

# 2022 GENERAL APPLICATION REQUIREMENTS

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## Community Development Block Grant Program

The Community Development Block Grant program has a staff of five. Although we are unsure of the future of the CDBG program on the National level at the time of publication, we are anticipating approximately the same allocation as received in 2021. As stated in our Consolidated Plan, any change in the allocation will be adjusted among the CDBG categories accordingly. The Department accepted responsibility for administering these federally funded grants in 1984. Based on a population formula, the U.S. Department of Housing and Urban Development provides Kansas federal funds to be allocated to local units of government. The Kansas Department of Commerce is the designated state-administering agency in Kansas. Commerce will distribute the CDBG funds to units of general local government (cities and counties) according to the provisions of Title I of the Housing and Community Development Act of 1974, as amended. Citizen input is a valuable part of developing programs and processes for the distribution of CDBG funds. Consideration of citizens' comments through the consolidated plan process was given in the development of the following guidelines.

### Eligible Applicants

Eligible applicants under the CDBG program are defined as “general purpose units of government.” These “units” are all counties and cities not participating in the entitlement program. **The entitlement program areas in Kansas are: Kansas City, Wichita, Topeka, Lawrence, Leavenworth, Overland Park, Manhattan and all of Johnson County.**

An eligible applicant may submit an application that includes subcontracting with other organizations, either public or private, to perform any service, activity or undertaking that the city or county is authorized by law to perform. Special purpose bodies such as local housing authorities, water or sewer districts, regional planning commissions or local development corporations are not eligible to apply directly, although they may be involved in implementing a program if an eligible applicant agrees to such an arrangement.

- **In determining the eligible applicant of a project, the applicant is the one addressing its own community development needs. This holds also for “on behalf of” applications.**
- For projects proposing to resolve problems that exist in **unincorporated areas** of a county, the county governing body is the eligible applicant.
- A county may submit one application “on behalf of” a **township, rural water district, rural sewer district, rural fire district or a non-profit entity** as well as one application **for its own needs**, or a **county may elect to submit two “on behalf of applications.”** Eligibility criteria will affect this allowance. An Interlocal Agreement by all parties must be executed prior to the application in “on behalf of” applications and must be included in the application. This limitation of grant submittal applies to Water/Sewer, Community Facilities and Services, and Housing.

- **For projects located in two counties or that involve two or more governmental entities, called multi-jurisdictional grants,** the entity with the highest number of beneficiaries is the applicant. However, all entities must be involved in the citizen participation process, and an Interlocal Agreement(s) is to be entered into authorizing the lead county to apply and is to be included in the application.
- An applicant may apply for only one type of grant in the annual competition categories (which includes Housing, Community Facilities and Services and Water/Sewer), with the exception of counties discussed on page 1 of these guidelines.
- CDBG will only fund two phases of the same project within a 10-year period from the last phase completed. This is retroactive to previously funded projects.

An applicant shall be declared ineligible for applying for a 2022 Community Facilities and Services, Water or Sewer, or Housing project if the applicant has an open Community Facilities, Water/Sewer Housing, Commercial Rehabilitation or Urgent Need project awarded prior to Jan.1, 2020 or an open Economic Development project awarded prior to Jan.1, 2019 that is not completed prior to applicable submission date. This requires that the grantee will have submitted its Certificate of Completion and that all monitoring deficiencies have been resolved.

**Any expenses incurred prior to grant award are ineligible for reimbursement with CDBG funds. This includes grant writing, engineering and architectural. To be eligible to be counted as local match, paid invoices for final engineering design on water or sewer projects must be included in the application.**

## **National Objective Requirements**

The U.S. Small Cities CDBG Program as an initiative of the U.S. Department of Housing and Urban Development is subject to Congressional Compliance Requirements. An application must meet one of the following National Objectives: Low- and Moderate-Income benefit or Prevention/Elimination of Slums and Blight. **The total project and all funds must meet a National Objective – i.e.: cannot do local piece that does not meet LMI.**

Threshold Requirements: When the housing activity is dealing with single family dwellings (except for demolition) LMI benefits must be 100 percent. When a multi-unit dwelling is affected, over 51 percent of units must benefit LMI. Demolition activities normally will qualify under the slum/blight criteria unless replacement is planned, then it must be of replacement activity. A structure must qualify as uninhabitable under the rehabilitation program guidelines in order to meet the criteria unless replacement is planned, then it must be for replacement activity. Section 104(d) of the Act applies to all CDBG demolition.

## Low- and Moderate-Income Benefit

Definition of LMI: As specified in federal legislation, the U.S. Housing Act of 1937 (called HUD’s Section 8 program income guidelines as modified by the Housing and Community Development Act of 1987) shall be used to define low- and moderate-income for the CDBG program. Generally, it is based on 80 percent of the county median income, except that very high and very low income areas are somewhat adjusted by HUD. [Appendix C](#) contains the latest income limits for various sizes of families for each county and MSA in Kansas. The term “persons of moderate income” has the meaning given the term “lower income,” and the term “persons of low income” or “poverty” has the meaning given the term “very low income” in the Act. The calculation of LMI benefit is to divide the LMI persons benefiting by the total number of persons benefiting. Only those households that receive a direct regular relief from the identified need that is being addressed in the project can be considered as “benefiting.” In the case of housing rehabilitation and relocation, only the residents that reside in the unit can be counted as the beneficiaries. For residential streets and water/sewer lines, only those households adjoining the street and/or connected to the utility services may be counted. In the case of health and mental health facilities, all those persons eligible to receive services are considered beneficiaries. To be counted as beneficiaries of a project, LMI documentation must be obtained.

### Assessing Benefit to Low- and Moderate-Income Persons

Area-wide Activities: If the project is on a community- or county-wide basis, at least 51 percent of the population benefiting in the community or county must be of low- and moderate-income. It is mandatory that applicants verify compliance with the low- and moderate-income national objective in one of four ways:

1. Use the HUD 2015 ACS Census Data figures to show low- and moderate-income directly. Appendix B contains this information for cities and counties.
2. If the applicant wishes to challenge the HUD 2015 ACS Census Data or Census data is unavailable for the targeted area, the applicant may conduct an original survey following the approved methodology outlined in Appendix C and C-2. The low- and moderate-income limits are to be used to determine family income categories in the survey. **The approved methodology must be used if the documentation is to be accepted. Documentation showing survey verification must accompany the application. Fifty-one percent of LMI persons of the project area must respond. An explanation of more than six percent variance from HUD 2015 ACS Census Data (if challenging) must be included to meet threshold.** If in doubt about survey methodology, please contact the CDBG program for technical assistance. If beneficiaries extend beyond an applicant’s boundaries, i.e., water users, fire district, etc., the applicant may use the Census data for the city if it is above the 51 percent LMI requirement, and survey those outside the city limits, which must be above 51 percent, and combine the data for LMI percent. Either by survey or census or combination, each must be able to stand on its own at or above 51 percent LMI. Another option would be to survey all beneficiaries. Regardless of method(s) used, all beneficiaries must be included in the LMI determination. Census data is used for HUD Census data LMI that qualifies.

3. **Limited clientele** projects that only benefit certain particular groups are considered to be 51 percent LMI based on their life circumstances. Limited clientele are abused children, elderly persons, battered spouses, homeless persons, severely disabled adult persons as defined by Bureau of Census, illiterate adults, persons living with AIDS and migrant farm workers.
4. Three years' past records of a facility where income is obtained **at the time of service**. Records must show 51 percent of those persons served over the past three years are low/moderate income. Limited clientele is not an acceptable determining factor. Medicaid records, but not Medicare records, are allowable.

Target Area Activities – No Census Data Available: If census data is not available for the targeted area to be served, the applicant must survey to prove LMI benefit in accordance with the survey requirements.

Target Area Activities – Census Data Available: If using census data for a targeted area, the census tract or block groups used must fit the beneficiaries exactly in order to be valid. Otherwise, a survey must be conducted. An example of this would be using a census tract for waterline replacement and not everyone in the census tract being connected to the waterlines to be replaced. A listing of the census tracts used must be submitted as part of the application.

## **Aiding in the Prevention or Elimination of Slums or Blight**

### Performing Activities in a Slum or Blighted Area

To qualify for slum or blight removal, the eligible activity must meet the definitions of slum or blighted area under Kansas Statutes Annotated, Section 17-4760. For an “area” to qualify for slum and blight removal, the applicant must be able to document that, **at the time of application**, a minimum of 25 percent of the buildings in the area are deteriorated or dilapidated. In addition, the area must be documented to be 51 percent slum and/or blighted. An activity may qualify for slum/blight removal on a “spot” basis, also. If replacement is planned, the National Objective must be for the replacement activity.

## **Pre-selection of Professional Services (Administrator, Engineer/Architect)**

In order to address readiness to proceed, an applicant for CDBG funds must pre-select their engineer/architect and their administrator. The following requirements must be adhered to regarding this process:

1. The procurement must have been conducted within 12 months of the grant application date or good for two consecutive grant rounds on the same project.
2. If CDBG funds are requested to pay for this professional service, CDBG procurement procedures must be carried out in all aspects. If the applicant has any questions regarding procurement, Commerce should be contacted. If procurement has not been carried out correctly, CDBG funds may be disallowed for this service. If local funds will pay for this professional service, the procurement must have been carried out according to the local procurement policy.

3. If a contract is awarded for which CDBG funds are being requested to pay, the contract must contain the following wording: **“This contract is contingent upon award of a current CDBG application from the State of Kansas Department of Commerce.”** If the application is not successful, this contract can be applicable to a second consecutive application for the same project, if agreeable to both parties. Also, Commerce is in no manner responsible for any contracted amount. Any costs incurred prior to grant award are not reimbursable by the grant.
4. Local funds spent up to two years prior to grant award for completed **final** plans and specifications for engineering services may be counted as matching funds for the grant if documented by paid invoices indicating services rendered and when. These invoices must be submitted with the application to be counted as local matching funds. This only applies to water/sewer applications.
5. All applicants must preselect grant administration services. Grant administration is open to anyone willing to undertake the work.

Professional Services Procurement Procedures: The following procurement procedures comply with PL 103-355 and 2CFR Part 200, which are the CDBG procurement regulations, plus contain other required CDBG provisions:

1. A Request for Proposals for administration or other professional services or a Request for Qualifications for engineer or architect will be publicized and will identify all evaluation factors and their relative importance. Even if newspaper publication is used, documentation must be kept proving solicitation of an adequate number of qualified sources. (Click here for [Procurement of Professional Services](#) and [Sample RFP and RFQ Notices](#).) Special efforts must be made to attract responses from minority- and female-owned firms by sending notices directly. Although certified mail is not required for these notices, documentation is required to be kept showing efforts made to contact these firms. Competitors in the selection cannot carry out the procurement procedures; doing so could result in disqualification. If engineering/architectural and administrative services are advertised together, wording should be specific for each service.
2. The RFP’s and RFQ’s should generally describe the scope of work that the firm will be expected to perform as well as the significant evaluation factors and their relative importance. Evaluation factors cannot discriminate toward specific firms. They may include:
  - a. The specialized experience and technical competence of the firm with respect to the type of services required.
  - b. The capacity and capability of the firm to perform the work in question, including specialized services, within the time limitations fixed for the completion of the project.

- c. The past record of performance of the firm with respect to such factors as control of costs, quality of work and ability to meet schedules.
- d. The firm's proximity to and familiarity with the area in which the project is located.
- e. Except for engineering and architectural professional services, **price** must be an evaluation factor.

The importance of each of the above factors should be stated in the publicized notice. The grantee or subgrantee will have a method for conducting technical evaluations of the proposals received and for selecting awardees.

- 3. If the scope of work to be performed includes work involved in the preparation of a CDBG application, it should be clear whether or not the community will pay for those services and the amount. (Application preparation and preliminary engineering report services may not be financed with CDBG funds or counted as local match.) Cost plus a percentage of cost and percentage of construction cost method of contracting cannot be used. Lump sum bids are not allowed.
- 4. The above procedures and the basis of selection of the successful firm should be in written form for file documentation.
- 5. If only one response is received for any procurement request throughout the grant period, Commerce must approve of the award prior to it taking place.
- 6. A contract should be entered into (after the selection is made) that states the terms and conditions of the agreement and the scope of work.
- 7. All unsuccessful bidders must be notified in writing by the grantee after an award is made and copies of these notices must be kept for verification of carrying out this requirement.

