

# Grantee Handbook

## Table of Contents

Updated January 2009

	<u>Page</u>
<b>Anti-Lobbying Certification</b>	<b>a-b</b>
<b>Conflict of Interest Policy</b>	<b>c-e</b>
<b>HUD Disclosure Requirements</b>	<b>f-l</b>
<b>Commerce Disclosure Report</b>	
<b>NSP Explanation of Property Types</b>	<b>m-r</b>
<b>Section 1: Citizen Participation Plan</b>	1-1
( <a href="https://www.kansascommerce.gov/wp-content/uploads/2021/07/NSP-Citizen-Participation-Section-1.pdf">https://www.kansascommerce.gov/wp-content/uploads/2021/07/NSP-Citizen-Participation-Section-1.pdf</a> )	
Public Hearing Requirements	1-2
Complaint Procedure	1-2
Sample Community Improvement Application Public Hearing Notice	1-3
Sample Performance Public Hearing Notice	1-3
<b>Section 2: Quarterly Progress Report</b>	2-1
( <a href="https://www.kansascommerce.gov/wp-content/uploads/2021/07/NSP-Quarterly-Report-Section-2.pdf">https://www.kansascommerce.gov/wp-content/uploads/2021/07/NSP-Quarterly-Report-Section-2.pdf</a> )	
Reporting Requirements	2-1
<b>Section 3: Program Monitoring Requirements</b>	3-1
( <a href="https://www.kansascommerce.gov/wp-content/uploads/2021/07/NSP-Monitoring-Section-3.pdf">https://www.kansascommerce.gov/wp-content/uploads/2021/07/NSP-Monitoring-Section-3.pdf</a> )	
Staff Monitoring Packet	3-2
<b>Section 4: Record Keeping Requirements</b>	4-1
( <a href="https://www.kansascommerce.gov/wp-content/uploads/2021/07/NSP-Record-Keeping-Section-4.pdf">https://www.kansascommerce.gov/wp-content/uploads/2021/07/NSP-Record-Keeping-Section-4.pdf</a> )	
National Objective	4-1
Civil Rights	4-3
Eligibility of Activities	4-4
Labor Standards	4-5
Uniform Relocation Assistance and Real Property Acquisition	4-5
Environment	4-7
Financial Management	4-8
Procurement	4-9
Housing	4-9
Legal Records- Economic Development Grants	4-9
<b>Section 5: Financial Management</b>	5-1
( <a href="https://www.kansascommerce.gov/wp-content/uploads/2021/07/NSP-Financial-Mgmt-Section-5.pdf">https://www.kansascommerce.gov/wp-content/uploads/2021/07/NSP-Financial-Mgmt-Section-5.pdf</a> )	
Financial Management Systems	5-1
Receipt and Disbursement of Funds	5-3
Retention of Records	5-5
Program Income	5-6
Property Management Standards	5-9
Budget Revisions and Amendments	5-9
<b>Financial Forms</b>	5-11
OMB Circular Number A-87, Attachment A and B	5-19
24 CFR Part 85, “Common Rule”	5-42

<b>Section 6: Procurement</b>	6-1
<a href="https://www.kansascommerce.gov/wp-content/uploads/2021/07/NSP-Procurement-Section-6.pdf">https://www.kansascommerce.gov/wp-content/uploads/2021/07/NSP-Procurement-Section-6.pdf</a>	
Procurement Procedures	6-1
Procuring Professional and Personal Services Contracts	6-3
Competitive Bidding	6-6
Sample Form of Agreement Between Owner and Consultant	6-9
Sample Request for Qualifications, Professional Engineering Services	6-17
Sample Request for Proposals, Professional Administrative Services	6-18
Bonding and Insurance Requirements	6-19
<b>Section 7: Environmental Review</b>	7-1
<a href="https://www.kansascommerce.gov/wp-content/uploads/2021/07/NSP-Environmental-Section-7.pdf">https://www.kansascommerce.gov/wp-content/uploads/2021/07/NSP-Environmental-Section-7.pdf</a>	
Environmental Review Requirements	7-1
The Environmental Review Process	7-1
Environmental Issues/Agencies	7-7
Summary	7-11
<b>Appendices</b>	
<b>Section 7A: NSP Appendix</b>	
<a href="https://www.kansascommerce.gov/wp-content/uploads/2021/07/NSP-Environmental-Appendix-Section-7A.pdf">https://www.kansascommerce.gov/wp-content/uploads/2021/07/NSP-Environmental-Appendix-Section-7A.pdf</a>	
<b>Section 7B: Accessibility</b>	
<a href="https://www.kansascommerce.gov/wp-content/uploads/2021/07/NSP-Accessibility-Section-7-B.pdf">https://www.kansascommerce.gov/wp-content/uploads/2021/07/NSP-Accessibility-Section-7-B.pdf</a>	
<b>Section 8: Acquisition and Relocation</b>	8-1
<a href="https://www.kansascommerce.gov/wp-content/uploads/2021/07/NSP-Acquisition-Section-8.pdf">https://www.kansascommerce.gov/wp-content/uploads/2021/07/NSP-Acquisition-Section-8.pdf</a>	
Scope of Acquisition and Relocation	8-1
Applicable Laws and Regulations	8-1
Basic Requirements, Real Property Acquisition	8-2
Appendices	8-10
<b>Section 9: Labor Standards</b>	9-1
<a href="https://www.kansascommerce.gov/wp-content/uploads/2021/07/NSP-Labor-Section-9.pdf">https://www.kansascommerce.gov/wp-content/uploads/2021/07/NSP-Labor-Section-9.pdf</a>	
Applicable Federal Statutes and Regulations	9-1
Grantee Responsibilities	9-2
Appendices	9-13
<b>Section 10: Civil Rights</b>	10-1
<a href="https://www.kansascommerce.gov/wp-content/uploads/2021/07/NSP-Civil-Rights-Section-10.pdf">https://www.kansascommerce.gov/wp-content/uploads/2021/07/NSP-Civil-Rights-Section-10.pdf</a>	
Applicable Civil Rights Laws	10-1
Areas of Compliance	10-2
Policy Adopted to Handle Complaints of Discrimination	10-10
Appendices	10-13
<b>Section 11: Audit Requirements</b>	11-1
<a href="https://www.kansascommerce.gov/wp-content/uploads/2021/07/NSP-Audit-Requirements-Section-11.pdf">https://www.kansascommerce.gov/wp-content/uploads/2021/07/NSP-Audit-Requirements-Section-11.pdf</a>	
Audit Guide	11-1
Audit Requirements	11-1
Auditor Selection	11-1



Deadlines	11-1
Submission of Audits	11-2
Audit Review	11-2
Primary Documents and Regulations	11-2
Audit Information Form	11-4
<b>Section 12: Grant Close-Out — This section will be included at a later date.</b>	12-1
Preconditions for Close-Out	12-1
Close-Out	12-2
Guidelines - Local Plan for the Use of CDBG Program Income	12-11
Distribution and Management System	12-11
Financial Management	12-12
Changes and Modifications	12-12
Close-Out Forms	12-13
<b>Section 13: Property Management</b>	13-1
<a href="https://www.kansascommerce.gov/wp-content/uploads/2021/07/NSP-Property-Management-Section-13.pdf">https://www.kansascommerce.gov/wp-content/uploads/2021/07/NSP-Property-Management-Section-13.pdf</a>	
Real Property	13-1
Equipment	13-1
Supplies	13-4
<b>Section 14. Housing Development</b>	
<a href="https://www.kansascommerce.gov/wp-content/uploads/2021/07/NSP-Housing-Development-Section-14.pdf">https://www.kansascommerce.gov/wp-content/uploads/2021/07/NSP-Housing-Development-Section-14.pdf</a>	

## 1990 Anti-Lobbying Certification

On Wednesday, December 20, 1989, a Notice was published in the Federal Register (page 52070) advising recipients and subrecipients of Federal contracts, grants, cooperative agreements, and loans of a new prohibition mandated by Congress. Section 319 of Public Law 101-121, signed on October 23, 1989, generally prohibits recipients of Federal contracts, grants, and loans from using appropriated funds for lobbying the Executive or Legislative branches of the Federal Government in connection with a specific contract, grant, or loan.

The Federal Register guidance specifically forbids the Department of Housing and Urban Development from awarding contracts, grants, cooperative agreements, or loans unless the recipient has made an acceptable certification regarding lobbying.

This new requirement has since been narrowed to signed certifications for **all awards of Federal monies over \$100,000**. This begins with the State's award and goes to grantees, contractors, subcontractors, and suppliers, etc., over \$100,000 in all grants.

Failure of the grantee to obtain this certification from all awards of \$100,000 or more will result in a program finding.

Included herein is a copy of this certification.

**Certification Regarding Government-Wide  
Restriction on Lobbying  
(For Contracts Over \$100,000)**

The undersigned certifies, to the best of his or her knowledge and belief, that:

1. No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.
2. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.
3. The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, cooperative agreements) over \$100,000, and that all subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by Section 1352, Title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

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Date

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Principal

## **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.

### 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 OMB Circular A-110, 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.

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

- 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;
  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:

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;

1. Whether an opportunity was provided for open competitive bidding or negotiation;

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;

2. 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;
3. Whether the interest or benefit was present before the affected person was in a position as described in Section III;
4. 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
5. Any other relevant considerations.

**Conflict of Interest Policy**  
**Page 3**

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.

## **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 (785) 296-3487.

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 for five years. 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.

## **Instructions for Completion of Disclosure Report**

### **Overview:**

**A. Coverage.** You must complete this report if:

- (1) You are applying for assistance from CDBG for a specific project or activity **and** you have received, or expect to receive, assistance from HUD in excess of \$200,000 during the fiscal year;
- (2) You are updating a prior report as discussed below.

### **B. Update reports (filed by “Recipients”):**

**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 CDBG assistance must complete the information required in blocks 1-5 of the disclosure report:

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 assistance that is being requested. Recipients enter the amount of assistance that has been provided and to which the update report relates. The amounts are those stated in the application or award documentation.

5. Applicants enter the name and full address of the project or activity for which the assistance is sought. Recipients enter the name and full address of the assisted project or activity to which the update report relates. The most appropriate government identifying number must be used (e.g., 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* question 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. Other government assistance is defined in note 2 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. 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.

#### **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. 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.

**Instructions in General Application Requirements or Grantee Handbook**

**Applicant/Recipient Information**

Indicate whether this is an Initial Report  or an Update Report

1. Applicant/Recipient Name, Address, and Phone (include area code):  ( ) -	2. Social Security Number or Employer ID Number:  - -
3. CDBG Grant Number:	4. Amount of HUD Assistance Requested/Received
5. State the name and location (street address, City and State) of the project or activity:	

**Part I Threshold Determinations.**

1. Are you applying for assistance for a specific project or activity?  <input type="checkbox"/> Yes <input type="checkbox"/> No	2. Have you received or do you expect to receive assistance , involving the project or activity in this application, in excess of \$200,000 during this fiscal year .  <input type="checkbox"/> Yes <input type="checkbox"/> No
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If you answered “No” to either question 1 or 2, **Stop!** You do not need to complete the remainder of this form. **However,** you must sign the certification at the end of the report.

**Part II Other Government Assistance Provided or Requested / Expected Sources and Use of Funds.** Such assistance includes, but is not limited to, any grant, loan subsidy, guarantee, insurance, payment, credit, or tax benefit.

Department/State/Local Agency Name and Address	Type of Assistance	Amount Requested/Provided	Expected Uses of the Funds

(Note: Use Additional pages if necessary.)

**Part III Interested Parties.** You must disclose:

- 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
- 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).

Alphabetical list of all persons with a reportable financial interest in the project or activity (For individuals, give the last name first)	Social Security No. or Employee ID No.	Type of Participation in Project/Activity	Financial Interest in Project/Activity (\$ and %)

(Note: Use Additional pages if necessary.)

**Certification**

**Warning:** If you knowingly make a false statement on this form, you may be subject to civil or criminal penalties under Section 1001 of Title 18 of the United States Code. In addition, any person who knowingly and materially violates any required disclosures of information, including intentional non-disclosure, is subject to civil money penalty not to exceed \$10,000 for each violation.

I certify that this information is true and complete.

Signature:  X	Date: (mm/dd/yyyy)
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# NEIGHBORHOOD STABILIZATION PROGRAM Explanation of Property Types under Each Eligible Use

## INTRODUCTION

The Housing and Economic Recovery Act (HERA) uses different terms for each of the five Eligible Uses of funds in the Neighborhood Stabilization Program (NSP). HUD wishes to clarify these terms and to explain how this may affect what grantees can do with different types of property. Attachment A—NSP Eligible Uses by Property Type, was developed to serve as a visual aid to show the limitations and requirements that apply to NSP funds. The legislative language on Eligible Uses shows the terms that will be discussed in underline. This memorandum also discusses the property types required to satisfy the requirement that 25 percent of NSP funds are used to house individuals or families whose incomes do not exceed 50 percent of area median income.

In general, grantees must limit their activities in any Eligible Use only to those property types specifically cited. When combining uses (e.g. Acquisition and Rehabilitation under B with Financing under A), the more restrictive classification applies. All definitions should be understood to apply primarily to areas of greatest need or to constitute an improvement benefiting such areas as part of the overall NSP program. In addition, all activities must meet the national objective of benefiting low, moderate or middle-income persons; NSP grantees may not use slum and blight removal or urgent needs as national objectives. Subsequent guidance will further define the correlated eligible activities from the CDBG entitlement regulations.

## TERMS TO BE DISCUSSED

### Housing and Economic Recovery Act Title III Sec. 2301 (c):

- (3) **ELIGIBLE USES**—Amounts made available under this section may be used to:
- (A) establish financing mechanisms for purchase and redevelopment of foreclosed upon homes and residential properties, including such mechanisms as soft-second, loan loss reserves, and shared-equity loans for low- and moderate- income homebuyers;
  - (B) purchase and rehabilitate homes and residential properties that have been abandoned or foreclosed upon, in order to sell, rent, or redevelop such homes and properties;
  - (C) establish land banks for homes that have been foreclosed upon;
  - (D) demolish blighted structures; and
  - (E) redevelop demolished or vacant properties.

### Housing and Economic Recovery Act Title III Sec. 2301 (f) (3) (A):

(ii) not less than 25 percent of the funds appropriated or otherwise made available under this section shall be used for the purchase and redevelopment of abandoned or foreclosed upon homes or residential properties that will be used to house individuals or families whose incomes do not exceed 50 percent of area median income.

## **A. Financing Mechanisms:**

For “foreclosed-upon homes and residential properties”:

HUD interprets “homes” as any type of permanent residential dwelling unit, such as detached single family structures, townhouses, condominium units, multifamily rental apartments (covering the entire property) and manufactured homes where treated under state law as real estate (not personal property). The NSP Notice defines “foreclosed”; see excerpt below.

“Residential properties” includes all of the above plus vacant land that is currently designated for residential use, e.g. through zoning.

***NSP Notice Definition: Foreclosed.*** A property “has been foreclosed upon” at the point that, under state or local law, the mortgage or tax foreclosure is complete. HUD generally will not consider a foreclosure to be complete until after the title for the property has been transferred from the former homeowner under some type of foreclosure proceeding or transfer in lieu of foreclosure, in accordance with state or local law.

## **B. Purchase and Rehabilitation:**

For “homes and residential properties that have been abandoned or foreclosed upon”: As above, HUD interprets “homes” as any type of permanent residential dwelling unit, including detached single family structures, townhouses, condominium units, multifamily rental apartments (covering the entire property), and manufactured homes where treated under state law as real estate (not as personal property). The NSP Notice defines “abandoned” and “foreclosed”; see excerpts below. “Residential properties” includes all of the above plus vacant land that is currently designated for residential use, e.g. through zoning.

***NSP Notice Definition: Abandoned.*** A home is abandoned when mortgage or tax foreclosure proceedings have been initiated for that property, no mortgage or tax payments have been made by the property owner for at least 90 days, AND the property has been vacant for at least 90 days.

***NSP Notice Definition: Foreclosed.*** A property “has been foreclosed upon” at the point that, under state or local law, the mortgage or tax foreclosure is complete. HUD generally will not consider a foreclosure to be complete until after the title for the property has been transferred from the former homeowner under some type of foreclosure proceeding or transfer in lieu of foreclosure, in accordance with state or local law.

## **C. Land Banks:**

For “homes that have been foreclosed upon”:

This terminology limits land banking to “foreclosed upon” “homes” as defined above. The absence of a reference in this section to “residential properties, means that vacant land may NOT be acquired through land banks. However, it is permissible for acquired homes to be subsequently demolished and remain in the land bank. Note that the definition of Land Banks at the beginning of the NSP Notice refers to vacant land, which has created some confusion. HUD regrets this inconsistency and is changing that section in an Errata Notice to be published soon.

#### **D. Demolition:**

For “blighted structures”:

The NSP Notice defines “blighted structures”, as shown below. HUD has taken the position that any type of structure that is blighted may be demolished with NSP funds. This means that commercial, industrial or other types of structures may be demolished in addition to homes and residential structures.

***NSP Notice Definition: Blighted structure.*** A structure is blighted when it exhibits objectively determinable signs of deterioration sufficient to constitute a threat to human health, safety, and public welfare.

#### **E. Redevelopment:**

For “demolished or vacant properties”:

This Eligible Use allows communities to address the broadest range of property types. Because the legislation does not limit this use to homes and/or residential properties, HUD will permit grantees to acquire and redevelop ANY property type. This includes commercial or industrial property in addition to all types of residential property. Note that property acquired under Redevelopment need not be abandoned or foreclosed upon.

However, it **MUST** be vacant. “Vacant properties” includes both vacant land and properties with vacant structures on the land. However, HUD understands redevelopment to imply that properties were once developed; therefore undeveloped or “greenfield” sites may not be acquired under Eligible Use E.

HUD expects that, unlike land banks, properties acquired and improved under Eligible Use E must proceed expeditiously to construction. Properties that are eligible to be land banked with unknown end uses, or for which the end use is not imminent, should be considered for Land Banks (assuming that they have been foreclosed upon). Some corollary considerations also merit discussion, which follows the next section on housing for low-income persons.

#### **Title III Sec. 2301 (f) (3) (A): Housing for individuals or families whose incomes do not exceed 50 percent of area median income:**

For “purchase and redevelopment of abandoned or foreclosed upon homes and residential properties”:

HERA requires that grantees allocate 25percent of their NSP funds for housing that serves lower income persons. Note that this is limited to abandoned or foreclosed upon homes or residential properties. The NSP definitions of “abandoned” and “foreclosed”, listed above, apply here also. HUD takes the position that this section refers to permanent housing; thus, such uses as homeless shelters cannot count toward the 25 percent requirement.



## RELATED CONSIDERATIONS

The following discussion concerns implications of the preceding clarifications, or instances in which more than one set of requirements apply.

First, new housing construction (benefiting low-, moderate-, or middle-income persons) is permitted under Eligible Use E, and ONLY under Eligible Use E. This supersedes the limitation on new construction of housing in the CDBG program and is described in Sec. II H. 3.c of the NSP Notice (see excerpt below on page 5).

Second, housing rehabilitation is currently not a CDBG-correlated eligible activity under Eligible Use E. However, HUD is issuing an Technical Correction Notice to add it. The CDBG regulations on public facilities (24 CFR 570.201 (c)) do allow rehabilitation. Thus, a vacant structure acquired under Eligible Use E may now be renovated into a public facility, such as a neighborhood center. After publication of the Errata Notice, grantees will also be able to rehabilitate vacant structures for housing.

Third, grantees may wish to construct new housing for persons at or below 50 percent of median income, especially affordable rental housing. In this case, the law requires that the property be abandoned or foreclosed upon. The Notice limits new construction to Eligible Use E, which can take place only on vacant or demolished property. Therefore, to meet the 25 percent requirement, new housing construction can occur only on demolished or vacant land that is either abandoned or foreclosed upon. After publication of the Technical Correction Notice, rehabilitation of vacant residential structures will be permissible, but to meet the 25 percent requirement the property must also have been abandoned or foreclosed upon.

Finally, as defined in the CDBG regulations below, shelters for persons with special needs (such as homeless shelters and halfway houses) are public facilities. Renovation or new construction of such structures is eligible as a public facility under Eligible Use E. However, because they are not defined as permanent housing, they cannot count towards the requirement that 25 percent of the NSP funds “be used to house individuals or families whose incomes do not exceed 50 percent of area median income”.

## ADDITIONAL REFERENCES

### NSP Notice Dated Oct. 6, 2008 II. H. Eligibility and Allowable Costs

c. **New construction of housing** is eligible as part of eligible-use (E) to redevelop demolished or vacant properties.

#### **Housing and Economic Recovery Act Title III Sec. 2301(f) (3) LOW AND MODERATE INCOME REQUIREMENT.—**

(A) IN GENERAL.—Notwithstanding the authority of the Secretary under paragraph (1)—

(i) all of the funds appropriated or otherwise made available under this section shall be used with respect to individuals and families whose income does not exceed 120 percent of area median income; and

(ii) not less than 25 percent of the funds appropriated or otherwise made available under this section shall be used for the purchase and redevelopment of abandoned or foreclosed upon homes or residential properties that will be used to house individuals or families whose incomes do not exceed 50 percent of area median income. (emphasis added)

#### **CDBG regulations 24 CFR 570.201 (c):**

*Shelters for persons with special needs.* Excerpt –

“Facilities designed for use in providing shelter for persons having special needs are considered public facilities .... Such facilities include shelters for the homeless; convalescent homes; hospitals, nursing homes; battered spouse shelters; halfway houses for run-away children, drug offenders or parolees; group homes for mentally retarded persons and temporary housing for disaster victims.”

ATTACHMENT A		NSP Eligible Uses by Property Type				<i>(Updated 02/12/09 Page 6 of 6)</i>	
	Eligible Uses	Foreclosed Homes and Residential Properties	Abandoned Homes and Residential Properties	Blighted Structures	Demolished Properties	Other Vacant Properties	
<b>A</b>	Financing Mechanisms	Yes	No	Only if Foreclosed (1)	N/A	Only if Foreclosed(1)	
<b>B</b>	Purchase and Rehab	Yes	Yes	If Foreclosed or Abandoned	N/A	No	
<b>C</b>	Land Banks	Yes (Homes only)	No (Foreclosed only)	Only if Foreclosed home	No	No	
<b>D</b>	Demolition	Only if Blighted (3)	Only if Blighted (3)	Yes	N/A	Only if Blighted (3)	
<b>E</b>	Redevelopment	Only if Vacant (5)	Only if Vacant (5)	Only if Vacant (5)	Yes	Yes	
<i>Comments</i>		<i>Locally defined not limited to residential structures.</i>	<i>Not limited to residential structures.</i>	<i>Land or structures. Not limited to residential property.</i>			

## **Section 1: Citizen Participation Plan**

The State of Kansas, Neighborhood Stabilization Program (NSP), hereby establishes the following Citizen Participation Plan for the purpose of promoting and encouraging active and meaningful participation in public activities, especially those in relation to community development and housing needs in accordance with Title I of the Housing and Community Development Act of 1974, as amended. The following are in addition to the present requirements of Section 104(a) of the Act and are in accordance with Section 508 of the Housing and Community Development Act of 1987:

- A. Recipients must demonstrate that reasonable efforts to ensure involvement of citizens or citizen organizations throughout all stages of the program shall be, or have been, undertaken. There shall be the opportunity for involvement of low- and moderate- income persons (LMI), members of minority groups, residents of areas where Neighborhood Stabilization Program Grant-assisted activity is proposed or ongoing, residents of slum or blighted areas, the elderly, the disabled, the business community and civic groups concerned about the program. Citizens and citizen organizations shall be provided the opportunity to assess and submit comments on all aspects of the NSP performance. All records of above efforts shall be made a part of grant files.
- B. All applicants for, and recipients of, Neighborhood Stabilization Program (NSP) funds, shall be required to conduct all aspects of the program in an open manner with access to records on the proposed and actual use of funds for all interested persons. All records of applications and funded grants must be kept at the recipient's/grantee's offices and be available during normal working hours. Any activity of the NSP program, with the exception of confidential matters relating to the Housing and Economic Development programs, shall be open to examination by all citizens.
- C. The applicant/recipient must provide technical assistance to groups representative of persons of LMI that request such assistance in developing proposals at the level of expertise available at the City Hall or County Courthouse within 15 working days of request. The technical assistance to be provided does not involve providing any money for such assistance. All application materials and instructions shall be provided at no cost to any such group requesting same.
- D. Citizens shall be provided adequate and timely information, so as to enable them to be meaningfully involved in important decisions at the various stages of the program.

## **II. COMPLAINT PROCEDURE**

Any criticism or complaint submitted in writing at any time shall be answered in writing within 15 working days of receipt by the Mayor's or Presiding Commissioner's office. If the complaint is not resolved, it shall be referred to the Governing Body for final disposition

## NSP Quarterly Status Report Instructions:

### **Section 2: Quarterly Progress Report**

#### **I. REPORTING REQUIREMENTS**

Neighborhood Stabilization Program (NSP) recipients are required to submit quarterly progress reports to Commerce. This information will be used to compare actual performance to the implementation schedule and budget targets established in the Sub-grantee Allocation Agreement. The Department will provide technical assistance to recipients in the preparation of the reports and will offer follow-up assistance to recipients whose reported performance may be lagging.

The information requested in the NSP Quarterly Progress Report is critical to the State's own reporting requirements. Each quarter the Department is required to submit a Performance Evaluation Report on the Disaster Recovery Grant Reporting (DRGR) system to the U.S. Department of Housing and Urban Development (HUD) consisting of financial and performance data related to the State's total grant allocation. By aggregating data from all recipients, the Department is able to meet this requirement. The data is also useful for evaluation purposes, allowing the Department to measure accomplishments in relation to overall program goals.

In addition to serving the Department's need, the cost, accomplishment, and beneficiary data developed for reporting purposes supports program and financial monitoring by local officials and administrators. Based on a clear definition of current status, resources may be reallocated to achieve objective; staff assignments may be clarified; and closer supervision of grant sponsored contractors may be provided.

Recipient reports shall be developed as of the following dates:

March 31  
June 30  
September 30  
December 31

and submitted in accordance with the reporting schedule established in the Sub-Grantee Agreement. Reports are due at the Department offices within ten days after the established report submission deadline.

#### **Top Portion: left to right**

- County/City of: Enter name of NSP sub-grantee.
- Grant#: Enter assigned NSP grant number.
- Total NSP Grant: Enter total dollar amount of NSP grant.
- Total Local Funds: Enter total dollar amount of Local funds.

Second line:

- Chief Elected Official: Enter name of official (Mayor/Chairperson, etc).
- Contract Start Date: Enter commencement date on NSP contract.
- Total NSP Expended: Enter dollar amount of NSP funds spent to date.
- Total Local Expended: Enter dollar amount of Local funds spent to date.

Third Line:

- Report #: Enter number.
- Contract End Date: Enter contract end date.

Fourth Line:

- Qtr Ending Date: Enter end date of Quarter period.

**Bottom Portion: left to right**

- A. Physical Address: the physical address of the property
- B. Apt / Unit #: Unit number of any multi-family properties
- C. City: City
- D. ST: State
- E. Zip: 5 digit zip code
- F. LMMA < 50%: Select from Drop Down Box
  - a. Yes
  - b. No
- G. Start Date:
  - a. Start date of each activity
- H. Completion Date:
  - a. Enter completion date of activity
- I. Bid Date:
  - a. If a contractor is used, provide the bid deadline.
- J. Contractor: Enter name of contractor if applicable
- K. DBE: Disadvantaged Business Enterprise: Select from Drop Down Box
  - a. Yes
  - b. No
- L. Type of Activity: Select from Drop Down Box
  - a. Financing mechanisms
  - b. Purchase & Rehab House
  - c. Land Banking and Relocation
  - d. Demolition
  - e. Redevelop Demo/Vacant Property
- M. Financing\$: Enter dollar amount spent on financing property.
- N. Appraisal\$: Certified appraised value of property.

- O. Purchase\$: Enter amount of original purchase price.
- P. Discount%: The Discount % of the purchase price below the appraised price.
- Q. Rehab\$: Enter amount of dollars spent on rehabilitation
- R. LBP\$: Enter dollar amount spent on Lead based paint abatement.
- S. Land Bank\$: Enter dollar amount spent on land banking.
- T. Relocation\$: Enter dollars spent on relocation due to land banking or purchase and rehab
- U. Demo\$: Enter amount of dollars spent for demolition of property-not to exceed 10% of allocation.
- V. Redevelop\$: Enter amount of dollars spent on redevelopment of demolished or vacant properties.
- W. Admin\$: Administration cost NOT to exceed 7%.
- X. Resell\$: Enter amount of listed sale price.
- Y. Discount\$: Enter total cost in property-less the resell price.
- Z. Rental\$: If the property is not resold, what is the rent for the unit/property?
- AA. Name: Name of Head of Household.
- BB. Race & Ethnicity: drop down screen.

1. White
2. Black/African American
3. Asian
4. American Indian/Alaskan Native
5. Native Hawaiian/Other Pacific Islander
6. American Indian/ Alaskan Native & White
7. Asian & White
8. Black/African American & White
9. American Indian/Alaskan Native & Black/African American
10. Other Multi Racial
11. Non-Hispanic

AA. Age: Age of Head of Household.

BB. Female HOH?: Female Head of Household-drop down

- a. Yes

b. No

CC. Total Beneficiaries: Enter total # in household.

DD. # of Children under 6: Enter number of children in household under the age of six.

EE. # of Disabled: Enter number of disabled in household.

FF. Household Qualification Status: drop down

a. LMMH < 120%

b. LMMH < 50%

c. LMMC < 120%

d. LMMC < 50%



### **Section 3: Monitorings**

Monitorings are usually conducted twice during the course of a NSP project. For most projects, the initial monitoring visit occurs after the first construction pay request has been received. For housing projects, the first monitoring is scheduled after the first set of homes is completed. The second monitoring occurs when all activity funds have been expended.

The Commerce and/or the Kansas Housing Resource field representative will contact the administrator and/or grantee to schedule a date and time for these monitorings. To prepare for monitoring, it is recommended that the grantee review the monitoring packet in this section. This will help the grantee understand and have ready all documentation needed for the field representative to complete the packet.

After the monitoring, the field representative will write a letter to the chief elected official to summarize the findings of the visit. If deficiencies are noted in the letter, the grantee will have 30 days to resolve the findings. The grantee's administrator can help in this process. The chief elected official should respond with a cover letter that outlines all the supporting documents addressing the requested items. This information is to be mailed to the grantee's field representative who will respond in writing as to the current status of the monitoring visit.

If there are any questions about this process, contact should be made with the grantee's field representative.

### **Section 3: Neighborhood Stabilization Program**

#### **Kansas Department of Commerce and Kansas Housing Resources Corp**

##### **Field Staff Monitoring Packet**

Grant Number: \_\_\_\_\_ Date Monitored: \_\_\_\_\_

Grantee Name: \_\_\_\_\_

Mayor/Presiding Chairman: \_\_\_\_\_

Address: \_\_\_\_\_

Grantee/Multi-jurisdictional: \_\_\_\_\_

Commencement Date: \_\_\_\_\_ End Date: \_\_\_\_\_

Project Activity: \_\_\_\_\_

Interim Monitoring: \_\_\_\_\_

Close-Out Monitoring: \_\_\_\_\_

Special Monitoring: \_\_\_\_\_

Parties Present at Monitoring:

Name	Title
_____	_____
_____	_____
_____	_____
_____	_____

## National Objective Monitoring Review

1. LOW- AND MODERATE- INCOME BENEFIT
- a. Percentage of benefit shown on application: \_\_\_\_\_
- b. Benefit is  City/County Wide       LMMA-Target Area  
 LMMH       LMMC-Limited Clientele
- c. Forms reviewed to support tabulation:  
 Census       Survey       Direct Beneficiaries  
 N/A       Housing Application
- d. Is project area acceptable:       Yes       No
- e. Is survey acceptable:       Yes       No
- f. Total beneficiaries: \_\_\_\_\_ LMI      \_\_\_\_\_ Below 50% \_\_\_\_\_
- g. Attach support documentation.
2. ELIGIBLE ACTIVITIES
- a. Established Financial Mechanisms:       Yes       No  
 Acquisition       Disposition       Relocation  
 Home ownership counseling
- b. Purchase, rehabilitate abandoned home/properties:       Yes       No  
 Acquisition       Disposition       Relocation  
 Home ownership counseling
- c. Land Bank:       Yes       No  
 Acquisition       Disposition
- d. Demolition—Blighted Structures Only:       Yes       No
- e. Redevelopment:       Yes       No  
 Acquisition       Disposition       Relocation  
 Improvement       Demolished       Vacant  
 Counseling       Home Ownership Assistance

Comments:

## Financial Journal Review

Date Deposited	Amount	ERR Date: _____

Invoice Date	Vendor	Date of Check	Check Number	CDBG Amount	Local Amount	Activity Line Item

Total Grant Amount: _____	Total Local Pledged: _____
Total NSP Received: _____	Total Local Expended: _____
Total NSP Expended: _____	Remaining Balance: _____
Cash Balance: _____	
% of Project Completed: _____	

Has the city disbursed NSP funds within **seven** working days?  Yes  No

## Financial Management

1. Where are financial records kept? \_\_\_\_\_
2. Is Grantee:
- a. Paying employees salaries with NSP monies?     Yes     No     N/A
- b. In kind match?     Yes     No     N/A
- If yes, were time sheets reviewed?     Yes     No     N/A
- Was documentation sufficient?     Yes     No     N/A
3. Are all activities eligible?     Yes     No     N/A
4. Is the ledger accurate on:
- NSP?     Yes     No
- Local?     Yes     No

Comments:

## Program Income

1. Has grantee received any program income?     Yes     No     N/A
- a. If yes,
- [1] Source? \_\_\_\_\_
- [2] Amount to date? \_\_\_\_\_

## Property Management

Were any pieces of equipment or supplies purchased with NSP funds with a value of \$300 or greater?  Yes  No

**If yes, complete remainder of page.**

1. Who is responsible for purchasing the equipment or supplies? \_\_\_\_\_

2. Does the grantee maintain a register for NSP funded property?  Yes  No  N/A

Does register include: the date acquired description, location, quantity, cost or value and disposition?  Yes  No  N/A

3. Has grantee been informed to notify Commerce of intention to dispose of equipment over \$5,000?  Yes  No  N/A

4. Is personal property identified with an inventory tag or other control?  Yes  No  N/A

5. Does property have an inventory tag or other control?  Yes  No  N/A

6. List tagged items and value of each:

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Comments:

## Environmental Review – Initial Monitoring

*(Italicized items will be reviewed at time of ERR submittal. The rest will be completed at the monitoring.)*

*Environmental Determination:*     *Exempt*         *Categorical Exclusion*         *EA*         *EIS*

Were funds obligated or did work proceed prior to release of funds?         Yes     No

Was there any public questions/comment?         Yes     No

*Were the project descriptions complete and all items disclosed during review?*         Yes     No

*Did the grantee receive responses from all appropriate agencies?*         Yes     No

*(Supported by agency sheet attached.)*

*Date of Determination of Level of Review submitted:* \_\_\_\_\_

*Date Letters sent to agencies and others:* \_\_\_\_\_

*Signing date of EA or Statutory Checklists (Appendix D or E):* \_\_\_\_\_

*For CE, was Appendix E – Other HUD Requirements submitted?*         Yes     No

*Date signed:* \_\_\_\_\_

*Date Notice published:* \_\_\_\_\_ *End of Comment period:* \_\_\_\_\_

*Appropriate and correct notice published?*         Yes     No

*Date the Chief Elected Official signed RROF Certification:* \_\_\_\_\_

*Date submitted to Field Representative:* \_\_\_\_\_ *End of Comment period:* \_\_\_\_\_

*If an assessment was necessary, did it meet all requirements?*         Yes     No

*Date of Environmental Clearance (ERR):* \_\_\_\_\_

Is the Environmental Review Record available for the public?         Yes     No

*Other comments/concerns:*

## Environmental Agencies

Agencies	Initial contact	Response or Clearance	Any concerns
Army Corp. of Engineers			
Dept. of AG, NRCS			
DWR			
EPA			
FEMA			
U.S. Fish & Wildlife			
Geological Survey			
Historical Society			
KCC			
KDHE			
Water Office			
Wildlife & Parks			

### Local documentation

School			
Chamber of Commerce			
County Health			
SRS			
County Engineer			
City Staff			
Police Chief			
Fire Chief			
EMS Director			
Recreation Commission			
KDOT			
Other			
Other			



## Environmental Review

**(Complete the following at the Final/Closeout monitoring)**

Were there any substantial changes in the project scope?

Yes

No

If yes, what were the changes?

Were there clearances for the scope of work change?

Yes

No

What were the mitigation measures/or conditions of the initial clearance?

Was each one addressed and how resolved?

Other comments/concerns:

## Procurement and Bonding

### A. General

1. Does sub- grantee have written local procurement procedures?  Yes  No  N/A

Does it include:

- Small purchases
- Competitive bidding
- Competitive negotiations
- Non-competitive negotiations

2. Is there a written Code of Conduct?  Yes  No
3. Does this project have any conflict of interest concerns?  Yes  No
4. Did grantee sign any contracts prior to grant award involving NSP or local funds?  Yes  No

### B. Competitive Negotiation

1. Name of awarded contract: (administrator only) \_\_\_\_\_

Pre-selected?  Yes  No

Amount: \_\_\_\_\_ Date: \_\_\_\_\_ Funding Source:  NSP  Local

2. Name of awarded contract: (engineer/architect/other) \_\_\_\_\_

Amount: \_\_\_\_\_ Date: \_\_\_\_\_ Funding Source:  NSP  Local

Pre-selected?  Yes  No

Design Inspection Amount: \_\_\_\_\_ Date: \_\_\_\_\_

Funding Source:  CDBG  Local

- a. Did the grantee prepare a request for qualifications (RFQ)?  Yes  No  N/A
- b. Did the RFQ identify all significant evaluation factors?  Yes  No  N/A
- c. Did the grantee send a RFQ to all qualified firms?  Yes  No  N/A
- d. Does the file contain supporting documentation of the selection criteria for contract award?  Yes  No  N/A
- e. Were fewer than two proposals received?  Yes  No  N/A
- If yes, was it approved by Commerce?  Yes  No  N/A
- f. Were unsuccessful firms notified in writing?  Yes  No  N/A

**C. Procurements Utilizing Competitive Sealed Bids (exclusive of contractual provisions discussed under “Labor Standards Monitoring Review”)**

Name of awarded contract: (Construction) \_\_\_\_\_

Amount: \_\_\_\_\_ Date: \_\_\_\_\_ Funding Source:  NSP  Local

Change order:# \_\_\_\_\_ \$ \_\_\_\_\_ Date: \_\_\_\_\_

Change order:# \_\_\_\_\_ \$ \_\_\_\_\_ Date: \_\_\_\_\_

1. Was the contract awarded to the lowest responsible bidder?  Yes  No  N/A

If not, explain: \_\_\_\_\_

2. Does this contract require contractor to obtain bid and performance bonds?  Yes  No  N/A

3. If contract price is over \$25,000, did recipient utilize competitive sealed bids?  Yes  No  N/A

4. Where appropriate, did the bids contain language relating to labor provisions bonding and equal employment opportunity?  Yes  No  N/A

5. Were efforts made to send invitations to bid to all qualified firms?  Yes  No  N/A

6. Were descriptions of items or services to be purchased on the invitations to bid clear and without reference to specific brand requirements unless the brand was used as an example of functional or quality requirements?  Yes  No  N/A

7. Did grantee publish an Invitation For Bid (IFB)?  Yes  No  N/A

8. Was a public meeting held to open bids?  Yes  No  N/A

9. Were fewer than two bids received in any contract?  Yes  No  N/A

10. If one bid was received, was there a request for single bid?  Yes  No  N/A

11. Was this one bid approved by Commerce?  Yes  No  N/A

12. Were unsuccessful bidders notified in writing?  Yes  No  N/A

Other construction contracts and amount awarded on this project:

Any discrepancies in any of the above procurement?

**D. Small Purchases (less than \$25,000)**

- 1. Did the grantee determine that the purchase was necessary to carry out the approved NSP program?  Yes  No  N/A
- 2. Is there a listing of vendors and price quotations in the file?  Yes  No  N/A
- 3. Did the vendors include:
  - a. Disadvantaged Business Enterprise firms?  Yes  No  N/A
  - b. Persons with disabilities-owned firms?  Yes  No  N/A
- 4. Was a purchase order/contract issued to the most advantageous vendor?  Yes  No  N/A
- 5. Was it necessary to inventory tag the small purchases?  Yes  No  N/A

**E. Noncompetitive Negotiation**

- 1. Was the item desired available from only one source?  Yes  No  N/A
- 2. Did Commerce authorize noncompetitive negotiation?  Yes  No  N/A
- 3. Was competition determined to be inadequate after a number of sources had been solicited?  Yes  No  N/A
- 4. Were the goods or services needed rapidly to meet a public emergency?  Yes  No  N/A

**F. Contract Files**

- 1. Are all contracts for this NSP project on file in city hall or the county courthouse?  Yes  No  N/A
- 2. Are files divided into categories and coded to facilitate placement and retrieval?  Yes  No  N/A

**G. Civil Rights Requirements in Procurement and Contracting**

- 1. Did the community develop lists of disadvantaged business enterprises and persons with disabilities-owned businesses as well as project area businesses for use in soliciting bids?  Yes  No

- 2. Total number of bids received:  
 Total number of bids received from disadvantaged business enterprises:  
 Total number of bids received from disabled persons:

Eng/Arch	Const.	Other

**H. Contract Provisions: Did NSP project contracts include the following:**

1. Title VI Civil Rights Act of 1964
2. Section 109 Certifications
3. Section 504 Certifications
4. Age Discrimination Act of 1975
5. Fair Housing Amendments Act of 1988
6. Executive Order 11063 Certifications
7. Kansas Act Against Discrimination
8. Section 3 Certifications
9. Executive Order 11246 Certifications
10. Restriction on lobbying contracts over \$100,000
11. Section 503 Rehabilitation Act
12. Section 912, Cranston-Gonzales National Affordable Housing Act of 1990
13. Davis-Bacon
14. Copeland Anti-Kickback
15. Contract Work Hours

Eng/Arch	Const.	Other

**I. Section 3 - What Section 3 efforts were made (contracts over \$100,000/local recruiting, soliciting, employment and training)?**

1. Is Section 3 in the Spec Book?  Yes  No
2. Did grantee provide public notice?  Yes  No

Date: \_\_\_\_\_

- Is it prior to bidding?  Yes  No
3. Did contractor complete Section 3 Plan?  Yes  No
  4. Did contractor submit Tables C & D at close-out?  Yes  No

- a. Number of new hires: \_\_\_\_\_
- b. Number of Section 3 hires: \_\_\_\_\_
- c. Number of trainers: \_\_\_\_\_
- d. Number of hours worked by all staff: \_\_\_\_\_
- e. Number of hours worked by Section 3 staff: \_\_\_\_\_
- f. Number of hours worked by trainers: \_\_\_\_\_

Comments on Deficiencies:

## Labor Standards

1. Does the grantee maintain a labor standards file?  Yes  No  N/A
2. Was contractor(s)/subcontractor(s) eligibility verified in all contracts?  Yes  No  N/A
3. Were wage rates requested prior to contract solicitation?  Yes  No  N/A
4. Date wage rates sent by Commerce: \_\_\_\_\_ Wage Rate#: \_\_\_\_\_ Dated: \_\_\_\_\_
5. Date of bid opening: \_\_\_\_\_
6. Date of 10 day confirmation requested: \_\_\_\_\_
7. If yes, did grantee issue an addendum?  Yes  No  N/A
8. Date of Notice of Start of Construction submitted: \_\_\_\_\_
9. Was a preconstruction conference held?  Yes  No  N/A
10. Does the grantee have a Labor Standards Officer?  Yes  No  N/A
11. Were payrolls submitted weekly?  Yes  No  N/A
12. Were payrolls numbered (initial, second, final)?  Yes  No  N/A
13. Were payrolls signed by employer representative?  Yes  No  N/A
14. Do the reports contain: (name, address, social security number, classification, hourly rates of wages paid, daily number of hours worked, weekly hours worked, deductions, actual wages paid)  Yes  No  N/A
15. Was a signed Statement of Compliance submitted with each payroll?  Yes  No  N/A
16. Are payrolls initialed and dated by the Labor Standards Officer?  Yes  No  N/A
17. Are apprentice/trainee registration records available?  Yes  No  N/A
18. Was restitution required?  Yes  No  N/A
19. Is overtime pay correct?  Yes  No  N/A
20. Was the Labor Standards Provision present in the project specifications book?  Yes  No  N/A

Employee Interviews: (G=general / S=subcontractor)

Company	G/S	#	Company	G/S	#
_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____

Describe any discrepancies that were noted:

## Wage Rate Compliance Review

Wage Decision Number: \_\_\_\_\_

Employer	Payroll # Date	Employee Name	Work Classification	Hourly Rate Paid	Wage Decision Rate	OK

## Civil Rights and Fair Housing

### AFFIRMATIVELY FURTHERING FAIR HOUSING

1. The city/county contact person (one who would handle any fair housing/civil rights complaints):

2. What action has the grantee taken to affirmatively further fair housing this calendar year?

Are the actions up-to-date for this grant?

Yes  No

3. Does the activity inform the public?

Yes  No

4. Does the grantee have a written Civil Rights/Fair Housing complaints policy in place?

Yes  No

5. Has the city/county received any civil rights or fair housing complaints?

Yes  No

If yes, describe:

6. Was the Civil Rights Fair Housing Contact Person Form submitted with the first QPR?

Yes  No

### EMPLOYMENT

1. Have any city/county employees been hired as a result of the CDBG project?

Yes  No

2. If yes, were efforts made to notify minorities or indicating equal opportunity?

Yes  No

3. Were there any indicators of discriminatory hiring practices?

Yes  No

Comments:



## Acquisition

1. Has any acquisition been completed?  Yes  No

2. Date current acquisition report filed with Commerce: \_\_\_\_\_

3. Number of transactions completed: \_\_\_\_\_ Remaining: \_\_\_\_\_

	Land Acquisition	Permanent Easement
--	---------------------	-----------------------

4. Did owner receive written notice of grantee's intent to acquire property?	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A
--	---	---

5. Did the owner receive the HUD or Commerce brochure?	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A
--	---	---

6. Did owner sign appraisal release waiver?	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A
---	---	---

### EXEMPTIONS (if applicable)

1. Was exemption submitted by grantee?	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A
--	---	---

2. Was exemption approved/rejected by Commerce?	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A
---	---	---

### APPRAISALS

1. Was the owner invited to accompany appraiser on inspection of property?	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A
--	---	---

2. Were properties appraised by a qualified independent appraiser?	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A
--	---	---

3. Was the appraisal reviewed by a qualified independent appraiser?	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A
---	---	---

4. Does the appraisal provide a basis for establishing fair market value?	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A
---	---	---

### OFFER TO PURCHASE

1. Did the grantee provide a written offer to the owner?	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A
--	---	---

2. Did summary statement accompany written offer?	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A
---	---	---

3. Did owner have any concerns?	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A
---------------------------------	---	---

4. Did grantee address concerns?	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A
----------------------------------	---	---

### SETTLEMENT

1. Did owner accept written offer?	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A
------------------------------------	---	---

2. Did grantee pay incidental acquisitions expense?	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A
---	---	---

3. Was owner reimbursed for incidental expenses?	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A
--	---	---

4. Was deed filed with Register of Deeds?	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A
---	---	---

### APPEALS

1. Were any appeals filed?	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A
----------------------------	---	---

2. If so, were grantee determinations correct?	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A
--	---	---

3. Were owners informed of right to appeal to Commerce?	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A
---	---	---

Comments

## Permanent Relocation

### TOTAL DISPLACEMENT:

Number of persons displaced under Uniform Act:	_____	Remaining:	_____
Number of persons displaced under Section 104(d):	_____	Remaining:	_____
Number of businesses, non-profit organizations and farms displaced under Uniform Act:	_____	Remaining:	_____
Number of businesses, non-profit organizations and farms displaced under Section 104(d):	_____	Remaining:	_____

### TOTAL RELOCATION:

Number of persons relocated:	_____
Number of minorities relocated:	_____
Number of female heads of household relocated:	_____
Number of persons with disabilities relocated:	_____

### NOTIFICATION OF RIGHTS AND GENERAL ADVISORY SERVICES:

1. Did recipient receive a 90-day written notice of eligibility for relocation assistance and HUD's brochure?  Yes  No
2. Was recipient personally interviewed to determine relocation needs and preferences?  Yes  No
3. Were social services provided?  Yes  No
4. Was there any appearance of discrimination?  Yes  No

### REPLACEMENT HOUSING:

1. Has grantee prepared Relocation Plan?  Yes  No  
If so, was it followed:  Yes  No
2. Is replacement housing unit comparable?  Yes  No
3. Does replacement housing unit meet standards?  Yes  No
4. Was recipient satisfied with replacement home?  Yes  No  
If so, was assistance provided?  Yes  No

### 90-DAY NOTICE/VACATE NOTICE:

1. If a person was ordered to vacate, did he/she receive proper 90-day notice?  Yes  No
2. If a 90-day notice was issued, did person receive prior referral to comparable replacement housing?  Yes  No
3. If applicable, was a 30-day vacate notice delivered?  Yes  No

**PAYMENTS:**

- 1. Were payment determinations correct?  Yes  No
- 2. Were payments made promptly, including advance payments, where appropriate (check for receipt of payment)?  Yes  No

**OCCUPANCY AFTER ACQUISITION:**

- 1. Was rental exceeding FMR values?  Yes  No
- 2. Were dwelling units maintained in safe habitable and accessible condition?  Yes  No

**TENANTS NOT DISPLACED FROM DWELLING:**

- 1. If temporarily relocated, was person reimbursed for out-of-pocket expenses (i.e. increased housing costs and moving expenses to and from temporary unit)?  Yes  No
- 2. Was housing decent, safe, sanitary and accessible?  Yes  No
- 3. Did tenant receive lease with rent and other terms and conditions in accordance with applicable standards?  Yes  No

**APPEALS:**

- 1. Were grantee determinations on appeals correct?  Yes  No
- 2. Were persons whose appeal was partially or fully denied informed of right to appeal to the state?  Yes  No

## HOUSING

1. Number of units to be rehabilitated: \_\_\_\_\_
2. Number of units rehabilitated to date: \_\_\_\_\_
3. Date Commerce approved Housing Plan (HP): \_\_\_\_\_
4. Is grantee following HP?  Yes  No
5. Is the Housing Log updated?  Yes  No
6. Is there any potential conflict of interest?  Yes  No
  - a. Was request for waiver submitted?  Yes  No
  - b. Was waiver granted?  Yes  No

### PROCUREMENT:

7. Date grantee approved contractor guidelines: \_\_\_\_\_
8. Are contractor guidelines being followed?  Yes  No
9. What date was the call for contractors completed? \_\_\_\_\_
  - a. Was it publicly advertised?  Yes  No
  - b. How many contractors were notified?  Yes  No
  - c. Were DBE's notified?  Yes  No
10. Number of contractors on the bid list: \_\_\_\_\_
11. Number of bid rounds completed: \_\_\_\_\_

#### ROUND 1

IFB Date: \_\_\_\_\_  
Bid Tour date: \_\_\_\_\_  
Bid Opening date: \_\_\_\_\_

#### ROUND 2

IFB Date: \_\_\_\_\_  
Bid Tour date: \_\_\_\_\_  
Bid Opening date: \_\_\_\_\_

12. Are all bids on file?  Yes  No
13. Were the bid documents complete and meet all requirements?  
Did they include: general specifications, work write-up, LBP summary page,  Yes  No
14. Was there ever only one bid received?  Yes  No  
If so, did Commerce issue approval to award?  Yes  No
15. Were there any problems with procurement?  Yes  No  
If so, what? \_\_\_\_\_

16. Was the contractor liability and workman's comp insurance on file?  Yes  No
17. Was there Verification on Contractor Eligibility for all contractors?  Yes  No
18. Was there a LSWP Certification or Supervisors Certification on file?  Yes  No
19. Is a surety required from the contractor?  Yes  No
- a. If so, is it on file?  Yes  No
- b. If not, was only one payment issued?  Yes  No
20. How many individual rehabilitation files were reviewed? \_\_\_\_\_
21. How many rehabilitation sites were inspected? \_\_\_\_\_
22. Amount of rehabilitation dollars spent on Livability \$ \_\_\_\_\_ % \_\_\_\_\_
23. Amount of rehabilitation dollars spent on Health and Safety \$ \_\_\_\_\_ % \_\_\_\_\_
24. Amount of rehabilitation dollars spent outside target area  
on emergencies and/or handicapped accessibility: \$ \_\_\_\_\_ % \_\_\_\_\_

**INSPECTION/LEAD BASE PAINT (LBP)**

25. Name of HQS inspector? \_\_\_\_\_
26. Name of Risk Assessor (RA)? \_\_\_\_\_
27. Has the RA been certified by KDHE?  Yes  No
- Certification Number: \_\_\_\_\_

Comments:

## INSPECTION/LEAD BASE PAINT (LBP)

1. Date LBP Notice "Protect Your Family" signed: \_\_\_\_\_
- 2.: Date of HQS Inspection: \_\_\_\_\_
3. Date of RA: \_\_\_\_\_
4. Date of receipt of Lead Hazard Evaluation Notice (RA): \_\_\_\_\_  
Was it within received within 15 business days? \_\_\_\_\_
5. Were all children under six and women of child bearing capacity temporarily relocated during this rehabilitation? \_\_\_\_\_
6. Was it to a lead safe location?  Yes  No
7. Date of Final HQS Inspection:  Yes  No
8. Was the Certificate of Completion signed by: \_\_\_\_\_
  - a. Inspector:  Yes  No Date: \_\_\_\_\_
  - b. Contractor  Yes  No Date: \_\_\_\_\_
  - c. Homeowner  Yes  No Date: \_\_\_\_\_
9. Date of Clearance testing: \_\_\_\_\_
10. Notice of Lead of Hazard Clearance receipt date: \_\_\_\_\_
11. Notice of Lead Hazard Reduction receipt date: \_\_\_\_\_
12. Did more than 15 business days elapse between clearance date and receipt date?  Yes  No
13. Did the file clearly document receipt of all four LBP notices?  Yes  No

**INDIVIDUAL HOUSING REHABILITATION (if owner occupied)**

1. Owner Name: \_\_\_\_\_
2. Property Address: \_\_\_\_\_
3. Date application signed: \_\_\_\_\_
4. Verification of:
  - a. Property ownership  Yes  No
  - b. Paid property taxes  Yes  No
  - c. Paid utilities  Yes  No
  - d. Property insurance paid and current:  Yes  No
5. LMI Verification on file?  Yes  No
6. Date of verification: \_\_\_\_\_
7. Total persons in household: \_\_\_\_\_ Total household income: \_\_\_\_\_
8. HUD Income limits: \_\_\_\_\_ Does household income qualify?  Yes  No
9. Did more than 6-months elapse from income verification?  Yes  No
  - a. Bid Letting date? \_\_\_\_\_
  - b. Date of re-verification? \_\_\_\_\_
  - c. Total persons: \_\_\_\_\_
  - d. Total income \$ \_\_\_\_\_
10. Date of Self-Help agreement (if applicable): \_\_\_\_\_
11. Any children under six?  Yes  No
  - a. If so, were all children under six given a blood test?  Yes  No
  - b. Results of test:  Yes  No
12. Date of Historical Society Clearance: \_\_\_\_\_
13. Property bid in which bid round? \_\_\_\_\_
14. How many bids were received? \_\_\_\_\_

If only one, did Commerce approve award?  Yes  No
15. Was high cost waiver required?  Yes  No

If so, date approval given: \_\_\_\_\_

16. Contract Execution Date: \_\_\_\_\_
17. Was the contract signed by contractor, owner and City?  Yes  No
18. Does it include Civil Rights provisions and other certifications?  Yes  No
19. Date of Lien Prevention Document (Part 1): \_\_\_\_\_
- Is it complete?  Yes  No
20. Total Rehabilitation Cost \$ \_\_\_\_\_ NSP \$ \_\_\_\_\_ LOCAL \$ \_\_\_\_\_
21. Where did Local funds come from? \_\_\_\_\_
22. Were the funds collected prior to contract signing?  Yes  No
23. Notice to Proceed Date: \_\_\_\_\_ Completion Date: \_\_\_\_\_
24. Does Contract or Notice to Proceed include appropriate time frames?  Yes  No
25. Was a time extension required?  Yes  No
26. Was time extension signed by contractor, owner and City?  Yes  No
27. Were there change orders?  Yes  No
- a. If so, was it legitimate?  Yes  No
- b. Was it signed by the inspector?  Yes  No
28. Did payment match contract amount?  Yes  No
29. Was more than \$18,000 spent on rehabilitation activities?  Yes  No
30. Was more than 10 percent spent on LSWP?  Yes  No
31. Is repayment agreement signed and filed?  Yes  No
- Date: \_\_\_\_\_ Book: \_\_\_\_\_ Page Number: \_\_\_\_\_
32. Was the Lien Prevention Document (Part 2) submitted prior to final payment?  Yes  No
- Was it complete with release given by all sub-contractors/ suppliers?  Yes  No

**SITE VISIT**

33. Housing log identified: Livability or Health/Safety
34. Did the property meet the appropriate standards?  Yes  No
35. Is the owner satisfied with the work completed at the home?  Yes  No
36. Are the premises free from rubbish and debris left by the owner or contractor?  Yes  No



**INDIVIDUAL HOUSING REHABILITATION (if rental unit)**

1. Owner Name: \_\_\_\_\_
2. Tenant's Name: \_\_\_\_\_
3. Property Address: \_\_\_\_\_
4. Date application signed? \_\_\_\_\_
5. Current Rent amount? \_\_\_\_\_
6. Verification of:
  - a. Property ownership  Yes  No
  - b. Paid property taxes  Yes  No
  - c. Paid utilities  Yes  No
  - d. Property insurance paid and current:  Yes  No
7. Is Landlord (owner) LMI?  Yes  No
  - a. If so, is LMI Verification on file?  Yes  No
  - b. Date of Verification: \_\_\_\_\_
  - c. Total persons in Household: \_\_\_\_\_ Total Household Income? \_\_\_\_\_
  - d. HUD Income limits: \_\_\_\_\_ Does owner income qualify?  Yes  No
  - e. Did more than 6-months elapse from income verification?  Yes  No
    - i. Bid Letting date: \_\_\_\_\_
    - ii. Date of re-verification: \_\_\_\_\_
    - iii. Total persons: \_\_\_\_\_
    - iv. Total income \$ \_\_\_\_\_
8. Is Tenant LMI?  Yes  No
  - a. If so, is LMI Verification on file?  Yes  No
  - b. Date of Verification: \_\_\_\_\_
  - c. Total persons in Household: \_\_\_\_\_ Total Household Income? \_\_\_\_\_
  - d. HUD Income limits: \_\_\_\_\_ Does owner income qualify?  Yes  No

- e. Did more than 6-months elapse from income verification?  Yes  No
- i. Bid Letting date: \_\_\_\_\_
- ii. Date of re-verification: \_\_\_\_\_
- iii. Total persons: \_\_\_\_\_
- iv. Total income \$ \_\_\_\_\_
9. Date of Self-Help agreement (if applicable): \_\_\_\_\_
10. Any children under six?  Yes  No
- a. If so, were all children under six given a blood test?  Yes  No
- b. Results of test:  Yes  No
11. Date of Historical Society Clearance: \_\_\_\_\_
12. Property bid in which bid round? \_\_\_\_\_
13. How many bids were received? \_\_\_\_\_
- If only one, did Commerce approve award?  Yes  No
14. Was high cost waiver required?  Yes  No
- If so, date approval given: \_\_\_\_\_
15. Contract Execution Date: \_\_\_\_\_
16. Was the contract signed by contractor, owner and City?  Yes  No
17. Does it include Civil Rights provisions and other certifications?  Yes  No
18. Date of Lien Prevention Document (Part 1): \_\_\_\_\_
- Is it complete?  Yes  No
19. Total Rehabilitation Cost \$ \_\_\_\_\_ NSP \$ \_\_\_\_\_ LOCAL \$ \_\_\_\_\_
20. If owner non-LMI, did they contribute 25 percent?  Yes  No
21. Any other Local funds?  Yes  No
22. Where did Local funds come from? \_\_\_\_\_
23. Were the funds collected prior to contract signing?  Yes  No
24. Notice to Proceed Date: \_\_\_\_\_ Completion Date: \_\_\_\_\_
25. Does Contract or Notice to Proceed include appropriate time frames?  Yes  No

26. Was a time extension required?  Yes  No

27. Was time extension signed by contractor, owner and City?  Yes  No

If so, where did they come from? \_\_\_\_\_

28. Were there change orders?  Yes  No

a. If so, was it legitimate?  Yes  No

b. Was it signed by the inspector?  Yes  No

29. Did payment match contract amount?  Yes  No

30. Was more than \$18,000 spent on rehabilitation activities?  Yes  No

31. Was more than 10 percent spent on LSWP?  Yes  No

32. Rental Freeze agreement:

a. Fair market rent \$ \_\_\_\_\_

b. Anti-Displacement clause: \_\_\_\_\_

c. LMI Agreement: \_\_\_\_\_

33. Is repayment agreement signed and filed?  Yes  No

Date: \_\_\_\_\_ Book: \_\_\_\_\_ Page Number: \_\_\_\_\_

34. Was the Lien Prevention Document (Part 2) submitted prior to final payment?  Yes  No

. Was it complete with release given by all sub-contractors/suppliers?  Yes  No

### **SITE VISIT**

35. Housing log identified: Livability or Health/Safety

36. Did the property meet the appropriate standards?  Yes  No

37. Is the owner satisfied with the work completed at the home?  Yes  No

38. Are the premises free from rubbish and debris left by the owner or contractor?  Yes  No

**DEMOLITION**

1. Has the grantee developed a demolition plan that includes, but is not limited to: target area(s) location; eligible and ineligible activities; demolition standards; application procedures; demolition contract procedures; complaint procedures, etc.?  Yes  No  N/A

A. Is the demolition plan complete and acceptable?  Yes  No  N/A

B. Is the grantee following the demolition plan?  Yes  No  N/A

C. Date approved by Commerce: \_\_\_\_\_

2. Are demolition contracts let by unit or group?  Unit  Group

3. How are contractors selected?  
\_\_\_\_\_  
\_\_\_\_\_

4. Has any relocation occurred?  Yes  No  N/A

If yes, explain: \_\_\_\_\_  
\_\_\_\_\_

5. Number of properties to be demolished: \_\_\_\_\_

6. Number of properties demolished to date: \_\_\_\_\_

7. How many individual demolition files were reviewed? \_\_\_\_\_  
(attach the individual demolition file checklists to this monitoring report)

8. How many demolition projects were inspected? \_\_\_\_\_

Comments:

**INDIVIDUAL DEMOLITION FILES**

- 1. Owner Name:: \_\_\_\_\_
- 2. Property Address: \_\_\_\_\_
- 3. Total Cost: \$ \_\_\_\_\_
- 4. Is application signed and dated? \_\_\_\_\_
- 5. Verification of:
  - Property ownership:
  - Paid property taxes:
  - Historical society date: \_\_\_\_\_
  - Right of entry
  - Signed:
  - Notarized
  - Date of:
    - Inspection: \_\_\_\_\_
    - Asbestos inspection: \_\_\_\_\_
    - Bid opening: \_\_\_\_\_
- 6. Number of bids received: \_\_\_\_\_
- 7. All bids on file:  Yes  No
- 8. Bid amount awarded: \$ \_\_\_\_\_
- 9. Contractors name: \_\_\_\_\_  
Address: \_\_\_\_\_  
City, State, Zip: \_\_\_\_\_
- 10. Other bidders: \_\_\_\_\_  
\_\_\_\_\_
- 11. Date of verification of contractor eligibility received from Commerce: \_\_\_\_\_
- 12. Date of Construction contract: \_\_\_\_\_  
Notice to proceed: \_\_\_\_\_
- 13. Documentation of:
  - Construction specifications:  Yes  No
  - Workers Comp insurance:  Yes  No
  - Liability insurance:  Yes  No
  - Contract contains all necessary Civil Rights, etc. information:  Yes  No
- 14. Date of Start of Construction: \_\_\_\_\_
- 15. Date Demolition Notification Form submitted to KDHE: \_\_\_\_\_  
Was form submitted 10 working days prior to demolition?  Yes  No

**MISCELLANEOUS REVIEW**

1. Did citizen participation file contain any public comments, inquiries, or complaints regarding the project? Were there any problems identified or complaints received?  Yes  No  N/A

2. Disclosure Report

If over \$200,000, is there a current NSP Disclosure Report on file with Commerce?  Yes  No  N/A

Was information omitted from initial report?  Yes  No  N/A

Have additional contracts been issued over \$50,000?  Yes  No  N/A

If so,

When were the contracts signed? \_\_\_\_\_

When was the Disclosure Report submitted? \_\_\_\_\_

Did the submittal meet the 30 day deadline?  Yes  No  N/A

Has the match been increased by more than \$250,000 or 10 percent?

If so,

How much? \_\_\_\_\_

Source: \_\_\_\_\_

Did the submittal meet the 30 day deadline?  Yes  No  N/A

Has the source of funds changed?  Yes  No  N/A

If so, please describe:: \_\_\_\_\_

Did the submittal meet the 30 day deadline?  Yes  No  N/A

3. Has grantee been informed to maintain project files for four years after completion?  Yes  No  N/A

4. Has grantee entered into an M.O.U. contract?  Yes  No  N/A

Has the contract been approved by Commerce?  Yes  No  N/A

5. Quarterly Progress Reports up-to-date and filed timely?  Yes  No  N/A

QPR #	Date Due	Date Received	On Time	
_____	_____	_____	<input type="checkbox"/> Yes	<input type="checkbox"/> No
_____	_____	_____	<input type="checkbox"/> Yes	<input type="checkbox"/> No
_____	_____	_____	<input type="checkbox"/> Yes	<input type="checkbox"/> No
_____	_____	_____	<input type="checkbox"/> Yes	<input type="checkbox"/> No
_____	_____	_____	<input type="checkbox"/> Yes	<input type="checkbox"/> No

Were there any payments made with NSP dollars that appeared on Financial Management that did not appear on the QPR?

Yes  No  N/A

Were all contracts reported on QPR's?

Yes  No  N/A

Were QPR's accurate and complete?

Yes  No  N/A

Complete addressed, and NSP data recorded?

Yes  No  N/A

Did the Administrator do a good job of detailing:

Accomplishment this Quarter?

Yes  No  N/A

Accomplishment last Quarter?

Yes  No  N/A

6. Construction Site Visit

a. Are labor standards posters properly displayed?

b. Was there an environmental condition or issue that was not addressed in the environmental process?

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7. For ADA projects, do the files contain a certification by the project architect that all activities are compliant with ADA?

Yes  No  N/A

Is it dated prior to the project going out for bids?

Yes  No  N/A

Comments:

## **Section 4: Record Keeping Requirements**

### **I. NATIONAL OBJECTIVE**

Grantee shall ensure that the following records are maintained and kept up-to-date:

- A. A full description of each activity carried out (or being carried out) in whole, or in part, with NSP funds, including the nature and purpose of the activity, its location (if the activity has a geographical location), and the amount of NSP funds budgeted, obligated, and expended for the activity.
- B. Records demonstrating that each activity undertaken meets one of the National Objectives. At a minimum, such records shall include the following information:
  1. For each activity determined to benefit LMMA persons based on the area served by the activity:
    - a. The boundaries of the service area; and
    - b. The income characteristics of households and unrelated individuals in the service area.
  2. For each activity determined to benefit LMMH persons based on the incomes of the households directly benefiting from the activity where the activity involves the submission of an application or the completion of a personal record:
    - a. The size of each household receiving benefits; and
    - b. The income of each such household.
  3. For each activity determined to benefit LMMA persons because the activity involves a facility or service designed for use predominately by LMI persons, documentation demonstrating that the predominant users are LMI persons.
  4. For each multi-family rehabilitation activity determined to benefit LMMH
    - a. The local definition of “affordable to LMI household”;
    - b. The rent charged (or to be charged) after rehabilitation, for each dwelling unit in each structure rehabilitation; and
    - c. The total number of dwelling units in each structure rehabilitated and the percent of units in each structure which are occupied by LMMH households.



5. For each activity determined to aid in the prevention or elimination of blight based on addressing one or more of the conditions which qualified an area as a blighted area:
  - a. The area meets a definition of blighted, deteriorated, or deteriorating area under state or local law;
  - b. There are a substantial number of deteriorated or deteriorating buildings throughout the area;
  - c. The boundaries of the area and description of the conditions which qualified the area at the time of its designation; and
  - d. The assisted activity is designed to address one or more of the conditions which contributed to the deterioration of the area.
6. For each residential rehabilitation activity determined to aid in the prevention or elimination of slums or blight in a slum or blighted area:
  - a. The local definition of “substandard”;
  - b. A pre-rehabilitation inspection report describing the deficiencies in each structure to be rehabilitated; and
  - c. Details and scope of NSP assisted rehabilitation, by structure.
7. For each activity determined to aid in the prevention or elimination of slums or blight based on the elimination of specific conditions of blight or physical decay not located in a slum or blighted area.

## **II. CIVIL RIGHTS**

- A. Documentation of the action(s) the grantee has carried out (or is carrying out) to affirmatively further fair housing, including records on funds provided, if any, for such actions.
- B. For direct benefit activities, data on the extent to which persons have participated in, or benefited from, any program or activity funded in whole, or in part, with NSP funds. Records must be kept by race, ethnicity, disability status, and gender of heads of households. For area wide activities, documentation on the area and the services being provided to the area and the race and ethnicity of the service area must be maintained.
- C. For direct benefit activities, records must be maintained on all applicants for the benefit, regardless of whether or not they were selected to benefit.

- D. Data on employment in each of the local government's operating units carrying out an activity funded in whole, or in part, with NSP funds. The data must be maintained in the categories prescribed on the Equal Employment Opportunity Commission's EEO-4 form. Efforts to employ minorities and/or women (disadvantaged business enterprise firms) must be documented.
- E. Data indicating the race and ethnicity of households, and disability status of persons displaced as a result of NSP activities, including the address to which each displaced household relocated.
- F. Documentation of actions undertaken to meet the requirements of Section 3 of the Housing and Urban Development Act of 1968, including Section 3 requirements in construction contracts over \$100,000 in grants over \$200,000.
- G. Data indicating the racial/ethnic character of each business entity that receives a contract or subcontract paid, or to be paid, with NSP funds. Data indicating which of those entities are women's business enterprises as defined in Executive Order 12138 and the amount of the contract or subcontract. Outreach efforts to all Disadvantaged Business Enterprise firms must be documented.
- H. Documentation of the affirmative actions the local government has taken to overcome the effects of prior discrimination as determined through a formal compliance review or court proceeding, where the grantee has previously discriminated against persons on the grounds of race, color, national origin, or sex in administering a program or activity funded in whole, or in part, with CDBG, HOME and/or NSP funds.
- I. Documentation of all civil rights requirements in contracts over \$10,000.
- J. A certification from the grantee's architect must be obtained on a removal of architectural barriers (ADA) project that the activities being carried out with NSP monies are ADA compliant. This must be obtained prior to the activities going out for bid.

### **III. ELIGIBILITY OF ACTIVITIES**

- A. A full description of each activity being carried out in whole, or in part, with NSP funds.
- B. A description of the nature and purpose of the activity.
- C. The location of the activity (if the activity has a location focus).
- D. The amount budgeted for each activity.
- E. The amount obligated and expended for each activity.

- F. Records which demonstrate that the grantee has made the determinations required as a condition for eligibility of certain activities, as prescribed in HUD rules and regulations, 24 CFR Part 570, 570.201, 570.202, 570.203, 570.204, 570.205, and 570.206.

#### **IV. LABOR STANDARDS**

- A. Copy of Request for Wage Determination.
- B. Record of written or telephone follow-up for wage decision modifications.
- C. Applicable wage decisions and all modifications.
- D. Preconstruction conference minutes (if applicable).
- E. Notification of Start of Construction form.
- F. Weekly payrolls, consisting of either a WH-347 or an approved equivalent with a Statement of Compliance.
- G. Record of Employee Interview forms.
- H. Copies of all memoranda and/or correspondence relating to labor standards.
- I. Records of restitution affected which includes notarized acknowledgment of receipt of restitution plus front and back of checks issued for any restitution.
- J. Notice of Completion/Final Wage Compliance Report.
- K. Copy of contractor's license, bid bond, and performance bond, if applicable.
- L. Contracts containing proper and applicable labor standards provisions.

#### **V. UNIFORM RELOCATION ASSISTANCE AND REAL PROPERTY ACQUISITION**

The following information shall be maintained for at least four years after each owner of the property and each person displaced from the property have received the final payment to which they are entitled.

- A. Acquisition – The requirements apply to acquisition activities under the Uniform Act. Documentation must include the following:
1. Identification of property and property owner(s).
  2. Evidence owner was informed on a timely basis about acquisition and his or her rights, including receipt of a copy of the booklet, “When a Public Agency Acquires Your Property.”
  3. Copy of any waivers signed by property owners of their rights to just compensation and/or appraisals.
  4. Copy of each appraisal report, including review appraiser’s report, and evidence that owner was invited to accompany each appraiser on appraiser’s inspection of property.
  5. Copy of written purchase offer and summary statement of the basis for the determination of just compensation and date of delivery to owner.
  6. Copy of purchase contract and document(s) conveying property.
  7. Copy of settlement statement and evidence that owner received net proceeds due from sale.
  8. Evidence of acquired property being filed with the county.
  9. Copy of any appeal or complaint filed and grantee response.
- B. Relocation – The requirements apply to Uniform Act and Non-Uniform Act relocation activities. Documentation must include the following:
1. Identification of person, displacement property, racial/ethnic group classification, age and sex of all members of household, monthly rent and utility costs, type of enterprise, relocation needs, and preferences.
  2. Evidence person received timely statement describing available relocation payments (and basic eligibility conditions), advisory services, and, if applicable, right to comparable replacement housing.
  3. Evidence person received timely written notice informing him or her of eligibility for relocation assistance and related information.
  4. Evidence and dates of personal contacts; a description of services provided.

5. Identification of referrals to replacement properties; date of referral, sale price or rent/utility costs; date of availability; reason(s) for declining referral.
6. Replacement dwelling inspection report; date of inspection.
7. Copy of each approved claim form-related documentation; evidence that person received payment.
8. Copy of any appeal or complaint filed and grantee response.

## **VI. ENVIRONMENT**

- A. For every project, the grantee must maintain an Environmental Review Record (ERR) that includes:
- B. Project Consisting of Categorical Exclusions:
  1. Consultation with Other Agencies:
    - a. Evidence that grantee initiated, consulted, and coordinated with other concerned federal and state agencies.
    - b. Evidence of completion of action required under other applicable laws and authorities.
  2. Status statement signed by chief elected official that project activities meet the requirements for categorical exclusion from National Environmental Protection Agency (NEPA) requirements.
  3. Evidence that Notice of Intent to Request a Release of Funds (NOI/RROF) was published at least seven calendar days before submitting to state, using the HUD format. Record of comments and how they have been taken into account.
  4. Evidence that NOI/RROF, environmental certification, and status statement were submitted to state.
- C. Environmental Assessment (EA) for Projects Not Classified as Exempt or Categorically Excluded:
  1. Consultation with Other Agencies.

- a. Evidence that grantee initiated, consulted, and coordinated with other concerned federal and state agencies.
    - b. Evidence of completion of action required under other applicable laws and authorities.
  - 2. Copy of EA, using HUD format.
  - 3. If Finding of No Significant Impact (FONSI) determination is made, evidence that a combined notice of FONSI and NOI/RROF were prepared and sent to:
    - a. Appropriate local, state, federal agencies;
    - b. EPA and appropriate regional offices; and
    - c. Interested individuals and groups.
  - 4. Evidence that notices were published at least once in local area-wide newspaper.
  - 5. Evidence that 15-day local comment period was provided for combined FONSI notice and NOI/RROF. Record of comments received and how they have been taken into account. Records of any determination extending comment period or providing for 30-day FONSI notice instead of the normal 15-day local comment period.
  - 6. Evidence that FONSI or NOI/RROF and certifications were submitted to state.
- D. Release of Funds and Certification Approval:
- 1. Documentation of objections received from agencies or public, if any received during the state comment process, and their disposition.
  - 2. Copy of the state receipt and approval of the release of funds and certification.
  - 3. Documentation of the implementation of environmental review decisions.

## **VII. FINANCIAL MANAGEMENT**

- A. Ledger denoting line items of approved budget and record of receipts and expenditures of all funds in each category.
- B. Copy of Authorized Signature Form.
- C. Copy of Designation of Depository Form.

- D. Copy of Electronic Transfer Form.
- E. Copies of all checks and invoices for NSP funds and all local funds committed to the project.
- F. Copies of all bank statements denoting NSP receipts disbursed.
- G. Copies of all pay requests and supporting invoices.
- H. Copies of all contracts for NSP funds.
- I. Timesheets for any grantee employee paid with NSP funds.
- J. Timesheets for any grantee in-kind matching funds.
- K. All program income receipts and disbursements (if applicable).
- L. A listing of all fixed assets acquired with NSP funds.

## **VIII. PROCUREMENT**

- A. The written procurement policy of the grantee must be placed in the NSP files.
- B. Documentation of all procurement for all contracts issued under the NSP program. All purchases of goods and/or services over \$2,000 must be supported by contracts. For purchases or services under \$2,000, purchase orders, agreements, or signed proposals must be maintained.
- C. For purchases of goods and/or services under \$500, records must be kept of solicitation carried out to obtain same and paid invoices must be provided for completion.
- D. Evidence of efforts to procure DBE's for all goods and/or services.

## **IX. HOUSING**

Housing grantees must refer to Section 14 herein for recordkeeping requirements specific to housing, including lead-based paint requirements.

## **X. LEGAL RECORDS –**

Record keeping is important. Such records often include but are not limited to promissory notes, security agreements, loan agreements, and signed guaranty contracts, UCC financing statements and mortgages, and accompanying letters regarding these documents. Copies of these documents are required to be available to NSP.

We suggest that the grantee's attorney or records custodian take great care to insure the integrity of these documents for however long the project remains incomplete. Over the years, we have seen grantees fail to maintain adequate legal documentation, especially in the filing of original mortgages, or original filings and continuation statements under the UCC Article IX. The laws governing such filings are important and we suggest you continually involve your legal counsel in this process.

If you have questions or need assistance on ideas for maintenance of these records, please contact:

Kansas Department of Commerce  
1000 S.W. Jackson Street, Suite 100  
Topeka, Kansas 66612-1354  
785-296-3004



## **Section 5: Financial Management**

Federal regulations mandate that the State of Kansas in administering the HUD Small Cities Community Development Block Grant and Neighborhood Stabilization Program “establish record keeping requirements” of their grantees which are adequate to determine whether NSP/NSP funds have been expended in accordance with federal and state law.

These Financial Management Guidelines address specific aspects of the overall financial management systems for NSP grantees. Each section includes a description of the governing legal requirements, the steps needed to comply with those requirements and the required documentation and reporting forms.

Please note that at the end of Section 5 are attached several federal regulatory provisions which apply to several aspects of the financial management system. These include:

- OMB Circular A-87 (in part) that governs cost principals for state and local governments.
- 24 CFR Part 85, “Common Rule.”
- Not included (it will be supplied upon request) is: 31 CFR Part 205 that governs the procedures for requesting federal funds and establishing bank accounts.

### **I. FINANCIAL MANAGEMENT SYSTEMS**

#### **A. General Guidelines**

1. A grantee’s financial management system must provide for accurate, current and complete disclosure of the finances of each grant program.
2. The records must identify the source and application of funds for grant supported activities. These records must contain information pertaining to the NSP award and authorization, obligations, unobligated balances, assets, liabilities, outlays and income.
3. Grantees must safeguard all funds, property, and other assets through effective internal control and accountability and ensure they are used solely for the purposes authorized.
4. The system must provide for a comparison of actual outlays with budgeted amounts for each line item. This includes grant funds and matching funds.
5. The grantees must have a procedure for determining if costs are reasonable, allowable and allocable in accordance with OMB Circular A-87.

6. Accounting records must be supported by source documentation (invoices, bills of lading, vouchers, etc.). All employees to be paid in whole or in part from local matching cash, or where time is to be credited to the NSP program or local effort, are required to prepare time sheets allocating time to the specified activity for each pay period during which they have worked on NSP. A payroll analysis indicating the distribution of payroll among the grantee's program must be maintained.

## B. Sub-Recipients

Grantees must require all sub-recipients (contractors, subcontractors, etc.) to adopt provisions of OMB Circular A-87 and 24 CFR Part 85, “Common Rule.”

## C. Accounting Procedures and Documents

1. Grantees have the responsibility for using a fiscal organization and management system that ensures proper and efficient administration of the grant. These basic principles should guide the development of your system.

- a. Procedures should be formalized so they can be applied consistently.
- b. Procedures should be designed to ensure internal control of funds.
- c. Financial transactions should be documented to create an audit trail.

Regardless of the system used, separate accounting records must be maintained for NSP grant funds distinguishing them from all others so that NSP revenues and expenditures can be readily identified in the accounting records.

2. The system should include the following accounting documents or their equivalent:

- a. Cash Receipt Journal: This journal should record the receipt of all funds applied to the NSP program. It should include the date of receipt, the amount received, the source of funds and the accounts into which funds were assigned.
- b. Cash Disbursement Journal: This will record all checks issued for payment of program costs, including date of payment, payee, check number, amount and the account from which disbursement was made.
- c. General Ledger: Summarizes the monthly receipts and disbursements for each activity included in the project.
- d. Journal Voucher: Records, explanations and amounts of adjustments to general ledger accounts.
- e. Fixed Asset or Property Management Ledger: A listing of all fixed assets acquired with NSP funds.
- f. NSP Cash Register: A record of requests for payment, checks received and balance of NSP funds.

## D. Audit Requirements

See the Audit Section of this handbook for audit requirements.

## II. RECEIPT AND DISBURSEMENT OF FUNDS

### A. In General

The primary documents relating to the establishment of the community's grant account and requesting its NSP funds are Federal Register Chapter 24: Section Part 85 and 31 CFR Part 205. The first requires the state to keep track of amounts authorized and disbursed for the Small Cities program. The second, 31 CFR Part 205, allows the state, and subsequently its grantee (local governments), to request funds in advance of having to disburse their own funds. They may do this only if they expend the amount requested within a minimum amount of time after the funds are deposited in the grantee's checking account. The Circular also provides that the state (and grantees) must maintain an adequate record keeping system, and ensure that funds will be quickly expended, or it will lose the privilege of drawing advances on its grant account and have to obtain future funds on a reimbursement basis.

### B. Drawing Grant Funds from the Department

1. Authorized Signature Form: This form must be on file with Commerce before any requests for payment of NSP funds can be processed. It is suggested that a minimum of three signatures be listed to ensure availability of persons to sign the pay requests when needed. No person outside of elected or employed personnel may sign for the grantee.
2. Automated Clearing House (A.C.H.) accounts are required. Both the "Designation of Depository: Direct Deposit" and "Authorization for Electronic Deposit of Vendor Payment" must be on file with Commerce before any requests for payment of NSP funds will be processed. The account number on the forms must match. Early submission of these forms is recommended so as not to hold up payments. If an (active) Authorization for Electronic Deposit of Vendor payment form had been submitted on a prior grant, and the account number is the same, a new form will not need to be submitted. However, the Designation of Depository: Direct Deposit is required on each grant.
3. Payment Request Forms. Funds are requested by using a [Request for Payment of NSP Funds Cover page](#) and a [Detail for Request form for Payment of NSP Funds](#). These two forms are to be sent electronically to Kansas Department of Commerce. Tentatively the e-mail address is [bcook@kansascommerce.com](mailto:bcook@kansascommerce.com)

In order for Commerce to approve the payment request, the data on the forms must be complete and accurate.

Kansas Department of Commerce  
Small Cities NSP Program  
1000 S.W. Jackson Street, Suite 100  
Topeka, KS 66612-1354

4. Amount and Timing of a Payment Request. Requests for payment should be only in amounts necessary to meet current disbursement needs. “Current disbursement needs” are defined as the funds that will be expended within **seven** working days of receipt from Commerce. Normally, the grantee should have invoices or billings from contractor or vendors in hand when submitting a payment request to Commerce. Timing is important on the local level to ensure payment of all contracts in a timely manner.

The **minimum** amount on a payment request is **\$3,000**, unless there is less than \$3,000 remaining on the grant award. The **maximum** amount on a single payment request is **\$250,000**, unless a larger disbursement is needed to handle the acquisition of real estate or the purchase of a single shipment of machinery and equipment. The request should be in **whole** dollar amounts.

Under normal conditions, Commerce will electronically transfer (A.C.H.) the funds within two weeks or 10 working days of receipt of a valid payment request.

5. Ten Percent Holdback and Final Request. An amount equal to 10 percent of the NSP share of administrative costs will be held back until the close-out certifications have been received and accepted by Commerce. If no administrative costs are to be charged to the grant, up to 10 percent of the grant may be held until close-out. This may be negotiated if a contractor is involved.

To obtain these funds, the grantee should submit a payment request on the normal forms with the close-out documents.

#### C. Expenditure of Funds

Grant funds should be **expended** within **seven** working days of receipt. Please no more than bi-monthly payments.

#### D. Bank Accounts

It is not required that a grantee set up a separate bank account for NSP funds. If a separate account is established, it must be a **non-interest bearing account**. If the grantee uses an existing interest bearing account, there must be a substantial amount of other funds flowing through the account so the interest income cannot be traced to the NSP funds. If interest income is earned on NSP funds, it must be returned to the U.S. Treasury through Commerce.

#### E. Administration Costs

1. The first draw of funds will be processed after the “Notice of Approval for the Release of Funds” has been issued by Commerce, Authorized Signature Form, and the bank forms have been received. The “Notice of Approval for the Release of Funds” is normally issued after the contract has been signed by all parties and the environmental requirements have been satisfied.

### III. RETENTION OF RECORDS

- A. Grantees are required to retain all records pertinent to the grant program for a minimum of **four years** after the closeout of the project. The exception to this requirement would be if the grant is in litigation at the end of the applicable period. The starting point for the four year period is the date at which the certificate of completion is issued or the date the findings of the final audit are resolved, whichever occurs last.
- B. Such records shall be accessible to authorized representatives of Commerce, Kansas Housing Resource Corp. (KHRC), the Secretary of HUD, the Inspector General of the United States and the General Accounting Office.
- C. Any contract or agreement entered into by the Grantee shall contain the provisions of Item B above to assure accessibility by authorized personnel to the pertinent records of any sub-recipient, contractor or subcontractor.

### IV. PROGRAM INCOME

Program income for the NSP program is defined in the federal CDBG regulations at 24 CFR 570.500(a). Certain additional limitations and requirements are also in Section 2301 of the Housing and Economic Recovery Act, 2008 (HERA) as it relates to the NSP program. In addition to those definitions, the State of Kansas will impose additional restrictions on the use of program income. These restrictions are:

1. All program income generated from the State NSP program must be returned to the State when received.
2. Once a grantee has awarded the amount of their original allocation, they will be allowed to submit eligible projects to the State that will be funded out of available program income on a first come – first served basis..

**NEIGHBORHOOD STABILIZATION PROGRAM  
GUIDANCE ON PROGRAM INCOME & REVENUE  
REQUIREMENTS**

**INTRODUCTION**

This guidance is provided for states, units of general local government, sub-recipients, and other entities that receive revenue directly generated by activities carried out with NSP funds. When such revenue is received by a state, unit of general local government, or sub-recipient (as defined at 24 CFR 570.500(c)), it is referred to as *Program Income*. When such revenue is received by an individual or other entity (e.g., a developer of a housing project), it is referred to as *Revenue*.

Part A provides guidance on how to determine whether revenue received by a state, unit of general local government, or sub-recipient is program income and, thus, subject to the NSP requirements. Part B provides guidance on revenue received by individuals or other entities that are not sub-recipients. Part C provides guidance on how states and units of general local government must use program income (including revenue returned to them by individuals or other entities that are not sub-recipients).

**PART A: IS IT PROGRAM INCOME?**

**STEP ONE:** DID THE STATE, UNIT OF GENERAL LOCAL GOVERNMENT, OR SUBRECIPIENT RECEIVE REVENUE THAT WAS DIRECTLY GENERATED FROM THE USE OF NEIGHBORHOOD STABILIZATION PROGRAM (NSP) FUNDS AND DOES THIS REVENUE FALL WITHIN THE DEFINITION OF PROGRAM INCOME AT 24 CFR 570.500(a)(1)?

EXAMPLES OF NSP PROGRAM INCOME:

- Proceeds from the sale or lease of property acquired/redeveloped/rehabilitated with NSP funds
- Principal and interest payments on loans made from NSP funds
- Revenue returned by individuals or other entities that are not sub-recipients (see examples in Part B)
- Recaptures on sales of homes pursuant to enforcement of NSP affordability requirements
- (See §570.500(a)(1) for more examples of amounts that are treated as program income.)

YES, Go to Step Two.

NO, Stop here. This revenue IS NOT program income.

**STEP TWO:** IS THIS TYPE OF REVENUE LISTED IN THE PROGRAM INCOME EXCLUSIONS AT §570.500(a)(2), (a)(4), and (a)(5).

**EXAMPLES:**

- Interest earned on advances of NSP grants from the U.S. Treasury
- Interest earned on loans of NSP funds that finance activities that are either ineligible or fail to meet a HUD national objective
- Funds collected through special assessments used to recover the non-NSP portion of the cost of a public improvement

YES, Stop here. This revenue IS NOT program income; however, the interest earned on grant advances or ineligible loans must be remitted to HUD.

NO, Go to Step Three.

**STEP THREE:** WAS THE ACTIVITY THAT DIRECTLY GENERATED THE REVENUE FINANCED IN WHOLE WITH NSP FUNDS?

YES. All revenue must be used in accordance with Part C.

NO. A portion of the revenue must be used in accordance with Part C based on the NSP participation in the funding of the activity generating the revenue (e.g., if 25% of the costs of the activity was paid with NSP funds, then 25% of the revenue must be returned to the State or Unit of General Local Government).

**PART B: IS IT REVENUE RECEIVED BY PRIVATE INDIVIDUALS/ENTITIES THAT ARE NOT SUBRECIPIENTS?**

**STEP ONE:** DID THE PRIVATE INDIVIDUAL/ENTITY RECEIVE REVENUE THAT WAS DIRECTLY GENERATED FROM THE USE OF NEIGHBORHOOD STABILIZATION PROGRAM (NSP) FUNDS AND DOES THIS REVENUE FALL WITHIN THE DEFINITION OF PROGRAM INCOME AT 24 CFR 570.500(a)(1)?

**EXAMPLES OF NSP REVENUE:**

- Proceeds from the sale or lease of property acquired/redeveloped/rehabilitated with NSP funds
- Principal and interest payments on loans made from NSP funds (e.g., payments on purchase money mortgage loans)
- Net operating income from operation of rental properties acquired and/or rehabilitated with NSP funds
- (See §570.500(a)(1) for more examples of amounts that are treated as NSP revenue)

YES, Go to Step Two.

NO, Stop here. This revenue IS NOT subject to NSP requirements.



**STEP TWO:** WAS THE ACTIVITY THAT DIRECTLY GENERATED THE REVENUE FINANCED BY A LOAN MADE PURSUANT TO ELIGIBLE USE CATEGORY (A) OF SECTION 2301(c)(3) AND IS THE AMOUNT RECEIVED GREATER THAN THE AMOUNT OWED ON THE LOAN?

- YES, Stop here. The portion of the revenue that is in excess of the amount owed on the loan does not have to be returned to the State or Unit of General Local Government.
- NO. Go to Step Three

**STEP THREE:** WAS THE ACTIVITY THAT DIRECTLY GENERATED THE REVENUE FINANCED IN WHOLE WITH NSP FUNDS?

- YES. All revenue must be returned to the State or Unit of General Local Government and used in accordance with Part C.
- NO. A portion of the revenue must be returned to the State or Unit of General Local Government based on the NSP participation in the funding of the activity generating the revenue (e.g., if 50% of the costs of the activity was paid with NSP funds, then 50% of the revenue must be returned to the State or Unit of General Local Government).

**EXAMPLE:** A grantee uses NSP funds to make a loan to a private individual to finance the purchase of a foreclosed-upon residential property for use as his/her primary residence. The private individual purchased the property for \$100,000 with a privately financed first mortgage of \$80,000 and a NSP “soft” second mortgage of \$20,000. The terms of the NSP loan provide for forgiveness of the homebuyer’s repayment obligation, based on the length of time the homebuyer remains in the property. After ten years, the individual sells the property to an income eligible homebuyer for \$100,000. The unpaid balance on the private mortgage is \$67,000 and the balance on the NSP loan is \$13,000. The maximum NSP revenue is equal to 20% of the sales proceeds (i.e., \$20,000); however, since a portion of the NSP loan repayment obligation has been forgiven, the amount of the revenue that must be returned to the grantee is \$13,000.

**EXAMPLE:** A grantee uses NSP funds to make a loan (or a grant) to a private individual/entity to finance the acquisition and rehabilitation of a foreclosed-upon multi-family residential property. The private individual/entity uses \$200,000 in NSP funds (loan or grant) from the grantee to pay the total costs of acquisition and rehabilitation (including reasonable development fees) and then sells the property for \$225,000. The private individual/entity must provide \$225,000 to the grantee. (If the NSP funding was a loan, the sales proceeds would be used to repay the NSP loan.) If in this same example, the private individual/entity received \$100,000 in NSP funds, and used \$100,000 of its own funds, the program income to be provided to the grantee would be \$112,500.

**EXAMPLE:** A grantee uses \$250,000 in NSP funds to make a loan (or a grant) to a private individual/entity to finance the acquisition and rehabilitation of a foreclosed-upon multi-family residential property. The private individual/entity utilizes \$500,000 of its own resources in conjunction with the \$250,000 in NSP funds, for a total development cost of \$750,000. The private individual/entity must return to the grantee a portion of the “net operating income” generated by the project, as calculated below. This percentage will be based on the percentage of the total development cost of the project.

### Rental Income

Gross Annual Rental Income	120,000
Less (-) 5% Vacancy	(6,000)
Plus (+) Other Income	--

Total Effective Gross Income:

114,000

### Operating Expenses

Management Fee	12,000
Utilities	24,000
Maintenance	15,000
Grounds and Landscaping	10,000
Insurance	4,200
Real Estate Tax	4,800
Replacement Reserves	10,000
Pest Control	3,000
Other Expenses	1,000

Total Operating Expenses:

84,000

Net Operating Income (NOI):

30,000

In this example, NSP funds were used to pay one-third of the total development cost. Consequently, since the Net Operating Income was \$30,000, the private individual/entity must return \$10,000 (i.e., one-third) to the grantee.

## **PART C: USE OF PROGRAM INCOME RECEIVED BY STATE OR UNIT OF GENERAL LOCAL GOVERNMENT**

**NOTE:** The NSP Notice published in the *Federal Register* on October 6, 2008, imposes certain limitations and requirements with respect to NSP program income that are based on the eligible use category of Section 2301(c)(3) and the date the income is received. Before proceeding with this Part C, the reader should determine the eligible use category under which the activity generating the program income was carried out and whether the income was received before July 30, 2013. Eligible use categories of Section 2301(c)(3) are listed below.

- Establish financing mechanisms for purchase and redevelopment of foreclosed upon homes and residential properties, including such mechanisms as soft-second, loan loss reserves, and shared-equity loans for low- and moderate-income homebuyers.
- Purchase and rehabilitate homes and residential properties that have been abandoned or foreclosed upon, in order to sell, rent, or redevelop such homes and properties.

- Establish land banks for homes that have been foreclosed upon.
- Demolish blighted structures.
- Redevelop demolished or vacant properties.

**STEP ONE:** WAS THE PROGRAM INCOME GENERATED BY ACTIVITIES CARRIED OUT PURSUANT TO ELIGIBLE USE CATEGORY (A), (C), OR (D), AS DESCRIBED ABOVE?

- YES, Stop here. The State or Unit of General Local Government may retain this program income if it is treated as additional CDBG funds and used in accordance with Section 2301.
- NO, The program income was generated by activities carried out pursuant to eligible use category (B) or (E) of Section 2301(c)(3). Go to Step Two.

**STEP TWO:** WAS THE PROGRAM INCOME RECEIVED PRIOR TO JULY 30, 2013?

- YES, Stop here. The State or Unit of General Local Government may retain this program income if it is treated as additional CDBG funds and used in accordance with Section 2301.
- NO, Go to Step Three.

**STEP THREE:** DID THE STATE OR UNIT OF GENERAL LOCAL GOVERNMENT RECEIVE REVENUE ON OR AFTER JULY 30, 2013 (INCLUDING REVENUE RETURNED BY AN INDIVIDUAL OR OTHER ENTITY THAT IS NOT A SUBRECIPIENT), THAT IS IN EXCESS OF THE COST TO ACQUIRE AND REDEVELOP OR REHABILITATE AN ABANDONED OR FORECLOSED-UPON HOME OR RESIDENTIAL PROPERTY?

- YES, Stop here. The State or Unit of General Local Government may retain and utilize such revenues for other NSP purposes, upon written approval from HUD.
- NO, Go to Step Four.

**STEP FOUR:** WAS PROGRAM INCOME, OTHER THAN THE PROGRAM INCOME DESCRIBED IN STEP THREE, RECEIVED ON OR AFTER JULY 30, 2013?

- YES, Stop here. The State or Unit of General Local Government must remit all such program income to HUD
- NO, Stop here.

**EXAMPLE:** A grantee acquires a foreclosed-upon property for \$100,000, spends \$100,000 to redevelop the property, and sells the property for \$225,000. (The buyer is NOT an individual that will use the property as a primary residence.) If the sale occurs on or after July 30, 2013, the amount to be remitted to HUD by the grantee is \$200,000 if HUD authorizes the profit of \$25,000 to be used for other NSP purposes, or \$225,000, if HUD does not authorize such use.

## **V. PROPERTY MANAGEMENT STANDARDS**

The local grantee must follow standards and procedures for the acquisition, use and disposition of property acquired in whole or in part with NSP. The local standards must be at least as stringent and restrictive as those called for by the NSP program. Requirements are set forth in Section 13 herein, Property Management.

**Program Income Report**

**Schedule of Income Remitted**

---

<b>Grantee:</b>		<b>Date:</b>	
Address _____	City _____	Zip _____	
Short Description of Income _____	Amount \$ _____		
Address _____	City _____	Zip _____	
Short Description of Income _____	Amount \$ _____		
Address _____	City _____	Zip _____	
Short Description of Income _____	Amount \$ _____		
Address _____	City _____	Zip _____	
Short Description of Income _____	Amount \$ _____		
Address _____	City _____	Zip _____	
Short Description of Income _____	Amount \$ _____		
Address _____	City _____	Zip _____	
Short Description of Income _____	Amount \$ _____		
Remittance total		\$ _____	

**AUTHORIZED SIGNATURE FORM**

Grantee Name: \_\_\_\_\_ Grant No.: \_\_\_\_\_

Street Address: \_\_\_\_\_

Grantee/Multi-jurisdictional: \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

**AUTHORIZED SIGNATURES FOR REQUEST FOR PAYMENT**

Typed Name: \_\_\_\_\_

Typed Name: \_\_\_\_\_

Typed Title: \_\_\_\_\_

Typed Title: \_\_\_\_\_

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Signature

Typed Name: \_\_\_\_\_

Typed Name: \_\_\_\_\_

Typed Title: \_\_\_\_\_

Typed Title: \_\_\_\_\_

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Signature

I hereby certify that the above signatures are authorized to sign the Request for Payment of NSP funds (Form No. RP-1).

Date: \_\_\_\_\_

Typed Name: \_\_\_\_\_

Typed Title: \_\_\_\_\_

---

Signature of Certifying Official



## INSTRUCTIONS AUTHORIZED SIGNATURE FORM

1. GRANTEE NAME AND ADDRESS –  
Insert name and complete address of grantee.
2. GRANT NO. –  
Enter assigned Grant Agreement Number.
3. AUTHORIZED SIGNATURES FOR REQUEST FOR PAYMENT –  
Enter the typed name, title and signature of the individuals who are authorized to sign the Request for Payment of NSP funds (Form No. RP-1). **It is suggested that a minimum of three persons be designated as signees on this form to assure availability of personnel. No person outside of elected or employed personnel may sign for the grantee.**
4. SIGNATURE OF CERTIFYING OFFICIAL –  
Enter the typed name, title and signature of the **highest elected official** to certify that the signatures are authorized to request payment of NSP funds. Please enter the date the Authorized Signature Form was signed.

Department of Administration  
Division of Accounts and Reports  
DA-130 (Commerce Rev. 01/97)

Neighborhood Stabilization Program  
 Request for Payment  
 Cover page

Grantee \_\_\_\_\_  
 Request No. \_\_\_\_\_ Date: \_\_\_\_\_

	Awarded	Drawn Prior to this Request	Current Request	Total Drawn	Awarded Balance
Financing Mechanisms					
Purchase					
Rehabilitate Houses					
Land Banking/Acquisition and Relocation					
Demolition					
Redevelop demolished or Vacant Property					
Administration					
<b>Total</b>					
25% dedicated to 50% & below LMMA					

CERTIFICATION

I HEREBY CERTIFY THAT THE DATA REPORTED ON THIS REQUEST FOR PAYMENT IS  
 CORRECT AND THAT THE AMOUNT IS NOT IN EXCESS OF CURRENT NEEDS.

Date \_\_\_\_\_ Signature \_\_\_\_\_ Title \_\_\_\_\_

Date \_\_\_\_\_ Signature \_\_\_\_\_ Title \_\_\_\_\_

Approval (For Kansas Dept. of Commerce use only)

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

# Neighborhood Stabilization Program

Detail for Request for Payment

Grantee

Req #

Date:

## List Activities

Address Street City zip			Benefiting 50% & Below Area Median Income	Purchased Properties			*Other costs	Request NSP Amount
				appraised value	discount amount	Purchase amount		
<b>Financing Mechanisms</b>								
Total- Financing Mechanisms .....								
<b>Purchase</b>								
Total - Purchase .....								
<b>Rehabilitate Houses</b>								
Total - Rehabilitate Houses .....								
<b>Land Banking/Acquisition and Relocation</b>								
Total - Land Banking/Acquisition and Relocation .....								
<b>Demolition</b>								
Total - Demolition .....								
<b>Redevelop Demolished or Vacant Property</b>								
Total - Redevelop Demolished or Vacant Property .....								

## **INSTRUCTIONS-Neighborhood Stabilization Program- REQUEST FOR PAYMENT -- COVER PAGE AND DETAIL**

This form is to be sent electronically to Kansas Department of Commerce. Tentatively the email address is [bcook@kansascommerce.com](mailto:bcook@kansascommerce.com). A copy of the cover page with original signatures should be sent through the mail.

The cover page and all detail pages should show the grantee name, request number and date for the request in the top left hand corner.

The grid in the center of the cover page needs to be completed using the Budget from the contract, prior request for payments and totals from the current detail pages of this request for payment. The grid has five (5) columns and six (6) lines, seven lines when the floating grid for the 25% dedicated to Below 50% of LMMA is counted. The floating grid will be described separately.

The lines on the column titled “**Awarded**” should be completed using the amounts from the contract Budget page. (If the Budget has been amended the amounts from the amended budget would be used)

The lines on the column titled “**Drawn Prior to this Req.**” should be completed using the Request for Payment just preceding this request. (The total drawn column from preceding request)

The lines on the column titled “**Current Request**” should be completed using the totals on the Detail pages of this Request for Payment. (Instructions for the Detail pages will follow).

The lines on the column titled “**Total Drawn**” are completed by adding line totals across from Drawn Prior to this request and current request columns.

The lines on the column titled “**Awarded Balance**” should be the difference of the lines in columns Awarded and Total Drawn.

The instructions for the floating grid line titled **25% dedicated to below 50% of LMMA** would be completed as the grid above, except for the column “Current Request”. Use the amounts on the detail pages for the “Current Request” amount. Add each amount that is marked as benefiting below 50% area median income for the total.

**Certification section** on the cover page needs at least two signatures from the previously signed Authorized Signature Form. The signatures on this cover page must be the same as on the Authorized Signature form. (For example, if a nick name or initials are signed on the Authorized Signature form, then that same signature should be signed on this Request for Payment form)

### **Detail pages**

Along with entering the Grantee name, Request number and date on each page of the detail, the page number and the total of pages is needed. (Do not count the cover page)

On the **Detail for Request for Payment** there is a corresponding grid for each of the six (6) lines shown on the cover page. There are ten columns that should be complete for these lines, if applicable. Insert lines to the grid as needed.

**Special note:** Properties purchased for the purpose of **Demolition** should be reported in the Demolition grid.

The Address should be complete for the lines A through E.

When it is known that the item is going to benefit persons below 50% area median income, please indicate “yes” in the column titled “**Benefiting Below 50% Area Median Income**.”

**Purchase of Properties:** The three columns under Purchased Properties should be completed with the appropriate amounts.

The column titled “**Other Costs**” is for amounts for demolition, rehabilitate, relocation and fees.

The **Request NSP amount** column should be completed for each line and administration needs. Other than administration needs each line Request NSP amount should equal the sum of the purchase amount and other costs columns. The column total for Request NSP amount would include administration needs.

The Match Amount should be complete if applicable.

There two Electronic deposit forms required. They are described in the financial section. There is a minimum of \$3,000 and a maximum of \$250,000 per payment request. A maximum of seven (7) days are allow to expend monies. No cash on hand is allowed. Please no more than bi-monthly payments.

**COST PRINCIPLES FOR STATE, LOCAL, AND  
NATIVE-AMERICAN TRIBAL GOVERNMENTS**

**OMB CIRCULAR NO. A-87 (REVISED MAY 4, 1995)**

**Attachment A**

**GENERAL PRINCIPLES FOR DETERMINING ALLOWABLE COSTS**

TABLE OF CONTENTS

- A. Purpose and Scope
  - 1. Objectives
  - 2. Policy guides
  - 3. Application
  
- B. Definitions
  - 1. Approval or authorization of the awarding or cognizant Federal agency
  - 2. Award
  - 3. Awarding agency
  - 4. Central service cost allocation plan
  - 5. Claim
  - 6. Cognizant agency
  - 7. Common rule
  - 8. Contract
  - 9. Cost
  - 10. Cost allocation plan
  - 11. Cost objective
  - 12. Federally-recognized Native-American tribal government
  - 13. Governmental unit
  - 14. Grantee department or agency
  - 15. Indirect cost rate proposal
  - 16. Local government
  - 17. Public assistance cost allocation plan
  - 18. State
  
- C. Basic Guidelines
  - 1. Factors affecting allow ability of costs
  - 2. Reasonable costs
  - 3. Allocable costs
  - 4. Applicable credits
  
- D. Composition of Cost
  - 1. Total cost
  - 2. Classification of costs



- E. Direct Costs
  - 1. General
  - 2. Application
  - 3. Minor items
  
- F. Indirect Costs
  - 1. General
  - 2. Cost allocation plans and indirect cost proposals
  - 3. Limitation on indirect or administrative costs
  
- G. Interagency Services
  
- H. Required Certifications

## A. Purpose and Scope

### 1. Objectives.

This Attachment establishes principles for determining the allowable costs incurred by state, local, and federally recognized Native-American tribal governments (governmental units) under grants, cost reimbursement contracts, and other agreements with the federal government (collectively referred to in this Circular as “Federal awards”). The principles are for the purpose of cost determination and are not intended to identify the circumstances or dictate the extent of Federal or governmental unit participation in the financing of a particular program or project. The principles are designed to provide that Federal awards bear their fair share of cost recognized under these principles except where restricted or prohibited by law. Provision for profit or other increment above cost is outside the scope of this Circular.

### 2. Policy guides.

- a. The application of these principles is based on the fundamental premises that:
  - i. Governmental units are responsible for the efficient and effective administration of Federal awards through the application of sound management practices.
  - ii. Governmental units assume responsibility for administering Federal funds in a manner consistent with underlying agreements, program objectives, and the terms and conditions of the Federal award.
  - iii. Each governmental unit, in recognition of its own unique combination of staff, facilities, and experience, will have the primary responsibility for employing whatever form of organization and management techniques may be necessary to assure proper and efficient administration of Federal awards.
- b. Federal agencies should work with States or localities that wish to test alternative mechanisms for paying costs for administering Federal programs. The Office of Management and Budget (OMB) encourages Federal agencies to test fee-for-service alternatives as a replacement for current cost-reimbursement payment methods in response to the National Performance Review's (NPR) recommendation. The NPR recommended the fee-for-service approach to reduce the burden associated with maintaining systems for charging administrative costs to Federal programs and preparing and approving cost allocation plans. This approach should also increase incentives for administrative efficiencies and improve outcomes.

3. Application.
  - a. These principles will be applied by all Federal agencies in determining costs incurred by governmental units under Federal awards (including subawards) except those with (1) publicly-financed educational institutions subject to OMB Circular A-21, "Cost Principles for Educational Institutions," and (2) programs administered by publicly-owned hospitals and other providers of medical care that are subject to requirements promulgated by the sponsoring Federal agencies. However, this Circular does apply to all central service and department/agency costs that are allocated or billed to those educational institutions, hospitals, and other providers of medical care or services by other State and local government departments and agencies.
  - b. All sub-awards are subject to those Federal cost principles applicable to the particular organization concerned. Thus, if a sub-award is to a governmental unit (other than a college, university or hospital), this Circular shall apply; if a sub-award is to a commercial organization, the cost principles applicable to commercial organizations shall apply; if a sub-award is to a college or university, Circular A-21 shall apply; if a sub-award is to a hospital, the cost principles used by the Federal awarding agency for awards to hospitals shall apply, subject to the provisions of subsection A.3.a. of this Attachment; if a sub-award is to some other non-profit organization, Circular A-122, "Cost Principles for Non-Profit Organizations," shall apply.
  - c. These principles shall be used as a guide in the pricing of fixed price arrangements where costs are used in determining the appropriate price.
  - d. Where a Federal contract awarded to a governmental unit incorporates a Cost Accounting Standards (CAS) clause, the requirements of that clause shall apply. In such cases, the governmental unit and the cognizant Federal agency shall establish an appropriate advance agreement on how the governmental unit will comply with applicable CAS requirements when estimating, accumulating and reporting costs under CAS-covered contracts. The agreement shall indicate that OMB Circular A-87 requirements will be applied to other Federal awards. In all cases, only one set of records needs to be maintained by the governmental unit.

## **B. Definitions**

1. "Approval or authorization of the awarding or cognizant Federal agency" means documentation evidencing consent prior to incurring a specific cost. If such costs are specifically identified in a Federal award document, approval of the document constitutes approval of the costs. If the costs are covered by a State/local-wide cost allocation plan or an indirect cost proposal, approval of the plan constitutes the approval.
2. "Award" means grants, cost reimbursement contracts and other agreements between a state, local and Native-Indian tribal government and the federal government.

3. "Awarding agency" means (a) with respect to a grant, cooperative agreement, or cost reimbursement contract, the Federal agency, and (b) with respect to a subaward, the party that awarded the subaward.
4. "Central service cost allocation plan" means the documentation identifying, accumulating, and allocating or developing billing rates based on the allowable costs of services provided by a governmental unit on a centralized basis to its departments and agencies. The costs of these services may be allocated or billed to users.
5. "Claim" means a written demand or written assertion by the governmental unit or grantor seeking, as a matter of right, the payment of money in a sum certain, the adjustment or interpretation of award terms, or other relief arising under or relating to the award. A voucher, invoice or other routine request for payment that is not a dispute when submitted is not a claim. Appeals, such as those filed by a governmental unit in response to questioned audit costs, are not considered claims until a final management decision is made by the Federal awarding agency.
6. "Cognizant agency" means the Federal agency responsible for reviewing, negotiating, and approving cost allocation plans or indirect cost proposals developed under this Circular on behalf of all Federal agencies. OMB publishes a listing of cognizant agencies.
7. "Common Rule" means the "Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments; Final Rule" originally issued at 53 FR 8034-8103 (March 11, 1988). Other common rules will be referred to by their specific titles.
8. "Contract" means a mutually binding legal relationship obligating the seller to furnish the supplies or services (including construction) and the buyer to pay for them. It includes all types of commitments that obligate the government to an expenditure of appropriated funds and that, except as otherwise authorized, are in writing. In addition to bilateral instruments, contracts include (but are not limited to): awards and notices of awards; job orders or task orders issued under basic ordering agreements; letter contracts; orders, such as purchase orders, under which the contract becomes effective by written acceptance or performance; and, bilateral contract modifications. Contracts do not include grants and cooperative agreements covered by 31 U.S.C. 6301 et seq.
9. "Cost" means an amount as determined on a cash, accrual, or other basis acceptable to the Federal awarding or cognizant agency. It does not include transfers to a general or similar fund.
10. "Cost allocation plan" means central service cost allocation plan, public assistance cost allocation plan, and indirect cost rate proposal. Each of these terms are further defined in this section.
11. "Cost objective" means a function, organizational subdivision, contract, grant, or other activity for which cost data are needed and for which costs are incurred.

12. "Federally-recognized Native-American tribal government" means the governing body or a governmental agency of any Indian tribe, band, nation, or other organized group or community (including any native village as defined in Section 3 of the Alaska Native Claims Settlement Act, 85 Stat. 688) certified by the Secretary of the Interior as eligible for the special programs and services provided through the Bureau of Indian Affairs.
13. "Governmental unit" means the entire State, local, or federally-recognized Indian tribal government, including any component thereof. Components of governmental units may function independently of the governmental unit in accordance with the term of the award.
14. "Grantee department or agency" means the component of a State, local, or federally recognized Indian tribal government that is responsible for the performance or administration of all or some part of a Federal award.
15. "Indirect cost rate proposal" means the documentation prepared by a governmental unit or component thereof to substantiate its request for the establishment of an indirect cost rate as described in Attachment E of this Circular.
16. "Local government" means a county, municipality, city, town, township, local public authority, school district, special district, intrastate district, council of governments (whether or not incorporated as a non-profit corporation under State law), any other regional or interstate government entity, or any agency or instrumentality of a local government.
17. "Public assistance cost allocation plan" means a narrative description of the procedures that will be used in identifying, measuring and allocating all administrative costs to all of the programs administered or supervised by State public assistance agencies as described in Attachment D of this Circular.
18. "State" means any of the several States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, any territory or possession of the United States, or any agency or instrumentality of a State exclusive of local governments.

### **C. Basic Guidelines**

1. Factors affecting allow ability of costs. To be allowable under Federal awards, costs must meet the following general criteria:
  - a. Be necessary and reasonable for proper and efficient performance and administration of Federal awards.
  - b. Be allocable to Federal awards under the provisions of this Circular.
  - c. Be authorized or not prohibited under State or local laws or regulations.

- d. Conform to any limitations or exclusions set forth in these principles, Federal laws, terms and conditions of the Federal award, or other governing regulations as to types or amounts of cost items.
  - e. Be consistent with policies, regulations, and procedures that apply uniformly to both Federal awards and other activities of the governmental unit.
  - f. Be accorded consistent treatment. A cost may not be assigned to a Federal award as a direct cost if any other cost incurred for the same purpose in like circumstances has been allocated to the Federal award as an indirect cost.
  - g. Except as otherwise provided for in this Circular, be determined in accordance with generally accepted accounting principles.
  - h. Not be included as a cost or used to meet cost sharing or matching requirements of any other Federal award in either the current or a prior period, except as specifically provided by Federal law or regulation.
  - i. Be the net of all applicable credits.
  - j. Be adequately documented.
2. Reasonable costs.

A cost is reasonable if, in its nature and amount, it does not exceed that which would be incurred by a prudent person under the circumstances prevailing at the time the decision was made to incur the cost. The question of reasonableness is particularly important when governmental units or components are predominately federally-funded. In determining reasonableness of a given cost, consideration shall be given to:

- a. Whether the cost is of a type generally recognized as ordinary and necessary for the operation of the governmental unit or the performance of the Federal award.
- b. The restraints or requirements imposed by such factors as: sound business practices; arms length bargaining; Federal, State and other laws and regulations; and, terms and conditions of the Federal award.
- c. Market prices for comparable goods or services.
- d. Whether the individuals concerned acted with prudence in the circumstances considering their responsibilities to the governmental unit, its employees, the public at large, and the Federal Government.
- e. Significant deviations from the established practices of the governmental unit that may unjustifiably increase the Federal award's cost.

3. Allocable costs.
  - a. A cost is allocable to a particular cost objective if the goods or services involved are chargeable or assignable to such cost objective in accordance with relative benefits received.
  - b. All activities that benefit from the governmental unit's indirect cost, including unallowable activities and services donated to the governmental unit by third parties, will receive an appropriate allocation of indirect costs.
  - c. Any cost allocable to a particular Federal award or cost objective under the principles provided for in this Circular may not be charged to other Federal awards to overcome fund deficiencies, to avoid restrictions imposed by law or terms of the Federal awards, or for other reasons. However, this prohibition would not preclude governmental units from shifting costs that are allowable under two or more awards in accordance with existing program agreements.
  - d. Where an accumulation of indirect costs will ultimately result in charges to a Federal award, a cost allocation plan will be required as described in Attachments C, D, and E.
4. Applicable credits.
  - a. Applicable credits refer to those receipts or reduction of expenditure-type transactions that offset or reduce expense items allocable to Federal awards as direct or indirect costs. Examples of such transactions are: purchase discounts, rebates or allowances, recoveries or indemnities on losses, insurance refunds or rebates, and adjustments of overpayments or erroneous charges. To the extent that such credits accruing to or received by the governmental unit relate to allowable costs, they shall be credited to the Federal award either as a cost reduction or cash refund, as appropriate.
  - b. In some instances, the amounts received from the Federal Government to finance activities or service operations of the governmental unit should be treated as applicable credits. Specifically, the concept of netting such credit items (including any amounts used to meet cost sharing or matching requirements) should be recognized in determining the rates or amounts to be charged to Federal awards. (See Attachment B, item 15, "Depreciation and use allowances," for areas of potential application in the matter of Federal financing of activities.)

#### **D. Composition of Cost**

1. Total cost.

The total cost of Federal awards is comprised of the allowable direct cost of the program, plus its allocable portion of allowable indirect costs, less applicable credits.

2. Classification of costs.

There is no universal rule for classifying certain costs as either direct or indirect under every accounting system. A cost may be direct with respect to some specific service or function, but indirect with respect to the Federal award or other final cost objective. Therefore, it is essential that each item of cost be treated consistently in like circumstances either as a direct or an indirect cost. Guidelines for determining direct and indirect costs charged to Federal awards are provided in the sections that follow.

**E. Direct Costs**

1. General. Direct costs are those that can be identified specifically with a particular final cost objective.
2. Application. Typical direct costs chargeable to Federal awards are:
  - a. Compensation of employees for the time devoted and identified specifically to the performance of those awards.
  - b. Cost of materials acquired, consumed, or expended specifically for the purpose of those awards.
  - c. Equipment and other approved capital expenditures.
  - d. Travel expenses incurred specifically to carry out the award.
3. Minor items.

Any direct cost of a minor amount may be treated as an indirect cost for reasons of practicality where such accounting treatment for that item of cost is consistently applied to all cost objectives.

**F. Indirect Costs**

1. General.

Indirect costs are those:

- a. Incurred for a common or joint purpose benefiting more than one cost objective, and
- b. Not readily assignable to the cost objectives specifically benefited, without effort disproportionate to the results achieved.



The term "indirect costs," as used herein, applies to costs of this type originating in the grantee department, as well as those incurred by other departments in supplying goods, services, and facilities. To facilitate equitable distribution of indirect expenses to the cost objectives served, it may be necessary to establish a number of pools of indirect costs within a governmental unit department or in other agencies providing services to a governmental unit department. Indirect cost pools should be distributed to benefited cost objectives on bases that will produce an equitable result in consideration of relative benefits derived.

2. Cost allocation plans and indirect cost proposals.

Requirements for development and submission of cost allocation plans and indirect cost rate proposals are contained in Attachments C, D, and E.

3. Limitation on indirect or administrative costs.

- a. In addition to restrictions contained in this Circular, there may be laws that further limit the amount of administrative or indirect cost allowed.
- b. Amounts not recoverable as indirect costs or administrative costs under one Federal award may not be shifted to another Federal award, unless specifically authorized by Federal legislation or regulation.

## **G. Interagency Services**

The cost of services provided by one agency to another within the governmental unit may include allowable direct costs of the service plus a pro rate share of indirect costs. A standard indirect cost allowance equal to ten percent of the direct salary and wage cost of providing the service (excluding overtime, shift premiums, and fringe benefits) may be used in lieu of determining the actual indirect costs of the service. These services do not include centralized services included in central service cost allocation plans as described in Attachment C.

## **H. Required Certifications**

Each cost allocation plan or indirect cost rate proposal required by Attachments C and E must comply with the following:

1. No proposal to establish a cost allocation plan or an indirect cost rate, whether submitted to a Federal cognizant agency or maintained on file by the governmental unit, shall be acceptable unless such costs have been certified by the governmental unit using the Certificate of Cost Allocation Plan or Certificate of Indirect Costs as set forth in Attachments C and E. The certificate must be signed on behalf of the governmental unit by an individual at a level no lower than chief financial officer of the governmental unit that submits the proposal or component covered by the proposal.

2. No cost allocation plan or indirect cost rate shall be approved by the Federal Government unless the plan or rate proposal has been certified. Where it is necessary to establish a cost allocation plan or an indirect cost rate and the governmental unit has not submitted a certified proposal for establishing such a plan or rate in accordance with the requirements, the Federal Government may either disallow all indirect costs or unilaterally establish such a plan or rate. Such a plan or rate may be based upon audited historical data or such other data that have been furnished to the cognizant Federal agency and for which it can be demonstrated that all unallowable costs have been excluded. When a cost allocation plan or indirect cost rate is unilaterally established by the Federal Government because of failure of the governmental unit to submit a certified proposal, the plan or rate established will be set to ensure that potentially unallowable costs will not be reimbursed.

