

CHAPTER 4. APPLICATION PREPARATION and PROGRAM GUIDANCE



A. Requirements Prior to Making Application

1. **“How To Apply” Workshops:** The state requires each AOG region to hold a public workshop yearly to assist prospective CDBG applicants and to take suggestions regarding the CDBG process. All open meeting law requirements must be adhered.

These public meetings are referred to as **“How to Apply” Workshops** and are designed to educate applicants about national objectives, eligibility requirements, time frames, and the rating and ranking process. All major program requirements contained in this book are also discussed.

Notification of these workshops is made by each AOG office at least seven days prior to the scheduled meeting and must be sent to all interested parties in the region, including cities and counties. Mailing lists for notification should include:

1. Low-income advocacy groups
2. Special service districts
3. Housing authorities
4. Chambers of commerce
 - i. Economic development organizations;
 - ii. Other agencies identified in the area

It is mandatory that an OFFICIAL representative of each applicant attend a workshop in the applicant’s region. Applicants wishing to attend another region’s workshop must contact the state CDBG staff first.

2. **Local Public Hearings:** Each community, county or AOG wishing to submit an application for CDBG funds is required to hold at least two public hearings, each at a different stage of the process. The purpose is to obtain citizen’s views and to respond to proposals and questions. Public hearings must be conducted in a manner that will meet the needs of non-English speaking residents where a significant number of non-English speaking residents reasonably can be expected to participate. Accommodations must also be made for disabled persons.

a. First Public Hearing: This must be held **BEFORE** preparation of the application. **See Appendix B for sample notices.** The purpose of the first public hearing is held prior to the initial application deadline of **January 31, 2017**, in order to:

- i. Provide information to the public that includes at least the following:
 - a. The amount of CDBG funds expected to be available for projects for the new year.
 - b. The types of activities that may be undertaken with CDBG funds (Chapter 3).
- ii. Identify and discuss the community development needs of the community
- iii. Obtain citizens’ views and suggestions regarding possible projects

- iv. Respond to those suggestions and questions

b. Second Public Hearing: This must be held **AFTER** an applicant is notified that their application has been funded by the Rating and Ranking committee (RRC) (Spring 2017) but **BEFORE** the finalized application deadline of **May 31, 2017**. Applicants whose projects are not funded do **not** hold this second hearing. The purpose of the second public hearing is to:

- i. Identify the project that has been approved for funding;
- ii. Identify the amount of funding to be received;
- iii. Respond to specific concerns and questions of citizens, particularly those who may be immediately impacted by the project.

c. Documentation: Applicants must include the following with their application:

- i. Copies of the above public notices or postings
- ii. Detailed minutes of the meeting. (see **Appendix B** for required format.) The minutes should include the following:
 - a. Names of all persons who attended (city officials by name and title and all citizens)
 - b. Amount of CDBG funding available, eligible activities, past projects accomplished with CDBG funds in the community and any activities which might displace LMI persons,
 - c. All comments, suggestions, and questions plus the responses given. (When responses must be provided other than at the hearing, that response should be made within 15 working days).

d. Preparing Public Hearing Notices: Sample Notices are **included in Appendix B**.

- i. The first notice **MUST NOT** identify a specific project, but must invite ideas and suggestions from citizens.
- ii. Applicants must provide citizens with the address, phone number and time for submitting complaints and grievances **either** in the first notice or during the first public hearing.
- iii. There must be reasonable notice of the hearings. These times have been established:
 - a. Each hearing must be posted on the state's public meeting notice website: www.utah.gov/pmn for a **minimum of seven days**
 - b. Applicants **MUST** post the publication on the public meeting notice website using the template(s) provided in Appendix B. The posting must be accompanied by a Certificate of Posting (see Appendix B).

