

**CDBG Housing Improving Local Livability (CHILL) Program
Policy Manual**

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10/19/23

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Chapter 1 Program Overview

The CDBG Housing Improving Local Livability (CHILL) Program Policy Manual is intended as an overarching guide for UGLGs that have received Community Development Block Grant (CDBG) awards from the Michigan State Housing Development Authority (MSHDA). It outlines the Federal rules that govern the use of CDBG awards as well as the MSHDA's policies regulating the application process, and the on-going operation of its CDBG-funded programs from initial award to grant closeout. The manual may also serve as a resource for the MSHDA staff and members of the public that are interested in the details of the CHILL program and how it operates.

Disclaimer

The MSHDA reserves the right to update CHILL Program guidance, including the term sheet parameters. All documents, processes, procedures, and approvals must follow current guidelines.

Program Summary

Under the MSHDA CHILL Program, grants are awarded to non-entitlement Units of General Local Government (UGLG) in non-entitlement areas to develop and preserve decent, affordable housing for use by low- and moderate-income families. The CHILL program makes State CDBG funds available to conduct homeowner rehabilitation and residential reconstruction/resale activities.

State CDBG funds are federal dollars from the United States Department of Housing and Urban Development (HUD). Congress amended the Housing and Community Development Act of 1974 in 1981 to give each State the opportunity to administer CDBG funds for non-entitlement areas. Non-entitlement areas include those UGLGs which do not receive CDBG funds directly from HUD. Generally, this includes municipalities with populations of less than 50,000 (except cities that are designated principal cities of Metropolitan Statistical Areas), and counties with populations of less than 200,000. The MSHDA CDBG program only awards grants to non-entitlement units of general local government in non-entitlement areas.

The CHILL program prioritizes homeowner rehabilitation and infill housing activities to address housing priorities identified in a 2023 survey of housing and community development needs. The survey had 690 responses from local government representatives, non-profit agencies, and individual State of Michigan residents. The survey asked respondents to rank a predetermined short list of community development and housing needs, and solicited open-ended responses, that resulted in an additional 232 suggestions. 45.5% of all respondents and 46% of local government representatives from non-entitlement communities ranked homeowner rehabilitation as the highest priority amongst available options. The second highest priority amongst non-entitlement community representatives was the redevelopment and resale of single-family housing on previously cleared vacant lots, which was their top priority 17.1% of the time. These two priorities were also strongly supported in the open-ended suggestion section of the survey.

The two eligible activities under the CHILL program are Homeowner Improvement Project (HIP) and Demolition/Reconstruction/Resale (DRR). In addition to aligning with UGLG priorities in the survey, these activities are designed to further Michigan's Statewide Housing Plan goal of constructing, or rehabilitating, 75,000 housing units.

Grant awards will be made through a competitive evaluation process that considers geographic distribution, and the ability of applicants to demonstrate capacity and implementation plans that align with program priorities. The program’s intent is to fund tangible housing activities that are implementation ready—able to be completed in eighteen (18) months; highly visible; impactful to the neighborhood and resident quality of life; holistically and community focused; and where there is buy-in and demonstrated support within the neighborhood and community. Grant awards will be based on a regional distribution of funding with 5% set aside for the Upper Peninsula (UP), 30% set aside for rural areas (including the 5% set aside for the UP), and 100% targeted to non-entitlement areas overall. Proposals will be funded up to \$500,000 per community (includes administrative costs).

Eligible Activities

Homeowner Improvement Project (HIP): Preserving affordable owner-occupied housing units will be achieved by offering low- and moderate-income homeowners, those making less than 80% of the area median income (AMI), may receive up to \$40,000 to address health and safety concerns and maintenance issues. Projects requiring CDBG assistance of \$10,000 or less will be offered as a grant with no requirement or expectation of repayment. CDBG assistance of \$10,001 or more shall be offered as a zero interest zero payment loan, forgivable after five years and secured by a second mortgage.

Eligible project costs are the actual costs of rehabilitating housing and activity delivery costs, including but not limited to interior and exterior improvements to meet code requirements, roof repair or replacement, siding, windows, plumbing, electrical, mechanical, and insulation.

Demolition/Reconstruction/Resale (DRR): This activity promotes blight reduction, reactivation of vacant parcels in established neighborhoods, infill construction, and affordable homeownership. It allows for the reconstruction of single-family housing on a vacant parcel recently cleared through the use of demolition, and resale to a low- or moderate-income (80% AMI) homebuyer. Note that acquisition and demolition are NOT allowable uses of CDBG funds under this activity, so leveraged funds must be used if acquisition or demolition are necessary. CDBG assistance is capped at \$200,000 per unit, secured by a construction mortgage during construction and discharged upon resale to an eligible buyer.

Up to 20% of CDBG assistance can be used as subsidy—either as development or homebuyer subsidy. Homebuyer assistance will be in the form of a zero interest, zero payment loan, forgivable after five (5) years and secured by a second mortgage. Eligible project costs include but are not limited to costs to meet applicable building and construction standards, modest landscaping, and activity delivery costs (or reasonable developer fee).

Conflict of Interest

The CDBG requirements pertaining to conflict of interest are summarized in the following paragraphs.

Conflicts Prohibited. Except for the use of CDBG funds to pay salaries and other related administrative or personnel costs, the general rule is that no persons (described below under “Persons Covered”) who exercise, or have exercised, any functions or responsibilities with respect to CDBG activities or who are in a position to participate in a decision making process or gain inside information with regard to such activities, may obtain a financial interest or benefit from a CDBG-assisted activity, or have an interest in any contract, subcontract or agreement with respect thereto, or the proceeds thereunder, either for themselves or those with whom they have family or business ties, during their tenure or for one year thereafter.

Persons Covered. The conflicts of interest provisions apply to any person who is an employee, agent, consultant, officer, or elected official or appointed official of the State, the unit of local government, or of any designated public agencies or subrecipients that are receiving CDBG funds.

Exceptions. Upon the written request of the applicant/recipient, the MSHDA may forward a request for exception to the provisions of this section to HUD on a case-by-case basis when it determines that such an exception will further the purposes of Title I and the effective and efficient administration of the program, project of the State, or the unit of local government. Forwarding an exception request to HUD will only be considered after the local government has provided the following:

- A disclosure of the nature of the conflict, accompanied by an assurance that there has been public disclosure of the conflict and a description of how the public disclosure was made; and
- A certification the affected person has withdrawn from his or her functions or responsibilities, or the decision-making process with respect to the specific assisted activity in question; and
- An opinion of the local government's attorney that the interest for which the exception is sought would not violate State or local law. In addition, grant administration may also require an opinion from the State Ethics Board that the conflict does not violate State law.

Factors To Be Considered For Exceptions. In determining whether to forward a requested exception after the local government has satisfactorily met the above requirements, the MSHDA shall consider the cumulative effect of the following factors, where applicable:

- Whether the exception would provide a significant cost benefit or an essential degree of expertise to the program or project which would otherwise not be available.
- Whether an opportunity was provided for open, competitive bidding, or negotiation.
- Whether the person affected is a member of a group of low- or moderate-income persons intended to be the beneficiaries of the assisted activity, and the exception will permit such person to receive generally the same interests or benefits as are being made available or provided to the group or class.
- Whether the interest or benefit was present before the affected person was in a position as previously described.
- Whether undue hardship will result either to the State or local government or the person affected when weighed against the public interest served by avoiding the prohibited conflicts.
- Any other relevant considerations.

Attachments

Attachments in this section are available on the MSHDA website on the CHILL Program page: [Community Development Block Grant Housing Improving Local Livability \(CHILL\) Program \(michigan.gov\)](#)

- Quickfinders
- Term Sheet
- Map of Eligible Communities

Chapter 2 Application and Award Process

Application Process Overview

This section provides an overview of the MSHDA CHILL Program application process, detailing the steps of the process as well as the responsibilities and documents required to be submitted by the UGLG to determine if the request for funding will be approved. The application process for the CHILL Program has two phases. The first phase requires a Letter of Intent (LOI) to be submitted from non-entitlement UGLGs to determine interest, basic readiness, and eligibility. Once interest and eligibility have been determined UGLGs are invited to participate in a closed application process.

Letter of Intent (LOI) and Application

CHILL Program funding rounds will begin with the posting of an announcement that LOI submission is open on the MSHDA CDBG webpage: [Community Development Block Grant Housing Improving Local Livability \(CHILL\) Program \(michigan.gov\)](#). NHID staff will promote the funding opportunity via a press release and targeted emails to lists of eligible applicants and associations of Michigan municipal leaders. A submission guidance document will be posted along with the announcement that provides total amount of available funds, eligible activities, the timeline application activities, due dates, required documents and evaluation criteria.

Applicant LOI will be reviewed and scored, and those that meet scoring criteria will be invited via email to apply to the program. The application phase is a closed process meaning that only applicants having successfully completed the LOI process will be allowed to complete an application.

LOI required documents include (but may not be limited to) the following:

- LOI intake questions (online form provided by the MSHDA)
- Local Support Letter from UGLG authorized official (UGLG to create)
- CHILL Compliance Requirements Form (template provided by the MSHDA)
- Budget Worksheet (template provided by the MSHDA)
- Map of Anticipated Service Area(s) (UGLG to create)

Application required documents include (but may not be limited to) the following:

- Application questions (online form provided by the MSHDA)
- Procurement Policy
- Third-party administrator agreements or procurement plan
- Authorizing Resolution (form provided by the MSHDA, see Authorization Resolution Section in this Chapter for instructions)
- Certifications and Assurances (online form provided by the MSHDA, see Certifications and Assurances Section in this Chapter for instructions)

Annual Profile Review

In conjunction with the submission, each agency must complete an Annual Profile Review (ARP) (formerly known as a Partnership Profile) which covers the financial viability and capacity of the agency. Instructions for completing an ARP:

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Authorized Officials (AO) must request access through the new user link on the login screen Login (<https://mgs.michigan.gov/IGXLogin>). The system uses an electronic signature for documents and grant agreements. The Authorized Official must be set correctly when setting up a new agency profile in the system. Please ensure that the Authorized Official is the highest-ranking elected official or their authorized designee.

Please select a request type of “New Organization and Authorized Official”. Please select system type “NHID”. For further guidance please click here (<https://www.youtube.com/watch?v=NUu3MJiRYP0>).

This can take up to two days for a new user to be approved. When approved, the Authorized Official will receive an email with their username and password. Sometimes this email is confused as junk mail, so please check both inbox and spam folders. If an approval email is not received, a help request can be sent by email to mshda-cdbg@michigan.gov.

After the AO logs into the system, they can add any additional staff using the Grantee System Access that is available under the “My Opportunities” section. Please remember that administrators can create and edit documents within the system and the Authorized Official must review, approve, and submit any documents.

After all appropriate staff have been granted access to the system the grantee is ready to create their Annual Profile Review and then their NEP Application. Both can be created by going to the My Opportunities section located on the home screen.

Please follow this link to find video instructions for the Annual Profile Review (<https://www.youtube.com/watch?v=mNXGSUo1L28>).

If your agency has had access to the IGX system in the past, simply login and follow the instructional videos on how to complete the Annual Profile Review.

If your agency already has an active and/or accepted PP in the MATT 2.0 system, or if your agency has submitted an APR in IGX for another program, please obtain confirmation with MSHDA staff via email to mshda-cdbg@michigan.gov and obtain a confirmation e-mail which must be uploaded into your application submission to demonstrate Part 3 requirements of the application process has been met. If applicable, include this confirmation email in Attachment 6.

Retain a screenshot documenting proof of submission of the partnership profile process.

Authorizing Resolution

Grantees are required to submit an Authorizing Resolution form designating their authorized official. By default, the highest elected official assumes responsibility of the grant application process, in addition to signing the grant agreement, oversight of grant activities, and signing of grant documents, pay requests, etc. However, the ability to sign grant documents can be delegated to another official (elected or hired) through the use of the Authorizing Resolution form. The Authorizing Resolution form should be completed prior to signing grant related documents, but is often in tandem with the public hearing for the overview of the proposed project. The Authorizing Resolution form is uploaded to IGX.

At time of passing the Authorizing Resolution, the UGLG may also designate the Certifying Officer for the NEPA Environmental Review. Please review the NEPA Environmental Review instructions in Chapter 4.

An adopted CDBG Authorizing Resolution will at a minimum contain the following:

- Identification of the proposed project.
- Identification of the funding request and the commitment of the UGLG's matching funds.
- Statement that the proposed project is consistent with the UGLG's community development plan as described in the Application.
- Statement that at least 51% of the beneficiaries of the proposed project will be low- and moderate-income persons; **OR**
Statement that the proposed project will clearly eliminate objectively determinable signs of blight and will be strictly limited to eliminating specific instances of blight (spot blight).
- Statement that no project costs (CDBG and non-CDBG) will be incurred prior to a formal grant award, completion of the environmental review procedures and formal, written authorization to incur costs has been provided by your CDBG Project Manager.
- Local authorization to submit the Michigan CDBG Application.
- Identification, by name and title, of the person authorized to sign the Application and all attachments.
- Identification, by name and title, of the person authorized to sign the Grant Agreement and all amendments.
- Identification, by name and title, of the person authorized to sign Payment Requests.

Certifications and Assurances

The person identified in the Authorizing Resolution must submit a signed Certification and Assurances Form. This form is included in the application. By signing the form, they certify that they possess the legal authority to submit a grant application, and that they have taken several steps to inform and involve citizens in the grant application process. These steps include furnishing information about the funds being applied for, and the proposed community development and housing activities, publishing a public notice, holding public hearings, and making the proposed application available to the public.

The Applicant UGLG must also certify that they will conduct and administer the grant in conformity with Public Law 88-352 and Public Law 90-284 and will affirmatively further fair housing. They must have developed the proposed application to give maximum priority to activities that will benefit low- and moderate-income families or aid in the prevention or elimination of slum or blight, or to meet other urgent community development needs.

The Applicant UGLG must also have developed a community development plan that identifies community development and housing needs and specifies both short- and long-term community development objectives. They must not attempt to recover any capital costs of public improvements assisted with Title I funds by assessing any amount against properties owned and occupied by persons of low and moderate income.

The Applicant UGLG must also adopt a policy of prohibiting the use of excessive force by law enforcement agencies within its jurisdiction against individuals engaged in nonviolent civil rights demonstrations. They must not use federal appropriated funds to influence any 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 contract, grant, or cooperative agreement.

The undersigned must also require that the language of this certification be included in the award documents for all sub-awards at all tiers (including subcontracts, sub-grants, and contracts under grants and cooperative agreements), and that all sub-recipients shall certify and disclose accordingly. The Applicant UGLG must also comply with other provisions of Title I of the Housing and Community Development Act of 1987, as amended, and with other applicable laws.

If any funds other than federal appropriated 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 a federal contract, grant, or cooperative agreement, the undersigned must complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

The undersigned must also require that the language of this certification be included in the award documents for all sub-awards at all tiers (including subcontracts, sub-grants, and contracts under grants and cooperative agreements), and that all sub-recipients shall certify and disclose accordingly. The Applicant UGLG must also comply with other provisions of Title I of the Housing and Community Development Act of 1987, as amended, and with other applicable laws.

The Applicant UGLG must also provide assurances that they will comply with financial management and audit requirements, Civil Rights and Equal Opportunity statutes, Labor Standards statutes, the Lead Based Paint Poisoning Prevention Act, the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, Section 504 of the Rehabilitation Act of 1973, as amended, and that authorized state officials and representatives will have access to all books, accounts, records, reports, files, and other papers pertaining to the project.

The UGLG agrees to assume all the responsibilities for environmental review, decision making, and action as specified and required under the National Environmental Policy Act of 1969 (42 U.S.C. 4321) and Section 104 (f) of Title I of the Housing and Community Development Act and implementing regulations 24 CFR Part 58.

Grantee Program Guidelines

Program Guidelines are a requirement for all NHID's program funds, including the CHILL Program. They are used by NHID subrecipients as an outline of program offerings, program and compliance requirements, eligibility requirements, selection criteria, complaint procedures, and program processes. They are intended to inform potential participants of the program's rules, expectations, and requirements.

Ultimately, Program Guidelines protect the subrecipient from claims of discrimination, favoritism, or other unfair treatment. Program Guidelines should spell out in plain terms the substantive requirements of the program, so that if an applicant to an UGLG program is denied, the reason is clearly supported by the written rules of the program. Program Guidelines should also be directed at potential participants of the CHILL program.

A template is available to provide guidance in the formulation of the Program Guidelines. Some items in the template may not be applicable to the grantee's program and therefore need not be included. See Program Guidelines Template.

Grant Agreement

The Grant Agreement includes terms and conditions, which consist of guidelines, laws, and requirements under which the grant is to be administered. The Grant Agreement incorporates by reference, the CHILL Program application, certifications, and other materials related to the CDBG application for assistance.

Grant Information. The Grant Agreement identifies the following information:

- Grant title
- Project category
- Effective date
- Award amount
- Grant number
- Budget
- Grant terms and conditions
- Federal regulation citations
- Project description

Special Conditions. The Grant Agreement also identifies any special conditions to the grant. Special conditions vary from grant to grant and may address several different issues. Generally, the conditions will restrict the draw down, or obligation of grant funds, until the conditions have been met and approved.

Agreement Execution. An official of the UGLG with legal authority to execute contracts must sign and return a copy to the MSHDA. The MSHDA will return one copy once fully executed by the MSHDA for the UGLG's project files.

CDBG Pre-disbursement Conditions. Upon execution of the Grant Agreement, the UGLG may proceed with the implementation of the project. However, before the UGLG may draw down any grant funds, it must complete all Pre-Disbursement conditions listed in the agreement. These conditions identify the actions and the documentation that must be completed by the UGLG to move forward. No grant funds will be released until all applicable items have been received and are found to be acceptable. At that time, the UGLG can start to process payment requests, if other terms of the agreement have been met.

Completion. The Grant Agreement will indicate the period established for completion of all grant activities. Generally, UGLGs are expected to complete projects and closeout the grant within 24 months.

- Completion of program activities within the established time frames identified in the approved application is extremely important because future funding decisions will consider timely implementation.
- The UGLG must demonstrate satisfactory program progress within six months of receiving the grant award or otherwise described in the UGLG's Grant Agreement.

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- At other times during the grant period, if UGLGs are found in significant non-compliance with their project schedules, the MSHDA may decide to terminate unobligated CDBG funds or institute other sanctions, as appropriate.
- UGLGs should always notify the MSHDA in writing when significant project delays have occurred, and the reasons should be identified.
- If, for reasons beyond the control of the UGLG, it appears that an extension beyond the approved grant period will be necessary, a written Grant Amendment Request Form should be sent to the MSHDA.