# COST PRINCIPLES FOR STATE, LOCAL, AND INDIAN TRIBAL GOVERNMENTS

## OMB CIRCULAR NO. A-87 (REVISED MAY 4, 1995)

### Attachment B

#### SELECTED ITEMS OF COST

##### TABLE OF CONTENTS

1. Accounting
2. Advertising and public relations costs
3. Advisory councils
4. Alcoholic beverages
5. Audit services
6. Automatic electronic data processing
7. Bad debts
8. Bonding costs
9. Budgeting
10. Communications
11. Compensation for personnel services
  - a. General
  - b. Reasonableness
  - c. Unallowable costs
  - d. Fringe benefits
  - e. Pension plan costs
  - f. Post-retirement health benefits
  - g. Severance Pay
  - h. Support of salaries and wages
  - i. Donated services
12. Contingencies
13. Contributions and donations
14. Defense and prosecution of criminal and civil proceedings, and claims
15. Depreciation and use allowances
16. Disbursing service
17. Employee morale, health, and welfare costs
18. Entertainment
19. Equipment and other capital expenditures
20. Fines and penalties
21. Fund raising and investment management costs
22. Gains and losses on disposition of depreciable property and other capital assets and substantial relocation of Federal programs
23. General government expenses
24. Idle facilities and idle capacity
25. Insurance and indemnification
26. Interest
27. Lobbying
28. Maintenance, operations, and repairs

29. Materials and supplies
30. Memberships, subscriptions, and professional activities
31. Motor pools
32. Pre-award costs
33. Professional service costs
34. Proposal costs
35. Publication and printing costs
36. Rearrangements and alterations
37. Reconversion costs
38. Rental costs
39. Taxes
40. Training
41. Travel costs
42. Under recovery of costs under Federal agreements

Sections 1 through 42 provide principles to be applied in establishing the allow ability or unallow ability of certain items of cost. These principles apply whether a cost is treated as direct or indirect. A cost is allowable for Federal reimbursement only to the extent of benefits received by Federal awards and its conformance with the general policies and principles stated in Attachment A to this Circular. Failure to mention a particular item of cost in these sections is not intended to imply that it is either allowable or unallowable; rather, determination of allow ability in each case should be based on the treatment or standards provided for similar or related items of cost.

1. Accounting.

The cost of establishing and maintaining accounting and other information systems is allowable.

2. Advertising and public relations costs.

- a. The term "advertising costs" means the costs of advertising media and corollary administrative costs. Advertising media include magazines, newspapers, radio and television programs, direct mail, exhibits, and the like.
- b. The term "public relations" includes community relations and means those activities dedicated to maintaining the image of the governmental unit or maintaining or promoting understanding and favorable relations with the community or public at large or any segment of the public.
- c. Advertising costs are allowable only when incurred for the recruitment of personnel, the procurement of goods and services, the disposal of surplus materials, and any other specific purposes necessary to meet the requirements of the Federal award. Advertising costs associated with the disposal of surplus materials are not allowable where all disposal costs are reimbursed based on a standard rate as specified in the grants management common rule.
- d. Public relations costs are allowable when:

- i. Specifically required by the Federal award and then only as a direct cost;
  - ii. Incurred to communicate with the public and press pertaining to specific activities or accomplishments that result from performance of the Federal award and then only as a direct cost; or
  - iii. Necessary to conduct general liaison with news media and government public relations officers, to the extent that such activities are limited to communication and liaison necessary to keep the public informed on matters of public concern, such as notices of Federal contract/grant awards, financial matters, etc.
- e. Unallowable advertising and public relations costs include the following:
- i. All advertising and public relations costs other than as specified in subsections c. and d.;
  - ii. Except as otherwise permitted by these cost principles, costs of conventions, meetings, or other events related to other activities of the governmental unit including:
    - (a) Costs of displays, demonstrations, and exhibits;
    - (b) Costs of meeting rooms, hospitality suites, and other special facilities used in conjunction with shows and other special events; and
    - (c) Salaries and wages of employees engaged in setting up and displaying exhibits, making demonstrations, and providing briefings;
  - iii. Costs of promotional items and memorabilia, including models, gifts, and souvenirs; and
  - iv. Costs of advertising and public relations designed solely to promote the governmental unit.
2. Advisory councils.
- Costs incurred by advisory councils or committees are allowable as a direct cost where authorized by the Federal awarding agency or as an indirect cost where allocable to Federal awards.
3. Alcoholic beverages.
- Costs of alcoholic beverages are unallowable.
4. Audit services.

The costs of audits are allowable provided that the audits were performed in accordance with the Single Audit Act, as implemented by Circular A-128, "Audits of State and Local Governments." Generally, the percentage of costs charged to Federal awards for a single audit shall not exceed the percentage derived by dividing Federal funds expended by total funds expended by the recipient or sub recipient (including program matching funds) during the fiscal year. The percentage may be exceeded only if appropriate documentation demonstrates higher actual costs.

Other audit costs are allowable if specifically approved by the awarding or cognizant agency as a direct cost to an award or included as an indirect cost in a cost allocation plan or rate.

5. Automatic electronic data processing.

The cost of data processing services is allowable (but see section 19, Equipment and other capital expenditures).

6. Bad debts.

Any losses arising from uncollectible accounts and other claims, and related costs, are unallowable unless provided for in Federal program award regulations.

7. Bonding costs.

Costs of bonding employees and officials are allowable to the extent that such bonding is in accordance with sound business practice.

8. Budgeting.

Costs incurred for the development, preparation, presentation, and execution of budgets are allowable.

9. Communications.

Costs of telephone, mail, messenger, and similar communication services are allowable.

10. Compensation for personnel services.

a. General.

Compensation for personnel services includes all remuneration, paid currently or accrued, for services rendered during the period of performance under Federal awards, including but not necessarily limited to wages, salaries, and fringe benefits. The costs of such compensation are allowable to the extent that they satisfy the specific requirements of this Circular, and that the total compensation for individual employees:

- i. Is reasonable for the services rendered and conforms to the established policy of the governmental unit consistently applied to both Federal and non-Federal activities;
- ii. Follows an appointment made in accordance with a governmental unit's laws and rules and meets merit system or other requirements required by Federal law, where applicable; and
- iii. Is determined and supported as provided in subsection h.

b. Reasonableness.

Compensation for employees engaged in work on Federal awards will be considered reasonable to the extent that it is consistent with that paid for similar work in other activities of the governmental unit. In cases where the kinds of employees required for Federal awards are not found in the other activities of the governmental unit, compensation will be considered reasonable to the extent that it is comparable to that paid for similar work in the labor market in which the employing government competes for the kind of employees involved. Compensation surveys providing data representative of the labor market involved will be an acceptable basis for evaluating reasonableness.

c. Unallowable costs.

Costs which are unallowable under other sections of these principles shall not be allowable under this section solely on the basis that they constitute personnel compensation.

d. Fringe benefits.

- i. Fringe benefits are allowances and services provided by employers to their employees as compensation in addition to regular salaries and wages. Fringe benefits include, but are not limited to, the costs of leave, employee insurance, pensions, and unemployment benefit plans. Except as provided elsewhere in these principles, the costs of fringe benefits are allowable to the extent that the benefits are reasonable and are required by law, governmental unit-employee agreement, or an established policy of the governmental unit.
- ii. The cost of fringe benefits in the form of regular compensation paid to employees during periods of authorized absences from the job, such as for annual leave, sick leave, holidays, court leave, military leave, and other similar benefits, are allowable if:
  - (a) They are provided under established written leave policies;
  - (b) The costs are equitably allocated to all related activities, including Federal awards; and,
  - (c) The accounting basis (cash or accrual) selected for costing each type of leave is consistently followed by the governmental unit.

- iii. When a governmental unit uses the cash basis of accounting, the cost of leave is recognized in the period that the leave is taken and paid for. Payments for unused leave when an employee retires or terminates employment are allowable in the year of payment provided they are allocated as a general administrative expense to all activities of the governmental unit or component.
- iv. The accrual basis may be only used for those types of leave for which a liability as defined by Generally Accepted Accounting Principles (GAAP) exists when the leave is earned. When a governmental unit uses the accrual basis of accounting, in accordance with GAAP, allowable leave costs are the lesser of the amount accrued or funded.
- v. The cost of fringe benefits in the form of employer contributions or expenses for social security; employee life, health, unemployment, and worker's compensation insurance (except as indicated in section 25, Insurance and Indemnification); pension plan costs (see subsection e.); and other similar benefits are allowable, provided such benefits are granted under established written policies. Such benefits, whether treated as indirect costs or as direct costs, shall be allocated to Federal awards and all other activities in a manner consistent with the pattern of benefits attributable to the individuals or group(s) of employees whose salaries and wages are chargeable to such Federal awards and other activities.

#### Pension plan costs.

Pension plan costs may be computed using a pay-as-you-go method or an acceptable actuarial cost method in accordance with established written policies of the governmental unit.

- i. For pension plans financed on a pay-as-you-go method, allowable costs will be limited to those representing actual payments to retirees or their beneficiaries.
- ii. Pension costs calculated using an actuarial cost-based method recognized by GAAP are allowable for a given fiscal year if they are funded for that year within six months after the end of that year. Costs funded after the six-month period (or a later period agreed to by the cognizant agency) are allowable in the year funded. The cognizant agency may agree to an extension of the six month period if an appropriate adjustment is made to compensate for the timing of the charges to the Federal Government and related Federal reimbursement and the governmental unit's contribution to the pension fund. Adjustments may be made by cash refund or other equitable procedures to compensate the Federal Government for the time value of Federal reimbursements in excess of contributions to the pension fund.
- iii. Amounts funded by the governmental unit in excess of the actuarially determined amount for a fiscal year may be used as the governmental unit's contribution in future periods.



- iv. When a governmental unit converts to an acceptable actuarial cost method, as defined by GAAP, and funds pension costs in accordance with this method, the unfunded liability at the time of conversion shall be allowable if amortized over a period of years in accordance with GAAP.
  - v. The Federal Government shall receive an equitable share of any previously allowed pension costs (including earnings thereon) which revert or inure to the governmental unit in the form of a refund, withdrawal, or other credit.
- d. Post-retirement health benefits.

Post-retirement health benefits (PRHB) refers to costs of health insurance or health services not included in a pension plan covered by subsection e. for retirees and their spouses, dependents, and survivors. PRHB costs may be computed using a pay-as-you-go method or an acceptable actuarial cost method in accordance with established written policies of the governmental unit.

- i. For PRHB financed on a pay as-you-go method, allowable costs will be limited to those representing actual payments to retirees or their beneficiaries.
- ii. PRHB costs calculated using an actuarial cost method recognized by GAAP are allowable if they are funded for that year within six months after the end of that year. Costs funded after the six month period (or a later period agreed to by the cognizant agency) are allowable in the year funded. The cognizant agency may agree to an extension of the six month period if an appropriate adjustment is made to compensate for the timing of the charges to the Federal Government and related Federal reimbursements and the governmental unit's contributions to the PRHB fund. Adjustments may be made by cash refund, reduction in current year's PRHB costs, or other equitable procedures to compensate the Federal Government for the time value of Federal reimbursements in excess of contributions to the PRHB fund.
- iii. Amounts funded in excess of the actuarially determined amount for a fiscal year may be used as the government's contribution in a future period.
- iv. When a governmental unit converts to an acceptable actuarial cost method and funds PRHB costs in accordance with this method, the initial unfunded liability attributable to prior years shall be allowable if amortized over a period of years in accordance with GAAP, or, if no such GAAP period exists, over a period negotiated with the cognizant agency.
- v. To be allowable in the current year, the PRHB costs must be paid either to:
  - (a) An insurer or other benefit provider as current year costs or premiums, or
  - (b) An insurer or trustee to maintain a trust fund or reserve for the sole purpose of providing post-retirement benefits to retirees and other beneficiaries.

- vi. The Federal Government shall receive an equitable share of any amounts of previously allowed post-retirement benefit costs (including earnings thereon) that revert or inure to the governmental unit in the form of a refund, withdrawal, or other credit.
  
- g. Severance pay.
  - i. Payments in addition to regular salaries and wages made to workers whose employment is being terminated are allowable to the extent that, in each case, they are required by (a) law, (b) employer-employee agreement, or (c) established written policy.
  - ii. Severance payments (but not accruals) associated with normal turnover are allowable. Such payments shall be allocated to all activities of the governmental unit as an indirect cost.
  - iii. Abnormal or mass severance pay will be considered on a case-by-case basis and is allowable only if approved by the cognizant Federal agency.
  
- h. Support of salaries and wages. These standards regarding time distribution are in addition to the standards for payroll documentation.
  - i. Charges to Federal awards for salaries and wages, whether treated as direct or indirect costs, will be based on payrolls documented in accordance with generally accepted practice of the governmental unit and approved by a responsible official(s) of the governmental unit.
  - ii. No further documentation is required for the salaries and wages of employees who work in a single indirect cost activity.
  - iii. Where employees are expected to work solely on a single Federal award or cost objective, charges for their salaries and wages will be supported by periodic certifications that the employees worked solely on that program for the period covered by the certification. These certifications will be prepared at least semi-annually and will be signed by the employee or supervisory official having first hand knowledge of the work performed by the employee.
  - iv. Where employees work on multiple activities or cost objectives, a distribution of their salaries or wages will be supported by personnel activity reports or equivalent documentation which meets the standards in subsection (5) unless a statistical sampling system (see subsection (6)) or other substitute system has been approved by the cognizant Federal agency. Such documentary support will be required where employees work on:

- (a) More than one Federal award,
  - (b) A Federal award and a non-Federal award,
  - (c) An indirect cost activity and a direct cost activity,
  - (d) Two or more indirect activities which are allocated using different allocation bases, or
  - (e) An unallowable activity and a direct or indirect cost activity.
- v. Personnel activity reports or equivalent documentation must meet the following standards:
- (a) They must reflect an after-the-fact distribution of the actual activity of each employee,
  - (b) They must account for the total activity for which each employee is compensated,
  - (c) They must be prepared at least monthly and must coincide with one or more pay periods, and
  - (d) They must be signed by the employee.
  - (e) Budget estimates or other distribution percentages determined before the services are performed do not qualify as support for charges to Federal awards but may be used for interim accounting purposes, provided that:
    - (i) The governmental unit's system for establishing the estimates produces reasonable approximations of the activity actually performed;
    - (ii) At least quarterly, comparisons of actual costs to budgeted distributions based on the monthly activity reports are made. Costs charged to Federal awards to reflect adjustments made as a result of the activity actually performed may be recorded annually if the quarterly comparisons show the differences between budgeted and actual costs are less than ten percent; and
    - (iii) The budget estimates or other distribution percentages are revised at least quarterly, if necessary, to reflect changed circumstances.
- vi. Substitute systems for allocating salaries and wages to Federal awards may be used in place of activity reports. These systems are subject to approval if required by the cognizant agency. Such systems may include, but are not limited to, random moment sampling, case counts, or other quantifiable measures of employee effort.
- (a) Substitute systems that use sampling methods (primarily for Aid to Families with Dependent Children (AFDC), Medicaid, and other public assistance programs) must meet acceptable statistical sampling standards including:

- (i) The sampling universe must include all of the employees whose salaries and wages are to be allocated based on sample results except as provided in subsection (c);
    - (ii) The entire time period involved must be covered by the sample; and
    - (iii) The results must be statistically valid and applied to the period being sampled.
  - (b) Allocating charges for the sampled employees' supervisors, clerical and support staffs, based on the results of the sampled employees, will be acceptable.
  - (c) Less than full compliance with the statistical sampling standards noted in subsection (a) may be accepted by the cognizant agency if it concludes that the amounts to be allocated to Federal awards will be minimal, or if it concludes that the system proposed by the governmental unit will result in lower costs to Federal awards than a system which complies with the standards.
- vii. Salaries and wages of employees used in meeting cost sharing or matching requirements of Federal awards must be supported in the same manner as those claimed as allowable costs under Federal awards.
  - (a) Donated services.
    - (i) Donated or volunteer services may be furnished to a governmental unit by professional and technical personnel, consultants, and other skilled and unskilled labor. The value of these services is not reimbursable either as a direct or indirect cost. However, the value of donated services may be used to meet cost sharing or matching requirements in accordance with the provisions of the Common Rule.
    - (ii) The value of donated services utilized in the performance of a direct cost activity shall, when material in amount, be considered in the determination of the governmental unit's indirect costs or rate(s) and, accordingly, shall be allocated a proportionate share of applicable indirect costs.
    - (iii) To the extent feasible, donated services will be supported by the same methods used by the governmental unit to support the allocability of regular personnel services.

12. Contingencies.

Contributions to a contingency reserve or any similar provision made for events the occurrence of which cannot be foretold with certainty as to time, or intensity, or with an assurance of their happening, are unallowable. The term "contingency reserve" excludes self-insurance reserves (see subsection 25.c.), pension plan reserves (see subsection 11.e.), and post-retirement health and other benefit reserves (see subsection 11.f.) computed using acceptable actuarial cost methods.

13. Contributions and donations.

Contributions and donations, including cash, property, and services, by governmental units to others, regardless of the recipient, are unallowable.

14. Defense and prosecution of criminal and civil proceedings, and claims.

a. The following costs are unallowable for contracts covered by 10 U.S.C. 2324(k), "Allowable costs under defense contracts."

i. Costs incurred in defense of any civil or criminal fraud proceeding or similar proceeding (including filing of false certification brought by the United States where the contractor is found liable or has pleaded nolo contendere to a charge of fraud or similar proceeding (including filing of a false certification).

ii. Costs incurred by a contractor in connection with any criminal, civil or administrative proceedings commenced by the United States or a State to the extent provided in 10 U.S.C. 2324(k).

b. Legal expenses required in the administration of Federal programs are allowable. Legal expenses for prosecution of claims against the Federal Government are unallowable.

15. Depreciation and use allowances.

a. Depreciation and use allowances are means of allocating the cost of fixed assets to periods benefiting from asset use. Compensation for the use of fixed assets on hand may be made through depreciation or use allowances. A combination of the two methods may not be used in connection with a single class of fixed assets (e.g., buildings, office equipment, computer equipment, etc.) except as provided in subsection g. Except for enterprise funds and internal service funds that are included as part of a State/local cost allocation plan, classes of assets shall be determined on the same basis used for the government-wide financial statements.

- b. The computation of depreciation or use allowances shall be based on the acquisition cost of the assets involved. Where actual cost records have not been maintained, a reasonable estimate of the original acquisition cost may be used. The value of an asset donated to the governmental unit by an unrelated third party shall be its fair market value at the time of donation. Governmental or quasi-governmental organizations located within the same State shall not be considered unrelated third parties for this purpose.
- c. The computation of depreciation or use allowances will exclude:
  - i. The cost of land;
  - ii. Any portion of the cost of buildings and equipment borne by or donated by the Federal Government irrespective of where title was originally vested or where it presently resides; and
  - iii. Any portion of the cost of buildings and equipment contributed by or for the governmental unit, or a related donor organization, in satisfaction of a matching requirement.
- d. Where the use allowance method is followed, the use allowance for buildings and improvements (including land improvements, such as paved parking areas, fences, and sidewalks) will be computed at an annual rate not exceeding two percent of acquisition costs. The use allowance for equipment will be computed at an annual rate not exceeding six and two thirds percent of acquisition cost. When the use allowance method is used for buildings, the entire building must be treated as a single asset; the building's components (e.g., plumbing system, heating and air conditioning, etc.) cannot be segregated from the building's shell. The two percent limitation, however, need not be applied to equipment which is merely attached or fastened to the building but not permanently fixed to it and which is used as furnishings or decorations or for specialized purposes (e.g., dentist chairs and dental treatment units, counters, laboratory benches bolted to the floor, dishwashers, modular furniture, carpeting, etc.). Such equipment will be considered as not being permanently fixed to the building if it can be removed without the destruction of, or need for costly or extensive alterations or repairs, to the building or the equipment. Equipment that meets these criteria will be subject to the six and two thirds percent equipment use allowance limitation.

- e. Where the depreciation method is followed, the period of useful service (useful life) established in each case for usable capital assets must take into consideration such factors as type of construction, nature of the equipment used, historical usage patterns, technological developments, and the renewal and replacement policies of the governmental unit followed for the individual items or classes of assets involved. In the absence of clear evidence indicating that the expected consumption of the asset will be significantly greater in the early portions than in the later portions of its useful life, the straight line method of depreciation shall be used. Depreciation methods once used shall not be changed unless approved by the Federal cognizant or awarding agency. When the depreciation method is introduced for application to an asset previously subject to a use allowance, the annual depreciation charge thereon may not exceed the amount that would have resulted had the depreciation method been in effect from the date of acquisition of the asset. The combination of use allowances and depreciation applicable to the asset shall not exceed the total acquisition cost of the asset or fair market value at time of donation.
- f. When the depreciation method is used for buildings, a building's shell may be segregated from the major component of the building (e.g., plumbing system, heating, and air conditioning system, etc.) and each major component depreciated over its estimated useful life, or the entire building (i.e., the shell and all components) may be treated as a single asset and depreciated over a single useful life.
- g. A reasonable use allowance may be negotiated for any assets that are considered to be fully depreciated, after taking into consideration the amount of depreciation previously charged to the government, the estimated useful life remaining at the time of negotiation, the effect of any increased maintenance charges, decreased efficiency due to age, and any other factors pertinent to the utilization of the asset for the purpose contemplated.
- h. Charges for use allowances or depreciation must be supported by adequate property records. Physical inventories must be taken at least once every two years (a statistical sampling approach is acceptable) to ensure that assets exist, and are in use. Governmental units will manage equipment in accordance with State laws and procedures. When the depreciation method is followed, depreciation records indicating the amount of depreciation taken each period must also be maintained.

16. Disbursing service.

The cost of disbursing funds by the Treasurer or other designated officer is allowable.

17. Employee morale, health, and welfare costs.

The costs of health or first-aid clinics and/or infirmaries, recreational facilities, employee counseling services, employee information publications, and any related expenses incurred in accordance with a governmental unit's policy are allowable. Income generated from any of these activities will be offset against expenses.

18. Entertainment.

Costs of entertainment, including amusement, diversion, and social activities and any costs directly associated with such costs (such as tickets to shows or sports events, meals, lodging, rentals, transportation, and gratuities) are unallowable.

19. Equipment and other capital expenditures.

a. As used in this section the following terms have the meanings as set forth below:

- i. "Capital expenditure" means the cost of the asset including the cost to put it in place. Capital expenditure for equipment means the net invoice price of the equipment, including the cost of any modifications, attachments, accessories, or auxiliary apparatus necessary to make it usable for the purpose for which it is acquired. Ancillary charges, such as taxes, duty, protective in transit insurance, freight, and installation may be included in, or excluded from, capital expenditure cost in accordance with the governmental unit's regular accounting practices.
- ii. "Equipment" means an article of nonexpendable, tangible personal property having a useful life of more than one year and an acquisition cost which equals the lesser of (a) the capitalization level established by the governmental unit for financial statement purposes, or (b) \$5,000.
- iii. "Other capital assets" mean buildings, land, and improvements to buildings or land that materially increase their value or useful life.

b. Capital expenditures that are not charged directly to a Federal award may be recovered through use allowances or depreciation on buildings, capital improvements, and equipment (see section 15). See also section 38 for allowability of rental costs for buildings and equipment.

c. Capital expenditures for equipment, including replacement equipment, other capital assets, and improvements which materially increase the value or useful life of equipment or other capital assets are allowable as a direct cost when approved by the awarding agency. Federal awarding agencies are authorized at their option to waive or delegate this approval requirement.

d. Items of equipment with an acquisition cost of less than \$5000 are considered to be supplies and are allowable as direct costs of Federal awards without specific awarding agency approval.

e. The unamortized portion of any equipment written off as a result of a change in capitalization levels may be recovered by (1) continuing to claim the otherwise allowable use allowances or depreciation charges on the equipment or by (2) amortizing the amount to be written off over a period of years negotiated with the cognizant agency.



- f. When replacing equipment purchased in whole or in part with Federal funds, the governmental unit may use the equipment to be replaced as a trade-in or sell the property and use the proceeds to offset the cost of the replacement property.
20. Fines and penalties.
- Fines, penalties, damages, and other settlements resulting from violations (or alleged violations) of, or failure of the governmental unit to comply with, Federal, State, local, or Indian tribal laws and regulations are unallowable except when incurred as a result of compliance with specific provisions of the Federal award or written instructions by the awarding agency authorizing in advance such payments.
21. Fund raising and investment management costs.
- a. Costs of organized fund raising, including financial campaigns, solicitation of gifts and bequests, and similar expenses incurred to raise capital or obtain contributions are unallowable, regardless of the purpose for which the funds will be used.
  - b. Costs of investment counsel and staff and similar expenses incurred to enhance income from investments are unallowable. However, such costs associated with investments covering pension, self-insurance, or other funds which include Federal participation allowed by this Circular are allowable.
  - c. Fund raising and investment activities shall be allocated an appropriate share of indirect costs under the conditions described in subsection C.3.b. of Attachment A.
22. Gains and losses on disposition of depreciable property and other capital assets and substantial relocation of Federal programs.
- a.
    - i. Gains and losses on the sale, retirement, or other disposition of depreciable property shall be included in the year in which they occur as credits or charges to the asset cost grouping(s) in which the property was included. The amount of the gain or loss to be included as a credit or charge to the appropriate asset cost grouping(s) shall be the difference between the amount realized on the property and the underappreciated basis of the property.
    - ii. Gains and losses on the disposition of depreciable property shall not be recognized as a separate credit or charge under the following conditions:
      - (a) The gain or loss is processed through a depreciation account and is reflected in the depreciation allowable under sections 15 and 19.
      - (b) The property is given in exchange as part of the purchase price of a similar item and the gain or loss is taken into account in determining the depreciation cost basis of the new item.

- (c) A loss results from the failure to maintain permissible insurance, except as otherwise provided in subsection 25.d.
    - (d) Compensation for the use of the property was provided through use allowances in lieu of depreciation.
  - b. Substantial relocation of Federal awards from a facility where the Federal Government participated in the financing to another facility prior to the expiration of the useful life of the financed facility requires Federal agency approval. The extent of the relocation, the amount of the Federal participation in the financing, and the depreciation charged to date may require negotiation of space charges for Federal awards.
  - c. Gains or losses of any nature arising from the sale or exchange of property other than the property covered in subsection a., e.g., land or included in the fair market value used in any adjustment resulting from a relocation of Federal awards covered in subsection b. shall be excluded in computing Federal award costs.
- 23. General government expenses.
  - a. The general costs of government are unallowable (except as provided in section 41). These include:
    - i. Salaries and expenses of the Office of the Governor of a State or the chief executive of a political subdivision or the chief executives of federally-recognized Indian tribal governments;
    - ii. Salaries and other expenses of State legislatures, tribal councils, or similar local governmental bodies, such as county supervisors, city councils, school boards, etc., whether incurred for purposes of legislation or executive direction;
    - iii. Cost of the judiciary branch of a government;
    - iv. Cost of prosecutorial activities unless treated as a direct cost to a specific program when authorized by program regulations (however, this does not preclude the allowability of other legal activities of the Attorney General); and
    - v. Other general types of government services normally provided to the general public, such as fire and police, unless provided for as a direct cost in program regulations.
  - b. For federally recognized Indian tribal governments and Councils Of Governments (COGs), the portion of salaries and expenses directly attributable to managing and operating Federal programs by the chief executive and his staff is allowable.

24. Idle facilities and idle capacity.

- a. As used in this section the following terms have the meanings set forth below:
  - i. "Facilities" means land and buildings or any portion thereof, equipment individually or collectively, or any other tangible capital asset, wherever located, and whether owned or leased by the governmental unit.
  - ii. "Idle facilities" means completely unused facilities that are in excess to the governmental unit's current needs.
  - iii. "Idle capacity" means the unused capacity of partially used facilities. It is the difference between (a) that which a facility could achieve under 100 percent operating time on a one-shift basis less operating interruptions resulting from time lost for repairs, setups, unsatisfactory materials, and other normal delays and (b) the extent to which the facility was actually used to meet demands during the accounting period. A multi-shift basis should be used if it can be shown that this amount of usage would normally be expected for the type of facility involved.
  - iv. "Cost of idle facilities or idle capacity" means costs such as maintenance, repair, housing, rent, and other related costs, e.g., insurance, interest, and depreciation or use allowances.
- b. The costs of idle facilities are unallowable except to the extent that:
  - i. They are necessary to meet fluctuations in workload; or
  - ii. Although not necessary to meet fluctuations in workload, they were necessary when acquired and are now idle because of changes in program requirements, efforts to achieve more economical operations, reorganization, termination, or other causes that could not have been reasonably foreseen. Under the exception stated in this subsection, costs of idle facilities are allowable for a reasonable period of time, ordinarily not to exceed one year, depending on the initiative taken to use, lease, or dispose of such facilities.
- c. The costs of idle capacity are normal costs of doing business and are a factor in the normal fluctuations of usage or indirect cost rates from period to period. Such costs are allowable, provided that the capacity is reasonably anticipated to be necessary or was originally reasonable and is not subject to reduction or elimination by use on other Federal awards, subletting, renting, or sale, in accordance with sound business, economic, or security practices. Widespread idle capacity throughout an entire facility or among a group of assets having substantially the same function may be considered idle facilities.

25. Insurance and indemnification.
- a. Costs of insurance required or approved and maintained, pursuant to the Federal award, are allowable.
  - b. Costs of other insurance in connection with the general conduct of activities are allowable subject to the following limitations:
    - i. Types and extent and cost of coverage are in accordance with the governmental unit's policy and sound business practice.
    - ii. Costs of insurance or of contributions to any reserve covering the risk of loss of, or damage to, Federal Government property are unallowable except to the extent that the awarding agency has specifically required or approved such costs.
  - c. Actual losses that could have been covered by permissible insurance (through a self-insurance program or otherwise) are unallowable, unless expressly provided for in the Federal award or as described below. However, the Federal Government will participate in actual losses of a self-insurance fund that are in excess of reserves. Costs incurred because of losses not covered under nominal deductible insurance coverage provided in keeping with sound management practice, and minor losses not covered by insurance, such as spoilage, breakage, and disappearance of small hand tools, which occur in the ordinary course of operations, are allowable.
  - d. Contributions to a reserve for certain self-insurance programs including workers compensation, unemployment compensation, and severance pay are allowable subject to the following provisions:
    - i. The type of coverage and the extent of coverage and the rates and premiums would have been allowed had insurance (including reinsurance) been purchased to cover the risks. However, provision for known or reasonably estimated self-insured liabilities, which do not become payable for more than one year after the provision is made, shall not exceed the discounted present value of the liability. The rate used for discounting the liability must be determined by giving consideration to such factors as the governmental unit's settlement rate for those liabilities and its investment rate of return.
    - ii. Earnings or investment income on reserves must be credited to those reserves.
    - iii. Contributions to reserves must be based on sound actuarial principles using historical experience and reasonable assumptions. Reserve levels must be analyzed and updated at least biennially for each major risk being insured and take into account any reinsurance, coinsurance, etc. Reserve levels related to employee-related coverage's will normally be limited to the value of claims (a) submitted and adjudicated but not paid, (b) submitted but not adjudicated, and (c) incurred but not submitted. Reserve levels in excess of the amounts based on the above must be identified and justified in the cost allocation plan or indirect cost rate proposal.

- iv. Accounting records, actuarial studies, and cost allocations (or billings) must recognize any significant differences due to types of insured risk and losses generated by the various insured activities or agencies of the governmental unit. If individual departments or agencies of the governmental unit experience significantly different levels of claims for a particular risk, those differences are to be recognized by the use of separate allocations or other techniques resulting in an equitable allocation.
- v. Whenever funds are transferred from a self-insurance reserve to other accounts (e.g., general fund), refunds shall be made to the Federal Government for its share of funds transferred including, earned or imputed interest from the date of transfer.
- e. Actual claims paid to or on behalf of employees or former employees for workers' compensation, unemployment compensation, severance pay, and similar employee benefits (e.g., subsection 11.f. for post retirement health benefits), are allowable in the year of payment provided (1) the governmental unit follows a consistent costing policy and (2) they are allocated as a general administrative expense to all activities of the governmental unit.
- f. Insurance refunds shall be credited against insurance costs in the year the refund is received.
- g. Indemnification includes securing the governmental unit against liabilities to third persons and other losses not compensated by insurance or otherwise. The Federal Government is obligated to indemnify the governmental unit only to the extent expressly provided for in the Federal award, except as provided in subsection d.
- h. Costs of commercial insurance that protects against the costs of the contractor for correction of the contractor's own defects in materials or workmanship are unallowable.

26. Interest.

- a. Costs incurred for interest on borrowed capital or the use of a governmental unit's own funds, however represented, are unallowable except as specifically provided in subsection b. or authorized by Federal legislation.
- b. Financing costs (including interest) paid or incurred on or after the effective date of this Circular associated with the otherwise allowable costs of building acquisition, construction, or fabrication, reconstruction or remodeling completed on or after October 1, 1980 is allowable, subject to the conditions in (1)-(4). Financing costs (including interest) paid or incurred on or after the effective date of this Circular associated with otherwise allowable costs of equipment is allowable, subject to the conditions in (1)-(4).
  - i. The financing is provided (from other than tax or user fee sources) by a bona fide third party external to the governmental unit;

- ii. The assets are used in support of Federal awards;
- iii. Earnings on debt service reserve funds or interest earned on borrowed funds pending payment of the construction or acquisition costs are used to offset the current period's cost or the capitalized interest, as appropriate. Earnings subject to being reported to the Federal Internal Revenue Service under arbitrage requirements are excludable.
- iv. Governmental units will negotiate the amount of allowable interest whenever cash payments (interest, depreciation, use allowances, and contributions) exceed the governmental unit's cash payments and other contributions attributable to that portion of real property used for Federal awards.

27. Lobbying.

The cost of certain influencing activities associated with obtaining grants, contracts, cooperative agreements, or loans is an unallowable cost. Lobbying with respect to certain grants, contracts, cooperative agreements, and loans shall be governed by the common rule, "New Restrictions on Lobbying" published at 55 FR 6736 (February 26, 1990), including definitions, and the Office of Management and Budget "Government-wide Guidance for New Restrictions on Lobbying" and notices published at 54 FR 52306 (December 20, 1989), 55 FR 24540 (June 15, 1990), and 57 FR 1772 (January 15, 1992), respectively.

28. Maintenance, operations, and repairs.

Unless prohibited by law, the cost of utilities, insurance, security, janitorial services, elevator service, upkeep of grounds, necessary maintenance, normal repairs and alterations, and the like are allowable to the extent that they: (1) keep property (including Federal property, unless otherwise provided for) in an efficient operating condition, (2) do not add to the permanent value of property or appreciably prolong its intended life, and (3) are not otherwise included in rental or other charges for space. Costs that add to the permanent value of property or appreciably prolong its intended life shall be treated as capital expenditures (see sections 15 and 19).

29. Materials and supplies.

The cost of materials and supplies is allowable. Purchases should be charged at their actual prices after deducting all cash discounts, trade discounts, rebates, and allowances received. Withdrawals from general stores or stockrooms should be charged at cost under any recognized method of pricing, consistently applied. Incoming transportation charges are a proper part of materials and supply costs.

30. Memberships, subscriptions, and professional activities.

- a. Costs of the governmental unit's memberships in business, technical, and professional organizations are allowable.
- b. Costs of the governmental unit's subscriptions to business, professional, and technical periodicals are allowable.

- c. Costs of meetings and conferences where the primary purpose is the dissemination of technical information, including meals, transportation, rental of meeting facilities, and other incidental costs are allowable.
- d. Costs of membership in civic and community, social organizations are allowable as a direct cost with the approval of the Federal awarding agency.
- e. Costs of membership in organizations substantially engaged in lobbying are unallowable.

31. Motor pools.

The costs of a service organization which provides automobiles to user governmental units at a mileage or fixed rate and/or provides vehicle maintenance, inspection, and repair services are allowable.

32. Pre-award costs.

Pre-award costs are those incurred prior to the effective date of the award directly pursuant to the negotiation and in anticipation of the award where such costs are necessary to comply with the proposed delivery schedule or period of performance. Such costs are allowable only to the extent that they would have been allowable if incurred after the date of the award and only with the written approval of the awarding agency.

33. Professional service costs.

- a. Cost of professional and consultant services rendered by persons or organizations that are members of a particular profession or possess a special skill, whether or not officers or employees of the governmental unit, are allowable, subject to section 14 when reasonable in relation to the services rendered and when not contingent upon recovery of the costs from the Federal Government.
- b. Retainer fees supported by evidence of bona fide services available or rendered are allowable.

34. Proposal costs.

Costs of preparing proposals for potential Federal awards are allowable. Proposal costs should normally be treated as indirect costs and should be allocated to all activities of the governmental unit utilizing the cost allocation plan and indirect cost rate proposal. However, proposal costs may be charged directly to Federal awards with the prior approval of the Federal awarding agency.

35. Publication and printing costs.

Publication costs, including the costs of printing (including the processes of composition, plate-making, press work, and binding, and the end products produced by such processes), distribution, promotion, mailing, and general handling are allowable.

36. Rearrangements and alterations.

Costs incurred for ordinary and normal rearrangement and alteration of facilities are allowable. Special arrangements and alterations costs incurred specifically for a Federal award are allowable with the prior approval of the Federal awarding agency.

37. Reconversion costs.

Costs incurred in the restoration or rehabilitation of the governmental unit's facilities to approximately the same condition existing immediately prior to commencement of Federal awards, less costs related to normal wear and tear, are allowable.

38. Rental costs.

- a. Subject to the limitations described in subsections b. through d. of this section, rental costs are allowable to the extent that the rates are reasonable in light of such factors as: rental costs of comparable property, if any; market conditions in the area; alternatives available; and, the type, life expectancy, condition, and value of the property leased.
- b. Rental costs under sale and leaseback arrangements are allowable only up to the amount that would be allowed had the governmental unit continued to own the property.
- c. Rental costs under less-than-arms-length leases are allowable only up to the amount that would be allowed had title to the property vested in the governmental unit. For this purpose, less-than-arms-length leases include, but are not limited to, those where:
  - i. One party to the lease is able to control or substantially influence the actions of the other;
  - ii. Both parties are parts of the same governmental unit; or
  - iii. The governmental unit creates an authority or similar entity to acquire and lease the facilities to the governmental unit and other parties.
- d. Rental costs under leases that are required to be treated as capital leases under GAAP are allowable only up to the amount that would be allowed had the governmental unit purchased the property on the date the lease agreement was executed. This amount would include expenses such as depreciation or use allowance, maintenance, and insurance. The provisions of Financial Accounting Standards Board Statement 13 shall be used to determine whether a lease is a capital lease. Interest costs related to capital leases are allowable to the extent they meet the criteria in section 26.



39. Taxes.

- a. Taxes that a governmental unit is legally required to pay are allowable, except for self-assessed taxes that disproportionately affect Federal programs or changes in tax policies that disproportionately affect Federal programs. This provision becomes effective for taxes paid during the governmental unit's first fiscal year that begins on or after January 1, 1998, and applies thereafter.
- b. Gasoline taxes, motor vehicle fees, and other taxes that are in effect user fees for benefits provided to the Federal Government are allowable.
- c. This provision does not restrict the authority of Federal agencies to identify taxes where Federal participation is inappropriate. Where the identification of the amount of unallowable taxes would require an inordinate amount of effort, the cognizant agency may accept a reasonable approximation thereof.

40. Training.

The cost of training provided for employee development is allowable.

41. Travel costs.

- a. General: Travel costs are allowable for expenses for transportation, lodging, subsistence, and related items incurred by employees traveling on official business. Such costs may be charged on an actual cost basis, on a per diem or mileage basis in lieu of actual costs incurred, or on a combination of the two, provided the method used is applied to an entire trip, and results in charges consistent with those normally allowed in like circumstances in non-federally-sponsored activities. Notwithstanding the provisions of section 23, travel costs of officials covered by that section, when specifically related to Federal awards, are allowable with the prior approval of a grantor agency.
- b. Lodging and Subsistence: Costs incurred by employees and officers for travel, including costs of lodging, other subsistence, and incidental expenses, shall be considered reasonable and allowable only to the extent such costs do not exceed charges normally allowed by the governmental unit in its regular operations as a result of the governmental unit's policy. In the absence of a written governmental unit policy regarding travel costs, the rates and amounts established under subchapter I of Chapter 57 of Title 5, United States Code "Travel and Subsistence Expenses; Mileage Allowances," or by the Administrator of General Services, or the President (or his designee) pursuant to any provisions of such subchapter shall be used as guidance for travel under Federal awards (41 U.S.C. 420, "Travel Expenses of Government Contractors").
- c. Commercial Air Travel: Airfare costs in excess of the customary standard (coach or equivalent) airfare, are unallowable except when such accommodations would: require circuitous routing, require travel during unreasonable hours, excessively prolong travel, greatly increase the duration of the flight, result in increased cost that would offset transportation savings, or offer accommodations not reasonably

adequate for the medical needs of the traveler. Where a governmental unit can reasonably demonstrate to the awarding agency either the non-availability of customary standard airfare or Federal Government contract airfare for individual trips or, on an overall basis, that it is the governmental unit's practice to make routine use of such airfare, specific determinations of non-availability will generally not be questioned by the Federal Government, unless a pattern of avoidance is detected. However, in order for airfare costs in excess of the customary standard commercial airfare to be allowable, e.g., use of first-class airfare, the governmental unit must justify and document on a case-by-case basis the applicable condition(s) set forth above.

- d. Air Travel by other than Commercial Carrier: Cost of travel by governmental unit-owned, -leased, or -chartered aircraft, as used in this section, includes the cost of lease, charter, operation (including personnel costs), maintenance, depreciation, interest, insurance, and other related costs. Costs of travel via governmental unit-owned, -leased, or -chartered aircraft are unallowable to the extent they exceed the cost of allowable commercial air travel, as provided for in subsection c.
42. Under-recovery of Costs Under Federal Agreements: Any excess costs over the Federal contribution under one award agreement are unallowable under other award agreements.

8. *Debarment and Suspension (E.O.s 12549 and 12689)*—No contract shall be made to parties listed on the General Services Administration's List of Parties Excluded from Federal Procurement or Nonprocurement Programs in accordance with E.O.s 12549 and 12689, "Debarment and Suspension," as set forth at 24 CFR part 24. This list contains the names of parties debarred, suspended, or otherwise excluded by agencies, and contractors declared ineligible under statutory or regulatory authority other than E.O. 12549. Contractors with awards that exceed the small purchase threshold shall provide the required certification regarding its exclusion status and that of its principal employees.

9. *Drug-Free Workplace Requirements*—The Drug-Free Workplace Act of 1988 (42 U.S.C. 701) requires grantees (including individuals) of federal agencies, as a prior condition of being awarded a grant, to certify that they will provide drug-free workplaces. Each potential recipient must certify that it will comply with drug-free workplace requirements in accordance with the Act and with HUD's rules at 24 CFR part 24, subpart F.

## PART 85—ADMINISTRATIVE REQUIREMENTS FOR GRANTS AND COOPERATIVE AGREEMENTS TO STATE, LOCAL AND FEDERALLY RECOGNIZED INDIAN TRIBAL GOVERNMENTS

### Subpart A—General

- Sec.  
85.1 Purpose and scope of this part.  
85.2 Scope of subpart.  
85.3 Definitions.  
85.4 Applicability.  
85.5 Effect on other issuances.  
85.6 Additions and exceptions.

### Subpart B—Pre-Award Requirements

- 85.10 Forms for applying for grants.  
85.11 State plans.  
85.12 Special grant or subgrant conditions for "high-risk" grantees.

### Subpart C—Post-Award Requirements

#### FINANCIAL ADMINISTRATION

- 85.20 Standards for financial management systems.  
85.21 Payment.  
85.22 Allowable costs.  
85.23 Period of availability of funds.  
85.24 Matching or cost sharing.  
85.25 Program income.  
85.26 Non-Federal audit.

#### CHANGES, PROPERTY, AND SUBAWARDS

- 85.30 Changes.

- 85.31 Real property.  
85.32 Equipment.  
85.33 Supplies.  
85.34 Copyrights.  
85.35 Subawards to debarred and suspended parties.  
85.36 Procurement.  
85.37 Subgrants.

#### REPORTS, RECORDS, RETENTION, AND ENFORCEMENT

- 85.40 Monitoring and reporting program performance.  
85.41 Financial reporting.  
85.42 Retention and access requirements for records.  
85.43 Enforcement.  
85.44 Termination for convenience.

### Subpart D—After-the-Grant Requirements

- 85.50 Closeout.  
85.51 Later disallowances and adjustments.  
85.52 Collection of amounts due.

### Subpart E—Entitlement [Reserved]

AUTHORITY: 42 U.S.C. 3535(d).

SOURCE: 53 FR 8068, 8087, Mar. 11, 1988, unless otherwise noted.

### Subpart A—General

#### § 85.1 Purpose and scope of this part.

This part establishes uniform administrative rules for Federal grants and cooperative agreements and subawards to State, local and Indian tribal governments.

#### § 85.2 Scope of subpart.

This subpart contains general rules pertaining to this part and procedures for control of exceptions from this part.

#### § 85.3 Definitions.

As used in this part:

*Accrued expenditures* mean the charges incurred by the grantee during a given period requiring the provision of funds for: (1) Goods and other tangible property received; (2) services performed by employees, contractors, subgrantees, subcontractors, and other payees; and (3) other amounts becoming owed under programs for which no current services or performance is required, such as annuities, insurance claims, and other benefit payments.

*Accrued income* means the sum of: (1) Earnings during a given period from



services performed by the grantee and goods and other tangible property delivered to purchasers, and (2) amounts becoming owed to the grantee for which no current services or performance is required by the grantee.

*Acquisition cost* of an item of purchased equipment means the net invoice unit price of the property including the cost of modifications, attachments, accessories, or auxiliary apparatus necessary to make the property usable for the purpose for which it was acquired. Other charges such as the cost of installation, transportation, taxes, duty or protective in-transit insurance, shall be included or excluded from the unit acquisition cost in accordance with the grantee's regular accounting practices.

*Administrative requirements* mean those matters common to grants in general, such as financial management, kinds and frequency of reports, and retention of records. These are distinguished from *programmatic* requirements, which concern matters that can be treated only on a program-by-program or grant-by-grant basis, such as kinds of activities that can be supported by grants under a particular program.

*Awarding agency* means (1) with respect to a grant, the Federal agency, and (2) with respect to a subgrant, the party that awarded the subgrant.

*Cash contributions* means the grantee's cash outlay, including the outlay of money contributed to the grantee or subgrantee by other public agencies and institutions, and private organizations and individuals. When authorized by Federal legislation, Federal funds received from other assistance agreements may be considered as grantee or subgrantee cash contributions.

*Contract* means (except as used in the definitions for *grant* and *subgrant* in this section and except where qualified by *Federal*) a procurement contract under a grant or subgrant, and means a procurement subcontract under a contract.

*Cost sharing or matching* means the value of the third party in-kind contributions and the portion of the costs of a federally assisted project or program not borne by the Federal Government.

*Cost-type contract* means a contract or subcontract under a grant in which the contractor or subcontractor is paid on the basis of the costs it incurs, with or without a fee.

*Equipment* means tangible, non-expendable, personal property having a useful life of more than one year and an acquisition cost of \$5,000 or more per unit. A grantee may use its own definition of equipment provided that such definition would at least include all equipment defined above.

*Expenditure report* means: (1) For non-construction grants, the SF-269 "Financial Status Report" (or other equivalent report); (2) for construction grants, the SF-271 "Outlay Report and Request for Reimbursement" (or other equivalent report).

*Federally recognized Indian tribal government* means the governing body or a governmental agency of any Indian tribe, band, nation, or other organized group or community (including any Native village as defined in section 3 of the Alaska Native Claims Settlement Act, 85 Stat 688) certified by the Secretary of the Interior as eligible for the special programs and services provided by him through the Bureau of Indian Affairs.

*Government* means a State or local government or a federally recognized Indian tribal government.

*Grant* means an award of financial assistance, including cooperative agreements, in the form of money, or property in lieu of money, by the Federal Government to an eligible grantee. The term does not include technical assistance which provides services instead of money, or other assistance in the form of revenue sharing, loans, loan guarantees, interest subsidies, insurance, or direct appropriations. Also, the term does not include assistance, such as a fellowship or other lump sum award, which the grantee is not required to account for.

*Grantee* means the government to which a grant is awarded and which is accountable for the use of the funds provided. The grantee is the entire legal entity even if only a particular component of the entity is designated in the grant award document.

*Local government* means a county, municipality, city, town, township,



local public authority (including any public and Indian housing agency under the United States Housing Act of 1937) school district, special district, intrastate district, council of governments (whether or not incorporated as a nonprofit corporation under state law), any other regional or interstate government entity, or any agency or instrumentality of a local government.

*Obligations* means the amounts of orders placed, contracts and subgrants awarded, goods and services received, and similar transactions during a given period that will require payment by the grantee during the same or a future period.

*OMB* means the United States Office of Management and Budget.

*Outlays* (expenditures) mean charges made to the project or program. They may be reported on a cash or accrual basis. For reports prepared on a cash basis, outlays are the sum of actual cash disbursement for direct charges for goods and services, the amount of indirect expense incurred, the value of in-kind contributions applied, and the amount of cash advances and payments made to contractors and subgrantees. For reports prepared on an accrued expenditure basis, outlays are the sum of actual cash disbursements, the amount of indirect expense incurred, the value of in-kind contributions applied, and the new increase (or decrease) in the amounts owed by the grantee for goods and other property received, for services performed by employees, contractors, subgrantees, subcontractors, and other payees, and other amounts becoming owed under programs for which no current services or performance are required, such as annuities, insurance claims, and other benefit payments.

*Percentage of completion method* refers to a system under which payments are made for construction work according to the percentage of completion of the work, rather than to the grantee's cost incurred.

*Prior approval* means documentation evidencing consent prior to incurring specific cost.

*Real property* means land, including land improvements, structures and appurtenances thereto, excluding movable machinery and equipment.

*Share*, when referring to the awarding agency's portion of real property, equipment or supplies, means the same percentage as the awarding agency's portion of the acquiring party's total costs under the grant to which the acquisition costs under the grant to which the acquisition cost of the property was charged. Only costs are to be counted—not the value of third-party in-kind contributions.

*State* means any of the several States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, any territory or possession of the United States, or any agency or instrumentality of a State exclusive of local governments. The term does not include any public and Indian housing agency under United States Housing Act of 1937.

*Subgrant* means an award of financial assistance in the form of money, or property in lieu of money, made under a grant by a grantee to an eligible subgrantee. The term includes financial assistance when provided by contractual legal agreement, but does not include procurement purchases, nor does it include any form of assistance which is excluded from the definition of *grant* in this part.

*Subgrantee* means the government or other legal entity to which a subgrant is awarded and which is accountable to the grantee for the use of the funds provided.

*Supplies* means all tangible personal property other than *equipment* as defined in this part.

*Suspension* means depending on the context, either (1) temporary withdrawal of the authority to obligate grant funds pending corrective action by the grantee or subgrantee or a decision to terminate the grant, or (2) an action taken by a suspending official in accordance with agency regulations implementing E.O. 12549 to immediately exclude a person from participating in grant transactions for a period, pending completion of an investigation and such legal or debarment proceedings as may ensue.

*Termination* means permanent withdrawal of the authority to obligate previously-awarded grant funds before that authority would otherwise expire.



It also means the voluntary relinquishment of that authority by the grantee or subgrantee. *Termination* does not include: (1) Withdrawal of funds awarded on the basis of the grantee's underestimate of the unobligated balance in a prior period; (2) Withdrawal of the unobligated balance as of the expiration of a grant; (3) Refusal to extend a grant or award additional funds, to make a competing or noncompeting continuation, renewal, extension, or supplemental award; or (4) voiding of a grant upon determination that the award was obtained fraudulently, or was otherwise illegal or invalid from inception.

*Terms of a grant or subgrant* mean all requirements of the grant or subgrant, whether in statute, regulations, or the award document.

*Third party in-kind contributions* mean property or services which benefit a federally assisted project or program and which are contributed by non-Federal third parties without charge to the grantee, or a cost-type contractor under the grant agreement.

*Unliquidated obligations* for reports prepared on a cash basis mean the amount of obligations incurred by the grantee that has not been paid. For reports prepared on an accrued expenditure basis, they represent the amount of obligations incurred by the grantee for which an outlay has not been recorded.

*Unobligated balance* means the portion of the funds authorized by the Federal agency that has not been obligated by the grantee and is determined by deducting the cumulative obligations from the cumulative funds authorized.

#### § 85.4 Applicability.

(a) *General.* Subparts A—D of this part apply to all grants and subgrants to governments, except where inconsistent with Federal statutes or with regulations authorized in accordance with the exception provision of §85.6, or:

(1) Grants and subgrants to State and local institutions of higher education or State and local hospitals.

(2) The block grants authorized by the Omnibus Budget Reconciliation Act of 1981 (Community Services; Preventive Health and Health Services; Al-

cohol, Drug Abuse, and Mental Health Services; Maternal and Child Health Services; Social Services; Low-Income Home Energy Assistance; States' Program of Community Development Block Grants for Small Cities; and Elementary and Secondary Education other than programs administered by the Secretary of Education under title V, subtitle D, chapter 2, section 583—the Secretary's discretionary grant program) and titles I—III of the Job Training Partnership Act of 1982 and under the Public Health Services Act (section 1921), Alcohol and Drug Abuse Treatment and Rehabilitation Block Grant and part C of title V, Mental Health Service for the Homeless Block Grant).

(3) Entitlement grants to carry out the following programs of the Social Security Act:

(i) Aid to Needy Families with Dependent Children (title IV—A of the Act, not including the Work Incentive Program (WIN) authorized by section 402(a)19(G); HHS grants for WIN are subject to this part);

(ii) Child Support Enforcement and Establishment of Paternity (title IV—D of the Act);

(iii) Foster Care and Adoption Assistance (title IV—E of the Act);

(iv) Aid to the Aged, Blind, and Disabled (titles I, X, XIV, and XVI—AABD of the Act); and

(v) Medical Assistance (Medicaid) (title XIX of the Act) not including the State Medicaid Fraud Control program authorized by section 1903(a)(6)(B).

(4) Entitlement grants under the following programs of The National School Lunch Act:

(i) School Lunch (section 4 of the Act),

(ii) Commodity Assistance (section 6 of the Act),

(iii) Special Meal Assistance (section 11 of the Act),

(iv) Summer Food Service for Children (section 13 of the Act), and

(v) Child Care Food Program (section 17 of the Act).

(5) Entitlement grants under the following programs of The Child Nutrition Act of 1966:

(i) Special Milk (section 3 of the Act), and



## § 85.5

(ii) School Breakfast (section 4 of the Act).

(6) Entitlement grants for State Administrative expenses under The Food Stamp Act of 1977 (section 16 of the Act).

(7) A grant for an experimental, pilot, or demonstration project that is also supported by a grant listed in paragraph (a)(3) of this section;

(8) Grant funds awarded under subsection 412(e) of the Immigration and Nationality Act (8 U.S.C. 1522(e)) and subsection 501(a) of the Refugee Education Assistance Act of 1980 (Pub. L. 96-422, 94 Stat. 1809), for cash assistance, medical assistance, and supplemental security income benefits to refugees and entrants and the administrative costs of providing the assistance and benefits;

(9) Grants to local education agencies under 20 U.S.C. 236 through 241-1(a), and 242 through 244 (portions of the Impact Aid program), except for 20 U.S.C. 238(d)(2)(c) and 240(f) (Entitlement Increase for Handicapped Children); and

(10) Payments under the Veterans Administration's State Home Per Diem Program (38 U.S.C. 641(a)).

(b) *Entitlement programs.* Entitlement programs enumerated above in § 85.4(a) (3) through (8) are subject to subpart E.

### § 85.5 Effect on other issuances.

All other grants administration provisions of codified program regulations, program manuals, handbooks and other nonregulatory materials which are inconsistent with this part are superseded, except to the extent they are required by statute, or authorized in accordance with the exception provision in § 85.6.

### § 85.6 Additions and exceptions.

(a) For classes of grants and grantees subject to this part, Federal agencies may not impose additional administrative requirements except in codified regulations published in the FEDERAL REGISTER.

(b) Exceptions for classes of grants or grantees may be authorized only by OMB.

(c) Exceptions on a case-by-case basis and for subgrantees may be authorized by the affected Federal agencies.

## 24 CFR Subtitle A (4-1-03 Edition)

### Subpart B—Pre-Award Requirements

#### § 85.10 Forms for applying for grants.

(a) *Scope.* (1) This section prescribes forms and instructions to be used by governmental organizations (except hospitals and institutions of higher education operated by a government) in applying for grants. This section is not applicable, however, to formula grant programs which do not require applicants to apply for funds on a project basis.

(2) This section applies only to applications to Federal agencies for grants, and is not required to be applied by grantees in dealing with applicants for subgrants. However, grantees are encouraged to avoid more detailed or burdensome application requirements for subgrants.

(b) *Authorized forms and instructions for governmental organizations.* (1) In applying for grants, applicants shall only use standard application forms or those prescribed by the granting agency with the approval of OMB under the Paperwork Reduction Act of 1980.

(2) Applicants are not required to submit more than the original and two copies of preapplications or applications.

(3) Applicants must follow all applicable instructions that bear OMB clearance numbers. Federal agencies may specify and describe the programs, functions, or activities that will be used to plan, budget, and evaluate the work under a grant. Other supplementary instructions may be issued only with the approval of OMB to the extent required under the Paperwork Reduction Act of 1980. For any standard form, except the SF-424 facesheet, Federal agencies may shade out or instruct the applicant to disregard any line item that is not needed.

(4) When a grantee applies for additional funding (such as a continuation or supplemental award) or amends a previously submitted application, only the affected pages need be submitted. Previously submitted pages with information that is still current need not be resubmitted.



**§ 85.11 State plans.**

(a) *Scope.* The statutes for some programs require States to submit plans before receiving grants. Under regulations implementing Executive Order 12372, "Intergovernmental Review of Federal Programs," States are allowed to simplify, consolidate and substitute plans. This section contains additional provisions for plans that are subject to regulations implementing the Executive order.

(b) *Requirements.* A State need meet only Federal administrative or programmatic requirements for a plan that are in statutes or codified regulations.

(c) *Assurances.* In each plan the State will include an assurance that the State shall comply with all applicable Federal statutes and regulations in effect with respect to the periods for which it receives grant funding. For this assurance and other assurances required in the plan, the State may:

(1) Cite by number the statutory or regulatory provisions requiring the assurances and affirm that it gives the assurances required by those provisions,

(2) Repeat the assurance language in the statutes or regulations, or

(3) Develop its own language to the extent permitted by law.

(d) *Amendments.* A State will amend a plan whenever necessary to reflect:

(1) New or revised Federal statutes or regulations or;

(2) A material change in any State law, organization, policy, or State agency operation. The State will obtain approval for the amendment and its effective date but need submit for approval only the amended portions of the plan.

**§ 85.12 Special grant or subgrant conditions for "high-risk" grantees.**

(a) A grantee or subgrantee may be considered *high risk* if an awarding agency determines that a grantee or subgrantee:

(1) Has a history of unsatisfactory performance, or

(2) Is not financially stable, or

(3) Has a management system which does not meet the management standards set forth in this part, or

(4) Has not conformed to terms and conditions of previous awards, or

(5) Is otherwise not responsible; and if the awarding agency determines that an award will be made, special conditions and/or restrictions shall correspond to the high risk condition and shall be included in the award.

(b) Special conditions or restrictions may include:

(1) Payment on a reimbursement basis;

(2) Withholding authority to proceed to the next phase until receipt of evidence of acceptable performance within a given funding period;

(3) Requiring additional, more detailed financial reports;

(4) Additional project monitoring;

(5) Requiring the grantee or subgrantee to obtain technical or management assistance; or

(6) Establishing additional prior approvals.

(c) If an awarding agency decides to impose such conditions, the awarding official will notify the grantee or subgrantee as early as possible, in writing, of:

(1) The nature of the special conditions/restrictions;

(2) The reason(s) for imposing them;

(3) The corrective actions which must be taken before they will be removed and the time allowed for completing the corrective actions and

(4) The method of requesting reconsideration of the conditions/restrictions imposed.

**Subpart C—Post-Award Requirements****FINANCIAL ADMINISTRATION****§ 85.20 Standards for financial management systems.**

(a) A State must expand and account for grant funds in accordance with State laws and procedures for expending and accounting for its own funds. Fiscal control and accounting procedures of the State, as well as its subgrantees and cost-type contractors, must be sufficient to—

(1) Permit preparation of reports required by this part and the statutes authorizing the grant, and



(2) Permit the tracing of funds to a level of expenditures adequate to establish that such funds have not been used in violation of the restrictions and prohibitions of applicable statutes.

(b) The financial management systems of other grantees and subgrantees must meet the following standards:

(1) *Financial reporting.* Accurate, current, and complete disclosure of the financial results of financially assisted activities must be made in accordance with the financial reporting requirements of the grant or subgrant.

(2) *Accounting records.* Grantees and subgrantees must maintain records which adequately identify the source and application of funds provided for financially-assisted activities. These records must contain information pertaining to grant or subgrant awards and authorizations, obligations, unobligated balances, assets, liabilities, outlays or expenditures, and income.

(3) *Internal control.* Effective control and accountability must be maintained for all grant and subgrant cash, real and personal property, and other assets. Grantees and subgrantees must adequately safeguard all such property and must assure that it is used solely for authorized purposes.

(4) *Budget control.* Actual expenditures or outlays must be compared with budgeted amounts for each grant or subgrant. Financial information must be related to performance or productivity data, including the development of unit cost information whenever appropriate or specifically required in the grant or subgrant agreement. If unit cost data are required, estimates based on available documentation will be accepted whenever possible.

(5) *Allowable cost.* Applicable OMB cost principles, agency program regulations, and the terms of grant and subgrant agreements will be followed in determining the reasonableness, allowability, and allocability of costs.

(6) *Source documentation.* Accounting records must be supported by such source documentation as cancelled checks, paid bills, payrolls, time and attendance records, contract and subgrant award documents, etc.

(7) *Cash management.* Procedures for minimizing the time elapsing between

the transfer of funds from the U.S. Treasury and disbursement by grantees and subgrantees must be followed whenever advance payment procedures are used. Grantees must establish reasonable procedures to ensure the receipt of reports on subgrantees' cash balances and cash disbursements in sufficient time to enable them to prepare complete and accurate cash transactions reports to the awarding agency. When advances are made by letter-of-credit or electronic transfer of funds methods, the grantee must make drawdowns as close as possible to the time of making disbursements. Grantees must monitor cash drawdowns by their subgrantees to assure that they conform substantially to the same standards of timing and amount as apply to advances to the grantees.

(c) An awarding agency may review the adequacy of the financial management system of any applicant for financial assistance as part of a preaward review or at any time subsequent to award.

#### § 85.21 Payment.

(a) *Scope.* This section prescribes the basic standard and the methods under which a Federal agency will make payments to grantees, and grantees will make payments to subgrantees and contractors.

(b) *Basic standard.* Methods and procedures for payment shall minimize the time elapsing between the transfer of funds and disbursement by the grantee or subgrantee, in accordance with Treasury regulations at 31 CFR part 205.

(c) *Advances.* Grantees and subgrantees shall be paid in advance, provided they maintain or demonstrate the willingness and ability to maintain procedures to minimize the time elapsing between the transfer of the funds and their disbursement by the grantee or subgrantee.

(d) *Reimbursement.* Reimbursement shall be the preferred method when the requirements in paragraph (c) of this section are not met. Grantees and subgrantees may also be paid by reimbursement for any construction grant. Except as otherwise specified in regulation, Federal agencies shall not use the percentage of completion method to



pay construction grants. The grantee or subgrantee may use that method to pay its construction contractor, and if it does, the awarding agency's payments to the grantee or subgrantee will be based on the grantee's or subgrantee's actual rate of disbursement.

(e) *Working capital advances.* If a grantee cannot meet the criteria for advance payments described in paragraph (c) of this section, and the Federal agency has determined that reimbursement is not feasible because the grantee lacks sufficient working capital, the awarding agency may provide cash or a working capital advance basis. Under this procedure the awarding agency shall advance cash to the grantee to cover its estimated disbursement needs for an initial period generally geared to the grantee's disbursing cycle. Thereafter, the awarding agency shall reimburse the grantee for its actual cash disbursements. The working capital advance method of payment shall not be used by grantees or subgrantees if the reason for using such method is the unwillingness or inability of the grantee to provide timely advances to the subgrantee to meet the subgrantee's actual cash disbursements.

(f) *Effect of program income, refunds, and audit recoveries on payment.* (1) Grantees and subgrantees shall disburse repayments to and interest earned on a revolving fund before requesting additional cash payments for the same activity.

(2) Except as provided in paragraph (f)(1) of this section, grantees and subgrantees shall disburse program income, rebates, refunds, contract settlements, audit recoveries and interest earned on such funds before requesting additional cash payments.

(g) *Withholding payments.* (1) Unless otherwise required by Federal statute, awarding agencies shall not withhold payments for proper charges incurred by grantees or subgrantees unless—

(i) The grantee or subgrantee has failed to comply with grant award conditions or

(ii) The grantee or subgrantee is indebted to the United States.

(2) Cash withheld for failure to comply with grant award condition, but without suspension of the grant, shall

be released to the grantee upon subsequent compliance. When a grant is suspended, payment adjustments will be made in accordance with § 85.43(c).

(3) A Federal agency shall not make payment to grantees for amounts that are withheld by grantees or subgrantees from payment to contractors to assure satisfactory completion of work. Payments shall be made by the Federal agency when the grantees or subgrantees actually disburse the withheld funds to the contractors or to escrow accounts established to assure satisfactory completion of work.

(h) *Cash depositories.* (1) Consistent with the national goal of expanding the opportunities for minority business enterprises, grantees and subgrantees are encouraged to use minority banks (a bank which is owned at least 50 percent by minority group members). A list of minority owned banks can be obtained from the Minority Business Development Agency, Department of Commerce, Washington, DC 20230.

(2) A grantee or subgrantee shall maintain a separate bank account only when required by Federal-State agreement.

(i) *Interest earned on advances.* Except for interest earned on advances of funds exempt under the Intergovernmental Cooperation Act (31 U.S.C. 6501 *et seq.*) and the Indian Self-Determination Act (23 U.S.C. 450), grantees and subgrantees shall promptly, but at least quarterly, remit interest earned on advances to the Federal agency. The grantee or subgrantee may keep interest amounts up to \$100 per year for administrative expenses.

#### § 85.22 Allowable costs.

(a) *Limitation on use of funds.* Grant funds may be used only for:

(1) The allowable costs of the grantees, subgrantees and cost-type contractors, including allowable costs in the form of payments to fixed-price contractors; and

(2) Reasonable fees or profit to cost-type contractors but not any fee or profit (or other increment above allowable costs) to the grantee or subgrantee.

(b) *Applicable cost principles.* For each kind of organization, there is a set of



**§ 85.23**

Federal principles for determining allowable costs. Allowable costs will be determined in accordance with the cost principles applicable to the organization incurring the costs. The following chart lists the kinds of organizations and the applicable cost principles.

For the costs of a—	Use the principles in—
State, local or Indian tribal government.	OMB Circular A-87.
Private nonprofit organization other than an (1) institution of higher education, (2) hospital, or (3) organization named in OMB Circular A-122 as not subject to that circular.	OMB Circular A-122.
Educational institutions. ....	OMB Circular A-21.
For-profit organization other than a hospital and an organization named in OMB Circular A-122 as not subject to that circular.	48 CFR part 31. Contract Cost Principles and Procedures, or uniform cost accounting standards that comply with cost principles acceptable to the Federal agency.

**§ 85.23 Period of availability of funds.**

(a) *General.* Where a funding period is specified, a grantee may charge to the award only costs resulting from obligations of the funding period unless carryover of unobligated balances is permitted, in which case the carryover balances may be charged for costs resulting from obligations of the subsequent funding period.

(b) *Liquidation of obligations.* A grantee must liquidate all obligations incurred under the award not later than 90 days after the end of the funding period (or as specified in a program regulation) to coincide with the submission of the annual Financial Status Report (SF-269). The Federal agency may extend this deadline at the request of the grantee.

**§ 85.24 Matching or cost sharing.**

(a) *Basic rule: Costs and contributions acceptable.* With the qualifications and exceptions listed in paragraph (b) of this section, a matching or cost sharing requirement may be satisfied by either or both of the following:

(1) Allowable costs incurred by the grantee, subgrantee or a cost-type contractor under the assistance agreement. This includes allowable costs borne by non-Federal grants or by others cash donations from non-Federal third parties.

(2) The value of third party in-kind contributions applicable to the period to which the cost sharing or matching requirements applies.

(b) *Qualifications and exceptions—(1) Costs borne by other Federal grant agreements.* Except as provided by Federal statute, a cost sharing or matching requirement may not be met by costs borne by another Federal grant. This prohibition does not apply to income earned by a grantee or subgrantee from a contract awarded under another Federal grant.

(2) *General revenue sharing.* For the purpose of this section, general revenue sharing funds distributed under 31 U.S.C. 6702 are not considered Federal grant funds.

(3) *Cost or contributions counted towards other Federal costs-sharing requirements.* Neither costs nor the values of third party in-kind contributions may count towards satisfying a cost sharing or matching requirement of a grant agreement if they have been or will be counted towards satisfying a cost sharing or matching requirement of another Federal grant agreement, a Federal procurement contract, or any other award of Federal funds.

(4) *Costs financed by program income.* Costs financed by program income, as defined in §85.25, shall not count towards satisfying a cost sharing or matching requirement unless they are expressly permitted in the terms of the assistance agreement. (This use of general program income is described in §85.25(g).)

(5) *Services or property financed by income earned by contractors.* Contractors under a grant may earn income from the activities carried out under the contract in addition to the amounts earned from the party awarding the contract. No costs of services or property supported by this income may count toward satisfying a cost sharing or matching requirement unless other provisions of the grant agreement expressly permit this kind of income to be used to meet the requirement.

(6) *Records.* Costs and third party in-kind contributions counting towards satisfying a cost sharing or matching requirement must be verifiable from the records of grantees and subgrantee or cost-type contractors. These records



must show how the value placed on third party in-kind contributions was derived. To the extent feasible, volunteer services will be supported by the same methods that the organization uses to support the allocability of regular personnel costs.

(7) *Special standards for third party in-kind contributions.* (i) Third party in-kind contributions count towards satisfying a cost sharing or matching requirement only where, if the party receiving the contributions were to pay for them, the payments would be allowable costs.

(ii) Some third party in-kind contributions are goods and services that, if the grantee, subgrantee, or contractor receiving the contribution had to pay for them, the payments would have been an indirect costs. Costs sharing or matching credit for such contributions shall be given only if the grantee, subgrantee, or contractor has established, along with its regular indirect cost rate, a special rate for allocating to individual projects or programs the value of the contributions.

(iii) A third party in-kind contribution to a fixed-price contract may count towards satisfying a cost sharing or matching requirement only if it results in:

(A) An increase in the services or property provided under the contract (without additional cost to the grantee or subgrantee) or

(B) A cost savings to the grantee or subgrantee.

(iv) The values placed on third party in-kind contributions for cost sharing or matching purposes will conform to the rules in the succeeding sections of this part. If a third party in-kind contribution is a type not treated in those sections, the value placed upon it shall be fair and reasonable.

(c) *Valuation of donated services—(1) Volunteer services.* Unpaid services provided to a grantee or subgrantee by individuals will be valued at rates consistent with those ordinarily paid for similar work in the grantee's or subgrantee's organization. If the grantee or subgrantee does not have employees performing similar work, the rates will be consistent with those ordinarily paid by other employers for similar work in the same labor market. In ei-

ther case, a reasonable amount for fringe benefits may be included in the valuation.

(2) *Employees of other organizations.* When an employer other than a grantee, subgrantee, or cost-type contractor furnishes free of charge the services of an employee in the employee's normal line of work, the services will be valued at the employee's regular rate of pay exclusive of the employee's fringe benefits and overhead costs. If the services are in a different line of work, paragraph (c)(1) of this section applies.

(d) *Valuation of third party donated supplies and loaned equipment or space.* (1) If a third party donates supplies, the contribution will be valued at the market value of the supplies at the time of donation.

(2) If a third party donates the use of equipment or space in a building but retains title, the contribution will be valued at the fair rental rate of the equipment or space.

(e) *Valuation of third party donated equipment, buildings, and land.* If a third party donates equipment, buildings, or land, and title passes to a grantee or subgrantee, the treatment of the donated property will depend upon the purpose of the grant or subgrant, as follows:

(1) *Awards for capital expenditures.* If the purpose of the grant or subgrant is to assist the grantee or subgrantee in the acquisition of property, the market value of that property at the time of donation may be counted as cost sharing or matching,

(2) *Other awards.* If assisting in the acquisition of property is not the purpose of the grant or subgrant, paragraphs (e)(2) (1) and (ii) of this section apply:

(i) If approval is obtained from the awarding agency, the market value at the time of donation of the donated equipment or buildings and the fair rental rate of the donated land may be counted as cost sharing or matching. In the case of a subgrant, the terms of the grant agreement may require that the approval be obtained from the Federal agency as well as the grantee. In all cases, the approval may be given only if a purchase of the equipment or rental of the land would be approved as an allowable direct cost. If any part of



the donated property was acquired with Federal funds, only the non-federal share of the property may be counted as cost-sharing or matching.

(ii) If approval is not obtained under paragraph (e)(2)(i) of this section, no amount may be counted for donated land, and only depreciation or use allowances may be counted for donated equipment and buildings. The depreciation or use allowances for this property are not treated as third party in-kind contributions. Instead, they are treated as costs incurred by the grantee or subgrantee. They are computed and allocated (usually as indirect costs) in accordance with the cost principles specified in § 85.22, in the same way as depreciation or use allowances for purchased equipment and buildings. The amount of depreciation or use allowances for donated equipment and buildings is based on the property's market value at the time it was donated.

(f) *Valuation of grantee or subgrantee donated real property for construction/acquisition.* If a grantee or subgrantee donates real property for a construction or facilities acquisition project, the current market value of that property may be counted as cost sharing or matching. If any part of the donated property was acquired with Federal funds, only the non-federal share of the property may be counted as cost sharing or matching.

(g) *Appraisal of real property.* In some cases under paragraphs (d), (e) and (f) of this section, it will be necessary to establish the market value of land or a building or the fair rental rate of land or of space in a building. In these cases, the Federal agency may require the market value or fair rental value be set by an independent appraiser, and that the value or rate be certified by the grantee. This requirement will also be imposed by the grantee on subgrantees.

#### § 85.25 Program income.

(a) *General.* Grantees are encouraged to earn income to defray program costs. Program income includes income from fees for services performed, from the use or rental of real or personal property acquired with grant funds, from the sale of commodities or items fabricated under a grant agreement, and from payments of principal and in-

terest on loans made with grant funds. Except as otherwise provided in regulations of the Federal agency, program income does not include interest on grant funds, rebates, credits, discounts, refunds, etc. and interest earned on any of them.

(b) *Definition of program income.* Program income means gross income received by the grantee or subgrantee directly generated by a grant supported activity, or earned only as a result of the grant agreement during the grant period. *During the grant period* is the time between the effective date of the award and the ending date of the award reflected in the final financial report.

(c) *Cost of generating program income.* If authorized by Federal regulations or the grant agreement, costs incident to the generation of program income may be deducted from gross income to determine program income.

(d) *Governmental revenues.* Taxes, special assessments, levies, fines, and other such revenues raised by a grantee or subgrantee are not program income unless the revenues are specifically identified in the grant agreement or Federal agency regulations as program income.

(e) *Royalties.* Income from royalties and license fees for copyrighted material, patents, and inventions developed by a grantee or subgrantee is program income only if the revenues are specifically identified in the grant agreement or Federal agency regulations as program income. (See § 85.34.)

(f) *Property.* Proceeds from the sale of real property or equipment will be handled in accordance with the requirements of §§ 85.31 and 85.32.

(g) *Use of program income.* Program income shall be deducted from outlays which may be both Federal and non-Federal as described below, unless the grant agreement specify another alternative (or a combination of the alternatives). In specifying alternatives, the Federal agency may distinguish between income earned by the grantee and income earned by subgrantees and between the sources, kinds, or amounts of income. When Federal agencies authorize the alternatives in paragraphs (g) (2) and (3) of this section, program



income in excess of any limits stipulated shall also be deducted from outlays.

(1) *Deduction.* Ordinarily program income shall be deducted from total allowable costs to determine the net allowable costs. Program income shall be used for current costs unless the Federal agency authorizes otherwise. Program income which the grantee did not anticipate at the time of the award shall be used to reduce the Federal agency and grantee contributions rather than to increase the funds committed to the project.

(2) *Addition.* When authorized, program income may be added to the funds committed to the grant agreement by the Federal agency and the grantee. The program income shall be used for the purposes and under the conditions of the grant agreement.

(3) *Cost sharing or matching.* When authorized, program income may be used to meet the cost sharing or matching requirement of the grant agreement. The amount of the Federal grant award remains the same.

(h) *Income after the award period.* There are no Federal requirements governing the disposition of program income earned after the end of the award period (i.e., until the ending date of the final financial report, see paragraph (a) of this section), unless the terms of the agreement or the Federal agency regulations provide otherwise.

#### § 85.26 Non-Federal audit.

(a) *Basic rule.* Grantees and subgrantees are responsible for obtaining audits in accordance with the Single Audit Act Amendments of 1996 (31 U.S.C. 7501-7507) and revised OMB Circular A-133, "Audits of States, Local Governments, and Non-Profit Organizations." The audits shall be made by an independent auditor in accordance with generally accepted government auditing standards covering financial audits.

(b) *Subgrantees.* State or local governments, as those terms are defined for purposes of the Single Audit Act Amendments of 1996, that provide Federal awards to a subgrantee which expends \$300,000 or more (or other amount as specified by OMB) in Federal awards in a fiscal year, shall:

(1) Determine whether State or local subgrantees have met the audit requirements of the Act and whether subgrantees covered by OMB Circular A-110, "Uniform Administrative Requirements for Grants and Agreements with Institutions of Higher Education, Hospitals, and Other Non-Profit Organizations," have met the audit requirements of the Act. Commercial contractors (private for-profit and private and governmental organizations) providing goods and services to State and local governments are not required to have a single audit performed. State and local governments should use their own procedures to ensure that the contractor has complied with laws and regulations affecting the expenditure of Federal funds;

(2) Determine whether the subgrantee spent Federal assistance funds provided in accordance with applicable laws and regulations. This may be accomplished by reviewing an audit of the subgrantee made in accordance with the Act, Circular A-133 (as set forth in 24 CFR part 45), or through other means (e.g., program reviews) if the subgrantee has not had such an audit;

(3) Ensure that appropriate corrective action is taken within six months after receipt of the audit report in instance of noncompliance with Federal laws and regulations;

(4) Consider whether subgrantee audits necessitate adjustment of the grantee's own records; and

(5) Require each subgrantee to permit independent auditors to have access to the records and financial statements.

(c) *Auditor selection.* In arranging for audit services, § 85.36 shall be followed.

[53 FR 8068, 8087, Mar. 11, 1988, as amended at 57 FR 33255, July 27, 1992; 62 FR 61617, Nov. 18, 1997]

#### CHANGES, PROPERTY, AND SUBAWARDS

#### § 85.30 Changes.

(a) *General.* Grantees and subgrantees are permitted to rebudget within the approved direct cost budget to meet unanticipated requirements and may make limited program changes to the approved project. However, unless waived by the awarding agency, certain types of post-award changes in budgets



and projects shall require the prior written approval of the awarding agency.

(b) *Relation to cost principles.* The applicable cost principles (see § 85.22) contain requirements for prior approval of certain types of costs. Except where waived, those requirements apply to all grants and subgrants even if paragraphs (c) through (f) of this section do not.

(c) *Budget changes*—(1) *Nonconstruction projects.* Except as stated in other regulations or an award document, grantees or subgrantees shall obtain the prior approval of the awarding agency whenever any of the following changes is anticipated under a non-construction award:

(i) Any revision which would result in the need for additional funding.

(ii) Unless waived by the awarding agency, cumulative transfers among direct cost categories, or, if applicable, among separately budgeted programs, projects, functions, or activities which exceed or are expected to exceed ten percent of the current total approved budget, whenever the awarding agency's share exceeds \$100,000.

(iii) Transfer of funds allotted for training allowances (i.e., from direct payments to trainees to other expense categories).

(2) *Construction projects.* Grantees and subgrantees shall obtain prior written approval for any budget revision which would result in the need for additional funds.

(3) *Combined construction and non-construction projects.* When a grant or subgrant provides funding for both construction and nonconstruction activities, the grantee or subgrantee must obtain prior written approval from the awarding agency before making any fund or budget transfer from non-construction to construction or vice versa.

(d) *Programmatic changes.* Grantees or subgrantees must obtain the prior approval of the awarding agency whenever any of the following actions is anticipated:

(1) Any revision of the scope or objectives of the project (regardless of whether there is an associated budget revision requiring prior approval).

(2) Need to extend the period of availability of funds.

(3) Changes in key persons in cases where specified in an application or a grant award. In research projects, a change in the project director or principal investigator shall always require approval unless waived by the awarding agency.

(4) Under nonconstruction projects, contracting out, subgranting (if authorized by law) or otherwise obtaining the services of a third party to perform activities which are central to the purposes of the award. This approval requirement is in addition to the approval requirements of § 85.36 but does not apply to the procurement of equipment, supplies, and general support services.

(e) *Additional prior approval requirements.* The awarding agency may not require prior approval for any budget revision which is not described in paragraph (c) of this section.

(f) *Requesting prior approval.* (1) A request for prior approval of any budget revision will be in the same budget format the grantee used in its application and shall be accompanied by a narrative justification for the proposed revision.

(2) A request for a prior approval under the applicable Federal cost principles (see § 85.22) may be made by letter.

(3) A request by a subgrantee for prior approval will be addressed in writing to the grantee. The grantee will promptly review such request and shall approve or disapprove the request in writing. A grantee will not approve any budget or project revision which is inconsistent with the purpose or terms and conditions of the Federal grant to the grantee. If the revision, requested by the subgrantee would result in a change to the grantee's approved project which requires Federal prior approval, the grantee will obtain the Federal agency's approval before approving the subgrantee's request.

#### § 85.31 Real property.

(a) *Title.* Subject to the obligations and conditions set forth in this section, title to real property acquired under a



grant or subgrant will vest upon acquisition in the grantee or subgrantee respectively.

(b) *Use.* Except as otherwise provided by Federal statutes, real property will be used for the originally authorized purposes as long as needed for that purposes, and the grantee or subgrantee shall not dispose of or encumber its title or other interests.

(c) *Disposition.* When real property is no longer needed for the originally authorized purpose, the grantee or subgrantee will request disposition instructions from the awarding agency. The instructions will provide for one of the following alternatives:

(1) *Retention of title.* Retain title after compensating the awarding agency. The amount paid to the awarding agency will be computed by applying the awarding agency's percentage of participation in the cost of the original purchase to the fair market value of the property. However, in those situations where a grantee or subgrantee is disposing of real property acquired with grant funds and acquiring replacement real property under the same program, the net proceeds from the disposition may be used as an offset to the cost of the replacement property.

(2) *Sale of property.* Sell the property and compensate the awarding agency. The amount due to the awarding agency will be calculated by applying the awarding agency's percentage of participation in the cost of the original purchase to the proceeds of the sale after deduction of any actual and reasonable selling and fixing-up expenses. If the grant is still active, the net proceeds from sale may be offset against the original cost of the property. When a grantee or subgrantee is directed to sell property, sales procedures shall be followed that provide for competition to the extent practicable and result in the highest possible return.

(3) *Transfer of title.* Transfer title to the awarding agency or to a third-party designated/approved by the awarding agency. The grantee or subgrantee shall be paid an amount calculated by applying the grantee or subgrantee's percentage of participation in the purchase of the real property to the current fair market value of the property.

### § 85.32 Equipment.

(a) *Title.* Subject to the obligations and conditions set forth in this section, title to equipment acquired under a grant or subgrant will vest upon acquisition in the grantee or subgrantee respectively.

(b) *States.* A State will use, manage, and dispose of equipment acquired under a grant by the State in accordance with State laws and procedures. Other grantees and subgrantees will follow paragraphs (c) through (e) of this section.

(c) *Use.* (1) Equipment shall be used by the grantee or subgrantee in the program or project for which it was acquired as long as needed, whether or not the project or program continues to be supported by Federal funds. When no longer needed for the original program or project, the equipment may be used in other activities currently or previously supported by a Federal agency.

(2) The grantee or subgrantee shall also make equipment available for use on other projects or programs currently or previously supported by the Federal Government, providing such use will not interfere with the work on the projects or program for which it was originally acquired. First preference for other use shall be given to other programs or projects supported by the awarding agency. User fees should be considered if appropriate.

(3) Notwithstanding the encouragement in §85.25(a) to earn program income, the grantee or subgrantee must not use equipment acquired with grant funds to provide services for a fee to compete unfairly with private companies that provide equivalent services, unless specifically permitted or contemplated by Federal statute.

(4) When acquiring replacement equipment, the grantee or subgrantee may use the equipment to be replaced as a trade-in or sell the property and use the proceeds to offset the cost of the replacement property, subject to the approval of the awarding agency.

(d) *Management requirements.* Procedures for managing equipment (including replacement equipment), whether acquired in whole or in part with grant funds, until disposition takes place



will, as a minimum, meet the following requirements:

(1) Property records must be maintained that include a description of the property, a serial number or other identification number, the source of property, who holds title, the acquisition date, and cost of the property, percentage of Federal participation in the cost of the property, the location, use and condition of the property, and any ultimate disposition data including the date of disposal and sale price of the property.

(2) A physical inventory of the property must be taken and the results reconciled with the property records at least once every two years.

(3) A control system must be developed to ensure adequate safeguards to prevent loss, damage, or theft of the property. Any loss, damage, or theft shall be investigated.

(4) Adequate maintenance procedures must be developed to keep the property in good condition.

(5) If the grantee or subgrantee is authorized or required to sell the property, proper sales procedures must be established to ensure the highest possible return.

(e) *Disposition.* When original or replacement equipment acquired under a grant or subgrant is no longer needed for the original project or program or for other activities currently or previously supported by a Federal agency, disposition of the equipment will be made as follows:

(1) Items of equipment with a current per-unit fair market value of less than \$5,000 may be retained, sold or otherwise disposed of with no further obligation to the awarding agency.

(2) Items of equipment with a current per unit fair market value in excess of \$5,000 may be retained or sold and the awarding agency shall have a right to an amount calculated by multiplying the current market value or proceeds from sale by the awarding agency's share of the equipment.

(3) In cases where a grantee or subgrantee fails to take appropriate disposition actions, the awarding agency may direct the grantee or subgrantee to take excess and disposition actions.

(f) *Federal equipment.* In the event a grantee or subgrantee is provided federally-owned equipment:

(1) Title will remain vested in the Federal Government.

(2) Grantees or subgrantees will manage the equipment in accordance with Federal agency rules and procedures, and submit an annual inventory listing.

(3) When the equipment is no longer needed, the grantee or subgrantee will request disposition instructions from the Federal agency.

(g) *Right to transfer title.* The Federal awarding agency may reserve the right to transfer title to the Federal Government or a third part named by the awarding agency when such a third party is otherwise eligible under existing statutes. Such transfers shall be subject to the following standards:

(1) The property shall be identified in the grant or otherwise made known to the grantee in writing.

(2) The Federal awarding agency shall issue disposition instruction within 120 calendar days after the end of the Federal support of the project for which it was acquired. If the Federal awarding agency fails to issue disposition instructions within the 120 calendar-day period the grantee shall follow § 85.32(e).

(3) When title to equipment is transferred, the grantee shall be paid an amount calculated by applying the percentage of participation in the purchase to the current fair market value of the property.

**§ 85.33 Supplies.**

(a) *Title.* Title to supplies acquired under a grant or subgrant will vest, upon acquisition, in the grantee or subgrantee respectively.

(b) *Disposition.* If there is a residual inventory of unused supplies exceeding \$5,000 in total aggregate fair market value upon termination or completion of the award, and if the supplies are not needed for any other federally sponsored programs or projects, the grantee or subgrantee shall compensate the awarding agency for its share.



**§ 85.34 Copyrights.**

The Federal awarding agency reserves a royalty-free, nonexclusive, and irrevocable license to reproduce, publish or otherwise use, and to authorize others to use, for Federal Government purposes:

(a) The copyright in any work developed under a grant, subgrant, or contract under a grant or subgrant; and

(b) Any rights of copyright to which a grantee, subgrantee or a contractor purchases ownership with grant support.

**§ 85.35 Subawards to debarred and suspended parties.**

Grantees and subgrantees must not make any award or permit any award (subgrant or contract) at any tier to any party which is debarred or suspended or is otherwise excluded from or ineligible for participation in Federal assistance programs under Executive Order 12549, "Debarment and Suspension."

**§ 85.36 Procurement.**

(a) *States.* When procuring property and services under a grant, a State will follow the same policies and procedures it uses for procurements from its non-Federal funds. The State will ensure that every purchase order or other contract includes any clauses required by Federal statutes and executive orders and their implementing regulations. Other grantees and subgrantees will follow paragraphs (b) through (i) in this section.

(b) *Procurement standards.* (1) Grantees and subgrantees will use their own procurement procedures which reflect applicable State and local laws and regulations, provided that the procurements conform to applicable Federal law and the standards identified in this section.

(2) Grantees and subgrantees will maintain a contract administration system which ensures that contractors perform in accordance with the terms, conditions, and specifications of their contracts or purchase orders.

(3) Grantees and subgrantees will maintain a written code of standards of conduct governing the performance of their employees engaged in the award and administration of contracts. No

employee, officer or agent of the grantee or subgrantee shall participate in selection, or in the award or administration of a contract supported by Federal funds if a conflict of interest, real or apparent, would be involved. Such a conflict would arise when:

(i) The employee, officer or agent,

(ii) Any member of his immediate family,

(iii) His or her partner, or

(iv) An organization which employs, or is about to employ, any of the above, has a financial or other interest in the firm selected for award. The grantee's or subgrantee's officers, employees or agents will neither solicit nor accept gratuities, favors or anything of monetary value from contractors, potential contractors, or parties to subagreements. Grantee and subgrantees may set minimum rules where the financial interest is not substantial or the gift is an unsolicited item of nominal intrinsic value. To the extent permitted by State or local law or regulations, such standards or conduct will provide for penalties, sanctions, or other disciplinary actions for violations of such standards by the grantee's and subgrantee's officers, employees, or agents, or by contractors or their agents. The awarding agency may in regulation provide additional prohibitions relative to real, apparent, or potential conflicts of interest.

(4) Grantee and subgrantee procedures will provide for a review of proposed procurements to avoid purchase of unnecessary or duplicative items. Consideration should be given to consolidating or breaking out procurements to obtain a more economical purchase. Where appropriate, an analysis will be made of lease versus purchase alternatives, and any other appropriate analysis to determine the most economical approach.

(5) To foster greater economy and efficiency, grantees and subgrantees are encouraged to enter into State and local intergovernmental agreements for procurement or use of common goods and services.

(6) Grantees and subgrantees are encouraged to use Federal excess and surplus property in lieu of purchasing new equipment and property whenever such



use is feasible and reduces project costs.

(7) Grantees and subgrantees are encouraged to use value engineering clauses in contracts for construction projects of sufficient size to offer reasonable opportunities for cost reductions. Value engineering is a systematic and creative analysis of each contract item or task to ensure that its essential function is provided at the overall lower cost.

(8) Grantees and subgrantees will make awards only to responsible contractors possessing the ability to perform successfully under the terms and conditions of a proposed procurement. Consideration will be given to such matters as contractor integrity, compliance with public policy, record of past performance, and financial and technical resources.

(9) Grantees and subgrantees will maintain records sufficient to detail the significant history of a procurement. These records will include, but are not necessarily limited to the following: rationale for the method of procurement, selection of contract type, contractor selection or rejection, and the basis for the contract price.

(10) Grantees and subgrantees will use time and material type contracts only—

(i) After a determination that no other contract is suitable, and

(ii) If the contract includes a ceiling price that the contractor exceeds at its own risk.

(11) Grantees and subgrantees alone will be responsible, in accordance with good administrative practice and sound business judgment, for the settlement of all contractual and administrative issues arising out of procurements. These issues include, but are not limited to source evaluation, protests, disputes, and claims. These standards do not relieve the grantee or subgrantee of any contractual responsibilities under its contracts. Federal agencies will not substitute their judgment for that of the grantee or subgrantee unless the matter is primarily a Federal concern. Violations of law will be referred to the local, State, or Federal authority having proper jurisdiction.

(12) Grantees and subgrantees will have protest procedures to handle and

resolve disputes relating to their procurements and shall in all instances disclose information regarding the protest to the awarding agency. A protestor must exhaust all administrative remedies with the grantee and subgrantee before pursuing a protest with the Federal agency. Reviews of protests by the Federal agency will be limited to:

(i) Violations of Federal law or regulations and the standards of this section (violations of State or local law will be under the jurisdiction of State or local authorities) and

(ii) Violations of the grantee's or subgrantee's protest procedures for failure to review a complaint or protest. Protests received by the Federal agency other than those specified above will be referred to the grantee or subgrantee.

(c) *Competition.* (1) All procurement transactions will be conducted in a manner providing full and open competition consistent with the standards of §85.36. Some of the situations considered to be restrictive of competition include but are not limited to:

(i) Placing unreasonable requirements on firms in order for them to qualify to do business,

(ii) Requiring unnecessary experience and excessive bonding,

(iii) Noncompetitive pricing practices between firms or between affiliated companies,

(iv) Noncompetitive awards to consultants that are on retainer contracts,

(v) Organizational conflicts of interest,

(vi) Specifying only a *brand name* product instead of allowing an *equal* product to be offered and describing the performance of other relevant requirements of the procurement, and

(vii) Any arbitrary action in the procurement process.

(2) Grantees and subgrantees will conduct procurements in a manner that prohibits the use of statutorily or administratively imposed in-State or local geographical preferences in the evaluation of bids or proposals, except in those cases where applicable Federal statutes expressly mandate or encourage geographic preference. Nothing in this section preempts State licensing laws. When contracting for architectural and engineering (A/E) services,



geographic location may be a selection criteria provided its application leaves an appropriate number of qualified firms, given the nature and size of the project, to compete for the contract.

(3) Grantees will have written selection procedures for procurement transactions. These procedures will ensure that all solicitations:

(i) Incorporate a clear and accurate description of the technical requirements for the material, product, or service to be procured. Such description shall not, in competitive procurements, contain features which unduly restrict competition. The description may include a statement of the qualitative nature of the material, product or service to be procured, and when necessary, shall set forth those minimum essential characteristics and standards to which it must conform if it is to satisfy its intended use. Detailed product specifications should be avoided if at all possible. When it is impractical or uneconomical to make a clear and accurate description of the technical requirements, a *brand name or equal* description may be used as a means to define the performance or other salient requirements of a procurement. The specific features of the named brand which must be met by offerors shall be clearly stated; and

(ii) Identify all requirements which the offerors must fulfill and all other factors to be used in evaluating bids or proposals.

(4) Grantees and subgrantees will ensure that all prequalified lists of persons, firms, or products which are used in acquiring goods and services are current and include enough qualified sources to ensure maximum open and free competition. Also, grantees and subgrantees will not preclude potential bidders from qualifying during the solicitation period.

(d) *Methods of procurement to be followed.* (1) Procurement by *small purchase procedures*. Small purchase procedures are those relatively simple and informal procurement methods for securing services, supplies, or other property that do not cost more than the simplified acquisition threshold fixed at 41 U.S.C. 403(11) (currently set at \$100,000). If small purchase procedures are used, price or rate quotations shall

be obtained from an adequate number of qualified sources.

(2) Procurement by *sealed bids* (formal advertising). Bids are publicly solicited and a firm-fixed-price contract (lump sum or unit price) is awarded to the responsible bidder whose bid, conforming with all the material terms and conditions of the invitation for bids, is the lowest in price. The sealed bid method is the preferred method for procuring construction, if the conditions in § 85.36(d)(2)(i) apply.

(i) In order for sealed bidding to be feasible, the following conditions should be present:

(A) A complete, adequate, and realistic specification or purchase description is available;

(B) Two or more responsible bidders are willing and able to compete effectively and for the business; and

(C) The procurement lends itself to a firm fixed price contract and the selection of the successful bidder can be made principally on the basis of price.

(ii) If sealed bids are used, the following requirements apply:

(A) The invitation for bids will be publicly advertised and bids shall be solicited from an adequate number of known suppliers, providing them sufficient time prior to the date set for opening the bids;

(B) The invitation for bids, which will include any specifications and pertinent attachments, shall define the items or services in order for the bidder to properly respond;

(C) All bids will be publicly opened at the time and place prescribed in the invitation for bids;

(D) A firm fixed-price contract award will be made in writing to the lowest responsive and responsible bidder. Where specified in bidding documents, factors such as discounts, transportation cost, and life cycle costs shall be considered in determining which bid is lowest. Payment discounts will only be used to determine the low bid when prior experience indicates that such discounts are usually taken advantage of; and

(E) Any or all bids may be rejected if there is a sound documented reason.

(3) Procurement by *competitive proposals*. The technique of competitive proposals is normally conducted with



more than one source submitting an offer, and either a fixed-price or cost-reimbursement type contract is awarded. It is generally used when conditions are not appropriate for the use of sealed bids. If this method is used, the following requirements apply:

(i) Requests for proposals will be publicized and identify all evaluation factors and their relative importance. Any response to publicized requests for proposals shall be honored to the maximum extent practical;

(ii) Proposals will be solicited from an adequate number of qualified sources;

(iii) Grantees and subgrantees will have a method for conducting technical evaluations of the proposals received and for selecting awardees;

(iv) Awards will be made to the responsible firm whose proposal is most advantageous to the program, with price and other factors considered; and

(v) Grantees and subgrantees may use competitive proposal procedures for qualifications-based procurement of architectural/engineering (A/E) professional services whereby competitors' qualifications are evaluated and the most qualified competitor is selected, subject to negotiation of fair and reasonable compensation. The method, where price is not used as a selection factor, can only be used in procurement of A/E professional services. It cannot be used to purchase other types of services though A/E firms are a potential source to perform the proposed effort.

(4) Procurement by *noncompetitive proposals* is procurement through solicitation of a proposal from only one source, or after solicitation of a number of sources, competition is determined inadequate.

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

(A) The item is available only from a single source;

(B) The public exigency or emergency for the requirement will not permit a delay resulting from competitive solicitation;

(C) The awarding agency authorizes noncompetitive proposals; or

(D) After solicitation of a number of sources, competition is determined inadequate.

(ii) Cost analysis, i.e., verifying the proposed cost data, the projections of the data, and the evaluation of the specific elements of costs and profits, is required.

(iii) Grantees and subgrantees may be required to submit the proposed procurement to the awarding agency for pre-award review in accordance with paragraph (g) of this section.

(e) *Contracting with small and minority firms, women's business enterprise and labor surplus area firms.* (1) The grantee and subgrantee will take all necessary affirmative steps to assure that minority firms, women's business enterprises, and labor surplus area firms are used when possible.

(2) Affirmative steps shall include:

(i) Placing qualified small and minority businesses and women's business enterprises on solicitation lists;

(ii) Assuring that small and minority businesses, and women's business enterprises are solicited whenever they are potential sources;

(iii) Dividing total requirements, when economically feasible, into smaller tasks or quantities to permit maximum participation by small and minority business, and women's business enterprises;

(iv) Establishing delivery schedules, where the requirement permits, which encourage participation by small and minority business, and women's business enterprises;

(v) Using the services and assistance of the Small Business Administration, and the Minority Business Development Agency of the Department of Commerce; and

(vi) Requiring the prime contractor, if subcontracts are to be let, to take the affirmative steps listed in paragraphs (e)(2) (i) through (v) of this section.

(f) *Contract cost and price.* (1) Grantees and subgrantees must perform a cost or price analysis in connection with every procurement action including contract modifications. The method and degree of analysis is dependent on the facts surrounding the particular



procurement situation, but as a starting point, grantees must make independent estimates before receiving bids or proposals. A cost analysis must be performed when the offeror is required to submit the elements of his estimated cost, e.g., under professional, consulting, and architectural engineering services contracts. A cost analysis will be necessary when adequate price competition is lacking, and for sole source procurements, including contract modifications or change orders, unless price reasonableness can be established on the basis of a catalog or market price of a commercial product sold in substantial quantities to the general public or based on prices set by law or regulation. A price analysis will be used in all other instances to determine the reasonableness of the proposed contract price.

(2) Grantees and subgrantees will negotiate profit as a separate element of the price for each contract in which there is no price competition and in all cases where cost analysis is performed. To establish a fair and reasonable profit, consideration will be given to the complexity of the work to be performed, the risk borne by the contractor, the contractor's investment, the amount of subcontracting, the quality of its record of past performance, and industry profit rates in the surrounding geographical area for similar work.

(3) Costs or prices based on estimated costs for contracts under grants will be allowable only to the extent that costs incurred or cost estimates included in negotiated prices are consistent with Federal cost principles (see §85.22). Grantees may reference their own cost principles that comply with the applicable Federal cost principles.

(4) The cost plus a percentage of cost and percentage of construction cost methods of contracting shall not be used.

(g) *Awarding agency review.* (1) Grantees and subgrantees must make available, upon request of the awarding agency, technical specifications on proposed procurements where the awarding agency believes such review is needed to ensure that the item and/or service specified is the one being proposed for purchase. This review gen-

erally will take place prior to the time the specification is incorporated into a solicitation document. However, if the grantee or subgrantee desires to have the review accomplished after a solicitation has been developed, the awarding agency may still review the specifications, with such review usually limited to the technical aspects of the proposed purchase.

(2) Grantees and subgrantees must on request make available for awarding agency pre-award review procurement documents, such as requests for proposals or invitations for bids, independent cost estimates, etc. when:

(i) A grantee's or subgrantee's procurement procedures or operation fails to comply with the procurement standards in this section; or

(ii) The procurement is expected to exceed the simplified acquisition threshold and is to be awarded without competition or only one bid or offer is received in response to a solicitation; or

(iii) The procurement, which is expected to exceed the simplified acquisition threshold, specifies a "brand name" product; or

(iv) The proposed award is more than the simplified acquisition threshold and is to be awarded to other than the apparent low bidder under a sealed bid procurement; or

(v) A proposed contract modification changes the scope of a contract or increases the contract amount by more than the simplified acquisition threshold.

(3) A grantee or subgrantee will be exempt from the pre-award review in paragraph (g)(2) of this section if the awarding agency determines that its procurement systems comply with the standards of this section.

(i) A grantee or subgrantee may request that its procurement system be reviewed by the awarding agency to determine whether its system meets these standards in order for its system to be certified. Generally, these reviews shall occur where there is a continuous high-dollar funding, and third-party contracts are awarded on a regular basis.

(ii) A grantee or subgrantee may self-certify its procurement system. Such self-certification shall not limit the



awarding agency's right to survey the system. Under a self-certification procedure, awarding agencies may wish to rely on written assurances from the grantee or subgrantee that it is complying with these standards. A grantee or subgrantee will cite specific procedures, regulations, standards, etc., as being in compliance with these requirements and have its system available for review.

(h) *Bonding requirements.* For construction or facility improvement contracts or subcontracts exceeding the simplified acquisition threshold, the awarding agency may accept the bonding policy and requirements of the grantee or subgrantee provided the awarding agency has made a determination that the awarding agency's interest is adequately protected. If such a determination has not been made, the minimum requirements shall be as follows:

(1) *A bid guarantee from each bidder equivalent to five percent of the bid price.* The "bid guarantee" shall consist of a firm commitment such as a bid bond, certified check, or other negotiable instrument accompanying a bid as assurance that the bidder will, upon acceptance of his bid, execute such contractual documents as may be required within the time specified.

(2) *A performance bond on the part of the contractor for 100 percent of the contract price.* A "performance bond" is one executed in connection with a contract to secure fulfillment of all the contractor's obligations under such contract.

(3) *A payment bond on the part of the contractor for 100 percent of the contract price.* A "payment bond" is one executed in connection with a contract to assure payment as required by law of all persons supplying labor and material in the execution of the work provided for in the contract.

(i) *Contract provisions.* A grantee's and subgrantee's contracts must contain provisions in paragraph (i) of this section. Federal agencies are permitted to require changes, remedies, changed conditions, access and records retention, suspension of work, and other clauses approved by the Office of Federal Procurement Policy.

(1) Administrative, contractual, or legal remedies in instances where contractors violate or breach contract terms, and provide for such sanctions and penalties as may be appropriate. (Contracts more than the simplified acquisition threshold)

(2) Termination for cause and for convenience by the grantee or subgrantee including the manner by which it will be effected and the basis for settlement. (All contracts in excess of \$10,000)

(3) Compliance with Executive Order 11246 of September 24, 1965, entitled "Equal Employment Opportunity," as amended by Executive Order 11375 of October 13, 1967, and as supplemented in Department of Labor regulations (41 CFR chapter 60). (All construction contracts awarded in excess of \$10,000 by grantees and their contractors or subgrantees)

(4) Compliance with the Copeland "Anti-Kickback" Act (18 U.S.C. 874) as supplemented in Department of Labor regulations (29 CFR part 3). (All contracts and subgrants for construction or repair)

(5) Compliance with the Davis-Bacon Act (40 U.S.C. 276a to 276a-7) as supplemented by Department of Labor regulations (29 CFR part 5). (Construction contracts in excess of \$2000 awarded by grantees and subgrantees when required by Federal grant program legislation)

(6) Compliance with Sections 103 and 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C. 327-330) as supplemented by Department of Labor regulations (29 CFR part 5). (Construction contracts awarded by grantees and subgrantees in excess of \$2000, and in excess of \$2500 for other contracts which involve the employment of mechanics or laborers)

(7) Notice of awarding agency requirements and regulations pertaining to reporting.

(8) Notice of awarding agency requirements and regulations pertaining to patent rights with respect to any discovery or invention which arises or is developed in the course of or under such contract.

(9) Awarding agency requirements and regulations pertaining to copyrights and rights in data.



(10) Access by the grantee, the subgrantee, the Federal grantor agency, the Comptroller General of the United States, or any of their duly authorized representatives to any books, documents, papers, and records of the contractor which are directly pertinent to that specific contract for the purpose of making audit, examination, excerpts, and transcriptions.

(11) Retention of all required records for three years after grantees or subgrantees make final payments and all other pending matters are closed.

(12) Compliance with all applicable standards, orders, or requirements issued under section 306 of the Clean Air Act (42 U.S.C. 1857(h)), section 508 of the Clean Water Act (33 U.S.C. 1368), Executive Order 11738, and Environmental Protection Agency regulations (40 CFR part 15). (Contracts, subcontracts, and subgrants of amounts in excess of \$100,000).

(13) Mandatory standards and policies relating to energy efficiency which are contained in the state energy conservation plan issued in compliance with the Energy Policy and Conservation Act (Pub. L. 94-163, 89 Stat. 871).

[53 FR 8068, 8087, Mar. 11, 1988, as amended at 60 FR 19639, 19642, Apr. 19, 1995]

#### § 85.37 Subgrants.

(a) *States.* States shall follow state law and procedures when awarding and administering subgrants (whether on a cost reimbursement or fixed amount basis) of financial assistance to local and Indian tribal governments. States shall:

(1) Ensure that every subgrant includes any clauses required by Federal statute and executive orders and their implementing regulations;

(2) Ensure that subgrantees are aware of requirements imposed upon them by Federal statute and regulation;

(3) Ensure that a provision for compliance with § 85.42 is placed in every cost reimbursement subgrant; and

(4) Conform any advances of grant funds to subgrantees substantially to the same standards of timing and amount that apply to cash advances by Federal agencies.

(b) *All other grantees.* All other grantees shall follow the provisions of this

part which are applicable to awarding agencies when awarding and administering subgrants (whether on a cost reimbursement or fixed amount basis) of financial assistance to local and Indian tribal governments. Grantees shall:

(1) Ensure that every subgrant includes a provision for compliance with this part;

(2) Ensure that every subgrant includes any clauses required by Federal statute and executive orders and their implementing regulations; and

(3) Ensure that subgrantees are aware of requirements imposed upon them by Federal statutes and regulations.

(c) *Exceptions.* By their own terms, certain provisions of this part do not apply to the award and administration of subgrants:

(1) Section 85.10;

(2) Section 85.11;

(3) The letter-of-credit procedures specified in Treasury Regulations at 31 CFR part 205, cited in § 85.21; and

(4) Section 85.50.

#### REPORTS, RECORDS, RETENTION, AND ENFORCEMENT

#### § 85.40 Monitoring and reporting program performance.

(a) *Monitoring by grantees.* Grantees are responsible for managing the day-to-day operations of grant and subgrant supported activities. Grantees must monitor grant and subgrant supported activities to assure compliance with applicable Federal requirements and that performance goals are being achieved. Grantee monitoring must cover each program, function or activity.

(b) *Nonconstruction performance reports.* The Federal agency may, if it decides that performance information available from subsequent applications contains sufficient information to meet its programmatic needs, require the grantee to submit a performance report only upon expiration or termination of grant support. Unless waived by the Federal agency this report will be due on the same date as the final Financial Status Report.

(1) Grantees shall submit annual performance reports unless the awarding



agency requires quarterly or semi-annual reports. However, performance reports will not be required more frequently than quarterly. Annual reports shall be due 90 days after the grant year, quarterly or semi-annual reports shall be due 30 days after the reporting period. The final performance report will be due 90 days after the expiration or termination of grant support. If a justified request is submitted by a grantee, the Federal agency may extend the due date for any performance report. Additionally, requirements for unnecessary performance reports may be waived by the Federal agency.

(2) Performance reports will contain, for each grant, brief information on the following:

(i) A comparison of actual accomplishments to the objectives established for the period. Where the output of the project can be quantified, a computation of the cost per unit of output may be required if that information will be useful.

(ii) The reasons for slippage if established objectives were not met.

(iii) Additional pertinent information including, when appropriate, analysis and explanation of cost overruns or high unit costs.

(3) Grantees will not be required to submit more than the original and two copies of performance reports.

(4) Grantees will adhere to the standards in this section in prescribing performance reporting requirements for subgrantees.

(c) *Construction performance reports.* For the most part, on-site technical inspections and certified percentage-of-completion data are relied on heavily by Federal agencies to monitor progress under construction grants and subgrants. The Federal agency will require additional formal performance reports only when considered necessary, and never more frequently than quarterly.

(d) *Significant developments.* Events may occur between the scheduled performance reporting dates which have significant impact upon the grant or subgrant supported activity. In such cases, the grantee must inform the Federal agency as soon as the following types of conditions become known:

(1) Problems, delays, or adverse conditions which will materially impair the ability to meet the objective of the award. This disclosure must include a statement of the action taken, or contemplated, and any assistance needed to resolve the situation.

(2) Favorable developments which enable meeting time schedules and objectives sooner or at less cost than anticipated or producing more beneficial results than originally planned.

(e) Federal agencies may make site visits as warranted by program needs.

(f) *Waivers, extensions.* (1) Federal agencies may waive any performance report required by this part if not needed.

(2) The grantee may waive any performance report from a subgrantee when not needed. The grantee may extend the due date for any performance report from a subgrantee if the grantee will still be able to meet its performance reporting obligations to the Federal agency.

#### § 85.41 Financial reporting.

(a) *General.* (1) Except as provided in paragraphs (a) (2) and (5) of this section, grantees will use only the forms specified in paragraphs (a) through (e) of this section, and such supplementary or other forms as may from time to time be authorized by OMB, for:

(i) Submitting financial reports to Federal agencies, or

(ii) Requesting advances or reimbursements when letters of credit are not used.

(2) Grantees need not apply the forms prescribed in this section in dealing with their subgrantees. However, grantees shall not impose more burdensome requirements on subgrantees.

(3) Grantees shall follow all applicable standard and supplemental Federal agency instructions approved by OMB to the extent required under the Paperwork Reduction Act of 1980 for use in connection with forms specified in paragraphs (b) through (e) of this section. Federal agencies may issue substantive supplementary instructions only with the approval of OMB. Federal agencies may shade out or instruct the grantee to disregard any line item that



the Federal agency finds unnecessary for its decisionmaking purposes.

(4) Grantees will not be required to submit more than the original and two copies of forms required under this part.

(5) Federal agencies may provide computer outputs to grantees to expedite or contribute to the accuracy of reporting. Federal agencies may accept the required information from grantees in machine usable format or computer printouts instead of prescribed forms.

(6) Federal agencies may waive any report required by this section if not needed.

(7) Federal agencies may extend the due date of any financial report upon receiving a justified request from a grantee.

(b) *Financial Status Report*—(1) *Form*. Grantees will use Standard Form 269 or 269A, Financial Status Report, to report the status of funds for all non-construction grants and for construction grants when required in accordance with §85.41(e)(2)(iii) of this section.

(2) *Accounting basis*. Each grantee will report program outlays and program income on a cash or accrual basis as prescribed by the awarding agency. If the Federal agency requires accrual information and the grantee's accounting records are not normally kept on the accrual basis, the grantee shall not be required to convert its accounting system but shall develop such accrual information through and analysis of the documentation on hand.

(3) *Frequency*. The Federal agency may prescribe the frequency of the report for each project or program. However, the report will not be required more frequently than quarterly. If the Federal agency does not specify the frequency of the report, it will be submitted annually. A final report will be required upon expiration or termination of grant support.

(4) *Due date*. When reports are required on a quarterly or semiannual basis, they will be due 30 days after the reporting period. When required on an annual basis, they will be due 90 days after the grant year. Final reports will be due 90 days after the expiration or termination of grant support.

(c) *Federal Cash Transactions Report*—

(1) *Form*. (i) For grants paid by letter or credit, Treasury check advances or electronic transfer of funds, the grantee will submit the Standard Form 272, Federal Cash Transactions Report, and when necessary, its continuation sheet, Standard Form 272a, unless the terms of the award exempt the grantee from this requirement.

(ii) These reports will be used by the Federal agency to monitor cash advanced to grantees and to obtain disbursement or outlay information for each grant from grantees. The format of the report may be adapted as appropriate when reporting is to be accomplished with the assistance of automatic data processing equipment provided that the information to be submitted is not changed in substance.

(2) *Forecasts of Federal cash requirements*. Forecasts of Federal cash requirements may be required in the "Remarks" section of the report.

(3) *Cash in hands of subgrantees*. When considered necessary and feasible by the Federal agency, grantees may be required to report the amount of cash advances in excess of three days' needs in the hands of their subgrantees or contractors and to provide short narrative explanations of actions taken by the grantee to reduce the excess balances.

(4) *Frequency and due date*. Grantees must submit the report no later than 15 working days following the end of each quarter. However, where an advance either by letter of credit or electronic transfer of funds is authorized at an annualized rate of one million dollars or more, the Federal agency may require the report to be submitted within 15 working days following the end of each month.

(d) *Request for advance or reimbursement*—(1) *Advance payments*. Requests for Treasury check advance payments will be submitted on Standard Form 270, Request for Advance or Reimbursement. (This form will not be used for drawdowns under a letter of credit, electronic funds transfer or when Treasury check advance payments are made to the grantee automatically on a predetermined basis.)

(2) *Reimbursements*. Requests for reimbursement under nonconstruction



grants will also be submitted on Standard Form 270. (For reimbursement requests under construction grants, see paragraph (e)(1) of this section.)

(3) The frequency for submitting payment requests is treated in § 85.41(b)(3).

(e) *Outlay report and request for reimbursement for construction programs*—(1) *Grants that support construction activities paid by reimbursement method.* (i) Requesters for reimbursement under construction grants will be submitted on Standard Form 271, Outlay Report and Request for Reimbursement for Construction Programs. Federal agencies may, however, prescribe the Request for Advance or Reimbursement form, specified in § 85.41(d), instead of this form.

(ii) The frequency for submitting reimbursement requests is treated in § 85.41(b)(3).

(2) *Grants that support construction activities paid by letter of credit, electronic funds transfer or Treasury check advance.* (i) When a construction grant is paid by letter of credit, electronic funds transfer or Treasury check advances, the grantee will report its outlays to the Federal agency using Standard Form 271, Outlay Report and Request for Reimbursement for Construction Programs. The Federal agency will provide any necessary special instruction. However, frequency and due date shall be governed by § 85.41(b)(3) and (4).

(ii) When a construction grant is paid by Treasury check advances based on periodic requests from the grantee, the advances will be requested on the form specified in § 85.41(d).

(iii) The Federal agency may substitute the Financial Status Report specified in § 85.41(b) for the Outlay Report and Request for Reimbursement for Construction Programs.

(3) *Accounting basis.* The accounting basis for the Outlay Report and Request for Reimbursement for Construction Programs shall be governed by § 85.41(b)(2).

#### **§ 85.42 Retention and access requirements for records.**

(a) *Applicability.* (1) This section applies to all financial and programmatic records, supporting documents, statis-

tical records, and other records of grantees or subgrantees which are:

(i) Required to be maintained by the terms of this part, program regulations or the grant agreement, or

(ii) Otherwise reasonably considered as pertinent to program regulations or the grant agreement.

(2) This section does not apply to records maintained by contractors or subcontractors. For a requirement to place a provision concerning records in certain kinds of contracts, see § 85.36(i)(10).

(b) *Length of retention period.* (1) Except as otherwise provided, records must be retained for three years from the starting date specified in paragraph (c) of this section.

(2) If any litigation, claim, negotiation, audit or other action involving the records has been started before the expiration of the 3-year period, the records must be retained until completion of the action and resolution of all issues which arise from it, or until the end of the regular 3-year period, whichever is later.

(3) To avoid duplicate recordkeeping, awarding agencies may make special arrangements with grantees and subgrantees to retain any records which are continuously needed for joint use. The awarding agency will request transfer of records to its custody when it determines that the records possess long-term retention value. When the records are transferred to or maintained by the Federal agency, the 3-year retention requirement is not applicable to the grantee or subgrantee.

(c) *Starting date of retention period*—(1) *General.* When grant support is continued or renewed at annual or other intervals, the retention period for the records of each funding period starts on the day the grantee or subgrantee submits to the awarding agency its single or last expenditure report for that period. However, if grant support is continued or renewed quarterly, the retention period for each year's records starts on the day the grantee submits its expenditure report for the last quarter of the Federal fiscal year. In all other cases, the retention period starts on the day the grantee submits its



final expenditure report. If an expenditure report has been waived, the retention period starts on the day the report would have been due.

(2) *Real property and equipment records.* The retention period for real property and equipment records starts from the date of the disposition or replacement or transfer at the direction of the awarding agency.

(3) *Records for income transactions after grant or subgrant support.* In some cases grantees must report income after the period of grant support. Where there is such a requirement, the retention period for the records pertaining to the earning of the income starts from the end of the grantee's fiscal year in which the income is earned.

(4) *Indirect cost rate proposals, cost allocations plans, etc.* This paragraph applies to the following types of documents, and their supporting records: Indirect cost rate computations or proposals, cost allocation plans, and any similar accounting computations of the rate at which a particular group of costs is chargeable (such as computer usage chargeback rates or composite fringe benefit rates).

(i) *If submitted for negotiation.* If the proposal, plan, or other computation is required to be submitted to the Federal Government (or to the grantee) to form the basis for negotiation of the rate, then the 3-year retention period for its supporting records starts from the date of such submission.

(ii) *If not submitted for negotiation.* If the proposal, plan, or other computation is not required to be submitted to the Federal Government (or to the grantee) for negotiation purposes, then the 3-year retention period for the proposal plan, or computation and its supporting records starts from end of the fiscal year (or other accounting period) covered by the proposal, plan, or other computation.

(d) *Substitution of microfilm.* Copies made by microfilming, photocopying, or similar methods may be substituted for the original records.

(e) *Access to records*—(1) *Records of grantees and subgrantees.* The awarding agency and the Comptroller General of the United States, or any of their authorized representatives, shall have the right of access to any pertinent books,

documents, papers, or other records of grantees and subgrantees which are pertinent to the grant, in order to make audits, examinations, excerpts, and transcripts.

(2) *Expiration of right of access.* The rights of access in this section must not be limited to the required retention period but shall last as long as the records are retained.

(f) *Restrictions on public access.* The Federal Freedom of Information Act (5 U.S.C. 552) does not apply to records. Unless required by Federal, State, or local law, grantees and subgrantees are not required to permit public access to their records.

### § 85.43 Enforcement.

(a) *Remedies for noncompliance.* If a grantee or subgrantee materially fails to comply with any term of an award, whether stated in a Federal statute or regulation, an assurance, in a State plan or application, a notice of award, or elsewhere, the awarding agency may take one or more of the following actions, as appropriate in the circumstances:

(1) Temporarily withhold cash payments pending correction of the deficiency by the grantee or subgrantee or more severe enforcement action by the awarding agency.

(2) Disallow (that is, deny both use of funds and matching credit for) all or part of the cost of the activity or action not in compliance.

(3) Wholly or partly suspend or terminate the current award for the grantee's or subgrantee's program.

(4) Withhold further awards for the program, or

(5) Take other remedies that may be legally available.

(b) *Hearings, appeals.* In taking an enforcement action, the awarding agency will provide the grantee or subgrantee an opportunity for such hearing, appeal, or other administrative proceeding to which the grantee or subgrantee is entitled under any statute or regulation applicable to the action involved.

(c) *Effects of suspension and termination.* Costs of grantee or subgrantee resulting from obligations incurred by the grantee or subgrantee during a suspension or after termination of an



award are not allowable unless the awarding agency expressly authorizes them in the notice of suspension or termination or subsequently. Other grantee or subgrantee costs during suspension or after termination which are necessary and not reasonably avoidable are allowable if:

(1) The costs result from obligations which were properly incurred by the grantee or subgrantee before the effective date of suspension or termination, are not in anticipation of it, and, in the case of a termination, are noncancellable, and,

(2) The costs would be allowable if the award were not suspended or expired normally at the end of the funding period in which the termination takes effect.

(d) *Relationship to debarment and suspension.* The enforcement remedies identified in this section, including suspension and termination, do not preclude grantee or subgrantee from being subject to "Debarment and Suspension" under E.O. 12549 (see § 85.35).

**§ 85.44 Termination for convenience.**

Except as provided in § 85.43 awards may be terminated in whole or in part only as follows:

(a) By the awarding agency with the consent of the grantee or subgrantee in which case the two parties shall agree upon the termination conditions, including the effective date and in the case of partial termination, the portion to be terminated, or

(b) By the grantee or subgrantee upon written notification to the awarding agency, setting forth the reasons for such termination, the effective date, and in the case of partial termination, the portion to be terminated. However, if, in the case of a partial termination, the awarding agency determines that the remaining portion of the award will not accomplish the purposes for which the award was made, the awarding agency may terminate the award in its entirety under either § 85.43 or paragraph (a) of this section.

**Subpart D—After-the-Grant Requirements**

**§ 85.50 Closeout.**

(a) *General.* The Federal agency will close out the award when it determines that all applicable administrative actions and all required work of the grant has been completed.

(b) *Reports.* Within 90 days after the expiration or termination of the grant, the grantee must submit all financial, performance, and other reports required as a condition of the grant. Upon request by the grantee, Federal agencies may extend this timeframe. These may include but are not limited to:

(1) *Final performance or progress report.*

(2) *Financial Status Report (SF 269) or Outlay Report and Request for Reimbursement for Construction Programs (SF-271) (as applicable).*

(3) *Final request for payment (SF-270) (if applicable).*

(4) *Invention disclosure (if applicable).*

(5) *Federally-owned property report:*

In accordance with § 85.32(f), a grantee must submit an inventory of all federally owned property (as distinct from property acquired with grant funds) for which it is accountable and request disposition instructions from the Federal agency of property no longer needed.

(c) *Cost adjustment.* The Federal agency will, within 90 days after receipt of reports in paragraph (b) of this section, make upward or downward adjustments to the allowable costs.

(d) *Cash adjustments.* (1) The Federal agency will make prompt payment to the grantee for allowable reimbursable costs.

(2) The grantee must immediately refund to the Federal agency any balance of unobligated (unencumbered) cash advanced that is not authorized to be retained for use on other grants.

