

## SECTION II. FINANCIAL MANAGEMENT

This section contains information on financial management requirements for CDBG grantees. It addresses:

- I. Administrative Requirements (State modified version of HUD Regulation 24 CFR Part 85)
- II. Cost Principles (Revised OMB Circular A-87, effective June, 2004)
- III. Checklist -- Financial Management of Grants
- IV. Audits

### I. ADMINISTRATIVE REQUIREMENTS

**The purpose of this section is to provide administrative standards for the operation of the CDBG program. These standards are designed to define and identify minimum levels of administrative responsibilities between the state and local governments, and to improve efficiency and consistency of these statewide programs. These are the state equivalent to the requirements contained in HUD Regulation 24 CFR Part 85. IT IS THE POLICY OF THE STATE THAT ALL GRANTEES AND SUBGRANTEES WILL USE THE ADMINISTRATIVE REQUIREMENTS CONTAINED IN THIS GUIDEBOOK. ANY EXCEPTIONS WILL BE PERMITTED ONLY WITH PRIOR WRITTEN APPROVAL OF YOUR STATE MONITOR.**

The Division of Housing has established, in **EXHIBIT II-F, its@ Revolving Loan Fund (RLF) Policies, Guidelines, and Procedures@** for the fiscal administration of its CDBG grant and loan projects. DOH grantees should now refer to this Exhibit. **FOR ANY ITEMS NOT SPECIFICALLY ADDRESSED IN THIS POLICY, THE GRANTEE SHOULD REVERT TO THIS SECTION FOR DIRECTION AND/OR CONTACT THEIR DOH PROJECT MANAGER FOR ADVISE.**

#### Part I: Accounting

Accounting for block grants should follow the guidance in the National Council on Governmental Accounting (NCGA) Statement 2, which states that the grants should be accounted for within existing funds unless a special revenue fund is legally required. **State CDBG grants do not require the use of a special revenue fund.** Therefore, grants should be accounted for in the following funds, following the accounting procedures used in the fund selected.

- **General Fund** - for purposes normally financed through this fund.
- **Capital Projects Funds** - for capital acquisitions or construction. The grant revenue should be recorded as intergovernmental revenue.
- **Debt Service Funds** - if grant proceeds are to be used to retire long-term debt.
- **Enterprise or Internal Service Funds** - for purposes normally financed through these funds. If the grant can be used **ONLY** for the acquisition or construction of capital assets, it should be recorded as contributed equity. All other grants recorded in these funds should be treated as "non-operating" revenue.

Revenue recognition for grants differs by the nature of the grant. **For CDBG grants, revenue should be recognized only when the expenditure has been made.**

## Part II: Cash Depositories

Cash will be deposited and invested in accordance with Section 24-75-601, 24-75-605, and 24-75-701 of Colorado Revised Statutes (C.R.S.) 1973 as amended. All funds deposited in your bank are subject to the Public Deposit Protection Act, C.R.S. 11-10.5-101.

**CDBG funds shall be deposited in a separate account unless the grantee's accounting system is sufficient to account for commingling of funds.** The state may review the accounting system in place by the grantee and based upon standards prescribed within this section of this manual, shall approve or disprove the commingling of funds.

Consistent with the national goal of expanding the opportunities for minority business enterprises, grantees and sub-grantees shall be encouraged to use minority firms.

## Part III: Bonding & Insurance

Sections 38-26-105 and 38-26-106, C.R.S. 1973, as amended, shall apply to all grants that require the contracting (or subcontracting) for construction or facility improvements. These sections require:

- ? A PAYMENT BOND ON THE PART OF THE CONTRACTOR FOR PAYMENT OF ALL AMOUNTS LAWFULLY DUE WHEN THE CONTRACT PRICE IS MORE THAN \$50,000. A "payment bond" is one executed in connection with a contractor to assure payment as required by law of all persons supplying labor and material in the execution of the work provided for in the contract (See C.R.S. Section 38-26-105). The bonds shall be obtained from companies holding certificates of authority as acceptable sureties. A certified or cashier's check or a bank money order may be accepted in lieu of a bond.
- ? A PERFORMANCE BOND ON THE PART OF THE CONTRACTOR FOR NOT LESS THAN ONE-HALF (2) OF THE TOTAL AMOUNT PAYABLE BY THE TERMS OF THE CONTRACT WHEN THE CONTRACT PRICE IS MORE THAN \$50,000. A "performance bond" is one executed in connection with a contract to secure fulfillment of all the contractor's obligations under such contract. (Section 38-26-106.) The bonds shall be obtained from companies holding certificates of authority as acceptable sureties. A certified or cashier's check or a bank money order may be accepted in lieu of a bond.

