

**COMMUNITY DEVELOPMENT BLOCK GRANT
PROCEDURES MANUAL**

2009



**CLARK COUNTY
DEPARTMENT OF COMMUNITY SERVICES
COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAM**

CLARK COUNTY
DEPARTMENT OF COMMUNITY SERVICES

COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAM

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CHAPTER 1

ORGANIZATION AND PROGRAM FUNCTIONS

I. COMMUNITY DEVELOPMENT PROGRAM

II. CITIZEN PARTICIPATION

III. PROCEDURES MANUAL

IV. ADDITIONAL INFORMATION

EXHIBIT 1-1 CLARK COUNTY CDBG PROJECT PROCESS

I. COMMUNITY DEVELOPMENT PROGRAM

Clark County's Urban County Community Development Program was established to address local housing and community development needs. Funds are provided through the federal Community Development Block Grant (CDBG) program. First created by Congress in 1974, block grant funds are provided by the U.S. Department of Housing and Urban Development (HUD) and may be used to support a wide range of housing and community development projects. The purpose of the CDBG program is:

to develop viable urban communities by providing decent housing and a suitable living environment and expanding economic opportunities, principally for persons of low and moderate income.

The program has been operating locally since 1985 when Clark County's population reached 200,000, qualifying the county to receive CDBG funds.

The Block Grant Program replaced a number of previous HUD grant programs, including Urban Renewal, Model Cities, Open Space, and Water and Sewer, allowing a more flexible approach to community development. The program is planned and controlled locally, although compliance with federal regulations is required; and, participating communities decide how they will deal with their identified needs based on a locally determined assessment.

To ensure cooperative local involvement in the program, a consortium of the county and participating cities is formalized by three-year intergovernmental cooperation agreements. In these agreements, the county and the participating cities agree to work together to secure and administer the CDBG Program. Each City and Town except the City of Vancouver appoints a representative to the Urban County Policy Board (UCPB) which serves as the advisory body to the County Board of Commissioners.

The Clark County Board of Commissioners through the Department of Community Services is responsible for administering the CDBG Program. All policies relevant to program implementation, as well as final approval of the application for funds, must be approved by the Board of Commissioners.

II. CITIZEN PARTICIPATION

The County has completed a Citizen Participation Plan. This is located on the website at http://www.clark.wa.gov/cdbg/documents/Citizen_Participation_Plan.pdf. This plan details the efforts to include and encourage public involvement in the development of the CDBG Program.

Specifically, jurisdictions who are members of the Clark County Community Development Consortium shall hold public meetings in their communities to solicit citizen views about community development needs.

Subrecipients should provide for adequate citizen information and involvement including, if appropriate, the formation of advisory committees composed of affected citizens to oversee the planning and implementation of projects.

III. PROCEDURES MANUAL

This manual is intended to provide information for use by subrecipients in the management of their Community Development Block Grant projects. This edition of the manual has been simplified and updated to reflect the latest changes in Federal regulations and Clark County policies. If a subrecipient is unsure how to proceed after reading the manual, they are encouraged to call the Clark County Community Development Block Grant Program for direction.

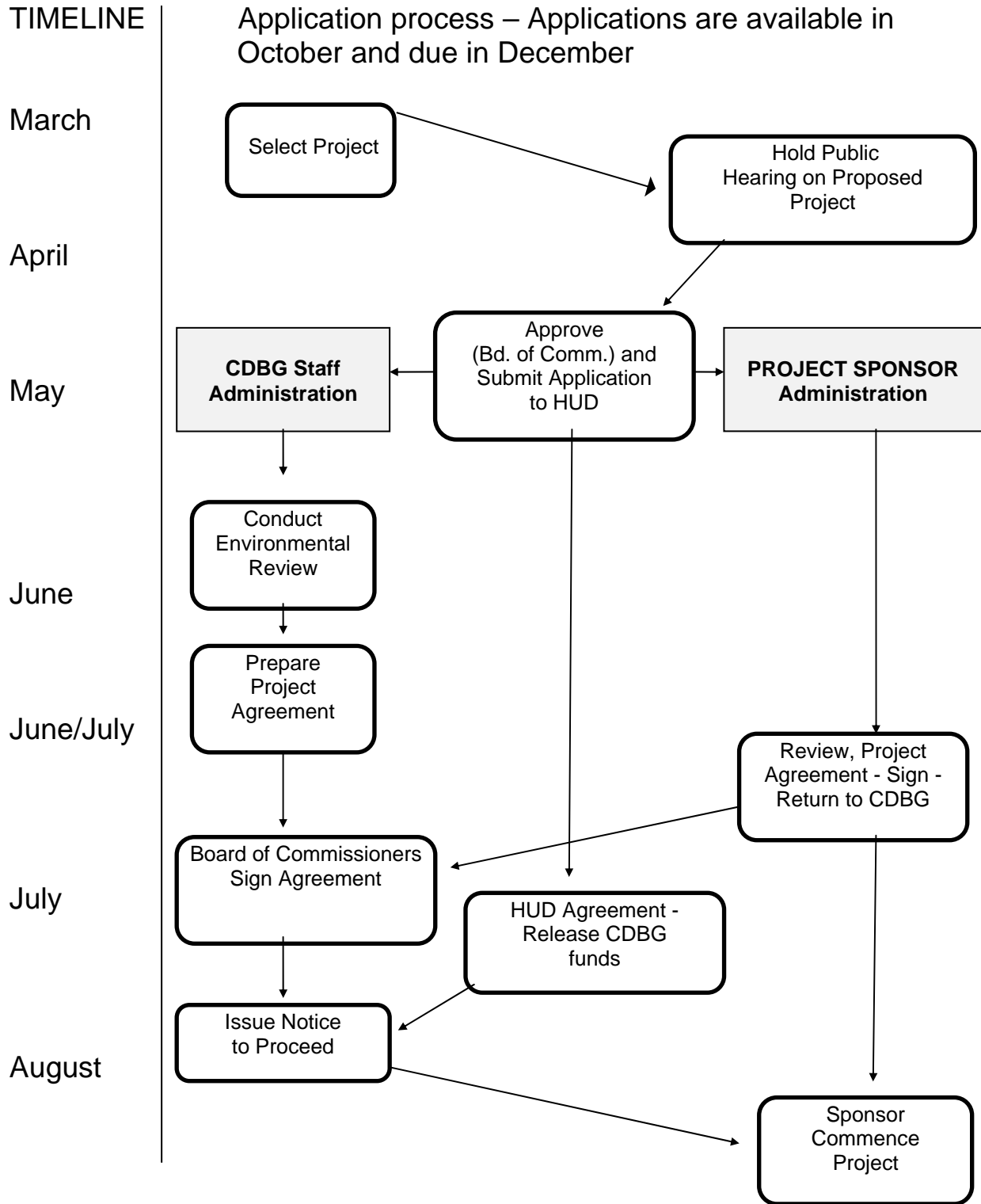
Periodically, subrecipients will be sent updated manuals when there have been regulatory or programmatic changes.

IV. ADDITIONAL INFORMATION

Additional sources of information about the Clark County CDBG program include:

- Various Federal circulars and regulations which are available at the Department of Community Services Community Development Block Grant Program;
- The Clark County CDBG website: <http://www.clark.wa.gov/cdbg>
- A list of Federal regulations which the Community Development Block Grant program must comply with is provided in Appendix A; and
- Exhibit 1-1 is a flow chart denoting the process each selected project must go through before actually receiving funds for implementation.

EXHIBIT 1-1 CLARK COUNTY CDBG PROJECT PROCESS



CHAPTER 2

ENVIRONMENTAL REVIEW

- I. SYNOPSIS**
- II. GENERAL RESPONSIBILITIES**
- III. SUBRECIPIENT REQUIREMENTS**
- IV. CDBG REQUIREMENTS**
- V. SUBRECIPIENT REQUIREMENTS**

I. SYNOPSIS

Community Development Block Grant regulations require the preparation of a project Environmental Review Record (ERR) and environmental clearance before funds are expended or costs incurred. The overall governing legislation is the National Environmental Policy Act (NEPA). The Clark County Community Development Block Grant Program must also determine whether the project meets other applicable statutory and regulatory requirements such as those of the Advisory Council on Historic Preservation and the Environmental Protection Agency.

II. GENERAL RESPONSIBILITIES

Federal regulations require that Clark County determine if project activities will cause adverse impacts to the human environment. The human environment is defined as the natural and physical environment and the relationship of people with that environment. In essence, the environmental review process must consider the ultimate effect of a proposed project, including the potential effects of both the CDBG and related project activities. For example, if CDBG funds are being used to extend a water line to a site for a new affordable housing project, then the ultimate effect of the project is not only the new water line, but also the new housing. Therefore, the environmental review must address the impacts of both the CDBG-funded water line and the privately financed development of the new housing project. The scope of an environmental review encompasses this definition of a project.

The environmental review must identify and address the physical, social, and economic impacts of each proposed activity prior to the grantee taking a *choice-limiting action* on that activity. Any contractual obligation involving the proposed activity must leave “a way out” prior to completion of the environmental review. Practically, this means no contract may be let or work done on the site, whether publicly or privately funded, until the environmental review has been completed by Clark County program staff.

Grant funds for choice-limiting activity costs may not be committed until the environmental review process has been completed. Environmental requirements vary according to the nature of the grantee’s project. Selecting activities that do not adversely affect the environment simplifies the environmental review process.

III. SUBRECIPIENT REQUIREMENTS

Project subrecipients may be asked to assist in development of the ERR by providing additional information, maps, and site data. In some cases, project subrecipients may be asked to complete a biological assessment or gain project clearance from the state historic preservation office.

Subrecipients shall comply with all terms and conditions of and shall implement all required mitigation measures identified in the environmental review record completed for their project. The subrecipient shall ensure that all activities related to their project (including those that are paid for entirely with local or other funds) including property acquisition, construction, and use of the property/facilities are conducted in accordance with the project scope, as defined in the Environmental Review Record and with the conditions set out in the Environmental Review Record. The subrecipient shall also retain a copy of any required environmental data and CDBG Program's written notice to proceed in their project files.

IV. CDBG PROGRAM REQUIREMENTS

Clark County CDBG staff will complete the Environmental Review Record. The time required for completion of the ERR can vary from three weeks to three months. If the initial Environmental Assessment determines that an Environmental Impact Statement (EIS) or a Biological Assessment (BA) is necessary, the subrecipient will be required to make appropriate budget modifications to assure the costs of the EIS or BA are paid for from project funds.

After completing the Environmental Review Record, CDBG may publish a notice of a Finding of No Significant Environmental Impact (FONSI) in a local newspaper declaring the intent to request release of project funds from HUD. After the release of the funds by HUD, CDBG will send the subrecipient a contract with a written notice to begin the project. *Subrecipients shall not implement any project activities or incur any project costs until receipt of the notice to proceed.*

CHAPTER 3

PROCUREMENT

- I. INTRODUCTION**
- II. GENERAL RESPONSIBILITY**
- III. SUBRECIPIENT (GRANTEE) REQUIREMENTS**
- IV. METHODS OF PROCUREMENT**
- IV. PRICE AND COST ANALYSIS**
- V. TECHNICAL REQUIREMENTS**
- VI. CONTRACT COMPLIANCE**
- VIII. SUBRECIPIENT DOCUMENTATION**

**EXHIBIT 3-1 REQUIRED FEDERAL CONTRACT CLAUSES FOR
NON-CONSTRUCTION CONTRACTS**

EXHIBIT 3-2 FEDERAL CONTRACT REQUIREMENTS

EXHIBIT 3-3 INVITATION TO BID LANGUAGE

EXHIBIT 3-4 PROJECT SIGN REQUIREMENTS

I. INTRODUCTION

The procurement of goods and services by government entities must follow the standards and procedures outlined in the following government regulations:

- Part 85: Administrative Requirements for Grants and Cooperative Agreements to State, Local and Federally Recognized Indian Tribal Governments
- Part 84: Uniform Administrative Requirements for Grants and Agreements with Institutions of Higher Education, Hospitals, and Other Non-Profit Organizations
- A-87: Cost Principles For State, Local, and Indian Tribal Governments
- A-102: Grants and Cooperative Agreements with State and Local Governments
- A-110: Grants and Agreements with Institutions of Higher Education, Hospitals, and other Non-Profit Organizations
- A-122: Cost Principles for Non-Profit Organizations
- A-133: Audits of States, Local Governments and Non-Profit Organizations

These standards are to ensure that purchases of materials and services are obtained efficiently, economically, and in compliance with the provisions of applicable federal law. In addition, all local procurement procedures must be followed.

II. GENERAL RESPONSIBILITY

Regulations governing the purchase and procurement of goods and services with block grant funds must be followed to assure that:

- 1) Procurement transactions are conducted in a manner that provides maximum free and open competition;
- 2) National goals (Equal Employment Opportunity, participation of Minority Business Enterprises (MBE's), and Fair Labor Standards) are adhered to throughout the procurement process;
- 3) Small, minority-owned businesses, women's business enterprises, and project area firms have an opportunity to bid on CDBG funded projects; and,
- 4) Unnecessary or duplicate purchases are not made.

III. SUBRECIPIENT (GRANTEE) REQUIREMENTS

To achieve the objectives of the Federal regulations, the following is required:

- 1) Incorporate a clear and accurate description of the technical requirements for the material, product, or service to be procured;
- 2) Clearly set forth all requirements which offerors must fulfill and all other factors to be used in evaluating bids or proposals including federally required contract language such as Equal Employment Opportunity, Davis-Bacon wage rates, and Section 3;
- 3) Awards shall be made only to responsible contractors that possess the potential ability to perform successfully under the terms and conditions of a proposed procurement. Consideration shall be given to contractor integrity, compliance with public policy, record of past performance, and financial and technical resources;
- 4) Any and all bids may be rejected when there are sound documented business reasons for doing so; and,
- 5) All subrecipients must have written procurement procedures for the purchase of goods and services.

IV. METHODS OF PROCUREMENT

Four methods of procurement are allowed: (1) small purchases, (2) competitive sealed bids (formal advertising), (3) competitive proposals, and (4) noncompetitive proposals.

All contracts and solicitation documents (bid/RFP/RFQ) must be reviewed and approved by the CDBG Program before prospective vendors are allowed to tender a bid or submit a proposal. It is recommended that all contracts for goods and services to be paid for in whole or in part with Community Development Block Grant funds be reviewed by the recipient's attorney prior to execution. CDBG staff cannot approve voucher requests for expenses incurred under unapproved contracts/agreements.

1) Small Purchases (under \$100,000)

- A) Small purchasing procedures are applicable for the procurement of services, supplies, or other property costing a total of not more than \$100,000. These purchases are relatively simple, informal and do not always involve competitive bidding.
- B) Subrecipients must observe the following procedures in utilizing the small purchase procurement method:
 - i) A minimum of three competitive price quotes must be obtained for any small purchase.
 - ii) Competitive sealed bids or competitive negotiation procedures may be followed for small purchases.
 - iii) Some form of cost or price analysis shall be made and documented in connection with every procurement action (cost and price analysis are discussed in greater detail in Section V. of this chapter).
 - iv) Contracting:
 - Professional Services Contracts: Insert federal contract clauses found in Exhibit 3-1
 - Construction Contracts: Insert Clark County's "Supplementary General Conditions" found in Exhibit 3-2. Construction Contracts must also include a copy of the current Davis-Bacon Wage Decision in the contract.
 - v) Contract Review: Subrecipient must provide a copy of the draft contract and evidence of at least three written quotes to CDBG staff at least 10 days prior to executing any contract with a vendor.

