining to reporting.
 4. Notice of ODOC requirements and regulations pertaining to patent rights with respect to any discovery or invention that arises or is developed in the course of or under such contract.
 5. Notice of ODOC requirements and regulations pertaining to copyrights and rights in data.
 6. Access by the Contractor, the subrecipient, ODOC, HUD, the Comptroller General of the United States or any of their duly authorized representatives to any books, documents, papers and records of the Contractor which are directly pertinent to that specific contract for the purpose of making audit, examination, excerpts and transcriptions.
 7. Retention of all required records for three years after construction Contractor or subrecipient makes final payment and all other pending matters are closed.
 8. Payments made by Contractor or subrecipient will be such that the payments meet immediate needs, if reimbursement is not the method of payment.
 9. 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 (P.L. 94-163). *This provision is applicable to new building construction, additions or major alteration due to a change in use or occupancy.*
 10. ODOC may require additional specific requirements which Contractors or subrecipients must impose on their contracts. *Refer to the contract agreement.*
-

All contracts that exceed a specified dollar threshold must include the following provisions:

11. Contracts over \$100,000 must include a provision of compliance with all applicable standards, orders or requirements issued under Section 306 of the Clean Air Act [42 USC 1857 (h)], Section 508 of the Clean Water Act (33 USC 1368), Executive Order 11738 and Environmental Protection Agency regulations (40 CFR 15) prohibiting the use of facilities included on the EPA List of Violating Facilities. *See Attachment 4 for the required language.*
12. Contracts of more than \$10,000 must include a provision prohibiting discrimination against any employee or applicant for employment because of race, color, religion, sex or national origin. *See Attachment 2 (Non-Construction) or Attachment 4 (Construction) for required language.*
13. Contracts of more than \$10,000 must include a provision which prohibits the construction contractor from discriminating against any employee or applicant for employment because of physical or mental disability in regard to any position for which the employee or applicant is qualified. *See Attachment 2 (Non-Construction) or Attachment 4 (Construction) for required language.*
14. Contracts of more than \$10,000 must include a provision which binds the construction contractor and any subcontractors to make a good faith effort to meet specified goals for minority and female participation in each trade utilized in the project. *See Attachment 6 for required language.*

15. Contracts of more than \$10,000 must include a provision which requires construction contractors to take affirmative action to employ and advance in employment qualified disabled veterans and veterans of the Vietnam era. *See Attachment 6 for required language.*
16. Contracts of more than \$2,000, *which will employ laborers and/or mechanics*, must include a provision that requires construction contractors to:
 - Compute the wages of every mechanic and laborer on the basis of a standard workweek of 40 hours. Work in excess of the standard workweek is permissible provided the worker is compensated at a rate of not less than 1½ times the basic rate of pay for all hours worked in excess of 40 hours in the workweek; and
 - Ensure that no laborer or mechanic is 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.

All construction contracts are required to include the following provisions:

17. All contracts must include a provision that prohibits any coercion on the part of an employer to illegally force an employee to return any portion of his/her wages back to the employer. *See Attachment 4 for required language.*
18. All prime construction contractors which let any subcontracts are required to include a provision mandating affirmative steps to assure that minority firms, women's business enterprises and labor surplus area firms are used whenever possible. *See Attachment 4 for required language.*

All construction contracts that exceed a specified dollar threshold must include the following provisions:

19. Contracts of more than \$2,000 must contain a provision which requires that all trades and crafts be paid at a rate of pay at least equal to the prevailing rate of pay for such trades and crafts in the area. *See Attachment 4 for required language.*
20. Any contract of more than \$25,000 is *required* to execute a performance bond, a payment bond for 100% of the contract price and a maintenance bond.
21. Contracts of more than \$100,000 must contain a provision which requires the construction contractor to provide, to the greatest extent feasible, training and employment opportunities to lower-income residents of project areas and the award of contracts to small businesses located within the project area or owned in substantial part by project area residents. *See Attachment 4 for required language.*

Engineering/Architectural Design Contracts

While not specifically required, the Contractor is advised by ODOC to include the following provisions in any design contract:

- The design specifications of any structure to be constructed or rehabilitated must comply with the Architectural Barriers Act of 1973, as amended;
- A requirement that the specifications include a prohibition against the use of lead-based paint as mandated by Section 401(b) of the Lead-Based Paint Poisoning Prevention Act and consistent with the requirements of 24 CFR 35, Subpart B.

Federal Equal Opportunity and Non-Discrimination Provisions (Non-Construction Contracts)

During the performance of this contract, the contractor agrees as follows:

(1) The contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex or national origin. The contractor will take affirmative action to ensure that applicants are employed and that employees are treated during employment without regard to their race, color, religion, sex or national origin. Such action shall include but not be limited to the following: Employment, upgrading, demotion or transfer, recruitment or recruitment advertising, layoff or termination, rates of pay or other forms of compensation and selection for training, including apprenticeship. The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the contracting officer setting forth the provisions of this non-discrimination clause.

(2) The contractor will, in all solicitations or advertisements for employees placed by or on behalf of the contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex or national origin.

(3) The contractor will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding a notice to be provided by the agency contracting officer, advising the labor union or workers' representatives of the contractor's commitments under section 202 of Executive Order 11246 of September 24, 1965, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

(4) The contractor will comply with all provisions of Executive Order 11246 of September 24, 1965, and of the rules, regulations and relevant orders of the Secretary of Labor.

(5) The contractor will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by the rules, regulations and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records and accounts by the contracting agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations and orders.

(6) In the event of the contractor's non-compliance with the non-discrimination clauses of this contract or with any of such rules, regulations or orders, this contract may be canceled, terminated or suspended in whole or in part and the contractor may be declared ineligible for further Government contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965, or by rule, regulation or order of the Secretary of Labor or as otherwise provided by law.

(7) The contractor will include the provisions of paragraphs (1) through (7) in every subcontract or purchase order unless exempted by rules, regulations or orders of the Secretary of Labor issued pursuant to section 204 of Executive Order 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The contractor will take such action with respect to any subcontract or purchase order as may be directed by the Secretary of Labor as a means of enforcing such provisions, including sanctions for non-compliance, *provided however*, that in the event a contractor becomes involved in or is threatened with litigation with a subcontractor or vendor as a result of such direction, the contractor may request the United States to enter into such litigation to protect the interests of the United States.

AFFIRMATIVE ACTION FOR DISABLED WORKERS

(a) The contractor will not discriminate against any employee or applicant for employment because of physical or mental disability in regard to any position for which the employee or applicant for employment is qualified. The contractor agrees to take affirmative action to employ, advance in employment and otherwise treat qualified disabled individuals without discrimination based upon their physical or mental disability in all employment practices such as the following: Employment, upgrading, demotion or transfer, recruitment, advertising, layoff or termination, rates of pay or other forms of compensation and selection for training, including apprenticeship.

(b) The contractor agrees to comply with the rules, regulations, and relevant orders of the Secretary of Labor issued pursuant to the Act.

(c) In the event of the contractor's non-compliance with the requirements of this clause, actions for non-compliance may be taken in accordance with rules, regulations and relevant orders of the Secretary of Labor issued pursuant to the Act.

(d) The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices in a form to be prescribed by the Director, provided by or through the contracting officer. Such notices shall state the contractor's obligation under the law to take affirmative action to employ and advance in employment qualified disabled employees and applicants for employment and the rights of applicants and employees.

(e) The contractor will notify each labor union or representative of workers with which it has a collective bargaining agreement or other contract understanding that the contractor is bound by the terms of section 503

Of the Rehabilitation Act of 1973 and is committed to take affirmative action to employ and advance in employment physically and mentally disabled individuals.

(f) The contractor will include the provisions of this clause in every subcontract or purchase order of \$10,000 or more unless exempted by rules, regulations or orders of the Secretary issued pursuant to section 503 of the Act so that such provisions will be binding upon each subcontractor or vendor. The contractor will take such action with respect to any subcontract or purchase order as the Director of the Office of Federal Contract Compliance Programs may direct to enforce such provisions, including action for non-compliance.

AFFIRMATIVE ACTION FOR DISABLED VETERANS AND VETERANS OF THE VIETNAM ERA

(a) The contractor will not discriminate against any employee or applicant for employment because he or she is a disabled veteran or veteran of the Vietnam era in regard to any position for which the employee or applicant for employment is qualified. The contractor agrees to take affirmative action to employ, advance in employment and otherwise treat qualified disabled veterans and veterans of the Vietnam era without discrimination based upon their disability or veterans status in all employment practices such as the following: Employment upgrading, demotion or transfer, recruitment, advertising, layoff or termination, rates of pay or other forms of compensation and selection for training, including apprenticeship.

(b) The contractor agrees to list all employment openings which exist at the time of the execution of this contract and those which occur during the performance of this contract, including those not generated by this contract and including those occurring at an establishment of the contractor other than the one wherein the contract is being performed but excluding those of independently operated corporate affiliates, at an appropriate local office of the State employment service system wherein the opening occurs.

(c) Listing of employment openings with the employment service system pursuant to this clause shall be made at least concurrently with the use of any other recruitment source or effort and shall involve the normal obligations which attach to the placing of a bona fide job order, including the acceptance of referrals of veterans and non-veterans. The listing of employment openings does not require the hiring of any particular job applicant or from any particular group of job applicants and nothing herein is intended to relieve the contractor from any requirements in Executive orders or regulations regarding non-discrimination in employment.

(d) The reports required by paragraph (b) of this clause shall include but not be limited to periodic reports which shall be filed at least quarterly with the appropriate local office or, where the contractor has more than one hiring location in a State, with the central office of that State employment service. Such reports shall indicate for each hiring location: (1) The number of individuals hired during the reporting period; (2) The number of non-disabled veterans of the Vietnam era hired; (3) The number of disabled veterans of the Vietnam era hired; and (4) The total number of disabled veterans hired. The reports should include covered veterans hired for on-the-job training under 38 U.S.C. 1787. The contractor shall submit a report within 30 days after the end of each reporting period wherein any performance is made on this contract identifying data for each hiring location. The contractor shall maintain at each hiring location copies of the reports submitted until the expiration of one year after final payment under the contract. During this time these reports and related documentation shall be made available upon request for examination by any authorized representative of the contracting officer of the Secretary of Labor. Documentation would include personnel records respecting job openings, recruitment and placement.

(e) Whenever the contractor becomes contractually bound to the listing provisions of this clause it shall advise the employment service system in each State where it has establishments of the name and location of each hiring location in the State. As long as the contractor is contractually bound to these provisions and has so advised the State system there is no need to advise the State system of subsequent contracts. The contractor may advise the State system when it is no longer bound by this contract clause.

(f) This clause does not apply to the listing of employment openings which occur and are filled outside of the 50 States, the District of Columbia, Puerto Rico, Guam and the Virgin Islands.

(g) The provisions of paragraphs (b), (c), (d) and (e) of this clause do not apply to openings which the contractor proposes to fill from within his own organization or to fill pursuant to a customary and traditional employer-union hiring arrangement. This exclusion does not apply to a particular opening once an employer decides to consider applicants outside of his own organization or employer-union arrangement for that opening.

(h) As used in this clause: (1) "All employment openings" includes all positions except executive and top management, those positions that will be filled from within the contractor's organization and positions lasting three days or less. This term includes full-time employment, temporary employment of more than three days' duration and part-time employment.

Programs may direct to enforce such provisions, including action for non-compliance.

(i) "Appropriate office of the State employment service system" means the local office of the federal/State/national system of public employment offices with assigned responsibility for serving the area where the employment opening is to be filled, including the District of Columbia, Guam, the Commonwealth of Puerto Rico and the Virgin Islands.

(j) "Positions that will be filled from within the contractor's organization" means employment openings for which no consideration will be given to persons outside the contractor's organization (including any affiliates, subsidiaries and the parent companies) and includes any openings which the contractor proposes to fill from regularly-established "recall" lists. The exception does not apply to a particular opening once an employer decides to consider applicants outside of his or her own organization.

(k) "Openings which the contractor proposes to fill pursuant to a customary and traditional employer-union hiring arrangement" means employment openings which the contractor proposes to fill from union halls which is part of the customary and traditional hiring relationship which exists between the contractor and representatives of his employees.

(l) The contractor agrees to comply with the rules, regulations and relevant orders of the Secretary of Labor issued pursuant to the Act.

(j) In the event of the contractor's non-compliance with the requirements of this clause, actions for non-compliance may be taken in accordance with the rules, regulations, and relevant orders of the Secretary of Labor issued pursuant to the Act.

(k) The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices in a form to be prescribed by the Director, provided by or through the contracting officer. Such notices shall state the contractor's obligation under the law to take affirmative action to employ and advance in employment qualified disabled veterans and veterans of the Vietnam era for employment and the rights of applicants and employees.

(l) The contractor will notify each labor union or representative of workers with which it has a collective bargaining agreement or other contract understanding that the contractor is bound by the terms of the Vietnam Era Veterans Readjustment Assistance Act and is committed to take affirmative action to employ and advance in employment qualified disabled veterans and veterans of the Vietnam era.

(m) The contractor will include the provisions of this clause in every subcontract or purchase order of \$10,000 or more unless exempted by rules, regulations or orders of the Secretary issued pursuant to the Act, so that such provisions will be binding upon each subcontractor or vendor. The contractor will take such action with respect to any subcontract or purchase order as the Director of the Office of Federal Contract Compliance

INTERLOCAL COOPERATION AGREEMENT

THIS AGREEMENT, entered into on the _____ day of _____, 20____, between the _____ and _____ of the State of Oklahoma.

**ARTICLE I
DURATION**

This Agreement will be in full force and binding upon the parties thereto upon the execution of the Agreement and shall continue in full force and effect for one (1) year with the option of being renewed on a yearly basis. However, any participating party may withdraw from this agreement at any time during the first year or any additional term of the Agreement as provided in the Section on Termination and Dissolution set out in Article VIII of the agreement.

**ARTICLE II
PURPOSE**

The parties hereto, through their respective governing bodies, hereby find and declare:

1. WHEREAS, the above-named parties need assistance in constructing water system improvements to serve _____.
2. WHEREAS, it is deemed feasible that this local assistance be obtained, and having been awarded a grant by the Oklahoma Department of Commerce for funding of a public facilities grant.
3. WHEREAS, the parties hereto are in agreement to cooperate and share in the grant funds received in order to obtain the needed assistance that they are unable to acquire individually.

NOW, THEREFORE, in consideration of the foregoing and in compliance with and pursuant to the provisions, terms and conditions of Title 74 O.S. 1991, Sections 1001, et seq., the parties agree to participate as hereinafter set forth.

**ARTICLE III
ORGANIZATION & RESPONSIBILITIES**

1. The Board of County Commissioners of _____ shall be the administrative body for administering the water improvements project serving the _____.
2. The _____ will be responsible for employing the engineer, administrative consultant and the construction company, subject to approval of the Board of County Commissioners, required by the application for the administration of the CDBG grant and shall provide the Board of County Commissioners with such data and information as may be required by the terms of the CDBG grant contract.

3. The _____ shall provide treated water to the _____ and the _____ upon completion of the water system constructed pursuant to this Agreement.
4. The _____ will be responsible for delivering the water supplied by this Agreement to its own customers.
5. The _____ shall be responsible for delivering the water supplied by the Agreement to its own customers at such time as the Town accepts delivery of water from the _____.

**ARTICLE IV
FINANCING**

1. The County has applied for and has been awarded a CDBG grant in the amount of _____ which shall be provided to apply toward the _____ (or what is applicable) of the aforesaid water system improvements.
2. The _____ has applied for and received a _____ commitment for the sum of _____ which shall be applied toward the _____ of the aforesaid water system improvements as set forth in the grant application.

**ARTICLE V
ADMINISTRATION**

The Board of County Commissioners, as the administrative agency for the CDBG grant, shall ensure that all parties to the Agreement comply with the rules and regulations issued by the Oklahoma Department of Commerce for the implementation of the grant project as set forth in the grant contract between the County and the Oklahoma Department of Commerce.

**ARTICLE VI
POWERS AND DUTIES OF THE PARTIES**

The Board of County Commissioners shall advise the other parties to this Agreement of those rules and regulations governing the project and shall file with the Oklahoma Department of Commerce such reports and documents required by the CDBG grant contract. The _____ shall provide to the Board of County Commissioners, as required, such data and information as may be necessary in the implementation of the construction of the water system improvements, such as documentation of construction cost, wage rates, construction company payrolls, etc.

**ARTICLE VII
ADDITIONAL PARTIES**

Upon unanimous approval of all parties, additional local government entities may be made part of this Agreement. Any new parties shall have the same rights and obligations under this Agreement as do the original parties.

**ARTICLE VIII
TERMINATION AND DISSOLUTION**

If participating parties wish to withdraw from this Agreement during the term of the Agreement, they may do so by notifying all other parties in writing at least thirty (30) days prior to their selected withdrawal date. The withdrawal from this Agreement shall be subject to the approval of the Board of County Commissioners and the State Attorney General's Office. However, the withdrawing party or parties shall not be relieved of any obligations, responsibility or liability imposed by other agreements executed in conjunction with this Interlocal Cooperation Agreement unless said other agreements are negotiated satisfactory to all parties concerned.

IN WITNESS WHEREOF, the said parties have caused this instrument to be executed by their respective officers, the day and year first above written.

_____	_____	_____
_____	_____	_____
_____	_____	_____

ATTEST:

CONTRACT FOR ADMINISTRATIVE SERVICES

The _____, hereinafter referred to a _____,
(City/Town/County)
and _____, hereinafter referred to as Contractor,
(Name of Contractor)
for the consideration hereinafter set forth, agree as follows:

This contract shall become effective the ___day of _____, 20___,
and shall be in effect through the ___ day of _____, 20___.

I. SCOPE OF SERVICES

The Contractor agrees to perform administrative consulting services as specified in Administrative Responsibilities of the CDBG Implementation Manual for the purpose of carryout out the following Community Development Block Grant (CDBG) project:

II. COMPENSATION AND METHOD OF PAYMENT

The _____ agrees to pay the Contractor, as compensation for administrative consulting services, a total sum not to exceed _____ Dollars (\$_____). The invoices must list the individual services that were provided, their percentage of completion, the fee requested (as defined in the Statement of Price submitted in the Contractor's proposal), and identify each staff member, where applicable, who provided the services. Reimbursement for each service listed shall not exceed the completion percentage of the service provided.

III. GENERAL TERMS AND CONDITIONS

A. Subcontract Notification Provision: None of the work and services covered by the contract may be subcontracted without the written consent of _____. In no event will any subcontract incur any obligation on the part of _____.

B. Modification: This contract is subject to such modification as may be required by Federal or State law or regulations. The work and services to be performed and the total contract amount may be modified only upon written agreement of both parties and approval by the Oklahoma Dept. of Commerce.

C. Interpretation, Remedies:

1. In the event the parties fail to agree on charges or interpretations of this contract, both parties may jointly agree, in writing, to utilize an outside arbitrator to make a final determination binding upon both parties.

2. In the event of any disagreement between the Contractor and _____ relating to the work and services being performed and its conformity to the requirements of this contract, the decision of _____ shall prevail.
 3. Neither forbearance nor payment by _____ shall be construed to constitute a waiver of any remedies for any default or breach by the Contractor that exists then or occurs later.
- D. Severability Clause: If any provision under this contract or its application to any person or circumstance is held invalid by any court of competent jurisdiction, such invalidity does not affect any other provision of this contract or its application that can be given effect without the invalid provision or application.
- E. Hold Harmless Clause: Contractor shall, within limitations place on such entities by State law, save harmless the State of Oklahoma, its agents, officer and employees and _____, its agents, officers and employees from all claims and actions and all expenses defending same that are brought as a result of any injury or damage sustained by any person or property in consequence of any act or omission by Contractor. Contractor shall, within limitations placed on such entities by State law, save harmless the State of Oklahoma, its agents, officers and employees and _____, its agents, officers and employees from any claim or amount recovered as a result of infringement of patent, trademark or copyright or from any claims or amounts arising or recovered under Workers' Compensation law or any other law. In any agreement with any subcontractor or any agent for Contractor, Contractor will specify that such subcontractors or agents shall hold harmless the State of Oklahoma, its agents, officers and employees and _____, its agents, officers and employees for all the hereinbefore-described expenses, claims, actions or amounts recovered.
- F. Personnel:
1. The Contractor represents that (s) he has or will secure, at his/her own expense, all personnel required to perform the services under this contract. Such personnel shall not be employees of nor have any contractual relationship with _____.
 2. The Contractor has full responsibility for payment of Workers' Compensation insurance, unemployment insurance, social security, State and Federal income tax and any other deductions required by law for its employees.

3. All of the services required hereunder will be performed by the Contractor or under his/her supervision and all personnel engaged in the work shall be fully qualified and shall be authorized or permitted under State and local law to perform such services.

G. Termination of Contract for Cause:

1. If, for any cause, the Contractor shall fail to fulfill in a timely and proper manner his/her obligations under this contract, or if the Contractor shall violate any of the covenants, agreements or stipulations of this contract, _____ shall thereupon have the right to terminate this contract by giving written notice to the Contractor of such termination and specifying the effective date thereof at least _____ days before the effective date of such termination. In such event, the Contractor shall be entitled to receive just and equitable compensation for any work satisfactorily completed hereunder.
2. Notwithstanding the above, the Contractor shall not be relieved of liability to _____ for damages sustained by _____ by virtue of any breach of the contract by the Contractor and _____ shall withhold any payments to the Contractor until such time as the exact amount of damages due _____ from the Contractor is determined.

H. Termination for the Convenience of _____:

_____ may terminate this contract at any time by giving at least _____ days' notice, in writing, to the Contractor. If the contract is terminated by _____ as provided herein, the Contractor will be paid for the services rendered and any allowable expenses incurred up to the termination date.

- I. Conflict of Interest: No member of the governing body of _____, or any other officer, employee or agent of _____ who exercises any functions or responsibilities in connection with the planning and carrying out of the program shall have any personal financial interest, direct or indirect, in this agreement and the Contractor shall take appropriate steps to ensure compliance.

- J. Interest of Contractor and Employees: The Contractor covenants that (s) he presently has no interest and shall not acquire any interest, direct or indirect, in the project area or any parcels therein or any other interest which would conflict in any manner or degree with the performance of

His/her services hereunder. The Contractor further covenants that in the performance of this agreement, no person having any such interest shall be employed.

K. Reports and Information:

1. The Contractor, at such times and in such forms as _____ may require, shall furnish _____ with such periodic reports as it may request pertaining to the work or services undertaken pursuant to the contract, costs and obligations incurred or to be incurred in connection therewith and any other matters covered by this contract.

2. The Contractor shall furnish _____ with narrative reports and financial reports related to the elements of this contract in the forms and at such times as may be required by _____ or Federal or State grantor agencies.

L. Compliance with Local Laws: The Contractor shall comply with all applicable laws, ordinances and codes of the State and local governments and the Contractor shall save _____ harmless with respect to any damages arising from any tort done in performing any of the work under this contract.

M. Copyright: No reports, maps or other documents produced in whole or in part under this contract shall be the subject of an application for copyright by or on behalf of the Contractor.

N. Records and Audits: The Contractor shall assist _____ in obtaining and organizing all books, documents, papers, records and other materials involving all activities and transactions related to this contract. The Contractor shall also retain Contractor's own records relating to this contract for at least three (3) years from the date of submission of the final expenditure report by _____ or until all audit findings have been resolved, whichever is later. Contractor shall permit authorized representatives of the Oklahoma Dept. of Commerce, the U.S. Department of Housing and Urban Development, the Federal or State Department of Labor and the U.S. Comptroller General to have full access to and the right to fully examine all such materials.

O. Anti-Kickback Regulations: The Contractor shall comply with all applicable anti-kickback regulations covered under Department of Labor Regulation 29 CFR 111.

- P. Equal Employment Opportunity: The Contractor shall comply with the following equal opportunity requirements as part of CDBG assurances:
1. Civil Rights Act of 1964, Title VI: Contractor shall comply with Title VI of the Civil Rights Acts of 1964, which provides that no person in the United States shall, on the grounds of race, religion, color or national origin, be excluded from participation in, be denied the benefits of or be otherwise subject to discrimination under any program or activity for which the applicant received Federal financial assistance.
 2. Housing and Community Development Act of 1974, Section 109: Contractor shall comply with Section 109 of the Housing and Community Development Act of 1974, which provides that no person in the United States shall, on the grounds of race, color, religion, 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 under the Act.
 3. Housing and Community Development Act of 1974, Section 3: Contractor shall comply with Section 3, which provides that, to the greatest extent feasible, training and employment opportunities shall be made available to lower-income residents of the unit of local government or metropolitan area (or non-metropolitan county) in which the project is located and that contracts be awarded to small businesses located within or owned in substantial part by residents of the same metropolitan area (or non-metropolitan county) as the project.
 4. Affirmative Action: Contractor shall take affirmative action steps to contract with small and minority-owned firms and women's business enterprises as a part of the requirements of 24 CFR 58.36 or 24 CFR 570, Subpart J. Affirmative action steps include but are not limited to the following:
 - a. Including qualified small, minority and women's business enterprises on solicitation lists;
 - b. Assuring that small, minority and women's business enterprises are solicited whenever they are potential sources;
 - c. When economically feasible, dividing total requirements into small tasks or quantities to permit maximum small, minority and women's business enterprise participation;

- d. Where the requirement permits, establishing delivery schedules that will encourage participation by small, minority and women's business enterprises;
- e. Using the services and assistance of the Small Business Administration, the Office of Minority Business Enterprise of the U.S. Department of Commerce and the local minority business development center that assists with management and technical aspects and maintains a directory of minority contractors, suppliers and vendors;
- f. If any subcontracts are to be let, requiring the prime contractor to take the affirmative action steps in paragraphs a. through e. above.

Q. Age Discrimination Act of 1975: Contractor shall comply with the provisions of the Age Discrimination Act of 1975, which prohibits discrimination on the basis of age in the delivery of services and benefits supported by Federal funds.

R. Rehabilitation Act of 1973, Section 504: Contractor shall comply with the provisions of Section 504 of the Rehabilitation Act of 1973, which prohibits discrimination on the basis of disability in any programs or activities receiving Federal financial assistance.