Grant Amendments

A Grant Amendment is defined as any change in the grant that involves some or all the following (1) introduce a new activity to the project, (2) significantly alter existing activities or beneficiaries, (3) extend the term of work, or (4) changes to the award budget. Amendment requests are completed by the UGLGs authorized official in IGX and submitted for review. The request should include any changes to the scope of work or target area. MSHDA will determine if changes to the environmental review are required using criteria found in 24 CFR Sec. 58.47).

Attachments

Attachments in this section are available on the MSHDA website on the CHILL Program page: [Community Development Block Grant Housing Improving Local Livability \(CHILL\) Program \(michigan.gov\)](#)

- Authorizing Resolution Form
- Program Guidelines Template (Will be provided later)
- Grant Amendment Request Form (Will be provided later)

Chapter 3 Public Engagement and Planning

National Objective

Introduction

The LMI National Objective is often referred to as the primary National Objective, as the regulations require that States expend at least 70% of their CDBG funds on activities that benefit low-and moderate-income people as defined below. In addition to ensuring that the required percentage of CDBG funds serve people in the overall LMI category, UGLGs must also ensure that the activities proposed, when taken as a whole, will not benefit moderate income people to the exclusion of low-income people (see definitions below). MSHDA activities are considered LMI Housing activities and must meet the LMI Housing National Objective.

Definition of Low- and Moderate-Income (LMI)

The definition of LMI used in the MSHDA's CDBG program is the same as in Title I of the Housing and Community Development Act, as amended. These income limits are to be used to qualify persons/households as eligible LMI beneficiaries of CDBG-assisted activities.

Before discussing the specific income figures, it is important to note the difference between persons, families, and households.

Most CDBG programs require that UGLGs target benefits to LMI people. However, LMI people are in turn defined as individuals that are members of a low-income family.

The one instance when HUD looks at households rather than families is in the case of CDBG-funded housing programs, because the beneficiary of the assistance is the entire household living in the unit that was assisted, regardless of whether they are in the same family. Thus, if a person with little or no income was sharing a residence with an unrelated wealthy person, neither of them would be considered low -income people. Rather, they would both be part of a two-person household that did not qualify as LMI.

For purposes of determining CDBG eligibility and compliance with the LMI National Objective, family or household incomes are adjusted for family/household size. A low-income family/household is one that has an income of less than or equal to 50% of the Area Median Income, as adjusted for family/household size. A moderate-income family/household is one that has an income of greater than 50% of the Area Median Income but less than or equal to 80% of the Area Median income, as adjusted for family/household size. The two categories are referred to as Low and Moderate Income, or LMI.

HUD provides specific income figures (e.g., median income, 80% of median income, 50% of median income) adjusted by household size for all counties and all metropolitan areas of the state. These figures are adjusted annually. Note: The Consolidated Planning Regulations at 24 CFR Part 91 require the State to collect and report information on the number of extremely low, low, moderate, and middle-income persons served by each activity.

LMI Housing Overview

An LMI Housing activity is one carried out for the purpose of providing or improving permanent, residential structures that will be occupied by LMI households upon completion. This would include, but not necessarily be limited to housing rehabilitation for single family units and the reconstruction and rehabilitation of vacant residential property. The vacant residential property must have been vacant prior to submitting LOI materials to the MSHDA.

LMI Housing

The following documentation of program benefit is required for all CDBG-funded activities that are carried out under the LMI Housing National Objective:

1. For each unit to be assisted, the size and income of the occupant household.
2. A copy of the written agreement with each developer receiving CDBG assistance committing the total number of dwellings will be occupied by LMI households after the assistance.

The following documentation of program benefit is required for all CDBG-funded activities that are carried out under the LMI Housing National Objective. Additional back-up documentation must be kept on file.

1. For each assisted unit, the family size and income and ranges (30%, 50%, 80%) of occupant households and the amount of CDBG funds spent on rehabilitation.
2. Data on the racial, ethnic and gender characteristics of persons who are applicants for, participants in, and/or beneficiaries of CDBG activities. Therefore, Grantees are required to report income and demographic information for the residents living in all the units. Community Development Narrative

Community Development Narrative (24 CFR 91.325 (3))

The UGLG will need to provide a description of its community development and housing needs, including the needs of the low-income and moderate-income families, and the activities to be undertaken to meet these needs. The UGLG may refer to any locally adopted plans to respond to prompts in the attachment. Do not provide a copy of the locally adopted plan. Fill out the accompanying document titled 'Community Development Narrative'.

Community Development Narrative

To comply with provisions set forth in Title 1 of the federal Housing and Community Development Act of 1974, as amended, UGLG's seeking to apply for funds must provide a brief narrative on their locally adopted plans being impacted by the proposed project.

It is not necessary for an UGLG to prepare an elaborate community development plan, but instead reference a locally adopted plan which may be a Master Plan, Community Improvement Plan, etc. It is expected that most UGLGs can provide a 2-3-page narrative summary from the adopted plan by answering the below questions. If the UGLG's locally adopted plan(s) do not address the questions below, provide supplemental information as it relates to the proposed project and the plan it fulfills.

1	Provide a statement assessing the needs and problems of the UGLG, including the needs of low and moderate income persons. In all narratives, the assessment must address both overall community development and housing needs regardless of the category under which funding is being requested.
2	Provide a summary list of possible long-term activities (two years or more) to address the identified needs and problems.
3	Provide a summary of contemplated short-term activities (one to two years) to address the identified needs and problems.
4	Provide a description of the effect the proposed CDBG project will have on the UGLG.
5	Provide a plan for minimizing the displacement of persons, as a result of grant assisted activities, and to assist persons actually displaced by such activities. Reference your locally adopted Residential Anti-Displacement Plan as needed.

Citizen Participation

Citizen Participation Plan (24 CFR Part 570.486 (a))

Each unit of general local government shall develop and adopt a Citizen Participation plan to meet the following citizen participation requirements under 24 CFR Part 570.486 (a). Adopted plans may vary dependent on the municipality, but the following must be included at a minimum:

1. Provide and encourage citizen participation, particularly by low and moderate income persons who reside in slum and blighted areas in which funds are proposed to be used.
2. Ensure that residents will be given reasonable and timely access to local meetings, consistent with accessibility and reasonable accommodation requirements in accordance with Section 504 of the Rehabilitation Act of 1973 and the regulations at 24 CFR part 8, and the Americans with Disabilities Act and the regulations at 28 CFR parts 35 and 36, as applicable, as well as information and records relating to the unit of local government's proposed and actual use of CDBG funds.
3. Furnish citizens information, including but not limited to:
 - a. The amount of CDBG funds expected to be made available for the current fiscal year (including the grant and anticipated program income);
 - b. The range of activities that may be undertaken with the CDBG funds;
 - c. The estimated amount of the CDBG funds proposed to be used for activities that will meet the national objective of benefit to low- and moderate-income persons; and
 - d. The proposed CDBG activities likely to result in displacement and the unit of general local government's anti-displacement and relocation plans required under §570.488.
4. Provide technical assistance to groups that are representative of persons of low- and moderate-income that request assistance in developing proposals (including proposed strategies and actions to affirmatively further fair housing) in accordance with the procedures developed by the State. Such assistance need not include providing funds to such groups;
5. Provide for a minimum of two public hearings for the purpose of obtaining residents' views and responding to proposals and questions. The first public hearing must be held prior to application submission to THE MSHDA and the second near the end of the grant term. Together the hearings must cover housing needs (including affirmatively furthering fair housing), development of proposed

activities, and a review of program performance. There must be reasonable notice of the hearings [at least 5 days] and they must be held at times and accessible locations convenient to potential or actual beneficiaries, with accommodations for persons with disabilities. Public hearings shall be conducted in a manner to meet the needs of non-English speaking residents where a significant number of non-English speaking residents can reasonably be expected to participate. If 51% of the expected participants are non-English speaking, the hearings will be advertised in a non-English publication available to those residents. A person fluent in the non-English language must be available at the public hearing;

6. Provide citizens with reasonable advance notice of, and an opportunity to comment on, proposed activities in an application to the State. For grants already made, activities which are proposed to be added, deleted or substantially changed from the unit of general local government's application to the State. Substantially changed means changes made in terms of purpose, scope, location or beneficiaries as defined by criteria established by the State.
7. Provide citizens the address, phone number, and times for submitting complaints and grievances, and provide timely written answers to written complaints and grievances, within 15 working days where practicable.

Complaints

UGLGs must have a complaint procedure in place. Please refer to Chapter 5 Complaint Procedure.

Publication Affidavit and Public Hearing with Meeting Minutes

Notice for public hearings, which must be substantiated with a publication affidavit, will show that five (5) calendar days minimum notice was provided to citizens, and that the notice was published in a local or applicable newspaper. A sample Public Hearing Notice is attached below (Notice of Public Hearing Sample). Begin counting day one (1) on the day following the notice being published. The following items must be included in the first public notice:

- The amount of funds available for proposed project.
- The range of activities that may be undertaken, including the estimated amount proposed to be used for activities that will benefit LMI persons.
- The plans of the UGLG for minimizing displacement of persons as a result of activities assisted with such funds and the benefits to be provided by persons actually displaced as a result of such activities, [if applicable].
- If applicable, the UGLG must provide citizens with information regarding their performance in prior CDBG programs funded by the State.

Written minutes of hearings, and an attendance roster, must be submitted to the MSHDA and kept for review by State officials. Nothing in these requirements shall be construed to restrict the responsibility and authority of the applicant for the development of the application.

In addition, the hearing should inform citizens of the proposed objectives, proposed activities, the location of the proposed activities, and the amounts to be used for each activity. Citizens must be given the opportunity to review the application and comment on the proposed application. The notice must state the proposed submittal date of the application and must provide the location at which, and hours when,

the application is available for review. The application must be available for review when the notice is published in the newspaper.

A second public hearing, known as a performance hearing, must be conducted prior to grant closeout, but after major construction is completed. All requirements for hearing notice and conduct applies to the performance hearing. A sample Closeout Public Hearing Notice is below (Notice of Closeout Public Hearing Notice).

Applicants must submit proof of notice in the form of an affidavit or a copy of the newspaper page showing the publication date and each public notice with the application.

Disclosures

In accordance with the Section 102 of the HUD Reform Act of 1989, all applicants for and recipients of CDBG funding must prepare disclosure reports if the aggregate amount of funding from covered programs exceeds \$200,000 in a federal fiscal year (October 1 through September 30). The primary purpose of the Disclosure Reports is to identify the sources and uses of all funds that will be used in conjunction with the CDBG funds for the project funded.

An initial disclosure report should be submitted with the application for CDBG funds. The nature of the disclosure to be reported includes the amount of CDBG assistance sought and other government assistance to be used. This includes activities to be carried out with the assistance, the financial interests of persons in the activities, and the sources of funds to be made available for the activities and the uses to which the funds are to be expended. A copy of the disclosure report form with instructions is included in the Applicant/Recipient/Disclosure/Update Report, HUD-2880 attachment.

Those applicants receiving CDBG funds must submit updated disclosure reports annually. Updated disclosure reports must also be submitted to the MSHDA when the following circumstances occur:

1. Any information that should have been disclosed in connection with the application, but that was omitted.
2. Any information that would have been subject to disclosure in connection with the application, but that arose later, including information concerning an interested party that now meets the applicable disclosure threshold.
3. Changes to other previously disclosed government assistance where the revised amount of assistance exceeds the amount previously disclosed.
4. Changes in previously disclosed financial interest, where the revised amount of the financial interest of a person exceeds the amount of the previously disclosed interest by \$50,000 or by 10% of such interests, whichever is lower.
5. Changes in previously disclosed sources or uses of funds, where:
 - a. The change in a source of funds exceeds the amount of all previously disclosed sources of funds by \$250,000 or by 10% of those sources, whichever is lower.
 - b. The change in a use of funds exceeds the amount of all previously disclosed uses of funds by \$250,000 or by 10% of those uses, whichever is lower.

Certifications

When an application for CDBG funds is submitted to the MSDHA, it must contain several certifications that the local government must sign and agree to carry out as part of its approved CDBG program. These certifications are mandated by the provisions in Title I. The MSDHA will monitor the UGLGs for compliance with the certifications. The following summarizes each certification.

Residential Anti-Displacement and Relocation Assistance Plan

UGLGs must develop and follow a plan which has two components: (1) a requirement to replace all LMI dwelling units that are demolished or converted to a use other than LMI housing as a direct result of the use of CDBG funds; and (2) a relocation assistance requirement. This plan is required of all UGLG regardless of the type of project funded. (For additional information, refer to the Relocation Section in Chapter 4).

Minimize Displacement

The UGLG certify that it will minimize the displacement of persons as a result of activities that are CDBG funded. CDBG funds should not be used to carry out activities that result in displacement unless there is a health and safety threat. The local government must provide a certification that there are no other feasible alternatives.

Public Access to Records

The public must be provided reasonable access to records regarding the past use of CDBG funds. This provision should be included in the Citizen Participation Plan. UGLGs are required to hold two or more public hearings to inform the public of the accomplishments of the CDBG program and to assess performance.

Special Assessments

Where CDBG funds are used to pay all or part of the cost of public improvements, special assessments may only be used to recover capital costs as follows:

1. Special assessments to recover CDBG funds may be made only against properties not owned and not occupied by LMI persons. Such assessments are considered program income).
2. Special assessments to recover the non-CDBG portion of a project may be made, but CDBG funds must be used to pay the special assessment on behalf of all properties owned and occupied by LMI persons. CDBG funds need not be used to pay the special assessments on behalf of properties owned and occupied by LMI persons if the grant recipient certifies that it does not have sufficient CDBG funds to pay the assessments on their behalf. Non-CDBG funds collected through such special assessments are not program income.
3. The payment of special assessments with CDBG funds constitutes CDBG assistance to the public improvement. Therefore, CDBG funds may be used to pay special assessments only if installation of the public improvements was carried out in compliance with requirements applicable to activities assisted with CDBG funds including environmental, citizen participation and Davis-Bacon requirements; and installation of the public improvement meets a criterion for one of the National Objectives.

Compliance with Title VI of the Civil Rights Act of 1964 and the Fair Housing Act

UGLGs are required to take a proactive role in affirmatively furthering fair housing in the community. Actions to promote fair housing are required to be taken and documented prior to close-out of a CDBG project. UGLGs also agree that no person will be excluded from participation, denied program benefits, or subjected to discrimination based on race, color, disability, familial status or national origin. (See Chapter 4: Fair Housing and Equal Opportunity).

Compliance with Title I and Other Applicable Laws

The CDBG program will be conducted in accordance with the provisions of Title I of the Housing and Community Development Act, as amended, as well as other federal or State requirements and laws. These other requirements include environmental standards, labor standards, acquisition and relocation requirements, fair housing and equal opportunity, Section 504 disability requirements, etc.

Excessive Force

The Armstrong/Walker Excessive Force Amendment – (P.L. 101-144) is found in Section 519 of the Department of Veteran Affairs and Housing and Urban Development and Independent Agencies Appropriation Act of 1990. A recipient must certify that it has adopted or will adopt and enforce a policy to prohibit the use of excessive force against any individuals engaged in non-violent civil rights demonstrations by law enforcement agencies within the jurisdiction. The legislative history of this provision indicates it may be satisfied by any means that will stand a practicable test of use. The policy may be adopted by a local legislative act, such as an ordinance, or by a local administrative act, such as a written statement of policy by the chief executive, an executive order, or regulation within the police department. An UGLG need not adopt a new policy if it has and is enforcing a written policy that meets the requirements of Section 519. This provision does not amend Title I of the Housing and Community Development Act of 1974, as amended, but applies to the CDBG program.

Lobbying

The lobbying certification is a result of the requirements contained in Section 319 of Public Law 101-121. It is applicable to the lobbying of federal officials using CDBG funds. CDBG funds may not be used to influence or attempt to influence the awarding of any CDBG project, loan, contract or cooperative agreement. This provision also applies to the renewal or modifications to any CDBG project, loan, contract or agreement. If non-CDBG funds are used for this purpose, the recipient must file a Disclosure of Lobbying Activities attachment.

Attachments

*Updated versions of attachments in this chapter will be provided later. Reference numbers in this section have been taken from the Michigan Economic Development Corporation (MEDC) CDBG program and correspond with MEDC Grant Administration Manual (GAM) Chapters. These forms will be updated in a future version of the CHILL Policy Manual but are the documents Grantees should use until new forms are created.

**These forms can be viewed and downloaded at: [Grant Administration Manual | MiPlace](#)

Notice of Public Hearing Sample (Form 11-A)

Notice of Closeout Public Hearing Sample (Form 11-A1)

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Applicant Recipient Disclosure Update Report, HUD-2880 (Form 11-B)
Disclosure of Lobbying Activities (Form 11-C)

Chapter 4 Federal Regulations

Environmental Review

The National Environmental Policy Act (NEPA) was enacted in 1969 to ensure federal agencies consider and address potential environmental impacts that result from projects they sponsor. NEPA regulations (24 CFR Parts 1500-1508) mandate that each federal agency must implement policies and procedures in accordance with the provisions of NEPA. HUD's implementing regulations for NEPA (24 CFR Part 58) apply to all HUD-funded programs and are mandated to ensure projects do not pose a negative impact on the environment, or expose communities to adverse environmental conditions. These federal statutes and regulations require CDBG-assisted projects must have an appropriate environmental review process completed prior to project costs being incurred. This process must be documented with an appropriate environmental review record.

NEPA and HUD regulations cover housing projects and activities funded in whole or part with federal funds granted through the Michigan State Housing Development Authority's (MSHDA) Neighborhood Housing Initiatives Division (NHID). Home Improvement Projects (HIP) will follow the tiered environmental review process, consisting of a broad review and a specific review. Demolition/Reconstruction/Resale (DRR) projects will require a full environmental review.

For more information about the environmental review process, including how to complete tiered and non-tiered reviews, please refer to the MSHDA HID Environmental Review Manual found here:

https://www.michigan.gov/mshda/-/media/Project/Websites/mshda/assets/Folder5/2018_HID_Environmental_Review_Manual.pdf?rev=21a4f88fe9db4f57b4c0ac9ff951eea4&hash=42EED04B22BCC93B13ADAB09A4129D3.

