

Chapter 1 – Getting Started

Words to Know:

CFR – Code of Federal Regulations.

Choice-limiting actions – Any activity or project that a grantee undertakes, including committing or expending CDBG funds, that reduces or eliminates a grantee’s opportunity to choose project alternatives that would avoid or minimize environmental impacts or enhance the quality of the human environment (i.e., awarding a construction contract to a contractor, or executing a land-use agreement).

Grantee – A unit of local government (city, town, or county in Montana) awarded a grant and contracted with Commerce to receive CDBG funds.

Housing and Community Development Act of 1974 (the Act) – A law enacted by the United States Congress that provides the statutory basis for the CDBG program nationwide. See 42 U.S.C. §§ 5301.

Project Specialist – A Commerce program staff member assigned to a particular CDBG grant.

Start-Up – A set of conditions that must be met before a CDBG contract can be executed with Commerce.

Subrecipient – An entity contracted with the Grantee that will own the project upon completion.

Overview

This chapter offers background information on the CDBG program and summarizes the key considerations and important steps each grantee should take after the project is formally awarded CDBG funds. An important element to ensure a comprehensive understanding of the CDBG requirements are the various toolkits, which are provided in association with many CDBG tasks to provide further guidance, forms, and templates. Toolkits can be found on the [CDBG Grant Administrative Manual website](#) for easy reference. Grantees are required to

comply with all applicable parts of the Act, including any future changes. Additionally, grantees must comply with all applicable regulations HUD enacts pursuant to the Act including, but not limited to: [24 CFR Part 570](#), titled “Community Development Block Grants”; (ii) [Form HUD-4010](#), current in effect or as amended during the term of the project contract; (iii) all administrative directives and procedures established by Commerce, including the most recent version of the CDBG Grant Administration Manual; (iv) any contract a grantee enters into with HUD or Commerce relating to CDBG; and (v) all other applicable local, state, and federal laws, regulations, administrative directives, guidance, procedures, ordinances, or resolutions.

Grantees may begin to incur reimbursable administrative costs starting on the date listed on its CDBG award letter from the Governor of Montana. Administrative costs may be reimbursed after the grantee fulfills its Start-Up Conditions, executes a CDBG contract with Commerce, and has met the special contract conditions outlined in this chapter. If the grantee is unable to comply with the terms and conditions of the contract or document compliance with state and federal requirements throughout the life of the project, project costs may be the sole responsibility of the grantee.

For specific instructions, templates, and forms related to this chapter, please consult the “Getting Started” toolkit.

Start-Up Conditions

Prior to executing a CDBG contract, the grantee must meet the following Start-Up conditions:

- a) Submit an updated project budget
- b) Submit an updated project implementation schedule
- c) Submit a project management plan
- d) Document firm commitment of non-CDBG funds
- e) Demonstrate compliance with federal and state audit and financial reporting requirements
- f) Demonstrate the grantee’s use of an established financial accounting system

Project Budgets

The grantee must submit an updated preliminary project budget that lists all funding sources so it can be attached to and incorporated by reference into the CDBG contract. Grantees must submit a final budget to Commerce when the grantee awards the construction contracts to the prime contractor. Budget modifications can be made, as needed, throughout the life of the project.

Project Management Plan

The grantee must prepare and submit a project management plan. The project management plan is a guiding document that designates all the persons responsible for ensuring compliance with various CDBG requirement including, but not limited to, financial management and preparing requests for reimbursement, labor standards, and completion of environmental review. Whenever possible, the project management plan should provide the name, phone number, and email address for each person designated for easy reference.

Firm Commitments of Non-CDBG Funding Sources

The grantee must provide documentation demonstrating the firm commitment of all non-CDBG funds for the project identified in the updated preliminary project budget. A description of acceptable documentation of non-CDBG funding sources is included in the “Getting Started” toolkit.

If the CDBG grantee changes one of its sources of funding after executing a contract with Commerce or if the cost of the project increases substantially after obtaining firm commitment funds and additional funding is required from existing or new sources, the grantee must notify the Commerce Project Specialist and submit an updated budget if the change exceeds \$5,000. Commerce may, in its sole discretion, suspend distribution of CDBG funds until firm commitment of funds can be demonstrated for the updated project budget.