Executed By: _____
(Name of City/Town/County)

Signature _____, Mayor
Typed Name
Date: _____

Executed by:
Contractor

Signature _____ Date

ATTEST:

Signature

Typed Name and Title

(Seal of City/Town/County)

AFFIDAVIT

STATE OF OKLAHOMA)
)
COUNTY OF _____)

ss:

On behalf of the offeror, I, _____, of lawful age and being first duly sworn upon oath, certify:

- A. That I am authorized to submit this proposal and to contract on behalf of the offeror;
- B. That neither I nor any member of my firm have paid, given or donated or agreed to pay, give or donate to the _____ (City/Town/County) or any officer or employee of _____ (City/Town/County) any money or other thing of value, including special consideration, either directly or indirectly, in seeking to procure this contract.
- C. That the prices quoted in this proposal have not been knowingly disclosed by the offeror prior to an award to any other offeror or potential offeror;
- D. That the prices in this proposal have been arrived at independently without consultation, communication or agreement for the purpose of restricting competition;
- E. That there has been no attempt by the offeror to discourage any potential offer or from submitting a proposal;
- F. That I have read and understand all the information in this Request for Proposal, including the information on the program to be administered;
- G. That the offeror and any individuals to be assigned to the work do not have a record of substandard work;
- H. That the offeror will, if awarded the contract, administer the contract in accordance with all applicable State and Federal rules and regulations.

Dated this _____ day of _____, _____.

(Offeror's Firm Name)

(Signature of Offerors Representative)

Subscribed and sworn to before me this _____ day of _____, _____.

My Commission Expires: _____

Notary Public

**SAMPLE
CONSTRUCTION CONTRACT DOCUMENTS FOR CDBG-FUNDED PROJECTS**

- 1. Advertisement for Bids _____
- 2. Information for Bidders _____
- 3. Bid Proposal _____
- 4. Bid Schedule _____
- 5. Business Relationships Affidavit _____
- 6. Non-Collusion Affidavit _____
- 7. Payroll Affidavit _____
- 8. Claim for Invoice Affidavit _____
- 9. Bid Bond _____
- 10. Notice of Award _____
- 11. Contract _____
- 12. General Conditions _____
- 13. Supplemental General Condition's _____
- 14. Performance Bond _____
- 15. Statutory Bond - Use of Trusts, Authorities, RWD's _____
- 16. Maintenance Bond _____
- 17. Insurance Requirements _____
- 18. Federal Wage Rates _____
- 19. Federal Labor Standards (See Useful Website) _____
- 20. Equal Opportunity Provisions _____
- 21. State of Oklahoma Hold Harmless Clause _____
- 22. Certification of Compliance with Air and Water Acts _____
- 22. Special Conditions Pertaining to Hazards, Safety
Standards and Accident Prevention _____
- 24. Certificate of Approval of Contracts and Bonds _____
- 25. Exhibit C (Notification of Contract Award to
US Department of Labor) _____
- 26. Release of Claimants _____
- 27. Section 3 Plan _____
- 28. Attorney's Certificate _____
- 29. Contractors and Sub-contactor's Payroll Agreement _____
- 30. Engineers Agreement Notice _____

ADVERTISEMENT FOR BIDS

Owner _____

Address _____

Telephone _____

Separate SEALED BIDS for the construction of _____

will be received by _____
at the office of _____ until _____ a.m. /p.m.,
CST/DST, on the _____ day of _____, _____, and then at said
office publicly opened and read aloud.

All bids must include assurances that the following provisions will be
complied with:

1. Federal Labor Standards Provisions, US Department of Labor, 29 CFR 5;
2. Section 3 of the Housing and Urban Development Act of 1974, as amended; 12 U.S.C. 1701U, which requires that, to the greatest extent feasible, opportunities for training and employment be given lower-income residents of the project area and contracts for work in substantial part by persons residing in the area of the project;
3. Section 109 of the Housing and Community Development Act of 1974, which assures that no person shall, on the grounds of race, color, natural origin or sex, be excluded from participation in, be denied the benefits of or be subjected to discrimination;
4. Certification of Non-Segregated Facilities, which assures the bidder does not maintain or provide any segregated facilities;
5. Equal Opportunity Provisions - Executive Order 11246, as amended, which assures non-discrimination;
6. Minority Business Enterprise and Women Business Enterprise provisions which encourage minority-owned business and women-owned businesses to bid on the project;
7. Assurances that surety companies executing bonds appear on the Treasury Department's list and are authorized to transact business in the State where the project is located.

The Contract documents may be examined at the following locations:

Copies of the contract documents may be obtained at the office of _____
_____, located at _____,
upon payment of \$_____ for each set. Any bidder or non-bidder,
upon returning the contract documents promptly and in good condition,
will be refunded \$_____.

Clerk _____

Date _____

INFORMATION FOR BIDDERS

Bids will be received by _____
(Herein called the "Owner") at _____
until _____ a.m. /p.m., CST/CDST, on the _____ day of _____,
_____ , and then at said office publicly opened and read aloud.

Each bid must be submitted in a sealed envelope addressed to _____
_____ at _____.
Each sealed envelope containing a bid must be plainly marked on the outside as a "Bid for _____" and the envelope should bear on the outside the bidder's name, address and license number, if applicable, and the name of the project for which the bid is submitted. If forwarded by mail, the sealed envelope containing the bid must be enclosed in another envelope addressed to the Owner at _____.

All bids must be made on the required bid form. All blank spaces for bid prices must be filled in, in ink or typewritten, and the bid form must be fully completed and executed when submitted. Only one copy of the bid form is required.

The Owner may waive any informalities or minor defects or reject any and all bids. Any bid may be withdrawn prior to the above-scheduled time for the opening of bids or authorized postponement thereof. Any bid received after the time and date specified shall not be considered. No bidder may withdraw a bid within 60 days after the actual date of the opening thereof. Should there be reasons why the contract cannot be awarded within the specified period; the time may be extended by mutual agreement between the Owner and the bidders.

Bidders must satisfy themselves on the accuracy of the estimated quantities in the Bid Schedule by examination of the site and a review of the drawings and specifications, including addenda. After bids have been submitted, no bidder shall assert that there was a misunderstanding concerning the quantities of work or of the nature of the work to be done.

Prior to bidding, the Owner shall provide bidders with all information that is pertinent to and delineates and describes the land owned and rights-of-way acquired or to be acquired.

The contract documents contain the provisions required for the construction of the project. Information obtained from an officer, agent or employee of the Owner or any other person shall not affect the risks or obligations assumed by the contractor or relieve the contractor from fulfilling any of the conditions of this contract.

Each bid must be accompanied by a bid bond payable to the Owner for five percent of the total amount of the bid. As soon as the bid prices have been compared, the Owner will return the bonds of all except the three lowest responsible bidders. When the agreement is executed, the bonds of the two remaining unsuccessful bidders will be returned. The bid bond of the successful bidder will be retained until the payment the payment bond and performance bond and/or statutory bond have been executed and approved, after which it will be returned. A certified check may be used in lieu of the bid bond.

A performance bond and a payment/statutory bond, each in the amount of 100 percent of the contract price and each with a corporate surety approved by the Owner, will be required for the faithful performance of the contract.

Attorneys-in-fact who sign bid bonds are payment bonds and performance bonds must file with each bond a certified copy of their Power of Attorney bearing the effective date.

The party to whom the contract is awarded will be required to execute the agreement and obtain the performance bond and statutory bond within ten (10) calendar days from the date when Notice of Award is delivered to the bidder. The Notice of Award shall be accompanied by the necessary agreement and bond forms. In case of failure of the bidder to execute the agreement, the Owner may consider the bidder in default, in which case the bid bond accompanying the proposal shall become the property of the Owner.

The Owner, within ten (10) days of receipt of acceptable performance bond, statutory bond and agreement signed by the party to whom the agreement was awarded, shall sign the agreement and return to such party an executed duplicate of the agreement. Should the Owner not execute the agreement within such period, the bidder may, by written notice, withdraw the signed agreement. Such notice of withdrawal shall be effective upon receipt of the notice by the Owner.

The Notice to proceed shall be issued within ten (10) days of the execution of the agreement by the Owner. Should there be reasons why the Notice to Proceed cannot be issued within such period; the time may be extended by mutual agreement between the Owner and contractor. If the Notice to Proceed has not been issued within the ten-day period or within the period mutually agreed upon, the contractor may terminate the agreement without further liability on the part of either party.

The Owner may make such investigations as deemed necessary to determine the ability of the bidder to perform the work and the bidder shall furnish to the Owner all such information and data for this purpose as the Owner may request. The Owner reserves the right to reject any bid if the evidence submitted by or investigation of such bidder fails to satisfy the Owner that such bidder is properly qualified to carry out the obligations of the agreement and to complete the work contemplated therein.

A condition or qualified bid will not be accepted.

Award will be made to the lowest responsible bidder.

All applicable laws, ordinances and the rules and regulations of all authorities having jurisdiction over construction of the project shall apply to the contract throughout.

Each bidder is responsible for inspecting the site and for reading and being thoroughly familiar with the contract documents. The failure or omission of any bidder to do any of the foregoing shall in no way relieve any bidder from any obligation with respect to its bid.

Further, the bidder agrees to abide by the requirements under Executive Order No. 11246, as amended, including, specifically, the provisions of the Equal Opportunity Clause set forth in the Supplemental General Conditions.

When alternate bids are taken, they will be listed in numerical order with the highest priority being number one, second priority being number two, etc.

When alternates are used, the low bidders will be selected by the lowest and best bid, considering all bids, which include the selected alternate bids.

The alternates will be listed in consecutive priority order to remain within the funds available for the project.

The low bidder shall supply the names and addresses of major material suppliers and subcontractors when required to do so by the Owner.

Inspection trips for prospective bidders will leave from the office of the _____

at _____.

The engineer is _____,

Address _____.

SPECIAL NOTE TO BIDDERS:

As a part of the bid on this project, the successful bidder will be required to meet all requirements of the Underground Facilities Damage Prevention Act when engaged in work within the public right-of-way in the same manner as in private right-of-way.

BID PROPOSAL

Proposal of _____
(hereinafter called "Bidder"), organized and existing under the laws of
the State of _____, doing business as _____
_____, to _____
(hereinafter called "Owner").

In compliance with your Advertisement for Bids, Bidder hereby
proposes to perform all work for the construction of _____

in strict accordance with the contract documents within the time set
forth therein and at the prices stated below.

By submission of this bid, each Bidder certifies, and in the case of
a joint bid each party certifies as to its own organization, that this
bid has been arrived at independently, without consultation, commun-
ication or agreement as to any matter relating to this bid, with any
other Bidder or with any competitor.

Bidder hereby agrees to commence work under this contract within ten
(10) days of the date to be specified in the Notice to Proceed and to
fully complete the project within _____ consecutive calendar days
thereafter. Bidder further agrees to pay as liquidated damages the sum
of \$_____ for each consecutive calendar day thereafter as
provided in Section 15 of the General Conditions.

No Bidder may withdraw a bid within 60 days after the actual opening
thereof. Each bid must be accompanied by a bid bond payable to Owner for
5% of the amount bid.

Bidder acknowledges receipt of the following addenda: _____
_____.

Bidder agrees to perform all the work described in the contract
documents for the following unit prices or lump sum.

NOTE: Bids shall include sales tax and all other applicable taxes and
fees.

*Insert "a corporation", "a partnership" or "an individual", as
applicable.

BID SCHEDULE

NO.	ITEM	UNIT	UNIT PRICE	AMOUNT	TOTAL PRICE

Respectfully submitted,

Signature

Firm Name

Title

Address

Employer I.D.> No.

Address

[(SEAL) if bid is by a corporation]

Telephone No.

ATTEST:

Secretary/Witness

Date

BUSINESS RELATIONSHIPS AFFIDAVIT

STATE OF Oklahoma)
)
) ss.
COUNTY OF _____)

_____, of lawful age, being first duly sworn upon oath, states that (s) he is the agent authorized by the Bidder to submit the attached bid. Affiant further states that the nature of any partnership, joint venture or other business relationship presently in effect or which existed within one (1) year prior to the date of this statement with the architect, engineer or other party to the project is as follows:

Affiant further states that any such business relationship presently in effect or which existed within one (1) year prior to the date of this statement between any officer or director of the bidding company and any officer or director of the architectural or engineering firm or other party to the project is as follows:

Affiant further states that the names of all persons having any such business relationships and the positions they hold with their respective companies or firms are as follows:

(if none of the business relationships hereinabove mentioned exist, Affiant should so state.)

Affiant

Subscribed and sworn to before me this _____ day of _____, _____.

Notary Public

My Commission Expires:

NOTE: This form is to be submitted with the bid.

NON-COLLUSION AFFIDAVIT

STATE OF OKLAHOMA)
) ss.
COUNTY OF _____)

_____, of lawful age, being first duly sworn upon oath, states that (s)he is the agent authorized by the Bidder to submit the attached bid. Affiant further states that the Bidder has not been a party to any collusion among bidders in restraint of freedom of competition by agreement to bid at a fixed price or to refrain from bidding or with any State official or employee as to quantity, quality or price in the prospective contract or any other terms of said prospective contract or in any discussions between bidders and any State official concerning exchange of money or other thing of value for special consideration in the letting of a contract.

Affiant

Subscribed and sworn to before me this _____ day of _____, _____.

Notary Public

My Commission Expires:

NOTE: This form is to be submitted with the bid.

PAYROLL AFFIDAVIT

STATE OF OKLAHOMA)
)
) SS.
COUNTY OF _____)

_____, of lawful age, being first duly sworn upon oath, states that (s) he is the agent authorized by the Bidder to submit the attached bid. Affiant further states that (s) he has submitted the required payroll information to the Wage and Hour Division of the Employment Standards Administration of the United States Department of Labor.

Affiant

Subscribed and sworn to before me this _____ day of _____,
_____.

Notary Public

My Commission Expires:

NOTE: This form is to be submitted with the bid.

CLAIM OR INVOICE AFFIDAVIT

STATE OF OKLAHOMA)
) ss.
COUNTY OF _____)

The undersigned ___(engineer or supervisory official) ___, of lawful age, being first duly sworn upon oath, states that this ___invoice, claim or contract) ___ is true and correct. Affiant further states that the ___(work, services or materials) ___, as shown by this invoice or claim, have been ___(completed or supplied) ___ in accordance with the plans, specifications, orders or requests furnished to the Affiant. Affiant further states that (s)he has not paid, given or donated or agree to pay, give or donate, either directly or indirectly, to any elected official, officer or employee of the State of Oklahoma any money or any other thing of value to obtain payment or the award of this contract.

Affiant (Engineer or other Supervisory
Official)

Subscribed and sworn to before me this _____ day of _____,
_____.

Notary Public

My Commission Expires:

BID BOND

We, the undersigned, _____,
 as Principal, and _____, as
 Surety, are hereby held and firmly bound unto _____
 _____, as Owner, in the penal sum of _____
 _____ for the payment of which, well and truly to be made,
 hereby jointly and severally bind ourselves, our successors and our
 assigns.

Signed this _____ day of _____, _____.

The condition of the above obligation is such that, whereas the
 Principal has submitted to _____ a
 certain bid, attached hereto and hereby made a part hereof, to enter into
 a contract, in writing, for the _____
 _____;
 _____;

NOW, THEREFORE, if said bid shall be rejected or if said bid shall
 be accepted and the Principal shall execute and deliver a contract in the
 form of the contract attached hereto (properly completed in accordance
 with said bid) and shall furnish a bond for faithful performance of said
 contract and for the payment of all persons performing labor or
 furnishing materials in connection therewith and shall in all other
 respects perform the agreement created by the acceptance of said bid,
 then this obligation shall be void; otherwise, the same shall remain in
 force and effect, it being expressly understood and agreed that the
 liability of the Surety for any and all claims hereunder shall, in no
 event, exceed the penal amount of this obligation as herein stated.

The Surety, for value received, hereby stipulates and agrees that the obligations of said Surety and its bonds shall in no way be impaired or affected by any extension of the time within which the Owner may accept such bid and said Surety does hereby waive notice of any such extension.

IN WITNESS WHEREOF, the Principal and the Surety have hereunto set their hands and seals and such of them as are corporations have caused their corporate seals to be hereto affixed and these presents to be signed by their proper officers the day and year first set forth above.

Principal

Surety

By: _____

ATTEST: (if by corporation)

Types Name & Title

Corporate Seal

C O N T R A C T

This contract, made and entered into by and between _____, as Party of the First Part, hereinafter designated as Contractor, and _____, as Party of the Second Part, hereinafter designated as the Owner, to-wit:

WHEREAS, the Contractor is the lowest and best bidder for:

for the total bid price, as accepted, of _____ Dollars, (\$_____);

NOW, THEREFORE, the Contractor, for the consideration herein named, hereby agrees to do and complete the work above mentioned in accordance with the plans adopted and approved by the Owner and on file in the office of the _____, which plans and specifications are made a part of this contract by reference as if attached hereto or written in detail herein.

It is further agreed that the Contractor will commence said work within _____ days from the date of the Work Order and perform same vigorously and continuously and complete the same on or before _____.

It is further agreed that payment for the aforesaid work or material will be made under the terms of the Contractor's bid, as accepted, as provided in the specifications and that, upon final completion of this contract work, the Contractor will receive the full compensation payment according to the schedule of prices as contained in his bid, as accepted, and that, upon receipt by the Contractor of final claim, the same shall be paid in full for all claims of every kind and description the Contractor may have arising out of this contract.

The Notice to Bidders, the Instructions to Bidders, the Special and General Provisions of specifications and the Contractor's Bid Proposal, each of said instruments on file in the office of the _____, are hereby referred to and, by reference thereto, are made a part of this contract as if fully written in detail or attached hereto.

IN WITNESS WHEREOF, the Parties of the First and Second Parts have hereunto set their hands and seals the _____ day of _____, ____.

SEAL

Contractor

ATTEST:

By: _____

by:

Typed Name & Title

Typed Name & Title

SEAL

Owner

ATTEST:

By: _____

By:

Typed Name & Title

Typed Name & Title

GENERAL CONDITIONS

- | | |
|---|--|
| 1. Definitions | 17. Subsurface Conditions |
| 2. Additional Instructions &
Detail Drawings | 18. Suspension of Work,
Termination & Delay |
| 3. Scheduled, Reports and Records | 19. Payments to Contractor |
| 4. Drawings and Specifications | 20. Acceptance of Final
Payment as Release |
| 5. Shop Drawings | 21. Insurance |
| 6. Materials, Services & Facilities | 22. Contract Security |
| 7. Inspection & Testing | 23. Assignments |
| 8. Substitutions | 24. Indemnification |
| 9. Patents | 25. Separate Contracts |
| 10. Surveys, Permits, Regulations | 26. Subcontracting |
| 11. Protection of Work, Property,
Persons | 27. Engineer's Authority |
| 12. Supervision by Contractor | 28. Land and Rights-of-Way |
| 13. Changes in the Work | 29. Guaranty |
| 14. Changes in Contract Price | 30. Arbitration |
| 15. Time Completion & Liquidated Damages | 31. Taxes |
| 16. Correction of Work | |

1. DEFINITIONS: Wherever used in the contract documents, the following terms shall have the meanings indicated and shall be applicable to both the singular and plural thereof:
- a. Addenda: Written or graphic instruments issued prior to the execution of the agreement which modify or interpret the contract documents, drawings and specifications by additions, deletions, clarifications or corrections.
 - b. Bid: The offer or proposal of the bidder submitted on the prescribed form setting forth the prices for the work to be performed.
 - c. Bidder: Any person, firm or corporation submitting a bid for the work.
 - d. Bonds: Bid, performance, payment (statutory) and maintenance bonds and other instruments of security furnished by the Contractor and the Contractor's surety in accordance with the contract documents.
 - e. Change Order: A written order to the Contractor authorizing an addition, deletion or revision in the work within the general scope of the contract documents or authorizing an adjustment in the contract price or contract time.
 - f. Contract Documents: The contract, including Advertisement for Bids, Information for Bidders, Bid, Bid Bond, Agreement, Payment (Statutory) Bond, Performance Bond, Notice of Award, Notice to Proceed, Change Order, Drawings, Specifications and Addenda.

- g. Contract Price: The total monies payable to the Contractor under the terms and conditions of the contract documents.
- h. Contract Time: The number of calendar days stated in the contract documents for the completion of the work.
- i. Contractor: The person, firm or corporation with whom the Owner has executed the agreement.
- j. Drawings: The parts of the contract documents which show the characteristics and scope of the work to be performed and which have been prepared or approved by the engineer.
- k. Engineer: The person, firm or corporation named as such in the contract documents.
- l. Field Order: A written order effecting a change in the work not involving an adjustment in the contract price or an extension of the contract time, issued by the engineer to the Contractor during construction.
- m. Notice to Proceed: Written communication issued by the Owner to the Contractor authorizing him/her to proceed with the work and establishing the date for commencement of the work.
- n. Notice of Award: The written notice by Owner to the apparent successful bidder stating that, upon compliance by the apparent successful bidder with the conditions enumerated therein within the time specified, Owner will sign and deliver the agreement.
- o. Owner: A public or quasi-public body or authority, corporation, association, partnership or individual for whom the work is to be performed.
- p. Project: The undertaking to be performed as provided in the contract documents.
- q. Resident Project Representative: The authorized representative of the Owner who is assigned to the project site or any part thereof.
- r. Shop Drawings: All drawings, diagrams, illustrations, brochures, schedules and other data which are prepared by the Contractor, a subcontractor, manufacturer, supplier or distributor which illustrate how specific portions of the work shall be fabricated or installed.
- s. Specifications: A part of the contract documents consisting of written descriptions of a technical nature of materials, equipment, construction systems, standards and workmanship.

- t. Subcontractor: An individual, firm or corporation having a direct contract with Contractor or with any other subcontractor for the performance of a part of the work at the site.
- u. Substantial Completion: That date certified by the engineer when the construction of the project or a specified part thereof is sufficiently completed, in accordance with the contract documents, to allow the project or specified part to be utilized for the purposes for which it is intended.
- v. Supplemental General Conditions: Modifications to General Conditions required by a Federal agency for participation in the project and approved by the agency in writing prior to being included in the contract documents or such requirements that may be imposed by applicable State laws.
- w. Supplier: Any person or organization who supplies materials or equipment for the work, including that fabricated to a special design, but who does not perform labor at the site.
- x. Work: All labor necessary to produce the construction required by the contract documents and all materials and equipment incorporated or to be incorporated in the project.
- y. Written Notice: Any notice in writing to any party to the agreement regarding any part of this agreement. Said written notice shall be considered delivered and the service thereof completed when posted by certified or registered mail to said party at their last given address or delivered in person to said party or their authorized representative at the project site.

2. ADDITIONAL INSTRUCTIONS AND DETAIL DRAWINGS:

- a. The Contractor may be furnished additional instructions and detail drawings by the engineer as necessary to carry out the work required by the contract documents.
- b. The additional drawings and instructions thus supplied will become a part of the contract documents. The Contractor shall carry out the work in accordance with the additional detail drawings and instructions.

3. SCHEDULES, REPORTS AND RECORDS:

- a. The Contractor shall submit to the Owner such schedule of quantities and costs, progress schedules, payrolls, reports, estimates, records and other data, where applicable, as are required by the contract documents for the work to be performed.

- b. Prior to the first partial payment estimate, the Contractor shall submit construction progress schedules showing the order in which the Contractor proposes to carry on the work, including dates at which the various parts of the work will be started, estimated date of completion of each part and, as applicable:
 - (1) The dates at which special detail drawings will be required; and
 - (2) Respective dates for submission of shop drawings, the beginning of manufacture, the testing and the installation of materials, supplies and equipment.
- c. The Contractor shall also submit a schedule of payments the Contractor anticipates will be earned during the course of the work.

4. DRAWINGS AND SPECIFICATIONS:

- a. The drawings and specifications are tools to be used by the Contractor to enable the Contractor to furnish all labor, materials, tools, equipment and transportation necessary for the proper performance of the work in accordance with the contract documents and all incidental work necessary to complete the project in an acceptable manner, ready for use, occupancy or operation by the Owner.
- b. In case of conflict between the drawings and the specifications, the specifications shall govern. Figure dimensions and drawings shall govern over scale dimensions and detail drawings shall govern over general drawings.
- c. Any discrepancies found between the drawings and specifications and site conditions or any inconsistencies or ambiguities in the drawings or specifications shall be immediately reported, in writing, to the engineer, who shall promptly correct such inconsistencies or ambiguities in writing. Work done by the Contractor after discovery of such discrepancies, inconsistencies or ambiguities shall be done at the Contractor's risk.

5. SHOP DRAWINGS:

- a. The Contractor shall provide shop drawings as may be necessary for the performance of the work as required by the contract documents. The engineer shall promptly review all shop drawings. The engineer's approval of any shop drawing shall not release the Contractor from responsibility for deviations from the contract documents. The approval of any shop drawing that substantially deviates from the requirement of the contract documents shall be evidenced by a change order.

- b. When submitted for the engineer's review, shop drawings shall bear the Contractor's certification that he has reviewed checked and approved the shop drawings and that they are in conformance with the requirements of the contract documents.

6. MATERIALS, SERVICES AND FACILITIES:

- a. It is understood that, except as otherwise specifically stated in the contract documents, the Contractor shall provide and pay for all materials, labor, tools, equipment, water, light, power, transportation, supervision, temporary construction of any nature and all other services and facilities of any nature whatsoever necessary to execute, complete and deliver the work within the specified time.
- b. Materials and equipment shall be so stored as to preserve their quality and fitness for the work. Stored materials and equipment to be incorporated in the work shall be located to facilitate prompt inspection.
- c. Manufactured articles, materials and equipment shall be applied, installed, connected, erected, used, cleaned and conditioned as directed by the manufacturer.
- d. Materials, supplies and equipment shall be in accordance with samples submitted by the Contractor and approved by the engineer.
- e. Materials, supplies or equipment to be incorporated into the work shall be purchased by the Contractor or the subcontractor free and clear of chattel mortgages, conditional sales contracts or other agreements by which an interest is retained by the seller.

7. INSPECTION AND TESTING:

- a. All materials and equipment used in the construction of the project shall be subject to adequate inspection and testing in accordance with generally accepted standards as required and defined in the contract documents.
- b. The Owner shall provide all inspection and testing services not required by the contract documents.
- c. The Contractor shall provide, at the Contractor's expense, the testing and inspection services required by the contract documents.
- d. If the contract documents, laws, ordinance, rules, regulations or orders of any public authority having jurisdiction require any specific work to be inspected, tested or approved by someone other than the Contractor, the Contractor will give

the engineer timely notice of readiness. The Contractor will then furnish the engineer the required certificates of inspection, testing or approval.

