

# County of Lexington

## CDBG

### Policy & Procedures



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## **Introduction**

This manual sets forth policies and procedures for the administration of programs funded by the Lexington County Community Development Block Grant (CDBG) program. Although some portions of these procedures are complicated and involve complex Federal regulations and policies; this manual summarizes the essential elements for proper program operation.

No handbook can address every type of administrative/accounting problem or situation that may arise during the course of the contract year; therefore, the Lexington County's Community Development staff is available to respond to requests for clarification or additional information.

In the event that new procedures or policies are implemented during the contract period, Community Development staff will provide timely notification and technical assistance.

This manual is neither intended to be all-inclusive nor so restrictive that it cannot be amended.

## **COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAM (CDBG)**

The Housing and Community Development Act of 1974 (HCDA), authorized HUD to create the Community Development Grant (CDBG) Program. The program seeks to provide decent housing, a suitable living environment, and expand economic opportunities for low and moderate income persons.

The County of Lexington has been a participant in the Community Development Block Grant (CDBG) Program since July 1, 2000. To continue participation in this program, the County of Lexington contractually agrees with HUD to implement the Housing and Community Development Act of 1974 and related CDBG program regulations in 24 CFR 570. All CDBG allocations are subject to the regulations detailed in OMB Circulars A-110 and A-122.

This Policies & Procedures Manual establishes the framework guiding the operation of the Lexington County Community Development Block Grant (CDBG) Program. It provides an approach for making decisions, ensuring the program is operated in a fair and consistent manner, as well as providing all program participants with an understanding of how the County manages its CDBG program.

The County's participation in the CDBG Program is through the Urban County Entitlement portion of this block grant. It became eligible for this entitlement when its population exceeded 200,000 in the unincorporated areas. The County receives funds directly from HUD each year, based on Congressional apportionment.

The primary objective of the CDBG Program is to develop sustainable communities for persons of low- and moderate-income (LMI), thereby improving the housing, quality of life, and economic conditions of the Lexington community. HUD defines LMI as household income that is less than 80% of area median income.

Activities under the County of Lexington's CDBG Program must predominately benefit persons of low- and moderate-income, be eligible under the CDBG requirements, and meet a minimum of one of three HUD national objectives:

- Benefit LMI persons
- Aid in the prevention or elimination of slum or blight
- Meet an urgent need

## **PROGRAM DELIVERY METHOD**

Currently the County of Lexington uses CDBG funds, neighborhood revitalization, infrastructure and public facilities, public service activities, and to assist homeowners with minor home repairs.

The County is responsible for ensuring that CDBG funds are used in accordance with all program requirements. The use of designated public agencies, subrecipients, or contractors does not relieve the grantee of this responsibility. The grantee is also responsible for determining the adequacy of performance under subrecipient agreements and procurement contracts and for taking appropriate action when performance problems arise.

The County of Lexington establishes a Notice of Funds Available (NOFA) process annually and invites applications from qualified entities to apply for funding. The primary objective is to fund projects and activities that are consistent with locally developed CDBG Program Priorities and to address the federal/local Consolidated Plan objectives.

## CDBG IMPLEMENTATION PROCESS

The following provides an overview of the framework used by the County of Lexington to make decisions concerning the organizations, projects, and activities funded through the use of County CDBG funds.

- Step 1: Submit Consolidated Plan / Annual Action Plan & Determine Program Delivery Method
- Step 2: Select Eligible Activities that meet a National Objective
- Step 3: Comply with other Federal requirements
- Step 4: Address Financial and Administrative Requirements
- Step 5: IDIS- Set Up & Fund Activity
- Step 6: Report and Monitor Progress
- Step 7: Enter Accomplishments into IDIS

## Consolidated Plan/Action Plan

### **CONSOLIDATED PLAN/ACTION PLAN**

The process of completing / submitting the Consolidated Plan (and Annual Action Plans) helps the County to determine what activities to fund during the upcoming program year.

The Consolidated Plan is a five year plan which describes the community needs, resources, priorities, and proposed activities to be undertaken under the CDBG program. Each year, the County must submit an update to the Consolidated Plan to HUD, referred to as an Action Plan.

The Action Plan describes the specific planned uses for CDBG. Both the Consolidated Plan and Annual Action Plan are approved by Lexington County Council.

The Consolidated Plan includes the following:

1. A description of the entity responsible for overseeing the development of the Consolidated Plan and a description of the process undertaken to develop the plan;
2. A housing and homeless needs assessment;
3. A housing market analysis;
4. A strategic plan
5. A one-year Action Plan.

## Select Eligible Activities that Meet a National Objective

### **CDBG Eligible Activities**

1. Acquisition of real property for any public purposes other than the general conduct of government.
2. Disposition of property acquired with Community Development Block Grants funds.
3. Acquisition, construction, rehabilitation, or installation of public facilities and improvements carried out by the County or other public or private nonprofit entities.  
\*Generally, this does not apply to new construction.
4. Public services (limited to 15% of the County's total CDBG entitlement) which are directed toward improving the community's public services and facilities, including, but not limited to, those concerned with employment, welfare reform, child care, health, drug abuse, education, job training assistance, recreational needs, crime prevention, or energy conservation.
5. Removal of architectural barriers, which restrict the mobility of elderly and/or persons with disabilities. All publicly and privately owned buildings and facilities are eligible for funding.
6. Rehabilitation and preservation for:
  - a. Low and moderate income owner-occupied houses.



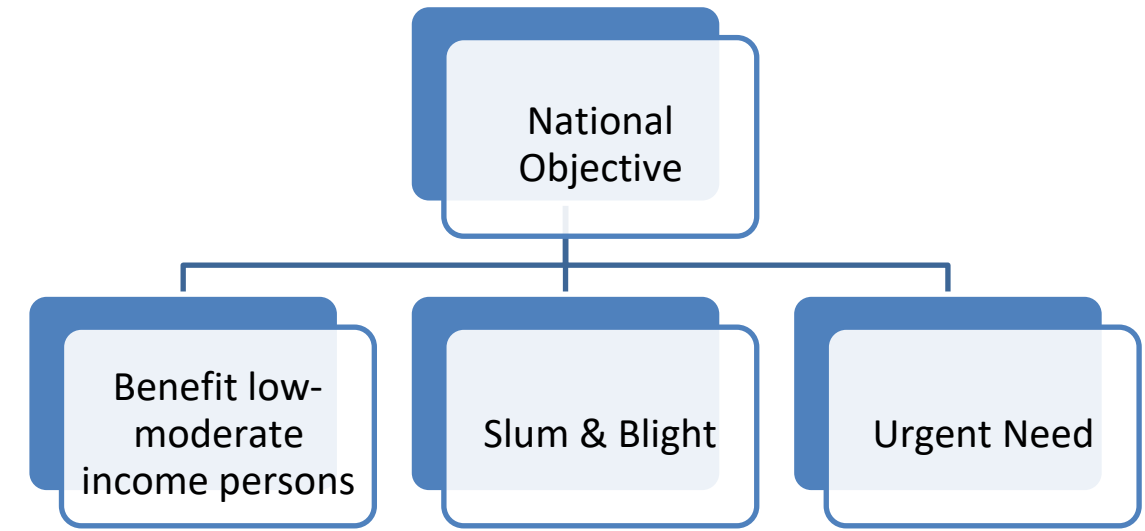
- b. Low and moderate income public housing.
  - c. Publicly owned non-residential buildings and improvements otherwise eligible for assistance.
  - d. Publicly or privately owned historic properties.
  - e. Commercial or industrial facility for job creation or retention
  - f. Public Facilities
  - g. Affordable housing or mixed income housing
  - h. Low and moderate income senior housing
  - i. Businesses that agree to hire, retain and/or serve low and moderate income persons.
7. Activities designed to create or retain jobs. All jobs created within the applicant's program are required to be permanent and at least 51 percent of the total must be for persons of low and moderate income.