Compliance with Federal and State Audit and Financial Reporting Requirements

Local government grantees must comply with the auditing and reporting requirements established by: (i) [2 CFR Part 200](#) and (ii) § [2-7-503](#), MCA.

Commerce will contact the Montana Department of Administration's Local Government Services Bureau and Federal Audit Clearinghouse to confirm that the grantee is compliant with state and federal audit and financial reporting requirements. A grantee may also view their audit and financial reporting status on the LGS [website](#). The LGS's services are available at the request of any local government to help the grantee comply with statutory audit and financial reporting requirements. For more information, see Chapter 5.

Establish Financial Accounting System

Local government grantees must demonstrate that they have an established financial accounting system in place that conforms to generally accepted accounting principles.

Executed CDBG Contract

The executed contract between the grantee and Commerce is a legal document that governs the administration of the grant. Grantees **must** sign a contract with Commerce before it can receive any CDBG grant funds. The contract will identify the following items:

- The total amount of CDBG funds awarded
- Grantee's scope of work
- A preliminary project budget for the authorized use of CDBG funds and any other funds involved in the project
- The implementation schedule for the project
- Any special conditions placed on the grant by Commerce
- The general terms and conditions associated with the grant

The final contract will include the project budget, implementation schedule, and the scope of work to be completed by the grantee. The grantee's application for CDBG grant funds, as approved by Commerce, is incorporated by reference into the contract and the representations made therein are binding upon the grantee.

Upon meeting Start-Up conditions, the grantee will be asked to confirm authorized representatives who will sign for all essential project management requests (i.e., draw requests, contracts, amendments). Commerce's project specialist will contact the grantee to confirm authorized representatives in writing prior to drafting and routing the grant contract. Commerce will review and transmit the contract to the grantee through an electronic signature-gathering process. A copy of the final executed contract will be shared electronically when all signatures are obtained. Please contact the CDBG project specialist with concerns or for assistance with this process.

If the project can be completed at a cost that is lower than the CDBG grant award amount, the grantee's award may be reduced to reflect reduced costs. Commerce may allow the use of unused funds for an eligible activity that further enhances the contracted project. For Commerce to determine whether it can allow the use of remaining funds, the grantee must demonstrate that the activity will:

- Clearly enhance the overall impact of the original project
- Provide at least a 51% benefit to persons of low- and moderate-income
- Be completed in a timely manner
- Be completed with the unused funds
- Demonstrates satisfactory progress toward completion of the original contracted project activities

Amending the CDBG Contract

The grantee's contract may need to be amended due to changes in the project budget, implementation schedule, or scope of work. Grantees must request, in writing, approval of modifications. The grantee's modification request must provide written justification that

clearly demonstrates that the modification is appropriate and will enhance the overall impact of the original project.

Commerce will consider project-related modification requests to determine whether it is substantial enough to necessitate re-evaluation of the project application's original ranking. If warranted, Commerce may analyze the proposed modification and its impact on the scores assigned when the application was originally reviewed. Commerce will deny amendment requests when the requested changes would reduce the assigned score to below the lowest scores awarded within its originally approved CDBG ranking.

Commerce may require the grantee to hold a public hearing with reasonable notice if the proposed amendment will be a substantial change in project activities based on the activities proposed in the original CDBG application. Substantial changes in project activities or the geographic area of the project may also obligate the grant recipient to publish legal notices and to conduct additional environmental review to comply with Montana and federal environmental requirements.

Special Contract Conditions

After executing a contract with Commerce, the following special contract conditions must be completed by the grantee prior to submitting requests for reimbursement. Please consult the “Getting Started” toolkit for more details and templates.

- a) Completed signature certification and electronic funds transfer forms
- b) Proof of insurance and workers’ compensation
- c) Environmental requirements
- d) Documentation of completed civil rights requirements
- e) Other special conditions placed on the grantee by Commerce as established in the contract
- f) Executed interlocal or sub-recipient agreement, as applicable

Signature Certification and EFT Forms

The grantee must provide Commerce with an executed signature certification form authorizing specific local officials to sign requests for reimbursement. At least two officials must sign each request for reimbursement. This form will be used to verify the signatures on each request for reimbursement received throughout the course of the project. If local officials change during the project, Commerce will require an update to the signature certification prior to proceeding with a request for reimbursement.

