

TDA's Office of Rural Affairs

TxCDBG Implementation Training Workshop 2017

PRESENTERS:
DAVID BROWN, VADA DILLAWN, AUBREY-ANN GILMORE, AND CHRISTY PARDEE



TxCDBG Organization

- Assistant Commissioner – Dan Hunter
- Administrator – ORA Rick Rhodes (retiring August, 2017)
- State Director – Suzanne Barnard
- Assistant Director – Erica Garza
- Team Leads:
 - Program Monitor – Del Serna
 - Program Implementation – Chad Hinds
 - Contract Specialist – Melissa Gonzales
- Environmental Regulations and Labor Standards Officer – David Brown

Today's Speakers

- Speakers** (alphabetical order):
- David Brown - CDBG Environmental Regulations and Labor Standards Officer (Ch. 3, 5, 7,13)
 - Vada Dillawn – Program Implementation Specialist (**State of the Union; What's New**: Ch. 4, 6, 10)
 - Aubrey-Ann Gilmore – Program Implementation Specialist (Downtown/Mainstreet Application, Ch.1/2, 12, TCF)
 - Christy Pardee – Contract Specialist (Ch.1/2, 11)

Today's Presentation & Format

- Highlights TxCDBG Program – State of the Union
- Provides an overview of new policy changes for the 2017 *TxCDBG Project Implementation Manual*
- Brief film about Fair Housing
- Colonia Fund Construction Application Seminar
- *Questions*
 - *Have Parking Lot with Post-It notes; will answer during break or by email*
 - *Staff members available during breaks*
 - *Email Your Contract Specialist*

Grant Administration Certification

- To administer a TxCDBG contract, the administrator (city/county staff or contracted)
 - Must attend CDBG training annually; or
 - Receive alternative annual certification
- An administrative consulting firm need NOT send its entire consulting staff to a workshop.
- A city or county choosing to self-administer must have at least one certified administrator in its employ.
- Certified administrators are responsible for all material presented (2 days).

Basics: Two Main Components

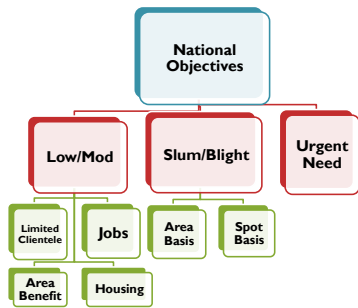
Federal (HUD)	State (TxCDBG)
<ul style="list-style-type: none"> • Entitlement Areas 	<ul style="list-style-type: none"> • Cities less than 50,000 • Counties less than 200,000 • Nonentitlement

- Authorized under Title I of the Housing and Community Development Act of 1974, as amended.
- The U.S. Department of Housing and Urban Development (HUD) is the administering agency for the CDBG Program.
- Congress appropriates funds annually.

National Program Objectives

- Grant Recipients must document how they have met the CDBG National Program Objective (NPO) specified in their application.
- The NPO is not met until funds have been expended and documentation has been completed.
- One of three **'national objectives'**:
 - 1) Principally benefit low and moderate income (LMI) persons.
 - 2) Eliminate or prevent slums and blight.
 - 3) Address imminent health and safety problems.

National Program Objectives

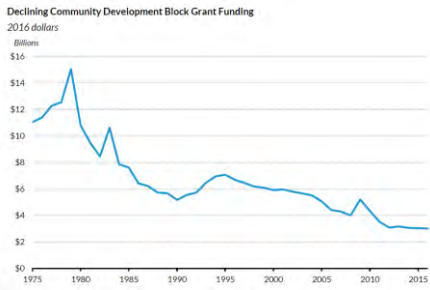


Fund	Applications due	Awards Anticipated
Colonia Planning	September 18, 2017	January 2018
Colonia Fund Construction	RFQ – Phase I: May 1, 2017 Application: Sept. 18, 2017	January 2018
Main Street and Downtown Revitalization (MS-DRP) Programs	RFQ – Phase I: June 15, 2017 Application: October 16, 2017	February 2018
Community Development (CD) Fund	February 9, 2017	Aug/Sept 2017 August 2018
Texas Capital Fund – Real Estate & Infrastructure	20 th of each month	
STEP Program	First Come, First Serve	February 2018
Disaster Relief	“ “ “ “	

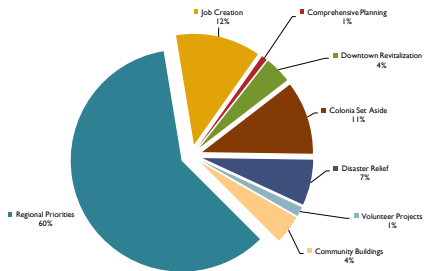
Do More with Less



Declines in Funding CDBG



2016 TxCDBG Funding Priorities



2017

2017 Policy Changes - Forms

Less forms, less paperwork



2017 Policy Changes - Forms



2017 Policy Changes - Forms

- No longer required to file a quarterly report for most grants
- Quarterly reporting still required for Planning (B8)
- Project Status is reported each time there is a draw request!

2017 Policy Changes – A203 Example

Example:

Central City – water and sewer construction
 TxCDBG Project Number 7217999
 Grant Amount: \$ 280,000
 Community Development (CD) project
 Budget (IDIS): Construction (03J)
 Engineering (03J)
 Admin (21A)

2017 Policy Changes – A203 Example

First Draw Example

- 1st Draw - 10/20/2017
- <\$4000> for Engineering
- <\$3500> for Admin

Ledger Tab:

- Enter contract info including IDIS Numbers
- Contract Type – Important – Populates dates on Draw
- Enter Draw I & amounts (negative for Draws)

Draw Form Tab:

- All updated
- Enter Contract Start Date
- Enter Contract Start Date – Populates
 - Months – If positive, behind schedule
 - If Revised – get TDA's ok

2017 Policy Changes – A203 Example

1. SAVE FILE !!

Remember: A203 autopopulates and tracks all of your entered draws & modifications

2. After saving:

- Print
- Sign - 2 authorized signatures
- Send to TDA with backup

2017 Policy Changes – A203 Example

First Budget Modification Example

- 1st Budget Modification – 12/01/2017
 - \$5000 increase in construction budget
 - <\$5000> decrease in engineering budget

Ledger Tab:

- All contract info already entered
- Enter Budget Mod. I & amounts (positive for Increase in Construction; negative for Engineering)
- Must Equal -0-

Draw Form Tab:

- All updated!
- Enter any new actions (status reports) that need to be reported
- Save, sign and send in

2017 Policy Changes - Forms



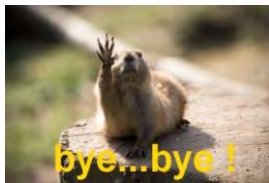
2017 Policy Changes - Forms

- Labor standards reporting and significant dates can be entered now upon the Financial Interest Report (FIR)(A503)
- Due date for FIR has not changed – within 30 days of executing the contract with the vendor or within 30 days of grant award, whichever occurs last.
- All FIR emailed to Contract Specialist and all to cc: Labors

2017 Policy Changes - Forms

- For Construction Contracts –
 - a. Contractor to submit a Certificate Regarding Lobbying *with their bids* for awards > \$100,000
 - b. Certificate Regarding Lobbying found in Appendix F (Construction) and Appendix G (Materials)

2017 Policy Changes – Other Deletions



2017 Policy Changes – Deletion of Environmental Exemption

- Environmental Exemption for admin and engineering – no longer required!
- Is considered part of the primary activity and not considered a ‘choice limiting action’
- Immediate – as of June 8, 2017

2017 Policy Changes – Deletion of Recovered Materials Requirements

- No longer required to look at recovered materials for constructions and materials contract
- No requirement of contractor’s certification of recovered materials

2017 Policy Changes – Deletion of Profit Disclosure

- No longer required to disclose and negotiate profit for any contract (competitively/noncompetitively procured contracts).

2017 Policy Changes - Conflict of Interest



2017 Policy Changes - Conflict of Interest

Two types of Conflicts of Interest:

- Procurement
 - 24 CFR 570.489(g) & 2 CFR 200.318(c)
- Non-procurement
 - 24 CFR 570.489(h)

• Very similar to each other and very similar to 2016 policy.

2017 Policy Changes - Conflict of Interest – Procurement

Conflict of interest associated with Procurement:

- Procurement of:
 - Supplies
 - Equipment
 - Construction
 - Services
- Everything else: Non-procurement

2017 Policy Changes - Conflict of Interest – Procurement

Procurement

(2 CFR 200.318(c)(1))

No employee, officer, or agent of GR, may participate in the selection, award, or administration of a contract if he/she has a *Real or Apparent* Conflict of Interest.

Conflict of interest occurs when employee, officer, or agent or any family member or his organization has a financial or other interest in or a tangible benefit from a firm considered for a contract.

Note: No exceptions allowed for procurement conflicts of interest.

2017 Policy Changes - Conflict of Interest – Procurement

Example:

The City of Strawberry Fields sought a contractor to complete some drainage improvements by sealed competitive bids.

- The project will be funded with CDBG funds
- Kite and Associates is the engineering firm which will oversee the project. Mr. Kite is the owner.
- Penny Lane Construction Co. was the low bidder for this job.
- Mr. Kite is the brother of the owner of Penny Lane Construction Co.

Can the City award the contract to Penny Lane Construction Company?

2017 Policy Changes - Conflict of Interest – Procurement

Answer:

- No – a conflict of interest exists because they are immediate family members.
- Conflict of Interest exists for an agent of the grantee to administer a contract supported by federal funds if a member of his “immediate family” has a financial interest in the company selected for the award.

2017 Policy Changes - Conflict of Interest – Non-Procurement

Non-Procurement
(24 CFR 570.489(h))

No person who is an employee, agent, consultant, officer, or elected or appointed official of recipient or sub-recipient who:

2017 Policy Changes - Conflict of Interest – Non-Procurement

- **Exercises any functions or responsibilities with respect to CDBG activities,**
- **Is in a position to participate in the decision making process,**
- **Or gains inside information with regard to such activities may:**

2017 Policy Changes - Conflict of Interest – Non-Procurement

- **Obtain a financial interest or benefit from a CDBG activity,**
- **Have a financial interest in any contract with respect to a CDBG activity or its proceeds,**
- **For themselves or those they have business or immediate family ties.**
- **Regulation applies during the person’s tenure and for one year after.**

2017 Policy Changes - Conflict of Interest – Non-Procurement

- **Exceptions for non-procurement may be granted on a case-to-case basis. See listing of exceptions and requirements at 24 CFR 570.489(h).**
- **Nature of the conflict must be disclosed.**
- **No exceptions will be granted after the COI has occurred.**

2017 Policy Changes - Conflict of Interest – Non-Procurement

Example:

The city of Strawberry Fields recognizes that it would be a conflict of interest for the City to rehabilitate a building using CDBG funds when its mayor, Mayor Rita Metermaid is also partial owner of the building to be rehabilitated.

- The City would like an exception to this conflict.
- The City Council at its regular meeting approved a Resolution authorizing the City to enter into an agreement to rehabilitate the building. The Mayor recused herself from voting on the resolution.

Is this notice adequate?

2017 Policy Changes - Conflict of Interest – Non-Procurement

Answer: No, because the disclosure did not inform the public about the nature of the conflict.

At a minimum, disclosure should inform the public that:

1. The City is awarding CDBG funds to rehab a building owned by the Mayor.
2. The City acknowledges that this is a conflict of interest.
3. The City is publicly disclosing such a conflict in connection with a request the City has made to the State for an exception to the conflict.

Conflict of Interest

Other requirements:

1. Code of Conduct Policy (Sample Appendix C) - Group A docs.
2. In addition, contractors that develop or draft specifications, requirements, statements of work, or invitations for bids or requests for proposals must be excluded from competing for such procurements. (2 CFR 200.319).

2017 Policy Change –



2017 Policy –

- **Grant Recipient needs Complaint /Grievance Procedures with respect to CDBG grant**
- **If a complaint:**
 - **Grant Recipient Needs to keep records of the complaint, including how the problem resolved**

2017 Policy Changes – Labor violations - Liquidated Damages

- If Liquidated Damages equal or less than \$100



Grant Recipient encouraged to file Waiver request (see Sample A714)

- Remember increase for violation: \$10 → \$25 per day/ per employee.

2017 Policy Change – Environmental Suspension of Work



- A party may begin a project in good faith as a private project and is not precluded from later deciding to apply for federal assistance. If the choice-limiting action was undertaken prior to the resolution authorizing submittal of the TxCDBG application, the activity that was started is **not** required to be suspended.
- Ask TDA
- When apply for federal funding, must cease *further* choice limiting actions

2017 Policy Change – Transferring Employees



2017 Policy Change – Transferring Employees

For companies with multiple locations (Texas Capital Fund (TCF)):

- Up to 20% of jobs created can be filled by persons transferred from one location to another
- Each LMI employee being transferred must be documented prior to the transfer
- Starting payrolls and transfer requests will be compared to final payroll

2017 Policy Change – Transferring Employees

• **Use either Payrolls or Self-Certification**

◦ **If Payroll:**

- Provide starting payroll records showing all locations within 50 mile radius & Master Spreadsheet of all employees
- Final payroll & employees at both locations

◦ **If Self-Certification:**

- TCF Survey Questionnaire (D7)
- Starting /Ending payrolls for Project Location
- For presumed LMI status (as found in census tract), employee responses used to determine LMI status

2017 Policy Change – Permanent Signage



2017 Policy Change – Permanent Signage

- **New wording required - shorter:**

“This project is funded by the Texas Department of Agriculture with funds allocated by the U.S. Department of Housing and Urban Development through the Community Development Block Grant Program.”