## Eligible Activities

Only activities eligible under Section 105 of the Act will be eligible for funding by Commerce. The activities described in the Eligible Activities list Appendix E have been adapted from those documented under Title I of the Housing and Community Development Act of 1974, as amended. The list of eligible activities is merely illustrative and does not constitute a list of all eligible activities. It is the responsibility of the applicant to justify in its application the appropriateness of each proposed activity. Ineligible activities are also included in Appendix E and do not constitute a list of all ineligible activities.

## State Compliance Criteria

The following administrative and financial guidelines apply to the Kansas Small Cities CDBG program:

1. **Timeliness:** Grantees will have a signed contract with the state within 90 days of the grant award. Project implementation will be initiated within 120 days of the award announcement. The construction contract must be awarded within one year from contract start date. Failure to meet these time frames may result in withdrawal of the grant award by the Department. All projects should be scheduled to be completed within 24 months of the project start date. Urgent Need grants have different criteria. Please see the Urgent Need Application and Guidelines.
2. **Administration Allowance:** For the purpose of budgeting an application, applicants may not propose more than **\$15,000 or 10 percent, whichever is less, for grants under \$250,000, and up to \$20,000 for grants over \$250,000** of the amount of funds proposed for CDBG water/sewer and community facilities and services activities. **Projects which are determined CENST with no construction, are limited to \$10,000 in administration dollars or 10 percent of grant amount, whichever is less.** For housing projects, administrative allowances are up to **\$20,000 or 10 percent, whichever is less, for grants under \$250,000, and up to \$25,000 for grants over \$250,000** of the housing activities. Construction line items are for construction only; acquisition line items are for the purchase price and appraisal costs; relocation is a separate line item. Administrative line items include all publishing fees. Therefore, grantees should not contract for the total administrative amount unless the administrator is to pay for all such items, or the grantee has agreed to pay for such items. Mortgage lien filings and all acquisitions costs except purchase price and appraiser's fees, should be shown as legal cost but this does not deduct from administrator maximums. **CDBG funds will not replace any existing employee salaries for administration, but it can be counted as local match.**

**NOTE: No city or county employee, elected or employed, can separately contract with the grantee to perform any portion of the grant either directly or through an outside firm.**

If a grantee expects to expend more than \$750,000 in federal monies in any fiscal year during the course of the grant, they may wish to show audit costs as local matching funds or may request CDBG audit monies in their application in a separate line item



from administration. However, a grant may not be closed if CDBG funds are paying for an audit until final audit acceptance.

Commerce will release 25 percent administration funds after receipt by the grantee of the Release of Funds, 50 percent after first drawdown of funds for construction

75 percent after 50 percent construction and 90 percent administrative costs prior to receipt of final close-out paperwork and clearance of final monitoring findings. For housing grants, the 50 percent allowance applies after one-third of the housing activities have been completed. For grantees providing administration funds out of local monies, a \$2,000 retainage will be held on the total grant monies until the final paperwork is received and all monitoring findings have been cleared. A MAXIMUM OF 10 PERCENT ADMINISTRATION IS ALLOWED FOR PROJECTS UNDERSPENT.

3. Administration by Engineering and Architectural Firms: Engineering/Architectural firms or any employee or principal thereof may not administer any CDBG grant that they are participating in any other capacity, regardless of the size of the grant.
4. Administration by Housing Inspector, Risk Assessors or Asbestos Inspectors: The Administrator of record must be a different individual from the person or persons conducting Housing Inspector, Risk Assessor or Asbestos Inspector inspections. The same individual may perform different types of inspections (i.e. Housing Inspectors, Risk Assessors or Asbestos Inspectors). The Administrator and Inspector of record may belong to the same firm, organization or company.
5. Engineering Allowance: In order to assist the applicant in estimating reasonable engineering costs for the proposed project, Appendix G outlines median fees for professional engineering design and inspection services. The CDBG allowance for these services apply to the CDBG portion of the project only.
6. Architectural Allowance: In order to assist the applicant in estimating reasonable architectural costs for the proposed project, Appendix G outlines fees for architects. The CDBG allowance for these services apply to the CDBG portion of the project only.
7. Professional Assistance: The use of professional services is governed by the provision of 2 CFR Part 200 and applicable state, federal and local laws. The selection of services must be done according to CDBG procurement regulations if grant funds will be used for payment.

Written agreements shall be executed between the parties detailing the responsibilities, standards and fees.

8. Negotiated Funding: The state reserves the right to negotiate with applicants and to deny partial or total funding of any application in a given funding period.
9. Minimization of Displacement: Commerce will discourage applicants from proposing displacement in all projects, unless no feasible alternative exists. Alternatives will be reviewed for feasibility and technical assistance will be provided in order to minimize displacement. If permanent displacement must occur, protection under the following

authorities, as applicable, will prevail upon displaced persons: The Uniform Relocation Assistance and Real Property Acquisition Act of 1970, as amended, or Section 104(d), 104(k) and 105(a)(11) of the Housing and Community Development Act, as amended.

10. Environmental Impact: All CDBG projects are subject to the Federal Environmental Regulations. Applicants are encouraged to be sensitive to potential environmental impacts while their CDBG projects are first being considered and planned in order to avoid problems that could delay or even prevent a project from being implemented.
11. Threshold Requirements: The requirements are outlined herein. Failure to meet the threshold requirements will result in the disqualification of an application from the grant competition or a reduction of 10 points if the item can be submitted within the allowed timeframe.
12. Notification: The State will notify all applicants of the results of the CDBG competitions. Successful applicants who have unresolved financial audit exceptions in prior CDBG or other state or federal programs must resolve the findings before a contract can be executed.
13. CDBG Policy when Applicant Discovers Error after Award Announcement:
  - a. In the CDBG application process, unless the State has made a calculation or procedural error, there is no provision to correct applicant error after grant award announcements. The State would be in violation of its own Program Requirements if any application was reconsidered.
  - b. In all cases, it is the applicant's responsibility to proofread and double-check the accuracy of the information submitted in the application.
  - c. The mayor/county commission chairman (chief elected official) accepts the responsibility that the information in the application is correct as noted in Article (12) of the "Statement of Assurances and Certification" by signing the grant application submitted.
14. Kansas Small Cities CDBG Administrative Procedure for Request for Information:

Kansas Open Records Law

  - a. All requests for information from the Small Cities (CDBG) program will be subject to the Kansas Open Records Law (K.S.A. 1983 Supp. 45-206 et. seq.). The Kansas law requires that all records of a public agency be open to inspection. Kansas Small Cities (CDBG) applications are, as defined by K.S.A. 1983 Supp. 45-207, public records and as such are open for inspection, except as otherwise provided by the Act. All requests must be specifically made in writing.
  - b. Consensus rating information will be made available under the above procedures. Individual staff notes are not a part of the body of "public information" and, therefore, will not be made available. [K.S.A. 45-211(a)(20)].

## Administrative Requirements for the CDBG Program

The U.S. Department of Housing and Urban Development requires that all CDBG grants awarded by the Kansas Department of Commerce meet the following Administrative Requirements:

1. General Administrative Requirements and Guidelines
2. 2 CFR Part 200

The General Administrative Requirements and Guidelines include requirements and general information on administrative procedures not covered by the 2 CFR Part 200. Certain requirements and guidelines refer to specific attachments of 2 CFR Part 200 and other publications.

2 CFR Part 200 is published by the U.S. Office of Management and Budget to provide consistency and uniformity among federal agencies in the administration of grants to state and local governments. This circular is adopted by Commerce in administration of CDBG for nonentitlement areas of the state.

All CDBG awardees must select a grant administrator. The grant administrator can be selected from a list of interested parties that Commerce maintains at this link: [Administrator Territories](#) or cities and counties may choose to administer their grants on a local level with their own staff members. If local staff members are used, CDBG funds may not be used to compensate staff salary. Staff services can be listed as in-kind match towards project costs.

### Community's Commitment to Funded Project

The grant award agreement between the State of Kansas and a city or county is a legal binding contract that commits the State of Kansas to make a Small Cities program grant to an eligible applicant. It is the document that requires the grant recipient, in consideration for receiving the grant, **to enforce the rules and regulations of the CDBG program**. Specific guidelines for administering a grant are in the Grantee Handbook.

### Citizen Participation Requirements

Each prospective applicant must **hold one (1) legal public hearing a minimum of 15 days prior to application due date** for any application submitted for CDBG funding. The purpose of the hearing is to present the program to local citizens for discussion of community needs and to review the applicant's proposed project. The hearing must be held to address the specific project application that will be submitted. The notice must contain a description of the proposed project, proposed project location (target area boundaries, if applicable), activities to be carried out and total estimated cost of all activities. The notice must include the grant amount requested and the total project cost. Notices shall be published in a local newspaper having the widest general circulation in the community.

Each notice shall be published **at least five full days** before (starting one day after publication date and not counting the date of the hearing, i.e., a total of seven days) but **no more than 20 days** before the date of the hearing. Hearings for a specific application may be conducted no

earlier than 120 days prior to application due date. Public hearings must be conducted by the applicant's governing body. As stated previously herein, multi-jurisdictional grant applicants must assure that all entities involved are informed of the public hearing(s). **Notices must be published in all multi-jurisdictional areas.**

The hearing must be held at a time and location 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.

Local governments must provide citizens, especially residents of proposed project areas, an adequate opportunity to participate in the planning and development of CDBG applications. Examples of actions applicants may take to ensure citizen participation in the application stage include meeting with community groups and leaders prior to public hearings, holding informational meetings in proposed project areas and distributing notices of meetings and public hearings to residents in the proposed project area. Applicants may also choose to distribute public hearing notices to local community action agencies, minority contractors and other public and private organizations.

Public Hearings may not be held in any buildings built or rehabilitated with CDBG funds. This includes community centers and fire stations built under the KAN STEP program.

The local government should consider any comments or views on the proposed application before submission to the state.

Applicants are encouraged to undertake their public hearing early enough to allow for a chance to redo the public hearing notice if a problem is encountered.

**The total project funding and CDBG amount requested must match what appears in the public hearing notice.**

Public hearing notices must describe the exact project being applied for, to include: project location, budget, scope of work and funding source and needs to match the application scope of work and budget.

## Application Deadlines

	Community Facilities and Services	Housing	Water/Sewer
First Date Hearing can be held (Four months from deadline)	June 25, 2021	April 30, 2021	May 24, 2021
Last Date Hearing can be held (Fifteen days prior to due date)	Oct. 14, 2021	Aug. 16, 2021	Sept. 9, 2021
Application Deadline	Oct. 29, 2021	Aug. 31, 2021	Sept. 24, 2021

The following Public Hearing Notice is a sample that may be used by the applicant. Notices that fail to include the information specifically required in the instructions above may not meet the threshold requirements of public participation.

✦ **An Affidavit of Publication must be attached to the application.**

### Sample Public Hearing Notice Community Improvement Applications

The City/County of \_\_\_\_\_ will hold a public hearing on (day), (date), at (time) in the (location) for the purpose of considering an application to be submitted to the Kansas Department of Commerce for Small Cities Community Development Block Grant funds under the \_\_\_\_\_ category. A specific project application to be discussed is (description) in an area generally bounded by (location) that will consist of (specific activities). The estimated project cost is \$ \_\_\_\_\_ with the grant request for \$ \_\_\_\_\_ of the project cost. Other project proposals introduced at the hearing will be considered. Oral and written comments will be recorded and become a part of (City/County) CDBG Citizen Participation Plan.

Reasonable accommodations will be made available to persons with disabilities. Requests should be submitted to \_\_\_\_\_ by (date).

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- A second hearing must be held at the conclusion of the project to inform the citizens of the project’s successful or unsuccessful completion and to outline the benefit to the community.
  - Housing public notices **MUST** be specific when describing the project and boundaries and must indicate the number of units to be completed in rehabilitation, demolition and reconstruction.
  - The project description in the initial public hearing notice must exactly reflect what is being applied for.
  - All applicants are required to provide a work scope that will address all aspects of the project.

