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CDBG Orientation Webinar Series

4. Program Administration

February 5, 2020

Welcome to the CDBG Orientation Webinar Series – Webinar 4 on Program Administration.

The Orientation Webinar Series

1. Getting Started – January 15, 2020 (Completed)
2. Environmental Review – January 22, 2020 (Completed)
3. Financial Management – January 29, 2020 (Completed)
4. Program Administration – today
5. Lead-Based Paint – February 12, 2020

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This is the fourth in a series of five webinars designed to provide an overview for new CDBG grantees.

- Getting Started, Environmental Review and Financial Management– have already been conducted
- Program Administration is today
- The final webinar on Lead-Based Paint compliance for activities involving lead based paint is planned for February 12, 2020.

The webinar series is designed for local government recipients and their participating subrecipients and consultants to help prepare for grant start up and implementation.

Collectively, the webinars will identify the key start up and administrative issues, and provide guidance on resources and documentation.

While this has been designed for new grant recipients, existing grant recipients will also gain insights into grant administration that may help improve compliance with existing grants.

Grant Agreement Reminder

Must execute within 45 days of award

Must be signed by the Chief Elected Official (CEO)

Any Applicable Schedule A Condition(s) must be met to the satisfaction of the OCR

Grant Agreements were due Monday February 3, 2020

If the Grant Agreement has not been returned,
contact your
Community or Economic Developer

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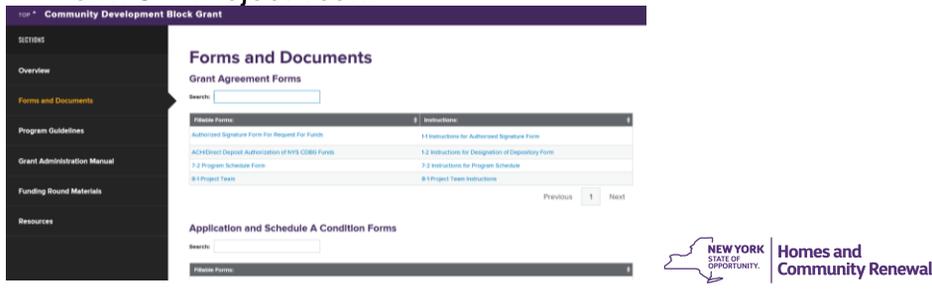The Grant Agreement must be executed and the Conditions specified in Schedule A must be met within 45 days of award.

All grant agreements issued through the CFA Round are due Monday February 3, 2020.

Grant Agreement Reminder

Go to https://hcr.ny.gov/community-development-block-grant

Select Grant Agreement Forms:
- ✓ Authorized Signature Form
- ✓ ACH/Direct Deposit
- ✓ Form 7-2 Program Schedule
- ✓ Form 8-1 Project Team

In addition to the executed Grant Agreement, the following forms or documents are required to be submitted.

First, any Schedule A Conditions must be met and documented.

Next, the following Forms must be executed:
- Authorized Signature Form for Request for Funds
- ACH/Direct Deposit Authorization of NYS CDBG Funds
- Form 7-2 Program Schedule
- Form 8-1 Project Team

You will find these forms under "Forms" on the web site. Click on "Grant Agreement Forms".

Finally, if the CDBG activity involves the rehabilitation or acquisition of housing, you must also execute Forms certifying compliance with LBP requirements – either Form 5-1 if rehabilitation will occur, or Form 5-2 if acquisition only will occur. These forms can be located under "General Grant Administration" on the Forms page. If your activities do not involve housing, then these Forms do not apply.

Today's Topics

➢ Administrative Requirements
➢ Qualifying Activities
➢ Selecting Beneficiaries
➢ Procurement & Contracting
➢ Other Federal Requirements
➢ Recordkeeping & Reporting
➢ Monitoring

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We will be covering a range of administrative topics today in this webinar, organized mostly around the topics presented in the Grant Administration Manual. The topics include:

• Administrative Requirements
• Qualifying Activities
• Selecting Beneficiaries
• Procurement & Contracting
• Other Federal Requirements
• Recordkeeping & Reporting
• Monitoring

We also welcome your questions via the Questions box on any program administration topic. Remember that financial management topics will be covered in the next webinar.

Administrative Requirements

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Let's start with an overview of the regulatory requirements for program administration.

A reminder that all request for funds must be submitted to disbursements@nyshcr.org.

Please note that in the coming weeks all OCR email addresses will be changing to a .gov designation. All Recipients will be notified when this goes into effect.

Any disbursement request that is not submitted through this will not be processed.

Any disbursement that is not legible by OCR staff will be rejected.

Please use updated forms.

There are two federal regulations that govern your use of CDBG funds – the general or uniform administrative requirements for federal funds and the CDBG regulations.

It is important to note, that all Recipients of NYS CDBG funds must demonstrate compliance with 2 CFR Part 200.