### **CDBG Ineligible Activities**

The following activities may not be assisted with CDBG funds:

1. Buildings for the general conduct of government. This includes operating and maintenance expenses. Exceptions are operation and maintenance associated with public service activities, interim assistance, and CDBG program staff.
2. General government expenses except to carry out the CDBG program.
3. Political or religious activities.
4. Construction equipment.
5. Fire protection equipment unless part of a public facility.
6. Personal furnishing or property.
7. Food not related to direct service delivery to clients.
8. Furnishings that are not integral structural fixtures.
9. New housing construction except for land acquisition and other specific circumstances.
10. Income payments and other subsistence payments made to individuals or a family.

**National Objectives are defined as the following:**



The LMI national objective is the primary national objective because the statute requires that grantees expend 70% of the CDBG funds to meet the LMI national objective.

**1. Benefit Low and Moderate Income (LMI) Persons (570.208(a))**

This category of National Objective is met if the activity meets one of the four (4) following subcategories:

- Area benefit activities (LMA (570.208 (a)(1))
- Limited clientele activities (570.208 (a)(2))
- Housing activities (570.208 (a)(3))
- Job creation or retention (570.208 (a)(4))

**LMA – Areas with at least 51% LMI Persons**

An activity, the benefits of which are available to all the residents in a particular area, where at least 51 percent of the residents are low and moderate income persons. Such an area need not be coterminous with census tracts or other officially recognized boundaries but must be the entire area served by the activity. An activity that serves an area that is not primarily residential in character shall not qualify under this criterion.

**LMC**

An activity which benefits a limited clientele, at least 51 percent of whom are low- or moderate-income persons. (The following kinds of activities may not qualify under paragraph (a)(2) of this section: activities, the benefits of which are available to all the residents of an area; activities involving the acquisition, construction or rehabilitation of property for housing; or

activities where the benefit to low- and moderate-income persons to be considered is the creation or retention of jobs, except as provided in paragraph (a)(2)(iv) of this section.) To qualify under paragraph (a)(2) of this section, the activity must meet one of the following tests:

(A) Benefit a clientele who are generally presumed to be principally low and moderate income persons. Activities that exclusively serve a group of persons in any one or a combination of the following categories may be presumed to benefit persons, 51 percent of whom are low- and moderate-income: abused children, battered spouses, elderly persons, adults meeting the Bureau of the Census' Current Population Reports definition of "severely disabled," homeless persons, illiterate adults, persons living with AIDS, and migrant farm workers; or

(B) Require information on family size and income so that it is evident that at least 51 percent of the clientele are persons whose family income does not exceed the low and moderate income limit; or

(C) Have income eligibility requirements which limit the activity exclusively to low and moderate income persons; or

(D) Be of such nature and be in such location that it may be concluded that the activity's clientele will primarily be low and moderate income persons.

## **LMH**

An eligible activity carried out for the purpose of providing or improving permanent residential structures which, upon completion, will be occupied by low- and moderate-income households. This would include, but not necessarily be limited to, the acquisition or rehabilitation of property by the recipient, a subrecipient, a developer, an individual homebuyer, or an individual homeowner; conversion of nonresidential structures; and new housing construction. If the structure contains two dwelling units, at least one must be so occupied, and if the structure contains more than two dwelling units, at least 51 percent of the units must be so occupied. Where two or more rental buildings being assisted are or will be located on the same or contiguous properties, and the buildings will be under common ownership and management, the grouped buildings may be considered for this purpose as a single structure. Where housing activities being assisted meet the requirements of paragraph § 570.208 (d)(5)(ii) or (d)(6)(ii) of this section, all such housing may also be considered for this purpose as a single structure. For rental housing, occupancy by low and moderate income households must be at affordable rents to qualify under this criterion. The recipient shall adopt and make public its standards for determining "affordable rents" for this purpose. The following shall also qualify under this criterion:

(i) When less than 51 percent of the units in a structure will be occupied by low and moderate income households, CDBG assistance may be provided in the following limited circumstances:

(A) The assistance is for an eligible activity to reduce the development cost of the new construction of a multifamily, non-elderly rental housing project;

(B) Not less than 20 percent of the units will be occupied by low and moderate income households at affordable rents; and

(C) The proportion of the total cost of developing the project to be borne by CDBG funds is no greater than the proportion of units in the project that will be occupied by low and moderate income households.

## **LMJ**

An activity designed to create or retain permanent jobs where at least 51 percent of the jobs, computed on a full time equivalent basis, involve the employment of low- and moderate income persons. To qualify under this paragraph, the activity must meet the following criteria:

(i) For an activity that creates jobs, the recipient must document that at least 51 percent of the jobs will be held by, or will be available to, low- and moderate-income persons.

(ii) For an activity that retains jobs, the recipient must document that the jobs would actually be lost without the CDBG assistance and that either or both of the following conditions apply with respect to at least 51 percent of the jobs at the time the CDBG assistance is provided:

In general, National Object #1 – Benefit to Low- and Moderate Income Persons is to ensure that at least 51% or more of the persons and families benefiting must be low and moderate income (LMI) for public projects and public facilities and 100% LMI for housing activities. LMI can be determined by HUD census data or by conducting a survey. LMI is generally calculated on an area basis, meaning either the entire jurisdiction of the County or a defined targeted area within the County must be at least 51% LMI.

- To be counted as a beneficiary of a project, LMI documentation must be obtained.
- For every separate activity funded under the same project, there must be 51% LMI or the removal of slum and blight achieved.
- For the purposes of determining eligibility, all persons and families must be counted. For the purposes of determining the amount of CDBG funding, all households must be counted.
- A project may not be designed to benefit moderate-income persons to the exclusion of low income persons.
- HUD's Section 8 program income guidelines (as modified by the Housing and Community Development Act of 1987) shall be used to define low and moderate-income for the CDBG Program. The annual income limits are available from <http://www.huduser.org/portal/>. If HUD has not published the applicable year's limits, then the community may use the previous year in order to begin the survey work.

- “Income” should be viewed as a family’s total adjusted gross income. Any person that belongs to an LMI family is considered an LMI person. Request a copy of the direct beneficiaries IRS Form 1040 or other equivalent income statements

## **2. Elimination of Slums & Blight**

To prove this HUD national objective, a project must propose one of the three (3) different methods.

### **1. Addressing slums/blight on an AREA BASIS (570.208(b)(1))**

This method occurs when a structure is blighted; when it exhibits objectively determinable signs of deterioration sufficient to constitute a threat to health, safety and public welfare.

For the County to participate in this activity it must, at a minimum, determine blighted structures by applying existing dangerous building ordinance, building code level of violation or applicable occupancy or habitability designation or code violation in a manner consistent with their ordinance. The ordinance, code violation or designation must be applied to the specific structure, not to the area as a whole. The predominance of blight in an area does not allow blight to be assumed for each structure inside the area.

### **2. Addressing slums/blight on a SPOT basis (570.208(b)(2))**

The second method covers area blight, and includes submitting a resolution passed by the governing legislative body declaring the area blighted in accordance with 24 CFR 570. As stated, the definition of the national objective *elimination of slum and blight* reads as follows. The area meets the conditions of either (a) or (b):

- a) At least 25% of the properties throughout the area experience one or more of the following conditions:
  1. Physical deterioration of buildings or improvements,
  2. Abandonment of properties
  3. Chronic high occupancy turnover rates or chronic high vacancy rates in commercial or industrial buildings,
  4. Significant declines in property values or abnormally low property values relative to other areas in the community, or
  5. Known or suspected environmental contamination.
- b) The public improvements throughout the area are in a general state of deterioration.

### **3. Addressing slums/blight in an URBAN RENEWAL area (570.208(b)(3))**

This method slum and blight in urban areas. To qualify under the national objective of slums/blight it must be located within an approved Urban Renewal project area or Neighborhood Development Plan (NDP) action area and necessary to complete the initial land redevelopment plan outlined in the Urban Renewal plan.

### **3. Urgent Need (570.208(c))**

The use of the urgent need national objective is rare. It is generally used for activities to alleviate emergency conditions. According to “Basically CDBG” Course Training Manual examples include:

- Acquisition of property located in a flood plain that was severely damaged by a recent flood;
- Public facility improvements like the reconstruction of a publicly-owned hospital that was severely damaged by a tornado;
- Demolition of structures that are severely damaged by a major earthquake;
- Urgent need qualified activities must meet the following criteria:
  - The existing conditions must pose a serious and immediate threat to the health or welfare of the community;
  - The existing conditions are of recent origin or recently became urgent (generally, within the past 18 months);
  - The grantee is unable to finance the activity on its own
  - Other sources of funding are not available.

