




TEXAS DEPARTMENT OF AGRICULTURE
COMMISSIONER SID MILLER

Texas Community Development Block Grant Program
2018 Implementation Training Workshop




Workshop Agenda

- Overview of CDBG Program
- Review of 2018 Implementation Manual Changes
- Chapter 1 – Chapter 4
- Break
- Chapter 5
- Lunch
- Chapter 6 – Chapter 10
- Break
- Chapter 11 – Chapter 13, Section D
- Question & Answer




TxCDBG Program

- Assistant Commissioner – Dan Hunter
- Trade & Business Division Administrator – Karen Reichel
- Sr. Director for Rural Economic Development – Larry McManus
- State Director for CDBG Programs– Suzanne Barnard
- Assistant Director – Erica Garza
- Team Leads:
 - Program Monitor – Del Serna
 - Program Implementation –Chad Hinds
 - Contract Specialist – Melissa Gonzales
- Environmental Regulations & Labor Standards Officer – Pam Wozniak


 **Basics: Two Main Components**

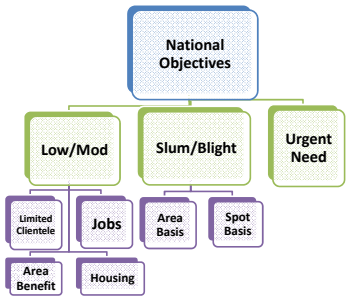
Federal (HUD)	State (TxCDBG)
<ul style="list-style-type: none"> Entitlement Areas 	<ul style="list-style-type: none"> Cities less than 50,000 Counties less than 200,000 Nonentitlement

- 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**



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graph TD
    NO[National Objectives] --> LM[Low/Mod]
    NO --> SB[Slum/Blight]
    NO --> UN[Urgent Need]
    LM --> LC[Limited Clientele]
    LM --> J[Jobs]
    SB --> AB[Area Basis]
    SB --> SP[Spot Basis]
    LC --> ABenefit[Area Benefit]
    J --> H[Housing]
  
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Fund Categories

- Community Development (CD)
- Colonia Funds (CFC & CFP)
- Downtown Revitalization & Main Street (DRP/MS)
- Small and Microenterprise Revolving Loan Fund (SMRF)
- Texas Capital Fund Infrastructure/Real Estate (TCF)
- Disaster Relief (DR) and Urgent Need (UN)



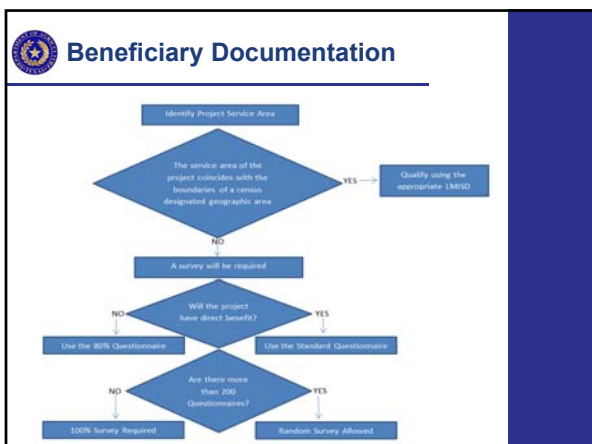
Beneficiary Documentation Update

- TxCDBG, as per CPD Notice 14-13, will only allow the use of the LMISD data to qualify an activity and to document the activity beneficiaries under the following conditions:
 1. The project activity will benefit a significant number of the persons within a census geographic area.
 2. LMI Percentage at least 51.00%
 3. The service area includes unit(s) of general local government



Beneficiary Documentation Update

- No additional data may be used to “substitute” or alter the LMISD data for a specific geography
- Incarcerated populations are not considered eligible beneficiaries of TxCDBG projects, and may not be added to the total beneficiary information through surveys or any other method.



When to Use a Survey

- The service area of the project does not coincide with the boundaries of a census designated geographic area.
- The service area of the project extends beyond the borders of a geographic area.
- May use LMISD data and survey the beneficiaries beyond the geographic area or survey the entire service area.
- Project has a direct benefit

Required Steps for Surveys

1. Identify Project Service Area
2. Determine if LMISD or a survey is appropriate
3. Identify Type of Questionnaire required
4. Determine if survey is large enough to be random or 100% survey
5. Conduct Survey
6. Submit documentation to TDA for approval



Direct vs. Indirect Benefit

- Direct Benefit
 - Installation / replacement
 - Water or sewer yard service lines
 - Onsite sewage facilities (OSSF)
 - Housing Rehabilitation
 - Anything on Private Property
 - Job Creation/Retention



Benefit Area - Indirect Benefit

Water Distribution Lines or Sewer Collection Lines in Residential Areas

- Residents of a target area are beneficiaries if the water or sewer lines installed through the application activities provide service (or access to service) to all residents of the area.

Water Treatment, Water Supply, Water Storage Improvements

- The residents of a service area that will be served by the proposed treatment, supply, or storage improvements are counted as beneficiaries. These improvements generally provide a community-wide or system-wide benefit.



Benefit Area – Indirect Benefit

Street Improvements

- Beneficiaries of street improvement projects include residents whose property lines abut the arterial or collector streets targeted for improvement, as well as those who rely on the targeted streets as the only way to access their area of residence.
- Residents of arterial street blocks whose property directly abuts either side of the collector streets targeted for improvement are also considered beneficiaries.



When to Use a Survey

- Direct Benefit
 - MUST use Standard Questionnaire with 30%, 50% and 80% AMFI levels
 - Need to capture additional data (e.g. race and ethnicity)
- Indirect Benefit
 - May use 80% ONLY Questionnaire



Survey Size and Type

- Direct benefit is ALWAYS 100% of beneficiaries surveyed
- If there are more than 200 questionnaires for indirect benefit, a random survey may be completed.
- For less than 200 questionnaires 100% of beneficiaries must be surveyed.
- Must have 80% response rate



Survey Form Order

Tab Form	Survey List	Sample Size Calculator/ Random # Generator	Sample Pool	Subbed Out	Non-sample	Vacancies
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Only random sample surveys will include the Sample Size Calculator/Random Number Generator, subbed-out questionnaires, and non-sample questionnaires.



