CHAPTER 12
CONTRACT CLOSEOUT

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CHAPTER 12
CONTRACT CLOSEOUT

12.0 Introduction

The TxCDBG contract closeout process is designed to ensure that all CDBG activities are completed and funds are expended in accordance with the contract, program rules, and state and federal requirements. This means that any financial, administrative, and performance issues related to the activities undertaken by the Grant Recipient have been resolved to the satisfaction of TDA and the Grant Recipient. The closeout process also certifies that the persons to benefit from the activities described in the contract Performance Statement are receiving service or a benefit from the use of the new or improved facilities and activities.

The closeout process should begin when:

- All costs to be paid with TxCDBG funds have been expended and payment requests submitted, with the exception of closeout costs (final administrative and audit costs), and other costs approved in writing by TDA;
- The work described in the most recently approved Performance Statement has been completed; and
- The Grant Recipient's other responsibilities under its agreement with TDA have been met.

12.1 Final Public Hearing

Grant Recipients shall provide for and encourage citizen participation by holding a public hearing for residents of the areas in which TxCDBG funds were used. The TxCDBG Contract and 24 CFR 570.486 require a Final Public Hearing regarding the activities completed under the TxCDBG contract.

TxCDBG Final Public Hearing requirements:

- Schedule the Hearing **after** the project is completed but **prior to** submitting the Project Completion Report (PCR) to TDA:
  - At a location convenient to the contract beneficiaries;
  - On or after 5 p.m. on a weekday or on a Saturday or Sunday;
  - Provide accommodation for citizens with disabilities;
  - Hearings should be conducted in a manner to meet the needs of non-English speaking residents where a significant number of non-English speaking residents can be reasonably expected to participate. The Grant Recipient should adhere to its LEP Plan (see Chapter 10).

- Provide notice of the Hearing to citizens:
  - Publish a notice (or article) in the non-legal section of a newspaper with general circulation in the Grant Recipient's jurisdiction:
    - Publish at least seventy-two (72) hours (3 days) prior to the scheduled hearing;
    - Include the date, time, and location of the hearing and the topics to be considered; and
    - If appropriate, publish in both English and Spanish, or other appropriate language.
  - Post the notice prominently in public buildings and distribute to identified interested community groups.

- Document the Hearing and make the records available to the public as required by Texas Government Code, Chapter 552. Required documentation includes the public hearing notice, sign in sheet (with a list of attendees) and the minutes of the hearing. TDA only requires a photocopy of the notice but the original newspaper tearsheet or a photocopy of the notice and a publisher's affidavit must be kept with the Grant Recipient's local file for the public, TDA monitors and other state or federal inspectors. In addition, a summary of public comment(s) must be prepared for the Project Completion Report (PCR).

12.2 Closeout Report

The *Project Completion Report (PCR)* **(Form A1200)** must be submitted **within sixty (60) calendar days after the contract end date** (i.e., the PCR due date). If all construction activities are completed prior to the contract end date, then the PCR due date is sixty (60) calendar days after construction is completed.

The PCR consists of four separate parts, described below. Instructions for completing each field are imbedded within the form – hold the cursor over the field to read the instructions.

12.2.1 Part I. General Reports

Total Persons Benefitting:

Report the total number of beneficiaries and the number of low to moderate income beneficiaries for the contract. Count each person only once, even if that person benefits from multiple activities. If the total number of beneficiaries contained in the Performance Statement varies from the total number of beneficiaries listed in the PCR, contact TDA for technical assistance.

Certificate of Expenditures (COE)

This section of the PCR documents financial status of the completed project, including both TxCDBG funds and any other funds used for the project, listed by budget activity in the following columns:

- TxCDBG Budget: Funds allotted to each budget activity according to the TxCDBG Contract Exhibit B, Budget, including all amendments and modifications.
- TxCDBG Funds Drawn To Date: Funds received from TxCDBG through approved Requests for Payment. Pending Requests for Payment are NOT included in this amount.
- TxCDBG Reserved Funds: Costs that have been incurred but have not yet been reimbursed by TDA. This amount includes Requests for Payment that have been submitted but not yet approved, as well as requests that have not been submitted by the Grant Recipient. **This column may only by used if the PCR is submitted on or before the PCR due date.**
- Unutilized Funds (Deob): Funds that will NOT be requested by the Grant Recipient, including all funds not Drawn to Date or requested for Reserve. All funds included in this column will be deobligated by TDA upon administrative completion of the contract and will be unavailable for reimbursement.
- Local Contribution: All funds or in-kind contributions (Match) other than TxCDBG funds used to complete the project. This amount divided by TxCDBG funds expended (Drawn To Date + Reserved Funds) must meet or exceed the percentage match commitment in the contract.