#### **Pursuant to 24 CFR 570.207 Ineligible Activities are as follows:**

- 1) Maintenance or operation costs. \*\*
- 2) General government expenses.
- 3) Political activities.
- 4) Improvements to city halls and courthouses, except those required to meet the Americans with Disabilities Act. Note: CDBG funds used for ADA projects may only convert existing facilities to accessibility. CDBG funds may not be used to add new facilities.
- 5) Purchase of equipment, except for fire protection, public services, landfills or recreation.
- 6) Income payments, except for loss of rental income due to displacement.
- 7) Application preparation costs or a bonus award for writing a successful application.
- 8) Religious purposes.

**\*\* Maintenance and Operation Costs: Any cost that recurs on a regular basis (generally, less than five years) is considered a maintenance or operation cost, therefore ineligible for CDBG assistance.**

## Comply with Other Federal Regulations

### **ENVIRONMENTAL REVIEW**

An Environmental Review Record must be completed for each project in order to meet the Environmental Review Requirements set forth at 24 CFR Part 58. All projects will publish appropriate notices (including HUD 8-Step Process), submission of the Request for Release of Funds and Certification and Authority to Use Grant Funds will be issued by HUD prior to commencing with project activities.

### **FAIR HOUSING, ACCESSIBILITY, AND EQUAL EMPLOYMENT**

The County and any sub-recipient(s) must adhere to all the basic tenets of fair housing and equal opportunity regulations. Recipients are prohibited from practicing discrimination on the grounds of race, color, national origin, religion, sex, handicap, or familial status.

This prohibition applies to all project contractors or subcontractors. Beneficiary information should be determined and demographic data compiled, with this information made available in the project file for public review.

#### **A. FAIR HOUSING**

According to the HUD Fair Housing Planning Manual, the broad objectives of Affirmatively Furthering Fair Housing can be interpreted to mean:

- Analyze and eliminate housing discrimination in the jurisdiction.
- Promote fair housing choice for all persons.
- Provide opportunities for racially and ethnically inclusive patterns of housing occupancy.
- Promote housing that is physically accessible to, and usable by, all persons, particularly persons with disabilities.
- Foster compliance with the nondiscrimination provisions of the Fair Housing Act.

#### **B. ACCESSIBILITY**

The County shall abide by HUD regulations in Section 504, HUD's implementation of the American with Disability Act (ADA). The County is to conduct a self-evaluation of accessibility

to determine their current programs, services, policies, and practices meet the requirements of Section 504 of the Rehabilitation Act of 1973 and the Americans with Disabilities Act.

### C. EQUAL EMPLOYMENT

Nondiscrimination is a requirement of employment and employment practices. Employment opportunities may not be denied on the basis of race, color, national origin, sex, age, religion, familial status, or disability. Affirmative action and equal employment opportunity policies are fundamental aspects of CDBG funded activities.

The Americans with Disabilities Act modifies and expands the Section 504 Rehabilitation Act of 1973 to prohibit discrimination against “a qualified individual with a disability” in employment and public accommodations. The ADA requires that an individual with a physical or mental impairment who is otherwise qualified to perform the essential functions of a job, with or without reasonable accommodation, be afforded equal employment opportunity in all phases of employment.

<b>Federal and State Laws and Regulations (included amendments)</b>	<b>Fair Housing &amp; Nondiscrimination</b>	<b>Accessibility</b>	<b>Equal Employment &amp; Contracting</b>
Title VI of the Civil Rights Act of 1964	X		
Title VIII of the Civil Rights Act of 1968 (The Fair Housing Act)	X	X	
Section 109 of Title 1 of the Housing and Community Development Act of 1974	X		X
The Fair Housing Amendment Act of 1988	X		
The Age Discrimination Act of 1975	X		
Section 504 of the Rehabilitation Act of 1973	X	X	X
The Americans with Disabilities Act of 1990 (ADA)	X	X	X



Section 109 of Title I of the Housing and Community Development Act of 1974	X		X
The Equal Employment Opportunity Act			X
Section 3 of the Housing and Urban Development Act of 1968, as amended			X
Executive Order 11246			X
24 CFR Part 85 (the Common Rule):			X

## PROCUREMENT

All procurements made in whole or in part with CDBG funds must comply with the applicable Federal requirements found in 24 CFR Part 85.36 (referred to as the “Common Rule”). The requirements governing the purchasing process are designed to ensure that you:

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

According to the table below, it appears that the County of Lexington’s procurement policy is stricter than CDBG’s procurement policy. Therefore, the County’s procurement policy will take precedence.

County of Lexington	HUD Requirements	HUD Requirement Notes
\$1,500 or less without competitive bids.	No competition required if price is deemed reasonable	

Over \$1,500 and not more than \$5,000 requires quotations or telephone bids from at least 2 vendors	2 written quotes should be obtained for all purchases up to \$100,000.	<i>Award should be made to the lowest responsive and responsible source.</i>
Over \$5,000 TO \$25,000 requires three written quotes by qualified bidders advertise for sealed bids allowing 14 days before bids are received and opened. The lowest and most responsive bid, meeting specifications will be recommended for award.	Over \$100,000 a) Competitive Sealed Bids. Publish one time in widest circulation paper. b) Competitive Proposals for professional services	All bids must be opened publically at the time and place stated in the invitation for bids. A firm-fixed price contract award must be made in writing to the responsive bidder whose bid is lowest, most responsible and responsive. <i>All unsuccessful bidders must be notified in writing.</i>
Above \$25,000 shall be based upon formal bid requirements competitive sealed bids shall be used in accordance with Section 2-338(a). An award shall be made to lowest responsive and responsible bidder.	Over \$100,000 a) Competitive Sealed Bids. Publish one time in widest circulation paper. b) Competitive Proposals for professional services	All bids must be opened publically at the time and place stated in the invitation for bids. A firm-fixed price contract award must be made in writing to the responsive bidder whose bid is lowest, most responsible and responsive. All unsuccessful bidders must be notified in writing

## SUBRECIPIENTS

In order to achieve the national objectives, the Lexington County allocates CDBG funds on an application basis each year. A Subrecipient is a public or private nonprofit agency, authority, or organization, which receives CDBG funds from the City to undertake eligible activities. Unless otherwise noted, the term “Subrecipient” will be used throughout this manual to denote all entities receiving CDBG funds. All Subrecipients must have the needed support, confirmed matching resources, sufficiently developed plans, a program site, and budget to start the proposed program after the funding approval and complete the program within two years. Before disbursing funds to any organization that is carrying out CDBG activities on behalf of the County, a written subrecipient agreement must be executed. Furthermore, The U.S. Department of Housing and Urban Development stipulates that certain requirements be included in all written agreements with subrecipients. Moreover, these requirements may vary over time and it is the responsibility of the County to remain aware of revised requirements. Written agreements must remain in effect for the length of time that the subrecipient has control over any CDBG funds, including program income and or property.

Applications for community development projects are accepted annually on a competitive basis. An application workshop is held each year toward late fall. Prospective subrecipients are required to attend to receive instructions on how to apply for CDBG funding. Late fall, early winter, Lexington County begins accepting application summary project proposals. The

proposals are reviewed and graded by Lexington County Grant Staff. The proposals are graded upon meeting national objectives, eligibility requirements, and management of previous CDBG grants. Once graded, the municipality with the highest rated project proposals will be notified in writing of the date and time to submit their full application and present their proposed projects to Lexington County Community Development staff and Advisory Board. After their presentations, the Advisory Committee will meet with Grant Staff and again the projects will be rated. Final determination of each project will be reviewed and a decision of projects will be made. The Subrecipients will then be notified in writing as to project approval or denial.