**§ 85.51 Later disallowances and adjustments.**

The closeout of a grant does not affect:



(a) The Federal agency's right to disallow costs and recover funds on the basis of a later audit or other review;

(b) The grantee's obligation to return any funds due as a result of later refunds, corrections, or other transactions;

(c) Records retention as required in § 85.42;

(d) Property management requirements in §§ 85.31 and 85.32; and

(e) Audit requirements in § 85.26.

#### § 85.52 Collection of amounts due.

(a) Any funds paid to a grantee in excess of the amount to which the grantee is finally determined to be entitled under the terms of the award constitute a debt to the Federal Government. If not paid within a reasonable period after demand, the Federal agency may reduce the debt by:

(1) Making an administrative offset against other requests for reimbursements,

(2) Withholding advance payments otherwise due to the grantee, or

(3) Other action permitted by law.

(b) Except where otherwise provided by statutes or regulations, the Federal agency will charge interest on an overdue debt in accordance with the Federal Claims Collection Standards (4 CFR Ch. II). The date from which interest is computed is not extended by litigation or the filing of any form of appeal.

### Subpart E—Entitlement [Reserved]

## PART 87—NEW RESTRICTIONS ON LOBBYING

### Subpart A—General

Sec.

87.100 Conditions on use of funds.

87.105 Definitions.

87.110 Certification and disclosure.

### Subpart B—Activities by Own Employees

87.200 Agency and legislative liaison.

87.205 Professional and technical services.

87.210 Reporting.

### Subpart C—Activities by Other Than Own Employees

87.300 Professional and technical services.

### Subpart D—Penalties and Enforcement

87.400 Penalties.

87.405 Penalty procedures.

87.410 Enforcement.

### Subpart E—Exemptions

87.500 Secretary of Defense.

### Subpart F—Agency Reports

87.600 Semi-annual compilation.

87.605 Inspector General report.

APPENDIX A TO PART 87—CERTIFICATION REGARDING LOBBYING

APPENDIX B TO PART 87—DISCLOSURE FORM TO REPORT LOBBYING

AUTHORITY: 31 U.S.C. 1352; 42 U.S.C. 3535(d).

SOURCE: 55 FR 6737, 6750, Feb. 26, 1990, unless otherwise noted.

CROSS REFERENCE: See also OMB notice published at 54 FR 52306, December 20, 1989.

### Subpart A—General

#### § 87.100 Conditions on use of funds.

(a) No appropriated funds may be expended by the recipient of a Federal contract, grant, loan, or cooperative agreement to pay any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with any of the following covered Federal actions: the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

(b) Each person who requests or receives from an agency a Federal contract, grant, loan, or cooperative agreement shall file with that agency a certification, set forth in appendix A, that the person has not made, and will not make, any payment prohibited by paragraph (a) of this section.

(c) Each person who requests or receives from an agency a Federal contract, grant, loan, or a cooperative agreement shall file with that agency a disclosure form, set forth in appendix B, if such person has made or has agreed to make any payment using

## **Section 6: Procurement**

All recipients of federal grant funds are required to have written procurement procedures. These procedures must address the four types of procurement discussed herein. Grantees are also required to have a written Code of Conduct which specifically prohibits elected officials, staff, or agents from personally benefiting from NSP procurements; it must prohibit the solicitation or acceptance of favors or gratuities from contractors or potential contractors; and it must provide sanctions or penalties for violations of the Code of Conduct by either city/county officials, staff or agents, or by contractors or their agents.

All procurements, regardless of dollar amount, must be conducted to provide “maximum open and free competition.” Many times competition can be restricted by organizational conflict of interest or noncompetitive practices among contractors. Grantees should be alert to issues of this nature that may adversely affect procurement practices.

Disadvantaged Business Enterprise firms (DBE’s) must be solicited on all procurement in a NSP project, regardless of the size or type of contract.

### **I. PROCUREMENT PROCEDURES**

The State of Kansas Community Block Grant program has elected to adopt Public Law 103-355 as the procurement procedures applicable to the NSP program. The only exception to adopting Public Law 103-355 in its entirety is that the maximum dollar allowance under small purchases shall be \$25,000 in lieu of the \$100,000 allowance under PL 103-355. The procedures outlined below are in accordance with this law.

If NSP funds are used to pay for a product or service, or any part thereof, NSP procurement procedures apply unless the local procurement policy is stricter. If NSP funds are not used for any part of a contract, the grantee’s written procurement procedures may apply.

The recipient’s procurement procedures must describe how services or supplies are to be obtained. The procurement policy should address at a minimum the following requirements:

- Procurements should be reviewed to avoid unnecessary and duplicate purchases and to ensure costs are “reasonable.”
- Invitation for bids or requests for proposals must be clearly written and describe the technical requirements of the equipment or services.
- Positive effort must be made to use small, disadvantaged business enterprises.
- The method of contracting (fixed price, cost plus fixed fee, purchase orders, etc.) should be appropriate. Cost plus percentage of cost contracts must be specifically prohibited if NSP funds are involved in a project.

Four methods of procurement are allowed by PL 103-355: small purchases; competitive sealed bids; competitive negotiations; and noncompetitive negotiations. Bonding requirements for contracts are included herein.

A. Small Purchases

Small Purchases is a relatively simple and informal method used where goods or services do not cost in the aggregate of more than \$25,000.

1. Price or rate quotations should be obtained in writing from an adequate number of qualified sources (generally at least three sources). Written specifications should be provided to assure all responders are bidding on the same product or service. If the dollar amount is less than \$500, phone solicitation is allowed. A public bid opening may be held on a small purchase, i.e., housing rehabilitation, if the situation warrants it.
2. Documentation regarding the businesses contacted and the prices submitted should be maintained.
3. Written documentation regarding basis for selection and cost should be maintained.
4. Preparation and signing of a contract formalizing a scope of work and the terms of compensation is required for all construction contracts over \$2,000.

B. Competitive Sealed Bids

Competitive sealed bids are initiated by publishing an Invitation for Bids (IFB) when the cost is estimated to be over \$25,000. Adequate time should be allowed for preparation of bids.

1. Detailed specifications for the goods or services to be procured must be prepared. The primary basis for award is cost.
2. All bids received must be tabulated and reviewed according to the written criteria given to prospective bidders.
3. The contract awarded must be a firm, fixed-price contract (lump sum or unit price). **The negotiations with the low bidder are not allowable under the NSP program. (This has always been the CDBG/HOME policy.)**
4. Preparation and signing of a contract formalizing a scope of work and the terms of compensation is required, after confirming the contractor is not on the Federal debarred list (see Labor Standards Section).
5. All unsuccessful bidders must be notified in writing.



### C. Competitive Negotiations

Competitive negotiations are initiated by making public a Request for Proposals (RFP) or a Request for Qualifications (RFQ). Although newspaper publication is not required, it may be used if an adequate number of service providers are available in the circulation area. **At a minimum, all qualified firms should be notified.** The RFP is used when price is a factor in selection; the RFQ is used when price is considered after selection (this is usually applicable only for architectural and engineering services).

1. In both the RFP and RFQ, the services to be procured are clearly defined, as are the factors to be used in evaluation and selection. A written basis of selection must be prepared.
2. All proposals received are to be reviewed according to the written criteria given to prospective bidders and the review should be in writing, i.e., basis of selection must be documented.
3. For RFQ's, an invitation is made to one or more respondents to negotiate a price or fee.
4. Preparation and signing of a contract formalizing a scope of work and the terms of compensation is required.
5. All unsuccessful bidders must be notified in writing.

### D. Non-Competitive Negotiations

Non-competitive negotiations can be used only when (1) the use of competitive negotiations is not feasible, such as only one supplier, (2) there is some public emergency, or (3) the results of the competitive negotiations are inadequate.

1. Negotiations are conducted with the selected company regarding a scope of work and price.
2. Preparation and signing of a contract formalizing a scope of work and the terms of compensation is required.

**Commerce must approve all types of procurement prior to award when only one response is received from the procurement efforts or prior to use of non-competitive negotiation.**

## II. PROCURING PROFESSIONAL AND PERSONAL SERVICES CONTRACTS

No engineering or architectural firm or any principal or employee thereof can perform both administrative and engineering/architectural services on a grant, regardless of the source of payment of either. Engineering, architectural, or administrative services may not be eliminated as a line item activity in the project budget form for purposes of circumventing this policy. The grantee has the option of administering the NSP program themselves, contracting with the regional planning commission, or hiring a private consultant. The grantee is reminded that all applicable procurement procedures must be followed if the consultant is paid with NSP funds with the exception of the four regional planning commissions within the State. Administrators for all NSP/CDBG awards must be certified through the CDBG Administrators' Certification process. Commerce should be contacted if verification is needed.

Prior to executing an administrative contract, the grantee shall review its content to ensure that the required provisions are included. Exhibit I, "Standard Form of Agreement between Owner and Consultant for Professional Services" is included as a sample contract. This may need to be re-worded or deleted—administrators have been "assigned"

- A. Procedure – The competitive negotiation method is the normal method used to procure professional services.
  1. A Request for Proposals (RFP) or a Request for Qualifications (RFQ) is issued. The RFP is used when price is a factor in selection; the RFQ is used when price is considered after selection (generally only for engineering/architectural services). The first step in both processes is to determine which services are needed. The services and the factors to be used in evaluation and selection must be clearly defined.
  2. If a statement of qualifications is used, each submittal must be reviewed and ranked according to previously established selection criteria of qualifications. This review must be documented in writing. Upon determination of the best statements, an invitation is made to one or more respondents to negotiate a price or fee. The reason the firm is chosen and that the price established is reasonable must be documented.
  3. If an RFP is issued, it should specify the scope of services to be provided and type of contract to be used: cost reimbursement, fixed price, or per diem contract. Cost plus a percentage of cost contracts cannot be used.

4. The RFP should also specify that cost and price data is required to support the proposed cost, state anticipated start and completion dates, and list evaluation criteria that will be used in ranking proposals. Additionally, any materials such as reports, maps, and site plans to assist interested firms in preparing responsive proposals should be provided. If the project is complicated, a pre-bid conference can be held with qualified and interested parties to discuss the project.
  5. The RFP or RFQ should also include:
    - a. Scope of services, which includes a detailed description of extent and character of the work to be performed.
    - b. Time for performance and completion of contract services, including project milestones, if any.
    - c. Specification of materials or other services to be provided by both parties, e.g., maps, reports, printing, etc.
    - d. Method of compensation, amount of contract, and provisions for compensation for services including fee and/or payment schedules and specification of maximum amount payable under contract.
  6. State and Federal Standard Provisions. All professional contracts must state that the contracting firm will abide by the laws and regulations described in the “Applicable Laws and Regulations” sections of the Kansas Small Cities CDBG Program Guidelines. **SAMPLE COPIES OF AN RFQ AND A RFP ARE INCLUDED HEREIN as Exhibit II - Procurement.**
- B. Review Process – After response of either statements of qualifications from an RFQ or proposals in response to an RFP, the review process can begin according to the established selection criteria.

The review process should be uniform and well documented. The preferred method is that the review be conducted by a committee composed of at least three people who have technical knowledge of the type of project you are considering. However, these reviewers must not have apparent conflicts of interest with any of the firms or individuals under review. Examples are family relationships, close friendships, or business dealings. Some of the evaluation criteria to be considered includes:

1. Specialized experience or technical expertise of the firm and its personnel in connection with the type of services to be provided and complexity of the project.

2. Past record of performance on contracts with the locality and other clients, including quality of work, timeliness, and cost control.
3. Capacity of firm to perform the work within time limitation, taking into consideration the current and planned work load of the firm.
4. Familiarity of the firm with the type of problems applicable to the project.

The relative importance of each of these factors can be determined beforehand by assigning value to each (for example, specialized experience may be assigned 40 points out of a total possible 100 points). Evaluation consideration for local firms can be established if familiarity with local conditions is an important element for a successful project. Selection criteria should be shared with all prospective bidders. No criteria may be established which would eliminate specific vendors.

C. Contract Revisions – Once a firm is chosen and the basis of selection is documented along with the reasonability of cost, the preparation of a contract with the successful individual or firm may be completed. The contract must include the following general administrative provisions:

1. Effective date of contract.
2. Names and addresses of the locality and firm.
3. Names of representatives of locality and firm who will act as liaison for administration of the contract.
4. Citation of the authority of the city/county under which the contract is entered into and source of funds.
5. Conditions and terms under which contract may be terminated by either party, both termination for cause and termination for convenience and remedies for violation/breach of contract.

### **III. COMPETITIVE BIDDING**

When a cost estimate for purchase of supplies or equipment or for construction is in excess of \$25,000, the Competitive Bidding process is applicable.

A. Procedure

1. An Invitation for Bids (IFB) notice for all procurements requiring sealed bids is issued. This notice should be published at least once in at least one official newspaper of general circulation within the community 30 days before bid date or an adequate time to allow bid preparation. Bids from responsible prospective bidders should be solicited by sending them a copy of the notice. If the project is complicated, a pre-bid conference may be held with qualified and interested parties to discuss the project.
2. The IFB should include a general description of the goods or services to be procured, the location where bids or specifications may be secured, and the time and place for opening bids. Bid award must be made to the lowest responsible bidder.

The newspaper notice must also contain language which calls to the attention of bidders all applicable requirements which must be complied with such as: Section 3 of the 1968 Housing Act, Section 109 of the 1984 Housing and Community Development Act, the Civil Rights Act of 1964, and Executive Order 11246.

3. The sealed bids should be opened in public at the time and place stated in the IFB and tabulated at that time.

B. Review Process – The following evaluation criteria may be used with varying weights to determine if the bidder is a responsible bidder.

1. Character, integrity, reputation, judgment, and experience of the firm.
2. Ability of the vendor to provide the material or service promptly or within the time specified.
3. Quality of performance by the vendor on previous contracts, orders, or services.
4. Ability of the vendor to provide future maintenance and service for all equipment purchased from the vendor.
5. The grantee has the responsibility to prove or disapprove the “responsible” bidder criteria. If a lowest bidder is rejected, he/she must be notified in writing and the reason for rejection of his/her low bid fully stated. Reasons for rejection must be documented.



The review should be thorough, uniform, and well documented. Once a contract has been awarded, all unsuccessful bidders must be informed in writing of the bid award.

When a locality receives only one response to any procurement solicitation, including competitive bidding, the solicitation should be reviewed to determine whether it was unduly restrictive or geared to a particular contractor and must be submitted to the Kansas Department of Commerce for approval prior to awarding the contract.

The community may cancel an Invitation for Bids or reject all bids if it is determined in writing that it is in the best interest of the city.

If it is determined that a rebid is needed for all or part of the bid schedule, the grantee and/or professional should contact the field representative of the area for consultation and guidance.

C. Contract Provisions

1. Once a firm is chosen, preparation of a contract with the successful individual or firm may be carried out. The contract must include all of the previously mentioned provisions: scope of services, contract amount, effective date of contract, method of compensation, and the State and Federal standards described in the “Applicable Laws and Regulations” section of the CDBG Program Guidelines
2. All applicable Labor Standards requirements should be reviewed and administered. (See Labor Standards section.)
3. The statement of work should be prepared by the grantee in accordance with procurement procedures. It must describe as precisely as possible the tasks to be completed, specify timetables for completion, identify the products and/or services to be delivered, and stipulate the method of payment. The statement of work could be used as a tool to measure performance, but only if the desired outcomes are clearly specified in measurable products.
4. Applicable federal regulations are included herein.
5. Bonding requirements are included herein to assure awareness of requirements (see Exhibit III – Procurement).

- D. Maintaining Procurement Files – Grantees must maintain a separate file for each procurement in excess of \$2,000. All files should include copies of advertisements, a list of notified firms, RFP/RFQ, a list of where bid packages were sent, copies of all bids or proposals received, and a written review of the proposals including cost data and the basis of selection. If a contract is non-competitively negotiated, the file should include Commerce’s approval for award. The file must always include a cost and price detail documentation statement explaining the basis of selection. All unsuccessful bidders must be notified in writing, and files should contain copies of letters to that effect.

The primary requirement is that the process of securing services with NSP funds is open, competitive, and well documented.

## **Exhibit I – Procurement**

This document has important legal consequences; consultation with an attorney is encouraged with respect to its completion. The State of Kansas hereby assumes no responsibility for the legality or content of this document, and it is presented only as a sample for use by CDBG grantees.

**This may be considered a legal document—can we legally change the verbage?????**

### **Standard Form of Agreement Between Owner and Consultant For Professional Administrative Services**

This is an agreement made as of \_\_\_\_\_, \_\_\_\_\_ between \_\_\_\_\_ (Owner and \_\_\_\_\_ (Consultant). The Owner intends to perform a community development project, and the Owner and Consultant in consideration of their mutual covenants herein agree in respect to the performance of professional administrative services by Consultant and the payment for those services by Owner as set forth below. Consultant shall provide professional administrative services by Owner as set forth below. Consultant shall provide professional administrative services for Owner in all phases of the project to which this agreement applies, serve as the Owner’s representative for the project as set forth below, and shall provide professional consultation of services hereunder.

#### **Section 1 – Basic Services for Consultant**

The consultant shall perform professional administrative services as hereinafter stated which include the administration of the Owner’s Community Development Block Grant program, Project # \_\_\_\_\_ The specific services of the Consultant are indicated in Exhibit “A”, “Scope

#### **Section 2 – Owner’s Responsibilities**

The owner shall:

- 2.1 Provide all criteria and full information as to Owner’s requirements for the project and furnish copies of all documents related to the project.
- 2.2 Assist Consultant by placing at his/her disposal all available information pertinent to the project including previous reports and any other data relative to the project.
- 2.3 Give prompt written notice to consultant whenever owner observes or otherwise becomes aware of any development that affects the scope of timing of the consultant’s services.
- 2.4 Bear all costs incidental to compliance with the requirements of Section 2.

#### **Section 3 – Period of Service**

- 3.1 The provisions of Section 3 and the rates of compensation for the Consultant’s services provided for elsewhere in this agreement have been agreed to in anticipation of the orderly and continuous progress of the project through completion.

- 3.2 The Consultant agrees to complete the project by the ending date identified in the owner's "Grant Agreement" with the Kansas Department of Commerce for the Community Development Block Grant program from which part of the project has been financed.
- 3.3 If the Owner has requested significant modifications or changes in the extent of the project, the time of performance of Consultant's services and his/her rates of compensation shall be adjusted appropriately.

#### **Section 4 – Payments to Consultant**

- 4.1 The maximum amount the Owner shall pay the consultant for performance of the agreement shall not exceed \$ \_\_\_\_\_. Compensation will be based on time, expenses, materials, overhead, and fixed fee (if consultant is a for-profit entity) basis documented in a manner acceptable by the Owner. Overhead is allowable in the amount of \_\_\_\_\_ % of \_\_\_\_\_  
The fixed fee shall be \$ \_\_\_\_\_
- 4.2 Consultant shall submit monthly statements for services and expenses incurred at the time of billing. Owner shall make prompt payments in response to consultant's monthly statements.

#### **Section 5 – General Considerations**

- 5.1 The obligation to provide further services under this Agreement may be terminated by either party upon ten days' written notice in the event of substantial failure by the other party to perform in accordance with the terms hereof, through no fault of the terminating party.
- 5.2 The Consultant shall comply with all applicable rules, regulations, laws, and requirements in relation to the Community Development Block Grant program as distributed by the Kansas Department of Commerce.
- 5.3 The Owner and Consultant each bind themselves and their partners, successors, executors, administrators, assigns, and legal representatives to the other party to this Agreement and to the partners, successors, executors, administrators, assigns, and legal representatives of such other party, in respect to all covenants, agreements, and obligations to this Agreement.
- 5.4 Neither Owner nor Consultant shall assign, sublet, or transfer any rights under or interest in (including, but without limitation, monies that may become due or monies that are due) this Agreement without the written consent of the other, except as stated in paragraph 5.3 and except to the extent that the effect of this limitation may be restricted by law. Unless specifically stated to the contrary in any written consent to or assignment, no assignment will release or discharge the assignor from any duty or responsibility under this Agreement. Nothing contained in this paragraph shall prevent the Consultant from employing such independent consultants, associates, and subcontractors as he may deem appropriate to assist him in the performance of services hereunder.

**Section 6 – Special Provisions and Exhibits**

- 6.1 The following exhibits are attached to and made part of this Agreement.
- 6.1.1 Exhibit A – “Scope of Services”, consisting of \_\_\_\_\_ pages.
- 6.1.2 Part II – “Terms and Conditions”, consisting of \_\_\_\_\_ pages.
- 6.2 This agreement (consisting of pages 1 to \_\_\_\_\_ , inclusive), together with the exhibits identified above, constitute the entire agreement between the owner and consultant and supersede all prior written or oral understandings. This agreement and said exhibits may only be amended, supplemented, modified, or canceled by a duly executed written instrument.

In witness whereof, the parties hereto have made and executed this Agreement as of the day and year first above written.

Owner:

Consultant:

\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_

## **Exhibit A – Scope of Service**

The consultant shall complete, in a professional and timely manner, the following services relative to the owner's Neighborhood Stabilization program. Such actions shall be performed in a manner prescribed by the Kansas Department of Commerce. (Note: Delete inapplicable phrases and initial.)

1. Financial management (accounting, file maintenance, cost documentation, Part 85/A-87 conformance, RFP preparation, and related matters).
2. Environmental review.
3. Labor Standards compliance.
4. Civil Rights compliance.
5. Public participation requirements (owner to pay for public notices).
6. Preparation of contract documents, except for engineering specifications.
7. Preparation of procurement documents for professional and construction contracts and a recommendation of successful proposals or bids.
8. Completion of close-out forms and required performance reports.
9. Preparation of guidelines, procedures, and forms for housing rehabilitation activities.
10. Preparation of guidelines, procedures, and forms for relocation activities, and administration of relocation procedures pursuant to the "Uniform Act".
11. Administer procedures required by the "Uniform Act" in relation to the acquisition of property.
12. Provide housing rehabilitation inspection services, including work write-ups, bidding, contractor recruitment, recommendations for contractor selection, periodic inspection of homes under construction, final approval, and homeowner counseling.



**(SHOULD BE INCLUDED IN ALL PROFESSIONAL SERVICES CONTRACTS OVER \$10,000)**

## **CONTRACT FOR PROFESSIONAL SERVICES**

### **Legal Document??**

#### **PART II – TERMS AND CONDITIONS**

1. Termination of Contract for Cause: If, through any cause, the Consultant shall fail to fulfill in a timely manner his/her obligations under this contract, or if the Consultant shall violate any of the covenants, agreements, or stipulations of this contract, the City shall thereupon have the right to terminate this contract by giving written notice to the Consultant of such termination and specifying the effective date thereof, at least five days before the effective date of such termination. In such event, all finished or unfinished documents, data, studies, surveys, drawings, maps, models, photographs, and reports prepared by the Consultant under this Contract shall, at the option of the City, become its property and the Consultant shall be entitled to receive just and equitable compensation for any work satisfactorily completed hereunder.

Notwithstanding the above, the Consultant shall not be relieved of liability to the City for damages sustained by the City by virtue of any breach of the contract by the Consultant, and the City may withhold any payments to the Consultant for the purpose of set-off until such time as the exact amount of damages due the City from the Consultant is determined.

2. Termination for Convenience of the City: The City may terminate this contract at any time by giving at least ten days notice in writing to the Consultant. If the Contract is terminated by the City as provided herein, the Consultant will be paid for the time provided and expenses incurred up to the termination date. If this contract is terminated due to the fault of the Consultant, Paragraph 1 hereof relative to termination shall apply.
3. Changes: The City may, from time to time, request changes in the scope of services of the Consultant to be performed hereunder. Such changes, including any increase or decrease in the amount of the Consultant's compensation, which are mutually agreed upon by and between the City and the Consultant, shall be incorporated in written amendments to this Contract.
4. Personnel:
  - a. The Consultant represents that he/she has, or will secure at his/her own expense, all personnel required in performing the services under this contract. Such personnel shall not be employees of, or have any contractual relationship with, the City.
  - b. All of the services required hereunder will be performed by the Consultant or under his/her supervision and all personnel engaged in the work shall be fully qualified and shall be authorized or permitted under state and local law to perform such services.

- c. None of the work or services covered by this contract shall be subcontracted without the prior written approval of the City. Any work or services subcontracted hereunder shall be specified by written contract or agreement and shall be subject to each provision of this contract.
5. Assign ability: The Consultant shall not assign any interest on this contract, and shall not transfer any interest in the same (whether by assignment or invitation), without the prior written consent of the City thereto; provided, however, that claims for money by the Consultant from the City under this contract may be assigned to a bank, trust company, or other financial institution without such approval. Written notice of any such assignment or transfer shall be furnished promptly to the City.
  6. Reports and Information: The Consultant, at such times and in such forms as the City may require, shall furnish the City such periodic reports as it may request pertaining to the work or services undertaken pursuant to this contract, the costs and obligations incurred or to be incurred in connection therewith, and any other matters covered by this contract.
  7. Records and Audits: The Consultant shall maintain accounts and records, including personnel, property and financial records, adequate to identify and account for all costs pertaining to the contract and such other records as may be deemed necessary by the City to assure proper accounting for all project funds, both federal and non-federal shares. These records will be made available for audit purposes to the City or any authorized representative, and will be retained for four years after the expiration of this contract unless permission to destroy them is granted by the City.
  8. Findings Confidential: All of the reports, information, data, etc., prepared or assembled by the Consultant under this contract are confidential and the Consultant agrees that they shall not be made available to any individual or organization without prior written approval by the City.
  9. Copyright: No report, maps, or other documents produced in whole or in part under this Contract shall be the subject of an application for copyright by or on behalf of the Consultant.
  10. Compliance with Local Laws: The Consultant shall comply with all applicable laws, ordinances and codes of the state and local governments, and the Consultant shall hold the City harmless with respect to any damages arising from tort done in performing any of the work embraced by this contract.
  11. Equal Employment Opportunity: During the performance of this contract, the Consultant agrees as follows:

- a. The Consultant will not discriminate against any employee or applicant for employment because of race, creed, sex, color, or national origin. The Consultant will take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to their race, creed, sex, color, or national origin. Such action shall include, but not be limited to, the following: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The Consultant agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the City setting forth the provisions of this non-discrimination clause.
- b. The Consultant will, in all solicitation or advertisements for employees placed by or on behalf of the Consultant, state that all qualified applicants will receive consideration for employment without regard to race, creed, color, sex, or national origin.
- c. The Consultant will cause the foregoing provisions to be inserted in all subcontracts for any work covered by this Contract so that such provisions will be binding upon each subcontractor, provided that the foregoing provisions shall not apply to contracts or subcontracts for standard commercial supplies or raw materials.
- d. The Consultant will comply with all provisions of Executive Order 11246 of September 24, 1965, and the rules, regulations, and relevant orders of the Secretary of Labor.
- e. The Consultant will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by the rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his/her books, records and accounts by the City's Department of Housing and Community Development and the Secretary of Labor for purposes of investigation to ascertain with such rules, regulations, and orders.
- f. In the event of the Consultant's non-compliance with the non-compliance clauses of this contract or with any such rules, regulations, or orders, this contract may be canceled, terminated or suspended in whole or in part and the Consultant may be declared ineligible for further government contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.

- g. The Consultant will include the provisions of paragraphs (a) through (g) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to Section 204 of Executive Order 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The Consultant will take such action with respect to any subcontract or purchase order as the City's Department of Housing and Community Development may direct as a means of enforcing such provisions including sanctions for noncompliance; provided, however, that in the event the Consultant becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the City's Department of Housing and Community Development, the Consultant may request the United States to enter into such litigation to protect the interests of the United States.
12. Civil Rights Act of 1964: Under Title VI of the Civil Rights Act of 1964, 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.
13. Section 109 of the Housing and Community Development Act of 1974:
- a. No person in the United States shall, on the grounds of race, color, national origin, 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 funds made available under this title.
14. "Section 3" Compliance in the Provision of Training, Employment and Business Opportunities: The work to be performed under this Contract is subject to the requirements of Section 3 of the Housing and Urban Development Act of 1968, as amended, 12 USC 1701u. The purpose of Section 3 is to ensure that employment and other economic opportunities generated by HUD assistance or HUD-assisted projects covered by Section 3 shall, to the greatest extent feasible be directed to low and very low-income persons, particularly persons who are recipients of HUD assistance for housing.

The parties to this contract agree to comply with HUD's regulations in 24 CFR Part 135, which implement Section 3. As evidenced by their execution of this contract, the parties to this Contract certify that they are under no contractual or other impediment that would prevent them from complying with Part 135 regulations.

The Contractor agrees to send to each labor organization or representative of workers with which the Contractor has a collective bargaining agreement or other understanding, if any, a notice advising the labor organization or workers' representative of the Contractor's commitments under this Section 3 clause and will post copies of the notice in conspicuous places at the work site where both employees and applicants for training and employment positions can see the notice. The notice shall describe the Section 3 preference, shall set forth minimum number and job titles subject to hire; availability of apprenticeship and training positions; the qualifications for each; the name and location of the person(s) taking applications for each of the positions; and the anticipated date the work shall begin.

The Contractor agrees to include this Section 3 clause in every subcontract subject to compliance with regulations in 24 CFR Part 135, and agrees to take appropriate action, as provided in an applicable provision of the subcontract or in this Section 3 clause, upon finding that the subcontractor is in violation of the regulations in 24 CFR Part 135. The Contractor will not subcontract with any subcontractor where the Contractor has notice or knowledge that the subcontractor has been found in violation of the regulations in 24 CFR Part 135.

The Contractor will certify that any vacant employment positions including training positions, that are filled (1) after the Contractor is selected but before the contract is executed, and (2) with persons other than those to whom the regulations of 24 CFR Part 135 require employment opportunities to be directed, were not filled to circumvent the Contractor's obligations under 24 CFR Part 135.

The Contractor agrees to submit such reports as required to document compliance with Part 135. Non-compliance with the regulations in 24 CFR Part 135 may result in sanctions, termination of this contract for default, and debarment or suspension from future HUD assisted contracts.

15. Interest of Members of a City: No member of the governing body of the City and no other officer, employee or agent of the City who exercises any functions or responsibilities in connection with the planning and carrying out of the program, shall have any personal financial interest, direct or indirect, in this contract; and the Consultant shall take appropriate steps to assure compliance.
16. Interest of Other Local Public Officials: No member of the governing body of the locality and no other public official of such locality, who exercises any functions or responsibilities in connection with the planning and carrying out of the program, shall have any personal financial interest, direct or indirect, in this contract; and the Consultant shall take appropriate steps to assure compliance.
17. Interest of Consultant and Employees: The Consultant covenants that he/she presently has no interest and shall not acquire interest, direct, or indirect, in the study area or any parcels therein or any other interest which would conflict in any manner or degree with the performance of their services hereunder. The Consultant further covenants that in the performance of this contract, no person having any such interest shall be employed.

SEE SECTION 10 FOR CIVIL RIGHTS REGULATIONS



## **Exhibit II - Procurement**

**(SAMPLE)**

### **REQUEST FOR QUALIFICATIONS**

#### **PROFESSIONAL ENGINEERING SERVICES**

The City of Laketown requests qualifications for engineering services to assist in a proposed NSP project financed with federal funds. The City intends to provide improvements to its municipal water distribution system. Information provided to the City must include:

- (a) The specialized experience and technical competence of the firm with respect to water system improvements or related work;
- (b) The capacity and capability of the firm to perform the work in question, including specialized services, within a period of twelve months beginning January, 2\_\_\_\_;
- (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; and
- (e) References from all previous clients involved with the firm within the past five years. Ability to begin work immediately and guarantee submittal to Kansas Department of Health and Environment (KDHE) within twelve months plus (c) above shall receive primary consideration.

This information must be submitted no later than \_\_\_\_\_, 5:00 p.m., at Laketown City Hall. For more information, please contact Gerald Brown at (785) 555-9897.

(date)

The City of Laketown is an Equal Opportunity Employer and invites the submission of qualifications from minority and women-owned firms.

(SAMPLE)

## REQUESTS FOR PROPOSALS

### PROFESSIONAL ADMINISTRATION SERVICES

The City of Anytown requests proposals for administrative services to assist in a proposed project financed with \$250,000 in Neighborhood Stabilization Program (NSP) funds. The remainder of the project is being financed by the city's \$300,000 bond issue. The project consists of replacement of 4,500 l.f. of 6" municipal water distribution lines and construction of a 150,000 gallon elevated storage tank.

Administration services shall include, but are not limited to, the implementation of the project in conformance with the following NSP compliance area: environmental review, financial management, procurement, labor standards, equal opportunity/civil rights, citizen participation, acquisition/relocation, and close-out.

Information provided to the city shall include:

- a) The specialized experience and technical competence of the firm with respect to grant administration and related work;
- b) The past record of performance of the firm with respect to such factors as accessibility to clients, quality of work, and ability to meet schedules;
- c) The firm's proximity to and familiarity with the area in which the project is located;
- d) The capability of carrying out all aspects of grant related activities;
- e) Cost of services;
- f) References from previous clients of related work with the firm within the past five years; (a), (b), and (d) above shall receive priority weighting in the final selection.

This information should be submitted no later than \_\_\_\_\_, 5:00 p.m., City Hall, 111  
(date)

First Street, Anytown, KS 66000. For more information contact City Clerk at 555-555-5555. The City of Anytown, is an Equal Opportunity Employer, and invites the submission of proposals from minority and women-owned firms.

## **EXHIBIT III – PROCUREMENT**

### **BONDING AND INSURANCE REQUIREMENTS**

- A. The government-wide grants management common rule, “Uniform Administrative Requirements for Grants to State and Local Governments,” contains bonding requirements only for circumstances when a grantee contracts for construction or facility improvement (including alteration and renovation) and the bids and contracts exceed \$100,000. The following types of bonds are required in the procurement” section of the common rule:
- A bid guarantee equal to at least five percent of the proposed contract amount, secured through a bid loan or a certified check;
  - A 100 percent “performance bond” on the part of the contractor to secure fulfillment of all the contractor’s obligations under the contract; and
  - A 100 percent “payment bond” on the part of the contractor to assure payment, as required by law, of all persons supplying labor and materials as part of work provided under the contract.
- B. The State of Kansas NSP program, through adoption of the federal policy and amending it to fit the State’s program needs, extends the above bonding requirements to cover all contracts that exceed \$25,000. Allowance is made for local requirements to prevail for contracts between \$25,000 and \$100,000 as long as the bid and the subsequent contract is secured to protect the grantee and the Federal funds. NSP/CDBG also recommends some type of security on all construction contracts under \$25,000, such as a line of credit, cash deposit in bank for term of project, etc.
- C. The Department reserves the right to promulgate and enforce bonding procedures and requirements applicable to any project.
- D. All bonds shall be procured from a surety company registered and licensed to do business in the State of Kansas and countersigned by its Kansas resident agent.
- E. Grantees are advised to review the requirements to ensure contracting occurs in accordance with state law.

## Section 7: Environmental Review

### I. ENVIRONMENTAL REVIEW REQUIREMENTS

The National Environmental Policy Act of 1969 established national policy for protecting, restoring, and enhancing environmental quality. For the Neighborhood Stabilization Program, units of general local government assume responsibility for compliance with NEPA and NEPA-related federal environmental authorities through execution of a grant agreement with the State and by the grantee's certification to the State (as evidenced by execution of form HUD-7015.15, "Request for Release of Funds and Certification"). The HUD regulations for compliance with NEPA by local governments, a.k.a., "Responsible Entities," are found at 24 CFR Part 58. The grantee is also required to comply with other federal, state, and local environmental laws and authorities, as applicable.

#### **Important Points:**

- Once the grantee anticipates utilizing NSP funding, no choice limiting action can be taken on the project by any party in the development process, including contractors, until the environmental review for the project has been approved in accordance with Part 58. This specifically precludes any construction or choice limiting action from occurring until the project receives environmental approval. Choice limiting actions include real property acquisition, repair, rehabilitation, construction, demolition, site clearance, or leasing activities. In addition, until the environmental review is approved, neither NSP funds nor non-NSP funds can be committed to the project for any choice limiting activity.
- This section only provides general guidance for environmental compliance. Grantees with particular concerns or questions should refer to Part 58 regulations (Appendix J), review related state-provided training materials, and/or consult with Commerce staff to ascertain compliance requirements.
- No NSP funds can be released, obligated, or incurred until the environmental review process is completed and cleared by the State.

In the preparation of an environmental review, the following guidelines should be kept in mind:

- All grantees must maintain an Environmental Review Record regardless of the type of project. The ERR is the written documentation of the grantee's environmental review, decision-making and action. The ERR is a legal document and must be retained by the grantee and be available to public review.
- The environmental review process evaluates the impact of projects upon the human and natural environment, and describes any actions or conditions that are needed to mitigate or minimize adverse impacts.
- A grantee should consider environmental issues as early as possible in the project's planning.

- Each grantee is required to designate an environmental review officer who will be responsible for managing the environmental review process and ensuring the environmental review is completed properly.
- The most relevant and recent sources of information, people, reports, maps, etc., should be used in preparing the environmental review.

## **II. THE ENVIRONMENTAL REVIEW PROCESS**

### **A. Aggregation of Activities for the Environmental Review Process**

The grantee must group together and evaluate as a single project all individual activities which are related on a geographic basis (i.e. site specific) or a functional basis (i.e. activity specific), are logical parts of a larger project, are funded by several Federal programs, or are partly funded with non-Federal resources. The purpose of aggregation is to reduce the number of individual reviews by analyzing the impacts of the "entire" proposed activity.

### **B. Tiering the Environmental Review**

A tiered environmental review allows for a general assessment of the impacts of an activity - for example, acquisition of foreclosed homes, demolition of blighted properties, or land banking - on the environment prior to identification of a specific site.

#### Tier 1: Target Area Assessment

The focus of a Tier 1 review is on a targeted geographic area. It's important that the boundaries of the target area are clearly defined so the scope of environmental conditions under consideration is evident. Since Grantees are already required to target geographic areas for NPS-funded activities, it should be simple to define and describe these areas.

The Tier 1 review addresses and analyzes those environmental impacts related to the proposed activities that might occur on a typical site within the geographic area. This includes examining the applicable laws and authorities (e.g., floodplains, coastal zones, wetlands, aboveground storage tanks, etc.) For example, if the target area is not within a 100-year floodplain or a coastal zone management area, none of the project sites will be affected no matter where they are located in the target area. On the other hand, if a portion of the target area is within a 100-year floodplain, then a Grantee must complete the required compliance process (24 CFR § 55.20) to decide whether or not to fund any future projects within the floodplain, including whether mitigation measures are feasible.

For activities requiring an environmental assessment, the Tier 1 review must also assess project effects related to a longer list of environmental factors (e.g., compatibility with surrounding land uses, conformance with zoning plans, nuisances that affect site safety, displacement of people or businesses, solid waste management, etc.)



All environment compliance requirements satisfactorily resolved in this first level of review, meaning findings of no impact or impacts requiring mitigation, are excluded from any additional examination or consideration once the Tier 1 review is completed.

However, the Tier 1 review also identifies those compliance requirements that cannot be resolved until specific project locations become known. Site specific issues that cannot be resolved in a Tier 1 review may include: aboveground storage tanks that present a safety hazard to buildings and occupants of buildings; new residential units located in close proximity to a freeway that generates high levels of noise; soils that aren't suitable for multifamily structures; or asbestos removal that may be necessary. The Tier 2 Site Specific Review will address such issues.

During the Tier 1 review process the Grantee develops and describes written standards (usually a checklist and accompanying narrative) that will be used during the Tier 2 Site Specific Project Review. These written standards are used to identify potential environmental impacts, as well as help a Grantee choose appropriate sites. In developing the standards, the grantee must anticipate any special conditions (mitigation measures) that must be met and carried out as part of an approved project if a potential environmental impact is associated with the site.

Upon completion of the Tier 1 review, including the written standards to be used during the Tier 2 process, the Grantee then must mail a notice to known interested persons and groups; the local news media; the appropriate tribal, local, State and Federal agencies; the EPA Regional Office having jurisdiction; and the HUD Field Office. In addition, the Grantee must publish the notice.

The Grantee must consider and respond to any comments it receives. A copy of the notice and Request for Release of Funds and Certification (HUD form 7015.15) is then submitted to HUD (or in the case of a State Recipient, to the State) for approval. Once approval from HUD (or the State) is received, the Grantee is able to commit and expend funds without further approval from HUD (or the State).

The Tier 1 environmental review process concludes with the release of funds. It may take 60 days to complete and only needs to be done once, as long as the target area boundaries do not change, project activities remain the same, and environmental conditions do not change.

## Tier 2: Site Specific Project Review

The Tier 2 review focuses only on the environmental compliance requirements that could not be resolved in the Tier 1 Target Area Assessment. So, there is much less documentation to prepare at this level and the review usually can be done more quickly. In addition, the grantee does not have to issue a public notice or submit a Request for Release of Funds and Certification to HUD (or in the case of a State Recipient, to the State) after this review is completed.

When the Grantee identifies specific properties or sites within the target area and is ready to obligate funds (e.g. to buy a property, finance repairs, demolish a structure, etc.) the Grantee uses the written standards (checklist and narratives) set forth in the Tier 1 review process to determine if there are any environmental issues associated with the site. This Site Specific Project Review

documents in writing that compliance standards for the specific project are met, and that required mitigation measures, if any, will be incorporated into the project.

- If the Site Specific Project Review indicates that there are no issues, the Grantee is free to obligate and expend funds (assuming all other program requirements have been met).
- If the Site Specific Project Review indicates that there are issues, the Grantee may decide to move on to another site, or proceed with the site, or proceed with the site but mitigate the impacts. For example:
  - If a home to be acquired and renovated is located within an airport clear zone (APZ), the Grantee must find another site because using NPS funds for renovation of a building in an APZ is prohibited [24 CFR § 51.302(b)].
  - If a home to be acquired and renovated is located near an above ground storage tank, the Site Specific Project Review would note the presence of the tank and indicate the action will not increase unit density or make a vacant building habitable, after which the Grantee may proceed with the project (24 CFR § 51.201).
  - If that same home is an historic building, the Site Specific Project Review would note that consultation with the State Historic Preservation Officer was completed and would identify required mitigation measures to be implemented as part of the project.

The Tier 2 review must be completed before funds (including non-NSP funds) are committed or expended on the project. The Tier 2 Site Specific Project Review must be maintained in the Grantee's files and becomes part of the Environmental Review Record.

The environmental review for a specific property or site would now be concluded. No further action or approval by the State is required of the Grantee.

### **C. Creating the Environmental Review Record (ERR)**

The grantee must maintain a written record of the environmental review undertaken for each project and make the record available for public review at the grantee's address. The ERR must provide a clear description of the proposed project and environmental review process carried out from start to finish including, but not limited to, the following:

1. Detailed project description that includes all funding sources and all project activities. The project description must be supplemented, as appropriate, with maps, site plans, building plans, elevations, photographs, and other information that clearly convey the full extent of the project's potential impact.
2. Describe the pre-existing environmental conditions at the project site.

3. “Determination of Level of Environmental Review” form, signed by the grantee’s Certifying Officer. Due to the need to aggregate the environmental review, most NSP grants will be subject to Environmental Assessment.
4. Completed State approved environmental review forms, as applicable (e.g. “Statutory Checklist” or “Environmental Assessment”).
5. Supporting documentation found acceptable for all factors in the Statutory Checklist or Environmental Assessment. These include maps, web-based material, color photographs, record of site visits and agency consultation, and agency comments and clearances, etc. Documentation must be based on verifiable and qualified sources. Proprietary material and special studies must be included in the ERR (Examples: noise analysis, archeological study, wetland delineation, Phase I or II environmental site assessment, radon study, memorandum of agreement.)
6. For an Environmental Assessment, a description of project alternatives considered.
7. Clear description of the conditions of environmental approval and mitigation or minimization measures required for the project, as appropriate.
8. Evidence of public involvement and copies of the required published public notices.
9. “Request for Release of Funds and Certification” (form HUD-7015.15).
10. State’s formal release of funds/authority to use grants funds.

The ERR is a legal document. It is the best, and sometimes only, defense to prove that compliance was achieved with applicable laws and regulations. It should result in a complete record supporting each step of the environmental process ending in the final determination of the level of impact.

#### **D. Developing the Project Description**

The project description is critical in determining the level of environmental review required. A reader should be able to clearly understand the location, scope, scale, nature, and extent of the proposed project from the description in the ERR. At a **minimum**, the project description should contain the following:

1. ALL proposed project activities in detail, regardless of funding source.
2. Entire project scope and all phases of the project from beginning to end.
3. Exact project location, supported by a location map.
4. Photographs, site plans, project plans, renderings, and maps (e.g. topographic, aerial).

5. Total project costs by all funding sources.
6. Explain existing environmental conditions at and around the project site. In addition, how this is expected to change because of the project.
7. Temporary impacts anticipated by construction activities and a timeline for construction.
8. Other information as recommended by Commerce/KHRC.

### **III. THE ENVIRONMENTAL REVIEW PROCESS**

It is important that the grantee is aware that through certification of the “Request for Release of Funds and Certification” (Appendix J), the grantee assumes the role of responsible federal official under NEPA and accepts the jurisdiction of the Federal courts for any enforcement action that may be brought in connection with grantee’s environmental review, decision-making and action. The chief elected official assumes this responsibility for the community when he/she signs the Certification.

**NOTE: Grantees should not rely solely on agency comments to complete the preparation of environmental reviews. A project’s compliance with certain applicable laws and authorities cited at §58.5 may require compliance with procedures or requirements that lie outside the direct purview of federal, state, and local agencies. Compliance with certain authorities may require the preparation of special studies or analysis by qualified professionals. This is applicable for all levels of review (except for projects that are Exempt).**

Five levels of environmental review apply to NSP funded projects. The Determination of Review Level (Appendix C) must always be completed and submitted to Commerce.

- Exempt
- Categorically Excluded
  - “Subject To” authorities at §58.5
  - “Not Subject To” authorities at §58.5
- Environmental Assessment
- Environmental Impact Statement

Each level is briefly summarized below:

#### **Exempt Projects (24 CFR Part 58.34)**

Certain eligible activities are exempt from the requirements of NEPA and other environmental laws cited at §58.5. Project activities considered exempt have been determined not to alter any conditions that would require a review or compliance determination under the federal laws and agencies.

**NOTE:** None of the NSP activities fall under the exempt classification. For complete list of the twelve exemptions, see 24 CFR Part 58.34.

### **Categorically Excluded Projects (24 CFR Part 58.35)**

Categorically excluded (CE) activities do not individually or cumulatively have a significant impact on the environment. There are two classifications of Categorically Excluded activities. By regulation, these are Categorically Excluded NOT SUBJECT TO related authorities as per Part 58.35(b), and Categorically Excluded "SUBJECT TO" related authorities as per Part 58.35(a).

**NOTE:** The following is not an all-inclusive listing. The references only include projects typically funded by the State of Kansas NSP program. For a complete listing of CE projects, refer to 24 CFR Part 58.35. The numbering used below corresponds to the regulation.

### **Categorically Exclusions Not Subject To (CENST)**

(5) Activities to assist homebuyers to purchase existing dwelling units or dwelling units under construction, including closing costs and down payment assistance, interest buydowns, and similar activities that result in the transfer of title.

**NOTE:** As these are homes the grantee has likely either rehabilitated and/or constructed, and due to aggregation, financing mechanisms under NSP are likely tied to activities requiring an environmental assessment.

### **Categorically Exclusions Subject To (CEST)**

- (1) Acquisition, repair, reconstruction, or rehabilitation of public facilities and improvements (other than buildings) when the facilities and improvements are in place and will be retained in the same use without change in size or capacity no more than 20 percent (e.g. replacement of water or sewer lines, reconstruction of curbs and sidewalks, repaving of streets).
- (2) Removal of material and architectural barriers that restrict the mobility and accessibility of elderly and disabled persons.
- (3) Rehabilitation of buildings and improvements when the following conditions are met:
  - (i) In the case of a building for residential use (with one to four units), the density is not increased, the land use is not changed, and the footprint of the building is not increased in a floodplain or in a wetland;
- (5) Acquisition (including leasing) or disposition of, or equity loans on an existing structure, or acquisition (including leasing) of vacant land if the structure or land acquired, financed or disposed of will be retained for the same purpose.



(6) Combinations of the above activities.

Grantees need to coordinate activities with federal, state, and local agencies responsible for implementing environmental laws applicable to the project. Written clearance needs to be obtained from the agencies that may have comments or questions regarding each project. A sample list of appropriate federal and state agencies has been provided (Appendix A). The Statutory Checklist (Appendix D) and Additional HUD Requirements (Appendix E) are to be used for the review of applicable statutes and regulations.

These activities also require a public notice, Notice of Intent to Request a Release of Funds (NOI/RROF) (Appendix F) to be published at least once in a newspaper of general circulation in the affected community(ies). If there is no local newspaper, it is recommended the notice be published in the official county paper. This notice must inform the public where comments will be received for a minimum of seven days; comments must be directed to the unit of general local government. After the seven-day local comment period has elapsed, the request for Release of Funds Certification (Appendix J), Determination of Review Level (Appendix C), Statutory Checklist (Appendix D), Additional HUD Requirements (Appendix E), and a copy of the public notice affidavit must be submitted to our office.

Upon receipt of these documents, Commerce allows 15 days (or the period stated in the public notice, if longer) for objections by the public concerning procedural issues. If no permissible objection about the project is made during the comment period, Commerce will release funds for the project by providing the grantee written authority to use NSP funds, upon the receipt of which the grantee is free to undertake the choice limiting activities described in the projects ERR.

The steps to take for Categorical Exclusion Projects can be found in Appendix B-2.

### **Environmental Assessment Projects (24 CFR Part 58.36)**

New construction and/or an increase of 20 percent or more capacity will automatically trigger a full environmental assessment. Any project that entails a choice-limiting action that cannot be classified as an activity or project that is CE, as listed above, by default is a project for which an Environmental Assessment (EA) must be prepared. Example: If a project contains demolition (by itself or in conjunction with other activities), an EA is required.

The EA is used to identify and assess the significance of potential environmental impacts an activity may cause. The EA determines the degree of significance for a project, which is reflected in either a Finding of No Significant Impact (FONSI) or a Finding of Significant Impact (FOSI).

When preparing an assessment, the grantee needs to follow 24 CFR Part 58.40:

- (a) Determine existing conditions and describe the character, features and resources of the project and its surroundings.
- (b) Identify all potential environmental impacts, whether beneficial or adverse, and the conditions that would change because of the project.
- (c) Identify, analyze, and evaluate all impacts to determine the significances of their effects on the environment and whether the project will require further compliance under related laws and authorities.
- (d) Examine and recommend feasible ways in which the project or external factors relating to the project could be modified in order to eliminate or minimize adverse environmental impacts.
- (e) Examine alternatives to the project itself including the alternative of no action.
- (f) Complete all environmental review requirements necessary of the project compliance with appropriate authorities.
- (g) Based on steps above (a – f) the grantee will determine the project to be:
  - (1) A Finding of No Significant Impact (FONSI), in which the grantee determines that the project is not an action that will result in a significant impact on the quality of the environment. The grantee may proceed with publications.
  - (2) Finding of Significant Impact (FOSI), in which the project is deemed an action, which may significantly affect the quality of the environment. The grantee must then proceed to an Environmental Impact Statement (EIS).

The format for the EA that will need to be completed is provided in Appendix G.

If the grantee determines the project will not have a significant impact on the environment, a combined Notice of Finding of No Significant Impact (FONSI) and Notice of Intent to Request Release of Funds (NOI/RROF) (Appendix H) is published. This notice must inform the public where comments will be received for a minimum of 15 days; comments must be directed to the unit of general local government. After the 15-day local comment period has elapsed, the Request for Release of Funds and Certification (Appendix J), Determination of Review Level (Appendix C), Environmental Assessment (Appendix G), and the public notice affidavit must be submitted to Department of Commerce.

Upon receipt of these documents, Commerce allows 15 days (or the period stated in the public notice, if longer) for objections by the public concerning procedural issues. If no permissible objection about the project is made during the comment period, Commerce will release funds for the project by providing the grantee written authority to use NSP funds, upon the receipt of which the grantee is free to undertake the choice limiting activities described in the projects ERR.

The steps to take for EA projects can be found in Appendix B-3. The agencies that must be contacted for environmental clearance can be found in Appendix A.

## **Environmental Impact Statements (24 CFR Part 58.37)**

Compliance guidance for projects that may cause a significant impact is not discussed in this section. Projects that have the potential to cause significant impact require preparation of an Environmental Impact Statement (EIS). If the outcome of the EA is a finding of significant impact or if it is apparent that the project could result in a significant impact, Commerce staff must be consulted for direction. Environmental impacts may be significant individually or in combination with other impacts, including impacts that are indirect and impacts that are cumulative.

If the grantee determines the proposed project is a “major federal action that will affect the quality of the human environment”, an Environmental Impact Statement (EIS) must be prepared. Projects that constitute a major federal action include, but are not limited to, the construction or acquisition of land for 2,500 or more residential units or water/sewer projects that would service 2,500 or more residential units. Projects that would “remove” the habitat of any endangered animal or plant life may also be classified as a major federal action.

Since the preparation of an EIS is rare in the NSP program, the procedures for an EIS are not outlined. In cases where conditions may require an EIS, the grantee should contact the NSP Environmental Review Officer for direction.

## **IV. FEDERAL LAWS AND AUTHORITIES (24 CFR Part 58.5), relating to NSP**

All projects classified as CEST or EA must comply with other relevant federal, state, and local laws and authorities. Written clearance needs to be obtained from the agencies that may have comments or questions regarding each project. The grantee must assume responsibility and certify that it has complied with the requirement that would apply to HUD under these laws and authorities and must consider the criteria, standards, policies and regulation of the following laws and authorities.

- a. Air Quality
  1. The Clean Air Act
  2. Environmental Protection Agency – 40 CFR Part 6, 51, and 93
- b. Airport Hazards
  1. 24 CFR Part 51-D “Siting of HUD-Assisted Projects in Runway Clear Zones at Civil Airports and Clear Zones and Accident Potential Zones at Military Airfields” (HUD)
- c. Coastal Zone Management (no coastal zones in Kansas)

- d. Contamination and Toxic Substances
  - 1. 24 CFR Part 58.5 (i) (2)
- e. Endangered Species – The Endangered Species Act of 1973
- f. Environmental Justice. Executive Order 12898
- g. Explosive and Flammable Operations
  - 1. Housing and Community Development Act of 1974, as amended.
  - 2. 24 CFR Part 51 Subpart C “Siting of HUD-Assisted Projects Near Hazardous Operations Handling Petroleum Products or Chemicals of an Explosive or Flammable Nature” (HUD)
- h. Farmlands Protection
  - 1. Farmland Protection Act of 1981
  - 2. Farmland Protection Policy (Dept. of Agriculture – 7 CFR Part 658)
- i. Floodplain Management and Wetland Protection
  - 1. 24 CFR Part 55.20, 8-Step Process
  - 2. Executive Order 11988, Floodplain Management
  - 3. Executive Order 11990, Protection of Wetlands
- j. Historical Preservation
  - 1. The National Historic Preservation Act of 1966 particularly Sections 106 and 110
  - 2. Executive Order 11593, Protection, and Enhancement of the Cultural Environment.
  - 3. Federal historic Preservation: 36 CFR Part 800
  - 4. The Reservoir Salvage Act of 1960 as amended by the Archeological and Historic Preservation Act of 1974
- k. Noise Control
  - 1. Noise Control Act of 1972, as amended by the Quiet Communities Act of 1978.
  - 2. 24 CFR Part 51 Subpart B “Noise Abatement and Control” (HUD)
- l. Sole Source Aquifers
  - 1. The Safe Drinking Water Act of 1974
  - 2. Sole Source Aquifers (Environmental Protection Agency – 40 CFR Part 149)
- m. Wetland Protection
  - 1. E.O. 11990, “Protection of Wetlands,” particularly sections 2 & 5.
- n. Wild and Scenic Rivers
  - 1. The Wild and Scenic Rivers Act of 1968

**Other requirements (24 CFR Part 58.6), relating to NSP**

Flood Disaster Protection Act (Flood Insurance)  
Coastal Barrier Resources Act/Coastal Barrier Improvement Act (no coastal barriers in Kansas)  
Airport Runway Clear Zone

**V. RE-EVALUATION OF ASSESSMENT FINDINGS and other environmental findings (24 CFR Part 58.47), relating to NSP**

- (a) A grantee must re-evaluate the environmental findings when:
- (1) Substantial change is proposed in the nature, magnitude, or extent of the project, including adding new activities not anticipated in the original scope of the project;
  - (2) There are new circumstances and environmental conditions that may affect the project or have a bearing on its impact, such as concealed or unexpected conditions discovered during the implementation of the project or activity which is proposed to be continued; or
  - (3) The grantee proposes the selection of an alternative not in the original finding.
- (b) (1) If the original findings are still valid but the data or conditions upon which they were based have changed, the grantee must affirm the original findings and update its ERR by including this re-evaluation and its determination based on its finding. Under these circumstances, if a FONSI notice has already been published, no further publication is required.
- (2) If the grantee determines that the original findings are no longer valid, it must prepare an EA or an EIS if its evaluation indicates potentially significant impacts.

The purpose of a re-evaluation of the EA is to update the environmental record and determine if the FONSI is still valid. If the FONSI is still valid, but the data or conditions upon which it was based have changed, the grantee must amend the original assessment and update the ERR with this re-evaluation and its new findings. If the grantee determines the FONSI is no longer valid, it must prepare a new EA or an EIS, if its evaluation indicates potentially significant impact(s).

**VI. SUMMARY**

To summarize, it is important to remember the following:

- A. An Environmental Review Record (ERR) must be maintained for all projects.
- B. No NSP funds can be released, obligated, or incurred until the environmental review process has been completed and cleared by the State.
- C. The chief elected official assumes this responsibility for the community when he/she signs the Certification for Request for Release of Funds.

- D. Projects that are not Exempt or Categorically Excluded Not Subject To (CENST) must undergo a formal environmental review in the form of a Statutory Checklist or an Environmental Assessment, as appropriate.
- E. Environmental notices must be sent to the appropriate state and local agencies, individuals and groups known to be interested in the project activities for both Categorically Excluded Subject To (CEST) projects and projects that require an Environmental Assessment. However, grantees should not rely solely on agency comments to complete the preparation of environmental reviews.
- F. Participation in the National Flood Insurance Program (NFIP) is required for the Grantee when any part of the project is located within the 100-year floodplain. Also, the complete 8-step Floodplain Management process must be followed and submitted to the department when applicable.
- G. Commerce will send a Notice of Approval for the Request for Release of Funds (RROF) to the Grantee once the state objection period has elapsed.
- H. Any significant changes in a project requires the re-assessment of the projects impacts/findings with possible state and local agencies contacted, public notices, and a new Request for Release of Funds Certification to be submitted to Commerce.
- I. Grantees must comply with other applicable laws found in 24 CFR Part 58.5. These include historic preservation, endangered species, floodplain management, farmlands protection, wetland protection, air quality, water quality – sole source aquifers, airport clear zones, contamination and toxic substances, environmental justice, explosive and flammable operations, noise control, asbestos, and radon.



(2) Under § 55.20(e), measures to minimize the potential adverse impacts of the proposed action on the affected floodplain as identified in § 55.20(d) have been applied to the design for the proposed action.

(b) For purposes of compliance with § 55.24, § 55.25, or § 55.26 (as appropriate), the responsible HUD official (or the Certifying Officer for a grant recipient subject to 24 CFR part 58) who would approve the proposed action shall require documentation of compliance with the required conditions.

(c) Documentation of compliance with this part (including copies of public notices) must be attached to the environmental assessment, the environmental impact statement or the compliance record and be maintained as a part of the project file. In addition, for environmental impact statements, documentation of compliance with this part must be included as a part of the record of decision (or environmental review record for grant recipients subject to 24 CFR part 58).

## **PART 58—ENVIRONMENTAL REVIEW PROCEDURES FOR ENTITIES ASSUMING HUD ENVIRONMENTAL RESPONSIBILITIES**

### **Subpart A—Purpose, Legal Authority, Federal Laws and Authorities**

Sec.

- 58.1 Purpose and applicability.
- 58.2 Terms, abbreviations and definitions.
- 58.4 Assumption authority.
- 58.5 Related Federal laws and authorities.
- 58.6 Other requirements.

### **Subpart B—General Policy: Responsibilities of Responsible Entities**

- 58.10 Basic environmental responsibility.
- 58.11 Legal capacity and performance.
- 58.12 Technical and administrative capacity.
- 58.13 Responsibilities of the certifying officer.
- 58.14 Interaction with State, Federal and non-Federal entities.
- 58.15 Tiering.
- 58.17 [Reserved]
- 58.18 Responsibilities of States assuming HUD environmental responsibilities.

### **Subpart C—General Policy: Environmental Review Procedures**

- 58.21 Time periods.
- 58.22 Limitations on activities pending clearance.
- 58.23 Financial assistance for environmental review.

### **Subpart D—Environmental Review Process: Documentation, Range of Activities, Project Aggregation and Classification**

- 58.30 Environmental review process.
- 58.32 Project aggregation.
- 58.33 Emergencies.
- 58.34 Exempt activities.
- 58.35 Categorical exclusions.
- 58.36 Environmental assessments.
- 58.37 Environmental impact statement determinations.
- 58.38 Environmental review record.

### **Subpart E—Environmental Review Process: Environmental Assessments (EA's)**

- 58.40 Preparing the environmental assessment.
- 58.43 Dissemination and/or publication of the findings of no significant impact.
- 58.45 Public comment periods.
- 58.46 Time delays for exceptional circumstances.
- 58.47 Re-evaluation of environmental assessments and other environmental findings.

### **Subpart F—Environmental Review Process: Environmental Impact Statement Determinations**

- 58.52 Adoption of other agencies' EISs.
- 58.53 Use of prior environmental impact statements.

### **Subpart G—Environmental Review Process: Procedures for Draft, Final and Supplemental Environmental Impact Statements**

- 58.55 Notice of intent to prepare an EIS.
- 58.56 Scoping process.
- 58.57 Lead agency designation.
- 58.59 Public hearings and meetings.
- 58.60 Preparation and filing of environmental impact statements.

### **Subpart H—Release of Funds for Particular Projects**

- 58.70 Notice of intent to request release of funds.
- 58.71 Request for release of funds and certification.
- 58.72 HUD or State actions on RROFs and certifications.
- 58.73 Objections to release of funds.

## § 58.1

- 58.74 Time for objecting.
- 58.75 Permissible bases for objections.
- 58.76 Procedure for objections.
- 58.77 Effect of approval of certification.

AUTHORITY: 12 U.S.C. 1707 note, 1715z-13a(k); 25 U.S.C. 4115 and 4226; 42 U.S.C. 1437x, 3535(d), 3547, 4332, 4852, 5304(g), 11402, 12838, and 12905(h); title II of Pub. L. 105-276; E.O. 11514 as amended by E.O. 11991, 3 CFR 1977 Comp., p. 123.

SOURCE: 61 FR 19122, Apr. 30, 1996, unless otherwise noted.

### Subpart A—Purpose, Legal Authority, Federal Laws and Authorities

#### § 58.1 Purpose and applicability.

(a) *Purpose.* This part provides instructions and guidance to recipients of HUD assistance and other responsible entities for conducting an environmental review for a particular project or activity and for obtaining approval of a Request for Release of Funds.

(b) *Applicability.* This part applies to activities and projects where specific statutory authority exists for recipients or other responsible entities to assume environmental responsibilities. Programs and activities subject to this part include:

(1) Community Development Block Grant programs authorized by Title I of the Housing and Community Development Act of 1974, in accordance with section 104(g) (42 U.S.C. 5304(g));

(2) [Reserved]

(3)(i) Grants to states and units of general local government under the Emergency Shelter Grant Program, Supportive Housing Program (and its predecessors, the Supportive Housing Demonstration Program (both Transitional Housing and Permanent Housing for Homeless Persons with Disabilities) and Supplemental Assistance for Facilities to Assist the Homeless), Shelter Plus Care Program, Safe Havens for Homeless Individuals Demonstration Program, and Rural Homeless Housing Assistance, authorized by Title IV of the McKinney-Vento Homeless Assistance Act, in accordance with section 443 (42 U.S.C. 11402);

(ii) Grants beginning with Fiscal Year 2001 to private non-profit organi-

## 24 CFR Subtitle A (4-1-04 Edition)

zations and housing agencies under the Supportive Housing Program and Shelter Plus Care Program authorized by Title IV of the McKinney-Vento Homeless Assistance Act, in accordance with section 443 (42 U.S.C. 11402);

(4) The HOME Investment Partnerships Program authorized by Title II of the Cranston-Gonzalez National Affordable Housing Act (NAHA), in accordance with section 288 (42 U.S.C. 12838);

(5) Grants to States and units of general local government for abatement of lead-based paint and lead dust hazards pursuant to Title II of the Departments of Veterans Affairs and Housing and Urban Development and Independent Agencies Appropriations Act, 1992, and grants for lead-based paint hazard reduction under section 1011 of the Housing and Community Development Act of 1992, in accordance with section 1011(o) (42 U.S.C. 4852(o));

(6)(i) Public Housing Programs under Title I of the United States Housing Act of 1937, including HOPE VI grants authorized under section 24 of the Act for Fiscal Year 2000 and later, in accordance with section 26 (42 U.S.C. 1437x);

(ii) Grants for the revitalization of severely distressed public housing (HOPE VI) for Fiscal Year 1999 and prior years, in accordance with Title II of the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1999 (Pub. L. 105-276, approved October 21, 1998); and

(iii) Assistance administered by a public housing agency under section 8 of the United States Housing Act of 1937, except for assistance provided under part 886 of this title, in accordance with section 26 (42 U.S.C. 1437x);

(7) Special Projects appropriated under an appropriation act for HUD, such as special projects under the heading "Annual Contributions for Assisted Housing" in Title II of various Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Acts, in accordance with section 305(c) of the Multifamily Housing Property Disposition Reform Act of 1994 (42 U.S.C. 3547);



(8) The FHA Multifamily Housing Finance Agency Pilot Program under section 542(c) of the Housing and Community Development Act of 1992, in accordance with section 542(c)(9)(12 U.S.C. 1707 note);

(9) The Self-Help Homeownership Opportunity Program under section 11 of the Housing Opportunity Program Extension Act of 1996 (Pub. L. 104-120, 110 Stat. 834), in accordance with section 11(m);

(10) Assistance provided under the Native American Housing Assistance and Self-Determination Act of 1996 (NAHASDA), in accordance with:

(i) Section 105 for Indian Housing Block Grants and Federal Guarantees or Financing for Tribal Housing Authorities (25 U.S.C. 4115 and 4226); and

(ii) Section 806 for Native Hawaiian Housing Block Grants (25 U.S.C. 4226);

(11) Indian Housing Loan Guarantees authorized by section 184 of the Housing and Community Development Act of 1992, in accordance with section 184(k) (12 U.S.C. 1715z-13a(k)); and

(12) Grants for Housing Opportunities for Persons with AIDS (HOPWA) under the AIDS Housing Opportunity Act, as follows: competitive grants beginning with Fiscal Year 2001 and all formula grants, in accordance with section 856(h) (42 U.S.C. 12905(h)); all grants for Fiscal Year 1999 and prior years, in accordance with section 207(c) of the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1999 (Pub. L. 105-276, approved October 21, 1998).

(c) When HUD assistance is used to help fund a revolving loan fund that is administered by a recipient or another party, the activities initially receiving assistance from the fund are subject to the requirements in this part. Future activities receiving assistance from the revolving loan fund, after the fund has received loan repayments, are subject to the environmental review requirements if the rules of the HUD program that initially provided assistance to the fund continue to treat the activities as subject to the Federal requirements. If the HUD program treats the activities as not being subject to any Federal requirements, then the activities cease to become Federally-funded

activities and the provisions of this part do not apply.

(d) To the extent permitted by applicable laws and the applicable regulations of the Council on Environmental Quality, the Assistant Secretary for Community Planning and Development may, for good cause and with appropriate conditions, approve waivers and exceptions or establish criteria for exceptions from the requirements of this part.

[61 FR 19122, Apr. 30, 1996, as amended at 68 FR 56127, Sept. 29, 2003]

#### § 58.2 Terms, abbreviations and definitions.

(a) For the purposes of this part, the following definitions supplement the uniform terminology provided in 40 CFR part 1508:

(1) *Activity* means an action that a grantee or recipient puts forth as part of an assisted project, regardless of whether its cost is to be borne by the HUD assistance or is an eligible expense under the HUD assistance program.

(2) *Certifying Officer* means the official who is authorized to execute the Request for Release of Funds and Certification and has the legal capacity to carry out the responsibilities of § 58.13.

(3) *Extraordinary Circumstances* means a situation in which an environmental assessment (EA) or environmental impact statement (EIS) is not normally required, but due to unusual conditions, an EA or EIS is appropriate. Indicators of unusual conditions are:

(i) Actions that are unique or without precedent;

(ii) Actions that are substantially similar to those that normally require an EIS;

(iii) Actions that are likely to alter existing HUD policy or HUD mandates; or

(iv) Actions that, due to unusual physical conditions on the site or in the vicinity, have the potential for a significant impact on the environment or in which the environment could have a significant impact on users of the facility.

(4) *Project* means an activity, or a group of integrally related activities,

## § 58.2

## 24 CFR Subtitle A (4-1-04 Edition)

designed by the recipient to accomplish, in whole or in part, a specific objective.

(5) *Recipient* means any of the following entities, when they are eligible recipients or grantees under a program listed in § 58.1(b):

(i) A State that does not distribute HUD assistance under the program to a unit of general local government;

(ii) Guam, the Northern Mariana Islands, the Virgin Islands, American Samoa, and Palau;

(iii) A unit of general local government;

(iv) An Indian tribe;

(v) With respect to Public Housing Programs under § 58.1(b)(6)(i), fiscal year 1999 and prior HOPE VI grants under § 58.1(b)(6)(ii) or Section 8 assistance under § 58.1(b)(6)(iii), a public housing agency;

(vi) Any direct grantee of HUD for a special project under § 58.1(b)(7);

(vii) With respect to the FHA Multifamily Housing Finance Agency Program under § 58.1(b)(8), a qualified housing finance agency;

(viii) With respect to the Self-Help Homeownership Opportunity Program under § 58.1(b)(9), any direct grantee of HUD.

(ix)(A) With respect to NAHASDA assistance under § 58.1(b)(10), the Indian tribe or the Department of Hawaiian Home Lands; and

(B) With respect to the Section 184 Indian Housing Loan Guarantee program under § 58.1(b)(11), the Indian tribe.

(x) With respect to the Shelter Plus Care and Supportive Housing Programs under § 58.1(b)(3)(ii), nonprofit organizations and other entities.

(6) *Release of funds*. In the case of the FHA Multifamily Housing Finance Agency Program under § 58.1(b)(8), Release of Funds, as used in this part, refers to HUD issuance of a firm approval letter, and Request for Release of Funds refers to a recipient's request for a firm approval letter. In the case of the Section 184 Indian Housing Loan Guarantee program under § 58.1(b)(11), Release of Funds refers to HUD's issuance of a commitment to guarantee a loan, or if there is no commitment, HUD's issuance of a certificate of guarantee.

(7) *Responsible Entity*. Responsible Entity means:

(i) With respect to environmental responsibilities under programs listed in § 58.1(b)(1), (2), (3)(i), (4), and (5), a recipient under the program.

(ii) With respect to environmental responsibilities under the programs listed in § 58.1(b)(3)(ii) and (6) through (12), a state, unit of general local government, Indian tribe or Alaska Native Village, or the Department of Hawaiian Home Lands, when it is the recipient under the program. Under the Native American Housing Assistance and Self-Determination Act of 1996 (25 U.S.C. 4101 *et seq.*) listed in § 58.1(b)(10)(i), the Indian tribe is the responsible entity whether or not a Tribally Designated Housing Entity is authorized to receive grant amounts on behalf of the tribe. The Indian tribe is also the responsible entity under the Section 184 Indian Housing Loan Guarantee program listed in § 58.1(b)(11). Regional Corporations in Alaska are considered Indian tribes in this part. Non-recipient responsible entities are designated as follows:

(A) For qualified housing finance agencies, the State or a unit of general local government, Indian tribe or Alaska native village whose jurisdiction contains the project site;

(B) For public housing agencies, the unit of general local government within which the project is located that exercises land use responsibility, or if HUD determines this infeasible, the county, or if HUD determines this infeasible, the State;

(C) For non-profit organizations and other entities, the unit of general local government, Indian tribe or Alaska native village within which the project is located that exercises land use responsibility, or if HUD determines this infeasible, the county, or if HUD determines this infeasible, the State;

(8) *Unit Density* refers to a change in the number of dwelling units. Where a threshold is identified as a percentage change in density that triggers review requirements, no distinction is made between an increase or a decrease in density.

(9) *Tiering* means the evaluation of an action or an activity at various points



in the development process as a proposal or event becomes ripe for an Environment Assessment or Review.

(10) *Vacant Building* means a habitable structure that has been vacant for more than one year.

(b) The following abbreviations are used throughout this part:

(1) CDBG—Community Development Block Grant;

(2) CEQ—Council on Environmental Quality;

(3) EA—Environmental Assessment;

(4) EIS—Environmental Impact Statement;

(5) EPA—Environmental Protection Agency;

(6) ERR—Environmental Review Record;

(7) FONSI—Finding of No Significant Impact;

(8) HUD—Department of Housing and Urban Development;

(9) NAHA—Cranston-Gonzalez National Affordable Housing Act of 1990;

(10) NEPA—National Environmental Policy Act of 1969, as amended;

(11) NOI/EIS—Notice of Intent to Prepare an EIS;

(12) NOI/RROF—Notice of Intent to Request Release of Funds;

(13) ROD—Record of Decision;

(14) ROF—Release of Funds; and

(15) RROF—Request for Release of Funds.

[61 FR 19122, Apr. 30, 1996, as amended at 68 FR 56128, Sept. 29, 2003]

#### § 58.4 Assumption authority.

(a) *Assumption authority for responsible entities: General.* Responsible entities shall assume the responsibility for environmental review, decision-making, and action that would otherwise apply to HUD under NEPA and other provisions of law that further the purposes of NEPA, as specified in § 58.5. Responsible entities that receive assistance directly from HUD assume these responsibilities by execution of a grant agreement with HUD and/or a legally binding document such as the certification contained on HUD Form 7015.15, certifying to the assumption of environmental responsibilities. When a State distributes funds to a responsible entity, the State must provide for appropriate procedures by which these responsible entities will evidence their

assumption of environmental responsibilities.

(b) *Particular responsibilities of the States.* (1) States are recipients for purposes of directly undertaking a State project and must assume the environmental review responsibilities for the State's activities and those of any non-governmental entity that may participate in the project. In this case, the State must submit the certification and RROF to HUD for approval.

(2) States must exercise HUD's responsibilities in accordance with § 58.18, with respect to approval of a unit of local government's environmental certification and RROF for a HUD assisted project funded through the state. Approval by the state of a unit of local government's certification and RROF satisfies the Secretary's responsibilities under NEPA and the related laws cited in § 58.5.

(c) *Particular responsibilities of Indian tribes.* An Indian tribe may, but is not required to, assume responsibilities for environmental review, decision-making and action for programs authorized by the Native American Housing Assistance and Self-Determination Act of 1996 (25 U.S.C. 4101 *et seq.*) (other than title VIII) or section 184 of the Housing and Community Development Act of 1992 (12 U.S.C. 1715z-13a). The tribe must make a separate decision regarding assumption of responsibilities for each of these Acts and communicate that decision in writing to HUD. If the tribe assumes these responsibilities, the requirements of this part shall apply. If a tribe formally declines assumption of these responsibilities, they are retained by HUD and the provisions of part 50 of this title apply.

[61 FR 19122, Apr. 30, 1996, as amended at 68 FR 56128, Sept. 29, 2003]

#### § 58.5 Related Federal laws and authorities.

In accordance with the provisions of law cited in § 58.1(b), the responsible entity must assume responsibilities for environmental review, decision-making and action that would apply to HUD under the following specified laws and authorities. The responsible entity must certify that it has complied with the requirements that would apply to HUD under these laws and authorities

and must consider the criteria, standards, policies and regulations of these laws and authorities.

(a) *Historic properties.* (1) The National Historic Preservation Act of 1966 (16 U.S.C. 470 *et seq.*), particularly sections 106 and 110 (16 U.S.C. 470 and 470h-2).

(2) Executive Order 11593, Protection and Enhancement of the Cultural Environment, May 13, 1971 (36 FR 8921), 3 CFR 1971-1975 Comp., p. 559, particularly section 2(c).

(3) Federal historic preservation regulations as follows:

(i) 36 CFR part 800 with respect to HUD programs other than Urban Development Action Grants (UDAG); and

(ii) 36 CFR part 801 with respect to UDAG.

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

(b) *Floodplain management and wetland protection.* (1) Executive Order 11988, Floodplain Management, May 24, 1977 (42 FR 26951), 3 CFR, 1977 Comp., p. 117, as interpreted in HUD regulations at 24 CFR part 55, particularly section 2(a) of the order (For an explanation of the relationship between the decision-making process in 24 CFR part 55 and this part, see § 55.10 of this subtitle A.)

(2) Executive Order 11990, Protection of Wetlands, May 24, 1977 (42 FR 26961), 3 CFR, 1977 Comp., p. 121, particularly sections 2 and 5.

(c) *Coastal Zone Management.* The Coastal Zone Management Act of 1972 (16 U.S.C. 1451 *et seq.*), as amended, particularly section 307(c) and (d) (16 U.S.C. 1456(c) and (d)).

(d) *Sole source aquifers.* (1) The Safe Drinking Water Act of 1974 (42 U.S.C. 201, 300(f) *et seq.*, and 21 U.S.C. 349) as amended; particularly section 1424(e)(42 U.S.C. 300h-3(e)).

(2) Sole Source Aquifers (Environmental Protection Agency—40 CFR part 149).

(e) *Endangered species.* The Endangered Species Act of 1973 (16 U.S.C. 1531 *et seq.*) as amended, particularly section 7 (16 U.S.C. 1536).

(f) *Wild and scenic rivers.* The Wild and Scenic Rivers Act of 1968 (16 U.S.C.

1271 *et seq.*) as amended, particularly section 7(b) and (c) (16 U.S.C. 1278(b) and (c)).

(g) *Air quality.* (1) The Clean Air Act (42 U.S.C. 7401 *et seq.*) as amended; particularly section 176(c) and (d) (42 U.S.C. 7506(c) and (d)).

(2) Determining Conformity of Federal Actions to State or Federal Implementation Plans (Environmental Protection Agency—40 CFR parts 6, 51, and 93).

(h) *Farmlands protection.* (1) Farmland Protection Policy Act of 1981 (7 U.S.C. 4201 *et seq.*) particularly sections 1540(b) and 1541 (7 U.S.C. 4201(b) and 4202).

(2) Farmland Protection Policy (Department of Agriculture—7 CFR part 658).

(i) *HUD environmental standards.* (1) Applicable criteria and standards specified in part 51 of this title, other than the runway clear zone notification requirement in § 51.303(a)(3).

(2)(i) Also, it is HUD policy that all properties that are being proposed for use in HUD programs be free of hazardous materials, contamination, toxic chemicals and gases, and radioactive substances, where a hazard could affect the health and safety of occupants or conflict with the intended utilization of the property.

(ii) The environmental review of multifamily housing with five or more dwelling units (including leasing), or non-residential property, must include the evaluation of previous uses of the site or other evidence of contamination on or near the site, to ensure that the occupants of proposed sites are not adversely affected by any of the hazards listed in paragraph (i)(2)(i) of this section.

(iii) Particular attention should be given to any proposed site on or in the general proximity of such areas as dumps, landfills, industrial sites, or other locations that contain, or may have contained, hazardous wastes.

(iv) The responsible entity shall use current techniques by qualified professionals to undertake investigations determined necessary.



(j) *Environmental justice.* Executive Order 12898—Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations, February 11, 1994 (59 FR 7629), 3 CFR, 1994 Comp. p. 859.

[61 FR 19122, Apr. 30, 1996, as amended at 68 FR 56128, Sept. 29, 2003]

#### § 58.6 Other requirements.

In addition to the duties under the laws and authorities specified in § 58.5 for assumption by the responsible entity under the laws cited in § 58.1(b), the responsible entity must comply with the following requirements. Applicability of the following requirements does not trigger the certification and release of funds procedure under this part or preclude exemption of an activity under § 58.34(a)(12) and/or the applicability of § 58.35(b). However, the responsible entity remains responsible for addressing the following requirements in its ERR and meeting these requirements, where applicable, regardless of whether the activity is exempt under § 58.34 or categorically excluded under § 58.35(a) or (b).

(a)(1) Under the Flood Disaster Protection Act of 1973, as amended (42 U.S.C. 4001–4128), Federal financial assistance for acquisition and construction purposes (including rehabilitation) may not be used in an area identified by the Federal Emergency Management Agency (FEMA) as having special flood hazards, unless:

(i) The community in which the area is situated is participating in the National Flood Insurance Program (see 44 CFR parts 59 through 79), or less than one year has passed since the FEMA notification regarding such hazards; and

(ii) Where the community is participating in the National Flood Insurance Program, flood insurance protection is to be obtained as a condition of the approval of financial assistance to the property owner.

(2) Where the community is participating in the National Flood Insurance Program and the recipient provides financial assistance for acquisition or construction purposes (including rehabilitation) for property located in an area identified by FEMA as having special flood hazards, the responsible enti-

ty is responsible for assuring that flood insurance under the National Flood Insurance Program is obtained and maintained.

(3) Paragraph (a) of this section does not apply to Federal formula grants made to a State.

(b) Under section 582 of the National Flood Insurance Reform Act of 1994, 42 U.S.C. 5154a, HUD disaster assistance that is made available in a special flood hazard area may not be used to make a payment (including any loan assistance payment) to a person for repair, replacement or restoration for flood damage to any personal, residential or commercial property if:

(1) The person had previously received Federal flood disaster assistance conditioned on obtaining and maintaining flood insurance; and

(2) The person failed to obtain and maintain flood insurance.

(c) Pursuant to the Coastal Barrier Resources Act, as amended by the Coastal Barrier Improvement Act of 1990 (16 U.S.C. 3501), HUD assistance may not be used for most activities proposed in the Coastal Barrier Resources System.

(d) In all cases involving HUD assistance, subsidy, or insurance for the purchase or sale of an existing property in a Runway Clear Zone or Clear Zone, as defined in 24 CFR part 51, the responsible entity shall advise the buyer that the property is in a runway clear zone or clear zone, what the implications of such a location are, and that there is a possibility that the property may, at a later date, be acquired by the airport operator. The buyer must sign a statement acknowledging receipt of this information.

[61 FR 19122, Apr. 30, 1996, as amended at 63 FR 15271, Mar. 30, 1998]

### Subpart B—General Policy: Responsibilities of Responsible Entities

#### § 58.10 Basic environmental responsibility.

In accordance with the provisions of law cited in § 58.1(b), except as otherwise provided in § 58.4(c), the responsible entity must assume the environmental responsibilities for projects

## § 58.11

under programs cited in § 58.1(b). In doing so, the responsible entity must comply with the provisions of NEPA and the CEQ regulations contained in 40 CFR parts 1500 through 1508, including the requirements set forth in this part.

[68 FR 56128, Sept. 29, 2003]

### § 58.11 Legal capacity and performance.

(a) A responsible entity which believes that it does not have the legal capacity to carry out the environmental responsibilities required by this part must contact the appropriate local HUD Office or the State for further instructions. Determinations of legal capacity will be made on a case-by-case basis.

(b) If a public housing, special project, HOPWA, Supportive Housing, Shelter Plus Care, or Self-Help Homeownership Opportunity recipient that is not a responsible entity objects to the non-recipient responsible entity conducting the environmental review on the basis of performance, timing, or compatibility of objectives, HUD will review the facts to determine who will perform the environmental review.

(c) At any time, HUD may reject the use of a responsible entity to conduct the environmental review in a particular case on the basis of performance, timing or compatibility of objectives, or in accordance with § 58.77(d)(1).

(d) If a responsible entity, other than a recipient, objects to performing an environmental review, or if HUD determines that the responsible entity should not perform the environmental review, HUD may designate another responsible entity to conduct the review in accordance with this part or may itself conduct the environmental review in accordance with the provisions of 24 CFR part 50.

[61 FR 19122, Apr. 30, 1996, as amended at 68 FR 56129, Sept. 29, 2003]

### § 58.12 Technical and administrative capacity.

The responsible entity must develop the technical and administrative capability necessary to comply with 40 CFR parts 1500 through 1508 and the requirements of this part.

## 24 CFR Subtitle A (4-1-04 Edition)

### § 58.13 Responsibilities of the certifying officer.

Under the terms of the certification required by § 58.71, a responsible entity's certifying officer is the "responsible Federal official" as that term is used in section 102 of NEPA and in statutory provisions cited in § 58.1(b). The Certifying Officer is therefore responsible for all the requirements of section 102 of NEPA and the related provisions in 40 CFR parts 1500 through 1508, and 24 CFR part 58, including the related Federal authorities listed in § 58.5. The Certifying Officer must also:

(a) Represent the responsible entity and be subject to the jurisdiction of the Federal courts. The Certifying Officer will not be represented by the Department of Justice in court; and

(b) Ensure that the responsible entity reviews and comments on all EISs prepared for Federal projects that may have an impact on the recipient's program.

### § 58.14 Interaction with State, Federal and non-Federal entities.

A responsible entity shall consult with appropriate environmental agencies, State, Federal and non-Federal entities and the public in the preparation of an EIS, EA or other environmental reviews undertaken under the related laws and authorities cited in § 58.5 and § 58.6. The responsible entity must also cooperate with other agencies to reduce duplication between NEPA and comparable environmental review requirements of the State (see 40 CFR 1506.2 (b) and (c)). The responsible entity must prepare its EAs and EISs so that they comply with the environmental review requirements of both Federal and State laws unless otherwise specified or provided by law. State, Federal and local agencies may participate or act in a joint lead or cooperating agency capacity in the preparation of joint EISs or joint environmental assessments (see 40 CFR 1501.5(b) and 1501.6). A single EIS or EA may be prepared and adopted by multiple users to the extent that the review addresses the relevant environmental issues and there is a written agreement between the cooperating



agencies which sets forth the coordinated and overall responsibilities.

[63 FR 15271, Mar 30, 1998]

#### § 58.15 Tiering.

Responsible entities may tier their environmental reviews and assessments to eliminate repetitive discussions of the same issues at subsequent levels of review. Tiering is appropriate when there is a requirement to evaluate a policy or proposal in the early stages of development or when site-specific analysis or mitigation is not currently feasible and a more narrow or focused analysis is better done at a later date. The site specific review need only reference or summarize the issues addressed in the broader review. The broader review should identify and evaluate those issues ripe for decision and exclude those issues not relevant to the policy, program or project under consideration. The broader review should also establish the policy, standard or process to be followed in the site specific review. The Finding of No Significant Impact (FONSI) with respect to the broader assessment shall include a summary of the assessment and identify the significant issues to be considered in site specific reviews. Subsequent site-specific reviews will not require notices or a Request for Release of Funds unless the Certifying Officer determines that there are unanticipated impacts or impacts not adequately addressed in the prior review. A tiering approach can be used for meeting environmental review requirements in areas designated for special focus in local Consolidated Plans. Local and State Governments are encouraged to use the Consolidated Plan process to facilitate environmental reviews.

#### § 58.17 [Reserved]

#### § 58.18 Responsibilities of States assuming HUD environmental responsibilities.

States that elect to administer a HUD program shall ensure that the program complies with the provisions of this part. The state must:

(a) Designate the state agency or agencies that will be responsible for carrying out the requirements and ad-

ministrative responsibilities set forth in subpart H of this part and which will:

(1) Develop a monitoring and enforcement program for post-review actions on environmental reviews and monitor compliance with any environmental conditions included in the award.

(2) Receive public notices, RROFs, and certifications from recipients pursuant to §§ 58.70 and 58.71; accept objections from the public and from other agencies (§ 58.73); and perform other related responsibilities regarding releases of funds.

(b) Fulfill the state role in subpart H relative to the time period set for the receipt and disposition of comments, objections and appeals (if any) on particular projects.

[68 FR 56129, Sept. 29, 2003]

### Subpart C—General Policy: Environmental Review Procedures

#### § 58.21 Time periods.

All time periods in this part shall be counted in calendar days. The first day of a time period begins at 12:01 a.m. local time on the day following the publication or the mailing and posting date of the notice which initiates the time period.

#### § 58.22 Limitations on activities pending clearance.

(a) Neither a recipient nor any participant in the development process, including public or private nonprofit or for-profit entities, or any of their contractors, may commit HUD assistance under a program listed in § 58.1(b) on an activity or project until HUD or the state has approved the recipient's RROF and the related certification from the responsible entity. In addition, until the RROF and the related certification have been approved, neither a recipient nor any participant in the development process may commit non-HUD funds on or undertake an activity or project under a program listed in § 58.1(b) if the activity or project would have an adverse environmental impact or limit the choice of reasonable alternatives.

(b) If a project or activity is exempt under § 58.34, or is categorically excluded (except in extraordinary circumstances) under § 58.35(b), no RROF is required and the recipient may undertake the activity immediately after the responsible entity has documented its determination as required in § 58.34(b) and § 58.35(d), but the recipient must comply with applicable requirements under § 58.6.

(c) If a recipient is considering an application from a prospective subrecipient or beneficiary and is aware that the prospective subrecipient or beneficiary is about to take an action within the jurisdiction of the recipient that is prohibited by paragraph (a) of this section, then the recipient will take appropriate action to ensure that the objectives and procedures of NEPA are achieved.

(d) An option agreement on a proposed site or property is allowable prior to the completion of the environmental review if the option agreement is subject to a determination by the recipient on the desirability of the property for the project as a result of the completion of the environmental review in accordance with this part and the cost of the option is a nominal portion of the purchase price. There is no constraint on the purchase of an option by third parties that have not been selected for HUD funding, have no responsibility for the environmental review and have no say in the approval or disapproval of the project.

(e) *Self-Help Homeownership Opportunity Program (SHOP)*. In accordance with section 11(d)(2)(A) of the Housing Opportunity Program Extension Act of 1996 (42 U.S.C. 12805 note), an organization, consortium, or affiliate receiving assistance under the SHOP program may advance nongrant funds to acquire land prior to completion of an environmental review and approval of a Request for Release of Funds (RROF) and certification, notwithstanding paragraph (a) of this section. Any advances to acquire land prior to approval of the RROF and certification are made at the risk of the organization, consortium, or affiliate and reimbursement for such advances may depend on the result of the environmental review. This authorization is limited to the

SHOP program only and all other forms of HUD assistance are subject to the limitations in paragraph (a) of this section.

(f) *Relocation*. Funds may be committed for relocation assistance before the approval of the RROF and related certification for the project provided that the relocation assistance is required by 24 CFR part 42.

[68 FR 56129, Sept. 29, 2003]

**§ 58.23 Financial assistance for environmental review.**

The costs of environmental reviews, including costs incurred in complying with any of the related laws and authorities cited in § 58.5 and § 58.6, are eligible costs to the extent allowable under the HUD assistance program regulations.

**Subpart D—Environmental Review Process: Documentation, Range of Activities, Project Aggregation and Classification**

**§ 58.30 Environmental review process.**

(a) The environmental review process consists of all the actions that a responsible entity must take to determine compliance with this part. The environmental review process includes all the compliance actions needed for other activities and projects that are not assisted by HUD but are aggregated by the responsible entity in accordance with § 58.32.

(b) The environmental review process should begin as soon as a recipient determines the projected use of HUD assistance.

**§ 58.32 Project aggregation.**

(a) A responsible entity must group together and evaluate as a single project all individual activities which are related either on a geographical or functional basis, or are logical parts of a composite of contemplated actions.

(b) In deciding the most appropriate basis for aggregation when evaluating activities under more than one program, the responsible entity may choose: *functional aggregation* when a specific type of activity (e.g., water improvements) is to take place in several



separate locales or jurisdictions; *geographic aggregation* when a mix of dissimilar but related activities is to be concentrated in a fairly specific project area (e.g., a combination of water, sewer and street improvements and economic development activities); or a *combination of aggregation approaches*, which, for various project locations, considers the impacts arising from each functional activity and its interrelationship with other activities.

(c) The purpose of project aggregation is to group together related activities so that the responsible entity can:

(1) Address adequately and analyze, in a single environmental review, the separate and combined impacts of activities that are similar, connected and closely related, or that are dependent upon other activities and actions. (See 40 CFR 1508.25(a)).

(2) Consider reasonable alternative courses of action.

(3) Schedule the activities to resolve conflicts or mitigate the individual, combined and/or cumulative effects.

(4) Prescribe mitigation measures and safeguards including project alternatives and modifications to individual activities.

(d) *Multi-year project aggregation*—(1) *Release of funds.* When a recipient's planning and program development provide for activities to be implemented over two or more years, the responsible entity's environmental review should consider the relationship among all component activities of the multi-year project regardless of the source of funds and address and evaluate their cumulative environmental effects. The estimated range of the aggregated activities and the estimated cost of the total project must be listed and described by the responsible entity in the environmental review and included in the RROF. The release of funds will cover the entire project period.

(2) When one or more of the conditions described in § 58.47 exists, the recipient or other responsible entity must re-evaluate the environmental review.

#### § 58.33 Emergencies.

(a) In the cases of emergency, disaster or imminent threat to health and

safety which warrant the taking of an action with significant environmental impact, the provisions of 40 CFR 1506.11 shall apply.

(b) If funds are needed on an emergency basis and adherence to separate comment periods would prevent the giving of assistance during a Presidentially declared disaster, or during a local emergency that has been declared by the chief elected official of the responsible entity who has proclaimed that there is an immediate need for public action to protect the public safety, the combined Notice of FONSI and Notice of Intent to Request Release of Funds (NOI/RROF) may be disseminated and/or published simultaneously with the submission of the RROF. The combined Notice of FONSI and NOI/RROF shall state that the funds are needed on an emergency basis due to a declared disaster and that the comment periods have been combined. The Notice shall also invite commenters to submit their comments to both HUD and the responsible entity issuing the notice to ensure that these comments will receive full consideration.

[61 FR 19122, Apr. 30, 1996, as amended at 68 FR 56129, Sept. 29, 2003]

#### § 58.34 Exempt activities.

(a) Except for the applicable requirements of § 58.6, the responsible entity does not have to comply with the requirements of this part or undertake any environmental review, consultation or other action under NEPA and the other provisions of law or authorities cited in § 58.5 for the activities exempt by this section or projects consisting solely of the following exempt activities:

(1) Environmental and other studies, resource identification and the development of plans and strategies;

(2) Information and financial services;

(3) Administrative and management activities;

(4) Public services that will not have a physical impact or result in any physical changes, including but not limited to services concerned with employment, crime prevention, child care,



health, drug abuse, education, counseling, energy conservation and welfare or recreational needs;

(5) Inspections and testing of properties for hazards or defects;

(6) Purchase of insurance;

(7) Purchase of tools;

(8) Engineering or design costs;

(9) Technical assistance and training;

(10) Assistance for temporary or permanent improvements that do not alter environmental conditions and are limited to protection, repair, or restoration activities necessary only to control or arrest the effects from disasters or imminent threats to public safety including those resulting from physical deterioration;

(11) Payment of principal and interest on loans made or obligations guaranteed by HUD;

(12) Any of the categorical exclusions listed in § 58.35(a) provided that there are no circumstances which require compliance with any other Federal laws and authorities cited in § 58.5.

(b) A recipient does not have to submit an RROF and certification, and no further approval from HUD or the State will be needed by the recipient for the drawdown of funds to carry out exempt activities and projects. However, the responsible entity must document in writing its determination that each activity or project is exempt and meets the conditions specified for such exemption under this section.

[61 FR 19122, Apr. 30, 1996, as amended at 63 FR 15271, Mar. 30, 1998]

#### § 58.35 Categorical exclusions.

Categorical exclusion refers to a category of activities for which no environmental impact statement or environmental assessment and finding of no significant impact under NEPA is required, except in extraordinary circumstances (see § 58.2(a)(3)) in which a normally excluded activity may have a significant impact. Compliance with the other applicable Federal environmental laws and authorities listed in § 58.5 is required for any categorical exclusion listed in paragraph (a) of this section.

(a) *Categorical exclusions subject to § 58.5.* The following activities are categorically excluded under NEPA, but

may be subject to review under authorities listed in § 58.5:

(1) Acquisition, repair, improvement, reconstruction, or rehabilitation of public facilities and improvements (other than buildings) when the facilities and improvements are in place and will be retained in the same use without change in size or capacity of more than 20 percent (e.g., replacement of water or sewer lines, reconstruction of curbs and sidewalks, repaving of streets).

(2) Special projects directed to the removal of material and architectural barriers that restrict the mobility of and accessibility to elderly and handicapped persons.

(3) Rehabilitation of buildings and improvements when the following conditions are met:

(i) In the case of a building for residential use (with one to four units), the density is not increased beyond four units, the land use is not changed, and the footprint of the building is not increased in a floodplain or in a wetland;

(ii) In the case of multifamily residential buildings:

(A) Unit density is not changed more than 20 percent;

(B) The project does not involve changes in land use from residential to non-residential; and

(C) The estimated cost of rehabilitation is less than 75 percent of the total estimated cost of replacement after rehabilitation.

(iii) In the case of non-residential structures, including commercial, industrial, and public buildings:

(A) The facilities and improvements are in place and will not be changed in size or capacity by more than 20 percent; and

(B) The activity does not involve a change in land use, such as from non-residential to residential, commercial to industrial, or from one industrial use to another.

(4)(i) An individual action on up to four dwelling units where there is a maximum of four units on any one site. The units can be four one-unit buildings or one four-unit building or any combination in between; or

(ii) An individual action on a project of five or more housing units developed on scattered sites when the sites are

more than 2,000 feet apart and there are not more than four housing units on any one site.

(iii) Paragraphs (a)(4)(i) and (ii) of this section do not apply to rehabilitation of a building for residential use (with one to four units) (see paragraph (a)(3)(i) of this section).

(5) Acquisition (including leasing) or disposition of, or equity loans on an existing structure, or acquisition (including leasing) of vacant land provided that the structure or land acquired, financed, or disposed of will be retained for the same use.

(6) Combinations of the above activities.

(b) *Categorical exclusions not subject to § 58.5.* The Department has determined that the following categorically excluded activities would not alter any conditions that would require a review or compliance determination under the Federal laws and authorities cited in § 58.5. When the following kinds of activities are undertaken, the responsible entity does not have to publish a NOI/RROF or execute a certification and the recipient does not have to submit a RROF to HUD (or the State) except in the circumstances described in paragraph (c) of this section. Following the award of the assistance, no further approval from HUD or the State will be needed with respect to environmental requirements, except where paragraph (c) of this section applies. The recipient remains responsible for carrying out any applicable requirements under § 58.6.

(1) Tenant-based rental assistance;

(2) Supportive services including, but not limited to, health care, housing services, permanent housing placement, day care, nutritional services, short-term payments for rent/mortgage/utility costs, and assistance in gaining access to local, State, and Federal government benefits and services;

(3) Operating costs including maintenance, security, operation, utilities, furnishings, equipment, supplies, staff training and recruitment and other incidental costs;

(4) Economic development activities, including but not limited to, equipment purchase, inventory financing, interest subsidy, operating expenses

and similar costs not associated with construction or expansion of existing operations;

(5) Activities to assist homebuyers to purchase existing dwelling units or dwelling units under construction, including closing costs and down payment assistance, interest buydowns, and similar activities that result in the transfer of title.

(6) Affordable housing pre-development costs including legal, consulting, developer and other costs related to obtaining site options, project financing, administrative costs and fees for loan commitments, zoning approvals, and other related activities which do not have a physical impact.

(7) Approval of supplemental assistance (including insurance or guarantee) to a project previously approved under this part, if the approval is made by the same responsible entity that conducted the environmental review on the original project and re-evaluation of the environmental findings is not required under § 58.47.

(c) *Circumstances requiring NEPA review.* If a responsible entity determines that an activity or project identified in paragraph (a) or (b) of this section, because of extraordinary circumstances and conditions at or affecting the location of the activity or project, may have a significant environmental effect, it shall comply with all the requirements of this part.

(d) The Environmental Review Record (ERR) must contain a well organized written record of the process and determinations made under this section.

[61 FR 19122, Apr. 30, 1996, as amended at 63 FR 15272, Mar. 30, 1998; 68 FR 56129, Sept. 29, 2003]

#### § 58.36 Environmental assessments.

If a project is not exempt or categorically excluded under §§ 58.34 and 58.35, the responsible entity must prepare an EA in accordance with subpart E of this part. If it is evident without preparing an EA that an EIS is required under § 58.37, the responsible entity should proceed directly to an EIS.



**§ 58.37 Environmental impact statement determinations.**

(a) An EIS is required when the project is determined to have a potentially significant impact on the human environment.

(b) An EIS is required under any of the following circumstances, except as provided in paragraph (c) of this section:

(1) The project would provide a site or sites for, or result in the construction of, hospitals or nursing homes containing a total of 2,500 or more beds.

(2) The project would remove, demolish, convert or substantially rehabilitate 2,500 or more existing housing units (but not including rehabilitation projects categorically excluded under § 58.35), or would result in the construction or installation of 2,500 or more housing units, or would provide sites for 2,500 or more housing units.

(3) The project would provide enough additional water and sewer capacity to support 2,500 or more additional housing units. The project does not have to be specifically intended for residential use nor does it have to be totally new construction. If the project is designed to provide upgraded service to existing development as well as to serve new development, only that portion of the increased capacity which is intended to serve new development should be counted.

(c) If, on the basis of an EA, a responsible entity determines that the thresholds in paragraph (b) of this section are the sole reason for the EIS, the responsible entity may prepare a FONSI pursuant to 40 CFR 1501.4. In such cases, the FONSI must be made available for public review for at least 30 days before the responsible entity makes the final determination whether to prepare an EIS.

(d) Notwithstanding paragraphs (a) through (c) of this section, an EIS is not required where § 58.53 is applicable.

(e) *Recommended EIS Format.* The responsible entity must use the EIS format recommended by the CEQ regulations (40 CFR 1502.10) unless a determination is made on a particular project that there is a compelling rea-

son to do otherwise. In such a case, the EIS format must meet the minimum requirements prescribed in 40 CFR 1502.10.

**§ 58.38 Environmental review record.**

The responsible entity must maintain a written record of the environmental review undertaken under this part for each project. This document will be designated the "Environmental Review Record" (ERR), and shall be available for public review. The responsible entity must use the current HUD-recommended formats or develop equivalent formats.

(a) *ERR Documents.* The ERR shall contain all the environmental review documents, public notices and written determinations or environmental findings required by this part as evidence of review, decisionmaking and actions pertaining to a particular project of a recipient. The document shall:

(1) Describe the project and the activities that the recipient has determined to be part of the project;

(2) Evaluate the effects of the project or the activities on the human environment;

(3) Document compliance with applicable statutes and authorities, in particular those cited in § 58.5 and 58.6; and

(4) Record the written determinations and other review findings required by this part (e.g., exempt and categorically excluded projects determinations, findings of no significant impact).

(b) *Other documents and information.* The ERR shall also contain verifiable source documents and relevant base data used or cited in EAs, EISs or other project review documents. These documents may be incorporated by reference into the ERR provided that each source document is identified and available for inspection by interested parties. Proprietary material and special studies prepared for the recipient that are not otherwise generally available for public review shall not be incorporated by reference but shall be included in the ERR.

**Subpart E—Environmental Review Process: Environmental Assessments (EA's)**

**§ 58.40 Preparing the environmental assessment.**

The responsible entity may prepare the EA using the HUD recommended format. In preparing an EA for a particular project, the responsible entity must:

- (a) Determine existing conditions and describe the character, features and resources of the project area and its surroundings; identify the trends that are likely to continue in the absence of the project.
- (b) Identify all potential environmental impacts, whether beneficial or adverse, and the conditions that would change as a result of the project.
- (c) Identify, analyze and evaluate all impacts to determine the significance of their effects on the human environment and whether the project will require further compliance under related laws and authorities cited in § 58.5 and § 58.6.
- (d) Examine and recommend feasible ways in which the project or external factors relating to the project could be modified in order to eliminate or minimize adverse environmental impacts.
- (e) Examine alternatives to the project itself, if appropriate, including the alternative of no action.
- (f) Complete all environmental review requirements necessary for the project's compliance with applicable authorities cited in §§ 58.5 and 58.6.
- (g) Based on steps set forth in paragraph (a) through (f) of this section, make one of the following findings:
  - (1) A Finding of No Significant Impact (FONSI), in which the responsible entity determines that the project is not an action that will result in a significant impact on the quality of the human environment. The responsible entity may then proceed to § 58.43.
  - (2) A finding of significant impact, in which the project is deemed to be an action which may significantly affect the quality of the human environment. The responsible entity must then proceed with its environmental review under subpart F or G of this part.

**§ 58.43 Dissemination and/or publication of the findings of no significant impact.**

(a) If the responsible entity makes a finding of no significant impact, it must prepare a FONSI notice, using the current HUD-recommended format or an equivalent format. As a minimum, the responsible entity must send the FONSI notice to individuals and groups known to be interested in the activities, to the local news media, to the appropriate tribal, local, State and Federal agencies; to the Regional Offices of the Environmental Protection Agency having jurisdiction and to the HUD Field Office (or the State where applicable). The responsible entity may also publish the FONSI notice in a newspaper of general circulation in the affected community. If the notice is not published, it must also be prominently displayed in public buildings, such as the local Post Office and within the project area or in accordance with procedures established as part of the citizen participation process.

(b) The responsible entity may disseminate or publish a FONSI notice at the same time it disseminates or publishes the NOI/RROF required by § 58.70. If the notices are released as a combined notice, the combined notice shall:

- (1) Clearly indicate that it is intended to meet two separate procedural requirements; and
  - (2) Advise the public to specify in their comments which "notice" their comments address.
- (c) The responsible entity must consider the comments and make modifications, if appropriate, in response to the comments, before it completes its environmental certification and before the recipient submits its RROF. If funds will be used in Presidentially declared disaster areas, modifications resulting from public comment, if appropriate, must be made before proceeding with the expenditure of funds.

**§ 58.45 Public comment periods.**

Required notices must afford the public the following minimum comment periods, counted in accordance with § 58.21:



(a) Notice of Finding of No Significant Impact (FONSI).	15 days when published or, if no publication, 18 days when mailing and posting
(b) Notice of Intent to Request Release of Funds (NOI-RROF).	7 days when published or, if no publication, 10 days when mailing and posting
(c) Concurrent or combined notices .....	15 days when published or, if no publication, 18 days when mailing and posting

[68 FR 56130, Sept. 29, 2003]

**§ 58.46 Time delays for exceptional circumstances.**

The responsible entity must make the FONSI available for public comments for 30 days before the recipient files the RROF when:

- (a) There is a considerable interest or controversy concerning the project;
- (b) The proposed project is similar to other projects that normally require the preparation of an EIS; or
- (c) The project is unique and without precedent.

**§ 58.47 Re-evaluation of environmental assessments and other environmental findings.**

(a) A responsible entity must re-evaluate its environmental findings to determine if the original findings are still valid, when:

- (1) The recipient proposes substantial changes in the nature, magnitude or extent of the project, including adding new activities not anticipated in the original scope of the project;
- (2) There are new circumstances and environmental conditions which may affect the project or have a bearing on its impact, such as concealed or unexpected conditions discovered during the implementation of the project or activity which is proposed to be continued; or
- (3) The recipient proposes the selection of an alternative not in the original finding.

(b)(1) If the original findings are still valid but the data or conditions upon which they were based have changed, the responsible entity must affirm the original findings and update its ERR by including this re-evaluation and its determination based on its findings. Under these circumstances, if a FONSI notice has already been published, no further publication of a FONSI notice is required.

(2) If the responsible entity determines that the original findings are no longer valid, it must prepare an EA or an EIS if its evaluation indicates potentially significant impacts.

(3) Where the recipient is not the responsible entity, the recipient must inform the responsible entity promptly of any proposed substantial changes under paragraph (a)(1) of this section, new circumstances or environmental conditions under paragraph (a)(2) of this section, or any proposals to select a different alternative under paragraph (a)(3) of this section, and must then permit the responsible entity to re-evaluate the findings before proceeding.

[61 FR 19122, Apr. 30, 1996, as amended at 63 FR 15272, Mar. 30, 1998]

**Subpart F—Environmental Review Process: Environmental Impact Statement Determinations**

**§ 58.52 Adoption of other agencies' EISs.**

The responsible entity may adopt a draft or final EIS prepared by another agency provided that the EIS was prepared in accordance with 40 CFR parts 1500 through 1508. If the responsible entity adopts an EIS prepared by another agency, the procedure in 40 CFR 1506.3 shall be followed. An adopted EIS may have to be revised and modified to adapt it to the particular environmental conditions and circumstances of the project if these are different from the project reviewed in the EIS. In such cases the responsible entity must prepare, circulate, and file a supplemental draft EIS in the manner prescribed in § 58.60(d) and otherwise comply with the clearance and time requirements of the EIS process, except



that scoping requirements under 40 CFR 1501.7 shall not apply. The agency that prepared the original EIS should be informed that the responsible entity intends to amend and adopt the EIS. The responsible entity may adopt an EIS when it acts as a cooperating agency in its preparation under 40 CFR 1506.3. The responsible entity is not required to re-circulate or file the EIS, but must complete the clearance process for the RROF. The decision to adopt an EIS shall be made a part of the project ERR.

**§ 58.53 Use of prior environmental impact statements.**

Where any final EIS has been listed in the FEDERAL REGISTER for a project pursuant to this part, or where an areawide or similar broad scale final EIS has been issued and the EIS anticipated a subsequent project requiring an environmental clearance, then no new EIS is required for the subsequent project if all the following conditions are met:

(a) The ERR contains a decision based on a finding pursuant to § 58.40 that the proposed project is not a new major Federal action significantly affecting the quality of the human environment. The decision shall include:

(1) References to the prior EIS and its evaluation of the environmental factors affecting the proposed subsequent action subject to NEPA;

(2) An evaluation of any environmental factors which may not have been previously assessed, or which may have significantly changed;

(3) An analysis showing that the proposed project is consistent with the location, use, and density assumptions for the site and with the timing and capacity of the circulation, utility, and other supporting infrastructure assumptions in the prior EIS;

(4) Documentation showing that where the previous EIS called for mitigating measures or other corrective action, these are completed to the extent reasonable given the current state of development.

(b) The prior final EIS has been filed within five (5) years, and updated as follows:

(1) The EIS has been updated to reflect any significant revisions made to

the assumptions under which the original EIS was prepared;

(2) The EIS has been updated to reflect new environmental issues and data or legislation and implementing regulations which may have significant environmental impact on the project area covered by the prior EIS.

(c) There is no litigation pending in connection with the prior EIS, and no final judicial finding of inadequacy of the prior EIS has been made.

**Subpart G—Environmental Review Process: Procedures for Draft, Final and Supplemental Environmental Impact Statements**

**§ 58.55 Notice of intent to prepare an EIS.**

As soon as practicable after the responsible entity decides to prepare an EIS, it must publish a NOI/EIS, using the HUD recommended format and disseminate it in the same manner as required by 40 CFR parts 1500 through 1508.

**§ 58.56 Scoping process.**

The determination on whether or not to hold a scoping meeting will depend on the same circumstances and factors as for the holding of public hearings under § 58.59. The responsible entity must wait at least 15 days after disseminating or publishing the NOI/EIS before holding a scoping meeting.

**§ 58.57 Lead agency designation.**

If there are several agencies ready to assume the lead role, the responsible entity must make its decision based on the criteria in 40 CFR 1501.5(c). If the responsible entity and a Federal agency are unable to reach agreement, then the responsible entity must notify HUD (or the State, where applicable). HUD (or the State) will assist in obtaining a determination based on the procedure set forth in 40 CFR 1501.5(e).

**§ 58.59 Public hearings and meetings.**

(a) *Factors to consider.* In determining whether or not to hold public hearings in accordance with 40 CFR 1506.6, the responsible entity must consider the following factors:

(1) The magnitude of the project in terms of economic costs, the geographic area involved, and the uniqueness or size of commitment of resources involved.

(2) The degree of interest in or controversy concerning the project.

(3) The complexity of the issues and the likelihood that information will be presented at the hearing which will be of assistance to the responsible entity.

(4) The extent to which public involvement has been achieved through other means.

(b) *Procedure.* All public hearings must be preceded by a notice of public hearing, which must be published in the local news media 15 days before the hearing date. The Notice must:

(1) State the date, time, place, and purpose of the hearing or meeting.

(2) Describe the project, its estimated costs, and the project area.

(3) State that persons desiring to be heard on environmental issues will be afforded the opportunity to be heard.

(4) State the responsible entity's name and address and the name and address of its Certifying Officer.

(5) State what documents are available, where they can be obtained, and any charges that may apply.

**§ 58.60 Preparation and filing of environmental impact statements.**

(a) The responsible entity must prepare the draft environmental impact statement (DEIS) and the final environmental impact statements (FEIS) using the current HUD recommended format or its equivalent.

(b) The responsible entity must file and distribute the (DEIS) and the (FEIS) in the following manner:

(1) Five copies to EPA Headquarters;

(2) Five copies to EPA Regional Office;

(3) Copies made available in the responsible entity's and the recipient's office;

(4) Copies or summaries made available to persons who request them; and

(5) FEIS only—one copy to State, HUD Field Office, and HUD Headquarters library.

(c) The responsible entity may request waivers from the time requirements specified for the draft and final EIS as prescribed in 40 CFR 1506.6.

(d) When substantial changes are proposed in a project or when significant new circumstances or information becomes available during an environmental review, the recipient may prepare a supplemental EIS as prescribed in 40 CFR 1502.9.

(e) The responsible entity must prepare a Record of Decision (ROD) as prescribed in 40 CFR 1505.2.

[61 FR 19122, Apr. 30, 1996, as amended at 63 FR 15272, Mar. 30, 1998]

**Subpart H—Release of Funds for Particular Projects**

**§ 58.70 Notice of intent to request release of funds.**

The NOI/RROF must be disseminated and/or published in the manner prescribed by § 58.43 and § 58.45 before the certification is signed by the responsible entity.

**§ 58.71 Request for release of funds and certification.**

(a) The RROF and certification shall be sent to the appropriate HUD Field Office (or the State, if applicable), except as provided in paragraph (b) of this section. This request shall be executed by the Certifying Officer. The request shall describe the specific project and activities covered by the request and contain the certification required under the applicable statute cited in § 58.1(b). The RROF and certification must be in a form specified by HUD.

(b) When the responsible entity is conducting an environmental review on behalf of a recipient, as provided for in § 58.10, the recipient must provide the responsible entity with all available project and environmental information and refrain from undertaking any physical activities or choice limiting actions until HUD (or the State, if applicable) has approved its request for release of funds. The certification form executed by the responsible entity's certifying officer shall be sent to the recipient that is to receive the assistance along with a description of any special environmental conditions that must be adhered to in carrying out the project. The recipient is to submit the RROF and the certification of the responsible entity to HUD (or the State, if applicable) requesting the release of



funds. The recipient must agree to abide by the special conditions, procedures and requirements of the environmental review, and to advise the responsible entity of any proposed change in the scope of the project or any change in environmental conditions.

(c) If the responsible entity determines that some of the activities are exempt under applicable provisions of this part, the responsible entity shall advise the recipient that it may commit funds for these activities as soon as programmatic authorization is received. This finding shall be documented in the ERR maintained by the responsible entity and in the recipient's project files.

**§ 58.72 HUD or State actions on RROFs and certifications.**

The actions which HUD (or a State) may take with respect to a recipient's environmental certification and RROF are as follows:

(a) In the absence of any receipt of objection to the contrary, except as provided in paragraph (b) of this section, HUD (or the State) will assume the validity of the certification and RROF and will approve these documents after expiration of the 15-day period prescribed by statute.

(b) HUD (or the state) may disapprove a certification and RROF if it has knowledge that the responsible entity or other participants in the development process have not complied with the items in § 58.75, or that the RROF and certification are inaccurate.

(c) In cases in which HUD has approved a certification and RROF but subsequently learns (e.g., through monitoring) that the recipient violated § 58.22 or the recipient or responsible entity otherwise failed to comply with a clearly applicable environmental authority, HUD shall impose appropriate remedies and sanctions in accord with the law and regulations for the program under which the violation was found.

[61 FR 19122, Apr. 30, 1996, as amended at 68 FR 56130, Sept. 29, 2003]

**§ 58.73 Objections to release of funds.**

HUD (or the State) will not approve the RROF for any project before 15 cal-

endar days have elapsed from the time of receipt of the RROF and the certification or from the time specified in the notice published pursuant to § 58.70, whichever is later. Any person or agency may object to a recipient's RROF and the related certification. However, the objections must meet the conditions and procedures set forth in subpart H of this part. HUD (or the State) can refuse the RROF and certification on any grounds set forth in § 58.75. All decisions by HUD (or the State) regarding the RROF and the certification shall be final.

**§ 58.74 Time for objecting.**

All objections must be received by HUD (or the State) within 15 days from the time HUD (or the State) receives the recipient's RROF and the related certification, or within the time period specified in the notice, whichever is later.

**§ 58.75 Permissible bases for objections.**

HUD (or the State), will consider objections claiming a responsible entity's noncompliance with this part based only on any of the following grounds:

(a) The certification was not in fact executed by the responsible entity's Certifying Officer.

(b) The responsible entity has failed to make one of the two findings pursuant to § 58.40 or to make the written determination required by §§ 58.35, 58.47 or 58.53 for the project, as applicable.

(c) The responsible entity has omitted one or more of the steps set forth at subpart E of this part for the preparation, publication and completion of an EA.

(d) The responsible entity has omitted one or more of the steps set forth at subparts F and G of this part for the conduct, preparation, publication and completion of an EIS.

(e) The recipient or other participants in the development process have committed funds, incurred costs or undertaken activities not authorized by this part before release of funds and approval of the environmental certification by HUD (or the state).

(f) Another Federal agency acting pursuant to 40 CFR part 1504 has submitted a written finding that the

## § 58.76

project is unsatisfactory from the standpoint of environmental quality.

[61 FR 19122, Apr. 30, 1996, as amended at 68 FR 56130, Sept. 29, 2003]

### § 58.76 Procedure for objections.

A person or agency objecting to a responsible entity's RROF and certification shall submit objections in writing to HUD (or the State). The objections shall:

(a) Include the name, address and telephone number of the person or agency submitting the objection, and be signed by the person or authorized official of an agency.

(b) Be dated when signed.

(c) Describe the basis for objection and the facts or legal authority supporting the objection.

(d) State when a copy of the objection was mailed or delivered to the responsible entity's Certifying Officer.

### § 58.77 Effect of approval of certification.

(a) *Responsibilities of HUD and States.* HUD's (or, where applicable, the State's) approval of the certification shall be deemed to satisfy the responsibilities of the Secretary under NEPA and related provisions of law cited at § 58.5 insofar as those responsibilities relate to the release of funds as authorized by the applicable provisions of law cited in § 58.1(b).

(b) *Public and agency redress.* Persons and agencies seeking redress in relation to environmental reviews covered by an approved certification shall deal with the responsible entity and not with HUD. It is HUD's policy to refer all inquiries and complaints to the responsible entity and its Certifying Officer. Similarly, the State (where applicable) may direct persons and agencies seeking redress in relation to environmental reviews covered by an approved certification to deal with the responsible entity, and not the State, and may refer inquiries and complaints to the responsible entity and its Certifying Officer. Remedies for noncompliance are set forth in program regulations.

(c) *Implementation of environmental review decisions.* Projects of a recipient will require post-review monitoring and other inspection and enforcement

## 24 CFR Subtitle A (4-1-04 Edition)

actions by the recipient and the State or HUD (using procedures provided for in program regulations) to assure that decisions adopted through the environmental review process are carried out during project development and implementation.

(d) *Responsibility for monitoring and training.* (1) At least once every three years, HUD intends to conduct in-depth monitoring and exercise quality control (through training and consultation) over the environmental activities performed by responsible entities under this part. Limited monitoring of these environmental activities will be conducted during each program monitoring site visit. If through limited or in-depth monitoring of these environmental activities or by other means, HUD becomes aware of any environmental deficiencies, HUD may take one or more of the following actions:

(i) In the case of problems found during limited monitoring, HUD may schedule in-depth monitoring at an earlier date or may schedule in-depth monitoring more frequently;

(ii) HUD may require attendance by staff of the responsible entity at HUD-sponsored or approved training, which will be provided periodically at various locations around the country;

(iii) HUD may refuse to accept the certifications of environmental compliance on subsequent grants;

(iv) HUD may suspend or terminate the responsible entity's assumption of the environmental review responsibility;

(v) HUD may initiate sanctions, corrective actions, or other remedies specified in program regulations or agreements or contracts with the recipient.

(2) HUD's responsibilities and action under paragraph (d)(1) of this section shall not be construed to limit or reduce any responsibility assumed by a responsible entity with respect to any particular release of funds under this part. Whether or not HUD takes action under paragraph (d)(1) of this section, the Certifying Officer remains the responsible Federal official under § 58.13 with respect to projects and activities for which the Certifying Officer has submitted a certification under this part.