The EFT Form 204 provides the necessary information for reimbursement to be sent directly to the grantee's designated bank account.

Federal regulations prohibit local governments from earning interest on CDBG funds deposited into the local government's account for the grant. Typically, this is not an issue for most grantees, who often use CDBG funds on a reimbursement basis. If the grantee is paying invoices with the grant funds directly deposited (and not reimbursing themselves), the funds must be deposited into a non-interest-bearing account.

Proof of Insurance and Workers' Compensation

Prior to release of funds, grantees must submit to Commerce evidence of insurance coverage as set forth in the CDBG grant contract and evidence of workers' compensation for the local government's employees.

Environmental Review

CDBG grantees may be subject to: (i) the National Environmental Policy Act, [42 U.S.C. § 4321 et seq.](#) (NEPA); (ii) federal environmental regulations found in [24 CFR Part 58](#); (iii) the Montana Environmental Policy Act, §§ [75-1-101](#), et seq., MCA (MEPA); and (iv) applicable MEPA administrative rules. For detailed information on MEPA, see "[A Guide to the Montana](#)

[Environmental Policy Act](#)”, or “[A Citizen’s Guide to Public Participation in Environmental Decision Making](#)”.

Grantees must complete all applicable environmental processes prior to carrying out any Choice-Limiting Actions, including but not limited to acquisition or construction-related activities. Any Choice-Limiting Actions taken by the grantee may result in the loss of CDBG funding. Please be advised that if project activities are modified to the extent that a new environmental review is required, additional NEPA and MEPA processes must be followed before additional work can be completed. For additional information, please review the “Environmental Review” chapter for specific guidance on environmental requirements and Choice-Limiting Actions.

Until a CDBG grantee has developed a completed environmental review record covering all project activities, including receipt of the State’s Authorization to Use Grant Funds, a grantee may not incur costs for any CDBG activity except those listed as environmentally exempt under [24 CFR § 58.34](#) and specifically authorized in writing by Commerce. Commerce may issue a specific authorization for each grantee to allow them to begin incurring costs for environmentally exempt activities that are for administrative purposes only. For additional information, please see the “Environmental Review” chapter.

Civil Rights

Grantees must demonstrate compliance with the civil rights requirements provided in [24 CFR § 570.904](#) prior to the first release of funds, and to continue complying with the civil rights laws referenced in that regulation for the duration of grantee’s contract with Commerce.

These civil rights requirements include:

- a) Adopt a Fair Housing Resolution
 - This may include posting fair housing notices in local government buildings and publicizing fair housing rights and responsibilities. For more information, connect with your Project Specialist.
- b) Adopt a Hatch Act resolution

- See HUD's [website](#) for further information.
- c) Adopt an Equal Employment Opportunity policy resolution
- d) Conduct an ADA self-evaluation and develop an ADA transition plan
- e) Adopt a resolution to ensure compliance with Section 504 of the Rehabilitation Act of 1973 and the Americans with Disabilities Act of 1990.

Grantees must ensure accessibility (both structurally and administratively) to programs, services, and benefits for persons with physical and mental disabilities. Grantees and their contractors may not discriminate against qualified individuals with disabilities. Completing the foregoing tasks is an essential special contract condition that must be completed before CDBG funds are disbursed to grantees.

Commerce recognizes that completing the items above as part of Start-Up conditions may result in delays to projects. If completing the foregoing requirements would result in a major hardship given local resources, grantees may request, in writing to Commerce, that the deadline for compliance with these requirements be extended. Commerce reserves the right to deny any such written request.

Additional civil rights actions must be taken during project implementation. These actions include:

- a) Ensuring that no one is discriminated against from receiving benefits and services from the CDBG funded project
- b) Publishing Section 3 language (see "Construction and Labor Standards" chapter) in all advertisements for procuring professional services or when collecting bids for construction activity
- c) Completing contract reporting and section 3 hiring forms for all construction contracts over \$10,000
- d) Engaging in proactive outreach to disadvantaged, minority, and women-owned business enterprises when procuring professional services or when bidding construction activity. A list of disadvantaged businesses can be obtained from the Montana Department of Transportation's [website](#).