A **BID GUARANTEE** is required for a grant that requires the contracting (or subcontracting) for construction or facility improvement. A BID GUARANTEE IS REQUIRED FROM EACH BIDDER EQUIVALENT TO FIVE PERCENT (5%) OF THE BID PRICE. The "Bid Guarantee" shall consist of a firm commitment such as a bid bond, certified or cashier's check or a bank money order.

Where the block grant is to guarantee or insure the repayment of money borrowed by the grantee, the state, at its discretion, may require adequate bonding and insurance if the bonding and insurance requirements of the grantee are not deemed adequate to protect the interest of the state. Good business practices require adequate insurance coverage for liability and property damage.

**While not required by any federal statute, the state suggests (BUT is not requiring) that its grantees explore the necessity of obtaining a "Fidelity Bond" for its employee/s that will cover at least the amount of CDBG funding that the grantee is responsible for under the terms of its contract with the state.**

## Part IV: Retention & Custodial Requirements for Records

CDBG grantees must establish and maintain a records management program. Records may be disposed of only in accordance with approved record retention schedules. It is important to note that **NO RECORD SHALL BE DESTROYED UNDER ANY AUTHORIZATION SO LONG AS IT PERTAINS TO ANY PENDING LEGAL CASE, CLAIM ACTION, OR AUDIT.**

Financial records, supporting documents, statistical records, and all other records pertinent to a grant shall be retained for a period of three years, with the following qualifications:

- ? If any litigation, claim, or audit is started before the expiration of the three (3) year period, the records shall be retained until all litigations, claims, or audit findings involving the records have been resolved.
- ? Records for nonexpendable property acquired with block grant funds shall be retained three (3) years after its final disposition.

The retention period starts from the date of the submission of the final expenditure report, or for grants that are renewed annually, from the date of the submission of the financial status report. (Grantees are authorized, if they so desire, to substitute microfilm copies in lieu of original records.) The Executive Director of DOLA, the Executive Director of OED, and the state auditor, or any of their designees, shall have access to any pertinent books, documents, papers, and records of grantees and subgrantees to make audits, examinations, excerpts, and transcripts. These records should be made available, upon request, during normal business hours.

**Part V: Program Income - Contracts Awarded With 1993 FFY CDBG Funds and Thereafter**

Program income is defined as any gross income received by a **grantee or a subrecipient of a unit of local government** that was generated from the use of CDBG funds. Any such income generated by a non-governmental organization that provides A...assistance to...non-profit organizations serving the development needs of the communities in nonentitlement areas...to carry out a...community economic development...project ...@ may be exempt from program income requirements. There may be other circumstances in which such income may be exempt from program requirements. **NO DIRECT OR INDIRECTLY FUNDED GRANTEE OF THE STATE SHOULD AUTOMATICALLY ASSUME THAT THEY QUALIFY UNDER THIS EXCEPTION. YOU MUST CONTACT YOUR STATE PROGRAM ADMINISTER FOR INFORMATION.**

Program income should be treated as additional grant funds and **is subject to all CDBG "FOREVER FEDERAL"** requirements. When income is generated by an activity that is only partially assisted with CDBG funds, the income shall be prorated to reflect the percentage of CDBG funds used (e.g., a single loan supported by CDBG funds and other funds: A single parcel of land purchased with CDBG funds and other funds). Program income includes, but is not limited to the following:

- Revenue from the disposition by sale or long-term lease of real property purchased or improved with CDBG funds.
- Revenue from the disposition of equipment purchased with CDBG funds.
- Gross income from the use or rental of real or personal property acquired by the grantee or subrecipient with CDBG funds, less the costs incidental to the generation of such income.
- Gross income from the use or rental of real property owned by the grantee or subrecipient that was constructed or improved with CDBG funds, less the costs incidental to the generation of such income.
- Payments of principal and interest on loans made using CDBG funds (including payments on deferred loans)
- Revenue from the sale of loans made with CDBG funds.
- Revenue from the sale of obligations secured by loans made with CDBG funds.
- Interest earned on funds held in a revolving fund account, established with the approval of the grantee.
- Interest earned on program income, pending the disposition of such program income.
- Funds collected through special assessments made against properties owned and occupied by households not of low- and moderate-income, where such assessments are used to recover part or all the CDBG portion of a public improvement.
- Gross income paid to a unit of general local government or subrecipient from the ownership interest in for-profit entity acquired in return for the provision of CDBG assistance.

