

STATE OF MARYLAND

CDBG PROGRAM

FINANCIAL AND PROCUREMENT MANUAL

Effective September 1, 2018

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FINANCIAL AND PROCUREMENT MANUAL FOR CDBG GRANTEES

On December 19, 2014, the federal Office of Management and Budget published a new rule which consolidated several federal regulations related to financial management, procurement and auditing of federal funds. This new rule, entitled *Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards* is found in Title 2 of the Code of Federal Regulations in Part 200 (2 CFR Part 200). On January 6, 2016, the U.S. Department of Housing and Urban Development adopted and codified the new rule and amended Community Development Block Grant Program regulations. Community Development Block Grants are governed by 2 CFR Part 200 Subpart E and 24 CFR Part 570 (HUD CDBG Regulations).

As the State Community Development Block Grant (CDBG) Program is subject to only portions of the new rule and States can choose not to adopt certain portions of the rule, the State of Maryland has developed the following manual which includes policies, requirements and required forms. The procedures are designed to ease the process by creating standards for all to use. It is designed to be used in conjunction with information in the CDBG Guidebook.

All CDBG grantees are to comply with the following procedures, policies and requirements when using CDBG funds. They are effective as of September 1, 2018 and apply to all grantees that initiate procurement activities after this date regardless of when the grant was awarded. CDBG grantees are no longer allowed to use their own local policies and processes. These policies also apply to subrecipients, housing developers and businesses. Collectively, grantees with subrecipients, housing developers or businesses are referred to as the "Grantee" in this manual.

In the event that the policies and procedures in this manual conflict with those of other state or federal funding agencies, a meeting will be required between all parties to determine how to proceed.

Information found on last page of this document provides the dates of previous revisions.

PROCUREMENT

All procurement activities must allow for full and open competition when using federal CDBG funding for goods and services. Grantees must demonstrate that all costs are reasonable and necessary and that the best price was obtained from the most qualified provider.

The following items restrict free and open competition:

- unreasonable qualifying requirements;
- unnecessary experience/excessive bonding requirements;
- specifying only brand name products;
- geographic preference;
- non-competitive pricing practices; and
- non-competitive contract awards.

Grantees should be mindful of these restrictions when drafting project specifications and bidding documents. Practical alternatives should be considered when possible. Written explanations must be provided in the event the lowest bid is not selected.

The procurement procedures for using CDBG funds are as follows:

Professional Services

Professional services include those services provided by engineers, architects, inspectors, surveyors, appraisers, title companies, consultants (including private grant administrators), etc. The procurement of professional services is based on the estimated amount of the service.

1. Less than \$15,000 – Using a written description, Grantees must solicit cost estimates from at least three vendors. Costs and information about vendors must be documented on the CDBG *Vendor/Cost Documentation Form*.
2. \$15,001 to \$50,000 – Using a written description, Grantees must solicit written cost estimates from at least three vendors. Costs and information about vendors must be documented on the CDBG *Vendor/Cost Documentation Form* with written cost estimates in the file.
3. Over \$50,001 – Grantees must use a competitive Request for Proposal/Services or Request for Qualification and submission of sealed bids. This process requires formal advertising in at least one local newspaper of general circulation.

For competitive requests, if only one bid is submitted, grantees must initiate another process. In the event that only one bid is submitted during the second bid, the grantee may accept the bid if it meets all qualifications and requirements.

In the event that a Grantee has an existing contractual agreement with an engineering firm and would like to use them for the CDBG funded grant activities, the Grantee must be able to demonstrate that they hired this firm through a competitive process. The contract with the selected firm can be for no more than a three year period with the option

to extend twice for one year periods for a total of five years. In the contract for services, the Grantee must have identified potential projects to be undertaken during the three to five year period. Information must be submitted after the grant approval to demonstrate the Grantee used this process

For all procurement activities, the Grantee must document efforts to attract minority and women owned businesses (MBE/WBE). Complete the *MBE/WBE Procurement Form* for each procurement.