The OCR Grant Administration Manual is in the process of being updated to reflect these changes.

The uniform administrative requirements were originally established by the Office of Management and Budget, or OMB. Recently, these requirements were updated and incorporated into federal regulations at 2 CFR Part 200 by the Council on Financial Assistance Reform, or COFAR. These regulations – commonly referred to as the "Omni-circular"– replace any reference to OMB circulars that you may have known, as well as HUD-specific uniform administrative requirements. To the extent that you administer any federal grant, not just CDBG, you are subject to these requirements and directly responsible for knowing them and applying them to your administration of the

federal grant funds.

While these requirements cover a range of administrative topics, I refer you particularly to the following:

- Subpart D contains the requirements for financial management, property management standards, procurement, reporting & monitoring, and records. This section replaces many of the sections that were formerly in 24 CFR Part 85.
- Subpart E contains the cost principles, and replaces OMB Circulars A-87 & A-122.
- Subpart F contains the federal audit requirements, replacing OMB Circular A-133.

Please note that the CDBG Grant Administration Manual is in the process of being updated to incorporate these new references, but the requirements in the Manual still apply as most of the requirements did not change when they were moved to the Code of Federal Regulations.

In addition to the Omni-circular, the CDBG regulation at 24 CFR Part 570 contains the administrative requirements for the State CDBG program. Most are contained in 570.489.

By accepting these federal funds, you are directly responsible for ensuring that all federal requirements are met, whether or not you bring in other parties to help you with grant administration.

Grant Administration Manual

https://hcr.ny.gov/community-development-block-grant

In webinar 1, we identified the CDBG Grant Administration Manual published by OCR as your primary reference for program requirements.

This webinar has been constructed around the requirements as laid out in the current GAM. Specifically, in this webinar we will be referring to the following program requirements:

- Administrative Plan and Consultants/Subrecipients
- Procurement Standards
- General Provisions
- File Maintenance
- Monitoring
- Reporting Requirements

Please note the link in the slide, as well as a link to Forms that may be referenced in this presentation.

Recipient Responsibilities

Recipients are directly responsible for the grant funds and compliance

- If Recipient uses subrecipient or consultant, properly select and enter into a contract for services
- Recipient must oversee progress and compliance; must remain responsible for draws/disbursements

An administrative plan and program manual is recommended

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In webinar 1, we addressed some of the tasks for start-up, focusing primarily on contract execution, partner selection and program environmental clearance. In webinar 2, we provided further guidance on environmental review and clearance. This time, we want to focus you on getting organized for administration of the grant.

Recipients must determine the best method of administering their NYS CDBG project. A recipient can choose to directly administer the CDBG project, or it may choose to utilize either a subrecipient or a contractor or consultant to administer activities on its behalf. However, direct responsibility for completion of grant activities, compliance with federal and state requirements, and proper financial management of NYS CDBG funds always remains with the Recipient's governing body. Use of third parties does not relieve you of these responsibilities.

If a recipient chooses to utilize a subrecipient or consultant/contractor:

- If a private individual or firm is to be hired to administer its CDBG funded activities, the Recipient must follow the all-applicable procurement

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guidelines. Refer to the GAM for guidance on federal procurement requirements. Consultants must be retained through an RFP. Do not use a Request for Qualifications (RFQ) for the selection of a consultant. The RFQ is only be used for engineering and architectural services.

- Designation of a subrecipient does not require procurement, but still should be carefully selected with the appropriate capacity and skills.

- The recipient must enter into a contract for services that describes the division of grant management responsibilities and all compliance responsibilities of the contracted party. Required contract provisions are discussed in the GAM.
  - Subrecipient agreements must be submitted to OCR prior to first draw for services.

Recipients that contract for administration and program delivery services must take a hands-on approach to ensure the funded activities are accomplished as proposed and to remain informed of the project status throughout the term of the grant agreement with OCR, including oversight of the implementation of the project.

The recipient also remains responsible for disbursement of CDBG funds.

Recipients that elect to use the services of a professional consultant or Subrecipient, must also consider that the Consultant/Subrecipient must be monitored on a regular basis, and specifically, for Subrecipients, a formal monitoring and monitoring report must be undertaken/

Recipients that are assisting businesses through economic development activities, small business activities or microenterprise activities should also consider how the businesses will be monitored post assistance.

Keep all documentation for any kind of monitoring efforts with the project files.

Regardless of whether you choose to administer the grant with in-house staff or third parties, OCR strongly recommends that you develop a written administrative plan and program manual to guide implementation and ensure full compliance.

Agreements with Program Partners

Intergovernmental Agreement
- Intergovernmental Agreements must be submitted to OCR
- Do not confuse with Subrecipient

Subrecipients
- Can be designated without procurement
- Subrecipient Agreement must be submitted to OCR

Consultants/Engineers
- Subject to procurement requirements
- Must have written agreements in place

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As the Recipient of CDBG funds, you may choose to work with various "partners" to implement the CDBG activity, including other units of government, subrecipients and consultants. You will need to enter into agreements with any and all program partners.

