

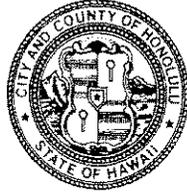
CITY CLERK
HONOLULU, HAWAII

DEPARTMENT OF BUDGET AND FISCAL SERVICES
CITY AND COUNTY OF HONOLULU

530 SOUTH KING STREET, ROOM 208 • HONOLULU, HAWAII 96813
PHONE: (808) 768-3900 • FAX: (808) 768-3179 • INTERNET: www.honolulu.gov

SEP 3 2 59 PM '08

MUFI HANNEMANN
MAYOR



MARY PATRICIA WATERHOUSE
DIRECTOR

MARK K. OTO
DEPUTY DIRECTOR

RECEIVED

August 29, 2008

271175

The Honorable Barbara Marshall, Chair
and Members
Honolulu City Council
530 South King Street, Room 202
Honolulu, Hawaii 96813

Dear Chair Marshall and Councilmembers:

Subject: Community Development Block Grant (CDBG) and HOME Investment Partnerships (HOME) Program Requirements Training

As a follow-up to our earlier invitation to you and your staff to attend the training session held on August 20, 2008, we are pleased to report that all agencies that were appropriated CDBG and/or HOME funding in the City's 2009 fiscal year budget were in attendance. In addition, we are enclosing nine copies of the material provided at the training for your information and use.

If you have questions or need additional information, please feel free to contact Holly Kawano, Federal Grants Coordinator at 768-3930. Thank you for your continued support of our programs.

Sincerely,

Handwritten signature of Mary Patricia Waterhouse in black ink.

Mary Patricia Waterhouse, Director
Department of Budget and Fiscal Services

Handwritten signature of Deborah Kim Morikawa in black ink.

Deborah Kim Morikawa, Director
Department of Community Services

MPW/DKM/HK:tb

Attachments

FORWARDED:

Handwritten signature of Wayne M. Hashiro in black ink.

Wayne M. Hashiro, P. E.
Managing Director

DEPT. COM. 707

cc: Office of the Mayor

Community Development
Block Grant
PROGRAM REQUIREMENTS
TRAINING for NONPROFITS
August 20, 2008



City and County of Honolulu
**Community Development Block Grant
Program Requirements Training**
Lester McCoy Pavilion, Ala Moana Regional Park
August 20, 2008
9:00 a.m. to 11:30 a.m.

AGENDA

Welcome

Opening Remarks
Organizational Structure

*Community Development Block Grant (CDBG)/HOME Program
Overview*

*How Your Contract is Processed (Subrecipient Agreements)
Flowchart*

Environmental Review

BREAK

Procurement

Federal vs. Local Laws
Consultant Procurement
Construction Procurement

Payment Requests/Drawdowns

Payment Request Procedures and Forms

Project Accountability

Monitoring and Recordkeeping

BREAK

The following session is required for construction projects only

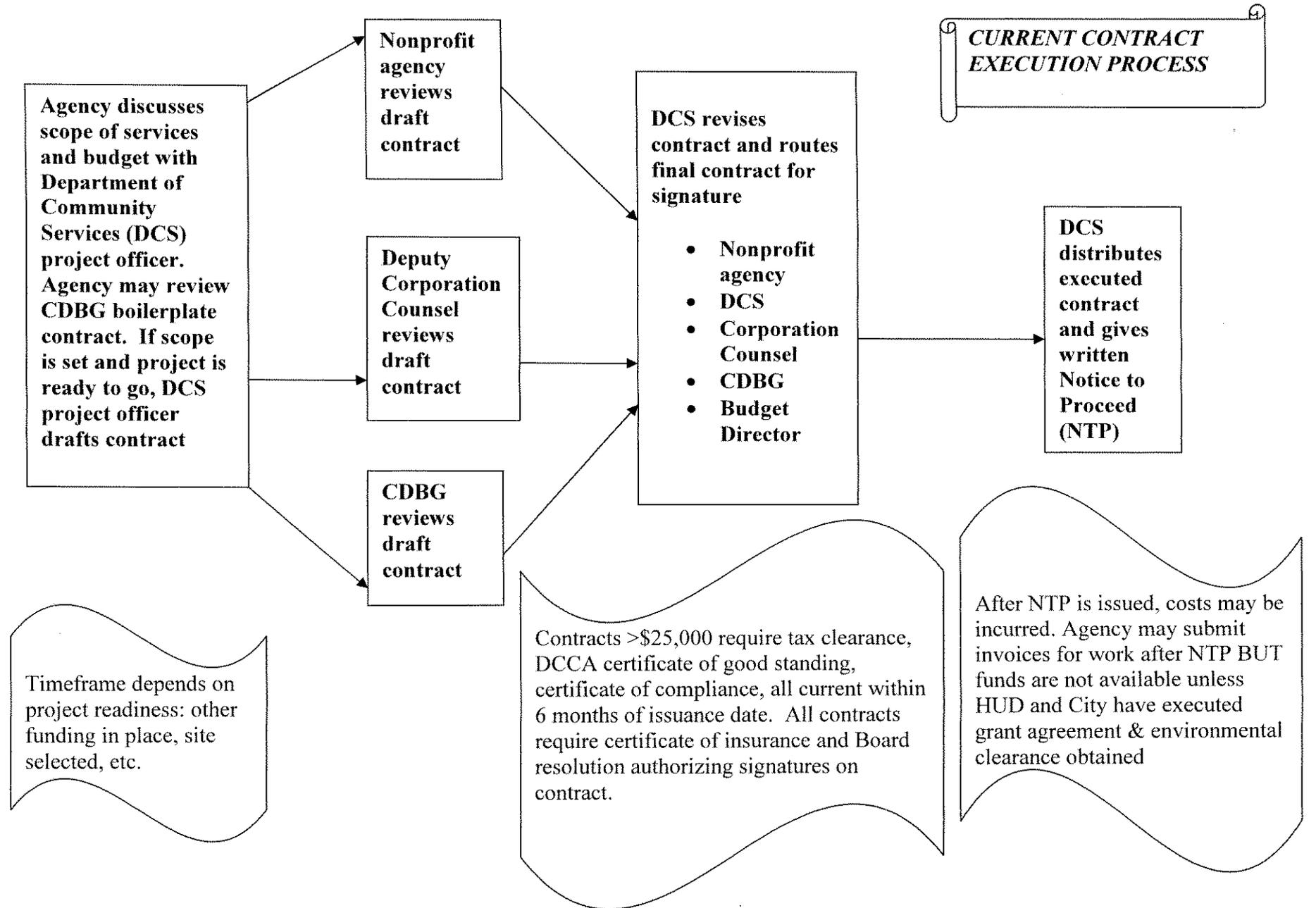
Labor Standards

Department of Community Services

Project Officer Contact Information Listing – FY2009

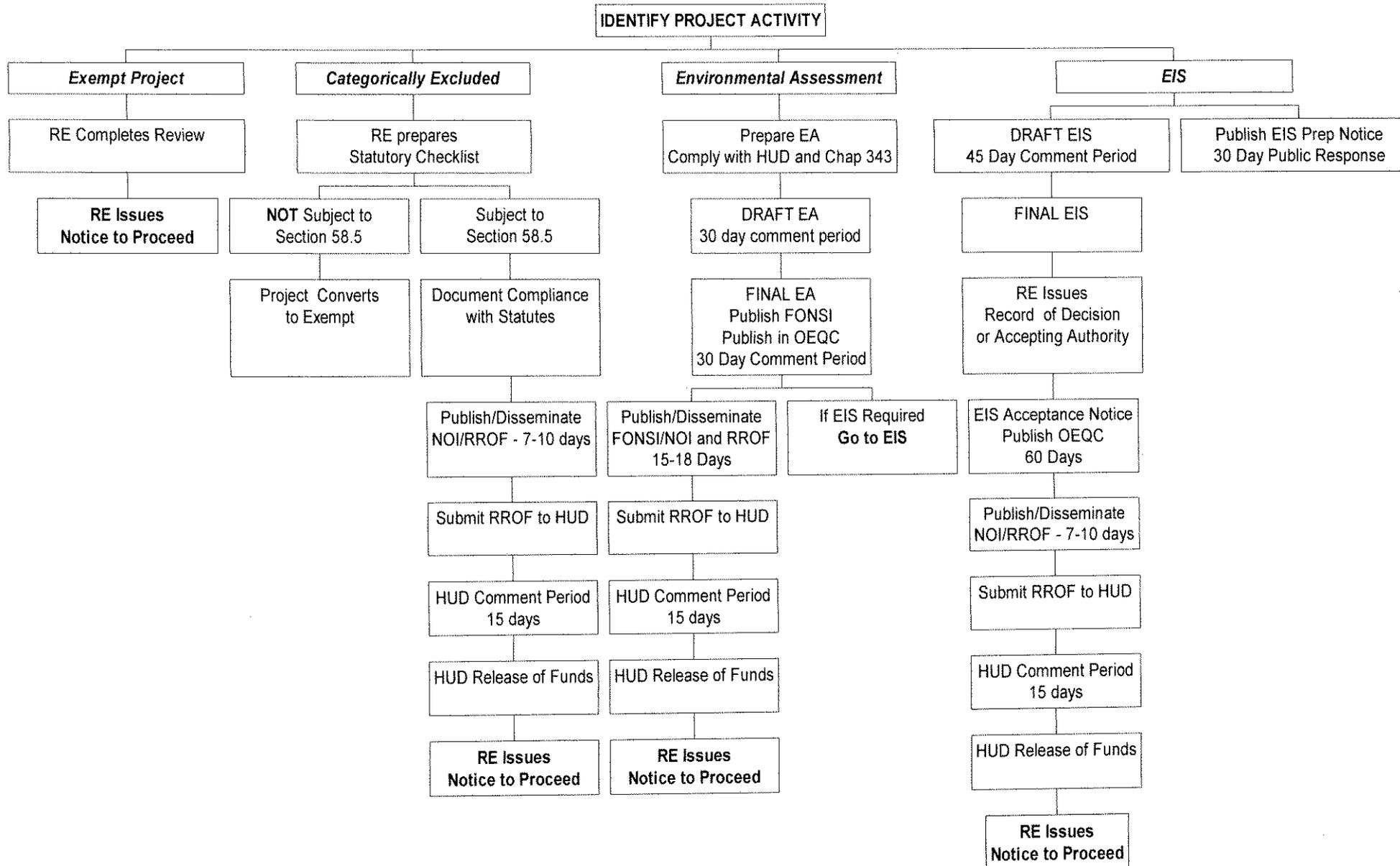
<i>Subrecipient</i>	<i>Project</i>	<i>Project Officer</i>	<i>Phone No.</i>	<i>Email</i>
Adult Friends for Youth	PS Youth Gang Prevention	Stephen Karel	768-7753	skarel@honolulu.gov
Boys and Girls Club of Hawaii	Youth Education Town	Randall Goto	768-7756	rgoto@honolulu.gov
Catholic Charities Hawaii	Program Service Center Renovations	Stephen Karel	768-7753	skarel@honolulu.gov
Coalition for Specialized Housing	Hale Mohalu II HOME	Jan Yokota	768-7755	jyokota@honolulu.gov
Family Promise of Hawaii	PS Guest Services Expansion	Jan Yokota	768-7755	jyokota@honolulu.gov
Good Beginnings Alliance	PS Strengthening Oahu's Keiki	Jan Yokota	768-7755	jyokota@honolulu.gov
Hawaii Literacy, Inc.	PS Family Literacy	Randall Goto	768-7756	rgoto1@honolulu.gov
Helping Hands Hawaii	PS Community Clearinghouse	Randall Goto	768-7756	rgoto1@honolulu.gov
Honolulu Community Action Program, Inc.	Waianae District Center	Jan Yokota	768-7755	jyokota@honolulu.gov
Housing Solutions, Incorporated	Seawinds Apartments HOME	Keith Ishida	768-7750	kishida@honolulu.gov
Hui Kauhale, Inc.	Ewa Villages HOME	Keith Ishida	768-7750	kishida@honolulu.gov
Independent Living Waipahu, Inc.	Renovation	Stephanie On	768-7752	son@honolulu.gov

<i>Subrecipient</i>	<i>Project</i>	<i>Project Officer</i>	<i>Phone No.</i>	<i>Email</i>
The Institute for Human Services, Inc.	Sumner Shelter Renovations	Stephanie On	768-7752	son@honolulu.gov
Kahi Mohala (Sutter Health Pacific)	Lehua Acute Inpatient and Admissions Area Renovation	Keith Ishida	768-7750	kishida@honolulu.gov
Lanakila Pacific	Bachelot Renovations Phase II	Jan Yokota	768-7755	jyokota@honolulu.gov
Moiliili Community Center	PS Senior Support Center Program	Douglas Gilman	768-7713	dgilman@honolulu.gov
Pacific Housing Assistance Corporation	Villas at Maluohai HOME	Stephen Karel	768-7753	skarel@honolulu.gov
Pacific Housing Assistance Corporation	Iwilei Senior Center	Keith Ishida	768-7751	kishida@honolulu.gov
Parents and Children Together	PS Family Peace Center	Jan Yokota	768-7755	jyokota@honolu.gov
Parents and Children Together	Business Start Up	Paul Kobata	592-2293	pkobata@honolulu.gov
United States Veterans Initiative	PS Homeless Veterans Substance Abuse Program	Randall Goto	768-7756	rgoto1@honolulu.gov
Windward Spouse Abuse Shelter	PS Retention	Stephanie On	768-7752	son@honolulu.gov
Women In Need	Women In Need Expansion	Jan Yokota	768-7755	jyokota@honolulu.gov



Environmental review process is ongoing. If new construction, environmental assessment required under chapter 343, HRS, and 24CFR58

The Environmental Review



faq

- q. Can CDBG or HOME Funds be used to pay for the preparation of an environmental assessment or other environmental studies?
 - a. In general, the preparation of an environmental assessment and other related studies are an allowable use of CDBG and HOME funds. However, your CDBG/HOME contract must include language that will permit the preparation of an environmental assessment and related studies using CDBG or HOME funds.

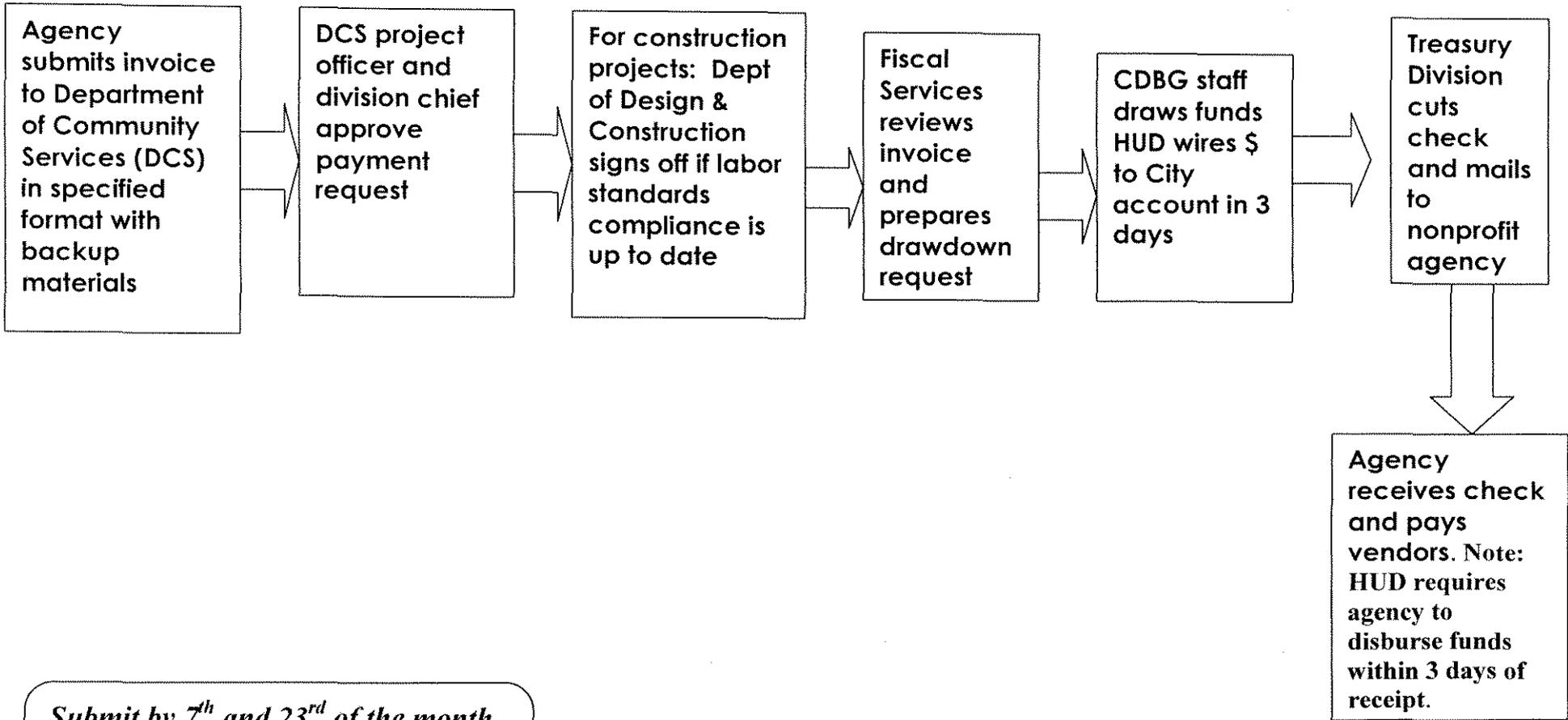
- q. Who is the Accepting Authority for environmental assessments?
 - a. For most Environmental Assessments prepared under Chapter 343, Hawaii Revised Statutes, the Department of Community Services will be the accepting authority. For projects using HOME or CDBG funds for housing that is being developed through the 201H Program, the Department of Planning and Permitting will be the approving authority.