Surveys - A few more things

- Surveys are good for 5 years from the date of the earliest questionnaire
- Only Surveys with signed tabulations will be reviewed
- If it's not the same target area, it's a separate survey



Surveys - Common Issues

- Not surveying the entire service area
- Counting vacancies in "Number of Households Receiving Project Benefits"
- Not reaching 80% response rate
- Each target area survey must be 51%, not a cumulative of multiple target areas to reach 51% LMI
- Poorly completed questionnaires



Survey Submission Preferences

- Electronic submission
- Keep originals, just have to send them back
- Less than 200 organized by Family Size with LMI and non-LMI separated
- Random survey organized by random number generator
- Locations list with all the required information

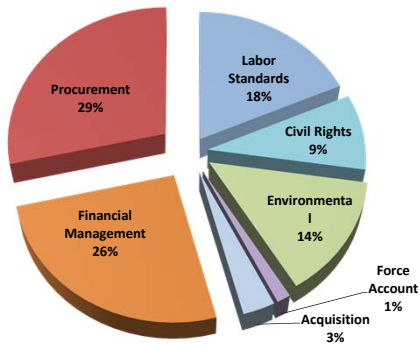


Outline of 2018 Manual Changes

- No approval required to conduct TV-ing and Smoke testing for certain projects
- Ch. 1 – New pre-agreement eligibility time frames
- Ch. 4 – Community Enhancement Special Condition added
- Ch. 5 – SAMs registration for all contractors, pre-qualification requirements for administrative services procurement, etc.
- Ch. D – Job creation documentation clarification



Compliance Findings



Chapter 1

Administration & Reporting



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Pre-Agreement Costs

—What are Pre-Agreement Costs?

— *Costs incurred 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
- ✓ Construction costs must meet Environmental & Special Conditions Requirements
- ✓ **Subject to TDA's review/discretion**



Pre-Agreement Costs: Eligibility

New guidelines for Pre-Agreement cost eligibility for TxCDBG grant funding or match funding

Costs incurred during pre-agreement phase must be incurred;

- ✓ After the TDA Pre-Agreement Date
- ✓ After the administrative/engineering services contract award date; AND
- ✓ During the contract period that is identified in the administrative/engineering services contract (Time of Performance)

Note: The Services contract period may begin prior to the date the service contract was executed.



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.



TDA/Grant Recipient Contract Execution

- 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

Administrative Activities Checklist - A102

ACTIVITY	Recipient	Consultant	Eng/Arch	Other
A. Initial Administrative Procedures:				
Set up all files pertaining to TDCDBG 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 active records are kept
- ✓ Records shall be retained for the greater of 3 years from closeout of the grant to the state

FILED SYSTEM GUIDE A103

(NOTE: Grant files should be kept at the local or county level. List in order of relevance.)

ADMINISTRATIVE FILES

- 1. Public Hearing/Agenda
- 2. Board/Committee/Commission/Task Force
- 3. Resolution/Ordinance/Resolution/Policy
- 4. Request for Proposals/Request for Information

GRANT FILES

- 1. Grant Agreement
- 2. Grant Agreement Addendum
- 3. Request for Proposals/Request for Information
- 4. Request for Proposals/Request for Information
- 5. Request for Proposals/Request for Information

FINANCIAL RECORDS

- 1. Grant Agreement
- 2. Grant Agreement Addendum
- 3. Request for Proposals/Request for Information
- 4. Request for Proposals/Request for Information
- 5. Request for Proposals/Request for Information

PERFORMANCE RECORDS

- 1. Grant Agreement
- 2. Grant Agreement Addendum
- 3. Request for Proposals/Request for Information
- 4. Request for Proposals/Request for Information
- 5. Request for Proposals/Request for Information

Grant Recipient Management of TxCDBG Project

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

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

- All administrators need to be certified annually by TDA in order to be eligible to be paid from TxCDBG grant funds or match
- ❖ *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

Applicable To:

- Community Development
- Colonia Construction Fund
- Colonia Planning Fund
- Disaster Relief/Urgent Need Fund
- Texas STEP Fund
- Planning/Capacity Building Fund
- Community Enhancement Fund

Not Applicable To:

- Texas Capital Fund
- Colonia Self-Help Centers Fund
- Colonia Economically Distressed Areas Fund

Submitting Documents

- ✓ TDA cannot access platforms such as Google docs, Dropbox or any other similar platforms due to security risks. Please do not send links to TDA to such platforms.
- ✓ As of September 1, 2018 – All Group A, B, C and Special Condition Documents must be sent to:
CDBGReporting@TexasAgriculture.gov
(unless there is a designated email box e.g. Labors in-box)
- ✓ Civil Rights Documents along with Code of Conduct document submitted via email must be as (1) email with (1) PDF file under 10 mb. If file is larger than 10 mb then must mail
- ✓ Force Account Draws along with backup must be mailed unless it is under 10 pages – no exceptions

4-Month Conference Call

4-Month/Award Conference Call

1. The Award Conference Call may count if all the Project Team has been appointed/selected and all participate in Award Call.
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.

"Project Team" refers to: the chief local elected official (or authorized representative), project administrator, and project engineer and if procured, Administrative and engineering consultants

Questions



Chapter 2

Financial Management



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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

— CFR = Code of Federal Regulations



Financial Management: Conflicts of Interest



"Under disclosure rules, I'm required to tell you I own stock in the company whose drug I'm prescribing."



Financial Management: Conflicts of Interest

- Conflict of Interest is a situation in which a person is in a position to derive personal benefit from actions or decisions made in their official capacity
- 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
 - NO Stamps
 - NO Electronic
- 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 a minimum of 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
 - Form A209 is the Direct Deposit Authorization Form 74-176



Financial Management: Release of Funds

- **Submit within 12 Months:**
- Group A Documents:
 - Basic Start-up & Federal Requirement/Designate Documentation
 - Includes Code of Conduct covering Conflicts of Interest
 - Due to large size, mail in Civil Rights & Code of Conduct docs
- Group B Documents:
 - Construction Contract Documentation
- **Final Construction & Engineering Release of Funds Submit:**
- Group C Documents:
 - COCC and FWCR (not PCR) Documentation
 - TDLR, TCEQ, etc. approvals (if applicable)
 - Any other documents under special conditions



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

Request for Payment (A203)