Materials

When using CDBG funds to procure materials only, Grantees must solicit written cost estimates from at least three vendors. Costs and information about vendors must be documented on the *CDBG Vendor/Cost Documentation Form* with written cost estimates in the file. Note that if this activity is carried out by a contractor outside of the construction contract, they must follow these procedures and provide documentation to the Grantee to approve prior to purchase.

Materials includes construction materials, equipment, and supplies.

Housing Rehabilitation or Renovation

All work required as part of the rehabilitation or renovation of housing must be procured using a competitive Request for Proposal and submission of sealed bids. This process requires formal advertising in at least one local newspaper of general circulation. The exception to this requirement for formal advertising is related to establishment and use of a contractor list.

Note that multiple units may be bid under one contract but federal labor standards will be applicable if contract is for eight or more housing units.

For individual well and/or septic replacements, Grantee may solicit cost estimates from at least three contractors. Costs and information about contractors must be documented on the *CDBG Vendor/Cost Documentation Form*.

Grantees may establish a qualified contractor list for housing rehabilitation to use for each new grant received. Under this process, the Grantee must undertake one Request for Qualifications which requires formal advertising in at least one local newspaper of general circulation at the beginning of each grant term. The Grantee will solicit for qualified contractors to be included on a list. The contractors on the list will be given the opportunity to bid on each job as it is available. Contractors must provide information to meet specific qualifications which includes licensing, certifications, bonds, past performance, etc. Contractors must be licensed in the State of Maryland and not on the federal debarment list. Each contractor list must contain at least three approved contractors. This process may also be used for soliciting contractors for projects that

involve construction activities at multiple sites such as renovation of group homes and housing for the homeless.

For utility connections, Grantees may do a Request for Proposal to solicit contractors to complete connections for up to seven housing units under one contract. Federal labor standards will be applicable if contract is for eight or more housing units.

Grantee will develop Requests for Proposals based on work write-ups prepared for the rehabilitation or renovation of houses. For those using a contractors list, the specific work write-ups for each job should be made available to all the contractors on list.

Construction

The procurement of construction activities is based on the estimated amount of the service.

1. Less than \$2,000 - Grantee may solicit cost estimates from at least three vendors. Costs and information about contractors must be documented on the *CDBG Vendor/Cost Documentation Form*.
2. Up to \$50,000 – Grantee must use a competitive Request for Proposal and submission of sealed bids, however, the Grantee has the option to: (1) post it on Grantee’s website, (2) submit to e-marketplace websites, and/or (3) advertise in a local newspaper of general circulation. Selected option(s) must be documented in the files.
3. Over \$50,001 – Grantee must use a competitive Request for Proposal and submission of sealed bids. This process requires formal advertising in at least one local newspaper of general circulation.

Grantee must hold a pre-bid conference for each Request for Proposal issued for construction activities over \$50,001.

Potential contractors must submit a 5% bid bond with their bid submittals for construction projects over \$100,000.

For each contract in excess of \$100,000, the Grantee must obtain a 100% payment bond and a 100% performance bond in the amount of the contract.

Sole Source

In rare circumstances, the CDBG Program will allow for procurement through a sole source method. When requesting approval, the Grantee must document the reasons why a sole source is justified. The State will consider all factors including the previous involvement of the contractor with the project, the specifics of the particular project, the availability of contractors with specific skillsets, products with limited manufacturers, etc.

The request for sole source approval must be submitted in a timely manner by the Grantee before procurement is undertaken. Written approval or denial will be provided.

Other

There are also other circumstances where Grantees may also establish a qualified contractors list following the same process identified under the Housing Rehabilitation and Renovation section. Examples where this could be used include spot blight demolition programs impacting multiple sites, clearance and/or relocation of mobile homes, etc.

For funded equipment purchases, the Grantee must solicit cost estimates from at least three vendors. Costs and information about vendors must be documented on the *CDBG Vendor/Cost Documentation Form*.

The CDBG Program does not typically fund other goods. In the event that these items are approved, Grantees will need to discuss further with their Project Manager and agree upon the process to be used.