- e. Inspections, tests or approvals by the engineer or others shall not relieve the Contractor from the obligation to perform the work in accordance with the requirements of the contract documents.
 - f. The engineer and the engineer's representatives will at all times have access to the work. In addition, authorized representatives and agents of any participating Federal or State agency shall be permitted to inspect all work, materials, payrolls, records of personnel, invoices of materials and other relevant data and records. The Contractor will provide proper facilities for such access and observation of the work and for any inspection or testing thereof.
 - g. If any work is covered contrary to the written instructions of the engineer, it must, if requested by the engineer, be uncovered for the engineer's observation and the covering replaced at the Contractor's expense.
 - h. If the engineer considers it necessary or advisable that covered work be inspected or tested by others, the Contractor, at the engineer's request, will uncover, expose or otherwise make available for observation, inspection or testing, as the engineer may require, that portion of the work in question, furnishing all necessary labor, materials, tools and equipment. If it is found that such work is defective, the Contractor will bear all expenses of such uncovering, exposing, observing, inspecting and testing and of satisfactory reconstruction. If, however, such work is not found to be defective, the Contractor will be allowed an increase in the contract price or an extension of the contract time, or both, directly attributable to such uncovering, exposing, observing, inspecting, testing and reconstruction and an appropriate change order shall be issued.
8. SUBSTITUTIONS: Whenever a material, article or piece of equipment is identified on the drawings or specifications by referenced to brand name or catalog number, it shall be understood that this is referenced for the purpose of defining the performance or other salient requirements and that other products of equal capacities, quality and function shall be considered. The Contractor may recommend the substitution of a material, article or piece of equipment of equal substance and function for those referred to in the contract documents by reference to brand name or catalog number and if, in the opinion of the engineer, such material, article or piece of equipment is of equal substances and function to that specified, the engineer may approve its substitution and use by the Contractor. Any cost differential shall be deductible from the contract price and the contract documents shall be appropriately

modified by change order. The Contractor warrants that if substitutes are approved, no major changes in the function or general design of the project will result. Incidental changes or extra component parts required to accommodate the substitute will be made by the Contractor without a change in the contract price or contract time.

9. The Contractor shall pay all applicable royalties and license fees and shall defend all suits or claims for infringement of any patent rights and save the Owner harmless from loss on account thereof, except that the Owner shall be responsible for any such loss when a particular process, design or product of a particular manufacturer or manufacturers is specified; however, if the Contractor has reason to believe that the design, process or product specified is an infringement of a patent, the Contractor shall be responsible for such loss unless the Contractor promptly gives such information to the engineer.

10. SURVEYS, PERMITS, REGULATIONS:
 - a. The Owner shall furnish all boundary surveys and establish all base lines for locating the principal component parts of the work, together with a suitable number of benchmarks adjacent to the work as shown in the contract documents. From the information provided by the Owner, unless otherwise specified in the contract documents, the Contractor shall develop and make all detail surveys needed for construction, such as slope stakes, batter boards, stakes for pipe locations and other working points, lines, elevations and cut sheets.

 - b. The Contractor shall carefully preserve benchmarks, reference points and stakes and, in case of willful or careless destruction, shall be charged with the resulting expense and shall be responsible for any mistake that may be caused by their unnecessary loss or disturbance.

 - c. Permits and licenses of a temporary nature necessary for the performance of the work shall be secured and paid for by the Contractor unless otherwise stated in the Supplemental General Conditions. Permits, licenses and easements for permanent structures or permanent changes in existing facilities shall be secured and paid for by the Owner unless otherwise specified. The Contractor shall give all notices and comply with all laws, ordinances, rules and regulations bearing on the conduct of the work as drawn and specified. If the Contractor observes that the contract documents are at variance therewith, the Contractor shall promptly notify the engineer in writing and any necessary changes shall be adjusted as provided in Section 13, CHANGES IN THE WORK.

11. PROTECTION OF WORK, PROPERTY AND PERSONS:

- a. The Contractor will be responsible for initiating, maintaining and supervising all safety precautions and program in connection with the work. The Contractor will take all necessary precautions for the safety of and will provide the necessary protection to prevent damage, injury or loss to all employees on the work and other persons who may be affected thereby and for the protection of all the work and all materials or equipment to be incorporated therein, whether in storage on or off the site, and other property at the site or adjacent thereto, including trees, shrubs, lawns, walks, pavements, roadways, structures and utilities not designated for removal, relocation or replacement in the course of construction.
- b. The Contractor will comply with all applicable laws, ordinances, rules, regulations and orders of any public body having jurisdiction. The Contractor will erect and maintain, as required by the conditions and progress of the work, all necessary safeguards for safety and protection. The Contractor will notify owners of adjacent utilities when performance of the work may affect them. The Contractor will remedy all damage, injury or loss to any property caused, directly or indirectly, in whole or in part, by the Contractor or any subcontractor or anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable, except damage or loss attributable to the fault of the contract documents or to the acts or omissions of the Owner or the engineer or anyone employed by either them or anyone for whose acts either of them may be liable, and not attributable, directly or indirectly, in whole or in part, to the fault or negligence of the Contractor.
- c. In emergencies affecting the safety of persons or the work or property at the site or adjacent thereto, the Contractor, without special instructions or authorization from the engineer or Owner, shall act to prevent the threatened damage, injury or loss. The Contractor will give the engineer prompt written notice of any significant changes in the work or deviations from the contract documents caused thereby and a change order shall thereupon be issued covering the changes and deviations involved.

12. SUPERVISION BY CONTRACTOR: The Contractor will supervise and direct the work. He will be solely responsible for the means, methods, techniques, sequences and procedures of construction. The Contractor will employ and maintain on the work a qualified supervisor or superintendent who shall have been designated in writing by the Contractor as the Contractor's representative at the site. The supervisor shall have full authority to act on behalf of

the Contractor and all communications given to the supervisor shall be as binding as if given to the Contractor. The supervisor shall be present on the site at all times as required to perform adequate supervision and coordination of the work.

13. CHANGES IN THE WORK:

- a. The Owner may, at any time, as the need arises, order changes within the scope of the work without invalidating the agreement. If such changes increase or decrease the amount due under the contract documents or in the time required for performance of the work, an equitable adjustment shall be authorized by change order.
- b. The engineer may also, at any time, by issuing a field order, make changes in the details of the work. The Contractor shall proceed with the performance of any changes in the work so ordered by the engineer unless the Contractor believes that such field order entitles the Contractor to a change in contract price or time, or both, in which event, the Contractor shall give the engineer written notice thereof within seven (7) days after the receipt of the ordered change. Thereafter, the Contractor shall document the basis for the change in contract price or time within thirty (30) days. The Contractor shall not execute such changes pending the receipt of an executed change order or further instruction from the Owner.

14. CHANGES IN CONTRACT PRICE: The contract price may be changed only by a change order. The value of any work covered by a change order or of any claim for increase or decrease in the contract price shall be determined by one or more of the following methods in the order of precedence listed below:

- a. Unit prices previously approved;
- b. An agreed lump sum.

15. TIME FOR COMPLETION AND LIQUIDATED DAMAGES:

- a. The date of beginning and the time for completion of the work are essential conditions of the contract documents and the work embraced shall be commenced on a date specified in the Notice to Proceed.
- b. The Contractor will proceed with the work at such rate of progress as to ensue full completion within the contract time. It is expressly understood and agreed by and between the Contractor and the Owner that the contract time for the completion of the work described herein is a reasonable time, taking into consideration the average climatic and economic conditions and other factors prevailing in the locality of the work.

- c. If the Contractor shall fail to complete the work within the contract time or extension of time granted by the Owner, then the Contractor will pay to the Owner the amount for liquidated damages as specified in the bid for each calendar day the Contractor shall be in default after the time stipulated in the contract documents.
- d. The Contractor shall not be charged with liquidated damages or any excess cost when the delay in completion of the work is due to the following and the Contractor has promptly given written notice of such delay to the Owner or engineer:
 - (1) Any preference, priority or allocation order duly issued by the Owner;
 - (2) Unforeseeable causes beyond the control and without the fault or negligence of the Contractor, including but not restricted to acts of God, acts of the public enemy, acts or the Owner, acts of another contractor in the performance of a contract with the Owner, fires, flood, epidemics, quarantine, restrictions, strikes, freight embargoes and abnormal and unforeseeable weather; and
 - (3) Any delays of subcontractors occasioned by any of the causes specified in paragraphs 15d (1) and 15d (2) of this article.

16. CORRECTION WORK:

- a. The Contractor shall promptly remove from the premises all work rejected by the engineer for failure to comply with the contract documents, whether incorporated in the construction or not, and the Contractor shall promptly replace and re-execute the work in accordance with the contract documents without expense to the Owner and shall bear the expense of making good all work of other contractors destroyed or damages by such removal or replacement.
- b. All removal and replacement work shall be done at the Contractor's expense. If the Contractor does not take action to remove such rejected work within ten (10) days after receipt of written notice, the Owner may remove such work and store the materials at the expense of the Contractor.

17. SUBSURFACE CONDITIONS:

- a. The Contractor shall promptly, before such conditions are disturbed except in the event of an emergency, notify the Owner by written notice of:
 - (1) Subsurface or latent physical conditions at the site differing materially from those indicated in the contract documents; or

- (2) Unknown physical conditions at the site of an unusual nature which differ materially from those ordinarily encountered and generally recognized as inherent in the work the character provided for in the contract documents.
 - b. The Owner shall promptly investigate the conditions and, if it is found that such conditions do so materially differ and cause an increase or decrease, an adjustment shall be made and the contract documents shall be modified by a change order. Any claim of the Contractor for adjustment hereunder shall not be allowed unless the required written notice has been given and provided that the Owner may, if the Owner determines the facts so justify, consider and adjust any claims asserted before the date of final payment.
18. SUSPENSION OF WORK, TERMINATION AND DELAY:
- a. The Owner may suspend the work or any portion thereof for a period of not more than ninety (90) days or until such further time as agreed upon by the Contractor in a written notice to the Contractor and the engineer fixing the date on which work shall be resumed. The Contractor will resume that work on the date so fixed. The Contractor will be allowed an increase in the contract price or an extension of the contract time, or both, for any costs and/or delays incurred which are directly attributable to any suspension.
 - b. If any of the following conditions occur:
 - (1) The Contractor is adjudged bankrupt or insolvent or makes a general assignment for the benefit of its creditors;
 - (2) A trustee or receiver is appointed for the Contractor or for any of its property;
 - (3) Contractor files a petition to take advantage of any debtor's act or to reorganize under bankruptcy of applicable laws;
 - (4) The Contractor repeatedly fails to supply sufficiently skilled workmen or suitable materials or equipment;
 - (5) The Contractor repeatedly fails to make prompt payments to subcontractors or for labor, materials or equipment;
 - (6) The Contractor disregards laws, ordinance, rules, regulations or orders of any public body having jurisdiction over the work;

- (7) The Contractor disregards the authority of the engineer or otherwise violates any provision of the contract documents;

then the Owner may, without prejudice to any other right or remedy and after giving the Contractor and its surety a minimum of ten (10) days from delivery of a written notice, terminate the services of the Contractor and take possession of the project and of all materials, equipment, tools, construction equipment and machinery thereon owned by the Contractor and finish the work by whatever method the Owner may deem expedient. In such case, the Contractor shall not be entitled to receive any further payment until the work is finished. If the unpaid balance of the contract price exceeds the direct and indirect costs of completing the project, including compensation for additional professional services, such excess shall be paid to the Contractor. If such costs exceed such unpaid balance, the Contractor will pay the difference to the Owner. Such costs incurred by the Owner will be determined by the engineer and incorporated in a change order.

- c. Where the Contractor's services have been so terminated by the Owner, said termination shall not affect any right of the Owner against the Contractor then existing or which may thereafter occur. Any retention or payment of monies by the Owner due the Contractor will not release the Contractor from compliance with the contract documents.
- d. After ten (10) days from the deliver of a written notice to the Contractor and the engineer, the Owner may, without cause and without prejudice to any other right or remedy, elect to abandon the project and terminate the contract. In such case, the Contractor shall be paid for all work executed and any expense sustained plus a reasonable profit.
- e. If, through no act or fault of the Contractor, the work is suspended for a period of more than ninety (90) days by the Owner or under an order of court or other public authority or the engineer fails to act on any request for payment within thirty (30) days after it is submitted or the Owner fails to pay the Contractor substantially the sum approved by the engineer or awarded by arbitrators within thirty (30) days of its approval and presentation, then the Contractor may, after ten (10) days from delivery of a written notice to the Owner and the engineer, terminate the contract and recover from the Owner payment for all work executed and all expenses sustained. In addition to and in lieu of terminating the contract, if the engineer has failed to act on a request for payment or if the Owner has failed to make payment as aforesaid, the Contractor may, upon ten (10) days written notice to the Owner and engineer, stop the work until paid all

amounts then due, in which event and upon resumption of the work, change orders shall be issued to adjust the contract price or extend the contract time, or both, to compensate for the costs and delays attributable to the stoppage of the work.

- f. If the performance of all or any portion of the work is suspended, delayed or interrupted as a result of a failure by the Owner or engineer to act within the time specified in the contract documents or if no time is specified, within a reasonable time, an adjustment in the contract price or an extension of the contract time, or both, shall be made by change order to compensate the Contractor for the costs and delays unnecessarily caused by the failure of the Owner or engineer.

19. PAYMENT TO CONTRACTOR:

- a. At least ten (10) days before each progress payment falls due (but not more often than once a month), the Contractor will submit to the engineer a partial payment estimate filled out and signed by the Contractor, covering the work performed during the period covered by the partial payment estimate and supported by such data as the engineer may reasonably require. If payment is requested on the basis of materials and equipment not incorporated in the work but delivered and suitably stored at or near the site, the partial payment estimate shall also be accompanied by supporting data, satisfactory to the Owner, which will establish the Owner's title to the material and equipment and protect the Owner's interest therein, including applicable insurance. The engineer will, within ten (10) days after the receipt of each partial payment estimate, either indicate approval of payment in writing and present the partial payment estimate to the Owner or return the partial payment estimate to the Contractor indicating in writing the reasons for refusing to approve payment. In the latter case, the Contractor may make the necessary corrections and resubmit the partial payment estimate. The Owner will, within ten (10) days of presentation of an approved partial payment estimate, pay the Contractor a progress payment on the basis of the approved partial payment estimate less the retainage. The retainage shall be an amount equal to 10% of said estimate until 50% of the work has been completed. At 50% completion, further partial payments shall be made in full to the Contractor and no additional amounts may be retained unless the engineer certifies that the job is not proceeding satisfactorily and amounts previously retained shall not be paid to the Contractor. At 50% completion or any time thereafter when the progress of the work is not satisfactory, additional amounts may be retained; however, in no event shall the total retainage be more than 10% of the value of the work completed. Upon substantial completion of the work, any amount retained may be paid to the Contractor. When the work has been

substantially completed except for work which cannot be completed because of weather conditions, lack of materials or other reasons which, in the judgment of the Owner, are valid reasons for non-completion, the Owner may make additional payments, retaining at all times an amount sufficient to cover the estimated cost of the work still to be completed.

- b. The request for payment may also include an allowance for the cost of major materials and equipment suitably stored either at or near the site.
- c. Prior to substantial completion, the Owner, with the approval of the engineer and with the concurrence of the Contractor, may use any completed or substantially completed portions of the work. Such use shall not constitute an acceptance of such portions of the work.
- d. The Owner shall have the right to enter the premises for the purpose of doing work not covered by the contract documents. This provision shall not be construed as relieving the Contractor of the sole responsibility for the care and protection of the work or the restoration of any damaged work except such as may be caused by agents or employees of the Owner.
- e. Upon completion and acceptance of the work, the engineer shall issue a certificate attached to the final payment request that the work has been accepted under the conditions of the contract documents. The entire balance found to be due to the Contractor, including the retained percentages, except such sums as may be lawfully retained by the Owner, shall be paid to the Contractor within thirty (30) days of completion and acceptance of the work.
- f. The Contractor will indemnify and save the Owner or the Owner's agents harmless from all claims growing out of the lawful demand of subcontractors, laborers, workmen, mechanics, material men and furnishers of machinery and parts therefore, equipment, tools and supplies incurred in the furtherance of the performance of the work. The Contractor shall, at the Owner's request, furnish satisfactory evidence that all obligations of the nature designated above have been paid, discharged or waived. If the Contractor fails to do so, the Owner may, after having notified the Contractor, either pay unpaid bills or withhold from the Contractor's unpaid compensation a sum of money deemed reasonably sufficient to pay any and all such lawful claims until satisfactory evidence is furnished that all liabilities have been fully discharged, whereupon payment to the Contractor shall be resumed in accordance with the terms of the contract documents. In no event shall these provisions be construed to impose any obligations upon the Owner to the Contractor, the Contractor's surety or any third party. In paying any unpaid

bills of the Contractor, any payment so made by the Owner shall be considered as a payment made under the contract documents by the Owner to the Contractor and the Owner shall not be liable to the Contractor for any such payments made in good faith.

- g. If the Owner failed to make payment within thirty (30) days after approval by the engineer, in addition to other remedies available to the Contractor, there shall be added to each such payment interest at the maximum legal rate commencing on the first day after said payment is due and continuing until the payment is received by the Contractor.
20. ACCEPTANCE OF FINAL PAYMENT AS RELEASE: Acceptance by the Contractor of final payment shall be and shall operate as a release to the Owner of all claims and all liability to the Contractor other than claims in stated amounts as may be specifically excepted by the Contractor for all things done or furnished in connection with this work and for every act and neglect of the Owner and others, relating or arising out of this work. Any payment, however, final or otherwise, shall not release the Contractor or its sureties from any obligations under the contract documents or the performance of the payment bonds.
21. INSURANCE:
- a. The Contractor shall purchase and maintain such insurance as will protect it from claims set forth below which may arise out of or result from the Contractor's execution of the work, whether such execution be by the Contractor, any subcontractor or by anyone directly or indirectly employed by any of them or by anyone for whose acts any of them may be liable.
 - (1) Claims under Workers' Compensation, disability benefit and other similar employee benefit acts;
 - (2) Claims for damages because of bodily injury, occupational sickness or disease or death of employees;
 - (3) Claims for damages because of bodily injury, sickness or disease or death of any person other than employees;
 - (4) Claims for damages covered by the usual personal injury liability coverage which is sustained by:
 - (a) Any person as a result of an offense directly or indirectly related to the employment of such person by the Contractor; or
 - (b) Any other person;

- (5) Claims for damages because of injury to or destruction of tangible property, including loss of use resulting there from.
- b. Certificates of insurance acceptable to Owner shall be filed with the Owner prior to commencement of work. These certificates shall contain a provision that coverage's afforded under the policies will not be cancelled unless at least fifteen-(15) days' prior written notice has been given to the Owner.
- c. The Contractor shall procure and maintain, at the Contractor's own expense, during the contract time, liability insurance as hereinafter specified:
- (1) Contractor's general public liability and property damage insurance, including vehicle coverage, issued to the Contractor and protecting the Contractor from all claims for personal injury, including death, and all claims for destruction of or damage to property arising out of or in connection with any operations under the contract documents, whether such operations be by the Contractor or by any subcontractor employed by the Contractor. Insurance shall be written with a limit of liability of not less than \$500,000 for all damages arising out of bodily injury, including death, at any time resulting there from, sustained by any one person in any one accident, and a limit of liability of not less than \$500,000 aggregate for any such damages sustained by two or more persons in any one accident. Insurance shall be written with a limit of liability of not less than \$200,000 for all property damage sustained by any one person in any one accident and a limit of liability not less than \$200,000 aggregate for any such damage sustained by two or more persons in any one accident.
- (2) The Contractor shall acquire and maintain, if applicable, fire and extended coverage insurance upon the project to the full insurable value thereof for the benefit of the Owner, the Contractor and the subcontractors, as their interest may appear. This provision shall in no way release the Contractor or the Contractor's surety from obligations under the contract documents to fully complete the project.
- d. The Contractor shall procure and maintain, at the Contractor's own expense, during the contract time, in accordance with the provisions of the laws of the State in which the work is performed, Workers' Compensation insurance, including occupational disease provisions, for all of the Contractor's employees at the site of the project and, in case any work is sublet, the Contractor shall require such subcontractor similarly to provide Workers' Compensation insurance,

including occupational disease provisions, for all of the latter's employees unless such employees are covered by the protection afforded by the Contractor. In case any class of employees engaged in hazardous work under this contract at the site of the project is not protected under the Workers' Compensation Statute, the Contractor shall provide and shall cause each subcontractor to provide adequate and suitable insurance for the protection of its employees not otherwise protected.

- e. The contractor shall secure, if applicable, "all risk" type Builder's risk insurance for work to be performed. Unless specifically authorized by the Owner, the amount of such insurance shall not be less than the contract price totaled in the bid. The policy shall cover not less than the losses due to fire, explosion, hail, lightning, vandalism, malicious mischief, wind, collapse, riot, aircraft and smoke during the contract time and until the work is accepted by the Owner. The policy shall name as the insured the Contractor and the Owner.

22. CONTRACT SECURITY:

- a. The Contractor shall, within ten (10) days after the receipt of the Notice of Award, furnish the Owner with a performance bond and a payment (statutory) bond in penal sums equal to the amount of the contract price, conditioned upon the performance by the Contractor of all undertakings, covenants, terms, conditions and agreements of the contract documents and upon the prompt payment by the Contractor to all persons supplying labor and materials in the performance of the work required by the contract documents. Such bonds shall be executed by the Contractor and a corporate bonding company licensed to transact such business in the State in which the work is to be performed and named on the current list of "Surety Companies Acceptable on Federal Bonds", as published in Treasury Department Circular Number 570. The expense of these bonds shall be borne by the Contractor. If, at any time, a surety on any such bond is declared bankrupt or loses its right to do business in the State in which the work is to be performed or is removed from the list of Surety Companies Acceptable on Federal Bonds, Contractor shall, within ten (10) days after notice from the Owner, substitute another bond and surety, both of which must be acceptable to Owner. The premiums on such bond shall be paid by the Contractor. No further payment shall be deemed due nor made until the new surety or sureties shall have furnished an acceptable bond to the Owner.

23. ASSIGNMENTS: Neither the Contractor nor the Owner shall sell, transfer, assign or otherwise dispose of the contract or any portion thereof or of any right, title or interest therein or any obligations thereunder without written consent of the other party.

24. INDEMNIFICATION:

- a. The Contractor will indemnify and hold harmless the Owner and the engineer and their agents and employees from and against all claims, damages, losses and expenses, including attorney's fees, arising out of or resulting from the performance of the work, provided that any such claims, damages, loss or expense is attributable to bodily injury, sickness, disease or death or to injury to or destruction of tangible property, including the loss of use resulting therefrom, which is caused in whole or in part by any negligent or willful act or omission of the Contractor, any subcontractor, anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable.
- b. In any and all claims against the Owner or the engineer or any of their agents or employees by any employee of the Contractor, any subcontractor, anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable, the indemnification obligation shall not be limited in any way by any limitation on the amount or type of damages, compensation or benefits payable by or for the Contractor or any subcontractor under the Workers' Compensation Act, disability benefits acts or other employee benefits acts.
- c. The obligation of the Contractor under this paragraph shall not extend to the liability of the engineer, its agents or employees arising out of the preparation or approval of maps, drawings, opinions, reports, surveys, change orders, designs or specifications.

25. SEPARATE CONTRACTS:

- a. The Owner reserves the right to let other contracts in connection with this project. The Contractor shall afford other contractors reasonable opportunity for the introduction and storage of their materials and the execution of their work and shall properly connect and coordinate the work with theirs. If the proper execution or results of any part of the Contractor's work depends upon the work of any other contractor, the Contractor shall inspect and promptly report to the engineer any defects in such work that render it unsuitable for such proper execution and results.
- b. The Owner may perform additional work related to the project or the Owner may let other contracts containing provisions similar to these. The Contractor will afford the other contractors who are parties to such contracts (or the Owner, if the Owner is performing the additional work) reasonable opportunity for the introduction and storage of materials and equipment and the execution of work and shall properly connect and coordinate the work with theirs.

- c. If the performance of additional work by other contractors or the Owner is not noted in the contract documents prior to the execution of the contract, written notice thereof shall be given to the Contractor prior to starting any such additional work. If the Contractor believes the performance of such additional work by the Owner or other involves it in additional expense or entitles it to an extension of the contract time, the Contractor may make a claim therefore as provided in Sections 14 and 15.

26. SUBCONTRACTING:

- a. The Contractor may utilize the services of specialty subcontracts on those parts of the work which, under normal contracting practices, are performed by specialty subcontractors.
- b. The Contractor shall not award work to subcontractor(s) in excess of fifty (50) percent of the contract price or in excess of fifty (50) percent of the labor and equipment required to install the project without prior written approval of the Owner.
- c. The Contractor shall be as fully responsible to the Owner for the acts and omissions of its subcontractors and of persons either directly or indirectly employed by them as the Contractor is for the acts and omissions of persons directly employed by the Contractor.
- d. the Contractor shall cause appropriate provisions to be inserted in all subcontracts relative to the work to bind subcontractors to the Contractor by the terms of the contract documents insofar as applicable to the work of subcontractors and to give the Contractor the same power regarding termination of any subcontract that the Owner may exercise over the Contractor under any provision of the contract documents.
- e. Nothing contained in this contract shall create any contractual relationship between any subcontractor and the Owner.

27. ENGINEER'S AUTHORITY:

- a. The engineer shall act as the Owner's representative during the construction period, shall decide questions which may arise as to quality and acceptability of materials furnished and work performed and shall interpret the intent of the contract documents in a fair and unbiased manner. The engineer will make visits to the site and determine if the work is preceding in accordance with the contract documents.

- b. The Contractor will be held strictly to the intent of the contract documents in regard to the quality of materials, workmanship and execution of the work. Inspections may be made at the factory or fabrication plant of the source of material supply.
 - c. The engineer will not be responsible for the construction means, controls, techniques, sequences, procedures or construction safety.
 - d. The engineer shall promptly make decisions relative to interpretation of the contract documents.
28. LAND AND RIGHTS-OF-WAY:
- a. Prior to issuance of the Notice to proceed, the Owner shall obtain all land and right-of-way necessary for the carrying out and completion of the work to be performed pursuant to the contract documents, unless otherwise mutually agreed.
 - b. The Owner shall provide the Contractor with information that delineates and describes the lands owned and right-of-way acquired.
 - c. The Contractor shall provide, at its own expense and without liability to the Owner, any additional land and access thereto that the Contractor may desire for temporary construction facilities or for storage of materials.
29. GUARANTEE: The Contractor shall guarantee all materials and equipment furnished and work performed for a period of one (1) year from the date of substantial completion. The Contractor warrants and guarantees for a period of one (1) year from the date of substantial completion of the system that the completed system is free from all defects due to faulty materials or workmanship and the Contractor shall promptly make such corrections as may be necessary by reason of such defects, including the repairs of any damage to other parts of the system resulting from such defects. The Owner will give notice of observed defects with reasonable promptness. In the event the Contractor should fail to make such corrections, the Owner may do so and charge the Contractor the costs thereby incurred. The performance bond shall remain in full force and effect throughout the guarantee period.
30. ARBITRATION BY MUTUAL AGREEMENT:
- a. All claims disputes and other matters in question arising out of or relating to the contract documents or the breach thereof, except for claims which have been waived by making an acceptance of final payment as provided in Section 20, may be decided by arbitration if the parties mutually agree. Any agreement to arbitrate shall be specifically enforceable under

the prevailing arbitration law. The award rendered by the arbitrators shall be final and judgment may be rendered upon it in any court having jurisdiction thereof.

