



# CDBG & HOME POLICIES AND PROCEDURES

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# I. INTRODUCTION

This Policy and Procedures Manual establishes a framework for guiding the operation of the City of Vancouver CDBG and HOME programs. It provides an approach for making decisions and ensuring that the City's programs are operated in a fair and consistent manner. Finally, the Policy and Procedures Manual provides information for program subrecipients in the management of their projects and how to achieve and maintain compliance with federal, state, and local requirements. This information complements the City Consolidated Plan, which identifies community needs and objectives and describes the structure and process for the administration of the CDBG and HOME programs.

**Disclaimer:** The following policies were developed within the guidelines of the HOME and CDBG regulations established by HUD and may be revised at any time as necessitated to be in conformance with Federal mandates.

## 1.1 - BACKGROUND

The City of Vancouver (City) participates in federal grant programs through the U.S. Department of Housing and Urban Development (HUD) to promote affordable housing and community development. The City became a Community Development Block Grant (CDBG) entitlement community in 2002 and a HOME Investment Partnerships Program (HOME) participating jurisdiction in 2009. The Vancouver City Council (Council) is legally responsible for administration of these programs in compliance with HUD regulations and requirements and has responsibility for the final allocation of funds for program activities. Council has designated responsibility for management of both programs to the CDBG & HOME staff of the City's Housing and Economic Prosperity Department. The CDBG & HOME staff is responsible for policy analysis, conducting the annual planning process, assisting community partners to develop project activities and managing and implementing approved program activities throughout the year.

Participation in these entitlement programs requires that the City develop a strategic five year plan, known as the Consolidated Housing and Community Development Plan or Consolidated Plan. Community members along with stakeholders create this plan that provides local direction. The Consolidated Plan establishes community needs, goals and strategies, as well as identifying and prioritizing local objectives, within the parameters of the national objectives for these entitlement programs. After approval by Council, the plan is submitted to HUD and becomes part of our contractual agreement to pursue stated objectives with funding priorities. The plan is renewed and resubmitted for approval every five years. The current Consolidated Plan dated 2019-2023 can be found at [www.cityofvancouver.us](http://www.cityofvancouver.us).

The City must submit an annual Action Plan to HUD to formally request allocated program funds. The Action Plan includes a review of projects and organizations that the City has selected to fund for the following program year. In this plan, the City also describes how selected activities meet local objectives. Upon approval by Council, a grant agreement is executed between HUD and the City and funds become available for local distribution.

At the conclusion of a program year, the City is required to file with HUD a Consolidated Annual Performance Evaluation Report (CAPER). The CAPER outlines how funds from both CDBG and HOME were expended, including how the funds were used to meet the priorities, goals and objectives outlined in the Consolidated Plan.

## **1.2 - FEDERAL OBJECTIVES**

The CDBG program was developed to give local jurisdictions the flexibility to develop their own funding priorities. However, the authorizing statute of the CDBG program requires that each activity funded must meet one of three national objectives. The three national CDBG objectives and subcategories include:

1. Benefit to low- and moderate- income (LMI) persons. The LMI objective is often referred to as the primary objective because the statute requires that recipients expend 70 percent of their CDBG funds to meet the LMI objective, using one of the following four subcategories:
  - a. Area Benefit Activities: Project benefits all residents in a particular area, where at least 51 percent are low/moderate-income residents
  - b. Limited Clientele Activities: Project beneficiaries include at least 51 percent low/moderate income residents
  - c. Housing Activities: Project provides housing for at least 51 percent low/moderate income residents
  - d. Job Creation or Retention Activities: Project creates or retains jobs for at least 51 percent low/moderate income residents
2. Aid in the prevention or elimination of slums or blight
3. Meet a need having a particular urgency (referred to as urgent need)

HOME is the largest federal block grant to state and local governments designed exclusively to create affordable housing for low-income households. HOME funds may be applied to a broad range of eligible activities such as providing home purchase or rehabilitation financing assistance to eligible homeowners and new homebuyers; build or rehabilitate housing for rent or ownership; or for "other reasonable and necessary expenses related to the development of non-luxury housing," including site acquisition or improvement, demolition of dilapidated housing to make way for HOME-assisted development, and payment of relocation expenses. HOME funds may be applied to provide tenant-based rental assistance contracts of up to 2 years if such activity is consistent with an approved Consolidated Plan and justified under local market conditions.

## **1.3 - LOCAL FUNDING OBJECTIVES**

The current funding objectives as described in the 2019-2023 Consolidated Plan are:

1. AFFORDABLE HOUSING: Increase and preserve affordable housing opportunity for low-income households and people who are homeless.
2. PUBLIC SERVICES: Reduce poverty, increase stability, and prevent and address homelessness for individuals and families. Where possible, support existing community initiatives and target funding to align with City strategic planning efforts.
3. ECONOMIC DEVELOPMENT: Increase economic opportunity by supporting small businesses.
4. PUBLIC FACILITIES AND INFRASTRUCTURE: Create and preserve buildings and spaces that serve the public.

## **1.4 - COMPLIANCE REQUIREMENTS**

Use of these federal funds must clearly demonstrate both program integrity and program results. In return for federal funding, not only does the City have compliance requirements in the form of reporting, administration and documentation, but each Contracted Agency assumes these as well. Every Contracted Agency is responsible for knowing and following the guidelines and providing access for review by City and federal staff.

There are substantial documentation and data collection requirements for funded projects including:

- Demographic data collection on populations served
- Expenditures
- Personnel
- Procedures
- Program activities
- Results

This guidebook was developed to improve regulatory compliance and ensuing documentation requirements. There is an overview of key processes and a list of references which point to the regulations guiding the process. This information is not a substitute for reading and understanding the federal regulations.

Ongoing Compliance		
	HOME	CDBG
Ongoing Monitoring	Must monitor compliance with program rules and terms of written agreement. Must also monitor rental properties during the affordability period. Must ensure that home buyer properties meet resale or recapture provisions	Must document compliance with national objective and terms of written agreement. Otherwise, no ongoing monitoring. However, some projects are required to meet change of use restrictions. See 24 CFR 570.505 and 24 CFR 570.489.
Re-examinations of Income	Incomes need to be re-examined for HOME-assisted units annually, and reverified with source documentation every five years-all new tenants in HOME units must be low-income (80% or lower of AMI).	Not required under CDBG. Income is documented at the time of initial occupancy.
Unit Inspections	Rental units must be inspected during the affordability period; inspection schedule is based on size of the project. TBRA units must be inspected annually.	None required.

**1.5 – FEDERAL OUTCOME CATEGORIES**

The City is responsible to report on activities through the outcome and performance measurement system established by HUD. The system is designed to provide the opportunity for the federal government to collect information on outcomes funded with grant assistance, and thereby demonstrate program results.

The HUD system identifies three overarching objectives and three measurable outcomes. When a proposal is reviewed, staff will determine how the specific activities including intended results, benefits or objectives fall within the outcome parameters outlined by HUD. The intent when funding an activity determines which of the three objectives best describes the purpose of the activity. The three objectives include:



1. **Suitable Living Environment:** In general, this objective relates to activities that are designed to benefit communities, families, or individuals by addressing issues in their living environment.
2. **Decent Housing:** The activities that typically would be found under this objective are designed to cover the wide range of housing possible under CDBG or HOME. This objective focuses on housing programs where the purpose of the program is to meet individual family or community needs and not programs where housing is an element of a larger effort, since such programs would be more appropriately reported under Suitable Living Environment.
3. **Economic Opportunities:** This objective applies to the types of activities related to economic development, commercial revitalization, or job creation.

The three outcome categories are described:

1. **Availability/Accessibility:** This outcome category applies to activities that make services, infrastructure, public services, public facilities, housing, or shelter available or accessible to low and moderate income people, including persons with disabilities. In this category, accessibility does not refer only to physical barriers, but also to making the affordable basics of daily living available and accessible to low and very low income people where they live.
2. **Affordability:** This outcome category applies to activities that provide affordability in a variety of ways in the lives of low and moderate income people. It can include the creation or maintenance of affordable housing, basic infrastructure hook-ups, or services such as transportation or day care.
3. **Sustainability - Promoting Livable or Viable Communities:** This outcome applies to projects where the activity or activities are aimed at improving communities or neighborhoods, helping to make them livable or viable by providing benefit to persons of low and moderate income or by removing or eliminating slums or blighted areas, through multiple activities or services that sustain communities or neighborhoods.

Each outcome category can be connected to one of the overarching objectives, producing nine result statements. Each proposed activity must intend to have one of the following results. Sometimes an adjective such as new, improved, or corrective may be added to refine the outcome results statement.

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

CPD Performance Measurement Guidebook July 7, 2006 Exhibit 2-1: Link between Objectives, Outcomes and Outcome Statements

## 1.6 - COMMUNITY PARTNERS

The City of Vancouver values community partnerships. Staff works with applicants to receive funding and then to implement eligible activities for both the CDBG and HOME programs. Key definitions:

**Community Housing Development Organization (CHDO):** A nonprofit subrecipient, with additional certification under the HOME program

**Contractor:** Selected in accordance with procurement requirements to provide goods or services in accordance with the contract

**Recipient:** Receives federal funding directly from HUD; the City is the recipient who disburses funds to alleviate targeted needs in the community.

**Subrecipient:** A public or nonpublic entity receiving federal money administered and disbursed by the City. The subrecipient, also known subrecipient as “agency” or “organization”, is accountable to the City for the use of the funds provided and subject to the same compliance requirements as the City.

## 1.7 - COMMUNITY HOUSING DEVELOPMENT ORGANIZATION (CHDO)

A Community Housing Development Organization (CHDO) is a private non-profit, community-based service organization that has obtained or intends to obtain staff with the capacity to develop or manage affordable housing.

In order to receive HOME funding under CHDO guidelines, an organization must:

- Submit a complete application with up to date supporting documentation to the City every year that the CHDO seeks funding
- Receive certification approval from the City
- Demonstrate a history of serving the community
- Document that at least one-third of its governing board is composed of residents of low-income neighborhoods or elected representative of low-income neighborhood organizations

Per HOME regulations funding is set aside for CHDO use as follows:

- 15% of total HOME funding allocation is reserved for CHDOs to develop, sponsor or own housing (Up to 10% of this 15% may be used for project specific assistance; see additional information at Title 24 Section 92.301)
- Up to 5% of the total HOME funding allocation can be used directly for operating expenses for a CHDO per fiscal year, contingent upon the CHDO entering an agreement to use HOME funds to develop, sponsor or own housing within 24 months

At no time, in any fiscal year, may a CHDO receive more than 50 percent or \$50,000, whichever is greater, of the organization’s total operating expenses from a combination of HOME resources.

## 1.8 – CITIZEN PARTICIPATION

The City of Vancouver has established a Citizen Participation Plan to provide opportunities for citizen involvement in the process of developing and implementing the Community Development Block Grant (CDBG) Program, the HOME Program and other HUD programs administered by the U. S. Department of Housing and Urban Development (HUD).

The Citizen Participation Plan outlines when, where and how citizens can access information, review and comment on major community plans and comment on progress of funded activities under these programs. It can be found on the City website at [www.cityofvancouver.us](http://www.cityofvancouver.us).

## **1.9 - APPEALS AND GRIEVANCE**

### **1. If an application for a loan or grant is denied by City of Vancouver Staff:**

- a. City of Vancouver staff will notify the applicant/borrower/sub-recipient in writing and state the reason for the denial and process to appeal (see below)
  - i) Applicant/borrower/sub-recipient must prepare an appeal letter
  - ii) Submit appeal letter to Community and Economic Development Director within 30 days of date of denial letter
  - iii) Letter must include a reason for appeal – in what way the denial was contrary to regulations or in some other way inequitable

### **2. Appeals process:**

- a. The Community and Economic Development Director will consider the appeal and provide a written response within 15 working days of receipt of an appeal. Evaluation will look at whether:
  - i) The grounds of the denial were stated factually, objectively
  - ii) Validity of denial (based in regulations)
  - iii) Validity of the evidence – do the facts presented support the grounds for denial
  - iv) In areas of discretion, the matter will be evaluated for consistency
- b. The written response will include a:
  - i) Final decision
  - ii) Brief statement of the reasons for the final decision
- c. If the decision to deny is overturned as a result of the appeal, processing will resume and the applicant/borrower/sub-recipient will be notified of the next step in the process

If denial is communicated by a contracted agency, the City of Vancouver Housing Programs Manager will be the designated party to whom the letter is addressed.

Statement to add to Denial Letter:

#### Appeal Language – for denial letter from City of Vancouver staff

To appeal this decision, please submit a letter to the City's Housing Programs Manager, PO Box 1995, Vancouver, WA 98668-1995, within 30 days of the date of this letter. Include a reason for the appeal, specifically in what way was the denial contrary to regulation or in some other way inequitable.

#### Appeal Language – for denial letter from Contracted Agency

To appeal this decision, please submit a letter to the address below within 30 days of the date of this letter. Include a reason for the appeal, specifically in what way was the denial contrary to regulation or in some other way inequitable.

Housing Programs Manager  
PO Box 1995, Vancouver  
WA 98668-1995  
Phone: 360-487-7952

## 1.10 – DISPUTE RESOLUTION

1. If a grant or loan recipient is dissatisfied during the course of work together with either the City or with a contractor paid for through the City, a pro-active approach to conflict resolution outlined by the following steps should be followed:
  - a) The grant or loan recipient should discuss their area of concerns or disagreement with the Program Manager (Samantha Whitley)
  - b) The grant or loan recipient may contact the Program Director ( Patrick Quinton) to review their concerns
  - c) The grant or loan recipient may submit a formal written statement delineating their concerns and areas of disagreement.
  - d) The concern may be reviewed by the City Attorney’s Office if necessary.

## II. PROJECT REVIEW AND SELECTION

The City of Vancouver program year begins July 1<sup>st</sup> and runs through June 30<sup>th</sup> of the following year. A *Public Notice* is published in the local papers and on the City website around October of each year announcing that applications are being accepted for the next program year. However, available funding amounts are estimated based on the anticipated federal budget. The actual amount available is received from HUD at the beginning of the program year. While minimum and maximum award amounts are set as follows, consideration may be made on a case by case basis for additional funding.

- \$5,000 – will be the minimum grant amount for a project or services
- \$250,000 – will be the maximum grant amount for a project
- \$50,000 – will be the maximum grant amount for public services

Note: these amounts are reviewed periodically and updated for the Application Guidelines

**Dates and deadlines** – are announced through a notice of funding availability (NOFA) at the beginning of the funding cycle and published in the newspaper and on the city website. Application formats are clearly established with instructions and deemed a critical component, significantly incomplete or irregular applications will not be reviewed.

The schedule follows (approximate):

- October - City holds an informational workshop for potential applicants
- November - Applicants are required to submit a brief one page preliminary (pre-application)
- November - Staff will review to assess the proposal with regards to federal requirements. Agency staff will receive notification on the outcome of this review.
- Upon approval of the pre-application, agencies may move forward to complete a formal application.
- December – Applications due to the City of Vancouver
- December through January – Applications are viewed and additional information is solicited from agencies

- February – Applications reviewed by City selected Grant Review Committee
- February – Agencies present to Grant Review Committee
- April – Prioritized projects submitted to City Council for Approval
- May – Public Hearing in front of City Council for final approval of project funding.
- May – Approved projects submitted to HUD in Annual Action Plan

**Online application system** – The City of Vancouver uses an on-line application system to collect proposals for funding. When announced applications will be available through the city web site using ZoomGrants ([www.zoomgrants.com](http://www.zoomgrants.com)). The application guidelines will be published as well. The annual application guidelines are updated prior to the start of the application process, however the most recent version is on the City Web site.

1. *Application* – The proposal is a four step process.
2. *Pre-application* – allows staff to determine if project meets initial eligibility.
3. *Proposal* – includes detailed question about the project including budgets, timelines engineers or construction estimates, funding commitment letters, pro-forma, and a sources and uses statement with commitment letters or contracts.
4. *Presentation* – Applicants will be asked to give presentation to the Grant Review Committee. This will take place sometime during the last two weeks of February and the first week of March. Audio visual equipment will be available.

**Scoring –**

- Each application is reviewed by staff to calculate the objective scores. These scores are related to costs and matching funds.
- The application review is completed by a committee composed of City employees and community representatives.
- The applications are scored and then prioritized and provided to City Council.

**Funding priority will be given to projects that –**

- Impact a significant number and/or percentage of low- and moderate-income persons
- Projects that help end homelessness
- Meet the Strategic Plan Objectives provided in the Consolidated Plan;
- Have adequate community support, and support an identified community need;
- Maximize the use of outside funds, match and services which are coordinated with other public and private efforts;
- Established means for program evaluation and accomplishment tracking;
- Are clearly defined as to scope, location, need, budget, goals;
- Demonstrate the applicant has the capacity and the capability to carry out the project successfully;
- Connection with employment in the community
- Can begin immediately and finish within the contracted time.

**Contracting** – Contracts are typically not signed until August or September. However, *no expenditures or work initiated prior to receiving a Notice to Proceed will be approved.* Contracts include both an implementation schedule, as well as an expiration date; modifications can be negotiated.