2017 Policy Change – Contract for Deed

- Contract for deed is not a legal interest in real property but instead a financing method for acquiring property
- **Not considered ‘interest in real property’**
- Disallowed by HUD

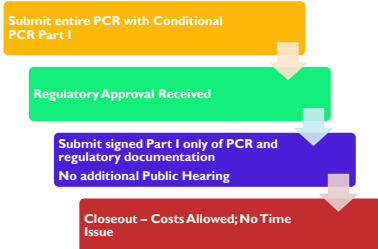
2017 Policy Change - Conditional Project Completion -

- Previously introduced as a pilot project
- For those projects waiting on Regulatory approval from other agencies such as TCEQ
- Allows closeout to begin before final certification of beneficiaries
- Certifies only that Construction completed

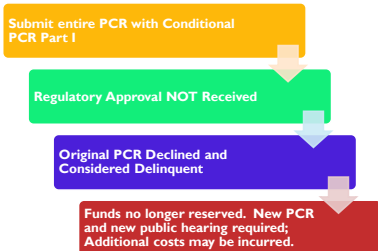
2017 Policy Change - Conditional Project Completion -

1. Complete documentation submitted to the regulatory agency **prior to** the submission of the Project Completion Report (PCR), including all required testing or supporting data.
2. Public Notice - project has not been approved for use by the regulatory agency.
3. "Conditional" on PCR

Conditional Project Completion – Approval by Regulatory Agency



Conditional Project Completion – No Approval Received



Other Conditional Completion Requests

- Extraordinary circumstances
- Prior to final certification of national objective
- Written Request
 - Other agencies involved
 - Litigation
 - Other circumstances

Final Acceptance of Project

- Once the pending issues are resolved, submit to TDA:
 - documentation of the resolution (regulatory agency approval received, litigation settlement, etc.); and
 - revised Project Completion Report (Part I/PCR), including certifications, signed by the chief local official.

2017 Policy Change – Floodways



2017 Policy Change – Floodways

Anticipated Written Policy from HUD:

Limited to infrastructure and effective immediately, floodways end below ground level and anywhere above the base flood level.

2017 Policy Change – Floodways

Therefore, we will allow applications and grant awards for infrastructure projects in areas mapped as "floodways" if:

- the infrastructure is installed below the floodway using directional drilling below ground level (any potential erosion issues will be addressed in the 8-step process); or
- the infrastructure is elevated above the floodway and installed above the base flood level, such as pipelines mounted to existing bridges above the base flood mark.
- No housing or other structures "not functionally dependent" on the waterway will be funded if located within the floodway itself.

2017 Policy Change – Failure to follow new policies?



Day 2 -Today's Presentation & Format

- Provides an overview of the updated 2017 *TxCDBG Project Implementation Manual* including the various chapters and related topics
- At the end of each chapter, you may ask questions plus we will be asking a few questions for any of those interested in answering.
- *Questions*
 - *Have Parking Lot with Post-It notes; will answer during break or by email*
 - *Staff members available during breaks*
 - *Email Your Contract Specialist*

CHAPTER I

Administration & Reporting

Incurring Costs

Pre-Agreement Costs

- ✓ Prior to the contract start date of the TxCDBG grant award
- ✓ Necessary, eligible, and meet national objective
- ✓ Allowable only to the extent that they would have been allowable if incurred after the contract start date
- ✓ **TDA's discretion**
- ✓ Must meet Environmental & Special Conditions Requirements

TDA/Grant Recipient Contract Execution

Steps in getting Contract Executed

1. TDA will email the contract to Grant Recipient
2. Recipient Reviews, Signs, and Returns 1 signed contract to TDA for execution
3. TDA will send a copy of the fully executed contract to the Grant Recipient.

TDA/Grant Recipient Contract Execution

90 Day Rule

Within ninety (90) days after the contract award date:

- “Readiness to proceed” issues regarding the current award; and
 - Outstanding issues on existing contracts regarding compliance with program requirements must be addressed
- If issues not addressed, TDA will not execute the contract.

Contract Execution – (Cont.)

In addition to the contractual obligations owed between the State and the Grant Recipient, the contract specifies the following as Exhibits:

- ✓ Exhibit A - the Performance Statement
- ✓ Exhibit B - the Budget
- ✓ Exhibit C – Project Implementation Schedule
- ✓ Exhibit D – Special Conditions

Establish a Local Administrative Structure

ACTIVITY	Recipient	Consultant	Eng/Arch	Other
A. Initial Administrative Procedures				
Set up all files pertaining to TxCDBG contract activities.				
Solicit for professional services / administration services and maintain all necessary and relevant documentation.				
Prepare the professional services / administration services contracts for attorney review.				
Arrange and conduct the 4-Month Conference Call				
B. Environmental Review/Special Conditions Clearance Procedures				
Designate environmental review liaison and environmental certifying officer.				
Establish and maintain environmental review file.				
Prepare environmental assessment.				
Coordinate activities with federal or state agencies responsible for implementing applicable laws.				
Publish and disseminate public notice.				
Document consideration of any public comments.				
Issue environmental impact statement (if applicable).				
Request release of funds, send certification to TDA.				
Clear project of CDBG contract special conditions.				
C. Fair Housing/Equal Employment Opportunity				
Designate a Civil Rights Officer				
Implement and document current and required new activities to affirmatively further fair housing during the contract period.				

Establish A Record Keeping System

- Grant files must be kept at city or county buildings where records are kept
- Records shall be retained for the greater of 3 years from closeout of the grant to the state



Local Management of TxCDBG Project

The local management of CDBG projects is generally undertaken by 2 methods:

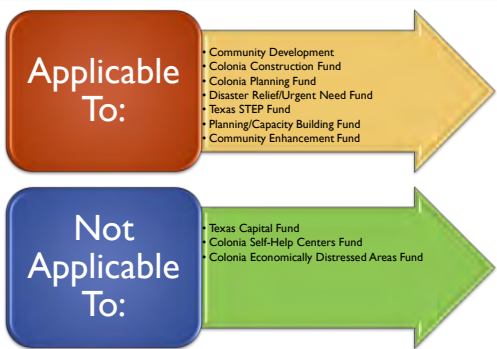
- Local governing body designates an existing agency or public employee as the project manager, or
- Local governing body contracts with a third party to manage the contract activities.

Note: TxCDBG Grant Recipients who obtain the services of an administrative consultant or a professional engineer have the final legal responsibility for the locally maintained grant files, the timely submission of reports, and compliance with program guidelines.

Administrative Thresholds

- 12-Month Rule Release of Construction Funds
- 12-Month Rule Applicant Threshold
- 24-Month Rule Applicant Threshold

12-Month & 24-Month Threshold Requirements



Deleted – Exception Cert. of Expenditure

- Infrequently used
- Exception Certificate of Expenditure (A106) now deleted
- Chapter 12, 12.2.5 Conditional Project Completion
 - Conditions apply
 - Written approval must be granted prior to PCR due date.

Upload of documents

- Can't upload documents via platforms such as GoogleDocs, Dropbox, etc.
- For Group A Civil Rights and Code of Conduct documents, send by hard copy/in person copies

Deleted – Quarterly Progress Reports

- Quarterly reports (A104) are no longer required.
- Request for Payment (A203)
 - Report progress of project each time that you make a request for payment

4-Month Conference Call

“Project Team”: include the chief local elected official (or authorized representative), project administrator, and project engineer and if procured, Administrative and engineering consultants

4-Month/Award Conference Call

1. May occur at Award Conference if all are appointed
2. Review TxCDBG contract Performance Statement (Exhibit A), Budget (Exhibit B), Project Implementation Schedule (Exhibit C) milestone dates; and Special Conditions (Exhibit D)
3. Review 12 Month Rule requirements
4. Identify the need for Acquisition of Real Property and review URA requirements and environmental review; and
5. Identify and report potential project issues or delays.

Questions:



CHAPTER 2

Financial Management

Financial Management – Regulations

- 24 CFR 570 Subpart I governs the State CDBG program
 - 24 CFR 570.489 details program administration requirements
- Various sections of 2 CFR 200
- State and Local Law

Financial Management – Conflicts of Interest



Financial Management: Conflicts of Interest

- Establish internal controls/Maintain files
 - Separation of duties
 - 2 Signatures on Checks
- Recommend Separate, No Interest Bearing Account
- Signing party needs to have authority to sign the documents

Signatures

- Use authorized signatures only
- **Headline: "County Officials Shocked by Charges – Former Employee Forged Signatures" (Times Tribune – Lackawanna County, Pennsylvania, Dec. 13, 2014)**
 - Forged Signatures for Request for Release of Funds
 - Jeopardized several CDBG contracts from 2009-2013

Financial Management: Signatories & Direct Deposit

- Authorized Signatories Designation Form A202:
 - Designate 2 responsible persons to sign contracts, requests for payments, acquisition, etc.
 - Authorize designations through Resolution
- Direct Deposit (highly recommended):
 - Submit asap
 - Complete the Direct Deposit Authorization Form 74-176 (See Sample)

Financial Management: Release of Funds

Submit within 12 Months:

- Group A Documents:
 - Basic Start-up & Federal Requirement/Designate Documentation
 - New – Code of Conduct
 - Due to large size, mail in Civil Rights & Code of Conduct docs or will allow one pdf doc by email
- Group B Documents:
 - Construction Contract Documentation

For Final Construction Funding, Submit:

- Group C Documents:
 - COCC and FWCR (not PCR) Documentation

Financial Management

Threshold	Budget Available
General Administration Budget Line Item	
Acceptance of all Group A Documents	0 to 50%
Acceptance of all Group A and Group B Documents	51 to 90%
Issuance of Administratively Complete letter by TDA	91 to 100%
Engineering Budget Line Items (multiple line items may be considered cumulatively to determine thresholds)	
Acceptance of all Group A Documents	0 to 50%
Acceptance of all Group A and Group B Documents	51 to 90%
Acceptance of all related Certificate(s) of Construction Completion and Reg. Approvals **	91 to 100%
Construction Budget Line Items	
Acceptance of all Group A and Group B Documents	0 to 95%
Acceptance of all Group A, Group B, and Group C Documents	96% to 100%

**Engineering must receive all regulatory clearances before final distribution

Request for Payment

- New Request for Payment (A203)
 - Remember: Quarterly report information(former A104) now included in A203
 - Be sure and fill out all information under each tab for it to tabulate
 - Supply supporting documentation

Request for Payment

- Most Common Problem
 - Match
 - Readability!!
 - Best practice: Be sure and fill out all information under each tab on Request for Payment (A203)

Financial Management: Drawdown

- Drawdown at least once every 9 months for each separate Activity
- Send adequate backup for Draw
 - up to 10 pages
 - but not over 10 Megabytes
 - Force Account – hard copy only
- For each budget line item
- Minimum Drawdown \$2.5K or greater
- Exceptions:
 - Exceeds 25% of budgeted line item and Grant Recipient only requesting for that line item
 - Final Retainage of construction contract
 - **OK'd by TDA**
 - Final drawdown of one or more line items

**Financial Management:
Denial of Payment**

Reasons for Delay / Denial of Payment:

- Insufficient Backup
- Grant Recipient out of compliance
- Ineligible expenses
- For Projects Involving First-Time Water or Sewer Services Beneficiaries, re-survey prior to Bidding Construction

**Financial Management:
Ineligible Expenses**

Examples of Ineligible Expenses:

- Administrator not certified
- Water meters for homes with no identified TxCDBG beneficiaries
- Software or related equipment not physically related to the funded improvement
- Generators not permanently installed
- Costs for obtaining Permits
- Commercial advertising or public relations costs
- Costs associated with the preparation of an CDBG application

**Financial Management:
Retainage**

- 5% retainage from all Construction Contracts until the following:

COCC (Certificate of Construction Completion) Form A710 received and approved

Final Wage Compliance Report – Form A709 received and approved

All programmatic requirements, claims, and disputes have been met

Financial Management

Accounting Adjustments

- Drawing Funds from Incorrect Budget Line Item
 - If discover that there is an error, contact TDA contract specialist
 - Unusual and Should Not Occur Frequently

Financial Management: Matching Funds

- TxCDBG projects require Matching Funds from Grant Recipient
 - Matching funds should be for eligible project related costs
- Match calculator is now A208
- Use a reasonable method and document the value of the match.

Financial Management: Matching Funds

- Match can consist of the following examples:
 - Cash (\$);
 - Waived Fees (require TDA approval); and/or
 - Donated property
 - Exclusions: easements, rights-of-way, existing locations for the same infrastructure
- Subject to TxCDBG Program Requirements
 - Some exceptions:
 - Construction Contract funded with non-CDBG \$
 - May be exempted from Davis Bacon
 - Private funds used for Econ. Development

**Financial Management:
Reducing Match Commitment**

- Ratio of Local Funds to TxCDBG Funds Must be expended
- If Project Costs are Less (Deobligated), Grant and Matching Funding Proportionally Reduced

**Financial Management:
Match Funding from Other Sources**

- Grant Recipients must provide:
 - Amount of Funds Received;
 - Scope of Project Funded by Other Sources; and
 - Completion of that project.
- If funding source known after submission of application, notify TDA with funding award letter

What's New!

- Code of Conduct is now required in Group A docs
- Send hard copy of Civil Rights and Code of Conduct via mail or by delivery or by email combining all docs into one PDF doc and attaching that to the email
- Request for Payment (A203) includes request for information regarding the status of the projects (former Quarterly Reports)
 - New format!

Questions:



CHAPTER 3

Environmental

Overview

- Basic Information and Some changes for 2017
- Process of reviewing a project
 - Human Environment (i.e. everything)
- Environmental Review (ER) Required
- Analysis includes:
 - ✓ How the project affects the environment
 - ✓ How the environment can affect the project, site and end users
- ER BEFORE OBLIGATION OF FUNDS
- Environmental Review Record (ERR) Must be maintained – Contains All
- ERR **must be available for public review**

Timing of the Review

- An **environmental review BEFORE** any funds, regardless of source, are committed.
- **No activity** undertaken (24 CFR 58.22(a)).
 - Adverse environmental impact
 - Limit **"choice"** of reasonable alternatives.
- **"Choice-limiting actions"**
 - **Physical** activity
 - **Acquisition**
 - **Rehabilitation**
 - **Construction**
 - **Contracting** for or **committing** to these actions
 - **Private Work** - A party may begin a project in good faith as a private project and is not precluded from later deciding to apply for federal assistance. If the choice-limiting action was undertaken prior to the resolution authorizing submittal of the TxCDBG application, the activity that was started is **not** required to be suspended.
 - Ask TDA
 - When apply for federal funding, must cease **further** choice limiting actions

Timing of the Review

TDA uses the date of the resolution as the earliest date of **"projected use"** of HUD funds.
24CFR58.30(b)

Environmental Review - 9 Step Process

- Step 1 – Project Description
- Step 2 – Determine Level of Review
- Step 3 – Complete Checklists and **worksheets**
- Step 4 - Publish Notice of Intent to Request Release of Funds, and FONSI if applicable (Local Comment period)
- Step 5 – Prepare RROF and Certifications
- Step 6 – Submit Request for Clearance to TDA
- Step 7 – State Objection Period (15 days)
- Step 8 – **State's Post**-Release Review
- Step 9 – Re-Evaluation of the Environmental Determination

Speaking of Having to Stay Awake

So you mean to tell me a stress ball isn't for throwing at people who stress you out?