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

- A) This method of procurement is appropriate for all construction and material contracts exceeding \$100,000 and is **encouraged** for contracts under \$100,000. Competitive sealed bids means sealed bids are publicly solicited through formal advertising and a formal bid opening is conducted. A firm fixed-price contract is awarded to the lowest responsive and responsible

IV. METHODS OF PROCUREMENT (continued)

bidder (meaning the bidder whose bid conforms to all the material terms and conditions of the bid invitation and is the lowest in price). The contract awarded may be a lump sum or a unit price contract. Construction contracts shall pay the current Davis-Bacon wage rates and include a copy in the contract. Some form of cost or price analysis shall be made and documented in connection with every procurement action (cost and price analysis are discussed in greater detail in Section V of this chapter).

- B) To contract for sealed bids, following receipt of the project Notice to Proceed from CDBG, subrecipients must follow, at a minimum, the steps outlined below:
- i) Subrecipient shall provide a copy of the draft bid/contract document for CDBG program review at least 10 days prior to its' release. CDBG Staff will review the bid documents and provide current Davis-Bacon wage rates for inclusion in the bid document.
 - ii) *All* bid documents should include the following:
 - (a) Instructions to Bidders (see Exhibit 3-3 for required advertisement language);
 - (b) Agreement, contract, or discussion of time limit and liquidated damages;
 - (c) General Conditions (**IMPORTANT:** a clean copy of the Clark County CDBG Program's "Supplementary General Conditions," Exhibit 3-2 of this chapter, must be incorporated within the contract.); and,
 - (d) Davis-Bacon Wage Rates in effect at the time of the bid (*Davis-Bacon Wage Rates applicable to the project are those wage rates that are in effect 10 days before the date of bid opening*).
 - (e) Specifications and drawings. Brand names can only be used if "or approved equal" is included in their reference.
 - (f) All new construction or rehabilitation construction contracts must include specifications and drawings to make the structure handicapped accessible.
 - iii) Bid documents *with an estimated construction cost exceeding \$100,000* shall also include the following:
 - (a) A bid guarantee equal to five percent (5%) of the proposed contract. The bid guarantee may be secured through a bid bond or a certified check.
 - (b) A separate Performance Bond and Labor and Material Payment Bond, each for one hundred percent (100%) of the contract price.

IV. METHODS OF PROCUREMENT (continued)

- (c) The grant recipient will require the contractor to carry and provide evidence of general casualty (commercial liability) insurance to protect against legal liability arising out of contracts to be paid for in whole or in part with CDBG funds. Such insurance shall provide a minimum of \$1,000,000 per occurrence and \$2,000,000 per general aggregate limit with a maximum deductible of \$5,000.00. If the Contractor uses motor vehicles in conducting activities under this Agreement, liability insurance covering bodily injury and property damage shall be provided either through a self-insurance program or through a commercial insurance policy. Such insurance shall have minimum limits of \$500,000 per occurrence, combined single limit for bodily injury liability and property damage with no aggregate limit. These insurance requirements are subject to change.

- iv) The subrecipient may advertise for bids following the review of the bid documents by CDBG. The subrecipient must:
 - (a) Advertise for bids in at least one general business newspaper and one minority newspaper. Advertisement shall include the language provided in Exhibit 3-3. Normal bid time is two to four weeks depending on the complexity of the project;

Local Minority-Owned Newspapers:

| | |
|--|---|
| Portland Observer P.O. Box 3137 Portland, OR 97208 Phone: (503) 288-0033 FAX: (503) 288-0015 | The Scanner 415 N. Killingsworth Portland, OR 97217 Phone: (503) 285-5555 FAX: (503) 285-2900 |
| Hispanic News P.O. Box 306 Portland, OR 97207 Phone: (503) 736-9878 FAX: (503) 228-3384 | The Asian Reporter 922 N. Killingsworth, Suite 1A Portland OR 97217 Phone: (503) 283-4440 FAX: (503) 283-4445 |

- (b) Request the Affidavit of Publication. Subrecipient shall not pay for any advertising until the Affidavit of Publication is received.
- (c) Distribute copies of the bid documents to local plan centers.

- (v) Ten days before the bids are to be opened, check with the CDBG staff to determine if the Davis Bacon wage rates have changed. If the wage rates changed ten or more days before the bid opening, the new wage rates must be provided to prospective bidders through a formal addendum to the bid/contract document.

IV. METHODS OF PROCUREMENT (continued)

vi) Following a minimum two-week bidding period, the subrecipient shall publicly open the bids received. CDBG staff may attend the bid opening. The subrecipient shall:

- (a) Check with CDBG staff that the apparent low bidder is not on HUD's list of debarred or suspended contractors.
- (b) Review the bids with the architect or engineer.
- (c) Award the contract.
- (d) Execute the contract.
- (e) Conduct a Preconstruction Conference. The General Contractor and all subcontractors must attend. CDBG staff attendance is required to provide forms and explain HUD requirements.
- (f) Send Notice to Proceed to the General Contractor.

3) Competitive Proposals *(Required for procurement of services over \$100,000 and encouraged for the procurement of services at all prices).*

A) This method is appropriate when cost is not the most important factor (i.e. for the procurement of professional services such as architectural or engineering). For contracts exceeding \$100,000, a Request for Proposal (RFP), Request for Letters of Interest (RLI), or Request for Statement of Qualification (RFQ) should be published in a business newspaper of general circulation. Proposals from qualified vendors are evaluated based on experience, price, personnel, and other pertinent factors. The most qualified is selected subject to negotiation of fair and reasonable compensation. Some form of cost or price analysis shall be made and documented in connection with every procurement action (cost and price analysis are discussed in greater detail in Section V of this chapter).

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

- i) Solicit proposals from a sufficient number of qualified vendors to permit reasonable competition;
- ii) The Request for Proposal shall identify all significant evaluation factors; and,
- iii) An award may be made to the responsible offeror whose proposal will be most advantageous to the procuring party, price and other factors considered.

IV. METHODS OF PROCUREMENT (continued)

B) Following receipt of the Notice to Proceed from CDBG, subrecipients must take, at a minimum, the following steps to contract for professional services:

- i) Prepare a Request for Proposal (RFP) for the required services. RFP must include the following elements:
 - Criteria for evaluating the proposals including technical aspects of the proposals.
 - Requires the proposer to provide a list of the firm's clients and employee references. Frequently, professional consultants change employment or start their own firms. By contacting previous employers, a more thorough background check of a firm and its employees can be made.
 - Requires the proposer to provide detailed cost information for each phase of the work. The number of hours and the cost to complete each task should be clearly shown in the proposal received.
- ii) Subrecipient provides draft RFP to CDBG staff at least 10 days prior to the advertisement of the RFP to vendors
- iii) Advertise the RFP in a general business newspaper and one minority newspaper; Note: For professional services contract under \$100,000, advertising is optional. If advertising is not followed, then the Request for Proposal should be sent to an adequate number of qualified firms to ensure open competition.

Local minority-owned newspapers:

| | |
|--|--|
| Portland Observer P.O. Box 3137 Portland, OR 97208 Phone (503) 288-0033 FAX: (503)288-0015 | The Skanner 415 N. Killingsworth Portland, OR 97217 Phone: (503) 285-5555 FAX: (503) 285-2900 |
| Hispanic News P.O. Box 306 Portland, OR 97207 Phone (503) 736-9878 FAX (503) 228-3384 | The Asian Reporter 922 N. Killingsworth, Suite 1A Portland OR 97217 Phone (503) 283-4440 FAX: (503) 283-4445 |

- iv) Prepare a list of interview panel members;
- v) Conduct the interview;
- vi) Notify CDBG staff of the vendor selection; they will provide HUD-required professional service contract language;
- vii) Draft professional services contract. The draft contract must include required federal contract clauses provided in Exhibit 3-1. Provide CDBG with a copy of the contract for review at least 10 days prior to the execution of the contract; and,

IV. METHODS OF PROCUREMENT (continued)

viii) Sign contract and issue Notice to Proceed.

4) Noncompetitive Proposals

A) Noncompetitive proposal is procurement through solicitation of a proposal from only one source, or after solicitation of a number of sources, including competitive bidding, competition is determined inadequate. Circumstances under which a contract may be awarded by noncompetitive negotiation are limited to the following:

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

B) Some form of cost or price analysis shall be made and documented in connection with every procurement action.

C) *Noncompetitive procurement is very rarely used in CDBG projects. Clark County CDBG Program must pre-authorize any noncompetitive proposal procurement.*

V. PRICE AND COST ANALYSIS

Some form of cost or price analysis shall be made and documented in connection with every procurement action.

1) Price Analysis

Definition: A review and evaluation of a proposed price without evaluating separate cost elements. It must be used in all cases where a cost analysis is not performed. One or more of the following techniques may be used to perform a price analysis:

- A) Compare proposed prices received in response to the solicitation (bids, quotes, etc.).
- B) Compare prior proposed prices and contract prices with current proposed prices for the same or similar items/services.
- C) Apply rough yardsticks (such as dollars per pound, per square foot, or other units) to highlight significant inconsistencies that warrant additional pricing inquiry.
- D) Compare competitive price lists (such as the Consolidated Supply Contract Catalog), published market prices of commodities, similar indices and discount or rebate arrangements.
- E) Compare proposed prices with your independent cost estimates.

2) Cost Analysis

Definition: A review and evaluation of the separate elements of cost which make up the contractor's cost proposal. A costs analysis is required when:

- A) The competitive proposal method of contracting is used for consulting and architecture/engineering (A/E) services.
- B) After soliciting sealed bids, you receive only one bid in response which differs substantially from your independent estimate.
- C) You are negotiating a modification (including change orders) to any contract that changes the work previously authorized and impacts the price or estimated cost, upwards or downwards. You must request a cost breakdown of the contractor's proposed cost.

*The only circumstances under which you do not need to conduct a cost analysis when adequate price competition is lacking is if the price 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** the price is set by law or regulation.*

- D) Cost Analysis Techniques. As appropriate, use the techniques discussed below to perform costs analysis:

- i) Verify cost and pricing data and evaluate cost estimates, including:
 - a) Necessity for and reasonableness of proposed costs, including allowances for contingencies;

V. PRICE AND COST ANALYSIS (continued)

- b) Projection of offeror's cost trends; and,
 - c) Technical appraisal (e.g., by an engineer) of proposed direct cost elements.
- ii) Evaluate the effect of the offeror's current practices on future costs.
- iii) Compare costs proposed by the offeror with:
- a) Actual costs previously incurred by the same offeror;
 - b) Previous cost estimates from the offeror or other offeror's for the same or similar items;
 - c) The methodology to be used by the offeror with the requirements of the solicitation (i.e., do the costs reflect the technical approach proposed?); and,
 - d) Your independent cost estimate (or that of an independent architect, engineer, appraiser, etc.).
- E) Cost analysis also requires that you negotiate profit as a separate element of the price. In negotiating profit, you should consider the following:
- i) The complexity of the work to be performed;
 - ii) The risk borne by the contractor;
 - iii) The contractor's investment;
 - iv) The amount of subcontracting;
 - v) The quality of the contractor's record of past performance; and,
 - vi) Industry profit rates in the surrounding geographical areas for similar work.

VI. TECHNICAL REQUIREMENTS

Any subrecipient using CDBG funds to purchase goods or services shall have formalized procurement procedures in place prior to contracting for any goods or services. At a minimum the project subrecipient's procurement procedures should:

- A) Address the avoidance of real or apparent conflicts of interest and specify standards of behavior;
- B) Follow competitive bidding/selection whenever possible;
- C) Make positive efforts and document, actions to attract small businesses, minority-owned businesses, and female-owned businesses to bid on CDBG contracts;
- D) Establish procedures to prohibit "cost plus a percentage of cost" and "percentage of construction cost" methods of contracting;
- E) Establish procedures to review contracts or requests for financial, contractual, and programmatic requirements prior to payment;
- F) Award the contract to the lowest bidder to provide required supplies, equipment, construction, and services unless there is a clear indication that the contract should not be awarded to the lowest bidder based on an assessment of the integrity, resources, capacity and past performance of the firm or person making the bid; and,
- G) Comply with the procurement procedures of Attachment B and Attachment O of 24 CFR Part 85.
- H) Some form of cost or price analysis shall be made and documented in connection with every procurement action.

VII. CONTRACT COMPLIANCE

Contract compliance is the administration of a written contract to insure compliance with the terms of the agreement, particularly quantity, quality, and timeliness. This section covers the responsibilities of the project subrecipients after the contract has been awarded.

1) Professional Service Contracts

The subrecipient must monitor consultants for:

- Certificate of Insurance; and,
- Invoices for completion of stated work and current charges.

2) Construction Contracts

The subrecipient must monitor the General Contractor and provide copies to CDBG of the following:

- A) Bonds (Bid Bond, Performance Bond, Labor and Material Payment Bond);
- B) Certificate of Insurance (construction of new structures requires "Builder's All Risk" insurance);
- C) Project Sign (see Appendix B);
- D) Submission by the contractor, of the Schedule of Values if the contract does not require unit prices;
- E) Written change orders;
- F) Retainage from each payment to the contractor;
- G) Check with CDBG staff to make sure Federal Labor Standards have been satisfied prior to releasing retainage.

All labor documentation will be monitored by CDBG staff including, but not limited to, the Contract Work Hours and Safety Standard Act, Davis-Bacon Act (wage rates), Section 3, and MBE requirements.

The Davis-Bacon Act requires contractors and subcontractors to pay laborers and mechanics minimum wages based on each particular trade classification and to pay time and one half for any work in excess of 40 hours per week. *The CDBG Program cannot reimburse funds unless all the laborers and mechanics have been paid the correct wage rates.* Workers who have been underpaid must be paid restitution to meet the minimum wage rates before all CDBG funds can be disbursed.

The U.S. Department of Housing and Urban Development Economic Opportunities for Low and Very Low-Income Person, Section 3, requires that subrecipients maintain records of the income, racial/ethnic, and jurisdiction of their residence for any new hires and of business/contractors/subcontractors hired for certain projects funded with CDBG funds. The CDBG staff will provide forms on which the data must be collected.

VIII. SUBRECIPIENT DOCUMENTATION

Each project subrecipient must maintain and fully document the procurement process for each project. Chapter 6 describes in detail a suggested filing system and records which must be maintained.

EXHIBIT 3-1

Required Federal Contract Clauses for Non-Construction Contracts

Grantees must enter into agreements with consultants. In order to meet HUD and Clark County CDBG Program Requirements, agreements with contractors must include the following elements:

- Scope of services to be provided, consistent with County grant contract,
- Schedule for work completion,
- Budget and payment schedule,
- Provisions for termination for non or poor performance,
- Bonding and insurance requirements,
- “Cost plus a percentage of cost” and “percentage of construction costs” methods of contracting shall not be used For example, an engineer may not be paid fifteen percent of the project construction costs; instead the contract must identify a firm fixed price or “not to exceed amount” that includes direct reimbursable expenses. Note that if a "cost-plus-fixed-fee" contract is used, the invoices should include at a minimum:
 - 1) Direct Labor: list any people who worked on the contract, their hours and the hourly rate (paid to them by the firm);
 - 2) Overhead: a percentage of direct labor cost usually 80-140%. The overhead pool usually includes clerical services and others not billed as direct labor;
 - 3) Other Direct Costs: reimbursables, printing, mileage, postage, etc.; and
 - 4) Fee: Fixed fee, which is prorated over the total billings.

