Welcome!

Missouri Community Development Block Grant Program

FY21-FY22 Administrative Training Workshop
June 22 – 23, 2022
Team CDBG

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- Joe Sanning, Chief Financial Officer
- Kim Stuefer, Chief Compliance Officer
- Lisa Branson, Annual Allocation Financial Specialist
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- Michelle Landers, Financial Monitoring Specialist
- Quyen Nguyen, Compliance Specialist
Agenda and Handouts

- FY21-FY22 Administrative Manual
- Agenda
- Presentation handouts
What is the Community Development Block Grant Program (CDBG)?

- Established by the Housing and Community Development Act of 1974
- Funds originate in U.S. Dept. of Housing and Urban Development
- Administered by Missouri Department of Economic Development
State administers program for “non-entitlement areas of state.”
- Cities under 50,000 in population
- Counties under 200,000 in population

Grants awarded to Units of General Local Government (UGLG)
- Cities
- Counties
State CDBG

- Subrecipients (Cities/Counties) are responsible for CDBG compliance!
- Nonprofits and/or districts share that responsibility
- Ultimate responsibility is ALWAYS with the Subrecipient!
- Communication and Collaboration are KEY!
General CDBG Compliance

- Attention to detail – accuracy saves time!
- Conservative use of funds
- Completion of project scope of work
- Pay attention to eligibility and national objective
- Timely expenditure of funds
  - Must expend funds quickly!
Timeliness

- HUD tracks CDBG expenditure rates of states

- Large amount of allocated but unexpended CDBG funds at Treasury is a huge problem for HUD and Congress

- Projects have to expend funds more quickly than current rate
CDBG-CV

- Need to expend 80% of funds within the next 23 months (as of June 2022) to meet the HUD expenditure deadline.
Keeping Track

- Recordkeeping
- Record Retention Requirements
- File Management/File Structure
- Internal Monitoring
Monitoring by CDBG Staff

- Monitoring = Project risk assessment by Financial Monitoring Specialist

- Assessment includes:
  - measuring complexity of project
  - experience of administrator
  - past performance of Subrecipient
  - past performance of sub grantee (non-profit)
  - necessity for technical assistance

- Results will determine number of on-site monitoring visits.
Monitoring by CDBG Staff

- May include technical assistance visits
- Compliance Specialists will schedule monitoring
  - Time required for monitoring
  - Location
  - Who should attend
- Follow-up expectations/requirements
Public Participation

- Two Required Public Hearings
- Pre-application
  - Inform public of proposed project
  - Needs assessment
- Anytime after 80% completion (close-out)
  - Performance, comments
- Sample Notices for Publication available
Administration Helpful Hints

- Lack of attention to program requirements slows project progress.
- Paperwork organization is extremely important.
- Assigning one point of contact eases communication and lessens misunderstandings.
- Remember that following grant requirements is a responsibility that rests with the City or County Subrecipient
Administration Helpful Hints

- Keep a set of records at the city hall or county courthouse.
- Monitor yourself before the state monitors you (monitoring checklists are on the website).
- Conflict of interest cannot be corrected after it occurs. Recognize it and take action ahead of time.
- Real property purchased with CDBG funds is subject to repayment if it changes hands or changes use.
Administration Helpful Hints

- Notify your Compliance Specialist if there are any changes:
  - Address
  - Telephone number
  - E-mail
  - Key personnel, including grant administrators, RPC Executive Directors, engineers/architects, city officials (mayors and presiding commissioners), etc.
With Great Funding Comes Great Responsibility

AN OVERVIEW OF CDBG PROJECT ADMINISTRATION

FY21-FY22 CDBG Administration Training Workshop
Quyen Nguyen, CDBG Compliance Specialist
Objectives

1. An overview of CDBG compliance aspects.
2. Principles/Rationale behind CDBG requirements & procedures
Main Contents

1. Standard Procedures
2. Compliance of National Objectives
3. Selection of an Administrator
4. Grant Administration
5. Record Keeping & Monitoring
6. Key Takeaways/Conclusion
1. Standard Procedures

- General Grant Management
  - Recordkeeping
  - Financial Management
  - Citizen Participation
  - Procurement
  - Contract & Property Management
  - Close-Out & Audit Requirements

- Environmental Requirements
  - Project impacts on the environment

- Labor Standards
  - Prevailing wage all contracted employees

- Civil Rights
  - Equal opportunity
  - Labor rights

- Acquisition & Relocation
  - Landowner & homeowner rights
2. Compliance of National Objectives

Every CDBG-funded project must meet one of the three national objectives:

a. A minimum of 51% of low-and-moderate income (LMI) beneficiaries;
b. Elimination of slum and blight; or
c. Urgent need.

**Low-and-moderate Income**: Persons and families with income at or below 80% of county median household income (MHI)
2. Compliance of National Objectives (cont.)

a. A minimum of 51% of low-and-moderate income (LMI) beneficiaries:
   • Test for LMI Housing: based on household income
     Test for all other LMI categories: based on person income

Four sub-categories:

(i) LMI area benefit:
   • Census data: The activity benefits an entire city, county, township, or enumeration district.
   • Survey data: When the existing census data do not sufficiently reflect the current income levels in the project area.
     (contact CDBG staff for detailed instructions on meeting 51% LMI through survey).
   • Your field representative will check for survey data records in monitoring visits.
2. Compliance of National Objectives (cont.)

(ii) **LMI limited clientele:** under two scenarios:
- The project activities are limited exclusively to LMI persons; OR
- Through family size and income information, at least 51% of the clientele are persons of LMI status (field representative to verify such information on monitoring visits).

(iii) **LMI housing:**
- When CDBG-assisted activities result in housing that will be occupied by low-and-moderate income households upon completion.
- The housing can be either owner- or rented-occupied, and the structures can be either one-family or multi-unit.
- Applicable in CDBG Disaster Recovery & Mitigation.

(iv) **LMI job creation:**
Requires 51% of all jobs created by the project to be offered to and held by LMI persons. The total number of jobs created is directly related to the amount of CDBG assistance requested and is computed on a per-job basis.
- Your field representative will check for data records on job created in monitoring visits.
2. Compliance of National Objectives (cont.)

b. Elimination of slum and blight:
   • Two subcategories on a spot basis or an area basis.
   • Spot basis: when a structure is blighted and becomes a threat to health, safety, and public welfare.
   • Area basis: when the area meets the definition of a slum, blighted, deteriorated, or deteriorating zone under the local law or state law, following 24 CFR 570.
   • Applicable for project category: Demolition.

c. Urgent need:
   • Sudden catastrophe in which there are significant threats to community welfare (floods, COVID-19, tornado...)
   • Recent origin: if the event advanced/became critical within 18 months since the date of event.
   • Applicable for project category: Emergency, Long-term Recovery
3. Selection of an Administrator

Salary paid from CDBG funds must document time spent on the grant with timesheets.

Three options:

1. **Community manages the grant itself, using available staff:**
   - Advantage: familiarity with community’s goals and resources.
   - Experience in project management and Federal grants administration
   - When staff salary is to be paid with CDBG fund, DED must approve beforehand.

2. **Community hires new staff:** specifically for purposes of managing the grant.
   - Advantage: staff is on hand on a daily basis and work closely with local officials in administering the grant.
   - Challenge: May be difficult to find qualified individuals for temporary/part-time positions.
3. Selection of an Administrator (cont.)

3. Community contracts with a third party: (e.g., a regional planning commission or a private consultant) to manage the grant.

• Advantage: proven track record with CDBG and similar programs, expertise to handle much of the burden of administering the grant.

• Engineering firms may qualify to administer a grant. However, an engineering firm cannot perform both administration and engineering on the same grant.

• A city staff should be familiar with project requirements to properly monitor the work of an outside administrator. (Important as the subrecipient remains responsible for proper administration).

• Proper CDBG procurement process to select an outside administrator.
4. Grant Administration – Key Stakeholders

**Recipient:** The Missouri Department of Economic Development, receiving CDBG funding from the U.S. Department of Housing and Development.

**Subrecipient:** The units of local government (counties or cities) and local organizations, receiving HUD’s CDBG funding and execute the awarded grant through the administration of the state CDBG program.

