CHAPTER 1
ADMINISTRATION & REPORTING

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CHAPTER 1
ADMINISTRATION & REPORTING

This chapter highlights the steps in getting started and implementing your TxCDBG contract for successful project management. Prior to implementing a project, a Locality should put systems in place that will allow it to track and report on its activities as required by its contract with TDA.

1.1 Project Startup

1.1.1 Pre-Agreement

Pre-award costs are those incurred by the Grant Recipient prior to the contract start date of the TxCDBG grant award directly pursuant to the negotiation and in anticipation of the TxCDBG grant award, where such costs are necessary to comply with the proposed delivery schedule or period of performance. Such costs are allowable only to the extent that they would have been allowable if incurred after the contract start date of the TxCDBG award and only with the written approval of TDA.

The Grant Recipient may request written approval to utilize the Pre-Agreement Policy in order to pursue early implementation of the project. TDA, in its sole discretion, may approve the written request. If the Grant Recipient receives an award and the Pre-Agreement Policy has been requested and approved, TDA will include the Pre-Agreement Special Condition in the TxCDBG contract and will consider eligible pre-award expenses incurred prior to the effective date of the award, or as identified in the letter sent by TDA to Grant Recipient granting authorization to incur Pre-Agreement expenses. Fund specific requirements and restrictions on the type of activities eligible as pre-agreement costs will be addressed in the grant application guidelines.

TDA will allow the Grant Recipient to incur costs for CDBG activities before the TxCDBG contract start date and to charge these pre-agreement costs to the grant, provided that the activities are eligible costs, meet the objectives of the program, and are authorized pursuant to applicable state and/or federal law. Procurement for grant expenditures must be specific to the project described in the application and must be supported by adequate documentation. All requests for reimbursement of pre-award costs are subject to review by TDA for determination of whether such expenses are allowable and eligible costs. Failure to meet all contract obligations will result in the required repayment of any pre-agreement expenses which were reimbursed by TDA.

The Grant Recipient may not incur costs or expend any contract funds for project construction prior to:

- Meeting the Environmental Review requirements in the TxCDBG contract (see Chapter 3); and
- Meeting all special condition requirements in Exhibit D of the TxCDBG contract that are required to release construction funds (see Chapter 4).

1.1.2 Contract Execution

The Grant Recipient must have an executed contract with TDA before funds can be drawn down through the State of Texas' Purchase Voucher system. An example of the contract is found **on the TDA website.**

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

1) **Exhibit A - the Performance Statement - Outlines the scope of the work to be performed under this contract by activity;**

2) **Exhibit B - the Budget – Specifies the contract budget line item by line item, which is used in the drawdown process. This Exhibit also includes all "Other" funds involved that are necessary to complete the Performance Statement specifics of this contract;**
3) **Exhibit C – Project Implementation Schedule – Specifies a timetable for milestones in project implementation.**
4) **Exhibit D – Special Conditions – Details the specific requirements for the release of construction funding**

The chief local elected official for the Grant Recipient and the TDA Deputy Commissioner both must sign the contract before the contract is considered fully executed.

Ready to Proceed Rule

Prior to executing the contract, TDA will ensure that existing contracts are in good standing and will require that the following are resolved to TDA's satisfaction 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.

If the issues identified by TxCDBG staff at the time of the funding award are not addressed within the required 90 days, the TDA Deputy Commissioner will not execute the contract and the TxCDBG funds awarded will be withdrawn and reallocated.

1.1.3 Establish a Local Administrative Structure

Each Grant Recipient must establish a local administrative structure to complete the grant. The Eligible Activity and National Objective requirements are not met until the project is completed, and there is sufficient documentation to ensure that the project is consistent with the designated National Objective.

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 in which government records are maintained 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.
- Review local charters, resolutions, ordinances, and policies that may be relevant to the project;
- Determine whether day-to-day administration of the project will be conducted by local staff or by a certified third-party consultant, and which party will conduct each administrative activity;

Texas Community Development Block Grant Program recipients have the final legal responsibility for the locally maintained grant files, the timely submission of reports, and compliance with program guidelines.

Best Practice: TxCDBG recommends that the Grant Recipient review the *Administrative Activities Checklist* **(Form A102)** item-by-item, and identify the activities that will be performed by Grant Recipient staff and those that will require outside assistance. It is also helpful to walk each staff member responsible for implementing the contract through the TxCDBG's program requirements.

1.1.4 Administrative Thresholds

For Release of Funds:

A. The 12-Month Rule for Release of Construction Funds

The Grant Recipient must submit all Start-up Documentation & Basic Federal Requirement Documentation (Group A) and Construction documentation (Group B) listed in Chapter 2 of this manual within 12 months of the contract start date. (See also TxCDBG contract, Exhibit D, Special Conditions.)

If a Grant Recipient fails to meet this requirement, TDA will begin the process of contract termination.