Agreements must also include the following required Federal Contract Clauses:

- 1) Source of Funds

Work under this contract will be funded [in part/in its entirety] with federal grant funds from the Clark County Community Development Block Grant program.
- 2) Conflict of Interest
 - A) The Contractor warrants that to the best of its knowledge and belief and except as otherwise disclosed, it does not have any organizational conflict of interest which is defined as a situation in which the nature of work under this contract and a Contractor’s organizational, financial, contractual, or other interests are such that:
 - (i) Award of the contract may result in an unfair competitive advantage; or
 - (ii) The Contractor’s objectivity in performing the contract work may be impaired.
 - B) The Contractor agrees that if after award it discovers an organizational conflict of interest with respect to this contract or any task/delivery order under the contract, he or she shall make an immediate and full disclosure in writing to the Contracting Officer which shall include a description of the action which the Contractor has taken or intends to take to eliminate or neutralize the conflict. The

Owner may however, terminate the contract or task/delivery order for the convenience of the Owner if it would be in the best interest of the Owner.

- C) In the event the Contractor was aware of an organizational conflict of interest before the award of this contract and intentionally did not disclose the conflict to the Contracting Officer, the Owner may terminate the contract for default.
- D) The terms of this clause shall be included in all subcontracts and consulting agreements wherein the work to be performed is similar to the service provided by the prime Contractor. The Contractor shall include in such subcontracts and consulting agreements any necessary provisions to eliminate or neutralize conflicts of interest.

3) Prohibition on the Use of Federal Funds for Lobbying

The following certification must be signed by all contractors and subcontractors:

Certification Regarding Lobbying

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

- A. 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.
- B. 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.
- C. 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, and cooperative agreements) 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.

Signed (Contractor)

Title/Firm

Date

Examination and Retention of Contractor's Records

The owner, Clark County CDBG Program, HUD, or Comptroller General of the United States, or any of their duly authorized representatives shall, until 3 years after final payment under this contract, have access to and the right to examine any of the contractor's directly pertinent books, documents, papers, or other records involving transactions related to this contract for the purpose of making audit, examination, excerpts, and transcriptions.

Equal Employment Opportunity

During the performance of this contract, the contractor agrees as follows:

- A) The contractor shall not discriminate against any employee or applicant for employment because of race, color, religion, sex, or national origin.
- B) The contractor shall 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, (1) employment, (2) upgrading, (3) demotion, (4) transfer, (5) recruitment or recruitment advertising, (6) layoff or termination, (7) rates of pay or other forms of compensation, and (8) selection for training, including apprenticeship.
- C) The contractor shall post in conspicuous places available to the employees and applicants for employment the notices to be provided by the contracting officer that explain this clause.
- D) The contractor shall, 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.
- E) The contractor shall send, to each labor union or representative of workers with which it has a collective bargaining agreement or other contract or understanding, the notice to be provided by the contracting officer advising the labor union or workers' representative of the contractor's commitments under this clause, and post copies of the notice in conspicuous places available to employees and applicants for employment.
- F) The contractor shall comply with Executive Order 11246, as amended, and the rules, regulations, and orders of the Secretary of Labor.
- G) The contractor shall furnish all information and reports required by Executive Order 11246, as amended and by rules, regulations, and orders of the Secretary of Labor, or pursuant thereto. The contractor shall permit access to its books, records, and

accounts by the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.

- H) In the event of a determination that the contractor is not in compliance with this clause or any rule, regulations, or order of the Secretary of Labor, this contract may be cancelled, terminated, or suspended in whole or in part, and the contractor may be declared ineligible for further Government contracts, or federally assisted construction contracts under the procedures authorized in Executive Order 11246, as amended. In addition, sanctions may be imposed and remedies invoked against the contractor as provided in Executive Order 11246, as amended, the rules, regulations, and orders of the Secretary of Labor, or as otherwise provided by law.
- I) The contractor shall include the terms and conditions of this clause in every subcontract or purchase order unless exempted by the rules, regulations, or orders of the Secretary of Labor issued under Executive Order 11246, as amended, so that these terms and conditions will be binding upon each subcontractor or vendor. The contractor shall take such action with respect to any subcontract or purchase order as the Secretary of Housing and Urban Development or the Secretary of Labor may direct as a means of enforcing such provisions, including sanctions for noncompliance; provided that if the contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction, the contractor may request the United States to enter into the litigation to protect the interests of the United States.

EXHIBIT 3-2

**FEDERAL CONTRACT REQUIREMENTS
U.S. DEPARTMENT OF HOUSING
and
URBAN DEVELOPMENT**

Clark County
Community Development Block Grant
Program
Updated: 1/16/03

1. PRECONSTRUCTION CONFERENCE

Either before or soon after the actual award of the Contract (but in any event prior to the start to Work at site), the Contractor or his representative, and his subcontractors, shall attend a Preconstruction Conference with representatives of the Owner, the Engineer, or Architect, and the Clark County Community Development Block Grant Program. The Conference will be held to establish procedures for handling shop drawings and other submittals and for processing applications for payment, and to acquaint the participants with the general plan of contract administration and requirements under which the construction operation is to proceed. The date, time, and place of the Conference will be furnished to the Contractor by the Owner or the Architect/Engineer. The Contractor will notify his subcontractors of the Conference and require their attendance.

2. SUBMISSION OF COMPLIANCE DOCUMENTS

In order to document his compliance with the Clark County Community Development Block Grant Program requirements and Federal regulations, the successful Bidder will be required to submit and to require his subcontractors to submit various forms and reports required by the Contract Documents, including: (a) HUD Contract and Sub-Contract Activity Form; (b) DOL Monthly Utilization Forms; (c) HUD Weekly Payroll; (d) Clark County Female-Owned Business Form; (e) Contractor/ Subcontractor Contract Agreement, whether the contractor or subcontractor is a sole proprietor, an owner performing all work on the project, a contractor with no employees, or otherwise. Contractors and subcontractors will be required to allow interviews with employees on the job during working hours.

3. ACCESS TO RECORDS

The Secretary of HUD, the Clark County Community Development Block Grant Program, the Comptroller General of the United States, the Owner and any of their duly authorized representatives shall have access to all books, accounts, records, reports, files, and other papers or property of the Contractor and his Subcontractors pertaining to work performed under this Contractor and his Subcontractors pertaining to work performed under this Contract for the purpose of making surveys, audits, examinations, excerpts, and transcripts. The Contractor shall retain records pertinent to this Contract for a period of three years from the date of termination or completion of this contract.

4. ELIGIBLE SUBCONTRACTORS

The Contractor shall not propose or contract with any person or entity included in the United States Department of Housing and Urban Development Consolidated List of Debarred, Suspended, and Ineligible Contractors and Grantees.

5. INTEREST OF CERTAIN FEDERAL OFFICIALS

No member of or delegate to the Congress of the United States and no Resident Commissioners shall be admitted to any share or part of this Agreement or to any benefit that may arise hereunder.

6. INTEREST OF OWNER'S EMPLOYEES OR OTHER PUBLIC OFFICIALS

No member officer, or employee of Clark County, or its designees or agents, no member of the governing body of the city in which the Project is located, and no other public official of the city in which the Project is located who exercises any functions or responsibilities with respect to the Clark County Community Development Block Grant Program during his or her tenure or for one year thereafter, shall have any interest, direct or indirect, in this Agreement or any subcontract, or the proceeds thereof. The Contractor shall incorporate, or cause to be incorporated, in all subcontracts a provision prohibiting such interest.

7. CERTIFICATION REGARDING LOBBYING

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.

By signing this contract the undersigned certifies, to the best of his or her knowledge and belief, that:

- 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, 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.
- 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.
- 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 and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

8. NOTICE OF REQUIREMENT FOR AFFIRMATIVE ACTION TO ENSURE EQUAL EMPLOYMENT OPPORTUNITY (41 CFR 60-4.2(d) - Executive Order 11246)

- A. The offeror's or Bidder's attention is called to the "Equal Opportunity Clause" and the "Standard Federal Equal Employment Opportunity Construction Contract Specifications" set forth herein.
- B. The goals and timetables for minority and female participation, expressed in percentage terms for the Contractor's aggregate workforce in each trade on all construction work in the covered area, are as follows:

| Goals for minority participation in each trade | Goals for female participation in each trade |
|---|---|
| 4.5% | 6.9% |

- C. The Contractor shall provide written notification to the Director of the Office of Federal Contract Compliance Programs within 10 working days of award of any construction subcontract in excess of \$10,000 at any tier for construction work under the contract resulting from this solicitation. The notification shall list the name, address and telephone number of the subcontractor; employer identification number; estimated dollar amount of the subcontract; estimated starting and completion dates of the subcontract; and the geographical area in which the contract is to be performed.

- D. As used in this Notice, and in the contract resulting from this solicitation, the covered area is Clark County, Washington.

9. HISTORICAL OR CULTURAL ARTIFACTS

In the event that historical, cultural artifacts, and/or human remains are discovered at the Project site during construction or rehabilitation, the CONTRACTOR shall immediately stop construction and notify the OWNER's representative.

10. U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT STANDARD FEDERAL EQUAL EMPLOYMENT OPPORTUNITY CONSTRUCTION CONTRACT SPECIFICATIONS (41 CFR 60-4.3 - Executive Order 11246)

- A. As used in these specifications:

1. "Covered area means the geographical area described in the solicitation from which this contract resulted;
2. "Director means Director, Office of Federal Contract Compliance Programs, United States Department of Labor, or any person to whom the Director delegates authority;
3. "Minority" includes:
 - (i) Black (all persons having origins in any of the Black African racial groups not of Hispanic origin);
 - (ii) Hispanic (all persons of Mexican, Puerto Rican, Cuban, Central or South American or other Spanish Culture or origin, regardless of race);
 - (iii) Asian and Pacific Islander (all persons having origins in any of the original peoples of the Far East, Southeast Asia, the Indian Subcontinent, or the Pacific Islands); and
 - (iv) American Indian or Alaskan Native (all persons having origins in any of the original peoples of North America and maintaining identifiable tribal affiliations through membership and participation or community identification).

- B. Whenever the Contractor, or any Subcontractor at any tier, Subcontracts a portion of the work involving any construction trade, it shall physically include in each subcontract the excess of \$10,000 the provisions of these specifications and the Notice which contains the applicable goals for minority and female participation and which is set forth in the solicitations from which this contract resulted.

- C. If the Contractor is participating (pursuant to 41 CFR 60-4.5) in a Hometown Plan approved by the U.S. Department of Labor in the covered area either individually or through an association, its affirmative action obligations on all work in the Plan area (including goals and timetables) shall be in accordance with the Plan for those trades which have unions participating in the Plan. Contractors must be able to demonstrate their participation in and compliance with the provisions of any such Hometown Plan. Each Contractor or Subcontractor participating in an approved Plan is individually required to comply with its obligations under the EEO clause, and to make a good faith effort to achieve each goal under the plan in each trade in which it has employees. The overall good faith performance by other Contractors or Subcontractors toward a goal in an approved Plan does not excuse any covered Contractor's or Subcontractor's failure to take good faith efforts to achieve the Plan goals and timetables.

- D. The Contractor shall implement the specific affirmative action standards provided in paragraphs G(1) through G(16) of these specifications. The goals set forth in the solicitation from which this contract resulted are expressed as percentages of the total hours of employment and training of minority and female utilization the Contractor should

reasonably be able to achieve in each construction trade in which it has employees in the covered area. The Contractor is expected to make substantially uniform progress toward its goals in each craft during the period specified.

- E. Neither the provisions of any collective bargaining agreement, nor the failure by a union with whom the Contractor has a collective bargaining agreement, to refer either minorities or women shall excuse the Contractor's obligations under these specifications, Executive Order 11246, or the regulations promulgated pursuant thereto.
- F. In order for the non-working training hours of apprentices and trainees to be counted in meeting the goals, such apprentices and trainees must be employed by the Contractor during the training period, and the Contractor must have made a commitment to employ the apprentices and trainees at the completion of their training, subject to the availability of employment opportunities. Trainees must be trained pursuant to training programs approved by the U.S. Department of Labor.
- G. The Contractor shall take specific affirmative actions to ensure equal employment opportunity. The evaluation of the Contractor's compliance with these specifications shall be based upon its effort to achieve maximum results from its actions. The Contractor shall document these efforts fully, and shall implement affirmative action steps at least as extensive as the following:
 - 1. Ensure and maintain a working environment free of harassment, intimidation, and coercion, at all sites, and in all facilities at which the Contractor's employees are assigned to work. The Contractor, where possible, will assign two or more women to each construction project. The Contractor shall specifically ensure that all foremen, superintendents, and other on-site supervisory personnel are aware of and carry out the Contractor's obligation to maintain such a working environment, with specific attention to minority or female individuals working at such sites or in such facilities.
 - 2. Establish and maintain a current list of minority and female recruitment sources, provide written notification to minority and female recruitment sources and to community organizations when the Contractor or its unions have employment opportunities available, and maintain a record of the organizations' responses.
 - 3. Maintain a current file of the names, addresses and telephone numbers of each minority and female off-the-street applicant and minority or female referral from a union, recruitment source or community organization and of what action was taken with respect to each such individual, If such individual was sent to the union hiring hall for referral and was not referred back to the Contractor by the union or, if referred, not employed by the Contractor, this shall be documented in the file with the reason therefore, along with whatever additional actions the Contractor may have taken.
 - 4. Provide immediate written notification to the Director when the union or union with which the Contractor has a collective bargaining agreement has not referred to the Contractor a minority person or woman sent by the Contractor, or when the Contractor has other information that the union referral process has impeded the Contractor's efforts to meet its obligations.
 - 5. Develop on-the-job training opportunities and/or participate in training programs for the area which expressly include minorities and women, including upgrading programs and apprenticeship and trainee programs relevant to the Contractor's employment needs, especially those programs funded or approved by the Department of Labor. The Contractor shall provide notice of these programs to the sources compiled under G(2) above.
 - 6. Disseminate the Contractor's EEO policy by providing notice of the policy to unions and training programs and requesting their cooperation in assisting the Contractor in

- meeting its EEO obligations; by including it in any policy manual and collective bargaining agreement; by publicizing it in the company newspaper, annual report, etc; by specific review of the policy with all management personnel and with all minority and female employees at least once a year; and by posting the company EEO policy on bulletin boards accessible to all employees at each location where construction work is performed.
7. Review, at least annually, the company's EEO policy and affirmative action obligations under these specifications with all employees having any responsibility for hiring, assignment, layoff, termination or other employment decisions including specific review of these items with onsite supervisory personnel such as Superintendents, General Foremen, etc., prior to the initiation of construction work at any job site. A written record shall be made and maintained identifying the time and place of these meetings, persons attending, subject matter discussed, and disposition of the subject matter.
 8. Disseminate the Contractor's EEO policy externally by including it in any advertising in the news media, specifically including minority and female news media, and providing written notification to and discussing the Contractor's EEO policy with other Contractors and Subcontractors with whom the Contractor does or anticipates doing business.
 9. Direct its recruitment efforts, both oral and written, to minority, female and community organizations, to schools with minority and female students and to minority and female recruitment and training organizations serving the Contractor's recruitment area and employment needs. Not later than one month prior to the date for the acceptance of applications for apprenticeship or other training by any recruitment source, the Contractor shall send written notification to organization such as the above, describing the openings, screening procedures, and tests to be used in the selection process.
 10. Encourage present minority and female employees to recruit other minority persons and women and, where reasonable, provide after school, summer and vacation employment to minority and female youth both on the site and in other areas of a Contractor's work force.
 11. Validate all tests and other selection requirements where there is an obligation to do so under 41 CFR Part 60-3.
 12. Conduct, at least annually, an inventory and evaluation at least of all minority and female personnel for promotional opportunities and encourage these employees to seek or to prepare for, through appropriate training, etc., such opportunities.
 13. Ensure that seniority practices, job classifications, work assignments and other personnel practices, do not have a discriminatory effect by continually monitoring all personnel and employment related activities to ensure that the EEO policy and the Contractor's obligations under these specifications are being carried out.
 14. Ensure that all facilities and company activities are non-segregated except that separate or single-user toilet and necessary changing shall be provided to assure privacy between the sexes. Document and maintain a record of all solicitations of offers for subcontracts from minority and female construction contractors and suppliers, including circulation of solicitations to minority and female contractor associations and other business associations.
 15. Document and maintain a record of all solicitations of offers for subcontractors from minority construction contractors and suppliers, including circulation of solicitations to minority and female contractor associations and other business associations.
 16. Conduct a review, at least annually, of all supervisors adherence to and performance under the Contractor's EEO policies and affirmative action obligations.