A local organization that is ineligible to submit an application directly to CDBG (i.e. a water or sewer district, or a nonprofit) can still apply through their county/city. The administration responsibilities are arranged between the local government entity and the organization in a written agreement. However, the ultimate compliance duty is always with the applying entity.

**Contractor:** A firm selected by the Subrecipient through a rigorous procurement process to provide a specific activity.
4. Grant Administration – Main Aspects

**Community development:** overall project responsibility and focal point for the resolution.

- Oversee subrecipient and contractor compliance, field review of project activities and progress, CDBG budget/project amendments.
- Contact point with DED.
- Recommend approval of third-party contracts, purchase orders, invoices payment.
- Monitor third-party contracts.
- Maintain project files.
- Complete DED reports on project performance, final close-out report(s).
- Oversee annual audit requirements.

**Financial management:**

- Maintain and control approved accounting documents, accounting transactions in the accounting system.
- Prepare and submit financial reports, grant request to the state CDBG.
- Maintain of financial process files (working files).
5. Record Keeping & Monitoring

CDBG program records box should be maintained for **five years** from the date of project closeout.

**Very important: Document all the progress and efforts to comply.**

Create a clear "audit trail": every transaction can be traced from beginning to end.

**CDBG Monitoring:**

- Project risk assessment by CDBG specialists through document reviews and an interviews with city/county staff.
- Assessment: project complexity, administrator experience, subrecipient past performance, technical assistance if needed.
5. Record Keeping & Monitoring (cont.)

Best practice in document filing

CDBG General Monitoring Checklist

- Grantee:
- Monitoring Date:
- Monitoring Type:
- Monitoring Conducted by:
- Grantee Staff Present:
- Project Number:

CDBG Monitoring Checklist sections

- Data findings resolved:
- Type of acquisition involved:
- Source of acquisition funding:
- Acquisition timing around first public hearing:
  - Before
  - After
- Elected Official:
  - Address:
  - Phone #:
- Administrator:
  - Address:
  - Phone #:
- Sub-recipient:
  - Address:
  - Phone #:

Financial Management

Environmental Review

Citizen Participation

Contracts

Labor Standards

Civil Rights

Etc...
6. Key Takeaways

6.1. Equitable access to economic opportunities.

- Compliance with National Objectives.
- Labor Standard: Davis-Bacon Act on prevailing wage.
- Compliance with Section 3 on civil rights.
- Procurement standards: direct solicitations to WMBE & disadvantaged business.
6. Key Takeaways (cont.)

6.2. CDBG fund to complement the community resources.

• City/County contributions through cash match and/or in-kind.
• Community should maximize the use of their resources first before requesting for CDBG fund.
• National objective of Urgent need: CDBG fund complements as the community exhausted its resources.
6. Key Takeaways (cont.)


- CDBG fund to be spent last.
- Monitoring visits from CDBG, depending on the community’s risk levels.
- File folders in order (Finance, Procurement, Public Participation...).
- Risks assessment.
- Public comment solicitations.
- Documents of in-kind/volunteer contributions.
- Record box – kept for 5 years.
6. Key Takeaways (cont.)

6.4. One cannot self-certify or self-authorize - Conflict of Interest & Separation of Financial Duty

• RFF Authorizer in SFM01 ≠ RFF signers ≠ check signer ≠ bank reconciler.
• Construction owner cannot self-certify on payrolls.
• Asbestos/demolition inspector ≠ asbestos remover and demolition contractor.
• Appraiser ≠ review appraiser.
• Engineering firm cannot handle both engineering and administration duty.
6. Key Takeaways (cont.)

6.5. “Proactive” is ALWAYS better than “Reactive”

- Restitution on wage.
- Request for approval: better than request for reimbursement (with a risk of not getting reimbursed).
- Proper bid document preparation.
- Notify changes in personnel, banking documents, etc.)
6. Key Takeaways (cont.)

6.6. Citizen engagement – Inclusiveness – Open Access to information

- Affidavits of media publications.
- 2 public hearing sessions.
- Small/local/minority and disadvantaged business engagement.
- Environmental review to mitigate environmental impacts.
- Section 3 contact point for labor/civil rights queries.
- Language assistance (material translation/interpretation).
6. Key Takeaways (cont.)

6.7. Your outreach efforts are just as important!

- Direct solicitation to small/local/women/minority business.
- Qualitative efforts if Section 3 ‘safe harbor benchmark’ is not met.
- Bid openings twice before procurement waiver.
- Media announcement on public engagement opportunities.

- Please always document your efforts!
Communication • Collaboration • Joint Efforts
A successful CDBG project!
Thank you!

Discussion
The subrecipient is required to have a modern, double entry, fund accounting System that provides:

1. Identification, in its accounts, all Federal awards received and expended and the Federal programs under which they were received.
2. Accurate, current, and complete disclosure of the financial results of each Federal award.
3. Records that identify adequately the source and application of funds for federally funded activities.
Financial Management System (Cont.)

4. Effective control over, and accountability for, all funds, property, and other assets.
5. Comparison of expenditures with budget amounts for each grant.
6. Written procedures for Requests for Payments (RFFs)
7. Written procedures for determining the allowability of costs in accordance with 2 CFR § 200
Internal Controls

- The Subrecipient must establish and maintain effective internal controls that provides reasonable assurance that it is able to manage the award in compliance with Federal statutes, regulations, and the terms and conditions of the Award.

- No person should have complete control over every phase of a financial transaction.

- Where feasible, monthly bank reconciliation and/or direct deposit monthly statements should be reviewed by someone who is not responsible for handling cash or issuing checks; and

- The person issuing checks for grant expenses should not also handle payroll preparation/issuance of paychecks,

- Procedures to ensure the timely expenditure of funds.
Internal Controls (Cont.)

- Comply with Federal statutes, regulations, and the terms and conditions of the Grant Agreement.
- Evaluate and monitor the Subrecipient’s compliance with statutes, regulations and the terms and conditions of Federal awards.
- Take prompt action when instances of noncompliance are identified by DED and noncompliance identified in audit findings.
- Take reasonable measures to safeguard protected personally identifiable information and other information
Cost Principles/Allowable Costs

• The cost principles, as defined in 2 CFR 200 Subpart E, are the fundamental principles used to judge and qualify all costs incurred covered by the DED program.

• Note that other regulations;
  • 24 CFR Part 58 – Environmental Review,
  • 24 CFR Part 570 Subpart I,
  • DED Program, and Federal Registers,
may impose additional considerations for the eligibility of each cost
Cost Principles/Allowable Costs (Cont.)

- Except where otherwise authorized, costs must meet the following general criteria to be allowable under a Grant Agreement:
  - Be necessary and reasonable for the performance of the Grant Agreement and be allocable to the Grant (see Allocable Costs).
  - Conform to any limitations or exclusions in the Cost Principles or in the Grant Agreement as to types or amount of costs.
Cost Principles/Allowable Costs (Cont.)

- Be consistent with policies and procedures that apply uniformly to both federally financed and other activities of the Subrecipient.
Cost Principles/Allowable Costs (Cont.)

• Be accorded consistent treatment. A cost may not be assigned to a Grant as a direct cost if any other cost incurred for the same purpose in like circumstances has been allocated to the Grant as an indirect cost.
Cost Principles/Allowable Costs (Cont.)

- Costs incurred by DED and local governments and Indian tribes must be determined in accordance with generally accepted accounting principles (GAAP).
Cost Principles/Allowable Costs (Cont.)

- Not be included as a cost or used to meet cost sharing or matching requirements of any other federally financed program in either the current or a prior period.

- Be adequately documented.

- Be net of any Applicable Credits.
Reasonable Costs

- A cost is reasonable if, in its nature and amount, it does not exceed what would be incurred by a prudent business person under like circumstances at the time the decision was made to incur the cost.
Reasonable Costs (Cont.)

• In determining reasonableness of a given cost, consideration must be given to:
  
  • Whether the cost is generally recognized as ordinary and necessary for the operation of the Subrecipient for proper and efficient performance of the grant.
  
  • The restraints or requirements imposed by such factors as: sound business practices; arm's-length bargaining; Conflict of Interest (COI); Federal, DED, local, tribal, and other laws and regulations; and terms and conditions of the Grant.
Reasonable Costs (Cont.)

