



TEXAS DEPARTMENT OF AGRICULTURE
COMMISSIONER SID MILLER

**Texas Community Development Block Grant Program
2019 Implementation Manual Webinar**

For AUDIO, all participants must dial-in:

(866) 487-5722

Conference ID: 6761238076

Chapter 1

Administration & Reporting



TEXAS DEPARTMENT OF AGRICULTURE
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Pre-Agreement Costs

What are Pre-Agreement Costs?

- ✓ 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

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 signed contract to TDA for execution – via DocuSign
3. TDA will send a copy of the fully executed contract to the Grant Recipient.



TDA/Grant Recipient Contract Execution

90 Day Rule - Ready to Proceed

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.



Establish a Local Administrative Structure

The Grant Recipient must:

Establish a record-keeping system to document compliance with all federal, state, local, and program requirements.

- Grant files must be kept at city or county offices or buildings and accessible to the public throughout the contract period.
- Records shall be retained for the greater of three years from closeout of the grant to the state, or the period required by other applicable federal and state laws and regulations.



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





Administrative Thresholds

12-Month Rule for Release of Construction Funds

- If a Grant Recipient fails to meet this requirement, TDA will begin the process of contract termination.
- TxCDBG contract ensures that the Grant Recipient will have an opportunity to resolve the deficiency as a part of the termination proceedings.
- The Grant Recipient may submit a response to TDA within 30 days of the notice that termination proceedings have begun, providing a justification for the delay and a schedule for completing the Group A and Group B requirements.
- All required documentation must be submitted within 90 days of the termination notice



Applications after the Award of a TxCDBG Contract

Fund Category	Contract Period	Example Progress Threshold #1	Example Progress Threshold #2
Disaster Relief	12 months	Obligate 50% of TxCDBG contract funds at 9 months	Construction complete, PCR and final draw submitted at 12 months
FAST Fund	12 months	Obligate 50% of TxCDBG contract funds at 9 months	Construction complete, PCR and final draw submitted at 12 months
Community Development	24 months	Obligate 50% of TxCDBG contract funds at 12 months	Construction complete, PCR and final draw submitted at 24 months
Downtown Revitalization/ Main Street	24 months	Obligate 50% of TxCDBG contract funds at 12 months	Construction complete, PCR and final draw submitted at 24 months
Colonia Fund (Except Self-Help)	24 months	Obligate 50% of TxCDBG contract funds at 12 months	Construction complete, PCR and final draw submitted at 24 months
Planning Capacity Building	24 months	Obligate 50% of TxCDBG contract funds at 12 months	Construction complete, PCR and final draw submitted at 24 months
Community Enhancement	24 months	Obligate 50% of TxCDBG contract funds at 12 months	Construction complete, PCR and final draw submitted at 24 months
TCF Infrastructure/Real Estate	36 months	Obligate 50% of TxCDBG contract funds at 18 months	Construction complete, PCR and final draw submitted at 36 months



Applications after the Award of a TxCDBG Contract

- Applicant Threshold #1 Requirement
 - This rule requires applicants for future TxCDBG funding with existing TxCDBG contracts to obligate at least fifty percent (50%) of the total TxCDBG funds awarded under an open TxCDBG contract within the number of months (specified in the applicable fund Application Guide) from the start date of the contract.
- Applicant Threshold #2 Requirement
 - This rule requires the Grant Recipient to complete its TxCDBG project prior to applying for future TxCDBG funding. For purposes of meeting the Applicant Threshold #2 funds are considered expended prior to the application deadlines



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

A103

FILING SYSTEM GUIDE
(NOTE: Grant files should be kept at city hall or county courthouse. List is not all inclusive.)

APPLICATION FILE

- Grant Recipient's Application
- Public Hearing Information
- Surveys and Tabulation/Other Beneficiary Data
- Responses to CDBG Requests for Additional Information

CONTRACT FILE

- TDA Contract Award Letter
- Executed Contract
- Amendment Requests/Resolution
- Executed Amendments
- Approved Performance Statement Modification Letters
- Approved Budget Modification Letters

FINANCIAL MANAGEMENT FILE

- Designated Depository/Authorized Signatory Form
- Audit Report demonstrating financial capacity
- Direct Deposit Authorization Form *(if applicable)*
- Copy of Transaction Register/Accounting Records for CDBG funds and Local Matching funds
- Documentation of Drawdown Transactions – Purchase Vouchers, Request Summaries, and all supporting documentation *(i.e. invoices, personnel/equipment/material records, etc.)*.
- Source Documentation to support the receipt and disbursement of CDBG and local matching funds *(i.e. cancelled checks, deposit slips, monthly bank statements, bank account reconciliation records, etc.)*.
- Register to document local commitment of funds
- Funding Awards other than TxCDBG

ENVIRONMENTAL REVIEW FILE

- Environmental Review Record/Assessment
- Public Notices/Publisher's Affidavit
- Coordination Letters to/from other Agencies
- Public Comments
- Request for Release of Funds/Certification Form
- TDA's Environmental Clearance Letter
- Documentation of Compliance with other applicable laws/authorities
- Flood Plain Maps/EO 11888 Compliance *(if applicable)*
- Texas Historical Commission Notification and Response Letters

PROCUREMENT OF PROFESSIONAL SERVICES / ADMINISTRATION SERVICES

- Rationale for the method of procurement
- Evidence of affirmative steps taken to assure participation by small/minority businesses
- Basis for the cost or price
- Requests for Proposal/Advertisements
- Requests for Proposal Package
- Written Selection Criteria
- Copies of all letters and advertisements requesting proposals/return receipts
- Proposals received
- Vendor approval through SAM
- Professional services / Administration Services contracts
- Minutes/Resolution awarding contracts



Progress Reports and Request for Payment

- Progress reports of the status of each project will be provided with each draw request
- The Request for Payment (Form A203) **shall** be submitted electronically to:
 - CDBG_Draws@TexasAgriculture.gov.
- 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)



4-Month Conference Call

1. The Grant Recipient shall notify the assigned CDBG Contract Specialist of the date and time of the conference
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
5. Identify and report potential project issues or delays.

Chapter 2

Financial Management



TEXAS DEPARTMENT OF AGRICULTURE
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Federal and State Cost Guidelines

- 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



"...CONFLICT OF INTEREST?"



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



Financial Management: Signatories & Direct Deposit

- Authorized Signatories Designation Form A202:
 - Designate a minimum of 2 responsible persons to sign contracts, requests for payments, acquisition, environmental etc
 - Authorize designations through Resolution
- Direct Deposit (highly recommended):
 - Submit asap
 - Complete the Direct Deposit Authorization Form 74-176
- Send completed form to:
CDBGReporting@TexasAgriculture.gov



DocuSign

All forms, reports, and correspondence from the chief elected official (or other official authorized by the local governing body to execute contractual documents) must be signed by the authorized official. TDA may initiate documents for electronic signature via the DocuSign system.

Documents with electronic signatures not initiated by TDA may be accepted under the following conditions:

- The document must be directed to a specific individual for signature – accounts or email addresses used by multiple people may not be used for electronic signatures (e.g. , CityRequests@CityOf.gov); and
- The submittal to TDA must include system generated documentation, including the name of each signatory, email or account to which the request for signature was requested, date stamp of all signatures, and unique identifier for the document (e.g., the Certificate of Completion created in the DocuSign system).

Where noted elsewhere in this manual and/or other TxCDBG program guidance, certain documents may require original (wet ink) signature and not allow electronic signature. Examples include the TxCDBG Application for Funding and the environmental review Request for Release of Funds.

Signature stamps or other methods of signing on behalf of another person will not be accepted.



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



Where do I send my documentation to?

Environmental:

CDBG_EnvReview@TexasAgriculture.gov

Labor Docs:

Labors@TexasAgriculture.gov

Special Conditions:

CDBGReporting@TexasAgriculture.gov

Draws:

CDBG_Draws@TexasAgriculture.gov



Financial Management

Threshold	Grant Budget Available
General Administration Grant 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 Grant 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 Grant 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**



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



Maximum General Administration and Engineering Services Reimbursement

- Administrative costs may not be more than 16% of the TxCDBG grant funds budgeted for combined construction and acquisition/relocation activities.
- Additionally, engineering costs may not be more than 25% of the TxCDBG grant funds budgeted for combined construction and acquisition/relocation activities except in exceptional circumstances.



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

Backup documentation:

All costs must be supported by invoices or similar documentation, which include the following information: Vendor, Grant Recipient, Contract #, Invoice Date, Invoice Number, Service delivery dates (from and to), quantity, price, percentage complete (if applicable), detailed description of services, previously invoiced amount, and current amount due.



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

- ✓ 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: Denial of Payment, Cont.

Information on the draw form may not be corrected or edited after it has been signed. If revisions are required on any part of the draw form, **new signatures** must be obtained.



Acceptable Back-up Documentation for Eligible Costs A207

Activity	Acceptable Justification
Any services from a vendor	<p data-bbox="793 500 1522 548">Minimum acceptable information for ALL invoices:</p> <ul data-bbox="850 565 1638 1396" style="list-style-type: none"><li data-bbox="850 565 1129 613">• Vendor's Name<li data-bbox="850 630 1323 678">• Name of the Grant Recipient<li data-bbox="850 695 1197 743">• TxCDBG Contract #<li data-bbox="850 760 1081 808">• Invoice date<li data-bbox="850 824 1129 873">• Invoice number<li data-bbox="850 889 1438 938">• Service delivery dates (<u>from and to</u>)<li data-bbox="850 954 1638 1068">• Detailed description of goods or services which includes unit price and quantity<li data-bbox="850 1084 1554 1133">• Include quantity and/or percentage complete<li data-bbox="850 1149 1255 1198">• Previously invoiced total<li data-bbox="850 1214 1197 1263">• Current amount due<li data-bbox="850 1279 1501 1396">• Signatures – applicable when approval is indicated on invoice



Acceptable Back-up Documentation for Eligible Costs A207

<p>Services provided by Professional Services Contracts, such as Engineering, Architectural Services, Land Surveying Services, and Testing Services Contracts.</p> <p>Note: procured by qualifications</p>	<p>Billings or invoices from professional service providers and administration service providers, which <u>are in agreement</u> with the payment provisions of the contract.</p> <p>Costs must be explained in terms of specific activities or accomplishments.</p>
<p>Administrative Services provided by Contracts, such as Administrative Consultants, Environmental Review, and Archaeological Survey Contracts.</p>	<p>Billings or invoices from professional service providers and administration service providers, which <u>are in agreement</u> with the payment provisions of the contract.</p> <p>Costs must be explained in terms of specific activities or accomplishments.</p>
<p>Other Administrative costs, such as publication costs for required newspaper notices and mailing costs for contract documentation.</p>	<p>Billings/invoices for each item and copies of publications when applicable. Statements alone are not acceptable.</p>
<p>Construction Through Bid/Contract, including Testing Services Contracts. Note: procured through sealed bids/small purchase procedures</p>	<p>Billings/invoices from construction contractor and/or progress payment schedule with signed approval by engineer. <u>Actual quantities installed or purchased during the payment period</u>, <u>unit costs</u>, cumulative totals, and engineer's signature must be evident on the pay estimate.</p>



Financial Management: Ineligible Expenses

- Operating and maintenance expenses of public facilities, improvements and services are ineligible for CDBG funding.
- Inflow and infiltration identification methods (smoke testing, televising (TV'ing), and line cleaning (vacuuming, jetting, etc.) when used to identify project locations;



Financial Management: Ineligible Expenses

- ❑ If these methods are used to identify specific sections of wastewater line that require maintenance to reduce or eliminate the amount of inflow or infiltration routed to the treatment facilities, they are considered maintenance activities. The process of identifying target areas for wastewater line replacement must be completed prior to the submission of an application in order for the scope of the project to be fully identified and to expedite construction completion.



Financial Management: Ineligible Expenses

- ❑ Costs for TV'ing and similar methods are considered eligible if used for preconstruction testing on a specific reach of line (manhole to manhole) and/or inspection of newly constructed lines to verify proper installation.



Financial Management: Ineligible Expenses

- Software is generally ineligible unless it is integral to the function of an improvement and not utilized for billing or other Operation and Maintenance (O&M) purpose;
 - Software required for the operation of a SCADA system is eligible.
 - If software is used for both functional and O&M (billing) purposes, up to 50% of the software costs may be considered eligible.
- Costs associated with Professional administration where the administrator had not been certified by TDA as required by 4 TAC § 30.80



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

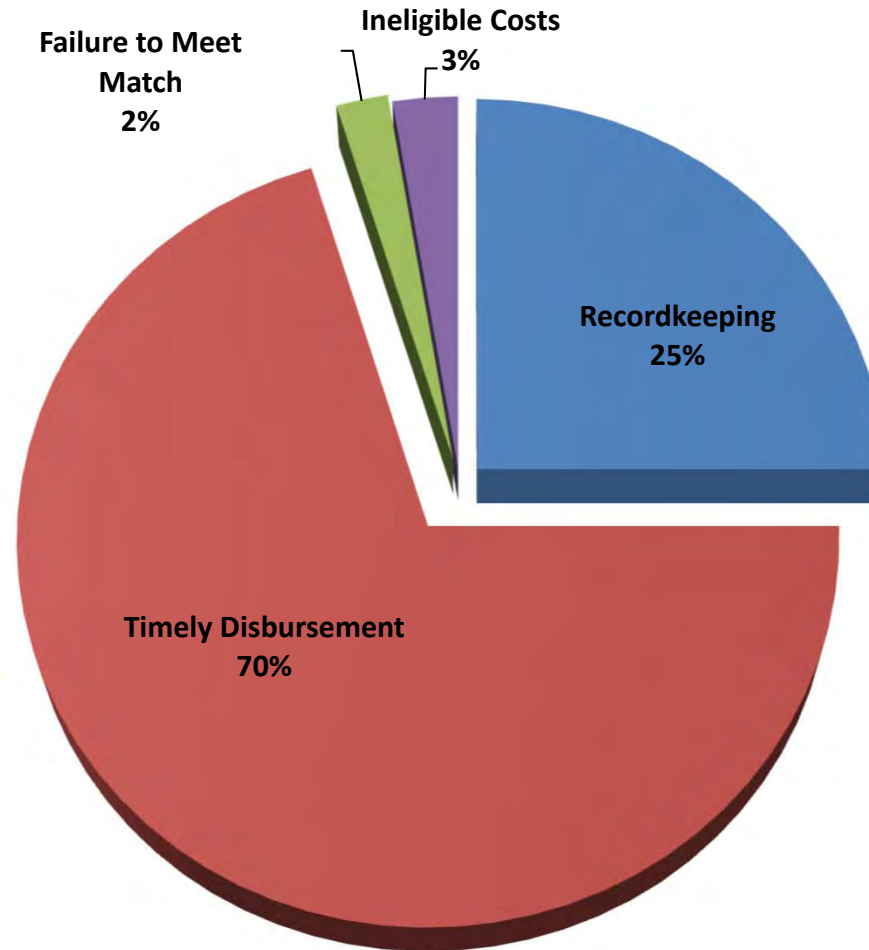


Financial Management: Match Funding from Other Sources

- 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



Chapter 3

Environmental



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Environmental Email Address

CDBG_EnvReview@TexasAgriculture.gov



Timing of the Review

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



Step 1 - Project Description

The Environmental Project Description must:

- Be more detailed than the Performance Statement.
- Be complete and clear:
 - What is there?
 - What will be there?
 - How will it happen?
- **Capture maximum possible scope (...if funds allow...)**
- Provide location specific information (Actual Streets, not what might be there in the future)
- Geographical boundaries (Not the entire County/ City)
- Include in the project description the following, “including the associated administration and engineering fees and services.”
- **FUNDING!!!! (from where and how much?)**



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. **No electronic signatures! Must be pen to paper.**
- Complete Project Description and Location
- Who can sign forms: The Elected Official of the Responsible Entity. If another individual signs other than the Elected Official, that individual must be on the signatory page under ENVIRONMENTAL (**New!**).
- 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 2019
Implementation Manual.