Note: No more than 16% of the combined TxCDBG grant funds expended for construction and acquisition/relocation activities may be expended for administrative costs. Additionally, no more than 25% of the combined TxCDBG grant funds expended for construction and acquisition/relocation activities may be expended for engineering costs except in exceptional cases. If the Grant Recipient deobligates funds from the contract during the closeout process, the

administrative costs and the engineering costs charged to the grant will be reevaluated to ensure that final costs are within 16% (administration) or 25% (engineering) of the actual construction and acquisition/relocation grant funds utilized. (For more information, see Chapter 2).

TDA will deobligate all funds that are:

- Identified by the Grant Recipient in the Unutilized Funds (Deob) column; or
- **Not** requested for payment (i.e. no drawdown submitted to TDA) with appropriate documentation within sixty (60) days after the contract end date or approved for extended reserve (see table below).

In limited circumstances, TDA may allow funds to be reserved for more than sixty (60) days after the contract end date. This extended reserve period must be requested by the Grant Recipient and approved by TDA in writing, and will be formalized by TDA using its *Exception Certificate of Expenditures* **(Form A106)** described in Chapter 1. Extended reserve may be approved in the following cases:

- 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 TxCDBG contract is involved in litigation or other disputes regarding workmanship; or
- Other circumstances approved in writing by TxCDBG staff.

Costs that may be Reserved more than 60 Days after the Contract End Date

Costs	Maximum Amount Reserved	Deadline to Submit Request for Payment
Audit costs	Cost of Single Audit reports if required by TxCDBG (proportional)	Contract End Date + Fiscal Year End + 9 months (costs for delinquent audit will not be reimbursed)
Other reserved costs approved on **Form A106**	Amount approved by TDA	"Administratively Complete" letter from TDA + 30 days

Certifications

The chief elected official must sign the PCR, certifying that:

a) 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;
b) "By signing this report, I certify to the best of my knowledge and belief that the report is true, complete, and accurate, and 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)" (See also 2 CFR 200.415);
c) All records related to contractor activities are available for review;
d) TxCDBG funds were not used to reduce the level of local financial support for housing and community development activities;
e) 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);

f) The persons to benefit from the activities described in TxCDBG contract Exhibit A, Performance Statement, are receiving service or a benefit from the use of the new or improved facilities and activities; and

g) 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".

Civil Rights & Citizen Participation

This section of the PCR requires the Grant Recipient to certify by checking the appropriate boxes that the following federal requirements, included in the TxCDBG contract and Chapter 10 of this manual, were satisfied under this contract:

- Equal Employment Opportunity Requirements;
- Citizen Participation Requirements;
- Section 3 Requirements;
- Promotion of MBE, SBE, and WBE Participation requirements;
- Excessive Force Policy requirements;
- Section 504 Requirements;
- Fair Housing Requirements and activities; and
- Limited English Proficiency activities.

The Grant Recipient must also provide the following additional Information:

- Fair Housing Activity – describe briefly the activity/activities completed during the contract period to affirmatively further fair housing. A list of acceptable activities is provided in Chapter 10.
- Final Public Hearing Comments – provide a summary of comments received during the final public hearing, including a brief assessment of the citizen comment(s) and explanation of any action taken in response to the comment(s).
- Final Public Hearing Date – report the date of the final public hearing for the project.
- Hearing Publication Date – report the date that the notice of the final public hearing was published in a local newspaper. This date MUST be at least three (3) days prior to the date that the hearing was held.
- Work Completed Date – report the date that all construction or other project activities (excluding administrative tasks) were completed. This date MUST be prior to the final public hearing date.

Attachments

For each attachment, indicate whether the document is attached or not required.

- **Publication, Final Public Hearing –** the publication may be submitted electronically by scanning a photocopy of the notice.
- **Project Map –** If the project includes construction activities, the Grant Recipient must attach a project map showing the project as actually built.
- **Section 3 Annual Report (Form A1011)** – the report based on the federal fiscal year must include all employment, contracting, and training opportunities since the previous submittal.