- Send to:
CDBG_Draws@TexasAgriculture.gov
- Be sure and fill out all information under each tab in order to receive payment
- Verify all information is accurate
- Supply all supporting documentation
- If Claiming Match supply all back up
- Must have original authorized signatures – No stamps or electronic
- If more than 10 pages, mail to TDA



Request for Payment

Most Common Issues

- Legibility!!
- Form not signed and/or dated properly
- Clarity of Match documentation
- From or to dates outside of Contract dates with no explanation
- Best practice: Be sure and fill out all information under each tab on Request for Payment (A203)



Financial Management: Drawdown

- Drawdown at minimum once every 9 months for each budget line item
- Send adequate readable backup
 - but not over 10 Megabytes
 - Force Account – mail hard copy only

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:

- ✓ Missing Start up documents
- ✓ 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 TxDBG 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

All match documentation submitted



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 (\$); (Funds infused by locality)
 - 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

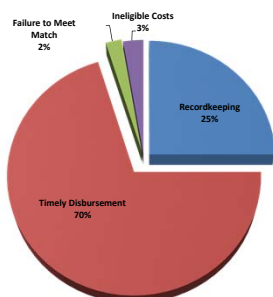


Financial Management: Match Funding from Other Sources

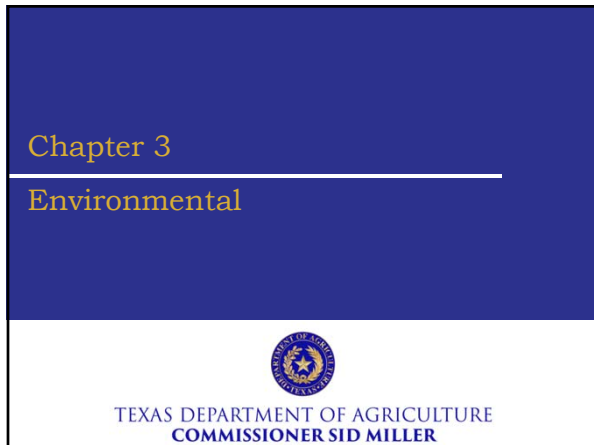
- Grant Recipients must provide:
 - Amount of Funds Received;
 - Scope of Project Funded by Other Sources; and
 - Completion of that project.
- If funding source known after submission of application, notify TDA with funding award letter

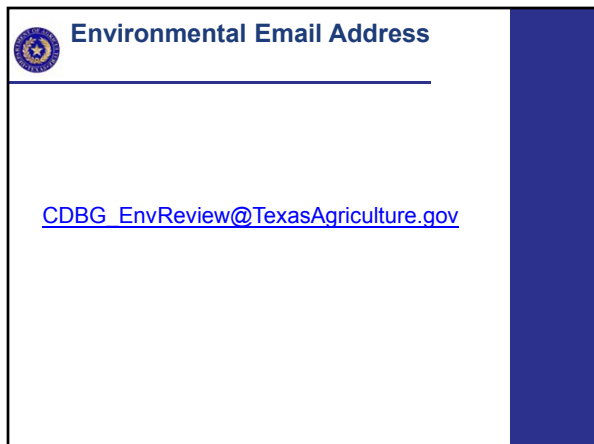


Financial Management: Compliance Findings











Timing of the Review

An **Environmental Review** must be completed **BEFORE** any funds, regardless of source, are committed.



Step 1 - Project Description


• Project Description must:

- The Environmental Project Description will be more detailed than the Performance Statement.
- 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)
- **NEW: Include in the project description the following, "including the associated administration and engineering work."**




Step 2 - Determine Level of Review

- 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
- Who can sign forms: The Elected Official of the Responsible Entity. Who can represent in court? (Note in the publication)

 **Step 3 - Complete Checklists**

Exempt and Categorically Excluded Not Subject to §58.5:	• Form A303 Under the 2018 Implementation Manual.
Categorically Excluded, Subject to §58.5:	• Form A304 Under the 2018 Implementation Manual.
Environmental Assessment:	• Form A302 Under the 2018 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.**

 **Step 4 – Post and/or Publish Notices**

Example Notice of Intent to Request a Release of Funds

The language below is HUD's recommended wording of the Notice of Intent to Request a Release of Funds. This Notice is used to request the environmental release of funds for a project. It is required for all projects that are not exempt from the requirements of the National Environmental Policy Act (NEPA) and the Executive Order on the protection of the environment. It is required for all projects that are not exempt from the requirements of the National Environmental Policy Act (NEPA) and the Executive Order on the protection of the environment. It is required for all projects that are not exempt from the requirements of the National Environmental Policy Act (NEPA) and the Executive Order on the protection of the environment.

NOTICE OF INTENT TO REQUEST RELEASE OF FUNDS

Date of Notice: _____

Name of Responsible Entity (RE): _____

Address (e.g., Street No. or P.O. Box): _____

City, State, Zip Code: _____

Telephone Number of RE: _____

On or about _____, the RE will submit to HUD a request for the release of funds for the project. The RE will submit to HUD a request for the release of funds for the project. The RE will submit to HUD a request for the release of funds for the project.

ENVIRONMENTAL CERTIFICATION

The RE certifies to HUD that none of the following conditions exist:

(a) The project is a major Federal action significantly affecting the quality of the human environment.

(b) The project is a major Federal action significantly affecting the quality of the human environment.

(c) The project is a major Federal action significantly affecting the quality of the human environment.

(d) The project is a major Federal action significantly affecting the quality of the human environment.

(e) The project is a major Federal action significantly affecting the quality of the human environment.

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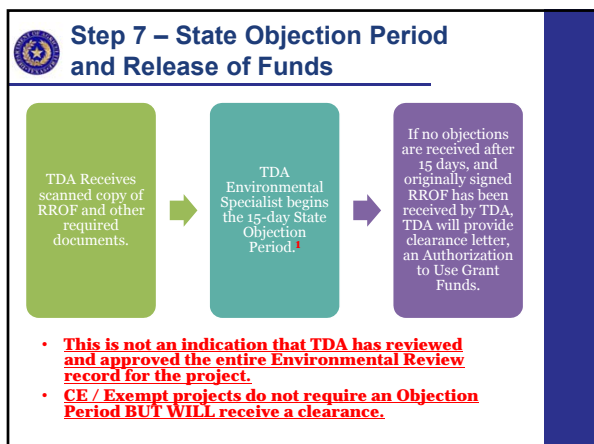
OBJECTIONS TO RELEASE OF FUNDS

HUD will accept objections to its release of funds and the RE's certification for a period of 30 days following the anticipated submission date or its actual receipt of the request (whichever is later) only if they are on one of the following bases: (a) the certification was not received by the Certifying Officer of the RE; (b) the RE has submitted a request to HUD for a decision or finding required by NEPA regulations at 24 CFR part 58; (c) the grant recipient or other participant in the development process have requested funds, incurred costs or undertaken activities not authorized by 24 CFR part 58 before approval of a release of funds by HUD; or (d) another Federal agency acting pursuant to 49 CFR Part 1564 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. 58.76) and shall be addressed to HUD State administration office at address of that office. Potential objections should request HUD State to verify the actual last day of the objection period.

