

CHAPTER 2 – ADMINISTRATIVE OVERVIEW

Administrative Requirements

The Department fully expects recipients of CDBG funds from the State of Nebraska to comply with all administrative requirements. Recipients must become educated on all administrative components, elements and requirements of the CDBG Program. The Department recommends that grantees develop a project management plan to assist in compliance. Such management plan should include a list of responsibilities for each project team member, a timeline of implementation steps and a detailed outline of a filing system.

The requirements in this manual provide grantees with standards for administering the CDBG Program in a consistent manner. These requirements are in addition to the Federal Housing and Community Development Act (the Act), as amended. The federal requirements for the program are described in 24 CFR Part 570, 24 CFR Part 85, OMB Circular A-87 and OMB Circular A-133.

Eligibility

Eligibility requirements for participation in the CDBG Program are specified in the Application Guidelines that are published annually and are consistent with the Annual Action Plan for the CDBG Program. The Department will approve only those activities that meet one of the national objectives set forth in Section 104(b)(3) of the Act, and are otherwise eligible within the particular project funding category.

Administrative Training

The Department provides training on administering CDBG through the Certified Administrators Training Program. Find information and registration forms on upcoming workshops at the Department's website at www.neded.org.

The principal contact at the Department for a particular CDBG project is the program representative assigned to the project. The program representative is familiar with the project and assists the local government and the Certified Administrator with implementation.

Certification Requirements for Administering a CDBG project

1. General Requirement.

All grantees who receive a CDBG grant from the Department must have a Certified Administrator. The Certified Administrator is the person in charge of the project on a day-to-day basis (Certified Administrator or Administrator). A Certified Administrator is also required for locally managed CDBG Housing Revolving Fund accounts. The Certified Administrator may be an employee of the grantee who has successfully completed the certification process or a consultant procured and contracted by the grantee that is recognized as a Certified Administrator by the Department.

Certified Administrators are designated as such by the Department after successful completion of a written examination offered following the Department's Certification Workshop, which is conducted at least once each year. As part of satisfying the special conditions of their CDBG contract, grantees must identify the Certified Administrator who will administer their project. The Department will verify that the person named is a Certified Administrator prior to issuing a Notice of Release of Funds.

2. Certified Administrators Required Knowledge and Duties.

Certification of professional administrative personnel by the Department is based upon the premise that the person who will be assisting the grantee in meeting CDBG requirements must have a high level of proficiency in all areas of CDBG project management. The five major competencies needed by all Certified Administrators are:

- a. Knowledge of the Federal Community Development Block Grant Program as implemented and administered by the Department.
- b. Ability to understand, interpret and apply federal regulations.
- c. Basic knowledge of community-based and economic development programs.
- d. Leadership ability.
- e. Organization and management skills.

The duties and responsibilities of a Certified Administrator include, but are not limited to, the following:

- a. Ensure that the Grantee meets the requirements of all statutes, state rules, and federal regulations relevant to the project.
- b. Ensure that the Grantee meets the Special Conditions of the contract within the time frame stated in the grant agreement in order to receive Release of Funds.
- c. Ensure that the Grantee meets all federal and state requirements when procuring for professional services and construction services. This includes making sure that all required CDBG clauses are included within the contracts.
- d. Ensure that the Grantee has a solid understanding of the financial management requirements associated with the CDBG grant and that the Grantee has an appropriate financial management system in place.
- e. Ensure that all environmental, labor, acquisition, and relocation laws are followed over the course of the project.
- f. Ensure that all reporting is submitted to DED by deadlines.
- g. Ensure for closeout and compliance review of projects.

3. The Certification Process.

All persons seeking the Certified Administrator designation must complete a written exam (Certification Exam). The Certification Exam will consist of questions that cover and examine

the five competencies noted above. The Certification Exam will be given by the Department at least once each calendar year and will be preceded by a Certification Workshop. The Certification Workshop is a training event which covers information and material necessary for the successful completion of the Certification Exam. The Certification Workshop and Certification Exam are collectively referred to as Full Certification. Those who do not receive a passing score on the Certification Exam will not be certified. Those individuals may retake the Certification Exam at the next scheduled Certification Exam time or may request to make special arrangements with the CDBG Program Manager to take the Certification Exam at a different time. Successful completion of the Certification Exam will result in a 3 year certification period.

If an individual would like to become certified during a time when no certification class is available, such individual can apply for a Conditional Certification. Conditional Certification will allow an individual to become certified to administer CDBG grants in Nebraska for a short period of time, not to exceed the time between passing the Certification Exam and the next scheduled Certification Workshop.

In order to receive a Conditional Certification, individuals must schedule a time to take the Certification Exam with the CDBG Certified Administrator Program Coordinator. It is the responsibility of the individual to prepare for the Certification Exam. The cost of taking the Certification Exam will be equal to the cost associated with attending the Full Certification training and includes the purchase of the Nebraska CDBG Administration Manual.

The Certification Exam is open-book; however, the only materials that individuals are allowed to use are those located in the Nebraska CDBG Administration Manual. The Certification Exam must be proctored in the Lincoln office. Individuals will be given a maximum of three hours to complete the Certification Exam.

If the individual seeking Conditional Certification passes the Certification Exam, Conditional Certification will be given until the next Full Certification training. Administrators who receive Conditional Certification will be required to attend the next available Certification Workshop in order to receive full Certified Administrator status and the cost of attending the training will be waived. If an Administrator fails to attend the next Certification Workshop, the Conditional Certification will expire immediately after the training event. In this event, the individual will be decertified and any Grantees that have entered into administration agreements with the Administrator will be notified that they must select another Certified Administrator.

