

CHAPTER 1 -- PROJECT START-UP

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CHAPTER I

PROJECT START-UP

I. OVERVIEW

This chapter of the CDBG Grant Administration Manual summarizes the key considerations in starting up your project, focusing on important first steps which local officials and local project staff should keep in mind as you begin the implementation of your Community Development Block Grant (CDBG) project:

Key project start-up steps include:

- attending the CDBG Grant Administration Workshop
- receiving CDBG authorization to incur costs (see Section D of Chapter 1)
- working with your CDBG project liaison to prepare the contract; and understanding the CDBG policies governing contract amendments
- incurring start-up costs for administrative activities
- identifying actions need to meet CDBG contract start-up conditions (Section 17 of your contract) and any special conditions that are part of your contract
- establishing an updated Management Plan for project administration
- preparing an updated Project Implementation Schedule (for contract Attachment A)
- obtaining firm commitment of non-CDBG funds
- starting an environmental review process (Chapter 2)
- completing authorized signature and depository forms.
- completing civil rights actions (Fair Housing, ADA, EEO, etc.) needed at project start-up (see Section H of Chapter 1 and also Chapter 5, Civil Rights)
- establishing project files; and
- setting up a financial and accounting system that meets CDBG and HUD standards.

There are important steps that grantees must undertake to start the project. Other than the environmental requirements, these steps in the start-up process are not necessarily intended to be strictly sequential. The order of steps 4-8 below may be altered or completed concurrently.

1. **Develop the contract for your project with MDOC.**
 - a. coordinate with your CDBG liaison on preparation of draft contract;
 - b. arrange review by the city, town, or county attorney;
 - c. sign final draft of contract.
2. **Attend the MDOC CDBG administration workshop required for all CDBG grantees.**
3. **Receive MDOC's approval to incur start-up costs for activities that are environmentally exempt (administrative and start-up activities that can proceed before the CDBG-required environmental review process has been completed).**
4. **Review environmental requirements for the entire project** (See Chapter 2).
 - a. designate the Environmental Certifying Official;
 - b. undertake an environmental review for entire project;
 - c. receive MDOC's letter releasing funds upon successful completion of the environmental review.

5. **Establish a Management Plan for project administration.** (See *Exhibits 1-A, 1-B and 1-C.*)
 - a. determine whether a public employee or a private contractor will manage the grant activities (or both);
 - b. comply with federal and state law regarding employment practices and hiring and/or procurement procedures;
 - c. assign responsibilities to individuals for all aspects of project management;
 - d. prepare final schedule for project implementation;
 - e. submit the Project Management Plan and Implementation Schedule to MDOC for CDBG's review and approval.
6. **Submit properly completed copies of the Signature Certification Form** (*Exhibit 1-D*) **and the Designation of Depository Form** (*Exhibit 1-E*).
7. **Secure the firm commitment of any non-CDBG resources to be involved in the project** (*Exhibit 1-F*) **and communicate this to CDBG/MDOC.**
8. **Establish the following project files.** Those indicated with an (*) may not be applicable for your project. The files are listed in alphabetical order for ease of reference.
 - Acquisition / Relocation (*)
 - Application
 - Audits
 - Citizen Participation
 - Civil Rights
 - Closeout
 - Construction Contract Management (for Public Facilities Construction or New Housing Construction or for Rehabilitation of a Multi-Family Housing Structure) (*)
 - Department of Commerce Contract -- including, but not limited to:
 - contract and contract amendments
 - certificate of insurance,
 - evidence of workmen's compensation participation, and
 - naming of the State as an additional insured
 - Economic Development (*)
 - Environmental Review
 - Financial Management
 - General Correspondence
 - Housing Rehabilitation or New Housing Construction (*)
 - Labor Standards and Davis-Bacon Compliance (*)
 - Professional Services Agreements and/or Employee Selection (*)
 - Program Income File
 - Project Management
 - Project Monitoring
 - **Proof of Insurance and Workmen's Compensation File**

II. APPLICABLE REQUIREMENTS

A. FEDERAL

1. **The Federal Housing and Community Development Act of 1974** (42 USC 5301) provides the statutory basis for the CDBG program nationwide. The State of Montana assumed administrative responsibility for the "Small Cities" CDBG Program in 1982 and

the distribution and use of CDBG funds allocated to the State for its local governments under 50,000 population.

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

- carrying out their local projects in a timely and satisfactory manner;
- carrying out their projects substantially as they are described in their CDBG applications and contract documents;
- ensuring that only eligible activities are undertaken with CDBG funding;
- ensuring that each activity undertaken with CDBG funding principally benefits low and moderate income persons, aids in the prevention or elimination of slums and blight, or meets other community development needs having particular urgency;
- maintaining a system for financial management that provides accurate information about CDBG expenditures and assures financial accountability and control;
- promoting fair housing and equal opportunity in the implementation of project activities;
- complying with the National Environmental Policy Act (NEPA); and
- complying with all applicable laws and regulations. The most important federal requirements that apply to CDBG projects are briefly summarized in the "Certifications for Application" (Appendix Q of the Montana CDBG Application Guidelines.) The chief elected official of each CDBG applicant signed and submitted the Certifications with the application for CDBG funds. Most of these requirements are discussed in detail in following chapters.

2. **Title 24 of the Code of Federal Regulations (CFR), Part 570, Subpart I, "State CDBG Program."** These regulations adopted by the U.S. Department of Housing and Urban Development (HUD) provide the basis for states to receive and distribute CDBG funds to local governments in their nonentitlement areas. While these implementing regulations are primarily intended to define state administrative responsibilities, they also identify many of the management and compliance issues each state must monitor at the local level. These regulations make each state accountable for conducting "such reviews and audits of the units of general local government as may be necessary or appropriate to determine whether they have satisfied the applicable performance criteria which incorporate, among other things, the requirements of this Title and other applicable laws."