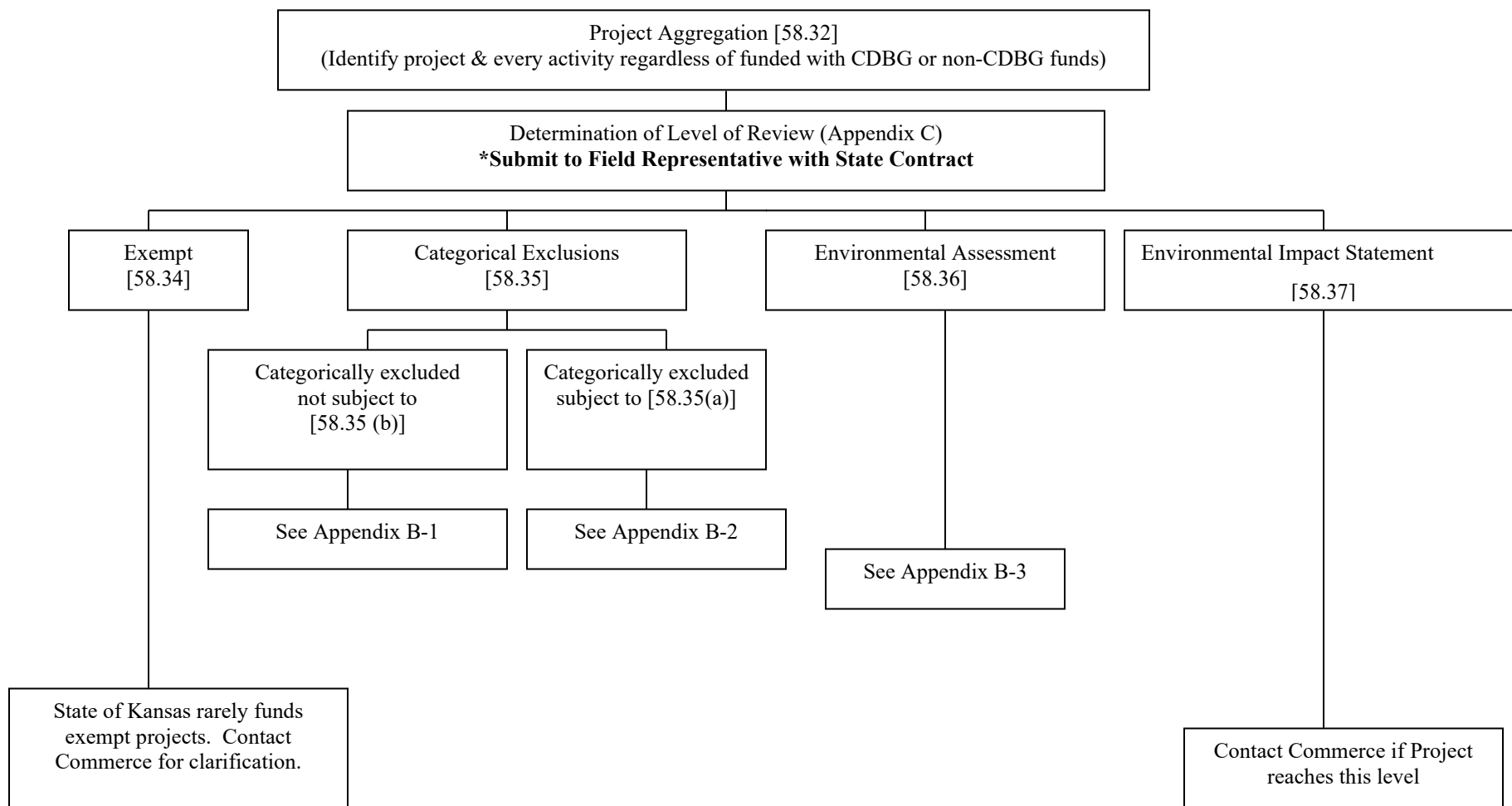


## Regulatory Agencies with Environmental Review Oversight of CDBG Projects

<b>State or Federal Agency</b>	<b>Address</b>	<b>Jurisdiction Over</b>
<b>Kansas Department of Health &amp; Environment</b> <b>Division of Environment</b> <a href="http://www.kdheks.gov/waste/">http://www.kdheks.gov/waste/</a> <a href="http://www.kdheks.gov/water/index.html">http://www.kdheks.gov/water/index.html</a>	1000 S.W. Jackson, Suite 400 Topeka, KS 66612-1366	Water, Sewer, Hazardous Waste, Air Quality, Asbestos, Explosive & Flammable Operations
<b>Kansas Water Office</b>	901 South Kansas Avenue Topeka, KS 66612-1249 Phone: (785) 296-3185	Water
<b>Kansas Department of Agriculture</b> <b>Division of Water Resources</b> <a href="http://www.ksda.gov/">http://www.ksda.gov/</a>	109 S.W. 9th Street, 2nd Floor Topeka, KS 66612	Water, NFIP
<b>Kansas Department of Wildlife &amp; Parks</b> <a href="http://www.kdwp.state.ks.us/">http://www.kdwp.state.ks.us/</a>	512 S.E. 25th Avenue Pratt, KS 67124 Phone: (620) 672-0744	Potentially all projects
<b>Airport Clear Zone</b>	Contact local Airport	Projects near airports
<b>United States Department of Agriculture</b> <a href="http://www.ks.nrcs.usda.gov/">http://www.ks.nrcs.usda.gov/</a>	Natural Resources Conservation Service 760 South Broadway Salina, KS 67401	New projects in Farm Land
<b>Kansas Corporation Commission</b> <a href="http://www.kcc.state.ks.us/">http://www.kcc.state.ks.us/</a>	1500 S.W. Arrowhead Road Topeka, KS 66604-4027 Phone: (785) 271-3100 Fax: (785) 271-3354	Electrical Systems, Energy Distribution or Generators, Abandoned Wells
<b>Kansas Geological Survey</b> <a href="http://www.kgs.ku.edu/">http://www.kgs.ku.edu/</a>	1930 Constant Avenue Lawrence, KS 66047-3726 Phone: (785) 864-3965 Fax: (785) 864-5317	Water, Sewer, Buildings
<b>Kansas Historical Society</b> <a href="http://www.kshs.org/">http://www.kshs.org/</a>	6425 S.W. 6 <sup>th</sup> Topeka, KS 66615 Archeologist: (785) 272-8681 x 214 Buildings: (785) 272-8681 x 217	All projects

<b>State or Federal Agency</b>	<b>Address</b>	<b>Jurisdiction Over</b>
<b>Local Emergency Management Offices</b>	Check with County or City	
<b>Federal Emergency Management Agency (FEMA)</b> <a href="http://www.fema.gov/index.shtm">http://www.fema.gov/index.shtm</a>	Federal Emergency Management Agency Hazard Identification and Risk Assessment 9221 Ward Parkway, Suite 300 Kansas City, MO 64114-3372 Phone: (816) 283-7003	Flood Plain issues
<b>U S Fish &amp; Wildlife Service</b> <a href="http://www.fws.gov/">http://www.fws.gov/</a>	2609 Anderson Avenue Manhattan, KS 66502-2801 Phone: (785) 593-3474 x 106	Potentially all projects
<b>US Environmental Protection Agency</b> <a href="http://www.epa.gov/">http://www.epa.gov/</a>	US EPA Region 7 901 N. 5th Street Kansas City, KS 66101	Water and Sewer with EA, and ED projects
<b>US Army Corps of Engineers</b> <a href="http://www.nwk.usace.army.mil/regulatory/regulatory.htm">http://www.nwk.usace.army.mil/regulatory/regulatory.htm</a>	Kansas City District Attention: OD-R 601 East 12 <sup>th</sup> Kansas City, MO 64106 Phone: (816) 389-3664 Fax: (816) 389-3670	Water and Sewer
<b>US Army Corps of Engineers</b>	Kanopolis Satellite Office 107 Riverside Drive Marquette, KS 67464 Phone: (785) 546-2130 Fax: (785) 546-2050	Water and Sewer
<b>US Army Corps of Engineers</b>	Pomona Regulatory Office 5260 Pomona Dam Road Vassar, KS 66546 Phone: (785) 453-2204 Fax: (785) 546-2050	Water and Sewer
<b>US Army Corps of Engineers</b>	Kansas State Regulatory Office 2701 N.E. Shady Creek Access Road El Dorado, KS 67042 Phone: (316) 322-8247 Fax: (316) 322-8259	Water and Sewer

**ENVIRONMENTAL REVIEW PROCESS FLOWCHART**

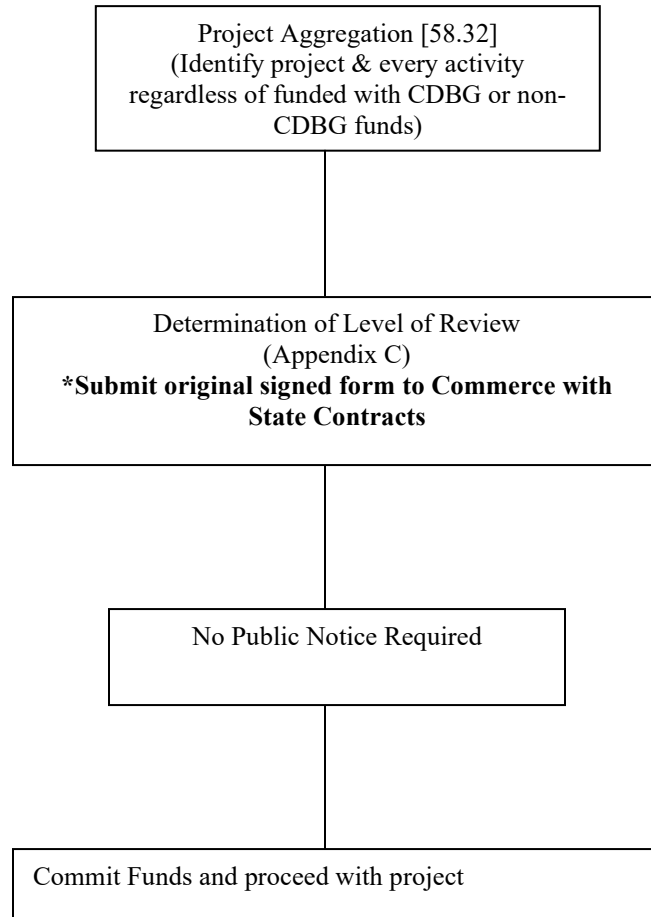


**ENVIRONMENTAL REVIEW PROCESS FLOWCHART**

**CATEGORICALLY EXCLUDED**

**NOT SUBJECT TO**

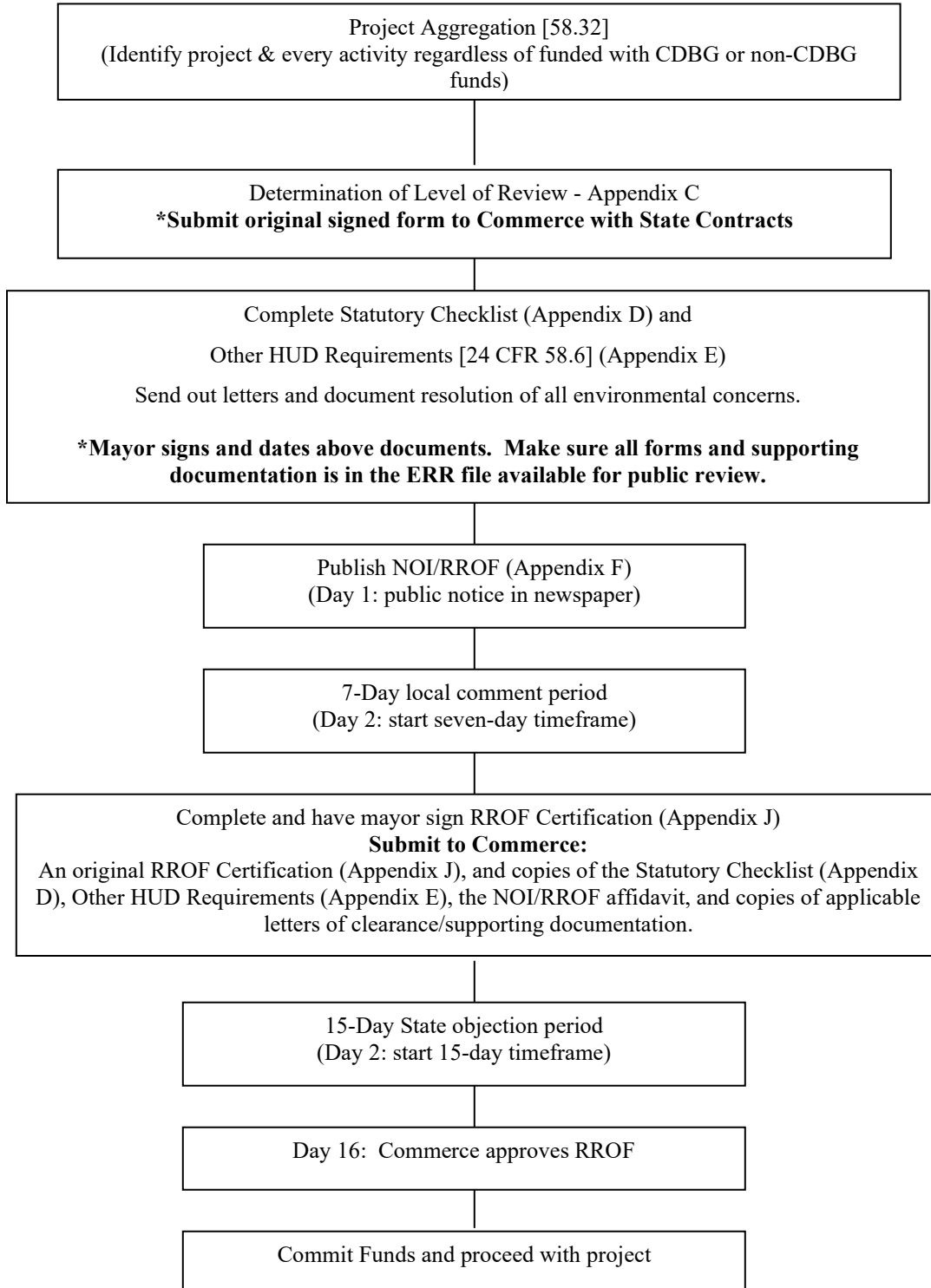
**(CENST) 58.35(b)**



**ENVIRONMENTAL REVIEW PROCESS FLOWCHART**

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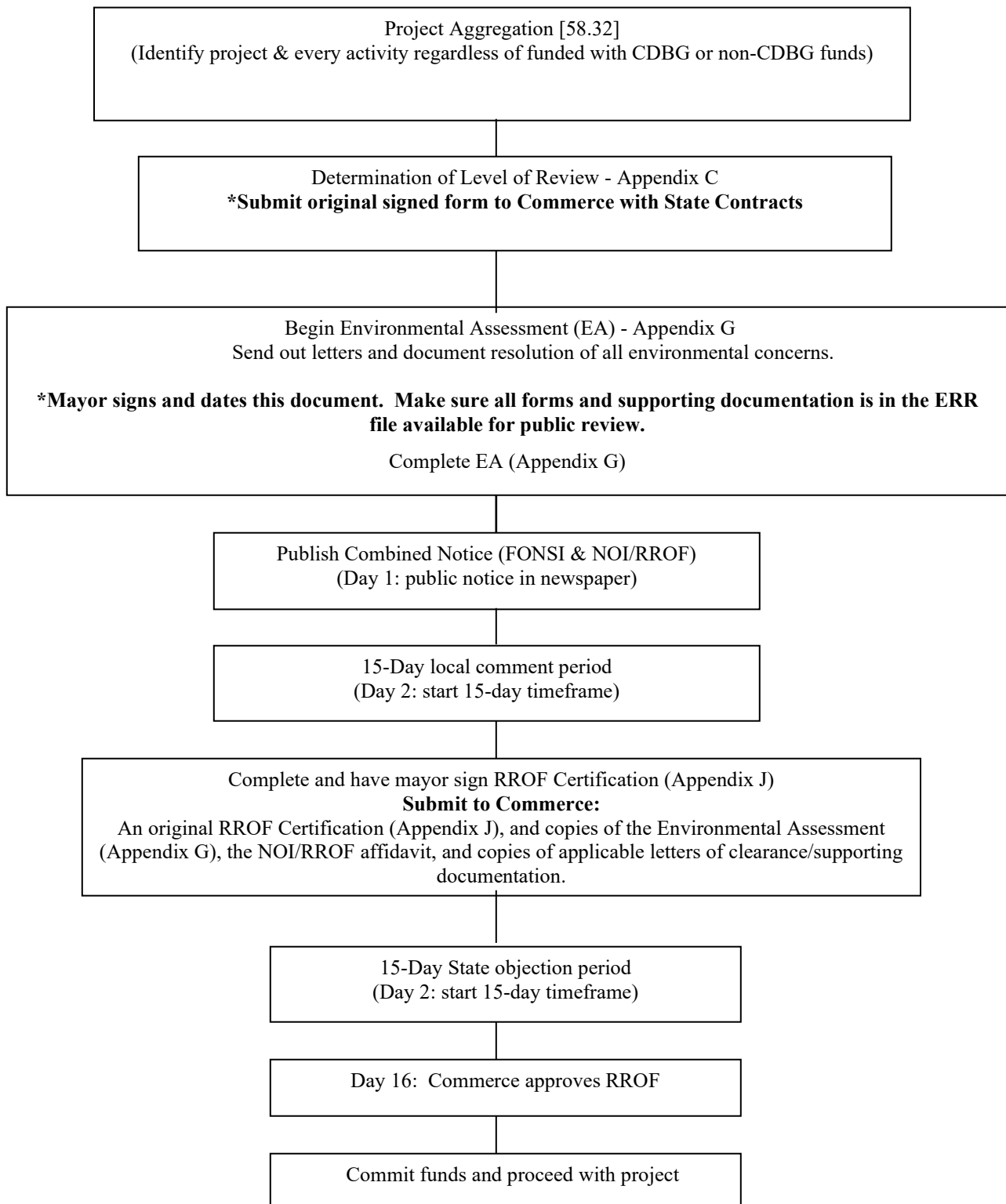
**SUBJECT TO**  
**(CEST) 58.35(a)**





## ENVIRONMENTAL REVIEW PROCESS FLOWCHART

### Environmental Assessment (EA) 58.36



Kansas Department of Commerce  
 Community Development Block Grant (CDBG) Program  
 1000 S.W. Jackson Street, Suite 100  
 Topeka, KS 66612-1354

**DETERMINATION OF LEVEL OF REVIEW**

ENVIRONMENTAL REVIEW RECORD (ERR)

Grantee Name & Project Number: \_\_\_\_\_

Project Location: \_\_\_\_\_

Project Description: \_\_\_\_\_

The subject project has been reviewed pursuant to HUD regulations 24 CFR Part 58, "Environmental Review Procedures for Entities Assuming HUD Environmental Responsibilities," and the following determination with respect to the project is made:

- Exempt from NEPA review requirements per 24 CFR 58.34(a)(\_\_\_\_)
- Categorical Exclusion NOT Subject to §58.5 authorities per 24 CFR 58.35(b)(\_\_\_\_)
- Categorical Exclusion SUBJECT to §58.5 authorities per 24 CFR 58.35(a)(\_\_\_\_)
- An Environmental Assessment (EA) is required to be performed.
- An Environmental Impact Statement (EIS) is required to be performed.

The ERR (see §58.38) must contain all the environmental review documents, public notices and written determinations or environmental findings required by Part 58 as evidence of review, decision making and actions pertaining to a particular project. Include additional information including checklists, studies, analyses and documentation as appropriate.

_____ Chief Elected Official (print name/title)	_____ Chief Elected Official's Signature
_____ Date	



# STATUTORY CHECKLIST

Use this worksheet only for projects that are Categorically Excluded under 24 CFR §58.35(a).

PROJECT NAME: \_\_\_\_\_

ERR FILE # \_\_\_\_\_ (optional)

An “ERR Determination” form should be provided as a cover to this checklist.

This checklist is a component of the Environmental Review Record (ERR) [§58.38]. Supplement the ERR, as appropriate, with photographs, site plans, maps, narrative and other information that describe the project.

## 24 CFR §58.5 – NEPA-Related Federal Statutes and Authorities

**DIRECTIONS – For each authority, determine whether project is in compliance, either because:** (1) the nature of the project does not implicate the authority under consideration, or (2) supporting information provides documentation project compliance has been achieved, or (3) an additional compliance action is required. The compliance action may include such items as obtaining a license or permit from a state, federal, or local agency, on-going oversight by a government agency, or completion of a remediation or mitigation measure.

**IMPORTANT:** Compliance documentation consists of verifiable source documents and/or relevant base data. Appropriate documentation must be provided for each law or authority. Publicly available documents may be incorporated by reference into the ERR, provided that each source document is clearly identified and the document available for review by interested parties. Proprietary material and studies that are not otherwise generally available for public review shall be included in the ERR. Refer to HUD or state guidance for more information.

**Statute, Authority, Executive**

### Order, Regulation or Policy

cited at 24 CFR §58.5	Compliance Documentation
<b>1. Air Quality</b> [Clean Air Act sections 176(c) & (d), and 40 CFR 6, 51, 93]	
<b>2. Airport Hazards</b> (Clear Zones and Accident Potential Zones) [24 CFR 51D]	
<b>3. Coastal Zone Management</b> [Coastal Zone Management Act sections 307(c) & (d)]	No coastal zone management programs exist in the states of HUD Region VII, as established by Nat'l Oceanic & Atmospheric Administration, Office of Ocean and Coastal Resource Management. February 2005. ( <a href="http://www.ocrm.nos.noaa.gov/czm/czmsitelist.html">http://www.ocrm.nos.noaa.gov/czm/czmsitelist.html</a> )
<b>4. Contamination and Toxic Substances</b> [24 CFR 58.5(i)(2)]	
<b>5. Endangered Species</b> [50 CFR 402]	

<b>6. Environmental Justice</b> [Executive Order 12898]	
<b>7. Explosive and Flammable Operations</b> [24 CFR 51C]	
<b>8. Farmland Protection</b> [7 CFR 658]	
<b>9. Floodplain Management</b> [24 CFR 55, Executive Order 11988]	
<b>10. Historic Preservation</b> [36 CFR 800]	
<b>11. Noise Control</b> [24 CFR 51B]	
<b>12. Water Quality (Sole Source Aquifers)</b> [40 CFR 149]	
<b>13. Wetland Protection</b> [24 CFR 55, Executive Order 11990]	
<b>14. Wild and Scenic Rivers</b> [36 CFR 297]	

**DETERMINATION (check one):**

- COMPLIANCE IS MET.** The project is in compliance with the aforementioned authorities and regulations, as documented above.
- ACTION REQUIRED.** The project will be compliant with the aforementioned authorities and regulations, provided further action is taken. The action is a condition of the environmental review and is described below. (An additional compliance action may include obtaining a license or permit from a state, federal, or local agency, or completing a certain remediation or mitigation measure.)

**Required Condition(s):**

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- UNUSUAL CIRCUMSTANCES.** The unusual circumstances of this project may result in a significant environmental impact. The project requires preparation of an Environmental Assessment (EA). Prepare the EA according to 24 CFR Part 58 Subpart E.

PREPARER SIGNATURE: \_\_\_\_\_ DATE: \_\_\_\_\_

PREPARER NAME & TITLE: \_\_\_\_\_



U.S. Department of Housing and Urban Development  
 Great Plains Regional Office – Region VII  
 400 State Avenue, Room 200  
 Kansas City, KS 66101-2406

**Appendix E**  
**Categorically Excluded**  
**Subject To**

PROJECT NAME: \_\_\_\_\_

ERR FILE #: \_\_\_\_\_ retain this form in the ERR of the subject project.

**REQUIREMENTS listed at 24 CFR 58.6**

**1. AIRPORT RUNWAY CLEAR ZONES AND CLEAR ZONES NOTIFICATION**  
*[24 C.F.R. Part 51.303(a)(3)]*

Does the project involve the sale or acquisition of property located within a Civil Airport Runway Clear Zone or a Military Airfield Clear Zone?

No. Cite or attach Source Document: \_\_\_\_\_  
 (Project complies with 24 CFR 51.303(a)(3).)

Yes. **Notice must be provided to buyer.** The notice must advise the buyer that the property is in a Runway Clear Zone or Clear Zone, what the implications of such a location are, and that there is a possibility that the property may, at a later date, be acquired by the airport operator. The buyer must sign a statement acknowledging receipt of this information, and a copy of the signed notice must be maintained in this ERR.

**2. COASTAL BARRIERS RESOURCES ACT**  
*[Coastal Barrier Improvement Act of 1990 (16 U.S.C. 3501)]*

Is the project located in a coastal barrier resource area?

No. Cite or attach Source Document: No CBRA in MO/KS/NE/IA <http://www.fema.gov/nfip/cobra.shtml>  
 (Proceed with project.)

Yes. Federal assistance may not be used in such an area.

**3. FLOOD DISASTER PROTECTION ACT**  
*[Flood Disaster Protection Act of 1973, as amended (42 U.S.C. 4001-4128)]*

Does the project involve acquisition, construction or rehabilitation of structures located in a FEMA-identified Special Flood Hazard Area?

No. Cite or attach Source Document: \_\_\_\_\_  
 (Proceed with project.)

Yes. Cite or attach Source Document: \_\_\_\_\_

Is the community participating in the National Insurance Program (or has less than one year passed since FEMA notification of Special Flood Hazards)?

Yes. **Flood Insurance under the National Flood Insurance Program must be obtained.** If HUD assistance is provided as a grant, insurance must be maintained for the economic life of the project and in the amount of the total project cost (or up to the maximum allowable coverage, whichever is less). If HUD assistance is provided as a loan, insurance must be maintained for the term of the loan and in the amount of the loan (or up to maximum allowable coverage, whichever is less). A copy of the flood insurance policy declaration must be kept on file in the ERR.

No. **Federal assistance may not be used in the Special Flood Hazards Area.**

Responsible Entity Official: Signature / Name \_\_\_\_\_

Date \_\_\_\_\_



## Sample of

**NOTICE OF INTENT TO REQUEST RELEASE OF FUNDS**

Date of Publication: *(date published)*

Expires: *(date 7 days after date of publication)*

*Name of Grantee*

*Address (Street #, or P.O. Box, City/State/Zip Code)*

*Grantee's Telephone Number*

On or after *insert date at least one day after the end of the comment period*, *Grantee's name* will submit a request to the State of Kansas for the release of Federal Funds from the Community Development Block Grant program under Title 1 of the Housing and Community Development Act of 1974, as amended (PL 93-383) to undertake the following project:

Project Number: *CDBG Grant Number*

Project Name: *name of project*

Project Type: *description/scope/purpose of project*

Project Location: *address/ specific location of the project*

Estimated HUD/CDBG Funds: *estimated CDBG funding*

Estimated Total Project Cost: *estimated total project cost - include all funding sources*

The activities proposed are categorically excluded under HUD regulations at 24 CFR Part 58 from National Environmental Policy Act (NEPA) requirements. An Environmental Review Record (ERR) that documents the environmental determinations for this project is on file at *name and address of Grantee's office and name and address of other locations where the record is available for review* and may be examined or copied weekdays \_\_\_\_\_ AM to \_\_\_\_\_ PM.

**PUBLIC COMMENTS**

Any individual, group, or agency may submit written comments on the ERR to the *Grantee's designated office responsible for receiving and responding to comments*. All comments received by *publication date plus seven days* will be considered by *the name of Grantee* prior to authorizing submission of a request for release of funds.

**RELEASE OF FUNDS**

*The name of Grantee* certifies to the State of Kansas that *name of Certifying Officer* in *his/her* capacity as *Official Title* consents to accept the jurisdiction of the Federal Courts if an action is brought to enforce responsibilities in relation to the environmental review process and that these responsibilities have been satisfied. The State of Kansas's approval of the certification satisfies its responsibilities under NEPA and related laws and authorities and allows *the name of Grantee* to use HUD/CDBG program funds.

## **OBJECTIONS TO RELEASE OF FUNDS**

The State of Kansas will accept objections to its release of funds and the grantee's certification for a period of fifteen days following the anticipated submission date or its actual receipt of the request (whichever is later) only if they are on one of the following bases: (a) the certification was not executed by the Certifying Officer of the grantee; (b) the grantee has omitted a step or failed to make a decision or finding required by HUD regulations at 24 CFR Part 58; (c) the grant recipient or other participants in the development process have committed funds, incurred costs or undertaken activities not authorized by 24 CFR Part 58 before approval of a release of funds by the State of Kansas; or (d) another Federal agency acting pursuant of 40 CFR Part 1504 has submitted a written finding that the project is unsatisfactory from the standpoint of environmental quality. Objections must be prepared and submitted in accordance with the required procedures (24 CFR Part 58, Sec. 58.76) and shall be addressed to the Kansas Department of Commerce, CDBG Program, 1000 S.W. Jackson Street, Suite 100, Topeka, KS 66612. Potential objectors should contact Commerce to verify the actual last day of the objection period.

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Name and Title of Certifying Officer

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Name and Address of Grantee

### **Instructions for Completing the "Notice Of Intent To Request Release Of Funds"**

This Notice is used to request the environmental release of funds for Categorically Excluded projects (24 CFR Part 58, Section 58.35(a)) or for projects for which a Notice of Finding of No Significant Impact was previously issued. Specific Grantee information is to be inserted where words are in bold and italics type.

The seven-day local comment period is the minimum time period required by regulation prior to submission of a Request for Release of Funds and Certification (form HUD-7015.15) to the State of Kansas. The Grantee may choose to allow a longer comment period. The fifteen-day State objection period is a statutory requirement. The State objection period commences following the submission date specified in the Notice, or the actual date of receipt by the State, whichever is later.



**U.S. Department of Housing  
and Urban Development**  
Great Plains Office – Region VII  
400 State Avenue  
Kansas City, Kansas 66101-2406

## **Environmental Assessment for HUD-funded Projects**

[HUD recommended format per 24 CFR 58.40]

Project Name: \_\_\_\_\_

Responsible Entity: \_\_\_\_\_  
[24 CFR 58.2(a)(7)]

Certifying Officer Name & Title: \_\_\_\_\_  
[24 CFR 58.2(a)(2)]

Environmental Review Record (ERR) File # \_\_\_\_\_

# Environmental Assessment

Project Location: \_\_\_\_\_

Estimated Total Project Cost (all sources): \_\_\_\_\_

Amount of HUD Assistance: \_\_\_\_\_ HUD Grant Program: \_\_\_\_\_

**Grant Recipient (if different from Responsible Entity):**

[24 CFR 58.2(a)(5)]

\_\_\_\_\_

Recipient Address & Phone: \_\_\_\_\_

RE Project Contact Name & Phone: \_\_\_\_\_

**Conditions for Approval:** (List all mitigation and project modification measures adopted by the responsible entity to eliminate or minimize adverse environmental impacts. These conditions must be included in project contracts and other relevant documents as requirements.) [24 CFR 58.40(d), 40 CFR 1505.2(c)]

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**FINDING:** [58.40(g)]

- Finding of No Significant Impact (FONSI)**  
(The project will not result in a significant impact on the quality of the human environment.)
  
- Finding of Significant Impact**  
(The project may significantly affect the quality of the human environment.)

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PREPARER SIGNATURE: \_\_\_\_\_ DATE: \_\_\_\_\_

PREPARER NAME & TITLE: \_\_\_\_\_

PREPARER'S AGENCY (If Different from RE): \_\_\_\_\_

RE APPROVING OFFICIAL SIGNATURE: \_\_\_\_\_ DATE: \_\_\_\_\_

RE APPROVING OFFICIAL NAME & TITLE: \_\_\_\_\_

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**Purpose of the Project:** ["Statement of Purpose and Need for the Proposal" - 40 CFR 1508.9(b)]

**Description of the Project:** Include all contemplated actions that are logically either geographically or functionally a composite part of the project, regardless of the source of funding. [24 CFR 58.32, 40 CFR 1508.25] As appropriate, attach maps, site plans, renderings, photographs, budgets and other descriptive information.

**Existing Conditions and Trends:** Describe the existing conditions of the project area and its surroundings, and the trends likely to continue in the absence of the project. [24 CFR 58.40(a)]

**Part I: Statutory Checklist** [24CFR §58.5]

**DIRECTIONS – For each authority, check one of the appropriate boxes under “Status.”**

**“A box”** The project is in compliance, either because: (1) the nature of the project does not implicate the authority under consideration, or (2) supporting information documents that project compliance has been achieved. In either case, information must be provided as to **WHY the authority is not implicated, or HOW compliance is met.** OR

**“B box”** The project requires an additional compliance step or action, including but not limited to consultation with or approval from an oversight agency, performance of a study or analysis, completion of remediation or mitigation measure, or obtaining of license or permit.

**IMPORTANT:** Compliance documentation consists of verifiable source documents and/or relevant base data. Appropriate documentation must be provided for each law or authority. Documents may be incorporated by reference into the ERR provided that each source document is identified and available for inspection by interested parties. Proprietary material and studies that are not otherwise generally available for public review shall be included in the ERR. Refer to HUD guidance for more information.

Statute, Authority, Executive Order

Regulation or Policy cited at 24 CFR §58.5	STATUS		Compliance Documentation
	A	B	
<b>1. Air Quality</b> [Clean Air Act sections 176(c) & (d), and 40 CFR 6, 51, 93]	<input type="checkbox"/>	<input type="checkbox"/>	
<b>2. Airport Hazards</b> (Clear Zones and Accident Potential Zones) [24 CFR 51D]	<input type="checkbox"/>	<input type="checkbox"/>	
<b>3. Coastal Zone Management</b> [Coastal Zone Management Act sections 307(c) & (d)]	<input checked="" type="checkbox"/>	<input type="checkbox"/>	No coastal zone management programs are in the states of HUD Region VII, per Nat'l Oceanic & Atmospheric Administration, Office of Ocean and Coastal Resource Management. <a href="http://www.ocrm.nos.noaa.gov/czm/czmsitelist.html">http://www.ocrm.nos.noaa.gov/czm/czmsitelist.html</a>
<b>4. Contamination and Toxic Substances</b> [24 CFR 58.5(i)(2)]	<input type="checkbox"/>	<input type="checkbox"/>	
<b>5. Endangered Species</b> [50 CFR 402]	<input type="checkbox"/>	<input type="checkbox"/>	
<b>6. Environmental Justice</b> [Executive Order 12898]	<input type="checkbox"/>	<input type="checkbox"/>	
<b>7. Explosive and Flammable Operations</b> [24 CFR 51C]	<input type="checkbox"/>	<input type="checkbox"/>	
<b>8. Farmland Protection</b> [7 CFR 658]	<input type="checkbox"/>	<input type="checkbox"/>	
<b>9. Floodplain Management</b> [24 CFR 55, Executive Order 11988]	<input type="checkbox"/>	<input type="checkbox"/>	
<b>10. Historic Preservation</b> [36 CFR 800]	<input type="checkbox"/>	<input type="checkbox"/>	
<b>11. Noise Control</b> [24 CFR 51B]	<input type="checkbox"/>	<input type="checkbox"/>	



<b>12. Water Quality</b> (Sole Source Aquifers) [40 CFR 149]	<input type="checkbox"/>	<input type="checkbox"/>	
<b>13. Wetland Protection</b> [24 CFR 55, Executive Order 11990]	<input type="checkbox"/>	<input type="checkbox"/>	
<b>14. Wild and Scenic Rivers</b> [36 CFR 297]	<input type="checkbox"/>	<input type="checkbox"/>	

## Part II: Environmental Assessment Checklist

[Environmental Review Guide HUD CPD-782, 24 CFR 58.40; 40 CFR 1508.8 &1508.27]

For each impact category, evaluate the significance of the effects of the proposal on the character, features and resources of the project area. Enter relevant base data and credible, verifiable source documentation to support the finding. Note names, dates of contact, telephone numbers and page references. Then enter the appropriate determination of impact: None Anticipated, Potentially Adverse or Potentially Beneficial. Attach additional material as appropriate. Note conditions or mitigation measures required.

<b>Impact Categories</b>	<i>Anticipated or Potential Impact</i>	<i>Source Documentation</i>
	<ul style="list-style-type: none"> <li>• Adverse</li> <li>• Beneficial</li> <li>• No Impact</li> </ul>	<i>and</i> <i>Mitigation or Modification Required</i>

### Land Development

Conformance with Comprehensive Plans and Zoning		
Land Use Compatibility and Urban Impact		
Urban Design - Visual Quality and Scale		
Slope		
Erosion		
Soil Suitability		
Hazards and Nuisances, including Site Safety		
Noise - Effects of Ambient Noise on Project & Contribution to Community Noise Levels		
Air Quality - Effects of Ambient Air Quality on Project & Contribution to Community Pollution Levels		

Energy Conservation		
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**Socioeconomic Factors**

Demographic Character Changes		
Displacement		
Employment and Income Patterns		

**Community Facilities and Services**

Educational Facilities		
Commercial Facilities		
Health Care		
Social Services		
Solid Waste		
Waste Water		
Storm Water		
Water Supply		
Public Safety <ul style="list-style-type: none"> <li>• Police</li> </ul>		
<ul style="list-style-type: none"> <li>• Fire</li> </ul>		
<ul style="list-style-type: none"> <li>• Emergency Medical</li> </ul>		
Open Space and Recreation <ul style="list-style-type: none"> <li>• Open Space</li> </ul>		
<ul style="list-style-type: none"> <li>• Recreation</li> </ul>		
<ul style="list-style-type: none"> <li>• Cultural Facilities</li> </ul>		

Transportation		
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**Natural Features**

Water Resources		
Surface Water		
Unique Natural Features and Agricultural Lands		
Vegetation and Wildlife		

**Part III: Other Requirements** [24 CFR §58.6]

Complete the following table or attach a separate §58.6 Checklist.

**Compliance**

<b>§58.6 Requirements</b>	<b>Status (Y/N)</b>	<b>Source Documentation</b>
Flood Disaster Protection Act [Flood Insurance] [§58.6(a)]		
Coastal Barrier Resources Act/Coastal Barrier Improvement Act §58.6(c)]	YES	No Costal Barrier Resource Areas in MO/KS/NE/IA. <a href="http://www.fema.gov/nfip/cobra.shtm">http://www.fema.gov/nfip/cobra.shtm</a>
Airport Runway Clear Zone Disclosure & Notification [§58.6(d)]		

**SUMMARY OF FINDINGS AND CONCLUSIONS**

**Project Alternatives Considered** [24 CFR 58.40(e), Ref. 40 CFR 1508.9] (As appropriate, identify other reasonable courses of action that were considered and not selected, such as other sites, design modifications, or other uses of the subject site. Describe the benefits and adverse impacts to the human environment of each alternative and the reasons for rejecting it. Include consideration of the No Action Alternative, that is, not implementing the preferred alternative).

**Mitigation and Project Modification Measures Recommended**

[24 CFR 58.40(d), 40 CFR 1508.20]

(Recommend feasible ways in which the proposal or its external factors should be modified in order to minimize adverse environmental impacts and restore or enhance environmental quality.)

**Additional Studies Performed**

(List the reports, studies or analyses performed for this assessment, and attach studies or summaries.)

**List of Agencies and Persons Consulted** [40 CFR 1508.9(b)]  
(List agencies and persons consulted for this assessment.)

## Sample of Combined Notice

## NOTICE OF FINDING OF NO SIGNIFICANT IMPACT

AND

## NOTICE OF INTENT TO REQUEST RELEASE OF FUNDS

Date of Publication: *(date published)*Expires: *(date 15 days after date of publications)**Name of Grantee**Address (Street # or P.O. Box/City/State/Zip Code)**Grantee's Telephone Number*

These notices shall satisfy two separate but related procedural requirements for activities to be undertaken by the *name of the Grantee*.

**REQUEST FOR RELEASE OF FUNDS**

On or after *insert date at least one day after the end of the comment period*, *Grantee's name* will submit a request to the State of Kansas for the release of Federal funds from the Community Development Block Grant program under Title I of the Housing and Community Development Act of 1974, as amended (PL 93-383) to undertake the following project:

Project Number: *CDBG Grant Number*Project Name: *name of project*Project Type: *description/scope/purpose of project*Project Location: *address/ specific location of the project*Estimated HUD/CDBG Funds: *estimated CDBG funding*Estimated Total Project Cost: *estimated total project cost - include all funding sources***FINDING OF NO SIGNIFICANT IMPACT**

*The name of Grantee* has determined that the project will have no significant impact on the human environment. Therefore, an Environmental Impact Statement under the National Environmental Policy Act of 1969 (NEPA) is not required. Additional project information is contained in the Environmental Review Record (ERR) on file at *name and address of Grantee's office where ERR can be examined and name and address of other locations where the record is available for review* and may be examined or copied weekdays \_\_\_AM to \_\_\_PM.

**PUBLIC COMMENTS**

Any individual, group, or agency may submit written comments on the ERR to the *Grantee's designated office responsible for receiving and responding to comments*. All comments received by *publication date plus fifteen days* will be considered by *the name of Grantee* prior to authorizing submission of a request for release of funds. Comments should specify which Notice they are addressing.



## **RELEASE OF FUNDS**

*The name of Grantee* certifies to the State of Kansas that *name of Certifying Officer* in *his/her* capacity as *Official Title* consents to accept the jurisdiction of the Federal Courts if an action is brought to enforce responsibilities in relation to the environmental review process and that these responsibilities have been satisfied. The State of Kansas's approval of the certification satisfies its responsibilities under NEPA and related laws and authorities and allows *the name of Grantee* to use HUD/CDBG program funds.

## **OBJECTIONS TO RELEASE OF FUNDS**

The State of Kansas will accept objections to its release of funds and the grantee certifications for a period of fifteen days following the anticipated submission date or its actual receipt of the request (whichever is later) only if they are on one of the following bases: (a) the certification was not executed by the Certifying Officer of the grantee; (b) the grantee has omitted a step or failed to make a decision or finding required by HUD regulations at 24 CFR Part 58; (c) the grant recipient or other participants in the development process have committed funds, incurred costs or undertaken activities not authorized by 24 CFR Part 58 before approval of a release of funds by the State of Kansas; or (d) another Federal agency acting pursuant to 40 CFR Part 1504 has submitted a written finding that the project is unsatisfactory from the standpoint of environmental quality. Objections to the release of funds must be prepared and submitted in accordance with the required procedures (24 CFR Part 58, Sec. 58.76) and shall be addressed to the Kansas Department of Commerce, CDBG program, 1000 S.W. Jackson Street, Suite 100, Topeka, KS 66612. Potential objectors should contact Commerce to verify the actual last day of the objection period.

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Name and Title of Certifying Officer

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Name and Address of Grantee

## **Instructions for Completing the "Combined Notice"**

Specific Grantee information is to be inserted where words are ***bolded and italicized***. If there is more than one Grantee, list them all. For instance, in the case of multi-jurisdictional projects there is typically a lead grantee and other participating grantees. If all are included in the project, then all should be listed in the notice, including the name and title of the Certifying Officer for each jurisdiction.

The fifteen-day local public comment period is the minimum time period required by regulation prior to submission of a Request for a Release of Funds and Certification form HUD-7015.150 to the State of Kansas. The Grantee may choose to allow a longer comment period. 24 CFR Part 58 requires "time delays for exceptional circumstances," including a 30-day comment period for controversial or unique projects or those similar to projects normally requiring preparation of an Environmental Impact Statement. The fifteen-day State objection period is a statutory requirement. The State objection period commences following the submission date specified in the Notice, or the actual date of receipt by the State, whichever is later.

## SAMPLE

## FLOODPLAINS AND WETLANDS NOTICES

Early Public Notice

The City of West Linn, Kansas, is proposing to construct a new water treatment plant located on the corner of 10<sup>th</sup> Street and Mulberry in Census Tract 10. The project will involve 5.3 acres located in the 100 year floodplain. The City is interested in discussing alternatives to this project and securing public perceptions of possible adverse impacts that could result from the project and possible mitigation measures. Please SEND written comments to Tom Tyron, City Hall, Room 200, West Linn, Kansas 66000 or call (913) 555-5555. Comments will be accepted until (date).

**THE EARLY PUBLIC NOTICE MUST ALLOW A FULL 15-DAY LOCAL COMMENT PERIOD FROM THE DATE OF PUBLICATION.**

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Notice of Explanation

The City of West Linn, Kansas, intends to undertake the construction of a new water treatment plant located on the corner of 10<sup>th</sup> Street and Mulberry in census tract 10. This project is needed to improve water quality and meet the existing demand for potable water. This project is located in the 100 year floodplain. The project cannot be undertaken in any other location because of the land topography and number of acres required for the project. Therefore, there is not a practicable alternative to the proposed project. The City considered the following alternatives:

- 1) Locating the treatment plant on the corner of west Avenue and Route B.
- 2) Constructing a mechanical treatment facility rather than a lagoon system.

The proposed project is designed to minimize adverse impacts and preserve the natural floodplain. Failure to provide these improvements would result in the continued deterioration of the City's water supply and outweighs consideration of Executive Order 11988 and 11990. A more detailed description of the project and the FIA flood maps are available for citizen review at City Hall, Room 200, West Linn, Kansas 66000,

Honorable Tom Tyron  
Mayor, City of West Linn

**THE NOTICE OF EXPLANATION SHALL NOT BE PUBLISHED UNTIL AFTER THE COMMENT PERIOD OF THE EARLY PUBLIC NOTICE HAS ENDED.**

You can find the document for [Request for Release of Funds and Certification](#) by clicking on this link.



## **Section 7 B: Accessibility**

When developing housing under the NSP Program, several laws and regulations come into play that deals with accessible housing. These include:

- Fair Housing Act
- Kansas 2020 Accessibility Standards
- Section 504 of the Rehabilitation Act of 1973

While they are generally only applicable to new construction, there are instances where rehabilitation activities must comply also. Further, even if an activity is not subject to a particular law or regulation, grantees are encouraged to make ALL units accessible to the maximum extent feasible.

There are additional laws and regulations related to public spaces (e.g. Americans with Disabilities Act and the Architectural Barriers Act) which the grantee should be aware of. However, this chapter is focused on the three mentioned above.

### **Fair Housing Act**

The Fair Housing Act applies to almost all housing sold or rented in the United States. The Fair Housing Act prohibits discrimination in housing practices on the basis of race, color, religion, sex, and national origin. The Fair Housing Act was amended in 1988 to provide protections from discrimination in any aspect of the sale or rental of housing for families with children and persons with disabilities. The Fair Housing Act also establishes requirements for the design and construction of new rental or for sale multifamily housing to ensure a minimum level of accessibility for persons with disabilities.

The Fair Housing Act requires that covered multifamily dwelling units designed and constructed for first occupancy after March 13, 1991, be designed and constructed to be accessible. Covered multifamily dwelling units are:

- Dwelling units in buildings consisting of 4 or more units served by one or more elevators, or
- Ground floor dwelling units in other buildings with 4 or more units.

The Act, as applied to these units, can be broken down into following technical requirements:

1. The public and common use portions of such dwellings are readily accessible to and usable by disabled persons;

2. All the doors designed to allow passage into and within the premises within such dwellings are sufficiently wide to allow passage by disabled persons in wheelchairs; and
3. All premises within such dwellings contain the following features of adaptive design:
  - a. An accessible route into and through the dwelling;
  - b. Light switches, electrical outlets, thermostats, and other environmental controls in accessible locations;
  - c. Reinforcements in bathroom walls to allow later installation of grab bars; and
  - d. Usable kitchens and bathrooms such that an individual in a wheelchair can maneuver about the space.

*Accessible Public and Common-Use Areas*

All public and common-use spaces within a complex must be accessible. This includes:

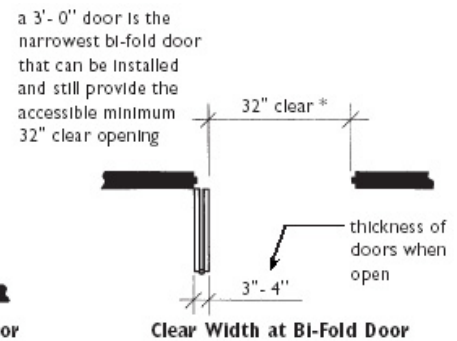
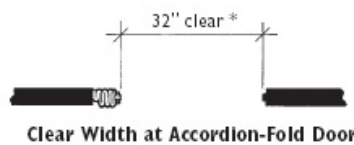
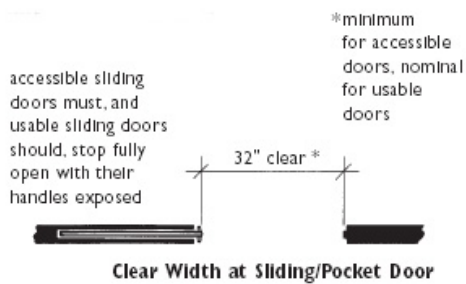
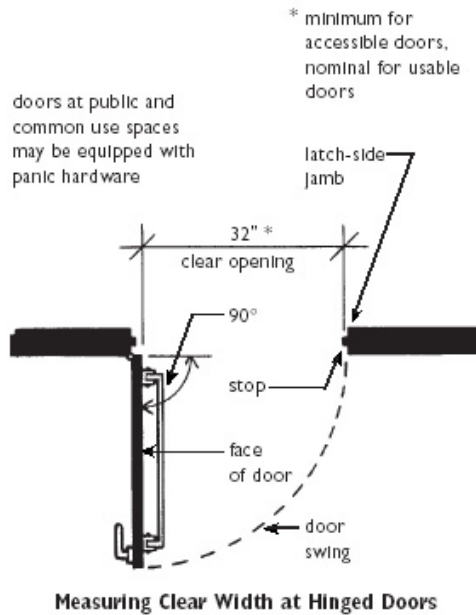
- Parking areas, curb ramps, passenger loading areas
- Building lobbies, lounges, halls and corridors, elevators
- Public use restrooms
- Rental offices
- Drinking fountains/water coolers
- Mailboxes and laundry rooms
- Community/Exercise Rooms, swimming pools, playgrounds and other recreational facilities.

To comply with this requirement, these areas must be on an accessible route and have accessible entrances (discussed below) and have ample maneuvering room. Because of the numerous and varied nature public/common-use areas, owners/developers should obtain a copy of HUD's Fair Housing Act Design Manual to address issues related to common spaces.



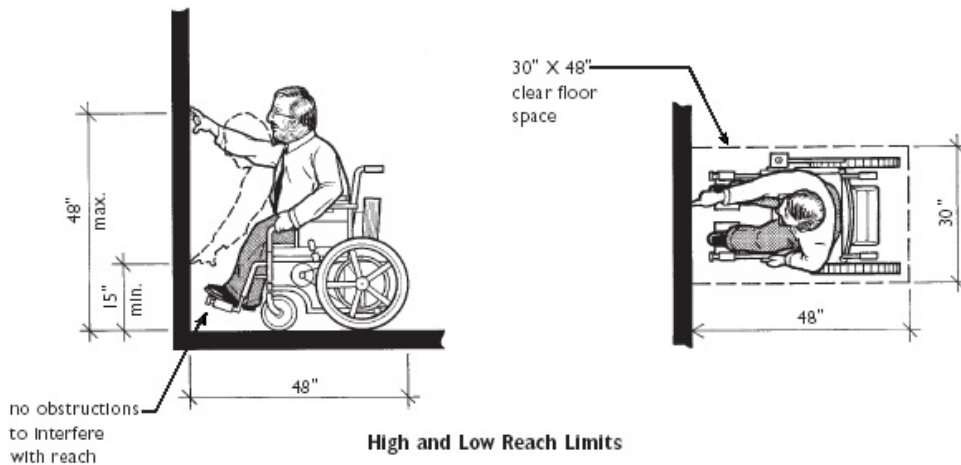
### Usable Doors

Doors must be wide enough to enable a person in a wheelchair to maneuver through them easily. This includes public and common-use doors, entry doors into individual dwelling units and all doors within the dwelling unit itself. This requirement applies to all types of doors, including folding and sliding doors, but excludes small closets such as linen closets that typically have shelves within easy reach and doors to small mechanical closets dedicated specifically to furnaces or hot water heaters. To comply with this requirement, doorways shall have a minimum clear opening of 32 inches with the door open 90 degrees, measured between the face of the door and the stop.



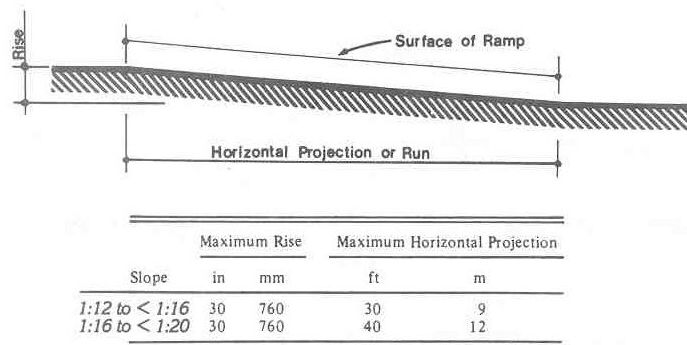
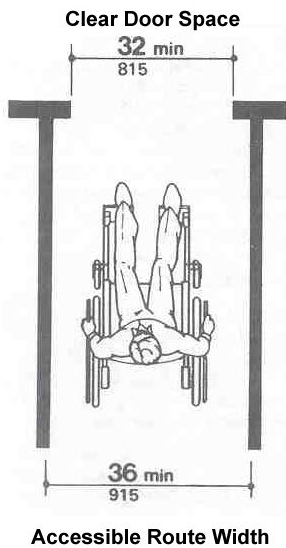
### Accessible Route & Entrance

When ground floor units have separate entrances, each entrance must be accessible (see doors above). When units in a multi-unit building share a common entrance, at least one common entrance must be accessible. The threshold of a unit's exterior door may not exceed 3/4 inch. An accessible entrance must be located on an accessible route.



An accessible route is a path that is at least 36 inches wide, smooth, as level as possible, and without hazards or obstructions. If the route includes a change in level, the slope cannot exceed one inch of rise for every 20 inches of length and must be beveled.

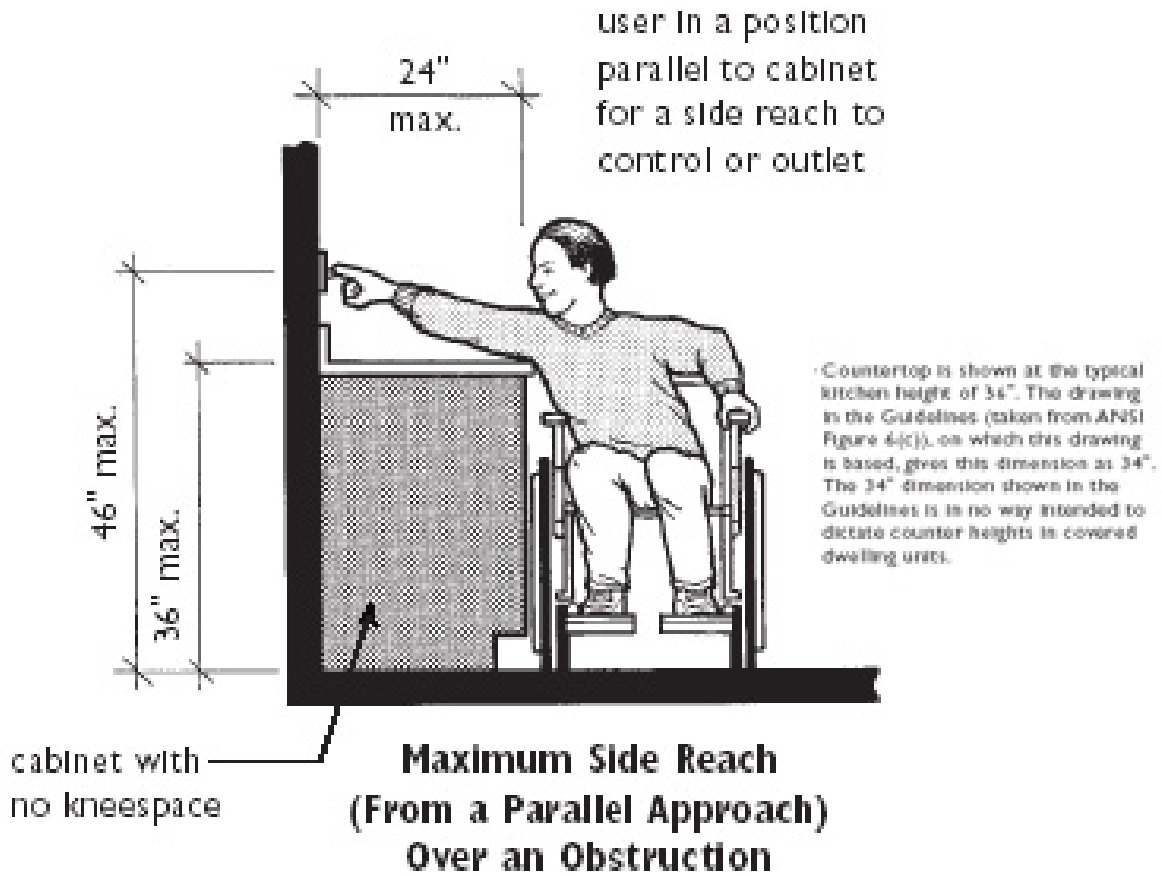
Within the boundary of the site, an accessible walk or route on a site must connect public transportation stops, accessible parking spaces, accessible passenger loading zones, and public streets and sidewalks to accessible building entrances. The route also applies to the accessible portions within a dwelling unit.

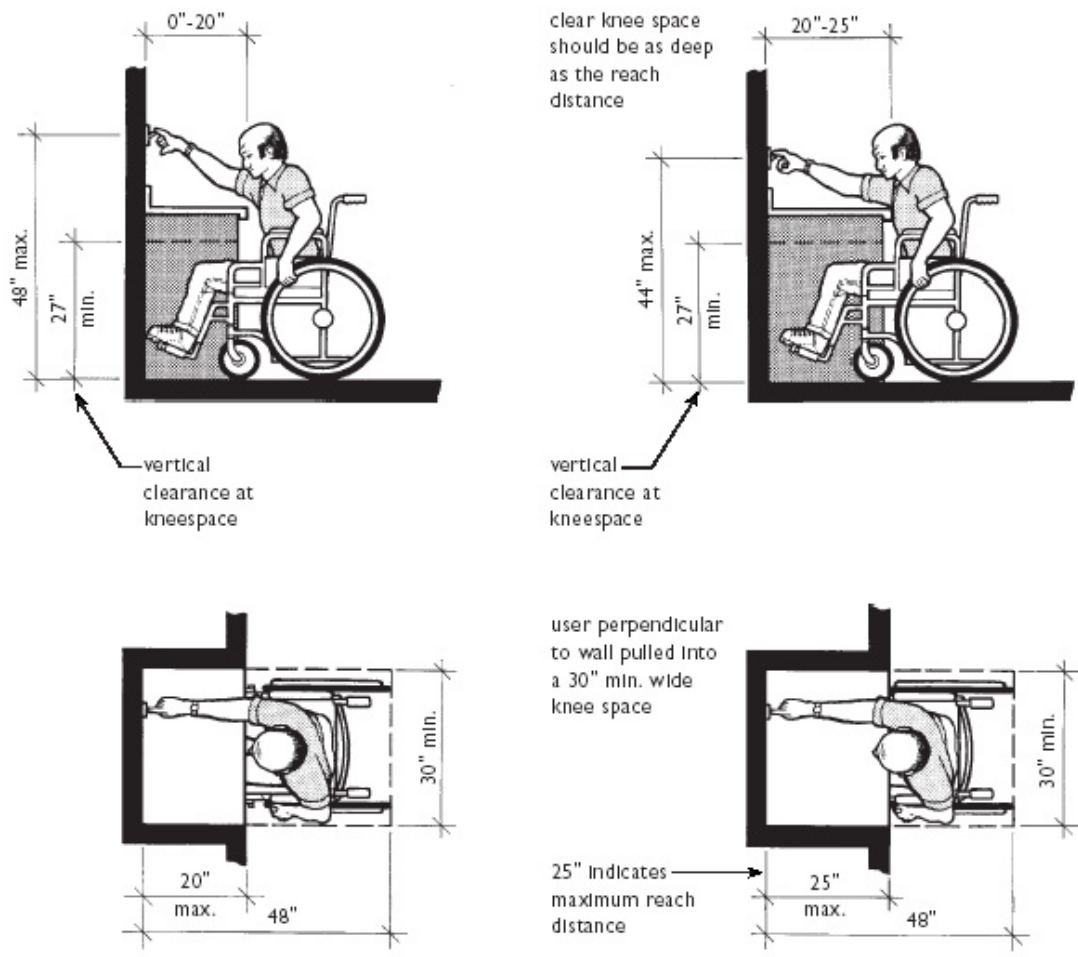


**Slope and Rise**

*Accessible Switches, Outlets and Environmental Controls*

All switches, outlets, thermostats and other controls must be accessible to persons in wheelchairs. The operable parts of controls must be no lower than 15 inches and no higher than 48 inches. A clear floor space of 30 inches by 48 inches must be provided at the control.





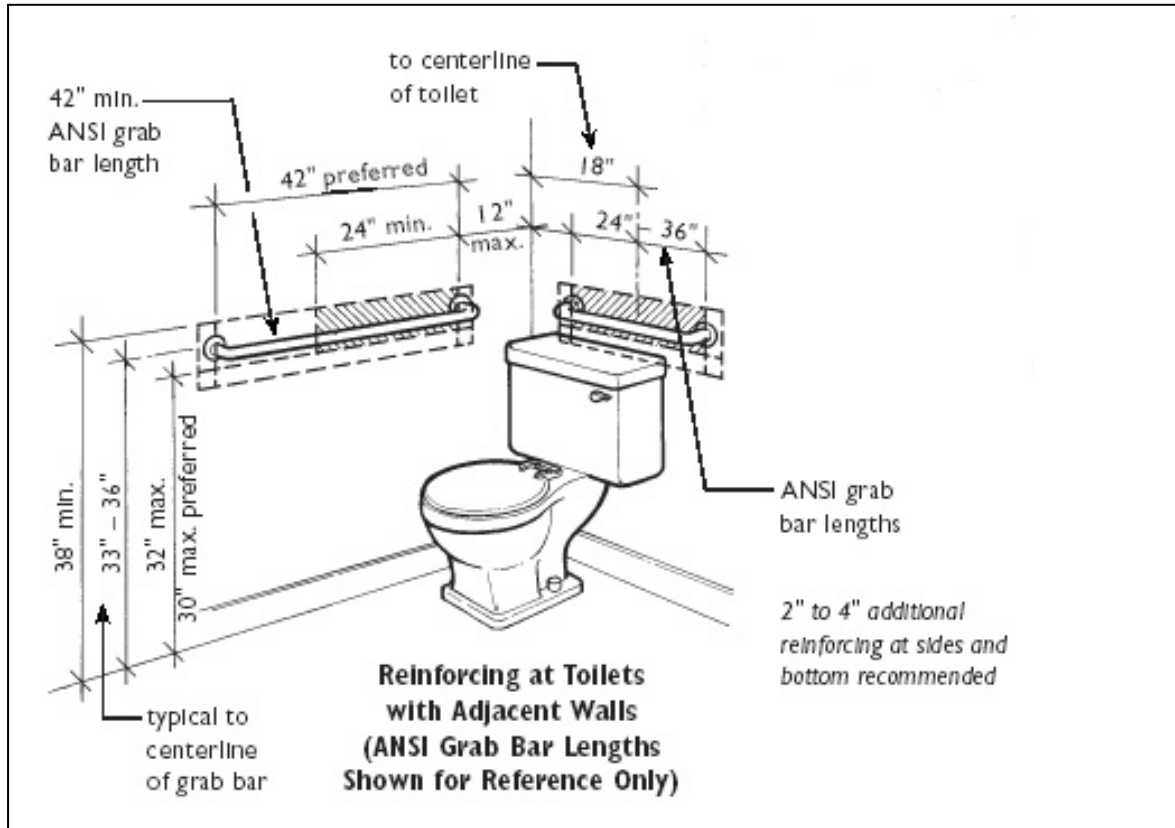
**Maximum Forward Reach  
(From a Perpendicular Approach) over an Obstruction**

*Reinforced Walls in the Bathroom*

Bathroom walls must be reinforced to allow for the installation of grab bars near the toilet, tub, shower and shower seat.

- Toilet. Structural reinforcement must be provided from 32 inches to 38 inches from the floor and shall allow for the installation of grab bars as specified below:
  - Back Wall. 36-inch minimum length reinforcement is required behind the toilet mounted at a height between 33 and 36 inches. The reinforcement must extend a minimum of 12 inches beyond the center of the water closet toward the sidewall and a minimum of 24 inches toward the open side for either a left or right side approach.

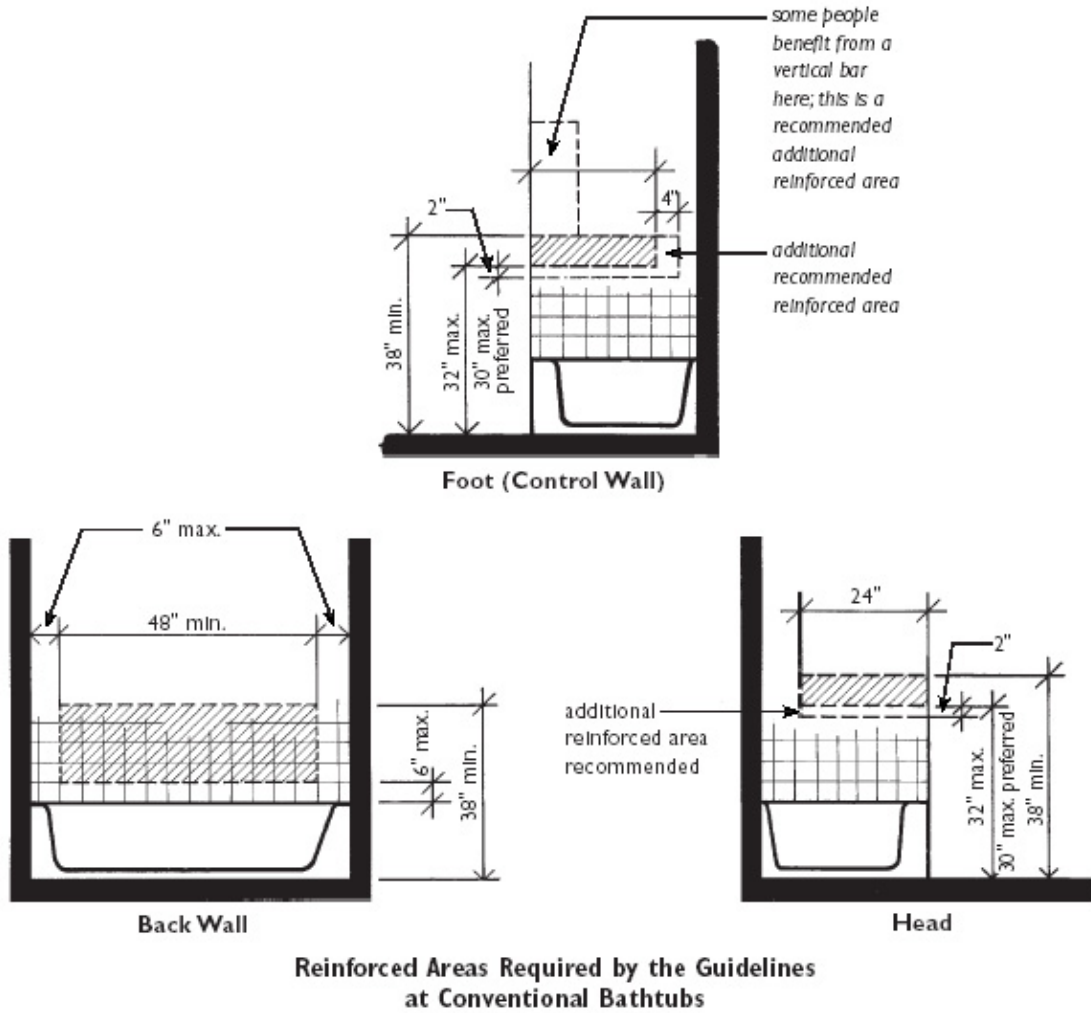
- Side Wall. 24-inch minimum length reinforcement is required to the side of the toilet spaced 12 inches maximum from the back wall and extending a minimum of 36 inches from the back wall. It is recommended that this reinforcement extend 54 inches from the back wall.



- Tub. Structural reinforcement must be provided to allow for the installation of grab bars as specified below:
  - Back Wall. 48-inch minimum length reinforcement is required, mounted at a height between six inches above the rim of the tub up to at least 38 inches.
  - Side Walls. 24-inch minimum length reinforcement from the tub opening is required, mounted at a height 32 and 38 inches from the floor.



Shower. Structural reinforcement must be provided to allow for the installation of grab bars. Reinforcement should be mounted between 32 and 38 inches, and extend the entire width of both side walls and back wall. When the shower is the only bathing fixture, reinforcement from the base of the shower up to 24 inches must be provided on the wall opposite the shower control. Illustrations below.

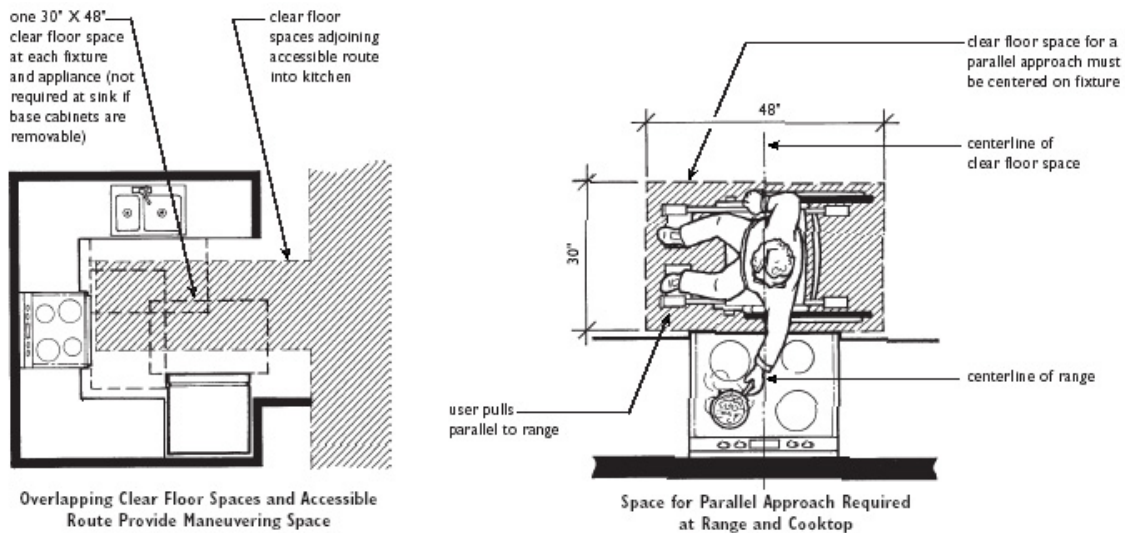


### *Usable Kitchens and Bathrooms*

- Usable Kitchens. Kitchens can be designed to look and function like conventional kitchens typically found in multifamily housing and still comply with the Fair Housing Act. “Usable” kitchens are not necessarily “accessible” kitchens, but they do provide maneuvering space for a person who uses a wheelchair, scooter, or walker to approach and operate most appliances and fixtures. There are three primary features of a usable kitchen:

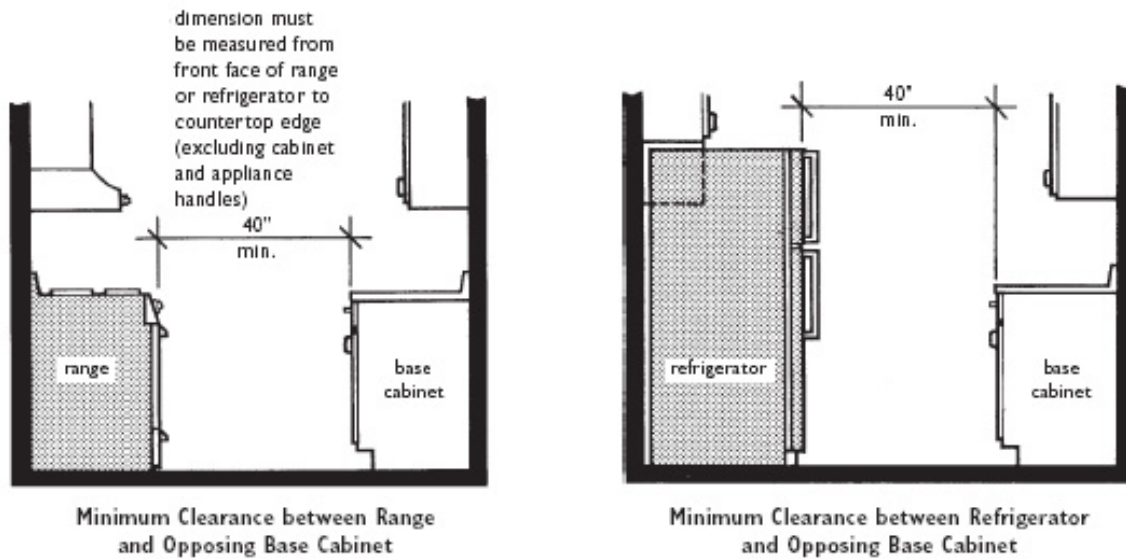
- A minimum 30-inch x 48-inch clear floor space be provided at each kitchen appliance or fixture, and that each of these clear floor spaces adjoin the accessible route that must pass into and through the kitchen. It is anticipated that in any conventional kitchen plan, the overlapping of the minimum 36-inch wide accessible route with the clear floor spaces at all fixtures and appliances provides the necessary maneuvering space to make it possible for a person using a mobility aid to approach, and then position himself or herself close enough to use the fixture safely.

The clear floor space must be positioned either parallel or perpendicular to and centered on the appliance or fixture, i.e., the clear floor space must have its centerline aligned with the centerline of the fixture or appliance. This centered position is most critical at corners where an appliance may have to be pulled away from the corner to allow a full centered approach. (NOTE: Clear floor space at stoves must be parallel unless knee space is provided below the unit).



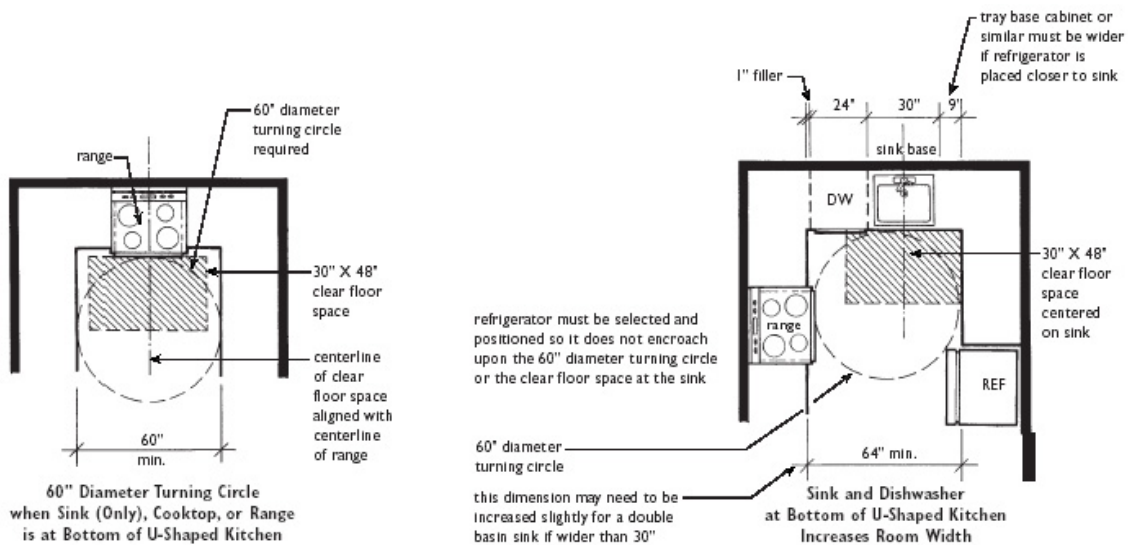
- A clearance of at least 40 inches between all opposing base cabinets, countertops, appliances, and walls. The 40-inch clearance is measured from any countertop or the face of any appliance (excluding handles and controls) that projects into the kitchen to the opposing cabinet, countertop, appliance, or wall.

Refrigerators vary greatly in depth and may extend up to eight inches beyond cabinet faces. Standard free-standing and drop-in ranges may project up to three inches. Appliance depths (excluding door handles) must be included when calculating the 40-inch clearances. dimension must be measured from front face of range or refrigerator to countertop edge (excluding cabinet and appliance handles) 40" min.



- A 60-inch diameter turning circle is required in a U-shaped kitchen that has a sink, range, or cooktop at its base. This turning diameter is necessary to provide adequate maneuvering space for a person using a wheelchair to approach and position themselves parallel to the appliance or fixture at the base of the U. Any appliances, such as refrigerators and ranges (excluding door handles), that project beyond countertops and cabinets must not encroach upon this 60-inch diameter turning space.

In addition to the turning space, the kitchen must be arranged so there is a 30-inch x 48-inch clear floor space for a parallel approach centered on the sink, range, or cooktop. The centerline of the fixture or appliance must be aligned with the centerline of the clear floor space. When a sink, even a standard single basin sink, is at the bottom of the U and a dishwashing machine is planned to be included adjacent to the sink, the distance between the legs of the U must be greater than 60 inches to allow for a full centered approach at the sink. See the lower plan in the right column.



- EXCEPTION: The Guidelines permit U-shaped kitchens with a sink or cooktop at the base of the U to have less than 60 inches between the legs of the U only when removable base cabinets are provided under the cooktop or sink. A clearance of at least 40 inches is required. Since knee space cannot be provided below a range, kitchens with a range at the base of the U must have the 60-inch minimum turning diameter. Once the base cabinet is removed, the resulting knee space allows a person using a wheelchair to pull up under the feature to reach controls and perform cooking/cleaning functions. A note of caution: knee space beneath cooktops provides essential maneuvering space for seated people, but it also creates a greater risk from hot food spilled in the lap. If cooktops are to be provided with knee space below, although not required, it is suggested that they be placed in lowered or adjustable height counter segments so they can be used more easily and safely by people using wheelchairs.*
- Usable Bathrooms. Though not fully accessible, “usable” bathrooms provide a person who uses a wheelchair or other mobility aid with a bathroom that has enough maneuvering space to allow the person to enter, close the door, use the fixtures, and exit. In some cases, a resident with a disability will find it necessary to make additional modifications to meet his or her specific needs.

In addition to the accessible route, usable doors, controls and reinforcements discussed earlier, a usable bathroom incorporates the following features:

- Maneuvering space within the bathroom to permit a person using a mobility aid to enter the room, close and reopen the door, and exit, and

- Maneuvering and clear floor space within the bathroom to permit a person using a mobility aid to approach and use fixtures; fixture dimensions and placement are specified only under certain conditions.

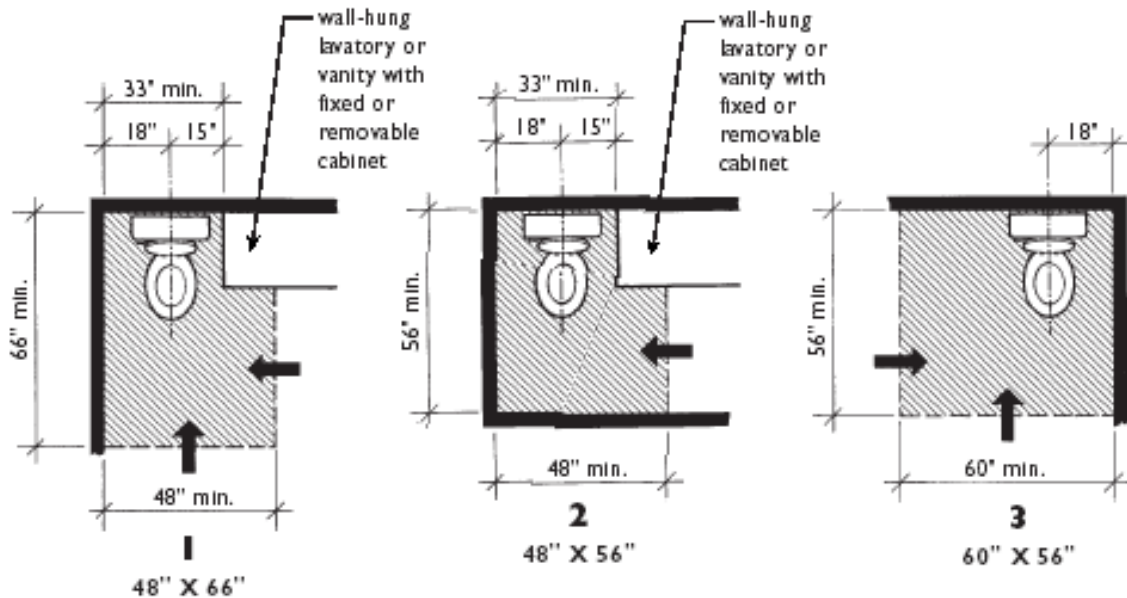
There are two standards an owner/developer can utilize with regard to usable bathrooms (referred to as Specification A and Specification B bathrooms). Although not the only difference between the two specifications, a bathroom designed to meet Specification B has greater access to the bathtub than a bathroom designed to meet Specification A. The two specifications and their differences will be described in the following discussions of maneuvering and clear floor space requirements.

In dwelling units containing more than one bathroom, if Specification A is selected as the basis for designing a bathroom, all bathrooms in the dwelling unit also must comply with the A Specifications. If Specification B is selected, only one bathroom in the dwelling unit must meet those requirements; all other bathrooms in the dwelling unit are not required to comply with maneuvering space standards (however, they still must be on an accessible route and contain usable doors, controls and reinforcements).

- Toilet Clear Floor Space. When planning both Specification A and B bathrooms, one of the following three clear floor spaces must be provided at toilets to allow people using wheelchairs and walkers to maneuver, approach the seat, and make a safe transfer onto the toilet.

The plans shown below to illustrate the clear floor space options at toilets, the arrows pointing in toward the clear floor space are indicating the direction of approach to the toilet by a person using a wheelchair. In plans one and two, the incomplete box at the right of the toilet may be either a wall-hung lavatory or a countertop lavatory. Depending upon the placement of the other bathroom fixtures and the clearances in that room, any vanity cabinet may be fixed or may be required to be removable.





**Clear Floor Space at Toilets**  
 (One of the Three Must be Provided in "A" and "B" Bathrooms)

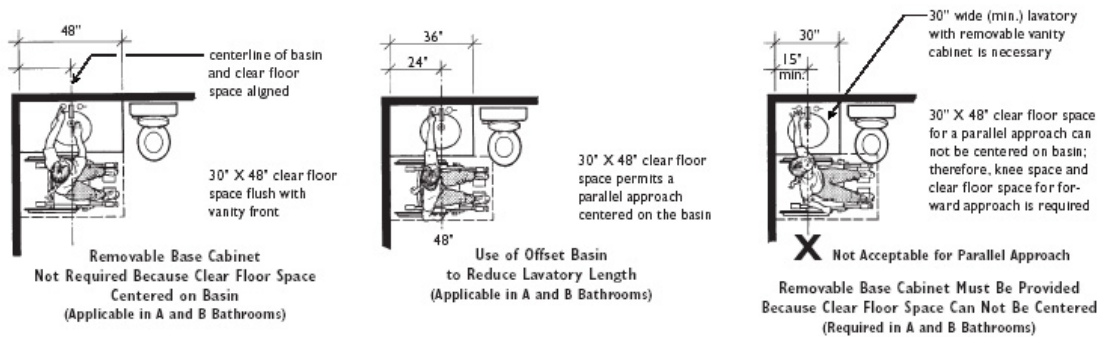
- **Lavatory Clear Floor Space .** A 30-inch x 48-inch clear floor space is required at the lavatory so a person who uses a wheelchair can get close enough to the basin and controls to use the fixture. When knee space is not provided for a forward approach, this 30-inch x 48-inch clear floor space must be parallel to the cabinet or counter front and centered on the basin.

Either a countertop lavatory with a vanity cabinet or a wall-hung lavatory may be installed in Specification A and B bathrooms. There are no specifications for control location or type nor for drain location. The lavatory type and width, plus the available maneuvering space in the room, determines whether or not a vanity cabinet must be removable.

To economize on floor space the basin may be offset so the length of the countertop may be less than 48 inches. In 36-inch wide countertops, the basin may be offset provided it remains centered on the required 48-inch long clear floor space.

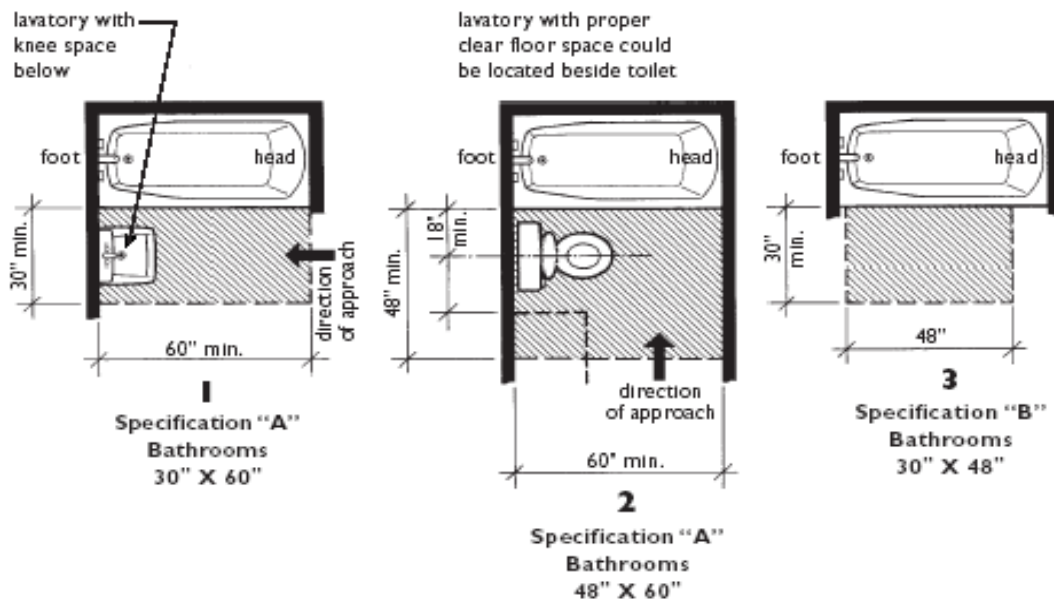
If a lavatory must be installed where space does not permit a close parallel approach with the 30-inch x 48-inch clear floor space centered on the basin, the centerline of the basin must be at least 15 inches from an adjoining wall or fixture. It must have knee space at least 30 inches wide to allow a user to execute a forward approach into clear floor space beneath the fixture.

Knee space must be provided below narrow lavatories lacking this parallel and centered approach, because, if not, the user must make an awkward and often impossible, painful twisting motion over the side of the wheelchair to reach the faucet handle that is positioned somewhat behind one shoulder. In addition, it is difficult from this position to wash both hands, lean over the basin to clean teeth, etc.



- Clear Floor Space at Bathtubs/Showers. Clear floor space at the bathtub is the primary difference between Specification A and B. The key is that Specification B allows for an unobstructed parallel approach to the tub/shower. The diagrams below, taken from the Guidelines, show the clear floor space requirements for bathtubs; numbers one and two apply to Specification A bathrooms and number three to Specification B bathrooms.

In all three clear floor spaces, the shaded areas must remain clear, except that in clear floor space diagram number 2, a lavatory that meets all applicable clear floor space requirements for lavatories may be located next to the toilet. In Specification A bathrooms, either a lavatory or a toilet may encroach upon the clear floor space next to the bathtub. In clear floor space diagram number one, the arrow indicating direction of approach is relevant only if the lavatory is wall-hung and has knee space below. The user pulls forward into the knee space to transfer and/or operate controls.



**Clear Floor Space at Bathtubs/showers**  
**Shaded Areas Must Remain Unobstructed**  
 (Taken from Guideline Figures 7(b) and 8)

## Kansas 2020 Accessibility Standards

During the 2002 session, the Kansas Legislature adopted accessibility standards for single-family, duplex and triplex new construction with financing provided by the State. The effect of the legislation was to extend most of the new construction requirements of the Fair Housing Act from "covered multifamily dwellings" to all newly constructed dwellings that are financed in part by the state. The Standards address Entrance, Route, Bathroom and Controls.

### *Entrance*

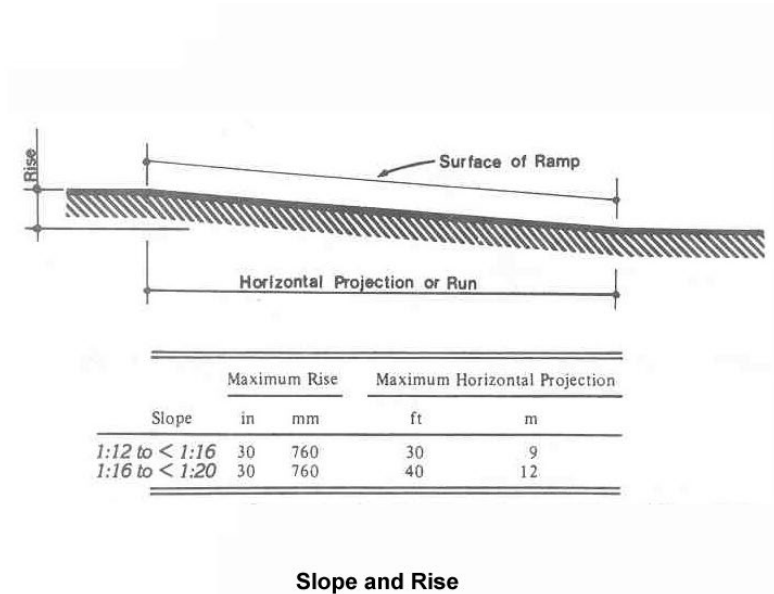
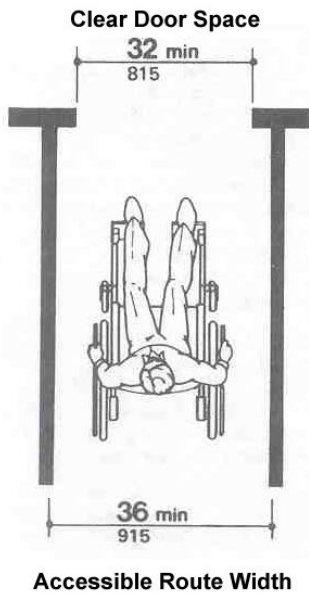
At least one accessible entrance into the unit must be provided.

- Door must have a clear opening of at least 32" and a maximum threshold of 1/2".
- If the accessible entrance is a patio door, a standard six-foot sliding door assembly with a maximum threshold of 3/4 inch can be used.

## Route

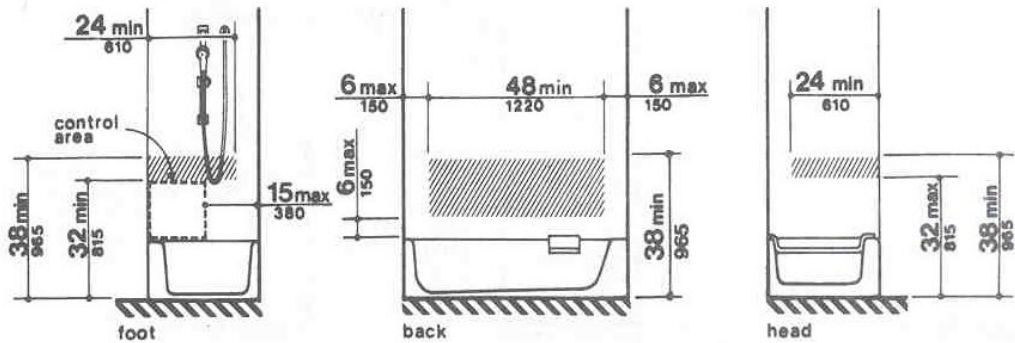
A route, to and through the unit, shall be provided that is:

- At least 36-inches wide with a maximum slope of 1" to 20" (exterior ramp maximum slope is 1" to 12" with level landings) Has beveled changes at door thresholds that do not exceed ½ inch or, in the case of a sliding door, ¾ inch
- Have interior doorways with clear openings of at least 32 inches.



*Bathroom*

Walls must be reinforced for 250 lbs. of force at the tub, shower and toilet to allow for the installation of grab bars.



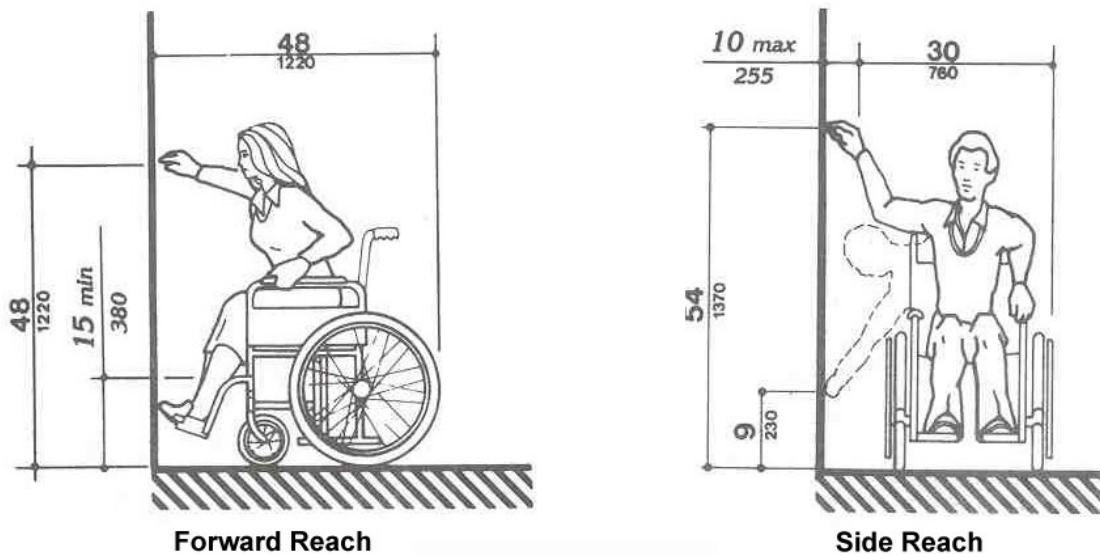
**Reinforcement in the Tub**



## Controls

Controls, including switches, outlets and environmental controls shall be placed:

- Between 15 – 48 inches from floor when the approach to the control is a forward approach (perpendicular)
- Between 9 – 54 inches from floor from floor when the approach to the control is a side approach (parallel).
- *Note: If the unit is covered by the Fair Housing Act, controls must be 15 – 48 inches regardless of the approach.*



## Section 504 of the Rehabilitation Act of 1973

Section 504 of the Rehabilitation Act of 1973 prohibits discrimination against persons with disabilities in the operation of programs receiving Federal financial assistance. HUD regulations implementing Section 504 contain accessibility requirements for new construction and rehabilitation of housing as well as requirements for ensuring that the programs themselves are operated in a manner that is accessible to and usable by persons with disabilities.

### *New Construction*

Section 504 requires that new construction of multifamily projects be designed and constructed to be readily accessible to and usable by persons with disabilities. Multifamily housing projects are defined at 24 CFR §8.3 as "projects containing five or more dwelling units". Both the individual units and the common areas in the building must be accessible.

Further, for new construction multifamily rental developments, a minimum of five percent of the dwelling units in the project (but not less than one unit) must be accessible to individuals with mobility impairments. An *additional* two percent of the dwelling units (but at a minimum, not less than one unit) must be accessible to individuals with sensory impairments (i.e. hearing or vision impairments).

### *Substantial Rehabilitation*

Section 504 requires that if alterations are undertaken to a housing project that has 15 or more units, and the rehabilitation costs will be 75 percent or more of the replacement cost of the completed facility, then such developments are considered to have undergone "substantial alterations" (24 CFR §8.23 (a)). For substantial alterations of multifamily rental housing, a minimum of five percent of the dwelling units in the project (but not less than one unit) must be accessible to individuals with mobility impairments, and an *additional* two percent, at a minimum (but not less than one unit), must be accessible to individuals with sensory impairments.

### *Other Rehabilitation*

When **other alterations** that do not meet the regulatory definition of substantial alterations are undertaken in multifamily rental housing projects of any size, these alterations must, to the maximum extent feasible, make the dwelling units accessible to and usable by individuals with disabilities, until a minimum of five percent of the dwelling units (but not less than one unit) are accessible to people with mobility impairments. If alterations of single elements or spaces of a dwelling unit, when considered together, amount to an alteration of a dwelling unit, then the entire dwelling unit shall be made accessible.

For this category of rehabilitation the additional two percent of the dwelling units requirement for individuals with sensory impairments does not apply. Alterations to common spaces must, to the maximum extent feasible, make those areas accessible.

A recipient is not required to make a dwelling unit, common area, facility or element accessible, if doing so would impose undue financial and administrative burdens on the operation of the multifamily housing project. (24 CFR §8.23(b)) Therefore, recipients are required to provide access in covered alterations up to the point of being infeasible or an undue financial and administrative burden.

### *Accessibility Standards*

Dwelling units designed and constructed in accordance with the Uniform Federal Accessibility Standards (UFAS) are deemed to comply with the Section 504 regulation. A summary of the UFAS standards relating to dwelling units is provided in the Exhibits at the end of this chapter. Owners/developers and their architects will be required to certify that the 504 units meet or exceed the UFAS requirements.

### *Increasing Program Accessibility*

HUD's Section 504 regulations require that a recipient of Federal financial assistance ensure that the development is accessible to persons with disabilities:

- To the maximum extent feasible, distribute accessible units throughout the development, and make them available in a sufficient range of sizes and amenities so as not to limit choice.
- Adopt suitable means to assure that information regarding the availability of accessible units reaches eligible individuals with disabilities. They must also take reasonable nondiscriminatory steps to maximize use of such units by eligible individuals.
- When an accessible unit becomes vacant, before offering the unit to an individual without a disability, offer the unit: first, to a current occupant of the project requiring the accessibility feature; and second, to an eligible qualified applicant on the waiting list requiring the accessibility features.
- When an applicant or tenant requires an accessible feature or modification to accommodate a disability, the owner/developer **must provide such feature modification unless doing so would result in an undue financial and administrative burden.**
- Providers must ensure that activities and meetings are conducted in accessible locations.
- Ask applicants for information that can demonstrate that they can meet the obligations of tenancy including financial information, references, prior tenancy history, etc. However, housing providers may not inquire into the nature and severity of an applicant or tenant's disability, nor may they ask persons with disabilities questions not asked of all applicants, apply different types of screening criteria, or assess an applicant's ability to live independently.
- Ask if the applicant qualifies for a unit designed for persons with a disability, when the housing program or unit is designed for such persons.
- Consider including a lease provision that requires a non-disabled family occupying an accessible unit to move if a family with a disability needing that size unit applies and there is an appropriately sized non-accessible unit available for the relocating family.

## **Self-Evaluation**

Self-evaluation of compliance with all accessibility laws and regulations is excellent management tool for ensuring that an owner/developers current policies and procedures comply with the various requirements. Involving persons with disabilities in the self-evaluation process is very beneficial. This will assure the most meaningful result for both the owner/developer and for persons with disabilities who participate in the programs and activities. It is important to involve persons and/or organizations representing persons with disabilities, and agencies or other experts who work regularly with accessibility standards.

Important steps in conducting a self-evaluation and implementing its results include the following:

- Evaluate current policies and practices and analyze them to determine if they adversely affect the full participation of individuals with disabilities in its programs, activities and services. Be mindful of the fact that a policy or practice may appear neutral on its face, but may have a discriminatory effect on individuals with disabilities.
- Modify any policies and practices that are not or may not be in compliance with Section 504, Fair Housing, etc.
- Take appropriate corrective steps to remedy those policies and practices which either are discriminatory or have a discriminatory effect. Develop policies and procedures by which persons with disabilities may request a modification of a physical barrier or a rule or practice that has the effect of limiting or excluding a person with a disability from the benefits of the program.
- Document the self-evaluation process and activities, including records of the individuals and organizations consulted, areas examined and problems identified, and document modifications and remedial steps.

## **Internet Resources**

Fair Housing Act Design Manual

[www.huduser.org/publications/destech/fairhousing.html](http://www.huduser.org/publications/destech/fairhousing.html)

Section 504 notices, regulations and supportive documents

[www.hud.gov/offices/fheo/disabilities/sect504docs.cfm](http://www.hud.gov/offices/fheo/disabilities/sect504docs.cfm)

HUD's Fair Housing & Equal Opportunity Office

<http://www.hud.gov/offices/fheo/index.cfm>

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# **Summary of the Uniform Federal Accessibility Standards**

**This is a guide on the requirements of the Uniform Federal Accessibility Standards as applied to the development of accessible housing. The information contained herein is a summary of those standards and should not be relied upon when designing accessible housing. Housing that is required to be made accessible to UFAS should be designed by an architect who has experience with accessible design.**

## **ACCESSIBLE HOUSING**

An accessible dwelling unit shall be on an accessible route. An accessible dwelling unit shall have the following accessible elements and spaces as a minimum:

### **ACCESSIBLE ROUTE**

#### **GENERAL**

An Accessible Route shall connect the accessible entrances with all accessible spaces and elements within the dwelling units and common spaces and facilities that serve accessible units. All walks, halls, corridors, aisles, and other spaces that are part of an accessible route shall comply with the following:

- At least one accessible route within the boundary of the site shall be provided from public transportation stops, accessible parking, and accessible passenger loading zones, and public streets or sidewalks to the accessible building entrance they serve.
- At least one accessible route shall connect accessible buildings, facilities, elements, and spaces that are on the same site.
- At least one accessible route shall connect accessible building or facility entrances with all accessible spaces and elements and with all accessible dwelling units within the building or facility.
- An accessible route shall connect at least one accessible entrance of each accessible dwelling unit with those exterior and interior spaces and facilities that serve the accessible dwelling unit.

#### **WIDTH**

The minimum clear width of an accessible route shall be 36 inches except at doors. If a person in a wheelchair must make a turn around an obstruction, the minimum clear width of the accessible route shall be as shown in Figure 7.

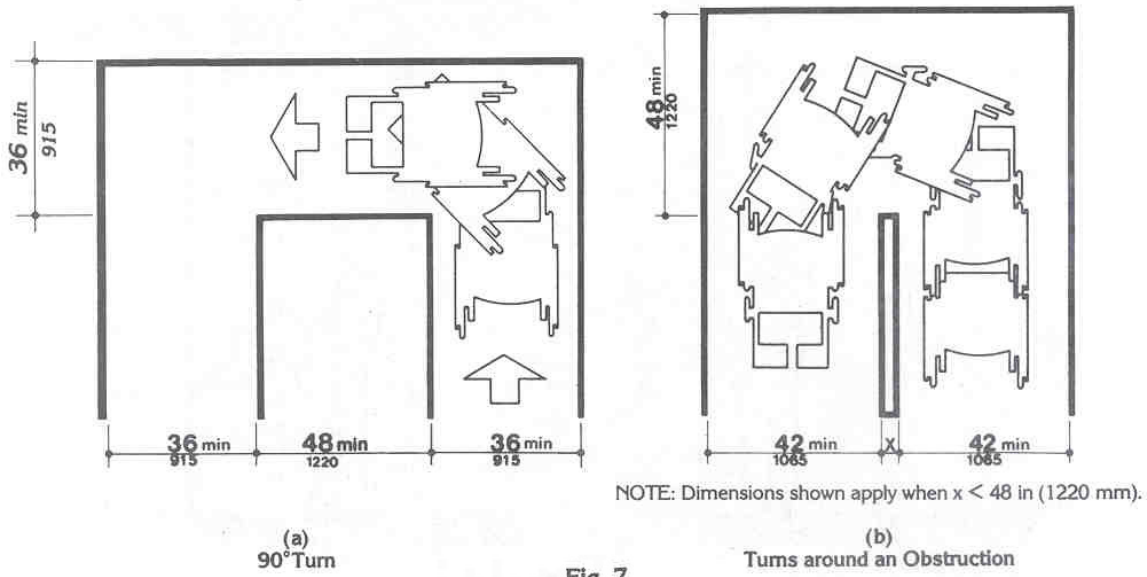


Fig. 7  
Width of Accessible Route

## PASSING SPACE

If an accessible route has less than 60 inches clear width, then passing spaces at least 60 inches by 60 inches shall be located at reasonable intervals not to exceed 200 feet. A T-intersection of two corridors or walks is an acceptable passing place.

## HEAD ROOM

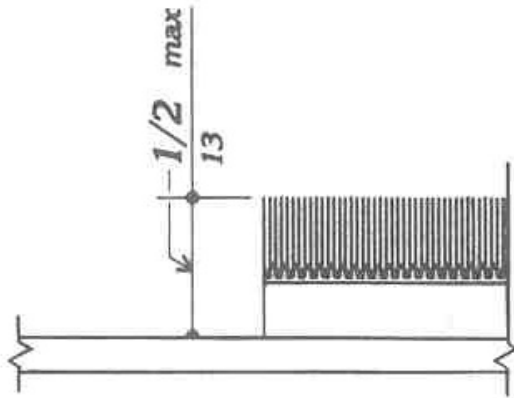
Accessible routes shall have 80 inches minimum clear headroom. If vertical clearance of an area adjoining an accessible route is reduced to less than 80 inches, a barrier to warn blind or visually impaired persons shall be provided.

## SURFACE TEXTURES

The surface of an accessible route shall be stable, firm, and slip-resistant.

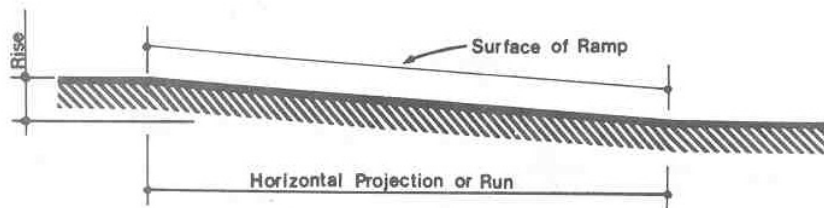
- CARPET.** If carpet or carpet tile is used on a ground or floor surface, then it shall be securely attached; have a firm cushion, pad, or backing or no cushion or pad; and have a level loop, textured loop, level cut pile, or level cut/uncut pile texture. The maximum pile height shall be 1/2 inch. Exposed edges of carpet shall be fastened to floor surfaces and have trim along the entire length of the exposed edge. Carpet edge trim shall be beveled with a slope no greater than 1:2. (Changes in level greater than 1/2 inch shall be accomplished by means of a ramp). If carpet tile is used on an accessible ground or floor surface, it shall have a maximum combined thickness of pile, cushion, and backing height of 1/2 inch.

- GRATINGS.** If gratings are located in walking surfaces, then they shall have spaces no greater than 1/2 inch wide in one direction (Figure 8(g)). If gratings have elongated openings, then they shall be placed so that the long dimension is perpendicular to the dominant direction of travel (Figure 8(h)).



**Fig. 8(f)**  
Carpet Tile Thickness

**SLOPE.** An accessible route with a running slope greater than 1:20 is a ramp and shall comply with the following. Nowhere shall the cross slope of an accessible route exceed 1:50.



Slope	Maximum Rise		Maximum Horizontal Projection	
	in	mm	ft	m
1:12 to < 1:16	30	760	30	9
1:16 to < 1:20	30	760	40	12

**Fig. 16**  
Components of a Single Ramp Run and Sample Ramp Dimensions

**SLOPE AND RISE**

The least possible slope shall be used for any ramp. The maximum slope of a ramp in new construction shall be 1:12. The maximum rise for any run shall be 30 inches (Figure 16). Curb ramps and ramps to be constructed on existing sites or in existing buildings or facilities may have slopes and rises as shown in Table 2 if space limitations prohibit the use of a 1:12 slope or less.

## **CLEAR WIDTH**

The minimum clear width of a ramp shall be 36 inches.

## **LANDINGS**

Ramps shall have level landings at the bottom and top of each run. Landings shall have the following features:

- The landing shall be at least as wide as the ramp run leading to it.
- The landing length shall be a minimum of 60 inches clear.
- If ramps change direction at landings, the minimum landing size shall be 60 inches by 60 inches.
- If a doorway is located at a landing, then the area in front of the doorway shall comply with the “**DOOR**” requirements below.

## **HANDRAILS**

If a ramp run has a rise greater than 6 inches or a horizontal projection greater than 72 inches, then it shall have handrails on both sides. Handrails are not required on curb ramps.

Handrails shall have the following features:

- Handrails shall be provided along both sides of ramp segments. The inside handrail on switchback or dogleg ramps shall always be continuous.
- If handrails are not continuous, they shall extend at least 12 inches beyond the top and bottom of the ramp segment and shall be parallel with the floor or ground surface.
- The clear space between the handrail and the wall shall be 1-1/2 inches.
- Gripping surfaces shall be continuous.
- Top of handrail gripping surfaces shall be mounted between 30 inches and 34 inches above ramp surfaces.
- Ends of handrails shall be either rounded or returned smoothly to floor, wall or post.
- Handrails shall not rotate within their fittings.

## **CROSS SLOPE AND SURFACES**

The cross slope of ramp surfaces shall be no greater than 1:50. Ramp surfaces shall comply with “**SURFACE TEXTURES**” described above.

## EDGE PROTECTION

Ramps and landings with drop-offs shall have curbs, walls, railings, or projecting surfaces that prevent people from slipping off the ramp. Curbs shall be a minimum of 2 inches high.

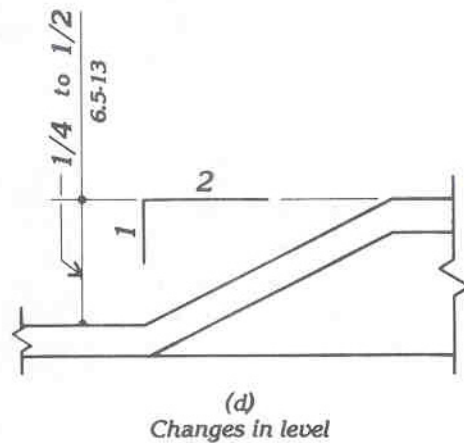
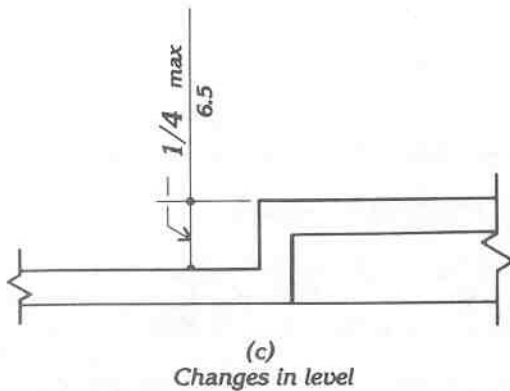
## OUTDOOR CONDITIONS

Outdoor ramps and their approaches shall be designed so that water will not accumulate on walking surfaces.

## CHANGES IN LEVELS

Changes in levels along an accessible route shall comply with the following:

- Changes in level up to 1/4 inches may be vertical and without edge treatment. Changes in level between 1/4 inch and 1/2 inch shall be beveled with a slope no greater than 1:2.
- If an accessible route has changes in level greater than 1/2 inch, then a curb ramp, ramp, elevator, or platform lift shall be provided that complies with UFAS 4.7, 4.8, 4.10, or 4.11, respectively. Stairs shall not be part of an accessible route.





## EGRESS

Accessible routes serving any accessible space or element shall also serve as a means of egress for emergencies or connect to an accessible place of refuge. Such accessible routes and places of refuge shall comply with the requirements of the administrative authority having jurisdiction. Where fire code provisions require more than one means of egress from any space or room, then more than one accessible means of egress shall also be provided for handicapped people. Arrange egress so as to be readily accessible from all accessible rooms and spaces.

## DOORS

Doors along an accessible route shall:

### CLEAR WIDTH

Doorways shall have a minimum clear opening of 32 inches with the door open 90 degrees, measured between the face of the door and the stop. Openings more than 24 inches in depth shall have a minimum clear opening of 36 inches.

*EXCEPTION:* Doors not requiring full user passage, such as shallow closets, may have the clear opening reduced to 20 inches minimum.

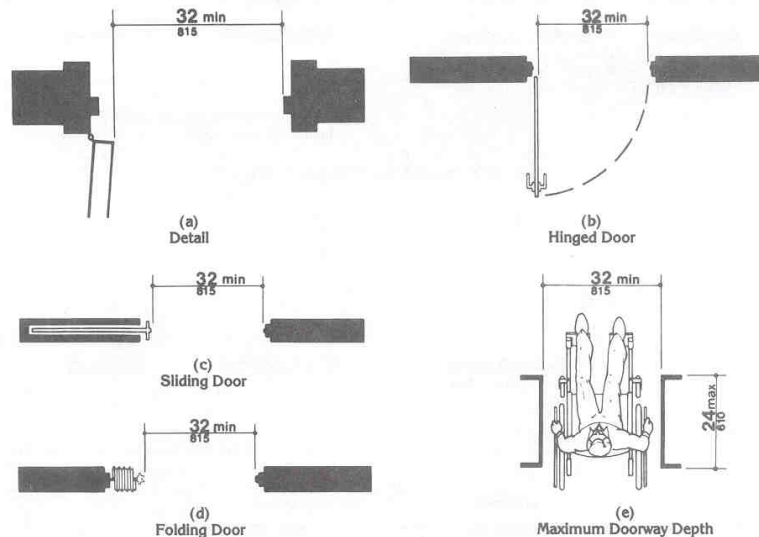


Fig. 24  
Clear Doorway Width and Depth

## DOUBLE-LEAF DOORWAYS

If doorways have two independently operated door leaves, then at least one leaf shall have a minimum clear opening of 32 inches with the door open 90 degrees, measured between the face of the door and the stop. That leaf shall be an active leaf.

## MANEUVERING CLEARANCES AT DOORS

Minimum maneuvering clearances at doors that are not automatic or power-assisted shall be as shown in Figure 25 (below). The floor or ground area within the required clearances shall be level and clear.

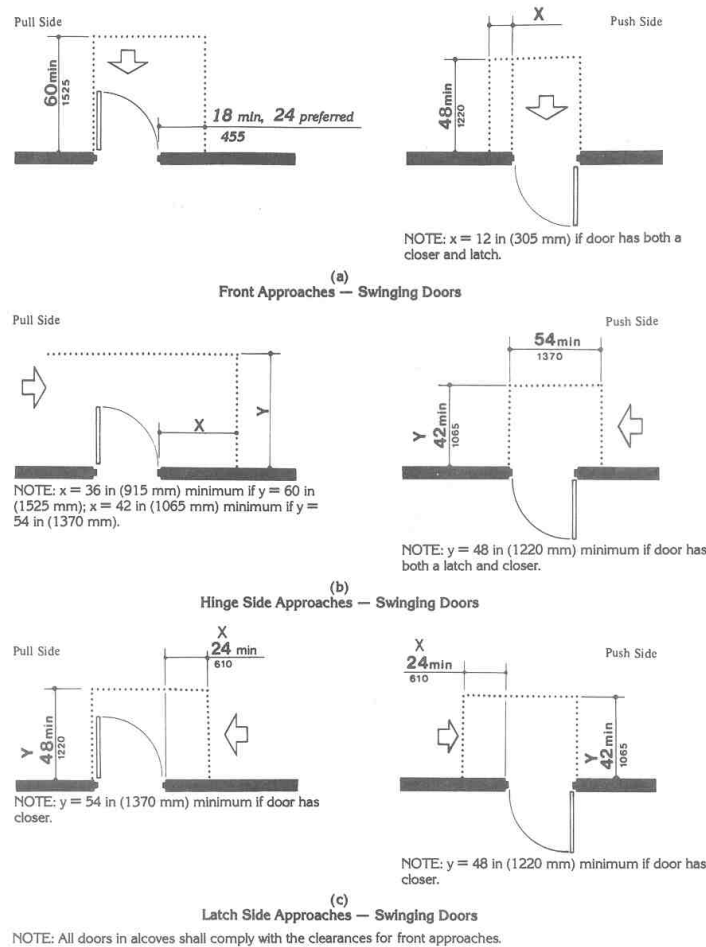
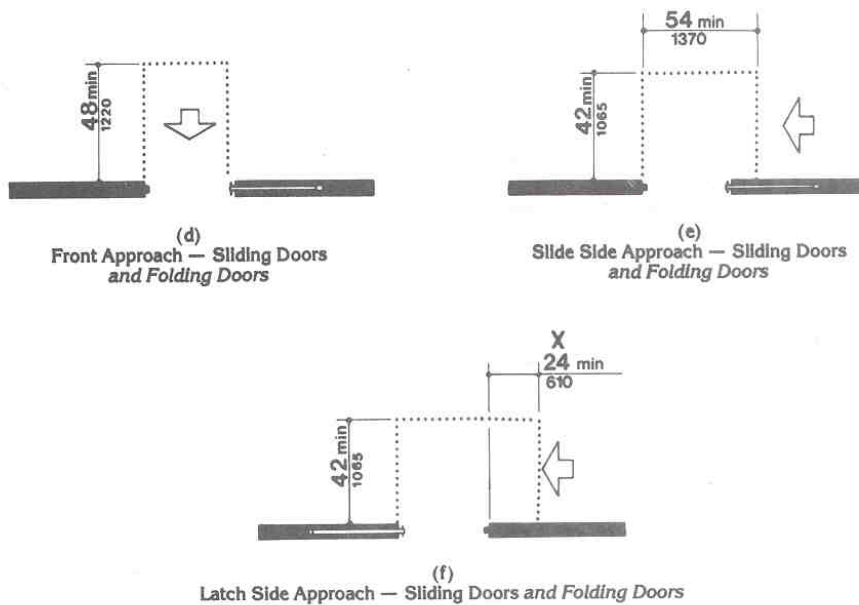


Fig. 25  
Maneuvering Clearances at Doors



NOTE: All doors in alcoves shall comply with the clearances for front approaches.

Fig. 25  
Maneuvering Clearances at Doors (Continued)

## TWO DOORS IN SERIES

The minimum space between two hinged or pivoted doors in series shall be 48 inches plus the width of any door swinging into the space. Doors in series shall swing either in the same direction or away from the space between the doors.

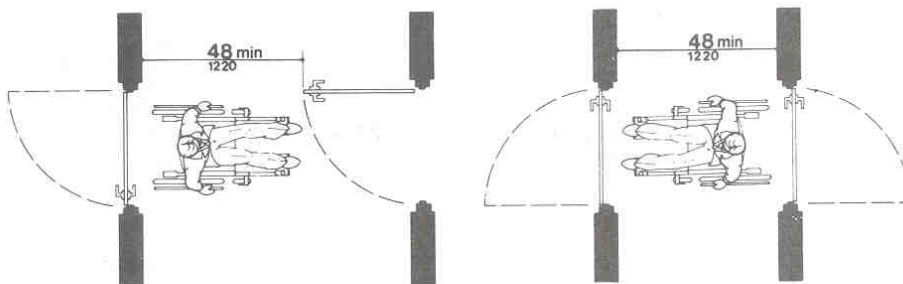


Fig. 26  
Two Hinged Doors in Series

## **THRESHOLDS AT DOORWAYS**

Thresholds at doorways shall not exceed 3/4 inches in height for exterior sliding doors or 1/2 inch for other types of doors. Raised thresholds and floor level changes at accessible doorways shall be beveled with a slope no greater than 1:2.

## **DOOR HARDWARE**

In dwelling units, only doors at accessible entrances to the unit itself shall comply with the requirements of this paragraph. Handles, pulls, latches, locks, and other operating devices on accessible doors shall have a shape that is easy to grasp with one hand and does not require tight grasping, tight pinching, or twisting of the wrist to operate. Lever-operated mechanisms, push-type mechanisms, and U-shaped handles are acceptable designs. When sliding doors are fully open, operating hardware shall be exposed and usable from both sides. Mount no hardware required for accessible door passage higher than 48 inches above finished floor.

## **DOOR CLOSERS**

If a door has a closer, then the sweep period of the closer shall be adjusted so that from an open position of 70 degrees, the door will take at least 3 seconds to move to a point 3 inches from the latch, measured to the leading edge of the door.

## **DOOR OPENING FORCE**

The maximum force for pushing or pulling open a door shall be as follows:

Fire doors shall have the minimum opening force allowable by the appropriate administrative authority.

Other doors shall require no more 5 lbf (22.2N)

These forces do not apply to the force required to retract latch bolts or disengage other devices that may hold the door in a closed position.

## **AUTOMATIC DOORS AND POWER-ASSISTED DOORS**

If an automatic door is used, then it shall comply with American National Standard for Power-Operated Doors, ANSI A156.10-1979. Slowly opening, low-powered, automatic doors shall be considered a type of custom design installation as described in paragraph 1.1.1 of ANSI A156.10-1979. Such doors shall not open to back check faster than 3 seconds and shall require no more than 15 lbf (66.6N) to stop door movement. If a power-assisted door is used, its door-opening force shall comply with 4.13.11 and its closing shall conform to the requirements in section 10 of ANSI A156.10-1979.

## SPACE ALLOWANCE AND REACH RANGES.

### SIZE AND APPROACH

The minimum clear floor or ground space required to accommodate a single, stationary wheelchair occupant is 30 inches by 48 inches (Figure 4(a)). The minimum clear floor or ground space for wheelchairs may be positioned for forward or parallel approach to an object (Figure 4(b) and (c)). Clear floor or ground space for wheelchairs may be part of the knee space required under some objects.

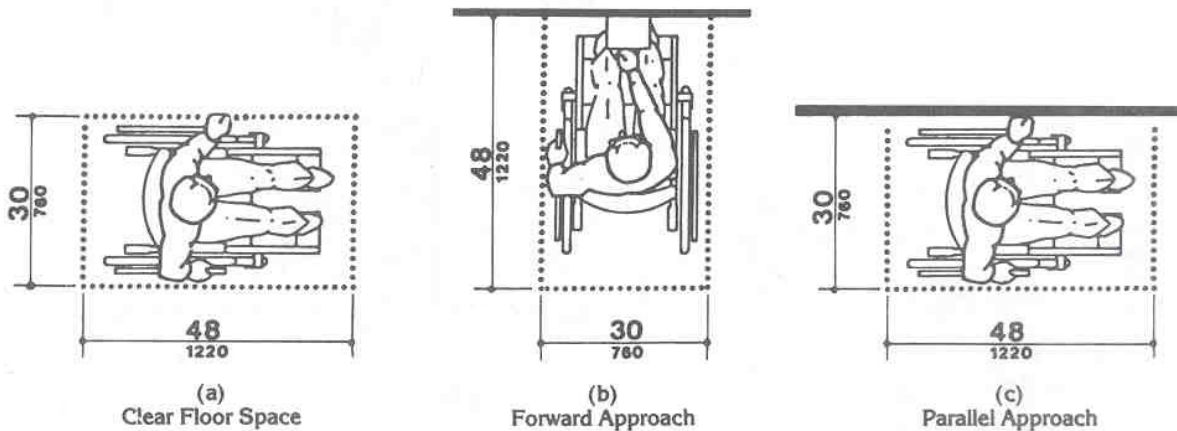
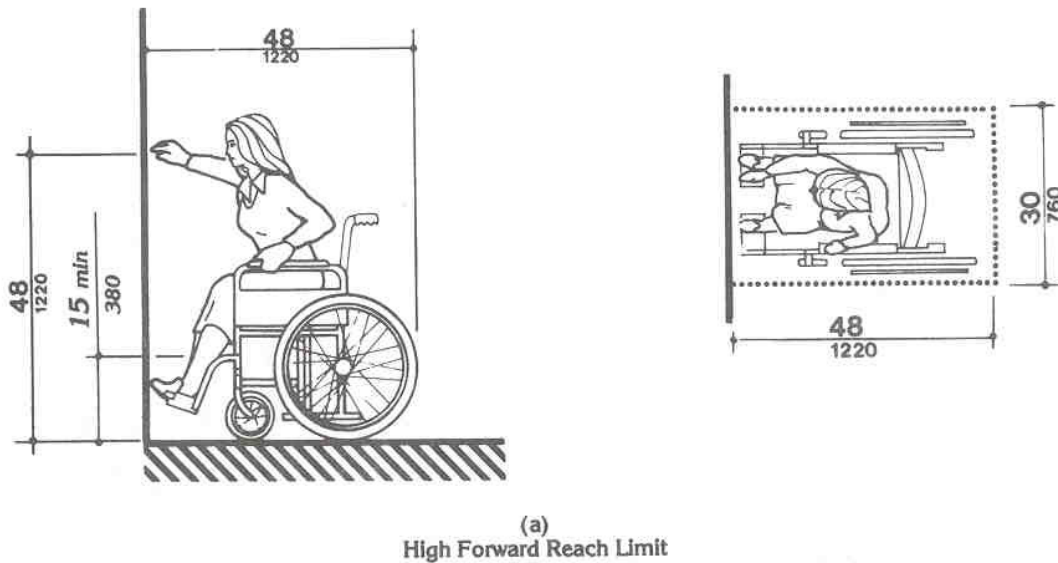


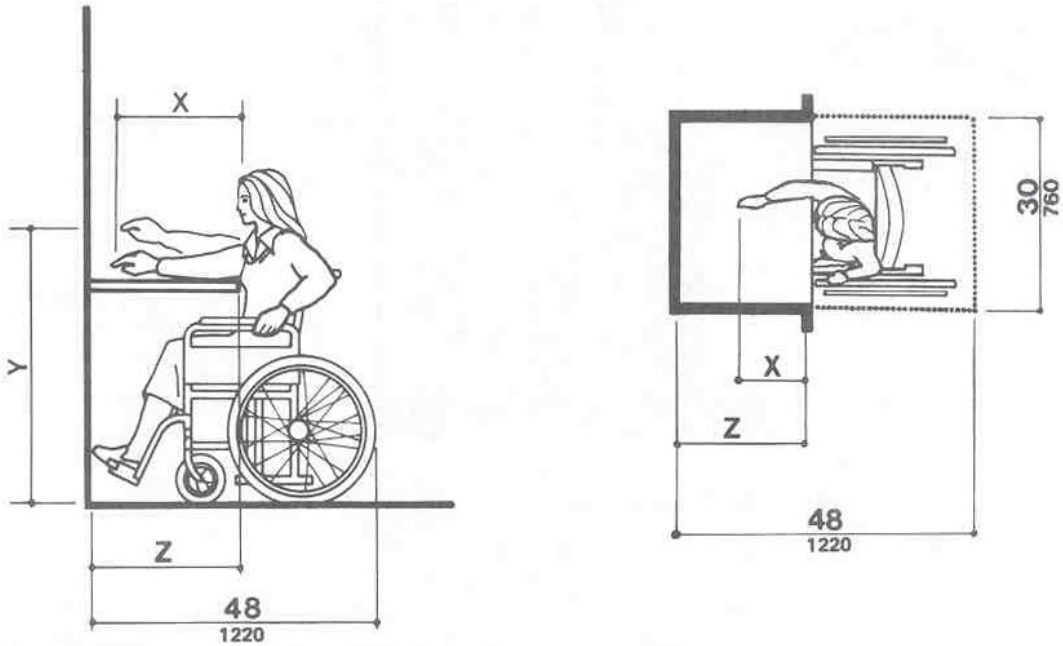
Fig. 4  
Minimum Clear Floor Space for Wheelchairs



## FORWARD REACH

If the clear floor space only allows forward approach to an object, the maximum high forward reach allowed shall be 48 inches (Figure A below).