Other Procurement Requirements

Grantees must also adhere to the following:

1. Grantee will avoid procuring unnecessary and duplicative items.
2. Grantee will conduct an online search of Minority Business Enterprises (MBE) and Women Business Enterprises (WBE) using the Maryland Department of Transportation's website and send those firms a copy of the Request for Proposal/Qualifications. This will ensure the Grantee follows its WBE and MBE Plan. Complete the MBE/WBE Procurement Form for each procurement.
3. Potential contractors must be provided at least two weeks to return sealed bids.
4. Grantee must establish written evaluation criteria to be used when selecting contractors or vendors. Criteria should include expertise, past record of performance, capacity to perform, and familiarity with type of project.
5. Grantee must conduct a public bid opening of all bids received.
6. Grantee must prepare a written price or cost analysis for selected bid/price to determine if costs are reasonable.

7. Grantee must maintain written protest procedures to handle and resolve disputes relating to their procurements and shall, in all instances, disclose information regarding the protest.
8. Once a vendor or contractor is selected, prior to awarding the contract, the Grantee must complete a debarment check on the proposed contractor for all non-construction or housing rehabilitation/renovation activities. The CDBG Labor Officer will conduct the debarment check for construction contractors.
9. Grantee must enter into a written contract or purchase order with the selected vendor or contractor.
10. Once a construction contract is fully executed and all bonds are secured (if required), the Grantee will issue a written "Notice to Proceed" to the contractor.

Additional requirements and restrictions include the following:

1. Only firm fixed contracts will be approved. The following types of contracts are prohibited: time and material contracts, cost plus a percentage of cost, and percentage of construction cost.
2. At least two bids must be submitted when a Request for Proposal, Request for Services or Request for Qualifications has been issued. If only one is received, Grantee must start the procurement process over.
3. Grantee may not award contracts which include CDBG funds to any contractor on retainer to the Grantee.
4. All contracts must contain specific performance measures with penalties for nonperformance.

Section 3 Requirements – For construction projects with more than \$200,000 of HUD funding, Grantees must adhere to Section 3 of the federal Housing and Urban Development Act of 1968, as amended. *Per 2020 revisions, the rule applies to the entire project, not just the CDBG specifically funded activities and contracts.* To the greatest extent feasible, "Section 3 Business Concerns" and/or "Section 3 Workers" are to be hired. Grantees must report on total labor hours for the entire project, making the best effort to ensure that 25% of labor hours are provided by Section 3 workers. Additionally, a minimum of 5% of those hours are to be provided by Targeted Section 3 Workers. See the DHCD Section 3 Manual for additional information on Section 3.

Buy American - Under the Buy American Act of 1933, as amended, Grantees are strongly encouraged to procure American made products and materials or those assembled in the United States.

Equal Opportunity and Affirmative Action Strategies – Incorporate minority owned businesses in solicitations wherever there are potential sources. Divide procurement into multiple procurements when economically feasible to permit maximum participation of eligible businesses.

Piggyback Procurement – This is a procurement tool used when an agency uses an existing procurement process/contract from another government agency as the justification and documentation to form their own contract directly with the selected vendor to purchase the same or similar item or service. The use of this process will only be allowed if the Grantee can document that they are “piggybacking” on a contract/ service for a project which provides regional or shared services or has a connection to the project and location. Requests for consideration for other reasons can be submitted on a case by case basis. This process must be approved in writing prior to completion of paperwork or execution of contracts.

Recordkeeping – Grantees should maintain copies of all paperwork as documentation of compliance with procurement regulations for each procurement activity.

Unfair Competitive Advantage - To ensure objective contractor performance and eliminate unfair competitive advantage, contractors that develop or draft design plans and specifications, requirements, statements of work, and invitations for bids or requests for proposals must be excluded from competing for such procurements.

However, in instances where a contractor was asked to provide estimates for an application for funding, that contractor can bid on the project if all potential bidders are provided the same information used by that contractor when they produced the estimate.