3. **Title 24 of the Code of Federal Regulations (CFR), Part 570, Subparts C, J, K and O, "CDBG Program - Entitlement Grant Regulations."** HUD adopted these regulations in 1988 for the "Entitlement CDBG Program" which assists communities over 50,000 population, such as Billings, Great Falls, and Missoula. The HUD Entitlement CDBG Program regulations provide additional guidance on HUD policy regarding a variety of issues involved in the management of local state-funded CDBG projects. Copies of the current regulations for the HUD "Entitlement CDBG Program" are available from the Montana Department of Commerce (MDOC) upon request.

B. STATE

1. **The Montana CDBG Program Application Guidelines.** These annual guidelines set out the basic requirements governing an application for CDBG funds and describe the various conditions that attach to projects selected for funding.
2. **The Montana CDBG Program Grant Administration Manual** describes the policies and procedures governing administration of CDBG projects by local grant recipients. Both the CDBG Application Guidelines and Grant Administration Manual have been adopted by the Department of Commerce (MDOC), by reference, as administrative rules under the Montana Administrative Procedure Act. (Cite: ARM 8.97.3702)

Compliance with these and other applicable requirements are specific conditions of the CDBG contract between MDOC and the grantee.

The following pages discuss the major steps that typically precede actual initiation of project activities.

III. STEPS FOR PROJECT START-UP

A. GRANT AWARD LETTER

Earlier you received a letter from the Director of the Montana Department of Commerce announcing that you had been selected for CDBG funding and that a specific amount of funds had tentatively been allocated for your project. The letter noted that MDOC cannot officially commit a specific amount of funds to your project until you complete budget and contract negotiations with MDOC and until MDOC assures compliance with any other conditions imposed as a prerequisite to receipt of CDBG funds.

The tentative award of funds does not imply approval of all activities or specific costs proposed in the selected application. The proposed work program and budget may be subject to modification during subsequent contract negotiations between the applicant and MDOC. MDOC will not grant additional funds to pay for project costs that exceed the grant award.

B. PREPARING THE CONTRACT

As part of the project start-up process, MDOC and the grant recipient will work together to prepare the grant agreement or contract -- see Exhibit 1-H (for Cities and Towns) and Exhibit 1-I (for Counties) -- for a contract template used by CDBG). The grant contract is the legal document which governs the administration of the grant and includes the following items:

- the amount of CDBG funds to be provided;
- the Project Implementation Schedule (contract Attachment A) for key project activities;
- a detailed budget (contract Attachment B) for the CDBG funds and any other funds involved in the project;
- the scope of activities (contract Section 6) to be completed; and
- the general and special terms and conditions associated with the grant.

The negotiation process will include:

- fine-tuning the project budget, implementation schedule and management plan;
- identifying any special conditions that will need to be included; and
- defining the key elements of the project in specific terms.

If major changes in the project are proposed when the contract is being developed, MDOC will have to consider whether the modifications are substantial enough to necessitate reevaluating the project's ranking score in the original grant competition.

Each contract consists of:

- **provisions common to all CDBG contracts** --generally referred to as "boilerplate" -- for

- example, provisions regarding contract termination, modification and amendment; method of payment; conflict of interest; and compliance with applicable laws and regulations; and
- **provisions specific to the agreement between the MDOC and the grantee** -- for example, provisions regarding the amount of the grant, the scope of services, including the project budget, project implementation schedule, and any special conditions.

Each provision is legally enforceable and designed to spell out the respective obligations of MDOC and the CDBG recipient.

Sample contracts for CDBG projects are included as Exhibit 1-H (for Cities and Towns) and Exhibit 1-I (for Counties). The MDOC CDBG liaison assigned to your project will prepare a draft contract for review by local officials. The draft will reflect the key elements of the project as described in the original CDBG application. Local officials should pay particular attention to the sections addressing grant amount, scope of activities, conditions, budget, and project implementation schedule.

If the project involves funding through other state or federal programs, you will have to consider the timing of the availability of those other funds in preparing the project implementation schedule and budget. You may also have to consider any limitations on the use of those funds as you prepare the overall project budget; some programs allow their funds to be used for only certain purposes and these constraints will have to be kept in mind when you decide which funding source will finance each component of the project.

MDOC recommends that the local government's attorney review the contract, in draft form, to ensure that it is consistent with the community's legal authority and interests. Any concerns should be communicated to the CDBG program specialist assigned as liaison for the project. Once agreement is reached on the content, the CDBG liaison will prepare the final draft for signature by the MDOC Director and the local government's chief elected official or executive officer. Two copies of the contract require original signatures. One copy will be retained by the grantee and two by MDOC.

CDBG will not release any funds to the grantee until a grant contract is fully executed and all grant start-up conditions-- including the completion of the Environmental Review (see Chapter 2) -- are met .

In the event a project can be completed for less than the grant amount, the grant contract would be amended to reflect the reduced costs. For example, if actual construction bids are less than the estimates included in the application budget, the construction budget in the CDBG contract would be established at the bid price, plus a ten percent contingency. (See Chapter 9.) The difference between actual project costs and the original grant award will normally be reallocated by MDOC for unfunded or inadequately funded projects or added to the following year's CDBG allocation.

CDBG may allow excess funds to be used for an eligible activity which further enhances the contracted project, subject to the Department's written approval. However, before MDOC makes a determination to allow the additional activity to expend all or a part of the balance of remaining funds, the grantee must demonstrate that the activity will:

- (1) clearly enhance the overall impact of the original project;
- (2) provide adequate benefits to low and moderate income persons;
- (3) be completed in a timely manner; and,
- (4) be able to be completed with the excess funds.

The grantee must also **(5)** demonstrate satisfactory progress toward completion of the original contracted project activities. CDBG may re-allocate the excess funds to other projects.

C. AMENDING THE CONTRACT

For any CDBG project, it is very difficult to prepare a scope of services, a budget, and an implementation schedule that can anticipate all eventualities throughout the term of a 24-36 month project. Therefore, MDOC will consider requests for contract amendments.

