

City of Missoula



Grants Administration Manual

For HUD Entitlement Programs:

Community Development Block Grant (CDBG)

Home Investment Partnerships Program (HOME)

Updated September 2018

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Introduction

The City of Missoula (City) administers two major sources of U.S. Housing and Urban Development (HUD) funding through its Office of Housing and Community Development (HCD). The Community Development Block Grant Program (CDBG) and the HOME Investments Partnership Program (HOME) are used to support activities that benefit low- and moderate-income households.

This manual sets forth policies and procedures for the administration of programs funded by the City of Missoula **CDBG and HOME** programs. Although some portions of these procedures are complicated and involve complex Federal regulations and policies, this manual summarizes the essential elements for proper program operation.

No handbook can address every type of administrative/accounting problem or situation that may arise during the course of the contract year; therefore the City's HCD staff is available to respond to requests for clarification or additional information. In the event that new procedures or policies are implemented during the contract period, HCD staff will provide timely notification and technical assistance. This manual is neither intended to be all-inclusive nor so restrictive that it cannot be amended.

To contact HCD:

City of Missoula
Office of Housing and Community Development
435 Ryman
Missoula, MT 59802
Telephone: (406) 552-6396
Email: mjames@ci.missoula.mt.us or cwoodrow@ci.missoula.mt.us
HCD website: <http://www.ci.missoula.mt.us/2086/Housing-Community-Development>

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I. HUD Entitlement Block Grant Programs

A. Background

The primary purpose of the CDBG and HOME programs is to provide assistance to low- and moderate-income households. If an agency is unable to promptly implement the program, these lower income persons are not receiving the intended benefits. Agencies that receive a CDBG or HOME grant or loan must be able to implement their program soon after the award. The City developed the standard to keep programs on track and to ensure that the specified activity is being carried out in a timely manner.

The City, as approved by HUD, may provide CDBG funds for certain housing activities, public infrastructure and facilities, and public services. Public infrastructure, facilities and services must demonstrate a direct connection to housing and/or homelessness outcomes. The City may provide HOME funds for housing development, certain activities eligible to be undertaken by Community Housing Development Organizations (CHDOs), and Tenant-Based Rental Assistance (TBRA).

Prior to contract execution, all Subrecipients must have the needed support, confirmed matching resources, sufficiently developed plans, a program site, and budget to start the proposed program after the funding approval, and be able to complete the program within the approved award term. Projects may begin no earlier than July 1, the beginning of the City's Program Year, if funds are available and your organization is under contract with the City. Unspent funds or project delays may be subject to potential reprogramming to other eligible programs, which may require City Council approval.

B. Methods to Improve Timely Implementation and Use of Funds

- Study this manual and become familiar with the Pre-Contracting requirements. Submit the required documents to the Grants Administrator soon after notification of your award.
- Attend trainings and workshops organized by HCD on various topics related to CDBG and HOME.
- If needed, request a follow-up one-on-one meeting with your Grants Administrator so specific topics that relate to your particular program can be addressed and other key staff from your organization can attend.
- Failure to invoice the City in a timely manner for CDBG or HOME activities can become a serious problem. Agencies will be expected to submit payment requests and quarterly performance reports in a timely fashion. *Do not save up several months of payment requests and submit them in bulk. This may cause unnecessary delays in your reimbursement.*
- If the Agency experiences key staff changes, such as new Executive Director or financial staff, immediately contact the Grants Administrator and schedule an orientation. Staff and organizational capacity are key components in determining whether an organization is capable of administering CDBG and/or HOME-funded activities.
- Control and monitor the program activities through sound management principles.

- Assigned Grants Administrators are important members of the team. They are available to explain the CDBG or HOME program processes and help the program get started and stay on track. Please contact the Grants Administrator if you have any questions or need assistance.

C. Subrecipients

In order to achieve the national objectives, the City allocates CDBG and HOME funds on an application basis each year. A Subrecipient is a public or private nonprofit agency, authority, or organization that receives CDBG or HOME funds from the City to undertake eligible activities. Unless otherwise noted, the term “Subrecipient” will be used throughout this manual to denote all entities receiving CDBG or HOME funds, whether via a loan, grant or other financial arrangement.

A Community Housing Development Organization (CHDO) is a private nonprofit organization that has among its purposes the provision of decent housing that is affordable to low-income households (those with incomes less than 80% of the area median income) as evidenced in its charter, articles of incorporation, board composition, resolutions, and by-laws. At least 15% of the HOME allocation annually is reserved for specific types of activities by CHDOs. Additional CHDO requirements are defined at 24 §92.2¹.

A Community Based Development Organization (CBDO) is generally a nonprofit organization that can receive CDBG funds to carry out certain activities in connection with neighborhood revitalization, community economic development or energy conservation projects. CBDOs must be organized under state or local law to engage in community development activities in a specific geographic area within Missoula. Additional requirements (defined at 24 CFR § 570.204²) must be met to qualify as a CBDO. Qualified CHDOs that serve a geographic area of operation of no more than one neighborhood may qualify as CBDOs.

The City expects that Subrecipients, CHDOs and CBDOs have sufficient program and financial management capacity as well as knowledge of federal regulations in order to carryout CDBG and HOME activities. The City will provide technical assistance and guidance, but these entities have the sole responsibility of assuring that their program complies with all federal regulations as they relate to the entities’ work with beneficiaries, contractors, vendors, or other partners. In short, the City’s only working, contractual relationship is with the Subrecipient, CHDO or CBDO. These entities, in turn, are responsible for all communications and compliance with their various program partners and beneficiaries.

D. Contractual Agreement

Prior to the release of CDBG or HOME funds from the City, a written agreement must be executed with the Subrecipient. The agreement remains in effect during any period that the Subrecipient is operating a program or implementing a program in which CDBG or HOME funds are being invested. Every project must be reviewed for environmental compliance. City staff will complete the HUD required Environmental Review, which will begin upon receipt of the required documentation from the Subrecipient. No obligations

¹ https://www.ecfr.gov/cgi-bin/text-idx?SID=80fe052e95ea70731023ec1629a47a1d&mc=true&node=se24.1.92_12&rgn=div8
² <https://www.gpo.gov/fdsys/pkg/CFR-2011-title24-vol3/pdf/CFR-2011-title24-vol3-sec570-204.pdf>

or expenditures of HUD or non-HUD funds may be incurred until a satisfactory Environmental Review is completed. For projects that require an Environmental Assessment, Environmental Review will not be considered complete until HUD issues an Authority to Use Grant Funds (AUGF). Once the Environmental Review is complete and before a contract is signed, the Subrecipient may begin incurring CDBG or HOME-eligible costs for reimbursement after the contract is signed, but the Subrecipient incurs these costs at its own risk as any reimbursement is contingent upon HUD approval of the City's Action Plan and the City and the Subrecipient entering into the written contract agreement.

The City will record a Trust Indenture for all acquisition, rehabilitation or construction projects, which will stay in effect until project close-out, period of affordability or longer as determined by the City.

E. Pre-Contract Procedures

1. General Information – Responsible Party

Award of Funds – The City Council reviews staff recommendations for awards to applicant agencies and authorizes the Mayor to enter into contracts for the approved projects.

Release of Funds – Each year, Congress and the President approve federal appropriations that fund the U. S. Department of Housing and Urban Development (HUD). HUD reviews the City's program application as submitted in the annual Action Plan and makes the CDBG and HOME funds available to the City after the federal budget is approved. Typically, HUD makes funds available to the City in Spring, though delays in passing an appropriations bills result in delays locally.

HUD/City Grants Administrator Assignment – Each project will have an assigned Grants Administrator to work with the agency receiving funds. The Grants Administrator will provide ongoing technical assistance needed to support the program and to ensure timely contracting and successful program implementation.

City Orientation – After the City Council allocates the awards, the Grants Administrator provides Subrecipient agencies a training opportunity to teach the basic rules under which all CDBG or HOME activities must operate. This opportunity helps to establish clear expectations with respect to performance standards, policies, and procedures. The agency will find out how and when to start the program.

City/Agency Environmental Review Required – No HUD or non-HUD funds can be obligated or expended until an Environmental Record Review (ERR) is completed and the contract is executed. Following completion of the ERR, any expenditures for a program that take place before the execution of a contract are done so at the risk of the Subrecipient as any reimbursement for eligible CDBG or HOME expenditures are contingent upon HUD approval of the Annual Action Plan and the City and the Subrecipient entering into a written agreement.

City/Agency Monitoring/Site Visit – The Grants Administrator will monitor and review the agency's fiscal, management, operational procedures, compliance with ADA and other federal requirements, and the program or services offered. For most projects, a site visit will be scheduled as well.

City Contract – The written contract is the central part of the Subrecipient agreement of the CDBG or HOME program. It fulfills a legal requirement by presenting a concise

statement of rules of the CDBG and HOME programs, the conditions under which funds are provided and measures fiscal and program performance. This contract must be signed by the Chair of your agency's Board of Directors—not by the executive director.

City/Agency Procurement Requirements – If you plan to purchase materials, agency products, or services under the CDBG or HOME programs, the agency must follow a free and open competitive process in securing products or services. Agencies must properly document the purchase activity and decisions. All procurement undertakings must make an effort to outreach/utilize Minority Business Enterprises (MBE) and Women Business Enterprises (WBE) firms. Documentation must be maintained to verify the outreach efforts. See section VIII. for details on procurement procedures.

2. General Information – Agency

Responsible Party Audit Required – An audit for the agency's most recent audited year should be provided including any management letters and any responses the agency has made to the audit. On an ongoing basis, agencies are required to submit their audit to HCD within 180 days of the close of their fiscal year. If the agency is required to conduct a 2 CFR 200 single audit, that agency must submit their audit within nine months of the close of their fiscal year. If an agency is not required to conduct an audit, that agency must submit their Form 990 and the financial statements of their most recent fiscal year approved and signed by a Board Officer.

Agency Formal Monitoring Visit – During the course of the year the City may conduct a Program and Financial Performance Monitoring Visit. The purpose of the visit is to ensure Subrecipient activities and clients served were eligible and in compliance with the HUD National Objectives and that other regulatory requirements were met.

Agency Affirmative Action Requirements – Each agency must complete a description of the agency's Affirmative Action Plan prior to receiving reimbursement from the City.

Agency Articles of Incorporation, Agency By-Laws and Corporate Resolution – Agencies should forward copies of these documents to the assigned Grants Administrator. These documents must be signed and dated by an Officer of the Board of Directors. Articles of Incorporation must include the State of Montana stamp to prove they were filed. If at any time, the agency's Articles of Incorporation or By-Laws are updated, the agency must submit a copy of the revised documents to HCD within 30 days of the effective date of the changes.

Agency Taxpayer Identification Information Form/DUNS number – A W-9 form is required by IRS regulations. A DUNS number is required and must be on file prior to payment request. Return this information to the assigned Grants Administrator.

Workers' Compensation: SUBRECIPIENT must, at their own expense, obtain and keep in force any required workers' compensation insurance. The City of Missoula is not the worker's compensation insurer of SUBRECIPIENT's employees. SUBRECIPIENT must have current workers' compensation insurance in place for its employees. The City of Missoula shall have no liability with respect to any and all actions of SUBRECIPIENT's employees, officers or agents. SUBRECIPIENT shall provide CITY with a certificate of insurance evidencing SUBRECIPIENT's worker's compensation insurance coverage.

Liability Insurance: SUBRECIPIENT must, at their own expense, obtain and keep in force general commercial liability insurance to provide insurance against liability for loss, damage, or injury to property or persons that might arise out of SUBRECIPIENT's

activities. The City of Missoula shall have no liability with respect to any and all actions of SUBRECIPIENT's officers, employees or agents. SUBRECIPIENT shall provide CITY with a certificate of insurance evidencing liability insurance.

3. Preliminary Title Report and Insurance

The City will require receipt of a Preliminary Title Report on the Site to be encumbered by HOME or CDBG funds prior to recordation of the Trust Indenture and prior to disbursement of any funds. The City will require receipt of Title Insurance from the Subrecipient on the Site in the amount of the HOME or CDBG funds encumbering the property.

II. CDBG Program Objectives

The Community Development Block Grant (CDBG) program was created in 1974 and is administered by the Federal Government through the U.S. Department of Housing and Urban Development (HUD). The City of Missoula is an “Entitlement City” and therefore receives a direct annual allocation of federal CDBG dollars. The primary emphasis of the CDBG program is to ensure that each activity meets and complies with one of HUD's three broad national objectives which are:

1. Benefit to low-and moderate-income (LMI) households and/or persons
2. Prevention and/or elimination of slum and blight
3. Addressing other community development needs having a particular urgency

Although a Subrecipient can comply with the CDBG objectives by meeting any one of the three national objectives, *all of the City of Missoula's past Subrecipients* have been designated under a national objective benefiting low-to moderate-income households or individuals. For this reason, only program benefit criteria under the LMI benefit objective are fully explained in this manual, and the other two objectives are merely summarized.

A. Benefit to Low- And Moderate-Income

The project must be located within the City of Missoula limits or demonstrate that reasonable benefits from the activity will accrue to City of Missoula residents and must

- serve individuals or households who are low/moderate income, or
- provide a direct benefit to Missoula individuals or families, the majority of whom are considered low/moderate income based on the area median income figures (**Limited Clientele Benefit**) or
- serve an area where at least 51 percent of the residents are low/moderate income persons (**Area Benefit**).

Households and/or Individuals Clients who benefit from CDBG funds must have low-and moderate-incomes as defined by HUD. In order to meet this benefit test, each Subrecipient must adhere to the following:

1. Every Subrecipient must serve persons of low- and moderate-income. CDBG defines these income limits as percentages of Area Median Income (AMI): Extremely Low (30%), Low (50%) and Moderate (80%) Income. The CDBG program uses the HOME income limits³ as guidance for determining income eligibility. HUD typically updates these income limits in June of each year. The Grants Administrator will provide new tables to the Subrecipient as soon as they become available. It is the responsibility of the Subrecipient to adhere to all new guidelines from the date they receive them.
2. Regardless of other income limits, requirements, guidelines and regulations that may govern a Subrecipient's activities, for the purpose of the City of Missoula's CDBG program, all Subrecipients must ensure that the income of the clients they serve does not exceed CDBG Income Limits.

³ <https://www.hudexchange.info/programs/home/home-income-limits/>

Limited Clientele Benefit A limited clientele activity is an activity that benefits a specific group of people, rather than all the residents in a particular area. The limited clientele activities addressed in this section are intended to benefit at least 51% low-and moderate-income individuals. However, housing activities and activities designed to create or retain jobs may not qualify under this category. To qualify under this category, the activity must either:

1. Benefit a clientele who are generally presumed to be principally low- and moderate-income (L/M) individuals. This presumption covers abused children, battered spouses, elderly persons, severely disabled adults, homeless persons, illiterate adults, persons living with AIDS and migrant farm workers⁴; or

- **Presumed Benefit Activities:** If an LMC* activity is limited to assisting one or more of the presumptive benefit groups, report the number of persons benefiting under the following income categories unless you have information that supports reporting them under a different income category:

Group	Income Level
Abused children	Extremely low income
Battered spouses	Low income
Severely disabled adults	Low income
Homeless persons	Extremely low income
Illiterate adults	Low income
Persons with AIDS	Low income
Migrant farm workers	Low income
Elderly	If assistance is to acquire, construct, convert, and/or rehabilitate a senior center or to pay for providing center-based senior services, report the beneficiaries as moderate income. If assistance is for other services (not center-based), report the elderly beneficiaries as low income.

2. Require information on family size and income so that it is evident that at least 51% of the clientele are individuals whose family income does not exceed the L/M limit or

3. Have income eligibility requirements that limit the activity exclusively to low- and moderate-income individuals or

4. Be of such nature and location that it is obvious the clientele benefiting from the activity will be low- and moderate-income individuals.

Limited clientele activities include, for example:

- Construction of a senior center
- Public services for the homeless
- Construction of job training facilities for the disabled

⁴ <https://www.hudexchange.info/resources/documents/Basically-CDBG-Chapter-3-Nat-Obj.pdf>

Limited Area Benefit A limited area activity is an activity that benefits individuals and households in a specific area, such as a census block group or identifiable neighborhood that consists of at least 51 percent low/moderate income population. HUD's CPD Maps Tool⁵ is helpful in determining which areas qualify under this category.

Definition of Income: in accordance with 24 CFR 570.3, for CDBG, the City of Missoula utilizes the annual income definition provided at 24 CFR 5.609⁶. When determining income eligibility, 24 CFR 5.609(b)(3) requires that CDBG subrecipients and CBDOs include in calculating annual income the greater of either: (1) actual income resulting from all net family assets; or (2) a percentage of the value of such assets based upon the current passbook savings rate as determined by HUD when a family has net assets in excess of \$5,000. The current passbook savings rate determined by HUD is .06%.⁷

Connection to Housing Outcomes

Regardless of the CDBG National Objective that is met, the City of Missoula further requires that all CDBG applications show a direct connection to affordable housing and/or homelessness outcomes.