- b. Notice of the request for arbitration shall be filed in writing with the other party to the contract documents and a copy shall be filed with the engineer. Request for arbitration shall in no event be made on any claim, dispute or other matter in question that would be barred by the applicable statute of limitations.
 - c. The Contractor will carry on the work and maintain the progress schedule during any arbitration proceedings unless otherwise mutually agreed in writing.
31. TAXES: The Contractor will pay all sales, consumer, use and other similar taxes required by the laws of the place where the work is performed.

SUPPLEMENTAL GENERAL CONDITIONS

The provisions of the Supplemental General Conditions as described herein change, amend or supplement the General Conditions and shall supersede any conflicting provisions of this contract. All provisions of the General Conditions which are not changed, amended or supplemented remain in force.

- | | |
|--|---|
| 1. Contract Approval | 12. State Energy Policy |
| 2. Contract Change Orders | 13. Equal Opportunity |
| 3. Partial Payment Estimates | 14. Non-Resident Contractor
Registration |
| 4. Conflict of Interest | 15. Payment for Materials
Stored on Site |
| 5. Protection of Lives & Property | 16. Change order Approval |
| 6. Remedies | 17. Final Inspection |
| 7. Gratuities | 18. Partial Occupancy & Use |
| 8. Audit & Access to Records | 19. Permits Requiring Time
Schedule |
| 9. Small Minority & Women's Businesses | 20. Clean Up Release |
| 10. Anti-Kickback | |
| 11. Violating Facilities | |

1. CONTRACT APPROVAL:

- a. The Owner and the Contractor will furnish the Owner's attorney such evidence as is required to enable the Owner's attorney to complete and execute "Certificate of Owner's Attorney" (Section 14).
- b. When a performance bond and payment bond are provided, the United States, acting through HUD, will be named as co-obligee in these bonds unless prohibited by State law. Surety companies executing bonds must appear on the Treasury Department's most current list (Circular 570, as amended) and be authorized to transact business in the State where the project is located.
- c. This contract is expected to be funded in part with funds from HUD. Neither the United States nor any of its departments, agencies or employees is or will be a party to this contract or any subcontract.

2. CONTRACT CHANGE ORDERS:

- a. All changes affecting the project's construction cost or modifications of the terms or conditions of the contract must be authorized by means of a written contract change order that is mutually agreed to by the Owner and the Contractor. The contract change order will include extra work, work for which quantities have been altered from those shown on the bidding schedule and decreases or increases in the quantities of installed units which are different than those shown in the bidding schedule because of final measurements. All changes

must be recorded on a contract change order before they can be included in a partial payment estimate.

- b. A "Contract Change Order" shall be used to record contract changes.
- c. When the contract sum is in whole or in part based on unit prices, the Owner reserves the right to increase or decrease a unit price quantity as may be deemed reasonable or necessary in order to complete the work.

3. PARTIAL PAYMENT ESTIMATES:

- a. "Partial Payment Estimates" shall be used when estimating periodic payments due the Contractor.
- b. The Owner may, after consultation with the architect/engineer, withhold or, on account of subsequently discovered evidence, nullify, in whole or in part, any approved partial payment estimate to such extent as may be necessary to protect the Owner from loss on account of:
 - (1) Defective work not remedied;
 - (2) Claims filed;
 - (3) Failure of Contractor to make payments properly to subcontractors or suppliers;
 - (4) A reasonable doubt that the work can be completed for the balance then unpaid;
 - (5) Damage to another contractor;
 - (6) Performance of work in violation of the terms of the contract documents.
- c. Where work on unit price items is substantially complete but lacks testing, clean-up and/or corrections, amounts shall be deducted from unit prices in partial payment estimates to amply cover such testing, cleanup and/or corrections.
- d. When the items in 3.b. and 3.c. are cured, payment shall be made for amounts withheld because of them.
- e. Payments will not be made that would deplete the retainage or place in escrow any funds required for retainage or invest the retainage for the benefit of the contract.

4. CONFLICT OF INTEREST:

a. Unacceptable Bidders:

(1) No engineer or architect (individual or firm, including persons they employ) who has prepared plans and specifications will be considered an acceptable bidder. Any firm or corporation in which such engineer or architect (including persons they employ) is an officer or an employee or holds or controls a substantial interest will not be considered an acceptable bidder.

(2) Contracts or purchases by the Contractor shall not be awarded or made to a supplier or manufacturer if the engineer or architect (firm or individual) who prepared the plans and specifications has a corporate or financial affiliation with the supplier or manufacturer. Bids will not be awarded to firms or corporations owned or controlled wholly or in part by a member of the governing body of the Owner or to an individual who is such a member.

b. None of the Owner's officers, employees or agents shall engage in the award or administration of this contract if a conflict of interest, real or apparent would be involved. Such a conflict would arise when the employee, officer or agent, any member of his immediate family, his partner or an organization which employs him or is about to employ him, or any of the above, has a financial or other interest in the Contractor. None of the Owner's officers, employees or agents shall solicit or accept gratuities, favors or anything of monetary value from the Contractor or subcontractor.

5. PROTECTION OF LIVES AND PROPERTY:

a. In order to protect the lives and health of its employees under the contract, the Contractor shall comply with all pertinent provisions of the Occupational Safety and Health Administration (OSHA) and any State safety and health agency requirements.

b. The Contractor alone shall be responsible for the safety, efficiency and adequacy of its plant, appurtenances and methods and for any damage which may result from their failure or their improper construction, maintenance or operation.

6. REMEDIES: Unless otherwise provided in this contract, all claims, counterclaims, disputes and other matters in question between the Owner and the Contractor arising out of or relating to this contract or the breach thereof will be decided by arbitration, if the parties mutually agree, or in a court of competent jurisdiction with the State in which the Owner is located.

- a. The arbitration provisions of this section may be initiated by either party to this contract by filing with the other party and the engineer/architect a written request for arbitration.
- b. Each party to this contract will appoint one arbitrator and the two arbitrators will select the third arbitrator.
- c. The arbitrators will select a hearing location as close to the Owner's locale as possible.
- d. The procedure for conducting the hearing will follow the Construction Industry Arbitration Rules of the American Arbitration Association.

7. GRATUITIES:

- a. If the Owner finds, after a notice and hearing, that the Contractor or any of the Contractor's agents or representatives offered or gave gratuities (in the form of entertainment, gifts or otherwise) to any official, employee or agent of the Owner in an attempt to secure this contract or favorable treatment in awarding, amending or making any determinations related to the performance of this contract, the Owner may, by written notice to the Contractor, terminate this contract. The Owner may also pursue other rights and remedies that the Law or this contract provides. However, the existence of the facts on which the Owner bases such findings shall be an issue and may be reviewed in proceedings under the remedies clause of this contract.
- b. In the event this contract is terminated as provided in paragraph 7.a., the Owner may pursue the same remedies against the Contractor as it could pursue in the event of a breach of the contract by the Contractor. As a penalty, in addition to any other damages to which it may be entitled by law, the Owner may pursue exemplary damages in an amount determined by the Owner, which shall be not less than three or more than ten times the cost the Contractor incurs in providing any gratuities to any such officer or employee.

8. AUDIT AND ACCESS TO RECORDS: For all negotiated contracts except those of \$10,000 or less, HUD, the Comptroller General, the Owner or any of their duly-authorized representatives shall have access to any books, documents, papers and records of the Contractor which are pertinent to the contract for the purpose of making audits, examination, excerpts and transcriptions. The Contractor shall maintain all required records for three years after final payment is made and all other pending matters are closed.

9. SMALL, MINORITY AND WOMEN'S BUSINESSES: If the Contractor intends to let any subcontracts for a portion of the work, the Contractor shall take affirmative steps to assure that small, minority and women's businesses are used when possible as sources of supplies,

equipment, construction and services. Affirmative steps shall consist of:

- a. Including qualified small, minority and women's businesses on solicitation lists;
 - b. Assuring that small, minority and women's businesses on solicited whenever they are potential sources;
 - c. Dividing total requirements when economically feasible;
 - d. Establishing delivery schedules where the requirements of the work permit, which will encourage participation by small, minority and women's businesses.
 - e. Using the services and assistance of the Small Business Administration and the Minority Business Development Agency of the U.S. Department of Commerce;
 - f. Requiring each party to a subcontract to take the affirmative steps of this section; and
 - g. Contractors are encouraged to procure goods and services from labor surplus area firms.
10. ANTI-KICKBACK: The Contractor shall comply with the Copeland Anti-Kickback Act (18 USC §874) as supplemented in Department of Labor regulations 929 CFR 3). This Act provides that each Contractor shall be prohibited from inducing, by any means, any person employed in the construction, completion or repair of public facilities to give up any part of the compensation to which they are otherwise entitled. The Owner shall report all suspected or reported violations to FmHA.
11. VIOLATING FACILITIES: Where this contract exceeds \$100,000, the Contractor shall comply with all applicable standards, orders or requirements issued under the Clean Water Act (33 USC §1368), Executive Order 11738 and Environmental Protection Agency regulations (40 CFR 15), which prohibit the awarding of non-exempt Federal contracts, grants or loans to facilities included on the EPS's list of violating facilities. The Contractor will report violations to the EPA.
12. STATE ENERGY POLICY: The Contractor shall comply with the Energy Policy and Conservation Act (P.L. 94-163). Mandatory standards and policies relating to energy efficiency contained in the State Energy Conservation Plan shall be utilized.
13. EQUAL OPPORTUNITY REQUIREMENTS: For all contracts in excess of \$10,000, the Contractor shall comply with Executive Order 11246 entitled "Equal Employment Opportunity", as amended by Executive Order 11375 and as supplemented in Department of Labor regulations (41 CFR 60).

- a. The Contractor's compliance with Executive Order 11246 shall be based on its implementation of the Equal Opportunity Clause, specific affirmative action obligations required by the Standard Federal Equal Employment Opportunity Construction Contract Specifications as set forth in 41 CFR 60-4, and its efforts to meet the goals established for the geographical area where the contract is to be performed. The hours of minority and female employment and training must be substantially uniform throughout the length of the contract and throughout each trade. The Contractor shall make a good faith effort to employ minorities and women evenly on each of its projects. The transfer of minority or female employees or trainees from contractor to contractor or from project to project for the sole purpose of meeting the Contractor's goals shall be a violation of the contract, the Executive Order and the regulations in 41 CFR 60-4. Compliance with the goals will be measured against the total work hour performed.
 - b. The Contractor shall provide written notification to the Director of the Office of Federal Contract Compliance Program within 10 working days of the award of any construction subcontract in excess of \$10,000 at any tier for construction work under the contract resulting from this solicitation. The notification shall list the name, address and telephone number of the subcontractor, employer identification number, estimated dollar amount of the subcontract, estimated starting and completion dates of the subcontract and the geographical area in which the contract is to be performed.
14. NON-RESIDENT CONTRACTOR REGISTRATION: Any non-resident Contractor doing business in the State of Oklahoma shall register with the Oklahoma Tax Commission, the Oklahoma Employment Security Commission, the State Industrial Court and the County Assessor of each county in which contract work will be performed. This must be done prior to commencing work under the contract.
15. PAYMENT FOR MATERIAL STORED ON SITE: The following items will be required if the Contractor requests payment for material stored on the site (see Paragraph 19.b. of the General Conditions):
- a. Invoices, approved and initialed by the consulting engineer and the Owner, showing the quantity, size, cost, etc., of the material;
 - b. Payment will be made only for material stored in a location approved by the Owner. The storage area must provide adequate protection from the elements and the material must be stored so it can be promptly inspected. Material strung throughout the job site will not be considered properly stored.
 - c. The ten percent retainer that applies to material installed will also apply to materials stored on the site;

- d. When payment for material stored on the site is received, a paid invoice for that payment from the supplier must be submitted to the Owner prior to the payment of the next partial pay estimate.
16. CHANGE ORDER APPROVAL: All change orders must be approved by the Owner.
 17. FINAL INSPECTION: A final inspection will be made by the Owner before final payment is made. Final payment will not be made until the Owner certifies in writing that the construction has been completed as planned. If the Oklahoma State Department of Health has issued a permit and approved the plans and specifications on this project, they must concur in the final inspection.
 18. PARTIAL OCCUPANCY AND USE: The Owner, upon advance written notification to the Contractor, shall have the right to occupy and use any completed or partially-completed portions of the project, regardless of the percentage of completion of the entire project, when such occupancy and use is to the Owner's best interest. Such partial occupancy and use shall be upon the following terms:
 - a. The engineer shall make an inspection of the portion or portions of the project concerned and report to the Owner his findings as to the acceptability and completeness of the work. The engineer's report shall include a list of items to be completed or corrected before final payment.
 - b. The Owner, upon acceptance of the engineer's report, shall give written notice to the Contractor of the Owner's intent to occupy and use said portions of the project. The Owner's notice shall include a copy of the engineer's report, shall clearly identify the portions of the project to be occupied and used and shall establish the date of said occupancy and use.
 - c. From the date thus established, the Owner shall assume all responsibilities for operation, maintenance and the furnishing of water, gas and electrical power for the portions of the project thus occupied and used. The Owner shall have the right to exclude the Contractor from those portions of the project but shall provide the Contractor with reasonable access to complete or correct necessary items of work.
 - d. The guarantee required by the General Conditions shall not begin until completion and final acceptance of the entire project except as to items of equipment specified, such as instrumentation, electrical and mechanical equipment, which are thus used by the Owner. For said equipment, the warranty shall start from the date established in the written notice from the Owner.

- e. Occupancy or use of any space in the project shall not constitute acceptance of work not performed in accordance with the contract or relieve the Contractor of liability to perform any work required by the contract but not completed at the time of said occupancy and use.
 - f. The Contractor shall not be held responsible for fair wear and tear or damage resulting from said occupancy except to the extent such damage is covered by the warranty.
 - g. The partial occupancy and use of any portion or portions of the project by the Owner shall not constitute grounds for claims by the Contractor for release of any amounts retained from payments under the provisions of the contract. The retained amounts will not be due until completion of the entire project for final acceptance and final payment as set forth in the General Conditions.
19. PERMITS REQUIRING TIME SHHEDULE: The Contractor shall be responsible for contacting all Federal, State, County or railroad personnel required to be contacted and as set forth in any permits with respect to time schedule before commencing any work for which a permit is required.
20. CLEAN-UP RELEASE: The Contractor shall secure a cleanup release satisfactory to the Owner from any Federal, State, county or railroad agency after the work for which a permit has been obtained has been completed.

PERFORMANCE BOND

_____, as Principal,
 and _____, a
 corporation organized under the laws of the State of _____, as
 surety, are held and firmly bound unto _____
 _____, in the penal sum of _____
 _____ Dollars (\$_____), in lawful money
 of the United States of America, for the payment of which, well and truly
 to be made, we bind ourselves and each of us, our heirs, executors,
 administrators, trustees, successors and assigns, jointly and severally,
 firmly by these presents.

The condition of this obligation is such that, whereas said
 Principal entered into a written contract with _____
 _____, dated _____,
 for _____,
 all in compliance with the plans and specifications therefore, made a
 part of said contract and on file in the office of

(Name and Address of Agency)

NOW, THEREFORE, if said Principal shall, in all particulars, well, truly
 and faithfully perform and abide by said contract and each and every
 covenant, condition and part thereof and shall fulfill all obligations
 resting upon said Principal by the terms of said contract and said
 specifications and if said Principal shall protect and save harmless said
 _____ from any pecuniary
 loss resulting from the breach of any of the items, covenants and
 conditions of said contract resting upon said Principal, then this
 obligation shall be null and void, otherwise to be and remain in full
 force and effect.

It is further expressly agreed and understood by the parties hereto that
 no changes or alterations in said contract and no deviations from the
 plan or mode of procedures herein fixed shall have the effect of

releasing the sureties, or any of them, from the obligations of this Bond.

IN WITNESS WHEREOF, the said Principal has caused these presents to be executed in its name and its corporate seal to be hereunto affixed by its duly-authorized officers and the said Surety has caused these presents to be executed in its name and its corporate seal to be hereunto affixed by its Attorney-In-Fact, duly authorized to do so, the day and year set forth below.

Dated this _____ day of _____, _____.

PRINCIPAL:

By:

ATTEST:

SURETY:

By:

Attorney-In-Fact

STATUTORY BOND

No. _____

We, _____, as Principal, and _____, a corporation organized under the laws of the State of _____, as Surety, are held and firmly bound unto the State of Oklahoma in the amount of _____ Dollars (\$_____) for the payment of which we hereby bind ourselves, our heirs, executors, administrators and assigns, jointly and severally, firmly by these presents.

Dated this ____ day of _____, _____.

WHEREAS, the said _____ did on _____ enter into a certain contract with _____ for the construction of _____;

AND WHEREAS, this bond is given in compliance with Oklahoma Statutes Annotated, 194, Title 61, Sections 1 and 2, as amended;

NOW, THEREFORE, the condition of the above obligation is such that, if the Principal shall pay all indebtedness incurred for labor, materials or rental of machinery or equipment furnished in the construction of said public building or in making said public improvements, then this obligation shall be void, otherwise to remain in full force and effect.

IN WITNESS WHEREOF we have hereunto set our hands and seals the day and year first above written.

By: _____
Bonding Company

ATTEST (If by corporation)

By:

Attorney

MAINTENANCE BOND
(Defect Bond)

_____, as Principal, and _____, a corporation organized under the laws of the State of _____ and authorized to transact business in the State of Oklahoma, as Surety, are held and firmly bound unto _____, (City, Town or Trust Authority) in the penal sum of _____ Dollars (\$_____) in lawful money of the United States of America, said sum being equal to one hundred percent (100%) of the contract price, for payment of which, well and truly to be made, we bind ourselves and each of us, our heirs, executors, administrators, trustees, successors and assigns, jointly and severally, firmly by these presents.

The condition of this obligation is such that, whereas said Principal entered into a written contract with _____ (City, Town or Trust Authority) dated _____, _____, for _____

_____ all in compliance with the plans and specifications therefore, made a part of said contract and on file in the office of _____;

NOW, THEREFORE, if said Principal shall pay or cause to be paid to _____ all damage, loss and expense which may (City, Town or Trust Authority) result by reason of defective materials and/or workmanship in connection with said work occurring within a period of one (1) year from and after the acceptance of said project by _____, (City, Town or Trust Authority) then this obligation shall be null and void, otherwise to be and remain in full force and effect.

It is further expressly agreed and understood by the parties that no changes or alterations in said contract and no deviations from the plan or mode of procedures herein fixed shall have the effect of releasing the sureties, or any of them, from the obligations of this Bond.

IN WITNESS WHEREOF, the said Principal has caused these presents to be executed in its name and its corporate seal to be hereunto affixed by its duly-authorized officers and the said Surety has caused these

presents to be executed in its name and its corporate seal to be hereunto affixed by its Attorney-In-Fact, duly authorized so to do, the day and year set forth below.

DATED this _____ day of _____, _____.

PRINCIPAL:

By:

ATTEST:

SURETY:

By:

Attorney-In-Fact

INSURANCE REQUIREMENTS

Name _____ of _____ Insured:
 Description _____ of _____ Work:
 Location _____ of _____ Work:

<u>Kind of Insurance</u>	<u>Minimum Coverage</u>	<u>Expected Dates Coverage Needed</u>	
		<u>from</u>	<u>To</u>
Workers' Compensation	Legal Amount	_____	_____
General Public Liability and Property Damage, Including Vehicle Coverage:			
Bodily Injury - Each Person	\$500,000	_____	_____
Bodily Injury - Each Accident	\$500,000	_____	_____
Property Damage - Each Person	\$200,000	_____	_____
Property Damage - Aggregate Limit	\$200,000	_____	_____
Builder's Risk (If Required)	Full Coverage	_____	_____

Note: This covers all motor-driven vehicles such as cars, trucks, graders, etc.

In the event of any material change or cancellation of said policies, the company will give fifteen (15) days' written notice to _____, Owner.

Statements such as "will endeavor" and "but failure to notify Owner shall impose no obligation or liability of any kind upon the company" shall not be allowed.

Coverage shall be indicated by checking all boxes applicable. Insurance shall cover any hazards involved with the planned construction. Special coverage for blasting operations shall be listed separately on the certificates.

The Owner shall be listed as the certificate holder.

www.wdol.gov
INSERT WAGE RATES HERE

See Section 10, Form 5.1
Davis-Bacon Determination Request Form

(Must be submitted to ODOC for documentation and approval.)

Federal Labor Standards Provisions <http://www.hud.gov/offices/adm/hudclips/forms/files/4010.pdf>

EQUAL OPPORTUNITY PROVISIONS

- I. ACTIVITIES AND CONTRACTS NOT SUBJECT TO EXECUTIVE ORDER 11246, AS AMENDED (APPLICABLE TO FEDERALLY-ASSISTED CONSTRUCTION CONTRACTS AND RELATED SUBCONTRACTS \$10,000 AND UNDER):

During the performance of this contract, the Contractor agrees as follows:

- A. The Contractor shall not discriminate against any employee or applicant for employment because of race, color, religion, sex or national origin. The Contractor shall take affirmative action to ensure that applicants for employment are employed and that employees are treated during employment without regard to their race, color, religion, sex or national origin. Such action shall include but not be limited to the following: Employment, upgrading, demotion, transfer, recruitment or recruitment advertising, layoff or termination, rates of pay or other forms of compensation and selection for training, including apprenticeship.
- B. The Contractor shall post in conspicuous places, available to employees and applicants for employment, notices to be provided by the Contracting Officer setting forth the provisions of this non-discrimination clause. The Contractor shall state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex or national origin.

- II. EXECUTIVE ORDER 11246 (CONTRACTS/SUBCONTRACTS ABOVE \$10,000):

- A. Section 202 - Equal Opportunity (EEO) Clause: During the performance of this contract, the Contractor agrees as follows:
1. The Contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, national origin, disability or covered veteran status. The Contractor will take affirmative action to ensure that applicants are employed and that employees are treated during employment without regard to their race, color, religion, sex, national origin, disability or covered veteran status. Such action shall include but not be limited to the following: Employment, upgrading, demotion, transfer, recruitment or recruitment advertising, layoff or termination, rates of pay or other forms of compensation and selection for training, including apprenticeship. The Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided setting forth the provisions of this non-discrimination clause.

2. The Contractor will, in all solicitations or advertisements for employment placed by or on behalf of the Contractor, state that all qualified applicants will receive consideration without regard to race, color, religion, sex, national origin, disability or covered veteran status.
3. The Contractor will send to each labor union or representative of workers with which it has a collective bargaining agreement or other contract or understanding a notice to be provided by the Contract Compliance Officer advising the said labor union or workers' representatives of the Contractor's commitment under this section and shall post copies of the notice in conspicuous places available to employees and applicants for employment.
4. The Contractor will comply with all provisions of Executive Order 11246 of September 24, 1965, and of the rules, regulations and relevant orders of the Secretary of Labor.
5. The Contractor will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by rules and regulations and orders of the Secretary of Labor, or pursuant thereto, and will permit access to its books, records and accounts by ODOC and the Secretary of Labor for purposes of investigation and to ascertain compliance with such rules, regulations and orders.
6. In the event of the Contractor's non-compliance with the non-discrimination clauses of this contract or with any of the said rules, regulations or orders, this contract may be cancelled, terminated or suspended, in whole or in part, and the Contractor may be declared ineligible for further government contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, or by rule, regulation or order of the Secretary of Labor or as otherwise provided by law.
7. The Contractor will include the provisions of the sentence immediately preceding paragraph II.A.1. and the provisions of paragraphs II.A.1.-7. In every subcontract or purchase order unless exempted by rules, regulations or orders of the Secretary of Labor issued pursuant to Section 204 of Executive Order 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The Contractor will take such action with respect to any subcontract or purchase order as ODOC may direct as a means of enforcing such provisions, including sanctions for non-compliance, provided, however, that in the event a Contractor becomes involved in or is threatened with litigation with a

subcontractor or vendor as a result of such direction by ODOC, the Contractor may request the United States to enter into such litigation to protect the interest of the United States.

B. Notice of Requirement For Affirmative Action to Ensure EEO (Executive Order 11246) (Applicable to Contracts/Subcontracts Exceeding \$10,000):

1. The offeror's or bidder's attention is called to the "Equal Opportunity Clause" and the "Standard Federal Equal Employment Opportunity Construction Contract Specifications" set forth herein.
2. Goals and Timetables: Contractor must make good faith efforts to meet their AA goals for employment of minorities and women in the construction industry.
 - a. The goals and timetables for minority and female participation, expressed in percentage terms, for the Contractor's aggregate work force in each trade on all construction work in the covered area are as follows:

Goals for Minority Participation For Each Trade	Goals for Female Participation For Each Trade
6.9%	6.9%

- b. These goals are applicable to al the Contractor's construction work (whether or not it is Federal or Federally assisted) performed in the covered area. If the Contractor performs construction work in a geographic area located outside the covered area, it shall apply the goals established for such geographic area where the work is actually performed. With regard to this second area, the Contractor is also subject to the goals for both its Federally involved and non-Federally-involved construction.
 - c. The Contractor's compliance with the Executive Order and the regulations in 41 CFR 60-4 shall be based on its implementation of the Equal Opportunity Clause, specific affirmative action obligations required by the specifications set forth in 41 CFR 60-4.3(a) and its efforts to meet

the goals established for the geographical area where the contract resulting from this solicitation is to be performed. The hours of minority and female employment and training must be substantially uniform throughout the length of the contract and in each trade and the Contractor shall make a good faith effort to employ minorities and women evenly on each of its projects. The transfer of minority or female employees or trainees from contractor to contractor or from project to project for the sole purpose of meeting the Contractor's goals shall be a violation of the contract, the Executive Order and the regulations in 41 CFR 60-4. Compliance with the goals will be measured against the total work hours performed.