- K To the maximum extent feasible, grantees are required to disburse program income on hand prior to requesting additional funds from the state for any CDBG activities except as stated below: To ease the administrative burden of having to track program income, a CDBG project may accumulate up to \$5,000 in program income before you are required to disburse it on an approved project activity.**

The majority of the existing contracts with local governments for housing rehabilitation and business financing projects require program income to be used for additional housing and business financing activities. This program income is dedicated to a "revolving fund" created solely for a specific activity (e.g. housing rehabilitation, economic development revolving loan fund activities). According to HUD guidance, a revolving fund is **"a separate fund with a set of accounts that are independent of other program accounts established to carry out specific activities which, in turn, generate payments to the fund for use in carrying out such activities."** The purpose of a revolving fund is "to provide a mechanism to hold program income aside for distribution for specific activities." The grantee or its subrecipients **will not be required to use program income generated from the revolving loan fund prior to drawing additional state contract funds for non-revolving fund activities.**

Within a specifically designated revolving loan fund, grantees **will not be required** to use program income generated from the revolving loan fund which has been designated for revolving loan fund "general" administrative expenses prior to drawing additional state contract funds for other revolving loan fund state contract line items such as business assistance. However, the designated amount of program income to be used for general administrative expenses must specifically be accounted for separately and distinctly. **In instances where program income generated is to be used for an allowable general administrative expense, the scope of the contract between the state and its grantee should specifically detail the amount and or percentages of funds which are earmarked for project activities and administration. Please refer to your contract for further direction.**

#### **For Economic Development Projects Only**

If Economic Development revolving loan fund contracts do not contain a specified amount or percentage of program income which can be used for revolving loan fund general administrative expenses, the grantees or subgrantees may utilize the following formula to calculate the maximum authorized amount:

Sixteen percent (16%) of the [sum of the total contract award plus program income earned to date].

**This amount is the maximum amount which may be used by Economic Development revolving loan fund projects for general administration, regardless of whether the funds actually come from a direct state contract line item or from Program Income.**

- K INTEREST EARNED ON ADVANCES OF CDBG FUNDS IS NOT CONSIDERED PROGRAM INCOME AND MUST BE REMITTED TO THE STATE FOR RETURN TO THE FEDERAL GOVERNMENT EXCEPT FOR THE FOLLOWING: 1) THE GRANTEE MAY KEEP ANY INTEREST EARNED UP TO \$100 PER YEAR FOR ADMINISTRATIVE EXPENSES; and, 2) THE GRANTEE SHALL USE PROCEDURES TO MINIMIZE THE TIME ELAPSING BETWEEN THE TRANSFER OF FUNDS BETWEEN ITSELF, ITS SUBGRANTEE, AND THE SUBGRANTEES BUSINESS RELATIONSHIPS. REFER TO SECTION II - FINANCIAL MANAGEMENT, EXHIBIT II-B, INSTRUCTIONS - REQUEST FOR REIMBURSEMENT FOR INFORMATION PERTAINING TO REASONABLE DISBURSEMENT TIME FRAMES.**

## Part VI: Contractual Relationship

A contractual relationship exists between the state and the local government from the effective date of the contract (on the first line of the contract) until the expiration date established in the contract or any subsequent contract modifications. If there is **no other** CDBG contract in effect between the state and the local government at the time of expiration, the **CDBG contractual relationship ceases. Please refer to your contract for any on-going reporting requirements that may exist.**

## Part VII: Other Public/Private Support

The following definitions apply for the purpose of setting forth criteria and procedures for allowable contributions:

- **PROJECT COSTS.** Project costs are all allowable costs as set forth in the Subsection II, Exhibit C of this manual entitled "**COST PRINCIPLES (OMB Circular A-87)**", which are incurred by a grantee or third party in accomplishing the objectives of the grant during the project or program period. **IT IS THE POLICY OF THE STATE THAT ALL GRANTEES AND SUBGRANTEES WILL USE THESE COST PRINCIPLES CONTAINED IN THIS GUIDEBOOK. ANY EXCEPTIONS WILL ONLY BE MADE WITH PRIOR WRITTEN APPROVAL OF YOUR STATE MONITOR.** A copy of the entire OMB Circular A-87 can be downloaded from <http://www.whitehouse.gov/omb/circulars/>.
- **COST SHARING.** In general, cost sharing represents that portion of project costs not borne by CDBG funds. Cost sharing requirements are included in the terms of the contract.
- **CASH CONTRIBUTIONS.** Cash contributions represent the grantee's cash outlay, including the outlay of money contributed to the grantee by other public agencies and institutions, private organizations and individuals. When authorized by federal legislation, federal funds received from other grants may be considered as grantee's cash contributions.
- General guidelines for computing cost sharing are as follows. Cost sharing may consist of:
  - Charges incurred by the grantee as project costs.
  - Project costs financed with cash contributed or donated to the grantee by other public agencies and institutions, private organizations, and individuals.
  - Project costs represented by service and real or personal property, or use thereof, donated by other public agencies and institutions, and private organizations and individuals.
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All contributions shall be accepted as part of the grantee's share when such contributions meet all of the following criteria:

- Are verifiable from the grantee's records.
- Are not included as contributions for any other program.
- Are necessary and reasonable for proper and efficient accomplishment of project objectives.
- Are types of charges that would be allowable under the cost principles described in Subsection II, Exhibit C entitled "**COST PRINCIPLES.**"
- Are not paid by the federal or state government under another assistance agreement unless authorized under the other agreement, and to the regulations the contribution is subject.
- Are approved for in the approved budget.
- Conform to other provisions of this section.

## Part VIII: Standards for Grantee Financial Management Systems

Standards for financial management systems (budgeting, accounting and reporting) are included elsewhere within this manual and will not be repeated here. Grant financial management systems shall provide for:

Accurate, current, and complete disclosure of the financial results of each grant program in accordance with reporting requirements set forth in Part X. The grantee shall not be required to establish an accrual accounting system but shall develop such data on its reports on the basis of an analysis of the documentation on hand.

- Records that identify the source and application of funds for grant-supported activities. These records shall contain information pertaining to awards, authorizations, obligations, unobligated balances, assets, liabilities, outlays, and income.
- Effective control over and accountability for all funds, property and other assets. Grantees shall adequately safeguard all such assets and shall assure that they are used solely for authorized purposes.
- Comparison of actual outlays with budgeted amounts for each grant. Also, relation of financial information with performance or productivity data, including the production of unit cost information whenever appropriate and required.
- Procedures to minimize the time elapsing between the transfer of funds from the state treasurer and the disbursement by the grantee.
- Procedures for determining reasonableness, allowability and allocability of costs in accordance with the provisions of the Subsection II entitled, "COST PRINCIPLES."
- Accounting records that are supported by source documentation.
- A systemic method to assure timely and appropriate resolution of audit findings and recommendations.

**PRIMARY GRANTEES SHALL REQUIRE SUB-GRANTEES TO ADOPT THE ABOVE STANDARDS.**

**Part IX: Reporting Requirements**

**See Section III, Reporting.**

**Part X: Monitoring & Reporting of Program Performance**

**See Section III, Reporting.**

**Part XI: Grant Payment Requirements**

Payments for CDBG projects may be made at any time to a grantee through a periodic drawdown request submitted to the state at the discretion of the grantee. A request will be approved for reimbursement of actual eligible expenditures plus an estimation of funds needed for a reasonable length of time. The length of time should be the minimum period needed between the submission of the "**Request for Reimbursement**" (**EXHIBIT II-A or EXHIBIT II-A-1**) and the disbursement by the grantee.

Under federal requirements, drawdowns must be timed with the actual cash requirements of the grantee to carry out the approved program or project. The timing of the drawdowns shall be as close as it is administratively feasible to actual disbursement by the grantee for program costs.

For rehabilitation projects, to comply with the requirements, the drawdowns should not be made until the individual rehabilitation contract is signed, thus incurring the costs for the project loan or grant. A program cost is incurred at the time a loan or grant is provided, whether the revenue is received by the property owner or deposited into an escrow account. The relevant criterion of compliance is based on whether a legitimate purpose is served by disbursing the funds prior to cost being incurred by the property owner.

The state may withhold payments if a grantee has failed to comply with the program objectives, contractual terms, or reporting requirements.

**THE GRANTEE SHALL EXPEND ANY PROGRAM INCOME ON HAND IN EXCESS OF THE \$5,000 THRESHOLD PRIOR TO REQUESTING ANY ADDITIONAL FUNDS FROM THE STATE. (See Part V and VI in this section for further guidance.)**

**Part XII: Budget Revision Procedures**

The grant budget is the approved financial plan for carrying out the purposes of the grant. The budget may be revised when necessary and the revision process must comply with the following process:

The contractor must submit a **written request** (at least 30 days prior to the contract expiration date) to your project monitor and obtain prior written approval from the state under the following circumstances:

- ? When, unless specified in the Scope of Services, cumulative budgetary line item changes exceed Twenty Thousand Dollars (\$20,000.00).
- ? When, any budget transfers to or between administrative budgetary categories are proposed.
- ? When, the scope, objective or completion date of the project changes substantially, as determined by the state. (Note: environmental review clearance may be affected.)
- ? When, additional OR less State funding is needed.
- ? When, there are additional federal statutory or regulatory compliance changes to paragraph 20 of the Original Contract.

