



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

# POLICY ISSUANCE

## CDBG 13-03

Effective Date: October 21, 2013

### **SUBJECT: 2013 Updates to the TxCDBG Project Implementation Manual**

The Texas Department of Agriculture announces the following changes to the TxCDBG Project Implementation Manual:

- Requirements to satisfy contract Special Conditions are updated to reflect the contract boilerplate which will be used for 2013 contracts beginning September 1, 2013.
- Contract requirements are updated to standardize requirements for contracts under the Community Development Fund, Texas Capital Fund, and other fund categories, including:
  - Drawdown thresholds for administrative and engineering budget line items;
  - Submission of executed contract documents for administrative and engineering consultants;
  - Submission of civil rights documentation and other contract requirements prior to the release of funds;
  - Submission of acquisition information prior to the release of construction funds; and
  - Simplified discussion of match funds expenditures.
- Discussion items for the 4-month call are expanded.
- Local service provider requirement is eliminated for competitive proposal procurements.
- Contractor clearance requirements are corrected.
- Contract amendment process is updated to require one form with supporting documentation.
- Single Audit requirements are clarified.

#### **ACTION:**

- 1. Chapter 2 (Financial Management), Chapter 4 (Contract Special Conditions), and Section D (Texas Capital Fund) are replaced in their entirety by the attached documents.**
- 2. The following forms are replaced by the attached documents: Form A203, A600, and A1101**
- 3. The following form is new: Certification of Pre-Construction Approvals**
- 4. Chapter 1 (Administration) – Section 1.3 is revised as follows:**

## **1.3 Technical Assistance**

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### **4-Month Conference Call Required Agenda Items**

- 1) Review TxCDBG contract Performance Statement (Exhibit A) and Budget (Exhibit B):
- 2) Review TxCDBG contract Project Implementation Schedule (Exhibit C) milestone dates and early progress toward these dates;
- 3) Review 12-Month and 24-Month Threshold requirements (TxCDBG Action Plan Section III. F. paragraphs 7 & 8);
- 4) [Identify the need for Acquisition of Real Property and review URA requirements](#); and
- 5) Identify and report potential project issues or delays.

5. Chapter 5 (Procurement) – Sections 5.1 and 5.2 are revised as follows:

## 5.1 Professional Services/Administration Contracts

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### STEP 5 Advertise and Distribute the RFP

In order to create competition for the work, the Grant Recipient must advertise the RFP. A sample advertisement is provided that can be altered for the appropriate service. The Grant Recipient must:

- Contact a minimum of five individuals/firms for their response by either email, fax, or return receipt mail. The local files must include a statement regarding the criteria or reason for contacting each service provider, such as prior experience in the community or region, recommendation from neighboring community, office location within region, information received from firm, etc.

~~At least three of the firms contacted must be "local" to the Grant Recipient's COG region, or a contiguous region, based on:~~

- ~~○ the location of the firm's offices, or~~
- ~~○ history of contracts managed.~~

~~The Grant Recipient may request a list of service providers on previous contracts from TDA if it is not familiar with service providers in the area. Lists of local professional service providers by region are available on the TDA website at [www.texasagriculture.gov](http://www.texasagriculture.gov). The remaining two or more firms may be selected based on criteria other than those listed above if documented in the local files according to the competitive procurement process otherwise described herein.~~

- Advertise in a locally distributed newspaper. The newspaper may or may not be published in the local area, so long as local citizens have reasonable opportunity for notice of the RFP. The deadline for receipt of proposals must be at least ten days after the date of public advertisement and contact dates of the RFP.  
(If no local newspaper is published in the municipality or county, the advertisement may be posted at the city hall or county courthouse.)

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### STEP 9 Award Contract

After finalizing the contract, the Grant Recipient authorizes approval to proceed with contract execution. Unsuccessful respondents should be notified in writing that their proposals were not selected for the contract.

The Grant Recipient must submit the *Financial Interest Report (Form A503)* to TDA within 30 days of executing the contract, including all professional services subcontractors as well.