Categorically
Excluded, Subject
to §58.5:

Form A304 Under the 2019
Implementation Manual.

Environmental
Assessment:

Form A302 Under the 2019
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 (Now in 2 locations – New!)

A305

A305

Sample 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 Categorically Excluded projects [24 CFR Part 58, Section 58.35(a)] or for projects for which a Notice of Finding of No Significant Impact was previously issued. Words in **bold type** are required language. Words in *italics* are to be replaced by language appropriate to the particular project and Responsible Entity. The minimum comment period is seven days following publication or ten days if posting and mailing without publication is used

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 *at least one day after the end of the comment period* **the name of RE will** *if the RE is not also the grant recipient, insert the following language here: "authorize the [name of grant recipient] to"* **submit a request to the HUD/State administering agency for the release of name of grant program funds under Title/Section [] of the name of the Act of [year], as amended, to undertake a project known as project title for the purpose of nature/scope of project, estimated funding (include non-HUD funding sources if applicable) and project location if applicable.**

The activities proposed *alternative #1: are categorically excluded under HUD regulations at 24 CFR Part 58 from National Environmental Policy Act (NEPA) requirements or alternative #2: comprise a project for which a Finding of No Significant Impact on the environment was [published/posted] on [date of Finding publication/posting]. An Environmental Review Record (ERR) that documents the environmental determinations for this project is on file at name and address of RE office where ERR can be examined and name and address of other locations where the record is available for review and may be examined or copied weekdays __A.M to __P.M.*

PUBLIC COMMENTS

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

mailing and posting date plus ten days will be considered by the name of RE prior to authorizing submission of a request for release of funds.

ENVIRONMENTAL CERTIFICATION

The name of RE certifies to HUD/State that name of Certifying Officer in his/her capacity as Official Title consents to accept the jurisdiction of the Federal Courts if an action is brought to enforce responsibilities in relation to the environmental review process and that these responsibilities have been satisfied. HUD's State's approval of the certification satisfies its responsibilities under NEPA and related laws and authorities and allows the name of grant recipient to use Program funds.

OBJECTIONS TO RELEASE OF FUNDS

HUD/State will accept objections to its release of fund and the RE's certification for a period of fifteen days following the anticipated submission date or its actual receipt of the request (whichever is later) only if they are on one of the following bases: (a) the certification was not executed by the Certifying Officer of the name of RE; (b) the RE has omitted a step or failed to make a decision or finding required by HUD regulations at 24 CFR part 58; (c) the grant recipient or other participants in the development process have committed funds, incurred costs or undertaken activities not authorized by 24 CFR Part 58 before approval of a release of funds by HUD/State; or (d) another Federal agency acting pursuant to 40 CFR Part 1504 has submitted a written finding that the project is unsatisfactory from the standpoint of environmental quality. Objections 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 objectors should contact HUD/State to verify the actual last day of the objection period.

Name and Title of RE Certifying Officer



Step 5 - Prepare the RROF and Certifications

Request for Release of Funds and Certification

U.S. Department of Housing and Urban Development
Office of Community Planning and Development

OMB No. 2506-0087
(exp. 07/31/2017)

This form is to be used by Responsible Entities and Recipients (as defined in 24 CFR 58.2) when requesting the release of funds, and requesting the authority to use such funds, for HUD programs identified by statutes that provide for the assumption of the environmental review responsibility by units of general local government and States. Public reporting burden for this collection of information is estimated to average 36 minutes per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. This agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless that collection displays a valid OMB control number.

Part 1. Program Description and Request for Release of Funds (to be completed by Responsible Entity)

1. Program Title(s)	2. HUD/State Identification Number	3. Recipient Identification Number (optional)
4. OMB Catalog Number(s)	5. Name and address of responsible entity	
6. For information about this request, contact (name & phone number)		
8. HUD or State Agency and office unit to receive request	7. Name and address of recipient (if different than responsible entity)	

The recipient(s) of assistance under the program(s) listed above requests the release of funds and removal of environmental grant conditions governing the use of the assistance for the following

9. Program Activity(ies)/Project Name(s)	10. Location (Street address, city, county, State)
--	--

11. Program Activity/Project Description

Previous editions are obsolete

form HUD-7015.15 (1/99)

Part 2. Environmental Certification (to be completed by responsible entity)

With reference to the above Program Activity(ies)/Project(s), I, the undersigned officer of the responsible entity, certify that:

- The responsible entity has fully carried out its responsibilities for environmental review, decision-making and action pertaining to the project(s) named above.
- The responsible entity has assumed responsibility for and complied with and will continue to comply with, the National Environmental Policy Act of 1969, as amended, and the environmental procedures, permit requirements and statutory obligations of the laws cited in 24 CFR 58.5; and also agrees to comply with the authorities in 24 CFR 58.6 and applicable State and local laws.
- The responsible entity has assumed responsibility for and complied with and will continue to comply with Section 106 of the National Historic Preservation Act, and its implementing regulations 36 CFR 800, including consultation with the State Historic Preservation Officer, Indian tribes and Native Hawaiian organizations, and the public.
- After considering the type and degree of environmental effects identified by the environmental review completed for the proposed project described in Part 1 of this request, I have found that the proposal did did not require the preparation and dissemination of an environmental impact statement.
- The responsible entity has disseminated and/or published in the manner prescribed by 24 CFR 58.43 and 58.55 a notice to the public in accordance with 24 CFR 58.70 and as evidenced by the attached copy (copies) or evidence of posting and mailing procedure.
- The dates for all statutory and regulatory time periods for review, comment or other action are in compliance with procedures and requirements of 24 CFR Part 58.
- In accordance with 24 CFR 58.71(b), the responsible entity will advise the recipient (if different from the responsible entity) of any special environmental conditions that must be adhered to in carrying out the project.

As the duly designated certifying official of the responsible entity, I also certify that:

- I am authorized to and do consent to assume the status of Federal official under the National Environmental Policy Act of 1969 and each provision of law designated in the 24 CFR 58.5 list of NEPA-related authorities insofar as the provisions of these laws apply to the HUD responsibilities for environmental review, decision-making and action that have been assumed by the responsible entity.
- I am authorized to and do accept, on behalf of the recipient personally, the jurisdiction of the Federal courts for the enforcement of all these responsibilities, in my capacity as certifying officer of the responsible entity.

Signature of Certifying Officer of the Responsible Entity	Title of Certifying Officer
	Date signed
<input checked="" type="checkbox"/> Address of Certifying Officer	

Part 3. To be completed when the Recipient is not the Responsible Entity

The recipient requests the release of funds for the programs and activities identified in Part 1 and agrees to abide by the special conditions, procedures and requirements of the environmental review and to advise the responsible entity of any proposed change in the scope of the project or any change in environmental conditions in accordance with 24 CFR 58.71(b).

Signature of Authorized Officer of the Recipient	Title of Authorized Officer
	Date signed
<input checked="" type="checkbox"/>	

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

Previous editions are obsolete

form HUD-7015.15 (1/99)



Step 6 - Submit Clearance Documentation to TDA

EXEMPT PROJECTS UNDER 24 CFR §58.34(a):

- Cover letter from the Entity Stating intent to declare exemption.
- Form A303 Exempt or Cat. Excluded Not Subject to §58.5
- Example: Planning Grants

CATEGORICAL EXCLUSION UNDER §58.35(b)

- Cover letter from the Grant Recipient supporting the Categorical Exclusion level of review
- Form A303 Exempt or Cat. Excluded Not Subject to §58.5
- Photos of the area where work will be performed.
- Example: Equipment Purchases (FAST)

CATEGORICAL EXCLUSION §58.35(a)

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



Submit Clearance Documentation To TDA (cont.)

FULL ENVIRONMENTAL ASSESSMENT (EA)

- Letter from Entity
- Request for Release of Funds scanned (One original to be mailed) 2-sided single document.
- Form A302
- Publication with affidavit, scanned full print page, scanned and then send tear sheet with the original RROF.

ADDITIONAL REQUIREMENTS FOR LEVEL OF REVIEW

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



Step 7 – State Objection Period and Release of Funds



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



SOURCE DOCUMENTATION

- Maps
- Photos
- Emails
- Google Maps
- Notes of conversations
- Online resource websites (USFW, iPac, EPA, eTRAC, etc.)
- Letters and contact with agencies
 - Project Description must be included in letters to agencies.



Common Problems Environmental Packets: Dates!

- Checklist (FONSI) signed *after* publication/posting.
- RROF / Environmental Packets – Not signed/dated, future dates
- RROF signed before end of public comment period.
- Original RROF not submitted to TDA before end of State comment period.

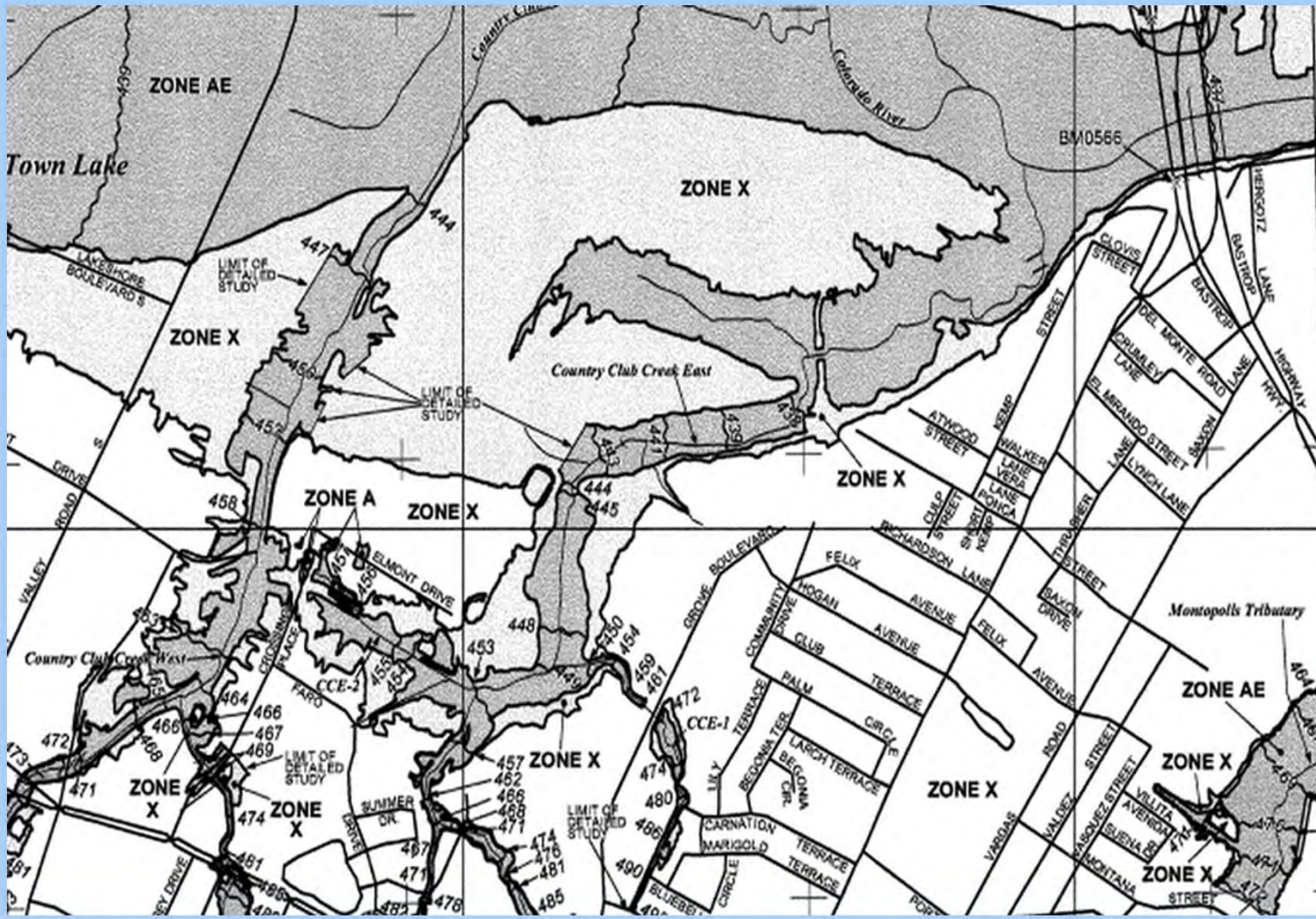


Common Problems Environmental Packets: Checklist

- No checklists, or missing pages.
- No project description or wrong project description.
- Historical review – None completed/Tribal consultation (certified letters?)
- THC clearance vs. TDA SHPO exemption
- Lack of support documents - Maps, photos, online resources, etc.
- Lack of identity in street locations and crossings
- Maps not identifying project location. **REALLY?**
YES, you need to do this!!



Standard Firm Map (Where's the project???)





