# Wisconsin Community Development Block Grant Program

## IMPLEMENTATION

## HANDBOOK

2004

Public Facilities
Public Facilities for Economic Development
Blight Elimination & Brownfield Redevelopment
Emergency

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# INTRODUCTION

This Handbook is designed to assist you in administering a Wisconsin Community Development Block Grant (CDBG) award. It includes the procedures and requirements to follow as the CDBG project is implemented. The Department of Commerce (Commerce) will monitor your performance based on compliance with these requirements and those of the CDBG contract. Revisions will be sent to the community when they occur.

**Commerce's Role:**

Each project has been assigned to a Commerce project representative. The representative's role is to draft and negotiate the CDBG contract, review drawdown requests, and monitor performance. The project representative will also be available to help you as needed; and if desired, will put you in touch with the Commerce CDBG Technical Assistance Specialist. The Technical Assistant Specialist is also available to help with other community development needs in order to facilitate an integrated approach to meeting a community's needs.

Because of the complexity of the applicable federal regulations, Commerce has specialists in the areas of environmental review, labor standards, acquisition and relocation, fair housing and equal opportunity, and audits. Project representatives may refer questions to the specialists as needed. If you want a copy of the federal CDBG regulations, please contact your project representative.

**The Grantee's Role:**

In accepting an award, the community agrees to comply with the rules in this Handbook.

Grantees should follow the requirements of their contract as well as the requirements of the Implementation Handbook that were current at the time the Grantee signed its contact with Commerce. Commerce reserves the right to revise requirements in the event Commerce mandates a change or modification is needed.

**Note: Throughout the manual, "community" may also be referred to as "grantee"; and "Commerce" may be also referred to as "Department."**

## CHAPTER 1: RECORDS, FILING AND MONITORING

I. RECORDS AND FILING

Records relating to an award must be kept for **four (4) years** after the product is finished and final close-out is achieved. Each separate CDBG contract needs its own set of files. The following is a list of required files.

APPLICATION FILES

1. Application Files
   Project Proposal
   Final Application
   Related Correspondence
   LMI Survey (if applicable)

2. Citizen Participation (CP) File
   Citizen Participation Plan
   Minutes from all CP meetings, including lists of attendees. (During implementation of the grant, a second CP meeting must be held to review progress on the project with your citizens. Submit a copy of the CP meeting minutes and attendance list to Commerce.)

CDBG CONTRACT FILE

Commitment Letter
Award Letter
Contract and Contract Amendments
Related Correspondence

PROCUREMENT FILE *(if applicable) (Chapter 2)*

Procurement log
Contract(s) for professional services (i.e., engineer and professional grant administrator contracts)

ENVIRONMENTAL REVIEW FILE

Project Environmental Review Record (ERR) *(Chapter 3)*
Request for Release of Funds and Certification or Determination of Exemption *(Attachment 3-I)*
Commerce Environmental Certification Letter signed by the Bureau of Community Finance Manager

HANDICAP ACCESSIBILITY FILE (if applicable)

Self-Evaluation Checklist (*Attachment 5-F* )

LABOR STANDARDS FILES

Organize files by Prime Construction Contract. Each separate prime contract must have its own file. If the file grows too large, documents should be broken out by contractor and subcontractor.

1. General Labor Standards File

   Determination of Exemption letter (if applicable)

Force Account letter (if applicable)

2. Wage Determination File

   Copy of the request for wage decision *(Attachment 6-D)*
   Response to the request
   Report of additional classifications and wage decisions *(Attachment 6-E)*
   Copy of Notice of Contractor Award *(Attachment 6-F)*

3. Construction Services Procurement File

   Copy of the bid advertisement *(Attachment 6-H)*
   Copy of the bid package
   - projection specifications
   - statement of applicable state and federal wage rates from DWD and DOL
   - statement of general terms and conditions
   - contractor and subcontractor eligibility clause (general terms/conditions above)
   - HUD form 4010 and EO 11246 language *(Attachments 6-I, and 5-A, B or C if applicable)*

   Log of bid packages recipients and bidders
   Minutes of the bid award meeting

4. Contract Record File

   Contract (must include all items listed under bid packages)
   Preconstruction Report/Minutes (if applicable) *(Attachment 6-M)*
   Notice of Contractor Award *(Attachment 6-J)*
   Notice to the contractor to proceed with the work

5. Construction Project Records File

   Inspector's report on the required posting at the construction site of wage rates, hours, etc.
   Weekly payroll reports for each contractor and subcontractor *(Attachment 6-N)*
   Weekly statement of compliance for each contractor/subcontractor *(Attachment 6-O)*
   Employee interview reports *(Attachment 6-P)*
   Identification of underpayments (if any) and their correction by grantee *(Attachment 6-Q)*
   Attachment 6-R: Final Labor Standards Compliance Report

6. Related Correspondence File
   All correspondence from the Department of Commerce, contractors, etc.

FINANCIAL MANAGEMENT FILES

1. Drawdown Folder File

   Requests For Payments *(Attachment 7-C)*
   Notification of Deposit from the Bank

2. Cash Control Register File

   Cash Control Register *(Attachment 7-D)*

3. CDBG Disbursements File

Disbursements Journal *(Attachment 7-E)*
Source Documentation for Disbursements
invoices (and approvals by engineer/architect for construction invoices)
canceled checks

4. Bank Documents File

Bank Statements
Depository/Signature Certification Form *(Attachment 7-A)*

5. Matching Funds File

Matching Funds Journal *(For PF Projects, Attachment 7-F)*
Business Matching Funds Journal *(For PFED Projects, Attachment 7-G)*
Source Documentation
invoices (and approvals by engineer/architect for construction invoices)
canceled checks

SEMIANNUAL REPORT FILE

Semiannual Report *(Chapter 8)*

ACQUISITION/RELOCATION FILES (if applicable)

A complete set of files is required for each parcel to be acquired or person(s) relocated.

1. Acquisition File
A completed Acquisition Summary Checklist must be attached to the front of each acquisition folder. All documentation required for real property acquisition should be in the file in the order referenced on the Summary Checklist. *(Attachment 4-A)*

2. Relocation File

An individual relocation case file must be developed and kept for each displaced person, beginning with information obtained in the initial interview. *(Attachment 4-B)*

PROGRAM CLOSEOUT FILE

Program Closeout Report *(Chapter 9)*

AUDIT FILE (if applicable)

Audit(s) *(Chapter 10)*

PFED FILE (if applicable)

1. Business Match *(Attachment 7-G)*

The community must document the expenditures of the business in compliance with the development agreement.

2. Job Creation *(Attachment 11-A)*

The community must document the job creation efforts of the business.

BEBR FILE (if applicable) *(Chapter 12)*

II. MONITORING You will be asked to complete the following near the end of the project:

| **CDBG-PF SELF - MONITORING CHECKLIST**<br>Complete the following and submit to your Department of Commerce Project Representative | |
|---|---|
| Name of Grantee | |
| CDBG-PF Contract # | |
| Reviewer's Name and Title | |
| Date | Phone Number |
| Signature of Chief Elected Official _____<br>I attest that the information herein if true and correct. | |

| **I. ADMINISTRATION**<br>**A. The general files contain:** | **YES** | **NO** | **N/A** |
|---|---|---|---|
| A copy of the Application | | | |
| A copy of the Citizen Participation Plan | | | |
| A copy of the Citizen Participation Hearing Minutes | | | |
| Citizen Participation Hearing 1, date of the hearing: _____ | | | |
| Citizen Participation Hearing 2, date of the hearing: _____ | | | |
| If an LMI survey was done for this program: | | | |
| All of the survey responses are on file | | | |
| Award letter(s) | | | |
| Signed Contract | | | |
| Amendment(s), If so, how many? _____ | | | |
| **B. Procurement files**<br>**FOR PROFESSIONAL SERVICES > $100,000:** | **YES** | **NO** | **N/A** |
| The Request for Proposal (RFP) states requirements for services. | | | |
| Proposals were solicited from an adequate number of providers.<br>_____ = Total # | | | |
| The RFP was published | | | |
| The RFP identified all significant evaluation factors including price and their relative importance. | | | |
| All proposals were evaluated and the evaluation was documented. | | | |
| The award(s) was made to the lender whose proposal was most advantageous to the Grantee after all the factors were considered. | | | |
| The Grantee maintains a file containing a signed copy of the community's procurement policy. | | | |

| **Procurement transactions:** | |
|---|---|
| **Names of Consultants** | **Method(s) of procurement** |
| | Competitive or Non-Competitive |
| | Competitive or Non-Competitive |
| | Competitive or Non-Competitive |

| **C. Other considerations** | **YES** | **NO** | **N/A** |
|---|---|---|---|
| Grantee has collected lobbying forms from all contractors receiving awards in excess of $100,000 | | | |
| Acquisition/Relocation file | | | |
| Semiannual Reports:<br>Semiannual Periods ending _____ through _____ | | | |
| Is/Was there a construction sign posted for the project(s)? | | | |
| Grantee has completed a single audit (or program audit if appropriate) for the year(s) _____ and copies are on file | | | |
| **Program Close-Out Report file contains:** | | | |
| Program close-out report | | | |
| Evidence of payment of claims after submittal of Close-Out Report | | | |

**Other(s):**

_____

_____

_____

_____

_____

_____

_____

_____

_____

_____

Exit Interview: Name: _____ Phone Number: _____

| II. FINANCIAL MANAGEMENT | YES | NO | N/A |
|---|---|---|---|
| **Bank documents file contains:** | | | |
| Depository certification form | | | |
| Signature certification form | | | |
| Bank statements | | | |
| **Drawdown file contains:** | | | |
| Request for payments forms | | | |
| Notification of Deposit (e.g., deposit slip) | | | |

| CASH CONTROL REGISTER (CCR) | YES | NO |
|---|---|---|
| Deposit dates agree with the date deposit notifications were received from bank | | |
| Disbursement dates agree with the Disbursements Journal and check register | | |
| Reports balance of cash on hand each day a disbursement or deposit was made | | |
| Account does not have more than $5,000 of federal cash on hand for more than three days. Exceptions noted: | | |
| Is mathematically correct | | |
| Cumulative Disbursements to date per CCR | $_____ | |
| Total payments to date per Disbursements Journal | $_____ | |
| If these do not agree, explain. | | |
| | | |
| | | |
| | | |
| The adjusted balance and balance per bank statement dated _____ | | |
| Balance per CCR | $_____ | |
| (-) Deposits in Transit | $_____ | |
| (+) Checks outstanding | $_____ | |
| (=) Adjusted balance | $ | |

Comments:

_____
_____
_____
_____
_____
_____
_____
_____
_____
_____
_____
_____
_____

| DISBURSEMENTS JOURNAL | YES | NO |
|---|---|---|
| Reports the award amount, budget codes, activities and amounts in the header row | | |
| Accounts for the sequence of grant checks issued and indicates which, if any, are voided | | |
| Corresponds to checks issued and bank statements with regard to amount, date, payee | | |
| Reports disbursements per month, it total and by budget activity, monthly | | |
| Reports cumulative disbursements to date in total and by budget activity, monthly | | |
| Reports the available balance, in total and by budget category, monthly | | |
| Source documentation is mathematically correct | | |
| Source documentation for disbursements: (e.g., invoices from contractors and others, canceled checks, engineer approval of expenditures) | | |
| Comments: | | |

| MATCHING FUNDS JOURNAL | YES | NO |
|---|---|---|
| Cumulative match equals or exceeds the contracted "commitment of other parties" amount | | |
| Lists each check number, date, and payee claimed as match | | |
| Are CDBG funds deposited into same account from which grantee is claiming match? | | |
| Source documentation: (e.g., invoices from contractors and others, canceled checks, engineers approval of expenditures) | | |
| Comments: | | |

| III. EQUAL OPPORTUNITY AND PROCUREMENT | YES | NO |
|---|---|---|
| Demographic profile of your community or target area approximates census profile? | | |
| Do you track Section 3 job creation and have something to report at end of project? | | |
| If applicable, Section 3 contract language inserted into contract document? | | |
| Do you track Minority and Women Business Enterprises and have something to report at end of project? | | |
| Executive Order 11246 language inserted into contract document? | | |
| Explain fair housing efforts _____ _____ | | |

| IV. ENVIRONMENTAL REVIEW | YES | NO |
|---|---|---|
| Has the Grantee prepared, maintained, and made available for public inspection a project Environmental Review Record (ERR)? | | |
| Did the ERR contain a signed copy of the Grantee's Request for Release of Funds and Certification form (HUD form 7015.15) or a Determination of Exemption? | | |
| Did the ERR contain the Department of Commerce Certification letter? | | |
| Were CDBG costs expended or obligated, except for exempt activities (24 CFR 58.34), prior to the date on the Department of Commerce Certification letter? | | |
| Were any non-CDBG project costs expended or obligated except for exempt activities (24 CFR 58.34), prior to the date on the Department of Commerce Certification letter? | | |

| V. LABOR STANDARDS | YES | NO |
|---|---|---|
| Do labor standards apply to this project? | | |
| If No, explain and skip the rest of the checklist: _____ _____ _____ | | |
| If Yes, Complete the following: | | |

**MAKE A COPY OF THE FOLLOWING LINES WITH AN ASTERICK(*) AND FILL OUT FOR <u>EACH</u> PRIME CONTRACT AWARDED UNDER SEPARATE BID(S)**

| | |
|---|---|
| Name and phone numbers of Labor Standards Officer: | |
| Is the formal designation of the labor standards officer on file and up to date? | |
| *Project No. (CDBG # and Line Item #) | |
| *Bid Advertisement Date | *Bid Opening Date |
| *Contract Award Date | *Construction Start Date |
| *Wage Decision # and Date | |
| *Modification # and Date | |
| Grantee has completed and submitted Semi-Annual Labor Standards Enforcement Report(s) for the period(s) covering: From (month/year)_____To (month/year) _____ | |
| Has the Grantee completed a Final Labor Standards Compliance Report? | |
| Is there a system to assure that all payrolls and related records are maintained by the Grantee for at least three years? | |

| **Complete the following by circling Yes, No or N/A.** | **Prime #1** | **Prime #2** | **Sub #1** | **Sub #2** | **Sub #3** | **Sub #4** | **Sub #5** | **Sub #6** |
|---|---|---|---|---|---|---|---|---|
| CONTRACTOR(S) NAME(S): **(Use additional sheet if more space is needed).** | | | | | | | | |
| Is there a specific file for this project? | **Yes No** | **Yes No** | **Yes No** | **Yes No** | **Yes No** | **Yes No** | **Yes No** | **Yes No** |
| Did the grantee follow state law and OMB A 102 in awarding this prime contract? | **Yes No** | **Yes No** | **N/A** | **N/A** | **N/A** | **N/A** | **N/A** | **N/A** |
| Is the wage decision(s) included in the bid document(s) and construction contract(s)? | **Yes No** | **Yes No** | **Yes No** | **Yes No** | **Yes No** | **Yes No** | **Yes No** | **Yes No** |

| **CONTRACTOR(S) NAME(S):** | | | | | | | | |
|---|---|---|---|---|---|---|---|---|
| Is the HUD 4010 Labor Standards Provision in the construction bid specification(s) and contract(s)? | **Yes No** | **Yes No** | **Yes No** | **Yes No** | **Yes No** | **Yes No** | **Yes No** | **Yes No** |
| Are wage decision(s) posted in an area accessible to all employees? | **Yes No** | **Yes No** | **Yes No** | **Yes No** | **Yes No** | **Yes No** | **Yes No** | **Yes No** |
| Have all contractors/subcontractors submitted their IRS Employer Identification Number? | **Yes No** | **Yes No** | **Yes No** | **Yes No** | **Yes No** | **Yes No** | **Yes No** | **Yes No** |
| Are payrolls submitted weekly or "no work" letter(s) filed? | **Yes No** | **Yes No** | **Yes No** | **Yes No** | **Yes No** | **Yes No** | **Yes No** | **Yes No** |
| Are payrolls numbered (initial to final)? | **Yes No** | **Yes No** | **Yes No** | **Yes No** | **Yes No** | **Yes No** | **Yes No** | **Yes No** |
| Does an authorized person of the company sign the certified payroll(s)? | **Yes No** | **Yes No** | **Yes No** | **Yes No** | **Yes No** | **Yes No** | **Yes No** | **Yes No** |
| Are all workers' social security numbers and addresses shown on at least the first payroll the worker appears? | **Yes No** | **Yes No** | **Yes No** | **Yes No** | **Yes No** | **Yes No** | **Yes No** | **Yes No** |
| Do hourly wage rates shown on the payroll equal or exceed the wage rates in wage decision(s)? | **Yes No** | **Yes No** | **Yes No** | **Yes No** | **Yes No** | **Yes No** | **Yes No** | **Yes No** |
| Is there a Form 4230A (additional classification) for those classifications not shown in the wage decision? | **Yes No N/A** | **Yes No N/A** | **Yes No N/A** | **Yes No N/A** | **Yes No N/A** | **Yes No N/A** | **Yes No N/A** | **Yes No N/A** |
| Is time and a half paid to workers for work performed over 40 hours per week? | **Yes No N/A** | **Yes No N/A** | **Yes No N/A** | **Yes No N/A** | **Yes No N/A** | **Yes No N/A** | **Yes No N/A** | **Yes No N/A** |
| If worker is listed in two classifications, did s/he sign the payroll, or was a daily time record submitted? | **Yes No N/A** | **Yes No N/A** | **Yes No N/A** | **Yes No N/A** | **Yes No N/A** | **Yes No N/A** | **Yes No N/A** | **Yes No N/A** |

| **CONTRACTOR(S) NAME(S):** | | | | | | | | |
|---|---|---|---|---|---|---|---|---|
| Are "other" deductions properly documented? | **Yes**<br>**No**<br>**N/A** | **Yes**<br>**No**<br>**N/A** | **Yes**<br>**No**<br>**N/A** | **Yes**<br>**No**<br>**N/A** | **Yes**<br>**No**<br>**N/A** | **Yes**<br>**No**<br>**N/A** | **Yes**<br>**No**<br>**N/A** | **Yes**<br>**No**<br>**N/A** |
| Are HUD 11s (employee interviews) completely filled out, compared with payrolls, and signed by the payroll examiner?<br><br>Number of HUD 11s complete: | **Yes**<br>**No**<br>**N/A** | **Yes**<br>**No**<br>**N/A** | **Yes**<br>**No**<br>**N/A** | **Yes**<br>**No**<br>**N/A** | **Yes**<br>**No**<br>**N/A** | **Yes**<br>**No**<br>**N/A** | **Yes**<br>**No**<br>**N/A** | **Yes**<br>**No**<br>**N/A** |
| Are the proper apprentice/trainee indentures attached to payrolls where such employees appear? | **Yes**<br>**No**<br>**N/A** | **Yes**<br>**No**<br>**N/A** | **Yes**<br>**No**<br>**N/A** | **Yes**<br>**No**<br>**N/A** | **Yes**<br>**No**<br>**N/A** | **Yes**<br>**No**<br>**N/A** | **Yes**<br>**No**<br>**N/A** | **Yes**<br>**No**<br>**N/A** |
| Are apprentices/trainees working alone? | **Yes**<br>**No**<br>**N/A** | **Yes**<br>**No**<br>**N/A** | **Yes**<br>**No**<br>**N/A** | **Yes**<br>**No**<br>**N/A** | **Yes**<br>**No**<br>**N/A** | **Yes**<br>**No**<br>**N/A** | **Yes**<br>**No**<br>**N/A** | **Yes**<br>**No**<br>**N/A** |
| Does payroll examiner sign off on payouts of wage underpayments? | **Yes**<br>**No**<br>**N/A** | **Yes**<br>**No**<br>**N/A** | **Yes**<br>**No**<br>**N/A** | **Yes**<br>**No**<br>**N/A** | **Yes**<br>**No**<br>**N/A** | **Yes**<br>**No**<br>**N/A** | **Yes**<br>**No**<br>**N/A** | **Yes**<br>**No**<br>**N/A** |
| Wage Underpayments Collected Monies? | **Yes**<br>**No**<br>**N/A**<br><br>**$** | **Yes**<br>**No**<br>**N/A**<br><br>**$** | **Yes**<br>**No**<br>**N/A**<br><br>**$** | **Yes**<br>**No**<br>**N/A**<br><br>**$** | **Yes**<br>**No**<br>**N/A**<br><br>**$** | **Yes**<br>**No**<br>**N/A**<br><br>**$** | **Yes**<br>**No**<br>**N/A**<br><br>**$** | **Yes**<br>**No**<br>**N/A**<br><br>**$** |
| Are all violations resolved? | **Yes**<br>**No**<br>**N/A** | **Yes**<br>**No**<br>**N/A** | **Yes**<br>**No**<br>**N/A** | **Yes**<br>**No**<br>**N/A** | **Yes**<br>**No**<br>**N/A** | **Yes**<br>**No**<br>**N/A** | **Yes**<br>**No**<br>**N/A** | **Yes**<br>**No**<br>**N/A** |
| If not, explain: | | | | | | | | |
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| Other comments or recommendations: | | | | | | | | |
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| | | | | | | | | |

List names and Employer IRS Identification Number of all Prime Contractor(s):

Prime Contract #1:_____

Prime Contract #2:_____

Prime Contract #3:_____

Prime Contract #4:_____

Prime Contract #5:_____

Prime Contract #6:_____

Prime Contract #7:_____

Prime Contract #8:_____

Prime Contract #9:_____

Prime Contract #10:_____

List names and Employer IRS Identification Number of all Subcontractor(s):

Subcontractor #1:_____

Subcontractor #2:_____

Subcontractor #3:_____

Subcontractor #4:_____

Subcontractor #5:_____

Subcontractor #6:_____

Subcontractor #7:_____

Subcontractor #8:_____

Subcontractor #9:_____

Subcontractor #10:_____

Subcontractor #11:_____

Subcontractor #12:_____

Subcontractor #13:_____

Subcontractor #14:_____

Subcontractor #15:_____

Subcontractor #16:_____

Subcontractor #17:_____

Subcontractor #18:_____

Subcontractor #19:_____

Subcontractor #20:_____

III. SIGNS AND SPECS In conjunction with section 25. "PUBLICITY" of your contract, erect a sign near the site of construction containing the indicated information according to the following format.

**SPECS:** Sign dimensions: 4' by 8'
Plywood panel APA Rated A-B Grade-Exterior
White background
Logo in light green
All text in black except:
"Wisconsin Department of Commerce" in dark green
**The smallest print must be readable from 50 feet away**

## "REQUIRED" SPECS

Community Name:
Project Type: (i.e. Library, Community Center)

Wisconsin
Department of Commerce

**A COMMUNITY FACILITIES PARTNERSHIP FINANCED IN PART BY THE WISCONSIN DEPARTMENT OF COMMERCE**

***Jim Doyle, Governor, State of Wisconsin***
**Cory L. Nettles, Secretary of Commerce**

**City Officials Name and Title (i.e. Mayor, Village President, Chair)**

U.S. Department of Housing and Urban Development Community Development Block Grant (CDBG) Funds. State and Federal Equal Opportunity laws apply in the construction and use of this project.

# CHAPTER 2: PROCUREMENT

PROCUREMENT SPECIALIST: JACK SANDERSON PHONE: (608) 267-0317
FAX: (608) 266-8969 EMAIL: jsanderson@commerce.state.wi.us

## I. PROCURING CONSULTANT AND OTHER PROFESSIONAL SERVICES

When a contract for professional services (typically engineering or administrative costs) exceeds $100,000 using CDBG funds, competitive or noncompetitive negotiation procedures must be followed as specified below:

All procurement transactions shall be conducted in a manner to provide, to the maximum extent practical, open and free competition. The recipient shall be alert to organizational conflicts of interest as well as noncompetitive practices among contractors that may restrict or eliminate competition or otherwise restrain trade.

Positive efforts shall be made by recipients to utilize small businesses, minority-owned firms, and women's business enterprises, whenever possible.

A. Cost and Price Analysis. Some form of cost or price analysis shall be made and documented in the procurement files in connection with every procurement action. Price analysis may be accomplished in various ways, including the comparison of price quotations submitted, market prices and similar indicia, together with discounts. Cost analysis is the review and evaluation of each element of cost to determine reasonableness, allocability and allowability.

B. Competitive Negotiation. This type of procurement may be used when the selection could be based on factors other than price, such as experience and capacity. Procurement of architectural/engineering professional services are examples. Only fixed-price (a specified price to be paid when the items or services are delivered and accepted) or cost-reimbursement (price is usually reimbursed as costs are incurred) may be awarded. Cost-plus is not accepted. The following requirements apply to competitive negotiation.

1. Proposals must be solicited from two or more qualified sources to permit reasonable competition consistent with the nature and requirements of the procurement.

2. Request for Proposals must be issued and publicized that identifies all the factors to be used in evaluating submissions, including the importance of price or cost in selecting a vendor.

3. All proposals received must be evaluated. Discussions will normally be conducted with more than one of the those submitting offers. A written method for evaluation that includes the significant factors to be used to determine the contract selection award should be prepared and publicized along with the Request for Proposal.

4. The award may be made to the firm whose proposal would be most advantageous to the recipient, considering all factors identified in the Request for Proposal.

5. Unsuccessful firms should be notified promptly.

C. Noncompetitive Negotiation. Noncompetitive negotiation is procurement through solicitation of proposal from only one source. A contract may be awarded by noncompetitive negotiation only if: (a) after solicitation from a number of sources, competition is determined inadequate; (b) the items or services required are available only from one source; (c) Commerce authorizes the noncompetitive method; or (d) public emergency will not permit a delay beyond the time needed to employ the competitive negotiation method. Merely

because a firm is performing other consultant services for the grantee is not an adequate justification for a noncompetitive negotiated award.

Simplified Procurement. For professional services costing less than $100,000, Commerce advises grantees to be careful shoppers. Our experience indicates that the cost and quality of service for engineering and administrative services can fluctuate greatly.

Contracts shall be made only with responsible contractors who possess the potential ability to perform successfully under the terms and conditions of the proposed procurement. Consideration shall be given to such matters as contractor integrity; compliance with public policy, including, where applicable, Section 3 of the Housing and Urban Development Act of 1968 (12 U.S.C. 170lu); record of past performance; financial and technical resources; or accessibility to other necessary resources. In certain circumstances contracts with certain parties are restricted by the agency's implementation of E.O.s 12549 and 12689, "Debarment and Suspension," as set forth at 24 CFR part 24.

## II. RELEVANT LAWS

Procurement laws governing public construction in Wisconsin are as follows:

A. Wisconsin State Statutes, 66.0901 (general), 59.08 (county), 60.47 (town), 61.54 through 61.56 (village), or 62.15 (cities) concerning advertising and bidding of public projects.

B. Also, see Federal Requirements to be attached to bid documents in Chapter 5, IV (Relevant Laws).

## ATTACHMENT 2-A: LOBBYING CERTIFICATION FOR CONTRACTS, GRANTS, LOANS, AND COOPERATIVE AGREEMENTS

The undersigned certifies, to the best of his/her knowledge and belief, that:

1. No federally appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any federal contract, the making of any federal grant, the making of any federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any federal contract, grant, loan, or cooperative agreement.

2. If any funds other than federally appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this federal contract, grant, loan, or cooperative agreement, the undersigned shall complete Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

3. The undersigned shall require that the language of this CERTIFICATION be included in the award documents for all subawards at all tiers (including subcontractors, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

This CERTIFICATION is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this CERTIFICATION is a prerequisite for making or entering into this transaction imposed by Section 1352, Title 31, U.S. Code. Any person who fails to file the required CERTIFICATION shall be subject to a civil penalty of not less than $10,000 and not more than $100,000 for each such failure.

_____ _____

(Signature of Chief Executive Officer) (Date)

_____

(Name of Business/Firm)

# CHAPTER 3: ENVIRONMENTAL REVIEW

ENVIRONMENTAL REVIEW SPECIALIST: SANDRA HERFEL PHONE: (608) 266-2435
FAX: (608) 266-8969 EMAIL: sherfel@commerce.state.wi.us

## I. INTRODUCTION

The National Environmental Policy Act of 1969 (NEPA) **applies to every CDBG project** and is intended to (1) improve decision-making by ensuring that all relevant information is considered, and (2) make that information available to the public.

Regulations are found in the *Environmental Review Procedures for Entities Assuming HUD Environmental Responsibilities - 24 CFR Part 58 (see Attachment 3-N),* dated April 1, 1997. Sections 58.10 through 58.14 **require grantees (the local governments receiving funds) to assume the responsibility for environmental reviews**. References for 24 CFR Part 58 are shown as, for example, [58.40 (g)(1)].

**The type of review and time required depend on the nature of your project**, as described below. At the end of each environmental review, Commerce issues an **environmental certification** letter.

## II. THE IMPORTANCE OF AN ENVIRONMENTAL REVIEW

- **You must prepare an Environmental Review Record** (ERR) file that includes all activities related geographically of functionally (58.32), regardless of the source of funding.
- **You may not "commit HUD assistance funds [or]…non-HUD funds…" (58.22) until you have an award and the environmental review has been completed.** Exceptions for "preagreement (preaward) costs" must be approved by Commerce.

  Funds may be committed after award but without environmental certification for activities that are "exempt" by definition, or "categorical exclusions not subject to s.58.8" as discussed below. In all cases, **follow the procedures below.**

- Commerce **cannot release funds** until the environmental review process is complete and an award and contract are in place.

## III. THE ENVIRONMENTAL REVIEW PROCESS

The flow chart, *Environmental Review Procedures (Attachment 3-A),* is your guide. **Classify the activities properly, as this determines the procedures and time required**. All the documents cited below must be in your Environmental Review Record and must be submitted to Commerce for certification.

A. Exempt activities [58.34 (a)(1)-(11)] include primarily **paperwork** such as environmental review, administration, and design engineering; **disaster recovery** projects if limited to repair or replacement at the same location and of the same size as the damaged items; and **exploratory borings** for Blight Elimination and Brownfields Redevelopment projects. If the entire project is "exempt," you need only submit to the Environmental Review Specialist a *Statement of Activities (Attachment 3-B)* and a *Determination of Exemption (Attachment 3-F)* citing the appropriate part of 58.34 and signed by the Chief Elected Official. No public notice is required.

B. Categorically excluded activities are of two types:

1. "Categorical exclusions subject to 58.5" [58.35(a)] are **replacement or rehabilitation** activities that do not significantly change land use or capacity (less than 20 percent change) and **removal of barriers to the handicapped**. Many public facilities projects fall into this category.

   a. Complete the *Statement of Activities (Attachment 3-B)* classifying each line item from your application (or contract if applicable) using complete citations from 58.34 and 58.35(a).

   b. Coordinate your project with federal laws and authorities by completing the *Statutory Checklist (Attachment 3-C).* To determine who to contact, review the *Summary of Federal Laws and Authorities, (Attachment 3-D).* See *Attachment 3-K* for a sample cover letter.

      For each definition that applies, **contact the appropriate agency** at the address in *Gathering Information, Disseminating Notices (Attachment 3-E).* **Allow 30 days for responses** unless obtained earlier by correspondence or telephone. Document the response in the ERR. Mark the box on *Attachment 3-C: Statutory Checklist* which corresponds to each agency's response.

   c. When step b. is complete, you have **two alternatives:**

      (1) If no negative comments were received, and if there are no circumstances requiring further compliance (such as asbestos removal), the "categorical exclusions" may be declared "exempt" in accordance with 58.34 (a)(12). Submit a *Determination of Exemption (Attachment 3-F)* and the rest of the ERR, including all agency and public comments, to the Environmental Review Specialist. No public notices are required. Or,

      (2) If comments indicate a **potential impact**, or that **further action** by the grantee is recommended or required, you must:

         (a) Attempt to resolve the issue and document the attempt in the ERR. If resolution is not accomplished, contact the Environmental Review Specialist to discuss the issue. If the issue cannot be resolved, an environmental assessment or environmental impact statement might be required.

         (b) If the issue is resolved, publish the *Notice of Intent to Request Release of Funds (Attachment 3-G).* **Do not publish notices until all replies have been received or until the comment period has passed, whichever is first**. Immediately after publication, send copies to all the agencies consulted (*Attachment 3-M* is a sample cover memo). Send Commerce a copy of the notice with the signed and notarized affidavit of publication. After the local review period, send a copy of: **the completed ERR**, including a list of agencies contacted (*Attachment 3-L: Dissemination of Notices*); all agency and public comments; the published notice or signed and notarized affidavit of publication; and the *Request for Release of Funds and Certification (Attachment 3-I)* to the Environmental Review Specialist.

d. If the ERR and *Request for Release of Funds and Certification (Attachment 3-I)* were properly executed, Commerce will send you a letter of "**Environmental Certification**." The letter may state conditions that will have to be satisfied.

2. "Categorical exclusions not subject to 58.5" [58.35(b)] includes numerous **economic development activities** as long as the project does not include construction or expansion, even under the project aggregation rule (58.32), and **operating costs** for other activities. You need only submit the *Statement of Activities (Attachment 3-B)* and *Determination of Exemption (Attachment 3-F)* citing the appropriate section of 58.35(b). no public notice is required.

C. Activities requiring an environmental assessment are those that will establish **new or significant enlarged facilities** or services. Activities are subject to assessment if you cannot clearly define them as "exempt" or "categorically excluded." Assessments may also be required under **"extraordinary circumstances"** [58.2(a)(3)] when normally "exempt" or "categorically excluded" activities are unique or without precedent, or when they have the potential for significant impact on the site. The assessment **must cover the entire project**, including related actions not funded by CDBG monies (58.32).

1. **Fill out the assessment format** (see *Attachment 3-J*), coordinating the project with federal laws and authorities as in section B.1.b. above.

2. After completing the Environmental Assessment, you must **make a finding**. Either:

a. A ***Finding of No Significant Impact*** [58.40 (g)(1)]. Proceed to the publication of notices as in section 3 and 4 below. Or,

b. A ***Finding of Significant Impact*** [58.40 (g)(2)]. Publish a *Notice of Intent to File an Environmental Impact Statement* (EIS). An EIS is a lengthy, detailed process. We recommend that you contact the Environmental Review Specialist for consultation on further procedures.

3. Publish a "**Combined Notice**" (*Attachment 3-H*) that includes the *Notice of Finding of no Significant Impact* and *Notice of Intent to Request Release of Funds*. The notice contains instructions for calculating the mandatory review period. If there are public comments, you must respond to them and place both comments and responses in the ERR.

4. Immediately after publication, send copies to the agencies that were consulted. See *Attachment 3-M* for a sample cover memo. After the local review period, **send a copy of the complete ERR,** including a list of agencies contacted, all agency and public comments, the complete assessment, the published notice or a signed and notarized affidavit of publication of the *Combined Notice (Attachment 3-H),* and the *Request for Release Funds and Certification (Attachment 3-I)* to the Environmental Review Specialist.

5. If these documents were properly executed, Commerce will send you a **letter of "Environmental Certification."** The letter may state conditions that will have to be satisfied.

## IV. OTHER THINGS TO REMEMBER

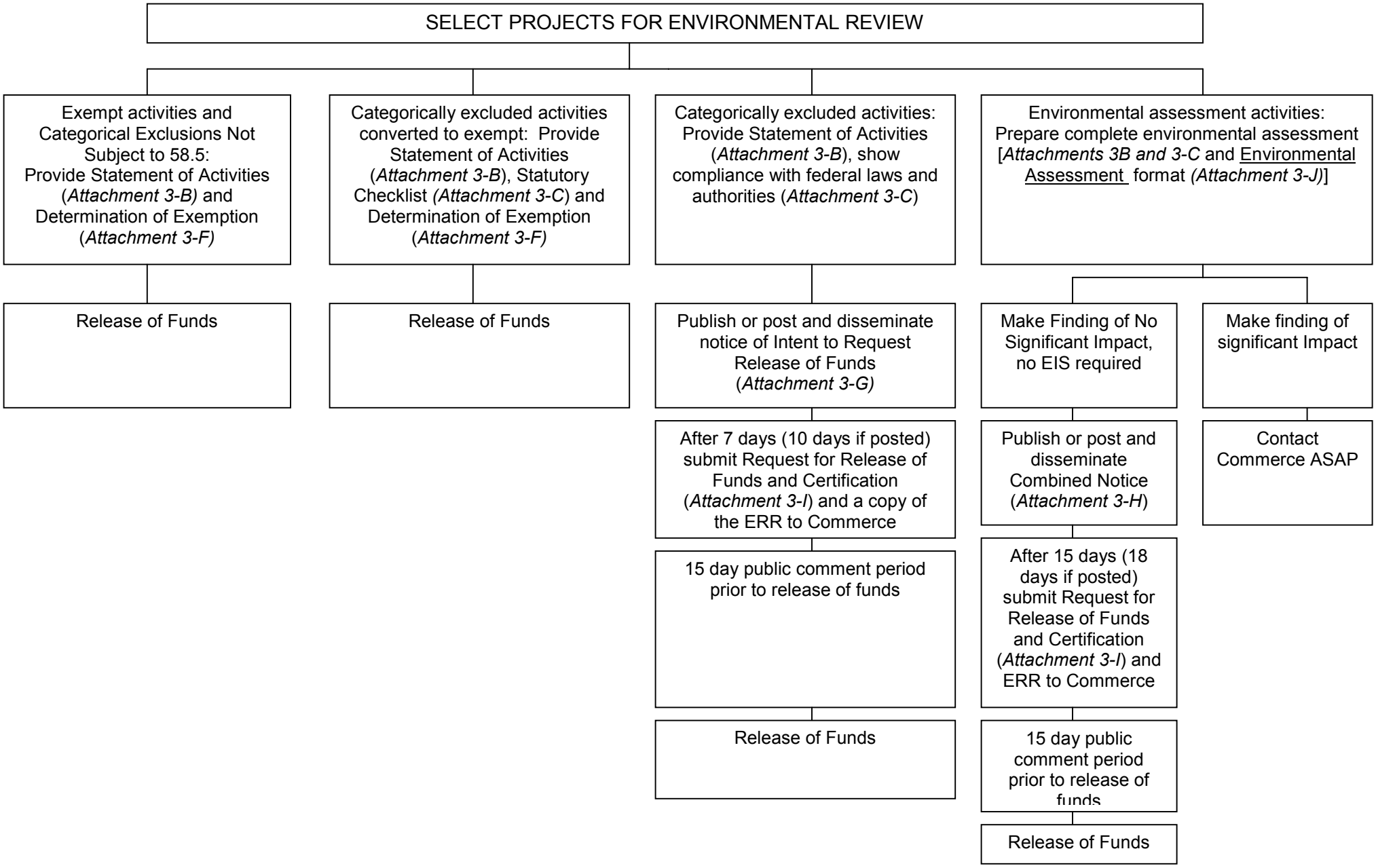
A. The current rules uses a new term, "responsible entity." For our purposes, the responsible entity is the "recipient," the local government, just as before.

B. The new rule also allows **either publication or posting of public notices.** If the notice is posted, the local public comment period is 18 days rather than 15 days as in the case of publication (58.45).

C. You may use **environmental reviews conducted for other funding programs** insofar as they **provide the same information** and **allow the same time for public comment** as 24 CFR Part 58. If they meet the CDBG requirements in their entirety, just send the other review so that Commerce can issue the certification letter. If they satisfy part of the requirements, you must acquire additional information and/or publish supplementary notices as needed before sending the materials to Commerce.

D. When publishing, be sure the notice appears in the newspaper/shopper that is regularly used by the municipality for public notices.

## ATTACHMENT 3-A: ENVIRONMENTAL REVIEW PROCEDURES



## ATTACHMENT 3-B: SAMPLE - STATEMENT OF ACTIVITIES

List all funded activities and identify those which have been previously assessed and those which are categorically excluded or exempt citing the applicable section of 24 CFR Part 58* upon which this determination is based.

| ACTIVITY | Source of Funds | | Previously Assessed | Requires Environmental Assessment | Categorically Excluded Not subject to | Exempt | Cite Relevant Section of 24 CFR Part 58 |
|---|---|---|---|---|---|---|---|
| | CDBG | Other | | | | | |
| New Construction | ** | ** | *** | X | | | 58.36 |
| Replacement Construction | ** | ** | *** | MAYBE if >20% change | MAYBE if >20% change | | 58.35(a) if Categorically Excluded |
| Engineering | ** | ** | | | | X | 58.34(a)(8) |
| Administration | ** | ** | | | | X | 58.34(a)(3) |
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* See *Attachment 3-N: 24 CFR Part 58 - Environmental Review Procedure For Entities Assuming HUG Environmental Responsibilities.*

** Denotes either box may be checked depending upon the source of funding for each budget line.

*** Denotes that it may be checked when previous assessments were done by another agency (i.e., FEMA or Rural Development) **and** that other agency provided the same information and allowed the same time for public comment as CDBG requires.

STATEMENT OF ACTIVITIES

List all funded activities and identify those which have been previously assessed and those which are categorically excluded or exempt, citing the applicable section of 24 CFR Part 58 upon which this determination is based.

| ACTIVITY | Source of Funds | | Previously Assessed | Requires Environmental Assessment | Categorically Excluded Not subject to | Exempt | Cite Relevant Section of 24 CFR Part 58 |
|---|---|---|---|---|---|---|---|
| | CDBG | Other | | | | | |
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## ATTACHMENT 3-C: SAMPLE - STATUTORY CHECKLIST

COMPARISON WITH FEDERAL LAWS AND AUTHORITIES: This project has been compared with applicable federal laws and authorities, with the following results:

Project: GIVE DESCRIPTION, [E.G., Water tower installation]

| Activity* | N/A | Has No Impact | Has An Impact | Source Documentation*** |
|---|---|---|---|---|
| a. Historic properties | ** | ** | ** | State Historical Society |
| b. Floodplain management and wetland protection | ** | ** | ** | Floodplain map number or local zoning administrator |
| c. Coastal zone management | ** | ** | ** | Wisconsin Coastal Management Program |
| d. Water quality | ** | ** | ** | Army Corp of Engineers and DNR |
| e. Endangered species | ** | ** | ** | U.S. Dept. of Interior, Fish and Wildlife Service |
| f. Wild and scenic river | ** | ** | ** | National Park Service |
| g. Air quality | ** | ** | ** | DNR-Air Management Specialist |
| h. Farmland protection | ** | ** | ** | State Soil Conservation Service or District Conservationist |
| i. HUD Environmental standards for all projects:<br>1. Thermal/explosive hazards<br>2. Airport clear zones<br>3. Noise<br>4. Landfills<br>For remodeling or demolition projects:<br>5. Asbestos<br>6. Lead-based paint | ** | ** | ** | Department of Commerce Environmental Review Officer |

* See Attachment 3-D: Summary of Federal Laws And Authorities for an explanation of standards.