However, all grantees must request approval of modifications to the project, in advance, such as those involving new activities, alteration of the existing activities or budget, adjusting the schedule for project implementation, as proposed in the grant application or defined in the grant contract. Before MDOC makes a determination to allow the amendment, the grantee must provide a written justification that clearly demonstrates that the modification is appropriate and will enhance the overall impact of the original project.

MDOC will consider each request to determine whether the modification is substantial enough to necessitate reevaluating the project's original ranking. If warranted, MDOC will analyze the proposed modification and its impact on the scores originally assigned the application. Amendments will not be approved which, when re-ranked, reduce the overall score assigned during the original grant competition below the lowest score received by a selected project.

MDOC will require that a public hearing with reasonable notice be conducted by the grantee if the proposed amendment is determined to be a substantial change in project activities contained in the original application for CDBG funds.

Substantial changes in project activities or the geographic area of the project may also obligate the grant recipient to publish legal notices and to conduct additional environmental analysis in order to comply with federal environmental requirements.

D. INCURRING START-UP COSTS

The letter announcing a CDBG award does not, by itself, authorize a grant recipient to begin incurring costs. At this point in the project start-up process, communities tentatively selected for funding do not have authorization to expend or obligate any CDBG funds for hiring staff, consultants, engineers, or paying their salaries. **Likewise, it is premature to spend any funds for any project activities. Examples include buying land, doing construction work, etc.**

- **CDBG grantees will receive a letter from CDBG giving authorization to begin incurring costs for certain grant start-up, administrative activities related to their project, listing the starting date when costs can be legitimately incurred for reimbursement by CDBG.**
- **Please keep in mind that there are many federal and State requirements that directly affect the implementation of CDBG projects, including the procurement of professional grant administrators and project engineers and architects, preparation of environmental reviews, and compliance with accounting requirements, to list just a few. Contact MDOC for guidance when undertaking these activities.**

- Another important point to remember is that CDBG funds cannot be used to reimburse local funds for any costs incurred prior to the award of the grant, such as expenditures associated with application preparation or previous engineering studies or plans.

1. Environmental Exemption for Administrative Activities

Section 104(f) of Title I of the Housing and Community Development Act of 1974 requires all projects that are financed with CDBG funds to conform to HUD Environmental Review Procedures contained in 24 CFR (Code of Federal Regulations) Parts 51 and 58.

Until a CDBG grant recipient has completed an Environmental Review Record ☐ covering all project activities and the State has issued a formal Release of Funds, ☐ a grantee may not expend or encumber CDBG funds for any activity except those listed as environmentally exempt authorized by MDOC.

MDOC will issue a specific authorization for each grant recipient to allow them to begin incurring costs for environmentally-exempt activities that are unlikely to cause any environmental impact.

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Examples of environmentally exempt administrative activities include the following:

- **Administrative costs** -- consisting of project planning and management activities, including contract negotiation, development of a management plan, attendance at grantee training workshops, public information efforts, and advertising for and selection of administrative and engineering consultants.
- **Environmental review activities** -- including publication of notices, preparation of the Environmental Review Record, and submission of an Environmental Finding and Request for Release of Funds to the MDOC.

The MDOC CDBG staff assigned as your liaison for the project should be contacted for guidance if you have a question regarding whether or not a particular grant activity is environmentally exempt.

The entire environmental review process for CDBG grant recipients is discussed in Chapter 2, Environmental Review.

2. Reimbursement for Activities

CDBG funds will not actually become available for reimbursing expenditures until a letter of authorization is issued by MDOC, an environmental review is conducted by the grant recipient, a Release of Funds is issued by the Department, a grant contract with MDOC is executed, and all contract conditions have been met.

The initial start-up expenses must be paid out of local government funds until reimbursement occurs. It usually takes at least two months before CDBG funds are received due to the time required to meet these requirements.

In the event a grant agreement is not executed, a project is unable to comply with the terms and conditions of the agreement, the project budget does not include a line item and sufficient funds for a particular expenditure, or if funds are obligated or costs incurred without proper authorization, any costs incurred will be the responsibility of the local government.

For this reason, MDOC recommends that new CDBG recipients not incur administrative costs until they have been briefed on the requirements and obligation they will assume in managing a CDBG project at MDOC's CDBG administration workshop.

Under no circumstances can the local grantee expend any funds for actual project **construction** until: **a)** the Environmental Review is completed to CDBG's satisfaction **and b)** MDOC issues a **Release of Funds letter** as described in Chapter 2.

Procedures by which grantees are reimbursed are discussed later in this chapter and in Chapter 4, Financial Management.

E. ATTENDING A CDBG GRANT ADMINISTRATION WORKSHOP

Each year MDOC conducts a grant administration workshop for communities awarded new grants. **Participation is mandatory** for any grant recipient that does not have recent prior experience in administering a CDBG project. The session is designed for elected local officials who are ultimately responsible for the grant; project managers who will have overall day-to-day administrative responsibility; and clerks, clerk-treasurers, clerk and recorders, or other officials who will have responsibility for overseeing CDBG finances. It is extremely important that the officials and staff that will be responsible for day-to-day grant management, especially financial management, attend this workshop. Professional grant administration consultants are also welcome to attend the workshop.

The federal and state requirements that are attached to the CDBG program can sometimes make administering a project confusing or difficult. The workshop is designed to help make the task as understandable as possible. When local officials do not attend the workshop, it invariably causes delay and confusion with the start-up of a CDBG project.

CDBG staff will also discuss at the grant administration workshop key resolutions related to other CDBG requirements (such as Fair Housing, Equal Employment Opportunity, ADA and others – discussed in Chapter 5) that should be passed by local government grant recipients as part of start-up activities.