Intergovernmental Agreements should be in place when working with a local governmental agency such as the County Planning Office or Sewer and Water Authority. Submit the agreement to OCR to review for compliance with CDBG regulations prior to first request for funds.

Subrecipients are defined at 24 CFR 570.500(c) as a public or private nonprofit agency, authority or organization, or an entity receiving CDBG funds from the Recipient to undertake the activity directly. In essence, they are part of your administrative team and they pass through the CDBG funds to the beneficiary activities. Subrecipients can be designated without being procured. A Subrecipient will be responsible for outreach, application intake, eligibility determination, project selection and construction management.
- The Recipient must execute a written subrecipient agreement which must be submitted to OCR prior to first draw for services.

- Recipients must conduct a monitoring of all subrecipients.
- At a minimum, at least one formal monitoring must be conducted and a formal report issued.
- The ultimate responsibility falls on the Recipient, so be aware of what the subrecipient is required to provide.
- Refer to OCR GAM for further guidance on using a Subrecipient.
- If a Subrecipient retains a professional consultant, in this case, the Subrecipient issues and RFP and contracts with a consultant, then that Subrecipient must also monitor the consultant.
- In all instances, the Subrecipient must be able to demonstrate that it is undertaking the activity on behalf of the Recipient.
- The Subrecipient is incurring costs and paying vendors.

Consultants/Engineers must be retained in compliance with federal procurement policy as we will discuss in a few minutes. A written contract must be signed which outlines all of the responsibilities of each party. Develop oversight measures to be sure consultant/engineer is performing according to contract/scope of work.   Ultimate responsibility falls on the Recipient so be aware of what your consultant/engineer is required to provide.

The Recipient is responsible for formally monitoring any consultant or engineer that is procured for in this program.

Participation requirements at 24 CFR 570.486 and New York State's Citizen Participation Plan, require Applicants to follow a citizen participation plan providing for a minimum of one public hearing prior to the submission of an application for funding and one public hearing to be held <u>during</u> the administration of the grant to solicit comments on the effectiveness of the program's administration.

Public notice must be provided before public hearings are held, the notice of each public hearing must be published at least once in a newspaper of general circulation in the community at least seven days prior to the hearing.
- The date of publication is day zero, the first business day after the date of publication is the start of the notice period.
    - If the notice goes in the newspaper on a Friday, the first day of the notice period is the following Monday.
    - If the following Monday is a holiday, then day one of the notice period is Tuesday.
    - 72 hour attestation of posting is required, this is part of NYS Citizen Participation law.
- This must be a public hearing held by the legislative body that is submitting the application
- Public meetings are not acceptable
- Hearings held by the Planning Board, for example are not acceptable
- There is a template for a public hearing on the OCR website

- The OCR is unable to provide a waiver when all public hearing requirements are not met

In addition to the public hearings, HUD regulations ensure transparency through publication of environmental review, marketing and outreach consistent with fair housing requirements, and performance reports that must be made available to the general public.

Qualifying All CDBG Activities

Every activity must be an eligible activity as defined in the rule

Every CDBG must be an eligible activity and meet one of three National Objectives
- Benefit low- and moderate-income persons/families (LMI)
- Aid in the prevention or elimination of slums or blight **OR**
- Meet an urgent community development need

Eligibility must be documented for each project or activity.

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NYS receives CDBG funding to offer grants to non-entitlement communities throughout the state to meet a variety of goals.

Every activity must be an eligible activity permitted by the statute and regulations, **and** meet one of three national objectives – benefiting low and moderate income families, aiding in the prevention or elimination of slums or blight, or meeting an urgent community development need.

Remember that the state must ensure that no less than 70% of its CDBG funds are used for activities that benefit low- and moderate-income persons. The program objectives are achieved by supporting activities or projects that: benefit low- and moderate-income families; create job opportunities for low- and moderate-income persons; prevent or eliminate slums and blight; or address a community development need that poses a serious and imminent threat to the community's health or welfare.

Every activity or project funded must be an eligible activity meeting one of the national objectives.   Please be sure to document this for each project.

Selecting & Documenting Beneficiaries

Marketing & outreach – affirmatively furthering fair housing

Income eligibility – low and moderate income limits & income documentation
- CPD Income Calculator: https://www.hudexchange.info/incomecalculator/

Conflict of interest – later in webinar

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In many of the activities, the Recipient will be selecting individual households or persons as the beneficiary of the activity. This would include activities such as homebuyer or homeowner rehab activities.

The Recipient is responsible for affirmatively furthering fair housing requirements in its program, and this includes taking appropriate actions to overcome the effects of any impediments and conduct outreach to those least likely to apply. Remember that you will be monitored for your affirmative fair housing efforts.