Step 1 Project Description

Project Description must:

- Be complete and clear:
 - What is there,
 - What will be there
 - How will this happen
- Capture maximum possible scope
- Provide location specific information (Actual Streets, not what might be there in the future)
- Geographical boundaries (Not the entire county/ city)
- Existing conditions of the site
- What will be on site when project is completed
- How project will be accomplished
- The Environmental Project Description will be more detailed than the Performance Statement.

Step 2 Determine Level of Review

- Step 2 Section A in the manual for examples
- Determine the most appropriate level of review
Use Checklist and HUD website for guidance
- All forms should be completed and signed
 - Complete Project Description and Location (Joe Public)
- Who can sign forms: The CEO of the Responsible Entity. Who can represent in court? (Note the publication)
- Samples provided TDA/HUD are usually Word Based.
- **DON'T ASSUME A FULL EA**

Step 3 Complete Checklists

Exempt and Categorically Excluded Not Subject to §58.5:

- Form A303 Under the 2017 Implementation Manual.

Categorically Excluded, Subject to §58.5:

- Form A304 Under the 2017 Implementation Manual.

Environmental Assessment:

- Form A302 Under the 2017 Implementation Manual.

Complete Checklists (cont.)

Historical Preservation

- Must have concurrence from the State Historic Preservation Office (SHPO)
- TDA Programmatic Agreement with Texas Historical Commission (THC)
- Request for Exemption from SHPO Review Project Determination Form (Form A301)

Categorical Exclusion Converted to Exemption §58.34(a)(12)

- Under rare circumstances a Category Excluded project falls under Exempt status under §58.34(a)(12) and that none of the statutory requirements under §58.5 apply. Grant Recipient will determine if the project can be converted to Exempt under §58.34(a)(12).

Tiered Review

- Projects with multiple, non-contiguous locations (ex. housing rehab)
- Complete a **Broad-Level Tiered Environmental Review** using format provided on HUD website
- Document compliance for each specific site
- Site specific review must be completed prior to obligating funds for each site
- Publication must explain the criteria and review process for the project.**

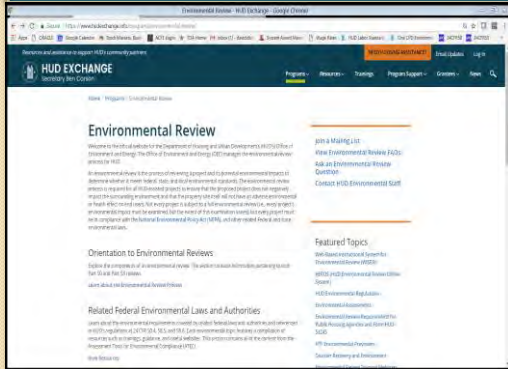
Complete Checklists (cont.)

Complete TxCDBG Implementation Manual (Select Forms are OMB# available below)

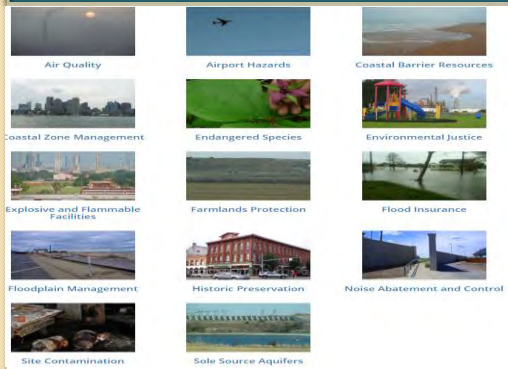
Chapter	Form No.	Form Description	Download	Availability
Table of Contents				
Advisory List				
Section 3 Community Development Program Overview				
Chapter 1 Administration and Reporting				
1 Admin. and Reporting	A102	Administrative Activities Checklist	Download	View
1 Admin. and Reporting	A103	Filing System	Download	
1 Admin. and Reporting	A104	Quarterly Progress Report	Download	Discussed
1 Admin. and Reporting	A104-01	Disaster Relief Quarterly Report (1 Year)	Download	
Chapter 2 Financial Management				
2 Financial Management	A201	Sample Signatory Resolution	Download	
2 Financial Management	A202	Depository Authorized Signatories Designation	Download	
2 Financial Management	A203	Request for Payment	Download	View
2 Financial Management	A206	Balance Adjustment Notice	Download	
2 Financial Management	A207	Receipt for Eligible Costs	Download	
2 Financial Management	A208	TxCDBG Match Calculator	Download	View
Chapter 3 Environmental Review				
3 Environmental Review	A301	Request for Exemption from SHPO Review	Download	View
3 Environmental Review	A302	Full Environmental Assessment (EA) Checklist	Download	
3 Environmental Review	A303	Exempt or Categorical Exclusion Not Subject to §8.5	Download	
3 Environmental Review	A304	Categorical Exclusion Subject to §8.5	Download	
3 Environmental Review	A305	Sample MO / RMO	Download	View
3 Environmental Review	A306	Sample Notice of FUND	Download	
3 Environmental Review	A307	Floodplain Early Notice and Explanation Sample	Download	
3 Environmental Review	A308	Sample Request for Release of Funds (RRRF)	Download	
3 Environmental Review	A309	Summary of Levels of Environmental Review & Documentation Required in EIR	Download	View

[https://texasagriculture.gov/GrantsServices/RuralEconomicDevelopment/RuralCommunityDevelopmentBlockGrant\(CDBG\)/Forms.aspx](https://texasagriculture.gov/GrantsServices/RuralEconomicDevelopment/RuralCommunityDevelopmentBlockGrant(CDBG)/Forms.aspx)

Complete Checklists (cont.)



Complete Checklists (cont.)



Complete Checklists (cont.)

Airport Hazards

Introduction

Some types of development are incompatible for locations in the immediate vicinity of airports and airfields. Potential air craft accidents pose a hazard to any users of these development projects. If the proposed project is located near an airport or in the immediate area of the landing and approach areas, additional information is necessary to determine whether this issue is a concern and if so, how to mitigate it.

It is HUD's policy to apply standards to prevent incompatible development around civil airports and military airfields. See 24 CFR 91. Subpart D. The policy does not apply to research demonstration projects which do not result in new construction or reconstruction. Flood insurance, specialized mail sales operations, or any other or emergency assistance under disaster assistance provisions or organizations which are intended to save lives, protect property, protect public health and safety, remove debris and wreckage, or assistance that has the effect of restoring facilities substantially as they existed prior to the disaster.

HUD Guidance

1. To ensure compliance for new development, you must determine your site's proximity to civil and military airports. **In your project within 15,000 feet of a military airport or 2,500 feet of a civilian airport?**

2. If **no**, is your project located within an Accident Potential Zone (APZ) or Runway Protection Zone/Clear Zone (RPZ/CZ)?

Accident Potential Zone (APZ)
Does your project involve any of the following: new construction, substantial rehabilitation, expansion or improvement to the existing facility, significantly altering the physical or economic life of existing facilities, or change the use of the facility to use that is not consistent with the recommendations of the Department of Defense (DOD) Land Use Compatibility Guidelines activities that would significantly increase the density or number of people at the site, or activities that would introduce explosives, flammable or toxic materials to the area?

If **so**, is the project in conformance with DOD guidelines?

Runway Protection Zone/Clear Zone (RPZ/CZ)

Will this project involve any facilities that will be frequently used or occupied by people?

If **so**, were written assurances from the airport operator obtained?

Regulations

24 CFR 91, Subpart D

Resources

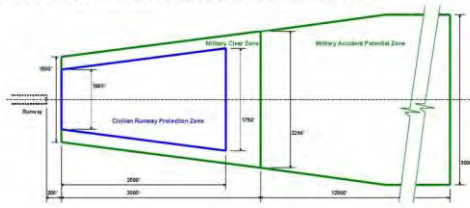
- HUD's Airport Hazards Online Module
- Notice to Prospective Buyers of Properties Located in Runway Clear Zones and Clear Zones
- Fact Sheet: Joint HUD-assisted, Progress in Accident Potential Zones
- FAA Advisory Circular on Runway Protection Zones (RPZs)
- DOD Land Use Compatibility Guidelines

Federal Related Laws and Authorities

- Air Quality
- Airport Hazards
- Coastal Barrier Resources
- Coastal Zone Management
- Environmental Justice
- Endangered Species

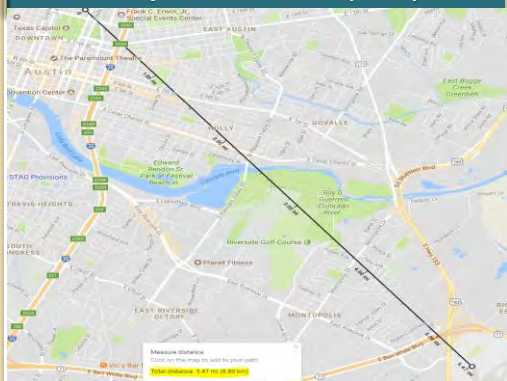
Complete Checklists (cont.)

Figure RPZ1—Significant Dimensions and Comparison of Civilian to Military Zones



Airport Type	Runway Protection Zone/Clear Zone Length	Runway Protection Zone/Clear Zone Inner Width	Runway Protection Zone/Clear Zone Outer Width	Accident Potential Zone Length	Accident Potential Zone Inner Width	Accident Potential Zone Outer Width
Civilian	2,500'	1,000'	1,750'	NA	NA	NA
Military	3000'	1,500'	2,284'	12,000'	2,284'	3,000'

Complete Checklists (cont.)



Complete Checklists (cont.)

Airport Hazards (CEST and EA)

General policy	Legislation	Regulation
It is HUD's policy to apply standards to prevent incompatible development around civil airports and military airfields.		24 CFR Part 51 Subpart D
References		
https://www.hudexchange.info/environmental-review/airport-hazards		

1. To ensure compatible land use development, you must determine your site's proximity to civil and military airports. Is your project within 15,000 feet of a military airport or 2,500 feet of a civilian airport?

No → Based on the response, the review is **in compliance** with this section. Continue to the Worksheet Summary below. Provide a map showing that the site is not within the applicable distances to a military or civilian airport.

Yes → Continue to Question 2.

2. Is your project located within a Runway Potential Zone/Clear Zone (RPZ/CZ) or Accident Potential Zone (APZ)?

Yes, project is in an APZ → Continue to Question 3.

Yes, project is an RPZ/CZ → Project cannot proceed at this location.

Step 4 Publish Notices

Sample Notice of Finding of No Significant Impact and Notice of Intent to Request a Release of Funds - Continued Notice

This language belongs to EIS/DO's environmental scoping and final Finding of Finding of No Significant Impact. This notice is used to inform recipients of Environmental Assistance (EA) that the project has been approved by the EIS/DO and that the EA will be released to the recipient for the project. This notice is used to inform recipients of EA that the project has been approved by the EIS/DO and that the EA will be released to the recipient for the project. This notice is used to inform recipients of EA that the project has been approved by the EIS/DO and that the EA will be released to the recipient for the project.

NOTICE OF FINDING OF NO SIGNIFICANT IMPACT AND NOTICE OF INTENT TO REQUEST RELEASE OF FUNDS

Date of Notice
Name of Recipient (Agency/EIS)
Address (e.g. Street) or P.O. Box
City, State, Zip Code
Telephone Number of EIS

This notice shall advise you regarding the federal program requirements for activities to be authorized by the release of EA or grant funding.

REQUEST FOR RELEASE OF FUNDS

On or about [date], after the end of the comment period the issue of EA will be final. It is not the grant recipient's responsibility to request a release of funds. The recipient should submit a request for release of funds to the EIS/DO Administrator (EA) [insert name and address] by [insert date]. The recipient should submit a request for release of funds to the EIS/DO Administrator (EA) [insert name and address] by [insert date]. The recipient should submit a request for release of funds to the EIS/DO Administrator (EA) [insert name and address] by [insert date].

FINDING OF NO SIGNIFICANT IMPACT

This notice of EA has determined that the project will have no significant impact on the environment. This notice of EA has determined that the project will have no significant impact on the environment. This notice of EA has determined that the project will have no significant impact on the environment. This notice of EA has determined that the project will have no significant impact on the environment.

PUBLIC COMMENTS

Any individual, group, or agency may submit written comments on the EIS or the EA. Any individual, group, or agency may submit written comments on the EIS or the EA. Any individual, group, or agency may submit written comments on the EIS or the EA. Any individual, group, or agency may submit written comments on the EIS or the EA.

ENVIRONMENTAL CERTIFICATION

The issue of EA certifies to EIS/DO that none of the required procedures (24 CFR Part 58, Sec. 58.70) are being violated. The issue of EA certifies to EIS/DO that none of the required procedures (24 CFR Part 58, Sec. 58.70) are being violated. The issue of EA certifies to EIS/DO that none of the required procedures (24 CFR Part 58, Sec. 58.70) are being violated.

OBJECTIONS TO RELEASE OF FUNDS

EIS/DO will accept objections to the release of funds and the EA's certification for a period of 30 days following the anticipated administrative date or its actual receipt of the request (whichever is later) only if they are on one of the following issues: (a) the certification was not executed by the Certifying Officer of the issue of EA; (b) the EA has not been certified in a way that complies with the required procedures (24 CFR Part 58, Sec. 58.70) or the recipient or other participants in the development process have committed funds, incurred costs, or undertaken activities not authorized by 24 CFR Part 58 before approval of a release of funds by EIS/DO; or (c) another Federal agency acting pursuant to 40 CFR Part 1504 has submitted a written finding that the project is inconsistent with the standards of environmental quality. Objections must be prepared and submitted in accordance with the required procedures (24 CFR Part 58, Sec. 58.70) and shall be addressed to EIS/DO (administrative office) at address of EA/DO office. Potential objectors should contact EIS/DO to verify the actual last day of the objection period.