F. ESTABLISHING A MANAGEMENT PLAN FOR PROJECT ADMINISTRATION

The Montana CDBG Program requires that grantees have the administrative capacity to undertake and satisfactorily complete the project. As part of your CDBG application, a preliminary management plan was prepared and submitted that described how your local government intended to approach management of your proposed project. Now that your community has been selected for CDBG funding,

it is time to review that preliminary management plan to assign roles and responsibilities to specific individuals for the day-to-day administration of the project.

As we proceed through this manual, keep in mind that someone will have to be responsible for assuring compliance with each of the requirements that apply to your project. A very common problem in the start-up of a new CDBG project is that local officials or staff assume that someone else is taking care of a particular requirement or work task.

As a condition of the MDOC CDBG contract terms, all grantees are required to prepare and submit a *Project Management Plan* -- for review and approval by CDBG -- that specifically demonstrates to MDOC how and by whom the project will be managed. MDOC will evaluate the plan and upon approval, will release the special condition in the contract pertaining to that requirement.

Preparation of the Project Management Plan will allow local government officials and MDOC CDBG staff to have confidence that someone has been assigned to assure compliance with all the necessary requirements before the project proceeds. This will also allow local officials and MDOC to monitor project implementation more effectively. More specific information regarding the suggested content of the plan is contained in **Exhibit 1-A, Management Plan**. In addition, for the assistance of grant recipients, two sample management plans are provided:

- **Exhibit 1-B** is the text of a sample management plan format for a public facilities project administered by local staff.
- **Exhibit I-C** is the text of a sample management plan format for a housing project administered with consultant assistance.

Local officials can adapt features from the two samples to fit their particular situation.

Local administration of CDBG projects can take one of several forms. In some cases, the local governing body designates an existing public agency or employee (such as a planning board or planning director, public works superintendent or clerk) as the CDBG project manager. Some communities hire new employees to manage a project. In other instances, the community will contract with a private individual or consulting firm to manage the grant activities. **In other cases the local government may choose to contract with an existing special purpose agency such as a local housing authority, human resource development council, or a water or sewer district. An interlocal agreement and other special steps may be necessary in such cases.**

Montana law also allows the option of project administration by another local government or a non-profit organization through an interlocal agreement (or sub-recipient agreement). For an example of an **interlocal agreement** please see **Exhibit 9-G**, and for an example of a **sub-recipient agreement** see **Exhibit 9-P**.

MDOC recognizes all of the above-described arrangements as acceptable for project management; reasonable and appropriate costs for grant administration are eligible for reimbursement with CDBG funds if provided for in the contract between the grantee and MDOC. Regardless of the option selected, however, **direct responsibility for completion of grant activities, compliance with federal and state requirements, and proper financial management of CDBG funds, rests with the governing body of the CDBG recipient.**

The two basic common options used by past CDBG recipients have been administration by existing public agencies or employees or by private consultants. Both alternatives can have advantages for a local government.

By administering a CDBG project with its own staff, a grantee will gain valuable experience that can be applied to future CDBG projects or management of other projects funded by other state or federal programs. Experience in successfully administering a CDBG project can also enhance a community's ability to compete for other programs. Montana's CDBG Program takes into consideration a past grant recipient's performance in managing a project during the ranking of CDBG applications. Although administering a CDBG project initially seems formidable, many of Montana's CDBG projects have been successfully administered by clerks, or other local people hired to manage the project without outside assistance.

The use of professional consultants can have advantages, too. In many communities, local staff are already overloaded by their present work tasks and would be unable to shift responsibilities during the term of a CDBG project. In these cases, local officials may prefer to hire an outside contractor rather than to add a local employee that would have to be terminated at the end of the project. In other cases, the community's project may involve more complex, technical issues, such as housing rehabilitation, that local officials would prefer to have handled by experienced professionals. By bringing in outside consultants, the community reduces the lag time involved in learning detailed requirements or in researching management issues and benefits from the practical experience of their consultant.

If you decide to retain a consultant to help you with management of your CDBG project, make sure that a local official or employee works closely with the consultant to gain a better understanding of the management issues involved. In many cases, where the community turns everything over to the consultant, all of the detailed knowledge about the project is lost when the project is done and the consultant leaves. Establishing a close working relationship with the consultant will also provide an excellent opportunity for training of local staff and will help improve communication between the community and the consultant.

1. Administration by Public Employees

When using existing staff or hiring additional public employees, the responsibilities of local officials include accurately documenting that any costs incurred and hiring procedures used were consistent with federal and state equal employment opportunity (EEO) and nondiscrimination provisions. These EEO provisions are discussed in detail in Chapter 5, Civil Rights.

When using existing staff or hiring additional staff, the local government body must be able to demonstrate that:

- the community has written personnel and employment policies which specifically prohibit discriminatory practices based on race, national origin, religion, creed, color, sex, age, or physical or mental handicap, marital status, or political beliefs;
- detailed records are maintained related to compensation and promotion of, or training for any individual paid with CDBG administrative funds; and
- for new hires, EEO guidelines are followed in advertising for new employees and sufficient records are maintained related to all applicants for new positions with specific data on sex, race, handicap, and/or national origin.

When using local employees for CDBG project management, be sure to document all expenditures of time and dollars associated with the administrative activities. Samples of documentation include:

- employees' hourly time sheets;
- copies of travel vouchers with accompanying documentation; and
- documentation of all other direct expenses (e.g., telephone, printing and photocopying).
- brief logs for each staff member summarizing daily activities in conjunction with the preparation of detailed hourly time sheets for CDBG-related work.

2. **Management by Private Contractor/Consultant**

When opting to contract for professional services for grant administration, the local government is required to follow certain procedures to ensure compliance with applicable federal and state standards procurement of services. The federal procurement standards are outlined in Chapter 3, Procurement Standards. These procedures are designed to protect the community and help assure that it selects a competent contractor at reasonable cost.