** Denotes answers are specific to each project activity and location.

*** Give the name of the person or the document.

STATUTORY CHECKLIST

COMPARISON WITH FEDERAL LAWS AND AUTHORITIES: This project has been compared with applicable federal laws and authorities, with the following results:

Project:_____

| Activity | N/A | Has No Impact | Has An Impact | Source Documentation |
|---|---|---|---|---|
| a. Historic properties | | | | |
| b. Floodplain management and wetland protection | | | | |
| c. Coastal zone management | | | | |
| d. Water quality | | | | |
| e. Endangered species | | | | |
| f. Wild and scenic rivers | | | | |
| g. Air quality | | | | |
| h. Farmland protection | | | | |
| i. HUD Environmental standards for <u>all</u> project:<br>1. Thermal/explosive hazards<br>2. Airport clear zones<br>3. Noise<br>4. Landfills<br>For <u>remodeling or demolition</u> projects:<br>5. Asbestos<br>6. Lead-based paint | | | | |

## ATTACHMENT 3-D: SUMMARY OF FEDERAL LAWS AND AUTHORITIES

Read these program descriptions to determine what applies to your project. For each that applies, **write to the federal or state agency indicated** for its opinion on the impact of the proposed project. See *Attachment 3-E: Gathering Information, Disseminating Notices* for agency addresses. **Allow 30 days for response** unless you obtain the response sooner. Document all contacts, whether by correspondence or telephone. NOTE: You need to allow 45 days for SHPO response.

The Department of Natural Resources (DNR) does not want to be contacted on all projects. Only contact the DNR if your project falls under one of the topics they administer and if there is no other source of information.

Letters to federal or state agencies should contain:

1. Name of grantee.
2. Name of project.
3. Description of project: Be sure the description is complete. State which activities are new construction and which are rehabilitation or replacement.
4. Map of project location: It must be legible and include community boundaries, a scale, a north arrow, and, for a utility project, existing and proposed utilities.
5. Amount of funds being used.
6. Name and address of contact person.
7. Statement that if a response is not received within 30 days, the grantee will assume that the agency has no comment.

See *Attachment 3-K* for a sample of such a letter.

### HISTORIC PROPERTIES

To avoid unnecessary harm to designated and potential historic properties and archeological sties, **each grantee must**:

1. Identify historic properties and archeological sites, both known and potential.
2. Assess the effects of the proposed action on these historic properties and sites.

The **State Historical Society** (SHS) serves as the federal government's SHPO. The SHS has primary responsibility for determining a site's potential for inclusion in the National Historic Register, and **must be contacted as part of every CDBG project** where federal funds would be used for land or building acquisition or construction. The SHS is not concerned with activities funded wholly with nonfederal funds.

If the property is potentially eligible for the National Historic Register, the information must be submitted to the Advisory Council on Historic Preservation for a finding under Sec. 106.

The form you need to fill out for the SHPO is on the next page. You **do not** sign it and you **must forward it to the Environmental Review (ER) Specialist** after you have reviewed SHPO's data base and filled out the proper sections. Do not forward it to the SHPO. The Environmental Review officer will review it, sign it, and forward it to the SHPO. SHPO will send it back to the ER Specialist and it will, in turn, be sent back to you.

## REQUEST FOR SHPO COMMENT AND CONSULTATION ON A FEDERAL UNDERTAKING

Submit one copy with each undertaking for which the State Historic Preservation Office comment is requested. This form must be typed or hand-written (printed). After the WI Dept. of Commerce Environmental Review Officer has signed below, he/she will forward this request to the SHPO. **Do not sign your name under III. Findings.**

## I. GENERAL INFORMATION

- ❑ This is a new submittal.
- ❑ This is supplemental information relating to Case #: _____, and title: _____
- ❑ This project is being undertaken pursuant to the terms and conditions of a programmatic or other interagency agreement. The title of the agreement is _____

Please indicate the following information, **as applicable**:

a. Federal Agency Overseeing Project (supplying funds, assistance, license, permit): _____

b. Project Name: _____

c. Project Street Address: _____

d. County: _____ City: _____ Zip Code: _____

e. Project Location: Township _____ Range _____ E / W (circle one), Section _____ Quarter Sections _____

f. Contact Person on Project: _____ Phone: _____

g. Return Address: _____ Zip Code: _____

h. Email Address _____

i. Project Narrative Description. Attach information as necessary.

j. Area of Potential Effect (APE). Attach copy of U.S.G.S. 7.5 Minute Topographic Quadrangle Showing APE.

## II. IDENTIFICATION OF HISTORIC PROPERTIES

- ❑ Historic properties are located within the project APE per 36 CFR 800.4. Attach supporting materials.
- ❑ Historic properties are not located within the project APE per 36 CFR 800.4. Attach supporting materials.

## III. FINDINGS

- ❑ No historic properties will be affected (i.e., none is present or there are historic properties present by the project will have no effect upon them). Attach necessary documentation, as described at 36 CFR 800.11.
- ❑ The proposed undertaking will have no adverse effect on one or more historic properties located within the project APE under 36 CFR 800.5. Attach supporting documentation.
- ❑ The proposed undertaking will result in an adverse effect to one or more historic properties and the applicant, or other federally authorized representative, will consult with the SHPO and other consulting parties to resolve the adverse effect per 36 CFR 800.6. Attach supporting documentation and a proposed plan to resolve adverse effect(s).

Authorized Signature (WI Dept. of Commerce Environmental Review Specialist) _____

Type or print name _____ Date _____

## IV. STATE HISTORIC PRESERVATION OFFICE COMMENTS

- ❑ Agree with the finding in Section III above.
- ❑ Object to the finding for reasons indicated in attached letter.
- ❑ Cannot review until information is sent as follows:

_____

Authorized Signature (SHPO) _____

Type or print name _____ Date _____

## FLOODPLAIN MANAGEMENT

State regulation is accomplished through local units of government (town, village, city, county), with DNR oversight: federal regulation is provided by the Federal Emergency Management Agency (FEMA).

1. **Consult the FEMA floodplain** map or contact the local zoning administrator to determine if the project is in the floodplain. If not, document that decision in your ERR. If in a floodplain, go to 2 below.
2. Above-grade construction of significant size will require compliance with Executive Order 11988. Below-grade construction may not. If the costs for modifications to a structure are below 50 percent of it's value, regulations are minimal. If the cost will exceed 50 percent, substantial additional regulations apply. In every case contact the local zoning administrator and the Environmental Review Specialist. Document the contact.

## WETLAND PROTECTION

Wetland regulations include federal, state and local law, and can affect development in and adjacent to wetlands. **All grantees must determine if the project is in a wetland. Contact the local zoning administrator**. If you do not get a definite answer, contact the DNR district office, Regional Planning Commission, or the Army Corp of Engineers. The U.S. Environmental Protection Agency has permitting responsibility in some cases.

## COASTAL ZONE MANAGEMENT

All CDBG grantees located **in one of the 15 counties adjacent to either Lake Superior or Lake Michigan** must document compliance with the **Wisconsin Coastal Management Program** (WCMP). State regulation is focused on those land and water uses that are "reasonably likely to affect any land or water use or natural resources of the coastal zone." As a general rule, activities that are "exempt" or "categorical exclusions" will not be reviewed by the WCMP.

The grantee must document by correspondence that the WCMP has approved the project. This **approval must be issued by the WCMP** and may be obtained either directly from the WCMP or indirectly through the Regional Planning Commission.

## WATER QUALITY

If the activity involves **dredging or placement of dredging or fill materials in navigable waters**, including wetlands, contact the **Army Corp of Engineers** and the Wisconsin DNR. The Clean Water Act (USC 1251-1376) regulates discharges to "waters of the U.S.," including the filling of wetlands. Pre-approved "general" or "nationwide" permits may be available for minor activities. Mitigation measures may be used only for unavoidable losses.

## ENDANGERED SPECIES

The Endangered Species Act of 1973, as amended (16 U.S.C. 1531 through 1536), provides for the cooperation of agencies (including CDBG grantees) to ensure the conservation of endangered species. Each grantee must contact the **U.S. Department of Interior, Fish and Wildlife Service** as part of its environmental review for every project.

## WILD AND SCENIC RIVERS

The **National Park Service must be contacted for every project.** The service will review for impact on components of the Wild and Scenic River System, the National River Inventory, the National Park System, National Scenic Trails, Land and Water Conservation sites (parks assisted with federal funds), National Natural Landmarks, and surplus federal properties.

## AIR QUALITY

The DNR is responsible for air quality, including permitting and monitoring, through administrative rule NR 406. In general, there are five types of **activities that would necessitate contact between the CDBG grantee and the DNR:**

1. Demolition
2. Sandblasting/paint removal, particularly of water towers
3. Installation of large fuel burning equipment
4. Installation of new industrial manufacturing processes
5. Construction of new roads or parking areas for over 1,000 cars

If you are engaging in one of the above activities, contact the **Air Management Specialist** at the DNR district office.

**FARMLAND PROTECTION**

The Farmland Protection Policy Act (FPPA) of 1981 and 7 CFR Part 658 regulate the conversion of farmland to non-agricultural uses. First, **determine if the land is already in urban use or has been designated for urban use.** Land is defined as "in urban use" if **any** one of these three statements are true:

1. Density exceeds 30 structures per 40 acres.
2. The land is zoned for residential, commercial, or industrial use.
3. A comprehensive land use plan has identified this property for future residential, commercial or industrial use and was adopted within 10 years prior to your project.

**If the land is in urban use,** the FPPA does not apply. **If the land is not in urban use**, determine if any part is farmland of prime, unique, or statewide or local importance by contacting the state **Natural Resources Conservation Service** (NRCS) office or the District Conservationist. If the farmland is either prime, unique, or of statewide or local importance, obtain the Farmland Conversion Impact Rating Form AD-1006 from the local NRCS office; fill it out and return it to the NRCS. The office will return the form within 45 days, after which the grantee decides whether to continue, modify, or drop the project.

**THE DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT (HUD) ENVIRONMENTAL STANDARDS**

HUD environmental standards concern the **impact of the environment on the project**, not the impact of the project on the environment. If your activities are either "categorically excluded subject to 58.5" or require an environmental assessment, **YOU MUST SUBMIT THE FOLLOWING INFORMATION, INCLUDING A LEGIBLE MAP, TO THE ENVIRONMENTAL REVIEW SPECIALIST.**

1. Thermal/Explosive Hazard [24 CFR 51 (C)]: Describe and locate on a map **above-ground tanks** storing potentially explosive chemicals in quantities greater than 100 gallons within one mile of the site. Identify the chemical, its quantity, and the tank's distance from the project.
2. Airport Clear Zones [24 CFR 51 (D)]: This applies to construction in **airport clear zones for commercial service airports and military fields.** Commerce has information needed to make a determination of impact.
3. Noise [24 CFR 51(B)]: This addresses the **impact of noise upon people where they live and work.** Submit the following information to the Commerce Environmental Review Specialist:
   a) Railroad lines or yards within 3,000 feet of the site and average number of engines per day.
   b) Airports within two miles.
   c) Name of nearby roadways and the distance to them.
4. Landfills: Will your project be built **on or near an open or closed landfill site?**

The following two concerns may affect building **renovation and demolition** projects but not new construction. Compliance with these requirements must be detailed in your project files.

5. Asbestos: Asbestos removal activities **must comply with Chapter NR 447, Wis. Administrative Code,** and include inspection and notification to the DNR before renovation or demolition begins. In addition, HUD's general policy on asbestos is:

   a) Remove asbestos only where it is damaged or disturbed;
   b) Enclose exposed asbestos that might be vulnerable to damage;
   c) Use only government-certified asbestos removal contractors;
   d) Provide training in the proper maintenance practices; and
   e) Inspect all areas periodically.

6. Lead-based Paint: (24 CFR 570.608, CPD 90-33) Current requirements:

   a) Prohibit the use of lead-based paints;
   b) Require notification of hazards of lead-based paints for residential projects, and;
   c) Require the elimination of lead-based paint hazards in certain circumstances.

Because of limiting staffing, Commerce will not respond in writing to these submittals unless specifically requested. Please call if you need a response.

## ATTACHMENT 3-E: GATHERING INFORMATION, DISSEMINATING NOTICES

Contact the following agencies when *Attachment 3-D: Summary of Federal Laws and Authorities* indicates that their programs apply.

**Historic Properties (SHPO) (all projects)**
See Page 3-11 for the form to be filled out and forwarded to the Commerce ER Specialist.
**Do not mail** this form directly to the SHPO.

**Floodplain Management (all projects)**
Zoning Administrator

**Wetland Protection (all projects)**
To determine applicability:
Zoning administrator, DNR district office, Corps of Engineers
Permits:
DNR district office, Corps of Engineers, US EPA (some projects)

**U.S. Environmental Protection Agency**
Manager
Federal Activities Program
Planning and Management Division
77 West Jackson Boulevard
Chicago, IL 60604
312/886-7342 FAX: 312/353-5374

**Water Quality (404 permits only)**
Department of the Army
St. Paul District, Corps of Engineers
General Regulatory Branch
190 5th Street East
St. Paul, MN 55101-1638
651/290-5361

**Coastal Zone Management (if in coastal counties)**
Wisconsin Department of Administration
Coastal Management Program
ATTN: Dea Larsen Converse
101 East Wilson Street, 6th Floor
P.O. Box 7868
Madison, WI 53702
608/266-3687

**Endangered Species (all projects)**
Janet Smith, Field Supervisor
U.S. Fish & Wildlife Service
2611 Scott Tower Drive
New Franken, WI 54229
920/866-1717 FAX: 920/866-1710

**Wild and Scenic Rivers (all projects)**
U.S. Department of the Interior
National Park Service
Midwest Region
Nick Chevance
Regional Environmental Coordinator
1709 Jackson Street
Omaha, NE 68102
402/221-7286 FAX: 402/221-3465
E-MAIL: nicholas_chevance@nps.gov

**Air Quality**
DNR district office

**Farm Protection**
State Natural Resource Conservationist
Service Office or District Conservationist

**HUD Environmental Standards (all projects)**
Environmental Review Officer
Bureau of Community Finance
Department of Commerce
201 West Washington Avenue
P.O. Box 7970
Madison, WI 53707

All other funding agencies

Local new media

Other interested government agencies

Neighborhood and low-income groups

## ATTACHMENT 3-F: SAMPLE - DETERMINATION OF EXEMPTION

1. Project Name: **GIVE BUDGET LINE NAME e.g., Watermains**

2. Complete Project Description: (describe all activities from all funding sources):

   **GIVE COMPLETE NARRATIVE OF PROJECT.**

3.a. This project has been determined to be **exempt** by definition under 58.34(a) **COULD BE (1) - (12)*** (complete the reference).

OR

3.b. This project has been determined to be **categorically excluded and not subject to 58.5** under 58.35 (b)(4). **N/A for PF projects**

OR

3.c. This project was initially determined to be **categorically excluded subject to 58.5** under 24 CFR Part 58.35 **COULD BE (1) - (6)** (complete the reference). After coordinating with other laws and authorities, it has been determined that this project does not have an impact. Therefore, a determination has been made that this project is **exempt** from further environmental review in accordance with 24 CFR Part 58.34(a)(12).

4. Date: 1/23/4567

5. Signature of the Chief Elected Official: Pat Jones

Pat Jones, President
(*Chief Elected official's Name and Title*)

City, Village or Town of Your Place
*(Name of Grantee)*

100 Your Avenue
*(Address of Grantee)*

Your City, WI 12345
(*City, State and ZIP Code of Grantee)*

*See *Attachment 3-N: 24 CFR Part 58 - Environmental Review Procedure For Entities Assuming HUD Environmental Responsibilities*

## DETERMINATION OF EXEMPTION

1. Project Name:_____

2. Complete Project Description: (describe all activities from all funding sources):

3.a. This project has been determined to be **exempt** by definition under 58.34(a) _____(complete the reference).

OR

3.b. This project has been determined to be **categorically excluded and not subject to 58.5** under 58.35 (b)(4). **N/A for PF projects**

OR

3.c. This project was initially determined to be **categorically excluded subject to 58.5** under 24 CFR Part 58.35 _____ (complete the reference). After coordinating with other laws and authorities, it has been determined that this project does not have an impact. Therefore, a determination has been made that this project is **exempt** from further environmental review in accordance with 24 CFR Part 58.34(a)(12).

4. Date: _____

5. Signature of the Chief Elected Official: _____

_____
(*Chief Elected official's Name and Title)*

_____
*(Name of Grantee)*

_____
*(Address of Grantee)*

_____
(*City, State and ZIP Code of Grantee)*

**ATTACHMENT 3-G: SAMPLE - FOR CATEGORICALLY EXCLUDED ACTIVITIES**

NOTICE OF INTENT TO REQUEST RELEASE OF FUNDS

Date of publication or posting: 01/23/4567

City, Village or Town of Yourville — 123/456-7890

*(Name of Grantee)* — *(Complete Telephone number)*

100 Your Avenue, Yourville, WI 55055

*(Street, City, State and Zip Code)*

TO ALL INTERESTED AGENCIES, GROUPS AND PERSONS:

The above-named grantee has prepared an Environmental Review Record (ERR) for the following project. This ERR is on file at the address above and is available for public examination and copying.

Water tower Installation Project 2002-2003

*(Project, Title or Name - Insert multi-year if applicable)*

Install additional water tower to supply the village with adequate water supply and pressure

*(Purpose or Nature of Project)*

Village of Yourville, Your County, Wisconsin

*(Location-City, County, State-of Project)*

$987,654.32

*(Estimated Cost of Project)*

On or about 1/23/4567 (*8th day after publication or the 11th day after posting),* the Grantee will request the Wisconsin Department of Commerce (Commerce) to release Community Development Block Grant (CDBG) funds under Title I of Housing and Community Development Act of 1974 (PL 93-383) as amended for this project:

The grantee is certifying to Commerce that it and its chief executive officer, in his/her official capacity as Village President *(office)*, consent to accept the jurisdiction of the Federal courts if an action is brought to enforce environmental review responsibilities, decision-making, and action; and that these responsibilities have been satisfied. Upon certification, grantee may use the CDBG funds, and Commerce will have satisfied its responsibilities under the National Environmental Policy Act of 1969. Commerce will accept an objection to the release of funds and certification only is (a) the certification was not executed by the chief executive officer or other officer of grantee approved by Commerce; or (b) the grantee's ERR indicates omission of a required decision, finding or step. Objections must be prepared and submitted in accordance with 24 CFR Part 58, and may be addressed to Department of Commerce, Bureau of Community Finance, ATTN: Environmental Review Specialist, P.O. Box 7970, Madison, Wisconsin 53707. Objections for reasons other than those stated above will not be considered by Commerce. No objections received after 1/23/467 *(24th day after publication of 27th day after posting)* will be considered by Commerce.

Pat Jones

*(Name of Grantee's Chief Elected Official)*

100 Your Avenue, Yourville, WI 12345

*(Street, City, State and Zip Code of Grantee's Chief Elected Official)*

**FOR CATEGORICALLY EXCLUDED ACTIVITIES**
NOTICE OF INTENT TO REQUEST RELEASE OF FUNDS

Date of publication or posting: _____

_____ _____
*(Name of Grantee)* *(Complete Telephone number)*

_____
*(Street, City, State and Zip Code)*

TO ALL INTERESTED AGENCIES, GROUPS AND PERSONS:

The above-named grantee has prepared an Environmental Review Record (ERR) for the following project. This ERR is on file at the address above and is available for public examination and copying.

_____
*(Project, Title or Name - Insert multi-year if applicable)*

_____
*(Purpose or Nature of Project)*

_____
*(Location-City, County, State-of Project)*

_____
*(Estimated Cost of Project)*

On or about _____ (*8th day after publication or the 11th day after posting),* the Grantee will request the Wisconsin Department of Commerce (Commerce) to release Community Development Block Grant (CDBG) funds under Title I of Housing and Community Development Act of 1974 (PL 93-383) as amended for this project:

The grantee is certifying to Commerce that it and its chief executive officer, in his/her official capacity as _____ *(office)*, consent to accept the jurisdiction of the Federal courts if an action is brought to enforce environmental review responsibilities, decision-making, and action; and that these responsibilities have been satisfied. Upon certification, grantee may use the CDBG funds, and Commerce will have satisfied its responsibilities under the National Environmental Policy Act of 1969. Commerce will accept an objection to the release of funds and certification only is (a) the certification was not executed by the chief executive officer or other officer of grantee approved by Commerce; or (b) the grantee's ERR indicates omission of a required decision, finding or step. Objections must be prepared and submitted in accordance with 24 CFR Part 58, and may be addressed to Department of Commerce, Bureau of Community Finance, ATTN: Environmental Review Specialist, P.O. Box 7970, Madison, Wisconsin 53707. Objections for reasons other than those stated above will not be considered by Commerce. No objections received after _____ *(24th day after publication of 27th day after posting)* will be considered by Commerce.

_____
*(Name of Grantee's Chief Elected Official)*

_____
*(Street, City, State and Zip Code of Grantee's Chief Elected Official)*

**ATTACHMENT 3-H: SAMPLE - FOR ACTIVITIES SUBJECT TO ASSESSMENT**

COMBINED NOTICE OF FINDINGS OF NO SIGNIFICANT IMPACT ON THE ENVIRONMENT AND NOTICE OF INTENT TO REQUEST RELEASE OF FUNDS

Date of publication or posting: 1/23/4657

Village of Yourville — 123/456-7890
*(Name of Grantee)* — *(Complete Telephone number)*

100 Your Avenue, Yourville, WI 55055
*(Street, City, State and Zip Code)*

TOO ALL INTERESTED AGENCIES, GROUPS AND PERSONS:

The above-named grantee has prepared an Environmental Review Record (ERR) for the following project. This ERR is on file at the address above and is available for public examination and copying.

Watertower Installation Project 2002-2003
*(Project, Title or Name - Insert multi-year if applicable)*

Install additional watertower to supply the village with an adequate water supply and pressure
*(Purpose or Nature of Project)*

Village of Yourville, Your County, Wisconsin
*(Location-City, County, State-of Project)*

$123,456.78
*(Estimated Cost of Project)*

The grantee has determined that such request for release of funds will not constitute an action significantly affecting the quality of the human environment and accordingly the grantee has decided not to prepare an Environmental Impact Statement (EIS) under the National Environmental Policy Act of 1969 (PL 91-190).

The reason for such decision are:

Give a good narrative, e.g., "None of the agencies have noted any negative impact."

All agencies, groups and persons disagreeing with this decision are invited to submit written comments to above address *(office of the undersigned or other specified place).* Such written comments should be received on or before 1/23/4567 (*15th day after publication or 18th day after posting).* All such comments will be considered, and the grantee will not request the release of Federal funds or begin the project prior to such date.

One or about June 17, 1234 (*16th day after publication or the 19th day after posting)*, the Grantee will request the Wisconsin Department of Commerce (Commerce) to release Community Development Block Grant (CDBG) funds under Title I of the Housing and Community Development Act of 1974 (PL 93-383) as amended for this project:

The grantee is certifying to Commerce that it and its chief executive officer, in his/her official capacity as

_____Your Title_____ *(office)*, consent to accept the jurisdiction of the Federal courts if an action is brought to enforce environmental reviews responsibilities, decision-making, and action; and that these responsibilities have been satisfied. Upon certification, grantee may use the CDBG funds, and Commerce will have satisfied its responsibilities under the National Environmental Policy Act of 1969. Commerce will accept an objection to the release of funds and certification only if (a) the certification was not executed by the chief executive officer or other officer of grantee approved by Commerce; or (b) the grantee's ERR indicates omission of a required decision, finding, or step. Objections must be prepared and submitted in accordance with 24 CFR Part 58, and may be addressed to the Department of Commerce, Bureau of Community Finance, ATTN: Environmental Review Specialist, P.O. Box 7970, Madison, Wisconsin 53707.

Objections for reasons other than those stated above will not be considered by Commerce. No objection received after _____1/23/4567_____ *(31st day after publication or 34th day after posting)* will be considered by Commerce.

_____Pat Jones_____
*(Name of Grantee's Chief Elected Official)*

_____100 Your Avenue, Yourville, WI 12345_____
*(Street, City, State and Zip Code of Grantee's Chief Elected Official)*

**FOR ACTIVITIES SUBJECT TO ASSESSMENT**

COMBINED NOTICE OF FINDINGS OF NO SIGNIFICANT IMPACT ON THE ENVIRONMENT AND NOTICE OF INTENT TO REQUEST RELEASE OF FUNDS

Date of publication or posting: _____

_____ _____

*(Name of Grantee)* *(Complete Telephone number)*

_____

*(Street, City, State and Zip Code)*

TOO ALL INTERESTED AGENCIES, GROUPS AND PERSONS:

The above-named grantee has prepared an Environmental Review Record (ERR) for the following project. This ERR is on file at the address above and is available for public examination and copying.

_____

*(Project, Title or Name - Insert multi-year if applicable)*

_____

*(Purpose or Nature of Project)*

_____

*(Location-City, County, State-of Project)*

_____

*(Estimated Cost of Project)*

The grantee has determined that such request for release of funds will not constitute an action significantly affecting the quality of the human environment and accordingly the grantee has decided not to prepare an Environmental Impact Statement (EIS) under the National Environmental Policy Act of 1969 (PL 91-190).

The reason for such decision are:

_____

_____

_____

All agencies, groups and persons disagreeing with this decision are invited to submit written comments to _____ *(office of the undersigned or other specified place).* Such written comments should be received on or before _____ (*15th day after publication or 18th day after posting).* All such comments will be considered, and the grantee will not request the release of Federal funds or begin the project prior to such date.

One or about _____ (*16th day after publication or the 19th day after posting)*, the Grantee will request the Wisconsin Department of Commerce (Commerce) to release Community Development Block Grant (CDBG) funds under Title I of the Housing and Community Development Act of 1974 (PL 93-383) as amended for this project:

The grantee is certifying to Commerce that it and its chief executive officer, in his/her official capacity as

_____ *(office)*, consent to accept the jurisdiction of the Federal courts if an action is brought to enforce environmental reviews responsibilities, decision-making, and action; and that these responsibilities have been satisfied. Upon certification, grantee may use the CDBG funds, and Commerce will have satisfied its responsibilities under the National Environmental Policy Act of 1969. Commerce will accept an objection to the release of funds and certification only if (a) the certification was not executed by the chief executive officer or other officer of grantee approved by Commerce; or (b) the grantee's ERR indicates omission of a required decision, finding, or step. Objections must be prepared and submitted in accordance with 24 CFR Part 58, and may be addressed to the Department of Commerce, Bureau of Community Finance, ATTN: Environmental Review Specialist, P.O. Box 7970, Madison, Wisconsin 53707.

Objections for reasons other than those stated above will not be considered by Commerce. No objection received after _____ *(31st day after publication or 34th day after posting)* will be considered by Commerce.

_____
*(Name of Grantee's Chief Elected Official)*

_____
*(Street, City, State and Zip Code of Grantee's Chief Elected Official)*

# ATTACHMENT 3-I: REQUEST FOR RELEASE OF FUNDS & CERTIFICATION

## Request for Release of Funds and Certification

U.S. Department of Housing and Urban Development
Office of Community Planning and Development

(Pursuant to Section 104(g) of Title I, Housing and Community Development Act of 1974, and Section 17(c) of the U.S. Housing Act of 1937)

OMB No. 2506-0087 (8-31-89)

| 1. Program Title(s) and OMB Catalog Number(s) | 2. HUD/State Identification Number |
|---|---|
| Wisconsin CDBG<br>OMB #14.228 | PF FY __ __ - __ __ __ __ |
| | 3. Recipient Identification Number (FEIN) |
| 4. Name and Address of Recipient | 5. For information on this request, contact: |
| | 6. Date of Latest Assistance Action Application Submission Preliminary Approval Grant Agreement |
| 7. Dates of This Request | N/A \| N/A \| N/A |

## Part 1. Request for Release of Funds

**8. HUD or State Agency and Office Unit to Receive Request**

Wisconsin Department of Commerce

**The recipient of assistance under the program(s) listed above requests the release of funds and removal of grant conditions governing the use of the assistance for the following:**

| 9. Program Activity/Project Name | 10. Location (Street Address, City, County, State) |
|---|---|
| | |

**11. Program Activity/Project Description**

Form HUD-7015.15(9-88)

## Part 2. Environmental Certification

With reference to the above Program Activity/Project, I, the undersigned officer of the recipient, certify that:

The recipient has fully carried out its responsibilities for environmental review, decision-making and action pertaining to the project name above.

The recipient has complied with the National Environmental Policy Act of 1969, as amended, and with the environmental procedures, permit requirements and statutory obligations of the laws cited in 24 CFR 58.5.

The recipient has taken or will take into account the environmental criteria, standards, permit requirements and other obligations applicable to the project or program activity under other Federal, State, and local laws that the recipient has the direst responsibility to comply with.

For UDAG projects only, the recipient has provided the State Historical Preservation Officer and the Secretary of the Interior an opportunity to act with respect to properties which the recipient believes are affected by the project and are eligible for the National Register of Historic Places (Section 119(m), HCD Act of 1974, as amended).

After considering the type and degree of environmental effects identified by the environmental review completed for the proposed program described in part 1 of this request, I have found that the proposal **"did" or "did not"** (***circle one***) require the preparation and dissemination of an environmental impact statement.

The recipient has, prior to submitting this request for the release of funds and certification, published in the manner prescribed by 24 CFR 58.43 a notice to the public in accordance with 24 CFR 58.70 and as evidenced by the attached copy (copies).

The dates upon which all statutory and regulatory time periods for review, comment or other action, following the completion of the environmental review for the project/program activity, began and ended as indicated below in compliance with the procedures and requirements of 24 CFR 58.

| Item | | Commence | Expire | Item | | Commence | Expire |
|---|---|---|---|---|---|---|---|
| Notice of Finding of No Significant Impact | Publication Date: | | | Notice of intent to Prepare an EIS | Publication Date: | | |
| | Comment Period: | | | | Comment Period: | | |
| Combined Notice: Finding of No Significant Impact and Intent to Request Release of Funds | Publication Date: | | | Draft EIS | Publication Date: | | |
| | Comment Period: | | | | Comment Period: | | |
| Notice of Intent to Request Release of Funds | Publication Date: | | | Final EIS | Publication Date: | | |
| | Comment Period: | | | | Comment Period: | | |
| Other (specify) | | | | Other (specify) | | | |
| Request for Release of Funds<br><br>Estimated by Recipient | HUD or State Decision Period: (Minimum period for approval) | | | Request for Release of Funds<br><br>Actual by HUD or State | HUD or State Decision Period: (Minimum period for approval) | | |

**As the duly designated certifying official of the recipient, I also certify that:**

1. I am authorized to and do consent to assume the status of responsible federal official under the National Environmental Policy Act of 1969 and each provision of law designated in the 24 CFR 58.5 list of NEPA-related authorities insofar as the provisions of these laws apply to the HUD responsibilities for environmental review, decision making and actions that have been assumed by the recipient.

2. By so consenting, I have assumed the responsibilities for the conduct of environmental review, decision making and actions as to environmental issues, preparation and circulation of draft, final and supplemental environmental impact statements, and lead agency or cooperating agency responsibilities for preparation of such statements on behalf of federal agencies including HUD, when these agencies consent to such assumptions.

3. I am so authorized to and do accept, on behalf of the recipient and personally, the jurisdiction of the federal courts for the enforcement of all these responsibilities, in my capacity as certifying officer of the recipient.

| Signature of Certifying Officer of the Recipient | Address |
|---|---|
| | |

| Title | |
|---|---|
| **Warning:** Section 1001 of Title 18 of the United States Code and Criminal Procedure shall apply to this certification. Title 18 provides, among other things, that whoever knowingly makes or uses a document or writing containing any false, fictitious, or fraudulent statement or entity, in any manner within the jurisdiction of any department agency of the United States, shall be fined not more than $10,000 or imprisoned not more than five years or both. | |

a. Sample – Assumes Publication of Combined Notice after Environmental Assessment. See Attachment 3-H for calculation if Notice was posted.

| Item | | Commence | Expire | Item | | Commence | Expire |
|---|---|---|---|---|---|---|---|
| Notice of Finding of No Significant Impact | Publication Date: | | | Notice of Intent to Prepare an EIS | Publication Date: | | |
| | Comment Period: | | | | Comment Period: | | |
| Combined Notice: Finding of No Significant Impact and Intent to Request Release of Funds | Publication Date: | | | Draft EIS | Publication Date: | | |
| | Comment Period: | | | | Comment Period: | | |
| Notice of Intent to Request Release of Funds | Publication Date: | | | Final EIS | Publication Date: | | |
| | Comment Period: | | | | Comment Period: | | |
| Other (specify) | | | | Other (specify) | | | |
| Request for Release of Funds<br><br>Estimated by Recipient | HUD or State Decision Period: (Minimum period for approval) | | | Request for Release of Funds<br><br>Actual by HUD or State | HUD or State Decision Period: (Minimum period for approval) | | |

b. Sample – Assumes Publication of Notice for Categorical Exclusion. See Attachment 3-G for calculation if Notice was posted.

| Item | | Commerce | Expire | Item | | Commence | Expire |
|---|---|---|---|---|---|---|---|
| Notice of Finding of No Significant Impact | Publication Date: | | | Notice of Intent to Prepare an EIS | Publication Date: | | |
| | Comment Period: | | | | Comment Period: | | |
| Combined Notice: Finding of No Significant Impact and Intent to Request Release of Funds | Publication Date: | | | Draft EIS | Publication Date: | | |
| | Comment Period: | | | | Comment Period: | | |
| Notice of Intent to Request Release of Funds | Publication Date: | | | Final EIS | Publication Date: | | |
| | Comment Period: | | | | Comment Period: | | |
| Other (specify) | | | | Other (specify) | | | |
| Request for Release of Funds<br><br>Estimated by Recipient | HUD or State Decision Period: (Minimum period for approval) | | | Request for Release of Funds<br><br>Actual by HUD or State | HUD or State Decision Period: (Minimum period for approval) | | |

# ENVIRONMENTAL ASSESSMENT IN COMPLIANCE WITH THE NATIONAL ENVIRONMENTAL POLICY ACT AND WISCONSIN'S COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAM

**FOR THE COMMUNITY OF:**

_____

**Prepared by:**

**Name:** _____

**Signature:** _____

**Title:** _____

**Consultant Firm:** _____

**Address:** _____

_____

**Phone:** _____

**Date:** _____

## INSTRUCTIONS FOR COMPLETING AN ENVIRONMENTAL ASSESSMENT

All Wisconsin Community Development Block Grant projects that are not "exempt" or "categorically excluded" are required to complete an Environmental Assessment (EA).

I. PROJECT DATE: This section should give readers enough background so they can understand how various aspects of the environment interact with the project and the project's location.

A. Project Title – Short and concise, describing the activity in a few words.

B. Purpose of the Project – A one to two paragraph description of **who** will benefit and **how.**

C. Status of the Project – A specific description of **what** the project is and **why** it is necessary.

D. Project and Area Description – A specific description of **where** the project is, along with a description of the area surrounding the project.

E. Existing Conditions and Trends – A summary of pertinent physical and social factors, including land use, soil type(s), air quality, noise impact of construction, vegetation, public services (sewer, water, storm sewer), and population/housing information. You may include other information as appropriate for a particular project.

F. Project and Area Maps and Plans – Any **project specific** plans which have been completed which support the activities proposed, as well as one or two maps which indicate the locations of the project. Any eight-step analysis for floodplains or wetlands that has been completed should be discussed here.

II. STATEMENT OF ACTIVITIES (See Attachment 3-B): In this section, list all funded activities and identify those which have been previously assessed and those which are exempt, categorically excluded, or require an environmental assessment. In the final column, provide the **complete** citation upon which this determination is based, for example, 24 CFR 58.35 (a) (1) (ii), not just 24 CFR 58.35.

III. STATUTORY CHECKLIST (See Attachment 3-C): This section shows how you have compared this project with federal laws and regulations (authorities) and have concluded that this project will or will not have an impact on or be impacted by various aspects of the environment. You do not needs to contact every agency for every project. Make this determination by reviewing you project against the information found in Attachment 3-D.

IV. ENVIRONMENTAL ASSESSMENT CHECKLIST: The following pages contain a copy of the Environmental Checklist with side notes on how to fill in the boxes. Fill in the "Source or Documentation" box on every line, and be sure to fill in enough information so that someone who is reading the checklist could find where you got the information. For instance, in the "Conformance With Comprehensive Plans and Zoning" column, filling in "Yes" or "John Hammond, Planner" is insufficient. More appropriate would be "Planned for future development, page 121, Your Town Comprehensive Plan, 1989." Cite the floodplain map number and similar specific documentation.

## Item A--Land Development

Compare the project to standards and plans. Indicate: (1) any violations of law; (2) whether or not the project is incompatible with an established plan or standard. Where incompatibility exists, an analysis and decision to proceed should be explained. Projects that are unlawful should be rejected.

Analyze the listed factors to determine if the site and surrounding area represents a suitable environment for the project.

Are there unusual terrain features such as steep slopes, rock formations, or other conditions affecting construction, drainage, or livability? Does the proposed development appear to take advantage of the natural features of the site and area?

Will the project make the area substantially more susceptible to erosion because of grading, increased runoff, inadequate vegetative cover during or after construction, inadequate drainage or other causes?

Are there unusual risks from natural hazards such as geological faults, flash floods, tornadoes, mudslides, fires, or hazardous terrain features? Is there evidence of soil problems?

Is the site subject to nuisance from odors, vibrations, unsightly areas, landfills, or other nuisances?

Are community energy supplies adequate to accommodate the energy consumption in the project? Are there indications that the project will promote inefficient energy utilization?

## Environmental Assessment Checklist

Page 1

Project Name and Identification No. _____

| Impact Categories | No Impact Anticipated | Potentially Beneficial | Potentially Adverse Requires Documentation Only | Potentially Adverse Requires More Study | Needs Mitigation | Requires Project Modification | Source or Documentation (Note date of contract or page reference) Additional material may be attached |
|---|---|---|---|---|---|---|---|
| **Land Development** | | | | | | | |
| Conformance With Comprehensive Plans and Zoning | | | | | | | |
| Compatibility and Urban Impact | | | | | | | |
| Slope | | | | | | | |
| Erosion | | | | | | | |
| Soil Suitability | | | | | | | |
| Hazards and Nuisances, Including Site Safety | | | | | | | |
| Energy Consumption | | | | | | | |
| **Noise** | | | | | | | |
| Effects of Ambient Noise on Project | | | | | | | |

## Item B--Environmental Design, Socioeconomic, and Historic Values

Describe the effects of the project on the surrounding environment. Special factors which must be addressed are listed on the form, but there may be others of unique or specialized character.

Will the project adversely affect the aesthetic image of the surrounding area? Will the project block views? Is the proposed design integrated with the area?

Cultural Properties: It is important that the conclusion that a historic property will not be affected be carefully documented.

Will the project substantially change the income, racial, ethnic, or age distribution of the neighborhood or community, or the institutions serving those population groups?

Will the project destroy or relocate existing jobs, facilities, services or businesses, or create or attract any of the same, so as to result in immigration or emigration?

Is there adequate access to employment opportunities for proposed occupants considering the skill and income requirement of potential proposed occupants?

Will the project force the displacement of individuals and families?

Does the project location provide for adequate and safe access to school for elementary school children? Are the quality and capacity of such schools adequate?

Does the project location provide for adequate and safe access to school for junior and high school age children? Are the quality and capacity of such schools adequate?

Is there adequate and convenient access to shopping?

**Environmental Assessment Checklist**
(Continued)
Page 2
Project Name and Identification No. _____

| **Impact Categories** | No Impact Anticipated | Potentially Beneficial | Potentially Adverse Requires Documentation Only | Potentially Adverse Requires More Study | Needs Mitigation | Requires Project Modification | Source or Documentation (Note date of contact or page reference) Additional material may be attached |
|---|---|---|---|---|---|---|---|
| Air Quality | | | | | | | |
| Effects of Amblent Air Quality on project and Contribution to Community Pollution Levels | | | | | | | |
| Environmental Design and Historic Values | | | | | | | |
| Visual Quality Coherence, Diversity, Compatible Use, and Scale | | | | | | | |
| Historic, Cultural, Archaeological Sources | | | | | | | |
| Socioeconomic | | | | | | | |
| Demographic/Character Changes | | | | | | | |
| Displacement | | | | | | | |
| Employment and Income Patterns | | | | | | | |
| Community Facilities and Services | | | | | | | |
| Educational Facilities | | | | | | | |
| Commercial Facilities | | | | | | | |
| Health Care | | | | | | | |
| Social Services | | | | | | | |

## Item C--Community Facilities and Services

Both existing services and programmed services (i.e., those scheduled to commence on or about a certain future date) should be taken into account. Services should be rated in terms of access and adequacy. The extent or potential extent should be indicated. Following is a list of representative issues.

Will the water supply and sanitary sewer systems be adequate to serve the proposed project?

Is there adequate storm water drainage? Will the project cause drainage problems in other areas?

Does the project location allow for adequate access for police and fire protection services?

Are the police, fire protection, and emergency medical services available adequate to meet the project needs?

Are the parks, playgrounds, and open space in the area adequate to meet the needs to proposed occupants?

Are the roads and off-street parking facilities adequate?

**Environmental Assessment Checklist**
(Continued)
Page 3
Project Name and Identification No. _____

| Impact Categories | No Impact Anticipated | Potentially Beneficial | Potentially Adverse Requires Documentation Only | Potentially Adverse Requires More Study | Needs Mitigation | Requires Project Modification | Source Documentation (Note date of contact or page reference) Additional material may be attached |
|---|---|---|---|---|---|---|---|
| **Community Facilities and Services** (continued) | | | | | | | |
| Solid Waste | | | | | | | |
| Waste Water | | | | | | | |
| Storm Water | | | | | | | |
| Water Supply | | | | | | | |
| Public Safety<br>Police | | | | | | | |
| Fire | | | | | | | |
| Emergency Medical | | | | | | | |
| Open Space and Recreation | | | | | | | |
| Open Space | | | | | | | |
| Recreation | | | | | | | |
| Cultural Facilities | | | | | | | |
| Transportation | | | | | | | |

## Item D--Natural Features

If the project will affect of potentially affect the surrounding environment, the extent or potential extent of such effect should be indicated.

Will the project impede natural drainage patterns or alter stream channels?

Will the project adversely affect wetlands? Can the project be modified to minimize destruction or loss of wetlands?

Will erosion, increased runoff, or wastes from the project contaminate streams and lakes? Will groundwater supplies be adversely affected?

Are there unique species of plant or animal life particularly susceptible to adverse impact from construction and human habitation?

Is there vegetation present, the loss of which would deny habitat to unique wildlife species, or to a substantial number of different animals? Will such vegetation be preserved?

