

Community Development Block Grant Program

(CDBG)

Program Manual

Marion County Board of Commissioners Office



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**Introduction**

This Program Policy Manual establishes the framework guiding the operation of the Marion 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.

Information included in this document is derived from two main sources:

* Federal requirements that impact local policies and procedures.
* Growth, demographic shifts, and changes in need that necessitate adjustments in the local program.

Marion County anticipates this manual will evolve over time as this is the first year in which Marion County will administer CDBG funds. The program policies contained in this document are adopted by the Marion County Board of Commissioners and are binding. Changes will be dated and for successive planning and funding cycles, a new document will only be prepared when necessary.

This Program Policy Manual complements the Marion County Consolidated Plan and future plans. The plan describes the structure and process for administration of the County’s CDBG Program. It also identifies needs within the County; objectives to address those needs; and the basis for allocating funds between program activities developed to meet those objectives.

This manual is a companion to the CDBG Public Service Manual and the CDBG Manual for Acquisitions & Infrastructure which includes detailed instructions for project management and procedures to ensure federal and local contract compliance and demonstrate fiscal accountability.

**Other Elements**

1. Consolidated Plan

The Current Consolidated Plan identifies community development needs and program objectives to address those needs. It included a funding allocation formula by program category, as well as specific criteria of the selection of projects within each funding category. The plan includes the process that is used to select projects.

1. Endorsement

The Consolidated Plan is developed with citizen input, as outlined in the Community Participation Plan. The Consolidated Plan and Annual Action Plans are submitted to the Department of Housing and Urban Development (HUD) and is the basis for the County’s expenditure of HOME and CDBG funds.

1. Duration

This Policy Manual will cover all future Consolidated Plan cycles. The Consolidated Plan will be developed and approved by the spring of the year preceding the beginning of each five-year planning cycle, and the allocation formula, objectives, and program policies included in the plan are in effect for five years. Project intake will occur on an ongoing basis with applications due annually.

1. CDBG Consortium

The Marion County CDBG consortium consists of jurisdictions, which are signatories to the Urban County Intergovernmental Cooperation Agreement, as required by HUD. This includes the County itself and all of the municipalities therein, with the exception of the cities of Gates and Salem. The city of Salem is a standalone CDBG entitlement city and the city of Gates decided not to join the consortium at the time it was created. The Marion County CDBG program may elect to jointly fund activities with the City of Salem or any future entitlement communities if a project benefits Low-to-moderate income residents both in the City of Salem limits and residents outside the limits as long as documentation is kept.

**Funding Allocation and Project Selection**

**Funding Allocations**

1. Program Administration

The County will set-aside twenty percent of each annual entitlement for general administration and planning, as permitted by federal law. Any surplus administrative funds at the end of each fiscal year may be reassigned by the process outlined under reprogrammable funds.

1. Project Contingencies

Up to ten percent (10%) of each annual entitlement may be set aside for costs that were not anticipated at the time when projects were developed. The process for accessing these contingency funds is described under contingency funds.

1. Funding Formula

After funds have been designated for general administration and contingencies, funds shall then be allocated between program categories and activities, in the proportions identified in the Consolidated Plan. Competitive project proposals will be accepted within identified categories. Funds will be set aside on a dollar value basis for non-competitive activities specified in the Consolidated Plan, including housing rehabilitation down payment assistance and Community Housing Development Organization (CHDO) resident services. Marion County will issue an RFP for implementation of both the down payment assistance program and the rehabilitation program for the course of each consolidated plan cycle.

Marion County CDBG program does not anticipate awarding grants for general planning activities unless directly related to its own program management. The federal government requires that funding for planning activities be drawn from the twenty percent (20%) administrative funding cap and those funds are already allocated to CDBG program administration.

**Project Submission Requirements**

1. Needs Assessment Process

As part of the five-year consolidated planning process, an assessment will be conducted to identify the needs of the low-and moderate -income residents of Marion County. The needs assessment will commence with a Needs Assessment Workshop and will conclude with the submittal of Needs Question.