The state shall review the request and notify the grantee of whether or not the budget revisions have been approved within 30 days. **THE STATE'S APPROVAL IS NOT BINDING UNTIL A FULLY EXECUTED AMENDMENT (AS SPECIFIED IN SUBPARAGRAPH 16. c) OF YOUR CONTRACT HAS BEEN PROCESSED.** Other changes to non-construction grant budgets do not require approval, unless specified in the contract. These changes include the use of grantee funds to further program objectives over and above the grantee minimum share included in the approved grant budget.

### **Part XIII: Property Management Standards**

**REAL PROPERTY.** Real property means land (including land improvements), structures and appurtenances, excluding movable machinery and equipment. Title to real property shall vest in the grantee subject to the condition that the grantee shall use the real property for the authorized purpose of the contractual agreement as along as needed. However, if the real property is no longer needed for its original purpose, then the property of the grantee and/or subgrantee acquired or improved in excess of the small purchase threshold, may be sold or the usage may be modified **with prior approval from the state (the approval will be governed by the "Change of Use of Real Property" in the Final CDBG Guidelines).**

**NONEXPENDABLE PERSONAL PROPERTY.** Nonexpendable personal property means tangible personal property having a useful life of more than one year and an acquisition cost of \$500 or more per unit. Title to said property shall vest with the grantee. The state may reserve the right to transfer the title for nonexpendable personal property having a unit acquisition cost of \$5,000 or more to the state or to a third party. **Prior approval is required for acquisition.**

When the grantee no longer needs the nonexpendable personal property with a UNIT COST OF \$5,000 OR MORE for the original project or program, the grantee shall select one of the following methods to dispose of the property:

- Transfer the property to another state-sponsored activity within the same local government.
- Transfer the property to another state-sponsored activity within a different local government. In which case, the transferor shall be reimbursed for its economic interest in the property by the local government receiving the property. The amount of reimbursement shall be computed by applying the transferor's percentage of participation in the cost of the original program to the current fair market value of the property.

Retain the property for use by the grantee in a non-state sponsored activity in which case, the state shall be reimbursed for its economic interest in the property. The reimbursement shall be computed by applying the state's percentage of participation in the cost of the original program to the current fair market value of the property.

- When the property has been declared surplus by the local government, it may transfer to the STATE SURPLUS PROPERTY AGENCY or disposed of by the established customary procedures of the local government.

Nonexpendable personal property, with a unit cost of LESS THAN \$5,000, may be used for other activities without reimbursement if the property is no longer needed for the original activity or program.

Property records shall be maintained accurately and shall include:

- A description of the property.
- Manufacturer's serial number, model number or other identification number.
- Source of the property including grant or other agreement number.
- Percentage (at the date of grant close-out) of the state's participation in the cost of the project or program for which property was acquired.

**INVENTIONS & PATENTS.** If any program produces patentable items, patent rights, processes, or inventions, in the cause of work, such fact shall be fully reported to the state in writing. Unless there is a prior agreement on disposition of such items, the state shall determine whether protection on the invention or discovery shall be sought. The state will also determine how the rights in the invention or discovery, including rights under any patent issued thereon, shall be allocated and administered in order to protect the public interest.

**COPYRIGHTS.** Except as otherwise provided in the terms and conditions of the contract, the author or the grantee is free to copyright any books, publications, or other copyrightable materials developed in course of the program, but the state shall reserve a royalty-free nonexclusive and irrevocable right to reproduce, publish, or otherwise use, and to authorize others to use, the work for government purposes.

#### **Part XIV: Procurement Standards**

**No employee, officer or agent of the grantee shall participate in the selection, or in the award or administration of a contract, if a conflict of interest, real or apparent, would be involved.** The grantee's officers, employees or agents shall neither solicit nor accept gratuities, favors or anything of monetary value from contractors, potential contractors, or parties to subagreements.

Procurement under grants shall be made by one of the following methods:

**1. SMALL PURCHASE PROCEDURES.** These procedures are those relatively simple and informal procurement methods that are sound and appropriate for a procurement of services (professional services such as architectural, engineering, environmental review preparation, now fall within this category), supplies or other property **costing in the aggregate not more than \$100,000.** Grantees shall comply with local small purchase dollar limits and/or state statutes. If small purchase procedures are used for procurement under a grant, price or rate **quotations must be obtained from at least two qualified sources,** and appropriate documentation must be maintained.