**Environmental Assessment Checklist**
(Continued)
Page 4
Project Name and Identification No. _____

| **Impact Categories** | No Impact Anticipated | Potentially Beneficial | Potentially Adverse Requires Documentation Only | Potentially Adverse Requires More Study | Needs Mitigation | Requires Project Modification | Source or Documentation (Note date of contact or page reference) Additional material may be attached |
|---|---|---|---|---|---|---|---|
| Natural Features | | | | | | | |
| Water Resources | | | | | | | |
| Surface Water | | | | | | | |
| Floodplains | | | | | | | |
| Wetland | | | | | | | |
| Coastal Zone | | | | | | | |
| Unique Natural Features and Agricultural Lands | | | | | | | |
| Vegetation and Wildlife | | | | | | | |

V. PROJECT ALTERNATIVES: The discussion should present information as to why the project is needed and how each alternative would impact (positively or negatively) that need. At least three alternatives need to be evaluated.

A. Alternative 1: Do nothing.

B. Alternative 2: Complete project as proposed.

C. Alternative 3: Complete project alternative that meets the same goals.

VI. COMPARATIVE ANALYSIS (with other plans/studies/zoning): This section should discuss how this project is in compliance with other nonproject specific planning/zoning efforts of the community.

A. Plans

B. Zoning

C. Other Studies

VII. SUMMARY OF FINDINGS AND CONCLUSIONS: Here you should discuss impacts, beneficial and adverse, as they apply to the community/service area.

A. Beneficial Impacts: e.g., potable water will be provided for 20 LMI households, etc.

B. Adverse Impacts: Both temporary impacts, i.e., those associated with the construction of the project, and permanent impacts such as wetland loss.

VIII. MITIGATING MEASURES: Those activities that prevent construction site erosion, noise, traffic congestion, wetlands replacement, etc.

IX. ENVIRONMENTAL REVIEW FINDINGS: Check the appropriate boxes.

A. Is the project in compliance with applicable laws and regulations?

Yes_____ No_____

B. Is an EIS required?

Yes_____ No_____

C. Can a Finding of No Significant Impact (FONSI) be made because the project will not significantly affect the quality of the human environment?

Yes_____ No_____

## ATTACHMENTS

ATTACHMENT I: The project area map

ATTACHMENT II: Copies of all correspondence and phone logs

ATTACHMENT III: A copy of the published or posted Combined Notice
(*See Attachment 3-H: For Activities Subject to Assessment* *Combined Notice of Finding of No Significant Impact on the Environment and Notice of Intent to Request Release of Funds)*

ATTACHMENT IV: A list of the agencies to which a copy of the Combined Notice was sent
(See the *Dissemination of Notices* on the pages that follow)

ATTACHMENT V: A copy of the "Request for Release of Funds"
An original must be on file with the Department of Commerce
(See *Attachment 3-I: Request for Release of Funds and Certification)*

ATTACHMENT VI: The original "Environmental Certification Letter" from Commerce. This will be completed by Commerce and mailed to the grantee after the EA has been completed, the notices published or posted, the RROF submitted to Commerce, and after a 15-day review period.

It is only at this time that you may begin your project and begin incurring costs. The original EA should be kept with the other files in the community.

## ATTACHMENT 3-K: SAMPLE LETTER SEEKING REVIEW OF THE PROJECT

DATE:

ADDRESS:

SALUTATION:

The (*name of community preparing the EA)* is currently preparing a Wisconsin Community Development Block Grant (CDBG) application and an attendant environmental review record to be submitted to the Wisconsin Department of Commerce (Commerce). The *(community*) is applying to Commerce for (*amount)* of CDBG monies that would be used for *(project description),* located in the *(project location).*

The *(community)* plans to use the fund for (*describe project, including uses of all funds in the project. Description should be approximately one paragraph).*

The project is located at *(describe location, including town, section, range and street address).* Enclosed is a copy of a(n) *(aerial photograph or map)* that shows the project site.

*(Include here any specific information that an agency might want, as described in the Environmental Review Chapter of the Wisconsin CDBG Implementation Handbook.)*

Please review the proposed project and make a determination as to whether it is in conformance with (*the regulations the particular agency enforces).* Your prompt review of, and comments on, this project will be greatly appreciated. If we have not received your comments within 30 days of the date of this letter, we will assume that you have no comment. If you should have any questions concerning this matter, please contact (*name of person preparing the EA).*

Sincerely,

/s/

*(name of person preparing the EA)*

enclosures

## ATTACHMENT 3-L: DISSEMINATION OF NOTICES

Copies of the Combined Notice were sent to every agency that was contacted as part of the coordination with Federal laws and regulations. They were mailed the day the notice was published. Below are the names and addresses of the agencies that were sent copies; as well as other agencies co-funding the activity; the local news media; other local, county, special district government, or authority; state agencies believed appropriate; and individual groups including lower income, neighborhood, or civil rights groups know to be interested in this application.

1.

2.

3.

4.

5.

6.

## ATTACHMENT 3-M: SAMPLE COVER MEMORANDUM FOR MAILING OF COMBINED NOTICE

TO: All Interested Agencies, Groups, and Persons

FROM: (EA Preparer's Name, Firm)

RE: Notice of Finding of No Significant Impact on the Environment and Notice of Intent to Request Release of Funds

DATE: (date notice published)

The purpose of this memorandum is to provide to you a copy of the legal notice entitled, "Notice of Finding of No Significant Impact on the Environment and Notice of Intent to Request Release of Funds," which will be published as a Class I legal notice in the (local newspaper), on (date). The notice indicates (community) findings with regard to the Environmental Review Record it has prepared for the (project title), Wisconsin Community Development Block Grant (CDBG) Project, as well as (community's) intent to request the Wisconsin Department of Commerce (Commerce) to release federal funds under Title I of the Housing and Community Development Act of 1974 (PL 930383) for this project. The CDBG funds to be received by (community) would be used for (project description).

All interested agencies, groups, and persons disagreeing with this decision and request for release of funds are invited to submit written comments for consideration to the (community's Chief Elected Official) at (community's address), in accordance with the attached notice.

# CHAPTER 4: ACQUISITION/RELOCATION

ACQUISITION/RELOCATION SPECIALIST: DEANNA LOEWENHAGEN PHONE: (608) 264-7822
FAX: (608) 266-8969 E-MAIL: LOEWENHAGEN@COMMERCE.STATE.WI.US

## I. INTRODUCTION

The purpose of the acquisition law is to avoid condemnation proceedings by offering all property owners a fair settlement. The purpose of the relocation law is to justly compensate people who are displaced and must move their homes, farms, or businesses due to a publicly assisted project.

## II. APPLICABILITY

Real property acquisition requirements apply to all acquiring agencies vested with the authority of eminent domain. Publicly funded private buyers need only to advise the property owners that they do not hold the power of eminent domain and of the fair market value of the property being bought.

Relocation requirements may apply to any person or agency carrying out a publicly assisted project causing displacement.

## III. RELEVANT LAWS

A. Uniform Relocation Assistance and Real Property Acquisition Policies Act (URA) of 1970, as amended, effective April 2, 1989.

B. Newly revised Section 104(d) of the Housing and Community Development Act of 1974 (Barney Frank).

C. 49 CFR 24 by the Department of Transportation and 24 CFR 570.488 by the Department of Housing and Urban Development.

D. Wisconsin Eminent Domain and Relocation Law, Chapter 32, Wis. Stats. and Chapter Comm 202, Wis. Admin. Code.

## IV. ACQUISITION AND RELOCATION REQUIREMENTS

### A. General Acquisition & Relocation Procedural Comment

This chapter is intended to serve only as a general outline and reference source for grantees implementing an acquisition or relocation project. It is incumbent upon the grantee to become familiar with the relevant laws, copies of which may be obtained from the Commerce CDBG Acquistion/Relocation website at www.commerce.state.wi.us/CD/CD-bcf-0962.html

1. You must replace each low- and moderate-income (LMI) dwelling, including any unit in substandard condition suitable for rehabilitation, that is demolished or converted to other than LMI residential use. "Suitable for rehabilitation" may be defined by the

2. grantee, but includes units **in any condition** that have been occupied within the past three month period (except by a squatter) preceding the executed contract date between Commerce and grantee. A general rule of thumb is, if a dwelling requires more than 50 percent of its after-rehabilitation value to repair, then the unit is not suitable for rehabilitation. The *One-for-One Public Disclosure Replacement Report (see Attachment 4-B)* must be filed with Commerce before the contract is signed. LMI dwelling units are those units that do not exceed the fair market rent established under 49 CFR 24, Part 888 (Section 8 limits). Ask the Commerce Acquisition/Relocation Specialist for the limits appropriate for your locality. You may take up to three years from the time of demolition or conversion to replace these units. The replaced units must remain at or below the Section 8 rent limits for **10 years**. Newly rehabilitated vacant units may count as replacement units.

3. The grantee must consider whether relocation program activity is applicable. Generally, a moving payment is due anyone who moves personal property from the project site. More importantly, a differential payment may be due a displaced person who moves from a dwelling, business, or farm. These relocation benefits apply when a project receives a public financial assistance and/or involves acquisition by an agency that is vested with eminent domain authority. If a residential, business, or farm occupant must vacate the property, request in written determination as to whether or not a Relocation Plan is required from the Department's Relocation Specialist. If required, a Relocation Plan must be submitted to an approved by Commerce before property is acquired and prior to any displacing activity. For Relocation Plan materials, pamphlets, and technical help contact the Relocation Specialist at 608/264-7822 or the website at www.commerce.state.wi.us/CD/CD/bcf-0962.html.

4. If the property being acquired will leave the owner with an uneconomic remnant, the offer to purchase must also be extended to the remnent.

5. If it appears that the local agency will be forced into condemnation proceedings or if any other situation arises which is not addressed here, call the Commerce CDBG Acquisition/Relocation Specialist for help.

B. <u>Basic Steps for Acquiring Real Property</u>

1. Determine which properties are to be acquired.

2. If the project demolishes or converts a LMI dwelling to another use, complete the *One-for-One Public Disclosure Replacement Report* (see *Attachment 4-B*) and mail it to the Commerce CDBG Acquisition/Relocation Specialist.

3. If an occupant is required to vacate a residential, business, or farm property because of the project, a Relocation Plan may be required. Request a written determination as to whether relocation law applies from the Commerce Relocation Unit. Briefly describe the project and the circumstances related to occupancy for the last six months. The Plan format is on the website at www.commerce.state.wi.us.

4. Give each property owner a Preliminary Acquisition Notice, and a "landowner's rights" pamphlet if the agency is vested with eminent domain authority for the acquisition, even in a voluntary acquisition. Pamphlets are available from Commerce. If the property is occupied, additional notices are required under Comm 202.06, Wis. Admin. Code. A copy of the pamphlet is on the website at www.commerce.state.wi.us.

5. Give a "relocation rights" pamphlet to each person displaced from the dwelling, business, or farm. Also, give a "relocation rights" pamphlet to any person who must move personal property from the site. Residential or commercial "relocation rights

pamphlets" are available from Commerce. Regarding status as a displaced person, note the following:

- Generally, a residential or commercial tenant permanently displaced by the project is a "displaced person."
- Generally, an owner-occupant of residential or commercial property is a "displaced person" if the acquiring agency is vested with eminent domain authority, even in the acquisition is voluntary.

6. If displacement is to occur, submit a relocation plan to the Commerce Relocation Unit for review and approval prior to making a written offer to purchase the property.

7. Select and contract with a Wisconsin Licensed Real Estate appraiser to complete an appropriate appraisal on the property. An appraisal is not required if the property is estimated to be worth $2,500 or less, or if the owner is donating the property and releases you from your obligation to do an appraisal.

8. A second licensed appraiser must make written review of the submitted appraisal to determine its accuracy.

9. You must establish in writing a summary statement detailing how the amount of just compensation to the property owner was derived and a description of the property.

10. Make an offer to purchase for the amount of established just compensation. Deliver the summary statement determining just compensation at the same time as the offer to purchase. The agency may not pay less than the reviewed appraisal. The date of the offer to purchase (initiation of negotiations) begins the displacement process if relocation applies.

11. Negotiate the property acquisition; if applicable, include an explanation of tenant-owned improvements, incidental transfer expenses, and condemnation litigation expenses.

12. If negotiations fail, you may pursue an administrative settlement up to $5,00 above just compensation. Commerce approval is required for any settlement that exceeds $5,000 above just compensation.

13. Sign the purchase agreement or continue to negotiate.

14. Execute the deed, complete settlement cost statement and make appropriate payment, including incidental costs (State Statute 32.195).

15. Record title to property in the agency's name.

16. Prepare files for Commerce review.

## V. RECORDS

### A. Separate Files

1. Every parcel acquired using CDBG funds must have a separate folder. If relocation is involved, those records must also be in a separate relocation folder for each displaced person.

2. All acquisition records must be kept for at least four (4) years following successful grant close out.

### B. File Contents

1. A completed *Acquisition Summary Checklist (Attachment 4-A)* must be attached to the front of each acquisition folder. All documentation required for real property acquisition should be in the file in the order referenced on the Summary Checklist.

2. Individual Relocation Case File. An individual case file must be developed and kept for each displaced person, beginning with information obtained in the initial interview. The following are requirements of Ch. Comm 202.20(2), Wis. Admin. Code. and individual relocation case files shall include the following.

    a. Name, on-site address and phone number, date of displacement, replacement address and phone number, labeled "tenant" or "owner," before and after relocation;

    b. The age and sex of any dependent household members, the average monthly income of adult household members, and the monthly housing cost of the acquired and replacement dwelling;

    c. A description of the business or farm operation being conducted, whether the displaced person relocated or discontinued the business or farm operation, and the average monthly cost of the acquired and replacement facilities;

    d. A description of the dwelling, habitable space, number of rooms and bedrooms, and the type of construction;

    e. A description of relocation needs and preferences;

    f. Evidence that a displaced person received a pamphlet entitled, "Wisconsin Relocation Rights," and the date received;

    g. A copy of written notices as specified in Ch. Comm 202, Wis. Admin. Code (or otherwise given to a displaced person);

    h. Relocation services and assistance provided including the date(s);

    i. Referral to a replacement dwelling, business or farm operation, including the date, address, and sale or rental price;

    j. A copy of an occupancy agreement for the period after acquisition;

    k. A copy of a replacement property inspection document with the inspection date, description of the property, and its condition;

    l. Type and amount of each relocation payment made;

    m. A copy of a relocation claim, supporting documentation, and related documents to determine eligibility for the amount of payment, evidence of payment, and correspondence relating to the claim;

    n. A copy of any appeal of relocation benefits, a copy of an explanation of the action taken to resolve the appeal, and the final determination;

    o. A copy of individual relocation case reports on website or other correspondence with Commerce; and

    p. The acquiring agency representative who provided relocation assistance.

C. Confidentiality

All acquisition records are confidential regarding their use as public information, unless applicable law provides otherwise.

## ATTACHMENT 4-A: ACQUISITION SUMMARY CHECKLIST

As a means of ensuring that all required documents are on file, the following checklist should be used as a cover sheet for each parcel file:

Street Address of Property _____

Property Use. Brief Description _____
Owner(s) or Tenant(s) _____

_____

_____

Owner's or Tenant's Current Address _____

Home Telephone No. _____Business No. _____

1. Date grantee made determination to acquire _____
2. Date preliminary acquisition notice and brochure(s) delivered to owner _____
3. Does this acquisition involuntarily displace anyone? _____
   If so, did the grantee contact Commerce and follow an approved Relocation Plan? _____
4. Were any LMI dwellings rehabilitated, demolished or converted to another use?
   _____
   If so, was a *One-for-One Replacement Report* filed with Commerce? _____
5. Is the appraisal in the folder? _____
6. Is the appraisal review in the folder? _____
7. Are the appraisers certified? _____
8. Is a copy of the summary statement establishing just compensation in the file? _____
9. Date formal written offer and summary statement delivered to the owner (Initiation of Negotiations)
   _____
10. Offer to purchase accepted on: _____
11. If by condemnation, was Commerce notified? _____
12. Are copies of offer(s) to purchase, deed/title transfer, evidence of payment, and any other information documents and correspondence in the file? _____

Please Complete:

| Appraisal | Appraisal Review | Just Compensation | Initial Offer | Final Settlement |
|---|---|---|---|---|
| $ | $ | $ | $ | $ |

_____
(Grant Administrator negotiating this acquisition)

## ATTACHMENT 4-B: ONE-FOR-ONE PUBLIC DISCLOSURE REPLACEMENT REPORT

24 CFR 570.488 (c)(1)(iii),

Before the state recipient (grantee) enters into a contract committing to provide funds for any activity that will directly result in the demolition of low- to moderate-income dwelling units or the conversion of low/moderate-income dwelling units to another use, the recipient must make public and submit the following information in writing to Commerce:

A. A description of the proposed assisted activity;

B. A map showing the location and the number of dwelling units by size (number of bedrooms) that will be demolished or converted to a use that are not low/moderate-income dwelling units as a direct result of the assisted activity;

C. A time schedule for the commencement and completion of the demolition or conversion;

D. A map showing the location and the number of dwelling units by size (number of bedrooms) that will be provided as replacement dwelling units. If such data is not available at the time of the general submission, please identify the general location on the map and the approximate number of dwelling units by size. Finally, this information must be disclosed to the public as soon as it is available.

E. The source of funding and time schedule for the provision of replacement of the dwelling units;

F. The basis for concluding that each replacement dwelling unit will remain a low- to moderate-income dwelling unit for al least 10 years from the date of initial occupancy; and

G. Information demonstrating that any proposed replacement of dwelling units with smaller dwelling units (e.g., a two-bedroom unit with two one-bedroom units) is consistent with the housing needs of low- and moderate-income households in the jurisdiction.

# CHAPTER 5: EQUAL EMPLOYMENT OPPORTUNITY, AND FAIR HOUSING

EQUAL OPPORTUNITY AND FAIR HOUSING SPECIALIST: JACK SANDERSON PHONE: (608) 267-0317
FAX: (608) 266-8969 E-MAIL: jsanderson@commerce.state.wi.us

## I. INTRODUCTION

The Civil Rights Laws and related laws and regulations are designed to protect individuals from discrimination on the basis of race, national origin, religion, color, sex, age, handicap, and familial status. As applied to the CDBG program, they protect individuals from discrimination in housing, employment, business opportunities, and benefits created by CDBG projects.

## II. REQUIRED CONTRACT LANGUAGE

Every CDBG funded activity must be carried out in a manner that will not cause discriminatory effects and provide for equal opportunity in employment and contracting opportunities. The grantee is responsible for advising contractors of their equal opportunity responsibilities, particularly at the pre-construction conference, and maintaining equal opportunity compliance files. The equal opportunity provisions are attached to this chapter. Instructions for what provisions to include in bid packages and construction contracts can be found in the *Labor Standards Chapter* (see *The Bidding Process*, and *The Contracting Process*).

## III. COMPLIANCE AND RECORDKEEPING

### A. Fair Housing

Take action that affirmatively furthers fair housing as indicated within your CDBG application during the first year of the contract period (see your *Contract Timetable*). **Complete the *Fair Housing Report (Attachment 9-C)* when you close out your project**.

### B. Program Beneficiaries

Commerce is required to maintain records depicting to what extent racial and ethnic participants and single heads of households have benefited from CDBG funds. For the Public Facility Program, Commerce will use the most appropriate census data available to meet this requirement. It is the responsibility of the grantee to **notify the Commerce if census data does not reflect the demographics of a target area** in which your project is focused. If target area demographics do not represent the census profile of your community, please call the Commerce's Equal Opportunity Officer at 608/267-0317 to report the best demographic information available.

### C. Minority Business Enterprise & Woman Business Enterprise. (MBE/WBE)

Take affirmative steps to assure women and minority business enterprises have equal access to the project bidding. However, no recipient is required to maintain any particular level of participation when contracting with minority- or women- owned businesses. **At the conclusion of the project, complete the MBE/WBE Report for contracts exceeding $25,000 (*Attachment 9-D*) when you file your closeout report.** Possible affirmative steps should include as many of the following policies as possible:

1. Placing qualified small and minority businesses and women's business enterprises on solicitation lists;

2. Assuring that small and minority businesses, and women's business enterprises are solicited whenever they are potential sources;

3. Dividing total requirements, when economically feasible, into smaller tasks or quantities to permit maximum participation by small and minority business, and women's business enterprise;

4. Establishing delivery schedules, where the requirement permits, which encourage participation by small and minority business, and women's business enterprises;

5. Using the services and assistance of the Small Business Administration, and the Minority Business Development Agency of the Department of Commerce; and

6. Using the prime contractor, if subcontractors are to be let, to take the affirmative steps listed in paragraphs 1. through 5. of this section.

D. LMI (Low- to Moderate-Income) Section 3 Report

The purpose for the LMI Section 3 reporting is to put more emphasis upon creating LMI employment. "To the greatest extent feasible," you are to guide the employment opportunities of your CDBG project towards low- and moderate-income persons and Section 3 business concerns in your community. **Complete the *Section 3 Compliance Report* (*Attachment 9-E*) when you close out your project.**

E. Handicap Accessibility Requirement

Recipients must comply with Section 504 of the Rehabilitation Act of 1973 and complete the Handicap Accessibly Self-Evaluation Checklist (Attachment 5-F). Discrimination on the basis of disability in any program, service, or activity that receives federal financial assistance is prohibited. This means that persons with disabilities may not be denied the opportunity to participate in a program, service, or activity; may not be required to accept a different kind or lesser program or service than what is provided to others; and may not be required to participate in separate programs and services, even if separate programs and services exist.

## IV. RELEVANT LAWS

The following citations are the source of our equal opportunity requirements.

A. Title VI and Title VIII of the Civil Rights Act provides that no person shall be excluded from participation, denied the benefits, or subjected to discrimination on the basis of race, color, familial status, or national origin under any program receiving federal financial assistance.

B. Section 109 of the Housing and Urban Development Act of 1992, as amended, provides that no person shall be excluded from participation (including employment), denied benefits, or subjected to discrimination on the basis of race, color, sex, national origin, age, or qualified handicap, under any program or activity, funded in whole or part under the CDBG Program.

C. Executive Order 11246, as amended, provides that no person shall be discriminated against, on the basis of race, color, religion, sex, or national origin in any place of employment during the performance of federally assisted construction contracts.

D. Section 3 of the Housing and Urban Development Act of 1968, as amended 1992, provides that employment and other economic opportunities generated by Federal financial assistance for housing and community development programs shall, to the greatest extent feasible, be directed to low- and very low-income persons. Section 3 covers professional services when greater than $100,000 and are part of the public construction project, including material suppliers. This requirement also applies to governments that receive $200,000 or more for activities covered by Section 3.

## ATTACHMENT 5-A: EQUAL OPPORTUNITY CLAUSE (EO 11246)

(FOR GRANTEE PROCUREMENT OF CONSTRUCTION CONTRACTS ABOVE $10,000)

During the performance of this contract, the contractor agrees as follows:

1. The contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, or national origin. The contractor will take affirmative action to ensure that applicants are employed and that employees are treated, without regard to their race, color, religion, sex, or national origin. Such action shall include, but not be limited to, the following: employment, upgrading, demotion or transfer; recruitment or recruitment advertising; layoff or termination, rates of pay or other forms of compensation; and selection for training, including apprenticeship. The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided setting forth the provisions of this nondiscrimination clause.

2. The contractor will, in all solicitations or advertisement for employees placed by or on behold of the contractor, state that all qualified applicants will receive consideration without regard to race, color, religion, sex, or national origin.

3. The contractor will send to each labor union or representative of workers with which he/she has a collective bargaining agreement or other contract or understanding, a notice to be provided by the Contract Compliance Officer advising the said labor union or workers' representatives of the contractor's commitment under this section, and shall post copies of the notice in conspicuous place available to employees and applicants for employment.

4. The contractor will comply with all provisions of Executive Order 11246 of September 24, 1965, and of the rules, regulations and relevant orders of the Secretary of Labor.

5. The contractor will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the Department of Commerce and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations and others.

6. In the event of the contractor's noncompliance with the nondiscrimination clauses of this contract or with any of the said rules, regulations, or orders, the contract may be canceled, terminated or suspended in whole or in part and the contractor may be declared ineligible for further Government contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965 or by rule, regulation or order of the Secretary of Labor, or as otherwise provided by law.

7. The contractor will include the provisions of paragraphs 1. through 7. in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to section 204 of Executive Order 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The contractor will take such action with respect to any subcontract or purchase order as Commerce may direct as a means of enforcing such provisions, including sanctions for noncompliance. Provided, however, that in the event a contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by Commerce, the contractor may request the United States to enter into such litigation to protect the interest of the United States.

8. The grantee further agrees that it will be bound by the above equal opportunity clause with respect to its own employment practices when it participates in federally assisted construction work. Provided that if the grantee participating is a State or local government, the above equal opportunity clause is not applicable to any agency, instrumentality, or subdivision of such government which does not participate in work on or under the contract.

9. The grantee agrees that it will assist and cooperate actively with the administering agency and the Secretary of Labor in obtaining the compliance of contractors and subcontractors with the equal opportunity clause and the rules, regulations, and relevant orders of the Secretary of Labor; that it will furnish the administering agency and the Secretary of Labor such information as they may require for the supervision of such compliance; and that it will otherwise assist the administering agency in the discharge of the agency's primary responsibility for securing compliance.

10. The grantee further agrees that it will refrain from entering into any contract or contract modification subject to Executive Order 11246 of September 24, 1965, with a contractor debarred from, or who has not demonstrated eligibility for Government contracts and federally assisted construction contracts pursuant to the Executive Order and will carry out such sanctions and penalties for violation of the equal opportunity clause as may be imposed upon contractors and subcontractors by the administering agency or the Secretary of Labor pursuant to Part II, Subpart D of the Executive Order. In addition, the grantee agrees that if it fails or refuses to take any or all of the following actions: cancel, terminate, or suspend in whole or in part this grant (contract, loan, insurance, guarantee); refrain from extending any further assistance to the applicant under the program with respect to which the failure or refund occurred until satisfactory assurances of future compliance has been received from such applicant, and refer the case to the Department of Justice for appropriate legal proceedings.

## ATTACHMENT 5-B: SECTION 3 CONTRACT LANGUAGE REQUIREMENTS

(Applicable to all contracts exceeding $100,000 where the CDBG contract exceeds $200,000)

**Include** the following language **in all contracts and subcontracts:**

1. Section 3 of the Housing and Urban Development Act of 1968. The work to be performed under this contract is subject to the requirements of Section 3 of the Housing and Urban Development Act of 1968, as amended, 12 U.S.C. 1701u (Section 3). The purpose of Section 3 is to ensure that employment and other economic opportunities generated by HUD assistance or HUD-assisted projects covered by Section 3, shall, to the greatest extent feasible, be directed to low- and very low-income persons, particularly persons who are recipients of HUD assistance for housing.

2. The parties to this contract agree to comply with HUD's regulations in 24 CFR part 135, which implement Section 3. As evidence by their execution of this contract, the parties to this contract certify that they are under no contractual or other impediment that would prevent them from complying with the part 135 regulation.

3. The contractor agrees to send to each labor organization or representative of workers with which the contractor has a collective bargaining agreement or other understanding, if any, a notice advising the labor organization or workers' representative of the contractor's commitments under this Section 3 clause, and will post copies of the notice in conspicuous places at the work site where both employees and applicants for training and employment positions can see the notice. The notice shall describe the Section 3 preference, shall set forth minimum number and job titles subject to hire, availability of apprenticeship, and training positions, the qualifications for each; and the name and location of the person(s) taking applications for each of the positions; and the anticipated date the work shall begin.

4. The contractor agrees to include this Section 3 clause in every subcontract subject to compliance with regulations in 24 CFR part 135, and agrees to take appropriate action, as provided in an applicable provision of the subcontract or in this Section 3 clause, upon a finding that the subcontractor is in violation of the regulations in 24 CFR part 135. The contractor will not subcontract with any subcontractor where the contractor has notice or knowledge that the subcontractor has been found in violation of the regulations in 24 CFR part 135.

5. The contractor will certify that any vacant employment positions, including training positions, that are filled (1) after the contractor is selected but before the contract is executed, and (2) with persons other than those to whom the regulations of 24 CFR part 135 require employment opportunities to be directed, were not filled to circumvent the contractor's obligations under 24 CFR part 135.

6. Non-compliance with HUD's regulations in 24 CFR part 135 may result in sanctions, termination of this contract for default, and debarment or suspension from future HUD assisted contracts.

7. With respect to work performed in connection with Section 3 covered Indian housing assistance, Section 7(b) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450e) also applies to the work to be performed under this contract. Section 7(b) requires that to the greatest extent feasible: (i) preference and opportunities for training and employment shall be given to Indians; and (ii) preference in the award of contracts and subcontracts shall be given to Indian organizations and Indian-Owned Economic Enterprises. Parties to this contract that are subject to the provisions of Section 3 and Section 7(b) agree to comply with Section 3 to maximum extent feasible, but not in derogation of compliance with section 7(b).

## ATTACHMENT 5-C: AFFIRMATIVE ACTION REQUIREMENTS (EO 11246)

(Applicable to construction contracts/subcontracts exceeding $10,000)

1. The Offeror's or Bidder's attention is called to the "Equal Opportunity Clause" and the "Standard Federal Equal Employment Opportunity Construction Contract Specifications" set forth herein.

2. The goals and timetables for minority and female participation, expressed in percentage terms for the contractor's aggregate workforce in each trade on all construction work in the covered area, are as follows:

   Goals for Women = **6.9 percent** (this goal applies nationwide).

   Goals for minority participation = _____ (this goal applies county-wide)
   **(Insert goals –** see next page**)**

   These goals are applicable to all the contractor's construction work (whether or not it is federal or federally assisted) performed in the covered area. If the contractor performs construction work in a geographic are located outside of the covered area, it shall apply the goals established for such geographic area where the work is actually performed. The contractor is also subject to the goals for both its federal and nonfederal construction.

3. The contractor's compliance with the Executive Order and the regulations in 41 CFR Part 60-4 shall be based on its implementation of the Equal Opportunity Clause, specific affirmative action obligations required by the specifications set forth in 41 CFR 60-4.3 (a), and its efforts to meet the goals established for the geographical area where the contract resulting from this solicitation is to be performed. The hours of minority and female employment and training must be substantially uniform throughout the length of the contract and in each trade, and the contractor shall make a good faith effort to employ minorities and women evenly on each of its projects. The transfer of minority or female employees or trainees from contractor to contractor or from project to project for the sole purpose of meeting the contractor's goals shall be a violation of the contract, the Executive Order, and the regulations in 41 CFR Part 60-4. Compliance with the goals will be measured against the total work hours performed.

4. The contractor shall provide written notification to the Director of the Office of Federal Contract Compliance Programs within 10 working days of award of any construction subcontract in excess of $10,000 at any tier for construction work under the contract resulting from this solicitation. The notification shall list the name, address, and telephone number of the subcontractor; employer identification number; estimated dollar amount of the subcontract; estimated starting and completion dates of the subcontract; and the geographical area in which the contract is to be performed.

   As used in this notice, and in the contract resulting from this solicitation, the "covered area" is a description of the geographical areas where the contract is to be performed indicating the state, county and city, if any.

## ATTACHMENT 5-D: GOALS FOR WOMEN AND MINORITY UTILIZATION IN CONSTRUCTION

These goals apply to all federally assisted construction contract and subcontracts in excess of $10,000 (EO 11246). All hours of work (federal and nonfederal) in each trade, regardless of the location of work, are subject to these goals.

Directions: Use the applicable county percentage below to fill in the "Goals for minority participation" in *Attachment 5-C: Affirmative Action Requirements (E.O. 11246).*

A. Goals for Women--6.9 percent (this goal applies nationwide).

B. Minority Goals--percentage listed for each county:

| | | | | | |
|---|---|---|---|---|---|
| Adams | 1.7 | Iowa | 1.7 | Polk | 2.2 |
| Ashland | 1.2 | Iron | 1.2 | Portage | .6 |
| Barron | .6 | Jackson | .6 | Price | .6 |
| Bayfield | 1.2 | Jefferson | 7.0 | Racine | 8.4 |
| Brown | 1.3 | Juneau | .6 | Richland | 1.7 |
| Buffalo | .6 | Kenosha | 3.0 | Rock | 3.1 |
| Burnett | 2.2 | Kewaunee | 1.0 | Rusk | .6 |
| Calumet | .9 | La Crosse | .8 | St. Croix | 2.9 |
| Chippewa | .5 | Lafayette | .5 | Sauk | 1.7 |
| Clark | .6 | Langlade | .6 | Sawyer | .6 |
| Columbia | 1.7 | Lincoln | .6 | Shawano | 1.0 |
| Crawford | .5 | Manitowoc | 1.0 | Sheboygan | 7.0 |
| Dane | 2.2 | Marathon | .6 | Taylor | .6 |
| Dodge | 7.0 | Marinette | 1.0 | Trempealeau | .6 |
| Door | 1.0 | Marquette | 1.7 | Vernon | .6 |
| Douglas | 1.0 | Menomonie | 1.0 | Vilas | .6 |
| Dunn | .6 | Milwaukee | 8.0 | Walworth | 7.0 |
| Eau Claire | .5 | Monroe | .6 | Washburn | .6 |
| Florence | 1.0 | Oconto | 1.0 | Washington | 8.0 |
| Fond du Lac | 1.0 | Oneida | .6 | Waukesha | 8.0 |
| Forest | 1.0 | Outagamie | .9 | Waupaca | 1.0 |
| Grant | .5 | Ozaukee | 8.0 | Waushara | 1.0 |
| Green | 1.7 | Pepin | .6 | Winnebago | .9 |
| Green Lake | 1.0 | Pierce | 2.2 | Wood | .6 |

**ATTACHMENT 5-E: FEDERAL EQUAL EMPLOYMENT OPPORTUNITY CONSTRUCTION CONTRACT SPECIFICATIONS (EO 11246)**

(Applicable to construction contracts/subcontracts exceeding $10,000)

1. As used in these specifications:

   a. "Covered area" means the geographical area described in the solicitation from which this contract resulted.

   b. "Director" means Director, Office of Federal Contract Compliance Programs, United States Department of Labor, or any person to whom the Director delegates authority.

   c. "Employer Identification number" means the Federal Social Security number used on the Employer's Quarterly Federal Tax Return, U.S. Treasury Department Form 941.

   d. "Minority" includes:

      i. Black (all persons having origins in any of the Black African racial groups not of Hispanic origin);

      ii. Hispanic (all persons of Mexican, Puerto Rican, Cuban, Central or South American, or other Spanish Culture or origin, regardless of race);

      iii. Asian and Pacific Islander (all persons having origins in any of the original peoples of the Far East, Southeast Asia, the Indian Subcontinent, or the Pacific Islands);

      iv. American Indian or Alaskan Native (all persons having origins in any of the original peoples of North America and maintaining identifiable tribal affiliations through membership and participation or community identification).

2. Whenever the contractor, or any subcontractor at any tier, subcontracts a portion of the work involving any construction trade, it shall physically include in each subcontract in excess of $10,000 the provisions of these specifications and the notice which contains the applicable goals for minority and female participation and which is set forth in the solicitations from which this contract resulted.

3. If the contractor is participating (pursuant to 41 CFR 60-4.5) in a Hometown Plan approved by the U.S. Department of Labor in the covered area either individually or through an association, its affirmative action obligations on all work in the Plan area (including goals and timetables) shall be in accordance with that Plan for those trades which have unions participating in the Plan. Contractors must be able to demonstrate their participation in and compliance with the provisions of any such Hometown Plan. Each contractor or subcontractor participating in an approved plan is individually required to comply with its obligations under the EEO clause, and to make a good faith effort to achieve each goal under the Plan in each trade in which it has employees. The overall good faith performance by other contractors or subcontractors toward a goal in an approved Plan does not excuse any covered contractor's or subcontractor's failure to take good faith effort to achieve the Plan goals and timetables.

4. The contractor shall implement the specific affirmative action standards provided in paragraphs 7(a) through (p) of these specifications. The goals set forth in the solicitation from which this contract resulted are expressed as percentages of the total hours of employment and training of minority and female utilization the contractor should reasonable be able to achieve in each construction trade in which it has employees in the covered areas. Covered construction contractors performing contracts in geographical areas where they do not have a federal or federally assisted construction contract shall apply the minority and female goals established for the geographic area where the contract is being performed. Goals are published periodically in

the Federal Register in notice form and such notices may be obtained from any Office of Federal Contract Compliance Programs office or from federal procurement contracting officers. The contractor is expected to make substantially uniform progress in meeting its goals in each craft during the period specified.

5. Neither the provisions of any collective bargaining agreement, nor the failure by a union with whom the contractor has a collective bargaining agreement to refer either minorities or women, shall excuse the contractor's obligations under these specifications, Executive Order 11246, or the regulations promulgated pursuant thereto.

6. In order for the nonworking training hours of apprentices and trainees to be counted in meeting the goals, such apprentices and trainees must be employed by the contractor during the training period, and the contractor must have made a commitment to employ the apprentices and trainees at the completion of their training, subject to the availability of employment opportunities. Trainees must be trained pursuant to training programs approved by the U.S. Department of Labor.

7. The contractor shall take specific affirmative actions to ensure equal employment opportunity. The evaluation of the contractor's compliance with these specifications shall be based upon its effort to achieve maximum results from its actions. The contractor shall document these efforts fully, and shall implement affirmative action steps at least as extensive as the following:

   a. Ensure and maintain a working environment, free of harassment, intimidation, and coercion at all sites, and in all facilities where the contractor's employees are assigned to work. The contractor, where possible, will assign two or more women to each construction project. The contractor shall specifically ensure that all foremen, superintendents, and other on-site supervisory personnel are aware of and carry out the contractor's obligation to maintain such a working environment, with specific attention to minority and female individuals working at such sites or in such facilities.

   b. Establish and maintain a current list of minority and female recruitment sources, provide written notification to minority and female recruitment sources and to community organizations when the contractor or its unions have employment opportunities available, and maintain a record of the organizations' responses.

   c. Maintain a current file of the names, addresses, and telephone numbers of each minority and female applicant and minority or female referral from a union, a recruitment source or community organization and what, if any, action was taken with respect to each such individual. If such individual was sent to the union hiring hall for referral and was not referred back to the contractor by the union, or if referred, not employed by the contractor, this shall be documented in the file with the reason along with whatever additional actions the contractor may have taken.

   d. Provide immediate written notification to the Director when the union contractor has a collective bargaining agreement which has/has not referred a minority person or woman, or when the contractor has other information that the union referral process has impeded the contractor's efforts to meet its obligations.

   e. Develop training opportunities and/or participate in training programs for the area which expressly include minorities and women, including upgrading programs and apprenticeship and trainee programs relevant to the contractor's employment needs, especially those programs funded or approved by the Department of Labor. The contractor shall provide notice of these programs to the sources compiled under 7(b) above.

f. Disseminate the contractor's EEO policy by providing notice of the policy to unions and training programs and requesting their cooperation in assisting the contractor in meeting its EEO obligations; by including it in any policy manual and collective bargaining agreement; by publicizing it in the company newspaper, annual report, etc.; by specific review of the policy with all management personnel and with all minority and female employees at least once a year; and by posting the company EEO policy on bulletin boards accessible to all employees at each location where construction work is performed.

g. Review, at least annually, the company's EEO policy and affirmative action obligations under these specifications with all employees having any responsibility for hiring, assignment, layoff, termination, or other employment decisions including specific review of these items with on-site supervisory personnel such as Superintendents, General Foremen, etc., prior to the initiation of construction work at any job site. A written record shall be made and maintained identifying the time and place of these meetings, persons attending, subject matter discussed, and disposition of the subject matter.

h. Disseminate the contractor's EEO policy externally by including it in any advertising in the news media, specifically including minority and female news media, and providing written notification and discussing the contractor's EEO policy with other contractors and subcontractors with whom the contractor does, or anticipates, doing business.

i. Direct its recruitment efforts, both oral and written, to minority, female and community organizations, to schools with minority and female students, and to minority and female recruitment and training organizations serving the contractor's recruitment area and employment needs. Not later than one month prior to the date of the acceptance of applications for apprenticeship of other training by any recruitment source, the contractor shall send written notification to organizations such as the above, describing the openings, screening procedures, and tests to be used in the selection process.

j. Encourage present minority and female employees to recruit other minority persons and women and, where reasonable, provide after school, summer, and vacation employment to minority and female youth both on the site and in other areas of a contractor's work force.

k. Validate all tests and other selection requirements where there is an obligation to do so under 41 CFR Part 60-3.

l. Conduct, at least annually, an inventory and evaluation at least of all minority and female personnel for promotional opportunities and encourage these employees to seek or to prepare for, through appropriate training, etc., such opportunities.

m. Ensure that seniority practices, job classifications, work assignments, and other personnel practices, do not have a discriminatory effect by continually monitoring all personnel and employment related activities to ensure that the EEO policy and the contractor's obligations under these specifications are being carried out.

n. Ensure that all facilities and company activities are nonsegregated except that separate or single-user toilet and necessary changing facilities shall be provided to assure privacy between the sexes.

o. Document and maintain a record of all solicitations of offers for subcontractors from minority and female construction contractors and suppliers, including circulation of solicitations to minority and female contractor associations and other business associations.

p. Conduct a review, at least annually, of all supervisors' adherence to and performance under the contractor's EEO policies and affirmative action obligations.

8. Contractors are encouraged to participate in voluntary associations that assist in fulfilling one or more of their affirmative action obligations (7 a through p). The efforts of a contractor association, joint contractor-union, contractor-community, or other similar group of which the contractor is a member and participant, may be asserted as fulfilling any one or more of its obligations under 7.a. through p. of these specifications provided that the contractor actively participates in the group, makes every effort to assure that the group has a positive impact on the employment of minorities and women in the industry, ensures that the concrete benefits of the program are reflected in the contractor's minority and female work force participation, makes a good faith effort to meet its individual goals and timetables, and can provide access to document that demonstrates the effectiveness of actions taken on behalf of the contractor. The obligations shall not be a defense for the contractor's noncompliance.

9. A single goal for minorities and a separate single goal for women must be established. The contractor, however, is required to provide equal employment opportunity and to take affirmative action for all minority groups, both male and female, and all women, both minority and nonminority. Consequently, the contractor may be in violation of the Executive Order if a particular group is employed in a substantially disparate manner (for example, even though the contractor has achieved its goal for women generally, the contractor may be in violation of the Executive Order if a specific minority group of women is underutilized).

10. The contractor shall not use the goals and timetables or affirmative action standards to discriminate against any person because of race, color, religion, sex, or national origin.

11. The contractor shall not enter into any subcontract with any person or firm debarred from Government contracts pursuant to Executive Order 11246.

12. The contractor shall carry out such sanctions and penalties for violation of these specifications and of the Equal Opportunity Clause, including suspension, termination, and cancellation of existing subcontracts as may be imposed or ordered pursuant to Executive Order 11246, as amended, and its implementing regulations, by the Officer of Federal Contract Compliance Programs. Any contractor who fails to carry out such sanctions and penalties shall be in violation of these specification and Executive Order 11246, as amended.

13. The contractor, in fulfilling its obligations under these specifications, shall implement specific affirmative action steps, at least as extensive as those standards prescribed in paragraph 7. If the contractor fails to comply with the requirements of the Executive Order, the implementing regulations or these specifications, the Director shall proceed in accordance with 41 CFR 60-4.8.