Recipients are also responsible for determining and documenting the income eligibility of the household receiving the assistance as a low and moderate income household. There is an online income calculator at the HUD Exchange that can be used to calculate income eligibility. Remember that documenting income eligibility is key to documenting that you have met the primary national objective.

In addition, Recipients are responsible for avoiding conflict of interest in the award of assistance, as we will cover later in this webinar.

For activities such as public infrastructure and facilities that are available to the general public, individual households are not being selected, but a neighborhood or other geographic area is being served. In such cases, the Recipient might need to document the income composition of the area to qualify the activity rather than the incomes of individual persons.

Procurement

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Now let's focus a bit more on procurement in the program, relying on the guidance provided to you in procurement section of the GAM.

Procurement Regulations

OCR has adopted federal procurement standards (formerly 85.36, now 2 CFR 200.317 – .326)

Recipient written procurement standards/procedures including:

- Procurement review
- Solicitation procedures to ensure free & open competition
- Selection procedures that ensure responsible contractors & cost/price analysis, including debarred contractors
- Standards of conduct for staff/officials
- Contract administration & dispute process
- Procurement & contracting records
- Must address EEO and Section 3

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The acceptance of federal funds binds the Recipient to ensure that cost effective use of the funds occurs in compliance with all federal requirements, including the general standards of the Office of Management and the Budget. In accepting the CDBG funds, the state agrees to apply written guidelines to all procurements, OCR has adopted federal procurement standards (formerly 85.36, now 2 CFR 200.317 – .326)

Recipient must have written procurement procedures, including:
- Procurement review, that is, a determination that procurement is needed and of the appropriate method to be used for procuring.
- Solicitation procedures to ensure free & open competition
- Selection procedures that are transparent and ensure responsible contractors & cost/price analysis, including debarred and ineligible contractors
- Standard of conduct pertaining to all employees or agents involved in the procurement solicitation and selection
- Contract administration and dispute process to ensure that appropriate contracts are executed and disputes are addressed
- Procurement & contracting records as complete documentation that

requirements have been met.
- Must address EEO and Section 3

Be sure to maintain a copy of the local procurement guidelines with the project files.

Methods of Procurement

Permitted methods under different circumstances (2 CFR 200.320) – unless local standards are stricter

- Micro-purchases (under $3,000)
- Small purchase procedures (under $100,000) – not for professional services
- Sealed bid – used for most construction
- Competitive proposals – used for most professional services
- Non-competitive proposals/single source

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The federal procurement rules in the omni-circular permit five methods of procurement, the most appropriate method to be used under various procedures circumstances. You can review these methods at 2 CFR 200.320.

You may have local procurement requirements that are different or have more restrictive thresholds for different methods. If the federal and local policies have different standards, the stricter of the two policies prevails. For example, Federal procurement rules have a threshold of $100,000 for Small Purchase, but many municipalities have lower thresholds for this. If the local threshold for small purchase is lower, that local requirement must be followed.

Micro-purchases are a new category in the federal rule, pertaining to purchases below $3,000. It permits equitable distribution of purchases among qualified suppliers. Again, this category may not have been adopted for your local policy, and these purchases may still be subject to small purchase procedures.

Small Purchase procedures are relatively simple and informal procurement procedures for securing services, supplies, or other property that do not cost

more than $100,000 – again, this is the federal maximum for small purchases. Price or rate quotations must be obtained from an adequate number of qualified sources, and a cost analysis must be provided including the projections of the data, and the evaluation of the specific elements of costs and profits.   This method should not be used for retaining the professional services of an architect, auditor, engineer or consultant for your NYS CDBG project.

Sealed Bids are the preferred method for construction procurements.   These procurements are publicly solicited, and a firm fixed-price contract (lump sum or unit price) is awarded to the responsible bidder whose bid conforms to all the material terms and conditions of the invitation for bids and is the lowest price.

Competitive Bid is the method of procurement generally used when conditions are not appropriate for the use of sealed bids, and is the appropriate procurement procedure for retaining professional services such as an architect, auditor, or engineer for your NYS CDBG project. The method for soliciting competitive proposals is the publication of a Request for Proposal (RFP) and selection under the procedures disclosed in the RFP.   A few comments on this method:

- Consultants must be retained through an RFP.
- Engineers should be retained through an RFP or an RFQ.
- Do not use a Request for Qualifications (RFQ) for the selection of a consultant; the RFQ is restricted to procurement for architect and engineering services.
- Be sure to check GAM for the guidance on professional service contracts and use of consultants already under contract.

When a Recipient receives only one response to a competitive solicitation, the procurement process should be reviewed by OCR to determine whether it was unduly restrictive or tailored to a particular contractor or supplier. The burden of proof will be on the Recipient to demonstrate that it made reasonable efforts to assure maximum open and free competition and that its procurement procedures did not have the effect of unnecessarily restricting competition.