3. Allowable Grant Administration Costs: Subject to State approval, no more than 10 percent of a CDBG grant can be used for CDBG administrative costs. Administrative costs must be broken out from the rest of the project costs on the budget. The administration budget covers the cost of implementing a local project and may include such things as:

1. Salaries and wages of individuals working specifically on the CDBG project
2. Travel costs incurred for official business in carrying out the project
3. Costs involved in the preparation of the environmental review

4. Other contract costs for professional services associated with program administration.

- 4. Grant Administration Capacity:** All applicants **MUST** have the capacity to undertake and complete the project they are proposing. All first time applicants are assumed to have this capacity. If an applicant does not have the administrative capability to keep current fiscal records and pertinent support documentation, it must contract with an organization to administer the grant for them. The capacity of a repeat grantee to successfully carry out another CDBG grant will be evaluated by the state CDBG staff.
- 5. Water /Wastewater Treatment Plant Project Plan Approval:** Culinary water and wastewater treatment plant projects must submit specifications to the Department of Environmental Quality (DEQ) for approval. The state CDBG staff must receive written approval from DEQ before any release of CDBG funds.
- 6. Real Property Acquisition:** The State of Utah Small Cities CDBG Program (24 CFR 570, Subpart 1) is subject to the Uniform Relocation Act and implementing regulations at 49 CFR Part 24. The State CDBG Program only allows voluntary acquisitions; however, the state requires substantial compliance with guidelines for acquisition under the Uniform Relocation Act. The State CDBG Program prohibits use of the power of eminent domain or condemnation. Furthermore, the state program does not allow projects that would trigger displacement and/or relocation expenses.

1. VOLUNTARY ACQUISITIONS

The acquisition can be considered voluntary in the case of an acquisition by a state agency (e.g., an entity with the power of eminent domain) or an entity that does not have the power of eminent domain, if ALL of the following conditions are present:

- i. The state agency determines and informs the owner in writing that it will not use its power of eminent domain to acquire the property if negotiations fail to result in an amicable agreement; and
- ii. No specific site or property is designated for acquisition, although the grantee may have a general geographic area in mind; and
- iii. The property to be acquired is not part of an intended, planned or designated project area where all or substantially all of the property within the area will eventually be acquired; and
- iv. The grantee informs the owner of its estimate of the fair market value of the property.

7. Planning or Engineering Only Projects: Title I of the Housing and Community Development Act requires that any community receiving a grant for planning activities must meet a national objective in the same manner as any other grantee. (See Chapter 3, Section B)

1. Communities wishing to receive **planning assistance** will provide data to the region to show compliance with the requirements of the LMI national objective as described by this application manual. They may also submit information to satisfy the slum/blight prevention/elimination national objective as described. This documentation must be submitted to the state after the region has approved it. The state must then perform an independent review, prior to commencement of the planning project.
2. The state will endorse requests for funds only when each specific project has met a national objective. When regions make requests for funds it will be necessary for them to identify which communities are to receive assistance. The region will be required to account for staff time and other related costs for each planning project.

8. Housing Applications: Applicants interested in a housing project should review Chapter 5. Only agencies that have established policies and procedures and the necessary background and experience are allowed to apply for housing activities. CDBG funds CANNOT be used to construct single family housing; however, funds can be used to construct the infrastructure in support of housing such as water and sewer lines. Additionally, the following basic criteria must be included in housing rehabilitation policies and procedures with respect to manufactured housing:

1. Applicant must own the home and the property on which the home is located.
2. Applicant may participate in this program only once in a lifetime.
3. Manufactured homes built prior to 1978 are not eligible for rehabilitation.
4. Rehabilitation costs that exceed 50% of the value of the home are not eligible.
5. The maximum amount allowed on manufactured homes is \$7,500.

NOTE: Single family rehabilitation programs can only be carried out by AOGs.

9. Project Duration: All contracts start July 1. All construction projects have an 18 months period to complete, while all non-construction projects have a 12 months period. Construction projects may not be able to complete their project within this 18 month period unless they meet various milestones. Extensions are discouraged but are allowed on a case-by-case basis. Any requests for extension will be based on how well a grantee has met the following milestones.