- H. Contractors are encouraged to participate in voluntary associations that assist in fulfilling one or more of their affirmative action obligations (G(1) through G(16)). The efforts of a contractor association, joint contractor-union, contractor- community, or other similar group of which the contractor is a member and participant, may be asserted as fulfilling any one or more of its obligations under 7a through p of these Specifications provided that the contractor actively participates in the group, makes every effort to assure that the group has a positive impact on the employment of minorities and women in the industry, ensures that the concrete benefits of the program are reflected to the Contractor's minority and female workforce participation, makes a good faith effort to meet its individual goals and timetables, and can provide access to documentation which demonstrates the effectiveness of actions taken on behalf of the Contractor. The obligation to comply, however, is the Contractor's and failure of such a group to fulfill an obligation shall not be a defense for the Contractor's noncompliance.
- I. A single goal for minorities and a separate single goal for women have been established. The Contractor, however, is required to provide equal employment opportunity and to take affirmative action for all minority groups, both male and female, and all women, both minority and non-minority. Consequently, the Contractor may be in violation of the Executive Order if a particular group is employed in a substantially disparate manner (for example, even though the Contractor has achieved its goals for women generally, the Contractor may be in violation of the Executive Order if a specific minority group of women is under utilized).
- J. The Contractor shall not use the goals and timetables or affirmative action standards to discriminate against any person because of race, color, religion, sex, or national origin.
- K. The Contractor shall not enter into any Subcontract with any person or firm debarred from Government contracts pursuant to Executive Order 11246.
- L. The Contractor shall carry out such sanctions and penalties for violation of these specifications and of the Equal Opportunity Clause, including suspension, termination and cancellation of existing subcontracts as may be imposed or ordered pursuant to Executive Order 11246, as amended, and implementing regulations, by the Office of Federal Contract Compliance Programs. Any Contractor who fails to carry out such sanctions and penalties shall be in violation of these specifications and Executive Order 11246, as amended.
- M. The Contractor, in fulfilling its obligations under these specifications, shall implement specific affirmative action steps, at least as extensive as those standards prescribed in paragraph G of these specifications, so as to achieve maximum results from its efforts to ensure equal employment opportunity. If the Contractor fails to comply with the requirements of the Executive Order, the implementing regulations, or these specifications, the Director shall proceed in accordance with 41 CFR 60-4.8.
- N. The Contractor shall designate a responsible official to monitor all employment related activity to ensure that the company EEO policy is being carried out, to submit reports relating to the provisions hereof as may be required by the Government and to keep records. Records shall at least include for each employee the name, address, telephone numbers, construction trade, union affiliation if any, employee identification number when assigned, social security number, race, sex, status (e.g., mechanic, apprentice trainee, helper or laborer), dates of changes in status, hours worked per week in the indicated trade, rate of pay, and locations at which the work was performed. Records shall be maintained in an easily understandable and retrievable form; however, to the degree that existing records satisfy this requirement, contractors shall not be required to maintain separate records.

- O. Nothing herein provided shall be construed as a limitation upon the application of other laws which establish different standards of compliance or upon the application of requirements for the hiring of local or other area residents (e.g, those under the Public Works Employment Act of 1977 and the Community Development Block Grant Program).

11. COMPLIANCE WITH EQUAL OPPORTUNITY PROVISIONS FOR CONSTRUCTION PROJECTS (EO 11246, Subpart B - Contractors' Agreements SEC. 202)

During the performance of this contract, the contractor agrees as follows:

- A. 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 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 contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the contracting officer setting forth the provisions of this nondiscrimination clause.
- B. 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.
- C. 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 agency contracting officer, advising the labor union or workers representative of the contractor's commitments under section 202 of Executive Order No. 11246 of September 24, 1965, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.
- D. The contractor will comply with all provisions of Executive Order No. 11246 of September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.
- E. The contractor will furnish all information and reports required by Executive Order No. 11246 of September 24, 1965, 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 administering agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.
- F. In the event of the contractor's noncompliance with the non-discrimination clauses of this contract or with any of such rules, regulations, or orders, this contract may be canceled, terminated, or suspended in whole or in part and the contractor may be declared ineligible for further Government contracts in accordance with procedures authorized in Executive Order No. 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.
- G. The contractor 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 No. 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The contractor will take such action with respect to any subcontract or purchase order as the contracting agency may direct as a means of enforcing such provisions including sanctions for noncompliance: Provided, however, that in the event the

contractor becomes involved in, or threatened with, litigation with a subcontractor or vendor as a result of such direction by the contracting agency, the contractor may request the United States to enter into such litigation to protect the interests of the United States.

12. SECTION 3 (24 CFR 135.38)

- A. The work to be performed under this contract is subject to the requirements of section 3 of the Housing and Urban Development Act of 1968, as amended, 12 U.S.C. 1701 (section 3). The purpose of section 3 is to ensure that employment and other economic opportunities generated by HUD assistance or HUD-assisted projects covered by section 3, shall, to the greatest extent feasible, be directed to low and very low income persons, particularly persons who are recipients of HUD assistance for housing.
- B. The parties to this contract agree to comply with HUD's regulations in 24 CFR part 135, which implement section 3. As evidenced by their execution of this contract, the parties to this contract certify that they are under no contractual or other impediment that would prevent them from complying with the part 135 regulations.
- C. The Contractor agrees to send to each labor organization or representative of workers with which the contractor has a collective bargaining agreement or other understanding, if any, a notice advising the labor organization or workers' representative of the contractor's commitments under this section 3 clause, and will post copies of the notice in conspicuous places at the work site where both employees and applicants for training and employment positions can see the notice. The notice shall describe the section 3 preference, shall set forth minimum number of job titles subject to hire, availability of apprenticeship and training positions, the qualifications for each; and the name and location of the person(s) taking applications for each of the positions; and the anticipated date the work shall begin.
- D. The contractor agrees to include this section 3 clause in every subcontract subject to compliance with regulations in 24 CFR part 135, and agrees to take appropriate action, as provided in an applicable provision of the subcontract or in this section 3 clause, upon a finding that the subcontractor is in violation of the regulations in 24 CFR part 135. The contractor will not subcontract with any subcontractor where the contractor has notice or knowledge that the subcontractor has been found in violation of the regulations in 24 CFR part 135.
- E. The contractor will certify that any vacant employment positions, including training positions, that are filled (1) after the contractor is selected but before the contract is executed, and (2) with persons other than those to whom the regulations of 24 CFR part 135 require employment opportunities to be directed, were not filled to circumvent the contractor's obligations under 24 CFR part 135.
- F. Noncompliance with HUD's regulations in 24 CFR part 135 may result in sanctions, termination of this contract for default, and debarment or suspension from future HUD assisted contracts.

13. CERTIFICATION OF NONSEGREGATED FACILITIES

By signing the Bid Proposal, the Bidder certifies that he does not maintain or provide for his employees any segregated facilities at any of his establishments, and that he does not permit his employees to perform their services at any location, under his control, where segregated facilities are maintained. The Bidder certifies further that he will not maintain or provide for his employees any segregated facilities at any of his establishments, and that he will not permit his employees to perform their services at any location under his control where segregated facilities are maintained. The Bidder agrees that a breach of this certification will be a violation of the Equal Opportunity clause in any contract resulting from

acceptance of this Bid. As used in this certification, the term segregated facilities means any waiting rooms, work areas, restrooms and washrooms, restaurants and other eating areas, time clocks, locker rooms and other storage or dressing areas, parking lots, drinking fountains, recreation or entertainment areas, transportation, and housing facilities provided for employees which are segregated by explicit directive or are in fact segregated on the basis of race, color, religion, or national origin, because of habit, local custom, or otherwise. The Bidder agrees that (except where he has obtained identical certification from proposed sub-contractors for specific time periods) he will obtain identical certifications from proposed subcontractors prior to the award of subcontracts exceeding \$10,000 which are not exempt from the provisions of the Equal Opportunity clause, and that he will retain such certifications in his files.

*Note: The penalty for making false statements in offers is prescribed in 18 U.S.C. 1001.

14. FEDERAL LABOR STANDARDS PROVISIONS

A. 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.

B. Minimum Wages

1. All laborers and mechanics employed or working upon the site of the work (or under the United States Housing Act of 1937 or under the Housing Act of 1949 in the construction or development of the project), 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 cost 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 1(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 Part 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 Part 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.

2. 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 therefore only when the following criteria have been met:
 - The work to be performed by the classification requested is not performed by a classification in the wage determination; and
 - The classification is utilized in the area by the construction industry; and
 - The proposed wage rate, including any bona fide fringe benefits, bears a reasonable relationship to the wage rates contained in the wage determination.
3. 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.)
4. 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.)
5. The wage rate (including fringe benefits where appropriate) determined pursuant to subparagraphs (B)(2) or (3) 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.
 - (a) 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.
 - (b) 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.)

C. 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 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 (or under the United States Housing Act of 1937 or under the Housing Act of 1949 in the construction or development of the project), 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.

D. Payrolls and Basic Records

1. 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 (or under the United States Housing Act of 1937, or under the Housing Act of 1949, in the construction or development of the project). 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 equivalent thereof of the types described in Section 1 (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 described in Section 1(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 cost 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.)

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 Part 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.)

2. 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:
 - (a) That the payroll for the payroll period contains the information required to be maintained under 29 CFR Part 5.5 (a)(3)(I) and that such information is correct and complete;
 - (b) 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;
 - (c) 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.
3. 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 paragraph D(2) of this section.
4. 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.
5. The contractor or subcontractor shall make the records required under paragraph D(1) of this section 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 Part 5.12.

E. Apprentices and Trainees

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, Bureau of Apprenticeship and Training, or with a State Apprenticeship Agency recognized by the Bureau, 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 Bureau of Apprenticeship and Training 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 Bureau of Apprenticeship and Training, or a state Apprenticeship Agency recognized by the Bureau, 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.

F. 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.

G. Equal Employment Opportunity

The utilization of apprentices, trainees and journeymen under this part shall be in conformity with the equal employment opportunity requirements of Executive Order 11246, as amended, and 29 CFR Part 30.

H. 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.

I. Subcontractors

The contractor or subcontractor will insert in any subcontracts the clauses contained in 29 CFR 5.5(a)(1) through (10) and such other clauses as HUD or its designee may by appropriate instructions require, 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 29 CFR Part 5.5.

J. 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.

K. 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.

L. 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.

M. Certification of Eligibility

1. 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.
2. 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.

3. 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 1010, 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.”

N. 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.

O. Contract Work Hours and Safety Standards Act

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 forty 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 forty hours in such workweek in any contract in an amount in excess of \$100,000.

2. Violation; liability for unpaid wages; liquidated damages

In the event of any violation of the clause set forth in subparagraph P(1) of this paragraph, the contractor and any subcontractor responsible therefore 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 P(1) of this paragraph, in the sum of \$10 for each calendar day which such individual was required or permitted to work in excess of the standard workweek of forty hours without payment of the overtime wages required by the clause set forth in subparagraph P(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 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 P(2) of this paragraph.
4. Subcontracts
The contractor or subcontractor shall insert in any subcontracts the clauses set forth in subparagraph P(1) through P(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 P(1) through P(4) of this paragraph.
5. Health and Safety
 - A. No laborer or mechanic shall be required to work in surroundings or under working conditions that 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.
 - B. The Contractor shall comply with all regulations issued by the Secretary of Labor pursuant to Title 29 Part 1926 (formerly part 1518) and failure to comply may result in imposition of sanctions pursuant to the Contract Work Hours and Safety Standards Act (Public Law 91-54, 83 Stat. 96).
 - C. The Contractor shall include the provisions of this Article 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.

15. CLEAN AIR AND WATER POLLUTION CONTROL ACTS

The contractor shall comply with all applicable standards, orders, or requirements issued under the Federal Water Pollution Control Act (33 USC 1251 et seq.) the Clean Air Act (42 USC 1857 et seq.), Executive Order 11738, and Environmental Protection Agency regulations (40 CFR Parts 15 and 61) including the following requirements:

- A. The Contractor warrants that any facility utilized in the performance of this agreement is not listed on the EPA List of Violating Facilities pursuant to 40 CFR 15.20 as of the date of contract award.
- B. The Contractor will comply with all the requirements of Section 114 of the Clean Air Act and Section 308 of the Federal Water Pollution Control Act relating to inspection, monitoring, entry, reports, and information, as well as all other requirements specified in said sections and all regulations and guidelines issued thereunder.

- C. The Contractor agrees that as a condition for the award of this contract he will notify the owner of the receipt of any communication from the Assistant Administrator of EPA that a facility to be utilized for the contract is under consideration to be listed on the EPA List of Violating Facilities; and will make any such notification promptly prior to contract award.
- D. The Contractor will include or cause to be included the criteria and requirements in paragraphs (A) through (D) of this article in every non-exempt subcontract and will take such action as the United States Government or its agencies may direct as a means of enforcing such provisions.

**GENERAL WAGE DECISION
U.S. Department of Labor**

Federal Davis-Bacon wage rates are made a part of this agreement. The Contractor is responsible for complying with the current Federal wage decision during the construction period.

CERTIFICATION OF BIDDER REGARDING SECTION 3 AND SEGREGATED FACILITIES

Name of Prime Contractor

Project Name & Number

The undersigned certified that:

- (a) Section 3 provisions are included in the Contract.
- (b) If contract equals or exceeds \$100,000 Clark County Section 3 report will be submitted with the final pay estimate.
- (c) No segregated facilities will be maintained.

Name & Title of Signer (print or type)

Signature

Date

EXHIBIT 3-3 INVITATION TO BID LANGUAGE

In addition to the language normally included in any advertisement for sealed bid for a construction project, the ad should contain the following references:

"This project is financed through the Community Development Block Grant Program with funds obtained from the U.S. Department of Housing and Urban Development. The contract will be subject to regulations of the Departments of Labor and Housing and Urban Development.

Attention is called to Federal provisions for Equal Employment Opportunity, HUD Section 3 requirements, and the minimum wages as set forth in the contract documents."

EXHIBIT 3-4 PROJECT SIGN REQUIREMENTS

The Clark County CDBG Program requires that any construction project exceeding \$50,000 have a project identification sign located at the project site.

1. Description

One project identification sign shall be provided and installed by contractor.

2. Product Delivery, Storage and Handling

- A. Install project sign before any construction is started. Maintain sign for the duration of the construction.
- B. Remove sign within ten (10) days of Final Certificate of Payment.
 - i. Fill all post holes.
 - ii. Finish site area as directed by Architect/Engineer.

3. Ownership

Upon removal of sign, sign and posts shall belong to owner as identified in the construction contract.

4. Material

- A. 3/4" plywood (minimum 4' x 5'), grade B-B high density, exterior, good two sides, conforming to PS-1.
- B. Supports, D.F. posts. Provide length as necessary for two foot clearance at grade and 3' embedment of posts.
- C. Paint shall be white background. Background shall be three equal horizontal bands, top red, center white, and bottom blue. Lettering shall be black gloss.
- D. Type face shall be Helvetica with letters not to exceed 4" high or less than 3 3/4" high.
- E. Information shall be all capital letters, all lines centered. Approximate layout:

| |
|--|
| CLARK COUNTY COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAM |
| [Project Name] |
| This project is funded in whole or in part with funds provided by the U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT (HUD) |
| A COOPERATIVE COMMUNITY IMPROVEMENT PROJECT WITH [city or agency name] |

5. Installation

- A. Locate sign as directed by Architect/Engineer.
- B. Contractor shall post all required project postings, including EEO poster, Notice to All Employees, and Davis-Bacon wage rates, on the back of the sign under a weatherproof transparent cover (visqueen, plastic, etc.).