The minimum low forward reach is 15 inches. If the high forward reach is over an obstruction, reach and clearances shall be as shown in Figure B (below).



NOTE: x shall be  $\leq 25$  in (635 mm); z shall be  $\geq x$ . When x < 20 in (510 mm), then y shall be 48 in (1220 mm) maximum. When x is 20 to 25 in (510 to 635 mm), then y shall be 44 in (1120 mm) maximum.

(b)  
Maximum Forward Reach over an Obstruction



## SIDE REACH

If the clear floor space allows parallel approach by a person in a wheelchair, the maximum high side reach allowed shall be 54 inches and the low side reach shall be no less than 9 inches above the floor (Figure 6(a) and (b)). If the side reach is over an obstruction, the reach and clearances shall be as shown in Figure 6(c).

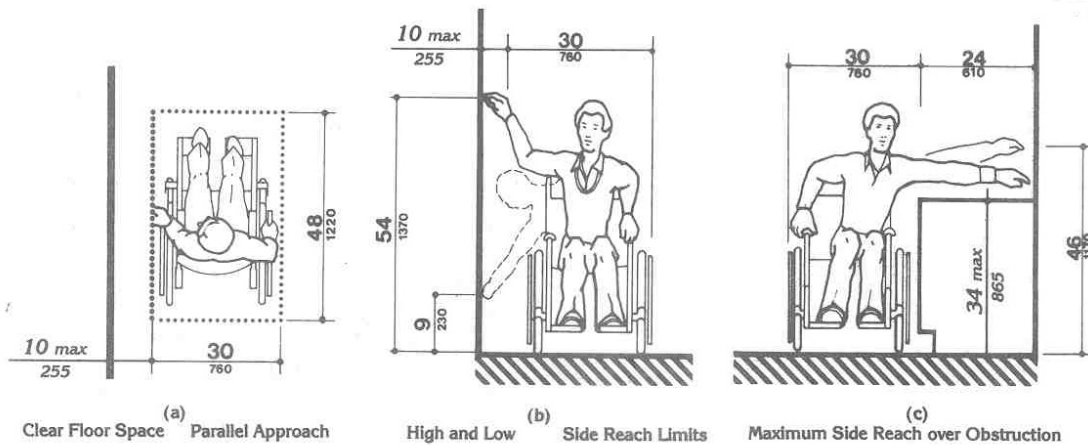


Fig. 6  
Side Reach

## RELATIONSHIP OF MANEUVERING CLEARANCE TO WHEELCHAIR SPACES

One full-unobstructed side of the clear floor or ground space for a wheelchair shall adjoin or overlap an accessible route or adjoin another wheelchair clear floor space. If a clear floor space is located in an alcove or otherwise confined on all or part of three sides, additional maneuvering clearances shall be provided as shown in Figures 4 (d) and (e).

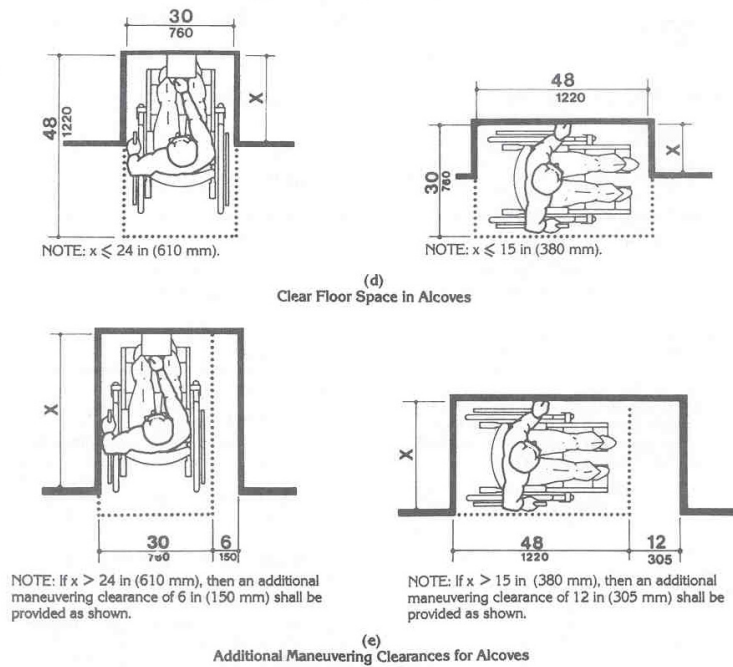


Fig. 4  
Minimum Clear Floor Space for Wheelchairs

## CONTROLS GENERAL

All Controls and operating mechanisms are required to be accessible, including those portions of heating, ventilating, and air conditioning equipment requiring regular, periodic maintenance and adjustment by the resident of a dwelling shall be accessible to people in wheelchairs. If air distribution registers must be placed in or close to ceilings for proper air circulation, this specification shall not apply to the registers.

## CLEAR FLOOR SPACE

Clear floor space of 30 inches by 48 inches that allows a forward or a parallel approach by a person using a wheelchair shall be provided at controls, dispensers, receptacles, and other operable equipment. Clear floor or ground space for wheelchairs may be part of the knee space required under some objects.

## **HEIGHT**

The highest operable part of all controls, dispensers, receptacles, and other operable equipment shall be placed within at least one of the reach ranges listed below. Except where the use of special equipment dictates otherwise, electrical and communications system receptacles on walls shall be mounted no less than 15 inches above the floor.

## **FORWARD REACH**

If the clear floor space only allows forward approach to an object, the maximum high forward reach allowed shall be 48 inches. The minimum low forward reach is 15 inches.

## **SIDE REACH**

If the clear floor space allows parallel approach by a person in a wheelchair, the maximum high side reach allowed shall be 54 inches and the low side reach shall be no less than 9 inches above the floor.

## **OPERATION**

Controls and operating mechanisms shall be operable with one hand and shall not require tight grasping, pinching, or twisting of the wrist. The force required to activate controls shall be no greater than 5 lbf (22.2 N).

## **EMERGENCY ALARMS**

### **AUDIBLE ALARMS**

Audible emergency alarms shall produce a sound that exceeds the prevailing equivalent sound level in the room or space by at least 15 decibels or exceeds any maximum sound level with a duration of 30 seconds by 5 decibels, whichever is louder. Sound levels for alarm signals shall not exceed 120 decibels.

### **VISUAL ALARMS**

Electrically powered internally illuminated emergency exit signs shall flash as a visual emergency alarm in conjunction with audible emergency alarms. The flashing frequency of visual alarm devices shall be less than 5 Hz. If such alarms use electricity from the building as a power source, then they shall be installed on the same system as the audible emergency alarms. *EXCEPTIONS:*

- Visual alarm devices that are mounted adjacent to emergency exit signs may be used in lieu of flashing exit signs.
- Specialized systems utilizing advanced technology may be substituted for the visual systems specified above if equivalent protection is afforded handicapped users of the building or facility.

## **AUXILIARY ALARMS**

Accessible sleeping accommodations shall have a visual alarm connected to the building emergency alarm system or shall have a standard 110-volt electrical receptacle into which such an alarm could be connected. Instructions for use of the auxiliary alarm or connection shall be provided.

## **STORAGE**

Fixed storage facilities such as cabinets, shelves, closets, and drawers required to be accessible.

## **CLEAR FLOOR SPACE**

A clear floor space at least 30 inches by 48 inches that allows either a forward or parallel approach by a person using a wheelchair shall be provided at accessible storage facilities.

## **HEIGHT**

Accessible storage spaces shall be within at least one of the reach ranges specified below. Clothes rods shall be a maximum of 54 inches from the floor (see [Fig. 38](#)).

## **FORWARD REACH**

If the clear floor space only allows forward approach to an object, the maximum high forward reach allowed shall be 48 inches. The minimum low forward reach is 15 inches.

## **SIDE REACH**

If the clear floor space allows parallel approach by a person in a wheelchair, the maximum high side reach allowed shall be 54 inches and the low side reach shall be no less than 9 inches above the floor.

**HARDWARE.** Hardware for accessible storage facilities shall be operable with one hand and shall not require tight grasping, pinching, or twisting of the wrist. The force required to activate controls shall be no greater than 5 lbf. Touch latches and U-shaped pulls are acceptable.

## **COMMON SPACE**

Common spaces and facilities serving individual accessible dwelling units (for example, entry walks, trash disposal facilities, and mail boxes) shall comply with 4.2 through 4.33 of the Uniform Federal Accessibility Standards.

## **BATHROOMS**

At least one full bathroom shall comply with these requirements. A full bathroom shall include a water closet, a lavatory, and a bathtub or a shower. Accessible shall be on an accessible route and shall comply with the following requirements:

### **DOORS**

Bathroom doors shall have a minimum clear opening of 32 inches with the door open 90 degrees, measured between the face of the door and the stop. Doors shall not swing into the clear floor space required for any fixture.

### **WATER CLOSETS**

- Clear floor space at the water closet shall be as shown below. The water closet may be located with the clear area at either the right or left side of the toilet.
- The height of the water closet shall be at least 15 inches, and no more than 19 inches, measured to the top of the toilet seat.
- Structural reinforcement or other provisions shall be provided from 32 inches to 38 inches from the floor and shall allow for the installation of grab bars as specified below:
- **Back Wall.** A 36-inch minimum length grab bar is required behind the water closet mounted at a height between 33 and 36 inches. The grab bar must extend a minimum of 12 inches beyond the center of the water closet toward the sidewall and a minimum of 24 inches toward the open side for either a left or right side approach.
- **Side Wall.** A 42-inch minimum length grab bar is required to the side of the water closet spaced 12 inches maximum from the back wall and extending a minimum of 54 inches from the back wall at a height between 33 and 36 inches.
- The toilet paper dispenser shall be installed within reach, with the center roll height of at least 19 inches and shall not extend more than 36 inches from the rear of the water closet.

## **GRAB BARS**

The diameter or width of the gripping surfaces of a grab bar shall be 1-1/4 inches to 1-1/2 inches, or the shape shall provide an equivalent gripping surface. If grab bars are mounted adjacent to a wall, the space between the wall and the grab bar shall be 1-1/2 inches.

## **STRUCTURAL STRENGTH**

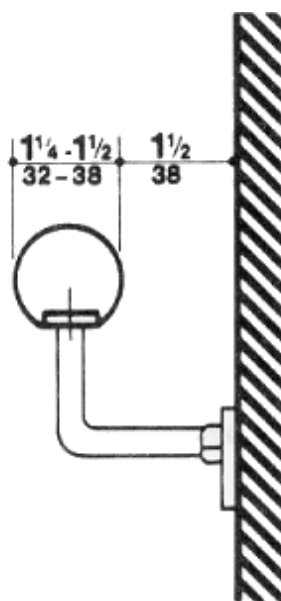
The structural strength of grab bars, tub and shower seats, fasteners, and mounting devices shall meet the following specification:

- Bending stress in a grab bar or seat induced by the maximum bending moment from the application of 250 lbf shall be less than the allowable stress for the material of the grab bar or seat.
- Shear stress induced in a grab bar or seat by the application of 250 lbf shall be less than the allowable shear stress for the material of the grab bar or seat. If the connection between the grab bar or seat and its mounting bracket or other support is considered to be fully restrained, then direct and torsional shear stresses shall be totaled for the combined shear stress, which shall not exceed the allowable shear stress.
- Shear force induced in a fastener or mounting device from the application of 250 lbf shall be less than the allowable lateral load of either the fastener or mounting device or the supporting structure, whichever is the smaller allowable load.
- Tensile force induced in a fastener by a direct tension force of 250 lbf plus the maximum moment from the application of 250 lbf shall be less than the allowable withdrawal and the supporting structure.
- Grab bars shall not rotate within their fittings.

## **ELIMINATING HAZARDS**

A grab bar and any wall or other surface adjacent to it shall be free of any sharp or abrasive elements. Edges shall have a minimum radius of 1/8 inches.





## LAVATORY, MIRRORS, AND MEDICINE CABINETS

### HEIGHT AND CLEARANCES

Lavatories shall be mounted with the rim or counter surface no higher than 34 inches above the finished floor. Provide a clearance of at least 29 inches from the floor to the bottom of the apron. Knee and toe clearance shall comply with figure 31 below:

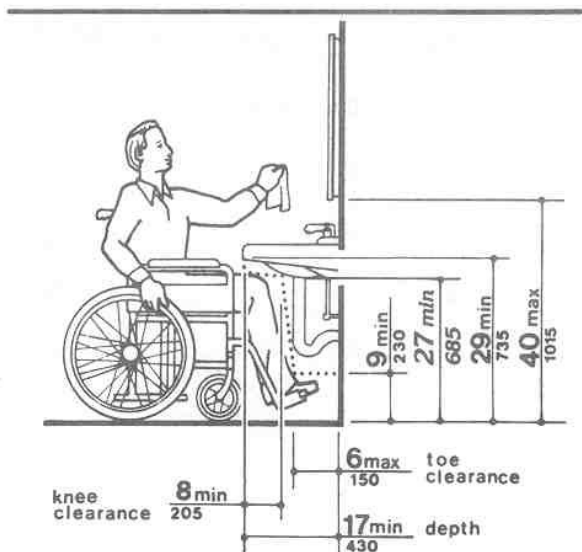


Fig. 31  
Lavatory Clearances

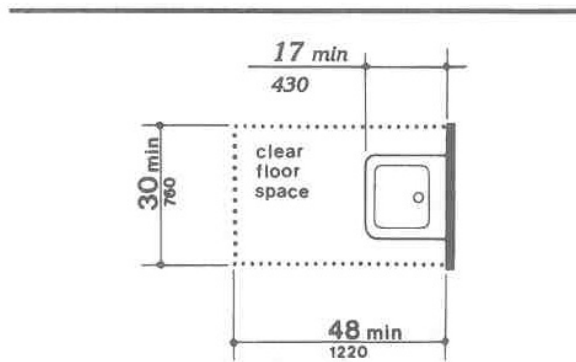


Fig. 32  
Clear Floor Space at Lavatories

## **CLEAR FLOOR SPACE**

A clear floor space 30 inches by 48 inches shall be provided in front of a lavatory to allow forward approach. Such clear floor space shall adjoin or overlap an accessible route and shall extend a maximum of 19 inches underneath the lavatory.

## **EXPOSED PIPES AND SURFACES**

Hot water and drainpipes under lavatories shall be insulated or otherwise covered. There shall be no sharp or abrasive surfaces under lavatories.

## **FAUCETS**

Lever-operated, push-type, and electronically controlled mechanisms are examples of acceptable designs. Self-closing valves are allowed if the faucet remains open for at least 10 seconds. Facets shall be operable with one hand and shall not require tight grasping, pinching, or twisting of the wrist. The force required to activate facets shall be no greater than 5 lbf.

## **MIRRORS**

Mirrors shall be mounted with the bottom edge of the reflecting surface no higher than 40 inches from the floor.

## **MEDICINE CABINET**

If a medicine cabinet is provided above the lavatory, then the bottom of the medicine cabinet shall be located with a usable shelf no higher than 44 inches above the floor.

## **BATHTUBS**

If a bathtub is provided, then it shall have the following features:

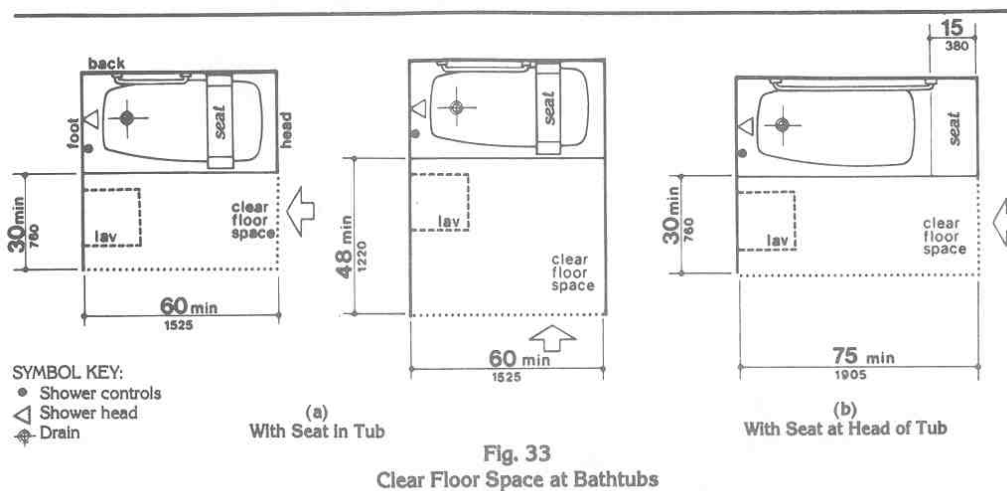
### **SEAT**

An in-tub seat or a seat at the head end of the tub shall be provided. The structural strength of seats and their attachments shall comply with the structural strength requirements identified above. Seats shall be mounted securely and shall not slip during use.

## FLOOR SPACE

Clear floor space at bathtubs shall be:

- When the Seat is in Tub. If the approach is parallel to the bathtub, a 30-inch minimum width by 60-inch minimum length clear space is required alongside the bathtub. If the approach is perpendicular to the bathtub, a 48-inch minimum width by 60-inch minimum length clear space is required.
- When the Seat is at Head of Tub. If the approach is parallel to the bathtub, a 30-inch minimum width by 75-inch minimum length clear space is required alongside the bathtub. The seat width must be 15 inches and must extend the full width of the bathtub.



## CONTROLS

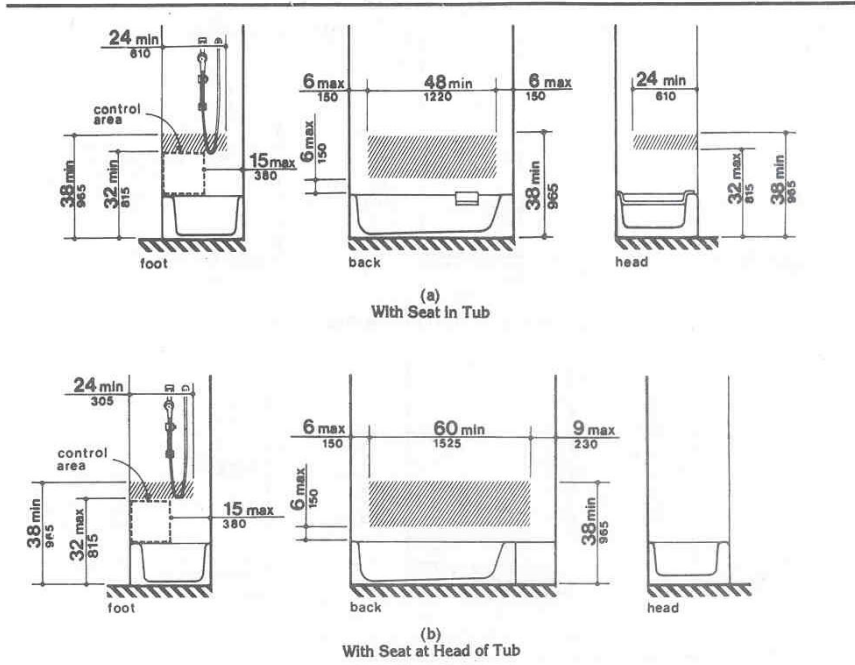
Faucets and other controls shall be located as shown in Figure 48 and shall be operable with one hand and shall not require tight grasping, pinching, or twisting of the wrist. The force required to activate controls shall be no greater than 5 lbf.

## SHOWER UNIT

A shower spray unit with a hose at least 60 inches long that can be used as a fixed showerhead or as a hand-held shower shall be provided.

## GRAB BARS

Structural reinforcement or other provisions that will allow installation of grab bars shall be provided in the locations shown in Figure 48 below and grab bars shall be installed as shown in Figure 34.



NOTE: The hatched areas are reinforced to receive grab bars.

Fig. 48  
Location of Grab Bars and Controls of Adaptable Bathtubs

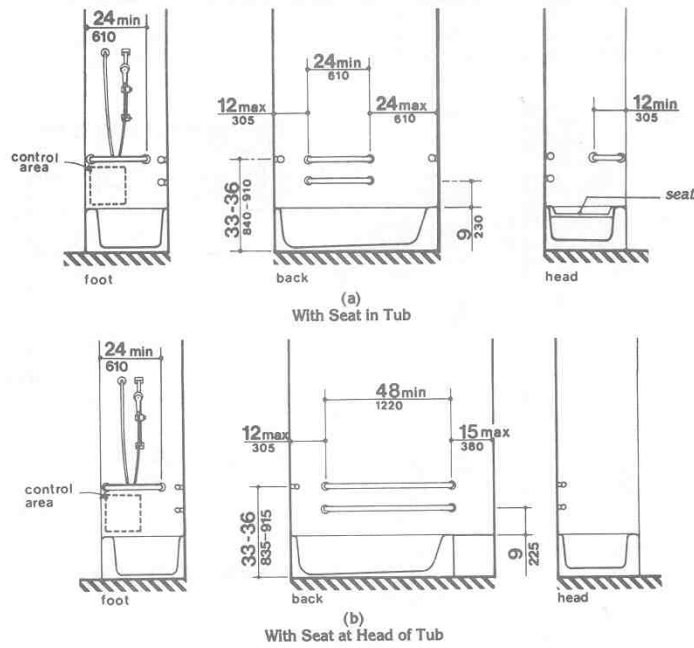


Fig. 34  
Grab Bars at Bathtubs

## SHOWERS

If a shower is provided, it shall have the following features:

- **SIZE AND CLEARANCES.** Shower stall size and clear floor space shall comply with either:
- A shower stall shall be 36 inches by 36 inches. The clear floor space shall be a minimum of 48 inches in length by a minimum of 36 inches in width and allow for a parallel approach. The clear floor space shall extend 1 foot beyond the shower wall on which the seat is mounted; *OR*
- The shower stall in will fit into the same space as a standard 60-inch long bathtub. The clear floor space alongside the shower shall be a minimum of 60 inches in length by a minimum of 36 inches in width.

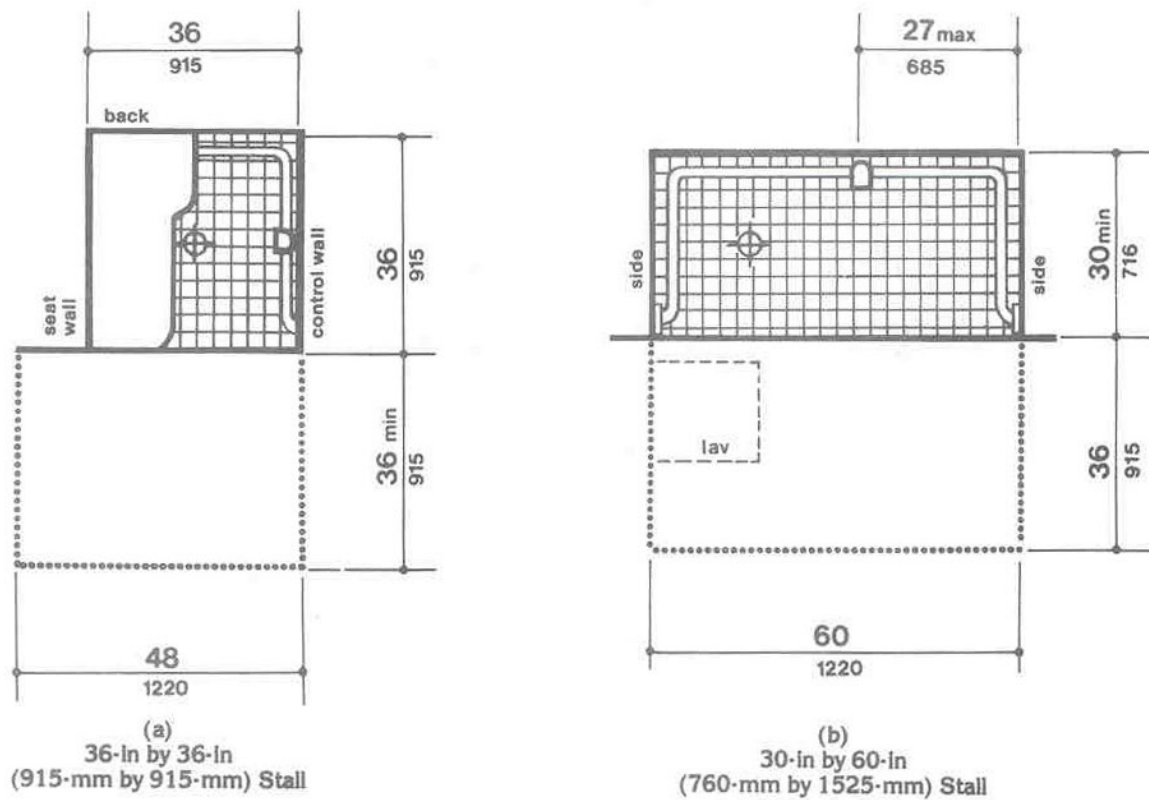


Fig. 35  
Shower Size and Clearances

## SEAT

A seat shall be provided in the shower stall in Figure 35a (above) as shown in Figure 36 (right). The seat shall be 17 in to 19 in high measured from the bathroom floor and shall extend the full depth of the stall. The seat shall be on the wall opposite the controls. Seats shall be mounted securely and shall not slip during use. The structural strength of seats and their attachments shall comply with the Structural Strength Requirement list above (Grab Bars Section)

## CONTROLS

Faucets and other controls shall be located as shown in [Fig. 37](#) and shall be operable with one hand and shall not require tight grasping, pinching, or twisting of the wrist. The force required to activate controls shall be no greater than 5 lbf. In the 36" x 36" shower stall, all controls, faucets, and the shower unit shall be mounted on the side wall opposite the seat.

## SHOWER UNIT

A shower spray unit with a hose at least 60 inches long that can be used as a fixed showerhead at various heights or as a hand-held shower shall be provided.

## GRAB BARS

Structural reinforcement or other provisions that will allow installation of grab bars shall be provided in the locations shown in Figure 49 below. Grab bars shall be installed as shown in [Fig. 37](#) and shall comply with 4.26.

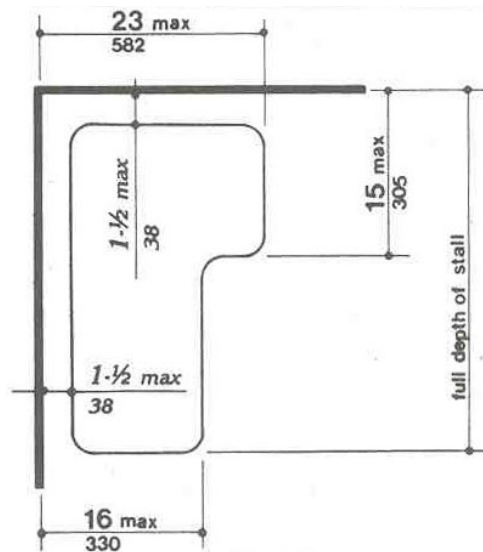
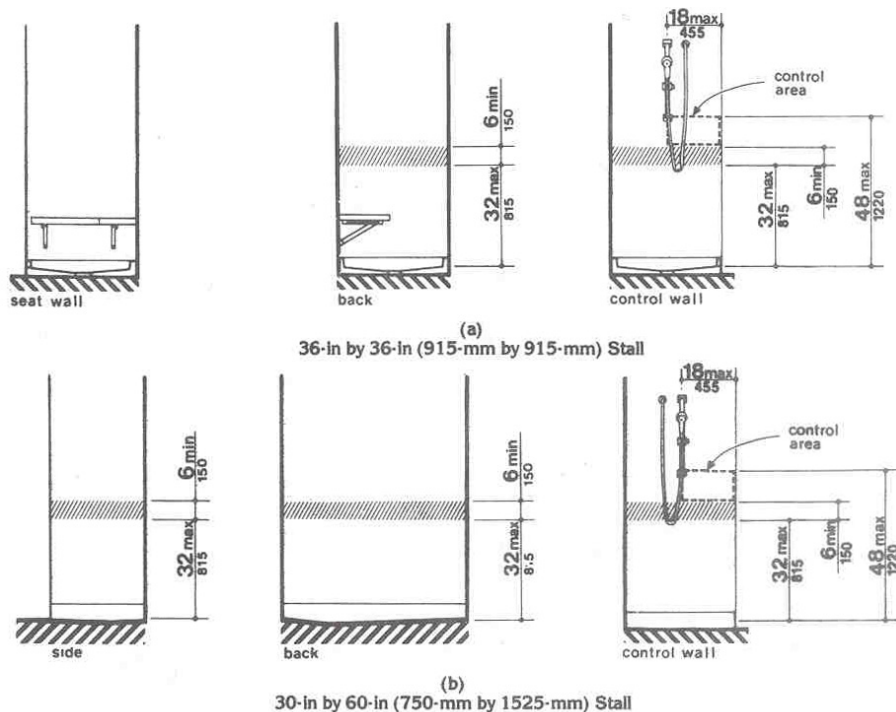


Fig. 36  
Shower Seat Design





NOTE: The hatched areas are reinforced to receive grab bars.

Fig. 49

Location of Grab Bars and Controls of Adaptable Showers

## BATHTUB AND SHOWER ENCLOSURES

Enclosures for bathtubs or shower stalls shall not obstruct controls or transfer from wheelchairs onto shower or bathtub seats. Enclosures on bathtubs shall not have tracks mounted on their rims.

## CLEAR FLOOR SPACE

Clear floor space at fixtures may overlap.

## **KITCHENS**

Accessible kitchen and its components shall be on an accessible route.

### **CLEARANCE**

Clearances between all opposing base cabinets, counter tops, appliances, or walls shall be 40 inches minimum, except in U-shaped kitchens, where such clearance shall be 60 inches minimum.

### **CLEAR FLOOR SPACE**

A clear floor space at least 30 inches by 48 inches that allows either a forward or a parallel approach by a person in a wheelchair shall be provided at all appliances in the kitchen, including the range or cooktop, oven, refrigerator/freezer, dishwasher, and trash compactor.

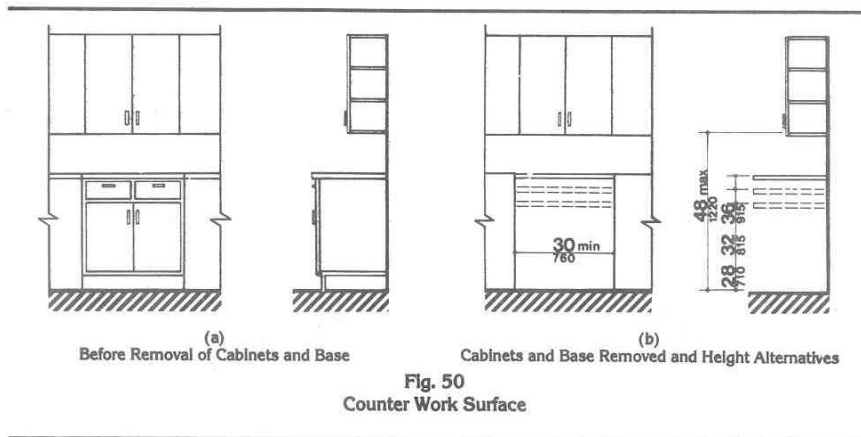
### **CONTROLS**

All controls in kitchens shall be operable with one hand and shall not require tight grasping, pinching, or twisting of the wrist. The force required to activate controls shall be no greater than 5 lbf.

### **WORK SURFACES**

At least one 30-inch section of counter shall provide a work surface that complies with the following requirements:

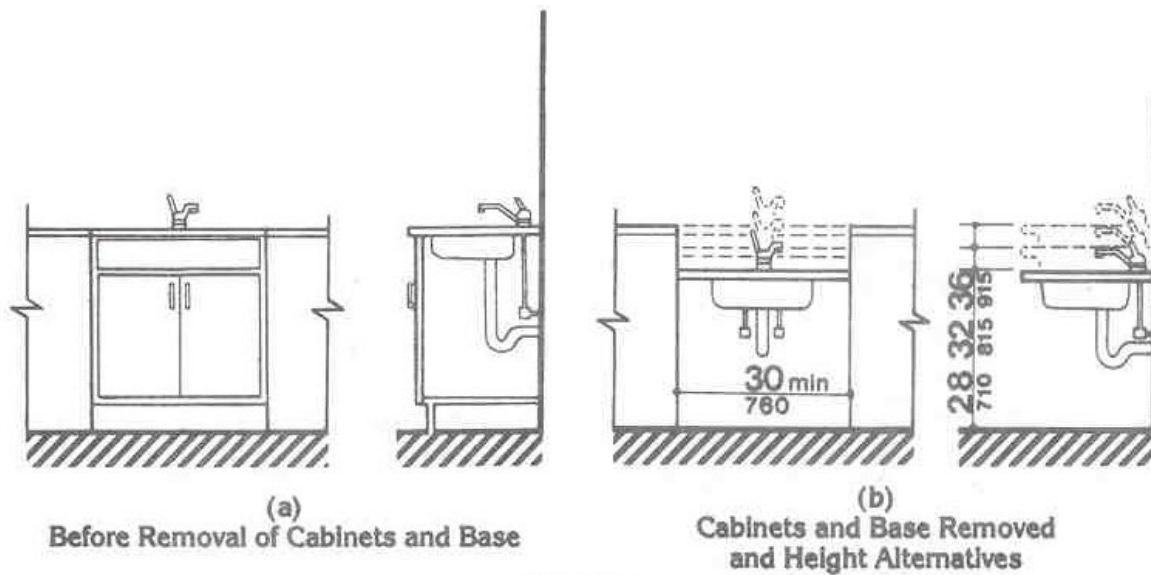
- The counter shall be mounted at a maximum height of 34 inches above the floor, measured from the floor to the top of the counter surface, or shall be adjustable or replaceable as a unit to provide alternative heights of 28 inches, 32 inches, and 36 inches, measured from the top of the counter surface.
- Base cabinets, if provided, shall be removable under the full 30 inches minimum frontage of the counter. The finished floor shall extend under the counter to the wall.
- Counter thickness and supporting structure shall be 2 inches maximum over the required clear area.
- A clear floor space 30 inches by 48 inches shall allow a forward approach to the counter. Nineteen inches maximum of the clear floor space may extend underneath the counter. The knee space shall have a minimum clear width of 30 inches and a minimum clear depth of 19 inches.
- There shall be no sharp or abrasive surfaces under such counters.



## SINK

The sink and surrounding counter shall comply with the following requirements:

- The sink and surrounding counter shall be mounted at a maximum height of 34 inches above the floor, measured from the floor to the top of the counter surface, or shall be adjustable or replaceable as a unit to provide alternative heights of 28 inches, 32 inches, and 36 inches, measured from the floor to the top of the counter surface or sink rim. The total width of sink and counter area shall be 30 inches.
- Rough-in plumbing shall be located to accept connections of supply and drain pipes for sinks mounted at the height of 28 inches.
- The depth of a sink bowl shall be no greater than 6-1/2 inches. Only one bowl of double- or triple-bowl sinks needs to meet this requirement.
- Faucets shall be operable with one hand and shall not require tight grasping, pinching, or twisting of the wrist. The force required to activate controls shall be no greater than 5 lbf. Lever-operated or push-type mechanisms are two acceptable designs.
- Base cabinets, if provided, shall be removable under the full 30 inches minimum frontage of the sink and surrounding counter. The finished flooring shall extend under the counter to the wall.
- Counter thickness and supporting structure shall be 2 inches maximum over the required clear space.
- A clear floor space 30 inches by 48 inches shall allow forward approach to the sink. Nineteen inches maximum of the clear floor space may extend underneath the sink. The knee space shall have a clear width of 30 inches and a clear depth of 19 inches.
- There shall be no sharp or abrasive surfaces under sinks. Hot water and drainpipes under sinks shall be insulated or otherwise covered.



**Fig. 51**  
**Kitchen Sink**

## **RANGES AND COOKTOPS**

Ranges and cooktops shall have a clear floor space at least 30 inches by 48 inches that allows either a forward or a parallel approach by a person in a wheelchair. If ovens or cooktops have knee spaces underneath, then they shall be insulated or otherwise protected on the exposed contact surfaces to prevent burns, abrasions, or electrical shock. The clear floor space may overlap the knee space, if provided, by 19 inches maximum. The location of controls for ranges and cook-tops shall not require reaching across burners. Controls shall be operable with one hand and shall not require tight grasping, pinching, or twisting of the wrist. The force required to activate controls shall be no greater than 5 lbf.

## **OVENS**

Ovens shall have a clear floor space at least 30 inches by 48 inches that allows either a forward or a parallel approach by a person in a wheelchair. Ovens shall be of the self-cleaning type or be located adjacent to an adjustable height counter with knee space below. For side-opening ovens, the door latch side shall be next to the open counter space, and there shall be a pullout shelf under the oven extending the full width of the oven and pulling out not less than 10 inches when fully extended. Ovens shall have controls on front panels; they may be located on either side of the door. Controls shall be operable with one hand and shall not require tight grasping, pinching, or twisting of the wrist. The force required to activate controls shall be no greater than 5 lbf.

## **REFRIGERATOR/FREEZER**

Refrigerator/freezers shall have controls that shall be operable with one hand and shall not require tight grasping, pinching, or twisting of the wrist. The force required to activate controls shall be no greater than 5 lbf. Provision shall be made for refrigerators which are:

- Of the vertical side-by-side refrigerator/freezer type; or
- Of the over-and-under type and meet the following requirements:
  - Have at least 50 percent of the freezer space below 54 inches above the floor.
  - Have 100 percent of the refrigerator space and controls below 54 inches.
  - Freezers with less than 100 percent of the storage volume within the limits specified above shall be the self-defrosting type.

## **DISHWASHERS**

Dishwashers shall have a clear floor space at least 30 inches by 48 inches that allows either a forward or a parallel approach by a person in a wheelchair. Dishwashers shall have all rack space accessible from the front of the machine for loading and unloading dishes. Controls shall be operable with one hand and shall not require tight grasping, pinching, or twisting of the wrist. The force required to activate controls shall be no greater than 5 lbf.

## **KITCHEN STORAGE**

Cabinets, drawers, and shelf areas shall have a clear floor space at least 30 inches by 48 inches that allows either a forward (maximum high forward reach allowed shall be 48 inches and the minimum low forward reach is 15 inches above the floor) or parallel (maximum high side reach allowed shall be 54 inches and the low side reach shall be no less than 9 inches above the floor) approach by a person using a wheelchair. Kitchen storage shall have the following features:

- Maximum height shall be 48 inches for at least one shelf of all cabinets and storage shelves mounted above work counters.
- Door pulls or handles for wall cabinets shall be mounted as close to the bottom of cabinet doors as possible. Door pulls or handles for base cabinets shall be mounted as close to the top of cabinet doors as possible.
- Hardware for accessible storage facilities shall be operable with one hand and shall not require tight grasping, pinching, or twisting of the wrist. The force required to activate controls shall be no greater than 5 lbf. Touch latches and U-shaped pulls are acceptable.

## **LAUNDRY FACILITIES**

If laundry equipment is provided within individual accessible dwelling units, or if separate laundry facilities serve one or more accessible dwelling units, then they shall meet the requirements below:

### **LOCATION**

Laundry facilities and laundry equipment shall be on an accessible route.

### **WASHING MACHINES AND CLOTHES DRYERS**

Washing machines and clothes dryers in common use laundry rooms shall be front loading.

### **CLEAR FLOOR SPACE**

Minimum clear floor space shall be 30 inches by 48 inches that allows a forward or a parallel approach by a person using a wheelchair.

### **CONTROLS**

#### **HEIGHT**

The highest operable part of all controls, dispensers, receptacles, and other operable equipment shall be placed within at least one of the reach ranges specified below:

#### **FORWARD REACH**

If the clear floor space only allows forward approach to an object, the maximum high forward reach allowed shall be 48 inches. The minimum low forward reach is 15 inches.

#### **SIDE REACH**

If the clear floor space allows parallel approach by a person in a wheelchair, the maximum high side reach allowed shall be 54 inches and the low side reach shall be no less than 9 inches above the floor.

#### **OPERATION**

Controls shall be operable with one hand and shall not require tight grasping, pinching, or twisting of the wrist. The force required to activate controls shall be no greater than 5 lbf.



## **PARKING**

Parking spaces at accessible housing shall be provided in accordance with the following:

- Where parking is provided for all residents, one accessible parking space shall be provided for each accessible dwelling unit; and
- Where parking is provided for only a portion of the residents, an accessible parking space shall be provided on request of the occupant of an accessible dwelling unit;
- Where parking is provided for visitors, 2 percent of the spaces, or at least one, shall be accessible

## **LOCATION**

Parking spaces for disabled people and accessible passenger loading zones that serve a particular building shall be the spaces or zones located closest to the nearest accessible entrance on an accessible route. In separate parking structures or lots that do not serve a particular building, parking spaces for disabled people shall be located on the shortest possible circulation route to an accessible pedestrian entrance of the parking facility.

## **PARKING SPACES**

Parking spaces for disabled people shall be at least 96 inches wide and shall have an adjacent access aisle 60 inches wide minimum. Parking access aisles shall be part of an accessible route to the building or facility entrance. Two accessible parking spaces may share a common access aisle. Parked vehicle overhangs shall not reduce the clear width of an accessible circulation route. Parking spaces and access aisles shall be level with surface slopes not exceeding 1:50 in all directions.

### *EXCEPTION:*

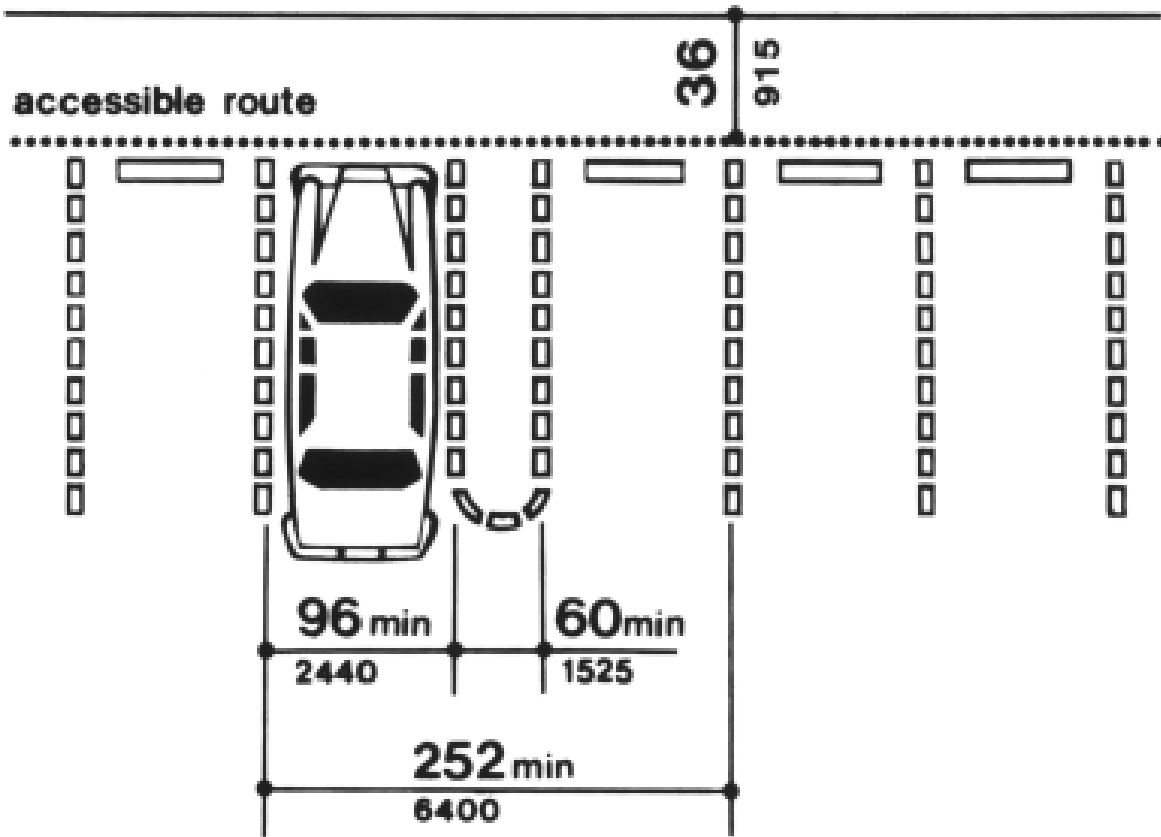
If accessible parking spaces for vans designed for handicapped persons are provided, each should have an adjacent access aisle at least 96 inches wide complying with 4.5, Ground and Floor Surfaces.

## **SIGNAGE**

Accessible parking spaces shall be designated as reserved for the disabled by a sign showing the international symbol of accessibility. A vehicle parked in the space shall not obscure such signs.

## **VERTICAL CLEARANCE**

Provide minimum vertical clearances of 114 inches along vehicle access routes to such areas from site entrances.



## **Section 504 Compliance Certification**

**Grantee:**

In accordance with the requirements of the Neighborhood Stabilization Program, based on the Architect's Certification and the Grantee's observation, the Grantee certifies that units at

---

*Unit Number/s*

---

*Name and address of property*

were designed and constructed in accordance with the requirements of the Uniform Federal Accessibility Standards (UFAS), as stipulated by Section 504 of the Rehabilitation Act of 1973.

GRANTEE: \_\_\_\_\_

By: \_\_\_\_\_ Date: \_\_\_\_\_

**Architect:**

In accordance with the requirements of the Neighborhood Stabilization Program, based on on-site observation, the Architect certifies that units at

---

*Unit Number/s*

---

*Name and address of property*

were designed and constructed in accordance with the requirements of the Uniform Federal Accessibility Standards (UFAS), as stipulated by Section 504 of the Rehabilitation Act of 1973.

ARCHITECT: \_\_\_\_\_

By: \_\_\_\_\_ Date: \_\_\_\_\_

## **Section 8: Acquisition and Relocation**

### **I. SCOPE OF ACQUISITION AND RELOCATION**

The purpose of this section is to inform the grantees of the basic regulatory requirements and related guidance covering real property acquisition and the relocation of persons who may be displaced as a result of a Neighborhood Stabilization Program (NSP). To assist grantees in complying with these requirements, the Appendices to this section contain materials (sample letters, flowcharts, regulations, and other guidance materials) that comply with the regulations. The use of guidance materials should be reviewed and files should contain specified applicable documents.

Since relocation of persons within the NSP project is infrequent and the process of relocating persons/businesses is extensive, only the acquisition process will be detailed. Any relocation assistance will be handled on a case-by-case basis and separate directives will address relocation regulations. Therefore, should any project cause the relocation of persons, businesses, or remove a vacant occupiable dwelling unit, the grantee must contact the Acquisition/Relocation Specialist for information.

### **II. APPLICABLE LAWS AND REGULATIONS**

#### **A. Uniform Relocation Act (URA)**

The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended (URA) and HUD implementing regulation at 49 CFR Part 24 govern the acquisition of real property for NSP-assisted activity and the displacement of persons. The rule applies to all NSP-assisted projects.

If federal financial assistance is used in any part of the activity, the URA governs the grantee's acquisition of real property and may govern any resulting displacement. It is important the grantee comprehend that the involvement of federal assistance in the project is the cause of URA application and that funding source is not a factor. The URA requirement applies, whether NSP funds, local funds, or zero funds (the real property is donated) are expended.

#### **B. Section 104(d)**

Section 104(d) of the Housing and Community Development Act of 1974, as amended (HCD Act), and implementing regulations at 24 CFR 570.496a (state NSP program) govern the displacement of any lower income person as a direct result of the demolition of any housing unit or the conversion of occupied or vacant occupiable low- and moderate-income housing to a use other than low- and moderate-income housing for a NSP project, as well as the URA requirements. **The HERA waived the one-for-one housing replacement requirement.** Appendix P provides a sample letter to send to LMI tenants informing them of the NSP financial assistance.

### C. Program Regulations

Most HUD program regulations contain additional requirements regarding displacement, including displacement not covered by the URA or Section 104(d). Examples of such requirements include:

Program:	Additional Policies:
Rental Rehabilitation Program (RRP)	24 CFR 511.14
Special Purpose Grants	24 CFR 770.410

As a condition for the approval of its block grant, the grantee certifies it will ensure that all NSP activities are in compliance with applicable requirements to the URA and Section 104(d).

## III. BASIC REQUIREMENTS, REAL PROPERTY ACQUISITION

### A. Basic Acquisition Process

The grantee is to make every reasonable effort to acquire the real property expeditiously by negotiation. A flow chart outlining the URA acquisition process is included in this section. The Acquisition process is as follows:

1. Notice to Owner. As soon as feasible, the owner shall be notified of the grantee's interest in acquiring the real property and the basic protections applicable, including the grantee's obligation to secure an appraisal. Grantees may meet the requirement to notify the owner of the basic protections available by providing and explaining, as appropriate, the HUD information brochure, "**When a Public Agency Acquires Your Property**".

References: Appendix B and Appendix C

2. Appraisal and Invitation to Owner. Before the initiation of negotiations, the real property to be acquired shall be appraised and the owner, or the owner's designated representative, shall be given an opportunity to accompany the appraiser during the appraiser's inspection of the property, unless:
  - a. Since accurate appraisals are the heart of the acquisition process, it is important the grantee select qualified appraisers. References should be obtained through appropriate inquiries among users of appraisal services.

The appraiser must be procured as a professional service if NSP funds are paying for these services. The appraisers must be qualified professional appraisers.

The object of the appraisal process is to furnish an accurate estimate of value in accordance with the definition and concepts of value and the rules on the admissibility of evidence of value.

When acquiring commercial property and/or property with tenant-owned improvements, the grantee should provide the appraiser with appropriate legal guidance with respect to the classification as to ownership and type of property of all buildings, structures, fixtures, and other improvements. The grantee may examine property analysis guidance contained in Article 4(j) of Agreement for Appraisal Services (49 CFR 24.102).

The tenant-owner of a real property improvement should be invited to accompany the appraiser on his/her inspection of improvement.

- b. Donations. An owner whose real property is to be acquired, after being fully informed by the grantee of the right to receive just compensation and his/her right to an appraisal, may waive the right to an appraisal and donate such property without compensation. The owner may completely or partially waive compensation. Whenever a grantee acquires real property under this donation provision, the grantee must obtain the written consent of the owner. Such consent must indicate the owner understands that under the URA he/she cannot be required to sell the real property for less than its appraised fair market value.

References: Appendix H - Donation of Property and Appendix I - Partial Compensation.

3. NSP Voluntary Acquisition of Foreclosed Property: Before the initiation of negotiations, the grantee shall establish an amount which it believes is just compensation for the real property. The amount shall be for at least 5% less than the appraised fair market value. Promptly thereafter, the agency shall make a written offer to the owner to acquire the property.

Reference: Appendix F - NSP Voluntary Acquisition of Foreclosed Property.

4. Appraisal. Along with the initial written purchase offer, the owner shall be given a copy of the appraisal which includes:
  - a. A statement of the amount offered as just compensation. In the case of a partial acquisition, the compensation for the real property to be acquired and the compensation for damages, if any, to the remaining real property shall be separately stated.
  - b. A description and location identification of the real property and the interest in the real property to be acquired.



- c. An identification of the buildings, structures, and other improvements (including building equipment and trade fixtures) which are considered to be part of the real property for which the offer of just compensation is made. Where appropriate, the statement shall identify any separately held ownership interest in the property, e.g., a tenant-owned improvement, and indicate such interest is not covered by the offer.

Reference: Appraisal

5. Basic Negotiation Procedures

Contacting the Owner. The grantee shall make reasonable efforts to contact the owner or the owner's representative and discuss its offer to purchase the property, including the basis for the offer of just compensation. The grantee shall explain the basic acquisition policies and procedures that apply, including its payment of incidental expenses. Whenever feasible, personal face-to-face contact and discussion shall take place. The owner shall be given reasonable opportunity to consider the offer and present material which the owner believes is relevant to determining the value of the property and to suggest modifications in the proposed terms and conditions of the purchase.

6. Payment and Transfer of Title

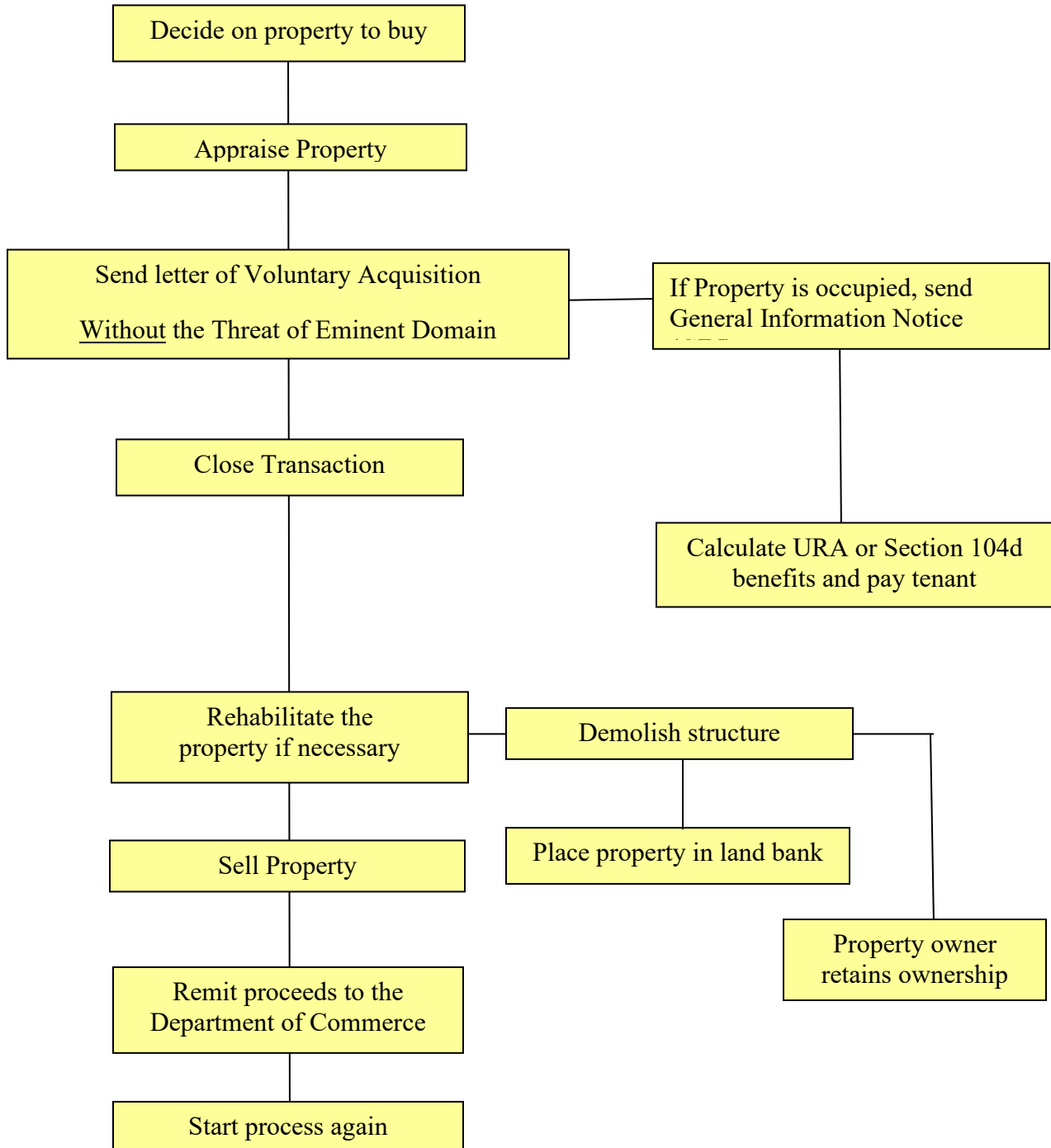
- a. Payment Before Taking Possession. Before requiring the owner to surrender possession of the real property, the grantee shall pay the agreed purchase price to the owner. In exceptional circumstances, with the prior approval of the owner, the grantee may obtain a right-of-entry for construction purposes before making payment available to an owner.
- b. Expenses Incidental to Transfer of Title. The owner of the real property shall be reimbursed for all reasonable expenses the owner necessarily incurred for:
  - (1) Recording fees, transfer taxes, documentary stamps, evidence of title, boundary survey and legal description of the real property, and similar expenses incidental to conveying the real property to the grantee. However, the grantee may not pay costs solely required to perfect the owner's title to the real property;
  - (2) Penalty costs and other charges for prepayment of any pre-existing recorded mortgage entered into in good faith encumbering the real property; and
  - (3) The pro rata portion of any prepaid real property taxes which are allocable to the period after the grantee obtains title to the property or effective possession of it, whichever is earlier.

Whenever feasible, the grantee shall pay for the incidental expenses directly so the owner will not have to pay such costs and then seek reimbursement from the grantee. To avoid duplicate expenditures, the property owner shall be informed early in the acquisition process of the grantee's intent to make such arrangements.

C. Recordkeeping Requirements

A separate file must be maintained for each transaction of property acquired. The grantee is required to keep a summary of all completed acquisition transactions in their project file for monitoring purposes. The form to be used can be found as Appendix J - Acquisition Report. A SAMPLE of a completed Acquisition Report follows Appendix J1. As a reference or checklist, you may find it helpful to refer to the following table regarding required documentation.

# Neighborhood Stabilization Program Acquisition Flow Chart



**SAMPLE LETTER**

**PRELIMINARY ACQUISITION NOTICE/BROCHURE**

(Date)

Mrs. Elizabeth Richards  
4134 Gus Young Avenue  
West Linn, Kansas

RE: Project No. 91-PF-001

Dear Mrs. Richards:

This is to inform you the City of West Linn is considering the acquisition of your property on Gus Young Avenue (Lot 8, Square 6, Palmer Extension) to be used for the construction of an addition to the Eden Park Community Service Center.

A copy of a brochure describing your rights and the City's procedures for acquiring property is enclosed for your information. If you have any questions, please call Mr. Garcia Lorca at City Hall at 441-4841. This is not a notice to vacate and does not establish eligibility for relocation payments or other relocation assistance.

The City will be hiring an independent appraiser to appraise your property. You have the right to accompany him on his inspection of the property if you wish to do so. A letter inviting you to accompany him will be sent by the appraiser at least five days prior to his visit.

Sincerely,

Garcia Lorca  
Public Works Director

Enclosure: When A Public Agency Acquires Your Property

# **When A Public Agency Acquires Your Property**

## **Introduction**

**What Right Has Any Public Agency To Acquire My Property Acquisition policies Act of 1970,** as amended (URA) and provides general information about public acquisition of real property (real estate) that should be useful to you.

Most acquisitions of real property by a public agency for Federal project or product in which Federal funds are used are covered by the URA. If you are notified that your property will be acquired for such a project, it is important that you learn you rights under this important law.

This booklet may not answer all of your questions. If you have more questions about the acquisition of your property, contact the Agency responsible for the project. (Check the back of this booklet for the name of the person to contact at the Agency.) Ask your questions before you sell your property. Afterwards, it may be too late.

## **General Questions**

### **What Right Has Any Public Agency To Acquire My Property?**

The Federal Government and every State government have certain powers that are necessary for them to operate effectively. For example, they have the power to levy taxes and the power to maintain order. Another government power is the power to acquire private property for public purposes. This is known as the power of eminent domain.

The rights of each of us are protected, however, by the Fifth and Fourteenth Amendments of the U.S. Constitution and by State constitutions and eminent domain laws which guarantee that if a public agency takes private property it must pay “just compensation” to the owner. The URA provides additional protections, as explained in this booklet.

### **Who Made The Decision To Buy My Property?**

The decision to acquire a property for a public project usually involves many persons and many determinations. The final determination to proceed with the project is made only after a thorough review which may include public hearings to obtain the views of interested citizens.

If you have any questions about the project or the selection of your property for acquisition, you should ask a representative of the Agency which is responsible for the project.

## **How Will The Agency Determine How Much To Offer Me Of My Property?**

Before making you an offer, the Agency will obtain at least one appraisal of your property by a competent real property appraiser who is familiar with local property values. The appraiser will inspect your property and prepare a report that includes his or her professional opinion of its current fair market value. After the appraiser has completed his work, a review appraiser will examine the appraisal report to assure that the estimate is fair and the work conforms to professional appraisal standards.

The Agency must offer you “just compensation” for your property. This amount cannot be less than the appraised fair market value of the property. “Just compensation” for your property does not take into account your relocation needs. If you are eligible for relocation assistance, it will be additional.

## **What Is Fair Market Value?**

Fair market value is sometimes defined as that amount of money which would probably be paid for a property in a sale between a willing seller, who does not have to sell, and a willing buyer, who does not have to buy. In some areas, a different term or definition may be used.

The fair market value of a property is generally considered to be “just compensation.” Fair market value does not take into account intangible elements such as sentimental value, good will, business profits, or any special value that your property may have for you or for the Agency.

## **How Does An Appraiser Determine The Fair Market Value Of My Property?**

Each parcel of real property is different and therefore no single formula can be devised to appraise all properties. Among the factors an appraiser typically considers in estimating the value of real property are:

- How it compares with similar properties in the area that have been sold recently.
- How much rental income it could produce
- How much it would cost to reproduce the buildings and other structures, less any depreciation.

## **Will I have A Chance To Talk To The Appraiser?**

Yes, you will be contacted and given the opportunity to accompany the appraiser on his or her inspection of your property. You may then inform the appraiser of any special features which you believe may add to the value of your property. It is in your best interest to provide the appraiser with all the useful information you can in order to insure that nothing of allowable value will be overlooked. If you are unable to meet with the appraiser, you may wish to have a person who is familiar with your property represent you.

Promptly after the appraisal has been reviewed (and any necessary corrections obtained), the Agency will determine just compensation and give you a written purchase offer in that amount along with a “summary statement,” explaining the basis for the offer. No negotiations are to take place before you receive the written purchase offer and summary statement.



## **What Is In The Summary Statement Of The Basis For The Offer Of Just Compensation?**

The summary statement of the basis for the offer of just compensation will include:

- An accurate description of the property and the interest in the property to be acquired.
- A statement of the amount offered as just compensation. (If only part of the property is to be acquired, the compensation for the part to be acquired and the compensation for damages, if any, to the remaining part will be separately stated.)
- A list of the buildings and other improvements covered by the offer. (If there is a separately held interest in the property not owned by you and not covered by the offer (e.g. a tenant-owned improvement), it will be so identified)

## **Must I accept The Agency's Offer?**

No. You are entitled to present your evidence as to the amount you believe is the fair market value of your property and to make suggestions for changing the terms and conditions of the offer. The Agency will consider your evidence and suggestions. When fully justified by the available evidence of value, the offer price will be increased.

## **May Someone Represent Me During Negotiations?**

Yes. If you would like an attorney or anyone else to represent you during negotiations, please inform the Agency. However, the URA does not require the Agency to pay the costs of such representation.

## **If I Reach Agreement With The Agency, How Soon Will I be Paid?**

If you reach a satisfactory agreement to sell your property and your ownership (title to the property) is clear, payment will be made at a mutually acceptable time. Generally, this should be possible within 30 to 60 days after you sign a purchase contract. If the title evidence obtained by the Agency indicates that further action is necessary to show that your ownership is clear, you may be able to hasten the payment by helping the Agency obtain the necessary proof. (Title evidence is basically a legal record of the ownership of the property. It identifies the owners of record and lists the restrictive deed covenants and recorded mortgages, liens, and other instruments affecting your ownership of the property.)

## **What Happens If I Don't Agree To The Agency's Purchase Offer?**

If you are unable to reach an agreement through negotiations, the Agency may file a suit in court to acquire your property through an eminent domain proceeding. Eminent domain proceedings are often called condemnations. If your property is to be acquired by condemnation, the Agency will file the condemnation suite without unreasonable delay

An Agency may also decide not to buy your property, if it cannot reach agreement on a price, and find another property to buy instead.

## **What Happens After The Agency Condemns My Property?**

You will be notified of the action. Condemnation procedures vary, and the Agency will explain the procedures that apply in your case.

Generally, when an Agency files a condemnation suit, it must deposit with the court (or in an escrow account) an amount not less than its appraisal of the fair market value of the property. You should be able to withdraw this amount, less any amounts necessary to pay off any mortgage or other liens on the property and to resolve any special ownership problems. Withdrawal of your share of the money will not affect your right to seek additional compensation for your property.

During the condemnation proceeding, you will be provided an opportunity to introduce your evidence as to the value of your property. Of course, the Agency will have the same right. After hearing the evidence of all parties, the court will determine the amount of just compensation. If that amount exceeds the amount deposited by the Agency, you will be paid the difference, plus any interest that may be provided by law.

To help you in presenting your case in a condemnation proceeding, you may wish to employ an attorney and an appraiser. However, in most cases the costs of these professional services and other costs that an owner incurs in presenting his or her case to the court must be paid by the owner.

## **What Can I Do If I Am Not Satisfied With The Court's Determination?**

If you are not satisfied with the court judgment, you may file an appeal with the appropriate appellate court for the area in which your property is located. If you are considering an appeal, you should check on the applicable time limit for filing the appeal and consult with your attorney on whether you have a basis for the appeal. The Agency may also file an appeal if it believes the amount of the judgment is too high.

## **Will I Have To Pay Any Closing Costs?**

You will be responsible for the payment of the balance on any mortgage and other liens on your property. Also, if your ownership is not clear, you may have to pay the cost of clearing it. But the Agency is responsible for all reasonable and necessary costs for:

- Typical legal and other services required to complete the sale, recording fees, revenue stamps, transfer taxes and any similar expenses which are incidental to transferring ownership to the Agency.
- Penalty costs and other charges related to prepayment of any recorded mortgage on the property that was entered into in good faith.
- Real property taxes covering the period beginning on the date the Agency acquires your property.

Whenever possible, the Agency will make arrangements to pay these costs directly. If you must incur any of these expenses yourself, you will be repaid—usually at the time of closing. If you later discover other costs for which you should be repaid, you should request repayment from the Agency immediately. The Agency will assist you in filing a claim. Finally, if you believe that you were not properly repaid, you may appeal the decision to the Agency.

### **May I Keep Any Of The Buildings Or Other Improvements On My Property?**

Very often, many or all of the improvements on the property are not required by the Agency. This might include such items as a fireplace mantel, your favorite shrubbery, or even entire house. If you wish to keep any improvements, please let the Agency know as soon as possible.

If you do arrange to keep any improvements, the Agency will deduct only its salvage value from the purchase price you would otherwise receive. (The salvage value of the items is its probable selling price if offered for sale on the condition that the buyer will remove it at his or her own expense.) Of course, if you arrange to keep any real property improvement, you will not be eligible to receive a relocation payment for the cost of moving it to a new location.

### **Can The Agency Take Only A Part Of My Property?**

Yes. But if the purchase of only a part of your property reduces the value of the remaining part(s), you will be paid for the loss in value. Also, if any remaining part would have little or no utility or value to you, the Agency will offer to buy that remaining part from you.

Occasionally, a public project will increase the value of the part that is not acquired by the Agency. Under some eminent domain laws, the amount of such increase in value is deducted from the purchase payment the owner would otherwise receive.

### **Will I Have To Pay Rent To The Agency After My Property Is Acquired?**

If you remain on the property after the acquisition, you may be required to pay a fair rent to the Agency. Such rent will not exceed that charged for the use of comparable properties in the area.

### **How Soon Must I Move?**

If possible, a mutually agreeable date for the move will be worked out. Unless there is an urgent need for your property (e.g., your occupancy would present a health or safety emergency), you will not be required to move without at least 90 days advance written notice.

If you reach a voluntary agreement to sell your property, you will not be required to move before you receive the agreed purchase price. If the property is acquired by condemnation, you cannot be required to move before the estimated fair market value of the property has been deposited with the court so that you can withdraw your share.

If you are being displaced from your home, you will not be required to move before a comparable replacement home is available to you.

### **Will I Receive Relocation Assistance?**

Title II of the URA requires that certain relocation payments and other assistance must be provided to families, individuals, businesses, farms, and nonprofit organizations when they are displaced or their personal property must be moved as a result of a project that is covered by the URA.

The Agency will furnish you a full explanation of any relocation assistance to which you may be entitled. If you have any questions about such assistance, please contact the Agency. In order for the Agency to fulfill its relocation obligations to you, you must keep the Agency informed of your plans.

### **My Property Is Worth More Now. Must I Pay Capital Gains Tax On The Increase?**

Internal Revenue Service (IRS) Publication 544 explains how the Federal income tax would apply to a gain or loss resulting from the sale or condemnation of real property, or its sale under the threat of condemnation, for public purposes. If you have any questions about the IRS rules, you should discuss your particular circumstances with your personal tax advisor or your local IRS office.

### **I'm A Veteran. How About My VA Loan?**

After your VA home mortgage loan has been repaid, you will be permitted to obtain another VA Loan to purchase another property. Check on such arrangements with your nearest Veterans Administration Office.

### **Is It Possible To Donate Property?**

Yes. You may donate your property or sell it to the Agency for less than its fair market value. The agency must obtain an appraisal of the property and offer just compensation for it, unless you release the Agency from these obligations.

### **Additional Information**

If you have any questions after reading this booklet, contact the Agency and discuss your concerns with the Agency representative.

Agency: \_\_\_\_\_

Address: \_\_\_\_\_

Office Hours: \_\_\_\_\_

Telephone Number: \_\_\_\_\_

Person to Contact: \_\_\_\_\_

**SAMPLE LETTER**

**INVITATION TO ACCOMPANY AN APPRAISER**

(Date)

Mrs. Elizabeth Richards  
4134 Gus Young Avenue  
West Linn, Kansas

Dear Mrs. Richards:

I have been requested by the City of West Linn to prepare an appraisal of your property on Gus Young Avenue. I will visit the property October 15, 1991. If you wish to accompany me, please telephone me at (913) 331-4705 to arrange a mutually convenient time.

Sincerely,

Robert Baxter  
Senior Appraiser

ACQUISITION CHECKLIST

City/County: \_\_\_\_\_ Grant No.: \_\_\_\_\_

RE: \_\_\_\_\_  
 (description of real property)

Owner(s): \_\_\_\_\_ Tenants: \_\_\_\_\_

Address: \_\_\_\_\_ Address: \_\_\_\_\_

Procedure Implemented:	Appendix References	Date
(a) Official determination to acquire property (usually execution of grant agreement)	-	_____
(b) Preliminary Acquisition Notice mailed and owner informed of basic rights	D/E	_____
(c) Enter into contract with appraiser	-	_____
(d) Owner provided letter to accompany appraiser	F	_____
(e) Property appraised	-	_____
(f) Appraisal report received	-	_____
(g) Enter into contract with review appraiser	-	_____
(h) Grantee establish purchase offer amount (offer must equal or be above approved appraisal value)	-	_____
(i) Owner provided written purchase offer and determination of offer	G/H	_____
(j) Settlement cost paid	I	_____
(k) Final contract entered (all parties)	-	_____
(l) Payment to owner	-	_____
(m) Title recorded/filed with court	-	_____
Condemnation dates*		_____
(o) 90 days notice to vacate property	-	_____
(p) Condemnation proceeding instituted	-	_____
(q) Estimated just compensation deposited with courts	-	_____

Comments: \_\_\_\_\_

SIGNIFICANT DOLLAR AMOUNTS:

Appraisals:	First	Second*	Third*	Review
	\$ _____	\$ _____	\$ _____	\$ _____
Compensation Amount:	Determined	Initial Written Order	Acquisition Price	
	\$ _____	\$ _____	\$ _____	\$ _____
Settlement Costs:	\$ _____	\$ _____	\$ _____	\$ _____



GUIDEFORM  
- NSP VOLUNTARY ACQUISITION OF FORECLOSED PROPERTY -  
- Informational Notice -  
(Agencies/Persons **Without** Eminent Domain Authority)

Grantee or Agency Letterhead

(date)

Dear \_\_\_\_\_ :

(Name of Agency/Person \_\_\_\_\_ , is interested in acquiring property you own at (address) \_\_\_\_\_ for a proposed project which may receive funding assistance from the U.S. Department of Housing and Urban Development (HUD) under the Neighborhood Stabilization Program (NSP).

Please be advised that (Name of Agency/Person) \_\_\_\_\_ does not have authority to acquire your property by eminent domain. In the event we cannot reach an amicable agreement for the purchase of your property, we will not pursue this proposed acquisition.

Under the NSP, we are required to purchase foreclosed property at a discount from its current market appraised value. Our appraisal indicates the property's market value is \$ \_\_\_\_\_ We are prepared to offer you \_\_\_\_\_ to purchase your \_\_\_\_\_ \$ \_\_\_\_\_ property. This offer is less than the current market appraised value as required by the NSP. Please contact us at your convenience if you are interested in selling your property.

In accordance with the Uniform Relocation Assistance and Real Property Acquisition Policies Act (URA), owner-occupants who move as a result of a voluntary acquisition are not eligible for relocation assistance. A tenant-occupant who moves as a result of a voluntary acquisition for a federally-assisted project may be eligible for relocation assistance. Such displaced persons may include not only current lawful occupants, but also former tenants required to move for any reason other than an eviction for cause in accordance with applicable federal, state, and local law. If your property is currently tenant-occupied or a tenant lawfully occupied your property within the past 3 months prior to our offer, we need to know immediately. Further, you should not order current occupant(s) to move, or fail to renew a lease, in order to sell the property to us as vacant.

If you have any questions about this notice or the proposed project, please contact

Name: \_\_\_\_\_ Title: \_\_\_\_\_  
Address: \_\_\_\_\_ Phone: \_\_\_\_\_

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**NOTES to NSP Voluntary Acquisition Notice (Agency/person without Eminent Domain authority).**

1. The case file must indicate the manner in which this notice was delivered (e.g., certified mail, return receipt requested) and the date of delivery. (See 49 CFR 24.5 and Paragraph 2-3 J of Handbook 1378)
2. Tenant-occupants displaced as a result of a voluntary acquisition may be entitled to URA relocation assistance and must be so informed per 49 CFR 24.2(a)(15)(iv) – Initiation of negotiations, and 49 CFR 24 Appendix A - 24.2(a)(15)(iv).
3. See 49 CFR 24.206 regarding eviction for cause.
4. This guide form may only be used if all of the requirements of 49 CFR 24.101(b)(2)(i) and (ii) or 49 CFR 24.101(b)(3) are met.
5. This is a guide form. It should be revised to reflect the circumstances.

**STATEMENT OF SETTLEMENT COSTS**

City/County: \_\_\_\_\_ Project No.: \_\_\_\_\_

Owner: \_\_\_\_\_

Identification of Property: \_\_\_\_\_

Purchase Price: \$ \_\_\_\_\_

Expenses Incidental to Transfer of Title	Paid by City	Paid by Owner
1. Recording Fees	_____	_____
2. Transfer Taxes	_____	_____
3. State Tax Stamps	_____	_____
4. City/County Tax Stamps	_____	_____
5. Survey and Legal Description	_____	_____
6. Penalty Costs Associated with Pre-payment of Pre-existing Recorded Mortgages	_____	_____
7. Pro-rata Portion of Pre-paid Taxes and Public Services Charges	_____	_____
(a) Real Property Taxes - County	_____	_____
(b) Real Property Taxes - City	_____	_____

This statement of settlement costs is certified as true and correct.

Signed: \_\_\_\_\_ Date: \_\_\_\_\_

Closing Attorney

**SAMPLE LETTER**

**DONATION OF PROPERTY**

(Date)

The Honorable Devon Troy  
Mayor, City of West Linn  
West Linn, Kansas

RE: Project No. 91-PF-001; Acquisition of Property;  
Property on Gus Young Avenue (Lot 8, Square 6, Palmer Extension)

Dear Mayor Troy:

This letter will serve to verify we were fully informed and advised of our rights provided to us by the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended. We acknowledge receipt of a copy of the booklet "When a Public Agency Acquires Your Property".

We fully understand we have the right to waive an appraisal on this property and wish to donate it to the city.

**OR**

We understand the appraised value of this property is \$ \_\_\_\_\_ and we wish to donate this land to the city.

\_\_\_\_\_  
(Property Owner)

Original: City (NSP Acquisition file)  
Copy: Property Owner

**SAMPLE LETTER**

**PARTIAL COMPENSATION OF PROPERTY**

(Date)

The Honorable Devon Troy  
Mayor, City of West Linn  
West Linn, Kansas

RE: Project No. 91-PF-001; Eden Park Community Service Center;  
Property on Gus Young Avenue (Lot 8, Square 6, Palmer Extension)

Dear Mayor Troy:

This letter will serve to verify we were fully informed and advised of our rights provided to us by the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended. We fully understand we are not required to sell this property for less than its appraised fair market value.

We wish to inform the City we are willing to accept \$ \_\_\_\_\_ as full compensation for the property described above. The difference between the amount of compensation we are receiving and that of the appraised value of \$ \_\_\_\_\_ is considered by us to be a donation to the City of this project.

\_\_\_\_\_  
(Property Owner)

Original: City (NSP Acquisition file)  
Copy: Property Owner

**ACQUISITION REPORT**

Grantee: \_\_\_\_\_ Grant No: \_\_\_\_\_  
 (City/County)

RE: SUMMARY OF ACQUISITION ACTIVITIES: According to the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended (URA)

- I. ACQUISITION PROCESS:
- A. Complete URA Acquisition Process (condemnation not required)
  - B. Complete URA Acquisition Process (acquired by condemnation)
  - C. Owners waived all/partial rights of URA
  - D. Exception filed; (1) Voluntary
  - E. Exception filed; (2) Private sector acquiring
  - F. Exception filed; (3) Government to government transaction

II. SUMMARY REPORT:

Trans. #	Property Owner's Name(s)	Transaction Type*	Amount Paid**	Date	URA Process***
1.	_____	_____	_____	_____	_____
2.	_____	_____	_____	_____	_____
3.	_____	_____	_____	_____	_____
4.	_____	_____	_____	_____	_____
5.	_____	_____	_____	_____	_____
6.	_____	_____	_____	_____	_____
7.	_____	_____	_____	_____	_____
8.	_____	_____	_____	_____	_____
9.	_____	_____	_____	_____	_____
10.	_____	_____	_____	_____	_____

\* Type of Acquisition Transaction:  
 Permanent Easement (PE)  
 Parcel Simple Fee Title (SF)  
 Permanent Right-of-Way (RW)  
 Other (OT)

\*\* Amount paid to property owners for real property. (Do not include legal fees, title search fees, or incidental fees)

\*\*\* Indicate Type of Acquisition as defined in Section I, i.e. A, B, C, D, E, or F



**Sample  
ACQUISITION REPORT**

Grantee: City of West Linn Grant No: 95-PF-001  
 (City/County)

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- E. Exception filed; (2) Private sector acquiring
- F. Exception filed; (3) Government to government transaction

II. SUMMARY REPORT:

Trans. #	Property Owner's Name(s)	Transaction Type*	Amount Paid**	Date	URA Process***
1.	<u>John H. Brown</u>	<u>SF</u>	<u>\$32,500.00</u>	<u>10/4/1995</u>	<u>A</u>
2.	<u>Richard Lee Smith</u>	<u>RW</u>	<u>\$350.00</u>	<u>9/1/1995</u>	<u>C</u>
3.	<u>Chrysler Corporation</u>	<u>SF</u>	<u>\$250,00.00</u>	<u>12/1/1995</u>	<u>F</u>
4.	<u>Albert B. &amp; Christine D. Jones</u>	<u>FE</u>	<u>\$ ---</u>	<u>9/1/1995</u>	<u>C</u>
5.	<u> </u>	<u> </u>	<u> </u>	<u> </u>	<u> </u>
6.	<u> </u>	<u> </u>	<u> </u>	<u> </u>	<u> </u>
7.	<u> </u>	<u> </u>	<u> </u>	<u> </u>	<u> </u>
8.	<u> </u>	<u> </u>	<u> </u>	<u> </u>	<u> </u>
9.	<u> </u>	<u> </u>	<u> </u>	<u> </u>	<u> </u>
10.	<u> </u>	<u> </u>	<u> </u>	<u> </u>	<u> </u>

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## **U.S. Department of Housing and Urban Development (HUD) Guide for Preparing An Appraisal Scope of Work**

The Uniform Relocation Assistance and Real Property Acquisition Policies Act (URA) and its implementing regulations (49 CFR Part 24) set forth minimum requirements for real property acquisition appraisals for Federal and federally-assisted programs. Appraisals subject to the URA must be prepared according to these requirements. The acquiring agency may also have additional supplemental appraisal requirements that may be attached.

The acquiring agency has a legitimate role in contributing to the appraisal process, especially in developing the scope of work and defining the appraisal problem. The scope of work and development of an appraisal under these requirements depends on the complexity of the appraisal problem

The scope of work is a written set of expectations that form an agreement or understanding between the appraiser and the agency as to the specific requirements of the appraisal, resulting in a report to be delivered to the agency by the appraiser. It includes identification of the intended use and intended user; definition of fair market value; statement of assumptions and limiting conditions; and certifications. It should specify performance requirements, or it should reference them from another source, such as the agency's appraisal procedural manual. The scope of work must address the unique, unusual and variable appraisal performance requirements of the appraisal. Either the appraiser or the agency may recommend modifications to the initial scope of work, but both parties must approve changes.

**SCOPE OF WORK:** The appraiser must, at a minimum:

1. Provide an appraisal meeting the definition of an appraisal found at 49 CFR 24.2(a)(3).
2. Afford the property owner or the owner's designated representative the opportunity to accompany the appraiser on the inspection of the property.
3. Perform an inspection of the subject property. The inspection should be appropriate for the appraisal problem, and the scope of work should address:
  - The extent of the inspection and description of the neighborhood and proposed project area,
  - The extent of the subject property inspection, including interior and exterior areas,
  - The level of detail of the description of the physical characteristics of the property being appraised (and, in the case of a partial acquisition, the remaining property),
4. In the appraisal report, include a sketch of the property and provide the location and dimensions of any improvements. The appraisal report should also include adequate photographs of the subject property and comparable sales, and provide location maps of the property and comparable sales.

5. In the appraisal report, include items required by the acquiring agency, including but not limited to the following:
  - Property right(s) to be acquired, e.g., fee simple, easement, etc.,
  - Value being appraised (usually fair market value), and its definition
  - Appraised as if free and clear of contamination (or as specified),
  - Date of the appraisal report and the date of valuation,
  - A realty/personalty report as required by 49 CFR 24.103(a)(2)(i),
  - Known and observed encumbrances, if any,
  - Title information,
  - Location,
  - Zoning,
  - Present use, and
  - At least a 5-year sales history of the property.
6. In the appraisal report, identify the highest and best use. If highest and best use is in question or different from the existing use, provide an appropriate analysis identifying the market-based highest and best use.
7. Present and analyze relevant market information. *(Specific requirements for market information should be included in the agency's appraisal procedural manual and should include research, analysis, and verification of comparable sales. Inspection of the comparable sales should also be specified.)*
8. In developing and reporting the appraisal, disregard any decrease or increase in the fair market value of the real property caused by the project for which the property is to be acquired or by the likelihood that the property would be acquired for the project. *(If necessary, the appraiser may cite the Jurisdictional Exception or Supplemental Standards Rules under USPAP to ensure compliance with USPAP while following this and other Uniform Act requirements.)*
9. Report his or her analysis, opinions, and conclusions in the appraisal report.

#### **ADDITIONAL REQUIREMENTS FOR A SCOPE OF WORK:**

**INTENDED USE:** This appraisal is to estimate the fair market value of the property, as of the specified date of valuation, for the proposed acquisition of the property rights specified (i.e., fee simple, etc.) for a federally assisted project.

**INTENDED USER:** The intended user of this appraisal report is primarily the acquiring agency, but its funding partners may review the appraisal as part of their program oversight activities.

**DEFINITION OF FAIR MARKET VALUE:** This is determined by State law, but includes the following:

1. Buyer and seller are typically motivated;
2. Both parties are well informed or well advised, each acting in what he or she considers his or her own best interest;
3. A reasonable time is allowed for exposure in the open market;
4. Payment is made in terms of cash in U. S. dollars or in terms of financial arrangements comparable thereto; and
5. The price represents the normal consideration for the property sold unaffected by special or creative financing or sales concessions granted by anyone associated with the sale.

**CERTIFICATION:** The appraisal shall include a certification of the appraiser (see attached sample or insert agency's certification).

**ASSUMPTIONS AND LIMITING CONDITIONS:** The appraiser shall state all relevant assumptions and limiting conditions. In addition, the acquiring agency may provide other assumptions and conditions that may be required for the particular appraisal assignment, such as:

- The data search requirements and parameters that may be required for the project.
- Identification of the technology requirements, including approaches to value, to be used to analyze the data.
- Need for machinery and equipment appraisals, soil studies, potential zoning changes, etc.
- Instructions to the appraiser to appraise the property "As Is" or subject to repairs or corrective action.
- As applicable include any information on property contamination to be provided and considered by the appraiser in making the appraisal.

## AGREEMENT FOR APPRAISAL SERVICES (ACQUISITION)

THIS AGREEMENT entered into this \_\_\_\_\_ day of \_\_\_\_\_ by and between \_\_\_\_\_ of the City of \_\_\_\_\_, State of \_\_\_\_\_ hereinafter referred to as the “Agency”, and \_\_\_\_\_ hereinafter referred to as the “Appraiser.”

WITNESSETH THAT:

WHEREAS, the Agency proposes to acquire certain real property and desires that the Appraiser furnish the Agency certain services with respect to such property, including an appraisal of each parcel of the property, and the Appraiser represents that he or she is fully qualified to perform such services and will furnish such services personally; and

WHEREAS, the services to be provided under this Agreement are necessary to achieve the purpose of \_\_\_\_\_ and the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended (URA).

NOW, THEREFORE, the Agency and the Appraiser, for the consideration and under the conditions hereinafter set forth, do agree as follows:

ARTICLE 1. Property To Be Appraised. A description of the real property to be appraised, including an identification of any interests in the real property to be specifically excluded from appraisal, are set forth in the attached Exhibit A. A separate appraisal is to be furnished for each “parcel.” (The term “parcel” means any tract or contiguous tracts of land in the same ownership, whether any such tract consists of one or more platted lots or a fractional part of a lot. An easement or other separately held interest in two or more parcels shall be considered to be a separate parcel for appraisal purposes and an exception to the title to the parcels so encumbered. An easement in a parcel that is appurtenant to another parcel to be acquired by the Agency shall be considered to be part of such other parcel and an exception to the title of the parcel encumbered.) Each parcel shall be considered to include all right, title, and interest of the owner in or to any adjacent or abutting streets, alleys, or other public rights of way.

ARTICLE 2. Purpose and Basis or Valuations.

(a) Purpose and Significance of Appraisals. The appraisals to be furnished under this agreement are required by the Agency for its guidance in making fair and impartial determinations of fair market value and the just compensation to be offered to each property owner. The Appraiser shall be guided by those objectives when estimating values. Appraisal reports will be reviewed carefully by the Agency. Accordingly, the text of each appraisal report must cover all matters germane to the required valuation findings and must provide a full explanation of the Appraiser’s reasoning and his analyses of the evidences of value, so that a reviewer will be able to follow the Appraiser’s analyses and understand how he reached his valuation conclusions.

(b) Appraisal Standards. The appraisals under this agreement shall be based on nationally recognized appraisal standards and techniques to the extent that such principles are consistent with the concepts of value and the rules on the admissibility of evidence of value under the eminent domain law of the State. Factors relating to race, color, religion, sex or national origin or to racial, religious, or ethnic identification of neighborhoods are not relevant to the estimation of value and shall not be considered in connection with appraisals of residential real property.

(c) Date of Valuation. The Appraiser's valuation shall be as of a date concurrent with the preparation of the report unless the Agency has specified some other date of valuation.

(d) Relocation Assistance. The Appraiser's analyses and opinions of property value shall not reflect any allowance for the relocation payments and other assistance provided under the URA.

(e) Influence of Project on Property Value. In forming opinion(s), the Appraiser shall disregard any decrease or increase in the fair market value of the real property to be acquired, prior to the date of valuation, caused by the project for which the property is to be acquired, or by the likelihood that the property would be acquired for such project, other than that due to physical deterioration within the reasonable control of the owner. (In the case of a partial acquisition, using the before-and-after method of valuation, the Appraisers opinion of the value of the remaining not-to-be-acquired portion of the property shall reflect any increase or decrease in value attributable to the project.) If the determination of changes in value caused by the project is a problem, the Appraisers report shall cite the ruling followed and its source and shall explain the effect of the ruling on his opinion of value.

ARTICLE 3. Scope of Appraiser's Services. The Appraiser agrees to perform the following services:

(a) Appraise each parcel and prepare and deliver to the Agency, within \_\_\_\_\_ calendar days after the date of this agreement, copies of the appraisal report(s) conforming to the provisions of this agreement. The Appraiser shall personally inspect each parcel, including all buildings, structures, fixtures, and other improvements to the property. The Appraiser shall give the owner or his designated representative an opportunity to accompany the Appraiser during his detailed inspection of the property. If the owner of a compensable interest in the property or a representative of such owner does not accompany the Appraiser during the inspection, the Appraiser shall include in his appraisal report a copy of his notification to the owner of the opportunity to accompany the Appraiser and evidence of the owner's receipt of such notification. In the process of inspecting the property, the Appraiser shall, to the extent practicable, ascertain the rights of all parties in possession and note for consideration all factual information and comments furnished by the owner or his representative relevant to the appraisal.

(b) Testify as an expert witness on behalf of the Agency in any judicial proceeding involving any property appraised under this agreement. Such services shall include such reasonable time as may be required for reinspection of the property, updating the Appraiser's valuation, participation in pretrial conferences with counsel for the Agency, and testifying in the judicial proceeding. The compensation for such services shall be determined in accordance with Article 6.



(c) Modify or furnish supplements to any appraisal report furnished under this agreement, without additional cost to the Agency, if (1) applicable principles of law with respect to the valuation of the property require the modification or supplementing of such appraisal, (2) material omissions, inaccuracies, or defects in the appraisal report are discovered after delivery and acceptance of the report by the Agency, or (3) the Appraiser receives or becomes aware of relevant additional appraisal information in existence prior to the date the Appraiser signed the report. If there is a significant delay between the date of valuation and the date of acquisition of any parcel or if the property has been materially altered since the appraisal by a fire, a revised determination of the boundaries of the property to be acquired, or other cause, the Appraiser shall, if requested by the Agency, furnish the Agency a supplementary report updating this valuation and the supporting data and analyses to a current date. The compensation for such updating of an appraisal shall be determined in accordance with Article 6.

(d) Estimate the value of any right or interest proposed to be reserved by the owner in a property appraised by the Appraiser, such as an easement for access to other property of the owner, the right to continue occupancy for an extended period after the Agency acquires the property, or the right to remove any building, structure, fixture, or other improvement. The compensation to be paid to the Appraiser for furnishing any such valuation shall be determined in accordance with Article 6.

(e) Consult with the Agency and its legal counsel regarding services to be performed by the Appraiser, at such time(s) as may be mutually convenient for the parties to this agreement. The Appraiser shall initiate such consultations whenever the Appraiser is in doubt as to whether an element of property is real or personal property or needs legal advice on any aspect of the appraisals to be furnished under this agreement. There shall be no charge by any party for such consultations.

ARTICLE 4. Contents of Appraisal Reports. Each appraisal report to be furnished by the Appraiser under this agreement shall contain certain information and the Appraisers conclusions and opinions, together with the data and analyses by which they were derived, as set forth below. A separate report shall be submitted for each parcel. However, if more than one parcel is to be appraised, all general data may be included in a separate data volume that is referenced in the separate appraisal reports on the individual parcels. The appraisal report on each parcel shall include the following:

(a) A summary headed "Appraisal Report for \_\_\_\_\_" that provides the following:

- (1) Project name and number.
- (2) Date of the report.
- (3) Parcel number, address of the property, brief identification of all interests in the property appraised, and the name of the owner(s) including any tenant-owners.
- (4) Date(s) of the Appraiser's inspection of the property with the owner or the owner's designated representative. Include the name of each owner or representative of an owner who accompanied the Appraiser during the inspection and the interest held in the property or the representative capacity of each such person.

- (5) The Appraisers estimate of the fair market value of the entire parcel and the fair market value of the same interest in the land, as if vacant.
- (6) The limiting conditions or the appraisal, which may include assumptions (i) that the title is good and marketable, (ii) that no responsibility is assumed by the Appraiser for legal matters, especially those affecting the title to the property, (iii) that the legal description of the property and the interest in the property to be appraised, furnished to the Appraiser by the Agency, is correct, and (iv) that no survey of the property has been made. Any other appropriate assumption or limiting condition may be added if it has been specifically approved in writing by the Agency.
- (7) The certifications of the Appraiser (i) that the Appraiser personally made a thorough inspection of the property, (ii) that, to the best of the Appraiser's knowledge and belief, everything contained in the report is true and no relevant and important fact has been omitted, (iii) that neither the Appraiser's employment nor compensation is contingent on the valuation reported, and (iv) that the Appraiser has no past, present or prospective interest (including that of real estate agent or broker) in the property, the parties involved, or any other interest that would conflict in any way with the services performed or the making of an impartial report.
- (8) A certification that, in the Appraiser's opinion, the fair market value of the property is [an amount to be stated] as of [the date of valuation].
- (9) The signature of the Appraiser.

(b) The name and address of the owner of the property and the name and the address, if known, of any other party known or believed to hold a separate compensable interest in the property.

(c) The street address and an accurate description of each parcel and all interests in the parcel appraised. The property description shall identify all conditions, restrictions, easements, servitudes, and reservations affecting the title. The property description shall specifically exclude and describe any separately held interest in the property that is to be acquired separately or as part of another parcel. The description shall also specifically exclude all separately held interests which are not to be acquired and will not be affected adversely by the Agency's project. If there are any separately held interests in a parcel, which are to be acquired with other interests in the same parcel, such as leaseholds, tenant-owned improvements, life estates, easements, and water, gas, oil, or mineral rights, a description of each such separate interest and the name of its owner shall be furnished.

(d) Off-record title information concerning interests or instruments that affect title, but are not of record, such as leases, options to renew a lease, contracts of sale, and other interests or rights of parties in possession. Such information shall be reported, and if available facts are sufficient, the Appraiser's report shall be based on such additional title information and so noted in the appraisal report. Otherwise, the Appraiser shall refer the matter to the Agency and defer completion of the appraisal until the question is resolved.

(e) Basic property data including pertinent information with respect to such matters as (1) the environment and location of the property, (2) the zoning and any restrictive covenants, conditions, or servitudes affecting the available use or occupancy of the land, (3) the assessed value of the real property and the current annual real estate tax burden, (4) the use and occupancy of the property at time of appraisal, (5) the public improvements, services, and utilities serving and providing access to the property, (6) the character, topography, dimensions, and area of the land, (7) the freedom of the property from special hazards, (8) the current rental and rental history of the property, if rented, (9) the estimated annual costs of ownership and for operation and maintenance of the property, and (10) a description of the buildings, structures, and other improvements, if any, including relevant information as to type of improvement, designed use, construction materials and finish, equipment, dimensions, floor area, age, condition, space or room arrangement, functional utility, and any other characteristics or attributes of the improvements germane to the value of the real property. The appraisal report shall contain a general sketch plat showing the shape and dimensions of the land, the location of the principal improvements on the land, the location of any easements in the land, and the abutting streets, alleys, or other public rights of way. The report shall also include such photographs, each clearly identified, as may be appropriate.

(f) Report of any condition or occupancy of the property in violation of law that may affect the value of the property.

(g) The Appraiser's opinion as to the highest and best use for the property. The appraisal report shall also include the Appraiser's opinions as to any other use(s) for which the property is reasonably suitable or adaptable. If the property is unused vacant land or the highest and best use is not self-evident or is found to differ significantly from the present use, the appraisal report shall contain the analyses by which the Appraiser reached the conclusions as to the highest and best use of the property and as to its suitability or adaptability for any other use(s). The analysis of a potential use shall include consideration of relevant matters, such as the suitability of the location, the environment and the legal and physical attributes of the property for such use, the estimated cost, if any, of conveying the property to such use, and the supply, sale price levels, and relative desirability of other properties that would compete for the same kind of use. The analysis of the property for the future use or uses found to be the highest and best use is part of the process of appraising the property and, therefore, may be included in the valuation analysis furnished in accordance with Paragraph 4(h) below.

(h) The opinion of the Appraiser as to the fair market value of the property. The appraisal report shall contain a description of the reasoning process used by the Appraiser in reaching the conclusion as to value and all data and analyses needed to explain and support the valuation. The supporting data and analyses furnished in the appraisal report shall include the following:

- (1) An analysis of the property, from the point of view of evaluating the effect of its characteristics and attributes on its value for the available use or uses for which the property is best suited. Particular attention shall be given to the characteristics of the property most relevant to its value, such as, in the case of an investment property, the income potential and the expenses of ownership, maintenance, and operation.

- (2) An identification of the most recent sale of each property appraised and any other sales of such property during the last five (5) years preceding the appraisal. Such sale(s) of the property appraised and all recent sales of comparable properties considered by the Appraiser in forming the opinion(s) of fair market value shall be verified insofar as practical. The information furnished with respect to each such sale shall include, among other pertinent facts, the names of the grantor and grantee, the date of the sale, the sale price, any special terms or conditions or circumstances of the sale that affected the transaction and a description of the property and its condition at time of sale in sufficient detail for use in making the appraisal.
- (3) The analyses that constitute the principal basis for the Appraiser's opinion of the fair market value. The appraisal report shall contain the Appraiser's evaluation with respect to previous sales of the property appraised and any recent offer of the owner to sell the property. The appraisal report shall also contain the Appraiser's analysis of each comparable property and its sale in relation to the property appraised. The Appraiser's analysis shall reflect appropriate allowances for the difference in the time of the sale of the comparable properties and the date of appraisal and the differences in the utility, desirability, and productivity of the properties that are pertinent to their relative value. The appraisal report shall contain a valuation data map showing the location of the property appraised and the comparable properties referred to in the appraisal report.
- (4) All other information, analyses, and estimates considered by the appraiser to be relevant to the estimation of the fair market value of the property.
- (5) If the property appraised is part of a larger parcel in the same ownership or is less than the entire interest of the owner in the property, the appraisal report shall contain the Appraiser's opinion of just compensation for a taking of such property or interest, using the before-and-after method of valuation as interpreted under State law unless it is obvious that there would be no damages or benefits to the remaining property or interest of the owner. However, if the part or interest to be taken is such a small part of the whole property that the damages for the taking can be more accurately estimated directly, that method may be used if permitted under State law, without estimating the fair market value of the entire property of the owner. The foregoing opinions of the Appraiser shall be supported in the report by the data and analyses, by which the Appraiser reached his/her conclusions.

For information purposes, the appraisal report shall also contain the Appraisers estimates of the fair market value of the to-be-acquired part or interest as part of the whole property and the net damages or benefits to the remaining property of the owner. If in the opinion of the Appraiser, acquisition of the part of, or interest in, the property proposed for acquisition would leave the owner with an uneconomic remnant, the Appraiser shall furnish a separate estimate of the fair market value of a "parcel" comprising both the parcel proposed for acquisition and the uneconomic remnant. (A remainder parcel or interest shall be considered to be an uneconomic remnant if by itself it has little or no utility or value to the owner.)

- (6) Such maps, plans, photographs, or other exhibits as are necessary to explain or illustrate the analyses of the Appraiser.
- (7) The Appraiser's evaluation of the indications of value deduced from the separate analyses of the various evidences of value and an explanation of how the Appraiser reached his/her final conclusion as to the fair market value of the property.

(i) The opinion of the Appraiser as to the fair market value of the land, as if vacant. The valuation shall be for the same interest in the land as is to be acquired in the real property. The report shall contain information with respect to the available use or uses for which the land would be suitable if vacant, the opinion of the Appraiser as to its highest and best use, and the Appraisers analysis of the evidences of value and of the use potential by which the Appraiser reached his/her conclusions as to the highest and best use of the land and the land value.

(j) A property analysis if the property is a commercial, industrial, institutional, governmental, or farm property that involves substantial quantities and kinds of fixtures such as machinery and equipment. Any building, structure, fixture, or other improvement, which would be real property if owned by the owner of the land, shall be considered to be real property (even if the improvement is the property of a tenant who has the right to remove it or the obligation to remove it at the expiration of the lease term). The property analysis must be approved by the Agency before the appraisal is completed and, as approved by the Agency, shall be included as an exhibit in the Appraiser's report. The property analysis shall list, identify, and classify as to ownership and type of improvement, all items of physical property considered to be part of the real property. The property analysis shall also identify tangible personal property located on the premises to the extent reasonably necessary to prevent misunderstandings as to what is regarded as being real or personal property. Buildings, structures, fixtures and other improvements, including their accessories and spare parts, shall be identified and classified as to ownership and type of property as follows:

- (1) Ownership.
  - (i) Owner of the land.
  - (ii) Each tenant in occupancy.
  - (iii) Each non-occupant owner of any fixtures or other improvements, or personal property on the premises.
- (2) Type of property.
  - (i) Building, structure, or fixed improvement.
  - (ii) Building equipment, removable.
  - (iii) Fixtures, classified as to whether economically removable for reuse, removable for salvage only, or irremovable.
  - (iv) Personal property, identified as to types and approximate amounts, or otherwise, as needed to prevent misunderstandings as to the classification of any item.

If any building, structure, fixture or other improvement is not to be acquired, will not be adversely affected by the Agency's project, and will not be required by the Agency to be removed, such as a pipeline in an easement not to be acquired, such improvement shall be identified as excluded from the appraisal.

(k) If machinery and equipment or other fixtures used in a trade or business, farm operation, or institutional or governmental function constitute part of the real property, the appraisal report shall contain a separate schedule which provides separate estimates for each such item, as prescribed below. If there is more than one owner of such items, a separate schedule shall be furnished for each owner. The information and conclusions to be furnished on each item are as follows:

- (1) Description of the item, including, as appropriate, the manufacturer, model and serial number, size or capacity, age and condition, and degree of obsolescence. Accessories and spare parts, special foundations, and power wiring and process piping generally shall be listed separately, following the listing of the item(s) to which they apply.
- (2) Estimate of the replacement cost installed of the item as listed and identified (excluding any elements listed separately). Separately identify the basis of estimated replacement cost (new or used).
- (3) The contributive (enhancement) value of the item to the fair market value of the real property as a whole.
- (4) Estimated fair market value of the item for removal from the property at a purchaser's expense. Such value shall be considered to be the probable selling price if the item were offered for sale for removal from the property at the purchaser's expense, allowing a reasonable time to find a purchaser buying with knowledge of the uses and purposes for which it is adaptable and capable of being used, including salvage for serviceable components and scrap when it appears that will provide the highest value.

The schedule(s) of estimates shall be consistent with the property analysis approved by the Agency, as provided in Paragraph 4(j). The Appraiser is permitted to use the services of such technical specialists as may be needed to enable the Appraiser to provide valid estimates and sound valuations. The schedule(s) shall be supported by an explanation of the procedures followed in gathering the necessary market information and technical data. The principal purpose of the Appraiser's accompanying narrative, however, must be to explain his analyses and his evaluations of the dollar amount of the overall contribution of the machinery, equipment, and fixtures to the fair market value of the real property as a whole. The report shall contain any layout plans, sketches, or photographs that are reasonably necessary for locating or identifying the facilities or illustrating the Appraiser's analyses.



(l) If there are separately held interests in the real property to be acquired, such as easements, leaseholds, air rights, life estates, and oil, gas, or mineral rights, and the division of ownership is not of such character as to destroy the practical unity of the property, the Appraiser shall apportion his estimate of the fair market value of the property (all interests in the property to be acquired) to each separately held interest. (However, tenant-owned improvements shall be valued in accordance with Paragraph 4(m) below.) The report shall contain the data, analyses, and reasoning by which the Appraiser made the apportionment. If the “unit rule” is regarded as not applicable because the division of ownership is such as to diminish the fair market value of the property as a whole, the separate interests involved shall be appraised separately.

(m) Tenant-owned improvements. If any building, structure, fixture, or other improvement to the property is identified as being the property of a tenant who has the right or obligation to remove it at the expiration of the lease term, the Appraiser’s estimate of the fair market value of the improvement shall be the greatest of (1) the amount which the improvement contributes to the fair market value of the property, (2) the in-place value of the improvement as part of the real property (the depreciated replacement cost of the improvement installed), or (3) the fair market value of the improvement for removal from the property at the purchasers expense. The appraisal report shall state the basis for the valuation of the improvement and furnish the data and analyses on which the valuation was made.

(n) If the property is a multifamily or mixed-use (residential and nonresidential) property and an owner of a compensable interest in the property also occupies a dwelling in the property, the Appraiser shall furnish an apportionment of the estimate of the fair market value of the whole property to such dwelling and to the remainder of the property. For the purpose of this paragraph, an occupant of a dwelling shall be considered to own a compensable interest in the property if he or she holds fee title, a life estate, a 99-year lease, or a lease with not less than 50 years to run from the date of valuation, or holds an interest in a cooperative housing project which includes the right to occupy the dwelling, or is the contract purchaser of any of the foregoing estates or interests, or has a leasehold interest with option to purchase. The Appraiser’s report shall explain how the apportionment was made.

ARTICLE 5. Services to be Provided by Agency. The Agency agrees to furnish the Appraiser the following:

(a) A map or plat, based on official records, of the property described in Article 1, showing the boundaries and dimensions of the parcels to be appraised. Each parcel shall be designated by a number, and the parcel numbers shown on the Appraiser’s reports shall correspond to the parcel numbers shown on the map or plot. However, additional parcel numbers may be assigned by the Appraiser for easements appraised separately or for additional parcels revealed while making the appraisals. The Appraiser shall promptly advise the Agency of any such additions.

(b) An ownership data report for each parcel. That report will show all estates and interests in the parcel as shown of record and consequently shall not be assumed to accurately define the interests to be appraised. The ownership data report on each parcel as shown on the parcel map will include:

- (1) The name (and address, if available) of the owner appearing on record;
- (2) The legal description of the parcel as shown by the conveyance(s) by which the record owner acquired title;
- (3) Identification of the conveyance(s) by which the present owner acquired title, including: the date of the conveyance(s); the date, book and page numbers, and place of recordation; the name (and the address, if available) of the grantor of such conveyance; the stated consideration; the amount of any mortgages or encumbrances placed of record or to which title was subject at time of conveyance (so far as determinable from an examination of the conveyance); and the amount of any State or local transfer taxes that were based on the amount of the consideration;
- (4) Outstanding estates and other rights or interests of record, including easements, use restrictions, mineral rights, leases, and any known, but unrecorded, interests of other parties. Sufficient information shall be furnished to disclose the probable effect of such outstanding interests on the title of the record owner;
- (5) Outstanding special assessments, if any, for public improvements such as streets, sidewalks, public utilities, and similar public facilities;
- (6) The amount of real estate taxes for the current year and the assessed valuation stated separately for land and for improvements.

(c) Legal advice, upon request of the Appraiser, on legal matters affecting the appraisal of any property to be appraised.

ARTICLE 6. Payment. In consideration of the services provided by the Appraiser under this agreement, the Agency agrees to make payments to the Appraiser upon the submission to the Agency of properly certified invoices, as follows:

(a) For appraisal reports accepted by the Agency, and for all other services furnished in accordance with Article 3, except services furnished in connection with judicial proceedings under Paragraph 3(b), the updating of appraisals under Paragraph 3(c), and the valuation of reservations of rights in owners under Paragraph 3(d), the lump sum of \_\_\_\_\_ dollars, which shall constitute full payment to the Appraiser for all of such services and for all supplies, materials, and equipment used or furnished by the Appraiser and all expenses incurred by the Appraiser in connection with the performance of such services.

(b) For services furnished by the Appraiser in connection with judicial proceedings as provided in Paragraph 3(b) (except services as an expert witness in such a proceeding), the updating of appraisals as provided in Paragraph 3(c), and the valuation of reservations of rights in owners as Provided in Paragraph 3(d), \_\_\_\_\_ dollars per hour or fraction of an hour actually engaged in performing the services, including travel time. All expenses of the Appraiser, including travel expense and subsistence, shall be borne by the Appraiser.

(c) For services as an expert witness for the Agency in judicial proceedings as provided in Paragraph 3(b), the Appraiser and the Agency hereby agree that the fair and reasonable compensation for the Appraiser's services shall be \_\_\_\_\_ dollars for each day's attendance in court.

ARTICLE 7. Agreements of Appraiser. As an inducement to the execution of this agreement by the Agency and in consideration of the agreements to be performed by the Agency, the Appraiser agrees that:

(a) Qualifications. The Appraiser is qualified to perform the services to be furnished under this agreement and is permitted by law to perform such services, and all personnel engaged in the work shall be qualified and so permitted to do the work they perform. Attached as Exhibit B, is a statement by the Appraiser, certified by the Appraiser to be true and correct, setting forth the Appraiser's technical qualifications, general appraisal experience, specific experience in appraising properties of the type involved in this agreement, the courts in which he or she has testified as an expert witness, and other information pertinent to establishing his or her technical qualifications.

(b) Solicitation of Agreement. The Appraiser has not employed any person to solicit this agreement and has not made and will not make any payment or any agreement for the payment of any commission, percentage, brokerage, contingent fee, or other compensation in connection with the procurement of this agreement.

(c) Interest of Appraiser and Appraiser's Employees. The Appraiser does not have any interest (including that of real estate agent or broker), direct or indirect, present or prospective, in any property described in Article 1 or in its sale, or any other interest, whether or not in connection with the property, which would conflict in any manner or degree with the performance of the services and the submission of impartial reports, and has not employed and will not employ, in connection with the services to be furnished under this agreement, any person having any such interest. Until the property is acquired by the Agency or excluded from its project by resolution of its governing body, the Appraiser and any employees of the Appraiser, so long as they are employed by the Appraiser, will not acquire any such interests and will not, for their own account or for other than the Agency, negotiate for any of the property, perform services in connection with the property, or testify voluntarily as a witness in a condemnation or other proceeding with respect to the property.

(d) Services to be Confidential. All services, including reports, opinions, and information, to be furnished under this agreement are confidential and shall not be divulged, in whole or in part, to any person, other than to duly authorized representatives of the Agency, without prior written approval of the Agency, except by testimony under oath in a judicial proceeding or as otherwise required by law. The Appraiser shall take all necessary steps to ensure that no member of the Appraiser's staff or organization divulges any such information except as may be required by law.

(e) Facilities and Personnel. The Appraiser has and will continue to have proper facilities and personnel to perform the services and work agreed to be performed. If the Appraiser proposes to employ any person or persons to make any appraisals of machinery and equipment or other specialized elements or attributes of a property appraised under this agreement, the employment of such person or persons for such purpose shall not place the Agency under any obligation to such employee, nor relieve the Appraiser of full responsibility for the faithful performance of the services to be furnished under this agreement.

(f) Equal Employment Opportunity. During the performance of this agreement:

- (1) The Appraiser will not discriminate against any employee or applicant for employment because of race, color, religion, sex, or national origin. The Appraiser will take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, sex, or national origin. Such action shall include, but not be limited to, the following: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The Appraiser agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the Agency setting forth the provisions of this nondiscrimination clause.
- (2) The Appraiser will, in all solicitations or advertisements for employees placed by or on behalf of the Appraiser, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, or national origin.

(g) Assignment. The Appraiser's rights, obligations, and duties under this agreement shall not be assigned in whole or in part, but this shall not prohibit the assignment of the proceeds due under this agreement to a bank or financial institution. This agreement may be assigned by the Agency to any corporation, agency, or instrumentality having authority to accept the assignment.

(h) Subcontracting. None of the work or services covered by this agreement shall be subcontracted without the prior approval of the Agency.

(i) Records. The Appraiser shall maintain records of all details with respect to the services to be performed under this agreement, including one complete copy of each appraisal report and related notes, for three (3) years after delivering the report or until the property is acquired by the Agency or the acquisition is abandoned, whichever is later.

(j) Affidavits of Compliance. The Appraiser will, if requested by the Agency, furnish the Agency affidavits certifying compliance with the provisions of this Article 7.

ARTICLE 8. Changes. The Agency, by written notice to the Appraiser, may modify the scope or quantity of the services to be furnished under this agreement. If such changes cause an increase or decrease in the amount of services to be provided by the Appraiser or in the time required for their performance, equitable adjustment shall be made in the provisions of this agreement for payments to the Appraiser or for the time for performance of the services or for both, and this agreement shall be modified by agreement of the parties accordingly.

ARTICLE 9. Termination of Agreement for Cause. If, through any cause, the Appraiser shall fail to fulfill in a timely and proper manner his or her obligations under this agreement, or if the Appraiser shall violate any of the provisions of this agreement, the Agency may upon written notice to the Appraiser terminate the right of the Appraiser to proceed under this agreement or with such part or parts of the agreement as to which there has been default, and may hold the Appraiser liable for any damages caused to the Agency by reason of such default and termination. In the event of such termination, any completed reports prepared by the Appraiser under this agreement shall, at the option of the Agency, become its property and the Appraiser shall be entitled to receive equitable compensation for any work completed to the satisfaction of the Agency. The Appraiser, however, shall not thereby be relieved of liability to the Agency for damages sustained by the Agency by reason of any breach of the agreement by the Appraiser, and the Agency may withhold any payments from the Appraiser for the purpose of setoff until such time as the amount of damages due the Agency from the Appraiser is determined. The Appraiser shall not be held liable for damages under this Article solely for reasons of delay if the delay is due to causes beyond his or her control and without his or her fault or negligence, but this shall not prevent the Agency from terminating this agreement because of such delay.

ARTICLE 10. Interest of Members of Agency. No member of the Agency shall participate in any decision relative to this agreement affecting, directly, or indirectly, his or her personal interests. No such member and no other officer, agent or employee of the Agency having any responsibility or function in connection with this agreement shall have any private interest, direct or indirect, in this agreement or the proceeds of this agreement.

ARTICLE 11. Officials not to Benefit. No Member of or Delegate to the Congress of the United States of America, and no Resident Commissioner, shall be admitted to any share or part of this agreement or to any benefit to arise from the same.

ARTICLE 12. Notices. Any action by the Agency under this agreement may be taken by \_\_\_\_\_ or such other person(s) as the Agency may, by written notice to the Appraiser, designate for such purpose. All notices to the Appraiser shall be considered to be properly given if mailed to the address specified below, or delivered personally to the Appraiser. All notice or other papers given to the Agency shall be considered if mailed, postage prepaid to \_\_\_\_\_, at \_\_\_\_\_, or to such other representative or address as the Agency may designate to the Appraiser in writing.

IN WITNESS WHEREOF, the Agency and the Appraiser have executed this agreement on or as of the date first above written.

\_\_\_\_\_  
Appraiser

By: \_\_\_\_\_  
Title

\_\_\_\_\_  
Street Address

\_\_\_\_\_  
City                      State                      Zip

**CERTIFICATE OF APPRAISER - SAMPLE**

I hereby certify:

That on \_\_\_\_\_ I personally made a field inspection of the property herein appraised and have afforded the owner or a designated representative the opportunity to accompany me on this inspection. I have also personally made a field inspection of the comparable sales relied upon in making said appraisal. The property being appraised and the comparable sales relied upon in making this appraisal were as represented in the appraisal.

That to the best of my knowledge and belief the statements contained in the appraisal herein set forth are true, and the information upon which the opinions expressed therein are based is correct; subject to the limiting conditions therein set forth.

That I understand that such appraisal may be used in connection with the acquisition of property for a project utilizing U.S. Department of Housing and Urban Development funds.

That such appraisal has been made in conformity with appropriate laws, regulations, and policies and procedures applicable to appraisal of property for such purposes; and that to the best of my knowledge no portion of the value assigned to such property consists of items which are non-compensable under the established law of said State.

That any decrease or increase in the fair market value of real property prior to the date of valuation caused by the project for which such property is acquired, or by the likelihood that the property would be acquired for such project, other than that due to physical deterioration within the reasonable control of the owner, was disregarded in determining the compensation for the property.

That neither my employment nor my compensation for making this appraisal and report are in any way contingent upon the values reported herein.

That I have no direct or indirect present or contemplated future personal interest in such property or in any benefit from the acquisition of such property appraised.

That I have not revealed the findings and results of such appraisal to anyone other than the proper officials of the acquiring agency or officials of the U.S. Department of Housing and Urban Development and I will not do so until so authorized by said officials, or until I am required to do so by due process of law, or until I am released from this obligation by having publicly testified as to such findings.



That I have not given consideration to, or included in my appraisal any allowance for relocation assistance benefits.

That my opinion of the fair market value of the property to be acquired as of the \_\_\_\_\_ day of \_\_\_\_\_ 20 \_\_\_\_ is \$ \_\_\_\_\_ based upon my independent appraisal and the exercise of my professional judgment.

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Name

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Signature

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Date

*(Note: Other statements, required by the regulations of an appraisal organization of which the appraiser is a member or by circumstances connected with the appraisal assignment or the preparation of the appraisal may be inserted where appropriate.)*

**GUIDEFORM GENERAL INFORMATION NOTICE  
RESIDENTIAL TENANT WHO MAY BE DISPLACED (NSP)**

Grantee or Agency Letterhead

(date)

Dear \_\_\_\_\_ :

\_\_\_\_\_, is interested in  
(City, County, State, Public Housing Authority (PHA), other)  
\_\_\_\_\_, the property you currently occupy at  
(acquiring, rehabilitating, demolishing)  
\_\_\_\_\_  
Address  
for a proposed project which may receive funding assistance from the U.S. Department of Housing and Urban Development (HUD) under the Neighborhood Stabilization Program (NSP).

The purpose of this notice is to inform you that you may be displaced as a result of the proposed project. This notice also serves to inform you of your potential rights as a displaced person under federal laws known as the Uniform Relocation Assistance and Real Property Acquisition Policies Act (URA) and section 104(d) of the Housing and Community Development Act of 1974, as amended. You may be eligible for relocation assistance and payments under either the URA or section 104(d), if the proposed project receives HUD funding and if you are displaced as a result of acquisition, rehabilitation, demolition or conversion for the project.

- **This is not a notice to vacate the premises.**
- **This is not a notice of relocation eligibility.**

If you are determined to be eligible for relocation assistance in the future, you may be eligible for: 1) Relocation advisory services including help to find another place to live; 2) At least 90 days advance written notice of the date you will be required to move; 3) Payment for your moving expenses; and 4) Replacement housing payments to enable you to rent or purchase a comparable replacement home. You will also have the right to appeal the agency's determination, if you feel that your application for assistance was not properly considered. The enclosed HUD brochures, "Relocation Assistance To Tenants Displaced From Their Homes" and "Relocation Assistance to Persons Displaced from Their Homes (section 104(d))" provide an explanation of this assistance and other helpful information.

**(NOTE: Pursuant to Public Law 105-117, aliens not lawfully present in the United States are not eligible for relocation assistance under the URA, unless such ineligibility would result in exceptional hardship to a qualifying spouse, parent, or child. All persons seeking relocation assistance will be required to certify that they are a United States citizen or national, or an alien lawfully present in the United States.)**

Please be advised that you should continue to pay your rent and meet any other obligations as specified in your lease agreement. Failure to do so may be cause for eviction. If you choose to move for reasons unrelated to the proposed project or if you are evicted for cause prior to receiving a formal notice of relocation eligibility, you will not be eligible to receive relocation assistance. It is important for you to contact us before making any moving plans.

**Again, this is not a notice to vacate the premises and does not establish your eligibility for relocation payments or assistance at this time.** If you are determined to be displaced and are required to vacate the premises in the future, you will be informed in writing. In the event the proposed project does not proceed or if you are determined not to be displaced, you will also be notified in writing.

If you have any questions about this notice or the proposed project, please contact

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Name

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Title

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Address

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Phone

Enclosures

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**NOTES to NSP Guide Form General Information Notice**

1. The case file must indicate the manner in which this notice was delivered (e.g., personally served or certified mail, return receipt requested) and the date of delivery. (See 49 CFR 24.5 and Paragraph 2-3 J of Handbook 1378)
2. This is a guide form. It should be revised to reflect the circumstances.

**GUIDEFORM NOTICE OF ELIGIBILITY FOR  
URA RELOCATION ASSISTANCE  
RESIDENTIAL TENANT**

Grantee or Agency Letterhead

(date)

Dear \_\_\_\_\_ :

On \_\_\_\_\_, the \_\_\_\_\_  
Date City, County, State, Public Housing Authority (PHA), other

notified you of proposed plans to \_\_\_\_\_ the property you  
acquire, rehabilitate, or demolish  
currently occupy at \_\_\_\_\_ for a project which could receive  
Address  
funding assistance from the U.S. Department of Housing and Urban Development (HUD) under the  
program.

On \_\_\_\_\_, the project was approved will  
Date  
receive federal funding.

It has been determined that you will be displaced by the project. Since you are being displaced in connection with this federally funded project, you will be eligible for relocation assistance and payments under the Uniform Relocation Assistance and Real Property Acquisition Policies Act (URA).

- **This is your Notice of Eligibility for relocation assistance**
- **The effective date of your eligibility is \_\_\_\_\_ .** *(Insert date of Initiation of Negotiations, see 49 CFR 24.1(a)(15) or applicable HUD program regulations)*

**(NOTE: Pursuant to Public Law 105-117, aliens not lawfully present in the United States are not eligible for relocation assistance, unless such ineligibility would result in exceptional hardship to a qualifying spouse, parent, or child. All persons seeking relocation assistance will be required to certify that they are a United States citizen or national, or an alien lawfully present in the United States.)**

To carry out the project, it will be necessary for you to move. However, **you do not need to move now.** You will be provided written notice of the date by which you will be required to move. This date will be no less than 90 days from the date comparable replacement housing has been made available to you.