Common Problems Environmental Packets: Checklist

- Contamination and Toxic Substances (what's there now not what's going to be there in the future)
- Explosives and Flammable Hazards (see above)
- Endangered Species – USFWS
- Environmental Assessment Factors – need to know WHY there's "no impact".
- Mitigation factors not entered
- Not following 8-Step process for floodplains
- Nothing is "not applicable"!! **It's ALL applicable!**



Common Problems Environmental Packets: Publication/Other

- No project description or wrong project description.
- Lack of information on funding sources and amounts in publication (i.e. how much and who's it from).
- Publication/Posting does not include requesting clearance for Admin and Engineering
- Not enough detail for public comments (need title and contact information)
- Addressing state comments – who to contact at TDA

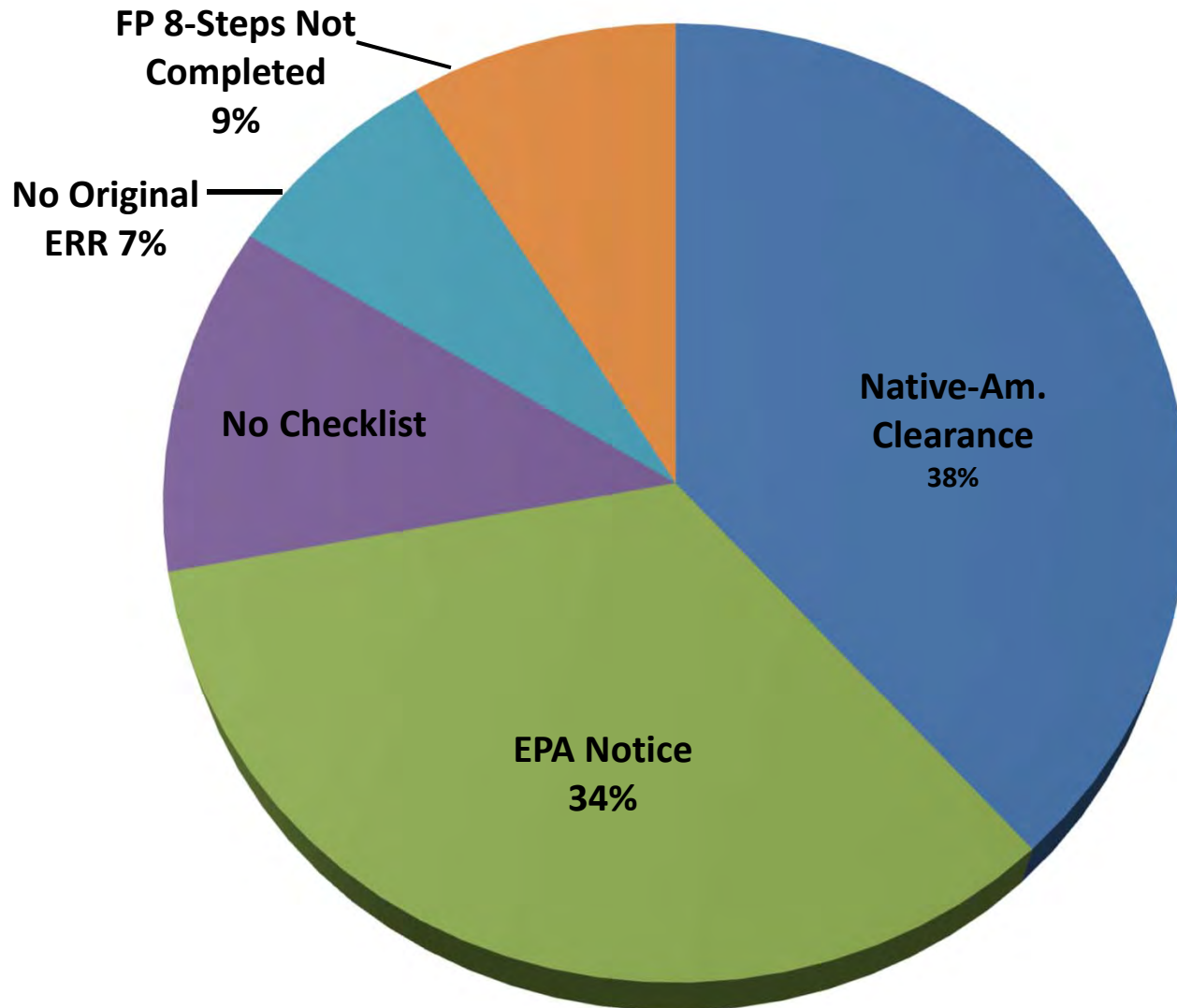


Tiering Projects

- 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 Housing Rehab and Other CE Projects.



Environmental Compliance Findings





Re-cap: What's New in Ch. 3?

- Authorized signatories for Environmental docs
- Clarification on Floodplain vs. Floodway requirements (8-step process)
- New THC web location:
(<https://www.thc.texas.gov/etrac-system>)
- New USFW web location:
(<https://ecos.fws.gov/ipac/>)
- TDA SHPO denials (subsequent requests go to THC)
- Publish/Post in **two** locations for FONSI/RROF
- New section for Environmental on modification and amendment request forms



Takeaways and latest information

- Start review early – Resolution
- Project Description is more detailed than PS (include Administration and Engineering)
- Verifiable Source documents
- 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.
- It's too late after the fact.

Chapter 4

Contract Special Conditions



TEXAS DEPARTMENT OF AGRICULTURE
COMMISSIONER SID MILLER



Pre-Construction

Permit and Approval Certification Form A401

- Lists permits, authorizations, written approvals required by state or federal regulations other than TxCDBG requirements.
- Examples of these approvals include: TCEQ, THC, TDLR, TxDOT
- Keep approvals in the local file

CERTIFICATION OF PRE-CONSTRUCTION APPROVALS **A401**

Grant Recipient: _____ Contract No.: _____

List all pre-construction approvals or permits required by state or federal agencies other than TDA.

Common permits and approvals are listed below. If a permit type is not available from the list, please type in the appropriate permit name. **Date Permit Received** **TDA Monitor Approval Date**

Permit Type	Date Permit Received	TDA Monitor Approval Date

I, _____ a licensed professional engineer certify that the above reflect all applicable permits or approvals required by any federal, state or local entity or regulatory agency applicable to TxCDBG contract # _____

Signed Engineer's Seal

Engineer's Printed Name	Engineering Firm Name	Engineering Firm Registration Number
Engineer's Signature		Date

Additional Comments (if necessary):

Chief Local Official's Printed Name	Chief Local Official's Signature	Date

This form required as of September 1, 2016
All previous versions no longer valid.



Pre-Construction: Temporary Signage

All construction projects utilizing TxCDBG funding must have temporary signage:

- Erected in a prominent location at the project site
- **NEW!** Minimum size of 11in X 17in
- Durable materials.





Pre-Construction: Direct Benefit Projects

Direct Benefit Guidelines

- Projects providing direct benefit to homeowners must receive approval of proposed program guidelines prior to:
 - Selection of program recipients
 - TDA's release of funds for such activities.
- **What's New??**
 - References to Guidelines Form numbers
(Fillable PDF forms in Section C)
 - Still need to coordinate w/ CS regarding TDA staff approval of Guidelines!



Pre-Construction: Colonia Projects

Colonia Street Lighting Funds

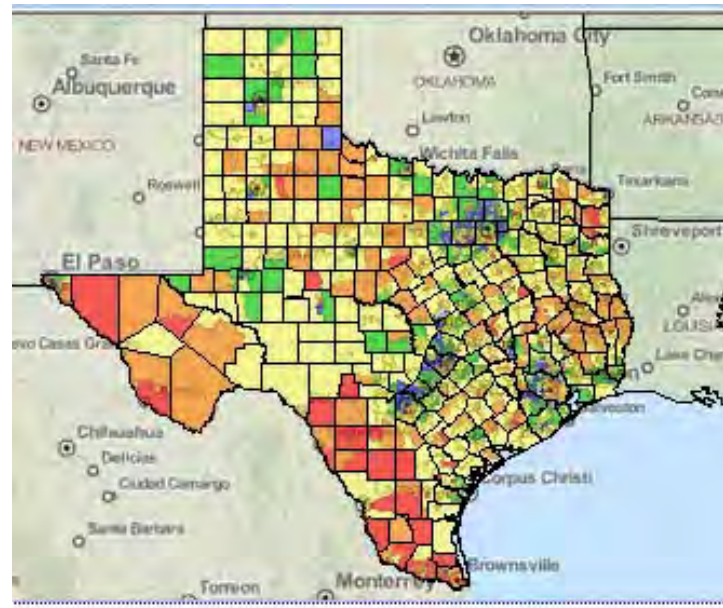
- TxCDBG grants that include street improvements in **Colonia areas** are required to include **adequate street lighting** in the project.
- If current street lighting in target area is **absent or inadequate**, then between **5% and 15%** of grant funds for street improvements must be designated **for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



Pre-Construction: Colonia Projects

Model Subdivision Rules/Ordinances

- Only Colonia Fund programs
- Certain communities are considered “economically distressed areas” and are subject to comprehensive platting requirements known as **Model Subdivision Rules**.





Pre-Construction: First-Time Services

First-Time Water/Sewer

- Re-survey first-time beneficiaries for households to connect
- PRIOR to bidding construction submit signed list of LMI households
- If less than 75% of beneficiaries proposed intend to connect need written approval from TxCDBG





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

Bryan W. Shaw, Ph.D., P.E., *Chairman*
Toby Baker, *Commissioner*
Zak Covar, *Commissioner*
Richard A. Hyde, P.E., *Executive Director*



TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

Protecting Texas by Reducing and Preventing Pollution

April 2, 2014

TO: Persons on the attached mailing list.



Project Completion (Cont.)

Septic System Replacement Projects

- Final plans, specifications, installation of sewer system improvement (septic systems) reviewed/approved by City/County Health Dept. via TCEQ authority.





Project Completion: TDLR

Building, Parking Lot, and Sidewalk Projects

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





Project Completion: Floodplain

Projects in a Floodplain

- Must participate in National Flood Insurance Program (NFIP)
- Proof of approval from Texas Water Development Board for Grant Recipient participation in NFIP





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.”

- Submit drawings:
 - In digital format with a signed statement from the engineer of when the map was authorized and digital map is true representation of the original sealed document.
 - As physical copies set in with C-documents with engineer stamp and signature.



Project Requiring Permanent Signage

Required for any:

- TxCDBG funded public structure or project
- TxCDBG funded public buildings, park areas, or
- Other structures open to the public
- Commercial facilities funded through the TCF Real Estate program

Project signage is an eligible construction cost.



Project Requiring Permanent Signage

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.”



TCF Aggregate Benefit

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

D8

**TEXAS CAPITAL FUND
AGGREGATE BENEFIT REPORT**

Grant Recipient Name: _____		Contract No. _____		
Original Business Assisted: _____		Jobs Created Retained: _____		
Date Construction Completed: _____		Date Submitted: _____		
Name and Address of all businesses accessing the infrastructure improvements funded by the TxCDBG/TCF contract. (Do not include the original business assisted.)				
Business Name	Businesses "Tying-On"		Employment Tracking Data	
	Street Address	Date Tied-On	Total No. of Employees at Date Tied-On	Employees Added Since Date Tied-On
			Number	% LMI
Total New Jobs				
% LMI Jobs Including Original Business				

This is a cumulative report and should reflect information for each business accessing the infrastructure improvements funded by the TxCDBG/TCF contract.

Notes: Indicate any significant factors other than the public infrastructure that contribute to the changes in employment.

09/01/2016



Community Enhancement Fund Reporting

- A report detailing services and functions of the facility developed with contract funds.
- Initial report submitted by 12/31 of the year in which the contract is closed and submitted annually for the subsequent four years.





Common Pitfalls

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

Chapter 7

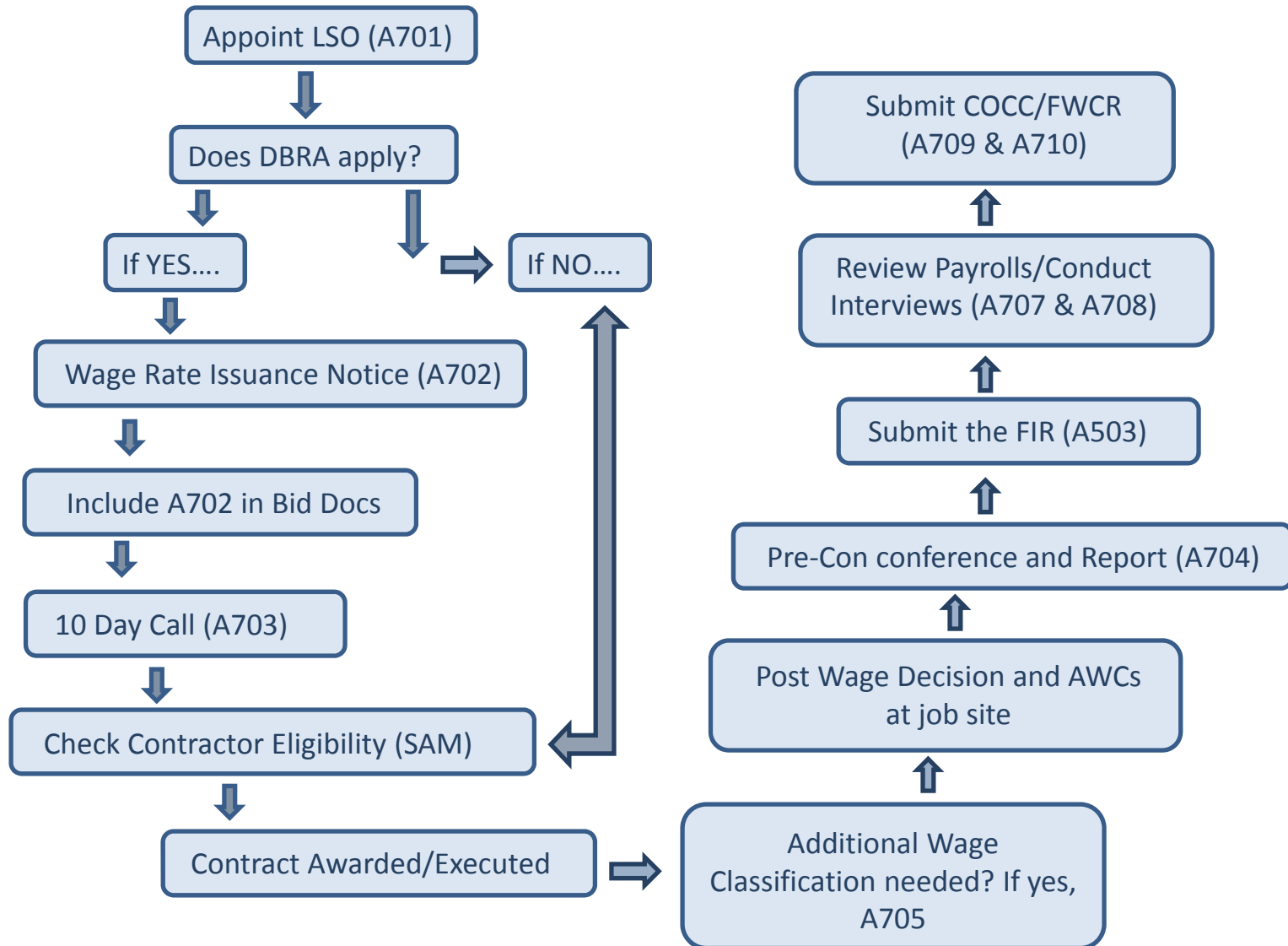
Labor Standards



TEXAS DEPARTMENT OF AGRICULTURE
COMMISSIONER SID MILLER



Labor Standards – Contract Life Cycle





Labor Standards – Basic Process

1. Appoint an LSO (A701)
2. Obtain the proper Wage Decision:
 - <https://beta.sam.gov> (new site)
3. Include the Wage Decision in the bid documents (A702)
4. Ensure the Wage Decision is current before bid opening - - 10 Day Call (A703)
5. Check contractor for Eligibility - SAM



Labor Standards – Basic Process

6. Award / Execute the Contract and Determine if Additional Wage Decision needed (A705)
7. Post Wage Decision at job site
8. Pre-Con conference (A704)
9. Submit the FIR (A503)
10. Review Payrolls and Conduct Interviews during construction (A707 and A708)
11. Submit COCC / FWCR (A709 and A710)



Labor Standards - Email

Remember to use the most CURRENT forms!

This form must be submitted to TxCDBG for all contracts that exceed \$2,000 within 30 days of executing the contract.

This form is required as of July 1, 2019. All previous versions no longer valid.

