Missouri CDBG Administration Training Workshop Frequently Asked Questions

How long must records pertaining to CDBG grants be retained and kept at the subrecipients offices?


Subrecipients must retain records for extended periods, even though the activity may have been completed for some time. For all subrecipients, the provisions of 2 CFR 200.334 as modified by 24 CFR 570.502(a)(7)(ii) apply:

1. In general, you must retain records on CDBG-funded activities for the longest of the following:
   - Three years after the expiration or termination of the subrecipient agreement.
   - Three years after your grantee’s submission of the CAPER in which your specific activity is reported for the last time (24 CFR 570.502(a)(7)(ii)(A)).

2. You must retain records for individual activities subject to the reversion of assets provisions at 24 CFR 570.503(b)(7) for as long as this provision continues to apply to the activity (24 CFR 570.502(a)(7)(2)(B)).

3. You must retain records for individual activities for which there are outstanding loan balances, other receivables, or contingent liabilities until such receivables or liabilities have been satisfied (24 CFR 570.502(a)(7)(ii)(C)).

4. If any litigation, claim, audit, negotiation, or other action involving your records has started before the expiration of the 3-year period, your records must be retained until all findings involving your records have been resolved and final action is taken (2 CFR 200.334(a)).

Excerpt above from HUD: Playing by the Rules: Recordkeeping and Reporting Requirements

When posting/publishing notices relative to the Environmental Review process, do non-business days count (i.e. weekends or holidays) towards the required posting/publishing period?

The comment period begins the day after the date the notice is published. Weekends and holidays are included in the comment period, however, if the last day of the comment period should fall on Saturday,
Sunday, or Federal holiday, the comment period shall be extended to the next business day. Refer to Chapter 8, Environmental Review.

How should applicants address Native American Tribe issues that arise during CDBG application development and CDBG grant administration?

Any and all communication must come directly from the Responsible Entity. All communications, including the notification letter and any subsequent correspondence occurring as part of tribal consultation must come directly from the Subrecipient.

Regarding Native American participation, it is highly recommended that tribal consultation is completed before SHPO consultation. In addition, a tribe may respond to a Responsible entity’s initial consultation request after the response period described in HUD Notice CPD-12-006, “Process for Tribal Consultation in Projects that are Reviewed under 24 CFR Part 58.” This notice reads, in part (Section i., Timeframes), “HUD’s policy is to request a response to the invitation to consult within 30 days from the date the tribe receives the letter. A RE may assume that an e-mailed letter is received on the date it is sent. A hard copy letter may be sent certified mail, or, if mail deliver is reliable, the RE may assume a five-day delivery period, and assume that the period ends 35 days after the letter is mailed.”

If a response from a tribe is received after the timeframe described in the HUD notice, the RE is urged to consider the tribe’s response in good faith and to accommodate the tribe’s request to the extent practicable. Requests should be met if the project schedule allows. Otherwise, the RE should politely, respectfully and explicitly explain to the tribe why the schedule does not allow the request to be accommodated. Examples may include tribal requests for cultural resource reports or ensuring on-site monitoring by a qualified professional during initial ground disturbance.

DED recommends the Subrecipient send a follow up email / letter to a tribe if the 30 day comment period has ended with no response. The follow up should inform the tribe of the project timeline and respectfully remind the tribe that the project will be moving forward if no response is received within __________ days (minimum of two weeks – allow as much time as possible).

The Responsible Entity’s Environmental Review Record (ER) should be updated to reflect how cases of delayed tribal consultation have been
considered and resolved. If the project’s Request for Release of Funds (RROF) has not been submitted for approval, the historic preservation and mitigation sections of the ER must be updated. If the project’s Authority to Use Grant Funds (AUGF) has been issued, the ERR must similarly be updated in accordance with 24 CFR Part 58.7, “Re-evaluation of environmental assessments and other environmental findings.”

Refer to Chapter 8, Environmental Review.

Are applicants allowed to have engineering contracts for retained services?

Noncompetitive contracts to consultants that are on retainer contracts are considered a form of restrictive competition thereby not allowed. Refer to Chapter 9, Procurement.

Is the acquisition of property that will be necessary for a potential CDBG project allowed?

All project acquisitions made after the applicant’s (application) public hearing date are subject to the Uniform Relocation Act (URA), regardless of the source of funding for the acquisition activities. Acquisition must not commence until the environmental review process is complete and DED has issued the Authority to Use Grant Funds (AUGF). Refer to Chapter 8, Environmental Review and Chapter 14, Acquisition & Relocation.

How do you determine the value of an acquisition that is estimated to be over $10,000?