3. The Contractor shall provide written notification to the Director of the Office of Federal Contract Compliance Programs within 10 working days of award of any construction subcontract in excess of \$10,000 at any tier for construction work under the contract resulting from this solicitation. The notification shall list the name, address and telephone number of the subcontractor, employer identification number of the subcontractor, estimated dollar amount of the subcontract, estimated starting and completion dates of the subcontract and the geographical area in which the contract is to be performed.
4. As used in this notice and in the contract resulting from this solicitation, the "covered area" is **(insert description of the geographical areas where the contract is to be performed, giving the State, County and City, if any)**.

C. Standard Federal EEO Construction Contract Specifications (Executive Order 11246):

1. As used in these specifications:
 - a. "Covered area" means the geographical area described in the solicitation from which this contract resulted;
 - b. "Director" means Director, Office of Federal Contract Compliance Programs, United States Department of Labor or any person to whom the Director delegates authority;
 - c. "Employer identification number" means the Federal Social Security number used on the Employer's Quarterly Federal Tax Return, U.S. Treasury Department Forms 941;

d. "Minority" includes:

- (1) Black: All persons having origins in any of the black racial groups of Africa;
- (2) Asians: All persons having origins in any of the original peoples of the Far East, Southeast Asia, or the Indian Subcontinent including Cambodia, China, India, Japan, Korea, Malaysia, Pakistan, the Philippine Islands, Thailand and Vietnam;
- (3) American Indian or Alaskan Natives: All persons having origins in any of the original peoples of North and South America (including Central America) and maintaining identifiable tribal affiliations through membership and participation or community identification;
- (4) Native Hawaiian or Other Pacific Islanders: All persons having origins in any of the original peoples of Hawaii, Guam, Samoa, or other Pacific Islands;
- (5) Whites: All persons having origins in any of the original peoples of Europe, the Middle East or North Africa;
- (6) American Indian/Alaskan Native & White: All persons having origins in any of the original peoples of North and South America (including Central America) and maintaining identifiable tribal affiliations through membership and participation or community identification, and, having origins in any of the original peoples of Europe, the Middle East or North Africa;
- (7) Asian White: All persons having origins in any of the original peoples of the Far East, Southeast Asia, or the Indian Subcontinent including Cambodia, China, India, Japan, Korea, Malaysia, Pakistan, the Philippine Islands, Thailand and Vietnam, and, having origins in any of the original peoples of Europe, the Middle East or North Africa;
- (8) Black/African American & White: All persons having origins in any of the black racial groups of Africa, and, having origins in any of the original peoples of Europe, the Middle East or North Africa;

- (9) American Indian/Alaskan Native & Black: All persons having origins in any of the original peoples of North and South America (including Central America) and maintaining identifiable tribal affiliations through membership and participation or community identification, and, having origins in any of the black racial groups of Africa;
- (10) Other Multi-Racial: Any other multi-racial groups not mentioned;
- (11) Hispanics or Latinos: All persons of Cuba, Mexican, Puerto Rican, South or Central American, or other Spanish cultures or origins, regardless of race.
- (12) Not Hispanics or Latinos: All persons not of Cuban, Mexican, Puerto Rican, South or Central American, or other Spanish cultures or origins, regardless of race.
2. Whenever the Contractor or any subcontractor at any tier subcontracts a portion of the work involving any construction trade, it shall physically include in each subcontract in excess of \$10,000 the provisions of these specifications and the notice which contains the applicable goals for minority and female participation and which is set forth in the solicitations from which this contract resulted.
3. If the Contractor is participating (pursuant to 41 CFR 60-4.5) in a Hometown Plan approved by the U.S. Department of Labor in the covered area, either individually or through an association, its affirmative action obligations on all work in the Plan area (including goals and timetables) shall be in accordance with that Plan for those trades which have unions participating in the Plan. Contractors must be able to demonstrate their participation in and compliance with the provisions of any such Hometown Plan. Each Contractor or subcontractor participating in an approved Plan is individually required to comply with its obligations under the EEO Clause and under the Plan in each trade in which it has employees. The overall good faith performance by other contractors or subcontractors toward a goal in an approved Plan does not excuse any covered Contractor's or subcontractor's failure to make good faith efforts to achieve the Plan goals and timetables.
4. The Contractor shall implement the specific affirmative action standards provided in paragraphs II.C.7.a.-p. of

these specifications. The goals set forth in the solicitation from which this contract resulted are expressed as percentages of the total hours of employment and training of minority and female utilization the Contractor should reasonably be able to achieve in each construction trade in which it has employees in the covered area. Covered construction Contractors performing contracts in geographical areas where they do not have a Federal or Federally assisted construction contract shall apply the minority and the female goals established for the geographic area where the contract is being performed. Goals are published periodically in the Federal Register in notice form and such notices may be obtained from any Office of Federal Contract Compliance Programs office or from Federal procurement contracting officers. The Contractor is expected to make substantially uniform progress in meeting its goals in each craft during the period specified.

5. Neither the provisions of any collective bargaining agreement nor the failure by a union with whom the Contractor has a collective bargaining agreement to refer either minorities or women shall excuse the Contractor's obligations under these specifications, Executive Order 11246 nor the regulations promulgated pursuant thereto.
6. In order for the non-working training hours of the apprentices and trainees to be counted in meeting the goals, such apprentices and trainees must be employed by the Contractor during the training period and the Contractor must have made the commitment to employ the apprentices and the trainees at the completion of their training, subject to the availability of employment opportunities. Trainees must be trained pursuant to training programs approved by the U.S. Department of Labor.
7. The Contractor shall take specific affirmative actions to ensure equal employment opportunity. The evaluation of the Contractor's compliance with these specifications shall be based upon its efforts to achieve maximum results from its actions. The Contractor shall document these efforts fully and shall implement affirmative action steps at least as extensive as the following:
 - a. Ensure and maintain a working environment free of harassment, intimidation or coercion at all sites and in all facilities at which the Contractor's employees are assigned to work. The Contractor, where possible, will assign two or more women to each construction project. The Contractor shall specifically ensure that all foremen, superintendents and other on-site supervisory personnel

are aware of and carry out the Contractor's obligation to maintain such working environment, with specific attention to minority or female individuals working at such sites or in such facilities;

- b. Establish and maintain a current list of minority and female recruitment sources, provide written notification to minority and female recruitment sources and to community organizations when the Contractor or its unions have employment opportunities available and maintain a record of the organization's responses;
- c. Maintain a current file of the names, addresses and telephone number of each minority and female off-the-street applicant and minority or female referral from a union, a recruitment source or a community organization and of what action was taken with respect to each such individual. If such individual was sent to the union hiring hall for referral and was not referred back to the Contractor by the union or, if referred, not employed by the Contractor, this shall be documented in the file with the reason therefore, along with whatever additional actions the Contractor may have taken.
- d. Provide immediate written notification to the Director when the union or unions with which the Contractor has a collective bargaining agreement has not referred to the Contractor a minority person or woman sent by the Contractor or when the Contractor has other information that the Union referral process has impeded the Contractor's efforts to meet its obligation.
- e. Develop on-the-job training opportunities and/or participate in training programs for the area which expressly include minorities and women, including upgrading programs and apprenticeship and trainee programs relevant to the Contractor's employment needs, especially those programs funded or approved by the U.S. Department of Labor. The Contractor shall provide notice of these programs to the sources compiled under II.C.7.b. above.
- f. Disseminate the Contractor's EEO policy by providing notice of the policy to unions and training programs and requesting their cooperation in assisting the Contractor in meeting its EEO obligations by including it in any policy manual and collective bargaining agreement, by publicizing

it in the company newspaper, annual report, etc., by specific review of the policy with all management personnel and with all minority and female employees at least once a year and by posting the company EEO policy on bulletin boards accessible to all employees at each location where construction work is performed.

- g. Conduct at least an annual review of the company's EEO policy and affirmative action obligations under these specifications with all employees having any responsibility for hiring, assignment, layoff, termination or other employment decisions, including specific review of these items with on-site supervisory personnel such as superintendents, general foremen, etc., prior to the initiation of construction work at any job site. A written record shall be made and maintained identifying the time and place of these meetings, persons attending, subject matter discussed and disposition of the subject matter.
- h. Disseminate the Contractor's EEO policy externally by including it in any advertising in the news media, and providing written notification to and discussing the Contractor's EEO policy with other contractors and subcontractors with whom the Contractor does or anticipates doing business;
- i. Direct its recruitment efforts, both oral and written, to minority, female and community organizations, to schools with minority and female students and to minority and female recruitment and training organizations serving the Contractor's recruitment area and employment needs. No later than one month prior to the date for the acceptance of applications for apprenticeship or other training by any recruitment source, the Contractor shall send written notification to organizations such as the above, describing the openings, screening procedures and tests to be used in the selection process;
- j. Encourage present minority and female employees to recruit other minority persons and women and, where reasonable, provide after school, summer and vacation employment to minority and female youth on the site and in other areas of a Contractor's work force;
- k. Validate all tests and other selection requirements where there is an obligation to do so under 41 CFR 60-3;

1. Conduct at least an annual inventory and evaluation of all minority and female personnel for promotional opportunities and encourage these employees to seek or to prepare for such opportunities through appropriate training, etc.
 - m. Ensure that seniority practices, job classifications, work assignment and other personnel practices do not have a discriminatory effect by continually monitoring all personnel and employment-related activities to ensure that the EEO policy and the Contractor's obligations under these specifications are being carried out;
 - n. Ensure that all facilities and company activities are non-segregated except that separate or single-user toilets and necessary changing facilities shall be provided to assure privacy between the sexes;
 - o. Document and maintain a record of all solicitations of offers for subcontracts from minority and female construction contractors and suppliers, including circulation of solicitations to minority and female contractor associations and other business associations;
 - p. Conduct an annual review of all supervisors' adherence to and performance under the Contractor's EEO policies and affirmative action obligations.
8. Contractors are encouraged to participate in voluntary associations which assist in fulfilling one or more of their affirmative action obligations (II.C.7.a.-p.). The efforts of a contractor association, joint contractor-union, contractor-community or other similar group of which the Contractor is a member and participant may be asserted as fulfilling any one or more of its obligations under II.C.7.a.-p. of these specifications, provided the Contractor actively participates in the group, makes every effort to assure that the group has a positive impact on the employment of minorities and women in the industry, ensures that the concrete benefits of the program are reflected in the Contractor's minority and female work force participation, makes a good faith effort to meet its individual goals and timetables and can provide access to documentation which demonstrates the effectiveness of actions taken on behalf of the Contractor. The obligation shall not be a defense for the Contractor's non-compliance.

9. A single goal for minorities and a separate single goal for women have been established. The Contractor, however, is required to provide equal employment opportunity and to take affirmative action for all minorities groups, both male and female, and all women, both minority and non-minority. Consequently, the Contractor may be in violation of the Executive Order if a particular group is employed in a substantially disparate manner (for example, even though the Contractor has achieved its goals for women, generally, the Contractor may be in violation of the Executive Order if a specific minority group of women is under-utilized).
10. The Contractor shall not use the goals and timetables or affirmative action standards to discriminate against any person because of race, color, religion or national origin.
11. The Contractor shall not enter into any subcontract with any person or firm debarred from government contract pursuant to Executive Order 11246.
12. The Contractor shall carry out such sanctions and penalties for violation of these specifications and of the Equal Opportunity Clause, including suspension, termination and cancellation of existing subcontractors, as may be imposed or ordered pursuant to Executive Order 11246, as amended, and its implementing regulations, by the Office of Federal Contract Compliance Programs. Any Contractor who fails to carry out such sanctions and penalties shall be in violation of these specifications and Executive Order 11246, as amended.
13. The Contractor, in fulfilling its obligations under these specifications, shall implement specific affirmative action steps, at least as extensive as those standards prescribed in paragraph II.C.7 of these specifications, so as to achieve maximum results from its efforts to ensure equal employment opportunity. If the Contractor fails to comply with the requirements of the Executive Order, the implementing regulations or these specifications, the Director shall proceed in accordance with 41 CFR 60-4.8.
14. The Contractor shall designate a responsible official to monitor all employment-related activity to ensure that the company EEO policy is being carried out, to submit reports relating to the provisions hereof as may be required by the government and to keep records. Records for each employee shall include at least the name; address; telephone number; construction trade; union affiliation, if any; employee identification number, where assigned; social security number; race; sex;

status, e.g., mechanic, apprentice trainee, helper or laborer; dates of changes in status; hours worked per week in the indicated trade; rate of pay and location at which the work was performed. Records shall be maintained in an easily understandable and retrievable form; however, to the degree that existing records satisfy this requirement, Contractors shall not be required to maintain separate records.

15. Nothing herein provided shall be construed as a limitation upon the application of other laws which establish different standards of compliance or upon the application of requirements for the hiring of local or other area residents, e.g., those under the Public Works Employment Act of 1977 and the Community Development Block Grant Program.

III. CERTIFICATION OF NON-SEGREGATED FACILITIES (OVER \$10,000):

By submission of this bid, the bidder, offeror, applicant or subcontractor certifies that (s)he does not maintain or provide for his/her employees any segregated facility at any of his/her establishments and that (s)he does not permit employees to perform their services at any location under his/her control where segregated facilities are maintained. (S)he certifies further that (s)he will not maintain or provide for employees any segregated facilities at any of his/her establishments and (s)he will not permit employees to perform their services at any location under his/her control where segregated facilities are maintained. The bidder, offeror, applicant or subcontractor agrees that a breach of this certification is a violation of the Equal Opportunity Clause of this contract. As used in this certification, the term "segregated facilities" means any waiting rooms, work areas, restrooms and washrooms, restaurants or other eating areas, time clocks, locker rooms and other storage or dressing areas, parking lots, drinking fountains, recreation or entertainment areas, transportation and housing facilities provided for employees which are segregated on the basis of race, color or religion or are, in fact, segregated on the basis of race, color, religion or otherwise. (S)he further agrees that, except where (s)he has obtained identifiable certifications from proposed subcontractors for specific time periods, (s)he will obtain identical certification from proposed subcontractors prior to the award of subcontracts exceeding \$10,000, which are not exempt from the provisions of the Equal Opportunity Clause; that (she) will retain such certifications in his/her files; and that (s)he will forward the following notice to such proposed subcontractors, except where proposed subcontractors have submitted identical certifications for specific time periods.

IV. CIVIL RIGHTS ACTION OF 1964:

Under Title VI of the Civil Rights Act of 1967, no person shall, on the grounds of race, color or national origin, be excluded from participation in, be denied the benefits of or be subjected to discrimination under any program or activity receiving Federal financial assistance.

V. SECTION 109 OF THE HOUSING AND COMMUNITY DEVELOPMENT ACT OF 1974:

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

VI. "SECTION 3" COMPLIANCE IN THE PROVISION OF TRAINING, EMPLOYMENT AND BUSINESS OPPORTUNITIES:

- A. The work to be performed under this contract is on a project assisted under a program providing direct Federal financial assistance from HUD and is subject to the requirements of Section 3 of the Housing and Urban Development Act of 1968, as amended, 12 USC §1701u. Section 3 requires that, to the greatest extent feasible, opportunities for training and employment be given to lower-income residents of the project area and contracts for work in connection with the project be awarded to business concerns located in or owned in substantial part by persons residing in the area of the project.
- B. The parties to this contract will comply with the provisions of said Section 3 and the regulations issued pursuant thereto by the Secretary of Housing and Urban Development set forth in 24 CFR 134 and all applicable rules and orders of ODOC issued thereunder prior to the execution of this contract. The parties to this contract certify and agree that they are under no contractual or other disability that would prevent them from complying with these requirements.
- C. The Contractor will send to each labor organization or representative of workers with which it has a collective bargaining agreement or other contract or understanding, if any, a notice advising said labor organization or workers' representative of its commitments under this Section 3 clause and shall post copies of the notice in conspicuous places available to employees and applicants for employment or training.
- D. The Contractor will include this Section 3 clause in every subcontract for work in connection with the project and will, at the direction of the applicant for or recipient of Federal financial assistance, take appropriate action pursuant to the subcontract upon a finding that the subcontractor is in violation of regulations issued by the Secretary of Housing and Urban Development, 24 CFR 135. The Contractor will not subcontract with any subcontractor unless the subcontractor has first agreed to comply with the requirements of these regulations.
- E. Compliance with the provisions of Section 3, the regulations set forth in 24 CFR 135 and all applicable rules and orders of ODOC issued hereunder prior to the execution of the contract shall be a condition of the Federal financial assistance provided to the project, binding upon the applicant or recipient for such assistance, its successor and assigns. Failure to fulfill these requirements shall subject the applicant or recipient, its contractors or subcontractors, its successors and assigns to those sanctions specified by the grant or loan agreement or contract through which Federal assistance is provided and to such sanctions as are specified by 24 CFR 125.

VII. SECTION 504 DISABLED (IF \$2,500 OR OVER) - AFFIRMATIVE ACTION FOR DISABLED WORKERS

- A. The Contractor will not discriminate against any employee or applicant for employment because of physical or mental disability in regard to any position for which the employee or applicant for employment is qualified. The Contractor agrees to take affirmative action to employ, advance in employment and otherwise treat qualified disabled individuals without discrimination based upon their physical or mental disability in all demotion or transfer, recruitment, advertising, layoff or termination, rates of pay or other forms of compensation and selection for training, including apprenticeship.
- B. The Contractor agrees to comply with the rules, regulations and relevant orders of the Secretary of Labor issued pursuant to the Act.
- C. In the event of the Contractor's non-compliance with the requirements of this clause, actions for non-compliance may be taken in accordance with the rules, regulations and relevant orders of the Secretary of Labor issued pursuant to the Act.
- D. The Contractor agrees to post in conspicuous places available to employees and applicants for employment notice in a form to be prescribed by the Director, provided by or through the contracting officer. Such notices shall state the Contractor's obligation under the law to take affirmative action to employ and advance in employment qualified disabled employees and applicants for employment and protect the rights of those applicants and employees.
- E. The Contractor will notify each labor union or representative of workers with which it has a collective bargaining agreement or other contract or understanding that the Contractor is bound by the terms of Section 503 of the Rehabilitation Act of 1973 and is committed to taking affirmative action to employ and advance in employment physically and mentally disabled individuals.
- F. The Contractor will include the provisions of this clause in every subcontract or purchase order of \$2,500 or more unless exempted by rules, regulations or orders of the Secretary issued pursuant to Section 503 of the Act so such provisions will be binding upon each subcontractor or vendor. The Contractor will take such action with respect to any subcontract or purchase order as the Director of the Office of Federal Contract Compliance Programs may direct to enforce such provision, including action for non-compliance.

VIII. AGE DISCRIMINATION ACT OF 1975

No person in the United States shall be excluded from participation in, be denied the benefits of or be subjected to discrimination under any program or activity receiving Federal financial assistance because of age.

IX. SECTION 402, VETERANS OF THE VIETNAM ERA (IF \$10,000 OR OVER) - AFFIRMATIVE ACTION FOR DISABLED VETERANS AND VETERANS OF THE VIETNAM ERA

- A. The Contractor will not discriminate against any employee or applicant for employment because he or she is a disabled veteran or veteran of the Vietnam Era in regard to any position for which the employee or applicant for employment is qualified. The Contractor agrees to take affirmative action to employ, advance in employment and otherwise treat qualified disabled veterans and veterans of the Vietnam Era without discrimination based upon their disability or veteran status in all employment practices such as employment, upgrading, demotion or transfer, recruitment, advertising, layoff or termination, rates of pay or other forms of compensation and selection for training, including apprenticeship.
- B. The Contractor agrees that all suitable employment openings of the Contractor which exist at the time of the execution of this contract and those which occur during the performance of this contract, including those not generated by this contract and including those occurring at an establishment of the Contractor other than the one wherein the contract is being performed but excluding those of independently-operated corporate affiliates, shall be listed at an appropriate local office of the State employment service system wherein the opening occurs. The Contractor further agrees to provide such reports to such local office regarding employment opportunities as may be required.
- C. Listing of employment openings with the employment service system pursuant to this clause shall be made at least concurrently with the use of any other recruitment source or effort and shall involve the normal obligations which attach to the placing of a bona fide job order, including the acceptance of referrals of veterans and non-veterans. The listing of employment openings does not require the hiring of any particular job applicant or any job applicant from any particular group of applicants and nothing herein is intended to relieve the Contractor from any requirements of Executive Orders or regulations regarding non-discrimination in employment.
- D. The reports required by paragraph B. of this clause shall include but not be limited to periodic reports which shall be filed at least quarterly with the appropriate local officer or, where the Contractor has more than one hiring location in a State, with the central office of that State employment service. For each hiring location, such reports shall indicate:

1. The number of individuals hired during the reporting period;
2. The number of non-disabled veterans of the Vietnam Era hired;
3. The number of disabled veterans of the Vietnam Era hired; and
4. The total number of disabled veterans hired.

The reports should include covered veterans hired for on-the-job training under 38 USC §1787. The Contractor shall submit a report within thirty (30) days after the end of each reporting period wherein any performance is made on this contract identifying data for each hiring location. The Contractor shall maintain at each hiring location copies of the reports submitted until the expiration of one year after final payment under the contract, during which time these reports and related documentation shall be made available, upon request, for examination by any authorized representatives of the contracting officer or of the Secretary of Labor. Documentation would include personnel records respecting job openings, recruit and placement.

- E. Whenever the Contractor becomes contractually bound to the listing provision of this clause, it shall advise the employment service system in each State where it has establishments of the name and location of each hiring location in the State. As long as the Contractor is contractually bound to these provisions and has so advised the State system, there is no need to advise the State system of subsequent contracts. The Contractor may advise the State system when it is no longer bound by this contract clause.
- F. This clause does not apply to the listing of employment openings that occur and are filled outside the 50 States, the District of Columbia, Puerto Rico, Guam and the Virgin Islands.
- G. The Contractor agrees to comply with the rules, regulations and relevant orders of the Secretary of Labor issued pursuant to the Act.
- H. In the event of the Contractor's non-compliance with the requirements of this clause, actions for non-compliance may be taken in accordance with the rules, regulations and relevant orders of the Secretary of Labor issued pursuant to the Act.

- I. The Contractor agrees to post in conspicuous places available to employees and applicants for employment notices in a form to be prescribed by the Director, provided by or through the contracting officer. Such notices shall state the Contractor's obligation under the law to take affirmative action to employ and advance in employment qualified disabled veterans and veterans of the Vietnam Era for employment and to protect the rights of those applicants and employees.

- J. The Contractor will notify each labor union or representative of workers with which it has a collective bargaining agreement or other understanding that the Contractor is bound by the terms of the Vietnam Era Veterans Readjustment Assistance Act and is committed to taking affirmative action to employ and advance in employment qualified disabled veterans and veterans of the Vietnam Era.

- K. The Contractor will include the provisions of this clause in every subcontract or purchase order of \$10,000 or more unless exempted by rules, regulations or orders of the Secretary issued pursuant to the Act so such provisions will be binding upon each subcontractor or vendor. The Contractor will take such action with respect to any subcontract or purchase order as the Director of the Office of Federal Contract Compliance Programs may direct to enforce such provisions, including action for non-compliance.

**STATE OF OKLAHOMA
HOLD HARMLESS CLAUSE**

Contractor shall, within limitations placed on such entities by State law, save harmless the State of Oklahoma, its agents, officers and employees from all claims and actions and all expenses defining same that are brought as a result of any injury or damage sustained by any person or property in consequence of any act or omission by the Contractor. Contractor shall, within limitations placed on such entities by State law, save harmless the State of Oklahoma, its agents, officer and employees from any claim or amount recovered as a result of infringement of patent, trademark or copyright or from any claim or amounts arising or recovered under Workers' Compensation law or any other law. In any agreement with any subcontractor or any agent for Contractor, Contractor will specify that such subcontractors or agents shall hold harmless the State of Oklahoma, its agents, officers and employees for all the hereinbefore-described expenses, claims action or amounts recovered.

CERTIFICATION OF COMPLIANCE WITH AIR AND WATER ACTS

(Applicable to Federally-assisted construction contracts and related subcontracts exceeding \$100,000.)

Compliance with Air and Water Acts

During the performance of this contract, the Contractor and all subcontractors shall comply with the requirements of the Clean Air Act, as amended (42 USC §§1857, et seq.), the Federal Water Pollution Control Act, as amended (33 USC §§1251, et seq.) and the regulations of the Environmental Protection Agency (EPA) with respect thereto at 40 CFR 15, as amended.

In addition to the foregoing requirements, all non-exempt contractors and subcontractors shall furnish to the Owner, the following:

1. A stipulation by the Contractor or subcontractors that any facility to be utilized in the performance of any non-exempt contract or subcontract is not listed on the List of Violating Facilities issued by the EPA pursuant to 40 CFR 15.20.
2. Agreement by the Contractor comply with all the requirements of Section 114 of the Clean Air Act, as amended (42 USC §1857c-8) and Section 308 of the Federal Water Pollution Control Act, as amended (33 USC §1318) relating to inspection, monitoring, entry, reports and information, as well as all other requirements specified in Section 114 and Section 308 and all regulations and guidelines issued thereunder.
3. A stipulation that as a condition for the award of the contract, prompt notice will be given of any notification received from the Director, Office of Federal Activities, EPA, indicating that a facility utilized or to be utilized for the contract is under consideration to be listed on the EPA list of Violating Facilities.
4. Agreement by the Contractor that he will include or cause to be included by the criteria and requirements in paragraphs 1-4 of this section in every non-exempt subcontract and will take such action as the government may direct as a means of enforcing such provisions.

**SPECIAL CONDITIONS PERTAINING TO
HAZARDS, SAFETY STANDARDS AND ACCIDENT PREVENTION**

1. Lead-Based Paint Hazards (Applicable to Contract for Construction or Rehabilitation of Residential Structures): The construction or rehabilitation of residential structures is subject to the U.S. Department of Housing and Urban Development Lead-Based Paint regulations, 24 CFR 35. The Contractor and subcontractors shall comply with the provisions for the elimination of lead-based paint hazards under Subpart B of said regulations. The owner will be responsible for the inspections and certifications required under Section 35.14(f) thereof.

2. Use of Explosives (Modify as Required):
 - a. When the use of explosives is necessary for the performance of the work, the Contractor shall observe all local, State and Federal laws in purchasing and handling explosives. The Contractor shall take all necessary precautions to protect completed work, neighboring property, waterlines or other underground structures. Where there is danger to structures or property from blasting, the charges shall be reduced and the material shall be covered with suitable timber, steel or rope mats.

 - b. At least eight (8) hours before blasting is done, the Contractor shall notify all owners of public utility property of the intent to use explosives close to such property. Any supervision or direction of use of explosives by the engineer does not in any reduce the responsibility of the Contractor or his surety for damages that may be caused by such use.