TEXAS DEPARTMENT OF AGRICULTURE
COMMISSIONER SID MILLER

HOME NEWS & EVENTS GRANTS & SERVICES REGULATORY PROGRAMS LICENSES & REGISTRATIONS FOOD & NUTRITION EDUCATION & TRAINING REPORTS & PUBLICATIONS ABOUT AGENCY FORMS

Grants & Services > Rural Economic Development > Rural Community Development Block Grant (CDBG) > Forms

Implementation Manual, Forms and Appendices

Click [HERE](#) for a letter from the Director regarding the 2019 Revisions to the TxCDBG Project Implementation Manual.
Click [HERE](#) for a chart of changes to the 2019 manual.

Some browsers do not correctly display or open PDF files. If you have trouble opening the below files, please first try a different browser or download the form to your computer before opening. If you continue to have issues, contact TDA staff for assistance.
These forms may be updated as needed.

			2018 Effective 9/1/2018	2019 Effective 9/1/2019
Complete TxCDBG Implementation Manual (select forms are ONLY available below)			Download	
Chapter	Form No.	Form Description	Availability	
Table of Contents			Download	
Acronym List			Download	
Section A Community Development Program Overview			Download	Download
Chapter 1 Administration and Reporting			Download	Download
1 Admin. and Reporting	A102	Administrative Activities Checklist	Download	
1 Admin. and Reporting	A103	Filing System	Download	
1 Admin. and Reporting	A104 DR	Disaster Relief Quarterly Report (1 Year)	Download	
Chapter 2 Financial Management			Download	Download
2 Financial Management	A201	Sample Signatory Resolution	Download	Download
2 Financial Management	A202	Depository-Authorized Signatories Designation	Download	Download
2 Financial Management	A203	Request for Payment	Download	Download
2 Financial Management	A206	Balance Adjustment Notice	Download	
2 Financial Management	A207	Backup for Eligible Costs	Download	Download

Current forms can be found on Implementation Manual Web Page





Email

Email ALL Labors Forms to:



Labors@TexasAgriculture.gov



Only Labors-related forms should be sent to Labors email!

- ✓ LSO Appt Form (A701)
- ✓ 10-day Call (A703)
- ✓ Add Wage Classification (A705)
- ✓ FIR (A503)
- ✓ COCC (A709) & FWCR (A710)



Labor Standards – 2019 Changes

- LSO updates
- Wage decision/SAM site:
<https://beta.sam.gov>
- Apprentices/Trainees
 - allowable if **individually registered** in an **approved program** or certified to be eligible
 - paid % according to program
 - allowable ratio



Labor Standards – 2019 Changes (continued)

- Wage Determination Archive Search

Wage Determinations

Status

Active Only

Keywords

tx20180084 ✕

Clear All



Labor Standards – 2019 Changes (continued)

- SAM registration eliminated
- Contract award >90 days must submit change order if modification issued and wages paid accordingly
- Additional Wage Classification (AWC) not necessary for apprentices & trainees
- FIR changes and clarification for DBRA-exempt and subcontracts



Labor Standards – 2019 Changes (continued)

- FIR – DBRA Exemptions

Davis-Bacon Wage Decision Number	<input type="text"/>
This contract is Davis-Bacon (DBRA) Exempt <input checked="" type="checkbox"/>	
Bid Opening Date (or date of quotes/proposals)	<input type="text"/>
System for Award Management Clearance Date (Clear company and principals at SAM.gov)	<input type="text"/>
Contract Award Date (if applicable)	<input type="text"/>
Contract Executed Date	<input type="text"/>

Race of Owner	<input type="text"/>
Ethnicity of Owner	<input type="text"/>
Gender of Owner	<input type="text"/>

SELECT THE APPLICABLE DBRA EXEMPTION FOR THIS CONTRACT:

- Single-family homeowner residence or residences
- Demolition and/or clearance activities (i.e. debris removal) unless related to construction
- Construction work performed by a public utility extending its own system
- Construction contract of \$2,000 or less
- Rehabilitation of residential property designed for fewer than eight families
- Labor/installation charges on equipment or materials purchases, if that portion of the contract is less than 13% of the total cost of the purchase
- No federal funds were used to pay for the contract



Labor Standards – 2019 Changes (continued)

- Payroll copies of apprentice registration/approved program
- Ratio of apprentices/trainees – if greater than allowable, must pay journeyman's rate and restitution, if applicable
- FWCR section added for reporting complaints
- Overtime Liquidated Damages/Penalty rate per day \$27 currently



Labor Standards – 2019 Changes (continued)

- FWCR section added for reporting complaints

PART III – Complaints

Were any worker wage or equal opportunity complaints received? → Yes → No

If so, referred to: → DOL HUD

Brief description of complaint(s):



Labor Standards – Common Pitfalls

DATE discrepancies/errors:

- FIR Environmental Clearance = AUGF date in body of form and NOT date of signature or otherwise
- Bid Opening = 10-day and FIR and AWC
- Award date = FIR and AWC
- Execution dates = FIR and COCC
- Inspection/Completion date = COCC & FWCR



Labor Standards – Common Pitfalls

DATE discrepancies/errors:

- FIR Environmental Clearance = AUGF date in body of form and NOT date of signature or otherwise

Authority to Use Grant Funds	Texas Department of Agriculture P.O. Box 12847 Austin, TX 78711
The Honorable Jennifer Smith Mayor, City of Ruralia P.O. Box 007 Ruralia, Texas 77777	Ms. Mary Johnson Environmental Specialist Admin. Inc. 1000 First St. Urbania, Texas 70007
We received your Request for Release of Funds and Certification form HUD-7015.15 on:	July 10, 2018
Your Request was for State Identification Number:	TxCD7123456
All objections, if received, have been considered. And the minimum waiting period has transpired. You are hereby authorized to use funds provided to you under the above HUD/State Identification Number. File this form for proper record keeping, audit, and inspection purposes.	
This is to inform you that as of July 26, 2018, upon execution of an official contract, is hereby authorized, according to the terms of such contract, to use funds provided to you under the above State Identification Number. The specific activities of this project identified below required a full Environmental Assessment under 24 CFR Part Sec. 58.36 Environmental Assessments and 58.40 Preparing the environmental assessment.	
Project/Activity: The city will complete an infrastructure improvements project that will support the development of a new manufacturing facility for Darling Ingredients, Inc., a global manufacturer of sustainable natural ingredients, such as pharmaceutical, food, pet food, fuel, bio-energy, and fertilizer from edible and inedible bio-nutrients. The company plans to acquire an approximately 226-acre parcel of land east of	



Labor Standards – Common Pitfalls

DATE discrepancies/errors (continued):

- Bid Opening = 10-day and FIR and AWC

Ten-Day-Confirmation-Form

Grant Recipient Name: []

TxCDBG Contract #: []

Detailed Description of Bid Activity (not performance statement): []

Location of Project (must include county): []

The Grant Recipient's LSO determined that the following General Wage Decision be applicable for this construction contract: []

Wage Decision Number: [] Published: []

Type of Work (check one): Heavy Highway Building Residential

Issued By: []

Date LSO Issued Wage Rate: []

Bid Opening Date: []

FINANCIAL INTEREST (& LABOR STANDARDS) REPORT A503

Grant Recipient Name: [] Contract Number: []

Contact Information

Name of Company: []

Federal Tax ID Number: []

Name(s) of Principle(s): []

Point of Contact: []

Phone No.: []

Email: []

Mailing Address: []

Type of Procurement: []

Trade: []

Service Provided: []

Financial Interest Disclosure

TxCDBG Funds	Match Funds	Additional Local Funds	Total Dollars
[]	[]	[]	[]

Prime Contractor, no subcontractor anticipated

Prime Contractor, list of subcontractors attached

Subcontractor

If a subcontractor, list Prime []

Section 3 Report

The company reported qualifies as a Section 3 Business Concern.

The contract reported is for **\$100,000** or more. (Company is subject to Section 3 reporting requirements if checked).

Minority Business Enterprise Report

The company reported is a **business** with a contract for at least **\$10,000**. (Report MBE info below if checked.)

Race of Owner: []

Ethnicity of Owner: []

Gender of Owner: []

Key Dates and Clearances

Environmental Clearance Date (for activities other than admin/engineering): []

Davis-Bacon Wage Decision Number: []

This contract is Davis-Bacon (DBRA) Exempt

Bid Opening Date (or date of quotes/proposals): []

System for Award Management Clearance Date (Clear company and principals at SAM.gov): []

REQUEST FOR AUTHORIZATION OF ADDITIONAL CLASSIFICATION AND RATE Form A705

PAPERWORK REDUCTION ACT STATEMENT: Public reporting burden for this collection of information is estimated to average 5 hours including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing collection of information. Send comments regarding this burden estimate or any other aspects of this collection of information, including reducing this burden, to U.S. General Services Administration, Regulatory Secretariat (MVCB)/IC 9000-0089, Office of Governmentwide Regulation, 1800 F Street, NW, Washington, DC 20405.

INSTRUCTIONS: THE CONTRACTOR SHALL COMPLETE ITEMS 3 THROUGH 16, KEEP A PENDING COPY, AND SUBMIT THE REQUEST, ALONG WITH THE APPLICABLE WAGE DECISION TO: Labors@TexasAgriculture.gov

1. TO: ADMINISTRATOR, WAGE AND HOUR DIVISION, U.S. DEPARTMENT OF LABOR, WASHINGTON, DC 20210

2. FROM: Texas Community Development Block Grant Program, Texas Department of Agriculture, PO Box 12847, Austin, TX 78711

3. CONTRACTOR [] 4. DATE OF REQUEST []

5. CONTRACT NUMBER [] 6. DATE BID OPENED (SEALED BIDDING) [] 7. DATE OF AWARD [] 8. DATE CONTRACT WORK STARTED [] 9. DATE OPTION EXERCISED (IF APPLICABLE) (SERVICE CONTRACT ONLY) []

10. SUBCONTRACTOR (IF ANY) []

11. PROJECT AND DESCRIPTION OF WORK (ATTACH ADDITIONAL SHEET IF NEEDED)



Labor Standards – Common Pitfalls

DATE discrepancies/errors (continued):

- Inspection/Completion date = COCC & FWCR

A709 ¶

Certificate of Construction Completion (COCC) → → ¶
(Submit one for each Prime Construction Contract) ¶

Grant Recipient: → → → → → TxCDBG Contract No: → → → → → ¶

This is to certify that all construction work has been completed and a final inspection of the project described below was conducted on the → day of → Contract was entered into on the → day of → between the city/county of → and → for the construction of → ¶

A710 ¶

Final Wage Compliance Report → ¶
(Submit one for each Prime Construction Contract over \$2,000) ¶

Grant Recipient: _____ TxCDBG Contract No: _____ ¶

Construction Completion Date: _____ Final Construction ¶

Prime Contractor: _____ Contract Amount:\$ _____ ¶

Sub-contractor(s): _____ → → _____ ¶



Labor Standards – Common Pitfalls

DATE discrepancies/errors (continued):

- Award date = FIR and AWC

FINANCIAL INTEREST (& LABOR STANDARDS) REPORT A503

Grant Recipient Name: _____ Contract Number: _____

Contact Information	
Name of Company	_____
Federal Tax ID Number	_____
Name(s) of Principle(s)	_____
Point of Contact	_____
Phone No.	_____
Email	_____
Mailing Address	_____
Type of Procurement	_____
Trade	_____
Service Provided	_____

Financial Interest		
TxCDBG Funds	Match Funds	Ac
_____	_____	_____
<input type="checkbox"/> Prime Contractor, no subcontractor		
<input type="checkbox"/> Prime Contractor, list of subcontractor		
<input type="checkbox"/> Subcontractor		
If a subcontractor, list Prime		

Section 3 Reporting	
<input type="checkbox"/> The company reported qualifies as Concern.	
<input type="checkbox"/> The contract reported is for \$100 subject to Section 3 reporting req	

Minority Business Enterprise	
<input type="checkbox"/> The company reported is a business least \$10,000. (Report MBE info	
Race of Owner	_____
Ethnicity of Owner	_____
Gender of Owner	_____

Key Dates and Clearances	
Environmental Clearance Date (for activities other than admin/engineering)	_____
Davis-Bacon Wage Decision Number	_____
This contract is Davis-Bacon (DBRA) Exempt <input type="checkbox"/>	
Bid Opening Date (or date of quotes/proposals)	_____
System for Award Management Clearance Date (Clear company and principals at SAM.gov)	_____
Contract Award Date (if applicable)	_____

REQUEST FOR AUTHORIZATION OF ADDITIONAL CLASSIFICATION AND RATE

AUTHORIZED FOR LOCAL REPRODUCTION

CHECK APPROPRIATE BOX
 SERVICE CONTRACT
 CONSTRUCTION CONTRACT

Form A705

PAPERWORK REDUCTION ACT STATEMENT: Public reporting burden for this collection of information is estimated to average .5 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspects of this collection of information, including suggestions for reducing this burden, to U.S. General Services Administration, Regulatory Secretariat (MVCB)IC 9000-0089, Office of Governmentwide Acquisition Policy, 1800 F Street, NW, Washington, DC 20405.