1. National and County Objectives

All proposals must address a national objective of the CDBG Program, as well as a long range and short-term county program objective, as identified in the Consolidated Plan. National Objectives specify that an activity must:

* Benefit low and moderate-income persons;
* Aid in the prevention or elimination of slums or blight; or
* Meet urgent needs that threaten the health or welfare of a community

The federal government requires that at least seventy percent (70%) of program funds must be used to address the first objective, to benefit low and moderate-income persons. Marion County will ensure this, when it allocates funds between activities, each year. The federal government details the specific requirements for demonstrating that a project addresses a national objective. These are included in the Consolidated Plan and discussed briefly in the Compliance section with National Objectives.

1. Competitive Program Categories

Each proposal must be submitted for funding under a specific program category identified in the Consolidated Plan. The proposal must comply with specific requirements for activities within that category, identified in the requirements for applications and projects section.

1. On-line Application system

Marion County uses an on-line application and grants management system called Neighborly. Agencies will submit their applications electronically using the software system. Applications will be reviewed by staff and rated through the software. No paper copies of applications will be accepted unless otherwise directed.

1. Deadline for submission of proposals

Marion County will establish a specific date by which all application materials must be received. The application materials, made available by Marion County, will include the deadline for the submission of a mandatory letter of intent, the project application, and all required materials. Applications will be rejected if materials are not submitted by the specified deadlines.

1. Endorsement of proposal by governing body

Non-profit agencies and cities applying for CDBG funding must document endorsement for submission of each application by formal action of their Board of Directors or City Councils, as appropriate. County applications must bear the signature of the appropriate Department Head. If proof of such approval and authorization is not received by the specified time, the application will be rejected. Applicants should contact Marion County regarding this requirement if they lack a formal governing body.

**Project Selection**

1. Staff analysis and cut-off date for changes to applications

Following receipt of completed project proposals, staff may request additional information from applicants to clarify applications. Marion County CDBG/HOME Program Manager shall establish a final date, after which applicants will not be allowed to make changes to their proposals.

1. Applicant Presentations

Marion County staff will require a meeting to provide applicants the opportunity to present their proposals to the Board of Commissioners and to respond to any questions by Commissioners or staff.

1. Annual Action Plan

Projects included on the proposed funding list, will be included in the County’s Annual Action Plan, conforming to federal formatting and processing requirements.

**Amendments to Activities**

1. Changes to CDBG Funded Activities

 From time to time, it may be necessary to terminate a previously approved activity; add a new activity; or alter the purpose, cost, scope, location, or beneficiaries of an activity. Marion County staff will inform the Board of Commissioners of any such proposed changes to CDBG funded activities. In some cases, the change may require an amendment to the County’s Annual Action Plan. The nature of public notice and the comment period will very, depending on the magnitude of the change.

2. Community Member Input

 A public hearing with the Board of Commissioners will occur whenever there is a substantial amendment and during the creation of the Annual Action Plan and Consolidated Performance Evaluation Report as required in the Citizen Participation Plan.

**Reprogrammable Funds**

Sources

Reprogrammable funds are derived from a number of sources, including projects that are withdrawn, suspended, or canceled; surplus funds that result from completing a project under budget; unobligated administrative or contingency funds; and program income. Sponsors shall report surplus funds that will be returned to the County’s CDBG program as soon as they are identified. The Program Manager shall periodically report on the status of reprogrammable income to the Board of Commissioners and shall include reprogrammable funds in the following year’s Annual Action Plan (AAP).

**Contingency Funds**

1. Annual Allocation

The Marion County Board of Commissioners may allocate up to ten percent (10%) of each annual entitlement for project or program contingencies. These funds will be primarily for change orders in infrastructure projects.

1. Purpose

Continency funds are set aside for project costs that the sponsor was not able to anticipate at the time the proposal was submitted. Costs for activities not included in the original proposal, and that are the result of either an omission or oversight on the part of the sponsor, may not be eligible for contingency funds, unless it can be demonstrated that the contingency request is necessary to complete the project.