Further information on civil rights requirements for procurement and construction is available in the related chapters of this manual. Please review these requirements prior to advertising for services or bidding construction projects.

Other Special Conditions

The grantee shall satisfy other specific requirements considered necessary by Commerce to accomplish the purpose of the project as evidenced by the grantee's application to Commerce. These specific requirements may include meeting design requirements or those listed in the CDBG ranking report. Please contact the Commerce project specialist for additional information specific to the project.

Interlocal and Sub-Recipient Agreements

If the completed project will be owned and operated by another government entity or non-profit organization, the grantee must execute an agreement outlining what CDBG requirements each entity will be responsible for. grantees typically execute an interlocal agreement with districts and other government entities, and a sub-recipient agreement with non-profit and for-profit entities. Please work with your attorney to ensure compliance with state and federal requirements. Applicable CDBG requirements can be found, in part, at [24 CFR § 570.503](#).

Sample agreement templates are included in the "Getting Started" toolkit.

Additional Considerations

Other Budgetary Requirements

Budgetary Authority

Commerce requires documentation of a grantee's authority to accept and utilize CDBG funds. Under Montana law, local governments may appropriate, by resolution, all CDBG funds received, regardless of the time the funds are received. The resolution should state the

source of the funds, the program in which they will be expended and the effective date of the appropriation. See § [7-6-4006](#), MCA. See the “Getting Started” toolkit for examples.

Budget Modifications

After the CDBG contract is executed, budget modifications of \$5,000 or more to any one line-item of the CDBG source column (or when the cumulative sum of budget modifications for one-line items exceeds \$5,000) must be requested in writing by the grantee and approved by Commerce. The CDBG grantee must provide its project specialist with a written budget modification request with a justification clearly demonstrating the appropriateness and necessity of the modification. Commerce has at least forty-five (45) days to review and approve the changes requested. For more specific guidance related to the budget modification process, please consult our “Requests for Reimbursement” toolkit.

Program Income Plan

Program income is defined as any income earned by a Grantee from a CDBG supported activity, such as, repayments of principal or interest to a local revolving loan fund program generated by housing rehabilitation or economic development activities. As further established in the contract, a program income plan must be developed for those project activities that could generate program income.

As part of project Start-Up activities, grantees must review the program income plan submitted with the grantee’s application and ensure that it accurately reflects the local government’s current plans to administer any program income funds received. Please contact your Project Specialist for guidance if your project uses or intends to generate program income. Please consult our “Program Income Manual” for specific guidance related to program income and/or revolving loan programs. Disregard this requirement if it does not apply.

Direct Benefit Projects

Projects that directly benefit individuals or privately owned property (Direct Benefit Projects) are distinct from projects that benefit a whole community or public property (Area-Wide Benefit Projects).

Economic Development Projects – Direct Benefit Projects; please consult the “Economic Development” toolkit for guidance.

Housing Projects – Direct Benefit Projects, please consult the “Project Monitoring and Closeout” toolkit for guidance.

Infrastructure Projects – Area-Wide or Direct Benefit projects (depending on scope of work); if your infrastructure project is a direct benefit project, please work with your CDBG project specialist for guidance on the model that will work best for you.

Grant Administration Workshop

Commerce regularly conducts grant administration workshops for communities awarded new CDBG grants. These workshops are designed for grantee project managers who will have overall day-to-day administrative responsibility, and clerks, clerk-treasurers, clerk and recorders, or other officials who will have responsibility for overseeing CDBG finances. It is important that the officials and staff that will be responsible for day-to-day grant management, especially financial management, attend this workshop.

Commerce recognizes any grant administration arrangement can be a critical relationship that assists with adherence to regulations. CDBG funds can be used for grant administration or professional services needed to complete project activities. Regardless of the agreement and procurement documented, the grantees’ governing bodies ultimately are responsible for: (i) timely completion of grant activities; (ii) compliance with federal and state requirements; and (iii) proper financial management of CDBG funds. Additional information is found in the “Procurement” chapter.

Federal Requirements

The Housing and Community Development Act of 1974 provides the statutory basis for the CDBG program nationwide. See 42 U.S.C. §§ 5301, et seq. The State of Montana assumed administrative responsibility for the "Small Cities" CDBG Program in 1982 and the distribution and use of CDBG funds allocated to the State for its local governments with populations of under 50,000.