Individuals seeking Conditional Certification will be given one opportunity to take and pass the Certification Exam. If the individual does not pass the Certification Exam, there will not be an opportunity to retake it. Individuals must then wait and attend the next Full Certification training and pass the Certification Exam if they wish to become certified to administer CDBG grants.

4. The Recertification Process.

At the end of a certification period, Certified Administrators must attend a training to become recertified (Recertification Training) and receive a passing score on the exam at the end of this training (Recertification Exam) in order to maintain status as a Certified Administrator. Upon

recertification, certification becomes effective for a four year period. Recertification Trainings will be offered once each year. Recertification must be successfully completed prior to the expiration of the Administrator's certification. Certified Administrators may attend Recertification Training and pass the Recertification Exam in either the third or fourth year of certification to maintain the certification. Once successfully recertified, Administrators will be certified for another four years beyond the certification expiration date, regardless of whether the recertification took place in the third or fourth year of certification.

Those who do not pass the Recertification Exam following the Recertification Training or fail to attend the Recertification Training prior to the expiration of their certification will be put on probation until the next Full Certification. An Administrator on probation may continue with current agreements; however, such Administrator will not be eligible to enter into new agreements. In order to be removed from probation, the Administrator will need to attend the Certification Workshop and pass the Certification Exam given at the next scheduled Full Certification training. In this event, an Administrator who attends and successfully completes Full Certification to be removed from probation will be recertified for 2 years. Failure to attend the next Full Certification will result in being decertified. A decertified Administrator is not eligible to attend a Department training for the purposes of becoming certified for one year.

In the event that an Administrator attends the Certification Workshop to be removed from probation and does not pass the Certification Exam, the Administrator will be decertified and will not be allowed to attend Department training for the purposes of certification for one year. During this one year period, the individual will not be recognized as a Certified Administrator by the Department and will not be allowed to administer any CDBG grants.

After the one year period, the person may attend Full Certification training to once again become certified. Individuals who re-enter the Certified Administrator program may not attend a Recertification Training to become certified. Such individuals will be treated as first-time participants and will initially be certified for 3 years after attending the Certification Workshop and successfully passing the Certification Exam.

The due date for recertification is noted on the Certification Certificate or recertification notice provided by the Department. Note that certification expiration and renewal is based upon a specific calendar date and not based on the CDBG program year. Certified Administrators may need to be recertified during an ongoing project.

The Department sends out certification expiration notices to Administrators, as well as notices in regard to available trainings. However, failure to receive a notice does not exempt an Administrator from meeting any recertification training requirements.

5. Administrator in Good Standing; and Types of Violations

Definition of Administrator in Good Standing

To avoid probation or decertification, an Administrator should remain in good standing. An administrator is considered to be in good standing by achieving the following objectives:

- 1) Assist grantee in meeting all special conditions of the contract within 90 days of the Notice of Award.
- 2) On behalf of the grantee, timely and correct submission of all documents and forms required by the CDBG program.
- 3) Ensure that all deficiencies noted in a monitoring letter are resolved in 30 days
- 4) Ensure that the same deficiencies do not occur in multiple monitoring letters.

Please note that this list is not all-inclusive and is subject to change without notice.

Violations Affecting Good Standing

Failure to remain in good standing can result in probation or decertification. Each documented failure of the Administrator to meet any of the above objectives will result in a violation. Please note that Objective #2 (above), the incorrect and untimely submission of all documents and forms (including drawdowns), affects the good standing of an Administrator. However, the Department acknowledges that there may be factors outside of the control of the Administrator that can result in incorrect or untimely submittal of forms and documents. Subsequently, the nature and the frequency of the incorrect or untimely document submittals will be taken into consideration when issuing violations under Objective #2.

Monitoring Violations

Monitoring violations can affect an Administrator's good standing in the CDBG Certified Administrator program. The monitoring visit will address three different areas: Grantee Findings, General Findings, and Deficiencies. Each violation has a different effect on an Administrator's standing:

Grantee Finding: These are the requirements that are the primary responsibility of the local governmental entity receiving the CDBG award. In most cases, a grantee finding will not be counted as a violation on the part of the Certified Administrator. However, if there are repeated Grantee Findings, these may result in a violation on the part of the Certified Administrator. For example, if the local government did not issue a check to a contractor within 10 days of drawing down CDBG funds, this is a Grantee Finding. If the local governmental entity repeatedly fails to follow the 10 day rule throughout the course of the project, this may result in a General Finding (which does count towards a violation for an Administrator) as well as a Grantee Finding because it is the Certified Administrator's job to ensure that the financial management system at the local level meets the all federal and state rules and regulations.

General Findings: These are any errors that cannot be corrected. An example is a Project Status report not submitted by the due date. Each general finding will count as 1/3 of a violation against the Certified Administrator. A violation occurs when there are 3 General Findings against an Administrator. General Findings against an Administrator are cumulative and can come from multiple projects. For instance, if an Administrator is working on 3 different CDBG projects and has one General Finding for each project, this will result in a violation that will remain on the Administrator's record for one year.

Deficiencies: These are any errors that can be corrected. Most issues found in a monitoring will fall under this category. The Administrator will have 30 days from the date on the monitoring letter to resolve a deficiency. If the deficiency is not resolved within 30 days, it becomes a violation. Additionally, if the same deficiency is documented multiple times to the same Administrator, even if resolved within 30 days, it will become a violation against the Administrator's certification.

Clearing Violations from Administrator's Record

A violation will remain on the Administrator's record for a one year period. A violation can also be removed from the Administrator's record prior to the end of the one year period if the Administrator attends a training that addresses the subject matter specific to the violation.