Name and Title of EIS/DO Certifying Officer

Publish Notices

Step 4 In the Implementation Manual

Sample Notice of Intent to Request a Release of Funds

This language belongs to EIS/DO's environmental scoping and final Finding of Finding of No Significant Impact. This notice is used to inform recipients of Environmental Assistance (EA) that the project has been approved by the EIS/DO and that the EA will be released to the recipient for the project. This notice is used to inform recipients of EA that the project has been approved by the EIS/DO and that the EA will be released to the recipient for the project. This notice is used to inform recipients of EA that the project has been approved by the EIS/DO and that the EA will be released to the recipient for the project.

NOTICE OF INTENT TO REQUEST RELEASE OF FUNDS

Date of Notice
Name of Recipient (Agency/EIS)
Address (e.g. Street) or P.O. Box
City, State, Zip Code
Telephone Number of EIS

This notice shall advise you regarding the federal program requirements for activities to be authorized by the release of EA or grant funding.

On or about [date], after the end of the comment period the issue of EA will be final. It is not the grant recipient's responsibility to request a release of funds. The recipient should submit a request for release of funds to the EIS/DO Administrator (EA) [insert name and address] by [insert date].

The recipient proposed activities do not completely comply with 24 CFR Part 58. The recipient proposed activities do not completely comply with 24 CFR Part 58. The recipient proposed activities do not completely comply with 24 CFR Part 58. The recipient proposed activities do not completely comply with 24 CFR Part 58.

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Name and Title of EIS/DO Certifying Officer

Step 5 Prepare the RROF and Certifications

Request for Release of Funds and Certification	1.0. Department of Housing and Urban Development	OMB No. 2530-0045
<p>This form is to be used to request the release of funds and certification for the recipient. It is to be completed by the recipient and submitted to the EIS/DO Administrator (EA) [insert name and address] by [insert date]. The recipient should submit a request for release of funds to the EIS/DO Administrator (EA) [insert name and address] by [insert date].</p>		
<p>1. Recipient Name</p> <p>2. Recipient Address</p> <p>3. Recipient Phone Number</p> <p>4. Recipient Email Address</p>	<p>5. Recipient's Request for Release of Funds</p> <p>6. Recipient's Request for Certification</p> <p>7. Recipient's Request for EA</p>	<p>8. Recipient's Request for EA</p> <p>9. Recipient's Request for EA</p> <p>10. Recipient's Request for EA</p>
<p>11. Recipient's Request for EA</p> <p>12. Recipient's Request for EA</p> <p>13. Recipient's Request for EA</p>	<p>14. Recipient's Request for EA</p> <p>15. Recipient's Request for EA</p> <p>16. Recipient's Request for EA</p>	<p>17. Recipient's Request for EA</p> <p>18. Recipient's Request for EA</p> <p>19. Recipient's Request for EA</p>
<p>20. Recipient's Request for EA</p> <p>21. Recipient's Request for EA</p> <p>22. Recipient's Request for EA</p>		

Prepare the RROF and Certifications

Step 5 In the Implementation Manual

Part 3. To be completed when the Recipient is not the Responsible Entity
 The recipient requests the release of funds for the programs and activities identified in Part 1 and agrees to abide by the special conditions, procedures and requirements of the environmental review and to advise the responsible entity of any proposed change in the scope of the project or any change in environmental conditions in accordance with 24 CFR 58.71(b).

Signature of Authorized Officer of the Recipient	Title of Authorized Officer
	Date signed

X
 Warning: HUD will prosecute false claims and statements. Conviction may result in criminal and/or civil penalties. (18 U.S.C. 1001; 1010; 1012; 31 U.S.C. 3729, 3802)

Submit Clearance Documentation To TDA

Step 6 In the Implementation Manual

EXEMPT PROJECTS UNDER 24 CFR §58.34(a):

- Letter from the Entity Stating intent to declare exemption.
- Form A303 Exempt or Cat. Excluded Not Subject to 58.5

CATEGORICAL EXCLUSION UNDER §58.35(b)

- Letter from the Grant Recipient supporting the Categorical Exclusion level of review
- Form A303 Exempt or Cat. Excluded Not Subject to 58.5

CATEGORICAL EXCLUSION §58.35(a)

- Letter from Grant Recipient supporting the Categorical Exclusion level of review.
- Form A304 Cat. Excluded Subject to 58.5
- Publications for NOI/RROF Request for Release of Funds (Scanned and then mail an original) two sided One page.

Submit Clearance Documentation To TDA (cont.)

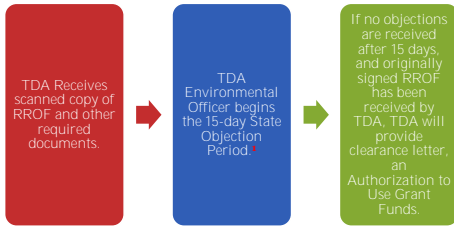
FULL ENVIRONMENTAL ASSESSMENT (EA)

- Letter from Entity
- Request for Release of Funds scanned (One original to be mailed) two sided single document.
- Publication with affidavit, scanned full print page, scanned and then send tear sheet with the original RROF.

ADDITIONAL REQUIREMENTS FOR EACH LEVEL OF REVIEW

- **EXEMPTION DETERMINATION UNDER 24CFR34(a)(10):** The entity must review the project and ensure that it is not:
 - *located in a floodplain, a known critical habitat for endangered species, an historic property, or a known hazardous site (see HUD Memo 12-11-12).*

Step 7 – State Objection Period and Release of Funds



This is not an indication that TDA has reviewed and approved the entire Environmental Review record for the project.
CE / Exempt projects do not require an Objection Period BUT WILL receive a clearance.

State's Post-Release Review (DON'T MAKE ME DIG !!) Step 8 in the Implementation Manual

Following the Authorization to Use Grant Funds,

- Post Release Review under 24 CFR 58.18.
- May occur at any time after the release of funds
- TDA will request either:
 - Complete Statutory Checklist and Assessment Checklist (if applicable) referencing verifiable supporting documentation; or
 - Complete Environmental Review Record.

Significant violations of federal requirements

- Repayment of funds
- Loss of contract
- Repeat of the process
- Delaying Construction

Environmental Review Process - Abbreviated

Review of the project description: What is there now? What will be there in the future? How will this be accomplished?

Create a project description: What will be done and where SPECIFICALLY. (The streets actually have to exist!)

Determine the level of review: Exempt > CE(b) > CE(a) > EA (Step 2 of Chapter 7 Section A)

Complete the Environmental Review and complete the Environmental Review Record. This will contain all documentation and ANYTHING relating to the Environmental Review. 24CFR58.38

SIGN and complete all necessary paperwork and forms. ALL FORMS MUST BE SIGNED BY THE CEO or person taking responsibility for representing the entity in court.

Submit required documentation to TDA for approval and clearance.

Step 9 Revisiting the Review

Major reasons for revisiting a review:

- Record mitigation measures
- Changes in project scope
- Re-evaluate the project
- Adding another source of funding - leads to change in the project?
- Change in conditions
- See §58.47
- Use of another agency's work



Why Enforce Regulations



Unrecoverable Violations



Unrecoverable Violations



Common Problems

- RROF / Environmental Packets
Double sided docs, future dates, Not signed, signed by the wrong person (**Elvis has left the building**), Notaries, Originals
- Historical review
Just flat out not doing it!, Native American, NO I can't clear your new stadium!!!
- Environmental Review Record
What's it called again?, Yes the RE has to have it!
- Support Documentation
WE NEED TO TALK!!!
- Assessment Checklist
Oh, I was supposed to do that too??
- Floodplain
Don't get me started!

Common Problems Environmental Packets

- Environmental Packet includes documentation requesting clearance
- No project description
- Lack of detail in location and description
- Non-Certifying officer
- Wrong project description
- Lack of Detail in forms and publication
- Streets locations and crossings

The Environmental Review Record (ERR)

- 24CFR58.38(a):The ERR shall contain all the environmental review documents
- Letters / Publications
- Photos
- Worksheets / support docs
- Checklists
- Request for Release of Funds (RROF)
- Release of Funds ROF (THE ORIGINAL)

**SOURCE DOCUMENTATION
MORE IS NOT ALWAYS BETTER**

- Maps
- Photos
- Emails
- Google Maps
- Notes of conversations
- Letters and contact with agencies
 - Project Description
- WHAT DOES VERIFIABLE MEAN

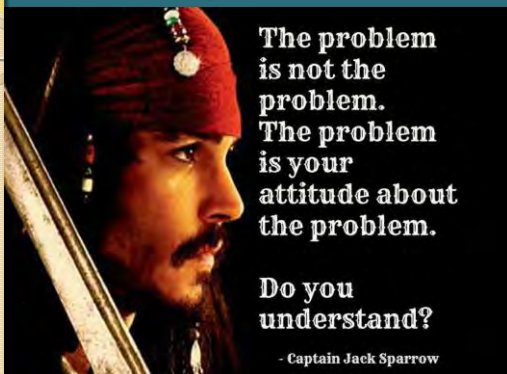
“No, that’s not really going to work”



Common Problems Source Documentation

- VERIFIABLE source documentation
- No photos – **Prove that a site visit was done.**
- Too General (Species info)
- Hazardous Chemicals
- Not using worksheet (Doing too much)
- Letters Not specific
- Maps/ markings and Dates
- Officials referenced NAMES AND TITLES
- Endangered Species Letter

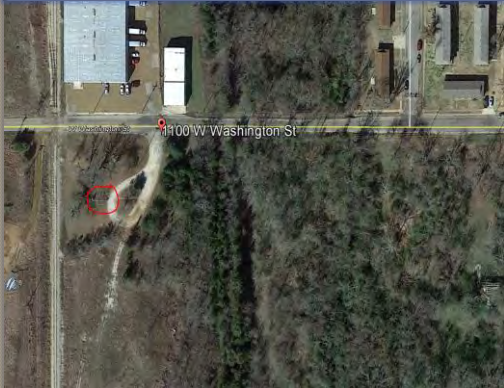
Where Big Problems Occur



Common Problems Historical

- Sending PA to THC
- Project Descriptions
- Clearance Dates
- Non Descriptive Letters
- Work before/during Arch. Surveys
- Unqualified persons doing surveys
- FONSI before required clearance date
- Not getting it done
- Native Americans

Sample Support Docs



Historical Review

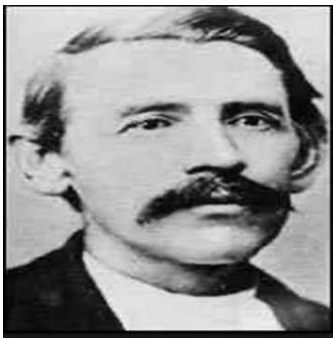


John S. Chisum





John S. Chisum



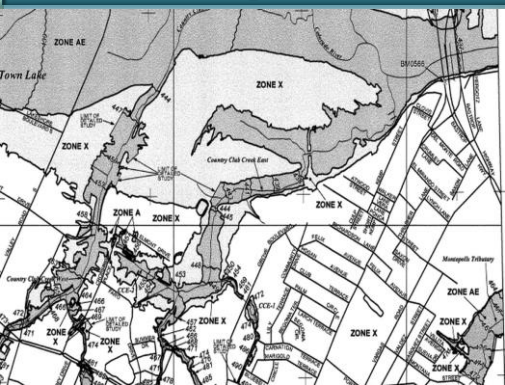
Common Problems Floodplain

- This has its own regulation 24CFR55
- Not doing the 8 step process
- Not doing anything
- Outdated maps
- No maps
- Wrong locations
- Not looking after amendment
- Publishing notices at the same time
- 2nd Notice can be published at the same time as NOI/RROF/Combined Notice

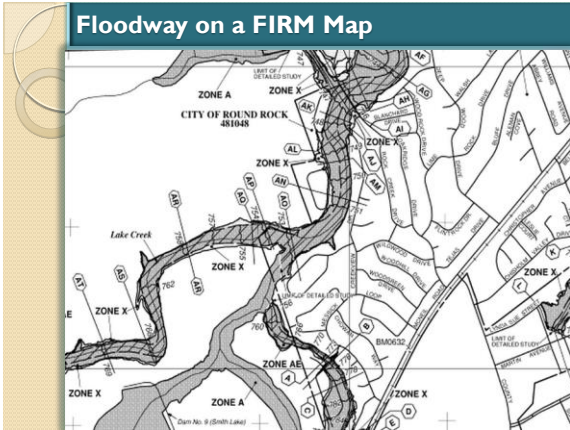
Floodplain Management 24 CFR §55



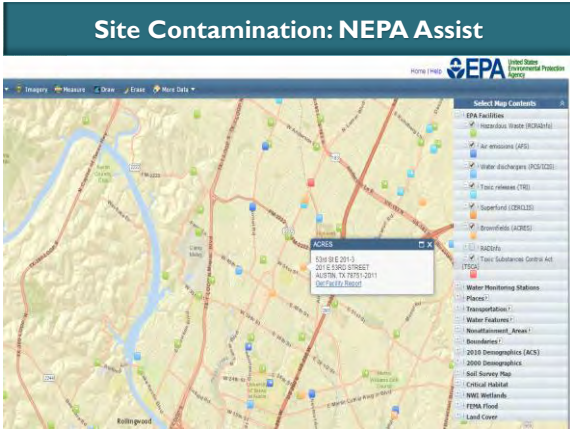
Standard Firm Map



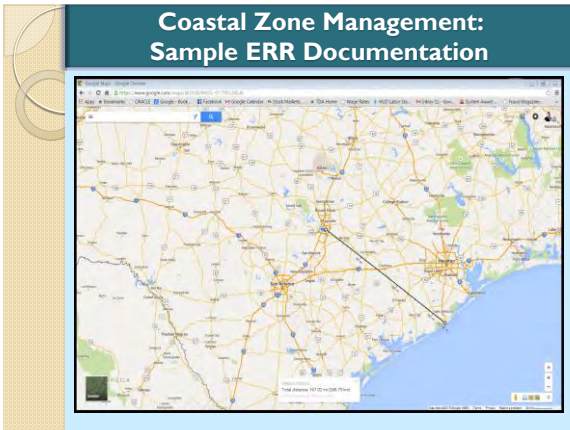
Floodway on a FIRM Map



Site Contamination: NEPA Assist



Coastal Zone Management: Sample ERR Documentation



Sample Support Docs

Eight-Hour Ozone Nonattainment Areas



Sample Support Docs



Sample Support Docs

o QUESTIONS ON SUPPORT DOCUMENTATION?