B. Aid in the prevention of slum or blight

The project must be located within the City of Missoula and must show that the area meets the State or local government's definition of slums and blight. For Missoula, the determination of whether a property is defined as slum or blight shall be obtained from the Missoula Redevelopment Agency.

C. Meet an urgent need

The activity must provide a remedy to a serious and immediate health or welfare problem, such as a natural disaster; *and* there are no other funds available; *and* the problem is of a recent origin.

D. Match

The City of Missoula encourages Subrecipients to match their CDBG assistance with at least 20% in non-federal financial matching funds. In-kind donations of goods and/or professional services may be deemed as acceptable match provided that Subrecipient submits documentation to the satisfaction of HCD that demonstrates a) these costs would have been paid for with cash by Subrecipient to a third-party were it not for the in-kind donation and b) these costs are reasonable and acceptable based on industry standards.

E. Standards for Affordable Rents

When CDBG is used to support affordable rental housing for low-to-moderate income households, HCD will use the High HOME rent limits⁸ posted annually by HUD as the standard for affordable rents.

⁵ <https://egis.hud.gov/cpdmaps/>

⁶ https://www.ecfr.gov/cgi-bin/text-idx?rgn=div5&node=24:1.1.1.1.5#se24.1.5_1609

⁷ <https://portal.hud.gov/hudportal/documents/huddoc?id=16-01hsgn.pdf>

⁸ <https://www.hudexchange.info/programs/home/home-rent-limits/>

F. Rehabilitation Standards

When CDBG is used to support housing rehabilitation, the City of Missoula's Rehabilitation Standards included in building codes will apply.

G. Period of Affordability

While not required by CDBG regulations, in an effort to promote long-term affordable housing, HCD will require that CDBG-supported housing developments, homeowner rehabilitation, and homebuyer assistance have periods of affordability based on the level of CDBG assistance per unit. HCD will follow the same guidelines that apply to the HOME program based on CDBG subsidy per affordable unit.

- 1. Rehabilitation and/or acquisition of housing per unit amount of federal HOME funds:
 - Under \$15,000..... 5 years
 - \$15,000 to \$40,000..... 10 years
 - Over \$40,000..... 15 years
- 2. New construction of rental housing..... 20 years

III. HOME Program Objectives

The Home Investment Partnerships (HOME) Program was created by the National Affordable Housing Act of 1990 and is administered by the Federal Government through the U.S. Department of Housing and Urban Development (HUD). This federal program is designed to strengthen public-private partnerships and to expand the supply of decent, safe, sanitary, and affordable housing. The City of Missoula is a “Participating Jurisdiction” and receives a direct annual allocation of federal HOME dollars.

A. HOME Objectives

HOME funds are used to achieve the following objectives:

- To provide decent affordable housing for low- and moderate-income households;
- To strengthen the ability of state and local governments to provide housing;
- To leverage private sector participation.

B. HOME Activities

Eligible activities for use of these funds are defined in accordance with the following categories:

- Homebuyer activities;
- Rental housing activities;
- Tenant-based rental assistance;
- Housing rehabilitation;
- Affordable housing construction;
- CHDO Operating Assistance;
- CHDO Predevelopment Loans.

IV. Additional HOME Requirements

A. Required Match

In general, HOME funds must be matched by nonfederal resources, which include but are not limited to: private cash or contributions from organizations, individuals, or other sources; in-kind salary or materials; Low Income Housing Trust Fund; or other nonfederal sources, as defined in Section 92.220. The current match requirement program-wide is 25%, but may change. Contact your Grants Administrator for the correct match amount. Given the unique nature of Tenant-Based Rental Assistance, TBRA may be eligible for an exemption from the match requirement if approved in advance by HCD.

B. Income Eligibility Determination

Technical eligibility of the household will be performed by the Subrecipient staff, independent of the financial analysis performed by other entities, e.g. lenders, realtors. Household income eligibility will be performed in accordance with procedures identified in HUD's *Technical Guide for Determining Income and Allowances for the HOME Program, Second Edition* (HUD-1780-CPD), using the most current HUD HOME Program Income Limits. The CPD Income Eligibility Calculator⁹ is a helpful tool for determining income eligibility.

An Income Eligibility Package must be completed on each household to include at a minimum an income and asset questionnaire, Household Income Declaration Form, and source documents used to verify income.

For the purposes of determination of income eligibility, HOME subrecipients and CHDOs should use the definition annual income as defined at 24 CFR 5.609¹⁰ (except when determining the income of a homeowner for an owner-occupied rehabilitation project, the value of the homeowner's principal residence may be excluded from the calculation of Net Family Assets, as defined in 24 CFR 5.603).

When determining income eligibility for the HOME program, 24 CFR 5.609(b)(3) requires that HOME subrecipients and CHDOS include in calculating annual income the greater of either: (1) actual income resulting from all net family assets; or (2) a percentage of the value of such assets based upon the current passbook savings rate as determined by HUD when a family has net assets in excess of \$5,000. The current passbook savings rate determined by HUD is .06%.¹¹

C. Period of Affordability

The HOME-assisted units must meet the affordability requirements for not less than the applicable period specified, beginning after project completion. Affordability requirements apply regardless of the term of any loan or mortgage or the transfer of ownership. They are imposed by deed restrictions, covenants running with the land, or other HUD approved mechanisms, but may terminate upon foreclosure or transfer in lieu of foreclosure.

1. Rehabilitation and/or acquisition of housing per unit amount of federal HOME funds:

⁹ <https://www.hudexchange.info/incomecalculator/>

¹⁰ https://www.ecfr.gov/cgi-bin/text-idx?rgn=div5&node=24:1.1.1.1.5#se24.1.5_1609

¹¹ <https://portal.hud.gov/hudportal/documents/huddoc?id=16-01hsgn.pdf>

- Under \$15,000..... 5 years
- \$15,000 to \$40,000..... 10 years
- Over \$40,000..... 15 years

2. New construction of rental housing..... 20 years

During the period of affordability, funds are recaptured upon sale or transfer of title of the assisted units, or the assisted unit may be re-sold to an eligible buyer. Each property has a Deed of Trust recorded insuring the resale or recapture in the event of the sale or transfer. During the period of affordability, if the Subrecipient violates compliance requirements, Subrecipient will be subject to Repayment of the entire HOME investment. See Resale and Recapture provisions in the Appendix, Part D.

D. Rental Housing – Program Targeting

1. Rules for rental housing:

- at least 90 percent of HOME funds must be invested in units that are occupied by families whose incomes do not exceed 60 percent of the Area Median Income (AMI);
- up to 10 percent may be invested in units occupied by families below 80 percent of AMI;
- All HOME funds for any project must be invested in affordable units; In projects of five (5) or more HOME-assisted units, 20 percent of the units must be rented to persons whose income does not exceed 50 percent AMI.

2. Definition of an affordable housing project:

- Rents for HOME-assisted units are at or below the existing HOME “high” and “low” rent limits¹², including utility allowances¹³ as determined by the Montana Board of Housing, and households occupying HOME-assisted units have incomes at or below 50% or 60% of area median income as determined by HUD rules; and
 - In rental projects with five or more HOME-assisted rental units, twenty (20) percent of the HOME-assisted units must be occupied by very low-income families and be charged rent – including utility allowance – that does not exceed the “low” HOME rent limit.
- Units will remain affordable for the period of affordability.

E. Homebuyer Assistance Property Eligibility

Property to be purchased or constructed must meet the following criteria:

- Be located within the City of Missoula limits.
- May be a single family home, condominium, or manufactured housing unit.

¹² <https://www.hudexchange.info/programs/home/home-rent-limits/>

¹³ <http://housing.mt.gov/MFUtility>

- Purchase price (including all closing costs, options and upgrades) must comply with HOME Homeownership Value Limits¹⁴.
- New construction or existing. If existing, must be owner-occupied or have been vacant for at least six months. There are three exceptions to this qualification:
 - a. Present renter is the homebuyer,
 - b. Tenant was evicted for cause, or
 - c. Tenant moved voluntarily.
- Must have a Housing Quality Standards (HQS) inspection and meet HQS acceptability criteria at time of initial occupancy (it will be seller's responsibility to pay for any repairs required for the property to pass the HQS inspection).
- Applicant must occupy as principal resident during the period of HUD affordability.
- Applicant must accept a deed restriction for a term from the date of close of escrow, the length of which depends on the amount of HOME assistance.
- Applicant may not allow any liens or encumbrances or refinance the property for the affordability period.

F. Underwriting and Subsidy Layering

In accordance with 24 CFR §92.250 – and HUD CPD Notice 15-11¹⁵ – the City of Missoula will conduct an underwriting and subsidy layering review prior to committing HOME funds to a project. In general, underwriting and subsidy layering is required for all HOME-assisted projects except for HOME-assisted homeowner rehabilitation that does not involve an amortizing loan that the homeowner will pay back.

The City of Missoula will require that Subrecipients submit all relevant documentation in order to complete this underwriting and subsidy layering review.

G. Minimum and Maximum HOME Subsidy per Unit Limits

Pursuant to 24 CFR 92.205(c)¹⁶ “the minimum amount of HOME funds that must be invested in a project involving rental housing or homeownership is \$1,000 times the number of HOME-assisted units in the project.” The minimum HOME investment does not apply to TBRA.¹⁷

Notwithstanding other HOME requirements that may further limit the amount of HOME subsidy per unit that can be provided to a project, HUD has established the following

¹⁴ <https://www.hudexchange.info/resource/2312/home-maximum-purchase-price-after-rehab-value/>

¹⁵ <https://www.hudexchange.info/resources/documents/Notice-CPD-15-11-Requirements-for-the-Development-and-Implementation-of-HOME-Underwriting-and-Subsidy-Layering-Guidelines.pdf>

¹⁶ <https://www.ecfr.gov/cgi-bin/text-idx?SID=4921d71473af6a9c89fb162dab8b492f&mc=true&node=pt24.1.92&rqn=div5#se24.1.92.1205>

¹⁷ <https://www.hudexchange.info/resources/documents/Building-HOME-Chapter-2-General-Program-Rules.pdf>

maximum HOME subsidy per unit limits. These limits are current as of March 2018 and may be updated based on HUD guidance.

Unit Type	Maximum HOME Subsidy Per Unit
0 BR	\$144,050
1 BR	\$165,134
2 BR	\$200,801
3 BR	\$259,774
4 BR	\$285,149

Please note that additional restrictions may apply on the maximum HOME subsidy per unit. For example, for Tenant-Based Rental Assistance (TBRA) the maximum HOME subsidy allowed is the Payment Standard minus 30% of the client's income.

It is also important to note that the maximum HOME subsidy per unit takes into account all HOME assistance, regardless of the source or program. For example, if the City provides HOME funds to a developer to create homebuyer housing and the homebuyer uses downpayment assistance funded by HOME, the aggregate of those two HOME subsidies is considered when determining compliance with the maximum HOME subsidy per unit.

H. Cost Allocation

The City of Missoula will conduct a cost allocation calculation of all HOME-assisted development projects in order to assign the appropriate number of HOME-assisted units. The City will comply with guidance established by HUD CPD Notice 16-15 entitled "Allocating eligible costs and identifying HOME-assisted units in multi-unit HOME rental and homeownership development projects."¹⁸

I. HOME Project Deadlines

The HOME program imposes several additional regulatory deadlines:

Acquisition/demolition (§92.2): Any acquisition of standard housing must occur within six months of the contract or purchase agreement date, and construction, or demolition of the property must be scheduled or reasonably can be expected to start within 12 months of the agreement date.

Project completion (§92.205(e)(2), §92.2): Subrecipients must complete the projects within four years of the date funds are committed to the project.

Lease-up (§92.252): If a HOME-assisted unit is not occupied by an eligible tenant within six months following project completion, the Subrecipient must report status and marketing efforts to HCD. If the unit remains unoccupied at 18 months after the project completion date, HCD will require the Subrecipient to repay the HOME funds.

¹⁸ <https://www.hudexchange.info/resources/documents/Notice-CPD-16-15-Allocating-Eligible-Costs-and-Identifying-HOME-Assisted-Units-in-Multi-Unit-HOME-Rental-and-Homeownership-Development-Projects.pdf>

Homebuyer unit sale (§92.254(a)(3)): For homebuyer development projects subject to the HOME Rule, if there is no ratified sales contract within nine months of the construction or rehabilitation completion, the ownership unit must be converted to HOME-assisted rental housing pursuant to §92.252.

J. Property Standards

All properties assisted with HOME funds are subject to minimum property standards at project completion. For the City of Missoula, the property standards are the local building codes. In addition, rental projects are subject to property standards throughout the affordability period. For projects that provide 26 or more units, the Subrecipient must submit, and the City of Missoula must approve, a capital needs assessment (§92.251(b)(1)(ix)).

K. Site and Neighborhood Standards

All HOME-assisted rental developments must conform to the site and neighborhood standards identified at 24 CFR § 983.6.¹⁹

(b) New construction site and neighborhood standards. The proposed sites for new construction units must be approved by the HUD field office as meeting the following site and neighborhood standards:

(1) The site must be adequate in size, exposure, and contour to accommodate the number and type of units proposed, and adequate utilities (water, sewer, gas, and electricity) and streets must be available to service the site.

(2) The site and neighborhood must be suitable from the standpoint of facilitating and furthering full compliance with the applicable provisions of title VI of the Civil Rights Act of 1964, the Fair Housing Act, Executive Order 11063, and implementing HUD regulations.

(3)(i) The site must not be located in an area of minority concentration, except as permitted under paragraph (b)(3)(ii) of this section, and must not be located in a racially mixed area if the project will cause a significant increase in the proportion of minority to non-minority residents in the area.

(ii) A project may be located in an area of minority concentration only if:

(A) Sufficient, comparable opportunities exist for housing for minority families, in the income range to be served by the proposed project, outside areas of minority concentration (see paragraph (b)(3)(iii) of this section for further guidance on this criterion); or

(B) The project is necessary to meet overriding housing needs that cannot be met in that housing market area (see paragraph (b)(3)(iv) of this section for further guidance on this criterion).

(iii)(A) “Sufficient” does not require that in every locality there be an equal number of assisted units within and outside of areas of minority concentration. Rather, application

¹⁹ <https://www.gpo.gov/fdsys/pkg/CFR-2003-title24-vol4/xml/CFR-2003-title24-vol4-sec983-6.xml>

of this standard should produce a reasonable distribution of assisted units each year, that, over a period of several years, will approach an appropriate balance of housing choices within and outside areas of minority concentration. An appropriate balance in any jurisdiction must be determined in light of local conditions affecting the range of housing choices available for low-income minority families and in relation to the racial mix of the locality's population.

(B) Units may be considered “comparable opportunities” if they have the same household type (elderly, disabled, family, large family) and tenure type (owner/renter); require approximately the same tenant contribution towards rent; serve the same income group; are located in the same housing market; and are in standard condition.

(C) Application of this sufficient, comparable opportunities standard involves assessing the overall impact of HUD-assisted housing on the availability of housing choices for low-income minority families in and outside areas of minority concentration, and must take into account the extent to which the following factors are present, along with other factors relevant to housing choice:

(1) A significant number of assisted housing units are available outside areas of minority concentration.

(2) There is significant integration of assisted housing projects constructed or rehabilitated in the past 10 years, relative to the racial mix of the eligible population.

(3) There are racially integrated neighborhoods in the locality.

(4) Programs are operated by the locality to assist minority families that wish to find housing outside areas of minority concentration.

(5) Minority families have benefited from local activities (e.g., acquisition and write-down of sites, tax relief programs for homeowners, acquisitions of units for use as assisted housing units) undertaken to expand choice for minority families outside of areas of minority concentration.

(6) A significant proportion of minority households has been successful in finding units in non-minority areas under the Section 8 certificate and voucher programs.

(7) Comparable housing opportunities have been made available outside areas of minority concentration through other programs.

(iv) Application of the “overriding housing needs” criterion, for example, permits approval of sites that are an integral part of an overall local strategy for the preservation or restoration of the immediate neighborhood and of sites in a neighborhood experiencing significant private investment that is demonstrably changing the economic character of the area (a “revitalizing area”). An “overriding housing need,” however, may not serve as the basis for determining that a site is acceptable if the only reason the need cannot otherwise be feasibly met is that discrimination on the basis of race, color, religion, sex, national origin, age, familial status or disability renders sites outside areas of minority concentration unavailable or if the use of this standard in recent years has had the effect of circumventing the obligation to provide housing choice.