The Environment Review Manual focuses on review procedures for single family (1-4 unit) housing programs only and includes instructions for conducting tiered and non-tiered reviews. A tiered review is used when project sites have not been identified at the time the environmental review process and Request for Release of Funds is initiated. Tiering may be appropriate to improve efficiency when HUD or the Responsible Entity is evaluating a collection of projects that would fund the same or very similar activities repeatedly within a defined local geographic area and timeframe. Tier I addresses environmental concerns that are ripe for evaluation at the programmatic level given the grant's overall broad target area. Tier II is a site-specific review that addresses items not covered at the broader level. It is completed on each individual property as it is identified after publication and prior to commitment of funds to the project site.

Lead, Asbestos, and Radon

Lead Based Paint

Whenever Federal funds, such as CDBG, are used to assist housing built before 1978, steps must be taken to address lead hazards. The purpose of this section is to provide grantees with a general understanding of HUD's Lead Safe Housing Rule (24 CFR Part 35). The Rule applies to all housing units assisted with CDBG funds, including single and multi-family units, whether publicly or privately owned. The requirements differ, however, depending on the activity – rehabilitation or acquisition.

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The lead-based paint regulations consolidate all lead-based paint requirements for HUD-assisted housing. The purpose of the regulation is to identify and address lead-based paint hazards before children are exposed to lead. The regulation is divided into subparts, of which the following apply to the CDBG program:

Subpart A	Disclosure
Subpart B	General Requirements and Definitions
Subpart J	Rehabilitation

Types of Requirements

For CDBG projects, the lead-based paint requirements established by the regulation fall into the three major categories listed below:

1. Notification: Recipients must meet four notification requirements:
 - a. Lead Hazard Information Pamphlet –
 - i. Occupants, owners, and purchasers must receive the EPA/HUD/Consumer Product Safety Commission (CPSC) lead hazard information pamphlet, or an EPA-approved equivalent.
 - ii. Pamphlets should be provided to all households at time of application. See Protect Your Family from Lead in Your Home (Form 5-Q).
 - b. Acknowledgement Form
 - i. Households need to sign an acknowledgement form stating they received and understood the pamphlet. See Disclosure of Information on Lead-Based Paint and/or Lead-Based Paint Hazards (Form 5-R).
 - ii. A copy of this acknowledgment form should then be placed in the file.
 - c. Disclosure –
 - i. Check that property owners have provided purchasers and tenant households with available information, or knowledge regarding the presence of lead-based paint and lead-based paint hazards prior to selling or leasing a residence.
 - ii. A disclosure notice must be provided to purchasers before closing so they are aware there may be lead-based paint in the home they are purchasing. A copy of the disclosure notice must be placed in the file.
 - iii. Tenants must receive a disclosure notice before moving into the unit. Ideally, they should receive a disclosure notice at time of application so they can make an informed decision when choosing housing for their household. A copy of the disclosure notice should be kept by the landlord in the tenant's file.
 - d. Notice of Lead Hazard Evaluation or Presumption –
 - i. Occupants, owners, and purchasers must be notified of the results of any lead hazard evaluation work, or the presumption of lead-based paint or lead hazards.
 - ii. A copy of this notice must be provided to owners and tenants within 15 days of the evaluation.
 - iii. A copy of this notice should be kept in the project file.
 - iv. Notice of Lead Hazard Reduction Activity - Occupants, owners, and purchasers must be notified of the results of any lead hazard reduction work.
 - v. A copy of this notice must be provided to owners and tenants within 15 days of the project achieving clearance.
2. Lead Hazard Assessment and/or Evaluation: Assessment/evaluation methods include visual assessments, paint testing, and risk assessments. Each method has specific requirements (defined in Subpart R of the regulation) and must be done by qualified professionals. The specific method required depends on the activity undertaken.

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3. Lead Hazard Reduction: Lead hazard reduction may include paint stabilization, interim controls, standard treatments, or abatement. Each method has specific requirements (defined in Subpart R: “Methods and Standards” of the regulation) and must be done by qualified professionals. The specific method required depends on the activity undertaken. (for definitions, refer to 24 CFR 35.110).

Exemptions

Some CDBG projects may be exempt from the Lead Safe Housing Rule if they meet the criteria listed below:

1. Housing units constructed after 1978.
2. Emergency repairs to the property are being performed to safeguard against imminent danger to human life, health or safety, or to protect the property from further structural damage due to natural disaster, fire or structural collapse. The exemption applies only to repairs necessary to respond to the emergency. The property will not be used for human residential habitation. This does not apply to common areas such as hallways and stairways of residential and mixed-use properties.
3. Housing “exclusively” for the elderly or persons with disabilities, with the provision that children less than six years of age will not reside in the dwelling unit. This language must be specifically mentioned in the lease.
4. An inspection performed according to HUD standards found the property contained no lead-based paint.
5. According to documented methodologies, lead-based paint has been identified and removed, and the property has achieved clearance.
6. The rehabilitation will not disturb any painted surface.
7. The property has no bedrooms.
8. The property is currently vacant and will remain vacant until demolition.

All exemptions must be documented in the project file via the Lead-Based Paint Requirements Applicability Worksheet (Form 5-S).

Requirements for Rehabilitation Projects

CDBG funds may be used for the rehabilitation of existing units. When such an activity is undertaken using Federal funds on a unit built before 1978, the Lead Safe Housing Rule applies. This section briefly describes the relevant requirements. See Four Approaches to Implementing Lead Hazard Evaluation and Reduction (Form 5-T).

Calculating the Level of Assistance

The lead hazard evaluation and reduction activities required for rehabilitation projects depend on the level of rehabilitation assistance received by the project. This level of assistance is determined by taking the lower of:

1. Per unit rehabilitation hard costs (regardless of source of funds); or
2. Per unit Federal assistance (regardless of the use of the funds).

To make this determination, it helps to understand several terms:

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1. Rehabilitation Hard Costs. The rehabilitation costs are calculated using only hard costs. They do not include soft costs, or the costs of lead hazard evaluation and reduction, as described below.
2. Lead Hazard Evaluation and Reduction Costs. Lead hazard evaluation and reduction costs include costs associated with site preparation, occupant protection, relocation, interim controls, abatement, clearance, and waste handling attributable to lead-based paint hazard reduction.
3. Federal Assistance. Federal assistance includes all Federal funds provided to the rehabilitation project, regardless of whether the funds are used for acquisition, construction, soft costs or other purposes. This also includes funds from program income but excludes low-income housing tax credit funds (LIHTC), Department of Energy Weatherization Program funds, or non-Federal HOME Program match funds.

Requirements for Projects Receiving Rehabilitation Assistance Up to and Including \$5,000 per Unit
Projects where the level of rehabilitation assistance is less than or equal to \$5,000 per unit must meet the following requirements:

1. The goal is to “do no harm.” Therefore, all work must be conducted using lead safe work practices. Workers must be trained in lead safe work practices. Documentation that workers have completed a lead-based paint training program must be in the project file.
2. Lead Hazard Evaluation. UGLGs should presume that these surfaces contain lead-based paint.
3. Lead Hazard Reduction. UGLGs must repair all paint that will be disturbed during rehabilitation, unless such paint is found not to be lead-based paint.
 - a. If lead-based paint is detected or presumed, safe work practices must be used during rehabilitation. Lead safe work practices include the controlling of dust, the segregation of the work area, “working wet” and cleaning with a HEPA vacuum.
 - b. Clearance is required by a certified clearance examiner. For assistance and clarification regarding what constitutes a certified clearance examiner, please contact MSHDA.
 - c. The file must be documented with on-site inspection reports showing that lead safe practices were followed.
 - d. Documentation must be in the file showing that the project is free from lead-based paint after a clearance inspection.
 - e. The firm/individual doing a lead hazard determination must be different from the firm/individual doing the lead clearance exam.
 - f. A copy of the lead clearance exam showing compliance must be completed before a final payout can be made.
 - g. The clearance report must be sent to the owner within 15 days from the inspection date. The owner must sign the report showing evidence of receipt.
4. Notices must be provided to owners and tenants:
 - a. The Lead Hazard Information pamphlet;
 - b. The Notice of Evaluation (if paint testing is performed) or Notice of Presumption (if paint testing is not performed); and
 - c. The Notice of Lead Hazard Reduction.

In short, for rehabilitation projects where the level of assistance is less than or equal to \$5,000 per unit, workers must be trained in safe work practices, notices must be provided to owners and tenants, and clearance must be achieved.

Requirements for Projects Receiving Rehabilitation Assistance Between \$5,000-\$25,000 per Unit

Projects where the level of rehabilitation assistance is between \$5,000 and \$25,000 per unit must meet the following requirements:

1. The goal is to “identify and address lead hazards.” A risk assessment is required to identify lead hazards and identified hazards must be addressed by interim controls.
2. Lead Hazard Evaluation. A risk assessment must be conducted by a qualified professional prior to rehabilitation to find lead-based paint hazards in assisted units, in common areas that service those units, and on exterior surfaces including bare soil. The risk assessment must include paint testing of any surfaces to be disturbed by the rehabilitation.
3. Lead Hazard Reduction. If the risk assessment identifies lead-based paint hazards interim controls must be implemented to address lead-based paint hazards.
 - a. Interim controls must be performed by qualified professionals using safe work practices.
 - b. Lead safe work practices include the controlling of dust, the segregation of the work area, “working wet” and cleaning with a HEPA vacuum. If the unit is occupied all furniture must be stored and covered following lead safe practices to avoid lead dust contamination.
 - c. Clearance, conducted by a qualified clearance examiner, is required when lead hazard reduction activities are complete.
 - d. The file must be documented with on-site inspection reports showing that lead safe practices were followed.
 - e. Documentation must be in the file showing that the project is free from lead-based paint after a clearance inspection.
 - f. The firm/individual doing a lead hazard determination must be different from the firm/individual doing the lead clearance exam.
 - g. A copy of the lead clearance exam showing compliance must be completed before a final payout can be made.
 - h. The clearance report must be sent to the owner within 15 days from the inspection date. The owner must sign the report showing evidence of receipt.
 - i. The file must be documented with remediation issues on exterior surfaces such as soil. Planting of grass or sod, replacement or the addition of new topsoil and the placement of mulch or stone must be documented where applicable.
4. Options. There are two options, as follows:
 - a. The UGLG is permitted to presume that lead-based paint is present and that lead-based paint hazards exist. In such cases, evaluation is not required. The UGLG must perform standard treatments in lieu of interim controls on all applicable painted surfaces and presumed lead-based paint hazards.

- b. The UGLG is also permitted to conduct a lead hazard screen instead of a risk assessment. The lead hazard screen has more stringent requirements and is only recommended in units in good condition. If the lead hazard screen indicates that there is no lead contamination, no lead hazard reduction is required. If the lead hazard screen indicates the presence of lead hazards, the UGLG must then conduct a risk assessment. (Note: Passing a lead hazard screen, or a risk assessment, does not eliminate the requirement to perform interim controls on lead-based paint hazards created as a result of the rehabilitation work.)
5. Notices must be provided to owners and tenants:
 - a. The Lead Hazard Information pamphlet;
 - b. The Notice of Evaluation (if a risk assessment is performed) or Notice of Presumption (if a risk assessment is not performed). For assistance in determining the correct notice, please contact MSHDA; and
 - c. The Notice of Lead Hazard Reduction.

In short, compliance with the Lead Safe Housing Rule for such rehabilitation projects will affect the project planning, timeline, scope of work, contracting and budget.

Requirements Projects Receiving Rehabilitation Assistance over \$25,000 per Unit

Projects where the level of rehabilitation assistance is over \$25,000 per unit must meet the following requirements.

1. The goal is to “identify and eliminate lead hazards.” A risk assessment is required to identify hazards and any identified hazards must be abated by a certified abatement professional.
2. Lead Hazard Evaluation. A risk assessment must be conducted prior to rehabilitation to find lead-based paint hazards in assisted units, in common areas that service those units, and on exterior surfaces including bare soil. The risk assessment must include paint testing of any surfaces to be disturbed by the rehabilitation or UGLG may assume that lead-based paint hazards exist.
3. Lead Hazard Reduction. To address hazards identified:
 - a. Abatement must be conducted to reduce all identified lead-based paint hazards. All work must be conducted using lead safe work practices. Workers must be trained in lead safe work practices and documentation that the workers have been trained must be in the file. Lead safe work practices include the controlling of dust, the segregation of the work area, “working wet” and cleaning with a HEPA Vacuum. If a unit is occupied, all furniture and household items must be stored and covered properly in order to avoid lead dust contamination. Abatement must be conducted by a certified abatement contractor.
 - b. If lead-based paint hazards are detected during the risk assessment on the exterior surfaces that are not to be disturbed by rehabilitation, interim controls may be completed instead of abatement to reduce these hazards.
 - c. The file must be documented with on-site inspection reports showing that lead safe practices were followed.
 - d. Documentation must be in file showing that the project is free from lead-based paint after a clearance inspection.
 - e. The firm/individual doing a lead hazard determination must be different from the firm/individual doing the lead clearance exam.

- f. A copy of the lead clearance exam must be completed before a final payout can be made.
 - g. The clearance report must be sent to the owner within 15 days from the inspection date. The owner must sign the report showing evidence of receipt.
 - h. The file must be documented with remediation issues on exterior surfaces such as soil. Planting of grass or sod, replacement or the addition of new topsoil and the placement of mulch or stone must be documented where applicable.
 - i. Documentation of the disposal of the lead construction material must also be in the file.
4. Options. There are two options, as follows:
- a. The UGLG is permitted to presume that lead-based paint hazards exist. In such cases, a risk assessment is not required. The UGLG must abate all applicable painted surfaces that will be disturbed during rehabilitation and all presumed lead hazards.
 - b. The UGLG is permitted to conduct a lead hazard screen instead of a risk assessment. The lead hazard screen has more stringent requirements and is only recommended in units in good condition. If the lead hazard screen indicates that there is no lead contamination, no lead hazard reduction is required. If the lead hazard screen indicates the presence of lead hazards, the UGLG must then conduct a risk assessment. (Note: Passing a lead hazard screen, or a risk assessment, does not eliminate the requirement to perform abatement on lead-based paint hazards created as a result of the rehabilitation work.)
5. Notices must be provided to owners and tenants:
- a. The Lead Hazard Information pamphlet;
 - b. The Notice of Evaluation (if a risk assessment is conducted) or Notice of Presumption (if a risk assessment is not conducted). For assistance in determining the correct notice, please contact MSHDA; and
 - c. The Notice of Lead Hazard Reduction.

In short, compliance with the Lead Safe Housing Rule for such rehabilitation projects will affect the project planning, timeline, scope of work, contracting, and budget. In particular, it involves the engagement of a certified abatement contractor.

Requirements for Acquisition, Leasing or Supportive Services Projects

MSHDA CHILL funds may not be used for acquisition, leasing or supportive services, but these activities may be a part of the project paid for by another source of funds. When such an activity is undertaken in conjunction with the use of Federal funds on a unit built before 1978, the Lead Safe Housing Rule applies. This section briefly describes the requirements needed to be followed to be in compliance.

1. Lead Hazard Assessment. A visual assessment must be conducted during initial stages of the project and periodically by a person who is trained to detect deteriorated paint. Lead hazard evaluation activities must be completed prior to occupancy, or if the unit is already occupied, immediately after receipt of Federal assistance.
2. Lead Hazard Reduction. Deteriorated paint must be corrected using paint stabilization methods. Paint stabilization must be completed prior to occupancy, or if the unit is already occupied, immediately after receipt of Federal assistance.

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- a. Safe Work Practices. Safe work practices are required so workers must be appropriately trained or supervised. Documentation that workers have completed a lead-based paint training program must be in file.
 - b. Clearance. Clearance, by a qualified clearance examiner, is required when paint stabilization is complete.
 - c. The file must document that on-site inspections were made and lead safe practices were followed. Lead safe practices include the controlling of dust, the segregation of the work area, “working wet”, storing and covering all personal belongings and cleaning with a HEPA vacuum.
 - d. The file must be documented with on-site inspection reports showing that lead safe practices were followed.
 - e. Documentation must be in the file that the project has been cleared of lead-based paint hazards.
 - f. The firm/individual doing a lead hazard determination must be different from the firm/individual doing a lead clearance exam. It should be noted that everyone associated with doing testing or working on the project should be certified to work with lead paint.
 - g. A copy of the lead clearance exam showing compliance must be completed before a final payout can be made.
 - h. The clearance report must be sent to the owner and operator within 15 days from the inspection date. The owner and operator must sign the report showing evidence of receipt.
 - i. Files concerning lead-based paint testing and remediation and clearance must be kept by the UGLG and cannot follow the normal file destruction guidelines for CDBG projects.
3. Notification
- a. Lead Hazard Information Pamphlet. The lead hazard information pamphlet must be provided prior to selling or providing leasing, support services, or operations activities to a house or unit that was built prior to 1978. UGLG do not have to provide the pamphlet if they can document that it has already been received.
 - b. Notice of Lead Hazard Reduction Activity. The notice must be provided within 15 calendar days of the date when the paint stabilization is completed

QUALIFICATIONS FOR HAZARD EVALUATION PROFESSIONALS

Paint inspectors and risk assessors must be certified to conduct evaluations. Rehabilitation specialists and other program staff may have the experience and educational qualifications needed to pursue lead-based paint inspector or risk assessor training and certification. The following specific certification requirements apply to these evaluators (from 40 CFR 745.226):

Certified paint inspectors must:

- Successfully complete an EPA or state-accredited training program;
- Pass the exam required by the certifying authority; and
- Apply for and be certified by the state or EPA.

Risk assessors must:

- Successfully complete an EPA or state-accredited training program;
- Pass the exam required by the certifying authority; and
- Apply for and be certified by the state or EPA;

OR

Be certified as an industrial hygienist, engineer, architect, or related field;

OR

Have a high school diploma and at least three years experience with lead, asbestos, environmental remediation work, or construction.

Clearance must be performed by the following:

- Certified risk assessor;
 - Certified lead-based paint inspector; or
 - Certified lead sampling technician (called a clearance technician in the HUD regulation).
- Sampling technicians are currently not authorized by EPA to perform clearance examinations after abatement, but HUD regulations permit them to perform clearance after interim controls or maintenance or renovation activities

Asbestos

Asbestos is a mineral fiber that was commonly added to products to strengthen them, and to provide heat insulation and fire resistance. Asbestos is commonly found in older homes where it was used for pipe and furnace insulation, in asbestos shingles, millboard and transite siding, floor tiles, and a variety of other coating materials. The only way to determine whether a material is asbestos (containing more than 1% asbestos by volume) is through Polarized Light Microscopy.

The handling of asbestos-containing materials is regulated by the Environmental Protection Agency (EPA) under the National Emissions Standards for Hazardous Air Pollutants (NESHAP), 40 CFR Part 61, and the Occupational Safety and Health Administration (OSHA) under regulation delineated in 29 CFR 1926.1101.