If the Administrator chooses to attend training to clear a violation from his/her record, the Administrator must attend the next relevant training session within 6 months of the date of the violation notice to successfully remove the violation from the record. If agreed upon by the CDBG Certified Administrator Program Coordinator, the Administrator can choose to attend the relevant session(s) of the Department Certification or Recertification Trainings or, if there are no Certification or Recertification Trainings available within the 6 month window, the Administrator may contact the CDBG Certified Administrator Program Coordinator to schedule an individual training on the violation subject matter. An Administrator will not be allowed to clear a violation through training if the violation is the fourth violation within the one year period, and the Administrator will be placed on probationary status.

Violation Notices

Administrators will receive email notices when violations occur in order to provide the Administrator with a Good Standing Status Report and an opportunity to clear the violation(s) by attending relevant training.

Once an Administrator accumulates two documented violations, the Administrator will receive a written warning from the CDBG Program Manager.

Administrators will receive written notices upon accumulation of the third violation. At this time, notification will also be sent to the Administrator's employer and the local contacts for all of the Administrator's current projects.

Four documented violations within the one year period will result in administrative probation. Notice will be sent via certified mail. Notice may also be sent to the Administrator's employer and the local contacts for all of the Administrator's current projects.

6. Administrative Probation

After four documented violations, occurring as the result of an Administrator failing to remain in Good Standing or as the result of monitoring General Findings or unresolved or repeated Deficiencies, the Administrator will receive written notice from the CDBG Program Manager that he or she has been placed on administrative probation. The CDBG Program Manager may place a Certified Administrator on administrative probationary status for a period of up to one year if the Certified Administrator has accumulated four violations as described in Section 5 of

this chapter. The CDBG Program Manager shall document reasons for the probationary status. Probationary notification will be made by certified mail and shall be effective from the date of the certified mail receipt. Such notification will include the reasons for probationary status, as well as the length of the probationary period.

The Certified Administrator may continue to administer current CDBG contracts to which they are a party, but may not enter into new contracts during the probationary period.

After the probationary period, the Certified Administrator may be fully reinstated if there are no further documented violations within that period. At the discretion of the CDBG Program Manager, an Administrator who has not incurred further violations during the probationary period may be required to attend a CDBG training event before the Administrator is once again considered to be in good standing. If one or more violations are documented during the probationary period, the Administrator will not be allowed to clear the violations through training. An additional violation will result in the end of the probationary period and the decertification process will proceed. If an Administrator is placed on probation twice within a three year period, the Department will proceed with the decertification process.

Should the Administrator's certification expire during the probationary period, the individual shall be allowed to participate in the Recertification Training and may become recertified; however, this does not nullify the probationary status or any violations on the record and the Administrator will remain on probation and unable to enter into new CDBG grant administration contracts until the end of the probationary period and the Administrator is once again in good standing.

Appeal of Violations/Probationary Status

An Administrator may appeal the issuance of a violation and/or probation in writing to the Director of Community and Rural Development Division within 20 working days of the date of the notice of the violation/probationary status. In appealing a violation, the written appeal must include: a description of the violation in question; extenuating circumstances surrounding the violation, if any; and reasons that the Certified Administrator believes that the violation should not be recorded on their administrative record. In appealing imposition of probationary status, the written appeal must include: a summary of all violations leading up to the decision to put the Administrator on probation; extenuating circumstances surrounding the Administrator's performance over the year; and reasons that the Certified Administrator believes that probationary status is not warranted. The written appeal must be signed by the Certified Administrator; however, the Certified Administrator may include supporting documentation as deemed necessary by the Administrator.

Decisions by the Community and Rural Development Division Director in regard to the issuance of a violation or to put an Administrator on Administrative Probation will be final.

7. Decertification

A Certified Administrator may be decertified if the following actions are documented and verified by Department staff. These actions include but are not limited to:

- a. Consistently bypassing federal or state statutes, regulations or policies, Actions that result in the de-obligation or repayment of grant awards.
- c. Two or more substantiated, written complaints filed by a grantee, agent, elected official or other individual involved in the implementation of federal grants.
- d. Poor performance by the grantee, as evidenced by consistent grant extensions, modifications, project delays, and unresolved monitoring issues.
- e. Improper procurement of contractors.
- f. Conflicts of interest which, if disclosed, would result in the loss of the contract.
- g. Failure to attend the mandatory trainings and pass the exam administered at the required trainings.
- i. Accumulation of an additional violation while on probation, or being placed on probation twice within three years.
- j. Engaging in conduct involving significant dishonesty, fraud, deceit, or misrepresentation whether or not such activity is a crime.
- k. Engaging in any conduct significantly prejudicial to the administration of the CDBG program or CDBG grants.

At the discretion of the CDBG Program Manager and the Director of the Community and Rural Development Division of the Nebraska Department of Economic Development, the aforementioned actions can automatically result in the implementation of the decertification process without an initial or additional probationary status.

An Administrator who is decertified for any reason, including failure to attend mandatory trainings and pass the exams, will need to wait one year before attending the Full Certification training. A decertified Administrator may not attend a Recertification Training in order to become reinstated as a Certified Administrator.

The Department reserves the right, with cause, to add to this list without notice any action detrimental to the efficient conduct and timely execution of a grant award that is attributable to the performance of a Certified Grant Administrator. Decertification will not take place without the due process that is outlined in the following section.

8. Decertification Process

The decertification process shall begin with written notice from the Director of the Community and Rural Development Division of the Nebraska Department of Economic Development. Such notice will be mailed to the Certified Administrator via certified mail. The notice will advise the Administrator that the Department is seeking decertification of such Administrator. The notice will also include a statement of the reasons for decertification and a statement that the Administrator is entitled to file a written appeal with the Deputy Director of the Nebraska Department of Economic Development.