## **COMPLETED PUBLIC HEARING NOTICE SAMPLES**

The City of XYZ will hold a public hearing on Tuesday, September 2, 2018, at 7:30 p.m. in the XYZ City Hall at 101 E. Main for the purpose of considering an application to be submitted to the Kansas Department of Commerce for Small Cities Community Development Block Grant funds under the Water/Sewer category. A specific project application to be discussed is water system improvements in an area generally bounded by the City limits of XYZ that will consist of complete replacement of the water distribution system including approximately 4,500 LF of 6" PVC pipe mains, 25 gate valves, and 30 fire hydrants. Additional proposed improvements include replacing the water tower level controller. A VFD motor controller will be added to each well. The estimated project cost is \$750,000 with the grant request for \$375,000 of the project cost. Other project proposals introduced at the hearing will be considered. Oral and written comments will be recorded and become a part of City of XYZ CDBG Citizen Participation Plan.

Reasonable accommodations will be made available to persons with disabilities. Requests should be submitted to ???, City Clerk by Monday, September 1, 2018.

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The County of XYZ will hold a public hearing on Monday, October 6, 2018, at 10:30 a.m. in the Commission Room of the County Courthouse at 101 E. Main for the purpose of considering an application to be submitted to the Kansas Department of Commerce for Small Cities Community Development Block Grant funds under the Community Facilities and Services category. A specific project application to be discussed is the demolition and replacement of FAS Bridge #370 located 1mile south and 1 mile west of the City of George. The County bridge is an area generally bounded by a target area that includes townships of ABC, DEF and GHI that will consist of the demolition the existing steel truss bridge with a 14' bridge roadway width consisting of 3-100' spans for a total bridge length of 300' and will be replaced with a steel welded plate girder bridge with a 26' bridge roadway width with span lengths of 100'-155'-100' for a total bridge length of 355'. Approach roadway grading will take place 600' south and 500' north of the bridge. The estimated project cost is \$1,877,000 with the grant request for \$400,000 of the project cost. Other project proposals introduced at the hearing will be considered. Oral and written comments will be recorded and become a part of County of XYZ CDBG Citizen Participation Plan.

Reasonable accommodations will be made available to persons with disabilities. Requests should be submitted to ???, County Clerk by Friday, October 4, 2018.

## Technical Assistance Available

Communities can request technical assistance from the CDBG program office in Topeka at (785) 296-3004 or by email at [kdc\\_cdbg\\_inbox@ks.gov](mailto:kdc_cdbg_inbox@ks.gov). It will not be the role of the CDBG program staff to assist communities in preparing their grant applications since they will ultimately be involved in the review and enforcement of these projects. Staff can answer specific technical questions, critique earlier application submissions at least three weeks prior to deadline and provide other assistance as needed.

For additional information and clarification of these program requirements, please contact the Kansas Department of Commerce.

## Application Rating Criteria (General)

An applicant may apply for only one type of grant in the annual competition categories (which includes Housing, Community Facilities and Services and Water/Sewer), with the exception of counties discussed on page 1 of these guidelines.

**A detailed project map as well as a city map, if different, must be included in all applications, detailing the location of the proposed project.**

## Required Attachments to the Application

1. Assurances and Certification: All applicable assurances of compliance with state and federal laws and requirements must be made and attached to the application. Signature of chief elected official is required.
2. Resolution of Governing Body: Each applicant must submit with its application a citation and assurance of its legal authority under Kansas law to conduct the activity or activities proposed in their application for CDBG funds, including any applicable ordinances or resolutions conferring powers or authority. Be specific.
3. Resolution of Long-Range Financial Support: Applicant must provide assurance of adequate long-range financing of operating and maintenance costs associated with the proposed project and has provided estimates of these costs and funding sources by resolution of the applicant Governing Body. Be specific.
4. Commitment letters from all other funding sources in this project: Must include specific dollar amounts. If using force account, provide documentation of how this was determined in letter format from applicant.
5. CDBG Disclosure Report: Applicants must comply with the provisions of Section 102 of the HUD Reform Act of 1989 if the applicant receives at least \$200,000 in covered assistance from HUD, states or local units of government, during the fiscal year the application is submitted. The CDBG Disclosure Report is included in the application forms.
6. Anti-displacement Plan: This plan is required for every application submitted for CDBG funding, regardless of the type of application. The applicant is agreeing to provide replacement units of any low- and moderate-income units demolished by the grant if the unit was habitable or had been lived in within the previous three months.

7. Copy of affidavit of publication of public hearing.
8. LMI survey instrument and survey tabulation sheet, if applicable: Explanation of variance of more than six percent, if applicable. Survey methodology used must be submitted on all applications that have done surveys.
9. If using census tract data, must provide documentation of data used with application.
10. For all “on behalf of” applications, the required inter-local agreement between the parties involved.
11. For all applications involving more than one entity, the inter-local agreement between the parties involved.
12. Project map: A map showing all specific locations of proposed projects including as much detail as possible, showing specific improvements.
13. Preliminary engineering or architectural report.

## **Application Submission**

All CDBG applications will be submitted through an online submission process. Each application will be linked at [CDBG Competitive Grants | Kansas Department of Commerce \(kansascommerce.gov\)](https://www.kansascommerce.gov/CDBG-Competitive-Grants).

## **Threshold Requirements**

Before the application will be scored and ranked, it must meet the following threshold requirements.

1. The application must be received within the application period, on or prior to the deadline.
2. Only complete standard application forms will be accepted.
3. The proposed activity for CDBG funding must be an eligible activity under Section 105(a) of Title I of the Housing and Community Development Act of 1974, as amended, and meet one of the National Objectives discussed herein.
4. The applicant must be eligible.
5. Preliminary engineering or architectural report must be included, if applicable. The report shall address the items included in the section herein discussing such requirement.
6. Survey, if applicable, must have a minimum of 51 percent LMI responding. LMI documentation must be correct, as discussed herein. Persons must be 51 percent LMI. If the survey conducted is to challenge census data and there is more than six percent variance between the two, an explanation of the difference must be provided. An explanation, survey forms, tabulation form and details of methodology must be included in the application. Those that do surveys will use 2015 HUD Census Data for total population served. Grantees can utilize the <https://data.census.gov/cedsci/> website to locate the demographics associated with their communities. Search for the city or county you wish to review, then select the appropriate category on the right side of the page to locate the demographic information you are searching for.



7. Funding Limits:

Category	Beneficiaries		Minimum
	< 5,000	> 5,000	Match Funds
Housing	\$300,000	\$300,000	Cost of Environmental
Neighborhood Development	\$500,000	\$500,000	Half of Infrastructure Activity
Water/Sewer	\$600,000	\$700,000	25%

Category	Beneficiaries		Minimum
	Any Population		Match Funds
Community Facilities and Services: Category 1	Minimum	Maximum	25%
	\$50,000	\$350,000	
Community Facilities and Services: Categories 2, 3 and 4	Beneficiaries		Match Funds
	< 5,000	> 5,000	25%
	\$600,000	\$750,000	

To determine the grant amount, multiply the number of beneficiaries by \$2,000. This amount is what can be applied for up to the maximum allowed listed above.

8. The public hearing notice must be published at least five full days before (starting one day after publication date and not counting the date of the hearing, i.e. a total of seven days) but not more than 20 days prior to the public hearing. The public hearing must occur a minimum of 15 days but not more than 120 days prior to the application due date.
9. Absence of required interlocal agreements shall be considered a threshold criterion.
10. Three maps: (1) Target Area Map, (2) Map Identifying Housing Units (if Housing application) and (3) City map if different from target.

Should any document be missing, incorrect or otherwise have deficiencies that would cause the project to be not rated, contact will be made with the applicant after the applications are initially reviewed. The applicant will be given two weeks from notification to correct the deficiency, but 10 points will be deducted from the final score. Threshold items such as inadequate amount of time for public hearing, public hearing not having required information, public hearing too late and not meeting a national objective would not be correctable and the application will not be scored.

The purpose of this allowance of additional time is in no way intended to give extra time for the purpose of obtaining commitment from other sources, removing contingencies or finishing the details of the application.

## THRESHOLD/10 POINTS/ CONDITIONS - EXAMPLES

### Threshold

Error on Public Hearing notice:

- Does not match project

- Does not have correct location of project

- Cost of CDBG or Local funds incorrect

- Not correct days allowed between published notice and hearing

- No proof of Public Hearing notice in application

Does not meet a National Objective

- Rounded LMI numbers to reach 51 percent required

- No documentation (survey tabulation)

Request more than the allowed funding

No PER or PAR

Survey Methodology not explained

### 10 Points

No Statement of Assurances and Certifications

Resolution of Governing Body

- Not included

- Not Signed

- Not Sealed

No Resolution of Long-Range Financial Support or not signed

No Commitment letters from all other funding sources in this project

No CDBG Disclosure Report or not signed

No Anti- Displacement Plan or not signed

No example of survey instrument, methodology or Variance (if applicable)

Not using HUD updated census numbers on census eligible projects

Map of Target Area (if applicable)

No Inter-local agreement (if applicable)

No project map

Incomplete PER or PAR

Incorrect or missing DUNS Number

**NOTE: This is not an all-inclusive list, only an attempt to help provide some direction.**

**Applicable Laws and Regulations**

There are a number of federal and state regulations that jurisdictions receiving Community Development Block Grant funds must follow. These laws cover a wide range of activities, such as labor practices, environmental impacts and civil rights. Listed below are some of the more important laws and regulations that could apply to projects involving CDBG funds. This is a preliminary list and by the time funds are released, it could change, depending upon actions by the federal government. Each regulation is annotated to give the applicant some idea of the requirements that must be met. Since this is only a summary and is not meant to be a comprehensive description of each law, please contact the Kansas Department of Commerce if you need more detailed information. We will keep applicants informed of any changes in this list as we learn of them.

**FEDERAL LAWS AND REGULATIONS**

**Fair Housing Amendments Act of 1988**

CDBG grant recipients must comply with the provisions of “Fair Housing Amendments Act of 1988.” The act provides that no person in the United States shall, on the grounds of race, color, religion, sex, national origin, age, disability, or familial status be denied the benefits of, be excluded from participation in, or be subjected to discrimination under any program or activity receiving federal financial assistance.

**Public Law 90-284, Title VIII of the Civil Rights Act of 1968 (42 U.S.C. 3601 et seq.)**

Grant recipients shall comply with the provisions of Title VIII of the Civil Rights Act of 1968 (42 U.S.C. 3601 et seq.). The law states that it is the policy of the United States to provide, within constitutional limitation, for fair housing throughout the United States and prohibits any person from discriminating in the sale or rental of housing, the financing of housing or the provisions of brokerage services, including in any way making unavailable or denying a dwelling to any person, because of race, color, religion, sex, disability, familial status or national origin. The grantee must administer programs and activities relating to housing and urban development in a manner which affirmatively promotes fair housing. 42 U.S.C. 3535(d), and 5301–5320.

**Subpart A-General Provisions, (42 U.S.C. 3535(d), and 5301-5320)**

In § 570.3, the definitions of “family” and “household” are revised to read as follows: § 570.3 Definitions. Family refers to the definition of “family” in 24 CFR 5.403. Household means all persons occupying a housing unit. The occupants may be a family, as defined in 24 CFR 5.403; two or more families living together; or any other group of related or unrelated persons who share living arrangements, regardless of actual or perceived, sexual orientation, gender identity, or marital status.

**Executive Order 11063, as amended by Executive Order 12259 (24 CFR Part 107)**

CDBG grant recipients must comply with the provisions of Executive Order 11063, as amended by Executive Order 12259, which directs the recipient to take all action necessary and appropriate to prevent discrimination because of race, color, religion, creed, sex, or national origin.

## **Title VI of the Civil Rights Act of 1964**

Recipients must comply with Title VI of the Civil Rights Act of 1964 that states, no person shall, on the grounds of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving federal financial assistance.

## **Section 109 of the Housing and Community Development Act of 1974, as amended**

Recipients must comply with the provisions of Section 109 of the Housing and Community Development Act of 1974 requiring that no person in the United States shall on the grounds of race, color, national origin, religion, or sex be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity funded in whole or in part with community development funds made available pursuant to Title I of the Act.

## **Age Discrimination Act of 1975, as amended (42 U.S.C. 6101 et seq.)**

CDBG recipients shall comply with the Age Discrimination Act of 1975, as amended, which provides that no person shall be excluded from participation, denied program benefits, or subjected to discrimination on the basis of age under any program or activity receiving federal funding assistance.