(4) The site must promote greater choice of housing opportunities and avoid undue concentration of assisted persons in areas containing a high proportion of low-income persons.

(5) The neighborhood must not be one which is seriously detrimental to family life or in which substandard dwellings or other undesirable conditions predominate, unless there is actively in progress a concerted program to remedy the undesirable conditions.

(6) The housing must be accessible to social, recreational, educational, commercial, and health facilities and services, and other municipal facilities and services that are at least equivalent to those typically found in neighborhoods consisting largely of unassisted, standard housing of similar market rents.

(7) Except for new construction housing designed for elderly persons, travel time and cost via public transportation or private automobile, from the neighborhood to places of employment providing a range of jobs for lower-income workers, must not be excessive

L. Subrecipient Responsibilities—Homebuyer Programs

The following is a list of activities the Subrecipient will be responsible for implementing to ensure the success of its homebuyer program:

1. Program Management

In addition to providing direct financial assistance, Subrecipients will provide a range of technical assistance services including, but not limited to, homebuyer counseling, inspections (including lead based paint by a certified inspector), cost estimating, document preparation and loan administration. Participating Subrecipients may charge a fee for these services that is reasonable and customary. Such fees must be disclosed to the potential homebuyer in writing and included in the loan agreement between the Subrecipient and the homebuyer. In addition, the fees must be included in the Final HUD-I report as a charge to the buyer. These fees will be considered soft costs and will be paid out through escrow at project completion in accordance with the approved fee schedule.

Developers, builders, realtors, etc., are precluded from receiving HOME-funded down payment assistance.

It is the responsibility of the participating Subrecipients to ensure that prior to purchase, the proposed unit meets the required HQS and that it is located outside of the flood plain area (or adequate flood insurance is obtained) and not within a Runway Clear Zone (or if so located, a disclaimer form is obtained from the potential homebuyer).

The participating Subrecipients will be required to provide to the city quarterly reports of their program's progress and accomplishments. In addition, they will be required to conduct annual recertification of all homebuyers participating in the program to verify occupancy and household income which will be kept on file at the Subrecipient's location subject to inspection during city staff monitoring visits.

All participating Subrecipients will be expected to respond to any issues which arise concerning recapture, refinancing, or foreclosure of properties which were purchased through the city of Missoula HOME Program. In addition, Subrecipients must follow all other program requirements referenced in this City of Missoula Grants Administration Manual.

2. Marketing and Outreach

An Affirmatively Furthering Fair Housing (AFFH) action plan must be developed and implemented to ensure that information and access for the program is made available to a broad spectrum of the community with an emphasis on traditionally under-served populations.

3. Homebuyer Education

All HOME-assisted homebuyers must complete a City-approved homebuyer education course conducted by a HUD-certified counselor. A copy of each homebuyer's certificate of completion must be maintained in the file by the Subrecipient. Prior to commitment of HOME funds, homebuyers must be informed of all requirements and fees charged to participate in the homebuyer program, including the requirement to sign a Deed of Trust and the requirement of flood insurance if the property is located in a flood plain. Subrecipients are strongly discouraged to assist properties in flood plain areas. In addition, the homebuyer must be educated concerning the hazards of lead-based paint and the lead-based paint requirements and a signed acknowledgement of this education by the homebuyer indicating that he has received this training and understands the dangers of lead based paint must be obtained and maintained by the Subrecipient in the project file.

4. Determination of Income Eligibility

Technical eligibility of the household will be performed by the Subrecipient staff, independent of the financial analysis performed by other entities, e.g. lenders, realtors. Household income eligibility will be performed in accordance with procedures identified in HUD's *Technical Guide for Determining Income and Allowances for the HOME Program, Second Edition* (HUD-1780-CPD), using the most current HUD HOME Program Income Limits. The CPD Income Eligibility Calculator²⁰ is a helpful tool for determining income eligibility.

An Income Eligibility Package must be completed on each household to include at a minimum an income and asset questionnaire, Household Income Declaration Form, and source documents used to verify income.

For the purposes of determination of income eligibility, HOME subrecipients and CHDOs should use the definition annual income as defined at 24 CFR 5.609²¹ (except when determining the income of a homeowner for an owner-occupied rehabilitation project, the value of the homeowner's principal residence may be excluded from the calculation of Net Family Assets, as defined in 24 CFR 5.603).

When determining income eligibility for the HOME program, 24 CFR 5.609(b)(3) requires that HOME subrecipients and CHDOS include in calculating annual income the greater of either: (1) actual income resulting from all net family assets; or (2) a percentage of the value of such assets based upon the current passbook savings rate as determined by HUD when a family has net assets in excess of \$5,000. The current passbook savings rate determined by HUD is .06%.²²

²⁰ <https://www.hudexchange.info/incomecalculator/>

²¹ https://www.ecfr.gov/cgi-bin/text-idx?rgn=div5&node=24:1.1.1.1.5#se24.1.5_1609

²² <https://portal.hud.gov/hudportal/documents/huddoc?id=16-01hsgn.pdf>

5. Commitment of HOME Funds

Subrecipients should not commit HOME funds to a homebuyer project until the following has occurred:

1. Prospective Homebuyer has completed the required Homebuyer education course;
2. Household has been approved for a first mortgage loan through an approved lender;
3. Subrecipient has received authorization from City staff that sufficient funds are available (City staff provides this verification through the issuance of a contract and notice to proceed.) Commitment of funds will be for a minimum period of 45 days. The Subrecipient must have a written policy concerning the procedures to be followed if the homebuyer is unable to close escrow within the time allowed. Homebuyer must sign this policy acknowledging that they have read, understand, and agree to its terms.

6. Project Completions

Once the Subrecipient receives a copy of the recorded Deed of Trust and a final HUD-1, the Subrecipient may submit a completion report and request for reimbursement. This must be delivered to the City and include:

1. Completion Report
2. Request for Funds
3. Copy of final settlement statement (final signed HUD-1)
4. Deed of Trust (NOTE: copy of signed original must be recorded within 30 working days from close of escrow)
5. Signed Loan Agreement
6. Signed Promissory Note
7. Proof of homeowners insurance
8. Signed Request for Notice

7. Other Federal Requirements

Please review Section V. part C for additional federal requirements that may apply to HOME-funded activities.

M. Affirmative Marketing Procedures

In accordance with 24 CFR 92.351, the City of Missoula adopts and follows affirmative marketing procedures and requirements for rental and homebuyer projects containing five or more HOME-assisted housing units. Affirmative marketing requirements and procedures also apply to all HOME-funded programs, including, but not limited to, tenant-based rental assistance and downpayment assistance programs. Affirmative marketing steps consist of actions to provide information and otherwise attract eligible persons in the housing market area to the available housing without regard to race, color, national origin, sex, religion, familial status, or disability.

Methods for informing the public, owners, and potential tenants about Federal fair housing laws and the participating jurisdiction's affirmative marketing policy (e.g., the use of the Equal Housing Opportunity logotype or slogan in press releases and solicitations for owners, and written communication to fair housing and other groups)

The City of Missoula posts HUD Fair Housing brochures on its website and includes the Equal Opportunity Logo on letters and in presentations.

Requirements and practices each subrecipient and owner must adhere to in order to carry out the participating jurisdiction's affirmative marketing procedures and requirements (e.g., use of commercial media, use of community contacts, use of the Equal Housing Opportunity logotype or slogan, and display of fair housing poster)

The City of Missoula requires that subrecipients undertaking HOME activities develop affirmative marketing policies and place the Equal Housing Opportunity logo on all printed materials promoting HOME-assisted housing.

For all HOME-assisted housing activities, the City of Missoula encourages subrecipients to promote their programs through outreach to: local media, the At-Risk Housing Coalition, the Missoula Housing Authority, Homeward's Homeowner/Homebuyer/Renter classes, and other avenues.

For HOME-assisted homebuyer developments, the City of Missoula requires that subrecipients publicly list the sales opportunities on the Multiple Listing Service for at least 10 days prior to accepting an offer.

Procedures to be used by subrecipients and owners to inform and solicit applications from persons in the housing market area who are not likely to apply for the housing program or the housing without special outreach (e.g., through the use of community organizations, places of worship, employment centers, fair housing groups, or housing counseling agencies)

Subrecipients are encouraged to engage such persons through a variety of avenues including: the At-Risk Housing Coalition, Missoula Job Service, Homeward Housing Education Classes.

Records that will be kept describing actions taken by the participating jurisdiction and by subrecipients and owners to affirmatively market the program and units and records to assess the results of these actions

(INSERT SUBRECIPIENT RESPONSE)

A description of how the participating jurisdiction will annually assess the success of affirmative marketing actions and what corrective actions will be taken where affirmative marketing requirements are not met.

(INSERT SUBRECIPIENT RESPONSE)

V. Administrative Provisions

A. Written Agreement with City

A written agreement must be entered into between the City and all entities receiving CDBG or HOME funds. The written agreement forms the basis for the contractual obligation between the parties to fund and implement the activity or program. The agreement will denote responsibilities attributable to each party, and shall outline in exact measure the scope of services to be provided, methods of accountability, and a schedule for payment. Execution of the agreement binds the Subrecipient for a specified period of time, and is amendable only upon written authorization from the City.

B. Post-Award Responsibilities

Upon execution of the agreement between the City and the Subrecipient, the Subrecipient shall:

1. Immediately report all changes in its articles of incorporation, bylaws, or tax-exempt status to the City.
2. Maintain no member of the Board of Directors as a paid employee, agent or subcontractor.
3. Include on the Board of Directors representation from the broadest possible cross-section of the community, including those with expertise and interest in the provided services, representatives from community organizations interested in the services, and users of the services.
4. Open to the public all meetings of the Board of Directors, except meetings or portions thereof dealing with personnel or litigation matters, consistent with Montana's open meeting laws.
5. Keep minutes of all regular and special meetings of the Board of Directors, have a regular meeting at least once each three (3) months, and upon request, forward copies of minutes to the Grants Administrator.

C. Federal Requirements

Subrecipients and subcontractors must comply with all applicable federal regulations governing the use of CDBG and HOME funds. Several key requirements are:

1. Relocation Requirements

Funded projects are subject to relocation requirements contained in the Uniform Relocation Act (URA), and in some projects, Section 104(d) of the Housing and Community Development Act. URA relocation requirements are triggered whenever displacement occurs as a direct result of rehabilitation, demolition, or acquisition for an assisted project. Subrecipients must document compliance with URA even if displacement does not occur. The extent of the relocation assistance will be determined on a project-by-project basis.

2. Handicapped Accessibility Requirements

Section 504 of the Rehabilitation Act of 1973 prohibits discrimination in federally assisted activities on the basis of handicap, and imposes requirements to ensure that qualified individuals with handicaps have access to these program and activities. The extent of

the application of Section 504 requirements will vary with each individual project, but general guidelines²³ include:

- For new construction of multi-family projects, 5 percent of the units in the project (but not less than one unit) must be accessible to individuals with mobility impairments, and an additional 2 percent of the units (but not less than one unit) must be accessible to individuals with sensory impairments.
- The Section 504 definition of substantial rehabilitation multi-family projects includes construction in a project with 15 or more units for which the rehabilitation costs will be 75 percent or more of the replacement cost. In such developments, 5 percent of the units in the project (but not less than one unit) must be accessible to individuals with mobility impairments, and an additional 2 percent (but not less than one unit) must be accessible to individuals with sensory impairments.
- When rehabilitation less extensive than substantial rehabilitation is undertaken, alterations must, to the maximum extent feasible, make the unit accessible to and usable by individuals with handicaps, until 5 percent of the units are accessible to people with mobility impairments. Alterations to common spaces must, to the maximum extent feasible, make the project accessible.
- Accessible units must be, to the maximum extent feasible, distributed throughout projects and sites and must be available in a sufficient range of sizes and amenities so as to not limit choice.
- Owners and managers of projects with accessible units must adopt suitable means to assure that information regarding the availability of accessible units reaches eligible individuals with handicaps. They also must take reasonable non-discriminatory steps to maximize use of such units by eligible individuals.
- When an accessible unit becomes vacant, before offering the unit to a non-handicapped individual, the owner/manager should offer the unit: first, to a current occupant of the project requiring the accessibility feature; and second, to an eligible qualified applicant on the waiting list requiring the accessibility features.
- The usual standards for ensuring compliance with Section 504 are the Uniform Federal Accessibility Standards (UFAS), although deviations are permitted in specific circumstances.

3. Housing Quality Standards

All assisted housing, including homeownership and rental housing, must maintain the housing in compliance with all applicable State and local housing quality standards (HQS) and code requirements. If there are no such standards, the housing must meet the housing quality standards in 24 CFR 982.402. Therefore, City of Missoula codes and standards apply as listed on the City [website](#). Each rental unit is required to have an annual HQS inspection performed by a certified HQS inspector.

²³ <https://www.hudexchange.info/resources/documents/Building-HOME-Chapter-10-Other-Federal-Requirements.pdf>

4. Sam.gov Registration

CDBG and HOME regulations require that all CDBG-HOME Subrecipients and their subcontractors are registered and have no active exclusions in the System for Award management (www.sam.gov). Subrecipients must submit documentation of good standing of their organization and any subcontractors prior to receiving CDBG or HOME funds.

VI. Recordkeeping

The City of Missoula is responsible for ensuring that Subrecipient activities are carried out in compliance with all applicable program requirements and that the program goals are on track with the objectives outlined in the agency contract. Accurate recordkeeping is crucial to the successful management of CDBG and HOME funded programs. Insufficient documentation can lead to delayed payments or monitoring findings, both of which can be difficult to resolve if records are missing, inadequate or inaccurate.

A. Financial Records

Financial recordkeeping is one of the primary areas subject to HUD reviews and one which if inadequate can lead to serious problems. These are the types of financial records that must be maintained by the agency:

- Chart of accounts, written accounting procedures, accounting journals and ledgers;
- Payment requests and source documentation (bills, receipts, copies or cancelled checks, etc.);
- Procurement files (bids, contracts, etc.) and real property inventory;
- Bank account and payroll records;
- Financial reports, correspondence and audit files.

Staff with accounting skills but not necessarily with a CDBG or HOME background often handles the agency's financial functions. To ensure proper financial recordkeeping and reporting, agencies should help their financial staff understand:

- What information needs to be kept and why;
- When should information be collected and how often reported;
- How the information should be acquired, organized, and stored;
- How the information should be reported (format) and how long the records must be kept.

1. Grants Accounting Records

Financial records are an integral part of the required computer accounting system. The required grants accounting records for Subrecipients are listed and discussed below. The computer bookkeeping/accounting system should have a general ledger type printout showing the assets, liabilities, income, and expenses. The system should provide a separate report for income and expenses by category or grant. Bank

reconciliations must be performed monthly and balanced with the cash account in the general ledger. Further explanation of these required reports are as follows:

General Ledger - The general ledger shall include separate accounts for all assets, liabilities, income, and expense categories, as well as an account for the cash/fund balance.

Cash Disbursements - A computer printout of the grant expenses by category or account code must be submitted with the reimbursement request.

Payroll Reports - Subrecipients are required to maintain payroll reports detailing gross salaries, all withholding and employer payments.

Property Register - To adhere to requirements outlined in the Revisions to 24 CFR Part 570 at subpart J, a listing of all property and/or equipment purchased with Federal grant funds in the amount of \$500 or more must be maintained. All federally funded equipment purchases must be recorded on an Inventory/Property Control Form, and submitted to HCD upon request. All use and proposed dispositions of grant-funded property is governed by the provisions under the revisions to 24 CFR Part 570 at subpart J.

2. General Responsibilities

Management and administration of HUD grant funds is the responsibility of the Subrecipient accepting the funds. The Subrecipient's Director, or authorized designee, will be responsible for reviewing and approving all transactions involving the grant funds, before the Subrecipient's financial officer or accountant, or authorized designee, processes them. The Subrecipient's Director and/or Board of Directors', or authorized designee, responsibilities include:

- Approval of purchase orders and contracts to be reimbursed through HUD grant funds
- Receipt and approval of invoices
- Review and approval of requests for payments involving HUD grant funds are coded properly
- Compliance with the City Grant Agreement and Subrecipient Informational Program Manual

Finance Officer Responsibilities

The finance officer or accountant is responsible for maintaining a computer accounting/bookkeeping system. The finance officer's or accountant's responsibilities include, but are not limited to:

- Control of accounting documents for processing by the Subrecipient
- Preparation of financial reports based on accounting records
- Preparation of requests for reimbursement, subject to review by the agency's Director
- Implementation and oversight of all financial procedures designed to avoid or eliminate waste, fraud, or abuse of grant funds.