Name and Title of RE Certifying Officer: _____

PUBLIC COMMENTS

Any individual, group, or agency may submit written comments on the RE to the RE designated office responsible for receiving and responding to comments. All comments received by a notice is published, notice date plus seven days, if notice is received and posted.



SOURCE DOCUMENTATION MORE IS NOT ALWAYS BETTER

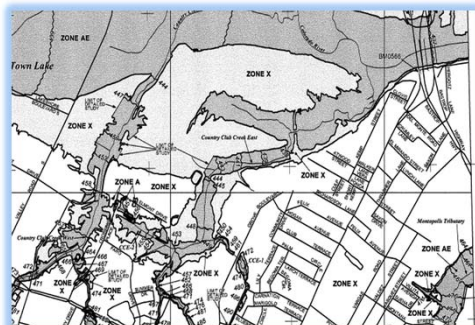
- Maps
- Photos
- Emails
- Google Maps
- Notes of conversations
- Letters and contact with agencies
 - Project Description

Common Problems Environmental Packets

- Environmental Packet does not include documentation requesting clearance
- Lack of support documents - Maps, photos, etc.
- No checklists
- No project description or wrong project description
- Lack of detail in location and description
- RROF / Environmental Packets – Not signed/dated, future dates, not 2-sided
- Historical review – None completed/Tribal consultation
- Lack of detail in forms and publication
- Lack of identity in street locations and crossings
- Not following 8-Step process for floodplains



Standard Firm Map





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/County has already obtained
- DON'T JUST REFERENCE
- Make copies and reference (Verifiable)
- Letters to agencies: Be specific in description of project to be completed.



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 CEs.
- Usually used for OSSFs and Other CE Projects.

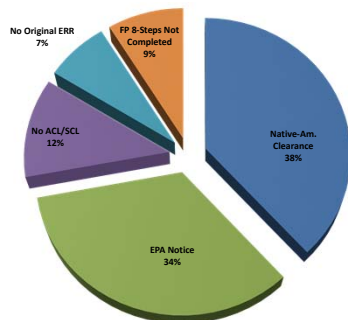


Takeaways and latest information

- Start review early – Resolution
- Project Description is more detailed than PS (include Administration and Engineering)
- 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 – Describe activity
- Complete packets – send what we ask for
- The person who signs the RROF is the one going to court
- The Assessment needs support too
- It's too late after the fact




Environmental Compliance Findings




Questions




Chapter 4
Contract Special Conditions




TEXAS DEPARTMENT OF AGRICULTURE
COMMISSIONER SID MILLER


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

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





Project Requiring Permanent Signage

- Required for any TxCDBG funded public structure or project 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
- Parks
- Pavilions
- Health Centers
- Shelters



Permanent Signage

Language 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 Requirements

• 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 is 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.



CEF Reporting (NEW)

- Contractor shall submit a report detailing the services and or functions of the facility developed with contract funds. The initial report shall be submitted by 12/31 of the year in which the contract is closed and shall continue to be submitted annually for the subsequent four years.

Questions



Chapter 5

Procurement Procedures



TEXAS DEPARTMENT OF AGRICULTURE
COMMISSIONER SID MILLER



Methods of Procurement

- **Competitive Proposal**
Traditional & Pre-Qualified Process
 - Procurement of professional and administration services.
- **Sealed Bids (formal advertising)**
 - Procurement of construction or materials.
- **Small Purchase (\$50,000 or less)**
Procurement of services, supplies or materials.
- **Micro-purchase (\$2,000 or less)**
for construction, supplies, or services.
- **Non-competitive Proposal (sole source)**



- 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.
- Grant Recipients should utilize the Pre-Qualified Process (Phase 2) for administrative services anticipated to cost 50,000 or less.
- Traditional 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

Traditional Method

- 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



Administrative Services Procurement using the Pre-Qualified list

- For Streamlined process to select grant administrator
- Communities must procure administrative service provider before the firm conducts any work to prepare the application for TxDBG funding
- Applicants for grant funding in Program Year 2018 may only use administrative service providers that are:
 - Employees of the Applicant community (self-administering community),
 - Councils of Government acting as sub-recipients to applicant community
- Vendors included on the Pre-Qualified List (Approved Vendor List)



Step by Step Procedures for Pre-Qualified (Phase 2) Procurement

- Identify evaluation team and review approved vendor applications
- Select firms to consider further
- Complete Phase 2 Solicitation – Request for Project Specific Proposal
- Receive and review the proposals
- Select a Grant Administrator using local procedures to award the contract
- Work with Grant Administrator to prepare the application



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	DAY 1 (Fourteenth day before the date set to publicly open bids)	DAY 2	DAY 3	DAY 4	DAY 5	DAY 6
9-1-18	9-2-18	9-3-18	9-4-18	9-5-18	9-6-18	9-7-18
DAY 7	DAY 8	DAY 9	DAY 10	DAY 11	DAY 12	DAY 13
9-8-18	9-9-18	9-10-18	9-11-18	9-12-18	9-13-18	9-14-18
DAY 14	BID OPENING					
9-15-18	9-16-18					




Financial Interest Report – Form A503

- Submit for all contracts exceeding \$2,000 within 30 days of executing the contract:
 - ✓ A503
 - ✓ Bid Tabulation
 - ✓ Bid Schedule



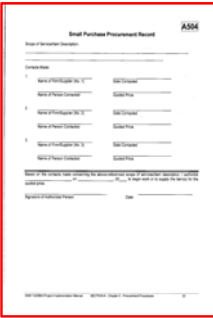
Small Purchase Procurement


- Relatively simple and informal procurement methods to secure construction services, supplies, equipment, or non-professional services that cost, in the aggregate, **\$50,000 or less**, 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.)