Beginning with contracts awarded in August 2013, a copy of the service provider contract or agreement must be submitted to TDA, which must include the following at a minimum:

~~Even if a standard agreement is used (such as the American Society of Civil Engineers' or American Institute of Architects' formats), TxGDBG recommends that the contract include the following provisions:~~

- Names of Both Parties - Grant Recipient and firm.
- Effective Dates - Starting and ending dates.
- Scope of Services - Either directly written into the contract or provided as an attachment that is incorporated into the contract.
- Compensation - Including the maximum amount of the contract as either a firm, fixed-price contract, or a not to exceed cost-reimbursable type contract.

- Authority by Which the Grant Recipient is Awarding Funds - Referencing the Texas Government Code, Chapter 2254, Subchapter A, "Professional Services," which permits and outlines state requirements for municipalities and counties regarding procurement of professional services.
- Local Program Liaison - Identification of a local public official as the consultant's primary contact.
- Amendments - Procedures for amending the scope of work and/or compensation section.
- Termination - Explaining circumstances under which the Grant Recipient or other party can cancel the contract (e.g., unsatisfactory performance).
- Resolution of Program Non-compliance – Procedures for determining the party responsible for any disallowed costs as a result of non-compliance with federal, state, or program requirements.

A sample contract for engineering services can be found at:

<http://www.rurdev.usda.gov/ca/pdf%20files%20and%20documents/E-510-2002.pdf>

Any changes to the Prof.Serv./Admin contract price must be documented in the local files through a contract addendum.

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## 5.2 Construction and Materials Contracts

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### 5.2.1 Small Purchase Procurement

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#### **STEP 4 Clear the Contractor**

The Grant Recipient must verify the construction contractor's eligibility through the Excluded Party List System. See **Chapter 7 Davis Bacon Labor Standards** for details.

~~The contract may be awarded before the contractor is cleared, but may NOT be executed without obtaining EPLS clearance.~~

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6. Chapter 11 (Contract Amendments) – Sections 11.1 and 11.2 are revised as follows:

## 11.1 Performance Statement Changes

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

- [Contract Change Request Form \(Form A1101\)](#);
- Revised Performance Statement, using “track changes” or similar format to indicate all added, deleted, or changed text (submit electronic copy in Word Format, no balloons);
- Re-evaluation of environmental findings ([included in A1101](#)); and
- Revised project maps showing the locations of the original and amended project activities if any change in the project location or target area is proposed.

### **11.1.3 Performance Statement Amendment requiring Citizen Participation**

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

- Confirmation 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.

## 11.2 Budget Changes

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The following items are **required for all Budget changes**:

- [Contract Change Request Form \(Form A1101\)](#); and
- Revised Exhibit B, Budget, using “track changes” or similar format to indicate all added, deleted, or changed text (submit electronic copy in Word Format, no balloons).

### **Required Documentation for Amendments and Modifications**

Requests to amend/modify the Performance Statement, Budget, and/or Contract Period may be submitted together, along with a request for Change Order, and may be processed together.	P.S. Modification	P.S. Amendment w/ Citizen Participation	Budget Modification	Budget Amendment	Contract Extension
<b><i>Contract Change Request Form (Form A1101)</i></b>	X	X		X	X
Markup of requested Contract Exhibit (PS or Budget)	X	X	X	X	
Resolution of support from local governing body		X			
Evidence of public hearing		X			

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7. Chapter 14 (Single Audits) – Section 14.3 is revised as follows:

## 14.3 Conducting the Audit and Preparing the Report

### 14.3.4 Audit Report Content Requirements

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TDA will not accept any audits containing a disclaimer of opinion for the overall financial statement audit; if separate opinions are issued for various subsets of financial records, any subset that includes TxCDBG funds AND the general financial statement audit must include an auditor's opinion. TDA may request additional information or place programmatic restrictions on current or future grant funds based on the type of opinion issued.

Type of Opinion	TDA Review
Unqualified	Generally accepted
Qualified	May be accepted if the identified qualifications are not directly related to or have cross-cutting effects on CDBG funding
Adverse	Generally not accepted; may be considered if the areas of concern are not directly related to or have cross-cutting effects on CDBG funding
Disclaimer of Opinion	Will not be accepted

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**APPLICATION:**

This change will apply to all TxCDBG contracts expiring on or after October 21, 2013.

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 Delivery Suzanne Barnard at 512-936-0247 or [Suzanne.Barnard@TexasAgriculture.gov](mailto:Suzanne.Barnard@TexasAgriculture.gov).

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Texas Department of Agriculture