1. Request for Contingency Funds

Sponsors must request contingency funds in writing. These funds should be requested prior to incurring costs. Requests for contingency funds for costs already incurred will not be considered unless they are the result of cost increases on unit price contracts. The request shall state the reasons for the request and the amount of funds requested. The sponsor must demonstrate that efforts have been made to contain cost overruns and to fund the additional expense from a source other than Community Development Block Grant Funds.

**Requirements for Applications and Projects**

1. General

Based on federal and local regulations, community values, and experience through program management, many policies have been developed that guide the selection of projects and their administration. The initial portion of this section includes general policies that affect most or all project activities, followed by sections that are particular to activities funded under specific program categories.

1. Matching Funds

The Marion County CDBG Program encourages sponsors to seek support from other sources, as a match to CDBG funds. This allows CDBG funds to be used for a wider range of projects, and to leverage funds from other sources. While matching funds is not required, applicants demonstrating match funding will be evaluated higher.

1. Applicants Specify Priorities

Applicants for activities in the categories of public facilities and infrastructure improvements must indicate the priority for each project between all projects submitted in these two categories on the project application forms. For example, an applicant may have submitted three projects, two in the category of Infrastructure improvements, and one in the category of Public Facilities. Among the three applications, the applicant must identify which project is first, second, and third priority.

**Project Management**

It is critical that CDBG funded projects are successfully managed. Through the application and funding process, the program attempts to ensure that qualified people will manage the funds and activities, to ensure compliance with all requirements.

1. Application

As part of the application process for CDBG funds, applicants are asked to describe their capacity to manage the project. This information is evaluated in the project rating process. Applicants may use existing staff to meet management requirements if qualified personnel are available. Otherwise, applicants are generally expected to procure the services of qualified professionals for this function, and to include these costs in their project budgets.

1. Projects selected for funding

Staff may request supplementary information regarding project management prior to authorizing the expenditure of funds, or during the course of a project. If Marion County determines that direct management of a project by the applicant or sponsor is infeasible or is not functioning properly, Marion County will manage the project, procure professional managers, or terminate the project, depending on the nature of the activity. Management costs will be charged to the project budget.

**Timely Performance**

The federal government requires that CDBG funds be drawn from the U.S. Treasury in a timely manner. If the County, as an entitlement jurisdiction, has more than 1.5 times the entitlement grant amount for its current program year in the US Treasury, it will be subject to sanctions that could eventually lead to the loss of program funds. To ensure Marion County is not subjected to penalties, all sponsors are expected to maintain an acceptable level of performance by completing projects during the project year specified in the contract agreement. The following requirements are intended to maintain timely levels of performance:

1. Applicants are asked to provide a schedule of tasks and time frames in the project application.
2. Sponsors are required to submit project milestones in the project agreement between the County and the sponsor. This will be submitted in the software where all documents will be required to be uploaded.
3. Sponsors of Public Facilities and Infrastructure must submit requests for project extensions in writing, explaining the reason for the request. Extensions will be approved only because of extenuating circumstances.
4. Sponsors of Public Services projects are expected to complete their projects within the timelines set up in the contract. Contract extensions will only be provided if project delays (example staff recruitments) impacted project start date and/or service delivery. Requests for consideration of an extension must be made in writing no less than six months before the end of the project term. The determination will be made by the Program Manager and based on the ability of Marion County to meet its timeliness requirements.

**Compliance with National Objectives**

HUD requires that all CDBG funded projects address a national objective of the program. Income eligible Block Groups are provided by the Department of Housing and Urban Development and will be updated by the county when data becomes available.