Enclosed is a brochure entitled, "Relocation Assistance to Tenants Displaced From Their Homes." Please read the brochure carefully. It explains your rights and provides additional information on eligibility for relocation payments and what you must do in order to receive these payments.

The relocation assistance to which you are entitled includes:

Relocation Advisory Services. Including counseling and other assistance to help you find another home and prepare to move.

Payment for Moving Expenses. You may choose: (1) a payment for your actual reasonable moving and related expenses, or (2) a fixed moving payment in the amount of \$ \_\_\_\_\_ based on the URA Fixed Residential Moving Cost Schedule, or (3) a combination of both.

Replacement Housing Payment. You may be eligible for a replacement housing payment to rent or buy a replacement home. The payment is based on several factors including: (1) the monthly rent and cost of utility services for a comparable replacement dwelling, (2) the monthly rent and cost of utility services for your present home, and (3) for low-income persons, 30 percent of your average monthly gross household income. This payment is calculated on the difference in the old and new housing costs for a one-month period and multiplied by 42

Listed below are three comparable replacement dwellings that you may wish to consider for your replacement home. If you would like, we can arrange transportation for you to inspect these and other replacement dwellings.

Address	Rent & Utility Costs	Contact Info
1. _____	_____	_____
2. _____	_____	_____
3. _____	_____	_____

We believe that the dwelling located at \_\_\_\_\_ is the most representative  
Address  
of your present home. The monthly rent and the estimated average monthly cost of utilities for this dwelling is \$ \_\_\_\_\_ and it will be used to calculate your maximum replacement housing payment. Please contact us immediately if you believe this dwelling is not comparable to your current home. We can explain our basis for selecting this dwelling as most representative of your current home and discuss your concerns.

Based on the information you have provided about your income and the rent and utilities you now pay, you may be eligible for a maximum replacement housing payment of approximately \$ \_\_\_\_\_ (42 x \$ \_\_\_\_\_), if you rent the dwelling identified above as the most comparable to your current home or rent another dwelling of equal cost.

Replacement housing payments are not adjusted to reflect future rent increases or changes in income. This is the maximum amount that you would be eligible to receive. If you rent a decent, safe and sanitary home where the monthly rent and average estimated utility costs are less than the comparable dwelling, your replacement housing payment will be based on the actual cost of the dwelling. We will not base your payment on any dwelling that is not a comparable replacement home. All replacement housing payments must be paid in installments. Your payment will be paid in \_\_\_\_\_ installments.

Should you choose to purchase (rather than rent) a decent, safe and sanitary replacement home, you would be eligible for a down payment assistance payment which is equal to your maximum replacement housing payment, \$ \_\_\_\_\_ \*. Let us know if you are interested in purchasing a replacement home and we will help you locate such housing.

Please note that all replacement housing must be inspected in order to ensure it is decent, safe and sanitary before any replacement housing payments are made.

If you have any questions about this letter and your eligibility for relocation assistance and payments, please contact:

_____	_____
Name	Title
_____	_____
Address	Phone

before you make any moving plans. He/she will assist you with your move to a new home and help ensure that you preserve your eligibility for all relocation payments to which you may be entitled.

**Remember, do not move or commit to the purchase or lease of a replacement home** before we have a chance to further discuss your eligibility for relocation assistance. This letter is important to you and should be retained.

Sincerely,

_____
Name
_____
Title

Enclosures

NOTES.

- \* At the agency's discretion, a down payment assistance payment that is less than \$5,250 may be increased to any amount not to exceed \$5,250. (See 49 CFR 24.402(c)(1))
- 1. The case file must indicate the manner in which this notice was delivered (e.g., personally served or certified mail, return receipt requested) and the date of delivery. (See Paragraph 2-3 I of Handbook 1378.)
- 2. This is a guideform. It should be revised to reflect the circumstances.



3. Optional paragraphs for displaced residents of public housing projects (may be modified based on the PHA's resident return policy):

“Even though you will be provided all of the assistance the URA requires for a permanent move, the Authority believes that every resident displaced from the site should have the right to reapply for occupancy once this project is complete. For this reason, after project completion, every resident who receives assistance as a “displaced person” will be contacted and offered an opportunity to reapply for occupancy in the newly-revitalized community. Furthermore, because you will be a former occupant who was “displaced” from the site, you will also receive a priority preference to return.

In the event the number of those who request to return and qualify for housing exceeds the number of units available, rating and ranking criteria will be used to identify those who will be offered units at the site until all available units are filled. If you do return, the Authority may help defray the costs of the return move. If you have Replacement Housing Payments not yet spent or obligated, you may be asked to forfeit these payments as a condition for returning to public housing, since this assistance will no longer be necessary to meet your housing needs. Such assistance, if not forfeited, must be considered as income and may affect your eligibility and rent.”

GUIDEFORM NOTICE OF ELIGIBILITY FOR SECTION 104(d)  
RELOCATION ASSISTANCE -- LOWER INCOME RESIDENTIAL TENANT\*  
Section 8 Assistance NOT Available

Grantee or Agency Letterhead

(date)

Dear \_\_\_\_\_ :

On \_\_\_\_\_ , we notified you of proposed plans to \_\_\_\_\_  
(date) (identify project)

On \_\_\_\_\_ , the project was approved.  
(date)

This is a notice of eligibility for relocation assistance. To carry out the project, it will be necessary for you to relocate. However, you do not need to move now. You will not be required to move without at least 90 days advance written notice of the date by which you must vacate. When you do move, you will be entitled to relocation payments and other assistance. You may choose assistance under the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended (URA), or section 104(d) of the Housing and Community Development Act of 1974, as amended (section 104(d)).

The effective date of this notice is \_\_\_\_\_ You are now eligible for relocation  
(date of initiation of negotiations) assistance, including:

Counseling and Other Advisory Services.

Security Deposit and Credit Checks. (Not provided under URA.). We will pay the cost of any security deposit required to rent a replacement dwelling unit and for required credit checks.

Payment for Moving Expenses. You may choose either (1) a payment for your actual reasonable moving and related expenses, or (2) if you prefer, a fixed moving expense and dislocation allowance of \$ \_\_\_\_\_ .

Replacement Housing Payment. You are eligible for a replacement housing payment to rent or purchase a replacement home. The payment will be based on several factors, including the cost of a "comparable replacement home" and your average household income.

Listed below are three "comparable replacement homes" that you may wish to consider:

Address	Rent & Utility Costs	Contact Info
1. _____	_____	_____
2. _____	_____	_____
3. _____	_____	_____

We would be pleased to provide you with transportation to inspect these dwelling units. We believe that the unit at \_\_\_\_\_ is the most representative of your

Address

present home. The rent and the estimated average cost of utility services for that unit is \$ \_\_\_\_\_. Based on the information you provided about your income, you may be eligible for rental assistance up to \$ \_\_\_\_\_ (60 x \$ \_\_\_\_\_). This is the maximum amount that you would be eligible to receive. It would be paid in (indicate number of installments or lump sum). If you rent a decent, safe and sanitary home where the monthly rent and average estimated utility costs are less than \$ \_\_\_\_\_ your rental assistance payment would be based on the actual cost of such unit.

Contact us immediately if you do not agree that these units are comparable to your home. We will explain the basis for our selecting these units. And, if necessary, we will find other units. We will not base your payment on any unit that is not a "comparable replacement home."

Should you choose to buy (rather than rent) a decent, safe and sanitary replacement home, you would

be eligible under the URA for a down payment of \$ \_\_\_\_\_, Under the URA, you are not limited in the type of home you choose. Section 104(d) assistance for a down payment is available only for purchasing an interest in a housing cooperative or mutual housing association. We estimate that you are eligible for a down payment of \$ \_\_\_\_\_ under section 104(d). Let us know if you would prefer to buy a replacement home, and we will help you find such housing.

I am enclosing a brochure entitled, "Relocation Assistance to Tenants Displaced From Their Homes." Please read the brochure carefully. It explains your rights and some things you must do to obtain relocation payments under the URA. With the exception of the differences explained in this letter, this information also applies to section 104(d) assistance. For example, to obtain a replacement housing payment you must move to a decent, safe and sanitary home within one year after you vacate your present home. Therefore, do not commit yourself to rent or buy a unit until we inspect it.

I want to make it clear that you are eligible for assistance to help you relocate. In addition to relocation payments and housing referrals, counseling and other services are available to you. A representative of this office will soon contact you to determine your needs and preferences. He/she will explain your rights and help you obtain the relocation payments and other assistance for which you are eligible.

If you have any questions, please contact:

\_\_\_\_\_  
Name

\_\_\_\_\_  
Title

\_\_\_\_\_  
Address

\_\_\_\_\_  
Phone

Remember; do not move before we have a chance to discuss your eligibility for assistance. This letter is important to you and should be retained.

Sincerely,

\_\_\_\_\_  
Name

\_\_\_\_\_  
Title

Enclosure

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NOTES.

- \*1. This Guide form Notice is to be used only where, in addition to URA assistance, the tenant is eligible for section 104(d) assistance. Section 104(d) eligibility occurs when:
  - (a) The project is financed with NSP or UDAG funds or a Section 108 loan guarantee;
  - (b) The displaced person meets the definition of "lower income person;" and
  - (c) The move is a direct result of the demolition of the dwelling unit or the conversion of a low/moderate-income dwelling unit.
2. This Guideform Notice is to be used when the displaced person will not be offered a Section 8 certificate or voucher.
3. The case file must indicate the manner in which this notice was delivered (e.g., personally served or certified mail, return receipt requested) and the date of delivery. (See Paragraph 2-3d of Handbook.)
4. This is a guide form. It should be revised to reflect the circumstances.

**GUIDEFORM NOTICE OF NONDISPLACEMENT  
TO RESIDENTIAL TENANT**  
*Grantee or Agency Letterhead*

(date)

Dear \_\_\_\_\_ :

On \_\_\_\_\_ , the \_\_\_\_\_  
(date) City, County, State, Public Housing Authority(PHA), other

, notified you of proposed plans to rehabilitate the property you currently occupy at \_\_\_\_\_ for project which could receive funding assistance

\_\_\_\_\_ Address  
from the U.S. Department of Housing and Urban Development (HUD) under the \_\_\_\_\_ program. On \_\_\_\_\_ , the project was approved and will  
Date  
receive federal funding. Repairs will begin soon.

- **This is a notice of non-displacement.** You will not be required to move permanently as result of the rehabilitation.

This notice guarantees you the following:

1. Upon completion of the rehabilitation, you will be able to lease and occupy your present apartment or another suitable, decent, safe and sanitary apartment in the same building/complex under reasonable terms and conditions. \*
2. If you must move temporarily so that the rehabilitation can be completed, you will be reimbursed for all of your extra expenses, including the cost of moving to and from temporary housing and any increased interim housing costs. The temporary unit will be decent, safe and sanitary, and all other conditions of the temporary move will be reasonable.

Since you will have the opportunity to occupy a newly rehabilitated apartment, I urge you not to move. (If you do elect to move for your own reasons, you will not receive any relocation assistance.) We will make every effort to accommodate your needs. Because federal funding is involved in this project, you are protected by the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended. Of course, you must continue to comply with the terms and conditions of your lease.

If you have any questions, please contact:

\_\_\_\_\_  
Name

\_\_\_\_\_  
Title

\_\_\_\_\_  
Address

\_\_\_\_\_  
Phone

Sincerely,

\_\_\_\_\_  
Name

\_\_\_\_\_  
Title

**MOVE-IN NOTICE  
(GUIDEFORM NOTICE TO PROSPECTIVE TENANT)**

**Section 9: Grantee or Agency Letterhead**

Dear \_\_\_\_\_ :

On \_\_\_\_\_ , \_\_\_\_\_ submitted an application to the  
(date) Property Owner

\_\_\_\_\_ for financial assistance under a program funded by the Department  
Grantee  
of Housing and Urban Development (HUD). The proposed project involves [acquisition]  
[rehabilitation] [demolition] and/or [conversion] of the property located at

\_\_\_\_\_ Because  
Address

Federal funds are planned for use in this project, the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended (URA) [and/or section 104(d) of the Housing and Community Development Act of 1974, as amended] may apply to persons in occupancy at the time the application was submitted for HUD funding. However, if you choose to occupy this property subsequent to the application for federal financial assistance, as a new tenants you will not be eligible for relocation payments or assistance under the URA [and/or section 104(d)].

This notice is to inform you of the following information **before you enter into any lease agreement and/or occupy the property located at the above address:**

- You may be displaced by the project.
- You may be required to relocate temporarily.
- You may be subject to a rent increase.
- You will not be entitled to any relocation payments or assistance provided under the URA [and/or section 104(d)]. If you have to move or your rent is increased as a result of the above project, you will not be reimbursed for any such rent increase or for any costs or expenses you incur in connection with a move as a result of the project.

Please read this notification carefully prior to signing a rental agreement and moving into the project. If you should have any questions about this notice, please contact:

Grantee: \_\_\_\_\_

Address: \_\_\_\_\_

Phone: \_\_\_\_\_

Once you have read and have understood this notice, please sign the statement below if you still desire to lease the unit.

Sincerely,

\_\_\_\_\_  
Name

\_\_\_\_\_  
Title

\*\*\*\*\*

I have read the above information and understand the conditions under which I am moving into this project.

\_\_\_\_\_  
Print Name of Tenant(s)

\_\_\_\_\_  
Signature(s)

\_\_\_\_\_  
Address and Unit Number

\_\_\_\_\_  
Date



## **Section 9: Labor Standards**

Grantees must ensure that all construction contracts in excess of \$2,000 comply with all applicable federal labor standards and provisions. The grantee is responsible for monitoring contractors to ensure full compliance. The Construction Checklist (Appendix O) provides a step-by-step guide for grantees to monitor construction projects.

### **I. APPLICABLE FEDERAL STATUTES AND REGULATIONS**

Section 110, Title I, Housing and Community Development Act of 1974, as amended (42 USC 5301) provides that: “All laborers and mechanics employed by contractors or subcontractors in the performance of construction work financed in whole or in part with grants received under this title 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, provided that this section shall apply to the rehabilitation of residential property only if such property is designed for residential use of eight or more units.”

Davis-Bacon Act (40 USC 276a - 276a-5) requires that workers receive no less than the prevailing wages being paid for similar work in their locality. Prevailing wages are computed by the Department of Labor and are issued in the form of federal wage decisions for each classification of work. The law applies to most construction, alteration or repair contracts over \$2,000. (Residential rehabilitation contracts involving structures with less than eight (8) units are exempt.)

Copeland “Anti-Kickback” Act (47 USC 276(c)) requires that workers be paid at least once a week without any deductions or rebates except permissible deductions. Permissible deductions include taxes, deductions the worker authorizes in writing and deductions required by court processes. The Act also requires contractors to submit payroll records weekly along with Statements of Compliance to the contracting agency. The Copeland Act applies to all contracts covered by Davis-Bacon.

Contract Work Hours and Safety Standards Act - CWHSSA (40 USC 327 - 333) requires that workers receive “overtime” compensation at a rate of 1-1/2 times their regular hourly wage after they have worked 40 hours in one week. Overtime pay is not required for single contracts under \$100,000 under this Act; however, contractors must comply with the overtime requirements under the Fair Labor Standards Act which affects all contracts under Davis-Bacon.

Fair Labor Standards Act - FLSA (20 USC 201 et seq.) establishes a minimum wage rate, overtime, record keeping and other regulations that affect employers and laborers. The FLSA is enforced by the U.S. Department of Labor (DOL) and DOL is authorized to investigate any violations and to initiate court action against employers which may result in fines and/or jail terms, payment of double back pay and payment of attorney’s fees.

Title 29, Code of Federal Regulations (CFR), Parts 1, 3, 5, and 7 are the regulations and procedures issued by the Secretary of Labor for the administration and enforcement of the Davis-Bacon Act, as amended.

Federal Labor Standards Compliance in Housing and Community Development Programs Administration and Enforcement Handbook (HUD Handbook No. 1344.1), contains policies and procedures to be used by grantees, contractors and subcontractors who are recipients of federal NSP funds to ensure compliance with applicable federal labor standards, statutes and regulations. Copies may be available by calling HUD at (800) 767-7468.

## **II. CONTRACTOR RESPONSIBILITIES**

Contractors are responsible for paying all employees working on a federally funded project the appropriate Davis-Bacon wage rate. The Davis-Bacon wage decision has been provided to each contractor as part of the bid documents.

Electricians, plumbers, sheet metal companies, painters, roofers and other trade contractors are responsible for ensuring that an excessive number of “laborers” are not utilized on any CDBG funded projects. Davis-Bacon rules stipulate that persons performing the duties of a journeyman must be paid the appropriate Davis-Bacon wage rate and fringe benefits as indicated in the wage decision. The only exception to this is when a worker is enrolled in approved apprentice program. If a worker is using the “tools of the trade,” then that worker is performing the duties of the journeyman, which then entitles that person to the journeyman’s wages.

For any State funded NSP projects, no more than one laborer may assist a journeyman, unless that laborer is paid the journeyman’s wages. There will be no exceptions to this rule.

## **III. GRANTEE RESPONSIBILITIES**

Grantees must develop a compliance and enforcement procedure that ensures all applicable labor standards requirements are met. The final responsibility for compliance rests with each grantee. The grantee should fully understand what is required for construction contracts before the process begins. In this way, there will be sufficient time to request technical assistance from Commerce to clarify questions. If these procedures are followed properly, you will enhance your efforts to provide sound fiscal, contractual and program control over construction activities.

Each grantee must designate a labor standards compliance officer. The labor standards compliance officer has overall responsibility for coordinating and ensuring compliance with all appropriate labor standards regulations and ensuring that an accurate filing system is maintained. The officer’s name must appear on the Request for Wage Determination Form (Appendix B), Verification of Contractor Eligibility Form CDBG-LS-02 (Appendix D) and the Notice of Start of Construction Form CDBG LS-03 (Appendix E).

The grantee must develop contracting procedures that comply with all federal labor standards provisions and compliance procedures. Briefly, the grantee must obtain applicable federal wage rate decisions, federal labor standards provisions and certifications. This information must be attached to the bid specifications and contracts. Each grantee must also monitor for contractor compliance. The following are more detailed procedures for ensuring compliance with applicable federal labor standards provisions and for coordinating these responsibilities with the equal opportunity provisions.

A. Appointing a Labor Standards Compliance Officer

The grantee's chief administrative officer (i.e., Mayor, City Manager, Chairperson) has the responsibility for appointing a labor standards compliance officer. The grantee must advise Commerce, in writing, of the name, address, and telephone number of the designated Labor Standards Officer, using the Request for Wage Determination (Appendix B). This person has overall responsibility to ensure compliance with all appropriate labor standards requirements and regulations, and that an accurate filing system is maintained. Failure to comply with labor standards requirements may result in liquidated damages, suspension of funds, wage restitution payments, investigative reports, termination of contractor's contract, and contractor debarment. The final responsibility for labor standards compliance rests with the grantee.

B. Obtaining Davis-Bacon Wage Rates

Grantees must obtain federal prevailing wage rates through Commerce. The grantee must mail/e-mail a Request for Wage Determination Form (Appendix B) to Commerce. This form is used to obtain Davis-Bacon wage rates from the U.S. Department of Labor (DOL). It must be properly completed by, the grantee's labor standards compliance officer. Requests for wage rates should include project details to ensure the correct wage rate is provided.

Please submit requests for wage rates to:

TOPEKA:

Kansas Department of Commerce  
Small Cities CDBG Program  
ATTN: Labor Standards Officer  
1000 S.W. Jackson Street, Suite 100  
Topeka, KS 66612-1354

Each grantee must submit the Request for Wage Determination form (Appendix B) to Commerce at least 15 days prior to advertising for bids to request Davis-Bacon wage rates. Federal wage rates shall be included in bid packages and in all contracts, and must be posted at or near the job site.

Rates for apprentices and trainees are not listed on Davis-Bacon wage determinations.

Additional classifications and wage rates are not required for apprentices, trainees and welders on Davis-Bacon covered contracts. Apprentices or trainees are permitted to work at less than the wage rates listed in the contract wage determination for the work they perform only if they meet the requirements of 29 CFR Part 5, Section 5.5(a)(4), such as being registered or certified in an appropriate apprenticeship or training program. Effective October 21, 1993, the "helper" classification, including elevator construction helper and elevator mechanic helper were omitted from the Davis-Bacon wage determination. Also, an additional classification is not required for welders since welding is considered incidental to the work of employees for whom classifications are issued.

Information on establishing an apprenticeship program may be obtained by writing or calling the following agencies:

Kansas Apprenticeship Program  
Kansas Department of Commerce  
1000 S.W. Jackson Street, Suite 100  
Topeka, KS 66612  
(785) 296-4161  
www.kansas@apprenticeship.org

C. Requesting Wage Rates for Additional Worker Classifications

Though the U.S. Department of Labor endeavors to compile as complete a list as possible for all trades needed during the construction phase of projects, a number of trades and wage rates may not be included on a wage decision. In such an event, the labor standards officer will need to request and additional wage classification and rate from the Department of Commerce. The procedure is as follows:

1. Advise contractor(s) at pre-construction conference of the possibility that additional worker classifications may be required.
2. If additional worker classifications are identified during the pre-construction conference, a Request for Additional Classification and Rate Form (Appendix F) can be prepared for immediate submittal.
3. Submit the completed Request for Additional Classification and Rate Form (Appendix F) along with a letter from the contractor regarding the wage rate that is to be paid and the wage determination to the NSP/CDBG Labor Standards Officer. This information is then forwarded to DOL for review and final ruling.
4. Upon receipt of DOL's written response, Commerce will send a copy of DOL's ruling to the Grantee's Labor Standards office.

D. Preparing Bid Documents

The grantee may use a city employee or outside architect or engineer to prepare the technical bid specification. The specifications should provide complete and accurate descriptions of the specifications for materials, products and services to be provided or performed. The grantee must ensure that all applicable labor compliance provisions are included in the bid and contract documents (Guide to Contract Clauses Table, Appendix G). Also available is a Sample Bid and Contract Specification Forms Booklet. Contact your NSP/CDBG Field Representative for a free copy.

This booklet includes:

- a. Applicable Davis-Bacon Wage Rate Determinations.
- b. Contractor's Certification Concerning Labor Standards and Prevailing Wage Requirements.
- c. Subcontractor's Certification Concerning Labor Standards and Prevailing Wage Requirements.
- d. Federal Labor Standards Provisions - HUD 4010 (Appendix H).
- e. Conflict of Interest.
- f. Contract Work Hours and Safety Standards Act, if contract exceeds \$100,000.
- g. Federal bonding requirements apply to contracts in excess of \$100,000. The State CDBG program requires that contracts between \$25,000 - \$100,000 be protected through bonding security. The NSP program recommends that contracts under 25,000 be secured in some manner such as a line of credit, certificate of deposit, etc.
- h. Copeland "Anti-Kickback" Act.
- i. Equal Employment Opportunity requirements.

E. Advertising for Bids

Bids should be solicited from an adequate number of contractors and/or suppliers and the bid announcement must be publicly advertised. This notice should be published in at least one official newspaper of general circulation within the community 30 days before bid date or an adequate time to allow bid preparation. Grantees must retain a copy of the advertisements in a labor standards folder. Best faith efforts must be made to solicit bids from minority and women-owned businesses. Grantees are encouraged to use the KDOT website [www.ksdot.org/](http://www.ksdot.org/) for the DBE Directory.

F. Ten Day Call to Confirm Wage Rates

Ten days prior to the bid opening date, the grantee shall contact Commerce by mail or e-mail, to confirm that the wage decision(s) previously issued are current. Grantee is required to furnish the information listed on the Ten Day Call Form (Appendix C). If modified wage rates are published, the grantee must secure the modification and issue an immediate addendum to all plan holders. This is critical because the grantee may be required to pay any difference if a modification was issued and employees were paid based on a prior wage determination. A copy of the wage decision and Federal Labor Standards Provisions – HUD – 4010 (Appendix H) must be physically included in all bid specifications and subsequent contracts and subcontracts.

G. Maintaining a Bidders' Log

Grantee must maintain a log of bidders who were sent or obtained bid documents. All sealed bids received during the bidding period should be logged in with the name of bidder(s), and time and date of receipt. All bids must be secured in a safe place. Late bids cannot be accepted for any reason.

H. Conducting the Public Bid Opening

All sealed bids shall be opened publicly at the time and place specified in the invitation to bid. All bids should be read aloud during this meeting and minutes of the meeting should be maintained which document the project, time and date of the bid opening, bids received and the bid amounts.

I. Reviewing Bids

The grantee shall review all bids to determine if they were legally and technically responsive. Bidders must be evaluated according to the evaluation criteria described in the bid announcement. Grantees should consider the experience of the firm, their past record of performance, capacity to perform within the stated time period, and the bid price. Award of a contract or rejection of all bids should occur within 30 days from the date of bid opening. All bidders should be notified, in writing, of the name of the successful bidder.

J. Verifying Contractor(s) Eligibility

Prior to awarding the contract, each grantee must obtain verification of eligibility from Commerce. This must be in writing using the Verification of Construction Contractor Eligibility (Appendix D). Upon receipt, Commerce will verify eligibility and return the original form to the grantee. It should be filed in the labor standards folder. Grantees are required to verify the eligibility of all contractors and sub-contractors working on the NSP funded project.

K. Preparing and Executing the Construction Contract

Prior to executing a construction contract, the grantee should review the contract documents to ensure that all federal and state labor standards contract provisions are included (see Sample Bidding and Contract Specification Forms Booklet provided separately). The contract must contain the current wage decision, federal labor standards provisions, contractor certifications, Section 3 Plan and other documents, as required.

L. Conducting a Pre-Construction Conference

A pre-construction conference is optional only if the selected contractor and sub-contractor have performed construction on past federally funded projects, and is/are familiar with the Davis-Bacon requirements. We recommend all grantees continue to conduct a pre-construction conference. A pre-construction conference will help the grantee acquaint the contractor and subcontractor, if applicable, with federal Davis-Bacon, EEO and related labor standards requirements. The grantee should explain the payment process, forms to be used, how to process additional classifications not included in the wage determination and how Commerce will monitor financial, labor and contract compliance. Minutes of this meeting should be prepared to document the items discussed (see Appendix I). At a minimum, the minutes should contain the project name, location, description, wage determination number, name of contractor and subcontractors, contract amount, date and place of conference, conference attendees and a summary of items discussed (e.g., labor standards and EEO requirements).

M. Notice of Start of Construction

The grantee must send a Notice to Proceed to the contractor officially notifying him/her to begin construction. A copy of the Notice of Start of Construction Form (Appendix E) must be sent to the NSP/ CDBG Field Representative.

N. Monitoring On-Site Construction and Posting

The contractor shall erect a weatherproof bulletin board, in an area accessible by all employees. The following items must be posted:

- Copy of applicable Federal Wage Decision.
- “Equal Employment Opportunity is THE LAW” poster (English and Spanish).
- Notice to Employees-Working on Federal or Federally Financed Construction Projects” poster (WH Publication 1321).
- “Job Safety and Health Protection” Poster.
- Notice - Employee Polygraph Protection Act poster (WH Publication 1462).

O. Reviewing Weekly Payroll Records

Once construction is underway, the grantee shall monitor for labor compliance by obtaining and reviewing weekly certified payroll reports of the general contractor and subcontractor, accompanied by the Statement of Compliance Form WH-348 (Appendix Lb), and checked against the wage decision. Payroll Form WH-347 (Appendix La) is the recommended payroll format. Instructions for completing Payroll Form WH-347 (Appendix La) are found as Appendix Lc. A contractor may use an appropriate optional payroll form, if it provides the required information.



1. Grantees should establish a standard procedure for conducting compliance reviews, including:
  - a. Check for posting of the correct wage rate determination and required posters at the job site.
  - b. Payrolls must be obtained and examined promptly. The grantee's labor standards compliance officer shall insist upon prompt submission of all payrolls seven days following the end of the work week. No payments should be made to any contractor who has not submitted payroll forms for work for which the contractor is requesting payment.
  - c. "No Work" payrolls. "No work" payrolls may be submitted whenever there is a temporary break in work on the project. For example, if the contractor is not needed on the project temporarily but will be returning to the job in a couple of weeks, payrolls should continue to be submitted indicating no work. However, if the contractor will not be working on the project for an extended period of time, a short note may be sent to the grant administrator to let him/her know about the break in work and to give an approximate date when the contractor will return to the project. If a note is sent, the contractor *does not* need to send "no work" payrolls. The payroll reports must be numbered consecutively; however, the numbering should continue where the last payroll report stopped.
  - d. Payrolls should be date-stamped upon receipt, dated and initialed by the grantees labor standards compliance officer upon review. When examining payrolls, only employee classifications appearing on the wage determination decision are to be used. The payrolls shall be examined upon receipt so that any necessary corrective action may be initiated before the problem multiplies, and may be resolved while the workers are still available. Special attention should be given during the early stages of construction in order to determine whether the contractor(s) is meeting his/her responsibilities regarding payroll. Payrolls must be retained for four years by the grantee, following completion of the project and then destroyed unless an investigation, disputed compliance action or appeal remains outstanding.
  - e. Ensure that all subcontractors are submitting payrolls.
  - f. Ensure that any trainee/apprentice employees have met the DOL requirements for use of these job titles.
  - g. If any classification not in the wage determination decision is being used, require the contractor to submit information needed to add the classification to the decision.

- h. Review the deductions to ensure they do not exceed the authorized amount. The Statement of Compliance Form WH-348 (Appendix Lb) must describe the payment of fringe benefits and reasons for any deductions.
  1. Owners of companies (primary contractors) who work on the job must report hours and days worked, but do not have to report their rate of pay. Please refer to letter LR – 96 – 01 on page 9-46.
  2. Owner/Operators (Mechanics) with no employees must be reported on the payroll of the contractor for which he or she is performing work. The name, work classification, actual hours, and effective hourly wage rate, and the wage payment for each operator must be reported on a weekly basis.

- i. Ensure that overtime is paid for work over 40 hours weekly (overtime is not required for work over eight hours daily).

Overtime is calculated at time and one half (BASIC RATE OF PAY) plus fringes. Example: For an employee who worked 44 hours on a covered contract as an electrician, where the wage determination rate for an electrician is \$12.00 (basic hourly rate) plus \$2.50 in fringe benefits.

If the employer paid \$12.00 in cash wages and \$2.50 in fringe benefits, the electrician would receive:

44 hours x \$ 2.50	=	\$110.00 in fringe benefits
44 hours x \$ 12.00	=	\$528.00 for prevailing wages
4 hours x (1/2 x \$12.00)	=	<u>\$ 24.00 (\$6.00 x 4) overtime</u>
		\$662.00

- j. Addresses and Social Security Numbers: Each worker’s address and social security number, or at least the last four digits of the social security number, must be reported on the first payroll on which his/her name appears.
- k. Classification and Wage Rates: Classification and wage rates reported on the payroll shall be compared with the corresponding items on the applicable wage decision to determine whether the rate reported is at least equal to the rate required by the decision. If a lesser wage rate is found, the contractor must document full restitution to workers affected and provide evidence of same to the grantee.

- l. Deductions: Deductions shall be reviewed for nonpermissible deductions. Permissible deductions include medical or hospital care, pensions or retirement, compensation for injuries or illness resulting from occupational activity, unemployment benefits, life insurance or accident insurance, vacation, child support, spousal support or holiday pay.
- m. The Statement of Compliance Form - Appendix Lb must be signed by the owner, officer, or designated employee of the contractor.
- n. Confidentiality of Records: In order to protect the personal privacy interests of employees, copies of weekly payrolls containing the worker's salary, work hours, exemptions, address and social security number shall not be released to outside parties under the Privacy Act of 1974.

P. Employee Interviews

Employee interviews must be conducted during the course of construction of CDBG projects. Employers whether prime or subcontractor, must make their employees available to be interviewed. Employee interviews are used to double check the Davis-Bacon wage rates paid to employees. The information reported on the employee interview sheet will be compared to the applicable Davis-Bacon wage rate for the project. The grantee should use the Record of Employee Interview Form (Appendix M) to document interviews with workers. Grant Administrators will not be required to interview every employee working on a project. Instead, a random classification sampling should be used in determining whom to interview. Due to the diverse size and nature of NSP projects, there is no set number of interviews that must be conducted. However, a reasonable effort must be made. The employee shall be informed that the information given is confidential, and his/her identity will be disclosed to the employer only with the employee's written permission, and he/she is being interviewed by an employee of the grantee. Disclosure of employee statements are governed by the provisions of the Privacy Act of 1974.

1. Place of Interview: Employees may be interviewed during working hours on the job, provided that the interview can be properly and privately conducted on the premises. In cases of possible falsification of records, fear of reprisals, or intimidation, it may be more advisable to conduct the interview at the employee's home, the agency's office, another suitable place or by mail.
2. Initiating the Interview: The grantee's Labor Standards Officer shall begin the interview by identifying himself/herself to the worker. He/she shall explain the project is being constructed with assistance from the federally-funded Neighborhood Stabilization Program, the payment of prevailing wages on construction projects is required by law and the purpose of the interview is to obtain information for use in determining whether the required wages are being paid. He/she shall inform the worker of the specific location at which the applicable wage determination is posted at the project site.

3. Interview Form. Employee interviews must be recorded on the Record of Employee Interview Form (Appendix M).

Q. Notice of Completion/Final Inspection/ Final Wage Compliance Report Format

Within 30 days of completing a project, the grantee shall complete the Notice of Completion/Final Inspection/Final Wage Compliance Report Form (Appendix N) and submit it to their CDBG Field Representative. This form may be submitted with the closeout packet.

NOTE: When payments by a contractor or subcontractor total \$1,000 or more, or when it appears the violations are willful and aggravated, the grantee shall submit a Final Wage Compliance Report (Appendix N) within 60 days of the completion of its investigation.

R. Exemptions to Davis-Bacon Act Requirements

The wage rate determination and labor standards provisions do not apply in all cases. The rehabilitation of residential property, with less than eight units, is exempt. The purchase of machinery, goods and/or services is exempt if no installation (of construction), rehabilitation, or new construction is involved. In addition, prime contracts under \$2,000 are exempt. Davis-Bacon wage rates are applicable to all water, sewer, electric and gas line extensions, replacements and new installations over \$2,000.

Davis-Bacon does not apply to “force account” labor. Force account work is the construction, rehabilitation, repair or demolition of public facilities carried out by city or county employees. The grantee must notify CDBG staff if force account labor is being considered.

Labor standards provisions do not apply to the fabrication of building materials products by a manufacturer; however, Davis-Bacon does apply to labor used to assemble or install a building at a project site.

Grantees are required to submit a Request for Wage Determination (Appendix B) if they feel the project may be exempt. Commerce will review all exemption requests on a case-by-case basis and issue an appropriate written response.

1. If an exemption is approved, the grantee must comply with other labor standards requirements including:
  - a. Fair Labor Standards Act (FLSA).
  - b. “Equal Employment Opportunity is THE LAW” poster (English and Spanish).

- c. “Notice to all Employees – Working on Federal or Federally Financed Construction Projects” poster (WH Publication 1321).
- d. “Job Safety and Health Protection” poster.
- e. “Notice – Employee Polygraph Protection Act” poster (WH Publication 1462).
- f. “Notice – You have the Right to a Safe and Healthful Workplace (English and Spanish)

2. For specific labor standards file requirements, see Chapter 4.

NOTE: Certain civil rights provisions must be included in all construction contracts. See Civil Rights Section for all applicable laws, executive orders and regulations.

**LABOR STANDARDS – APPENDICES**

Labor Standards Compliance Activities Chart .....A

Request for Wage Determination.....B

10-Day Call Form .....C

Verification of Contractor Eligibility.....D

Notice of Start of Construction .....E

Request for Additional Classification and Rate..... F

Guide to Contract Clauses .....G

Federal Labor Standards Provisions (HUD-4010).....H

Pre-Construction Conference Minutes..... I

Notices .....J

1. Employee Polygraph Protection Action

2. Notice to Employees Working on Federal or Federally Financed Construction Projects

3. Equal Employment Opportunity is the Law (English and Spanish)

4. You Have a Right to a Safe and Healthful Workplace (English and Spanish)

Payroll Form WH-347 ..... La

Statement of Compliance ..... Lb

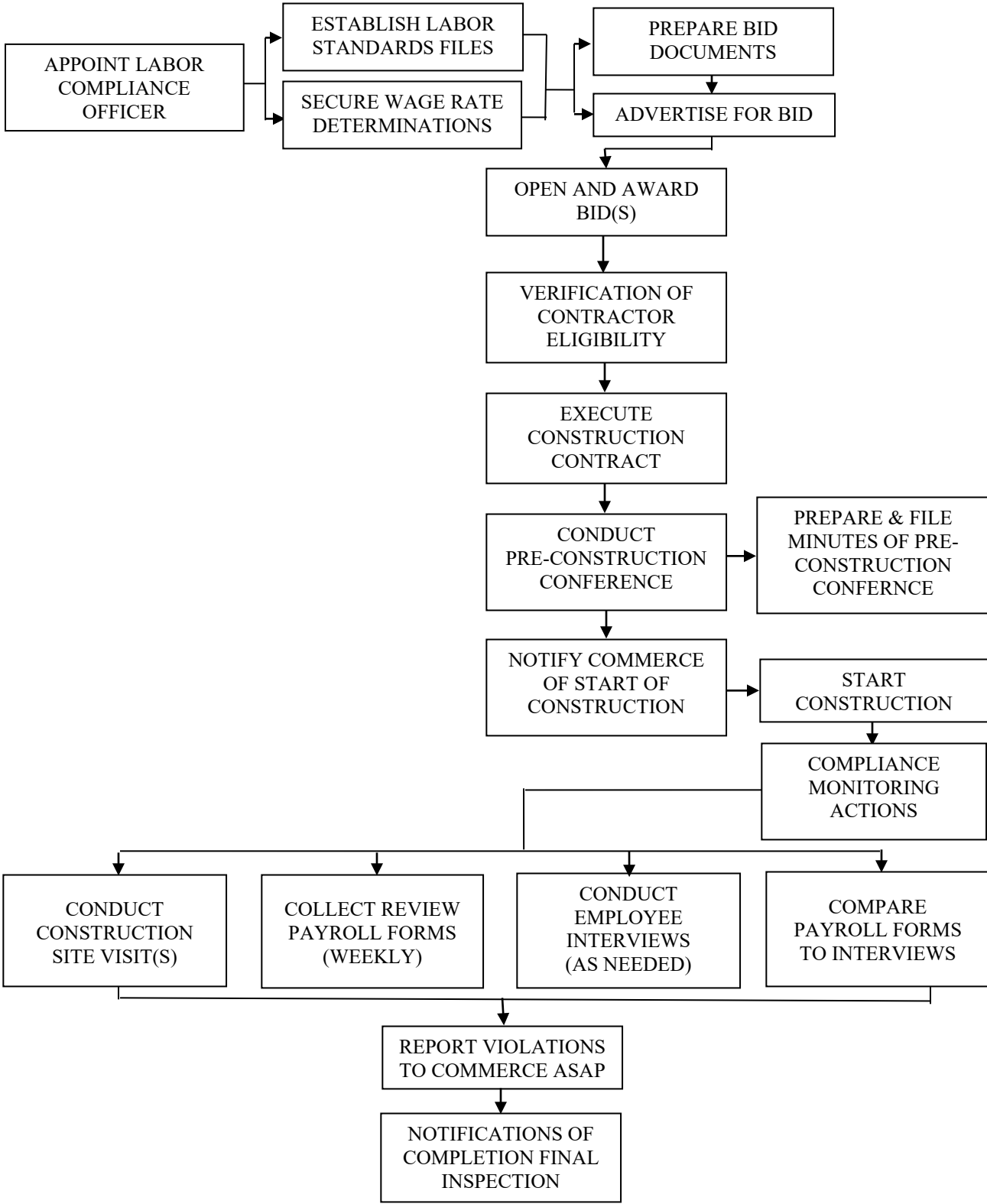
Instructions for Completing Payroll Form WH-347 ..... Lc

Record of Employee Interview Form ..... M

Notice of Completion/Final Inspection and Final Wage Compliance Report .....N

Construction Checklist.....O

### LABOR STANDARDS COMPLIANCE ACTIVITIES CHART





**REQUEST FOR WAGE DETERMINATION**

Date of Request: \_\_\_\_\_

1. Grantee Name: \_\_\_\_\_ Grant No.: \_\_\_\_\_

2. Project: \_\_\_\_\_ Phase: \_\_\_\_\_

3. Location of Project: \_\_\_\_\_

4. City: \_\_\_\_\_ County: \_\_\_\_\_ State: \_\_\_\_\_

5. Description of Work (be  
specific): \_\_\_\_\_  
\_\_\_\_\_

6. Estimated Dollar Amount of Contract: \_\_\_\_\_

7. Estimated Bid Advertising Date: \_\_\_\_\_

8. Labor Standards Officer: **(THIS PERSON WILL RECEIVE THE WAGE DETERMINATION)**

Name: \_\_\_\_\_

Address: \_\_\_\_\_

City/Zip: \_\_\_\_\_

Phone: \_\_\_\_\_

Fax: \_\_\_\_\_

**Forward this request 15 days prior to bid advertising to:  
Kansas Department of Commerce**

Forward this request 10 days prior to bid to:  
Kansas Department of Commerce  
Rural Development Division

**CONFIRMATION/CHANGE OF DAVIS-BACON RATES**

Date: \_\_\_\_\_

To: \_\_\_\_\_

From: \_\_\_\_\_

Grantee: \_\_\_\_\_

County: \_\_\_\_\_

Grant Number: \_\_\_\_\_

Project Type: \_\_\_\_\_

Original Wage Decision #: \_\_\_\_\_

Wage Decision Publication Date: \_\_\_\_\_

Original Date Wage Rates Sent: \_\_\_\_\_

Bid Opening Date: \_\_\_\_\_

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*For Department of Commerce use only.*

The Kansas Small Cities Community Development Block Grant Program is in receipt of your request for confirmation/change of the Davis-Bacon wage rate determination for your project. This memo and applicable wage rates will be sent via e-mail. The status of your initial request for wage rates is:

- No new wages rates issued.
- A new wage decision has been issued and accompanies this form.

General Decision # \_\_\_\_\_ Modification # \_\_\_\_\_ Modification Date: \_\_\_\_\_

Signature: \_\_\_\_\_

VERIFICATION OF CONTRACTOR ELIGIBILITY

To: NSP/CDBG Field Representative Date \_\_\_\_\_
Kansas Department of Commerce

Sub-Grantee: \_\_\_\_\_

Grant Number: \_\_\_\_\_

From: \_\_\_\_\_

Address: \_\_\_\_\_

Signature of sub-Grantee's Labor Standards Officer: \_\_\_\_\_

Please indicate the estimated date, time, and location of the Pre-construction Conference, if applicable. (Please advice of any changes.)

Date: \_\_\_\_\_

Time: \_\_\_\_\_

Location: \_\_\_\_\_

Please verify the eligibility of the following general construction contractor(s)

COMMERCE USE ONLY:

The following contractors are not on the Consolidated List of Debarred, Suspended and Ineligible Contractors as of:

Contractor and Subcontractor Name and Address

1. \_\_\_\_\_

\_\_\_\_\_

2. \_\_\_\_\_

\_\_\_\_\_

3. \_\_\_\_\_

\_\_\_\_\_

4. \_\_\_\_\_

Contractor Verification by:

NSP/CDBG Field Representative

Date

NOTICE OF START OF CONSTRUCTION

To: NSP/CDBG Field Representative Date \_\_\_\_\_
Kansas Department of Commerce Sub-grantee: \_\_\_\_\_
Grant Number: \_\_\_\_\_

From: \_\_\_\_\_
Address: \_\_\_\_\_
\_\_\_\_\_
\_\_\_\_\_
\_\_\_\_\_

Signature of Sub-grantee’s Labor Standards Officer: \_\_\_\_\_

Telephone No. of Sub-grantee’s Labor Standards Officer: \_\_\_\_\_

- 1. Construction Start Date: \_\_\_\_\_
2. Project Description: \_\_\_\_\_
3. Location of Project: \_\_\_\_\_
Location Address: \_\_\_\_\_
Location City: \_\_\_\_\_
Location County: \_\_\_\_\_
4. Bid Advertising Date: \_\_\_\_\_
5. Bid Opening Date: \_\_\_\_\_
6. Contract Awarded Date: \_\_\_\_\_
7. Federal Wage Decision No.: \_\_\_\_\_
8. Date of Wage Decision: \_\_\_\_\_
9. Estimated Completion Date: \_\_\_\_\_
10. Contract Amount: \_\_\_\_\_
11. Name of General Contractor: \_\_\_\_\_
Address of General Contractor: \_\_\_\_\_
\_\_\_\_\_
\_\_\_\_\_
12. Names of Subcontractor(s): \_\_\_\_\_
\_\_\_\_\_
\_\_\_\_\_
\_\_\_\_\_

<b>U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT REPORT OF ADDITIONAL CLASSIFICATION AND RATE</b>		HUD FORM 4230A <small>OMB Approval Number 20501-001 (Exp. 09/30/2006)</small>
<b>1. FROM</b> (name and address of requesting agency) Kansas Department of Commerce 1000 S.W. Jackson Street, Suite 100 Topeka, Kansas 66612-1354	<b>2. PROJECT NAME AND NUMBER</b>  <b>3. LOCATION OF PROJECT</b> (City, County and State)	
<b>4. BRIEF DESCRIPTION OF PROJECT</b>	<b>5. CHARACTER OF CONSTRUCTION</b> <input type="checkbox"/> Building <input type="checkbox"/> Residential <input type="checkbox"/> Heavy <input type="checkbox"/> Other (specify) <input type="checkbox"/> Highway	
<b>6. WAGE DECISION NO.</b> (include modification number, if any)  <input type="checkbox"/> COPY ATTACHED	<b>7. WAGE DECISION EFFECTIVE DATE</b>  	
<b>8. WORK CLASSIFICATION(S)</b>	<b>HOURLY WAGE RATES</b>	
	<b>BASIC WAGE</b>	<b>FRINGE BENEFIT(S)</b> (If any)
<b>9. PRIME CONTRACTOR</b> (name, address)	<b>10. SUBCONTRACTOR/EMPLOYER, IF APPLICABLE</b> (name, address)	
<b>Check All That Apply:</b> <input type="checkbox"/> The work to be performed by the additional classification(s) is not performed by a classification in the applicable wage decision. <input type="checkbox"/> The proposed classification is utilized in the area by the construction industry. <input type="checkbox"/> The proposed wage rate(s), including any bona fide fringe benefits, bears a reasonable relationship to the wage rates contained in the wage decision. <input type="checkbox"/> The interested parties, including the employees or their authorized representatives, agree on the classification(s) and wage rate(s). <input type="checkbox"/> Supporting documentation attached, including applicable wage decision. <b>Check One:</b> <input type="checkbox"/> <b>Approved, meets all criteria. DOL Confirmation requested.</b> <input type="checkbox"/> <b>One or more classifications fail to meet all criteria as explained in agency referral. DOL decision requested.</b>		
		<b>FOR HUD USE ONLY LR 2000:</b>
_____ <b>Agency Representative</b> <i>(Typed name and signature)</i>	_____ Date	<b>Log in:</b>  <b>Log out:</b>
	_____ Phone Number	
<small>HUD-4230A (8-03) PREVIOUSLY IS OBSOLETE</small>		

*Appendix C*

CONTRACT CLAUSES	CONSTRUCTION CONTRACTS		NON-CONSTRUCTION CONTRACTS	
	Over \$2,000	Over \$10,000	Over \$2,000	Housing Rehab (any amount)
CONTRACT REMEDIES	X	X	X	X
CONTRACT TERMINATION	X	X	X	X
CONTRACT WORK HOURS AND SAFETY STANDARDS	X	X		(only if structure is 8 units or more)
COPELAND ACT	X	X		
FEDERAL LABOR STANDARDS PROVISIONS (HUD-4010) DAVIS BACON	X	X		
PERFORMANCE AND BID BONDS				
AGE DISCRIMINATION ACT OF 1975	X	X		
EXECUTIVE ORDER 11063	X	X		
EXECUTIVE ORDER 11246 POLICY CLAUSE	X	X		X
FAIR HOUSING AMENDMENTS ACT OF 1988	X	X		X
KANSAS ACT AGAINST DISCRIMINATION	X	X		X
EXECUTIVE ORDER 11246		X		X
SECTION 109 OF HOUSING AND DEVELOPMENT ACT OF 1974	X	X		X
SECTION 503, REHABILITATION ACT	X	X		X
SECTION 504, ADA	X	X		
SECTION 912, CRANSTON-GONZALES		X		X
TITLE VI OF THE CIVIL RIGHTS ACT OF 1964	X	X		X
RESTRICTION ON LOBBYING CONTRACTS OVER \$100,000				
SECTION 3 (GRANTS OVER \$200,000 & CONTRACTS OVER \$100,000)				
ARCHITECTURAL BARRIERS (NEW CONSTRUCTION OF PUBLIC BUILDINGS)	X	X		
CONFLICT OF INTEREST MEMBERS, OFFICERS	X	X		X
EXAMINATION OF BOOKS ACCESS TO RECORDS/MAINTENANCE OF RECORDS	X	X	X	X
FLOOD HAZARD INSURANCE	X	X		X
CLEAN AIR AND WATER POLLUTION (CONSTRUCTION CONTRACTS OVER \$100,000 ONLY)				
REPORTING COPYRIGHTS AND PATENT RIGHTS		X	X	



## Federal Labor Standards Provisions

U.S. Department of Housing  
and Urban Development  
Office of Labor Relations

**Applicability**

The Project or Program to which the construction work covered by this contract pertains is being assisted by the United States of America and the following Federal Labor Standards Provisions are included in this Contract pursuant to the provisions applicable to such Federal assistance.

**A. 1. (i) Minimum Wages.** All laborers and mechanics employed or working upon the site of the work will be paid unconditionally and not less often than once a week, and without subsequent deduction or rebate on any account (except such payroll deductions as are permitted by regulations issued by the Secretary of Labor under the Copeland Act (29 CFR Part 3), the full amount of wages and bona fide fringe benefits (or cash equivalents thereof) due at time of payment computed at rates not less than those contained in the wage determination of the Secretary of Labor which is attached hereto and made a part hereof, regardless of any contractual relationship which may be alleged to exist between the contractor and such laborers and mechanics. Contributions made or costs reasonably anticipated for bona fide fringe benefits under Section I(b)(2) of the Davis-Bacon Act on behalf of laborers or mechanics are considered wages paid to such laborers or mechanics, subject to the provisions of 29 CFR 5.5(a)(1)(iv); also, regular contributions made or costs incurred for more than a weekly period (but not less often than quarterly) under plans, funds, or programs, which cover the particular weekly period, are deemed to be constructively made or incurred during such weekly period.

Such laborers and mechanics shall be paid the appropriate wage rate and fringe benefits on the wage determination for the classification of work actually performed, without regard to skill, except as provided in 29 CFR 5.5(a)(4). Laborers or mechanics performing work in more than one classification may be compensated at the rate specified for each classification for the time actually worked therein: Provided, That the employer's payroll records accurately set forth the time spent in each classification in which work is performed. The wage determination (including any additional classification and wage rates conformed under 29 CFR 5.5(a)(1)(ii) and the Davis-Bacon poster (WH-1321) shall be posted at all times by the contractor and its subcontractors at the site of the work in a prominent and accessible, place where it can be easily seen by the workers.

(ii) (a) Any class of laborers or mechanics which is not listed in the wage determination and which is to be employed under the contract shall be classified in conformance with the wage determination. HUD shall approve an additional classification and wage rate and fringe benefits therefor only when the following criteria have been met:

- (1) The work to be performed by the classification requested is not performed by a classification in the wage determination; and
- (2) The classification is utilized in the area by the construction industry; and
- (3) The proposed wage rate, including any bona fide fringe benefits, bears a reasonable relationship to the wage rates contained in the wage determination.

(b) If the contractor and the laborers and mechanics to be employed in the classification (if known), or their representatives, and HUD or its designee agree on the classification and wage rate (including the amount designated for fringe benefits where

appropriate), a report of the action taken shall be sent by HUD or its designee to the Administrator of the Wage and Hour Division, Employment Standards Administration, U.S. Department of Labor, Washington, D.C. 20210. The Administrator, or an authorized representative, will approve, modify, or disapprove every additional classification action within 30 days of receipt and so advise HUD or its designee or will notify HUD or its designee within the 30-day period that additional time is necessary. (Approved by the Office of Management and Budget under OMB control number 1215-0140.)

(c) In the event the contractor, the laborers or mechanics to be employed in the classification or their representatives, and HUD or its designee do not agree on the proposed classification and wage rate (including the amount designated for fringe benefits, where appropriate), HUD or its designee shall refer the questions, including the views of all interested parties and the recommendation of HUD or its designee, to the Administrator for determination. The Administrator, or an authorized representative, will issue a determination within 30 days of receipt and so advise HUD or its designee or will notify HUD or its designee within the 30-day period that additional time is necessary. (Approved by the Office of Management and Budget under OMB Control Number 1215-0140.)

(d) The wage rate (including fringe benefits where appropriate) determined pursuant to subparagraphs (1)(ii)(b) or (c) of this paragraph, shall be paid to all workers performing work in the classification under this contract from the first day on which work is performed in the classification.

(iii) Whenever the minimum wage rate prescribed in the contract for a class of laborers or mechanics includes a fringe benefit which is not expressed as an hourly rate, the contractor shall either pay the benefit as stated in the wage determination or shall pay another bona fide fringe benefit or an hourly cash equivalent thereof.

(iv) If the contractor does not make payments to a trustee or other third person, the contractor may consider as part of the wages of any laborer or mechanic the amount of any costs reasonably anticipated in providing bona fide fringe benefits under a plan or program, Provided, That the Secretary of Labor has found, upon the written request of the contractor, that the applicable standards of the Davis-Bacon Act have been met. The Secretary of Labor may require the contractor to set aside in a separate account assets for the meeting of obligations under the plan or program. (Approved by the Office of Management and Budget under OMB Control Number 1215-0140.)

**2. Withholding.** HUD or its designee shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld from the contractor under this contract or any other Federal contract with the same prime contractor, or any other Federally-assisted contract subject to Davis-Bacon prevailing wage requirements, which is held by the same prime contractor so much of the accrued payments or advances as may be considered necessary to pay laborers and mechanics, including apprentices, trainees and helpers, employed by the contractor or any subcontractor the full amount of wages required by the contract. In the event of failure to pay any laborer or mechanic, including any apprentice, trainee or helper, employed or working on the site of the work, all or part



of the wages required by the contract, HUD or its designee may, after written notice to the contractor, sponsor, applicant, or owner, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds until such violations have ceased. HUD or its designee may, after written notice to the contractor, disburse such amounts withheld for and on account of the contractor or subcontractor to the respective employees to whom they are due. The Comptroller General shall make such disbursements in the case of direct Davis-Bacon Act contracts.

**3. (i) Payrolls and basic records.** Payrolls and basic records relating thereto shall be maintained by the contractor during the course of the work preserved for a period of three years thereafter for all laborers and mechanics working at the site of the work. Such records shall contain the name, address, and social security number of each such worker, his or her correct classification, hourly rates of wages paid (including rates of contributions or costs anticipated for bona fide fringe benefits or cash equivalents thereof of the types described in Section I(b)(2)(B) of the Davis-Bacon Act), daily and weekly number of hours worked, deductions made and actual wages paid. Whenever the Secretary of Labor has found under 29 CFR 5.5 (a)(1)(iv) that the wages of any laborer or mechanic include the amount of any costs reasonably anticipated in providing benefits under a plan or program described in Section I(b)(2)(B) of the Davis-Bacon Act, the contractor shall maintain records which show that the commitment to provide such benefits is enforceable, that the plan or program is financially responsible, and that the plan or program has been communicated in writing to the laborers or mechanics affected, and records which show the costs anticipated or the actual cost incurred in providing such benefits. Contractors employing apprentices or trainees under approved programs shall maintain written evidence of the registration of apprenticeship programs and certification of trainee programs, the registration of the apprentices and trainees, and the ratios and wage rates prescribed in the applicable programs. (Approved by the Office of Management and Budget under OMB Control Numbers 1215-0140 and 1215-0017.)

**(ii) (a)** The contractor shall submit weekly for each week in which any contract work is performed a copy of all payrolls to HUD or its designee if the agency is a party to the contract, but if the agency is not such a party, the contractor will submit the payrolls to the applicant sponsor, or owner, as the case may be, for transmission to HUD or its designee. The payrolls submitted shall set out accurately and completely all of the information required to be maintained under 29 CFR 5.5(a)(3)(i). This information may be submitted in any form desired. Optional Form WH-347 is available for this purpose and may be purchased from the Superintendent of Documents (Federal Stock Number 029-005-00014-1), U.S. Government Printing Office, Washington, DC 20402. The prime contractor is responsible for the submission of copies of payrolls by all subcontractors. (Approved by the Office of Management and Budget under OMB Control Number 1215-0149.)

**(b)** Each payroll submitted shall be accompanied by a "Statement of Compliance," signed by the contractor or subcontractor or his or her agent who pays or supervises the payment of the persons employed under the contract and shall certify the following:

**(1)** That the payroll for the payroll period contains the information required to be maintained under 29 CFR 5.5 (a)(3)(i) and that such information is correct and complete;

**(2)** That each laborer or mechanic (including each helper, apprentice, and trainee) employed on the contract during the payroll

period has been paid the full weekly wages earned, without rebate, either directly or indirectly, and that no deductions have been made either directly or indirectly from the full wages earned, other than permissible deductions as set forth in 29 CFR Part 3;

**(3)** That each laborer or mechanic has been paid not less than the applicable wage rates and fringe benefits or cash equivalents for the classification of work performed, as specified in the applicable wage determination incorporated into the contract.

**(c)** The weekly submission of a properly executed certification set forth on the reverse side of Optional Form WH-347 shall satisfy the requirement for submission of the "Statement of Compliance" required by subparagraph A.3.(ii)(b).

**(d)** The falsification of any of the above certifications may subject the contractor or subcontractor to civil or criminal prosecution under Section 1001 of Title 18 and Section 231 of Title 31 of the United States Code.

**(iii)** The contractor or subcontractor shall make the records required under subparagraph A.3.(i) available for inspection, copying, or transcription by authorized representatives of HUD or its designee or the Department of Labor, and shall permit such representatives to interview employees during working hours on the job. If the contractor or subcontractor fails to submit the required records or to make them available, HUD or its designee may, after written notice to the contractor, sponsor, applicant or owner, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds. Furthermore, failure to submit the required records upon request or to make such records available may be grounds for debarment action pursuant to 29 CFR 5.12.

#### **4. Apprentices and Trainees.**

**(i) Apprentices.** Apprentices will be permitted to work at less than the predetermined rate for the work they performed when they are employed pursuant to and individually registered in a bona fide apprenticeship program registered with the U.S. Department of Labor, Employment and Training Administration, Office of Apprenticeship Training, Employer and Labor Services, or with a State Apprenticeship Agency recognized by the Office, or if a person is employed in his or her first 90 days of probationary employment as an apprentice in such an apprenticeship program, who is not individually registered in the program, but who has been certified by the Office of Apprenticeship Training, Employer and Labor Services or a State Apprenticeship Agency (where appropriate) to be eligible for probationary employment as an apprentice. The allowable ratio of apprentices to journeymen on the job site in any craft classification shall not be greater than the ratio permitted to the contractor as to the entire work force under the registered program. Any worker listed on a payroll at an apprentice wage rate, who is not registered or otherwise employed as stated above, shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any apprentice performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. Where a contractor is performing construction on a project in a locality other than that in which its program is registered, the ratios and wage rates (expressed in percentages of the journeyman's hourly rate) specified in the contractor's or subcontractor's registered program shall be observed. Every apprentice must be paid at not less than the rate specified in the registered program for the apprentice's level of progress, expressed as a percentage of the



journeymen hourly rate specified in the applicable wage determination. Apprentices shall be paid fringe benefits in accordance with the provisions of the apprenticeship program. If the apprenticeship program does not specify fringe benefits, apprentices must be paid the full amount of fringe benefits listed on the wage determination for the applicable classification. If the Administrator determines that a different practice prevails for the applicable apprentice classification, fringes shall be paid in accordance with that determination. In the event the Office of Apprenticeship Training, Employer and Labor Services, or a State Apprenticeship Agency recognized by the Office, withdraws approval of an apprenticeship program, the contractor will no longer be permitted to utilize apprentices at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

**(ii) Trainees.** Except as provided in 29 CFR 5.16, trainees will not be permitted to work at less than the predetermined rate for the work performed unless they are employed pursuant to and individually registered in a program which has received prior approval, evidenced by formal certification by the U.S. Department of Labor, Employment and Training Administration. The ratio of trainees to journeymen on the job site shall not be greater than permitted under the plan approved by the Employment and Training Administration. Every trainee must be paid at not less than the rate specified in the approved program for the trainee's level of progress, expressed as a percentage of the journeyman hourly rate specified in the applicable wage determination. Trainees shall be paid fringe benefits in accordance with the provisions of the trainee program. If the trainee program does not mention fringe benefits, trainees shall be paid the full amount of fringe benefits listed on the wage determination unless the Administrator of the Wage and Hour Division determines that there is an apprenticeship program associated with the corresponding journeyman wage rate on the wage determination which provides for less than full fringe benefits for apprentices. Any employee listed on the payroll at a trainee rate who is not registered and participating in a training plan approved by the Employment and Training Administration shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. In addition, any trainee performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. In the event the Employment and Training Administration withdraws approval of a training program, the contractor will no longer be permitted to utilize trainees at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

**(iii) Equal employment opportunity.** The utilization of apprentices, trainees and journeymen under 29 CFR Part 5 shall be in conformity with the equal employment opportunity requirements of Executive Order 11246, as amended, and 29 CFR Part 30.

**5. Compliance with Copeland Act requirements.** The contractor shall comply with the requirements of 29 CFR Part 3 which are incorporated by reference in this contract

**6. Subcontracts.** The contractor or subcontractor will insert in any subcontracts the clauses contained in subparagraphs 1 through 11 of this paragraph A and such other clauses as HUD or its designee may by appropriate instructions require, and a copy of the applicable prevailing wage decision, and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for the compliance by any subcontractor or lower tier subcontractor with all the contract clauses in this paragraph.

**7. Contract termination; debarment.** A breach of the contract clauses in 29 CFR 5.5 may be grounds for termination of the contract and for debarment as a contractor and a subcontractor as provided in 29 CFR 5.12.

**8. Compliance with Davis-Bacon and Related Act Requirements.** All rulings and interpretations of the Davis-Bacon and Related Acts contained in 29 CFR Parts 1, 3, and 5 are herein incorporated by reference in this contract

**9. Disputes concerning labor standards.** Disputes arising out of the labor standards provisions of this contract shall not be subject to the general disputes clause of this contract. Such disputes shall be resolved in accordance with the procedures of the Department of Labor set forth in 29 CFR Parts 5, 6, and 7. Disputes within the meaning of this clause include disputes between the contractor (or any of its subcontractors) and HUD or its designee, the U.S. Department of Labor, or the employees or their representatives.

**10. (i) Certification of Eligibility.** By entering into this contract the contractor certifies that neither it (nor he or she) nor any person or firm who has an interest in the contractor's firm is a person or firm ineligible to be awarded Government contracts by virtue of Section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1) or to be awarded HUD contracts or participate in HUD programs pursuant to 24 CFR Part 24.

**(ii)** No part of this contract shall be subcontracted to any person or firm ineligible for award of a Government contract by virtue of Section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1) or to be awarded HUD contracts or participate in HUD programs pursuant to 24 CFR Part 24.

**(iii)** The penalty for making false statements is prescribed in the U.S. Criminal Code, 18 U.S.C. 1001. Additionally, U.S. Criminal Code, Section 1 01 0, Title 18, U.S.C., "Federal Housing Administration transactions", provides in part: "Whoever, for the purpose of . . . influencing in any way the action of such Administration..... makes, utters or publishes any statement knowing the same to be false..... shall be fined not more than \$5,000 or imprisoned not more than two years, or both."

**11. Complaints, Proceedings, or Testimony by Employees.** No laborer or mechanic to whom the wage, salary, or other labor standards provisions of this Contract are applicable shall be discharged or in any other manner discriminated against by the Contractor or any subcontractor because such employee has filed any complaint or instituted or caused to be instituted any proceeding or has testified or is about to testify in any proceeding under or relating to the labor standards applicable under this Contract to his employer.

**B. Contract Work Hours and Safety Standards Act.** The provisions of this paragraph B are applicable only where the amount of the prime contract exceeds \$100,000. As used in this paragraph, the terms "laborers" and "mechanics" include watchmen and guards.

**(1) Overtime requirements.** No contractor or subcontractor contracting for any part of the contract work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic in any workweek in which he or she is employed on such work to work in excess of 40 hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of 40 hours in such workweek.

**(2) Violation; liability for unpaid wages; liquidated damages.** In the event of any violation of the clause set forth in subpara-



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graph (1) of this paragraph, the contractor and any subcontractor responsible therefor shall be liable for the unpaid wages. In addition, such contractor and subcontractor shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to such District or to such territory), for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth in subparagraph (1) of this paragraph, in the sum of \$10 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of 40 hours without payment of the overtime wages required by the clause set forth in sub paragraph (1) of this paragraph.

**(3) Withholding for unpaid wages and liquidated damages.** HUD or its designee shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld, from any moneys payable on account of work performed by the contractor or subcontractor under any such contract or any other Federal contract with the same prime contract, or any other Federally-assisted contract subject to the Contract Work Hours and Safety Standards Act which is held by the same prime contractor such sums as may be determined to be necessary to satisfy any liabilities of such contractor or subcontractor for unpaid wages and liquidated damages as provided in the clause set forth in subparagraph (2) of this paragraph.

**(4) Subcontracts.** The contractor or subcontractor shall insert in any subcontracts the clauses set forth in subparagraph (1) through (4) of this paragraph and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in subparagraphs (1) through (4) of this paragraph.

**C. Health and Safety.** The provisions of this paragraph C are applicable only where the amount of the prime contract exceeds \$100,000.

**(1)** No laborer or mechanic shall be required to work in surroundings or under working conditions which are unsanitary, hazardous, or dangerous to his health and safety as determined under construction safety and health standards promulgated by the Secretary of Labor by regulation.

**(2)** The Contractor shall comply with all regulations issued by the Secretary of Labor pursuant to Title 29 Part 1926 and failure to comply may result in imposition of sanctions pursuant to the Contract Work Hours and Safety Standards Act, 40 USC 3701 et seq.

**(3)** The Contractor shall include the provisions of this paragraph in every subcontract so that such provisions will be binding on each subcontractor. The Contractor shall take such action with respect to any subcontract as the Secretary of Housing and Urban Development or the Secretary of Labor shall direct as a means of enforcing such provisions.



U.S. DEPARTMENT OF LABOR

EMPLOYMENT STANDARDS ADMINISTRATION

Wage and Hour Division  
Washington, D.C. 20210



# NOTICE

## EMPLOYEE POLYGRAPH PROTECTION ACT

The Employee Polygraph Protection Act prohibits most private employers from using lie detector tests either for pre-employment screening or during the course of employment.

### **PROHIBITIONS**

Employers are generally prohibited from requiring or requesting any employee or job applicant to take a lie detector test, and from discharging, disciplining, or discriminating against an employee or prospective employee for refusing to take a test or for exercising other rights under the Act.

### **EXEMPTIONS\***

Federal, State and local governments are not affected by the law. Also, the law does not apply to tests given by the Federal Government to certain private individuals engaged in national security-related activities.

The Act permits polygraph (a kind of lie detector) tests to be administered in the private sector, subject to restrictions, to certain prospective employees of security service firms (armored car, alarm, and guard), and of pharmaceutical manufacturers, distributors and dispensers.

The Act also permits polygraph testing, subject to restrictions, of certain employees of private firms who are reasonably suspected of involvement in a workplace incident (theft, embezzlement, etc.) that resulted in economic loss to the employer.

### **EXAMINEE RIGHTS**

Where polygraph tests are permitted, they are subject to numerous strict standards concerning the conduct and length of the test. Examinees have a number of specific rights, including the right to a written notice before testing, the right to refuse or discontinue a test, and the right not to have test conduct and length of the test results disclosed to unauthorized persons.

### **ENFORCEMENT**

The Secretary of Labor may bring court actions to restrain violations and assess civil penalties up to \$10,000 against violators. Employees or job applicants may also bring their own court actions.

### **ADDITIONAL INFORMATION**

Additional information may be obtained, and complaints of violations may be filed, at local offices of the Wage and Hour Division. To locate your nearest Wage-Hour office, telephone our toll-free information and help line at 1 - 866 - 4USWAGE ( 1 - 866 - 487 - 9243). A customer service representative is available to assist you with referral information from 8 am to 8 pm in your time zone; or if you have access to the internet, you may log onto our Home page at [www.wagehour.dol.gov](http://www.wagehour.dol.gov).

### **THE LAW REQUIRES EMPLOYERS TO DISPLAY THIS POSTER WHERE EMPLOYEES AND JOB APPLICANTS CAN READILY SEE IT.**

*\*The law does not preempt any provision of any State or local law or any collective bargaining agreement which is more restrictive with respect to lie detector tests.*

**U.S. DEPARTMENT OF LABOR  
EMPLOYMENT STANDARDS ADMINISTRATION  
Wage and Hour Division  
Washington, D.C. 20210**

**WH PUBLICATION**

**June 2003**

# NOTICE TO ALL EMPLOYEES



Working on Federal or Federally  
Financed Construction Projects

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## **MINIMUM WAGES**

You must be paid not less than the wage rate in the schedule posted with this Notice for the kind of work you perform.

## **OVERTIME**

You must be paid not less than one and one-half times your basic rate of pay for all hours worked over 40 a week. There are some exceptions.



# APPRENTICES PROPER PAY

Apprentice rates apply only to apprentices properly registered under approved Federal or State apprenticeship programs.

If you do not receive proper pay, contact the Contracting Officer listed below:

or you may contact the nearest office of the Wage and Hour Division, U.S. Department of Labor. The Wage and Hour Division has offices in several hundred communities throughout the country. They are listed in the U.S. Government section of most telephone directories under:

## U.S. Department of Labor Employment Standards

**WH Publication 1321**  
Revised January 1986

\*U.S. GOVERNMENT PRINTING OFFICE: 1977-209-866Wage

**U.S. Department of Labor**  
Employment Standards  
Administration  
and Hour Division



## **Equal Employment Opportunity is THE LAW**

### **Employers Holding Federal Contracts or Subcontracts**

Applicants to and employees of companies with a Federal government contract or subcontract are protected under the following Federal authorities:

### **RACE, COLOR, RELIGION, SEX, NATIONAL ORIGIN**

Executive Order 11246, as amended, prohibits job discrimination on the basis of race, color, religion, sex or national origin, and requires affirmative action to ensure equality of opportunity in all aspects of employment.

### **INDIVIDUALS WITH DISABILITIES**

Section 503 of the Rehabilitation Act of 1973, as amended, prohibits job discrimination because of disability and requires affirmative action to employ and advance in employment qualified individuals with disabilities who, with reasonable accommodation, can perform the essential functions of a job.

### **VIETNAM ERA, SPECIAL DISABLED, RECENTLY SEPARATED, AND OTHER PROTECTED VETERANS**

The Vietnam Era Veterans' Readjustment Assistance Act of 1974, as amended, 38 U.S.C., 4212, prohibits job discrimination and requires affirmative action to employ and advance in employment qualified Vietnam era veterans, qualified special disabled veterans, recently separated veterans, and other protected veterans. A recently separated veteran is any veteran during the three-year period beginning on the date of such veteran's discharge or release from active duty in the U.S. military, ground, naval or air service.

### **RETALIATION**

Retaliation is prohibited against a person who files a charge of discrimination, participates in an OFCCP proceeding, or otherwise opposes discrimination under these Federal laws.

Any person who believes a contractor has violated its nondiscrimination or affirmative action obligations under the authorities above should contact immediately:

The Office of Federal Contract Compliance Programs (OFCCP), Employment Standards Administration, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, DC 20210, (202) 693-0101 or call an OFCCP regional or district office listed in most telephone directories under U.S. Government, Department of Labor. For individuals with hearing impairment, OFCCP's TTY number is (202) 693-1337.

## **Private Employment, State and Local Governments, Educational Institutions, Employment Agencies and Labor Organizations**

Applicants to and employees of most private employers, state and local governments, educational institutions, employment agencies and labor organizations are protected under the following Federal laws:

### **RACE, COLOR, RELIGION, SEX, NATIONAL ORIGIN**

Title VII of the Civil Rights Act of 1964, as amended, prohibits discrimination in hiring, promotion, discharge, pay, fringe benefits, job training, classification, referral, and other aspects of employment, on the basis of race, color, religion, sex (including pregnancy and sexual harassment) or national origin. Religious discrimination includes failing to reasonably accommodate an employee's religious practices where the accommodation does not impose undue hardship.

### **DISABILITY**

Title I and Title V of the Americans with Disabilities Act of 1990 (ADA), as amended, protect qualified applicants and employees with disabilities from discrimination in hiring, promotion, discharge, pay, job training, fringe benefits, classification, referral, and other aspects of employment on the basis of disability.

The law also requires that covered entities provide qualified applicants and employees with disabilities with reasonable accommodations, unless such accommodations would impose an undue hardship on the employer.

### **AGE**

The Age Discrimination in Employment Act of 1967, as amended, protects applicants and employees 40 years of age or older from discrimination on the basis of age in hiring, promotion, discharge, compensation, terms, conditions or privileges of employment.

### **SEX (WAGES)**

in addition to sex discrimination prohibited by Title VII of the Civil Rights Act of 1964, as amended, the Equal Pay Act of 1963, as amended, prohibits sex discrimination in payment of wages to women and men performing substantially equal work, in jobs that require equal skill, effort and responsibility under similar working conditions, in the same establishment.

## **RETALIATION**

Retaliation is prohibited against a person who files a charge of discrimination, participates in a discrimination proceeding, or otherwise opposes discrimination under these Federal laws.

If you believe that you have been discriminated against under any of the above laws, and to ensure that you meet strict procedural timelines to preserve the ability of EEOC to investigate your complaint and to protect your right to file a private lawsuit, you should immediately contact:

The U.S. Equal Employment Opportunity Commission (EEOC), Washington, DC 20507 or an EEOC field office by calling toll free (1-800) 669-4000. For individuals with hearing impairments, EEOC's toll free TTY number is 1-800 669-6820.

## **Programs or Activities Receiving Federal Financial Assistance**

### **RACE, COLOR, SEX, NATIONAL ORIGIN**

In addition to the protection of Title VII of the Civil Rights Act of 1964, as amended, Title VI of the Civil Rights Act prohibits discrimination on the basis of race, color or national origin in programs or activities receiving Federal financial assistance. Employment discrimination is covered by Title VI if the primary objective of the financial assistance is provision of employment, or where employment discrimination causes or may cause discrimination in providing services under such programs.

Title IX of the Education Amendments of 1972 prohibits employment discrimination on the basis of sex in educational programs or activities which receive Federal assistance.

### **INDIVIDUALS WITH DISABILITIES**

Section, 504 of the Rehabilitation Act of 1973, as amended, prohibits employment discrimination on the basis of disability in any program or activity which receives Federal financial assistance in the federal government, public or private agency.

Discrimination is prohibited in all aspects of employment against persons with disabilities who, with or without reasonable accommodation, can perform the essential functions of a job.

If you believe you have been discriminated against in a program of any institution which receives Federal assistance, you should contact immediately the Federal agency providing such assistance.

**LA IGUALDAD DE OPORTUNIDADES DE EMPLEO  
ES LA LEY**

**Empleadores que tienen contratos o subcontratos con el Gobierno Federal**

Los empleados o postulantes a empleos de compañías que tienen contratos o subcontratos del gobierno federal gozan de la protección otorgada por las siguientes instituciones federales:

**RAZA, COLOR, RELIGIÓN, SEXO, NACIONALIDAD**

El Decreto 11246 (Executive Order 11246), con sus modificaciones, prohíbe la discriminación laboral en razón de raza, color de piel, religión, sexo o nacionalidad, y requiere la acción afirmativa para garantizar la igualdad de oportunidades en todos los aspectos laborales.

**PERSONAS CON DISCAPACIDADES**

El Artículo 503 de la Ley de Rehabilitación de 1973 (The Rehabilitation Act of 1973), con sus modificaciones, prohíbe la discriminación laboral por discapacidad y requiere la acción afirmativa de emplear y avanzar en el empleo de personas discapacitadas idóneas que, mediante una adaptación razonable, puedan llevar a cabo las funciones esenciales de un trabajo.

**VETERANOS DE VIETNAM CON DISCAPACIDADES ESPECIALES, RECIENTEMENTE RETIRADOS Y OTROS VETERANOS BAJO PROTECCIÓN**

La Ley de Asistencia a la Readaptación de Veteranos de Vietnam de 1974 (The Vietnam Era Veterans' Readjustment Assistance Act of 1974), y sus modificaciones, 38 U.S.C., 4212, prohíbe toda discriminación laboral y requiere la acción afirmativa de emplear y avanzar en el empleo de veteranos de Vietnam idóneos, veteranos idóneos con discapacidades especiales, veteranos recientemente retirados y otros veteranos bajo protección. Un veterano recientemente retirado es todo veterano durante el período de tres años a partir de la fecha en que fue dado de baja o dejó el servicio activo en el Ejército, la Marina o la Fuerza Aérea de los EE. UU.

**REPRESALIA**

Queda prohibida toda represalia contra una persona que presenta un cargo de discriminación, participa en un procedimiento del Programa OFCCP o, de alguna otra manera, se opone a la discriminación de conformidad con las leyes federales.

Toda persona que cree que un contratista ha violado sus obligaciones de no discriminación o acción afirmativa, según las fuentes anteriores, debe ponerse en contacto de inmediato con:

La Oficina de Programas de Cumplimiento de Contratos Federales (The Office of Federal Contract Compliance Programs-OFCCP), Employment Standards Administration, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, DC 20210, (202) 693-0101 o llamar a una oficina de la OFCCP regional o de distrito consignada en la mayor parte de los directorios telefónicos en U.S. Government, Department of Labor (Gobierno de los EE.UU., Departamento de Trabajo). Para personas con discapacidad auditiva, el número TTY de la OFCCP es (202) 693-1337.

## **Empleo privado, gobiernos estatales y locales, instituciones educativas, agencias de empleo y organizaciones laborales**

Los empleados y postulantes a empleos de la mayor parte de los empleadores privados, gobiernos estatales y locales, instituciones educativas, agencias de empleo y organizaciones laborales gozan de la protección otorgada por las siguientes leyes federales:

### **RAZA, COLOR, RELIGIÓN, SEXO, NACIONALIDAD**

La Ley de Derechos Civiles de 1964, Título VII (The Civil Rights Act of 1990), y sus modificaciones, prohíbe toda discriminación en relación con la contratación, ascenso, despido, remuneración, compensaciones adicionales, capacitación, clasificación, referencias, y otros aspectos laborales, en razón de la raza, el color de la piel, la religión, el sexo (incluidos embarazo y acoso sexual) o la nacionalidad. Por discriminación religiosa se entiende, entre otros, la falta de adaptación razonable para las prácticas religiosas de un empleado siempre que la adaptación no provoque una dificultad económica excesiva.

### **DISCAPACIDAD**

La ley de Estadounidenses con Discapacidades de 1990 (The Americans with Disabilities Act of 1990-ADA), Títulos I y V, con sus modificaciones, protege a empleados y postulantes idóneos con discapacidades contra la discriminación en relación con la contratación, ascenso, despido, remuneración, capacitación, beneficios adicionales, clasificación, referencias y otros aspectos laborales en razón de la discapacidad.

La ley también requiere que las entidades contempladas provean las adaptaciones razonables que necesiten los empleados y postulantes con discapacidades, a menos que esas adaptaciones causen una dificultad económica excesiva al empleador.

### **EDAD**

La Ley de Discriminación Laboral por Edad de 1967 (The Age Discrimination in Employment Act of 1967), con sus modificaciones, protege a los empleados y postulantes de 40 años o más contra la discriminación por edad en relación con la contratación, ascenso, despido, compensaciones, condiciones o privilegios laborales.

### **SEXO (SALARIOS)**

Además de la discriminación sexual prohibida por la Ley de Derechos Civiles de 1964, Título VII, y sus modificaciones, la Ley de Igualdad en las Remuneraciones de 1963, con sus modificaciones, prohíbe la discriminación sexual en el pago de salarios a mujeres y hombres que básicamente realicen igual trabajo, en empleos que requieren igual capacidad, esfuerzo y responsabilidad, en condiciones laborales similares y en el mismo establecimiento.

## **REPRESALIA**

Queda prohibida toda represalia contra una persona que presenta un cargo de discriminación, participa en un procedimiento de contra la discriminación o, de alguna otra manera, se opone a la discriminación de conformidad con las leyes federales.

Si cree que ha sufrido alguna discriminación, de conformidad con algunas de las leyes anteriores, y para garantizar que cumple con los estrictos cronogramas procesales a fin de preservar la capacidad de la EEOC para investigar su queja y para proteger su derecho a iniciar una demanda privada, debe ponerse en contacto de inmediato con:

La Comisión Federal de Igualdad de Oportunidades de Empleo de los EE.UU. (The US Equal Employment Opportunity Commission-EEOC), Washington, DC 20507 ó con una oficina de la EEOC telefónicamente a la línea gratuita (1-800) 669-4000. Para las personas con discapacidad auditiva, la línea gratuita TTY de la EEOC es 1-800 669-6820.

### **Programas o actividades que reciben apoyo financiero federal**

## **RAZA, COLOR, SEXO, NACIONALIDAD**

Además del Título VII de la Ley de Derechos Civiles de 1964, con sus modificaciones, el Título VI de la misma ley prohíbe la discriminación por raza, color de piel o nacionalidad en programas y actividades que reciben apoyo financiero federal. La discriminación laboral está contemplada en el Título VI si el objetivo principal del apoyo financiero es la provisión de empleo, o siempre que la discriminación laboral cause, o pueda causar, discriminación en la provisión de servicios en el marco de esos programas.

El Título IX de las Modificaciones de 1972 a la Ley de Educación (Education Amendments of 1972) prohíbe la discriminación laboral en razón de sexo en los programas o actividades educativas que reciben apoyo federal.

## **PERSONAS CON DISCAPACIDADES**

El Artículo 504 de la Ley de Rehabilitación de 1973 , con sus modificaciones, prohíbe la discriminación laboral por discapacidad en todo programa o actividad que recibe apoyo financiero federal en el gobierno federal y las agencias públicas o privadas.

Queda prohibida la discriminación en todos los aspectos laborales contra personas con discapacidades que puedan realizar las tareas esenciales relacionadas con ese puesto, sin perjuicio de que resulte o no necesario efectuar una adaptación razonable

Si cree que ha sufrido discriminación en relación con un programa de cualquier institución que reciba apoyo federal, debe contactarse de inmediato con la agencia federal que brinda ese apoyo.

Publicación OFCCP 1420  
Se revisó en agosto de 2008



# Job Safety and Health It's the law!

**OSHA**  
Occupational Safety  
and Health Administration  
U.S. Department of Labor

## EMPLOYEES:

- You have the right to notify your employer or OSHA about workplace hazards. You may ask OSHA to keep your name confidential.
- You have the right to request an OSHA inspection if you believe that there are unsafe and unhealthful conditions in your workplace. You or your representative may participate in that inspection.
- You can file a complaint with OSHA within 30 days of retaliation or discrimination by your employer for making safety and health complaints or for exercising your rights under the *OSH Act*.
- You have the right to see OSHA citations issued to your employer. Your employer must post the citations at or near the place of the alleged violations.
- Your employer must correct workplace hazards by the date indicated on the citation and must certify that these hazards have been reduced or eliminated.
- You have the right to copies of your medical records and records of your exposures to toxic and harmful substances or conditions.
- Your employer must post this notice in your workplace.
- You must comply with all occupational safety and health standards issued under the *OSH Act* that apply to your own actions and conduct on the job.

## EMPLOYERS:

- You must furnish your employees a place of employment free from recognized hazards.
- You must comply with the occupational safety and health standards issued under the *OSH Act*.

**This free poster available from OSHA –  
The Best Resource for Safety and Health**



Free assistance in identifying and correcting hazards or complying with standards is available to employers, without citation or penalty, through OSHA-supported consultation programs in each state.

**1-800-321-OSHA**  
[www.osha.gov](http://www.osha.gov)

OSHA 3165-12-06R



# Seguridad y Salud en el Trabajo ¡Es la Ley!

# OSHA

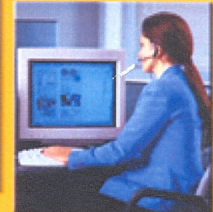
Administración de Seguridad  
y Salud Ocupacional  
Departamento del Trabajo  
de los Estados Unidos

## EMPLEADOS:

- Usted tiene el derecho de notificar a su empleador o a la OSHA sobre peligros en el lugar de trabajo. Usted también puede pedir que la OSHA no revele su nombre.
- Usted tiene el derecho de pedir a la OSHA que realice una inspección si usted piensa que en su trabajo existen condiciones peligrosas o poco saludables. Usted o su representante pueden participar en esa inspección.
- Usted tiene 30 días para presentar una queja ante la OSHA si su empleador llega a tomar represalias o discriminar en su contra por haber denunciado la condición de seguridad o salud o por ejercer los derechos consagrados bajo la Ley OSH.
- Usted tiene el derecho de ver las citaciones enviadas por la OSHA a su empleador. Su empleador debe colocar las citaciones en el lugar donde se encontraron las supuestas infracciones o cerca del mismo.
- Su empleador debe corregir los peligros en el lugar de trabajo para la fecha indicada en la citación y debe certificar que dichos peligros se hayan reducido o desaparecido.
- Usted tiene derecho de recibir copias de su historial o registro médico y el registro de su exposición a sustancias o condiciones tóxicas o dañinas.
- Su empleador debe colocar este aviso en su lugar de trabajo.
- Usted debe cumplir con todas las normas de seguridad y salud ocupacionales expedidas conforme a la Ley OSH que sean aplicables a sus propias acciones y conducta en el trabajo.

## EMPLEADORES:

- Usted debe proporcionar a sus empleados un lugar de empleo libre de peligros conocidos.
- Usted debe cumplir con las normas de seguridad y salud ocupacionales expedidas conforme a la Ley OSH.



Los empleadores pueden obtener ayuda gratis para identificar y corregir las fuentes de peligro y para cumplir con las normas, sin citación ni multa, por medio de programas de consulta respaldados por la OSHA en cada estado del país.

**1-800-321-OSHA**  
[www.osha.gov](http://www.osha.gov)

OSHA 3167-01-07R



You can find the fillable .pdf file at: <http://www.dol.gov/esa/whd/forms/wh347.pdf>  
 1 of 3 pages



**PAYROLL**

**U.S. Department of Labor**  
 Employment Standards Administration  
 Wage and Hour Division

(For Contractor's Optional Use; See Instructions at [www.dol.gov/esa/whd/forms/wh347instr.htm](http://www.dol.gov/esa/whd/forms/wh347instr.htm))

*Persons are not required to respond to the collection of information unless it displays a currently valid OMB control number.*

Rev. Dec. 2008

OMB No.: 1215-0149  
 Expires: 12/31/2011

ADDRESS

NAME OF CONTRACTOR  OR SUBCONTRACTOR

PROJECT OR CONTRACT NO.

PROJECT AND LOCATION

FOR WEEK ENDING

PAYROLL NO.

(1) NAME AND INDIVIDUAL IDENTIFYING NUMBER (e.g., LAST FOUR DIGITS OF SOCIAL SECURITY NUMBER) OF WORKER	(2) NO. OF EXEMPTIONS WITHHOLDING	(3) WORK CLASSIFICATION	(4) DAY AND DATE			(5) TOTAL HOURS WORKED EACH DAY	(6) RATE OF PAY	(7) GROSS AMOUNT EARNED	(8) DEDUCTIONS			(9) NET WAGES PAID FOR WEEK
			TO	OR	ST				FICA	WITH- HOLDING TAX	OTHER	

While completion of Form WH-347 is optional, it is mandatory for covered contractors and subcontractors performing work on Federally financed or assisted construction contracts to respond to the information collection contained in 29 C.F.R. §§ 3.3, 5.5(a). The Consolidated Act (40 U.S.C. § 3145) and Subcontractors Reporting Burden Reduction Act (Public Law 111-212) require contractors to submit weekly a copy of all payrolls to the Federal agency contracting for or financing the construction project, accompanied by a signed "Statement of Compliance" indicating that the payrolls are correct and complete and that each laborer or mechanic has been paid not less than the proper Davis-Bacon prevailing wage rate for the work performed. DOL and federal contracting agencies receiving this information review the information to determine that employees have received legally required wages and fringe benefits.

**Public Burden Statement**  
 We estimate that it will take an average of 55 minutes to complete this collection, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. If you have any comments regarding these estimates or any other aspect of this collection, including suggestions for reducing this burden, send them to the Administrator, Wage and Hour Division, ESA, U.S. Department of Labor, Room S5502, 200 Constitution Avenue, N.W., Washington, D.C. 20210

(over)

Date \_\_\_\_\_

I, \_\_\_\_\_  
(Name of Signatory Party) (Title)

do hereby state:

(1) That I pay or supervise the payment of the persons employed by

\_\_\_\_\_ on the  
(Contractor or Subcontractor)

\_\_\_\_\_ ; that during the payroll period commencing on the  
(Building or Work)

\_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_, and ending the \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_,  
all persons employed on said project have been paid the full weekly wages earned, that no rebates have  
been or will be made either directly or indirectly to or on behalf of said

\_\_\_\_\_ from the full  
(Contractor or Subcontractor)

weekly wages earned by any person and that no deductions have been made either directly or indirectly  
from the full wages earned by any person, other than permissible deductions as defined in Regulations, Part  
3 (29 C.F.R. Subtitle A), issued by the Secretary of Labor under the Copeland Act, as amended (48 Stat. 948,  
63 Stat. 108, 72 Stat. 967; 76 Stat. 357; 40 U.S.C. § 3145), and described below:

(2) That any payrolls otherwise under this contract required to be submitted for the above period are  
correct and complete; that the wage rates for laborers or mechanics contained therein are not less than the  
applicable wage rates contained in any wage determination incorporated into the contract; that the  
classifications set forth therein for each laborer or mechanic conform with the work he performed.

(3) That any apprentices employed in the above period are duly registered in a bona fide  
apprenticeship program registered with a State apprenticeship agency recognized by the Bureau of  
Apprenticeship and Training, United States Department of Labor, or if no such recognized agency exists in a  
State, are registered with the Bureau of Apprenticeship and Training, United States Department of Labor.

(4) That:

(a) WHERE FRINGE BENEFITS ARE PAID TO APPROVED PLANS, FUNDS, OR PROGRAMS

— in addition to the basic hourly wage rates paid to each laborer or mechanic listed in  
the above referenced payroll, payments of fringe benefits as listed in the contract  
have been or will be made to appropriate programs for the benefit of such  
employees, except as noted in section 4(c) below.

(b) WHERE FRINGE BENEFITS ARE PAID IN CASH

- Each laborer or mechanic listed in the above referenced payroll has been paid, as indicated on the payroll, an amount not less than the sum of the applicable basic hourly wage rate plus the amount of the required fringe benefits as listed in the contract, except as noted in section 4(c) below.

(c) EXCEPTIONS

EXCEPTION (CRAFT)	EXPLANATION

REMARKS:

NAME AND TITLE	SIGNATURE
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THE WILLFUL FALSIFICATION OF ANY OF THE ABOVE STATEMENTS MAY SUBJECT THE CONTRACTOR OR SUBCONTRACTOR TO CIVIL OR CRIMINAL PROSECUTION. SEE SECTION 1001 OF TITLE 18 AND SECTION 231 OF TITLE 31 OF THE UNITED STATES CODE.

## **INSTRUCTIONS FOR COMPLETING PAYROLL FORM, WH-347**

**General:** The use of the WH-347 payroll form is not mandatory. This form has been made available for the convenience of contractors and subcontractors required by their Federal or Federally-aided construction-type contracts and subcontracts to submit weekly payrolls. Properly filled out, this form will satisfy the requirements of Regulations, Parts 3 and 5 (29 CFR, Subtitle A), as to payrolls submitted in connection with contracts subject to the Davis-Bacon and related Acts.

This form meets needs resulting from the amendment of Davis-Bacon Act to include fringe benefits provisions. Under this amended law, the contractor is required to pay not less than fringe benefits as predetermined by the Department of Labor, in addition to payment of not less than the predetermined rates. The contractor's obligation to pay fringe benefits may be met either by payment of the fringes to the various plans, funds or programs or by making these payments to the employees as cash in lieu of fringes.

This payroll provides for the contractor's showing on the face of the payroll all monies to the employees, whether as basic rates or as cash in lieu of fringes and provides for the contractor's representation in the statement of compliance on the rear of the payroll that he is paying to other fringes required by the contract and not paid as cash in lieu of fringes. Detailed instructions concerning the preparation of the payroll follow:

**Contractor or Subcontractor:** Fill in your firm's name and check appropriate box.

**Address:** Fill in your firm's address.

**Column 1 - Name, Address and Social Security Number of Employee:** The employee's full name and Social Security Number must be shown on each weekly payroll submitted. The employee's address must also be shown on the payroll covering the first week in which the employee works on the project. The address need not be shown on subsequent weekly payrolls unless his address changes.

**Column 2 - Withholding Exemptions:** This column is merely inserted for the employer's convenience and is not a requirement of Regulations, Parts 3 and 5.

**Column 3 - Work Classifications:** List classification description of work actually performed by employees. Consult classification and minimum wage schedule set forth in contract specifications. If additional classifications are deemed necessary, see Contracting Officer or Agency representative. Employee may be shown as having worked in more than one classification provided accurate breakdown or hours so worked is maintained and shown on submitted payroll by use of separate entries.

**Column 4 - Hours Worked:** On all contracts subject to the Contract Work Hours Standard Act enter as overtime hours worked in excess of 40 hours a week.

**Column 5 - Total:** Self-explanatory

**Column 6 - Rate of Pay, including fringe benefits:** In straight time box, list actual hourly rate paid the employee for straight time worked plus any cash in lieu of fringes paid the employee. When recording the straight time hourly rate, any cash paid in lieu of fringes may be shown separately from the basic rate, thus \$5.00/.5. This is of assistance in correctly computing overtime. See “fringe benefits” below. In overtime box shown overtime hourly rate paid, plus any cash in lieu of fringes paid the employee. See “fringe benefits” below. Payment of not less than time and one-half the basic or regular rate paid is required for overtime under the Contract Work Hours Standard Act of 1962. In addition to paying no less than the predetermined rate for the classification which the employee works, the contractor shall pay to approved plans, funds, or programs or shall pay as cash in lieu of fringes, amounts predetermined as fringe benefits in the wage decision made part of the contract. See “fringe benefits” below.

**Fringe Benefits - Contractors who pay all required fringe benefits:** A contractor who pays fringe benefits to approved plans, funds or programs in amounts not less than were determined in the applicable wage decision of the Secretary of Labor shall continue to show on the face of the payroll the basic cash hourly rate and overtime rate paid to his employees just as he has always done. Such a contractor shall check paragraph 4(a) of the statement on the reverse of the payroll to indicate that he is also paying to approved plans, funds or programs not less than the amount predetermined as fringe benefits for each craft. Any exceptions shall be noted in section 4(c).

**Contractors who pay no fringe benefits:** A contractor who pays no fringe benefits shall pay to the employee, and insert in the straight time hourly rate column of the payroll, an amount not less than the predetermined rate for each classification plus the amount of fringe benefits determined for each classification in the applicable wage decision. Inasmuch as it is not necessary to pay time and a half on cash paid in lieu of fringes, the overtime rate shall be not less than the sum of the basic predetermined rate, plus the half time premium on basic or regular rate, plus the required cash in lieu of fringes at the straight time rate. In addition, the contractor shall check paragraph 4(b) of the statement on the reverse of the payroll to indicate that he is paying fringe benefits in cash directly to his employees. Any exceptions shall be noted in Section 4(c).

### **Use of Section 4(c), Exceptions**

Any contractor who is making payment to approved plans, funds or programs in amounts less than the wage determination required is obliged to pay the deficiency directly to the employees as cash in lieu of fringes. Any exceptions to Section 4(a) or 4(b), whichever the contractor may check, shall be entered in section 4(c). Enter in the Exception column the craft, and enter in the Explanation column the hourly amount paid the employee as cash in lieu of fringes and the hourly amount paid to plans, funds, or programs as fringes. The contractor shall pay, and shall show that he is paying to each such employee for all hours (unless otherwise provided by applicable determination) worked on Federal or Federally assisted project an amount not less than the predetermined rate plus cash in lieu of fringes as shown in Section 4(c). The rate paid and amount of cash paid in lieu of fringe benefits per hour should be entered in column 6 on the payroll. See paragraph on, “Contractors who pay no fringe benefits” for computation of overtime rate.



**Column 7 - Gross Amount Earned:** Enter gross amount earned on this project. If part of the employees' weekly wage was earned on projects other than the project described on this payroll, enter in column 7 first the amount earned on the Federal or Federally assisted project and then the gross amount earned during the week on all projects, thus \$63.00/\$120.00.

**Column 8 - Deductions:** Five columns are provided for showing deductions made. If more than five deductions should be involved, use first 4 columns; show the balance deductions under "Other" column; show actual total under "Total Deductions" column; and in the attachment to the payroll describe the deduction contained in the "Other" column. All deductions must be in accordance with the provisions of the Copeland Act Regulations, 29 CFR, Part 3. If the employee worked on other jobs in addition to this project, show actual deductions from his weekly gross wage, but indicate that deductions are based on his gross wages.

**Column 9 - Net Wages Paid for Week:** Self-explanatory

**Totals** - Space has been left at the bottom of the columns so that totals may be shown if the contractor so desires.

**Statement Required by Regulations, Parts 3 and 5:** While this form need not be notarized, the statement on the back of the payroll is subject to the penalties provided by 18 USV 1001, namely, possible imprisonment of five (5) years or \$10,000.00 fine or both. Accordingly, the party signing this statement should have knowledge of the facts represented as true.

Space has been provided between items (1) and (2) of the statement for describing any deductions made. If all deductions made are adequately described in the "Deductions" column above, state "See Deductions column in this payroll." See paragraph entitled "FRINGE BENEFITS" above for instructions concerning filling out paragraph 4 of the statement.

You can find the fill able word document at:  
<http://www.hud.gov/offices/adm/hudclips/forms/files/11.doc>

**Record of  
Employee Interview**

**U.S. Department of Housing  
and Urban Development  
Office of Labor Relations**

OMB Approval No. 2501-0009  
(exp. 10/31/2010)

Public reporting burden for this collection of information is estimated to average 15 minutes 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 collect this information, and you are not required to complete this form, unless it displays a currently valid OMB control number. The information is collected to ensure compliance with the Federal labor standards by recording interviews with construction workers. The information collected will assist HUD in the conduct of compliance monitoring; the information will be used to test the veracity of certified payroll reports submitted by the employer. **Sensitive Information.** The information collected on this form is considered sensitive and is protected by the Privacy Act. The Privacy Act requires that these records be maintained with appropriate administrative, technical, and physical safeguards to ensure their security and confidentiality. In addition, these records should be protected against any anticipated threats or hazards to their security or integrity that could result in substantial harm, embarrassment, inconvenience, or unfairness to any individual on whom the information is maintained. **The information collected herein is voluntary, and any information provided shall be kept confidential.**

1a. Project Name			2a. Employee Name		
1b. Project Number			2b. Employee Phone Number (including area code)		
1c. Contractor or Subcontractor (Employer)			2c. Employee Home Address & Zip Code		
			2d. Verification of identification? Yes <input type="checkbox"/> No <input type="checkbox"/>		
3a. How long on this job?	3b. Last date on this job before today?	3c. No. of hours last day on this job?	4a. Hourly rate of pay?	4b. Fringe Benefits?	
				Vacation Yes <input type="checkbox"/> No <input type="checkbox"/>	4c. Pay stub? Yes <input type="checkbox"/> No <input type="checkbox"/>
				Medical Yes <input type="checkbox"/> No <input type="checkbox"/>	
				Pension Yes <input type="checkbox"/> No <input type="checkbox"/>	
5. Your job classification(s) (list all) --- continue on a separate sheet if necessary					
6. Your duties					
7. Tools or equipment used					
8. Are you an apprentice or trainee? Y <input type="checkbox"/> N <input type="checkbox"/>					
9. Are you paid for all hours worked? Y <input type="checkbox"/> N <input type="checkbox"/>					
10. Are you paid at least time and 1/2 for all hours worked in excess of 40 in a week? Y <input type="checkbox"/> N <input type="checkbox"/>					
11. Have you ever been threatened or coerced into giving up any part of your pay? Y <input type="checkbox"/> N <input type="checkbox"/>					
12a. Employee Signature			12b. Date		
13. Duties observed by the Interviewer (Please be specific.)					
14. Remarks					
15a. Interviewer name (please print)		15b. Signature of Interviewer		15c. Date of interview	

**Payroll Examination**

16. Remarks	
17a. Signature of Payroll Examiner	17b. Date

Previous editions are obsolete

Form HUD-11 (08/2004)

**NOTICE OF COMPLETION/FINAL INSPECTION  
AND  
FINAL WAGE COMPLIANCE REPORT FORMAT**

To: NSP/CDBG Field Representative  
Kansas Department of Commerce

Date \_\_\_\_\_

Grantee: \_\_\_\_\_

Grant Number: \_\_\_\_\_

1. Date of Construction Completion: \_\_\_\_\_

2. Date of Final Inspection: \_\_\_\_\_

**FINAL WAGE COMPLIANCE REPORT FORMAT**

While you or your representative were reviewing the contractor's weekly payrolls, were any laborers or mechanics paid less than the minimum wage rate plus fringe benefits as specified in the Secretary of Labor's Wage Decision that applied to this project?

No       YES

If yes, provide the following information:

a. Total amount of restitution paid (difference between what was first paid and what was required to be paid): \$ \_\_\_\_\_

b. Method of restitution:  
 paid by contractor(s)  
 paid by city with funds withheld from payment to contractor(s)

Name of Contractor or Subcontractor	Name of Affected Employees	Amount of Restitution Paid to Employee	Nature of Violation Leading to Restitution
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____

\_\_\_\_\_  
Signature of Chief Elected Official      Typed Name      Date

**CONSTRUCTION CHECKLIST**

	DATE
Determine if project is covered by Davis-Bacon	_____
Assign Labor Standards Officer	_____
Obtain federal wage decisions	_____
Review wage decisions, determine if additional decisions are required	_____
If additional classification is necessary, submit Report of Additional Classification and Rate (Appendix F) to Commerce	_____
Ten days before bid opening, determine if wage decisions are still current	_____
Review bid packages for completeness	_____
Federal wage decision	_____
Federal labor provisions (Appendix H)	_____
Payroll Form WH-347 (Appendix La)	_____
Determine if bonding requirements have been met	_____
Review by City/County Attorney	_____
Prepare minutes of bid opening	_____
Tabulate bids	_____
Make recommendation for award	_____
Verify contractor eligibility with Commerce	_____
Execute contract	_____
Hold pre-construction conference using format in (Appendix I). Obtain signatures at pre-construction conference.	_____
Submit Notice of Start of Construction (Appendix E) to Commerce	_____
Conduct project compliance reviews	_____
Review weekly payrolls and statements of compliance	_____
Contact CDBG Field Representative to schedule monitoring visit	_____
Determine that federal wage decision and Notice to Employees Poster (Appendix J) is posted at job site	_____
Conduct employee interviews using Record of Employee Interview form (Appendix M)	_____
Submit Notice of Completion/Final Inspection and Final Wage Compliance Report (Appendix N)	_____



Office of the Assistant to the Secretary for Labor Relations

## LABOR RELATIONS LETTERS

RECEIVED  
JUL 28 2005  
CDBG

Date: December 2, 1996 (Rev 1)

Letter No. LR-96-01

**Subject: Labor standards compliance requirements for self-employed laborers and mechanics (aka *Working Subcontractors*)**

- I. HUD policy on prevailing wage applicability.**
- II. Compliance and certification parameters.**
- III. Owners of businesses working with their crews.**
- IV. Owner-Operators of power equipment.**
- V. Truck drivers.**

The Federal prevailing wage requirements and compliance standards for self-employed laborers and mechanics (also referred to as "working subcontractors") have long been a confusing and contentious area for the Department of Labor (DOL), HUD, the Internal Revenue Service and contractors and subcontractors.

The following policy represents an effort to provide practical guidance for field application. The guidance more specifically concerns the wage certification requirements for self-employed mechanics and laborers on projects subject to Federal labor standards provisions including Davis-Bacon and HUD-determined maintenance and nonroutine maintenance prevailing wage rate determinations. This policy does not attempt to establish whether working subcontractors are subject to Federal labor standards nor whether such working subcontractors are *bona fide*. The clear meaning of statutory provisions and regulatory definitions does not require further examination of applicability. Additionally, statutory and regulatory language are clear that the question of whether certain self-employed laborers and mechanics are *bona fide* subcontractors is not germane to the issue of prevailing wage standard applicability.<sup>1</sup>

<sup>1</sup>The DOL has issued an administrative policy which excludes "bona fide owner-operators of trucks who are independent contractors" from DBRA/CWSSA provisions. See paragraph V. of this Letter.

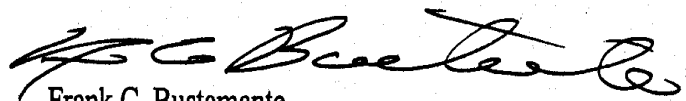
SL: Distribution: W-3-1; R-1; R-6; R-7; R-9; SL: 138-2; 138-7

Also, HUD's Office of Labor Relations responsible for labor standards administration and enforcement *may not* accept certified payrolls reporting single or multiple owners (e.g., partners) certifying that they have paid to themselves the prevailing wage for their craft. For example, a sole-proprietor may not submit a payroll reporting himself or herself as simply "Owner" signing the certification as to his/her own wage payment from "draws" or other payment methods. Neither may several mechanics submit a payroll reporting themselves as "partners" with one or more certifying as to the payment of their wages or salaries. Such mechanics must instead be carried on the certified payroll of the contractor or subcontractor (the "responsible employer") for whom they are working and with whom they have executed a "contract" for services.

Enclosed is a copy of the Labor Relations *Letter* LR-96-01 for your review.

Should you or members of your staff have any questions concerning this *Letter* they may be directed to Headquarters Office of Labor Relations at (202) 708-0370 or in the case of construction projects/program participants to HUD Labor Relations staff at (913) 551-6882/6883/5577.

Sincerely,



Frank C. Bustamante  
Regional Labor Relations Officer



I. HUD policy on prevailing wage applicability.

The Davis-Bacon Act (DBA), HUD program Related Acts (DBRA) concerning the payment of prevailing wages as determined by the Secretary of Labor, and the U.S. Housing Act of 1937 concerning the payment of prevailing wage rates established by HUD provide that the wage protections afforded in these statutes apply to laborers and mechanics employed on the covered work. The DBA and DBRA implementing regulations (29 CFR Part 5) specifically stipulate that these protections are provided **regardless of any contractual relationship which may be alleged to exist** between the contractor and such laborers and mechanics. Additionally, all laborers and mechanics must be paid unconditionally and not less often than once per week. HUD has followed DBA/DBRA prevailing wage parameters in its implementation, administration and enforcement of HUD-determined maintenance and nonroutine maintenance prevailing wage standards. (*NOTE: The requirement to pay weekly wages is not applicable to the payment of prevailing routine maintenance wage rates related to laborers and mechanics engaged in the operation of PHA and IHA housing developments.*)

Therefore, it is HUD policy that in all cases where laborers and mechanics are employed on Federal prevailing wage-covered construction, maintenance and nonroutine maintenance work, laborers and mechanics shall be entitled to compensation (in the case of Davis-Bacon wages, *weekly* compensation) at wage rates not less than the prevailing rate for the type of work they perform **regardless of any contractual relationship alleged to exist between a contractor or subcontractor and such laborers or mechanics.**

The above policy statement is not a departure from previous HUD directives. The guidance presented below establishes uniform HUD-assisted program contract administration and enforcement parameters for labor standards compliance and prevailing wage certification.

II. Compliance and certification parameters.

HUD policy clearly affords prevailing wage protection for all laborers and mechanics, regardless of contractual relationship. There is no exception to this protection for self-employed laborers or mechanics, including owners of businesses, sole-proprietors, partners, corporate officers, or others. This policy in no way precludes or limits any business or individual from participating in HUD-assisted construction, maintenance, or nonroutine maintenance work. The



issue is not one of *eligibility*, whether such persons are permitted to work on HUD-assisted projects, but of compliance standards - what HUD will accept from contractors and subcontractors to demonstrate that proper compliance has been achieved.

In this context, this Letter establishes a HUD administrative policy that laborers and mechanics may not certify to the payment of their **own** prevailing wages *EXCEPT* where the laborer or mechanic is the owner of a business working on the site of the work with his/her own crew. (This exception is described in detail in Paragraph III. Owner-operators of power equipment are discussed in Paragraph IV; Truck drivers are discussed in Paragraph V.)

The most frequent occurrence of self-employed workers on HUD-assisted projects involves mechanic/trade classifications (i.e., not laborer classifications). (For ease of reference, laborers and mechanics in this context are referred to as "mechanics" and include any case involving laborers.) These mechanics may be represented as sole-proprietors, self-employed mechanics, partners, or corporate officers - all with no direct employees engaged in the covered work.

Accordingly, HUD, and program participants responsible for labor standards administration and enforcement (e.g., PHAs, IHAs, CDBG recipients), *may not* accept certified payrolls reporting single or multiple owners (e.g., partners) certifying that they have paid to themselves the prevailing wage for their craft. For example, a sole-proprietor may not submit a payroll reporting himself or herself as simply "Owner" signing the certification as to his/her own wage payment from "draws" or other payment methods. Neither may several mechanics submit a payroll reporting themselves as "partners" with one or more certifying as to the payment of their wages or salaries. Such mechanics must instead be carried on the certified payroll of the contractor or subcontractor (the "responsible employer") for whom they are working and with whom they have executed a "contract" for services.

In these cases, maintenance of an accurate accounting of weekly work hours including any overtime hours for such mechanics is essential. Whatever method of compensation computation is utilized (piecework, weekly contract draw for performance), the amount of weekly compensation divided by the actual hours of work performed for that week must result in an "effective" hourly wage rate for that week that is not less than the prevailing hourly rate for the type of work involved. This computation must take into account overtime pay rates (i.e., one and one half) for all hours worked in excess of 40 hours per



week, pursuant to the Contract Work Hours and Safety Standards Act (CWHSSA), where applicable, and pursuant to the Fair Labor Standards Act where CWHSSA is not applicable.

The name, work classification, actual hours of work, effective hourly wage rate, and wage payment for each such mechanic must be reported and certified on the responsible employer's weekly payroll. Note that the effective hourly wage rate for such mechanics may fluctuate from week to week. However, the effective hourly wage rate *may not* be less than the minimum prevailing rate for the respective craft. In any case where the effective rate falls below the corresponding craft prevailing wage rate, the responsible employer must compensate the mechanic at no less than the prevailing rate on the wage determination for that craft.

### III. Owners of businesses working with their crew.

Owners of businesses working with their crew on the same HUD-assisted job site may certify to the payment of their own prevailing wages in conjunction with the prevailing wages paid to their employees. This exception to reporting standards *does not* suggest that such owners are not likewise entitled to prevailing wages for their labor. Rather, it accepts the wage payment certification on weekly payroll reports by the owner for his/her own wages as that certification *accompanies* the certification offered for the payment of prevailing wages to his/her employees. Such owners need only list their name, work classification including "owner," and the daily and total hours worked. (Such owners *do not* need to list a rate of pay or amounts earned.)

### IV. Owner-operators of power equipment.

Frequently, *owner-operators of power equipment* (e.g., backhoes, front-end loaders) will contract for services at a rate for both "man and machine." In these cases, the owner-operator includes liability, equipment maintenance, and salary in an hourly or contract rate for services. Because of the prevalence of such practice and the inherent difficulty in ascribing costs for liability and maintenance costs versus hourly *labor* salary, HUD and its program clients may accept a combined ("man and machine") hourly rate on the responsible contractor's certified payroll provided that such hourly rate may not be less than the rate on the wage determination for the respective power equipment operator.



*Note:* Owner-operators of power equipment, like self-employed mechanics, *may not* submit their own payrolls certifying to the payment of their own wages BUT must be carried on the responsible contractor's certified payroll report.

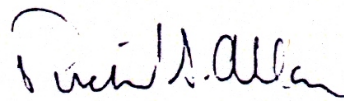
V. Truck drivers.

As outlined earlier in this Letter, a DOL administrative policy excludes *bona fide owner-operators of trucks who are independent contractors* from DBRA/CWHSSA provisions concerning their own hours of work and rate(s) of pay. These truck "owner-operators" must be reported on weekly payrolls *but* the payrolls do not need to show the hours worked or rates - only the notation "Owner-operator." *Note* that any laborers or mechanics, including truck drivers, employed by the owner-operator/independent contractor are subject to DBRA/CWHSSA provisions in the usual manner.

This policy *does not* pertain to owner-operators of other equipment such as backhoes, bulldozers, cranes and scrapers (i.e., power equipment as noted in paragraph IV, above).

These compliance standards shall take effect immediately. Any exceptions to these standards must be approved in advance in writing by HUD Headquarters Office of Labor Relations.

Any questions concerning this *Letter* may be directed to the Office of Labor Relations at (202)708-0370 or, in the case of HUD program participants, to the HUD Field Labor Relations Staff with jurisdiction for your area.



Assistant to the Secretary for  
Labor Relations

Richard\_S.\_Allan@HUD.gov

*Visit the Office of Labor Relations on the World Wide Web HUD Home Page at  
<http://www.hud.gov/>*

## **Section 10: Civil Rights**

This section discusses the laws, activities, and forms necessary for civil rights compliance.

- A. The grantee and all contractors on NSP projects must comply with civil rights regulations in the following four areas:
  - 1. Demographics/Project Beneficiaries
  - 2. Fair Housing
  - 3. Contracting Opportunities
  - 4. Employment Opportunities
  
- B. Further considerations for grantees:
  - 1. Grantees and contractors must demonstrate they afford equal employment opportunities to all persons;
  - 2. Grantees must take affirmative steps to ensure that minority groups are informed of grant opportunities;
  - 3. Grantees must demonstrate that their program benefits are not awarded in ways that discriminate; and
  - 4. Grantees must take affirmative steps to promote fair and equal access to housing, regardless of the type of grant.

### **I. APPLICABLE CIVIL RIGHTS LAWS**

- A. The grantee must follow all civil rights laws, executive orders, and regulations applicable to NSP programs. These requirements are set forth in:
  - 1. Title VI of the Civil Rights Act of 1964
  - 2. Title VIII of the Civil Rights Act of 1968, as amended by the Housing Act of 1974
  - 3. Section 109 of the Housing and Community Development Act of 1974, as amended

4. Section 3 of the Housing and Urban Development Act of 1968, as amended through 1994, and implemented by 24 CFR 135
5. Section 503 of the Rehabilitation Act of 1973, as amended
6. Section 504 of the Rehabilitation Act of 1973, as amended
7. Age Discrimination Act of 1975, as amended
8. Executive Order 11063 (1962)
9. Executive Order 11246 (1965), as amended
10. 24 CFR 85, as modified by CFR 570, Subpart J
11. Title I of the Housing and Community Development Act of 1974, as amended
12. Section 519, Public Law 101-144 (1990 HUD Appropriation Act)
13. Cranston-Gonzales National Affordable Housing Act (Sections 906 and 912)
14. Kansas Act Against Discrimination
15. Fair Housing Amendment Act of 1988

A list of civil rights laws, executive orders, and regulations applicable to NSP projects can be found in Appendix B. The grantee must assure that all applicable provisions are included in all contracts over \$10,000.

## **II. AREAS OF COMPLIANCE**

### **A. Demographics/Project Beneficiaries**

The civil rights laws and regulations are designed to protect individuals from discrimination on the basis of race, national origin, religion, color, sex, age, disability, or family status. This applies to the grantee of NSP funds and to all contractors and subcontractors involved. To determine this, demographic data must be maintained on all beneficiaries on the project. For “direct” beneficiary activities, demographic data must be obtained for all applicants for benefits.



1. Direct Beneficiaries

For purposes of the NSP program, the term “direct beneficiary” is defined as person(s) and/or household(s) receiving a direct service (benefit) for which the beneficiary is required to either (a) complete a personal record form or (b) submit an application for the purpose of demonstrating eligibility under a particular criteria (such as income limit) in order to receive the benefit of that project activity. Grantees are required to obtain demographic data on all applicants for direct benefit, whether or not the benefit is ultimately provided.

Examples of direct beneficiaries are housing rehabilitation, service lines and hookup for a household into a municipal water or sewer system.

2. Indirect Beneficiaries

“Indirect (area) beneficiaries” represent those individuals and households receiving a service (benefit) provided to the whole community or a targeted portion of the community and not directly related to specifically-identified households. Examples would be water/sewer lines, street paving, water tower, community building, etc.

Demographic information on direct and indirect beneficiaries is required to be obtained through project close-out, and reported to HUD as part of the state’s annual performance report.

3. The population groups specifically protected by the provisions of the civil rights laws include:

- a. Hispanic & Non-Hispanic; Black African American; Black African American & White; American Indian or Alaskan Native; Native Hawaiian or Pacific Islander; Asian; Asian & White; American Indian or Alaskan Native & Black African American; American Indian or Alaskan Native & White.
- b. Women, persons with disabilities, and families with children.

- c. Title VI of the Civil Rights Act of 1964 and Section 109 of the Housing and Community Development Act of 1974, requires recipients to administer programs and activities in a manner that assures that no person, on the grounds of race, color, national origin, sex, age, or disability has been excluded from participation in, denied benefits, or otherwise subjected to discrimination. Even in the absence of prior discrimination, a community should take affirmative action to overcome the effects of conditions which would otherwise result in limiting participation by persons of a particular race, color, national origin, sex, age, or disability.

Grantees must complete demographic information on the Civil Rights Demographics Form and return to the CDBG office with close-out. A copy is provided in the close-out section of this manual.

## B. Fair Housing

A major obligation of awarded grantees in all NSP categories is the documentation of activities that affirmatively further fair housing within the communities. One activity must be conducted and documented each calendar year of an open NSP project. If a grantee has more than one open grant, this activity can apply to all grants but must be documented in each separate grant's civil rights files.

To assist grantees in the development of activities, the Notice of Fair Housing/Civil Rights Contact Person Form is to be filled out and returned to the Commerce office. A copy is provided as Appendix E herein. This form should be submitted with the FIRST Quarterly Progress Report.

### 1. Samples of Acceptable Fair Housing Activities

In developing a community plan for furthering fair housing, the following list of possible activities is presented for a grantee to evaluate for possible adoption and implementation. This list is certainly not all inclusive and should only be used as a guide. Each grantee should review and evaluate these activities to determine which ones will be most successful in furthering fair housing among their citizens. **REMEMBER:** one activity must be conducted and documented each year of an open NSP project.

- a. Publicize the fact that the city/county government will assist persons experiencing discrimination in housing. Such assistance can be in the form of facilitating the filing of a complaint with HUD or the Kansas Human Rights Commission. Include addresses of these agencies and the hotline number.
- b. Establish a system and process of providing, as a local service, housing counseling services designed to assist housing outside areas of concentration. Publish this information.

- c. Work with local real estate brokers to formulate housing opportunity educational programs about financing and the housing options available in the community or county for minorities, women, and low income persons.
- d. Work with real estate agencies and banks to end redlining practices and to post “Equal Lending Opportunity” notices/posters. Document this.
- e. In cooperation with local real estate agencies and builders, sponsor fair housing seminars, and campaigns.
- f. Work with minority and women leaders in the area to promote housing development and increase minority and female participation.
- g. Assist local housing developers in developing outreach programs to attract minorities, females, and low-income persons. Document this.
- h. Review zoning ordinances and comprehensive plans to ensure they promote special deconcentration of assisted housing units. Publish the results.
- i. Make city/county owned property located outside areas of concentration available to developers at no or nominal cost for the construction of assisted units, particularly for large family units. Document this.
- j. Prepare, develop and implement an area-wide housing opportunity plan. Document this.
- k. Following the proper planning and evaluation, consider the creation of a city or county housing authority to meet an established need. Document this.
- l. Conduct special studies to ensure the housing needs of minorities, females and persons with disabilities are adequately identified. Publish the results.
- m. After careful study and consideration, adopt a code enforcement ordinance which will compel landlords to keep their units in safe and sanitary condition. Publish this activity.
- n. Obtain a copy of the Kansas Act Against Discrimination from the Kansas Human Rights Commission and the Fair Housing Amendments Act of 1988, adopted both by resolution, and have BOTH available to any interested citizen. Publish this activity.

<<< SPECIAL NOTICE >>>

The Kansas Legislature has not adopted the new laws set forth in the Federal Fair Housing Amendments Act of 1988. Therefore, adopting the Kansas Act Against Discrimination alone will not be a legitimate activity. Only when the Kansas Act is adopted with the Fair Housing Act of 1988, will the activity be considered legitimate.

- o. Develop announcements of the city's/county's commitment and print them on the backs of utility bills, along with information on filing complaints.
- p. Produce flyers and display in grocery stores, the public library and other public places.
- q. Produce a workshop/contest in the schools on fair housing.
- r. Obtain radio spots, or other forms of the media, for public service announcements on fair housing.
- s. Develop the complaint forms and other pertinent information in other languages in the community.
- t. Contact the Kansas Human Rights Commission for a workshop on fair housing.
- u. The Commission also has films, posters, books, etc., to assist in fair housing activities.
- v. Develop and produce a fair housing fair/carnival.
- w. Negotiate with local newspaper to include Housing Discrimination HOTLINE Number (1-800-669-9777 English/Spanish) in the housing section of the newspaper.
- x. Develop a local analysis of impediments to fair housing within your community.
- y. Document steps taken to address an impediment to fair housing identified in the local analysis.

2. The Kansas Human Rights Commission

The Kansas Human Rights Commission is a state agency empowered by law to investigate complaints as well as provide education on discriminatory practices involving race, religion, color, sex, physical or mental disability, national origin, ancestry, age, or family status in areas of employment, public accommodation, and housing. The Commission provides consultants, materials, speakers and films on a variety of civil rights issues. These services may be provided free of charge and will assist recipients in meeting the civil rights obligations of the NSP program.

C. Employment Opportunities

Recipients of NSP funds may not deny the opportunity for employment in any NSP program or activity on the basis of race, color, religion, sex, or national origin. To the maximum extent possible, grantees must also ensure the lower income residents in their community receive any employment or training provided by NSP projects. Information must be collected on the number and percentage by race and gender of the personnel in any department, office, or agency of the unit of local government using NSP funds to employ staff. For example, if NSP funds are used to pay a portion of a bookkeeper's salary in the accounting department of the city, then employment data should be available for that department. Public or private entities performing services under contract to a unit of general government, such as a Council of Governments/Regional Planning Commission (COG/RPC) or engineering firm administering an NSP project, are exempt from the specific requirement to track and report this data to Commerce.