## **Section 102 of the Housing and Urban Development (HUD) Reform Act of 1989 (24 CFR Part 12)**

Recipients must comply with the provisions of Section 102 of the HUD Reform Act of 1989 if the recipient receives at least \$200,000 in covered assistance from HUD, states or local units of government, during the fiscal year the application is submitted. This requires the recipients to disclose:

- assistance from other government sources in connection with the project;
- the financial interests of persons in the project;
- the expected sources and uses of funds that are to be made available for the project or activity.

Applicants must update the disclosures within 30 days of any substantial change.

## **Section 104(1) of the Housing and Community Development Act, as amended**

Section 104(1) provision states that no CDBG funds may be obligated or expended to any unit of general local government that fails to adopt and enforce a policy of prohibiting the use of excessive force by law enforcement agencies within its jurisdiction against any individuals engaged in non-violent civil rights demonstrations; or fails to adopt and enforce a policy of enforcing applicable state and local laws against physically barring entrance to or exit from a facility or location that is the subject of such non-violent civil rights demonstration within its jurisdiction.

## **Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. 794)**

Recipients must comply with Section 504 of the Rehabilitation Act of 1973, as amended, which provides that no otherwise qualified individual shall, by reason of his or her handicap, be solely excluded from participation (including employment), denied program benefits, or be subjected to discrimination under any program or activity receiving federal assistance funds.

## **American with Disabilities Act (ADA) (P.L. 101-336; 42 U.S.C. 12101)**

ADA provides disabled people access to employment, public accommodations, public services, transportation, and telecommunications. The ADA extends Section 504's mandate of non-discrimination based on disability to most of the private sector and to state and local government agencies not covered by section 504. Recipients of federal assistance should note that the ADA complements, but does not replace, Section 504.

## **Section 3 of the Housing and Community Development Act of 1968 (12 U.S.C. 1701u)**

CDBG grantee shall to the greatest extent feasible, comply with the provisions of Section 3 of the Housing and Urban Development Act of 1968 when planning and implementing projects assisted by a CDBG. Section 3 requires opportunities for training and employment be given to lower-income persons residing within the unit of local government or the non-metropolitan county in where the project is located, and that contracts for work in connection with the project be awarded to eligible business concerns that are located in, or owned in substantial part by residents of the project area. The recipient must assure good faith efforts toward compliance with the statutory directive of Section 3.

## **Executive Order 11246, as amended by EO 11375**

CDBG recipients must comply with Executive Order 11246, as amended, which provides that grantees and any subcontractors shall not discriminate against any employee or applicant for employment because of race, color, religion, sex, or national origin and shall take affirmative action to assure same.

## **Section 110 of the Housing and Community Development Act of 1974, as amended**

CDBG recipients shall comply with the provisions of Section 110 of the Housing and Community Development Act of 1974, as amended through 1983. These provisions require that in all construction contracts all laborers and mechanics assisted under the Act shall be paid wages at rates not less than those prevailing on similar construction in the locality as determined by the Secretary of Labor in accordance with the Davis-Bacon Act, as amended (40 U.S.C. 276a-276a-5). The exception to this is for rehabilitation of residential property which is for use by less than eight families.

## **Davis-Bacon Act, as amended (40 U.S.C. 276a-s), Section 2; June 13, 1934, as amended (48 Stat. 948.40 U.S.C. 276(c)), as amended to USC 3145, Popularly Known as the Copeland Act**

Recipients shall comply with all amendments of the Davis-Bacon Act, including the Copeland Act, which requires that all laborers and mechanics be paid unconditionally and at least once a week with only "permissible" salary deductions. Wage rates must be not less than those contained in the prevailing local wage determination issued by the U.S. Department of Labor.

### **Contract Work Hours and Safety Standards Act (40 U.S.C. 327 et seq.)**

CDBG recipients shall comply with the provisions of the Contract Work Hours and Safety Standards Act. According to this act, no contract work may involve, or require laborers or mechanics to work in excess of 40 hours in a workweek, unless compensation of not less than one and one-half times the basic rate is paid for the overtime hours.

### **Section 104(h) of the Housing and Community Development Act of 1974, as amended**

Recipients shall comply with Section 104(f) of the Housing and Community Development Act of 1974 which expresses the intent that the policies of the National Environmental Policy Act of 1969 and other provisions of law which further the purpose of the National Environmental Policy Act shall be effectively implemented in community development projects.

### **The National Environmental Policy Act of 1969 (42 U.S.C. Section 4321, et seq. and 24 CFR Part 58)**

CDBG recipients shall comply with the provisions of the National Environmental Policy Act of 1969. The purpose of this Act is to attain the widest use of the environment without degradation, risk to health or safety, or other undesirable and unintended consequences.

### **The Clean Air Act, as amended (42 U.S.C. 7401, et seq.)**

Recipients shall comply with the Clean Air Act, that prohibits (1) engaging in, (2) supporting in any way or providing financial assistance for, (3) licensing or permitting, or (4) approving any activity which does not conform to the state implementation plan for national primary and secondary ambient air quality standards.

### **HUD Environmental Standards (24 CFR, Part 51, Environmental Criteria and Standards and 44 F.R. 40860-40866, July 12, 1979)**

CDBG recipients shall comply with HUD Environmental Standards, prohibit HUD support for most new construction (of unacceptable noise-sensitive uses) on sites having unacceptable noise exposure.

### **Executive Order 11990, May 24, 1977: Protection of Wetlands (42 F.R. 26961, et seq.)**

Recipients shall comply with Executive Order 11990. The intent of this executive order is: 1) to avoid, to the extent possible, the long and short term adverse impacts associated with the destruction or modification of wetlands, and 2) to avoid direct or indirect support of new construction in wetlands wherever there is a practical alternative.

**The Wild and Scenic Rivers Act of 1968, as amended (16 U.S.C. 1271, et seq.)**

CDBG recipients shall comply with the Wild and Scenic Rivers Act. The purpose of this act is to preserve selected rivers or sections of rivers in their free-flowing condition, to protect the water quality of such rivers, and to fulfill other vital national conservation goals. Federal assistance cannot be provided to water resources construction projects that would have a direct and adverse effect on any river included or designated for study or inclusion in the National Wild and Scenic River System.

**Executive Order 11988, May 24, 1978: Floodplain Management (42 F.R. 26951, et seq.)**

Recipients shall comply with the provisions of Executive Order 11988. If the grantee proposes to conduct, support, or allow an action to be located in the floodplain, the grantee must consider alternatives to avoid adverse effects.

**The Endangered Species Act of 1973, as amended (16 U.S.C. 1531, et seq.)**

Recipients shall comply with the Endangered Species Act of 1973, as amended. The intent of this act is to ensure that all federally assisted projects seek to preserve endangered or threatened species. Federally authorized and funded projects must not jeopardize the continued existence of endangered and threatened species or their habitat.

**The Reservoir Salvage Act of 1960 (16 U.S.C. 469 et seq.), Section 3 (16 U.S.C. 469 a-1), as amended by the Archaeological and Historic Preservation Act of 1974**

Under the Reservoir Salvage Act, CDBG recipients must comply with provisions for the preservation of historical and archaeological data (including relics and specimens) that might otherwise be irreparably lost or destroyed as a result of any alteration of the terrain caused as a result of any federally financed projects.

**The Safe Drinking Water Act of 1974 (42 U.S.C. Section 201, 300(f) et seq. and U.S.C. Section 349) as amended, particularly Section 1424(e) (42 U.S.C. Section 300H-303(e))**

Recipients must comply with the Safe Drinking Water Act, as amended, that is intended to protect underground sources of water. No federal financial assistance may be given any project that may contaminate an aquifer that is the sole or principal drinking water source for an area.

**The Federal Water Pollution Control Act of 1972, as amended including the Clean Water Act of 1977, Public Law 92-212 (33 U.S.C. Section 1251, et seq.)**

CDBG recipients must assure compliance with the Water Pollution Control Act, as amended, which provides for the restoration of chemical, physical, and biological integrity of the nation's water.

**The Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976 (42 U.S.C. Section 6901, et seq.)**

Recipients must assure compliance with the Solid Waste Disposal Act, as amended. The purpose of this act is to promote the protection of health and the environment and to conserve valuable material and energy resources.

**The Fish and Wildlife Coordination Act of 1958, as amended (16 U.S.C. Section 661, et seq.)**

CDBG recipients must assure compliance with the Fish and Wildlife Coordination Act, as amended. This act assures that wildlife conservation receives equal consideration and is coordinated with other features of water resource development programs.

**EPA List of Violating Facilities**

Recipients shall ensure that the facilities under its ownership, lease, or supervision utilized in the accomplishment of the program are not listed on the U.S. Environmental Protection Agency's (EPA) List of Violating Facilities.

**Historic Preservation**

CDBG recipients shall, in connection with its performance of environmental assessments under the National Environmental Policy Act of 1969, comply with Section 106 of the National Historic Preservation Act of 1966 (16 U.S.C. 470).

**Federal Regulations Protect Historic Properties Affected by Federal Undertakings**

Section 106 of the National Historic Preservation Act of 1966, as amended, requires a federal agency head with jurisdiction over a federal, federally assisted, or federally licensed undertaking to take into account the effects of the agency's undertakings on properties included in, or eligible for, the National Register of Historic Places and, prior to the approval of the undertaking, to afford the Advisory Council on Historic Preservation (Council) a reasonable opportunity to comment on the undertaking. The process used by a federal agency to meet these responsibilities is commonly called Section 106 review process. Sometimes the federal agency makes the Section 106 review process. Sometimes the federal agency makes Section 106 review the responsibility of the local government receiving federal funds. When a local government is responsible for Section 106 review, they should contact the State Historic Preservation Officer early in the project planning process to receive recommendations and direction from the State Historic Preservation Officer's staff.

The Council seeks, through the Section 106 review process, to accommodate historic preservation concerns with the needs of federal undertakings. It is designed to identify potential conflicts between the two and to help resolve such conflicts in the public interest. The Council encourages this accommodation through consultation among the federal agency official, the State Historic Preservation Officer, and other interested persons during the early stages of planning.



Integration of the Section 106 review process into the normal administrative process used by federal agencies for project planning ensures early, systematic consideration of historic preservation issues. To this end, the Council encourages federal agencies and their designees to examine their administrative process to see that they provide adequately for the efficient identification and consideration of historic properties, that they provide for participation by the State Historic Preservation Officer, and others interested in historic preservation, that they provide for timely request for Council comment, and that they promote cost-effective implementation of the Section 106 review process. When impediments are found to exist in the agency's administrative process, the agency is encouraged to consult with the Council to develop special Section 106 review procedures suited to the agency's needs.

Copies of the federal regulations for the Section 106 review process (36 CFR 800) are available from the State Historic Preservation Officer, Kansas State Historical Society, 6425 S.W. 6th, Topeka, KS 66615.

#### **Title IV of the Lead-Based Paint Poisoning Prevention Act (42 U.S.C. 4831)**

CDBG recipients shall comply with the provisions of the Title IV of the Lead-Based Paint Poisoning Prevention Act (42 U.S.C. 4831) that prohibits the use of lead-based paint in residential structures constructed or rehabilitated with federal assistance of any kind.

#### **HUD 1012/1013 Requirements for Notification, Evaluation, and Reduction of Lead-Based Paint Hazards in Housing Receiving Federal Assistance (24 CFR Part 35, et al.)**

CDBG recipients shall comply with the provisions of HUD 1012/1013 lead-based paint notification and evaluation regulation.

#### **The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended, and 24 CFR 570.488**

All persons displaced as a direct result of rehabilitation, demolition or acquisition (privately undertaken or public) for a federally assisted project are entitled to relocation payments and other assistance under the URA.

#### **Section 104(d) of Title I, Housing Development Act of 1974, as amended**

Requires certification of residential antidisplacement and relocation plan if federal funds are involved. If housing stock is reduced, one-for-one replacement units will be required on all demolition or conversion of low- and moderate-income housing units.

#### **Section 105(a)(11) of Title I, Housing Development Act of 1974, as amended**

State may make relocation payments and assistance for displaced individuals, families, businesses, organizations, and farm operations when federal funding is involved.