The Division of Housing requires <b>COMPETITIVE SEALED BIDS</b> for all housing rehab projects.
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**2. COMPETITIVE SEALED BIDS (Formal Advertising).** Sealed bids are publicly solicited and a firm-fixed contract (lump sum or unit price) is awarded to the responsible bidder whose bid, conforming with all the material terms and conditions of the invitation for bids, **is lowest in price.** In order for formal advertising to be feasible, appropriate conditions must be present, including, at a minimum, the following:

- A complete, adequate, and realistic specification or purchase description must be available.
- Two or more responsible suppliers are willing and able to compete effectively for the grantee's business.
- The procurement lends itself to a firm-fixed price contractor, and selection of the successful bidder can appropriately be made principally on the basis of price.

If formal advertising is used for procurement under a grant, the following requirements shall apply:

- Invitation for solicitations shall be publicly advertised. Sufficient time will be allowed to receive an adequate number of bids from known suppliers, prior to the date for opening of bids.

- The invitation for bids, including specifications and pertinent attachments, shall clearly define the items or services needed in order for the bidders to properly respond to the invitation.
- All bids shall be opened publicly at the time and place stated in the invitation.
- A firm fixed-price contract award shall be made by written notice to the responsible bidder whose bid, conforming to the invitation for bids, is the lowest. Where specified in the bidding documents, factors such as discounts, transportation costs and life cycle costs shall be considered in determining which bid is lowest. Payment discounts may only be used to determine low bid when prior experience of the grantee indicates that such discounts are generally taken.
- Any or all bids may be rejected when there are sound documented business reasons for doing so, that are in the best interest of the program.

**3. COMPETITIVE NEGOTIATION.** This is the method used to obtain engineering, architectural and other professional services costing **in the aggregate more than \$100,000**. Using this method, proposals are requested from a number of sources and the request for proposals is publicized. Negotiations are normally conducted with more than one of the sources submitting offers; either a fixed price or cost reimbursable type contract is awarded, as appropriate. If competitive negotiation is used for procurement under a grant, the following requirements shall apply:

- Proposals shall be solicited from an adequate number of qualified sources to permit reasonable competition consistent with the nature and requirements of the procurement. The "Request for Proposal" shall be publicized and reasonable requests by other sources to compete shall be honored to the maximum extent practicable.
- The "Request for Proposal" shall identify all significant evaluation factors, including price or cost where required and their relative importance.
- Grantee shall provide mechanisms for technical evaluation of proposals received, determinations of responsible offerers for the purpose of written or oral discussions, and selection for contract award.
- Award may be made to the responsible offerer whose proposal will be most advantageous to the procuring party, price and other factors considered. Unsuccessful offerers should be notified promptly.
- Grantees may utilize competitive negotiation procedures for procurement of professional services, whereby competitors' qualifications are evaluated and the most qualified competitor is selected, subject to negotiation of fair and reasonable compensation.

**4. NONCOMPETITIVE NEGOTIATION.** This method is referred to as "sole source" procurement. This procurement method is by solicitation of a proposal from only one source, or after solicitation of a number of sources, competition is determined inadequate. Noncompetitive negotiation may be used when the award of a contract is infeasible under small purchase, competitive bidding (formal advertising) or competitive negotiation procedures. Circumstances under which a contract may be awarded by noncompetitive negotiation are limited to the following upon written authorization of the state:

- The item is available only from a single source; or
- Public emergency when the urgency for the requirement will not permit a delay incident to competitive solicitation; or
- After solicitation of a number of sources, competition is determined inadequate.

**5. FORCE ACCOUNT PROCUREMENT PROCEDURES.** Use local procurement procedures for raw material purchases. If grantee does not have formal procurement procedures, use the policies in this section.

**It is the policy of the State of Colorado that minority business enterprises shall have the maximum practicable opportunity to participate in the performance of these contracts. The CDBG grantee is expected to carry out this policy to the fullest extent practicable, consistent with the efficient performance of its project.** As used in this contract, the term "minority business enterprise" means a business,

at least 51 percent of which is owned by minority group members or, in the case of publicly owned businesses, at least 51 percent of the stock of which is owned by minority group members. For purposes of this definition, minority group members are Blacks, Black Americans, Spanish speaking Americans, Asian Americans, American Indians, American Eskimos and Aleuts. The contractor may rely on written representations by bidders, contractors, and subcontractors, regarding their status as minority business enterprises and need not conduct an independent investigation.

**All CONTRACTS AND LOAN AGREEMENTS** written in excess of \$10,000 by grantees and their contractors or subgrantees shall contain a provision requiring compliance with Federal Executive Order 11246, entitled "Equal Employment Opportunity," as amended by Executive Order 11375, and as supplemented in Department of Labor Regulations (41 CFR, Part 60).