## 2.1 - DEFINITIONS

**CDBG:** The Community Development Block Grant (CDBG) program is a flexible program that provides communities with resources to address a wide range of unique community needs. Beginning in 1974, the CDBG program is one of the longest continuously run programs at HUD. The CDBG program provides annual grants on a formula basis to states and local jurisdictions. The CDBG program works to ensure decent affordable housing, to provide services to the most vulnerable in our communities, and to create jobs through the expansion and retention of businesses. [www.hud.gov/program\\_offices/comm\\_planning/cdbg](http://www.hud.gov/program_offices/comm_planning/cdbg)

**HOME – HOME Investment Partnership Program:** HOME is authorized under Title II of the Cranston-Gonzalez National Affordable Housing Act, as amended. Program regulations are at 24 CFR Part 92. HOME is the largest federal block grant to state and local governments designed exclusively to create affordable housing for low-income households. [www.hud.gov/hudprograms/home-program](http://www.hud.gov/hudprograms/home-program)

**HUD:** The United States Department of Housing and Urban Development, also known as HUD, is a cabinet department in the executive branch of the United States federal government. HUD's mission is to create strong, sustainable, inclusive communities and quality affordable homes for all. [www.hud.gov](http://www.hud.gov)

**Income Levels:** Funding is limited to serving low income persons which is a percentage of the median family income for the area as determined and published annually by HUD: Extremely Low (30%), Very Low (50%) and Low (80%) Current information can be found on both the City website at [www.cityofvancouver.us](http://www.cityofvancouver.us) (CDBG Resources) and on the HUD website at [www.huduser.org/portal/datasets/il.html](http://www.huduser.org/portal/datasets/il.html)

## 2.3 - PROJECT RANKING CRITERIA

Ranking criteria is based on current community needs. Therefore this criterion may be updated annually and presented during the funding application process. However, each project is assessed based on the criteria below. The specific questions and scoring are outlined in the annual application guidelines that are available online at the City website and are updated annually.

- **Clear Definition** - Are clearly defined as to scope, location, need, budget, goals
- **Consolidated Plan Alignment** - Meet the Strategic Plan Objectives
- **Local Backing** - Have adequate community support, and support an identified community need
- **Maximize Resources** - Maximize the use of outside funds; match and services are coordinated with other public and private efforts
- **Maximum Impact** - Impact a significant number or percentage of low- and moderate-income persons
- **Past Performance** - Demonstrate the capacity of the applicant and the capability of the organization to successfully implement the proposal through a review of agency audits
- **Performance Measures** - Established means for program evaluation and accomplishment tracking
- **Ability to Proceed** - Are able to begin immediately and finish within the contracted time

## 2.4 - ELIGIBLE ACTIVITIES

This section lists basic eligible activities under the CDBG Program. Generally, CDBG funds can be used for the following types of activities:

- Activities related to housing, including but not limited to: Homeownership assistance; Rental rehabilitation activities; Homeowner rehabilitation activities; Housing services in connection with the HOME Program; and Lead-based paint testing and abatement.
- Other real property activities such as: Acquisition; Disposition; Clearance and demolition; Code enforcement; and Historic preservation.
- Public facilities, including infrastructure, special needs facilities, or community facilities. • Activities related to economic development, including microenterprise assistance, commercial rehabilitation, and special economic development activities.
- Activities related to public services, including but not limited to: Job training and employment services; Health care and substance abuse services; Childcare; Crime prevention; and Fair housing counseling.
- Assistance to CBDOs—CDBG grantees may provide grants or loans to CBDOs to carry out CDBG-assisted activities as part of the following types of projects: Neighborhood revitalization; Community economic development; and Energy conservation.
- Other Types of Activities—Certain other types of activities are also eligible under CDBG, including: Payment of non-Federal share of Federal granting-aid programs for activities that are CDBG eligible activities; Relocation assistance; Loss of rental income (related to relocation); Technical assistance to public or private nonprofit entities to increase the capacity of such entities to carry out eligible neighborhood revitalization, or economic development activities; and Assistance to institutions of higher education with the capacity to carry out CDBG-eligible activities.

Eligible costs under the HOME Program depend on the nature of the program activity. Generally, HOME funds can be used for the following activities:

- New construction. HOME funds may be used for new construction of both rental and ownership housing. Any project that includes the addition of dwelling units outside the existing walls of a structure is considered new construction.
- Rehabilitation. This includes the alteration, improvement, or modification of an existing structure. It also includes moving an existing structure to a foundation constructed with HOME funds. Rehabilitation may include adding rooms outside the existing walls of a structure, but adding a housing unit is considered new construction.
- Reconstruction. This refers to rebuilding a structure on the same lot where housing is standing at the time of project commitment. HOME funds may be used to build a new foundation or repair an existing foundation. Reconstruction also includes replacing a substandard manufactured house with a new manufactured house. During reconstruction, the number of rooms per unit may change, but the number of units may not.
- Conversion. Conversion of an existing structure from another use to affordable residential housing is usually classified as rehabilitation. If conversion involves additional units beyond the walls of an existing structure, the entire project is new construction. Conversion of a structure to commercial use is not eligible under HOME.
- Site improvements. Site improvements must be in keeping with improvements to surrounding standard projects. They include new, on-site improvements where none are

present or the repair of existing infrastructure when it is essential to the development. Building new, off-site utility connections to an adjacent street is also eligible. Otherwise, off-site infrastructure is not eligible as a HOME expense, but may be eligible for match credit.

- Acquisition of property. Acquisition of existing standard property, or substandard property in need of rehabilitation, is eligible as part of either a homebuyer program or a rental housing project. After acquisition, rental units must meet HOME rental occupancy, affordability, and lease requirements.
- Acquisition of vacant land. HOME funds may be used for acquisition of vacant land only if construction will begin on a HOME project within 12 months of purchase. Land banking is prohibited.
- Demolition. Demolition of an existing structure may be funded through HOME only if construction will begin on the HOME project within 12 months.
- Relocation costs. The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (known as the “Uniform Relocation Act” or “URA”) and Section 104(d) of the Housing and Community Development Act of 1974, as amended (known as “Section 104(d)”) apply to HOME-assisted properties. Both permanent and temporary relocation assistance are eligible costs, for all those relocated, regardless of income. Staff and overhead costs associated with relocation assistance are also eligible. Note that homeownership undertaken with FY04 –FY07 American Dream Down payment Initiative (ADDI) funds is not subject to the URA.
- Refinancing. HOME funds may be used to refinance existing debt on single family, owner occupied properties in connection with HOME funded rehabilitation. The refinancing must be necessary to reduce the owner’s overall housing costs and make the housing more affordable. Refinancing for the purpose of taking out equity is not permitted. HOME may be used to refinance existing debt on multifamily projects being rehabilitated with HOME funds, if refinancing is necessary to permit or continue long-term affordability, and is consistent with PJ-established refinancing guidelines, as outlined in the PJ’s consolidated plan.
- Capitalization of project reserves. HOME funds may be used to fund an operating deficit reserve for rental new construction and rehabilitation projects for the initial rent-up period. The reserve may be used to pay for project operating expenses, scheduled payments to a replacement reserve, and debt service for a period of up to 18 months.
- Project-related soft costs. These must be reasonable and necessary. Examples of eligible project soft costs include: Finance-related costs; Architectural, engineering, and related professional services; Tenant and homebuyer counseling, provided the recipient of counseling ultimately becomes the tenant or owner of a HOME-assisted unit; Project audit costs; Affirmative marketing and fair housing services to prospective tenants or owners of an assisted project; and PJ staff costs directly related to projects (not including TBRA).

## **2.5 - INELIGIBLE ACTIVITIES**

In general, any activity that is not specifically authorized under the CDBG regulations and statute is ineligible. In addition, the regulations stipulate that the following activities may not be assisted with CDBG funds:

- Buildings for the general conduct of government(e.g., city hall);
- General government expenses; and
- Political activities



The following activities may not be assisted with CDBG funds unless authorized as a special economic development activity or when carried out by a CBDO:

- Purchase of construction equipment or furnishings and personal property;
- Operating and maintenance expenses (of public facilities, improvements, and services), except for operating and maintenance expenses associated with public service activities, interim assistance, and office space for program staff employed in carrying out the CDBG Program;
- Operating and maintenance expenses (of public facilities, improvements, and services), except for operating and maintenance expenses associated with public service activities, interim assistance, and office space for program staff employed in carrying out the CDBG Program;
- New housing construction, except under certain conditions or when carried out by a CBDO; and
- New housing construction, except under certain
- Income payments.

HOME funds may not be used to support the following activities and costs:

- Project reserve accounts. HOME funds may not be used to provide project reserve accounts (except for initial operating deficit reserves) or to pay for operating subsidies.
- Tenant-based rental assistance for certain purposes. HOME funds may not be used for certain mandated existing Housing Choice Voucher Program (formerly known as Section 8) uses, such as Housing Choice Voucher rent subsidies for troubled HUD-insured projects.
- Match for other Federal programs. HOME Program funds may not be used as the “nonfederal” match for other Federal programs except to match McKinney Act funds. Development, operations, or modernization of public housing: HOME funds cannot be used alone or in conjunction with HUD-funded public housing program funds (e.g., Public Housing capital programs such as Development, Comprehensive Improvements Assistance Program (CIAP) or Comprehensive Grant Program (CGP)) to acquire, rehabilitate, or construct public housing units. HOME funds cannot be used to operate public housing units under any circumstances.
- Properties receiving assistance under 24 CFR Part 248 (Prepayment of Low-Income Housing Mortgages). Properties receiving assistance through the Low-Income Housing Preservation and Resident Homeownership Act (LIHPRHA) or the Emergency Low-Income Preservation Act (ELIHPA) are not eligible for HOME assistance except if the HOME assistance is provided to priority purchasers. Note: these programs are no longer funded by HUD.
- Double-dipping. During the first year after project completion, the PJ may commit additional funds to a project. After the first year, no additional HOME funds may be provided to a HOME assisted project during the relevant period of affordability, except that: Tenant based rental assistance to families may be renewed. Tenant based rental assistance may be provided to families that will occupy housing previously assisted with HOME funds. A homebuyer may be assisted with HOME funds to acquire a unit that was previously assisted with HOME funds.
- Acquisition of PJ-owned property. A PJ may not use HOME Program funds to reimburse itself for property in its inventory or property purchased for another purpose. However, in

anticipation of a HOME project, a PJ may use HOME funds to: Acquire property; and reimburse itself for property acquired with other funds, specifically for a HOME project.

- Project-based rental assistance. HOME funds may not be used for rental assistance if receipt of funds is tied to occupancy in a particular project. Funds from another source, such as Housing Choice Voucher, may be used for this type of project-based assistance in a HOME-assisted unit. Further, HOME funds may be used for other eligible costs, such as rehabilitation, in units receiving project-based assistance from another source—for example, Housing Choice Voucher or state-funded project-based assistance.
- Pay for delinquent taxes, fees, or charges. HOME funds may not be used to pay delinquent taxes, fees, or charges on properties to be assisted with HOME funds.

## **2.6 - NON-PROFIT AGENCY PROJECTS THAT BENEFIT ENTIRE COMMUNITY**

Projects that serve people in both the City of Vancouver and Clark County jurisdictions, such as those that serve the homeless, may apply for a jointly funded project. The maximum combined amount awarded to a joint project is \$400,000.

The allocation is divided between the City and the County, by the proportion of the target population that lives within city limits.

## **2.7 - FUNDING ALLOCATION**

The City may utilize up to 20 percent of CDBG funds for general administration and planning and up to 15 percent of the for public services. Additionally, the City sets aside a portion of funds to be utilized in the community through programs, such as the City Transportation, Parks, and Housing Rehabilitation Loan programs.

## **2.8 - ACQUISITION WITH RELOCATION**

Federal law regarding acquisition and relocation is complex and involves an extensive series of notifications and actions within prescribed timelines. Rigorous documentation and recordkeeping standards are also outlined. Therefore, an agency considering such action **must contact the City prior to any choice-limiting actions**. Choice-limiting actions include, but are not limited to the expenditure or commitment of either federal or non-federal funds, or execution of any contract. City staff will work closely with any applicant pursuing such a project.

## **2.9 - LEVERAGING OTHER FUNDS**

The City encourages the leveraging of funds from both public and private resources to finance projects. Further, the City will work with applicants to assist in applying for all available funds and leveraging other resources to implement the housing strategies and programs.

Applicants must document funding commitments and leverage sources. Applicants will need to submit a capital campaign plan if applicable. In addition, applicants must disclose other funding requested and the status of that request.

All funds necessary for the development of a project must be committed within 12 months of this award. The City will not execute documents until all funding commitments are confirmed.

## **2.10 - HOME PROGRAM – MATCHED RESOURCES REQUIREMENT**

The City must is required to document a 25% annual matching contribution to HOME funding. Matching contributions can include private, in-kind donations or state funds from sources, such as the Washington State Housing Trust Fund or the Low Income Housing Tax Credits.

Additional sources include the Affordable Housing funds (HB2060), Homeless Housing funds (HB2163), Community Services Block Grant (CSBG) [www.commerce.wa.gov/serving-communities/community-opportunities/community-services-block-grants](http://www.commerce.wa.gov/serving-communities/community-opportunities/community-services-block-grants), as well as various foundation grants and awards. City staff will work with agencies to identify and access match funds.

## **2.11 - HOME PROGRAM – IDENTIFYING HOME-ASSISTED UNITS**

HOME funded projects must also include a Maximum Per-unit Subsidy Amount and Subsidy Layering according to 24 CFR part 92.205 and 92.250 as described below. Additional detail provided in CPD 98-2 *Allocating costs and identifying HOME-assisted units in multi-unit projects*.

- See Appendix for Worksheet Example – Identifying HOME-Assisted Units & Calculating Maximum Home Subsidy Worksheet

**Minimum amount of assistance:** The minimum amount of HOME funds that must be invested in a project involving rental housing or homeownership is \$1,000 times the number of HOME-assisted units in the project.

**Maximum per-unit subsidy amount:** The total amount of HOME funds that a participating jurisdiction may invest on a per-unit basis in affordable housing may not exceed the per-unit dollar limitations established under section 221(d)(3)(ii) of the National Housing Act (12 U.S.C. 17151(d)(3)(ii)) for elevator-type projects that apply to the area in which the housing is located. These limits are available from the Multifamily Division in the HUD Field Office. If the participating jurisdiction's per-unit subsidy amount has already been increased to 210% as permitted under section 221(d)(3)(ii) of the National Housing Act, upon request to the Field Office, HUD will allow the per-unit subsidy amount to be increased on a program-wide basis to an amount, up to 240% of the original per unit limits. These limits are available from the Seattle HUD Field Office by contacting 206-220-5300. The City will keep the results of its required evaluation in each project file.

**Allocating Costs:** HOME funds may be used to assist one or more housing units in a multi-unit project. Only the actual HOME eligible development costs of the assisted units may be charged to the HOME program. If the assisted and non-assisted units are not comparable, the actual costs may be determined based on a method of cost allocation. If the assisted and non-assisted units are comparable in terms of size, features and number of bedrooms, the actual cost of the HOME-assisted units can be determined by pro-rating the total HOME eligible development costs of the project so that the proportion of the total development costs charged to the HOME program does not exceed the proportion of the HOME-assisted units in the project. Costs included in the budget are used for allocating costs.

## **2.12 - HOME PROGRAM – SUBSIDY LAYERING**

The Cranston-Gonzalez National Affordable Housing Act 212(f) and 24 CFR Part 91, the Consolidation Plan Final Rule requires a Participating Jurisdiction (a City) to provide a certificate with the consolidated plan to approve layering guidelines. This certificate asserts that prior to the commitment of funds to a project, the City will evaluate the project in accordance with the guidelines that it adopts for this purpose and will not invest more HOME funds in combination with other governmental assistance than is necessary to provide affordable housing. The guidelines are further outlined in CPD 98-1 *Layering guidance for HOME Participating Jurisdiction when Combining HOME Funds with other Governmental Subsidies*.

Governmental assistance includes any loan, grant (including Community Development Block Grant), guarantee, insurance, payment, rebate, subsidy, credit, tax benefit, or any other form of direct or indirect assistance from the Federal, State, or local government for use, or in connection with, a specific project.

When available the City will rely on the evaluation completed by the *Washington State Housing Finance Commission* which is the State's tax credit allocation authority. In the case of projects including other federal funding such as 811 or 202, the City will rely upon the guidelines developed and evaluation conducted by the federal agencies.

**Project Evaluation:**

Before the City of Vancouver invests HOME funds in a project, it will assess if other governmental assistance has been, or is likely to be, made available to the project. In performing this evaluation, the City will consider the aggregate amount of assistance from HUD and other sources that is necessary to insure the project's feasibility. The City arranges for an outside agency to perform this analysis. The Analysis includes:

- Project budget with all expenses
- Sources and Uses
- Property information
- Review of tax credit application, awards and syndication costs
- Eligible costs
- Developer fees
- Operating expenses
- Vacancy rates
- Debt ratio
- Performance

**Single-Family Rental Housing (1-4 units):** When using home funds for single-family rental housing of 1 to 4 units. Note: If the: (1) is the rental project owner-occupied? and (2) is the owner-occupied unit being rehabilitated with Federal funds?