PROJECT PLAQUE

6. Plaque

The CITY/AGENCY shall place a plaque permanently in the highest foot traffic area readily visible to the public. The size should be approximately at a minimum 12" by 12". The plaque should have the following:

FUNDING FOR [project]
PROVIDED BY [city or agency]
AND
THE CLARK COUNTY COMMUNITY DEVELOPMENT
BLOCK GRANT PROGRAM
THROUGH THE U.S.
DEPT. OF HOUSING AND URBAN DEVELOPMENT

DATE

CHAPTER 4

REAL PROPERTY ACQUISITION/ DISPLACEMENT/RELOCATION & ONE FOR ONE HOUSING REPLACEMENT

I. SYNOPSIS

II. GENERAL RESPONSIBILITIES

- 1) Uniform Relocation Assistance & Real Property Acquisition Requirements
- 2) One for One Housing Replacement Requirements

III. RESPONSIBILITIES AND PROCEDURES

- 1) Considerations Before Acquisition
- 2) Real Property Acquisition Procedures

IV. PROMISSORY NOTE AND DEED OF TRUST

V. SUBRECIPIENT DOCUMENTATION

EXHIBIT 4-1 ACQUISITION DECISION MATRIX

EXHIBIT 4-2 VOLUNTARY ACQUISITION OF PROPERTY LETTER FOR ENTITY WITH EMINENT DOMAIN AUTHORITY: INITIAL NOTICE TO OWNER

EXHIBIT 4-3 INVOLUNTARY ACQUISITION OF PROPERTY: INITIAL NOTICE TO OWNER

EXHIBIT 4-3 DONATION UNDER BASIC ACQUISITION WHERE EMINENT DOMAIN MAY BE USED

EXHIBIT 4-4 INVITATION FOR OWNER TO ACCOMPANY APPRAISER

EXHIBIT 4-5 WRITTEN OFFER TO PURCHASE

EXHIBIT 4-6 VOLUNTARY ACQUISITION OF PROPERTY LETTER FOR ENTITY WITHOUT EMINENT DOMAIN AUTHORITY: INITIAL NOTICE TO OWNER

I. SYNOPSIS

Community Development Block Grant projects involving property acquisition, displacement or relocation (temporary or permanent) or which involve the demolition or conversion of residential units occupied by low-income households must adhere to the requirements of:

- The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 as amended by the Uniform Relocation Act Amendments of 1987 (URA), and
- Section 104(d) of the Housing & Community Development Act of 1974, as amended.

II. GENERAL RESPONSIBILITIES

1) Uniform Relocation Assistance & Real Property Acquisition Requirements

All acquisition of real property, permanent easements, and relocation of businesses, nonprofits, farms, or persons is to be conducted in accordance with the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended (Uniform Act or URA), which covers all HUD assisted program/projects as required by 49 CFR Pat 24 and 24 CFR Part 570.

The Uniform Act requirements apply to the acquisition of real property and permanent easements for Community Development Block Grant assisted projects. If Community Development Block Grant Program assistance is used for any part of the project, the Uniform Act must be followed, even if local or other non-Community Development Block Grant funds are used to pay the acquisition costs.

The Uniform Act applies to:

- **ACQUISITION:** acquisition of fee simple title; acquisition of fee title that is subject to retention of a life estate or a life use; acquisition by leasing where the lease term, including option(s) for extension is 50 years or more; and to the acquisition of permanent easements. The Uniform Act also applies to donations of real property or easements.
- **DISPLACEMENT AND RELOCATION:** The Uniform Act covers displacement and relocation. All persons (families, individuals, businesses, non-profit organizations and farms) displaced (forced to move) as a direct result of rehabilitation, demolition or acquisition (privately or publicly undertaken) for a Community Development Block Grant project are entitled to relocation payments. Clark County displacement and relocation policies (enacted in accordance with the URA) provide assistance to persons who are involuntarily displaced as a result of property acquisition by non-governmental agencies or as a result of substantial property rehabilitation.

2) One for One Housing Replacement Requirements

Section 104(d) of the Housing and Community Development Act requires replacement of low and moderate income housing units that are demolished or converted to another use in connection with a Community Development Block Grant assisted activity. "Low and moderate income dwelling unit" means a dwelling unit or home with a market rent (including utility costs) that does not exceed the applicable Fair Market Rent (FMR) for the Section 8 housing program. The unit can be occupied or vacant. The term does not include a unit that is owned and occupied by the same person(s) before and after rehabilitation.

III. RESPONSIBILITIES AND PROCEDURES

1) Considerations Before Acquisition

Before undertaking **any** acquisition procedures, the subrecipient should determine if **Federal Displacement/Relocation** or **One-for-One Housing Replacement** rules apply to the project. Subrecipients must contact Clark County CDBG staff if any of the following conditions are present:

- A) The property to be acquired is presently occupied by a family/families, an individual/individuals, a business/businesses, non-profit organizations or farm.
- B) If the property to be acquired includes a housing unit (or units) that is proposed for conversion to another use or to be demolished.

The procedures for the provision of relocation assistance and one-for-one housing replacement are extremely complex and must not be initiated by the grantee. *In the event it is determined that one or both of the above conditions are present, a CDBG/HOME staff person will be assigned to undertake the relocation and/or one-for-one replacement and charge their time to the project.*

2) Real Property Acquisition Procedures

The required steps for property acquisition differ according to the type of organization (government or non-profit) acquiring the property and in the case of acquisition by a government entity, whether the acquisition will involve the use of eminent domain. A decision matrix is provided in Exhibit 4-1 to help entities determine which of the following sets of steps is most appropriate for their property acquisition.

- A) Acquisition for Cities & Other Governmental Entities (Entities with Eminent Domain Authority)

- i) *Voluntary* Acquisition for an Entity with Eminent Domain Authority

PLEASE NOTE: for acquisition by an entity with the power of eminent domain to be considered voluntary, it must meet the following condition: No specific site or property is designated for acquisition, although the entity may limit its search for alternative sites to a general geographic area. Where an entity wishes to purchase more than one site within a geographic area on this basis, all owners are to be treated similarly. The property to be acquired shall not be part of an intended, planned, or designated project area where all or substantially all of the property within the area is to be acquired within specific time limits.

- (a) Arrange for at least one full independent narrative appraisal (MAI) of the property by a qualified appraiser. An exception to this requirement may be allowed for small, uncomplicated acquisitions with low fair market values (\$2,500 or less). Donated property does not have to be appraised.

III. RESPONSIBILITIES AND PROCEDURES (continued)

- (b) Issue a formal acquisition notice to the owner informing them of interest in acquiring the property. Exhibit 4-2 is a sample acquisition notice. The formal notice must:
- Inform the property owner that the buyer will **not** use its power of eminent domain to acquire the property if negotiations fail to result in an amicable agreement; and
 - Inform the property owner of the buyer's estimate of the fair market value of the property. This figure may be based upon either the appraisal of the property or upon some other determination of fair market value, whichever is less. The purchaser must give the seller this written information before making an offer. If for any reason, the seller is not informed of these facts, and the sale is not closed, the seller should be immediately informed and allowed to withdraw from the purchase agreement without penalty. Important Note: The basis for the buyer's estimate of fair market value must be prepared by a person familiar with real estate values, and must be backed with reasonable evidence. The *buyer's files* must include an explanation of the basis for the estimate. The buyer is not required to share the basis for its estimate of fair market with the property owner.
- (c) The acquisition must go through real estate escrow. The escrow agent must be a neutral third party to the acquisition. Buyer must obtain title insurance for the acquisition.
- ii. Involuntary Acquisition for an Entity with Eminent Domain Authority
- (a) Issue a preliminary acquisition notice to the owner informing them of interest in acquiring the property and provide a copy of the HUD brochure, "When a Public Agency Acquires Your Property." Exhibit 4-3 is a sample acquisition notice.
- (b) Arrange for at least one full independent narrative appraisal (MAI) of the property by a qualified appraiser. An exception to this requirement may be allowed for small, uncomplicated acquisitions with low fair market values (\$2,500 or less). Donated property does not have to be appraised if the requirements of the Uniform Act are met.
- (c) Give the owner a written invitation to accompany the appraiser. Exhibit 4-4 is a sample appraisal invitation.
- (d) Arrange for a review appraisal to assure appraisal meets applicable standards.
- (e) Establish just compensation for the property by official resolution. The just compensation should not be less than the approved appraisal of the fair market value of the property, taking into account allowed damages or benefits to any remaining property.

III. RESPONSIBILITIES AND PROCEDURES (continued)

- (f) Promptly make a written purchase offer to the owner. The offer shall include a summary of the basis for the offer of just compensation. Exhibit 4-5 is a sample purchase offer.
- (g) After negotiations, make a final offer indicating that if the offer is not acceptable, the subrecipient may institute condemnation proceedings. ***THIS APPLIES TO PUBLIC ENTITIES ONLY.***
- (h) If a sale agreement is reached, provide written notice to vacate the property to all owners and tenants at least 90 days in advance.
- (i) The acquisition must go through real estate escrow. The escrow agent must be a neutral third party to the acquisition. Buyer must obtain title insurance for the acquisition.

B) Acquisition for Non-Profit Organizations (i.e. Entities without Eminent Domain Authority)

i. Acquisition for an Entity without Eminent Domain Authority

- (a) Arrange for at least one full independent narrative appraisal (MAI) of the property by a qualified appraiser. An exception to this requirement may be allowed for small, uncomplicated acquisitions with low fair market values (\$2,500 or less). Donated property does not have to be appraised.
- (b) Issue a preliminary acquisition notice to the owner informing them of interest in acquiring the property. Exhibit 4-6 is a sample acquisition notice. The preliminary notice must:
 - Inform the property owner that the buyer does not have the power of eminent domain, and therefore, will not acquire the property if negotiations fail to result in an amicable agreement; and
 - Inform the property owner of the buyer's estimate of the fair market value of the property. This figure may be based upon either the appraisal of the property or upon some other determination of fair market value, whichever is less. The purchaser must give the seller this written information before making an offer. If for any reason, the seller is not informed of these facts, and the sale is not closed, the seller should be immediately informed and allowed to withdraw from the purchase agreement without penalty. Important Note: The basis for the buyer's estimate of fair market value must be prepared by a person familiar with real estate values, and must be backed with reasonable evidence. The *buyer's files* must include an explanation of the basis for the estimate. The buyer is not required to share the basis for its estimate of fair market with the property owner.
- (c) The acquisition must go through real estate escrow. The escrow agent must be a neutral third party to the acquisition. Buyer must obtain title insurance for the acquisition.

IV. PROMISSORY NOTE AND DEED OF TRUST

All non-profit subrecipients shall enter into a Promissory Note and Deed of Trust with the County for any facility constructed, acquired, or rehabilitated in whole or in part with Community Development Block Grant funds (In certain cases, the County may also require a covenant running with the land). The Deed of Trust shall require the subrecipient to operate the facility for the original purpose (for which it received Community Development Block Grant funds) until at least fifteen (15) years after the latest of (a) acquisition, or (b) final completion of rehabilitation or construction or until the return of all CDBG funds used for the project. The Deed of Trust and Promissory Note will impose conditions that the County determines are necessary to protect the Community Development Block Grant Program funds. The subrecipients shall keep the property free and clear of all other charges, liens, or encumbrances impairing the security of the Deed. The County may, upon written request, permit one superior encumbrance depending on the specific project.

When a Promissory Note and Deed of Trust are necessary, the following requirements apply:

- Both documents shall be executed within thirty (30) days of acquisition or substantial completion of any construction activity; and
- The term of both documents shall be for at least fifteen (15) years from the latest date of acquisition, or final completion of rehabilitation or construction.

V. SUBRECIPIENT DOCUMENTATION

All correspondence must be sent by **certified mail** so receipts are available for documentation purposes. The following records should be maintained:

- A) Proof of official decision to pursue acquisition;
- B) Written preliminary acquisition notice to the owner
- C) Written invitation to owner to accompany appraiser (for involuntary acquisition only);
- D) Copy of each appraisal report;
- E) Copy of resolution or other document showing the determination of just compensation (for involuntary acquisition only);
- F) Purchase agreement, all escrow documents, evidence of title insurance, recorded deed, declaration of taking and other documents used in conveying the property;
- G) Names of all persons occupying the real property on: (1) the date of the submission of the application for assistance by the property owner to the grantee; or (2) whenever site control is obtained after submission of the application, the date of site control;
- H) Names of all persons moving into the property on or after the date specified in subparagraph (a) above but before completion of the project; and
- I) Names of all persons occupying the property immediately following completion of the project.

EXHIBIT 4-1 ACQUISITION DECISION MATRIX

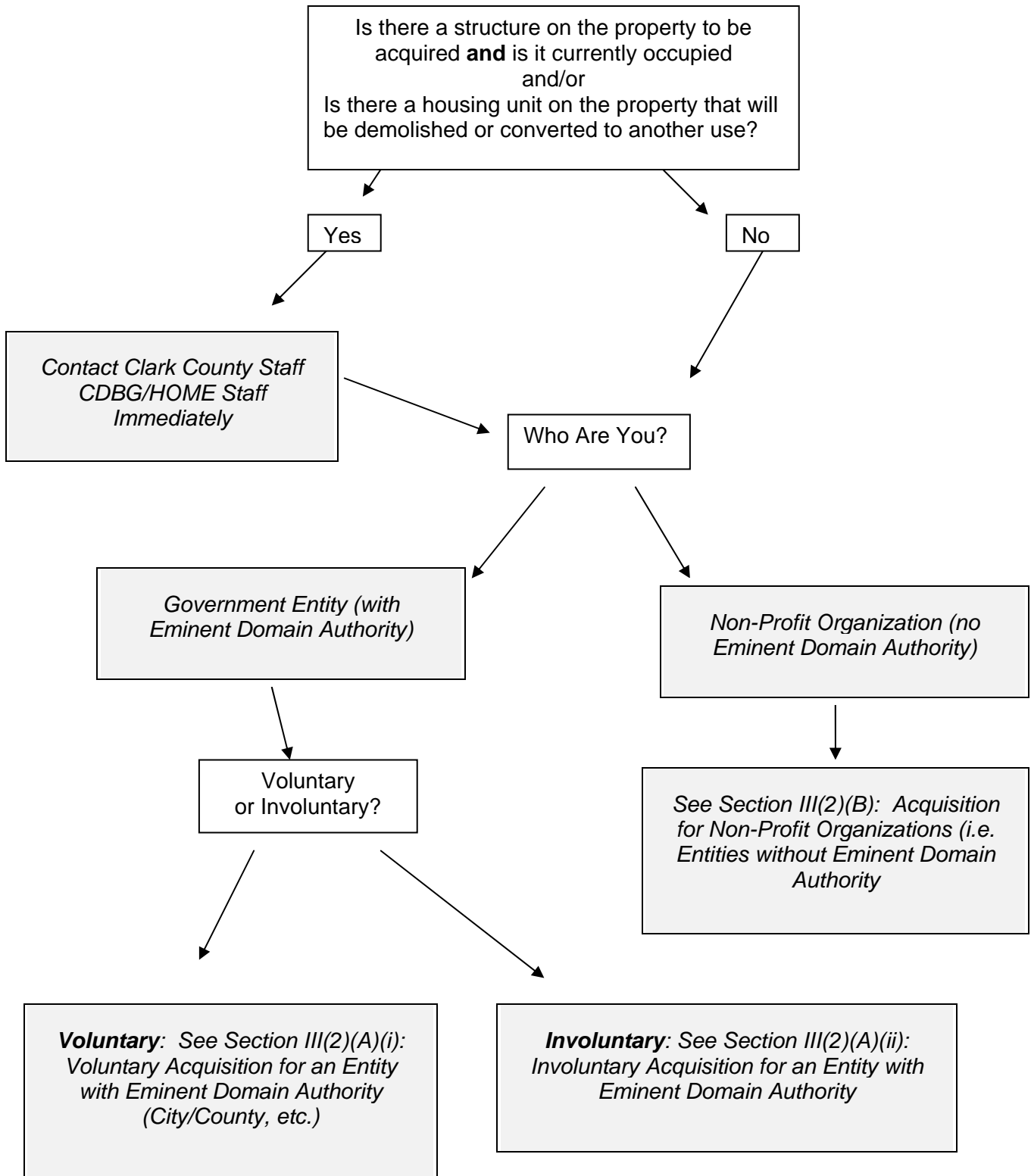


EXHIBIT 4-2

**SAMPLE VOLUNTARY LETTER FOR ENTITY
WITH EMINENT DOMAIN AUTHORITY**

**ACQUISITION OF A PERMANENT EASEMENT OR REAL PROPERTY
INITIAL NOTICE TO OWNER**

Date: _____

Dear _____:

This is to inform you that <AGENCY> would like to purchase the property located at <STREET ADDRESS OR OTHER PROPERTY IDENTIFICATION>, if a satisfactory agreement can be reached.