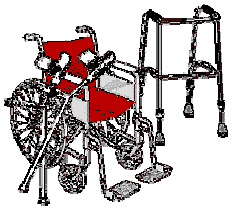
14. The contractor shall designate a responsible official to monitor all employment-related activity to ensure that the company EEO policy is being carried out, to submit reports relating to the provisions hereof as may be required by the Government, and to keep records. Records shall at least include for each employee the name, address, telephone numbers, construction trade, union affiliation, if any, employee identification number when assigned, social security number, race, sex, status (e.g., mechanic, apprentice trainee, helper or laborer), dates of changes in status, hours worked per week in the indicated trade, rate of pay, and locations at which the work was performed. Records shall be maintained in an easily understandable and retrievable form; however, to the degree that existing records satisfy this requirement, contractors shall not be required to maintain separate records.

15. Nothing herein provided shall be construed as a limitation upon the application of other laws that establish different standards of compliance or upon the application of requirements for the hiring of local or other area residents (e.g., those under the Public Works Employment Act of 1977 and the Community Development Block Grant Program).

Wisconsin
Department of Commerce

# ATTACHMENT 5-F: HANDICAP ACCESSIBILITY SELF-EVALUATION CHECKLIST

## Section 504 of the Rehabilitation Act of 1973



Date: _____
Contract No.: _____
City/Village/Town: _____
County: _____

Project Name: _____

Project Location: _____

Chief Elected Official: _____

Project Administrator: _____

Please check either yes, no, or not applicable (N/A) to each question. If the answer is no, please explain in the corrective action/comment(s) section following each element. It is important to know exact measures/conditions of inaccessible elements and if there are any plans to correct such elements. Use additional pages as needed.

| | Section 504 | Yes | No | N/A | Corrective Action/ Comments |
|---|---|---|---|---|---|
| 1 | Has the community completed a written Section 504 self-evaluation? | | | | |
| 2 | Did the community solicit input from persons with disabilities or organizations that represent persons with disabilities? | | | | |
| 3 | Are reasonable accommodations made upon request by person(s) with disabilities? | | | | |
| 4 | Are reasonable modifications made upon request by person(s) with disabilities? | | | | |
| 5 | Does the community have written grievance procedures? | | | | |

| | Accessible Route Questions | Yes | No | N/A | Corrective Action/ Comments |
|---|---|---|---|---|---|
| 1 | Is there at least one accessible route connects all parts of the facility? | | | | |
| 2 | Is there a minimum of 36” clear width (path) except at doors? | | | | |
| 3 | Is there a least a 60” x 60” passing space every 200’? | | | | |
| 4 | Is the surface non-slip, firm and stable? | | | | |
| 5 | Slope does not exceed 1:20 degrees? | | | | |
| 6 | Are routes not interrupted by ½” degrees or more changes in level or steps? | | | | |
| 7 | Are grates set in the direction of the route no more than ½” wide? | | | | |
| 8 | Route is clear of any benches, water fountains, etc. with leading edges at or below 27” that reduce the width of route space less than 36”? | | | | |
| 9 | At least one accessible route from transportation stops, parking, street and/or sidewalks? | | | | |
| 10 | Curb ramps: (a) located whenever accessible route crosses a curb and where cars do not park? | | | | |
| | (b) Slope does not exceed 1:12 degrees? | | | | |
| | (c) At least 36” wide, excluding flared sides? | | | | |
| | (d) Surface, firm, stable and non-slip? | | | | |
| | (e) If no hand/guard rails, flared sides with slop of flare no more than 1:10 degrees? | | | | |
| | (f) If at intersection, located within and to one side of marked crossings? | | | | |
| | (g) Flush, smooth transition with street level? | | | | |
| | **Accessible Entrances and Interior Doors Questions** | **Yes** | **No** | **N/A** | **Corrective Action/Comments** |
| 1 | At lease one principle entrance is located on an accessible route? | | | | |
| 2 | Accessible doors are standard single or double-leaf hinged doors, not revolving doors/turnstiles? | | | | |

| | Accessible Entrances and Interior Doors Questions Continued | Yes | No | N/A | Corrective Action/Comments |
|---|---|---|---|---|---|
| 3 | If the door width when open 90 degrees, is the clear opening at least 32” measured between the face of the door and the door stop on the latch side (if double doors are used, one must comply)? | | | | |
| 4 | Is the door hardware no higher than 48” and push/pull type or lever operated? | | | | |
| 5 | Is the maximum opening force 8.5 lbs. on exterior hinged doors: 5 lbs. on interior hinged/sliding/folding doors? | | | | |
| 6 | Are all thresholds no higher than ½” with beveled edge, and a slope no greater than 1:2? | | | | |
| 7 | Is there a maximum of 48” between sets of open doors? | | | | |
| 8 | If exterior sliding door: thresholds or bottom track maximum height ¾ “: hardware exposed and usable on both sides? | | | | |
| 9 | Sweep period of door closing is 3 seconds or more? | | | | |
| | **Accessible Parking Questions** | **Yes** | **No** | **N/A** | **Corrective Action/Comments** |
| 1 | Are reserved space(s) located closest to accessible entrance, on accessible route? | | | | |
| 2 | Is the space(s) at least 96” wide? | | | | |
| 3 | Access aisle next to space at least 60” wide? | | | | |
| 4 | Slope of space/access aisle no more than 1:50? | | | | |
| 5 | Accessibility symbol on space: mounted at a height not obscured by a vehicle? | | | | |
| 6 | Surface: non-slip, firm and stable? | | | | |

| | Accessible Ramp Questions | Yes | No | N/A | Corrective Action/Comments |
|---|---|---|---|---|---|
| 1 | Slope is least possible and no more than 1:12? | | | | |
| 2 | Cross slope (perpendicular to direction of travel): no more than 1:50? | | | | |
| 3 | Surface: non-slip, firm and stable? | | | | |
| 4 | Walls, railings, or curbs at least 2” high to prevent slipping off ramp? | | | | |
| 5 | Level landing is as wide as ramp and at least 60” long at top and bottom of ramp and each turn of ramp? | | | | |
| 6 | Ramp is at least 36” wide and rises no more than 30”? | | | | |
| 7 | Handrails: (a) provided on both sides? | | | | |
| | (b) diameter of gripping surface 1 ¼” to 1 ½”? | | | | |
| | (c) if on/next to wall, wall and handrail are 1 ½” and wall surfaces smooth? | | | | |
| | (d) If ramp rise is more than 6” and length is more than 72”, are there handrails between 30-34” high and which extend 1’ beyond top and bottom of ramp? | | | | |
| | (e) ends and edges rounded smoothly? | | | | |
| | (f) solidly anchored and with fittings that do not rotate? | | | | |
| | (g) parallel with slope of ground surface? | | | | |
| | **Accessible Restroom Questions** | **Yes** | **No** | **N/A** | **Corrective Action/Comments** |
| 1 | If there are restrooms, at least one is provided on an accessible route? | | | | |
| 2 | Entrance door has at least 32” clear opening; lever handle or push/pull type hardware; identified by accessibility symbol? | | | | |
| 3 | Unobstructed space to allow for wheelchair? | | | | |
| 4 | Toilet stall doors at least 32” wide? | | | | |

| | Accessible Restroom Questions Continued | Yes | No | N/A | Corrective Action/Comments |
|---|---|---|---|---|---|
| 5 | In stalls, 59” x 60” floor space for floor-mounted toilet or 56” x 60” for wall hung toilet? | | | | |
| 6 | In stalls, front partition and at least one side partition provide toe clearance of at least 9” above the floor (if depth of the stall is greater than 60”, then more toe clearance is needed)? | | | | |
| 7 | Grab bars are 33-36” high; located on back and side of stall; 1 ¼” to 1 ½” diameter; 1 ½” from wall; support 250 lbs.? | | | | |
| 8 | Toilet is 17”–19” high and located maximum 18” from center of toilet to closet wall? | | | | |
| 9 | Toilet paper dispenser at least 19” above floor? | | | | |
| 10 | Sinks: height maximum 34”; drain and hot water pipers insulated; minimum 29” clearance below apron of sink; clear floor space 30” x 48” in front of sink? | | | | |
| 11 | Faucets: controls mounted no more than 44” above ground; hand-operated or automatic but do not require tight gripping, pinching or twisting of wrist? | | | | |
| 12 | Where there are mirrors, at least 40” above floor? | | | | |
| 13 | Towel dispenser and disposal unit, operable part at least 40” above floor? | | | | |

Recipients of Federal funds under the **Community Development Block Grant (CDBG**) Program must comply with Section 504 of the Rehabilitation Act of 1973, the Americans with Disabilities Act (ADA) and its implementing regulations (28 CFR Parts 35, 36), and the Architectural Barriers Act (ABA) and its implementing regulation (24 CFR Parts 40, 41) in connection with recipients’ non-housing programs.

**Available Web Site Resources:**

- http://www.access-board.gov/ufas/ufas-html/ufas.htm (Uniform Federal Accessible Standards) for compliance with Section 504 of the Rehabilitation Act of 1973 and the Architectural Barriers Act of 1968.
- http://www.commerce.state.wi.us/SB/SB-DivCodesListing2002.html (Code 69 and Appendix B) for compliance with the State of Wisconsin Handicap Accessibility Guidelines.
- http://www.usdoj.gov/crt/ada/publicat.htm Americans with Disabilities Act of 1990 Title II and Title III.

For questions, please contact: Dawn M. Zanto, Wisconsin Department of Commerce, 201 West Washington Avenue, P.O. Box, 7970, Madison, WI 53707, Phone (608) 266-8525, Fax (608) 266-8969, e-mail dzanto@commerce.state.wi.us.

# CHAPTER 6: LABOR STANDARDS

LABOR STANDARDS SPECIALIST: DARLENE MOSS PHONE: (608) 266-7998
FAX: (608) 266-8969 E-MAIL: dmoss@commmerce.state.wi.us

## I. INTRODUCTION

Federal law standards (also know as "Davis-Bacon") probably apply to your project. Commerce will make this determination when your project representative is drafting the contract. If federal labor standards apply, then federal wage rates will have to be paid to employees.

Any project $180,000 or greater, prevailing wages apply. When including wages, both federal (Davis-Bacon) and State (Prevailing Wages), you would pay the higher wage rate for that job classification.

**Note:** All labor standards documents may be faxed to the department.

## II. RELEVANT LAWS

A. The Davis-Bacon Act. This act requires that workers receive no less than the prevailing wages being paid for similar work in their locality. Prevailing wages are computed by the U.S. Department of Labor (USDOL) and are issued in the form of Federal wage decisions for each classification of work to be performed in the area.

Violation of the Davis-Bacon Act makes the contractor liable for unpaid wages and may result in suspension of payments, contract termination, and suspension or debarment of the contractor from participation in federally funded projects.

B. The Copeland "Anti-Kickback" Act. This Act requires that workers be paid at least once a week, and without any deductions or rebates except permissible deductions. Permissible deductions include taxes, deductions the worker authorizes in writing, and those required by court processes. The act also requires contractors to submit weekly payroll records and Statements of Compliance to the contracting agency. Regulations, Part 3, requires contractors and subcontractors on Davis-Bacon covered construction project to submit each week a "statement of compliance" certifying compliance with the Davis-Bacon requirements. This "statement of compliance" is usually referred to as the certified payroll. This Act applies to all contracts covered by Davis-Bacon.

Violation of the Copeland Act is a felony and may result in termination of the contract or criminal prosecution by the U.S. Government, punishable by a fine of $5,000, five years in prison, or both.

C. The Contract Work Hours and Safety Standards Act (CWHSSA). This Act requires that workers receive "overtime" pay at a rate of one and one-half times their regular hourly pay after they have worked 40 hours in one week on the federally funded project. The CWHSSA does not apply to contracts of $100,000 or less; however, the Fair Labor Standards Act will apply and overtime provisions are applicable to all contracts covered by Davis-Bacon.

Violation of the CWHSSA makes the contractor liable for unpaid wages, liquidated damages of $10 per employee per day of violation, and, in cases of intentional violation, a fine of $1,000 and/or six months imprisonment for each offense. Violations may also result in termination of the contract.

## III. APPLICABILITY

See *Attachment 6-A: Davis-Bacon Coverage Chart* and *Attachment 6-B: Davis-Bacon and Related Acts (DBRA) Interpretations and Applications.*

A. Labor standards apply to all contracts for construction, alteration, or repair of a public building or public work, except as noted below.

B. Labor standards apply to all building or construction financed in whole or in part from federal funds or in accordance with guarantees of a federal agency, except as noted below.

C. Exceptions

1. Public works constructed by your own employees, commonly called "force account" work. NOTE: There is not such thing as **private** "force account" work. A letter stating such should be submitted to the Commerce Labor Standards Specialist.

2. Residential rehabilitation in structures with fewer than eight units.

3. Contract(s) that are part of a project of less than $2,000 value.

4. Construction activities assisted solely by means of loans guaranteed with interest-bearing collateral accounts, where 1) the interest rate is standard and customary rate on demand accounts; 2) the account is subject to standard and customary terms and conditions for collateral accounts; and 3) there is no "substantial likelihood" that the guarantee will be used.

5. Economic development projects where federal funds are used only for nonconstruction activities such as acquisition; machinery and equipment purchase (not including installation); stock (equity) purchase; and operating capital loans where such funds cannot be used for construction.

## IV. KEY REGULATIONS AND REQUIREMENTS

A. Labor Standards Officer

REQUIREMENT: The grantee must name a Labor Standards Officer prior to, or at the time of requesting a wage decision. The Block Grant Administrator must act as Labor Standards Officer unless a different person is appointed.

PROCEDURE: Appoint a labor standards officer to administer all matters relating to labor standards. Complete *Attachment 6-C: Labor Standards Officer Designee* and send a copy to the Commerce Labor Standards Specialist.

B. Securing Wage Decision

REQUIREMENT: The Labor Standards Officer must secure the prevailing Davis-Bacon wage decision(s) for use in the project(s).

PROCEDURE: **Prior to advertising for bids**, submit a *Request for Wage Decision and Response to Request, Form 308 (Attachment 6-D)* to Commerce's Labor Standards Specialist. Be sure to **complete number 15 of Form 308 (Attachment 6-D) in its entirety. Specify Budget Line Items, Phases of the Project, and Percent of Total Construction Cost,** which includes grant plus match in construction line items only.

OPTIONAL: If you have conducted a survey of wages paid for similar work in your community, this can be submitted as well, using *Contractor's Report of Construction Wage Rates, Form WD10 (Attachment 6-E).* Contract Commerce's Labor Standards Specialist for information on how to conduct and submit a survey.

**Ten days before the bid opening date**, contact Commerce's Labor Standards Specialist to make sure that the wage decision(s) is/are still in effect. If it has been replace or modified, you will need to notify the prospective bidders of the changes so that they can modify their bids, (See *Attachment 6-F: Ten Day Wage Decision Status Check*). **If you fail to do this, the wrong wage decision(s) might be used and your community will ultimately be liable for any difference in the cost.**

C. Additional Classifications

Additional classifications will be needed any time there is a category of worker on the job who doesn't fit any of the classifications listed in the wage decision. When requesting approval of additional classifications, send a letter requesting additional classification(s) to Commerce's Labor Standards Specialist (see *Attachment 6-G: Request For Additional Classification*) including the name of the classification and the wages and fringe benefits currently being paid. Attach a copy of the wage determination to expedite the process. This information will be forwarded to the USDOL for review and response. **USDOL will not review or respond to any additional classification requests prior to awarding the contract(s).**

D. The Bidding Process

REQUIREMENT: You must include the wage decision(s), related provisions, equal opportunity language, and contractor clearance language in your bid documents.

PROCEDURE: In advertising for bidders, include a notice that Davis-Bacon wage rates apply to the project (see *Attachment 6-H: Advertisement For Bids*). The following must be included in the bid document package.

For all bid packages:

- Davis-Bacon wage decisions (see *Attachment 6-D for request instructions and form*). Inclusion by reference only is **NOT** acceptable.
- Federal Labor Standards Provisions (HUD-4010) (see *Attachment 6-I*). Inclusion by reference only is **NOT** acceptable.

**For all projects estimated to exceed $100,000:**

- *Attachment 5-A: Equal Opportunity Clause For Grantee Procurement Construction Contracts Above $10,000 (EO 11246)* in **Chapter 5: Equal Employment Opportunity, Fair Housing and Procurement.**

**For CDBG-PF grants exceeding $200,000 and all construction contracts estimated to exceed $100,000:**

- *Attachment 5-B: Section 3 Contract Language Requirement* in **Chapter 5: Equal Employment Opportunity, Fair Housing and Procurement.**

**Ten days before the bid opening date**, contact Commerce's Labor Standards Specialist to make sure the wage decision(s) is/are still in effect. If it has been replaced or modified, notify the prospective bidders of the changes so they can modify their bids. Complete *Attachment 6-F: Ten Day Wage Decision Status Check* and place it in your labor standard file. **If you fail to do this, the wrong wage decision(s) might be used and your community will ultimately be liable for any difference in the cost.**

If you (the grantee) open a bid and wait more than 90 days to award the construction contract, check with Commerce's Labor Standards Specialist to see if the wage decision(s) have been modified or superseded. If it has, you must use the modified wage decision(s) in your construction project.

Keep a copy of the bid advertisement and the bid documents package in the labor standards file.

E. Contractor Clearance

REQUIREMENT: Contractors must verify that the successful bidders and all subcontractors are eligible to work on federally funded contracts.

**PROCEDURE: Because of past practices, certain contractors may have been debarred. Suspended or otherwise made ineligible to work on federal contracts.**

**Included as part of your contract, the wage decision number and the Federal Labor Standards Provisions (HUD 4010) which contains the contractor clearance language. When a contractor enters into federally assisted contracts, they certify their eligibility and that they will not employ ineligible subcontractors to perform the work.**

**Correction of any infractions of the aforesaid conditions, including infractions by any of the contractor's subs is the contractor's responsibility.**

**Option 1: For those communities with internet access, here are instructions to conduct the search on your own.**

- **Address:** http://epls.arnet.gov**, press "Enter".**
- **Enter name and choose** "Continue**".**
- Read text **and choose** "Accept**".**
- **In the "EPLS Main Menu", choose** "EPLS Search menu"**.**
- **In the "EPLS Search Menu", Choose** "Search by state/country Menu**".**
- **In the "State/Country Search",** enter the code **for the state where the contractor is located, i.e.,** "WI" **for Wisconsin, and press** "Enter**".**
- **When the "Search Results" screen appears, it will let you know how many records were returned.**
- **Choose** "Download query results" **for debarred list, right-click.**
- **Choose "Save Target As", [save to H:], change ending to "doc". (Possible additional step: Choose "Convert".)**
- **The list will appear in alphabetical order. Scroll down to see if your contractors appear on the list.**

**NOTE: The list is continually updated. Do not print it or save it to disk.**

**Option 2: For those communities that are unable to view the debarred list, forward or call with a list of potential contractors to Commerce's Labor Standards Specialist to verify contractor eligibility.**

**F. The Contracting Process**

REQUIREMENT: You must include the wage decision(s), related provisions, equal opportunity language, and contractor clearance language in all contracts.

For all contracts:

- **Davis-Bacon wage rates (see *Attachment 6-D for request instructions and form*). Inclusion by reference only is NOT acceptable.**

- **Federal Labor Standards Provisions (HUD-4010) (see *Attachment 6-I*). Inclusion by reference only is NOT acceptable.**
- ***Attachment 2-A: Lobbying Certification For Contracts, Grants, Loans & Cooperative Agreements***

For contracts exceeding $10,000:

- ***Attachment 5-A: Equal Opportunity Clause For Grantee Procurement of Construction Contracts Above $10,000 (EO 11246)* in** Chapter 5: Equal Employment Opportunity, Fair Housing and Procurement.

For CDBG-PF grants exceeding $200,000 and all construction contracts exceeding $100,000:

- ***Attachment 5-B: Section 3 Contract Language Requirement* in** Chapter 5: Equal Employment Opportunity, Fair Housing and Procurement.

Provide the following to all prime contractors **to include in subcontractors bid documents and contracts exceeding $10,000:**

- ***Attachment 5-C: Affirmative Action Requirement for All Federally Assisted Construction Contracts (EO 11246)* in** Chapter 5: Equal Employment Opportunity, Fair Housing and Procurement.
- ***Attachment 5-D: Goals for Women and Minority Utilization in Construction* in** Chapter 5: Equal Employment Opportunity, Fair Housing and Procurement.
- ***Attachment 5-E: Federal Equal Opportunity Construction Contract Specification (EO 11246)* in** Chapter 5: Equal Employment Opportunity, Fair Housing and Procurement.

**ALL SUBCONTRACTS MUST BE IN WRITING and must contain all items listed above. Many communities simply write the contractor's name, bid price, and so forth into the black spaces in a copy of the bid package. Inclusion of the wage decision and regulations by reference is NOT acceptable.**

**A copy of the contract must be kept in the labor standards files.**

Note: If you fail to get a wage decision, or use the wrong one: **Workers on federally-funded projects must receive the federally-determined wages. If you fail to include the correct wage decision and regulations in the contract, you must get the correct wage decision(s) and advise the contractors they must pay those wage rates retroactive to the beginning of the project.** Your community must reimburse the contractor for the added cost resulting from the payment of the federally determined wages.

When the contract is awarded, notify Commerce of the name and address of the prime contractor(s) and all subcontractors **(see *Attachment 6-J: Notice of Contractor Award*).**

## G. Preconstruction Conference

**You are strongly encouraged to hold a preconstruction conference to ensure that all contractors understand the applicable wage decision(s) and requirements. Grantees working with contractors already familiar with Davis-Bacon requirements and have a clear record of complaints, do not have to hold a preconstruction conference. If the contractor has worked on Davis-Bacon related projects and you are confident that she/he understands the Federal Labor Standards Provisions (HUD-4010), you can abbreviate the discussion of Davis-Bacon and Related Acts.**

**PROCEDURE:**

1. **Hold a preconstruction conference with the prime contractor and all subcontractors. The conference should cover the items listed in *Attachment 6-K: Preconstruction Conference – Items To Be Discussed.* Also provide contractors with a copy of *Attachment 6-L: Preconstruction Checklist for Contractors.***

2. **Keep a record of the preconstruction conference proceedings and place a copy in the labor standards files (see *Attachment 6-M: Preconstruction Report Format*).**

## H. Compliance Monitoring

REQUIREMENT: The grantee's Labor Standards Officer must monitor the performance of the contractors in complying with the wage rates and other requirements.

**PROCEDURE:**

1. Make sure that each contractor and subcontractor submits, on a weekly basis, payroll records and statements of compliance **as required by the law, and that these documents contain all the required information (see *Attachment 6-N and 6-O for the forms and instructions*). Payrolls must be numbered sequentially from** first to final **and must be submitted within several days after the end of the pay period. Identify the first and final payrolls by the words "First" and "Final." All payrolls must be signed by a principal of the firm or by an authorized agent. No payroll need be submitted for weeks when no work was done, but the entire period between start and completion of construction must be accounted for by** either **a payroll or a** "no work" letter**.**

2. Review the payrolls weekly **to make sure that at least the minimum** wages and fringe benefits **as specified in the wage decision are paid to each employee and that any overtime worked is paid at the overtime rate. Fringe benefits include health insurance, retirement, life insurance, vacation, and some contributions to training funds. Fringe benefits** do not include **employer payments or contributions required by other Federal, State, or local laws, such as the employer's contribution to Social Security or some disability insurance payments.**

3. Review the payrolls weekly **to make sure that no** deductions **are made from any employee's pay other than those permitted by DOL Regulations 29 CFR Part 3. These regulations prohibit the employer from requiring employees to "kick-back" any of their earnings. Allowable deductions include employee obligations for income taxes, Social Security payments, insurance premiums, retirement, savings account,** and any other legally-permissible deduction authorized by the employee in writing**. Deductions may also be made for payments on judgments and other financial obligations legally imposed against the employee.**

4. Review the payrolls weekly **to make sure that** employee classifications **conform to the wage decision and rates. If no applicable classification is listed in the wage decision for an employee, submit *Attachment 6-G: Request For Additional Classification And Wage* to Commerce's Labor Standards Specialist.**

5. **Apprentices and trainees may be paid less than the full journeyman rate only if they are registered in bona fide programs approved by and registered with the Employment and Training Administration of the USDOL.** Make sure all necessary apprenticeship indentured papers and training certifications have been filed **for employees on the job, and that the documents are valid. Make sure the ratio of**

**apprentices to journeyman on the job site does not exceed the ratio specified in the program, and that the apprentice is receiving the pay specified for his/her level of progress as an apprentice (usually expressed as a percentage of the journeyman rate for the craft). Apprentices and trainees must receive the full level of fringe benefits unless the apprenticeship or training agreement specifies a lesser amount of benefits. Job Corps trainees are entitled to full wages for the work they perform. The USDOL does not recognize Job Corps as an in-depth training program.**

**A** "probationary apprentice" **can be paid as an apprentice if the Bureau of Apprenticeship and Training (BAT) or a BAT – recognized State Apprenticeship Agency (SAC) has certified that the person is eligible for probationary employment as an apprentice. A** "pre-apprentice," **that is, someone who is not registered in a program and who hasn't been BAT-or SAC-certified for probationary apprenticeship, is** not **considered to be an "apprentice" and must be paid the full journeyman's rate on the wage decision for the classification of work they perform.** Obtain a copy of the apprenticeship-indentured papers from the approved program for your grant files.

**The Davis-Bacon statutes specify that if a contractor violates** any **of the provisions, then the person considered to be an apprentice** must **receive the full amount of the applicable prevailing wage rate for the classification of work performed.**

6. Interview workers on the job **(use *Attachment 6-P: Employee Interview)* to determine if the wages paid and/or the classification reported by the contractor are correct and correspond to the payrolls submitted. Employees should be encouraged to produce pay stubs or pay envelopes that document the wages received. Do this in such a way as not to interfere with the conduct of the work and so as to provide reasonable privacy.** At least one interview for each classification of worker on the job is required for each contractor and contact. **More than one is desirable as assurance that the requirements continue to be met. For persons classified as apprentices or trainees, get a detailed statement of duties and tools used. Compare the interview data with the corresponding payrolls to identify any discrepancies.**

7. Check the work site **to make sure that the required wage rates and other required posters are posted in a clearly visible location.**

8. **Keep the site investigation report, payroll sheets, certifications, and employee interviews in the labor standards file.**

## I. Compliance Enforcement

REQUIREMENT: You must take the necessary steps to enforce the requirements when a contractor or subcontractor has not paid the minimum Davis-Bacon wage and benefits or has violated other requirements.

**PROCEDURE: Violations of Labor Standards requirements may be found as a result of worker complaints or through routine monitoring of payroll reports and employee interviews. When violations are found, the grantee must follow the procedures set up by the USDOL, below:**

1. **Where the total underpayment is $1,000 or less and where there is not reason to believe that the violation is/was deliberate:**

a. Make sure that the unpaid wages are paid. **The employer will be required to report the restitution paid on a correction certified payroll. The correction payroll will reflect the period of time for which restitution is due (for example, Payroll #1 through #6; or a beginning date and ending date). The correction payroll will list each employee to whom restitution is due and their work classification; the total number of work hours involved (daily hours are usually not applicable for restitution); the adjustment wage rate (the difference between the required wage rate and wage rate paid); the gross amount of restitution due; deductions; and the net amount to be paid. Have the affected employee(s) sign the correction payroll and submit copy(s) of the cancelled check(s). A signed Statement of Compliance also must be attached to the correction Certified Payroll.**

b. If the violation involved the overtime provisions **of the Contract Work Hours and Safety Standards Act, notify the** Commerce's Labor Standards Specialist **and the contractor of the estimated penalty to be assessed ($10 per employee per day that overtime is earned but not paid). Submit the copies of payrolls with the violations and a summary of your investigation to Commerce's Labor Standards Specialist. He/she will forward them to HUD, which will calculate the exact penalty to be assessed and collect if from the contractor. Be sure to** withhold the estimated penalty amount from the contractor **until HUD has been paid or the contractor has received an answer to any appeal.**

2. **Where the underpayment is $1,000 or more or where there is reason to believe that the violations are deliberate,** investigate as thoroughly as possible, and file *Attachment 6-Q: Section 5.7 Enforcement Report* with Commerce's Labor Standards Specialist. **The report will be forwarded to HUD and the USDOL for the necessary follow-up action.**

3. **Documentation of such violations is extremely important. Please carry out all enforcement actions in writing and have the following information in the file:**

   a. **A description of the violation.**

   b. **The sources of information about the violation. Complaints and other statements from employees should be in writing, and signed.**

   c. **The computation of the back wages due each employee.**

   d. **The computation of the liquidated damages, if any.**

   e. **Actions taken by the contractor to correct the violation, if any.**

   f. **Copies of supplemental payrolls and/or canceled checks, if any.**

4. **Submit a *Semiannual Labor Standards Enforcement Report* (see *Attachment 8-C, Chapter 8: Semi-Annual Report*)**

   **The USDOL requires Federal agencies administering programs subject to Davis-Bacon and Related Act and CWHSSA labor standards to furnish a Semiannual Labor Standards Enforcement Report. All Semiannual Labor Standards Enforcement Report are** due to Commerce on or before April 7 and October 7 for each contract year **(see *Chapter 8*). It is very important that Commerce receive these reports in a timely fashion so that we can forward them to the USDOL on or before April 15 and October 15 for each year.**

5. **If applicable, submit a *Section 5.7 Enforcement Report* (see *Attachment 6-Q*).**

   **The USDOL requires Federal agencies to submit a Section 5.7 Enforcement Report on all enforcement actions where underpayments by a contractor or subcontractor total $1,000 or more, *or* where there is reason to believe that the violations are aggravated or willful. In cases where a 5.7 Enforcement Report is completed, it must be submitted to Commerce no later than 30 days after the completion of the investigation. (Note that the $1,000 threshold refers to the underpayments of a single employer to his/her *entire* workforce and not to individual employees.)**

6. **When a construction contract is completed** for each prime and sub-contractor, **submit a *Final Labor Standards Compliance Report* to the Commerce's Labor Standards Specialist detailing the underpayments collected (see *Attachment 6-R*).**

All applicable labor standards reports must be received in Commerce before the final draw request can be processed.

## ATTACHMENT 6-A: DAVIS-BACON COVERAGE CHART
## CDBG FINANCED ACTIVITIES

| Financed Activity | Activity Covered? | Related Private Construction Covered? |
|---|---|---|
| Land Acquisition | N/A | No |
| Demolition (no construction on-site contemplated) | No | N/A |
| Demolition (to be followed by on-site construction) | Yes | No, if the demolition was done under a separate contract by grantee (state, county, city, etc.) or its contractor before transfer of the land to the developer.<br>Yes, if the demolition contracted for by same entity (developer, contractor, etc.) is doing private construction and will be carried out while the contracting entity controls the site. |
| Off-site improvements (street work, storm sewers, utility construction, etc.) | Yes | No, if off-site improvements are separately owned and the off-site work and on-site construction is provided for in separate construction contracts. |
| On-site improvements (excavation/grading, storm drainage, utility or sewer work, paving/walks/striping, site lighting, landscaping, etc.) | Yes | No, if on-site improvements are done under a separate contract by the grantee (state, county, city, etc.), or its contractor before transfer of land to developer.<br>Yes, if improvements are designed and intended to serve building on the site; will be contracted for by same entity having building constructed; and will be carried out while contracting entity controls the site. |
| Cleaning During Construction | Yes | Yes |
| Cleaning After Construction to Prepare for Occupancy | No | No, if performed under a separate contract. |
| Material Purchase (manufacturing) | N/A | No, no construction involved. |
| Material Purchase (building) | N/A | Yes, unless materials have an independent use. |
| Equipment, Machinery, and Fixtures Purchase (as opposed to installation) | N/A | No, if purchased under a separate contract |
| Equipment, Machinery, and Fixtures Installation (as opposed to, or in addition to, purchase) | Yes, if more than incidental amount of construction work involved.* | Yes, if more than an incidental amount of construction work involved in the installation. * |
| Legal/Accounting Fees | N/A | No, if obtained under a separate contract. |
| Architectural and Engineering Fees | N/A | No, if obtained under a separate contract. |
| Construction Management | N/A | No, if obtained under a separate contract. |
| Tenant Allowances for Nonconstruction Expenses (furniture, business licenses, etc.) | N/A | No, if obtained under a separate contract. |

* Construction work involved in installation is incidental if the cost is 13 percent or less of the total cost of the CDBG-financed equipment; if it is more, a four-part test applies.

## ATTACHMENT 6-B: DAVIS-BACON AND RELATED ACTS (DBRA) INTERPRETATIONS AND APPLICATIONS

A. Force Account Under most Davis-Bacon statutes, only employees of contractors or subcontractors are subject to Davis-Bacon wage requirements. In some instances, rather than contracting or subcontracting out construction work, a grant recipient performs the construction in-house, with its own "force account" employees. Such force account work is not subject to Davis-Bacon wage requirements under statutes that cover only employees of contractors and subcontractors. Furthermore, the USDOL does not consider a state or local government to be a contractor, even if it enters into a contract to perform construction work (see 29 CFR Section 5.2(h)). However, under the Housing and Community Development Act of 1974, a private firm that receives federal assistance funds indirectly from a recipient pursuant to a written procurement contract of subgrant agreement that provides for the performance of construction work is considered a contractor or subcontractor, and the force account exception **does not** apply to construction activity performed by employees of such a firm.

Laborers and mechanics employed by a local or state agency PHA (Public Housing Authority only), even though not employed by a contractor, are subject to Davis-Bacon when performing development work financed by the U.S. Housing Act of 1937, as amended. Davis-Bacon prevailing wage requirements are not applicable where such employees are used in work defined as major repairs (deferred maintenance) pursuant to 24 CFR Part 868.3 and Part 868.9(h), which constitute project operation rather than development.

B. Compliance and Certification Parameters, HUD policy clearly affords prevailing wage protection for all laborers and mechanics, regardless of contractual relationship. There is no exception to this protection for self-employed laborers or mechanics, including owners of businesses, sole proprietors, partners, corporate officers, or others. Laborers and mechanics may not certify to the payment of their **own** prevailing wages **except** where the laborer or mechanic is the owner of a business working on the site of the work with his/her own crew.

Accordingly, HUD and program participants responsible for labor standards administration and enforcement **may not** accept certified payrolls reporting single or multiple owners (e.g., partners) certifying that they have paid to themselves the prevailing wage for their craft. A sole proprietor may not submit a payroll reporting himself or herself as simply "Owner" signing the certification as to his/her own wage payment from "draws" or other payment methods. Nor may several mechanics submit a payroll reporting themselves as "partners" with one or more certifying as to the payment of their wages or salaries. Such mechanics must instead be carried on the certified payroll of the contractor or subcontractor for whom they are working and with whom they have executed a "contract" for services.

In these cases, maintenance of an accurate accounting of weekly work hours including any overtime hours for such mechanics is essential. Whatever method of compensation computation is utilized (piecework, weekly contract draw performance), the amount of weekly compensation divided by the actual hours of work performed for that week must result in an "effective" hourly wage rate for that week that is not less than the prevailing hourly rate for the type of work involved. This computation must take into account overtime pay rates (i.e., one and one-half) for all hours worked in excess of 40 hours per week, pursuant to the CWHSSA, where applicable, and pursuant to the Fair Labor Standards Act where CWHSSA is not applicable.

The name, work classification, actual hours of work, effective hourly wage rate, and wage payment for each such mechanic and laborer must be reported and certified on the responsible employer's weekly payroll. Note that the effective hourly wage rate for such mechanics and laborers may fluctuate from week to week. However, the effective hourly wage rate may not be less than the minimum prevailing wage rate for the respective craft. In any case, where the effective rate falls below the corresponding craft prevailing wage rate, the responsible employer must compensate the mechanic at no less than the prevailing wage rate on the wage determination for the craft.

C. Business Owners Working With Their Crew Owners of businesses working with their crew on the same HUD-assisted job site **may** certify to the payment of their own prevailing wages in conjunction with the prevailing wages paid to their employees. This exception to compliance standards **does not** suggest that such owners are not likewise entitled to prevailing wages for their labor. Rather, it accepts the wage payment certification on weekly payroll reports by the owner of his/her own wages as that certification **accompanies** the certification offered for payment of prevailing wages to his/her employees. On weekly payroll reports, include the owner's name, identifying him/her as "owner," and the daily and total hours worked on the covered project for the week. Omit the Rate of Pay and Amount Earned.

D. Owner-operators of Power Equipment Frequently, owner-operators of power equipment (e.g., backhoes, front-end loaders) will contract for services at a rate for both "man and machine." In these cases, the owner-operator includes liability, equipment maintenance, and salary in an hourly or contract rate for services. Because of the prevalence of such practice and the inherent difficulty in ascribing costs for liability and maintenance costs verses hourly labor salary, HUD and its program clients may accept a combined ("man and machine") hourly rate on the responsible contractor's certified payroll provided that such hourly rate may not be less than the rate on the wage determination for the respective power equipment operator. **Note:** Owner-operators of power equipment, like self-employed mechanics, **may not** submit their own payrolls certifying to the payment of their own wage **but** must be carried on the responsible contractor's certified payroll report. Include the name, work classification, and actual hours worked. Upon completion of the contract, verify the pay by taking the amount paid to the subcontractor (documented with copies of all invoices identified for this job) and divide by the hours reported on the certified payrolls. Compare the actual hourly wage rate with the rate in the Wage Decision. If the actual hourly wage is less than the Davis-Bacon Wage Rate, collect and disburse the wage underpayments.

E. "Owner Operator" Truck Drivers A USDOL administration policy excludes bona fide owner-operators of trucks who are independent contractors from Davis-Bacon/CWHSSA provisions concerning their own hours of work and rate(s) of pay. These truck "owner-operators" can certify to their own weekly payrolls **but** the payrolls do not need to show the hours worked or rates allegedly paid - only the notation "Owner-operator." **Note** that any laborers or mechanics, including truck drivers, employed by the owner-operator/independent contractor are subject to Davis-Bacon/CWHSSA provisions in the usual manner.

This policy **does not** pertain to owner-operator of other equipment such as backhoes, bulldozers, cranes and scrapers (i.e., power equipment as noted in the paragraph titled "Owner-operators of Power Equipment, " above).

"Contractor's" Truck Drivers Based on the decision made in the Midway Excavating trial, (Building and Construction Trades Department, AFL-CIO vs. USDOL Wage Appeals Board "Midway") truck drivers employed by contractors are only covered by prevailing wage requirements when they are performing labor on the site of the work. (e.g. if you are building a highway and the truck driver is loading, unloading, spreading, or driving back and forth on the site, then the truck driver is covered). Hauling materials to or from the site, if not performed on the site, it not covered time. HUD has advised that they currently believe unloaded are likewise not covered.

F. Determining Proper Classification for Various Work Questions as to the proper classification of a laborer or mechanic for various types of work are resolved by making an area-practice determination. In determining the proper classification for work performed on a project, it is immaterial whether the contractor is union or nonunion.

On projects where the prevailing wage rate for classification is question within the applicable wage decision are based on negotiated rates, the prevailing practice concerning work performed in those classifications is that practice observed on projects built by contractors who are a signatory to the collective bargaining agreements. Therefore, unless there is a jurisdictional dispute between the crafts, the duties ascribed to any job classification will be the same as those outlined in the

appropriate collective bargaining agreements. If the collective bargaining agreements are silent on this issue, the local unions involved must be consulted.

Conversely, in areas where open shop (non-union) rates are determined to prevail for the classifications in question, those prevailing job practices followed on projects by open shop contractors in the same area become area practice.

G. Helpers **The classification of Helper in any trade will be very difficult to have approved by the USDOL.** If the contractor wants to pursue a helper classification through the USDOL, they should contact the Labor Standards Specialist at Commerce.

H. Relatives There are no exceptions made in the enforcement of Davis-Bacon on the basis of family relationship for relatives who are performing the work of laborers or mechanics. They **must be paid the prevailing wage rate for the classification of work performed and be included on the certified payrolls.**

I. Volunteers HUD allows for the waiver of Davis-Bacon wage rates for volunteers that are **not otherwise employed** at any time of the work for which the individual volunteers. Contact Commerce's Labor Standards Specialist for more details if your community plans on using volunteers on the construction site.

J. Job Corps Workers USDOL staff in Washington, DC have informed HUD staff that Job Corps workers are not exempt from Davis-Bacon wage when they are working on a job subject to the Davis-Bacon Act.

K. Employees of a Governmental Body The USDOL has taken the position that the prevailing wage requirements does not apply to employees of a state or political subdivision of a state, but shall apply to employees of a private contractor who is subcontractor of the state or political subdivision. This rule does not apply to the Public Housing Authority (PHA) employees under the U.S. Housing Act of 1937 (see paragraph A. in this section). **Employees of utilities are exempt providing they are only extending existing service to the property.**

L. Employees Performing Work in More than One Classification A person employed as a laborer or mechanic employed on a contract subject to Davis-Bacon and performing work in more than one classification may be paid not less than the predetermined rate for the actual hours spent in each classification, and provided that the time records are kept in accordance with the actual hours spend in each classification. Employees must sign the payroll showing work in more than one classification for the work week. **Work, which is normally performed as part of the mechanic's craft, is not separable.**

M. Laborers and Mechanics - Definition The terms "laborers" and "mechanics" are construed to include at least those workers whose duties are manual or physical in nature as distinguished from mental or managerial. Since the classifications of laborers and mechanics to whom specified wage rates are payable are identified in the Davis-Bacon wage rate, there is ordinarily no need to distinguish between laborers and mechanics. However, **mechanics are generally considered to include any worker who uses tools, or who is performing the work of a trade.**

N. Precutting of Parts and Prefabrication of Assemblies The precutting of parts and/or the prefabrication of assemblies are not covered unless conducted in connection with and at the site of the project, or in a temporary plant set up elsewhere solely to supply the needs of the project.

O. Supply and Installation Contracts The manufacturing or furnishing of materials, articles, supplies, or equipment is not subject to prevailing wages unless conducted in connection with and at the site of the project, or in a temporary plant set up elsewhere solely to meet the needs of the project.

P. Start of Construction "Start of Construction," as that term is used in connection with labor standards and prevailing wage requirements, means the beginning of initial site clearance and preparation, provided those activities are pursued diligently and are followed without appreciable delay by other construction activity.

Q. Site of Work The "site of work" is limited to the physical place or places where the construction called for in the contract will remain when work on it has been completed and to other adjacent or nearby property used by the contractor in such construction which can reasonably be said to be included in the "site" because of proximity. **Operations of a commercial or material supplier established in the proximity of but not on the active site of work prior to the opening of bids are not covered by the Act even if dedicated exclusively to the federal project for a time.**

R. Fringe Benefits – Funded Plans A contractor may credit contributions for "bona fide" fringe benefits regardless of whether the USDOL has found the particular benefits to be prevailing in the area. Such fringe benefits must be "bona fide." Ordinarily, bona fide benefits are those common to the construction industry and are paid directly to the employee in cash or into a fund, plan, or program on the employee's behalf. Contractors may take credit for contributions made under such conventional plans without requesting approval of the USDOL.