The TxCDBG contract ensures that the Grant Recipient will have an opportunity to resolve the deficiency as a part of the termination proceedings. For non-compliance with the 12-month rule:

- 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, or the date determined by TDA during the review of the Grant Recipient's response.

For Applications after the Award of a TxCDBG contract:

B. Applicant Threshold Requirements

Grant Recipients currently receiving CDBG funding must be in compliance with the 12- and 24-month applicant threshold requirements in order to be eligible for new TxCDBG funding:

1. **12-Month Applicant Threshold 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 twelve (12) months from the start date of the contract. This means that 50% of the TxCDBG funds **must be obligated** through executed contracts for administrative services, engineering services, acquisition, construction, materials purchase, etc. in order to be eligible to receive funding for new CDBG projects. The TxCDBG contract activities do not have to be 50% completed, nor do 50% of the TxCDBG contract funds have to be expended to meet this threshold.

If this threshold is required in the application guide, the requirement will apply to the current TxCDBG contracts:

- With an original twenty-four (24) month contract period;
- That have reached the end of the 12-month period but have not reached the end of the 24-month contract period prior to an application deadline; and
- That were awarded under an applicable fund as follows:

Threshold is Applicable	Threshold is Not Applicable
Community Development	Texas Capital Fund
Colonia Construction Fund	Colonia Self- Help Centers Fund
Colonia Planning Fund	Colonia Economically Distressed Areas Fund
Disaster Relief/ Urgent Need Fund	
Texas STEP Fund	
Planning/Capacity Building Fund	
Community Enhancement Fund	

This threshold will not prevent an eligible applicant from receiving TxCDBG Disaster Relief Fund assistance when the applicant meets the eligibility criteria for the TxCDBG Disaster Relief Fund.

Note: The 12-Month Applicant Threshold Requirement pertains to eligibility thresholds for applicants with current CDBG funding. It is distinct from the 12-month rule noted above for release of construction funds in the TxCDBG contract and Chapter 4 of this manual.

2. The 24-Month Applicant Threshold Requirement

This rule requires the Grant Recipient to complete its TxCDBG project prior to applying for future TxCDBG funding. For purposes of meeting the 24-Month threshold, funds are considered expended prior to the application deadlines if:

- All activities in the TxCDBG contract Performance Statement (Exhibit A) are complete;
- A Request for Payment for all remaining TxCDBG funds (excluding the final 10% of administrative costs and audit costs) has been submitted;
- The *Project Completion Report* (PCR) **(Form A1200)** has been submitted.

> 24 Month Threshold = Complete the project described in the contract; submit Project Completion Report (PCR) and final draw.

The PCR includes the Certificate of Expenditure to document compliance with the 24-Month threshold. Any funds other than final administrative and audit costs reserved on the PCR beyond the application deadline must be approved in writing by TxCDBG staff.

An *Exception Certificate of Expenditure* **(Form A106)** will be accepted in lieu of the PCR to comply with the 24-Month Applicant Threshold Requirement in limited circumstances as described below. Funds reported and approved on **Form A106** will be reserved beyond the application deadline and the Grant Recipient will be eligible to apply for funding. If the circumstances causing the exception are not resolved as of the "Funds Reserved to" date approved by TDA, a new **Form A106** must be submitted. **Form A106** must be sent in at least 30 days before the application due date.

Form A106 may be used <u>only</u> if the Grant Recipient is unable to submit the PCR prior to the application deadline due to one of the following reasons:

- The TxCDBG application deadline is after the original contract end date but prior to PCR due date, and the contract period has not been extended (the PCR must still be submitted within 60 days of the contract end date);
- The TxCDBG contract is part of a project funded through multiple funding agencies, and the TxCDBG-funded activities are complete while related activities are not yet complete (the Grant Recipient must have written approval from TxCDBG staff to submit **Form A106**);
- The TxCDBG contract is involved in litigation or other disputes regarding workmanship (the Grant Recipient must have written approval from TxCDBG staff to submit **Form A106**); or
- Other circumstances approved in writing by TxCDBG staff.

If this threshold is required in the application guide, the requirement will apply to TxCDBG contracts:

- With an original twenty-four (24) month contract period;
- That have reached the end of the 24-month contract period prior to an application deadline; and
- That were awarded under an applicable fund as follows:

24-Month Threshold is Applicable	24-Month Threshold is Not Applicable
Community Development	Texas Capital Fund
Colonia Construction Fund	Colonia Self- Help Centers Fund
Colonia Planning Fund	Colonia Economically Distressed Areas Fund
Disaster Relief/ Urgent Need Fund	
Texas STEP Fund	
Planning/Capacity Building Fund	
Community Enhancement Fund	

This threshold will not prevent an eligible applicant from receiving TxCDBG Disaster Relief Fund assistance when the applicant meets the eligibility criteria for the TxCDBG Disaster Relief Fund.