COST AND PRICE ANALYSIS

A written cost or price analysis must be performed in connection with every procurement activity. The method and degree of analysis depends on the specific procurement activity. The analysis should be compared to the estimates provided in the CDBG application for funding.

Cost Analysis is the evaluation of the separate elements that make up a contractor’s total cost proposal or price to determine if they are allowable and reasonable. It is used when there is not a price competition. It is used primarily for sole source procurement.

The goal of a cost analysis is to form an opinion on whether the proposed costs are in line with what it should cost. Cost or price data should be provided by the contractor and are the means for conducting cost analysis. The evaluation should review the

contractor's cost or pricing data to verify each component. Elements should be examined for necessity, reasonableness of materials costs, labor costs, equipment and overhead. Compare costs with previous work, other data received from other contractors and independent cost estimates.

Profit or fee is negotiated separately from price when a cost analysis is performed. To establish a fair and reasonable profit, consideration must be given to the complexity of the work to be performed, the contractor's risk, the contractor's investment, the amount of subcontracting, the quality of past performance and industry rates for the area.

Grantees must prepare a cost analysis for each change order to an existing contract prior to approval of that change order.

Price Analysis is essentially price comparison. It is the evaluation of a proposed cost or price as a lump sum, without analyzing any of the separate cost elements, that it is composed of. It is used when proposals are compared during a competitive pricing situation.

Price analysis is the process of deciding if the asking price for a product or service is fair and reasonable without examining the specific cost and profit calculations the contractor used in arriving at the price. When adequate price competition does not exist, some other form of analysis is required.

Examples of other forms of price analysis information include an analysis of previously paid prices, comparison of vendors' price with in-house estimates, and/or a comparison of quotes or published price lists from multiple vendors.

Procurement files should contain the original estimates and either the cost or price analysis.

CONFLICT OF INTEREST

Conflicts of interest are situations, not allegations... But they must be disclosed and properly managed.

All grantees are to have a written *Conflict of Interest Policy*. They are to address conflicts of interest and govern the performance of employees engaged in selection, award and administration of contracts. No employee, officer or agent may participate in the selection, award, or administration of a contract funded with CDBG or other federal funds if they have a real or an "apparent" conflict of interest.

When conflicts of interest arise, grantees must identify, disclose and manage them.

The Conflict of Interest Policy must adhere with standards found in the federal Part 200 and with State law which requires local governments to adopt conflict of interest restrictions and financial disclosure requirements for local elected officials and candidates that are at least as stringent as the requirements for public officials contained in the Public Ethics Law. More information regarding the Local Government Ethics Law can be found at COMAR, Title 19A, Subtitle 04, Local Government Ethics Law.

Under the State of Maryland law, smaller towns and cities are exempt from adopting and maintaining a written conflict of interest policy. However, all Grantees must comply with federal requirements and are required to have a written policy.

The Conflict of Interest Policy also applies to employees, officers or agents of subrecipients, housing developers or businesses. The Grantee must require certification that no real or apparent conflict exists specific to each procurement activity.

The Program requires grantees to use new forms to assist with identification of any potential conflicts with contractors, businesses, service providers and with those applying for financial assistance. Grantees with older grants are strongly encouraged to use these forms to document efforts to comply with regulations and avoid conflicts. Forms are attached to this manual with the exception of one included in labor packet to be used with bid submittals.

Note that this policy also applies to direct provision of CDBG benefit(s) to employees, officers or agents of grantees (including subrecipients, housing developers or businesses). They are not eligible for financial assistance, housing rehabilitation activities or other activities which require a person or household to be qualified.

Additionally, the Grantees' officers, employees or agents shall neither solicit nor accept gratuities, favors or anything of monetary value from contractors, potential contractors or parties seeking to be involved in the projects.

FINANCIAL MANAGEMENT

A financial management system is necessary to ensure the appropriate, effective, timely and legal use of CDBG funds. The critical areas of a financial management system include internal controls, accounting records, allowable costs, source documentation, budget controls, cash management system and financial reporting. The State will only review the financial management systems of the State's grantee, not the subrecipient or developer.