- **Evidence of Benefit for work on private property–** If the project includes work on private property funded through grant or match funds, including water and sewer service connections, the Grant Recipient must attach evidence that the households occupying those properties are in fact receiving a benefit:
  - List the name, address, number of beneficiaries, and income level of each household; and
  - Documentation that beneficiaries are receiving services for such projects, such as:
    - Copies of utility bills for all beneficiary households;
    - Printout of accounts from utility billing system; and
    - Other reasonable documentation approved by TDA – i.e., location of current water/sewer source, copies of water/sewer bills from the provider (within 30 days), photo of meter installed or of serial number on meter to compare to utility bill, updated beneficiary information.

12.2.2 Part II. Performance Report

Actual Accomplishments

This section of the PCR reports all work completed, organized by the activity. Engineering and administration activities are not reported. The work reported must correspond to the project described in the TxCDBG contract Performance Statement (Exhibit A) and be described in quantitative terms. (If the Performance Statement describes a project item without using quantities, report the item as lump sum with a quantity of one.)

If the current Performance Statement and actual accomplishments vary in quantities and/or number of beneficiaries served, please contact the Contract Specialist for technical assistance. A contract modification or amendment is generally required when quantities vary by more than 15% and in other cases as appropriate. If the completed project is significantly different from the Performance Statement, the PCR will not be accepted until a contract amendment is requested and TDA's TxCDBG staff determines that the changes are acceptable. **TDA is not obligated to reimburse work that is not included in the Performance Statement (Exhibit A) of the TxCDBG contract.**

The Grant Recipient must confirm that the work was performed in the location(s) described in the most recently approved Performance Statement. If work was performed in a different location, the Grant Recipient must resolve this issue with TDA prior to submitting the PCR.

HUD Performance Measures

This section of the PCR reports performance measures as required by HUD (described in more detail in the Program Overview section of this manual). Performance Measures must be reported separately for all activities, excluding engineering, administration, and acquisition (if incidental to the project).

> Performance measures and beneficiary information are reported for acquisition activities only if CDBG funds are used to acquire the property rather than to improve the property. Do not report acquisition activities if the acquisition is incidental to the overall project, such as acquisition of easements for a water system project.

For each activity, indicate the selection that best describes the activity.

Objective (the purpose that the project supports)	1) Suitable Living Environment 2) Decent Housing 3) Economic Opportunity
Outcome (the way that the project supports the identified objective)	1) Availability / Accessibility 2) Affordability 3) Sustainability

Benefit Indicators (the type of benefit for each activity)

For each activity, use the dropdown menu to select both the Activity and the benefit associated with that activity. For each Benefit Indicator, assign beneficiaries that benefitted from that activity.

Indicator Step 1 – Choose Activity		**Example**
Public Facility / Infrastructure	physical improvements to local facilities	water system improvements, first-time sewer connections, community center construction
Public Service	services provided to residents	job training, child care, crime prevention (very few Localities provide such services with TxCDBG funds)

Indicator Step 2 – Choose Associated Benefit		**Example**
New Access	a new service or facility	first-time water service
Improved Access	improved access to an existing service or facility	a job training activity where previously, the residents had to drive to another city to the nearest job training center
No longer Substandard	improves an existing service or facility such that it is no longer substandard	reconstruction of a road damaged by flooding

The Grant Recipient may assign beneficiaries to more than one indicator if appropriate. The total beneficiaries for all indicators must equal the total beneficiaries for the activity.

Example: A water activity that benefits 50 persons may provide new access to 30 persons and improved access to 20 persons.

Special Category (identifies certain activities reported to HUD for various purposes)

Select all applicable categories to describe the activity. If no categories apply, select "none".

- Colonia: A rural community or neighborhood located within 150 miles of the U.S.-Mexican border that lacks adequate infrastructure and frequently also lacks other basic services.
- Presidentially declared major disaster area: An area declared a major disaster under Subchapter IV of the Robert T. Stafford Disaster Relief and Emergency Assistance Act.
- Historic preservation area: An area designated for historic preservation by local, state, or Federal officials.
- Brownfield redevelopment area: An abandoned, idled, or underused property where expansion or redevelopment is complicated by real or potential environmental contamination.
- Displacement: Activity where any household, business, farm, or nonprofit organization moved permanently from real property as a direct result of a CDBG-assisted rehabilitation, demolition, or acquisition activity.
- One for One Replacement Housing: The activity being assisted results in the conversion or demolition of one or more dwelling units that must be replaced.
- Rental Housing: Activity is tenant-based rental assistance.
- Multi-Unit Housing: Activity involves two or more units per structure.
- Revolving Loan Fund: Activity funded through a revolving loan fund with a set of accounts that are independent of other program accounts.