- q. Who makes the final decision as to whether a Finding of No Significant Impact will be issued?
 - a. The accepting or approving authority will make the determination.

- q. How long does it take to complete the environmental review process if an environmental assessment is required?
 - a. The time required to actually prepare an environmental assessment will vary depending on the complexity of the project and the environmental issues that need to be addressed. It is common for environmental assessments to take between 45 days to 90 days to prepare, if not longer. In addition to the preparation time, the environmental assessment is subject to a 30-day public comment period, and an additional 30-day legal challenge period before the accepting or approving authority may approve the environmental assessment. It is after the environmental assessment has been completed that the City may request HUD to release federal funds. All told agencies should assume that it will take at least 4 to 6 months to prepare and process an environmental assessment.

- q. What is an "All Appropriate Inquiries" environmental site assessment, and when is it required?
 - a. An AAI environmental site assessment assesses the risk and likelihood that hazardous substances will be present at a specific location. Although not necessarily required under state or federal environmental review procedures, the City may require that an AAI environmental site assessment be prepared when CDBG/HOME funds are used to acquire real property, or are being used to renovate or rehabilitate a property where hazardous substances may be present. An AAI site assessment may be paid for with CDBG/HOME funds if permitted under the CDBG/HOME contract.

**PAYMENT
PROCESSING**



Submit by 7th and 23rd of the month to be drawn on the 15th and 1st of the month. If 15th or 1st falls on weekend or holiday, draw occurs on next working day

Approximate turnaround time: 3 weeks if submitted by deadline

Payment Request Form

When to Submit Your Payment Requests:

Electronic wire transfers from the Department of Housing and Urban Development (HUD) to the City are processed or drawn down twice (2x) a month on the 1st and the 15th. In order to meet these deadlines, the Department of Community Services (DCS) must receive your payment requests around the 22nd and 7th of the month. Construction invoices require additional processing time for labor standards compliance review by the Department of Design and Construction. However, in cases when you are submitting your last payment request and therefore closing out your contract with the City, please allow a month to process your final payment.

After your request is approved, it is forwarded to the Department of Budget and Fiscal Services (BFS) for payment. You should receive your check approximately 10 calendar days after the 1st or 15th draw down date. All checks are mailed out the day after being printed. Federal regulations require that you disburse funds within three days of receipt of your check.

Instructions:

- **Only costs incurred from the Notice to Proceed Date are allowed. Costs incurred before that date will not be reimbursed. (Exhibit 1)**

If a Budget category will be exceeded, normally a budget amendment is required.

Food and ceremonial (i.e. leis, blessing events) expenses will not be reimbursed.

- Sample Payment Request Format (Exhibit 2)
- Documentation such as invoices substantiating the requested amounts should be included with your Payment Request. Construction related projects should include the contractor's invoice or the Architect's Certificate for Payment, AIA Document G702 (Exhibit 3)
- A worksheet showing the calculation of the City's share should be included if only a portion is being requested due to cost sharing with other source of funds (Exhibit 4).

In addition to the original Payment Request, make three photocopies (one each for BFS, DCS, remittance) and two copies of your documentation or backup materials.

- Allow approximately a month for the City to process your final payment. The following additional documents are required for your final payment:
 - Tax Clearance Certificate Form (Exhibit 5)
 - Non-Gratuity Affidavit Form (Exhibit 6)
 - Certification of Compliance for Final Payment (Exhibit 7)

DEPARTMENT OF COMMUNITY SERVICES
CITY AND COUNTY OF HONOLULU

715 SOUTH KING STREET, SUITE 311 • HONOLULU, HAWAII 96813 • AREA CODE 808 • PHONE: 768-7762 • FAX: 768-7792

EXHIBIT 1



MUFI HANNEMANN
MAYOR

DEBORAH KIM MORIKAWA
DIRECTOR

ERNEST Y. MARTIN
DEPUTY DIRECTOR

October 26, 2007

Ms. Executive Director
Human Services Agency
99-9999 Fort Weaver Road
Ewa, Hawaii 96706

Dear Ms. Executive Director:

Subject: Notice to Proceed
Community Development Block Grant Program
Contract No.: CT-DCS-07000501

This represents official notice to proceed with work on the subject agreement, a copy of which is transmitted herein.

As stated in the Agreement, we require that public service projects submit invoices on a monthly basis, in order to ensure the City is expending federal funds in a timely manner. In addition, as noted in Section 5 of the Agreement, you are required to submit to us quarterly status reports on your project. Records on beneficiaries served must conform with the requirements in Exhibit H.

We look forward to working with you. Please contact Ms. Project Officer at 768-0000 if you have any questions.

Sincerely,

Director

ABC:de

Attachment

cc: Fiscal Services.

August 14, 2008
Payment Request Form

SUBRECIPIENT LETTERHEAD

Date

Director
Department of Community Services
City and County of Honolulu
715 South King Street, Suite 311
Honolulu, Hawaii 96813
Attention: Project Manager

Payment Request No.: _____
Project: _____
Period Covered: _____

In accordance with the terms and conditions of Contract No. _____ we hereby request payment in the amount of \$_____. This payment will be applied to the following categories:

<u>Budget Category</u> (sample line items from Agreement)	<u>Contract Amount</u>	<u>Requested to Date</u>	<u>This Request</u>	<u>Balance Remaining</u>
Salary and taxes				
Benefits				
Design				
Construction				
Totals	_____	_____	_____	_____

I certify, to the best of my knowledge, that the information reported above is true and accurate and that all expenditures were incurred in the performance of services specified in the Agreement and have not been previously reimbursed.

Approved for Payment:

Authorized Subrecipient Signature

Director, DCS

Payment Recommended:

Project Manager

APPLICATION AND CERTIFICATION FOR PAYMENT

AIA DOCUMENT G702

PAGE 1 of 2 PAGES

TO OWNER PROJECT: APPLICATION NO. 3 Distribution to:
 Waianae, Hawaii 96792-0837 Waianae, Hawaii
 FROM CONTRACTOR: VIA ARCHITECT: PERIOD TO: 6/30/02
 Honolulu, Hawaii 96819 Mililani, Hawaii 96789 PROJECT NOS.:
 CONTRACT FOR: CONTRACT DATE: 1/31/02

Distribution to:
 OWNER
 ARCHITECT
 CONTRACTOR

CONTRACTOR'S APPLICATION FOR PAYMENT

Application is made for payment, as shown below, in connection with the Contract. Continuation Sheet, AIA Document G703, is attached.

1. ORIGINAL CONTRACT SUM	\$	182,900.00
2. Net change by Change Orders	ADDS	7,342.00
3. CONTRACT SUM TO DATE (Line 1 + 2)	\$	190,242.00
4. TOTAL COMPLETED & STORED TO DATE (Column G on G703)	\$	180,306.00
5. RETAINAGE:		
a. 10 % Completed Work (Column D + E on G703)	\$	18,031
b. % of Stored Material (Column F on G703)	\$	
Total Retainage (Lines 5a + 5b or Total in Column I of G703)	\$	18,031.00
6. TOTAL EARNED LESS RETAINAGE (Line 4 Less Line 5 Total)	\$	162,275.00
7. LESS PREVIOUS CERTIFICATES FOR PAYMENT (Line 6 from prior Certificates)	\$	89,701.00
8. CURRENT PAYMENT DUE	\$	72,574.00
9. BALANCE TO FINISH, INCLUDING RETAINAGE (Line 3 less Line 6)	\$	27,967.00

CHANGE ORDER SUMMARY	ADDITIONS	DEDUCTIONS
Total changes approved in previous months by Owner	\$7,342.00	
Total approved this Month		
TOTALS	\$7,342.00	
NET CHANGES by Change Order	\$7,342.00	

The undersigned Contractor certifies that to the best of the Contractor's knowledge, information and belief the Work covered by this Application for Payment has been completed in accordance with the Contract Documents, that all amounts have been paid by the Contractor for Work for which previous Certificates for Payment were issued and payments received from the Owner, and that current payment shown herein is now due.

CONTRACTOR:
 By: _____ Date: _____
 State of: _____ County of: _____
 Subscribed and sworn to before me this _____ day of _____
 Notary Public:
 My Commission expires: _____

ARCHITECT'S CERTIFICATE FOR PAYMENT

In accordance with the Contract Documents, based on on-site observations and the data comprising the application, the Architect certifies to the Owner that to the best of the Architect's knowledge, information and belief the Work has progressed as indicated, the quality of the Work is in accordance with the Contract Documents, and the Contractor is entitled to payment of the AMOUNT CERTIFIED.

AMOUNT CERTIFIED \$ 72,574.00

(Attach explanation if amount certified differs from the amount applied. Initial all figures on this Application and on the Continuation Sheet that are changed to conform with the amount certified.)
 ARCHITECT: _____

By: _____ Date: _____
 This Certificate is not negotiable. The AMOUNT CERTIFIED is payable only to the Contractor named herein. Issuance, payment and acceptance of payment are without prejudice to any rights of the Owner or Contractor under this Contract.

EXHIBIT 3

CONTINUATION SHEET

AIA DOCUMENT G703

Page 2 of 2

AIA Document G702, APPLICATION AND CERTIFICATION FOR PAYMENT, containing Contractor's signed certification is attached.

APPLICATION NO: 3

In tabulations below, amounts are stated to the nearest dollar.

APPLICATION DATE: 6/28/02

Use Column I on Contracts where variable retainage for line items may apply.

PERIOD TO: 6/30/02

ARCHITECT'S PROJECT NO:

A ITEM NO.	B DESCRIPTION OF WORK	C SCHEDULED VALUE	D WORK COMPLETED		F MATERIALS PRESENTLY STORED (NOT IN D OR E)	G		H BALANCE TO FINISH (C - G)	I RETAINAGE (IF VARIABLE RATE)
			FROM PREVIOUS APPLICATION (D + E)	THIS PERIOD		TOTAL COMPLETED AND STORED TO DATE (D+E+F)	% (G + C)		
1	Demolition	\$5,461.00	\$4,915.00	\$546.00	-	\$5,461.00	100.00%		
2	Concrete/CMU	\$11,740.00	\$11,740.00	-	-	\$11,740.00	100.00%		
3	Termite treatment	\$902.00	\$902.00	-	-	\$902.00	100.00%		
4	Plumbing incl concrete sawcut	\$8,564.00	\$7,279.00	\$857.00	-	\$8,136.00	95.00%		
5	Electrical	\$15,156.00	\$11,367.00	\$3,789.00	-	\$15,156.00	100.00%		
6	Rough framing - interior	\$4,715.00	\$4,715.00	-	-	\$4,715.00	100.00%		
7	Walk way and railing	\$15,346.00	\$12,277.00	\$3,069.00	-	\$15,346.00	100.00%		
8	Flat roof area	\$5,846.00	\$5,846.00	-	-	\$5,846.00	100.00%		
9	Sheet metal	\$2,876.00	\$1,726.00	\$1,150.00	-	\$2,876.00	100.00%		
10	Walk way flooring	\$8,966.00	-	-	-	-	0.00%		
11	Roofing	\$1,804.00	\$1,624.00	\$180.00	-	\$1,804.00	100.00%		
12	Drywall/acoustic spray	\$15,396.00	\$12,317.00	\$3,079.00	-	\$15,396.00	100.00%		
13	Doors and frames/finish hdwr	\$10,717.00	-	\$10,717.00	-	\$10,717.00	100.00%		
14	Windows	\$4,210.00	\$2,105.00	\$2,105.00	-	\$4,210.00	100.00%		
15	Stairway railings	\$3,609.00	-	\$3,609.00	-	\$3,609.00	100.00%		
16	Interior flooring	\$2,395.00	-	\$2,395.00	-	\$2,395.00	100.00%		
17	A.C. & vent and encl	\$13,798.00	\$11,938.00	\$2,760.00	-	\$13,798.00	100.00%		
18	Painting	\$14,700.00	-	\$14,700.00	-	\$14,700.00	100.00%		
19	Access lift	\$25,861.00	-	\$25,861.00	-	\$25,861.00	100.00%		
20	General requirements	\$10,838.00	\$7,045.00	\$3,251.00	-	\$10,296.00	95.00%		
21	C.O. #1	\$7,342.00	\$4,772.00	\$2,570.00	-	\$7,342.00	100.00%		
GRAND TOTALS		\$190,242.00	\$99,668.00	\$80,638.00	-	\$180,306.00	95.00%		

Users may obtain validation of this document by requesting of the licensee a completed AIA Document D401 - Certification of Document's Authenticity

Invoice for: July 1 - 31, 2000

Description	REAO Program		Other		Other		Total	
	FTE	Amnt	FTE	Amnt	FTE	Amnt	FTE	Amnt
A. Salaries and Fringe Benefits								
Pay Period Ending:	07/15/2000	Salary						
(employee name)		2,500.00	0.50	1,250.00	0.50	1,250.00		
Other		-	-	-	-	-	1.00	2,500.00
* Total Salaries		2,500.00	0.50	1,250.00	0.50	1,250.00	-	-
* Taxes/Assessments		227.50		113.75		113.75		227.50
* Medical Coverage		-		-		-		-
* Subtotal Salaries/Fringes for Pay Period		2,727.50		1,363.75		1,363.75		2,727.50
Pay Period Ending:	07/31/2000	Salary						
(employee name)		2,500.00	0.50	1,250.00	0.50	1,250.00	-	-
Other		-	-	-	-	-	1.00	2,500.00
* Total Salaries		2,500.00	0.50	1,250.00	0.50	1,250.00	-	-
* Taxes/Assessments		220.81		110.41		110.41		220.81
* Medical Coverage DL		660.30		330.15		330.15		660.30
* Subtotal Salaries/Fringes for Pay Period		3,381.11		1,690.56		1,690.56		3,381.11
** Total Section A Costs		6,108.61		3,054.31		3,054.31		6,108.61
B. Other Costs Prorated by Position FTE								
			0.50		0.50		1.00	
Office Rental	500.00	0.50	250.00	0.50	250.00	-	1.00	500.00
Business Services	1,200.00	0.50	600.00	0.50	600.00	-	1.00	1,200.00
CPA	1,450.20	0.50	715.10	0.50	715.10	-	1.00	1,450.20
Maui Gateway Services	20.78	0.50	10.39	0.50	10.39	-	1.00	20.78
New Tech Imaging	46.37	0.50	23.44	0.50	23.44	-	1.00	46.37
Postage	23.30	0.50	11.90	0.50	11.90	-	1.00	23.30
VISA-Cmcs Max	40.59	0.50	20.30	0.50	20.30	-	1.00	40.59
VISA-Cmcs Max	41.85	0.50	20.93	0.50	20.93	-	1.00	41.85
VISA-CompUSA	25.03	0.50	13.02	0.50	13.02	-	1.00	25.03
VISA-Kinko's	25.52	0.50	12.76	0.50	12.76	-	1.00	25.52
VISA-Kinko's	41.25	0.50	20.63	0.50	20.63	-	1.00	41.25
** Total Section B Costs	3,396.69		1,698.35		1,698.35			3,396.69
C. Costs Prorated by Usage								
Phone . XXX - XXXX	07/13/2000							
Basic Costs		57.24	0.50	28.62	0.50	28.62	-	1.00
Long Distance/Usage		42.56	-	-	1.00	42.56	-	1.00
Total		99.80		28.62		71.18		59.80
Fax Line . XXX - XXXX	07/19/2000							
Basic Costs		53.79	0.50	26.90	0.50	26.90	-	1.00
Long Distance Charges		4.71	-	-	1.00	4.71	-	1.00
Total		58.50		26.90		31.61		38.50
Nextel Acct. XXXX	07/13/2000							
Usage Charges		243.24	0.50	121.62	0.50	121.62	-	1.00
Access Fees		-	-	-	-	-	-	-
Other Charges and Credits		-	-	-	-	-	-	-
Taxes, Fees, Assessments		-	-	-	-	-	-	-
Total		243.24		121.62		121.62		243.24
** Total Section C Costs		401.54		177.14		224.41		401.54
D. Grand Total All Costs		9,906.84		4,929.79		4,977.06		9,906.84

XYZ CORPORATION
PAYROLL
ESG Contract # _____
Draw Number 25

Reporting Period: _____ **CDBG MATCHING FUND**

Ee No.	Description	Reporting Period Wages	ESG WAGES		Prior Draws Sup.	Total Contract Budget Sup.	Budget Balance
			%	Sup.			
	Executive Director						0.00
	Director of Programs						0.00
	Director of Finance						0.00
	Human Resources Director						0.00
	HR Payroll Coordinator						0.00
	Adm. Business Manager						0.00
	Adm. Bookkeeper						0.00
	Accounts Receivable Clerk						0.00
	Adm. Asst.						0.00
	Receptionist						0.00
	Clerical Assistant						0.00
	Total Prorated Adm. Payroll	1,700.00			0.00	0.00	0.00
664	Project Director	2,385.00	0.00000%	0.00		5,600.00	5,600.00
239	Project Bookkeeper	1,555.00				0.00	0.00
242	Clerical	1,100.00				0.00	0.00
525	Maintenance	1,080.00				0.00	0.00
599	Res. Coordinator	1,670.00	29.94012%	500.00		12,000.00	11,500.00
555	Rehab. Spec.	1,435.00	34.84321%	500.00		12,000.00	11,500.00
122	Food Manager	1,315.00	76.04563%	1,000.00		13,000.00	12,000.00
Var.	Res. Aides	11,905.00	43.25914%	5,150.00		127,900.00	122,750.00
Var.	Relief Staff	1,500.00				0.00	0.00
	Total Project Payroll	23,945.00	29.86010%	7,150.00	0.00	170,500.00	163,350.00
	TOTAL SALARIES & WAGE	25,645.00		7,150.00	0.00	170,500.00	163,350.00
	Payroll Taxes	2,975.00	27.86555%	829.00		19,778.00	18,949.00
	Fringe Benefits	2,667.00	27.59655%	736.00		17,559.00	16,823.00
	TOTAL TAXES & FRINGE	5,642.00		1,565.00	0.00	37,337.00	35,772.00
	TOTAL PERSONNEL COSTS	31,287.00		8,715.00	-	207,837.00	199,122.00

DECLARATION:

I declare that this report, including any accompanying schedules or statements has been examined by me and to the best of my knowledge and belief, is a true, correct and complete report, made in good faith for the reporting period stated.

