



MARION COUNTY BOARD OF COMMISSIONERS

Board Session Agenda Review Form

Meeting date: June 29, 2022

Department: Board of Commissioners

Agenda Planning Date:

Time required:

15 min

☒ Audio/Visual aids PowerPoint

Contact: Tim Glisson

Phone: 503-302-4700

Department Head Signature:

TITLE

Multiple Resolutions approving Community Development Block Grant/HOME Investment Partnerships Program Manuals/Policies/Plans/and or Procedures

Issue, Description & Background

Under the Federal Community Development Block Grant and HOME Investment Partnerships Program Marion County must have various written manuals/policies/procedures/plans to administer its program. The required list include the following:

Resolution approving the Community Development Block Grant Program Manual
the CDBG Program Manual for Public Services
the CDBG Acquisition and Construction Projects Program Manual

Resolution approving the HOME Program Policy and Procedure Manual

Resolution approving the Affirmative Marketing Policy

Resolution approving the Violence Against Womens Act Transfer Plan

Resolution approving the Residential Anti-Displacement and Relocation Assistance Plan (RARAP)

Resolution approving the Limited English Proficiency Plan (Language Access Plan)

Resolution approving the Section 3 Plan

Financial Impacts:

none

Impacts to Department & External Agencies

none

Options for Consideration:

A.) Approve each Resolution
B.) Do Not Approve each Resolution

Recommendation:

Recommend Approval of each Resolution

List of attachments:

Resolutions for each Program Manual/Policy/Plan and or Procedure

Presenter:

Tim Glisson

Copies of completed paperwork sent to the following: (Include names and e-mail addresses.)

BEFORE THE BOARD OF COMMISSIONERS
FOR MARION COUNTY, OREGON

In the matter of adopting the)
Community Development Block Grant)
Program Manual, The Community Development)
Block Grant Public Service Manual and the)
Community Development Block Grant)
Acquisition and Construction Projects Manual)

RESOLUTION # _____

This matter came before the Board of Commissioners at its regularly scheduled public meeting on June 22, 2022, to adopt the Community Development Block Grant Program Manual, Public Service Manual and the Acquisition and Construction Projects Manual; and

WHEREAS Marion County is providing written policy and procedures on how it will administer multiple components of its CDBG Program pertaining to the requirements set forth under 24 CFR Part 570 of the Community Development Act of 1974

WHEREAS, the policy and procedure manuals establish the operation of the CDBG Program and provide guidance for all future subrecipients whether it be developers, cities, nonprofits on all the requirements under the Community Development Block Grant Program pertaining to the wide range of eligible activities; and

WHEREAS, it is important for Marion County to delineate between the types of eligible projects to the best of its abilities due to the programmatic requirements associated to each type of activity being funded. In particular the public service manual and acquisition and infrastructure projects have layering requirements under the CDBG Program manual pertaining to projects that fall within either category; and therefore

IT IS HEREBY ORDERED that the Board of Commissioners adopt the attached Community Development Block Grant Program Manual, The Community Development Block Grant Public Service Manual and the Community Development Block Grant Acquisition and

Construction Projects Manual to be used as a guide for administration of projects it funds and how subrecipients must operate.

DATED at Salem, Oregon, this 22nd day of June 2022.

MARION COUNTY BOARD OF COMMISSIONERS

Chair

Commissioner

Commissioner



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.

2. 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.

3. 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.

4. 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.

2. 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.

3. 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.

2. 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.

3. 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.

4. 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.

5. 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.

6. 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.

2. 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.

3. 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 vary, 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.

2. Purpose

Contingency 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.

3. 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.

2. 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.

3. 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.

2. 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

1. 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.

2. 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:

- a.) Proceeds from the sale or long-term lease of equipment or rental property purchased or improved with CDBG funds.
- b.) 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
- c.) Payments of principal and interest on loans made using CDBG funds;
- d.) Interest earned on funds held in revolving fund accounts.

1. 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.

2. Requirements

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

3. 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.

2. Displacement Discouraged

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

3. 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 statute. 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.

2. 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.

3. Prohibition against reimbursing debt

Federal law prohibits the use of CDBG funds to pay existing debt. Consequently, sponsors must keep Marion County apprised 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.

4. 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.

5. 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.

6. Hours of Operation

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

7. 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.

8. 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.



MARION COUNTY
COMMUNITY DEVELOPMENT BLOCK GRANT
PROGRAM MANUAL
for
Public Service Projects

Marion County Board of Commissioners Office



Instructions to all Applicants for Community Development Block Grant Funding

This Program Manual outlines the various public service project requirements that will apply to entities receiving funding from the Community Development Block Grant (CDBG) program that is funded by the Federal Department of Housing and Urban Development (HUD) and administered by Marion County. One of our responsibilities, as grant administrators, is to ensure that federal and local program requirements are met. These requirements are implemented locally through the current Marion County, Oregon Consolidated Plan, and guided by the Marion County Community Development Block Grant Program Policy Manual. The purpose of the CDBG Program Manual is to provide guidance to applicants about the steps they must undertake and consider before applying for funding from Marion County's CDBG Program.

In certain aspects of program activity, federal requirements may be quite detailed. We have not attempted to copy all federal requirements in this manual; rather to give you enough information to know whether you can proceed on your own or should contact this office for further instructions relating to individual project needs. In some areas, federal requirements may be vague and/or subject to interpretation. Do not hesitate to contact this office if you have any questions as to how to proceed. If necessary, we will contact HUD for guidance.

Sponsors are cautioned that federal requirements may apply to non-CDBG funded portions of a project or to activities that are undertaken prior to receipt of a grant award. For example, the implications of environmental review requirements, which prohibit any "choice-limiting" activities be performed on the project site after the application for funding is submitted but prior to completion of the environmental review and "Notice to Proceed".

Once you are notified your project has been selected for funding, Marion County will conduct the environmental review and draw up an agreement with your jurisdiction or agency. This agreement will require compliance with specific federal and local program requirements. Marion County will send you a "Notice to Proceed" when the environmental review is completed and the agreement between the County and your jurisdiction or agency will be signed by both parties. From that date to the termination date specified in the agreement, you will be able to undertake project activities reimbursable by the grant program.

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Section I

Environmental Review Requirements

Environmental Review Requirements

These guidelines apply to all public service projects receiving awards of CDBG funds from Marion County. This section offers guidance for the completion of an environmental review (ER) under HUD's Environmental Review Regulations (24 CFR Part 58).

Please read the following guidance carefully to determine whether your project will be compliant with the HUD requirements related to environmental reviews.

Overview of the Environmental Review Process

Environmental review processes, particularly the level of review required, vary with the type of project being considered. Most Public Service projects will convert to exempt under federal regulation for further review. The Environmental Review Checklist for Public Services that follows, is intended, once completed, to provide enough information for Marion County staff to determine whether a project may be considered to have "passed" environmental review, or whether more detailed information will be needed to evaluate that question. Marion County will complete this checklist for public services as it applies to your project prior to contract execution.

Please note that no choice-limiting actions can take place until the entire HUD Environmental Review process has been completed. Types of choice-limiting actions include but are not limited to executing a purchase agreement for acquisition (though an option agreement is allowed), executing a lease agreement, demolition, construction, and executing construction contracts.

Environmental Review Checklist for Public Services

**Determination of Exemption and Determination of
Categorical Exclusion (not subject to Section 58.5)**

24 CFR 58.34(a) and 58.35(b)

Activity Name and Grant Number: Address: Activity Description:
√ The activity falls into the category below, which is listed at 24 CFR 58.34(a) as Exempt
1. Environmental and other studies, resource identification, and development of plans and strategies
2. Information and financial services
3. Administrative and management activities
4. Public services that will not have a physical impact or result in any physical changes including but not limited to services concerned with: <ul style="list-style-type: none">▪ Employment▪ Crime prevention▪ Child care▪ Health▪ Recreation needs▪ Drug abuseEducationCounselingEnergy conservationWelfareOther _____
5. Inspections and testing of properties for hazards or defects
6. Purchase of insurance
7. Purchase of tools
8. Engineering or design costs
9. Technical assistance and training
10. Temporary or permanent improvements that do not alter environmental conditions and are limited to activities to protect, repair or arrest the effects of disasters or imminent threats to public safety, including those resulting from physical deterioration.
11. Payment of principal and interest on loans made or obligations guaranteed by HUD
The activity falls into the category listed below, which is listed at 24 CFR 58.35(b) as categorically Excluded activity not subject to Section 58.5.
1. Tenant-based rental assistance

2. Supportive Services (including but not limited to):

- Health care
- Housing services
- Permanent housing placement
- Day care
- Nutritional services
- Short term payments for rent/mortgage/utility costs
- Assistance in gaining access to government benefits/services

3. Operating Costs:

- | | |
|---------------|---|
| ▪ Maintenance | <input type="checkbox"/> Furnishings |
| ▪ Security | <input type="checkbox"/> Equipment |
| ▪ Operation | <input type="checkbox"/> Supplies |
| ▪ Utilities | <input type="checkbox"/> Staff training and recruitment |

4. Economic Development Activities:

- Equipment purchase
- Inventory financing
- Interest subsidy
- Operating costs
- Other expenses not associated with construction or expansion

5. Activities to assist homeownership with existing or dwelling units under construction not assisted with Federal funds:

- Closing costs and down payment assistance to homebuyers
- Interest buydowns or other actions resulting in transfer of title

6. Affordable housing pre-development costs

- Legal consulting
- Developer and other site-option costs
- Project financing
- Administrative costs for loan commitments, zoning approvals, and other activities which don't have a physical impact

7. Approval of supplemental assistance (including insurance or guarantee) to a project previously approved under Part 58, if the same responsible entity conducted the environmental review on the original project and re-evaluation of the environmental findings is not required under Section 58.47

24 CFR 58.6 Requirements Section 1. Flood Disaster Protection Act

Are funds for acquisition (including equipment) or construction (including repair and rehabilitation) purposes?	Yes Continue	No Proceed to Section 2- Act does not apply
Is the Activity in an area identified as having special flood hazards (SFHA)? Identify FEMA flood map used to make this determination: Community Name and Number _____ Map panel number and date	Yes, Document and Continue	No Document and Proceed to Section 2-Act does not apply
Is the Community participating in the National Insurance Program (or has less than one year passed since FEMA notification of Special Flood Hazards)?	Yes-Document and follow instructions below.	No- Federal Assistance may not be used for this project.
Flood Insurance under the National Flood Insurance Program must be obtained and maintained for the economic life of the project, in the amount of the total project cost. A copy of the flood insurance policy declaration must be kept on file.		

Section 2. Airport Runway Clear Zones (Civil) and Accident Potential Zones (Military)

Does the project involve HUD assistance, subsidy or insurance for the purchase or sale of an existing property?	Yes Continue	No—Proceed to Section 3-Regulation does not apply.
Is the project located within 2,500 feet of a civil airport or 15,000 feet of a military airfield?	Yes Continue	No—Document and Proceed to Section 3-- Regulation does not apply.
Is the project located within an FAA-designated civilian airport Runway Clear Zone (RCA) or Runway Protection Zone, or within the military Airfield Clear Zone (CZ) or Accident Potential Zone/Approach Protection Zone (APZ), based upon information from the airport or military airfield administrator identifying the boundaries of such zones?	Yes Continue	No—Document and Proceed to Section 3— regulation does not apply.

Comply with 24 CFR Part 51, Subpart D. This may include providing a written notice to a prospective buyer or leaser of the potential hazards from airplane accidents and the potential that an airfield operator may wish to purchase the property. Maintain copies of the signed notice. For properties located in a military clear zone, make and document a determination of whether the use of the property is consistent with DOD guidelines. Notice Sample:
<http://www.hud.gov/offices/cpd/energyenviron/environment/compliance/qa/airporthazards.pdf>

Section 3. Coastal Barrier Resources Act

Section 58.6 also requires compliance with the Coastal Barrier Resources Act. There are no Coastal Barrier Resource Areas in Washington, Oregon, Alaska, or Idaho. Therefore, the Act does not apply.

Certification

A Request for Release of Funds (RROF) is not required for this project. The activity may be initiated without further environmental review beyond 24 CFR Part 58.6.

Name of project _____

Responsible Entity Signature _____

Name and Title (print) _____

Date _____

Section II

Guidelines for Project Beneficiary Income Verification & Documentation

CDBG Guidelines for Project Beneficiary **Income Verification & Documentation**

One basic intent of the Community Development Block Grant (CDBG) program is to assist individuals/families with low-to-moderate incomes in meeting their needs for housing or services. As this is a prime purpose of the programs, it follows that it is of critical importance for funding recipients, Marion County, and the U.S. Department of Housing and Urban Development (HUD) to know that low-income households are indeed benefiting from the investment of CDBG resources. The best way to gain this knowledge is to verify and document the incomes of all project or activity beneficiaries who qualify based on income. This section details the responsibilities each recipient of CDBG funding from Marion County must accept, and the tasks that must be carried out, in order to qualify for CDBG funding for acquisition and construction projects.

Marion County and its funding recipients generally must verify household income eligibility for all of the beneficiaries of federally assisted programs and activities. Community Development Block Grant program resources must be used in ways that primarily benefit people in Marion County with incomes at or below 80% of the median income for their household size. The CDBG program regulations require that the income of all adults (18 or older) household members (with certain exceptions) be included in the determination of "annual income." Also, income limitations are relative to household size. In practice, this means that before determining income, you must first determine the number of persons comprising the household, then calculate the income of all adult persons in the household.

To determining eligibility for assistance, the CDBG regulations require that funding recipients anticipate (project) a beneficiary household's annual income. In order to accomplish this, a "snapshot" of the household's current circumstances can be used to project future income. You can then assume that a household's current circumstances will continue for the next 12 months unless there is verifiable evidence to the contrary.

CDBG Program Income Limits refer to the HUD Median Income Levels for the Salem Primary Metropolitan Statistical Area. These income limits are included in the application package for CDBG funding and are available upon request.

Funding recipients receiving funding for Public Service projects are required to determine the number of low-income beneficiaries that will access the services provided within a one-year time period, typically between July 1 – June 30th of the program year in which they are receiving CDBG funding. Multi-year projects determine the number of beneficiaries for the two- or three-year period that services are provided. Activities may also qualify if they serve clients that are documented to be income eligible as defined by HUD Income Standards. If the facility project will **exclusively** serve any of the following groups, then they are **presumed** to be serving low-income beneficiaries:

- abused children
- battered spouses
- elderly persons (over the age of 62)
- adults meeting the Bureau of Census definition of "severely disabled"

- homeless persons
- illiterate adult
- persons living with AIDS
- migrant farmworkers

To compare a household's annual income information to the area median income table:

Find the column that corresponds to the number of persons in the household, then compare the verified annual gross income of the household with the income limit for that household size. If the annual gross income is at or below the limit for the household size, then the beneficiary is determined to be income qualified.

The attached Sample Client Intake Form at the end of this section contains the minimum information that must be collected by the Sponsor for all beneficiaries during the specified one-year time period.

Instructions for the Race and Ethnic Data Reporting

Applicants and organizations receiving Federal financial assistance from the Department of Housing and Urban Development (HUD) are required to report race and ethnic information. The revised definitions of ethnicity and race have been standardized across the Federal government and are provided below.

Please note that HUD's collection of racial data treats ethnicity as a separate category from race! To report race and ethnicity data correctly, each person must first identify his or her race, and then select the appropriate ethnicity (either Hispanic/Latino or NOT Hispanic/Latino). Example, if someone answers that they are Latino, you would indicate "Hispanic/Latino" under the ethnicity column, and then ask the person to indicate which category under race most closely identifies with that person's continent of origin.

<i>Race</i>	<i>Ethnicity</i>
American Indian or Alaska Native. A person having origins in any of the original peoples of North and South America (including Central America), and who maintains tribal affiliation or community attachment.	Hispanic or Latino. A person of Cuban, Mexican, Puerto Rican, South or Central American, or other Spanish culture or origin, regardless of race. The term "Spanish origin" can be used in addition to "Hispanic" or "Latino."
Asian. A person having origins in any of the original peoples of the Far East, Southeast Asia, or the Indian subcontinent including, for example, Cambodia, China, India, Japan, Korea, Malaysia, Pakistan, the Philippines Islands, Thailand, and Vietnam.	Not Hispanic or Latino. A person not of Cuban, Mexican, Puerto Rican, South or Central American, or other Spanish culture or origin, regardless of race.
Black or African American. A person having origins in any of the black racial groups of Africa. Terms such as "Haitian" or "Negro" can be used in addition to "Black" or "African American."	
Native Hawaiian or Other Pacific Islander. A person having origins in any of the original peoples of Hawaii, Guam, Samoa, or other Pacific Islands.	
White. A person having origins in any of the original peoples of Europe, the Middle East or North Africa.	

HUD states that self-reporting of self-identification, rather than observer identification is the preferred method for collecting race and ethnicity data. Self-identification for race and ethnicity means that responses are based on self-perception. You must make every effort to collect data for the aforementioned racial and ethnic categories. You may use the category "Other Multi-Racial", but you must track what these race categories or race combinations are. Anytime you gave a number that fits in this "other multi-Racial" category, you should be able to provide a narrative description in the space provided.

Income Reporting

In the table below, please find your household size (the total number, including yourself, who live in your home) in the first column, and then look at the three numbers in the columns to the right of your household size. Please circle the one number that is both higher than your annual income, and the closest to your annual income:

Household Size	80% AMI (Low Income)	50% AMI (Very Low Income)	30% AMI (Extremely Low Income)
1	\$ 39,600	\$ 24,750	\$ 14,850
2	\$ 45,250	\$ 28,300	\$ 17,420
3	\$ 50,900	\$ 31,850	\$ 21,960
4	\$ 56,550	\$ 35,350	\$ 26,500
5	\$ 61,100	\$ 38,200	\$ 31,040
6	\$ 65,600	\$ 41,050	\$ 35,580
7	\$ 70,150	\$ 43,850	\$ 40,120
8	\$ 74,650	\$ 46,700	\$ 44,600

Race and Ethnicity Reporting (Report for both Race AND Ethnicity)

1) Please check the box below next to your race: (You may check more than one box.)	2) Please check the box below next to your ethnicity: (Check only one box.)
American Indian or Alaska Native	Hispanic or Latino
Asian Black or African American	Not Hispanic or Latino
Native Hawaiian or Other Pacific Islander	
White American Indian or Alaska Native <u>and</u> White	
Asian AND White Black/African American and White American Indian/Alaska Native <u>and</u> Black	
Other Multi-Racial	

Do you have a disability? Yes No	Please check the box below next to your gender: Male Female
--	---

If you checked “female” above, are you the head of your household (either living alone, or a single mother, or living with a female roommate)?

- ☐ Yes
- ☐ No

Section III

CDBG Guidelines for Procurement of Goods and Services

CDBG Guidelines for Procurement of Goods and Services

It is the policy of the Marion County to encourage and foster competition in the awarding of contracts for goods and services to be funded with federal CDBG resources. Applicants must be aware of the requirements that will apply to their selection of the contractors that will carry out the work proposed in a CDBG funding application, where applicable.

Depending upon various factors such as the type of agency seeking funds, the type of project, and the contractual relationship that an applicant will have with Marion County (subrecipient or non-subrecipient as defined by HUD), specific federal procurement regulations (e.g., 24 CFR 84 or 24 CFR Part 85) may or may not apply. Prior to purchasing equipment, developing project plans or specifications, or soliciting contractors for a project, applicants should contact Marion County to request that a determination be made regarding the procurement requirements for their project. Early determination is critical because applicants may need to proceed differently depending upon which requirements apply.

The new OMB “Super-Circular”, Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards, supersedes and streamlines requirements from OMB Circulars A-21, A-87, A-110, A-122, A-89, A-102, and A-133; and the guidance in Circular A-50 on Single Audit Act follow-up. (Available at: http://www.ecfr.gov/cgi-bin/text-idx?tpl=/ecfrbrowse/Title02/2cfr200_main_02.tpl)

Applicants are encouraged to review these documents as you prepare your project application and as you are preparing to procure goods and/or services. Regardless of whether or not specific federal procurement regulations such as 24 CFR 84 apply to an applicant, there are a number of universal procurement standards that apply to all capital projects funded in whole or in part through Marion County’s CDBG program.

Key procurement and contracting requirements that apply include:

Cost reasonableness must be determined and documented for all project costs including costs for purchase of goods and services. Some form of price analysis must be made and documented in the applicant’s procurement files in connection with every procurement action. At a minimum, records must include criteria for proposal selection, justification for lack of competition when competitive bids or offers are not obtained, and the basis for making a cost reasonableness determination. 2 CFR Part 200 – Subpart E stipulates that a cost is reasonable if, in its nature and amount, it does not exceed that which would be incurred by a prudent person under the circumstances prevailing at the time the decision was made to incur the cost.

Using a price analysis to determine cost reasonableness may be accomplished in various ways, including: the comparison of price quotations submitted; independent and qualified third-party estimates or in-house estimates that are performed and documented prior to receiving contractor proposals; or written comparisons to market prices.

Proposals shall be reviewed and compared in order to assess cost reasonableness, scope, completeness, and satisfaction of other criteria that may have been stipulated in the request for proposal. While project cost will, in all cases, be weighted heavily in reviewing competing

proposals, the selected proposal shall be the one determined to be most advantageous when price, quality, and other factors such as contractor experience and capacity for your specific project, are considered.

The applicant makes the final contractor selection and will contract directly with the contractor. Marion County does not and will not have a contractual relationship with the contractor, does not endorse or recommend one contractor over another, warranty the work or performance of any contractor.

MBE/WBE Outreach Requirement Overview

Applicability

At a minimum, Marion County, and the recipients of funding through its CDBG program are required to implement outreach programs to ensure that contracting opportunities are facilitated, to the maximum extent possible, for entities owned by minorities and women. MBE/WBE compliance requirements are included in all CDBG funding agreements. These requirements include provisions that all funding recipients, prime contractors, and owners of CDBG -assisted projects comply with the MBE/WBE outreach program procedures as a condition of assistance.

Definitions

A Minority Business Enterprise (MBE) is defined as a business firm which is at least 51 percent (51%) owned by minority group members, or in the case of a publicly owned business, at least 51 percent (51%) of the stock of which is owned by minority group members. A Women's Business Enterprise (WBE) is defined as a business firm which is at least 51 percent (51%) owned by women group members, or in the case of a publicly owned business, at least 51 percent (51%) of the stock of which is owned by women group members. The minority or women's ownership must exercise actual day to day management and control of the business; Minority and Women's Business Enterprises must be officially certified or recognized as such, and must be included on the state of Oregon's listing of such firms, available at <https://oregon4biz.diversitysoftware.com/FrontEnd/VendorSearchPublic.asp>. Please consult with Marion County staff to assure that you receive and work with a copy of the most recently-updated MBE/WBE list.

Requirements and Procedures

Marion County can help applicants prepare a solicitation list of certified MBE/WBE firms which includes their capabilities, services, supplies and/or products. The services and assistance of the Minority Business Development Agency of the U.S. Department of Commerce, and other appropriate federal and state agencies, may also be called upon as needed to meet the MBE/WBE requirements. The Office of Minority, Women, and Emerging Small Businesses and the MBE/WBE Directory Web site noted above offer comprehensive on-line directories of minority and women owned business enterprises specific to the area of a proposed project site.

Marion County and its recipients of CDBG funds will both maintain records which describe MBE/WBE outreach activities undertaken, and will require that prime contractors, developers, and owners of CDBG-assisted projects do the same and submit annual reports on their MBE/WBE outreach activities to Marion County as a condition of receipt of federal funds while funded projects are underway. Contractor reporting forms are available from Marion County.

As a prerequisite to demonstrate MBE/WBE goal achievement, applicants will need to provide Marion County with the following information:

Copies of timely solicitation letters (dated a minimum of fourteen (14) calendar days prior to bid opening) sent to MBE/WBE firms. The solicitation letters should include the specific type or work and delivery schedule conforming to the type of work that the MBE/WBE firm performs.

Documentation of any other efforts to extend opportunities to MBE/WBE firms, such as advertisements in minority and women trade association newsletters and minority-owned media and written notification sent to minority and women contractor associations.

The names of selected MBE/WBE subcontractors to be utilized.

The type of work and dollar amount to be awarded to each MBE/WBE subcontractor.

The total dollar amount of MBE/WBE participation

METHODS OF PROCUREMENT

Whatever method of procurement is used, all contracts and Requests for Proposals (RFP's) must be reviewed by Marion County before prospective vendors are allowed to tender a bid or submit a proposal. In addition, Marion County must pre-authorize any noncompetitive proposal procurement.

Small purchasing procedures are applicable for the procurement of services, supplies, or other property costing in the aggregate not more than \$100,000. These procedures are relatively simple, informal and do not always involve competitive bidding. In obtaining goods or services by the small purchase method, local Contract Review Board Rules and ORS 279 must be followed, where applicable. In addition, a minimum of three competitive price quotes must be obtained for any small purchase.

Procurement by noncompetitive proposals is procurement through solicitation of a proposal from only one source, or after solicitation of several sources, competition is determined inadequate.