General Asbestos Policy

All construction, demolition, and rehabilitation that is done in whole or in part with CDBG funds must comply with state and federal asbestos removal requirements (note that demolition is not an eligible CHILL Program cost, but CHILL funded projects may include demolition funded through another source). It is the

responsibility of the grantee, developers, owners, and contractors to know and comply with local, state, and federal construction standards. See Asbestos Applicability Worksheet (Form 5-V).

Before renovation or demolition begins:

1. An Asbestos Applicability Worksheet (Form 5-V) should be completed.
 - a. A National Standards for Hazardous Air Pollutants (NESHAP) asbestos inspection should be completed, and
 - b. any asbestos survey that has been completed should be placed in file.
2. Leave undamaged asbestos in place. Asbestos should only be removed when it is friable (defined as when asbestos can be crumbled to a powder by hand pressure), or when it will be disturbed by building rehabilitation or demolition.
3. Removal of asbestos-containing material can be legally performed by certified/licensed contractors.
4. Regulations regarding disposal of asbestos in approved landfills must be followed.
5. There are notification requirements to the Michigan Department of Environmental Quality (MDEQ) and the Michigan Occupational Safety and Health Administration (MIOSHA), depending on the level of remediation necessary:
 - a. If doing friable asbestos removal or encapsulation, contractors must provide the start and ending dates with a specified timeframe for remediation.
 - b. Notification must be given 10 days prior to any non-exempt asbestos abatement project exceeding 10 linear feet or 15 square feet of friable asbestos materials.

Radon

Radon is a radioactive gas that cannot be seen, smelled or tasted. Radon gas is a natural substance that can be found in the dirt and rocks beneath houses, in well water and in some building materials. It can enter homes through soil, crawlspaces, foundation cracks, floors and walls. Once inside, it can sometimes become trapped in your home. All homes have some radon gas. Breathing high levels of radon can put you at risk for lung cancer. To see if your house has dangerous levels of radon, you should test it. Radon is measured in picoCuries per liter of air (pCi/L). Radon levels inside houses below 4 pCi/L are considered acceptable.

The Environmental Protection Agency (EPA) recommends mitigation for residences with radon concentrations at or above 4.0 picocuries per liter of air (pCi/L) 2. The best way to mitigate radon is to prevent it from entering a building in the first place. Radon generally poses the greatest risk to occupants living at or below ground level. Occupants on the lower levels of structures are at risk of excess exposure if radon levels are elevated and these structures are not appropriately mitigated, or if they occupy new construction in areas with high radon that is not built using radon resistant construction methods.

A radon assessment conducted by a certified Radon Professional must be included for all CDBG funded housing projects in EPA Radon Zone 1 counties (Branch, Calhoun, Cass, Hillsdale, Jackson, Kalamazoo, Lenawee, St. Joseph, and Washtenaw). Per American Association of Radon Scientists and Technologists, Inc. (AARST) and HUD multi-family radon testing and mitigation policy, all "ground level" units are to be tested, regardless of the foundation type.

For projects with test results exceeding the EPA action level of 4.0 picocuries/liter, plans and specifications approved by a Radon Professional for addressing these exceedances must be submitted prior to initial closing. New construction projects and any proposed mitigation plans must be consistent with the radon resistant code requirements as detailed in Appendix F of the Michigan Residential Code.

Further information on mitigation strategies and maps of radon zones around the country can be found at <http://www.epa.gov/radon>.

Financial Management

Underwriting (Assessing Financial Viability)

The CDBG regulations contain Guidelines and Objectives for Evaluating Project Costs and Financial Requirements. The MESHADDC shall consider the guidelines provided as an appendix to the CDBG regulations at 24 CFR Part 570 for basic financial underwriting of projects being considered for all entities that will benefit from funding. A Proforma will be completed for both HIP and DRR projects.

Below are the financial viability criteria:

1. Project Costs are Reasonable. A breakdown of ALL costs (CDBG, local, private funds and any other source of funds) associated with the project will be evaluated to determine the reasonableness of each cost.
2. The following will be required:
 - a. Engineering Cost - Estimates are not required but the cost must not exceed the industry average of 20% of construction cost.
 - b. Administration/Third Party Administrator (TPA) – shall not exceed 18% of CDBG award.
 - c. Construction Cost - the following will be required:
 - i. Estimates
 - ii. Plans & Specs
 - d. CDBG Funds Are Not Substituted for Non-Federal Funds. The recipient should clearly establish that there is a need for the investment of public resources. This is typically done by identifying that total funding for the project has a financing gap or a rate of return gap. The level of analysis will vary with the nature and complexity of the project.
 - e. Financial Feasibility. The financial viability can be evaluated based on completing an approved proforma (See Proforma attachment at the end of Chapter).
 - f. CDBG Funds Disbursed Pro Rata. As a general rule, CDBG funds should be disbursed proportional to the percentage of the project they fund. CDBG money should not be the first money into a project, but rather should flow into a project in proportion to other project funding sources. For example, if CDBG funds are 20% of the project, CDBG funds should not exceed 20% of the aggregate proceeds disbursed.

Other Due Diligence Requirements. In addition to the financial review, there are other items that will be considered during the due diligence process.

1. Annual Profile Review
2. Verification of Applicant/Developer/Business Owner. Documentation will be required to show ownership of property to be improved and the appropriate person(s)/member(s) to sign documents.
3. Excluded Parties List and HUD's Limited Denials of Participation List. Before a project is recommended to the MSHDA, it will be verified that any business benefiting from the project is not on these federal lists. Any contractors or consultants associated with the project, after the signing of the grant agreement, will also be verified as they are selected.

4. Development Agreements. The MSHDA will require a Development Agreement between the UGLG and business, entities and/or developer prior to MSHDA approval. UGLGs should consider obtaining security (in the form of liens, guarantees, mortgages, etc.) for the performance of obligations and must maintain appropriate levels of security, if obtained. UGLGs must ensure entities, businesses/developers are aware the development agreement obliges both the UGLG and the entities, business/developer to grant terms and conditions. The MSHDA is not a party to the development agreement between the UGLG and entities, business/developer. The MSHDA does not provide example Development Agreements. It is strongly recommended that Development Agreements between the UGLG and entities/contractor/business/developer contain the requirements identified in the CDBG Grant Agreement.

CHILL Policy Manual

The CHILL Policy Manual is intended as a guide for UGLGs that have received CDBG grants from MSHDA. It outlines the Federal rules that govern the use of CDBG awards as well as the MSHDA's policies from application submission to initial award to grant closeout. UGLGs, benefited entities, businesses, developers, and contractors should be aware at the outset of the existence of the federal statutes and regulations that have scheduling, cost, and substantial paperwork implications when CDBG funding is used for projects.

Overview of Requirements Related to Incurring Costs

Incurring project costs; including CDBG, local, and private costs prior to authorization and/or completion of the environmental review could jeopardize the proposed CDBG funding. Incurring costs includes but is not limited to signing option/purchase/easement/lease agreements, signing purchase orders for equipment, signing consultant and construction contracts and any other choice limiting decision that obligates the UGLG to payment of project expenses. The following provides for timing of procurement for engineering and architecture, construction, and purchases. However, all potential grantees must also follow all other CDBG requirements and should contact the CDBG office and receive written permission from the MSHDA prior to signing any contract or incurring any cost related to the project. There are three types of costs:

- a. Preliminary Costs. These are costs incurred prior to the date of the executed Grant Agreement. Preliminary costs are disallowed and are not allowed to count toward the local match, leverage or CDBG project cost.
- b. Exempt Project Costs. These are costs for administration contracted by a third party, design, construction/oversight engineering, architectural work, and other exempt costs necessary to carry out the project activities.
- c. Costs to be paid entirely with non-CDBG funding:
- d. The community must submit a written request to the CDBG staff requesting to incur these costs. The letter must include the specific activities and the dollar amounts for these activities. The MSHDA must provide written authorization to incur these costs for activities.
- e. This can be done prior to the grant agreement being executed and prior to the completion of the environmental review.
- f. 100% of these costs must be paid for with non-CDBG funds.

- g. Therefore, the CDBG procurement requirements do not apply.
 - h. The contract must be signed after written authorization has been provided by the MSHDA.
 - i. These costs must be included in the project activities/budget and can be counted toward the local match.
 - 2. Costs to be paid in whole or in part with CDBG funds:
 - a. The community must submit a written request to the CDBG staff requesting to incur these costs. The letter must include the specific activities and the dollar amounts of these activities. The MSHDA must provide written authorization to incur the costs.
 - b. The community may need to follow the appropriate CDBG procurement requirements. These requirements depend on the activity and who is engaging the consultant, contractor, etc.
 - c. The contract must be signed after written authorization has been provided by the MSHDA.
 - d. These costs must be included in the project activities/budget.
 - 3. Non-Exempt Project Costs. These costs include but are not limited to signing purchase/easement/lease agreements, ordering materials/machinery/equipment, and signing construction contracts after an executed Letter of Intent.
 - a. The procurement requirements for these activities depend on who is paying for these costs.
 - b. The timing is the same regardless of who pays for these costs.
 - i. The environmental review and all other applicable CDBG requirements must be completed.
 - ii. The grant agreement must be executed.
 - iii. The community must follow the appropriate procurement requirements.
 - iv. The purchase/easement/lease agreement, material/equipment purchase order, construction contract, etc. must be signed after (i) the environmental review has been completed, (ii) the grant agreement has been executed, and (iii) written authorization has been provided by the MSHDA.

Program Administration Costs

A Third Party Administrator may be used to administer CDBG grants. Administrator services must be procured to ensure cost reasonableness. The contract must outline the specific activities that will be performed and the justification for the costs. The contract must also include a Third Party Administrator Management Plan (Attachment), indicating who is responsible for performing specific tasks. Local or other funds must be used for additional administrative and engineering cost overruns. All reimbursement requests must reflect services rendered and actual costs rather than a flat fee.

CDBG funds may not be used to assist with the application or to administer other federal or state grant programs which may be conducted in conjunction with a CDBG project. Any costs and time funded by CDBG must be documented through the appropriate means (i.e., invoices from local newspapers for advertisements placed for hearings, postage, time sheets indicating work performed for the particular project, etc.). The documentation must be kept on file and will be reviewed when requesting payment.

Contingency Funds providing for contingencies must be related to construction activities. A contingency must be identified in the specific budget line item for which it is intended and must be reasonable in amount (no more than 10%).

Administrative Costs – General management, oversight, and coordination of the housing program. Reasonable costs of overall program management, marketing, monitoring, and evaluation.

Activity/Project Delivery Costs – costs associated with specific addresses. Grantee staff time directly related to carrying out the project and assisting owners and tenants via advisory services, including timely written notices to occupants, property inspections, counseling, and other assistance necessary to minimize hardship during the construction phase. These costs are disallowed and should be charged against administration.

Development Costs/ Developer Fee - The fee for services paid to a housing developer, based on the Total Development Cost and the scope of the developer's responsibilities.

Soft Costs – Associated with specific addresses. Costs for project-related services. There is no cap on soft costs provided they do not include staff time. Grantee staff time must be charged as an administrative cost.

Procurement

Acquisition. The acquiring by contract with appropriated funds of supplies or services (including construction) by and for the use of the federal government through purchase or lease, whether the supplies or services are already in existence or must be created, developed, demonstrated, and evaluated. Acquisition begins at the point when agency needs are established and includes the description of requirements to satisfy agency needs, solicitation and selection of sources, award of contracts, contract financing, contract performance, contract administration, and those technical and management functions directly related to the process of fulfilling agency needs by contract.

Architect-Engineer Services. As defined in 40 U.S.C. 1102, means: Professional services of an architectural or engineering nature, as defined by state law, if applicable, that are required to be performed or approved by a person licensed, registered, or certified to provide those services; Professional services of an architectural or engineering nature performed by contract that are associated with research, planning, development, design, construction, alteration, or repair of real property; or,

Those other professional services of an architectural or engineering nature, or incidental services, that members of the architectural and engineering professions (and individuals in their employ) may logically or justifiably perform, including studies, investigations, surveying and mapping, tests, evaluations, consultations, comprehensive planning, program management, conceptual designs, plans and specifications, value engineering, construction phase services, soils engineering, drawing reviews, preparation of operating and maintenance manuals, and other related services.

Change Order. A modification made to the contract that is approved by the contracting officer under the authority of the contract's changes clause. Only the specific changes permitted by the particular changes clause may be made under a change order (e.g., modify the drawings, design, specifications, method of shipping or packaging, place of inspection, delivery, acceptance, or other such contractual requirement. All change orders must be within the scope of the contract.

Contract. A mutually binding legal relationship obligating the seller to furnish the supplies or services (including construction) and the buyer to pay for them. It includes all types of commitments that obligate the government to an expenditure of appropriated funds and that, except as otherwise authorized, are in writing. In addition to bilateral instruments, contracts include (but are not limited to) awards and notices of awards; job orders or task letters issued under basic ordering agreements; letter contracts; orders, such as purchase orders, under which the contract becomes effective by written acceptance or performance; and bilateral contract modifications. Contracts do not include grants and cooperative agreements covered by 31 U.S.C. 6301, et seq.

Contracting. Purchasing, renting, leasing, or otherwise obtaining supplies or services from nonfederal sources. Contracting includes the description (but not determination) of supplies and services required, selection and solicitation of sources, preparation and award of contracts, and all phases of contract administration. It does not include making grants or cooperative agreements.

Cost Analysis. The review and evaluation of the separate cost elements and profit in an offeror's or contractor's proposal (including cost or pricing data or information other than cost or pricing data), and the application of judgment to determine how well the proposed costs represent what the cost of the contract should be, assuming reasonable economy and efficiency.

Cost Reimbursement Contracts. Provide for payment of allowable incurred costs, to the extent prescribed in the contract.

Firm-Fixed-Price Contract. Provides for a price that is not subject to any adjustment on the basis of the contractor's cost experience in performing the contract.

Offer. A response to a solicitation that, if accepted, would bind the offeror to perform the resultant contract. Responses to invitations for bids (sealed bidding) are offers called bids or sealed bids; responses to requests for proposals (negotiation) are offers called proposals. However, responses to requests for quotations (simplified acquisition) are quotations, not offers.

Offeror. Bidder.

Price Analysis. The process of examining and evaluating a proposed price without evaluating its separate cost elements and proposed profit.

Requests for Proposals (RFPs). Solicitations under negotiated procedures. RFPs are used in negotiated acquisitions to communicate government requirements to prospective contractors and to solicit proposals.

Requests for Qualifications (RFQs). Solicitations under negotiated procedures and are used in negotiated acquisitions to procure the services of an engineering or architectural firm.

Sealed Bid. An offer in response to invitations for bids (sealed bidding).

Sealed Bidding. A method of contracting that employs competitive bids, public opening of bids, and awards.

Sole Source Acquisition. A contract for the purchase of supplies or services that is entered into or proposed to be entered into by an agency after soliciting and negotiating with only one source.

Solicitation. Any request to submit offers or quotations to the Government. Solicitations under sealed bid procedures are called invitations for bids. Solicitations under negotiated procedures are called RFPs. Solicitations under simplified acquisition procedures may require submission of either a quotation or an offer.

Subcontract. Any request to submit offers or quotations to the Government. Solicitations under sealed bid procedures are called invitations for bids. Solicitations under negotiated procedures are called RFPs. Solicitations under simplified acquisition procedures may require submission of either a quotation or an offer.

Subcontractor. Any supplier, distributor, vendor, or firm that furnishes supplies or services to or for a prime contractor or another subcontractor.

PROCUREMENT POLICY

Subrecipients and/or beneficiary of funds must write and adopt a procurement policy. To be compliant with the CDBG regulations, **the UGLGs policy must be written and adopted prior to securing any contract services with CDBG funding.** The procurement policy must meet all of the requirements contained in 2 CFR 318-327. If a procurement policy is already in place, the subrecipients and/or beneficiary of funds must determine whether it includes all federal requirements. If the policy does not contain all federal requirements (and the subrecipients and/or beneficiary of funds intends to use CDBG funds to secure such services), the policy must be amended accordingly.

The subrecipients and/or beneficiary of funds procurement policy must adhere to the following:

1. A code of conduct that prohibits elected officials, staff, or agents from personally benefiting from CDBG procurement must be included. The policy should prohibit the solicitation or acceptance of favors or gratuities from contractors or potential contractors. Sanctions or penalties for violations of the code of conduct by either subrecipients and/or beneficiary of funds officials, staff or agents, or by contractors or their agents must be identified 2 CFR 200.318(c).
2. Proposed procurements should be reviewed by staff to avoid unnecessary and duplicative purchases and to ensure costs are reasonable [2 CFR 200.318 (d-f)].
3. Affirmative efforts must be undertaken to hire women-owned business enterprises, minority firms and labor surplus firms, both by the subrecipients and/or beneficiary of funds and the project's prime contractor [2 CFR 200.321].
4. The method of contracting outlined in the policy should be acceptable (Fixed-Price, cost reimbursement, purchase orders, etc.). Cost plus a percentage of cost contracting must be specifically prohibited if CDBG funds are involved [2 CFR 200.323].
5. Procedures to handle and resolve disputes relating to procurement actions of the subrecipients and/or beneficiary of funds must be included [2 CFR 200.318].

6. All procurement transactions, regardless of dollar amount, must be conducted so as to provide maximum open and free competition [2 CFR 200.319 (a-b)]. Some of the situations considered to be restrictive of competition include, but are not limited to:
 - a. Placing unreasonable requirements on firms in order for them to qualify to do business.
 - b. Requiring unnecessary experience and excessive bonding.
 - c. Noncompetitive pricing practices between firms or between affiliated companies.
 - d. Noncompetitive awards to consultants that are on retainer contracts.
 - e. Organizational conflicts of interest.
 - f. Specifying only a brand-name product instead of allowing an equal product to be offered and describing the performance of other relevant requirements of the procurement.
 - g. Any arbitrary action in the procurement process.
7. 7. Methods of procurement to be followed must be described [Sections 6 through 10 below and 2 CFR 200.320.

PROCUREMENT PROCEDURES

SELECTION PROCEDURES

Selection procedures for procurement transactions must be written prior to securing contract services [2 CFR 200.318]. These procedures must ensure that all solicitations:

1. Incorporate a clear and accurate description of the technical requirements for the material, product, or service to be procured.
2. List all requirements that the offerors must fulfill.
3. Describe all other factors used in evaluating bids or proposals.