• Market prices for comparable goods or services for the geographic area.

• Whether the individual (contractor, administrator, consultant, local official or employee) acted with prudence in the circumstances considering their responsibilities to the Subrecipient, its employees, DED, the public at large, and the Federal Government.
Reasonable Costs (Cont.)

• Whether the Subrecipient significantly deviates from its established practices and policies regarding the incurrence of costs, which may unjustifiably increase the Federal award's cost.
Allocable Costs

• A cost is allocable to the Grant if the goods or services are chargeable or assignable to the Grant, based on the relative benefits received.

• There is a reasonable basis to allocate the cost(s)
Allocable Costs (Cont.)

• This standard is met if the cost:
  • Is incurred specifically for the Grant;
  • Benefits both the Grant and the Subrecipient and the cost can be distributed proportionally using reasonable methods; and
  • Is necessary to the overall operation of the Subrecipient and is assignable in part to the Grant in accordance with the other costs principles and other Part 200 regulations.
Applicable Credits

• Applicable credits refer to those receipts or reduction-of-expenditure-type transactions that offset or reduce expense items allocable to the Federal award as activity delivery or administrative costs.

• In some instances, the amounts received from federal sources to finance activities or service operations of the Subrecipient should be treated as applicable credits. Specifically, the concept of netting such credit items (including any amounts used to meet cost sharing or matching requirements) must be recognized in determining the rates or amounts to be charged to the DED award.
Applicable Credits (Cont.)

Examples of applicable credits include:

- Credits on invoices
- Returns
- Purchase discounts
- Rebates
- Allowances
- Recoveries or indemnities on losses
- Adjustments for overpayments
- Erroneous charges
- Double payments
Administrative Costs

- DED allows subrecipients to charge administrative costs (subject to caps that limit these costs) that are set out by program and sometimes by a federal register notice.

- Typically allow 4% of direct expense Plus $10,000.

- Budgeted based on estimated costs, paid on actual costs.
**Drawdowns for Administration - Limitations**

- Actual costs up to 25% maximum at time of removal of grant conditions, lesser amounts may be drawn prior.
- Actual costs up to 50% maximum at time of approval of 1st contractor’s payroll.
- Actual costs up to 75% maximum at time of 50% construction draw.
- Actual costs up to 90% maximum prior to closeout.
- 100% based on actual costs at closeout after all required paperwork has been submitted to CDBG and accepted.

10% MUST remain until all monitoring findings have been resolved and closeout has been completed.
Budgets (Cost Summary)

- Budgets are the financial representation of the project.
  - Budgets are required under the circulars
  - Budgets must reflect all allowable costs and allowable activities
  - PER/PARS are reviewed to access allowable costs at application
  - RFF’s that contain costs for allowable activities not set out in the costs summary will not be paid until a budget amendment is done approving the allowable activities and moving budget to those lines.
Grant/Budget Amendment

Required for:

- Grant increases or de-obligation of remaining monies
- Transfers between administration, engineering design, legal or other professional services line items prior to execution.
- Any transfers between activity lines
- Addition of any new line item to the funding approval

Explanation of change must accompany request

Other significant changes in scope of project
Monitoring

- Monitoring is the process that Awardees use to ensure that grant funds are used in accordance with Federal and DED regulations
  - Funds are protected from waste, fraud, and abuse; and
  - Program goals are achieved.

- All levels of the award must monitor the next downstream level. For example, Grantee monitors the Subrecipient, the Subrecipient monitors Contractors.
A risk assessment needs to be completed at the beginning of award to determine the level of monitoring that will be required. This is based on questions such as:

- Whether the entity being monitored has done federal awards before?
- Were they successful?
- Did they fully cooperate with previous monitoring?
- Do they have the proper level of staffing for the magnitude of the project?
- Have they implemented a new accounting system?
- Have they had turnover of management or key positions?
Risk Assessment (Cont.)

- The risk assessment also includes a review of the financials and single audit (if applicable).
- Monitoring tasks include review of expenditures, phone and video check-in calls, and periodic site visits.
- A monitoring check list should be completed at each contact to document the monitoring process that has been conducted.
Specific Conditions/Consequences

The DED may impose additional specific Grant Agreement conditions as needed, in accordance with the result of the Risk Assessment and other conditions, under the following circumstances:

• Based on the criteria of the Risk Assessment of the Subrecipient.
• When the subrecipient has a history of failure to comply with the general or specific terms and conditions of DED Grant Agreements;
• When the subrecipient fails to meet expected performance goals as described in the current Grant Agreement; or
• When the subrecipient is not otherwise responsible as determined by the DED.
These additional Grant Agreement conditions may include items such as the following:

- Withholding authority to proceed to the next phase until receipt of evidence of acceptable performance within a given period of performance;
- Requiring additional, more detailed financial reports;
- Requiring additional project monitoring;
- Requiring the Subrecipient entity to obtain technical or management assistance;
- Establishing additional prior approvals;
- Additional items as identified in the Initial Risk Assessment Checklist; or
- Other items as deemed necessary by the DED.
Specific Conditions/Consequences (Cont.)

If specific conditions are imposed, the DED must notify the subrecipient as to:

- The nature of the additional requirements;
- The reason why the additional requirements are being imposed;
- The nature of the action needed to remove the additional requirement, if applicable;
- The time allowed for completing the actions if applicable, and
- The method for requesting reconsideration of the additional requirements imposed.

Any specific conditions must be promptly removed once the conditions that prompted them have been corrected.
Program Income

- Payments of principal and/or interest on loans made with CDBG monies
- Proportional share of proceeds from disposition of real property purchased with CDBG funds
- Share of proceeds from special assessments, such as those levied to cover cost of constructing public work or facility
- Interest earned from investment of CDBG monies
- Checks for program income that will be returned to CDBG should be made out to HUD.

** Please contact DED prior to anticipated receipt of program income. We will review specific situation and advise accordingly.
Request for Funds (RFF)

- No payments will be made prior to DED having a fully executed agreement in its files.
- The Authorized Signatures for CDBG Request for Funds (SFMO1) is the form in which the subrecipient lists those who are authorized to sign and RFFs, this form is also certified by the highest ranking individual in the local government that is not listed on the form as a signor.
The Vendor Input-ACH/EFT form is required to setup vendor payments in the State accounting system.

The form must be submitted at the latest one month before the Request for Funds is to be submitted; submitting the ACH along with the RFF will delay payment.

The vendor is highly recommended to setup establish a non-interest banking account with their financial institute containing CDBG in their account name.

The vendor must specify that account is a CDBG account on the Vendor Input form.
Request for Funds

- Only expenses for exempt activities (planning, audit, administration and engineering design) should be requested until “Authority to Use Grant Funds/Completion of Environmental Review Requirements” has been issued.

- CDBG funds are cost reimbursable so funds should not be requested until after an expense has been paid.

- Must have TWO authorized, original signatures –blue ink.

- Expect a draw delay during last five business days of each month.
The DED may withhold payment of grant funds for one or more of the following reasons:

- Semiannual and/or annual reports are not received;
- Audit report or response to request to report other federal assistance are not received;
- Response to monitoring or other requests not received;
- Noncompliance with other grant agreement terms.
A Subrecipient that expends $750,000 or more during their fiscal year in Federal awards must have a Single Audit conducted for that year.

The $750,000 is from all federal sources, not just CDBG.

The determination of when a Federal award is expended must be based on when the activity related to the Federal award occurs. For accrual or modified accrual subrecipients, this will be when the expense has been incurred and recorded as an expense in the Subrecipient’s accounting system, not when the cash has been paid.
The Circulars makes it necessary for DED to determine if the subrecipient is required to conduct and submit a single audit. The ROFA process is how we meet this requirement. Subrecipients are required to submit an Report of Federal Expenditures (or the ROFA form), stating the amount federal expenditures from all federal sources (not just DED awards), for each of the Subrecipient’s fiscal years covered, in whole or in part, by the Grant Term. The ROFA must be completed and returned to the DED within 60 days after the Subrecipient’s fiscal year end.
Match funds are funds committed by the subrecipient to increase the total funds to complete a project.

Committed match funds are should be spent dollar for dollar with requests for CDBG funds.