#### **24-CFR-200**

## **STATE LAW REQUIREMENTS**

### **Prevailing Wages**

Recipients shall comply with the provisions of K.S.A. 44-201 et seq., that requires prevailing wages be paid to workers performing under contracts with any city, county, or other municipality.

### **Contracts with Cities and Counties, K.S.A. 12-2908**

Any eligible applicant exercising powers jointly with any other public or private agency shall be required to enter contracts pursuant to K.S.A. 12-2908.

### **K.S.A. 75-4317 et seq., Open Public Meetings Law**

CDBG recipients shall comply with the provisions of K.S.A. 75-4317 through 75-4320a that require all public meetings except those where specific provision are made for executive sessions pursuant to K.S.A. 1983 Supp. 75-4319.

### **K.S.A. 1983 Supp. 45-206 et seq., Open Records Act**

CDBG recipients shall comply with the provisions of K.S.A. 1983 Supp. 45-206 et seq., that requires all records of a public agency shall be open to inspection by the public, except to the extent otherwise specifically closed by state or federal law, and specifically K.S.A. 1983 Supp. 45-211.

### **K.S.A. 58-1301 et seq., Handicapped Accessibility Standards**

CDBG recipients shall comply with the provisions of K.S.A. 58-1301 et seq., that require all buildings and facilities constructed with monies appropriated by the state or a political subdivision be made accessible to the physically handicapped.

### **Articles 10 and 11 of Chapter 44 of the Kansas Statutes Annotated, Kansas Acts Against Discrimination**

CDBG recipients shall comply with the provisions of Articles 10 and 11 of K.S.A. Chapter 44, that prohibit discrimination in employment, public accommodations, or housing, on the basis of race, religion, color, sex, disability, national origin, ancestry, or familial status.

## **STATE LAWS WHICH MAY BE AVAILABLE OR APPLICABLE**

### **K.S.A. 12-2901 et seq., Inter-local Cooperation**

The Inter-local Cooperation Act permits units of local government to exercise most powers permitted by law jointly with any other public or private agency. This act may be used by any local government recipient undertaking joint community development projects. Any recipient

utilizing the provisions of this act shall comply with K.S.A. 12-2908, relative to contracts with cooperative agencies. Use of this act may be necessary in order to meet capacity requirements.

### **K.S.A. 12-5219 et seq., Local Residential Housing Finance Law**

The Local Residential Housing Finance Law permits cities and counties to contract for home mortgage loans through lending institutions, to make loans, issue bonds to defray the cost of loans, and exercise other powers necessary to make residential housing available.

### **K.S.A. 12-1742 et seq., Urban Renewal Law**

The Urban Renewal Law permits cities to formulate programs of urban rehabilitation through the exercise of various powers, including the power of eminent domain, and the issuance of bonds to finance projects.

### **K.S.A. 12-1770 et seq., Redevelopment of Central Business District Areas**

K.S.A. 12-1770 et seq. permits cities to provide for downtown redevelopment through the use of tax increment financing and the issuance of special obligation bonds repaid from revenues of the project. Caution should be exercised in the decision to utilize this act, to ensure qualification of CDBG funds for such a project.

### **K.S.A. 12-1781 et seq., Business Improvement Districts**

K.S.A. 12-1781 et seq. permits the establishment of business improvement districts to promote economic vitality through the financing of beautification, transportation, or other public service projects.

### **K.S.A. 74-50, 114 et seq., Kansas Enterprise Zone Act**

K.S.A. 74-50,114 et seq. permits cities to create enterprise zones to offer financial incentives to encourage development of business and industry within certain areas of the city. Information pertaining to, and applications for the creation of, an enterprise zone is available through the Kansas Department of Commerce.

### **K.S.A. 12-1740, Economic Development Revenue Bonds**

K.S.A. 12-1740 et seq. permits the issuance of revenue bonds to pay part (or all) of the cost of purchasing, acquiring, constructing, equipping, enlarging, or repairing facilities for agricultural, commercial, hospital, industrial, natural resources, recreational development, and manufacturing purposes. Sales tax and property tax incentives may also be offered.

These are only some of the tools that may be available or made applicable in connection with projects financed with CDBG grants.

**CLICK THIS LINK TO ACCESS THE  
2015 ACS CENSUS DATA**

[2015 Census LMI Data](#)

[Census Data - Interactive Map](#)

## **Low- and Moderate-Income Survey Methodology/Income Limits**

### **Low- and Moderate-Income Methodology**

Prior to conducting an LMI survey, the city or county must refer to Appendix C-2 to ensure it has the ability to conduct a survey. If an applicant does not agree with the HUD LMI percent or the LMI percent is not available for a target area, an LMI survey may be conducted. The survey must be conducted according to the following instructions; **an improperly implemented survey will result in an application not meeting threshold requirements and being disqualified from the ranking process or grant funds being rescinded after award. All survey methodology needs confirmation from Commerce before being used.**

In order to be acceptable, survey results must show that at least 51 percent of all persons benefiting are LMI. If more detailed information is required, or an applicant has questions on the LMI percent, contact the Small Cities program at (785) 296-3004 or TTY 711 for assistance.

### **Instructions**

1. Determine the benefit area for your project. An area-wide benefit will benefit the community as a whole. A target area benefit will create a project within a designated area of the community or county.
2. Using the attached Survey Sample Form and HUD Section 8 Income Limits, a survey should be conducted by using one of the following methods. If an applicant wishes to use a different survey form and conduct the survey differently, written permission must be obtained from the Small Cities program before the survey is undertaken. Written acknowledgment that the survey is acceptable must be included in the application.

The surveys are required to have names and addresses on them or be coded to a name and address list. There will be no exceptions.

3. A separate guide on How to Conduct a Survey is available on our Web site at [KansasCommerce.gov](http://KansasCommerce.gov).

### **Methods of conducting the survey:**

1. **Mail survey:** In this case, surveys are mailed to all families and are either mailed back, returned to a designated place or are picked up. Response rates will be low.
2. **Door-to-door:** Although the most time-consuming, it is by far the most effective in obtaining the highest response rate. Surveys are administered at the residence by an interviewer. The interviewers should have some degree of training before they begin to administer the survey. This includes questions, wording, probing to obtain clarification and recording responses accurately.
3. **Modified door-to-door:** In this case surveys are hand delivered, but the task of completing the survey is left to the resident. Persons responsible for delivery can either wait while the survey is being completed or make arrangements to pick up the survey at a later date. Response rates will be high and interviewer bias remains at a minimum.

4. **Phone Surveys:** A telephone interview is a data collection technique in which one person (an interviewer) asks questions of another (the respondent) via telephone. The interviewer must ensure that the respondent is someone competent and knowledgeable enough to answer questions about the family income status. In a telephone survey, you must devise a method for contacting those families without telephones or those with unlisted numbers.
5. **Electronic Surveys:** HUD has provided guidance at the following links on how to conduct an electronic survey.

[Notice CPD-14-013: Guidelines for Conducting Income Surveys to Determine the Percentage of LMI Persons in the Service Area of a CDBG-Funded Activity - HUD Exchange](#)

[Microsoft Word - NTC-SURVEY - Final \(hud.gov\)](#)

6. **Tabulate the survey** and complete the survey response form. If the survey results vary by more than six percent from the HUD LMI percent, provide an explanation of why there is a variance.
  - **No numbers in the survey can be rounded.**
  - **In order for a survey to be acceptable, a minimum of 51 percent of LMI persons of the target area must have responded. Include the explanation of six percent variance; the survey instrument used, including income limits used; and survey tabulation sheet, most current one available on the Web site at KansasCommerce.gov.**
  - **Survey methodology must be attached behind survey results. This includes when the survey was done and what method was used to collect the data.**
  - **SURVEY AND CENSUS CANNOT BE COMBINED TO MEET THE 51 PERCENT BENEFIT TEST. EACH DATA MUST STAND ON ITS OWN.**
  - **To prove LMI National Objective for a larger project, two or more surveys may be combined only if each survey is LMI. Each survey must stand alone prior to combining the surveys into one beneficiary and LMI total.**
  - **The CDBG program will not count a state or federal detention center or prison of any type as beneficiaries and will not do any connections to the facilities in any community.**
  - **2.4 is the state-wide average of persons household. This is used only for target area projects.**

## 2022 LMI Sample Survey – Kansas Small Cities CDBG Program

The City/County of \_\_\_\_\_ is conducting a survey to determine the need for improvements in public facilities and services. Some of the improvement projects may be eligible for Federal funding. Your answers will be kept confidential and a public hearing will be held regarding potential improvement projects prior to any grant applications being submitted.

- (1) Name and address or Number Identification Code: \_\_\_\_\_
- (2) How many persons live at this address? \_\_\_\_\_
- (3) How many persons are unrelated individuals (not members of a family)? \_\_\_\_\_
- (4) How many families (persons related by birth, marriage or adoption) live at this address? \_\_\_\_\_

How many persons are in each family? Family 1 \_\_\_\_\_ Family 2 \_\_\_\_\_ Family 3 \_\_\_\_\_

**NOTE: If more than one family or unrelated individual lives at this address, please check the appropriate line for each family or unrelated individual.**

FOR EACH FAMILY INDICATED ABOVE, PLEASE CHECK WHETHER YOUR TOTAL FAMILY INCOME IS ABOVE, BETWEEN OR BELOW THE INCOME FIGURES PROVIDED FOR YOUR FAMILY SIZE							
Family Size	Income Limits				FAMILY #1		FAMILY #2
	A (30%)	TO	B (50%)	TO	C (80%)	FAMILY SIZE: _____	
1		TO		TO		<input type="checkbox"/> Income below Column A	<input type="checkbox"/> Income below Column A
2		TO		TO		<input type="checkbox"/> Income between Column A & B	<input type="checkbox"/> Income between Column A & B
3		TO		TO		<input type="checkbox"/> Income between Column B & C	<input type="checkbox"/> Income between Column B & C
4		TO		TO		<input type="checkbox"/> Income above Column C	<input type="checkbox"/> Income above Column C
5		TO		TO			
6		TO		TO			
7		TO		TO			
8		TO		TO			

Race	Total Number Person(s)	Number Hispanic Origin
White		
Black/African American		
Asian		
American Indian/Alaskan Native		
Native Hawaiian/Other Pacific Islander		
American Indian/Alaskan Native & White		
Asian & White		
Black/African American & White		
American Indian/Alaskan Native & Black/African American		
Balance/Other		

**Female Head of Household**

- Yes  
 No  
 How many? \_\_\_\_\_

**Disabled <sup>1</sup>**

- Yes  
 No  
 How many? \_\_\_\_\_

<sup>1</sup>A disabled person is defined as a person who has a physical or mental impairment which substantially limits one or more of such person's major life activities, has a record of such an impairment or is regarded as having such an impairment.

# Low- and Moderate-Income (LMI) Survey Tabulation

City/County: \_\_\_\_\_

1. Family Size	2. Income Limit	3. Above Low/Moderate Income Levels		5. Below Low/Moderate Income Levels				7. Totals	
		3. Family Number	4. Persons	5. Family Number	Below 30%	Between 30 – 50%	Between 50 – 80%	6. Total LMI Benefit	7. Sum of 3 & 5 Family
One Person	1								
Two Persons	2								
Three Persons	3								
Four Persons	4								
Five Persons	5								
Six Persons	6								
Seven Persons	7								
Eight Persons	8								
Nine Persons	9								
Ten Persons	10								
Eleven Persons	11								
Totals									

9. Surveys Distributed \_\_\_\_\_ (Must reflect each household in Target Area)

10. \*Population of Target Area \_\_\_\_\_ HUD census data from guidelines, or 2.4 multiplied by number of households, if census data not available. (target area)

11. \*LMI Population \_\_\_\_\_

12. \*LMI Percent \_\_\_\_\_ **Must be over 51 percent to qualify.**

13. HUD Percent, if applicable \_\_\_\_\_ (Census Data)

14. Variance of Survey & HUD \_\_\_\_\_

(If variance is more than 6 percent +/-, a detailed explanation of causes must be submitted with application. Failure to include will result in a 10 point deduction.)