Procurement by noncompetitive proposals may be used only when the award of a contract is infeasible under small purchase procedures, sealed bids, or competitive proposals and one of the following circumstances apply:

- The item is available only from a single source;
- Public emergency when the urgency for the project will not permit a delay
- relative to competitive solicitation;
- After solicitation of a number of sources, competition is determined inadequate; or,
- HUD authorizes noncompetitive negotiation

CONTRACT COMPLIANCE

The sponsor's subcontracts must contain the provisions of this section:

All CDBG-funded contracts must be provided to Marion County to review prior to execution. All **contract documents** must include the following language:

“This contract and the work it will carry out is being funded in whole or in part with funding from the U.S. Department of Housing and Urban Development through the Marion County CDBG program.”

a) Termination for cause and for convenience by the sponsor including the manner by which it will be affected and the basis for settlement (for all contracts in excess of \$10,000). Sample contract language will be provided by Marion County upon request.

The sponsor must also monitor for insurance requirements and invoices for completion where applicable.

Section IV

Non-Discrimination, Fair Housing and Accessibility Requirements

Non-Discrimination, Fair Housing and Accessibility Requirements for Projects Receiving CDBG Funding

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 will vary depending on the type of proposed activity.

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 Standards (UFAS) (24 CFR Part 40 and 41 CFR Part 101).

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) with 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 persons, 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.

The Fair Housing Act

The Federal Fair Housing Act makes it illegal for landlords, managers, home owners, 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 (including Section 8 Voucher Holders)
- Sexual orientation including gender identity

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.

Section 504

HUD's regulations implementing 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 a 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 include 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 an 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 activities of 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.
- Honorably discharged veterans / military status
- Survivors of domestic violence

Failing to provide a qualified individual with disabilities a program or service that affords the same opportunity to benefit as that 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 a 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, dwellings, and may also include provision of auxiliary aids, such as readers, interpreters, and materials in accessible formats. [24 CFR 8.4, 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, 8.11, 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 recipient's 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 with 15 or more employees must notify participants, beneficiaries, applicants, and employees of their nondiscriminatory provisions. [24 CFR 8.54]
- 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]

Oregon Accessibility Laws

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

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.

Section V

CDBG Funding Terms and Contract Compliance

CDBG Funding Terms and Contract Compliance

PROMISSORY NOTE AGREEMENT

All Public Services sponsors shall enter into a Promissory Note with the County. The Promissory Note guarantees that the sponsor will operate the project to meet a national objective of the CDBG program during a pre-determined period of time; and it imposes conditions which the county determines are necessary to protect the county's CDBG investment. Following completion of the project, Marion County will return the canceled Promissory Note to the sponsor.

CONTRACT EXHIBITS

Before we can enter into a formal grant agreement with your agency that will allow you to access CDBG funds, the County must complete the HUD Part 58 Environmental Review. Once this is complete and all contracts are signed by the County Administrator, we will send you an original copy of the final executed grant agreement accompanied by the official "Notice to Proceed," which will allow you to incur eligible costs chargeable to the CDBG program. Please note that we are prohibited from reimbursing you for any activities performed prior to the date specified in the Notice to Proceed!

Because contracting can be time consuming, we like to begin this process immediately upon sending the Notice of Award letter to your agency. The first step in contracting is for you to review and/or complete the documents that are included with your Notice of Award letter (further described below). The following items must be returned to our office upon the specified date provided in the letter in order to prepare the contract with your agency:

Exhibit A, "Project Description, Scope of Activities and Anticipated Accomplishments"	Prepared by Marion County - You will only be reimbursed for activities that are included in this project description, so be sure that the scope of work and corresponding budget is an accurate reflection of your project. If you feel the description is inaccurate, please contact staff so that we may revise it as needed.
Exhibit B – Authorization Signature Card	It is recommended that you have at least three signers for all voucher requests designated in case a back-up is needed. You may also access the form and instructions on how to complete it here by contacting Marion County Community Development Division.
Exhibit C – Budget Summary	The Budget Summary is available in MS Excel format and will be emailed to you by staff. Please complete the budget summary and <i>email</i> it back to for review prior to signing and submitting the approved contract version. This helps us identify early on any errors that may need correcting.

Insurance Requirements	Provide your agency's most recent Certificate of Liability insurance showing that " Marion County, its officers, agents, elected officials and employees " is listed as an additional insured on the policy. Please instruct your insurance agent to send us a certificate as described above and <i>be sure to ask them to include the additional insured endorsement with the certificate</i> . Refer to the section, "Insurance Requirements" at the end of this section for further instructions on the types and amounts of insurance that is required.
FFATA Checklist	Refer to the checklist at the end of this section for further instructions.
Faith-Based Checklist	Refer to the checklist at the end of this section for further instructions.
Section 504 Checklist	Refer to the checklist at the end of this section for further instructions.
Matching Funds letter	According to program policy, you have until 90 days after the Notice of Award to verify the availability of matching funds for the project as proposed in your application. Please note this requirement and submit the letter to this office by that date designated in your Notice of Award letter verifying that all proposed funds are in place for the project.

Following receipt and review of the completed contract exhibits and all other requested items, we will prepare three agreements, which will include the enclosures, and send them to your agency for endorsement along with the Promissory Note. After we receive the signed agreements, they will be entered into the County's contract review process. We will then send you back an original copy of the fully executed agreement along with the Notice to Proceed.

EXAMPLE – EXHIBIT A

PROJECT DESCRIPTION, SCOPE OF ACTIVITIES AND ANTICIPATED ACCOMPLISHMENTS

I. Project Number and Title:

CDBG Project #XXXX—

II. Description of: Project, Activities, Anticipated Accomplishments, Low and Moderate or Other Target Group Beneficiaries.

a. Nature and Purpose of the Project:

b. Proposed Location or Impact Area(s):

c. Duration/Timing of the Project:

d. Number of Low and Moderate Income or Target Group Beneficiaries:

e. Component Activities (CDBG vs. Others):

CDBG = \$ Agency = \$

f. Quantitative Projections for CDBG Component Activities (in units, linear feet, square feet, etc.) for all acquisitions, construction, reconstruction, rehabilitation, etc.:

EXAMPLE – EXHIBIT B

Project No

Project Year (funded)

AUTHORIZATION SIGNATURE CARD

Project Name: _____

Applicant's Name: _____

Address: _____

City, State, Zip: _____

Telephone Number: _____ **Cell Number:** _____

**NAME OF SIGNATURE OF INDIVIDUALS AUTHORIZED TO SIGN
FINANCIAL DOCUMENTS:**

NAME (Type or Print)

SIGNATURE

I certify that the signatures above are of the individuals authorized to execute financial documents.

Date

Signature of Authorized Official

**Executive Director Title of Authorized
Official**

EXAMPLE – EXHIBIT C

Project Number:		XXXX	
Project Year (Funded):		20XX	
 Budget Summary (2-page form) Community Development Block Grant			
Project Title:			
Legal Name of Entity:			
Address:		City:	State: Zip:
I. BUDGET LINE ITEMS			
A. Personnel Services			
1. No. of Employees	2. Job Title	3. Total Salary	4. Portion Chargeable to CDBG
1	Project Coordinator	\$ 54,950.00	\$ 23,450.00
5. Subtotal		\$ 54,950.00	\$ 23,450.00
6. Extra Help/Overtime			
7. Fringe Benefits		\$ 23,550.00	\$ 10,050.00
8. TOTAL PERSONNEL COSTS		\$ 78,500.00	\$ 33,500.00
		Materials and Services	Portion Chargeable to CDBG
I.B. Materials and Supplies			
9. Office Supplies		\$ 500.00	\$ 500.00
10. Operating Supplies			
11. Communications			
12. Travel and Training		\$ 1,000.00	\$ 1,000.00
13. Legal & Public Notices			
14. Professional Services		\$ 20,000.00	\$ 10,000.00
15. Construction Contracts			
16. Other: Specify			
17. TOTAL MATERIALS AND SERVICES		\$ 21,500.00	\$ 11,500.00

SAMPLE

C. CAPITAL OUTLAY	Total Capital Outlay	Portion Chargeable to CDBG
18. Capital Outlay Quantity Item		
19. Real Property Acquisition		
20. TOTAL CAPITAL OUTLAY	\$ -	\$ -
	21. Total Project Cost	22. Total CDBG Award
	\$ 100,000.00	\$ 45,000.00
II. SOURCES OF PROJECT FUNDING		
1. Federal		
2. State	\$ 30,000.00	
3. Local Cash	\$ 15,000.00	
4. County		
5. In-Kind Service and Supply		
6. Other (detail)	\$ 10,000.00	
7. Subtotal	\$ 55,000.00	
8. CDGB	\$ 45,000.00	
9. TOTAL PROJECT COST	\$ 100,000.00	
III. AUTHORIZATION <div style="display: flex; justify-content: space-between; margin-top: 20px;"> <div style="width: 45%; text-align: center;"> <hr style="border: 0; border-top: 1px solid black; margin-bottom: 5px;"/> Authorized Signature for Project </div> <div style="width: 45%; text-align: center;"> <hr style="border: 0; border-top: 1px solid black; margin-bottom: 5px;"/> Date </div> </div>		
<div style="text-align: center; margin-bottom: 10px;">COUNTY USE ONLY</div> <div style="display: flex; justify-content: space-between;"> <div style="width: 50%;"> Reviewed and approved by Marion County on </div> <div style="width: 40%; text-align: center;"> <hr style="border: 0; border-top: 1px solid black; margin-bottom: 5px;"/> Date </div> </div> <div style="display: flex; justify-content: flex-end; margin-top: 10px;"> <div style="text-align: center; width: 40%;"> <hr style="border: 0; border-top: 1px solid black; margin-bottom: 5px;"/> Signature </div> </div>		

INSURANCE

A. Agency shall provide insurance coverage and limits as described below. All insurance carried by Agency must be primary to and non-contributory with any insurance, including any self-insurance or retentions carried by the County.

B. **Workers' Compensation Insurance**: Agency shall comply with ORS 656.017, which requires subject employers to provide Oregon workers' compensation coverage for all their subject workers. No Workers' Compensation Insurance has been or will be obtained by the County for Agency or Agency's employees and subcontractors. Agency shall provide and maintain workers' compensation coverage for its employees, officers, agents or partners as required by applicable workers' compensation laws including employers' liability with limits not less than \$500,000 each.

C. **Commercial General Liability Insurance**: Agency shall at all times carry a Commercial General Liability insurance policy for at least \$1,000,000 per occurrence and at least \$2,000,000 in the aggregate per project, for Bodily Injury, Property Damage, and Personal Injury. This insurance shall include contractual liability coverage for the indemnity provided under this Agreement.

D. **Automobile Liability Insurance**: Agency shall at all times carry Automobile Liability Insurance in the amount of \$1,000,000 combined single limit per accident for Bodily Injury and property damage for Agency's vehicles, whether owned, hired, or non-owned, which coverage is for Marion County, its agents, officers, elected officials and employees.

E. **Professional Liability/Errors and Omissions Insurance**: Agency shall at all times carry a Professional Liability/Errors and Omissions type insurance policy with limits of not less than \$1,000,000 each occurrence (or each claim if coverage is afforded on a claim made basis) and \$2,000,000 in the annual aggregate. If this policy is a "claims made" type policy, the policy type and company shall be approved by Marion County prior to commencement of the Work.

F. **Extended Reporting Coverage ("Tail Coverage")**: For Professional Liability/Errors & Omissions Insurance written on a "claims made" basis and for any other required liability insurance provided on a "claims made" basis, Agency shall provide "tail" coverage at the completion of the contract for a duration of thirty-six (36) months or continuous "claims made" liability coverage provided for thirty-six (36) months following contract completion. Continuous "claims made" coverage will be acceptable in lieu of "tail" coverage provided the retroactive date of the coverage is on or before the effective date of this Agreement.

G. **Bonding**: The Agency shall ensure that every director, officer or employee who is authorized to act on behalf of the Agency for the purpose of receiving or depositing funds into Agency project accounts or issuing financial documents, checks, or other instruments of payment for projects be bonded or covered under a commercial crime policy to provide for protection against loss. The bond or commercial crime policy must be endorsed to add "Client Coverage". The amount of the coverage must be \$100,000 or the total amount received by Agency pursuant to this Agreement, whichever is greater, and must be secured

until the entire amount is repaid in accordance with the terms of the Promissory Note and Trust Deed. The Agency shall provide the County with a copy of the bonding instrument or a certification of coverage from the bonding company or commercial crime policy issuer.

H. **Maximum Deductible/Retention:** Any deductible or retention must be disclosed on the certificate of insurance and no deductible or retention may exceed \$25,000 without the prior written consent of the County.

I. **Additional Insureds:** The County, its agents, officers, elected officials and employees all while acting in their official capacity as such, must be named as additional insureds on all insurance, other than worker's compensation insurance and professional liability insurance, required under this Agreement. The additional insured status must include both ongoing and completed operations and must be continued for at least 24 months after the project is completed and accepted. Such insurance shall include "cross-liability" coverage as provided under the standard ISO forms "Separation of Insured" clause.

J. **Proof of Insurance:** Agency shall deliver to the County, prior to the commencement of the work, a certificate of insurance evidencing all policies required by this Agreement including additional insured provisions afforded by the policy. This requirement can be satisfied by providing a copy of the coverage form and/or the endorsement(s).

Further, it shall be an affirmative obligation of the Agency to notify the County within two (2) business days of the cancellation or substantive change of any insurance policy or endorsement required herein, and failure to do so shall constitute a breach of this Agreement.

K. **Subcontractor/ Subgrantee Insurance:** Agency shall require and verify that all of its subcontractors or subgrantees of any tier provide insurance coverage and limits identical to the insurance required of the Agency under this Agreement, unless this requirement is expressly modified or waived by the County.

L. **Self Insurance:** If the Agency is self-insured, for any of its insurance requirements herein, it shall submit satisfactory evidence to the County of the terms and conditions of its own insurance coverage. A certification of self-insurance shall constitute compliance with the section.

M. **Acceptability of Insurers:** All insurance required pursuant to this section shall be issued by an insurance company or companies doing business in the state of Oregon. Insurance is to be placed with a carrier(s) having a Best's rating of no less than A: VII. Any exception must be approved by the County.

N. **Builders Risk Insurance:** In addition to the requirements above, if this Agreement is for a capital project, the following will also be required:

(1) During the term of this Agreement, for new construction, the Agency shall require the Owner to maintain in force, at its own expense, Builders Risk insurance on an all-risk form, including earthquake and flood, for an amount equal to the full amount of this Agreement.

Such insurance shall be maintained until the facility has reached substantial completion. The Agency shall or shall require Owner to name Marion County as Additional Insured and Mortgagee under the Builder's Risk insurance policy and any loss shall be adjusted by the Agency, Owner and County, as their interests may appear. The property insurance deductibles will be no more than \$25,000 per occurrence. The Agency shall require the Owner to pay costs not covered because of such deductibles.

(2) Insurance - Reconstruction Following Casualty

i. **Maintenance of Insurance** – At its sole cost and expense, the Agency shall or shall require Owner to keep the building and all other improvements on the premises insured throughout the term of this Agreement and the Trust Deed required therein, against loss or damage by fire and such other risks, including earthquake and flood, written on an "all risk" form on a replacement cost basis, including coverage for loss or damage due to leakage of sprinkler systems and coverage for loss or damage due to explosion of steam boilers, pressure vessels, oil or gasoline storage tanks or similar apparatus.

ii. **Insurance Casualties – Insurance Proceeds** – In the event of any loss, damage or casualty which is covered by the insurance described in paragraphs (1) and (2) of this subsection M, the parties to this Agreement shall proceed cooperatively to settle the loss and collect the proceeds of such insurance, which proceeds shall be held in trust by the County (including interest earned by County on such proceeds) for use in accordance with the terms of this Agreement. The parties recognize that insurance proceeds shall be used for the purpose of repairing and restoring the improvements damaged by the casualty to their former condition or replacement of the same with equivalent or more suitable improvements.

iii. **Insured Casualties – Reconstruction** – using such insurance proceeds (set forth in paragraph (ii) above, the parties shall proceed with reasonable diligence as soon as sufficient funds are available to prepare plans and specifications for, and thereafter carry out, all work necessary: (a) to repair and restore the building and/or improvements on the premises damaged by the casualty to their former condition, or (b) to replace said building and/or improvements on the premises to a quality and usefulness for the Project described in the application submitted by the Agency for the CDBG funding and the plans associated therewith, at least equivalent to, or more suitable than, the building and/or improvements which were damaged.

The County, in its sole discretion, may waive or modify some or all the insurance required in Section 11 of this Agreement. Any such waiver or modification must be approved in writing by the County's Risk Manager.

FFATA Checklist (contracts \$30,000 and over)

The Federal Funding Accountability and Transparency act (FFATA) requires the Office of Management and Budget (OMB) to maintain a single, searchable website that contains information on all Federal spending awards. As part of this, Marion County is requiring all agencies that have been awarded funding to complete this form.

To Be Filled Out By Marion County Staff	
Program source	
CFDA program number for grant	
Name of agency receiving award	
Amount of award	
Project number	
Award title descriptive of the funding action	
To Be Filled Out By Agency	
Address of the entity including: (Zip + 4)	
Place of performance including: (Zip + 4)	
Congressional District	
Total compensation and names of top five executives*	1.
	2.
	3.
	4.
	5.
DUNS number	
Central Contractors Registration (CCR) number**	

*Must give total compensation and names of top five executives if:

1. More than 80% of annual gross revenues from the federal government, and those revenues are greater than \$25M annually and

2. Compensation information is not already available through reporting to the SEC.

**Note: Because CCR registration expires annually, grantees are required to update their CCR information annually.

How do you get a DUNS number?

The unique identifier used in reporting to FFATA is the entity's Dun & Bradstreet (D&B) Data Universal Numbering System (DUNS) Number. For sub awardees, OMB has issued interim final guidance requiring such recipients to obtain a valid DUNS number. DUNS number may be requested via the web at: <http://fedgov.dnb.com/webform>

What is a CCR and how do you register?

CCR stands for Central Contractor Registration, which is the primary registrant data Federal Government. CCR collects, validates, stores and disseminates data in support of agency acquisition missions. Here is the link to information needed to register and become familiar with CCR:

- Registration information: <https://www.sam.gov/portal/public/SAM/>

Please sign below certifying that the above information is correct:

Signature

Print Name

Date

Marion County

Checklist Relating to Faith-Based Organizations Seeking CDBG or HOME Funds

In September 2003, the US Department of Housing and Urban Development (HUD) provided new guidelines that expanded the ways in which Faith-Based Organizations may participate in HUD programs. (24 CFR Part 92 et al.) To ensure that Marion County is up to date in complying with these new regulations, Marion County is requiring ALL APPLICANTS for CDBG or HOME funds to complete this checklist, whether or not your organization is a Faith- Based Organization. Organizations that are not faith-based may simply complete Section A, answer the first question in Section B in the negative, and complete Section C and return the application to the Marion County. Please complete one of these for each application that you submit, as some of the answers might be different for various programs.

If you have any questions or would like assistance, please contact 503-846-8814.

Please complete this form and return it Marion County Community Development Staff

A. General Information

Name of Organization: _____

Name and Title of Contact Person: _____

Project: _____

Contact Phone Number: _____ Cell Number: _____

B. Questions About Your Agency and Project:

Please answer all required questions.

1. Does your organization provide inherently religious activities, such as worship, religious instruction or proselytization? Please check appropriate box ☐ Yes ☐ No

If YES, please complete the remainder of Section B. If no, proceed to Section C.

2. When and where does your organization offer religious activities?

Please describe in detail:

- 2(a). When and where does your organization offer the services to be funded with HUD funds?

Please describe in detail:

2(b). Are these religious activities offered separately in time from the assistance to be funded with HUD funds? Please check appropriate box ☐ Yes ☐ No

Please describe in detail:

2(c). Are these religious activities offered in a separate location from the assistance to be funded with HUD funds? Please check appropriate box ☐ Yes ☐ No

Please describe in detail:

3. Is participation in the religious activities voluntary for the beneficiaries of the HUD-funded assistance? Please check appropriate box ☐ Yes ☐ No

Please describe in detail:

4. Is the HUD-funded assistance that your organization offers open to all, without respect to religion or religious belief? Please check appropriate box ☐ Yes ☐ No

Please describe in detail:

5. Does your organization take religion into consideration in the employment of individuals to perform work for your organization? Please check appropriate box ☐ Yes ☐ No

Please describe in detail:

6. Are you planning to use HUD funds for the acquisition, construction or rehabilitation of a structure or site? Please check appropriate box ☐ Yes ☐ No

If YES, please proceed to 6(a) below. If NO, please proceed to Section C.

6(a). Will a part of that structure or site be used to inherently religious activities?

Please check appropriate box ☐ Yes ☐ No

If YES, please proceed to 6 (b-e) below. If NO, please proceed to Section C.

6(b). What part of the structure or site will be used for inherently religious activities?

Please describe in detail:

6(c). What part of the structure or site will be paid for with HUD funds?

Please describe in detail:

6(d). Can the portion of the structure or site funded with HUD funds be clearly distinguished from the portion where religious activities will occur? Please check appropriate box ☐ Yes ☐ No

If YES, please describe in detail:

6(e). Please complete the chart below:

	Total Structure	HUD-Funded Portion of Structure	Portion Where Religious Activities Will Occur
Square feet			
Cost (\$)			

C. Assurances and Signature

I am an authorized representative of the organization described in Section A. I affirm that all of the statements on this form are true and accurate.

Signature

Date

Print Name

Title

Instructions for the Section 504 Checklist

This checklist is designed to assess your organization's compliance with requirements under Section 504 of the Rehabilitation Act of 1973.

These requirements are based on the regulations governing Section 504 of the Rehabilitation Act of 1973 (24 CFR 8), the Fair Housing Act (24 CFR 100), and the Uniform Federal Accessibility Standards (UFAS) (24 CFR 8.32 and Appendix A to 24 CFR 40).

Regarding compliance with Section 504 communications provisions, 24 CFR 8.6 requires that your organization take appropriate steps to ensure effective communication with applicants, beneficiaries, and members of the public. In effect, this means that, "to the maximum extent possible," persons with disabilities receive the benefits and services of the CDBG funded program or activity. You are not, however, required to take actions that can be demonstrated to result in a fundamental alteration in the nature of a program or activity or in undue financial and administrative burdens.

With respect to the accessibility of non-housing facilities, 24 CFR 8.21 and 8.32(a) requires the design and construction of all new non-housing facilities to be readily accessible to, and usable by, persons with disabilities. The regulations also require alterations to existing non-housing facilities to make such facilities accessible to, and usable by, persons with disabilities, unless such alterations result in a fundamental change to the nature of the program or an undue financial and administrative burden.

Program accessibility requirements under Section 504, at 24 CFR 8.4 and 8.20, call for your organization to operate its non-housing programs or activities in ways that makes them readily accessible to, and usable by, persons with disabilities, unless it can be demonstrated that the actions taken to make these programs accessible would fundamentally change the nature of the program or impose undue financial or administrative burdens.

Please note that Section 504 record keeping requirements (at 24 CFR 8.55) will be reviewed at your CDBG monitoring visit. Marion County staff will examine applicable records maintained by your organization to determine that, not only are such records available, but that they correspond to information contained in performance and other reports submitted to Marion County. While a lack of documentation may not imply discrimination, your organization's data serves as a basis for further investigation of compliance with nondiscrimination requirements.

Section 504 Checklist

A. General Information:

Name of Organization: _____

Name and Title of Contact Person: _____

Project: _____

Contact Phone Number: _____ Cell Number: _____

Questions About Your Agency and Project:

Please answer all required questions.

ACCESSIBILITY PROCEDURES

1.

If your organization has 15 or more employees, does it have a formal, written grievance procedure for resolution of complaints alleging discrimination based on disability? (If yes, obtain copy for FHEO review of due process standards.) [24 CFR 8.53(b)]

☐ Yes

☐ No

☐ N/A

Describe Basis for Conclusion:

ACCESSIBILITY OF NON-HOUSING FACILITIES

2.

Does your organization maintain documentation (e.g., blueprints and construction specifications) that all new non-housing facilities assisted with CDBG program funds are being designed and constructed to be readily accessible to, and usable by, persons with disabilities in conformance with accessibility requirements?

☐ Yes

☐ No

Describe Basis for Conclusion:

3.

Do your organization's records indicate that, if any alterations have been made to existing non-housing facilities, that such alterations have made these facilities usable by, and accessible to, persons with disabilities?	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A
Describe Basis for Conclusion:	

ACCESSIBILITY OF HOUSING PROGRAMS

4.

Do records indicate that programs or activities are readily accessible to, and usable by, persons with disabilities? [24 CFR 8.4, 24 CFR 8.20, 24 CFR 8.21(c)(2)]	<input type="checkbox"/> Yes <input type="checkbox"/> No
Describe Basis for Conclusion:	

COMMUNICATIONS

5.

a. Has your organization taken steps to ensure effective communication with applicants, beneficiaries, and members of the public who have hearing, vision, or speech impairments using: <ul style="list-style-type: none"> i. Qualified sign language and oral interpreters? ii. Readers? iii. Use of tapes? iv. Braille Materials? v. TTY? vi. Other (describe below)? [24 CFR 8.6] 	<input type="checkbox"/> Yes <input type="checkbox"/> No
Describe Basis for Conclusion:	

b. If the answer to "a" above is "no", describe the method(s) used by your organization to facilitate effective communication.
--

Describe Basis for Conclusion:

6.

Has your organization adopted and implemented procedures to ensure that interested persons (including those with impaired vision or hearing) can obtain information concerning the existence and location of accessible services, activities and facilities? [24 CFR 8.6(b)]

☐ Yes
☐ No

Describe Basis for Conclusion:

7.