S. Fringe Benefits – Unfunded Plans Where fringe benefit plans are not of the conventional type, it will be necessary for the USDOL to determine if the benefits are "bona fide." **Contractors seeking approval of unfounded plans must obtain approval from the USDOL.** Contract the Commerce Labor Standards Specialist for more details.

T. Fringe Benefits – General

1. Contributions to funded plans must be made at least quarterly.

2. When the cash paid and the per-hour contribution for benefits do not equal the total rate set forth in the wage decision, the difference must be paid to the employee in cash.

3. Fringe benefits must be paid for straight time and overtime; however, fringe benefits are not included when computing the overtime rate.

4. Employees who are excluded from funded plans for whatever reason must be paid fringe benefits in cash.

5. **Note:** Vacation and sick leave plans are generally unfunded, paid from the contractor's own account, and require USDOL approval before a contractor takes credit toward meeting the fringe benefit obligation.

6. In determining the cash equivalent credit for fringe benefits payments, the period of time to be used is the period covered by the contribution. For example, if an employer contributes to a plan on a weekly basis, the total hours worked each week (federal and nonfederal) by each employee should be divided into the contribution made by the employer.

7. Acceptable fringe benefits include the following: medical or hospital care; pensions on retirement or death; compensation for injuries or illness resulting from occupational activity; or insurance to provide any of the foregoing, unemployment benefits, life insurance, disability and sickness insurance, accident insurance, vacation and holiday pay, defrayment of cost of apprenticeship or other similar programs, or other bona fide fringe benefits; but only where the contractor to subcontractor is not required by other Federal, State, or local law to provide any of such benefits. The Act excludes fringe benefits that a contractor or subcontractor is obligated to provide under other Federal, State, or local law. No credit may be taken for such benefits. For example, payment for workmen's compensation insurance under either a compulsory or elective State statute are not considered payments for fringe benefits under the Act. Payments made

for travel, subsistence, or to industry promotion funds are not normally payments for fringe benefits under the Act.

No type of fringe benefits is eligible for consideration as a so-called unfunded plan unless:

a. It could be reasonably anticipated to provide benefits described in the act;
b. It represents a commitment that can be legally enforced;
c. It is carried out under a financially responsible plan or program; and
d. The plan or program providing the benefits has been communicated in writing to the laborers and mechanics affected.

U. Summer Youth Employment Youth who are bona fide students and part of a bona fide "youth opportunity program" may be employed on Davis-Bacon projects on a temporary basis during the summer months and paid below the predetermined Davis-Bacon rates. USDOL All Agency Memoranda #71 and #96 provide policy guidance in this area. HUD requires that the following stipulations be met before summer youth may be employed at less than Davis-Bacon rates:

1. Where collective bargaining agreements representing workers performing similar or related activities at the worksite to which youth are outstationed exists, the union or unions representing those workers must provide concurrence as to the design of the employment project and the use of the youth;

2. Such employment must be provided in accord with statutory safety and minimum wage requirements (both state and federal);

3. Competent supervision must be provided to all youth employment on the project worksites. Ratios of youth to such supervisors should be no greater than four-to-one.

In order to ensure that the administration of summer youth employment complies with USDOL policies and regulations, request for exceptions to the application of Davis-Bacon must be made to the HUD Field Office Labor Relations Staff will advise the requesting contractor of its decision. The specific provisions of the agreement (between management and labor) or the plan of employment must be submitted to the Department of Labor, Wage and Hour and Public Contracts Division, for enforcement purposes. The HUD Field Office Labor Relations Staff will send such plans to the Headquarters Office of Labor Relations.

V. Non-Covered Job Classifications Workers performing the normal duties of the following job classifications are not subject to Davis-Bacon prevailing wage requirements:

1. Project Superintendent.

2. Project Engineer.

3. Project Foreman, as distinguished from a working foreman (working foremen, who devote more than 20 percent of their time during the workweek to mechanic or laborer duties, are laborers and mechanics for the time spent and must be paid the applicable rate for the hours so worked).

4. Watchman.

5. Water Carrier.

6. Messenger, Clerical Workers.

W. Financing of Construction Work – CDBG Laborers and mechanics employed by contractors and subcontractors on construction work financed in whole or in part with Title I assistance are subject to Davis-Bacon wage rates under Section 110 of Title I. To the extent that Part 570 requires

broader Davis-Bacon coverage, e.g., on construction work "assisted" under that Part, the regulations shall govern unless an individual waiver is requested and granted by the Assistant Secretary for Community Planning and Development. The use of Title I funds for any of the following items is an example of financing construction work, and Davis-Bacon wage rates shall apply to all construction work performed on the building or property in question: construction loans or grants; payment for construction materials; payment of interest (or part of the interest) on a construction loan; payment of construction loan origination fees; provisions of a Title I funded permanent loan, mortgage or grant on a structure constructed with a private construction loan when the parties contemplate such ultimate Title I financing at the time of construction; Title I funded "collateral" or "default" accounts established with the lending bank which receive no interest or less than the interest payable on demand accounts. Questions as to whether a use of Title I funds constitutes financing of construction work shall be referred to HUD headquarters for determination.

X. Technical/Maintenance Wage Rates – Public Housing Section 12 of the U.S. Housing Act of 1937 requires that wages prevailing in the locality shall be paid to all architects, technical engineers, draftsmen, and technicians employed in the development, and all maintenance laborers and mechanics employed in the operation of the project. Such wages are determined or adopted by HUD.

Y. Payment of Low- and Moderate-Income (LMI) assessments In some projects federal funds are used to pay special assessments of LMI households, where those assessments are for the purpose of paying for a public improvement. This use of federal funds invokes the Federal Labor Standards Provisions and makes the construction subject to Davis-Bacon wage rates.

Z. Piecework roofers and dry-wall hangers are sometimes paid by piecework. Piecework is work paid for at a fixed rate (piece rate) per piece of work done.

**ATTACHMENT 6-C: LABOR STANDARDS OFFICER DESIGNEE**

(*Please type or print clearly.)*

| NAME OF GRANTEE |
| --- |
| COMMERCE CONTRACT # |

LABOR STANDARDS OFFICER: _____

STREET ADDRESS: _____

CITY: _____

STATE/ZIP CODE: _____

PHONE: _____

FAX: _____

E-MAIL: _____

*Please send a copy of this form to:*

WISCONSIN DEPARTMENT OF COMMERCE
BUREAU OF COMMUNITY FINANCE
LABOR STANDARDS SPECIALIST
201 WEST WASHINGTON AVENUE
P.O. BOX 7970
MADISON, WI 53707-7970

## ATTACHMENT 6-D: INSTRUCTIONS FOR COMPLETING REQUEST FOR WAGE DECISION AND RESPONSE TO REQUEST (FORM 308)

Follow the instructions below which are numbered according to the boxes on the form itself:

1. The Labor Standards Officer's name, types and signed.
2. Commerce contract number.
3. Community Name.
4. Community clerk's/contact's phone and fax number.
5. Date of this wage decision request.
6. Estimated bid advertisement date.
7. Estimated bid opening date.
8. Prior decision numbers (if any).
9. Estimated dollar value of the project.
10. Type of work to be performed for the project.
11. Check if survey of wages are attached.
12. Check if survey of wages are in progress.
13. Location of where work will be performed including, city/village/town, **CDBG contract project number**, county, and state.
14. Phone/Fax/E-mail and address of Communities Labor Standards Officer. The wage decision will be mailed to this address.
15. Give a description of the construction work to be performed and indicate if it will be divided into separate phases or bid under separate contracts (i.e., Phase I, Contract I). If it is, do not include the separate phase(s) when calculating the percentage of total construction cost for the phase in which a wage decision is being requested. Write in the contract Budget Line Item number, name, and percent of the total construction cost. In your percent calculation, do not include non-construction amounts (i.e., engineering, architectural, administration costs), or amounts that will be used in other phases of the construction project. You will need to submit a separate *Request For Wage Decision* for each construction phase.
16. Check off the classes and categories of laborers, mechanics, or craftsman to be employed. Write in any classes not covered on the list for which a wage rate is needed.
17. Send the Request to:

    Labor Standards Specialist
    Bureau of Community Finance
    Wisconsin Department of Commerce
    201 West Washington Avenue
    P.O. Box 7970
    Madison, WI 53707-7970

**U.S. DEPARTMENT OF LABOR EMPLOYMENT STANDARDS ADMINISTRATION** **FORM 308**

**REQUEST FOR WAGE DECISION AND RESPONSE TO REQUEST**

Davis-Bacon Act as Amended and Related Statutes

**DEPARTMENT USE ONLY**
First Decision #

Modification #

Date of Decision

Second Decision #

Modification #

Date of Decision

Third Decision #

Modification #

Date of Decision

1. Requesting Officer (*typed name and signature*)
**Pat Smith** Pat Smith

2. Contract No.
PF FY00-0000

3. Community
**The Village of Yourville**

4. Phone/Fax Numbers
**608/123-4567**
**608/987-6543**

5. Date of Request
**01/23/4567**

6. Estimated Advertising Date
**June/July 1234**

7. Est. Bid Opening Date
**July 1234**

8. Prior Decision # (*if any*)

9. Est. $ Value of Contract
Under 1/2 Million
X 1/2 to 1 Million
1 to 5 Million
Over 5 Million

10. Type of Work
Building
Residential
X Highway
X Heavy

11. Wage Survey by Agency Attached?
YES X No

12. Wage Survey by Agency in Progress?
YES X No

14. The complete mailing address to which the wage rate should be mailed.
(*The wage rate will be mailed to the Community's Labor Standards Officer)*

Phone/Fax/E-mail: **(608)123-4567/ (6098)987-6543/ psmith@MSEA.com**

Company Name: **Pat Smith Engineering Associates**
Labor Standards: **Ms. Pat Smith**
Address: **100 Your Street**
City: **Your Town** State: **WI** ZIP: **12345**

13. Location of Project
(*community or other description)*

County **Your County**

State **Wisconsin**

15. Construction Budget Summary for Wage Decision Determination
This request if for: **Entire Construction Project** _____ OR **Phases** ___X___ and is Phase **#** ___2___ **of** ___2___

| Budget Line Item (number) | Work Description (name) | % of Total Construction Cost |
|---|---|---|
| **0465** | **Water Tower** | **48%** |
| **0424** | **Sanitary Sewer Mains** | **19%** |
| **0464** | **Water Mains** | **17%** |
| **0433** | **Street Reconstruction** | **16%** |
| | | |

16. CHECK OR LIST CRAFTS NEEDED
(*Attach continuation sheet if needed)*

Asbestos worker
Boilermaker
Bricklayer
X Carpenter
X Cement mason
Electrician
Ironworker
X **Pipe Layer, Bottom Man,**
X **General Laborer, Power Tool,**
X **Landscaping**
Lather
Marble & title setter, terrazzo worker
Painter
Piledriver
Plasterer
Plumber
X Power equipment operator
(specify types)
X **Backhoe, Endloader**
X **Bituminous Paver,**
X **Curb Machine**
Roofer
Sheet metal worker
Soft floor layer
Steamfitter
X Truck drivers
X Welders--rate for craft

Other Crafts
X **Demolition**

**Ten days** prior to bid opening date, contact the Commerce Labor Standards Specialist to make sure the wage decision is still in effect.

**U.S. DEPARTMENT OF LABOR EMPLOYMENT STANDARDS ADMINISTRATION** **FORM 308**

**REQUEST FOR WAGE DECISION AND RESPONSE TO REQUEST**

Davis-Bacon Act as Amended and Related Statutes

**DEPARTMENT USE ONLY**
First Decision #

Modification #

Date of Decision

Second Decision #

Modification #

Date of Decision

Third Decision #

Modification #

Date of Decision

1. Requesting Officer (*typed name and signature)*

2. Contract No.

3. Community

4. Phone/Fax Numbers

5. Date of Request

6. Estimated Advertising Date

7. Est. Bid Opening Date

8. Prior Decision # (*if any*)

9. Est. $ Value of Contract

Under 1/2 Million 1 to 5 Million
1/2 to 1 Million Over 5 Million

10. Type of Work

Building Highway
Residential Heavy

11. Wage Survey by Agency Attached?

YES No

12. Wage Survey by Agency in Progress?

YES No

14. The complete mailing address to which the wage rate should be mailed.
(*The wage rate will be mailed to the Community's Labor Standards Officer)*

Phone/Fax/E-mail: _____/ _____ / _____

Company Name: _____
Labor Standards: _____
Community Labor Standards Officer: _____
Address: _____
City: _____ State: _____ ZIP: _____

13. Location of Project
(*community or other description)*

County

State

15. Construction Budget Summary for Wage Decision Determination
This request if for: **Entire Construction Project** _____ OR **Phases** _____ and is Phase **#**_____**of** _____

| Budget Line Item (number) | Work Description (name) | % of Total Construction Cost |
|---|---|---|
| | | |
| | | |
| | | |
| | | |
| | **Total** | **100%** |

16. CHECK OR LIST CRAFTS NEEDED
(*Attach continuation sheet if needed)*

Asbestos worker
Boilermaker
Bricklayer
Carpenter
Cement mason
Electrician
Glazier
Ironworker
Laborer, (specify class)
_____
_____
_____
Lather
Marble & title setter, terrazzo worker
Painter
Piledriver
Plasterer
Plumber
Power equipment operator
(specify types)
_____
_____
_____
Roofer
Sheet metal worker
Soft floor layer
Steamfitter
Truck drivers
Welders--rate for craft
_____
Other Crafts
_____
_____
_____
_____

Ten days prior to bid opening date, contact the Commerce Labor Standards Specialist to make sure the wage decision is still in effect.

## ATTACHMENT 6-E: CONTRACTOR'S REPORT OF CONSTRUCTION WAGE RATES

(FORM WD 10)

U.S. DEPARTMENT OF LABOR
EMPLOYMENT STANDARDS ADMINISTRATION
WAGE AND HOUR DIVISION

| 1. Contractor's Name and Address: (*Street, City, State, and Zip*) | 2. Name and Description of Project: |
|---|---|
| 3. Location of Project *(City, County, State, ZIP code)* | 4. Type of Construction: *(Please check)*<br>❒ Building ❒ Residential<br>❒ Heavy _____Stories<br>❒ Highway _____Units |

| 5. Approximate Cost | 6. Date Construction Began | 7. Date of Completion *(or percentage)* |
|---|---|---|
| | | |

INSTRUCTIONS: From the peak payroll for each classification listed, fill in the number of employed and the basic rate and fringe payments paid for each classification. Employees in an approved apprentice program or those being trained in a formal or informal training program should be included.

| 8. Classifications | 9. Number Employed | 10. Pay Period Ending Date | 11. Basic Hourly Rates | 12. Fringe Benefits Payment | | | |
|---|---|---|---|---|---|---|---|
| | | | | a H&W | b Pension | c Vacation | d App Tr |
| | | | | | | | |
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13. Remarks

**NOTE**: The willful falsification of any submitted information may result in civil or criminal prosecution. See Section 1001 of Title 18 and Section 231 of Title 31 of the United States Code.

| 14. Signature of Contractor | 15. Telephone Number | 16. Date |
|---|---|---|
| | | |

## ATTACHMENT 6-F: TEN DAY WAGE DECISION STATUS CHECK
## (Prior to Bid Opening)

**Ten calendar days before the big opening date,** contract Commerce's Labor Standards Assistant at 608/266-8934 to make sure that the wage decision is still in effect. If it has been replaced or modified, notify the prospective bidders of the changes so that they can modify their bids. Complete the following table and place it in your labor standard file. **If you fail to do this, the wrong wage rates might be used and your community will be liable for any difference in the cost.**

**If you open a bid <u>and wait more than 90 days to award the contract,</u> check with Commerce's Labor Standards Specialist to see if the wage decision has been modified or superseded. If it has, you must use the modified wage decision in your construction project.**

**<u>If you plan to re-bid a project</u> because first bids were too high, check with Commerce's Labor Standards Specialist to see if the wage decision has been modified or superseded. If it has, you must use the modified wage decision in your construction project.**

Grantee: _____ Contact Number: _____

Date Commerce was contacted: _____ Bid Date: _____

| Wage Decision Number | Modification Number and Publication Date | **Has Decision Been Modified?** | New Wage Decision Number | New Mod. Number and Publication Date | Has Project Been Re-bid? |
|---|---|---|---|---|---|
| | | *(If Applicable)* | | | |
| WI_____ | Mod._____<br>Date ___/___/___ | No____ Yes____ | WI_____ | Mod._____<br>Date ___/___/___ | No____ Yes____<br>Date___/___/____ |
| WI_____ | Mod._____<br>Date ___/___/___ | No____ Yes____ | WI_____ | Mod._____<br>Date ___/___/___ | No____ Yes____<br>Date___/___/____ |
| WI_____ | Mod._____<br>Date ___/___/___ | No____ Yes____ | WI_____ | Mod._____<br>Date ___/___/___ | No____ Yes____<br>Date___/___/____ |

## ATTACHMENT 6-G: REQUEST FOR ADDITIONAL CLASSIFICATION

| **REQUEST FOR AUTHORIZATION OF ADDITIONAL CLASSIFICATION** | TYPE OF CONSTRUCTION<br>❒ RESIDENTIAL ❒ HEAVY<br>❒ BUILDING ❒ HIGHWAY |
|---|---|

| 1. TO: | 2. FROM: |
|---|---|
| UNITED STATES DEPARTMENT OF LABOR<br>DIVISION OF WAGE DETERMINATIONS<br>200 CONSTITUTION AVENUE, N.W.<br>WASHINGTON, D.C. 20210 | WI DEPARTMENT OF COMMERCE<br>LABOR STANDARDS REPRESENTATIVE<br>201 WEST WASHINGTON AVENUE<br>P.O. BOX 7970<br>MADISON, WI 53707-7079 |

3. Prime Contractor: Company Name, Address, and ZIP

| 4. Contract Number | 5. Date Bid Opening (Sealed Bid) | 6. Date of Award | 7. Date Contract Work Started | 8. Date of Request |
|---|---|---|---|---|
| | | | | |

9. Subcontractor(s) (If Any)

10. Project and Description of Work (attach additional sheet if needed)

11. Location (City, County, State)

12. In order to complete the work provided for under the above contract, it is necessary to establish the following rate(s) for the indicated classification(s) not included in the department of labor determination. **Attach Appropriate Wage Decision(s)**
Bid Opening Date _____ Bid Award Date _____
Number _____ Modification _____ Dated _____

| a. List in order proposed classification, title(s), job description(s), duties, and rationale for proposed classifications | b. Base Rates | c. Fringe | d. TOTAL |
|---|---|---|---|
| *(Use reverse or attach additional sheets, if necessary)* | | | |

**SUBJECT TO APPROVAL BY THE U.S. DEPARTMENT OF LABOR**

13. Grantee: Community Name, Address, and ZIP

| 14. Signature and Title of Prime Contractor Representative | 15. Signature and Title of Employee or Representative | |
|---|---|---|
| Signature of Commerce Labor Standards Representative | Telephone Number(s) | Date Submitted |

## ATTACHMENT 6-H: ADVERTISEMENT FOR BIDS

Project Number: _____ Owner: _____

Separate sealed bids for _____

for _____

will be received by _____

at the office of _____

until _____ o'clock (AM _____ PM_____; ST_____ DST_____) _____, 19_____

and then at said office publicly opened and read aloud.

The information for Bidders, Form of Bid, Form of Contract, Plans, Specifications, and Forms of Bid Bond, Performance and Payment Bond, and other contract documents may be examined at the following:

_____

_____

_____

Copies may be obtained at the office of _____

located at _____upon payment of

$ _____ for each set. Any successful bidder, upon returning such set promptly and in good

condition, will be refunded his/her payment, and any non-bidder upon so returning such set will be

refunded $_____.

The owner reserves the right to waive any informalities or to reject any or all bids.

Each bidder must deposit with his/her bid, an amount to secure the bid and subject to the conditions provided in the Information for Bidders.

Attention of bidders is particularly called to the requirements as to conditions of employment to be observed and minimum wage rates to be paid under contract, Section 3, Segregated Facility, Section 109 and E.O. 11246.

No bidder may withdraw his/her bid within 30 days after the actual day of the opening thereof.

Date _____ Chief Elected Official Signature _____

# ATTACHMENT 6-I: FEDERAL LABOR STANDARDS PROVISIONS (4010)

**Federal Labor Standards Provisions** U.S. Department of Housing and Urban Development

Applicability

The project or Program to which the construction work covered by this contract pertains is being assisted by the United States of America and the following Federal Labor Standards Provisions are included in this Contract pursuant to the provision applicable to such Federal assistance.

**A. 1. (I) Minimum Wages.** All laborers and mechanics employed or working upon the site of the work (or under the United States Housing Act of 1937 or under the Housing Act of 1949 in the construction or development of the project), will be paid unconditionally and not less often than once a week, and without subsequent deduction or rebate on any account (except such payroll deductions as are permitted by regulations issued by the Secretary of Labor under the Copeland Act (19 CFR Part 3), the full amount of wages and bona fide fringe benefits (or cash equivalents thereof) due at the time of payment computed at rates not less than those contained in the wage determination of the Secretary of Labor which is attached hereto and made a part hereof, regardless of any contractual relationship which may be alleged to exist between the contractor and such laborers and mechanics. Contributions made or cost reasonable anticipated for bona fide fringe benefits under Section 1(b)(2), of the Davis-Bacon Act on behalf of laborers or mechanics are considered wages paid to such laborers and mechanics, subject to the provisions of 29 CFR-5.5(a)(1)(IV); also, regular contributions made or costs incurred for more than a weekly period (but not less often than quarterly under plans, funds, or programs, which cover the particular weekly period, are deemed to be constructively made or incurred during such weekly period.

Such laborers and mechanics shall be paid the appropriate wage rate and fringe benefits on the wage determination for the classification for work actually performed, without regard to skill, except as provided in 29 CFR Part 5.5 (a)(4). Laborers or mechanics performing work in more than one classification may be compensated at the rate specified for each classification for the time actually worked therein: Provided, that the employer's payroll records accurately set forth the time spent in each classification in which work Is performed. The wage determination (including any additional classification and wage rates conformed under 29 CFR Part 5.5(a)(1)(ii) and the Davis-Bacon poster (WH-1 321) shall be posted at all times by the contractor and its subcontractors at the site of the work in a prominent and accessible place where it can be easily seen by the workers.

(ii)(a) Any class of laborers or mechanics which is not listed in the wage determination and which is to be employed under the contract shall be classified in conformance with the wage determination. HUD shall approve an additional classification and wage rate and fringe benefits therefore only when the following criteria have been met:

(1) The work to be performed by the classification requested is not a classification in the wage determination; and
(2) The classification is utilized in the area by the construction industry; and
(3) The proposed wage rate, including any bona fide fringe benefits, bears a reasonable relationship to the wage rates contained in the wage determination.

(b) If the contractor and the laborers and mechanics to be employed in the classification (if known), or their representatives, and HUD or its designee agree on the classification and wage rate (including the amount designated for fringe benefits where appropriate),a report of the action taken shall be sent by HUD or its designee to the Administrator of the Wage and Hour Division, Employment Standards Administration, U.S. Department of Labor, Washington, D.C. 20210. The Administrator, or an authorized representative, will approve, modify, or disapprove every additional classification action within 30 days of receipt and so advise HUD or its designee or will notify HUD or its designee within the 30-day period that additional time is necessary. (Approved by the Office of Management and Budget under OMB control number 1215-0140.)

(c) In the event the contractor, the laborers and mechanics to be employed in the classification or their representatives, and HUD or its designee do not agree on the proposed classification and wage rate (including the amount designated for fringe benefits, where appropriate), HUD or its designee shall refer the questions, including the views of interested parties and the recommendation of HUD or its designee, to the Administrator for determination. The Administrator, or an authorized representative, will issue a determination within 30 days of receipt and so advise HUD or its designee or will notify HUD or its designee within the 30-day period that additional time is necessary. (Approved by the Officer of Management & Budget under OMB Control # 1215-0140.)

(d) The wage rate (including fringe benefits where appropriate) determined pursuant to subparagraphs (1)(b) or (c) of this paragraph, shall be paid to all workers performing work in the classification under this contract from the first day on which work is performed in the classification.

(iii) Whenever the minimum wage rate prescribed in the contract for a class of laborers or mechanics includes a fringe benefit which is not expressed as an hourly rate, the contractor shall either pay the benefit as stated in the wage determination or shall pay another bona fide fringe benefit or an hourly cash equivalent thereof.

(iv) If the contractor does not make payments to a trustee or other third person, the contractor may consider as part of the wages of any laborer or mechanic the amount of any cost reasonably anticipated in providing bona fide fringe benefits under a plan or program. Provided that the Secretary of Labor has found, upon the written request of the contractor, that the applicable standards of the Davis-Bacon Act have been met. The Secretary of Labor may require the contractor to set aside in a separate account assets for the meeting of obligations under the plan or program. (Approved by the Office of Management and Budget under OMB Control Number 1215-0140.)

**2. Withholding.** HUD or its designee shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld from the contractor under this contract or any other Federal contract with the same prime contractor, or any other Federally-assisted contract subject to Davis-Bacon prevailing wage requirements, which is held by the same prime contractor so much of the accrued payments or advances as may be considered necessary to pay laborers and mechanics, including apprentices, trainees and helpers, employed by the contractor or any subcontractor the full amount of wages required by the contract. In the event of failure to pay any laborer or mechanic, including any apprentice, trainee or helper, employed or working on the site of the work (or under United States Housing Act of 1937 or under the Housing Act of 1949 in the construction or development of the project), all or part of the wages required by the contract, HUD or its designee may, after written notice to the contractor, sponsor, applicant, or owner, take such actions as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds until such violations have ceased. HUD or its designee may, after written notice to the contractor, disburse such amounts withheld for an on account of the contractor or subcontractor to the respective employees to whom they are due. The Comptroller General shall make such disbursements in the case of direct Davis-Bacon Act Contracts.

**3. Payrolls and basic records.** Payrolls and basic records relating thereto shall be maintained by the contractor during the course of the work preserved for a period of four (4) years thereafter for all laborers and mechanics working at the site of the work (or under the United State Housing Act of 1937, or under the Housing Act of 1949, in the construction or development of the project). Such records shall contain the name and address, and social security number of each such worker, his or her correct classification, hourly rates of wage paid (including rates of contributions or costs anticipated for bona fide fringe benefits or cash equivalents thereof of the types described in Section 1 (b)(2)(B) of the Davis-Bacon Act), daily and weekly number of hours worked, deductions made and actual wages paid. Whenever the

Secretary of Labor has found under 29 CFR 5.5 (a)(1)(iv) that the wages of any laborer or mechanic include the a mount of any costs reasonably anticipated in providing benefits under a plan or program described in Section 1(b)(2)(B) of the Davis-Bacon Act, the contract shall maintain records which show that the commitment to provide such benefits is enforceable, that the plan or program is financially responsible, and that the plan or program has been communicated in writing to the laborers or mechanics affected, and records which show the costs anticipated or the actual cost incurred in providing such benefits. Contractors employing apprentices or trainees under approved programs shall maintain written evidence of the registration of apprenticeship programs and certification of trainee programs, the registration of the apprentices and trainees, and the ratios and wage rates prescribed in the applicable programs. (Approved by the Office of Management and Budget under OMB Control Numbers 1215-0140 and 1215-0017.)

(ii) (a) The contractor shall submit weekly for each week in which any contract work is performed a copy of all payrolls to HUD or its designee if the agency is a party to the contract, but if the agency is not such a party, the contractor will submit the payrolls to the applicant, sponsor, or owner, as the case may be, for transmission to HUD or its designee. The payrolls submitted shall set out accurately and completely all of the information required to be maintained under 29 CFR Part 5.5 (a)(3)(I). This information may be submitted in any form desired. Optional From WH-347 is available for this purpose and may be purchased from the Superintendent of Document (Federal Stock Number 029-005-00014-1), U.S. Government Printing Office, Washington, DC. 20402. The prime contractor is responsible for the submission of copies of payrolls by all subcontractors. (Approved by the Office of Management and Budget under OMB Control Number 1215-0149.)

(b) Each payroll submitted shall be accompanied by a "Statement of Compliance," signed by contractor or subcontractor or his/her agent who pays or supervises the payment of the persons employed under the contract and shall certify the following:

(1) That the payroll for the payroll period contains the information required to be maintained under 29 CFR Part 5.5 (a)(3)(I) and that such information is correct and complete:

(2) That each laborer or mechanic (including each helper, apprentice, and trainee) employed on the contract during the payroll period has been paid the full weekly wage earned, without rebate, either directly or indirectly, and that no deductions have been made either directly or indirectly from the full wages earned, other than permissible deductions as set in 29 CFR Part 3:

(3) That each laborer or mechanic has been paid not less than the applicable wage rates and fringe benefits or cash equivalents for the classification of work performed, as specified in applicable wage determination incorporated into the contract.

(c) The weekly submission of a property executed certification set forth on the reverse side of Optional Form WH-347 shall satisfy the requirement for submission of the "Statement of Compliance" required by paragraph A. 3. (ii)(b) of this section.

(d) The falsification of any of the above certifications may subject the contractor or subcontractor to civil or criminal prosecution under Section 1001 of Title 18 and Section 231 of Title 31 of United State Code.

(iii) The contractor or subcontractor shall make the records required under paragraph A. 3. (I) of this section available for inspection, copying, or transcription by the authorized representatives of HUD or its designee or the Department of Labor, and shall permit such representatives to interview employees during working hours on the job. If the contractor or subcontractor fails to submit the required records or to make them available, HUD or its designee may, after written notice to the contractor, sponsor, applicant or owner, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds. Furthermore failure to submit the required records upon request or to make such records available may be grounds for debarment action pursuant to 29 CFR Part 5.12.

**4 (i) Apprentices and Trainees. Apprentices**. Apprentices will be permitted to work at less than the predetermined rate for the work they performed when they are employed pursuant to and individually registered in a bona fide apprenticeship program registered with the U.S. Department of Labor, Employment and Training Administration, Bureau of Apprenticeship and Training, or with a State Apprenticeship Agency recognized by the bureau, or if a person is employed in his or her first 90 days of probationary employment as an apprentice in such an apprenticeship program, who is not individually registered in the program, but who has been certified by the Bureau of Apprenticeship and Training or a State Apprenticeship Agency (where appropriate) to be eligible for probationary employment as an apprentice. The allowable ration of apprentices of journeymen on the job site in any craft classification shall not be greater than the ration permitted to the contractor as to the entire work force under the registered program. Any worker listed on a payroll at an apprentice wage rate, who is not registered or otherwise employed as stated above, shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. Where a contractor is performing construction on a project in a locality other than that in which its program is registered, the ratios and wage rates (expressed in percentages of the journeymen's hourly rate) specified in the contractor's or subcontractor's registered program shall be observed. Every apprentice must be paid at not less than the rate specified in the registered program for the apprentice's level of progress, expressed as a percentage of the journeymen hourly rate specified in the applicable wage determination. Apprentices shall be paid fringe benefits in accordance with the provisions of the apprenticeship program. If the apprenticeship program does not specify fringe benefits, apprentices must be paid the full amount of fringe benefits listed on the wage determination for the applicable classification. If the Administrator determines that a different practice prevails for the applicable apprentice classification, fringes shall be paid in accordance with that determination. In the event the Bureau of Apprenticeship and Training, or a State Apprenticeship Agency recognized by the Bureau, withdraws approval of an apprenticeship program, the contractor will no longer be permitted to utilize apprentices at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

**(ii) Trainees.** Except as provided in 29 CFR 5.16, trainees will not be permitted to work at less than the predetermined rate for the work performed unless they are employed pursuant to and individually registered in a program which has received prior approval, evidenced by formal certification by the U.S. Department of Labor, Employment and Training Administration. The ratio of trainees to journeymen on the job site shall not be greater than permitted under the plan approved by the Employment and Training Administration. Every trainee must be paid at not less than the rate specified in the approved program for the trainee's level of progress, expressed as a percentage of the journeyman hourly rate specified in the applicable wage determination. Trainees shall be paid fringe benefits in accordance with the provisions of the trainee program. If the trainee program does not mention fringe benefits, trainees shall be paid the full amount of fringe benefits listed on the wage determination unless the Administrator of the Wage and Hour Division determines that there is an apprenticeship program associated with the corresponding journeyman wage rate the wage determination which provides for less than full fringe benefits for apprentices. Any employee listed on the payroll at a trainee rate who is not registered and participating in a training plan approved by the Employment and Training Administration shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. In addition, any trainee performing work on the job site in excess of the ration permitted under the registered program shall be paid not less than they applicable wage rate on the wage determination for work actually performed. In the event the Employment and Training Administration withdraws approval of a training program, the contractor will no longer be permitted to utilize trainees at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

**(iii) Equal employment opportunity.** The utilization of apprentices, trainees and journeymen under this part shall be in conformity with the equal employment opportunity requirements of Executive Order 11246, as amended, and 29 CFR Part 30.

**5. Compliance with Copeland Act requirement.** The contractor shall comply with the requirements of 29 CFR Part 3 which are incorporated by reference in this contract.

**6. Subcontracts.** The contractor or subcontractor will insert in any subcontracts the clauses contained in 29 CFR 5.5 (a)(1) through (10) and such other clauses as HUD or its designee may be appropriate instructions require, and also a clause requiring the subcontracts to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for the compliance by any subcontractor or lower tier subcontractor with all the contract clauses in 29 CFR 5.12.

**7. Contract termination; debarment.** A breach of the contract clauses in 29 CFR 5.5 may be grounds for termination of the contract, and for debarment as a contractor and a subcontractor as provided in 29 CFR 5.12.

**8. Compliance with Davis-Bacon and Related Act Requirements.** All rulings and interpretations of the Davis-Bacon and Related Acts contained in 29 CFR Parts 1, 3, and 5 are herein incorporated by reference in this contract.

**9. Disputes concerning labor standards.** Disputes arising out of the labor standards provisions of this contract shall not be subject to the general disputes clause of this contract. Such disputes shall be resolved in accordance with the procedures of the Department of Labor set forth in 29 CFR Parts 5, 6, and 7. Disputes within the meaning of this clause include disputes between the contractor (of any of its subcontractors) and HUS or its designee, between the U.S. Department of Labor, or the employees or their representatives.

**10. (i) Certification of Eligibility.** By entering into this contract, the contractor certifies that neither it (nor he or she) nor any person or firm who has an interest in the contractor's firm is a person or firm ineligible to be awarded Government contracts by virtue of Section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1) or to be awarded HUD contracts or participate in HUD programs pursuant to 24 CFR Part 24.

**(ii)** No part of this contract shall be subcontracted to any person or firm ineligible for award of a Government contract by virtue of Section 3(a) of the Davis-Bacon Act or 29 CFR 5.12 (a)(1) or to be awarded HUD contracts or participate in HUD programs pursuant to 24 CFR Part 24.

**(iii)** The penalty for making false statements is prescribed in the U.S. Criminal Code 18 U.S.C. 1001. Additionally, U.S. Criminal Code, Section 1010, Title 18, U.S.C. "Federal Housing Administration Transactions", provides in part: "Whoever, for the purpose of…influencing in any way the action of such Administration…makes, utters or publishes any statement, knowing the same to be false…shall be fined not more than $5,000 or imprisoned not more than two years, or both."

**11. Complaints, Proceedings, or Testimony by Employees.** No laborer or mechanic to whom the wage, salary, or other labor standards provisions of this Contract are applicable shall be discharges or in any other manner discriminated against by the Contractor or any subcontractor because such employee has filed any complaint or instituted or caused to be instituted any proceeding or has testified or is about to testify in any proceeding under or relating to the labor standards applicable under this Contract to his employer.

**B. Contract Work Hours and Safety Standards Act.** As used in this paragraph, the terms "Laborers" and "Mechanics" include watchmen and guards.

**(1) Overtime requirements.** No contractor or subcontractor contracting for any part of the contract work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic in any workweek in which he or she is employed on such work to work in excess of forty hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rates of pay for all hours worked in excess of forty hours in such work week.

**(2) Violation; liability for unpaid wages; liquidated damages.** In the event of any violation of the clause set forth in subparagraph (1) of this paragraph, the contractor and any subcontractor responsible therefore shall be liable for the unpaid wages. In addition, such contractor and subcontractor shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to such District or to such territory), for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchman and guards, employed in violation of the clause set forth in subparagraph (1) of this paragraph, in the sum of $10 for each calendar day on which such individual was required or permitted to work in excess of the standard work week of forty hours without payment of the overtime wages required by the clause set forth in paragraph (1) of this paragraph.

**(3) Withholding for unpaid wages and liquidated damages.** HUD or its designee shall upon its own action or written request of an authorized representative of the Department of Labor withhold or cause to be withheld, from any moneys payable on account of work performed by the contractor or subcontractor under any such contract or any other Federal contract with the same prime contract, or any other Federally-assisted contract subject to the Contract Work Hours and Safety Standards Act, which is held by the same prime contractor such sums as may be determined to be necessary to satisfy any liabilities of such contractor or subcontractor for unpaid wages and liquidated damages as provided in the clause set forth in subparagraph (2) of this paragraph.

**(4) Subcontracts.** The contractor or subcontractor shall insert in any subcontracts the clauses set forth in subparagraph (1) through (4) of this paragraph and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in subparagraphs (1) through (4) of this paragraph.

**C. Health and Safety.**

**(1)** No laborer or mechanic shall be required to work in surroundings or under working conditions which are unsanitary, hazardous, or dangerous to his health and safety as determined under construction safety and health standards promulgated by the Secretary of Labor by regulation.

**(2)** The Contractor shall comply with all regulations issued by the Secretary of Labor pursuant to Title 29 Part 1926 (formerly part 1518) and failure to comply may result in imposition of sanctions pursuant to the Contract Work Hours and Safety Standards Act (Public Law 91-54, 83 Stat. 96).

**(3)** The Contract shall include the provisions of this Article in every subcontract so that such provisions will be binding on each subcontractor. The Contractor shall take such action with respect to any subcontract as the Secretary of Housing and Urban Development or the Secretary of Labor shall direct as a means of enforcing such provisions.

## ATTACHMENT 6-J: NOTICE OF CONTRACTOR AWARD

DATE: TO: Commerce Labor Standards Specialist

FROM: _____, _____
*(Community Labor Standards Officer)* *(Name of Community)*

SUBJECT: Award of Contract

COMMERCE CONTRACT #: _____

CONTRACT LINE ITEM(S): _____

_____

This is to inform you bids for the above project were advertised on _____ and
*(Date)*

opened on _____ _____ has been
*(Date)* *(Name of Prime Contractor)*

awarded a contract on _____. The number, including Mod. Number
*(Date)*

of the applicable wage decision is _____. The estimated start of construction is.
*(Number & Mod. Number)*

Below is a list of tentative subcontractors:

| Subcontractor(s) | IRS Employer I.D. Number |
|---|---|
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## ATTACHMENT 6-K: PRECONSTRUCTION CONFERENCE ITEMS TO BE DISCUSSED

A. Requirements and penalties of the Davis-Bacon Act.

B. Requirements and penalties of the Contract Work Hours and Safety Standards Act.

C. Requirements and penalties of the Copeland Anti-Kickback Act.

D. Minority Business Enterprises (MBE's) and Women's Business Enterprises (WBE's) Participation.

E. Discussion of the Wage Decision.

1. Trade classifications.

2. Missing classifications.

3. Missing classifications that can be conformed.

4. Employment of Apprentices.

   a. Proper papers from state or U.S. Department of Labor required.
   b. Allowable ration of Apprentices to Journeymen.
   c. Apprentice supervision by Journeymen required at all times.

5. Truck drivers, employed by the contractor, delivering materials, and spending more than an incidental amount (more than 20 percent) of their time on the job site, are covered.

6. Requesting additional classifications--procedures and information required.

F. Proper Certification.

1. Each subcontractor is covered, regardless of the amount of the subcontract.

2. Each subcontractor must have a written contract.

3. Requirements governing owner-operators. Questionnaire required for subs without IRS Employer identification number.

4. Prime Contractor is responsible for ensuring that subcontractors are not debarred from working on federal projects.

G. Collect IRS Employer identification numbers for all contractors.

H. Discuss the requirement to post the wage rate, additional classifications, and Davis-Bacon posters on the project site. They must be protected from the weather and visible to the public.

I. Weekly Payroll Submission.

1. Payrolls must be submitted weekly to the prime contractor, who must submit them to the grantee's labor standards officer within seven working days of the end of the payroll period.

2. Statement of Compliance (back of WH 347 **OR** WH 348) must be completed and submitted with each payroll.

3. Payroll Completion.

   a. Recommend form WH-347. Alternate forms are allowed but must be cleared with the labor standards officer. The form must contain the contractor's name and IRS I.D. number.

   b. Each weekly payroll must be numbered in sequential order. Each week from beginning to end of the contractor's time on the job must be accounted for by either a payroll or a "no work" letter.

   c. Project and location must be identified on the payroll.

   d. Each employee's address and social security number must appear on the payroll for the first week that they work.

   e. Completion of the withholding exemptions column is not required.

   f. Work classification must conform to the trades listed on the wage rate or Additional Classification.

   g. Apprentice indenture papers should be attached to the first payroll that he/she appears.

   h. Employees working split classifications--hours and wages for each classification must be identified on the payroll plus the employee must sign the payroll form or submit a signed copy of the time card. Average pay of the two classes is NOT acceptable.

   i. The work classification of "helper" is not accepted by Commerce unless it is listed on the original wage rate.

   j. Straight and overtime hours worked each day must be reported. Emphasize again the penalties for violation of CWHSS Act. Only overtime on the CDBG job needs to be reported.

   k. Rates of Pay.

      1) Not less than the minimum wage for each classification, which includes base rate plus fringe benefits.

      2) Overtime rate is one and one-half times the **base rate actually paid** plus the straight time value of fringe benefits (if paid in cash) for all hours over 40 in a work week.

      3) Apprentice wage rate will be established by the step level of the apprentice based on the journeymen rate in the wage rate.

      4) Apprentices must receive the fringe benefits specified in their indenture. If the indenture does not specify, then they must receive the full value states in the wage rate.

      5) Piece work--must be stated as an hourly rate and a copy of signed time card showing piece rate and number of units must be submitted.

   l. Gross amount earned--must be shown as HUD Gross/Total earnings for the week.

m. Deductions.

1) Must be specified on the payroll.

2) Written permission must be submitted for "other" deductions.

3) Proper documentation of a II deductions must be submitted.

n. Net wages--enter the amount of the employee's net check.

o. Fringe Benefits.

1) Check box 4(a) if benefits are paid to approved funds and submit evidence of the value of the fringe benefits.