ESG
Draw # _____ 25

By: _____
Signature of Payroll Preparer or Accountant Date

STATE OF HAWAII — DEPARTMENT OF TAXATION
TAX CLEARANCE APPLICATION
PLEASE TYPE OR PRINT CLEARLY

1. APPLICANT INFORMATION: (PLEASE PRINT CLEARLY)

Applicant's Name _____

Address _____

City/State/Zip Code Honolulu, HI 96817

DBA/Trade Name _____

2. TAX IDENTIFICATION NUMBER(S): (Complete applicable ID numbers)

HAWAII TAX ID # W _____

FEDERAL EMPLOYER ID # _____

(FEIN)

SOCIAL SECURITY #(SSN) _____

3. APPLICANT IS A/AN: (CHECK ONLY ONE BOX)

- CORPORATION
- INDIVIDUAL
- LIMITED LIABILITY COMPANY
- Single Member LLC disregarded as separate from owner; enter owner's FEIN/SSN _____
- Subsidiary Corporation; enter parent corporation's name and FEIN _____
- S CORPORATION
- PARTNERSHIP
- LIMITED LIABILITY PARTNERSHIP
- TAX EXEMPT ORGANIZATION
- ESTATE
- TRUST

4. THE TAX CLEARANCE IS REQUIRED FOR:

- CITY, COUNTY, OR STATE GOVERNMENT CONTRACT IN HAWAII *
- REAL ESTATE LICENSE
- FINANCIAL CLOSING
- HAWAII STATE RESIDENCY
- SUBCONTRACT
- LIQUOR LICENSE *
- CONTRACTOR LICENSE
- PROGRESS PAYMENT
- FEDERAL CONTRACT
- OTHER _____
- BULK SALES**
- PERSONAL
- LOAN

* IRS APPROVAL STAMP IS ONLY REQUIRED FOR PURPOSES INDICATED BY AN ASTERISK.

** ATTACH FORM G-8A, REPORT OF BULK SALE OR TRANSFER

5. NO. OF CERTIFIED COPIES REQUESTED: 2

6. SIGNATURE:

PRINT NAME

Director of Finance
PRINT TITLE: Corporate Officer, General Partner or Member, Individual (Sole Proprietor), Trustee, Executor

5/19/08 (808) _____ (808)
DATE TELEPHONE FAX

SIGNATURE

FOR OFFICE USE ONLY
BUSINESS START DATE IN HAWAII IF APPLICABLE <u>01/01/80</u>
HAWAII RETURNS FILED IF APPLICABLE 20 _____ 20 _____ 20 _____
STATE APPROVAL STAMP State of Hawaii APPROVED <i>[Signature]</i> MAY 19 2008 per <i>[Signature]</i> Department of Taxation
INTERNAL REVENUE SERVICE APPROVED <u>09-00579</u> MAY 19 2008 per <i>[Signature]</i> W & I Honolu
CERTIFIED COPY STAMP This copy is acceptable as a substitution of the original tax clearance certificate issued <i>[Signature]</i> Internal Revenue Service

POWER OF ATTORNEY. If submitted by someone other than a Corporate Officer, General Partner or Member, Individual (Sole Proprietor), Trustee, or Executor, a power of attorney (State of Hawaii, Department of Taxation, Form N-848) must be submitted with this application. If a Tax Clearance is required from the Internal Revenue Service, IRS Form 8821, or IRS Form 2848 is also required. Applications submitted without proper authorization will be sent to the address of record with the taxing authority. UNSIGNED APPLICATIONS WILL NOT BE PROCESSED.

PLEASE TYPE OR PRINT CLEARLY — THE FRONT PAGE OF THIS APPLICATION BECOMES THE CERTIFICATE UPON APPROVAL. SEE PAGE 2 ON REVERSE & SEPARATE INSTRUCTIONS. Failure to provide required information on page 2 of this application or as required in the separate instructions to this application will result in a denial of the Tax Clearance request.

CERTIFICATION OF COMPLIANCE FOR FINAL PAYMENT
(Reference §3-122-112, HAR)

Reference: _____
(Contract Number) (IFB/RFP Number)

_____ affirms it is in
(Company Name)
compliance with all laws, as applicable, governing doing business in the State of Hawaii to include the following:

1. Chapter 383, HRS, Hawaii Employment Security Law – Unemployment Insurance;
2. Chapter 386, HRS, Worker's Compensation Law;
3. Chapter 392, HRS, Temporary Disability Insurance;
4. Chapter 393, HRS, Prepaid Health Care Act; and

maintains a "Certificate of Good Standing" from the Department of Commerce and Consumer Affairs, Business Registration Division.

Moreover, _____
(Company Name)
acknowledges that making a false statement shall cause its suspension and may cause its debarment from future awards of contracts.

Signature: _____

Print Name: _____

Title: _____

Date: _____

RECIPIENT/SUBRECIPIENT ONSITE MONITORING REPORT

Date of onsite monitoring: _____

Time period covered by this report: From _____ To _____
(should not exceed a 12-month period)

Date of previous monitoring: _____

A. Project Data:

1. Project name: _____
2. Recipient/Subrecipient name: _____
3. Type of fund (CDBG, HOME, HOPWA, ESG): _____
4. Contract number and date: _____
5. Amendment number (if applicable) and date: _____
6. Grant/loan amount: _____
7. Provide regulation under which this project was deemed an eligible activity, i.e., 570.201 _____ or if not known, indicate if funds were provided for property acquisition, public facility acquisition or improvements, provide services, economic development and etc. _____
8. Provide the CDBG national objective, i.e., 570.208 _____ or if not known, indicate if it is an area benefit, limited clientele, housing or job creation activity. _____

B. Performance:

1. Implementation Schedule

- a. Briefly summarize the schedule implemented by the recipient/subrecipient and the time of performance specified in the contract.
- b. _____ Describe the recipient's/subrecipient's performance under the schedule. (Add additional sheets and supporting documents if necessary.)
- c. _____ If applicable, how many of the units/jobs specified in the contract has the project produced? _____ How many were projected?

- d. What percent of the project is completed? _____ What percent was projected? _____
2. Expenditures
- a. Briefly describe the expenditure schedule established for this project.

- b. What is the project's cumulative expenditure to date? _____
- c. Is this project meeting its expenditure schedule? _____
If no, please explain the reason for any delays and the impact on expending the funds on a timely basis.

3. Recipient/Subrecipient Agreement
- a. Provide a detailed description of the activities that the recipient/subrecipient was required to perform as identified in the Scope of Work of the Agreement.

- b. Describe the recipient's/subrecipient's performance in carrying out the activities identified in the Scope of Work. (Add additional sheets if necessary.)

- c. Has the recipient/subrecipient contracted out any of the activities identified in the Scope of Work to another party? _____
If yes, describe the procurement process that was used.

- d. Does the recipient/subrecipient have procurement policies and procedures? Briefly describe them.

- e. Were the proper procurement procedures utilized according to their policies and procedures? _____
- f. Describe any evidence of conflict of interest, if applicable. _____
- g. Was pro bono work done prior to the initial, e.g., funding application stages of the project? _____
If yes, please provide details. _____
- C. Budget
- Is/Was a budget adjustment necessary? _____
If "Yes," provide the justification, amount, cost category and when it was needed.

- Did the adjustment require an extension? _____
If yes, please explain any impact on meeting the expenditure projections.

- D. Financial Records and Transactions
1. Were you given access to the project's financial records? _____
2. Where were the financial records located? _____
3. Describe any problems that affected the timely submission of requests for payment.

4. _____ Name and title of individual(s) authorized to disburse funds (sign checks).
 5. _____ Are CDBG funds disbursed within three working days? _____
 Explain the procedure being utilized. _____
 (Attach a record of disbursing funds if payment requests are not being processed on a reimbursable basis.)
 If "No," what is the average time taken to disburse funds? _____
 (Attach a record of disbursing funds if payment requests are not being processed on a reimbursable basis.)
 6. Are other HUD funds (HOME, ESG, HOPWA) disbursed within three working days? _____
 (Attach a record of disbursing funds if payment requests are not being processed on a reimbursable basis.)
 If "No" what is the average time taken to disburse funds? _____
 (Attach a record of disbursing funds if payment requests are not being processed on a reimbursable basis.)
 7. What is the date of the most recent audit submission to the City? _____
 Was it submitted on a timely basis (i.e. within 30 days of receipt)? _____
 If No, please explain. _____
 8. Were there any current findings or findings continued from a previous year? _____
 If yes, did you issue a letter to the subrecipient asking for timely corrective action on any noted deficiencies? _____
 If No, please explain? _____
 9. What is the current status of the findings and when does the subrecipient expect the matter to be resolved? _____
 Please attach copies of all correspondence regarding this issue.
- E. Labor Standards (for construction activities only)
1. Date of last monitoring: _____
 2. Date deficiencies corrected: _____
 3. Describe all pending deficiencies and any problems/delays in resolving outstanding issues: _____
- F. Direct Beneficiary Data
- All activities whether it is for construction, service/operating, etc. will require beneficiary data.
1. Which program funds are being used (CDBG, HOME, ESG, HOPWA)? _____
 2. Describe the type of documentation used to verify income eligibility (attach sample intake form): _____

NOTE: Income eligibility is not required only if the clientele serviced is exclusively abused children, battered spouses, elderly persons, adults meeting the Census' definition of "severely disabled," homeless persons, illiterate adults, persons living with AIDS, and migrant farm workers. However, documentation regarding program eligibility is required.

3. Describe the location and accessibility of beneficiary data: _____
4. Did the files contain worksheets that confirmed the direct beneficiary data that the recipient/subrecipient reported to the City? _____
Please explain. _____
If no, please explain. _____
5. For area benefit activities, where are the services being provided?

How was the service area determined to be low- to moderate-income (i.e., census data, mapping info, etc.)?

- G. Project Status Report, Evaluation, and Other Remarks/Concerns:
Describe the status of work at the site. Evaluate the project's progress, including noteworthy accomplishments, foreseeable problems/delays and planned responses, etc. _____
- H. Recommendations/Follow-Up Action taken to correct any problems identified:

Project Officer	Date: _____
Director, Department of Community Services	Date: _____
Federal Grants Coordinator	Date: _____
Director, Department of Budget and Fiscal Services	Date: _____

cc: Project File
Recipient/Subrecipient
Federal Grants Unit

ANNUAL IDIS UPDATE REPORT
CDBG STATUS/COMPLETION DATA
FISCAL YEAR '08

1. NAME OF ORGANIZATION:

2. NAME OF PROJECT:

3. HUD ACTIVITY NUMBER:
(City will complete)

4. ACTIVITY STATUS CODE: 1 Cancel

5. ADDRESS:

6. REPORTING PERIOD: 7/1/07 through 6/30/08

7. IS THE ORGANIZATION:

a. FAITH-BASED

b. AN INSTITUTION OF HIGHER EDUCATION

c. NEITHER

8. ACCOMPLISHMENT DATA:

Actual: Type 1 People Units

9. (FOR CIP PROJECTS) OF THE PERSONS ASSISTED, ENTER THE NUMBER THAT:

a. Now have NEW access to this type of public facility or infrastructure improvement:

b. Have IMPROVED access:

c. Are now served by a public facility or infrastructure that is NO LONGER SUBSTANDARD:

10. ACCOMPLISHMENTS / STATUS DURING THE REPORTING PERIOD:

(Provide a narrative of your accomplishments over the past year.)

11. DIRECT BENEFIT DATA (LOW & MODERATE-INCOME BENEFICIARY. DO NOT USE PERCENTAGES.)

a. Counts by households or persons (H/P)?

For housing activities, please use households.

Please note that the total numbers from b, d and e should match.

- b. Total number benefiting from activity:
- c. Total number of female-headed households:

- d. Ethnic category:
 - Hispanic or Latino
 - Non-Hispanic or Latino

- e. Racial Category:
 - Single Race

Multi-Race

White	American Indian/ Alaskan Native and White
Black/African Am.	Asian and White
Asian	Black/African American And White
American Indian/ Alaskan Native	American Indian/Alaskan Native and Black/African American
Native Hawaiian/ Other Pacific Islander	Other

TOTAL ALL CATEGORIES

- f. Presumed Benefit? (Y/N) If “yes”, skip to 11g. If “no”, continue below.
Presumed beneficiaries include homeless, abused spouses, abused children and disabled.

Total Low/Moderate Beneficiaries:
Number of persons/households, 51%-80% of the median family income.

Total Low Income Beneficiaries:
Number of persons/households, 31%-50% of the median family income.

Total Extremely Low Income Beneficiaries:
Number of persons/households, 0-30% of the median family income.

- g. Multi-Unit Activity (For housing activities): Number of Units Completed
Total

Occupied
Occupied Low/Mod

h. For Job Creation/Retention Activity (LMJ):

	<u>Total Job Count</u>	<u>Total Hours</u>	<u>% Low/Mod</u>
Expected to Create:			
Expect to Retain:			
Actually Created:			
Actually Retained:			

i. Number of beds created in overnight or other emergency housing (if applicable):

12. FUNDING SOURCES AND AMOUNTS: (EXPENDED DURING REPORT PERIOD)

CDBG:
Other Federal:
State Government:
Private:
Fees:
Other:
TOTAL: \$0.00

13. FUNDING SOURCES AND AMOUNTS: (EXPENDED DURING PROJECT TO DATE)

CDBG:
Other Federal:
State Government:
Private:
Fees:
Other:
TOTAL: 0.00

Submitted by:

Date:

FOR CITY USE ONLY

Approved By:

Project Officer (City)

Supervisor (City)

Affirmative Fair Housing Marketing AFHM Plan - Multifamily Housing

U.S. Department of Housing and Urban Development
Office of Fair Housing and Equal Opportunity

OMB Approval No. 2529-0013
(exp. 1/31/2010)

1a. Applicant's Name, Address (including City, State & Zip code) & Phone Number	1c. Project/Contract Number	1d. Number of Units
	1e. Rental Range From \$ _____ To \$ _____	1f. Type of Housing <input type="checkbox"/> Elderly <input type="checkbox"/> Family <input type="checkbox"/> Mixed (Elderly/Disabled)
	1g. Approximate Starting Dates (mm/dd/yyyy) Advertising _____ Occupancy _____	

1b. Development's Name, Location (including City, State and Zip code)	1h. Housing Market Area	1i. Census Tract
1j. Managing Agent's Name & Address (including City, State and Zip Code)		

2. **Type of Affirmative Marketing Area** (check all that apply)
 a. Plan New Update
 Reason for Update: _____
 b. Area
 White (non-minority) Area Minority Area
 Mixed Area (with _____ % minority residents)

3. **Direction of Marketing Activity** (Indicate which group(s) in the housing market area are least likely to apply for the housing because of its location and other factors without special outreach efforts)
 White American Indian or Alaskan Native Asian
 Black or African American Native Hawaiian or Other Pacific Islander
 Hispanic or Latino Persons with Disabilities Families with Children
 Other _____ Specify _____
 (e.g. specific ethnic group, religion)

4a. **Marketing Program: Commercial Media** (Check the type of media to be used to advertise the availability of this housing)
 Newspapers/Publications Radio TV Billboards Other (specify) _____

Name of Newspaper, Radio or TV Station	Group Identification of Readers/Audience	Size/Duration of Advertising

4b. **Marketing Program: Brochures, Signs, and HUD's Fair Housing Poster**

(1) Will brochures, letters, or handouts be used to advertise? Yes No If "Yes", attach a copy or submit when available.