PREPARING CONTRACTING PROCEDURES TO MEET EQUAL OPPORTUNITY REQUIREMENTS

CDBG recipients must make affirmative efforts to use small-, minority-, and woman-owned firms when possible. 2 CFR 200.321 Regulations recommend the following:

1. Maintain a list of qualified small-, minority-, and woman-owned businesses and place qualified firms on solicitation lists. The MSHDA maintains a Directory of Minority and Women Owned Businesses that can be used by subrecipients and/or beneficiary of funds.
2. Divide total requirements into smaller tasks.
3. Establish delivery schedules that encourage participation.
4. Use Small Business Administration and Minority Business Development Agency services.
5. Require prime contractors to take affirmative steps.

CONTRACT ADMINISTRATION AND RECORDS

24 CFR 200.318 (i-k) requires that subrecipients and/or beneficiary of funds and sub grantees maintain records sufficient to detail the significant history of a procurement. These records must include, but are not limited to:

- Rationale for the method of procurement.
- Selection of contract type.
- Contractor selection or rejection.
- The basis for the contract price.

Subrecipients and/or beneficiary of funds must also maintain a contract administration system to monitor the contractor’s performance against the terms, conditions, and specifications of their contracts or purchase orders.

The procurement records should:

- Allow an auditor or other interested party to track the nature of the goods or services bought with public funds.
- Track the entire process used to purchase those goods and services.
- Show that the public body obtained high quality goods and services at the lowest possible price through an open, competitive process.

–METHODS OF PROCUREMENT OVERVIEW

The procurement process must be in accordance with the federal requirements of 2 CFR 200.320 (b-f).

The table below outlines the four procurement methods that the grantee must use to procure materials, supplies, construction and services based on the type of procurement.

Procurement Type	Cost Methodology Reasonableness	Contract Type	Solicitation Method	Applications	Dollar Thresholds if applicable
Small Purchase (see Section 7)	Price Analysis	Purchase Order Fixed-Price	Quotations Submitted Bids	Produced Items Single-Task Service Supplies	\$250,000 or less for produced items \$250,000 or less for non-construction services
Sealed Bid - Formal Advertising (see Section 8)	Price Analysis Cost Analysis	Fixed-Price	Submitted Bids	Construction Items Produced or Designed Items	No threshold on construction contracts being solicited for bids
Competitive Proposals (see Section 9)	Price Analysis Cost Analysis	Cost Reimbursement Fixed-Price Time & Materials	Submitted Proposals	Professional Services Multi-Task Services Designed Items	Professional Services and/or Multi Task Services over \$250,000
Noncompetitive Proposals (see Section 10)	Cost Analysis	Cost Reimbursement Fixed-Price Time & Materials	Submitted Proposals	Produced Items Single-Task Service Professional Services Multi-Task Services Designed Item	No threshold, but may only be used when other methods are not feasible

In developing the appropriate procurement process to be used in conjunction with a CDBG-funded project, the subrecipients and/or beneficiary of funds must follow the accepted CDBG procurement structure as outlined in the above table. Before selecting the kind of procurement process and then executing the procurement itself, the subrecipients and/or beneficiary of funds must first obtain approval from the MSHDA. This approval will be a condition of disbursement of funds. Once subrecipients and/or beneficiary of funds have received approval of its process and the documents it proposes to use, it may proceed to execute the procurement process as outlined in its approved plan.

COST REASONABLENESS

When determining the appropriate procurement method to use, the subrecipients and/or beneficiary of funds must either use price analysis (price competition) or perform a cost analysis to determine reasonableness of costs.

Price Analysis

Price analysis means that the subrecipients and/or beneficiary of funds requests several bids, proposals, or quotes for the materials, supplies, or service being procured. The grantee must make independent estimates before receiving bids or proposals. The winning offeror is the firm that offers the most competitive price for the requested materials, supplies, and services.

Cost Analysis

A cost analysis is the review and evaluation of the separate cost elements and profit in an offeror's or contractor's proposal (including cost or pricing data and information other than cost or pricing data), and the application of judgment to determine how well the proposed costs represent what the cost of the contract should be, assuming reasonable economy and efficiency. A cost analysis is verifying that the proposed cost data, the projections of the data, and the evaluation of the specific elements of costs and profits are reasonable. A cost analysis is always required when the noncompetitive proposals method is used. A cost analysis will be necessary when adequate price competition is lacking, and for sole source procurements, including contract modifications or change orders, unless price reasonableness can be established. Form 4-D, Format for Cost Analysis, contains a sample format that can be used to perform the cost analysis.

A written cost analysis is required when:

- The bidder is required to submit elements of the estimated cost (e.g., professional, consulting, engineering, or architectural services).
- There is inadequate competition.
- The sole-source procurement method is used (to include change orders or contract modifications).

Profit must be negotiated as a separate element when there is no price competition and when a cost analysis is performed. Consideration should be given to the complexity of the work, any risk assumed by the contractor, the contractor's investment, the amount of subcontracting involved, the contractor's past performance record, and industry profit rates.

Cost-plus contracts are illegal and prohibited by HUD. Cost plus a percentage of cost and percentage of construction costs methods of contracting shall not be used, §570.489(g), Procurement. Contracts that allow payment of a set amount plus costs incurred over that set amount or require payment based on a percentage of the construction costs are considered cost-plus contracts.

Guidelines for Conducting a Cost Analysis

A cost or price analysis must be performed in connection with every procurement action, including contract modifications. The method and degree of analysis is dependent on the facts surrounding the particular procurement situation. An independent estimate must be made before receiving bids or proposals if one of the following applies:

DRAFT

1. When evaluating competitive proposals.
2. When there is a sole source (or non-competitive) proposal.
3. When only one bid is received after soliciting bids, the subrecipients and/or beneficiary of funds does not have sufficient data on costs to establish price reasonableness (such as prior purchases of similar nature), and the subrecipients and/or beneficiary of funds is considering making an award to the sole bidder.
4. When negotiating modifications to contracts that impact the price or estimated cost.
5. When terminating a contract and the contractor is entitled to payment of reasonable costs incurred as a result of termination.
6. When awarding a cost-reimbursement contract.

The following lists the basic steps in conducting a cost analysis.

1. Verify cost and price information, including:
 - a. The necessity for, and reasonableness of, the proposed cost.
 - b. Technical evaluation or appraisal of the proposed direct cost elements.
 - c. Application of audited or pre-negotiated indirect cost rates, direct labor rates, etc.
2. Evaluate the effect of the offeror's/contractor's current practices on future costs.
3. Compare costs proposed by the offeror/contractor with the following:
 - a. Actual costs previously incurred by the same firm.
 - b. Previous cost estimates from the same firm or other firms for the same or similar items.
 - c. The methodology to be used to perform the work (are the costs consistent with the technical approach being proposed?).
 - d. The independent cost estimate.
4. Verify that the offeror/contractor's cost proposal complies with the appropriate cost principles.
5. Verify that costs are allowable, allocable, and reasonable.

The major categories of costs are:

Direct Costs, which include:

- Direct Labor (personnel)
- Equipment
- Supplies
- Travel and Per Diem
- Subcontractors
- Other Direct Costs

Indirect Costs, which includes

- Overhead
- General and Administrative Expenses
- Profit (or Fee)

In the process of analyzing costs, profit should be analyzed separately. In analyzing profit, consideration should be given to:

1. Complexity of the work to be performed.

2. Contractor's risk in performing the contract.
3. Contractor's investment in the contracted effort.
4. Amount of subcontracting.
5. Contractor's record of past performance.
6. Industry profit rates in the general area for similar work.

The objective is to establish overall cost reasonableness and not individual components. A sample format for performing a Cost Analysis is attached as Form 4-D.

CONTRACT TYPE

Purchase Order

Supplies, single-task services, and produced items procured through the small purchase method will require a purchase order.

Fixed-Price

A Fixed-Price contract provides for a price that is not subject to any adjustment on the basis of the contractor's cost experience in performing the contract. This contract type places upon the contractor maximum risk and full responsibility for all costs and resulting profit or loss. It provides maximum incentive for the contractor to control costs and perform effectively and imposes a minimum administrative burden upon the contracting parties. Firm fixed-price contracts are suitable for acquiring commercial items (including construction) or for acquiring other supplies or services on the basis of reasonably definite functional or detailed specifications and when the contracting officer can establish fair and reasonable prices at the outset.

Cost Reimbursement

A cost reimbursement contract provides for payment of allowable incurred costs, to the extent prescribed in the contract. These contracts establish an estimate of total cost for the purpose of obligating funds and establishing a ceiling that the contractor may not exceed (except at its own risk) without the approval of the contracting officer. Cost-reimbursement contracts will be used when uncertainties involved in contract performance do not permit costs to be estimated with sufficient accuracy to use any type of fixed-price contract.

Time and Materials

A time and materials contract provides for payment of direct labor hours at specified fixed hourly rates that include wages, overhead, general and administrative expenses, and actual cost for materials. This contract type should be used only after a determination is made that no other contract is suitable, and the contract includes a ceiling price that the contractor exceeds at its own risk.

SOLICITATION METHODS

Quotations

The subrecipients and/or beneficiary of funds should obtain at least three quotations (quotes) from qualified sources to procure items, supplies, or a single task service using the small purchase method. Note: HUD has issued verbal guidance that the response of "not interested" does not qualify as a quote.

Submitted Bids

When using the procurement by sealed bids method, the subrecipients and/or beneficiary of funds is required to provide a complete, adequate, and realistic specification or purchase description via publicly advertised invitation for bids. A submitted bid is a response to the subrecipients and/or beneficiary of funds invitation for bids. See Section 8, below, for additional information regarding the bids package process.

Submitted Proposals

Submitted proposals are the responses to a subrecipients and/or beneficiary of funds RFP or RFQ. This type of solicitation method is used when the competitive proposal or noncompetitive proposal procurement method is used. See Section 9, below, for additional information regarding the RFP and RFQ process.

SECTION 7 – PROCUREMENT BY SMALL PURCHASE

Small purchase procedures are those relatively simple and informal procurement methods for securing services, supplies, or other property that do not cost more than the simplified acquisition threshold fixed at 41 U.S.C. 403(11) (supplies or non-construction services costing \$250,000 or less). This method of procurement is typically used to purchase commodities such as equipment or other materials. If small purchase procedures are used, price or rate quotations shall be obtained from at least three qualified sources. The subrecipients and/or beneficiary of funds can request quotes from qualified sources via telephone, fax, email, mail, or any other reasonable method. The subrecipients and/or beneficiary of funds should maintain written documentation on the names of the businesses contacted and how they were contacted; the prices that were quoted; and the basis for selecting one firm over the other(s). The small purchases procedures should not be used to acquire construction contractors. It is recommended that these acquisitions use the sealed bid approach discussed below.

SECTION 8 – PROCUREMENT BY SEALED BIDS (FORMAL ADVERTISING) Sealed bids should be used for goods costing more than \$250,000 and all construction contracts bids are publicly solicited and a firm fixed-price contract (lump sum or unit price- see below) is awarded to the responsible bidder whose bid, conforming to all the material terms and conditions of the invitation for bids, is the lowest in price. The sealed bid method is the preferred method for procuring construction.

MINORITY & WOMEN BUSINESS ENTERPRISES (MBE)/(WBE) MBE/WBE PARTICIPATION

The UGLGs and their agents are encouraged to utilize MBE/WBE in the CDBG projects. Although HUD does not specify a numerical goal for MBE and WBE participation in the CDBG projects, UGLGs are encouraged to undertake steps to encourage participation by these types of businesses. UGLGs may complete and maintain an optional Section 3 Contract & Worker Solicitation (Form 9-D) to record efforts to involve MBE/WBE businesses in the funded project. This optional tool will allow the UGLG to verify solicitation of bids, price quotations, and proposals from all participating contractors and professional services providers. This report, or something similar, must be maintained in the project files for monitoring purposes. The UGLGs are required to maintain the Contract and Subcontract Activity Report (Form 4-P) and submit each report to MSHDA. The State must submit a consolidated Contract and Subcontract Activity Report to HUD annually. The Contract and Subcontract Activity Report is further discussed in Chapter 4.

MBE/WBE RESPONSIBILITIES

The UGLGs are responsible for the following to encourage the use of MBE/WBE businesses and compliance requirements:

1. Develop a list of minority-owned and women-owned businesses to be notified of opportunities for participation in project contracts. The local Chamber of Commerce or similar business association can often provide a listing of companies. Regional planning organizations may also serve as a source of information.
2. Notify eligible MBE/WBE firms of contract opportunities. This can be accomplished by distributing public notices, including newspaper advertising, and/or sending information to disadvantaged businesses that could reasonably be expected to submit a bid. The UGLGs must ensure that all bid notices, including Affirmative Action efforts, be distributed in a timely manner.
3. Monitor contractor and subcontractor compliance with applicable MBE/WBE provisions.

VERIFICATION OF CONTRACTOR ELIGIBILITY

Subrecipients and/or beneficiary of funds must ensure that all contractors and subcontractors receiving CDBG funds meet all eligibility requirements. The following steps should be taken to verify and document contractor and subcontractor eligibility for all services procured. **PRIME CONTRACTOR CLEARANCE** Prior to the award of a construction contract with a prime contractor, the subrecipients and/or beneficiary of funds must obtain contractor clearance. To obtain clearance, the following steps should be taken: The subrecipients and/or beneficiary of funds should search the following web site to determine whether the contractor is debarred at the federal level at www.sam.gov and at the LDP list at https://www5.hud.gov/Ecpcis/main/ECPCIS_List/main/ECPCIS_List.jsp.

Davis Bacon and Related Acts (DBRA)

Refer to the link below for information regarding DBRA and CHILL.

https://files.hudexchange.info/resources/documents/Davis-BaconandHOME_TrainingManual.pdf

FAIR HOUSING AND EQUAL OPPORTUNITY (FHEO)

FAIR HOUSING AND EQUAL OPPORTUNITY.

Applicable state and federal laws have been established to ensure that protected groups are not subjected to discrimination under any program supported, in whole or in part, with federal funds. Various laws apply to project beneficiaries, employment opportunities, contracting opportunities, and fair housing. UGLGs are required to develop Fair Housing and Section 3 plans and comply with the Section 3 and Fair Housing laws throughout the implementation of a CDBG project, as well as other equal opportunity compliance requirements.

Title 1 of the Housing and Community Development Act of 1974, as amended, requires that the UGLGs affirmatively further fair housing and adopt a fair housing ordinance. Additional fair housing information links:

<https://www.michigan.gov/mshda/developers/cap>

[62923-MI-HOPE-Policy-and-Compliance-Handbook.pdf \(michigan.gov\)](#) [pgs 73-77]

Section 3

Section 3 provides that to the greatest extent feasible, preference for economic opportunities such as job training, employment and contracts arising through HUD-assisted projects, shall be directed toward Section 3 residents and to business concerns who provide economic opportunities to these residents. Section 3 reporting and performance requirements apply to the UGLGs and contractors if the CDBG activity/project amount is more than \$200,000.

Excessive Force Policy

All UGLGs must certify compliance with the regulations under CFR 91.225 (b)(5), (also known as the Armstrong Walker Amendment) which prohibits the use of excessive force by law enforcement agencies within their jurisdiction against any individuals engaged in non-violent civil rights demonstrations. Further, and in case where a jurisdiction has no police department, the UGLG must also certify that it has adopted and is enforcing a policy against physically barring entrance to or exit from, a facility or location that is the subject of such non-violent civil rights demonstrations within its jurisdiction. The Excessive Force policy must be made available during the monitoring visit.

One-for-one Housing Replacement

CDBG funds may not be used to reduce a jurisdiction's stock of affordable housing. The CDBG regulations [24 CFR 570.601(1)(i)] state that: "All occupied and vacant, occupiable low- and moderate-income dwelling units that are demolished or converted to a use other than as low- and moderate-income dwelling units in connection with an activity assisted under this part must be replaced with low- and moderate-income dwellings units." Replacement of low- and moderate-income dwelling units is not a CDBG eligible activity. Since this expense must be paid with non-CDBG funds, the UGLG should carefully consider demolishing residential dwelling units. Please notify the MSHDA immediately if your project involves the demolition of residential dwelling units.

Attachments

DRAFT

*Updated versions of attachments in this chapter will be provided later. Reference numbers in this section have been taken from the Michigan Economic Development Corporation (MEDC) CDBG program and correspond with MEDC Grant Administration Manual (GAM) Chapters. These forms will be updated in a future version of the CHILL Policy Manual but are the documents Grantees should use until new forms are created.

**These forms can be viewed and downloaded at: [Grant Administration Manual | MiPlace](#)

- 4-D Format for Cost Analysis Sample
- 4-P Contract and Subcontract Activity, HUD 2516
- 5-Q Protect Your Family from Lead in Your Home, EPA-747-K-12-001
- 5-R Disclosure of Information on Lead-Based Paint and/or Lead-Based Paint Hazards
- 5-S Lead-Based Paint Applicability and Compliance Worksheet
- 5-T Four Approaches to Implementing Lead Hazard Evaluation and Reduction
- 5-U Summary of Required Activities to Address Lead-Based Paint
- 5-V Asbestos Applicability Worksheet
- 9-D Section 3 Contractor and Worker Solicitation

Chapter 5 Program Implementation

Client Selection and Intake

Client selection and intake processes must be detailed in the UGLGs program guidelines and at a minimum include the following provisions:

- Marketing – a summary of how the participants will be made aware of the program, including any efforts to assess targeted populations least likely access program resources and affirmatively market the program to them.
- Application and Intake Process Review – all activities must be clearly stated, and a written application form must be used. Include a description of how intakes will be conducted and how the program activities and requirements will be explained to the participant.
- Applicant Requirements—include all requirements listed in the CHILL Program Guidelines Template for UGLG and any other applicant requirements enforced by the UGLG.
- Selection Process—a summary of how participants will be selected and prioritized.

Income Eligibility and Verification

Beneficiaries of CHILL Program funds—homebuyers and homeowners—must be low-income or very low-income. “Low-income” is defined as an annual income that does not exceed 80 percent of area median income, as adjusted by household size. “Very low income” is defined as having an annual income that does not exceed 50 percent of area median income, as adjusted by household size. A household’s income eligibility is determined based on its annual income. Annual income is the gross amount of income anticipated by all adults in the household during the 12 months following the effective date of the determination. UGLGS may use either the Part 5 or 1040 method for determining income but must detail their procedures in their program guidelines.