Is there documentation to show steps that your organization has undertaken to attract persons with disabilities, such as: making buildings more accessible to persons with physical disabilities; home visits to assist applicants for program benefits in filling out applications; supplying sign language interpreters for public meetings on issues relating to your programs? [24 CFR 8.54(b) and (c)]

☐ Yes
☐ No

Describe Basis for Conclusion:

RECORD KEEPING

8.

Does your organization maintain data for compliance purposes showing the extent to which persons with disabilities are beneficiaries of the program(s) being reviewed? [24 CFR 8.55 (b) and 24 CFR 8.121]

☐ Yes
☐ No

Describe Basis for Conclusion:

9. Are copies of your organization’s Reasonable Accommodation Policy, Section 504 Self-Evaluation Form and Transition Plan available for review?	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A
Describe Basis for Conclusion:	

Section VI

Finance/Accounting

Overview

FINANCE/ACCOUNTING

The following procedures are guidelines that should be adhered to in financial transactions to meet federal requirements under Marion County Community Development Block Grant (CDBG) Program.

Some of these forms can also be obtained in Microsoft Excel. Please contact the Senior Community Development Specialist or the Grants Technician to request these forms in MS Excel.

FINANCIAL PROCEDURES

To assist sponsors in meeting the financial guidelines, Marion County has developed standard policies and procedures under the following sections for:

1. Authorizations
2. Budgeting/Budget Summary
3. Budget Revisions
4. Contingency Funds
5. Surplus Project Funds
6. Program Income
7. How to Submit a Voucher Request for Reimbursement

Limited technical assistance in setting up proper internal controls and record keeping can be obtained through Marion County. However, sponsors will ultimately be held responsible for management of their project and budget.

Authorizations

In order to assure that budgets, budget revisions and requests for payment are properly authorized, all forms will require the signature of at least two individuals designated by the sponsor to request reimbursement. The chief executive or certifying officer authorizes these designated signatories to sign budgets, budget revisions and requests for reimbursement by executing the Marion County Authorization Signature Card form. It may be helpful to obtain three or four signatures to assure the availability of two authorized signers at any given time. If the authorized signers change for any reason, a new Authorization Signature Card is required.

Budgeting/Budget Summary

The Budget Summary form is used in conjunction with the Voucher Request and Program Accomplishments. It is designed to enable sponsors, program staff, County finance and federal auditors to identify and track the expenditure of program funds. The sponsor, prior to executing a standard contract with the County, must complete the Budget Summary form. Upon receipt of the Budget Summary and the Authorization Signature Card, Marion County will prepare the standard project contract which incorporates the Project Description and Scope of Activities, Budget Summary and Signature Authorization Card as exhibits.

Budget Revisions

A request for a Budget Revision must be submitted to Marion County before a sponsor:

1. Overspends in one cost category and proposes to use the surplus remaining in another cost category to cover any shortfall: or
2. Allows costs for any category or the total unobligated balance of project funds to be reduced to a level that is inadequate to meet current or anticipated obligations.

Contingency Funds

Requests for the use of contingency funds may only be requested for a public facility or infrastructure project, as the amount of funding that is allowed to be spent on public service activities is capped at 15% of the annual CDBG award received from HUD. Contingency funding requests must be made in writing in accordance with current program policies and prior to incurring costs. (See Program Policy Manual, policy number 4.) The request shall state the amount of funds requested and documentation of how that number was derived, as well as the circumstances that caused the need for additional funding. The sponsor must conclusively demonstrate that efforts have been made to contain cost overruns and to fund the additional expense from a source other than CDBG funds.

Surplus Project Funds

Surplus project funds that result from completing a project under budget shall be reported to Marion County as soon as practicable. Sponsors must obtain written approval from Marion County if they wish to use any surplus project funds. Such requests must be made in writing prior to incurring costs. Costs must be related to the project for which your agency originally received the CDBG funds. Unspent surplus income shall be returned to the program to be used as reprogrammable income. (See Program Policy Manual, policy number 3.) If a project's expiration date is approaching and you think you need more time to spend the remaining funds, you should contact the CDBG/HOME Program Manager.

Program Income

Program income is defined as any funds accruing to a sponsor as a result of using CDBG resources. Examples include rental fees from the use of a community facility, sale proceeds from purchased equipment or property, and fees charged for services funded by program resources.

Sponsors are required to keep records of the sources of program income, reporting unanticipated program income as soon as possible. The use of all program income must be documented. Program income may be used to support the operation of a CDBG program activity. Program income not used to continue or benefit the original CDBG activity shall be returned to the program.

How to Submit a Voucher Request for Reimbursement

This piece will give you specifics on how to submit a voucher for reimbursement including

how best to prepare and submit your back-up documentation. Your reimbursement voucher is a four (4)-page document that Marion County provides. ***If you do not have the Excel version of the Voucher Request, please email our office to request that it be emailed to you as this form is not available online!***

The first critical piece of information you need to know is how you are charging costs: will you be charging direct costs, or will you be charging a combination of direct costs and indirect costs?

Direct Costs are costs that only benefit one program or activity. Indirect costs are those costs that benefit more than one activity or program. **If you are going to be charging indirect costs, you MUST have a federally approved cost allocation plan with an established indirect cost rate.** This plan must be submitted to Marion County for approval. If you gave an internal allocation plan but it has not been approved by a federal agency, we can NOT pay for those indirect costs. This is a requirement.

Contact Marion County if you have any questions about indirect cost rates. If there is a problem, the earlier we address it, the fewer delays there will be in processing vouchers. When sponsors receive billings or incur costs for projects, the amount due can be paid and then reimbursement may be requested from the County, or the sponsor may request reimbursement from the County and then pay the amount due. The sponsor must disburse, within 72 hours, any reimbursement or combination of reimbursement made from Marion County that exceeds \$5,000.

Costs which are charged must be included in the approved Budget Summary and must be allowable under 2 CFR Part 200 Subpart E.

To request payment for projects, the voucher request form must be completed. The form is made up of two (2) parts: the financial component and the program accomplishments. The financial component (two pages in length) includes the amount requested, by line items, according to the budget for the project. The Program Accomplishments component (two pages in length) provides the format for reporting on activities completed and beneficiaries served, explanation of costs incurred, and reasons for any deviation from planned progress. Both components must be fully and accurately completed. Billings or invoices must be attached and coincide with the dates cited in the Voucher Request. Vouchers without back-up documentation will not be accepted.

When submitting a voucher request, only record the CDBG portion of your budget and expenses on this form. Recording the matching portion of the grant should be done under separate documentation and retained by the agency.

Retain a copy for your files. Send the completed form (four pages in length), along with documentation of the costs you are charging to the Block Grant (i.e., invoices, payroll time sheets, etc.) to Marion County. When the form has been processed and payment authorized, a copy of the form will be returned along with the payment. If receiving electronic payment, a copy of the form will be emailed to the recipients designated on the voucher request.

At present, the average time for the county to process a voucher is ten (10) working days. Please refer to the Step-by Step Instructions for completing a CDBG Voucher Request for answers to frequently asked questions.

Step-by-Step Instructions for completing the Voucher Request

VOUCHER PAGE 1

Project Year (located on page 1 and 2 of voucher) — On the voucher you will be asked to fill in the Project Year. Even if your project is a three-year project, the funding year is the year the project was initially funded. If you have a project that came on-line July 1, 20XX it will ALWAYS be a 20XX project. If you have a project beginning July 1, 20XX, your funding year will ALWAYS be 20XX.

The Environmental Release Date (located on page 1 of voucher) — For most projects, the environmental release date is July 1st of the year your project is funded. To be sure, check the letter you receive from this office that gives you the “Notice to Proceed.” This letter usually accompanies your fully executed copy of the contract. The date specified in the letter is the date you use on page 1. You cannot incur costs prior to the environmental release date (the start date of your project).

Column 1 of Voucher Page 1 — Approved CDBG budget. This reimbursement request is only for CDBG dollars, so you only show the CDBG budget. Check the budget (Exhibit C) in your contract to get the numbers for this column.

Column 2 of Voucher Page 1 — Expended this Period. This is the amount you are requesting for this voucher. Your back-up documentation should total what you have in this column.

Column 3 of Voucher Page 1 — Expended to Date. This is the amount you have expended INCLUDING this voucher.

Column 4 of Voucher Page 1 — Unobligated Balances. This is the amount of funds remaining after the expenditures from this voucher. As a way to check yourself, column 3 PLUS column 4 EQUALS column 1.

VOUCHER PAGE 2

- Item 5 = Total of Column 1 (from page 1) Item 6 = Total of Column 3 (from page 1)
- Item 7 = Total of Column 3 FROM THE PREVIOUS VOUCHER (unless you have a payment in transit – see item # 9).
- Item 8 = Cash on Hand — This will always be “0” unless you have just received a check from our office which you have not disbursed. In that we require you to disburse the funds within 72 hours, there is rarely “cash on hand.” Cash on hand means CDBG funds. CDBG funds should never be deposited into an interest-bearing account.

Item 9 = Payments in Transit — This will happen occasionally when you have submitted a voucher but have not actually received the payment yet. Having a payment in transit is uncommon as we try to have a fairly quick turnaround.

Item 10 = Cash Requested — Total on Column 2 (from page 1)

Preparers and Authorized Signers — Exhibit A of your contract is a Signature Authorization Card. This tells us who your agency has designated the authority to sign financial documents for this project. Check the Signature Authorization Card so you know who can sign documents.

A preparer is the person who fills out the voucher and compiles the back-up documentation. A preparer CAN ALSO BE an authorized signer but does not have to be.

This section must be signed, name must be printed or typed, and the date must be filled in.

VOUCHER PAGES 3 & 4 (PROGRAM ACCOMPLISHMENTS)

Item 1 = PERSONNEL — In this section, you should list the names of the agency personnel that are funded with this grant. If employees are funded in whole or in part with block grant dollars, their names should be listed here.

Item 2 = TASK PERFORMED — In this section, you should put a short narrative describing the work accomplished with the funds for which you are requesting reimbursement.

If you are a public service or housing project, you may have on-going activities such as case management, provision of services like counseling, weatherization activities, after-school activities, etc. If you are a construction project, you may be in the design and engineering phase or you may be in the construction phase pouring concrete, laying pipe, installing equipment, etc. Describe what tasks were performed for which you are requesting reimbursement.

Item 3 = UNITS OF SERVICE COMPLETED — In this section, you will be providing information on accomplishments. Before you can fill this out, you need to know what the contract states you will accomplish overall. Look at **Exhibit A** of the contract under “Number of Low and Moderate Income or Target Group Beneficiaries (public service projects) or Quantitative Projections” (construction projects). This will tell you what will be accomplished with this contract.

Description – describes the unit of service being provided (low/mod income people, lineal feet of pipe/sidewalk/pavement, # of manhole covers, houses to be repaired etc.)

Proposed total (#) to be provided – take this number from Exhibit A.

Actual total provided this request – how many NEW (**beneficiaries can only be counted**

once) low- and moderate-income persons did you serve this reporting period (public service projects) or how many feet of pipe/sidewalk/pavement was laid, sq. ft. of foundation poured, # of houses repaired or weatherized. Sometimes this isn't cut and dry for construction projects so you must do the best you can with what you know.

Provided Cumulative to Date – how many units of service (as described above) you have completed in total.

Item 4 = EXPLANATION — This section should indicate any unexpected and/or significant changes in project output. If you are halfway through a project, and you have served only 25% of the people to-date, you should let us know that. Indicate what the problem is and how you are handling it.

Item 5 = PERFORMANCE MEASUREMENTS INDICATORS — Number of persons assisted (CHOOSE ONE INDICATOR ONLY).

WHAT IS THE DIFFERENCE BETWEEN NEW OR IMPROVED ACCESS?

PUBLIC SERVICES

Where a service or facility did not exist, the assistance provided results in "new" access to that service or facility. Where a service/facility was limited in size or capacity, and the assistance expanded the existing service or facility, the result would be "improved" access.

New access to a service is when a service is offered for the first time. This indicator would be used in the instance when a public service has not previously been available to these households. For instance, the sponsor might elect to fund a new job transportation service for working mothers. No such program currently exists in the area and so this is access to a new service for these households.

Improved access to a service is when a service was offered, but the public service activity allowed the sponsor to expand the service, in terms of size, capacity, or location. For instance, assume that an existing meal on wheels program only provided lunch and the expanded service provides lunch and dinner service. For these elderly households, this would constitute improved access. If a sponsor is re-funding an ongoing program, the improved access indicator is generally used.

PUBLIC FACILITIES/INFRASTRUCTURE IMPROVEMENTS

New access to a public facility is when the facility did not previously exist and is provided for the first time. Examples are the construction of a new sewer line for a low-income neighborhood. Or rehabilitation of an abandoned building to be used as a center for training severely disabled persons to enable them to live independently provides new access to this type of facility for the targeted population.

Improved access to a public facility or infrastructure is when the facility or infrastructure is improved or expanded, enabling the grantee to expand the number of people or type of service the facility provides. For instance, the rehabilitation and expansion of a recreation center that enables the center to serve more people and provide a wider variety of recreational programs. Paving gravel streets and installing curbs, gutters, and sidewalks in a predominantly low-income neighborhood provides improved access to the intended beneficiaries.

QUALITY STANDARD/IMPROVED QUALITY

Where the public facility was used to meet a quality standard or measurably improved quality, the number of persons that no longer have access to only a substandard facility or infrastructure. For example, rehab of a dilapidated community center that had been closed improves the quality of the facility and the services provided.

Item 6 = **INCOME PROFILE OF PERSONS SERVED (PUBLIC SERVICE PROJECTS ONLY)**

Public Service projects must complete this section to receive payment. This section takes the number of people served and breaks it down by income.

There is a row for “current request” numbers and a row for “cumulative to-date” numbers.

In the row for “current request,” your total # of households/persons served should equal the number in Item 3 “Provided this Request.” Of that number, how many are in the moderate-low- income bracket, how many are in the low-income bracket, and how many are in the extremely low-income bracket? The three income categories should equal the total amount served (current request).

In addition, if your accomplishments are in housing units or households, you will need to collect this data if you are collecting by persons.

Item 7 = RACIAL/ETHNIC PROFILE OF PERSONS SERVED

HUD regulations have changed regarding how racial data is collected. There was a shift towards collecting race and ethnicity data similar to how the 2000 Census collected the data. HUD expanded the racial categories to include dual races. Under the new requirements, Hispanic is no longer a racial category. It is an ethnic category, which can overlay race. Ethnicity can be based on language, cultural affiliation, country or origin, customs, ancestry, etc. Clients need to identify their **race** and whether or not they are Hispanic/Latino. Your income and race totals (item 6 & 7) for both current request and cumulative-to-date should agree.

To obtain your cumulative-to date total, you will need to add the current request figure to the cumulative figure from the previous voucher.

Item 8 = NUMBER OF DISABLED PERSONS SERVED

HUD regulations require that CDBG entitlements must collect disability information on applicants receiving program benefits.

Item 9 = NARRATIVE FOR OTHER MULTI-RACIAL

Give brief narrative for racial profile (if applicable).

BACK-UP DOCUMENTATION

Back-up documentation is a critical component of your request for reimbursement.

One of the areas that seem to cause the most problems is providing documentation for staff salaries (personnel line item) when staff work in multiple programs/projects. The reason for that is because you must track ACTUAL HOURS spent on the CDBG projects as opposed to an approximation or PERCENTAGE of hours.

For personnel charges, you need to provide timesheets that clearly show the hours you and/or your staff worked on this CDBG project. If you spent 5 hours on Monday, 3 hours on Tuesday, and 6 hours on Wednesday working on the CDBG project, it should be reflected this way on your timesheet. Work with your agency’s finance person to be sure that your timesheets can accommodate tracking your hours in such a way (must be shown as hours per day)

EXAMPLE: Employee A works 110 hours in one month on the CDBG project and has an hourly wage of \$10.00. The timesheet would reflect the 110 hours spent on the CDBG project and would note the hourly wage for a total of \$1,100. If applicable (i.e., if taxes and fringe benefits are included in your budget) you would need to then calculate the appropriate amount for taxes and fringe benefits that are relevant to the \$1,100 and submit that amount along with the timesheet. The total of salary and taxes and benefits would be the amount shown under Personnel on page 1 of the voucher.

You CANNOT round off and say Employee A worked 64% of his/her time on the CDBG project. Percentages are ONLY allowed if you have a federally approved indirect cost rate which Marion County has reviewed and approved.

If you have multiple employees, you should provide some kind of summary sheet (in addition to the timesheets) that shows what you are requesting.

Office Supplies/Operating/Travel/Communications/Legal Notices

If you have multiple invoices/sales slips for reimbursement for any of the above line items, you should copy the bills legibly and highlight the amount on each invoice.

The amount on the spreadsheet will equal the amount on page 1 on the voucher for that line item.

If you have funds budgeted in the professional service line item or the construction line item, provide the professional invoices that detail the work completed and the amount requested.

If you are using CDBG to pay a portion of a bill, mark on the bill “\$XXX charged to CDBG and \$XXX charged to (name other program). A nother way to indicate this would be to write on the invoice “Charge only \$XXX to CDBG.” Then highlight that amount.

The important thing to remember is to prepare your voucher with a clear connection between your invoices and your total request for payment.

Section VII

Monitoring

COMMUNITY DEVELOPMENT BLOCK GRANT (CDBG) MONITORING PROCEDURE

The procedures outlined in this chapter are designed specifically to apply to monitoring of Community Development Block Grant (CDBG) funds from Marion County's CDBG program.

Through on-site and desk monitoring, the reviewer can determine whether the program participant's performance meets CDBG program requirements and improve program participant performance by providing guidance and making recommendations. The specific purposes of monitoring are to:

- Validate the accuracy of information presented by the program participants;
- Follow-up on problems identified during the monitoring visit;
- Determine compliance for those activities where there is sufficient information to make eligibility and/or national objective determinations;
- Evaluate the reasonableness of judgments made for those activities that involve high levels of program participant judgment;
- Ascertain the Sponsor's ability to ensure that activities carried out meet compliance requirements;
- Verify the accuracy of the program participant's records; and,
- Identify apparent causes of any problem(s) and offer recommendations for corrective actions.

ELIGIBILITY AND NATIONAL OBJECTIVE COMPLIANCE CRITERIA

The specific categories of eligible activities under which an activity may be carried out by a program participant using CDBG funds are found at 24 CFR 570.201 through 24 CFR 570.206. The criteria for determining whether an activity addresses one or more of the three national objectives are found at 24 CFR 570.208.

DOCUMENTATION

As described in the CDBG regulations at 24 CFR 570.200(a), each Sponsor is required to maintain records that fully describe the assisted activity, including related financial and eligibility information, typically to show that the project funded with CDBG funding is benefitting low- and moderate-income individuals. The required documentation that must be maintained by the program participant is described at 24 CFR 570.506(a) and (c) for eligibility and at 24 CFR 570.506(b) for national objectives.

APPROACH TO MONITORING

Marion County staff views monitoring not as a once-a-year or a periodic exercise, but as an ongoing process involving continuous communication with the Sponsor and evaluation of financial records. Such a process involves frequent telephone/email contacts, written communications, analysis of reports and audits, and periodic meetings as needed. It is the responsibility of Marion County staff to keep fully informed concerning Sponsor's compliance with program requirements and the extent to which technical assistance is needed.

The overriding goal of monitoring is to determine compliance, prevent/identify deficiencies and design corrective actions to improve or reinforce Sponsor performance. As part of this process, Marion County staff must be alert for fraud, waste and mismanagement or situations with potential for such abuse. Where possible, any identified deficiencies in need of corrective action should be handled through discussion, negotiation, or technical assistance in a manner that maximizes local discretion. Monitoring also provides opportunities to identify program participant accomplishments, as well as successful management, implementation, and evaluation techniques that might be replicated by other Sponsors.

Marion County will conduct monitoring in the fall, with a few exceptions. Marion County staff will revise the Monitoring Checklist annually to determine which are to be monitored. The Program Manager will be provided a copy of the monitoring schedule. Past practice has been to monitor all Sponsors who have spent funds since last year, but in years where there may be too many projects to monitor, staff will use their discretion to implement a method to calculate those projects that may be more vulnerable and require monitoring more than others.

MONITORING STANDARDS

Because it is not always possible that Marion County staff will be able to monitor all of a program participant's activities, projects and/or functions, or even review activities in a specific area spanning a participant's entire program year, random sampling is generally expected to form the basis for drawing conclusions about the program participant's performance. Staff may choose to take a sufficient sample of projects to be monitored, based on a "risk" calculation to determine a sampling of units to be monitored. In certain instances, however, non-random sampling will be the more efficient method to use. Such cases include activities that have only a few projects to review, any activities with unresolved problems remaining from previous monitoring visits, any new types of activities being undertaken, and/or activities considered high risk. Note that any sample review or spot-check of program participant records that raises questions concerning the accuracy of the data indicates the need for further follow-up.

All new competitively funded CDBG projects contracted in a given fiscal year will be monitored at least once. Public service projects will be monitored sometime in the fall, although delays are acceptable in order to accommodate staff capacity issues.

Public Facility and infrastructure projects will be monitored towards/at completion of the project – one time only.

Multi-year public service projects will be monitored annually (after first year's monitoring) if any one of the following applies:

- Had findings/concerns in last year's Marion County monitoring
- Had findings in last completed A-133 audit concerning CDBG funding
- Agency is less than 5 years old
- Agency is a 1st time Marion County CDBG recipient
- Staff determines that the complexity of project necessitates annual monitoring.

Marion County staff may decide to monitor a Sponsor as often as needed. Marion County staff may also elect to monitor multi-year public service contracts every other year if all of the following apply:

- Sponsor had no findings/concerns in last year's Marion County monitoring
- Had no findings in last completed A-133 audit concerning CDBG funding (ONLY if applicable – sometimes A-133 not required)
- Is an agency more than 5 years old
- Has received CDBG funding in consecutive funding years
- Project scope has not changed
- Desk audits of voucher requests reveal no concerns.

Housing Rehab set-aside projects can be monitored every 3rd year (is NOT applicable to public services set-aside projects):

Public services set-aside projects will be monitored every other year unless one of the following applies:

- Had findings/concerns in last year's Marion County monitoring
- Had findings in last completed A-133 audit concerning CDBG funding.

On-Site Monitoring Procedure

Marion County staff will call to set up an agreed upon time with Agency and follow-up with boilerplate letter and include the monitoring checklist to inform the agency being monitored about what staff will be looking at. This monitoring checklist will be filled out by Marion County staff during the visit. In preparation for this visit, the agency should review the Monitoring Checklist to ensure records are ready for Marion County staff's review.

Prior to the monitoring visit, the agency should send a letter certifying that federal funding did or did not trigger the A-133 audit requirements. A sample template that can be used to compose this letter is concluded at the end of this section. This letter should be signed by their Chief Financial Officer or Executive Director and returned to Marion County staff prior to or no later than at the monitoring visit. Staff will also request a copy of the most recent financial audit, if applicable.

Once a copy of an audit from an agency is obtained, Marion County staff will review the audit for any findings and record it in a federal tracking database. When possible, where Beaverton and the County have the same project with an agency, it would be preferred to coordinate monitoring visits to lessen the burden on the agency, to share methods for monitoring, to communicate same messages, etc.

A-133 AUDIT RESPONSIBILITIES

All sponsors that expend \$750,000 or more in federal funds in a year must meet the audit requirements as specified in OMB Circular A-133. Additionally, all financial transactions

with CDBG monies are subject to federal audit. Each sponsor is required to permit independent auditors access to the records and financial statements at least once a year, or not less frequently than every two (2) years. Sponsors must be prepared to explain how transactions were made, why, and be able to account for any funds expended.

During an audit, the auditor will examine records to ascertain if:

1. Funds are properly budgeted and approved;
2. Budget revisions have been documented and approved;
3. Personnel charges are properly allocated to the block grant and based on payroll documents such as time and attendance records;
4. All expenditures can be traced to source documents (i.e., purchase orders, invoices, and canceled checks);
5. Drawdowns have been timely;
6. Only allowable activities have been claimed as costs toward the project;
7. The sponsor's accounting system reflects all assets, liabilities, etc.
8. Property has been managed and inventoried properly;
9. In-kind costs and costs billed to other funds are clearly documented; and,
10. If there are billings for indirect costs, a federally approved indirect rate and allocation plan have been approved by HUD through Marion County prior to the expenditure of any CDBG funds.

In addition, the auditor will ascertain if the sponsor's program has been accomplished in the manner set out in the application and/or the contract with the County.

Please note that in order for the Marion County CDBG Program to comply with Federal Regulations, Marion County strongly requires all grant recipients to pursue the timely expenditure of their awarded funds.

SAMPLE ONLY
[Insert Agency Name or print on letterhead]
Notification of Single Annual A-133 Audit
[Insert Date]

As a recipient of a federal grant from Marion County, this letter is intended to fulfill the requirement to provide assurance that as a sub-recipient of federal funds that our organization is in compliance with OMB Circular A-133: Audits of States, Local Governments and Non-profit Organizations. The certification below indicates the amount of federal expenditures from all sources for the fiscal year ended _____.

Please check one of the boxes below:

Single A-133 audit NOT required (Total Federal Expenditures within the fiscal year identified above is less than \$750,000)

Single Audit Required (Total Federal Expenditures within the fiscal year identified above is \$750,000 or more). A copy will be provided to Marion County at its soonest availability.

The contact person responsible for the audit arrangement is [Contact person's name] and can be reached at [Contact person's phone #].