INSTRUCTIONS: THE CONTRACTOR SHALL COMPLETE ITEMS 3 THROUGH 16, KEEP A PENDING COPY, AND SUBMIT THE REQUEST, ALONG WITH THE APPLICABLE WAGE DECISION TO: Labors@TexasAgriculture.gov

1. TO: ADMINISTRATOR, WAGE AND HOUR DIVISION, U.S. DEPARTMENT OF LABOR, WASHINGTON, DC 20210

2. FROM: Texas Community Development Block Grant Program, Texas Department of Agriculture, PO Box 12847, Austin, TX 78711

3. CONTRACTOR _____ 4. DATE OF REQUEST _____

5. CONTRACT NUMBER _____ 6. DATE BID OPENED (SEALED BIDDING) _____ 7. DATE OF AWARD _____ 8. DATE CONTRACT WORK STARTED _____ 9. DATE OPTION EXERCISED (IF APPLICABLE) (SERVICE CONTRACT ONLY) _____

10. SUBCONTRACTOR (IF ANY) _____

11. PROJECT AND DESCRIPTION OF WORK (ATTACH ADDITIONAL SHEET IF NEEDED)



Labor Standards – Common Pitfalls

DATE discrepancies/errors (continued):

- Execution dates = FIR and COCC

FINANCIAL INTEREST (& LABOR STANDARDS) REPORT A503

Grant Recipient Name: _____ Contract Number: _____

Contact Information	
Name of Company	_____
Federal Tax ID Number	_____
Name(s) of Principle(s)	_____
Point of Contact	_____
Phone No.	_____
Email	_____
Mailing Address	_____
Type of Procurement	_____
Trade	_____
Service Provided	_____

Financial Interest Disclosure			
TxCDBG Funds	Match Funds	Additional Local Funds	Total Dollars

Key Dates and Clearances

Environmental Clearance Date (for activities other than admin/engineering) _____

Davis-Bacon Wage Decision Number _____

This contract is Davis-Bacon (DBRA) Exempt

Bid Opening Date (or date of quotes/proposals) _____

System for Award Management Clearance Date (Clear company and principals at SAM.gov) _____

Contract Award Date (if applicable) _____

Contract Executed Date _____

A709

Certificate of Construction Completion (COCC) → → ¶ (Submit one for each Prime Construction Contract)¶

Grant Recipient: → → → → → TxCDBG Contract No: → → → → ¶

This is to certify that all construction work has been completed and a final inspection of the project described below was conducted on the → day of → → Contract was entered into on the → day of → → between the city/county of → → and → → for the construction of → ¶

Ethnicity of Owner _____ ¶
Gender of Owner _____ ¶



Labor Standards – Common Pitfalls (continued)

- Original Contract Amounts Different – FIR and COCC and FWCR
- Subcontractor Clearance at time of FWCR
- Employee Interviews – **REQUIRED**
- Payrolls not submitted and not in order (use no-work week too)
- Employees interviewed but not on payrolls
- Classifications and pay rate match GWD
- End of Construction / Final Inspection
- End of Construction and Payroll Dates do not match



Labor Standards – Common Pitfalls (continued)

- FIRs not submitted (Prime and sub)
- LSO appointment or change not submitted timely
- 10 Day Call – submitted late
- Additional Wage Classification (AWC) requests – DATES and incomplete – follow instructions
- Signatures – missing/persons not authorized to sign/stamp
- Change Orders not submitted

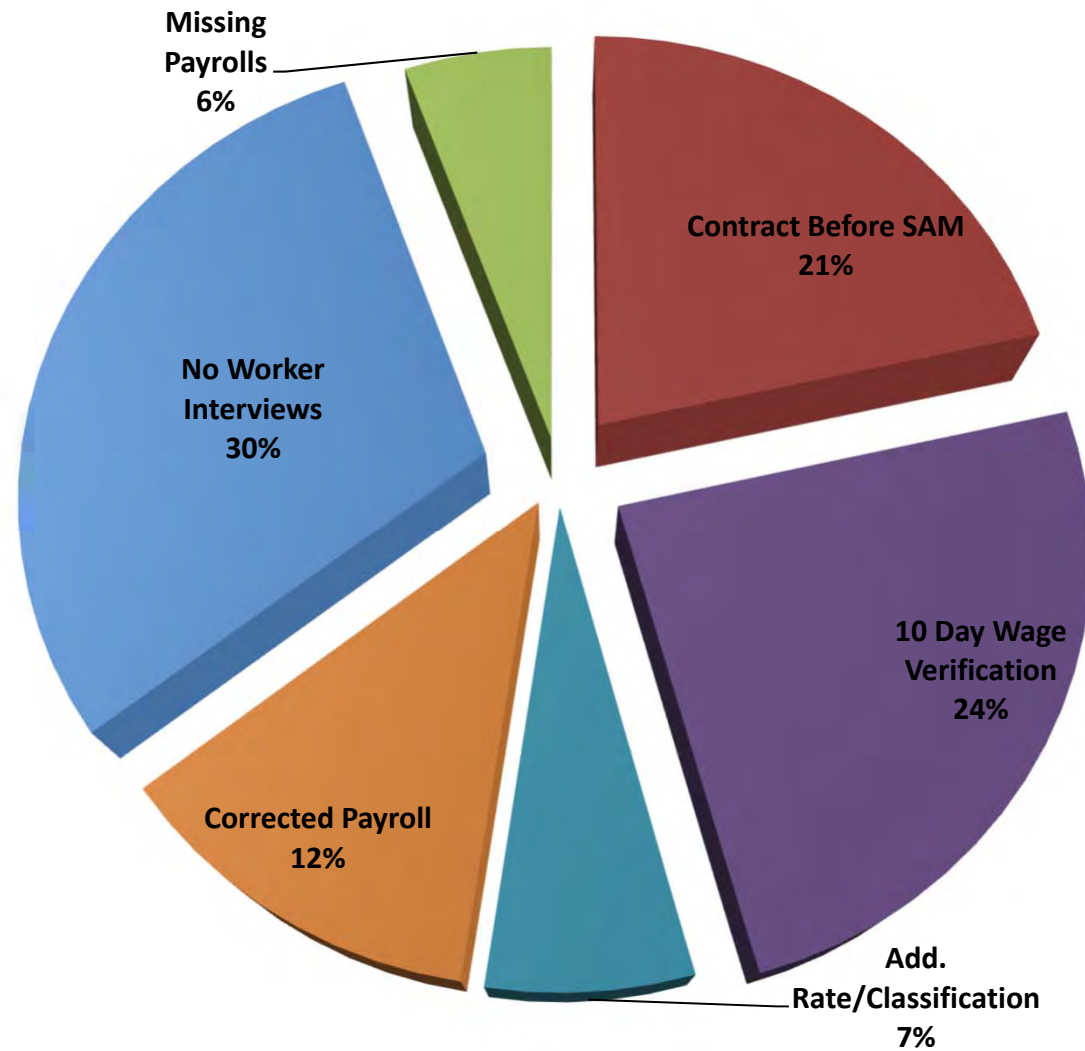


Labor Standards – Compliance Findings

1. No Employee Interviews –**REQUIRED**
for PRIME & SUB
2. 10-Day Wage Verification late
3. SAM Clearance AFTER award
4. Corrected payroll issues
5. AWC/Classifications not submitted
6. Missing Payrolls – each work week including no-work weeks – sequential & chronological



Labor Standards: Compliance Findings





Labor Standards – Increase Efficiency

Over 50% of Labor forms are submitted in error/declined causing delays and rework for TDA and Administrators!!!

How can we help assist in accurate submissions?

Suggestions?



Labors Contact Information

Primary:

Mary Davison

512-936-6729

Labors@TexasAgriculture.gov

Back-Ups:

Ricardo Gonzalez 512-463-2248

or

Michelle Phares 512-936-6702

Chapter 12

Contract Closeout



TEXAS DEPARTMENT OF AGRICULTURE
COMMISSIONER SID MILLER



Contract Closeout

Begins when...

- CDBG funds have been expended (except final admin and any deob)
- All project activities in Performance Statement completed (COCC)
- Contract terms and conditions met



Steps to Contract Closeout

BEFORE Closeout:

- If beneficiaries changed, submit PS Mod or Amendment (and hearing if required)
- Advertise and hold final public hearing once activities are completed (COCC)
- Compare final pay estimate (s) to PS:
 - Obtain conversions if necessary from engineer
 - Submit PS Mod if final quantity variances >15%
- Ensure Special Conditions met (TCF and OSSF)
- If Evidence of Benefit required (OSSF), obtain documentation
- Submit final draw



Contract Closeout Documentation

Project Completion Report (PCR) Form A1200 or D1200 (TCF) including attachments:

- Final Public Hearing Notice
- Map
- Section 3 Annual Report (Form A1011)
- If applicable, Evidence of benefit for work on private property (e.g. utility bills)

Due:

60 days after contract end date

OR

60 days after construction completed

Closeouts@TexasAgriculture.gov



PCR - Part I: General Reports

Certificate of Expenditures

- Reserve funds
- TxCDBG not liable for costs incurred and reserved if costs are not submitted to TDA within 60 days after contract's end date:

<u>Certificate of Expenditures:</u>			TxCDBG Funds not Received (including pending draws)				
<u>Activity</u>	<u>TxCDBG Funds</u>	<u>TxCDBG Funds Drawn To-Date</u>	<u>TxCDBG Reserved Funds</u>	<u>Unutilized Funds (Deob)</u>	<u>Match Funds</u>	<u>Additional Local Funds</u>	<u>Percent Matched</u>
							+ %
Total							0 %



PCR – Part II Performance Report

- ✓ Actual Accomplishments
- ✓ HUD Performance Measures

Part II. Performance Report Report work performed and performance measures for each contract budget activity.

Actual Accomplishments:

Activity	Item Installed or Action Performed	Units	Perf. Stat Quantities	Actual Quantities	% Change	+
<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	0	<input type="text"/>

Does the current Performance Statement accurately reflect the project location(s)?

Have final project record drawings been received by the Grant Recipient?

HUD Performance Measures:

Activity	Objective	Outcome		
<input type="text"/>	<input type="text"/>	<input type="text"/>	+ activity	- activity
Benefit Indicator	<input type="text"/>	No. of Beneficiaries	+ indicator	- indicator
Special Category	<input type="text"/>		+ category	- category

Check this box if this project includes Housing activities (other than water/sewer connections)



PCR – Part III: Beneficiary Report

- ✓ All Activities
- ✓ Beneficiaries by Demographic and Income
- ✓ Activities on Public Property
- ✓ Activities on Private Property
 - First-time water or sewer
 - Housing rehabilitation or OSSF installation

PROJECT COMPLETION REPORT Grant Recipient Name Contract Number
A1200

Part III(b) Beneficiary Detail Report - Activities on Private Property
Identify all activities that benefit the persons reported on this sheet; report beneficiary details for those persons and households.

Fields marked in pink ("Total" or "Grand Total") must equal the total beneficiaries for the activity(s) in the contract Performance Statement.
Fields marked in yellow ("Total" or "Grand Total") must equal the total households served by the activity(s) in the contract Perf. Statement.

Activity: Activity:

Beneficiaries by Demographic	No. of Persons			No. of Households (demographics of the Head of Household)		
	Male	Female	Total	Male	Female	Total
Gender	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>
Race	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>
	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>
Grand Total:	<input type="text"/>			<input type="text"/>		

Beneficiaries by Income:

Income Level	No. of Persons	No. of Owner Occupied Households	No. of Renter Occupied Households
Very Low (at or below 30% of the AMFI)	<input type="text"/>	<input type="text"/>	<input type="text"/>
Low (31-50% of the AMFI)	<input type="text"/>	<input type="text"/>	<input type="text"/>
Moderate (51-80% of the AMFI)	<input type="text"/>	<input type="text"/>	<input type="text"/>
Non-Low/Moderate (above 80% of the AMFI)	<input type="text"/>	<input type="text"/>	<input type="text"/>
Total	<input type="text"/>	<input type="text"/>	<input type="text"/>
Subtotal - All Low/Mod	<input type="text"/>	<input type="text"/>	<input type="text"/>
Percent Low/Mod	0.00%	<input type="text"/>	0

PRESS THIS BAR TO REMOVE THE ABOVE BENEFICIARY REPORT



PCR – Part IV: Final Financial Interest Report

- ✓ All contracts >\$2K final \$\$
- ✓ Financial Interest Report (Form A503)
- ✓ If subs, check and complete

PROJECT COMPLETION REPORT *Grant Recipient Name* *Contract Number*
A1200

Part IV Final Financial Interest Report
Report all contracts executed under this TxCDBG contract that are valued at or above \$2,000.

Contracts with no subcontractors

Type of Services	Business Name	Contract Amount			Qty Executed	+ contract
		TxCDBG Funds	Other Funds	Total Dollars		

At least one contract executed under this TxCDBG contract includes subcontracts valued at or above \$10,000. No contracts executed under this TxCDBG contract include subcontracts valued at or above \$10,000.

Contracts with Prime and Sub Contractors

Type of Services	Contract Amount			Qty Executed	+ contract
	TxCDBG Funds	Other Funds	Total Dollars		
Prime (name)					+ Sub
Subcontractor					- Sub



Acceptance of Closeout Reports

- PCR and closeout documents initially reviewed by Contract Specialist
- Program Monitor conducts final review/monitoring and determines administratively complete status
- Final 10% administrative costs disbursed



Conditional Project Completion

- Pending regulatory approval from other agencies such as TCEQ
- Allows closeout to begin before final certification of beneficiaries
- Certifies only that Construction completed – hearing must disclose



Disaster Relief Closeouts

- PWs must be completed within contract term/preagreement
- P4s for small projects signed by local authority
- TDEM approval of large projects
- Total of both must support 25% grant (less administration)
- Invoices for draw(s)



2019 Changes *NEW!*

- Surveys documenting beneficiaries LMI status
- FIRs > \$2K
- Conditional Project Completion and 24-month threshold
- D7 Employee Income for TCF – use appropriate year – hire date



Common Pitfalls

- Final quantity variances >15% need PS Mod or Amendment
- Final quantity conversions
- Beneficiary changes – ALL require at least PS Mod or Amendment
- Certificate of Expenditures – draws, reserved, match don't balance



Common Pitfalls (continued)

- Final draw and/or PCR late
- If deob, admin and/or engineering exceed thresholds
- Evidence of benefit missing
- Beneficiary surveys where required
- Force Account, Sole-Source COCC
- All activities not reported



Common Pitfalls (continued)

- FIR \$ \neq draws (usually match)
- Section 3 not submitted for final year
- Special Conditions not met:
 - OSSF: Mitigation documentation or exceptions
 - TCF: COO, payroll, D7s
 - TDLR for DRP and TCF

Section B

Planning



TEXAS DEPARTMENT OF AGRICULTURE
COMMISSIONER SID MILLER



Planning And Capacity Building Fund (PCB)

The Planning and Capacity Building Fund is a competitive grant program for local public facility and housing planning activities.

Eligible Applicants:

Eligible non-entitlement cities and counties with a need for comprehensive or targeted planning.

Award Amounts

Awards are made on an annual basis through a statewide competition.

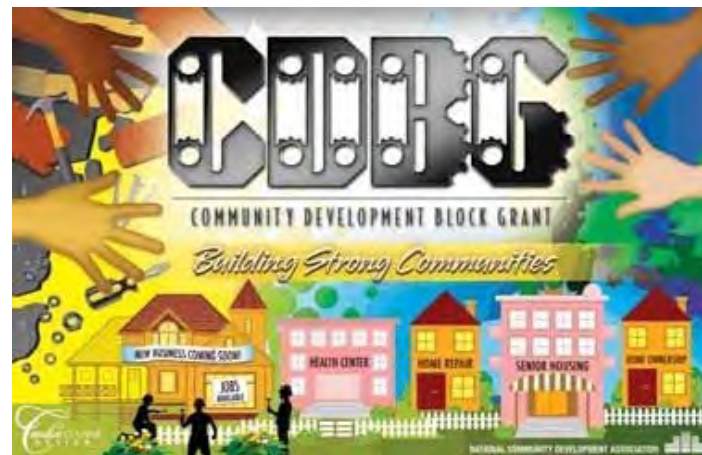
Maximum grant award: \$55,000.