If the answers to both questions is YES, the rental income for the owner's units (had the project not been owner-occupied) must be excluded from the income analysis of the proforma.

- See Appendix for *Housing Development Underwriting Parameters* for additional information.
- See Appendix for *Subsidy Layering Example* developed by WSHFC.

**2.13 - LOAN FUNDING TERMS**

The City of Vancouver provides a variety of loans for different CDBG and HOME funded projects and programs.

- The loan shall be secured by a Promissory Note and/or Deed of Trust.
- Loan terms are finalized at time of project negotiation.
- Loan amounts are based on project budget and capacity for debt

**Loan Servicing and Delinquent Payments**

The City of Vancouver's Financial Department (finance) services all loans. Finance informs CDBG and HOME staff of any delinquent payments. City staff will work with property owner regarding rectifying any delinquency. If necessary legal remedies will be pursued.

### **Deferred Payment Loans**

Available to borrowers who are utilizing the Housing Rehabilitation Loan Program and have a household income of less than 80% of area median income. There are no pre-payment penalties. This loan has a 3% simple interest calculation added and is defined as 3% of the total balance. The Deferred Payment Loan is due and payable when one or more of the following occurs:

- a change in property ownership
- refinance
- termination of owner occupancy

**Note:** If an application for a loan is denied, the applicant must wait one year from the date of denial before submitting another application for the Housing Rehabilitation Program.

### **Forgivable Loans**

Loans that can be forgiven or deferred for a period of time if the borrower is in compliance with the terms and conditions of the loan. This type of loan is used for projects that serve the whole community but do not generate income.

### **Non-Profit Agency Loans**

Available to sub-recipients and developers approved for CDBG and HOME funding. Loans are negotiated at time of contract with general terms are generally at 0-1% with a minimum of a 5 year amortization. Repayments are always expected on income producing properties.

### **Share Equity/Principal Reduction Loans**

Available to first time homebuyers through an approved program and require annual certifications that verify primary residency, current insurance, and property taxes are current. Upon property transfer or refinance the loan payoff is calculated using a method outlined in the homebuyer section which includes payoff of the original amount plus a share of the equity.

### **Façade Improvement Loans**

Available to commercial property owners located in the Esther Short Neighborhood Revitalization Strategy Area near downtown Vancouver. Each project is reviewed for eligibility and vetted for neighborhood/citizen benefit. The loans are in the form of 1/2 grant – 1/2 loan at three percent (3%) interest and the term of the loan is negotiated at time of loan closing.

## **2.14 - ANNUAL ACTION PLAN**

The annual Action Plan describes projects and funding for the upcoming year according to the City's identified objectives and outcomes. City Council holds a public hearing to approve the Action Plan in early May. The Action Plan must be sent to HUD 45 days prior to the start of the program year, which begins on July 1<sup>st</sup>.

From time to time, amendments to the plans will be necessary as conditions change. Amendments of a minor nature will be made as needed throughout the year. However, the public will be invited to review and comment on substantial amendments to adopted plans, in accordance with the Citizen Participation Plan. The definition of a "substantial amendment" to the Consolidated and Annual Action Plans is defined as:

- Changes to project or activity budgets of more than \$25,000 – An increase or decrease in the budget of more than 25% (unless the decrease is caused by a budget under run).

- Changes to project or activity budgets of less than \$25,000 – An increase or decrease of 50% of the budgeted amount (unless the decrease is caused by a budget under run).
- Changes in the purpose, scope, beneficiaries, or location of a project or activity.
- Adding or canceling a project or activity.

## III. FUNDING AWARD AND PROJECT OPERATION

### 3.0 - OVERVIEW

Agencies whose projects are approved for funding by Council will receive an initial award letter. Individual contracts are awarded based on the application for funding, including the scope of the identified problem, the proposed project activities, and the resources and administrative capacity of the applicants.

Amounts, less than the original amount requested, may be awarded at the discretion of the City. Receipt of the award letter does not imply approval of all activities or specific costs proposed in your application. The proposed project activities and budget are subject to modification, during contract negotiations between the agency and the City.

The contract negotiation process includes:

- Defining project objectives and measurable outcomes
- Finalizing the program budget
- Finalizing the implementation schedule
- Identifying special conditions to be included in the contract

While the process is underway, no funds can be obligated pending the following actions:

- Execution of a Grant Agreement between HUD and the City
- Completion of an Environmental Review by the City
- Execution of the contractual agreement between the agency and the City
- Issuance of a written Notice to Proceed by the City

In some situations, contracts and therefore funding are held pending the agency securing additional funding to complete the project.

The contract is the legal document governing the administration of the CDBG or HOME funding. Each contract consists of provisions common to CDBG and HOME, generally referred to as 'boilerplate' language, as well as provisions specific to the agreement between the agency and the City. These provisions include:

- |  |  |
|--|--|
| • Amount of the funding                            | • Program budget   |
| • Contract termination, modification and amendment | • Program implementation schedule                            |
| • Method of payment                                | • Requirement to comply with applicable laws and regulations |
| • Minimum 'match' requirements, if applicable      | • Scope of services to be provided                           |
| • Policy requirements                              |  |

By signing the contract, the agency is agreeing to meet federal regulations for financial management, procurement standards and nondiscrimination, as well as certifying to various operating standards and codes of behavior. The agency's final application and this policy and procedure manual are incorporated into the binding agreement of the contract, as funding is approved in part based on the information contained in the agency's application.

### 3.1 - REQUIRED WRITTEN POLICIES

Described in detail throughout this manual, agencies are required to have or develop written policies for the following items:

Guest/client screening guidelines	Procurement Policies
Guest/client conduct document	Photo showing Equal Employment
Example of guest/client file	Opportunity materials posted on site
Procedure for guest/client confidentiality	Most recent audited or reviewed financial statement
Employee hiring guidelines	Accounting Records
Procedure for data entry (HMIS for homelessness programs)	Grievance and Complaint Process
Proof of liability insurance covering contract period	Affirmative Marketing
Anti-Lobbying Certification or Disclosure of Lobbying Activities form	Internal Control
Required written policies:	Allowable Costs
Drug Free Workplace	Nondiscrimination
Non-Discrimination (Equal Employment Opportunity)	Budget Control
Non-Discrimination (Consumer/Client)	Procurement Transactions
Employee Grievance & Complaint Procedures	Cash Management
Consumer Grievance & Complaint Procedures	Property Management
	Conflict of Interest
	Travel
	Drug Free Workplace
	Wage Laws
	Duplication of Costs

### 3.2 - COMMON CONTRACT ELEMENTS

The contractual obligations that an agency assumes on becoming a subrecipient of federal funds are many. The agency should be aware of the various elements that will by necessity inform daily program operations. This section will address some of the elements of the contract.

#### 3.2.1 - AMENDMENTS OR MODIFICATIONS

Either party may request modifications in the scope of services, terms or conditions of the contractual agreement. Proposed modifications which are mutually agreed upon will be incorporated by written amendment to the agreement. Modification must be requested at least 30 days in advance.

#### 3.2.2 - CONSTRUCTION MANAGEMENT

Agency must select a qualified construction manager for project. Contracted agency shall keep bids, change orders and construction progress meeting notes, cost certification, 504 certification and occupancy permits and all Davis Bacon payrolls on file. For housing projects, Agency must contact City staff to complete a housing quality inspection prior to occupancy. For housing rehabilitation projects, City staff shall review scope of work prior to construction in order to comply with the city's local rehabilitation standards.

### **3.2.3 - COPYRIGHT**

If any activities of the proposal results in any copyright material, the City reserves the right to royalty-free, nonexclusive and irrevocable license to reproduce, publish or otherwise use, and to authorize others to use the work for governmental purposes.

### **3.2.4 - COVENANT AGAINST CONTINGENT FEES**

To prevent the actual or attempted exercise of improper influence, agencies are required to warrant that no agent or employee has been engaged to obtain CDBG or HOME funds for a contingent fee. Contingent fees are defined as any payments conditioned upon the success an entity has in securing a government contract. Should it be discovered that a contract with the City involved contingent fees the City may annul the contract without penalty or pursue other measures to recover the full amount of such payment.

### **3.2.5 - DUPLICATION OF COSTS**

Upon contracting for federal funds with the City an agency agrees to certify that the work performed does not duplicate any work that will be charged against any other agreement, contract, statement of work, or received from another source.

### **3.2.6 - FUNDING CONTINGENCIES AND FUTURE SUPPORT**

The City recognizes the value of the agency and its work at the time the project is selected for funding. However, the City makes no obligation for additional support. Should the City's anticipated sources of revenue be withdrawn, reduced, or limited in any way, then the agency will be immediately notified in writing and the City will be released from all contractual liability for funding. Should a reduction in funding occur, the agency must immediately develop a plan to take appropriate and reasonable action to reduce its spending of the affected funds.

### **3.2.7 - HOLD HARMLESS AND INDEMINIFICATION**

The agency is financially responsible (liable) for any audit exception which occurs due to its negligence or failure to comply with the terms of the contract or City program policy.

The agency must release, indemnify, and promise to defend and save harmless the City, its elected officials, officers, employees and agents from and against any and all liability, loss, damages, expense, action and claims, including costs and reasonable attorneys' fees incurred by the City, its elected officials, officers, employees and agents in its defense thereof, asserting or arising directly or indirectly on account of or out of the performance of service pursuant to the contract.

In making such assurances, the agency specifically agrees to indemnify and hold harmless the City from any and all bodily injury claims brought by employees of the agency and expressly waives its immunity under the Industrial Insurance Act as to those claims which are brought against the City.

### **3.2.8 - INSURANCE**

All insurance purchased and maintained shall be from a company with a current minimum best rating of VII-A. Prior to starting any activity covered by this agreement, the agency shall provide the City with a copy of all required insurance instruments or certifications from the issuing insurance company or evidence of self-insurance. Cancellation of insurance is grounds for termination of the contract. Documentation should show:



- Coverage details
- Coverage period
- Amount of coverage; submitted on an ACORD form and the City named as an additional insured
- Policy endorsement stating that coverage shall not be suspended, voided, canceled, nor reduced in coverage or in limits, without a 30 day written notice by certified mail with a return receipt requested to the City.

The AGENCY shall obtain evidence of general casualty (commercial liability) insurance to protect against legal liability arising out of activities associated with this Agreement. The insurance shall include a Products/Completed Operations aggregate. Such insurance shall provide a minimum of \$1,000,000 per occurrence and \$2,000,000 per general aggregate limit with a maximum deductible of \$10,000.

1. If the AGENCY uses motor vehicles in conducting activities under this Agreement, liability insurance covering bodily injury and property damage shall be provided either through a self-insurance program or through a commercial insurance policy. Such insurance shall have minimum limits of \$500,000 per occurrence, combined single limit for bodily injury liability and property damage with no aggregate limit.
2. The AGENCY shall ensure that every officer, director, or employee who is authorized to act on behalf of the AGENCY for the purpose of receiving or depositing funds into program accounts or issuing financial documents, checks, or other instruments of payment for program costs shall be bonded or be covered by fidelity insurance to provide protection against loss. The insurance or bond must be secured for the term of the contract and must name the City as beneficiary. The bond or certificate shall show the bonding or insurance coverage, the designated beneficiaries, who is covered, and the amounts. If the AGENCY chooses to purchase fidelity insurance, the coverage must include employee theft per loss, employee theft per employee, and theft (disappearance and destruction)."
3. The AGENCY shall require its subcontractors whose employees are providing work, labor or materials under this Agreement and who are subject employers under the Washington state Industrial Insurance law (RCW 51.04) to comply with RCW 51.04.120 (Certificate of coverage required) and WAC 296-17-31004 (Coverage requirements) and to provide proof of coverage with limits of not less than \$100,000 for each accident.
4. The AGENCY shall require any architect, engineer, land surveyor, or other licensed professional to obtain and maintain a professional Errors and Omissions insurance policy to protect against legal liability arising out of contract activity. Such insurance shall provide a minimum of \$2,000,000 per occurrence, with a maximum deductible of \$5,000.
5. The AGENCY shall purchase and maintain property insurance for all structures improved or constructed with funds under this agreement. Property insurance shall be in the amount of the initial construction contract as well as subsequent modifications thereto for all construction at the site on a replacement costs basis. For new construction, property insurance shall be on an all-risk form (builder's all-risk) and shall insure against the perils of fire and extended coverage and physical loss or damage including, without duplication of coverage, theft, vandalism, malicious mischief, collapse, false work, temporary buildings and debris removal.

6. The AGENCY shall purchase ALTA title insurance for any property purchase made under this agreement. Title insurance shall name the AGENCY and the City, and shall be in an amount not less than the amount of HOME and CDBG funds provided under this agreement.
7. The AGENCY shall purchase an ALTA Extended Coverage 1970 form (with 1984 amendments) loan policy of title insurance in the amount of the loan. The policy shall name the City as beneficiary.
8. The AGENCY shall purchase and maintain fire and extended coverage insurance policies for all structures improved or constructed with funds under this agreement. The fire and extended coverage insurance policies shall be in the amount of 100% of the insurable value of the structure and improvements.
9. All insurance purchased and maintained shall be from a company with a current minimum best rating of VII-A.
10. Prior to starting any activity covered by this Agreement, the AGENCY shall provide the City with a copy of all required insurance instrument(s) or certification of the same from the insurance issuing agency or, if appropriate, evidence of self-insurance. The insurance instrument(s) shall show the coverage, period and amount of coverage submitted on an ACORD form and shall name City of Vancouver as an additional insured. The policy shall be endorsed to state that coverage shall not be suspended, voided, canceled, reduced in coverage or in limits without a 30 day written notice by certified mail with a return receipt requested to the City of Vancouver CDBG & HOME Program. Cancellation of policy is grounds for termination of this Agreement.

### **3.2.9 - LICENSING, PERMITS, ACCREDITATION AND REGISTRATION**

The agency must comply with all applicable local, state, and federal licensing, accreditation and registration requirements or standards necessary for the performance of the contract. The loss of a required license, certification, or accreditation will be grounds for termination of a contract by the City, if the presence of such is a legal prerequisite to performing the service.

The agency must obtain all necessary and appropriate land use permits, zoning approvals, and any other permits and approvals required by local, city, state, and federal law.

### **3.2.10 - NON-ASSIGNABILITY OF CLAIMS**

No claim arising under any contract shall be transferred or assigned by the agency.

### **3.2.11 - NON-SUBSTITUTION FOR LOCAL FUNDING**

The agency shall not use funds provided under the contract to supplant local, state or other federal funds. The agency shall not use these funds to replace funding that would otherwise be made available to the agency had this funding not been provided.

### **3.2.12 - OWNERSHIP OF MATERIALS**

Work products developed as a result of the funded activity will be jointly owned by the applicant and the City. Such work products may include but are not limited to reports, maps, charts, materials, software systems and any other product created as a result of the work performed under this contract.

### 3.2.13 - PROGRAM INCOME

The term “**program income**” means any gross income received by the agency that was directly generated from the use of CDBG or HOME funds. When income is generated by an activity that is only partially assisted with these funds, the income must be prorated to reflect the percentage of federal funds invested. Program income received by the agency must be reported to the City. Program Income may be utilized by the Contracted Agency according to their contract.

Program Income includes:

- Proceeds from the disposition by sale or long-term lease of real property purchased or improved with federal funds.
- Proceeds from the disposition of equipment purchased with federal funds.
- Gross income from the use or rental of real or personal property acquired or owned and constructed or improved by a subrecipient with federal funds, less the costs incidental to the generation of the income.
- Funds collected through special assessments made against properties owned and occupied by households not of low-income, where the special assessments are used to recover all or part of the federal portion of a public improvement.
- Gross income paid to the subrecipient from the ownership interest in a for-profit entity acquired in return for the provision of federal assistance.

### 3.2.14 - PROMISSORY NOTE, DEED OF TRUST AND COVENANT

Agencies that specifically receive HOME and in some cases CDBG funds may have to enter into a promissory note, deed of trust and covenant with the City. These run with the land for the period of affordability, as established by HUD regulations for repayment of the loan and shared equity.

In addition these legal conveyances may impose conditions including maintaining:

- Property insurance to full insurable value of the structure
- Property free and clear of all other charges, liens, or encumbrances impairing the security of the deed
- Operation of the facility for the original purpose for which it received federal funding

### 3.2.15 - REVISIONS TO CONTRACT BUDGET

Any line item expenditure that will exceed 10% of its allocated funding will require a formal modification to the signed contract. Requests for budget revisions must specifically state the reasons for the requested increase and, if applicable, a justification for the corresponding decreases in another budget category.

### 3.2.16 - TAXES

Receipt of this federal funding does not relieve the agency of typical financial responsibilities. The agency is responsible for all payments accrued on account of payroll taxes, unemployment contributions, the agency’s income or gross receipts, any other taxes, insurance or expenses incurred by the agency or its staff.

### 3.2.17 - TERMINATION

If the agency is unable or fails to comply with any of the provisions of the contract, the contract may be terminated, and the agency may be required to return all or a portion of funding to the City. Individual contracts will detail the specifics of termination.