(Use the address below for projects in Oklahoma)

To: Director, Office of Federal Contract Compliance Programs
U.S. Department of Federal Contract Compliance Programs
U.S. Department of Labor (DOL)
Washington, DC

We submit the following information relative to a construction contract in excess of \$10,000:

1. Contractor's Name: _____
Address: _____
Telephone Number: _____
Employer's Identification Number: _____

2. Contract for: \$ _____
Starting Date: _____ Completion Date: _____
Contract Number: _____ City: _____
DOL Region: VI

The Contractor is required to submit a completed copy of this page to the DOL upon issuance of the Notice to Proceed. Form CC-257 is to be completed upon request by the DOL.

FOR PROJECT IN OKLAHOMA, SEND TO:

Association Regional Administrator
USDL/OFCCP
555 Griffin Square Building
Room 506
Dallas, TX 75202
Telephone 214-767-4771

RELEASE OF CLAIMANTS

Date: _____

Project: _____

Dear Sir:

I hereby acknowledge receipt of _____ dollars (\$_____) in full payment of my contract dated _____ for improvement work which I did for you and which is described in my contract.

I certify that I have paid in full for all materials purchased and all labor employed in the performance of this contract and that there are no claims against me as an employer under this contract on account of injuries sustained by workmen employed by me thereunder. I hereby release you from any claims arising by virtue of this contract.

WARNING

The making of any false statement or misrepresentation herein may be a crime punishable under Title 18 USC §1001, which provides in part: "Whoever, in any matter within the jurisdiction of any department or agency of the United States knowingly and willfully..makes any false, fictitious or fraudulent statement or representation, or makes or uses any false writing or document knowing the same to contain any false, fictitious or fraudulent statement or entry, shall be fined no more than \$10,000 or imprisoned not more than five years, or both."

Sincerely,

Contractor

Section 3 Plan

*This form must be completed by all prime contractors and subcontractors with bid amounts over \$100,000 and must be submitted with the bid.

Bid Submitted from: _____ For: _____

Name of Business

Project Being Bid

Date

What is Section 3? Under Section 3 of the U.S. Department of Housing and Urban Development (HUD) Act of 1968; whenever financial assistance is given for housing or community development, to the greatest extent feasible, economic opportunities will be given to low income residents and businesses in that area. The project being bid has ODOC Community Development block Grant (CDBG) funding which is subject to Section 3 Requirements. **Covered prime contractors and subcontractors are required to show a good faith effort to:**

- A. Provide employment and training opportunities for Section 3 Residents.
- B. Provide opportunities for Section 3 Businesses for supplies, services, and construction contracts needed to complete the project.

Definition of a Section 3 Resident: A Section 3 Resident is any lower income individual residing in the Section 3 Project Area.

Definition of Section 3 Project Area: For cities requesting bids, the Section 3 project area would be first consideration within city limits and second consideration within the county. For counties requesting bids, the Section 3 project area would be the county.

Definition of a Section 3 Business: A business that meets at least one of the following criteria: (1) Majority ownership held by Section 3 Residents or (2) at least thirty percent (30%) of the permanent full-time employees are Section 3 Residents or were within the first three (3) years of their employment with the business or three (3) more than twenty-five percent (25%) of the business' work is subcontracted to a business that meets either of the first two conditions.

Part I. Affirmative Action Plan for hiring and training Section 3 Residents:

- A. The total number of new hires I need for this project is _____.
- B. Activities planned to meet Section 3 hiring objectives (check those applicable):
 - () Recruit through local advertising media (include phrase "equal opportunity employer" in ad).
 - () Recruit through signs placed at the project site.
 - () Recruit by contacting community service organizations serving the project site.
 - () Other.
- C. The total number of my current employees I intend to use on this project is _____. The number of these who would be considered Section 3 Residents is _____.
- D. The total number of *trainees* I intend to use on this project is _____. The number of these trainees that would be considered lower income project area residents is _____.

Part II. Affirmative Action Plan for contracting with Section 3 Businesses:

- A. I will award _____ contracts in connection with these project activities.
- B. The total estimated dollar value of these contracts is \$_____.
- C. Of these contracts _____ will be awarded to Section 3 Businesses.
- D. The total estimated dollar value of contracts awarded to Section 3 Businesses is \$_____.

I certify to the greatest extent possible I will hire and train Section 3 Residents and will obtain services, supplies and construction subcontracts from Section 3 Businesses.

Signature (Prime Contractor or Subcontractor)

Date

Examples of Efforts to Offer Training and Employment Opportunities to Section 3 Residents

1. Entering into “first Source” hiring agreements with organizations representing Section 3 residents.
2. Sponsoring a HUD-certified “Step-Up” employment and training program for Section 3 residents.
3. Establishing training programs, which are consistent with the requirements of the Department of Labor, for public and Indian housing residents and other Section 3 residents in the building trades.
4. Advertising the training and employment positions by distributing flyers (which identify the positions to be filled the qualifications required, and where to obtain additional information about the application process) to every occupied dwelling unit in the housing development or developments where category 1 or category 2 persons (as these terms are defined in Sect. 135.34) reside.
5. Advertising the training and employment positions by posting flyers (which identify the positions to be filled the qualifications required, and where to obtain additional information about the application process) in the common areas or other prominent areas of the housing development or developments. For HAS, post such advertising in the housing development or developments where category 1 or category 2 persons reside; for all other recipients, post such advertising in the housing development or development and transitional housing in the neighborhood or service area of the Section 3 covered project.
6. Contacting resident councils, resident management corporations, or other resident organizations, where they exist, in the housing development or developments where category 1 or category 2 persons reside, and community organizations in HUD-assisted neighborhoods, to request the assistance of these organizations in notifying residents of the training and employment positions to be filled.
7. Sponsoring (scheduling, advertising, financing or providing in-kind services) a job informational meeting to be conducted by an HA or contractor representative or representatives at a location in the housing development or developments where category 1 or category 2 persons reside or in the neighborhood or service area of the Section 3 covered project.
8. Arranging assistance in conducting job interviews and completing job applications for residents of the housing development or developments where Category 1 or Category 2 persons reside and in the neighborhood or service area in which Section 3 project is located.
9. Arranging for a location in the housing development or developments where category 1 persons reside, or the neighborhood or service area of the project, where job applications may be delivered to and collected by a recipient or contractor representative or representatives.
10. Conducting job interviews at the housing development or developments where category 1 or category 2 persons reside, or at a location within the neighborhood or service area of the Section 3 covered project.
11. Contacting agencies administering HUD Youthbuild programs and requesting their assistance in recruiting HUD Youthbuild program participants for the HA’s or contractor’s training and employment positions.
12. Consulting with State and local agencies administering training programs funded through JTPA or JOBS, probation and parole agencies, unemployment compensation programs, community organizations and other officials or organizations to assist with recruiting Section 3 residents for the HA’s or contractor’s training and employment positions.
13. Advertising the jobs to be filled through the local media, such as community television networks, newspapers of general circulation, and radio advertising.
14. Employment a job coordinator, or contracting with a business concern that is licensed in the field of job placement that will undertake, on behalf of the HA, other recipient or contractor, the efforts to match eligible and qualified Section 3 residents with the training and employment positions that the HA or contractor intends to fill.
15. For an HA employing Section 3 residents directly on either a permanent or a temporary basis to perform work generated by Section 3 assistance. (This type of employment is referred to as “force account labor” in HUD’s Indian housing regulations. See 24 CFR 905.102 and Section 905.201(a)(6).)
16. Where there are more qualified Section 3 residents than there are positions to be filled, maintaining a file of eligible qualified Section 3 residents for future employment positions.
17. Undertaking job counseling, education and related programs in association with local educational institutions.
18. Undertaking such continued job training efforts as may be necessary to ensure the continued employment of Section 3 residents previously hired for employment opportunities.
19. After selection of bidders but prior to execution of contracts, incorporating into the contract a negotiated provision for a specific number of public housing or other section 3 resident to be training or employed on the Section 3 covered assistance.
20. Coordinating plans and implementation of economic development (e.g., job training and preparation, business development assistance for residents) with the planning for housing and community development.

Examples of Efforts to Award Contracts to Section 3 Business Concerns

1. Utilizing procurement procedure for Section 3 business concerns similar to those provided in 24 CFR Part 905 for business concerns owned by Native Americans (see Section III of this Appendix).
2. In determining the responsibility of potential contractors, consider their record of Section 3 compliance as evidenced by past actions and their current plans for the pending contract.
3. Contacting business assistance agencies, minority contractors and community organizations to inform them of contracting opportunities and requesting their assistance in identifying Section 3 businesses which may solicit bids or proposals for contracts for work in connection with Section 3 covered assistance.
4. Advertising contracting opportunities by posting notices, which provide general information, in the common areas or other prominent areas of the housing development or developments owned by and managed by the HA.
5. For Has, contacting resident councils, resident management corporations, or other resident organizations where they exist, and requesting their assistance in identifying category 1 and category 2 business concerns.
6. Providing written notice to all known Section 3 business concerns of the contracting opportunities. This notice should be in sufficient time to allow the Section 3 business concerns to respond to the bid invitations or request for proposals.
7. Following up with Section 3 business concerns that have expressed interest in the contracting opportunities by contacting them to provide additional information on the contracting opportunities.
8. Coordinating pre-bid meetings at which Section 3 business concerns could be informed of upcoming contracting and subcontracting opportunities.
9. Carrying out workshops on contracting procedures and specific contract opportunities in a timely manner so that Section 3 business concerns can take advantage of upcoming contracting opportunities, with such information being made available in languages other than English where appropriate.
10. Advising Section 3 business concerns as to where they may seek assistance to overcome limitations such as inability to obtain bonding, lines of credit, financing or insurance.
11. Arranging solicitations, time for the presentation of bids, quantities, specifications and delivery schedules in ways to facilitate the participation of Section 3 business concerns.
12. Where appropriate, breaking out contract work items into economically feasible units to facilitate participation by Section 3 business concerns.
13. Contacting agencies administering HUD Youthbuild programs, and notifying these agencies of the contracting opportunities.
14. Advertising the contracting opportunities through trade association papers and newsletters, and through the local media.
15. Developing a list of eligible Section 3 business concerns.
16. For Has, participating in the "Contracting with Resident-Owned Businesses" program provided under 24 CFR Part 963.
17. Establishing or sponsoring programs designed to assist residents of public or Indian housing in the creation and development of resident-owned businesses.
18. Establishing numerical goals (number of awards and dollar amount of contracts) for award of contracts to Section 3 business concerns.
19. Supporting businesses which provide economic opportunities to low income persons by linking them to the support services available through the Small Business Administration (SBA), the Department of Commerce and comparable agencies at the State and local levels.
20. Encouraging financial institutions in carrying out their responsibilities under the Community Reinvestment Act, to provide no or low interest loans for providing working capital and other financial business needs.
21. Actively supporting joint ventures with Section 3 business concerns.
22. Actively supporting the development or maintenance of business incubators which assist Section 3 business concerns.

Part II: Contracts Awarded

1. Construction Contracts:

- A. Total dollar amount of all contracts awarded on the Project \$ _____
- B. Total dollar amount of contracts awarded to Section 3 businesses \$ _____
- C. Percentage of the total dollar amount that was awarded to Section 3 businesses _____ %
- D. Total number of Section 3 businesses receiving contracts _____

2. Non-Construction Contracts:

- A. Total dollar amount of non-construction contracts awarded On the project/activity \$ _____
- B. Total dollar amount of non-construction contracts awarded to Section 3 businesses \$ _____
- C. Percentage of total dollar amount that was awarded to Section 3 businesses _____ %
- D. Total number of Section 3 businesses receiving non-Construction contracts _____

Part III. Summary

Indicate the effects made to direct the employment and other economic opportunities generated by HUD financial Assistance for housing and community development programs to the greatest extent feasible, toward low-and very low-income persons, particularly those who are recipients of government assistance for housing. (check all that apply.)

- ___ Attempted to recruit low-income residents through: Local advertising media, signs prominently displayed at the project site, contracts with the community organizations and public or private agencies operating within the metropolitan area (or nonmetropolitan county) in which the Section 3 covered program or project is located, or similar methods.
- ___ Participated in a HUD program or other program which promotes the training or employment of Section 3 residents.
- ___ Participated in a HUD program or other program which promotes the award of contracts to business concerns which meet the definition of Section 3 business concerns.
- ___ Coordinated with Youthbuild Programs administered in the metropolitan area in which the Section 3 covered project is located.
- ___ Other: Describe below:

Public reporting for this collection of information is estimated to average 2 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. This agency may not collect this information, and you are not required to complete this form unless it displays a currently valid OMB number.

Section 3 of the Housing and Urban Development Act of 1968, as amended, 12 U.S.C. 1701u, mandates that the Department ensures that employment and other economic opportunities generated by its housing and community development assistance programs are directed toward low and very-low income persons, particularly those who are recipients of government assistance housing. The regulations are found at 24 CFR Part 135. The information will be used by the Department to monitor program recipients' compliance with Section 3, to assess the results of the Department's efforts to meet the statutory objectives of Section 3, to prepare reports to Congress, and by recipients as self-monitoring tool. The data is entered into a database and will be analyzed and distributed. The collection of information involves recipients receiving Federal financial assistance for housing and community development programs covered by Section 3. The information will be collected annually to assist HUD in meeting its reporting requirements under Section 808(e)(6) of the Fair Housing Act and Section 916 of the HCDA of 1992. An assurance of confidentiality is not applicable to this form. The Privacy Act of 1974 and OMB Circular A-108 are not applicable. The reporting requirements do not contain sensitive questions. Data is cumulative; personal identifying information is not included.

Form HUD 60002, Section 3 Summary Report, Economic Opportunities for Low-and Very Low-Income Persons.

Instructions: This form is to be used to report annual accomplishments regarding employment and other economic opportunities provided to low-and very low-income persons under Section 3 of the Housing and Urban Development Act of 1968. The Section 3 regulations apply to any **public and Indian housing programs** that receive (1) development assistance pursuant to Section 5 of the U.S. Housing Act of 1937; (2) operating assistance pursuant to section 9 of the U.S. Housing Act of 1937; or (3) modernization grants pursuant to Section 14 of the U.S. Housing Act of 1937 and to **recipients of housing and community development assistance in excess of \$200,000** expended for: (1) housing rehab (including reduction and abatement of lead-based paint hazards; (2) housing construction; or (3) other public construction projects; and to **contracts and subcontracts in excess of \$100,000** awarded in connection with Section 3-covered activity.

Form HUD-60002 has 3 parts, which are to be completed for all programs covered by Section 3. Part I relates to **employment and training**. The recipient has the option to determine numerical employment/training goals either on the basis of the number of hours worked by new hires (columns B,D,E & F). Part II relates to **contracting**, Part III summarizes recipient's **efforts** to comply with Section 3.

Recipients or contractors subject to Section 3 requirements must maintain appropriate documentation to establish that HUD financial assistance for housing and community development programs are directed toward low- and very low-income persons. * A recipient of Sec. 3 covered assistance shall submit one copy of this report to HUD Headquarters. Where the program providing assistance requires an annual performance report, this Sec. 3 report is to be submitted at the same time the program performance report is submitted. Where an annual report is not required, this Sec. 3 report is to be submitted by January 10 and, if the project ends before December 31, within 10 days of project completion. **Only Prime Recipients are required to report to HUD. The report must include accomplishments of all recipients and their Sec. 3 covered contractors and subcontractors.**

HUD Field Office: Enter the Field Office Name.

1. Recipient: Enter the name and address of the recipient submitted this report.
2. Federal Identification: enter the number that appears on the award form (with dashes). The award may be a grant, cooperative agreement or contract.
3. Dollar Amount of Award: Enter the dollar amount, rounded to the nearest dollar, received by the recipient.
- 4&5. Contact Person/Phone: Enter the name and telephone number of the person with knowledge of the award and the recipient's implementation of Sec. 3
6. Reporting Period: Indicate the time period (months and year) this report covers:
7. Date Report Submitted: Enter the appropriate date.
8. Program Code: Enter the appropriate program code as listed on the bottom of the page.
9. Program Name: Enter the name of HUD Program corresponding with the "Program Code" in number 8.

Part I: Employment and Training Opportunities

Column A: Contains various job categories. Professionals are defined as people who have special knowledge of an occupation (i.e. supervisors, architects, surveyors, planners and computer programmers). For construction positions, list each trade and provide data in columns B – F for each trade where persons were employed. The category of "Other" includes occupations such as service workers.

Column B: (Mandatory Field) Enter number of new hires of workers identified in Col. A in connection with this award. New hire refers to a person who is not on the contractor's or recipient's payroll at the time of the selection for the Sec. 3 covered award or at the time of receipt of Sec. 3 covered assistance.

Column C: (Mandatory Field) Enter the number of Sec. 3 new hires for each category of workers identified in Col. A in connection with this award. Sec. 3 new hire refers to a Sec. 3 resident who is not on the contractor's or recipient's payroll at the time of selection for Sec. 3 covered award or at the time of receipt of Sec. 3 covered assistance.

Column D: Enter the percentage of all staff hours of new hires (Sec. 3 residents) in connection with this award.

Column E: Enter the percentage of total staff hours worked for Sec. 3 employees and trainees (including new hires) connected with this award. Include staff hours for full and part time positions.

Column F: (Mandatory Field) enter the number of Sec. 3 residents that were trained in connection with this award.

Part II: Contract Opportunities**Block 1: Construction Contracts**

Item A: Enter the total dollar amount of all contracts awarded on the project/program

Item B: Enter the total dollar amount of contracts connected with the project/program that were awarded to Sec. 3 businesses.

Item C: Enter the percentage of the total dollar amount of contracts connected with this project/program awarded to Sec. 3 businesses.

Item D: Enter the number of Sec. 3 businesses receiving awards.

Block 2: Non-Construction Contracts

Item A: Enter the total dollar amount of all contracts awarded on the project/program.

Item B: Enter the total dollar amount of contracts connected with this project awarded to Sec. 3 businesses.

Item C: Enter the percentage of the total dollar amount of contracts connected with this project/program awarded to Sec. 3 businesses.

Item D: Enter the number of Sec. 3 businesses receiving awards.

Part III: Summary of Efforts – Self Explanatory

<p>Submit one (1) copy of this report to HUD Headquarters Office of Fair Housing and Equal Opportunity, at the same time the performance report is submitted to the program office. The Section 3 report is submitted by January 10. Include only contracts executed during the period specified in Item 8. PHAs/IHAs are to report all contracts/subcontracts.</p> <p>* The terms low-income persons” and very low-income persons” have the same meanings given the terms in Section 3 (b)(2) of the United States Act of 1937. Low-income persons means families (including single persons) whose incomes do not exceed 80% percent of the median income for the area, as determined by the Secretary, with adjustments for smaller and larger families, except that</p>	<p>The Secretary may establish income ceiling higher or lower than 80 percent of the median for the area on the basis of the Secretary’s findings such that variations are necessary because of prevailing levels of construction costs or unusually high or low-income families. Very low-income persons mean low-income families (including single persons) whose incomes do not exceed 50% of the median family income area, as determined by the Secretary with adjustments or smaller and larger families, except that the Secretary may establish income ceilings higher or lower than 50 percent of the median for the area on the basis of the Secretary’s findings that such variations are necessary because of unusually high or low family incomes.</p>
--	---

Section 3 Clause

24 CFR 135, §135.38. This clause must be included in all Section 3 covered contracts:

- A. The work to be performed under this contract is subject to the requirements of Section 3 of the Housing and Urban Development Act of 1968, as amended, 12 USC 1701u (Section 3). The purpose of Section 3 is to ensure that the employment and other economic opportunities generated by HUD assistance or HUD-assisted projects covered by Section 3, shall, to the greatest extent feasible, be directed to low- and very-low-income persons, particularly persons who are recipients of HUD assistance for housing.
- B. The parties to this contract agree to comply with HUD's regulations in 24 CFR 135, which implement Section 3. As evidenced by their execution of this contract, the parties to this contract certify that they are under no contractual or other impediment that would prevent them from complying with the Part 135 regulations.
- C. The contractor agrees to send to each labor organization or representative of works with which the contractor has a collective bargaining agreement or other understanding, if any, a notice advising the labor organization or workers' representative of the contractor's commitments under this Section 3 clause and will post copies of the notice in conspicuous places at the work site where both employees and applicants for training and employment positions can see the notice. The notice shall describe the Section 3 preference, shall set forth minimum number and job titles subject to hire, availability of apprenticeship and training positions and the qualifications for each, the name and location of the person(s) taking applications for each of the positions and the anticipated date the work shall begin.
- D. The contractor agrees to include this Section 3 clause in every subcontract subject to compliance with regulations in 24 CFR 135, and agrees to take appropriate action, as provided in an applicable provision of the subcontract or in this Section 3 clause, upon a finding that the subcontractor is in violation of the regulations in 24 CFR 135. The contractor will not subcontract with any subcontractor where the contractor has notice or knowledge that the subcontractor has been found in violation of the regulations in 24 CFR 135.
- E. The contractor will certify that any vacant employment positions, including training positions, that are filled (1) after the contractor is selected but before the contract is executed and (2) with persons other than those to whom the regulations of 24 CFR 135 required employment opportunities to be directed, were not filled to circumvent the contractor's obligations under 24 CFR 135.
- F. Non-compliance with HUD's regulations in 24 CFR 135 may result in sanctions, termination of this contract for default and department or suspension from future HUD-assisted contracts.
 - A. With respect to work performed in connection with Section 3-covered Indian housing assistance, section 7(b) of the Indian Self-Determination and Education Assistance Act (25 USC 450e) also applies to the work to be performed under this contract. Section 7(b) requires that to the greatest extent feasible (i) preference and opportunities for training and employment shall be given to Indians, and (ii) preference in the award of contracts and subcontracts shall be given to Indian organizations and Indian-owned Economic Enterprises. Parties to this contract that are subject to the provisions of Section 3 and Section 7(b) agree to comply with Section 3 to the maximum extent feasible but not in derogation of compliance with section 7(b).

ATTORNEY'S CERTIFICATE OF APPROVAL OF CONTRACT AND BONDS

I, the undersigned _____, the fully authorized and acting legal representative of _____ Name of Contractor _____, _____ County, Oklahoma, do hereby certify as follows:

I have examined the construction contract between the construction contractor, _____ Name of Construction Contractor _____, and the above-named entity and the surety bonds given by the construction contractor in connection with the performance of said contract and the manner of execution of the contract and surety bonds and I am of the opinion that each of the aforesaid agreement has been duly executed by the proper parties thereto, acting through their duly authorized representatives, that said representatives have full power and authority to execute said agreements on behalf of the respective parties named therein and that the foregoing contract and surety bonds constitute valid and legally binding obligations upon the parties executing the same in accordance with the terms, conditions and provisions thereof.

Dated the _____ day of _____, 20____.

Attorney

_____ County, Oklahoma



Section 8
Labor Standards /
Construction Management

July 7, 2014

Section 8 Labor Standards / Construction Management

The Construction phase of any project is divided into two major components: the preconstruction conference and the start of the construction. Once construction has begun, the monitoring of construction progress and labor compliance occurs.

Do not begin construction until after the bid has been awarded and the contract requirements are presented to and understood by the contractor.

NOTES

**OKLAHOMA DEPARTMENT OF COMMERCE
COMMUNITY DEVELOPMENT
COMMUNITY DEVELOPMENT BLOCK GRANT (CDBG) PROGRAM**

**REQUIREMENT NO. 408
LABOR STANDARDS & CONSTRUCTION MANAGEMENT**

Effective July 7, 2014

I. INTRODUCTION

The construction phase of a project is divided into two major components:

- A. The pre-construction conference and start of construction; and
- B. Monitoring construction progress, including labor compliance.

Each of these phases is subject to various State and Federal requirements, which will be discussed at greater length in this Requirement.

II. THE PRE-CONSTRUCTION CONFERENCE

- A. ODOC requires that every contractual relationship between the Grant Recipient and the construction contractor be initiated by a meeting to define the terms, conditions, deliverables and performance schedules that will govern the contract. This approach represents good management practice and reduces the likelihood of later conflicts caused by assumptions and misunderstandings between the construction contractor and the Grant Recipient.
- B. After contract award but before any work is performed, the Grant Recipient, the architect or engineer and any technical advisors to the Grant Recipient must hold a pre-construction conference with the construction contractor to explain contract requirements.

- C. The construction contractor should be notified in writing of the time and place for the conference. The contractor must require the attendance of subcontractors expected to undertake major portions of the work. Documentation required from the construction contractor at the time of the meeting should be identified. Satisfaction of all bonding provisions will be required at this time especially the Davis Bacon wage rate requirements.
- D. Prepare an agenda. Plan to utilize and distribute a Preconstruction Checklist as a guide to assure that all areas are properly addressed. (Especially Davis/Bacon Requirements) A recording may be used to document the meeting and/or a stenographer may be asked to prepare notes. It is the Grant Recipient's responsibility to clearly present the Federal statutory compliance requirements as well as performance expectations. A copy of the minutes should be signed by the parties to the contract and placed in the files.
- E. ODOC recommends the following procedures as the minimum coverage of topics at the pre-construction conference:
1. Review the technical aspects of the project;
 2. Identify the laws applicable to the contract and establish the documentation, reporting and performance that will constitute compliance;
 3. Establish the Grant Recipient's obligations to monitor labor standards and the procedures that will be employed;
 4. Establish specific requirements for reporting between the construction contractor and the Grant Recipient;
 5. Accept bonds and securities for performance and payment of labor and materials;
 6. Review the contract provisions, including all attachments regarding labor standards, civil rights, job safety standards and environmental protection as well as the Davis Bacon wage rate requirements.

7. Explain the objectives of Executive Order 11246 and require a copy of the construction contractor's Affirmative Action Plan and the specific affirmative action strategy to be employed on this contract.
8. Return the construction contractor's bid bonds;
9. Provide for a record of the pre-construction conference to be prepared and subsequently signed by the parties to the agreement;
10. Issue a notice to proceed to the construction contractor.

III. CHANGE ORDERS

- A. It is not uncommon for circumstances to require modifications to various construction contracts. Change orders are permitted provided the cumulative impact of all such change orders does not increase the original contract amount by more than 15%. Change orders or cumulative change orders which exceed 15% shall require re-advertising of bids on the incomplete portions of the contract. If the construction contract was bid on a unit price basis and the change order is based on the unit price basis, such change order will not be subject to this requirement. **[For more detailed guidance, see 61 O.S. 1995 §121.]**
- B. The Grant Recipient must formally approve any change order and maintain written documentation as to the reasons for the change. All change orders must contain a unit price and total for each of the following items:
 1. All materials with cost per item;
 2. Itemization of all labor with number of hours per operation and cost per hour;
 3. Itemization of insurance cost, bond cost, social security, taxes, Workers' Compensation, employee fringe benefits and overhead costs; and
 4. Profit for the construction contractor.