2) Check box 4(b) if fringe benefits are paid in cash.

3) List any exceptions to whichever box is checked.

p. Signature--payrolls must be manually signed by the employer or an official of the employer who is authorized to sign.

J. Time cards, signed by the employees, must be retained for four (4) years.

K. Payrolls must be retained for four (4) years.

L. Employer must inform each employee that they are subject to being interviewed on the job by the recipient, state, HUD, or the USDOL concerning wages, hours and duties.

M. Review the process to be used to secure payments for work.

N. Failure to comply with aforementioned items will cause a delay in payouts by the municipality.

## ATTACHMENT 6-L: PRECONSTRUCTION CHECKLIST FOR CONTRACTORS
MEETING LABOR STANDARDS CONTRACT REQUIREMENTS

INTRODUCTION

The following checklist has been prepared to assist contractors and subcontractors in meeting contractual labor standards responsibilities. All major administrative and procedural activities have been covered in the sequence they will occur as the construction project proceeds. Careful attention to and the use of this checklist should result in a minimum number of problems with respect to labor standards.

EXPLANATORY NOTES

The word "employer" as used below refers to the project contractor, each subcontractor, or each lower-tier subcontractor. Payrolls and other documentary evidence of compliance are required to be sent to the recipient for review (all to be submitted through the project contractor). The delivery procedure is as follows:

1 Each lower-tier subcontractor, after careful review, submits the required documents to the respective subcontractor.

2. Each subcontractor, after checking his/her own and those of each lower-tier subcontractor he/she may, submit the required documents to the contractor.

3. The contractor, after reviewing all payrolls and other documentation, including his/her own, and correcting violations where necessary, submits payrolls to the recipient.

All employees should check each of the following statements as being true. If any statement is not true, the contractor or his representative should contact the recipient for special guidance.

**Complete the information below for numbers 1 through 6, sign this sheet, keep a copy for your records, and submit the original to your designated project supervisor. This should be done 21 days before the work begins.**

BEFORE CONSTRUCTION BEGINS EACH EMPLOYER HAS:

1. Not been debarred or other wise made ineligible to participate in any federal or federally-assisted project. ❒
2. Received appropriate contract provisions covering labor standards requirements. ❒
3. Reviewed and understands all labor standards contract provisions. ❒
4. Received the applicable wage decision as part of the contract. ❒
5. Requested through the recipient and received the minimum wage for each classification to be worked, that was not included on the wage rate by the additional classification process and before allowing any such trade(s) to work on the project. ❒
6. Requested and received certification of its apprentice program from the State's Bureau of Apprenticeship and Training (recognized by USBAT) and submitted copy thereof to the recipient prior to employment on the project. Likewise, "trainee" program certification from USBAT, if applicable, must be submitted. ❒

_____ _____
(Contractor Signature) (Title) (Date)

_____ _____
(Location of Project: City, County, State) (Contract Number)

AT CONSTRUCTION STATE, THE CONTRACTOR HAS:

1. Notified recipient of construction start date in writing. ❒

2. Placed each of the following on a bulletin board prominently located on the project site which can be seen easily by the workers (and replaced if lost or unreadable any time during construction):
   - Applicable Wage decision ❒
   - Notice to Employees (WH 1321) ❒

3. Before assigning each project worker to work, obtained worker's name, best mailing address, and Social Security number (for payroll purposes). ❒

4. Obtained a copy of each apprentice's certificate with the apprentice's registration number and his/her year of apprenticeship from the state BAT. ❒

5. Informed each worker of:
   - His/her work classification (journeymen or job title) as it will appear on the payroll in the wage decision or through the additional classification process. ❒
   - His/her duties of work. ❒
   - The USDOL's requirement on this project that he/she is either a journeymen, apprentice, or laborer. ❒
     - If journeymen, he/she is to be paid journeyman's minimum wage rate or more; ❒
     - If apprentice, he/she is to be paid not less than the apprentice's rate for the trade based on his/her year of apprenticeship; or ❒
     - If laborer, he/she is to do laborer's work only--not use any tool or tools of the trade--and not perform any part of a journeyman's work--and is to be paid the laborer's minimum wage rate or more. ❒

6. Understands the requirements each laborer or mechanic who performs work on the project in more than one classification within the same workweek shall be classified and paid at the highest wage rate applicable to any of the work which he/she performs <u>unless</u> the following requirements are met:
   - Accurate daily time records shall be maintained. These records must show the time worked in each classification and the rate of pay for each classification, and must be signed by the worker. ❒
   - The payroll shall show the hours worked in each classification and the wage rate paid for each classification. ❒
   - The payroll shall be signed by each workman, or a signed copy of the daily time record shall be attached thereto. ❒

7. Has informed each worker of his/her hourly wages (not less than the minimum wage rate for his/her work which is stated in the wage rate).
   - Time and one-half for all work over 40 hours in any workweek (see Contract Work Hours and Safety Standards Act). ❒
   - Fringe benefits, if any (see wage decision for any required). ❒
   - Deductions from his/her pay. ❒

8. Has informed each worker that he/she is subject to being interviewed on the job by the recipient or a HUD, USDOL, or other U.S. government inspector, to confirm that his/her employer is complying with all labor requirements. ❒

9. Has informed each journeyman and each apprentice that a journeyman must be on the job at all times when an apprentice is working and verifying the ratio of journeyman to apprentice through the indenture papers. ❒

DURING CONSTRUCTION - EACH EMPLOYER:

1. Has not selected, assigned, paid different pay rates to, transferred, upgraded, demoted, laid off, or dismissed any project worker because of race, color, religion, sex, or national origin. ❒
2. Has employed all registered apprentices referred to him/her through normal channels up to the applicable ratio of apprentices to journeymen in each trade used by the employer. ❒
3. Will maintain basic employment records accessible to inspection by the recipient or U.S. government representatives. ❒
4. is complying with all health and safety standards. ❒
5. Has paid all workers weekly. ❒
6. Has submitted weekly payrolls. ❒

   A. Prepared on recommended Payroll Form WH-347. ❒

   Available from:
   Superintendent of Documents, Government Printing Office, Washington, D.C. 20402

Note: Contractors who wish to purchase the forms are urged to submit their orders promptly because the Superintendent of Documents takes six weeks to fill orders. It is permissible for contractors to reproduce the forms if they wish.

Some employers place all project workers on Payroll Form WH-347. The recipient does not need to review those project workers listed on the payroll who perform work which is descriptive of any of the following job titles which are exempt from labor requirements: project superintendent, project engineer, messenger, clerical workers, timekeepers, bookkeepers, payroll clerks, and Supervisory foreman (*less than 20 percent of time as a working foreman*).

Any alternate payroll form used should be cleared with HUD before employer starts work on the project. A project printout by computer, for example, is acceptable provided that all data shown and required on the front and back of Payroll Form WH-347 is on, or included with, payroll submitted to recipient.

B Front Page of Payroll (Form WH-347) Heading (6 "columns" of information)

1. Name of Employer. Name of employer, showing whether contractor or subcontractor Include IRS I.D. number. ❒
2. Address. Street address or P.O. Box, City, State, and Zip Code of Employer. ❒
3. Payroll Number. Each weekly payroll is numbered in sequential order (starting with Payroll No. "1"). ❒

   If employer's workers perform no physical work on the project during workweek, he/she has submitted a "no work" letter for that workweek. ❒

   Payroll of employer's final workweek on the project (completion of his work) is marked "Final." ❒
4. For Week Ending. The last date of the workweek is stated in this "column." ❒

5. Project and Location. Name of project and city in which the project is located. ❒

6. Project or Contract Number. Include the contract number provided by the recipient. ❒

7. Column 1 - Worker's Name, as it appears on his/her pay check. ❒

Worker's best mailing address and social security number is stated on Payroll No. 1 or the payroll on which his/her name first appears. ❒

If worker changes his/her residential address while working on the project, his/her new address is stated on next applicable payroll. ❒

If any two or more workers have the same name, their social security numbers are included on the payroll to note separate identification. ❒

8. Column 2 - Number of Withholding Exemptions is for employer's convenience, it is not required by HUD to be completed. ❒

9. Column 3 - The Work Classification (job title) for the worker is included in the Wage rate and denotes the work that worker actually performed. ❒

Note: If the applicable classification is not included in the wage rate, the contractor should call the recipient immediately, and request classification by Additional Classification process.

9a. Apprentice. If worker is an apprentice, his/her State BAT registration number and year of apprenticeship is included in this column, the first time the apprentice's name appears on the payroll. ❒

9b. Split Classification. If worker has performed work in more than one class of work during the workweek, such as carpenter and laborer, the division of work will be shown on separate lines of the payroll. ❒

- Accurate daily time records show the exact hours of work performed daily in each class of work, and are signed by the affected workman. ❒
- Each class of work he/she performed is stated in Column 3 in separate "columns." ❒
- His/her name is repeated in corresponding "area" in Column 1. ❒
- The breakdown of hours worked daily under each work classification is stated in Column 4, and total for week in Column 5. ❒
- The applicable wage rate for each classification of work is stated in Column 6. ❒
- The payroll is signed by the workman or a signed copy of the daily time records are attached to the payroll. ❒
- If the above is not done, the worker is paid at least the highest minimum wage rate of all of the classes of work performed for all hours worked. ❒

Average Pay of Two Classes of Work Not Accepted. The employer shall not pay a "semi-journeyman" or semi-skilled laborer the average of journeyman's and laborer's rates. The actual hours each worker uses tools of trade (journeyman) and each hour he/she does not use tools of the trade (laborer) must be recorded in separate "blocks" in Column 3 of the payroll.

Helper. The work classification of "helper" **is not accepted** by the Department of Housing and Urban Development unless included in the wage rate issued by the Secretary of labor for the project. Any employee listed as "helper" in absence of such classification in wage rate **must be paid** the journeyman's rate for hours he/she uses tools of the trade.

10. Column 4 - Hours Worked, Each Day and Date, for workweek is stated. ❒

Overtime Hours ("O"), if any, are stated separately from straight hours ("S")--over 40 hours in any workweek. ❒

11. Column 5 - Total Hours worked during the workweek are stated (the sum of subcolumns in Column 4)--straight and overtime hours recorded separately. ❒

12. Column 6 - Rate of Pay, not less than the minimum wage for the work classification (see Wage rate). ❒

    The Overtime Rate of Pay is not less than one and one-half times the worker's basic (straight) hourly rate of pay (Contract Work Hours Safety Standards Act). ❒

    Apprentices. If a copy of the apprentice's registration certificate from the State BAT has not been submitted to recipient by employer (through contractor), the apprentice must be paid journeyman's rate. ❒

    Piece Worker. Piece work must be stated in Column 6 at an hourly rate, the gross pay for the workweek (work on the project) divided by the total number of hours worked on the project during the workweek. ❒

13. Column 7 - Gross Amount Earned equals straight hours shown in Column 5 times straight rate of pay shown in Column 6, plus overtime hours (if any) shown in Column 5 times overtime rate of pay shown in Column 6. ❒

14. Column 8 - Deductions. Each deduction made is required by law, or voluntarily authorized by the worker in writing before the workweek began, or provided in a bargaining agreement to be deducted from the respective worker's pay. ❒

15. Column 9 - Net Wages stated are Column 7 minus total deductions shown in Column 8. ❒

C. Back of Payroll (Payroll Form WH-347). Each employer has:

1. Completed all blank spaces and understands the penalties for falsification. ❒

2. Checked Item 4 if fringe benefits are included in the wage rate for any of his/her workers. ❒

   2(a). if fringe benefits are paid to approved fund(s), or ❒

   2(b). if paid directly to each affected worker--included in paycheck for the workweek-his/her paycheck representing at least the pay of the applicable minimum wage rate plus the amount of required fringe benefits. ❒

3. Manually signs the payroll in the "area" marked signature, and state his/her title. ❒

4. The person who signs the payroll is the employer or an official of the employer who is legally authorized to act for the employer. ❒

D. Weekly Payroll Review. Each employer has promptly:

1. Reviewed the weekly payroll for compliance with all labor requirements (using this check list) and made necessary corrections. ❒

2. Each Lower-Tier Subcontractor has submitted his/her weekly payroll or "no work" letter to the respective subcontractor, which must be received within three calendar days from the last date of the workweek. ❒

3. Each subcontractor has received a payroll or "no work" letter from each of his/her lower-tier subcontractors, reviewed each and his/her own payroll, made necessary corrections, and submitted all of such payrolls to the contractor, which must be received within five calendar days from the last date of the workweek. ❒

4. Contractor has received a payroll or "no work" letter from each subcontractor and each lower-tier subcontractor, monitored each including his/her own payroll, made necessary corrections, and collectively submitted them to the recipient within seven working days of the last date of the respective workweek. ❒

Payrolls and other documentary evidence of compliance are required to be sent to the recipient for review (all to be submitted through the project contractor).

## ATTACHMENT 6-M: PRECONSTRUCTION REPORT FORMAT

**(Write N/A if a Preconstruction Conference was not held)**

Project Name: _____ Project No.: _____

Location: _____

Description: _____

_____

_____

Contractor: _____

Contract Amount: $_____

Date of Conference: _____

Place of Conference: _____

Attendees (Name & Title): _____

_____

_____

_____

_____

Summary of items covered: (must include Equal Opportunity, Section 3, Labor Standards, the contractor's role and responsibility, the city's/community's role and responsibilities, reporting requirements and sanctions).

_____

_____

_____

_____

_____

_____

_____

## ATTACHMENT 6-N: INSTRUCTIONS FOR COMPLETION OF PAYROLL (FORM WH-347)

U.S. DEPARTMENT OF LABOR WAGE AND HOUR DECISION

General: The use of WH-347 payroll form, while not mandatory, is suggested. This form has been made available for the convenience of contractors and subcontractors required by their Federal or Federally-aided construction-type contracts and subcontracts to submit weekly payrolls.

Contractor or Subcontractor: Fill in your firm's name, IRS I.D. number, and check appropriate box.

Address: Fill in your firm's address.

Column 1 Name, Address, and Social Security Number of Employee: The employee's full name and Social Security number must be shown on each weekly payroll submitted. The employee's address must also be shown on the payroll covering the first week in which the employee works on the project. If the employee moves before the project end date, include the updated address on the next payroll submitted.

Column 2 Withholding Exemptions: This column is not a requirement.

Column 3 Work Classifications: List classification descriptive of work actually performed by employees. Employee may be shown as having worked in more than one classification provided accurate breakdown of hours so that the hours worked are maintained and shown on submitted payroll by use of separate line entries.

Column 4 Hours Worked: On all contracts subject to the Contract Work Hours Standards Act enter as overtime hours, all hours worked in excess of 40 hours a week.

Column 5 Total: Self-explanatory.

Column 6 Rate of Pay, including Fringe Benefits: In straight time box, list actual hourly rate paid for the employee for straight time worked plus any cash in lieu of fringes paid the employee. When recording the straight time hourly rate, any cash paid in lieu of fringes may be shown separately from the basic rate, thus $325/40. This is of assistance in correctly computing overtime. In the overtime box, show overtime hourly rate paid, plus any cash in lieu of fringes paid the employee. Payment of not less than time and one-half the base or regular rate paid is required for overtime under the Contractor Work Hours Standards Act of 1962. In addition to paying not less than the predetermined rate for the classification in which the employee works, the contractor shall pay to approved plans, funds or programs, or shall pay as cash in lieu of fringes amounts predetermined as fringe benefits in the wage rate made part of the contract.

FRINGE BENEFITS – Contractors who pay all required fringe benefits: A contractor who pays fringe benefits to approved plans, funds, or programs in amounts not less than determined in the applicable wage rate of the Secretary of Labor shall continue to show on the face of the payroll the basic cash hourly rate and overtime rate paid to these employees just as he/she has always done. Such a contractor shall check paragraph 4(a) of the statement of indicate payment to approved plans, funds or programs not less than the amount predetermined as fringe benefits for each craft. Any exceptions shall be noted in Section 4(c).

Contractors that do not pay fringe benefits: A contractor that doesn't pay fringe benefits shall pay to the employee and insert in the straight time hourly rate column of the payroll, an amount not less than the predetermined rate for each classification plus the amount of fringe benefits determined for each classification in the applicable wage rate. It is not necessary to pay time and one-half on cash paid in lieu of fringes, the overtime rate shall not be less than the sum of the basic predetermined rate, plus the half-time premium on basic or regular rate, plus the required cash in lieu of fringes at the straight time

rate. In addition, the contractor shall check paragraph 4(b) to indicate that he/she is paying fringe benefits in cash directly to his/her employees. Any exception shall be noted in Section 4(c).

Use of Section 4(c), Exceptions: Any contractor who is making payment to approved plans, funds, or programs in amounts less than the wage rate required is obligated to pay the difference directly to the employees as cash in lieu of fringes. Any exceptions to Section 4(a) or 4(b), whichever the contractor may check, shall be entered in Section 4(c). Enter in the exception column the craft, and enter in the Explanation column the hourly amount paid the employee as cash in lieu of fringes and the hourly amount paid to plans, funds, or programs as fringes. The contractor shall pay and shall show the payment to each such employee for all hours (unless otherwise provided by applicable wage rate) worked on Federal or Federally-assisted projects an amount not less than the predetermined rate plus cash in lieu of fringes as shown in Section 4(c). The rate paid and amount of cash paid in lieu of fringe benefits per hour should be entered in column 6 on the payroll. See paragraph on "Contractors who pay no fringe benefits" for computation of overtime rate.

Column 7 Gross Amount Earned: Enter gross amount earned on this project. If part of the employee's weekly wage was earned on projects other than the project described on this payroll, enter in column 7 first the amount earned on the Federal or Federally-assisted project and then the gross amount earned during the week on all projects, thus $63.00/120.00.

Column 8 Deductions: Five columns are provided for showing deductions made. If more than five deductions should be involved, use first 4 columns; show the balance of deductions under "Other" column. Show actual total under "Total Deductions" column, and in the attachment to the payroll describe the deductions contained in the "Other" column. All deductions must be in accordance with the provisions of the Copeland Act Regulations, 29 CFR, Part 3. If the employee worked on other jobs in addition to this project, show actual deductions from his/her weekly gross wage, but indicate that deductions are based on his gross wages.

Column 9 Net Wages Paid for Week: Self-explanatory.

Statement Required by Regulations Parts 3 and 5: While this form need not be notarized, the statement on the back of the payroll is subject to the penalties provided by 18 USC 1001, namely, possible imprisonment for five years or a $10,000.00 fine or both. Accordingly, the party signing this required statement should have knowledge of the facts represented as true.

Space has been provided between items (1) and (2) of the statement for describing any deductions made. If all deductions made are adequately described in the "Deductions" column above, state "See Deductions column in the payroll." See paragraph entitled "Fringe Benefits" on the previous page for instructions concerning filling out paragraph 4 of this statement.

Form Approved
Budget Bureau No. 44 R 109

U.S. DEPARTMENT OF LABOR
WAGE AND HOUR DIVISION

PAYROLL
(For Contractor's Optional Use; See Instruction, Form WH-347 Inst.)

| NAME OF CONTRACTOR ___ OR SUBCONTRACTOR___ | | | ADDRESS | |
|---|---|---|---|---|
| PAYROLL NO. | FOR WEEK ENDING | | PROJECT AND LOCATION | PROJECT OR CONTRACT NO. |

| (1) NAME, ADDRESS AND SOCIAL SECURITY NUMBER OF EMPLOYEE | (2) # OF EXEMPTIONS | (3) WORK CLASSIFICATION | OT OR ST | (4) DAY AND DATE | | | | | | | (5) TOTAL HOURS | (6) RATE OF PAY | (7) Gross Amount Earned | (8) DEDUCTIONS | | | | | | (9) NET WAGES PAID FOR WEEK |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | | | | | | | | | | | | | | FICA | WITH HOLDING TAX | | | OTHER | TOTAL DEDUCTIONS | |
| | | | | Hours Worked Each Day | | | | | | | | | | | | | | | | |
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FORM WH-347 (1/68)

## ATTACHMENT 6-O: INSTRUCTIONS FOR PREPARATION OF STATEMENT OF COMPLIANCE

Under the Davis-Bacon law, the contractor is required to pay fringe benefits as predetermined by the USDOL, in addition to payment of the minimum rates. The contractor's obligation to pay fringe benefits may be met by payment of the various plans, funds, or programs or by making these payments to the employees as cash in lieu of fringes. Each contractor should complete a Statement of Compliance with the fringe benefits provisions.

The contractor should show on the face of his/her payroll all monies paid to the employees whether as basic rates or as cash in lieu of fringes. The contractor shall represent in the statement of compliance that he/she is paying fringe benefits required by the contract and is not paying as cash in lieu of fringes. Detailed instructions follow:

Contractors who pay all required fringe benefits:

A contractor who pays fringe benefits to approved plans, funds, or programs in amounts not less than were determined in the applicable wage rate of the Secretary of Labor shall continue to show on the face of the payroll the basic cash hourly rate and overtime rate paid to his/her employees, just as he/she has always done. Such a contractor shall check paragraph 4(a) of the statement to indicate payment to approved plans, funds, or programs not less than the amount predetermined as fringe benefits for each craft. Any exception shall be noted in Section 4(c).

Contractors that do not pay fringe benefits:

A contractor that doesn't pay fringe benefits shall pay to the employee and insert in the straight time hourly rate column of the payroll, an amount not less than the predetermined rate for each classification plus the amount of fringe benefits determined for each classification in the applicable wage rate. Inasmuch as it is not necessary to pay time and one-half on cash paid in lieu of fringes, the overtime rate shall be not less than the sum of the basic predetermined rate, plus the half-time premium on the basic or regular rate, plus the required cash in lieu of fringes at the straight time rate. To simplify computation of overtime, it is suggested that the straight time basic rate and cash in lieu of fringes be separately stated in the hourly rate column, thus #3.25/40. In addition, the contractor shall check paragraph 4(b) of the statement to indicate that he/she is paying fringe benefits in cash directly to his/her employees. Any exceptions shall be noted in Section 4(c).

Use of Section 4(c), Exceptions

Any contractor who is making payment to approved plans, funds, or programs in amounts less than the wage rate required is obligated to pay the deficiency directly to the employees as cash in lieu of fringes. Any exceptions to Section 4(a) or 4(b), whichever the contractor may check, shall be entered in Section 4(c). Enter in the Exception column the craft, and enter in the Explanation column the hourly amount paid the employee as cash in lieu of fringes and the hourly amount paid to plans, funds or programs as fringes. The contractor shall pay and shall show the payment to each such employee for all hours (unless otherwise provided by applicable wage rate) worked on Federal or Federally assisted project an amount not less than the predetermined rate plus cash in lieu of fringes as shown in Section 4(c). The rate paid and amount of cash paid in lieu of fringe benefits per hour should be entered in column 6 on the payroll. See paragraph on "Contractors who pay no fringe benefits" for computation of overtime rate.

# STATEMENT OF COMPLIANCE

Date: _____

I, _____, _____, do hereby state:
*(Name)* *(Title)*

(1) That I pay or supervise the payment of the persons employed by _____ on
*(Contractor of subcontractor)*

the _____; that during the payroll period commencing on the _____ day of _____,
*(Building or Work)*

20_____ and ending the _____ day of _____, 20_____, all persons employed on said project have been paid in full weekly wages earned that no rebates have been or will be made either directly or indirectly to or on behalf of said

_____ from the full wages earned by any person and that no deductions have
*(Contractor or subcontractor)*

been made either directly or indirectly from the full wages earned by person, other than permissible deductions as defined in Regulations, Part 3 (29 CFR Subtitle A), issued by the Secretary of Labor under the Copeland Act, as Amended (48 Stat. 948, 63 Stat. 108, 72 Stat. 967; 76 Stat. 357; 40 U.S.C. 276c), and described below:

_____

_____

_____

_____

(2) That any payrolls otherwise under this contract required to be submitted for the above period are correct and complete, that the wage rates for laborers and mechanics contained therein are not less than the applicable wage rates contained in any wage determination incorporated into the contract; that the classifications set forth therein for each laborer or mechanic conform with the work he/she performed.

(3) That any apprentices employed in the above period are duly registered in a bona fide apprenticeship program registered with a State apprenticeship agency recognized by the Bureau of Apprenticeship and Training, United States Department of Labor, or if no such recognized agency exists in the State, then the apprentice must be registered with the Bureau of Apprenticeship and Training, United States Department of Labor.

(4) That:

(a) WHERE FRINGE BENEFITS ARE PAID TO APPROVED PLANS, FUNDS, OR PROGRAMS

❒ - In addition to the basic hourly wage rates paid to each laborer or mechanic listed in the above referenced payroll, payments of fringe benefits as listed in the contract have been or will be made to appropriate programs for the benefit of such employees, except as noted in Section 4(c) below.

(b) WHERE FRINGE BENEFITS ARE PAID IN CASH

❒ - Each laborer or mechanic listed in the above-referenced payroll has been paid as indicated on the payroll, an amount not less than the sum of the applicable basic hourly rate plus the amount of the required fringe benefits as listed in the contract, except as noted in Section 4(c) below

(c) EXCEPTIONS

| EXCEPTION (CRAFT) | EXPLANATION |
|---|---|
| | |
| | |
| | |
| REMARKS | |
| NAME AND TITLE | SIGNATURE |
| THE WILLFUL FALSIFICATION OF ANY OF THE ABOVE STATEMENTS MAY SUBJECT THE CONTRACTOR OR SUBCONTRACTOR TO CIVIL OR CRIMINAL PROSECUTION, SEE SECTION 1001 OF TITLE 18 AND SECTION 231 OF TITLE 31 OF THE UNITED STATES CODE | |

## ATTACHMENT 6-P: SAMPLE - EMPLOYEE INTERVIEW

### RECORD OF EMPLOYEE INTERVIEW
### LABOR STANDARDS

| | |
|---|---|
| **1.** CDBG Contract No. PF FY00-0000 | **2.** Name of Contractor/Subcontractor<br>Acme Construction<br>Your City, WI |
| **3.** Project Name Yourville Watertower Project | |
| **4.** Name of Employee PAT DOE | |
| **5.** Home Address and ZIP 111 Your Avenue, Yourville | |
| **6.** Last date you worked on the project before today? 1/23/4567 | **7.** Number of hours you worked on the project on that date? 8 |
| **8.** Your Hourly Pay Rate? $18.50 | |

| | YES | NO |
|---|---|---|
| **9.** Your Job Classification? Topman | | |
| **10.** Apprentice? | | X |
| **11.** Your Duties? Install Pipe, Move Dirt | | |
| **12.** Tools and/or Equipment Used? Shovel | | |
| **13.** Paid at Least Time and One-Half for All Hours Worked in Excess of 40 Hours in a Week? (*If overtime premium pay is not required, write in "inapplicable" or "N/A)* | X | |
| **14.** Ever Threatened, Intimidates, or Coerced into Giving Up Any Part of Pay? | | X |

| | YES | NO |
|---|---|---|
| **15.** Duties Observed by Interviewer<br>Same as above. | | |
| **16.** Conform to Classification? | X | |

**17.** Remarks (*Continue on reverse if necessary)*

| | |
|---|---|
| **18.** Signature of Interviewer John Doe, Inspector | **19.** Date of Interview<br>1/23/4567 |

**PAYROLL EXAMINATION**

**20.** Remarks (*Continue on reverse if necessary)*
Agrees with payroll

| | |
|---|---|
| **21.** Signature of Payroll Examiner<br>Mary Smith | **22.** Date<br>1/23/4567 |

# EMPLOYEE INTERVIEW

## RECORD OF EMPLOYEE INTERVIEW
## LABOR STANDARDS

| | |
|---|---|
| **1.** CDBG Contract No. | **2.** Name of Contractor/Subcontractor |
| **3.** Project Name | |

**4.** Name of Employee

**5.** Home Address and ZIP

| | |
|---|---|
| **6.** Last date you worked on the project before today? | **7.** Number of hours you worked on the project on that date? |

**8.** Your Hourly Pay Rate? $

| | YES | NO |
|---|---|---|
| **9.** Your Job Classification? | | |
| **10.** Apprentice? | | |

**11.** Your Duties?

**12.** Tools and/or Equipment Used?

| | YES | NO |
|---|---|---|
| **13.** Paid at Least Time and One-Half for All Hours Worked in Excess of 40 Hours in a Week? (*If overtime premium pay is not required, write in "inapplicable" or "N/A)* | | |
| **14.** Ever Threatened, Intimidates, or Coerced into Giving Up Any Part of Pay? | | |

15. Duties Observed by Interviewer

| | YES | NO |
|---|---|---|
| **16.** Conform to Classification? | | |

**17.** Remarks (*Continue on reverse if necessary)*

| | |
|---|---|
| **18.** Signature of Interviewer | **19.** Date of Interview |

**PAYROLL EXAMINATION**

**20.** Remarks (*Continue on reverse if necessary)*

| | |
|---|---|
| **21.** Signature of Payroll Examiner | **22.** Date |

## ATTACHMENT 6-Q: SECTION 5.7 ENFORCEMENT REPORT

MEMORANDUN FOR: Mr. Brian Leiteritz, HUD Labor Standards Field Officer
**(To be sent to Darlene Moss, Labor Standards Specialist at Commerce)**

FROM:

SUBJECT: Section 5.7 Enforcement Report

1) Coverage

Project Name: _____

Project No.: _____

Location: _____
(City) (County) (State)

Wage Decision: _____

Program Area/Statute: _____

Prime Contractor: _____

_____
(City) (County) (State)

Subcontractor _____

_____
(City) (County) (State)

2) Violations

Wage restitution in the total amount of $_____ has been paid to _____ employees by contractor(s) named above. (See attached Schedule(s) of Wages Found Due.)

Were any of the violation willful? YES NO (circle one)

Were CWHSSA liquidated damages computed? YES NO (circle one)
(if yes, see attached detailed report)

Are administrative sanctions recommended? YES NO (circle one)
(if yes, see attached detailed report)

The wage underpayments were discovered through:
_____

_____

The type of violations were:
_____

_____

3) Disposition

(Narrative)*
*use additional pages if necessary

**ATTACHMENT 6-R: FINAL LABOR STANDARDS COMPLIANCE REPORT**
*(Must be submitted prior to or with the Final Draw Request)*

Grantee Name _____
CDBG Contract No. _____Project No. _____
Project Name _____
Project Location_____
Prime Contractor _____
Bid Opening Date _____ Contract Award Date _____
Construction Start _____
Date and location of pre-construction conference_____
Was HUD 4010 (Labor Standards Provisions) include in Specifications?_____
Was Wage Decision included in Specifications? _____
Wage Decision number _____
Number of Employee interviews completed _____
Number of Trades interviewed _____
Briefly describe any Labor Standards complaints and resolutions.

_____
_____
_____

Date Construction Completed _____ Amount of Funds Retained _____

**CONTRACTOR(S) WITH UNDERPAYMENTS ON THIS CONTRACT**

| Name | Amount of Wage Underpayments | Number of Employees | Amount of overtime Underpayments | Number of Employees | Liquidated Damages |
|---|---|---|---|---|---|
| | | | | | |
| | | | | | |
| | | | | | |

What comments or recommendations do you have regarding these violations?

_____
_____

I CERTIFY THAT TO THE BEST OF MY KNOWLEDGE ALL LABORERS AND MECHANICS EMPLOYED ON THIS CONSTRUCTION CONTRACT WERE PAID IN ACCORDANCE WITH THE LABOR PROVISIONS, EXCEPT AS NOTED. THERE ARE NO OUTSTANDING OR UNRESOLVED LABOR STANDARDS PAYMENTS, COMPLAINTS OR DISPUTES.

Signed _____
(*Designated Labor Standards Officer)*

Title _____ Date _____

REQUIRED 'FORCE ACCOUNT' DOCUMENTATION

1. The <county/city/village/town> must keep separate payroll records for hours worked on the CDBG project verses the hours worked on regular <county/city/village/town> duties. Complete: *Attachment 6-S.*

   Payroll Records must indicate the following:

   a. Each employee's name
   b. Each employee's hourly rate
   c. Number of hours worked (separate CDBG vs. other duties)
   d. Pay period

2. No overtime will be paid from CDBG funds unless the employee works in excess of their normal full-time work week, as stated in any labor contract, on the CDBG project.

3. The <county/citiy/village/town> must submit all payrolls for each employee working on the CDBG project with **each** 'Request for Payment of Federal CDBG Funds' form. No CDBG funds will be released without the required payrolls.

4. Upon requesting reimbursement from the Department of Commerce-CDBG funds, the county MUST show the amount **separately** (by separate check number) for labor and must be noted "<name of county/city/village/town> Reimbursement Force Account" per line item. Any materials purchased for the project MUST be shown separately. This information is required on the CDBG Disbursement Journal, Matching Funds Journal (if applicable) and the Cash Control Register. No CDBG funds will be release without accurate accounting of 'Force Account' labor.

## ATTACHMENT 6-S: FORCE ACCOUNT AFFIDAVIT

If you are using Force Account for your project, have your payroll clerk or Davis-Bacon contact complete and sign the following affidavit. Keep one copy for your files and mail the original to your project representative at the Department.

I hereby certify that the _____ is using Force Account
(City/village/Town)

labor for _____
(Description of work)

on the _____, _____
(Project Name) (Contract Number)

No overtime payments will be made to Force Accounts out of CDBG funds.

Separate hours must be kept and logged when working on CDBG work and nonregular municipality work.

All payrolls and records of payments must be kept in the Labor Standards Files under General Labor Standards.

Failure to submit this form prior to a draw request will force the Regular Davis-Bacon Wage Rate that will apply to the contract.

_____, _____
(Signature of Payroll Clerk or Davis Bacon Contact) (Title)

_____ _____
(Phone Number) (Date)

# CHAPTER 7: FINANCIAL MANAGEMENT

ACCOUNT SPECIALIST: Jeff Ellerbach PHONE: (608) 266-8934
FAX: (608) 266-8969 E-MAIL: jellerbach@commerce.state.wi.us

## I. INTRODUCTION

Commerce has established recordkeeping requirements for CDBG recipients in accordance with 24 CFR Part 570, 490, Recordkeeping Requirements. As required by the federal regulations, this system of recordkeeping is sufficient to facilitate reviews and audits of grantees by Commerce.

## II. INCURRING COSTS

- **Soft Costs,** such as administration, engineering services and other non-construction related activities, may only be incurred after the date of the grant *Award Letter.*

- **Hard Costs,** such as **construction and the purchase of materials, may only be incurred following completion of the Environmental Review process, and completion of a portion of the Labor Standards process** if applicable (see *Chapter 3: Environmental Review* and *Chapter 6: Labor Standards).*

## III. REQUESTING CDBG FUNDS

- CDBG funds for **soft costs** may only be requested upon completion of the following:

  - ❑ Signed contract with the Department of Commerce

  - ❑ *Depository Certification* form received by Commerce *(see Attachment 7-A* for form and instructions)

  - ❑ *Financial Management Contact Person* form received by Commerce *(see Attachment 7-B)*

  - ❑ Development Agreement received by Commerce (PFED only)

  - ❑ Receipt of *Request for Payment* forms from Commerce (see *Attachment 7-C* for form sample and instructions)

- In addition, **hard costs** may only be requested upon completion of the following:

  - ❑ Environmental Review process and receipt of Environmental Certification letter from Commerce.

  - ❑ Portions of the Labor Standards process.

    - ❑ *Labor Standards Officer Designee (Attachment 6-C)* received by Commerce.
    - ❑ *Request for Wage Decision and Response to Request, Form 308 (Attachment 6-D)* received by Commerce.
    - ❑ Received Wage Decision(s) (if applicable), for each budget activity for which you are requesting funds from Commerce.
    - ❑ *Ten Day Wage Decision Status Check (Attachment 6-F)* received by Commerce.
    - ❑ *Advertisement For Bids (Attachment 6-H).*
    - ❑ *Notice of Contractor Award (Attachment 6-J)* received by Commerce.
    - ❑ Preconstruction Conference, strongly recommended (*Attachments 6-K, 6-L, and 6-M).*

- Once you have received *Request for Payment* forms from Commerce, and the above requirements have been completed, you may request funds from the contract budget. Submit a copy of th following forms **each time** CDBg funds are request from Commerce.

  - A copy of the completed pre-printed *Request for Payment* form. (see *Attachment 7-C* for the sample form and instructions).

  - An up-to-date *Cash Control Register* beginning with second request and every request thereafter. (see *Attachment 7-D* for the sample form and instructions).

  - An up-to-date *CDBG Disbursements Journal* beginning with second request and every request thereafter. (see *Attachment 7-E* for the sample form and instructions).

  - An up-to-date *Matching Funds Journal* beginning with second request and every request thereafter. (see *Attachment 7-F* for the sample form and instructions).

- Request for Payment forms are processed **daily** by Commerce. A **check** for the CDBG funds requested will be mailed directly to the designated financial institution for deposit into the noninterest-bearing checking account that was specified in the Depository Certification form. **CDBG funds are paid by check, they are not wire transferred.** Allow approximately **10 days** for the check to be deposited in the community's designated noninterest-bearing checking account.

- CDBG funds may be requested in advance of the intended date of disbursement. This enables you to use CDBG funds for CDBG payments rather than disbursing local funds and being reimbursed by the CDBG program. Your bills should be paid directly from your CDBG noninterest-bearing checking account.

- CDBG funds drawn **in excess of $5,000.00** must be disbursed within **three (3) working days** after the funds have been deposited in your checking account. Localities may keep excess CDBG funds in the noninterest-bearing checking account if the amount is less than the **minimum allowable drawdown of $5,000.00.** Minimum drawdowns ($5,000.00) may be retained by the locality until used.

- **Administrative funds should be requested in approximate proportion to the requests made from project budget categories. For example, if an overall average of 25 percent of the project budget has been drawn, do not expect to receive 50 percent of the administrative budget.**

- **Matching funds need to be kept in an account separate from CDBG funds and are to be spent concurrently with and in proportion to CDBG funds You may earn interest on matching funds. Matching funds may be spent on any project related costs as shown in the budget table of the contract**.

## IV. CDBG AND MATCHING FUNDS DOCUMENTATION

- Supporting documentation for CDBG funds requested must be kept in your grant file. This includes invoices, canceled checks or copies, and bank statements. This documentation must **clearly** identify the items for which CDBG funds were expended. Therefore, calculations or narrative descriptions that identify the expenditures paid with CDBG funds should be attached to invoices that include work beyond the CDBG contract "Scope of Services."

- Similarly, supporting documentation, including the *Matching Funds Journal* (see *Attachment 7-F*) must be on file for disbursed matching funds.

## V. FINAL REQUEST

- The final request should be submitted to Commerce **before the expiration of the contract,** and may be for less than $5,000.00. To indicate that it is the final request, check "yes" on the Final Request line on the Request for Payment form.

- The Final Labor Standards Compliance Report (FLSCR) **must be** submitted prior to, or with, the final request for payments form if Labor Standards are applicable to your project. Commerce reserves the right to withhold administrative funds until the FLSCR is received.

- If applicable, Commerce reserves the right to **withhold up to $3,000** of the total Administration budget until we receive a *Closeout Report.*

- If the final request is submitted **after the contract expiration date**, you must document that expenses were incurred prior to the contract expiration date. Funds received from the final request must also be disbursed within three working days if in excess of $5,000.00.

## ATTACHMENT 7-A: DEPOSITORY CERTIFICATION FORM AND INSTRUCTIONS

Establish a **NonInterest-Bearing Checking Account** for your CDBG grant funds. This account must be separate from all other community accounts and any other CDBG checking accounts. **Matching funds** are also to be kept in an account separate from the CDBG funds and can earn interest. **If interest is inadvertently earned on the CDBG grant funds account, it must be returned to the Department of Commerce and made payable to:**

**U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT**

Mail to: Account Specialist
Wisconsin Department of Commerce
Bureau of Community Finance
P.O. Box 7970
Madison, WI 53707-7970

***TWO*** community officials must sign CDBG grant account checks (e.g., clerk, treasurer, deputy clerk, deputy treasurer, administrator, board/council member, trustee, or chief elected official). **Signatories cannot be a project consultant.**

CDBG funds requested will be deposited directly into your non-interest-bearing-checking account. **Your bills need to be paid directly from this account.** This allows for a clear audit trail of CDBG funds deposited to, and disbursed from, your account.

**NOTE:** You must use this form as your master copy for photocopying in case of any changes.

- Fill in the Depository Certification the "Commerce Contract Number" in the upper right corner of the form.

- **Section I** identifies the financial institution where grant payments will be sent, and the CDBG grant checking account number for these deposits. Make sure to fill in the **complete address of the financial institution.** On the "ATTN" line, you **must** indicate the name of the individual at the bank who will be responsible for the receipt of your CDBG checks (if applicable).

- Provide the signature, typed name, and title of the Chief Elected Official (CEO) (e.g., Mayor, City Council President, City Manager, Village President, Town or County Board Chair, or County Executive). Enter the date the form is signed by the CEO.

- Place a check mark behind "Original Form" or behind "Amended Form" if you are submitting an updated form.

- **Section II** requires the local financial institution to notify the grantee when each grant payment has been received, and identifies the insurer of the CDBG deposits. The signature in Section II is that of an official in the designated local financial institution. It is important for the bank official to know that the community must be notified by telephone the same day CDBG funds are received by the bank. If you do not receive notification 10 days after the request was mailed to Commerce, contact the bank daily to see if the check has been deposited.

- Check whether the form was faxed or mailed, as well as the date. Retain the original completed form, **and have the bank retain a copy for their records.** Fax a copy of the completed form to the Account Specialist at 608/266-8934, or mail a copy to the address listed above.

- Should the local financial institution's name, address, or the account number change, a new form must be completed. If you have any questions contact the Account Specialist.

## SAMPLE – DEPOSITORY CERTIFICATION

**WI Department of Commerce** **Commerce Contract#:** PF FY00-000

**SECTION I** **Attn:** Susan B. Anthony, Bank Contract

The Your Bank, 123 Your Street, Yourville, WI 55055 has been designated
*(Name, Address and Zip Code of Financial Institution)*
to receive all funds resulting from the CDBG contract executed between the Wisconsin Department of Commerce and the Village of Yourville.
*(City, Village, Town or County)* *(Community Name)*

These funds will be deposited into account # 12-345-67. Checks will require the
*(checking account #)*
signatures of two community officials.

***Jane Doe*** Village President 1/23/4567
(*Signature of the Chief Elected Official)* *(Title)* *(Date)*

Jane Doe Original Form X Amended Form _____
*(Typed Name of the Chief Elected Official)* *(Check One)*

**SECTION II**

The account in Section I has been established with this bank. All necessary documentation to legally enable this bank to receive direct deposits to this account without the payee's endorsement are in this bank's custody. All deposits are insured by **F.D.I.C.**. The
*(Insurer of CDBG Deposits)*
Depository hereby agrees to immediately notify the recipient local government when a deposit is made to the above account.