Match is proration so reducing the cost of the project does not eliminate the match requirement.

Match funds must be properly documented to count.
Timely Expenditure of Grant Funds

- CDBG Funds all have expiration dates by which funds need to be expended and projects closed.
- HUD now provides reports on projects without draws.
- Unused funds need to be deobligated and redeployed where possible.
## Timely Expenditure of Grant Funds

<table>
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<th>Federal Grant No. identified in Section 9 of Funding Approval Form</th>
<th>Federal Grant Deadline</th>
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Record Retention

- Records of the Subrecipient’s, including supporting documentation, must be retained for at least 3 years after the closeout of the HUD grant with DED from which the Federal award was made.

- Records for real property and equipment acquired with Federal funds must be retained for 3 years after final disposition.

- If any litigation, claim, or audit is started before the expiration of the 3-year period, the records must be retained until all litigation, claims, or audit findings involving the records have been resolved and final action taken.
Record Retention

- Records for program income transactions after the period of performance. In some cases Subrecipients must report program income after the period of performance. Where there is such a requirement, the 3 year retention period for the records pertaining to the earning of the program income starts from the end of the Subrecipient’s fiscal year in which the program income is earned.
ACCESS TO RECORDS

• Representatives of HUD, the Inspector General, DED, and the General Accounting Office shall have access to all books, accounts, records, reports, files, and other papers, or property pertaining to the administration, receipt and use of DED funds and necessary to facilitate reviews and audits. The right of access is not limited to the required retention period but lasts as long as the records are retained.

• The Subrecipient must provide citizens with reasonable access to records regarding the past use of DED funds consistent with DED or local requirements concerning the privacy of personal records.
CDBG Finance Staff

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Questions?
BREAK TIME!
Citizen Participation
Why do we need citizen participation?

- Citizens are those the project is intended to serve.
- Citizens need to be involved to offer input on the proposed activity and to offer input on the Subrecipient’s Community Development Program Performance.
Citizen Participation Requirements

• Recipients/Subrecipients of CDBG funds must demonstrate that reasonable efforts to ensure involvement of citizens or citizen organizations throughout all stages of the program shall be or have been undertaken.

• All records of these efforts should be included in the grant file.
Citizen Participation Requirements

• All recipients/subrecipients of CDBG funds are required to conduct all aspects of the Community Development Program in an open manner with access to records on the proposed and actual use of funds for all interested persons.

• All records of applications and funded grants must be kept at the subrecipients offices and be available during normal working hours.
Citizen Participation Requirements

• The applicant/recipient/subrecipient must provide technical assistance, at the level of expertise available at City Hall to groups representative of persons of Low-to-moderate income who request such assistance in developing proposals.

• Records shall include public notice; affidavit of publication/record of posting; sign-in sheet; minutes; any written complaints and response; any other documented efforts to involve citizens throughout the stages of the project.
Citizen Participation Requirements

• Citizens shall be provided adequate and timely information, so as to enable them to be meaningfully involved in important decisions at the various stages of the program including at least the development of needs, the review of the proposed activities, and review of past program performance.
How many hearings?

- At least 2.... 1 before application submission and 1 at a minimum of 80% completion of the grant.

- Hearings shall be held at times and locations felt to be most likely to make it possible for the majority of impacted persons to attend without undue inconvenience.

*FOR DR/MIT FUNDS PUBLIC HEARINGS CANNOT BE HELD MORE THAN 6 MONTHS PRIOR TO APPLICATION SUBMISSION*
• At least one hearing must be held to address the determination of needs and the review of the proposed, and the review of past program performance prior to the submission of the application.

• The review of past performance must be addressed in a public hearing to review performance of the recipient/subrecipient in a previous program and must occur prior to closeout of any loan or grant for which performance evaluation has not occurred in a previous meeting.

**DR/MIT public hearings must also address possible environmental impacts of the proposed activity.**
Hearing 2

- The second required hearing shall be held to address the performance on the funded grant at a minimum of 80% completion. The review of performance during the grant (the grant life cycle) must be addressed in a public hearing prior to grant close out.
Notification of hearings shall be given a minimum of five full days in advance to allow citizens the opportunity to schedule their attendance.

The day of posting/publishing and the day of the hearing do not count towards the minimum five day period.
Postings/Publishing

- Notification shall be in the form of display type advertisements in the newspaper with the greatest local distribution and/or by posting letters, flyers, and any other forms that are clearly documented with wide circulation.
Applicants may choose to:

a. Advertise in a local newspaper of widest circulation

b. Post advertisement in areas providing the largest access to the public

c. Both a and b.

** COUNTIES ARE REQUIRED TO ADVERTISE IN A LOCAL NEWSPAPER OF WIDEST CIRCULATION. THEY CANNOT POST ADVERTISEMENT IN AREAS PROVIDING THE LARGEST ACCESS TO THE PUBLIC ONLY.
Postings/Publishing

• All hearings must be accessible to handicapped persons.

• Provisions for interpretation shall be made at all public hearings upon request for non-English speaking residents if such residents are expected to be in attendance and must make reasonable accommodations to ensure that this information is available to all persons.
Decision Making Timeframe

• The chief elected officials office shall receive and relate to the appropriate persons or groups any views or proposals that were submitted within the decision making timeframe.

• Any criticism submitted in writing at any time should be answered in writing within fifteen working days of receipt. All complaints shall be received and acted upon within 15 days by the CEO’s office.
Public Hearing Content Requirements

- Intention to submit CDBG application from responsible entity

- Maximum grant amount

- The type of activities that may be undertaken including the improvement of public works, public facilities, housing rehabilitation and others as allowed by law.

- At least 51% of the funds must be used to benefit low-to-moderate income persons or the elimination of slum and blight as applicable
Public Hearing Content Requirements

• The minimization of displacement of persons resulting from the project, and assistance to any displaced persons would be provided according to the Uniform Relocation and Real Property Acquisition Act of 1970 as amended, and Section 104(d), Section 104(k) or Section 105 (a)(11) of the Title I Act.

• The responsible entity is soliciting citizen input on current community development needs.

• Description of proposed project for which the responsible entity is applying.
Public Hearing Content Requirements

• Total estimated project cost, including the amount being applied for, other state/federal funds, proposed local contribution etc.

• Location of the project, either community wide or boundaries (by name) of target area.

• % of LMI beneficiaries, if known

• Encouragement of area residents to attend
PUBLIC HEARING NOTICE

The City of Anytown will hold a public hearing on January 3, 2018, 7:00 p.m., at City Hall located at (insert address) to discuss the city’s submission of an application for the fiscal year 2018 Community Development Block Grant (CDBG) program. The city is interested in obtaining all citizens’ input on community development needs within the city. As part of the hearing process citizens will be asked to verbally assist in the completion of a Needs Assessment document. The document will detail what the residents feel are the strengths and weaknesses of the community. The city needs as much local participation as possible in order to reflect the true desires of the community as a whole, as well as the comments relating to the proposed project application. The State has established a maximum application request for each funding category. Activities that are eligible for funding include the improvement of public works, public facilities, housing rehabilitation, and others allowed by law. At least 51% of the funds must be used to benefit low- and moderate-income persons. No displacement of persons will be proposed.

The city is proposing to replace some sewer lines, and install some new sewer lines and lift station in the southeast part of the city. The area to be addressed is bounded by Main Street on the east, Gordon Street on the west, BN Railroad on the north, and City Limits on the south. The total project cost is estimated at $322,000. The city proposes to contribute $48,000 in cash, $45,000 in-kind labor by city crews, with grant funds of $229,000 needed to make up the balance. The project, if funded, will benefit 57% low/moderate income persons. All citizens, including those in the targeted area, are encouraged to attend in order to comment on the proposed activities.

For more information on the proposed project, contact Jane Doe at 314/888-8888 or by email at jane.doe@anytown.mo.gov. If you need special accommodations for the public hearing, including LEP assistance, please contact Jane Doe by January 1, 2018 at 5:00 p.m. The meeting will be held at an accessible location and the city will make every effort possible to provide reasonable accommodations.
The City of Waterville will hold a public hearing at 6:30 p.m. prior to regular Council meeting on February 24, 2015, in Council Chambers at City Hall located at (insert address) to discuss the past performance by the City in carrying out the City's 2015 water project in the northwest section of town. Approximately 3,120 LF of 2" cast iron water line was replaced with 6" PVC line, and a new ground storage unit was installed to help the water supply problem in peak periods. All interested citizens and groups are encouraged to attend the scheduled hearing.