\*Figures to be reflected on CDBG Application Forms

**15. All data below must be extrapolated to 100 percent of population (to match #10):**

Population Data	Number Reported
Disabled Persons	
Female Head of Household	

Population Data Ethnic/Racial Background	Total Number Reported	Hispanic Latin	Total LMI Reported
White			
Black/African American			
Asian			
American Indian/Alaskan Native			
Native Hawaiian/Other Pacific Islander			
American Indian/Alaskan Native & White			
Asian & White			
Black/African American & White			
American Indian/Alaskan Native & Black/African American			
Balance/Other			
Total			



**CLICK THIS LINK TO ACCESS THE  
2021 INCOME LIMITS**

[2021 Kansas Income Limits](#)

**PLEASE READ!!**

**NOTICE REGARDING LMI SURVEYS FOR THE CDBG PROGRAM**

In the last couple of years, the CDBG staff has encountered issues with LMI surveys submitted by grantees. Below are elected changes and reminders of existing policy.

- 1) If a variance exists of more than 6 percent between census figures and survey results, a grantee is required to provide details of the demographic, economic or non-economic changes explaining the variance. Previous applications reasoning have been brief and cookie cutter. **This will no longer be acceptable.** It's important to understand a variance explanation is required; and the larger the variance, the more justification and reasoning needed.
- 2) The LMI surveys submitted after grant award must satisfy the national objective. **Noncompliant surveys will not be given a second opportunity to be corrected.** The grant award will be rescinded due to not meeting a national objective. A community can correct and submit the survey in the next application round.
- 3) If census shows LMI below 24.99 percent, a challenge to the survey results will not be allowed.
- 4) Surveys will only be counted that have a name and address or code.
- 5) Surveys using name and address for the codes must use the full address. For example; streets with north/south or east/west must use complete addresses. Surveys not using a full address will not be tabulated.
- 6) A change in the code or address will result in a survey not being tabulated. The same is true in use of "white out."
- 7) Copies of surveys will not be allowed.
- 8) There will be no pre-review of surveys by CDBG staff.
- 9) HUD policy **does not allow rounding up to meet the 51 percent** LMI requirement. **As a reminder, rounding up is never allowed.** Therefore, survey results must tabulate to 51.0 percent or greater to qualify.

## **Definitions**

The following is a list of commonly used terms in the CDBG program:

1. **ACTIVITY:** An action taken to correct a specific, single deficiency. Only certain activities are eligible under the CDBG program.
2. **BLIGHTED AREA:** As defined in K.S.A. 17-4760, “Blighted area” shall mean an area (other than a slum area) which by reason of the presence of a 1) substantial number of slum, deteriorated or deteriorating structures, 2) predominance of defective or inadequate street layout, 3) faulty lot layout in relation to size, 4) adequacy, accessibility or usefulness, unsanitary or unsafe conditions, 5) deterioration of site or other improvements, 6) diversity of ownership, 7) tax or special assessment delinquency exceeding the fair value of the land, 8) defective or unusual conditions of title, 9) improper subdivision or obsolete platting, 10) the existence of conditions endangering life or property by fire and other causes, or 11) any combination of the such factors:
  - a. Substantially impairs or arrests the sound growth of a municipality,
  - b. Retards the provision of housing accommodations or constitutes an economic or social liability, and
  - c. Is a menace to the public health, safety, morals, or welfare in its present condition and use: *Provided*, “If such blighted area consists of open land the conditions contained in the provision in K.S.A. 17-4747(d) shall apply.”
3. **DEOBLIGATED FUNDS:** Deobligated funds are those portions of any grant award not drawn to complete the project.
4. **DETERIORATED CONDITION:** Deteriorated units are those having one or more major structural defects, but can still be repaired for a reasonable amount. Major defects include: 1) a complete electrical rewiring, 2) a complete new roof, 3) a plumbing system that requires extensive repair or none exists, 4) major repair of exterior structural elements (e.g., walls, sills, floor joists, rafters, large porches, etc.), 5) major repair of unstable or deteriorated foundation walls or 6) complete replacement of the exterior siding. Degree of deterioration is either moderate or severe according to the number of major defects.
  - a. Moderately Deteriorated: Housing or rental units that have one or two major defects and can be restored to a standard condition for a reasonable cost.
  - b. Severely Deteriorated: Housing or rental units that have three or more major defects and can be restored to a standard condition for a reasonable cost.
5. **DILAPIDATED CONDITION:** Units having one or more of the defects listed in “deteriorated units” but cannot be repaired to a standard condition for less than a reasonable amount. These units should not receive rehabilitation assistance except as a last resort.

6. **DIRECT BENEFIT:** The persons who will directly receive relief from a deficiency are said to be direct beneficiaries. These beneficiaries must be income-qualified to receive the benefit. An indirect benefit is where the benefit is to a household where income is not verified, such as water lines, treatment plant or streets. In determining the indirect benefit of an activity, consideration is given to both the number of persons affected by a deficiency and the frequency.
7. **DIRECTLY RELATE:** The activities proposed in a project must directly relate or highly support each other to be considered a viable project. The relationship of the activities in a public facilities project must be functional or all the proposed activities must be of a singular nature to address a related need.
8. **DOCUMENTATION:** Reports, surveys, photos, maps, cost estimates, newspaper articles, past records or other references that will verify that statements made in an application or during a monitoring are factual. The applicant should, in the application, provide only the source and conclusion of the documentation. The activities of a housing project must be geographic in nature with the express purpose of eliminating blighted conditions within a target area. This information must remain on file with the applicant for four years after the grant is closed out.
9. **LMI:** LMI is the reference to low- and moderate-income. The CDBG program intends to provide direct benefit to persons and households that meet LMI standards. Low- and moderate-income families are defined as those families whose income does not exceed 80 percent of the county median income figure. The source of the data is the U.S. Bureau of the Census and the U.S. Department of Housing and Urban Development. The most recent income limits are provided in Appendix C.
10. **PECUNIARY INTEREST:** Pecuniary interest means any financial involvement in the project, including (but not limited to) situations in which a person or entity has an equity interest in the project, shares in the profit or resale or any distribution of surplus cash or other assets of the project or receives compensation for any goods or services provided in connection with the project. (The following are not considered interested parties: local CDBG administrative staff, recipients of housing rehabilitation assistance and rehabilitation contractors as long as the rehabilitation agreement is between the property owner and the contractor.)
11. **PROGRAM INCOME:** Program income is any income generated by a CDBG activity regardless of the grant type. Program income retains all the HUD requirements as it is re-used in like projects. Program income balances (over \$5 million) with the State RLF may be rolled into the regular program anytime as needed.
12. **PROJECT:** A project is one or more activities that will collectively address a deficiency. The project must include only activities that are directly related or highly support each other within each grant type.
13. **REALLOCATED FUNDS:** Reallocated funds are those HUD has recaptured from a grantee and “reallocated” to the state. Such funds will be added to the annual grant and distributed in the same manner as the grant funds are for the year reallocated funds are received.

14. **REASONABLE TIME:** “Reasonable time” is defined as successful completion of the initial grant within 24 months from the date of execution of the contract with the state and successful close out within 90 days of project completion.
15. **RECAPTURED FUNDS:** Recaptured funds are those that have been distributed to grantees and are returned to the state because of project under-runs or expenditures that are disallowed.
16. **SAME ACTIVITY:** For economic development projects, “same activity” is defined as the same business entity which is unable to obtain necessary funds from non-grant sources to expand or retain its base employment. This business must expand the state’s economic base by selling or having the potential to sell products or services to non-state markets; or by replacing or competing with products or services imported into the state. For non-economic development projects, “same activity” is defined as another project in the same category as that producing the program income.
17. **SLUM AREA:** As defined in K.S.A. 17-4760, “Slum area” shall mean an area where there is a predominance of buildings or improvements, whether residential or nonresidential, which by reason of dilapidation, deterioration, age or obsolescence, inadequate provision for ventilation, light, air, sanitation, or open spaces, high density of population and overcrowding, or the existence of conditions endangering life or property by fire and other causes, or any combination of such factors is conducive to ill health, transmission of disease, infant mortality, juvenile delinquency, or crime, and is detrimental to the public health, safety, morals or welfare.
18. **STANDARD CONDITION:** Housing or rental units that are in standard condition, have no major structural defects, have adequate plumbing facilities and their appearance does not create a blighting influence.
19. **SUBSTANDARD CONDITION:** This category includes both deteriorated and dilapidated housing or rental units.
20. **THRESHOLD REQUIREMENTS:** “Threshold requirements” are requirements of the program that must be met by applicants in order for the project proposals to be rated and scored in the competition for grants. Threshold requirements are specified in the respective grant application information packages.
21. **UNDISTRIBUTED FUNDS:** Undistributed funds are those block grant funds remaining on the last day of the program year that have not been distributed according to the original allocation due to grantees not entering into contracts with the state.

## **Eligible Activities**

The activities described below have been adapted from those documented under Title I of the Housing and Community Development Act of 1974, as amended. Section 105 of the Act specifically outlines the eligible activities under the CDBG program.

The following list of examples is meant to assist the applicant in determining what activities are most appropriate for each grant type. **This list does not constitute a list of all eligible activities.** The applicant is responsible for justifying the appropriateness of each proposed activity within each grant type within the application and for outlining its consistency with the eligible activities authorized by federal law and regulations.

In these examples: (H) denotes housing activities appropriate under the Housing Rehabilitation category, (PF) denotes public facilities activities appropriate under the Community Improvement category and (ED) denotes economic development activities.

### **Acquisition (H) (PF) (ED)**

The acquisition of real property which is: a) dilapidated or undeveloped; b) appropriate for rehabilitation or conservation activities; c) appropriate for the preserving or restoration of historic sites, beautifying urban land, conserving open spaces, scenic or natural areas or the providing of recreational opportunities or d) for providing public works and improvements eligible for assistance under this title.

### **Disposition (H) (PF) (ED)**

The income from disposition, through sale, lease or donation of any real property acquired with block grant funds is program income and is subject to all applicable requirements.

### **Clearance (H) (PF) (ED)**

Clearance, demolition, removal and rehabilitation (including rehabilitation which promotes energy efficiency) of buildings and improvements (including interim assistance and financing public or private acquisition for rehabilitation, and rehabilitation of privately owned properties and including the renovation of closed school buildings) are eligible activities.

### **Architectural Barrier Removal (PF) (H)**

Special projects directed to the removal of material and architectural barriers that restrict the mobility and accessibility of elderly and disabled persons. ADA projects for curb cuts must be attached to an existing sidewalk. They will not be eligible if no sidewalk exists.

### **Centers/Community Facilities and Services (PF)**

Community Facilities and Services of a single purpose or multipurpose nature are designed to provide public recreation, social or health services. Examples of such facility uses are non-profit day care services, neighborhood meetings or drug/alcohol abuse centers, senior centers and centers for persons with disabilities.

### **Historic Properties Preservation (PF) (H)**

Rehabilitation, preservation and restoration of historic properties or structures that are either listed or eligible to be listed in the National Register of Historic Places. This includes any state or local inventories of historic places, landmarks or district as designated by appropriate laws or ordinances. Both privately and publicly owned properties may be eligible.

### **Water Facilities (PF) (ED)**

Water facilities include the source, treatment and distribution of publicly or privately owned water systems and include ancillary facilities such as meters, hookups, pumps, etc., are eligible.

### **Sanitary Sewage Collection (PF) (ED)**

Collection facilities of a sanitary sewer system, including pumping stations and force mains that serve the collection system are eligible.

### **Storm Sewers (PF)**

The term “storm sewers” means sewers or other conduits, open or closed, or their appurtenances which collect, transport, and dispose of storm water, surface water, street wash, other wash and ground water, or drainage into an existing water source, but excluding domestic waste water and commercial and industrial wastes.

### **Flood and Drainage Facilities (PF) (ED)**

Flood and drainage facilities are eligible when it is determined assistance for such facilities, is not available under other federal laws or programs. The term “flood and drainage facilities” means those facilities designed to influence or affect the flow in a natural watercourse (such as a river, stream, lake or intermittent stream) and excludes storm sewers.

### **Street (or road) Systems (PF) (ED)**

The reconstruction of existing surfaces, the widening of existing streets and construction of new streets are eligible activities. Streets are defined as any public right-of-way and private access roads as they relate to economic development activity.