**Maintenance of Records**

Pursuant to 24 CFR 570.502 (a) (16) sponsors shall maintain all project records for four years after the activity is listed for the final time on the Consolidated Annual Performance and Evaluation Report. Sponsors should contact Marion County if they have questions about this requirement. These records must include all data and information regarding the requirement. These records must also include all data and information that were used to qualify the project as meeting a national objective of the CDBG program. For capital improvement projects, Census information, raw survey data, and any other information that was used to verify income for the project must be retained. For public service projects, sponsors must retain information documenting the income status of individual clients unless the project has qualified under an LMI Area Benefit.

**Monitoring and Reports**

Sponsors shall provide information on a timely basis for project monitoring and reports required by federal regulations or local program policy.

1. Audits

Sponsors are responsible for obtaining audits in accordance with federal regulations as specified in their agreement with the County. (Non-federal entities that expend more than $750,000 a year in federal awards is required to have an audit). Audits shall be performed by an independent auditor in accordance with generally accepted governmental auditing standards covering financial and compliance audits. Generally, the audit shall insure that the sponsor maintains the following:

1. Adequate identification of source and application of funds;
2. Control over the accountability for all funds, property, and other assets;
3. Comparison of actual outlays with budgeted amounts;
4. Accounting records supported by source documentation; and
5. A system to assure timely and appropriate resolution of audit findings and recommendations
6. Direct Benefit Reporting

The federal government requires that the county provide specified information on each beneficiary of public service activities annually. To complete the report, sponsors are required to provide the following information about each client; household income, race, ethnicity, disability, and if it is a female-headed household. Sponsors shall report this information to Marion County with every submittal of their request for reimbursement or on a quarterly basis depending on the type of project. Sponsors shall retain these records as long as the direct benefit activity receives CDBG funding.

Marion County CDBG public services funding must only support Marion County beneficiaries exclusive of those living in the cities of Gates and Salem. Applicant agencies must have systems in place that allow them to track and report accordingly.

1. Project Monitoring

Staff of Marion County will monitor each project to ensure compliance with federal and local requirements. Further information on the CDBG monitoring procedure and the project monitoring checklist are included in the CDBG Program Manuals.

**Program Income**

Program Income is any money accruing to a sponsor, or former sponsor, directly generated by the use of CDBG funds. When program income is generated by an activity that is only partially assisted with CDBG funds, the income shall be prorated to reflect the percentage of CDBG funds used. Some examples of program income follow:

1. Proceeds from the sale or long-term lease of equipment or rental property purchased or improved with CDBG funds.
2. Gross income from the use or rental of real or personal property acquired, constructed, or improved by the sponsor with CDBG funds, less costs incidental to the generation of the income
3. Payments of principal and interest on loans made using CDBG funds;
4. Interest earned on funds held in revolving fund accounts.
5. Exclusions

Program income does not include income earned by clients of a CDBG funded facility, such as employees working on a subcontract basis in a sheltered workshop, proceeds from fund-raising activities carried out by sponsors receiving CDBG assistance; and funds collected through special assessments made against property owned and occupied by households that are not income qualified, where such assessments are used to recover the non-CDBG portion of a public improvement.

1. Requirements

Sponsors shall report all program income generated through the use or disposition of CDBG funded activities or facilities.

1. The Marion County Board of Commissioners will determine if program income can be retained or must be submitted to the County.

**Additional Policies**

**1. Anti-Displacement**

1. Acquisition and Displacement

Federal law governing acquisition and relocation is quite detailed and may increase the cost of a project. These laws may apply retroactively to an activity that is selected for CDBG funding. Consequently, applicants should be aware of these requirements prior to submitting a project proposal. Further information on acquisition and displacement is included in the CDBG Program Manual for Acquisition and Infrastructure Projects.

1. Displacement Discouraged

Marion County discourages the displacement of persons, families, or businesses for CDBG funded activities. Project evaluation criteria discourages displacement.