The Certified Administrator will have 20 calendar working days from the date of the letter (as evidenced by the certified mail receipt) in which to file an appeal with the Deputy Director. The

appeal must specifically respond to the reasons for decertification as set forth in the decertification notice.

The Deputy Director of the Department of Economic Development will make the final decision in regard to a decertification appeal. The decision of the Deputy Director will be issued via certified mail within 20 calendar working days of the receipt of the appeal.

If a Certified Administrator fails to file an appeal with the Deputy Director within 20 calendar working days from the date of the letter, the Department will proceed to decertify the Administrator.

Working with a Decertified Administrator

The Department recognizes that decertified Administrators could potentially continue to work on projects with the assistance of an Administrator in good standing. The Department cautions Administrators in good standing that this type of arrangement can result in violations against the Administrator in good standing. Regardless of who actually prepares the documents, errors will result in violations against the Administrator that is the Certified Administrator of record for the project. Please note that this is also applicable to Administrators that have been placed on administrative probation and are unable to enter into new contracts. If the Administrator on probation continues to work on new projects under the name of an Administrator in good standing, violations resulting from the work on the project will accumulate on the record of the Administrator in good standing.

Appeal of Department Decisions

An appeal is a written request directed to the Department by an applicant, grantee or Certified Administrator for reconsideration of a decision made by Department staff. **This applies to all appeals, with the exception of appeals in regard to the Certified Administrator program, the process of which is outlined above.**

Procedures

- (1) An applicant, grantee or a Certified Administrator appealing a decision of Department staff must submit a written appeal requesting a reversal of the decision based upon facts of the situation. This appeal must come to the Department from the Chief Elected Official or the Certified Administrator.
- (2) The CDBG Program Manager will consider the issues and respond within 30 days to the applicant, grantee or Certified Administrator.
- (3) If dissatisfied with the CDBG Program Manager's decision, the applicant, grantee or Certified Administrator may appeal to the Department Director. The Department Director may, at the request of the parties, schedule a hearing or simply render a written decision. If a hearing is held, all interested parties will participate.
- (4) The purpose of this informal hearing will be to determine the facts of the situation, the appropriateness of the decision, and the justification and the appropriateness of the appeal.

(5) The Director will make a decision within 30 days of the hearing. This written decision will be sent to all parties.

(6) The Director's decision is the final administrative action that will be taken by the Department.

Complaints

Individuals or authorized representatives of individuals who believe they have been the subject of discrimination based upon a disability may file a complaint with the Department or the Fair Housing and Equal Opportunity Office of the Department of Housing and Urban Development located in Kansas City.

Against Grantee Administration

The Department will accept complaints against grantee administration of the program. Only written complaints against the grantee's administration of the program will be received and acted upon by the Department.

The Department will implement the following procedures for disposition of complaints against local administration.

- a. The Department will forward a copy of the written complaint to the grantee.
- b. The Department Complaint Manager will request that the grantee respond to the complaint and inform the Department within 30 days of the action to be undertaken to resolve the complaint.
- c. If the response by the grantee is determined to be satisfactory, in consultation with the Complaint Review Committee, the grantee will be notified along with the party lodging the complaint.

Since the complainant is receiving a copy of this letter, which is simply our Department's standard, initial, response request letter to a program grantee, we will particularly note the following for the information of the complainant. This Department, in its complaint resolution process, simply reviews the propriety of the grantee's administrative procedures in general, and the actions the grantee has taken in a particular case to review and attempt to resolve the concerns of the complainant. This Department does not rule upon nor serve as a referee in disputes between a homeowner and a contractor about workmanship, product warranties, "punch list" completion, construction completion timing, or any other of a whole host of issues which can, and often do, arise between homeowners and construction contractors. These disputes are matters to be resolved directly by the parties, or failing that, through legal remedies in court. This Department's administrative procedures review is not a court for resolution of such disputes. We emphasize this point here because we do not want the complainant

homeowner to be operating under the false impression that the Department's review procedure is going to review or resolve disputes the homeowner may have with their contractor.

- d. If the response is determined to be inadequate, the grantee will be put on official notice by the Department that the response was inadequate, and will be granted 15 days to reconsider and respond to the party lodging the official complaint. The grantee will submit to the Department the actions occurring to resolve the complaint.
- e. The Complaint Review Committee will review the Grantee's actions to resolve the complaint. If the actions are deemed satisfactory, the Grantee will be notified along with the party lodging the complaint.
- f. If the Complaint Review Committee does not consider the grantee's actions satisfactory in resolving the complaint, the Department will impose administrative sanctions upon the grantee. The sanctions will not be lifted until the Department is satisfied with the grantee's actions.
- g. The Department Director or their designee may be consulted to arbitrate all complaints. If after consulting with the Director or their designee the local government and the party lodging the complaint are not satisfied with the decision, the party lodging the complaint may appeal to HUD officials.

Against State Administration

The Department will receive complaints against state administration of the program. The Department will respond to only written complaints against the state's administration of the program.

The Department will implement the following procedures in response to complaints against state administration of the CDBG Program

- a. When a complaint is received by a Department official it will be forwarded to the CDBG Program Manager.
- b. Within 30 days of receiving the complaint the CDBG Program Manager, in consultation with the appropriate parties, will respond to the complaint.
- c. Complaints will be responded to in writing.
- d. If dissatisfied with the disposition of the complaint, the party may lodge an official appeal of a decision to the Department Director.

Administration of a CDBG Project – The Keys

Application

Most funding within the CDBG Program is available to local governments on a competitive basis. The Department notifies potential applicants when CDBG application guidelines are available for an upcoming application period. The guidelines describe eligible applicants, eligible activities, the application process and the deadline for acceptance of an application. The Department also holds workshops on the CDBG applications each year. It is a good idea to contact a Department staff member before starting an application. Look for information on Department staff contacts, application guidelines and workshops on the Department's website (www.neded.org).