- Special Assessment: A public improvement activity for which a special assessment will be levied.
- Favored Activity: An economic development activity that is of important National interest.
- Float Funded: An eligible activity carried out using CDBG funds that were also programmed for one or more other activities at the time the funds were committed to the new activity. Activities financed with float loans must generate sufficient program income within an established time frame to enable the Grant Recipient to carry out the activities that were initially programmed.

HUD Performance Measures (Housing activities only)

This section of the PCR reports additional performance measures related to housing activities and appears on the form only if the appropriate box indicating Housing activities (other than water/sewer connections) is marked. For additional information, see also Section C, Housing Rehabilitation, of this manual.

Indicate the number of **housing units** completed for each category:

- **Units occupied by elderly:** units occupied by one or more persons age 62 and over.
- **Units made accessible:** units made accessible for the occupant through the removal of architectural barriers. The unit does not need to be made fully accessible according to Section 504 standards to be considered accessible for this performance measure.
- **Units qualified as Energy Star:** units which have been certified through inspection and testing as meeting the Energy Star Qualified New Home Standard.
- **Units moved from substandard to standard:** units that were substandard prior to the rehabilitation and now meet HQS or local codes.
- **Units brought into compliance with lead safety rules (24 CFR Part 35):** units made lead safe (24 CFR Part 35). Do not count housing units that are free of lead-based paint (e.g., built in 1978 or later, a lead-based paint inspection report shows no lead paint in the property), or housing units where the rehabilitation work does not address all surfaces that could pose a hazard (e.g., rehabilitation work less than $5,000 per unit).

If the housing rehabilitation activity is limited to one or more of the following, mark appropriate boxes:

- Installing smoke detectors;
- Installing security devices;
- Performing emergency housing repairs;
- Providing supplies and equipment for painting houses; and/or
- Operating a Tool Lending Library.

HUD requires the following Lead Based Paint information for all housing rehabilitation project closeouts:

Lead Based Paint Requirements. Indicate the number of **housing units** completed for each category:

- Units constructed before 1978;
- Units constructed in 1978 or later;
- Units rehabilitated with less than $5,000 hard costs;
- Units otherwise exempt, including:
    - Units with 0 bedrooms;
    - Units occupied by elderly persons with no children under 6 living in the unit;
    - Units free of lead based paint; and

- o Units occupied fewer than 100 days per year.

Lead Based Paint Remediation. Indicate the number of **housing units** completed for each category

- Lead Safe Work Practices – used for units rehabilitated with hard costs less than or equal to $5,000;
- Interim Controls or Standard Practices – used for units rehabilitated with hard costs between $5,000 and $25,000; and
- Abatement – used for units rehabilitated with hard costs greater than $25,000.

12.2.3 Part III. Beneficiary Report

Click the appropriate buttons to create Beneficiary Detail Reports. A new report will appear on the next page each time a button is clicked.

- Click "Activities on Public Property" for activities that occurred only on public property, including public easements. Creates Part III(a).
- Click "Activities on Private Property" for activities that occurred on private property. Creates Part III(b).

If multiple activities benefit exactly the same group of persons, the detailed beneficiary information may be reported once for the group of activities in order to minimize the length of the report. Indicate all activities to which the report applies at the top of the report.

> Note: If a subset of the beneficiaries of one activity also benefit from a different activity, the subset is separate group that must be reported separately.

Add as many Beneficiary Detail Reports as necessary to describe all activities included in the TxCDBG Contract, Performance Statement (Exhibit A) (excluding engineering, administration, and acquisition if incidental to the project).

Beneficiary Detail Report

Complete Beneficiary Detail Reports for all activities in the Performance Statement of the TxCDBG Contract (excluding engineering, administration, and acquisition if incidental to the project). The total number of persons benefitting, and the number of households benefitting if applicable, must equal the total beneficiaries or households for the activity in the Performance Statement.

Part III(a) Beneficiary Detail Report – Activities on *Public* Property – report all beneficiaries for the group of activities according to gender, race, ethnicity, and income level.

Part III(b) Beneficiary Detail Report – Activities on *Private* Property – report all information required by Part III(a) for persons benefitting, as well as similar information for each household receiving a benefit.