Some projects are contingent upon securing additional funding sources. In these cases a time limit will be established in the contract, by which all funding must be secured or the contract will be terminated and all funds returned.

### 3.2.18 - TRANSFER SALE AND CHANGE OF USE

The City of Vancouver places a Deed of Trust on each property assisted with funding from CDBG or HOME. If the property ceases to be used as an eligible activity as outlined in the deed. The City of Vancouver will collect on the note. Basic information is included below; further details are included in the deed.

As used in a Deed of Trust, "interest in the property" shall mean any legal or beneficial interest in all or any part of the property.

If all or any part of the property or any interest in the property is sold or transferred, or if there is a change of use or other transfer, and if such action or failure to act occurs without prior written consent of the City, the Agency may be required to immediately provide payment in full of all sums secured by the Deed of Trust.

Notwithstanding anything to the contrary in the Deed of Trust, the following shall not be considered a transfer, sale or change of use and shall not trigger the City's right to declare any amounts secured by this Trust Deed due and payable:

1. A transfer of a limited partnership or limited liability company interest in the Borrower or its assigns;
2. The transfer of a security interest in the property for purposes of financing or refinancing done with the knowledge and consent of the City of Vancouver;
3. A sale, transfer or assignment of Borrowers interest in the property to a partnership, limited liability company or other entity of which Borrower or Borrower's affiliate is a partner, member or shareholder or to another 501(c)(3) organization or governmental entity reasonably acceptable to the City of Vancouver; and
4. The transfer of a leasehold interest to a residential tenant in the ordinary course of Grantor's business.
5. Removal of the General Partner by the Limited Partner pursuant to the Borrower's Partnership Agreement;

**Shared Equity/Shared Net-Proceeds:** The borrower and the COV will share the appreciation at the time of sale or refinance. The calculation and payment of appreciated value of the property is described below:

#### **Determining Value:**

- The value is determined by an appraisal satisfactory to the COV; the sales price if sold; the appraised value if refinanced; or any insurance or condemnation proceeds received; or an appraisal required for condemnation or insurance proceeds. The appraisal shall take into account any covenants or restrictions which will remain in place; less

- The actual reasonable approved costs of sale (if the Property is sold), including appraisal, real estate commissions, real property excise tax, escrow fees, recording fees, title and insurance premiums; less
- Cost of depreciable improvements made to the Property subsequent to completion of the work funded or financed by this loan.

**Shared Appreciation (SA):**

- The Shared Appreciation is due and payable at the time any property is sold, refinanced or discontinued in service to the population it was intended to serve.
- Shared Appreciation is the Borrower's proportionate share of the appreciated value of the Property, together with the appreciated value of the improvements constructed on the property.

**Shared Appreciation (SA) is represented in the following formula:**

- $SA = (NP - TODC) \times (OP / TODC)$  where (SA) is the product of the Net Proceeds (NP) less Total Original Purchase Costs (TODC) multiplied by the fraction whose numerator is the Original Principal (OP) amount of the City of Vancouver Program Award (loan) and whose denominator is the total Original Development/Purchase Costs.

**TODC costs include:**

- The appraised fair market value of the Property at the time of the loan or certification of cost if mutually agreed upon by the parties. The agreed upon purchase price of the Property at the time of the loan is \$\_\_\_\_\_.

**Net Proceeds shall be calculated as follows:**

- The value is determined by an appraisal satisfactory to the COV; the sales price if sold to a bona fide third party; the appraised value if refinanced; or any insurance or condemnation proceeds received; or an appraisal required for condemnation or insurance proceeds. The appraisal shall take into account any covenants or restrictions which will remain in place; less
  - The actual reasonable approved costs of sale (if the Properties are sold), including appraisal, real estate commissions, real property excise tax, escrow fees, recording fees, title and insurance premiums, less
  - Cost of capital improvements made to the Properties subsequent to completion of the work funded or financed by this loan. Improvements must meet the Capital Improvement section of this policy.

### **3.3 - CERTIFICATIONS**

In order to receive federal funds, each agency must attest or certify to the following:

#### **3.3.1 - ANTI-LOBBYING**

In accordance with federal regulations, all agencies, including subcontractors, must sign and submit an anti-lobbying certification to certify that they have not used federal funding to lobby a position.

In addition agencies must disclose the use of any other money used for such purpose by completing the OMB form SF-LLL. When an organization seeks reimbursement for indirect costs, total lobbying costs shall be separately identified in the indirect cost rate proposal, and thereafter treated as other unallowable activity costs.

Agencies are also required to include an anti-lobbying clause in all of their contractual arrangements connected to the CDBG or HOME project.

#### **3.3.2 - CERTIFICATION OF DEBARMENT**

Agencies must certify that neither the agency, nor its principals, officers, employees and subcontractors are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any federal department or agency. In addition agencies agree that that they will not knowingly hire or enter into contract with any subcontractor who is debarred, suspended, declared ineligible, or voluntarily excluded from participation, unless authorized by the City.

Agencies are required to include such a clause in all of their contractual arrangements with respect to this federally funded activity and maintain evidence of compliance in personnel files or with the subcontractor's documents.

Agencies are required to verify that a vendor is not on the federal government list of debarred vendors by visiting the following website: <http://www.sam.gov>. Verification must be included in the file.

#### **3.3.3 - CONFLICT OF INTEREST**

Federal regulations require recipients of federal funds to comply with conflict of interest provisions. In general no person, nor their family or business partners, who may exercise any function with respect to a federally funded activity may obtain a personal or financial benefit from the activity during their tenure and for one year after. In addition any potential conflict of interest on the part of the applicant or its employees must be disclosed to the City.

#### **3.3.4 - DRUG FREE WORKPLACE**

Participation in these grant programs requires that agencies adopt their own policy to ensure a drug free workplace. Specifically agencies must make a good faith effort to maintain a drug-free workplace by:

- Publishing a drug-free workplace statement that is given to each employee who will be engaged in the performance of any federal award and which:
  1. Informs employees that the manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited in the agency workplace;

2. Specifies the actions that the agency will take against employees for violating that prohibition; and
  3. Informs employees that as a condition of employment under any award, he or she will abide by the terms of the statement and must notify the agency in writing if he or she is convicted for a violation of a criminal drug statute occurring in the workplace and must do so no more than five calendar days after the conviction.
- Establishing a drug-free awareness program for agency employees about:
    1. The dangers of drug abuse in the workplace;
    2. The policy the agency has of maintaining a drug-free workplace;
    3. Any available drug counseling, rehabilitation, and employee assistance programs; and
    4. The penalties that the agency may impose upon them for drug abuse violations occurring in the workplace.
  - Taking action when an employee is found in violation of drug statutes governing the workplace
    1. Notify the City in writing within 10 days of learning of the conviction. Include the employee's position title and identification number of the affected award.
    2. Take appropriate personnel action against the employee which may include termination or required participation in an approved rehabilitation program.
  - Agencies must also identify all known workplaces funded in part by CDBG or HOME funds

### **3.3.5 - NONPARTICIPATION IN POLITICAL ACTIVITIES**

The applicant must agree that no funds provided, nor personnel employed under the contractual agreement, shall be in any way or to any extent engaged in the conduct of political activities in violation of the Hatch Act (USC Title V, Chapter 15).

## **3.4 - PROGRAM OPERATION**

### **3.4.1 - INCOME DETERMINATION**

#### **PUBLIC SERVICES**

From Basically CDBG, July 2012, section 7.3.2 "LMI Benefit National Objective", p. 7-7: Limited Clientele activities must benefit a specific targeted group of persons of which at least 51 percent must be Low/Moderate Income. In order to meet the LMI Limited Clientele criteria, the activity must:

- Serve at least 51 percent LMI, as evidenced by documentation and data concerning beneficiary size and income;
- Have income-eligibility requirements which limit the service to persons meeting the LMI income requirement, as evidenced by the administering agency's procedures, intake/application forms, income limits, and other sources of documentation;

- Serve a group primarily presumed to LMI such as abused children, battered spouses, elderly persons, severely disabled adults, homeless persons, illiterate adults, persons living with AIDS and migrant farm workers; or
- Be of such a nature and in a location that it may be concluded that the activity's clientele are LMI.

**Presumed Benefit**

Agencies contracted to provide **public services** through CDBG may presume that the activity meets low/moderate-income eligibility requirements if it is limited to one or more of the following “presumed benefit” groups:

<b>Group</b>	<b>Income Level for Reporting</b>
Abused children	Extremely low income
Battered spouses	Low income
Severely disabled adults	Low income
Homeless persons	Extremely low income
Illiterate adults	Low income
Persons with AIDS	Low income
Migrant farm workers	Low income
Elderly	Moderate income (senior center-based services) or Low income (other services)

Agencies engaged in presumed benefit activities should report the number of beneficiaries under the income categories listed above when completing a Direct Benefit Report.

Documentation identifying participants as belonging to a presumed benefit group must be kept on file by the agency (for example, homelessness status could be documented through a self-certification, third-party verification, or referral from another homeless service provider).

**School-Based Programs**

To qualify for CDBG public services funds, a school-based program must be of such a nature and in a location that it may be concluded that the activity's clientele are LMI, demonstrated as follows:

- Must be only open to students enrolled in the target school(s);
- More than half of the students in each target school are enrolled in free and reduced lunch program;
- The free and reduced lunch program income guidelines must be at or below the HUD 80% AMI level; and
- Must otherwise provide an eligible activity, the nature of which does not preclude the LMI presumption.

Data on free and reduced lunch participation in area schools may be found at <https://www.k12.wa.us/policy-funding/child-nutrition/child-nutrition-program-reports>

Established income limits are published in the federal register every spring at <http://www.gpo.gov/fdsys/pkg/>



## **INCOME DETERMINATION UNDER HUD PART 5**

Agencies engaged in other activities must calculate participant income to document eligibility. The HOME Tenant Based Rental Assistance program and rental housing activities must serve households earning 60% AMI or less.

CDBG-funded programs, including the City of Vancouver Homebuyer and Housing Rehabilitation program, may serve households earning up to 80% AMI unless otherwise noted in the contract.

The City of Vancouver provides a chart of current HUD limits on its website at <https://www.cityofvancouver.us/cdbg>. Annual income must be calculated as determined in 24 CFR Part 5.

Agencies may use the HUD website <https://www.onecpd.info/incomecalculator> or the Part 5 worksheet (see attached) to calculate income. The Part 5 worksheet is also provided on the City's website at <https://www.cityofvancouver.us/cdbg>.

Generally copies of the following documents are collected as verification of income and assets for the Part 5 calculation:

- Most recent Federal income tax return (including all schedules)
- Current bank statements for all checking, savings, money markets, stocks, bonds, mutual funds, Treasury bills, certificates of deposits and any other liquid assets for all adult household members
- Proof of employment income for all household members, to include at least one of the following:
  - Employment verification form completed by employer
  - Last 4-6 consecutive paycheck stubs showing year-to-date amounts for all household members
  - W-2 forms (only if the applicant has had the same employer for at least two years and current income can be accurately projected)
- If self-employed, tax returns for the last two years and a year-to-date profit and loss statement
- Award or benefit letters and/or account statements for TANF, Social Security, Supplemental Security Income, disability income, or pensions
- Proof of child support and/or spousal support received
- Any other documentation needed to show the full household income picture such as a signed lease and expense receipts for rental income, self-certification of zero income for non-working adults, unemployment benefits statement, etc.

Additional documents required for the Homebuyer and Housing Rehabilitation program:

- Current mortgage statement for all mortgages and other liens on property
- Current credit report (a free credit report may be obtained at [www.annualcreditreport.com](http://www.annualcreditreport.com))

Agencies must also submit a Direct Benefit Report that is included in the contract and available on the CDBG website. The Direct Benefit report includes the following information:

- Number of persons/households who apply and number who receive services
- Income Characteristics
- Race and Ethnicity Information
- Female Head of Household
- Homeless
- Numbers who live in City of Vancouver

### **3.4.2 - PROJECT OPERATION**

Funds are awarded for the sole purpose of completing the project identified in the application and incorporated into the contract. The use of CDBG or HOME funds is expressly limited to the activities described in the contract.

In the case of facilities funded with CDBG funds, the agencies must maintain and operate facilities for eligible activities, so as to be open for the use of the general public during all normal hours of operation, and will not charge a fee that would restrict low income persons from using the facility.

In the event the agency fails to maintain and operate the project, the City may, at its option, take possession of the project and operate and maintain it for any lawful purpose.

### **3.4.3 - PROJECT SCHEDULE**

A project schedule is made part of the contract and is considered a critical element for review in the implementation of the proposal and the monitoring of performance. The contract will specify a time period that the agreement is in effect, including a project completion date. Contracted Agencies are required to submit quarterly reports and report project milestones. Projects will be periodically reviewed to ensure progress and agencies must requests for project extensions in writing, explaining the reasons for the request. Any funds unspent at the end of the agreement period will be retained by the City for allocation to another CDBG or HOME project.

### **3.4.4 - PUBLIC INFORMATION**

In all news releases and other public notices related to projects funded under the contract, agencies must formally identify the source of funds. Depending on the scope of the project, there may be additional notification requirements, such as:

- During construction agencies may be required to erect a durable and adequately visible sign at the construction site, identifying the source of funds.
- Upon the completion of construction, the agency may be required to place a metal plaque permanently in the highest foot traffic area readily visible to the public. The plaque should identify the funding sources, the project name, and the year constructed.

City staff will work with agencies to identify specific project requirements and contracts will carry provisions outlining the specifications of such notifications.

### **3.4.5 - REAL PROPERTY MANAGEMENT**

Real property:

land, including land improvements, structures and appurtenances thereto, excluding movable machinery and equipment

### **3.4.6 - REAL PROPERTY – CDBG PROGRAM**

When an agency uses in excess of \$25,000 of CDBG funds to acquire or improve real property the agency may not change the use or planned use of the property without City approval. This standard shall apply for a minimum of five (5) years from the date CDBG funds are first spent for the property. Specific terms will be outlined in the contract and deed as required.

### 3.4.7 - RELIGIOUS ORGANIZATIONS

Organizations that are directly funded under the CDBG or HOME program may not engage in inherently religious activities, such as worship, religious instruction, or proselytization, as part of the programs or services funded under this agreement. If an organization conducts such activities, the activities must be offered separately, in time or location, from the programs or services funded under this part, and participation must be voluntary for the beneficiaries of the HUD-funded programs or services.

## 3.5 - SPECIFIC TO HOUSING

### 3.5.1 - MINIMUM PROPERTY STANDARDS

CDBG and HOME funds are available to provide decent, affordable housing. Funds are available for either direct rental assistance or for the construction or rehabilitation of housing.

1. Housing Rehabilitation Loan Program: Housing improved through the City program is subject to inspection and approval. Refer to the Housing Rehabilitation Loan Program Policy and Procedure Manual for additional information and requirements. (attached)
2. Manufactured Housing: Construction of all manufactured housing must meet the Manufactured Home Construction and Safety Standards established in 24 CFR 3280 Manufactured Home Construction and Safety Standards. Installation and rehabilitation of manufactured housing must comply with both City and Washington State codes.
3. New Construction or Rehabilitation: Housing that is newly constructed or substantially rehabilitated with federal funds must meet rehabilitation standards, local building codes, fire codes, Model Energy Code, and maintenance standards located at Vancouver Municipal Code (VMC) Title 17 Buildings and Construction, and Title 16 Fire Code, as well as the zoning ordinance at VMC Title 20 Land Use and Development Code.
4. Rental Housing: An owner of rental housing assisted with federal funds must maintain the housing in compliance with all local building codes, fire codes and maintenance standards. An HQS is performed according to 24 CFR 92.251.
5. Tenant Based Rental Assistance (TBRA): When federal funding is provided for rental assistance, housing units must be inspected to meet the minimum Housing Quality Standards (HQS) established in 24 CFR 982.401, prior to occupancy. No funds will be released until inspections are completed and approved with documentation in project files.

### 3.5.2 - RENTAL PROJECTS INCOME AND RENT

Agencies providing rental housing must follow the rent and income guidelines.

#### **Approval of Rent and Utility Allowance:**

1. Agency is provided a copy of the most recent HOME rent limits and a link to the Vancouver Housing Authority utility allowances at time of application and in the contract for the period of affordability.
2. The contract instructs agency that formal approval for rents and utility allowance must occur prior to rental agreements being negotiated.
3. Prior to completion of construction, City of Vancouver staff will meet with agency staff to review HOME rental and income limits and proposed leasing and tenant selection information.
4. Agency submits income and rent schedule to City for approval prior to leasing.
5. City will notify agency each time the income and rent limits are updated by HUD.
6. Upon receipt of new published income and rent limits, agency will submit current income and rent schedule to city for approval.