Notice of Approval or Denial

Following the Department's application review period, letters will be sent to all applicants informing each of the decision to fund or not fund their application. Those applicants not funded are encouraged to meet with Department staff and work towards a fundable application in the future.

The Notice of Approval notifies the grantee of the amount and type of funds awarded and the activities that the grantee will undertake with the funds. **However, the grantee must not obligate or incur project costs prior to satisfying contract conditions and receiving a Notice of Release of Funds from the Department.** Prior to the Notice of Release of Funds and after Notice of Approval, costs necessary to complete general administrative requirements such as satisfying the Special Conditions contained in the CDBG Program Contract can be obligated and incurred.

Administrative Costs

Administrative costs are the reasonable costs of overall program management, coordination, monitoring and evaluation. Project or activity costs are those related to the implementation and execution of the activity and can be classified as delivery costs.

A Grantee may be reimbursed for approved administrative costs provided:

- (1) the costs are reasonable for the services provided and are in accordance with OMB Circular A-87, 24 CFR Part 85, or 24 CFR Part 570, and the rules and regulations of the program and do not exceed the amount authorized, as amended, in the contract, unless the Department has provided prior written approval;
- (2) the costs are incurred following written Notice of Approval
- (3) the amount of compensation charged to the program is based on payrolls documented and provided in accordance with generally accepted practices of state and local governments; and
- (4) if applicable, the Grantee has followed 24 CFR Part 85 or 24 CFR Part 570 when contracting with consultants.

If the grantee withdraws from the program at any time, the Department reserves the right to determine the amount of funds to reimburse to, or recapture from the grantee for incurred administrative costs.

The Department may reduce the amount of administrative funds requested if it is deemed excessive.

CDBG Contract

The Department will send the grantee a CDBG Contract shortly after the Notice of Approval. The contract contains a project description, time of performance, sources and uses of funds, conditions governing the use of CDBG funds and the special conditions for release of funds. The contract must be signed by the recipient and returned to the Department within one month. In most cases, the special conditions of the contract must be satisfied within three months and the project completed within two years. (See Chapter 5 – CDBG Contract for more information)

The contract between the Department and the grantee provides for termination for cause and/or for convenience. In the event the Department suffers a loss of funding or termination of the federal grant that permits it to fund in full or in part a CDBG grant, the contract will terminate in full or in part.

Special Conditions for Release of Funds

Recipients of CDBG funds are advised to carefully review their CDBG Contract before implementing the funded project. Contained within the contract is a section entitled Special Conditions for Release of Funds. The section begins by stating that “Funding of the amount stipulated in §1.01 will not be released to the Recipient by the Department until the following Special Conditions for Release of Funds are met.” These Special Conditions must be satisfactorily completed by the identified date, or the Department reserves the right to cancel the contract if these special conditions are not met within this specified time frame.

Project costs cannot be obligated or incurred prior to the Department issuing a written Notice of Release of Fund to the Grantee.

Typical Special Conditions for Release of Funds

Grantee Information Sheet

Documentation that the grantee has completed and returned this form.

Environmental Review

Documentation is required by the Department evidencing the grantee’s completion of its responsibilities for environmental review and decision making pertaining to the project, and its compliance with the National Environmental Policy Act of 1969 (NEPA), and other provisions of Federal law as specified in 24 C.F.R. Part 58, which furthers the purposes of NEPA.

Authorization to Request Funds

Documentation that the grantee has completed and returned this form.

Financial Management

Documentation evidencing completion of all financial management system requirements and execution of the financial management certification form prescribed by the Department.

Procurement Standards and Code of Conduct

Documentation is required evidencing adoption of Procurement Standards and Code of Conduct equivalent to those established in 24 C.F.R. Part 85 and 24 C.F.R. Part 570.

Excessive Force Certification

Documentation that the grantee has adopted a policy to prohibit the use of excessive force by law enforcement agencies against any individual engaged in nonviolent civil rights demonstrations.

Fair Housing

Documentation that the grantee has specifically provided a description of the actions it will take during the course of the grant to fulfill the requirements to affirmatively further fair housing.

Implementation Schedule

Documentation that the grantee has established a project implementation schedule. The implementation schedule form must be submitted to the Department.

Certified CDBG Administrator

Documentation that the grantee contracted with a CDBG certified administrator for the general administration of the grant. The Department may request submission of an executed copy of the contract between the grantee and CDBG certified administrator.

Disclaimer: The above list represents a list of typical standard special conditions, however all CDBG Contracts are tailored to a specific project with unique standard conditions. The Special Conditions for Release of Funds in the CDBG Contract must be satisfied before the Notice of Release of Funds will be issued for that project.

Additional guidance on fulfilling contract conditions is available in Chapter 5 – CDBG Contract. More information on environmental review, procurement and financial management can also be found in this manual. The Department’s website contains forms needed to complete Special Condition requirements.

Release of Funds

Upon receiving the “Notice of Release of Funds” letter, the grantee may obligate non-administrative costs and draw down funds for eligible costs incurred. A Release of Funds will

not be allowed if there are any unresolved audit findings relating to a past grant and remains unresolved beyond the normal period or is deemed to be extreme misconduct.

Requesting CDBG Funds

The request by the grantee for CDBG funds is made using the Request for CDBG Funds form. **There are two separate and distinct Request for CDBG Funds forms. One form is for all project activity costs. The second form is for general administration activity 0181 only costs.** The grantee must use the correct form for requesting CDBG funds reimbursement of project costs and general administration. The grantee may not combine project costs and general administration costs on one form. Separate requests for the two types may be submitted concurrently. The Department will return the CDBG Request for Funds form when the incorrect form is submitted. These forms can be downloaded from the Department's website. If a grantee is unable to download the form, it may be requested from the Department. The website and the reverse side of the form include complete instructions for properly completing the form to request funds.