- C. If the change order would cause any change in a budget line item, scope of project or change in beneficiaries, the Grant Recipient must request a contract modification from ODOC. The Grant Recipient may not approve such a change order until and unless ODOC approves a contract modification.

IV. CONSTRUCTION SUPERVISION, INSPECTIONS AND CONTRACT PAYMENTS

- A. One of the provisions of most design contracts (engineering and architectural) is for on-site supervision of construction in progress. **[61 O.S. 1991 §123]** It is the design professional's responsibility to ensure, on the grant recipient's behalf, that construction is carried out in conformance with all specifications. This person or firm must provide a sworn certification confirming that the amount requested is justified in terms of the work accomplished and that the work conforms to plans and specifications.
- B. The amount of funding requested by the Grant Recipient from ODOC must be net after retainage. Until the Contractor has completed 50% of the contract amount, this retainage may be as high as 10% per request. After this point, the retainage amount may be reduced to 5% provided the Grant Recipient has determined that satisfactory progress is being made and upon approval by the surety. **[61 O.S. 1996 §113.1]**

V. LABOR STANDARDS ADMINISTRATION

- A. Statutory Requirements: Grant Recipients should be aware of the major labor standards requirements for CDBG projects. The three principal laws and their terms are identified below.
 - 1. Davis-Bacon Act:
To download the “Making Davis-Bacon Work” guidebook goes to:
<http://www.hud.gov/offices/adm/hudclips/forms/files/4813-LR.pdf>.
 - a. Grant Recipients: All construction contracts in excess of \$2,000 awarded by Grant Recipients and sub-recipients must include a provision for compliance with Davis-Bacon and associated USDOL regulations. The entire project regardless of whether paid with grant

funds or leveraged funds fall within the Davis Bacon Requirements. The principal requirements are:

- (1) Grant Recipients must include a copy of the current prevailing wage rate determination in each Request for Bids (RFB);
 - (2) Grant Recipients may only award contracts to eligible construction contractors and subcontractors that have accepted the wage rate determination and signed a Payroll Certification From to pay wages on that basis and comply with other labor standards; Contractors listed as debarred per (SAM) are considered ineligible for award.
 - (3) Construction contractors must pay laborers the wage rate determined by the USDOL to be the prevailing rate in that labor market;
 - (4) Construction contractors must pay wages at least once a week; and
 - (5) Grant Recipients are required to report all suspected, reported or confirmed violations over \$100 to ODOC, who may investigate these alleged violations.
- b. Sub-contractors: To qualify as a subcontractor, the following criteria must be met:
- (1) Current liability insurance must be maintained;
 - (2) Must have Federal Tax Identification number (EIN or SSN as appropriate);

If the subcontractor does not meet both of these criteria, he/she must be listed by the prime contractor as an employee of the contractor and must be paid the prevailing Davis-Bacon hourly rate for the work.

c. Owner/Operators:

- (1) Bona fide owner/operators of **trucks** who are independent contractors are excluded from DBRA/WCHSSA provisions concerning their own hours of work and rate(s) of pay. These truck "owner/operators" must be reported on weekly payrolls but the payrolls do not need to show the hours worked or the rates--only the notation "owner/operator". This policy does not pertain to owner/operators of other equipment such as backhoes, bulldozers, scrapers and cranes (power equipment).
- (2) Owner/operators of power equipment **may not** submit their own payrolls certifying to payment of their own wages but must be carried on the responsible contractor's or subcontractor's payroll and must be paid the prevailing Davis-Bacon hourly rate for the work.

d. Administrative/Clerical Provisions: People whose duties are primarily administrative, executive or clerical, e.g., supervisors, office staff and timekeepers, are not laborers or mechanics and are excluded from DBRA/WCHSSA. Foremen or supervisors who regularly spend more than 20% of their time performing construction work do not meet this exclusion and are covered as "laborers" and "mechanics" for labor standards purposes for the time spent performing construction work.

e. Two special classes of employees may be employed on projects of this type and be compensated at less than the Davis-Bacon prevailing wages. These classes are:

- (1) Apprentices provided they are individually registered in a bona fide apprenticeship program in which the construction contractor participates and which is approved by the USDOL and that they also satisfy other conditions as specified in

the labor standards contract provisions.
<http://www.hud.gov/offices/adm/hudclips/forms/files/4010.pdf>

- (2) Trainees provided they are in a USDOL-approved training program and satisfy other conditions as specified in the labor standards contract provisions.
<http://www.hud.gov/offices/adm/hudclips/forms/files/4010.pdf>;

- f. Helpers are not recognized unless they are contained in the wage determination or a conformable rate has been approved by the USDOL. If and when these employee classes appear on the construction contractor's weekly payrolls, it is the construction contractor's responsibility to provide the documentation necessary to determine compliance with the Davis-Bacon wage rate determination.

2. Copeland Anti-Kickback Act [18 USC 874, 29 CFR 3]: Construction contractors are prevented, under the terms of this statute, from withholding any employee wages which are not prescribed by law, union agreement or without the employee's permission. The Grant Recipient must conduct confidential interviews with employees to assure compliance with the terms of this law and the construction contractor is required to maintain payroll records and to submit weekly certified payrolls documenting compliance. This requirement applies to all Federally-assisted contracts.

3. Contract Work Hours and Safety Standards Act [40 USC 3701]: All construction contracts in excess of \$2,000 must comply with the following provisions of this law.

- a. Construction contractors must compute the wages of each laborer and mechanic on the basis of a standard workweek of 40 hours.
- b. Work in excess of 40 hours a week is permitted provided compensation for the amount in excess of the

standard is calculated at a rate not less than 1-1/2 times the basic rate of pay.

- c. Construction expenditures paid with leverage funds are required to conform to the Davis Bacon wage rate requirements.
- c. Construction contractors may not require any laborer or mechanic to work in surroundings or under working conditions which are unsanitary, hazardous or dangerous to his/her health or safety as determined under construction, safety or health standards issued by the USDOL.

B. Compliance Administration: Labor standards compliance begins with the issuance of a Notice to Proceed and is usually submitted as part of the bid or incorporated in the contract. To assure proper coverage when project activities are reviewed, the construction contractor must follow the requirements and administrative procedures listed below.

1. Review Certified Payrolls and Compliance: For each *weekly* period covered by the CDBG construction contract, copies of certified payrolls and an executed Statement of Compliance are required from all construction contractors and subcontractors and must be in the files. <http://www.hud.gov/offices/adm/hudclips/forms/files/4010.pdf> Payroll forms must be compared with wage determination for each class/craft to assure that wages are being paid as prescribed by law. The Statement of Compliance contains certifications that:
 - a. The information covers the proper period and is complete and accurate;
 - b. Each worker has been paid the proper wages and benefits and no "rebates" have been taken;
 - c. Deductions are only those permitted by law and approved by the workers; and

- d. Payments to workers are consistent with the wage rate determination.

NOTE: Use of WH-347 Payroll form is not mandatory, as long as all information contained in WH-347 is similarly recorded. If you choose to use the form, it can be located online at <http://www.dol.gov/library/forms>: Search: Payroll.

2. Visit the Work Site:

- a. The Grant Recipient must determine that the labor standards information is properly posted at the job site. The wage rates and job classifications must be posted and an Employee Federal Labor Law (Compliance 6) poster(s) must be prominently displayed.
- b. In addition to this technical review, the Grant Recipient should also identify the specific jobs being performed and identify the workers to be interviewed regarding wages and job duties.

3. Conduct Employee Interviews:

- a. On-site interviews must be conducted of enough employees (at least 10% coverage) to provide a reasonable representation of the crafts and trades utilized on the project (interviewing at least one employee in each job classification). **[These interviews are strictly confidential. See Requirement 401 for instructions concerning the maintenance of confidential records.]** Interviews must be conducted at least once during the course of construction. Using the Record of Employee Interview **[Attachment 3]**, documentation must demonstrate that:
 - (1) The payroll information is consistent with the wage rate determination; and
 - (2) Employees are working in proper job classifications.

These interviews form the basis for determining whether any violations are occurring and facilitate subsequent follow-up by the Grant Recipient.

- b. Note: Talk to the job-site foreman to let him/her know who you are and what you're doing. Try to conduct interviews on break time but observe the employees at work to verify job classifications.

4. Deal With Violations:

- a. Violations less than \$1,000 which are not willful should be dealt with as follows:
 - (1) Require the construction contractor to prepare a supplemental payroll to make appropriate restitution to affected employees, retain a copy of the cancelled check in the Construction Labor File; and/or
 - (2) Assess liquidated damages for non-payment of overtime and require a separate supplemental payroll. The amount to be paid to the U.S. Government (HUD) is \$10 for each day the employee was eligible for overtime but not paid overtime at 1-1/2 times the approved rate.
 - (3) If construction contractors refuse to comply with these requirements, the Grant Recipient must withhold sufficient amounts from the construction contractor to make restitution. This amount is to be recorded and ODOC is to be notified immediately.

All wage restitutions/liquidated damages should be aggregated on the Final Wage Compliance Report.

- b. Serious violations, i.e., those representing underpayment greater than \$1,000, are to be reported immediately to ODOC. Technical assistance will be provided to assure proper resolution.

- C. Documentation: As with all other compliance areas, if there isn't a piece of paper to show for it, ODOC assumes it didn't get done, so document, document, document.
- D. Construction Wrap-up: When the construction has finally been completed, there are only a few (critical) items to take care of.
1. First, the construction contractor must submit a certification of project completion, along with the final request for payment.
 2. The Grant Recipient must confirm that all:
 - a. Weekly payrolls and statements of compliance have been received, checked and any discrepancies resolved;
 - b. Discrepancies identified during on-site interviews have been satisfactorily resolved;
 - c. Other required equal opportunity and labor standards have been satisfied;
 - d. Other contract requirements have been satisfied;
 - e. Files are complete; and
 - f. As-built plans have been filed.
 3. When all contract requirements have been satisfied, the Grant Recipient will issue an acceptance of work.
 4. The Grant Recipient then submits a Request for Payment to ODOC. The amount requested at this time should not include the current retainage (of up to 10% of the total contract). **[See 61 O.S. 1991 §113.1 for retainage limitations.]**

5. Forty-five days after the acceptance and upon receipt of a Release of Claimants from the construction contractor, the Grant Recipient may request the amount of retainage from ODOC and subsequently release this amount to the construction contractor.

VI. SUMMARY

This Requirement has summarized the various State and Federal requirements pertaining to construction management and labor compliance. The Grant Recipient is ultimately responsible for knowing all of these requirements and for ensuring compliance with them.

VII. ATTACHMENTS

1. Payroll (WH-347) (<http://www.dol.gov/library/forms/> Search: Payroll)
2. Fringe Benefit Determination
3. Record of Employee Interview
4. Construction Management Files

VIII. FORMS – SECTION 10

- 8.1 Pre-Construction Checklist
- 8.2 Notice to Proceed
- 8.3 Payroll Certification Form

Fringe Benefit Determination

If an employee's fringe benefits are paid to a funded plan, the following criteria apply:

1. Contributions to funded plans must be made irrevocably and at least quarterly to a third party trust.
2. When per the hour contribution for benefits paid into a plan does not equal the total rate set forth in the wage determination, the difference must be paid to the employee in cash.
3. Employees excluded from funded plans must be paid fringe benefits in cash.
4. Vacation and sick leave plans are generally unfunded, paid from the contractor's own account, and require Department of Labor approval before a contractor takes credit toward meeting the fringe benefit obligation.

The following method must be used to determine if the amount contributed to the plan equals the amount required to be paid for fringe benefits per the appropriate Davis-Bacon Wage Decision.

METHOD: In determining the cash equivalent credit for fringe benefit payments, take the total amount that would be paid into the funded plan for a year and divide by 1820 hours.

EXAMPLE: Contractor pays \$50/month to a funded health insurance plan. Davis-Bacon Wage Rates require \$4/hour paid for fringe benefits.

FORMULA: $(\$50 \times 12)$ divided by 1820 = 33 cents as the cash equivalent.

RESULT: The contractor must pay \$3.67 to the employee in cash for fringe benefits and the remaining 33 cents to the funded plan. The contractor must note on the back of the payroll under (4) (a-c) how fringe benefits are paid and provide documentation for the funded plan as listed below.

Adequacy of fringe benefits will be determined by the DC based upon a review of the following information that you are requested to submit:

1. Description of the coverage that you provide those employees and the name, address and phone number of the third party trustee.
2. Signed authorization of those employees to accept those specific employer-paid contribution amounts considered bona fide fringe benefits.
3. Or the providers proof of payment into the plan, fund or program (i.e., monthly billing statement).

This adequacy is applicable for one (1) year from the date of review and applies only to HUD funded projects.

The above requested information must be submitted to:

**Oklahoma Department of Commerce
Community Development
900 N. Stiles
Oklahoma City, OK 74104-3234**

**Record of
Employee Interview**

**U.S. Department of Housing
and Urban Development
Office of Labor Relations**

OMB Approval No. 2501-0009
(exp. 10/31/2010)

Public reporting burden for this collection of information is estimated to average 15 minutes per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. This agency may not collect this information, and you are not required to complete this form, unless it displays a currently valid OMB control number. The information is collected to ensure compliance with the Federal labor standards by recording interviews with construction workers. The information collected will assist HUD in the conduct of compliance monitoring; the information will be used to test the veracity of certified payroll reports submitted by the employer. **Sensitive Information.** The information collected on this form is considered sensitive and is protected by the Privacy Act. The Privacy Act requires that these records be maintained with appropriate administrative, technical, and physical safeguards to ensure their security and confidentiality. In addition, these records should be protected against any anticipated threats or hazards to their security or integrity that could result in substantial harm, embarrassment, inconvenience, or unfairness to any individual on whom the information is maintained. The information collected herein is voluntary, and any information provided shall be kept confidential.

1a. Project Name			2a. Employee Name		
1b. Project Number			2b. Employee Phone Number (including area code)		
1c. Contractor or Subcontractor (Employer)			2c. Employee Home Address & Zip Code		
			2d. Verification of identification? Yes <input type="checkbox"/> No <input type="checkbox"/>		
3a. How long on this job?	3b. Last date on this job before today?	3c. No. of hours last day on this job?	4a. Hourly rate of pay?	4b. Fringe Benefits?	4c. Pay stub?
				Vacation Yes <input type="checkbox"/> No <input type="checkbox"/> Medical Yes <input type="checkbox"/> No <input type="checkbox"/> Pension Yes <input type="checkbox"/> No <input type="checkbox"/>	Yes <input type="checkbox"/> No <input type="checkbox"/>
5. Your job classification(s) (list all) --- continue on a separate sheet if necessary					
6. Your duties					
7. Tools or equipment used					
8. Are you an apprentice or trainee? Y <input type="checkbox"/> N <input type="checkbox"/>					
9. Are you paid for all hours worked? Y <input type="checkbox"/> N <input type="checkbox"/>					
10. Are you paid at least time and 1/2 for all hours worked in excess of 40 in a week? Y <input type="checkbox"/> N <input type="checkbox"/>					
11. Have you ever been threatened or coerced into giving up any part of your pay? Y <input type="checkbox"/> N <input type="checkbox"/>					
12a. Employee Signature			12b. Date		
13. Duties observed by the Interviewer (Please be specific.)					
14. Remarks					
15a. Interviewer name (please print)		15b. Signature of Interviewer		15c. Date of interview	

Payroll Examination

16. Remarks	
17a. Signature of Payroll Examiner	17b. Date

Previous editions are obsolete

Form HUD-11 (08/2004)

Record of Employee Interview Instructions	U.S. Department of Housing and Urban Development Office of Labor Relations	OMB Approval No. 2501-0009 (exp. 10/31/2010)
--	---	---

Instructions

General:

This form is to be used by HUD and local agency staff for recording information gathered during on-site interviews with laborers and mechanics employed on projects subject to Federal prevailing wage requirements. Typically, the staffs that will conduct on-site interviews and use this form are HUD staff and fee construction inspectors, HUD Labor Relations staff, and local agency labor standards contract monitors.

Information recorded on the form HUD-11 is evaluated for general compliance and compared to certified payroll reports submitted by the respective employer. The comparison tests the veracity of the payroll reports and may be critical to the successful conclusion of enforcement actions in the event of labor standards violations. The thoroughness and accuracy of the information gathered during interviews is crucial.

Note that the interview itself and the information collected on the form HUD-11 are considered confidential. Interviews should be conducted individually and privately. All laborers and mechanics employed on the job site must be made available for interview at the interviewer's request. The employee's participation, however, is voluntary. Interviews shall be conducted in a manner and place that are conducive to the purposes of the interview and that because the least inconvenience to the employer(s) and the employee(s).

Completing the form HUD-11

Items 1a - 1c: Self-explanatory

Items 2a – 2d: Enter the employee's full name, a telephone number where the employee can be reached, and the employee's home address. Many construction workers use a temporary address in the locality of the project and have a more permanent address elsewhere from which mail may be forwarded to them. Obtain a more permanent address, if available. Ask the employee for a form of identification (e.g., driver's license) to verify their name.

Items 3a – 4c: Enter the employee's responses. Ask the employee whether they have a pay stub with them; if so, determine whether the pay stub is consistent with the information provided by the employee.

Items 5 – 7: Be certain that the employee's responses are specific. For example, job classification (#5) must identify the trade involved (e.g., Carpenter, Electrician, and Plumber) – responses such as "journeyman" or "mechanic" are not helpful for our purposes.

Items 8 – 12b: Self-explanatory

Items 13 – 15c: These items represent some of the most important information that can be gathered while conducting on-site interviews. Please be specific about the duties you observed the employee performing. It may be easiest to make these observations before initiating the interview. Please record any comments or remarks that may be helpful. For example, if the employee interviewed was working with a crew, how many workers were in the crew? Was the employee evasive?

The level of specificity that is warranted is directly related to the extent to which interview(s) or other observations indicate that there may be violations present. If interviews indicate that there may be underpayments involving a particular trade(s), the interviewer is encouraged to interview as many workers in that trade(s) that are available.

Items 16 – 17b: The information on the form HUD-11 may be reviewed for general compliance, initially. For example, are the job classification and wage rate stated by the employee compatible with the classifications and wage rates on the applicable wage decision? Are the duties observed by the interviewer consistent with the job classification?

Once the corresponding certified payroll reports are received, the information on the HUD-11 shall be compared to the payroll reports. Any discrepancies noted between the HUD-11 information and that on the payroll report shall be noted in Item 16, Remarks. If discrepancies are noted, follow-up actions to resolve the discrepancies must be taken.

Historial de Entrevista del Empleado

Departamento de Vivienda y
Desarrollo Urbano de EE.UU.
Oficina de Relaciones Laborales

Aprobación de OMB No. 2501-0009
(exp. 10/31/2010)

Se estima que la tarea de recolección de esta información pública es de aproximadamente 15 minutos por respuesta, incluso el tiempo para examinar instrucciones, buscar fuentes de datos existentes, recopilar y mantener datos necesarios, y completar y examinar la recopilación de la información. Esta agencia no puede recopilar esta información y no se requiere que usted llene este formulario, a menos que éste exhiba un número de control válido de la Oficina de Administración y Presupuesto (OMB, por sus siglas en inglés). La información que se recopila tiene la finalidad de garantizar la conformidad a las normas laborales Federales mediante entrevistas con obreros de construcción. La información recopilada asistirá a HUD a conducir el monitoreo de conformidad; la información se usará para examinar la veracidad de los informes de nómina certificados presentados por el patrón. **Información confidencial.** La información recopilada en este formulario es considerada confidencial y está protegida por la Ley de Privacidad. La Ley de Privacidad requiere que estos archivos se mantengan con salvaguardas administrativas, técnicas, y físicos apropiados para garantizar su seguridad y confidencialidad. Además, estos archivos deberán ser protegidos contra cualquier amenaza anticipada o riesgos a su seguridad o integridad, que podría causar daño sustancial, vergüenza, inconveniencias, o injusticias a cualquier individuo de quien se mantiene la información. **La Información recopilada aquí es voluntaria y cualquier información proporcionada será mantenida como confidencial.**

1a. Nombre del proyecto			2a. Nombre del empleado		
1b. Número del proyecto			2b. Número de teléfono del empleado (incluso prefijo local)		
1c. Contratista o subcontratista (Patrón)			2c. Dirección residencial del empleado y código postal		
			2d. ¿Verificación de identificación? Sí <input type="checkbox"/> No <input type="checkbox"/>		
3a. ¿Cuánto tiempo en este trabajo?	3b. ¿Último día en este trabajo antes de hoy?	3c. ¿No. de horas en su último día en este trabajo?	4a. ¿Salario por hora?	4b. ¿Beneficios complementarios?	
				Vacaciones Sí <input type="checkbox"/> No <input type="checkbox"/>	4c. ¿Talonario de paga? Sí <input type="checkbox"/> No <input type="checkbox"/>
				Médicos Sí <input type="checkbox"/> No <input type="checkbox"/>	
				Pensión Sí <input type="checkbox"/> No <input type="checkbox"/>	
5. Clasificación(es) de su trabajo(s) (enumere todas) --- continúe en una página separada si es necesario					
6. Sus deberes					
7. Herramientas o equipo usado					
8. ¿Es aprendiz?		S <input type="checkbox"/> N <input type="checkbox"/>	10. ¿Le pagan al menos tiempo y medio por todas las horas trabajadas superior a 40 horas semanales?		S <input type="checkbox"/> N <input type="checkbox"/>
9. ¿Le pagan todas las horas trabajadas?		S <input type="checkbox"/> N <input type="checkbox"/>	11. ¿Alguna vez ha sido amenazado o coaccionado a entregar parte de su paga?		S <input type="checkbox"/> N <input type="checkbox"/>
12a. Firma del empleado			12b. Fecha		
13. Deberes observados por el entrevistador (Por favor sea específico.)					
14. Comentarios					
15a. Nombre del entrevistador (use letra de imprenta)		15b. Firma del entrevistador		15c. Fecha de la entrevista	

Examinación de Nómina

16. Comentarios	
17a. Firma del examinador de nómina	17b. Fecha

Instrucciones

Generalidades:

Este formulario será utilizado por personal de HUD y agencias locales a fin de anotar toda información recopilada durante las entrevistas en sitio con obreros y mecánicos empleados en proyectos sujetos a requisitos de pago de salario vigente federal. Por lo general, el personal que efectúe entrevistas en sitio y use este formulario será personal de HUD e inspectores de construcción con comisión, personal de la Oficina de Relaciones Laborales de HUD, e inspectores de contratos de la agencia de normas laborales local.

La información recopilada en este formulario HUD-11 es evaluada para su conformidad general y comparada con informes de nóminas certificados presentados por el empleador correspondiente. La comparación examina la veracidad de los informes de nómina y puede ser crítica para la exitosa conclusión de gestiones de cumplimiento en caso de existir violaciones a las normas laborales. La meticulosidad y exactitud de de la información recopilada durante las entrevistas es trascendental.

Tenga en cuenta que tanto la entrevista misma y la información recopilada en el formulario HUD-11 se consideran ser de carácter confidencial. Las entrevistas se deberán efectuar en forma individual y en privado. Todos los trabajadores y mecánicos empleados en el sitio de trabajo deben ser puestos a disposición para las entrevistas a petición del entrevistador. Sin embargo, la participación del empleado es voluntaria. Las entrevistas serán conducidas en una manera y lugar que sean conducentes a los objetivos de la entrevista y ocasionen el menor inconveniente al patrón(nes) y empleado(s).

Instrucciones para rellenar el formulario HUD-11

Líneas 1a - 1c: Auto aclaratorio

Líneas 2a – 2d: Anote el nombre completo del empleado, un número telefónico donde se le pueda contactar, y su dirección residencial. Muchos trabajadores de construcción usan una dirección temporal en la localidad del proyecto y tienen una dirección más permanente en algún otro lugar a donde se les puede enviar correspondencia. Si puede, obtenga una dirección más permanente. Pida al empleado algún tipo de identificación (por ej., licencia de conducir) para verificar su nombre.

Líneas 3a – 4c: Anote las respuestas del empleado. Pregunte a los empleados si tienen un talonario de paga con ellos; si no, determine si el talonario de paga concuerda con la información provista por el empleado.

Líneas 5 – 7: Asegúrese de que las respuestas del empleado sean específicas. Por ejemplo, la clasificación de trabajo (#5) debe identificar el tipo de oficio que desempeña (por ej., carpintero, electricista, plomero) – respuestas tales como "jornalero" o "mecánico" no ayudan para nuestros propósitos.

Líneas 8 – 12b: Auto explicatorio

Líneas 13 – 15c: Estos asuntos representan alguna de la información más importante que se puede recopilar durante una entrevista en sitio. Por favor sea específico en cuanto a los deberes que según su observación desempeñó el empleado. Quizás sea más fácil hacer estas observaciones antes de iniciar la entrevista. Por favor anote cualquier comentario que pueda ser de importancia. Por ejemplo, si el empleado entrevistado estaba trabajando con un equipo, ¿cuántos trabajadores tenía el equipo? ¿Se mostraba el empleado evasivo?

El nivel de precisión garantizado está directamente relacionado al grado que la(s) entrevista(s) u otras observaciones pueden indicar que existen posibles violaciones. Si las entrevistas indican que puede haber paga de salario insuficiente relacionado a algún particular oficio (s), se recomienda al entrevistador conducir entrevistas con tantos trabajadores en ese oficio(s) estén disponibles.

Líneas 16 – 17b: Inicialmente, la información en el formulario HUD-11 puede ser examinada para conformidad general. Por ejemplo, ¿está la clasificación de trabajo y el salario declarado por el empleado compatible con las clasificaciones y tasas de salario en la decisión de salario aplicable? ¿Concuerdan los deberes observados por el entrevistador con la clasificación de trabajo?

Una vez se reciben los informes de nómina certificados correspondientes, se hará una comparación de la información anotada en el formulario HUD-11 con los informes de nómina. Cualquier discrepancia entre la información del formulario HUD-11 y la del informe de nómina será anotada en la línea 16, Comentarios. Si se hacen observaciones de discrepancias se deberán tomar pasos de seguimiento para resolver las discrepancias.