All contracts and subgrants for construction or repair shall include a provision for compliance with the Federal Copeland "Anti-Kickback Act" (18 USC 874) as supplemented in Department of Labor Regulations (29 CFR, Part 3). This Act provides that each contractor or subgrantee shall be prohibited from including, by any means, any person employed in the construction, completion, or repair of public work, to give up any part of the compensation to which he/she would otherwise be entitled. The grantee shall report all suspected or reported violations to the state.

#### **Part XV: Grant Closeout Procedures**

Grant closeout procedures shall include the following requirements:

- ? Upon request, the state shall make prompt payments to a grantee for reimbursement costs under the grant being closed out.
- ? The grantee shall immediately refund to the state any balance of unobligated (unencumbered) cash advanced to the grantee that is not authorized to be retained by the grantee for use on other grants.
- ? The state shall obtain from the grantee within 180 days after the date of completion of the grant all financial, performance, and other reports required as a condition of the grant. The state may grant extensions when requested by the grantee.
- ? The grantee shall account for any property acquired with grant funds.
- ? In the event a final audit has not been performed prior to the close-out of the grant, the state shall retain the right to recover an appropriate amount from the grantee after fully considering the recommendations on disallowed costs resulting from a review of final financial reports by the state.

All contractual agreements shall provide procedures to be followed when a grantee has failed to comply with the award stipulations, standards or conditions. When that occurs, the state may, on reasonable notice to the grantee, suspend the grant and withhold further payments, or prohibit the grantee from incurring additional obligations of grant funds, pending corrective action by the grantee or a decision to terminate. The state shall allow all necessary and proper costs which the grantee could not reasonably avoid during the period of suspension provided that they are allowable costs described in **EXHIBIT II-C**.

## **II. COST PRINCIPLES**

The federal government describes principles for determining the allowable costs of programs administered by state and local governments under grants from and contracts with the federal governments. To be consistent with the cost principles used in the past and with the principles applicable to other current federal programs, these same cost principles are adopted by the state and will be applied to CDBG.

OMB Circular A-87 is reprinted in **EXHIBIT II-C. Attachment A** of OMB Circular A-87 sets forth principles for determining allowable costs of programs with the expressed intent that each program bear its fair share of costs. The state will apply these principles to the operations of the CDBG program both at the grantee and subgrantee level. Indirect costs will be accepted if the local government complies with the items within this attachment related to indirect costs. **Attachment B** provides a list of selected items of cost. The state will accept these standards when approving, monitoring and reviewing the costs related to the CDBG program. **Attachments C, D and E**, which provide for standards regarding cost allocation plans and indirect cost rate proposals, have been omitted

from this handbook but are still applicable as necessary. See <http://www.whitehouse.gov/omb/circulars/> for more information on these attachments.

### III. FINANCIAL MANAGEMENT CHECKLIST

**EXHIBIT II-D** provides a checklist of those items, which should be in place when undertaking a CDBG project. These items are helpful in preparing your Financial Management file.

### IV. AUDITS

The revised Office of Management and Budget (OMB) Circular A-133 became effective June 27, 2003 and was revised June 27, 2003. The new circular must be used for the fiscal year 2004 audit reports. One of the important changes in the circular is increasing the limit of the amount of Federal funds expended to \$500,000 for 2004 forward. **Therefore, if the grantee expends \$500,000 or more in total aggregate Federal funds, regardless of whether the funds are direct from the Federal Government or passed through from another entity, a single audit must be conducted, and the OMB Circular A-133 will apply. If under \$500,000, the grantee will be exempt from the A-133 single audit requirements.** The Department of Local Affairs will make an inquiry of the grantee as to whether it is exempt from the single audit. Because the dollar limit has been raised, adequate monitoring will be required. For more information on OMB Circular A-133, go to <http://harvester.census.gov/sac/sainfo.html>.

DOLA is responsible for acquiring and reviewing audit reports for all CDBG grantees. The audit report must be submitted to DOLA within 180 days of the fiscal year-end (i.e., if the fiscal year end is December 31, 2004, the audit report is due by June 30, 2005).

The audit must be conducted by a Certified Public Accountant (CPA) and in compliance with requirements in the OMB Circular A-133 Audits of States, Local Governments, and Non-Profit Organizations. The auditor should state that the audit has been conducted in accordance with A-133 as required. The requirements must be in compliance with the General Accounting Office (GAO) publications:

- ? Standards for Audits of Governmental Organizations, Programs, Activities, and Functions;
- ? Compliance Supplement for the State=s CDBG Program (**CFDA #14.228**) – for a complete copy, go to <http://harvester.census.gov/sac/sainfo.html>.
- ? Generally Accepted Auditing Standards (GAAS) established by the American Institute of Certified Public Accountants.