**Rent Limits:**

1. In accordance with 24 CFR 92.252 projects with one to four HOME-assisted units are required to have assisted unit rents not exceed the lesser of the Fair Market Rent or High HOME Rent.
2. Projects with five or more HOME-assisted units are required to have 20% of assisted unit rents not exceed the Low HOME Rent and 80% not exceed the lesser of the Fair Market Rent or High HOME Rent.
3. Rents include utilities and must be reduced for tenant paid utilities

**Income Limits:**

1. Participants shall have an annual income that is 60% of the area median income or less, using the most current HUD Income Limits found at [www.cityofvancouver.us/cdbg](http://www.cityofvancouver.us/cdbg);
2. The AGENCY shall calculate participant gross income, adjusted income, and total tenant payment using the method found in 24 CFR Part 5, which is the method required for the HUD Section 8 program;
3. The AGENCY shall collect income for new participants and review tenant income information for eligibility annually and provide a copy to the City of Vancouver annually.

**Subsidies:**

Agency will not discriminate against potential tenants with rental subsidies.

**Over Income Tenants:** Households whose incomes rise above 60% of the AMI shall pay a rent not greater than 30% of their income for housing provided a) the rent they pay does not exceed the Fair Market Rent (FMR) established by HUD and b) the amount they pay for rent is not less than the greater of their current rent or the monthly rent that was set in their prior year's lease agreement. Any resulting increase in rent is subject to the provisions of outstanding leases, and in any event, households shall be given not less than thirty days prior written notice of any increase.

**Properties with Five or More HOME-Assisted Units:**

1. For rental properties with five or more HOME-assisted units, at least 20 percent of the HOME-assisted rental units must be occupied by families who have annual gross incomes at or below 50 percent of area median income.
2. These units must be rented at no more than the Low HOME Rents. The remaining units can be rented at no more than the High HOME Rents.
3. Very low-income households may occupy High HOME Rent units and pay High HOME Rents.

**Unit Designation:** The contracted agency will maintain the number of HOME units as defined in the contract and deed. Units will be designated as fixed or floating.

1. Fixed units remain the same throughout the period of affordability.
2. Floating units are designated to maintain conformity with the requirements during the period of affordability so that the total number of HOME designated units remains the same throughout the period of affordability. Each floating HOME unit must be comparable in terms of size, features, and number of bedrooms to the originally designated HOME-assisted unit.
3. Tenant income must be monitored annually, if an over income tenant in residing in the floating unit, the next available unit must be rented to an income eligible tenant.

### **3.5.3 – MONITORING RENTAL PROJECTS**

Agencies will be monitored throughout the period of affordability. Agencies may submit any reports required for tax credits or Washington State Housing Trust fund as an enforcement tool.

- Agencies must maintain documentation of tenant incomes and rents charged and submit to City annually
- Physical inspection of units must be performed annually using the HQS criteria
- Submit information related to rent and income eligibility annually
- Provide annual financial reports for the City funded project as well as the agency
- Tenant income must be reviewed annually

### **3.5.4 – RENTAL HOUSING REHABILITATION:**

An owner of rental housing that is using funds for rehabilitation must provide a list of tenants that are receiving TBRA prior to construction.

### **3.5.5 – HOME PROGRAM - RESALE AND RECAPTURE**

The City of Vancouver (COV) administers the federal HOME and CDBG program which allows for a funding mechanism to assist low income people in achieving homeownership. The City of Vancouver will contract with non-profit agencies in the community to administer the program. The contracts and agreements will contain either a resale or recapture clause. Additional information can be obtained in Homebuyer Program Description.

The City may demand payment in full for any of the following reasons. The specific criteria is detailed in the deed and note attached to the property.

- Change of use of the property
- Transfer of all or any part of the property or interest in the property
- Breach of any stated covenant or failure to satisfy any stated condition or regulation

### **3.5.6 – HOME PROGRAM - PERIOD OF AFFORDABILITY**

HOME-assisted rental units carry rent and occupancy restrictions for varying lengths of time, known as the affordability period. The period of affordability begins upon project completion and is enforced by covenant or other legal conveyance between the agency and the City.

Low-income household homebuyer projects also carry a period of affordability which affects the terms of resale or recapture of the property, if sold during the affordability period.

Affordability periods do not apply to homeowner rehabilitation or tenant-based rental assistance (TBRA) activities.

Agencies will be monitored throughout the period of affordability even as the funded project proceeds through closeout. Agencies must maintain documentation of tenant incomes and rents charged.

For **Rental** Projects, the length of the affordability period is based on the amount of HOME funds invested in the property, as well as on the nature of the activity funded.

Activity	Average Per-Unit HOME	Minimum Affordability Period
Rehabilitation or Acquisition of Existing Housing	<\$15,000	5 years
	\$15,000 - \$40,000	10 years
	>\$40,000	15 years
Refinance of Rehabilitation Project	Any dollar amount	15 years
New Construction or Acquisition of New Housing	Any dollar amount	20 years

For **Homebuyer** Projects, the length of the affordability period is based on the amount of HOME funds invested in the property.

HOME Funds Provided	Affordability Period
<\$15,000	5 years
\$15,000 - \$40,000	10 years
>\$40,000	15 years

Throughout the period of affordability, the City will conduct on-site inspections of HOME-assisted multi-family rental housing. The frequency of visits depends on the total number of project units (including non-HOME units), as shown below:

Total Number of Project Units	Frequency of On-site Inspection
1 – 4 units	Every 3 years
5 – 25 units	Every 2 years
More than 25 units	Every year

The City will inspect fifteen to twenty percent of the HOME-assisted units in a complex up to 25 total units, and a minimum of one unit in every building. For larger projects with more than 25 total units, the City will inspect a sample of ten to fifteen percent of the units with a minimum of one unit in every building. If compliance problems are identified in the sample units, then the City will inspect the remaining units to ensure that all HOME-assisted units comply with established property standards.

In addition to performing a physical inspection, information submitted by the owner, specifically related to rent and income eligibility will be reviewed annually.

### 3.5.7 - HOME PROGRAM – TENANT LEASES

Agencies receiving HOME funds must enact specific tenant protections.

Leases must be for not less than one year, unless by mutual agreement between the tenant and the owner.

Leases may not contain any of the following provisions enumerated at 24 CFR 92.253:

1. Agreement by the tenant to be sued, to admit guilt, or to a judgment in favor of the owner in a lawsuit brought in connection with the lease;
2. Agreement by the tenant that the owner may take, hold, or sell personal property of household members without notice to the tenant and a court decision on the rights of the parties. However, the owner may dispose of personal property left by a tenant in accordance with state law;
3. Agreement by the tenant not to hold the owner or the owner's agents legally responsible for any action or failure to act, whether intentional or negligent;
4. Agreement of the tenant that the owner may institute a lawsuit without notice to the tenant;
5. Agreement by the tenant that the owner may evict the tenant or household members without instituting a civil court proceeding in which the tenant has the opportunity to present a defense, or before a court decision on the rights of the parties;
6. Agreement by the tenant to waive any right to a trial by jury;
7. Agreement by the tenant to waive the tenant's right to appeal, or to otherwise challenge in court, a court decision in connection with the lease; and
8. Agreement by the tenant to pay attorney's fees or other legal costs even if the tenant wins in a court proceeding by the owner against the tenant. The tenant, however, may be obligated to pay costs if the tenant loses.

An owner may not terminate or refuse to renew the lease except for the following reasons:

- Serious or repeated violation of the terms and conditions of the lease
- Violation of applicable federal, state, or local law
- Completion of the tenancy period for transitional housing
- Good cause

To terminate or refuse to renew tenancy, the owner must serve written notice specifying the grounds for the action at least 30 days before the termination of tenancy.

An owner of rental housing must adopt written tenant selection policies and criteria that:

- Are consistent with the purpose of providing housing for very low-income and low-income families;
- Are reasonably related to program eligibility and the applicants' ability to perform the obligations of the lease;
- Provide for the selection of tenants from a written waiting list in the chronological order of their application, insofar as is practicable; and
- Give prompt written notification to any rejected applicant of the grounds for any rejection.

### 3.5.8 - HOME PROGRAM – TENANT BASED RENTAL ASSISTANCE (TBRA)

A form of direct rent assistance in which the recipient tenant may move from a dwelling unit with a right of continued assistance. See TBRA Policies and Procedures for additional detail at <https://www.cityofvancouver.us/cdbq>.

### 3.5.9 - HOME PROGRAM – HOUSING DEVELOPMENT UNDERWRITING PARAMETERS

Underwriting criteria for project and operating budgets should be guided by the following criteria:

#### 1. Housing Project Development Budgets

- Construction Contingency -- Minimums: 10% New Construction, 15% Rehabilitation
- Soft Cost Contingency – Maximum: 5% All Development
- The “Developer Fee” limits below are based on an average project in development and financing complexity. If the proposed Developer Fee for your project is higher than outlined, please provide your rationale. Please note that the developer fee is defined as a percentage of the total project. The “Developer Fee” does not include contract cost for project development consultants.

Total Units in Project	Percentage of Total Development Costs
1-20	12-17%
21-35	12-15%
36-60	10-15%
61 and above	10-12%

#### 2. Housing Operating Budgets

##### A. Revenue

- Vacancy rate should not be less than 5%.
- If project is restricted to a special population (HUD 811) or is senior housing (HUD 202), you may use a vacancy rate of not less than 4%.
- Non-HUD Capital Grant projects with less than 20 units should use 7.5% or higher vacancy rate to stress test the initial lease-up and long-term operations.

##### B. Operating Expenses

- Minimum inflation factor: 2%
- Replacement reserves (maintenance and repair)- a minimum of \$300 per year per unit for new construction; \$350 per year per unit for rehabilitation
- Operating reserve – 6 to 9 months of costs
- Project management fee – 7 to 12%.
- Property tax reduction: affordable housing projects and projects owned by nonprofit agencies are eligible for reduction and abatement of property taxes, your project should identify what form of property tax adjustment you anticipate.
- Resident Services: Up to \$300/year/unit affordable at 50% MFI or less
- Total operating expenses - 40% to 50% of gross revenue
- Debt Coverage Ratio (Net Operating Income ÷ Debt Service) – range 1.05 to 2.0
- HOME loan to value ratio - 50 percent or less  
Break-Even Point (gross income and other income ± operating expenses and debt service) ≤ 90%.



## IV. ENVIRONMENTAL REVIEW

### 4.0 - SUMMARY

As part of the contract preparation process, the City will conduct an environmental review under the National Environmental Policy Act (NEPA). *No funds will be formally committed nor expended until the completion of the NEPA.*

To expedite the process, the City proceeds with the required environmental review and information gathering prior to the contract being signed. The agency may be required to furnish data, information and assistance as part of the environmental review.

Completion of the environmental review process is mandatory, before taking any choice-limiting actions, including the expenditure or commitment of either federal or non-federal funds. Prohibited actions include any physical action on a site such as demolition, movement, rehabilitation, conversion, repair or construction. Further the agency may not execute a construction contract prior to environmental clearance.

### 4.1 - HISTORICAL OR CULTURAL ARTIFACTS

In the event that historical or cultural artifacts are discovered at a project site, funded with CDBG or HOME funds, during construction or rehabilitation, the agency or subcontractor shall immediately stop construction and notify both City staff and the state historic preservation officer at the Department of Archaeology and Historic Preservation at (360) 586-3065. For additional information, visit the state website at [www.dahp.wa.gov](http://www.dahp.wa.gov).

### 4.2 - HISTORIC PRESERVATION

Projects will be reviewed to determine if a historic property is potentially affected by the undertaking. Both properties that are listed in or found to be eligible for inclusion in the National Register of Historic Places, Washington State Heritage Register or Clark County Heritage Register will be subject to the requirements of the City's Development code. Alterations to such properties shall be submitted for review and approval at the City's Permit Center located at City Hall. This review will be completed prior to the issuance of the Notice to Proceed.

### 4.3 - LEAD-BASED PAINT AND LEAD HAZARDS

Projects that involve the acquisition or renovation of property built prior to 1978 must be tested for lead-based paint. Interim controls and safe work practices are required during construction. In addition, housing assisted with federal funds is subject to the:

- Prohibition of the use of lead-based paint
- Elimination of immediate lead-based paint hazards in residential structure
- Notification of the hazards of lead-based paint poisoning to purchasers and tenants of residential structures constructed prior to 1978

Paid renovators and multi-family housing maintenance workers who work in pre-1978 housing and child-occupied facilities will be required to meet the training and certification requirements of both HUD - Lead Safe Housing Rule (LSHR) and EPA – Renovation, Repair and Painting Rule (RRP). Paid renovators include renovation contractors, painters and other specialty trades.

#### **4.4 - NATIONAL FLOOD INSURANCE**

Funding will not be approved for acquisition or construction for use in any area that has been identified as having special flood hazards and is not participating in the National Flood Insurance Program. For further information, see <https://www.fema.gov/national-flood-insurance-program>.

#### **4.5 –NEW CONSTRUCTION SITE AND NEIGHBORHOOD STANDARDS**

A site for newly constructed housing must meet the site and neighborhood standards listed in 24 CFR 983.57. A checklist documenting compliance shall be completed and placed in the file titled “Site and Neighborhood Standards Checklist”.

## **V. LABOR STANDARDS**

#### **5.0 - FEDERAL WAGE LAWS AND LABOR STANDARDS**

CDBG and HOME activities are subject to federal wage laws and labor standards. Any one of the following activities triggers the Davis Bacon and Related Acts.

For CDBG-funded contracts, the Davis-Bacon Act is triggered when construction work over \$2,000 is financed in whole or in part with CDBG funds. It does not apply to the rehabilitation of residential structures containing less than eight units or construction carried out by employees of the City.

For HOME-funded contracts, the Davis-Bacon Act is triggered for the construction of affordable housing with 12 or more units, including land acquisition or clearing which will result in twelve (12) or more HOME-funded units.

Contractors and subcontractors performing work on a construction project funded through the contract must comply with prevailing wage laws by paying the higher of state or federal prevailing wages according to:

1. The Davis Bacon and Related Acts, Title 40 USC 276a to a-7 (Public Law 107-217-Aug. 21, 2002, as amended), and applicable provisions of the implementing regulations at 29 CFR Part 3 and 29 CFR 5.5 and related federal acts provide that all laborers and mechanics employed by contractors or subcontractors shall be paid wages at rates not less than those prevailing on similar construction in the locality as determined by the Secretary of Labor.
2. The Copeland (Anti-kickback) Act (40 U.S.C. 2776c) governs the deductions from paychecks that are allowable. The Act makes it a criminal offense to induce anyone employed on a federally assisted project to relinquish any compensation to which he/she is entitled. In addition the Act provides that all laborers and mechanics are entitled to receive pay weekly.
3. Contract Work Hours and Safety Standards Act (40 U.S.C. 327-333), as Amended, is applicable to federally assisted contracts subject to Davis-Bacon standards for construction projects employing mechanics or laborers and states that:
  - a. Eight hours is the standard workday, forty hours is the standard workweek.
  - b. One and one-half times the basic hourly rate of pay, exclusive of fringe benefit payments, must be paid for all hours over forty in a workweek.
  - c. No worker shall be required to work in surroundings or under working conditions that are unsanitary, hazardous, or dangerous to health and safety.

## 5.1 - ENFORCEMENT PROVISIONS

The City CDBG/Home program shall be responsible for monitoring of contractor compliance with the Federal Labor Standards Provisions. Grant Recipients are responsible for supporting the City in its efforts to monitor contractor compliance with Federal Labor Standards Provisions and more importantly are *responsible for the enforcement* of contractor compliance with the Federal Labor Standards Provisions. A number of actions must be taken at each step of the bidding & construction process for monitoring and enforcement of the Federal Labor Standards Provisions. These actions (generally listed in order of occurrence during the construction process) are as follows:

1. Prior to Bid Advertising
  - a. Agency requests from City staff a copy of Federal Labor Standards Provisions (Supplementary General Conditions) for inclusion in bid document/quote package.
  - b. Agency submits draft bid/contract document for review by City at least ten days prior to advertisement of bid.
2. Ten Days Before Bid Opening

Agency requests a copy of the current federal wage decision from City *ten days before bid opening*. The updated wage decision must be sent to all plan holders in a formal addendum to the bid document. This updated wage decision will apply to all work covered by the construction contract to be awarded under that bid advertisement. An exception to the “lock-in” date described above applies when the construction contract award is delayed 90 days or more after the bid opening. In these cases, changes in the wage decision published between the bid opening and construction contract award date must be included in the construction contract.
3. Before Awarding Construction Contract

Grant Recipient contacts City staff to verify eligibility (check for debarment) of the general contractor before awarding the construction contract.
4. Before Construction Begins

Contracted Agency holds pre-construction conference with representatives to ensure that federal labor standards requirements are discussed with the general (prime) contractor before construction begins. The City staff shall be responsible for leading the labor standards discussion. In scheduling the pre-construction conference, Agency should ask prime contractor to bring along person(s) responsible for doing company payroll.
5. During Construction

During the period of construction, the City is responsible for the following:

  - a. Inform, advise and support contractor compliance.
  - b. Review certified payroll reports for compliance.
  - c. Monitor for violations and investigate probable violations and complaints of underpayment.

If it's determined that contractor is in violation of Federal Labor Standards Provisions, Contracted Agency shall be required to take enforcement measures (withhold progress payment, assess liquidated damages, take legal action as appropriate and necessary, etc.).