### **Street Accessories (PF) (ED)**

Necessary transportation support facilities such as culverts, crossway, curbs, gutters and other normal appurtenances to streets or other structures which facilitate passage on or use of the streets.

### **Parking Facilities (PF) (ED)**

Parking facilities are defined as the location for the temporary storage of motor vehicles.

### **Bridges (PF)**

The construction or reconstruction of bridges that carry vehicular traffic over obstacles.

### **Sidewalks (PF) (ED)**

Walks for pedestrian traffic that border streets or provide other pedestrian access.

### **Fire Protection Facilities and Equipment (PF)**

Fire protection facilities are defined as the land and necessary improvements that are necessary for properly housing and storing fire protection equipment and personnel by a fire organization, not including fire-fighting schools. Fire protection equipment is defined as appropriate equipment and apparatus, including equipment for emergency medical aid, which a fire protection organization requires to protect property and maintain the safety and welfare of the public from the dangers of fire. This includes fire engines and specialized tools such as “jaws of life” and lifesaving equipment as well as protective clothing worn by fire fighters.

### **Solid Waste Disposal Facilities (PF)**

Solid waste disposal facilities, that are defined as those physical parts of solid waste management systems beginning at the site or sites at which publicly or privately owned collection vehicles discharge solid wastes, through the point of ultimate disposal including necessary site improvements and conveying systems. This may include appropriate fixed and movable equipment, including vehicular containers used after the first stage of disposal at the transfer station, but not including the final collections.

Equipment and accessories used in the initial collection of solid waste are not included among those solid disposal facilities eligible for assistance under the Kansas CDBG program.

### **Other Utilities (PF) (ED)**

Public utilities other than waste and sewer, which include facilities necessary for distribution and collection of the utility are eligible. Production or generation facilities are limited to the specific criteria outlined in Section 105(a)(2) of the Act. Eligible activities include buildings or improvements that are an integral part of the utility and the placing underground of existing or new distribution or collection facilities.

Construction, reconstruction, rehabilitation or installation of distribution facilities and lines of privately owned utilities may be eligible where necessary and appropriate.

### **Relocation (H) (PF) (ED)**

Relocation payments and assistance for displaced individuals, families, businesses, organizations and farm operations, when determined by the grantee to be appropriate.

### **Energy Strategy (PF)**

Activities necessary to the development of comprehensive community-wide energy use strategies.



### **Payment of the Non-Federal Share (PF) (H)**

Payment of the non-federal share required in connection with a federal grant-in-aid program undertaken as part of the block grant activities, provided that such payment is limited to activities otherwise eligible under this document.

### **Administration (H) (PF) (ED)**

Payment of reasonable administrative costs related to the execution of community development activities financed with a CDBG award. Costs incurred in carrying out the program, whether charged to the program on a direct or indirect basis, must be in compliance with the requirements of the Office of Management and Budget 2 CFR Part 200.

### **Activities by Private Not-for-Profit/Profit Entities (H) (PF) (ED)**

Eligible activities may be carried out by ineligible applicants via contractual arrangements with cities and/or county governmental units.

### **Public Services (PF)**

Provision of public services (including labor, supplies and materials) which are directed toward improving the community's public services and facilities, including but not limited to those concerned with employment, crime prevention, child care, health, drug abuse, 911 systems, education, energy conservation, welfare or recreational services may be eligible activities. A CDBG assisted public service must be a new service or an increase in the level of an existing service. For further eligibility criteria in this category, please review Title I of the Housing and Community Development Act of 1974, as amended.

### **Parks (PF)**

Renovation of community parks to include walking paths, open shelter houses, etc.

### **Playground Equipment (PF)**

Purchase and installation of playground equipment.

### **Storm Shelters (PF)**

Construction of storm shelters that comply with FEMA 361 Guidelines.

### **Restrooms (PF)**

Construction of restrooms – CDBG will cover \$30,000 of installation cost.

### **Ballfields (PF)**

Construction or renovation of ballfields that primarily serve community sporting needs.

## **Ineligible Activities**

The following are examples of activities that are ineligible for block grant assistance under most circumstances and serves as a general guide regarding ineligible activities. This list does not constitute a list of all ineligible activities. There are several specific exceptions to these ineligible activities outlined in the act, as amended, and regulations. The provisions of the regulations in Subpart C, Eligible Activities, 570.200 through 570.207, apply to the eligibility of activities in the state program except where they are inconsistent with the 1983 amendments or other state program statutory provisions. **No project will be eligible if it has an ineligible activity attached to the project.**

If the project is deemed feasible as a regional project and has opted to apply for their own.

### **Public Works, Facilities and Site of Other Improvements**

Where acquisition of real property includes an existing improvement that is to be utilized in the provision of an ineligible public facility, the portion of the acquisition cost attributable to that improvement, as well as the cost of any rehabilitation or conversion undertaken to adapt or make the property suitable for such use, shall be ineligible. Examples specifically include buildings and facilities for the general conduct of government cannot be provided with block grant assistance. Therefore, city halls, county administrative buildings, State Capitol or office buildings or other facilities where legislative or general administrative affairs of government are conducted are not eligible to receive awards. CDBG assistance to a building in which the chief of police and the fire captain of a city have their offices would generally be ineligible.

### **Purchase of Equipment**

The purchase of equipment with block grant funds is generally ineligible except for economic development.

### **Operating and Maintenance Expense**

Any expense associated with operating, maintaining or repairing public facilities and/or any expense associated with providing public services not assisted with block grant funds is ineligible for assistance. Some examples would include:

1. Maintenance and repair of streets, parks, playgrounds, water and sewer facilities, senior centers, centers for persons with disabilities, parking and similar public facilities.
2. Payment of salaries for staff, utility costs and similar expenses necessary for the operation of public works and facilities; and
3. Expenses associated with provision of any public service that is not eligible for assistance.

## **General Government Expenses**

Expenses required to carry out the regular responsibilities of the unit of local government are not eligible for assistance under this section. Examples include all ordinary general government expenditures not related to the implementation of the project.

## **Political Activities**

No expenditure may be made for the use of equipment or premises for political purposes, sponsoring or conducting candidates' meetings, engaging in voter registration activity, voter transportation activity or other partisan political activities.

## **New Housing Construction**

CDBG assistance generally may not be used for the construction of new permanent residential structures or any program to subsidize or finance such new construction, except as provided under the last resort housing provisions set forth in 24 CFR Part 43. For the purpose of the state program, activities in support of the development of low- and moderate-income housing including clearance, site assemblage, provision of site and provision of public improvements and certain housing pre-construction costs set forth in Section 200 are not considered as program to subsidize or finance new residential construction and are, therefore, eligible expenses. The ineligibility of temporary or permanent financing for new residential construction does not apply to such activities when undertaken by a local development or neighborhood corporation pursuant to Section 105(a)(15) of the Act.

## **Income Payments**

The general rule is that assistance shall not be used for income payments for housing or other purposes.

## **Special Assessments**

Applicants considering special assessments should consult with Commerce on the provisions of the Act (104.b.5) regarding such actions.

## **Construction Management**

Construction Management Contracts are not allowable under Kansas CDBG regulations because of free and open competition for bidders.

Disclosure Requirements

On March 16, 1991, HUD published in the Federal Register a final rule entitled, “Accountability in the Provision of HUD Assistance.” This rule was amended on January 16, 1992. This final rule implements Section 102 of the HUD Reform Act of 1989. Section 102 contains provisions to ensure greater accountability and integrity in the way in which HUD assistance is made available.

Subpart C of Section 102 is applicable to Commerce administered CDBG program. Subpart C requires certain applicants for CDBG assistance to make a number of disclosures. Since Subpart C applies to all CDBG applications that are submitted after March 16, 1992, all applicants will be required to submit a Disclosure Report with the applications. It is hoped that the following provides a general understanding of the disclosure requirements. Please review this material and the attached Disclosure Form and Instructions carefully. If you have any questions, please contact the Department of Commerce at (785) 296-3004, TTY: 711.

Subpart C of 24 CFR Part 12 requires applicants for state-administered CDBG funds to make a number of disclosures if they meet a dollar threshold for the receipt of certain covered assistance.

Who Must Make the Disclosures?

Full Disclosure Reports must be made by the following:

- ⇒ Any applicant applying for more than \$200,000 of CDBG funds.
- ⇒ Any applicant applying for less than \$200,000 of CDBG funds, but has received or could receive other covered assistance when added to the CDBG funds exceeds \$200,000.

An applicant is applying for CDBG funds amounting to \$200,000 or less, and will not be receiving other covered assistance, is not required to make full disclosures, but must complete and submit Part I of the Disclosure Report with its application.

Guidance Regarding Disclosures

Applicants must submit an initial Disclosure Report with their CDBG applications. Those applicants required to submit full initial reports must also submit update reports as required by Section B below.

**A. Initial Reports**

**Applicants required to submit full initial reports must disclose the following:**

1. Other government assistance (federal, state, and/or local) that is to be used in conjunction with the CDBG project.
2. The pecuniary interest of any developer, contractor, or consultant involved in the application for CDBG assistance or in the planning, development, or implementation of the CDBG project.

3. The pecuniary interest of any other person in the project that exceeds \$50,000 or 10 percent, whichever is lower, of the CDBG assistance applied for.
4. The sources of all funds to be used in the project (including those sources identified for Number 1 above) and the uses to which these funds are to be placed.

## **B. Update Reports**

Subsequent to the submission of CDBG applications, those applicants/grantees that are required to submit full initial reports are required to submit updated Disclosure Reports at any time any of the following occurs:

1. The applicant/grantee discovers that information was omitted from its initial report or last update report.
2. Additional persons or entities can be identified as interested parties. These are persons or entities that did not have a pecuniary interest when the initial or last update report was submitted, but who can now be identified as having a pecuniary interest that is required to be reported.
3. There is an increase in the amount of pecuniary interest of a person or entity identified in the last report, if this increased pecuniary interest is more than \$50,000 or 10 percent (whichever is lower) of the pecuniary interest (for that person or entity) listed in the initial or last update report.
4. There is a change in other government assistance from that which was provided in the last report. An updated report must be submitted if the total amount of other assistance reported in the initial or last update report has increased by \$250,000 or 10 percent (whichever is lower).
5. There is a change in the source and/or use of funds from that which was provided in the initial or last update report that exceeds the amount of all previously disclosed sources and/or uses of funds by \$250,000 or 10 percent (whichever is lower).

Grantees must constantly monitor their projects to ensure that an updated Disclosure Report is submitted within 30 days of any change meeting one of the five criteria discussed above. Updated reports are required until the project is closed out.

## **Commerce Responsibilities**

Commerce is prohibited from contracting CDBG funds to a local government applicant until that applicant has submitted a Disclosure Report.

Commerce must make all initial and updated Disclosure Reports available to the public. Commerce will notify the public that it retains applicant/grantee Disclosure Reports for the state-administered CDBG program and provide information on how the public may obtain access to this material.

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**Public reporting burden** for this collection of information is estimated to average 2.0 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. This agency may not conduct or sponsor, and a person is not required to respond to, a collection information unless that collection displays a valid OMB control number.

**Privacy Act Statement.** Except for Social Security Numbers (SSNs) and Employer Identification Numbers (EINs), the Department of Housing and Urban Development (HUD) is authorized to collect all the information required by this form under section 102 of the Department of Housing and Urban Development Reform Act of 1989, 42 U.S.C. 3531. Disclosure of SSNs and EINs is voluntary. HUD is authorized to collect this information under the Housing and Community Development Act of 1987 42 U.S.C.3543 (a). The SSN or EIN is used as a unique identifier. The information you provide will enable HUD to carry out its responsibilities under Sections 102(b), (c), and (d) of the Department of Housing and Urban Development Reform Act of 1989, Pub. L. 101-235, approved December 15, 1989. These provisions will help ensure greater accountability and integrity in the provision of certain types of assistance administered by HUD. They will also help ensure that HUD assistance for a specific housing project under Section 102(d) is not more than is necessary to make the project feasible after taking account of other government assistance. HUD will make available to the public all applicant disclosure reports for five years in the case of applications for competitive assistance, and for generally three years in the case of other applications. Update reports will be made available along with the disclosure reports, but in no case for a period generally less than three years. All reports, both initial reports and update reports, will be made available in accordance with the Freedom of Information Act (5 U.S.C. §552) and HUD's implementing regulations at 24 CFR Part 15. HUD will use the information in evaluating individual assistance applications and in performing internal administrative analyses to assist in the management of specific HUD programs. The information will also be used in making the determination under Section 102(d) whether HUD assistance for a specific housing project is more than is necessary to make the project feasible after taking account of other government assistance. You must provide all the required information. Failure to provide any required information may delay the processing of your application, and may result in sanctions and penalties, including imposition of the administrative and civil money penalties specified under 24 CFR §4.38.