1. Environmental review process completed 90 days from contract execution date
2. Engineering design/ bid ready specifications completed one year prior to contract expiration date
3. Advertisements for bids published nine months prior to contract expiration date
4. Notice to proceed issued six months prior to contract expiration date

The state staff will closely monitor each grantee's progress towards these deadlines. Failure to meet these deadlines will invoke the right to terminate the contract on the basis the project cannot be completed within the contract time limits. The state must give each grantee a 45-day notice of termination and if the grantee can meet the deadlines then the termination will be

canceled and the project may proceed. The grantee may appeal termination notices. Appeals must be made in writing within ten days following the receipt of the notice of termination. The CDBG Policy Committee will arbitrate appeals cases. The grantee does not need to be in attendance at the policy committee meeting and decisions can be made based on telephone polls, conference calls, faxes and emails. Non-construction projects may be extended on a case-by-case basis by the state staff based on need and grantee performance.

- 10. Grantee Training:** Each grantee is required to attend the grantee training workshop in May prior to their contract being executed. Experienced grantees that have demonstrated a capacity to manage and complete CDBG projects in a timely manner may be exempt from this training at the discretion of the state CDBG staff.
- 11. Contract:** After grant funds are awarded by the RRC, the grantee will execute a formal contract with the state in July. This contract identifies specific CDBG contractual requirements including: Environmental Review Requirements, Federal Labor Standards, and Civil Rights.
- 12. Prior Costs Incurred:** Except under special conditions (see “Pre-agreement Expenditures” below), any costs incurred prior to the execution of a contract between the grantee and state **are not eligible** for reimbursement.
- 13. "Pre-Agreement" Expenditures:** Based on amendments made to the State Small Cities CDBG Program regulations in 1992, there is an allowance under certain conditions, for the commitment and expenditure of funds before a contract is executed between the State of Utah and a grantee. This commitment for expenditure of funds can only take place after the actual award of funds by the state after its review and approval of the CDBG application. Common activities that may be pre-approved include holding workshops, conducting engineering studies or purchasing equipment where advance purchase is required prior to delivery.
 1. A written request from the grantee must be submitted to the state, signed by the chief elected official of the grantee agency, that fully explains the need for the expenditure, a description of the activity to be performed and why it must be done before the contract is executed. See the template example on the next page.
 2. No expenditures may be incurred prior to completing the necessary environmental review and receiving an environmental release. The one exception is expenses related to preparing the environmental review. No pre-agreement is required to incur costs related to the environmental review.

Sample Pre-agreement Request

SMITHVILLE
A City of Smiths since 1901

June 10, 2017

Cheryl Brown, CDBG Program
Dept of Workforce Services
1385 South State – 4th Floor
Salt Lake City, UT 84115

Dear Cheryl:

Pre-agreement for Spring Development for Culinary Water System

Smithville, Utah, is requesting a pre-agreement to allow the city to begin incurring costs associated with this CDBG project prior to the execution of an official contract. This project consists of the re-development of the spring collection area.

The town is in need of this agreement because of deteriorating transmission lines associated with the Smithville Spring that needs to be repaired and replaced immediately. Because water is essential to daily living, it is urgent to undertake this project prior to the start of the new funding year. At this point Smithville would like to start isolating the spring from the transmission line into the town. The town also needs to discharge the water collected to a natural drainage for the duration of the construction and we want to secure funding for this part of the project at this time.

Smithville understands that only eligible costs can be reimbursed and that an environmental review and **release letter are required** before we begin the expenditure of **any funds associated with this project**, and that **commitment of federal funds** is a violation of federal code and may result in Smithville forfeiting its right to federal funding for this project.