The Uniform Act requires both an appraisal and a review appraisal when the value of the property or easement exceeds $10,000. The Subrecipient must procure both a licensed Missouri appraiser and a review appraiser in accordance with the CDBG competitive proposal method. For a listing of licensed appraisers, you may contact the Missouri Real Estate Appraisers Commission at 573-751-0038; or online at http://pr.mo.gov/appraisers.asp

Refer to Chapter 14, Acquisition & Relocation

Is procuring for materials in advance of construction bidding allowed?

The construction contractor is normally responsible for providing all labor, equipment and materials needed to perform the scope of work, however, if the
Subrecipient is procuring materials only and using force account labor, that is allowed. Please discuss proper tracking of force account labor with your Compliance Specialist.

**Can a non-profit apply for a CDBG Industrial Infrastructure application?**

Cities with population under 50,000 and Counties with population under 200,000 are eligible under the State CDBG program. A City or County must apply on behalf of a non-profit. A non-profit may be a subapplicant on any CDBG application; however, the Industrial Infrastructure program requires a for-profit participant. Projects with a non-profit entity may consider leveraging the CDBG General Infrastructure or Community Facility programs.

**If an applicant receives liquidated damages, do these then become applicable credits?**

No, applicable credits refer to receipts or reduction of expenditure-type transactions that offset or reduce expense items allocable to the Federal award as activity delivery or administrative costs. 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

Funds received by a subrecipient as a result of liquidated damages are typically held by the subrecipient and used first for any future reimbursable project expenses. Subrecipients are strongly encouraged to communicate with CDBG staff when this occurs.

**When will CDBG start accepting digital signatures for RFFs, Contracts, Payrolls etc.?**

The CDBG program follows guidance provided by HUD. Prior to the pandemic, HUD generally required original signatures. During the pandemic, HUD relaxed certain requirements and accepted digital
signatures. HUD has not yet released guidance that digital signatures are a permanent option.

When does a structure become classified as infeasible to rehabilitate and what are the program requirements that accompany a structure that is infeasible to rehabilitate?

A house or structure that is officially determined not feasible to rehabilitate to a Housing Quality Standards (HQS) code or standard will meet the HUD spot slum and blight national objective. To meet this criterion, the costs to rehabilitate the house or structure to DED’s health and safety rehabilitation standards must exceed $15,000, or $15 per square foot. Generally, Subrecipients will have identified these houses at the time of application submission, for each house in a demolition-only project. A work specification write-up inclusive of a cost estimate must be used to document the infeasibility to rehabilitate the structure. It must show the costs to rehabilitate the house to DED HQS health and safety standards. Include the number of square feet in the house. This information plus the estimate will be reviewed to determine whether the house is infeasible to rehabilitate. Refer to Chapter 18, Demolition.

What is the process for competitively procuring a regional planning commission or council of government and/or including them as a sub-applicant in the application?

a. Solicitation of professional administration services must include all persons on the CDBG Administration List and the Regional Planning Commission (RPC) or Council of Governments (COG) located in the project area.

b. Cities and counties which are member organizations of a regional planning commission (RPC) or council of governments (COG) may include that RPC or COG as a subapplicant, within their application, responsible for providing administration services so long as both of the following conditions are met:
   1. The city or county, as the CDBG Subrecipient, must be a dues-paying member in good standing of the RPC or COG for a minimum of 12 consecutive months prior to submitting an application, and must be able to provide documentation of its membership in good standing with the application.
   2. The CDBG application was prepared either by the city/county itself, or by the RPC or COG. If another third-party entity assisted the city/county with the application preparation, grant administration
must then be competitively procured in accordance with CDBG guidelines.

c. City and county Subrecipients are not required to use the RPC/COG, and may elect to competitively procure for grant administration even if both of the above conditions are met. This is simply an option that city and county subrecipients may use. Refer to Chapter 9, Procurement.

During the competitive procurement process, can the lowest bidder be altered based on alternates and/or deductions?

If the Subrecipient has reason to believe that available funds will be inadequate for the full scope of proposed work, it can request deductible or add-on alternatives in the bid process. When deductible or add-on alternatives are requested, the bid document must specify the method and order in which alternatives will be applied in determining the low bid. Whenever estimated costs are very close to the amount of available funds or the cost estimates are based on roughly comparable projects, the deductible alternative approach is very useful. It can eliminate the need to respecify the bid package and repeat the entire bid process with unavoidable delays in the project. Do not use deductible alternatives that reduce the original scope of the project that was funded.

To ensure fair and open competition among bidders, the State of Missouri CDBG program views negotiation to be defined as reducing contract units at the bid unit price and should not exceed 25% of the total contract bid amount. It should be confirmed that any reduction of contract units would not result in a change of the low bidder. If the negotiation to reduce the quantities of unit price items should result in a change of the low bidder then all bids should be rejected and project design should be modified to reduce costs and the project should be re-bid.