D. Contracting Opportunities

Recipients must ensure nondiscrimination in the solicitation and awarding of contracts, including nondiscriminatory practices in:

- advertising and distribution of solicitations;
- bid specifications and evaluation criteria; and
- award of contracts.

1. Section 3

Section 3 requirements apply to all contracts awarded by the grantee if the NSP award is over \$200,000 and the contract is over \$100,000.

Section 3 of the Housing and Urban Development Act of 1968, as amended, provides that to the greatest extent feasible preference for economic opportunities such as job training and employment that arise through HUD-assisted projects shall be directed toward Section 3 residents. Section 3 residents are defined as low and very low income residents living in the project area. Preference shall be given first to the resident inside the area covered by the project and second to the resident in the non-metropolitan county in which the project is located. Section 3 contracts awarded in connection with NSP projects are defined as contracts to:

- Businesses owned by 51 percent or more Section 3 residents;
- Businesses employing Section 3 residents in full-time positions; and
- Businesses who subcontract with other businesses which provide opportunity to Section 3 residents.

A copy of a “Notice to Citizens. . . Opportunity for Work” is included herein as Appendix D, which can be used for development of Section 3 employment opportunities.

The grantee should, in order to accomplish the above, develop a list of Section 3 businesses and residents to be advised of opportunities for participation in project contracts. The chamber of commerce or similar business association in an area can often provide the names of eligible firms. Regional planning commissions and other administrative agencies may also maintain lists on a regional basis. State agencies which may be able to provide similar information include the Kansas Department of Transportation and the Kansas Department of Administration.

A Reference Guide for required construction contract clauses can be found in the Labor Standards Section, Appendix F. Also, copies of sample bid specifications containing required clauses may be obtained from Commerce program staff.



2. Disadvantaged Business Enterprises (DBE) consisting of Minority-Owned Businesses and Women-Owned Businesses

Recipients are required to make affirmative efforts to hire minorities and women and to maximize opportunities for minority and female-owned firms to secure and/or participate in NSP contracts.

As a further requirement of this NSP program and as stated in Executive Order 12432 of July 14, 1963, all grantees are to conduct procurement of contractors and vendors in a manner that will include and encourage participation of minority and women owned businesses. To adhere to this requirement, grantees should:

- a. Maintain a list of all disadvantaged business enterprise's consisting of minority and women owned businesses and contractors invited to bid on respective projects.
- b. Maintain documentation of bid advertisements published in:
  - (1) A general circulation newspaper
  - (2) Minority newspapers
  - (3) Trade publications
- c. Maintain documentation of all outreach activities made to minority and women owned businesses.

You can access these certified contractors from the KDOT web site [www.ksdot.org/](http://www.ksdot.org/). In Quick Search type in "Office of Civil Rights". You can access the DBE directory at the top, and it lists both construction and non-construction directories.

3. The Americans with Disabilities Act (ADA)

On July 26, 1990, President Bush signed into law The Americans with Disabilities Act, the first comprehensive civil rights law for persons with disabilities.

The Americans with Disabilities Act was passed to ensure the 43 million Americans with disabilities will finally be treated as full-fledged citizens with all rights, privileges, and protections afforded all American citizens.

The ADA is a strong anti-discrimination law enacted to protect persons with disabilities. It also sends a clear message that all individuals are to be provided equal opportunities and privileges. The ADA embodies the American ideals that treasure the contributions individuals can make when free from arbitrary, unjust, or outmoded societal attitudes and practices that prevent the realization of their potential.

- a. Who is a person with a disability?
- (1) An individual is covered by the ADA as a “person with a disability” if that individual meets any of the following conditions:
    - Has a physical or mental impairment;
    - Is substantially limited in major life activity(ies);
    - Is regarded as having an impairment;
    - Has a history of such an impairment;
    - Has an association with a person with a disability.
  - (2) The ADA applies to persons who have disabilities that limit major life activities such as:
    - seeing
    - hearing
    - speaking
    - walking
    - breathing
    - performing manual tasks
    - caring for oneself
    - working
  - (3) An individual with epilepsy, paralysis, a substantial hearing or visual impairment, mental retardation, or a learning disability would be covered. But an individual with a minor, nonchronic condition of short duration, such as a sprain, infection, or broken limb, generally would not be covered.
  - (4) The ADA also prohibits discrimination in regard to a person with a history of a disability such as a history of cancer that is currently in remission, a person with a history of mental illness or a recovered drug or alcohol abuser.
  - (5) The Act protects individuals who are regarded and treated as though they have disabilities, even though they may not have.

For example, the Act would protect a severely disfigured, but otherwise qualified, individual from being denied employment because an employer feared the “negative reactions” of others.

- (6) The ADA protects some persons who may not have a disability. The Act prohibits discrimination based on relationship or association to protect individuals from actions based on the fear or belief that the person's relationship to a person with a disability would affect job performance.

For example, the ADA would protect a person with a spouse who has a disability from being denied employment because of an employer's assumption the applicant would use excessive vacation or sick leave to care for the spouse.

- (7) The ADA does not require an employer to hire an individual that is not qualified for the position, regardless of disability status.

- b. Who is a "qualified individual with a disability?"

A qualified individual with a disability is a person who meets legitimate skill, experience, education, or other requirements of an employment position and who can perform the essential functions of the position with or without reasonable accommodation.

If the individual is qualified to perform essential job functions, except for limitations caused by a disability, the employer must consider whether the individual could perform these functions with a reasonable accommodation.

### **III. POLICY ADOPTED TO HANDLE COMPLAINTS OF DISCRIMINATION**

Citizen complaint procedures are an integral part of civil rights activities. Every grantee must establish a set of procedures for handling complaints of discrimination. These procedures, complaint forms, and other pertinent information should be contained within a file for public access.

Copies of all civil rights complaints received by this office will be retained in the grantee file.

Civil rights complaints received by the Kansas Small Cities Community Development Block Grant and NSP programs will be those complaints alleging violation of one or more of the following statutes:

- Title VI, Civil Rights
- Section 109, Housing and Community Development Act of 1974
- Section 504, Rehabilitation Act of 1973
- Age Discrimination Act of 1975
- Fair Housing Amendments Act of 1988

Each grantee's fair housing/civil rights contact person should:

- Establish procedures for receiving and assisting citizens with complaints.
- Make available HUD 903 forms (OMB No. 63-R 1226), included in this text.
- Submit a copy of each complaint to the Kansas Small Cities program.

All complaints must be submitted to U.S. Department of Housing and Urban Development (HUD).

When a written complaint is sent to the Kansas Small Cities program either directly by a complainant from a NSP funded city or county, their representative, or by the designated intake officer of the aforementioned, the written complaint will be referred to the address in bold type on this page.

Any complaints filed with the Kansas Small Cities program alleging violation of E.O. 11246 (discrimination in employment by construction contractors) will be referred to the address in bold type on this page.

The name(s) of complainant(s) and the name(s) of respondent(s) must not be disclosed to any entity other than HUD.

Fair Housing discrimination complaints may be submitted by phone, by letter and/or a HUD-903 form. All must be submitted to HUD at the address in bold type on this page.

Fair Housing complaints can also be initiated by calling the Housing Discrimination Complaint HOTLINE: 1-800-669-9777.

All housing complaints which have been filed with the Department of Housing and Urban Development (HUD) will be forwarded to the state or local Fair Housing Assistance Program (FHAP) agency for investigation.

**Department of Housing and Urban Development  
 Kansas City Regional Office, Region VII  
 Office of Fair Housing and Equal Opportunity  
 Gateway Tower II – 400 State Avenue  
 Kansas City, Kansas 66101**

FHAP agencies for non-entitled areas of Kansas are:

Kansas Human Rights Commission  
Landon State Office Building  
900 S.W. Jackson - 8th Floor, Suite 851S  
Topeka, KS 66612-1258  
(785) 296-3206  
Fax: (785) 296-0589

Branch Offices

130 South Market, 7th Floor  
Wichita, KS 67202  
(316) 337-6270  
Fax: (316) 337-7376

100 Military Plaza, Suite 220  
Dodge City, KS 67801  
(316) 225-4804  
Fax: (316) 225-4986

200 Arco Place, Suite 449  
Independence, KS 67301  
(316) 331-7083  
Fax: (316) 331-7135

Complainants within FHAP areas may request their complaint be investigated by HUD if they so choose.

Each grantee should identify in the complaint procedures some of the areas in which housing discrimination occurs under Title VIII:

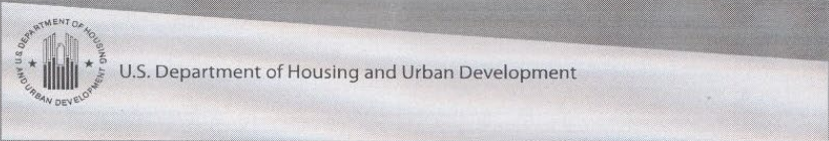
1. To refuse to show, rent, lease, sell, or transfer housing.
2. To cause unequal terms, conditions, and privileges of housing.
3. To cause unequal terms, conditions, and privileges in the obtaining and use of financial assistance for the purpose, construction, or maintenance of housing.
4. To segregate and/or separate in the occupancy of housing.
5. To include or honor restrictive covenants which are discriminatory.
6. To advertise any discriminatory preference or limitation in housing.
7. To aid and abet in unfair housing practices.
8. To retaliate against an employee or agent who complies with fair housing practices through such actions as demotion, discharge, or unequal compensation.
9. To refuse to receive and transmit any bona fide offer to buy, rent, sell, or lease housing.
10. To practice blockbusting, red-lining, or steering.



Are You a  
Victim of  
Housing  
Discrimination?

Fair Housing is Your Right!

If you have been denied your housing rights...you may have experienced unlawful discrimination.





## WHERE TO MAIL YOUR FORM OR INQUIRE ABOUT YOUR CLAIM

**For Connecticut, Maine, Massachusetts,  
New Hampshire, Rhode Island, and Vermont:**

**NEW ENGLAND OFFICE**

Fair Housing Hub  
U.S. Dept. of Housing and Urban Development  
Thomas P. O'Neill, Jr. Federal Building  
10 Causeway Street, Room 321  
Boston, MA 02222-1092  
Telephone (617) 994-8320 or 1-800-827-5005  
Fax (617) 565-7313 • TTY (617) 565-5453  
E-mail: [Complaints\\_office\\_01@hud.gov](mailto:Complaints_office_01@hud.gov)

**For New Jersey and New York:**

**NEW YORK/NEW JERSEY OFFICE**

Fair Housing Hub  
U.S. Dept. of Housing and Urban Development  
26 Federal Plaza, Room 3532  
New York, NY 10278-0068  
Telephone (212) 264-1290 or 1-800-496-4294  
Fax (212) 264-9829 • TTY (212) 264-0927  
E-mail: [Complaints\\_office\\_02@hud.gov](mailto:Complaints_office_02@hud.gov)

**For Delaware, District of Columbia, Maryland,  
Pennsylvania, Virginia, and West Virginia:**

**MID-ATLANTIC OFFICE**

Fair Housing Hub  
U.S. Dept. of Housing and Urban Development  
The Wanamaker Building  
100 Penn Square East  
Philadelphia, PA 19107  
Telephone (215) 656-0663 or 1-888-799-2085  
Fax (215) 656-3419 • TTY (215) 656-3450  
E-mail: [Complaints\\_office\\_03@hud.gov](mailto:Complaints_office_03@hud.gov)

**For Alabama, the Caribbean, Florida, Georgia, Kentucky, Missis-  
sippi, North Carolina, South Carolina, and Tennessee:**

**SOUTHEAST/CARIBBEAN OFFICE**

Fair Housing Hub  
U.S. Dept. of Housing and Urban Development  
Five Points Plaza  
40 Marietta Street, 16th Floor  
Atlanta, GA 30303-2808  
Telephone (404) 331-5140 or 1-800-440-8091  
Fax (404) 331-1021 • TTY (404) 730-2654  
E-mail: [Complaints\\_office\\_04@hud.gov](mailto:Complaints_office_04@hud.gov)

**For Illinois, Indiana, Michigan, Minnesota,  
Ohio, and Wisconsin:**

**MIDWEST OFFICE**

Fair Housing Hub  
U.S. Dept. of Housing and Urban Development  
Ralph H. Metcalfe Federal Building  
77 West Jackson Boulevard, Room 2101  
Chicago, IL 60604-3507  
Telephone (312) 353-7776 or 1-800-765-9372  
Fax (312) 886-2837 • TTY (312) 353-7143  
E-mail: [Complaints\\_office\\_05@hud.gov](mailto:Complaints_office_05@hud.gov)

**For Arkansas, Louisiana, New Mexico, Oklahoma, and Texas:**

**SOUTHWEST OFFICE**

Fair Housing Hub  
U.S. Dept. of Housing and Urban Development  
801 North Cherry, 27th Floor  
Fort Worth, TX 76102  
Telephone (817) 978-5900 or 1-888-560-8913  
Fax (817) 978-5876 or 5851 • TTY (817) 978-5595  
E-mail: [Complaints\\_office\\_06@hud.gov](mailto:Complaints_office_06@hud.gov)

**For Iowa, Kansas, Missouri and Nebraska:**

**GREAT PLAINS OFFICE**

Fair Housing Hub  
U.S. Dept. of Housing and Urban Development  
Gateway Tower II  
400 State Avenue, Room 200, 4th Floor  
Kansas City, KS 66101-2406  
Telephone (913) 551-6958 or 1-800-743-5323  
Fax (913) 551-6856 • TTY (913) 551-6972  
E-mail: [Complaints\\_office\\_07@hud.gov](mailto:Complaints_office_07@hud.gov)

**For Colorado, Montana, North Dakota, South Dakota,  
Utah, and Wyoming:**

**ROCKY MOUNTAINS OFFICE**

Fair Housing Hub  
U.S. Dept. of Housing and Urban Development  
1670 Broadway  
Denver, CO 80202-4801  
Telephone (303) 672-5437 or 1-800-877-7353  
Fax (303) 672-5026 • TTY (303) 672-5248  
E-mail: [Complaints\\_office\\_08@hud.gov](mailto:Complaints_office_08@hud.gov)

**For Arizona, California, Hawaii, and Nevada:**

**PACIFIC/HAWAII OFFICE**

Fair Housing Hub  
U.S. Dept. of Housing and Urban Development  
600 Harrison Street, Third Floor  
San Francisco, CA 94107-1300  
Telephone (415) 489-6524 or 1-800-347-3739  
Fax (415) 489-6558 • TTY (415) 436-6594  
E-mail: [Complaints\\_office\\_09@hud.gov](mailto:Complaints_office_09@hud.gov)

**For Alaska, Idaho, Oregon, and Washington:**

**NORTHWEST/ALASKA OFFICE**

Fair Housing Hub  
U.S. Dept. of Housing and Urban Development  
Seattle Federal Office Building  
909 First Avenue, Room 205  
Seattle, WA 98104-1000  
Telephone (206) 220-5170 or 1-800-877-0246  
Fax (206) 220-5447 • TTY (206) 220-5185  
E-mail: [Complaints\\_office\\_10@hud.gov](mailto:Complaints_office_10@hud.gov)

**If after contacting the local office nearest you, you still have ques-  
tions – you may contact HUD further at:**

U.S. Dept. of Housing and Urban Development  
Office of Fair Housing and Equal Opportunity  
451 7th Street, S.W., Room 5204  
Washington, DC 20410-2000  
Telephone (202) 708-0836 or 1-800-669-9777  
Fax (202) 708-1425 • TTY 1-800-927-9275

To file electronically, visit: [www.hud.gov](http://www.hud.gov)

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PLACE  
POSTAGE  
HERE

MAIL TO:

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Public Reporting Burden for this collection of information is estimated to average 20 minutes 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.

The Department of Housing and Urban Development is authorized to collect this information by Title VIII of the Civil Rights Act of 1968, as amended by the Fair Housing Amendments Act of 1988, (P.L. 100-430); Title VI of the Civil Rights Act of 1964, (P.L. 88-352); Section 504 of the Rehabilitation Act of 1973, as amended, (P.L. 93-112); Section 109 of Title I- Housing and Community Development Act of 1974, as amended, (P.L. 97-35); Americans with Disabilities Act of 1990, (P.L. 101-336); and by the Age Discrimination Act of 1975, as amended, (42 U.S.C. 6103).

The information will be used to investigate and to process housing discrimination complaints. The information may be disclosed to the United States Department of Justice for its use in the filing of pattern and practice suits of housing discrimination or the prosecution of the person(s) who committed that discrimination where violence is involved; and to State or local fair housing agencies that administer substantially equivalent fair housing laws for complaint processing. Failure to provide some or all of the requested information will result in delay or denial of HUD assistance.

Disclosure of this information is voluntary.





# HOUSING DISCRIMINATION INFORMATION

Departamento de Vivienda y Desarrollo Urbano    Oficina de Derecho Equitativo a la Vivienda  
U.S. Department of Housing and Urban Development    Office of Fair Housing and Equal Opportunity

**Instructions:** (Please type or print) Read this form carefully. Try to answer all questions. If you do not know the answer or a question does not apply to you, leave the space blank. You have one year from the date of the alleged discrimination to file a complaint. Your form should be signed and dated.

Your Name		
_____		
Your Address		
_____		
City	State	Zip Code
_____	_____	_____
Best time to call	Your Daytime Phone No	Evening Phone No
_____	_____	_____

## Who else can we call if we cannot reach you?

Contact's Name	Best Time to call
_____	_____
Daytime Phone No	Evening Phone No
_____	_____
Contact's Name	Best Time to call
_____	_____
Daytime Phone No	Evening Phone No
_____	_____

**1** What happened to you?  
How were you discriminated against?  
For example: were you refused an opportunity to rent or buy housing? Denied a loan? Told that housing was not available when in fact it was? Treated differently from others seeking housing?  
State briefly what happened.

# HOUSING DISCRIMINATION INFORMATION

Departamento de Vivienda y Desarrollo Urbano Oficina de Derecho Equitativo a la Vivienda  
U.S. Department of Housing and Urban Development Office of Fair Housing and Equal Opportunity

## 2 Why do you think you are a victim of housing discrimination?

Is it because of your:

· race · color · religion · sex · national origin · familial status (families with children under 18) · disability?

For example: were you denied housing because of your race? Were you denied a mortgage loan because of your religion? Or turned down for an apartment because you have children?

Briefly explain why you think your housing rights were denied and circle the factor(s) listed above that you believe apply.

Who do you believe discriminated against you?

For example: was it a landlord, owner, bank, real estate agent, broker, company, or organization?

Identify who you believe discriminated against you.

Name

Address

## 4 Where did the alleged act of discrimination occur?

For example: Was it at a rental unit? Single family home? Public or Assisted Housing? A Mobile Home?

Did it occur at a bank or other lending institution?

Provide the address.

Address

City

State

Zip Code

## 5 When did the last act of discrimination occur?

Enter the date

\_\_\_/\_\_\_/\_\_\_

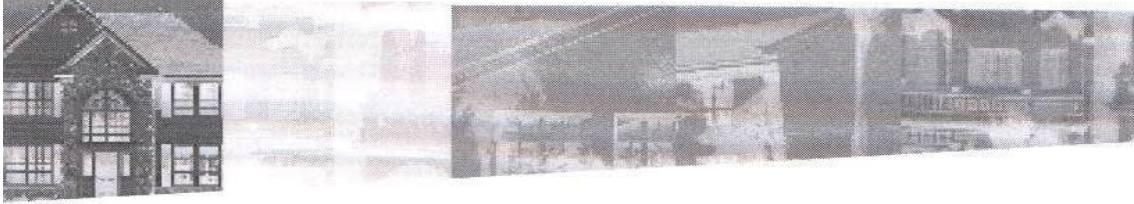
Is the alleged discrimination continuing or ongoing?

Yes No \_\_\_

Signature

Date

Send this form to HUD or to the fair housing agency nearest you. If you are unable to complete this form, you may call that office directly. See address and telephone listings on back page.



### It is Unlawful to Discriminate in Housing Based on These Factors...

- Race
- Color
- National origin
- Religion
- Sex
- Familial status (families with children under the age of 18, or who are expecting a child)
- Handicap (if you or someone close to you has a disability)

### If You Believe Your Rights Have Been Violated...

- HUD or a State or local fair housing agency is ready to help you file a complaint.
- After your information is received, HUD or a State or local fair housing agency will contact you to discuss the concerns you raise.

Detach here. Fold and close with glue or tape (no staples)

Keep this information for your records.

Date you mailed your information to HUD: \_\_\_\_\_ / \_\_\_\_\_ / \_\_\_\_\_  
Address to which you sent the information:

Office \_\_\_\_\_ Telephone \_\_\_\_\_

Street \_\_\_\_\_

City \_\_\_\_\_ State \_\_\_\_\_ Zip Code \_\_\_\_\_

If you have not heard from HUD or a State or local fair housing agency within three weeks from the date you mailed this form, you may call to inquire about the status of your complaint. See address and telephone listings on back page.



## ARE YOU A VICTIM OF HOUSING DISCRIMINATION?

"The American Dream of having a safe and decent place to call 'home' reflects our shared belief that in this nation, opportunity and success are within everyone's reach.

Under our Fair Housing laws, every citizen is assured the opportunity to build a better life in the home or apartment of their choice — regardless of their race, color, religion, sex, national origin, family status or disability."

Alphonso Jackson  
Secretary

## HOW DO YOU RECOGNIZE HOUSING DISCRIMINATION?

Under the Fair Housing Act, it is Against the Law to:

- Refuse to rent to you or sell you housing
- Tell you housing is unavailable when in fact it is available
- Show you apartments or homes only in certain neighborhoods
- Set different terms, conditions, or privileges for sale or rental of a dwelling
- Provide different housing services or facilities
- Advertise housing to preferred groups of people only
- Refuse to provide you with information regarding mortgage loans, deny you a mortgage loan, or impose different terms or conditions on a mortgage loan
- Deny you property insurance
- Conduct property appraisals in a discriminatory manner
- Refuse to make reasonable accommodations for persons with a disability if the accommodation may be necessary to afford such person a reasonable and equal opportunity to use and enjoy a dwelling.
- Fail to design and construct housing in an accessible manner
- Harass, coerce, intimidate, or interfere with anyone exercising or assisting someone else with his/her fair housing rights



# ¿Ha sido usted víctima de discriminación en la vivienda?

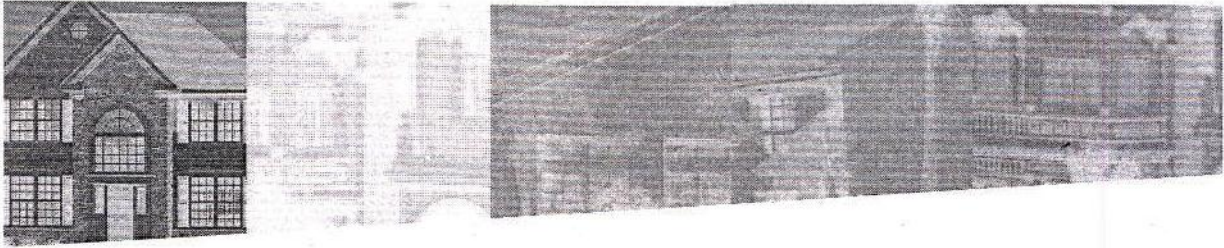
La igualdad de oportunidades en  
la vivienda es su derecho

Si a usted se le ha negado el derecho  
a vivienda, puede haber sido víctima de  
discriminación.



U.S. Department of Housing and Urban Development (HUD)  
Departamento de Vivienda y Desarrollo Urbano de los Estados Unidos





**Es ilegal discriminar en vivienda a raíz de los siguientes factores...**

- Raza
- Color
- Origen nacional
- Religión
- Sexo
- Condición familiar (Familias con menores de 18 años o jóvenes que estén embarazadas)
- Incapacidades (Si usted o algún familiar suyo tiene alguna limitación física o menta)

**Si usted cree que sus derechos han sido violados...**

- El Departamento de Vivienda y Desarrollo Urbano o el organismo local o estatal encargado de la Vivienda Justa están preparados para ayudarle a presentar una querrela.
- Después que se ha recibido su información, el Departamento de Vivienda y Desarrollo Urbano, o el organismo local o estatal encargado de la Vivienda Justa, se comunicarán con usted para conversar acerca de su problema.

Mantenga esta información en sus archivos.

Fecha en que envió su información al Departamento de Vivienda: \_\_\_\_ / \_\_\_\_ / \_\_\_\_

Dirección a la cual envió la información:

Oficina \_\_\_\_\_ Teléfono \_\_\_\_\_

Calle/Avenida \_\_\_\_\_

Ciudad \_\_\_\_\_ Estado \_\_\_\_\_ Código postal \_\_\_\_\_

Si al pasar tres semanas de la fecha del envío de la querrela, Usted todavía no ha recibido una respuesta del Departamento de Vivienda o del organismo local o estatal encargado de la Vivienda Justa, puede llamar por teléfono a preguntar qué ha pasado con su queja. En la última página podrá ver la lista de direcciones y teléfonos.

**INFORMACIÓN DE DISCRIMINACIÓN EN LA VIVIENDA**  
Departamento de Vivienda y Desarrollo Urbano Oficina de Derecho Equitativo a la Vivienda

**Instrucciones:** (Use letra de imprenta o páselo a máquina): Lea este formulario cuidadosamente. Trate de responder todas las preguntas. Si no sabe la respuesta o si una pregunta no aplica a su caso, deje el espacio en blanco. Usted tiene un año para presentar una queja a partir de la fecha en la que ocurrió la presunta discriminación. El formulario debe ser firmado y fechado.

Nombre \_\_\_\_\_

Dirección \_\_\_\_\_

Ciudad \_\_\_\_\_ Estado \_\_\_\_\_ Código Postal \_\_\_\_\_

Mejor hora para llamarle \_\_\_\_\_ Teléfono en el día \_\_\_\_\_ Teléfono en la noche \_\_\_\_\_

**¿A quién más podemos llamar en caso de que no podamos comunicarnos?**

Nombre del contacto \_\_\_\_\_ Mejor hora para llamarle \_\_\_\_\_

Teléfono durante el día \_\_\_\_\_ Teléfono en la noche \_\_\_\_\_

Nombre del contacto \_\_\_\_\_ Mejor hora para llamarle \_\_\_\_\_

Teléfono durante el día \_\_\_\_\_ Teléfono en la noche \_\_\_\_\_

**1** ¿Qué le sucedió?  
¿Cómo se discriminó en su contra?  
Por ejemplo: ¿Se le negó la oportunidad de rentar o comprar una vivienda?. ¿Se le negó un préstamo?. ¿Se le dijo -falsamente- que no había vivienda disponible?. ¿Se le trató de manera diferente a otras personas que también buscaban vivienda?. **Describa brevemente lo que ocurrió.**



# INFORMACIÓN DE DISCRIMINACIÓN EN LA VIVIENDA

Departamento de Vivienda y Desarrollo Urbano Oficina de Derecho Equitativo a la Vivienda

**2** ¿Por qué cree que ha sido víctima de discriminación en la vivienda?

Se debe a su:

¿Raza? . ¿Color? . ¿Religión? . ¿Sexo? . ¿Origen nacional? . ¿Condición familiar? (familias con niños menores de 18 años) . ¿Impedimento físico o mental?

Por ejemplo: ¿Le negaron vivienda debido a su raza? . ¿Le negaron un préstamo hipotecario debido a su religión? . O ¿Se le negó un apartamento porque tiene niños? .

Explique brevemente por qué piensa que le han negado su derecho a la vivienda y encierre en un círculo el factor o los factores que figuran en la lista anterior que en su opinión se aplican a su caso.

¿Quién cree usted que discriminó en su contra?

Por ejemplo: ¿Fue un arrendador? . ¿Un propietario de una vivienda? . ¿Un banco? . ¿Un agente de bienes raíces? . ¿Un intermediario? . ¿Una compañía? . o ¿una organización? .

Identifique a la persona que usted cree discriminó en su contra.

Nombre \_\_\_\_\_

Dirección \_\_\_\_\_

**4** ¿Dónde ocurrió el presunto acto de discriminación?

Por ejemplo: ¿Fue en un apartamento para la renta? . ¿En una vivienda unifamiliar? . ¿En una vivienda subsidiada? . ¿Una residencia móvil? . ¿Ocurrió en un banco o en una institución de crédito? .

Escribir la dirección.

Dirección \_\_\_\_\_

Ciudad \_\_\_\_\_

Estado \_\_\_\_\_

Código Postal \_\_\_\_\_

**5** ¿Cuándo ocurrió este último acto de discriminación?

Escriba la fecha

\_\_\_/\_\_\_/\_\_\_

Diga si aún continúa la presunta discriminación.

Si \_\_\_\_\_ No \_\_\_\_\_

Firma \_\_\_\_\_

Techa \_\_\_\_\_

Envíe este formulario al Departamento de Vivienda y Desarrollo Urbano (HUD) o la agencia encargada de la Vivienda justa más cercana a Usted. Si por alguna razón usted no puede completar este formulario, llame a esa oficina directamente. Consulte la lista de teléfonos y direcciones en la última página.

**OFICINAS A LAS CUALES PUEDE ENVIAR  
SU FORMULARIO O LLAMAR A PREGUNTAR  
ACERCA DE SU RECLAMO...**

**Para Connecticut, Maine, Massachussets, New Hampshire, Rhode Island y Vermont:**

**NEW ENGLAND OFFICE (Complaints\_office\_01@hud.gov)**  
Fair Housing Hub  
U.S. Department of Housing and Urban Development  
Thomas P. O'Neill Jr. Federal Building  
10 Causeway Street, Room 321  
Boston, MA 022092  
Teléfono (617) 994-8320 o 1-800-827-5005  
Fax (617) 565-7313 \* TTY (617) 565-5453

**Para Nueva Jersey y Nueva York:**

**NEW YORK/NEW JERSEY OFFICE (Complaints\_office\_02@hud.gov)**  
Fair Housing Hub  
U.S. Department of Housing and Urban Development  
26 Federal Plaza, Room 3532  
New York, NY 10278-0068  
Teléfono (212) 264-1290 o 1-800-496-4294  
Fax (212) 264-9829 \* TTY (212) 264-0927

**Para Delaware, Distrito de Columbia, Maryland, Pensilvania, Virginia y Virginia Occidental:**

**MID-ATLANTIC OFFICE (Complaints\_office\_03@hud.gov)**  
Fair Housing Hub  
U.S. Department of Housing and Urban Development  
The Wanamaker Building  
100 Penn Square East  
Philadelphia, PA 19107  
Teléfono (215) 656-0663 o 1-888-799-2085  
Fax (215) 656-3419 \* TTY (215) 656-3450

**Para Alabama, el Caribe, Florida, Georgia, Kentucky, Mississippi, Carolina del Norte, Carolina del Sur y Tennessee:**

**SOUTHEAST/CARIBBEAN OFFICE (Complaints\_office\_04@hud.gov)**  
Fair Housing Hub  
U.S. Department of Housing and Urban Development  
Five Points Plaza  
40 Marietta Street, 16th Floor  
Atlanta, GA 30303-2808  
Teléfono (404) 331-5140 o 1-800-440-8091  
Fax (404) 331-1021 \* TTY (404) 730-2654

**Para Illinois, Indiana, Michigan, Minnesota, Ohio y Wisconsin:**

**MIDWEST OFFICE (Complaints\_office\_05@hud.gov)**  
Fair Housing Hub  
U.S. Department of Housing and Urban Development  
Ralph H. Metcalfe Federal Building  
77 West Jackson Boulevard, Room 2101  
Chicago, IL 60604-3507  
Teléfono (312) 353-7776 o 1-800-765-9372  
Fax (312) 886-2837 \* TTY (312) 353-7143

**Para Arkansas, Luisiana, Nuevo México, Oklahoma y Texas:**

**SOUTHWEST OFFICE (Complaints\_office\_06@hud.gov)**  
Fair Housing Hub  
U.S. Department of Housing and Urban Development  
801 North Cherry, 27th Floor  
Fort Worth, TX 76102  
Teléfono (817) 978-5900 o 1-888-560-8913  
Fax (817) 978-5876/5851 \* TTY (817) 978-5595

**Para Iowa, Kansas, Misuri y Nebraska:**

**GREAT PLAINS OFFICE (Complaints\_office\_07@hud.gov)**  
Fair Housing Hub  
U.S. Department of Housing and Urban Development  
Gateway Tower II  
400 State Avenue, Room 200, 4th Floor  
Kansas City, KS 66101-2406  
Teléfono (913) 551-6958 o 1-800-743-5323  
Fax (913) 551-6856 \* TTY (913) 551-6972

**Para Colorado, Montana, Dakota del Norte, Dakota del Sur, Utah y Wyoming:**

**ROCKY MOUNTAINS OFFICE (Complaints\_office\_08@hud.gov)**  
Fair Housing Hub  
U.S. Department of Housing and Urban Development  
1670 Broadway  
Denver, CO 80202-4801  
Teléfono (303) 672-5437 o 1-800-877-7353  
Fax (303) 672-5026 \* TTY (303) 672-5248

**Para Arizona, California, Hawaii y Nevada:**

**PACIFIC AND HAWAII OFFICE (Complaints\_office\_09@hud.gov)**  
Fair Housing Hub  
U.S. Department of Housing and Urban Development  
600 Harrison Street, Third Floor  
San Francisco, CA 94107-1300  
Teléfono (415) 489-6524 o 1-800-347-3739  
Fax (415) 489-6558 \* TTY (415) 489-6564

**Para Alaska, Idaho, Oregon y el estado de Washington:**

**NORTHWEST AND ALASKA OFFICE (Complaints\_office\_10@hud.gov)**  
Fair Housing Hub  
U.S. Department of Housing and Urban Development  
Seattle Federal Office Building  
909 First Avenue, Room 205  
Seattle, WA 98104-1000  
Teléfono (206) 220-5170 o 1-800-877-0246  
Fax (206) 220-5447 \* TTY (206) 220-5185

**Si después de entrar en contacto con la oficina regional más cercana a usted aún tiene dudas, puede comunicarse con HUD en la siguiente dirección:**

U.S. Department of Housing and Human Development  
Office of Fair Housing and Equal Opportunity  
451 7th Street, S.W., Room 5204  
Washington, DC 20410-2000  
Teléfono (202) 708-0836 o 1-800-669-9777  
Fax (202) 708-1425 \* TTY 1-800-927-9275

**Para remitir su queja electrónicamente,  
visite [www.hud.gov/fairhousing](http://www.hud.gov/fairhousing)**



\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

COLOQUE  
LA ESTAM-  
PILLA  
AQUI

ENVIAR A:

\_\_\_\_\_  
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Se calcula que el tiempo para llenar este formulario es de 20 minutos por respuesta, incluyendo el tiempo para revisar las instrucciones, buscar fuentes de información, reunir y mantener la información necesaria, así como completar y revisar la información recolectada.

El Departamento de Vivienda y Desarrollo Urbano está autorizado para recabar esta información mediante el Título VIII de la Ley de Derechos Civiles de 1968, enmendada por la Ley de Vivienda Justa de 1988, (P.L. 100-430); el Título VI de la Ley de Derechos Civiles de 1964 (P.L. 88-352); la Sección 504 de la Ley de Rehabilitación de 1973 (enmendada) (P.L. 93-112); la Sección 109 del Título I de la Ley de Vivienda y Desarrollo Comunitario de 1974 (enmendada) (P.L. 97-35); la Ley de Estadounidenses con Incapacidades de 1990 (P.L. 101-336) y por la Ley de Discriminación en razón de Edad de 1975 (enmendada) (42 U.S.C. 6103).

La información será utilizada para investigar y para procesar quejas de discriminación en la vivienda. La información podría ser suministrada al Departamento de Justicia de los Estados Unidos a fin de que sea utilizada en la presentación de demandas por discriminación en la vivienda, o en el enjuiciamiento de la persona o personas que cometieron el acto de discriminación donde haya habido violencia; y a organismos locales o estatales que administran leyes sustancialmente equivalentes de Vivienda Justa para el procesamiento de quejas. El no proporcionar parte o toda la información solicitada podría resultar en un atraso o en la negativa del Departamento de Vivienda y Desarrollo Urbano (HUD) a brindarle ayuda.

La divulgación de esta información es voluntaria.



**SUMMARY OF CIVIL RIGHTS LAWS, EXECUTIVE ORDERS, AND REGULATIONS  
(Applicable to construction)**

CDBG grantees must ensure all project activities will be administered in compliance with all civil rights laws and regulations. The following are summaries of those parts of the civil rights laws and regulations applicable to CDBG activities.

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

**Section 109, Housing and Community Development (HCD) Act of 1974**, as amended, provides 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 funds made available under Title I of the Housing and Community Development Act of 1974.

**Section 504 of the Rehabilitation Act of 1973**, as amended, provides for nondiscrimination of an otherwise qualified individual solely on the basis of his/her handicap in benefiting from any program or activity receiving federal financial assistance. All recipients must certify to compliance with all provisions of this Section.

**Age Discrimination Act of 1975.** No person in the United States shall, on the basis of age, be excluded from participation in, be denied the benefits of, or subjected to discrimination under, any program or activity receiving federal financial assistance.

**Fair Housing Amendments of 1988** added handicapped (disabled) individuals and families with children to the list of protected status categories.

**Executive Order 11063**, as amended, directs all departments and agencies to take all action necessary and appropriate to prevent discrimination in housing and related facilities owned or operated by the federal government or provided with federal financial assistance and in the lending practices with respect to residential property and related facilities (including land to be developed for residential use) of lending institutions, insofar as such practices relate to loans insured or guaranteed by the federal government.

**Kansas Act Against Discrimination.** It is a policy of the State of Kansas that requires all employers, labor organizations, employment agencies, realtors, financial institutions, or other persons covered by this Act to assure equal opportunities and encourage every citizen regardless of race, religion, color, sex, age, physical disability, national origin, or ancestry, to secure and hold – without discrimination, segregation, or separation – employment in any field of work or labor for which they are properly qualified, the opportunity for full and equal public accommodations, and to assure full and equal opportunities in housing.

**Section 3 of the Housing and Urban Development Act of 1968**, as amended, provides that, to the greatest extent feasible, opportunities for training and employment shall be given to recipients of public housing and lower income residents of the unit of local government or the metropolitan area (or non-metropolitan county) in which the project is located, contract work in connection with such projects shall be awarded to business concerns which are owned in substantial part by persons residing in the same metropolitan area (or non-metropolitan county) as the project, employ Section 3 residents in full-time positions, or subcontract with businesses which provide economic opportunities to lower income persons.

**Executive Order 11246**, as amended, provides that no person shall be discriminated against on the basis of race, color, religion, sex, or national origin in any phase of employment during the performance of federal or federally-assisted construction contracts in excess of \$10,000. The following civil rights requirements also apply to NSP grantee performance: grantees shall comply with Executive Order 11246, as amended by Executive Order 12086, and the regulations issued pursuant thereto (41 CFR Chapter 60) which provide that no person shall be discriminated against on the basis of race, color, religion, sex, or national origin in all phases of employment during the performance of federal or federally-assisted construction contracts. As specified in Executive Order 11246 and the implementing regulations, contractors and subcontractors on federal or federally assisted construction contracts shall take affirmative action to ensure fair treatment in employment, upgrading, demotion or transfer, recruitment or retirement advertising, layoff or termination, rates of pay, or other forms of compensation and selection or training and apprenticeship.

**Section 503 of the Rehabilitation Act of 1973**, as amended, provides for the nondiscrimination in contractor employment. All recipients of federal funds must certify to the following through all contracts issued:

#### Affirmative Action for Handicapped Workers

1. The contractor will not discriminate against any employee in regard to any position for which the employee or applicant for employment is qualified. The contractor agrees to make affirmative action to employ, advance in employment and otherwise treat qualified handicapped individuals without discrimination based upon their physical or mental handicap in all employment practices such as the following: Employment upgrading, demotion or transfer, recruitment, advertising, layoff or termination, rates of pay or other forms of compensation, and selection for training, including apprenticeships.
2. The contractor agrees to comply with the rules, regulations, and relevant orders of the Secretary of Labor issued pursuant to the Act.
3. In the event of the contractor's noncompliance with the requirements of this clause, action for noncompliance may be taken in accordance with the rules, regulations, and relevant orders of the Secretary of Labor issued pursuant to the Act.

4. The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices in the form to be prescribed by the Director, provided by or through the contracting officer. Such notices shall state the contractor's obligation under the law to take affirmative action to employ and advance in employment qualified handicapped employees and applicants for employment, and the rights of applicants and employees.
5. The contractor will notify each labor union or representative of workers with which it has a collective bargaining agreement or other contract understanding, that the contractor is bound by the terms of Section 503 of the Rehabilitation Act of 1973, and is committed to take affirmative action to employ and advance in employment physically and mentally handicapped individuals.
6. The contractor will include the provisions of this clause in every subcontract or purchase order of \$2,500 or more unless exempted by rules, regulations, or orders of the Secretary issued pursuant to Section 503 of the Act, so that such provisions will be binding upon each subcontractor or vendor. The contractor will take such action with respect to any subcontractor or purchase order as the Director of the Office of Federal Contract Compliance Programs may direct to enforce such provisions, including action for noncompliance.

**Section 912 of the Cranston-Gonzales National Affordable Housing Act**, as amended, Section 109 (a) of the HCD Act to prohibit discrimination on the basis of religion.

**SAMPLE  
CIVIL RIGHTS/FAIR HOUSING POLICY**

We, the County/City Commissioners of \_\_\_\_\_ adopt the following procedures for handling a civil rights/fair housing complaint(s) within our City/County.

- 1) The County/City Clerk shall receive all complaints within his/her office and the complaint shall then be formally introduced to the County/City Commission at the next regularly scheduled meeting.
- 2) We, the County/City Commissioners shall try to assist in resolving the conflict between the parties involved. If a resolution of the problem cannot be reached, then we will forward the complaint to the proper authorities.
- 3) Fair housing discrimination complaints will be submitted to HUD by phone, letter, and/or a HUD-903 form. All such complaints will be submitted to HUD at:

Department of Housing and Urban Development  
Kansas City Regional Office  
Office of Fair Housing & Equal Opportunity  
Gateway Tower II - 400 State Avenue  
Kansas City, KS 66101

or by calling the Housing Discrimination Complaint HOTLINE 1-800-669-9777.

- 4) In the event of a civil rights complaint, we agree to also contact the following agencies:

Kansas Human Rights Commission  
900 Jackson Street - 8th Floor  
Topeka, KS 66612  
(785) 296-3206

Kansas Department of Commerce  
1000 S.W. Jackson Street, Suite 100  
Topeka, KS 66612-1354  
(785) 296-3004

We do hereby adopt these procedures in resolving any civil rights/fair housing complaints.

---

Chairman/Mayor

(SEAL)

---

County/City Clerk

**SAMPLE – Section 3  
NOTICE TO CITIZENS IN THE CITY/COUNTY OF \_\_\_\_\_**

**OPPORTUNITY FOR WORK**

The City/County of \_\_\_\_\_ has received a \$ \_\_\_\_\_  
Neighborhood Stabilization Program allocation from the Kansas Department of Commerce to  
\_\_\_\_\_ in the City/County of \_\_\_\_\_  
type of project

This grant will provide the City/County of \_\_\_\_\_ the opportunity to search for eligible local citizens interested in participating in the project. Section 3 of the Housing and Urban Development Act of 1968, as amended through 1994, provides that to the greatest extent feasible, preference for economic opportunities will be given to citizens in \_\_\_\_\_ . City/County who are determined to be low- to moderate- income individuals. A low- to moderate-income individual can be calculated by documenting household income of less than 80 percent of the county median income. Opportunities such as job training and employment that arise through this Community Development Block Grant project will be directed toward City/County residents. Contractors can be eligible for a Section 3 contract as awarded in connection with CDBG projects if they meet one of the following definitions:

- Business is owned by 51 percent or more Section 3 residents;
- Business employs Section 3 residents in full-time positions;
- Businesses who subcontracts with other businesses that provide economic opportunity to Section 3 residents.

Section 3 requirements apply to the City/County as a grantee, if the award to the grantee is over \$200,000, and to all contractors and subcontracts over \$100,000 if the \$200,000 threshold is met.

If you wish to determine if you qualify, have an interest in job training or have an interest in serving as a subcontractor for this project, please contact (Name), (Address), (Phone number).



**NOTICE OF FAIR HOUSING/CIVIL RIGHTS CONTACT PERSON**

TO: \_\_\_\_\_  
(Your Field Representative)  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

NOTE: THIS FORM IS TO BE SUBMITTED  
WITH FIRST QUARTERLY PROGRESS  
REPORT.

DATE: \_\_\_\_\_  
FROM: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

RE: \_\_\_\_\_  
(Grantee)  
\_\_\_\_\_  
(Grant Number)

1. List all grants received in the past three years and the fair housing activity completed for each grant:

Grant Year: \_\_\_\_\_  
Type of Grant: \_\_\_\_\_  
Activity: \_\_\_\_\_

Closed  Yes  No

2. List activity proposed for first year of this grant:

\_\_\_\_\_

3. The local city/county contact person designated to handle any fair housing/civil rights complaint is:

Name: \_\_\_\_\_ Title: \_\_\_\_\_

4. Does the grantee have more than 15 employees? If so, who is the Section 504 Coordinator?

Name: \_\_\_\_\_ Title: \_\_\_\_\_

## **Section 11: Audit Requirements**

### **I. AUDIT GUIDE**

The Single Audit Act of 1984 and Office of Management and Budget (OMB) Circular A-128 were amended by Congress during 1996 and the state has revised the audit requirements according to the new amendments.

### **II. AUDIT REQUIREMENTS**

The Single Audit Act Amendments of 1996 and OMB Circular A-133 (replacing A-128) requires local governments that receive a significant amount of federal grant assistance to have an annual audit. More specifically, the requirements are as follows:

- A. If the local government disburses or expends \$500,000 or more of federal grant assistance from all programs, it must have an annual audit performed in accordance with OMB Circular A-133. An A-133 audit is a financial and compliance audit that covers the entire operations of the local government, rather than being limited to the NSP project or other federal grants.
- B. If the local government expends less than \$500,000 in a fiscal year, it will be the option of the Kansas Department of Commerce to determine if a project specific audit will be required.
- C. Grantees will be required to submit the “Audit Information Form” to the Kansas Department of Commerce each fiscal year. This form must be submitted to the Department on or before May 15th of each fiscal year.

### **III. AUDITOR SELECTION**

If an A-133 audit is required, the audit must be performed by an independent qualified auditor. The local government should follow the regular federal or state procurement standards in the hiring of an auditor if NSP funds are paying for the audit.

### **IV. DEADLINES**

The local governmental entity must make the audit report available for public inspection within 30 days of completion and keep it on file for four years from the date of issuance.

The audits should be submitted to the Department within 30 days of completion and no later than nine months after the end of the audit period. For example, an audit covering the period January 1 - December 31, 2001, must be submitted no later than September 30, 2002.

## **V. SUBMISSION OF AUDITS**

One copy of the audit should be sent to Commerce. The address is:

Kansas Department of Commerce  
Small Cities NSP/CDBG Program  
Attention: Close-Out/Audit Specialist  
1000 S.W. Jackson Street, Suite 100  
Topeka, Kansas 66612-1354

If the grantee has an A-133 audit covering more than \$500,000 of federal funds, a copy should also be sent to the Single Audit Clearinghouse. The address is:

Single Audit Clearinghouse  
Bureau of the Census  
Data Preparation Division  
1201 East 10th Street  
Jeffersonville, Indiana 47132

If the audit covers other federal grants, the federal or state agency administering those grants should also be given a copy of the audit.

## **VI. AUDIT REVIEW**

Audits are reviewed by the Department to ensure that federal audit requirements are being met as well as to handle findings of noncompliance or questioned costs relating to the NSP projects. The Department will notify the local grantee in writing of its formal acceptance or rejection of an audit. (If an audit is rejected, the audit must be revised or a new audit performed.) The Department's audit acceptance letter will take note of any findings or questioned costs relating to the NSP grants. The local grantee will be required to take action to remedy the findings or questioned costs within a specified time horizon. When sufficient action has been taken, the Department will notify the grantee that the findings are resolved, and the audit is closed.

## **VII. PRIMARY DOCUMENTS AND REGULATIONS**

The Audit Guide of the American Institute of Certified Public Accountants has identified six primary documents governing the performance of single audits:

- A. The Single Audit Act Amendments of 1996 (P.L. 104-156);
- B. OMB Circular A-133, "Audits of State and Local Governments";
- C. OMB Circular A-87, "Costs Principles for States and Local Governments;"

- D. Government Auditing Standards: Standards for Audit of Government Organizations, Programs, Activities, and Functions;
- E. OMB Compliance Supplement for Single Audit of State and Local Governments; and
- F. Catalog of Federal Domestic Assistance (CFDA).

**NOTE:** The CFDA number for the Small Cities Community Development Block Grant is 14.228.

## AUDIT INFORMATION FORM

**Grantee:** \_\_\_\_\_

**Address:** \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

**FEIN:** \_\_\_\_\_

**Fiscal Year:** \_\_\_\_\_

**Is Grantee required to have an audit?**  Yes  No If yes, no further information is required.

**Please list all sources and amounts of Federal Financial Assistance expended this year:**

NSP Grant No. \_\_\_\_\_ Amount \$ \_\_\_\_\_

CDBG Grant No. \_\_\_\_\_ Amount \$ \_\_\_\_\_

Grant No. \_\_\_\_\_ Amount \$ \_\_\_\_\_

**Other Federal Grants:**

Name: \_\_\_\_\_ Amount \$ \_\_\_\_\_

Name: \_\_\_\_\_ Amount \$ \_\_\_\_\_

Name: \_\_\_\_\_ Amount \$ \_\_\_\_\_

Name: \_\_\_\_\_ Amount \$ \_\_\_\_\_

**Total All Federal Financial Assistance Expended:** \$ \_\_\_\_\_

\_\_\_\_\_  
**Signature of Authorized Elected Official**

\_\_\_\_\_  
**Title**

\_\_\_\_\_  
**Date**

## **Section 13: Property Management**

### **I. REAL PROPERTY**

- A. Title – Title to real property acquired under a grant will vest in the grantee upon acquisition.
- B. Use – Except as otherwise provided by federal statutes, real property will be used for the originally authorized purpose as long as needed for that purpose, and the grantee shall not dispose of or encumber its title or other interests.
- C. Disposition – When real property is no longer needed for the originally authorized purpose, the grantee will request disposition instructions from the NSP program. The instructions will provide for one of the following alternatives:
  - 1. Retention of Title – Retain title after compensating NSP program. The amount due the program will be computed by applying NSP’s percentage of participation in the cost of the original purchase to the fair market value of the property. However, in those situations where a grantee is disposing of real property acquired with grant funds and acquiring replacement real property under the same program, the net proceeds from the disposition may be used as an offset to the cost of the replacement property.
  - 2. Sale of Property – Sell the property and compensate the NSP program. The amount due the NSP program will be calculated by applying NSP’s percentage of participation in the cost of the original purchase to the proceeds of the sale after deduction of any actual and reasonable selling and fixing-up expenses. If the grant is still active, the net proceeds from sale may be offset against the original cost of the property. When a grantee is directed to sell property, sales procedures shall be followed that provide for competition to the extent practicable and result in the highest possible return.
  - 3. Transfer of Title – Transfer title to the NSP program or to a third-party designated/approved by NSP. The grantee shall be paid an amount calculated by applying the grantee’s percentage of participation in the purchase of the real property to the current fair market value of the property.



## II. EQUIPMENT

- A. Title – Title to equipment acquired under a grant will vest in the grantee upon acquisition.
- B. Use
  - 1. Equipment shall be used by the grantee in the program or project for which it was acquired as long as needed, whether or not the project or program continues to be supported by federal funds. When no longer needed for the original program or project, the equipment may be used in other activities currently or previously supported by a federal agency.
  - 2. The grantee shall also make equipment available for use on other projects or programs currently or previously supported by the federal government, providing such use will not interfere with the work on the projects or program for which it was originally acquired. First preference for other use shall be given to other programs or projects supported by the NSP program. User fees should be considered, if appropriate.
  - 3. The grantee must not use equipment acquired with grant funds to provide services for a fee to compete unfairly with private companies that provide equivalent services, unless specifically permitted or contemplated by federal statute.
  - 4. When acquiring replacement equipment, the grantee may use the equipment to be replaced as a trade-in or sell the property and use the proceeds to offset the cost of the replacement property, subject to approval of the NSP program.
- C. Management Requirements – Procedures for managing equipment (including replacement equipment), whether acquired in whole or in part with grant funds, until disposition takes place will, at a minimum, meet the following requirements:
  - 1. Property records must be maintained that include a description of the property, a serial number or other identification number, the source of property, who holds the title, the acquisition date and cost of the property, percentage of federal participation in the cost of the property, the location, use and condition of the property and any ultimate disposition data including the date of disposal and sale price of the property.
  - 2. A physical inventory of the property must be taken and the results reconciled with the property records at least once every two years.

3. A control system must be developed to ensure adequate safeguards to prevent loss, damage or theft of property. Any loss, damage or theft shall be investigated.
  4. Adequate maintenance procedures must be developed to keep the property in good condition.
  5. If the grantee is authorized or required to sell the property, proper sales procedures must be established to ensure the highest possible return.
- D. Disposition – When original or replacement equipment acquired under a grant is no longer needed for the original project or program or for other activities currently or previously supported by a federal agency, disposition of the equipment will be made as follows:
1. Items of equipment with a current per-unit fair market value of less than \$5,000 may be retained, sold or otherwise disposed of with no further obligation to the NSP program.
  2. Items of equipment with a current per-unit fair market value in excess of \$5,000 may be retained or sold and the NSP program shall have a right to an amount calculated by multiplying the current market value or proceeds from sale by NSP's share of the equipment.
  3. In cases where a grantee fails to take appropriate disposition actions, the NSP program may direct the grantee to take excess and disposition actions.
- E. Federal Equipment – In the event a grantee is provided federally-owned equipment:
1. Title will remain vested in the federal government.
  2. Grantees will manage the equipment in accordance with federal agency rules and procedures and submit an annual inventory listing.
  3. When the equipment is no longer needed, the grantee will request disposition instructions from the federal agency.
- F. Right to Transfer Title – HUD may reserve the right to transfer title to the federal government or a third party named by the NSP program when such a third party is otherwise eligible under existing statutes. Such transfers shall be subject to the following standards:
1. The property shall be identified in the grant or otherwise made known to the grantee in writing.

2. The NSP program shall issue disposition instruction within 120 calendar days after the end of the federal support of the project for which it was acquired. If the NSP program fails to issue disposition instructions within the 120 calendar-day period, the grantee shall follow Item D above, Disposition.
3. When title to equipment is transferred, the grantee shall be paid an amount calculated by applying the percentage of participation in the purchase to the current fair market value of the property.

### **III. SUPPLIES**

- A. Title – Title to supplies acquired under a grant will vest, upon acquisition, in the grantee.
- B. Disposition – If there is a residual inventory of unused supplies exceeding \$5,000 in total aggregate fair market value upon termination or completion of the award, and if the supplies are not needed for any other federally-sponsored programs or projects, the grantee shall compensate the NSP program for its share.

## Section 14: Housing Development

Basic NSP/CDBG program requirements are contained in the general portion of the *-grantee Handbook* and are applicable to all Housing Rehabilitation grants. This housing supplement is intended to provide guidance relating specifically to housing activities. Throughout this section references will be made to the general portion of the handbook. However, there are three areas within the housing program that require additional administrative duties:

### 1. Financial Management

When tracking finances for housing grants, each individual house that is rehabilitated should be treated as a separate project. So a housing grant will have two ledgers (one for total program and one showing rehabilitation properties). All financial transactions related to rehabilitation must be recorded. The administrator, grantee or NSP/CDBG field representative should at any given time be able to track the complete financial history of the project. This includes all bids, contracts, change orders, invoices and payments.

### 2. Procurement

In general, community improvement grant contractors are procured one time for a specific task. Unlike community improvement grants, housing projects depend on a pool of interested contractors that are notified of bid opportunities for housing rehabilitation throughout the term of the grant.

Housing rehabilitation projects are limited to the current years per unit cost and therefore fall under the Small Purchases procurement policy. This means that the grantee is not obligated to advertise bid opportunities or accept the lowest bid. However, many grantees opt to advertise a call for contractors to enhance the competitive bid process. Contractors are then put on a bidders list once all of their insurance and certifications have been verified. Contractors are then notified prior to each bid round of the opportunity for work. Sub--grantees are encouraged to accept the lowest bid unless there is an established basis of selection within their contractor guidelines to do otherwise. An example would be that a contractor is limited to an award of two houses on any bid round. Sub-grantees are encouraged to let several homes out to bid at one time. If a sub--grantee has multiple contractors bidding on the homes, they are encouraged to award bids to all contractors if the bids are similar in costs. Selection should be thoroughly documented in the procurement file. If the sub--grantee receives a single bid, they must submit a written request for permission to accept a single bid. Documentation of the procurement steps taken to ensure “open and free competition” should be included with the request.

### 3. Environmental

All housing rehabilitation projects must undergo the general environmental review process. Housing only rehabilitation projects are generally categorically excluded. When dealing with housing projects, however, there are other environmental concerns.

- a. Demolition: Due to the possible presence of asbestos and/or hazardous waste, housing rehabilitation projects that include demolition must receive an assessment.
- b. Historical Society Clearance: All demolitions and each house to be rehabilitated that is older than fifty years and has its original exterior cladding must receive Historical Society clearance prior to rehabilitation work. A written request is sent along with an original picture of the house, the full address and a completed work write-up to the Kansas State Historical Society. They will respond in writing, and this response must become part of the individual file.
- c. Rehabilitation in the Flood Plain: Housing rehabilitation can only occur in a flood plain if the sub-grantee is a member of the National Flood Insurance Program. By participating in this program, cities/counties are required to adopt a Flood Management Plan. In order to rehabilitate a specific house, the owners must be insured against floods and all rehabilitation work must comply with the plan. If rehabilitation in the flood plain is considered, the grantee should contact a NSP/CDBG Housing Field Representative.

## I. GENERAL NSP/CDBG INFORMATION

### A. NSP/CDBG Program Components

The NSP/CDBG Housing Rehabilitation program can assist communities with:

- Housing Rehabilitation
  - Demolition
  - Relocation
1. Housing Rehabilitation

***All households receiving housing rehabilitation assistance must meet low-to moderate-income guidelines set by the Department of Housing and Urban Development.***

Under the Housing Rehabilitation program, there are two standards of rehabilitation: 1) Livability and 2) Health and Safety, which includes Weatherization (see Attachment 16 for further details on these standards). At least 80 percent of the Housing Rehabilitation Activity funds must be spent to rehabilitate homes up to the NSP/CDBG Livability Standard. A maximum of 20 percent of Housing Rehabilitation Activity funds may be used to meet the Weatherization/Health and Safety Standards.

NSP/CDBG funds may be spent on emergency issues or for handicap accessibility only, outside of the targeted area. Any funds spent outside of the target area on emergencies or accessibility will be included in the allowed 20 percent designated for Weatherization/Health and Safety Standards. Any work on mobile homes is included in the 20 percent Standard. In addition, no work may be done on a mobile home built prior to 1976, or on one that is not fully anchored with hitch and wheels removed and is sitting on property owned by the mobile home owner and taxed as real property.

**In rental rehabilitation, tenants must be documented to be low- to moderate-income.** If the owner of the rental unit can also be documented to be LMI, the sub-grantee may propose a 100 percent grant on the rental unit. If the owner of the rental unit is non-LMI, he/she must contribute a minimum of 25 percent toward the rehabilitation costs in cash.

The homeowner must sign a rental agreement. This agreement stipulates four requirements:

- a. The owner agrees to repay the grant on a prorated schedule if he/she sells the property within a period of three years from the date of rehabilitation. However, the governing body may allow the purchaser to assume the obligation.
- b. The owner also agrees that any subsequent tenants within the same three-year period will be LMI.
- c. The monthly rental payment may not exceed the current monthly payment or the Fair Market Rent whichever is less. Landlords are allowed an annual cost of living increase set by HUD.
- d. The owner also shall not discriminate in their rental practices against persons on the basis of race, color, national origin, religion, sex, familial status or disability (see Attachment 1 for a sample rental agreement).

## 2. Demolition

Demolition of residential structures is an eligible activity within a housing rehabilitation grant. Demolition meets the national objective of “Elimination of Slums and Blight” and, therefore, is not contingent on meeting the LMI requirement. Demolition in the Housing category cannot be commercial property or outbuildings on a property that is not receiving rehabilitation

## 3. Relocation

Relocation expenses are allowable to relocate persons living in dilapidated or overcrowded structures. The relocation must be voluntary and follow all the requirements of the Uniform Relocation Assistance & Real Property Acquisition Policies Act of 1970 (URA) (see Acquisition Section in the Sub-grantee Handbook).



B. Maximum Allowable Costs (Restrictions may apply)

- Under the Housing Rehabilitation program, the limit on NSP/CDBG funds is the current years maximum per housing unit.
- Housing inspection costs are limited to \$800 per unit. This includes all necessary interim inspections, work write-ups and cost estimates.
- The maximum per residential demolition site is \$6,500, including inspections.
- The administrative cost of NSP/CDBG Housing Rehabilitation projects cannot exceed the current years maximum
- Lead safe work practices and cleaning for clearance is limited to 10 percent of rehabilitation costs. This cost must be bid with rehabilitation.
- Risk assessment costs are limited to \$1,000 per unit. This includes all XRF and lab testing, mailing of samples, trip charges and reports associated and/or required for a risk assessment.
- Clearance Inspection costs for lead-based paint is limited to \$300 per unit and is all-inclusive like the risk assessment.
- Relocation required for LBP is limited to \$5,000 per Housing Rehabilitation grant.

II. SETTING UP THE PROGRAM

A. Staff

The quality and success of the housing program depends on the quality and experience of the people implementing the program. In staffing a housing program, it is helpful to understand the specific skills that will be required. There is a need for a person who can work effectively with low- to moderate-income persons, process paper and manage the program. Someone must talk to applicants, visit their homes to complete applications and keep track of the housing program and process.

A well-defined administrative structure is another critical factor for a successful housing project. All NSP/CDBG program grants must be administered by a state certified housing administrator. **It cannot be stressed enough that no matter who administers the project, whether it is the sub-grantee (city or county) directly, or a consultant, the sub-grantee is responsible for the work that is accomplished and for compliance with all administrative requirements.**

1. Sub-grantee Responsibilities

- a. Signing all contracts.
- b. Determining the manner in which the housing grant is implemented.

- c. Creating a Housing Board: Although not required, the sub-grantee may create a housing board to help with the administration of a housing rehabilitation grant.
- (1) This board is a voluntary unpaid advisory board to the governing body.
  - (2) Their role is defined by the sub-grantee and adopted as an ordinance.
  - (3) The board can assist by performing such duties as promoting the program, accepting applications, verifying and qualifying applications, accepting bids, making recommendations on the selection of bids, etc. (See Attachment 2 for a sample ordinance.)

If the city decides that it does not want to establish a housing board, the city council may fill the position of the board.

## 2. Administrator

All NSP/CDBG program grants must be administered by a state certified administrator. Cities should treat the procurement of the administrator like it would any other professional service and check references and qualifications.

The administrator is responsible for helping the city follow all NSP/CDBG rules and regulations so that the city can successfully complete the housing rehabilitation grant. The sub-grantee and administrator, at the beginning of a grant, should determine the roles and responsibilities of the administrator. The administrator should be able to advise a city in the implementation of the program, the grant and how it is implemented is ultimately the city's decision.

## 3. Inspector

In order to be successful, your program needs an inspector with experience and knowledge in the area of housing construction, local codes, inspection (building, electrical, and plumbing) and cost estimating. It is recommended that great care be given to the selection of an inspector. The qualifications should include:

- Two or three years' hands-on experience in construction, preferably in a supervisory position.
- Prior experience as a building inspector in a NSP/CDBG program.
- Experience writing work write-ups.
- Knowledge of lead-based paint safe work practices.

After July 1, 2009, inspectors are required to be registered with the Kansas Secretary of State's office. A copy of this certification must be in the file to participate in the NSP/CDBG program.

The Housing Inspector is responsible for:

- a. Insuring that the city is in compliance with NSP/CDBG rules and regulations.
- b. Performing all Housing Quality Standard inspections.
- c. Providing the sub-grantee with work write-ups that will bring each home up to HQS.
- d. Assisting the city in protecting the program participants by working with the risk assessor, administrator and contractor in determining if there are LBP hazards and what measures are required to protect the occupants.
- e. Others duties as agreed on between inspector and sub-grantee.

4. Lead-Based Paint Risk Assessor

State and federal regulations require that all homes built prior to 1978 be evaluated for lead-based paint regulations. In order to meet these requirements a sub-grantee must hire a lead-based paint risk assessor. A sample Request For Proposal for a risk assessor can be obtained on line or by contacting your field representative. It is recommended that the city adapt this sample for their needs.

Qualifications that should be evaluated are:

- Kansas Department of Health & Environment licensed risk assessor.
- Training in HUD's 1012/1013 rule.
- Familiar with Kansas NSP/CDBG lead-based paint requirements.

The LBP risk assessor/inspector is responsible for:

- a. Performing risk assessments.
- b. Providing a written risk assessment to the city/homeowner within the 15-day timeframe required by HUD.
- c. Performing LBP Clearance tests.
- d. Providing the city and homeowner with copies of a clearance report within the 15-day timeframe required by HUD.

e. Other duties as determined between LBP risk assessor and sub-grantee.

5. Contractors

Potential contractors should be identified and efforts made to interest them in program participation. The yellow pages of the telephone book, the Chamber of Commerce, conversations with construction materials suppliers and word of mouth are all information resources to aid in developing a bidder's list. Sub-grantees may also advertise for contractors who want to be included on the bidders list. Also, Equal Opportunity activities should yield potential contractors. Efforts must be made to notify Women Business Enterprises and Minority Business Enterprises of bidding opportunities.

The absence of interested and/or qualified contractors can be a major problem for some localities in carrying out their housing program. Depending on the level of construction activity in the locality, home building and remodeling contractors may not be interested in relatively small jobs for repairing homes in poor condition. In order to promote the participation of small contractors, the sub-grantee should try to eliminate procedural barriers and provide as much technical assistance as possible. Bonding and insurance requirements for small contractors can be prohibitive. Some localities have waived bonding requirements and developed alternative ways to protect property owners. Some technical assistance approaches that have been adopted by localities include: sureties from banks to small contractors; talking to local suppliers to assure them of payment for a credit extended to rehabilitation contractors for NSP/CDBG-funded jobs, guaranteed through direct billing, if necessary; and talking to local financial institutions to encourage them to extend lines of credit. Sub-grantees are allowed cash-on-hand in their regular accounts of up to \$5,000 to help in this situation.

After building a list, three important steps must be taken to ensure that the work performed is quality work:

- a. The sub-grantee should check references on all contractors considered for rehabilitation projects.
- b. ***The sub-grantee must check with Commerce to verify that the contractor is not on the list of debarred contractors.*** (See the Verification of Contractor Eligibility form in the Labor Section in the Sub-grantee Handbook.)
- c. The sub-grantee must verify that the contractor has a certified lead-based paint supervisor and/or all employees are trained in lead safe work practices. (If a contractor is a LBP supervisor, he must have a current supervisor's certification from the Kansas Department of Health & Environment.)

The Contractor will be responsible for:

- a. Completing all items identified in the bid documents.
- b. Completing all work in a timely manner.
- c. Completing all work in a lead safe manner, using lead safe work practices.
- d. Meeting all local, state and national building codes.
- e. Providing a one-year guarantee on all work completed under the NSP/CDBG program.

**S-A-M-P-L-E  
Demolition Permission**

Date: \_\_\_\_\_

TO: City of \_\_\_\_\_, Kansas

Address: \_\_\_\_\_

\_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

PERMISSION and authority is hereby granted to the City of \_\_\_\_\_ upon the following described real estate to-wit:

Otherwise, known as \_\_\_\_\_ and the undersigned agrees that the City of \_\_\_\_\_ Kansas, or its assigns, may move, remove, relocate, raze or destroy the structure or structures located on the property owned by the undersigned.

The undersigned further bargains and sells unto the City of \_\_\_\_\_ Kansas, all of the structures and salvageable materials of whatever nature and description produced by the removal of said structure or structures.

The undersigned hereby certifies that the undersigned is the owner in fee simple of said real estate and said premises are free and clear of all liens and encumbrances of whatever kind and nature except:

The undersigned further releases and discharges the City of \_\_\_\_\_ Kansas, from any and all claims, rights or damages caused by reason of such removal, relocation or destruction.

SIGNED THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 20 \_\_\_\_\_

SIGNATURE OF OWNERS:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Subscribed and sworn to me this \_\_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_\_\_

NOTARY: \_\_\_\_\_

My commission Expires: \_\_\_\_\_



## **HOUSING REHABILITATION MATERIAL APPLICATION STANDARDS**

### *IMPORTANT*

*Please read material, application and performance standards carefully.*

**Contractor will obtain and pay for all necessary licenses, permits and privileges required in his work, and perform all work in strict accordance with the laws and ordinances in force in the State of Kansas, and in the locality in which this work is to be performed. Contractor will investigate what Federal, State or Municipal laws and requirements are applicable and comply with all in an approved manner.**

**Lead Safe Work Practices will be implemented on all homes built prior to 1978 that receive NSP/CDBG Housing Rehabilitation funds.**

**SHOULD THERE BE ANY CONFLICTS BETWEEN THESE SPECIFICATIONS AND THE WORK WRITE-UP, THE PROJECT INSPECTOR SHOULD BE CONTACTED FOR A FINAL DETERMINATION.**

## CARPENTRY SPECIFICATIONS

### A. Concrete Work

1. The concrete mix shall be 3,000 pounds transit mix or with a 5 1/2 sack mix for both interior and exposed concrete.
2. No concrete shall be poured on frozen ground.
3. All concrete flat work must be over a 2" layer of gravel/sand on compacted earth and be reinforced properly.
4. All flat work concrete must be a minimum of 4" thick with 1/2" pre-molded asphalt or non-bituminous fiber-filled material expansion joints at entrance platforms, steps, intersections with driveways or walks, and in long runs at least every 50'.
5. Control joints must be provided at no more than 5' intervals for sidewalks and 20' intervals for floors, concrete drives, and parking slabs.
6. Footings must be below the freeze line, 8" thick, and reinforced properly with rebar.
7. Foundation walls must be 8" wide and reinforced properly with rebar.

**CONTRACTOR MUST CALL FOR A SITE INSPECTION AFTER SITE IS READY FOR CONCRETE AND 24 HOURS PRIOR TO POURING. AFTER 24 HOURS HAS ELAPSED CONTRACTOR MAY PROCEED. NOTIFY THE PROJECT INSPECTOR.**

### B. Masonry Work

1. No masonry work shall be done when the temperature of the surrounding air is likely to cause freezing.
2. All joints must be completely filled with mortar.
3. All brick, stone, or block used should match, if possible, adjacent work. The owner(s) must approve samples before starting the work, unless the work is to be painted or covered.
4. Soft salmon type brick shall not be allowed.
5. Tuck-pointing shall only be done after the joints have been raked out to a minimum depth of 1/2" and wetted.
6. All damaged, loose, or salmon brick, in area to be rebuilt, must be removed until sound brickwork is encountered.
7. New brick patches must be toothed into and match in the existing work in site, joints, and bond.
8. Veneer brickwork must be tied to frame wall with galvanized wall ties on every third course, 32" on center, and shall conform to above specifications.

9. All new retaining walls over 24" high must have #4 steel dowels placed every 2' and be imbedded at least 6" into the footings.
10. Retaining wall footings shall be three times the thickness of the wall in width and 8" deep, containing three (3) #4 steel rebar.
11. All retaining walls over 24" high shall have weep holes at grade level at 8' intervals.
12. All block replacement foundation walls shall have a galvanized steel bed reinforcement (8" mesh) in 2<sup>nd</sup> course and 5<sup>th</sup> course of block. Concrete block or poured wall may be used for all foundation walls.

C. Grade

Shall mean backfill along foundation with topsoil and provide sufficient slope in finish grade to provide drainage away from house.

D. Framing Lumber

1. Must be No. 3 Southern Pine, SB, SPF, standard grade, or better.
2. Studs must be Stud Grade.
3. Allowable spans for floor, roof, and ceiling joists no greater than 24" centers.
4. Bearing partition stud walls may not be less than 2" x 4" studs with dimension perpendicular to the wall, 16" on center.
5. Floor joist spacing may be no more than 16" on center when 25/32" flooring is to be applied directly to the joist; or, 16" on center when any lesser thickness of finish flooring is to be laid over a sub-floor.
6. Gutting of structural members shall not be done without the approval of the Project Inspector.

E. Sub-Flooring

1. Plywood shall be Southern Yellow Pine (SYP), 1/2" minimum where 25/32" finished flooring is to be laid or 5/8" where resilient flooring is to be laid and joists are not over 16" on center.
2. Nail plywood sub-floor to joint at each bearing with No.8 cemented or galvanized, or No. 6 threaded nails spaced 6" on center along all edges, and 10" on center along intermediate members.

3. Install plywood with outer piles at right angles to the joists and staggered so that the end joists in adjacent panels bear on different joists.
4. Common boards used as sub-flooring shall not be over 11" wide or less than 3/4" thick when laid on joist spaced 10" on center, and shall be laid diagonally if hard wood flooring is laid.
5. Nail boards with No. 8 box nails or No. 6b threaded nails, as follows:
  - a. Two (2) nails in 3" boards.
  - b. Two (2) nails in 4" boards.
  - c. Three (3) nails in 6" boards.
  - d. Four (4) nails in 8" boards.
  - e. Five (5) nails in 12" boards.

F. Underlayment

1. Shall be 3/8" structural grade plywood or 1/4" underlayment.
2. Nail underlayment with cement coated, rosin coated, or ring shank nails placed on 4" centers on all edges and over the face of each piece.
3. Cement Board in high moisture area installed using Manufacturer Specifications

G. Finish Flooring

1. Strip Wood Flooring :
  - a. Material must be softwood with 25/32" minimum thickness.
  - b. Shall be 3 1/4" maximum width.
  - c. Nails shall be as recommended by flooring manufacturer. Blind nail tongue and groove flooring, driving nail at an approximate angle of 50 degrees. Space nails every 10" to 12" on center.
2. Sheet Vinyl Flooring:
  - a. Minimum 0.065" gauge overall thickness.

- b. Shall be 0.025" gauge wear layer, 10' wide rolls.

- c. The owner(s) shall be shown at least three (3) samples to select from a quality that will cost no more than \$20 per yard including installation.
  - d. Mastic shall be as recommended by flooring manufacturer. (No gluing only along the edges will be allowed).
  - e. All joints and cracks in base shall be filled, smoothed, and leveled.
  - f. Where irregular floor conditions exist, install underlayment to receive vinyl flooring.
  - g. Layout to minimize joints in vinyl flooring. Small strips or patching will not be allowed.
  - h. Owner(s) shall sign color sample.
3. Carpeting and Padding:
- a. The owner(s) will select from at least three (3) carpet samples.
  - b. Based on a specified allowance, not to exceed more than \$20 per yard including installation.
  - c. Owner(s) shall sign color sample.
  - d. Where irregular floor conditions exist, install underlayment to receive carpet.
  - e. Carpet shall be stain and soil resistant treated, FHA approved, and installed in strict accordance with manufacturer's specifications.
  - f. Padding shall be, FHA approved, and installed according to manufacturer's specifications.

**CARPET WILL NOT BE ALLOWED IN BATHROOMS, KITCHENS, AND UTILITY ROOMS.**

H. Finish Lumber

- 1. Shall be free from tool marks and other objectionable defects.
- 2. Solid lumber and miscellaneous trim for interior finish shall be vinyl or solid stock white pine, if stained. Finger joints, allowed if painted.
- 3. All exterior solid lumber and trim shall be sealed against the weather. Exterior porches and all wood meeting the ground shall be treated lumber.



4. Porches shall have a top, intermediate, and bottom railing.

I. Exterior Doors

1. Doors:

- a. Shall be new, wood flush, particle core, exterior grade, and standard entrance doors with window light. A pre-hung insulated steel door may also be used.
- b. Shall conform to the thickness of the doorjamb and be hung on three (3) 3 1/2 x 3 1/2" butt hinges, flush mounted.
- c. Shall have a minimum 10" x 10" glass window installed or peep hole (client to decide).
- d. Replacement shall include weather stripping, installation of door sweeps, locksets, and hinges.
- e. After installation, doors are to be neat in appearance and operate smoothly to insure an airtight seal.
- f. Replacement doors are to be finished as per painting specifications.

2. Weather Stripping:

- a. All existing weather-stripping (W/S) is to be removed prior to the installation.
- b. W/S shall be installed on both sides and top of doorjamb and shall be Q-lon (Vinyl clad foam) with aluminum back or equivalent.
- c. The doorstop shall be caulked as needed to complete the airtight seal.
- d. Adjust door as necessary to insure airtight seal with the W/S.
- e. The installation is to be airtight, neat in appearance, without buckling or gaps, and installed in such a manner that it is considered permanent.

3. Sweeps:

- a. Sweeps are to be a metal strip with a vinyl or neoprene insert installed according to the manufacturer's instructions.
- b. Install on the inside of doors that open inward or on the exterior of doors that open outward, so as not to interfere with the smooth operation of the door.
- c. Must be installed with mounting screws no further than two inches (2") from each end.
- d. Bottom edge of the sweep is to touch the threshold for proper seal.

4. Locksets:
  - a. Locksets to be installed on exterior doors must be of a keyed type.
  - b. Install according to manufacturer's specifications.
  - c. Two (2) working keys are to be supplied to the client when the new lockset is installed.
5. Thresholds:
  - a. Shall saddle try type with door bottom.
  - b. Are to fit snugly between the jambs and fasten with screws, and form an airtight seal between door and threshold.
6. Garage Door
  - a. Must be a 25 gauge galvanized Door
  - b. Must be insulated
  - c. Have a minimum \_\_\_\_\_ year warranty

J. Storm Doors

1. Shall mean aluminum clad, solid core construction with baked-on finish, self-storing design to contain two glass panels and one, full-size screen panel. Similar in quality to the Cole Sewell "Solid Saver" Model 530.
2. Shall have closures and hardware including stop springs.
3. Adjust for proper tension and operation.
4. Shall have corner bracing for additional support.

K. Windows

1. Frames, sill, sash, trim, and hardware shall match existing work in design and dimension unless otherwise specified in the work write-up.
2. New windows shall be single hung double pane insulated vinyl, aluminum, or wood frame, equal to or better than Columbia Industries C-1600 with screens.
3. Positive locking devices ("cam action" sash locks) shall be provided on all windows, which are accessible from the exterior, and all existing interior finish hardware shall be made operative or replaced.

4. Finish per painting specifications.
5. Glass and Glazing (for glass replacement).
  - a. Windows shall be glazed or re-glazed, where required, with single strength clear grade B glass.
  - b. Window glazing shall be oil base and contain no asbestos or lead.
6. Putty shall consist of pure linseed oil, pure whiting, natural color, or standard commercial grade putty.
7. Prime all wood sash before the placing of putty.
8. Glass shall be bedded in putty and secured in place with glazier points and face puttied. All excess putty shall be removed and all glass left clean.

L. Storm Windows

1. Are to be standard aluminum frames, self-storing, with removable sash and screen section similar in quality to the Columbia Series 400.
2. Adjust for proper tension and operation.
3. Shall have corner bracing for additional support.

M. Stucco

1. Mortar for all applications shall consist of one (1) part Portland cement to not less than three (3) or more than five (5) parts of damp loose aggregate by volume. Hydrate lime may be used but shall not exceed 10 percent by weight or more than 25 percent by volume of the cement used.
2. The temperature of the surrounding air shall not be less than 40 degrees F. during application and for at least 48 hours thereafter.
3. Surfaces to receive stucco shall be covered with 3.40 pounds per square yard metal lath lapped at end and sides a minimum of 1", and nailed 10" on center vertically and 6" on center horizontally.
4. Apply a minimum of two (2) or three (3) coats. The final coat shall not be applied sooner than seven (7) days after the preceding coat. Before applying the final coat, the surface shall be dampened evenly to obtain uniform suction.

5. Apply two (2) coats on masonry to a minimum thickness of 5/8".
6. Apply three (3) coats over wood surfaces to a minimum thickness of 7/8".
7. Prior to stucco being painted, it shall be washed down with 5 percent muriatic acid solution and rinsed clean with clear water.
8. Patching of stucco, when called for in the Work Write-Up, shall include the removal of all loose material encountered until sound construction is reached, including the removal of rotted or deteriorated lath.

N. Plastering

1. Gypsum plaster materials shall be standard commercial brands.
2. Mixing and application of gypsum plasters shall be in accordance with American Standard Specifications for Gypsum Plastering.
3. Apply plaster in three (3) coats and in two (2) coats double up work-minimum thickness 1/2".
4. Gypsum lath shall be applied with long dimension across supports and with end joints staggered.
5. Nail gypsum lath with 12 or 13 gauge lathing nails having approximately 3/8" heads spaced not more than 4" on center with a minimum of four (4) nails in each lath. Use six (6) nails for 24" wide lath. Length of nail shall be that which shall provide at least 1" penetration in horizontal supports and 3/4" penetration in vertical supports.
6. Gypsum lath shall not be used as a base for Portland cement plaster.
7. Wood lath shall be securely nailed and wetted down prior to applying plaster.
8. Metal lath shall be applied according to manufacturer's directions whether used for patching or new work.
9. Patching of plaster, when called for in the Work Write-Up, shall include the removal of all loose material encountered until sound construction is reached, including the removal of rotted or deteriorated lath. Crack repair in plaster walls shall be cut out to a depth of not less than 1/4" and a width of 1/4". All areas are to be wetted thoroughly before applying plaster filler.

O. Wallboard

1. Shall be tape joint gypsum board, carefully fitted and sized prior to nailing in place. Minimum thickness is to be 1/2".

2. Water resistant gypsum board is to be installed on bathroom walls, or any high moisture area.
3. All joints are to be staggered.
4. Nails or sheetrock screws shall be driven with their shanks perpendicular to the face of the board and seated below the surface of the board without breaking the paper, in accordance with the following:

<u>Thickness</u>	<u>Ceiling</u>	<u>Side Walls</u>	<u>Type of Nail</u>
1/2"	5" O.C.	7" O.C.	No. 4 glue coated
5/8"	6" O.C.	7" O.C.	1-7/8 6d cement coated

5. Perforated Tape Mix:
  - a. Shall comply with the recommendation of the manufacturer. A minimum temperature of 55 degrees F. shall be maintained in the room where the work is done until the cement is completely dry. Follow manufacturer's directions for application.
  - b. Over joints, the tape shall be embedded in cement and covered with a thin layer of cement. A second and third coat shall be applied. Each coat shall be dry before applying the next coat. Each coat shall be feather-edged and extended beyond the previous coat, approximately 2". The finish coat shall be sanded lightly and imperfections filled in prior to any painting or decorating.
  - c. Check to see that all nails have been driven so that their heads are below the surface without breaking the paper. Cover nails with three (3) applications of cement, allowing time to dry between each coat painted or other decoration.
  - d. The final coat shall be sanded lightly before application of inside corners and shall be reinforced with tape imbedded in cement and finished the same as b. over joints.
  - e. Outside wood molding, metal molding, or metal corner reinforcement shall protect corners. Metal corner re-enforcement shall be finished with two (2) coats of cement, as specified.
  - f. Provide metal edge trim where wallboard edge abuts dissimilar material.
6. Finish to match existing texture.

P. Ceilings

1. Acoustical tile or 2' x 4' drop grid ceilings may be used.
2. Furring strips, when called for, shall be a minimum of 3/4" x 2" and attached with #8 nails driven through to ceiling joists at 10" intervals.
3. Suspended Ceilings



- a. Exposed T-Bar, as specified, installed in strict accordance with manufacturer's recommendations.
- b. Unexposed T-Bar, as specified, installed in strict accordance with manufacturer's recommendations.

1. Plaster/Drywall

- a. Use a heavy textured spray finish, when required, to repair cracked plaster and/or cracks in ceiling board.

Q. Siding Repairs/Replacement

1. Repairs of siding shall match material of existing siding.
2. Installation of siding shall be 12" lap hard board and/or Fiber cement. siding, unless otherwise noted on the Work Write-Up. Paint as called for in the painting specifications.
3. Remove siding only when called for in Work Write-Up.
4. Vinyl Siding:
  - a. Shall be 40 mills (.040") thick or better.
  - b. Colored completely through.
  - c. Siding shall be installed over a minimum ¼" fan fold foam core, and shall carry a lifetime warranty for defects in material and color fading.
  - d. Warranty shall be placed in the owner(s) name and the contractor shall send all documentation to the company with a copy to the client.
  - e. Installation shall include wrapping all windows, soffit, fascia, porch ceiling, and pillars, et al.
  - f. Any exterior painted surfaces (including window sash) not wrapped shall be painted according to the painting specifications.
  - g. Owner(s) shall pick one siding color and one trim color from samples of siding and a complimentary trim color.
  - h. Owner(s) shall sign sample of color choice. No bright or "hot" colors allowed.

R. Caulking

1. Caulk shall be appropriate for materials being sealed. All caulk shall have a material life of at least 15 years.

2. Fully caulk around the following areas:
  - a. Window and door frames - all sides.
  - b. Where different materials meet.
  - c. Inside and outside corner trim boards.
  - d. Between foundation and wall plates or siding.
  - e. Around vents, fans, and window air conditioners.

S. Interior Doors

1. Shall be 1-3/8" hollow core.
2. Must be stained or painted to owner's option.
3. Complete with hardware and latch set.

T. Wallpapering - Not Allowed

U. Water Resistant Paneling

1. 1/8" thick, vinyl coated paneling recommended by the manufacturer for high moisture areas. Complete with vinyl trim at all joints.
2. Secure to sound backing using adhesive as recommended by manufacturer.
3. Owner(s) to select color and pattern from manufacturer's standard items. Owner(s) to sign sample selection.
4. Shall not be used as shower/tub surround.

V. Wood Paneling

1. Shall be 3/32" minimum thickness.
2. APA A-D interior paneling.
3. Furnish and install wood trim as required for a complete installation. Stain trim to match paneling.
4. Paneling to be selected by owner(s) based on specified allowance.

5. Owner(s) to sign sample of selection.

W. Kitchen Cabinets

1. Job Built:
  - a. Shall be 3/4" fir or birch plywood with solid wood band on all exposed edges.
  - b. Stain a minimum of two (2) coats of lacquer (selected by owner(s)).
2. Factory Built:
  - a. Residential grade, standard construction for wood cabinets.
  - b. Standard stain finish (selected by owner(s)).
  - c. Laminated (heat and stain resistant) counter top and edge trim with back splash.
3. Upper Cabinets:
  - a. Two (2) adjustable shelves.
  - b. Doors complete with hardware.
4. Base Cabinets:
  - a. Continuous drawers with standard glides across top section of all cabinets except sink area.
  - b. One (1) adjustable shelf behind doors - all areas below drawer sections.
  - c. Laminated (heat and stain resistant) counter top and edge trim with back splash.
  - d. Cabinets complete with hardware.

X. Insulation - All insulation material shall be cellulose, unless otherwise specified in the Work Write-Up.

All attics must be insulated to a R-38, where possible.

1. Insulation Barrier:
  - a. Install insulation barriers specifically manufactured for use with the type of insulation installed.

- b. Installation is to be in accordance with manufacturer's recommendations.



- c. All chimneys, flues, recessed lights, and furnaces are to have insulation barriers around them.
2. Gable Vents:
  - a. Openings are to be cut with close tolerance to insure a watertight fit.
  - b. Vent is to be nailed or screwed into the frame.
  - c. All damaged siding is to be repaired or replaced. Siding without sheeting behind it is to have the vent framed in and mounted on the frame to insure a tight fit.
  - d. Ventilation ratio shall be not less than 1/300.
3. Roof Vents:
  - a. Roof vents are to be prepared and cut to close tolerance to insure a watertight fit.
  - b. The hole in the roof shall be no smaller than the throat size of the vent being installed so as not to restrict airflow.
  - c. Discarded materials are not to be dropped into the attic area. The Contractor shall remove discarded materials from the work site.
  - d. Vents (galvanized or aluminum) are to be sealed and nailed with galvanized or aluminum nails.
  - e. If the high/low method is used in installing roof vents, 50 percent of the vents must be located in the upper portion to be ventilated at least 3' above lower vents, with the remaining 50 percent of the required ventilation provided by eave, soffit, or roof vents.
  - f. In the case of the high/low method of ventilation, a ratio shall not use less than 1\150.
  - g. Vents are to appear evenly spaced from the ground and be neat in appearance.
4. Soffit Vents:
  - a. Vents are to be installed to insure free ventilation space to the attic area.
  - b. Vents are to be evenly spaced and a uniform distance from the sidewall.
  - c. Vents are to be screwed to the soffit.

5. Attic Access:
  - a. R-19 batt insulation is to be stapled or nailed to the top of the door.
  - b. Insulated manufactured doors may also be used. Insulation dams are to be constructed from 1" x 10" or better and are to be used to hold back attic insulation.
  - c. All attic accesses are to be weather-stripped using foam, tubular, or metal flap weather strip, nailed, or placed on the jamb.
  - d. When rebuilding an attic access, use 1" x 4" for the jamb and doorstop to form the flange. The door itself can be made of 3/4" plywood and insulated with R-19 batt insulation. 1" x 4", or smaller, is to be used as casing. The door and surrounding area is to be airtight. Damaged ceiling area is to be repaired with like materials, all wood installed is to be sealed against moisture.
6. Floor Insulation:
  - a. R-13 batt insulation is to be installed between floor joists, unless otherwise specified.
  - b. Insulation is to be secured with nails, staples, or wire.
  - c. The vapor barrier shall be towards the conditioned side.
7. Duct Insulation:
  - a. All loose joints on hot air ducts (also air conditioning ducts in attics) shall be sealed to prevent air leakage.
  - b. The ducts are to be wrapped using a standard R-5 or better vinyl wrapped fiberglass batt or standard duct wrap.
  - c. Cellulose can be blown against the ductwork to hold the insulation.
  - d. Duct insulation installed in a basement or crawl space is to have a vapor barrier installed to the outside.
8. Wall Insulation:
  - a. Walls shall be insulated to a minimum of R-13.
  - b. Building codes shall be considered regarding knob and tube wiring situations.

- c. All exterior walls are to be insulated.

- d. Siding is to be removed and replaced.
  - e. Damaged siding is to be replaced.
  - f. All sidewall insulation shall be densely packed cellulose.
9. Perimeter Insulation:
- a. R-13 faced fiberglass is to be securely fastened to the underside of the floor, extending down the boxing area, unless otherwise specified.
  - b. Covers the inside foundation wall and then out into the crawlspace at least 2'.
  - c. Vapor barrier, shall be 6 mil plastic with 2' overlapped seams.
10. Insulation Material (Mineral):
- a. Fiber Material or Product:
    - (1) Blanket batt conformance to F.5. HH-1-521E and ASTM C665-70.
    - (2) Board conformance to F.5. HH-1-526C and ASTM C612-70 or C726-72.
    - (3) Duct Material Conformance to F.5. HH-1-558B.
11. Insulation Material (Organic Fiber):
- a. Cellulose conformance to HH-1-515D dated April 1988.
  - b. Block and Board conformance to F.S. LLL-12-525A and ASTM C208-72 and fire safety requirements.
12. Water Heater Blanket:
- a. Specifically manufactured for the purpose.
  - b. Minimum R-5.
  - c. Capable of meeting a flame spread classification not to exceed 150 (per ASTM E-84).

## **PLUMBING AND HEATING SPECIFICATIONS**

### **A. Water Piping**

1. Above ground shall be type L copper tubing with copper solder joint fittings made up with 95-5 solder as recommended by manufacturer or PEX.
2. Connections to valves shall be made with N.P.T. to solder adapters.
3. Schedule 40 PVC cold plastic water pipe may also be used for water piping and Schedule 40 CPVC for hot plastic water piping.
4. All plastic water pipe shall be supported every 4'.
5. The site of new pipes shall be in conformance with the Uniform Plumbing Code. Valves shall be 150# brass with ends similar to fittings. Valves shall be provided at each piece of equipment to permit removal without shutting off service. Unions will be provided to permit removal of equipment without cutting pipe.
6. Supply lines to faucets shall be flex lines or copper tubing.
7. Shut-offs is required on all supply lines.

### **B. Plumbing Fixtures**

1. Trim shall be chrome plated and supplies to each water closet shall be provided with stop valves to permit removal without shutting off service.
2. All plumbing fixtures and trim called for in the Work Write-Up shall be of standard grade equal to American Standard, Crane, or Kohler.
3. Shower shall have a rod and shower curtain installed, at minimum.

### **C. Kitchen Equipment**

1. Sink shall be double compartment stainless steel or enameled steel with self-sealing edge.
2. Refrigerator shall be a minimum 18 cu. ft., self-defrosting, 2-door unit appliance.
3. White or Almond (major brand mid priced model).
4. Ranges shall be electric or gas, with oven and oven light, and timer. White or Almond (major brand mid-priced range).
5. Gas ranges shall be attached to the gas supply with a steel flex gas line and shut off.

### **D. Heating Systems**

1. Every heater that is existing or installed must be equipped with the following:
  - a. One hundred percent safety.

- b. Code approved, metalbestos vent.
  - c. Proper gas piping and stops, installed in accordance with recommendations of the Uniform Plumbing Code.
  - d. Shut-off valves.
  - e. All transite vents are to be removed.
  - f. Blower.
  - g. New Thermostat.
2. If no local codes, must meet National Gas Code (NGC).
  3. All new heating plants shall be sized and installed to provide sufficient proper heating and proper distribution for the size and requirements of the individual house. HVAC systems shall not be oversized by more than 15 percent.
  4. New furnaces shall be a minimum of 80 percent efficient, forced air with a warranty of not less than ten years. Ninety-two percent or better efficient furnaces shall be sealed combustion.
  5. No outside units or attic units shall be installed or units in crawl space unless specified in the Work Write-Up.
  6. No flexible ductwork is allowed unless approved by inspector at the bid conference.
  7. No open return air is allowed. All ductwork is to be included in bid.
  8. All ductwork shall be sealed using mastic (example RCD #6).
  9. All ductwork in unconditioned spaces shall be insulated.
  10. Furnace and/or air conditioner shall be on separate circuits.
  11. All appliances must be installed in accordance with manufacturer's specifications.
  12. Must have easy access to filter.
  13. If furnace is in basement, it must be raised a minimum of 2".
  14. Plenum must be installed to receive future A-coil.
- E. Water Heaters
1. Water heaters, existing or installed, shall have the following:



- a. Pressure and temperature relief valve.
  - b. Proper vent, gas piping, and shut off.
  - c. All transite vents to be replaced with code approved vent.
2. Pressure and temperature relief valves shall be extended within 2' of the floor, but no closer than 6".

NOTE: All cutting of walls, floors, ceilings, partitions, etc., for the purpose of rehabilitation work and the air sealing of openings around same, including the removal of all debris caused thereby, shall be performed by the contractor performing the work. Repairs shall match existing materials, be finished to a smooth condition, and painted. (Refer to applicable Specifications for details.)

SHOULD THERE BE ANY CONFLICTS BETWEEN THESE SPECIFICATIONS AND THE WORK WRITE-UP, THE PROJECT INSPECTOR SHOULD BE CONTACTED FOR A FINAL DETERMINATION.

## **ELECTRICAL SPECIFICATIONS**

*All electrical work shall be in conformance with the National Electrical Code (NEC)*

### **A. Wiring Devices**

1. Single pole room lighting switches and three-way and four-way switches shall be UL approved.
2. Plug-ins shall be standard grounded receptacles except for plug-ins within 6' from water source and shall be GFI.
3. Plates for all switches and receptacles shall be non-conducting type (including screws) and UL approved.
4. Dryer shall have separate 220 circuit.
5. Furnace, air conditioner, refrigerator, dishwasher, and stove shall have separate circuit.
6. Garbage disposal shall have separate circuit(s) and wall switched receptacle.

### **B. Lighting Fixtures**

1. Contractor shall provide all lighting fixtures complete with lamps, glassware, mounting hardware, frames and trim, stems, ballasts, sockets, etc., to provide a complete operating UL approved fixture at each location, as called for in the Work

Write-Up. Energy efficient compact fluorescents bulb(s) are required in all replaced fixtures.

2. Porcelain lamp-holders are prohibited unless approved by the Project Inspector.

C. Panel Boards

1. Shall be UL approved, with the minimum components as listed:
  - a. NEMA 1 enclosure for indoor and NEMA 3R for exterior use.
  - b. 200A mains (minimum) unless noted otherwise.
  - c. 200A 2-pole main breaker (minimum) unless otherwise noted.
  - d. Seven (7) 1-pole branch breakers (minimum).
  - e. 2-pole breakers as required.
  - f. Separate/Neutral.
  - g. Separate ground bar.
  - h. Additional equipment as required meeting the National Electrical Code (NEC).

\* Unless specified differently by inspector.

D. Wire

1. Wire and cables shall be copper.
2. All wire and cable shall comply with the standardization rules of the AIEE as to conductivity and shall be free from kinks, splices, and defects when installed. Conductors shall be in accordance with the requirements of IPCEA Publication's latest edition.
3. All wire used in this project shall be new and shall be identified by type and by manufacturer.
4. Branch circuit wiring shall be non-metallic sheath Type NM.
5. Service conductors shall be Type XHHW.
6. All wiring shall be concealed in wall, ceiling, or floor cavities. Wiring required to be exposed shall, be installed in intermediate grade metal conduct.
7. All receptacles and other electrical equipment, except light fixtures, shall have a separate equipment ground conductor bonded to their metal cases, frames, etc. (except as noted).

E. Lightning Arresters

1. 175 v., 2-pole lightning arresters shall be installed per NEC.

2. Rewiring of house shall meet NEC.

F. Smoke Alarms

1. Install a 10-year Lithium battery smoke alarms unless rewiring house.
2. If rewiring, install hardwired smoke alarms.

Note: All cutting of walls, floors, ceilings, partitions, etc., for the purpose of rehabilitation work and the air sealing of openings around same, including the removal of all debris caused thereby, shall be performed by the contractor performing the work. Repairs shall match existing materials, be finished to a smooth condition and painted. (Refer to applicable Specifications for details.)

*CONTRACTOR MUST OBTAIN PRIOR WRITTEN APPROVAL FROM OWNER(S) BEFORE REMOVING FROM THE PREMISES ANY REUSABLE ITEMS, WHICH HAVE BEEN REPLACED.*

## PAINTING AND VARNISHING SPECIFICATIONS

*Preparation and painting of all surfaces shall be completed in accordance with HUD's "Safe Work Practices".*

### A. Preparation of Surface

#### 1. Exterior:

- a. Wood surfaces to be painted or varnished shall be prepared in accordance with HUD's Safe Work Practices in the removal of loose, chipping and peeling paint, rough spots, and any obvious oil and/or grease that may be covering existing wood or paint.
- b. All paint chips and residue from the preparation must be REMOVED from the site.
- c. Where previous coats have chipped and peeled, the edge shall be wet scraped and puttied to obtain a smooth surface before new paint is applied.
- d. Exterior painting shall include painting all doors and windows, removing all storm windows, repairing windows, replacing all broken or cracked glass, and re-glazing and caulking all joints and seams with paintable caulk. Clean and reinstall all storm windows upon completion.
- e. All nail holes shall be puttied and all defects in the surface shall be eliminated by the repair or complete replacement of the defective part, this includes siding, sills, casings, etc.

#### 2. Interior:

- a. Wood surfaces to be painted or varnished shall be prepared in accordance with HUD's Safe Work Practices in the removal of loose, chipping and peeling paint, rough spots, and any obvious oil and/or grease that may be covering existing wood or a paint.
- b. Plaster or wallboard surfaces shall be sound, smooth, and free from holes, cracks, or irregularities.
- c. All old wallpaper shall be entirely removed or covered with sheetrock, taped, then painted.
- d. No paint or varnish shall be applied until all nail holes have been puttied and all defects in woodwork have been eliminated by the insertion of dutchmen or complete replacement of the damaged part.

B. Materials – Lead based paint is in violation of HUD Lead-Based Paint Regulations and shall not be used.

1. Exterior:

- a. All exterior paint must meet or exceed Sherwin Williams 15 year # A-100 and shall be delivered to site in manufacturer's sealed containers.
- b. Each container shall be labeled giving type of paint color and application specification.
- c. Before proceeding with exterior painting, samples of colors shall be shown to the owner(s) for selection. The owner(s) is limited to one (1) base color and one (1) trim color. Owner(s) shall sign the chosen color sample. Color options will be in a neutral color range, no bright or "hot colors" are allowed.
- d. The primer coat shall be Alkyd oil tinted to match topcoat, produced by the same manufacturer as the finish coat.

2. Interior:

- a. Interior paint shall meet or exceed Sherwin William's Classic #99 for flat, semi-gloss, or satin gloss, and shall be delivered to the site in the manufacturer's sealed containers.
- b. Primer for new sheetrock shall meet or exceed Sherwin William's Pro-Mar #400 latex primer.
- c. Before proceeding with painting or varnishing, color samples shall be shown to the owner(s) for selection. The owner(s) is limited to one (1) base color and one (1) trim color. Owner(s) shall sign the chosen color sample.
- d. Texture finish sample shall be submitted to the owner(s) for approval before application. Owner(s) shall sign sample choice.
- e. The finish coat in kitchens and bathrooms shall be semi-gloss enamel and provide a durable and washable surface.
- f. The primer shall be tinted to match topcoat, produced by the same manufacturer as the finished coat.
- g. Varnish shall be polyurethane varnish.

3. Application:

- a. Exterior:

- (1) All paint, unless specifically approved otherwise, shall be applied by brush or roller.
- (2) Apply each material at manufacturer's recommended spreading rate.
- (3) Do not apply exterior paint when temperature is 50° F. and falling, or when temperature is below 40° F. and steady, or in rainy, damp, or frosty weather until surface is thoroughly dry. Contact the Project Inspector if considering the Sherwin Williams product "Low Temp 35"
- (4) The Contractor shall be responsible for protecting all areas and surfaces that are not to receive paint and shall clean and repair or replace any such areas, surfaces, or items so damaged.
- (5) Finish work shall be uniform, of approved color, smooth, and free from runs, sags, and defective brushing and rolling. Edges of paint adjoining other materials or colors shall be sharp and clean.

b. Interior:

- (1) New paint applied on walls that are painted with a glossy paint or has a shine must be first prepared to remove glossy surface and cleaned prior to painting.
- (2) The Contractor shall be responsible for protecting all areas and surfaces that are not to receive paint and shall clean and repair or replace any such areas, surfaces, or items so damaged.
- (3) Finish work shall be uniform, of approved color, smooth, and free from runs, sags, and defective brushing and rolling. Edges of paint adjoining other materials or colors shall be sharp and clean.
- (4) Ceiling paint will be allowed when applying to ceilings.

c. Required Coatings:

- (1) Exterior wood, etc. (previously painted).
  - i. One (1) coat of exterior wood primer, tinted same as topcoat.
  - ii. Two (2) coats exterior latex house paint.
  - iii. Warranty is void if not followed.
- (2) Exterior wood and hardboard (bare):



- i. One (1) coat exterior wood primer; tinted same as topcoat.
  - ii. Two (2) coats exterior latex house paint.
  - iii. Warranty is void if not followed.
- (3) Interior drywall:
- i. Two (2) coats latex satin-gloss enamel wall paint.
  - ii. New drywall (1) coat of latex primer, (2) coats of satin-gloss enamel wall paint.
- (4) Wood porch floors and wood steps:
- i. Two (2) coats porch floor enamel.
  - ii. Redwood and CCA does not need to be painted.
- (5) Spray textured drywall ceilings:
- i. One (1) coat latex flat wall paint.
  - ii. One (1) coat spray texture.

SHOULD THERE BE ANY CONFLICTS BETWEEN THESE SPECIFICATIONS AND THE WORK WRITE-UP, THE PROJECT INSPECTOR SHOULD BE CONTACTED FOR A FINAL DETERMINATION.

## ROOFING SPECIFICATIONS

Replacement of roof, when called for on the Work Write-Up, shall be defined as removing all existing shingles, flashings, valley tin, drip edge, and felt; then providing all new felt, valley tin, flashing, metal drip edge, and shingles, et al. Damaged sheathing or areas without solid sheathing shall have 15/32" construction grade plywood or 7/16" OSB Louisiana Pacific Interseal installed for sheathing

### A. Sheathing

1. Shall be 15/32" construction (CDX) grade plywood or 7/16" OSB Louisiana Pacific Interseal, APA Exposure #1 criteria or equal (THIS PRODUCT IS NOT "NORBOARD").
2. Nail sheathing with cement coated, rosin coated, or ring shank nails placed on 4" centers on all edges and over the face of each piece.

### B. Underlayment

1. Shall be asphalt saturated felt, minimum 30#, which has low vapor resistance. Coated felts or laminated waterproof papers, which act as vapor barriers, should not be used.
2. Underlayment should be applied over the entire roof as soon as the roof sheathing has been completed.
3. Underlayment should be lapped 1' from both sides over all hips and ridges.
4. Only sufficient fasteners are to be used to hold the underlayment securely in place until shingles are applied.
5. Shingles are not to be applied over wet underlayment.

### C. Shingles

1. Shall be new Heritage or 3-tab, (equal to or better than 25-year), asphalt shingle squares, (nominal) weight, installed according to manufacturer's specifications, using nails only.
2. Cut shingles at valleys (2" each side of valley center to expose a minimum of 4"). Woven valleys are not allowed.
3. Owner(s) to select shingle color by signing a sample of the chosen shingle. Contractor is to keep signed shingle until final completion certificate is signed.

D. Metal Roofing

1. Shall be 29 gauge painted metal roofing equal to or better than Metal Sales Pro Panel II.
2. All metal roofing shall be attached with the proper length metal to wood screws with seal washers.
3. Owners shall sign sample of color choice. Color options will be a neutral color range, no bright or “hot colors” are allowed.

E. Flashing

Shall be 30 nominal gauge galvanized steel securely fastened and tarred to watertight and water-shedding condition.

F. Gutters/Downspouts/Splash Blocks

1. Standard, 5" Ogee, galvanized, white, steel, or 26 gauge aluminum gutters, securely fastened at 4' maximum intervals. Owner(s) to chose color to compliment house.
2. Downspouts may be round or square, corrugated and anchored at top and bottom.
3. All joints are to be watertight.
4. Install 3' splash blocks at all downspout locations. If not concrete, the splash blocks shall be anchored.
5. Install blocking and/or fascia board where necessary between gutter and eaves to properly align gutter to receive run-off from roof.
6. Owner(s) shall sign sample of color choice. No bright or “hot” colors allowed.

NOTE: SHOULD THERE BE ANY CONFLICTS BETWEEN THESE SPECIFICATIONS AND THE WORK WRITE-UP. THE PROJECT INSPECTOR SHOULD BE CONTACTED FOR A FINAL DETERMINATION.

## **DEMOLITION SPECIFICATIONS**

### **A. Structures, Trees, and Site Clearance**

1. The removal and proper disposal of the dilapidated structure(s). Check with the landfill operator prior to beginning demolition for instructions on “proper disposal”.
2. The capping off of the sewer and waterlines.
3. The complete removal of all concrete, cement or blocks, back-fill any basement to grade. Level site to be mowed. Seeding is the responsibility of the property owner.
4. Only remove trees that are within 6' of structure to be demolished.

### **B. Abandoned Septic Systems**

1. Remove all liquid contents and the top of the tank. If the pit begins to fill with water, puncture the floor.
2. Fill the cavity with earth, sand, or gravel. Pack the fill to 5' below the surface, knock down sides 2' below grade, and then complete the fill with subsoil, packing as fill is being installed. The structure is now ready for the plug.
3. A minimum of a 6" of bentonite clay or 24" reinforced cement plug is to be applied. The plug must extend beyond the lining of the original diameter of the hole.

### **C. Abandoned Wells**

1. Remove any pumping equipment.
2. Disinfect the water prior to filing by adding 1 gallon of chlorine bleach for every 10' of water.
3. Fill the well with sand and gravel mix to the water level.
4. Fill the remainder of the well above the water level with natural clay material (subsoil low in organic matter) compacted to form a solid column.
5. Six feet from top of casing, pour a 3' plug of cement or neat cement or sodium bentonite clay.
6. Excavate around the casing to the top of the plug, cut off casing, and backfill the excavation with compacted earth material.

*Note: Contractor may be instructed to cut the casing at 4' below grade to allow the plug to extend beyond the edge of the casing. This mushroom plug will help provide extra protection from water movement along either side of the casing.*

## SAFE WORK PRACTICES

*All work must be conducted in a lead safe work practice manner according to HUD Approved Lead Safe Work Practices Training by someone who has received HUD Approved Lead Safe Work Practices Training, is a Kansas Department of Health & Environment certified Lead Based Paint Worker, or is supervised by a Kansas Department of Health & Environment Lead Based Paint Supervisor.*

Reference **Lead Paint Safety, A Field Guide for Painting, Home Maintenance, and Renovation Work**, U.S. Department of Housing & Urban Development Office of Healthy Homes and Lead Hazard Control.

### A. Prohibited Methods of Lead Based Paint Removal

1. Open flame burning or torching.
2. Machine sanding or grinding without a high-efficiency particulate air (HEPA) local exhaust control.
3. Abrasive blasting or sandblasting without a HEPA local exhaust control.
4. Heat guns operating above 1100° F. or charring the paint.
5. Dry sanding or dry scraping, except dry scraping in conjunction with heat guns or within 1' of electrical outlets.
6. Paint stripping in a poorly ventilated space using a volatile stripper that is a hazardous substance in accordance with regulations of the Consumer Product Safety Commission.

### B. Occupant Protection and Worksite Preparation

1. Occupants and their belongings shall be protected.
2. The worksite must be prepared according to safe work practice standards.

### C. Cleaning for Clearance

After rehabilitation/hazard reduction activities have been completed, the worksite shall be cleaned using cleaning methods, products, and devices that are successful in cleaning up dust-lead hazards, such as a HEPA vacuum or other method of equivalent efficacy, and lead specific detergents or equivalent.

### D. Safe Work Practices Are Not Required

1. On a home built after 1978.
2. On housing exclusively for the elderly (62 years of age or older) or people with disabilities unless a child under six is expected to reside there.

3. On zero-bedroom dwellings.
4. On property that has been found to be free of lead-based paint by a certified lead-based paint inspector/risk assessor.
5. On property where all lead-based paint has been removed.
6. On unoccupied housing that will remain vacant until it is demolished.
7. On non-residential property.
8. On any rehabilitation or housing improvement that does not disturb a painted surface.



## GLOSSARY OF HOUSING TERMS

**Air-Dried Lumber:** Lumber that has been piled in yards or sheds for any length of time. For the United States as a whole, the minimum moisture content of thoroughly air-dried lumber is 12 to 15 percent and the average is somewhat higher. In the South, air-dried lumber may be no lower than 19 percent.

**Airway:** A space between roof insulation and roof boards for movement of air.

**Alligatoring:** Coarse checking pattern characterized by a slipping of the new paint coating over the old coating to the extent that the old coating can be seen through the fissures.

**Anchor Bolts:** Bolts to secure a wooden sill plate to concrete or masonry floor or wall.

**Apron:** The flat member of the inside trim of a window placed against the wall immediately beneath the stool.

**Areaway:** An open subsurface space adjacent to a building used to admit light or air or as a means of access to a basement.

**Asphalt:** Most native asphalt is a residue from evaporated petroleum. It is insoluble in water but soluble in gasoline and melts when heated. Used widely in building for waterproofing roof coverings of many types, exterior wall coverings, flooring tile, and the like.

**Astragal:** A molding attached to one of a pair of swinging doors, against which the other door strikes.

**Attic Ventilators:** In houses, screened openings provided to ventilate an attic space. They are located in the soffit area as inlet ventilators and in the gable end or along the ridge as outlet ventilators. They can also consist of power-driven fans used as an exhaust system. (See also Louver.)

**Backbands:** A simple molding sometimes used around the outer edge of plain rectangular casing as a decorative feature.

**Backfill:** The replacement of excavated earth into a trench around and against a basement foundation.

**Balusters:** Usually small vertical members in a railing used between a top rail and the stair treads or a bottom rail.

**Balustrade:** A railing made up of balusters, top rail, and sometimes bottom rail, used on the edge of stairs, balconies, and porches.

**Barge Board:** A decorative board covering the projecting rafter (fly rafter) of the gable end. At the cornice, this member is a fascia board.

**Base or Baseboard:** A board placed against the wall around a room next to the floor to finish properly between floor and plaster.

**Base Molding:** Molding used to trim the upper edge of interior baseboard.

**Base Shoe:** Molding used next to the floor on interior baseboard. Sometimes called a carpet strip.

**Batten:** Narrow strips of wood used to cover joints or as decorative vertical members over plywood or wide boards.

**Batter Board:** One of a pair of horizontal boards nailed to posts set at the corners of an excavation, used to indicate the desired level, also as a fastening for stretched strings to indicate outlines of foundation walls.

**Bay Window:** Any window space projecting outward from the walls of a building, either square or polygonal in plan.

**Beam:** A structural member transversely supporting a load.

**Bearing Partition:** A partition that supports any vertical load in addition to its own weight.

**Bearing Wall:** A wall that supports any vertical load in addition to its own weight.

**Bed Molding:** A molding in an angle, as between the overhanging cornice, or eaves, of a building and the sidewalls.

**Blind Nailing:** Nailing in such a way that the nailheads are not visible on the face of the work - usually at the tongue of matched boards.

**Blind Stop:** A rectangular molding, usually 3/4 by 1-3/8 inches or more in width, used in the assembly of a window frame. Serves as a stop for storm and screen or combination windows and to resist air infiltration.

**Blue Stain:** A bluish or grayish discoloration of the sapwood caused by the growth of certain moldlike fungi on the surface and in the interior of a piece, made possible by the same conditions that favor the growth of other fungi.

**Bodied Linseed Oil:** Linseed oil that has been thickened in viscosity by suitable processing with heat or chemicals. Bodied oils are obtainable in a great range in viscosity from a little greater than that of raw oil to just short of a jellied condition.

**Boiled Linseed Oil:** Linseed oil in which enough lead, manganese, or cobalt salts have been incorporated to make the oil harden more rapidly when spread in thin coatings.

**Bolster:** A short horizontal timber or steel beam on top of a column to support and decrease the span of beams or girders.

**Boston Ridge:** A method of applying asphalt or wood shingles at the ridge or at the hips of a roof as a finish.

**Brace:** An inclined piece of framing lumber applied to wall or floor to stiffen the structure. Often used on walls as temporary bracing until framing has been completed.

**Brick Veneer:** A facing of brick laid against and fastened to sheathing of a frame wall of tile wall construction.

**Bridging:** Small wood or metal members that are inserted in a diagonal position between the floor joists at midspan to act both as tension and compression members for the purpose of bracing the joists and spreading the action of loads.

**Buck:** Often used in reference to rough frame opening members. Door bucks used in reference to metal door frame.

**Built Up Roof:** Roofing composed of three to five layers of asphalt felt laminated with coal tar, pitch, or asphalt. The top is finished with crushed slag or gravel. Generally used on flat or low-pitched roofs.

**Butt Joint:** The junction where the ends of two timbers or other members meet in a square-cut joint.

**Cant Strip:** A triangular-shaped piece of lumber used at the junction of a flat deck and a wall to prevent cracking of the roofing that is applied over it.

**Cap:** The upper member of a column, pilaster, door cornice, molding, and the like.

**Casement Frames and Sash:** Frames of wood or metal enclosing part or all of the sash, which may be opened by means of hinges affixed to the vertical edge.

**Casing:** Molding of various widths and thicknesses used to trim door and window openings at the jambs.

**Cement, Keene's:** A white finish plaster that produces an extremely durable wall. Because of its density, it excels for use in bathrooms and kitchens and is also used extensively for the finish coat in auditoriums, public buildings, and other places where walls may be subjected to unusually hard wear or abuse.

**Checking:** Fissures that appear with age in many exterior paint coatings at first superficial, but which in time may penetrate entirely through the coating.

**Checkrails:** Meeting rails sufficiently thicker than a window to fill the opening between the top and bottom sash made by the parting stop in the frame of double-hung windows. They are usually beveled.

**Collar Beams:** Nominal 1- or 2-inch thick members connecting opposite roof rafters. They serve to stiffen the roof structure.

**Column:** In architecture: A perpendicular supporting member, circular or rectangular in section, usually consisting of a base, shaft, and capital. In engineering, a vertical structural compression member that supports loads acting in the direction of its longitudinal axis.

**Combination Doors or Windows:** Combination doors or windows used over regular openings. They provide winter insulation and summer protection and often have self-storing or removable glass and screen inserts. This eliminates the need for handling a different unit each season.

**Concrete Plain:** Concrete either without reinforcement, or reinforced only for shrinkage or temperature changes.

**Condensation:** In a building: Beads or drops of water (and frequently frost in extremely cold weather) that accumulate on the inside of the exterior covering of a building when warm, moisture-laden air from the interior reaches a point where the temperature no longer permits the air to sustain the moisture it holds. Use of louvers or attic ventilators will reduce moisture condensation in attics. A vapor barrier under the gypsum lath or dry wall on exposed walls will reduce condensation in them.

**Conduit, Electrical:** A pipe, usually metal, in which wire is installed.

**Construction Dry-Wall:** A type of construction in which the interior wall finish is applied in a dry condition, generally in the form of sheet materials or wood paneling, as contrasted to plaster.

**Construction Frame:** A type of construction in which the structural parts are wood or depend upon a wood frame for support. In codes, if masonry veneer is applied to the exterior walls, the classification of this type of construction is usually unchanged.

**Coped Joint:** See Scribing.

**Corbel Out:** To build out one or more courses of brick or stone from the face of a wall to form a support of timbers.

**Corner Bead:** A strip of formed sheet metal, sometimes combined with a strip of metal lath, placed on corners before plastering to reinforce them. Also, a strip of wood finish three-quarters-round or angular placed over a plastered corner for protection.

**Corner Boards:** Used as trim for the external corners of a house or other frame structure against which the ends of the siding are finished.

**Corner Braces:** Diagonal braces at the corners of frame structure to stiffen and strengthen the wall.

**Cut-in Brace:** Nominal 2-inch inch members, usually 2 by 4's, cut in between each stud diagonally.

**Cornerite:** Metal-mesh lath cut into strips and bent to a right angle. Used in interior corners of walls and ceilings on lath to prevent cracks in plastering.

**Cornice:** Overhang of a pitched roof at the eave line, usually consisting of a fascia board, a soffit for a closed cornice, and appropriate moldings.

**Cornice Return:** That portion of the cornice that returns on the gable end of a house.

**Counterflashing:** A flashing usually used on chimneys at the roofline to cover shingle flashing and to prevent moisture entry.

**Cove Molding:** A molding with a concave face used as trim or to finish interior corners.

**Crawl Space:** A shallow space below the living quarters of a basementless house, normally enclosed by the foundation wall.

**Cricket:** A small drainage-diverting roof structure of single or double slope placed at the junction of larger surfaces that meet at an angle, such as above a chimney.

**Cross-Bridging:** Diagonal bracing between adjacent floor joists, placed near the center of the joist span to prevent joists from twisting.

**Crown Molding:** A molding used on cornice or wherever an interior angle is to be covered.

**D:** See Penny.

**Dado:** A rectangular groove across the width of a board or plank. In interior decoration; a special type of wall treatment.

**Decay:** Disintegration of wood or other substances through the action of fungi.

**Deck paint:** An enamel with a high degree of resistance to mechanical wear designed for use on such surfaces as porch floors.

**Density:** The mass of substance in a unit volume. When expressed in the metric system, it is numerically equal to the specific gravity of the same substance.

**Dewpoint:** Temperature at which a vapor begins to deposit as a liquid. Applies especially to water in the atmosphere.

**Dimensions:** See Lumber dimension.

**Direct Nailing:** To nail perpendicular to the initial surface or to the junction of the pieces joined. Also termed face nailing.

**Doorjamb Interior:** The surrounding case into which and out of which a door closes and opens. It consists of two upright pieces, called side jambs, and a horizontal head jamb.

**Dormer:** An opening in a sloping roof, the framing of which projects out to form a vertical wall suitable for windows or other openings.

**Downspout:** A pipe, usually of metal, for carrying rainwater from roof gutters.

**Dressed and Matched (Tongued and Grooved):** Boards or planks machined in such a manner that there is a groove on one edge and a corresponding tongue on the other.

**Drier Paint:** Usually, oil-soluble soaps of such metals as lead, manganese, or cobalt, which, in small proportions, hasten the oxidation and hardening (drying) of the drying oils in paints.

**Drip:** (a) A member of a cornice or other horizontal exterior finish course that has a projection beyond the other parts for throwing off water. (b) A groove in the underside of a sill or drip cap to cause water to drop off on the outer edge instead of drawing back and running down the face of the building.

**Drip Cap:** A molding placed on the exterior top side of a door or window frame to cause water to drip beyond the outside of the frame.

**Dry-Wall:** Interior covering material, such as gypsum board or plywood, which is applied in large sheets or panels.

**Ducts:** In a house, usually round or rectangular metal pipes for distributing warm air from the heating plant to rooms, or air from a conditioning device or as cold air returns. Ducts are also made of asbestos and composition materials.

**Eaves:** The margin or lower part of a roof projecting over the wall.

**Expansion Joint:** A bituminous fiber strip used to separate blocks or units of concrete to prevent cracking due to expansion as a result of temperature changes. Also used on concrete slabs.

**Facia or Fascia:** A flat board, band, or face, used sometimes by itself but usually in combination with moldings, often located at the outer face of the cornice.

**Filler (Wood):** A heavily pigmented preparation used for filling and leveling off the pores in open-pored woods.

**Fire-Resistive:** In the absence of a specific ruling by the authority having jurisdiction, applies to materials for construction not combustible in the temperatures of ordinary fires and that will withstand such fires without serious impairment of their usefulness for at least 1 hour.

**Fire-Retardant Chemical:** A chemical or preparation of chemicals used to reduce flammability or to retard spread of flame.

**Fire Stop:** A solid, tight closure of a concealed space, placed to prevent the spread of fire and smoke through such a space. In a frame wall, this will usually consist of 2 by 4 cross blocking between studs.

**Fishplate:** A wood or plywood pieces used to fasten the ends of two members together at a butt joint with nails or bolts. Sometimes used at the junction of opposite rafters near the ridge line.

**Flagstone (Flagging or Flags):** Flat stones from 1 to 4 inches thick, used for rustic walks, steps, floors, and the like.

**Flashing:** Sheet metal or other material used in roof and wall construction to protect a building from water seepage.

**Flat Paint:** An interior paint that contains a high proportion of pigment and dries to a flat or lusterless finish.

**Flue:** The space or passage in a chimney through which smoke, gas, or fumes ascend. Each passage is called a flue, which together with any others and the surrounding masonry make up the chimney.