1. Applicability of Displacement Policy

Tenants of residential properties who are permanently and involuntarily displaced as a result of acquisition, demolition, conversion to another use, or substantial rehabilitation, assisted in whole or in part by CDBG, will be entitled to the relocation assistance including reasonable moving and related expenses and replacement housing payments (where applicable) as required by federal statue. Any business, farm operation, or nonprofit organization which is permanently or involuntarily displaced, as a result of acquisition or substantial rehabilitation assisted in whole or in part by CDBG funds, will be entitled to reasonable moving and related expenses, as required by federal law. Property owner-occupants who voluntarily sell their property to a government or nonprofit agency are not to be considered eligible to receive relocation or displacement assistance.

Cost of Displacement

Marion County will establish the criteria for just compensation and the sum to be paid for reasonable and necessary relocation costs, based on federal regulation. Project budgets must include funds for the cost of displacement, including relocation benefits. If project funds are not available for relocation benefits, no displacement may result from the activity. Applicants and project sponsors are encouraged to consult the CDBG Program Manual for Acquisition and Construction Projects for further information on required procedures relating to acquisition and displacement.

**2. Public Facilities**

1. Securing the County’s interest in real property

If a sponsor receives in excess of $25,000 to improve or acquire real property, the sponsor will be required to enter into an agreement with the County, securing the County’s interest in the property. This agreement shall generally be in the form of a trust deed and promissory note. The trust deed shall be recorded in the Deed Records of Marion County. The agreement will specify that, in the event the recipient disposes of the property or changes its use so that it no longer meets a national objective of the CDBG program, the sponsor shall be required to reimburse the County in the amount of the current fair market value of the property, less any portion of value attributable to expenditures of non-CDBG funds for acquisition of, and improvements to the property. The term of the agreement will be based in the project.

1. County may retain title

The County may, at its option, hold title to the property rather than be named as a secured party in the Agreement. In either case, the sponsor shall guarantee the use of the real property or facility for the purposes for which it received Community Development Block Grant funds.

1. Prohibition against reimbursing debt

Federal law prohibits the use of CDBG funds to pay existing debt. Consequently, sponsors must keep Marion County appraised of the status of the closing on property, to ensure that CDBG funds will be available at the time of closing, for the acquisition of a public facility.

1. Fees

Excessive charges for the use of facilities assisted with CDBG Program funds, which have the effect of precluding low and moderate-income persons from using the facilities, shall not be permitted.

1. Operation and Maintenance

As required by federal regulations, sponsors shall be required to operate and maintain CDBG funded facilities. Neither the County nor the CDBG Program shall hold any responsibility for operation and maintenance.

1. Hours of Operation

Public Facilities shall be open for the use of the general public during all normal hours of operation.

1. Changes in use of Facility

The sponsor must continue to operate the facility for the original purpose for which CDBG Program funds were awarded. Changes of use shall be governed by the current HUD regulations and must be further approved by the Board of Commissioners.

1. Income Eligibility

Marion County CDBG Program requires that all the beneficiaries of a public service project must meet the income eligibility requirements of the program unless the project is benefiting a qualified limited clientele. Every year, the federal government provides Marion County revised income standards for the community, based on increases in the region’s median income. Marion County distributes this information to project sponsors, who must use the new income standards to qualify clients.

**3. Nondiscrimination**

**Fair Housing and Accessibility Requirements and Guidelines for Projects Receiving CDBG Funding**

A broad and diverse range of building types, whether new, existing, or altered, must comply with federal or Oregon laws mandating accessibility for people with disabilities. The different laws and standards that contain accessibility requirements apply to different types of buildings, different building uses, different building ownerships or possession, different building funding, and different points in a building’s life. Different sets of accessibility-related nondiscrimination requirements apply to the CDBG program: the Architectural Barriers Act, the Fair Housing Act, and the Americans with Disabilities Act (ADA), and Section 504. It is important to note that these requirements are not necessarily addressed in the building code.

**4.** **The Architectural Barriers Act**

The Architectural Barriers Act of 1968 requires certain federal and federally funded buildings and other facilities to be designed, constructed, or altered in accordance with standards that insure accessibility to, and use by, physically handicapped people. A building or facility, including a residential structure, designed, constructed, or altered with CDBG funds after December 11, 1995, and that meets the definition of a “building” (as defined below) is subject to the requirements of the Architectural Barriers Act as it is implemented through the Uniform Federal Accessibility (UFAS) (24 CFR Part 40 and 41 CFR Part 101). Your project architect should be familiar with the Uniform Federal Accessibility Standards.