(2) For development site sign, indicate sign size _____ x _____; Logo type size _____ x _____. Attach a photograph of sign or submit when available.

(3) HUD's Fair Housing Poster must be conspicuously displayed wherever sales/rentals and showings take place. Fair Housing Posters will be displayed in the Rental Office Real Estate Office Model Unit Other (specify) _____

Public reporting burden for this collection of information is estimated to average 3 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. This agency may not collect this information, and you are not required to complete this form, unless it displays a currently valid Office of Management and Budget (OMB) control number.

The Affirmative Fair Housing Marketing (AFHM) Plan is used to ensure that insured and subsidized multifamily housing projects are taking necessary steps to eliminate discriminatory practices and to overcome the effects of past discrimination involving Federally insured and subsidized housing. No application for any housing project insured or subsidized under the Department of Housing and Urban Development's (HUD) housing programs can be funded without a HUD approved AFHM Plan (See the "Applicability" section in the instructions below.) Multifamily housing projects must have an updated AFHM Plan in effect for the life of HUD's mortgage insurance. The responses are required to obtain or retain benefits under the Fair Housing Act, Section 808(e)(5) & (6) and 24 CFR Part 200, Subpart M. The form contains no questions of a confidential nature.

Applicability: This form is to be completed by all insured or subsidized: multifamily housing projects.

Each applicant is required to carry out an affirmative program to attract prospective tenants of all minority and non-minority groups in the housing market area regardless of their race, color, religion, sex, national origin, disability, familial status, or religious affiliation. Racial groups include White, Black or African American, American Indian or Alaska Native, Asian, Native Hawaiian or Other Pacific Islander. Other groups in the housing market area who may be subject to housing discrimination include, but are not limited to, Hispanic or Latino, persons with disabilities, families with children, or persons with different religious affiliations. The applicant shall describe in the AFHM Plan the proposed activities to be carried out during advance marketing, where applicable, and during all rent ups.. The affirmative marketing program also should ensure that any group(s) of persons ordinarily **not** likely to apply for this housing without special outreach (See Part 3), know about the housing, feel welcome to apply and have the opportunity to rent.

INSTRUCTIONS

Send completed form to: your local HUD Office
Attention: Director, Office of Housing

Part 1-Applicant and Project Identification. Blocks 1a thru 1f-Self-Explanatory. Block 1g-the applicant should specify the approximate date for starting the marketing activities and the anticipated date of initial occupancy (if unoccupied). Block 1h-the applicant should indicate the housing market area, in which the housing will be (is) located. Block 1i - the applicant may obtain census tract location information from local planning agencies, public libraries and other sources of census data. Block 1j the applicant should complete only if a Managing Agent (the agent can not be the applicant) is implementing the AFHM Plan.

Part 2-Type of Affirmative Marketing Plan:

Applicants for multifamily housing projects should indicate the status of the AFHM Plan, e.g. new or

update. Please provide the reason for the current update. (Section 7 may be used if additional space is needed. The AFHM Plan should also indicate the racial composition of the housing market area in which the housing will be (is) located by checking one of the three choices.

Part 3-Direction of Marketing Activity. Indicate which group(s) the applicant believes are least likely to apply for this housing without special outreach. Consider factors such as rent for housing, sponsorship of housing, racial/ethnic characteristics of housing market area in which housing will be (is) located, disability, familial status, or religious affiliation of eligible population, public transportation routes, etc.

Part 4-Marketing Program. The applicant shall describe the marketing program to be used to attract all segments of the eligible population, especially those groups designated in Part 3 of this AFHM Plan as present in the housing marketing area and are least likely to apply. The applicant shall state: the type of media to be used, the names of

newspaper/call letters of radio or TV stations; the identity of the circulation or audience of the media identified in the AFHM Plan (e.g., White, Black or African American, American Indian or Alaska Native, Asian, Native Hawaiian or Other Pacific Islander, Hispanic or Latino, persons with disabilities, families with children, and religious affiliation) and the size or duration of newspaper advertising or length and frequency of broadcast advertising. Community contacts include individuals or organizations that are well known in the housing market area or the locality, that can influence persons within groups considered least likely to apply. Such contacts may include, but need not be limited to: neighborhood, minority and women's organizations, grass roots faith-based or other community based organizations, labor unions, employers, public and private agencies, disability advocates, schools and individuals who are connected with these organizations and/or are well-known in the community. Applicants should notify their local HUD-Office of Housing of any changes to the list in Part 4c of this AFHM Plan.

Part 5-Future Marketing Activities. Self-Explanatory.

Part 6-Experience and Staff Instructions.

- 6a. The applicant should indicate whether he/she has had previous experience in marketing housing to group(s) identified as least likely to apply for the housing.
- 6b. Describe the instructions and training provided or to be provided to rental staff. This guidance to staff must include information regarding Federal, State and local fair housing laws and this AFHM Plan.

Copies of any written materials should be submitted with the AFHM Plan, if such materials are available.

Part 7-Additional Considerations. In this section describe other efforts not previously mentioned which are planned to attract persons least likely to apply for the housing

Part 8-Review and Update. By signing, the applicant assumes full responsibility for

implementing the AFHM Plan, and for reviewing and updating the Plan at least every 5 years. HUD may monitor the implementation of this AFHM Plan at any time and request modification in its format or content, where deemed necessary.

Notice of Intent to Begin Marketing. No later than 90 days prior to the initiation of rental marketing activities, the applicant with an approved AFHM Plan shall submit notice of intent to begin marketing. The notification is required by the Affirmative Fair Housing Marketing Plan Compliance Regulations (24 CFR Part 108.15). It is submitted either orally or in writing to the Office of Housing in the appropriate HUD Office servicing the locality in which the proposed housing will be located.

OMB approval of the Affirmative Fair Housing Plan includes approval of this notification procedure as part of the AFHM Plan. The burden hours for such notification are included in the total designated for this AFHM Plan form.

City and County of Honolulu
Community Development Block Grant (CDBG)
Program Requirements Workshop
August 20, 2008

Evaluation Form

Name (optional) _____

Is this your first CDBG technical assistance workshop? Yes _____ No _____

For each question, circle a number on a scale of 1 through 5 and explain why you selected that number.

	Poor				Excellent
How would you rate the presentations?	1	2	3	4	5

Explain _____

How would you rate the usefulness of the information and materials provided?	1	2	3	4	5
--	---	---	---	---	---

Explain _____

Did this workshop meet your expectations?	1	2	3	4	5
---	---	---	---	---	---

Explain _____

What is your overall rating of the workshop (including: location, meeting room, PowerPoint, length of workshop, etc.)?	1	2	3	4	5
--	---	---	---	---	---

Explain _____

Were there other topics/areas that you wish could have been addressed at this workshop?

Explain _____

Please help us...

By not bringing any drinks (even water bottles) or food into this auditorium. We will lose the privilege of using the auditorium if we do not comply.

1

CDBG Program
Requirements Training

Presented by
City and County of Honolulu
Department of Community Services (DCS)
Department of Budget and Fiscal Services (BFS)
August 20, 2008

2

WELCOME!

- ✓ Ask questions
- ✓ Slides are in your packet or in handouts (red dot)
- ✓ Keep on schedule



3



Logistics and Important Info

- Bathrooms
- Cell phones on silent please
 - Refreshments STAY OUTSIDE of auditorium

4

“Getting to Know You...”

Our friends at HUD provide funding to the City.



The Mayor and City Council appropriate your funding through the annual budget process.



“Getting to Know All About You...”

Dept. of Budget and Fiscal Services

The Federal Grants Branch administers the CDBG program

The fiscal folks are important people to know—they send you your checks!



5

*“Getting to Like You,
Getting to Hope You Like Me...”*

Dept. of Community Services

A project manager will be assigned to you from the Community Based Development Division.



7

What’s next?

Your project officer:

- Is your primary contact with the City
- Is the first one you ask if you have questions
- Will help you get your CDBG funds
- Will help you comply with the CDBG regulations

8

**CDBG/HOME Program
Overview**

Joe Nose, Planner
Federal Grants Branch
Department of Budget and Fiscal Services
(DBFS)

9



TOPICS

- oCDBG Timeliness Test
- oThis Year's Schedule
- oNext Year's Schedule

10



CDBG Timeliness Test

- On 4/30/09, the City may not have more than \$14.5 million CDBG available.
- Failing timeliness means inefficient use of CDBG funds.
- Failing timeliness means risking loss of future CDBG funds.
- To pass timeliness, we must spend at least \$10 million CDBG.

11



Timeliness Ratios

To pass the timeliness test, our timeliness ratio must not exceed 1.5

- o 5/2/06 – our ratio was 1.30
- o 5/2/07 – our ratio was 1.32
- o 5/2/08 – our ratio was 1.499

12

How close was it?

- Maximum balance: \$15,055,297.50
- Actual balance on 5/2/08: \$15,044,783.45
- Timeliness ratio: 1.499
- We made it by: \$ 10,514.07

13

To Pass the Timeliness Test

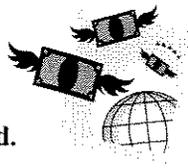
- Goal is to execute contracts by 11/14/2008.
- Provide projected expenditures by month.
- Communicate problems with project officer.
- Fewer time extensions on contracts.
- Spend CDBG dollars first.

14

THE BOTTOM LINE: Use It or Lose It!

If the City does not expend approximately \$10 million by April 30, 2009, and fails HUD's timeliness test,

**we may be subject to a
Workout Agreement and
we may lose the funding
that the City fails to spend.**



15



This Year's Schedule

- Aug 6, 2008 - Date of grant agreement between City & HUD
- Nov 14, 2008 – Goal date to execute your contract
- Apr 30, 2009 – Timeliness test
- July – August, 2009 – Annual Performance Report due

16

Next Year's (FY10) Schedule

- **Deadline to submit new funding applications is Friday, August 29, 2008, 4:00 pm**

17

Questions?

18

Please help us...

By not bringing any drinks (even water bottles) or food into this auditorium. We will lose the privilege of using the auditorium if we do not comply.

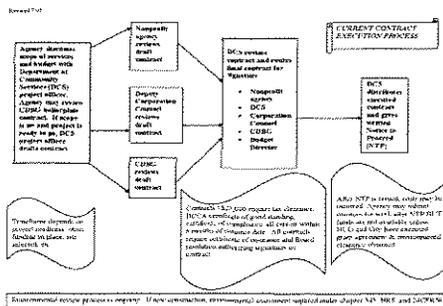
19

Subrecipient Agreements (Your contract)

Stephanie On, Planner
Community Based Development Division
Department of Community Services (DCS)

20

Contract Execution Flowchart



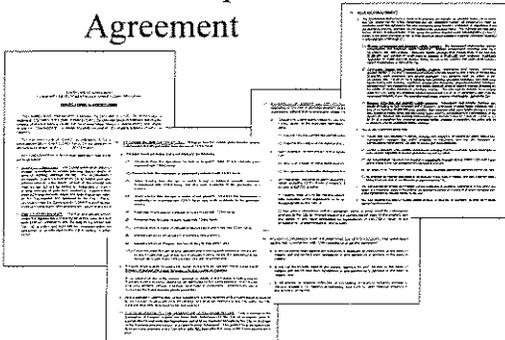
Just A Reminder...

- You cannot incur costs or pay for expenses **UNTIL** you receive a **NOTICE TO PROCEED** from the City
- If you do, these costs will **NOT** be reimbursed with CDBG funds



22

The Sub-Recipient Agreement



23

Monthly Progress Reports...

are required by your contract. Provide to the Department of Community Services a narrative report describing project or program activities, including financial activity

24

NEW!

Quarterly Reports
on Beneficiaries
will also be Required for
Public Service projects

25

Please help us...

By not bringing any drinks
(even water bottles) or food into
this auditorium. We will lose
the privilege of using the
auditorium if we do not comply.

26

Environmental Review

Keith Ishida
Branch Chief
Department of Community Services (DCS)

27

How is Your Project Going to Affect the Physical and/or Human Environment?



28



THE GOLDEN RULE

NO CDBG/HOME funds can be committed or expended prior to environmental review and clearance of any activity, PARTICULARLY of any activity that would have an adverse impact

29

Words Of Caution...



for those undertaking CDBG or HOME projects involving the acquisition of real property or the construction, rehabilitation, or renovation of housing and other structures.

30



Please be aware that undertaking certain actions prior to the completion of an environmental review may constitute a violation of federal CDBG and HOME environmental review requirements and could result in the loss of funds.

31

These actions include:

- Construction.
- Demolition, relocation and conversion of structures
- Rehabilitation and repair work, except as approved by the City.
- Site specific architectural/engineering designs and drawings
- Advertising and acceptance of construction bids
- Initiating the development of or approving final plans and specifications.
- Acquisition of property.

Please consult with your Project Officer prior to undertaking any of the above actions.

32





Federal Regulations

National Environmental Policy Act (NEPA) of 1969, amended

- Established policy for the protection of the environment
- Intended to help make decisions to take actions that protect, restore and enhance the human environment

24 CFR Part 58

- HUD's response to NEPA
- Contains procedures for environmental review procedures of HUD assisted projects
- NEPA Related Statutes and Authorities

33

Levels of HUD Environmental Review

- Exempt or Categorically Excluded and NOT Subject to Related Laws and Authorities
- Categorically Excluded AND Subject to Related Laws and Authorities
- Environmental Assessment
- Environmental Impact Statement



34

Exempt Activities



- Projects consisting entirely of activities that will not have a physical impact or result in any physical changes
- Exempt from NEPA and other related Federal laws and authorities (58.5)
- Examples: design costs, studies, public services, training and technical assistance
- Document determination of exemption

35

Categorical Exclusions Two (2) Varieties

- Excluded and NOT subject to Sec. 58.35 (a) does not require a review for compliance with other laws and authorities in Sec. 58.5
- Excluded and SUBJECT to Sec. 58.35(b) requires a review for compliance with other laws and authorities in Sec. 58.5

36

***Categorically Excluded and
NOT Subject To 58.5***

- HUD determined certain activities will not alter any conditions that would require compliance under laws and authorities
- Examples: Operating costs, economic development activities, homeownership assistance, pre-development costs for housing
- Documentation of exclusion



***Categorically Excluded and
SUBJECT TO 58.5***

- Activities that do not require an environmental assessment unless warranted
- Compliance with federal laws and authorities required
- Examples: Acquisition and rehab of public facilities and improvements, acquisition of vacant land with same use
- Complete Statutory Checklist for compliance with laws and authorities

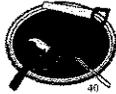


The Statutory Checklist

- | | |
|-------------------------|--------------------------------------|
| ✓ Historic Preservation | ✓ Air Quality |
| ✓ Floodplain Management | ✓ Noise Abatement |
| ✓ Wetlands Protection | ✓ Explosive and Flammable Operations |
| ✓ Endangered Species | ✓ Airport and Runway Clear Zones |
| ✓ Toxic Chemicals | ✓ Coastal Zone Management |
| ✓ Radioactive Materials | ✓ Farmlands Protection |
| ✓ Sole Source Aquifers | |

Environmental Assessment

- Activities are not exempt or categorically excluded
- Generally evident that EIS not required
- Examples: New construction, major rehab exceeding thresholds, conversion of land use in acquisition, land acquisition for housing
- Hire a consultant
- If finding is significant, go to EIS



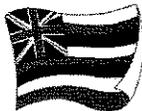
Environmental Impact Statement

- Activity has a **significant impact** on the human environment: “**significant impact means regional rather than local, long term rather than short term, impact on unique resources...**”
- Violation of related laws and authorities
- Any development of 2,500 homes or infrastructure to support same
- Hire a consultant
- Need FONSI in order to proceed



Compliance with State of Hawaii Environmental Requirements

- In addition to HUD requirements, compliance with Chapter 343, Hawaii Revised Statutes, Environmental Impact Statement law required
- Publication in the Office of Environmental Quality Control bulletin
- HUD clearance only **AFTER** completion of Chapter 343 requirements



Request for Release of Funds (RROF) Process



1. Publish Public Notice –15 day comment period
2. Submit Request for Release of Funds (RROF) to HUD - 15 day HUD comment period
3. Release of Funds by HUD - ROF Authority to Use Grant Funds

43

The Good News

The **RESPONSIBLE ENTITY** for environmental review is the unit of local government (City) or State
The **RESPONSIBLE ENTITY** can require sub-recipient to prepare EA or EIS with HUD assistance

The Bad News

Your project **CANNOT** commence until the environmental review is completed and a notice to proceed is issued by the **RESPONSIBLE ENTITY**

44

**Warning!!
WATCH**

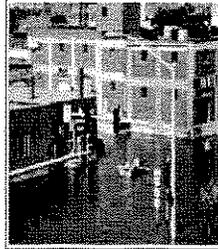


OUT! For...