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





Micro-Purchases


- Micro-purchases is non-competitive procurement which may be used for supplies or services, in the aggregate of \$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.

Grant Recipient must verify that contractor is not debarred under the System for Award Management (www.SAM.gov)




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

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

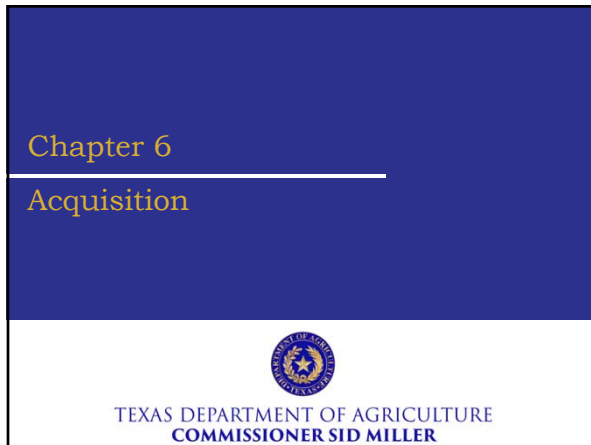
- **ALL** Change Orders must be submitted for review, whether or not the work will be paid with grant or matching funds, so that we have a complete record of the construction contract.
- TxCDBG recommends that the Grant Recipient submit a Change Order **prior** to fully executing it with the construction 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.

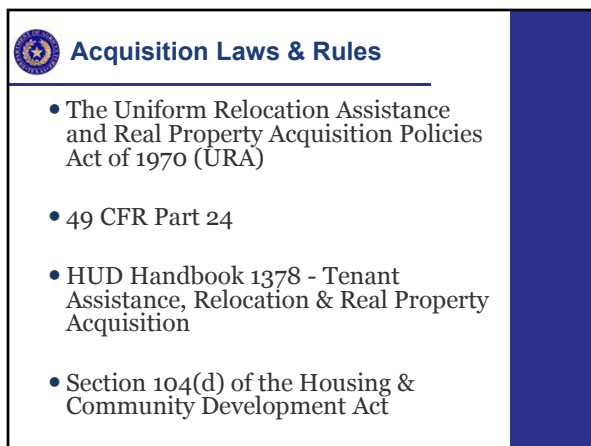


Common Pitfalls

- 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.









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

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

Involuntary Acquisition

- 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.
 - (Must have acceptance by TDA before proceeding)
 - 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
 - Include alternative site locations

Submit Initial Acquisition Report (Form A600) to CDBGReporting@TexasAgriculture.gov
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

Voluntary Acquisition – Cont'd

4. Purchase price may be negotiated by acquiring entity and owner. (Refer to Step 6 in the Manual)
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.

Submit (Form A600, A601) and all Acquisition documents to:
CDBGReporting@TexasAgriculture.gov



Acquisition Steps - Involuntary

Involuntary Acquisition

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.

Submit Initial Acquisition (Form A600) to:
CDBGReporting@TexasAgriculture.gov

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

Involuntary Acquisition – (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

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.

Submit (Form A600, A601) and *all Acquisition* documents to:
CDBGReporting@TexasAgriculture.gov



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.



Important Notes

- Do not assume that owner's willingness to donate/sell land automatically constitutes Voluntary acquisition.
Voluntary or Involuntary is 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.



Important Notes

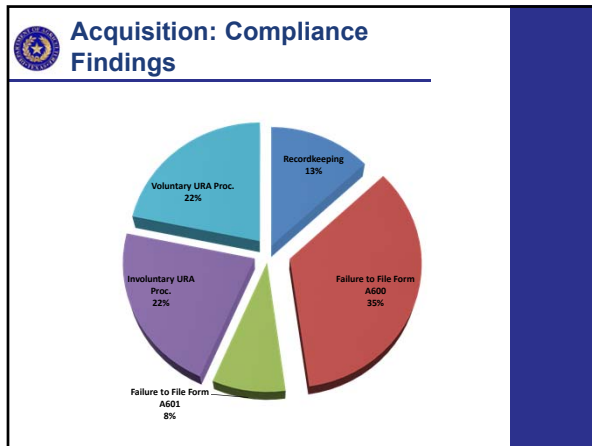
- Ensure that a complete Initial Acquisition Report (Form A600) has been filed with TDA.
 - Include description and map.
 - Form must be certified by the Chief Elected Official or designee.
 - File updated report with TDA if acquisition is later necessary for the project.
- Include acquisition in the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



Important Notes

- Permits and licenses such as railroad permits do not constitute real property acquisition and therefore, are not subject to URA (Uniform Relocation Act)
- The use of CDBG funds to support the use of eminent domain on an economic development project that primarily benefits a private entity is prohibited.
(Refer to current Consolidated Appropriations Act)

Submit (Form A600, A601) and *all Acquisition* documents to:
CDBGReporting@TexasAgriculture.gov





Chapter 7

Labor Standards

TEXAS DEPARTMENT OF AGRICULTURE
COMMISSIONER SID MILLER



Labor Standards – Basic Process

- Appoint a LSO before anything.
- 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 (**Contractor must be registered with SAM**)
- 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
- **SEND TO LABORS INBOX**
 - ✓ Labors@TexasAgriculture.gov




Labor Standards – Common Pitfalls

- Not Sending the LSO appointment form (Change of LSO)
- 10 Day Call done after bid opening / RFQ / contract execution
- Inconsistent Signatures on forms (using stamps)
- Additional Wage Classification (AWC) requests – issues (Detail/ Clarity)
- Execution dates different on F.I.R. than on the C.O.C.C.
- Signatures – Missing or persons not authorized to sign
- Not getting Change Orders in



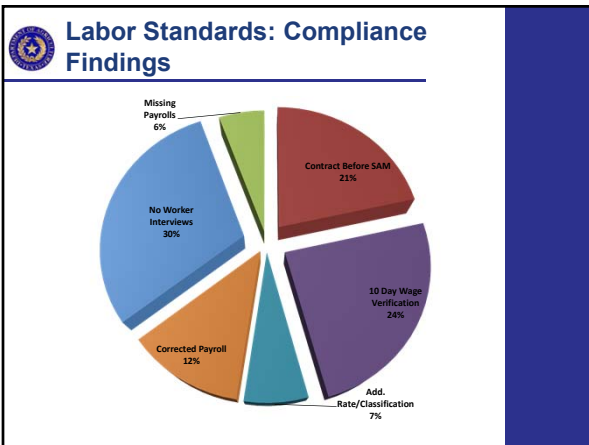
Labor Standards – Common Pitfalls

- Contract Amounts Different
- 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



Labors Email Address

Labors@TexasAgriculture.gov



Questions



Chapter 8

Force Account



TEXAS DEPARTMENT OF AGRICULTURE
COMMISSIONER SID MILLER



Force Account – REALLY???