## **PROGRAM REGULATIONS, REQUIREMENTS AND POLICIES**

Projects must be implemented in compliance with the requirements found in the HCD Act of 1974, the CDBG program regulations found in 24 CFR 570, other federal regulations, and state policies and procedures. While most are not applicable until a project is funded and underway, some have to be considered when submitting an application for funding as they may impact cost, schedule, staffing, etc. The most notable are listed below:

1. Acquisition - Uniform Relocation Act – Grantees must comply with the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (49 CFR Part 24) when acquiring property and permanent easements that are required for a project or when residents or businesses are displaced as a result of the project. Additional regulations regarding relocation of displaced persons or businesses are found in 24 CFR Part 42 and Section 104(d) of the HCD Act of 1974.
2. Audits – If a grantee spends more than \$750,000 of federal funds from any source during their fiscal year, they are required to have a Single Audit prepared in conformance with the Uniform Administrative Requirements, Cost Principles and Audit Requirements for Federal Awards (2 CFR Part 200).
3. Conflict of Interest - Grantees must comply with federal Code of Conduct or Conflict of Interest Standards found in 2 CFR Part 200 and 24 CFR Part 570.489 which includes having a written policy.
4. Environmental Review – Grantees must comply with the National Environmental Policy Act of 1969 and other federal laws which are specified in 24 CFR Part 58. This review must be completed prior to the initiation of project activities.
5. Fair Housing and Equal Opportunity – Grantees must demonstrate their compliance with numerous federal laws, regulations, and Executive Orders as a recipient of a CDBG award and in their general conduct of operating a government. The most relevant regulations are related to non-discrimination when using HUD funding programs; non-discrimination and equal opportunity in housing; non-discrimination on the basis of race, color, religion, sex, national origin, handicap or familial status in programs and activities receiving or benefiting from

federal assistance; and employment and contracting opportunities for lower income persons or minority businesses.

6. Fair Housing and Equal Opportunity –When procuring construction or services, grantees are to take affirmative steps to solicit bids from minority owned businesses (MBE) and women owned businesses (WBE).
7. Fair Housing and Equal Opportunity - Section 3 – When procuring construction or services when it is anticipated that the contracts will exceed \$100,000, grantees must comply with Section 3 of the HCD Act of 1968 which requires that employment and other economic opportunities be made available to low and very low income persons.
8. Financial Management - Grantees must comply with appropriate sections of 2 CFR Part 200, 24 CFR 570.489. CDBG funds should only be spent on costs that are deemed as “reasonable and necessary.”
9. Housing – Fair Market Rents - Per 24 CFR Part 570.483(b)(3), the rents charged for rental properties assisted with CDBG funding must be affordable. When funded, a grantee must adopt and make public its standards for determining “affordable rents.”  
For projects assisted with other state and/or federal affordable housing funding, the contract rents for those units may not exceed the Fair Market Rents established annually for the county by HUD or the rent standards published by the state or federal funding agencies. The rents for these units must remain affordable for the defined term required by the other funding source or the term set forth below, whichever is greater.  
  
For projects that do not include other state and/or federal affordable housing funding, the contract rents for those units may not exceed the Fair Market Rents established annually for the county by HUD. The rents for these units must remain affordable for the defined term set forth below.  
  
The CDBG grantee shall enforce this requirement with a lien between themselves and the developer of the property, if applicable. The terms shall be no less than 15 years after occupancy date. Rents may be increased on an annual basis at the time of lease renewal consistent with changes in the rent standard for the project, but in no case shall a tenants rent be more the 30% of their annual income. Annual income must be checked annually by the Subrecipient.
10. Housing - Homeownership Requirements – When using CDBG funds in conjunction with any homeownership activities: 1) no subprime mortgages are allowed for persons acquiring the houses; 2) no adjustable rate mortgages are allowed for persons acquiring the houses; 3) mortgages must be for a fixed rate for a maximum of 30 years; and 4) housing counseling from a HUD approved housing counseling agency is required for persons acquiring a home.
11. Housing – Housing Rehabilitation Program Policy – The CDBG Program has policies that must be followed when using funds for single family housing rehabilitation programs. In general, all housing must be improved and meet 2015 International Residential Building Code

requirements or housing quality standards upon completion of improvements. All homeowners must meet LMI standards as set by HUD.

12. Insurance - Flood – Flood insurance is required for all buildings acquired, constructed or renovated, including housing that is located in the floodplain. The grantee is required to ensure that subrecipients, developers, businesses and homeowners maintain sufficient replacement insurance. Files must contain appropriate documentation. Insurance is to be maintained for the term of use, lien period, or loan term.

13. Insurance – Homeowner insurance is required for all buildings acquired, constructed or renovated with CDBG funds. The grantee is required to ensure that subrecipients, developers, businesses and homeowners maintain sufficient replacement insurance. Files must contain appropriate documentation. Insurance is to be maintained for the term of use, lien period, or loan term

14. Labor - Davis Bacon and Related Acts – Funded CDBG projects that result in construction contracts that exceed \$2,000 are subject to the federal Davis-Bacon Act, the Contract Work Hours and Safety Standards Act of 1962, and the Fair Labor Standards Act. This does not apply to the rehabilitation of residential structures designed for less than eight units when completed.

15. Lead Paint – Grantees must comply with 40 CFR Part 745 when undertaking renovation, repair or painting activities that disturb painted surfaces in houses, buildings converted into housing, and buildings occupied or to be occupied by children that were built before 1978. As of April 22, 2010, work performed as identified in the regulations must be completed by certified firms using certified renovators and workers trained in lead-safe work practices established by the Environmental Protection Agency.

16. Program Income - Program Income is defined as gross income received by the grantee, subrecipient, developer or business directly generated from the use of CDBG funds. Lexington County chooses to classify all funds received as program income. Program Income includes, but is not limited to, the following:

- proceeds from the disposition by sale or long term lease of real property purchased or improved with CDBG funds;
- proceeds from the disposition of equipment purchased with CDBG funds;
- gross income from the use or rental of real or personal property acquired by the recipient or a subrecipient with CDBG funds, less the costs incidental to the generation of the income;
- gross income from the use or rental of real property owned by the recipient or a subrecipient that was constructed or improved with CDBG funds, less the costs incidental to the generation of the income;
- payments of principal and interest on loans made using CDBG funds;
- proceeds from the sale of loans made with CDBG funds;
- proceeds from the sale of obligations secured by loans made with CDBG funds;

- interest earned on funds held in a revolving loan fund account;
- interest earned on program income pending disposition of the income; or
- funds collected through special assessments made against properties owned and occupied by households not of LMI, where the assessments are used to recover all or part of the CDBG portion of a public improvement

All funds must be returned to Lexington County unless the grantee has an approved Program Income Re-Use Plan. A Program Income Re-Use Plan, which includes a description of the proposed method to manage the funds and the capacity of the grantee to comply with State and federal regulations, must be submitted as part of the application and approved by Lexington County. The decision to permit retention of program income by the grantee will be made on a case-by-case basis. Program Income Re-Use Plans are approved for each grant. If a plan is approved, program income may be retained by the grantee provided the grantee pledges its general funds to reimburse Lexington County for any financial liability related to negative findings by HUD with regard to the re-use of income and if:

- the program income is targeted for an eligible CDBG activity that meets a national objective and for which DHCD has given approval; or
- the program income is targeted for use for the "same activity" "Same activity" is defined as one with the same purpose and same location as the activity generating the program income; and
- completion of the proposed activity will meet time constraints established by DHCD

### **RESIDENTIAL ANTI-DISPLACEMENT AND RELOCATION ASSISTANCE PLAN**

Section 104(k) of the HCD Act of 1974, 42 U.S.C. § 5304(k), requires that reasonable relocation assistance be provided to persons displaced as a result of the use of CDBG assistance to acquire or substantially rehabilitate property. Section 104(d) of the HCD Act of 1974, as amended, 42 U.S.C. § 5304(d), requires one-for-one replacement of all low and moderate income dwelling units housing the same number of occupants as could have been housed in the units demolished or converted to another use as a result of CDBG assistance.