45

Is Your Project Located in a Floodplain or Floodway?

- Applies to properties located in 100 year floodplain (Zones A or V on map)
- Requires decision making process including publication
- Requires consideration of alternative sites and actions
- Flood insurance
- No HUD assistance for uses in floodways (cross hatched on map)



46

Does Your Project Affect a Historic Area or Building?



- Activities that have a physical impact or cause a change in character or use
- Triggers Section 106 Review
- Identify historic property affected
- Determine and assess effects, resolve adverse effects

47

Is Your Project Affected by Lead Based Paint?

- Buildings constructed before 1978
- Residential use
- Testing and abatement by licensed professionals



48

Please help us...

By not bringing any drinks (even water bottles) or food into this auditorium. We will lose the privilege of using the auditorium if we do not comply.

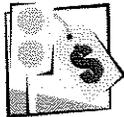
52

Procurement

Connie Koizumi
Procurement & Specifications
Specialist
Department of Budget and Fiscal
Services (BFS)

53

**Procurement for
Subrecipients**



References:

- Hawaii Revised Statutes 103D
- Hawaii Administrative Rules Title 3, Dept. of Accounting & General Services
- View statutes & rules: www.spo.hawaii.gov
- www.honolulu.gov Click on Online Services link
- Click on "Purchasing-Bids & Proposals"
- View Current Projects

54 ●



Small Purchase Procedures

- Goods, Services and Construction less than \$25,000
- Dollar threshold purchases up to \$5,000 – does not require price competition
- Dollar threshold purchases over \$5,000 to less than \$25,000 – requires three written quotes

55

Consultant

- References:
 - Hawaii Revised Statutes 103D-304
 - Hawaii Administrative Rules Title 3
 - www.spo.hawaii.gov
 - www.honolulu.gov
 - Sample flow chart: handout

56 ●

Consultant Selection



- **SELECTION COMMITTEE**
 - Rank short listed minimum of three professionals and submit to head of agency (subrecipient)
- **HEAD OF AGENCY**
 - Negotiate contract with first ranked
 - Award contract upon successful negotiations
 - Inform non-selected professionals of their right to a debriefing

57

Consultant Selection (continued)

- **NON SELECTED PROFESSIONALS**
 - Can request for debriefing within three (3) working days after the posting of award
 - Debriefing to be conducted within seven (7) working days of request
 - After debriefing, non selectees can file a protest within five (5) working days to the head of agency

58

Construction

- **References:**
 - HRS 103D-302 Competitive Sealed Bidding
 - Hawaii Administrative Rules Title 3
 - www.spo.hawaii.gov



59

Construction (continued)

- **PRE-BID CONFERENCE REQUIRED**
 - At least 15 days before bid opening
 - Construction Invitation for Bids estimated at **\$500,000** or more
 - Construction Design/Build (Request for Proposals) estimated at **\$100,000** or more
 - Summary/Minutes of conference required and distributed to bidders before bid opening

60



Federal
vs.
Local Laws



- In cases where state or local laws are stricter than federal regulations, the subrecipient must follow the state or local laws
- In cases where state or local laws are more lenient than federal regulations, the subrecipient must follow federal regulations

64

Please help us...

By not bringing any drinks (even water bottles) or food into this auditorium. We will lose the privilege of using the auditorium if we do not comply.

65

Payment Requests

Ann Sakurao
Fiscal Officer
Department of Budget & Fiscal Services
(DBFS)

66

Who gets post-development monitoring?

- HOME projects
- Capital improvement projects
 - ✓ Rental housing
 - ✓ Homeless shelters
 - ✓ Transitional housing
 - ✓ Community centers
 - ✓ Child and adult daycare facilities

85

What Happens During Post-Development Monitoring?

- Entrance conference
- Visit and inspection
- Review files
- Take pictures
- Ask questions
- Request reports and documents
- Identify and remedy deficiencies



86

Common Errors

- You did not know your project was funded with CDBG or HOME funds.
- You did not know your project is subject to equal opportunity and fair housing laws.

87

Preparing For Monitoring



- Tell your managing agent that your project is funded with CDBG/HOME funds.
- Mention CDBG/HOME in your brochures, ads, application forms and contracts.

88

Keep records of compliance with fair housing & equal opportunity

- Complete HUD Form 935.2, Affirmative Fair Housing Marketing Plan
- Keep records of race and ethnicity
- Place the HUD fair housing logo on your housing application and housing advertisements
- No one is exempt



89

Affirmative Marketing Efforts

90

HOME rental agreements must give thirty days notice before termination.

“...the owner must serve written notice...at least 30 days before the termination of tenancy.”

(24 CFR 92.253(c))

91

Refer to:

- CDBG Guidelines for the Use and Management of CDBG-Assisted Public Facilities
- CDBG Guidelines for the Operation of CDBG-Assisted Multi-Family Rental Housing
- Guidelines for the Operation of HOME-Assisted Multi-Family Rental Housing

92

Questions?

Joe Nose

Telephone: 768-3936

E-mail: jnose@honolulu.gov

93

Please help us...

By not bringing any drinks (even water bottles) or food into this auditorium. We will lose the privilege of using the auditorium if we do not comply.

94

For Construction (CIP) Projects Only
LABOR STANDARDS

Department of Design and Construction (DDC)
Facilities Division



Dennis Kodama, Assistant Chief
Lillian Kashiwabara, Labor Standards
768-8454, lkashiwabara@hawaii.gov
Clifford Lau, Chief

95

**Subrecipient Responsibilities:
Preconstruction Meeting**

- Notify Project Officer when project ready to start construction
- Notify General Contractor of mandatory preconstruction meeting
- Maintain original file of all correspondence (minutes, wage schedules, contract documents) that pertain to project
- Issue written Notice to Proceed to General Contractor



96

**Subrecipient Responsibilities:
Document Review/Certification**



- Review and verify all attachments and certified payroll reports
- Conduct on-site employee interviews
- Compare employee interview form against payroll reports
- Document all enforcement actions
- Resolve problems or discrepancies
- Forward a copy of all documents to DDC for review
- Ensure all General Contractors and Subs are in compliance
- Review and ensure all payment applications are complete with all appropriate documents
- Maintain all original documentation
- Retain all documentation 5 years after project is closed

97

Warning!

**Failure to Submit the
Required Information
and Records in a
Timely and Accurate
Manner Will Result
in a Delay and/or
Withholding of
Payments!**



98

**Department of Community Services Responsibilities:
Preconstruction Meeting**

- Schedule precon meeting with DDC
- Provide packet to DDC containing:
 - DCS project officer information
 - Project name and address
 - General Contractor and Subcontractors names, address, phone and fax numbers, company officers and titles
 - Contract number
 - Debarred list clearances for contractor, subcontractors and all corporate officers
 - Copy of Request for Wage Determination
 - Applicable Federal Wage Decision



Department of Community Services
Responsibilities: **Document Review**

- Ensure subrecipient is monitoring the General Contractor and subcontractors for labor standards compliance
- Review and approve payment requests. DDC reviews only for labor standards.
- Ensure that all documentation is complete and accurate. No submittal should be transmitted to DDC if incomplete. DDC will not initiate review until complete documentation is submitted.



100

Department of Design & Construction
(DDC) Responsibilities

- **Conduct preconstruction meeting**
- **Prepare labor standards documents for General and Subcontractors:**
 - Applicable Federal Wage Decision
 - Current State Wage Bulletin (subject to change)
 - Federal Labor Standards & Contract Provisions
 - Preconstruction Agenda
 - Preconstruction Conference Minutes
 - Contractor's Guide to Prevailing Wage Requirements

101

Department of Design & Construction
Responsibilities - Continued

- Inform General Contractor and Subcontractors of labor standards requirements
- Record attendance & minutes of precon meeting
- Spot-check documents & payrolls
- Notify Subrecipient of deficiencies
- Assist Subrecipient to resolve outstanding issues
- Review payment request and sign off for labor standards compliance only



102

State of Hawaii
Combined
Notices

*Post All Required
Notices on Jobsite*



112 ●

Warning!



Failure to Submit the
Required Information
and Records in a
Timely and Accurate
Manner Will Result
in a Delay and/or
Withholding of
Payments!

113

Checklist for Certified
Payroll Record Review



- Do additional classifications and rates need to be requested?
- Is DOL payroll form being used and is the form computerized?
- Are the payrolls signed in ink?
- Is the payroll heading and statement of compliance completed?
- Has a CPR been submitted for each week?
- Are hours and wages properly reported?
- Is the subcontractor identified?
- Are fringe benefits paid correctly?
- Are apprentices certified?
- Are payroll deductions identified?
- Are equipment operators and truck drivers identified?
- Is the statement of compliance completed?

114

Typical Certified Payroll Errors

- **Incomplete Payrolls**
 - Missing addresses and Social Security Numbers
 - Classifications missing or does not match wage decision
- **Wage Rates Below**
 - minimum wage required
- **Other Project Hours**
 - not provided
- **Overtime** not paid
- **Apprentices/Trainees** level or percentage and certification missing
- **Computations** incorrect
- **Deductions** not authorized
- **Fringe benefits** not provided
- **Signatures** not authorized
- **Onsite interview** comparison with payroll

115

Useful Websites:

- HUD Office of Labor Relations • www.hud.gov/offices/olr
HUD Regulations
- www.access.gpo.gov/cgi-bin/cfrassemble.cgi?title=200824
- HUD Clips (Forms)
- <http://www.hud.gov/offices/adm/hudclips/forms/>
- DOL Davis Bacon And Related Acts Homepage
- www.dol.gov/esa/programs/dbra/index.htm
- DOL Regulations
- <http://www.dol.gov/esa/whd/reg-library.htm>
- Davis Bacon Wage Decisions
- www.access.gpo.gov/davisbacon
- DOL forms • www.hud.gov/offices/olr/olrform.cfm
State Wage Rate Schedule • <http://hawaii.gov/labor/rs/>

116 ●

On Your Way...

- Contact your assigned project coordinator
- Inform and educate other staff/team members



117

§103D-304 Procurement of professional services. (a)

Professional services shall be procured in accordance with sections 103D-302, 103D-303, 103D-305, 103D-306, or 103D-307, or this section; provided that design professional services furnished by licensees under chapter 464 shall be procured pursuant to this section or section 103D-307. Contracts for professional services shall be awarded on the basis of demonstrated competence and qualification for the type of services required, and at fair and reasonable prices.

(b) At a minimum, before the beginning of each fiscal year, the head of each purchasing agency shall publish a notice inviting persons engaged in providing professional services which the agency anticipates needing in the next fiscal year, to submit current statements of qualifications and expressions of interest to the agency. Additional notices shall be given if:

- (1) The response to the initial notice is inadequate;
- (2) The response to the initial notice does not result in adequate representation of available sources;
- (3) New needs for professional services arise; or
- (4) Rules adopted by the policy board so specify.

The chief procurement officer may specify a uniform format for statements of qualifications. Persons may amend these statements by filing a new statement prior to the date designated for submission.

(c) The head of the purchasing agency shall designate a review committee consisting of a minimum of three persons with sufficient education, training, and licenses or credentials for each type of professional service which may be required. In designating the members of the review committee, the head of the purchasing agency shall ensure the impartiality and independence of committee members. The names of the members of the review committee established under this section shall be placed in the contract file.

The committee shall review and evaluate all submissions and other pertinent information, including references and reports, and prepare a list of qualified persons to provide these services. Persons included on the list of qualified persons may amend their statements of qualifications as necessary or appropriate. Persons shall immediately inform the head of the purchasing agency of any change in information furnished which would disqualify the person from being considered for a contract award.

(d) Whenever during the course of the fiscal year the agency needs a particular professional service, the head of the purchasing agency shall designate a selection committee to evaluate the statements of qualification and performance data of those persons on the list prepared pursuant to subsection (c)

along with any other pertinent information, including references and reports. The selection committee shall be comprised of a minimum of three persons with sufficient education, training, and licenses or credentials in the area of the services required. In designating the members of the selection committee, the head of the purchasing agency shall ensure the impartiality and independence of committee members. The names of the members of a selection committee established under this section shall be placed in the contract file.

(e) The selection criteria employed in descending order of importance shall be:

- (1) Experience and professional qualifications relevant to the project type;
- (2) Past performance on projects of similar scope for public agencies or private industry, including corrective actions and other responses to notices of deficiencies;
- (3) Capacity to accomplish the work in the required time; and
- (4) Any additional criteria determined in writing by the selection committee to be relevant to the purchasing agency's needs or necessary and appropriate to ensure full, open, and fair competition for professional services contracts.

(f) The selection committee shall evaluate the submissions of persons on the list prepared pursuant to subsection (c) and any other pertinent information which may be available to the agency, against the selection criteria. The committee may conduct confidential discussions with any person who is included on the list prepared pursuant to subsection (c) regarding the services which are required and the services they are able to provide. In conducting discussions, there shall be no disclosure of any information derived from the competing professional service offerors.

(g) The selection committee shall rank a minimum of three persons based on the selection criteria and send the ranking to the head of the purchasing agency. The contract file shall contain a copy of the summary of qualifications for the ranking of each of the persons provided to the head of the purchasing agency for contract negotiations. If more than one person holds the same qualifications under this section, the selection committee shall rank the persons in a manner that ensures equal distribution of contracts among the persons holding the same qualifications. The recommendations of the selection committee shall not be overturned without due cause.

(h) The head of the purchasing agency or designee shall negotiate a contract with the first ranked person, including a

rate of compensation which is fair and reasonable, established in writing, and based upon the estimated value, scope, complexity, and nature of the services to be rendered. If a satisfactory contract cannot be negotiated with the first ranked person, negotiations with that person shall be formally terminated and negotiations with the second ranked person on the list shall commence. The contract file shall include documentation from the head of the purchasing agency, or designee, to support selection of other than the first ranked or next ranked person. Failing accord with the second ranked person, negotiations with the next ranked person on the list shall commence. If a contract at a fair and reasonable price cannot be negotiated, the selection committee may be asked to submit a minimum of three additional persons for the head of the purchasing agency to resume negotiations in the same manner provided in this subsection. Negotiations shall be conducted confidentially.

(i) Contracts awarded under this section for \$5,000 or more shall be posted electronically within seven days of the contract award by the chief procurement officer or designee and shall remain posted for at least one year. Information to be posted shall include, but not be limited to:

- (1) The names of the persons submitted under subsection (g);
- (2) The name of the person or organization receiving the award;
- (3) The dollar amount of the contract;
- (4) The name of the head of the purchasing agency or designee making the selection; and
- (5) Any relationship of the principals to the official making the award.

(j) Contracts for professional services of less than the limits in section 103D-305, may be negotiated by the head of the purchasing agency, or designee, with at least any two persons on the list of qualified persons established pursuant to subsection (c). Negotiations shall be conducted in the manner set forth in subsection (h), with ranking based on the selection criteria of subsection (e) as determined by the head of the agency.

(k) In cases of awards made under this section, nonselected professional service providers may submit a written request for debriefing to the chief procurement officer or designee within three working days after the posting of the award of the contract. Thereafter, the head of the purchasing agency shall provide the requester a prompt debriefing in accordance with rules adopted by the policy board. Any protest by the requester pursuant to section 103D-701 following debriefing shall be filed in writing with the chief procurement

officer or designee within five working days after the date that the debriefing is completed. [L Sp 1993, c 8, pt of §2; am L 1995, c 178, §10; am L 1997, c 21, §1 and c 352, §7; am L 2000, c 141, §1; am L 2003, c 52, §5; am L 2004, c 216, §1]

Note

L 1997, c 352, §23 purports to amend this section.

[Previous](#)

[Vol02_Ch0046-0115](#)

[Next](#)

§3-122-61.08 Phase two. (a) Upon completion of phase one, the procurement officer shall:

- (1) If priced bids were required to be submitted in phase one, open the priced bids from bidders whose unpriced technical proposals were found to be acceptable;
- (2) If technical discussions have been held, or if material modifications to the procurement item, project, or procedure have been made after the original submission of priced bids, return the sealed priced bids to bidders and provide them reasonable opportunity to submit a modified priced bid; or
- (3) If priced bids have not been submitted, invite each acceptable bidder to submit a priced bid.

(b) Phase two shall be conducted as any other competitive sealed bid procurement except as specifically set forth in this section and no public notice need be given to phase two, submission of priced bids, because the notice was previously given. [Eff and comp **MAR 21 2008**] (Auth: HRS §§103D-202, 103D-302) (Imp: HRS §103D-302)

SUBCHAPTER 7

PROCUREMENT OF PROFESSIONAL SERVICES

§3-122-62 REPEALED. [R 11/17/97]

§3-122-63 General provisions. (a) Professional services shall be in accordance with section 103D-304, HRS.

(b) After the contract is awarded, the following information shall be open to public inspection, including but not limited to the contract, the list of qualified persons, the screening committee's criteria for selection established under section 103D-304(d), HRS, and the statements of qualifications and related information submitted by the qualified persons, except those portions for which a written request for confidentiality has been made subject to section 3-122-58.