Because Federal funds may be used in the purchase, however, we are required to disclose to you the following information:

- 1) The sale is voluntary. If you do not wish to sell, the <AGENCY> will not acquire your property. The <AGENCY> has the power to acquire your property by condemnation (i.e., eminent domain) but will not use the power of eminent domain to acquire your property.

- 2) We estimate the fair market value of the property to be \$_____.

Since the purchase would be a voluntary, arm's length transaction, you would not be eligible for relocation payments or other relocation assistance under the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (URAR), or any other law or regulation.

Again, please understand that if you do not wish to sell your property, we will take no further action to acquire it.

If you have any questions about this matter, please contact _____.
His/her telephone number is _____.

Sincerely,

<NAME/TITLE>

EXHIBIT 4-3

**SAMPLE INVOLUNTARY LETTER FOR ENTITY
WITH EMINENT DOMAIN AUTHORITY**

**ACQUISITION OF A PERMANENT EASEMENT OR REAL PROPERTY
INITIAL NOTICE TO OWNER**

Date: _____

Dear <NAME OF OWNER>:

The City/County of <NAME OF ENTITY> is participating in a <TYPE OF PROJECT> project using federal funds from the Clark County Community Development Block Grant program. The <NAME OF ENTITY> needs to acquire the following <PERMANENT EASEMENT/REAL PROPERTY> from you for the project.

(Insert a description or reference an attachment that describes of the specific permanent easement or real property to acquired. A legal description should be used, if one is available.)

(Insert reason why the permanent easement or real property is needed for the project and how it will be used.)

The City/County of <NAME OF ENTITY> is required to inform you of your rights under federal law. You are entitled to "just compensation" for the permanent easement or real property the city needs. The definition of "just compensation" and a description of your other rights are contained in the enclosed brochure "When a Public Agency Acquires Your Property". Please read it carefully. The City/County of <NAME OF ENTITY> may exercise its right of eminent domain to acquire the easement or property if negotiations should fail.

<Insert the appropriate paragraph from the following two selections:>

1. For permanent easements or real property valued at more than \$2,500

The City/County of <NAME OF ENTITY> will send you a separate offer of just compensation after it has obtained an independent appraisal of the fair market value. You have the right to accompany the appraiser when he or she conducts the appraisal of your property. Please let us know within <INSERT NUMBER HERE> days or not later than <INSERT DEADLINE HERE> if you desire to accompany the appraiser.

2. For permanent easements or real property valued at \$2,500 or less

We believe the value of the <PERMANENT EASEMENT/REAL PROPERTY> the City/County of <NAME OF ENTITY> needs from you does not exceed \$2,500. Our determination is based on (insert description of the process used

EXHIBIT 4-3 (CONTINUED)

that meets the requirements in paragraph 5-2.c.(1)(b) on page 5-3 of Handbook 1378). Federal law does not require an independent appraisal for permanent

easements or real property valued at less than \$2,500 unless the owner requests an appraisal.

You have the right to donate the <PERMANENT EASEMENT/REAL PROPERTY>. To donate, you must sign a written statement that says you have been informed of your rights under federal law. It is very important to understand that the city cannot offer you any special benefits in connection with a donation.

If you want to donate the <PERMANENT EASEMENT/REAL PROPERTY>, please let us know within <INSERT NUMBER HERE> days or no later than <INSERT DEADLINE HERE>. The City/County of <NAME OF ENTITY> will include the donation language in an acquisition document specific for your property.

We will very much appreciate your cooperation in this matter because the project will benefit all residents of the community. These steps are essential for City/County of <NAME OF ENTITY> to receive the federal grant funds necessary to complete the project.

Please feel free to call <NAME OF CONTACT HERE> at <INSERT NUMBER HERE> if you have any questions or specific requests to make regarding the appraisal or a donation of your property.

Sincerely,

<NAME/TITLE>

EXHIBIT 4-3 (CONTINUED)

A DONATION UNDER BASIC ACQUISITION WHERE EMINENT DOMAIN MAY BE USED

(To be used and included with the permanent easement/property acquisition document recorded with the county)

I choose to donate the permanent easement/property described in this document to the City/County of <NAME OF ENTITY> for no consideration.

I have been fully informed of my rights under the federal Uniform Relocation and Real Property Acquisition Policies Act of 1970, as amended. I understand that I cannot be required to convey the permanent easement/property to the City/County of <NAME OF ENTITY> for less than its appraised fair market value.
(Insert the following statements if they are applicable)

I release the City/County of <NAME OF ENTITY> from making an offer of just compensation for my property.

<Insert the appropriate paragraph from the following two selections:>

- 1) I have waived my rights to an independent appraisal of the fair market value of my property which is estimated to exceed \$2,500.
- 2) I did not ask for an independent appraisal of my property after it was determined to have a value of \$2,500 or less by the City/County of <NAME OF ENTITY>.

Signature of Property Owner

Date

Notary

Date

EXHIBIT 4-4

**INVITATION FOR PROPERTY OWNER TO ACCOMPANY AN
APPRAISER**

<DATE>

<PROPERTY OWNER ADDRESS>

Dear <NAME OF PROPERTY OWNER>:

I have been requested by the City of <CITY NAME> to prepare an appraisal of your property at <PROPERTY ADDRESS>. I will visit the property <DATE> at <TIME>. If you wish to accompany me, please phone me at <PHONE NUMBER> to arrange a mutually convenient time.

Sincerely,

<APPRAISER NAME>

cc: <CITY NAME>

EXHIBIT 4-5

WRITTEN OFFER TO PURCHASE

<DATE>

<SELLER's ADDRESS>

Dear <SELLER's NAME>:

This will introduce you to <NAME OF REPRESENTATIVE>, who represents <NAME OF BUYER>, in the capacity of Property Officer and who will discuss with you the acquisition by <NAME OF BUYER> of the property, which our records indicate is owned by you. This property is required for <PURPOSE OF PROPERTY PURCHASE>.

We have had the property appraised by a competent and unbiased fee appraiser and this report has been thoroughly analyzed by the <NAME OF BUYER> and found to be well supported. Based on the appraisal and review, the <NAME OF BUYER> hereby makes you a firm offer in the amount of \$<AMOUNT> for the purchase of your property.

We feel that the above offer is most equitable and we urge your favorable consideration and acceptance of it. If this meets with your approval, <NAME OF BUYER>'s representative has prepared a Statement of Settlement Costs and will assist in finalizing the acquisition.

Thank you very much for your cooperation and favorable consideration of this offer.

Very truly yours,

<NAME/TITLE>

Enclosure: Appraisal

EXHIBIT 4-6

**SAMPLE VOLUNTARY LETTER FOR ENTITY
WITHOUT EMINENT DOMAIN AUTHORITY**

**ACQUISITION OF A PERMANENT EASEMENT OR REAL PROPERTY INITIAL
NOTICE TO OWNER (ASSUMING NO RENTERS)**

<DATE>

<SELLER's ADDRESS>

Dear <SELLER's NAME>

This is to inform you that <ORGANIZATION/INDIVIDUAL> would like to purchase the property located at <STREET ADDRESS OR OTHER PROPERTY IDENTIFICATION> if a satisfactory agreement can be reached.

Because Federal funds may be used in the purchase, however, we are required to disclose to you the following information:

- 1) The sale is voluntary. If you do not wish to sell, the <AGENCY> will not acquire your property. The <AGENCY> does not have the power to acquire your property by condemnation (i.e., eminent domain).
- 2) We estimate the fair market value of the property to be \$<AMOUNT>.

Since the purchase would be a voluntary, arm's length transaction, you would not be eligible for relocation payments or other relocation assistance under the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (URA), or any other law or regulation.

Again, please understand that if you do not wish to sell your property, we will take no further action to acquire it.

If you have any questions about this matter, please contact <NAME/TITLE>. His/her telephone number is <PHONE NUMBER>.

Sincerely,

<NAME/TITLE>

CHAPTER 5
LABOR STANDARDS

- I. **SYNOPSIS**
- II. **GENERAL RESPONSIBILITIES**
- III. **MONITORING & ENFORCEMENT OF FEDERAL LABOR STANDARDS PROVISIONS**
- IV. **USE OF VOLUNTEERS**

I. **SYNOPSIS**

CDBG activities are subject to Federal labor standards requirements as identified in your contract. The **Federal** labor requirements for which the CDBG/HOME program monitors are detailed in this chapter.

II. GENERAL RESPONSIBILITIES

The labor standards for construction contracts are set forth in four federal statutes:

Section 110 of the Housing and Community Development Act of 1974, as amended (Title I): 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 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. This section also applies to the rehabilitation of residential property if property consists of eight or more units.

Davis-Bacon Act: All laborers and mechanics employed by contractors or subcontractors on the project shall be paid wages at rates no less than those prevailing on similar construction in the locality as determined by the Secretary of Labor; regardless of contractual relationship. Wages must be paid weekly.

Contract Work Hours and Safety Standards Act (for prime contracts over \$100,000): The wages for every mechanic and laborer employed on the job shall be computed on the basis of a standard work week of forty hours. Employees shall be compensated at a rate of not less than one and one-half times the basic hourly rate of pay for all hours worked in excess of forty hours in the work week.

No person employed on the job site shall be required to work in surroundings or any other working conditions which are unsanitary, hazardous or dangerous to the health and safety of an employee as determined by the Construction Safety and Health standards promulgated by the Secretary of the United States Department of Labor.

Liquidated damages for failure to pay overtime will be computed in the sum of \$10 for each calendar day on which an employee was required or permitted to work in excess of the standard work week of forty hours without payment of overtime wages, without reference to work in excess of eight hours per day

Copeland Act (Anti-Kickback Law): Whoever by force, intimidation or threat of procuring dismissal from employment or by any other manner whatsoever, induces any person employed in the construction, prosecution, completion or repair of any public building, public work or building or work financed in whole or in part by loans or grants from the United States, to give up any part of the compensation to which he/she is entitled under their contract of employment, shall be fined not more than \$5,000 or imprisoned not more than five years, or both.

III. MONITORING/ENFORCEMENT OF FEDERAL LABOR STANDARDS PROVISIONS

Clark County CDBG/Home program shall be responsible for monitoring of contractor compliance with the Federal Labor Standards Provisions. Grant Recipients (Grantees) are responsible for supporting the Clark County CDBG/Home program in its efforts to monitor contractor compliance with Federal Labor Standards Provisions and more importantly are *responsible for the enforcement* of contractor compliance with the Federal Labor Standards Provisions. A number of actions must be taken at each step of the bidding & construction process for monitoring and enforcement of the Federal Labor Standards Provisions. These actions (generally listed in order of occurrence during the construction process) are as follows:

1) Before Advertising Bids

- Grantee requests from CDBG staff a copy of Federal Labor Standards Provisions (Supplementary General Conditions) for inclusion in bid document/quote package.
- Grantee submits draft bid/contract document for review to Clark County CDBG/HOME Coordinator at least ten days prior to advertisement of bid.

2) Ten Days Before Bid Opening

Grantee requests a copy of the current federal wage decision from Clark County CDBG/HOME Program *ten days before bid opening*. The updated wage decision must be sent to all planholders in a formal addendum to the bid document. This updated wage decision will apply to all work covered by the construction contract to be awarded under that bid advertisement. An exception to the “lock-in” date described above applies when the construction contract award is delayed 90 days or more after the bid opening. In these cases, changes in the wage decision published between the bid opening and construction contract award date must be included in the construction contract.

3) Before Awarding Construction Contract

Grant Recipient contacts Clark County CDBG/HOME Coordinator to verify eligibility (check for debarment) of the general contractor before awarding the construction contract.

4) Before Construction Begins

Grantee holds pre-construction conference with representatives to ensure that federal labor standards requirements are discussed with the general (prime) contractor before construction begins. The Clark County CDBG staff shall be responsible for leading the labor standards discussion. In scheduling the pre-construction conference, grantee should ask prime contractor to bring along person(s) responsible for doing company payroll.

III. MONITORING/ENFORCEMENT OF FEDERAL LABOR STANDARDS PROVISIONS (continued)

5) During Construction

During the period of construction, Clark County staff is responsible for the following:

- Inform, advise and support contractor compliance.
- Review certified payroll reports for compliance.
- Monitor for violations and investigate probable violations and complaints of underpayment.

If it's determined that contractor is in violation of Federal Labor Standards Provisions, Grantee shall be required to take enforcement measures (withhold progress payment, assess liquidated damages, take legal action as appropriate and necessary, etc.).

6. Before Releasing Retainage on Construction Contract

Before releasing retainage, grantee must check with County CDBG staff to make sure construction contractor has satisfied all requirements under the Federal Labor Standards Provisions. Note that for construction projects subject to Federal Labor Standards Provisions, the County shall reserve the final 10% of grant funds budgeted on the construction line item (as specified in Exhibit A of Construction Contract) pending the County's receipt of a complete and correct set of certified payrolls from project contractor(s).

IV. USE OF VOLUNTEERS

Volunteers on Community Development Block Grant projects are exempt from the prevailing wage law (Davis-Bacon) requirements if they are providing their services to a grant recipient (local government or non-profit organization) without promise, expectation, or receipt of compensation and they are not otherwise employed, at any time, on the project. Volunteers cannot be paid for materials or supplies unless the volunteer has obtained the items in compliance with state and federal procurement laws. Federal rules at 24 CFR Part 70.3 cover the use for use of volunteers on CDBG assisted construction projects. If volunteers are going to be used on the project, the recipient must comply with the following reporting requirements:

- A) If the project will involve volunteers that will receive any kind of benefits, the grantee must get pre-approval from Housing and Urban Development (HUD) through the Clark County CDBG/HOME Program. In addition, the recipient must keep and submit the following documents to the Program for review and for submission to HUD:
 - i. For projects that include paid construction workers, the recipient must record volunteers' names and hours volunteered; and
 - ii. For projects that will only use volunteers, recipients must record the number of volunteers and the number of hours worked, collectively.

- B) If none of the project volunteers will receive benefits, then HUD's pre-approval is not required but the same information as described in A(i) and A(ii) is required.