The regulations are designed to:

- > Eliminate duplicative/conflicting guidance;
- > Focus on performance over compliance for accountability;
- > Provide for consistent treatment of costs;
- > Limit allowable costs for the best use of Federal resources; and
- > Incorporate standard business processes using data definitions;

The Grantee's project files should document all costs associated with the CDBG project. CDBG staff will monitor all expenditures of the project which included CDBG funds as well as leveraged funds. Subrecipients, developers and businesses should provide copies of all documentation related to contracts, invoices and payments to the Grantee for retention in their project files.

Financial Management System

The financial management system used by Grantees must satisfy all of the following:

1. Provide accurate, current and complete disclosure of the financial status of the CDBG project by eligible program activity;
2. Compile and justify data required in reports and payment requests.
3. Maintain records that identify the source and disposition of all funds for project activities;
4. Provide effective control over an accountability for CDBG funds, property and other assets, including proper segregation of duties;
5. Compare actual expenditures with budgeted amount in the grant agreement;
6. Establish and maintain procedures to ensure the timely expenditure of funds;
7. Establish and maintain accounting records that are supported by source documentation verifying the "reasonableness, allowability and allocability of costs;" and
8. Document all other sources of project funding include leverage.

Grantees must ensure their accounting system will satisfy the standards and requirements described in this manual.

Financial Management Records

At a minimum, the following information and records must be part of the Grantee's accounting system for the CDBG funds as well as other funds included in the project:

1. Transaction date, description, source document reference and amounts;
2. Summary of receipts;
3. Summary of disbursements by program activity as identified in the CDBG grant agreement;
4. Summary of cash transactions; and
5. All source documentation (original receipts, checks, invoices, etc).

Internal Controls

Grantees must establish internal controls in their financial management systems to provide effective control over and accountability for all funds, property and other assets and to ensure they are used for authorized purposes. All internal controls and procedures must be written and available for review. Specifically, the Grantee should:

1. Adopt and maintain a formal system of authorization and supervision to ensure there is separation of financial management responsibilities so that no one has complete control over all phases of any transaction. Grantees should maintain organizational charts and written definitions of duties.

For example, the persons authorized to sign Requests for Payment should be different from the persons authorized to write/sign checks on the account.

2. Ensure that verification and reconciliation of cash balances with bank statements should be made by employees who do not handle or record cash or sign checks.
3. Ensure that all CDBG expenditures are approved in compliance with local procedures and processes prior to submission for payment.

Grant Payment Procedures

The State provides grant payment procedures in the CDBG Grant Agreement. These procedures are designed to minimize the amount of time elapsed between the transfer of funds from the U.S. Treasury to the State and the State to the Grantee. CDBG staff will review payment requests against actual expenditures to ensure that there was a timely expenditure of funds once the Grantee received grant funds.

Single Audits

The Single Audit threshold has been raised from \$500,000 to \$750,000 for any federal funds spent by a Grantee in a single fiscal year. The questioned cost limit in Single Audits is raised from \$10,000 to \$25,000. Grantees must consider all federal funds *expended* during the program year, not just the CDBG funds.

If a single audit is required, the Grantee must submit a final copy of it within nine months of the end of fiscal year.

Revisions

Effective Date: September 1, 2018

Revised Date: March 1, 2019 – *This Manual was revised to allow for Grantees to create contractors lists for housing rehabilitation activities and to clarify items that were not clear. The reference to using a contractor list for construction activities has been removed. If a Grantee did a procurement activity using a contractor list between September 1, 2018 and March 1, 2019, please ensure that your files contain documentation to support how that list was established.*

Revised Date: July 20, 2020 – *This Manual was revised to further clarify the regulations specific to Financial Management. This revision does not include information related to the purchase of food and supplies allowed for certain projects. That information was provided separately.*

Revised Date: March 11, 2022 – This Manual was revised to update basic policies and requirements.