### **TITLE VIII CIVIL RIGHTS ACT OF 1968 (as applicable):**

The Subrecipient shall comply with Title VIII Civil Rights Acts of 1968 which prohibits discrimination in the sale or rental of dwellings (as defined), discrimination in the financing or housing, blockbusting, and discriminatory advertising; and makes it unlawful to deny any person access to, or membership or participation in, any multiple listing service or real estate broker organization for discriminatory reasons.

### **SECTION 109 HOUSING AND URBAN DEVELOPMENT ACT OF 1974 (as applicable):**

No person in the United States shall on the grounds of race, color, national origin or sex be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity funded in whole or in part under this title.

**SECTION 504 REHABILITATION ACT OF 1973:**

Lexington County, nor will its subrecipients, discriminate against any employee or applicant for employment because of physical or mental handicap in regard to any position for which the employee or applicant for employment is qualified. The contractor agrees to take affirmative action to employ, advance in employment and otherwise treat qualified handicapped individuals without discrimination based upon their physical or mental handicap in all demotion or transfer, recruitment, advertising, layoff or termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship.

Lexington County subrecipients agree to comply with the rules, regulations, and relevant orders of the Secretary of Labor issued pursuant to the Act.

In the event the of the subrecipient's non-compliance with the requirements of this clause, actions for non-compliance may be taken in accordance with the rules, regulations, and relevant orders of the Secretary of Labor issued pursuant to the Act.

**LEAD BASE PAINT**

The construction or rehabilitation of residential structures with assistance provided under this Agreement is subject to the HUD Lead-Based Paint regulations, 24 CFR 35. Any grants or loans made by the County for the rehabilitation of residential structures with assistance provided under this Agreement shall be made subject to the provisions for the elimination of lead-based paint hazards under Subpart B of said regulations, and the County shall be responsible for the inspections and certifications required under Section 35.14(f) thereof.

**FAIR HOUSING AMENDMENTS ACT OF 1988 (as applicable):**

Lexington County and its subrecipients shall comply with Fair Housing Amendments Act of 1988 which amends Title VIII of the Civil Rights Act of 1968 that prohibits discrimination on the basis of race, color, religion, sex or national origin in the sale, rental and financing of dwellings. The 1988 Act extends coverage of the 1968 Act to persons with disabilities and families with children. In addition, the 1988 amendments establish certain design and construction requirements for new multi-family housing built for first occupancy on or after March 13, 1991.

**AGE DISCRIMINATION ACT OF 1975:**

Lexington County and its subrecipients shall comply with the Age Discrimination Act of 1975 which provides that no person, on the basis of age, shall be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving federal financial assistance.

**AMERICANS WITH DISABILITIES ACT OF 1990:**

Lexington County and the Subrecipient shall comply with the Americans With Disabilities Act of 1990 which provides that no person, on the basis of handicap, shall be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving federal financial assistance.

**FEDERAL LABOR STANDARDS PROVISIONS:**

In carrying out this agreement, the Lexington County and the subrecipient agrees to comply with the following Federal Labor Standards Provisions for applicable construction contracts in excess of \$2,000 or residential rehabilitation contracts involving more than eight units. These regulations must be complied with or sanctions will be instituted.

**Financial & Administrative Requirements**

**ADMINISTRATION & PLANNING**

CDBG funds can be used for administrative and planning activities. Funds under these categories are subject to the 20% statutory limitation.

The following are eligible administrative activities:

- General management, oversight and coordination
- Providing local officials and citizens with information about the CDBG program;
- Preparing budgets and schedules;



- Preparing reports
- Monitoring program activities
- Fair Housing Activities
- Indirect costs; and
- Submission of applications for Federal programs

Eligible planning activities are the following:

- Comprehensive plans
- Community development plans (i.e. Consolidated Plan)
- Functional plans (i.e. land use, economic development, floodplain management, transportation, historic preservation, etc.)
- Other plans and studies (i.e. neighborhood plans, capital improvements, individual plans, historic preservation studies, etc.)

Any costs and time charged must be documented through the appropriate means such as invoices, receipts, time and attendance records, etc. Documentation shall be kept on file and will be reviewed at financial monitoring.

Under this category, CDBG funds may not be used for the following activities:

- Engineering, architectural and design costs related to a specific project; or
- Other costs of implementing plans.

These costs may be eligible as part of an eligible project.

## PUBLIC FACILITIES AND PUBLIC IMPROVEMENTS (507.201(c))

CDBG funds may be used by Subrecipients to undertake a variety of public facilities and public improvement projects. In general, public facilities and public improvements are interpreted to include all facilities and improvements that are publicly owned, or that are owned by a nonprofit and open to the general public.

Eligible types of facilities and improvements may include:

- Sewer and water facilities
- Police or fire station in which services to the public are provided
- Recreation Centers
- Senior Centers
- Streets and sidewalks
- Parks and Playgrounds

CDBG-funded public facilities and improvements will typically be categorized under the LMI Benefit national objective as an Area Benefit activity. – Under the area benefit criteria, the public facility/improvement must benefit all residents of an area where at least 51 percent of the residents are LMI.

The maintenance and repair of public facilities and improvements is generally ineligible (e.g., filling potholes, repairing cracks in sidewalks, mowing grass at public recreational areas or replacing street light bulbs).

Operating costs associated with public facilities or improvements are ineligible unless part of a CDBG-assisted public service activity or eligible as an interim assistance activity.

## PUBLIC SERVICES

The total amount of CDBG funds expended for public services activities must not exceed 15% of the yearly allocation of funds plus 15% of program income received within the program year. According to 24 CFR 105(a) (8) allows the use of grant funds for public service activities, including but not limited to:

- Employment services (e.g. job training);
- Crime prevention and public safety;
- Child care;
- Health Services;
- Substance abuse services (e.g. counseling and treatment);
- Fair housing counseling;
- Education programs;
- Energy conservation;
- Services for senior citizens;

- Services for homeless persons;
- Welfare services (excluding income payments);
- Down payment assistance; and
- Recreational services.

CDBG funds may be used to pay for labor, supplies, and material as well as to operate and/or maintain the portion of a facility in which the public service and located. This includes the lease of a facility, equipment and other property needed for the public service.

For the public service to be eligible, the service must be either 1) a new service; or 2) a quantifiable increase in the level of an existing service which has been provided by the entity through state or local government funds in the 12 months preceding the submission of the County of Lexington's Consolidated Plan / Annual Action Plan to HUD.

### **TIMELY DISTRIBUTION OF FUNDS**

HUD requires the County of Lexington to use the CDBG funds it receives in a timely manner. HUD determines if the County of Lexington is spending down its CDBG entitlement in a timely manner by checking to see what the unspent balance is on July 3 of each year. HUD requires the amount of unspent funds to be no more than 150% of the entitlement amount for the current year.

The best method to review the County's timeliness is to refer to the IDIS program report number PR56.

### **PROGRAM INCOME**

Program income is the gross income received by the County of Lexington which was directly generated from the use of CDBG funds. Program income is treated as additional CDBG funds subject to all requirements.

Examples of program income include:

- Proceeds from the sale or lease of property purchased or improved with CDBG funds;
- Funds collected through special assessments on properties not owned and occupied by LMI households in order to recover the CDBG portion of a public improvement.

Program income does not include:

1. Any income received in a single year by the County and its subrecipients, that does not exceed \$35,000; and
2. Amounts generated and kept by a nonprofit development organization under 105(a) (15).

Program income must be disbursed prior to the drawdown of additional funds from IDIS.

## **UNIFORM ADMINISTRATIVE REQUIREMENTS**

In accordance with 24 CFR Part 85 the County of Lexington must adhere to certain administrative requirements. These requirements include OMB Circular A-87 “Cost Principles for State, Local and Indian Tribal Governments”. This circular establishes principles and standards for determining allowable costs under Federal grants.

Non-profits are required to comply with OMB Circular A-122 “Cost Principles for Non-Profit Organizations”. This circular establishes principles for determining allowable costs under grants, contracts and other agreements with nonprofit organizations.

In addition, local governments and nonprofit organizations are required to comply with OMB Circular A-133 “Audits of Institutions of States, Local Governments and Nonprofit Institutions”.