The federal regulations do not require any specific reporting format. Recipients may use the certified payroll report form to keep the required records because it will capture all the necessary information and reduce the chance of misunderstandings.

CHAPTER 6

FINANCE/ACCOUNTING

I. SYNOPSIS

II. GENERAL RESPONSIBILITIES

- 1) Project Budget
- 2) Grant Contract Amendments
- 3) Internal Controls
- 4) Financial Reporting
- 5) Other Financial System Requirements

III. FINANCIAL PROCEDURES

- 1) Authorizations
- 2) Budget Summary
- 3) Budget Revisions
- 4) Reimbursement (Cash Requests) for Block Grant Projects

IV. PROGRAM INCOME

V. SUBRECIPIENT AUDITS

VI. SUBRECIPIENT DOCUMENTATION

EXHIBIT 6-1 AUTHORIZATION SIGNATURE CARD

EXHIBIT 6-2 BUDGET REVISION FORM AND INSTRUCTIONS

EXHIBIT 6-3 VOUCHER REQUEST FORM AND INSTRUCTIONS

I. SYNOPSIS

This section addresses the financial and accounting aspects of the Community Development Block Grant Program. The following procedures are guidelines that should be adhered to in financial transactions to meet federal requirements.

II. GENERAL RESPONSIBILITIES

In accordance with OMB circular A-110, A-128 or A-133 all subrecipients must meet the audit requirements specified therein. Additionally, all financial transactions with CDBG monies are subject to federal audit. Subrecipients must be prepared to explain how transactions were made, why, and be able to account for any funds expended.

1) Project Budget

The approved grant budget contained in the county grant agreement (Grant Agreement Exhibit A) identifies the activities determined to be eligible for reimbursement by grant funds. Grant funds cannot be used for pre-agreement costs that are incurred before the grant contract is signed (unless specifically pre-authorized by the county). The subrecipient's financial system must have procedures in place to monitor obligations and expenditures against the approved budget in the grant contract. The system should:

- Maintain the amounts budgeted for eligible activities in its accounting records;
- Include both obligations/expenditures and unexpected/unobligated balances for each line item; and
- Periodically compare actual obligations and expenditures to-date against planned obligations and expenditures and against projected accomplishments for the grant project.

2) Grant Contract Amendments

Recipients must obtain an amendment to the approved grant contract if:

- The scope of work/project changes;
- The project cannot be completed by the project termination date contained in the contract.

Contact your CDBG/HOME Coordinator if an amendment is needed.

3) Internal Controls

Internal controls are a combination of procedures, specified job responsibilities, qualified personnel, and records which create accountability in the financial management system and safeguard its cash, property, and assets. The internal controls must protect the integrity of the grant funds. At a minimum, the system should provide for adequate separation of duties so that no one person has authority over an entire financial transaction. One person should not have control over more than one of the following:

- Authorization to execute transaction;
- Recording the transaction; and
- Custody of the assets involved in the transaction.

II. **GENERAL RESPONSIBILITIES (continued)**

Subrecipients should consult with their auditor/accountant to be sure that adequate internal control procedures are in place for the grant project.

4) **Financial Reporting**

The subrecipient's financial system must generate regular reports that permit an observer to compare actual expenditures against the approved budget (from the grant agreement).

5) **Other Financial System Requirements**

A subrecipient's financial system must be set up to satisfy an auditor conducting a single unit or independent audit, whichever applies. During an audit, the auditor will examine records to ascertain if:

- Funds are properly budgeted and approved;
- Budget revisions have been documented and approved;
- Personnel charges are properly allocated to the block grant and based on payroll documents such as time and attendance records;
- All expenditures can be traced to source documents (i.e., purchase orders, invoices, canceled checks);
- Drawdowns have been timely;
- Only allowable funds have been claimed on the project;
- The subrecipient accounting system reflects all assets, liabilities, etc.;
- Property has been managed and inventoried properly;
- In-kind costs and costs billed to other funds are clearly documented; and,
- There are billings for indirect costs, an indirect cost allocation plan has been approved by the U.S. Department of Health and Human Services.

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

III. FINANCIAL PROCEDURES

To assist subrecipients in meeting the financial guidelines, the Clark County CDBG Program has developed standard procedures for Authorizations, Budget Summaries, Budget Revisions and Reimbursement (Cash Requests) for Block Grant Projects

Technical assistance in setting up proper internal controls and record keeping can be obtained through the Clark County Community Development Block Grant Program. However, as a subrecipient, you will ultimately be held responsible for management of the project and budget.

1) Authorizations

The CDBG Authorized Signature Form (Exhibit 6-1) authorizes specific individuals to submit budget revision forms and request funds. The card is signed by the subrecipient's highest executive officer (mayor or board chairperson). The CDBG Authorized Signature Form has space for six signatures so that the recipient will be able to request funds even if one or two persons are absent.

If the authorized signers change for any reason, completion of a new signature authorization form is required.

2) Budget Summary

The Budget Summary form, part of your CDBG agreement, is used in conjunction with the Voucher Request Form. It is designed to enable subrecipients, program staff, county finance and federal auditors to more precisely identify and track the expenditure of program funds.

3) Budget Revisions

A Budget Revision Form (Exhibit 6-2) is provided for purposes of making a budget revision. A request for a Budget Revision Form must be submitted to the Department of Community Services **BEFORE** a subrecipient:

- (1) Overspends on one budget line item and proposes to use the surplus remaining in another budget line item to cover any shortfall; or
- (2) Allows costs for any budget line item or the total unobligated balance of CDBG project funds to be reduced to a level that is inadequate to meet current or anticipated obligations.

4) Reimbursement (Cash Requests) for Block Grant Projects

When subrecipients receive billings or incur costs for projects, the amount due can be paid and then reimbursement may be requested from the County, or the subrecipient may request reimbursement from the County and then pay the amount due. **Payment of billings or incurred costs must be in proportion to the subrecipient's match for the line item from which funds are to be drawn.** For example, if a contractor presents a bill for \$100,000 and the subrecipient match is 20% for the line item, the Voucher

III. FINANCIAL PROCEDURES (continued)

Request to the CDBG Program would be for \$80,000 (80% of \$100,000) and the subrecipient would pay \$20,000 (20% of \$100,000) with their match. Budget line items which do not have a match would be fully reimbursed with CDBG funds.

Costs which are charged must be included in the approved Budget Summary and must be allowable under Attachment B of A-87 (Cost Principles for State and Local Governments) or Attachment B of A-122 (Cost Principles for Non-Profit Organizations).

Drawdowns must be disbursed or spent by subrecipients within 72 hours of receipt. Subrecipients should not have any CDBG funds on hand after three days.

To request payment for projects, the Voucher Form (Exhibit 6-3) must be fully completed and accompanied ***with backup documentation of costs***. The Voucher Request Form (Exhibit 6-3) includes the amount requested by line items according to the contract budget for the project.

THE COUNTY WILL WITHHOLD THE FINAL PAYMENT TO SUBRECIPIENTS UNTIL ALL NECESSARY FORMS INCLUDING FORMS REQUIRED OF THE CONTRACTOR BY THE DAVIS-BACON ACT, ARE COMPLETED.

IV. PROGRAM INCOME

Program income is defined as the gross income that is received by a subrecipient and has been directly generated from the use of CDBG funds. Examples include:

- Gross income from the use or rental of real property that has been acquired, constructed, or improved with CDBG funds. Cost incidentals to the generation of the income are deducted from the gross income.
- Interest earned on program income is also considered program income.
- Funds collected through special assessments that are made against properties owned and occupied by non-low and moderate-income households where the assessments have been made to recover some or all of the CDBG portion of a public improvement.
- Proceeds from the disposition of real property that has been acquired or improved with CDBG funds where the disposition occurs within five-year period after the expiration of the agreement between the County and the subrecipient for the specific project.

The contract between each subrecipient and the County requires that the subrecipient return any program income to the county. The County will then, as required by the CDBG regulation, use the funds for other CDBG eligible activities.

V. SUBRECIPIENT AUDITS

Each subrecipient must provide the CDBG Program a copy of their most recent independent fiscal audit. For cities, the audit must conform to A-128 and the Washington State Auditor's Office requirements. Non-profits must submit a copy of their most recent independent fiscal audit or have one prepared that meets generally accepted auditing standards (American Institute of Certified Public Accountant) and OMB Circular A-122 and A-133.

VI. SUBRECIPIENT DOCUMENTATION

Subrecipients managing more than one CDBG project, shall maintain separate files for each project. Chapter 7 explains how to set up a filing system.

EXHIBIT 6-1

AUTHORIZATION SIGNATURE CARD

Project Name _____

Subrecipient's Name _____

Address _____

City, State, Zip _____

Telephone Number _____

SIGNATURE OF INDIVIDUALS AUTHORIZED TO SIGN FINANCIAL DOCUMENTS:

Any authorized signature is required on financial documents. It is suggested that two or more persons be authorized so that one could sign in the absence of the other(s).

NAME (Typed)

SIGNATURE

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

Date

Signature of Authorized Official

Title of Authorized Official

EXHIBIT 6-2

Request for Budget Revision – Clark County CDBG / HOME PROGRAM

Date: _____
 Project Title: _____
 From: _____
 Address: _____

Budget Revision No. _____
 Project Number: _____
 Contact Person: _____
 Telephone: _____

| Budget Category | Approved Budget | Revised Budget | Increase/(Decrease) |
|-----------------|-----------------|----------------|---------------------|
| | | | |
| | | | |
| | | | |
| | | | |
| | | | |
| | | | |
| | | | |
| | | | |
| TOTAL | | | |

EXPLANATION OF REQUEST: _____

AUTHORIZATION: _____

 Authorized Signature for Project

 Title

 Date

INSTRUCTIONS FOR COMPLETING THE REQUEST FOR BUDGET REVISION (FORM 6-2)

- (a) Budget Category: Line item to be changed (i.e., professional services, construction contracts).
- (b) Approved Budget: Amount awarded for budget line item.
- (c) Revised Budget: New amount requested for the line item.
- (d) Increase/(Decrease): The difference between approved budget and revised budget.
- (e) Explanation of Request: State why the budget revision is necessary.
- (f) Authorization: Have an authorized person sign the Budget Revision Request.
- (g) Forward the signed Budget Revision Request to the Community Development Block Grant Program retaining one copy for your records. After review, and if approved, a copy will be returned confirming the budget revision has been fully processed.

EXHIBIT 6-3

VOUCHER REQUEST – CLARK COUNTY CDBG PROGRAM

Date: _____

Request No.: _____

Title: _____

Project Number: _____

Contract No.: _____

From: _____

Contact Person: _____

Address: _____

Telephone: _____

| Activity | CDBG Budget | Expended this Voucher | Expended to Date (including this voucher) | Balance | |
|------------------------------|-------------|-----------------------|---|---------|--|
| 1.) ACQUISITION | | | | | |
| A. Purchase Price | | | | | |
| B. Closing/Recording Costs | | | | | |
| C. Appraisal/Survey | | | | | |
| SUBTOTAL | | | | | |
| 2.) CONSTRUCTION | | | | | |
| A. New Construction | | | | | |
| B. Rehabilitation | | | | | |
| C. Architect/Engineer | | | | | |
| SUBTOTAL | | | | | |
| 3.) DEVELOPMENT COSTS | | | | | |
| Relocation | | | | | |
| SUBTOTAL | | | | | |
| PROJECT TOTAL | | | | | |

VOUCHER AMOUNT REQUEST: _____

Check box when this is a final request.

CERTIFICATION: I certify that to the best of my knowledge and belief, this report is correct and complete, and that all expenditures are for the purpose set forth in the grant award documents. Supporting documentation is attached.

AUTHORIZATION:

Authorized Signature for Project _____ Title _____ Date _____

FOR OFFICE USE ONLY:

| Review | CPA Number | Accounting # | IDIS Activity # | IDIS Voucher | Date | Reporting Category |
|--------|------------|--------------|-----------------|--------------|------|--------------------|
| | | | | | | |

| Project | Task | Award | Expenditure | Org | Amount | Ref. # |
|---------|------|-------|-------------|-----|--------|--------|
| | | | | | | |

Reviewed and Approved : _____ Date: _____

Work Order _____ Initials: _____ IDIS Activity # _____

INSTRUCTIONS FOR COMPLETING THE VOUCHER REQUEST FORM (EXHIBIT 6-3)

The Voucher Request Form (Exhibit 6-3) is used to request CDBG funds. **Only** CDBG funded budget items should be included. For record keeping purposes it is important that you submit a separate voucher request for individual projects. Do not request reimbursement for two different CDBG funded projects on one Voucher Request form. Provide all data requested. Fill in the ending date for which the reimbursement is being requested. Attached bills or invoice must coincide with the dates cited. As an effort to control the costs of processing Voucher Request and transferring funds from the U.S. Treasury, the minimum Voucher Request amount must exceed \$1,000.00 unless it is the final Voucher Request.

Listed below is a description of the information by item numbers needed to complete the form:

- (1) Indicate current CDBG budget summary breakdown by category;
- (2) Amount of CDBG funds expended during reporting period. If attaching invoices, please clearly label which line item each invoice is being charged to;
- (3) Total CDBG amount expended to date;
- (4) Amount of remaining CDBG funds available;
- (5) Total voucher amount requested.

The certification should be signed by the authorized individual preparing it.

Send one original voucher request form to CDBG (retain one copy for your records) along with documentation of the costs you are charging to the CDBG Program (i.e. invoices, payroll time sheets, etc.).

After Voucher Requests are received by the Community Development Block Grant Program, please allow four days review by CDBG staff. The CDBG staff will then forward approved voucher requests to the DCS Accounting Department. Upon approval, checks will generally be mailed 15 days from the date the voucher is received by Accounting.

2. Attach Bills, Invoices and Other Documentation

Attach all bills, invoices, and other documentation showing the payment for reimbursement amount requested.

Work performed by appraisers, architects, engineers, or consultants must include a statement of the work completed that justifies the requested billing. A spreadsheet of the bid items and units completed for the pay period provided by the Engineer or Architect can be attached. This should include the Request for Payment signed by the

owner, contractor and architect or engineer. Evidence that the city or agency have authorized and paid the billing should be attached.

For Direct Services Projects: If a project involves a direct service, describe the type of unit provided; the total of persons to be provided for upon completion; the total number of persons served in this reporting period; and cumulative total.

If further clarification of any or all the items on the required forms or help is needed in completing them, please contact the Community Development Block Grant Program.

CHAPTER 7

OTHER FEDERAL REQUIREMENTS (FAIR HOUSING, ACCESSIBILITY FOR PERSONS WITH DISABILITIES & LEAD BASED PAINT)

I SYNOPSIS

II. GENERAL RESPONSIBILITIES

I. SYNOPSIS

The CDBG Program triggers several additional federal “cross-cutting” requirements that affect CDBG projects. These requirements include

- 1) Fair Housing
- 2) Handicapped Accessibility
- 3) Lead Based Paint (applies to residential housing projects/programs)

Summary information about compliance with each of these requirements can be found in this chapter. In order to assure compliance with these requirements, the CDBG agreements entered into for each project spell out several duties and obligations of the project owner with respect to federal regulations.

II. GENERAL RESPONSIBILITIES

1) Fair Housing Activities

Project subrecipients, as subrecipients of CDBG funds, are responsible for taking necessary and appropriate actions to prevent discrimination in federally assisted housing and lending practices related to loans insured or guaranteed by the Federal government. Further, subrecipients should strive to promote a strategy for increasing the choice of housing opportunities for low and moderate income persons including minorities and female-headed households. Possible actions which project subrecipients, particularly municipalities or public agencies, can take are as follows:

- review zoning, building, and housing codes and revise if necessary to encourage equal opportunity in housing;
- consider fair housing priorities when developing land use plans for public facilities and housing;
- develop or strengthen local fair housing laws, including enforcement powers and sanctions;
- require private developers and real estate agents to use HUD affirmative marketing and advertising practices; and,
- make available at public locations the Clark County "Fair Housing, It's The Law" brochure.

