

POLICY ISSUANCE

CDBG 12-02



Texas Department of Agriculture
Texas Community Development Block Grant Program
PO Box 12877
Austin, TX 78711

EFFECTIVE DATE: **October 12, 2012**
SUBJECT: **Contract Amendments**

PURPOSE:

The Texas Community Development Block Grant Program (TxCDBG) provides a way for eligible applicants to receive funds to meet national program objectives that benefit low and moderate income (LMI) persons, meet urgent needs, or eliminate slums or blight.

BACKGROUND:

The goal of the Program, as stated in the Housing and Community Development Act of 1974 (as amended), is to develop "communities by providing decent housing and a suitable living environment, and by expanding economic opportunities, principally for low- and moderate-income persons."

HUD regulations governing the program are found at 24 CFR Part 570. Texas administrative rules governing the program are found in the Texas Administrative Code, Title 4, Part 1, Chapter 30, Subchapter A, Division 1.

ACTION:

This Policy Issuance alters the type of contract changes that require a Contract Amendment and those that may be approved as a Contract Modification. No change is made to Contract Extensions, which always require a Contract Amendment.

This action is intended to improve efficiency in TDA's review of requests to change the project requirements described in the contract, and to encourage efficient use of TxCDBG funds when a community has the opportunity to increase the scale of the original project.

EFFECTIVE DATE:

All guidance in this document is effective immediately, as of the date of this policy issuance.

Thank you for your efforts to ensure compliance with all federal, state and program requirements. If you have any questions or if we can provide any further assistance, please contact me, or Manager of Project Management Suzanne Barnard at 512-936-0247 or Suzanne.Barnard@TexasAgriculture.gov.

A handwritten signature in blue ink that reads "Becky Dempsey".

Becky Dempsey, CDBG State Director
Texas Community Development Block Grant Program

**TxCDBG Project Implementation Manual:
Chapter 11, Contract Amendments**

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There are two levels of Performance Statement changes:

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

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11.1.1 Performance Statement Modification

Increases in project scale and minor adjustments to the contract Performance Statement to reflect the amount of work actually completed can be made using an abbreviated version of the contract amendment process, known as a Performance Statement Modification. The box below provides guidance for determining whether a change may be completed as a Modification or requires a Contract 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
<i>If the answer to all three questions is "Yes", the requested change may be submitted as a Modification. However, TDA reserves the right to require a full amendment at its discretion.</i>	
<i>If the answer to any question is "No," please submit the requested change as a Contract Amendment or contact your Regional Coordinator for further guidance.</i>	

Each request for a Performance Statement Modification will be reviewed by TDA to ensure that the proposed changes do not require an amendment and continue to meet a National Program Objective. If it is determined that an amendment is required, the Grant Recipient will be notified

immediately so that the appropriate action may be taken and documentation submitted as soon as possible.

Determination that a proposed change may be submitted as a Modification does NOT affect the Environmental Review process; the environmental review and any prior Finding of No Significant Impact (FONSI) must be re-evaluated for any contract Performance Statement change.

[Section 11.1.2 has been deleted]

11.1.3 Performance Statement Amendment requiring Citizen Participation

Substantial changes to the Performance Statement require full contract amendments and will only be considered after the citizens of the Grant Recipient have had an opportunity to comment on the proposed changes.

Citizen Participation is required for amendments that propose changes that do not meet the qualifications for a Performance Statement modification.

TDA will not approve requests to add a different or new activity, including a new project if the original project has been determined unsuccessful. However, TDA may consider approval of a new project if either: 1) a natural disaster event, documented by presidential or governor's declaration, or 2) a decision by a federal or state agency, prevents the Grant Recipient from completing the original project.

The following items are required *in addition to the list on page 3*:

- **Contract Amendment Checklist (Form A1101);**
- Confirmation in the cover letter that the project will meet Schedule C milestones by the required dates OR a revised Schedule C proposing a new timeline for completion;
- A resolution from the local governing body (i.e., city council or commissioner's court) that indicates support for the proposed changes; and
- Public notice of the public hearing held regarding the amendment. TDA will accept either a publisher's affidavit with a copy of the notice or the full newspaper page on which the notice occurred. See the following page for examples of the resolution and public hearing notice.

Reminder: Publish notice in a newspaper at least 72 hours (3 days) before the public hearing and hold meeting in a convenient location near residents in target area when possible as well as at a convenient time (after 5:00 p.m. on a weekday or on a Saturday or Sunday).

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11.2.1 Budget Amendment

A contract budget amendment is necessary whenever a transfer of contract funds between budget categories is greater than 20% of the contract amount, or results in changes in the scope of the project funded. The changes will be made to the Budget (Exhibit B).

The following documentation should be submitted for a budget amendment:

- A letter signed by the chief local elected official describing the proposed change, explaining the reasons for transfer of funds and impact of the changes on the original scope of work;
- The *Contract Amendment Checklist (Form A1101)*; and
- The *Contract Budget Change Form (Form A1102)*.

11.2.2 Budget Modification

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

- The cumulative dollar amount of transfers among budget categories is less than or equal to 20% of the total amount of the contract as specified in Section 4(C) of the contract;
- The transfer of budgeted funds will not change the scope or objective of the project(s) funded through the TxCDBG contract; and
- If funds are to be transferred into professional services, the total dollar amount in the line item does not exceed the following:
 - General Administration – 16%. Reimbursement of administration expenses greater than 16% of total grant construction and acquisition funds will not be approved; or
 - Engineering (all line items) – 25%. Reimbursement of engineering expenses greater than 25% of total grant construction and acquisition funds must be approved by contract amendment.

The *Contract Budget Change Form (Form A1102)* explaining the reasons for the requested modification must be submitted as the request.