Noncompetitive or Single Source Proposals is procurement through solicitation of a proposal from only one source or, after solicitation of a number of sources, competition is determined to be inadequate.   Procurement by noncompetitive proposals may be used only when the award of a contract is unfeasible under any of the other methods and one of the following

circumstances applies:

- The items or services required are only available from a single source;
- A public emergency exists such that the urgency will not permit a delay beyond the time needed to employ one of the other authorized procurement methods; OR
- After solicitation from a number of sources, competition is determined to be inadequate, and OCR authorizes the noncompetitive method. In all cases, noncompetitive negotiation which will involve NYS CDBG funds must have prior approval from OCR. Recipients must contact the assigned Community Developer.

In all cases, cost analysis must be included in the file containing the projections of costs and evaluation of the specific elements of costs and profits.

Contract Requirements

References:
- 2 CFR Part 200, Appendix II

Key requirements:
- Bonding – all construction contracts over $100,000 must include provisions for bid, performance and payment bonds
- Minority and Women's Business Enterprises (M/WBE) – contact ESDC at http://www.esd.ny.gov/MWBE.html
- Section 3 Rider included in its entirety
- Refer to GAM Chapter 4

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Federal requirements apply to all contracts let with federal funding. These requirements are stated in the omni-circular (2 CFR Part 200) Appendix 2, and OCR has provided additional guidance in GAM. The Recipient is responsible for ensuring that the appropriate provisions are included in all procurement solicitations and contracts.

I would like to highlight only a few of the contract requirements:

Bonding Requirements – Bonding is mandatory for all construction contracts in excess of $100,000, including a 5% Bid Bond, 100% Performance Bond, 100% Payment Bond. Failure to adequately secure all three bonds PRIOR to executing contracts may result in project costs being deemed ineligible for NYS CDBG reimbursement.

Minority and Women's Business Enterprises (M/WBE) – The Recipient must demonstrate that a good faith effort to solicit M/WBE firms. This shall include a statement in all IFB's, RFP's and RFQ's that states that the Municipality "strongly encourages Minority and Women's Business Enterprises to apply". Contact ESDC at the web link on the slide to develop a list of M/WBE firms to

which you can conduct direct outreach or solicitation. Bear in mind that reporting on M/WBE is required of all Recipients of NYS CDBG funds.

Section 3 - For any contract in excess of $100,000, Recipients must ensure that Section 3 Business concerns are solicited and that attempts are made to hire Section 3 residents for any new hires. Reporting on Section 3 is required of all Recipients of NYS CDBG funds. Be sure to include the Section 3 Rider in in its entirety.

These are just a few of the required provision. Be sure to check the omni-circular and the OCR Manual for more details.

Other Federal Requirements

The GAM contains a number of requirements that we tend to call "Other Federal Requirements", because they generally apply to all federal activities and are not specific to CDBG.   Some will apply to your activities, others will not, depending on the activities you have been funded to implement.

Labor Standards

Davis-Bacon - applicable to any construction projects over $2,000 and housing rehabilitation contracts over 8 units.

8 Step Process

1. Determine applicability
2. Designate Labor Standards Compliance Officer
3. Request state & federal wage determination
4. Include wage rates in bid documents/contracts
5. Maintain evidence of procurement & contract compliance
6. Cover requirements at preconstruction conference
7. Monitor contractor performance (onsite inspections, weekly payroll reports, interview employees)
8. Investigate violations

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All bid specifications for construction must be submitted to the assigned developer for compliance review with CDBG regulations prior to releasing the project for bid, this must occur prior to requesting any NYS CDBG funds for construction activities.

Davis Bacon is applicable to construction projects over $2,000. Applicable wage rates must be included with all bid specifications, and reporting on Davis-Bacon compliance will be required of all Recipients of NYS CDBG funds.

In order to ensure compliance with Davis-Bacon, refer to the GAM which outlines an eight step process.
1. Determine applicability
2. Designate Labor Standards Compliance Officer
3. Request state & federal wage determination – you can Obtain Federal wage decisions from www.wdol.gov and submit copies to OCR. When you are subject to both State and Federal prevailing wages, use higher of the two wages and document.
4. Include wage rates in bid documents/contracts, and submit a copy to OCR.

5. Maintain evidence of that the procurement and contract comply with requirements.
6. Cover requirements at preconstruction conference
7. Monitor contractor performance through a combination of onsite inspections, weekly payroll reports, interviews of employees. Maintain copies of weekly payroll verified and signed by the Labor Standards Compliance Officer. Complete interviews on Form HUD-11, which is available on the HUD website.
8. Investigate violations

Conflict of Interest

Two regulatory provisions
- Procurement – 2 CFR 200.318(c)(1)
  - No participation in selection, award, administration of contract if financial or other interest
- Assistance – 570.489(h)
  - Presumption of conflict; request exception from HUD
- Covered persons –
  - employee, agent, officer of state/recipient/subrecipient
  - Immediate family member or partner
  - Any organization employing/about to employ
- Follow guidance in GAM for submission requirements

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Federal regulations also address conflict of interest. A program or organization's reputation can be damaged when there is an actual or appearance of conflict of interest when a person who has a personal financial or other interest in the outcome of a program decision has inside information or the ability to influence the decision. To prevent these situations, there are two regulatory provisions that prohibit such conflicts and describe a process of reviewing and granting exceptions to such potential conflicts.