For additional information on uniform administrative rules for Federal grants and cooperative agreements visit [http://www.hud.gov/offices/lead/library/lead/24\\_CFRPART\\_85.pdf](http://www.hud.gov/offices/lead/library/lead/24_CFRPART_85.pdf)

## **AUDIT REQUIREMENTS**

The County of Lexington’s fiscal year runs from July 1 through June 30. Each year since 1988 the County has been awarded the prestigious national Certificate of Achievement for Excellence in Financial Reporting. In order to be awarded a Certificate of Achievement, the County must publish an easily readable and efficiently organized CAFR whose contents conform to program standards. The CAFR must satisfy both generally accepted accounting principles and applicable legal requirements.

## **CITIZEN PARTICIPATION**

Throughout the year, the County provides opportunities for citizen participation which supports in the development of the Annual Action Plan. The following are examples of meetings which are open to the public and include discussions of the County’s housing and community development needs and activities to be undertaken as described in the Annual Action Plan.

- Consolidated Annual Performance & Evaluation Report (CAPER) and Annual Needs Assessment Public Hearing
- Public Input Meeting at Gaston Branch Public Library

- Public Input Meeting Cayce-West Columbia Branch of Public Library
- Lexington County Council Planning and Administration Committee
- Public Input Meeting –Batesburg –Leesville Branch of Public Library
- Newspaper Ad in Local Newspaper Announcing Citizen Input
- Public Input Meeting –Pelion Branch of Public Library
- Lexington County Council Approval
- Public Input Meeting-Irmo Branch of Public Library
- Draft 2014 Annual Action Plan Public Hearing

A 30-day comment period will be open prior to the final plan being submitted for approval.

## **ADVISORY COMMITTEE**

The Lexington County CDBG Advisory Committee is established to provide input to and maximize the effectiveness of the CDBG program. The CDBG Advisory Committee is composed of not more than fifteen (15) community members reflecting the diversity of our community and includes representatives from banking, civic, and our faith based organizations and institutions.

A meeting will be held at least once (1) annually. Meetings will be held more frequently if deemed necessary by the Committee. Meetings are held at the Lexington County Administration Building, unless otherwise decided.

The primary responsibilities of the CDBG Community Advisory Group are to:

1. Review proposals for allocating the CDBG funds, and make recommendations to County Council.
2. Review and approval of all applicants for clearance and demolition based on established eligibility criteria and staff recommendations.
3. Review Annual Action Plan and Consolidated Annual Performance and Evaluation Report and make recommendations to CDBG staff.
4. Provide input on the needs of low and moderate income residents of Lexington County.
5. Provide input on how to affirmatively further fair housing.
6. Provide guidance on affordable housing.

Recommendations to County Council are non-binding, but will be given full consideration by County Council.

## **RECORD RETENTION PERIOD**

Under the uniform administrative requirements of the CDBG regulations, the County is required to retain CDBG records for a period of not less than four years. The record retention period begins from the date of submission of the CAPER in which the specific activity is reported on for the final time rather than from the date of submission of the final expenditure report for the award.

To be consistent with Consolidated Plan regulations, which require that grantees maintain information and records relating to the Plan and the use of funds under the programs covered by the Consolidated Plan, record(s) must be maintained for a period of not less than five years.

## **INTERNAL CONTROLS**

The CDBG program is administered by the Grants Division within the Community Development Department. Other individuals and/or departments play a key role in the day to day operations of the CDBG program such as the County Administrator, County Council, County Counselor,

Director of Community Development, Procurement Department, Finance Department and the Advisory Committee.

### **MONTHLY PROGRESS REPORTS**

Monthly reports must be submitted by the Subrecipient to Lexington County no later than the 5<sup>th</sup> day of each month. The purpose of the monthly reports is to report the financial activity and status/timeliness of the project. No requests for payment will be authorized/approved until receipt of the monthly report which reflects the request for payment.

### **REIMBURSEMENT REQUEST/IDIS DRAWS**

Processing payment reimbursement requests are completed as follows:

- Upon receipt of request, invoice is stamped and marked with the date received, the Purchase Order number, and account number of the project.
- All requests are verified by the Technician for accuracy, e.g., payrolls, copies of checks showing invoices have been paid by subrecipient, expenses are for items stipulated in subrecipient agreement budget, etc.
- Any additional information needed or corrections/revisions of the request from the subrecipient should be done at this point.
- Invoices are recorded for tracking purposes @ Y:\Grant Programs\CDBG\Drawdowns, Payment Request, Invoices\Invoice Tracking --in the appropriate activity folder.
- Invoices go to CDBG Administrator for approval.
- All payment requests then go to Director for payment approval.
- Signed Requests are returned to the Technician.
- A copy is made of the invoice and retained in the file “Pending Payment in Banner – CDBG” and the original is submitted to Procurement.
- Invoices/Requests are checked for payment in Banner each Friday.
- If PAID, invoice/request copy is marked as such and moved to the file “PAID, Pending IDIS Drawdown – CDBG” along with a screen print of Banner with the payment highlighted.
- All paid invoices are drawn in IDIS on or about the 20<sup>th</sup> of each month unless circumstances warrant otherwise.
- An IDIS Control Sheet is created for each activity/project then saved on the Y drive @ Y:\Grant Programs\CDBG\Drawdowns, Payment Request, Invoices\IDIS CONTROL SHEETS\FY and a copy printed and signed to put with the voucher.
- All documents: invoice copy, supporting documentation, IDIS Control Sheet, and screen print from IDIS showing creation of voucher, are submitted to Finance (via scanned pdf) for approval of draw.

- A copy of the approval and the IDIS Control Sheet with the signature of the Finance Representative is returned to the Financial Coordinator and maintained with other voucher documents.
- Vouchers are held in the file “Waiting for Bank ACH sheet.” until the cover page from the bank is received.
- Vouchers are then filed by voucher number.

## IDIS Set Up & Fund Activity

All projects and activities are to be entered into IDIS AFTER a subrecipient Agreement / Contract has been signed. Grantees must enter data on several different levels within IDIS Online.

- **Projects:** A grantee will add a new project in IDIS Online for each project included in the Action Plan, unless that project is a continuation of one from previous years and has already been entered into IDIS Online. This ensures that there is a parallel structure between the Action Plan, IDIS Online, and the CAPER reports that will be generated from IDIS Online. Projects mainly serve an organizational purpose and do not capture detailed information. Projects only capture enough data to give HUD an understanding of how the proposed use of funds is eligible. Detailed data are captured at the activity level.
- **Activities:** To draw down funds and to capture detailed program related accomplishment data, a grantee will set up at least one activity under each project. Activities are the basic building blocks in IDIS Online. All funds are expended and all program accomplishments are reported at the activity level. A project may have one or more activities.
- **Activity Funding:** Once the basic data are entered for an activity into IDIS Online, the grantee can commit CDBG funds to the activity. This commitment process ensures that a grantee does not budget more money than what is available. Once funds are committed to one activity, those funds are shown as unavailable for all other activities.



## Report Process

### CALENDAR OF EVENTS

The following is a copy of events that are due each Program Year.