- **All contracts are subject to strict requirements providing for free and open competition. Most professional services contracts are executed through "competitive proposal" procedures (Request for Proposals or RFPs) as described in Chapter 3.**
- **All contracts for project management services must be submitted to MDOC for its review and approval, prior to execution.**

As they approach their decision on how their CDBG project will be managed, local officials should understand that administration of a CDBG public facilities project does not usually require the full-time attention of an employee or contractor from the beginning of a project to its completion. The work may involve several weeks of full-time research or intense periods of activity during bidding of construction work or during actual construction to assure compliance with state labor requirements. If local officials are considering assigning project management duties to an existing employee, that employee must be capable of setting aside his or her regular duties during these peak periods of activity.

In contrast, **CDBG housing rehabilitation projects** are labor intensive for long periods and the need for a full-time employee or consultant during the construction season is a reasonable expectation.

Local officials should also understand that it is not a prerequisite that local staff, or even a private contractor, have previous CDBG administrative experience in order to be an effective project manager. Many people working on their first CDBG project have done an excellent job. The key concern for local officials is that the person who is assigned, hired or contracted to serve as project manager, be well organized and have the capability to be a conscientious and effective manager. That person must be able to devote the time required, when it is required, to make sure that the necessary tasks are properly completed.

Once you have decided on an administrative approach for your project, local officials should meet with the designated project manager and other key staff, such as those responsible for project finances, to discuss their individual roles and responsibilities and finalize the management plan. The meeting is an opportunity to outline operating

procedures, the management system, and reporting requirements. The participants should decide who will be responsible for all of the key administrative tasks including preparing the environmental review, preparing and submitting progress reports to MDOC, scheduling work, conducting site inspections, monitoring contractors and interviewing workers for labor standards requirements, requesting funds, etc. The project manager should make a written record showing project components and major tasks and identify the people who will be responsible for implementing each of them.

The process of finalizing your management plan will help identify any gaps in the assignment of administrative duties that you may have to address before you begin to implement your local project. You should also make sure that each person involved in the plan has a copy of the task assignments and implementation schedule. In the event of staff turnovers, the plan will help familiarize new staff with the responsibilities and operating procedures required to handle project administration.

The proposed *Project Management Plan* must be sent to MDOC for its review and approval. The approved management plan must also be retained in your *Project Management* file.

G. ESTABLISHING A PROGRAM INCOME PLAN

Program Income” is defined as any income earned by a grantee from a CDBG supported activity, such as, repayments of principal or interest to a local revolving loan fund program generated by housing rehabilitation or economic development activities.

- “Program Income” funds are the monies that are received after a project has been completed and closed out and are retained at the local level as authorized by the Montana Department of Commerce. Program income can also be generated while a project is yet underway, such as when homes are sold that were assisted with CDBG first-time homebuyer funds.
 - For example, if your local government planned to retain program income received from its CDBG funded housing project, it would have had to complete a Program Income Plan as part of the required application. This Program Income Plan would have outlined the use of program income anticipated to be received in conjunction with a revolving loan fund for ongoing housing purposes to assist low and moderate income homeowners or renters, and may have included a goal to fund other eligible CDBG activities.
 - Any community that have been receiving program income from a previous CDBG project funded after 1992 must have submitted a summary of past program income earnings, activities funded, and other information along with the CDBG grant application. Under HUD regulations, communities are also required to submit annual program income reports to MDOC if they have received program income from CDBG-supported activities.

As part of project start-up activities, grantees must review the Program Income Plan submitted with the grant application and ensure that it accurately reflects the local government’s current plans to administer any program income funds received. CDBG guidance on the use of Program Income is included in the publication, **CDBG Program Income Manual**, available on-line at: <http://businessresources.mt.gov/content/CDBG/docs/RLFManual/RLFManual2005.pdf>

H. PREPARING THE PROJECT IMPLEMENTATION SCHEDULE

An important consideration, both for preparation of the Project Management Plan and the contract between MDOC and the grantee, is the implementation schedule for the project. Three important deadlines apply to all CDBG projects, as follows:

1. Project Start-up Requirements

WITHIN NINE MONTHS of the date of the MDOC/CDBG announcement of the application funding status (stating that the application has been “funded” by the Department), CDBG grantee must:

- comply with all applicable state and federal requirements for project start-up;
- execute a grant contract;
- submit an acceptable management plan and implementation schedule for local CDBG project administration and implementation;
- complete financial documents to allow for transfer of CDBG funds to the grant recipient; and
- fulfill other appropriate contract terms established by MDOC, i.e., special project conditions.

In the event that these conditions have not been met, the tentative award may be withdrawn and the funds re-allocated according to the State CDBG Program project ranking and grant award procedures, unless the tentative grantee can demonstrate the existence of unusual or extenuating circumstances that would justify an extension of time to meet these conditions.

Background:

The Federal Housing and Community Development Act requires the State to distribute CDBG funds to local governments "in a timely manner." HUD encourages the State to have all of its annual allocation, excluding the State's administration funds, obligated to units of general local governments within 15 months of the State signing its grant agreement with HUD.

Underperformance and HUD “At-Risk” Management:

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

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

Failure to Perform and HUD Remediation Plan Status:

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

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

2. Commitment of Non-CDBG Resources

WITHIN NINE MONTHS of the date of the announcement of the application funding status by the Department, the Grantee will have completed all necessary arrangements to assure that those resources are available for commitment to and participation in the project in order to guarantee timely project completion. Unless the Grantee can demonstrate the existence of unusual or extenuating circumstances that justify an extension of time, the Department will withdraw the tentative award and reallocate the funds. **A complete description of the CDBG policy regarding firm commitment of other project funds is found in Exhibit 1-F.**

The MDOC will not release any CDBG funds to the grantee until the Grantee has obtained firm commitments for all non-CDBG funds involved in the project.

The grantee may not expend or obligate funds, other than for administrative purposes, until the Department determines that this condition has been satisfied and releases funds.