**Building**: The term “building” means any building or facility (other than (A) a privately owned residential structure not leased by the Government for subsidized housing programs and (B) any building or facility on a military installation designed and constructed primarily for use by able bodied military personnel) the intended use for which either will require that such building or facility be accessible to the public, or may result in the employment or residence therein of physically handicapped person, which building or facility is:

1.) To be constructed or altered by or on behalf of the United States

2.) To be leased in whole or in part by the United States after August 12, 1968; or

3.) To be financed in whole or in part by a grant or a loan made by the United States after August 12, 1968, if such building or facility is subject to standards for design construction, or alteration issued under authority of the law authorizing such grant or loan.

**5. The Americans with Disabilities Act**

The Americans with Disabilities Act (ADA) provides comprehensive civil rights to individuals with disabilities in the areas of employment, public accommodations, state and local government services and telecommunications. The ADA also states that discrimination includes the failure to design and construct facilities that are accessible to and usable by persons with disabilities. The ADA also requires the removal of architectural and communication barriers that are structural in nature in existing facilities. Removal must be readily achievable, easily accomplishable and able to be carried out without much difficulty or expense.

CDBG applicants/recipients should alert their project architects that the provisions of the Architectural Barriers Act, the Fair Housing Act and the Americans with Disabilities Act are triggered due to federal funding so the architect can design the construction or rehab project with these requirements in mind.

**6. Section 504**

HUD’s regulations implement Section 504 in federally assisted programs services and activities are codified at 24 CFR Part 8. HUD’s regulations at 24 CFR Part 8 apply to all applicants for, and recipients of, HUD financial assistance in the operation of programs or activities receiving such assistance.

Section 504 states:

“No otherwise qualified individual with disability in the United States…shall, solely by reason of her or his disability, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program, service or activity receiving federal financial assistance or under any program or activity conducted by any Executive agency or by the United States Postal Service.”

HUD’s Section 504 regulations define an individual with a disability as any person who has a physical or mental disability that substantially limits one or more major life activities; has a record of such an impairment; or is regarded as having such an impairment (24 CFR 8.3). Major life activities including walking, talking, hearing, seeing, breathing, learning, performing manual tasks, and caring for oneself. The law also applies to individuals who have a history of such impairments as well as those who are perceived as having such impairment.

A person who meets the above definition, and who is otherwise qualified for the program, service or activity, is covered under Section 504. To be otherwise qualified means the individual meets the essential eligibility requirements, including, for example, requirements for tenancy if the program is a housing program.

Section 504 covers all programs, services and recipients of HUD financial assistance including, for example:

* Outreach and public contact, including contact with program applicants and participants
* Eligibility criteria
* Application process
* Admission to the program
* Tenancy, including eviction
* Service delivery
* Employment policies and practices

Section 504 Prohibitions Against Discrimination:

* Denying a qualified individual with disabilities the opportunity to participate in, or benefit from, the housing, aid, benefit, or service
* Failing to afford a qualified individual with disabilities the opportunity for equal participation and benefit
* Failing to provide a qualified individual with disabilities a program or service that affords the same opportunity to benefit as afforded others
* Providing different or separate housing, aid, benefits, or services on the basis of disability unless providing such is necessary to provide housing or benefits that are as effective as that provide to persons without disabilities
* Providing significant assistance to an agency, organization or person that discriminates on the basis of disability in any aspect of a federally assisted activity.
* Denying a qualified individual with disabilities the opportunity to participate as a member of planning or advisory boards.
* Denying a dwelling to an otherwise qualified buyer or renter because of a disability of that buyer or renter or another prospective tenant.
* Limiting in any other manner a qualified individual with disabilities in the enjoyment of any right, privilege, advantage, or opportunity afforded to others.
* Providing programs or services to qualified individuals with disabilities in settings that are unnecessarily separate, segregated or restricted.