Sincerely,

Joe A. Smith, Mayor

- 14. Progress Reports:** A brief progress report describing the activities accomplished since the last Request for Funds (RFF) was submitted is required as part of each request. Grantees that do not communicate with state staff and that have difficulty making progress on their project may be required to submit additional progress reports.
- 15. Program Monitoring/Technical Assistance:** Near the end of the CDBG project the state will monitor grantee performance. The purpose of this visit is to ensure that grantee files are complete. This is done on-site. As a rule, the state staff will schedule one visit for each grantee that will include financial as well as programmatic compliance monitoring. Detailed guidelines are contained in the CDBG/NSP Grantee Handbook.
- 16. Grant Closeout:** A closeout form must be submitted when the project is completed. The purpose of the closeout is to report the persons or households that have benefited from the project. This information is required by HUD and is submitted to the state through WebGrants.
- 17. Audits:** Each grantee that expends over \$750,000 in federal funds from all sources during their fiscal year is required to have a single audit performed in compliance with OMB Circular A-128. These audits are to be submitted to the state auditor's office in a timely manner. Grantees who do not submit audits in a timely manner may be subject to any of the following:
 1. Claims for funds for any current contract will not be processed until the audit is received.
 2. In severe cases, the current contract may be terminated.
 3. Future applications will be downgraded during the rating/ranking process.

After the audit has been received and approved by the state, and all criteria have been met, the CDBG contract will be officially closed.

B. Completing the Application

Applications must be submitted on-line no later than 5:00 PM, January 31, 2017.

1. **Application Preparation/Submission:** The state requires applicants to submit their applications electronically through the WebGrants system. Below is a brief outline of the procedures.
 - i. Applicants must attend one of the "How to Apply" Workshops in order to be eligible for funding.
 - ii. The WebGrants Navigation Instructions are located in Appendix A of this manual.

The application along with any supplemental information required by each RRC, will be used to ensure that the proposed project meets all federal compliance requirements. AOG staff will review each application. **If threshold criteria have not been met by the deadline (including a completed, valid income survey, if applicable) the application will not be rated and ranked and will not be eligible for funding.**

- i. **State Review:** The state CDBG staff will review all applications to ensure that they meet the minimum thresholds for eligibility and national objective compliance.

- ii. **An applicant may submit more than one application.** (See specific Rating and Ranking policies for each AOG region in Appendix G).

2. **Sub-Contractor Agreement:** Applicants other than cities, counties and AOG's must execute an agreement with the sponsoring jurisdiction. Please refer to Appendix F for a sample of this agreement. Housing authorities and other organizations would execute this agreement if they are awarded a grant in the spring.
3. **A Residential Anti-Displacement Plan** is required for all applicants. Subsection 104(d) of the Housing and Community Development Act of 1987 states that grant assistance through Section 106 of the Act may be made only if the grantee/recipient certifies that it is following a residential anti-displacement and relocation assistance plan. The provision of this plan shall be in addition to the requirements set forth in the Uniform Relocation Assistance and Real Property Acquisition Policies Act Amendments of 1970 (URA) as amended by the Surface Transportation and Uniform Relocation Assistance of 1987. See Appendix E for a template. **Most jurisdictions have approved this plan already.** The plan must contain two components:
 1. **A commitment to replace all low/moderate-income dwelling units** that are demolished or converted to a use other than low/moderate-income housing as a direct result of the use of CDBG assistance; and
 2. **A commitment to provide relocation assistance.** A sample template Anti-displacement Plan is included as Appendix E.

C. Administration

1. **Timely Distribution of Funds:** The state is required by HUD to ensure that CDBG funds are allocated and distributed in a "timely" manner. In order to meet this requirement, the state has established the following policies and procedures that address applications, regional funding allocations and state contracts.

Applications:

1. Applicants who are notified of funding award by the AOG region must submit complete applications in WebGrants by the deadline published in the CDBG Handbook. Applications that do not meet the deadline will not be funded.
2. If an applicant fails to meet the application requirements and application deadline, the regional AOG Rating and Ranking Committee (RRC) shall award the forfeited funding to the next applicant on the rating and ranking list. If there are no other applicants in the region, the remaining funding will be awarded to other eligible applicants at the discretion of the state.
3. After the funding cycle has ended, all funds left unallocated in a region will lapse and will be re-allocated to other eligible applicants at the discretion of the State.