2) Handicapped Accessibility

A) Americans with Disabilities Act: The Americans with Disabilities Act provides comprehensive civil rights to individuals with disabilities in the areas of employment, public accommodations, state and local government services and telecommunications. The Act, also referred to as the ADA, also states that discrimination includes the failure to design and construct (built for first occupancy after January 26, 1993) that are accessible to and usable by persons with disabilities. The ADA also requires the removal of architectural and communication barriers that are structural in nature in existing facilities. Removal must be readily achievable, easily accomplishable and able to be carried out without much difficulty or expense.

B) Section 504 Handicap Accessibility Policy: Section 504 was enacted as part of the Rehabilitation Act of 1973. It prohibits discrimination on the basis of handicap in all programs and activities receiving federal assistance and, in 1978, it was amended to apply to all programs conducted by the Federal Government. This regulation provides that no qualified individual with handicaps shall, because a recipient's facilities are inaccessible to or unusable by individuals with handicaps, be denied the benefits of, be excluded from participation in, or otherwise be subjected to discrimination under any program or activity that receives federal financial assistance. Clark County provides a TDD phone for the hearing impaired (360-737-6065) and will provide sign interpreters for public meetings upon request for CDBG program accessibility. All public meeting sites are handicap accessible and auxiliary aids are available for those individuals requesting them.

Structures built or rehabilitated must be made handicapped accessible. Structures designed, built, or altered (rehabilitated) with CDBG funds shall conform to the Uniform Federal Accessibility Standards (UFAS), which was published in the Federal Register on August 7, 1984 (49 CFR 13518). The UFAS technical requirements meet or exceed comparable provisions of ANSI 117.1-1980 Specifications For Making Buildings and Facilities Accessible to, and Useable by Physically Handicapped People.

3) Lead-Based Paint (applies to residential housing projects/programs)

The use of lead-based paint is prohibited. CDBG recipients must certify that no lead-based paint will be used in residential units assisted with CDBG funds and must document that all occupants of structures built before 1978 have been notified of the hazard of lead-based paint.

The Federal requirements pertaining to Lead-Based Paint are contained in 24 CFR Part 35. A fact sheet containing information about current efforts to protect children from lead-based paint poisoning has been prepared by the Environmental Protection Agency and HUD. A copy may be obtained from the Clark County CDBG/HOME Program.

- A) Notification Requirements: Landlords renting units in structures built before 1978 must utilize the pamphlet entitled “Protect Your Family from Lead in Your Home” to notify their tenants of the potential hazards of lead-based paint (copies of this pamphlet are available from the Clark County CDBG/HOME Program). The same pamphlet must also be used to notify buyers of homes built before 1978 of the hazards of lead-based paint. The landlord/seller must document that the tenant/buyer was provided with the pamphlet.
- B) Identification of Defective Paint Surfaces: Grantees must complete visual inspections for defective surfaces in all property constructed prior to 1978. All interior and exterior surfaces, including those in common areas must be examined. Subrecipients must contact their Clark County CDBG/HOME Coordinator if defective paint surfaces are detected. Surfaces identified as being defective shall require further analysis and shall require interim controls (a set of measures designed to temporarily reduce human exposure to lead-based paint hazards). The presence of lead based paint may ultimately require lead based paint abatement.
- C) Lead Hazard Evaluations: Federal regulations required that Lead Hazard Evaluations be performed by EPA-certified inspectors on all pre-1978 homes receiving over \$5,000 in federal funds. The “chewable surfaces” of any home occupied by a child under seven years old who has an identified blood lead level must be tested for lead content using an approved lead detection method. Subrecipients should keep their CDBG/HOME Coordinator informed of the status/results of lead based paint testing. Lead based paint remediation efforts must be taken if “chewable surfaces” test positive for lead.

CHAPTER 8
DOCUMENTATION, RECORDS
AND MONITORING

I. SYNOPSIS

II. FILING SYSTEM

- 1) Project Files**
- 2) Records Retention**

III. RECORDS/DOCUMENTATION

- 1) Documentation of Program Benefits**
- 2) Project Activity Summary**
- 3) Project Monitoring**

EXHIBIT 8-1 CLARK COUNTY CDBG DIRECT BENEFIT REPORT

I. SYNOPSIS

Clark County CDBG is responsible for collecting pertinent qualifying and performance data from subrecipients for CDBG program reporting, and project monitoring purposes. Subrecipients must keep accurate records that conform to the filing system described below.

This section will explain record keeping and reporting requirements for program benefit information, fair housing actions, displacement, and minority business enterprise participation. Documentation and record keeping of other program components are covered in other sections of this manual on financial documentation, citizen participation, and property acquisition/relocation.

II. FILING SYSTEM

1) Project Files

Subrecipients must be able to fully document their CDBG projects so that compliance with all applicable regulations can be demonstrated. The filing system established should provide a historic account of each project. The files should be maintained in a central location.

The following is a suggested outline for file categories and contents of files for each project:

(A) General Project File

- (i) Project Proposal
- (ii) Project Notice to Proceed from CDBG
- (iii) CDBG Quarterly Reports
- (iv) Direct Beneficiary Data
- (v) Meeting Minutes
- (vi) Correspondence

(B) Financial Records

- (i) Notices of grant awards
- (ii) Authorizations, motions, or resolutions
- (iii) Project Agreement (and agreement modifications) with Clark County
- (iv) Third Party Contracts
- (v) Written Evidence of CDBG Program Approval of Third Party Contracts
- (vi) Budget revisions
- (vii) Bills for payment
- (viii) Copies of reimbursement requests
- (ix) Copies of approved vouchers and warrants
- (x) Payroll time sheets
- (xi) Records of technical assistance monitoring visits
- (xii) Audit records
- (xiii) Approved indirect cost allocation plan, if applicable
- (xiv) Project income records
- (xv) Records documenting source and amount of supplemental (matching) resources
- (xvi) Latest City or Agency Audit

(C) Procurement

- (i) Bid Advertisements
- (ii) Affidavit of Publication
- (iii) RFP's
- (iv) Bids/Proposals
- (v) Price or Cost Analysis
- (vi) All Third Party Contracts
- (vii) Preconstruction Conference Notes
- (viii) Section 3 Documentation

II. FILING SYSTEM (continued)

- (ix) Change Orders
- (x) Pay Estimates
- (xi) Site Inspection Reports
- (xii) Correspondence

(D) Other Federal Requirements

- (i) Lead-Based Paint Documentation
- (ii) Property Acquisition Records

Correspondence should be filed by subject.

2) Records Retention

All records pertaining to your CDBG grant must be retained for at least five years after expiration of the contract and any amendments, completion and resolution of the audit and/or any litigation, whichever is later. If there is any litigation, claim, or audit findings that extend beyond this five-year period, you must retain the records until all litigations, claims, or audit findings involving the records have been resolved. Records for property acquired with grant funds shall be retained for five years after final disposition. Records for any displaced person shall be retained for five years after the person has received final relocation.

III.RECORDS/DOCUMENTATION

1) Documentation of Program Benefits

- A) Limited Clientele & Direct Benefit Projects: The benefits of CDBG-funded projects must be available to anyone regardless of ethnic background, sex, age, national origin or physical or mental handicap. Minorities and low and moderate income persons in particular are expected to benefit from community development programs. Project subrecipients must document the number of minorities and low/moderate income persons served within the jurisdiction or service area. Additionally, outreach efforts must be documented for projects that provide direct services to clients. Action must also be taken to correct conditions which have had limited minority participation in the past.

For documentation purposes, limited clientele and direct benefit (housing rehabilitation, counseling services, and job training) project subrecipients must complete a CDBG Direct Benefit Report (Exhibit 8-1) on an annual basis (July 1 to June 30).

- B) Area-wide & Direct Benefit Projects: The data sources such as surveys and census data, which qualified the project on an area-wide basis, should be retained in the subrecipient's files.

2) Project Activity Summary

Project subrecipients must retain information regarding the status of the project and accomplishments throughout the project as well as at completion of the project.

Record Keeping Responsibilities: The following examples of measures of project progress and accomplishment must be documented and made available for review:

- total number of square feet, linear feet, ramps, etc., constructed or installed;
- number of houses rehabilitated;
- number of jobs filled, training classes held, clients treated; and,
- description of equipment or training supplies purchased.

3) Project Monitoring

Depending on the complexity of the specific project, the CDBG Program staff will formally monitor subrecipients one or more times. Subrecipients will be advised in writing of the monitoring visits. The Monitoring Record (Appendix D) will be used during the monitoring. The results of the monitoring visit will be provided in writing within thirty (30) days of the visit. Corrective actions (detailed in the monitoring findings) may be required. Monitoring visits determine if there are findings, violations of the regulations, concerns, potential for violations or other problems, or no findings and concerns.

Monitoring should not be considered a “one-time event.” It is an effective tool for avoiding problems and improving performance, and is an ongoing process of planning, implementation, communication and follow-up.

EXHIBIT 8-1
CLARK COUNTY CDBG DIRECT BENEFIT REPORT

SUBRECIPIENT:
PROJECT:
DATES COVERED:

Count must all be either by person (P) or by household (H).
Please indicate (P) or (H): ____

Table I: GENERAL INFORMATION

| GENERAL INFORMATION | NUMBER |
|---|--------|
| Total Number of Households/Persons Assisted | |
| "Female Headed" Households | |
| Homeless | |
| Disabled/Special Needs | |

TABLE II: INCOME INFORMATION

| INCOME CHARACTERISTICS | NUMBER |
|--------------------------------------|--------|
| Low and Moderate Income (50-80% AMI) | |
| Low Income (31-49% AMI) | |
| Very Low Income (0-30% AMI) | |
| TOTAL | |

Table III: RACE/ETHNICITY INFORMATION

| RACE CATEGORIES | ETHNICITY | | |
|--|-------------------------------|-------------------------------|------------------------------|
| | Number of Households/ Persons | Number that are also Hispanic | Number that are non-Hispanic |
| Race | | | |
| American Indian or Alaska Native | | | |
| Asian | | | |
| African American or Black | | | |
| Native Hawaiian or Other Pacific Islander | | | |
| White | | | |
| American Indian or Alaska Native <i>and</i> White | | | |
| <u>Asian <i>and</i> White</u> | | | |
| <u>African American or Black <i>and</i> White</u> | | | |
| <u>American Indian of Alaska Native <i>and</i> African American or Black</u> | | | |
| <u>Balance/Other Multi-Racial</u> | | | |
| <u>TOTAL</u> | | | |

APPENDIX A

REGULATORY REFERENCES

Citizen Participation

- CDBG Regulations (24 CFR 570.303)
- Consolidated Plan (24 CFR Part 92)
- Grantee Instructions
- One-for-One

Environmental Review

- CDBG Regulations (24 CFR 570.604)
- National Environmental Policy Act of 1969, regulations at 40 CFR Parts 1500-1508
- HUD Environmental Review Regulations (24 CFR Part 58)
- National Historic Preservation Act (36 CFR Part 800, 1294)
- E.O. 11988, Floodplain Management (24 CFR Part 55)
- E.O. 11990, Protection of Wetlands (24 CFR Part 55)
- E.O. 12372, Intergovernmental Review of Federal Programs (24 CFR 570.612)
- E.O. 12898 - Environmental Justice in Minority Populations and Low-Income Populations (24 CFR Part 58.5)
- Noise Control Act (24 CFR Part 51 (B))
- Clean Air Act 42 U.S.C. 7400 et seq., Section 117 and 176
- HUD Notice 79-33, 24 CFR Part 51 (C,D)
- Clean Water Act (33 CFR Part 230, 320-325)
- Safe Drinking Water Act, 42 U.S.C. 300
- Resources Conservation and Recovery Act, 42 U.S.C. 6901-6987
- Coastal Zone Management Act (15 CFR Part 930)
- Coastal Barrier Resource Act 1982
- Endangered Species Act (50 CFR Part 402)
- Environmental Justice in Minority Populations (59 CFR 7629) 3CFR, 1994 Comp. p859
- Farmlands Protection Policy Act of 1981 (7 CFR Part 658)
- Wild and Scenic Rivers Act (CBQ Memorandum 8-10-80)

Procurement

- CDBG Regulations (24 CFR Part 85, 135, 570, Ch. X, (B))
- Davis-Bacon Act (40 U.S.C. 276A)
- Contract Work Hours and Safety Standards Act (40 U.S.C. 327)
- Civil Rights Act of 1964, Title VI
- Civil Rights Act of 1968, Title VIII
- E.O. 11246 as amended
- DOL Regulations (41 CFR Part 60-1, 60-4, 60-250, 60-741)
- Rie Administration Authorization Act of 1992 (Pub. L. 102-522)
- Flood Disaster Protection Act of 1973 (Pg. 93-234)
- Architectural Barriers Act of 1968 (42 U.S.C. 4151)

APPENDIX A (continued)

Acquisition/Displacement/Relocation

- CDBG Regulations (24 CFR 570.602)
- Federal Uniform Relocation Assistance and Real Property
- Acquisition Policies Act of 1970 (40 U.S.C. 4601) as amended

Finance

- CDBG Regulations (24 CFR Part 570)
- 24 CFR Part 85 Administrative Requirements for Grants and Cooperative Agreements to State, Local and Federally Recognized Indian Tribal Governments. [Applies to the county and local units of government participating in the CDBG Program.]
- OMB Circular A-87, Cost Principals and Standards for Determining Costs Applicable to Grants, Contracts, and other agreements with state and local governments. [Enables grant recipients to determine which costs items are "allowable".]
- OMB Circular A-122, Cost Principals for Non-Profit Organizations. [Enables non-profit organizations to determine "allowable" costs.]
- OMB Circular A-128, Audits of State and Local Governments. [Implements single audits and establishes uniform audit requirements.]
- OMB Circular A-110, Uniform Requirements for Grants to Universities, Hospitals and other Non-Profit Organizations. [Establishes audit requirements for non-governmental recipients of federal grants.]
- OMB Circular A-133, Audits of Institutions of Higher Education and other Nonprofits Organizations. [Supersedes Attachment F, subparagraph 2h, of Circular A-110.]

Records and Documentation

- CDBG Regulations (24 CFR Part 570)
- 24 CFR Part 85
- Civil Rights Act of 1964, Title VI
- Civil Rights Act of 1968, Title VIII
- E.O. 11063
- Section 504 of the Rehabilitation Act (1973) as Amended

Regulatory references are available for review at the Clark County Department of Community Services Community Development Block Grant Program.

APPENDIX B

COMMONLY USED ABBREVIATIONS

| | |
|-------|--|
| ANSI | American National Standards Institute |
| A/E | Architect and/or Engineer |
| BCC | Board of County Commissioners |
| CDBG | Community Development Block Grant |
| CFR | Code of Federal Regulations |
| DCS | Department of Community Services |
| DOL | Department of Labor |
| EO | Executive Order |
| EIS | Environmental Impact Statement |
| FMR | Fair Market Rent |
| FONSI | Finding of No Significant Environmental Impact |
| GPR | Grantee Performance Report |
| HUD | Department of Housing and Urban Development |
| MAI | Member of the Appraisal Institute |
| MBE | Minority Business Enterprise |
| NEPA | National Environmental Policy Act |
| RCW | Revised Code of Washington |
| RFP | Request for Proposal |
| RFQ | Request for Qualification Statement |
| RLI | Request for Letter of Interest |
| UCPB | Urban County Policy Board |
| USC | United States Code |

**INSERT
APPENDIX C
MONITORING RECORD**