Planning And Capacity Building Fund (PCB)

Typical activities regard topics such as:

- Base Mapping,
- Land Use,
- Housing,
- Population,
- Street Conditions,
- Parks and Recreation,
- Water Distribution and Supply,
- Wastewater Collection and Treatment,
- Drainage (streets & flood hazard areas),
- Economic Development and/or Tourism,





Planning And Capacity Building Fund (PCB)



KEYS TO SUCCESS

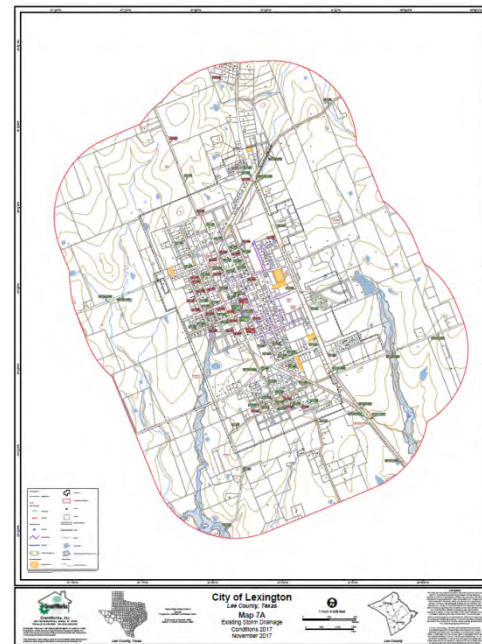
1. PLEASE USE SECTION B AND USE ITS INSTRUCTIONS AND FORMS TO START-UP AND ADMINISTER YOUR CONTRACT.
 - Section B is grounded in the Implementation Manual's Section A.
Pay attention to:
 - Chapter 1: Administration and Reporting
 - Chapter 2: Financial Management
 - Chapter 3: Environmental Review
 - Chapter 4: Special Conditions



Planning And Capacity Building Fund (PCB)

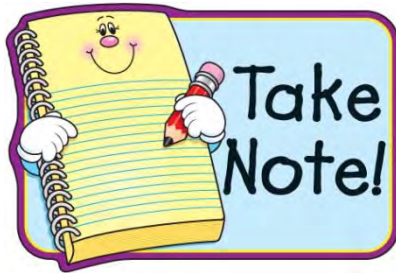
- Chapter 5: Procurement
- Chapter 10: Civil Rights Requirements
- Chapter 11: Contract Amendments
- Chapter 13: Monitoring
- Chapter 14: Audit Requirements

2. PLEASE READ AND USE THE CONTRACT'S EXHIBIT A PERFORMANCE STATEMENT TO GOVERN YOUR PLANNING PROCESS AND TO PREPARE YOUR TEXT AND MAPS PRODUCTS.





Planning And Capacity Building Fund (PCB)



KEYS POINTS TO REMEMBER

- Prepare a general plan regarding the (contracted) planning activities using generic population and other broad parameters for the purpose of funding allocation...
- Engineering-related and design costs are not allowable;
- Administration-related costs, including the cost of audit are not allowable;



Planning And Capacity Building Fund (PCB)

- Cash match pledged in the application must be spent entirely on the planning project;
- Appropriate consideration shall be given to local participation in the planning process;
- Before reimbursement, supply contracted planning document(s) transmitted by local official with evidence of local review.



Chapter 5

Procurement



TEXAS DEPARTMENT OF AGRICULTURE
COMMISSIONER SID MILLER



What's New?

- **Conflict of Interest Questionnaire**
- Procurement – COG Admin Services
- Clarification on the Selection Review Committee
- **Guidance on Electronic Sealed Bids**
- Change Order Information (New Items)
- Bonding Information
- Recordkeeping – Section 3 (FIR)



COI Questionnaire (5.1.2)

All vendors/contractors **must** disclose conflicts of interest using the Texas Ethics Commission Conflict of Interest Questionnaire.

If any conflict of interest is present, information **should** also be disclosed to the Texas Department of Agriculture.



COI Questionnaire (5.1.2)

Questionnaire has been added to:

- **Appendix D**
(Sample Administration Services RFP Packet)
- **Appendix E**
(Sample Engineering Services RFQ Packet)
- **Appendix F**
(Sample Construction Bid Packet)
- **Appendix G**
(Sample Material Bid)

And referenced in Appendix B
(Required Contract Provisions)



Procurement Admin Srvcs (5.2.0)

Grant Recipients who designate a Council of Governments (COG) as the subrecipient to carry out an eligible activity

-such as administration services-
must award a subrecipient agreement (interlocal agreement) before the provider conducts any work to prepare the TxCDBG application for TxCDBG grant funding.



Selection Review Committee (5.2.2)

Reworded For Clarity

- *Step 1* -

“The committee must include *at least* one local elected official *or* a city/county employee with authority to act on behalf of the local elected official in this capacity”



Electronic Sealed Bids (5.4.4)

Further Guidance Under Step 5

Guidance on accepting electronic sealed bids per statutory requirements of Ch. 262 counties and 252 cities of the Local Govt. Code.



Electronic Sealed Bids (5.4.4)

- Electronic Sealed Bids -

The Local Government Code permits counties and municipalities to accept bids through electronic transmission as long as the local governing body has adopted written rules and procedures to ensure the identification, security, and confidentiality of electronic bids. The procedures **must** ensure that the electronic bids remain effectively unopened until the proper time to unseal bids.



Bonding Information (5.4.7)

Clarification Regarding Payment Bonds

A payment bond on the part of the contractor is required for 100 percent of the contract price. A "payment bond" is one executed in connection with a contract to assure payment as required by law of all persons supplying labor and/or material in the execution of the work provided for in the contract. Required payment bond(s) must be filed within 30 days from the date of the Notice of Award.



Executed Contract Changes (5.4.8)

If a Change Order includes new items, the Grant Recipient must demonstrate competitive pricing.

- **A statement from the project engineer providing justification for the proposed pricing may be acceptable.**

Examples of Cost Justification:

- “...any minor change in material size is a comparable change in price...”
- “...cost is comparable to recent bids for similar projects in the area...”
- “...cost is reasonable, accounting for material pricing plus labor costs...”



Recordkeeping – Section 3 (5.6.0)

Regarding the FIR Form A503, the Section 3 qualifications concern the locality where the project is being carried out, **place specific.**

A contractor may qualify as a Section 3 business on one project and not on another based on certain circumstances listed in Chapter 10.2.2.



Procurement

Topics Of Interest



Procurement Basics

Grant Recipient must follow the 11-step procurement procedure in Chapter 5 of the Implementation Manual if grant funds pay for any portion of the project.

Procurement for grant expenditures must be specific to the project described in the application and must be supported by adequate documentation.



Pre-Award Call

Best Practice

Admin and Engineering procurement/awards **should** take place before pre-award calls.

We cannot count the Pre-Award Call as the 4-Month Call if Admin/Engineer have not already been procured/awarded.



Mandatory Pre-Bids

In 2011, the Legislature amended the County Purchasing Act (Chapter 262 of the Local Government Code) authorizing counties to make pre-bid conferences a conditional requirement for accepting sealed bids.

Keyword: Counties

Chapter 262 does not provide for cities to make a pre-bid conference mandatory. Therefore, failure to attend a pre-bid conference for a city contract should not disqualify a contractor who submitted a sealed bid from competing for a contract.



Invitation for Bids

Invitation for bids must be published **at least once a week for two consecutive weeks** in a newspaper published locally.

∞ TDA cannot waive statutory requirements for published notices.

Make sure that the ads actually appear in the newspaper on the expected dates of publication.



Construction Contracts

For procurement of a construction contractor and/or materials for most TxCDBG contracts, the communities must utilize the “Sealed Bid” process

For Cities:

Lowest Responsible and Best Value Bid

For Counties:

Lowest and Best bid



Bid Addenda

If an addendum to the bid package is necessary, it must be distributed to each potential bidder.

The Bid Addendum clause is there to allow changes in the event there is a need to revise something in the bid package itself.

An addendum cannot be done to the invitation.



Bids Come In Too High?

Allowable alternatives for bringing high bids within the available budget permit a Grant Recipient to **strike items in the bid schedule** and **reduce quantities** on specific bid items as long as all bidders have consented to the changes in writing.

The policy **does not permit** changes to specifications for any of the items in the bid schedule, such as change in the size of PVC from 8" to 6", or changing a bid item described in the bid schedule to a less expensive alternative



Change Orders – The Basics

Construction/Materials Only Change Orders cannot be submitted until the contract is executed.

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 II

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.

If executed **without TxCDBG approval**, the grant recipient is obligated to **pay for any changes that are not approved.**



Change Orders – What We Need

-We Need Proof of Competitive Pricing-

- Engineer Justification Letter

Engineer should explain his reasoning on how the new items are in line with current market value in the area.

These justifications need to demonstrate that the changes are still consistent with fair and open competition.



Bonds

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



Bonds

For a materials only contract, only the bid bond is required.

Payment & Performance bond contracts are suggested for material contracts to protect against nonpayment, but not required.

If a locality fails to obtain a bond from the prime contractor, they become liable for paying workers, subcontractors and material suppliers



Bonds

In the event where a prime contractor fails to fulfill their contract obligations and a surety company becomes involved when the performance bond kicks in, the city has the ability to enter into a new contract with the prime contractor provided by the surety company to complete the work.



Small Purchase

Must contact at least three different contractors and can request quotes over the phone, but make sure to document. Even the No Responses.

Be as descriptive as possible of item requested for small purchase. What HP?

If any new info is made available, an email to every contractor providing them the new information counts as a bid addenda for small purchase.

Documentation is key.



Rule of Thumb

A contract may not be awarded to a bidder who is not the lowest dollar bidder meeting specifications unless, before the award, each lower bidder is given:

- (1) notice of the proposed award; and
- (2) an opportunity to present previously unconsidered evidence concerning the lower bid as best, which may include evidence of the bidder's responsibility.



No No's in CDBG

- Cost-plus-a-percentage-of-cost" or "percentage of construction cost" methods of contracting are not allowed under the CDBG program
- Regarding the bid tab, any line item for profit, overhead, contingency, or other related terms that do not describe actual work to be performed will not be reimbursed.
- A Grant Recipient generally cannot specify brand names for equipment or materials which are available from other manufacturers.



Recordkeeping 101

❖ ***Maintain copies of bids and proposals received.***

TxCDBG Program recipients have the final legal responsibility for the locally maintained grant files, the timely submission of reports, and compliance with program guidelines.



Word of Caution

**Do not execute any construction contract
before TDAs environmental Authority to
Use Grant Funds.**

Starting the bid process is fine.

Awarding is fine.

Not executing.

Document! Document! Document!

Chapter 6

Acquisition



TEXAS DEPARTMENT OF AGRICULTURE
COMMISSIONER SID MILLER



Acquisition Laws & Rules

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



URA Purpose

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



Acquisition of Real Property

- Acquisition procedures apply to any acquisition of real property for programs and projects where there is Federal financial assistance in any part of project costs.
- Applies to:
 - ✓ Parcels of private or public property acquired for the project
 - ✓ Permanent and temporary easements
 - ✓ Property leased for a period of 15 years or more
- *Permits and licenses such as railroad permits do not constitute real property acquisition and therefore, are not subject to URA (Uniform Relocation Act)*



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

- 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.
- Acquiring entity does not have eminent domain



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.

Who does NOT have Eminent Domain authority?

- 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

- 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 – Not Recommended
 - TDA authorization is required before proceeding with acquisition through seizure of property using eminent domain authority.



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 – route & parcel map

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, Cont.

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

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, Cont.

4. Have property appraised, if required.
 - Appraiser must be licensed/certified by state law (Occupations Code)
 - Fee appraiser must be competitively procured according to TxCDBG policy and Professional Services Procurement Act.

5. Appraisal **must** be reviewed by a Review Appraiser.

6. Make just compensation offer based on appraisal or according to market value if waiver valuation.
 - Provide owner basis for the offer of just compensation.



Acquisition Steps – Involuntary, Cont.

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 are in 49 CFR 24 Subsection C.
- Relocation requirements generally do not apply to Voluntary Acquisition unless there are displaced tenants.



Important Notes

- Acquiring Entity should consult with their legal counsel to ensure compliance with federal and state policies.
- Complete an appropriate level of environmental review and obtain TDA approval to use grant funds before finalizing agreement.
- 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.

- Include acquisition in the scope of activities of TxCDBG Contract Performance Statement.

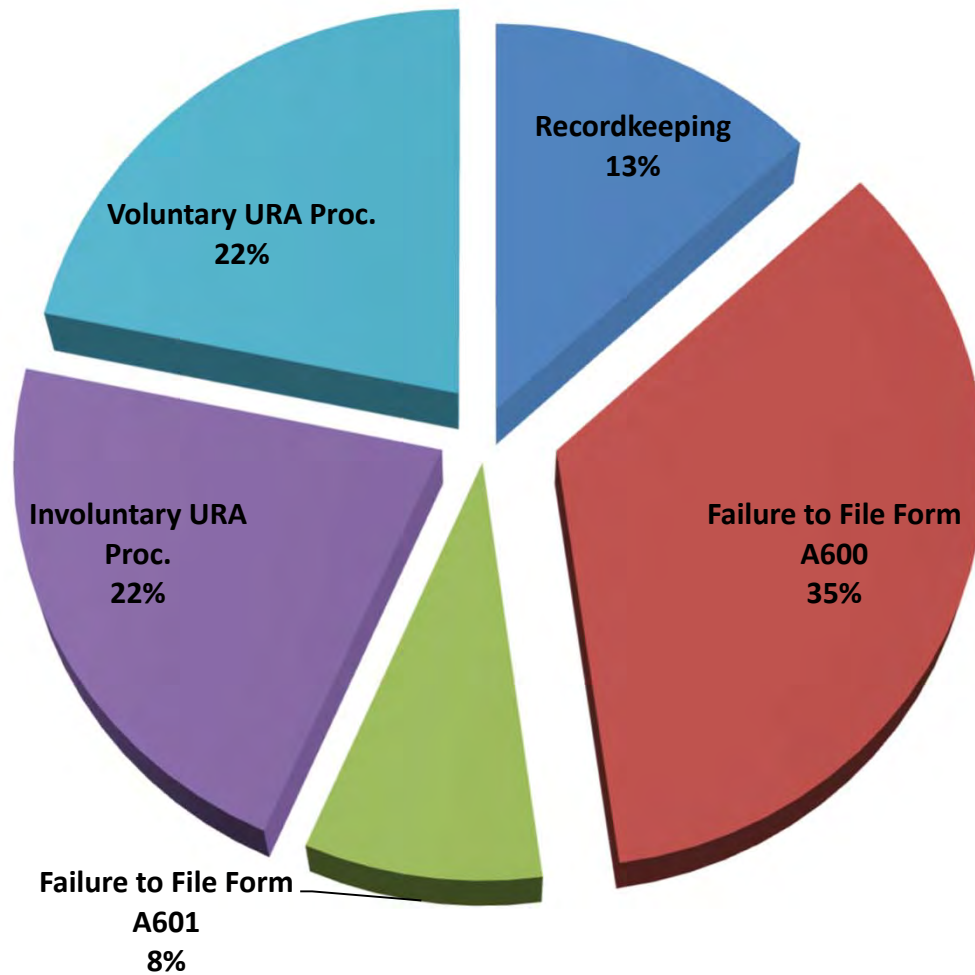


Important Notes

- Ensure that a complete Initial Acquisition Report (Form A600) has been filed with TDA.
 - Include description and parcel 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.
- 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)



Acquisition: Compliance Findings



Chapter 8

Force Account



TEXAS DEPARTMENT OF AGRICULTURE
COMMISSIONER SID MILLER



Force Account - Definition

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



Force Account

Force account applies to the following employees:

- Permanent employees
- 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
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
- Materials
- Equipment
- Professional Services



