

# Missouri Community Development Block Grant Program

## Engineer/Architect Mini Guide



301 W High Street, Room 770  
PO Box 118  
Jefferson City, MO 65102  
(573) 751-3600

## **Mini-Guide for Engineers/Architects Working on CDBG-funded Projects: An Overview of the Key Requirements and Your Role in Ensuring Project Success**

Welcome to the world of Community Development Block Grant (CDBG)! Engineers/Architects play an important role in many CDBG-funded projects at the local level. As a key player in a CDBG-funded project, it is critical that you understand and adhere to a myriad of rules and requirements to ensure each project's success and full compliance. If at any time, the contact at the engineer's/architect's firm were to change, CDBG would need to be notified.

Below is a summary of some of the requirements that apply when CDBG funds are used in a project, including some of the Federal requirements that are triggered. Each is described in a summary with information on what the requirement means to a project you may be working on, as well as some information on the typical role that is expected of an engineer/architect.

Engineers/Architects should have a good working relationship with their grantee (local government entity that receives the CDBG funds) and, if applicable, the grant administrator (entity or person overseeing the project on a recipient's behalf, e.g., RPC personnel) and should adhere to the scope of work in the engineering/architectural contract.

For more detailed information on these and other requirements, please refer to the CDBG Administrative Manual, available on-line at: [www.missouridevelopment.org](http://www.missouridevelopment.org)

### **1. Environmental Review**

Environmental review refers to the process of assessing the impact of a Federally-funded project on the environment as well as the impact of the environment on the project in accordance with procedures and processes outlined in Federal regulations and other authorities.

Under 24 CFR Part 58, CDBG recipients (units of local government) are required to conduct an environmental review. Part 58 implements the policies of the National Environmental Policy Act (NEPA) of 1969, other Federal laws and authorities, and HUD-specific environmental requirements. Once a recipient has submitted an application for CDBG funds to the State, Part 58 requirements are applicable to the project. At this point, the recipient (and any other project participants) must cease all project activity until the environmental review has been completed.

First and foremost, engineers/architects must understand and comply with Part 58, which prohibits nearly all types of project activities and actions from being undertaken prior to completion of the environmental review and the receipt of environmental clearance from the State. Secondly, engineers/architects should note that even if another Federal funding source is involved in a project (e.g., USDA), an environmental review that meets HUD requirements will have to be completed. The entire environmental review process for projects such as infrastructure can take 90-120 days on average.

Engineers/Architects may be requested to provide essential information for the recipient (or its grant administrator on its behalf) for the environmental review. Tasks might include: designating wetlands, providing maps showing the project, describing how the project will be carried out (i.e., in existing right-of-way, a stream crossing, etc.). Engineers/Architects should **NOT** authorize any project activity without the approval of the recipient/grant administrator.

## **2. Property Acquisition**

The Uniform Relocation and Real Property Acquisition Act of 1970 (URA and HUD's implementing regulations at 49 CFR Part 24 ensure that owners of real property to be acquired as part of a HUD-assisted project are treated fairly and consistently, to encourage and expedite acquisition by agreements with such owner, to minimize litigation and relieve congestion in the court, and to promote public confidence in Federally-assisted land acquisition. (The URA also protects tenants residing in property that is part of a Federally-funded project). The regulations set forth requirements for negotiating with property owners including notifications, establishing value, and payment of just compensation.

Any acquisition, including obtaining easements, is subject to the URA if Federal financial assistance is a part of any portion of the project, regardless of whether or not the Federal financial assistance is actually used for acquisition of real property. Specifically, any acquisition which takes place on or after the date of request of a CDBG application (public hearing) to fund an activity on that property is subject to the URA, unless the recipient shows that the acquisition was unrelated to the proposed CDBG activity. Also, even an acquisition that took place before the date of the public hearing can be subject to the URA if the State determines that the acquisition was intended to support a subsequent CDBG activity.

Engineers/architects may be asked to do surveys to identify the number, size and locations of easements or properties for tanks, pump stations, etc. Engineers/Architects should **NOT** discuss or negotiate the purchase of an easement or other type of property acquisition at any time without consultation with the recipient and grant administrator and following the URA required steps.