Under the Act, recipients of CDBG funding are responsible for the following:

- Carrying out their local projects in a timely and satisfactory manner
- Carrying out their projects substantially as they are described in their CDBG applications and contract documents
- Ensuring that only eligible activities are undertaken with CDBG funding
- Ensuring that each activity undertaken with CDBG funding principally benefits low and moderate-income persons, aids in the prevention or elimination of slums and blight, or meets other community development needs having particular urgency
- Maintaining a system for financial management that provides accurate information about CDBG expenditures and assures financial accountability and control
- Promoting fair housing and equal opportunity in the implementation of project activities
- Complying with applicable environmental laws and regulations
- Complying with all other applicable laws and regulations

The primary federal requirements that apply to CDBG projects are briefly summarized in the Certifications for Application, which can be found in the Montana CDBG Application Guidelines. The chief elected official of each CDBG applicant must sign and submit the Certifications with the application for CDBG funds. Most of these requirements are discussed in detail in following:

Subpart I – “State Community Development Block Grant Program” – of 24 CFR § 570. See [24 CFR §§ 570.480, et seq.](#) These regulations adopted by HUD provide the basis for states to receive and distribute CDBG funds to local governments in their non-entitlement areas. While these implementing regulations are primarily intended to define state administrative

responsibilities, they also identify many of the management and compliance issues each state must monitor at the local level. These regulations make each state accountable for conducting such reviews and audits of the units of general local government as may be necessary or appropriate to determine whether they have satisfied the applicable performance criteria which incorporate, among other things, the requirements of this Title and other applicable laws.

Subparts C, J, K and O of [24 CFR § 570](#). See 24 CFR §§ 570.200, et seq. (Subpart C—Eligible Activities); 24 CFR §§ 570.500, et seq. (Subpart J—Grant Administration); 24 CFR §§ 570.600 (Subpart K—Other Program Requirements); and 24 CFR §§ 570.900, et seq. (Subpart O—Performance Review). HUD adopted these regulations in 1988 for the “Entitlement CDBG Program,” which assists communities with populations of over 50,000, such as Billings, Bozeman, Great Falls, and Missoula. The HUD Entitlement CDBG Program regulations provide additional guidance on HUD policy regarding a variety of issues involved in the management of local state funded CDBG projects. Copies of the current regulations for the HUD Entitlement CDBG Program are available from Commerce upon request.

HUD Oversight

HUD’s reporting system tracks all CDBG projects and provides automated alerts to Commerce for those projects identified as “at-risk” or “in need of correction” due to slow or untimely performance. Commerce’s CDBG program will use the HUD alert system to communicate with grantees whose projects are underperforming to assist them with improving their performance and address their “at-risk” status. The following three performance measures will be used by Commerce and HUD to determine if a project is underperforming:

1. No draws submitted to the program within 270 days of an executed contract
2. No beneficiary data reported after 2 years and 9 months from the date of an executed contract
3. No beneficiary data reported, and project is 65% drawn

Failure to Perform and HUD Remediation Plan Status

The HUD reporting system also provides Commerce with automated alerts for those projects identified as “failing to perform” or “in need of immediate correction.” CDBG will use the HUD alert system to communicate with grantees whose projects are failing to provide benefits to eligible households and complete the project in a timely manner. If a grantee receives a remediation plan notice, they must prepare a corrective action plan and submit it to Commerce within 30 days of notification. The plan must resolve the issue and be approved by Commerce. The following three performance measures will be used to determine if a project is failing to perform or in need of immediate correction:

1. No draws submitted to the program within twelve (12) months of an executed contract
2. No beneficiary data reported after three (3) years from the date of an executed contract
3. No beneficiary data reported, and project is 80% drawn

Project Files

Keeping complete and detailed records is crucial to successful management of a CDBG project. Local officials and staff should maintain detailed records of day-to-day project activities. Organized project files will aid the grantee in documenting compliance with state and federal regulations. All records related to grant activities must be made available to Commerce at no cost on request and need to be kept by the CDBG Grantee for five years after the date of final closeout documentation provided through written correspondence by Commerce.

Original and complete documentation of all project files must be retained in the offices of the local governing body and be available during normal business hours at no cost to any persons authorized to review them, including the Commerce project liaison, legislative auditor, Comptroller General of the United State, HUD, or other authorized representative.