The Assessment Checklist (Full EA (A302))

Environmental Assessment Factors (24 CFR 58.45) and (24 CFR 58.45(c)(2)) describe the various categories of impact that are reviewed during the assessment process and are organized in the order of priority. The factors are organized by the type of impact that is reviewed. The factors are organized by the type of impact that is reviewed.

Assessment	Factor	Impact
LAND DEVELOPMENT	Population	Population
	Land Use	Land Use
	Transportation	Transportation
	Public Safety	Public Safety
	Fire	Fire
	Accessibility	Accessibility
	Health	Health
	Quality of Life	Quality of Life
	Crime	Crime
	Emergency Services	Emergency Services
	Fire	Fire
	Accessibility	Accessibility
SOCIOECONOMIC	Income	Income
	Education	Education
	Health	Health
	Crime	Crime
	Quality of Life	Quality of Life

Assessment	Factor	Impact	
COMMUNITY FACILITIES AND SERVICES	Population	Population	
	Land Use	Land Use	
	Transportation	Transportation	
	Public Safety	Public Safety	
	Fire	Fire	
	Accessibility	Accessibility	
	Health	Health	
	Quality of Life	Quality of Life	
	Crime	Crime	
	Emergency Services	Emergency Services	
	Fire	Fire	
	Accessibility	Accessibility	
	ENVIRONMENTAL	Air Quality	Air Quality
		Water Quality	Water Quality
		Public Safety	Public Safety
Fire		Fire	
Accessibility		Accessibility	

The Human Environment

COMMON PROBLEMS

- No support documentation (required)
- Incomplete packet (All pages)
- FONSI
- This is what makes an EA an EA and not a CE
- Canned phrases
- Use of Current Support Docs.
- Signed by Chief Elected Official

Capital Fund Projects

- The business has to be included
- Use the Phase I ESA (Environmental Site Assessment) 24CFR58.5(i)(2)
 - ... where a hazard could **affect the health and safety of occupants or conflict** with the intended utilization of the property.
- Use information the city / co. has already obtained
- DON'T JUST REFERENCE
- Make copies and reference (Verifiable)
- Watch letters to agencies: applicability
- Nothing can be done until the ROF: Update
- Functionally and Geographically related: Update

Tiering Projects

- Must publish the criteria used for the process. What will be reviewed and when?
- Generally not good for projects that require a full EA.
- **Use of current checklists or HUD's specific checklist**
- The publication must state what is being reviewed and what is not.
- The ERR could have multiple Statutory CLs.
- Usually used for OSSFs and Other CE Projects.

Takeaways and latest information

- Start review early – Resolution
- Project Description is more detailed than PS
- Verifiable Source documents – more is not necessarily better
 - **Don't make it hard**
- Use the worksheets – Let HUD say it does not apply
- Letters to agencies – activity
- Complete packets – send what we ask for
- The person who signs is the one going to court
- The Assessment needs support too
- **It's too late after the fact**
- **BOTTOM LINE IS I'M AVAILBLE**

Questions?



CHAPTER 4

Contract Special Conditions

Pre-Construction

Permit and Approval Certification Form A401

This form is used to list all permits, authorizations, or other written approvals required by state or federal regulations other than TXCDBG requirements. Examples of these approvals include:

Pre-Construction – (Cont.)

Direct Benefit Guidelines

- Projects that provide direct benefit to homeowners selected through an application process must receive approval for the proposed program guidelines prior to the selection of program recipients and prior to TDA's release of funds for such activities.

Colonia Street Lighting Funds

- TXCDBG grants that include street improvements in Colonia areas are required to include adequate street lighting in the project.
- If current street lighting in the target area is determined to be absent or inadequate, must demonstrate that between 5% and 15% of the TXCDBG grant funds allocated for street improvements are designated for street lighting.

Projects Involving Model Subdivision Rules/Ordinances (Colonia Fund Only)

- Certain communities are considered "economically distressed areas" and are subject to comprehensive platting requirements known as Model Subdivision Rules.

Temporary Signage

Temporary Project Signage

All construction projects utilizing TxCDBG funding must have temporary signage erected in a prominent location at the construction project site.



Projects Requiring Permanent Signage

For any TxCDBG funded public structure or project:

Permanent signage is required for any TxCDBG funded public buildings, park areas, or other structures open to the public, in addition to commercial facilities funded through the TCF Real Estate program.

Examples :

- Fire stations
- Significant improvements to existing facilities/park areas **if open to public**
- Community centers
- Fire stations
- Parks
- Pavilions
- Health Centers
- Shelters

Project Requiring Permanent Signage

Shorter language now required of Permanent Signage:

"This project is funded by the Texas Department of Agriculture with funds allocated by the U.S. Department of Housing and Urban Development through the Community Development Block Grant Program."

Project Completion

Water Well Projects

- Must submit a letter from TCEQ that the constructed well is approved for interim use and may be temporarily placed into service

Septic System Replacement Projects

- Must provide documentation that final plans, specifications, and installation of its sewer system improvements (septic systems) have been reviewed and approved by the City or County Health Department through authority granted by TCEQ.

Building, Parking Lot, and Sidewalk Projects

- Must submit documentation that the building, parking lots and/or sidewalks are in compliance with TDLR requirements concerning the elimination of architectural barriers

Required Designs/Plans/Specs

Project Specific:

The Grant Recipient shall receive and maintain a copy of the final project record drawing(s) and/or engineering schematic(s), as constructed using funds under this contract.

- ✓ Digital format
- ✓ The accompanying documentation from the engineer shall include a signed statement of when the map was authorized and that the digital map is a true representation of the original sealed document.

Tap - In

For projects where more than 1 business benefits:

- ✓ TDA may require Tap-In for Texas Capital Fund CDBG projects to show evidence that a National Program Objective met (Form D8)
- ✓ Within one year after project, benefitting businesses asked to use *best efforts* toward employing LMI
- ✓ Grant recipients to provide to each beneficiary business:
 - ✓ A copy of this rule
 - ✓ Low and moderate guidelines for the project area
 - ✓ Summary of the proposed TCF infrastructure improvements with map

Common Pitfalls

1. Fail to erect permanent signage when required
2. Failure to submit the final RAS (Registered Accessibility Specialist) Report to TDA.

What's New!

- New language for Permanent Signage
- Septic Tank Replacement – uses language from 30 TAC 285.36 regarding filler for replaced or abandoned septic tanks/pits.

Questions:



CHAPTER 5

Procurement Procedures

Methods of Procurement

- **Competitive Proposal**
 - Procurement of professional and administration services.
- **Sealed Bids**
 - Procurement of construction.
- **Small Purchase (<\$50,000)**
- **Micro-purchase (≤\$2,000 for construction, supplies, or services)**
- **Non-competitive Proposal**

Competitive Proposal

- All professional and administrative services related to TxCDBG projects must be procured competitively, regardless of the source of funds.
- If any part of a contract is paid for with TxCDBG funds, the Grant Recipient must follow the Competitive proposal procedure in Chapter 5.
- Step by Step Procurement in Appendix D and E.

Competitive Proposal

- **2 CFR 200.319 (a)**
- **Contractors that develop or draft specifications, requirements, statements of work or invitations for bids or request for proposals must be excluded from competing for such procurements**
- **Key – Open & full competition**

Step-by-Step Selection Procedures

- Establish local Selection Review Committee
- Determine the Scope of Services
- Establish written selection criteria
- Develop RFP package
- Advertise
 - Send in copy to MWBE@texasagriculture.gov
- Distribute the RFPs for Professional Services
- Evaluate and Rate proposals
- Select the Administrator or Engineer
 - Architect, Engineer, and Surveyor must be selected based on qualifications. Then negotiate price with the selected professional service provider.
- Clear the Administrator (**SAM's**)
- Award contract

Construction Contracts: Sealed Bids

- Procurement of construction, materials, or equipment contracts whose total cost is **more than \$50,000**
- Sealed bids are publicly solicited and a firm, fixed-price is awarded to the **responsible respondent** whose bid, conforming with all the material terms/conditions of the invitation for bids, is **lowest and best** in price

Sealed Bidding

- Prepare bid package
- Comply with Davis-Bacon Act requirements
 - ✓ Confirm wage decision within ten days but not less than five days before bid opening.
- Advertise invitation for bids
 - ✓ Publish once a week in a newspaper for 2 consecutive weeks prior to bid opening
 - ✓ Advertising the invitation for bids in the Dodge Report, Texas Contractor, Minority Business Development Center
 - ✓ Send copy to **MWBE@texasagriculture.gov**
- Hold the bid opening
- Clear the contractor on SAM prior to award
- Award the contract
- Execute the contract

Sealed Bidding

- The Grant Recipient must obtain acknowledgement of receipt from all bidders for any bid addenda issued prior to bid opening.
- Invitation for bids must be published at least **once a week for two consecutive weeks in a newspaper published locally**. The date of the first publication must be before the 14th day before the date set to publicly open the bids.

DATE OF FIRST PUBLICATION 9-1-15	DAY 1 (One month day before the date set for publicly open bids) 9-2-15	DAY 2 9-3-15	DAY 3 9-4-15	DAY 4 9-5-15	DAY 5 9-6-15	DAY 6 9-7-15
DAY 7 9-8-15	DAY 8 9-9-15	DAY 9 9-10-15	DAY 10 9-11-15	DAY 11 9-12-15	DAY 12 9-13-15	DAY 13 9-14-15
DAY 14 9-15-15	BID OPENING 9-16-15					

Financial Interest Report – Form A503

The image shows a screenshot of the 'FINANCIAL INTEREST & LABOR STANDARDS REPORT A503' form. It includes sections for General Information, Bidder and Owner Information, Financial Interest Report, and Labor Standards Report. The form is a complex grid with various fields for data entry.

Submit for all contracts of \$2,000 or more within 30 days of executing the contract:

- ✓ A503
- ✓ Bid Tabulation
- ✓ Bid Schedule

Small Purchase Procurement

- Relatively simple and informal procurement methods to secure construction services, supplies, equipment, or non-professional services that cost, in the aggregate, **less than \$50,000** in accordance with state law.
- The Local Government Code **prohibits separate, sequential, or component small purchases** to avoid the competitive bidding requirements.

Construction Contract: Small Purchase Procurement (Cont.)

The image shows a form titled 'Small Purchase Procurement Record' with the number 'AS56' in the top right corner. The form contains several sections with fields for 'Name of Purchasing Agency', 'Vendor Name', 'Amount of Purchase', and 'Date of Purchase'. There are also checkboxes for 'Construction Contract' and 'Non-Construction Contract'. The form is partially filled out with some text and numbers.

- Obtain Wage Decision
 - Complete **Wage Rate Issuance Notice - Form A702** (If under \$2,000 not required)
- Confirm Wage Decision
 - Complete **Ten Day Confirmation (Form A703)**
- Contact three vendors
 - Submit **Small Purchase Procurement Record (Form A504)** to assigned Regional Coordinator
- Verify Eligibility Status
 - Record on **Financial Interest Report (Form A503)**
- Submit **Form A503** to CS and labors@TexasAgriculture.gov

Micro-Purchases

- Micro-purchases is non-competitive procurement which may be used for supplies or services valued at \$2,000 or less.
- Purchase orders may be awarded without soliciting any competitive quotations if the Grant Recipient considers the costs to be reasonable and local laws and policies do not prohibit this method of procurement.
- Grant Recipient must verify that contractor is not debarred under the System for Award Management (www.SAM.gov).
- TDA will monitor the use of micro-purchases to ensure that they are not being used to circumvent competitive procurement.

Non-Competitive Procurement

- Grant Recipient **must** obtain written permission from TDA prior to using the Non-Competitive Procurement method.
- All requests for exceptions to competitive procurement requirements must be submitted in writing by the Grant Recipient
- Must qualify according to one of the following exceptions under 2 CFR §200.320(f):
 - (1) The item is available only from a single source;
 - (2) Public exigency or emergency will not permit a delay resulting from competitive solicitation;
 - (3) TDA expressly authorizes noncompetitive proposals in response to a written request from the non-Federal entity; or
 - (4) After solicitation of a number of sources, competition is determined inadequate.

Construction Contract - Bonding

- **Bid Bond** – Required by 2 CFR §200.325 (a). Must be for 5% of bid price on contracts greater than \$100,000.
- **Performance Bond**
 - ❖ Required on **all** public works projects costing more than \$100,000 for counties and cities
- **Payment Bond**
 - ❖ Required on **all** public works projects costing more than \$25,000 for counties and \$50,000 for cities
 - ❖ If a locality fails to obtain a bond from the prime contractor, they become liable for paying workers, subcontractors and material suppliers

Construction Contract - Bonding

- The **Community's** responsibility to verify bonds are valid and acceptable in accordance with local/State/Federal law
- For instance, pursuant to Texas Insurance Code, if the amount of the bond exceeds \$100,000, the surety company must also hold a certificate of authority from the United States secretary of the treasury to qualify as a surety.

Change Orders

- The Grant Recipient must have sufficient grant or local funds available to meet any increased costs
- Change orders cannot be submitted until the contract is executed. Local Gov. Code 252, 262, 271.
- Change orders may not:
 1. Increase the original contract price by more (25%)
 2. Decrease the original contract price by more than (25%) for municipalities and (18%) for counties without the consent of the contractor

Change Orders (Cont.)

- To request approval, submit:
- ✓ **Construction Contract Change Order Approval Request (Form A505 – now automated)**
 - ✓ Chief local elected official's signature on either Form A505 or a cover letter
 - ✓ Any necessary supporting documentation
 - ✓ Explanation of any unusual items

Change Orders (Cont.)

- **ALL** Change Orders must be submitted for review, whether or not the work will be paid with grant or matching funds, so that we have a complete record of the construction contract.
- TxCDBG recommends that the Grant Recipient submit a Change Order **prior** to fully executing it with the construction contractor.
- If executed without TxCDBG approval, the Grant Recipient is obligated to pay for any changes that are not approved.
- Change Orders may also trigger an amendment or modification to the Performance Statement and/or Budget and should be submitted together
- Any difference in price from the Financial Interest Report (Form A503) to the Certificate of Construction Completion (Form A709) must be accounted for on the Change Order.