Complaint Procedure

Under the CHILL Program, Urban General Local Governments (UGLGs) are required to comply with the following established complaint procedure policy bulletin. This policy outlines the process for handling complaints from various parties, including applicants for assistance, dissatisfied owners, and participating contractors. The procedure includes steps for local resolution, referral to Dispute Resolution Services if necessary, and a final review by the MSHDA if the dispute remains unresolved. It’s important to note that all liability arising from the actions or failure to act on the part of the UGLG or its subcontractors falls under the responsibility of the UGLG, not the MSHDA.

MICHIGAN STATE HOUSING DEVELOPMENT AUTHORITY

NEIGHBORHOOD HOUSING INITIATIVES DIVISION

Subject: COMPLAINT PROCEDURE

Effective Date: November 1, 2018

The purpose of this policy bulletin is to outline requirements for NHID Subrecipients to establish a client complaint procedure for consistent resolution of conflicts. Complaints may come from applicants for assistance, owners dissatisfied with work, participating contractors, or other interested parties.

A SUBRECIPIENT'S CLIENT COMPLAINT PROCEDURE MUST

1. **Be outlined in Subrecipient's Program Guidelines.** Clients and contractors must be informed of the complaint procedure when they are selected to participate in the program or upon receipt of a written complaint.
2. **Establish a timely response.** Ensure that a client's initial complaint is responded to by the program administrator within 15 working days of the date of the complaint.
3. **Require that the Chief Executive Officer (CEO) or Executive Director** of the subrecipient be informed of any complaint the program administrator fails to resolve. The subrecipient (at its option) may ask the CEO to review the case and recommend a resolution.
4. **Provide for the establishment of a review committee**, to be comprised of at least three people, which must hear all cases that cannot be successfully resolved by the program administrator (and CEO if he/she is part of the complaint procedure). It is recommended that the committee members serve a specified number of years.

The review committee should be comprised of:

- A person with building/construction expertise (completely separate from the contractor who is part of the complaint);
- A local community representative; and
- A representative of the subrecipient (but should not be administrator or staff member of housing program)

The claimant may choose to make a presentation or submit a written description (including documentation) to the committee for review.

This policy covers the following processes:

- The subrecipient's client complaint procedure
- Referrals to Dispute Resolution Services
- MSHDA review of complaint
- Resolution determined by the MSHDA

REFERRAL TO DISPUTE RESOLUTION SERVICES REQUIRED IF CONFLICT NOT SATISFACTORILY RESOLVED

Should the above listed efforts fail to resolve all outstanding issues, subrecipients must seek the services of the closest Dispute Resolution/Mediation Program. The costs, if any, for using mediation to seek resolution of the dispute are eligible administrative costs under the MSHDA's Neighborhood Housing Initiatives Division written agreements. A list of Community Dispute Resolution Program (CDRP) Mediation Centers may be found at <http://courts.mi.gov/administration/scao/officesprograms/odr/pages/community-dispute-resolution-program.aspx>.

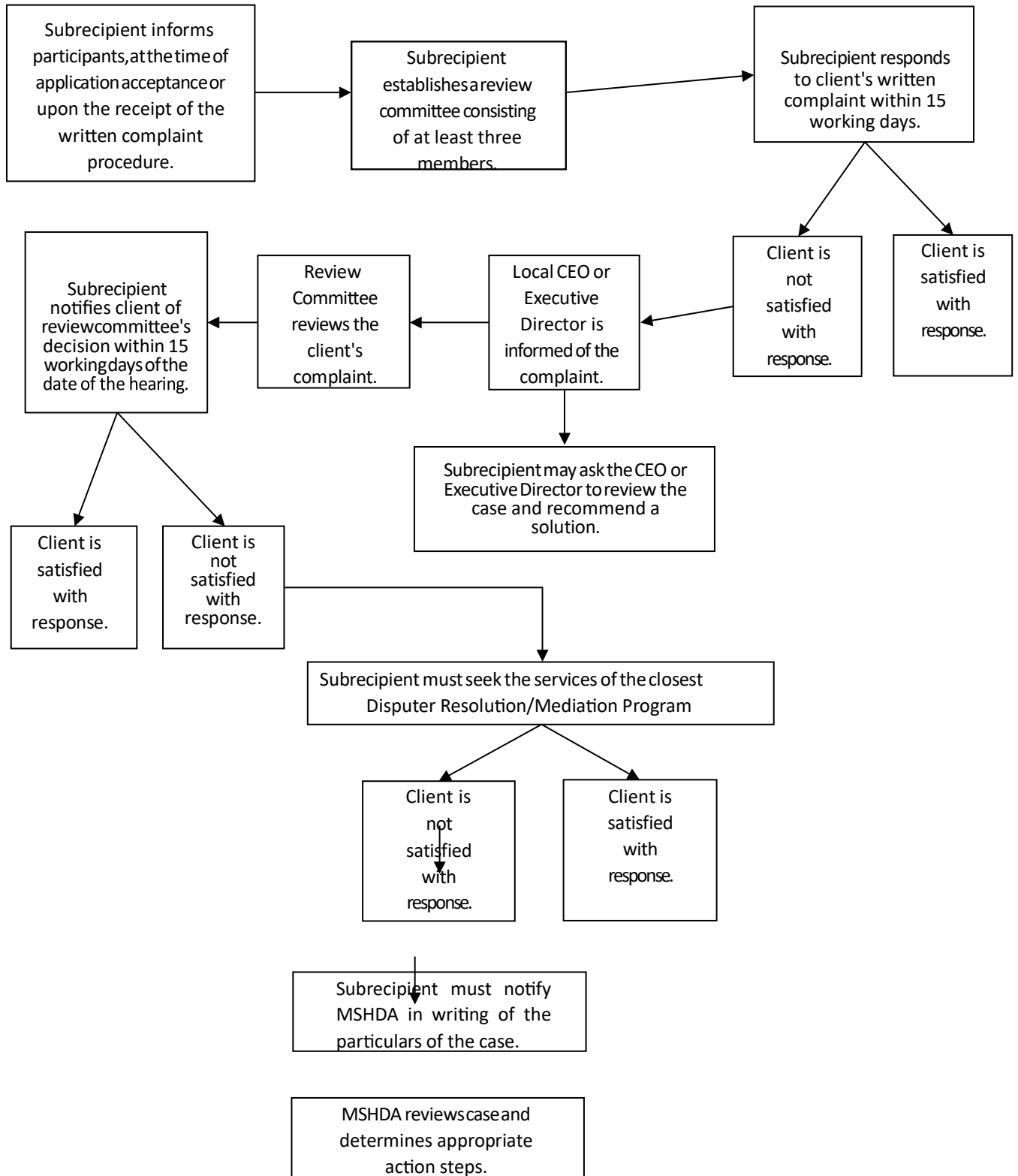
See process map that follows for a typical complaint procedure. The MSHDA will review complaints only after this process is complete and the dispute is still unresolved.

If the MSHDA is contacted directly by a complainant, they will be referred to the subrecipient for implementation of policy procedures. After all previously outlined steps have failed to resolve the complaint, the subrecipient may contact the MSHDA in writing, detailing the complaint and verifying its compliance with the above listed steps.

NOTE: All liability to third parties, loss or damage as a result of claims, demands, costs, or judgments arising out of activities, such as direct service delivery, to be carried out by the subrecipient in the performance of its NHID funded written grant agreement shall be the responsibility of the subrecipient, and not the responsibility of the Authority, if the liability, loss, or damage is caused by, or arises out of, the actions or failure to act on the part of the subrecipient, any subcontractor, anyone directly or indirectly employed by the subrecipient, provided that nothing herein shall be construed as a waiver of any governmental immunity that has been provided to the subrecipient or its employees by statute or court decisions.

Questions regarding this policy should be directed to your Champion.

CLIENT COMPLAINT PROCEDURE



Acquisition

Acquisition is not an eligible CHILL Program cost, however, acquisition may be a part of the project provided it is paid for with another source of funds. The URA applies to any acquisition of real property for programs and projects where there is Federal Financial Assistance in any part of the project costs.

The Unit of General Local Government (UGLG) is required to comply with the acquisition and statutes in the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended (Uniform Act or URA). Section 104(d) of the Housing and Community Development Act of 1974, as amended [Section 104(d)], and 42 USC Sec. 3537c, Prohibition of Lump Sum Payments, the UGLG also has the responsibility to minimize displacement that results from CDBG funded projects. For more details on Relocation Procedures under the URA and Anti displacement requirements under Section 104(d) of the Act, refer to the Relocation Section of Chapter 4.

At the time a Letter of Intent or Application is submitted to the MSHDA (whichever is earlier), URA compliance is triggered, regardless of who is acquiring the property. An Agency is considered to be a State, State Agency, or a person who has the authority to acquire property by eminent domain under State law. The Agency is responsible for providing applicable notices, maintaining URA related documentation, and ensuring compliance with URA.

If acquisition and relocation are not involved, the MSHDA may require notification in writing that the Uniform Act does not apply, Property Acquisition and Relocation Will Not Occur Letter SAMPLE (Form 6-A).

General Acquisition Requirements

An option agreement, meeting the below requirements and contingencies, may be executed prior to the completion of the environmental review record, as long as a Letter of Intent has been issued by the MSHDA. However, acquisition of property cannot be completed or finalized until after the environmental review record is complete:

Requirements:

- Prior to signing the option agreement, the Agency informs the property owner of the property's fair market value and that the power of eminent domain will not be used. (Form 6-B).
- The cost of the option agreement must be a nominal portion of the purchase price, not to exceed 5%.

Contingencies:

- Notwithstanding anything to the contrary in this Agreement, Buyer's obligations under this Agreement are contingent upon the completion of an environmental review in accordance with 24 CFR Part 50 and 24 CFR Part 58.
- Notwithstanding anything to the contrary in this Agreement, Buyer's obligations under this Agreement are contingent upon obtaining CDBG funds through the Michigan Strategic Fund.

The URA established minimum standards for federally funded programs and projects that require the acquisition of real property (real estate) or displace persons from their homes, businesses, or farms. The URA's protections and assistance apply to the acquisition, rehabilitation, or demolition of real property for federal or federally funded projects. Real property includes:

- Permanent and temporary easements necessary for the project
- Fee simple title/a parcel of land
- Long-term leases of 50 years or more
- Rights of way

The Agency cannot enter into any construction contracts prior to completing the acquisition of all properties required for completion. If a property is in the process of being condemned, the action must be filed in court prior to execution of a construction contract.

Prior to executing an option agreement, contact the MSDHDA for guidance.

Unless a property is being donated, all acquisitions are required to document how compensation was determined. The appraiser will estimate the properties Fair Market Value, the appraisal will be evaluated and used as a basis for Estimate of Just Compensation, and the Agency will establish what will be offered to the property owner, which cannot be less than the approved fair market value. In order to initiate a transaction, the following must be included in any option agreements and subsequent purchase offers:

- The Just Compensation Amount
- Description and location
- The interest acquiring (fee simple, easement)
- List of buildings, improvements, and property (usually included in appraisal)

After a written offer is completed, negotiations can commence. The property owner must be provided reasonable opportunity to consider the offer, in addition to addressing any proposed modifications. All negotiations and settlements must be supportable and well documented to ensure compliance with statutes and regulations.

Administrative settlements can be approved if they are reasonable, prudent and in the interest of the public. Project planning for property acquisition is critical. Key areas to plan for are whether temporary relocation of property occupants will be necessary, the cost of relocation activities by the acquiring party, what other organizations or services must be engaged in the acquisition process and determining any resources to support acquisition or temporary relocation activities. It will also be critical that documentation is kept for each property being acquired, and all notices and negotiation documents are included.

Note: If a proposed project involves acquisition, and occupants reside in the building, review Chapter 7 Relocation for concurrent compliance requirements.

Voluntary and Involuntary Acquisition Definitions (Under URA)

Voluntary Acquisition – Agencies with Eminent Domain Powers

When an “Agency” has the power of eminent domain, most commonly an UGLG will hold this power, this must be addressed in correspondence with the property owner. Properties acquired by Agencies who have the power of eminent domain are only considered voluntary if the Agency notifies the property owner in writing of the property’s fair market value and that the property will not be acquired if negotiations do not result in an amicable agreement. The sales price may be negotiated with the property owner, after the notice mentioned is provided. The property being acquired, in part or wholly, cannot be part of an intended, planned, or designated project area where the area surrounding is also being acquired.

Eminent domain powers are prohibited when the beneficiary of the project is a private entity. Acquisition of property to assist private entities must always be voluntary.

Voluntary Acquisition – Agencies without Eminent Domain Powers

When an “Agency” does not have the power of eminent domain, most commonly a private entity and some UGLG’s, correspondence is much the same. Properties sought to be acquired, where eminent domain powers do not exist, requires the Agency notify the property owner in writing of the property’s fair market value and that the property will not be acquired in the event negotiations fail to result in an amicable agreement.

Voluntary acquisitions, regardless of whether eminent domain powers exist, it is the case that only tenant-occupants would be eligible for any relocation assistance under the URA. Owner-occupants who voluntarily engage in the acquisition are not eligible for assistance.

Eminent domain cannot be used for any acquisition not benefitting the public. This generally applies to housing and infrastructure projects related to public use.

Involuntary Acquisition

Properties acquired involuntarily must be done so under the threat or use of eminent domain. Properties sought to be acquired requires the Agency notify the property owner in writing of the property’s fair market value and an offer to purchase at the fair market value identified. The purchase is expected to be completed quickly. A reminder that eminent domain cannot be used for any acquisition not benefitting the public. This generally applies to housing and infrastructure projects related to public use.

Involuntary acquisitions result in relocation assistance eligibility to be extended to both tenant-occupants and owner-occupants, under the URA.

Voluntary Acquisition Procedures (Under URA)

The steps for the voluntary acquisition (with or without eminent domain) of property, and the order in which the steps should occur, are outlined below:

Determine Ownership

Ownership must be submitted with the application and include title evidence and the legal description of the property. Submitted documents will be cross referenced with the county register of deeds’ records to verify the legal property owner and legal description of the property, and check for any existing easements or liens. CDBG funds may not be used to remove liens or to perfect title ownership. Title defects must be cleared at the expense of the property owner(s), prior to receiving a grant agreement.

Determine the Value of the Property (Appraisal or Waiver Valuation)

All appraisals must be conducted in accordance with 49 CFR 24.103, and reviewed in accordance with 49 CFR 24.104. The appraisal requirements outlined in Part 24.103 are intended to be consistent with the Uniform Standards of Professional Appraisal Practice (USPAP). An appraisal Scope of Work (Form 6-R) is not only required but is critical since it establishes an understanding between the appraiser and the acquiring Agency on the specific requirements of the appraisal. The property owner must be provided the opportunity to accompany the appraiser during the property inspection. When an appraisal is not required, a waiver valuation must be prepared. A waiver valuation is a statement of the property's value. The UGLG must ensure the person performing the waiver valuation has sufficient understanding of appraisal principles and the local real estate market. The waiver valuation (Form 6-D) or similar document should be signed, and a copy kept in the UGLG's files.

Send the Voluntary Acquisition Notice

A Voluntary Acquisition Notice must be sent to the property owner (Form 6-B). The Notice must include the fair market value of the property and include a statement that the buyer either does not have, or will not use, the power of eminent domain. The Agency must send all notices, letters, and other documents by certified or registered mail, return receipt requested, or hand delivered with receipt documented. If the property owner does not read or understand English, the Agency must provide translations and assistance, free of cost to the property owner. Each notice must give the name and telephone number of a person who may be contacted for further information.

In addition, this letter should inform the property owner that under voluntary acquisition they are not entitled to any relocation assistance. If voluntary acquisition or subsequent construction results in the temporary relocation of tenant-occupants, those tenants are eligible for relocation assistance.

Note, temporary relocation that exceeds 12 months automatically triggers permanent displacement eligibility. Permanent displacement is not eligible for any CDBG assistance. It is strongly advised projects with permanent displacement reconsider their project activities, see Chapter 4 Relocation for more information on relocation and displacement.

Negotiate, Prepare Documents, and Complete the Sale

After the property is valued, and notices to acquire are provided, a sale price is negotiated. Following successful negotiations and receiving authorization to incur project costs from the MSHDA, the sale contract is prepared; the Statement of Settlement Costs (Form 6-L) or an alternative Closing Statement or similar document. Once the sale is closed and the deed is transferred, copies must be provided to the MSHDA. Incurring private or public costs prior to receiving MSHDA authorization may jeopardize the grant.

Recordkeeping

A voluntary acquisition file must be maintained for each property acquired and for each tenant-occupant, and must include the following documents:

- Completed Voluntary Acquisition Checklist (Form 6-S) Title search/Clearance of Title
- Waiver Valuation (Form 6-D) or similar document or an Appraisal Report, if applicable
- Notice of URA Applicability (Form 6-A), if applicable
- Voluntary Acquisition Notice with Eminent Domain (Form 6-B), if applicable
- Voluntary Acquisition Notice without Eminent Domain (Form 6-C), if applicable

- Invitation to Accompany an Appraiser (Form 6-M), if applicable
- Statement of Just Compensation (Form 6-J) or Notice of Intent Not to Acquire (6-K), as applicable
- Statement of Settlement Costs (Form 6-L), or similar document, as applicable
- Easement Servitude Appraisal (Form 6-N), if applicable
- Waiver of Just Compensation and Appraisal (Form 6-O), if applicable
- Record of Personal Contacts (Form 6-Q), for acquisitions with tenants
- Appraisal Scope of Work (Form 6-R)
- Recorded evidence of acquisition payment and new property ownership

Involuntary Acquisition Procedures (Under the URA)

When involuntary acquisition is necessary for a public benefit, with no other identified alternatives, the property owner must be informed of their rights under the URA. The steps involved with involuntary acquisition, with the use of threat or eminent domain, are outlined in the Acquisition Process under URA Flowchart (Form 6-E) and described below:

Determine Ownership

Ownership be must submitted with the application and include title evidence and the legal description of the property. Submitted documents will be cross references with the county register of deeds' records to verify the actual property owner, legal description of the property, and check for any existing easements or liens. CDBG funds may not be used to remove liens or to perfect title ownership. Title defects must be cleared at the expense of the property owner(s), prior to receiving a grant agreement

Determine the Value of the Property by an Appraisal and Review Appraisal (If Required) or Waiver Valuation

All appraisals must be conducted in accordance with 49 CFR 24.103, and reviewed in accordance with 49 CFR 24.104. The appraisal requirements outlined in Part 24.103 are intended to be consistent with the Uniform Standards of Professional Appraisal Practice (USPAP). An appraisal Scope of Work is not only required but is critical since it establishes an understanding between the appraiser and the agency on the specific requirements of the appraisal. A sample scope of work is available as Appendix 19 of HUD Handbook 1378. The property owner must be provided the opportunity to accompany the appraiser during the property inspection. When an appraisal is not required, a waiver valuation must be prepared. A waiver valuation is a statement of the property's value. The UGLG must ensure the person performing the waiver valuation has sufficient understanding of appraisal principles and the local real estate market. The waiver valuation (Form 6-D) or similar document should be signed, and a copy kept in the UGLG's files.