3. Timely Project Completion

The grant requested, either by itself or in combination with other previously identified funding sources, must be sufficient to complete the proposed activities within the contract period. The contract period is normally 24-36 months from the date of the announcement of the tentative grant award by MDOC. MDOC will consider each project separately during grant contract negotiations in order to establish a reasonable and realistic date for project completion.

MDOC reserves the right to withdraw a commitment for any CDBG funds which remain unspent 36 months after the date of the announcement of the tentative grant award -- or (as specified in the contract) for non-performance.

Each grant recipient should keep the above deadlines in mind as they prepare their project implementation schedule. If local officials anticipate any problems in complying with these requirements, they should notify MDOC as soon as possible.

As part of the application process, each grant recipient submitted a quarterly schedule for project implementation that identified the *tentative* time frames for major activities and expenditures and the coordination of non-CDBG resources for the project. The chief concern of local officials as they prepare their final implementation schedule should be to make sure that all key tasks have been identified and to *more precisely define when they must be accomplished* to complete the overall project within the three key deadlines described above.

Most CDBG applicants defined their preliminary schedules in terms of quarterly goals. The final schedule, which will be incorporated in both the management plan and the grant contract, should use monthly milestones for each task. The schedule should be posted by the project manager for periodic reference to compare actual work completed with the original planned schedule. For example, a laminated "plan a year" or "monthly organizer" calendar which shows an entire twelve-month period can be purchased from office supply stores. There are also computerized calendar formats that can be used to schedule key target dates.

These aids can be helpful tools so that the manager can note key milestones month by month along with other specific dates for project work tasks. The key concern for project managers is not to let those key deadlines get "out of sight and out of mind." Examples of project implementation schedules are included as part of the sample contract shown as Exhibits for the housing rehabilitation and public facilities chapters. The sample schedules are only a guide since each project will have unique elements that will have to be considered.

When grantees submit a drawdown to CDBG for grant funds, they must report on completed milestones and on project progress as it relates to the current implementation schedule.

See **Exhibit 4-F** (Project Progress Report, due with every drawdown request) and **Exhibit 4-K** (Quarterly Update Report, due every quarter, 15 days before the end of a quarter).

When key dates identified in the current implementation schedule (originally Attachment A of the approved contract) change, a revised implementation schedule will have to be reviewed and approved by CDBG. The CDBG project liaison will then issue a letter to the grantee confirming that the revised implementation schedule has been approved.

4. Applications on Behalf of Rural Special Improvement Districts (RSID's)

For many years it has been the policy of the Community Development Division that in order to receive CDBG or TSEP funds, an association or Rural Special Improvement District (RSID) would first have to be legally created as a county water and sewer district (pursuant to sections 7-13-22 and 23, MCA).

It is recognized that it can sometimes be difficult to get a county water and sewer district created in a timely manner in order to submit an application for a construction grant. As a result of comments received in 2005, the CDBG and TSEP programs now allow counties to apply on behalf of a RSID, with the condition that the project area must be legally created as a county or multi-county water and sewer district (pursuant to sections 7-13-22 and 23, MCA) before any grant funds will be released for construction.

I. ADDITIONAL START-UP ACTIVITIES

1. HUD Civil Rights Requirements

To ensure that grantees comply with HUD civil rights requirements, , CDBG – Housing and Public Facilities requires that the following actions be completed prior to the first release of funds; these actions are fully described in Chapter 5, Civil Rights:

- **Undertake actions to affirmatively further fair housing**, such as: **adopting a fair housing resolution (Exhibit 5-M, sample *Fair Housing Resolution*)**, posting **fair housing notices and posters (Exhibit 5-N, sample *Fair Housing Poster*)**, and **publicizing affirmative fair housing rights and responsibilities**. Also: Distribute brochures (see **Exhibit 5-O, *Fair Housing Handout and Complaint Pamphlet***, and other brochures available from MDOC) explaining fair housing rights, practices and statutory requirements. **Exhibit 5-P** provides a sample housing program notice.
- **Adopt a Hatch Act Resolution (Exhibit 5-Q, sample *Hatch Act Resolution*)**, and **inform local government officials and CDBG grantee employees of the provisions of the Hatch Act**. Also: Designate a person to disseminate the information and brochure regarding Hatch Act responsibilities.
- **Conduct a Handicapped-Access Self-Evaluation Survey to determine compliance with requirements** and **prepare a Transition Plan for handicapped access** in publicly-owned buildings and buildings used for public meetings and functions. Review Section 504 of the *Rehabilitation Act of 1973* and the *Americans with Disabilities Act of 1990* (ADA).
- **Adopt complaint resolution procedures to ensure compliance with Section 504 of the Rehabilitation Act of 1973 and the Americans with Disabilities Act of 1990 (ADA)**. These procedures must allow for prompt and equitable resolution of charges alleging non-compliance with ADA. (See **Exhibit 5-R, sample *Section 504 and ADA Complaint Resolution Procedures***).
- **CDBG Grantees must ensure accessibility (both structurally and administratively) to programs, services, and benefits for persons with physical and mental disabilities**. Grantees and their contractors may not discriminate against qualified individuals with disabilities.

NOTE: Passing these resolutions is an essential start-up activity that must be completed. The resolutions must be must be passed by the local government and actions taken before CDBG funds can be drawn.

Postponement of Civil Rights Requirements:

In some instances a local government grant recipient may be unable to fully comply with all of the above requirements before having to submit a draw for the first release of funds. In these cases, a written request for postponement of any of the above requirements must be received and subsequently approved by the project's assigned CDBG Program Specialist.

2. Documentation of Procurement for Professional Services

Documentation of proper procurement of professional services for the project, such as grant

administration, architectural or engineering services, obtained prior to the CDBG release of funds shall be required as a start up condition. The documented procurement of professional services must be in compliance with requirements discussed in Chapter 3 of this manual.

3. **Budgetary Authority Resolution**

Furthermore, after the Management Plan and contract are completed, the grantee must **appropriate by resolution the CDBG money** expected to be received from the MDOC (unanticipated funds), unless these monies were earlier included in the local governments' budget. (See **Exhibit 4-A**, Budgetary Authority Resolution.)