Common Pitfalls

- Ensure that invitations for bids are published during two consecutive weeks in accordance with state law.
 - ∞TDA cannot waive statutory requirements for published notices.
- Ensure that all required contract provisions and inserts are included in bid packets and contracts.
- Recordkeeping – maintain copies of bids and proposals received.

Questions:



CHAPTER 6 Acquisition

Acquisition Laws & Rules

- The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (URA)
- 49 CFR Part 24
- HUD Handbook 1378 - Tenant Assistance, Relocation & Real Property Acquisition
- Section 104(d) of the Housing & Community Development Act

URA Purpose

- ✓ To ensure that owners of real property acquired for federal and federally assisted projects are treated fairly and consistently,
- ✓ To encourage and expedite acquisition by agreements with such owners and to minimize litigation
- ✓ To ensure that persons displaced as a direct result of federal or federally assisted projects are treated fairly, consistently and equitably

Acquisition of Real Property

- Acquisition procedures apply to any acquisition of real property for programs and projects where there is Federal financial assistance in any part of project costs.
- Applies to:
 - ✓ Parcels of private or public property acquired for the project
 - ✓ Permanent and temporary easements
 - ✓ Property leased for a period of 15 years or more

Choice Limiting Action

- Cannot acquire any interest in property until environmental has been cleared (24 CFR 58.22)
- If the acquisition occurs before the environmental takes place, TDA cannot pay for such acquisition and will disallow
 - A different location will have to be purchased
- Option contract is always an option...

Types of Acquisition - Voluntary

Voluntary Acquisition

- No specific site is needed; other properties could be acquired.
- The property is not part of an intended, planned or designated project area where other properties will be acquired within specific time limits.
- Acquiring entity informs the owner in writing that property will not be acquired through eminent domain authority.
- Acquiring entity informs the owner in writing of the **property's market value**.

Types of Acquisition – Voluntary (Cont.)

Acquiring entity does not have eminent domain authority, for instance:

- Property owner is a governmental entity, such as a school district.
- Economic Development project - The **acquiring entity's eminent domain** authority is limited by law.

Types of Acquisition – Involuntary (Cont.)

- Acquiring entity has eminent domain authority which could potentially be invoked.
- Specific site is required for the project.
- Acquiring entity must provide the landowner with owner rights brochures:
 - When a Public Entity Acquires Your Property
 - **Landowner's Bill of Rights (Required under the Texas Property Code)**
- Appraisal of Property may be required.

Methods of Acquiring Property

- Donation
- Just Compensation
- Negotiated Purchase
- Condemnation
 - Proceeding with acquisition through seizure of property using eminent domain authority requires TDA authorization.

Eminent Domain

- Who has Eminent Domain authority?
 - Municipalities and Counties – conferred under the Local Government Code.
 - Water Supply Corporations and Water Districts – conferred by the Texas Water Code.
 - Political Subdivisions and various governmental entities.

Acquisition Steps - Voluntary

Voluntary Acquisition

1. Determine parcels needed for project and submit Initial Acquisition Report (Form A600) to TDA.
 - Chief local official must certify that acquisition meets all conditions qualifying it as Voluntary per 49 CFR 24.101(b)(i)-(iv).
 - Appraisal requirement not applicable.
 - Give alternative site locations
2. Notify owner in writing of interest in property and that eminent domain authority will not be used to acquire land.
3. Notify owner in writing of estimated market value.

Acquisition Steps – Voluntary (Cont.)

Voluntary Acquisition

4. Parties may negotiate the purchase price.
5. Ensure environmental review is completed and that TDA has authorized use of grant funds.
 - Failure to comply with HUD regulations could result in disallowed costs.
6. Execute sale, lease, or donation agreement and record the deed with the county.

Acquisition Steps - Involuntary

1. Determine parcels needed for project and submit Initial Acquisition Report (Form A600) to TDA.
 - Requires TDA approval.
 - If estimated value is \$10,000 or less, request TDA approval for waiver valuation.
2. Notify property owner of interest in property and provide owner rights brochures.
3. If an appraisal of property is required, notify owner of right to accompany the appraiser.

Acquisition Steps – Involuntary (Cont.)

4. Have property appraised, if required.
 - Appraiser must be licensed/certified by state law (Occupations Code)
 - Fee appraiser must be competitively procured according to TxCDBG policy and Professional Services Procurement Act.
5. Appraisal **must** be reviewed by a Review Appraiser.
6. Make just compensation offer based on appraisal or according to market value if waiver valuation.
 - Provide owner basis for the offer of just compensation.

Acquisition Steps – Involuntary (Cont.)

Involuntary Acquisition – (Cont.)

7. Parties may negotiate the purchase price.
 - If negotiated price exceeds just compensation amount, prepare an Administrative Settlement statement (submit to TDA).
8. Ensure environmental review is completed and that TDA has authorized use of grant funds.
 - Failure to comply with HUD regulations could result in disallowed costs.
9. Execute sale, lease, or donation agreement and record the deed with the county.

Donation of Real Property

When notifying the property owner of interest in acquiring land, the Acquiring Entity may invite an owner to donate property.

- Applies to Voluntary and Involuntary procedures.
- All applicable notices are still required, including notice of just compensation value.
- Owner must waive right to an appraisal in writing.

Relocation

- Section 104(d) of the *Housing and Community Development Act of 1974* provide for relocation requirements for CDBG funded project.
- Relocation assistance may be required for displaced persons.
 - Displaced Person - **Any person who moves from the real property or moves his or her personal property from the real property as a direct result of rehabilitation or demolition for a project.**
- Procedural regulations found at 49 CFR 24 Subsection C.
- Relocation requirements generally do not apply to Voluntary Acquisition unless there are displaced tenants.

Common Pitfalls

- Do not assume that **owner's** willingness to donate/sell land automatically constitutes Voluntary acquisition.
 - Voluntary or Involuntary determined by potential use of eminent domain authority and whether land is site specific.
- Complete an appropriate level of environmental review and obtain TDA approval to use grant funds before finalizing agreement (see 24 CFR §58.22).
- Acquiring Entity should consult with their legal counsel to ensure compliance with federal and state policies.

Common Pitfalls – (Cont.)

- Ensure that a complete Initial Acquisition Report (Form A600) has been filed with TDA.
 - Include description and map.
 - Form must be certified by the Chief Elected Official or designee.
 - File updated report with TDA if acquisition is later necessary for the project.
- Include acquisition in the scope of activities of TxCDBG Contract Performance Statement.
- Accurately determine if Acquiring Entity has eminent domain authority.

Reminder from 2016

- Permits and licenses such as railroad permits do not constitute real property acquisition and therefore, are not subject to URA
- If private to private acquisition, URA does not apply.
 - Environmental might apply.
 - Test - if private to private acquisition would not have occurred if not for the federal project, then acquisition must pass environmental scrutiny.

Questions:



CHAPTER 7

Labor Standards

Labor Standards – Basic Process

- Type of construction - Does DBRA Apply?
- Appoint a LSO
- Obtain the proper wage decision (WD): www.wdol.gov
- Issue the Wage Rate Notice
- Include the Wage Decision in the bid documents
- Complete the 10 Day Call
- Check contractor for Eligibility (SAMs)
- Award / Execute the Contract
- Pre-Con conference
 - Include the HUD 4010 Fed. Labor Standards Provisions
- Submit the FIR. (A503)
- Review Payrolls during construction
- Submit COCC / FWCR

Labor Standards - Exemptions

- Construction contracts of \$2,000 or less;
- Construction contracts of \$100,000 or less are exempt from CWHSSA only:
- Single-family homeowner residences (Making Davis Bacon Work-2006. (Exhibit 2))
- Rehabilitation of residential property designed for fewer than eight families; (Making Davis Bacon Work-2006. (Exhibit 2))
- Demolition and/or clearance activities (for example, debris removal), unless related to construction (demolition and clearance as independent functions are not considered construction);
- Labor/installation charges on equipment or materials purchases, if that portion of the contract is less than 13% of the total cost of the item(s) purchased.
- Construction work performed by the employees of the Grant Recipient (force account) that are engaged on an otherwise covered project; and
- Construction work performed by a public utility extending its own utility system

Construction Types

- **HIGHWAY CONSTRUCTION** -- Highway projects include the construction, alteration or repair of roads, streets, highways, runways, taxiways, alleys, trails, sidewalks, paths, parking areas, and other similar projects not incidental to building or heavy construction.
- **BUILDING CONSTRUCTION** -- Building construction generally is the construction of sheltered enclosures with walk-in access for the purpose of housing persons, machinery, equipment, or supplies. It includes all construction such as structures, residential structures greater than four(4) stories, the installation of utilities and the installation of equipment, both above and below grade level, as well as incidental grading, utilities and paving. Additionally, such structures need not be "habitable" to be building construction. The installation of heavy machinery and/or equipment does not generally change the project's character as a building.

Construction Types

- **RESIDENTIAL CONSTRUCTION** -- Residential projects for Davis-Bacon purposes are those involving the construction, alteration, or repair of single family houses or apartment buildings of no more than four (4) stories in height. This includes all incidental items such as site work, parking areas, utilities, streets and sidewalks.
- **HEAVY CONSTRUCTION** -- Heavy projects are those projects that are not properly classified as either building, highway or residential. Unlike these classifications, heavy construction is not a consistent classification. Because of this catch-all nature, projects within the heavy classification may sometimes be distinguished on the basis of their particular project characteristics, and separate schedules issued. For example, separate schedules may be issued for dredging projects, water and sewer line projects, dams, major bridges, and flood control projects.

Labor Standards – Implementation Procedures

- Submit the LSO Appt. Form: A701
- Send in the 10 DC PRIOR TO BID OPEN: A703
 - **Request for Quotes: "Bid Open" date is DUE DATE for Quotes** (change from previous manual)
- Complete the Labor Standards Record (Discontinued)
 - F.I.R. (A503)
- Additional Sub Verification (A706 Supp) Discontinued
- Additional Wage Classification as needed A705
- Certificate of Construction Completion A709
- Final Wage Compliance Report A710
- Notice to Assess Liquidated Damages (Sample)(new)
- Waiver Request (Sample) (New)
- SEND TO LABORS INBOX

Things to Remember / New Stuff

- LSO Appt. Form – Before anything
- LSR is no longer used; use the new FIR
- Include the HUD 4010 in Pre-Con or Contract
- FIR for Non DBRA No Bid Open Date / RFQ
 - I still have to have this.
- Bid Opening Date change for RFQs from Date of Request to Due Date for quotes
- Additional Wage Classification (AWC) Updated Form (Grouping Classifications together)
- Request a Waiver for L.D. equal to or under \$100.00

Labor Standards – Common Pitfalls

- Not Sending the LSO appt. form (Change of LSO)
- 10 Day Call being done AFTER bid open/ RFO
- 10 Day Call being done AFTER contract execution
 - THESE ARE NOW FINDINGS FOR BOTH
- Inconsistent Signatures on forms (using stamps)
- Bid Opening Date change between 10 DC and L.S.R.
- Additional Wage Classification (AWC) requests – issues (Detail/ Clarity)
- Execution dates different on L.S.R. (F.I.R.) than on the C.O.C.C
- Signatures – Missing or persons not authorized to sign
- Not getting Change Orders in

Common Pitfalls

- Contract Amounts Different
- Dates for LSR/ COCC/ FWCR: Award vs. Execute
- Sub Contractor Clearance at time of F.W.C.R.
- Employee Interviews – You have to do them – prove it
- Payrolls not submitted and not in order (use no-work week too)
- Employees interviewed but not on payrolls
- End of Construction / Final Inspection
- End of Construction and Payroll Dates do not match

Questions:



CHAPTER 10

Civil Rights

What's New!

1. Deletes requirement that every resolution must be associated with a contract
2. Added Code of Conduct to omnibus resolution (A1014) :
 - Citizen Participation Plan
 - Section 3 Policy
 - Excessive Force Policy
 - [If Grant Recipient employs 15 or more employees], Section 504 Policy and Grievance Procedures; and
 - Fair Housing Policy
 - [Code of Conduct Policy](#)

What's New! (Cont.)

3. LEP Plan – Ch. 10 gives more guidance as to when written documents need to be translated using safe harbor requirements given by HUD.

Protections

Protections for the following classes:

- Race
- Color
- Religion
- Sex
- Disability
- National origin
- Age
- Familial Status

Civil Rights Officer (CRO)

- Select Civil Rights Officer
- Best Practice: Local Staff Member
- Send Designation including name and title of designated officer to TDA

Citizen Participation Plan

- **Encourage participation** in the CDBG Project especially for low to moderate income groups
- **Requires:**
 - Plan
 - Grievance and complaint procedures
 - Notice

Equal Rights Requirements

- Equal Opportunity
- Section 3
- SBE/MBE/WBE
- Excessive Force
- Section 504*
- Fair Housing
- Limited English Proficiency

*Required for Grant Recipients with 15 or more employees.

Equal Opportunity

- EO policy/ordinance/resolution
- Include EO Guidelines in bid packets
- For construction contracts [including admin and engineering associated with construction](#) > \$10K, include required EO contract language

HUD Act of 1968 – Section 3

Housing and Urban Development Act of 1968, as amended 24 CFR Part 135

To ensure that economic opportunities generated by certain HUD funded projects shall, **to the greatest extent feasible**, and consistent with existing Federal and State laws, **be directed to low- and very low-income persons** (particularly those receiving assistance for housing), and **to the businesses that provide economic opportunities to these persons**

Section 3 Thresholds

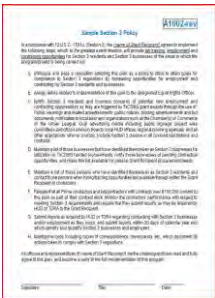
- Section 3 Projects include:
 - Construction
 - Professional Services associated with public construction
- **Contractor and subcontractor thresholds** - all contractors or subcontractors receiving funds in excess of \$100,000
 - For public construction
 - Are subject to requirements of Section 3

Section 3 Goals

- 10% of all Construction contracts awarded to Section 3 businesses,
- 3% of all Non-construction contracts awarded to Section 3 businesses,
- 30% of new hires are Section 3 persons

Section 3 Policy

- Prepare Section 3 Plan
- Include in construction contract > \$100K, required contract language
- Include EO Guidelines in bid packets
- Reporting Requirements:
 - Contractor Certificate of Compliance
 - Financial Interest Report
 - Sec 3 Annual Report – Federal Fiscal Year (Oct 1- Sept. 30)



Participation by MBE/SBE/WBE

- Take affirmative steps – Small Businesses & Women & Minority Owned
- Utilize State and Federal Resources:
 - Minority Business Development Centers
 - Small Business Administration
- Send in published solicitations to:
 - MWBE@texasagriculture.gov

Excessive Force

- ◆ Required by 24 CFR 91.325(b)(6)
- ◆ Prohibits use of excessive force against non-violent civil rights demonstrators

Section 504

- ✓ Prohibits discrimination on the basis of disability
- ✓ 15 or more employees
- ✓ Notice
 - Grievance procedures
 - Civil Rights Officer identified
 - Postings:
 - Public postings (city hall/county courthouse and target area with affidavit)
 - newspaper/publication
 - public posting (city hall/county courthouse supported by affidavit) and website

Section 504 (Cont.)