- Gender, race, and ethnicity information must be reported for the person designated as the "head of household" for each residence.
- Household income level is reported separately for owner-occupied and renter-occupied households; if information is not available, the household is presumed to be owner-occupied.

If the number of beneficiaries or homes actually served varies from the number of beneficiaries required by the most recently approved Performance Statement, the Grant Recipient must contact the Contract Specialist for technical assistance regarding a Performance Statement amendment.

12.2.4 Part IV. Final Financial Interest Report (FIR)

The Grant Recipient must report final procurement information for all contracts executed under the TxCDBG contract, including professional services**/administration services** providers, construction contractors and sub-contractors, and suppliers, with contracts of $2,000 or more. The contract

amount reported should include any change orders. Check the appropriate box to report subcontracts valued at $2,000 or more under the prime contractor.
Financial interests below $2,000 (Micro-purchases) should be disclosed through invoices for grant/match funding – no separate disclosure required.

All contracts and subcontracts included in this report should previously have been reported on a *Financial Interest Report* **(Form A503).** If the information previously reported was incomplete or if information other than the contract amount has been modified, the Grant Recipient must submit revised reports prior to submitting the PCR.

12.3 Acceptance of the Closeout Report

Once the PCR is submitted, TxCDBG staff will review the report for accuracy and completeness.

- Incomplete reports will not be accepted and will be returned to the Grant Recipient.
- Grant Recipients will be notified of minor deficiencies and should correct such deficiencies within fifteen days of that notice.
- PCRs that include serious deficiencies or information that does not reflect the Performance Statement and/or Budget will not be accepted and will be returned to the Grant Recipient.

All fields of the PCR are required! Incomplete reports will not be accepted.

Scanned versions of the **signed** PCR may be emailed to TDA; an acceptable complete PCR, including all required attachments, will be considered "received" on the date the email is received by TDA.

Submit electronic copies to:

closeouts@texasagriculture.gov
Subject line: Grant Recipient name, Contract No., Contract Specialist Name

If submitting hardcopy PCRs, send to:
TDA
Office of Rural Affairs – CDBG
P.O. Box 12847
Austin, Texas 78711

Delinquent Closeouts

Late submittal of closeouts may affect a Grant Recipient's current or future TxCDBG funding.

- Requests for Payment on all open contracts may be held until an acceptable PCR is received.
- New awards may be placed on hold until an acceptable PCR is received, and the award may be withdrawn if the delinquencies are not resolved within 90 days of the award announcement.
- Continual unsatisfactory performance and delays in submitting closeout documents may be considered evidence of a lack of administrative capacity for future TxCDBG funding.

If the Grant Recipient is unable to complete the PCR in a timely manner due to disputed construction work, litigation, participation of other funding agencies in a large scale or phased project, or other serious circumstance beyond the control of the Grant Recipient that prevents contract closeout, the Grant Recipient may request an exception to the PCR due date in writing. TDA will respond to all such requests in writing. If an exception is granted:

- A new PCR due date will be established for the contract;
- The Grant Recipient must provide quarterly reports until the PCR is submitted and accepted;
- The Grant Recipient must still meet all thresholds and other requirements to apply for future TxCDBG funding - the *Exception Certificate of Expenditure* (**Form A106**) may be used to document compliance with the 24-Month threshold as described in Chapter 1; and
- Another exception may be requested if the situation is not resolved by the new PCR due date.

A revised PCR submission date is NOT an extension of the contract period; costs incurred after the contract end date are not eligible for reimbursement.

Contract Closeout

The contract closeout process involves three separate actions:

> The contract is not considered "closed" until all three steps have been completed.

1) The Grant Recipient submits the PCR, certifying that the project is complete and all requirements have been met.

2) TDA's TxCDBG monitoring staff issues a letter stating that the project is ***Administratively Closed*** as described in **Chapter 13: Monitoring**. This status allows TDA's TxCDBG staff to release any reserved administration funds (other than those reserved for audit costs).

3) TDA's TxCDBG audit staff issues an ***Audit Closeout*** letter, stating that all required audit reports related to the project have been submitted and accepted. Once this letter is issued, funds reserved for audit costs may be released; however, any other reserved funds must be held until the contract is *Administratively Complete*.

Note: Contract closeout does not begin the record retention period for the contract. Please see Program Overview in this Manual for further information on record retention requirements.