Certification by Chief Financial Officer or Executive Director:

Signature

Date

Title

Address

Note: If a single audit is required, the grantee must have it conducted in accordance with the Single Audit Act, OMB Circular A-133 and Generally Accepted Government Auditing Standards for the fiscal year noted above. The Single Audit must be submitted by agency to the Federal Audit Clearinghouse (<http://harvester.census.gov/sac/>) within the earlier of 30 days after the receipt of the auditor's report, or nine months after the end of the audit period



Community Development Block Grant Program Manual for Acquisition and Infrastructure Projects

Marion County Board of Commissioners



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I. Introduction

Instruction to Applicants for Community Development Block Grant Funding

This Program Manual outlines the various requirements that will apply to entities receiving funding for Acquisition and Construction projects from the Community Development Block Grant (CDBG) program that is funded in whole or in part by the Federal Department of Housing and Urban Development (HUD) and administered by Marion County. One of our responsibilities, as grant administrators, is to ensure that federal and local program requirements are met. These requirements are implemented locally through the current Marion County, Oregon Consolidated Plan, and guided by the Marion County Community Development Block Grant Program Policy Manual. The purpose of the CDBG Program Manual is to provide guidance to applicants about the steps they must take and consider before submitting an application for funding from Marion County's CDBG Program.

In certain aspects of program activity, federal requirements may be quite detailed. We have not attempted to copy all federal requirements in this manual; rather to give you enough information to know whether you can proceed on your own or should contact this office for further instructions relating to individual project needs. In some areas, federal requirements may be vague and/or subject to interpretation. Do not hesitate to contact this office if you have any questions as to how to proceed. If necessary, we will contact HUD for guidance.

Sponsors are cautioned that federal requirements may apply to non-CDBG funded portions of a project or to activities that are undertaken prior to receipt of a grant award. For example, federal labor requirements may apply to demolition activities necessary for construction of a CDBG funded activity, even if the sponsor uses their own funds for the demolition. Another example, the displacement of tenants, both people and businesses, may go into effect (assuming the project later receives a grant award), as well as the implications of environmental review requirements, which prohibit any "choice-limiting" activities be performed on the project site after the application for funding is submitted but prior to completion of the environmental review and "Notice to Proceed".

Once you are notified your project has been selected for funding. The Community Development Division will conduct the environmental review and draw up an agreement with your jurisdiction or agency and may require applicant to submit environmental pieces. This agreement will require compliance with specific federal and local program requirements. The Community Development Division will send you a "Notice to Proceed" when the environmental review is completed and the agreement between the County and your jurisdiction or agency will be signed by both parties. From that date to the termination date specified in the agreement, you will be able to undertake project activities reimbursable by the grant program.

Section II

Environmental Review Requirements

II. Environmental Review Requirements

The guidelines that follow apply to all projects receiving awards of CDBG Funds from Marion County. This section offers guidance for the completion of a site and project Environmental Review (ER) under HUD regulations found at 24 CFR Part 58. It is critical that environmental reviews be conducted in a timely and accurate manner so that projects may move forward and receive positive consideration for CDBG funding. **Incomplete or inaccurate reviews may result in decisions to deny or rescind project funding.**

Overview of the Environmental Review Process

As an applicant for funding from the Marion County CDBG Program, you may be seeking to acquire property for your project or own the property on which your project will be located. Please read the following guidance carefully to determine whether your project will be compliant with the HUD requirements related to property acquisition and environmental reviews.

The environmental Review Checklist included in this section is intended, once completed, to provide enough information for staff to determine whether a project may be considered to have “passed” the environmental review, or whether more detailed information will be needed to evaluate the property.

It is Marion County’s expectation that grant applicants will complete the ER checklist to the best of their knowledge and ability; The Community Development Division staff is always available to provide consultation and assistance and will review the data gathered upon checklist completion. If the answer to a question is unknown, please do not leave the question blank, but simply answer “unknown.”

Environmental reviews for some activities will not require publishing of public notices or comment periods, but if there are any mitigating factors to consider as part of the review, this may be necessary. For a site requiring an “Environmental Assessment” level of review, we will always have to publish a public notice known as a “Finding of No Significant Impact, “or “FONSI” or a finding of “significant impact, environmental impact” statement in local publications. The FONSI allows the public to comment directly to HUD on the content of and the methodology used to create the Environmental Review Record (ERR) for the project. Following the comment period, any comments are considered by HUD in conjunction with the County’s request that the record be approved, which is accomplished through a “Request for Release of Funds and Certification.” The Community Development Division staff will discuss this process with you in more detail as you work through your environmental review process. Sponsors should be prepared for an environmental assessment level of review to take a minimum of 2-4 months to conduct, depending on the complexity of the review. For that reason, it is important for you to make sure that information and answers to questions about the environmental conditions of your project site are given to Marion County in a timely manner.

Please note the following if your project includes acquisition of land and/or buildings:

Guidance for Purchase of Property Prior to Application for Funding

If you or a third party purchase bare land or land with improvements before you apply for CDBG funds, the following will apply.

CDBG funds may not be used to reimburse you or the third party for your purchase if it occurred prior to the completion of the HUD Environmental Review and prior to having executed a CDBG Grant Agreement.

Once an application for CDBG funds is submitted, no other choice-limiting actions can take place on the property prior to completion of the Environmental Review.

You will still need to demonstrate that you acquired the property through a voluntary transaction with the seller, and that your purchase price was either the fair market value based on an appraisal or broker's estimate, or another, lower negotiated price. If these disclosure notices are not executed correctly, the entire project will be ineligible for funding.

If the property has been purchased by a third party with the intent to transfer it to your ownership at some point, the transfer cannot take place until the Environmental Review has been completed. The eventual transfer price from the third party to you cannot be for more than the price for which they purchased the property. In other words, the third party cannot receive holding fees for participating in the transaction.

The third party may not initiate any choice-limiting actions on the site after application for CDBG funds but prior to completion of the Environmental Review.

Guidance for Purchase of Property after the Environmental Review Process is completed.

No choice-limiting actions can take place until the entire HUD Environmental Review process has been completed. Types of choice-limiting actions include but are not limited to, executing a purchase agreement for acquisition (though an option agreement is allowed), demolition, construction, and executing construction contracts.

The property may be purchased with non-public funds only after the completion of the HUD Environmental Review process described at 24 CFR Part 58. If CDBG funds are being used for the acquisition, you will also need to have completed and/or met all conditions of the award of funding and have executed a CDBG Grant Agreement prior to completing your purchase transaction.

At the time you submit your application for CDBG funds, you will ideally have written option agreement with the seller of the property you would acquire for your project. You will need to be able to demonstrate that the sale is contingent on completion of the HUD Part 58 Environmental Review process. With the option agreement, you will need to deliver and have the seller sign one or more specifically worded Uniform Relocation Act (URA) acquisition notices indicating that the seller's decision to sell you their property is voluntary.

You will also need to have either an appraisal or a certified broker's estimate of the fair market value of the property you wish to acquire, ideally before an offer is made to the seller, and will need to provide that information to the seller.

Your purchase price may not exceed the appraised/broker estimated fair market value of the property.

Please remember that under no circumstances may you, or a third party intending to transfer property to you, acquire the property using any resource after you submit an application for CDBG funds but before the environmental review is completed. Failure to comply with this requirement will cause your project to become ineligible for CDBG funds.

Environmental Review Checklist

The following checklist must be completed prior to submittal of your project application and will be used by Marion County for purposes of review during visit to your project site. Please note that all the information you provide in this checklist will be subject to confirmation by staff. If you have questions about any of the required information or would like to request an electronic version of this checklist, be emailed to you, please contact the Community Development Division office.

Name of Applicant: _____

Name of Project: _____

Project Location/Address: _____

I certify that this checklist has been accurately completed to the best of my knowledge.

_____	_____	_____
Preparer Name (printed)	Preparer Signature	Date

Title of Preparer

A. Site/Area Maps

Maps must be attached to as indicated in the checklist when it is submitted for review by the Community Development Division staff.

1. In addition to map requested in the application, please attach a map that identifies the location of your project site in relation to its surrounding uses. The lists below note those things that must be identified, or that is helpful for you to identify if that information is also readily available.
 - Required for identification:
 - Location of any airport within 15 miles
 - All railroad lines within 3,000 feet
 - Four-lane Road or highways within 1,000 feet
 - Hospital, police, and fire departments
 - Social service agencies/facilities
 - Recreational facilities
 - Shopping/professional services
 - Schools

2. A copy of the pertinent flood plain map for your project site. FEMA, floodplain maps are available at www.fema.gov

B. Existing Structures

1. Are there other structures on your site that will not be included in the project you are proposing? Please check appropriate box ☐Yes ☐No

2. If you answered "Yes" are there plans to demolish any structures?

Please check appropriate box ☐Yes ☐No

Please describe, noting which if any will be demolished:

C. Soil Suitability (Answer only if your project consists of acquisition and/or new construction)

1. Is your site level, or sloped? _____

If sloped, give the range of degrees of slope (if known): _____

2. Are there any signs of unstable soils on or in the vicinity of your site (e.g., cracked foundations, sinkholes): Please check appropriate box ☐Yes ☐No

3. Are soils on or around your site highly erodible (subject to removal by water or wind)?

Please check appropriate box ☐Yes ☐No

4. Describe the soil type and bearing:

5. Have you had a soil report completed for your site?

Please check appropriate box ☐Yes ☐No If yes, please provide a copy.

D. Site/Surrounding Hazards

1. Are there any natural hazards on or in the area of your site? (e.g., dangerous trees, sinkholes, ravines, avalanche-prone slopes, etc.) Please check appropriate box ☐Yes ☐No

Information Source: _____

If "Yes" please describe in detail:

2. Are any non-natural hazards present on or in the area of your site? (e.g., above ground storage tanks within one-mile, high pressure petroleum or natural gas pipelines, power substations, high voltage power transmission lines through or adjacent, overgrown buildings or property, abandoned buildings, unfenced commercial/industrial property, drainage ditches, open wells, deteriorated streets or sidewalks, sources of excessive vibration, source of odors or dust, field crops, or livestock). Please check appropriate box ☐Yes ☐No

Information Source: _____

If “yes,” please describe in detail and attach a map showing where the hazards are located relative to your site:

E. Hazardous Materials

1. If your project would consist of rehabilitation or demolition of an existing structure was the structure built prior to 1978? Please check appropriate box ☐Yes ☐No

If “Yes,” have you had the structure(s) evaluated for the presence of lead-based paint?

Please check appropriate box ☐Yes ☐No

2. Are you aware of any asbestos-containing materials present on or in the structure?

Please check the appropriate box ☐Yes ☐No

If “Yes,” have you had the structure(s) evaluated for the presence of asbestos?

Please check appropriate box ☐Yes ☐No

Please describe how you evaluated the structure for the presence of lead-based paint and /or asbestos. If you have had the structure evaluated by a professional inspector, please note the name of the inspector/firm, and include a copy of their inspection report’s summary, findings, and recommendations.

3. Have you completed “environmental due diligence” for your site through a Phase 1 or II Environmental Assessment? (Not always required) Please check appropriate box ☐Yes ☐No

If “Yes,” please provide a copy of the assessment’s summary, findings, and recommendations.

4. Is there any evidence of contamination or potential contamination on your site? (e.g., are any of the following present today, or have they been present at any time in the past: landfills, chemical storage facilities, gasoline service stations, vehicle storage, wrecking or repair businesses, chemical processors, plating plants, dry cleaners, underground storage tanks, odors, pipes sticking out of the ground, oil drums, distressed soil or vegetation, fill, contaminated wells, transformers, power transmission lines, power substation.)

Please check appropriate box ☐ Yes ☐ No

If “Yes,” please describe:

5. Is there evidence of any of the contamination or potential contamination sources listed above on any of the properties near your site? Please check appropriate box ☐ Yes ☐ No

If “Yes,” please describe:

6. Is there any evidence of fill having been placed on your site?

Please check appropriate box ☐ Yes ☐ No

If “Yes,” does documentation exist to demonstrate that the fill was engineered and is appropriate for the intended use? Please check appropriate box ☐ Yes ☐ No

If “Yes,” please attach your engineer’s certification of suitability.

F. Site Safety

1. Is your site located in a Runway Clear Zone—an area immediately beyond the end of an airport runway? Please check the appropriate box ☐ Yes ☐ No

****Please note that no site located in a Runway Clear Zone is eligible for CDBG Funding.**

2. Are there any above –ground tanks (other than residential fuel oil tanks of less than 100 gallons in size) visible from any part of your site? Please check the appropriate box ☐ Yes ☐ No

If “Yes,” do they contain explosive or flammable materials, or have they contained such materials in the past without being decommissioned? Examples of such tanks include commercial propane tanks, fuel oil depots, gasoline storage, or industrial solvent storage.

Please check the appropriate box ☐ Yes ☐ No

3. Are there any tanks of the type described above within one mile of your site that are not visible, but are shielded only by other buildings and not by topography?

Please check the appropriate box ☐ Yes ☐ No

If “Yes,” do they contain explosive or flammable materials, or have they contained such materials in the past without being decommissioned? Please check appropriate box ☐ Yes ☐ No

Information Source _____

If you answered “Yes,” there are tanks, either visible or not visible but within 500 feet please provide a map and describe the approximate location in relation to the project site and contents:

G. Noise

1. Is the project for new construction, purchase, or resale of existing, moderation or rehabilitation of noise sensitive use (i.e., housing, mobile home parks, nursing homes, hospitals, and other non-housing uses where quiet is integral to the project’s function, e.g., libraries)?

Please check the appropriate box ☐ Yes ☐ No

(If no, **STOP**, the project is not subject to noise standards)

2. If yes, is any part of your site within 3,000 feet of a railroad?

Please check appropriate box ☐ Yes ☐ No

3. Is any part of your site within 1,000 feet of a highway or other road with four or more lanes?

Please check appropriate box ☐ Yes ☐ No

4. Are there any other noise generators located nearby (such as heavy industrial facilities, rail yard, fire stations)? Please check appropriate box ☐ Yes ☐ No

If you answered “Yes,” to any of the above noise questions, please describe the sources of the noise and their proximity to your site and hours of the day when the noise is most likely to occur:

H. Air Quality Screening (New Construction or Major Rehabilitation projects only)

1. Is your sit subject to air quality impacts not generally shared with the entire community? (e.g., close proximity to a gravel pit, pulp mill, processing plant, or other source generator of air pollution). Please check appropriate box ☐ Yes ☐ No

If “Yes,” please describe the air pollution source.

I. Historic Preservation

1. Does the project include repair, rehabilitation, or conversion of existing properties; new construction; the acquisition of undeveloped land; or any activity that requires ground disturbance (defined as one cubic foot of disturbed soil)?

Please check appropriate box ☐ Yes ☐ No

If “Yes,” please explain: _____

2. Is any part of your site in an established or proposed historic district?

Please check appropriate box ☐ Yes ☐ No

3. Is your site or any structure on it listed in a local historic or cultural resources inventory or the National Register of Historic Places? Please check appropriate box ☐ Yes ☐ No

4. Are any immediately adjacent sites or structures listed in a local historic or cultural resources inventory or the National Register of Historic Places? Please check appropriate box ☐ Yes ☐ No

5. If your project will require any ground disturbance, are there any known or suspected archaeological resources on your site, on adjacent sites, or in the vicinity of your site?

Please check the appropriate box ☐ Yes ☐ No

If you answered “Yes,” to any of the four questions above, please explain:

6. List the year each existing structure on your site was built, or attach other documentation

7. Describe the sources of information you used to answer the historic preservation questions above and include copies of documentation.

J. Flood Plains

Federal funds may not be used for construction activities occurring within the 100-year flood plain as mapped by the Federal Emergency Management Agency (FEMA), or within a 500-year floodplain, except under limited circumstances.

1. What is the FEMA Map Number for your site? _____ Map Date _____

2. Is any part of your site located within the 100-year flood plain according to the FEMA map?

Please check appropriate box ☐ Yes ☐ No

3. Is any part of your site located within the 500-year flood plain according to the FEMA map?

Please check appropriate box ☐ Yes ☐ No

If yes, does your project involve a critical action, defined as an activity for which even a slight chance of flooding would be too great because it might result in loss of life, injury, or property damage?

Specific examples include:

- Structures or facilities that produce, use or store highly volatile, flammable, explosive toxic, or water-reactive materials.
- Structures or facilities that provide essential and irreplaceable records or utility or emergency services that may become lost or inoperative during flood and storm events (e.g., data storage centers, generating plants, principal utility lines, emergency operations centers including fire and police stations, and roadways providing sole egress from flood-prone area).
- Structures or facilities that are likely to contain occupants that may not have the mobility needed to avoid loss of life or injury during flood or storm events, e.g., persons who reside in hospitals, nursing homes, convalescent homes, intermediate care facilities, board and care facilities, and retirement service centers. Housing for independent living for the elderly is not considered a critical action.

K. Wetlands

1. Does the project include new construction, rehabilitation that expands the footprint of the building, or ground disturbance? Please check appropriate box ☐ Yes ☐ No

If you answered “no”, **STOP** here.

2. Has any part of your site (including off-site construction areas) been identified as potentially being or containing a jurisdictional wetland? Please check appropriate box ☐ Yes ☐ No

L. Vegetation and Wildlife

1. Have any endangered, threatened or candidate plant or animal species been identified on your site or within a .25-mile radius of your site? Please check appropriate box ☐ Yes ☐ No

If “Yes,” please describe:

2. If you answered “Yes” above, have you had a consultation with the state or federal agency that has jurisdiction over the identified endangered, threatened or candidate species?

Please circle check appropriate box ☐ Yes ☐ No

If “Yes,” please describe and provide copies of any written materials provided to you through the consultation process.

3. Describe the predominant ground cover and any wildlife noted through field observation.

4. Will your project add any new impervious surface, or expand the footprint of a structure?

Please check appropriate box ☐ Yes ☐ No

Note: If your project will add any new impervious surfaces, please consult with staff to discuss plans for storm water management on the project site.

M. Environment Justice

1. Will the proposed site be suitable for its proposed use?

Please check appropriate box ☐ Yes ☐ No

2. Is there an adverse environmental impact caused by the proposed action?

Please check appropriate box ☐ Yes ☐ No

3. Is the proposed action subject to an adverse environmental impact?

Please check appropriate box ☐ Yes ☐ No

If yes, is the impact disproportionate on minority or low-income populations?

Please check appropriate box ☐ Yes ☐ No

4. Can you provide written evidence of outreach, public participation, and community involvement in the planning of the project to minimize environmental impact?

Please check appropriate box ☐ Yes ☐ No

Identify the affected populations(s), including demographics and all adjacent land uses (attach a separate sheet if necessary):

Please submit this Checklist as part of your application!

Section III

Uniform Relocation and Real Property Acquisition Policies Act

Requirements of the Uniform Relocation and Real Property Acquisition Policies Act of 1970, as amended (49 CFR Part 24)

The CDBG program is covered by the federal Uniform Relocation and Real Property Acquisition Policies Act of 1970, as amended (URA). Under the URA, all persons (families, individuals, businesses, not-for-profit organizations, and farms) displaced (forced to move) a direct result of rehabilitation, demolition, or acquisition (privately undertaken or public) for a CDBG- assisted project are entitled to relocation payments. Displaced residential tenants are also entitled to replacement housing payments. It is the policy of Marion County to encourage project sponsors to pursue only those projects that will not permanently cause displacement. Consistent with the goals and objectives of the URA, the CDBG recipient must ensure that all reasonable steps have been taken to minimize the displacement of businesses and/or persons as a result of a project assisted with federal funds. To the extent feasible, residential tenants must be provided a reasonable opportunity to lease and occupy the same or another suitable, decent, safe, sanitary, and affordable dwelling unit in the building/complex upon completion, and perhaps during the course of the project. Displacement not only includes the physical displacement of persons; it also includes “economic displacement” which means that as a direct result of the project, the existing tenant is not able to afford a new, higher rent for their current unit. If a CDBG applicant intends to rehabilitate an occupied property, the issue of economic displacement needs to be of particular concern.

Applicants intending to acquire and/or rehabilitate renter-occupied structures are encouraged to contact the Community Development Division prior to submitting an application for funding and must follow the process outlined below. If you, the applicant, are planning to acquire the property, you must advise the current owner that you will be providing notices to their tenants, an agreement must be obtained between the applicant and the property owner that will not require tenants to move, except for cause. All new tenants (once the first contact with tenants has been made) must be advised of the project in writing, and documentation must be kept showing both that prospective tenants have been so notified, and that tenants moving from the property did so voluntarily and without coercion.

Steps to take BEFORE YOU APPLY for CDBG Funds:

General Information Notice: A general information notice must be sent to all tenants (residential and commercial) prior to submission of a funding application. The notice must be sent by certified mail/receipt requested and a delivery receipt must be obtained. Copies of all notices must be provided to Marion County with your funding application. Copies of sample notices are available upon request for use for:

- Tenants whose displacement status is unknown at the time of application;
- Tenants who will be permitted to reside in the project after completion; and
- Tenants who will be required to move or may be displaced because of the project

Applicants must submit evidence to Marion County with their application indicating that all information notices were issued to all tenants. This can be accomplished by submitting a copy of

the signed receipt (if sent certified) for each tenant, or by submitting a copy of the notice that has been signed by each tenant to acknowledge their receipt.

A copy of the brochure entitled **“Relocation Assistance to Persons Displaced from Their Homes”** must be provided to all residential tenants with the general information notice. A copy of the brochure will be provided by Marion County upon request and can also be made available in Spanish. If the tenant in the property is a business, contact the County for the appropriate brochure. The business brochure must be provided with the general information notice.

A tenant survey must be completed. This is a preliminary survey to determine who currently occupies the property and to identify potential URA problems. This includes both residential and commercial tenants. Please use the Tenant Survey Form and present it at the same time you present the General Information Notice. Copies of all surveys must be provided to Marion County with your funding application.

After Submitting your CDBG Application:

- **Displacement Prevention Plan (DPP):** HUD requires that all reasonable steps be taken to minimize displacement of tenants as a result of a HUD-assisted program or project. It is in the grantee’s best interest to avoid tenant displacement through careful planning and documentation of efforts taken to accommodate each tenant during rehabilitation of their rental unit so that there is not a claim of unintended displacement. This means considering whether displacement or temporary relocation will occur, identifying potential relocation workload and resources early in project planning feasibility determinations, and following notification and advisory services procedures carefully. The purpose of developing a Displacement Prevention Plan is to assure that tenants do not leave their rental unit because they have not been informed about plans for the project or their rights. It is imperative to document efforts to assure that each tenant will occupy a decent, safe, and sanitary unit following and during construction, and that concerns about tenants’ special needs are considered early in the planning of the project. The plan must be written to inform tenants how and when the rehabilitation will impact their living conditions so that each may make an informed decision to remain in their unit during construction activities or be temporarily relocated to another unit.
- **Notice to New Tenants:** Each new prospective tenant must be provided a notice informing him or her about the rehabilitation project before a lease or rental agreement is signed. The tenant must sign a form acknowledging receipt of this notice. Failure to issue this notice can be very costly, as the tenant may later be able to prove eligibility for payment of relocation assistance.
- **Notice to Tenants Who Move:** Documentation is necessary to show that each tenant moving after the CDBG application submission date has done so voluntarily. A person may be evicted for cause, if properly documented, but not in order to avoid paying relocation assistance.

Upon Date of Execution of CDBG Funding Agreement:

Update the Tenant Survey: Update the survey to reflect tenants who have moved, new tenants, and other new information.

Notice of Displacement/Non-Displacement: As soon as possible after the date the CDBG funding agreement is executed, a notice must be issued to each tenant who was in occupancy on the date the funding application was submitted. The notice must either:

- Contain a specific offer of a suitable, affordable unit in the project, or
- Be a notice of displacement if the tenant will be permanently displaced. It must inform the tenant of the specific relocation benefits for which they are eligible.

Temporary Moves: Arrange for temporary moves if necessary. Planning for temporary moves should be addressed in the Displacement Prevention Plan described above. Document temporary move notices and document all temporary moving costs. Tenants must be given reasonable advance written notice explaining the terms and conditions of the move and must be reimbursed for all reasonable out-of-pocket expenses relative to the move. Tenants cannot be required to move their personal belongings but may choose to.

Lead Based Paint Disclosure Forms: Upon execution of a CDBG funding agreement, if the rental units were constructed before January 1, 1978, you must contact each tenant household and provide them with a lead paint disclosure form. The form is a way to verify that all lead paint information has been disclosed to current and prospective tenants, and that each tenant household has received a copy of the pamphlet, "Protect Your Family from Lead in Your Home." It is also acceptable to have the Agent and/or Lessor fill out, sign and date the disclosure form in advance, and then present a copy of that form to each tenant household for original signature. You are required to retain tenant-signed forms for review. You must also obtain a signed copy of the Lead Paint disclosure form from each new tenant as they move in. It is suggested that you make these disclosure forms part of the lease documents for any buildings completed before 1978.

Occupant Protection Plan: For pre-1978, non-exempt projects that involve the disturbance of lead paint or the control of lead hazards, a written Lead Hazard Occupant Protection Plan must be submitted to the County for approval prior to the initial of any work. The Occupant Protection Plan for lead hazards will coincide with your Displacement Prevention Plan and, if necessary, will need to include provisions for temporary relocation to another unit that has been determined to be lead safe. If certified abatement work is involved, additional notifications to the State are required. Whenever a project includes lead disturbance or control, tenants will not be permitted to enter contained work areas, nor may they be allowed to return to the unit until certified clearance has been obtained.