6. Before Releasing Retainage on Construction Contract

Before releasing retainage, Contracted Agency must check with City CDBG staff to make sure construction contractor has satisfied all requirements under the Federal Labor Standards Provisions. Note that for construction projects subject to Federal Labor Standards Provisions, the City shall reserve the final 10% of grant funds budgeted on the construction line item (as specified in Exhibit A of Construction Contract) pending the City's receipt of a complete and correct set of certified payrolls from project contractor(s).

## VI. FINANCIAL MANAGEMENT

### 6.0 - FINANCIAL SYSTEM OVERVIEW

Agencies who receive CDBG and HOME federal funds must establish and maintain a financial system that meets the minimum federal requirement for financial management. Records must be reliable and up-to-date and are subject to review upon request. The system must be flexible enough to accommodate applicable laws and regulations, and yet also conform to *generally accepted accounting principles* (GAAP). Public agencies must maintain their accounting records in a manner consistent with the Budgeting, Accounting, Reporting System for Counties and Cities, and Other Local Governments (BARS) or equivalent accounting method.

In general a financial system must:

- Provide effective control over and accountability for all funds, property, and other assets.
- Identify the source and application of funds for federally funded activities, including verification of the “reasonableness, allowability, and allocability” of costs and that no funds have been used in violation of any restriction or prohibition.
- Report accurate and complete disclosure of financial results in a timely manner.
- Develop board approved financial policies; a list of required policies is included in the *Funding Award* section.

### 6.1 - ALLOWABLE COSTS

Costs are only eligible for reimbursement if they meet cost principle standards for allowable, reasonable and allocable.

#### Allowable

- Necessary for performance or administration of grant award
- Authorized under all pertinent regulations and requirements
- Adequately documented, including source documentation
- Not charged to any other program; not a duplicate cost

#### Reasonable

- Cost is ordinary or typical for the purchase
- Purchase benefits client population

### Allocable

- Incurred specifically for the grant award project
- If purchase is for program, rather than project, but can be proportionately prorated
- Is necessary for the overall operation of the organization, although a direct relationship to any cost objective cannot be identified

### **6.2 - BUDGET CONTROL**

Agencies must monitor obligations and expenditures against their approved budget. In addition, financial data should relate to performance data. Whenever practical, unit cost information should be developed.

### **6.3 - CASH MANAGEMENT**

Cash management standards require a strict attention to detail and accuracy and include:

Accurate and supported information

Returning erroneously drawn funds to the City immediately

- Transfers that result in using CDBG or HOME funds for any purpose other than that for which it was given are not allowed.

Regular banking procedures may be followed without any separate bank account or special bank eligibility requirements. However, agencies must be able to account for the receipt, obligation and expenditure of funds.

Please note that agencies are encouraged to use women-owned and minority-owned banks (a bank which is owned at least 50 percent by women or minority group members) in conjunction with their CDBG or HOME activities.

### **6.4 - INTERNAL CONTROL**

Agencies must adequately safeguard all property. Assets must only be used in a manner consistent with applicable laws, regulations and policies, and efforts must be made to protect against waste, mismanagement or loss.

Elements of internal control which establish a system of checks and balances include:

- An organizational chart setting forth the actual lines of responsibility of individuals involved in approving or recording financial transactions.
- Written definition outlining the separation of employee duties, so no one individual has authority over an entire financial transaction. Key functional responsibilities:
  - a. Authorization to execute a transaction
  - b. Recording a transaction
  - c. Custody of the assets involved in the transaction.
  - d. Reconciliation of all transactions
- Physical access to confidential records, blank forms, cash, and other assets limited to authorized personnel only.
- Periodic comparisons of financial records to actual assets and liabilities with corrective action taken in response to any discrepancies: reconciliation.
- A designated representative who will be legally responsible to cost reimbursement requests and other forms as required throughout the project

- An assigned liaison that will be responsible for overall administration of the CDBG or HOME funded project and coordination with the City
- Fidelity bond coverage is obtained for responsible officials of the organization; the City may require the applicant to purchase additional fidelity bond coverage in cases where it believes the normal policy coverage is not sufficient to protect the interest of the government.

## 6.5 – TRAVEL

Travel expenses are recognized as a function of business and are included in the definition of the operating expenses of an organization. Travel expenses are not appropriate for casual or occasional use of a personal vehicle within the local area. The City will only approve travel consistent with the approved contract budget.

## 6.6 - ACCOUNTING RECORDS

Records are to be maintained in a manner that costs can be tracked to specific revenue sources.

In addition records should contain information pertaining to grant awards, all obligations, unobligated balances, assets, liabilities, expenditures, and program income. Documentation regarding how much of an obligation or expenditure is attributed to federal funds is required. An accounting system should include the following:

- **A *chart of accounts*.** A listing of all accounts in the general ledger of the organization; each account should be accompanied by a reference number
- **A *cash receipts journal*.** A chronological listing of when funds are received, in what amounts, and from what sources
- **A *cash disbursements journal*.** A chronological listing of the date an expenditure was incurred, how much was spent, to whom funds were paid, and for what purpose.
- **A *payroll journal*.** Documents the organization's salaries and benefits expenses, identifies funding sources per employee, and distinguishes various payroll categories.
- **A *general ledger*.** Chronological summary of the activity and financial status of all the accounts of an organization: cross-indexed with journal entries to permit the tracing of any recorded transaction
- **A *trial balance practice*.** A listing of the ledger accounts along with their respective debit or credit balances.

## 6.7 - SOURCE DOCUMENTATION

Accounting records must be supported by source documentation. Source documentation does must be readily available for review.

Supporting documentation is necessary to explain the basis of the costs incurred, as well as the actual dates and amount of expenditures.

Source documentation specific to:

## **Payrolls**

- Employment letters and all authorizations for rates of pay, benefits, and employee withholdings
- Union agreements
- Minutes from board of directors' meetings where salary schedules and benefit packages are established
- Written personnel policies
- W-4 forms
- Time and attendance records; particularly for time charged to City funding
- Time distribution records; to support the allocation of charges among multiple sources
- Canceled checks from the employees, insurance provider, or evidence of direct deposits

## **Space and Utilities**

- Rental or lease agreements
- Utility company bills
- Canceled checks

## **Supplies**

- Purchase orders or requisition forms initiated by an authorized representative
- Detailed invoice from the vendor (which has been signed-off to indicate the goods were received)
- Canceled check from the vendor
- Information regarding where the supplies are being stored and for what cost objective(s) they are being used

## **6.8 - COST REIMBURSEMENT**

The City contracts on a cost reimbursement basis. In limited cases advance funding can be transferred to an escrow account. Indirect costs must be supported by a cost allocation plan. The Contracted Agency must provide the City with a copy of their cost allocation plan that defines how direct, shared, and administrative costs are allocated including the methodology.

Once a Contracted Agency has incurred an expense, a "request for reimbursement form" should be completed and submitted to the City. Requests must include a summary of expenses in support of all cost reimbursement items and staff costs by statement of work number and accompanied by general ledger detail.

For services or projects that are funded by multiple parties, the general ledger detail should identify which service, work, or staff costs were funded by the City and which by other parties.

Supporting source documentation should show:

- When the expense was incurred
- How much was spent
- To whom funds were paid
- For what purpose (is the cost allowable)
- Who approved the expense
- How much of an obligation or expenditure is attributed to City funds

Agencies are encouraged to submit regularly and no less than quarterly for reimbursement. The City will make payment to the Contracted Agency as soon as practicable, but not more than thirty (30) days after an invoice is received. Occasionally other payment arrangements are agreed to by both parties.

Staff will review requests for reimbursement against supporting documentation and the approved contract budget. No payment shall be made for any service rendered by the Contracted Agency, except for services within the scope of each contract.

Please note that any cost submitted for reimbursement must be the net of all applicable credits. Any credits such as purchase discounts or price adjustments must be deducted from total costs charged and documented.

### **6.9 - 10% HOLD BACK, FUNDING RETAINED UNTIL PROJECT COMPLETION**

In cases where City funding is a portion of the purchase, acquisition or construction of a project, ten percent of the amount awarded will be held back pending successful completion. Documentation for completion of the project includes occupancy permits, leased units and an operational program. When constructing housing, the architect must certify that the number of required units meets Section 504 accessibility standards.

### **6.10 - DISALLOWED COSTS**

Upon signing the contract the subrecipient assumes responsibility for any audit exceptions or disallowed costs incurred by its own organization or that of its subcontractors.

The City will expect payments to be returned if costs are considered disallowed. Disallowed costs are defined when the subrecipient has received payments for expenses or services that are outside the scope of the contract, prohibited, or paid for by another source. The contract may resume when the disallowed costs are recovered and the corrective action process has been completed.

### **6.11 - FEDERAL REGULATIONS GOVERNING FINANCIAL MANAGEMENT**

For non-governmental agencies:

- 2 CFR Part 230, Cost Principles for Non-Profit Organizations, formally OMB Circular A-122
- 24 CFR Part 84, Grants and Agreements with Institutions of Higher Education, Hospitals, and Other Non-Profit Organizations
- OMB Circular A-133, Audits of State and Local Governments and Non-Profit Organizations

For governmental and public agencies:

- 2 CFR Part 225, Cost Principles for State and Local Governments, formally OMB Circular A-87
- 24 CFR Part 85, Administrative Requirements for Grants and Cooperative Agreements to State, Local and Federally Recognized Indian Tribal Governments
- OMB Circular A-133, Audits of State and Local Governments and Non-Profit Organizations



## VII. PROCUREMENT

### 7.0 – OVERVIEW

This section outlines requirements for using federal funds to purchase materials, products, or services using contracted funds under the CDBG or HOME program. These funds can only be used to purchase what is necessary to implement the approved proposal, as described and agreed to in the approved budget that is incorporated into the signed contract. Whether you are purchasing occasional office supplies or contracting for construction services, the requirements governing the purchasing process are designed to ensure that you:

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

### 7.1 – REQUIRED STANDARDS

Every Contracted Agency **must have** written procedures for procurement transactions, which at a minimum ensure that:

- Unnecessary purchases and duplicate costs are avoided.
- Items delivered and paid for are consistent with the purchase order and/or contract for the goods or services.
- All purchase orders (and contracts) are signed by the authorized official(s) of the Contracted Agency.
- A cost or price analysis is made and documented in connection with every procurement action, including contract modifications, and must be available for review upon request by the City. A cost or price analysis may be accomplished in various ways, including the comparison of price quotations submitted, market prices, and similar indicia, together with discounts. Cost analysis is the review and evaluation of each element of cost to determine reasonableness, allocability and allowability.
- Profit or fee is negotiated separately from price where competition is lacking or whenever a cost analysis is performed. To establish a fair and reasonable profit, consideration will be given to the complexity of the work to be performed, the risk borne by the contractor, the contractor's investment, the amount of subcontracting, the quality of past performance, and industry rates for the area.
- "Cost plus a percentage of cost" pricing is not used for contracts.
- Whenever possible, use of federal excess and surplus property or intergovernmental agreements for procurement or use of common goods and services should be considered as a way to foster greater economy and efficiency.

- There is a documented system of contract administration for determining the adequacy of contractor performance.
- Protest procedures are in place to handle and resolve disputes relating to procurement.
- Timely payment to vendors occurs once the order is delivered, inspected, accepted, and payment authorized.
- Where appropriate, an analysis should be made of lease versus purchase alternatives.
- There is a written code of conduct governing employees, officers, or agents engaged in the award or administration of contracts.
- Procurement records for each purchase are maintained and at a minimum include:
  - a. Rationale for selecting both the method of procurement and the type of contract
  - b. The basis for contractor selection or rejection
  - c. Justification for lack of competition when competitive bids or offers are not obtained
  - d. The basis for the award cost or price.
- The list of provisions in 24 CFR 85.36(i) Public Agencies or 84.48 Non-profit Organizations, as applicable, must be included in any contract.

## 7.2 – METHODS OF PROCUREMENT

Depending on the scarcity of the item or service desired, and the size of the purchase, different methods of procurement are available. Simple purchases are managed with the Small Purchase Procedures, while the three more complex procurement processes all require following a formal solicitation process in addition to the procedural process of the specific procurement method.

- Small purchase procedures
- Sealed bids procurement
- Competitive proposal procurement
- Noncompetitive proposal procurement

### 7.2.1 - SMALL PURCHASE PROCEDURES

Small purchases are those purchases that are less than the *simplified acquisition threshold* currently set at \$100,000 [see 41 USC 403 (11)] and require:

- a. A cost or price analysis typically from at least three qualified sources.
- b. The method of analysis is at the discretion of the applicant.
- c. The analysis must be available for review upon request.

### 7.2.2 - FORMAL PROCURMENT OR SOLICITATIONS

Solicitations must clearly explain all requirements that the bidder must fulfill in order to be evaluated. Solicitations cannot contain features which unduly restrict competition. Some of the situations considered to be restrictive of competition include:

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

The award is only made to responsible contractors possessing the ability to perform successfully under the terms and conditions of the proposed procurement. Consideration should be given to:

- Contractor integrity
- Compliance with public policy
- Past performance
- Financial and technical resources

Pre-qualified lists of vendors/contractors, if used, must be current, developed through open solicitation, include adequate numbers of qualified sources, and must allow entry of other firms to qualify at any time during the solicitation period.

The process should exclude contractors that develop or draft specifications, requirements, statements of work, invitations for bids, and/or requests for proposals from competing for such procurement.

Awards are not made to any party which is debarred or suspended or is otherwise excluded from or ineligible for participation in federal assistance programs.

### 7.2.3 - SEALED BIDS PROCUREMENT

Sealed bids are the preferred method for procuring construction services.

Bids are publicly solicited and a unit price contract is awarded to the responsible bidder whose bid conforms to the terms and conditions of the invitation to bid and is the lowest in price.

For this method to be feasible, you must have:

- A complete and realistic purchase description
- Two or more responsible bidders willing and able to compete for the business
- The procurement lends itself to a firm fixed price contract
- The selection of the successful bidder can be made principally on the basis of price

If sealed bids are used, the following requirements apply:

- The invitation for bids will be publicly advertised
- The bids shall be solicited from an adequate number of known suppliers providing a reasonable response time
- The invitation for bids shall define the items or services and will include any specifications or pertinent attachments
- All bids will be publicly opened as described in the invitation to bid
- A firm fixed-price contract award will be made in writing to the lowest responsive and responsible bidder.
- Where specified in bidding documents, factors such as discounts, transportation cost, and life cycle costs shall be considered in determining which bid is lowest. Payment discounts will only be used to determine the low bid when prior experience indicates that such discounts are usually taken advantage of.
- Any or all bids may be rejected if there is a sound documented reason.

#### 7.2.4 - COMPETITIVE PROPOSAL PROCUREMENT

The technique of competitive proposals is normally conducted with more than one source submitting an offer, and either a fixed-price or cost-reimbursement type contract is awarded. It is generally **used when conditions are not appropriate for** the use of sealed bids. If this method is used, the following requirements apply:

- Requests for proposals, RFPs, will be publicized and identify all evaluation factors and their relative importance.
- Each response must be given reasonable consideration and not dismissed outright.
- Proposals will be solicited from an adequate number of qualified sources.
- Established method for conducting technical evaluations of the proposals received and for selecting awardees must be in place.
- Awards will be made to the responsible firm with consideration for price and other factors.

#### 7.2.5 - ARCHITECTURAL/ENGINEERING (A/E) PROFESSIONAL SERVICES

Competitive proposal procedures may be used for **qualifications-based procurement** whereby competitors' qualifications are evaluated and the most qualified competitor is selected, subject to negotiation of fair and reasonable compensation. The method, where price is not used as a selection factor, **can only be used in procurement of A/E professional services**. It cannot be used to purchase other types of services though A/E firms are a potential source to perform the proposed effort.

#### 7.2.6 - NONCOMPETITIVE PROPOSAL PROCUREMENT

After solicitation is made to a number of sources and competition is determined inadequate, procurement through solicitation from only one source may be permitted, however purchase will require pre-award review by the City.

One of the following circumstances must apply:

- The item is available only from a single source
- The public exigency or emergency for the requirement will not permit a delay resulting from competitive solicitation
- After solicitation of a number of sources, competition is determined inadequate.

Cost or price analysis verifying the following is required:

- Proposed cost data
- Projections of the data
- An evaluation of the specific elements of costs and profits

## 7.3 - REQUIRED PROCUREMENT PROCESSES

### 7.3.1 - BONDING

For construction or facility improvement (sub)contracts exceeding \$100,000

1. A bid guarantee from each bidder equivalent to 5 percent of the bid price. The “bid guarantee” must be a firm commitment in the form of a bid bond, certified check, or other negotiable instrument as assurance that the bidder is prepared to execute a contract within the time specified for the bid amount.
2. A performance bond from the (sub)contractor for 100 percent of the contract price to secure the (sub)contractor’s fulfillment of all obligations under the contract.
3. A payment bond from the (sub)contractor for 100 percent of the contract price to assure payment of all persons supplying labor and material under the contract.