Recipients’ Responsibilities under Section 504:

* Take steps to ensure effective communication with applicants, beneficiaries, and members of the public. (24 CFR 8.6)
* Take steps to ensure that employment activities, including job announcements, recruitment, interviews, hiring, work assignments, promotions, and dismissals, do not discriminate on the basis of disability. (24 CFR 8.10-8.13)
* Ensure that all non-housing programs are operated in a manner that does not discriminate on the basis of disability and that new construction and alterations of non-housing facilities are made accessible in accordance with applicable standards (24 CFR 8.21)
* Operate existing housing programs in a manner that does not discriminate on the basis of disability, and take steps, as needed, to ensure that existing housing programs are readily accessible to and usable by persons with disabilities. Develop and implement a transition plan to assure compliance. (24 CFR 8.24)
* Provide reasonable accommodations which may be necessary for a person with disability to use or participate in the program, service, or activity; unless the recipient can demonstrate that the accommodation will result in an undue financial and administrative burden or a fundamental alteration in the nature of the program, service, or activity. A reasonable accommodation is an adaptation or modification to a policy, program, service, or workplace which will allow a qualified person with a disability to participate fully in a program, take advantage of a service, or perform a job. Reasonable accommodations may include, but are not limited to, adjustments or modifications to buildings, facilities, dwelling, and may also include provision of auxiliary aids, such as readers, interpreters, and materials in accessible formats. (24 CFR 8.2, 8.11, 8.20, 8.21, 8.24, 8.25, 8.33)
* Pay for a reasonable accommodation needed by the individual (e.g., a ramp to a unit) unless providing that accommodation would be an undue financial and administrative burden or a fundamental alteration of the program. (24 CFR 8.4, 8.22, 8.20, 8.21, 8.24, 8.25, 8.33)
* Ensure that all new construction of housing facilities is readily accessible to and usable by persons with disabilities and meets the requirements of applicable accessibility standards. (24 CFR 8.22 and 8.32)
* Ensure that substantial alterations, when undertaken, meet the requirements for new construction (24 CFR 8.23(a)) Ensure that all other alterations, to the maximum extent feasible, meet the requirements of the applicable accessibility standards (24 CFR 8.23(b))
* Conduct any required needs assessments (for recipients who are public housing agencies) to determine the extent to which the housing needs of persons with disabilities are being met in the recipient’s program and in the community. (24 CFR 8.25)
* Distribute accessible dwelling units throughout projects and sites and make such units available in the same ranges of sizes and amenities to provide housing choices for persons with disabilities that are the same as those provided to others. (24 CFR 8.26)
* Adopt suitable means to ensure persons with disabilities are made aware of the availability of accessible units and to maximize use of accessible units by individuals needing the features of these units (24 CFR 8.27)
* Conduct any required self-evaluations of programs, services, and activities to determine if they are programmatically and physically accessible to persons with disabilities, and involve persons with disabilities in these evaluations (24 CFR 8.51)
* Recipients with 15 or more employees must designate an employee to ensure the recipients programs, services and activities meet the requirements of Section 504; adopt a grievance procedure to effect due process standards and prompt and equitable resolutions of complaints. (24 CFR 8.53)
* Recipients must maintain records and reports of efforts to meet the requirements of Section 504, and keep these records on file so that they are available if a complaint is filed, or if HUD conducts a compliance review (24 CFR 8.55)

**7. The Fair Housing Act**

The Federal Fair Housing Act makes it illegal for landlords, managers, homeowners, real estate agents, mortgage brokers lenders, banks, and others to discriminate against anyone on the basis of:

* Race
* Color
* National Origin & Ethnicity
* Religion
* Family Status (families with children under 18)
* Physical or Mental Disability
* Sex & Gender

State Protected Classes Include:

* Marital Status
* Legal sources of income (except Section 8)
* Sexual orientation including gender identity
* Honorably discharged veterans/military status
* Survivors of domestic violence

Local jurisdictions may have additional protected classes that you should be aware of.