(c) Amendment to a professional services contract shall require prior approval of the head of the purchasing agency when the increase is at least \$25,000 and ten per cent or more of the initial contract price. [Eff 12/15/95; comp 11/17/97; am and comp MAR 21 2008] (Auth: HRS S103D-202) (Imp: HRS S103D-304)

S3-122-64 REPEALED. [R MAR 21 2008]

S3-122-65 REPEALED. [R MAR 21 2008]

S3-122-66 Waiver to requirement for procurement of professional services. (a) If the names of less than three qualified persons are submitted pursuant to section 103D-304(g), HRS, the head of the purchasing agency may determine that:

- (1) Negotiations under section 103D-304(h), HRS, may be conducted provided that:
 - (A) The prices submitted are fair and reasonable; and
 - (B) Other prospective offerors had reasonable opportunity to respond; or there is not adequate time to resolicit through public notice statements of qualifications and expressions of interest;
- (2) The offers may be rejected pursuant to subchapter 11 and new statements of qualifications and expressions of interest may be solicited if the conditions in paragraph (1)(A) and (B) are not met;
- (3) The proposed procurement may be cancelled; or
- (4) An alternative procurement method may be conducted to include but not be limited to direct negotiations with other potential offerors if the head of the purchasing agency determines in writing that the need for the service continues, but that either the price of the offers received are not fair and reasonable or that the qualifications of the offerors are not adequate to meet the procurement needs, and there is no time for resolicitation, or resolicitation would likely be futile.

(b) If no names are submitted pursuant to section 103D-304(g), HRS, the head of the purchasing agency may

purchasing agency that compensation is justified; and

- (3) Sign an affidavit:
 - (A) Attesting to having no personal, business, or any other relationship that will influence their decision in the review or selection process;
 - (B) Agreeing not to disclose any information on the review or selection process; and
 - (C) Agreeing that their names will become public information upon award of the contract.

(b) Deputy directors or equivalent appointed positions shall not serve on review or selection committees. [Eff and comp **MAR 21 2008**] (Auth: HRS §103D-202) (Imp: HRS §103D-304)

§3-122-70 Debriefing. (a) The purpose of a debriefing is to inform providers of professional services of the basis for non-selection.

- (1) A written request for a debriefing shall be made within three working days after the posting of the award of the contract;
- (2) Debriefing shall be held by the procurement officer or designee, to the maximum extent practicable, within seven working days; provided the procurement officer or designee may determine whether or not to conduct individual or combined debriefings.

(b) A protest by the requestor submitted pursuant to section 103D-701, HRS, following a debriefing shall be filed within five working days, as specified in section 103D-304(k), HRS. [Eff and comp **MAR 21 2008**] (Auth: HRS §103D-202) (Imp: HRS §103D-304)

§§3-122-71 to 3-122-72 (Reserved).

SUBCHAPTER 8

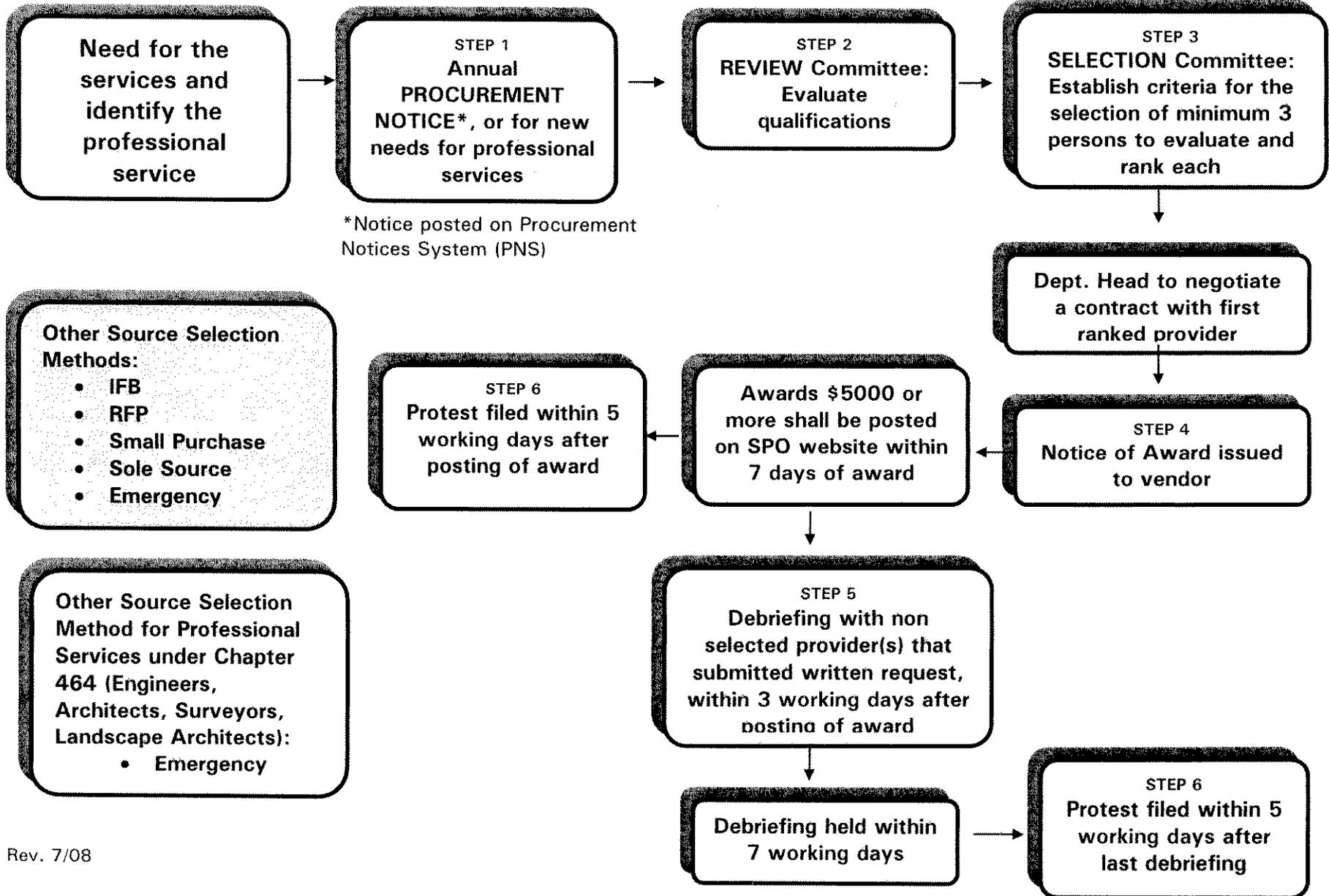
SMALL PURCHASES

§3-122-73 Definitions. As used in this

PROFESSIONAL SERVICES

HRS §103D-304

HAR Chapter 3-122, Subchapter 7



PROFESSIONAL SERVICES

HRS §103D-304

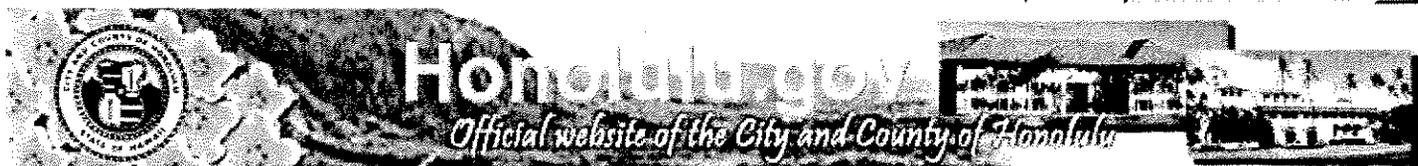
HAR Chapter 3-122, Subchapter 7

PROCUREMENT OF PROFESSIONAL SERVICES shall be pursuant to §103D-304, or:

- Competitive sealed bids (§103D-302)
- Competitive sealed proposals (§103D-303)
- Small purchase (§103D-305)
- Sole source (§103D-306)
- Emergency (§103D-307)

Design professional services (Chapter 464) shall **only** be pursuant to §103D-304 or §103D-307. (HRS Chapter 464 for Engineers, Architects, Surveyors, Landscape Architects)

- STEP 1** Notice to providers of professional services identifying the professional services; Post notice on Procurement Notices System (PNS).
- STEP 2** REVIEW COMMITTEE
- Minimum of three committee persons; each person completes SPO Form-24
 - Shall review and evaluate all submissions
 - Prepare a list of qualified persons
- STEP 3** SELECTION COMMITTEE
- Minimum of three committee persons; each person completes SPO Form-24
 - Utilize selection criteria in descending order of importance:
 1. Experience and professional qualifications relevant to the project type;
 2. Past performance on projects of similar scope for public agencies or private industry, including corrective actions and other responses to notices of deficiencies;
 3. Capacity to accomplish the work in the required time; and
 4. Any additional criteria as determined by the selection committee, made known to the providers.
 - Evaluate the submissions.
 - Conduct confidential discussions
 - Rank a minimum of three providers, submit to head of the purchasing agency (HOPA)
 - HOPA shall negotiate a contract with first ranked person
 1. If not able to reach agreement, negotiate with second ranked person
 2. If not able to reach agreement with any on the initial list, selection committee may be asked to submit a minimum of three additional persons for HOPA to resume negotiations
 3. Contract file shall contain all documentation to support selection.
- STEP 4** AWARD
- Awards \$5000 or more shall be posted on SPO webpage within **7 days of award**.
- STEP 5** DEBRIEFING of non-selected provider
- Non-selected provider may submit a written request for debriefing within **3 working days** after posting of award
 - Agency shall conduct debriefing within **7 working days**
- STEP 6** PROTEST
- Shall be filed within **5 working days** of the posting of the award; or
 - Following a debriefing, a protest shall be filed within **5 working days**



Government | Online Services | Business / Industry | Residency /
Community | Tourism

You are here: Home / Purchasing / Division of Purchasing - Bids & Proposals

Division of Purchasing

530 South King Street, Room 115
Honolulu, Hawaii 96813



For Board of Water Supply Bids [click here.](#)

NEW For CDBG/HOME Request for Proposals (RFP# 2010) [click here.](#)

NEW If you are currently a vendor who provides goods or services to the City, this is an important notification regarding the City's procurement system which will impact you. Please read the notice at the bottom of this page.

- [Handbook - How the City Buys](#)
- [Public Auction Notice](#)
 - [General Conditions](#)
 - [Auction Notification System Application Form](#)
- **NEW** [Honolulu Vendor Self Service](#) **NEW** (unavailable 2:00 a.m. - 3:00 a.m., HST, nightly, due to system maintenance)
- [Register with Purchasing to download Bids and Proposals**](#)
- [How to download bids and proposals for Goods, Services, Concessions and Construction**](#)
- [Bids for Goods, Services and Concessions**](#)
 - [Bid Results for Goods, Services and Concessions](#)
 - [Bid Results for Goods, Services and Concessions prior to 10/3/03](#)
 - [Detailed Equipment List Required for Payment Of Delivered Equipment, Beginning With Bid Proposal No. 14435 \(289K PDF\)](#)
 - [General Instructions to Bidders and General Terms and Conditions for Goods and Services Contracts \(1/18/08\) \(74K PDF\)](#)
- [Construction and Professional Services Bids and Proposals**](#)
 - [Construction Bid Results](#)
 - [Construction Bid Results prior to 10/3/03](#)
 - [General Instructions to Bidders \(105K PDF\)](#)
 - [General Conditions of Construction Contracts \(483K PDF\)](#)
- [Professional Services](#)

Nonprofit Corporation
Procurement Policy and Procedure (FOR USE OF CDBG FUNDS)

I. Policy

It shall be the policy of the _____ Nonprofit Corporation ("Corporation") to conduct procurement of the goods and services necessary to carry out its operations in a manner that is cost-efficient and to the maximum extent practical, allows for free and open competition.

II. Scope

The requirements of this policy and procedure shall be fully applicable to all directors, officers, employees and agents of the Corporation.

III. Standard of Conduct

- A. No director, officer, employee or agent of the Corporation shall participate in the selection, award or administration of a contract where, to his knowledge, he or his immediate family, partners, or organization in which he or his immediate family or partners have a financial interest, or with whom he is negotiating or has any arrangement concerning prospective employment. No director, officer, employee, or agent shall either solicit or accept gratuities, favors or anything of monetary value from contractors or potential contractors.
- B. Failure to comply with the Standards of Conduct or the requirements of this Policy and Procedure may result in disciplinary action which may include termination.

IV. Procedure

A. Approval of Purchases and Contracts

As means of avoiding unnecessary or duplicative purchases of goods and services, processing and approval shall be centralized and made the responsibility of (position or authority), subject to the following limitation:

1. The (position or authority) shall be solely authorized to approve purchases of goods and services having a value of \$1,500 or less.
2. Purchases and contracts having a value of less than \$10,000 shall require the concurrence and signature of an officer or officers of the Corporation designated by the Board of Directors.

3. Purchases and contracts having a value of \$10,000 or more require the approval of the Board of Directors.

B. Competitive Proposal Requirements

1. Purchase of items having a value of less than \$5,000.

None.

2. Purchase of items or contracts having a value of \$5,000 to less than \$25,000.

- a. At least 3 written quotations or proposals.

- b. Records describing the items(s) or services sought, providers contacted and the offering, and an evaluation and cost analysis justifying the selection or award.

3. Purchases or contracts having a value of \$25,000 or more.

- a. Public solicitation of bid proposals published in a major daily newspaper in Honolulu or electronic posting with electronic bid submittal specifying that:

- 1) Complete bid proposals must be submitted on or before the date and time specified for bid opening.

- 2) The Corporation reserves the right to reject any or all bids when it is in its best interest to do so.

- b. Records shall be maintained showing:

- 1) The basis upon which a contractor was selected. This is particularly important when award is made to a contractor whose bid price was not the lowest offered.

- 2) The basis for the award cost or price.

V. General Requirements

- A. Whenever bids or price quotations are solicited, a clear and accurate description of the technical requirements of the items or services required shall be provided whether verbally or in written form as specified herein. Such description shall not contain features which unduly restrict competition. "Brand names or equal" descriptions may be used as a means to define the performance or other salient requirements of

the items being sought.

- B. Contracts shall only be made with responsible contractors who possess the potential ability to perform successfully under the terms and conditions of the proposed contract. Consideration shall be given to such matters as contractor integrity, record of past performance, financial and technical resources or accessibility to other necessary resources.
- C. Awards shall be made to the bidder or offeror whose bid/offer is responsive to the solicitation and most advantageous to the Corporation, price and other factors considered.
- D. Positive effort shall be made to utilize small and minority owned businesses as sources of supplies and services.
- E. All contractual agreements must be appropriate to the type of item or service being procured and promote the best interests of the Corporation. "Cost plus-a-percentage-of-cost" contracts shall not be used.
- F. All purchases shall be verified to ensure that the type, quantity, and quality of the items are as specified. Services provided by contract, shall be carefully monitored to ensure that all terms and conditions are met and that the quantity and quality of the services are performed as specified.

VI. Applicability of Federal Requirements

This policy and procedure is intended to comply with all requirements of 24 Code of Federal Regulations (CFR) Part 84 (Office of Management and Budget Circular A-110, Uniform Administrative Requirements for Grants and Agreements with Institutions of Higher Education, Hospitals and Other Non-Profit Organizations — Revised 11/19/93, as further amended 9/30/99; the regulations at 24 CFR Part 84 shall be consulted when questions arise as to the application of the requirements herein.

Further, 24 CFR Part 84 specifies additional requirements pertaining to contractual agreements that shall be, as applicable, attached to and/or incorporated in all such documents.

ADOPTED BY (THE NONPROFIT CORPORATION)

At a meeting held on _____

By _____
Its President

U.S. Department of Housing and Urban Development
COMMUNITY PLANNING AND DEVELOPMENT

Special Attention of: Notice: CPD 96-05
All Secretary's Representatives
All State/Area Coordinators Issued: October 11, 1996
All CPD Division Directors Expires: October 11, 1997
All CDBG Entitlement Grantees
All HOME Coordinators Cross References: 24 CFR Parts 570 & 92
All HOME Participating Jurisdictions

Subject: Procurement of consulting services by Community Development
Block Grant (CDBG) recipients, HOME participating
jurisdictions, and subrecipients

PURPOSE

The purpose of this Notice is to provide information and guidance to Community Development Block Grant (CDBG) program recipients, HOME participating jurisdictions, and subrecipients (and for States that have adopted the Federal regulations on procurement referred to herein) on the procedures that should be followed to ensure proper procurement of goods and services. The Notice places particular emphasis on the procedures to be followed to ensure that professional service providers or consulting services are properly procured.

BACKGROUND

An audit report issued by the Office of Inspector General (OIG) in March 1994, found a variety of deficiencies in the procurement of consulting services by CDBG recipients. Among the problems identified in the procurement of such services were that (1) cost analyses were not being performed, (2) competition was often not free and open, (3) contract services were being paid for before the contract was signed or after the contract had expired, (4) work required under contracts often was not properly performed or delivered, and (5) maintenance of a contract administration system was often lacking.