### 7.3.2 - CONTRACTING WITH SMALL, MINORITY, AND/OR WOMEN-OWNED BUSINESSES

Federal regulations for both CDBG and HOME make it very clear that grant recipients and subrecipients should make every effort to use local business firms and contract with small, minority-owned and/or women-owned businesses while following the procurement process. Affirmative steps to use small firms, minority-owned firms, women-owned firms, or labor surplus area firms in its federally funded activities must be taken. The efforts should include:

- Incorporating such businesses in solicitation lists whenever they are potential sources.
- Ensuring that such businesses are solicited when identified as potential sources.
- Dividing procurement requirements, when economically feasible, to permit maximum participation of such businesses.
- Requiring prime contractors, when subcontracts are let, to take affirmative steps to select such firms.

### 7.3.3 - NONDISCRIMINATION IN EMPLOYMENT BY GOVERNMENT

In addition, the applicant and all subcontractors will comply with Executive Order 11246 - Nondiscrimination in Employment by Government. The order requires contractors and subcontractors to refrain from discrimination and take affirmative steps to ensure that applicants and employees receive equal employment opportunity regardless of race, color, religion, sex, and/or national origin. Construction contractors and subcontractors must make good faith efforts to employ women and minorities in all crafts and trades in their area where the contracts are to be performed and must also fully document their affirmative action efforts. In addition sexual harassment is also a violation of the nondiscrimination provisions of this Executive Order.

### 7.3.4 - TARGETED USE OF LOCAL BUSINESSES AND LOW- AND VERY LOW-INCOME PERSONS

In conformance with the requirements of **Section 3 of the Housing and Community Development Act of 1968**, to the greatest extent feasible, contracts must be awarded for work to be performed to eligible *business concerns located in or owned by residents of the target area* to ensure that the employment and other economic opportunities generated by federal financial assistance for housing and community development programs shall, to the greatest extent feasible, be directed toward low- and very low-income persons, particularly those who are recipients of governmental assistance for housing. Be advised that the desire to award contracts to local firms is *not* a legitimate excuse for avoiding an open and competitive procurement process.

The preferences provided under this section are based on income-level and location. To the greatest extent feasible, agencies must direct economic opportunities to low- and very low-income persons, particularly persons who are recipients of HUD assistance for housing.

As part of signing the contract, agencies are certifying that they will comply with the regulations in part 135, which assure that the objectives of Section 3 are met.

Agencies must provide notice of its Section 3 obligations to any labor organization or representative of workers with which the Contracted Agency has a collective bargaining agreement or other understanding. Further agencies must post this notice in conspicuous places at the work site where both employees and potential applicants for training and employment positions can see the notice. The notice should describe:

- The Section 3 preference
- The number of jobs and the job titles subject to hire
- The name and location of the person(s) taking applications for each of the positions
- The anticipated date the work shall begin.
- Availability of apprenticeship and training positions and qualifications for each

Agencies must include a clause, found at Title 24 CFR Part 135.38 Section 3 Clause, in every solicitation and subcontract.

Agencies must also take appropriate action upon a finding that a subcontractor is in violation of Section 3. Further the Contracted Agency must not subcontract with any subcontractor, where the Contracted Agency has notice or knowledge that the subcontractor has been found in to be in violation of Section 3.

Agencies must advertise training and employment positions in the housing development (s) and transitional housing in the neighborhood or service area of the project by posting flyers which identify:

- The positions to be filled
- The qualifications required
- Where to obtain additional information about the application process

Noncompliance with Section 3 may result in sanctions, termination of the contract, and debarment or suspension from future HUD-assisted contracts.

# VIII. CIVIL RIGHTS COMPLIANCE

## 8.0 - NONDISCRIMINATION

In the provision of either employment or services, agencies who receive CDBG or HOME funds must comply with federal, state and city laws and regulations regarding nondiscrimination. Agencies must have policies and procedures to protect the rights of all individuals, employees and clients. Agencies must not discriminate on the basis of:

Age	Disability	Marital Status	Sex
Color	Familial Status	National Origin	Sexual Orientation
Creed	Gender Identity	Race	

## 8.1 - REQUIRED ACTIONS

### 8.1.1 - EMPLOYMENT SOLICITATIONS

All solicitations for employment under the contract must state that all qualified applicants will be considered. The words “equal opportunity employer” in advertisements will constitute compliance with this section.

### 8.1.2 - GRIEVANCE AND COMPLAINT PROCEDURES

Agencies must have or establish a grievance and complaint process and procedures. The process must allow current employees, applicants or members of the public who believe they have been discriminated against on the basis of a disability to report the incident. The process is subject to review by the City and at a minimum must:

- Be available to any individual requesting a copy
- Be in compliance with federal law regarding discrimination
- Be in writing
- Include both an informal and formal resolution process, including arbitration
- Include timelines for filing a grievance or a complaint
- Include timelines for response or action

### 8.1.3 - LIMITED ENGLISH PROFICIENCY (LEP)

Receipt of either CDBG or HOME funds requires a Contracted Agency to take reasonable steps to provide meaningful access to persons with limited English proficiency.

### 8.1.4 - NOTICE OF NONDISCRIMINATION

Agencies must notify each person applying for or receiving services that per federal law:

- No otherwise qualified individual with a disability shall, solely by reason of his or her disability, be excluded from the participation in, be denied the benefits of, or be subjected to discrimination.
- Each person has the right to file a complaint, if they believe that they have been discriminated against in any program funded, in part or whole with CDBG or HOME funds.
- Each person must be informed where they may file such a complaint.

Notices must be posted in all work areas and must be visible to the public. In rental offices and other appropriate locations, agencies must display the HUD fair housing poster found at [https://www.hud.gov/sites/documents/FAIR\\_HOUSING\\_POSTER\\_ENG.PDF](https://www.hud.gov/sites/documents/FAIR_HOUSING_POSTER_ENG.PDF)

## **8.2 - ACCESSIBILITY REQUIREMENTS**

Participation in the CDBG or HOME program requires adherence to federal regulations governing the accessibility of buildings, facilities and programs. In many cases, new construction of rental projects must meet multiple accessibility construction requirements. Where two or more accessibility standards apply, the housing provider is required to follow and apply all standards, so that maximum accessibility is obtained.

A listing of applicable regulations, executive orders, notices and statutes is at the end of this chapter. For further information, visit the following:

<http://www.ada.gov/cguide.htm>

[https://www.hud.gov/program\\_offices/fair\\_housing\\_equal\\_opp/aboutfheo](https://www.hud.gov/program_offices/fair_housing_equal_opp/aboutfheo)

[https://www.hud.gov/program\\_offices/comm\\_planning](https://www.hud.gov/program_offices/comm_planning)

### **8.2.1 - FAIR HOUSING ACT**

- Applies to a building designed and constructed for initial occupancy after March 13, 1991; the design and construction requirements in the Fair Housing Act will not apply to rehabilitation projects or activities
- Prohibits discrimination in housing practices on the basis of race, color, religion, sex, and national origin
- Prohibits discrimination in any aspect of the sale or rental of housing for families with children and persons with disabilities
- Establishes requirements for the design and construction of new rental or for sale multifamily housing to ensure a minimum level of accessibility for persons with disabilities
- Information about housing designs that provide accessible features in compliance with the Fair Housing Act can be found in HUD's Fair Housing Act Design Manual at <http://www.huduser.org/portal/publications/destech/fairhousing.html>

Under the Fair Housing Act 'covered multifamily dwelling units' are:

- Dwelling units in buildings consisting of 4 or more units served by one or more elevators, or
- Ground floor dwelling units in other buildings with 4 or more units.

Covered multifamily dwelling units are required to be designed and constructed in a manner that includes:

- Public and common use portions of such dwellings are readily accessible to and usable by disabled persons
- Doors are designed to allow passage into and within the premises of such dwelling units and are sufficiently wide to allow passage by disabled persons in wheelchairs



- All premises within such dwelling units contain the following features of adaptive design:
  - a. An accessible route into and through the dwelling unit;
  - b. Light switches, electrical outlets, thermostats, and other environmental controls in accessible locations
  - c. Reinforcements in bathroom walls to allow later installation of grab bars
  - d. Usable kitchens and usable bathrooms such that an individual in a wheelchair can maneuver about the space

### 8.2.2 - SECTION 504 of the REHABILITATION ACT of 1973, as AMENDED

Prohibits discrimination against persons with disabilities in any program or activity receiving Federal financial assistance.

HUD regulations implementing Section 504 require that new construction of multifamily projects, containing five or more dwelling units, be designed and constructed to be readily accessible to and usable by persons with disabilities. Both the individual units and the common areas in the building must be accessible.

Alterations undertaken to a housing project that has 15 or more units with rehabilitation costs 75 percent or more of the replacement cost of the completed facility are considered to be substantial alterations and have the same requirements as new construction, which are:

- A minimum of 5 percent of the dwelling units in the project (but not less than one unit) must be accessible to individuals with mobility impairments
- An additional 2 percent of the dwelling units (but at a minimum, not less than one unit) must be accessible to individuals with sensory impairments such as hearing or vision impairments
- Must be constructed in accordance with the Uniform Federal Accessibility Standards (UFAS) or a standard that is equivalent or stricter.

To the point that it is not a financial or administrative burden, agencies are required to increase mobility accessibility to the minimum requirement when:

- Undertaking less than substantial alterations to units, common areas, facility or elements
- Projects may not be broken into multiple elements to avoid the requirement to increase accessibility.

Accessible units must be distributed throughout the projects and sites, and must be available in a sufficient range of sizes and amenities so as not to limit choice to the maximum extent feasible.

Agencies must make accessibility features available to tenants by:

- Offering vacant accessible units first to a current occupant requiring such features, then to an eligible qualified applicant on the waiting list requiring the accessibility features, before offering to anyone else
- Providing accessible features or policy modifications to applicants or tenants requiring them, unless doing so would result in a fundamental alteration in the nature of its program or an undue financial and administrative burden
- Conducting activities and meetings in an accessible location

### **8.3 - AFFIRMATIVE MARKETING OF HOUSING**

By receiving HUD funding, agencies are required to implement affirmative marketing strategies, under which they identify groups, within the eligible population that are least likely to apply, and to conduct special outreach efforts through advertising in local media, including media targeted at persons with limited English proficiency.

The HOME program regulation specifically requires implementation of affirmative marketing strategies for rental and homebuyer projects containing 5 or more HOME- assisted housing units. Agencies receiving such funding will need to have their affirmative marketing procedure reviewed and approved by the City.

The affirmative marketing requirements and procedures adopted must include:

1. Methods for informing the public, owners, and potential tenants about Federal fair housing laws and the participating jurisdiction's affirmative marketing policy (e.g., the use of the Equal Housing Opportunity logotype or slogan in press releases and solicitations for owners, and written communication to fair housing and other groups);
2. Requirements and practices each owner must adhere to in order to carry out the participating jurisdiction's affirmative marketing procedures and requirements (e.g., use of commercial media, use of community contacts, use of the Equal Housing Opportunity logotype or slogan, and display of fair housing poster);
3. Procedures to be used by owners to inform and solicit applications from persons in the housing market area who are not likely to apply for the housing without special outreach (e.g., use of community organizations, places of worship, employment centers, fair housing groups, or housing counseling agencies);

Additional information can be found in the City's Affirmative Fair Housing Marketing Plan in the Appendix of the current Consolidated Plan.

## **IX. OUTCOME DATA COLLECTION**

### **9.0 - MONITORING OVERVIEW**

Monitoring is an ongoing process. Reviews begin as part of the pre-award selection process and continue throughout the contracting period. In some situations monitoring will continue beyond the contract period, as a requirement of a major acquisition or construction project.

Monitoring includes a review of records, files and signed assurances, as well as reports generated specifically to document client and project eligibility. All supporting documentation, such as information submitted with cost reimbursement requests is reviewed, as a component of monitoring. During the contract period, a site visit may be scheduled.

By signing the contract, the Contracted Agency agrees that the City has the right to examine or copy, not only the fiscal components of the organization, but also all other aspects of an agency and its activities. The City is available to offer any necessary technical assistance to avoid or resolve any monitoring findings.

As part of the contract process the City will prepare Contracted Agency staff for monitoring by reviewing City program policies, HUD program guidelines, as well as reporting requirements.

In most cases, only City staff will monitor the Contracted Agency's project. However, HUD staff has the authority to visit any local CDBG or HOME project to check compliance with federal regulations.

## 9.1 - OBJECTIVES

The objectives of monitoring are to determine if agencies are:

- Carrying out federally funded activities as described in contracts.
- Carrying out the program or project in a timely manner, in accordance with the schedule included in the approved contract.
- Charging costs to the program or project that are eligible under applicable regulations.
- Complying with other applicable laws, regulations and terms of the contract.
- Conducting the program in a manner that minimizes the opportunity for fraud, waste and mismanagement.
- Maintaining the capacity to carry out the approved program or project.

### 9.1.1 - AREAS TO BE MONITORED

- |  |                                      |
|--|--------------------------------------|
| 1. Accounting Records  | 15. Financial Management             |
| 2. Affirmative Marketing for both rental and home buyer projects | 16. Internal Control                 |
| 3. Affirmative Steps; Women & Minority Business                  | 17. Labor Standards                  |
| 4. Audit   | 18. National Objectives              |
| 5. Bonding and Insurance   | 19. Nondiscrimination                |
| 6. Budget Control  | 20. Policy and Procedures            |
| 7. Cash Management   | 21. Procurement                      |
| 8. Code of Conduct Assurances                                    | 22. Program Income                   |
| 9. Complaint Procedure   | 23. Project Performance              |
| 10. Cost Allowability  | 24. Record Keeping                   |
| 11. Environmental Review   | 25. Relocation                       |
| 12. Equal Opportunity  | 26. Section 3 of the HUD Act of 1968 |
| 13. Equipment and Real Property Management                       | 27. Source Documentation             |
| 14. Fair Housing   | 28. Timeliness                       |

### 9.1.2 - MONITORING

The City will schedule a site or virtual visit or at a mutually agreed upon time. However, the City reserves the right to conduct on-site visits without prior notification.

When conducting a monitoring the City may:

- Review files, including third party contractor's files at the agency's administrative office or virtually
- Interview agency staff, third party contractor staff, citizens or citizen groups, to discuss the agency's performance
- Visit the project implementation site
- Discuss any discrepancy among data resulting from the files examined, interviews and visits to project sites
- Discuss the findings of the monitoring

### 9.1.3 - PRE-AWARD MONITORING

During the review and selection process, applicants must submit a copy of their most recent audit, to assess an agency's past performance. The City will carefully review any concerns or findings with the City auditor.

### 9.1.4 - REQUIRED CORRECTIVE ACTION

Following a site visit or review of records, the City will share results with the Contracted Agency. Sometimes monitoring will reveal issues that will require program changes to come into compliance with federal regulations. The City will help agencies identify problems, the causes of problems and potential problems and help agencies to correct them. Whenever possible, deficiencies will be corrected through discussion, negotiation or technical assistance. Failure by the Contracted Agency to correct deficiencies may result in funds being withheld and possible restrictions on future grants.

The results of the monitoring visit will be provided in writing following the visit. Corrective actions (detailed in the monitoring findings) may be required. If corrective actions are required, the Contracted Agency must submit a corrective action plan within thirty (30) days from the written notice by the City. Sometimes, as in the case of a material breach, the City may require an immediate corrective action plan and its implementation to avoid termination.

The City will approve or disapprove the Contracted Agency's corrective action plan in writing, within fourteen (14) days of receipt of the plan. If approved, the Contracted Agency will be required to implement the plan and ensure correction of the deficiency. If the Contracted Agency does not correct the deficiency, submit a corrective action plan within thirty (30) days, or the City deems the plan unsatisfactory, the City will take the necessary action. Such action may include, but is not limited to, reduction in payment or termination in whole or in part of the contract.

## 9.2 - RECORD-KEEPING, REPORTING AND DOCUMENTATION

Agencies are required to maintain sufficient records determining CDBG or HOME program requirements have been met. Projects funded with CDBG dollars are also required to submit a Direct Benefit Report as detailed in the contract. A sample Direct Benefit Report is included in the attachments.

There are certain data elements commonly reported by all programs, although each program may require different specificity. These elements include:

- Number of persons, households, units or beds assisted, as appropriate
- Income levels of persons or households by: 30 percent, 50 percent, 60 percent or 80 percent of area median income, per applicable program requirements.
- Race, ethnicity and disability of clients served
- Amount of money leveraged from other federal, state, local and private sources

In addition, agencies must document the status and accomplishments of a project. Some examples of performance measurements include:

- Total number of square feet, linear feet, ramps, etc., constructed or installed;
- Number of houses rehabilitated;
- Number of jobs filled, training classes held, clients treated; and,
- Description of equipment or training supplies purchased.

### 9.2.1 - DATA COLLECTION

For Rental Construction Projects, the Contracted Agency shall collect and maintain the following information:

1. Number of units completed
2. Number of units meeting energy star standards
3. Number of Section 504 accessible units
4. Number of units designated for persons with HIV/AIDS (of those, the number for the chronically homeless)
5. Number of units designated for the homeless (of those, the number for the chronically homeless)
6. Name of the household or person assisted
7. Number of bedrooms in each household assisted
8. The amount of monthly rent paid by tenant
9. Income level of assisted household (i.e., very low-income/0-30% of AMI, low-income/31 to 50% of AMI, low/mod-income/50 to 60% of AMI)
10. Race of head of household (White, Black/African American, Asian, American Indian/Alaskan Native, Native Hawaiian/Other Pacific Islander, American Indian/Alaskan Native & White, Asian & White, Black/African American & White, American Indian/Alaskan Native & Black/African American, Other Multi-Racial)
11. If the head of household is Hispanic/Latino ethnicity
12. Household size – number of persons in the household
13. Household type (single/non-elderly; elderly; single parent; two parents; other)

### 9.2.2 - REQUIRED RECORDS

The Contracted Agency is required to keep the following specific records. If the Contracted Agency sponsors multiple projects, each project must be maintained in a separate file.