Should the City determine that the finance officer or accountant is not maintaining proper financial records, or processing accurate information, the City has the right to request the Subrecipient to remove that individual from grants responsibility. The following is a

list of key elements required of financial systems for managing federal funds. The questions can help identify specific areas where the agency may need to strengthen or improve.

3. Internal Controls

To meet the cash management requirements a Subrecipient's financial management systems must provide for:

- A computer accounting system that records the source of income and categorizes expenses for grant activities. This system should contain income and expenses pertaining to federal grants.
- Effective control over all grant funds, property and equipment, and other assets. Subrecipients shall adequately safeguard all such assets and shall assure that they are used solely for authorized purposes.
- Comparison of actual checks written with budgeted amounts for each grant.
- Computer printouts that are supported by source documentation (i.e. original invoices marked "Paid" with dates and check number).
- A separate account for all grant income and expenses.
- A method to assure timely and appropriate resolution of audit findings and recommendations.
- Written policies and procedures that define separation of duties, authority, etc.
- Written accounting procedures for approving and recording transactions.
- Financial records periodically compared to actual assets/liabilities for accuracy.

4. Accounting Records

The Subrecipient's accounting system will be based on a cash accounting basis. This system is noted for two distinguishing elements. Income is recorded when it is received, and expenses are recorded when they are paid.

- Adequate financial accounting systems must be in place and maintained.
- Reliable, complete, up to date information must be available and reconciliations performed on regular basis.
- Agency has accounting records that track CDBG or HOME income and expenditures separately from the agency's other income and expenditures.
- Agency has internal controls for preparing expenditures and assigning them to the proper fund account and budget item.

5. Allowable Costs

Agency should have written procedures for determining what's reasonable and allowable in accordance with 2 CFR Part 200²⁴.

²⁴ <https://www.gpo.gov/fdsys/granule/CFR-2014-title2-vol1/CFR-2014-title2-vol1-part200/content-detail.html>

6. Source Documentation

In the simplest terms, financial transactions involve writing checks, and receiving reimbursement for eligible activities. Every grant related financial transaction must be recorded immediately into the accounting system.

Source documents, such as invoices or time allocations, should provide all details of each transaction or activity. The information contained in the source documents is necessary for accounting purposes, and is recorded in the accounting/accounts payable system on your computer. The source documents must be readily accessible during monitoring visits. A variety of source documents and records are needed to properly account for grant transactions. These documents include but are not limited to the following:

Service Contracts - All grant funded service contracts (accounting, leases, janitorial, etc.) must be a written agreement between the Subrecipient and the firm/individual.

The City of Missoula Office Housing and Community must have copies of all service contracts that are to be reimbursed with City grant funds.

Proof of Payment - All Subrecipients are required to retain original invoices or sales receipts for all purchases. All invoices must be marked "PAID IN FULL" with the check number, date paid, and payee information included. A stamp is recommended for this. Subrecipient must submit proof of payment with all requests for funds in order to be eligible for reimbursement. In addition to invoices marked paid in full, other acceptable documentation includes cancelled checks, wire transfer or escrow records, and other documents deemed acceptable by HCD.

Payroll Records - All Subrecipients will maintain concise documentation for both the time worked and tasks undertaken. The employee and his/her immediate supervisor must sign employee time allocations. Subrecipients that receive CDBG or HOME support for payroll expenses must submit these payroll records with each request for fund in order to be eligible for reimbursement.

Up-to-date files of original source documents (receipts, invoices, bills, cancelled checks, credit card reconciliations, time cards) must be maintained for all financial transactions.

7. Budget Controls

Appropriate bookkeeping/accounting software can manage budget controls.

- Agency must develop monthly financial statements that compare actual expenditures for each budget category against approved budget.
- Agency must regularly compare progress toward the achievement of goals with the rate of expenditures of program funds.

8. Cash Management

- Agency must have a procedure for accurately projecting the cash needs.

9. Financial Reporting

- Agency should provide accurate disclosure of financial results of CDBG or HOME programs.

10. Audits

Your agreement with the City is subject to audits as prescribed by 2 CFR Part 200. According to 2 CFR § 200.501(a): "A non-Federal entity that expends \$750,000 or more during the non-Federal entity's fiscal year in Federal awards must have a single or program-specific audit conducted for that year in accordance with the provisions of this part."

In order to ensure compliance to the greatest extent feasible, HCD requires agencies receiving federal funding to submit audited financial statements within 180 days of the close of that agency's fiscal year, or 270 days if the agency must complete a 2 CFR 200 audit. Be careful when you are selecting a CPA firm to perform an audit. Not all CPA firms have experience with non-profit agencies' requirements.

The United States General Accounting Office (GAO) states that Subrecipient agencies must ensure that federal program resources are applied "efficiently", economically and effectively to accomplish the program objectives. The financial and performance audits are designed to assure that Subrecipient agencies are accountable to HUD, the City and the public. In particular:

1. *Financial audits* are designed to provide an independent opinion on the agency's financial statements, internal central structures, and compliance with specific financial systems and procedural requirements.

2. *Performance audits* provide an independent point of view on the extent to which the agency has efficiently and effectively carried out its operations, and achieved the intended program results and benefit. The primary goal of the audit is to determine whether your agency has adequate systems in place to assure that:

- goals and objectives are met;
- resources are safe-guarded;
- laws and regulations are followed; and
- reliable data is obtained, maintained and accurately disclosed.

11. Reimbursements

Reimbursement will only be provided for allowable costs as approved by the City of Missoula. Allowable costs must be directly related to the Grant.

The City of Missoula will only reimburse the Subrecipient for expenditures actually incurred.

All Subrecipient requests for reimbursement must be made by accurately completing the Request For Funds, provided by HCD. Proof of payment must be included with source documentation. See [Part 4. "Source Documentation"](#) of this section for more information.

Subrecipients are expected to have sufficient cash-on-hand to undertake CDBG and HOME funded projects on a reimbursement basis. While the City of Missoula does everything it can to process payments as quickly as possible, subrecipients should expect that reimbursement may take up to 30 days to process, or, potentially longer if any issues are encountered with the reimbursement request.

12. Petty Cash Record

A petty cash fund may be set up to take care of small item payments, usually no more than \$20. All such payments must be supported by petty cash vouchers and receipts and must be an eligible expense.

B. Program Activity Records

For each program the agency should determine what data must be maintained in the program files and establish a system for ensuring that every file contains the necessary information. This list will vary from program to program, but each file should include the following:

- CDBG and/or HOME application, City contract, procurement information, bids and other contracts; budget, expenditure and payment information with supporting documentation;
- Characteristics and location of clients served;
- Affirmative marketing, and compliance with other federal regulations;
- Program status, progress reports, audits, monitoring reports and correspondence.

Other records to be maintained include:

1. Payroll Records

Payroll records will show actual gross earnings; net payroll and payroll deductions for each individual staff member by pay period. If an employee is paid by more than one fund or program, the payroll journal will need to reflect the distribution of time and money against each fund or program. Back-up documentation must include:

- Canceled paychecks;
- Tax records;
- Worker's compensation records;
- Individual time allocations.

2. Time Records

Time records should be kept indicating actual time paid, including types of time such as sick leave, vacation leave, compensatory time, etc. Time allocations should be kept by the day and signed by the employee and supervisor.

If an employee's time is split between CDBG or HOME and other funding sources, there must be time allocation records supporting the allocation of charges among the sources.

The Subrecipient shall maintain a system of internal control in accordance with generally accepted accounting practices. Internal control consists of a plan or procedure to safeguard assets, check the adequacy and reliability of accounting data, promote operating efficiency, and assures compliance with appropriate laws and regulations. On or before 30 calendar days after termination of the contract, the project coordinator should submit to the City an annual inventory update and a closeout financial report. All property, documents, data, studies, reports and records purchased or prepared by the Subrecipient under contract should be disposed of according to contract.

In the event the program terminates, copies of all records relating to the program or activity that are the subject of the contract shall be furnished to the City. Financial reports required to be prepared and submitted by the Subrecipient to the City shall be accurate and correct in all respects. Should inaccurate reports be submitted to the City, the City may elect to have the Subrecipient secure the services of a licensed accounting firm. Cost of such accounting services are to be borne by the Subrecipient.

C. Record Retention

1. CDBG Record-Keeping Policy

For each activity, the following types of documentation must be kept for a period not less than four (4) years as measured from the date of submission of the CAPER in which the specific activity is reported on for the final time rather than from the date of submission of the final expenditure report of the award.

For CDBG housing activities that involve a period of affordability, records must be kept for a period of four years following the end of the period of affordability.

1. Records showing the activity is used by a segment of the population presumed by HUD to be low/mod individuals, e.g., disabled persons, persons with HIV/AIDS, homeless; or
2. Records describing how the nature and, if applicable, the location of the activity establishes that it is used predominantly by low-and moderate-income individuals. (Census tract data); or
3. Data showing the size and annual income of the immediate family of each individual receiving the benefit, if not in the applicable low-income census tracts.

If CDBG assistance is provided as a loan, Subrecipient must maintain documentation for a period of four years after the CAPER that reports on the loan payments for the last time (when the loan is fully paid off).

2. HOME Record-Keeping Policy

For HOME subrecipients and CHDOs, the following record-keeping policies²⁵ apply.

Records That Must Be Maintained

Program records: These program records must be maintained:

- Efforts to maximize participation by the private sector;
- Forms of assistance used;
- Subsidy layering guidelines;
- Multi-family refinancing guidelines;
- Procedures for establishing 95 percent of median value;
- Resale/recapture guidelines;
- TBRA records, including:
 - Consolidated Plan TBRA certification,

²⁵ Building HOME Chapter 9: General Administrative/Monitoring Requirements
<https://www.hudexchange.info/resource/2368/building-home-a-home-program-primer/>

- Market Conditions/Needs Assessment
- Selection policies and criteria,
- If using preferences for persons with special needs, supporting documentation on categories used,
- Rent standards and minimum tenant contribution,
- Compliance with requirement that 90 percent of assisted families have incomes at or below 60 percent of median;
- Compliance with matching requirements; and
- Compliance with set-aside and funding commitment requirements.

Project records: These project records must be maintained:

- Description of each project:
 - Location (with a map);
 - Form of assistance;
 - Number and identification of units or tenants associated with HOME;
- Source and application of funds;
- Compliance with maximum per-unit subsidy limits and subsidy layering guidelines;
- Compliance with property standards and lead-based paint requirements;
- Compliance with income-eligibility requirements;
- For TBRA, compliance with written tenant selection policies, lease provisions and other applicable requirements;
- For rental projects, compliance with income targeting, affordability and lease requirements;
- If multi-family or single-family refinancing is provided, compliance with established guidelines and/or requirements;
- If multi-family new construction, results of the site and neighborhood standards review conducted;
- For homeownership projects, compliance with maximum property value and affordability requirements; and
- If pre-award costs, compliance with applicable requirements.

CHDO records: These CHDO records must be maintained:

- Written agreements reserving funds for CHDOs;
- Efforts to identify and encourage CHDOs;
- Names and qualifications of each CHDO, and amount of set-aside funds reserved and committed;
- Documentation of compliance with written agreements;
- Use of CHDO set-aside funds, including funds for capacity building;
- Use of HOME for operating expenses and compliance with applicable requirements;
- Tenant participation plan; and
- Use of HOME as project-specific assistance, including issues surrounding repayment.

Financial records: These financial records must be maintained:

- Source and application of funds;
- Treasury and local HOME accounts;
- Source and application of program income, repayments and recaptured funds; and
- Budget control measures, including periodic account reconciliations.

Program administration records: These program administration records must be maintained:

- Compliance with written agreements;
- Compliance with applicable uniform administrative requirements; and
- Inspections, monitoring reviews and audits, and resolution of any findings or concerns.

Documentation records: Records documenting compliance with the following additional Federal requirements must be maintained:

- Equal opportunity and fair housing;
- Affirmative marketing and minority/women's business outreach;
- Environmental review;
- Acquisition, relocation, displacement and replacement of housing;
- Labor standards;
- Lead-based paint;
- Conflict-of-interest; and
- Debarment and suspension.

Record Retention

The HOME record retention period is five years from the date submission of the CAPER in which the specific activity is reported on for the final time rather than from the date of submission of the final expenditure report of the award.

Rental: For rental housing records:

- General records must be kept for five years after project completion; and
- Tenant income, rent and inspection information must be kept for the most recent five years, until five years after the affordability period ends.

Homeownership: Homeownership records must be kept for:

- Five years after project completion; and
- For resale/recapture records, five years after the affordability period ends.

TBRA: TBRA records must be kept for five years after rental assistance ends.

Written agreements: Generally, all written agreements must be maintained for five years after the agreement ends.

Displacement and acquisition: Displacement and acquisition records must be kept for five years after final payment to displacees.

If HOME assistance is provided as a loan, Subrecipient must maintain documentation for a period of five years after the CAPER that reports on the loan payments for the last time (when the loan is fully paid off).

D. Access to Records

HUD and the Comptroller General of the United States, or their authorized representatives, have the right to access Subrecipient agency program records. All CDBG and HOME subrecipients are required to provide citizens with reasonable access to records regarding the current funded programs and past, consistent with applicable State and local laws regarding privacy and confidentiality. Information may be provided utilizing aggregate statistics. All clients may be lumped into categories, but no personal information may be released. In other words, you may provide a report that states: 150 clients served this month, 60 Caucasian, 60 African American, 15 Native Americans, 15 Asian. Of those clients, 25 were female head of household, 30 were Veterans, 100 were very low income, and 50 were moderate income. You may not release information regarding individuals to the public, or release aggregate data that due to small sample size can lead to identification of an individual.

E. Confidentiality

Physical access to records, program applications, client information, blank forms, cash, and other assets should be limited to authorized personnel only. For example, access to accounting records should be limited to only those individuals having record-keeping or supervisory responsibility for them.

Consistent with applicable state and local laws regarding privacy and obligations of confidentiality, the subrecipient also must provide citizens with reasonable access to records on the past use of CDBG funds.

Files that include sensitive client information must be stored in a locked cabinet. Furthermore, subrecipient should redact sensitive client information from all reports, draw requests, and other communications to the City unless required for specific project underwriting.

VII. Fiscal Management

A. Budget Types and Cost Categories

Budgets should be prepared in one of two general formats:

1. General Budgets

There are three cost categories within this budget type:

a. Personnel Costs

- 1) Personnel - Costs associated with the positions identified on the Staffing Plan. Costs should reflect the actual amount of time each position spends on the program.
- 2) Fringe Benefits - Eligible payroll-related costs of health insurance, retirement fund contributions, FICA, Worker's Compensation, and other payments made on the behalf of the employee.

b. General Non-Personnel Costs

- 1) Supplies - Consumable commodities that have a useful life of one year or less and which are valued under \$500, except for computer equipment, which must be inventoried and accounted for separately.
- 2) Communication - Costs of telephone, telephone installation, leasing of phone equipment, and postage.
- 3) Printing - Cost of copying and printing, whether done in-house or through an outside printer; supplies such as paper or fluids for copy machine owned or leased for program use.
- 4) Utilities - Costs associated with gas, electricity, water, and trash removal.
- 5) Rent - Rental charges for real property; office space for program.
- 6) Travel (local) - Costs for mileage reimbursement and conference expenses within Missoula County. Mileage reimbursement includes only travel by staff or volunteers for conducting the business of the Subrecipient. No personal mileage will be reimbursed.
- 7) Travel (other) - All travel and conference expenses outside of Missoula County to employees and volunteers for actual mileage. Out of state travel requires prior City approval.
- 8) Insurance - Insurance-related costs required for the operation of the program.
- 9) Miscellaneous - For eligible expenses not noted above (should not exceed 1% of CDBG or HOME grant).
- 10) Food/snacks – Eligible only for clients, such as after school snacks for children. Please contact your Grants Administrator for guidance.

c. Specific Non-Personnel Costs

- 1) Equipment Rental - Costs for the rental of equipment, which is essential for the operation of the program.
- 2) Equipment Purchase - Purchase of equipment essential for the operation of the program in those instances where it is more cost effective to purchase equipment rather

than rent it. This includes any item with a useful life of more than one year and a cost greater than \$500. Purchase of equipment requires prior City approval.

3) Contracted Services - Professional and technical services not performed by staff.

2. Development Budgets

The cost categories associated with this budget type pertain to expenses identified with the financing, management, and construction of affordable housing projects. Remember that new construction costs are not eligible under the CDBG program.