For more information on the proposed project contact Jane Doe at 314-888-8888 or by email at jane.doe@anytown.mo.gov. If you need special accommodations for the public hearing including LEP assistance, please contact Jane Doe by January 1, 2018 at 5:00 p.m. The meeting will be held at an accessible location and the city will make every effort possible to provide reasonable accommodations.
Helpful Hints

• Projects with large community involvement and understanding are always more successful.

• Must be 5 full days not including day of posting or hearing for posting/publishing.

• Hold your public hearing in a handicapped accessible location.

• Keep an attendance list at all hearings and meetings, as well as minutes.

• Respond to all requests or complaints address at public hearings.

• ALTER SAMPLE HEARINGS INCLUDED IN GUIDELINES AND ADMINISTRATION MANUAL TO MATCH YOUR PROJECT.
Questions?
LUNCH TIME!
CDBG Environmental Review
NEPA & 24 CFR Part 58
Overview
Environmental Review

What?
- NEPA, HUD Regulations, Related Laws & Authorities

Why?
- Safety, health, sustainability, legal protection

Who?
- Responsible Entity, Certifying Officer, Consultants

When?
- Before project starts, timeline of 90-120 days
THE ER PROCESS
Aggregation of Project Scope

- Project scope must include all related activities by all funding sources.
- Level of review determined by scope as a whole.
- Perform separate reviews for non-related activities (i.e. buyouts and rehab).
- Related activities not funded by CDBG are still subject to environmental review requirements (i.e. must be evaluated and cannot begin until environmental release).
Alternative analysis is required for all EAs
May also be required in relation to a specific section
Should consider the environmental impacts of each possible alternative
No Action Alternative must be considered!
CEST/EA Timeline

1. Decide that the project will attempt to use CDBG funds (usually occurs at application, but can occur before).
2. Start planning.
   - "Complete Level of Review" and "Finding of Exempt Activities" forms.
   - Forms can move forward with exempt and CENST activities only.
3. Complete Statutory Checklist/EA forms & collect all supporting documentation (maps, database searches, copies of all correspondence, pictures, etc.)
4. Once all applicable clearances have been received and forms completed, Subrecipient reviews and signs the ERR, and the administrator submits to DED.
5. Submit draft notice to DED for review; publish once approved; send copy of notice to interested parties and agencies.
6. Submit RROF/C, affidavit of publication and proof of distribution of the notice to CDBG.
7. AUSF or pre-grant approval is issued by DED (letter is sent to the Subrecipient, copy is emailed to administrator) with copy of Conditions of Approval.
8. As project is completed, document compliance with all COAs. At project closeout, DED monitors Subrecipient’s file for complete ERR with originally signed forms, & compliance with all COAs.

ER Process

- Form complete project description containing all related activities from all funding sources.
- Submit project information to SHPO, Tribes, and other environmental agencies (starts 30 day response period).
- Complete HUD-B-Step Decision Making Process, if necessary.
- DED reviews ERR and provides feedback; repeat until ERR is satisfactory.
- Observe Local Comment Period (7/10 days for CEST; 15/18 days for EA); address all comments.
- Observe State Comment Period (15 days).
- Project Begins.
Levels of Review

- **Exempt**: admin, planning, design, environmental studies, etc.
  - applies to entire project or individual activities
- **CENST**: rental & homebuyer assistance, operating costs, etc.
  - applies to entire project or individual activities
- **CEST**: 1-4 unit rehab w/o change in land use
- **EA**: anything beyond what is listed under Exempt, CENST, CEST, & EA (i.e. most demos, reconstruction)
- **EIS**: EA with FOSI – long, complex review; may not be practical (i.e. housing construction in area with unacceptable noise level)
Statutory Checklist

*Use CDBG Impact Determination Guide

- Site Visit
- Historic Preservation
  - (Section 106 – consultation with SHPO & Indian Tribes)
- Flood Insurance
  - Required for insurable structures in special flood hazard areas
- Floodplain Management
  - Floodways are almost always prohibited except for buyouts!
- Wetland Protection
  - (may require permits from the Army Corps of Engineers)
Statutory Checklist (CEST/EA)

- 8-Step Decision-Making Process (for floodplains and wetlands)
  - Alternatives, public notices, and public comment periods

- Coastal Zone Management
  - (none in MO)

- Airport Hazards
  - May require alternate site

- Endangered Species
  - May require consultation with MDC and FWS

- Wild & Scenic Rivers
  - May require consultation with NPS or FWS
Statutory Checklist (CEST/EA)

- Farmland Protection
  - Projects that convert land use may require consultation with USDA - NRCS

- Noise Control (housing, libraries, senior centers, etc.)
  - May require expensive mitigation

- Explosive and Flammable Hazards
  - May require expensive mitigation

- Water Quality
  - (Sole Source Aquifers – none in MO)
Statutory Checklist (CEST/EA)

- **Air Quality (air pollution, asbestos, mold)**
  - May require consultation with EPA, DNR, asbestos abatement, or mitigation

- **Contamination & Toxic Substances**
  - Phase I Environmental Site Assessment is typically required for new construction of facilities, multifamily housing development, or other project where there is potential for contamination impacts

- **Environmental Justice**
  - If negative environmental impacts disproportionately affect low-income or minority citizens, additional public input is required.
Additional EA Factors

- **Land Development**
  - Soil suitability, conformance with community plans, erosion control

- **Community Facilities**
  - Availability of community services

- **Socioeconomic factors**
  - Evaluation of social and economic impacts of project

- **Natural Facilities**
  - Wildlife, vegetation, water quality
• What is to be done?
• How it is to be done?
• Who is to do it?
• When it is to be done?
• Compliance

**Conditions for Approval**

*Excavation shall only take place in the existing plow zone (area that has been plowed and utilized for row crops). If excavation must be performed outside these areas, an archaeological survey must be completed and submitted to SHPO for approval prior to the work taking place. This measure shall be noted in contract documents. The environmental preparer or project administrator shall perform a site visit to ensure compliance with this requirement.*
What Next?

- Receive Approval to Publish Notices
  - CEST: 7 days published/10 days posted
  - EA: 15 days published/18 days posted
- Affidavit of publication
- Send notice to Tribes and agencies
CEST/EA Timeline

ER Process

1. Decide that the project will attempt to use CDBG funds (usually occurs at application, but can occur before)
2. "Complete Level of Review" and "Finding of Exempt Activities" Forms *can move forward with exempt and CENST activities ONLY
3. Complete Statutory Checklist/EA forms & collect all supporting documentation (maps, database searches, copies of all correspondence, pictures, etc.)
4. Once all applicable clearances have been received and forms completed, Subrecipient reviews and signs the ERR, and the administrator submits to DED
5. Submit draft notice to DED for review, publish once approved; send copy of notice to interested parties and agencies
6. Submit RROF/C, affidavit of publication and proof of distribution of the notice to DDBG
7. AUGF or pre-grant approval is issued by DED (letter is sent to the Subrecipient, copy is emailed to administrator) with copy of Conditions of Approval
8. As project is completed, document compliance with all COAs. At project closeout, DED monitors Subrecipient's file for complete ERR with originally signed forms, & compliance with all COAs.