The AGENCY shall maintain all records required by the Federal regulations specified in 24 CFR 570.506 and 24 CFR 92.508 that are pertinent to the activities to be funded under this Agreement. Such records shall include but not be limited to:

1. Records providing a full description of each activity undertaken
2. Records demonstrating that each activity undertaken meets one of the Nation Objectives of the CDBG Program 24 CFR 570.208
3. Records required to determine the eligibility of activities
4. Records required to document the acquisition, improvement, use or disposition of real property acquired or improved with CDBG and HOME assistance
5. Records documenting compliance with the Fair Housing and Equal Opportunity components of the CDBG and HOME programs
6. Finance records as required by 24 CFR 570.502, and 24 CFR 84.21-28.
7. Employment Information. The AGENCY will also maintain data which records its affirmative action in equal opportunity employment, and its good faith efforts to identify, train, and/or hire lower-income residents of the project area and to utilize businesses that are located in or owned in substantial part by persons residing in the area of the project.
8. Equal Opportunity. The AGENCY shall maintain records containing the following information for each applicant and each assisted person:
  - Name of the household or person assisted;
  - Income category (i.e. very low-income (0-30% AMI), low-income (31-50% AMI), or low/mod-income (50-60% AMI));
  - Racial/ethnic data (White, Black/African American, Asian, American Indian/Alaskan Native, Native Hawaiian/Other Pacific Islander, American Indian/Alaskan Native & White, Asian & White, Black/African American & White, American Indian/Alaskan Native & Black/African American, Other/multi-racial);
  - Gender data; and
  - Disability status.

This is to show the extent people have participated in, or benefited from, the activities carried out under this Agreement.

The AGENCY will also maintain data which records its affirmative action in equal opportunity employment, and its good faith efforts to identify, train, and/or hire lower-income residents of the project area and to utilize businesses that are located in or owned in substantial part by persons residing in the area of the project.

9. Affirmative Marketing
  - AGENCY shall maintain a file containing documentation of all marketing efforts (copies of newspaper ads, memos of phone calls, copies of letters, etc.). These records must be available for inspection by the CITY.
  - AGENCY must maintain a listing of all tenants residing in each unit.

10. Financial Management. Such records will identify adequately the source and application of funds for activities within this Agreement, in accordance with the provisions of 24 CFR §85.20. These records will contain information pertaining to grant awards and authorizations, obligations, non-obligated balances, assets, liabilities, outlays, and income.
11. Hours Worked. The AGENCY will maintain records of the hours worked and rates of compensation for all personnel.
12. Multiple Projects. In the event the Agency sponsors multiple projects, each project will be maintained under a separate file system.
13. Property Acquisition. If the project involves property acquisition, the AGENCY's files must contain the following records:
  - Official Determination to Acquire - A citation of the action that constitutes the official determination to acquire, the date of the action, and the applicable HUD grant number.
  - Notice of Intent to Acquire the Property - A copy of the notice, citation of the date of transmittal to owner, and evidence of receipt by the owner.
  - Invitation to Accompany Appraiser - Evidence that owner was invited to accompany each appraiser on his inspection of the property.
  - Appraisal Reports - A copy of each appraisal report, on which determination of just compensation was based.
  - Review Appraisal - Arrange for a review appraisal to assure appraisal meets applicable standards.
  - Determination of Just Compensation - A copy of the resolution, certification, motion or other document constituting the determination of just compensation.
  - Purchase Offer - A copy of written purchase offer of just compensation, including all basic terms and conditions of such offer, and a citation of the date of delivery to the owner.
  - Purchase Agreement, Deed, Declaration of Taking, Tenant Waivers - A copy of each such document and any similar or related document utilized in conveyance.
  - Settlement Cost Reporting Statement - A copy of the statement.
  - Purchase Price Receipt - Evidence of owner receipt of purchase price payment.
  - Ninety Days' Notice to Surrender Possession of Premises - A copy of the notice. As an alternative, a copy of this notice may be included in the relocation or property management files.
  - The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, and HUD's implementing regulations in 24 CFR 42 applies to all real property acquisition by a grantee for an assisted program activity, regardless of the source of funding for the acquisition itself.
14. Other. Such other records necessary to document compliance with Subpart K or 24 CFR Part 570 as required by the City and/or the United States Department of Housing and Urban Development.
15. Separation of Funds. The AGENCY must account for CDBG or HOME funds separately from other funds in the AGENCY programs.

16. Tenant Selection Procedures. The AGENCY must maintain individual tenant files for all families in HOME assisted units. The tenant files must contain all income certifications and verifications along with leases and all correspondence.

### 9.2.3 - RETENTION OF RECORDS

The AGENCY shall retain all financial records, supporting documents, statistical records and all other records pertinent to the Agreement in accordance with 24 CFR 570.506 and 24 CFR 92.508 except that the CITY requires a retention period of at least seven (7) years. The retention period begins on the date of the submission of the CITY's annual performance and evaluation report (i.e. CAPER) to HUD in which the activities assisted under the Agreement are reported on for the final time. Notwithstanding the above, if there is litigation, claims, audits, negotiations or other actions that involve any of the records cited and that have started before the expiration of the seven-year period, then such records must be retained until completion of the actions and resolution of all issues, or the expiration of the seven-year period, whichever occurs later. Please note that any record with a longer retention schedule for purposes of public records disclosure under RCW 42.17 will apply.

Required records will be retained from the date the property ceases to be used as affordable housing or a public facility or the covenant has expired. In the case of public services the retention date begins after the final performance report is approved.

- Records that are the subject of audit findings will be retained for the minimum period or until such audit findings have been resolved, whichever is later.
- The retention period for real property and equipment records starts from the date of the disposition, or replacement, or transfer at the direction of HUD.
- Any record with a longer retention schedule for purposes of public records disclosure under RCW 42.17.
- Records for any displaced person will be retained for seven years after such person has received final payment.
- Records pertaining to each real property acquisition will be retained for four years after settlement of the acquisition or until disposition of the applicable relocation records in accordance with #3 above, whichever is later.
- Records of the hours worked and rates of compensation shall be kept for a period of six years from the date of the submission of the final performance report under this Agreement.

### 9.2.4 - QUARTERLY REPORTS

Quarterly, agencies will be required to submit a progress report package which includes:

- Financial statement, which at a minimum includes a balance sheet and a statement of activities listing income and expenses.
- The budget to actual report, which compares the approved operating budget to the actual revenue and expense activity for the fiscal period.
- One copy of Contracted Agency board minutes dated during the reporting quarter; it is not expected that the City will need to see a copy of all minutes
- The "quarterly progress report form"; format provided by the City.



The report form requires agencies to describe the status of their project and summarize actions taken towards objectives. Funds are obligated for a defined period of time as stated in the contract to meet these stated objectives. It is critical during quarterly reporting that agencies address any delays to the approved project timeline.

Reports are due on the 15th day after the end of the quarter. The quarterly reporting dates are:

- 1st Quarter – January, February, March – **due on April 15th**
- 2nd Quarter – April, May, June – **due on July 15th**
- 3rd Quarter – July, August, September – **due on October 15th**
- 4th Quarter – October, November, December – **due on January 15th**

## 9.3 - AUDIT

### 9.3.1 - FISCAL AUDIT

If the Contracted Agency expends \$500,000 or more in federal funds during the fiscal year, an audit report may be required.

**For Profit Agencies:** An independent audit, an independent limited scope audit or other evidence negotiated with and approved by the City that provides positive assurance of meeting GAAP or GGAAP. Independent audits for fiscal years that include the contract must be completed and submitted to the City within nine months from the end of the agency's fiscal year.

**Non-Profit Agencies and Public Entities:** The audit report must meet OMB Circular A-133 requirements with assurances of financial record keeping that will enable identification of all federal funds received and expended by the OMB Catalog of Federal Domestic Assistance number. Audits completed shall be submitted to the City within nine months from the end of the agency's fiscal year.

If applicable, the agency shall include a corrective action plan for audit findings and a copy of any management letters. Failure to fulfill this requirement may result in corrective action, including withholding payment until the financial information or audit is received.

## X. CLOSEOUT

The closeout of an agreement should occur within thirty days of the end of the contract period. All required work under the contact must be completed and billed to the City. The City will execute a closeout letter, which may include:

- A final performance or progress report (including beneficiaries)
- A financial status report (including all program income)
- Agency signature on closeout reconciliation that agreement has ended.
- Inventory of property in the agency's possession that was acquired or improved with CDBG or HOME funds
- Review of tenant income qualification information and leases
- Site visit by City staff to ensure the completed project meets or exceeds minimum property standards.

# XI. REFERENCES

## 11.0 – CITY RESOURCES AVAILABLE ONLINE

[www.cityofvancouver.us/cdbg](http://www.cityofvancouver.us/cdbg)

- Affirmative Marketing Plan in the Appendix to the Consolidated Plan
- Analysis of Impediments to Fair Housing Choice
- Annual Action Plan
- Application Guidelines
- CAPER, Consolidated Plan Annual Evaluation Report
- Citizen Participation Plan
- Consolidated Plan
- Housing Rehabilitation Program Guidelines
- HUD Income Limits / Fair Market Rents / High HOME and Low HOME Rents
- Neighborhood Revitalization Strategy Areas
- Past Projects

## 11.1 – CITY OF VANCOUVER SPECIFIC PROGRAM GUIDELINES AVAILABLE ONLINE AND UPON REQUEST

- HOME - Tenant Based Rental Assistance
- Homebuyer - CDBG and HOME
- Homeowner Rehabilitation - CDBG and HOME

## 11.2 – FEDERAL RESOURCES

Code of Federal Regulations, CFR

TITLE	PART	HEADING
2	215	Uniform Administrative Requirements for Grants and Agreements with Institutions of Higher Education, Hospitals, and Other Non-Profit Organizations (OMB Circular A-110)
2	230	Cost Principles for Non-Profit Organizations (formerly OMB Circular A-122)
2	2424	Grants and Agreements Nonprocurement Debarment and Suspension

24	1	Nondiscrimination in Federally Assisted Programs of the Department of Housing and Urban Development Effectuation of Title VI of the Civil Rights Act of 1964
24	3	Nondiscrimination On the Basis of Sex in Education Programs or Activities Receiving Federal Financial Assistance
24	5	General HUD Program Requirements; Waivers
24	6	Nondiscrimination in Programs and Activities Receiving Assistance under Title I of The Housing and Community Development Act of 1974
24	8	Nondiscrimination Based on Handicap in Federally Assisted Programs and Activities of the Department of Housing and Urban Development
24	9	Enforcement of Nondiscrimination on the Basis of Disability in Programs or Activities Conducted by the Department of Housing and Urban Development
24	21	Governmentwide Requirements for Drug-Free Workplace (Grants)
24	24	Governmentwide Debarment and Suspension (Nonprocurement)
24	35	Lead-Based Paint Poisoning Prevention in Certain Residential Structures
24	40	Accessibility Standards for Design, Construction, and Alteration of Publicly Owned Residential Structures
24	41	Policies and Procedures for the Enforcement of Standards and Requirements for Accessibility by the Physically Handicapped
24	50	Protection and Enhancement of Environmental Quality
24	58	Environmental Review Procedures for Entities Assuming HUD Environmental Responsibilities
24	84	Uniform Administrative Requirements For Grants And Agreements With Institutions Of Higher Education, Hospitals, And Other Non-Profit Organizations
24	85	Administrative Requirements For Grants And Cooperative Agreements To State, Local And Federally Recognized Indian Tribal Governments
24	87	New Restrictions on Lobbying
24	92	Home Investment Partnerships Program
24	107	Nondiscrimination and Equal Opportunity in Housing under Executive Order 11063
24	121	Collection of Data
24	135	Economic Opportunities for Low- and Very Low-Income Persons

24	146	Nondiscrimination on the Basis of Age in HUD Programs or Activities Receiving Federal Financial Assistance
24	570	Community Development Block Grants
24	982	Section 8 Tenant Based Assistance: Housing Choice Voucher Program
24	3280	Manufactured Home Construction and Safety Standards
28	42	Nondiscrimination; Equal Employment Opportunity; Policies and Procedures
29	1	Procedures for Predetermination of Wage Rates
29	3	Contractors and Subcontractors on Public Building or Public Work Financed in Whole or in Part by Loans or Grants from the United States
29	5	Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction (Also Labor Standards Provisions Applicable to Nonconstruction Contracts Subject to the Contract Work Hours and Safety Standards Act)
29	1630	Regulations to Implement the Equal Employment Provisions of the Americans with Disabilities Act
36	800	Protection of Historic Properties
41		Chapter 60 Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor
44	1	Rulemaking; Policy and Procedures
45	80	Nondiscrimination under Programs Receiving Federal Assistance through the Department of Health and Human Services Effectuation of Title VI of the Civil Rights Act of 1964
45	1624	Prohibition Against Discrimination on the Basis of Disability
48	52	Solicitation Provisions and Contract Clauses

United States Code, USC

TITLE	PART	HEADING
5	15	Political Activity of Certain State and Local Employees
16		Conservation Chapter 1A-Historic Sites, Buildings, Objects and Antiquities
16		Conservation Chapter 1B-Archaeological Resources Protection
31	1352	Limitation on Use of Appropriated Funds to Influence Certain Federal Contracting and Financial Transactions
41		Chapter 10 Drug-Free Workplace
42		Chapter 63 Lead-Based Paint Poisoning Prevention

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HUD Notice CPD 05-10

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Section 104(d) of the Housing and Community Development Act of 1974, as amended  
Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (URA), as amended

42 Displacement, Relocation Assistance, and Real Property Acquisition for HUD and HUD-Assisted Programs

92.353 Displacement, Relocation, and Acquisition

570.606 Displacement, Relocation, Acquisition, and Replacement of Housing

24 Uniform Relocation Assistance and Real Property Acquisition for Federal and Federally-Assisted Programs

Chapter 44 Sec. 3537 (c) Prohibition of Lump-sum Payments

11470 **Federal Register** / Vol. 71, No. 44 / Tuesday, March 7, 2006 / Notices

21692 **Federal Register** / Vol. 73, No. 78 / Tuesday, April 22, 2008 / Rules and Regulations

24802 **Federal Register** / Vol. 75, No. 87 / Thursday, May 6, 2010 / Rules and Regulations

34044 **Federal Register** / Vol. 70, No. 111 / Friday, June 10, 2005 / Notices

Executive Order 11063, as amended by Executive Order 12259 Equal Opportunity in Housing

Executive Order 11246 (as amended by Executive Orders 11375, 12086 and 12107) — Equal Employment Opportunity Programs

Executive Order 11593 Protection and Enhancement of the Cultural Environment

Executive Order 11625, as amended by Executive Order 12007 Minority Business Enterprises

Executive Order 12138, as amended by Executive Order 12608 Women's Business Enterprise

Executive Order 12432, Minority Business Enterprise Development

Executive Order 12549--Debarment and suspension

Executive Order 12892, as amended, Leadership and Coordination of Fair Housing in Federal Programs: Affirmatively Furthering Fair Housing

Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations

Executive Order 13166, Improving Access to Services for Persons with Limited English Proficiency

Executive Order 13217, Community-Based Alternatives for Individuals with Disabilities  
Executive Order 13330, Human Service Transportation Coordination

Accessibility for Persons with Disabilities to Non-Housing Programs funded by Community Development Block Grant Funds -- Section 504 of the Rehabilitation Act of 1973, the Americans With Disabilities Act, and the Architectural Barriers Act

Accessibility Notice: Section 504 of the Rehabilitation Act of 1973 and The Fair Housing Act and their applicability to housing programs funded by the HOME Investment Partnerships Program and the Community Development Block Grant Program

Age Discrimination Act of 1975, as amended

Architectural Barriers Act of 1968 (ABA)

Davis-Bacon and Related Acts (DBRA)

Fair Housing Act, Title VIII of the Civil Rights Act of 1968

Housing for Older Persons Act of 1995 (HOPA)

Section 104(b)(2) of Title I of the Housing and Community Development Act of 1974, as amended

Section 109 of Title I of the Housing and Community Development Act of 1974, as amended

Section 3 of the Housing and Urban Development Act of 1968

Section 3 of the Housing and Urban Development Act of 1968

Section 504 of the Rehabilitation Act of 1973, as amended

Section 508 of the Rehabilitation Act of 1973

The Contract Work Hours and Safety Standards Act (CWHSSA)

The Copeland (Anti-Kickback) Act

Title II of the Americans with Disabilities Act (ADA) of 1990

Title II of the Civil Rights Act of 1968

Title IX of the Education Amendments Act of 1972

Title VI of the Civil Rights Act of 1964, and as amended in 1988