- a. Site Acquisition - Normal cost associated with acquisition of raw land.
- b. Demolition – Normal cost associated with demolition of existing structures. Permission to demolish must be received from the City prior to undertaking this activity. Property may be subject to historic preservation restrictions.
- c. Closing Costs - Fees, points, interest, or other costs to finance acquisition or construction.
- d. Architecture and Engineering - Normal fees and costs for professional design services to prepare plans and specifications.
- e. Site Work - Costs normally associated with preliminary site construction work: grading, underground utilities, soils report, and environmental remediation.
- f. Fees and Permits - Costs for design review, building, planning or other required permits.
- g. Construction Management - Consultant or other costs to provide construction management services.
- h. Construction Contracts - All fees included in primary and subcontracts.
- i. Consultants - All consultant fees including environmental testing or other specialty consultants.
- j. Administration - Overhead costs for administration by the applicant or other administrative costs.
- k. Interest - interest paid on construction loans.
- l. Legal - costs for legal services.
- m. Financing costs - Miscellaneous costs not included elsewhere but necessary to finance the construction costs.
- n. Taxes/Insurance - Property or other taxes required for the property during the construction period and costs of all required construction insurance.
- o. Marketing - Costs associated with marketing the project and attaining rent-up and occupancy.
- p. Operating Reserve - May be included for a specified period of time. Maximum operating reserve allowance to be determined in accordance with HUD regulations.
- q. Developer Fee - Any fees or other charges due to the developer on completion of the project. The developer fee on affordable housing projects generally should not provide undue enrichment to the developer. Consult your Grants Administrator.

B. Budget Revisions

Modifications to approved budgets are allowable but must be directly related to changes in program services and activities. Changes amounting to less than \$1,000.00 do not need prior approval of HCD.

To implement a budget modification, the Subrecipient must submit a written request, which identifies the reasons for the adjustment. The request must be specific as to which line items are to be increased and which are to be reduced and must be specifically approved by the City in writing as a change to the written agreement or contract between the City and the Subrecipient.

The Grants Administrator has the authority to grant or deny requests for budget revisions. The City will issue a written decision within seven business days of receiving the request.

C. Activities and Expenditures

All subrecipients must comply with the provisions of 2 CFR Part 200 entitled “Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards”²⁶. A summary of certain key provisions from 2 CFR 200 is included below as well as City of Missoula policies related to Activities and Expenditures.

Subrecipients are also encouraged to participate in HUD’s “Financial Management 201: A Closer Look”²⁷ webinar series to gain a better understanding of HUD requirements.

All expenditures associated with an approved activity or program must comply with the following criteria:

1. Limitation of Expenditures

- a. The Subrecipient shall not expend funds provided under the contract prior to the commencement of the contract or subsequent to the suspension or termination of the contract. Upon approval by the Grants Administrator, expenses incurred starting July 1 are eligible for reimbursement as long as they are administrative, not subject to procurement or and the City of Missoula has completed the Environmental Review Record.
- b. Expenditures shall be made in conformance with the approved budget and shall meet the criteria established for allowable costs.
- c. Expenditures shall be in direct support of the program that is the subject of the contract. The Subrecipient shall notify the City in writing of any expenditure for items jointly used for any other program(s) and the expenditures shall be apportioned according to the percentage of direct use in the program.

2. Eligible Costs

In order to be reimbursable, costs must be incurred for activities that are eligible under the applicable program. For example, costs for CDBG-funded projects must conform to CDBG program regulations at 24 CFR Part 570 and costs for HOME-funded projects must conform to HOME program regulations at 24 CFR Part 92.

²⁶ https://www.ecfr.gov/cgi-bin/text-idx?tpl=/ecfrbrowse/Title02/2cfr200_main_02.tpl

²⁷ <https://www.hudexchange.info/trainings/financial-management-curriculum/closer-look/>

Furthermore, in order to be deemed eligible, any program cost must be included in the project budget in the signed written agreement awarding CDBG or HOME funds between the City and the subrecipient.

3. Allowable and Unallowable Costs

The regulations found in 2 CFR Part 200 subpart E provide guidance on allowable and unallowable costs.

Examples of allowable costs that apply to all federal awards include: salaries, materials and supplies, equipment and other capital expenditures (approved by the awarding agency), and travel expenses. The list is not all-inclusive. The full list of selected cost items is in the CFR.

The CFR also defines unallowable costs that include entertainment and alcohol, legal defense, contributions, lobbying and fundraising. When the CFR says the cost is unallowable it means that it cannot be paid by Federal reimbursement; however, a program could otherwise pay for unallowable costs with non-Federal unrestricted funds.

4. Cost Reasonableness – Prudent Person Test

A cost is reasonable if, in its nature and amount, it does not exceed that which would be incurred by a prudent person under the circumstances prevailing at the time the decision was made to incur the cost. In determining reasonableness of a given cost, consideration must be given to:

- (a) Whether the cost is of a type generally recognized as ordinary and necessary for the operation of the non-Federal entity or the proper and efficient performance of the Federal award.
- (b) The restraints or requirements imposed by such factors as: sound business practices; arm's-length bargaining; Federal, state, local, tribal, and other laws and regulations; and terms and conditions of the Federal award.
- (c) Market prices for comparable goods or services for the geographic area.
- (d) Whether the individuals concerned acted with prudence in the circumstances considering their responsibilities to the non-Federal entity, its employees, where applicable its students or membership, the public at large, and the Federal Government.
- (e) Whether the non-Federal entity significantly deviates from its established practices and policies regarding the incurrence of costs, which may unjustifiably increase the Federal award's cost.²⁸

Subrecipients must document cost reasonableness through the use of price comparisons and analyses for comparable goods and services procurement, detailed receipts, and invoices for comparable services provided by consultants and vendors.

5. Allocable Costs

A cost is allocable to a particular Federal award or other cost objective if the goods or services involved are chargeable or assignable to that Federal award or cost objective in accordance with relative benefits received. This standard is met if the cost:

²⁸ https://www.ecfr.gov/cgi-bin/text-idx?SID=21cb732fbc280a1b9439181aeb58fdc8&node=sp2.1.200.e&rgn=div6#se2.1.200_1404

- (1) Is incurred specifically for the Federal award;
- (2) Benefits both the Federal award and other work of the non-Federal entity and can be distributed in proportions that may be approximated using reasonable methods; and
- (3) Is necessary to the overall operation of the non-Federal entity and is assignable in part to the Federal award in accordance with the principles in this subpart.

All activities which benefit from the non-Federal entity's indirect (F&A) cost, including unallowable activities and donated services by the non-Federal entity or third parties, will receive an appropriate allocation of indirect costs.

Any cost allocable to a particular Federal award under the principles provided for in this part may not be charged to other Federal awards to overcome fund deficiencies, to avoid restrictions imposed by Federal statutes, regulations, or terms and conditions of the Federal awards, or for other reasons. However, this prohibition would not preclude the non-Federal entity from shifting costs that are allowable under two or more Federal awards in accordance with existing Federal statutes, regulations, or the terms and conditions of the Federal awards.

Direct cost allocation principles. If a cost benefits two or more projects or activities in proportions that can be determined without undue effort or cost, the cost must be allocated to the projects based on the proportional benefit. If a cost benefits two or more projects or activities in proportions that cannot be determined because of the interrelationship of the work involved, then, the costs may be allocated or transferred to benefitted projects on any reasonable documented basis. Where the purchase of equipment or other capital asset is specifically authorized under a Federal award, the costs are assignable to the Federal award regardless of the use that may be made of the equipment or other capital asset involved when no longer needed for the purpose for which it was originally required.²⁹

6. Direct and Indirect Costs

Simply defined, direct costs³⁰ are those costs that can be tied to a specific CDBG or HOME-supported activity. Examples may include:

- Salaries for an employee that manages a CDBG or HOME-funded activity.
- Printing and postage for mailings specifically about CDBG or HOME-funded activities.

Indirect costs³¹ are those costs that cannot be tied only to a specific CDBG or HOME-supported activity. Examples may include:

²⁹ https://www.ecfr.gov/cgi-bin/text-idx?SID=21cb732fbc280a1b9439181aeb58fdc8&node=sp2.1.200.e&rgn=div6#se2.1.200_1405

³⁰ https://www.ecfr.gov/cgi-bin/text-idx?SID=21cb732fbc280a1b9439181aeb58fdc8&node=sp2.1.200.e&rgn=div6#se2.1.200_1413

³¹ https://www.ecfr.gov/cgi-bin/text-idx?SID=21cb732fbc280a1b9439181aeb58fdc8&node=sp2.1.200.e&rgn=div6#se2.1.200_1414

- Salaries of Executive Director or other management that may oversee multiple programs, only some of which relate to CDBG or HOMD-funded activities.
- Rent.
- The cost of equipment such as copiers or printers that are used for multiple programs.

2 CFR 200.414(c) details options available to CDBG-HOME subrecipients to be able to charge indirect costs to this award. However, 2 CFR 200.100(c) details the limitations on charging for indirect costs:

c) Cost Principles. Subpart E—Cost Principles of this part establishes principles for determining the allowable costs incurred by non-Federal entities under Federal awards. The principles are for the purpose of cost determination and are not intended to identify the circumstances or dictate the extent of Federal Government participation in the financing of a particular program or project. The principles are designed to provide that Federal awards bear their fair share of cost recognized under these principles except where restricted or prohibited by statute.

24 CFR 570.200(g) details the regulatory limits of program and administrative expenses, which would include such indirect costs:

(g) Limitation on planning and administrative costs—(1) Origin year grant expenditure test. For origin year 2015 grants and subsequent grants, no more than 20 percent of any origin year grant shall be expended for planning and program administrative costs, as defined in §§570.205 and 570.206, respectively. Expenditures of program income for planning and program administrative costs are excluded from this calculation.

(2) Program year obligation test. For all grants and recipients subject to subpart D, the amount of CDBG funds obligated during each program year for planning plus administrative costs, as defined in §§570.205 and 570.206, respectively, shall be limited to an amount no greater than 20 percent of the sum of the grant made for that program year (if any) plus the program income received by the recipient and its subrecipients (if any) during that program year. For origin year 2015 grants and subsequent grants, recipients must apply this test consistent with paragraph (g)(1) of this section.

24 CFR §92.207 defines the HOME program’s cap on administrative and planning costs:

A participating jurisdiction may expend, for payment of reasonable administrative and planning costs of the HOME program and ADDI, an amount of HOME funds that is not more than ten percent of the sum of the Fiscal Year HOME basic formula allocation plus any funds received in accordance with §92.102(b) to meet or exceed participation threshold requirements that Fiscal Year.

Given that CDBG and HOME regulations “restrict” the amount that can be expended on planning and administrative costs, SUBRECIPIENT may select an indirect cost rate as part of written agreements, but the CITY does not anticipate being able to reimburse for indirect costs given that it plans to allocate and expend planning and administrative

funds up to the regulatory maximum and reimbursement of indirect costs would result in the CITY exceeding the regulatory cap.

Subrecipients wishing to include indirect costs as part of their reimbursement of Community Development Block Grant (CDBG) funds and/or HOME funds, must inform the City of their intent by completing an Administration and Indirect Cost Selection Form. Subrecipients will need to indicate the type of indirect rate option that is proposed/requested for the Program Year. Depending on the option chosen, the City may require additional documentation to establish the approved or negotiated indirect rate for your agency. The two indirect rate options followed by a brief definition are as follows:

- Federally Negotiated Indirect Cost Rate: These are actual costs that are incurred by an organization and are part of an approved Cost Allocation Plan that has been approved through a Federal agency or a cognizant agency.
- Federally Accepted de minimis Indirect Rate: Organizations that have never received a federally negotiated indirect cost rate will charge a flat de minimis indirect cost rate of 10% of Modified Total Direct Costs (MTDC) (see Exhibit B for definition of MTDC).

MTDC means all direct salaries and wages, applicable fringe benefits, materials and supplies, services, travel, and sub awards and subcontracts up to the first \$25,000 of each sub award or subcontract.

7. Ineligible Costs—General

- a. Bad debts: any losses arising from uncollectible accounts and other claims, and related costs.
- b. Contingencies: contributions to a contingency reserve or any similar provisions for unforeseen events.
- c. Contributions and donations.
- d. Entertainment: costs of amusements, social activities and incidental costs such as meals, beverages, lodging and gratuities relating to entertainment, or any political or lobbying activity.
- e. Fines and penalties: costs resulting from violations of or failure to comply with Federal, State, and local laws and regulations.
- f. Interest and other financial costs: interest on borrowings (however represented), bond discounts, cost of financing and refinancing operations, and legal and professional fees paid in connection therewith.
- g. Membership expenses: costs of membership in any organization, which devotes a substantial part of its activities to influencing legislation.
- h. Non-competitive subcontracts: payments under a subcontract not obtained under competitive bidding procedure, unless the City specifically waives the requirement for such a procedure.

8. Eligible HOME-funded Activities

- Production/acquisition of rental housing;

- Moderate (less than \$25,000/unit) or Substantial (more than \$25,000/unit) rehabilitation (Rental or Homeowner);
- Tenant-based rental assistance;
- New construction;
- Finance costs;
- Site improvements;
- Homebuyer assistance;
- Certain activities undertaken by a Community Housing Development Organization (CHDO) such as CHDO Predevelopment Loans and CHDO Operating Assistance.

9. Eligible HOME-funded project costs

- Development hard costs - cost of constructing or rehabilitating housing;
- Refinancing costs – cost to refinance existing debt secured by housing that is being rehabilitated with HOME funds;
- Acquisition costs – cost of acquiring improved or unimproved real property;
- Related soft costs – reasonable and necessary costs associated with the financing or development (or both) of new construction, rehabilitation, or acquisition of housing assisted with HOME funds;
- Down payment and closing costs.

6. Activities that are NOT eligible for HOME

- Public housing modernization;
- Tenant subsidies for special mandated purposes under Section 8;
- Matching funds for other programs;
- Annual contributions contracts;
- Operating subsidies for rental housing.

7. Eligible CDBG-funded Activities

- Housing (except new construction)
- Public facilities or infrastructure
- Economic development
- Public services

8. Eligible CDBG-funded project costs

- Acquisition of real property
- Public facilities and improvement of privately owned utilities
- Code enforcement
- Clearance, rehab, reconstruction and construction of buildings

- Architectural barrier removal
- Loss of rental income
- Disposition of real property
- Public services
- Payment of the non-federal share
- Relocation
- Planning and capacity building
- Program administration costs
- Activities carried out through nonprofits
- Assistance to neighborhood-based development organizations
- Energy efficiency/conservation
- Economic development assistance to for-profit businesses
- Technical assistance
- Housing services
- Assistance to Institutions of Higher Education
- Microenterprise assistance
- Homeownership Assistance
- Tornado safe shelters
- Lead-based paint hazard evaluation and reduction
- Program administration costs and charges related to the planning and execution of the CDBG or HOME Program

9. Activities that are NOT eligible for CDBG

- New construction of housing including both hard costs and soft costs unless qualified by HCD as an eligible CBDO activity.
- Construction or rehabilitation of buildings for the general conduct of government, with some exceptions
- Operation and maintenance

E. Program Income

Organizations providing services funded through a City of Missoula CDBG or HOME grant may charge fees to clients to reduce the costs of service delivery. Such fees, or any other earnings generated through the use of CDBG or HOME funds, are considered to be program income (PI). PI includes, but is not limited to, fees charged for services, proceeds from the sale of tangible personal or real property, usage or rental fees, and patent or copyright royalties.

PI shall be reported to the City on the quarterly report and shall only be used by the subrecipient if the City and the subrecipient have entered into a Program Income

Agreement. If no such Program Income Agreement exists, then all program income must be returned to the City to be allocated to CDBG and/or HOME eligible activities.

All PI must be reported.

Donations are defined as free will offerings to an organization not related to receiving a service or benefit. Donations are not PI and do not have to be reported.

VIII. Procurement, and Contracting - Procedures and Requirements

What follows is a summary of key procurement provisions. HCD encourages CDBG subrecipients to also review “Chapter 3.0: Procurement and Contracting” *Playing by the Rules: A Handbook for CDBG Subrecipients on Administrative Systems*³² for additional CDBG guidance.

A. Property and Equipment Procurement

1. Title of Property

Title to any personal or real property used in the performance of the services and work specified in this agreement shall be as follows:

- a. Personal property donated or purchased with other than CDBG or HOME funds shall become the property of Subrecipient or person specified by the donor or funding source.
- b. Personal property and equipment permanently affixed to buildings owned by Subrecipient shall become the property of the Subrecipient.
- c. All other personal property, supplies and equipment purchased pursuant to this agreement and not consumed shall become property of the City.
- d. All land or property purchases shall have Deeds of Trust recorded naming the City as the beneficiary.

2. Equipment v. Supplies

Equipment is defined as tangible property costing more than \$500 and having a useful life of more than one year. The purchase of equipment is generally ineligible, because equipment is usually expensive, and can generally be rented at a lesser cost for a short period of time. Because CDBG and HOME funds are limited, equipment may only be purchased if absolutely necessary for the program. Thus, rental of equipment is recommended over purchase.