Rehabilitation Project Completion/Project Closeout: Update tenant survey to account for all tenants in place on date of project closeout. This date begins the compliance period for your project.

Comparable Units: Prior to providing a tenant that is being displaced with the 90-day notice to move, funded recipients must identify comparable units and provide the tenant with a list of such

units. To be comparable, units must be inspected, meet the HUD Section 8 Housing Quality Standards, and meet the needs of the tenant.

Record Keeping: Funding recipients must keep records to document each step in the process of communicating with tenants about their rights and responsibilities under the URA. These records should document what happens to each tenant, whether or not they are displaced, from the start to the finish of the project. Copies of all records and documents related to URA and gathered prior to or during your project must be provided to Marion County.

Acquisition-Specific Requirements of the URA

Site control is an important issue in Marion County's consideration of funding proposed projects. Projects without control of a site, either through ownership, an option to purchase, or an earnest money agreement, will likely be at a competitive disadvantage.

The URA also covers the act of property acquisition. There are two types of acquisition procedures that must be followed depending upon the type of acquisition that will occur, "Voluntary Acquisition Procedures" and "Involuntary Acquisition Procedures". Involuntary Acquisition Procedures are more stringent and must occur when the acquisition is site-specific, in that the project cannot occur with a specific parcel to be acquired. In most instances, the URA's Voluntary Acquisition Procedures will apply. HUD and Marion County prefer that, when an applicant does not already own a property prior to submitting an application to Marion County, purchase options be used to obtain site control for purposes of your funding application. Your option should provide adequate time (six months to a year, at least) to allow your funding application to be reviewed by the Community Development Division, the environmental review to be completed, funding decisions made by OCD, funding agreements executed, and your property transaction to close. Please keep in mind that other funding sources (e.g., private loan funding for acquisition) may also have time frames that need to be considered in determining the length of the option agreement for your purchase.

Information that you as an applicant/recipient will need to provide to the seller is intended to inform them that:

- You do not have the power of eminent domain, and therefore will not acquire their property if an amicable agreement cannot be reached and they do not wish to sell
- The purchase price must be the lesser of the property's fair market value, or a price you and the seller agree to.
- The Seller must be informed of the fair market value of their property and must be given the opportunity to withdraw from the transaction at the time they are notified of the fair market value, even if there is a purchase agreement in place.

The purchaser should give the seller this written information before making a formal offer. If for some reason the seller has not been informed of these facts, and the sale has not yet closed, the seller should immediately be informed and allowed to withdraw from the purchase agreement without penalty.

If you are planning to acquire property as part of your project, you will need to follow certain steps in order to comply with URA requirements:

Notice of Disclosure to Seller (either before or with the purchase offer): You are required to provide the seller with the appropriate Notice before completing your property transaction. Remember, no actual purchase transaction or other choice –limiting action may take place until the HUD Environmental Review for the subject property has been satisfactorily completed.

Notice of Disclosure to Seller of Fair Market Value: You are required to complete a determination of the fair market value of the property you wish to acquire either by hiring an appraiser, or by receiving an estimate from a qualified real estate broker. Once you have determined the fair market value of the property, the seller must be informed of its value, and that the purchase price must be the lower of either that value, or a price you negotiate with them.

For tenant-occupied properties, the seller must also allow the acquiring agency to send the Relocation Notices described above to tenants.

The Uniform Relocation Act

Seven Things Every CDBG Funding Applicant Should Know

1. HUD cares about this! The federal government takes the rights of tenants in rental acquisition and rehabilitation properties very seriously.
2. So should we. Sponsors and developers who are working on HUD-funded projects need to understand that the Uniform Relocation Act (URA) is basic consumer legislation that addresses “fairness” issues. Tenants whose living circumstances are changed by a project-either by higher rents or involuntary moves-should and will be protected and compensated.
3. The relocation rules are not all one-sided. There are actions that can be taken to control costs and prevent displacement. These actions include informing tenants about the project, treating them fairly during the process, staging work if it is feasible, and keeping their rents affordable. Tenants must continue to pay rent and comply with their lease during the process.
4. Mistakes can be costly. Planning for relocation and tenant concerns are critical because tenants can take actions that can incur a financial liability for the sponsor/developer. Displaced tenants are entitled to 42 or 60 months of rental assistance, depending on the situation. Many claims exceed \$10,000 per household. Although some claims are unavoidable, there is no reason to incur these costs by failure to follow the rules.
5. Planning is Critical: Relocation concerns must be thought about early in the process so decisions about rents, construction timing and project feasibility can be considered before they are a crisis.
6. Cooperation is essential: All parties involved in the project must “do the right thing” in order to make the process work.
7. There are three basic requirements for tenants in rental acquisition and/or rehabilitation projects:
 - Tenants must be given timely information about the pending application. IF the project is approved, they must be advised about any changes that will occur to their situation. IF they are not advised-and move-they could claim that they were displaced, even if that was not the intention.
 - If tenants must be displaced, they must be offered a comparable replacement unit that is decent safe, and sanitary. Moving expenses must be paid. No one can be required to move without 90 days’ notice.
 - Tenants who will stay in the property after work is complete must be offered a suitable unit that is decent, safe, and sanitary, and affordable to them.

Section IV

Guidelines for Project Beneficiary Income Verification/Documentation

CDBG Program Guidance:

Project Beneficiary Income Verification/Documentation

One basic intent of the Community Development Block Grant (CDBG) program is to assist people with low incomes in meeting their needs for housing or services. As these are the prime purposes of the program, meeting these needs is of critical importance for funding recipients. Marion County and the U.S. Department of Housing and Urban Development (HUD) wants to know that low-income people are indeed benefiting from the investments of CDBG resources. The best way to gain this knowledge is to verify and document the incomes of all project or activity beneficiaries who qualify based on income. This section details the responsibilities each recipient of CDBG funding from Marion County must accept, and the tasks that must be carried out in order to qualify for CDBG funding for acquisition and construction projects.

Marion County and its funding recipients must verify household income eligibility for all the beneficiaries of federally assisted programs and activities. Community Development Block Grant program resources must be used in ways that primarily benefit people in Marion County with incomes at or below 80% of the Median Income level for their household size. CDBG Program income limits refer to the HUD Median Income Levels for the Salem Metropolitan Statistical Area. These income limits are included in the application package for CDBG funding and are available upon request.

Overview of Income Eligibility Determination process for Public Infrastructure projects

Projects may qualify based on providing services to all residents of a geographic area where at least 51% of those residents are low/moderate income persons. To determine eligibility of the area of benefit for a CDBG-funded activity, the project Sponsor must first identify the Census tract and Block Group that the project will be located in, as well as the address of the project site or general area, if known. **A map clearly identifying the Area of Benefit must be included with the application for funding.**

At times a Public Infrastructure project must base low-income beneficiary data on a Demographic Survey of the area if the project is not in a low-income Census Block Group. Projects that must use the Demographic Survey method to determine the income eligibility of the service area should contact the CDBG/HOME Program Manager as soon as possible. Note that the Demographic survey should be conducted with a methodology approved by HUD. **CDBG applicants should contact the Community Development Division as soon as possible and prior to conducting any survey to ensure the service area boundaries and methodology is acceptable.**

Public Infrastructure projects are not required to report race and ethnicity data for beneficiaries unless this data is made available through a demographic survey.

Overview of Income Eligibility Determination Process for Public Facility Projects

Recipients receiving funding for Public Facility projects that are not determined to be eligible on an area basis are required to determine the number of low-income beneficiaries as well as the race, ethnicity, disability status, and whether it is a female headed household. Data reported to Marion County should be collected for each person accessing services at the facility within a one-year time period, typically between July 1-June 30th of the program year in which the Sponsor is receiving CDBG funding. While the Sponsor is not required to submit this program accomplishment data with each voucher request for reimbursement, the Sponsor will be asked to provide this information to Marion County at the completion of the project, as an ongoing requirement or on a quarterly basis.

The CDBG program regulations require that the income of all adults (18 or older) household members (with certain exceptions) be included in the determination of “annual income.” Also, income limitations are relative to household size. In practice, this means that before determining income you must first determine the number of persons comprising the household, then calculate the income of all adult persons in the household. Marion County is utilizing the IRS method to determine eligibility and thus all working family members income will count.

To determining eligibility, the CDBG regulations require that funding recipients “anticipate” or “project” a beneficiary household’s annual income. In order to accomplish this, a “snapshot” of the household’s current circumstances can be used to project future income. You can then assume that a household’s current circumstances will continue for the next 12 months unless there is verifiable evidence to the contrary.

To compare a household’s annual income information to the area median income table:

- Find the column that corresponds to the number of persons in the household, then
- Compare the verified annual gross income of the household with the income limit for that household size. If the annual gross income is at or below the limit for the household size, the beneficiary is determined to be income qualified.

The attached Sample Client Intake Form contains the minimum information that must be collected by the Sponsor for all beneficiaries of a Public Facilities project for purposes of reporting “limited clientele” data to Marion County. Please note that all beneficiary information must represent an unduplicated count---so please count each person served only once. Sponsors of facility projects need to demonstrate that the facility will continue to serve low-income people for the time period specified in the grant agreement.

Please contact the Community Development Division to consult with staff for a determination of eligibility on an area basis, or if the nature and purpose of the project must be qualified based on a clientele basis.

Section V

Guidelines for Selection and Procurement of Contractors

CDBG Program Guidance: Selecting and Procuring Project Contractors

(Applies to both Architectural/Design Services and Construction Contracting Services)

It is the policy of the Marion County Board of Commissioners to encourage and foster competition in the awarding of contracts to be funded with federal CDBG resources. Applicants must be aware of the requirements that will apply to their selection of the contractors that will carry out the work proposed in the CDBG funding application.

Depending upon various factors such as the type of agency seeking funds, the type of project and the contractual relationship that an applicant will have with the Marion County Board of Commissioners (subrecipient or non-subrecipient as defined by HUD), specific federal procurement regulations (e.g., 2 CFR 200) may or may not apply. Prior to developing project plans or specifications, or soliciting contractors for a project, applicants should contact the Community Development Division to request a determination be made regarding the procurement requirements for their project. Early determination is critical because applicants may need to proceed differently depending upon which requirements apply.

The new OMB “Super-Circular”, Uniform Administrative Requirements, Cost Principles and Audit Requirements for Federal Awards, supersedes and streamlines requirements from OMB Circulars A-21, A-87, A-110, A-122, A-89, A-102, and A-133; and guidance in Circular A-50 on Single Audit Act follow up.

Applicants are encouraged to review these documents as you prepare your project application and as you are preparing to procure goods and/or services. Regardless of whether or not specific federal procurement regulations apply to an applicant, there are a number of universal procurement standards that apply to all capital projects funded in whole or in part through the Marion County Board of Commissioners Office.

Key procurement and contracting requirements that apply include:

Cost reasonableness must be determined and documented for all project costs including costs of purchase of goods and services. Some form of price analysis must be made and documented in the applicant’s procurement files in connection with every procurement action. At a minimum, records must include criteria for proposal selection, justification for lack of competition when competitive bids or offers are not obtained, and the basis for making a cost reasonableness determination. 2 CFR Part 200-Subpart E stipulates that a cost is reasonable if, in its nature and amount, does not exceed that which would be incurred by a prudent person under the circumstances prevailing at the time the decision was made to incur the cost.

Using a price analysis to determine cost reasonableness may be accomplished in various ways, including: the comparison of price quotations submitted; independent and qualified third-party estimates or in-house estimates that are performed and documented prior to receiving contractor proposals, or written comparisons to market prices and similar indicators.

Procurements shall, to the maximum extent practical, provide for open and free competition. To achieve this goal Marion County Board of Commissioners requires that you secure at least two,

(preferably three or more) proposals from architectural, design or engineering firms if their services will be needed for your project, as well as at least two, (preferably three or more) proposals from licensed, bonded, and insured contractors for construction or rehabilitation elements of your project.

If an applicant chooses to negotiate a price from a specific contractor in lieu of a competitive bidding process, the applicant must clearly demonstrate cost reasonableness of the negotiated price by using one or a combination of the aforementioned methods of price analysis.

The favored approach to contractor selection shall be a “Request for Proposal” process rather than a sealed bid process when applicable. Applicants may also want to conduct a “Request for Qualification” outreach process first in order to establish a pool of interested and qualified proposers.

Proposals shall be reviewed and compared in order to assess cost reasonableness, scope completeness and satisfaction of other criteria that may have been stipulated in the request for proposal. While project cost will in all cases be heavily weighted when reviewing competing proposals, the selected proposal shall be the one determined to be most advantageous when price, quality, and other factors such as contractor experience and capacity for your specific project, are considered.

Cost agreements with contractors shall be in the form of a lump sum (aka: fixed sum or stipulated sum) for work or services that are clearly delineated.

Rehabilitation applicant will make the final contractor selection with guidance from staff and will contract directly with the contractor. Marion County Board of Commissioners does not and will not have a contractual relationship with the contractor, does not endorse or recommend one contractor over another, warranty the work or performance of any contractor, or require that the applicant relies solely upon the list or lists of contractors that may be provided.

In selecting project contractors for funding request of any amount, affirmative effort shall be made to provide opportunities for minority business enterprises (MBEs) and women’s business enterprises (WBEs) to submit project proposals.

In selecting project contractors for projects where the total CDBG or HOME funding requested exceeds \$200,000 and which will have one or more contracts in excess of \$100,000, affirmative efforts must be made to solicit proposals from Section 3 firms. Additional information on these requirements follows.

Funding recipients are required to maintain records and documentation relative to their efforts to contract with MBE/WBE firms and Section 3 firms. These requirements are detailed further in other parts of this section covering each topic.

Solicitation documents must be provided to the Marion County Board of Commissioners Office for review prior to distribution to contractors. All solicitation documents must include the following or similar language.

The project described in this (Request for Proposals or other solicitation document, as applicable) is being funded in whole or in part with funding from the U.S. Department of Housing and Urban Development through the Marion County Board of Commissioners CDBG/HOME Program. Minority or Women Business Enterprise MBE/WBE contractors and Section 3 businesses are encouraged to submit a proposal.”

Contractors that assist you in the development of specifications, requirements, statements of work, and invitations for bids and/or requests for proposals for the project you are proposing for funding may be precluded from competing for contracts on your project. Check with the Community Development Division staff prior to making such an arrangement with a contractor.

All construction contractors must be CCB licensed, bonded, and insured. Contractors may not be listed on the federal debarred, suspended, or ineligible contractor list.

For construction contracts that exceed \$100,000, bid bonds, performance bonds and payment bonds are required.

- Bid Guarantee of 5% of contract
- Performance Bond at 100%
- Labor and Material Bond at 100%
- Payment Bond at 100%

Make sure your project budget reflects the costs of these bonds and the payment of state (BOLI) or Federal (David-Bacon) prevailing wages, as they apply.

All CDBD-funded contracts must be provided to the Marion County Board of Commissioners Office for review prior to execution. All contract documents must include the following language.

“This contract and the work it will carry out is being funded in whole or in part with funding from the U.S. Department of Housing and Urban Development through the Marion County Board of Commissioners Office CDBG Program.”

In addition to the above statement, contract documents must also include certain federally required clauses, depending on the type of service contract (See attached, “CDBG Construction Contract Clauses and CDBG Professional Services Contract Clauses”)

Funding recipients will be required to designate a project manager to facilitate the selection of contractors, executing construction contracts, and coordinating funded activities with the Marion County Board of Commissioners Office.

Projects funded with CDBG must meet HUD Section 8 Housing Quality Standards (24 CFR 982.401) upon completion of the assisted project. Examples of repairs that would need to be addressed include inadequate plumbing, heating, or electrical systems or failing structural components. Recipients of federal funds shall be responsible for an initial determination, with the review and approval of the Community Development Division staff, of the scope of work to be performed at the project site. An initial HQS inspection is recommended to determine deficiencies that will need to be included in the scope of work. At a minimum, the scope of work to be

performed on a property must correct any HQS deficiencies upon project completion. The project contractor(s) are required to adhere to all applicable building codes and either the owner or the contractor(s) shall obtain all required building permits. Where permits are required, documentation that all work has passed final inspections must be provided prior to final payment to the contractor(s).

Methods of Procurement

Four methods of procurement are allowed: (1) small purchases, (2) competitive sealed bids (formal advertising), (3) competitive proposals and (4) noncompetitive proposals. Whatever method of procurement is used, all contracts and Request for Proposals (RFP's) must be reviewed by the Community Development Division staff before prospective vendors are allowed to tender a bid or submit a proposal. In addition, Community Development Division staff must pre-authorize any noncompetitive proposal procurement.

1. Small Purchases (not more than \$100,000)

Small purchasing procedures are applicable for the procurement of services, supplies, or other property costing in the aggregate not more than \$100,000. These procedures are relatively simple, informal and do not always involve competitive bidding. In obtaining goods or services by the small purchase method, local Contract Review Board Rules and ORS 279 must be followed, where applicable. In addition, a minimum of three competitive price quotes must be obtained for any small purchase. Competitive sealed bids or competitive negotiation procedures may be followed for small purchases. Advertising is optional for professional service contracts under \$150,000. If advertising is not followed, then the Request for Proposal should be sent to at least three (3) qualified firms to ensure open competition.

2. Competitive Sealed Bids (over \$100,000)

This method of procurement is appropriate for all construction and material contracts exceeding \$100,000. Competitive sealed bids mean sealed bids are publicly solicited through formal advertising and a formal bid opening is conducted. A firm fixed price contract is awarded to the responsible bidder whose bid conforms to all the material terms and conditions of the bid invitation and is the lowest in price. The contract awarded may be a lump sum or a unit price. (See Section III, Part F, "Bid Documents and Procedures".)

Construction Projects exceeding \$2,000 will require sealed bids.

3. Competitive Proposals (Over \$100,000)

The method is appropriate for the procurement of professional services such as architectural or engineering. For contracts exceeding \$100,000 a Request for Proposal (RFP), Request for Letters of Interest (RLI), or Request for Statement of Qualification should be published in a business newspaper of general circulation. Proposals from qualified vendors are evaluated based on experience, price, personnel, and other pertinent factors. The most qualified is selected subject to negotiation of fair and reasonable compensation.

Such contracts are usually written for a “fixed price” or “cost plus fixed fee not to exceed”. Regardless of fee schedule, professional service contracts should include a schedule of payments tied to the completion of specific tasks. Reimbursable costs, such as printing, mileage, and long-distance telephone calls should be listed separately.

In utilizing competitive proposals, the following requirements must be met:

- a) Solicit proposals from enough qualified vendors to permit reasonable competition.
- b) The Request for Proposal shall identify all significant evaluation factors.
- c) Sponsors will have a method for conducting technical evaluations of the proposals and for making the award.
- d) Awards will be made to the responsible firm, whose proposal is the most advantageous for the purpose of the project, with price and other factors considered.
- e) Sponsors may use competitive proposal procedures for qualifications-based procurement of Architectural/Engineering (A/E) services. Competitor qualifications can be evaluated, and the most qualified competitor is selected subject to negotiation of fair and reasonable compensation. The method where price is not used as a selection factor can only be used in procurement of A/E professional service.

The RFP should ask for a list of the firm’s clients and employee references. Frequently, professional consultants change employment or start their own firms. By contracting previous employers, a more thorough background check of a firm and its employees can be made.

The RFP should also require detailed cost information for each phase of the work. The number of hours and the cost to complete each task should be clearly shown in the proposal received.

4. Noncompetitive Proposals

Procurement by noncompetitive proposals is procurement through solicitation of a proposal from only one source, or after solicitation of several sources, competition is determined inadequate.

Procurement by noncompetitive proposals may be used only when the award of a contract is infeasible under small purchase procedures, sealed bids, or competitive proposals and one of the following circumstances apply:

- a) The item is available only from a single source.
- b) Public emergency when the urgency for the project will not permit a delay relative to competitive solicitation.
- c) After solicitation of several sources, competition is determined inadequate: or,
- d) HUD authorizes noncompetitive negotiation.

Minimum Procurement Requirements

Any sponsor using CDBG funds to purchase goods or services should have formalized procedures in place prior to contracting for any goods or services. At a minimum the sponsor procurement practices should:

1. Require the maintenance of records sufficient to detail the history of procurement. These records will include, but not be limited to, the rationale for the procurement, selection of contract type, contractor selection or rejection, and the basis for contract price.
2. Include procedures to handle and resolve disputes relating to procurement and allow for full disclosure of information regarding a protest to the Marion County Board of Commissioners Office.
3. Incorporate a clear and accurate description of the technical requirements for the material, product, or service to be procured. The description shall not contain features that unduly restrict competition.
4. Address the avoidance of real or apparent conflicts of interest and specify standards of behavior.
5. Follow competitive bidding/selection whenever possible.
6. Make positive efforts and document actions to attract small businesses, minority owned businesses, and female owned businesses to bid on CDBG contracts.
7. Establish procedures to prohibit “cost plus a percentage of cost” and “percentage of construction cost” methods of contracting.
8. Establish procedures to review contracts or requests for financial contractual, and programmatic requirements prior to payment.
9. Award the contract to the lowest bidder, unless there is a clear indication that the contract should not be awarded to the lowest bidder based on an assessment of the integrity, resources, capacity, and past performance of the firm making the bid.
10. Permit a cost or price analysis for every procurement, including contract modifications. A cost analysis must be performed when the bidder is required to submit elements of the estimate cost, e.g., under professional, consulting, and architectural engineering service contracts. A cost analysis is necessary when adequate competition is lacking, for source procurements unless price reasonableness can be established. A price analysis will be used in all other instances to determine the reasonableness of the proposed contract price.
11. Comply with the procurement procedures of 2 CFR part 200.

Bid Documents and Procedures

The section applies to construction projects over \$2,000. All bid specifications must be reviewed and approved by the Marion County Board of Commissioners Office before prospective vendors are allowed to tender a bid or submit a proposal. Following receipt of the Notice to Proceed from the Board of Commissioners Office, sponsors must follow, at a minimum, the steps outlined below.

Bid Documents should include:

- a) Instructions to bidders (see Appendix D for required advertisement language)
- b) Agreement, including time limit and liquidated damages

- c) Federal Contract Provisions which include the applicable federal use determination (The Community Development Division will provide a clean copy of HUD contract specifications, forms and other program required language); and,
- d) Specifications and drawings. Brand names can only be used if “or approved equal” is included in their reference.

Bid documents with an estimated construction cost exceeding \$2,000 shall require the following:

Bonds

1. A bid guarantee equal to five percent (5%) of the proposed contract. The bid guarantee may be secured through a bid bond or a certified check and must accompany a bid as assurance that the bidder will, upon acceptance of his bid, execute the contractual documents with the time specified.
2. A separate Performance Bond and Labor and Material Payment Bond, each for one Hundred percent (100%) of the contract price.
3. Payment Bond for one hundred percent (100%) of the contract price.

Public Notice & Distribution

1. Advertise for bids in at least one general business newspaper. You must also advertise in one minority newspaper unless other methods have been used to conduct MBE/WBE outreach. A normal bid time is two to four weeks depending on the complexity of the project.
2. Request the Affidavit of Publication and provide a copy to the Board of Commissioner’s staff
3. Distribute copies of the bid documents to local plan centers.
4. Following a minimum two-week bidding period, the sponsor shall publicly open the bids received. Community Development Division staff will attend bid openings.

The sponsor shall:

- Contact the Board of Commissioners Office that the apparent low bidder is not on the General Services Administration’s Excluded Parties list.
- Review the bids with the Architect/Engineer (A/E).
- Execute the Contract.
- Conduct Preconstruction Conference. The General Contractor and all subcontractors must attend. Please let OCD staff know at least one week in advance so that they may attend and provide the contractor the applicable forms and explain HUD requirements.
- Send the Notice to Proceed to the General Contractor and provide a copy to the Board of Commissioners staff.

Contract Compliance

This section includes some of the provisions which must be included in contracts. Others are addressed in the previous section on bid documents. It also includes some ways to ensure contract compliance.

Contract Provisions

The sponsor's contracts must contain the provisions of this section.

- a) Administrative, contractual, or legal remedies in instances where contractors violate or breach contract terms and provide for such sanctions and penalties as may be appropriate (Contracts other than small purchases).
- b) Termination for cause and for convenience by the sponsor including the manner by which it will be affected and the basis for settlement (for all contracts in excess of \$10,000).

Professional Service Contracts

The sponsor must monitor consultants for the following:

- a) Certificate of Insurance; and
- b) Invoices for completion of stated work and current charges.

Construction Contracts

The sponsor must monitor the General Contractor and provide copies to the Community Development Division Office of the following:

- a) Bonds for contracts/subcontracts over \$100,000 (Bid Bond, Performance Bond, Labor and Material Payment Bond);
- b) Certificate of Insurance (Construction of new structures requires "Builder's All Risk" insurance);
- c) Submission by the contractor of the Schedule of Values if the contract does not require unit prices.
- d) Written change orders; and
- e) Payment retainage to the contractor

The Contract Work Hours and Safety Standard Act, Davis Bacon Act, Section 3, and Minority Business Enterprises (MBE) requirements will be monitored by the Community Development Division.

SPONSOR DOCUMENTATION

Each project sponsor must maintain and fully document the procurement process for each project.

Meeting Davis-Bacon Labor Standards

(Applies to Construction Contracting Services)

Applicability

The Davis Bacon and Related Acts (DBRA) requires all contractors and subcontractors performing work on federal construction contracts or federally assisted contracts in excess of \$2,000 to pay their laborers and mechanics not less than the prevailing wage rates and fringe benefits for corresponding classes of laborers and mechanics employed on similar projects in the area. The prevailing wage rates and fringe benefits are determined by the Secretary of Labor for inclusion in covered contracts.