Force Account - Definition

- Professional services, construction, rehabilitation, repair or demolition that is performed by municipal or county employees.



Force Acct

Force account applies to the following employees:

- Permanent employees of a Grant Recipient;
- Temporary employees of a Grant Recipient hired, not contracted, to specifically perform work on a federally funded or federally assisted construction project - the Grant Recipient must provide evidence that it adhered to its hiring and employment policies for temporary employees;
- Employees of a county who are carrying out public facilities improvements for a Grant Recipient through an intergovernmental agreement as prescribed by the Texas Government Code, Interlocal Cooperation Contract, Chapter 791; or
- Employees of a public utility district or utility company on a case-by-case basis.



Force Account - Disadvantages

1. No warranty for work performed by the Grant Recipient;
2. Construction may be slower and not meet contract time frame;
3. Extensive record keeping is required;
4. Skilled local workers and appropriate equipment may be insufficient;
5. Additional documentation is required for each drawdown;
6. Delayed payments due to required documentation review;
7. Procurement requirements for necessary materials; and
8. Ongoing inspections may not be readily available to ensure quality construction.



Force Account – Minimal Advantages

1. Cost effective if the activity is one that traditionally is done by city/county personnel;
2. Jobs are kept in the community; and
3. Greater local control over scheduling and costs.



Force Account – Allowable Costs

- Labor
 - Reasonable wages must be supported by adequate documentation.
- Materials
 - All materials must be adequately procured.
 - Using materials already on hand will be based on the actual cost of the material at the time of original purchase.
 - Unused supplies greater than \$5,000 can be used for other Federal projects or must be reimbursed.



Force Account – Allowable Costs

- Equipment - Grant Recipients may be compensated for the equipment based on an hourly rate.
 - Only actual hours of construction time “in use” at the project site are eligible.
 - Standby equipment costs are not eligible.
 - The hours charged for equipment use must agree with the corresponding hours documented for the equipment operator.
- Professional Services
 - City engineer



Force Account – Recordkeeping

Grant Recipient must maintain **thorough documentation of all costs:**

- Employees Personnel policies
- Personnel Cost Calculation Sheet
- Time sheets documenting the workers and work performed
- All timesheets should correspond to the Grant Recipient's regular employee time sheets, no one should be charged to the project if they are not in attendance
- Equipment Cost Calculation Sheet
- Construction Personnel Time Sheet
- Invoices and cancelled checks for all construction materials and supplies

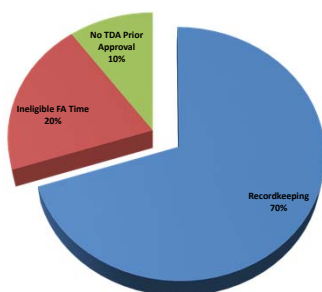


Force Account – Additional info

- As previously discussed, return/reimbursement of inventory if not used
- No longer 50% cap based on original value of the equipment
 - No longer having to show the original invoice of the equipment used




Force Account: Compliance Findings




Questions
?

Chapter 10

Civil Rights




TEXAS DEPARTMENT OF AGRICULTURE
COMMISSIONER SID MILLER



Protections

Civil Rights offers Protections for the following classes:

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



Civil Rights Requirements

- Part A: Civil Rights Requirements at Project Start-Up
 - Prior to TDA approval of first draw
- Part B: Civil Rights Requirements After Project Start-Up



Part A: Requirements at Project Start-Up

1. Set up Civil Rights & Citizen Participation File
2. Designate a Civil Rights Officer (CRO)
3. Adopt policies and grievances procedures regarding Citizens Participation
4. Adopt policies and pass resolution/proclamation/ordinances regarding Civil Rights
5. Take affirmative steps to assist SBE, MBE, WBE
6. Publish Citizen Participation and Civil Rights notices
7. Place Equal Opportunity (EO) certifications in bid packets for contractors
8. Include Section 3 and EO in contracts between GR and Contractor



Step 1: Set up a Civil Rights and Citizen Participation File

- Set up a file for documentation collection regarding civil rights procedures:
 - Equal Employment Opportunity
 - Section 3
 - Excessive Force
 - Section 504
 - Affirmatively Furthering Fair Housing
 - Limited English Proficiency
 - Utilization of SBE, MBE, WBE
 - Citizen Participation



Step 2: Designate a Civil Rights Officer (CRO)

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



Step 3: Citizens Participation

- Prepare citizen participation plan that encourages citizen participation at all stages of the project.
 - Must satisfy requirement of 24 CFR 570.486
- Develop and adopt grievance procedures

A1014 Sample Resolution regarding Civil Rights

A1013 Sample Citizen Participation Plan



Step 4: Adopt Civil Rights Policies

All Grant Recipients must prepare and adopt written policies and plans on the following:

- Non-Discrimination/Equal Opportunity
- Section 3 Economic Opportunity (Section 3)
- Excessive Force
- Section 504 of the Rehabilitation Act of 1973 (Section 504)
- Affirmatively Furthering Fair Housing (AFFH)
- Limited English Proficiency (LEP) Standards
- Code of Conduct
- Citizen Participation Plan



Step 5: 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



Step 6: Publish Citizen Participation and Civil Rights Notices

Grant Recipients must give notice and publish the following:

- Citizen Participation and Notice of Complaints Procedures
- Section 504
- Affirmatively Further Fair Housing

Notice may be given in one of three ways:

- Publish in a newspaper of general circulation
- Post in public places (City Hall and location of target area) during contract term
- Post on GR's website during contract term and post at posting in public place (City Hall, etc)



Exceptions

Grant Recipients with less than 15 employees are not required to conduct:

- Prepare written grievance procedures regarding Section 504
- Post grievance procedures in newspaper advertisement
- Appoint a Civil Rights Officer



Step 7: Place EO and Section 3 policies in Bid Packets

- Include Equal Opportunity certification and guidelines in bid packets
- Provide adopted Section 3 Policy in bid packets. Require bidders to certify that a Contractor's Section 3 Plan will be submitted if they are awarded the contract.