***Jane Smith*** President 12/34/5678
*(Signature of Bank Officer)* *(Title)* *(Date)*

Jane Smith Faxed X or Mailed _____ on 12/34/5678
*(Typed Name of Bank Officer)* *(Check one)* *(Date)*

Retain the original completed form for your grant files and fax a copy to the Account Specialist at 608/264-6151 or mail to:

**Account Specialist**
**Bureau of Community Finance**
**Wisconsin Department of Commerce**
**P.O. Box 7970**
**Madison, WI 53707-7970**

## DEPOSITORY CERTIFICATION

**WI Department of Commerce** **Commerce Contract #:** _____

**SECTION I** **Attn:** _____

The _____ has been
*(Name, Address and Zip Code of Financial Institution)*
designated to receive al funds resulting from the CDBG contract executed between the Wisconsin Department of Commerce and the _____ of
*(City, Village, Town or County)*
_____.
*(Community Name)*

These funds will be deposited into account # _____. Checks will require the
*(checking account #)*
signatures of two community officials.

_____ _____ _____
(*Signature of the Chief Elected Official)* *(Title)* *(Date)*

_____ Original Form _____Amended Form _____
*(Typed Name of the Chief Elected Official)* *(Check One)*

**SECTION II**

The account in Section I has been established with this bank. All necessary documentation to legally enable this bank to receive direct deposits to this account without the payee's endorsement are in this bank's custody. All deposits are insured by _____. The Depository
*(Insurer of CDBG Deposits)*
hereby agrees to immediately notify the recipient local government when a deposit is made to the above account.

_____ _____ _____
*(Signature of Bank Officer)* *(Title)* *(Date)*

_____ Faxed _____ or Mailed ____ on _____
*(Typed Name of Bank Officer)* *(Check one)* *(Date)*

Retain the original completed form for your grant files and fax a copy to the Account Specialist at 608/266-8934 or mail to:

**Account Specialist**
**Bureau of Community Finance**
**Wisconsin Department of Commerce**
**P.O. Box 7970**
**Madison, WI 53707-7970**

## ATTACHMENT 7-B: FINANCIAL MANAGEMENT CONTACT PERSON

*(Please type or print clearly.)*

Please provide the following information to the Commerce Account Specialist.

**COMMUNITY NAME:** _____

**CONTRACT #:** _____

**FINANCIAL MANAGEMENT CONTACT PERSON:** _____
(This is the person who completes the Request for Payment Form)

**TITLE:** _____

**FIRM (if applicable):** _____

**STREET ADDRESS:** _____

**CITY:** _____

**STATE/ZIP CODE:** _____

**PHONE #:** (_____) _____-_____

**FAX #:** (_____) _____-_____

**E-MAIL:** _____

Fax or mail this form, along with *Attachment 7-A: Depository Certification* form to:

**Account Specialist**
**Bureau of Community Finance**
**Wisconsin Department of Commerce**
**P.O. Box 7970**
**Madison, WI 53707-7970**

**Fax: 608/266-8969**

## ATTACHMENT 7-C: REQUEST FOR PAYMENT SAMPLE FORM AND INSTRUCTIONS

Much of the information on this form will be preprinted by Commerce. The instructions are for the portions of the form you will fill out. **The preprinted *Request for Payment* forms will be sent to you as soon as your are eligible to request funds in one or more of the budget categories. No other form will be accepted.**

SECTION 1

REQUEST #: Number consecutively each *Request for Payment* form for this particular contract number, beginning with #1. When submitting the Final Request, make sure you check the "Yes" line. (See Section V in the beginning of this chapter for "Final Request" requirements.)

NOTE: If you have more than one CDBG contract, you must submit separate *Request for Payment* forms for each CDBG contract.

AMOUNT REQUESTED: This is the amount of CDBG funds being requested **at this time** from the grant award for this contract number. Each request (except the final one) must be for **at least $5,000.00.** Funds drawn **in excess of** $5,000.00 must be disbursed within three working days after the funds have been deposited in your checking account.

SECTION 2

CDBG ITEM/ITEM NAME AND CDBG BUDGET: The Request for Payment form indicates the **budget categories** and **budget amounts allocated to each category** per the contract. (This information will be preprinted on the Request for Payment form.)

AMOUNT OF THE REQUEST: Break down the total amount of CDBG funds being requested, by budget category, and enter the dollar amount(s) of the appropriate line(s).

RECIPIENT MATCH: Break down, by budget category, and enter the dollar amount of matching funds relative to this request. **This amount is not a cumulative amount.** Your match amount(s) should reflect the amounts in your *Matching Funds Journal (see Attachment 7-F).*

TOTAL: Enter The sum amount of the Request and Recipient Match for **each budget category.**

**TOTAL:** Total all three columns.

SECTION 3

PREPARER SIGNATURE AND DATE: Provide the signature, typed name, and title of the individual preparing the request. Enter the date the request form is signed.

PROJECT REPRESENTATIVE SIGNATURE AND DATE: Commerce will provide the signature and date in this area.

ACCOUNT SPECIALIST SIGNATURE AND DATE: Commerce will provide the signature and date in this area.

SECTION 4

Faxed Request for Payment forms are accepted for drawdown processing. Check whether the forms are being faxed or mailed to Commerce and fill in the date. Mail or fax (608/266-8969) the completed request form, with copies of the Cash Control Register, Disbursements Journal, and Matching Funds Journal, to the address below. Retain a copy for your grant files. Please note that in the event that the faxed copies are illegible, you will be asked to mail the forms to Commerce for processing.

**Your Account Representative**
**Bureau of Community Finance**
**Wisconsin Department of Commerce**
**P.O. Box 7970**
**Madison, WI 53707-7970**

**Fax: 608/266-8969**

## ATTACHMENT 7-D: CASH CONTROL REGISTER FORM AND INSTRUCTIONS

(Contact your Project Representative for questions regarding the Cash Control Register)

The *Cash Control Register* (CCR) summarizes daily receipts, disbursements, and federal cash balances for the CDBG project. It also provides documentation that the grantee has minimized the time elapsed between the receipt and disbursement of federal funds.

A copy of the current CCR, prepared in accordance with the instructions provided below, must be submitted with each *Request For Payment (see Attachment 7-C)* and with the Closeout Report (see Chapter 9). **Note:** The CCR is to be submitted with the second and subsequent Request for Payment forms.

A. Enter the name of the grantee as it appears on the CDBG contract.

B. Enter the contract number as it appears on the CDBG contract.

C. In column 1, "Request." Enter the request number from the Request for Payment of Federal CDBG Funds form ("Request for Payment form").

D. In column 2, "Date of Request," enter the date of "Preparer's Signature" from the Request for Payment form.

E. In column 3, "Amount of Request," enter the amount requested from the Request for Payment form, Section 1, "Amount Requested".

F. In column 4, "Cumulative Requests to Date," enter the total amount requested to date.

G. In column 5, "Date of Deposit," enter the date that requested CDBG funds were deposited in the CDBG checking account as shown on the notification received from the bank.

H. In column 6, "Amount of Deposit," enter the amount of requested CDBG funds deposited in the CDBG checking ;account as shown on the bank notification.

I. In column 7, "Cumulative Receipts to Date," enter the total amount of CDBG funds received to date.

J. In column 8, "Date," enter the date of miscellaneous receipts or disbursements, including refunds to Commerce. (Columns 8, 9, and 10 should be used infrequently.)

K. In column 9, "Deposit or Check Amount," enter the amount of any miscellaneous receipts or disbursements.

L. In column 10, "Cumulative Amount to Date," enter the net balance of miscellaneous receipts or disbursements, if any.

M. In column 11, "Date," enter the date funds were disbursed from the CDBG checking account.

N. In column 12, "Amount," enter the amount of funds disbursed from the CDBG checking account.

O. In column 13, "Cumulative Amount to Date," enter the total amount of funds disbursed from the CDBG checking account, to date.

P. In column 14, “Date,” enter the date of the last entry in column 5, 8, or 11, which results in a change in the “balance of federal cash on hand,” i.e., funds in your CDBG checking account.

Q. In column 15, “Amount,” enter the balance of federal cash on hand. The balance is equal to the sum of Column 7, plus or minus Column 10, minus Column 13, and should reconcile with the CDBG checking account bank statement.

R. Only **one** entry should be reported in any one row (eg., submission of a request for payment, receipt of CDBG funds, miscellaneous collection or refund, or disbursement of CDBG funds).

S. Following are explanations of the sample entries on the *Sample Cash Control Register* (CCR), *Attachment 7-D: Sample Disbursements Journal* (DJ) and *Attachment 7-F: Sample Matching Funds Journal* (MFJ).

1. CCR and DJ – On September 1, River Bank charged the Village a $5 quarterly account service fee. The service fee, an eligible administrative expense in accordance with OMB Circular No. A-87, was automatically deducted from the CDBG checking account.

2. CCR – On September 11, the Village submitted request #4 to Commerce for $283,460.00.

3. CCR – On September 22, the Village received notification from the bank of a deposit of $283,460.00 into its CDBG checking account from Commerce.

4. CCR and DJ – On September 25, the Village wrote checks out of the CDBG checking account totaling $281,000.00 and out of their matching funds account totaling $190,760.00:

   a. DJ – Check 1007, invoice #0491, in the amount of $252,805.00, payable to Acme Construction for sewer, water, and street costs;

   b. DJ – Check 1008, invoices #7 and 8, in the amount of $11,000.00, payable to Mary Smith Engineering Associates for engineering and administration;

   c. MFJ – Check 27891, invoice #8, in the amount of $2,500.00, payable to Mary Smith Engineering Associates for engineering;

   d. DJ – Check 1009, invoice #0079, in the amount of $14,635.00, payable to Water Tower Constructors, Inc., for water tower costs;

   e. MFJ – Check 27892, invoice #0079, in the amount of $185,700.00, payable to Water Tower Constructors, Inc., for water tower costs;

   f. DJ – Check 1010, invoices #0194 and 0693, in the amount of $2,560.00, payable to the Village of Grantville for supplies and landscaping around the water tower performed by municipal employees; and,

   g. MFJ – Check 27893, invoices #0194 and 0693, in the amount of $2,560.00, payable to the Village of Grantville for supplies and landscaping around the water tower performed by municipal employees.

5. CCR – On November 20, the Village submitted request #5, FINAL, to Commerce for $7,390.00.

6. CCR – On December 1, the Village received notification from the bank of a deposit of $7,390.00 into its CDBG checking account from Commerce.

7. CCR and DJ – On December 4, the Village wrote checks totaling $7,585.00:

    a. DJ – Check 1011, invoices #9 and 10, in the amount of $7,585.00, payable to Mary Smith Engineering Associates, for the final engineering and administrative services invoice.

8. CCR – On December 27, after all CDBG eligible expenses has been paid, $2,460.00 of unutilized grant funds were returned to Commerce, with check 1012. A statement accompanying the check instructed the Account Specialist to credit the returned funds to budget code 0465, Water Tower. (Check #1012 will also need to be recorded on the DJ.)

## SAMPLE CASH CONTROL REGISTER

| A. NAME OF GRANTEE<br>Village of Yourville |
|---|
| B. COMMERCE CONTRACT #<br>PF FY00-0000 |

| Request For Payment Submitted | | | | CDBG Checks Received | | | Collections, Refunds | | | Disbursements | | | Balance of Federal Cash on Hand | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| 1 | 2 | 3 | 4 | 5 | 6 | 7 | 8 | 9 | 10 | 11 | 12 | 13 | 14 | 15 |
| Reg | Date Of Request | Amount Of Request | Cumulative Requests To Date | Date Of Deposit | Amount Of Deposit | Cumulative Receipts To Date | Date | Deposit Or Check Amount | Cumulative Amount To Date | Date | Amount | Cumulative Amount To Date | Date | Amount |
| | | | | | | | | | | 06/23/01 | 224,400.00 | 261,300.00 | 06/23/01 | 200.00 |
| | | | | | | | | | | 09/01/01 | 5.00 | 261,305.00 | 09/01/01 | 195.00 |
| 4 | 09/11/01 | 283,460.00 | 544,960.00 | | | | | | | | | | | |
| | | | | 09/22/01 | 283,460.00 | 544,960.00 | | | | | | | 09/22/01 | 283,665.00 |
| | | | | | | | | | | 09/25/01 | 281,000.00 | 542,305.00 | 09/25/01 | 2,655.00 |
| 5 | 11/20/01 | 7,390.00 | 552,350.00 | | | | | | | | | | | |
| | | | | 12/01/01 | 7,390.00 | 552,350.00 | | | | | | | 12/01/01 | 10,045.00 |
| | | | | | | | | | | 12/04/01 | 7,585.00 | 549,890.00 | 12/04/01 | 2,460.00 |
| | | | | | | | 12/27/01 | <2,460.00> | <2,460.00> | | | | 12/27/01 | 0.00 |
| | | | | | | | | | | 12/27/01 | 2,460.00 | 552,350.00 | 12/27/01 | 0.00 |
| | | | | | | | | | | | | | | |
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# CASH CONTROL REGISTER

| A. NAME OF GRANTEE |
|---|
| B. COMMERCE CONTRACT # |

| Request For Payment Submitted | | | | CDBG Checks Received | | | Collections, Refunds | | | Disbursements | | | Balance of Federal Cash on Hand | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| 1 | 2 | 3 | 4 | 5 | 6 | 7 | 8 | 9 | 10 | 11 | 12 | 13 | 14 | 15 |
| Reg | Date Of Request | Amount Of Request | Cumulative Requests To Date | Date Of Deposit | Amount Of Deposit | Cumulative Receipts To Date | Date | Deposit Or Check Amount | Cumulative Amount To Date | Date | Amount | Cumulative Amount To Date | Date | Amount |
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## ATTACHMENT 7-E: CDBG DISBURSEMENTS JOURNAL FORM AND INSTRUCTIONS

(Contact your Project Representative for questions regarding the Disbursements Journal)

The *Disbursements Journal* summarizes disbursements and the budget categories to which they were charges, as well as provides the available balance of funds by budget category and in total. The *Disbursements Journal* **is exclusively** for grant expenditures from your CDBG checking account. All other expenditures are recorded in the *Matching Funds Journal* (see *Attachment 7-F).*

A copy of the current CDBG *Disbursements Journal* (DJ), prepared in accordance with the instructions provided below, must be submitted with each *Request For Payment* (see *Attachment 7-B)* and with the Closeout Report (see Chapter 9).

A. In the header row:

1. Enter the amount of the award in the "Award Amount" column.

2. Enter the budget code, budget activity, and budget amount in the columns to the right of the "Award Amount" column (eg., 0465 – Water tower and $119,700.00). The sum of the budget amounts should be equal to the award amount.

B. In the "Date" column, enter the disbursements date or month end date, as appropriate.

C. In the "Check Number" column, enter the check number. If one check paid a variety of vendors, please indicate separately. If the disbursement was an automatic withdrawal, enter "AW." If the disbursement was a wire transfer, enter "WT" in addition to the identification number, if any, used by the bank.

D. In the "Payee" column, enter the name of the entity, or person, to whom the funds were disbursed and the corresponding invoice or voucher number, if applicable.

E. In the "Check Amount" column, enter the amount of the disbursement (eg., check, automatic withdrawal, or wire transfer amount).

F. In the budget column, enter the amount of the disbursement attributes to each budget activity.

G. On a monthly basis, record the "Total Payments This Month," "Total Payments To Date," "Grant Balance Available," and "Federal Cash on Hand" by budget activity and in total. The total "Federal Cash on Hand" should equal the amount on the *Cash Control Register.*

H. Please see the *Cash Control Register* instructions "S" for the explanations of the sample entries on Disbursements Journal (DJ).

## SAMPLE-CDBG DISBURSEMENTS JOURNAL

| A. NAME OF GRANTEE<br>Village of Yourville |
|---|
| B. COMMERCE CONTRACT #<br>PF FY00-0000 |

| DATE | CHECK NUMBER | PAYEE, AND INVOICE OR VOUCHER NUMBER | AWARD AMT: $552,350.00 CHECK AMT: | 0465 Water Tower $119,700.00 | 0424 Sewer Mains $138,750.00 | 0464 Water Mains $82,000.00 | 0433 Streets $137,800.00 | 0230 Eng. $64,100.00 | 0130 Admin. $10,000.00 |
|---|---|---|---|---|---|---|---|---|---|
| 06/23/01 | | TOTAL PAYMENTS TO DATE | 261,300.00 | 100,045.00 | 64,700.00 | 41,000.00 | 45.00 | 50,100.00 | 5,410.00 |
| 06/23/01 | | GRANT BALANCE AVAILABLE | 290,855.00 | 19,655.00 | 74,050.00 | 41,000.00 | 137,755.00 | 14,000.00 | 4,395.00 |
| **06/23/01** | | **FEDERAL CASH ON HAND** | **$195.00** | **0.00** | **0.00** | **0.00** | **0.00** | **0.00** | **$195.00** |
| | | | | | | | | | |
| 09/01/01 | AW | River Bank | 5.00 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 5.00 |
| 09/25/01 | 1007 | ACME Construction #0491 | 252,805.00 | 0.00 | 74,050.00 | 41,000.00 | 137,755.00 | 0.00 | 0.00 |
| 09/25/01 | 1008 | Mary Smith Engineering Associates #7-8 | 11,000.00 | 0.00 | 0.00 | 0.00 | 0.00 | 8,000.00 | 3,000.00 |
| 09/25/01 | 1009 | Water Tower Constructors, Inc. #0079 | 14,635.00 | 14,635.00 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 |
| 09/25/01 | 1010 | Grantville Reimb. Force Acct. #0194&0693 | 2,560.00 | 2,560.00 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 |
| 09/25/01 | | TOTAL PAYMENT THIS MONTH | 281,005.00 | 17,195.00 | 74,050.00 | 41,000.00 | 137,755.00 | 8,000.00 | 3005.00 |
| 09/25/01 | | TOTAL PAYMENTS TO DATE | 542,305.00 | 117,240.00 | 138,750.00 | 82.000.00 | 137,800.00 | 58,100.00 | 8,415.00 |
| 09/25/01 | | GRANT BALANCE AVAILABLE | 7,390.00 | 0.00 | 0.00 | 0.00 | 0.00 | 6,000.00 | 1,390.00 |
| **09/25/01** | | **FEDERAL CASH ON HAND** | **2,655.00** | **2,460.00** | **0.00** | **0.00** | **0.00** | **0.00** | **$195.00** |
| | | | | | | | | | |
| 12/04/01 | 1011 | Mary Smith Engineering Associates #9-10 | 7,585.00 | 0.00 | 0.00 | 0.00 | 0.00 | 6,000.00 | 1,585.00 |
| 12/04/01 | | TOTAL PAYMENTS THIS MONTH | 7,585.00 | 0.00 | 0.00 | 0.00 | 0.00 | 6,000.00 | 1,585.00 |
| 12/04/01 | | TOTAL PAYMENTS TO DATE | 549,890.00 | 117,240.00 | 138,750.00 | 82,000.00 | 137,800.00 | 64,100.00 | 10,000.00 |
| 12/04/01 | | GRANT BALANCE AVAILABLE | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 |
| **12/04/01** | | **FEDERAL CASH ON HAND** | **2,460.00** | **2,460.00** | **0.00** | **0.00** | **0.00** | **0.00** | **0.00** |
| | | | | | | | | | |

## CDBG DISBURSEMENTS JOURNAL

| A. NAME OF GRANTEE |
|---|
| B. COMMERCE CONTRACT # |

| DATE | CHECK NUMBER | PAYEE, AND INVOICE OR VOUCHER NUMBER | AWARD AMT: CHECK AMT: | | | | | | |
|---|---|---|---|---|---|---|---|---|---|
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## ATTACHMENT 7-F: MATCHING FUNDS JOURNAL FORM AND INSTRUCTIONS

(Contact your Project Representative for questions regarding the Matching Funds Journal)

The *Matching Funds Journal* documents all matching funds spent as required by the CDBG contract, "Contract Commitment of Other Parties." You will find the match amount, budget code, budget activity, and budget amount on page 1, "Section 1., BUDGET" of your CDBG contract. The *Matching Funds Journal* is for CDBG expenditures. All grant expenditures from your CDBG checking account are recorded in the *Disbursements Journal* (see *Attachment 7-E)*.

A copy of the current *Matching Funds Journal,* prepared in accordance with the instructions provided below must be submitted with each *Request For Payment* (see *Attachment 7-C)* and with the Closeout Report (see Chapter 9).

A. In the header row:

   1. Enter the amount of the total match in the "Match Amount" column.

   2. Enter the budget code, budget activity, and budget amount in the columns to the right of the "Match Amount" column (eg., 0465 – Water Tower and $300,300.00). The sum of the budget amounts should be equal to the match amount. There may be only one matching funds line for matching funds spent on construction.

B. In the "Date" column, enter the disbursement date or month end date, as appropriate.

C. In the "Check" column, enter the check number. If the disbursement was an automatic withdrawal, enter "AW." If the disbursement was a wire transfer, enter "WT" in addition to the identification number, if any, used by the bank.

D. In the "Payee" column, enter the name of the entity, or person, to whom the funds were disbursed.

E. In the "Check Amount" column, enter the amount of the disbursement (i.e., check, automatic withdrawal, or wire transfer amount).

F. In the budget columns, enter the amount of the disbursement attributable to each budget activity.

G. On a monthly basis, record the "Total Payments This Month," "Total Payments To Date," and "Balance Due," by budget activity.

H. Please see the *Cash Control Register* instructions (7-D Section "S") for the explanations of the sample entries on Matching Funds Journal.

## SAMPLE MATCHING FUNDS JOURNAL

| A. NAME OF GRANTEE<br>Village of Yourville |
|---|
| B. COMMERCE CONTRACT #<br>PF FY00-0000 |

| DATE | CHECK NUMBER | PAYEE, AND INVOICE OR VOUCHER NUMBER | MATCH AMT: $458,450.00 CHECK AMT: | 0465 Water Tower $300,300.00 | 0424 Sewer Mains $31,350.00 | 0464 Water Mains $68,000.00 | 0433 Streets $0.00 | 0230 Eng. $58,800.00 | 0130 Admin. $0.00 |
|---|---|---|---|---|---|---|---|---|---|
| 06/23/01 | | TOTAL PAYMENTS TO DATE | 265,650.00 | 110,000.00 | 31,000.00 | 68,350.00 | 0.00 | 56,300.00 | 0.00 |
| 06/23/01 | | BALANCE DUE | 192,800.00 | 190,300.00 | 350.00 | <350.00> | 0.00 | 2,500.00 | 0.00 |
| | | | | | | | | | |
| 09/25/01 | 27891 | Mary Smith Engineering Associates #8 | 2,500.00 | 0.00 | 0.00 | 0.00 | 0.00 | 2,500.00 | 0.00 |
| 09/25/01 | 27892 | Water Tower Constructors, Inc. #0079 | 185,700.00 | 185,700.00 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 |
| 09/25/01 | 27893 | Yourville. Force Acct. #0194&0693 | 2,560.00 | 2,560.00 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 |
| 09/25/01 | | TOTAL PAYMENTS THIS MONTH | 190,760.00 | 188,260.00 | 0.00 | 0.00 | 0.00 | 2,500.00 | 0.00 |
| 09/25/01 | | TOTAL PAYMENTS TO DATE | 456,410.00 | 298,260.00 | 31,000.00 | 68,350.00 | 0.00 | 58,800.00 | 0.00 |
| 09/25/01 | | BALANCE DUE | 2,040.00 | 2,040.00 | 350.00 | <350.00> | 0.00 | 0.00 | 0.00 |
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## MATCHING FUNDS JOURNAL

| A. NAME OF GRANTEE |
|---|
| B. COMMERCE CONTRACT # |

| DATE | CHECK NUMBER | PAYEE, AND INVOICE OR VOUCHER NUMBER | MATCH AMT: CHECK AMT: | | | | | | |
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## ATTACHMENT 7-G: BUSINESS MATCHING FUNDS JOURNAL FORM AND INSTRUCTIONS

**(For Public Facilities for Economic Development Projects)**

(Contact your Project Representative for questions regarding the Business Matching Funds Journal)

The *Business Matching Funds Journal* documents matching funds spent by the business as required by the PFED contract and Development Agreement. Document all grant expenditures from your CDBG checking account in the *Disbursements Journal* (see *Attachment 7-E*).

A copy of the current *Business Matching Funds Journal*, prepared in accordance with the instructions provided below, must be submitted with the Semiannual Report (see *Chapter 8*) and with the *Closeout Report (see Chapter 9).*

A. In the header row, enter the amount of the match in the "Match Amount" column.

B. In the "Date" column, enter the disbursement date or month end date, as appropriate.

C. In the "Check" column, enter the check number. If the disbursement was an automatic withdrawal, enter "AW." If the disbursement was a wire transfer, enter "WT" in addition to the identification number, if any, used by the bank.

D. In the "Payee" column, enter the name of the entity, or person, to whom the funds were disbursed.

E. In the "Check Amount" column, enter the amount of the disbursement (i.e., check, automatic withdrawal, or wire transfer amount).

F. On a monthly basis, record the "Total Payments This Month," "Total Payments To Date," and "Balance Due," by budget activity and in total.

## SAMPLE – BUSINESS MATCHING FUNDS JOURNAL

| A. NAME OF GRANTEE<br>Village of Yourville |
|---|
| B. COMMERCE CONTRACT #<br>PFED FY00-0000 |

| DATE | CHECK NUMBER | PAYEE | MATCH AMT: $267,000.00 CHECK AMT: |
|---|---|---|---|
| 09/30/2002 | | TOTAL PAYMENTS TO DATE | 202,795.00 |
| 09/30/2002 | | BALANCE DUE | 64,205.00 |
| | | | |
| 10/31/2002 | 12679 | ACME Construction | 51,000.00 |
| 10/31/2002 | 12680 | Mary Smith Engineering Associates | 12,300.00 |
| 10/31/2002 | | TOTAL PAYMENTS THIS MONTH | 63,000.00 |
| 10/31/2002 | | TOTAL PAYMENTS TO DATE | 266,095.00 |
| 10/31/2002 | | BALANCE DUE | 905.00 |
| | | | |
| 11/08/2002 | 12712 | Bob Rhodes Equipment Sales | 1,997.50 |
| 11/17/2002 | 12713 | Mary Smith Engineering Associates | 987.50 |
| 11/18/2002 | 12714 | ACME Construction | 3,670.00 |
| 11/30/2002 | | TOTAL PAYMENTS THIS MONTH | 6,655.00 |
| 11/30/2002 | | TOTAL PAYMENTS TO DATE | 272,750.00 |
| 11/30/2002 | | BALANCE DUE | <5,750.00> |
| | | | |
| 12/04/2002 | 12843 | Mary Smith Engineering Associates | 1,000.00 |
| 12/31/2002 | | TOTAL PAYMENTS THIS MONTH | 1,000.00 |
| 12/31/2002 | | TOTAL PAYMENTS TO DATE | 273,750.00 |
| 12/31/2002 | | BALANCE DUE | <6,750.00> |
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## BUSINESS MATCHING FUNDS JOURNAL

| A. NAME OF GRANTEE |
|---|
| B. COMMERCE CONTRACT # |

| DATE | CHECK NUMBER | PAYEE | MATCH AMT:<br><br>CHECK AMT: |
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# CHAPTER 8: SEMIANNUAL REPORT

(Contact your Project Representative for questions regarding the Semiannual Report)

INTRODUCTION: Grantees must submit **two** copies of the *Semiannual Report.* The reports are due to Commerce **on or before April 7 and October 7**, as specified in the CDBG contract timetable. The *Semiannual Report* informs Commerce of the progress on CDBG projects through the following:

1. Grantee *Semiannual Report Certification* (see *Attachment 8-A* for the sample form, blank form, and instructions);

2. *Summary Narrative* (see *Attachment 8-B* for the sample form, blank form, and instructions);

3. *Semiannual Labor Standards Enforcement Report* (see *Attachment 8-C* for the blank form and instructions*).* The U.S. Department of Labor (USDOL) requires Federal agencies administering programs subject to Davis-Bacon and Related Act (DBRA) and Contract Work Hours and Safety Standards Act (CWHSSA) to furnish a Semiannual Labor Standards Enforcement Report. All Semiannual Labor Standards Enforcement Reports are due to Commerce on or before **April 7 and October 7** for each contract year. If is very important that Commerce receive these reports in a timely fashion so that we can forward them to the USDOL on or before April 15 and October 15 for each year.

4. For **PFED projects only**, a current *Business Matching Funds Journal* (see *Attachment 7-G,* in *Chapter 7: Financial Management,* for a sample form, blank form, and instructions);

5. For **PFED projects only**, a current *Equal Opportunity Report* (see *Attachment 8-D,* for a blank form and instructions).

For your convenience, insert a copy of your CDBG *Contract Timetable* at the end of this chapter.

## ATTACHMENT 8-A: GRANTEE SEMIANNUAL REPORT CERTIFICATION

Instructions:

1. Enter the name of the grantee, CDBG contract number, business name (for PFED projects only), and the reporting period end date.
2. Indicate which semiannual report documents are attached.
3. The preparer must sign and date the "Preparer Certification."
4. Submit **two** copies to Commerce.

## SAMPLE – GRANTEE SEMIANNUAL REPORT CERTIFICATION

**Wisconsin's Community Development Block Grant Program**

| |
|---|
| A. NAME OF GRANTEE<br>Village of Yourville |
| B. CONTRACT<br>PF FY00-0000 |
| C. BUSINESS NAME<br>Not Applicable |
| D. REPORTING PERIOD ENDED<br>December 31, 2345 |

SUBMIT **TWO** COPIES

| SEMIANNUAL REPORT DOCUMENTS ATTACHED: | |
|---|---|
| X | **Grantee Semiannual Report Certification** |
| X | **Summary Narrative** |
| X | **Semiannual Labor Standards Enforcement Report** |
| | *Business Matching Funds Journal* (PFED Only) |
| | *Equal Opportunity Report* (Report Only) |

| PREPARER CERTIFICATION | |
|---|---|
| I hereby certify that to the best of my knowledge and belief the contents in this report are true and correct. | |
| Signature: *Mary Smith* | Date: *1/2/3456* |
| Title: *Grant Administrator* | Telephone: *123/456-7890* |
| Company: *ABC Company* | Email: *Msmith@email.com* |

| COMMERCE APPROVAL | |
|---|---|
| Signature | Date |

# GRANTEE SEMIANNUAL REPORT CERTIFICATION

**Wisconsin's Community Development Block Grant Program**

| |
|---|
| A. NAME OF GRANTEE |
| B. CONTRACT |
| C. BUSINESS NAME |
| D. REPORTING PERIOD ENDED |

SUBMIT **TWO** COPIES

| SEMIANNUAL REPORT DOCUMENTS ATTACHED: | |
|---|---|
| | **Grantee Semiannual Report Certification** |
| | **Summary Narrative** |
| | **Semiannual Labor Standards Enforcement Report** |
| | *Business Matching Funds Journal* (PFED Only) |
| | *Equal Opportunity Report* (Report Only) |

| PREPARER CERTIFICATION | |
|---|---|
| I hereby certify that to the best of my knowledge and belief the contents in this report are true and correct. | |
| Signature | Date |
| Title | Telephone |
| Company | Email |

| COMMERCE APPROVAL | |
|---|---|
| Signature | Date |

## ATTACHMENT 8-B: SUMMARTY NARRATIVE INSTRUCTIONS & FORM

Instructions:

1. Enter the name of the grantee and the CDBG contract number.

2. In the "Objectives" section, list **all** the activities identified for the reporting period in the CDBG contract "Timetable." Do not insert additional objectives. In the "Accomplishments" section, describe the progress made on each objective, in detail, as well as any problems encountered and their resolution. Provide meaningful information such as names and dates of administration or contractors hired.

3. In the "Delayed Objectives" section, list **only** those activities that were to b e accomplished in a previous report but had **not** been reported as completed. In the "Update Section, describe the progress made, in detail, on each delayed objective, any problems encountered, and their resolution. **If all activities scheduled for previous reports have been completed, leave this section blank.**

## SAMPLE – SUMMARY NARRATIVE

| |
|---|
| A. NAME OF GRANTEE<br>Village of Yourville |
| B. CONTRACT<br>PF FY00-0000 |

| THE REPORTING PERIOD | |
|---|---|
| OBJECTIVES | ACCOMPLISHMENTS |
| Commence Construction. Report construction start date.<br><br>Complete construction site signage in Accordance with Section 2 of this Contract (for above-ground work).<br><br>Complete and describe Affirmative Fair Housing Action Committed in Grantee's application. | Construction began 5/25/01. Sewer Main Construction, Inc.<br><br>The subcontractor placed ___ inch pipes from ___ Street to ___ Street.<br>Water mains were also placed, by _____. Construction from ____ Avenue to ____ Avenue.<br>The required 4'X8' sign has been placed in front of the project site between ____ Street and ____ Avenue (see attached photo). The sign was installed on ____ (date).<br>Fair housing posters have been displayed at all municipal offices on ____ (date), as well as the public library and Community Center. Fair housing information has also been made available in the same locations. |

| UPDATE ON PREVIOUS REPORTING PERIODS | |
|---|---|
| DELAYED OBJECTIVE | UPDATE |
| Continue construction. Describe progress and any delays | Street repairs scheduled to be completed during the previous reporting period, but delayed due to adverse weather conditions, were completed during the current quarter. |

## SUMMARY NARRATIVE

| A. NAME OF GRANTEE |
| --- |
| B. CONTRACT |

| THIS REPORTING PERIOD | |
| --- | --- |
| OBJECTIVES | ACCOMPLISHMENTS |
| | |

| UPDATGE ON PREVIOUS REPORTING PERIODS | |
| --- | --- |
| DELAYED OBJECTIVE | UPDATE |
| | |

**ATTACHMENT 8-C: SEMIANNUAL LABOR STANDARDS ENFORCEMENT REPORT**

Grantee: _____ CDBG Contract #: _____

Period Covered:
From (month/year) _____ to (month/year)_____
(Report periods cover October 1 through Match 31 and April 1 through September 30 and are **due to Commerce on or before April 7 and October 7.)**

1. Enter the total number of prime contracts, **awarded this six month period,** subject to Davis-Bacon and Related Acts (DBRA) and/or the Contract Work Hours and Safety Standards Act (CWHSSA). **Track contracts by award or start of construction – do not track by bid opening date. Note: Do not report contract(s) from previous period in 1 – 3.** (1) _____

2. Enter the total dollar amount of prime contracts reported in Item 1 above. (2) _____

3. List Employer/Project, Amounts, Wage Decision and Effective date (items 1 & 2):*

| **Employer** | Project Type(s) | Bidding Date | CDBG Related Contract Amount | Contract Award Date | Wage Decision & Modifications | Wage Decision Effective Date |
|---|---|---|---|---|---|---|

4. Enter the number of employers (contractors, subcontractors, lower-tier subcontractors) against whom complaints, investigations or §5.11 hearings were received during the reporting period (list the following information below): *(4) _____

| Employer | Project | HUD or DOL | Investigations Or Hearings |
|---|---|---|---|

5. Enter the information relative to wage restitution that was **collected and/or disbursed during this six month period.** This includes restitution disbursed by the grantee, restitution reported on certified payroll correction report and amounts collected but not disbursed because workers could not be found.

   (a) Enter the total number of workers for whom wage restitution was collected and/or disbursed during this six month period. (5a)_____

   (b) Enter the total amount of wage restitution collected and/or disbursed during this six month period. (5b)_____

   (c) Enter the total amount of liquidated damages collected during this six month period for Contract Work Hours and Safety Standards Act overtime violations. (See Chapter 6: Labor Standards, *Attachment 6-I: Federal Labor Standards Provision (4010),* B. (2) Violation; liability for unpaid wages; liquidated damages.) (5c)_____

Start of Construction Date: _____

Is construction completed? Yes ____ No _____ Date of Completion: _____

*Use additional pages if necessary.

## ATTACHMENT 8-D: EQUAL OPPORTUNITY REPORT

**(For Public Facilities for Economic Development Projects)**

Instructions

A. Enter the name of the grantee, the business, and the CDBG contract number.

B. In the "Program Beneficiaries" columns, report the total number of jobs created or retained and Low- to Moderate-Income (LMI) persons served by the program, as appropriate.

## EQUAL OPPORTUNITY REPORT

| |
|---|
| NAME OF GRANTEE |
| NAME OF BUSINESS |
| COMMERCE CONTRACT # |

| PROGRAM BENEFICIARIES | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|
| White, Not Hispanic | Black, Not Hispanic | Hispanic | Asian or Pacific Islander | American Indian | TOTAL | | Female Head of Household | | Low- to Moderate-Income |
| | | | | | | | | | |

***Insert a copy of your contract Timetable here.***

# CHAPTER 9 PROGRAM CLOSEOUT

(Contact your Project Representative for questions regarding the Semiannual Report)

## I. INTRODUCTION

Final program closeout occurs when all funds have been expended and all responsibilities related to the project, including audits, have been carried out. Conditional program closeout occurs when all funds have been expended and all responsibilities related to the project, **excluding audits**, have been carried out.

## II. GENERAL REQUIREMENTS

Program closeout documents should be prepared when:

A. All funds (private and public) have been expected; and

B. All requirements under the CDBG contract, except the audit, have been fulfilled.

**In no case should this be later than 30 days after the contract end date**. Do not delay preparing program closeout documents until audits have been completed. Commerce will process program closeout documents upon receipt. A conditional program closeout letter will be issued if Commerce has completed its review of the project and required audits have not been received. A final closeout letter will be issued after Commerce has completed the project review and all required audits have been accepted. Project files must be maintained for four (4) years from the date of the final program closeout letter.

## III. PROGRAM CLOSEOUT DOCUMENTS

**Two** copies of the following documents are required to be submitted for program closeout:

- *Grantee Program Closeout Report Certification (Attachment 9-A);*
- *Certificate of Completion (Attachment 9-B)* with original signatures on each form;
- Final *Summary Narrative (Attachment 8-B);*
- *Fair Housing Report (Attachment 9-C);*
- *Semiannual Labor Standards Enforcement Report(s) (Attachment 8-C); (*omit if previously submitted)
- *Final Labor Standards Compliance Report (Attachment 6-R);*
- Final *Cash Control Register (Attachment 7-D);*
- Final *CDBG Disbursements Journal (Attachment 7-E);*
- Final *Matching Funds Journal (Attachment 7-F);*
- Final *Business Matching Funds Journal (Attachment 7-G),* (PFED Only);

- Final *Equal Opportunity Report (Attachment 8-D)* (PFED Only);
- *Lobbying Certification for Contracts, Grants, Loan & Cooperative Agreements Form(s) (Attachment 2-A);*

- *MBE/WBE Report (Attachment 9-D);*
  - *Section 3 Compliance Report(s) (Attachment 9-E);*
  - Second Citizen Participation Public Hearing Minutes; and
  - Refund check payable to the Wisconsin Department of Commerce, if applicable.

## ATTACHMENT 9-A: GRANTEE PROGRAM CLOSEOUT REPORT CERTIFICATION

**Instructions**

A. Enter the name of the grantee, CDBG contract number, business name (PFED only), and reporting end date.

B. Indicate which report documents are attached.

C. A community official and the preparer (if other than a community official) must sign and date the "Grantee/Preparer Certification".

## SAMPLE – GRANTEE PROGRAM CLOSEOUT REPORT CERTIFICATION
## Wisconsin's Community Development Block Grant Program

| |
|---|
| NAME OF GRANTEE<br>Village of Yourville |
| CONTRACT<br>PF FY00-0000 |
| BUSINESS NAME<br>Not Applicable |
| REPORTING PERIOD ENDED<br>December 31, 2002 |

| DOCUMENTS ATTACHED | |
|---|---|
| X | Grantee Program Closeout Report Certification |
| X | *Certificate of Completion,* with original signature on each form |
| X | Final *Summary Narrative* |
| X | Fair Housing Report |
| X | *Semiannual Labor Standards Enforcement Report(s)* (omit if previously submitted) |
| X | Final Labor Standards Compliance Report |
| X | Final *Cash Control Register* |
| X | Final *CDBG Disbursement Journal* |
| X | Final *Matching Funds Journal* |
| X | Final *Business Matching Funds Journal* (PFED Only) |
| X | *Lobbying Certification for Contracts, Grants, Loan & Cooperative Agreements* Form(s) |
| X | Final *Equal Opportunity Report* (PFED Only) |
| X | MBE/WBE Report |
| X | *Section 3 Compliance Report(s)* |
| X | Second Citizen Participation Public Hearing Minutes |
| X | Refund check payable to the Wisconsin Department of Commerce |

| GRANTEE/PREPARER CERTIFICATION | |
|---|---|
| I hereby certify that to the best of my knowledge and belief the contents in this report are true and correct. | |
| **Jane Doe, Village President**<br>Community Official Signature | 1/23/4567<br>Date |
| **Jane Smith, Grant Administrator**<br>Preparer Signature (if other than a community official) | 1/23/4567<br>Date |

| COMMERCE APPROVAL | |
|---|---|
| Signature | Date |

**GRANTEE PROGRAM CLOSEOUT REPORT CERTIFICATION**
**Wisconsin's Community Development Block Grant Program**

| |
|---|
| NAME OF GRANTEE |
| CONTRACT |
| BUSINESS NAME |
| REPORTING PERIOD ENDED |

| DOCUMENTS ATTACHED | |
|---|---|
| | Grantee Program Closeout Report Certification |
| | *Certificate of Completion,* with original signature on each form |
| | Final *Summary Narrative* |
| | Fair Housing Report |
| | *Semiannual Labor Standards Enforcement Report(s)* (omit if previously submitted) |
| | Final Labor Standards Compliance Report |
| | Final *Cash Control Register* |
| | Final *CDBG Disbursement Journal* |
| | Final *Matching Funds Journal* |
| | Final *Business Matching Funds Journal* (PFED Only) |
| | *Lobbying Certification for Contracts, Grants, Loan & Cooperative Agreements* Form(s) |
| | Final *Equal Opportunity Report* (PFED Only) |
| | MBE/WBE Report |
| | *Section 3 Compliance Report(s)* |
| | Second Citizen Participation Public Hearing Minutes |
| | Refund check payable to the Wisconsin Department of Commerce |
| | |

| GRANTEE/PREPARER CERTIFICATION | |
|---|---|
| I hereby certify that to the best of my knowledge and belief the contents in this report are true and correct. | |
| Community Official Signature | Date |
| Preparer Signature (if other than a community official) | Date |

| COMMERCE APPROVAL | |
|---|---|
| Signature | Date |

## ATTACHMENT 9-B: CERTIFICATE OF COMPLETION

**Instructions**

A. Enter the name of the grantee as it appears on the CDBG contract.

B. Enter the CDBG contract number.

C. Enter the Business Name (PFED Only).

D. Final Standards of Cost

1. In column 1, list project activities as shown in the CDBG contract budget [i.e., (0464) water mains, (0433) street reconstruction, etc.].

2. In column 2, enter budget amounts as shown in the CDBG contract budget in total. (Figures should reflect the most recent contract amendment, if any.)