Federal Davis-Bacon prevailing wage rate requirements apply to your project if you are proposing a CDBG-funded project that will involve construction or rehabilitation of a public facility (i.e., a homeless shelter), installation of public improvements to support affordable housing (i.e., street, water/sewer lines), or rehabilitation of multifamily housing containing eight or more assisted units.

These requirements often have an impact on the cost of projects, and carry with them significant record keeping procedures, applicants are encouraged to contact the Board of Commissioners Office early in their project planning for further information if a proposed project will be subject to Davis-Bacon. If yours will be a covered project, your solicitation documentation will need to alert contractors that Davis Bacon requirement will apply and will need to include the appropriate federal wage decision and other required labor provisions. Federal wage decisions will be made available by the Marion County Board of Commissioners Office for project cost feasibility determinations upon request.

The following checklist has been prepared to assist Contractors and Subcontractors in meeting contractual labor standards responsibilities. All major administrative and procedural activities have been covered in the sequence that will occur as the construction contract progresses. Careful attention to and use of the checklist should result in a minimum number of problems with respect to labor standards.

The word “employer,” as used below, refers to the Prime Contractor, each Subcontractor, or each lower-tier Subcontractor. Payroll and documentary evidence of compliance is required to be sent in the delivery procedure as follows:

- Each lower-tier Subcontractor, after careful review, submits required documents to the respective Subcontractor.
- Each Subcontractor, after checking their own and those of each lower-tier Subcontractor they may have, submits required documents to the Prime Contractor.
- The Prime Contractor, after reviewing All payroll and documentation, including their own, and correcting violation where necessary, submits to the Marion County Board of Commissioners Office.

Working Subcontractors Are Not Exempt from Receiving Prevailing Wage. Davis-Bacon Act regulations specifically stipulate that independent subcontractor are not exempt from receiving

weekly prevailing wage for the classification of work which they perform. This is true regardless of any contractual relationship between the primary contractor and subcontractor. This means that it is the prime contractor's responsibility to ensure that a prevailing wage rate is paid to subcontractors performing on-site work.

Davis-Bacon Compliance Checklist

BEFORE CONSTRUCTION BEGINS THE CONTRACTOR HAS:

- ☐ Not been debarred or otherwise made ineligible to participate in any Federal or Federally assisted project (found at www.sam.gov)
- ☐ Received the appropriate contract provisions covering labor standards requirements
- ☐ Reviewed and understand all labor standards contract provisions
- ☐ Received the applicable wage decision as part of the contract
- ☐ Requested through Marion County Board of Commissioner Office and received the minimum wage for each classification to be worked on the project which was not included on the wage decision by the additional wage classification process and before allowing any such trade(s) to work on the project
- ☐ If an apprentice is to be performing work on the project, the contractor has requested and received certification of their apprentice program from the State's Bureau of Apprenticeship and Training (recognized by USBAT) and submitted copy thereof to the recipient prior to employment on the project. Likewise, "trainee" program certification from U.S. BAT, if applicable, must be submitted.

AT CONSTRUCTION START, THE CONTRACTOR HAS:

- ☐ Notified the Marion County Board of Commissioners Office of the Construction start date in writing.
- ☐ Placed each of the following on a bulletin board prominently located on the project site which can be seen easily by workers (and replaced if lost or unreadable at any time during construction):
 - A copy of the Wage Decision
 - "Notice to Employees" Poster
- ☐ Before assigning each project worker to work, has obtained the worker's name, job classification, and best mailing address. (Note: it is no longer necessary to report an employee's Social Security number on every certified payroll report, only the last four digits of the employee's SSN must be reported, and only on the first payroll report in which that employee worked on the Davis-Bacon covered project.
- ☐ Informed each worker of:
 - Their work classification (journeyman or job title) as it will appear on the payroll.
 - If apprentice, they are paid not less than the apprentice's rate for the trade based on their year of apprenticeship.

- If a laborer is to do laborer's work only and not use any tool or tools of the trade and not perform any part of the journeyman's work, they are to be paid the laborer's minimum rate or more.

☐ If applicable, has obtained a copy of each apprentice's certificate with the apprentice's registration number, percentage of wage to be paid and the year of apprenticeship from the State BAT.

☐ Understands the requirements that each laborer or mechanic who performs work on the project in more than one classification within the same work week shall be classified and paid at the highest wage rate applicable to any of the work which they perform unless certain requirements are met (refer to "additional Guidance for filling in a payroll report"):

☐ Has informed each work of

- Their hourly wages (not less than the minimum wage rate for their work as stated on the wage decision);
- Payment of overtime at the rate of time and one half for all work over 40 hours per week;
- Fringe benefits, if any (see wage decision for any required), paid in cash or into an approved third part trust;
- Permissible deductions from their pay and/or any deductions voluntarily requested in writing from the employee

☐ Has informed each worker that they are subject to being interviewed on the job by a representative of the Community Development Division to confirm that the employer is complying with all labor requirements

☐ Has informed each foreman, journeyman, and apprentice that the proper journeyman-to-apprentice ratio must be always observed on the job site when an apprentice is working.

DURING CONSTRUCTION, EACH EMPLOYER:

☐ Has not selected, assigned, paid different pay rates to, transferred, upgraded, demoted, laid off, and not dismissed any project worker because of race, color, religion, sex, or national origin.

☐ Has employed all registered apprentices referred to them through normal channels up to the applicable ratio of apprentices to journeyman in each trade used by the employer.

☐ Will maintain basic employment records for no less than three years, accessible to inspection by HUD, Marion County, or other U.S. government representatives

☐ Must comply with all safety and health standards.

☐ **Must pay all workers weekly**

☐ Must submit weekly payroll reports prepared on either recommended form WH-347 (or on computerized printouts cleared by Marion County and accompanied by the Statement of Compliance

☐ HUD considers the following project workers exempt from labor requirements and does not require them to be shown on payrolls

- Project superintendent
- Supervisory foreman (performing less than 20% in a classification)
- Messenger
- Clerical Workers

WEEKLY PAYROLL REVIEW

☐ Subcontractors and Lower-tier Subcontractors have promptly reviewed the weekly payroll for compliance with all labor standards requirements (using this checklist)

☐ The Prime Contractor has received all weekly payroll or reports that no work was performed (refer to “No Work Performed” Notice) from each Subcontractor or Lower-tier Subcontractor, has reviewed and requested necessary corrections and has submitted all payroll, including his own, to **Marion County within 7 workdays of the last date of the respective work week.**

AFTER PROJECT COMPLETION:

Each employer is required to keep all weekly payroll reports on the project for no less than three years after the Prime Contractor’s project completion date.

MBE/WBE Outreach Requirement Overview

Applicability

At a minimum, the Marion County Board of Commissioners, and the recipients of funding through its CDBG program are required to implement outreach programs to ensure that contracting opportunities are facilitated, to the maximum extent possible, for entities owned by minorities and women. MBE/WBE compliance requirements are included in all CDBG funding agreements. These requirements include provision that all funding recipients, prime contractors, and owners of CDBG-assisted project comply with the MBE/WBE outreach program procedures as a condition of assistance.

Definition

A Minority Business Enterprise (MBE) is defined as a business firm which is at least 51 percent (51%) owned by minority group members, or in the case of a publicly owned business, at least 51 percent (51%) of the stock of which is owned by minority group members. A Women's Business Enterprise (WBE) is defined as a business firm which is at least 51 percent (51%) owned by women group members, or in the case of a publicly owned business, at least 51 percent (51%) of the stock of which is owned by women group members. The minority or women's ownership must exercise actual day to day management and control of the business; Minority and Women's Business Enterprises must be officially certified or recognized as such and must be included on the State of Oregon's listing of such firms.

Please consult with the Community Development Division staff to assure that you receive and work with a copy of the most recently updated MBE/WBE list.

Requirements and Procedures

The Community Development Division staff can help applicants prepare a solicitation list of certified MBE/WBE firms which includes their capabilities, services, supplies and/or products. The services and assistance of the Minority Business Development Agency of the U.S. Department of Commerce, and other appropriate federal and state agencies, may also be called upon as needed to meet the MBE/WBE requirements. The Office of Minority, Women, and Emerging Small Businesses and the MBE/WBE Directory website, offers comprehensive on-line directories of minority and women owned business enterprises specific to the area of a proposed project site.

Marion County and its recipients of CDBG funds will both maintain records which describe MBE/WBE outreach activities undertaken, and will require that prime contractors, developers, and owners of CDBG-assisted projects do the same and submit annual reports on their MBE/WBE outreach activities to Marion County as a condition of receipt of federal funds while funded projects are underway. Contractor reporting forms are available through Marion County.

As a prerequisite to demonstrate MBE/WBE goal achievement, applicants will need to provide Marion County with the following information:

- Copies of timely solicitation letters (dated a minimum of fourteen (14) calendar days prior to bid opening sent to MBE/WBE firms. The solicitation letters should include the specific

type or work and delivery schedule conforming to the type of work that the MBE/WBE firm performs

- Documentation of any other efforts to extend opportunities to MBE/WBE firms, such as advertisements in minority and women trade association newsletters and minority-owned media and written notification sent to minority and women contractor associations.
- The names of selected MBE/WBE subcontractors to be utilized.
- The type of work and dollar amount to be awarded to each MBE/WBE subcontractor.
- The total dollar amount of MBE/WBE participation.

Post Contract Award Compliance

Within fifteen (15) calendar days of notice of award of contract, MBE/WBE certification letters signed by all the MBE/WBE participants, or copies of all MBE/WBE related sub-agreements signed by the general contractor and subcontractors, shall be submitted to the Marion County Board of Commissioners Office. General contractors must promptly report all proposed changes in the utilization of MBE/WBE firms to the funding recipients and to Marion County, in writing, with appropriate documentation. Changes to the previously reported MBE/WBE utilization will be considered by Marion County only for one of the following reasons:

- The MBE/WBE firm is unable to meet the delivery requirements of the construction schedule.
- The MBE/WBE firm is not punctual in complying with the requirements of the contract documents.
- The MBE/WBE firm is prevented from performing due to bankruptcy, insolvency, or other incapacities.

The forms in this section provide tools for 1.) contractors and subcontractors to report on their MBE/WBE status, and 2.) contractors to report on their use of subcontractors. Marion County will provide these forms for use by sponsors and contractors at the pre-construction conference and throughout the course of a project.

CONTRACT AND SUBCONTRACT ACTIVITY REPORT

The following information is required by the U.S. Department of Housing and Urban Development (HUD) and is used to monitor and evaluate Section 3, Minority Business Enterprise (MBE) and Women-owned Business Enterprise (WBE) contracting opportunities.

Project Address: _____ Amount of Contract: _____

Name of Contractor/Subcontractor: _____ CCB# _____

Street Address _____

Phone: _____

Fax: _____

Email: _____

IRS Identification Number (business tax ID) _____

Woman owned business? Please check appropriate box ☐ Yes ☐ No

State Certification Number: _____

Minority-owned business? Please check appropriate box ☐ Yes ☐ No

State Certification Number: _____

Which best indicates Contractor's/Subcontractors service: (Check all that apply)

- | | |
|--------------------------------------|---|
| _____ (1) New Construction | _____ (6) Professional |
| _____ (2) Substantial Rehabilitation | _____ (7) Tenant Services |
| _____ (3) Repair | _____ (8) Education/Training |
| _____ (4) Service | _____ (9) Architectural/Engineering Appraisal |
| _____ (5) Project Management | _____ (10) Other: _____ |

Indicate the racial/ethnic character of the owner/controller (s) of the business:

- | | |
|-----------------------|------------------------------|
| _____ White American | _____ Hispanic American |
| _____ Black American | _____ Asian/Pacific American |
| _____ Native American | _____ Hasidic Jews |

Sign: _____ Title: _____ Date: _____

To be Completed by the Community Development Division Staff:

Project Number: _____ Total Project Cost: \$ _____

Funding Source: _____ Date Contract Executed: _____

Subcontractor Reporting Form

Project Name: _____ Project: _____

Project Address: _____

Property Owner/Sponsor: _____

Prime Contractor: _____

Address: _____

Phone: _____ CCB# _____ Tax ID # _____

The Prime Contractor must identify all subcontractors who will perform work on the project identified above. Please use your own format or additional sheets if necessary.

Subcontractor Name: _____

Address: _____

Business Phone: _____ Cell Phone: _____

CCB#: _____

Subcontractor Name: _____

Address: _____

Business Phone: _____ Cell Phone: _____

CCB#: _____

Subcontractor Name: _____

Address: _____

Business Phone: _____ Cell Phone: _____

CCDB#: _____

Subcontractor Name: _____

Address: _____

Business Phone: _____ Cell Phone: _____

CCB#: _____

Section 3 Overview

What is Section 3?

Section 3 is a provision of the Housing and Urban Development (HUD) Act of 1968 (implemented through HUD's regulations at 24 CFR Part 135) that helps foster local economic development, neighborhood economic improvement, and individual self-sufficiency. The Section 3 program requires that recipients of certain HUD financial assistance, to the greatest extent feasible, provide job training, employment, and contracting opportunities for low-or very-low-income residents in connection with projects and activities in their neighborhoods.

What contracts are affected by Section 3?

Contracts and subcontracts for:

- Work to be paid with Section 3-covered HUD assistance; or
- Work arising in connection with a Section 3-covered project where the individual contract or subcontract exceeds \$100,000 and the amount of HUD assistance for the project exceeds \$200,000. Both conditions must be present
- *Are any other contracts excluded?*
 - *Contracts exclusively for supplies or materials unless the contract includes their installation.*
- A Section 3 covered project means:
 - Housing rehabilitation (including reduction and abatement of lead-based paint hazards, but excluding routine maintenance, repair and replacement);
 - Housing construction (including reconstruction, conversion); or
 - Other public construction including other buildings or improvements, regardless of ownership, assisted with federal housing or community development assistance.
- What is "Section 3-covered assistance?"
 - Funding provided by HUD for any HUD housing or community development program work in connection with a Section 3-covered project as described above.

What does Section 3 require me to do?

1. Commit awarding to Section 3-covered businesses at least:
 - 10% of the total dollar amount for Section 3-covered contracts for building trades work arising in connection with housing rehab, housing construction or other public facility/improvement construction; and
 - 3% of the total dollar amount of all other Section 3-covered contracts
2. Notify Section 3 businesses of your contracting opportunities funded by Section 3-covered assistance.
3. Notify all potential contractors for Section 3-covered projects of the Section 3 contracting requirements and include the required Section 3 clause in all Section 3-covered contracts.
4. Assist and actively cooperate with HUD in obtaining contractor/subcontractor compliance with Section 3 requirements

5. No contracts will be awarded to any contractor who has been found to have violated the Section 3 requirements.
6. Take appropriate remedial action against contractors who fail to comply with the Section 3 requirements (i.e., termination)
7. Document actions (including results and impediments) taken to comply with Section 3 requirements.

What does Section 3 require my contractors and subcontractors to do?

1. To the greatest extent feasible:

- Provide employment and training opportunities for Section 3 residents by meeting the percentage goals in 24 CFR 135.30 (b)(3)
 - Provide subcontracting opportunities to Section 3 businesses by meeting the percentage goals in 24 CFR 135.50 (c) (NOTE: This only applies to subcontracts in excess of \$100,000 each.)
2. Notify labor unions and organization of the contractor's commitments under Section 3.
 3. Post notices conspicuously at all Section 3-covered work sites describing:
 - The Section 3 preference
 - The minimum number and job titles subject to hire
 - Apprenticeship and training position available; the qualifications for each; and the name and location of the person taking applications
 - The anticipated start date of the work
 4. Include the Section 3 requirements clause in all applicable subcontracts.
 5. Take appropriate action if a subcontractor violates the Section 3 regulation.
 6. Not to subcontract with any subcontractor where the contractor has notice or knowledge that the subcontractor has been found to be in violation of the Section 3 regulation.
 7. Certify that the contractor did not circumvent the Section 3 employment opportunity requirements, if the contractor hired any persons not covered by Section 3 between the time the contractor was selected, and the contract was executed.

Who is a Section 3 resident?

Section 3 residents are:

- Public Housing residents, or
- Persons who live in the area where a HUD assisted project is located and who have a household income that falls below HUD's definition of "low income" or "very low income"

What is a Section 3 covered business?

A business:

- That is 51 percent (51%) or more owned by Section 3 residents, or
- Employs Section 3 residents for at least 30 percent (30%) of its full time, permanent staff; or
- Provides evidence of a commitment or subcontract to Section 3 business concerns, 25 percent (25%) or more of the dollar amount of the awarded contract

How can I be sure that a business is really a Section 3-covered business?

Businesses must self-certify as to their qualification for Section 3 preference. If in doubt, you may request supporting evidence.

What types of economic opportunities are available under Section 3?

Opportunities include:

- Job training
- Employment
- Contracts

Examples of Opportunities include, but are not limited to:

Accounting	Landscaping
Bookkeeping	Marketing
Carpet Installation	Plastering
Demolition	Research
Elevator Construction	Transportation
Florist	Appliance Repair
Janitorial	Carpentry
Manufacturing	Computer/Information
Payroll	Electrical
Printing Purchasing	Fencing
Tile Setting	Iron Works
Architecture	Machine Operation
Bricklaying	Painting
Cement/Masonry	Plumbing
Drywall	Surveying
Engineering	Word Processing
Heating	

Who receives priority under Section 3?

For training and employment:

- Persons in public and assisted housing
- Persons in the area where the HUD financial assistance is spent
- Participants in HUD Youthbuild programs
- Homeless persons

For contracting:

- Businesses that meet the definition of a Section 3 business concern

How can businesses find Section 3 residents to work for them?

Businesses can recruit Section 3 residents in public housing developments and in neighborhoods where the HUD assistance is being spent. Effective ways of informing residents about available training and job opportunities include:

- Contracting resident organizations, local community development and employment agencies
- Distributing flyers
- Posting signs
- Placing ads in local newspapers

Are recipients, contractors, and subcontractors required to provide long-term employment opportunities, not simply seasonal or temporary employment?

Recipients are required, to the greatest extent feasible, to provide all types of employment opportunities to low and very low-income persons, including permanent employment and long-term jobs. Recipients and contractors are encouraged to have Section 3 residents make up at least 30 percent (30%) of their permanent, fulltime staff.

A Section 3 resident who has been employed for 3 years may no longer be counted towards meeting the 30 percent (30%) requirement. This encourages recipients or contractors to continue hiring Section 3 residents when employment opportunities are available.

What if it appears an entity is not comply with Section 3?

There is a complaint process. Section 3 residents, businesses, or a representative for either may file a complaint if it seems a recipient is violation Section 3 requirements are being on a HUD-funded project.

Will HUD require compliance?

Yes. HUD monitors the performance of contractors, reviews annual reports from recipients, and investigates complaints. HUD also examines employment and contract records for evidence that recipients of federal funding are training and employing Section 3 residents and awarding contracts to Section 3 businesses as it applies.

Contract Clauses Required in All Community Development Block Grant (CDBG)
Construction Projects

This contract and the work it will carry out is being funded in whole or in part with funding from the U.S. Department of Housing and Urban Development through the Marion County Office of Community Development CDBG program.

1. Access to Records and Retention of Records

The Community Development Block Grant (CDBG) recipient, Marion County Board of Commissioners, the U.S. Department of Housing and Urban Development (HUD), the Comptroller General of the United States, or any of their duly authorized representatives, shall have access to any books, documents, papers, and records of the contractor which are directly pertinent to this contract, for the purpose of making audit, examination, excerpts, and transcriptions. All required records must be maintained by the contractor for four years after the recipient makes final payments and all other pending matters are closed.

2. Section 3 of the Housing and Community Development Act

(Applicable to contracts/subcontracts of \$100,000 or more and when the funding recipient has received \$200,000 or more in CDBG and/or other federal funding)

- A. The work to be performed under this contract is subject to the requirements of Section 3 of the Housing and Urban Development Act of 1968, as amended, 12 U.S.C. 1701u (Section 3). The purpose of Section 3 is to ensure that employment and other economic opportunities generated by HUD assistance or HUD-assisted projects covered by Section 3, shall, to the greatest extent feasible, be directed to low-and very low-income persons, particularly persons who are recipients of HUD assistance for housing.
- B. The parties to this contract agree to comply with HUD's regulations in 24 CFR Part 135, which implement Section 3. As evidenced by their execution of this contract, the parties to this contract certify that they are under no contractual or other impediment that would prevent them from complying with the part 135 regulations.
- C. The contractor agrees to send to each labor organization or representative of workers with which the contractor has a collective bargaining agreement or other understanding, if any, a notice advising the labor organization or workers' representative of the contractor's commitments under this Section 3 clause and will post copies of the notice in conspicuous places at the work site where both employees and applicants for training and employment positions can see the notice. The notice shall describe the Section 3 preference, shall set forth minimum number and job titles subject to hire, availability of apprenticeship and training positions, the qualifications for each; and the name and location of the person (s) taking application for each of the positions; and the anticipated date the work shall begin.
- D. The contractor agrees to include this Section 3 clause in every subcontract subject to compliance with regulations in 24 CFR part 135, and agrees to take appropriate action, as

provided in an applicable provision of the subcontract or in this Section 3 clause, upon a finding that the subcontractor is in violation of the regulations in 24 CFR part 135. The contractor will not subcontract with any subcontractor where the contractor has notice or knowledge that the subcontractor has been found in violation of the regulations in 24 CFR Part 135.

- E. The contractor will certify that any vacant employment positions, including training positions that are filled (1) after the contractor is selected but before the contract is executed, and (2) with persons other than those to whom the regulations of 24 CFR part 135 require employment opportunities to be directed, were not filled to circumvent the contractor's obligations under 24 CFR part 135.
- F. Noncompliance with HUD's regulations in 24 CFR part 135 may result in sanctions, termination of this Contract for default, and debarment or suspension from future HUD assisted contracts.
- G. With respect to work performed in connection with Section 3 covered Indian housing assistance, section 7(b) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450e) also applies to the work to be performed under this contract. Section 7(b) requires that to the greatest extent feasible (i) preference and opportunities for training and employment shall be given to Indians, and (ii) preference in the award of contracts and subcontracts shall be given to Indian organizations and Indian-owned Economic Enterprises. Parties to this Contract that are subject to the provisions of Section 3 and section 7(b) agree to comply with Section 3 to the maximum extent feasible, but not in derogation of compliance with section 7 (b).

3. Emerging-Small (ESP), Minority-owned (MBE) and Women-owned (WBE) Business Enterprises

(Applicable to contract/subcontracts of \$25,000 or more in CDBG and/or other funding)

Affirmative steps must be taken to assure that emerging small, minority and women-owned businesses and firms located in labor surplus areas are used when possible as sources of supplies, equipment, construction, and services. Affirmative steps shall include the following:

- Include any such qualified firms on solicitation lists
- Assure that such firms are solicited whenever they are potential sources
- When economically feasible, divide total requirements into small tasks or quantities so as to permit such firms maximum opportunities for participation through subcontracting.
- Where possible, establish delivery schedules which will encourage such participation
- Use the services and assistance of the Small Business Administration, the Office of Minority, Women and Emerging Small Business (State of Oregon) and other sources when appropriate.

4. Prohibition on the Use of Federal Funds for Lobbying

(Applicable to federally funded contracts/subcontracts of \$100,000+)

The contractor hereby certifies that:

- a) No federal funds have been paid or will be paid, by or on behalf of Marion County Board of Commissioners, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any federal contract, grant, loan, or cooperative agreement.
- b) If any funds other than federal funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a member of Congress, an officer or employee of Congress, or an employees of a Member of Congress in connection with this federal contract, grant, loan, or cooperative agreement, the local government shall completed and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," In accordance with its instructions.

5. Lead Based Paint

The use of lead-based paint on any interior or exterior surface is prohibited. For properties constructed prior to 1978, the construction work performed under this contract is subject to the Lead-Based Paint Regulations adopted by the Department of Housing and Urban Development (24 CFR Part 35) and by the State of Oregon (OAR 333.069)

6. Equal Employment Opportunity

Contractor shall comply with the requirements of Executive Order 11246, "Equal Employment Opportunity," as amended by Executive Order 11375, "Amending Executive Order 11246 Relating to Equal Employment Opportunity," and as supplemented by regulations at 41 CFR Chapter 60, "Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor," which provide that no person shall be discriminated against on the basis of race, color, religion, gender or national origin in all phases of employment during the performance of federal or federally assisted construction contracts. Contractors and subcontractors on federal or federally assisted construction contracts shall take affirmative action to ensure fair treatment in employment, upgrading, demotion, or transfer, recruitment, or recruitment advertising.

7. Copeland "Anti-Kickback" Act

Contractor shall comply with the Copeland "Anti-Kickback" Act (18 USC 874), as supplemented by Department of Labor regulations (29 CFR Part 3, 'Contractors and Subcontractors on Public Building or Public Work Financed in Whole or in Part by Loans or Grants from the United States"). Contractor and all subcontractors shall be prohibited from inducing, by any means, any person employed in the construction, completion, or repair of public work to give up any part of the compensation to which he is otherwise entitled.

8. Davis-Bacon Act

(Applicable to CDBG contracts for construction or rehabilitation of housing containing eight or more CDBG-assisted units; any public facility or public improvement contract exceeding \$2,000; applicable to HOME contracts for construction or rehabilitation of twelve or more HOME-assisted units.)