One copy of the completed Request for CDBG Funds form must be mailed to the Department for processing. The signatures on the form must be original and correspond to those signatures on the current Authorization to Request CDBG Grant Funds form (initially required for Release of Funds) the Department has on file. Grantees must send in a new Authorization to Request CDBG Grant Funds form whenever the individuals authorized to sign Requests for CDBG Funds change.

Grantees should normally receive payments of requested CDBG funds within two weeks of receipt of the request by the Department if there are no errors in the request or other reasons for delay.

All CDBG payments are made through the Nebraska Information System (NIS) based on the electronic address established by the Nebraska State Treasurer. This electronic address correlates with a designated local bank account. This is essentially the "default" bank account for CDBG payments. Refer to Chapter 12, "Financial Management," for further information on Electronic Funds Transfer and how to designate a different local bank account for CDBG payments.

Please take special note of the following concerning the request, receipt and expenditure of CDBG funds:

- A request for funds may not be submitted until the grantee has received a Notice of Release of Funds.
- Double and triple check the completed Request for CDBG Funds form before sending it to the Department, as any errors will cause considerable delay in payment.
- Request only the amount of funds needed to pay immediate obligations.
- **A request for project costs must be submitted separate from general administration. Check to make sure the correct CDBG request for funds form is used for requesting reimbursement of general administration activity 0181 costs and for project activity costs, which are non-general administrative costs.**

- Funds may be requested at any time and in any frequency; however, effective July 1, 2006 the minimum CDBG drawdown request is **\$1,500**. The exception is when the request is for only general administration, which is a **\$500** minimum request or the final request on a grant. Failure to satisfy these standards will result in the return of the CDBG request for funds.
- The maximum allowable percentage of approved CDBG general administrative activity 0181 costs as contracted that may be requested by the grantee through the CDBG drawdown process are as follows:
 - 50% upon removal of grantee contracted special conditions---DED issuance of release of funds certifies that grantee contracted special conditions are met.
 - 90% prior to the submission of project closeout---no more than 90% CDBG funds may be drawn prior to the grantee submission and the Department's receipt of closeout documents. The grantee closeout documents are the final financial report, project status report, clearance of monitoring (compliance) report, and if applicable the final wage report, final jobs report, and planning document. The local government recipient may need to submit an audit, or notification of annual audit. The Department holds 10% general administrative CDBG funds until the closeout documentation process for receipt and acceptance of documents is met. [CDBG Planning grants are not subject to the 90% draw maximum for the general administration activity prior to submission of the closeout documents].
 - 100% following submission by the grantee and receipt by the Department of all closeout documents. The grantee may submit the CDBG request for the final 10% general administration activity 0181 CDBG funds along with the closeout documents. The Department will process the final 10% general administrative costs following receipt and acceptance of closeout documents. The grantee closeout documents are the final financial report, project status report, clearance of monitoring (compliance) report, and if applicable the final wage report, final jobs report, and planning document. The local government recipient may need to submit an audit, or notification of annual audit [CDBG Planning grants are not subject to the 10% hold back for general administration activity.]
- Program income must be disbursed prior to requesting additional non-general administrative funds.
- Federal funds on hand must be disbursed prior to requesting additional funds.
- Grantees may not earn interest on the deposit of federal funds pending disbursement.
- If excessive amounts of cash (over \$5,000) are on hand for an extended period of time (over ten working days), the local government must return the excess to the Department.
- The request for payment must be in accordance with the approved budget for the grant contained in the Sources & Uses Of Funds section of the grant contract.
- Grantees are required to show local match or other funds in the proportionate amount for each activity as included in the approved budget when requesting funds for an activity.

- The request for funds should show the status of all approved activities even if no funds are requested for one or more activities in a specific request.
- Amounts must be requested in whole dollar amounts only. (Round CDBG amounts **down** to the nearest dollar.)

Grantees must contact their Program Representative if budget amendments, extensions of contract completion dates, match waivers, or other actions are needed in connection with requesting CDBG funds. Written approval of changes affecting the budget may be required before payment requests will be processed.

Matching Requirements/Other Funds

The availability of matching and leveraged funds is part of the CDBG Contract. Grantees must ensure that funds are available for expenditure during the project period. Matching and leveraged funds may be cash or in-kind contributions as defined and governed by 24 CFR Part 85, OMB Circular A-87, and 24 CFR Part 570, or unless restricted by category guidelines.

Grantees are required to certify on each CDBG Request for Funds form the amount of local and matching funds applied to the project. Project costs are to be paid from grant and local matching funds in the proportions approved in the project budget. Local funds expended for an activity for which no match is required may not be counted as part of the matching or leveraged funds required in other activities.

If the Grantee is unable to provide local matching funds in the exact proportions stated in the approved budget for all expenditures, a temporary waiver may be requested. The waiver request must include:

- (1) A letter from the Grantee signed by the Chief Elected Official which states the reasons for the request, and
- (2) The period of time for which the waiver is requested.

Contract Amendments/Extensions

During the course of administering a project, situations may occur that require a change in the original terms of the CDBG contract. These changes are referred to as contract modifications or amendments.

Grantees must request approval from the Department for **any** modification or amendment to the CDBG contract. When submitting the request for approval, the grantee must complete and submit the CDBG Contract Amendment Request Form to the Department.