Please consult the “Getting Started” toolkit for guidance on how to organize the CDBG project file.

Involving the Public

Citizen participation is central to the CDBG program, from application development through project completion. The grantee is encouraged to document and keep a consolidated record of all public input related to the project and the grantee's response(s) to that input. Examples include, but are not limited to, comments received during the needs assessment and project selection process, environmental comment periods, and during construction.

Section 104(a)(2) of the [Act](#) provides that to enhance public accountability, the grantee must in a timely manner furnish citizens information about the amount of funds available for proposed community development and housing activities, including the estimated amount proposed to be used for activities that will benefit persons of low- and moderate-income. Commerce's CDGB grantees must comply with § 104(a)(2) of the Act, as well as Montana's [Public Records Act](#) and [Public Participation Act](#).

The Housing and Community Development Act requires that CDBG recipients:

- Provide for and encourage citizen participation, with particular emphasis on participation by LMI persons who are residents of slum and blight areas and of areas in which CDBG funds are proposed to be used, and provide for participation of residents in LMI neighborhoods as defined by the local jurisdiction
- Provide citizens with reasonable and timely access to local meetings, information, and records relating to the grantee's proposed use of funds, and relating to the actual use of funds
- Provide for technical assistance to groups representative of LMI persons that request such assistance in developing proposals with the level and type of assistance to be determined by the grantee
- Provide for one or more public hearings to obtain citizen views and to respond to proposals and questions at all stages of the community development program, including at least the development of needs, the review of proposed activities, and review of program performance. Hearings shall be held after adequate notice, at times

and locations convenient to potential or actual beneficiaries, and with accommodation for the handicapped

- Provide for timely written answers to written complaints and grievances, within 15 working days where practicable
- Provide for the needs of non-English speaking residents in the case of public hearings where a significant number of non-English speaking residents can be reasonably expected to participate

Media or Press Release or Events

For any special media event, press release, ribbon cutting or public meeting, Grantees should consider providing background information to reporters in advance. Please refer all media requests to the Commerce Communications team: via [website](#) or by contacting Commerce at 406-841-2700.

Project signs or other project communications may be used by a grantee. If project signs, newsletters, flyers or other written communications are used, provide a copy of the draft sign or public communication to your project specialist for review and comment. Reasonable costs for preparing a project sign are an eligible use of grant funds and should be coordinated with other funding sources involved with the project.

Complaints

The Act and 24 CFR 570.405(h) establishes that local citizens have the right to offer their views at any point during the development and implementation of a CDBG project. Any comment, suggestion, criticism, or complaint made by a citizen should be taken seriously and responded to in a timely manner and in accordance with federal guidelines.

Federal law requires that “a timely written answer to written complaints and grievances” be provided by CDBG grantees to the complainant “within 15 working days where practicable.” See [42 U.S.C. § 5304\(a\)\(3\)\(E\)](#). Telephoned or oral complaints also deserve a prompt

response. Commerce requires grantees to document all responses to any complaint related to the CDBG project.

Occasionally, citizens also submit complaints regarding grantees to third parties, including Commerce, the Governor of Montana, HUD, or a member of Montana's Congressional delegation. If that occurs, the normal procedure is to refer the complaint to the grantee's local officials for a response. Commerce will not dictate the form or manner of the response to local officials. Commerce staff are available to advise the community regarding any federal or state requirement that may be in question. In most cases, the final resolution of the complaint is the authority and responsibility of the grantee, unless the complaint deals with State or federal CDBG policies or requirements. When the grantee has reached a decision as to whether or how the complaint is to be resolved, Commerce will communicate the local government's decision to the agency or office that originally referred it to Commerce for action.

Commerce requires grantees to keep a citizen participation file throughout the project. Records of all citizen comments, whether in the form of letters or written notes summarizing telephoned or oral comments, should be placed in the citizen participation file for the project, along with the community's letter of reply or notes indicating how the grantee responded to the comment. Federal regulations, 24 CFR 570.486(a)(6), require that the project completion report prepared by the grantee for project closeout include a summary of each citizen comment regarding the project, along with an assessment of the comment and a description of any action taken in response to the comment.