Send the Involuntary Preliminary Acquisition Notice and Booklet

An Involuntary Preliminary Acquisition Notice must be sent to the property owner (Form 6-F). The Agency must send all notices, letters, and other documents by certified or registered mail, return receipt requested, or hand delivered with receipt documented. If the property owner does not read or understand English, the Agency must provide translations and assistance, free of cost to the property owner. Each notice must give the name and telephone number of a person who may be contacted for further information.

The Preliminary Acquisition Notice includes:

- The property owners' rights under the URA, including the right to an appraisal;

- Explains the notice is not to vacate the property;
- Establishes whether eligibility for relocation payments or assistance;
- Must be accompanied by the booklet, When a Public Agency Acquires Your Property (Form 6-G) or for permanent and temporary easements, When a Public Agency is Interested in Acquiring an Easement (Form 6-H);
- Must include the UGLG's Acquisition Policy but ONLY if it affords the owner or occupant additional rights.

Permanent displacement of occupants is not an eligible activity for CDBG funds and may jeopardize the grant.

Establish Just Compensation

After valuation of the property, just compensation must be established. The amount determined to be just compensation cannot be less than the fair market value as determined by the Appraisal/Review Appraisal or waiver valuation. The establishment of an amount believed to be just compensation cannot be delegated to a private consultant. Establishment of the amount believed to be just compensation must be made by an appropriate official of the UGLG. Council or Board approval is suggested but not required. A sample Statement of Just Compensation is included as Form 6-I.

Send the Written Offer to Purchase

The Agency must send the property owner a written Offer to Purchase (Form 6-J) or similar document, along with the written Statement of Just Compensation (Form 6-I) or similar document. As with all notices, the written Offer to Purchase must be sent certified or registered mail, return receipt requested or hand delivered with evidence of receipt.

The statement must include:

- A statement of the full amount offered as just compensation;
- An accurate description and location identification of the property to be acquired;
- The interest the Agency wishes to acquire must also be included (fee simple easement); and
- A list of the buildings and other improvements covered by the offer. The list of the property to be acquired must be accurate to avoid situations where an item is included in the appraised value and written offer but subsequently relocated at the grantee's expense.

Remember, if the property is tenant-occupied and the tenant will be required to temporarily vacate (not exceeding 12 months), the tenant is eligible for relocation assistance, refer to Chapter 7 – Relocation.

Recordkeeping

An involuntary acquisition file must be maintained for each property acquired and for each tenant-occupant, and must include the following documents:

- Completed Involuntary Acquisition Checklist (Form 6-T)
- Title search/Clearance of Title
- Waiver Valuation (Form 6-D) or similar document or an Appraisal Report, if applicable
- Involuntary Acquisition Notice with Eminent Domain (Form 6-F), if applicable
- HUD Brochure (Form 6-G or 6-H)
- Invitation to Accompany an Appraiser (Form 6-M), if applicable

- Statement of Just Compensation (Form 6-J) or Notice of Intent Not to Acquire (6-K), as applicable
- Statement of Settlement Costs (Form 6-L), HUD-Form 1, or similar document, as applicable
- Easement Servitude Appraisal (Form 6-N), if applicable
- Waiver of Just Compensation and Appraisal (Form 6-O), if applicable
- Record of Personal Contacts (Form 6-Q), for acquisitions with tenants
- Appraisal Scope of Work (Form 6-R)
- Recorded evidence of acquisition payment and new property ownership

Appraisals Under URA

Appraisals are considered a preliminary cost paid for with non-CDBG costs during the application process in order to determine project costs. In order to facilitate a property appraisal, the Agency must adhere to the following:

- Meet requirements outlined in 49 CFR 24.103;
- Agency must develop an appraisal scope of work;
- Identify and resolve personal property/realty issues for affected businesses;
- Appraisals must be consistent with Uniform Standards of Professional Appraisal Practice (USPAP)

Selecting Appraisers

The Agency must select an independent appraiser. The appraiser should have no interest in the property or be related to, or in business with, anyone having any interest in the property to be acquired. State-certified or licensed real estate appraisers eligible to perform appraisals for federally related transactions are now listed on the Internet, View the National Registry of State-Certified or Licensed Appraisers' website at <http://www.asc.gov>.

The UGLG should follow its local procurement requirements in addition to requesting statements of qualifications from a number of local appraisers. A minimum of one appraisal is required for cost reasonableness; however, if the project is being acquired involuntarily or the property value exceeds \$100,000, the UGLG will need to have two independent appraisals conducted. A review appraisal must be prepared for each appraisal conducted.

The Agency may use one of its own professional services contracts or refer to the Uniform Appraisal Standards for Federal Land Acquisition, which sets forth standard requirements for appraisals involving federally funded acquisitions, Agreement for Appraisal Services SAMPLE (Form 6-U).

Establish Just Compensation

The grantee determines the just compensation amount to be offered to the property owner in a three-step process:

1. An appraiser prepares an appraisal of the property to be acquired. The appraisal provides the appraiser's estimate of the property's fair market value, then
2. A qualified review appraiser evaluates the appraisal which will then be the basis of the agency's estimate of just compensation, then
3. The agency establishes the just compensation amount to be offered to the property owners. The offer may not be less than the approved fair market value of the property.

The amount determined to be just compensation cannot be less than the fair market value as determined by the Appraisal/Review Appraisal or waiver valuation. The establishment of an amount believed to be just compensation cannot be delegated to a private consultant. Establishment of the amount believed to be just compensation must be made by an appropriate official of the UGLG. Council or Board approval is suggested but not required. A sample Statement of Just Compensation is included as Form 6-I.

For some uncomplicated, low value acquisitions (i.e., less than \$10,000), the grantee may determine an appraisal is not required and prepare a waiver valuation that will provide the basis of the Agency's offer of just compensation.

Property Valued at \$250,000 or More

A contract (fee) appraiser making a "detailed appraisal" on property valued at \$250,000 or more must be certified and licensed in accordance with State law implementing Title XI of the Financial Institutions Reform, Recovery and Enforcement Act of 1989 (FIRREA), P.L. 101-73 and must be currently active on the Appraisal list. The review appraiser must also be on the State's general appraisal list.

Property Valued at Less than \$250,000

As of September 6, 2001, for property valued below \$250,000, the Agency may use a General Appraiser or a Residential Appraiser. This is also applicable to the review appraisal.

Owner Invitation

Before the first appraisal is undertaken, the Agency must formally invite the property owner to accompany the appraiser during inspection of the property (Form 6-M). This notice should be in writing and a copy placed in their property acquisition file along with evidence of receipt by the owner. For the review appraisal, the requirement to invite the property owner to accompany the appraiser is optional.

Servitude/Easement Appraisal Forms

The Grant Manual's Easement Servitude Appraisal SAMPLE (Form 6-N) is an example of a short form that can be accepted for an appraisal establishing the value of servitude or an easement. This form summarizes documentation which the appraiser must have on file.

The Review Appraisal

A review appraisal must be obtained once an appraisal has been completed. The review must be done by a qualified staff appraiser or an independent fee appraiser. The review must be written, signed and dated. It should assess the adequacy of the appraiser's supporting data, the appraisal procedures used, and the soundness of the appraiser's opinion of fair market value. As needed, the review appraiser shall, prior to acceptance, seek necessary corrections or revisions to the initial appraisal.

If the review appraiser is unable to recommend an appraisal as an adequate basis for the establishment of the offer of just compensation, and it is determined by the acquiring Agency that it is not practical to obtain an additional appraisal, the review appraiser may, as part of the review, present and analyze market information in conformance with §24.103 to support a recommended value.

Donations

No provision of the Uniform Act regulations prevent a person, after being fully informed of their right to just compensation based on a review of available data or an appraisal of their real property, from donating their property or easement to the Agency for a project. They must be informed of their right to accompany the appraiser during the appraisal.

Because a property owner is entitled to just compensation under the Uniform Act, a donation should never be assumed. The Waiver of Just Compensation form (Form 6-O) should be prepared by the Agency when the property owner agrees to donate their easement or parcel of land. It should clearly state that the property owner understands that they cannot be required to donate the property or to sell it to the Agency at less than the amount of the appraised value, unless the property owner voluntarily agrees to donate. The waiver should clearly show the property owner's intent to voluntarily release the Agency of its Uniform Act obligation to determine just compensation based upon an appraisal after being fully informed of their rights under the Uniform Act. Because a property owner is entitled to an appraisal before making a decision to donate, it is incumbent on the Agency to document that the property owner was made aware of that right before obtaining the signed waiver. A waiver signed by each legal property owner must be kept in each property owner's acquisition file.

The specific property is conveyed to the Agency by written consent of the property owner. Here, the property owner agrees to transfer full title of a parcel of their land, or grant a permanent and/or temporary easement, or establish a lease of 50 years, or grant right-of-way interest without receiving just compensation. However, the Agency is responsible for paying all incidental costs and fees associated with the transfer and recording of the property.

Recordkeeping

A separate acquisition case file including the below documents must be established for each donated acquisition:

- HUD brochure titled When a Public Agency Acquires Your Property (Form 6-G) or When a Public Agency is Interested in Acquiring an Easement (Form 6-H);
- Signed Waiver of Rights of Just Compensation, and Right to an Appraisal, from the property owner, if applicable (Form 6-O);
- Documentation to indicate how "market value" was determined if the market value of the property or the easement is determined to be \$10,000 or less (Form 6-D);
- If right to an appraisal was not waived, the Agency must appraise property and use the sample waiver of Right of Just Compensation and provide the amount of the market value on that sample waiver form (Form 6-O);
- Preparing Scope of Work (Form 6-R)
- Agreement for Appraisal Services SAMPLE (Form 6-U)
- Recorded evidence of acquisition payment and new property ownership.

Section 6—Completing Acquisition

Depending upon whether the Agency and the property owner can reach an agreement on an acquisition price, the Agency will complete the acquisition process, initiate condemnation proceedings, or decide not to acquire the property.

Negotiate, Prepare Documents, and Complete the Acquisition Process

The property owner may accept the fair market value and enter into an option agreement, after receiving written authorization to do so by the MSHDA. However, there may be occasions when a property owner proposes or insists on more than the fair market value. If this occasion arises, the Agency may request approval from the MSHDA to proceed with a purchase price higher than the fair market value or may obtain a new valuation.

Following successful negotiations and receiving authorization to incur project costs from the MSHDA, the sale contract and Statement of Settlement Costs (HUD-Form 1) or an alternative Closing Statement (Form 6-L) or similar document is prepared. The Statement of Settlement Costs or Closing Statement or similar document must identify all settlement costs regardless of whether they are paid at, before, or after closing. In the case of an easement, right-of-way, servitude or similar conveyance, the Agency must provide a similar statement of the closing costs detailing all the attendant costs. If a title or escrow company is used, their standard form is acceptable. The Statement of Settlement Costs or the Closing Statement or similar document must be dated and certified as true and correct by the closing attorney or person handling the transaction.

The Agency must reimburse the property owner to the extent deemed fair and reasonable for incidental costs associated with transfer of title (i.e., recording fees, transfer taxes, penalty cost or other charges for prepayment of any pre-existing recorded mortgages, etc.).

Documentation of negotiation proceedings should be placed in the project acquisition file, voluntary or involuntary.

Condemnation Proceedings

Condemnation is the legal process by which a fee simple title to property is acquired through the process of eminent domain. The initial steps in an involuntary acquisition are followed but the Agency must acquire the property by filing condemnation against the property owner because a mutually agreed upon price cannot be determined.

Once it has been determined that the power of eminent domain must be used, the following steps are required:

- Formally terminate negotiations in writing;
- File condemnation suit with appropriate court in accordance with State law;
- Deposit, as directed by the court, the amount of court-determined just compensation in an escrow account;
- Proceed with payment to the property owner in accordance with court instruction.

Intention Not to Acquire

If the Agency decides not to acquire the property at any time after informing the property owner of its interest, the Agency must notify the property owner and all tenants in residence in writing of its intention not to acquire the property (Form 6-K). Any person moving from the property thereafter will not be eligible for relocation payments and assistance. This notice should be sent within 10 days of the Agency's determination not to acquire.

Construction Management and Standards

Contractor Requirements

UGLGs must ensure that the work is undertaken by licensed contractors and assume responsibility for confirming contractor eligibility and oversight of contractor work performance. At a minimum, UGLGs must ensure contractors performing work under a CHILL grant meet the program requirements included in the CHILL Program Guidelines template.

MIOSHA Safety Standards

Asbestos

OSHA regulates worker protection standards and exposures for Asbestos Materials. For details regarding the OSHA regulations, refer to 29 CFR 1910.1001 (non-construction) and 1926.1101 (construction)

The Michigan Occupational Safety and Health Administration (MIOSHA) Asbestos Program was initiated in September of 1986. The primary function of the program is to assure that the people working with asbestos are properly trained and the individuals performing asbestos removal comply with rules governing the work activity. These rules are designed to protect not only the individual employee performing asbestos abatement work, but also the general public that occupy the area or building in which the work occurs.

Owner occupied primary residences may contain material components which have historically been proven to have Asbestos-Containing Materials (ACM's) and are subject to testing and/or assumption they contain asbestos, if disturbed during rehabilitation activities, these material components shall be subject to testing, abatement protocol for worker and occupant safety. The following is a list of various examples "but not limited to" some residential building components historically proven to have ACM's.

- boiler wrapped pipes
- transite siding
- 9" x 9" floor tiles
- vermiculate insulation-attics and walls
- various plaster material at walls and ceilings
- Various mastics, glues, caulks, glazing etc.

Lead Paint

The Michigan Occupational Safety and Health Administration (MIOSHA) regulates worker protection standards and exposures for Lead Based Paint. MIOSHA's Lead Standard for the Construction Industry, Title 29 Code of Federal Regulations 1926.62, covers lead in a variety of forms, including metallic lead, all inorganic lead compounds, and organic lead soaps.

In 1992, Congress passed the Housing and Community Development Act (Public Law 102– 550), which included as Title X the "Residential Lead-Based Paint Hazard Reduction Act of 1992." Title X is a comprehensive law designed to direct the Nation's response to the public health problem of lead-based paint hazards in housing. This law directed the Occupational Safety and Health Administration to increase the protection for workers exposed to lead hazards throughout the construction industry.

Eligible Improvements

DRAFT

All CHILL program financed activities are specific and necessary health and safety improvements to an existing structure occupied with a qualified financial hardship based on presumed benefit. Activities undertaken must be selected based on inspection, code compliance documented needs, energy assessment/audit recommendations and if needed to comply with certain codes and ordinances per local building official reports.

UGLGs must provide a list of eligible improvements in their Program Guidelines drawn from the following list:

- Roof
- Storm Doors and Exterior Doors
- Windows
- Insulation
- Painting
- Paneling
- Carpeting
- Improving clothes closets or shelving
- Improving kitchen cabinets
- Air Conditioning (for medical purposes)
- Landscape Plantings
- Modification for modernization/efficiency purposes or replacement of heating (furnaces/boilers) cooling (full home only) ventilation systems and water heater upgrades including on demand retrofitting
- Functioning and up to date exterior security lighting
- Electrical upgrades or replacement wiring of home, partial or full
- Handrails
- Grab Bars
- Lower Closet Rods
- Barrier-free Showers/Tubs
- Lowering of Kitchen Cabinets
- ADA Counter Tops
- ADA Toilets and Vanities
- Levered Door Handles
- Toggle Light Switches
- Ramps, front, side, back or garage
- Zero-Step Entries
- Self-closing Mechanisms
- Widened Doorways & Offset Hinges
- Universal Design Floor Coverings (not allowed as a standalone activity)
- Updating of Dated and Dangerous Wiring to Be Able to Accommodate Medical Equipment Needs
- Indoor/Outdoor Stairlifts
- Modifying Rooms to Create First-Floor Bedrooms, Kitchens, Bathrooms, Laundry rooms and/or
- Utility rooms.

- Increasing Turn Around Radii and Bathroom Size to Accommodate Wheelchairs
- Van Accessible Parking
- Motion Lights
- Vision or Hearing Aids – permanent household fixtures only

Energy Rehabilitation Standards

Standards for energy efficient rehabilitation upgrades provide direction in making appropriate choices for treatments that guide homeowners on how to save money on utility cost and ultimately reduce the carbon footprint of their home. The inclusion of component guidelines describes specific treatments that do or do not meet the standards.

Guidelines include providing convenient and valuable web-links to State and Local Energy Codes, EPA information and best practices, Energy Star articles and guidance on the highest energy efficient furnaces, water heaters, windows, doors, air sealing and other energy saving household items such as lighting, air cleaning, smart thermostats, appliances, and advice on household behavior to saving energy. The energy rehabilitation standards appropriately guide homeowners, state or county grant administrators, energy auditors, contractors, and housing sub-trades to properly implement energy related rehabilitation activities within their prospective business areas of expertise.

At minimum the Energy Rehabilitation Standards should address:

- Health and Safety- items such as asbestos containing materials, lead paint, and other life-threatening deficiencies, which must be addressed immediately if the home is occupied at the time of rehabilitation.
- Major Systems – including roofing, weatherproofing, windows, doors, attic wall and floor insulation, air sealing, gutters, electrical, whole house heating and air conditioning, water heaters, ventilation, lighting, appliances, whole house generators, solar panels, and environmental activities associated with applicable rehabilitation activities.
- Energy Audits- Standards must require a professional energy audit to properly evaluate the home systems, and upon project completion, energy audit analyzing the energy savings.

Rehab Standards

Pitched Roof

[Repair Standard](#)

Missing and leaking shingles and flashing will be repaired on otherwise functional roofs. Slate, metal, and tile roofs will be repaired when possible. Antennas will be removed.

[Replacement Standard](#)

No more than 2 layers of roofing are permitted. Install fiberglass, asphalt, 3-tab or architectural, class A shingles with a prorated 25/30-year warranty. When possible, a continuous ridge vent will be installed over 30-lb. felt with new drip edge on all edges. Ice and water shield will be installed per local/state codes and manufacturer's specifications. NOTE: MICH (Roof Only Projects) shall have a comprehensive attic space energy audit completed to evaluate attic insulation R-Value and proper ventilation to meet the following criteria.