## **3. Procurement**

The use of CDBG funds requires compliance with 2 CFR Part 200 and state/local procurement procedures to ensure maximum open and free competition and to ensure that supplies, services and construction are obtained efficiently and economically. Affirmative steps must be taken to assure that minority and female-owned business have the opportunity to provide supplies, equipment, construction and services. Recipients must perform some type of cost or cost analysis for every procurement method, including contract changes, and permit only allowable costs to be included. The cost plus a percentage of cost method of contracting are prohibited.

Engineering/Architectural services are typically procured using Competitive proposals. Competitive sealed bids (formal advertising) must be used for all construction contracts, which requires publicly solicited sealed bids and a firm-fixed-price contract (including unit prices) awarded to the lowest, most responsive and responsible bidder. The process must meet certain minimum conditions including the information provided to bidders, the publication period, bid opening process, bid review and selection process, etc. The scope of work in bid and contract documents must be the same as what was approved by CDBG. All bids may be rejected or grantees must provide needed funds from other sources. Recipients cannot sign construction contracts without the prior approval of CDBG staff.

Engineers/Architects will typically prepare the technical bid specifications. The specs should provide a complete and accurate description of the materials, products and services to be provided or performed, all of the required Federal and State CDBG clauses (some of which have

been referenced in this document) and bonding and insurance requirements.

Engineers/Architects conduct a cost analysis of the construction contract and any change orders to determine cost reasonableness. They also make a recommendation for contract award and approval of change orders. Engineers/Architects must adhere to all requirements pertaining to the bidding, review and selection process and should not approve or give any indication of approval of a bid that has not adhered to the required process and been approved by the recipient and CDBG.

#### **4. Construction Management**

Construction management refers to the process of overseeing any type of construction project using standard procedures and tools such as a pre-construction conference, inspections prior to payment, pre-approval of change orders, coordination and communication regarding project timelines, etc. CDBG grantees are monitored on whether or not they have properly overseen CDBG-funded projects to ensure funds are spent in compliance with all applicable requirements and within the project time periods outlined in the grant agreement with the State.

It is critical that engineers/architects establish a good working relationship with the recipient/grant administrator. The engineer/architect must adhere to all of the procedures that have been put in place and communicate regularly regarding all aspects of the project. Regular project meetings or conference calls are recommended. Any failure to get the project underway and completed in a timely manner can cause a loss of grant funds and affect the recipient's ability to obtain future funding; therefore, information regarding any possible delays must be conveyed to the recipient and grant administrator as soon as they arise.

#### **5. Davis-Bacon and Related Acts (Labor Standards)**

Labor standards refer to a set of requirements that apply to Federally-funded projects to ensure a minimum level of pay to and safety standards for workers.

- The Davis Bacon Act is applicable to all contracts for construction and requires that workers be paid certain minimum wages.
- The Copeland "Anti-Kickback" Act requires that payment to employees must be made at least once a week without subsequent deductions or rebate on any account except "permissible" payroll deductions.
- The Contract Work Hours and Safety Standards Act (CWHSSA) requires that laborers and mechanics not work in excess of forty (40) hours in any work week on a covered project unless they receive overtime compensation at a rate not less than one and one-half times the basic rate of pay for those overtime hours plus any fringe benefits. CWHSSA also provides for safety protection of workers on the job site.
- The Fair Labor Standards Act (FLSA) contains Federal minimum wage rates and overtime (O/T) requirements.

Grantees are required to document compliance with the above referenced requirements. Wage decisions must be obtained and included in all bid documents along with certain regulatory language to inform potential bidders of the applicable requirements. The wage decision must be included in all contracts and subcontracts. Labor requirements should be discussed at the preconstruction conference by the CDBG grant administrator. Certain information must be posted at the construction site (wage decision, posters, etc.). A listing of the required posters to be displayed at the project work site can be found at:

<https://www.dol.gov/whd/resources/posters.htm>

During construction, weekly payrolls in a prescribed format must be submitted by all contractors and subcontractors and periodic on-site employee interviews must be conducted. The Department recommends a minimum of three (3) visits. If any issues arise after the submission of the payrolls, CDBG will have to hold payments to the prime contractor until issues are resolved. The grant administrator will have to verify compliance by contractors by conducting on-site interviews with workers.