State Contracts:

1. Funded applicants (Grantees) have until **Sep 1** to print, sign and return three copies of their state contract to the state for processing.

2. On a case-by-case basis, regional RRCs may allow a one month extension (October 1) to grantees who are experiencing unavoidable delays. In those cases, grantees must notify their AOG representative prior to Sep 1.
 3. All grant funds not under contract by Sep 1 will be returned to the appropriate AOG region for reallocation to: 1) any partially funded project, and 2) the next highest-ranking project that was not funded by the region. The RRC has the month of September to complete this reallocation.
 4. Any funds not reallocated by the RRC by October 1, will be returned to the state and will be reallocated to other eligible applicants at the discretion of the state.
- 2. Five Percent Withholding:** On all projects, the state reserves the right to withhold 5 percent of the CDBG grant amount pending a satisfactory final programmatic/financial monitoring visit.
- 3. Cost Overruns:** The CDBG program will not fund cost overruns. However the RRC may provide additional funding due to a judgment against the grantee in a court of law. If a grantee, due to litigation, is required to pay damages or other costs directly related to a project partially or wholly funded by the CDBG program and is in full compliance with the regulations, the RRC may provide additional funding to satisfy the judgment. The funds must come from the regular yearly funding allocation to that region and be considered on its merits as a new applicant along with all other projects. The only other allowance for payment of cost overruns is if the RRC has included that as part of its emergency funding criteria.
- 4. Fund Leveraging:** The state's role in the CDBG funding process is to provide assistance to grantees in leveraging other available financial resources. The principal agencies cooperating in this process are listed below:
1. Utah Division of Water Resources
 2. Utah Department of Environmental Quality (DEQ)
 3. USDA Rural Development (RDA)
 4. Community Impact Board (CIB)
 5. Economic Development Administration (EDA)
- 5. Federal Labor Standards:** If the estimated cost of a project is less than the bid limit for a building improvement or for a public works project as determined by the actual percent change in the Consumer Price Index during the previous calendar year, the city or county may make the improvements without calling for bids. (The bid limits are provided in the CDBG Grantee Handbook) For projects in excess of that amount, a project must be bid out in conformance with Utah Code Section 11-39-103. In the event a construction project is estimated to be more than \$2,000, all specifications must include Davis Bacon Labor Standards and all bids received must reflect the same unless donated or force account labor is to be used. All construction projects must have a pre-construction conference. The state must be invited to attend in order to provide technical assistance and assure an understanding of, and compliance with, all federal and state regulations.

- 6. HUD Section 3 Requirements:** All grantees are required to comply with Section 3 of the Housing and Urban Development Act of 1968 as amended (12 U.S.C. 1701u), and implementing regulations at 24 CFR Part 135. Reporting on that compliance is required and is a condition of final payment. Grants for acquisition, equipment purchases, materials and supplies are exempt from this regulation.
- 7. CDBG/HOME Program Administration:** CDBG funds cannot be used to fund HOME program administration. CDBG funds can be used to pay program delivery costs in the HOME program. The difference between administration and program delivery is not strictly defined. The best way to look at it is - if a cost can be identified to a specific project, it is program delivery and can be charged to CDBG. If a cost was incurred for a mixed function such as accounting, budgeting, coordinating, and program management, it is an administrative cost and should be charged to HOME administration. CDBG funds used for HOME program delivery are subject to CDBG eligibility and national objective requirements.
- 8. Dun and Bradstreet (DUNS) Number:** All applicants must have a DUNS number in order to be eligible for CDBG funding. This number must be included in the CDBG application. For subrecipients being sponsored by a city or county, the DUNS number of the city or county is required. This number must also be registered in the System for Award Management (SAM) at sam.gov. The state CDBG staff will verify this registration prior to the execution of the state contract.