One regulatory provision pertains to procurement. The general federal rules at 2 CFR 200.318(c)(1) requires recipients to have policies to prohibit the participation of anyone with a potential financial or other interest in the selection, award, and administration of a contract let as part of a procurement.

The second regulatory provision is specifically within the CDBG rule at 570.489(h), and this covers all other potential conflict of interest situations not covered by the general procurement policy. This would include situations such as the selection of a household, an owner, a developer or other party to benefit from the award of assistance under the program.

The CDBG rule presumes that a conflict of interest exists if anyone related to the program wants to be considered for any such program benefit.   In such cases, no assistance can be provided unless and until the Recipient and OCR request and receive an exception from HUD.

The persons who are covered by these conflict of interest provisions is quite broad:
- It includes any employee, officer, agent or consultant of the state, the local Recipient and any subrecipient of the local Recipient.
- It also includes the immediate family members or partner of such employees/officers/agents.
- It includes any organization that is employing or is about to employ any of those covered persons.

The net is cast broadly for a reason – to ensure that there is HUD review of any potential conflicts prior to them occurring, because it is hard to correct the error and public disapproval once any potential conflict or appearance of conflict occurs.

Project Sign

Project sign required at all construction sites involving more than $50,000 in NYS CDBG funds

- Sign costs are an eligible expense (construction or an administrative expense)
- Sign Specs: https://hcr.ny.gov/hcr-project-sign-guidance, please refer to Chapter 6 of the OCR GAM, Construction Requirements.
- Keep picture of the project sign in the project file

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The GAM also contains the requirements for project signs. OCR requires a project sign at the site of all construction projects which involve more than $50,000 in NYS CDBG funds.

The slide contains the link to the CDBG sign specifications.

Also remember to keep a visual record of the placement of the sign in the project file.

Recipients who undertake NYS CDBG-assisted activities that involve displacement, permanent relocation, demolition or conversion of residential units occupied by low-income households are responsible for complying with all regulations under the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended (Uniform Act), and Section 104(d) of the Housing and Community Development Act of 1974, as amended, and all implementing regulations.

The primary purpose of these laws is to ensure that when NYS CDBG-funded projects result in the demolition or conversion of units, all affected persons receive the proper relocation assistance and benefits. The acquisition requirements of the federal relocation and acquisition regulations apply in most instances, including when a property is acquired by a nonprofit or for-profit entity that has received a loan or grant from your NYS CDBG project.

If you have a project that has the potential to cause displacement, relocation or replacement, then you must develop an anti-displacement and relocation assistance plan.   See HUD Handbook 1378, and also see 49 CFR Part 24 for relocation regulations.   For clarification and guidance, please see Manual

chapter 5 or contact OCR.

Other Federal Requirements

- Lead-based paint is covered in Chapter 5 of the OCR GAM
    - To be covered in Webinar 5 of this series
- Civil rights is covered in Chapter 7 of the OCR GAM
    - ➤ Affirmatively Furthering Fair Housing
    - ➤ Accessibility
    - ➤ Equal Employment Opportunity (EEO)
    - ➤ Section 3
    - ➤ Minority and Women's Business Enterprises (M/WBE)
- Property management & change of use

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There are several other general federal requirements described in Manual Chapter 7 that may apply to your activity. These include

- Lead-based paint – These requirements apply to pre-1978 housing, but will be covered in detail in Webinar 5 of this series
- Civil rights – There are a variety of requirements that protect the rights of participants and potential participants, including fair housing, accessibility, equal employment opportunity, Section 3, and minority and women business enterprises., or MWBE.
- There are also requirements regarding the management and maintenance of property acquired with federal funds, and there are CDBG specific change of use requirements when properties assisted with CDBG no longer meet the requirements.

All of these are covered in Chapter 7, and many of these items by be covered by the Administrative Plan that was reviewed in Webinar 1, getting started5.

Recordkeeping & Reporting

Let's turn now to recordkeeping and reporting, both extremely important topics in grant administration. They are covered in Manual Chapters 6 and 9.

File Maintenance

Establish files per OCR GAM and labels on OCR website
- https://hcr.ny.gov/community-development-block-grant
- Grant Files (Program Files)
- Application
- Contract
- Program Administration
- Financial Management
- Project Files
- Regulatory Compliance files

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It is often said that, in federal grants administration, "if it isn't documented, it didn't happen." Perhaps even more to the point, if you can't document compliance with the rules and the use of funds, CDBG funds will need to be repaid by the Recipient, or local unit of government that received the funds.