Step 8: Construction contracts between GR and Contractor

In Construction contracts between the Grant Recipient and Contractor include:

- Section 3 Clause
- Equal Opportunity Clause for construction contracts greater than \$10,000.
- See Ch. 5 of Implementation Manual for contract language



Part B: Civil Rights Requirements after Project Start-Up

9. Continue complying with Civil Rights Responsibilities
10. Take action to Affirmatively Further Fair Housing
11. Further action and Reporting Requirements regarding:
 - Citizen Participation
 - Equal Opportunity
 - Section 3
 - Resolutions
 - Section 504
 - Fair Housing
 - LEP



Step 9: Civil Rights Responsibilities

- Be consistent in implementing the project's civil rights responsibilities
- Be ready to explain the purpose and importance of the civil rights laws and requirements to local citizens
- Take action to ensure no one is discriminated against in receiving services and benefits from the TxCDBG project.



Step 10: Affirmatively Further Fair Housing

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



Step 10: Affirmatively Further Fair Housing

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



Fair Housing related 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

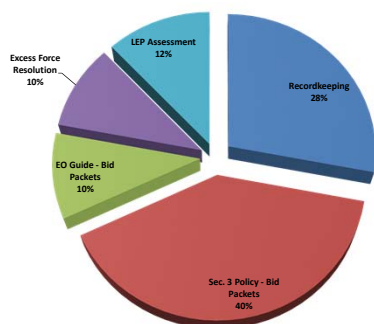


Step 11: Further action and reporting requirements

- This section lists reporting requirements and final actions to be undertaken on civil rights policies
- Recordkeeping a MUST



Civil Rights: Compliance Findings




Questions




Chapter 11

Contract Amendments




TEXAS DEPARTMENT OF AGRICULTURE
COMMISSIONER SID MILLER



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

- 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%).

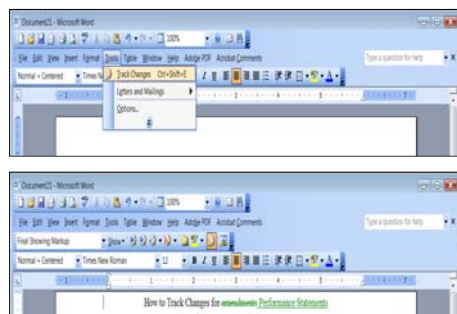


Documentation Required

- 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
<p><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></p> <p><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></p>	



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 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
(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, TD&A 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.

- **Submit within 60 days of contract end date but no later than within 30 days of contract end date**



Contract Period Extensions

Contract extension requests should be submitted approximately **sixty (60) days prior to the expiration date** of the contract.

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



TEXAS DEPARTMENT OF AGRICULTURE
COMMISSIONER SID MILLER



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

Part I: General Reports

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



Contract Closeout Part 1: Project Completion Report

Part I: General Reports

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



PCR - Part 1: Certificate of Expenditures

Part I: Certificate of Expenditures

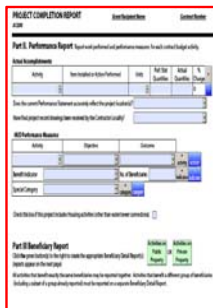
- Reserve funds for eligible third party claims, and/or de-obligated unused contract funds.
- TxCDBG not liable for costs incurred and reserved if costs are not submitted to TDA within 60 days after contract's end date, except:
 - 10% administration (due 30 days after "closeout" letter);
 - Final audit 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 draws)			Local Contribution	Percent Matched
Activity	TxCDBG Budget	TxCDBG Funds Drawn To Date	TxCDBG Reserved Funds	TxCDBG Unreserved Funds	Debit		
Total							0 %

PCR – Part 2: Performance Report

Part II: Performance Report


- ✓ Actual Accomplishments
- ✓ HUD Performance Measures



PCR – Part 3: Beneficiary Report

Part III Beneficiary Report

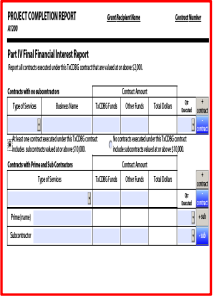
- ✓ List all Activities
- ✓ Beneficiaries by Demographic
- ✓ Beneficiaries by Income
- ✓ Part III(a) – Activities on Public Property
- ✓ Part III(b) – Activities on Private Property
 - First-time public water or sewer service
 - Housing rehabilitation or OSSF installation
- ✓ Part III also report Beneficiaries by Income



PCR – Part 4: Final Financial Interest Report

Part IV Final Financial Interest Report

- ✓ List all contracts and final contract amounts
- ✓ Includes contractors, professional services providers, construction contractors and subs, and suppliers with contracts of \$2,000 or more
- ✓ All initially reported on Financial Interest Report (Form A503)
- ✓ 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

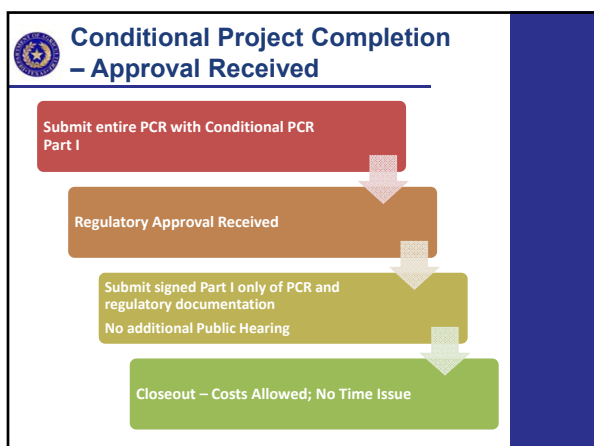
Conditional Project Completion

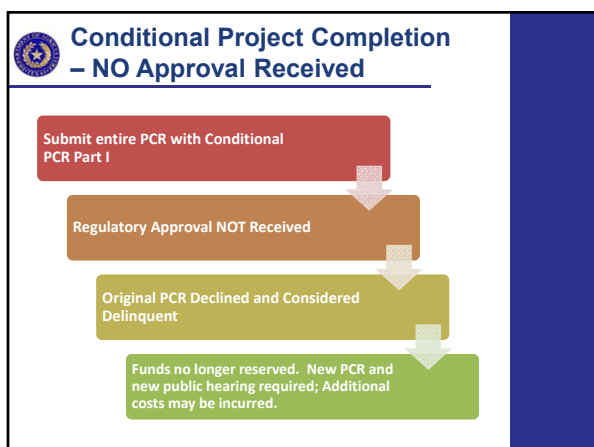
- Previously introduced as a pilot project
- For those projects waiting on Regulatory approval from other agencies such as TCEQ
- Allows closeout to begin before final certification of beneficiaries
- Certifies only that Construction completed