STOP
All choice limiting actions (dema, acquisition, construction, site improvements) until ER process is complete.
Request for Release of Funds

- Thorough project description
- 1 page, front and back
- Send RROF/C, affidavit, and proof of distribution
- Email form accepted!
  - State comment period begins day after receipt
  - Must retain original (may be requested by DED or HUD)
Comment Periods

- 8 Step Process, NOI, Combined Notice

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Special circumstances
Special Circumstances - Tiered Reviews

- Appropriate when evaluating a proposal at early stages of development or when site-specific analysis not yet feasible.
  - Appropriate for scattered site buyouts and rehab
Tier I

- Broad review over maximum anticipated project scope and geographic area
- Resolve compliance for all laws and authorities possible
- Establish a plan (narrative) for site-specific review (issues where compliance could not be determined at a broad Tier I level)
  - Define strategy and procedures to determine compliance and mitigate impacts
  - Plan must include limitations to ensure no activities/sites will have a significant environmental impact
- Publish public notice (NOI or NOI/FONSI) & submit RROF/C.
Tier II

- Site-Specific review
- Must address all sections where compliance could not be determined in Tier I
- No public notice or RROF required unless unanticipated impacts or impacts not adequately addressed in prior review.
Special Circumstances - ER Adoption

- CDBG-DR will accept FEMA environmental reviews without supplementation or additional comment periods – Must request adoption from HUD in writing
- CDBG-MIT program will allow adoption of an environmental review from another federal agency – Must request adoption from HUD in writing
- For co-funded multifamily housing projects, CDBG-DR will accept MHDC’s environmental review. DED and MHDC both act as Responsible Entity in these circumstances.
Special Circumstances – Updating the ERR

- New activities added, unexpected conditions arise substantial changes made to nature, magnitude or extent of project.
- Changes develop in existing project
- Substantial changes = new ER
- ERR Amendment:
  - Amendment Form
  - New worksheets and documentation
  - Is finding still valid?
- Adding Fill Material- SHPO and Tribes letters, Contamination & Toxic Materials worksheet
Special Circumstances – Borrow Sites

Borrow Sites

- If fill may be required, include information in project scope
- All borrow sites must have environmental clearance
  - Contamination evaluation, site visit, Section 106 if applicable
- If ground disturbance is required, Section 106 process is required (SHPO and tribal consultation)
  - Allow at least 30 days for consultation
  - For quarry material where quarry boundaries are not being expanded (no ground disturbance) – notify SHPO of location
Key Takeaways
Things to Remember

- Project is on pause until ER is complete
- Early Start-allow time to explore alternatives, implement mitigation, etc.
  - 1 to 120 days
- Change of scope in project might change review required
- When in doubt, contact CDBG staff
Intake Applications & Tier IIIs

➢ Use preliminary screening to ensure project site is environmentally compliant or that mitigation is cost-reasonable

➢ Some issues to watch out for:
  • Noise
  • Explosives
  • Contamination
  • Floodplains and wetlands
  • Endangered Species
  • Historic Resources
Recommendations for Success

- Read the Admin Manual and Impact Determination Guide
- Use current forms & sources
- Be proactive, not reactive
- Visit project site – identify challenges at application stage
- Explain ER process to all parties involved in the project – keep them informed
- Doing it well the first time = reduced work & delays
- Proofread
- Attention to details
- Explain with detailed and concise responses
- Contact CDBG with questions or project scope changes!
Resources

- Contact Kevin.McHugh@ded.mo.gov for environmental review questions or assistance
- Go to https://ded.mo.gov/programs/cdbg/grant-information#mini-panel-cdbg-grant-information3 for environmental review forms, packets, and resources
- Use the available resources on HUDExchange
- WISER presentations available online for each section
BREAK TIME!
Acquisition & Relocation Compliance
Governing Regulation, Rules, Policies, and Guidance

- 49 CFR Part 24
- CDBG program regulations 24 CFR 570.488; 24 CFR 570.606 (Subpart K)
- HUD Handbook 1378
- Section 104(d) of the Housing and Community Development Act of 1974
- Section 414 of the Stafford Act
- www.hud.gov/relocation
Uniform Act Purpose

- The Uniform Act applies to displacement that results from acquisition, demolition, or rehabilitation for HUD-assisted projects carried out by public agencies, non-profit organizations, private developers or others; and real property acquisition for HUD-assisted projects.

- Subrecipients must assure they have taken all reasonable steps to minimize displacement of persons as a result of activities assisted with CDBG funds.

**Important**

- No Project related acquisition may occur after the date of the pre-application public hearing until the Environmental Review process is complete and DED has issued “Authority to Use Grant Funds”
Uniform Act Purpose 49 CFR 24.1

- To ensure that owners of real property to be acquired are treated fairly and consistently;
- To ensure that persons displaced are treated fairly, consistently, and equitably; and,
- To ensure that agencies implement these regulations in a manner that is efficient and cost effective.
Why does the Uniform Act Apply to CDBG projects?

• 49 CFR 24.101(b) & (d) “Federally - Assisted” Projects
• NO Surprises – Inform Owner of UA rights
A property owner has 3 rights under the Uniform Act:

- Entitled to “just compensation” for their property
- Right to an appraisal and review appraisal
- Right to accompany appraiser during the appraisal site visit of the property

Subrecipient must inform the property owner in writing of the above 3 Uniform Act Rights
Uniform Act Applies to:

- Any acquisitions in a “federally-assisted” project (Uniform Act at 24.101(b) & (d)) from the date of the CDBG application public hearing.

- Any acquisition whether it is done by the:
  - Subrecipient City/County
  - Subrecipient - water or sewer district
  - Corporation or business
  - Non-profit, such as a senior center organization

- Acquisition done with or without the use of CDBG funds. The source of funds used to pay for the acquisition does not matter; UA applies anytime CDBG funds are used in your project - no matter for what purpose or activity.
Uniform Act Applies to:

- ALL CDBG project categories:
  - Economic Development
  - Public Facility – water or sewer
  - Community Facility
  - Disaster Recovery
  - Emergency

- Regardless of the CDBG project category or the source of funds used to pay for the acquisition; the requirements of the Uniform Act apply.
Types of Acquisitions Subject to Uniform Act

- Fee simple title/parcel of land
- Permanent easements
- Temporary easements “necessary” for the project, i.e., construction-easement
- Right of Way
- Long-term leases of 50 years or more
Acquisition

- Acquisition under the Uniform Act is basically a sequential process/procedure.

- Acquiring agency must determine if acquisition will be voluntary or involuntary BEFORE starting process – if voluntary, can no longer use eminent domain
Voluntary vs Involuntary Acquisition

- Voluntary Acquisition – must provide written acquisition notice and provide a written offer letter. Inform property owner either do not have eminent domain authority; or have eminent domain authority but will not use
  - Inform property owner of UA rights
  - Owner & owner occupants not eligible for relocation assistance; displaced tenants may be eligible

- Involuntary Acquisition – follow all steps of Subpart B of the Uniform Act
  - Inform property owner of UA rights
  - Displaced persons eligible for relocation assistance
File Documentation

Acquisition

Involuntary
- Notice to Owner
- Appraisal
- Just Compensation
- Offer w/Summary
- Payment before Possession

Voluntary
- Notice to Owner
- No Condemnation

Valuation
- Dated before offer
- Established by the agency
- At or above just compensation
- Occupancy dates
Acquisitions Not Subject to Subpart B requirements

- If the Subrecipient acquired the property prior to the date of the pre-application public hearing.

- Temporary easements or permits needed solely to perform work intended exclusively for the benefit of the property owner.

- If property is acquired from another government agency by a Subrecipient without the power of eminent domain (ED).

- If it is a non-specific site acquisition – may limit search for alternative sites to a general geographic area.