**Note:** This form only covers assistance made available by the Department. States and units of general local government that carry out responsibilities under Sections 102(b) and (c) of the Reform Act must develop their own procedures for complying with the Act.

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## Instructions

### Overview.

- A. Coverage.** You must complete this report if:
- (1) You are applying for assistance from HUD for a specific project or activity and you have received, or expect to receive, assistance from HUD in excess of \$200,000 during the during the fiscal year;
  - (2) You are updating a prior report as discussed below; or
  - (3) You are submitting an application for assistance to an entity other than HUD, a State or local government if the application is required by statute or regulation to be submitted to HUD for approval or for any other purpose.

### B. Update reports (filed by “Recipients” of HUD

**Assistance): General.** All recipients of covered assistance must submit update reports to the Department to reflect substantial changes to the initial applicant disclosure reports.

#### Line-by-Line Instructions.

##### Applicant/Recipient Information.

All applicants for HUD competitive assistance, must complete the information required in blocks 1-5 of form HUD-2880:

1. Enter the full name, address, city, State, zip code, and telephone number (including area code) of the applicant/recipient. Where the applicant/recipient is an individual, the last name, first name, and middle initial must be entered.

2. Entry of the applicant/recipient's SSN or EIN, as appropriate, is optional.
3. Applicants enter the HUD program name under which the assistance is being requested.
4. Applicants enter the amount of HUD assistance that is being requested. Recipients enter the amount of HUD assistance that has been provided and to which the update report relates. The amounts are those stated in the application or award documentation. NOTE: In the case of assistance that is provided pursuant to contract over a period of time (such as project-based assistance under section 8 of the United States Housing Act of 1937), the amount of assistance to be reported includes all amounts that are to be provided over the term of the contract, irrespective of when they are to be received.
5. Applicants enter the name and full address of the project or activity for which the HUD assistance is sought. Recipients enter the name and full address of the HUD-assisted project or activity to which the update report relates. The most appropriate government identifying number must be used (e.g., RFP No.; IFB No.; grant announcement No.; or contract, grant, or loan No.) Include prefixes.

### **Part I. Threshold Determinations – Applicants Only**

Part I contains information to help the applicant determine whether the remainder of the form must be completed. **Recipients filing Update Reports should not complete this Part.**

If the answer to *either* questions 1 or 2 is No, the applicant need not complete Parts II and III of the report, but must sign the certification at the end of the form.

### **Part II. Other Government Assistance and Expected Sources and Uses of Funds.**

A. Other Government Assistance. This Part is to be completed by both applicants and recipients for assistance and recipients filing update reports. Applicants and recipients must report any other government assistance involved in the project or activity for which assistance is sought. Applicants and recipients must report any other government assistance involved in the project or activity. Other government assistance is defined in note 4 on the last page. For purposes of this definition,

other government assistance is expected to be made available if, based on an assessment of all the circumstances involved, there are reasonable grounds to anticipate that the assistance will be forthcoming.

Both applicant and recipient disclosures must include all other government assistance involved with the HUD assistance, as well as any other government assistance that was made available before the request, but that has continuing vitality at the time of the request. Examples of this latter category include tax credits that provide for a number of years of tax benefits, and grant assistance that continues to benefit the project at the time of the assistance request.

The following information must be provided:

1. Enter the name and address, city, State, and zip code of the government agency making the assistance available.
2. State the type of other government assistance (e.g., loan, grant, loan insurance).
3. Enter the dollar amount of the other government assistance that is, or is expected to be, made available with respect to the project or activities for which the HUD assistance is sought (applicants) or has been provided (recipients).
4. Uses of funds. Each reportable use of funds must clearly identify the purpose to which they are to be put. Reasonable aggregations may be used, such as "total structure" to include a number of structural costs, such as roof, elevators, exterior masonry, etc.

B. Non-Government Assistance. Note that the applicant and recipient disclosure report must specify all expected sources and uses of funds - both from HUD **and any other source** - that have been or are to be, made available for the project or activity. Non-government sources of funds typically include (but are not limited to) foundations and private contributors.

### **Part III. Interested Parties.**

This Part is to be completed by both applicants and recipients filing update reports. Applicants must provide information on:

1. All developers, contractors, or consultants involved in the application for the assistance or in the planning, development, or implementation of the project or activity and
2. any other person who has a financial interest in the project or activity for which the assistance is sought that exceeds \$50,000 or 10 percent of the assistance (whichever is lower).

**Note:** A financial interest means any financial involvement in the project or activity, including (but not limited to) situations in which an individual or entity has an equity interest in the project or activity, shares in any profit on resale or any distribution of surplus cash or other assets of the project or activity, or receives compensation for any goods or services provided in connection with the project or activity. Residency of an individual in housing for which assistance is being sought is not, by itself, considered a covered financial interest.

The information required below must be provided.

1. Enter the full names and addresses. If the person is an entity, the listing must include the full name and address of the entity as well as the CEO. Please list all names alphabetically.
2. Entry of the Social Security Number (SSN) or Employee Identification Number (EIN), as appropriate, for each person listed is optional.
3. Enter the type of participation in the project or activity for each person listed: i.e., the person's specific role in the project (e.g., contractor, consultant, planner, investor).
4. Enter the financial interest in the project or activity for each person listed. The interest must be expressed both as a dollar amount and as a percentage of the amount of the HUD assistance involved.

**Note** that if any of the source/use information required by this report has been provided elsewhere in this application package, the applicant need not repeat the information, but need only refer to the form and location to incorporate it into this report. (It is likely that some of the information required by this report has been provided on SF 424A, and on various budget forms accompanying the application.) If this report requires information

beyond that provided elsewhere in the application package, the applicant must include in this report all the additional information required.

Recipients must submit an update report for any change in previously disclosed sources and uses of funds as provided in Section I.D.5., above.

**Notes:**

1. All citations are to 24 CFR Part 4, which was published in the Federal Register. [April 1, 1996, at 63 Fed. Reg. 14448.]
2. Assistance means any contract, grant, loan, cooperative agreement, or other form of assistance, including the insurance or guarantee of a loan or mortgage, that is provided with respect to a specific project or activity under a program administered by the Department. The term does not include contracts, such as procurements contracts, that are subject to the Fed. Acquisition Regulation (FAR) (48 CFR Chapter 1).
3. See 24 CFR §4.9 for detailed guidance on how the threshold is calculated.
4. "Other government assistance" is defined to include any loan, grant, guarantee, insurance, payment, rebate, subsidy, credit, tax benefit, or any other form of direct or indirect assistance from the Federal government (other than that requested from HUD in the application), a State, or a unit of general local government, or any agency or instrumentality thereof, that is, or is expected to be made, available with respect to the project or activities for which the assistance is sought.
5. For the purpose of this form and 24 CFR Part 4, "person" means an individual (including a consultant, lobbyist, or lawyer); corporation; company; association; authority; firm; partnership; society; State, unit of general local government, or other government entity, or agency thereof (including a public housing agency); Indian tribe; and any other organization or group of people.



**Median Fees for Professional Engineering Services as a Percentage of Net Construction Cost**

**Schedule for Basic Engineering Services:**

Net Construction Cost	% Fee	Net Construction Cost	% Fee
30,000	14.00	400,000	8.80
40,000	13.00	450,000	8.65
50,000	12.50	500,000	8.55
60,000	12.25	550,000	8.35
70,000	11.85	600,000	8.15
80,000	11.55	650,000	8.05
90,000	11.35	700,000	7.90
100,000	11.20	750,000	7.80
110,000	11.00	800,000	7.70
120,000	10.85	850,000	7.60
140,000	10.55	900,000	7.55
160,000	10.30	1,000,000	7.40
180,000	10.15	1,500,000	7.00
200,000	9.95	2,000,000	6.70
250,000	9.55	2,500,000	6.55
300,000	9.25	3,000,000	6.45
350,000	9.00	4,000,000	6.30

The schedule for basic engineering services includes preliminary services, collection of field data, design services and services during construction, including periodic inspections. An additional compensation of two (2) percent shall be made for the design of water treatment plants, sewage treatment plants, sewage collection systems and dams and impounding reservoirs, based on the actual cost thereof. An additional compensation of one (1) percent may be allowed for the design on existing projects for rehabilitation purposes, based on the actual cost thereof.

**Median Fees For Construction Inspection:** 75 percent of Basic Engineering Services.

**Architectural Services**

The CDBG dollars for architectural design services will be seven percent of the construction cost. Varying degrees of project complexity may result in a higher negotiated fee. The maximum increase for complexity of an architectural service is four (4) percent.

Inspection costs: 75 percent of basic architectural design.

**Note:** The above fees for engineering, architectural and inspection services are the maximum allowable for CDBG construction dollars only.

## **Kansas Department of Commerce Conflict of Interest Policy**

The State of Kansas agreed, when it accepted the CDBG program in 1983, to abide by 24 CFR 570.611 of the Federal regulations (conflict of interest) for the program. The Kansas Department of Commerce developed a conflict of interest policy on April 22, 1994, relating to housing. This policy has been broadened to cover all areas of participation in all programs funded by CDBG monies. In an attempt to clarify this issue for the State's program, the State has adopted, as of July 1, 1996, the following position on conflict of interest, incorporating the April 22, 1994, policy and extending the policy further to address other areas as provided in 24 CFR 570.611 and 2 CFR Part 200.

### Standard of Conduct Involving Conflict of Interest

- I. Persons Covered: The conflict of interest provisions of this policy shall apply to any person who is an employee, elected or appointed official, agent, consultant, officer, or any immediate family member or business partner of the above, of the recipient, or of any designated public agencies, or subrecipients which are receiving funds from the Kansas Community Development Block Grant program.
  
- II. Applicability:
  - A. In the area of procurement of supplies, equipment, construction, and services by recipients, subrecipients, or designated public agencies, the conflict of interest provisions in Public Law 103-355 or 2 CFR Part 200, as applicable, shall apply.
  - B. In all cases not governed by PL 103-355, the provisions of this policy shall apply. Such cases include the acquisition and disposition of real property and the provisions of assistance by the recipient or subrecipients to individuals, businesses and other private entities in the form of grants, loans, or other assistance through eligible activities of the program which authorize assistance.
  
- III. Conflicts Prohibited: Except for approved eligible administrative or personnel cost, no persons described in I. above who exercise or have exercised any functions or responsibilities with respect to CDBG activities assisted under the State program 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 personal or financial interest or 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. For the State CDBG Economic Development program, the above restrictions shall apply to all activities that are a part of the funding approval for all projects, and shall cover any such interest or benefit during, or at any time after, such person's tenure.
  - A. An exception may be considered only after the grant applicant has provided the following:
    1. A disclosure of the nature of the conflict accompanied by an assurance that there has been a public disclosure of the conflict and a description of how the public disclosure was made;

**Conflict of Interest Policy**  
**Page 2**

2. A recording of the disclosure in the official minutes of the governing body of the grantee; and
  3. An opinion of the recipient's attorney that the interest for which the exception is sought would not violate State or local law.
- B. In determining whether to grant an exception, after the above three items have been received, the State shall consider the following factors, where applicable:
1. 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;
  2. Whether an opportunity was provided for open competitive bidding or negotiation;
  3. Whether the person affected is a member of a group or class 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;
  4. Whether 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;
  5. Whether the interest or benefit was present before the affected person was in a position as described in Section III;
  6. Whether undue hardship will result either to the recipient or the person affected when weighted against the public interest served by avoiding the prohibited conflict; and
  7. Any other relevant considerations.

If after all considerations, determination is made to grant an exception, the State shall issue a waiver noting such exception and the conditions and the basis for the issuance of same.

It is the policy of the CDBG program that no waiver will be issued concerning benefit to the chief elected official or governing body members of the grantee, except in dire circumstances affecting performance. (i.e.: natural disaster)