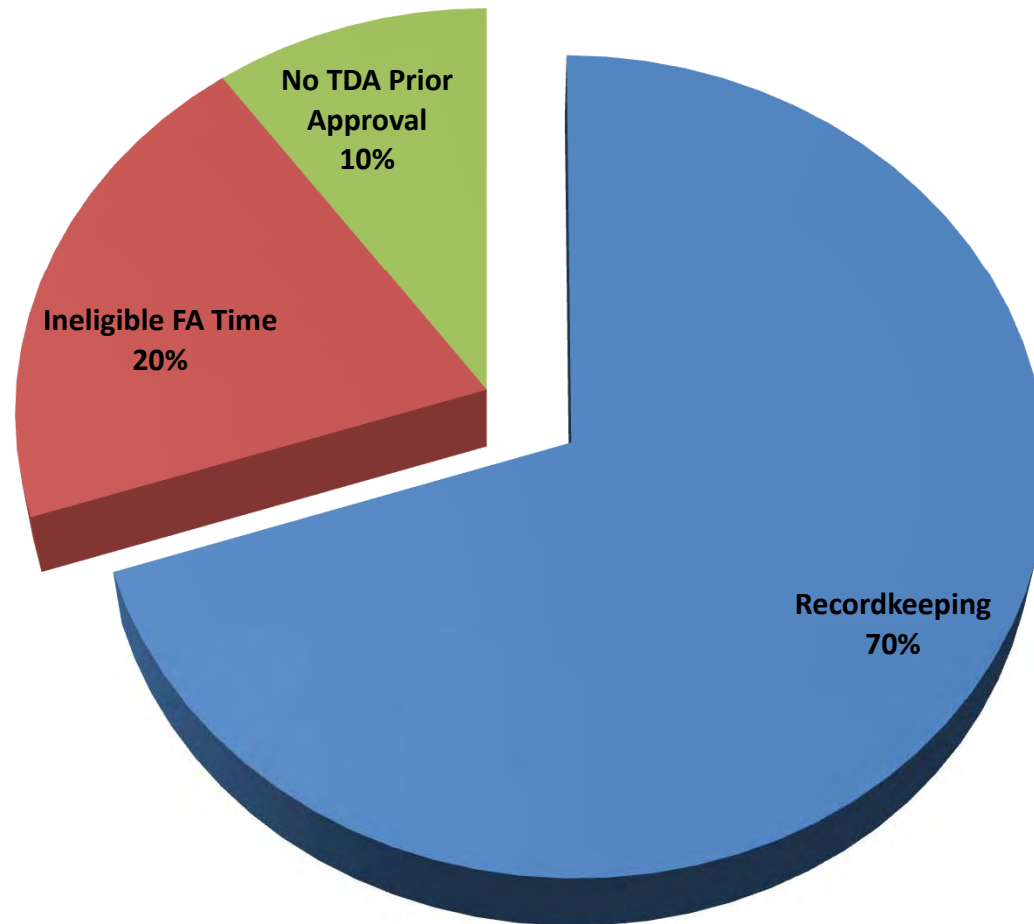
Force Account – Recordkeeping

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: Compliance Findings



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



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: Adopt Policies/Grievance Procedures regarding 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 for citizens to submit complaints and grievances that include timely responses within 15 days where practicable.

A1013 Sample Citizen Participation Plan

A1014 Sample Resolution regarding Civil Rights



Step 4: Adopt Civil Rights Policies & Pass Resolutions or Ordinances

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
- Affirmatively Furthering Fair Housing (AFFH)
- Limited English Proficiency (LEP) Standards
- Code of Conduct



Civil Rights – *New !*

Section 3 Requirements

Section 3 Business Concern:

Per 24 CFR Part 135, defines a “Section 3 business concern” as a business concern —

- 51 Percent or more owned by Section 3 residents; or
- At least 30 Percent of its full-time employees include persons that are currently Section 3 residents or within three years of date of hire with the business concern were section 3 residents; or
- Provides evidence, as required, of a commitment to subcontract in excess of 25 Percent of the dollar award of all subcontracts to business concerns that meet one of the first two qualifications set forth in paragraph 1 or 2 in the definition of Section 3 Business concern.



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/Post Citizen Participation and Civil Rights Notices

Grant Recipients must give notice and publish/post 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 Courthouse/City Hall, etc.



Part B: Civil Rights Requirements after Project Start-Up

7. Place Equal Opportunity (EO) certifications in bid packets for contractors
8. Include Section 3 and EO in contracts between GR and Contractor
9. Continue complying with Civil Rights responsibilities
10. Take action to Affirmatively Further Fair Housing
11. Further action and Reporting Requirements regarding to assurance that the requirements are being met for:
 - Citizen Participation
 - Equal Opportunity
 - Section 3
 - Resolutions
 - Section 504
 - Fair Housing
 - LEP



Step 7: Place in Bid Packets for Contractors

- 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 Grant Recipient and Contractor

In Construction contracts between the Grant Recipient and Contractor should include:

- Section 3 Clause
- Equal Opportunity Clause for construction contracts greater than \$10,000.
- Refer to Ch. 5-Procurement Procedures of the Implementation Manual for contract language and requirements.



Step 9: Civil Rights Responsibilities

- Be diligent and 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 (this is in addition to adopting Fair Housing Policy)
- List of suggested activities are in Manual



Step 11: Further Action and Reporting Requirements

- Citizens Participation
 - Written Citizens Participation & Grievance Procedures
 - Complaints, of any and actions taken
- Equal Opportunity
 - Detail of Beneficiaries
 - Any handbooks, policies, procedure manuals, resolutions or ordinances
 - Provide Advertisement of employment if available
- Section 3
 - Written Section 3 plan for Grant Recipient and for all other parties under contract including engineering, administrators and construction contractors.



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

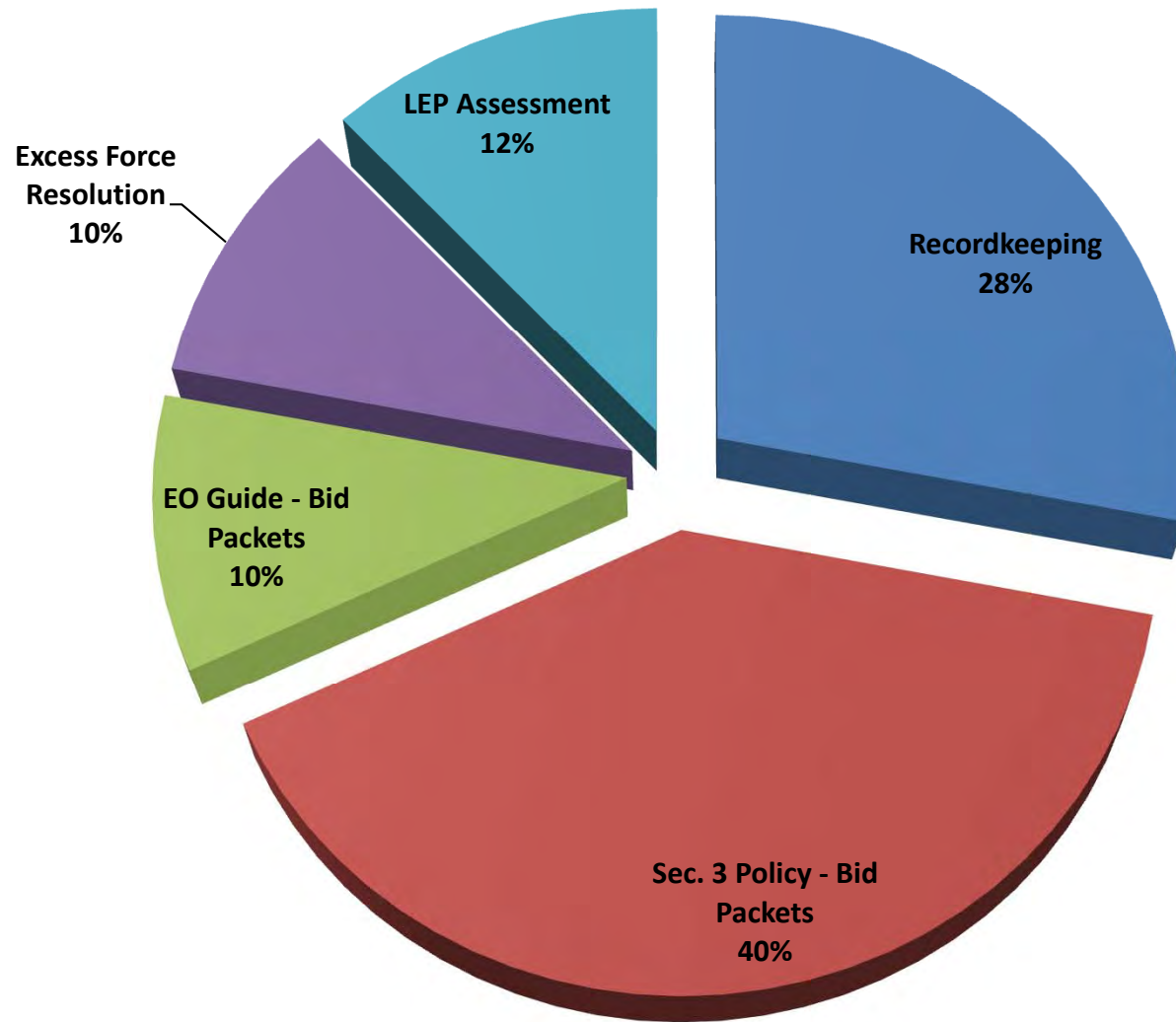


Final Step requirements for Monitoring

- Recordkeeping a MUST
- Final Public Hearings
- Concerns/Findings



Civil Rights: Compliance Findings



Chapter 11

Contract Amendments



TEXAS DEPARTMENT OF AGRICULTURE
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Possible Reasons for Amendments/Modifications

- Funds available to extend project
- Beneficiary changes
- Change orders for construction
- Necessary engineering design changes
- Activity/Location changes
- Acquisition
- Adding or deleting alternates in bid
- Contract (Time) extensions



Performance Statement Changes

- All changes **must** be related the project
- Limits on PS Change requests:
 - Change in the scope allowed only if supported by the original application.
 - No new project or activity allowed that is not in application
 - If changes are large enough to affect original scoring/criteria, these can affect the chances of TDA approval



PS Mods vs. Amendments

PS Modification:

- ↑ beneficiaries in same target area
- ↓ beneficiaries $\leq 25\%$
- Minor changes/corrections to the project description or quantities

PS Amendment requiring Citizen Participation

- Add/Remove an entire target area
- Change in beneficiaries $> 25\%$



Is it a Modification or Amendment?

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

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.

If the answer to **any question** is “**No**,” submit the requested change as a Contract **Amendment** or contact your Contract Specialist for further guidance.



PS Modification Documentation

- Form A-1101
- Revised Performance Statement -
“track changes” of added, deleted, or
changed text - Word Format
- Re-evaluation of Environmental
findings
- Revised project maps
 - ✧ Color coded
 - ✧ Original & amended project
activities/location or target area



Budget Modifications

- If Budget changes or Change Order to the construction contract needed, submit with the PS Mod request
- Form A1101 required
- Submit “Track Changes” of new amounts and/or categories – WORD Format
- May request to transfer grant funds between budget categories if:
 - Total \$ amount of transfers \leq 20% of contract total
 - No change scope or objective of project
 - Total dollar amount in project \leq :
 - Administration – 16%
 - Engineering – 25%
 - Prior to the date of the final inspection



Budget Amendment

Contract Budget Amendment is necessary if:

- Transfer of contract funds between budget categories is greater than 20% of the contract amount
- Results in changes in the scope of the project funded
- Budget changes result in an engineering budget that exceeding 25% of the total grant construction and acquisition funds



Required Documentation - Amendments

In addition to the documents required for Performance Statement change requests:

- Confirmation that the project will meet Exhibit C milestones OR a revised timeline for completion
- A resolution from the local governing body indicating support for the proposed changes
- Public notice of the public hearing held regarding the amendment



Contract Period Extensions

- TDA will only consider circumstances clearly beyond the control of the Grant Recipient.
- Contract extensions always require a Contract Amendment.
- 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 (Cont.)

If request 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

- A revised timeline showing how the Grant Recipient plans to complete the project within the proposed period –reflecting milestones in Exhibit C
- *Contract Change Request Form (Form A1101)*



NEW Guidelines in 2019

Color coded revised project maps for original and amended project activities w/change in location or target area.

Use separate colors/markings to identify changes on the same map - as follows:

- **Original**/previously approved project locations - Mark these locations in **Purple and/or single solid lines**
- **Deleted** locations proposed from – Mark deleted areas w/ **Orange and/or dashed lines**
- **Added** locations proposed to be to the project - Mark added locations in **Yellow and/or double solid lines**
- **Service area** for the project - Mark service area with **black** and/or bubble outlines



Best Practices / Tips

Plan ahead:

- When Bid Tab received, review for significant changes and submit Mods early – Don't wait until PCR variance indicates or change order dictates
- OSSF and water/sewer yard lines typically alter final household and beneficiary #s, so anticipate this
- Ensure Environmental is re-evaluated, if needed



Best Practices (Cont.)

Important to Remember:

- Changes to activities or scope may impact the initial scoring of project, which can impact whether the Mod/Amendment will be approved
- ANY beneficiary changes require Mod or Amendments - depending on variance
- Project must be current on ACF or SA (if due) – Mods/Amendments cannot be process until compliant
- Send “track changes” page in WORD, not PDF
- Maps must indicate original and revised areas with clarity – use new Color Code guidelines



Best Practices (Cont.)

Finally.....

- Adjustments in Matching funds only require a MOD if CDBG funds also need changes, otherwise not necessary
- Consider implementing *DOCUSIGN* in your community, and this will expedite the process, eliminating much “back and forth”

Chapter 13

Monitor Review



TEXAS DEPARTMENT OF AGRICULTURE
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Role of Program Monitor

- Conduct Comprehensive Monitoring
- Final review of Project Completion Report (PCR) & 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



Monitoring Review

- In general, occurs when either:
 - 75% of funds expended
 - Construction substantially complete
 - Project Completion Report (PCR) received
- Other reasons:
 - Interim review identified
 - Grant Recipient request
 - Complaint received
 - Program staff request (with management approval)




Risk-Based Reviews

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



Risk-Based Monitoring Review

- Risk Assessment Procedure Developed
 - Examples of Factors:
 - Grant Function 
 - Type of project
 - Prior performance
 - Amount of Local Injection
 - New to TxCDBG program
- 10% Selected for Desk Review

Regardless of type of review, monitors will review the financial management records



Self-Monitoring Review

1. Grant Recipient notified
2. TDA requests documentation:
 - Financial Management
 - concurrent review of financial records by TDA
 - Self-monitoring checklist
 - Grant Recipient & Certified Administrator conduct and certify self-review
3. TDA 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
 - ✓ include complete records
 - ✓ 10 meg maximum
2. TDA reviews for compliance
3. TDA follows up desk review with written report



On-Site Review

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



Monitor Review Report

Monitor Review Report:

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



Monitor Review Report

- Monitor will 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
- *Recordkeeping ~ Failure to maintain proper documentation may result in disallowed costs.*



Non-compliance Procedures

- ✓ Grant Recipient needs to respond in writing within date specified

- ✓ Failure to resolve non-compliance
 - ✓ Funds on hold
 - ✓ Disallowance of costs / deobligated
 - ✓ Reduction of admin fees
 - ✓ Other settlement:
 - ✓ Scoring penalty
 - ✓ Prohibition from applying



Pitfalls – Self Review Checklist

- ✓ Self-Review Checklist
 - Based on documentation
 - Include notes in comment box
 - ✓ why not applicable?