Typically, the grant administrator manages the labor standards compliance for construction projects. The engineer/architect can help to ensure that the wage decision and required labor standards language are included in all bid and contract documents. The engineer/architect can also avoid any problems and/or construction delays by being informed of the requirements and conveying the importance of compliance to the contractor and subcontractors on a regular basis.

### **6. Section 3**

Section 3 of the Housing and Urban Development Act of 1968, as amended, requires that training, employment and other economic opportunities generated by certain types of construction projects shall, to the greatest extent feasible, be directed to low and moderate income persons. These requirements apply to contractors and subcontractors performing work on construction projects for which the amount of the assistances exceeds \$200,000; and the contract or subcontract exceeds \$100,000. If this threshold is met, the Section 3 requirements apply to the entire project or activity that is funded with Section 3 covered assistance, regardless of whether the Section 3 activity is fully or partially funded with Section 3 covered assistance.

If the project meets the threshold described above, the contractor and subcontractors will have to make efforts to train and hire local low income residents and/or hire businesses owned by local low income residents. Similar to labor standards, clauses spelling out these requirements must be in all bid and contract documents and the contractor will have to report to the recipient/grant administrator to document its efforts.

Typically, the recipient/grant administrator manages Section 3 compliance for construction projects. Engineers/Architects can help to ensure that Section 3 clauses and forms are included in bid and contract documents and assist contractors with hiring questions to ensure compliance and decrease the chances of project delays.

### **7. Financial Management**

CDBG recipients are held accountable for all funds, property and assets of the CDBG program. Recipients must maintain a financial accounting system for grants that meets the CDBG regulations, 24 CFR Part 84 and OMB Circulars A-87 and A-133. This includes requirements pertaining to financial management systems and records, allowable costs and audits. Recipients are required to ensure that CDBG funds are spent only on reasonable and necessary costs associated with approved grant activities and must have a procedure for determining the reasonableness, allowability and allocability of costs.

Recipients are required to review all requests for payments to ensure that costs are allowable under regulations, approved in the CDBG grant application, allocated to the correct program activity and are reasonable.

Engineers/Architects need to be aware that recipients/grant administrators are subject to these requirements. Engineers/Architects should ensure that their recommendations for payments to contractors are only for costs that are eligible, reasonable, and adhere to approved budgets, contract specifications, plans and other applicable requirements.

### **8. Engineering/Architectural Costs**

CDBG funds may be used to pay for specific engineering/architectural costs as shown below:

- Preparing drawings and specifications
- Provide information for use in filing applications for permits or design approvals
- Revising drawings in response to directives from governmental authorities as needed
- Preparing bid documents and revising, as needed
- Bidding the project
- Preparing the contract
- Participating in the preconstruction conference
- Construction observation and inspection
- Preparing pay requests
- Conducting final inspection and providing a notice stating that the work is acceptable

### **Resources:**

#### **HUD Labor Relations**

[https://portal.hud.gov/hudportal/HUD?src=/program\\_offices/labor\\_standards\\_enforcement/olrform](https://portal.hud.gov/hudportal/HUD?src=/program_offices/labor_standards_enforcement/olrform)

HUD 4010-Federal Labor Standards Provisions (Needs to be in Construction Contract)

HUD 11-Record of Employee Interview

HUD 4230-A-Report of Additional Classification & Wage Rates

WH-347-Payroll Report

Making Davis Bacon Work (Contractor's Guide)

#### **Contract Work Hours and Safety Standards Act.....**

<https://www.dol.gov/whd/govcontracts/cwhssa.htm>

#### **Posters**

Labor Law Posters.... <https://www.dol.gov/whd/resources/posters.htm>

#### **DED Website**

<https://ded.mo.gov/content/community-development-block-grants>

Chapter 5-Procurement

Chapter 6-Contract Management

Chapter 7-Labor Standards