3. In column 3, enter the amount of CDBG funds drawn, by budget item and in total. **The total should agree with column 7, "Cumulative Receipts to Date," of the final *Cash Control Register.***

4. In column 4, enter costs paid with CDBG funds, by budget item and in total. **Figures should agree with "Total Payments To Date," of the *CDBG Disbursements Journal* and column 13, "Cumulative Disbursements To Date," on the final *Cash Control Register.***

5. Subtract column 4, "Paid CDBG Costs," from column 2, "CDBG Contract Budget," to obtain column 5, "Funds to be Canceled." This amount represents both funds not drawn and funds drawn but not used. Any funds drawn but not used must be returned to Commerce. Although not separately reported on the *Certificate of Completion*, is the balance remaining in the CDBG checking account after all CDBG costs have been paid. It may also be calculated by subtracting column 4, "Paid CDBG Costs," from column 3, "Funds Drawn." The funds must be returned to Commerce, by **check payable to the Wisconsin Department of Commerce,** at the following address:

   Account Specialist
   Bureau of Community Finance
   Wisconsin Department of Commerce
   P.O. Box 7970
   Madison, WI 53707

   Documentation identifying the CDBG contract budget code, to which the funds are being returned, should accompany the check.

E. Enter the date, the typed name and title of the grantee's chief elected official (CEO), and the CEO's signature.

F. Commerce will complete this section upon approval of all closeout documents.

SAMPLE CERTIFICATE OF COMPLETION

**Wisconsin Community Development Block Grant**

| | |
|---|---|
| A. NAME OF GRANTEE | Village of Yourville |
| B. COMMERCE CONTRACT # | PF FY00-0000 |
| C. BUSINESS NAME | |

| D. FINAL STATEMENT OF COST AND COMPUTATION OF GRANT BALANCE | | | | |
|---|---|---|---|---|
| Program Activity By Budget Item (1) | Contract CDBG Budget (2) | Funds Drawn (3) | Paid CDBG Costs (4) | Funds To Be Canceled (5) |
| (0465) Water Tower | $119,700.00 | $119,700.00 | $117,240.00 | $2,460.00 |
| (0424) Sanitary Sewer Mains | $138,750.00 | $138,750.00 | $138,750.00 | $0.00 |
| (0464) Water Mains | $82,000.00 | $82,000.00 | $82,000.00 | $0.00 |
| (0433) Street Reconstruction | $137,800.00 | $137,800.00 | $137,800.00 | $0.00 |
| (0230) Engineering | $64,100.00 | $64,100.00 | $64,100.00 | $0.00 |
| (0130) Administration | $10,000.00 | $10,000.00 | $10,000.00 | $0.00 |
| TOTAL | $552,350.00 | $552,350.00 | $552,350.00 | $2,460.00 |
| *For Commerce Use Only* | | | | |

| E. CERTIFICATION OF GRANTEE | | |
|---|---|---|
| It is hereby certified that all activities undertaken by the grantee with funds provided under the contract identified in B above have, to the best of my knowledge, been carried out in accordance with the contract; and that the amounts set forth in this instrument are, to the best of my knowledge, true and correct as of this date. | | |
| Date | Typed Name and Title of Grantee's Chief Elected Official | Signature of Grantee's Chief Elected Official |
| December 31, 2345 | Jane Doe, Village President | *Jane Doe* |

| F. CERTIFICATION OF COMMERCE | | |
|---|---|---|
| Date | Typed Name and Title of Commerce Authorized Official | Signature of Commerce Authorized Official |
| | | |

CERTIFICATE OF COMPLETION

**Wisconsin Community Development Block Grant**

| |
|---|
| A. NAME OF GRANTEE |
| B. COMMERCE CONTRACT # |
| C. BUSINESS NAME |

| D. FINAL STATEMENT OF COST AND COMPUTATION OF GRANT BALANCE | | | | |
|---|---|---|---|---|
| Program Activity By Budget Item (1) | Contract CDBG Budget (2) | Funds Drawn (3) | Paid CDBG Costs (4) | Funds To Be Canceled (5) |
| | | | | |
| | | | | |
| | | | | |
| | | | | |
| | | | | |
| | | | | |
| | | | | |
| *For Commerce Use Only* | | | | |

| E. CERTIFICATION OF GRANTEE | | |
|---|---|---|
| It is hereby certified that all activities undertaken by the grantee with funds provided under the contract identified in B above have, to the best of my knowledge, been carried out in accordance with the contract; and that the amounts set forth in this instrument are, to the best of my knowledge, true and correct as of this date. | | |
| Date | Typed Name and Title of Grantee's Chief Elected Official | Signature of Grantee's Chief Elected Official |

| F. CERTIFICATION OF COMMERCE | | |
|---|---|---|
| Date | Typed Name and Title of Commerce Authorized Official | Signature of Commerce Authorized Official |

## ATTACHMENT 9-C: FAIR HOUSING REPORT

Grantees are contractually obligated to initiate Affirmative Fair Housing within **six (6) months** after the CDBG contract is signed, in accordance with the CDBG contract "Timetable."

Instructions:

1. Enter the name of the grantee and the CDBG contract number.

2. Describe the Fair Housing Action(s) taken, in detail, on the Fair Housing Report. (See *Potential Fair Housing Actions* on the following page.)

## SAMPLE – FAIR HOUSING REPORT

| | |
|---|---|
| A. | NAME OF GRANTEE<br>Village of Yourville |
| B. | COMMERCE CONTRACT #<br>PF FY00-0000 |

| FAIR HOUSING REPORT |
|---|
| Report Affirmative Fair Housing Actions taken. |
| Fair housing posters have been displayed at all municipal offices, as well as the public library and community center. Fair housing information has been made available in the same locations. |

## FAIR HOUSING REPORT

| | |
|---|---|
| A. | NAME OF GRANTEE |
| B. | COMMERCE CONTRACT # |

| FAIR HOUSING REPORT |
|---|
| CDBG recipients are required to initiate Affirmative Fair Housing Actions in accordance with the CDBG Contract Timetable.<br><br>Report Affirmative Fair Housing Actions taken. |

## POTENTIAL FAIR HOUSING ACTIONS

Fair housing actions may include, but are not limited to the following:

1. Enact, strengthen, or advertise a local fair housing law;

2. Make area-wide zoning revisions to facilitate the dispersal of multi-family housing outside of minority-concentrated areas:

3. Initiate or fund any studies examining current housing opportunities for minority persons, handicapped persons, and families with children and have these studies form the basis of an affirmative action program providing greater housing opportunities for minorities, handicapped persons, and families with children;

4. Send letters from the chief executive officer or chief elected official of the local government to those in the business of selling, renting, or financing housing, encouraging them to adhere fully to the fair housing law;

5. Have the local governing body or chief elected official publicly endorse the principle of fair housing and the adherence to the fair housing law in the form of a proclamation, resolution, or similar publicized statement of importance;

6. Improve community facilities and public services in racially integrated neighborhoods to help preserve their mixed character;

7. Display a fair housing poster or provide fair housing information at an appropriate public place;

8. Initiate a public education program on fair housing involving, for example, representatives of fair housing groups, human relations' bodies, minority organizations, the real estate industry, and government, through the local media. This could include talks on the community's housing opportunities;

9. Fund a fair housing organization (such as a local housing authority) to conduct studies and/or to aggressively investigate rental and/or realtor practices;

10. Suggest the use of affirmative marketing and advertising practices by private developers as a condition for obtaining local licenses and permits; and

11. Enlist the participation of local associations (realtors, real estate brokers, home builders, and mortgage lenders) in approved voluntary programs to promote affirmative fair housing marketing and to review mortgage credit and underwriting criteria that may have an adverse impact on minorities, women, handicapped persons, and families with children.

## ATTACHMENT 9-D: MBE/WBE REPORT

Instructions:

1. Enter the name of the grantee and the CDBG contract number.

2. Indicate whether any Minority Business Enterprises ("MBEs") or Women's Business Enterprises ("WBEs") have been contracted or subcontracted, in excess of $25,000, for the project. If yes, provide the requested information.

## SAMPLE – MBE/WBE REPORT

| | |
|---|---|
| A. NAME OF GRANTEE<br>Village of Yourville | |
| B. CONTRACT #<br>PF FY00-0000 | |

| MINORITY BUSINESS ENTERPRISE/WOMAN BUSINESS ENTERPRISE | | | |
|---|---|---|---|
| Have any MBE's or WBE's been contracted or subcontracted for the project?<br>YES [X] NO [ ] | | | |
| Provide the following information for any MBE's or WBE's contracted or subcontracted. | | | |
| Name: | Jane Doe Engineering Associates | Award Amount: | $79,680.00 |
| Address: | 100 Your St<br>Yourtown, WI 55555 | Type of Contract<br>Type of Work:: | Prime |
| FEIN: | 123-45-6789 | Engineering and Administration | |
| Name:<br>Address:<br><br>FEIN: | | Award Amount:<br>Type of Contract:<br>Type of Work: | |
| Name<br>Address:<br><br>FEIN: | | Award Amount:<br>Type of Contract:<br>Type of Work: | |

## MBE/WBE REPORT

| | |
|---|---|
| A. NAME OF GRANTEE | |
| B. CONTRACT # | |

| MINORITY BUSINESS ENTERPRISE/WOMAN BUSINESS ENTERPRISE | |
|---|---|
| Have any MBE's or WBE's been contracted or subcontracted for the project?<br>YES [ ] NO [ ] | |
| Provide the following information for any MBE's or WBE's contracted or subcontracted.<br>Name:<br>Address:<br><br>FEIN: | Award Amount:<br>Type of Contract<br>Type of Work:: |
| Name:<br>Address:<br><br>FEIN: | Award Amount:<br>Type of Contract:<br>Type of Work: |
| Name<br>Address:<br><br>FEIN: | Award Amount:<br>Type of Contract:<br>Type of Work: |

## ATTACHMENT 9-E: SECTION 3 COMPLIANCE REPORT

| NAME OF GRANTEE |
|---|
| CONTRACT # |

**New Employment Opportunities:**
If your CDBG award exceeds or exceeded $200,000, list the new jobs that were created **and filled by low- and moderate-income persons** as a result of CDBG activity. List only **full time** (40 hours per week) jobs. Jobs can be permanent, seasonal , or temporary, but not part-time.

| Trade | Number of New LMI Hires | LMI Hours Worked (estimate) | Total Hours Worked by all Employees (estimate) | Percentage of Hours LMI Were Employed (LMI/Total) |
|---|---|---|---|---|
| | | | | |
| | | | | |
| | | | | |
| | | | | |
| | | | | |

**New Contracting Opportunities:**
If your CDBG award exceeded $200,000 and the project contracts and subcontracts exceeded $100,000, list those contracts that went to **section 3 business concerns**. A section 3 concern is a contractor that: 1) is 51 percent owned by LMI persons, 2) at least 30 percent of the full-time employees are, or were, LMI within the last three years or, commits at least 25 percent of its subcontracts to parties defined in 1) or 2).

| Name of Section 3 Contractor | Evidence of Being a Section 3 Business Concern? (yes/no) | Value of Section 3 Contract $ |
|---|---|---|
| | | |
| | | |
| | | |
| | | |
| Total value of all (LMI + non-LMI) contracts exceeding $100,000 = $_____ | | |
| Dollar percentage of contracts exceeding $100,000 awarded to Sec 3 business concerns.<br><br>(Sec 3 Contracts/Total Contracts) = _____% | | |

**Outreach Effort:**
On a separate page, describe any other efforts your community made to direct the benefits of CDBG to LMI constituents. Examples include identifying potential LMI employees or contractors and supplying them with the information necessary to participate. Citizen Participation Plans may address this goal.

# CHAPTER 10: AUDIT REQUIREMENTS

COMMERCE AUDITOR: CLETE HOUDEK PHONE: (608) 266-8381
FAX: (608) 264-6151 E-MAIL: choudek@commerce.state.wi.us

## I. DOCUMENTS ESTABLISHING REQUIREMENTS

Office of Management and Budget (OMB) Circular A-133, "Audits of States, Local Governments and Non-Profit Organizations" (the Circular) establishes uniform audit requirements for non-Federal entities, including state or local governments, that administer Federal awards and implements The Single Audit Amendments of 1996 (the Act), which were signed into law July 5, 1996. The Act requires non-Federal entities that expend a total amount of Federal awards, whether received directly from Federal awarding agencies or indirectly from pass-though entities, equal to or in excess of $300,000 in any fiscal year to have either a signal audit or a program-specific audit available form the OMB internet web site at http://www.whitehouse.gov/omb/circulars/a133_compliance/ptl.html or from the Government Printing Office at the following address:

Government Printing Officer
Superintendent of Documents
Washington, D.C. 20402-9325

The *State Single Audit Guidelines* (Guidelines) issued by the Wisconsin Department of Administration (DOA) establishes standardized procedures and guidelines for the implementation of single audit requirements for Non-Federal entities. The *Guidelines* require Non-Federal entities subject to the requirements of the Act to include selected state financial assistance programs in the scope of the single audit. These programs, and related compliance supplements, are identified in appendixes to the *Guidelines.* The *State Single Audit Guidelines* may be purchased from DOA at the following address. Please call 608/266-3358 for the current price.

DOA-Document Sales
202 South Thornton Avenue
P.O. Box 7840
Madison, WI 53707-7840

## II. DETERMINING THE ENTITY(IES) TO BE AUDITED

The Non-Federal entity, government unit, to whom a grant is awarded and with whom Commerce contracts may be subject to an audit in accordance with the Circular (see III. Determining the Type of Audit Required). This government unit is responsible for submission of its single audit reporting package to Commerce as described more fully below, whether or not the entity has sub-granted the award to another governmental unit.

In addition to the above, if the governmental unit to whom a grant is awarded and with whom Commerce contracts passes some or all of the funds through to another general purpose unit of government or a special purpose of unit government, a sanitary district for example, that unit of government may also be subject to a single audit in accordance with the Circular (see III. Determining the Type of Audit Required). To determine whether the second general purpose unit of government or special purpose unit of government, the sub-grantee/sub-receipt must conduct an audit of its own or it may be included in the audit of Commerce's grantee. Please review Governmental Accounting Standards Board (GASB) Statement No. 14, "The Financial Reporting Entity" or consult your independent CPS?

## III. DETERMINING THE TYPE OF AUDIT REQUIRED

Non-Federal entities that expend a total amount of Federal awards equal to or in excess of $300,000 in any one fiscal year under more than one Federal program must undergo a single audit that covers the operations of the entire local government, or at the option of the local government, the audit may include a series of audits that cover departments, agencies, and other organizational units which expended or otherwise administered Federal awards. Non-Federal entities that expend equal to or in excess $300,000 fewer than one Federal program only in any fiscal year may elect to have a program-specific audit conducted in accordance with the Circular.

Non-Federal entities that expend a total amount of Federal awards of less than $300,000 in any fiscal year are exempt, for such fiscal year, from compliance with the audit requirements of the Circular. The exemption does not, however, relieve a Non-Federal entity from compliance with any provision of a Federal statute or regulation that requires the entity to maintain records concerning Federal awards, or permits a Federal agency, pass-through entity, or the Comptroller General access to such records.

## IV. AUDITEE RESPONSIBILITIES

OMB Circular A-133 clearly identifies the responsibilities of the auditee, the local government, with respect to Federal awards. The auditee is required to:

A. Identify in its accounts Federal awards received and expended. The identification should include the Catalog of Federal Domestic Assistance (CFDA) title and number, name of the Federal agency, and name of the pass-through entity. The CFDA for the CDBG State's Program passed-through Commerce is 14.228, and the Federal agency in the U.S. Department of Housing and Urban Development. Each similar source or cluster should be subtotaled.

B. Maintain internal control over Federal programs. To gain an understanding of the concepts of establishing effective internal control structure policies and procedures, please consult your independent auditor or refer to the appendix of the AICPA Audit and Accounting Guide, *Audits of State and Local Governmental Units.*

C. Comply with laws, regulations, and the provisions of contracts or grant agreements related to each of its Federal programs. These requirements may be found in the award agreement, this handbook, and OMB *Circular A-133 Compliance Supplement (Compliance Supplement).* A copy of the *Compliance Supplement* is available from the OMB internet web site at the Government Pringint Office or http://www.whitehouse.gov/omb/circulars/a133_compliance/00toc.html

D. Prepare appropriate financial statements, including the schedule of expenditures of Federal awards.

E. Arrange for and ensure that audits required by the Circular are properly performed. (See *Attachment 10-A: Choosing an External Auditor.)*

When procuring professional services you must follow Chapter 66 Wisconsin Statutes regarding procurement. In addition, you must comply with OMB Circular A-102 because you are using federal funds to pay for the services.

In procuring audit services, the auditee must follow the Circular's procurement procedures, which accommodate Chapter 66 Wisconsin Statutes and comply with

OMB Circular A-102. Requests for proposals should clearly state the objective and scope of the audit. Factors to consider in evaluating proposals include:

1. Responsiveness to the Request for Proposals (RFP);

2. Relevant experience in the performance of Single Audits;

3. Availability of staff with professional qualifications and technical abilities;

4. The result of external peer review;

5. Price.

F. Follow up and take corrective action on audit findings, including preparation of a summary schedule of prior audit and a corrective action plan.

G. Execute the Data Collection Form and submit it, together with the audit reporting package, when due. Audits must be completed and submitted within 30 days after the issuance of the auditor's reports to the auditee, but no later than nine months after the end of the audit period.

## V. SINGLE AUDIT REPORTING PACKAGE

The required elements of a single audit reporting package are as follows:

A. Financial statements of the non-Federal entity, notes to the financial statements and auditor's opinion;

B. Schedule of expenditures of Federal and, if applicable, state awards, notes to the schedule, and auditor's opinion;

C. Report on the internal control structure related to the financial statements and major programs;

D. Report on compliance with laws, regulations, and provisions of contracts or grant agreements, noncompliance with which could have a material effect on the financial statements;

E. Schedule of findings and questioned costs using a reference numbering system to facilitate audit follow-up. One option is to use an identifying prefix of the last two digits of the year under audit, then the sequence number of issues listed;

F. Summary schedule of prior audit findings. The auditee may prepare a summary schedule that indicates that there were no reportable prior year findings; and

G. Corrective action plan for all audit findings and recommendations or an explanation as to why an action plan was not necessary.

## VI. PROGRAM-SPECIFIC AUDIT REPORTS

The required elements of a program-specific audit, for eligible non-Federal entities, are dependent on whether a program-specific audit guide is available from the Office of the Inspector General of the Federal agency. If a program-specific audit guide is available, the auditor must follow the guide and Generally Accepted Government Auditing Standards. In the absence of a program-specific audit guide, the following is required:

A. Financial statements of the Federal program, notes to the financial statements and auditor's opinion;

B. Report on internal control related to the Federal programs;

C. Report on compliance with laws, regulations and provisions of contracts or grant agreements;

D. Schedule of findings and questioned costs for the Federal program that includes a summary of the auditor's results and findings and questioned costs;

E. Summary schedule of prior audit findings; and

F. Corrective action plan for all audit findings or explanation as to why one was not necessary.

## VII. SUBMISSION TO CLEARINGHOUSE

All auditees must submit to the Federal clearinghouse the data collection form and one copy of the reporting package described above for:

A. The Federal clearing house to retain as an archival copy; and

B. Each Federal awarding agency when the schedule of findings and questioned costs or the summary schedule of prior audit findings reported the status of any audit findings related to the program administered by the same.

The address of the Federal clearinghouse is as follows:

Federal Audit Clearinghouse
Bureau of the Census
1201 E. 10th Street
Building 66, Room 210
Jeffersonville, IN 47132

## VIII. SUBMISSION TO PASS-THROUGH ENTITIES

Subrecipients must submit to each pass-through entity one copy of the reporting package when the schedule of findings and questioned costs or the summary schedule of prior audit findings reported the status of any audit findings related to the program administered by the same. This submission is in addition to the clearinghouse submission.

When there are no audit findings that relate to a Federal award provided by a pass-through entity, the subrecipients is required only to inform the entity that an audit was conducted in accordance with Circular A-133 and no audit findings relative to the Federal award were reported. However, a pass-through entity may request to receive the complete reporting package.

As permitted by the Circular, Commerce will require its subrecipients to submit a complete reporting package together with a copy of any management letter issued by the auditor. If Commerce is not the state cognizant agency for a subrecipient, it may require less than the entire reporting package be submitted. Commerce will notify local government subrecipients of

the required submissions by the end of March following the calendar year under audit. Submissions to Commerce should be addressed as follows:

Auditor
Bureau of Fiscal Services
Department of Commerce
P.O. Box 7970
Madison, WI 53707

## IX. REPORT RETENTION REQUIREMENTS

One copy of the data collection form and one copy of the complete reporting package must be kept on file for four (4) years from the date of submission to the Federal clearinghouse.

## X. AUDIT COSTS

The costs of audits made in accordance with the provisions of OMB Circular A-133 are allowable charges to the CDBG program unless the non-Federal entity expended less than $300,000 of Federal awards and is, therefore, exempted by the Act from having an audit conducted. In accordance with OMB Circular A-87, "Cost Principles for State and Local Governments," the percentage of costs charges to the CDBG program for a single audit shall not exceed the percentage derived by dividing Federal funds expended by total funds expended by the recipient or sub-recipient (including program matching funds) during the fiscal year.

## XI. QUALITY CONTROL REVIEWS

The *Guidelines* require state cognizant agencies to conduct quality control reviews (QCRs) of the work of independent auditors performing single audits to ascertain they have adhered to required auditing standards and guidelines, and the scope of the audit was sufficient to provide a reasonable chance of detecting material errors, deficiencies, or irregularities, if any. Annually, a minimum number of single audits are randomly selected by Commerce for quality control review. Commerce may also judgmentally select audits for quality control review based on the results of a desk review.

The chief elected official of a non-Federal entity selected for QCR will be asked to authorize its independent auditor to allow the Commerce Auditor to review audit work papers supporting the audit. Written results of the review are provided to the non-Federal entity, independent auditor, and DOA within two (2) weeks of completion of the QCR. The non-Federal entity is expected to work with its independent auditor to correct deficiencies, if any, noted during the QCR.

## ATTACHMENT 10-A: CHOOSING AN EXTERNAL AUDITOR

Condensed from the Mid-America Audit Forum Guide
http://www.dhfs.state.wi.us/grants/Resources/midam_exauditor.htm

### Introduction

Selecting a qualified auditor can be a very subjective process involving several factors. Government Auditing Standards issued by the General Accounting Office (GAO), noted that a sound procurement practice when contracting for audit services should, in addition to price, consider other factors including:

1) responsiveness of the bidder to the request for proposal;
2) past governmental experience of the bidder;
3) availability of bidder staff with professional qualifications, specialized training and technical abilities in governmental auditing; and
4) results of the bidder's external quality control reviews.

An American Institute of Certified Public Accountants (AICPA) task force report discusses the importance of an auditor's experience and degree of specialization. The report noted that an auditor who spent less than 25 percent of their time on federal award audits was three times more likely to obtain a substandard assessment of audit quality as a result of external peer review.

To comply with OMB Circular A-133, which governs audits of expenditures of federal funds, a government entity must consider audit quality factors in addition to the price of the audit when choosing an external auditor.

Public entities should select auditors only after considering five basic steps for an effective audit procurement process, as follows:

Step 1: Planning (determining what needs to be done and when);

Step 2: Communicating Audit Requirements and Soliciting Proposals (writing a clear and direct solicitation document and disseminating it widely);

Step 3: Selecting a Qualified Auditor (authorizing a committee of knowledgeable person to evaluate the ability of prospective auditors too effectively carry out the audit);

Step 4: Written the Agreement: Documenting Expectations (documenting the expectations of both the entity and the auditor); and

Step 5: Monitoring the Audit: Ensuring a Quality Audit (periodically reviewing the progress of that performance).

<u>Step 1: Planning</u>

Planning to procure a quality audit requires time and attention. But the resources an entity spends on planning are likely to be rewarded by a smoother, more timely, higher quality and often, less expensive audit.

Matters to Consider

- Defining the entity to be audited.

- Delineating the scope of the financial audit.
- Determining the specific audit requirements.
- Deciding on the appropriate auditing standards.
- Identifying the attributes necessary in an auditor.
- Deciding how to evaluate prospective auditors.
- Reviewing legal requirements.
- Establishing a work schedule.

Step 2: Communicating Audit Requirements and Soliciting Proposals

Full and open competition is basic to government procurement. Encouraging as many qualified auditors as possible to submit proposals for auditing your organization increases the likelihood that you will receive a quality audit at a fair price. You must clearly communicate your audit needs to potential proposers. This is critical, because auditors who do not clearly understand exactly what services you want, might not respond, or they may base their response on invalid requirements.

There are many ways to solicit bids for your audit, but the most reliable method-and the one we suggest-is a written request for proposal, or RFP, RFPs should be clearly written; set forth all terms, conditions, and evaluation criteria as well as the scope of the work required; and be sufficiently well distributed and publicized to encourage full and open competition.

**What to Include in Your RFP**

The prime consideration in preparing your RFP is that it contains enough information to provide auditors with a common basis by which to prepare proposals that address all your audit needs. It is also important, however, that you consult with your purchasing office and/or legal counsel to ensure that your RFP conforms with the laws, regulations, and grant terms applicable to your organization.

'Audit fees' typically accounted for 25-30 percent of the evaluation ranking, while the auditors' qualifications, including the articulation of their ability to perform the audit, accounted for 70-75 percent of the evaluation ranking.

At a minimum, your RFP should contain the following:

- the name and address of your organization;
- the entity to be audited, scope of services to be provided, and specific reports, etc., to be delivered;
- the period to be audited (with explanation if the RFP calls for a multi-year procurement);
- the name and telephone number of a contact person at your organization;
- the format in which you want proposals to be prepared;
- the address to which proposals should be delivered or sent;
- the date and time proposals are due;
- the number of proposal copies to be submitted;
- the criteria to be used in evaluating the bid and their relative importance to each other;
- the method and timing of payment;
- any other important points, including the consequences if due dates are missed or work; and
- does not meet audit standards.

Your chances of receiving high quality proposals will be enhanced if you:

- explain the work that your organization performs;

- explain what is to be audited, e.g., general-purpose financial statements, specific funds, or both;
- describe in some detail your organization's accounting system, administrative controls, records, and procedures; and the RFP should identify the availability of proposer access to staff and records upon request;
- identify the appropriate auditing standards;
- inform prospective proposers if data from prior years (audit reports, management letters, etc.) will be available, whether major audit findings remain open from prior years, and whether any audits of subrecipients are required;
- notify prospective proposers of requirements for work paper retention and making the work papers available to the entity as well as governmental auditors if they request them;
- describe expected audit products, the required format of the audit report, and the format of any required progress reports;
- explain any assistance that your organization will offer, such as staff support to assist the auditor (which could materially reduce your audit costs); and
- outline the expected schedule of work (completing fieldwork, issuing reports, etc).

Finally, a well-prepared RFP will elicit certain information from prospective auditors. For example, it will ask prospective auditors to state:

- how they would conduct the audit and, if it were a multi-year contract, how they would approach the work efforts of the subsequent year(s);
- their qualifications, those of their local office, if applicable, and those of the proposed audit staff, including their prior government auditing experience;
- whether they meet appropriate State licensing requirements in the State where the audit will be performed;
- their policies on notification of changes in key personnel;
- whether the proposed staff have received continuing professional education in governmental accounting and auditing during the last two (2) years;
- whether they are independent, as defined by applicable auditing standards;
- that they have not been suspended or debarred from performing government audits, or from other government activity;
- whether they have received a positive peer review within the last three (3) years;
- whether they have been the object of any disciplinary action during the past three (3) years;
- whether they contract with small businesses, minority-owned firms, women's business enterprises to assist in performing audit work.
- Their audit fees.

**Step 3: Selecting a Qualified Auditor**

Once the due date for proposals has passed, you can begin evaluating the proposers' qualifications. The technical evaluation is important for two reasons:

- It provides a systematic framework for selecting an auditor on the basis of the entity's established RFP criteria, and
- It documents that the auditor was selected fairly.

Comparing your entity's requirements with the auditor's plans, skills, experience, commitment, and understanding of the audit requirements before reviewing their price proposals will help you select the auditor that can provide the best audit at the fairest price.

Evaluate Qualifications Separately From Price

We suggest separate evaluations of 1) office qualifications, 2) staff qualifications, and 3) audit fees. The office and staff qualifications address the auditor's technical ability to perform the audit. Although the price for the work to be performed is a factor in the selection of a qualified auditor, you will be more likely to get a high quality audit at a fair price if both price and technical ability are taken into account in selecting the successful proposer.

Screen Bidders For Minimum Standards

As a first step, you should require all proposers to meet certain minimum standards before evaluating either the technical qualifications or the price proposals. By doing so, you can spare your entity the needless and time-consuming technical evaluation of prospective auditors that do not meet your requirements. The laws governing your entity, its general internal policies, and its policies regarding specific audit engagements can determine these minimum standards. However you delineate them, your minimum standards should include those prospective auditors:

- meet state licensing requirements or other legal requirements enabling them to perform the audit;
- meet the applicable independence standard;
- meet appropriate qualifications as an audit team;
- have a record of responsible work, and comply with applicable requirements for peer review and continuing professional education.

**Step 4: Writing the Agreement: Documenting Expectations**

What to Include in a Written Agreement

When an RFP has been used, the written agreement should incorporate by reference, the terms of the RFP and those of the successful proposer's last proposal. The agreement should be signed by the entity and the auditors and should clearly specify the:

- audit scope, objective, and purpose;
- deadlines for work to be performed;
- audit costs;
- report format;
- type and timing of support to be provided to the auditor by the entity; and
- professional auditing standards to be followed in performing the audit.

Furthermore, the agreement should make the following points about the auditor/entity relationship, changes in the kind or amount of work required, and access to and ownership of audit products.

- The relationship of the auditor to the entity is that of an independent contractor.
- At any time, the entity may, by written notice, make changes in or additions to work or services within the general scope of the agreement. If such changes are made, an equitable adjustment will be made in the cost of the audit using the rates specified in the agreement.
- If the auditor believes that a change in or addition to work is beyond the general scope of the agreement, it must notify the entity in writing within a specified time and before beginning that work. The agreement should indicate where the final administrative authority rests in deciding disputes.
- The work papers prepared by the auditor during the audit are its own property. These documents should be retained for a period to be designated in this agreement. Copies of these work papers (if requested) are to be made available to the entity and governmental auditors or regulators.

All reports rendered to the entity by the auditor are the exclusive property of the entity and subject to its use and control, according to applicable laws and regulations.

**Step 5: Monitoring the Audit: Ensuring a Quality Audit**

Monitoring the progress of the audit is the most effective way to ensure that your organization receives both the type and quality of audit services specified in the written agreement. Key elements that you may wish to consider to ensure proper monitoring include:

- While auditors are responsible for ensuring the quality of the audit, monitoring work performed as a quality assurance measure is critical.
- Monitoring can be accomplished by requiring periodic progress reports, as well as by holding regular meetings to discuss issues that need to be resolved. Furthermore, meeting after the completion of the audit to discuss the draft report can help ensure a clear understanding of the report and its findings.

# CHAPTER 11: PUBLIC FACILITIES FOR ECONOMIC DEVELOPMENT PROGRAM (CDBG-PFED)

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## I. INTRODUCTION

Public Facilities for Economic Development (PFED) project have several specific requirements in addition to those required of all CDBG grantees. Because it is not possible to anticipate all project variations, you should contact your program representative concerning issues that are unique to a project or a specific contract.

## II. IMPLEMENTATION SEQUENCE

Implementation of a project will roughly follow this sequence. The items in bold below are steps additional to those for Public Facilities projects.

- Perform environmental review and clearance (may be done prior to award if time is critical). See *Chapter 3: Environmental Review.*

- Set up project administration, identify applicable compliance requirements. See *Chapter 1: Records, Filing, and Monitoring; Chapter 5: Equal Employment Opportunity, Fair Housing; and Chapter 2: Procurement.*

  - **Establish base-line employment level using the date of the award from the Commerce Secretary Award letter.**

- Obtain a Davis Bacon Wage Rate. See *Chapter 6: Labor Standards.*
  **If you request wage decision(s) prior to the submittal of your application, please note:** This decision(s) applies only to the activities and uses of funds described above at the time of the request. **It is for planning and cost projection purposes only.** The decision(s) issued with this review is subject to change by the Federal Government between now and the time bids are let and contract signed. Other variables that may affect the decision(s) used includes, but not limited to, modifications to the proposed budget, changes in the budget line items, and sources and the uses of matching funds. Changes and/or additions in the proposed or final activities and/or uses of funds will require additional review to determine Davis-Bacon applicability to those changes and/or additions. **The applicant/grantee assumes the risk of using the attached wage decision in advance of finalizing the contracts and budget line items. The applicant/grantee must check with the department 10 days prior to bid opening to see if the decision(s) has been modified or superceded.**

- Execute Commerce contract.

- **Draft and execute the Development Agreement.** See *Attachment 11-B, Development Agreement.* **Mail a copy to your rep at Commerce.**

- Establish financial management system, including drawdown procedures. See *Chapter 7: Financial Management.*

- **Develop documentation requirements and procedures for recipient business.**

- Let and execute project contracts, purchases, etc., See *Chapter 6: Labor Standards.*

- **Begin hiring process - determination of LMI status may be achieved through working with the local job agency and/or using the attached *Employee Income Certification Form,*** (See *Attachment 11-A, Employee Income Certification Form).*

- Monitor expenditures, employment, and regulatory compliance.

- Close and audit project. See *Chapter 9: Program Closeout* and *Chapter 10: Audit Requirements.*

Some of these activities may take place concurrently. Some activities must be complete before others begin. For example, the project itself **cannot** begin prior to receipt of the PFED award and environmental clearance, and should not begin prior to the execution of the loan or development agreement, the Commerce contract, and the financing documents.

## III. GRANT CONTRACT

A contract between Commerce and you, as grantee, as well as a development agreement between you and the business, should be executed within 90 days of the date of the Commerce Award letter. The contract will include much of the information conveyed by the Commerce Award letter. Although the terms of the PFED financing are established at this point, clarifications and scheduling issues may require further attention.

At the same time, you should prepare the development agreement. Your legal counsel should draft or be involved in the preparation of the agreement. This document should include the terms, conditions, and penalties specified in Commerce's Award letter. It should also describe the project, the employment objectives, a timetable, applicable federal regulations, record keeping requirements, and other pertinent legal provisions. Commerce will review these documents for consistency with one another as well as with the award letters and the application. Copies of all these executed documents should be attached to your PFED contract. Copies should also be sent to Commerce.

## IV. DEVELOPMENT AGREEMENT

The grantee and the business must complete and submit to Commerce for approval of a development agreement (see *Attachment 11-B, Development Agreement*). The development agreement should transfer responsibility for certain CDBG requirements to the business. Much of the development agreement can be copied directly from the contract between the municipality and Commerce. Many municipalities choose to include other provisions that they require of the businesses that are not related to the CDBG grant. This is an acceptable use of the development agreement. This agreement should address issues of job creation, LMI benefits, public improvements, and amount and type of private investment. More specifically, the agreement should spell out any penalties the business would be responsible for if the business fails to create the jobs that it pledged to create. Furthermore, the municipality should require in the development agreement that the business provides reasonable access to is records. This provision is necessary to monitor the business for job creation, percent of LMI hires, and private business match.

## V. PERFORMANCE MONITORING

You are responsible for monitoring and documenting the recipient business' compliance with the federal and state regulations previously noted. You are also responsible for monitoring and documenting the business' performance of contractual obligations. These will include the expenditure of private match as required by contract and documentation; the recruitment and hiring of new employees; the retention of existing employees (in some projects); and subsequently, the maintenance of these positions/employees for the period set by the contract.

Private Match - The business must expend at least as much funds as is required by the contract.

Employment - The low- and moderate-income (LMI) status of persons hired or retained in projects must be documented. At least 51 percent of those persons must be LMI persons at the time ED or PFED assistance is provided. Existing businesses must provide you with copy of their payroll records at the time of the grant award to establish an employment baseline from which job retention, future job creation, and the maintenance of employment may be documented. Employees should be identified by name or number, including Social Security numbers, but names and Social Security numbers should never be linked in a public document. In order to enable the grantee to document the attainment of employment goals, to fulfill the equal opportunity requirements, and to complete properly the semiannual reports and closeout report, the following information about employees is needed:

- Employee identification (by name or number)
    - Job title
    - Date hired and LMI status at that time or at the start of the retention project
    - Number of hours per week
    - Racial/ethnic status
    - Age
    - Handicapped status
    - Sex of head of household
    - Termination date, if any, and when replacement was hired

Use *Attachment 11-A, Employee Income Certification Form* to document these items.

From time to time, you should interview employees. This allows an independent verification of the business' employment performance.

## ATTACHMENT 11-A: EMPLOYEE INCOME CERTIFICATION FORM

The Wisconsin Department of Commerce (Commerce) has provided United States Department of Housing and Urban Development (HUD) funds to _____ (*Grantee*) for the purpose of assisting _____(*Business*). As a HUD condition of receiving this assistance, _____(*Business*), must certify to _____(*Grantee*) and

Commerce, the **previous 12 months household income** for each of the new employees hired. To assist the business in meeting this requirement, please provide the information requested below.

Enter the most recent low- and moderate-income limits per household size as listed for your County. Find your household size in the left-hand column. Indicate, **on the same line as your household size**, your **total household income** as being wither BELOW, WITHIN, or ABOVE the income range listed for your household size.

| HOUSE-HOLD SIZE | HOUSEHOLD INCOME<br>*Grantee's County:*_____ | BELOW RANGE | WITHIN RANGE | ABOVE RANGE |
|---|---|---|---|---|
| 1 | $ | | | |
| 2 | $ | | | |
| 3 | $ | | | |
| 4 | $ | | | |
| 5 | $ | | | |
| 6 | $ | | | |
| 7 | $ | | | |
| 8 | $ | | | |

I understand that the information provided in this certification is subject to verification by

_____ and/or Commerce.
*(Grantee)*

Date _____

_____
(*Employee's Printed Name and Address*

_____

*(Employee's Signature)*The U.S. Department of Housing and Urban Development also requests the recipient of HUD funds to provide the following *optional* information for each of the new employees hired.

1. Date hired: _____

2. Average number of hours worked per week: _____

3. Job title: _____

4. Is the employee a single female who is the head of her household? YES NO
   (*Circle one)*

5. Is the employee physically handicapped? YES NO
   (*Circle one)*

6. Is the employee:

   _____White, not Hispanic

   _____Black, not Hispanic

   _____Hispanic

   _____Asian or Pacific Islander

   _____American Indian

## ATTACHMENT 11-B: SAMPLE DEVELOPMENT AGREEMENT

This Agreement is entered into this 12th day of **February, 3456**, by and between the **City of Yourville** (hereinafter refereed to as the "Grantee") and the **Acme Company** (hereinafter referred to as the "Business") for the purposes of the Community Development Block Grant Public Facilities for Economic Development (CDBG-PFED) award granted **January 12, 3456** by the Wisconsin Department of Commerce (Commerce).

1. During the term of this contract, the BUSINESS shall create and fill at least **20** full-time positions by **December 31, 2345**, and thereafter maintain each of those full-time positions until **December 31, 2345**. Of **20** full-time positions created, at least 51 percent shall be made available to LMI persons. Such employment constitutes the major inducement for Commerce to make this grant. If Commerce, in its reasonable discretion, determines that the Business has failed to comply with its obligations above, then for each full-time position that the Business has failed to create, the Business shall pay the Grantee the following.

   - $500 for each new full-time position created less than **20**, plus.

   - $1,000 for each full-time position not made available to **LMI** persons.

   This penalty shall be payable by the Grantee to Commerce. The Grantee's agreement with the Business may require reimbursement from the Business for any such penalty. For purposes of this term sheet and future contracts, the term "full-time position" means "a regular full-time position where the employee is required, as a condition of employment, to work at least 40 hours per week and 2,080 hours per year, including holidays and paid vacations."

2. The Business shall **spend at least $2,000 to construct a new 25,000 square foot manufacturing facility in the City of Yourville and create at least 20 new full-time positions in the City.**

3. The Business shall prepare, keep, and maintain records that allow the Grantee to determine whether they are complying with the terms of the agreement. Such records shall include, at a minimum, bills, invoices, and payroll records for each full-time employee employed. The Grantee shall have reasonable access to all records relating to this agreement.

4. Pursuant to sec.106.16, Stats., the Grantee shall ensure that the Business notify the Department of Work Force Development, the local Job Service Office, and the Area private Industry Council of any vacant full-time positions relating to the project. The Business shall provide such notice at least two weeks prior to advertising for such full-time positions.

5. The Grantee shall provide for administration of the agreement with the Business after closeout of this agreement to ensure that the job creation requirements are complied with.

6. The Grantee shall review the payroll records of the Business at a date of the award to establish the base level of employment and at the time the full-time positions are generated and until **December 31, 2345** to determine the number of new full-time positions that have been maintained.

**AUTHORITY TO SIGN DOCUMENT**

The person(s) signing this Agreement on behalf of the Grantee certifies and attests that the Grantee's respective Articles of Incorporation, By Laws, Charter, Corporate, or other Resolutions, and/or other related documents give full and complete authority to bind the Grantee, on whose behalf they are executing this document.

**IN WITNESS WHEREOF,** the parties have hereunto set their hands and seals on the date and year first written above.

**ACME COMPANY**

By: _____
**John Smith, President**

Attest: _____
**Mary Jones, Vice President**

**CITY OF YOURS**

By: _____
**Richard Johnson, Mayor**

Attest: _____
**Jane Doe, Clerk/Treasurer**

# CHAPTER 12: CDBG BLIGHT ELIMINATION AND BROWNFIELD REDEVELOPMENT PROGRAM (CDBG-BEBR)

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## I. PROGRAM DESCRIPTION

The Blight Elimination and Brownfield Redevelopment (BEBR) program is designed to assist communities with assessing or remediating the environmental contamination of an abandoned, idle, or underused industrial or commercial facility or site in a blighted area, or that qualifies as blighted.

## II. ADMINISTRATION

Under the BEBR program, a municipality is always the grantee. The grantee may perform the assessment and/or remediation itself, or "pass through" the funds to a local development organization or a private business that may utilize the funds for assessment and or remediation work. Administration requirements vary based upon which of the two options is followed.

- If a grantee received the grant funds, lets bids and conducts the work itself, the standard CDBG-PF rules apply to the use, administration, and close-out.

- If the grantee loans or grants the funds to a local development organization or a private business, the rules applying the CDBG-ED program apply to the use, administration, and close-out.

Contact the BEBR Specialist with any questions that may arise.

The specific requirements for the use, administration, and close-out of the grant will be specified by the contract between Commerce and the Grantee. The right to pass through funds by the grantee to a third party must be specified in the contract. The ability to pass through funds must be approved by the Commerce prior to any activity occurring.