Multi-family dwellings consisting of four or more units, first occupied after March 13, 1991, must also meet the design and construction requirements of the Fair Housing Act.

Multifamily dwellings must be designed and constructed so that at least one building entrance is located on an accessible route, unless it is impractical to do so because of the terrain or unusual characteristics of the site.

Multifamily dwellings with a building entrance on an accessible route will be designed and constructed so that:

1. The public and common use areas are readily accessible to and usable by handicapped persons;

2. The doors are designed to allow passage into and within the common areas are sufficiently wide to allow passage by handicapped persons in wheelchairs; and

3. All of the covered (accessible) dwelling units contain the following features of adaptable design:

* An accessible route into and through the covered (accessible) dwelling unit
* Light switches, electrical outlets, thermostats, and other environmental controls in accessible locations;
* Reinforcements in bathroom walls to allow later installation of grab bars around the toilet, tub, shower, stall, and shower seat, where such facilities are provided; and
* Usable kitchens and bathrooms such that an individual in a wheelchair can maneuver about the space

**8. Oregon Accessibility Laws**

The State of Oregon has its own laws addressing certain aspects of accessibility:

ORS 447.210 et seq., as originally enacted in 1971, applied only to government buildings, and incorporated only some of the then current ANSI A117.1 criteria. In subsequent years, the legislature extended the reach and breadth of the law. Current Oregon law is very broad, and even extends the reach of the ADA accessibility standards beyond those covered by the federal law to include certain private educational facilities, “private membership clubs, and churches” when located in buildings of two stories or more which are either: a) over 4,000 square feet in ground floor area; or b) over 20 feet in height.

ORS 447.233 contains explicit numerical requirements for accessible parking spaces and related signage, dimensional requirements, and access spaces

ORS 456.506 et seq., passed in 2003, adopted most of the accessibility criteria of the FHA and mandated they be included in all new non-owner-occupied housing, even single units, if those units were financed or subsidized in any way by state or federal funds, guarantees, or tax credits.

ORS 701.525 et seq., passed in 2005, requires the Oregon Construction Contractors Board (“CCB”) to adopt by rule a model list of accessibility features those developers of residential housing may provide to customers purchasing new residential housing from the developer.

ORS 447.231 mandates that the OSSC include the requirements of the ADA and FHA. Oregon’s Building Codes Division (“BCD”) has incorporated the 1.) current ADAAG standards; 2.) Fair Housing Accessibility Guidelines; and 3.) other Oregon laws, into the OSSC

The current OSSC is based on the IBC, but it does not incorporate the most recent version of ICC/ANSI A117.1. Although that most recent version is part of the current IBC model code, the OSSC instead relies on the previous A117.1 standard. The OSSC has hesitated because the new A117.1 contains revisions proposed to federal accessibility guidelines that have not yet been approved and adopted by the Access Board.

Rather, in order to comply with Oregon law, and to incorporate these three distinct standards into OSSC, BCD wrote a custom accessibility code unique to the OSSC. Chapter 11 of the OSSC is devoted completely to accessibility. It is important to remember that most of the laws mandating accessibility are federal laws. While Chapter 11 incorporates the literal provisions of some of these laws, the ultimate authority for interpreting the meaning and consequence of federal laws remains with those federal agencies charged with their enforcement.

Consequently, approval of project plans or inspection of actual construction by Oregon building officials is limited to compliance with OSSC, including Chapter 11. Building designers and construction contractors (and building owners) must independently consider federal accessibility law and federal agencies; interpretations of accessibility standards based on federal accessibility laws.

CDBG applicants/recipients should alert their architects that the provisions of Section 504, the Fair Housing Act, and/or the Americans with Disabilities Act are triggered due to federal funding so the architect can design the construction or rehab project with these requirements in mind.