

**CHAPTER 9  
MODIFICATIONS AND AMENDMENTS**

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## **CHAPTER 9 MODIFICATIONS AND AMENDMENTS**

### **I. MODIFICATIONS**

Due to unforeseen circumstances, Recipients may need to request program and/or budget modifications. Recipients must submit the appropriate documents to their Office of Community Renewal (OCR) Community/Economic Developer requesting authorization for a modification. All modifications are to be submitted to OCR for approval using the modification form and must include a written request signed by the CEO.

Recipients must not proceed with any program or budget changes until they have received written approval from OCR. New York State Community Development Block Grant (NYS CDBG) funds expended without the appropriate authorization will be disallowed and the Recipient will be solely responsible for those costs.

#### **A. Budget Modifications**

During the administration of a grant, Recipients may need to modify the OCR approved program budget in order to more effectively administer the grant and to meet the needs of the community and project. A formal budget modification/amendment request is required for any budget modification/amendment.

1. If the budget modification represents more than 25% of the overall budget, or results in new or cancelled activities, a budget amendment is required.
2. Formal budget modifications and amendments require Recipients to submit a written request from the Chief Elected Official or other authorized personnel explaining the reason for the modification/amendment and the impact of the modification/amendment to the project and to the proposed accomplishments of the project.
3. In addition to the written request, a Budget Modification/Amendment Form must be submitted to the Recipients' OCR Community/Economic Developer.
4. In certain circumstances will OCR consider a modification that consists of an increase in administration and/or program delivery budget line items and a decrease in activity budget lines.

#### **B. Schedule Modifications**

Every six months, Recipients must review the OCR approved project schedule to determine if they are making the progress necessary to ensure project completion by the deadline and if they are adhering to the approved project schedule.

If Recipients have concerns regarding adherence to their project schedule, they must contact their OCR Community/Economic Developer immediately for consultation.

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Recipients should be extremely concerned when their project falls 90 days behind schedule. In the event that the Recipient is unable to meet its schedule, OCR will provide technical assistance to assist the Recipient with the issues that are delaying the project.

Although OCR strongly encourages completion of the NYS CDBG project according to the initial approved project schedule, extenuating circumstances may require an alteration to the program schedule. In such cases, Recipients must discuss the need for a schedule change and the revised schedule with their OCR Community/Economic Developer.

Requests for additional time must be submitted on grantee letterhead and signed by the Chief Elected Official or other authorized personnel.

- The written request must include:
  - Description of the current status of the program.
  - Documentation of the conditions out of the control of the Recipient that is causing the delay.
  - Documentation of efforts to complete the contract on schedule.
  - Proposed steps to ensure completion by the proposed extended deadline.
  - Any potential impacts on the project budget.
- Schedule of milestones from award to date demonstrating steps to keep the project moving forward.
- Schedule of milestones from current project completion date to proposed extension date demonstrating steps that will be undertaken to complete the project by the proposed extension date

Recipients will be notified in writing of the status of their request within 30 days of OCR's receipt of the request. Recipients should be aware that non-compliance with a project schedule may result in the termination of the grant agreement and the reallocation of funds.

The OCR reserves the right to reject any request for a schedule modification if:

- Substantial progress is not documented
  - Release of funds is not approved by OCR
  - Project has not gone out to bid
  - Project is no longer viable
- Request is submitted more than 90 days prior to current project completion date
- Request is submitted more than 30 days after current project completion date
- The request is not signed by the Chief Elected Official or other authorized personnel

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### C. Substantial Progress

Beginning with Program Year 2022, Recipients of NYS CDBG funds are required to meet substantial progress within six (6) months of award. This includes, but is not limited to:

- Execution of NYS CDBG Grant Agreement within forty-five (45) days of award
- Obtain approval of release of funds within sixty (60) days of award
- Project activity costs\* incurred within one hundred eighty (180) days of award  
(\*this does not include Program Delivery, Engineering or Administration)

The Office of Community Renewal reserves the right to rescind any award that fails to meet substantial progress.

## II. PROGRAM AMENDMENTS

If a Recipient has determined their project has changed significantly and a program amendment may be required, the Recipient must contact the OCR Community Development Program Director or Economic Development Program Director immediately to discuss the project changes.

Only after consultation and recommendation from the OCR should a Recipient submit a program amendment. Program amendments are typically recommended for the following, but other issues may necessitate other actions be taken:

- The Recipient is proposing to change the type of activity detailed in its original approved application;
- The location of the activity has changed;
- Actual results are less than 80% of the goals outlined in the original approved application; or
- If the Recipient finds it necessary to move funds of 25% or more from one activity to another.
  - ✓ This rule also applies to the cumulative total of all changes over the term of the Agreement.
  - ✓ This rule does not apply to the reduction or elimination of administrative funds.

If a program amendment is recommended, Recipients must submit:

1. A written request signed by the Chief Elected Official explaining the amendment, including the reasons for the amendment and the actions taken to prevent the need for an amendment.
2. Resolution by the governing body approving submission of the amendment.
3. Revised NYS CDBG Application Forms, maps and certifications as required.

A re-evaluation under environmental review regulations may be required if:

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- The revision would result in substantial changes in the nature, magnitude or extent of the project, including adding new activities not anticipated in the original scope of the project;
- New circumstances and environmental conditions may affect the project or have a bearing on its impact, such as concealed or unexpected conditions discovered during the implementation of the project or activity which is proposed to be continued; or
- The recipient proposes the selection of an alternative not in the original finding.

The re-evaluation of the environmental assessments must be undertaken and referred to NYS OCR for approval or a new or supplementary Release of Funds prior to approval of any changes.

Program amendments will be rated in accordance with the selection criteria applicable at the time the original application was submitted.

- The rating of the program or projects proposed, which include the new or altered activities proposed by the amendment, must be equal to or greater than the lowest rating received by a funded project or program during that cycle of ratings.