- ✓ Include **all sections** of checklist
 - At minimum cover page

- ✓ Utilize **current** checklist
 - Revised LEP section



Limited English Proficiency

LIMITED ENGLISH PROFICIENCY (LEP)					
28.	Does the Grant Recipient have any Limited English Proficiency (LEP) speaking populations within its community? (LEP group is >5% or >1,000 individuals according to American Fact Finder Data)				% of LEP Group: _____ LEP Language: _____
29.	If the Grant Recipient identified an LEP group(s) did they prepare an LEP plan?				Date adopted/implemented: _____
30.	Does the LEP Plan call for acceptable procedures for meeting LEP group needs (e.g. translated vital documents, translated public notices, translation services, or adequate number of bilingual staff)? (See also safe harbor written language assistance recommendations.)				
31.	Were required published notices (other than procurement) published in English and the LEP language?				<input type="checkbox"/> Public Hearing Notices <input type="checkbox"/> Environmental Review Notices <input type="checkbox"/> AFFH - Fair Housing Publications <input type="checkbox"/> Section 504 Non-discrimination Policy <input type="checkbox"/> Citizen Participation Notices (including citizen complaint procedure) <input type="checkbox"/> Community Outreach Notices (e.g., publicizing available housing rehabilitation and OSSF assistance)



Pitfall - Identify Findings

- ✓ Identify findings – policy or procedural violation
 - ✓ Just the facts
 - ✓ Attach relevant documentation



Can Finding be remediated?

- ✓ Yes - explanation & documentation
- ✓ No - Corrective Action Plan



Pitfalls - Financials

- ✓ Financial Ledgers
- ✓ Complete set of bank records
 - ✓ include local injection
- ✓ Transferring funds between accounts
- ✓ Invoices - checks differ:
 - ✓ explanation where appropriate
 - ✓ include unrelated invoices
 - ✓ Identify grant/local injection

Compliance Team

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(512) 936-6709



Chapter 14

Audit Requirements



TEXAS DEPARTMENT OF AGRICULTURE
COMMISSIONER SID MILLER



Audit Certification Form (ACF)

- An ACF is due annually, within 60 days after fiscal year end, should capture all open grants (federal and state) and related expenditures incurred during the fiscal year.
- The ACF will reveal if total Federal or total State expenditures met or exceeded the \$750k threshold.
- A non single audit report (Financial Statement or GAS audit) will not be accepted in lieu of the annual ACF filing requirement.
- The ACF information is certified as accurate with the signature of the Grant Recipient's officer, designee, or CPA firm.
 - Grant management consultants may not certify the ACF.



Single Audit

- Required when expenditure threshold of \$750,000 is met or exceeded.
- The SA (single audit) certification package submission is no longer required.
- The SA Report must be submitted to the Federal Clearing House (FCH), within the earlier of 30 days after receipt of the auditor's report(s), and within 9 months after your fiscal year end.
- Go to <https://harvester.census.gov/facweb/>, for instructions on filing the SA report with the FCH.
- Must notify TDA when the SA report has been submitted and accepted by the FCH.



Delinquent or Incomplete Filing

- Non receipt or incomplete ACF or SA reports 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 to

- **Texas Department of Agriculture**
- **Compliance Audit Section**
- **P. O. Box 12877**
- **Austin, TX 78711-2877**

- Or may be completed and submitted online, page 2 of TDA link:

<http://www.texasagriculture.gov/Forms.aspx>

- or via email:
- CDBGAuditACFexternalEmail@TexasAgriculture.gov

Chapter D

Texas Capital Fund



TEXAS DEPARTMENT OF AGRICULTURE
COMMISSIONER SID MILLER



Infrastructure & Real Estate Programs

- Provide funds to eligible Grant Recipients for infrastructure and/or real estate improvements
- Supports a specific business that commits to create/retain jobs in community
- TCF project activities must be necessary for job creation/retention



TCF RE/Infra: Eligible Use of Funds

- Public and Private Infrastructure
- Acquire, construct, or rehabilitate commercial/industrial buildings and other real property improvements (RE Program)
- Providing economic development services in connection with otherwise eligible CDBG economic development activities



TCF RE/Infra: National Program Objective

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



Documenting Jobs

- Job creation = 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



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)
- Current payroll report of the benefitting business(es) upon request from TDA

Business and Grant Recipient should retain job creation documentation



Contract Special Conditions: Release of Funds

- 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 (Company-Contractor Agreement)

Real Estate/Private Infra:

- Repayment Agreement between Grant Recipient and Benefitting Business or TDA
- For Real Estate Improvements: Lease Agreement between Grant Recipient and Benefitting Business



Contract Special Conditions: Release of Funds (construction)

In addition to Ch. 2 requirements:

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



Funds Committed by Business

- Work completed on private property and entirely with private funds may be excluded from many federal and program requirements; some federal regulations still apply.

Examples of federal requirements that could apply:

- Environmental review
- Davis-Bacon Labor Standards
- Competitive Procurement Requirements
- Acquisition Requirements



Funds Committed by Business, Cont.

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



Evidence of Occupancy

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

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



Evidence of Occupancy

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).



Payrolls

Employee hours (*hours worked + documented leave*) meet required weekly work schedule for each of four (4) consecutive weeks

Or

Employee hours met required number of hours for 10 out of 12 consecutive weeks

Weekly hours will **not** be averaged over time to determine full-time or part-time status of employee



Payroll Reports

Type	Milestone	Purpose
Recent Payroll	With Application	Retained jobs: establish number of jobs and Created jobs: point of reference for application review
Starting Payroll	At contract start date	Identify number of jobs existing prior to project, including employee names. Final jobs cannot drop below this number, but this is not the job creation start date)
First Job Creation Payroll (optional – may be specifically requested for large projects)	At Certificate of Occupancy or approved job training date	Establish names of employees prior to first date for job creation (If not submitted, will look at Final Payroll for a hire date matching this)
Ending Payroll	30 days prior to contract end date (or closeout if submitted early)	Final record of jobs created during contract period



Payroll Reports

- Electronic file format
- Must be able to verify the number of persons employed at location specified in contract
- At a minimum, payroll report should include:
 - Employee full name
 - Employee ID number **NO SSN #'s**
 - Employee gender & ethnicity
 - Full-time or Part-time



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.

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.
 - c) Show that employees have been on the job for no less than one (1) month.
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

PROJECT COMPLETION REPORT
D1200

Grant Recipient Name

Contract Number

Grant Recipient Name: Contract No: Region:
 Contract Start Date: Contract End Date: DUNS No.

Part I. General Reports

Total Persons Benefitting: Total Contract Beneficiaries: Low-to-Moderate Income Beneficiaries:

Certificate of Expenditures:

Activity	TxCDBG Budget	TxCDBG Funds Drawn To-Date	TxCDBG Funds not Received (Including pending draws)		Local Contribution	Percent Matched
			TxCDBG Reserved Funds	Unutilized Funds (Deob)		
<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>
Total						0 %

Note: If a contract activity is not listed, click on the Activity field and type the needed Activity name

For Reserved Funds, list specific costs

Certifications:

As chief elected official of the contractor jurisdiction, I certify that:

- All activities undertaken with funds provided under the contract identified in this report, have, to the best of my knowledge, been carried out in accordance with the contract agreement;
- The information contained in this Project Completion Report is accurate to the best of my knowledge;
- All records related to contractor activities are available for review;
- TXCDBG funds were not used to reduce the level of local financial support for housing and community development activities;
- No attempt to recover any capital costs of public improvements assisted in whole or in part with such funds by assessing any amount against properties owned and occupied by persons of low and moderate income, including any fee charged or assessment made as a condition of obtaining access to such public improvements unless (a) such funds are used to pay the proportion of such fee or assessment that related to the capital costs of such public improvements that are financed from revenue sources other than such funds; or (b) for purposes of assessing any amount against properties owned and occupied by persons of moderate income, contractor certifies that it lacks sufficient funds under this contract to comply with the requirements of clause (a);
- The persons to benefit from the activities described in Exhibit A, Performance Statement, of this contract are receiving service or a benefit from the use of the new or improved facilities and activities; and
- Proper provision has been made for the payment of all unpaid costs and unsettled third-party claims and the State of Texas is under no obligation to make any further payment to the recipient under the contract agreement in excess of the amount identified in the Certificate of Expenditures table as "TxCDBG Reserved Funds".
- The expenditures, disbursements and cash receipts are for the purposes and objectives set forth in the terms and conditions of the Federal award. I am aware that any false, fictitious, or fraudulent information, or the omission of any material fact, may subject me to criminal, civil or administrative penalties for fraud, false statements, false claims or otherwise. (U.S. Code Title 18, Section 1001 and Title 31, Sections 3729-3730 and 3801-3812).

Name and Title (Print)	Signature	Date
<input type="text"/>	<input type="text"/>	<input type="text"/>
Original Submittal	Revision	Date revised: <input type="text"/>

Civil Rights & Citizen Participation:

<input type="checkbox"/> Equal Opportunity Requirements	<input type="checkbox"/> Section 3 Requirements	<input type="checkbox"/> Promotion of MBE Participation	<input type="checkbox"/> Excessive Force Policy
<input type="checkbox"/> Section 504 Requirements	<input type="checkbox"/> Fair Housing Requirements	<input type="checkbox"/> Citizen Participation Requirements	<input type="checkbox"/> Limited English Proficiency Requirements

Fair Housing Activity (describe):

Final Public Hearing Comments:

Final Public Hearing Date: Hearing Publication Date: Work Completed Date:

PROJECT COMPLETION REPORT

D1200

Grant Recipient NameContract Number**Part II. Performance Report** Report work performed and performance measures for each contract budget activity.**Actual Accomplishments:**

Activity	Item Installed or Action Performed	Units	Perf. Stat Quantities	Actual Quantities	% Change	+
					0	

Does the current Performance Statement accurately reflect the project location(s)? Have final project record drawings been received by the Grant Recipient? **HUD Performance Measures:**

Activity	Objective	Outcome	+ activity	- activity
Benefit Indicator		No. of Beneficiaries	+ indicator	- indicator
Special Category			+ category	- category

Actual Accomplishments (Continued):Does this contract include Slum & Blight elimination activities? Does this contract include Job creation/retention activities? **HUD Performance Measures - Job Creation**

Report the number of businesses assisted for each category.

New Businesses Assisted:	<input type="text"/>	Existing Businesses Assisted:	<input type="text"/>	Total Businesses Assisted:	<input type="text"/>
Existing Businesses Expanding:	<input type="text"/>	Existing Businesses Relocating:	<input type="text"/>		
Businesses Assisted with Commercial Facade/Building Rehab:	<input type="text"/>				
Businesses providing goods/services to a neighborhood or small service area:	<input type="text"/>				
No. of persons who were unemployed prior to taking jobs created by the project:	<input type="text"/>				
Number of persons with employer sponsored health care benefits:	<input type="text"/>				
Business Name	DUNS Number				+
					x



Common Issues: Infra/RE Projects

- Incorrect payrolls
 - Inconsistent employment
 - Weekly hours/pay not shown
 - Reported date ranges are not consecutive weeks
- **Incorrect Form D7**
 - Must use correct D7 Form, as of date of hire
 - Incomplete, unsigned, missing information
- **Business Occupancy**
 - Must notify TDA date of business occupancy on project site
 - Untimely submission of COO to TDA
 - COO triggers start of jobs
- **Missing/late Quarterly Reports**
 - Late/delinquent quarterly reports – draws **will** be held until submittal
- **Ineligible Jobs**
 - Less than 4 weeks payroll does not count toward job creation
 - If one week of payroll is between 20-34 hours, counts as PT
 - Jobs created prior to date specified in Ex. D
 - Only jobs created at project site count
 - No seasonal, temporary, contract labor, or business principals
- **Match Documentation**
 - Need copies of check/proof of payment and ledger



Downtown Revitalization & Main Street Programs

Provide funds for infrastructure improvements in the central business district or designated Main Street area.

These programs address the National Program Objective (NPO) of aiding in the elimination of slum or blighted areas.



Slum/Blight National Program Objectives

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



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 TxCDBG 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.~~



Small & Microenterprise Revolving Loan Fund (SMRF)

Provides capital for rural communities to invest in new and/or existing small businesses and microenterprises.

In cooperation with a qualified, nonprofit development organization (NDO), SMRF monies are loaned to local small businesses and microenterprises to support job creation/retention for predominately low- and moderate-income persons.



Eligible Activities

- Through a nonprofit development organization (NDO), SMRF funds are available to provide loans for “general support” to establish, stabilize, and expand eligible small businesses and microenterprises.
- SMRF loaned funds may be used for the following:
 - Lease Space
 - Purchase Inventory
 - Working Capital
 - Machinery & Equipment
 - Raw materials



Definitions

- A “microenterprise” is a commercial enterprise that has five (5) or fewer employees, one or more of whom owns the enterprise
- A “small enterprise” or “small business” is a commercial enterprise that has 25 or fewer employees, one or more of whom owns the enterprise or business.



Documenting Jobs

- Job creation = 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).



Loan Requirements

- The maximum allowable loan is \$25,000 per job created and/or \$10,000 per job retained. No single loan may exceed \$50,000.
- Prior to SMRF Loan Execution Every loan to be funded with SMRF funds must submit appropriate environmental review documentation to TDA prior to commitment for assistance.



SMRF: Prior to Release of Funds

- NDO must submit a completed SMRF Loan Information/Certification (Form D9) within 30 days of loan execution.
 - Supporting documentation for each fully-executed SMRF loan, such as loan closing documents and/or settlement statements, must be submitted to TDA prior to drawdown of SMRF grant funds.
- Upon the completion of the financial underwriting, SMRF Underwriting Certification (Form D10) must be completed and submitted to TDA.
 - All underwriting documentation will be retained by the NDO, subject to monitoring by TDA.
- A copy of the company's most recent payroll must be submitted to TDA.



SMRF: Prior to Contract Termination

For each SMRF loan executed, the following items are required to be submitted no later than the date that the Project Completion Report is submitted:

1. Final Payroll Report for the Benefitting Business(es)
2. A copy of the TCF Survey Questionnaire (Form D7) for each LMI employee.
3. Supporting documentation required for matching funds described in Exhibit B of the TCF contract with copies of invoices and proof of payment(s).
4. A completed SMRF Loan Expense Ledger (Form D11) must be submitted to TDA.
 - This document is completed by the borrower and details the eligible expenses funded with the SMRF loan. The borrower and NDO representative certify the listed expenses are accurate. Supporting documentation for eligible loan expenses must be retained by the NDO, subject to TDA monitoring. Acceptable documentation may include copies of invoices and receipts.



SMRF: 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.

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 requirement to benefit low and moderate income families.

Congratulations,
you are *almost...*
2019 TxCDBG Certified!



TEXAS DEPARTMENT OF AGRICULTURE
COMMISSIONER SID MILLER