**MARYLAND COMMUNITY DEVELOPMENT BLOCK GRANT
VENDOR/COST DOCUMENTATION FORM**

Description of needed service or product: _____

Quote #1:

Name of vendor: _____
Address: _____
Phone #: _____
Quoted Price: _____ Date: _____

Quote #2:

Name of vendor: _____
Address: _____
Phone #: _____
Quoted Price: _____ Date: _____

Quote #3:

Name of vendor: _____
Address: _____
Phone #: _____
Quoted Price: _____ Date: _____

Selected Vendor: _____

Reason for Selection: _____

Person Completing Form: _____ **Date:** _____

**MARYLAND COMMUNITY DEVELOPMENT BLOCK GRANT
MBE/WBE Procurement Form**

Procurement #: _____

CDBG Grant #: _____

Activity: _____

Describe efforts made to solicit a minority or woman owned business enterprise for this procurement activity:

Did you search the MDOT website: _____

Was the contract ultimately awarded to a minority or woman owned business enterprise:

Person Completing Form: _____ **Date:** _____

Conflict of Interest Disclosure
Contractor*

All businesses submitting bids for projects and activities which include funding through the Maryland Community Development Block Grant Program must disclose any potential conflict of interest. A conflict of interest may occur if the business owner/principals are related to or have a business relationship with an employee, officer or elected official of _____. If it is determined there is a conflict of interest or potential conflict of interest, you may not be selected even if your bid is determined to be the lowest, most qualified. The _____ can request for the State of Maryland CDBG Program to review and make a determination which could result in a waiver allowing for approval.

1. Are owner(s)/principal(s) ever been an employee, agent, consultant, officer, elected official or appointed official of _____? Yes No
If yes, please identify: _____

2. Are owner(s)/principal(s) related (including through marriage or domestic partnership) to an employee, agent, consultant, officer, elected or appointed official of _____? Yes No If yes, please identify: _____

3. Do owner(s)/principal(s) have a business or professional relationship with anyone identified under Question #1? Yes No
If yes, please identify: _____

I/We certify that the above information is true and correct. I/We understand that providing false statements or information is grounds for termination of assistance and is punishable under federal law.

Signed: _____ Date: _____

Name: _____ (Print)

Signed: _____ Date: _____

Name: _____ (Print)

**For non-construction contracts and for single family housing rehabilitation only .*

For Grantee Use Only:

CDBG Grant Number:	Date Received:
<input type="checkbox"/> Conflict of Interest does not exist	<input type="checkbox"/> Conflict of Interest exists
Date Sent to State:	<input type="checkbox"/> Waiver Granted <input type="checkbox"/> Waiver Denied

Conflict of Interest Disclosure
Financial Assistance

All applicants for direct financial assistance through the Maryland Community Development Block Grant Program must disclose any potential conflict of interest related to participation in the program. A conflict of interest may occur if an application is related to or has a business relationship with an employee, officer or elected official of _____. If it is determined there is a conflict of interest or potential conflict of interest, you may not be approved for assistance. The _____ can request for the State of Maryland CDBG Program to review and make a determination which could result in a waiver allowing for approval.

1. Are you now or have you ever been an employee, agent, consultant, officer, elected official or appointed official of _____? Yes No
If yes, please identify: _____

2. Are you related (including through marriage or domestic partnership) to an employee, agent, consultant, officer, elected or appointed official of _____? Yes No
If yes, please identify: _____

3. Do you have a business or professional relationship with anyone identified under Question #1? Yes No
If yes, please identify: _____

I/We certify that the above information is true and correct. I/We understand that providing false statements or information is grounds for termination of assistance and is punishable under federal law.

Signed: _____ Date: _____

Name: _____ (Print)

Signed: _____ Date: _____

Name: _____ (Print)

For Grantee Use Only:

CDBG Grant Number:	Date Received:
<input type="checkbox"/> Conflict of Interest does not exist <input type="checkbox"/> Conflict of Interest exists	
Date Sent to State:	<input type="checkbox"/> Waiver Granted <input type="checkbox"/> Waiver Denied