Items which cost less than \$500 and which have a useful life of less than one year are considered to be supplies and are to be purchased under the General Non- Personnel Costs (Supplies) cost category, except for computer equipment, which must be inventoried and accounted for.

3. Limitation on Purchase of Equipment

Under HUD regulations, the purchase of equipment, fixtures, motor vehicles, or furnishings that are not an integral structural fixture is ineligible except when necessary for use by the City or a Subrecipient in the administration of the overall City CDBG or HOME grant or as part of the administration of a public service program.

4. Equipment Notification Requirements

All purchases of equipment require prior City approval. Requests to purchase equipment are to be sent to the Grants Administrator 45 days prior to the purchase order date. The

³² <https://www.hudexchange.info/resource/687/playing-by-the-rules-a-handbook-for-cdbg-subrecipients-on-administrative-systems/>

request is to include the cost of the item, where it will be purchased, a detailed explanation of why it should be bought rather than leased or rented, and where the funds for the purchase will come from. If City CDBG or HOME funds will only be paying a portion of the purchase, list other funding sources and the respective amounts. The Grants Administrator will review the request and receive a decision within 10 working days. Rationale for a negative decision will be included in the response.

5. Reversion to City

Under HUD regulations, the City has the option to obtain any property or equipment from the program when funding stops for the program. The review of the type of property or equipment to be purchased will include mention of its possible usefulness to the City. The City may also permit the Subrecipient to retain the property or equipment at the time the funding ends.

All other personal property, supplies and equipment purchased pursuant to this agreement and not consumed shall become property of the City.

B. Inventory Instructions

Include the following information when reporting inventory:

1. Agency - Name of Agency receiving grant.
2. Description - A brief description of the item of property.
3. Manufacturer's Serial Number - Provide the manufacturer's serial number for all items.
4. Title or Owner - Name of Agency on property's title.
5. Acquisition Date - Date of Purchase.
6. Percentage of Federal Participation - Portion paid by CDBG or HOME funds.
7. Cost - Supply the actual purchase price.
8. Disposal Date - Date sold or disposed of.

C. Procurement Definitions

Price and Cost Analysis: A price or cost analysis must be made in connection with every procurement action. Price analysis involves comparing the bottom line price quoted, with typical prices paid for the same or similar materials or services (does not apply to sole source contracts). Cost analysis simply means you obtain the best price with the best service. At least three sources should be solicited for prices.

Sole Source: Procurement by noncompetitive process is solicitation from only one source. This process is rare and is acceptable only after solicitation of a number of sources is determined inadequate, and only with the approval of the City. Extensive documentation and justification is required to establish the audit trail. The agency may make the determination that competition is not feasible if one of the following circumstances exists:

1. The item is unique and available only from a single source.
2. There is a public urgency or emergency that exists that will not permit a delay resulting from a competitive solicitation.

D. Methods of Procurement to be Followed

1. Equipment and or Services

0 - \$ 500 Direct reimbursement with an invoice copy.

\$500 - \$ 10,000 Two (2) or more verbal quotes; written quotes if labor or detailed product or service specifications.

\$10,000 - \$ 25,000 Three (3) or more written quotes obtained by Subrecipient agency or the City's Purchasing staff. May use "Request For Quotes", advertise, and/or use pre-bid conference.

Over \$25,000 Formal bid process with pre-bid conferences and formal bid openings.

2. Construction

At a minimum, procurement by sealed bids as defined at 2 CFR 200.320(c)³³ must be used for all construction projects. Major steps to be taken through this process include:

(i) Bids must be solicited from an adequate number of known suppliers, providing them sufficient response time prior to the date set for opening the bids, for local, and tribal governments, the invitation for bids must be publicly advertised;

(ii) The invitation for bids, which will include any specifications and pertinent attachments, must define the items or services in order for the bidder to properly respond;

(iii) All bids will be opened at the time and place prescribed in the invitation for bids, and for local and tribal governments, the bids must be opened publicly;

(iv) A firm fixed price contract award will be made in writing to the lowest responsive and responsible bidder.

3. Guidelines for Notice of Invitation to Bid

In addition, City of Missoula Administrative Rule #3 provides guidance as to how bids must be publicly-noticed. Here, as with all references to federal, state, or city regulations, the procurement responsibility extends from the government entity to the subrecipient receiving CDBG and/or HOME funds.

The department arranges for notice of the IFB to be published for a minimum of two consecutive weeks in the newspaper under contract with the City to provide legal advertising. The final published notice must appear at least 5 days but no more than 12 days prior to the bid opening, in accordance with [MCA 7-5-4302](#). The published notice shall contain: a brief statement about the procurement for which bids are sought, where complete specifications may be obtained if not provided in the published notice, the contact information for the City employee responsible for answering questions about the bid, specific bid requirements for contract or performance security, the initial contract term and any renewal

³³ https://www.ecfr.gov/cgi-bin/text-idx?SID=10f34cdb5df1422174358acaaea3bfad&node=se2.1.200_1320&rgn=div8

periods, the address where bids are to be mailed, the due date and time for receipt of bids, and the location of the bid opening.

4. Bonding Requirements for Construction

In accordance with 2 CFR §200.325 Bonding requirements³⁴, CDBG-HOME subrecipients and their Contractors must also adhere to the following bonding requirements:

- a) A bid guarantee from each bidder equivalent to five percent of the bid price. The “bid guarantee” must consist of a firm commitment such as a bid bond, certified check, or other negotiable instrument accompanying a bid as assurance that the bidder will, upon acceptance of the bid, execute such contractual documents as may be required within the time specified.
- (b) A performance bond on the part of the contractor for 100 percent of the contract price. A “performance bond” is one executed in connection with a contract to secure fulfillment of all the contractor's obligations under such contract.
- (c) A payment bond on the part of the contractor for 100 percent of the contract price. A “payment bond” is one executed in connection with a contract to assure payment as required by law of all persons supplying labor and material in the execution of the work provided for in the contract.

5. Required Outreach to Minority and Women-Owned Businesses

2 CFR §200.321 Contracting with small and minority businesses, women's business enterprises, and labor surplus area firms.³⁵

- (a) The non-Federal entity must take all necessary affirmative steps to assure that minority businesses, women's business enterprises, and labor surplus area firms are used when possible.
- (b) Affirmative steps must include:
 - (1) Placing qualified small and minority businesses and women's business enterprises on solicitation lists;
 - (2) Assuring that small and minority businesses, and women's business enterprises are solicited whenever they are potential sources;
 - (3) Dividing total requirements, when economically feasible, into smaller tasks or quantities to permit maximum participation by small and minority businesses, and women's business enterprises;
 - (4) Establishing delivery schedules, where the requirement permits, which encourage participation by small and minority businesses, and women's business enterprises;
 - (5) Using the services and assistance, as appropriate, of such organizations as the Small Business Administration and the Minority Business Development Agency of the Department of Commerce; and
 - (6) Requiring the prime contractor, if subcontracts are to be let, to take the affirmative steps listed in paragraphs (1) through (5) of this section.

³⁴ https://www.ecfr.gov/cgi-bin/text-idx?SID=71a61bf2cbb371b0e88433c2608cac85&mc=true&node=se2.1.200_1325&rgn=div8

³⁵ https://www.ecfr.gov/cgi-bin/text-idx?SID=71a61bf2cbb371b0e88433c2608cac85&mc=true&node=se2.1.200_1321&rgn=div8

CDBG-HOME subrecipients should utilize the Montana Disadvantaged Business List³⁶ to conduct outreach to small, women-owned and minority businesses.

6. Property Purchasing:

- Single-family lots can be evaluated via a market analysis.
- Single-family home acquisition (1-4 units) requires a market analysis of the location listing characteristics of the housing (e.g., sale prices, age and amenities of the housing stock in the neighborhood.) A market analysis by the HUD required method is time consuming; therefore to save time the City recommends an appraisal by a certified appraiser.
- More than 4 units - a certified appraisal is required.
- Appraisals may be reimbursable grant expenses subject to CDBG and HOME regulations.

All procurement must be done in accordance with the [Montana Procurement Act](#), Section 18, Chapter 4.

D. Subcontracts

Should a Subrecipient find it necessary to subcontract in order to meet its obligations under its agreement with the City, it must enter into a written agreement with those individuals or organizations providing services.

1. Provisions Required in Subcontracts

- a. Name, address, phone number, social security number, and DUNS number of subcontractor.
- b. A termination clause requiring twenty days notice by which either party may terminate the agreement.
- c. A clause releasing the City from any liability for any breach of the subcontract by either party.
- d. A scope of services.
- e. The total dollar amount of the subcontract.
- f. A termination date no later than the end of the current CDBG or HOME program year.
- g. A clause requiring the contractor to comply with stated "Conditions of Federal Funding."
- h. An independent contractor clause stating that the subcontractor is an independent contractor or employee of the Subrecipient. Subcontractor is not an agent or employee of the City, and as such waives any claims to any rights or benefits which accrue to employees of the City.
- i. Signature of person authorized by Subrecipient's Board of Directors to execute agreements.
- j. Signature of person authorized by subcontractor to execute agreements.

³⁶ <http://www.mdt.mt.gov/business/contracting/civil/dbe.shtml>

2. Review of Subcontracts by City

All Subrecipients must submit all subcontracts valued at more than \$500 to the City for review and approval prior to execution.

All subcontracts requiring review and approval by the City must be submitted at least 14 business days prior to an effective date. The Grants Administrator will respond to the request for approval within ten (10) working days. Subcontracts must be approved prior to execution by any of the parties.

3. Required Subcontract Documentation

The Subrecipient shall maintain the following documentation in its files:

- a. Summary of bids and proposals received.
- b. Justification for any non-competitive procurement of contract services and reasons for the selection of the subcontractor.
- c. Justification for the selection of other than the lowest bidder in a competitive procurement.
- d. Copy of Davis-Bacon wage decision, if applicable.
- e. Wage reports, if applicable.
- f. Section 3 compliance documentation, if required.

4. Required Contract Provisions

All CDBG-HOME subcontracts must include all contract provisions required by HCD and 2 CFR 200.326. Prior to posting any bid requests, contact your Grants Administrator to receive a copy of these required contract provisions.

5. Types of Subcontracts Covered Under This Section

- a. Construction
- b. Professional services
- c. Bookkeepers and auditors
- d. Contractual personnel services (those not on the Subrecipient's payroll)
- e. Office equipment rental
- f. Office space rental
- g. Rental of vehicle (van, bus, etc.) to be used on a regular basis for carrying clients of the Subrecipient

6. Types of Subcontracts Not Covered Under This Section

- a. Extension of above contracts if dollars per hour/month/year do not change.
- b. Vehicle rental to take program's clients to a particular event. (Requests for travel related to trips outside of Missoula County are required under the agreement with the City.)
- c. Maintenance agreements for office equipment
- d. Janitorial services for office space.

E. Conflict Of Interest

Conflicts of interest (or appearance thereof) can plague activities supported with federal funds. The general rule is that any employee, board member, officer, agent, consultant, Subrecipient or family of those individuals with an agency which is receiving funds under a CDBG or HOME assisted program or who have responsibilities with respect to the CDBG or HOME activities or who participate in decision making process or have access to inside information with regard to the activities may not obtain a personal or financial interest or benefit from a CDBG or HOME assisted activity during their tenure or for one year thereafter, as outlined in 24 CFR 570.611³⁷ (CDBG) and 24 CFR 92.356³⁸ (HOME).

Agencies should maintain a written code of standards of conduct governing the purchase of materials, product, supplies, services, and the awarding and administering Subrecipient contracts.

Personnel involved in the procurement process must be trained to recognize situations that create real, or the **appearance** of a conflict of interest. The agency personnel should:

1. Be familiar with the agency's code of ethics and potential conflict of interest issues.
2. Not take gifts or gratuities from persons or organizations associated with the procurement process.
3. Assure the proposal evaluators or member of their immediate families do not have financial interest in the companies.

³⁷ https://www.ecfr.gov/cgi-bin/text-idx?SID=229fcea710a301c9722bbef52b45a706&node=se24.3.570_1611&rgn=div8

³⁸ https://www.ecfr.gov/cgi-bin/text-idx?SID=df6b05e191f1bdff32225eb7d5e56e65&mc=true&node=se24.1.92_1356&rgn=div8

IX. Reimbursements

City HCD staff will review each request for reimbursement submitted by Subrecipient. Questionable or ineligible expenses will be identified and the Subrecipient will be requested to submit clarifications, corrections, or additional information.

A. General Programs and Public Services

Requests for reimbursement for eligible expenses shall be submitted in a timely manner. A Request for Funds must be submitted on City forms, and must be signed by two authorized representatives of the Subrecipient. Reimbursement requests received will, in most cases, be paid in no later than 30 days. Proper documentation – including proof of payment, time allocations, payroll records, or other required materials – must be submitted with all requests for reimbursement.

B. Request for Funds Form

This form, provided by the Office of Housing and Community, itemizes your grant expenses by City account number. The total on this form should equal the total on the general ledger or accounts payable list for all CDBG or HOME eligible expenses.

It is the Subrecipient's responsibility to redact any personal, confidential information of clients served, such as social security numbers, from draw requests.

The Subrecipient should send or bring the original reimbursement form or can submit via email, with accompanying copies to justify expenses, to the City of Missoula. The address is:

City of Missoula
Office of Housing and Community Development
435 Ryman
Missoula, MT 59802
mjames@ci.missoula.mt.us or cwoodrow@ci.missoula.mt.us

While HCD endeavors to process all reimbursement requests in a timely manner, it may take as much as thirty (30) days to process.

C. Other Reporting Requirements

Quarterly reports are due 15 days after the close of each quarter during the program year, typically October 15th, January 15th and April 15th. A final report is due 15 days after the end of the program year, typically on July 15th. The report explains the progress the program has made in relation to the goals and performance indicators outlined in the contract Scope of Work as well as financial reporting.

X. Monitoring and Documentation

A. Monitoring Reviews

The City of Missoula is responsible for ensuring that Subrecipients comply with all regulations and requirements governing their administrative, financial, and programmatic operations. This includes assuring that performance goals are achieved within the scheduled time frame, budget and when necessary taking appropriate actions when performance problems arise. Monitoring is not a "one-time-event". The five basic steps to the formal monitoring visit include:

1. Notification Call or Letter - Explains the purpose of the visit, confirms date, scope of monitoring and outlines the information that will be needed to conduct the review.
2. Entrance Conference - Introduces monitoring visit purpose, scope and schedule.
3. Documentation and Data Gathering - The City will review and collect data and document conversations held with staff, which will serve as the basis for conclusions drawn from the visit.
4. Exit Conference - At the end of the visit the City will meet again with the key agency representatives to present preliminary results, provide an opportunity for the agency to correct misconceptions and report any corrective actions already in the works.
5. Follow-Up Letter - The City will forward a formal written notification of the results of the monitoring visit pointing out problem areas and recognizing successes. The agency will be required to respond in writing to any problems or concerns noted.

B. Monitoring Process

1. Purpose

City HCD staff will conduct an ongoing monitoring process in order to review the programmatic and financial aspects of the Subrecipient's activities. HCD staff will review draw requests and quarterly reports submitted by the Subrecipient for compliance with federal regulations regarding the use of federal funds and the implementation of the program.

The monitoring process is oriented towards resolving problems, offering technical assistance, and promoting timely implementation of programs. To this end HCD staff may require corrective actions of the Subrecipient. Following are examples of significant problems, which will trigger corrective action by the Subrecipient:

- a. Services are not documented;
- b. Goals are not being met;
- c. Program files not in order;
- d. Complaints by clients;
- e. Non-compliance with federal regulations;
- f. Use of CDBG and/or HOME funds on ineligible activities;
- g. Required reports not being submitted in a timely manner.

2. Monitoring Plan

Each year, HCD will develop a monitoring plan for both CDBG and HOME. Monitoring will take various forms ranging from desk reviews to on-site monitoring visits.

HCD will utilize a risk analysis tool in order to identify those CDBG subrecipients that may require more in-depth and on-site monitoring. HCD staff utilizes Chapter 5 of the Managing CDBG³⁹ guidebook as guidance for CDBG monitoring.