As a result of this audit, the OIG recommended that the Office of Community Planning and Development issue a Notice to CDBG recipients and subrecipients on the need for compliance with the applicable CDBG procurement regulations with respect to the procurement of consulting services. 1

DGBE: Distribution: W-3-1, Special (All CDBG Entitlement Grantees;
all HOME Participating Jurisdictions)

1 For existing guidance on distinguishing between the use of procurement contracts and subrecipient agreements as a means of carrying out eligible CDBG activities, recipients and subrecipients should refer to HUD's Guidebook for Grantees on Subrecipient Oversight - Managing CDBG, which is part of HUD's Subrecipient Management Training materials issued August 1993. For guidance in carrying out eligible HOME activities, HOME participating jurisdictions should refer to 24 CFR 92.504 and 92.505.

The use of contracted services, including consulting services for

professional assistance in program planning, development of community development objectives, and other general professional guidance relating to program execution, is eligible under the CDBG program at 24 CFR 570.200(d) and authorized under the HOME program at 24 CFR 92.505 by reference to the applicable uniform administrative requirements. For both programs, 24 CFR 85.36 is the authority for local governments (and States that have chosen to follow the regulations) to use when procuring consulting services under an independent contractor relationship, as provided at 24 CFR 570.502(a)(12) for CDBG and 92.505(a) for HOME. 24 CFR part 84 is the authority for non-governmental subrecipients, as stipulated at 24 CFR 570.502(b) and 92.505(b), respectively. 2

Consulting services are an important resource available to CDBG grantees/HOME participating jurisdictions and their subrecipients to obtain professional assistance to plan and implement CDBG/HOME activities. However, the solicitation of these services should be prefaced by as much planning and preparation as possible, including identifying the use of consulting services in the recipient's consolidated plan, thereby subjecting it to the citizen participation process. The result will be procurement activities for which a more comprehensive and thoughtful procurement agenda exists and for which adequate funds are more likely to have been budgeted.

Following completion of the planning and budgeting process, recipients and subrecipients may wish to issue a public notice of procurement needs identifying general and specific activities under which consulting services may be required. The issuance of the notice sets in motion a process of early notification to potential providers of consulting services. By requesting qualifications of potential providers to carry out work in the areas specified, the notice can lead to the receipt of information that can be used to start a database of potential consultant providers.

While consulting services procured under the CDBG/HOME programs are governed by the procurement requirements noted above, these regulations permit recipients and their subrecipients to use their own procurement procedures (reflecting appropriate State and local laws and ordinances), as long as those procedures meet the standards identified in these regulations.

SECTION 1. COMPETITION AND STANDARDS OF CONDUCT

The procurement of consulting services places the utmost importance on a process that is fair and unbiased in every respect. A major opportunity to achieve this objective is ensuring in all procurement transactions the presence of full and open competition and the absence of conflicts of interest.

2 In the text, where possible, applicable regulatory language is included in italicized print. As Part 85 is more descriptive than Part 84, it may be useful to nongovernmental entities seeking more information on a given procurement subject matter.

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A. Full and open competition

To help ensure that consulting services are procured in a manner that is fully and openly competitive, the procurement of consulting services shall be conducted in a manner that provides full and open competition. 24 CFR 85.36(c)(1) identifies the following among the situations considered to be restrictive of competition:

- (I) Placing unreasonable requirements on firms in order for them to qualify to do business,
- (ii) Requiring unnecessary experience and excessive bonding,
- (iii) Noncompetitive pricing practices between firms or between affiliated companies,
- (iv) Noncompetitive awards to consultants that are on retainer contracts,
- (v) Organizational conflicts of interest,
- (vi) Specifying only a "brand name " product instead of allowing "an equal product to be offered and describing the performance of other relevant requirements of the procurement, and
- (vii) Any arbitrary action in the procurement process."

Section 84.43, which covers the subject, of competition for non-profit organizations, provides, in part:

"All procurement transactions shall be conducted in a manner to provide, to the maximum extent practical, open and free competition."

Guidance for implementation:

Central to the efforts of recipients and subrecipients to obtain professional service providers to carry out eligible CDBG/HOME activities is ensuring that the procurement process is as free and open as possible. An adequate number of competing professional service providers must be part of the competitive process regardless of the method of procurement employed. The key to obtaining an adequate number of competing providers is an appropriate level of advertising. This can be best accomplished by advertising for professional service providers in widely circulated newspapers, trade journals and other sources including the use of a bidders list, if available, to ensure coverage of the marketplace.

Certain other considerations must be kept in mind to ensure the procurement of professional service providers is based on full and open competition. Unless stated in the solicitation documentation that the contract to be awarded calls for multi-year funding, contracts cannot be renewed or extended without further competition. Professional services which are to be provided for a longer period than originally procured must be readvertised. Recipients and subrecipients must also ensure,

when procuring consulting services, that they do not use any firms

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included on HUD's Debarment and Suspension List, as provided at 24 CFR 570.609 of the CDBG regulations, 24 CFR 92.357 of the HOME regulations, and at 85.35 and 84.44(d). (The General Services Administration issues a monthly publication, "The Lists of Parties Excluded from Federal Procurement or Non-Procurement Programs, " that consolidates information from HUD and other Federal agencies on firms that are debarred and suspended. Information on subscription requirements may be obtained from GSA's Office of Acquisition Policy, (202) 501-4873.)

B. Conflicts of interest/standards of conduct

24 CFR 85.36(b)(3) states, in part:

"Grantees and subgrantees will maintain a written code of standards of conduct governing the performance of their employees engaged in the award and administration of contracts. No employee, officer or agent of the grantee or subgrantee shall participate in selection, or in the award or administration of a contract supported by Federal funds if a conflict of interest, real or apparent, would be involved. Such a conflict would arise when: (I) the employee, officer or agent,- (ii) any member of his immediate family; (iii) his or her partner,- or (iv) an organization which employs, or is about to employ, any of the above, has a financial or other interest in the firm selected for award."

The regulations covering nonprofit entities at 24 CFR 84.42 state:

"The recipient shall maintain written standards of conduct governing the performance of its employees engaged in the award and administration of contracts. No employee, officer, or agent shall participate in the selection, award, or administration of a contract supported by Federal funds if a real or apparent conflict of interest would be involved.

Guidance for implementation:

Nothing is perhaps more detrimental to a successful procurement operation than to have the relationship between the recipient/subrecipient and the contractor questioned by real or apparent conflicts of interest. Conflicts may be personal, financial, or organizational. The professional services provider should be viewed as, and be in fact, an unencumbered provider of assistance in program planning, community development strategies and sources of other general and detailed guidance to the community. The integrity of the community development process and of those charged with carrying it out should not be sacrificed for something less than the highest standards of conduct. Nothing is more important than to ensure that the professional service provider is an independent party above any suspicion of having a real or apparent conflict of interest.

The concern about avoiding any appearance of a conflict of interest extends to those cases where one is to conduct business with organizations whose board members may have relationships with personnel of the recipient or subrecipient that may cause a real or apparent conflict of interest. It goes without saying that it will be most important that those responsible for ensuring

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the integrity of the process exercise the utmost in good judgment when faced with such situations. Often, the only solutions to such situations is for the personnel of the recipient or subrecipient to abstain from any decision-making that would directly, and perhaps indirectly, impact on the final selection of the professional service provider.

(NOTE: The conflicts of interest discussed here pertain to conflicts under the procurement regulations in Parts 84 and 85. The CDBG and HOME conflict of interest regulations at 24 CFR 570.611 and 92.356, respectively, pertain to all nonprocurement cases not covered by Parts 84 and 85.)

SECTION II. METHODS OF PROCUREMENT

Recipients and subrecipients may use different methods of procurement to obtain consultant services.

A. Requests for proposals

24 CFR 85.36(d)(3), Procurement by competitive proposals, provides that "the technique of competitive proposals is normally conducted with more than one source submitting an offer, and either a fixed-price or cost-reimbursement type contract is awarded. It is generally used when conditions are not appropriate for the use of sealed bids. If this method is used, the following requirements apply:

- (I) Requests for proposals will be publicized and identify all evaluation factors and their relative importance. Any response to publicized requests for proposals shall be honored to the maximum extent practical;
- (ii) Proposals will be solicited from an adequate number of qualified sources,
- (iii) Grantees and subgrantees will have a method for conducting technical evaluations of the proposals received and for selecting awardees;
- (iv) Awards will be made to the responsible firm whose proposal is most advantageous to the program, with price and other factors considered."

24 CFR 84.44 provides that nonprofit recipients "shall establish written procurement procedures. These procedures shall provide for at a minimum, "that the following criteria apply:

- (1) "Recipients avoid purchasing unnecessary items.

- (2) Where appropriate, an analysis is made of lease and purchase alternatives to determine which would be the most economical and practical procurement for the Federal Government.
- (3) Solicitations for goods and services provide for all of the following:

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- (i) A clear and accurate description of the technical requirements for the material, product or service to be procured. In competitive procurements, such a description shall not contain features which unduly restrict competition.
- (ii) Requirements which the bidder/offeror must fulfill and all other factors to be used in evaluating bids or proposals.
- (iii) A description, whenever practical, of technical requirements in terms of functions to be performed or performance required, including the range of acceptable characteristics or minimum acceptable standards.
- (iv) The specific features of "brand name or equal" descriptions that bidders are required to meet when such items are included in the solicitation.
- (v) The acceptance, to the extent practicable and economically feasible, of products and services dimensioned in the metric system of measurement.
- (vi) Preference, to the extent practicable and economically feasible, for products and services that conserve natural resources and protect the environment and are energy efficient.

Guidance for implementation:

The competitive proposals method of procurement is the preferred method to use when procuring consulting services. Under this method, a request for proposals (RFP) is prepared containing a statement of work that details the procurement requirements needed by the recipient or subrecipient. The request for proposals must clearly and accurately state selection criteria against which all responding proposals will be evaluated.

If an adequate number of professional service providers respond to the RFP, a qualified panel will review the proposals against factors for award identified in the RFP. This requirement that each proposal must first be evaluated against the selection criteria noted in the RFP is a distinctive characteristic of this method of procurement, where no public disclosure of the contents of offerors' proposals is made on the final date of receipt, as is done with sealed bids.

In its evaluation, the panel should use a competitive range

procedure to establish a ranking order of successful proposals which may lead to a determination of whether oral discussions (negotiations) should be held with service providers that fall within the competitive range, or if the contract should be awarded to the top offeror in the range. If discussions are held, "best and final offers" are requested and re-scored with the best of the best selected as the winner of the competition, subject to negotiation of a fair and reasonable price.

- 3 The competitive range will include those consultant firms who, after a scoring of their proposals, appear to have the greatest potential to satisfy the terms and conditions of the RFP. Usually these consultants will be invited to an oral discussion and asked to submit, subsequent to such discussion, a "best and final offer."

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After proposals are reviewed by the panel against the evaluation criteria (a combination of cost and price factors) in the RFP, written results of the reviews must be maintained as part of the documentation of the procurement process. If requested, the recipient or subrecipient should debrief or notify unsuccessful offerors of the winner and the conclusion of the procurement process.

B. Small purchases

24 CFR 85.36(d)(1) provides for procurement by small purchase procedures. "Small purchase procedures are those relatively simple and informal procurement methods for securing services, supplies or other property that do not cost more than \$100,000 in the aggregate. If small purchase procurements are used, price or rate quotations will be obtained from an adequate number of qualified sources."

Unlike 24 CFR 85.36(d)(1), the regulations at 24 CFR 84 do not specifically identify small purchase procedures as an eligible method of procurement. However, such eligibility is implicit in the language at 24 CFR 84.44(e)(2), which provides that when "[T]he procurement is expected to exceed \$100,000 or the small purchase threshold fixed at 41 U.S.C. 403(11) whichever is greater..." recipients shall, on request, make available for the Federal awarding agency, certain pre-award review and procurement documents.

Guidance for implementation:

Consultant services may be procured using small purchase procedures when the procurement will not cost more than the simplified acquisition threshold of \$100,000 in the aggregate. As noted in the above 24 CFR 85.36(d)(1) citation, it is necessary to obtain price or rate quotations from an adequate number (i.e., three to five) of qualified sources. To obtain rate and price quotations vendors can be phoned and their names, addresses and price or rate quotations should be recorded. The vendors whose solicited information is the most responsive to the item being procured should be issued a purchase order. Catalogues or price lists may also be used. It is important that the relatively smaller dollar amounts associated with small

purchases and the informal nature of this procurement method do not create a climate in which the emphasis on full and open competition is diminished.

By virtue of the higher dollar threshold for small purchases (compared to a previous threshold of \$25,000) established under Parts 85 and 84, it is expected that most recipients and subrecipients will substantially increase the level of procurement of consulting services using small purchase procedures. In this regard, procuring parties should be advised that if small purchases with the higher dollar threshold become complex, it may be advantageous to use a written solicitation and to request written responses from potential providers of consultants' services.

C. Sealed bids

24 CFR 85.36(d)(2) provides for "Procurement by sealed bids (formal advertising). Bids are publicly solicited and a firm-fixed-price contract (lump sum or unit price) is awarded to the responsible bidder whose bid, conforming with all the material

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terms and conditions of the invitation for bids, is the lowest in price. The sealed bid method is the preferred method for procuring construction " services.

24 CFR 84.44 does not include a provision that specifically addresses the use of sealed bids. It does, however, make frequent use of the terms "bid" and "bidder" in discussing competition, procurement procedures and contract provisions.

Guidance for implementation:

Because of the nature of the services provided by most consultants, the sealed bid method of procurement is not the preferred method to use in procuring such services.

Where the occasion arises for its use, this method of procurement must involve use of a public solicitation (e.g., issuance of an invitation for bid (IFB)) with specifications to be responded to that are not overly restrictive. Award is to be made to the most responsive and responsible bidder whose bid conforms in all the material terms and conditions to the IFB and is the lowest in price. 4 Selection of a consultant can be principally made on the basis of a firm, fixed price (lump sum or unit price).

D. Use of non-competitive procedures

In accordance with 24 CFR 85.36(d)(4), "Procurement by noncompetitive proposals is procurement through solicitation of a proposal from only one source, or after solicitation of a number of sources, competition is determined inadequate. Procurement by noncompetitive proposals may be used only when the award of a contract is infeasible under small purchase procedures, sealed bids or competitive proposals and one of the following circumstances applies:

- (A) The item is available only from a single source;
- (B) The public exigency or emergency for the requirement will not permit a delay resulting from competitive solicitation;

The awarding agency authorizes noncompetitive proposals; or
- (D) After solicitation of a number of sources, competition is determined inadequate.

Cost analysis, i.e., verifying the proposed cost data, the projections of the data, and the evaluation of the specific elements of costs and profits, is required."

4 24 CFR Part 84 procurement regulations refer to the term lowest bid in a discussion that allows a grantor agency or authority to request pre-award reviews and procurement documents where other than the "apparent lowest bidder" will be the beneficiary of the procurement. Therefore, where the apparent low bidder is not awarded the contract, the procuring entity should document its application of cost reasonableness, as provided in OMB Circular A-122, in the procurement of consulting services.

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24 CFR 84.44 does not include a provision that specifically addresses the use of noncompetitive procedures. However, it does provide at 84.46, Records, that "procurement records and files for purchases in excess of the small purchase threshold shall include, at a minimum:

- (b) Justification for lack of competition when competitive bids or offers are not obtained."

Guidance for implementation:

It is important that ample support and justification exist for the use of the noncompetitive method of procurement. Events that require efficiency in the procuring of services (e.g., an untimely event occurs that may be judged a crisis) may lead to initiating a one and only contractor selection process and awarding the contract to that firm. However, such a situation could be handled by simply shortening the procurement period rather than eliminating it. Another example is when a contract runs out that does not contain a provision calling for work for more than one year. The contract is renewed to the same contractor without competition on the belief that the renewal is justified because of the experience accumulated by the contractor in the subject area of work or because of the perception that a new procurement initiative would be no more than an exercise with the current contractor being selected anyway. If there is no provision for extending the contract, a provision that would have been made known to all parties in the solicitation document, the preponderance of odds seemingly favoring one contractor is not an adequate basis on which to justify the exclusion of potential providers of consulting service from the right to compete. (Note: with respect to item C above, awarding agency means HUD, the

grantee, HOME participating jurisdiction or subgrantee.)

Additional information on conducting a cost analysis is provided in Section V.

E. Architectural & engineering services

24 CFR 85.36(d)(3)(v) provides that "grantees and subgrantees may use competitive proposal procedures for qualifications-based procurement of architectural/engineering (A/E) professional services whereby competitors' qualifications are evaluated and the most qualified competitor is selected, subject to negotiation of fair and reasonable compensation. The method, where price is not used as a selection factor, can only be used in procurement of A/E professional services. It cannot be used to purchase other types of services though A/E firms are a potential source to perform the proposed effort." 24 CFR 84.44 does not include a provision that specifically addresses the procurement of A/E services.