Construction Management Files

Bid Documents	Architect/Engineer Specifications Request for Wage Rate Determination Response to Request for Wage Rate Determination Bid Document Copy of Bid Advertisement Copies of any direct solicitations to women-owned and/or minority businesses Minutes of Bid Opening/Bid Tabulation Construction Contractor Debarment Letter to ODOC Verification of Construction Contractor Eligibility from ODOC Notice of Contract Award Documentation of Construction Contractor Procurement Section 3 Plan
Contract Documents	Contract Specifications Bonding/Insurance Preconstruction Conference Notification Preconstruction Conference Checklist Preconstruction Conference Minutes Construction Contractor's Certifications: Labor Standards and Prevailing Wage Requirements, Civil Rights, etc. Project Schedule Notice to Proceed
Construction/Labor Compliance	Change Orders (with documentation) Certified Weekly Payroll Reports Weekly Statements of Compliance Employee Interviews Contract/Labor Standards Violations and Resolutions Violations Investigation Records Monitoring Letter/Findings Resolution of Findings Final Inspection and Acceptance Release of Claimants



Section 9

Monitoring and Closeout

July 7, 2014

Section 9 Monitoring and Closeout

When Oklahoma agreed to assume the administrative responsibilities for the Community Development Block Grant program, it assured the Department of Housing and Urban Development that CDBG projects would be conducted in a manner consistent with all applicable federal laws. In order to ensure that this is the case, ODOC performs monitoring of the CDBG projects. Not every project will be monitored on site. Desk monitoring may be utilized for projects that are low risk or when the Grantee has an exemplary management history.

As the name implies, closeout will occur when the project is completed and all invoices and activities associated with the grant have been concluded. In this section, the process of closing out a grant is covered.

NOTES

**OKLAHOMA DEPARTMENT OF COMMERCE
COMMUNITY DEVELOPMENT
COMMUNITY DEVELOPMENT BLOCK GRANT (CDBG) PROGRAM**

**REQUIREMENT NO. 409
MONITORING AND CLOSEOUT**

Effective July 7, 2014

I. EVALUATING GRANT RECIPIENT PERFORMANCE (MONITORING)

- A. When the State agreed to assume administrative responsibilities for the CDBG Program, it certified that activities would be conducted in a manner consistent with all applicable Federal laws. The primary tool for confirming this assurance is being met is for the State to monitor the activities of its Grant Recipients, just as HUD monitors the State.
- B. ODOC has developed a monitoring strategy that targets a sampling of projects or activities. This sampling is based on risk factors associated with various types of projects and/or Grant Recipients. While every project receives some level of monitoring, priority for in-depth evaluation and review is given to projects that are:
1. Multi-jurisdictional, i.e., involving more than one unit of local government;
 2. Involve some level of risk, as evidenced by:
 - a. Lack of recent history in administering a CDBG project;
 - b. Evidence of numerous accounting or financial tracking errors on current or previous projects;
 - c. A record of serious findings or sanctions in previous monitoring session;
 - d. High turnover of administrative staff;
 - e. Delays in submitting required reports;

- f. Prior violations;
- g. Failure to attend and participate in implementation workshops;
- h. Excessive tardiness in responding to prior monitoring findings.

By definition, economic development projects are considered high risk.

C. Monitoring is accomplished in two ways:

1. On-Site Monitoring: Certain activities can only be evaluated on-site. The most obvious of these include the examination of Grant Recipient files to ensure adequate documentation. The frequency and depth of such on-site monitoring is dependent on the risk factors cited above.
 - a. An on-site monitoring visit is a formal affair. It is scheduled in advance. The chief executive officer of the Grant Recipient and the project administrator are notified of the date, time, location and purpose of the visit. Upon arrival, ODOC Representatives will conduct an entrance interview (which is ordinarily quite brief), reiterating the purpose of the visit and outlining files and documentation needed. Utilizing appropriate checklists, the Representatives review the Grant Recipient files to determine if all requirements have been met. The primary issues that are being examined are consistency with the specific terms of the contract agreement and compliance with State and Federal requirements.
 - b. At the conclusion of the visit, the ODOC Representatives will conduct an exit interview, providing a tentative summary of the results of the visit. If there appear to be problems, the Grant Recipient has an opportunity to provide more information or clarification.
 - c. Within 30 days of the monitoring visit, the Grant Recipient will receive a formal monitoring results letter

through OKGrants. This letter will summarize the area(s) reviewed, performance expectations, an analysis of what was discovered on-site, a conclusion or finding and, if necessary, required Grant Recipient responses or actions.

- d. If there were problems discovered during the monitoring, the Grant Recipient might receive a finding of non-compliance. A finding of non-compliance is a violation of law or regulation that must be remedied. A finding can result in an immediate sanction or threat of sanction if corrective action (if appropriate and required) is not taken in a specified manner and/or timeframe. For each finding, ODOC will determine if a corrective action, either to correct a past problem or to avoid future problems, must be taken by the Grant Recipient.
 - e. If the required corrective action is not addressed in an appropriate or timely manner, ODOC may impose a progressive level of sanctions, ranging from additional reporting to suspension of funding, additional special conditions, return of misspent funds, termination of the contract or even legal action.
 - f. The monitoring letter may also include one or more concerns. These are matters that, if not properly addressed, can become findings and can ultimately result in sanctions. Concerns are often used to point out operational or management problems or patterns of performance that could lead to larger problems later, even if they are not evident at the time of monitoring. Concerns may require some form of response on the part of the Grant Recipient.
2. Desk Monitoring: ODOC places priority on this form of monitoring as a means of staying in touch with project progress and heading off problems early, thereby avoiding costly problems left unattended too long. This method of monitoring is the most efficient and cost-effective ODOC can employ to meet a portion of its oversight responsibilities.

II. CLOSEOUT

Closing out an individual contract represents a confirmation that:

The intended benefits of providing the funding have been accomplished and that all of the legal requirements imposed on use of the funds have been examined. All Grant Recipients are expected and required to conduct an orderly and timely closeout of their contract with ODOC.

A. PROCEDURES

Closeout documents are to be uploaded into OKGrants within sixty (60) days after the contract expiration date or completion of the project. If the Grant Recipient cannot meet this requirement, a written request for an extension of time may be submitted to ODOC through OKGrants. Permission to extend the due date for submission of closeout documents will be granted for good and valid reasons.

ODOC will have no objections to a Grant Recipient initiating closeout procedures prior to the current expiration date, provided the following conditions can be met:

1. All final costs to be covered by the contract have been incurred or obligated, including payment of any unsettled third-party claims or contract commitments. This means no additional funds can or will be requested from ODOC. Costs are considered incurred when goods and services are received and contract work is performed. **[24 CFR 85.50]** (**Note:** If you have funds that have not been drawn down as of the completion of the project, a request for payment of these contract funds must be submitted prior to initiation of the closeout process or submission of the closeout documents. Additional funds can only be requested for expenses incurred before the expiration date of the CDBG contract. However, they can be requested up to sixty (60) days after your CDBG contract expires.)
2. All project activities have been completed. This means that, depending on the project:

- a. The community center has passed final inspection, the opening ceremonies have been conducted and the building is in use by the community's citizens;
 - b. All infrastructure construction is complete, final inspection has been made, the project is operational and all beneficiaries are being served;
 - c. All persons being relocated have been relocated or provided cash assistance to relocate;
 - d. Planned job creation has occurred.
3. All leverage funds have been expended; and
 4. All issues from ODOC monitoring have been resolved.

III. REQUIRED DOCUMENTATION

- A. Grant Recipients will close out their grants on OKGrants. The Authorized Official will prepare and submit the closeout. The Authorized Official must initiate and submit required closeout documents to ODOC; however utilizing the assistance of the grant writer is beneficial and encouraged.

Following is the documentation required.

1. Program Beneficiary Report;
2. Proof of Second Public Hearing;
3. Final Wage Compliance Report, if applicable
4. Proof of Insurance, if applicable
5. Board Minutes signed by an authorized official
6. Final Inspection Report and/or Final Engineering Report
7. Documentation of Section 3 Summary Report.

- B. The following is a description of the individual forms that make up the closeout documentation:
1. CDBG Final Expenditure Report: This is the final version of the Monthly Expenditure Report the Grant Recipient has been submitting throughout the life of the project. The primary difference is that the numbers of this report are final. One version is for community development and the other is for economic development. (**Note**: Any cash on hand, except for funds held to pay audit costs, must be returned to ODOC.)
 2. Contract Closeout Certifications: This is the form where the Grant Recipient certifies that all of the information provided is accurate and truthful. It also holds the State of Oklahoma, ODOC and its employees harmless from any liabilities or claims arising from the performance of the contract. It must be signed and dated by the authorized official.
 3. Program Beneficiary Report: This form is the cumulative total of all actual project beneficiaries. The ethnic origins total must equal the total number of beneficiaries.
 4. Proof of Publication of Notice of Second Public Hearing: The Grant Recipient must attach documentation that a public notice was posted/advertised informing citizens of the second public hearing to be held. A **SIGNED copy of the hearing minutes must also be included.**
 5. Final Wage Compliance Report: This form is required to report any liquidated damages and/or wage restitution paid by the construction contractor.
 6. Proof of Insurance: The Grant Recipient must attach proof of insurance for any above-ground facilities built or renovated and/or for equipment purchased with the assistance of CDBG funds.
 7. Board Minutes Accepting Completed Project: A copy of the Board Minutes is required to be submitted to Acknowledge to ODOC that the project is complete and that final payment to the construction contractor has been authorized.

8. Final Inspection Report: The Final Inspection Report is required to be submitted as proof that the project is complete and acceptable.
9. Final Engineering Report: A final engineering report must be submitted on projects where engineering was required.
10. Section 3 Summary Report: This report is required as proof for your attempts to comply with Section 3.

IV. **POST-CLOSEOUT RESPONSIBILITIES:**

It is entirely possible that submission and acceptance of the Closeout documents doesn't signal the end of the Grant Recipient-ODOC relationship. There are several circumstances under which the Grant Recipient will have continuing responsibilities resulting from the closed project.

- A. Loans: Responsibility for loan administration and program income, as stipulated in the original contract, continues for as long as there are any funds flowing that can be attributable to the original disbursement of CDBG funds. Responsibilities include loan portfolio management, accounting and reporting;
- B. Audits: In some instances, the project may be conditionally closed out pending submission and acceptance of a final audit. The project is not technically closed until the final audit has been received and accepted. **Note**: Even though the Grant Recipient is eligible to submit an application for another project after closeout documents have been submitted and accepted, no new funding can be obligated until all audits due on previous projects have been submitted and accepted.
- C. Other Contract Requirements: Some contracts will have special conditions requiring post-closeout responsibilities. The most common of these involve annual reporting on job creation resulting from public improvement projects.
- D. Maintenance of Records: All project records must be maintained for three years after project closeout by the grant recipient.

- E. ODOC will not accept hard copies of any closeout documents. It is the responsibility of the grant recipient to file and store all hard copies.

V. ATTACHMENTS

- 1. Closeout Documents

VI. FORMS – SECTION 10

- 9.1 CDBG Program Beneficiary Report – Program Benefits
- 9.2 Final Wage Compliance Report
- 9.3 Engineer’s Certificate of Completion

OKLAHOMA DEPARTMENT OF COMMERCE (ODOC)

Community Development Block Grants

INSTRUCTIONS FOR COMPLETING CLOSE OUT DOCUMENTS

All original signed documents must be submitted within sixty days after the contract ending date or upon completion of the project - whichever comes first. For Economic Development contracts, the project must be complete and all jobs as set out in the application for funding must be created before the project can be closed out.

The Contract Period listed on each document must correspond to the dates listed on the contract and subsequent modifications. If the ending date was changed, the latest modification date must be used.

Note: Once the contract closeout is submitted to ODOC, no further requests for funds or expenditure reports can be submitted. The Final Expenditure Report is required for contract closeout. If additional funds are due to the Grant Recipient, the proper **Request for Funds and Final Expenditure Report** must be submitted prior to submission of the closeout documents.

- 1. Final Expenditure Report.** Must be submitted through OKGrants prior to closeout. This form is completed through the same process as the Monthly Expenditure Report, but the “Final” radio button is marked to indicate that no further reports should be expected. Enter the correct total expenditures by line item in the appropriate column. All matching/leverage final expenditures must be reported and broken down in dollar amounts by category (i.e. federal, state, etc.) “Remaining Balance” is the budget less expenditures year-to-date. The interest reconciliation is for interest earned on deposits of CDBG funds only. Any unexpended interest must be returned to ODOC with the check made payable to HUD. NOTE: Matching expenditures must be reported by type, i.e., federal, local, etc.
- 2. Contract Closeout Certifications:** This form is available in OKGrants once the Authorized Official has changed the status of the grant to “Closeout in Process”. Total Cash Received/ Requested must be for the total contract period. **Total Accrued Expenditures** must be the

total amount expended as shown on the Final Expenditure Report. The form must be completed and saved by the local Authorized Official.

3. **Program Beneficiary Report – Program Benefit:** [FORM 9.1] this form must be uploaded in the appropriate place under the closeout workflow in OKGrants. For each Program Activity, report on actual accomplishments. For **Units Completed**, enter the number of structures/parcels acquired or cleared. For economic development projects, enter the number of full-time positions created or retained. In ethnic, Female Head of Household and Disabled columns enter actual information on the number of beneficiaries. The ethnic origins total must equal the Total Number of Beneficiaries.
4. **Proof of Publication of Notice of Second Public Hearing:** The Grant Recipient must upload documentation that a public notice was posted/advertised informing citizens of the second public hearing to be held. A copy of the hearing minutes must also be included.
5. **Final Wage Compliance Report:** [FORM 9.2] Enter information on liquidated damages or wage restitution paid by the construction contractor.
6. **Proof of Insurance:** The Grant Recipient must attach proof of property coverage insurance for any above-ground facility built or renovated and/or for equipment purchased with CDBG funds.
7. **Board Minutes Accepting Completed Project:** The Grant Recipient must provide ODOC with Board Minutes acknowledging the project is complete and authorizing final payment to the Grant Recipient.
8. **Final Inspection/Engineering Report:** [FORM 9.3] The Grant Recipient must attach a certified copy of the final inspection report provided by the Engineer/Architect, indicating the project is complete and acceptable. **(NOTE): If no engineer/architect services are utilized, the Item #7 will suffice.**
9. **Section 3 Summary Report:** [ATTACHMENT 1 – CLOSEOUTS] The Grant Recipient must collect the information on the form from all construction and non-construction contractors as soon as the project is complete. This information must be submitted to ODOC.

Grant Recipient:	Contract Number:
CDBG PROGRAM BENEFICIARY REPORT – PROGRAM BENEFITS	

<i>PROGRAM ACTIVITY</i>	Units Completed	Total # of Beneficiaries	Low- and Mod Income	Race Black or African Amer.	Race Amer. Indian or Alaska Native	Race Asian	Race Native Hawaiian or Pacific Islander	Race White	Ethnicity Hispanic Latino	Other Multi-Racial	Disabled	Female Head of Household
1. Housing Rehabilitation												
2. Housing Support												
3. Rehabilitation – Rental Demo												
4. Acquisition and Disposition												
5. Relocation												
6. Clearance												
7. Utilities												
8. Water System												
9. Sewer System												
10. Solid Waste												
11. Community Facilities												
12. Neighborhood Facilities												
13. Senior Citizens Center												
14. Other Facilities/Center												
15. Removal of Arch. Barriers												
16. Public Services												
17. Code Enforcement												
18. Recreation												
19. Fire Protection												
20. Parking												
21. Streets												
22. Flood and Drainage												
23. ED Infrastructure Improvement												

FINAL WAGE COMPLIANCE REPORT

Grant Recipient Name:	Contract Number:
Contact Person:	Telephone No.:
Project Name:	Project Location:
Construction Completion Date:	Contract Amount: \$
Prime Contractor:	
Subcontractors	

1. Were any workers paid less than the specified Davis-Bacon rates that applied to this project?

- Yes No

2. If YES:

a. What was the total amount of restitution paid? \$ _____

b. What was the method of restitution?

- Paid by the Contractor
 Paid by Grant Recipient with funds withheld from payment to the Contractor

Firm	Affected Employees	Amount of Restitution Paid	Nature of Violations
------	--------------------	-------------------------------	----------------------

(Attach additional pages if necessary.)

3. Were any workers not paid the correct overtime payments? Yes No

If YES: Liquidated damages at the rate of \$10 for each calendar day for each worker must be calculated and the Contractor notified of his liability, and

4. Provide information concerning the nature of the overtime violations. This should include:

a. Firm's Name, Address and Phone Number: _____

b. Date Contractor was notified in writing of the amount of liquidated damages which could be assessed: _____

c. Date the Contractor responded to the written notice: (must be within 30 days of the receipt of notification): _____

d. Did the Contractor seek a reduction or waiver of the liquidated damages?

- Yes No

e. If YES: Was the requested approved and for what

Yes - Reduction. Yes - Waiver. No.

f. On what grounds was HUD's or USDOL's response based? _____

g. Total amount of Liquidated Damages paid: \$_____

h. What was the method of payment of the Liquidated Damages?

Paid by the Contractor

 Paid by the Grant Recipient with funds withheld from payment to the Contractor.

i. Did the Contractor appeal the final decision to assess Liquidated Damages to the Wage Appeals Board?

Yes No

j. Attach copies of all correspondence relative to any Liquidated Damages.

5. If appropriate, attach a recommendation of and justification for sanctions against the Contractor.

Submitted by:

Signature

Date

Typed Name/Title

ENGINEER'S CERTIFICATE OF COMPLETION

I, _____, of the firm of _____,
A registered professional Engineer in the State of Oklahoma, and project Engineer
for _____ of _____, County, Oklahoma, for certain
improvements consisting of:

Do hereby concur that the above referred to improvements were accomplished according to approved plans and specifications and/or duly authorized change orders, to the best of my knowledge, information and belief. This Certification is for the benefit of the OWNER listed above to finalize the project quantities and payment.

_____ of _____ is the prime contractor on this job.

A final field observation of the project was completed.

I DO HEREBY APPROVE THE ABOVE REFERRED TO IMPROVEMENTS, AND
RECOMMEND APPROVAL TO THE _____.

Dated this ____ day of _____, 20____.

Respectfully submitted,

Name/Title

Warranty period will be for 1 year and begin on the ____ day of _____, 20____.

Accepted: _____

Acknowledged: _____

This the ____ day of _____, 20____.

This the ____ day of _____, 20____.

By: _____

by: _____

Signature

Signature

Typed Name/Title

Typed Name/Title

Part II: Contracts Awarded

1. Construction Contracts:

- A. Total dollar amount of all contracts awarded on the Project \$ _____
- B. Total dollar amount of contracts awarded to Section 3 businesses \$ _____
- C. Percentage of the total dollar amount that was awarded to Section 3 Businesses _____%
- D. Total number of Section 3 businesses receiving contracts _____

2. Non-Construction Contracts:

- A. Total dollar amount of non-construction contracts awarded On the project/activity \$ _____
- B. Total dollar amount of non-construction contracts awarded to Section 3 businesses \$ _____
- C. Percentage of total dollar amount that was awarded to Section 3 Businesses _____%
- D. Total number of Section 3 businesses receiving non-Construction contracts _____

Part III. Summary

Indicate the effects made to direct the employment and other economic opportunities generated by HUD financial Assistance for housing and community development programs to the greatest extent feasible, toward low-and very low-income persons, particularly those who are recipients of government assistance for housing. (Check all that apply.)

- ___ Attempted to recruit low-income residents through: Local advertising media, signs prominently displayed at the project site, contracts with the community organizations and public or private agencies operating within the metropolitan area (or Nonmetropolitan County) in which the Section 3 covered program or project is located, or similar methods.
- ___ Participated in a HUD program or other program which promotes the training or employment of Section 3 residents.
- ___ Participated in a HUD program or other program which promotes the award of contracts to business concerns which meet the definition of Section 3 business concerns.
- ___ Coordinated with Youth build Programs administered in the metropolitan area in which the Section 3 covered project is located.
- ___ Other: Describe below:

Public reporting for this collection of information is estimated to average 2 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. This agency may not collect this information, and you are not required to complete this form unless it displays a currently valid OMB number.

Section 3 of the Housing and Urban Development Act of 1968, as amended, 12 U.S.C. 1701u, mandates that the Department ensures that employment and other economic opportunities generated by its housing and community development assistance programs are directed toward low and very-low income persons, particularly those who are recipients of government assistance housing. The regulations are found at 24 CFR Part 135. The information will be used by the Department to monitor program recipients' compliance with Section 3, to assess the results of the Department's efforts to meet the statutory objectives of Section 3, to prepare reports to Congress, and by recipients as self-monitoring tool. The data is entered into a database and will be analyzed and distributed. The collection of information involves recipients receiving Federal financial assistance for housing and community development programs covered by Section 3. The information will be collected annually to assist HUD in meeting its reporting requirements under Section 808(e) (6) of the Fair Housing Act and Section 916 of the HCDA of 1992. An assurance of confidentiality is not applicable to this form. The Privacy Act of 1974 and OMB Circular A-108 are not applicable. The reporting requirements do not contain sensitive questions. Data is cumulative; personal identifying information is not included.

Form HUD 60002, Section 3 Summary Report, Economic Opportunities for Low-and Very Low-Income Persons.

<p>Instructions: This form is to be used to report annual accomplishments regarding employment and other economic opportunities provided to low-and very low-income persons under Section 3 of the Housing and urban Development Act of 1968. The Section 3 regulations apply to any public and Indian housing programs that receive (1) development assistance pursuant to Section 5 of the U.S. Housing Act of 1937; (2) operating assistance pursuant to section 9 of the U.S. Housing Act of 1937; or (3) modernization grants pursuant to Section 14 of the U.S. Housing Act of 1937 and to recipients of housing</p>	<p>Part I: Employment and Training Opportunities Column A: Contains various job categories. Professionals are defined as people who have special knowledge of an occupation (i.e. supervisors, architects, surveyors, planners and computer programmers). For construction positions, list each trade and provide data in columns B – F for each trade where persons were employed. The category of "Other" includes occupations such as service workers. Column B: (Mandatory Field) Enter number of new hires of workers identified in Col. A in connection with this award. New hire refers to a person who is not on the contractor's or</p>
--	---

and community development assistance in excess of \$200,000 expended for: (1) housing rehab (including reduction and abatement of lead-based paint hazards; (2) housing construction; or (3) other public construction projects; and to **contracts and subcontracts in excess of \$100,000** awarded in connection with Section 3-covered activity.

Form HUD-60002 has 3 parts, which are to be completed for all programs covered by Section 3. Part I relates to **employment and training**. The recipient has the option to determine numerical employment/training goals either on the basis of the number of hours worked by new hires (columns B,D,E & F). Part II relates to **contracting**, Part III summarizes recipient's **efforts** to comply with Section 3.

Recipients or contractors subject to Section 3 requirements must maintain appropriate documentation to establish that HUD financial assistance for housing and community development programs are directed toward low- and very low-income persons. * A recipient of Sec. 3 covered assistance shall submit one copy of this report to HUD Headquarters. Where the program providing assistance requires an annual performance report, this Sec. 3 report is to be submitted at the same time the program performance report is submitted. Where an annual report is not required, this Sec. 3 report is to be submitted by January 10 and, if the project ends before December 31, within 10 days of project completion. **Only Prime Recipients are required to report to HUD. The report must include accomplishments of all recipients and their Sec. 3 covered contractors and subcontractors.**

HUD Field Office: Enter the Field Office Name.

1. Recipient: Enter the name and address of the recipient submitted this report.
2. Federal Identification: enter the number that appears on the award form (with dashes). The award may be a grant, cooperative agreement or contract.
3. Dollar Amount of Award: Enter the dollar amount, rounded to the nearest dollar, received by the recipient.
- 4&5. Contact Person/Phone: Enter the name and telephone number of the person with knowledge of the award and the recipient's implementation of Sec. 3
6. Reporting Period: Indicate the time period (months and year) this report covers:
7. Date Report Submitted: Enter the appropriate date.
8. Program Code: Enter the appropriate program code as listed on the bottom of the page.
9. Program Name: Enter the name of HUD Program corresponding with the "Program Code" in number 8.

Submit one (1) copy of this report to HUD Headquarters Office of Fair Housing and Equal Opportunity, at the same time the performance report is submitted to the program office. The Section 3 report is submitted by January 10. Include only contracts executed during the period specified in Item 8. PHAs/IHAs are to report all contracts/subcontracts.

* The terms "low-income persons and very low-income persons" have the same meanings given the terms in Section 3 (b) (2) of the United States Act of 1937. Low-income persons means families (including single persons) whose incomes do not exceed 80% percent of the median income for the area, as determined by the Secretary, with adjustments for smaller and larger families, except that

recipient's payroll at the time of the selection for the Sec. 3 covered award or at the time of receipt of Sec. 3 covered assistance.

Column C: (Mandatory Field) Enter the number of Sec. 3 new hires for each category of workers identified in Col. A in connection with this award. Sec. 3 new hire refers to a Sec. 3 resident who is not on the contractor's or recipient's payroll at the time of selection for Sec. 3 covered award or at the time of receipt of Sec. 3 covered assistance.

Column D: Enter the percentage of all staff hours of new hires (Sec. 3 residents) in connection with this award.

Column E: Enter the percentage of total staff hours worked for Sec. 3 employees and trainees (including new hires) connected with this award. Include staff hours for full and part time positions.

Column F: (Mandatory Field) enter the number of Sec. 3 residents that were trained in connection with this award.

Part II: Contract Opportunities

Block 1: Construction Contracts

Item A: Enter the total dollar amount of all contracts awarded on the project/program

Item B: Enter the total dollar amount of contracts connected with the project/program that were awarded to Sec. 3 businesses.

Item C: Enter the percentage of the total dollar amount of contracts connected with this project/program awarded to Sec. 3 businesses.

Item D: Enter the number of Sec. 3 businesses receiving awards.

Block 2: Non-Construction Contracts

Item A: Enter the total dollar amount of all contracts awarded on the project/program.

Item B: Enter the total dollar amount of contracts connected with this project awarded to Sec. 3 businesses.

Item C: Enter the percentage of the total dollar amount of contracts connected with this project/program awarded to Sec. 3 businesses.

Item D: Enter the number of Sec. 3 businesses receiving awards.

Part III: Summary of Efforts – Self Explanatory

The Secretary may establish income ceiling higher or lower than 80 percent of the median for the area on the basis of the Secretary's findings such that variations are necessary because of prevailing levels of construction costs or unusually high or low-income families. Very low-income persons mean low-income families (including single persons) whose incomes do not exceed 50% of the median family income area, as determined by the Secretary with adjustments or smaller and larger families, except that the Secretary may establish income ceilings higher or lower than 50 percent of the median for the area on the basis of the Secretary's findings that such variations are necessary because of unusually high or low family incomes.