Common amendment requests include:

1. Changes to the budget
2. Extensions of the contract end date
3. Decreases in proposed accomplishments
4. Amendments to housing program guidelines

The Department will review amendment requests using the following factors:

- (a) The effect the amendment will have on the points earned in the selection process.
- (b) Whether the amendment is appropriate and will enhance the overall impact of the original project.
- (c) Grantee's performance and capacity. (An on-site visit may be required before a determination can be made).
- (d) Any other relevant information.

The Department will inform grantees in writing as to whether the amendment has been approved. In most cases when the amendment is approved, the Department will provide the Grantee with a formal contract amendment, which will need to be executed by the grantee and the Department. In other cases, the Department may simply notify the grantee in writing that the modification has been approved. Grantees should never assume that an amendment has been, or will be approved, and no action should be taken until written approval from the Department is received by the grantee.

Grantees should be aware that changes to the budget that allocate funds from one activity to another activity may require the Grantee to provide additional matching funds for the project, as the proportion of match to CDBG funds that was approved during the application phase must be maintained when the budget is modified. See Chapter 5, CDBG Contract, for more information on contract amendments and modifications.

Conflict of Interest

As a general rule no employee, officer or agent of the grantee will participate in selection, or in the award or administration of a contract supported by federal funds if a conflict of interest, real or apparent, would be involved. Such a conflict would arise when: the employee, officer or agent; any member of their immediate family; their partner; or an organization which employs, or is about to employ, any of the above, has a financial or other interest in the firm selected for award. The grantee's officers, employees or agents will neither solicit nor accept gratuities, favors or anything of monetary value from contractors, potential contractors, or parties to sub-agreements, during office tenure or for one year after the closeout of the grant.

This stipulation must be included in all other contracts and subcontracts to this grant.

Upon the written request of the Grantee, the Department may grant an exception to this rule on a case-by-case basis when it determines that such an exception will serve the purposes of the Act and the effective and efficient administration of the grantee's project. An exception will be considered only when the grantee has provided the following:

- (1) A disclosure of the nature of the possible conflict, accompanied by an assurance that there has been public disclosure of the conflict and a description of how the public disclosure was made,
- (2) An opinion from the Grantee's attorney or the Accountability and Disclosure Commission that the interest for which the exception is sought would not violate applicable State laws.
- (3) Verification that the affected person has withdrawn from active involvement in any grant-related issues.

Grantees and all interested parties will receive written notification of the Department's decision to either allow or not to waive the conflict of interest requirement. In determining whether to grant an exception, the Department will consider the cumulative effect of the following factors, where applicable:

- (1) Whether the exception would provide a significant cost benefit or essential expert knowledge to the program or project.
- (2) Whether an opportunity was provided for open competitive bidding.
- (3) Whether the affected person has withdrawn from his/her functions or responsibilities or from the decision-making process.
- (4) Whether the interest or benefit was present before the affected person was in the position described in (3).
- (5) Whether undue hardship would result either to the Grantee or to the person affected when weighed against the public interest served by avoiding the prohibited conflict.

Recordkeeping Requirements

Grantees must establish a system for record keeping that assists the Department's review of files for compliance. In other words, records should be kept in a manner that clearly tells the whole story of a CDBG project from beginning to end. A tool that the Department prescribes is using the monitoring checklist as a guide for the organization of grant files.

Financial records, supporting documents, statistical records and all other records pertinent to a grant will be retained for a period of ten years after closeout (certificate of closeout) of the grant. The ten-year rule is not applicable if:

- a. Any litigation, claim or audit is started before the expiration of the ten-year period, the records will be retained until all litigations, claims, or audit findings involving the records have been resolved.
- b. Records for nonexpendable property acquired with CDBG funds will be retained for 4 years after its final disposition.
- c. When records are transferred or maintained by the Department. The Department may request the transfer of certain records to its custody or to HUD when it determines that the records possess long-term retention value.

Representatives of HUD, the Inspector General, the General Accounting Office, the Comptroller General of the United States, the State Auditors Office, and the Department or any of their duly authorized representatives will have access to any pertinent books, records, accounts, documents, papers, and other property belonging to or in use by the grantee or sub-grantee in order to make audits, examinations, excerpts or transcripts.

Reporting Requirements

The Department requires grantees to report on grant progress through the life of the project. These reports include:

- **Project Status Reports** – All grantees must submit this report every six months by January 10 and July 10
- **Job Creation/Retention Reports** – Grantees funded under the economic development category and other grantees funded with job creation and/or retention as the national objective must submit a this report every six months by January 10 and July 10
- **Program Income Reports** - Grantees must report on program income earned from CDBG projects every six months by January 15 and July 15
- **Notification of Annual Audit** – Grantees must submit this report for each grantee fiscal year that CDBG funds are expended.
- **Final Reports** - The Department requires the submission of a Final Performance, Final Financial reports, and a copy of the affidavit and minutes for the second public hearing for every project before closing out the project. Some projects also require the submittal of a Final Job Creation/Retention report and/or Final Wage Compliance Report. Planning projects also need to submit a final product prior to closeout.

Grantees should use the most current form for a particular report they are submitting. Current forms are available at the Department’s website near the on-line version of this manual in an area called “Forms”. The grant’s program representative will provide assistance, if needed, with locating and/or sending the current on-line form.

See Chapter 13– Reporting Requirements for additional information.

Monitoring

The Department conducts two basic types of monitoring. The type of monitoring chosen for individual projects is determined by the established “Risk Analysis” process: off-site, or “desktop” monitoring, and on-site monitoring. Department staff regularly reviews each project to verify that it is proceeding in the manner set forth in the CDBG Contract in accordance with applicable laws and regulations. The “Risk Analysis” monitoring plan determines whether a project review is conducted by a “desktop” monitoring or on-site monitoring.