All laborers and mechanics employed by contractors or subcontractors on construction work assisted under this part shall be paid wages at rates not less than those prevailing on similar construction in the locality as determined by the Secretary of Labor in accordance with the Davis-Bacon Act, as amended (40 USC 276a-2761-5), and shall receive overtime compensation in accordance with and subject to provisions of the Contract Work Hours and Safety Standards Act (40 USC 327-333), and the contractors and subcontractors shall comply with all regulations issued pursuant to these Acts and with other applicable Federal laws and regulations pertaining to labor standards.

9. Contract Work Hours and Safety Standards Act

In compliance with Sections 102 of the Contract Work Hours and Safety Standards Act (40 USC 327-333) as supplemented by Department of Labor regulations (29 CFR Part 5), each contractor/subcontractor shall compute the wages of every mechanic and laborer based on a standard work week of 40 hours. Work in excess of the standard work week is permissible provided that the worker is compensated at a rate of not less than 1 ½ times the basic rate of pay for all hours worked in excess of 40 hours in the work week. In compliance with Section 107 of the Act, no laborer or mechanic shall be required to work in surroundings or under working conditions which are unsanitary, hazardous, or dangerous. These requirements do not apply to the purchases of supplies or materials or articles ordinarily available on the open market, or contracts for transportation or transmission of intelligence.

10. Clean Air Act and the Federal Water Pollution Control Act

(Applicable to federally funded contracts and subcontracts in excess of \$100,000)

This contract is subject to the requirements of the Clean Air Act, as amended, 42 USC 1857 et seq., the Federal Water Pollution Control Act, as amended, 33 USC 1857 et seq., and the regulations of the Environmental Protection Agency with respect thereto, at 40 CFR Part 15, as amended from time to time. Contractor and any of its subcontractors agree to the following requirements:

1. A stipulation by the contractor and subcontractors that any facility to be utilized in the performance of any nonexempt contract or subcontract is not listed on the List of Violating Facilities issued by the Environmental Protection Agency (EPA) pursuant to 40 CFR 32;
2. Agreement by the contractor to comply with all requirements of Section 114 of the Clean Air Act, as amended (42 USC 1857c-8) and Section 308 of the Federal Water Pollution Control Act, as amended, (33 USC 1318) relating to inspection, monitoring, entry, reports, and information, as well as all other requirements specified in said Section 114 and Section 308, and all regulations and guidelines thereunder.

3. A stipulation that as a condition for the award of the contract, prompt notice will be given of any notification received from the Director, Office of Federal Activities, EPA, indicating that a facility utilized or to be utilized for the contract is under consideration to be listed on the EPA list of Violating Facilities; and
4. Agreement by the contractor that he will include or cause to be included the criteria and requirements in paragraph (1) through (4) of this section in every non-exempt subcontract and requiring that the contractor will take such action as the government may direct as a means of enforcing such provisions. In no event shall any amount provided under this contract be utilized with respect to a facility which has given rise to a conviction under Section 113(c)(1) of the Clean Air Act or Section 309 (c) of the Federal Water Pollution Control Act.

11. Debarment and Suspension

Contractor certifies that neither it nor any of its employees or subcontractors are parties listed on the General Services Administration's List of Parties Excluded from Federal Procurement or Non-procurement Programs in accordance with Executive Orders 12549 and 12689, "Debarment and Suspension," as set forth at 24 CFR part 24. This list contains the names of parties debarred, suspended, or otherwise excluded by agencies, and contractors declared ineligible under statutory or regulatory authority other than E.O. 12549. Contractor must provide a current SAM registration and DUNS number.

12. Termination of Contract

Termination by Owner:

1) Without Cause

This contract and the work it will carry out is being funded in whole or in part with funding from the U.S. Department of Housing and Urban Development through the Marion County Board of Commissioners office's Community Development CDBG Program.

The owner may terminate this contract:

- a. In the event that the grant funds are rescinded in part or in whole; or
- b. If the work is stopped under an order of any court or other public authority, for a period of thirty (30) calendar days, through no act or fault of the owner, owner's employees, or legal representatives.

2) With Cause

The owner may terminate this contract if the contractor is in substantial breach of the provisions contained in the contract documents and/or repeatedly fails to:

- Comply with federal, state, and local laws and regulations;
- Provide for the safety of all occupants and public at large during the execution of the work;
- Properly pay subcontractors or suppliers for material or labor;
- Correct defective work; or

**Progress in a timely manner which demonstrates that the contractor can complete the project within the specified timeframe.*

The contractor, upon receipt of written notice from the owner to terminate this contract, shall:

- 1) Cease operation in a manner that protects and preserves work already performed
- 2) Instruct all subcontractors to cease work and cancel all special orders with suppliers
- 3) Leave the work site in a condition that is free of hazards to occupants and the public.

If the owner terminates the contract, the contractor may be eligible to receive payment for all work completed, and for material orders already in progress and for which cancellation is not possible. Payment is contingent upon the same inspection and approval procedures by owner and grantor as specified for progress payments. If the owner terminates this contract with cause, the owner may withhold payment until all work is otherwise completed by reasonable means determined by owner. If the unpaid balance of this contract is not sufficient to cover reasonable costs incurred by the owner to complete the work, the contractor shall pay the difference to the owner. If the unpaid balance of this contract is more than the reasonable costs incurred by the owner to complete the work, then the owner shall pay the difference to the contractor. Reasonable costs include architect fees, administrative fees, and other expenses made necessary by the above causes.

12(b). Termination by Contractor

Contractor may terminate this contract if:

- Work is stopped under an order of any court, or other public authority, for a period of thirty (30) calendar days, through no act or fault of the contractor, contractor's employees, subcontractors, or other persons or agents performing work under direct or indirect contract with the contractor;
- Work is stopped due to a declared state of emergency by government action;
- Owner fails to make payment within the timeframe and conditions stated in the Contract Documents;
- Owner repeatedly, through no fault of the contractor, contractor's employees, subcontractors, or other persons or agents performing work under direct or indirect contract with the contractor, causes delay of the work; and such delay constitutes more than 100 percent of the total number of days scheduled for completion of the work specified in the Contract Documents.

12(c) Termination by Mutual Consent

Both parties may terminate this contract by mutual written consent.

Contract Clauses Required for All CDBG
Professional Services Contracts
(Architects, Engineers, Consultants)

This contract and the work it will carry out is being funded in whole or in part with funding from the U.S. Department of Housing and Urban Development through the Marion County Board of Commissioners Office CDBG Program.

1.) Access to Records and Retention of Records

The CDBG recipient, the Marion County Board of Commissioners Office, the U.S. Department of Housing and Urban Development, the Comptroller General of the United States, or any of their duly authorized representatives, shall have access to any books, documents, papers, and records of the contractor which are directly pertinent to this contract, for the purpose of making audit, examination, excerpts, and transcriptions. All required records must be maintained by the contractor for the three years after the recipients makes final payments an all-other pending matter are closed.

2.) Section 3 of the Housing and Community Development Act

(Applicable to contracts/subcontracts of \$100,000 or more when the recipient received a total of \$200,000 or more in federal funding.)

In hiring or soliciting businesses for goods, services or other types of work, consideration must be given to local residents and firms. The work to be performed under this contract is a project assisted under a program providing direct federal financial assistance from the U.S. Department of Housing and Urban Development and is subjected to the requirements of Section 3 of the Housing and Urban Development Act of 1968, as amended, 12 USC 170(1)(u). Section 3 requires that to the greatest extent feasible, opportunities for training and employment be given to lower income persons residing in the project's County, and contracts for work in connection with the project be awarded to eligible business concerns which are located, or owned in substantial part by persons residing, in the project County.

3.) Emerging-Small (ESB), Minority-owned (MBE) and Women-owned (WBE) Business Enterprises

(Applicable to contracts/subcontracts of \$25,000 or more in federal funding.)

Affirmative steps must be taken to assure that small, minority and women-owned businesses and firms located in labor surplus areas are used when possible as sources of supplies, equipment, construction, and services. Affirmative steps shall include the following:

- a) Include any such qualified firms on solicitation lists
- b) Assure that such firms are solicited whenever they are potential sources.

- c) When economically feasible, divide total requirements into smaller tasks or quantities to permit such firms maximum opportunities for participation through subcontracting.
- d) Where possible, establish delivery schedules which will encourage such participation.
- e) Use the services and assistance of the Small Business Administration, the Office of Minority, Women and Emerging Small Business (State of Oregon) and other sources when appropriate.

4.) Prohibition on the Use of Federal Funds for Lobbying

(Applicable to contracts/subcontractors of \$100,000 or more in federal funding.)

The contractor hereby certifies that:

- a) No federal funds have been paid or will be paid, by on or behalf of Marion County, to any person for influencing or attempting to influence an officer or employee of any agency, a member of Congress, an officer or employee of Congress, or an employee of a member of Congress in connection with the awarding of any federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any federal contract grant, loan, or cooperative agreement.
- b) If any funds other than federal funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this federal contract, grant, loan, or cooperative.

Section VI:

Lead Paint Guidelines for Rehabilitation Activities

CDBG Program Guidance:

Requirements for Rehabilitation Projects under 24 CFR Part 35

(Lead-Based Paint Poisoning Prevention in Certain Residential Structures)

The intent of the information that follows is to provide CDBG project sponsors with general background information about federal lead-based paint regulations, and to give a basic understanding of what the regulations will mean for your project, especially as you determine project scope and solicit contractor bids for rehabilitation work. Please note that the following information is very general, and that you will need to consult very closely with the Community Development Division Office if your project contains or may contain any lead-based paint.

HUD and the Oregon Health Division have issued regulations to protect occupants and especially young children (six years of age or younger) from lead-based paint hazards in housing that is financially assisted by the federal government or being sold by the government. These regulations address the requirements for notification, evaluation, and reduction of lead-based paint hazards in federally assisted properties. More information on the regulations and other educational materials can be found at www.hud.gov/lead. This summary addresses the requirements that must be met for rental housing projects that will receive Marion County Office of Community Development CDBG funding.

NEW EPA RULE

In addition to the HUD regulations regarding lead-based paint in federally assisted projects, the EPA has also issued a new set of lead-based paint regulations which took effect April 22, 2010. These new regulations are called the EPA's lead-based paint "Renovation, Repair, and Painting (RRP) Program." The RRP Program regulations will apply to all pre 1978 houses, apartments, and child-occupied facilities such as schools and day-care centers, regardless of whether federal funding is present. The new EPA rule is similar to the HUD rule but there are some significant differences. Both the EPA and the HUD rules will apply to many of the pre-1978 projects that are financed through the CDBG programs. For more information regarding the new RRP program please contact the Community Development Division office.

Background and Summary of HUD Regulations

The HUD lead paint regulations took effect September 12, 2000 and affect both acquisition and rehabilitation of housing that was constructed prior to 1978 (known as "target housing"). All CDBG projects for pre-1978 housing activities must comply with the new regulations. All units in an assisted project, not just federally assisted units, must comply with these regulations.

Residential Properties exempt from lead-based paint regulations include:

- Properties for which construction was completed on or after January 1, 1978;
- Properties found not to have lead-based paint by an inspection conducted in accordance with 24 CFR Part 35.1320 (a)
- Properties where all lead-based paint has been identified and removed using approved methods;

- Unoccupied units that will be demolished;
- Properties where rehab will not disturb paint;
- Single room occupancy units;
- Housing designated exclusively for elderly and/or disabled tenants;
- Emergency action activities (within certain parameters)

Notices that must be issued to occupants of non-exempt properties:

The regulations now require five types of notices (sample forms are available from Marion County Board of Commissioners Office upon request)

- The lead hazard information pamphlet, **Protect Your Family from Lead in Your Home**, must be provided to all incoming tenants (and existing, if they have not received one); tenants must sign a receipt verifying that they have received the pamphlet;
- Owner/Landlord must provide discourse to occupants of all known lead hazards that exist in the project;
- Notice of the results of lead hazard evaluation(s) to all occupants within 15 days of completion (notice may be posted in a public place such as a lobby or mailroom).
- Notice of lead hazard reduction activities that have been undertaken to occupant within 15 days of completion (notice may be posted in a public area).
- Beginning December 2008 construction contractors, prior to starting work, must provide occupants with the EPA's lead hazard information pamphlet; Renovate Right

Grantees must provide verification that each of these notices was delivered and received where applicable.

Section VII:

Non-Discrimination, Fair Housing and Accessibility Requirements and Guidelines

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 at least some for the 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.

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 ensure 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.

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.

Section 504

HUD's regulations implementation 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 based on 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 file, or if HUD conducts a compliance review (24 CFR 8.55)

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

State Protected Classes Include:

- | | |
|--|---|
| • Marital Status | • Sexual orientation including gender identity |
| • Legal sources of income (except Section 8) | • 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

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

- 1) An accessible route into and through the covered (accessible) dwelling unit
- 2) Light switches, electrical outlets, thermostats, and other environmental controls in accessible locations;
- 3) 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
- 4) Usable kitchens and bathrooms such that an individual in a wheelchair can maneuver about the space

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, 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.

Section VIII:

CDBG Program Funding Terms and Periods of Compliance

CDBG Program Funding Terms and Period of Compliance

Federal CDBG regulations do not stipulate period of compliance when funds from this source are invested in eligible projects beyond five years if more than \$25,000 is granted. The County's practice, however, is to require a minimum 50-year period of compliance for all grants. New facilities will be required to meet a minimum compliance period of 50 years. Where a grant has been provided, the amount that would have to be repaid to Marion County if terms of compliance are not met for the full compliance period, plus the County's proportionate share of any shared appreciation prior to the expiration of the terms under the Promissory Note and Trust Deed. Thus, for a 50-year period of compliance, the amount that would be repaid to HUD due to noncompliance is the full grant amount, as well as the County's proportionate share of the shared appreciation at the time the facility is sold or no longer being used for the purposed agreed upon in the grant agreement.

Trust Deed and Promissory Note Agreement

Any sponsor who acquires real property, constructs, or rehabilitates a facility, in whole or in part, with Community Development Block Grant funds shall enter into a Trust Deed and Promissory Note with the County. (Infrastructure and Public Service projects in most cases will only need to execute a Promissory Note). The Trust Deed and Promissory Note establishes a landlord/tenant relationship between the sponsor and the county; it guarantees that the sponsor will operate the facility to meet a national objective of the CDBG program during a pre-determined period of time; and it imposes conditions which the county determines are necessary to protect the County's CDBG investment. Following execution, Marion County will have the Trust Deed recorded, at sponsor's expense, and return a copy of both documents to the sponsor.

When both a Promissory Note and Trust Deed is necessary, you must provide Marion County with a copy of the deed and property description. The following policies apply:

- The County will require the sponsor to execute a Trust Deed and Promissory Note, or other legal document in the form of the County's choice, to secure the County's total projected CDBG contribution for real property acquisition and any improvements to be added to the property. Upon completion of any improvements, or at such time designated by the County, the aforementioned documents may be amended, as necessary, to reflect any change that may have occurred to the initial project budget as a result of change orders, contingency funding, etc.
- All sponsors must execute a Promissory Note and Trust Deed, where applicable, to secure the County's CDBG contribution towards acquisition within sixty (60) days following their transmittal to the sponsor by the County.
- The term of the Trust Deed and Promissory Note shall be thirty (20) years for new construction; twenty (50) years for acquisition or substantial rehabilitation of a facility or improvement; or five (5) years following the date that Marion County is no longer an urban entitlement recipient;
- The County reserves the right to receive a proportionate share in the appreciation of the facility in the event that the facility is no longer used for the intended purpose and duration

as described in the term of the Promissory Note and Trust Deed. The percentage of that shared appreciation is decided on the total amount of CDBG investment, divided by the sum of the current fair market value of the property and both the CDBG and Sponsor's contribution of the project. This calculation and percentage of proportionate share is described in the Promissory Note.

- The County shall, at the expiration of the term of the Trust Deed and Promissory Note, convey to the sponsor all the County's interest in the property.

Contract Exhibits

Before we can enter into a formal grant agreement with your agency that will allow you to access CDBG funds, the HUD Part 58 Environmental Review must be completed. Once this is complete and all contracts are signed by the Responsible Parties, we will send you an original copy of the final executed grant agreement accompanied by the official "Notice to Proceed" which will allow you to incur eligible costs chargeable to the CDBG Program. **Please note that in most circumstances we are prohibited from reimbursing you for activities performed prior to the date specified in the Notice to Proceed.**

At times contracting can be time consuming, we would like to begin the process immediately upon sending the Notice of Award letter to your agency. The first step in contracting is for you to review and or complete the documents that are included with your Notice of Award letter (further described below). The following items must be returned to our office upon the specified date in that letter in order to prepare the contract with your agency.

Exhibit A – "Project Description, Scope of Activities and Anticipated Accomplishments"	Prepared by Marion County – You will only be reimbursed for activities that are included in this project description, so be sure that the scope of work and corresponding budget is an accurate reflection of your project. If you feel the description is inaccurate, please, please contact staff so that we may revise it as needed.
Exhibit B – Authorization Signature Card	It is recommended that you have at least three signers for all voucher requests designated, in the case a backup is needed.
Exhibit C – Budget Summary (If Applicable)	The budget summary is available in Excel format and will be emailed to you by staff. Please complete the budget summary and email it back to the Community Development Division for review prior to signing and submitting the approved contract version. This helps us identify early on any errors that may need correcting.
Exhibit D - Insurance Requirements	Provide your agency's most recent Certificate of Liability insurance showing that "Marion County, its officers, agents, elected officials and employees" are listed as an additional

	insured on the policy. Please instruct your insurance agent to send Marion County the certificate as described above and be sure to ask them to include the additional insured endorsement with the certificate. Refer to the section, “Insurance Requirements” at the end of this section for further instructions on the types and amounts of insurance that is required.
Exhibit E - FFATA Checklist	Refer to the checklist at the end of this section for further instructions
Exhibit F - Faith-Based Checklist	Refer to the checklist at the end of this section for further instructions
Exhibit G - Section 504 Checklist	Refer to the checklist at the end of this section for further instructions
Exhibit H - Matching Funds Letter	According to program policy, you have 90 days after the Notice of Award to verify the availability of matching funds for the project as proposed in your application. Please note this requirement and submit the letter to the Marion County Board of Commissioners Office by that date designated in your notice of Award letter verifying that all proposed funds are in place for the project.

Following receipt and review of the completed contract exhibits and all other requested items, The Community Development Division will prepare three agreements, which will include the enclosures, and send them to your agency for endorsement along with the Promissory Note. After we receive the signed agreements, they will be entered into the County’s contract review process. We will then send you back an original copy of the fully executed agreement along with the Notice to Proceed.

**PROJECT DESCRIPTION, SCOPE OF ACTIVITIES AND ANTICIPATED
ACCOMPLISHMENTS**

I. Project Number and Title

II. Description of Project

- A. Nature and Purpose of the Project
- B. Proposed Location or Impact Area(s):
- C. Duration/Timing of the Project
- D. Number of Low and Moderate Income or Target Group Beneficiaries:
- E. Component Activities (CDBG vs. Others)
- F. Quantitative Projections for CDBG Component Activities (in units, linear feet, square feet, etc.) for all acquisitions, construction, reconstruction, rehabilitation, etc.

Project No.
Project Year (Funded)

AUTHORIZATION SIGNATURE CARD

Project Name: _____

Applicant's Name: _____

Address: _____

City, State, Zip: _____

Telephone Number: _____ Cell Number: _____

SIGNATURE OF INDIVIDUALS AUTHORIZED TO SIGN FINANCIAL DOCUMENTS:

Any TWO signatures required to sign any financial document

NAME (TYPE or PRINT)

SIGNATURE

I certify that the signatures above are of the individuals authorized to execute financial documents.

Date

Signature of Authorized Official

Title of Authorized Official

Insurance Requirements

Agency shall provide insurance coverage and limits as described below. All insurance carried by the Agency must be primary to and non-contributory with an insurance, including and self-insurance or retentions carried by the County.

- A. **Workers Compensation Insurance.** Agency shall comply with ORS 656.017, which requires subject employers to provide Oregon workers compensation coverage for all their subject workers. No Workers' Compensation Insurance has been or will be obtained by the County for Agency or Agency's employees and subcontractors. Agency shall provide and maintain workers' compensation coverage for its employees, officers, agents, or partners as required by applicable workers' compensation laws including employers' liability with limits not less than \$500,000 for each.
- B. **Commercial General Liability Insurance.** Agency shall at all times carry a Commercial General Liability Insurance policy for at least \$1,000,000 per occurrence and at least \$2,000,000 in the aggregate per project, for Bodily Injury. Property Damage and Personal Injury. This insurance shall include contractual liability coverage for the indemnity provided under this agreement.
- C. **Automobile Liability Insurance.** Agency shall at all times carry automobile liability insurance in the amount of \$1,000,000 combined single limit per accident for Bodily injury and property damage for Agency's vehicles, whether owned, hired, or non-owned, which coverage is for Marion County, its agents, officers, elected officials and employees.
- D. **Professional Liability/Errors and Omissions Insurance.** Agency shall at all times carry a Professional Liability/Errors and Omissions type insurance policy with limits of not less than \$1,000,000 each occurrence (or each claim if coverage is afforded on a claim made basis) and \$2,000,000 in the annual aggregate. IF this policy is a "claims made" type policy, the policy type and company shall be approved by Marion County prior to commencement of the work.
- E. **Extended Reporting Coverage ("Tail Coverage")**. For Professional Liability/Errors & Omissions Insurance written on a "claims made" basis, Agency shall provide "tail" coverage at the completion of the contract for a duration of thirty-six (36) months or continuous "claims made" liability coverage provided for thirty-six (36) months following contract completion. Continuous "claims made" coverage will be acceptable in lieu of "tail" coverage provided the retroactive date of the coverage is on or before the effective date of this Agreement.
- F. **Bonding.** The Agency shall ensure that every director, officer, employee who is authorized to act on behalf of the Agency for the purpose of receiving or depositing funds into the Agency project accounts or issuing financial documents, checks, or other instruments of payment for projects be bonded or covered under a commercial crime policy for protection against loss. The bond or commercial crime policy must be endorsed to add "Client Coverage". The amount of the coverage must be \$100,000 or the total amount received by the Agency pursuant to this Agreement, whichever is greater, and must be secured until the entire amount is repaid in accordance with the terms of the Promissory Note and Trust

Deed. The Agency shall provide the County with a copy of the bonding instrument, or a certification of coverage form the bonding company or commercial crime policy issuer.

- G. **Maximum Deductible/Retention.** Any deductible or retention must be disclosed on the certificate of insurance and no deductible or retention may exceed \$25,000 without the prior written consent of the County.
- H. **Additional Insureds.** The County, its agents, officers, elected officials and employees all while acting in their official capacity as such, must be named as additional insureds on all insurance, other than worker's compensation insurance and professional liability insurance, required under this Agreement. The additional insured status must include both ongoing and completed operations and must be continued for at least 24 months after the project is completed and accepted. Such insurance shall include "cross-liability" coverage as provided under the standards ISO form "Separation of Insured" clause.
- I. **Proof of Insurance.** The Agency shall deliver to the County, prior to the commencement of the work, a certificate of insurance evidencing all policies required by this Agreement including additional insured provisions afforded by the policy. This requirement can be satisfied by providing a copy of the coverage form and/or the endorsement(s).

Further, it shall be an affirmative obligation of the Agency to notify the County within two (2) business days of the cancellation or substantive change of any insurance policy or endorsement required herein, and failure to do so shall constitute a breach of this Agreement.

- J. **Subcontractor/Subgrantee Insurance.** Agency shall require and verify that all its subcontractors or subgrantees of any tier provide insurance coverage and limits identical to the insurance required of the Agency under this Agreement unless this requirement is expressly modified or waived by the County.
- K. **Self-Insurance.** If the Agency is self-insured, for any of its insurance requirements herein, it shall submit satisfactory evidence to the County of the terms and conditions of its own insurance coverage. A certification of self-insurance shall constitute compliance with the section.
- L. **Acceptability of Insurers.** All insurance required pursuant to this section shall be issued by an insurance company or companies doing business in the state of Oregon. Insurance is to be placed with a carrier(s) having a Best's rating of no less than A: VII. Any exception must be approved by the County.
- M. **Builders Risk Insurance.** In addition to the requirements above, if this Agreement is for a capital project, the following will also be required.

- 1) During the term of this Agreement, for new construction, the Agency shall or shall require the owner to maintain in force, at its own expense, Builders Risk insurance on an all-risk form, including earthquake and flood, for an amount equal to the full amount of this Agreement. Such insurance shall be maintained until the facility has reached substantial completion. The agency shall or shall require Owner to name Marion County as additional insured under the Builder's Risk Insurance Policy and any loss shall be adjusted by the Agency, Owner, and County, as their interests may appear. The property insurance

deductibles will be no more than \$25,000 per occurrence. The Agency shall or shall require the Owner to pay costs not covered because of such deductibles.