Please refer to Chapter 4, Financial Management, for more information.

4. **Proof of Insurance and Workmen's Compensation**

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

J. **COMPLETING SIGNATURE AND DEPOSITORY FORMS**

MDOC reserves the total amount of funding for each grant as specified in the contract. Before any CDBG funds can be requested, several forms must be completed and submitted to MDOC to establish the mechanisms for requesting and receiving CDBG funds (usually referred to as a "drawdown" or "draw" of funds). The Signature Certification Form (**Exhibit 1-D**) authorizes several local officials to sign requests for payment. At least two officials must sign each drawdown request.

The Designation of Depository form (**Exhibit 1-E**) provides that the payment will be sent directly to the designated bank account for the project. The Designation of Depository must indicate the name and/or number of a **non-interest bearing account** (general depository) to which MDOC will authorize the direct deposit of CDBG funds.

Federal regulations provide that local governments cannot earn interest on CDBG funds deposited into the local government's account for the grant. If possible, the funds should be deposited in a bank located within the project area (defined as the jurisdiction of the recipient local government).

One original copy of each form (**Exhibits 1-D and 1-E**) should be completed by the grantee. Mail the original and one copy to your CDBG liaison and retain another copy in your **Financial Management** file. If the grantee ever needs to change the authorized signatories or depository, a new set of forms must be submitted to MDOC.

The procedures for processing a "drawdown" of (request for payment) CDBG funds are described in Chapter 4, Financial Management.

The purchase of computer software, that is necessary to utilize the various CDBG forms and spreadsheets on a computer, is an eligible administration cost. In addition, CDBG will also allow computer hardware as an eligible administration cost if it is required to run the software or needed to otherwise manage the CDBG project; however, MDOC will only reimburse up to 50% of the cost of the computer or computer software.

K. ESTABLISHING PROJECT FILES

Keeping complete and detailed records is crucial to successful management of a CDBG project.

Local officials and staff should maintain detailed records of day-to-day project activities. This includes making and filing notes for all telephone or personal conversations regarding the project with the name of the person, time, date, and a summary of the conversation.

Records retention after final closeout is approved by MDOC: All records related to grant activities are to be available on request and need to be kept by the CDBG grantee for four years after the date of final closeout approval by MDOC, consistent with the requirements of 24 CFR 570.502(a)(16). See Exhibit 13-C, page 4, ***Final Closeout Certification***.

This section provides a general outline of a suggested filing system for project records that will meet MDOC and HUD monitoring requirements. By establishing and continuously updating the project files, the project manager will gather and organize all the information needed to assure effective management as well as to document compliance with state requirements. Most project managers find that an alphabetical order for names makes information filing and retrieval easiest. Contents should be organized with the most recent material on top. Most managers also find it helpful to bind the contents of each file so that the order of the contents cannot be easily disturbed. Many of the specific entries will be discussed in the remaining sections of the manual as they relate to specific CDBG project activities and compliance with state requirements.

Copies of key documents may be retained by the project administrator at a separate location, if more convenient. **However, original and complete documentation for all files should be retained in the official offices of the local governing body and be available during normal business hours to any persons authorized to review them**, including your MDOC program specialist or representative of HUD.

Most projects will not require every file described below. The appropriate files for your project will vary depending on the type of project and activities involved in it. **The six files marked with an asterisk (*) are the only ones not appropriate for all projects.**

1. Acquisition/Relocation File (*)

This file contains a copy of records on any acquisition activities and of locally established policies and procedures for relocating any displaced households and/or businesses. Chapter 7, Acquisition and Relocation, covers the record keeping requirements for these activities in detail. The grantee must keep a separate file on each case including copies of all notices, case information, and evidence of successful relocations with appropriate compensation or other assistance.

2. Application File

The application file should contain a copy of the grantee's original CDBG application as submitted to MDOC, all supporting documentation including the publication notices for and records of the required public hearings, and any other related, original documentation such as income surveys or a housing structural condition survey, or any correspondence related to the application.

3. Audits File

This file should contain copies of any audit published for the grant recipient which covers any time period between award of the CDBG funds and project closeout by MDOC, as well as copies of any local government comments prepared in response to any audit findings.

4. Citizen Participation File

This file will contain copies of public notices, hearings, and press releases or announcements, newspaper articles, council or commission minutes, citizen comments or complaints (with the grantee's responses to them), and summaries of meetings related to the CDBG project. Hearing notices or public comments received in response to the environmental review process should be retained in that file. Records of any other efforts to provide information to the public or increase public awareness of the project, such as photographs of any project sign erected near project activities, should be included in the file.

5. Civil Rights File

The civil rights file should contain all documentation related to grantee compliance with state and federal civil rights requirements. Chapter 5, Civil Rights, includes a detailed discussion regarding civil rights record keeping requirements.

6. Closeout File

Chapter 13, Project Closeout, includes a description of the information required for the project closeout process. The closeout file should include a copy of the grantee's Project Completion Reports (for conditional and final closeout) and any correspondence to or from MDOC regarding closeout.

7. Construction Management File (for Public Facilities Construction or New Housing Construction or for Rehabilitation of a Multi-Family Housing Structure) (*)

For each construction contract (Public Facilities Construction or New Housing Construction or Rehabilitation of a Multi-Family Housing Structure), a separate subfile should be established which contains the request for bids, bid document, contract document, certified copies of legal advertisements, minutes of the pre-construction conference, and all other materials related to construction. A detailed discussion of required documentation is included in Chapter 9, Construction Management: Public Facilities Construction or New Housing Construction.

8. Department of Commerce Contract File

This file should contain the executed copy of the CDBG grant contract between the grantee and MDOC including all general terms and conditions, specific conditions, and attachments. In addition, any related correspondence, telephone notes, or subsequent amendments to the contract must be retained in this file.