Consequently, it is imperative that Recipients establish files as outlined in Manual Chapter 6, and also utilize the file labels on the OCR website. The links are noted in the slide.

While the file lists in Chapter 6 are too detailed to cover in this webinar, there are a number of grant files, or program files, that each Recipient needs to maintain on its overall program, including:
- Application
- Contract
- Program Administration
- Financial Management – we will cover this in the next webinar
- Project Files
- Regulatory Compliance files

Let's drill down a bit further into the list of files.

File Maintenance

Establish files per OCR GAM and labels on OCR website

- https://hcr.ny.gov/community-development-block-grant

- Water/Sewer: https://hcr.ny.gov/system/files/documents/2018/10/pflabels.pdf
- Economic Development: https://hcr.ny.gov/system/files/documents/2018/10/edlabels.pdf
- Microenterprise: https://hcr.ny.gov/system/files/documents/2018/10/melabels.pdf
- Housing Rehab: https://hcr.ny.gov/system/files/documents/2018/10/hrlabels.pdf
- Home Ownership: https://hcr.ny.gov/system/files/documents/2018/10/holabels.pdf

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You can follow the links listed on the slide to download the file labels for your specific activity. While much of the general administration labels will be the same across activities, the project files will require the individual activity labels.

Program Administration Files

- Environmental Review Record
- Public participation (hearings)
- Admin plan
- Procurements, contracts/agreements
- Other federal requirements
- Monitoring
- National objective documentation

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Some files pertain to the program or activity overall, and include such files as:

- Environmental Review Record
- Public participation (hearings and other public comments or involvement)
- Administrative plan & manual
- Procurements and contracts or agreements
- Other federal requirements (such as fair housing and relocation)
- Monitoring
- National objective documentation

Project Files

Varies by type of activity; key categories of documentation:
- Applicant/project qualification & agreement
- Legal documents
- Project procurement & contracts
- Construction inspections & documentation
- Disbursements
- National objective documentation

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At the next level, there is file documentation that is required for each individual project or activity that is funded.   The file contents will certainly vary by type of activity, but some of the key categories of documentation include:

- Applicant/project qualification & agreement
- Legal documents
- Project procurement & contracts
- Construction inspections & documentation
- Disbursements
- National objective documentation

Regulatory Compliance Files

May be for program or by individual project

- Procurement
- Citizen Participation
- Civil Rights
- Primary and National Objectives
- Environmental Review
- Labor Standards
- Lead Based Paint/Property Standards
- Anti-Displacement and Relocation
- Conflict of Interest
- Real Property Management
- Monitoring

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In addition, there are regulatory compliance files that may be completed for the program overall or documented for each individual project. These can include:

- Procurement
- Citizen Participation
- Civil Rights
- Primary and National Objectives
- Environmental Review
- Labor Standards
- Lead Based Paint/Property Standards
- Anti-Displacement and Relocation
- Conflict of Interest
- Real Property Management
- Monitoring

Reporting Requirements

Davis-Bacon (April and October)

MWBE (annually) and Section 3 (semi-annually)

Annual Performance Report (APR)

Project Status Report – every July

State Federal Assistance Expenditure Report (FAE) – due sixty (60) days after the end of local fiscal year

Federal single audits requirements – due nine (9) months after the end of local fiscal year

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Reporting is a mandatory part of participating in any federal program, including CDBG. The key reporting requirements for most Recipients include:

- For any construction projects subject to the Davis-Bacon Act, reports are due in April and October
- Recipients are required to take affirmative steps to assure that minority firms, women's business enterprises, and labor surplus area firms are used when possible, and to report on utilization of such firms. In addition, Recipients that receive more than $200,000 must comply with the employment and contracting requirements of Section 3, and extend the requirements on contracts greater than $100,000, and to report annually to OCR.
- A Project Status Report is due after six months, and the Annual Performance Report (APR) is, of course, due annually. We will talk about these reports in the next slides.
- Finally, State Federal Assistance Expenditure Report and Federal audits requirements – we will cover these in the next webinar on financial management. All FAE's are due within 60 days of the end of the local fiscal year and any single audits are due within nine months of the end of the local fiscal year.

Each year, the Recipient must submit an APR for each project, if a Final Performance Report has not been submitted to the OCR.

The APR consists of the following sections:

- Recipient Information;
- Project Status Narrative;
- Beneficiary Data and Performance Measurements;
- Program Income;
- Final Performance Report Documentation; and
- Certification.

The APR is OCR's primary mechanism for obtaining accomplishments, beneficiary, and performance measurement data for reporting to HUD. Data from the APRs are compared to the Recipient's application and previous APRs on file and allow OCR program staff and Recipients of NYS CDBG funding to assess the project's progress and targeted outcomes. Data gathered from the APRs is transmitted to HUD in the OCR Annual Performance and Evaluation Report, which is prepared in coordination with the NYS Homes and

Community Renewal.