- Self Evaluation (Form A1006)
- Use Auxiliary Aids
- Accessible Facilities – for projects >\$50K, coordinate with Texas Department of Licensing and Regulation (TDLR)
- Reasonably accommodate

Affirmatively Further Fair Housing

- One activity per contract term
- Best practice: pass an ordinance/proclamation/resolution and conduct one activity
- List of suggested activities in Manual

Limited English Proficiency (LEP)

Plan

- Determine need for LEP services
- American FactFinder
- If LEP needed, Translate Key Documents

LEP

Size of Language Group	Recommended Provision of Written Language Assistance
1,000 or more in the eligible population in the market area or among current beneficiaries	Translated vital documents
More than 5% of the eligible population or beneficiaries <i>and</i> more than 50 in number	Translated vital documents
More than 5% of the eligible population or beneficiaries <i>and</i> 50 or less in number	Translated written notice of right to receive free oral interpretation of documents.
5% or less of the eligible population or beneficiaries <i>and</i> less than 1,000 in number	No written translation is required.

Applicable Federal Laws

- Equal Opportunity
 Civil Rights Act – Title VI & VIII
- Age Discrimination Act
 - Section 504 of the Rehabilitation Act
 - Section 104 of the HCD Act
- Handicapped Accessibility
- Section 504 of the Rehabilitation Act
 - Architectural Barriers Act
 - ADA (Americans with Disabilities Act)



Applicable Federal Laws (Cont.)

- Employment and Contracting**
- EEO, Executive Order 11246
 - Section 3 of the Housing and Community Development (HCD) Act
 - Section 109 of the HCD Act
 - Section 504 of the Rehabilitation Act
- Excessive Force**
- HUD Program Requirement – 24 CFR Part 91, Sec. 225(b)(5) and Sec. 325(b)(6)

Publications Required

Publications required:

- Complaint/grievance procedures
- If Grant Recipient employs > 15 people, Section 504 grievance procedures
- AFFH

Publication requirements allow either:

- Public posting (**courthouse/city hall AND location of target area supported by affidavit**); or
- Publishing in newspaper/other publication
- Public Posting (courthouse/city hall supported by affidavit) and website

Discrimination Complaints

- **Texas Workforce Commission, Civil Rights Division**
<http://www.texasworkforce.org>
- **Equal Employment Opportunity Commission** <http://www.EEOC.gov>
- **For housing complaints, Texas Workforce Commission**
housingcomplaints@Twc.state.tx.us and
US Dept. of Housing and Urban Development

Questions:



CHAPTER II

Contract Amendments

Reasons for Amendments/Modifications

- Additive or deductible alternates in bid
- Project costs in excess of contract funds
- Change Orders
- Necessary engineering design changes
- TCEQ clearance letter differs from Performance Statement Activities
- Acquisition
- Funds available to extend project

Performance Statement Changes

All changes **must** be related the project.

Limits on Performance Statement Change Requests

Any requested changes in the scope of work will be reviewed to determine if the revised project is supported by the original application.

TDA will not approve requests to add a different or new project or activity that was not included in the application, including a new project proposed because the original project has been determined unsuccessful or not feasible.

Performance Statement Changes (Cont.)

TDA may consider approval of a new project if the Grant Recipient is unable to complete the original project due to either:

- 1) a natural disaster event, documented by **presidential or governor's declaration**; or
- 2) a decision by a federal or state agency which prevents the contractor from completing the original project.

If the proposed amendment alters the original application score to the degree that the project would not have been recommended for funding based on that criteria, the amendment request will not be approved.

Performance Statement Levels

There are two levels of Performance Statement changes:

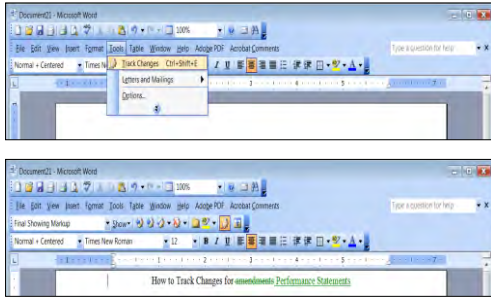
- **Performance Statement Modification**– changes the scale of the original project, including changes that increase beneficiaries in the same target area or decrease beneficiaries up to 25%. Also documents minor changes or corrections to the project description.
- **Performance Statement Amendment requiring Citizen Participation** – changes the scale of the project beyond the original target area, decreases the persons benefiting from the project (greater than 25%).

Documentation Required

The following items are **required for all Performance Statement changes**:

- *Contract Change Request Form* (Form A-1101);
- **Revised Performance Statement, using "track changes" or similar format to indicate all added, deleted, or changed text** (submit electronic copy in Word Format, no balloons);
- Re-evaluation of environmental findings; and
- Revised project maps showing the locations of the original and amended project activities if any change in the project location or target area is proposed.

Track Your Changes



Performance Statement Modification

Is this a Modification?	
Will the project as requested serve the same number of beneficiaries as the current Performance Statement? <input type="checkbox"/> no change in beneficiaries, regardless of quantities; <input type="checkbox"/> increase in beneficiaries, but no new target area; or <input type="checkbox"/> decrease in beneficiaries of less than or equal to 25% (based on number of persons or households).	<input type="checkbox"/> Yes <input type="checkbox"/> No
Are the activities' categories the same as the current Performance Statement?	<input type="checkbox"/> Yes <input type="checkbox"/> No
Does the project still solve the same problem identified in the current Performance Statement?	<input type="checkbox"/> Yes <input type="checkbox"/> No
<i>If the answer to all three questions is "Yes", the requested change may be submitted as a Modification. However, TDA reserves the right to require a full amendment at its discretion.</i>	
<i>If the answer to any question is "No," please submit the requested change as a Contract Amendment or contact your Contract Specialist for further guidance.</i>	

Performance Statement Modification

Each request for a Performance Statement Modification will be reviewed by TDA to ensure that the proposed changes:

- ✓ Do not require an amendment;
- ✓ Do not change the scope of the project, and;
- ✓ Continues to meet a National Program Objective.

If the changes to the Performance Statement will also require a change to the TxCDBG contract Budget, or a change order to the construction contract, these items should be submitted with the Performance Statement request.

Performance Statement Amendment: Requiring Citizen Participation

- Substantial changes to the Performance Statement require full contract amendments
- Amendments only be considered after the citizens of the Grant Recipient have had an opportunity to comment on the proposed changes.
- Citizen Participation is required for amendments that propose changes that do not meet the qualifications for a Performance Statement modification.

Required Documentation: Amendments

In addition to the documents required for Performance Statement change requests, the following items are also required for a contract amendment:

- Confirmation that the project will meet Exhibit C milestones OR a revised Exhibit C proposing a new timeline for completion;
- A resolution from the local governing body (i.e., city council or commissioner's court) that indicating support for the proposed changes; and
- Public notice of the public hearing held regarding the amendment
 - *New 2017 – public notice needs to include a brief description of the proposed project changes.*

Budget Changes

- A Grant Recipient may request to transfer TxCDBG funds between budget categories in order to reflect the actual costs of the project.
- If the changes to the Budget will also require a change to the TxCDBG Performance Statement, or a change order to the construction contract, these items should be submitted with the Budget change request.

Budget Changes: Limits

- Requests to move TxCDBG funds from construction and/or acquisition activities to Engineering or General Administration activities **must be submitted to TxCDBG prior to the date of the final inspection** documented on the Certificate of Construction Completion (COCC).
- TDA will not approve a budget change to allow the General Administration activity grant funds to exceed 16% of construction and acquisition/relocation grant funds.
- If a proposed budget change causes the Engineering activity grant funds to exceed 25% of construction and acquisition/relocation grant funds, additional justification must be submitted for TDA approval and may not be approved.

Budget Changes: Documentation Required

The following documentation is **required for all Budget changes**:

- **Contract Change Request Form (Form A1101)** and
- Revised Contract Budget (**Exhibit B**), using "track changes" or similar format to indicate all added, deleted, or changed text (submit electronic copy in Word Format, no balloons)

Budget Modifications

A Grant Recipient may request to transfer funds between budget categories identified in the Budget without triggering an amendment to the original contract if:

- ✓ The cumulative dollar amount of transfers among budget categories is less than or equal to 20% of the total amount of the contract as specified in Exhibit B of the TxCDBG contract;
- ✓ The transfer of budgeted funds will not change the scope or objective of the project(s) funded through the TxCDBG contract; and
- ✓ If funds are to be transferred into professional services, the total dollar amount in the line item does not exceed the following:
 - General Administration – 16%.
 - Engineering (all line items) – 25%.

Budget Amendment

A contract budget amendment is necessary whenever a transfer of contract funds between budget categories is greater than 20% of the contract amount, or

- Results in changes in the scope of the project funded.
- A Budget Amendment is also required for budget changes resulting in an engineering budget that exceeds 25% of the total grant construction and acquisition budgeted funds.

Contract Period Extensions

When considering a contract extension amendment, TDA will only consider circumstances clearly beyond the control of the Grant Recipient.

Contract extensions always require a Contract Amendment.

To avoid interruptions to the contract or possible exclusion of reimbursement for project costs, Grant Recipients should submit a request for a contract extension as soon as a delay is foreseen. Contract extension requests should be submitted approximately **sixty (60) days prior to the expiration date** of the contract.

Contract Period Extensions (Cont.)

A request for contract extension received **less than 30 calendar days** prior to the expiration date **will only be considered** if:

- The project was reasonably expected to be completed within the contract period: **AND**
- Either a natural disaster event, documented by **presidential or governor's declaration, or a decision** by a federal or state agency occurred in the 60 days prior to the contract expiration date which prevented **the chief elected official from certifying the project's** completion. Normal weather conditions are not considered extenuating circumstances.

Extension Request Documentation

The following documentation shall be submitted for a contract extension:

- A revised timeline showing how the Grant Recipient plans to complete the project within the proposed period – the timeline should reflect milestones described in Exhibit C of the TxCDBG contract as well as any other key dates specific to the project; and
- *Contract Change Request Form (Form A1101).*

Questions:



CHAPTER 12

Contract Closeout

Contract Closeout

Closeout Procedures Begin When...

- CDBG funds have been expended except closeout costs (audit, final 10% administration/**engineering**, other TDA approved costs);
- All project activities described in TxCDBG Performance Statement have been completed;
- TxCDBG contract terms and conditions have been met.

Contract Closeout Final Public Hearing

- Held after completion of the project;
- Notice is published in the non-legal section of the newspaper with at least 72 hours prior to hearing;
- Hearing held in a convenient location and time (on or after 5:00 p.m.) with accommodations for citizens with disabilities;
- Must meet the needs of non-English speaking residents where a significant number of non-English speaking residents can be reasonably expected to participate.
 - Adhere to LEP Plan

Contract Closeout Documentation

- Project Completion Report (PCR) Form A1200
- Attachments:
 - Publication notice for Final Public Hearing
 - Map showing project as actually built
 - Section 3 Annual Report (Form A1011)
 - Evidence of benefit for work on private property (e.g. utility bills)
- PCR due within 60 days after the contract end date or if construction is completed prior to contract end date, then PCR is due within 60 days after construction is completed.
- Email to TDA
- PCR is reviewed by TxCDBG Program staff for accuracy and completeness.

Contract Closeout

- ✓ Part I: General Reports
- ✓ Part II: Performance Report
- ✓ Part III: Beneficiary Report
- ✓ Part IV: Final Financial Interest Report

Project Completion Report (PCR) Part I: General Reports

Part I: General Reports

- ✓ Total Persons Benefitting
- ✓ Certificate of Expenditures
- ✓ Civil Rights & Citizen Participation
- ✓ Certifications

Project Completion Report (PCR) Part I: General Reports – Certificate of Expenditures

Part I: Certificate of Expenditures

- Reserve funds for eligible third party claims, and /or de-obligated unused contract funds.
- TxCDBG not liable for costs incurred and reserved if costs are not submitted to TDA within **60 days after contract's end date, except:**
 - 10% administration (due 30 days after "closeout" letter);
 - Final audit costs (due on Single Audit due date); and
 - Conditional Approval of a Project with pending Regulatory Approval

Certificate of Expenditures:		TxCDBG Funds not Reserved (including pending draw)			
Activity	Funding Source	Funding Source To Date	Balance	Finalized Funds	Local Contribution
Total					6

Project Completion Report (PCR) Part II: Performance Report

Part II: Performance Report

- ✓ Actual Accomplishments
- ✓ HUD Performance Measures

Project Completion Report (PCR) Part III: Beneficiaries Report

Part III Beneficiary Report

- Activities that benefit exactly the same beneficiaries may be reported together
- Activities that benefit a different group of beneficiaries (including subsets) must be reported on a separate Beneficiary Detail Report
 - Part III(a) – Activities on Public Property
 - Part III(b) – Activities on Private Property
 - First-time public water or sewer service
 - Housing rehabilitation or OSSF installation

Project Completion Report (PCR) Part IV: Final Financial Interest Report

Part IV Final Financial Interest Report

- Includes contractors, professional services providers, construction contractors and subs, and suppliers with contracts of **\$2,000** or more
- List all contracts and final contract amounts
- If there are subcontractors, use the Contracts with Prime and Sub contracts option

Acceptance of Closeout Reports

- The PCR and closeout documents are initially reviewed by the TxCDBG Contract Specialist.
- Program Monitor conducts a final quality assurance review of the PCR and determines when contract is administratively complete.