1.2 Reporting and Recordkeeping

1.2.1 Establish a Record-Keeping System

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 in which government records are maintained and accessible to the public throughout the contract period. Any alternate record storage location must be approved by TDA. All records included in **Form A103** Recommended Filing System must be included in the local records.
- Records shall be retained for a minimum of three years from closeout of the grant to the state – TDA will announce the closeout of each state grant and the individual grant contracts that may begin the three year retention period.

1.2.2 Quarterly Progress Reports

The *Quarterly Progress Report* **(Form A104)** is due to TDA by the 20th day of the month following the end of each calendar quarter. Example: Start date is August; the first report is due on January 20.

Quarter	Reports for Months	Due On
1st	January–March	April 20
2nd	April–June	July 20
3rd	July–September	October 20
4th	October–December	January 20

Quarterly Progress Reports must be downloaded from the TDA website and must be completed using Adobe software. Please contact TDA for assistance downloading this free software. Do not enter dates manually. Use the drop boxes for entering dates.

Quarterly Progress Reports **shall** be submitted electronically to: QuarterlyReports@texasagriculture.gov.

Once a Project Completion Report has been submitted to TDA for a particular TxCDBG contract, Quarterly Progress Reports are no longer required to be submitted.

A TxCDBG contract will be considered out of compliance for late or incomplete Quarterly Progress Reports or other reports, unresolved programmatic issues, monitoring findings, and/or audit findings. The contract shall remain out of compliance until all issues have been satisfactorily resolved. Non-compliance could affect future funding for a locality and may result in holds of submitted draw requests.

Note: Disaster Relief has its own quarterly report. See **Form A104DR**.

1.2.3 Four Month Call/Meeting

No later than four months after the contract start date, the grant recipient **shall** schedule a conference call / meeting with all members of the Project Team to discuss the project requirements and potential

project issues based on the Performance Statement (Exhibit A to the TxCDBG contract), such as acquisition, special permitting, etc.

- The "Project Team" participants must include the chief local elected official (or authorized representative), project administrator, and project engineer. Administrative and engineering consultants must be properly procured before being considered part of the Project Team.
- The conference may take place no later than four months after the contract start date and may occur during the pre-agreement period, so long as all necessary professional services and administration providers have been procured or local staff has been assigned to administrative and engineering tasks.
- The Grant Recipient shall notify the assigned Contract Specialist of the date and time of the conference **at least one week prior to** the call/meeting; the Contract Specialist may participate in the conference at his/her discretion.
- The date of the conference must be reported on the next Quarterly Progress Report and minutes of the conference must be submitted to TDA within fourteen (14) days of the conference.
- The Grant Recipient may request an exception to the conference requirement if the construction contract has been executed within 4 months of the contract start date AND the construction contract (base bid) substantially agrees with the TxCDBG Performance Statement

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 Rule requirements (TxCDBG contract);
4) Identify the need for Acquisition of Real Property and review URA requirements (The **Uniform Relocation** Assistance and **Real Property** Acquisition Policies **Act** of 1970 (**Uniform Act**); and
5) Identify and report potential project issues or delays.

1.2.4 Technical Assistance for Contracts Behind Schedule

Grant Recipients submitting a Quarterly Report that indicates the project is more than three months behind schedule shall:

- Complete Part II of the Quarterly Report;
- Submit, with the Quarterly Report, a revised timeline for completion using the Exhibit C milestones – the target dates identified for each milestone should allow the project to be completed within the contract period to the extent feasible;
- At the discretion of parties to the TxCDBG grant contract, a conference call with the Project Team may be requested with the assigned Contract Specialist, and any appropriate TDA program area specialists to discuss the revised schedule (the Contract Specialist may schedule an on-site technical assistance visit in lieu of a conference call).
- Approval will be given by the TDA contract specialist on the quarterly report sent back to them.

Grant Recipients submitting a Quarterly Report that indicates the project is more than three months behind the revised schedule approved by TDA shall:

- Submit, with the Quarterly Report, a narrative Plan of Action including a brief description of the project, identification of obstacles preventing progress, a summary of actions taken to reduce delays, and actions planned to resolve those issues – all members of the Project Team must sign the Plan of Action;
- Submit, with the Quarterly Report, a revised timeline for completion - all members of the Project Team must sign the revised schedule;
- At TDA's discretion, schedule an on-site technical assistance visit with the Project Team, assigned Contract Specialist, TDA manager, and any appropriate TDA program area specialists;
- Conduct monthly conference calls with the Project Team to discuss the project milestones.

Contracts that continue to fall behind schedule and do not meet the target dates established by the Plan of Action timeline may be subject to termination and deobligation of funds. In very limited circumstances, extension requests for such projects will be considered where extenuating circumstances beyond the control of the Grant Recipient exist and the Grant Recipient demonstrates diligent efforts to resolve the issues preventing progress on the projects.

1.2.5 Other Technical Assistance

TDA will provide technical assistance at the Grant Recipient's request and as considered appropriate by TxCDBG staff. Technical assistance may include:

- Email correspondence;
- Individual and conference phone calls; and/or on-site visits and meetings.