Desktop monitoring is an ongoing process in which the program representative responsible for overseeing the grantee’s project uses all available information to review the grantee’s performance in carrying out the approved project. This review process enables the Department to identify problems requiring immediate attention and to schedule projects for on-site monitoring. Material used for this review includes, but is not limited to: Amendments/Extensions to the CDBG Contract; Project Status Reports, Requests for a Draw-down of Funds; and other supporting documents.

On-site monitoring is a structured review conducted by the program representative at the locations where project activities are being carried out or project records are being maintained. The Department expects the grantee to have all documents needed for review to be available at the site of the visit. All grant records must be maintained and under the control of the grantee. The records must be readily accessible by the Department. Furthermore, all documentation

should be well organized for easy review. A good organization approach should be based upon the structure of the monitoring checklist.

The monitoring review will be conducted to determine, among other things, whether the grantee has the capacity to carry out the project in a timely manner for the current grant and possible future grants. If the Department determines that the grantee is making or has made substantial progress in implementing the project, that the program undertaken conforms to the approved application, and that the program is in compliance with the Act and the Administrative Requirements, the grantee will be considered to have a continuing capacity.

A determination that the grantee lacks continuing capacity may be based on any single or any combination of factors. These include, but are not limited to, the grantee's ability to implement the approved program in a timely manner or to implement, in a timely manner, a subsequent grant. Primary factors include whether the responsibility for administering the program has been or will be assigned to specific departments or persons, and whether necessary staff has been or will be directly or contractually employed.

If at any time the Department determines that the objectives set forth in the federal statutes, the Administrative Requirements, or the approved program have not been met, the following procedures may be utilized:

- (1) Warning.** A written warning will be issued when a violation of a program requirement has occurred. This warning will cite the violation, and if the violation is occurring, a deadline when it must be remedied.
- (2) Suspension.** Grant funds will be discontinued for any grant which is found to be in noncompliance and for which corrective action by the grantee has not been initiated. Funding may be discontinued for the entire project or for a specific activity. Funding may be reinstated upon the correction of the violating condition.
- (3) Reimbursement.** The grantee will be required to reimburse CDBG funds that have not been spent in accordance with the approved application and program requirements. The amount of the reimbursement will be determined by the amount that has been disallowed and for which no other costs may be substituted.
- (4) Payment Adjustments.** If the grantee has not demonstrated responsible fiscal and administrative capacity, the Department may adjust the payment method in which the grant funds are disbursed.
- (5) Grant Adjustment.** Grant awards may be adjusted, reduced or the total amount withdrawn when there is noncompliance and the violation cited has not been remedied as specified.
- (6) Nonparticipation in the CDBG Program.** Grantees which have not complied with actions administered by the Department may be prohibited from future participation. The Department may allow grantees to participate in the program if the grantee has complied with the required actions.
- (7) Full or Partial Termination.** The CDBG contract may be terminated in whole or in part if the Department determines that the grantee has failed to comply with its terms and conditions.

Payments made to the grantee or recoveries by the Department will be in accord with the legal rights and liabilities of the grantee and the Department.

See Chapter 14 – Monitoring for additional information including a monitoring checklist.

Closeout

Closeout is the process in which the Department determines that all requirements of the contract between the Department and the Grantee have been completed. As activities are completed and funds drawn down, closeout will begin.

The Department will issue a Notice of Closeout letter to each grantee near the time of the contract completion date or upon payment of all project funds in the grant, whichever occurs sooner. The Notice of Closeout letter will also be sent if the grantee requests initiation of the closeout process on the grant or indicates on a request for CDBG funds that it is a final request.

The Notice of Closeout requires grantees to submit:

- The Final Financial Report within 60 days;
- The Final Performance Report within 60 days;
- The Final Wage Compliance Report, if applicable, within 60 days (only for grants requiring adherence to labor standards, see Chapter 10 – Construction & Labor Standards);
- A copy of the affidavit and minutes from the second public hearing
- And other documents as applicable to complete closeout

A Certificate of Completion Letter will be issued to the grantee when the following criteria have been met:

1. CDBG grant funds have been expended in full.
2. Review of all grant requirements, including performance review, required documents, monitoring actions and reports.
3. Resolution of any applicable audit issues for the grantee.

The Certificate of Completion Letter will specify any follow-up actions required by state or federal regulations; however, this letter constitutes a certificate of satisfactory completion of all grant requirements.

The Department may recapture CDBG funds when the amount of CDBG funds exceeds an authorized eligible cost. Funds may also be recaptured on the basis of the performance monitoring report and review of financial expenditures, or audit of expenditures. The Department will request repayment of CDBG funds for all authorized or ineligible costs. The Department will reallocate these funds.

The Department will reallocate CDBG Funds remaining at the completion of the grantee's project as outlined in the Annual Action Plan.

See Chapter 15 – Audit & Closeout for additional information.

Changes to the Administrative Overview Chapter:

October 2008 - Page 2-3 –Included “Use of One Firm for Grant Administration and Professional Services such as Engineers, Planners, or Architects”

January 2010 – Pages 2-3 through 2-7 – Changes to the Recertification Process; Administrator in Good Standing; Monitoring Violations; Administrative Probation; Decertification; and Decertification Process.

April 2010 – Page 2-2 and 2-3—Changed Certification policy to include the “Conditional Certification” process.

July 2010 – Page 2-18 – Changed Notification of Annual Audit requirements of submitting the report for each year CDBG funds are expended by October 15. Notification of Annual Audit must be submitted for each grantee fiscal year in which CDBG funds are expended.

January 2011 – 2-1 through 2-9. Revised the Certification Requirements for Administering a CDBG Project.