Attic insulation shall be a minimum of R-49 with soffit baffles installed when there are soffit vents to maintain ventilation at the eaves. All soffit & fascia components shall be in good condition and vented where possible. Gutters and Downspouts shall be installed per MI- HOPE standards written within this document.

Gutters and Downspouts

Repair Standards

Gutters & Downspouts must be in good repair, leak free and collect storm water from all lower roof edges. Concrete or Plastic splash blocks will be installed to move water away from the foundation. The system must move all storm water away from the house/building and prevent water from entering the structure.

Replacement Standards

K-Style Aluminum Gutters & Downspouts will be installed to collect storm water from all lower roof edges and upper roof areas where needed. Leaf guards will be installed, color to match new gutters & downspouts. Concrete or Plastic splash blocks will be installed to move water away from the foundation. The system must move all roof component storm water away from the house/building and prevent water from entering the structure. Downspout outlets shall project a minimum of 3 feet away from the foundation.

Exterior Doors & Storm Doors

Repair Standards

Exterior Doors- shall be solid, insulated, weather-stripped, and will operate smoothly. They will include a peep hole or light panel, a dead bolt, and an entrance lock set keyed to match.

Storm Doors- shall be in good working condition, sealed tight when closed and ventilated with either one screen for full view or two screens with double glass windows.

Replacement Standards

Replacement doors- at the front of the property for historically significant buildings will be historically sensitive. Local Historic District approval may be needed.

Exterior Doors- Steel, six-panel doors with lite panels may be installed on homes that are not historically significant. Dead bolt locks and entrance lock sets will be installed on all exterior doors keyed to match. All new doors shall be insulated, weather-stripped and airtight.

Storm Doors- shall be insulated, sealed tight when closed and ventilated with either one screen for full view or two screens with double glass.

Windows

Repair Standards

All windows will operate, remain in an open position when placed there, lock when closed and the open section will be covered with a screen.

Replacement Standards

Windows that are not repairable may be replaced and will meet the ENERGY STAR standard for this geographic region. Link: http://www.energystar.gov/index.cfm?c=windows_doors.pr_anat_window

Windows on key façades of historically sensitive properties will be of the style, size and profile of the existing windows and building type. New windows on other properties may be vinyl and double-glazed.

Links:

- [Consumer Guide to Energy-Efficient Windows](#)
- [ENERGY STAR Program Requirements for Windows, Doors & Skylights](#)

Air Sealing/Infiltration & Leakage

Repair Standards

All homes or rental units will be tested with a Blower Door and existing air sealing shall be repaired to attain 4 to 8 Air Changes per Hour at 50 Pascal pressure (4-8 ACH50). All Duct work shall be sealed per Energy Star Standards and with approved materials.

Replacement Standards

All homes or rental units will be air sealed to meet the Blower Door test requirements of 4 to 8 Air Changes per Hour at 50 Pascal pressure (4-8 ACH50). All Duct work shall be sealed per Energy Star Standards and with approved materials.

Air Sealing: See further information. Attic, Windows and Doors, Basement & Crawl Spaces:

- [Attic Air Sealing Project | ENERGY STAR](#)
- Do it yourself guide. [A Do-It-Yourself Guide to Sealing and Insulating with ENERGY STAR: Sealing Air Leaks and Adding Attic Insulation](#)
- [Duct Sealing | ENERGY STAR](#)

Inspections

UGLG is responsible for conducting inspections of the project site including an initial inspection for the purpose of determining the scope of work and preparing estimates; during construction as needed or if conditions warrant; and upon construction completion to determine contractor's compliance with work specifications. The UGLG must detail the requirements for inspections in its Program Guidelines and include at a minimum the requirements in the CHILL Program Guidelines Template.

Specifications and Bid Process

The UGLG is responsible for detailing the requirements for creating specifications and the bid process in its Program Guidelines.

Disposition

Disposition refers to the sale, lease, and donation of real property. When states choose to dispose of real property acquired with CDBG funds, costs associated with the disposition are CDBG-eligible. The following is a summary of the topics in this section, applicable statutory and regulatory cites, and other reference materials available from HUD.

Eligible Activities

CDBG funds may be used to pay the costs associated with the disposition of real property acquired with CDBG funds through sale, lease, donation, or other means, including its disposition at less than fair market value if the property will be used to meet a national objective of the CDBG program.

Disposition costs may include:

- Preparation of legal documents
- Surveys
- Marketing

- Financial services
- The transfer of taxes
- Other costs involved in the transfer of ownership (Realtor costs)
- Reasonable costs of temporarily managing property acquired under urban renewal until final disposition is made. Costs of long-term management of properties for which there are no plans for disposition in the near future are not CDBG-eligible.

Documenting the National Objective

For disposition costs to be eligible, the use of the CDBG-acquired property after disposition must meet a national objective. When property is disposed of for the same purpose for which it was acquired, the costs of the disposition must meet the same national objective under which the property was acquired. If the property is being disposed of for a different purpose than that for which it was acquired, the disposition activity falls under the national objective that will be met by the new use of the property.

Project Closeout

Introduction

Upon completion of the Community Development Block Grant (CDBG) approved activities and/or the expenditure of all CDBG funds with respect to a specific CDBG grant, the Unit of General Local Government (UGLG) – enters the final phase in the grant management process, known as grant closeout.

The closeout process encompasses a series of activities to verify CDBG funds have been properly spent and the UGLG complied with all applicable rules and requirements in the implementation of its program.

The timeliness in which the UGLG completes the closeout process, and the content of the information presented, is a factor in the evaluation of future applications for CDBG funds. It is possible, however, for an UGLG to receive an additional CDBG grant the closeout of current award(s).

UGLGs will be expected to carry out each project as proposed in the grant application and grant agreement. The proposed activities should be completed, and proposed beneficiaries should be served/assisted prior to project closeout.

UGLGs may be expected to provide additional funds to meet the proposed accomplishments if actual accomplishments are significantly less than proposed. If there is a change in scope or project cost that would affect the proposed accomplishments or beneficiaries, the MSHDA should be contacted, and a Grant Amendment may be necessary. Failure to carry out the project as proposed will be considered a performance concern in future application requests.

The procedure outlined in this chapter must be followed to closeout CDBG grants from the MSHDA.

Section 1 – Closeout Procedures

Upon completion of the approved activities, the UGLG will submit a Final Disbursement Request and the closeout process may begin. The UGLG must complete and submit a closeout package containing the following items:

6. *Final Progress Report*. This report serves as a final description of the project completion and final certification of CDBG and all other matching funds.

7. *Final Section 3 Report*. This report serves as the final reporting for Section 3 activities.
8. *Building Inspector letter*, if applicable. This letter certifies all blight has been eliminated.
9. *Actions to Affirmatively Further Fair Housing (Form 13-A)*. This form requires the UGLG to list actions taken and results achieved to affirmatively further fair housing, including an estimate of the costs (time and material costs combined) involved in carrying out the actions listed, regardless of the funding source.
10. *Closeout Public Hearing documentation*. The UGLG must document it has conducted a closeout public hearing (From 11-A1) to discuss the project's accomplishments. The UGLG must submit an affidavit or tear sheet to evidence notice of this public hearing and the approved minutes from the closeout public hearing.
If proposed performance accomplishments were not met, or if there was a significant change in the accomplishments, a special public hearing and/or a Grant Amendment may still be required at the direction of the MSHDA.
11. *Monitoring letter(s)*. If applicable, the UGLG must satisfy all findings from monitoring reports before closure of the grant can be completed.
12. *Grant Award Decrease for Closeout (Form 13-C)*. If all funds are not expended (total project costs are less than the amount specified in the grant award), a Grant Award Decrease for Grant Closeout Form is initiated by the MSHDA and sent as part of the closeout package to reduce the grant award to reflect actual costs. When the UGLG and/or other entities are funding an activity along with CDBG funds, to the extent allowable, the cost savings should be prorated among all funding sources. The Grant Award Decrease for Closeout Form must be completed, signed by the appropriate officials, and returned with the computer report to the MSHDA. Upon receipt, the MSHDA will sign the form and return a copy to the UGLG for their records with the closeout letter.
13. *Return Unexpended Funds*. If funds were drawn and not expended, a check for the funds unexpended, with the grant number denoted on the check, must be mailed to the MSHDA office and made payable to the State of Michigan.
14. *Personal Property Management Report (Form 8-B1)*. This form must be completed if any non-expendable property was purchased with CDBG funds.

15. *Real Property Management Report (Form 8-B2)*. This form must be submitted if real property is purchased with CDBG funds.

16. *Return Interest Earned*. All interest earned on the CDBG main bank account, minus \$100 per year for administrative expenses, must be returned to the MSHDA in the form of a check payable to the State of Michigan, with the grant number denoted on the check.

Submittal, Review, and Approval of the Closeout Package

The UGLG has 120 days from end of the term of work to provide a Final Progress Report and all required closeout documents to the MSHDA.

After the packet has been reviewed and approved, a closeout letter is sent to the UGLG.

Final Closeout. Grant activities are complete, award was expended or returned, National Objective was met, and all audits have been received, reviewed and approved.

Conditional Closeout. Grant activities are complete, award was expended or returned, National Objective was met. However, the MSHDA is awaiting receipt and approval of audit(s). After all audits have been approved, a Final Closeout letter will be sent.

The purpose of a conditional closeout is to have the UGLG acknowledge, by the signature of its authorized local official, that the grant is being closed out pending the submission of a 2 CFR 200 audit, if required, and that it will comply with all audit requirements associated with receiving CDBG funds from the State. Instead of a 2 CFR 200 audit, an UGLG must submit the Audit Requirements Certification (Form 8-C) to the MSHDA indicating the UGLG expended less than \$750,000 of federal funds over a fiscal year and was exempt from a 2 CFR 200 audit.

Section 2 – Conditional Closeout Requirements

If the UGLG receives a Conditional closeout letter pending submittal of an audit, the UGLG must have an audit conducted in accordance with 2 CFR 200 or an Audit Requirements Certification (Form 8-C). The UGLG must submit an audit within nine (9) months of the end of the UGLG's fiscal year. Once the audit has been reviewed and approved, and the closeout has been achieved, a Final Closeout letter will be sent to the UGLG

Section 3 – File Maintenance

The Grantee shall maintain records which will allow assessment of the extent of Grantee performance of the Scope of Work and which allow for the comparison of actual outlays with budgeted amounts. The Grantee's overall financial management system must ensure effective control over, and accountability for, all funds received. Accounting records must be supported by source documentation such as time sheets and invoices.

Section 4 – File Retention

The Grantee shall retain all financial records, supporting documents, statistical records, and all other pertinent records until notified by the MSHDA.

MSHDA reserves the right to reopen this grant (i.e., in the event of future monitoring by HUD or instances of noncompliance by the UGLG).

The UGLG must retain, at its office, all program records and project files and obtain documents from contracted parties (i.e., architects, engineers, administrators) until notified by the MSHDA.

Monitoring

Introduction

CDBG is required by statute to monitor its UGLGs. This requirement is outlined in Title I of the Housing and Community Development Act of 1974, as amended and 24 CFR Part 570.492 of the State CDBG Regulations. Section 104 I of Title I outlines the review responsibilities of the State.

During a CDBG project, the MSHDA will monitor each UGLG through periodic on-site visits and written semi-annual reports, so that any problems that might occur may be resolved as soon as possible. It is the goal of MSHDA to assist and support UGLGs in complying with applicable State and Federal requirements and in implementing their project activities in a timely manner.

As discussed throughout this Manual, UGLGs are required to maintain complete financial and program files and to comply with program reporting requirements. These files should be maintained on-site. IF A CGA IS USED, PROGRAM FILES MUST BE MAINTAINED AT THE UGLGs OFFICE. UGLGs must also provide citizens with reasonable access to these records pertaining to the past use of CDBG funds. UGLGs must retain all CDBG records until notified by the MSHDA.

Section 1 – Monitoring Objectives

Federal regulations require the State to oversee and document all expenditures of CDBG dollars. The review responsibility requires that the State ensure three key areas are in compliance:

1. Approved activities are carried out in a timely manner, with any concerns identified during the initial risk assessment being re-evaluated.
2. Activities and certifications are conducted in accordance with the requirements and the primary objectives of Title I and with other applicable laws.
3. UGLGs show a continuing capacity to carry out approved activities in a timely manner.

The MSHDA staff may schedule a monitoring visit with the UGLG at any time to review the program performance on-site. A visit may be a comprehensive program evaluation, or it may be oriented toward assessing performance in specific areas. All records and files pertaining to the program, as well as any other information requested should be made available to MSHDA. The purpose of the monitoring visit is to determine if the grant is being conducted in compliance with applicable Federal and State laws and requirements which have been discussed in this Manual. The review will also determine the UGLG's ability to implement the program in a timely manner. The monitoring visit consists of a review of project files, records and documentation as well as a visit to the project site.

Together, the UGLG and MSHDA will decide on a suitable date and time for the monitoring visit. The UGLG will be notified, via email, approximately two weeks prior to the visit. The email will provide instructions with regard to documents and staff required to be present at the onsite monitoring. The UGLG must have all records, files and documentation available for review at the monitoring visit. Failure to have records readily accessible will result in a program “finding.”

Findings of Deficiency are program elements which do not comply with a Federal statute, regulation, or other applicable laws, guidelines and program policies.

Areas of Concern are potential findings or program weaknesses that should be improved upon to avoid future problems.

Even though the monitoring visit is a formal review of the grant, the MSHDA staff, to the extent possible, will work with the UGLG on-site to correct any problems. Any problems that cannot be corrected will be discussed in the monitoring letter. Technical assistance may be provided, as necessary, during the monitoring visit.

Section 2 – Protocols for Monitoring Visits

The monitoring visit begins with an entrance conference with the project administrator and others the UGLG feels should attend. It is expected that the chief elected official or chief administrator will attend this initial meeting, if possible. The MSHDA will briefly outline the purpose of the monitoring visit and the areas to be monitored. The monitoring visit will be conducted in accordance with the State's monitoring procedures and will last approximately one day. Complex programs, i.e., those containing loan funds or involving a large number of acquisitions or relocation, may require additional time.

The following is a listing of the program areas to be reviewed as applicable:

- National Objectives
- Environmental Review
- Financial Management
- Citizen Participation
- Procurement and Contracting
- Construction Management and Labor Standards
- Section 3
- Fair Housing and Equal Opportunity
- Acquisition and Relocation
- Program Requirements – Rental

This listing may not include all areas that may be reviewed during an on-site monitoring visit.

After the monitoring visit, the MSHDA will have an exit conference to discuss any findings or areas of concern. The MSHDA, to the extent possible, will work with you on-site to correct any problems. Any problems that cannot be corrected will be discussed in the monitoring letter.

In approximately 30 days following the monitoring visit, the MSHDA will send a letter which identifies both the positive and negative findings of the monitoring review. Each program area monitored will be summarized and any findings/identified problems or concerns will be outlined along with suggested corrective actions. A “finding or identified problem” is an action or lack of action(s) in direct violation of a statutory requirement or regulation. A finding/identified problem usually requires a corrective action or actions that are outlined by the MSHDA. A concern is a non-statutory issue that involves program improvement or management. Actions or recommendations may be provided to address the identified concern.

A written response will be required from the UGLG if there are findings/identified problems or concerns within 30 days of receipt of the monitoring letter. Failure to respond within the 30-day period will be considered non-compliance with the grant's terms and conditions. This situation may result in a hold on payments being placed on the grant until a suitable response is received by the MSHDA.

Section 3 - Sanctions

If the UGLG does not comply with the provisions of the CDBG grant agreement, MSHDA may take one or more of the following actions to prevent a continuation of the deficiency; mitigate, to the extent possible, the adverse effects or consequence of the deficiency; or prevent a recurrence of the deficiency. The following actions may be pursued, as well as any other actions deemed appropriate:

1. Issue a letter of warning that advises the UGLG of the deficiency and notifies the UGLG that additional action will be taken if the deficiency is not corrected or is repeated.
2. Advise the UGLG that additional information or assurances will be required before acceptance of one or more of the certifications required for future CDBG projects.
3. Advise the UGLG to suspend or terminate expenditure of funds for a deficient activity or grant.
4. Advise the UGLG to reimburse the grant in any amount improperly expended.
5. Refrain from extending any further assistance to the UGLG until such time as the UGLG is in full compliance.

Section 4 – Technical Assistance

When deficiencies are identified because of monitoring, technical assistance may be required to assist in the resolution of the deficiency. The objective of technical assistance is to aid the UGLG in their day-to-day compliance with program and regulatory requirements as they administer their individual programs. The nature and extent of technical assistance should be determined at the discretion of the MSHDA.

Examples of technical assistance may include:

1. Verbal or written advice
2. Formal training
3. Documentation and guidance

Attachments

*Attachments in this chapter will be provide later. Reference numbers in this section have been taken from the Michigan Economic Development Corporation (MEDC) CDBG program and correspond with MEDC Grant Administration Manual (GAM) Chapters. These forms will be updated in a future version of the CHILL Policy Manual but are the documents Grantees should use until new forms are created.

**These forms can be viewed and downloaded at: [Grant Administration Manual | MiPlace](#)

Notice of URA Applicability (Form 6-A)

Voluntary Acquisition Notice with Eminent Domain (Form 6-B)

Voluntary Acquisition Notice without Eminent Domain (Form 6-C)

Waiver Valuation (Form 6-D)

URA Flowchart (Form 6-E)

Involuntary Preliminary Acquisition Notice (Form 6-F)

When a Public Agency Acquires Your Property (Form 6-G)

When a Public Agency is Interested in Acquiring an Easement (Form 6-H)

Statement of Just Compensation (Form 6-I)

Statement of Just Compensation (Form 6-J)?

Offer to Purchase (Form 6-J)

Notice of Intent Not to Acquire (6-K)

Statement of Settlement Costs (Form 6-L)

Invitation to Accompany an Appraiser (Form 6-M)

Easement Servitude Appraisal (Form 6-N)

Waiver of Just Compensation and Appraisal (Form 6-O)

Record of Personal Contacts (Form 6-Q)

Appraisal Scope of Work (Form 6-R)

Voluntary Acquisition Checklist (Form 6-S)

Involuntary Acquisition Checklist (Form 6-T)

Appraisal Services SAMPLE (Form 6-U)

Personal Property Management Report (Form 8-B1)

Real Property Management Report (Form 8-B2)

Audit Requirements Certification (Form 8-C)

Closeout Public Hearing (Form 11-A1)

Monitoring Checklist (12-A)

Actions to Affirmatively Further Fair Housing (13-A)

Grant Award Decrease for Closeout (13-C)