Guidance for implementation:

As noted above, recipients and subrecipients have the choice of issuing a Request For Proposal (RFP) or soliciting qualification-based statements. When the choice is to issue a RFP, the guidance discussed under Section II(A) should be followed. In addition to the guidance, maps and site locations and starting and ending dates should also be made available to A/E service providers if this kind of information is critical to the development of proposals. Of course, where A/E services will be used for construction projects, it is advisable to schedule pre-bid construction

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discuss the project, wage rates, responsibilities, on-site monitoring procedures and other pertinent subjects.

Where the grantee or subgrantee decides to request A/E qualifications, the qualification statements received should be reviewed and ranked by a qualified panel or board. The most qualified A/E service providers can be asked to submit requests for proposals or the most qualified can be selected and negotiation with the selectee can begin immediately.

Under qualifications-based procurement of A/E consultant services, four points are to be remembered: (1) qualifications-based procurement may not be used in procuring A/E professional services; (2) price is not an initial selection factor; (3) geographic preference may be used as a selection factor if adequate competition (i.e., 2 or more offerors who are responsive and responsible) exists within an area; and (4) state laws governing the procurement of architectural and engineering services may vary, so recipients should be careful to understand the laws in their respective states.

F. Employee/employer relationship (24 CFR 570.200(d)(1))

Consultant services provided under an employee/employer relationship are not governed by the procurement requirements of Part 85 or Part 84.

Rather, under the CDBG program, obtaining consultant services under this procedure is authorized at 24 CFR 570.200(d)(1). (Until such time as the HOME regulations are revised to address consultant services under an employee/ employer relationship, HOME participating jurisdictions should follow the procedure established for the CDBG program.) Recipients and subrecipients must follow their own formal personnel policies and procedures in obtaining consultant services under this provision of the regulations. When using this procedure, the consultant (1) would have a description of his or her duties (position description), (2) would be supervised by the recipient or subrecipient, and (3) would be subject to the normal periodic interaction that takes place between an employee and his or her supervisor. Standard personnel policy for selecting individuals to fill positions include the development of a position, writing of the duties of the position, advertising the position, reviewing and rating of applications, and selection for the position. Where CDBG or HOME funding is being used to pay the salary of the person occupying the position in whole or in part, for purposes of determining the length of stay in a position before it is readvertised, the standard that shall apply is a maximum of three years from the date the contract is signed. (Note: This 3-year standard is used by HUD irrespective of the recipient or subrecipient using personnel agreements or contracts.)

No person providing consultant services in an employer-employee type of relationship can receive more than a reasonable rate of compensation paid with CDBG or HOME funds for personal services, and in no event can the amount of compensation in an employee/employer relationship exceed the maximum daily rate of compensation for Level IV of the Executive Schedule (ES) as established by Federal law.

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SECTION III. CONTRACT CLAUSES AND BIDDERS LIST

A. Contract Clauses

Refer to 24 CFR 85.36(I) or 84.48, as applicable, for those clauses to be included in the contract type associated with the above methods of procurement.

B. Use of bidders list

24 CFR 85.36(c)(4) states that "grantees and subgrantees will ensure that all prequalified lists of persons, firms, or products which are used in acquiring goods and services are current and include enough qualified sources to ensure maximum open and free competition. Also, grantees and subgrantees will not preclude potential bidders from qualifying during the solicitation period." Further, 24 CFR 85.36(e)(2)(I) requires that qualified small and minority businesses and women's business enterprises are to be placed on solicitation lists.

24 CFR 84 does not specifically address the use of a bidders list. However, 24 CFR 84.43 states that "all procurement transactions shall be conducted in a manner to provide, to the maximum extent practical, open and free competition." Further, 24 CFR 84.44(b)(2) provides that organizations covered by these regulations shall "make information on forthcoming opportunities available and arrange time frames for purchases and contracts to encourage and facilitate participation by small businesses, minority-owned firms, and women's business enterprises.

Guidance for implementation:

The procurement of professional services must be accomplished under procedures that provide for full and open competition as has been stated throughout this Notice. The bidders' list can assist in the realization of that objective if used properly. Not meant to be read literally, the term bidders list is intended to refer to any properly developed database, classification or categorizing of potential professional service providers whose services may be solicited under any method of procurement. As with any special listing, a bidders list also affords recipients and subrecipients the opportunity to obtain information on the capabilities and the resources of providers. Such information can be critical for a purchasing operation to provide to operating departments timely and up-to-date information on vendors available to provide consulting services. These lists must be open and inclusive, and routinely updated and managed. For example, names should be purged from the list when found to be on the HUD debarment list or when no proposals or bids are received for a long time from list members to whom RFP's or IFB's have been mailed. Keep in mind that lists are not simply to be rotated; such usage has been judged by courts to be inconsistent with the full and open competition concept. The one exception to this, however, is in the case of small purchases where the practice of rotating names on the list is considered acceptable.

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SECTION IV. CONTRACTING WITH SMALL AND MINORITY FIRMS, WOMEN'S BUSINESS ENTERPRISES AND LABOR SURPLUS AREAS FIRMS; COMPLIANCE WITH SECTION 3

A. Contracting with small and minority, women's business enterprises and labor surplus area firms

24 CFR 85.36(e) addresses contracting with small and minority firms, women's business enterprise and labor surplus area firms and provides that "the grantee and subgrantee will take all necessary affirmative steps to ensure that minority firms, women's business enterprises, and labor surplus area firms are used when possible. Affirmative steps shall include:

- (I) Placing qualified small and minority businesses and women's business enterprises on solicitation lists;
- (ii) Assuring that small and minority businesses, and women's business enterprises are solicited whenever they are

potential sources;

- (iii) Dividing total requirements, when economically feasible, into smaller tasks or quantities to permit maximum participation by small and minority business, and women's business enterprises;
- (iv) Establishing delivery schedules, where the requirement permits, which encourage participation by small and minority business, and women's business enterprises;
- (v) Using the services and assistance of the Small Business Administration, and the Minority Business Development Agency of the Department of Commerce; and
- (v) Requiring the prime contractor, if subcontracts are to be let, to take the affirmative steps listed above in (I) through (v).

As identified in paragraph B of Section III above, 24 CFR 84.44(b) requires that positive efforts shall be made by recipients to utilize small businesses, minority-owned firms, and women's business enterprises, whenever possible. Recipients of Federal awards shall take the steps identified at 24 CFR 84.44(b)(1) - (5), which are identified below, to further this goal.

- (1) "Ensure that small businesses, minority-owned firms, and women's business enterprises are used to the fullest extent practicable.
- (2) Make information on forthcoming opportunities available and arrange time frames for purchases and contracts to encourage and facilitate participation by small businesses, minority-owned firms, and women's business enterprises.
- (3) Consider in the contract process whether firms competing for larger contracts intend to subcontract with small businesses, minority-owned firms, and women's business enterprises.

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- (4) Encourage contracting with consortiums of small businesses, minority-owned firms and women's business enterprises when a contract is too large for one of these firms to handle individually.
- (5) Use the services and assistance, as appropriate, of such organizations as the Small Business Administration and the Department of Commerce's Minority Business Development Agency in the solicitation and utilization of small businesses, minority-owned firms and women's business enterprises.

Guidance for implementation:

Recipients and subrecipients should initiate actions to increase the opportunities for small, minority- and women-owned businesses

to participate in the procurement process. Placing such businesses on lists, dividing total requirements, organizing procurement schedules, making information available encouraging small business consortiums and using the services of the Department of Commerce are among the identified actions or steps that are available. Some measure of aggressiveness or initiative must be put forth either directly or indirectly by recipients and subrecipients, or it is unlikely opportunities will open up for greater participation by the subject businesses. However, if none of the suggested steps are incorporated into the procurement activities of units of general local government or nonprofit organizations, it can be fairly concluded that any leveling of the playing field for opportunities for these firms will be quite limited.

A close look at the list of steps that can be taken shows them to be divided into those that can be directly controlled by the recipient or subrecipient, with others being done by prime or general contractors.

For example, in the RFP process, recipients and subrecipients can develop a points system in which extra points can be awarded to firms whose proposals include the use of minority- and women-owned businesses and labor surplus area firms as subcontractors. Additionally, databases can be developed that include such firms so that when a prime contractor indicates difficulty in locating minority- or women owned firms, a list can be provided to him or her by the recipient or subrecipient from its database.

Each recipient/subrecipient is responsible for ensuring that general contractors are aware of their responsibility to use small, minority-owned and women-owned businesses. Similarly, those contractors are responsible for ensuring that their subcontractors are aware of the responsibility for compliance with this requirement and of the strategies that may be used to comply. In the previous section, it was noted that the use of the bidders list, for example, should be inclusive. In that regard, the list should be open to new firms at all times and can be helpful in the development of information on small, minority and women-owned businesses by the areas of specialty of these professional services providers.

B. Section 3 Requirement of the Housing and Urban Development Act of 1968, as amended

In accordance with the requirements under Section 3 of the Housing and Urban Development Act of 1968, as amended, recipients shall ensure that employment and other economic opportunities generated by the use of CDBG/HOME funds shall, to the greatest extent feasible, be directed to low- and very-low income persons, particularly those who are recipients of government assistance for housing, and to business concerns which provide economic opportunities to low- and very-low income persons. Section 3 covered assistance includes the expenditure of CDBG/HOME funds for work arising in connection with housing rehabilitation, housing construction, or other public construction projects.

Section 3 requirements are applicable to all procurement actions in excess of the small purchase threshold established at 24 CFR 85.36(d)(1), regardless of whether the procurement is governed by 24 CFR 85.36. All Section 3 covered contracts and subcontracts (contracts and subcontracts awarded for work generated by the expenditure of Section 3 covered assistance, or for work arising in connection with a Section 3 covered project) in which the amount of assistance to the recipient exceeds \$200,000 and the contract or subcontract exceeds \$100,000 shall include the Section 3 clause.

SECTION V. CONTRACT COST AND PRICE

In addition to the requirements for competitive procurement and maintenance of a written code of standards of conduct, those who procure consultant services must be prepared (1) to conduct a cost or price analysis and (2) to ensure that the contract price and profit are reasonable.

A. Contract cost and price

1. Cost and price analysis

24 CFR 85.36(f)(1) provides that "grantees and subgrantees must perform a cost or price analysis in connection with every procurement action including contract modifications. The method and degree of analysis is dependent on the facts surrounding the particular procurement situation, but as a starting point, grantees must make independent estimates before receiving bids or proposals. A cost analysis must be performed when the offeror is required to submit the elements of estimated cost, e.g., under professional, consulting, and architectural engineering services contracts. A cost analysis will be necessary when adequate price competition is lacking, and for sole source procurements, including contract modifications or change orders, unless price reasonableness can be established on the basis of a catalog or market price of a commercial product sold in substantial quantities to the general public or based on prices set by law or regulation. A price analysis will be used in all other instances to determine the reasonableness of the proposed contract price."

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24 CFR 84.45 states that "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.

Guidance for implementation:

As provided in the regulations identified above, recipients

and subrecipients must perform their own cost or price analysis for every procurement action for consulting services, including contract modifications or change orders. The method and degree of analysis depends on the facts related to each procurement, but as a starting point, the recipient/subrecipient must make independent estimates before receiving bids or proposals.

- a. Price analysis is the process of examining and evaluating a proposed price without examining its separate cost elements and proposed profit. As price analysis is associated with the sealed bid method of procurement, which is not the preferred approach to procuring professional services, the need to conduct a price analysis for such services will be limited. However, where the need arises to conduct a price analysis for consulting services, approaches that can be used to determine if a proposed price is fair and reasonable include:
 - I. A comparison of the proposed prices received in response to the solicitation;
 - ii. A review of historical/previous prices proposed against current prices proposed for the same or similar items;
 - iii. A comparison with published prices or market prices;
 - iv. A comparison with internal, independent estimates;
 - v. A comparison of detailed price information to assess the overall price (which may involve use of cost principles as general guidance in determining price reasonableness).
- b. Cost analysis differs from price analysis in that it is the review and evaluation of the separate elements of cost and proposed profit, and the reasonableness of those estimated costs of performance. Cost analysis is necessary when cost or pricing data are required, as well as when adequate price competition is lacking (e.g., use of non-competitive procedures), for sole source procurements, or when price analysis alone is insufficient to ensure the proposed price is reasonable. Cost analysis is also required for contract modifications or change orders, unless price reasonableness can be established on the basis of a catalog or market price of a commercial product sold in substantial quantities to the general public or based on prices set by law or regulation. Approaches to cost analysis and ensuring that proposed costs represent accurate projections include:

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- I. Verification that costs submitted by the offeror comply with applicable cost principles, including

that direct and indirect costs are allowable and allocable, as well as reasonable;

- ii. A comparison of the offeror's proposed costs with internal, independent estimates;
- iii. A comparison of historical/previous actual costs from the offeror, or previous cost estimates from the offeror or from other offerors, with the current/proposed costs for the same or similar items;
- iv. A comparison of proposed cost items with published catalogue prices, market costs, etc.

In addition to evaluating such factual data on costs, cost analysis should also consider the judgmental factors used by the offeror to arrive at the estimated costs that were submitted, i.e., what judgmental factors and methods (mathematical or other) were used in projecting the data submitted in the proposal. This part of the cost analysis should ensure that the factual data presented reasonably reflects the need(s) identified in the solicitation.

In carrying out their responsibilities in the performance of price and cost analysis, recipients and subrecipients are to follow the provisions of OMB Circulars A-87 and A-122, as applicable.

2. Contract price and profit

In accordance with 24 CFR Section 85.36(f)(2), recipients and subrecipients will negotiate profit as a separate element of the price for each contract in which there is no price competition and in all cases where cost analysis is performed. To establish a fair and reasonable profit, consideration will be given to the complexity of the work to be performed, the risk borne by the contractor, the contractor's investment, the amount of subcontracting, the quality of its record of past performance, and industry profit rates in the surrounding geographical area for similar work. Costs or prices based on estimated costs for contracts under grants will be allowable only to the extent that costs incurred or cost estimates included in negotiated prices are consistent with Federal cost principles (see 24 CFR 85.22). Grantees may reference their own cost principles that comply with the applicable Federal cost principles. The cost plus a percentage of cost and percentage of construction cost methods of contracting shall not be used.

24 CFR 84.44 states that the type of procuring instruments used (e.g., fixed price contracts, cost reimbursable contracts, purchase orders, and incentive contracts) shall be determined by the recipient but

shall be appropriate for the particular procurement and for promoting the best interest of the program or project involved. Similar to Part 85, Part 84 provides, the "cost-plus-a-percentage-of-cost" or "percentage of construction cost" methods of contracting shall not be used.
Guidance for implementation:

In accordance with the above requirements, recipients and subrecipients will negotiate profit as a separate element of the price for each consultant contract in which there is no price competition, and in all cases where a cost analysis is performed. To establish a fair and reasonable profit, it may be useful to establish a general range of profit for the work being done, with consideration given to the complexity of the work to be performed, the risk borne by the consultant, the consultant's investment, the amount of subcontracting, the quality of its record of past performance, and industry profit rates in the surrounding geographical area for similar work. If profit is shown as a percentage of cost relative to the work to be done, the recipient should review such amount and make adjustments, as needed, based on the factors identified above in this paragraph.

SECTION VI. CONTRACT ADMINISTRATION

The procurement of contract services must provide for an overall system of contract administration to ensure proper post-award administration of each procurement action.

24 CFR 85.36(b)(2) states that grantees and subgrantees "will maintain a contract administration system which ensures that contractors perform in accordance with the terms, conditions, and specifications of their contracts or purchase orders.

Similarly, for nonprofit organizations, 24 CFR 84.47 requires that "a system for contract administration shall be maintained to ensure contractor conformance with the terms, conditions and specifications of the contract and to ensure adequate and timely follow up of all purchases. Recipients shall evaluate contractor performance and document, as appropriate, whether contractors have met the terms, conditions and specifications of the contract."

Guidance for implementation:

Based on the above requirements for recipients and their subrecipients to maintain a system for contract administration, such a system should ensure the following:

- 1 . That the method of procurement is documented and that such records are maintained for five (5) years after the final payment is made and the activity is listed on a recipient's annual performance report to HUD, and all pending matters are closed;

2. That all activities are carried out and all costs are incurred in compliance with requirements of 24 CFR Parts 570, 92 and 58;
3. Before payment is made, that services performed are adequate and consistent with the contract scope of services;

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4. That performance is monitored periodically and the results of the reviews are included in the procurement record. Monitoring should include periodic reviews of tasks against deliverables, as well as a review of progress reports submitted by the consultant against the tasks and deliverables. It should also include a determination that the management systems contractually agreed to are still in place and functioning properly;
5. That contract modifications are justified and do not serve as a means to artificially increase the price of the award.

Recipients and subrecipients with questions concerning the content of this Notice should contact the Community Planning and Development Division in the appropriate HUD field office. HUD field offices with questions related to the CDBG program should contact the Entitlement Communities Division or the Financial Management Division in the Office of Block Grant Assistance, while questions from HUD field offices related to the HOME program should be directed to the Office of Affordable Housing Programs.

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