Project Status Report (PSR)

The Project Status Report is used for all activity types and is intended to report on project status covering 1/1 – 6/30
- Project Status Narrative
- Certifications

This report is used to monitor progress and identify need for technical assistance

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Each year, a Project Status Report, or PSR, is required mid-year. For the period January 1 to June 30, Recipients must submit a narrative that provides the current status of the project and addresses any issues that may delay the completion of the project. The PSR on the web site.

The PSR is another mechanism by which OCR evaluates the progress of a Recipient's project and determines if a project is on schedule or if a technical assistance visit may be necessary in order to address any issues that may delay a project and to ensure completion of the project in a timely manner.

Monitoring

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Now let's talk briefly about monitoring, both the monitoring that OCR will do of you and your program, and the monitoring you need to do of your program and partners. This topic is covered in Manual Chapter 8.

OCR will monitor recipient performance to ensure compliance and timely expenditure of CDBG funds.   This will be done through desk review of reports and onsite monitoring.

As we have already noted, Recipients are required to submit Progress and Annual Reports.   OCR staff will review these reports to identify potential problems and issues.

Before a grant can be closed out, a Comprehensive Monitoring of the Recipient's program must be conducted. This type of monitoring is an in-depth review of a Recipient's performance in meeting program statutory and regulatory requirements.   Comprehensive monitoring will occur when funds have been substantially expended – at least 70% of funds for housing rehabilitation and homeownership programs, or 80% for all other programs. Procedures for this monitoring are described in the GAM.

In addition to the comprehensive monitoring that will occur at once prior to closeout, OCR may opt to conduct more focused monitoring through technical assistance visits or abbreviated monitoring visits.

When a Recipient appears to be having difficulties in expending funds or making sufficient progress toward completing its program, OCR may determine that a technical assistance visit is necessary. This can occur when the environmental review has not been completed within 90 days or no funds have been expended or requested within 270 days of the grant agreement.

An abbreviated monitoring may be conducted during a technical assistance visit or other times when OCR determines that non-compliance with program guidelines, regulations, and requirements may have occurred. An abbreviated monitoring will include a review of the Recipient's program files. Of particular importance is file maintenance.

The OCR will contact the Recipient when the project appears to be ready for monitoring. Once the monitoring date is established, OCR will confirm the monitoring in writing and will provide a monitoring checklist that should be completed and returned to the OCR.

Some things you can do to get ready for the monitoring visit:

- Complete & return OCR pre-monitoring checklist

- Organize the files as recommended in GAM.

- Maintain complete and detailed records for every aspect of administration and program implementation.

- Prior to the monitoring visit, review the appropriate sections of the Grant Administration Manual, including project specific sections.

- Provide access to all applicable program files and financial records.

- Ensure that all pertinent staff are available to address any questions.

- Contact property owners in advance to schedule site visits on the day of

the monitoring. Community/Economic Developers will provide a list of the properties they wish to visit.

Monitoring Focus

Program progress against schedule & budget
Adequate documentation (file maintenance)
Compliance with regulatory requirements
- National objectives
- Environmental
- Public participation
- Procurement
- Other federal requirements (e.g., labor, relocation)
- Financial management

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So what will the monitoring focus on? Some of the key items are:

Program progress against schedule & budget
Adequate documentation (maintenance of the required files)
Compliance with regulatory requirements, including:
- National objectives
- Environmental
- Public participation
- Procurement
- Other federal requirements (e.g., labor, relocation)
- Financial management

Monitoring Responsibilities of Recipients

Recipients must monitor their subrecipients, consultants, contractors that assist with project administration

- Check their initial project file carefully
- Meet with them regularly
- Monitor their progress and requests for draws against the project schedule
- Check their files at regular intervals
- Document any monitoring that you do

Remember: you are responsible for their performance

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In addition to OCR monitoring of Recipients, Recipients are responsible for monitoring the activities of its partners, including any contractors, consultants or subrecipients. Some suggestions include:

- Check their initial project file carefully to ensure they are collecting the appropriate information.
- Meet with them regularly during the term of the grant.
- Monitor their progress and requests for draws against the project schedule.
- Check their files at regular intervals – perhaps quarterly.
- Document any monitoring of them that you do.

Remember: you are responsible for their performance!

Questions & Wrap Up

After this Webinar

If you have any further questions following the conclusion of this webinar, submit your questions to ocrinfo@nyshcr.org or contact the Office of Community Renewal at 518-474-2057

Please visit the OCR website at:

https://hcr.ny.gov/community-development-block-grant

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If you have any further questions following the conclusion of this webinar, submit your questions to the email on the slide or contact the Office of Community Renewal at 518-474-2057.

Again, as a reminder, all OCR email addressed will be migrating to a .gov designation, you will be notified when this goes into effect.

Please visit the new OCR website at the link in the slide, be sure to bookmark this.