In accordance with HOME guidance found in Monitoring HOME⁴⁰, HCD will utilize the following monitoring schedule for HOME-assisted activities:

Activity	Required Frequency of Onsite Monitoring Visits
For any activity administered by a subrecipient, while contract is in effect	Annually
Tenant-based rental activity	Annually
Project development activities during all phases of the project through to occupancy and project completion; provided that development has begun.	At least annually, but may occur more frequently
Post completion, for rental projects with 1-4 total units in the project	Every 3 years until period of affordability expires
Post completion, for rental projects with 5-25 total units in the project	Every 2 years until period of affordability expires
Post- completion, for rental projects with 26 or more total units in the project	Annually until period of affordability expires

3. Programmatic Monitoring

a. Subrecipients will submit a report detailing the implementation and administration of the activity or program. The programmatic report shall include the following:

1. Progress in meeting stated goals and objectives;
2. Changes in staff or Board of Directors;
3. Problems encountered and steps taken to resolve them;
4. Other general information as appropriate;
5. A "Subrecipient Client Summary". This report shall identify the income, ethnicity, and household status of clients receiving CDBG or HOME-funded assistance within the reporting period.

b. This report is due at HCD no later than 15 days after the quarter preceding is completed.

4. Financial Monitoring

a. Subrecipients will submit a report concerning the financial and accounting status of the activity or program in conjunction with the status report per section X.C. The financial report shall include the following:

1. Summary of all disbursements of CDBG or HOME funds.

³⁹ <https://www.hudexchange.info/onecpd/assets/File/Managing-CDBG-Subrecipient-Oversight-Chapter-5.pdf>

⁴⁰ https://www.hudexchange.info/resources/documents/MonitoringHOME_Guidebook.pdf

2. Summary of all requests for reimbursement of CDBG or HOME funds.
3. Report on percentage of CDBG or HOME funds expended and remaining by cost category.

b. This report is due in the City HCD office as outlined in section X.C.

5. On-Site Visits

HCD may conduct on-site visits with all Subrecipients, even for those with strong past performance.

Based on monitoring results, City HCD staff may hold discussions with Subrecipients whose performance does not appear to be sufficient to meet the goals and achievements as outlined in the agreement. An on-site visit may occur to discuss the service activity shortfall.

On-site monitoring visits may also be conducted in order to ascertain that eligible clients for whom the program was intended are being served and that in the event of an audit; the required client information is being maintained.

6. Intervention and Sanctions

The City is responsible for ensuring that problems areas are corrected. We will make every effort to work with the agency to find solutions. However, agencies will be held accountable for the performance standards outlined in the agency contract and this manual. The City will use three increasingly serious stages to identify and address Subrecipient problem areas.

Stage One – Early Intervention

Plan a strategy, which provides training and technical assistance and more frequent and thorough reporting and monitoring reviews.

Stage Two - Intervention (*More Serious or Persistent Problems*)

The City may restrict payment requests, disallow expenses or require repayment or impose probationary status.

Stage Three - Sanctions The City may temporarily suspend the Subrecipient from participation in the program, not renew the agency's contract for next program year, terminate the contract or initiate legal action.

C. Client Documentation by Subrecipient

Each Subrecipient is required to maintain documentation on clients benefiting from activities and programs funded through the City's CDBG or HOME program. As a condition of receiving the HUD grant, the City, and in turn the Subrecipient, must certify that low- and moderate-income persons are being served. HUD also requires information on the race and ethnic background of the clients, how many are female heads of households, how many are elderly, their residency in the City and the number by income level, and other areas. City HCD staff and HUD must also have access to the names of the clients. Any information regarding applicants for services funded through federal monies shall be held in strict confidence.

1. Required Documentation

a. All Subrecipients shall obtain and maintain the following information on each client served:

- a. Client name and address;
- b. Gender;
- c. Ethnicity/race;
- d. Household type;
- e. Income.

This information shall be submitted with the Subrecipient's draw requests and/or quarterly reports, as appropriate.

2. Exceptions to Maintaining Required Documentation for Income ONLY

For CDBG only, when using the Low-to-moderate-income clientele national objective, income documentation is preferred, but not required, for the following groups: children, battered spouses, elderly persons, severely disabled adults, homeless persons, illiterate adults, persons living with AIDS and migrant farm workers.

While income documentation may not be required, Subrecipient should maintain documentation that the beneficiary qualifies as a member of one of these groups. All other documentation is required. In unusual circumstances and with prior written authorization from the City, other required client documentation may be waived.

D. Programmatic Close-Out

Programmatic close-out will consist of, but will not be limited to, the following:

1. Review and verification of annual client statistical and narrative report due 15 days after the end of the program year . Your July report with year-to-date client totals, along with a program narrative will suffice.
2. Review of Subrecipient records, including, but not limited to:
 - a. Activity documentation
 - b. Personnel files
 - c. Inventory control files
3. Evaluation of activity and program accomplishment
4. For Housing development activities, project close-out will only occur when units are leased or sold to a sufficient number of eligible low-to-moderate income households based on the HOME and/or CDBG requirements for that development. A Certificate of Occupancy must also be provided to HCD. HCD will remit to the Subrecipient the 10% retainage of funds only after this task is completed.

E. Financial Close-Out

Financial close-out will consist of, but will not be limited to the following:

1. Review and verification of information submitted in the final drawdown request
2. Review of Subrecipient records:
 - a. Accounting records and ledgers
 - b. Source documentation (invoices, time cards, canceled checks, etc.)
 - c. Budget documentation (modifications, etc.)

- d. Equipment purchases
3. Evaluation of activity financial accomplishment

F. Construction Project Close Out

At completion of construction, agency is required to submit to the assigned Grants Administrator a copy of the Certificate of Occupancy, provided by the City of Missoula Public Works Department, prior to final disbursement of funds.

G. Real Property Disposition

Real property is defined as land, including land improvements and buildings. Any real property acquired or improved in whole or in part with CDBG or HOME funds in excess of \$25,000 must continue to meet the national objective of the project for a minimum of five (5) years after expiration of the contract, or for a period of time as deemed appropriate by the City in the executed Trust Indenture.

If not used as such, the Subrecipient must sell the real property in a manner that results in the reimbursement of the federal grant funds for the amount of the current fair market value of the property less any portion of the value attributable to expenses of non-federal funds for purchase or improvement to the property. This reversion of the real property will not be required after such period of time deemed appropriate by the City.

H. Equipment Disposition

All equipment with a cost of \$500 or more purchased with HUD grant funds shall revert to the City of Missoula at the close of the activity. If a Subrecipient wishes to continue utilizing the equipment, and is **not** funded the following year, a letter must be submitted to the HCD requesting approval and describing how, through the continued use of the equipment, the grant objectives will be met. The City reserves the right to refuse any request. Equipment shall be depreciated on a 5-year, straight-line basis, as is the accounting standard used for the City of Missoula in its financial management. A Subrecipient is required to maintain records of the HUD funded equipment purchases and report to the City during the 5-year depreciation period. If the property is disposed of prior to the 5-year depreciation period, the City shall provide the Subrecipient with disposition instructions upon request. If the property is disposed of for cash during this period it constitutes Program Income, which must be reported.

When equipment has been fully depreciated, and the equipment is sold, the Subrecipient may retain such funds provided that the City is notified in writing and the funds are used for the exclusive benefit of the previously HUD funded program.

R. City Internal Audit Reviews

The City reserves the right to have its Fiscal Office review all Subrecipient records and transactions. Audit findings resulting in monetary repayment to the City will be collected by the City from the Subrecipient's non-federal funded resources. City Auditors review HCD's Subrecipient monitoring/account reviews to begin their single audit reviews. Reports containing findings are then sent to both HCD and the Subrecipient for compliance. Progress on the compliance is also monitored. Failure to rectify findings within the given time frame may result in suspension, termination of grant agreement, and/or disbarment from future grant funding.

S. External Audit Requirement

HCD requires all Subrecipients to comply with audit requirements detailed at 2 CFR 200 subpart F.⁴¹ According to 2 CFR §200.501(a), a “non-Federal entity that expends \$750,000 or more during the non-Federal entity's fiscal year in Federal awards must have a single or program-specific audit conducted for that year in accordance with the provisions of this part.” Subrecipients are encouraged to review 2 CFR 200 subpart F (linked to below) in its entirety so that they are familiar with all audit requirements.

⁴¹ <https://www.ecfr.gov/cgi-bin/text-idx?SID=10925896c3500bd68018f4736f7738e0&mc=true&node=sp2.1.200.f&rqn=div6>

XI. Exhibits

A. Lead-Based Paint Poisoning Prevention in Certain Residential Structures

All CDBG and HOME-supported activities are subject to 24 CFR Part 35 Lead-Based Paint Poisoning and Prevention in Certain Residential Structures⁴². HCD will not process reimbursements for CDBG or HOME funds until subrecipients have met these requirements.

As a guide, all CDBG and HOME subrecipients should review the pamphlet entitled “Lead Paint Safety: A Field Guide for Painting, Home Maintenance, and Renovation Work”⁴³.

All CDBG and HOME subrecipients should also make available to their beneficiaries the “Protect Your Family From Lead in Your Home”⁴⁴ brochure.

In order to comply with these requirements, subrecipients must take the following steps.

1. Provide documentation to HCD that the proposed activity does not involve any habitation of humans in dwelling units. Dwelling units is broadly defined to include permanent housing, transitional housing, shelters, emergency housing, and other similar dwellings that provide habitation for humans. ***If no dwelling units are involved, subrecipient may stop here.***
2. When dwelling units are involved, subrecipient must provide documentation to HCD as to the date in which the dwelling or building was constructed. Subrecipients may use the Montana Cadastral⁴⁵ to document the year the building was built. ***A residential property for which construction was completed on or after January 1, 1978 is exempt from 24 CFR Part 35. If this is the case, the subrecipient may stop here.***
3. If the dwelling or building was built prior to January 1, 1978, the subrecipient must submit documentation to HCD if the property meets one of the following exemptions detailed at 24 CFR 35.115⁴⁶. ***If an eligible exemption exists, the subrecipient may stop here.***

(2) A zero-bedroom dwelling unit, including a single room occupancy (SRO) dwelling unit.

(3) Housing for the elderly, or a residential property designated exclusively for persons with disabilities; except this exemption shall not apply if a child less

⁴² <https://www.gpo.gov/fdsys/pkg/CFR-2013-title24-vol1/xml/CFR-2013-title24-vol1-part35.xml>

⁴³ https://www.hud.gov/offices/lead/library/lead/LeadGuide_Eng.pdf

⁴⁴ https://www.epa.gov/sites/production/files/2017-06/documents/pyf_color_landscape_format_2017_508.pdf

⁴⁵ <http://svc.mt.gov/msl/mtcadastral/>

⁴⁶ <https://www.gpo.gov/fdsys/pkg/CFR-2013-title24-vol1/xml/CFR-2013-title24-vol1-part35.xml#seqnum35.115>

than age 6 resides or is expected to reside in the dwelling unit (see definitions of “housing for the elderly” and “expected to reside” in § 35.110⁴⁷).

(4) Residential property found not to have lead-based paint by a lead-based paint inspection conducted in accordance with § 35.1320(a)⁴⁸ (for more information regarding inspection procedures consult the 1997 edition of Chapter 7 of the HUD Guidelines). Results of additional test(s) by a certified lead-based paint inspector may be used to confirm or refute a prior finding.

(5) Residential property in which all lead-based paint has been identified, removed, and clearance has been achieved in accordance with 40 CFR 745.227(b)(e) before September 15, 2000, or in accordance with §§ 35.1320, 35.1325 and 35.1340 on or after September 15, 2000. This exemption does not apply to residential property where enclosure or encapsulation has been used as a method of abatement.

(6) An unoccupied dwelling unit or residential property that is to be demolished, provided the dwelling unit or property will remain unoccupied until demolition.

(7) A property or part of a property that is not used and will not be used for human residential habitation, except that spaces such as entryways, hallways, corridors, passageways or stairways serving both residential and nonresidential uses in a mixed-use property shall not be exempt.

(8) Any rehabilitation that does not disturb a painted surface.

(9) For emergency actions immediately necessary to safeguard against imminent danger to human life, health or safety, or to protect property from further structural damage (such as when a property has been damaged by a natural disaster, fire, or structural collapse), occupants shall be protected from exposure to lead in dust and debris generated by such emergency actions to the extent practicable, and the requirements of subparts B through R of this part shall not apply. This exemption applies only to repairs necessary to respond to the emergency. The requirements of subparts B through R of this part shall apply to any work undertaken subsequent to, or above and beyond, such emergency actions.

(10) If a Federal law enforcement agency has seized a residential property and owns the property for less than 270 days, §§ 35.210 and 35.215 shall not apply to the property.

(11) The requirements of subpart K of this part do not apply if the assistance being provided is emergency rental assistance or foreclosure prevention assistance, provided that this exemption shall expire for a dwelling unit no later than 100 days after the initial payment or assistance.

⁴⁷ <https://www.gpo.gov/fdsys/pkg/CFR-2013-title24-vol1/xml/CFR-2013-title24-vol1-part35.xml#seqnum35.110>

⁴⁸ <https://www.gpo.gov/fdsys/pkg/CFR-2013-title24-vol1/xml/CFR-2013-title24-vol1-part35.xml#seqnum35.1320>

(12) Performance of an evaluation or lead-based paint hazard reduction or lead-based paint abatement on an exterior painted surface as required under this part may be delayed for a reasonable time during a period when weather conditions are unsuitable for conventional construction activities.

(13) Where abatement of lead-based paint hazards or lead-based paint is required by this part and the property is listed or has been determined to be eligible for listing in the National Register of Historic Places or contributing to a National Register Historic District, the designated party may, if requested by the State Historic Preservation Office, conduct interim controls in accordance with § 35.1330 instead of abatement. If interim controls are conducted, ongoing lead-based paint maintenance and reevaluation shall be conducted as required by the applicable subpart of this part in accordance with § 35.1355.

4. If the activity meets none of the exemptions detailed above, then the Subrecipient must (a) provide all beneficiaries with the “Protect Your Family from Lead in your Home” pamphlet⁴⁹, and (b) arrange for a certified inspector to conduct a lead-based paint inspection in accordance with § 35.1320(a) and abate any lead-based paint issues identified through the inspection and achieve clearance in accordance with §§ 35.1320⁵⁰, 35.1325⁵¹ and 35.1340⁵².
Subrecipient must submit documentation of abatement and clearance to HCD.

⁴⁹ https://www.hud.gov/offices/lead/library/enforcement/pyf_eng.pdf

⁵⁰ <https://www.gpo.gov/fdsys/pkg/CFR-2013-title24-vol1/xml/CFR-2013-title24-vol1-part35.xml#seqnum35.1320>

⁵¹ <https://www.gpo.gov/fdsys/pkg/CFR-2013-title24-vol1/xml/CFR-2013-title24-vol1-part35.xml#seqnum35.1325>

⁵² <https://www.gpo.gov/fdsys/pkg/CFR-2013-title24-vol1/xml/CFR-2013-title24-vol1-part35.xml#seqnum35.1340>

B. Conditions of Federal Funding (Citations are for CDBG/HOME)

1. Religious Activities

24 CFR 570.200(j)/24 CFR 92.257

As a general rule, in accordance with First Amendment Church/State Principles, CDBG or HOME assistance may not be used for religious activities or provided to primarily religious entities for any activities, including secular activities, except as cited at 24 CFR 570.200(J)(1)(2)(3) or 24 CFR 92.257.

2. Political Activities

24 CFR 570.207

SUBRECIPIENT will comply with this section, which prohibits the use of CDBG or HOME funds to finance the use of facilities or equipment for political purposes or to engage in other partisan political activities, such as candidate forums, voter transportation, or voter registration.

HATCH ACT

CHAPTER 15, TITLE 5, U.S. CODE

SUBRECIPIENT further agrees that none of the personnel employed in the administration of the within defined Project shall be in any way or to any extent, engaged in the conduct of political activities in contravention of Chapter 15, Title 5, U.S. Code.

3. Program Income

24 CFR 570.500/24 CFR 92.503

SUBRECIPIENT agrees that program income, as defined in 24 CFR 570.500 and 24 CFR 92.503, includes, but is not limited to, the following:

1. Proceeds from the disposition by sale or long-term lease of real property purchased or improved with CDBG or HOME funds;
2. Proceeds from the disposition of equipment purchased with CDBG or HOME funds;
3. Gross income from the use or rental of real or personal property acquired by SUBRECIPIENT with CDBG or HOME funds, less costs incidental to generation of the income;
4. Gross income from the use or rental of real property, owned by SUBRECIPIENT, that was constructed or improved with CDBG or HOME funds, less costs incidental to generation of the income;
5. Payments of principal and interest on loans made using CDBG or HOME funds, except as provided in 24 CFR 570.500(a)(3); and
6. Interest earned on program income pending its disposition.

4. Disposition of Program Income

24 CFR 570.504/24 CFR 92.503

Program income shall be recorded separately and returned to the CITY for disposition. Upon approval by the CITY, income from the Project may be retained by SUBRECIPIENT. Such income will be subject to guidelines for use of such income in accordance with HUD regulations.