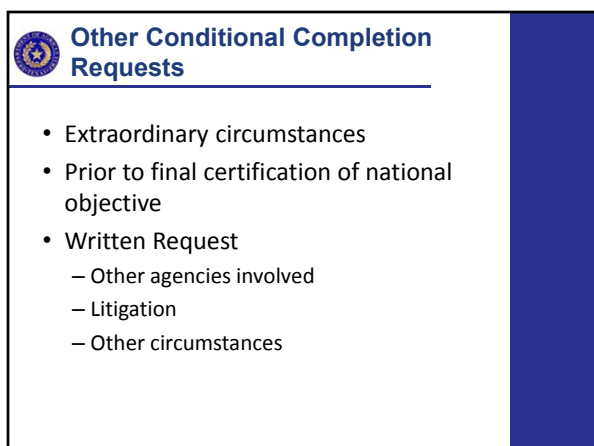


Conditional Project Completion

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









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



TEXAS DEPARTMENT OF AGRICULTURE
COMMISSIONER SID MILLER



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. 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

TDA sent Monitor Review Report within 30 days (desk review and on-site):

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



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.



Non-compliance Procedures

- ✓ 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 14

Audit Requirements



TEXAS DEPARTMENT OF AGRICULTURE
COMMISSIONER SID MILLER



Audit Certification Form (ACF)

• **Audit Certification Form (ACF)**

- An ACF is due annually, within 60 days after fiscal year end, for all contracts open during the fiscal year.
- A non single audit report (Financial Statement or GAS audit) will not be accepted in lieu of the annual ACF filing requirement.
- ACF must be signed by the Grant Recipient's certifying officer, designee, or CPA firm.
 - Grant management consultants may not certify the ACF.



Single Audit

- **Single Audit**
 - \$750,000 expenditure threshold is met or exceeded
 - Submit an audit within the earlier of 30 days after receipt of the auditor's report(s), and within 9 months after your fiscal year end.
 - Single Audit Packet must include:
 1. Single Audit report
 2. Single Audit Report Submission Checklist
 3. CPA firm's Management Letter along with Grant Recipient's response and planned corrective action for any deficiencies



Delinquent or Incomplete Filing

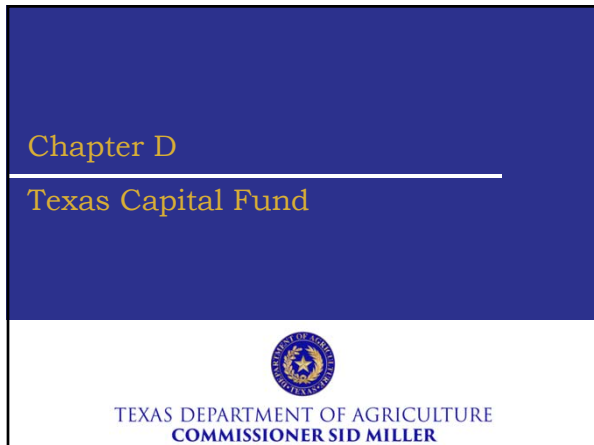
- Non receipt or incomplete ACF or Single Audit Packet **may** result in:
 - ✓ A hold on contract amendment requests
 - ✓ Suspended funding on all open contracts
 - ✓ Ineligibility to apply for TxCDBG assistance
 - ✓ Place a hold on any newly awarded contracts

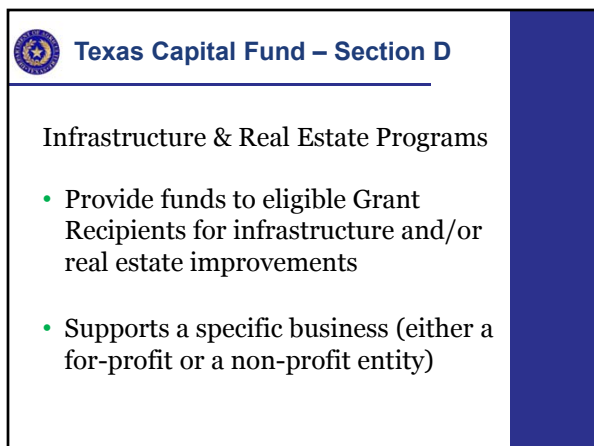


Submit ACF or Single Audit

- **Texas Department of Agriculture**
- **Compliance Audit Section**
- **P. O. Box 12877**
- **Austin, TX 78711-2877**
- ACFs may also be submitted online at the TDA website or via email:
- CDBGAuditACFexternalEmail@TexasAgriculture.gov









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 → $30 \times .51 = 15.3 \rightarrow 16$ 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

- Jobs **not** eligible to meet the National Objective include:
 - Seasonal jobs,
 - Temporary jobs,
 - Contract labor jobs,
 - Jobs transferred from other locations, and
 - Jobs held by principals of the Benefitting Business(es).



Documenting Jobs – Transferring Employees

- 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

- **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)
- 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

- 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

- 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

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

- **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 Closeout

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 Closeout (continued)

- 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.



DRP/MS: 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.
- Recent applications for Main Street and Downtown Revitalization programs have not allowed applicants to have an existing Main Street or Downtown Revitalization contract prior to an application deadline date, regardless of extensions granted.
 - If a TxDBG application requires applicants to close an existing grant contract prior to submitting an application for new funding, the 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.



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 economic development 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.

Questions:



**Congratulations,
You are 2018 TxCDBG
Certified!**



TEXAS DEPARTMENT OF AGRICULTURE
COMMISSIONER SID MILLER