Conditional Project Completion

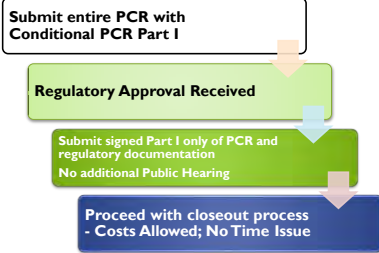
New – Conditional Project Completion

- Previously introduced as a pilot project
- For those projects waiting on Regulatory approval from other agencies such as TCEQ
- Allows closeout to begin before final certification of beneficiaries
- Certifies only that Construction completed

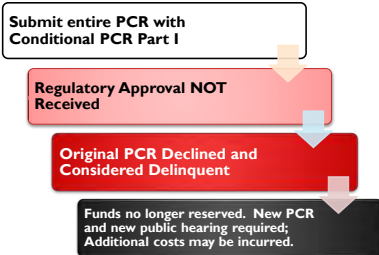
Conditional Project Completion -

1. Complete documentation submitted to the regulatory agency **prior to** the submission of the Project Completion Report (PCR), including all required testing or supporting data.
2. Public Notice - project has not been approved for use by the regulatory agency.
3. **“Conditional”** on PCR

Conditional Project Completion – Approval by Regulatory Agency



Conditional Project Completion – No Approval Received



Other Conditional Completion Requests

- Extraordinary circumstances
- Prior to final certification of national objective
- Written Request
 - Other agencies involved
 - Litigation
 - Other circumstances

Other Conditional Completion Requests: Final Acceptance of Project

- Once the pending issues are resolved, submit to TDA:
 - Documentation of the resolution (regulatory agency approval received, litigation settlement, etc); and
 - Revised Project Completion Report (Part I/PCR), including certifications, signed by the chief local official.

Common Pitfalls

- Certificate of Expenditures does not accurately report amounts of reserved funds or unutilized funds.
- Actual accomplishment on Part II of the PCR does not match final quantities in construction pay estimates.
- Beneficiaries do not match Performance Statement

Questions:



CHAPTER 13

Monitor Review

Role of Program Monitor

- Comprehensive monitoring of Grant Recipient's compliance with program policies.
- Final review of Project Completion Report and closeout documents
- Program oversight
- Provide technical assistance

Compliance Objectives

- Review Grant Recipient's performance for compliance with TxCDBG program requirements.
- Identify and investigate possible fraud and abuse
- Identify technical assistance needs

New - Risk-Based Reviews

- Grant Recipient self-administered monitoring reviews
- TDA Desk Reviews
- On-Site Reviews

Monitoring Review

- In general, occurs when either:
 1. Approximately 75% of total contract funds expended or construction is nearly complete; Contract not previously monitored; construction substantially complete; or
 2. Project Completion Report received.
- Other reasons:
 - Need for interim review identified
 - Grant Recipient request
 - Complaint received
 - Program staff request (with management approval)

Self-Monitoring Review

- Risk Assessment Tool Developed
 - Examples of Factors:
 - >\$500K Grant
 - Type of project
 - Prior performance
 - Amount of Match
 - New to TxCDBG program
- Grant Recipient & TxCDBG Certified Administrator must conduct and certify self-review.
- Concurrent Review of Financial Management Records by TDA
- 10% Selected for Desk Review

Self-Monitoring Review - Steps

1. Grant Recipient notified
2. TDA requests documentation
 - Financial Management
 - Self-monitoring checklist
3. TDA reviews financial management records & may notify Grant Recipient of corrective action required
4. Acceptance by TDA following receipt of certified results and completed review of financial records

Desk Review

1. Usually for medium risk
2. Part of 10% low risk
3. Interim review
4. TDA's discretion

Desk Review

1. TDA notifies Grant Recipient & requests documents
2. TDA reviews all records for compliance
3. TDA follow up within 30 days of desk review with written report

On-site Review

1. TDA policy requires on-site review
2. Risk assessment results in a high risk rating and at least 50 % TxCDBG funds drawn.
3. Complaint received or serious matter
4. TDA reserves the right to conduct on-site review.

Monitor Review Report

- Following the review, attempt to resolve preliminary findings.
- Non-Compliance Letter
 - Details findings and/or concerns
 - Provides resolutions and/or recommendations to resolve findings and/or concerns
 - ❖ Resolution of a finding may require a corrective action plan
 - ❖ Finding may result in disallowed costs
- The Grant Recipient must provide a complete response in writing within **30** days from the date of the findings letter.

Decision Categories

- ✓ In Compliance
- ✓ Substantially the same as Performance Statement
- ✓ Concerns
- ✓ Technical Assistance Provided
- ✓ Findings require Corrective Action

Non-compliance Procedures

- ✓ TDA send Monitor Review Report within 30 days (desk review and on-site)
- ✓ Grant Recipient needs to respond w/n 30 days or date specified
- ✓ Failure to resolve non-compliance
 - ✓ Funds on hold/deoblig
 - ✓ Disallowance of costs
 - ✓ Reduction of admin fees

Questions:



CHAPTER D

Texas Capital Fund

Texas Capital Fund – Section D

Infrastructure & Real Estate Programs

- Provide funds to eligible Grant Recipients for infrastructure and/or real estate improvements
- Supports a specific business (either a for-profit or a non-profit entity)

Eligible Use of Funds

- Acquiring, constructing, reconstructing, rehabilitating, or installing commercial or industrial buildings, structures, and other real property improvements;
- Railroad spurs or similar extensions by local Grant Recipients and sub-recipients;
- Private and Public Infrastructure;
- Assisting a private, for-profit business; and
- Providing economic development services in connection with otherwise eligible CDBG economic development activities

LMI (Low/Mod) Jobs National Program Objectives

- Create or retain permanent, full-time jobs where at least **51%** of the jobs involve the employment of low and moderate income (LMI) persons
- Example: Grant Recipient obligated to create 30 jobs → $30 \times .51 = 15.3$ → 16 LMI jobs must be created
- If retain jobs, evidence that jobs would have been lost without CDBG assistance and 51% are LMI
- Document income levels by certifications, referrals, or census tract data. Income limits can be obtained from TDA.

Documenting Jobs

- Job creation requirements are computed on a Full Time Equivalent (FTE) basis as follows:
- Full time employee status requires a minimum work schedule of 35 hours per week.
 - Part time employee status requires a minimum work schedule of 20 hours per week – two part time employees equal one FTE.
 - Employment must be consistent.

- For an employee to be considered towards job creation requirements, the person must:
- Be employed at least 30 days prior to the submittal of closeout documents or contract expiration, whichever comes first; and
 - Be employed at the location identified in the TxCDBG contract Performance Statement.

Documenting Jobs (Cont.)

Jobs **not** eligible to meet the National Objective include:

- Seasonal jobs,
- Temporary jobs,
- Contract labor jobs, and
- Jobs held by principals of the Benefitting Business(es).

Documenting Jobs –Transferring Employees (Cont.)



For Companies with Multiple Locations

- Up to 20% Newly Created Jobs to be filled by Transferred Employees
- Must identify employee replacing Transferred Employee

Documenting Jobs – Transferring Employees (cont.)

- **Use either Payrolls or Self-Certification**
 - **If Payroll:**
 - Provide starting payroll records showing all locations within 50 mile radius & Master Spreadsheet of all employees
 - Final payroll & employees at both locations
 - **If Self-Certification:**
 - TCF Survey Questionnaire D7
 - Starting /Ending payrolls for Project Location
 - For presumed LMI status (as found in census tract), employee responses used to determine LMI status

Quarterly Reporting Requirements

Due the 20th of May, August, November & February:

- Quarterly Employee Certification Report (ECR) (Form D5)
- Texas Workforce Commission’s (TWC) Texas Employer’s Quarterly Report (first page)
- NEW: no longer required - Quarterly Progress Report D9
- Job creation documentation – both Business and Grant Recipient

Contract Special Conditions

For Release of Funds – the Basics:

- Items listed in Chapter 2
- Starting Payrolls for the Benefitting Business(es) and other locations within a 50 mile-radius of the project location
- Agreement between Grant Recipient and Benefitting Business including checklist
- Repayment Agreement between Grant Recipient and Benefitting Business or TDA (if applicable)
- For Real Estate Improvements: Lease Agreement between Grant Recipient and Benefitting Business

Contract Special Conditions (Cont.)

In addition to Ch. 2 requirements, for construction or real estate activities, *if applicable*:

- Loan Agreement between Benefitting Business and a lender for private funding required to complete the project
- Environmental Site Assessment
- For Infrastructure Improvements: Evidence of the Start of Building Construction
- For Real Estate Improvements:
 - ✓ Tri-Party Agreement between Grant Recipient, Benefitting Business, and a lender
 - ✓ Appraisal for property to be purchased
 - ✓ Evidence of Flood Insurance for property to be purchased
 - ✓ Evidence of the owner's Title Insurance commitment for property to be purchased

Funds Committed by Business

- Work completed on private property and entirely with private funds may be excluded from many federal and program requirements; some federal regulations still apply.
- Examples of federal requirements that could apply:
 - Environmental review
 - Davis-Bacon Labor Standards
 - Competitive Procurement Requirements
 - Acquisition Requirements

Funds Committed by Business (Cont.)

- Davis-Bacon Labor Standards requirements apply to the entire construction contract.
- If any acquisition of real property is required to meet the job creation/retention.
- If funds are used for materials or service contracts, even if the contract is primarily funded through private investment competitive procurement requirements apply.

Evidence of Occupancy

Notify TDA of the date that the business occupies the project site benefitting from the TCF funded infrastructure within 60 days of occupancy.

- Certificate of Occupancy
- If a Certificate of Occupancy is not required by local authority:
 - submit a letter from a third party licensed professional approved by TDA who is knowledgeable about required safety standards stating that a formal Certificate of Occupancy is not required and certifying the date that the benefitting business was approved to use the facility and/or improvements funded through the TCF grant.
- Should occur prior to the business starting operations

Evidence of Occupancy (Cont.)

The date of occupancy will determine:

- the first date that jobs created or retained by the project may be considered eligible; and
- the date on which the first payment is due to TDA under the Repayment Agreement (3 months after the date of occupancy).

Repayment Requirements

TCF monies awarded for real estate improvements and private infrastructure awards

- Usually requires repayment
- Excludes administration and engineering

Repayment Requirements

Real Estate Improvements – are intended to be **owned** by the GR and **leased** to the business and require full repayment. Payments repaid by the business through a lease agreement:

- minimum three year lease period or until the TCF contract between the Grant Recipient and the Department has been satisfactorily closed (whichever is longer);
- lease period not to exceed twenty (20) years or ten (10) years for awards less than \$300,000;
- no interest;
- minimum monthly payment not less than \$500; and
- payments begin the first day of the third month following the construction completion date.
- Optional: purchase option, if the option is effective after the minimum five year ownership/dilution requirement, and if the purchase price equals (at a minimum) the remaining principal amount originally funded by the TCF which has not been recaptured

Repayment Requirements (Cont.)

Private Infrastructure Improvements - Infrastructure that will be located on the business site, or on adjacent and/or contiguous property to the site that is owned or leased by the business, requires full repayment.

Grant funds are repaid by the business through a repayment agreement with the following terms:

- no interest;
- not to exceed twenty (20) years or 10 years for awards less than \$300,000;
- minimum monthly payment not less than \$500; and
- payments begin the first day of the third month following the construction completion date.

Contract Special Conditions – Prior to Close-out

The following items are required to be submitted no later than the date that the Project Completion Report is submitted.

1. Texas Department of Licensing and Regulation final approval letter;
2. Hazard and Liability Insurance;
3. Final Payroll Report for the Benefitting Business
 - a) Include all employees that were working for the business prior to the execution date of the Grant Recipient TCF contract AND all newly hired employees .
 - b) The period reported on the final payroll must be at least 30 days prior to the TCF contract end date, but no more than 30 days prior to the date that closeouts are submitted if the closeouts are submitted before the contract expires.
 - a) Show that employees have been on the job for no less than one (1) month.

Contract Special Conditions – Prior to Close-out (Cont.)

- c) For **each employee** the report must contain at a minimum:
 - Full name;
 - ✓ A unique Employee Identification Number, which must not include all or part of the **employee's Social Security Number**;
 - ✓ Full-time and Part-time employment status;
 - ✓ Date Hired;
 - ✓ Wages; and
 - ✓ Hours Worked.

4. **Family Income/Size Certification (Form D7)** for each LMI employee.

Closeout

- The Grant Recipient must submit the **TCF Project Completion Report (PCR)** (Form D1200) with attachments no later than 60 days after the contract end date.
- 2 ways to report jobs created on PCR**
 - Jobs creation and Contract Compliance – report jobs as described in Section D.1.1.**
 - Job creation and HUD requirements – uses HUD formula based on both positions and hours worked. Used only for HUD reporting purposes.**
- Any business that does not gather, complete and provide this data to both the Grant Recipient and TDA will not satisfy the National Program Objective to benefit low and moderate income families

Downtown Revitalization & Main Street Programs

The TCF Main Street Improvements and Downtown Revitalization Programs provide funds to eligible cities for infrastructure improvements in the central business district. These programs address the National Program Objective (NPO) of aiding in the elimination of slum or blighted areas.

Slum/Blight National Program Objectives

Economic development activities in the Main Street Improvements and Downtown Revitalization programs must qualify under the Slum/Blight National Program Objective Area Basis.

- ◀ The infrastructure improvement activity must take place in an area that has been designated by the Grant Recipient as meeting a definition of a slum, blighted, deteriorated or deteriorating area under state or local law;
- ◀ Has a substantial number of deteriorated or deteriorating buildings or the public improvements are in a general state of deterioration; and
- ◀ The assisted activity must address one or more of the conditions that contributed to the deterioration of the delineated area.

Closeout - Downtown Revitalization and Main Street Programs

- The Grant Recipient must submit the *TCF Project Completion Report (PCR) (Form D1200)* with **attachments** no later than 60 days after the contract end date.
- Main Street and Downtown Revitalization programs require applicants to close an existing grant contract prior to submitting an application for new funding, regardless of extensions granted.
- Grant Recipient **MUST** submit complete closeout documentation no later than **60** days before the application deadline in order to allow for a thorough review of the documents and completion of a monitoring review.

Questions:





THAT'S ALL FOLKS!