<b>January</b>	<input type="checkbox"/> Federal Financial Report, SF 425 – due to Field Office on the 30 <sup>th</sup>
<b>February</b>	
<b>March</b>	
<b>April</b>	<input type="checkbox"/> Semi-Annual Labor Standards Enforcement Report- Local Contracting Agencies – Form 4710 – due to ATL Office of Labor Relations <input type="checkbox"/> Federal Financial Report, SF 425 – due to Field Office on the 30 <sup>th</sup>
<b>May</b>	<input type="checkbox"/> Annual Action Plan
<b>June</b>	<input type="checkbox"/> End of Program Year- June 30
<b>July</b>	<input type="checkbox"/> Beginning of Program Year- July 1 <input type="checkbox"/> Federal Financial Report, SF 425 – due to Field Office on the 30 <sup>th</sup>
<b>August</b>	
<b>September</b>	<input type="checkbox"/> CAPER – due Sept. 30
	<input type="checkbox"/> CDBG Financial Summary Report - PR26 <input type="checkbox"/> Section 3 Annual Report – Form 60002 (due w/ CAPER) <input type="checkbox"/> Contract and Subcontract Activity – Form 2516
<b>October</b>	<input type="checkbox"/> Semi-Annual Labor Standards Enforcement Report- Local Contracting Agencies – Form 4710 – due to ATL Office of Labor Relations <input type="checkbox"/> Federal Financial Report, SF 425 – due to Field Office on the 30 <sup>th</sup>
<b>November</b>	

<b>December</b>	<ul style="list-style-type: none"> <li>☐ HOME Match Report, Form 40107-A – due to HUD Field Office on or before Dec. 31 and a copy to the Office of Affordable Housing Programs (submitted as part of the HOME APR)</li> <li>☐ HOME Annual Performance Report, Form 40107 – due to HUD Field Office and HOME Program, Rm 7176, 451 7th Street, S.W., Washington D.C. 20410 on or before Dec. 31</li> </ul>
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**MONITORING OF SUBRECIPIENTS**

Lexington County will comply with its monitoring responsibilities of subrecipient projects funded under Title I of the Housing and Community Development Act of 1974, as amended. The Grants staff will utilize both “desk monitoring” and “internal/on-site” monitoring to assess the quality of program performance over the duration of the agreement or contract. The following Monitoring Plan will be utilized:

**Monitoring Plan Objectives**

The objectives are to ensure that subrecipients:

- Carry out their CDBG-funded projects in a timely manner, as described in their agreements (as modified or amended).
- Comply with all regulations governing their administrative, financial, and programmatic operations.
- Achieve their performance objectives within schedule and budget.
- Have a continuing capacity to carry out the approved program or project.

**Monitoring Guidelines**

The Lexington County Grant Programs staff maintains frequent contact with subrecipient personnel in order to achieve the objectives cited above. An annual workshop will be conducted covering the applicable federal rules and regulations to be followed by each subrecipient in the administration of their CDBG project. The workshop will cover administrative, financial and programmatic requirements.

The following steps are the standard monitoring policies and procedures which will be followed:

- Review and analyze project budgets, national objectives, activity eligibility and other application details to determine potential projects.
- Prepare thorough and comprehensive subrecipient agreement providing details of the project and requirements.

- Evaluate environmental impact of project and implement required procedures.
- Review ongoing written status reports and other communications to monitor for adherence to timelines and compliance requirements.
- Visit project site before, during and after construction.
- Monitor all subrecipient projects at least once during the project to determine compliance with all applicable laws, regulations and policies.
- Review and approve payment requests.
- Prepare and coordinate monthly reports on project status, expenditures to date, and timeliness.
- Prepare monthly report of CDBG draws detailing funds drawn on each active project and overall progress made to meet HUD timeliness requirements.
- Analyze HUD IDIS reports monthly to reconcile balances and timeliness amounts.

The Lexington County Grant Programs Division staff will conduct desk and on-site monitoring of CDBG activities and subrecipients. The desk monitoring includes on-going review of reimbursement requests and monthly reports. The on-site monitoring utilizes a checklist to evaluate the compliance of the projects/activities with all aspects of the CDBG program. The subrecipient will be informed at least fourteen (14) days in advance of the time of an on-site visit, the purpose of the visit and the compliance areas to be covered.

The areas monitored may include:

- Overall Management System
- Program Benefit
- Record Keeping
- Progress in Activities
- National Objectives
- Environmental Review
- Financial Management
- Procurement
- Labor Standards
- Non-Construction Contracts
- Acquisition/Relocation
- Compliance with federal regulations

## **Monitoring Results**

A letter reporting the results of monitoring will be sent to the grantee. The monitoring letter may contain the following:

- Contract number of grant monitored
- Date(s) of monitoring
- Names(s) of CDBG staff who monitored
- Scope of monitoring
- Names of local officials involved in the monitoring visit

- Monitoring conclusions supported by facts considered in reaching the conclusions
- Specific recommendations or required actions
- Due date of required action
- If appropriate, offer of technical assistance

The monitoring letter will be sent usually within 30 days of monitoring or earlier if possible, particularly if there are major findings. When a subrecipient is found to be out of compliance, they will have 30 days to correct deficiencies. Copies of supporting documentation demonstrating that corrective action has been taken will be required. Failure by the subrecipient to correct deficiencies may result in funds being withheld and possible restrictions on future grants.

**\*\*\*\*\*The County of Lexington shall have the same rights as the Secretary of HUD as to other remedies for noncompliance per 24 CFR 570.912 and 24 CFR 570.913**

## Enter Accomplishments into IDIS

HUD requires reliable, comprehensive information regarding program performance to ensure accountability on the use of CDBG funds. HUD must comply with the Government Performance and Results Act of 1993 and the performance management changes brought about by the Government Performance Modernization Act of 2010, fulfill reporting requirements for Congress and other stakeholders, measure progress made in meeting Agency Priority Goals, monitor grantee performance, and evaluate overall program results. In addition, grantees are subject to the full CDBG regulations regarding recordkeeping, listed at 24 CFR 570.490 (States) and 570.506(Entitlements). HUD must be able to measure the contributions the CDBG program makes toward meeting the needs of low- and moderate-income citizens across the country and be able to account for the expenditures of each and every CDBG activity, focusing on achieving the primary goal of the program to serve low and moderate income persons. This guidance is intended to assist grantees in providing information needed for HUD to meet these requirements.

Grantees are required to report all accomplishments achieved for each activity in a program year, excluding planning and administration activities (matrix codes 20, and 21A-J) for States and Entitlements, but including planning-only activities for State grantees (matrix code 20A). Complete information must be reported for each activity. These data are required to demonstrate national objective compliance and to account for the use of CDBG funds. The data required for each activity are dependent on the activity's matrix code and national objective. The matrix code identifies the eligible use of an activity and is required for each activity in IDIS. Each activity, except for planning and administration activities, must also meet a national objective to either benefit low and moderate income persons, aid in the prevention or elimination of slums or blight, or meet an urgent need.

Direct benefit activities, those with a national objective of LMC\*, LMH\*, and LMJ\*, generally require the following accomplishment data:

- Race/ethnicity of beneficiaries

- Income level of beneficiaries
- Number of jobs created and retained, for LMJ activities
- Leveraging
- Performance measures

For LMA\* activities information on the service area must be reported by either using HUD Low and Moderate Income Summary data (LMISD) or data obtained in a survey. If the grantee is using data from a survey, the grantee must enter the total LM universe population, the low-/moderate-income population and the percentage of low- to moderate-income persons. Data required for LMA\* activities also includes:

- Leveraging
- Performance measures

For activities with a national objective of SB\* and URG, grantees must report:

- Actual units
- Designation of slum blight area, for SBA activities
- Leveraging
- Performance measures

\*Denotes all national objective criteria options under a general national objective category.

### **Timely Reporting is Required**

When accomplishment data is not entered on a regular basis, the CDBG program does not have up-to-date information on what has been achieved. This results in undercounting the program's accomplishments and is due, in part, to the infrequent entry of data in IDIS by some grantees.

Report as frequently as possible.

- Reporting as benefits are realized is the ideal
- Quarterly reporting is recommended
- Annual reporting is required

Grantees should understand the data needs upfront for each activity. If the grantee is carrying out the activity itself, it should provide the manager of that activity with complete information on what data are needed and when those data are due. When activities are being carried out by subrecipients or financial assistance has been provided to for-profit businesses, agreements should contain complete information on what data are to be collected and when those data need to be submitted. Penalties should be attached when data are not submitted as designated in an agreement.

The CDBG regulations regarding recordkeeping are listed at 24 CFR 570.490 (States) and 570.506 (Entitlements).

## ADDITIONAL PROGRAMS

### **MINOR HOME REPAIR PROGRAM**

The MHR Program generally provides up to \$13,000 in assistance for eligible minor repairs. An amount exceeding \$13,000 may be approved at the discretion of the Community Development Director with justification for the repair costs. If repair costs exceed the limits of the MHR program, it may be recommended to the CHR Program subject to that program's eligibility requirements.