**Flue Lining:** Fire clay or terra-cotta pipe, round or square, usually made in all ordinary flue sizes and in 2-foot lengths, used for the inner lining of chimneys with the brick or masonry work around the outside. Flue lining in chimneys runs from about a foot below the flue connection to the top of the chimney.

**Fly Rafters:** End rafters of the gable overhang supported by roof sheathing and lookouts.

**Footing:** A masonry section, usually concrete, in a rectangular form wider than the bottom of the foundation wall or pier it supports.

**Foundation:** The supporting portion of a structure below the first-floor construction, or below grade, including the footings.

**Framing, Balloon:** A system of framing a building in which all vertical structural elements of the bearing walls and partitions consist of single pieces extending from the top of the foundation sill plate to the roofplate and to which all floor joists are fastened.

**Framing, Platform:** A system of framing a building in which floor joists of each story rest on the top plates of the story below or on the foundation sill for the first story, and the bearing walls and partitions rest on the subfloor of each story.

**Frieze:** In house construction; a horizontal member connecting the top of the siding with the soffit of the cornice.

**Frost Line:** The depth of frost penetration in soil. This depth varies in different parts of the country. Footings should be placed below this depth to prevent movement.

**Fungi Wood:** Microscopic plants that live in damp wood and cause mold, stain, and decay.

**Fungicide:** A chemical that is poisonous to fungi.



**Furring:** Strips of wood or metal applied to a wall or other surface to even it and normally to serve as a fastening base for finish material.

**Gable:** In house construction; the portion of the roof above the eave line of a double-sloped roof.

**Gable End:** An end wall having a gable.

**Girder:** A large or principal beam of wood or steel used to support concentrated loads at isolated points along its length.

**Gloss Enamel:** A finishing material made of varnish and sufficient pigments to provide opacity and color, but little or no pigment of low opacity. Such an enamel forms a hard coating with maximum smoothness of surface and a high degree of gloss.

**Gloss (Paint or Enamel):** A paint or enamel that contains a relatively low proportion of pigment and dries to a sheen or luster.

**Grain:** The direction, size, arrangement, appearance, or quality of the fibers in wood.

**Grain, Edge (Vertical):** Edge-grain lumber has been sawed parallel to the pith of the log and approximately at right angles to the growth rings, i.e., the rings form an angle of 45 degrees or more with the surface of the piece.

**Grain, Flat:** Flat-grain lumber has been sawed parallel to the pith of the log and approximately tangent to the growth rings, i.e., the rings form an angle of less than 45 degrees with the surface of the piece.

**Grain, Quartersawn:** Another term for edge grain.

**Grounds:** Guides used around openings and at the floorline to strike off plaster. They can consist of narrow strips of wood or of wide subjambes at interior doorways. They provide a level plaster line for installation of casing and other trim.

**Grout:** Mortar made of such consistency (by adding water) that it will just flow into the joints and cavities of the masonry work and fill them solid.

**Gusset:** A flat wood, plywood, or similar type member used to provide a connection at intersection of wood members. Most commonly used at joints of wood trusses. They are fastened by, nails, screws, bolts, or adhesives.

**Gutter or Eave Trough:** A shallow channel or conduit of metal or wood set below and along the eaves of a house to catch and carry off rainwater from the roof.

**Gypsum Plaster:** Gypsum formulated to be used with the addition of sand and water for base-coat plaster.

**Header:** (a) A beam placed perpendicular to joists and to which joists are nailed in framing for chimney, stairway, or other opening. (b) A wood lintel.

**Hearth:** The inner or outer floor of a fireplace, usually made of brick, tile, or stone.

**Heartwood:** The wood extending from the pith to the sapwood, the cells of which no longer participate in the life processes of the tree.

**Hip:** The external angle formed by the meeting of two sloping sides of a roof.

**Hip Roof:** A roof that rises by inclined planes from all four sides of a building.

**Humidifier:** A device designed to increase the humidity within a room or a house by means of the discharge of water vapor. They may consist of individual room-size units or larger units attached to the heating plant to condition the entire house.

**I-Beam:** A steel beam with a cross section resembling the letter “I”. It is used for long spans as basement beams or over wide wall opening, such as a double garage door, when wall and roof loads are imposed on the opening.

**IIC:** A new system utilized in the Federal Housing Administration recommended criteria for impact sound insulation.

**INR (Impact Noise Rating):** A single figure rating which provides an estimate of the impact sound-insulation performance of a floor-ceiling assembly.

**Insulation Board, Rigid:** A structural building board made of coarse wood or cane fiber in 1/2 and 25/32-inch thicknesses. It can be obtained in various size sheets, in various densities, and with several treatments.

**Insulation, Thermal:** Any material high in resistance to heat transmission that, when placed in the walls, ceiling, or floors of a structure, will reduce the rate of heat flow.

**Interior Finish:** Material used to cover the interior framed areas, or material of walls and ceilings.

**Jack Rafter:** A rafter that spans the distance from the wallplate to a hip, or from a valley to a ridge.

**Jamb:** The side and head lining of a doorway, window, or other opening.

**Joint:** The space between the adjacent surfaces of two members or components joined and held together by nails, glue, cement, mortar, or other means.

**Joint Cement:** A powder that is usually mixed with water and used for joint treatment in gypsum-wallboard finish. Often called “spackle”.

**Joist:** One of a series of parallel beams, usually 2 inches in thickness, used to support floor and ceiling loads, and supported in turn by larger beams, girders, or bearing walls.

**Kiln Dried Lumber:** Lumber that has been kiln dried often to a moisture content of 6 to 12 percent. Common varieties of softwood lumber, such as framing lumber are dried to a somewhat higher moisture content.

**Knot:** In lumber, the portion of a branch or limb of a tree that appears on the edge or face of the piece.

**Landing:** A platform between flights of stairs or at the termination of a flight of stairs.

**Lath:** A building material of wood, metal, gypsum, or insulation board that is fastened to the frame of a building to act as a plaster base.

**Lattice:** A framework of crossed wood or metal strips.

**Leader:** See Downspout.

**Ledger Strip:** A strip of lumber nailed along the bottom of the side of a girder on which joists rest.

**Let-in Brace:** Nominal 1-inch thick boards applied into notched studs diagonally.

**Light:** Space in a window sash for a single pane of glass: Also, a pane of glass.

**Lintel:** A horizontal structural member that supports the load over an opening such as a door or window.

**Lookout:** A short wood bracket or cantilever to support an overhang portion of a roof or the like, usually concealed from view.

**Louver:** An opening with a series of horizontal slats so arranged as to permit ventilation but to exclude rain, sunlight, or vision. See also Attic ventilators.

**Lumber:** Lumber is the product of the sawmill and planing mill not further manufactured other than by sawing, resawing, and passing lengthwise through a standard planing machine, crosscutting to length, and matching.

**Lumber Boards:** Yard lumber less than 2 inches thick and 2 or more inches wide.

**Lumber, Dimension:** Yard lumber from 2 inches to, but not including, 5 inches thick and 2 or more inches wide. Includes joists, rafters, studs, plank, and small timbers.

**Lumber, Dressed Size:** The dimension of lumber after shrinking from green dimension and after matching to size or pattern.

**Lumber, Matched:** Lumber that is dressed and shaped on one edge in a grooved pattern and on the other in a tongued pattern.

**Lumber, Shiplap:** Lumber that is edge dressed to make a close rabbeted or lapped joint.

**Lumber, Timbers:** Yard lumber 5 or more inches in least dimension. Includes beams, stringers, posts, caps, sills, girders, and purlins.

**Lumber, Yard:** Lumber of those grades, sizes, and patterns, which are generally intended for ordinary construction, such as framework and rough coverage of houses.

**Mantel:** The shelf above a fireplace. Also used in referring to the decorative trim around a fireplace opening.

**Masonry:** Stone, brick, concrete, hollow-tile, concrete-block, gypsum-block, or other similar building units or material or a combination of the same, bonded together with mortar to form a wall, pier, buttress, or similar mass.

**Mastic:** A pasty material used as a cement (as for setting tile) or a protective coating (as for thermal insulation or waterproofing).

**Metal Lath:** Sheets of metal that are slit and drawn out to form openings. Used as a plaster base for walls and ceilings and as reinforcing over other forms of plaster base.

**Millwork:** Generally all building materials made of finished wood and manufactured in millwork plants and planing mills are included under the term “millwork.” It includes such items as inside and outside doors, window and doorframes, blinds, porchwork, mantels, panelwork, stairways, moldings, and interior trim. It normally does not include flooring, ceiling, or siding.

**Miter Joint:** The joint of two pieces at an angle that bisects the joining angle. For example, the miter joint at the side and head casing at a door opening is made at a 45° angle.

**Moisture Content of Wood:** Weight of the water contained in the wood, usually expressed as a percentage of the weight of the oven-dry wood.

**Moldings:** A wood strip having a curved or projecting surface used for decorative purposes.

**Mortise:** A slot cut into a board, plank, or timber, usually edgewise, to receive tenon of another board, plank, or timber to form a joint.

**Mullion:** A vertical bar or divider in the frame between windows, doors, or other openings.

**Muntin:** A small member that divides the glass or openings of sash or doors.

**Natural Finish:** A transparent finish that does not seriously alter the original color or grain of the natural wood. Natural finishes are usually provided by sealers, oils, varnishes, water-repellent preservatives, and other similar materials.

**Newel:** A post to which the end of a stair railing or balustrade is fastened. Also, any post to which a railing balustrade is fastened.

**Nonbearing Wall:** A wall supporting no load other than its own weight.

**Nosing:** The projecting edge of a molding drip. Usually applied to the projecting molding on the edge of a stair tread.

**Notch:** A crosswise rabbet at the end of a board.

**O.C. on Center:** The measurement of spacing for studs, rafters, joists, and the like in a building from the center of one member to the center of the next.

**O.G. or Ogee:** A molding with a profile in the form of a letter “S”, having the outline of a reversed curve.

**Outrigger:** An extension of a rafter beyond the wall line. Usually a smaller member nailed to a larger rafter to form a cornice or roof overhang.

**Paint:** A combination of pigments with suitable thinners or oils to provide decorative and protective coatings.

**Panel:** In house construction, a thin flat piece of wood, plywood, or similar material, framed by stiles and rails as in a door or fitted into grooves of thicker material with molded edges for decorative wall treatment.

**Paper Building:** A general term for papers, felts, and similar sheet materials used in buildings without reference to their properties or uses.

**Paper Sheathing:** A building material, generally paper or felt, used in wall and roof construction as a protection against the passage of air and sometimes moisture.

**Parting Stop or Strip:** A small wood piece used in the side and head jambs of double-hung windows to separate upper and lower sash.

**Partition:** A wall that subdivides spaces within any story of a building.

**Penny:** As applied to nails, it originally indicated the price per hundred. The term now serves as a measure of nail length and is abbreviated by the letter “d”.

**Perm:** A measure of water vapor movement through a material (grains per square foot per inch of mercury difference in vapor pressure).

**Pier:** A column of masonry, usually rectangular in horizontal cross section, used to support other structural members.

**Pigment:** A powdered solid in suitable degree of subdivision for use in paint or enamel.

**Pitch:** The incline slope of a roof or the ratio of the total rise to the total width of a house, i.e., an 8-foot rise and 24-foot width is a one-third pitch roof. Roof slope is expressed in the inches of rise per foot of run.

**Pitch Pocket:** An opening extending parallel to the annual rings of growth that usually contains, or has contained, either solid or liquid pitch.

**Pith:** The small, soft core at the original center of a tree around which wood formation takes place.

**Plaster Grounds:** Strips of wood used as guides or strike-off edges around window and door openings and at base of walls.

**Plate:** Sill plate: A horizontal member anchored to a masonry wall. Sole plate: bottom horizontal member of a frame wall. Top plate: Top horizontal member of a frame wall supporting ceiling joists, rafters, or other members.

**Plough:** To cut a lengthwise groove in a board or plank.

**Plumb:** Exactly perpendicular; vertical.

**Ply:** A term to denote the number of thicknesses or layers of roofing felt, veneer in plywood, or layers in built-up materials, in any finished piece of such material.

**Plywood:** A piece of wood made of three or more layers of veneer joined with glue, and usually laid with the grain or adjoining plies at right angles. Almost always an odd number of plies are used to provide balanced construction.

**Pores:** Wood cells of comparatively large diameter that have open ends and are set one above the other to form continuous tubes. The openings of the vessels on the surface of a piece of wood are referred to as pores.

**Preservative:** Any substance that, for a reasonable length of time, will prevent the action of wood-destroying fungi, borers of various kinds, and similar destructive agents when the wood has been properly coated or impregnated with it.

**Primer:** The first coat of paint in a paint job that consists of two or more coats; also the paint used for such a first coat.

**Putty:** A type of cement usually made of whiting and boiled linseed oil, beaten or kneaded to the consistency of dough, and used in sealing glass in sash, filling small holes and crevices in wood, and for similar purposes.

**Quarter Round:** A small molding that has the cross section of a quarter circle.

**Rabbet:** A rectangular longitudinal groove cut in the corner edge of a board or plank.

**Radiant Heating:** A method of heating, usually consisting of a forced hot water system with pipes placed in the floor, wall, or ceiling; or with electrically heated panels.

**Rafter:** One of a series of structural members of a roof designed to support roof loads. The rafters of a flat roof are sometimes called roof joists.

**Rafter, Hip:** A rafter that forms the intersection of an external roof angle.

**Rafter Valley:** A rafter that forms the intersection of an internal roof angle. The valley rafter is normally made of double 2-inch thick members.

**Rail:** Cross members of panel doors or of a sash. Also, the upper and lower members of a balustrade or staircase extending from one vertical support, such as a post, to another.

**Rake:** Trim members that run parallel to the roof slope and form the finish between the wall and a gable roof extension.

**Raw Linseed Oil:** The crude product processed from flaxseed and usually without much subsequent treatment.

**Reflective Insulation:** Sheet material with one or both surfaces of comparatively low heat emissivity, such as aluminum foil. When used in building construction the surfaces face air spaces, reducing the radiation across the air space.

**Reinforcing:** Steel rods or metal fabric placed in concrete slabs, beams, or columns to increase their strength.

**Relative Humidity:** The amount of water vapor in the atmosphere, expressed as a percentage of the maximum quantity that could be present at a given temperature. (The actual amount of water vapor that can be held in space increases with the temperature.)

**Resorcinol Glue:** A glue that is high in both wet and dry strength and resistant to high temperatures. It is used for gluing lumber or assembly joints that must withstand severe service conditions.

**Ribbon (Girt):** Normally a 1- by 4-inch board let into the studs horizontally to support ceiling or second-floor joists.

**Ridge:** The horizontal line at the junction of the top edges of two sloping roof surfaces.

**Ridge Board:** The board placed on edge at the ridge of the roof into which the upper ends of the rafters are fastened.

**Rise:** In stairs, the vertical height of a step or flight of stairs.

**Riser:** Each of the vertical boards closing the spaces between the treads of stairways.



**Roll Roofing:** Roofing material, composed of fiber and saturated with asphalt that is supplied in 36-inch wide rolls with 108 square feet of material. Weights are generally 45 to 90 pounds per roll.

**Roof Sheathing:** The boards or sheet material fastened to the roof rafters on which the shingle or other roof covering is laid.

**Rubber-Emulsion Paint:** Paint, the vehicle of which consists of rubber or synthetic rubber dispersed in fine droplets in water.

**Run:** In stairs, the net width of a step or the horizontal distance covered by a flight of stairs.

**Saddle:** Two sloping surfaces meeting in a horizontal ridge, used between the back side of a chimney, or other vertical surface, and a sloping roof.

**Sand Float Finish:** Lime mixed with sand, resulting in a textured finish.

**Sapwood:** The outer zone of wood, next to the bark. In the living tree it contains some living cells (the heartwood contains none), as well as dead and dying cells. In most species, it is lighter colored than the heartwood. In all species, it is lacking in decay resistance.

**Sash:** A single light frame containing one or more lights of glass.

**Sash Balance:** A device, usually operated by a spring or tensioned weather-stripping designed to counterbalance double-hung window sash.

**Saturated Felt:** A felt that is impregnated with tar or asphalt.

**Scratch Coat:** The first coat of plaster, which is scratched to form a bond for the second coat.

**Screed:** A small strip of wood, usually the thickness of the plaster coat, used as a guide for plastering.

**Scribing:** Fitting woodwork to an irregular surface. In moldings, cutting the end of one piece to fit the molded face of the other at an interior angle to replace a miter joint.

**Sealer:** A finishing material, either clear or pigmented, that is usually applied directly over uncoated wood for the purpose of sealing the surface.

**Seasoning:** Removing moisture from green wood in order to improve its serviceability.

**Semigloss Paint or Enamel:** A paint or enamel made with a slight insufficiency of nonvolatile vehicle so that its coating, when dry, has some luster but is not very glossy.

**Shake:** A thick handsplit shingle, resawed to form two shakes; usually edge-grained.

**Sheathing:** The structural covering, usually wood boards or plywood, used over studs or rafters of a structure. Structural building board is normally used only as wall sheathing.

**Sheathing Paper:** See Paper, sheathing.

**Sheet Metal Work:** All components of a house employing sheet metal, such as lashing, gutters and downspouts.

**Shellac:** A transparent coating made by dissolving lac, a resinous secretion of the lac bug (a scale insect that thrives in tropical countries, especially India), in alcohol.

**Shingles:** Roof covering of asphalt, asbestos, wood, tile, slate, or other material cut to stock lengths, widths, and thicknesses.

**Shingles Siding:** Various kinds of shingles, such as wood shingles or shakes and nonwood shingles that are used over sheathing for exterior sidewall covering of a structure.

**Shiplap:** See Lumber, shiplap.

**Shutter:** Usually lightweight louvered or flush wood or nonwood frames in the form of doors located at each side of a window. Some are made to close over the window for protection and others are fastened to the wall as a decorative device.

**Siding:** The finish covering of the outside wall of a frame building, whether made of horizontal weatherboards, vertical boards with battens, shingles, or other material.

**Siding, Bevel (Lap Siding):** Wedge-shaped boards used as horizontal siding in a lapped pattern. This siding varies in butt thickness from 1/2 to 3/4 inch and in widths up to 12 inches. Normally used over some type of sheathing.

**Siding, Dolly Varden:** Beveled wood siding that is rabbeted on the bottom edge.

**Siding, Drop:** Usually 3/4 inch thick and 6 and 8 inches wide with tongued-and-grooved or shiplap edges. Often used as siding without sheathing in secondary buildings.

**Sill:** The lowest member of the frame of a structure, resting on the foundation and supporting the floor joists or the uprights of the wall. The member forming the lower side of an opening, as a door sill, window sill, etc.

**Sleeper:** Usually, a wood member embedded in concrete, as in a floor, that serves to support and to fasten subfloor or flooring.

**Soffit:** Usually the underside of an overhanging cornice.

**Soil Cover (Ground Cover):** A light covering of plastic film, roll roofing, or similar material used over the soil in crawl spaces of buildings to minimize moisture permeation of the area.

**Soil Stack:** A general term for the vertical main of a system of soil, waste, or vent piping.

**Sole or Sole Plate:** See Plate.

**Solid Ridging:** A solid member placed between adjacent floor joists near the center of the span to prevent joists from twisting.

**Span:** The distance between structural supports such as walls, columns, piers, beams, girders, and trusses.

**Splash Block:** A small masonry block laid with the top close to the ground surface to receive roof drainage from downspouts and to carry it away from the building.

**Square:** A unit of measure--100 square feet--usually applied to roofing material. Sidewall coverings are sometimes packed to cover 100 square feet and are sold on that basis.

**Stain Shingle:** A form of oil paint, very thin in consistency, intended for coloring wood with rough surfaces, such as shingles, without forming a coating of significant thickness or gloss.

**Stair Carriage:** Supporting member for stair treads. Usually 2-inch plank notched to receive the treads, sometimes called a "rough horse."

**Stair Landing:** See Landing.

**Stair Rise:** See Rise.

**STC (Sound Transmission Class):** A measure of sound stopping of ordinary noise.

**Stile:** An upright framing member in a panel door.

**Stool:** A flat molding fitted over the window sill between jambs and contacting the bottom rail of the lower sash.

**Storm Sash or Storm Window:** An extra window usually placed on the outside of an existing one as additional protection against cold weather.

**Story:** That part of a building between any floor and the floor or roof next above.

**Strip Flooring:** Wood flooring consisting of narrow, matched strips.

**String, Stringer:** A timber or other support for cross members in door or ceilings. In stairs; the support on which the stair treads rest also, stringboard.

**Stucco:** Most commonly refers to an outside plaster made with Portland cement as its base.

**Stud:** One of a series of slender wood or metal vertical structural members placed as supporting elements in walls and partitions. (Plural: studs or studding.)

**Subfloor:** Boards of plywood laid on joists over which a finish floor is to be laid.

**Suspended Ceiling:** A ceiling system supported by hanging it from the overhead structural framing.

**Tail Beam:** A relatively short beam or joist supported in a wall on one end and by a header at the other.

**Termites:** Insects that superficially resemble ants in size, general appearance, and habit of living in colonies; hence, they are frequently call “white ants.” Subterranean termites establish themselves in buildings not by being carried in with lumber, but by entering from ground nests after the building has been constructed. If unmolested, they eat out the woodwork, leaving a shell of sound wood to conceal their activities, and damage may proceed so far as to cause collapse of parts of a structure before discovery. There are about 56 species of termites known in the United States; but the two major ones, classified by the manner in which they attack wood, are ground-inhabiting or subterranean termites (the most common) and dry-wood termites, which are found almost exclusively along the extreme southern border and the Gulf of Mexico in the United States.

**Termite Shield:** A shield, usually of noncorrodible metal, placed in or on a foundation wall or other mass of masonry or around pipes to prevent passage of termites.

**Terneplate:** Sheet iron or steel coated with an alloy of lead and tin.

**Threshold:** A strip of wood or metal with beveled edges used over the finished floor and the sill of exterior doors.

**Toenailing:** To drive a nail at a slant with the initial surface in order to permit it to penetrate into a second member.

**Tongued and Grooved:** See Dressed and matched.

**Tread:** The horizontal board in a stairway on which the foot is placed.

**Trim:** The finish materials in a building, such as moldings, applied around openings (window trim, door trim) or at the floor and ceiling of rooms (baseboard, cornice, and other moldings).

**Trimmer:** A beam or joist to which a header is nailed in framing for a chimney, stairway, or other opening.

**Truss:** A frame or jointed structure designed to act as a beam of long span, while each member is usually subjected to longitudinal stress only, either tension or compression.

**Turpentine:** A volatile oil used as a thinner in paints and as a solvent in varnishes. Chemically, it is a mixture of terpenes.

**Undercoat:** A coating applied prior to the finishing or top coats of a paint job. It may be the first of two or the second of three coats. In some usage of the word it may become synonymous with priming coat.

**Under Layment:** A material placed under finished coverings, such as flooring, or shingles, to provide a smooth, even surface for applying the finish.

**Valley:** The internal angle formed by the junction of two sloping sides of a roof.

**Vapor Barrier:** Material used to retard the movement of water vapor into walls and prevent condensation in them. Usually considered as having a perm value of less than 1.0. Applied separately over the warm side of exposed walls or as a part of batt or blanket insulation.

**Varnish:** A thickened preparation of drying oil or drying oil and resin suitable for spreading on surfaces to form continuous, transparent coatings, or for mixing with pigments to make enamels.

**Vehicle:** The liquid portion of a finishing material; it consists of the binder (nonvolatile) and volatile thinners.

**Veneer:** Thin sheets of wood made by rotary cutting or slicing of a log.

**Vent:** A pipe or duct that allows flow of air as an inlet or outlet.

**Vermiculite:** A mineral closely related to mica, with the faculty of expanding on heating to form lightweight material with insulation quality. Used as bulk insulation and also as aggregate in insulating and acoustical plaster and in insulation concrete floors.

**Volatile Thinner:** A liquid that evaporates readily and is used to thin or reduce the consistency of finishes without altering the relative volumes of pigments and nonvolatile vehicles.

**Wane:** Bark, or lack of wood from any cause, on edge or corner of a piece of wood.

**Water-Repellent Preservative:** A liquid designed to penetrate into wood and impart water repellency and a moderate preservative protection. It is used for millwork, such as sash and frames, and is usually applied by dripping.

**Weather-Strip:** Narrow or jamb-width sections of thin material or other metal to prevent infiltration of air and moisture around windows and doors. Compression weather stripping prevents air infiltration, provides tension, and acts as a counter balance.

**Wood Rays:** Strips of cells extending radially within a tree and varying in height from a few cells in some species to 4 inches or more in oak. The rays serve primarily to store food and to transport it horizontally in the tree.

## SAMPLE BID TABULATION

Name: \_\_\_\_\_  
Address: \_\_\_\_\_  
Phone: \_\_\_\_\_

- |   |       |
|---|-------|
| 1. Kitchen: Install (2) GFCI in outlets.                                | _____ |
| 2. Kitchen: Prepare and paint interior of window and trim on (2) doors. | _____ |
| 3. Bathroom: Install GFCI outlet.                                       | _____ |
| 4. Bathroom: Prepare and paint interior of window.                      | _____ |
| 5. Bathroom: Install new toilet.  | _____ |
| 6. SW Bedroom: Install smoke detector in hall.                          | _____ |
| 7. NW Bedroom: Repair and finish holes in floor.                        | _____ |
| 8. NW Bedroom: Install new door and finish.                             | _____ |
| 9. SE Storage Room: Repair and finish ceiling.                          | _____ |
| 10. SE Storage Room: Install entry door and storm door.                 | _____ |
| 11. SE Storage Room: Install (4) storm windows.                         | _____ |
| 12. SE Storage Room: Repair and finish walls.                           | _____ |
| 13. Heating Equipment: Install forces air furnace and ductwork.         | _____ |
| 14. Hot Water Heater: Install drop leg on T & P Valve.                  | _____ |
| 15. Basement Utility Room: Install cover on open junction box.          | _____ |
| 16. Building Exterior: Install vinyl siding to specifications.          | _____ |
| 17. Building Exterior: Install gutters on entire house.                 | _____ |
| 18. Attic: Insulate all attics to R-38, including east storage.         | _____ |
| 19. Electric: Rewire house to specifications.                           | _____ |
| <b>SUB – TOTAL:</b>   | _____ |
| Cost of LSWP and Clearance  | _____ |
| <b>TOTAL:</b>   | _____ |

## NSP/CDBG Housing Quality Standards

### I. Introduction

These physical guidelines for the rehabilitation of existing residential properties have been developed to provide minimum design and construction criteria on a statewide basis. The provisions are extended to serve as an important aid in carrying out the objectives of state and local programs for neglected and run-down properties. These objectives seek the large-scale physical, social and economic regeneration of neighborhoods, which have, in general, seriously deteriorated. These Housing Quality Standards are divided into two parts: a) health and safety standards (which includes weatherization) and, b) livability standards. Health and safety standards outline the minimal basic standards to address health and safety issues for the residents of the unit. However, we have not included weatherization into health and safety. The goal of the livability standards is to add 20 years to useful life to the housing unit, addressing issues beyond those considered a health or safety threat. All housing units receiving NSP/CDBG assistance must comply with the health and safety standards; a minimum of 80 percent of funds for housing rehabilitation assistance must be spent to enable a unit to meet the higher standard of livability. If it is determined that a house cannot be brought up to livability standards for the monies available, the sub-grantee should address only the health and safety standards if the sub-grantee's "walk-away" policy does not affect the decision.

The purpose and intent of the guidelines are threefold:

- To assure improved housing that is livable, healthful, safe and physically sound, and at the same time is low enough in cost for present neighborhood residents to afford.
- To provide an acceptable minimum level for residential rehabilitation based on performance, which has maximum flexibility to meet local conditions.
- To encourage innovation and improved technology, which give the promise of reduced construction costs.

#### A. Contrast with New Construction Standards

These guidelines for rehabilitation are significantly different from standards for new construction. These deteriorating buildings were built many years ago by standards quite different from those practiced today. Former patterns of living and the use of space are now likely to be considered inefficient or inconvenient. Properties, in many cases, will have become substandard because of overcrowding, lack of sanitary conditions and general neglect.

#### B. Other Codes and Regulations

These guidelines, while setting forth basic objectives and provisions specifically related to rehabilitation, shall not be construed as relieving the property owner, project sponsor or their builder of his/her responsibility for compliance with local ordinances, codes and regulations, including established requirements of health



officers or other authority having jurisdiction.

1. Local Codes - Where a local code, regulation or requirement is incomplete or does not fulfill the purpose and intent of these guidelines, this document or local standards derived from these guidelines shall apply.
2. Fire Administration Authorization Act of 1992 - This Act requires all dwelling units to be equipped with either hard-wired or battery-operated smoke detectors. Refer to this Act for additional guidelines for all housing other than single family dwellings.

## II. NSP/CDBG Standards

### A. Health and Safety Standards, includes Weatherization

Health and Safety Standards were developed to provide guidelines for the general well-being of the individuals residing in the home. A **maximum** of 20 percent of Housing Rehabilitation Activity funds may be used to meet Health & Safety Standards. NSP/CDBG funds may be spent on emergency issues or for handicap accessibility only, outside of the targeted area. Funds spent outside the target area on emergencies or accessibility must be included in the 20 percent of funds designated for Health & Safety Standards.

1. Utilities: Utilities shall be provided for each property or project, including water sewer, and electrical utilities. Approvable utilities include:
  - a. State approved city/Rural Water District (RWD) or county supplied water, sewer, electrical and gas utilities.
  - b. Privately owned water, sewer, electrical and gas utilities that have been approved by the state and local public institutions for use for residential dwellings.
  - c. For structures connected to an on-site water well, water must be tested and meet water quality standards for drinking water as required by the Kansas Department of Health & Environment (KDHE) for public water supplies; or water supply must be connected to an on-site package disinfecting facility and water must not contain toxic substances determined, in the concentrations present, to be harmful to human health by the KDHE or the Environmental Protection Agency.
  - d. For structures connected to existing on-site septic systems, the design of the system shall ensure that effluent from the septic system and disposal field is not discharging into public and private drinking water supplies, stagnating in pools on the surface or backing up into the residences. For septic systems installed, sub-grantees are required to obtain a permit from the applicable state agency involved. Construction specifications shall follow guidelines established by the

applicable state agency.

- e. For structures connected to on-site propane tanks, propane lines connecting the tank to the building shall conform to Building Officials and Code Administrators (BOCA) codes.
  - f. Structures connected to gas, propane, water, electrical or sewer shall be connected with piping or conduit that is not corroded, does not leak, or is otherwise not allowed by these standards. Bare steel gas lines must be inspected for safety by a local gas company and repaired, if necessary. The inspection report must be in each file.
2. Structural: All floors, stairs, ceilings or other load bearing structural members shall be free of hazards that would indicate a potential for the building or individual members of the building to collapse.
  3. Roofs: Roofs shall be repaired or replaced if they have serious defects indicating the potential for structural collapse or if they allow the infiltration of significant amounts of water or air. If repaired, all critical joints in exterior roof construction shall be protected by appropriately installed sheet metal, flashing material or rubberized roofing membrane.
  4. Weatherization: All water piping in non-insulated spaces shall be insulated so as to keep them from freezing. All foundation and mobile home crawl spaces shall be enclosed to prevent pipes from freezing in the winter. Pipes shall not be insulated with asbestos material. All asbestos insulating material shall be replaced with non-asbestos material or encapsulated with high-temperature paint or other Environmental Protection Agency (EPA) approved material.
  5. Lead-Based Paint: The issue of lead-based paint must be addressed in every house built prior to 1978 receiving rehabilitation assistance in all HUD programs according to the new regulations that went into effect on September 15, 2000. There are additional notification requirements, new standards that must be met for reduction or abatement of lead-based paint, and safe work practices and clearance must be adhered to in all rehabilitation. See Attachment 20 herein for the new regulations, the new Kansas program regarding certification of lead-based paint professionals, and the Kansas NSP/CDBG policy regarding the costs involved. These lead-based paint regulations are a part of the health and safety NSP/CDBG housing standards and are applicable as to the amount of dollars spent on the housing rehabilitations activity.
  6. Heating Appliances: All mechanical equipment shall be inspected for faulty operation, fire and other hazards. Repairs and replacement shall be made as needed and necessary to eliminate the hazard. Heating facilities shall be provided for each living unit. All new installations of heating appliances shall comply with the manufacturer's recommendations for installation and placement. All gas, propane, liquid and solid fuel burning appliances must be vented to the outer air.

Existing masonry chimneys or metal flues shall not have cracks or holes that permit smoke or fumes to be discharged. Deteriorated pipes or chimneys that have been determined by the inspector or the sub-grantee to constitute a potential threat to the safety of the occupant shall be replaced. Existing unlined masonry chimneys which permit flames or fumes to be discharged should be removed and replaced with corrosion-resistant pipe, or, if not replaced, shall be lined with corrosion-resistant pipe one inch less in diameter than the interior of the chimney, or shall be lined with terra cotta. Vent pipes shall slope upward not less than 1/4" per foot.

Any asbestos-containing materials wrapped around vent pipes shall be removed or encapsulated with high temperature paint. Asbestos removal procedures shall conform to EPA regulations.

All heating applications shall be located in unconfined spaces that will provide adequate combustion air as recommended by the manufacturer of the appliances. Located in a confined space, adequate ventilation between the confined area and unconfined space shall be provided to allow adequate combustion air to enter the confined space.

7. Solid Fuel Burning Appliances: All existing chimneys and vents for solid fuel burning appliances shall be cleaned as part of the rehabilitation process. All chimneys and vents for solid fuel burning appliances shall terminate at least two feet above any part of the roof located horizontally with ten feet of the chimney or vent.
  - a. Metal Flues: (1) Solid fuel burning appliances (wood, coal, etc.) shall be vented so that single walled pipe shall have at least 16" clearance from combustible material; (2) double walled pipe shall have at least 8" clearance from combustible material; and (3) triple walled pipe shall have at least 2" clearance from combustible material. Double walled insulated stainless steel pipe shall have at least 3" clearance from combustible material. All pipe-venting solid fuel-burning appliances shall have been approved by Underwriters Laboratories to withstand heat of 1,500 degrees or more for three hours. All galvanized pipe shall be of #10 thickness or of superior fire resistance.
  - b. Masonry Chimneys: Existing masonry chimneys being used to vent solid fuel burning appliances shall be constructed of at least 8" of solid masonry around the vent below the roof line and 4" of solid masonry around the vent above the roof line. Combustible material above the roofline shall have at least a 2" clearance from a flue built of less than 8" of solid masonry. All such chimneys shall be lined with terra cotta or firebrick.
  - c. Placement: Solid fuel burning heaters shall not be placed within 36" of any unprotected walls or within 18" of an unprotected floor.  
Protection

of walls and floors may be provided with or without ventilated spaces between the protection and the wall. Ventilating spaces shall consist of one-inch space between a listed noncombustible material and the wall. Spacers and ties between the material and the wall shall be noncombustible and shall be resistant to heat conduction. Spacers shall not be placed between the appliance and the wall. With wall protection and ventilated space, clearance between the appliance and the wall may not be less than 12". With wall protection and no ventilated space, clearance between the appliance and wall may not be less than 24" unless more than 4" of solid masonry is used as the protection.

8. Plumbing: Plumbing systems shall operate free of clogging and shall not have cross connections that permit contamination of water supplies or back siphoning between fixtures.
  - a. Water and sewer lines shall be free of major leaks that cause serious and persistent levels of rust or contamination of the water, or which damage other elements of the building. All water lines in unheated areas shall be insulated so as to keep them from freezing.
  - b. All natural and liquid propane gas piping shall be free of leaks. Pipes feeding each individual gas fueled appliance shall have a shut-off valve. Gas lines shall be free of corrosion that potentially could cause a gas leak soft copper piping and other non-rigid piping shall not be used in replacing and installing natural gas lines. Soft copper piping used in installing or replacing propane gas lines shall not be located in areas where it is accessible to tampering by children or located in passageways where it can be potentially kicked, stepped on or bent, so as to cause leakage of gas around flange connections.
9. Electrical: Existing wiring and electrical equipment, where its continued service is contemplated, shall not be a potential source of electrical hazard or ignition of combustible materials. Wherever potential hazards are determined to be present, replacement of existing wiring or equipment shall be made. Existing facilities that are inadequate to meet anticipated demand shall be replaced to meet that demand. Inadequate facilities include the use of power strips if more than two appliances are used regularly by that outlet. Hazards such as broken wiring, non-insulated wiring, frayed wiring, a light fixture hanging from an electrical wire without other visible means of support, missing cover plates on switches, outlets and junction boxes exposed to the occupants of the dwelling or which are covered with combustible material, knob and tube, aluminum or obsolete wiring systems, badly corroded outlets, exposed fuse box connections, and overloaded circuits evidenced by frequently blown fuses, shall be eliminated.

- a. New electrical work shall be installed using the appropriate provisions of the National Electrical Code as it has existed within the last ten years. Not less than two general lighting circuits (15 amp.) and one appliance circuit (20 amp.) shall be provided.
  10. Bathroom: Commode: Bathrooms must have a working commode for the exclusive use of the occupant. The commode must be connected to a water supply and sewer. The commode must not leak, have clogged water lines or have a sewer line that is clogged or backs up.
    - a. Lavatory: Bathrooms must have a fixed wash basin or lavatory that is permanently and securely fastened to the wall. The lavatory must be equipped with hot and cold running water and have a working drain with a gas trap.
    - b. Bathtubs and Showers: Bathrooms must be equipped with a working tub or shower with hot and cold running water and have a working drain with a gas trap.
  11. Termite Treatment: Chemicals applied as a termite treatment shall only be applied to a house by a person that is a licensed commercial applicator. Persons who are licensed shall not assign persons who are not licensed responsibility for treating a house. Sub-grantees shall keep documentation showing that the person chosen to undertake termite treatment is a licensed applicator. EPA has banned use of chlordane; therefore it is also not allowed on NSP/CDBG-funded rehabilitation projects.
  12. Materials: All materials shall be installed in locations and for purposes that are recommended by the manufacturer of the materials.
  13. Smoke Detectors: All units shall be equipped with at least one hard-wired operating smoke detector (if the unit is being rewired) or a battery-operated smoke detector located near the sleeping quarters, and on each level of the house, including basement.
- B. Weatherization: All houses shall be equipped with the following weatherizing improvements:
- a. Windows: All windows shall be equipped with two layers of glass (storm windows count as one layer) and glass panes shall be intact. Windows shall not allow the significant entry of air or water into the structure from around the windows, sashes, or window casings. Window casings that are replaced shall be filled with insulation.
  - b. Doors: All exterior doors shall be weather-stripped. Weather-stripped doors that allow the significant entry of air or water into the structure shall be replaced or repaired to eliminate this problem.



- c. Ceiling Insulation: Ceiling insulation shall be provided over all habitable areas. Combustible materials, such as beadboard or styrofoam, shall not be used for attic insulation. All ceilings shall be insulated to at least  
  
R-30 or as can be determined for a particular structure using HUD's Cost Effective Energy Conservation Standards for Rehabilitation Projects.
- d. Side Wall Insulation: All side walls shall be insulated to R-11 or better or as can be determined for a particular structure using HUD's Cost Effective Energy Conservation Standards for Rehabilitation Projects. Walls in spaces heated with solid fuel-burning heating appliances are exempt from this requirement. Sidewall insulation shall not be installed using beadboard, styrofoam or other combustible materials. When exterior walls are repaired by, removing existing sheathing or interior wall covering, insulation shall be provided to the exposed portion of the wall cavity; a vapor barrier shall be provided on the warm side of the cavity or furring when insulation is added.

## B. Livability Standards

The following livability standards apply to 80 percent of funds for units rehabilitated with NSP/CDBG funds. These standards include all of the provisions listed as "Health and Safety Standards," and all of the provisions listed under this section.

- 1. Access to the Unit
  - a. Where access to the structure is outdoors and more than 12" above grade, steps shall be provided for all-weather access to the building and constructed so as to provide safety and reasonable durability.
  - b. Where access to the unit is on the interior of the structure, each unit shall not have its only access through another unit.
  - c. A primary entrance readily accessible to the handicapped in accordance with the provisions on ANSI A117.1 shall be provided to any residential structure intended for occupancy by the physically handicapped.
- 2. Dilapidated Elements: All dilapidated portions of existing properties which are not economically repairable or which are not of historic significance and which pose safety hazards to the occupants of the dwelling shall be removed from the building.

3. **Dirt and Debris:** Properties that are rehabilitated shall be free of dirt, debris or other unsightly elements that are the result of the rehabilitation process.
4. **Space Standards:** Each living unit shall be provided with space necessary for suitable sleeping, cooking, dining, storage and sanitary facilities and provide space of such size and dimensions so as to permit placement of furniture and essential equipment. There shall be at least one bedroom for every two residents, a kitchen, living room and bathroom. Minimum sizes for these rooms are as follows:

<u>Room Dimension</u>	<u>Space</u>
Living Room	120 sq. ft.
Bedroom	70 sq. ft.
Bathroom	24 sq. ft.
Kitchen	30 sq. ft.

Total area required:

400 sq. ft. Minimum average ceiling height for all rooms: 7' 2 "

5. **Light and Ventilation**
  - a. **Ventilation:** Natural ventilation of spaces such as attics, enclosed basements and crawl spaces, shall be provided by openings of sufficient sizes to overcome dampness and minimize the effect of conditions to decay and deterioration of the structure, and prevent excess heat in attics. Exterior openings shall be effectively screened where needed.
  - b. **Ventilation of utility spaces:** Utility spaces which contain solid, liquid or gas-burning heat-producing or air conditioning equipment shall be ventilated to allow adequate combustion air.
  - c. **Windows:** There shall be at least one operable window in the living room and bedrooms. Kitchens and bathrooms not having an operable window shall have a working ventilation system.
6. **Doors and Access Openings**
  - a. **Exterior Doors:** Exterior doors installed with the use of NSP/CDBG funds shall have safety locks.
  - b. **Stairways:** All stairways shall provide for safety of ascent and descent and shall be equipped with handrails at an appropriate height for the owner of the residence. Risers shall not be more than 12" in height and not less than 10" in width, unless conditions make the installation

of risers less than 12" in height impossible.

7. Structural Components: All structural components of the building shall be in sound condition and considered serviceable for the expected full life of the rehabilitated buildings. Individual structural members in seriously deteriorated condition shall be replaced.
- a. Ceilings: Ceilings shall not have large cracks or holes that allow significant entry of air into the unit. Ceilings shall not buckle or bulge, have missing parts or have loose surface materials other than paper.
  - b. Interior Wall Conditions: Interior walls shall not have loose structural members, large holes (over 1" X 1" in size), or allow the significant infiltration of air or water into the structure.
  - c. Floor Conditions: Floors shall not have threats to safety (e.g. tripping) or large cracks or holes that allow substantial drafts to enter the structure. Floors shall not significantly move under walking stress and shall not have damaged or missing parts such as: floor joists, band joists, plates and sub-flooring.
  - d. Foundations: Foundations shall provide for the adequate support of structural members and loads placed upon them. Foundations shall prevent the entrance of water or excessive moisture. Serious defects shall be repaired and cracks effectively sealed. Foundation walls shall not allow the significant entry of ground water. "Significant" means that the majority of the basement floor or crawl space area is covered with ground water. Any new footings installed shall provide for subsurface drainage away from the foundation.
  - e. Drainage: Any deficiencies in proper grading, guttering or paving adjacent to the building shall be corrected to assure surface drainage away from the basement or crawl space.
  - f. Exterior Walls: Exterior walls shall provide safe and adequate support for all loads placed upon them and shall prevent the excessive infiltration of air or moisture. Serious defects shall be repaired and cracks effectively sealed.
  - g. Roofs: All roofs shall have suitable watertight and reasonably durable covering free of holes, cracks, excessively worn surfaces or other defects that would indicate the potential for significant infiltration of air, water or excessive moisture. Repairs to roofs shall be completed in accordance with new construction standards unless the area to be repaired is less than 1/10 of the surface of the roof. If gutters, soffits, fascia or other elements allow the significant entry of water or air into the structure, they shall be replaced to eliminate this problem. Roofs should not need replacement for at least a five-year period.

## 8. Kitchens and Baths

- a. **Kitchens:** Kitchens must be supplied with a sink that has hot and cold running water. Sinks should have a working drain with a gas trap and must be securely fastened to the wall. Kitchens must have a stove or a range with an oven. Top burners and oven must be operable. A refrigerator must be present and working and it must maintain a temperature low enough so that food does not spoil over a reasonable period of time.
- b. **Bathrooms:** Bathtub and shower bases shall be appropriately sealed to prevent water from damaging the floor. Bathroom floors shall be covered with a waterproof covering. Showers or tubs installed in housing for the elderly and handicapped shall be provided with two grab bars installed to sustain a dead weight of 250 pounds for five minutes. Tub or shower bottom surfaces shall be slip resistant. Shower enclosure areas shall be tiled or covered with a waterproof surface from the floor to five feet above the floor. Barriers shall exist between all drains and water supplies on bathroom fixtures to ensure that wastewater does not flood water supply systems.

## 9. Plumbing

- a. **Domestic Hot Water Heating and Storage:** Each building or unit within the building shall have domestic hot water in quantities sufficient for the needs of the occupants. Existing water heating and storage equipment shall be in good serviceable condition. Water heaters shall not be installed in rooms designed and used for sleeping purposes. All fuel-burning water heaters shall be connected to a vent leading to the exterior of the building. As required for venting of heating equipment, vents shall not have cracks or holes that allow fumes to be discharged. All water heaters shall have a shutoff valve on the water supply line close to the heater. All water heaters shall have a temperature/pressure relief valve and discharge pipe.

- b. **Water and Sewer Lines:** All water and sewer lines that have the potential for major leaks that could cause serious and persistent levels of rust or contamination of the water, or which potentially could damage other elements of the building, should be replaced. Sewer lines servicing a building shall be equipped with a clean-out screw. Building wastewater shall be appropriately vented to the outside air to prevent the buildup of gases in the sewer lines. When using NSP/CDBG funding, all water supply lines feeding toilets, sinks, showers, lavatories, hot water heaters and other plumbing fixtures shall be installed with shutoff valves. All lead water and waste disposal lines shall be replaced with non-lead material. Lead-based solder shall not be used to connect copper water supply lines. Gas traps will be provided for washing machine waste disposal lines unless airtight connections have been made.
- 10. **Mechanical:** Heating facilities shall be provided for each living unit, which are safe to operate, economical to operate and are free from objectionable drafts. Flue connections shall not allow exhaust gases to enter the living areas. Fuel tanks shall not be in close proximity to heat sources (at least 10 feet, or the standard recommended by the manufacturer or regulating code). Combustible materials shall not be stored in close proximity to heat sources and flues.
  - 11. **Electrical:** All habitable rooms and other spaces requiring electrical service shall be provided with a system of wiring, wiring devices, and equipment to safely provide electrical energy for proper illumination, appliances, resident security and other electrical equipment. There shall be at least two working outlets or one working outlet and one light switch in kitchens, corridors, bathrooms, bedrooms, utility rooms and living rooms. At least 100 amp.service shall be provided for houses that have 220-volt receptacles.

**S A M P L E**

**Contractor Guidelines  
For The (City/County) Of \_\_\_\_\_  
Housing Rehabilitation Program**

In order to be eligible to work on houses in the \_\_\_\_\_ Housing Rehabilitation program, contractors must meet the following program requirements.

**I. Contractor Eligibility**

- A. Contractors are placed on the Bidders List through contact with the City.
- C. Contractors may be asked to provide work and credit references.
- D. Contractors must have good references.
- E. Contractors must be in good standing which means they will not appear on the Department of Labors debarment list.

**II. Contractor Requirements**

- A. Contractors must comply with all federal and state guidelines, rules, regulations and orders issued by the U.S. Department of Housing & Urban Development, the U.S. Department of Labor, and the Kansas Department of Commerce governing the \_\_\_\_\_ Housing Rehabilitation program.
- B. Contractors may not work on more than one house in the City at one time, unless the dollar value of a housing rehabilitation contract is less than \$2,500; except under special exceptions granted by the City Council.
- C. Contractors shall provide and shall require any subcontractors to provide certificates or other evidence of insurance prior to signing a contract certifying that for the period covered by any contract all contractors and subcontractors carry:
  - 1. Workmen's Compensation Insurance for all owners, employees and employees of subcontractors engaged in work on the premises, in accordance with Kansas Workmen's Compensation Laws.
  - 2. Manufacturers and Contractors Public Liability Insurance with limits of \$100,000/\$300,000 to protect the contractor, his subcontractors, and the owners, as their interest may appear, against claims for injury to, or death of, one or more than one person, due to accidents which may occur or result from operations under any contract; such insurance shall cover the use of all equipment, machinery, hoists and motor vehicles used in the performance of



work.

3. Property damage insurance in an amount not less than \$25,000 to protect the contractor, his subcontractors and the owners, as their interests may appear, from claims for property damage that might arise from operations under any contract.
  4. Any and all additional insurance required by the laws of the State of Kansas.
  5. Lead Based Paint Certification for themselves, all employees and subcontractors, as applicable by law.
- D. An invitation to bid will be sent to all contractors. Those contractors interested will be sent a bid package which will include:
1. Instructions to bidders, which will include bid tour date and bid opening.
  2. The final bid specifications for each house.
  3. A required Bid Proposal form for each house.
  4. General and Material Specifications.
  5. A notice of where lead hazards have been identified.
  6. A copy of the Construction Contract (for informational purposes only).
- E. Contractors send sealed bids to the \_\_\_\_\_ City Clerk.
- F. Bid selection will be determined by the following factors for each house:
1. Lowest bid.
  2. Each contractor will only be allowed have two open housing contracts at one time.
  3. Low bid on individual line items that is selected for inclusion in the final contract document specifications.
  4. Quality of workmanship on previous projects.
  5. Performance on previous contracts with federal and state funds.
  6. References supplied by the contractor.
- G. City Council approves the best bid.
- H. Conference is held between the Grant Administrator and the contractor to finalize the contract specifications, contract terms and to go over federal and state rules, regulations, and laws. Contract specifications may need to be revised due to a maximum allowable limit per house placed on grants to home owners. The contract specifications will contain only the highest priority repairs on each house.
- I. Conference is held between the Grant Administrator, the contractor and the homeowner to sign the contract and issue the Notice to Proceed.

**S-A-M-P-L-E**  
**Rehabilitation or Demolition Contract**

THIS AGREEMENT, made and entered into this \_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_\_\_, by and between \_\_\_\_\_, hereinafter called the “Contractor”, \_\_\_\_\_, hereinafter called the “Owner”, \_\_\_\_\_, hereinafter \_\_\_\_\_ hereinafter called the “City”. In consideration of the mutual promises and agreements contained herein, the undersigned Contractor, Owner and City agree as follows:

I. The Contractor shall comply with the following provisions:

A. Labor, Materials, and Work Write-Up:

Furnish all labor, materials, supervision and services necessary to do the work specified in the “Work Write-Up” attached and made a part hereof for the total sum of \$ \_\_\_\_\_

B. Notice to Proceed:

Not to begin the work to be performed until receipt of Written Notice to Proceed, after which the Contractor shall begin the work within 10 calendar days of the date of said Notice, and shall complete said work within \_\_\_\_\_ calendar days thereafter.

C. Specifications - Codes and Regulations:

Comply with all appropriate specifications and codes referred to and with all regulations, ordinances and laws of the City of \_\_\_\_\_, the State of Kansas, and the federal government, and permit reasonable inspection of all work by authorized inspectors.

D. Insurance:

1. The Contractor shall purchase and maintain such insurance as will protect him from claims set forth below which may arise out of or result from the Contractor’s execution of the work, whether such execution be by himself or by any Subcontractor or by anyone directly or indirectly employed by any of them, or by anyone for whose acts any of them may be liable:

- a. Claims for damages because of bodily injury, occupational sickness or diseases, or death of his employees;
- b. Claims for damages because of bodily injury, sickness or disease, or death of any persons other than his employees;
- c. Claims for damages insured by usual personal injury liability coverage that are sustained 1) by any person as a result of an offense directly or indirectly related to the employment of such person by the Contractor,

or 2) by any other person;

- d. Claims for damages because of injury to or destruction of tangible property, including loss of use resulting therefrom; and
  - e. Bodily injury insurance shall be, at a minimum, in the amount of \$100,000.
2. Certificates of Insurance acceptable to the City shall be filed with the City prior to commencement of the work. These Certificates shall contain a provision that coverages afforded under the policies will not be canceled unless at least fifteen (15) days prior Written Notice has been given to the City.
  3. The Contractor shall procure and maintain, at his own expense, during the contract time, public liability insurance as required by the city, at a minimum, in the amount of \$300,000.
  4. The Contractor shall procure and maintain, at his own expense, during the contract time, in accordance with the provisions of the laws of the State in which the work is performed, Workmen's Compensation insurance, including occupational disease provisions, for all of his employees at the site of the project and in case any work is sublet, the Contractor shall require such Subcontractor similarly to provide Workmen's Compensation insurance, including occupational disease provisions for all of the latter's employees unless such employees are covered by the protection afforded by the Contractor. In case any class of employees engaged in hazardous work under this Contract at the site of the project is not protected under Workmen's Compensation statute, the Contractor shall provide, and shall cause each Subcontractor to provide, adequate and suitable insurance for the protection of his employees not otherwise protected.

E. Lead Based Paint Prohibition:

The Contractor shall not use or subcontract to a Contractor that uses lead based paint having more than 6/100 of 1 percent lead content by weight in the performance of this contract. Contractors shall comply with the provisions of 29 CFR Part 1926, governing the protection of workers dealing with lead painted surfaces. The Contractor shall contact the city's inspector before disturbing any surfaces painted with lead paint and shall ensure that proper procedures are in place to protect the Contractor's employees and the occupants of the house.

F. Permits and Licenses:

Obtain and pay for all permits and licenses necessary for the completion and execution of the work and labor to be performed.

G. Debris and Material Removal:

Keep the premises clean and orderly during the course of the work and remove all debris as it accumulates. Materials and equipment that have been removed and replaced as part of the work shall belong to the Contractor, unless specifically spelled-out otherwise in the “Work Write-Up”.

H. Assignments and Subcontractors:

Shall not assign the Contract or subcontract any portion of this Contract without written consent of the Project Administrator. The request for the assignment must be addressed to the Project Administrator, \_\_\_\_\_  
The Contractor is responsible for all work carried out by any Subcontractor.

I. Subcontractors to City Officials:

Shall not subcontract any part of the work to be performed under this Contract to any member, officer or employee of the city or its designees or agents, no member of the governing body of said City, and no other public official of such locality who exercises any functions or responsibilities with respect to the Rural Development program giving rise to this contract during his or her tenure or for one year thereafter.

J. Guaranty:

The Contractor shall guarantee all materials and equipment furnished and work performed for a period of one (1) year from the date of final inspection. The Contractor warrants and guarantees for a period of one (1) year from the date of final inspection of the system that the completed system is free from all defects due to faulty materials or workmanship and the Contractor shall promptly make such corrections as may be necessary by reason of such defects including the repairs of any damage to other parts of the system resulting from such defects. The Owner will give notice of observed defects with reasonable promptness. In the event that the Contractor should fail to make such repairs, adjustments, or other work that may be made necessary by such defects, the Owner may do so and charge the Contractor the cost thereby incurred.

K. Correction of Work:

1. The Contractor shall promptly remove from the premises all work rejected by the Inspector for failure to comply with the contract documents, whether incorporated in the construction or not, and the Contractor shall promptly replace and re-execute the work in accordance with the contract documents and without expense to the Owner and shall bear the expense of making good all work of other Contractors destroyed or damaged by such removal or replacement.
2. All removal and replacement work shall be done at the Contractor’s expense. If the Contractor does not take action to remove such rejected work within ten (10) days after receipt of Written Notice, the City may remove such work and store materials at the expense of the Contractor.



L. Suspension of Work - Termination and Delay:

1. The City may suspend the work or any portion thereof for a period of not more than ninety (90) days or such further time as agreed upon by the Contractor, by Written Notice to the Contractor, which notice shall fix the date on which work shall be resumed. The Contractor will resume that work on the date so fixed.

The Contractor will be allowed an increase in the contract price or an extension of the contract time, or both, directly attributable to any suspension.

2. If the Contractor is adjudged as bankrupt or insolvent, or if he makes a general assignment for the benefit of his creditors, or if a trustee or receiver is appointed for the Contractor or for any of his property, or if he files a petition to take advantage of any debtor's act, or to reorganize under the bankruptcy or applicable laws, or if he repeatedly fails to supply sufficiently skilled workmen or suitable materials or equipment, or if he repeatedly fails to make prompt payments to Subcontractors for labor, materials or equipment or if he disregards laws, ordinances, rules, regulations or orders of any public body having jurisdiction of the work, or if he disregards the authority of the Project Administrator, or if he otherwise violates any provision of the contract documents, then the City may, without prejudice to any other right or remedy and after giving the Contractor and his surety a minimum of ten (10) days from delivery of a Written Notice, terminate the services of the Contractor and take possession of the Project and of all materials, equipment, tools, construction equipment and machinery thereon owned by the Contractor, and finish the work by whatever method he may deem expedient. In such case, the Contractor shall not be entitled to receive any further payment until the work is finished. If the unpaid balance of the Contract price exceeds the direct and indirect costs of completing the project, including compensation for direct costs of completing the project, including compensation for additional professional services, such excess shall be paid to the Contractor. If such costs exceed such unpaid balance, the contractor's bond or the Contractor will pay the difference to the City. Such costs incurred by the City will be determined by the Project Administrator and incorporated in a Change Order.
3. Where the Contractor's services have been so terminated by the City, said termination shall not affect any right of the Owner against the Contractor then existing of which may thereafter accrue. Any retention or payment of monies by the City due the Contractor will not release the Contractor from compliance with the contract documents.
4. After ten (10) days from delivery of a Written Notice to the Contractor, the City may, without cause and without prejudice to any other right or remedy, elect to abandon the Project and terminate the Contract. In such case, the Contractor shall be paid for all work executed and any expense sustained plus

reasonable profit.

5. If, through no act or fault of the Contractor, the work is suspended for a period of more than ninety (90) days by the City or under an order of court or other public authority, or the City fails to act on any request for payment within thirty (30) days after it is submitted, or the City fails to recommend payment to the Contractor substantially the sum approved by the Project Administrator or awarded by arbitrators within thirty (30) days of its approval and presentation, then the Contractor may, after ten (10) days from delivery of a Written Notice to

the Owner and Project Administrator, terminate the Contract and recover from the City payment for all work executed and expenses sustained. In addition and in lieu of terminating the Contract, if the Project Administrator has failed to act on a request for payment or if the City has failed to make any payment aforesaid, the Contractor may upon ten (10) days Written Notice to the Owner and the City stop the work until he has been paid all amounts then due, in which event and upon resumption of the work, Change Orders shall be issued for adjusting the contract price or extending the contract time of both to compensate for the costs and delays and attributable to stoppage of the work.

6. If the performance of all or any portion of the work is suspended, delayed, or interrupted as a result of a failure of the Owner or City to act within the time specified in the contract documents, or if no time is specified, within a reasonable time, an adjustment in the contract price or an extension of the contract time, or both, shall be made by Change Order to compensate the Contractor for the costs and delays necessarily caused by the failure of the Owner or City.

M. Payments to Contractor:

1. At least ten (10) days before any payment is to be requested, the Contractor will submit to the Project Administrator a payment request filled out and signed by the Contractor covering the work performed and supported by lien releases covering all supplies, labor and/or Subcontractors used in the completion of the rehabilitation project. The City may authorize a draw at 50 percent completion of the work, with 10 percent retainage withheld in emergency situations. However, normally the City will make a single payment upon completion. Lien releases must be provided prior to any payment being made to the Contractor.
2. A request for 50 percent payment may also include an allowance for the cost of such major materials and equipment that are suitably stored either at or near the site, if lien releases are provided for the material and equipment stored.
3. Prior to substantial completion, the Owner, with the approval of the Project Administrator and with the concurrence of the Contractor, may use any

completed or substantially completed portions of the work. Such use shall not constitute an acceptance of such portions of the work.

4. The Owner shall have the right to enter the premises for the purpose of doing work not covered by the Contract documents. This provision shall not be construed as relieving the Contractor of the sole responsibility for the care and protection of the work or the restoration of any damaged work except for what may be caused by agents or employees of the Owner.
5. Upon completion and acceptance of the work the Project Administrator shall issue a certificate attached to the final payment request that the work has been accepted by him under the conditions, of the contract documents. The entire balance found to be due the Contractor, including the retained percentages, but except such sums as may be lawfully retained by the City, shall be paid to the Contractor, within thirty (30) days of completion and acceptance of the work, if the Contractor has provided all required lien releases and has signed a certification that all materials, laborers and/or Subcontractors have been paid in full.
6. The Contractor hereby identifies and saves the Owner or the Owner's agents harmless from all claims growing out of the lawful demands of Subcontractors, laborers, workmen, mechanics, material men, and furnishers of machinery and parts thereof, equipment, tools, and all supplies incurred in furtherance of the performance of the work. The Contractor shall, at the Owner or City's request, furnish satisfactory evidence that all obligations of the nature designated above have been paid, discharged, or waived. If the Contractor fails to do so, the City may, after having notified the Contractor, either pay unpaid bills or withhold from the Contractor's unpaid compensation a sum of money deemed reasonably sufficient to pay any and all such lawful claims until satisfactory evidence is furnished that all liabilities have been fully discharged, whereupon payment to the Contractor shall be resumed, in accordance with the terms of the contract documents, but in no event shall the provisions of this sentence be construed to impose any obligations upon the Owner to either the Contractor, his surety, or any third party. In paying any unpaid bills of the Contractor, any payment so made by the City shall be considered as a payment made under the contract documents by the City to the Contractor, and the City shall not be liable to the Contractor for any such payments made in good faith.
7. If the City fails to make payment thirty (30) days after approval by the Project Administrator, in addition to other remedies available to the Contractor, there shall be added to each such payment interest at the maximum legal rate commencing on the first day after said payment is due and continuing until, the payment is received by the Contractor.

N. Acceptance of Final Payment as Release:

The acceptance by the Contractor of final payment shall be and shall operate as a release to the City and Owner of all claims and all liability to the Contractor other than claims in stated amounts as may be specifically excepted by the Contractor for all things done or furnished in connection with this work and other relating to or arising out of this work. Any payment, however, final or otherwise, shall not release the Contractor or his sureties from any obligations under the contract documents.

O. Changes in the Work:

1. The City or Project Administrator may at any time, as the need arises, order changes within the scope of the work without invalidating the Agreement. If such changes increase or decrease the amount due under the contract documents, or in the time required authorized by Change Order, the City shall review and give final approval to all Change Orders.
2. The Project Administrator, also, may at any time, by issuing a Field Order, make changes in the details of the work. The Contractor shall proceed with the performance of any changes in the work so ordered by the Project Administrator.

P. Changes in Contract Price:

The Contract price may be changed only by a Change Order. The value of any work covered by a Change Order or of any claim for increase or decrease in the Contract price shall be determined by one or more of the following methods in the order of precedence listed below:

1. Unit prices previously approved.
2. An agreed lump sum.
3. The actual cost for labor, direct overhead, materials, supplies, equipment, and other services necessary to complete the work. In addition, there shall be added an amount to be agreed upon but not to exceed fifteen (15) percent of the actual cost of the work to cover the cost of general overhead and profit.

Q. Time for Completion and Liquidated Damages:

1. The date of beginning and the time for completion of the work are essential conditions of the contract documents and the work embraced shall be commenced on a date specified in the Notice to Proceed.

2. The Contractor will proceed with the work at such rate of progress to ensure full completion within the contract time. It is expressly understood and agreed, by and between the Contractor and the City, that the contract time for the completion of the work described herein is a reasonable time, taking into consideration the average climatic and economic conditions and other factors prevailing in the locality of the work.
3. If the Contractor shall fail to complete the work within the contract time or extension of time granted by the City, then the Contractor may be required to pay to the City the amount of \$50/day for liquidated damages as specified in the Bid for each calendar day that the Contractor shall be in default after the time stipulated in the contract documents.
4. The Contractor shall not be charged with liquidated damages or any excess cost when the delay in completion of the work is due to the following, and the Contractor has promptly given Written Notice of such delay to the City or Project Administrator.
  - a. To any, preference priority, or allocation order duly issued by the Owner;
  - b. To unforeseeable causes beyond the control and without the fault of negligence of the Contractor, including but not restricted to, acts of God or of the public enemy, acts of the Owner, acts of another Contractor in the performance of an Owner, acts of another Contractor in the performance of a contract with the Owner, fires, floods, epidemics, quarantine restrictions, strikes, freight embargoes and abnormal and unforeseeable weather; and
  - c. To any delays of Subcontractors occasioned by any of the causes specified in paragraphs 4a and 4b of this article.

R. Equal Employment Opportunity, Nondiscrimination and Minority Business Enterprise Utilization:

1. The Contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex or national origin. The Contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to race, color, religion, sex or national origin. Such action shall include, but not be limited to, the following: Employment, upgrading, demotion or transfer; recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided setting forth the provisions of this nondiscrimination clause.



2. The Contractor will, in all solicitations or advertisements for employees placed by or on behalf of the Contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex or national origin.
3. The Contractor will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice to be provided by the Contract Compliance Officer advising the said labor union or workers' representative of the Contractor's commitment under this section, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.
4. The Contractor will comply with all provisions of Executive Order 11426, and of the rules, regulations, and relevant orders of the Secretary of Labor.
5. The Contractor will furnish all information and reports required by Executive Order 11246, and by rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records and accounts by the Department and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations and orders.
6. In the event of the Contractor's noncompliance with the nondiscrimination clauses of this Contract or with any of the said rules, regulations or orders, this Contract may be canceled, terminated, or suspended in whole or in part and the Contractor may be declared to be ineligible for further government contracts in accordance with procedures authorized in Executive Order 11246, or as otherwise provided by law.
7. The Contractor will include the portion of the sentence immediately preceding paragraph (1) and the provisions of paragraphs (1) through (7) in every subcontract or purchase order unless exempted by rules, regulations or orders of the Secretary of Labor issued pursuant to Section 204 of Executive Order 11246, so that such provision will be binding upon each Subcontractor or vendor. The Contractor will take such action with respect to any subcontract or purchase order as the Department may direct as means of enforcing such provisions, including sanctions for noncompliance; provided, however, that in the event a Contractor becomes involved in or is threatened with, litigation with a Subcontractor or vendor as a result of such direction by the Department, the Contractor may request the United States to enter into such litigation to protect the interests of the United States.
8. The Contractor will make affirmative efforts to utilize minority business enterprises for suppliers and Subcontractors and will document his efforts to the City.

S. Training and Employment of Lower Income Residents of Project Area:

1. The work to be performed under this contract is subject to the requirements of Section 3 of the Housing and Urban Development Act of 1968, as amended, 12 U.S.C. 1701 u. Section 3 requires that to the greatest extent feasible, opportunities for training and employment be given lower income residents of the project area and contracts for work in connection with the project be awarded to business concerns which are located in, or owned in substantial part by persons residing in, the area of the project.
2. The parties to this Contract will comply with the provisions of said Section 3 and the regulations issued pursuant thereto by the Secretary of Housing and Urban Development and all applicable rules and orders of the Department issued thereunder prior to the execution of this Contract. The parties to this Contract certify and agree that they are under no contractual or other disability that would prevent them from complying with these requirements.

II. The Owner Shall:

- A. Not permit or make any changes or additions to the plans and specifications without written approval of the City.
- B. Permit the Contractor to use, at no cost, existing utilities such as light, heat, power and water necessary to the carrying out and completion of work.
- C. Cooperate with the Contractor to facilitate the performance of the work including the removal and replacement of rugs, coverings and furnishings as necessary.
- D. Abide by the terms of this Contract and allow the rehabilitation to be carried out in accordance with city codes and federal regulations.

III. General Provisions:

- A. This Contract embodies all of the representatives, rights, duties and obligations of the parties, and any prior oral or written agreement not embodied herein shall not be binding upon or endure to the benefit of any of the parties.
- B. The Contractor agrees to perform the work required by this Contract, and the Owner agrees that neither he nor the members of his family, his tenants, agents or employees will hinder the Contractor in his work or the Project Administrator in carrying out HUD requirements and city codes and policies.
- C. No member, officer or employee of the Sub-grantee, or its designees or agents, no member of the governing body of the locality in which the program is situated, and no other public official of such locality or localities who exercises any functions or responsibilities with respect to the program during his tenure or for one (1) year thereafter, shall have any interest, direct or indirect, in any contract or subcontract, or the proceeds thereof, for work to be performed in connection with the program assisted under the Agreement.

THIS CONTRACT AND ALL TERMS AND CONDITIONS CONTAINED HEREIN ARE APPROVED AND ACCEPTED AS OF THE DATE FIRST ABOVE WRITTEN.

_____ Contractor	_____ Owner
_____ By	_____ Renter (if applicable)
_____ Address	_____ Address
_____ Telephone	_____ Telephone
	_____ Mayor or Authorized City Official, Housing Rehabilitation Program

**Lien Prevention Document**

(Part 1)

SUB-GRANTEE: \_\_\_\_\_

ADDRESS: \_\_\_\_\_

NSP/CDBG PROJECT #: \_\_\_\_\_

PROPERTY NUMBER OR NAME: \_\_\_\_\_

PROPERTY ADDRESS: \_\_\_\_\_

Contractor, \_\_\_\_\_ has entered into a contract with the city of \_\_\_\_\_ to complete rehabilitation work contracted for at the above referenced property address.

Contractor understands that the city requires a disclosure by the contractor of all suppliers and subcontractors who will furnish labor, equipment, material or supplies, used or consumed to complete the rehabilitation work contracted for at the above referenced property address.

Contractor does hereby certify and disclose the following suppliers and subcontractors who will provide services at the above referenced property address.

<b>Company Name:</b> _____	List the type of services or product supplied:
Address: _____	_____
_____	_____
City: _____	_____
State: _____	_____
Zip: _____	_____
Name of Owner/President: _____	_____
_____	_____
_____	_____
Phone Number: _____	_____

<b>Company Name:</b> _____	List the type of services or product supplied:
Address: _____	_____
_____	_____
City: _____	_____
State: _____	_____
Zip: _____	_____
Name of Owner/President: _____	_____
_____	_____
_____	_____
Phone Number: _____	_____

If, during the course of the rehabilitation project, a Contractor utilizes the services of any supplier or contractor other than those previously disclosed, that Contractor will be required to make full disclosure of the company name, address, phone number and services provided to the grant administrator immediately.

Contractor certifies that there are no other suppliers and/or subcontractors that will perform services in connection with the above described property.

Contractor understands that final payment in the amount of \_\_\_\_\_, verifies that all suppliers and subcontractors have been paid by the Contractor for the services to above described property.

FURTHER AFFIANT SAITH NOT.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

Now, on this \_\_\_\_\_ day of \_\_\_\_\_, 2007, before me, a notary public

in and for the state of Kansas aforesaid, came \_\_\_\_\_  
(Contractor), known to me to be the person who executed the about document and upon oath states that statements made herein are true and correct.

Sworn and subscribed before me this \_\_\_\_\_ day of \_\_\_\_\_, 2007.

NOTARY: \_\_\_\_\_

My appointment expires: \_\_\_\_\_

**Lien Prevention Document**

(Part 2)

SUB-GRANTEE: \_\_\_\_\_

ADDRESS: \_\_\_\_\_

NSP/CDBG PROJECT #: \_\_\_\_\_

PROPERTY NUMBER OR NAME: \_\_\_\_\_

PROPERTY ADDRESS: \_\_\_\_\_

I, \_\_\_\_\_, was a sub-contractor/supplier for rehabilitation of the above referenced address.

I, provided the following service in the completion of the above project:

I, do hereby certify that I have been **paid in full** for all the labor/materials stated above and have made full disclosure of all goods and services provided to the shown property.

I, the PROJECT ADMINISTRATOR, have verified to the best of my knowledge that this contractor has made full disclosure:

\_\_\_\_\_  
DATE

\_\_\_\_\_  
SIGNATURE

\_\_\_\_\_  
Notary Public

## **LEAD-BASED PAINT REQUIREMENTS**

### **I. NEW FEDERAL REGULATION**

On September 15, 1999, HUD issued a new Federal lead-based paint regulation implementing Title X of the Housing and Community Development Act of 1992. This new regulation makes many important changes in the lead-based paint requirements applicable to housing funded through HUD, including the NSP/CDBG program, HOME program, McKinney Act Homeless programs and other HUD Community Planning and Development (CPD) programs. All requirements of the new regulation go into effect on September 15, 2000. For NSP/CDBG, this means all new housing grants awarded after that date carry the new regulation requirements. A glossary of lead terms is included at the back of this section.

Exemptions under the new lead-based paint regulations are:

- Residential structures built after January 1, 1978;
- Emergency action activities;
- Rehabilitation that does not disturb paint;
- Unoccupied units that will be demolished;
- and Elderly and disabled housing that is for the sole use of such persons.

The major types of requirements under the new lead-based paint regulations are as follows:

- Notification identification of defective paint surfaces
- Treatment of defective paint surfaces
- Response to Elevated Blood Level (EBL) children
- Other lead-based paint requirements
- Occupant protection
- Worker protection
- Work area containment
- Document maintenance/Clearance

In contrast to past regulations, these new requirements differ depending on the nature of the **activity** that a sub-grantee is undertaking rather than the program funding source, the amount of Federal funding in a project, and the duration of the Federal Government's relationship with the sub-grantee. Attachment 1 is a summary of the lead-based paint requirements by activity. For purposes of clarifying as much as possible, all further discussion will relate to NSP/CDBG requirements only. "NSP/CDBG requirements" are identified in Attachment 19-1 as those rehabilitation projects costing between \$5,000 and \$25,000. (However, should a sub-grantee expend any monies below or above those amounts on any one housing rehabilitation project, the requirements of the activities for those amounts would be applicable.)



Attachment 20-1

	<\$5,000	\$5,000 - \$25,00	>\$25,000
Approach to Lead Hazard Evaluation and Reduction	1. Do no harm	2. Identify and control lead hazards	3. Identify and abate lead hazards
Notification	Yes	Yes	Yes
Lead Hazard Evaluation	<ul style="list-style-type: none"> <li>● Paint Testing of surfaces to be distributed by rehabilitation</li> </ul>	<ul style="list-style-type: none"> <li>● Paint Testing of surfaces to be distributed by rehabilitation</li> <li>● Risk assessment</li> </ul>	<ul style="list-style-type: none"> <li>● Paint Testing of surfaces to be distributed by rehabilitation</li> <li>● Risk assessment</li> </ul>
Lead Hazard Reduction	<ul style="list-style-type: none"> <li>● Repair surfaces distributed during rehabilitation</li> <li>● Safe work practices</li> <li>● Clearance of work site</li> </ul>	<ul style="list-style-type: none"> <li>● Interim Controls</li> <li>● Safe work practices</li> <li>● Clearance of unit</li> </ul>	<ul style="list-style-type: none"> <li>● Abatement</li> <li>● Safe work practices</li> <li>● Clearance of unit</li> </ul>
Ongoing Maintenance	For HOME rental properties only	For HOME Rental properties only	For HOME rental properties only
EIBLL	No	No	No
Options	<ul style="list-style-type: none"> <li>● Presume lead-based paint</li> <li>● Use safe work practices on all surfaces</li> </ul>	<ul style="list-style-type: none"> <li>● Presume lead-based paint and/or hazards</li> <li>● Use standards treatments</li> </ul>	<ul style="list-style-type: none"> <li>● Presume lead-based paint and/or hazards</li> <li>● Abate all applicable surfaces</li> </ul>



**A. Notification:**

Four types of notification are applicable for NSP/CDBG:

1. The currently used EPA pamphlet found herein, “Protect Your Family From Lead in Your Home,” is still applicable to be distributed to all units built before 1978. Evidence of distribution should be maintained in the sub-grantee’s files.
2. Once the home has been inspected according to the requirements of the activity, the sub-grantee must issue a notice to the homeowner/occupant no later than 15 days after a lead hazard evaluation report has been received and leadbased paint or hazards found. A notice of presumption is required if the sub-grantee chooses the option of presuming that lead-based paint exists. (See Options for Implementing, page 133.) This is called a Notice of Evaluation/Presumption/Risk Assessment. The notice of evaluation results must include a) the date of the notice; b) a summary of the nature and scope of the evaluation (or presumption); c) a contact name, address and phone number for more information; d) the results of the evaluation; and e) a contact name, address and phone number to obtain the actual report. If lead-based paint is presumed, the notice needs only to include the first three items above.
3. Notice of Clearance. This notice informs the homeowner/tenant that clearance has been achieved and it is safe for them to reoccupy the construction area. This should be given as soon as clearance has been achieved.
4. No later than 15 days after lead hazard reduction activities have been completed, a sub-grantee must provide a Notice of Lead Hazard Reduction/Clearance Report to the homeowner/occupant which includes a) a summary of the nature, scope and results of the hazard reduction activities, including the clearance results; b) a contact name, address and phone number for more information; and c) available information on the location of remaining lead-based paint on a surface-by-surface basis. The notice of reduction activity must be updated periodically (not applicable to NSP/CDBG unless a multi-unit building is involved); is a readable size and type; provided upon request in a format readable for persons with disabilities; provided in the occupant’s primary language or the language of their contract or lease; and distributed to each affected unit.

NOTE: The homeowner should be educated that if they decide to sell or rent the home disclosure of lead presence must be provided at the time of sell/rental.

**B. Identification of defective paint surfaces:**

Defective paint surfaces must be evaluated using one of four methods described below. This is, again, according to the activity being conducted and the cost of the rehabilitation.

**Visual Assessment:** A visual assessment for deteriorated paint consists of a visual search for cracking, scaling, peeling, or chipping paint. Visual assessments must be conducted by persons trained to identify deteriorated paint.

**Paint Testing:** Paint testing entails testing painted surfaces to determine if it contains lead-based paint using methods such as an XRF analyzer or laboratory analysis. Paint testing differs from a lead-based paint inspection, which is a surface-by-surface investigation to determine the presence of lead-based paint. Typically, the XRF analyzer is used for an inspection. It is presumed in the Kansas NSP/CDBG program at this stage that laboratory analysis will be more prevalent due partially to the cost of the XRF analyzer. *A list of approved laboratories can be obtained from Commerce.* Because an inspection evaluates all painted surfaces, it is more comprehensive than lead-based paint testing. Certified paint inspectors or risk assessors must conduct paint testing.

**Risk Assessment:** A risk assessment is a comprehensive investigation of a dwelling to identify lead-based paint hazards that includes paint testing, dust and soil sampling, and a visual evaluation. Risk assessment results are summarized in a written report with recommendations for action.

**Lead Hazard Screen:** A lead hazard screen is similar to a risk assessment. The sampling is less extensive, but the requirements are more stringent.

Risk assessments and lead hazard screens must be conducted by certified risk assessors.

### **C. Treatment of Defective Paint Surfaces:**

There are **four approaches to implementing lead hazard evaluation** and reduction:

**Approach 1, Do No Harm:** This approach is intended to allow low-cost repairs and other work to proceed without costly lead-based paint requirements yet, at the same time, to prevent lead-based paint hazards from being created while that work is being done. It does not determine if a whole dwelling unit or property is “lead-safe” because clearance is conducted only for the worksite.

**Approach 2, Identify and Stabilize Deteriorated Paint:** This approach provides assurance that lead-based paint has been stabilized and the unit is “lead safe” because clearance is conducted for the whole unit. However, it does not prevent the reappearance of lead-based paint hazards. Thus, ongoing maintenance is required when there is an ongoing relationship with HUD. (This is usually related to multi-unit housing receiving ongoing funding from a HUD program such as Section 8 subsidy.)

**Approach 3, Identify and Control Lead-Based Paint Hazards:** This approach provides assurance that lead-based paint hazards have been eliminated. As in Approach 2, clearance is conducted for the whole unit. Ongoing maintenance is still required when there is an ongoing relationship with HUD because interim controls are not permanent.

**Approach 4, Identify and Abate Lead-Based Paint Hazards:** This approach is used when Federal funds are used to make a substantial investment in the property. Long-term hazards control measures (abatement) are implemented to help ensure that the unit remains lead-safe.

The above approaches are included in Attachment 20-2 herein. You will note on Attachment 20-1 that **Approach 3** is *the applicable approach to the majority of NSP/CDBG projects.*

According to the Approach required, there are **four reduction methods** for lead-based paint:

**Paint Stabilization:** This lead hazard reduction method reduces exposure to lead-based paint by addressing deteriorated paint on exterior and interior surfaces through repairs, safe paint removal and repainting or abatement.

**Interim Controls:** Interim controls temporarily reduce exposure to lead-based paint hazards through repairs, painting, maintenance, special cleaning, occupant protection measures, clearance and education programs. Interim control methods require safe practices and include:

- **Paint Stabilization:** All deteriorated paint on exterior and interior surfaces must be stabilized through repairs, safe paint removal and repainting.
- **Treatment for Friction and Impact Surfaces:** If lead-based paint is found and exceeds acceptable levels or is presumed, the conditions creating friction or impact with surfaces with lead-based paint such as those that rub, bind or crush must be corrected. Examples of this work include rehanging binding doors, installing doorstops or reworking windows.
- **Treatment for Chewable Surfaces:** If a child under age six has chewed surfaces known to contain lead-based paint or if lead-based paint is presumed, these surfaces must be enclosed or coated so they are impenetrable.
- **Lead Contaminated Dust Control:** All horizontal surfaces that are rough, pitted, or porous such as bare floors, stairs, window sills and window troughs must be covered with a smooth, cleanable covering or coating such as metal coil stock, plastic, polyurethane, or linoleum. Carpeting must be vacuumed or rugs must be removed and vacuumed on both sides. Vacuuming must be done using HEPA vacuums.
- **Lead Contaminated Soil Control:** If soil is lead-contaminated, interim controls that may be used include permanent surface coverings such as gravel, bark and sod as well as land use controls such as fencing, landscaping, and warning signs.

**Standard Treatments:** In some cases, standard treatments may be conducted in lieu of interim controls on all applicable surfaces, including soil, to control lead-based paint hazards that may be present. All standard treatment methods must follow the same safe work practice and clearance requirements that apply to interim control activities. These methods include:

- **Paint Stabilization:** All deteriorated paint on exterior and interior surfaces must be stabilized through repairs, safe paint removal and repainting or abatement.
- **Smooth and Cleanable Horizontal Surfaces:** All horizontal surfaces that are rough, pitted or porous such as bare floors, stairs, window sills and window troughs must be covered with a smooth, cleanable covering or coating such as metal coil stock, plastic, polyurethane or linoleum.

- **Correcting Dust-Generating Conditions:** All conditions that generate lead contaminated dust such as those that rub, bind or crush surfaces with leadbased paint must be corrected. Examples include rehangng doors, installing doorstops or reworking windows

**Bare Residential Soil:** Soil is addressed using interim control methods including impermanent surface coverings such as gravel, bark and sod as well as land use controls such as fencing, landscaping and warning signs.

**Abatement:** Abatement permanently removes lead-based paint and lead-based paint hazards by removing lead-based paint and its dust, or permanently encapsulating or enclosing the lead-based paint, replacing components with lead-based paint, and removing or permanently covering lead-contaminated soil. Encapsulation and enclosure require ongoing maintenance to check their effectiveness.



**FOUR APPROACHES TO IMPLEMENTING LEAD HAZARD EVALUATION AND REDUCTION**

<b>APPROACH 1. DO NO HARM</b>		
<b>Lead Hazard Evaluation</b>	<b>Lead Hazard Reduction</b>	<b>Options</b>
Paint testing performed on surfaces to be disturbed.	Repair surfaces disturbed during work.  Safe work practices used when working on areas identified as lead-based paint.  Clearance performed on work site.	Presume lead based paint is present and use safe work practices on all surfaces being disturbed.
<b>APPROACH 2. IDENTIFY AND STABILIZE DETERIORATED PAINT</b>		
<b>Lead Hazard Evaluation</b>	<b>Lead Hazard Reduction</b>	<b>Options</b>
Visual assessment performed to identify deteriorated paint.	Paint stabilization of identified deteriorated paint.  Safe work practices used.  Clearance performed unit-wide.	Perform paint testing on deteriorated paint. Safe work practice requirements only apply to lead based paint.
<b>APPROACH 3. IDENTIFY AND CONTROL LEAD HAZARDS</b>		
<b>Lead Hazard Evaluation</b>	<b>Lead Hazard Reduction</b>	<b>Options</b>
Paint testing performed on surfaces to be disturbed.  Risk assessment performed on entire dwelling.	Interim controls performed on identified hazards.  Safe work practices used.  Clearance performed unit-wide.	Presume lead based paint and/or lead based paint hazards are present and perform standard treatments.
<b>APPROACH 4. IDENTIFY AND ABATE LEAD HAZARDS</b>		
<b>Lead Hazard Evaluation</b>	<b>Lead Hazard Reduction</b>	<b>Options</b>
Paint testing performed on surfaces to be disturbed.  Risk Assessment performed on entire dwelling.	Abatement performed on identified hazards.  Interim controls performed on identified hazards on the exterior that are not disturbed by rehabilitation.  Safe work practices used.  Clearance performed unit-wide.	Presume lead based paint and/or lead based paint hazards are present and perform abatement on all applicable surfaces - Deteriorated, impact, friction, chewable surfaces and surfaces to be disturbed.

## Options for Implementing the New Lead Hazard Reduction Requirements

The new regulation provides options for implementing lead hazard reduction requirements to allow sub-grantees the flexibility to implement the most cost effective method.

**Standard Treatments:** When an activity requires a risk assessment followed by interim controls, the designated party may opt to simply presume that lead-based paint hazards exist rather than incurring the cost of the risk assessment. In such a case, standard treatments will be conducted in lieu of interim controls on all applicable surfaces, including soil, to control lead-based paint hazards that may be present. All standard treatment methods must follow the same safe work practice and clearance requirements that apply to interim control activities. Standard treatment methods are described herein.

**Abatement:** If a risk assessment and abatement are required, the designated party may presume that lead-based paint and/or lead-based paint hazards exist. In such a case, abatement must then be conducted on all applicable surfaces, including soil, to permanently control lead-based paint hazards that may be present. Applicable surfaces include any surface to be disturbed, as well as friction, impact, chewable and deteriorated surfaces.

### **D. Response to Elevated Blood Level (EBL) Children:**

Response to elevated blood level in children, regardless of age, is no longer required in NSP/CDBG rehabilitation projects under the new regulations. See Attachment 1 for applicability.

### **E. Other Lead-Based Paint Requirements:**

This section described those practices that must be conducted during lead hazard reduction work that involves surfaces with presumed or identified lead-based paint.

## Occupant Protection

Appropriate actions must be taken to protect occupants from lead-based paint hazards associated with lead hazard reduction activities.

- Occupants may not enter the worksite during lead hazard reduction activities. Reentry is permitted only after lead hazard reduction activities are completed and the dwelling has passed a clearance examination.
- Occupants of the unit must be temporarily relocated to a suitable unit that is decent, safe, sanitary and free of lead-based paint hazards during lead hazard reduction activities. Relocation must be done before lead hazard reduction activities begin.
- Property owners must protect occupants' belongings from lead contamination during lead hazard reduction activities by relocating or covering and sealing them and ensure that the worksite is secured against entry during non-working hours until the unit passes a clearance examination.

Under certain conditions, occupant relocation is not required. These conditions are:

1. Treatment will not disturb lead-based paint or lead-contaminated dust.
2. Treatment of the interior will be completed within one period in eight daytime hours, the site will be contained, and the work will not create other safety, health, or environmental hazards.
3. Only the building's exterior is treated; the windows, doors, ventilation intakes, and other openings near the worksite are sealed during hazard reduction activities and cleaned afterward; and a lead-free entry is provided.
4. Treatment will be completed within five calendar days; the work area is sealed; at the end of each day, the area within 10 feet of the containment area is cleared of debris; at the end of each day, occupants have safe access to sleeping areas, bathrooms and kitchen facilities; treatment does not create other safety, health or environmental hazards.

### **Worker Protection/Work Area Containment**

The worksite for lead hazard reduction activities must be prepared to prevent the release of leaded dust and debris.

- Workers must use safe work practices that minimize the spread of leaded dust, paint chips, soil and debris.
- Warning signs are required at each entry to a room where lead hazard reduction activities are conducted when occupants are present; at the main and secondary entryways to a building from which occupants have been relocated; and at exterior worksites at a size and type readable from 20 feet (six meters) from the edge of the worksite. Signs need to be in the occupants' primary language to the extent practicable.

### **Prohibited Methods of Paint Removal**

The methods, which may not be used at any time for work on surfaces known or suspected to contain lead-based paint, are:

- Open flame burning or torching.
- Machine sanding or grinding without a high-efficiency particulate air (HEPA) local exhaust control.
- Abrasive blasting or sandblasting without HEPA local exhaust control.
- Heat guns operating above 1,100 degrees Fahrenheit, or those that operate high enough to char the paint.

- Dry sanding or dry scraping. **NOTE:** Four exceptions to this prohibition are: 1) dry scraping in conjunction with heat guns; 2) dry scraping within 1.0 ft. (0.20 m.) of electrical outlets; 3) treating deteriorated paint spots that total no more than 2 ft. square (0.2 m square) in any one interior room or space; or 4) treating deteriorated paint spots that total no more than 20 ft. square (2.0 m square) on exterior surfaces.
- Paint stripping in a poorly ventilated space using a volatile stripper that is a hazardous substance in accordance with regulations of the Consumer Product Safety Commission at 16 CFR 1500.3, and/or a hazardous chemical in accordance with the Occupational Safety and Health Administration at 29 CFR 1010.1200 or 1926.59, as applicable to the work.

NOTE: Methylene chloride paint strippers may cause cancer and should be avoided. Use of these strippers is prohibited by some jurisdictions.

### **Worksite Cleanup**

Worksite cleanup removes dust and debris from the work area. Good cleanup is critical to passing clearance and leaving the unit safe for habitation.

Worksite cleanup must be done using methods, products and devices that are successful in cleaning lead-contaminated dust, such as vacuum cleaners with HEPA filters or equivalent equipment, and household or lead-specific detergents or equivalent products.

### **Safe Work Practice Exemptions**

Safe work practices are not required:

- If paint has been tested and found to be lead-free; or
- If maintenance or lead hazard reduction activities disturb a total surface area that is less than the following standards:
  - 20 ft. square (2 m square) on exterior surfaces;
  - 2 ft. square (0.2 m square) on any one interior room or space; or
  - 10 percent of the total surface areas on an interior or exterior type of component with a small surface area like windowsills, baseboards, and trim.

### **Document Maintenance - Clearance**

A clearance examination involves a visual assessment and dust testing to determine if the unit is safe for occupancy.

Clearance must be performed by a certified risk assessor or certified lead-based paint inspector. In cases where a sub-grantee or property owner uses in-house employees to perform lead hazard reduction work, in-house employees may conduct both lead hazard reduction activities and clearance, as long as the same employees do not conduct both. If an outside party is hired, the parties conducting the lead hazard reduction activities and clearance must be independent of each other.

## Exemption

Clearance is not required:

- If maintenance or a lead hazard reduction activity at a worksite does not disturb painted surfaces; or
- If the total area disturbed does not exceed the footage listed above under exemptions to safe work practices.

## Clearance Standards

If the test results equal or exceed the designated standards, the dwelling unit, worksite or common area fails the clearance examination. The clearance standards are:

	Floors, (ug/ft.sq.)	Interior Window Sills, (ug/ft. sq.)	Window Troughs, (ug/ft. sq.)
Lead in Dust (as measured by a dust wipe sample)	40	250	400

## Report

The clearance examiner must prepare a clearance report. If lead hazard reduction activities other than abatement are performed, a clearance report must be prepared as described in the table below. If abatement is conducted, a certified supervisor or project designer must prepare an abatement report as described below.

Clearance Report	Abatement Report
<p>Property address:</p> <ul style="list-style-type: none"> <li>- Date of clearance examination</li> <li>- Name, address and signature of each person performing the clearance examination including certification number</li> <li>- Visual assessment results</li> <li>- Dust sample analysis, in ug/sq.ft., by location</li> <li>- Name and address of each laboratory that conducted the dust sample analysis, including their identification number</li> </ul>	<p>Property address:</p> <ul style="list-style-type: none"> <li>- Date of clearance testing</li> <li>- Name, address and signature of each certified risk assessor or inspector conducting clearance sampling</li> <li>- Clearance testing results and all soil analyses (If applicable) and the name of each recognized laboratory that conducted the analyses</li> </ul>
<p>Hazard reduction or maintenance information:</p> <ul style="list-style-type: none"> <li>- Start and completion dates of hazard reduction of maintenance activity.</li> <li>- Name and address of each firm or organization conducting the hazard reduction or maintenance activity, and the name of each supervisor assigned.</li> <li>- A detailed, written description of the hazard reduction or maintenance activity, to include: Methods used: locations of exterior surfaces or soil; interior rooms, common areas; and/or components where the hazard reduction activity occurred, and any suggested monitoring of encapsulates or enclosures.</li> </ul>	<p>Abatement information:</p> <ul style="list-style-type: none"> <li>- Start and completion dates of abatement</li> <li>- Name and address of each certified firm conducting the abatement, and the name of each supervisor assigned to the abatement project.</li> <li>- Occupant protection plan.</li> <li>- A detailed, written description of the abatement, to include: Methods used: locations of rooms; and/or components where abatement occurred, the reason for selecting particular abatements methods for each component and any suggested monitoring of encapsulates or enclosures.</li> </ul>

## **Unit Fails Clearance**

If a unit fails a clearance examination, the unit must be recleaned and retested until clearance is achieved.

## **II. LICENSING KANSAS LEAD PROFESSIONALS**

Kansas Statutes K.A.R. 27-72-1 through 28-72-22, effective November 8, 1999, are the rules and regulations governing the Kansas Childhood Lead Poisoning Prevention Program, which also includes the rules pertaining to licensing lead professionals in the State of Kansas. The Kansas Department of Health & Environment, Bureau of Consumer Health, Childhood Lead Poisoning Prevention Program, is the entity responsible for the licensing of all training firms and training programs in Kansas. Anyone wishing to perform lead inspections and/or risk assessments in Kansas must be trained by an accredited training provider and licensed by the Kansas Childhood Lead Poisoning Prevention Program. Information regarding accredited training providers and licensing by the State of Kansas may be obtained by contacting KDHE at (785) 368-7154 or applications may be obtained by accessing their web site at <http://www.kdhe.state.ks.us/lead/forms.html>.

## **III. KANSAS NSP/CDBG POLICY ON LEAD-BASED PAINT REQUIREMENTS (Effective 9-15-2000)**

As stated previously, the lead-based paint regulations discussed above apply to all contracts awarded to communities after September 15, 2000.

The State of Kansas NSP/CDBG program will allow a maximum of \$3,100 per housing unit for meeting these new lead-based paint regulations. This allowance is in addition to the maximum allowable per unit rehabilitation allowance. The maximum of \$3,100 will include all lead-based paint inspection requirements and any measures taken to address lead reduction and clearance. (This does not include relocation costs.) If more than \$3,100 is needed on a single unit, approval must be obtained from Commerce. It is important that costs are tracked on this new regulation in order to determine its impact on our rehabilitation program. Each sub-grantee is asked to keep the lead-based paint inspection costs separate from the monies spent on the work items. This will be monitored for during the grant period. The maximum of \$3,100 per unit will be a separate line item activity on the sub-grantee budget form.

## “LEAD SPEAK” A BRIEF GLOSSARY

### COMMON LEAD-BASED PAINT TERMS

**Lead-Based Paint:** Paint that contains at least 1 milligram per centimeter square (mg/cm) of lead. Also measured as greater than 0.5 percent lead or has 5,000 parts per million (ppm) lead by dry weight.

**Lead-Based Paint Hazards:** Housing conditions that cause human exposure to unsafe levels of lead from paint. These conditions include deteriorated lead-based paint; friction, impact or chewable painted surfaces; lead-contaminated dust; or lead-contaminated soil.

### **Lead Hazard Evaluation**

**Visual Assessment:** A visual evaluation of interior and exterior painted surfaces to identify specific conditions that contribute to lead-based paint hazards. A certified risk assessor or Housing Quality Standards (HQS) inspector trained in visual assessment performs the assessment.

**Paint Testing:** Testing of specific surfaces, by XRF (x-ray fluorescence) or lab analysis, to determine the lead content of these surfaces, performed by a certified lead-based paint inspector or certified risk assessor.

**Risk Assessment:** A comprehensive evaluation for lead-based paint hazards that includes paint testing, dust and soil sampling, and a visual evaluation. The risk assessment report identifies lead hazards and appropriate lead hazard reduction methods. A certified risk assessor must conduct the assessment.

**Lead Hazard Screen:** A limited risk assessment activity that can be performed instead of a risk assessment in units that meet certain criteria (e.g. good condition). A certified risk assessor must perform the screen. If the unit fails the lead hazard screen, a full risk assessment must be performed.

**Clearance Examination:** Clearance is performed after hazard reduction, rehabilitation or maintenance activities to determine if a unit is safe for occupancy. It involves a visual assessment analysis of dust and soil samples and preparation of a report. A certified risk assessor, paint inspector or clearance technician (independent from entity/individual conducting paint stabilization or hazard reduction) conducts clearance.

### **Lead Hazard Reduction**

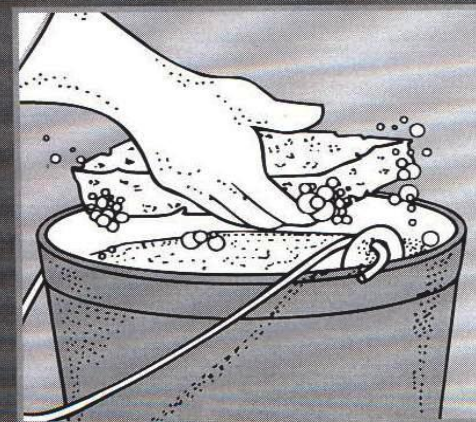
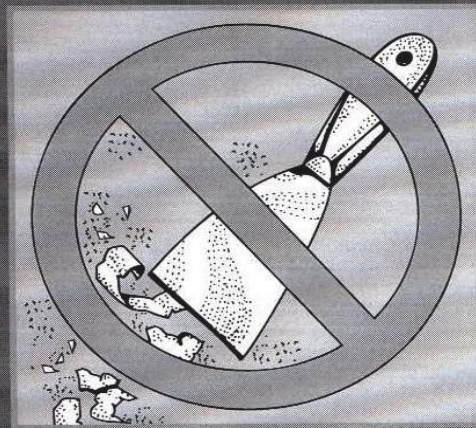
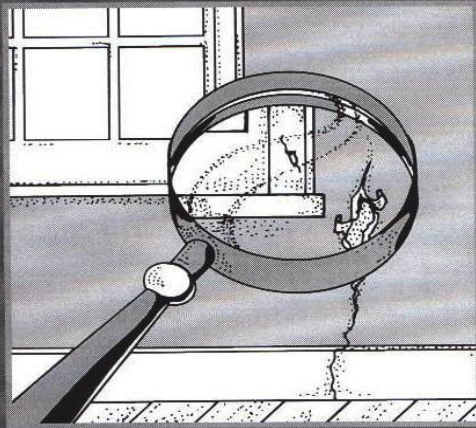
**Paint Stabilization:** An interim control method that stabilizes painted surfaces and addresses the underlying cause of deterioration: Steps include repairing defective surfaces, removing loose paint and applying new paint.

**Interim Controls:** Set of measures to temporarily control lead-based paint hazards. Qualified workers using safe work practices must complete interim control methods. Follow-up monitoring is needed.



Standard Treatments: A complete set of interim control methods that when used together temporarily control all potential lead hazards in a unit. Because they address all conditions, a risk assessment or other evaluation is not needed. Qualified workers using safe work practices must complete standard treatments. As with interim controls, follow-up monitoring is needed.

Abatement: Measures to permanently control lead-based paint or lead-based paint hazards.



# Protect Your Family From Lead In Your Home

 **EPA** United States Environmental Protection Agency

 United States Consumer Product Safety Commission

 United States Department of Housing and Urban Development



## Simple Steps To Protect Your Family From Lead Hazards

### If you think your home has high levels of lead:

- ◆ Get your young children tested for lead, even if they seem healthy.
- ◆ Wash children's hands, bottles, pacifiers, and toys often.
- ◆ Make sure children eat healthy, low-fat foods.
- ◆ Get your home checked for lead hazards.
- ◆ Regularly clean floors, window sills, and other surfaces.
- ◆ Wipe soil off shoes before entering house.
- ◆ Talk to your landlord about fixing surfaces with peeling or chipping paint.
- ◆ Take precautions to avoid exposure to lead dust when remodeling or renovating (call 1-800-424-LEAD for guidelines).
- ◆ Don't use a belt-sander, propane torch, high temperature heat gun, scraper, or sandpaper on painted surfaces that may contain lead.
- ◆ Don't try to remove lead-based paint yourself.



**Recycled/Recyclable**

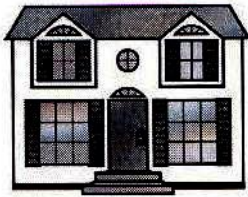
Printed with vegetable oil based inks on recycled paper  
(minimum 50% postconsumer) process chlorine free.



## Are You Planning To Buy, Rent, or Renovate a Home Built Before 1978?

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**M**any houses and apartments built before 1978 have paint that contains high levels of lead (called lead-based paint). Lead from paint, chips, and dust can pose serious health hazards if not taken care of properly.



**OWNERS, BUYERS, and RENTERS** are encouraged to check for lead (see page 6) before renting, buying or renovating pre-1978 housing.

**F**ederal law requires that individuals receive certain information before renting, buying, or renovating pre-1978 housing:



**LANDLORDS** have to disclose known information on lead-based paint and lead-based paint hazards before leases take effect. Leases must include a disclosure about lead-based paint.



**SELLERS** have to disclose known information on lead-based paint and lead-based paint hazards before selling a house. Sales contracts must include a disclosure about lead-based paint. Buyers have up to 10 days to check for lead.



**RENOVATORS** disturbing more than 2 square feet of painted surfaces have to give you this pamphlet before starting work.

# IMPORTANT!

## **Lead From Paint, Dust, and Soil Can Be Dangerous If Not Managed Properly**

- FACT:** Lead exposure can harm young children and babies even before they are born.
- FACT:** Even children who seem healthy can have high levels of lead in their bodies.
- FACT:** People can get lead in their bodies by breathing or swallowing lead dust, or by eating soil or paint chips containing lead.
- FACT:** People have many options for reducing lead hazards. In most cases, lead-based paint that is in good condition is not a hazard.
- FACT:** Removing lead-based paint improperly can increase the danger to your family.

If you think your home might have lead hazards, read this pamphlet to learn some simple steps to protect your family.



## Lead Gets in the Body in Many Ways

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**Childhood lead poisoning remains a major environmental health problem in the U.S.**

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**Even children who appear healthy can have dangerous levels of lead in their bodies.**

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**People can get lead in their body if they:**

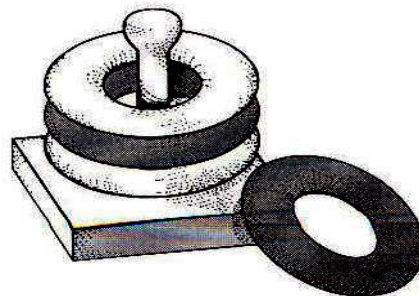
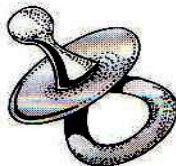
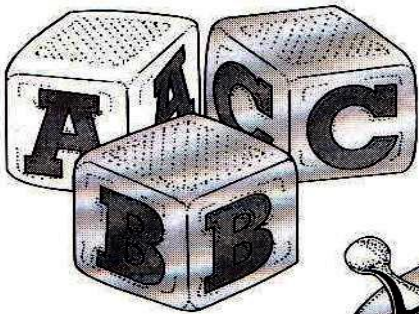
- ◆ Breathe in lead dust (especially during renovations that disturb painted surfaces).
- ◆ Put their hands or other objects covered with lead dust in their mouths.
- ◆ Eat paint chips or soil that contains lead.

**Lead is even more dangerous to children under the age of 6:**

- ◆ At this age children's brains and nervous systems are more sensitive to the damaging effects of lead.
- ◆ Children's growing bodies absorb more lead.
- ◆ Babies and young children often put their hands and other objects in their mouths. These objects can have lead dust on them.

**Lead is also dangerous to women of childbearing age:**

- ◆ Women with a high lead level in their system prior to pregnancy would expose a fetus to lead through the placenta during fetal development.



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## Lead's Effects

It is important to know that even exposure to low levels of lead can severely harm children.

### In children, lead can cause:

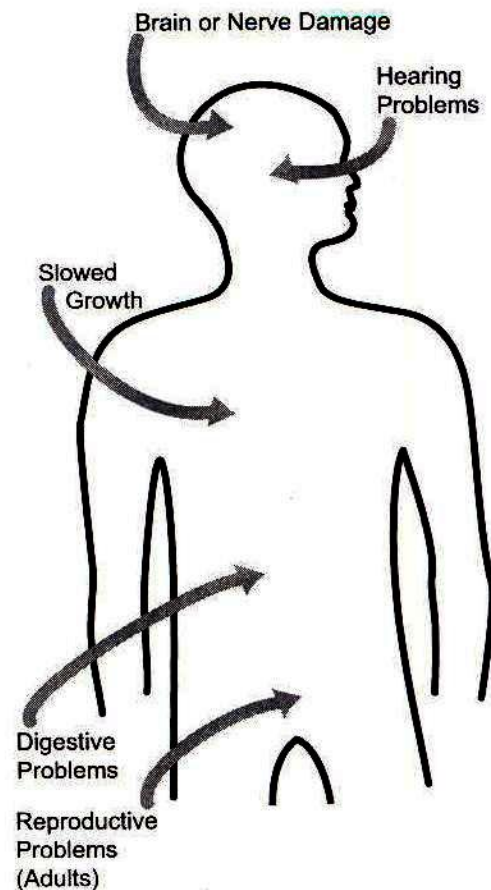
- ◆ Nervous system and kidney damage.
- ◆ Learning disabilities, attention deficit disorder, and decreased intelligence.
- ◆ Speech, language, and behavior problems.
- ◆ Poor muscle coordination.
- ◆ Decreased muscle and bone growth.
- ◆ Hearing damage.

While low-lead exposure is most common, exposure to high levels of lead can have devastating effects on children, including seizures, unconsciousness, and, in some cases, death.

Although children are especially susceptible to lead exposure, lead can be dangerous for adults too.

### In adults, lead can cause:

- ◆ Increased chance of illness during pregnancy.
- ◆ Harm to a fetus, including brain damage or death.
- ◆ Fertility problems (in men and women).
- ◆ High blood pressure.
- ◆ Digestive problems.
- ◆ Nerve disorders.
- ◆ Memory and concentration problems.
- ◆ Muscle and joint pain.



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**Lead affects  
the body in  
many ways.**

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## Where Lead-Based Paint Is Found

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**In general, the older your home, the more likely it has lead-based paint.**

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**Many homes built before 1978 have lead-based paint.** The federal government banned lead-based paint from housing in 1978. Some states stopped its use even earlier. Lead can be found:

- ◆ In homes in the city, country, or suburbs.
- ◆ In apartments, single-family homes, and both private and public housing.
- ◆ Inside and outside of the house.
- ◆ In soil around a home. (Soil can pick up lead from exterior paint or other sources such as past use of leaded gas in cars.)

## Checking Your Family for Lead

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**Get your children and home tested if you think your home has high levels of lead.**

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**To reduce your child's exposure to lead, get your child checked, have your home tested (especially if your home has paint in poor condition and was built before 1978), and fix any hazards you may have.** Children's blood lead levels tend to increase rapidly from 6 to 12 months of age, and tend to peak at 18 to 24 months of age.

Consult your doctor for advice on testing your children. A simple blood test can detect high levels of lead. Blood tests are usually recommended for:

- ◆ Children at ages 1 and 2.
- ◆ Children or other family members who have been exposed to high levels of lead.
- ◆ Children who should be tested under your state or local health screening plan.

Your doctor can explain what the test results mean and if more testing will be needed.



## Identifying Lead Hazards

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**Lead-based paint** is usually not a hazard if it is in good condition, and it is not on an impact or friction surface, like a window. It is defined by the federal government as paint with lead levels greater than or equal to 1.0 milligram per square centimeter, or more than 0.5% by weight.

**Deteriorating lead-based paint (peeling, chipping, chalking, cracking or damaged)** is a hazard and needs immediate attention. It may also be a hazard when found on surfaces that children can chew or that get a lot of wear-and-tear, such as:

- ◆ Windows and window sills.
- ◆ Doors and door frames.
- ◆ Stairs, railings, banisters, and porches.

**Lead dust** can form when lead-based paint is scraped, sanded, or heated. Dust also forms when painted surfaces bump or rub together. Lead chips and dust can get on surfaces and objects that people touch. Settled lead dust can re-enter the air when people vacuum, sweep, or walk through it. The following two federal standards have been set for lead hazards in dust:

- ◆ 40 micrograms per square foot ( $\mu\text{g}/\text{ft}^2$ ) and higher for floors, including carpeted floors.
- ◆ 250  $\mu\text{g}/\text{ft}^2$  and higher for interior window sills.

**Lead in soil** can be a hazard when children play in bare soil or when people bring soil into the house on their shoes. The following two federal standards have been set for lead hazards in residential soil:

- ◆ 400 parts per million (ppm) and higher in play areas of bare soil.
- ◆ 1,200 ppm (average) and higher in bare soil in the remainder of the yard.

The only way to find out if paint, dust and soil lead hazards exist is to test for them. The next page describes the most common methods used.

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**Lead from paint chips, which you can see, and lead dust, which you can't always see, can both be serious hazards.**

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## Checking Your Home for Lead

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**Just knowing that a home has lead-based paint may not tell you if there is a hazard.**

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You can get your home tested for lead in several different ways:

- ◆ A paint **inspection** tells you whether your home has lead-based paint and where it is located. It won't tell you whether or not your home currently has lead hazards.
- ◆ A **risk assessment** tells you if your home currently has any lead hazards from lead in paint, dust, or soil. It also tells you what actions to take to address any hazards.
- ◆ A combination risk assessment and inspection tells you if your home has any lead hazards and if your home has any lead-based paint, and where the lead-based paint is located.

Hire a trained and certified testing professional who will use a range of reliable methods when testing your home.

- ◆ Visual inspection of paint condition and location.
- ◆ A portable x-ray fluorescence (XRF) machine.
- ◆ Lab tests of paint, dust, and soil samples.

There are state and federal programs in place to ensure that testing is done safely, reliably, and effectively. Contact your state or local agency (see bottom of page 11) for more information, or call **1-800-424-LEAD (5323)** for a list of contacts in your area.

**Home test kits for lead are available, but may not always be accurate.** Consumers should not rely on these kits before doing renovations or to assure safety.

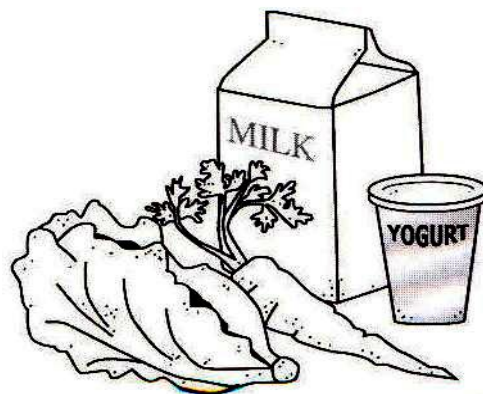


## What You Can Do Now To Protect Your Family

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**If you suspect that your house has lead hazards, you can take some immediate steps to reduce your family's risk:**

- ◆ **If you rent, notify your landlord of peeling or chipping paint.**
- ◆ **Clean up paint chips immediately.**
- ◆ **Clean floors, window frames, window sills, and other surfaces weekly.** Use a mop or sponge with warm water and a general all-purpose cleaner or a cleaner made specifically for lead. **REMEMBER: NEVER MIX AMMONIA AND BLEACH PRODUCTS TOGETHER SINCE THEY CAN FORM A DANGEROUS GAS.**
- ◆ **Thoroughly rinse sponges and mop heads after cleaning dirty or dusty areas.**
- ◆ **Wash children's hands often, especially before they eat and before nap time and bed time.**
- ◆ **Keep play areas clean.** Wash bottles, pacifiers, toys, and stuffed animals regularly.
- ◆ **Keep children from chewing window sills or other painted surfaces.**
- ◆ **Clean or remove shoes before entering your home to avoid tracking in lead from soil.**
- ◆ **Make sure children eat nutritious, low-fat meals high in iron and calcium, such as spinach and dairy products.** Children with good diets absorb less lead.





## Reducing Lead Hazards In The Home

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**Removing lead improperly can increase the hazard to your family by spreading even more lead dust around the house.**

**Always use a professional who is trained to remove lead hazards safely.**



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In addition to day-to-day cleaning and good nutrition:

- ◆ You can **temporarily** reduce lead hazards by taking actions such as repairing damaged painted surfaces and planting grass to cover soil with high lead levels. These actions (called “interim controls”) are not permanent solutions and will need ongoing attention.
- ◆ To **permanently** remove lead hazards, you should hire a certified lead “abatement” contractor. Abatement (or permanent hazard elimination) methods include removing, sealing, or enclosing lead-based paint with special materials. Just painting over the hazard with regular paint is not permanent removal.

Always hire a person with special training for correcting lead problems—someone who knows how to do this work safely and has the proper equipment to clean up thoroughly. Certified contractors will employ qualified workers and follow strict safety rules as set by their state or by the federal government.

Once the work is completed, dust cleanup activities must be repeated until testing indicates that lead dust levels are below the following:

- ◆ 40 micrograms per square foot ( $\mu\text{g}/\text{ft}^2$ ) for floors, including carpeted floors;
- ◆ 250  $\mu\text{g}/\text{ft}^2$  for interior windows sills; and
- ◆ 400  $\mu\text{g}/\text{ft}^2$  for window troughs.

Call your state or local agency (see bottom of page 11) for help in locating certified professionals in your area and to see if financial assistance is available.



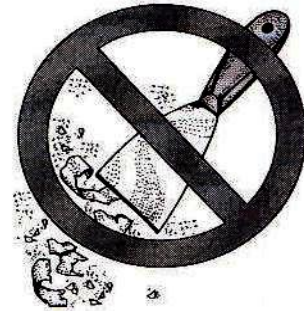
## Remodeling or Renovating a Home With Lead-Based Paint

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Take precautions before your contractor or you begin remodeling or renovating anything that disturbs painted surfaces (such as scraping off paint or tearing out walls):

- ◆ **Have the area tested for lead-based paint.**
- ◆ **Do not use a belt-sander, propane torch, high temperature heat gun, dry scraper, or dry sandpaper** to remove lead-based paint. These actions create large amounts of lead dust and fumes. Lead dust can remain in your home long after the work is done.
- ◆ **Temporarily move your family** (especially children and pregnant women) out of the apartment or house until the work is done and the area is properly cleaned. If you can't move your family, at least completely seal off the work area.
- ◆ **Follow other safety measures to reduce lead hazards.** You can find out about other safety measures by calling 1-800-424-LEAD. Ask for the brochure "Reducing Lead Hazards When Remodeling Your Home." This brochure explains what to do before, during, and after renovations.

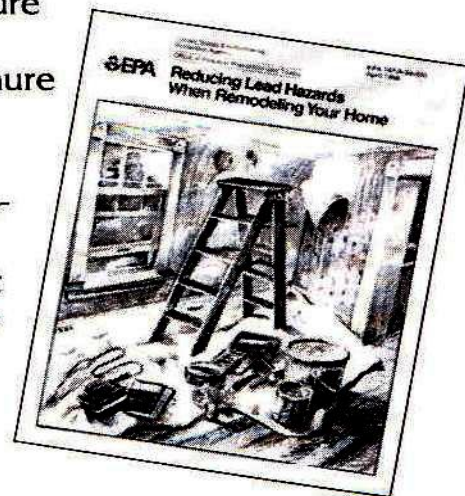
If you have already completed renovations or remodeling that could have released lead-based paint or dust, get your young children tested and follow the steps outlined on page 7 of this brochure.



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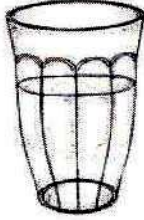
**If not conducted properly, certain types of renovations can release lead from paint and dust into the air.**

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## Other Sources of Lead

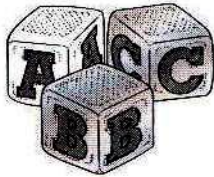
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**While paint, dust, and soil are the most common sources of lead, other lead sources also exist.**

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- ◆ **Drinking water.** Your home might have plumbing with lead or lead solder. Call your local health department or water supplier to find out about testing your water. You cannot see, smell, or taste lead, and boiling your water will not get rid of lead. If you think your plumbing might have lead in it:
  - Use only cold water for drinking and cooking.
  - Run water for 15 to 30 seconds before drinking it, especially if you have not used your water for a few hours.
- ◆ **The job.** If you work with lead, you could bring it home on your hands or clothes. Shower and change clothes before coming home. Launder your work clothes separately from the rest of your family's clothes.
- ◆ **Old painted toys and furniture.**
- ◆ **Food and liquids stored in lead crystal or lead-glazed pottery or porcelain.**
- ◆ **Lead smelters** or other industries that release lead into the air.
- ◆ **Hobbies** that use lead, such as making pottery or stained glass, or refinishing furniture.
- ◆ **Folk remedies** that contain lead, such as "greta" and "azarcon" used to treat an upset stomach.



## For More Information

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### The National Lead Information Center

Call **1-800-424-LEAD (424-5323)** to learn how to protect children from lead poisoning and for other information on lead hazards. To access lead information via the web, visit **[www.epa.gov/lead](http://www.epa.gov/lead)** and **[www.hud.gov/offices/lead/](http://www.hud.gov/offices/lead/)**.

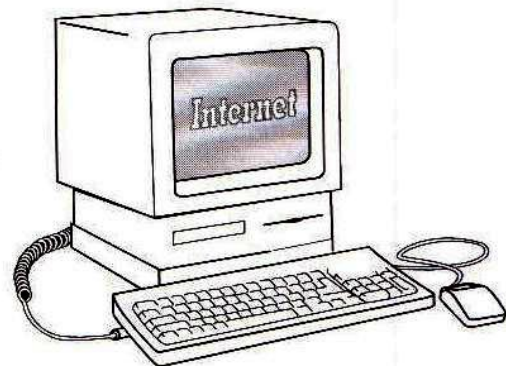


### EPA's Safe Drinking Water Hotline

Call **1-800-426-4791** for information about lead in drinking water.

### Consumer Product Safety Commission (CPSC) Hotline

To request information on lead in consumer products, or to report an unsafe consumer product or a product-related injury call **1-800-638-2772**, or visit CPSC's Web site at: **[www.cpsc.gov](http://www.cpsc.gov)**.



### Health and Environmental Agencies

Some cities, states, and tribes have their own rules for lead-based paint activities. Check with your local agency to see which laws apply to you. Most agencies can also provide information on finding a lead abatement firm in your area, and on possible sources of financial aid for reducing lead hazards. Receive up-to-date address and phone information for your local contacts on the Internet at **[www.epa.gov/lead](http://www.epa.gov/lead)** or contact the National Lead Information Center at **1-800-424-LEAD**.

For the hearing impaired, call the Federal Information Relay Service at **1-800-877-8339** to access any of the phone numbers in this brochure.

# EPA Regional Offices

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Your Regional EPA Office can provide further information regarding regulations and lead protection programs.

## EPA Regional Offices

**Region 1** (Connecticut, Massachusetts, Maine, New Hampshire, Rhode Island, Vermont)

Regional Lead Contact  
U.S. EPA Region 1  
Suite 1100 (CPT)  
One Congress Street  
Boston, MA 02114-2023  
1 (888) 372-7341

**Region 2** (New Jersey, New York, Puerto Rico, Virgin Islands)

Regional Lead Contact  
U.S. EPA Region 2  
2890 Woodbridge Avenue  
Building 209, Mail Stop 225  
Edison, NJ 08837-3679  
(732) 321-6671

**Region 3** (Delaware, Maryland, Pennsylvania, Virginia, Washington DC, West Virginia)

Regional Lead Contact  
U.S. EPA Region 3 (3WC33)  
1650 Arch Street  
Philadelphia, PA 19103  
(215) 814-5000

**Region 4** (Alabama, Florida, Georgia, Kentucky, Mississippi, North Carolina, South Carolina, Tennessee)

Regional Lead Contact  
U.S. EPA Region 4  
61 Forsyth Street, SW  
Atlanta, GA 30303  
(404) 562-8998

**Region 5** (Illinois, Indiana, Michigan, Minnesota, Ohio, Wisconsin)

Regional Lead Contact  
U.S. EPA Region 5 (DT-8J)  
77 West Jackson Boulevard  
Chicago, IL 60604-3666  
(312) 886-6003

**Region 6** (Arkansas, Louisiana, New Mexico, Oklahoma, Texas)

Regional Lead Contact  
U.S. EPA Region 6  
1445 Ross Avenue, 12th Floor  
Dallas, TX 75202-2733  
(214) 665-7577

**Region 7** (Iowa, Kansas, Missouri, Nebraska)

Regional Lead Contact  
U.S. EPA Region 7  
(ARTD-RALI)  
901 N. 5th Street  
Kansas City, KS 66101  
(913) 551-7020

**Region 8** (Colorado, Montana, North Dakota, South Dakota, Utah, Wyoming)

Regional Lead Contact  
U.S. EPA Region 8  
999 18th Street, Suite 500  
Denver, CO 80202-2466  
(303) 312-6021

**Region 9** (Arizona, California, Hawaii, Nevada)

Regional Lead Contact  
U.S. Region 9  
75 Hawthorne Street  
San Francisco, CA 94105  
(415) 947-4164

**Region 10** (Alaska, Idaho, Oregon, Washington)

Regional Lead Contact  
U.S. EPA Region 10  
Toxics Section WCM-128  
1200 Sixth Avenue  
Seattle, WA 98101-1128  
(206) 553-1985



## CPSC Regional Offices

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Your Regional CPSC Office can provide further information regarding regulations and consumer product safety.

### **Eastern Regional Center**

Consumer Product Safety Commission  
201 Varick Street, Room 903  
New York, NY 10014  
(212) 620-4120

### **Western Regional Center**

Consumer Product Safety Commission  
1301 Clay Street, Suite 610-N  
Oakland, CA 94612  
(510) 637-4050

### **Central Regional Center**

Consumer Product Safety Commission  
230 South Dearborn Street, Room 2944  
Chicago, IL 60604  
(312) 353-8260

## HUD Lead Office

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Please contact HUD's Office of Healthy Homes and Lead Hazard Control for information on lead regulations, outreach efforts, and lead hazard control and research grant programs.

### **U.S. Department of Housing and Urban Development**

Office of Healthy Homes and Lead Hazard Control  
451 Seventh Street, SW, P-3206  
Washington, DC 20410  
(202) 755-1785

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U.S. EPA Washington DC 20460  
U.S. CPSC Washington DC 20207  
U.S. HUD Washington DC 20410

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