- Department of Commerce Contract -- including, but not limited to:
 - contract and contract amendments
 - certificate of insurance,
 - evidence of workmen's compensation participation, and
 - naming of the State as an additional insured

9. Economic Development File (*)

This file would contain a copy of the agreement between the community and any recipient of CDBG assistance for economic development. Chapter 8, Economic Development, includes a detailed discussion for the documentation which must be maintained for economic development projects.

10. Environmental Review File

This file should contain all data and documentation prepared in response to the environmental review requirements including all notices, public comments, the preliminary environmental review or environmental assessment, the request for release of funds, and the MDOC notice that funds have been released. Chapter 2, Environmental Review, provides a thorough discussion of the documentation to be included in this file.

11. Financial Management File

A complete record of all financial transactions concerning the grant must be maintained. This file should include up-to-date financial information regarding the status of CDBG and other funds involved in the project. While the official and detailed financial records, including all original source documentation, such as original invoices or claims, for expenditures, must be maintained by the local government's financial office, the project manager may wish to duplicate key information such as MDOC request for payment forms, or copies of claims and invoices. It is important that the project manager and the grant recipient's financial officer work together to monitor project finances. The financial management file maintained by the project manager usually consists of several documents, including:

- copies of the Signature Certification and Designation of Depository forms; and
- copies of the Request for Payment and Status of Funds Report **Exhibit 4-C**, Uniform Status of Funds Spreadsheet **Exhibit 4-D**, and the Uniform Invoice Tracking Spreadsheet **Exhibit 4-E**, along with the Project Progress Report and any other information submitted to MDOC with the drawdown request. The project manager may also want to file copies of the original source documentation for any major expenditures to be reimbursed by the drawdown).

If the local government anticipates requesting reimbursement of local government staff costs, the project manager must also keep **copies of payroll records** for local staff administering the CDBG program, including **hourly time sheets** and **brief logs** summarizing daily CDBG activities. Copies of invoices must also be kept in this file for any payments made to professional consultants (architects, engineers, professional grant managers, etc.)

Chapter 4, Financial Management, includes a detailed discussion regarding financial record keeping requirements.

12. General Correspondence File

This file should contain all general written correspondence and notes related to any telephone conversations regarding the project which are not more appropriate to one of the other topic files.

13. Housing Rehabilitation or New Housing Construction File (*)

This file should contain a copy of the community's adopted policies and procedures for administering its housing rehabilitation project. The file should also include records describing the disposition of each application for CDBG housing rehabilitation assistance. Additionally, a separate subfile for each rehabilitated unit should be maintained. Each file will include the agreement between the community and the assistance recipient and copies of all work write-ups, bids, contracts, permits, and inspection reports.

14. Labor Standards and Davis-Bacon File (*)

This file will contain all original documentation related to grantee compliance with applicable state and federal labor requirements. Chapter 6, Labor Standards, includes a detailed discussion of labor standards record-keeping requirement

15. Professional Services Agreements and/or or Employee Selection File (*)

If the local project will be administered through a contractual arrangement for professional services, this file should contain records of the procedures followed in the solicitation for services and a copy of the agreement between the community and the consultant. If the project will be administered by public employees, any required employment practices or hiring records must be maintained in this file. Some projects may involve both. Chapter 3, Procurement Standards, and Chapter 5, Civil Rights, provide additional guidance with respect to required data and documentation.

16. Program Income File

This file must include the local government's most current Program Income Plan for all those projects where receipt of loan payments or other remittances back to the local government or to a local revolving loan fund are anticipated.

17. Project Management File

The project management file should include the following:

- (a) A copy of the project management plan, including the most current approved implementation schedule (contract Attachment A), as well as copies of any notes, memorandums, or correspondence regarding project management which are not more appropriate to the specific topic files. Copies of the project progress reports (Exhibit 4-F) which are submitted to MDOC as attachments to the "Request for Payment and Status of Funds Report" form (Exhibit 4-C) when drawdowns are made are usually retained with the grantee's copy of the drawdown form in the ***Financial Management file***.
- (b) Documentation of Completion of Special Contract Conditions (Section 17, Start-Up Conditions, and Section 25, Workers' Compensation compliance.)
- (c) Copies of any special memoranda or directives from MDOC or any other agency pertaining to issues of policy or procedure which would affect administration of the project. MDOC may periodically distribute updates regarding new developments in federal regulations or HUD policy which may have an impact on your project. These should be retained in this file for reference. You may also want to include copies of any local policies or procedures pertinent to the CDBG project.
- (d) Copies of any correspondence, telephone notes, or other documentation relating to any inquiry concerning potential conflicts of interest or requests to MDOC for any determination concerning a conflict of interest.
- (e) Copies of any legal opinions or recommendations from the grantee's attorney or from MDOC that are relevant to the project. Records of any other contacts regarding legal issues should also be kept in the file.

18. Project Monitoring File

All written correspondence and telephone notes regarding monitoring of the grant by MDOC or any other agency should be retained in this file. It is especially important to include all monitoring letters from MDOC along with any responses to those letters from the chief elected official or others.

19. Proof of Insurance and Workmen's Compensation File

This file should contain information that verifies that the local government grant recipient maintains current insurance as set forth in the CDBG grant contract and is current on payment of workmen's compensation benefits for its employees.

CHAPTER 1

EXHIBITS

- 1-A Sample Management Plan**
- 1-B Sample Management Plan Format for a Public Facilities Project Administered by Local Staff**
- 1-C Sample Management Plan Format for a Housing Project Administered with the Assistance of a Consultant**
- 1-D Signature Certification Form**
- 1-E Designation of Depository Form**
- 1-F Guidelines on Firm Commitment of Non-CDBG Funding**
- 1-G Project Start-up Checklist**
- 1-H Contract Template for a CDBG Project – for Cities and Towns**
- 1-I Contract Template for a CDBG Project – for Counties**