- Subrecipient states they do not have or will not use power of Eminent Domain:
  - STATE in acquisition notice they will not use ED or do not have ED authority
  - STATE in acquisition notice the market value of property & how determined
  - Market Value determined by an appraisal or opinion.
Voluntary Acquisition

1. No specific site or property needs to be acquired

2. Not part of an intended, planned, or designated project area where all or substantially all of the property will be acquired

3. The Agency will not acquire the property if negotiations fail

4. The Agency will inform the owner in writing of the market value
UA Acquisition Process

Step 1: Make Acquisition Determination

- Subrecipient and Engineer and/or Architect must decide what:
  - Parcels, and/or
  - Easements, and/or
  - Buildings

are “necessary for the project”
Step 2: Check Deed Records to Determine Owner(s) of Property

- County Recorder of Deed’s Office: Obtain title evidence, i.e., deed & legal description
  - Who is the Owner(s)
  - Review plat map
  - Review deed record for any liens

- After Subrecipient determines the actual property owner:
  - A preliminary acquisition notice must be sent to the owner(s) on the deed
Step 3: Provide Preliminary Acquisition Notice

A Preliminary Acquisition Notice Must Contain:

- Statement of Subrecipient’s Interest to acquire the property for the purpose of their CDBG project
- Request Seller’s Disclosure of any tenants
- Notice of right of “just compensation”
- Notice of right to an appraisal and review appraisal and right to accompany the appraiser during the appraisal
- Name, address, and phone number of Subrecipient’s project acquisition contact person
Document Delivery Of Preliminary Acquisition Notice

- By hand delivery - with signed receipt
- By certified mail
Step 4: Determine Just Compensation with Appraisals or Valuation

- If the property is valued at greater than $10,000, then two appraisals are required:
  - The first appraisal must meet the state’s professional appraisal standards = RSMo 339.535 USPAP
  - The second appraisal is only a “review appraisal”
  - The appraisals must be done by an appraiser certified or licensed by the State of Missouri

- Property valued less than $10,000 only needs proof of how the property’s value was actually determined “based on a review of available data,” made by a qualified person
Step 5: Issue Written Offer & Statement for the Basis of Just Compensation

- Description & location of property and name of owner
- Purpose of purchase
- Inventory, is applicable if home or building acquired
- Declaration of offer - amount based on appraisal, or a valuation based upon written “review of available data”
Subrecipient’s Offer Letter

- Send offer by Certified Mail or Hand-Deliver and get Signed Receipt
- State that amount offered is based on appraised value
- Include name and telephone number of Subrecipient’s acquisition contact person
- State a deadline to respond to the offer
- Enclose Statement for Basis of Just Compensation
Step 6: Acquisition – Negotiate

- Property Owner may:
  - Accept Subrecipient’s offer
  - Make counter offer
  - Negotiate

- Schedule closing with title company
If negotiations are unsuccessful send Final Offer Letter

- Issue “final offer” letter:
  - Emphasize benefits of project
  - Costs of delay to citizens
  - Final offer based on appraised value
  - Include a response deadline/failure to meet deadline may result in Subrecipient’s exercise of its statutory right of condemnation
Successful Acquisition

- 99.9% of project acquisitions are successful whether achieved by donation or purchase.
- However, if necessary, a Subrecipient may have to exercise their statutory right of condemnation.
- A Condemnation Petition should only be filed after all Uniform Act procedures have been completely exhausted.
Step 7: Transfer Title

- Transfer title from property owner to Subrecipient

- Record title transfer with County Recorder of Deeds Office ASAP

- Subrecipient not responsible for costs required to perfect a property owner’s title
Easements & Donations

• Easement Owners Have Same Three Uniform Act Rights
  • Just Compensation
  • Appraisal & Review Appraisal
  • Right to Accompany the Appraiser

• Donation of Easement
  • A property owner may donate their easement to the project after being fully informed of their Uniform Act Rights.
  • Have them sign donation & waiver of rights form
Easements/Donations

- Uniform Act acquisition procedures apply to easement donations and purchases and must be followed.
- Use CDBG easement brochure in CDBG Administrative Manual.
Easements & Donations

- NO Blanket Easements – per RSMo 523.282.1 The Subrecipient’s attorney must ensure compliance with this state statutory requirement.

- Sample Easement format is available, but it is strictly a sample that the Subrecipient may use and have their attorney modify to achieve compliance with the above statute.

- We DO NOT review draft easements for compliance; your attorney must review all easements for compliance with the law.
UA Relocation Requirements

- Any person displaced as a result of a project’s CDBG assisted rehabilitation, demolition, or acquisition activities may be eligible for relocation payments and services (90-day minimum occupancy requirement) and moving expenses.

- Sample relocation notices, claim forms, etc. are available on the DED website and HUD.gov/relocation.

- Maintain a separate file for each project relocation.
UA Relocation Requirements

- Adopt Relocation Assistance Guidelines with grievance process
- Provide displaced persons with Notice of Eligibility for Relocation Assistance and a general written description of the relocation assistance advisory services by certified mail or hand delivered
- Assistance may be provided through down payment assistance, rental differential, comparable replacement housing, last resort housing
- HUD Relocation brochure must be provided with preliminary acquisition and relocation notices.
- At least three comparable replacement units must be offered
- 90-day minimum written notice to move
- Fixed or actual moving expense payment
Who is a displaced person?

- Generally, a displaced person is an individual, family, partnership, association, corporation, or organization, which moves from their home, business, or farm, or moves their personal property, as a direct result of acquisition, demolition, or rehabilitation for a federally funded project. Displaced persons are eligible for relocation assistance under the UA.

- Any tenant temporarily relocated for more than one year is eligible for permanent relocation assistance.

- Specific definitions in Uniform Act & HUD Handbook 1378.
Who is not a displaced person?

- Generally, persons not displaced are not eligible for relocation assistance under the Uniform Act.
- Persons displaced temporarily from their dwelling for less than 12 months while it is being rehabilitated
- Person with a court ordered eviction for cause based upon serious or repeated violations
- Person who occupied property for purpose of obtaining relocation benefits
- Subrecipient decides (and State/HUD agrees in writing) they were not displaced as a direct result of the project
- Owner-Occupant of property who moves as a result of voluntary acquisition, rehabilitation, or demolition. Note that the tenant of such a structure is eligible for relocation benefits
- Person who after receiving notice of eligibility is notified in writing they will not be displaced
- Specific definitions in Uniform Act & HUD Handbook 1378
Replacement Housing of Last Resort

- May be used when comparable replacement dwellings are not available within the monetary limits for displaced owner-occupants and tenants – may provide additional cash assistance which exceeds the statutory payment caps.
- Must be adequately justified – see 49 CFR 24.404.
- May include:
  - Rehabilitation of and/or additions to an existing replacement dwelling
  - Relocation to and rehabilitation of a dwelling to DSS
  - Construction of a new replacement dwelling
  - Removal of barriers for persons with disabilities
  - Meeting handicapped adaptability and accessibility design and construction requirements
Section 104(d) Relocation

- One-for-one replacement – requires replacement of all occupied and vacant occupiable lower-income dwelling units that are demolished or converted to a use other than lower-income housing in connection with a CDBG assisted activity.

- Requires Subrecipients to provide certain relocation assistance to any lower-income tenants displaced as a direct result of demolition of any dwelling unit or conversion of lower-income dwelling unit to a use other than lower-income dwelling in connection with a CDBG assisted activity.

- Allows 60 months of rental assistance.
Jointly Funded Projects

- Always follow the Uniform Act procedures as outlined in the CDBG Manual even when projects are jointly funded with other agencies, e.g., Rural Development, DNR, and MO DOT.

- EXCEPT with SEMA projects – follow SEMA’s appraisal regulations
  - Only a first appraisal required to determine offer.
  - Only if offer appealed, then do a desk-top review appraisal

- Please contact your Compliance Specialist with any compliance questions you may have.
Monitoring visits are conducted during the course of a project, where the project’s acquisition records will be reviewed. Have an organized individual file for each easement or parcel acquisition.

- Interim monitoring visit, if necessary
- Close-out monitoring visit
Recordkeeping

Each family’s acquisition file must have:

• Ownership documentation of property owner(s) and their property - deed
• Documentation that owner was informed of:
  o Uniform Act Rights
  o Received Timely Preliminary Acquisition Notice
• Copy of appraisal and review appraisal
• Copy of the offer letter inclusive of the statement of basis for the determination of just compensation
Recordkeeping & Monitoring

- Each family’s acquisition file must have:
  - Real Estate Purchase Contract
  - Recorded Deed
  - Closing Statement on HUD H1 Form
  - Documentation of the payment of all acquisition and related incidental costs and fees by Subrecipient
  - Copies of cancelled checks for all acquisition related expenses
Recordkeeping & Monitoring

- Each family’s acquisition file must have:
  - Grievance and/or Condemnation Records if applicable:
    - Documentation of any written grievance and the resolution by the Subrecipient
    - Condemnation Commission Report
Sample Forms & Letters

✓ DED Easement Brochure
✓ Preliminary Acquisition Notice – parcel
✓ Preliminary Acquisition Notice – easement
✓ Donation – Waiver of Just Compensation & Appraisal Rights
✓ Donation – Waiver of Only Just Compensation
✓ Statement for the Basis for the Offer of Just Compensation
Sample Forms & Letters