2) Insurance-Reconstruction following Casualty

- I. Maintenance of Insurance - At its sole cost and expense, the Agency shall or shall require Owner to keep the building and all other improvements on the premises insured throughout the term of this Agreement and the Trust Deed required therein, against loss or damage by fire and such other risks, including earthquake and flood, written on an “all risk” form on a replacement cost basis, including coverage for loss or damage due to leakage of sprinkler systems and coverage for loss or damage due to explosion of steam boilers, pressure vessels, oil or gasoline storage tanks or similar apparatus.
- II. Insurance Casualties - Insurance proceeds - In the event of any loss, damage or casualty which is covered by the insurance described in paragraphs (1) and (2) of this subsection M, the parties associated with this Agreement shall proceed cooperatively to settle the loss and collect the proceeds of such insurance. Proceeds shall be held in trust by the County (including interest earned by the County on such proceeds) for use in accordance with the terms of this Agreement. The parties recognize that insurance proceeds shall be used for the purpose of repairing and restoring the improvements damaged by the casualty to their former condition or replacement of the same with equivalent or more suitable improvements.
- III. Insured Casualties – Reconstruction - using such insurance proceeds (set forth in paragraph (II) above, the parties shall proceed with reasonable diligence as soon as sufficient funds are available to prepare plans and specifications for, and thereafter carry out, all work necessary: (a) to repair and restore the building and/or improvements on the premises damaged by the casualty to their former condition, or (b) to replace said building and/ or improvements on the premises to a qualify and usefulness for the Project described in the application submitted by the Agency for the CDBG funding and the plans associated therewith, at least equivalent to, or more suitable than, the building and or improvements which were damaged.
- N. The County, in its sole discretion, may waive or modify some or all the insurance required in Section 11 of this Agreement. Any such waiver or modification must be approved in writing by the CDBG/HOME Program Manager in conjunction with other county departments.

FFATA Checklist (Contracts \$30,000 and over)

Organization Name:		CMS Number:	
---------------------------	--	--------------------	--

Did your organization have a gross income, from all sources, of less than \$300,000 in your previous tax year?

- ☐ Yes (Skip questions “A” and “B” and finish the certification)
- ☐ No (Proceed to questions “A” and “B”)

A. Certification Regarding % and Amount of Annual Gross Revenue from Federal Awards

Did you organization (1) receive 80% or more of its annual gross revenue AND (2) \$25 million or more from federal awards and contracts during the preceding fiscal year?

- ☐ Yes If “Yes,” proceed to question “B”.
- ☐ No If “No,” skip question “B” and finish the certification.

B. Certification Regarding Public Access to Compensation Information.

Does the public have access to information about the compensation of the senior executives in your business or organization (including parent organization, all branches, and all affiliates worldwide) through periodic reports filed under section 13(a) or 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78m(a), 78o(d)) or section 6104 of the Internal Revenue Code of 1986?

- ☐ Yes If “Yes”, where can this information be accessed?
- ☐ No If “No”, you must provide the names and total compensation of the top five highly compensated executives below. (For example: John Blum: \$500,000; Mary Redd: \$50,000; etc.)

1 _____	\$	_____
2 _____	\$	_____
3 _____	\$	_____
4 _____	\$	_____
5 _____	\$	_____

As the duly authorized representative (Signor) for the Organization, I hereby certify that the statements made by me in this certification form are true, complete, and correct to the best of my knowledge.

Print Name of Authorized Representative

Print Title of Authorized Representative

Signature of Authorized Representative

Date

Background on FFATA Requirements

Under the requirements of the Federal Funding Accountability and Transparency Act (Pub. L. No. 109-282), as amended by Section 6202 of Public Law 110-252, that are codified in 2 CFR Part 170, direct recipients of federal grants or cooperative agreements are required to report first-tier subawards and subcontracts of \$30,000 or more to the Federal Funding Accountability and Transparency Act (FFATA) Subaward Reporting System (FSRS).

Organizations that are requested to complete the FFATA Certification have been identified by the Community Development Division as either a first tier subaward or subcontract and therefore, FFATA requirements are applicable.

Definition of Compensation

Total compensation means the cash and noncash dollar value earned by the executive during the Organizations preceding fiscal year and includes the following: (1) Salary and bonus; (2) Awards of stock, stock options, and stock appreciation rights; (3) Earnings for services under non-equity incentive plans; (4) Change in pension value; (5) Above-market earnings on deferred compensation which is not tax-qualified; and (6) Other compensation, as further defined in FAR 52.204-10(a) and 17 CRF 229.402(c)(2).

Checklist Relating to Faith-Based Organizations Seeking CDBG or HOME Funds

In September 2003, the US Department of Housing and Urban Development (HUD) provided new guidelines that expanded the way in which Faith-Based Organizations may participate in HUD Programs. (24 CFR Part 92 et al.) To ensure that Marion County is up to date in complying with these new regulations Marion County is requiring all applications to complete this checklist, whether or not your organization is a faith-based organization. Organization that are not faith based may simply complete Section A, answer the first question in Section B in the negative, and complete Section C and return the application to the Board of Commissioners Office. Please complete one of these for each application that you submit as some of the answers might be different for various programs.

A. General Information

Name of Organization: _____

Name and Title of Contact Person: _____

Project: _____

Contact Phone Number: _____ Cell Number: _____

B. Questions about Your Agency and Project

Please answer all required questions.

1. Does your organization provide inherently religious activities, such as worship, religious instruction, or proselytization? Please check appropriate box ☐ Yes ☐ No

2a. When and where does your organization offer religious activities? Please be specific.

2b. When and where does your organization offer the services to be funded with HUD funds? Please be specific. _____

2c. Are these religious activities offered separately from the services to be funded with HUD funds? Please check appropriate box ☐ Yes ☐ No

Please explain: _____

2d. Are these religious activities offered in a separate location from the services to be funded with HUD funds? Please check appropriate box ☐ Yes ☐ No

Please Explain: _____

3. Is participation in the religious activities voluntary for the beneficiaries of the HUD-funded services? Please check appropriate box ☐ Yes ☐ No

Please Explain: _____

4. Is the HUD-funded services that your organization offers open to all, without respect to religion or religious belief? Please check appropriate box ☐Yes ☐No

Please Explain: _____

5. Does your organization take religion into consideration in the employment of individuals to perform work for your organization? Please check appropriate box ☐Yes ☐No

If yes, please explain: _____

6. Are you planning to use HUD funds for the acquisition, construction or rehabilitation of a structure or site? Please check appropriate box ☐Yes ☐No

If yes, please proceed to 6(a). If no, please proceed to Section C.

6(a). Will a part of that structure or site be used to for religious activities? Please check the appropriate box ☐Yes ☐No

If yes, please answer 6(b), if below. If no, please proceed to Section C.

6(b). What part of the structure or site will be used for inherently religious activities?

Please explain: _____

6(c). What part of the structure or site will be paid for with HUD funds?

Please explain: _____

6(d). Can the portion of the structure or site funded with HUD funds be clearly distinguished from the portion where religious activities will occur? Please check the appropriate box ☐Yes ☐No

6(f). Please complete the chart below:

	Total Structure	HUD-Funded Portion of Structure	Portion Where Religious Activities will occur
Square Feet			
Cost (\$)			

C. Assurances and Signature

I am an authorized representative of the organization described in Section A. I affirm that all the statements on this form are true and accurate.

Signature

Date

Name: _____

Title: _____

Instructions for the Section 504 Checklist

This checklist is designed to assess your organization's compliance with requirements under Section 504 of the Rehabilitation Act of 1973.

These requirements are based on the regulations governing Section 504 of the Rehabilitation Act of 1973 (24 CFR 8), the Fair Housing Act (24 CFR 100) and the Uniform Federal Accessibility Standards (UFAS) (24 CFR 8.32 and Appendix A to 24 CFR 40).

Regarding compliance with Section 504 communications provisions, 24 CFR 8.6 requires that your organization take appropriate steps to ensure effective communication with applicants, beneficiaries, and members of the public. In effect, this means that, "to the maximum extent possible," persons with disabilities receive the benefits and services of the CDBG funded program or activity. You are not, however, required to take actions that can be demonstrated to result in a fundamental alteration in a program or activity or in undue financial and administrative burdens.

With respect to the accessibility of non-housing facilities, 24 CFR 8.21 and 8.32 (a) requires the design and construction of all new non-housing facilities to be readily accessible to, and usable by, persons with disabilities. The regulations also require alterations to existing non-housing facilities to make such facilities accessible to, and usable by, persons with disabilities, unless such alterations result in a fundamental change to the nature of the program or an undue financial and administrative burden.

Program accessibility requirements under Section 504, at 24 CFR 8.4 and 8.20, call for your organization to operate its non-housing programs or activities in ways that makes them readily accessible to, and usable by, persons with disabilities, unless it can be demonstrated that the actions taken to make these programs accessible would fundamentally change the nature of the program or impose undue financial or administrative burdens.

Please note that Section 504 record keeping requirements (at 24 CFR 8.55) will be reviewed at your CDBG monitoring visit. The Community Development Division staff will examine applicable records maintained by your organization to determine that, not only are such records available, but that they correspond to information contained in performance and other report submitted to the Community Development Division staff. While a lack of documentation may not imply discrimination, your organization data serves as a basis for further investigation of compliance with nondiscrimination requirements.

Section 504 Checklist

General Information

Name of Organization: _____

Name and Title of Contact Person: _____

Project: _____

Contact Phone Number: _____ Cell Number: _____

Questions about your Agency and Project *(Please answer all required questions)*

ACCESSIBILITY PROCEDURES

1. If your organization has 15 or more employees, does it have a formal, written grievance procedure for resolution of complaints alleging discrimination based on disability? (If yes, obtain copy of FHEO review of due process standards). (24 CFR 8.53(b)).

☐ Yes

☐ No

☐ N/A

Describe Basis for Conclusion:

ACCESSIBILITY OF NON-HOUSING FACILITIES

2. Does your organization maintain documents (e.g., blueprints and construction specification) that all new non-housing facilities assisted with CDBG program funds are being designed and constructed to be ready accessible to and usable by, persons with disabilities in conformance with accessibility requirements?

☐ Yes

☐ No

☐ N/A

Describe Basis for Conclusion:

3. Do your organization records indicate that, if any, alterations have been made to existing non-housing facilities, that such alterations have made these facilities usable by, and accessible to, persons with disabilities?

☐ Yes

☐ No

☐ N/A

Describe Basis for Conclusion:

ACCESSIBILITY OF HOUSING PROGRAMS

4. Do records indicate that programs or activities are readily accessible to, and usable by, persons with disabilities?

☐ Yes

☐ No

☐ N/A

Describe Basis for Conclusion:

COMMUNICATIONS

5. Has your organization taken steps to ensure effective communication with applicants, beneficiaries, and members of the public who have hearing, vision, or speech impairments using: (24 CFR 8.6)

- | | |
|---------------------------|--------------------------|
| • Qualified Sign Language | • Braille Materials |
| • Oral Interpreters | • TTY |
| • Readers | • Other (describe below) |
| • Use of Tapes | |

☐ Yes

☐ No

☐ N/A

Describe Basis for Conclusion:

6. If the answer to question #5 is NO, describe the method(s) used by your organization to facilitate effective communication.

Describe Basis for Conclusion:

7. Has your organization adopted and implemented procedures to ensure that interested person (including those with impaired vision or hearing) can obtain information concerning the existence and location of accessible services, activities, and facilities? (24 CFR 8.6(b))

☐Yes

☐No

☐N/A

Describe Basis for Conclusion:

8. Is there documentation to show steps that your organization has undertaken to attract persons with disabilities, such as: making buildings more accessible to persons with physical disabilities; home visits to assist applicants in filling out applications for program benefits; supplying sign language interpreters for public meetings on issues relating to your programs? (24 CFR 8.54(b) and (c))

☐Yes

☐No

☐N/A

Describe Basis for Conclusion:

Record Keeping

9. Does your organization maintain data for compliance purposes showing the extent to which persons with disabilities are beneficiaries of the program (s) being reviewed? (24 CFR 8.55 (b) and 24 CFR 8.121)

☐Yes

☐No

☐N/A

Describe Basis for Conclusion:

10. Are copies of your organizations Reasonable Accommodation Policy, Section 504 Self-Evaluation Form and Transition Plan available for review?

☐Yes

☐No

☐N/A

Describe Basis for Conclusion:

Section IX:

Finance/Accounting Overview

Finance/Accounting

The following procedures are guidelines that should be adhered to in financial transactions in order to meet federal requirements under Marion County Board of Commissioners Office Community Development Block Grant (CDBG) Program.

Budget Revisions

A request for a Budget Revision must be submitted to the Board of Commissioners staff before a subrecipient:

1. Overspends in one cost category and proposes to use the surplus remaining in another cost category to cover any shortfall: or
2. Allows costs for any category or the total unobligated balance of project funds to be reduced to a level that is inadequate to meet current or anticipated obligations.

Contingency Funds

Requests for the use of contingency funds may only be requested for a public facility or infrastructure project, as the amount of funding that is allowed to be spent on public service activities must be made in writing in accordance with current program policies and prior to incurring costs. The request shall state that the amount of funds requested and documentation of how that number was derived, as well as the circumstances that caused the need for additional funding. The subrecipient must conclusively demonstrate that efforts have been made to contain cost overruns and to fund the additional expense from a source other than CDBG funds.

Surplus Project Funds

Surplus project funds that result from completing a project under budget shall be reported to the CDBG/HOME Program Manager as soon as possible. Subrecipients must obtain written approval from CDBG/HOME Program Manager if they wish to use any surplus project funds. Such requests must be made in writing prior to incurring costs. Costs must be related to the project for which your agency originally received the CDBG funds. Unspent surplus income shall be returned to the program to be used as reprogrammable income. If a project expiration date is approaching and you think you need more time to spend the remaining funds, you should contact the CDBG/HOME Program Manager as soon as possible.

Program Income

It is the policy of the Marion County Board of Commissioners at this time that no subrecipient will collect proceeds from the program and that all recaptured funds will reside with the Board of Commissioners for future use.

Reimbursement

All requests for reimbursement shall be submitted in the administrative software (Neighborly). The Community Development Division staff will be responsible for submitting draw requests into the HUD IDIS system and will notify recipients when a check should arrive for all reimbursements.

All subrecipients will need to know how they are charging costs: will the cost be charged directly, or will the cost be charging a combination of direct costs and indirect costs? Direct costs are costs that only benefit one program or activity. Indirect costs are those costs that benefit more than one activity or program. If you are going to be charging indirect costs, you **MUST** have a federally approved cost allocation plan with an established indirect cost rate. This plan must be submitted to this office for approval. If you gave an internal allocation plan but it has not been approved by a federal agency, we cannot pay for those indirect costs. This is a requirement.

Contact the CDBG/HOME Program Manager if you have any questions about indirect cost rates. If there is a problem, the earlier we address it, the fewer delays there will be in processing payments. When the subrecipient receive billings or incur costs for projects, the amount due can be paid, then reimbursement may be required from the County, or the subrecipient may request reimbursement from the County and then pay the amount due. The Subrecipient must disperse funds in a timely manner.

Costs which are charged must be included in the approved Budget Summary and must be allowable under 2 CFR Part 200 Subpart E.

To request payments for projects the subrecipient will submit the request in the software with the backup documentation required (invoices, time sheets, etc.) to OCD.

On average the time for the county process a payment request is 10 days.

BACK-UP Documentation

Back-up documentation is a critical component of your request for reimbursement.

One of the areas that seem to cause the most problems is providing documentation for staff salaries (personnel line item) when staff work in multiple programs/projects. The reason for that is because you must track **ACTUAL HOURS** spent on the CDBG Project as opposed to an approximation or percentage of hours.

For personnel charges, you need to provide timesheets that clearly show the hours you and or your staff worked on this CDBG Project. If you spent 5 hours on Monday, 3 hours on Tuesday and 6 hours on Wednesday working on CDBG, it should be reflected this way on your timesheet.

Example: Employee A works 110 hours in one month on the CDBG project and has an hourly wage of \$10.00. The timesheet would reflect the 110 hours spent on the CDBG project would note the hourly wage for a total of \$1,100. If applicable (i.e., if taxes and fringe benefits are included in your budget) you would need to then calculate the appropriate amount for taxes and fringe benefits that are relevant to the \$1,100 and submit that amount along with the timesheet. The total of salary and taxes and benefits would be the amount shown under Personnel on Page 1 of the Voucher.

You **CANNOT** round off and say Employee A worked 64% of their time on the CDBG Project. Percentages are only allowed if you have a federally approved indirect cost rate with Marion County has reviewed and approved.

If you have multiple employees, you should provide a summary sheet (in addition to the timesheets) that shows what you are requesting.

Office Supplies/Operating/Travel/Communications/Legal Notices/Trainings

If you have multiple invoices/sales slips for reimbursement for any of the above line items, you should copy the bills legibly and highlight the amount on each invoice. Please provide a coversheet with the total amount of reimbursement being requested.

Marion County, Oregon		
TIME & EFFORT REPORTING - ANNUAL CERTIFICATION		
<i>Uniform Guidance, 2 CFR 200.430 (i), Compensation - Personnel Services, Standards of Documentation of Personnel Expenses</i>		
Employees whose job duties require working solely on a single Federal Award or cost objective, will certify annually the after-the-fact determination of actual effort expended on the grant program. This certification, in addition to the employee's timesheet, will provide the documentation necessary to meet the federal requirements. Certification will be signed by the employee and official supervisory having firsthand knowledge of the work performed by the employee.		
Department:		
Fiscal Year:		
Name	Grant Program	Signature & Date*
*I certify that 100% of my time is spent working solely on the program activity noted above.		
Supervisor Name (printed), Signature & Date		

Section X: Monitoring

Community Development Block Grant (CDBG) Monitoring Procedure

The procedures outlined in this chapter are designed specifically to monitoring of Community Development Block Grant (CDBG) funds from Marion County CDBG program.

Through on site and desk monitoring, the reviewer can determine whether the program participant's performance meets CDBG program requirements and improve program participant performance by providing guidance and making recommendations. The specific purposes of monitoring are to:

- Validate the accuracy of information presented by the program participants
- Follow-up on problems identified during the monitoring visit;
- Determine compliance for those activities where there is sufficient information to make eligibility and/or national objective determinations;
- Evaluate the reasonableness of judgments made for those activities that necessarily involve high levels of program participant judgment;
- Ascertain the Sponsor's ability to ensure that activities carried out meet compliance requirements
- Verify the accuracy of the program participant's record; and,
- Identify apparent causes of any problem(s) and offer recommendations for corrective actions.

Eligibility and National Objective Compliance Criteria

The specific categories of eligible activities under which an activity may be carried out by a program participant using CDBG funds are found at 24 CFR 570.201 through 24 570.206. The criteria for determining whether an activity addresses one or more of the three national objectives are found at 24 CFR 570.208

Documentation

As described in the CDBG regulations at 24 CFR 570.200(a), each Sponsor is required to maintain records that fully describe the assisted activity, including related financial and eligibility information, typically to show that the project funded with CDBG funding is benefiting low- and moderate-income individuals. The required documentation that must be maintained by the program participant is described at 24 CFR 570.506(a) and (c) for eligibility and at 24 CFR 570.506(b) for national objectives.

Approach to Monitoring

Marion County views monitoring not as a once a year or periodic exercise, but as an ongoing process involving continuous communication and evaluation. Such a process involves frequent telephone/email contacts, written communications, analysis of reports and audits, and periodic meetings as needed. It is the responsibility of the Community Development staff to keep fully informed concerning Sponsors compliance with program requirements and the extent to which technical assistance is needed.

The overriding goal of monitoring is to determine compliance, prevent/identify deficiencies, and design corrective actions to improve or reinforce Sponsor performance. As part of this process the Community Development Division staff must be alert for fraud, waste and mismanagement or situations with potential for such abuse. Where possible, any identified deficiency in need of corrective action should be handled through discussion, negotiation, or technical assistance in a manner that maximizes local discretion. Monitoring also provides opportunities to identify program participant accomplishments as well as successful management, implementation, and evaluation techniques that might be replicated by other Sponsors.

The Community Development Division staff will conduct monitoring when projects are complete, with a few exceptions. The Community Development Division staff will revise the Monitoring Checklist annually to determine which are to be monitored. The Program Manager will be provided a copy of the monitoring schedule. Past practice has been to monitor all Sponsors who have spent funds since last year, but in years where there may be too many projects to monitor, staff will use their discretion to implement a method to calculate those projects that may be more vulnerable and require monitoring more than others.

Monitoring Standards

Because it is not always possible that the Community Development Division staff will be able to monitor all the program participant's activities, projects and /or functions, or even review activities in a specific area spanning a participant's entire program year, random sampling is generally expected to form the basis for drawing conclusions about the program participant's performance. Staff may choose to take a sufficient sample of projects to be monitored based on a "risk" calculation to determine a sampling of units to be monitored. In certain instances, however, non-random sample will be the more efficient method to use. Such cases include activities that have only a few projects to review, any activities with unresolved problems remaining from previous monitoring visits, any new types of activities being undertaken, and/or activities considered high risk. Note that any sample review or spot-check of program participant records that raises questions concerning the accuracy of the data indicates the need for further follow-up

All new competitively funded CDBG projects contracted in a given fiscal year will be monitored at least once. Public service projects will be monitored sometime in the fall, although delays are acceptable in order to accommodate staff capacity issues.

Public Facility and infrastructure projects will be monitored towards/at completion of the project-one time only.

Multi-year public service projects will be monitored annually (after first year's monitoring) if any of the following applies:

- Had findings/concerns in last year's OCD monitoring
- Had findings in last completed A-133 audit concerning CDBG funding
- Agency is less than 5 years old
- Agency is a 1st time Marion County CDBG recipient
- Staff determines that the complexity of project necessitates annual monitoring

The Community Development Division staff may decide to monitor a Sponsor more often as needed. The Community Development Division staff may also elect to monitor multiyear public service contracts every other year if all the following apply:

- Sponsor had no findings/concerns in last year's monitoring
- Had no findings in last completed A-133 audit concerning CDBG funding (only if applicable-sometimes A-133 not required)
- Is an agency more than 5 years old
- Has received CDBG funding in consecutive funding years
- Project scope has not changed
- Desk audits of voucher requests reveal no concerns

On-Site Monitoring Procedure

The Community Development Division staff will call to set up an agreed upon time with Agency and follow-up with boilerplate letter and include the monitoring checklist to inform the agency being monitored about what staff will be looking at. The monitoring checklist will be filled out by the Community Development Division staff at the visit. In preparation for this visit, the agency should review the Monitoring Checklist to ensure records are ready for OCD staff's review. The Community Development Division staff will complete this form during the monitoring visit.

Prior to the monitoring visit, the agency should send a letter certifying that federal funding did or did not trigger the A-133 audit requirements. A sample template to be used to compose this letter is contained at the end of this section. This letter should be signed by their Chief Financial Officer or Executive Director and returned to the Community Development Division staff prior to or no later than at the monitoring visit. Staff will also request a copy of the most recent financial audit, if applicable.

Once a copy of an audit from an agency is obtained, the Community Development Division staff will review the audit for any findings and record it in a federal tracking database. When possible, where Salem and the County have the same project with an agency, it would be preferred to coordinate monitoring visits to lessen the burden on the agency, to share methods for monitoring, to communicate same messages, etc.

A-133 Audit Responsibilities

All sponsors that expend \$750,000 or more in federal funds in a year must meet the audit requirements as specified in OMB Circular A-133. Additionally, all financial transactions with CDBG monies are subject to federal audit. Each sponsor is required to permit independent auditors access to the records and financial statements at least once a year, or not less frequently than every two (2) years. Sponsors must be prepared to explain how transactions were made, why, and be able to account for any funds expended.

During an audit, the auditor will examine records to ascertain if:

1. Funds are properly budgeted and approved;
2. Budget revisions have been documented and approved;

3. Personnel charges are properly allocated to the block grant and based on payroll documents such as time and attendance records;
4. All expenditures can be traced to source documents (i.e., purchase orders, invoices, canceled checks);
5. Drawdowns have been timely;
6. Only allowable activities have been claimed as costs toward the project;
7. The sponsor's accounting system reflects all assets, liabilities, etc.;
8. Property has been managed and inventoried properly;
9. In-kind costs and costs billed to other funds are clearly documented; and,
10. If there are billings for indirect costs, a federally approved indirect rate and allocation plan have been approved by HUD through OCD prior to the expenditure of any CDBG funds.

In addition, the auditor will ascertain if the sponsor's program has been accomplished in the manner set out in the application and/or the contract with the County.

Please note that in order for the Marion County CDBG Program to comply with Federal Regulations, Marion County Board of Commissioners strongly encourages all grant recipients to pursue the timely expenditure of their awarded funds.

Sample Only

(Inset Agency Name or print on letterhead)

Notification of Single Annual A-133 Audit

(Insert Date)

As a recipient of federal grant funds from f County's Board of Commissioners office, this letter is intended to fulfill the requirement to provide assurance that as a sub-recipient of federal funds that our organization is in compliance with OMB Circular A-133: Audits of States, Local Governments and Non-profit Organizations. The Certification below indicates the amount of federal expenditures from all sources for the fiscal year ended _____, 20__.

Please check one of the boxes below:

☐ Single A-133 audit Not Required (Total Federal Expenditures within the fiscal year identified above is less than \$750,000)

☐ Single Audit Required (Total Federal Expenditures within the fiscal year identified above is \$750,000 or more). A copy will be provided to Marion County Board of Commissioners as soon as it is available.

The contact person responsible for the audit arrangement is _____ and can be reached at _____.

Certification by Chief Financial Officer or Executive Director:

Signature

Date

Title

Address

Note: If a single audit is required, the grantee must have it conducted in accordance with the Single Audit Act, OMB Circular A-1333 and Generally Accepted Government Auditing Standards for the fiscal year noted above. The Single Audit must be submitted by agency to the Federal Audit Clearinghouse within the earlier of 30 days after the receipt of the auditor's report, or nine months after the end of the audit period.