The publications can be downloaded from the above web-site, or purchased from the Superintendent of Documents, U.S. Government Book Store, 1961 Stout Street, Room 117, Denver, CO, 80294, Phone Number (303) 844-3964. Payments must accompany orders.

### K Recipients of CDBG funds are required to submit ONE (1) copy of the audit report to DOLA.

The grantee must provide for audit of CDBG funded activities as a part of a regularly scheduled county or municipal audit. It is possible, therefore, that the CDBG program may be included in two or more annual audit reports since program activities may extend into two or more local fiscal years. **THE AUDIT OF CDBG ACTIVITIES MUST COVER BOTH FINANCIAL MATTERS AND COMPLIANCE WITH FEDERAL LAWS AND REGULATIONS.**

Those recipients of Federal funds passed through this Department are required to submit one (1) copy of the audit report to the Department of Local Affairs. If the grantee has passed the funds on to a sub-grantee, the grantee must have done so through a written formal agreement or contract passing on the audit requirements of this section. The state's grantee must monitor its sub-grantee, as well as review and resolve any findings or questioned costs in the sub-grantee audit report. The grantee's auditor must review the report as a part of the audit of the grantee's audit. Failure to do so will result in the audit being returned as incomplete for federal auditing purposes with instructions that will bring the audit into compliance.

Based on the AICPA "Audits of State and Local Governmental Units", the single audit must contain:

For the Entity:

- A report on an examination of the general purpose or basic financial statements.
- A report on internal accounting control of the general purpose or basic financial statements.
- A report on compliance with laws and regulations that may have a material affect on the financial statements.

For its Federal Financial Assistance Programs:

- A report on a supplementary Schedule of Federal Financial Assistance, showing total expenditures for each Federal assistance program.
- A Schedule of Federal Financial Assistance.
- A report on compliance with laws and regulations of federal financial assistance programs, reporting findings and questioned costs.
- **A report on internal controls** (accounting and administrative) used in administering federal financial assistance programs.
- **A written report on fraud, abuse, illegal acts, or indications of such acts**, when discovered. Normally, such reports are issued separately.

The grantee should make any documents (e.g., contracts, budgets, program regulations, etc.) available to the auditor so that he may properly identify the grant funds by the contract encumbrance number on the State contract returned to you. The auditor must disclose the source(s) and amount(s) of all federal funds.

Grantees must require sub-grantees that are local governments, Community Action Agencies or Limited Purpose Agencies to adopt the Requirements of OMB Circular A-133. The grantee shall insure that the sub-grantee audit reports are received as required, that the audit is reviewed, is acceptable using OMB Circular A-133, and that all findings and questioned costs are resolved. The grantee must implement and utilize a system to monitor the sub-grantee. The grantee's auditor should review the monitoring system to ensure grant compliance. The grantee must submit a copy of the audit report to the state for review.

**IF THERE ARE AUDIT FINDINGS, THE GRANTEE SHOULD PREPARE** a response to the findings and provide documentation for any questioned costs. The formal responses should be given to the auditor before the audit report is printed so that the responses are included in the back of the report. If the response is not included in the audit, then the grantee must prepare a Letter of Response (**see EXHIBIT II-E**) AND SUBMIT IT TO THE DOLA WITH THE AUDIT REPORT. The Department will notify the grantee whether the response is sufficient.

**IF A GRANTEE WAS GIVEN PERMISSION TO USE ADMINISTRATIVE REQUIREMENTS AND/OR COSTS PRINCIPLES OTHER THAN THOSE CONTAINED IN THIS GUIDEBOOK, A SIGNED COPY OF THE LETTER GRANTING SUCH PERMISSION FROM THE STATE MONITOR IS REQUIRED WITH THE AUDIT'S SUBMISSION. SECOND, THE AUDIT MUST CLEARLY DEFINE WHAT ADMINISTRATIVE REQUIREMENTS AND COST PRINCIPLES WERE USED. THIRD, SHOULD THERE BE ANY UNRESOLVED DISCREPANCIES, THE STATE'S DECISION IS THE FINAL AUTHORITY IN THE RESOLUTION OF SUCH DISCREPANCIES.**

Please mail the annual audit report to:

CDBG Program Manager  
Colorado Department of Local Affairs  
1313 Sherman Street - Room 521  
Denver, Colorado 80203