✓ Offer to Purchase Parcel of Land
✓ Offer to Purchase Easement
✓ Final Offer Letter
✓ HUD - Voluntary Acquisition Letter with Eminent Domain Authority
✓ HUD - Voluntary Acquisition Letter without Eminent Domain Authority
✓ Uniform Act Acquisition Chart
Sample HUD Brochures

On DED CDBG Forms Website

- When a Public Agency Acquires Your Property HUD Brochure in English & Spanish
- Claim Form for Moving Expenses
- Claim Form for Rental or Down Payment Assistance
- Claim Form for Replacement Housing Payment
- HUD-1 Settlement Statement form
Acquisition - Summary

- Uniform Act Acquisition Compliance – Requires Subrecipients to follow the UA process/procedure as outlined in Chapter 9 of the 2018 CDBG Administrative Manual
- Follow the HUD Recordkeeping Requirements as outlined Handbook 1378, Chapter 6, Paragraph 6-3
- If it’s not documented – it didn’t happen
Procurement
CDBG Administration Training
Amy Barnhill
Procurement Policy

- At minimum, the Missouri CDBG Program's procurement policy must be followed for every procurement to be paid for with grant funds.
  - In addition, Federal Register Notices applicable to DR-4317 and DR-4451 require subrecipients to follow procurement requirements in the Uniform Administrative Requirements at 2 CFR 200.318 through 200.326.
  - 2 CFR 200.324 is also applicable to CDBG-DR and CDBG-MIT funds that requires an Independent Cost Estimate and cost-reasonableness analysis for procurements exceeding $250,000.
Procurement Policy

- Communities must have their own written procurement policy.
  - The procurement policy needs to state how the local community will handle their own local money and resolve any procurement disputes.
  - If a subrecipient does not have a local procurement policy, they must adopt one before the project can close, but it must be a policy that the community will be able to use on all local procurement outside of CDBG’s project as well.
Conflict of Interest Policy

- Communities must also have their own written conflict of interest policy.
  - The policy needs to define conflicts and provide employee standards of conduct.
    - Person with CDBG responsibilities, decision-making power, or information may NOT:
      1. obtain a financial interest or benefit from CDBG activity
      2. have an interest in contract or subcontract

- CDBG’s policy has changed this year, but is generally the same. It added policy regarding:
  1. Solicitation or acceptance of gifts policy is specified
  2. In determining an exception, HUD will evaluate now, after CDBG Program Manager, HR, DED Legal Counsel, and BCS Division Director all approve.
Conflict of Interest Examples

◉ A grant administrator cannot help the subrecipient with the procurement of grant administration if they intend to submit a proposal.

◉ If CDBG funds are intended to pay for any engineering/architecture design and/or construction inspection costs, the Request for Qualifications (RFQ) for the Preliminary Engineering/Architecture Report (PER) must either:
  ◆ Include the subsequent engineering/architecture final design and construction inspection in order to be eligible.
  ◆ Or disclose in the RFQ the firm who developed the PER and state that the firm has familiarity with or knowledge of the project and structure the RFQ rating to not heavily favor familiarity with or knowledge of the project.
  ◆ A form must be included with the RFQ to either disclose of a potential conflict or sign to confirm there is no potential/perceived conflict.
  ◆ The contracts would have to be separate either way since PER costs aren’t eligible, and the final design and inspections contract would have to have a contingency clause.
Procurement Methods

- All services paid for with CDBG funds must be procured according to proper procurement method.
  - **Micro Purchase**
    - Supplies or services not exceeding a total of $3,000
    - Construction over $2,000 subject to Davis-Bacon
    - Awarded without solicitation of competitive quotes, but distributed equitably among qualified suppliers
  - **Small Purchase**
    - Supplies or services to cost less than $100,000
    - Awarded after price or rate quotes obtained from an adequate number of qualified suppliers.
    - State Statute requirement for Counties to advertise.
Procurement Methods Continued...

- **Competitive Sealed Bids**
  - Goods or services expected to be **$100,000 or more** in total
  - Awarded after competitive sealed bidding including publicly solicited bids and a lump sum or unit price contract to the lowest, most responsible and responsive bid
    - Bids advertised in the newspaper of widest circulation for the project area once a week for **two** consecutive weeks
    - Directly solicited to an adequate number of suppliers, including MBE/WBE/Section 3 firms
      - Administrators responsibility to ensure this is done.
  - Bids opened publically at least a week after the final advertisement.
Procurement Methods Continued…

- Competitive Proposals (RFPs and RFQs)
  - Professional services including administration, engineering, architecture, construction inspection, title searches, etc.
  - Awarded after solicitation to adequate number of qualified sources, including MBE/WBE/Section 3 firms, to the lowest and best proposal after subrecipient’s technical evaluation
    - Counties are subject to formal advertisement of these services as well
    - CDBG Administration List must be used for administration solicitation
    - Exceptions for RPC/COG as a subapplicant providing activity delivery is an option, not requirement.
  - Price not a selection factor in engineering or architecture services only, can be negotiated
    - Based on qualifications
  - RFP/RFQ must identify evaluation factors and their relative importance
  - Pre-grant costs, if any, must be clearly separated; not eligible for grant reimbursement
Procurement Methods Continued...

- **Noncompetitive Proposals**
  - Supplies, services, or construction available from only one source or in the instance of a public emergency when the urgency will not permit the delay of time needed to utilize other procurement methods
  - CDBG must authorize noncompetitive proposals first

- **Procurement waivers**
  - If less than three responses were received from any solicitation, the subrecipient or second-tier subrecipient must submit a request to CDBG prior to awarding contract.

- All CDBG-DR and CDBG-MIT procurements must be reported to CDBG to be posted on our website.

- All Section 3 triggered procurements must be posted on the Section 3 Opportunity Portal.
Construction Procurement

- Be sure you are using the most up to date bid packet.
  - Check with your field rep on their preference of bid packet review before procurement process starts.
  - Administrators responsibility to ensure up to date documents and compliance!

- Advertisement for bids must contain:
  - Bid bond requirement (5%) and other bonding
  - Labor provisions and prevailing wage certifications
  - Section 3 information
  - Equal Employment Opportunity
Construction Procurement Continued…

- Addendums must be made at least 72 hours prior to the bid submission deadline.
  - If an addendum is needed and bid submission is less than 72 hours away, the addendum must be distributed with the mention of delaying bid opening at least one full week.

- Must be advertised in a newspaper of general circulation once a week for **two** consecutive weeks.

- MBE, WBE, and Section 3 firms must also be directly solicited and documentation of their certification provided.
Construction Procurement Continued…

- Alternates may be used in bidding.
  - Must be taken in order they are listed.
  - Bid documents must detail how a low-bidder will be selected.

- Federal Wage Determinations must be requested from the CDBG office 10 days before first advertisement for bids and checked 10 days before bid opening.

- State Annual Wage Orders must be inserted before first advertisement for bids and is locked in at that time.

- Public bid opening must be held where bids are read aloud and minutes and a sign-in sheet are taken.
Construction Procurement Continued…

- Award contract to the lowest, most responsible, and responsive bidder.
  - If all bids come in over budget, a form of negotiation is allowed.
    - Reduced contract units at the bid unit prices
    - Should not exceed 25% of the total contract bid amount
    - Reduction of contract units should not result in a change of the low bidder, or all bids must be rejected
  - References must be checked
  - Must hold meeting and take minutes of contract award
Important Factors to All Procurement Methods

- All methods of procurement require unsuccessful bidder notification in writing
  - CDBG will allow for the sign-in sheet at public bid opening to replace written letters to unsuccessful contractors.
    - If a contractor is not signed in, a letter will need to be sent.

- Before a contract can be awarded, **ALL** services must be cleared by CDBG for debarment, licensing, and no active exclusions on SAM.gov, if over $25,000. **ALWAYS CONTACT CDBG BEFORE CONTRACT AWARD FOR THIS!!!**
  - New Request for Contractor/Subcontractor Eligibility form

- Section 3 firms are to be solicited, along with MBE/WBE firms, for all services. If none are available, documentation to prove so must be retained.
  - Section 3 is not required for services that require an advanced degree or professional licensing.
THAT’S A WRAP FOR DAY 1.