### **MANUFACTURED HOMES**

- Single-family detached homes or manufactured homes are eligible for assistance through the MHR Program.
- If the home is a manufactured home, the home must be 20 years old or less at the time of application.
- A manufactured home must have permanent utility connections and on a permanent foundation as stipulated by the Lexington County Building Code Ordinance.
- The land on which the manufactured home is located must be owned by the applicant. All structures must be owner-occupied.

### **DEFERRED FORGIVABLE LOAN**

All income qualified low and moderate income homeowners (as defined by HUD) may receive assistance in the form of a deferred forgivable loan on a pro-rata basis not to exceed five (5) years. If the property is sold within the five (5) year loan period, the pro-rata balance will be due in full.

## **KEY DEFINITIONS**

**24 CFR Part 85 (the Common Rule):** This rule provides that the grantee shall take affirmative steps to encourage contracting with small minority and female owned business enterprises when possible as sources of supplies, equipment, construction, and services.

**Action Plan:** An annual update to HUD regarding the Consolidated Plan.

**Consolidated Plan:** The Consolidated Plan is prepared by the grantee in accordance with 24 CFR Part 91, and describes needs, resources, priorities and proposed activities to be undertaken with respect to CDBG program. An approved Consolidated Plan is one which has been approved by HUD.

**Contractors:** A contractor is an entity paid with CDBG funds in return for a specific service (e.g., construction). Contractors must be selected through a competitive procurement process based on the City's procurement standards.

**Copeland Anti-Kickback Act:** Makes it a criminal offense for a person to induce anyone employed in the construction, completion, or repair of any public building, public work, or building, or work financed in whole or in part by loans or grants from the United States, to give up any part of the compensation to which the employee is otherwise entitled. The Act also regulates payroll deductions, specifies methods of paying wages to covered employees, and requires the submission of weekly payrolls in conjunction with statements of compliance by all contractors in a format that meets the requirements of 29 CFR Section 5.5.

**Davis-Bacon Act:** The Act is triggered when construction work over \$2,000 is financed in whole or in part with CDBG funds. It requires that workers receive no less than the prevailing wages being paid for similar work in the same area.

**Draw down:** Refers to the process of requesting and receiving CDBG funds. Grantees draw down funds from a line of credit established by HUD, while subrecipients draw down funds from the grantee.

**Executive Order 11246:** This Executive Order applies to all federally assisted construction contracts and subcontracts. It provides that no person shall be discriminated against on the basis of race.

**Grantee:** Each entitlement community, or grantee, administers its local CDBG program in accordance with program requirements.

**Household:** All the persons who occupy a housing unit. The occupants may be a single family, one person living alone, two or more families living together, or any groups of related or unrelated persons who share living arrangements.

**Income:** Grantees may select any of three definitions of income: (1) Annual income as defined under Section 8; (2) Annual income as reported under the Census long form; or (3) Adjusted gross income as defined by the IRS Form 1040.

**Limited Clientele:** Persons (or groups of persons) are presumed to be principally LMI, according to HUD. These include: abused children, battered spouses, elderly persons (age 62 and over), adults meeting the Bureau of the Census' definition of severely disabled, homeless persons, illiterate adults, persons living with AIDS, and migrant farm workers.

**Low and Moderate Income:** Low and moderate income (LMI) means family or household annual income less than the Section 8 Low Income Limit, generally 80% of the area median income, as established by HUD.

**Low-Income Household/Family:** A household/family having an income equal to or less than the Section 8 Very Low Income limit (50% of the area median income) as established by HUD.

**Moderate-Income Household/Family:** A household/family having an income equal to or less than the Section 8 Low Income limit (80% of area median income) established by HUD, but greater than the Section 8 Very Low Income Limit (50% of area median income) established by HUD.

**Section 109 of Title 1 of the Housing and Community Development Act of 1974:** This section of Title 1 provides that no person shall be excluded from participation (including employment), denied program benefits, or subject to discrimination on the basis of race, color, national origin, or sex under any program or activity funded in whole or in part under Title I of the Act.

**Section 3 of the Housing and Urban Development Act of 1968, as amended:** Requires the provision of opportunities for training and employment that arise through HUD-financed projects to lower-income residents of the project area, to the greatest extent feasible and consistent with Federal, State and local laws and regulations. Also required is that contracts be awarded to businesses that provide economic opportunities for low- and very low-income persons residing in the area. Amendments to Section 3 in 1992 included requirements for providing these opportunities in contracts for housing rehabilitation, including lead-based paint abatement, and other construction contracts.

**Section 109 of Title I of the Housing and Community Development Act of 1974:** Requires that no person shall be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity funded with CDBG funds on the basis of race, color, religion, national origin, or sex.

**Section 504 of the Rehabilitation Act of 1973:** It is unlawful to discriminate based on disability in federally assisted programs. This section provides that no otherwise qualified individual shall, solely by reason of his or her disability, be excluded from participation (including employment), denied program benefits, or subjected to discrimination under any program or activity receiving Federal funding assistance. Section 504 also contains design and construction accessibility provisions for multi-family dwellings developed or substantially rehabilitated for first occupancy on or after March 13, 1991.

**Subrecipient:** An entity that assists the grantee to implement and administer its program. Subrecipients are generally nonprofit organizations that assist the recipient to undertake one or more activities on behalf of the grantee, such as a home rehabilitation. Subrecipients are also referred to as sub grantees.

**The Age Discrimination Act of 1975:** This Act provides that no person shall be excluded from participation, denied program benefits, or subject to discrimination on the basis of age under any program or activity receiving Federal funding assistance. Effective January 1987, the age cap of



70 was deleted from the laws. Federal law preempts any State law currently in effect on the same topic including: KRS 18A.140; KRS 344.040; 101 KAR 1:350 Paragraph 11; 101 KAR 1:375 Paragraph 2(3); 101 KAR 2:095 Paragraphs 6 and 7.

**The Americans with Disabilities Act of 1990 (ADA):** This Act modifies and expands the Rehabilitation Act of 1973 to prohibit discrimination against “a qualified individual with a disability” in employment and public accommodations. The ADA requires that an individual with a physical or mental impairment who is otherwise qualified to perform the essential functions of a job, with or without reasonable accommodation, be afforded equal employment opportunity in all phases of employment. Kentucky adopted this Act in 1992 with the enrollment and passage of Senate Bill 210.

**The Equal Employment Opportunity Act:** This Act empowers the Equal Employment Opportunity Commission (EEOC) to bring civil action in Federal court against private sector employers after the EEOC has investigated the charge, found “probable cause” of discrimination, and failed to obtain a conciliation agreement acceptable to the EEOC. It also brings Federal, State, and local governments under the Civil Rights Act of 1964.

**The Fair Housing Amendment Act of 1988:** This Act amended the original Fair Housing Act to provide for the protection of families with children and people with disabilities, strengthen punishment for acts of housing discrimination, expand of the Justice Department jurisdiction to bring suit on behalf of victims in Federal district courts, and create an exemption to the provisions barring discrimination on the basis of familial status for those housing developments that qualify as housing for persons age 55 or older.

**The Uniform Guidelines on Employee Selection Procedures adopted by the Equal Employment Opportunity Commission in 1978:** This manual applies to employee selection procedures in the areas of hiring, retention, promotion, transfer, demotion, dismissal and referral. It is designed to assist employers, labor organizations, employment agencies, licensing and certification boards in complying with the requirements of Federal laws prohibiting discriminatory employment.

**The Vietnam Era Veterans’ Readjustment Act of 1974 (revised Jobs for Veterans Act of 2002):** This Act was passed to ensure equal employment opportunity for qualified disabled veterans and veterans of the Vietnam War. Affirmative action is required in the hiring and promotion of veterans.

**Title VI of the Civil Rights Act of 1964:** This Act provides that no person shall be excluded from participation, denied program benefits, or subject to discrimination based on race, color, and/or national origin under any program or activity receiving Federal financial assistance.

**Title VIII of the Civil Rights Act of 1968 (The Fair Housing Act):** This Act prohibits discrimination in housing on the basis of race, color, religion, sex and/or national origin. This law also requires actions which affirmatively promotes fair housing.