5. Applicability of Uniform Administrative Requirements

24 CFR 570.502/24 CFR 92.505

SUBRECIPIENT shall comply with the requirements and standards of 2 CFR 200 "UNIFORM ADMINISTRATIVE REQUIREMENTS, COST PRINCIPLES, AND AUDIT REQUIREMENTS FOR FEDERAL AWARDS."

6. Other Program Requirements

24 CFR 570 SUBPART K/24 CFR 92 SUBPART H

SUBRECIPIENT shall carry out its activities in compliance with all Federal laws and regulations as described in 24 CFR 570 Subpart K or 24 CFR 92 subpart H, except that SUBRECIPIENT will not assume the CITY'S environmental responsibilities described at 24 CFR 570.604 or 24 CFR 92.252, nor the CITY'S responsibility for initiating the review process under the provisions of 24 CFR Part 58.

a. General--24 CFR 570.600

SUBRECIPIENT agrees to comply with such laws and Program requirements as are applicable to grants made under section 106 of Title I of the Housing and Community Development Act of 1974.

b. Title VI of the Civil Rights Act Of 1964--24 CFR 570.601/24 CFR 92.350

FAIR HOUSING ACT

EXECUTIVE ORDER 11063

This Agreement is subject to the requirements of Title VI of the Civil Rights Act of 1964, P.L. 88-352; the Fair Housing Act; and Executive Order 11063, as amended by Executive Order 12259; and HUD regulations at 24 CFR Part 1, providing for non-discrimination on the grounds of race, color, creed, sex, familial status, disability, or national origin under any activity receiving Federal funds and also obligating SUBRECIPIENT to use Federally-funded property for the purpose for which the Federal funds were awarded.

c. Section 109 of the Act--24 CFR 570.602/24 CFR 92.350

AGE DISCRIMINATION ACT of 1975

SECTION 504 OF THE REHABILITATION ACT OF 1973

This Agreement is subject to Section 109 of the Housing and Community Development Act of 1974, The Age Discrimination Act of 1975, and Section 504 of the Rehabilitation Act of 1973, which requires that no person in the United States shall, on the grounds of age, race, color, national origin, disability, or sex, be excluded from participation in, be denied the benefits of, or be subject to discrimination under any program or activity funded in whole or in part with Community Development Block Grant funds.

d. Labor Standards and Davis Bacon Act

24 CFR 570.603/24 CFR 92.354

Labor standards apply to nonvolunteer labor financed in whole or in part with assistance provided under the Act. The Contract Work Hours and Safety Standards Act also applies. Contractors or subcontractors on construction work shall be paid wages at rates not less than those prevailing on similar construction in the locality as determined by the Secretary of Labor in accordance with the Davis-Bacon Act, as amended.

e. Environmental Standards

24 CFR 570.604/24 CFR 92.352

This Agreement is subject to the National Environmental Policy Act of 1969.

f. National Flood Insurance Program

24 CFR 570.605/24 CFR 92.508

This Agreement is subject to the Flood Disaster Protection Act of 1973, and the regulations in 44 CFR Parts 59 through 79.

g. Displacement, Relocation, Acquisition, and Replacement of Housing

24 CFR 570.606/24 CFR 92.353

SUBRECIPIENT shall assure that they have taken all reasonable steps to minimize the displacement of persons (families, individuals, businesses, non-profit organizations, and farms) as a result of activities pursuant to 24 CFR 570.606/24 CFR 92.353. Relocation of displaced persons shall be provided in conformance with the Uniform Relocation Assistance and Real Property Acquisition Act of 1970.

h. Employment and Contracting Opportunities

24 CFR 570.607/24 CFR 92.508

SUBRECIPIENT shall comply with Executive Order 11246, as amended by Executive Order 12086, which provides for Equal Employment Opportunity, and Section 3 of the Housing and Urban Development Act of 1968, with implementing regulations at 24 CFR Part 135. Section 3 requires that employment and other economic development opportunities arising in connection with housing rehabilitation, housing construction, or other public construction projects shall, to the greatest extent feasible, and consistent with existing Federal, State, and local laws and regulations, be given to low- and very low-income persons.

i. Lead-Based Paint

24 CFR 570.608/24 CFR 92.355

This Agreement is subject to the regulations at 24 CFR Part 35, prohibiting the use of lead-based paint in residential structures constructed or rehabilitated with assistance provided pursuant to 24 CFR 570.608 or 24 CFR 92.355; notification of hazards of lead-based paint poisoning; and elimination of lead-based paint hazards.

j. Use of Debarred, Suspended, or Ineligible Contractors or Subrecipients

24 CFR 570.609/24 CFR 92.350

This Agreement is subject to the requirements set forth in 24 CFR Part 5, in which is incorporated 24 CFR Part 24, which provides for the listing of debarred and suspended participants, participants declared ineligible, and participants who have voluntarily excluded themselves from participation in covered transactions pursuant to Part 24.

k. Uniform Administrative Requirements and Cost Principles

24 CFR 570.610/24 CFR 92.505

SUBRECIPIENT shall comply with the requirements and standards of 2 CFR 200 "UNIFORM ADMINISTRATIVE REQUIREMENTS, COST PRINCIPLES, AND AUDIT REQUIREMENTS FOR FEDERAL AWARDS," as they relate to the acceptance and use

of Federal funds pursuant to Part 570.610. The applicable sections of 24 CFR Parts 84 and 85 are set forth at Part 570.502.

I. Conflict of Interest

24 CFR 570.611/24 CFR 92.356

This Agreement is subject to the general rule that no person who is an employee, agent, consultant, officer, or elected official or appointed official of the CITY as Recipient, or of any designated public agencies, or of SUBRECIPIENT who exercise or have exercised any functions or responsibilities with respect to CDBG or HOME activities assisted pursuant to 24 CFR 570.611 or 24 CFR 92.356, or who are in a position to participate in a decision-making process or gain inside information with regard to such activities, may obtain a financial interest or benefit from a CDBG or HOME-assisted activity, or have a financial interest in any contract, subcontract, or Agreement with respect to a CDBG or HOME-assisted activity, or with respect to the proceeds of the CDBG or HOME-assisted activity, either for themselves or those with whom they have business or immediate family ties, during their tenure or for one year thereafter.

7. Drug-Free Workplace

As a Subrecipient of CDBG or HOME funds, and in connection with public services offered, the SUBRECIPIENT agrees that it shall comply with the provisions of the Drug-Free Workplace Act of 1988, 45 CFR Part 76, Subpart F, which requires that SUBRECIPIENT shall maintain a facility free from the illegal use, possession, or distribution of drugs or alcohol by its beneficiaries.

C. Section 504

Nondiscrimination Based on Handicap in Programs Funded by the Department of Housing and Urban Development (HUD)

Definitions

Section 504 of the Rehabilitation Act of 1974, As Amended - Prohibits discrimination based on handicap in information, participation, services, housing, employment, building accessibility or any other aspects of a program funded by HUD. Regulations issued in 1988 assure compliance with the Act.

Americans with Disabilities Act of 1990 (ADA) - Prohibits discrimination based on disability by all public/private employers, discrimination in public services by state or local governments, discrimination in places of public accommodations (restaurants, hotels, parks, schools, etc.). This Law became effective in 1992.

Individuals with Disabilities - This includes persons that are: 1) mobility impaired; 2) hearing impaired; 3) visually impaired; 4) developmentally disabled; and, 5) persons who remain in-home or institutionalized care settings.

Requirements for HUD-Funded Agencies

1) General Requirements

a) No qualified individual with disabilities shall, solely on the basis of disability, be excluded from participation in, be denied the benefits of, or otherwise be subjected to discrimination under any program funded by HUD.

b) An agency may not deny the opportunity, provide less of an opportunity or otherwise limit qualified individuals with disabilities from participating in or receiving services and benefits. This includes participating as a member of the planning or advisory boards or occupying a housing unit provided by the agency'.

2) Communications

a) Appropriate auxiliary aids shall be provided where necessary or reasonably requested (e.g. telecommunication devices for deaf persons) for applicants, clients, and employees of the agency. This does not include wheelchairs, hearing aids, or other devices of a personal nature.

b) Procedures shall be in place to ensure that individuals with disabilities can obtain information on services and their location. This may include the provision of printed materials in Braille, large type, cassette, or disk.

c) Agencies shall provide proper notification (e.g. in brochures and general printed information) to applicants, clients, and employees of the agency, including those with impaired vision or hearing, that the agency does not discriminate based on disability.

d) The above notifications should include a telecommunications device number for deaf persons (TDD).

3) Employment

a) An agency may not discriminate in its hiring practices against qualified individuals with disabilities. Discrimination in employment also applies to promotions, tenure, transfers, terminations, rates of pay, job assignments, leaves of absence, sick leave, fringe benefits, and any other terms of employment.

b) An agency shall make reasonable accommodations to the known physical or mental limitations of an otherwise qualified applicant or employee with disabilities. This may include the provision of equipment or devices, job relocation, job restructuring, or facilities modifications.

4) Building and Program Accessibility

a) New Construction - Non-housing facilities shall be designed and constructed to be readily accessible to individuals with disabilities in conformance with the Montana Building Code.

b) Rehab or Alterations - Rehabilitation of non-housing facilities shall be made to be readily accessible to individuals with disabilities in conformance with the Montana Building Code. Rehab does not include re-roofing, interior decorations, or changes to mechanical systems. However, rehab shall not be performed in such a manner that it reduces accessibility.

c) Existing Non-Housing Facilities - An agency shall locate and operate each program receiving HUD assistance so the program, when viewed in its entirety, is readily accessible to and usable by individuals with disabilities. An agency may achieve accessibility through methods such as the following:

- Location of programs or services to accessible facilities or accessible portions of facilities
- Assignment of aides to assist beneficiaries
- Home visits

- The addition or redesign of equipment or furnishings
- Acquisition or construction of additional facilities
- Rehab or alterations to facilities on a selective basis.

5) Self Evaluation

a) Each agency shall conduct a review and self evaluation of its programs, policies procedures, communications, employment practices, facilities, and other aspect of its programs to determine compliance with regulations concerning accessibility and non-discrimination on the basis of disability. Your Grants Administrator will provide one for you to complete and keep as part of your records.

b) The evaluation should cover the four basic categories described previously. The (Accessibility Questionnaire may be used for reviewing the accessibility of the agency's facility.

c) Any practices or policies that do not meet accessibility requirements shall be modified to achieve accessibility, and any discrimination revealed by the self-evaluation shall be corrected.

d) An agency employing 15 persons or more shall:

Maintain the results of the above self-evaluation on file and make it available for three years. Designate an employee to coordinate compliance with HUD disability regulations. Adopt grievance procedures for people with disabilities. Provide proper notices that the agency does not discriminate based on disability.

6) Additional Requirements Applicable Only to Housing Projects

a) New housing projects shall be designed and constructed to be readily accessible to and usable by individuals with disabilities in conformance with the City of Missoula building code.

b) Renovation to housing projects shall, to the maximum extent feasible, be made to be readily accessible and usable by individuals with disabilities in conformance with the City of Missoula building code. Once five percent (5%) of the dwelling units are readily accessible, with an additional 2% accessible for sensory disabilities, additional units do not need to be accessible, but are encouraged.

D. HOME Recapture, Resale and Repayment Provisions

In awarding HOME funds for homeownership, including down payment assistance, closing costs or other HOME assistance provided directly to the homebuyer, the City of Missoula has adopted the Recapture provisions as specified by 24 CFR 92.254 and described in detail below. Homebuyers assisted under HOME will be required to adhere to recapture guidelines applied to their home. An organization awarded HOME funds (the “Subrecipient”) for homebuyer assistance will be instructed to use the recapture method, and must submit their policy for the applicable recapture method if a home is sold during the period of affordability.

In accordance with 24 CFR 92.254(a)(5)(ii)(A)(5), which states “If the HOME assistance is only used for the development subsidy and therefore not subject to recapture, the resale option must be used,” if the City of Missoula provides HOME assistance as development subsidy only, it will follow the resale provisions detailed below. In accordance with HUD guidance, these resale provisions will apply to all Program Year 2018 HOME-assisted housing development activities as well as any homebuyer development projects that were approved in previous program years and are completed during PY2018.

Recapture

Effect on homebuyers. A homeowner whose subsidy is subject to recapture is required to repay all or a portion of the HOME subsidy if the property is sold or transferred during the affordability period. The seller is allowed to sell the home to any willing buyer at any price as long as the HOME debt remaining on the property is repaid.

The program is not designed to provide special protection against downturns in the housing market nor provide guarantees for a certain rate of return at the time of sale that are not available to any other homeowners. This is a mechanism to recapture all or a portion of direct HOME subsidy to the buyer if the HOME recipient decides to sell the house, or a transfer occurs, within the period of affordability.

The Subrecipient and the prospective homebuyer must execute a written agreement, to which the City is a party, before or at the time of sale which serves as a legally binding agreement that the City can enforce. The agreement must clearly explain the requirements of the recapture provision being imposed by the City so that the buyer understands what will happen in the event:

- He/she no longer maintains the unit as principal residence for the full affordability period; or
- The unit is sold or transferred before the end of the affordability period.

The chart below specifies the length of the length of the affordability period for varying investment amounts.

HOME Activity	HOME Investment Per Unit	Length of Compliance / Affordability Period
Homebuyer and Rental Housing acquisition and/or rehabilitation	Less than \$15,000	5 years
	\$15,000-\$40,000	10 years
	\$40,000+	15 years

Method to Determine Recapture Amount: Recapture of the Entire Amount

The City may recapture the entire amount of the HOME investment from the Homeowner. However, if there are no net proceeds or the net proceeds are insufficient to repay the HOME investment, the City may only recapture the amount of the net proceeds, if any. The net proceeds of a sale are the sales price minus superior loan repayments (other than HOME) and any closing costs. The City is never permitted to recapture more than is available from net proceeds of the sale.

Effect on subrecipient that provided the assistance. Funds are recaptured when housing funded by HOME homebuyer assistance is sold or transferred during the period of affordability or otherwise no longer meets the affordability requirements. The City will retain recaptured funds and reinvest them in other HOME-eligible activities unless it specifies in a written agreement with the subrecipient that the subrecipient may keep the recaptured funds for use for other HOME-eligible activities.

HOME funds will be repaid at the time of sale of any HOME-assisted unit. Any time recaptured funds are reused to assist a new homebuyer, a new period of affordability will commence. A description of the guidelines for resale or recapture that ensures the affordability of units acquired with HOME funds under 24 CFR 92.254(a)(4) are as follows: To enforce HOME Program requirements, a Restriction Agreement, Subordinate Deed of Trust, and Promissory Note are used and contain the following provisions:

- Principal residency requirement.
- Equity share provision upon sale of the home purchased with HOME fund assistance.
- Equity sharing based on the ratio of subsidy provided to the purchase cost of the home.
- Recapture provision is based on net proceeds available from sale, transfer or foreclosure of the home.
- The Restriction Agreement, Subordinate Deed of Trust, and Promissory Note are executed at the closing for the home purchase and are recorded at that time.

RESALE

When HOME assistance is provided only for development subsidy for homeowner housing, the City of Missoula will follow the Resale provisions defined at 24 CFR 92.254 (a)(5)(i).

If the housing does not continue to be the principal residence of the family for the duration of the period of affordability that the housing is made available for subsequent purchase only to a buyer whose family qualifies as a low-income family and will use the property as the family's principal residence. The period of affordability is based on the total amount of HOME funds invested in the housing.

The chart below specifies the length of the length of the affordability period for varying investment amounts.

HOME Activity	HOME Investment Per Unit	Length of Compliance / Affordability Period
Homebuyer and Rental Housing acquisition and/or rehabilitation	Less than \$15,000	5 years
	\$15,000-\$40,000	10 years
	\$40,000+	15 years

The HOME Subrecipient or CHDO developer will be responsible for ensuring that resale provisions are followed if properties are sold or transferred during the period of affordability. To accomplish this, the HOME Subrecipient or CHDO Developer will file a deed restriction guaranteeing the period of affordability.

Fair return to seller – The price shall not exceed a price that results in net proceeds (after senior debt and sales costs) to the seller that exceeds the sum of:

1. The reimbursement of the original owner’s down payment and/or closing costs made at the time of initial purchase, if any;
2. The principal amortized (paid off) on the senior debt during the period of ownership;
3. The investment in eligible capital improvements defined as: any individual improvement made specifically to the structure or major system of the HOME assisted housing unit in which the cost was more than \$3,000.00 and where applicable, the work was properly permitted, inspected locally and the actual cost has been documented with third party receipts.

The value of the owner's investment (the sum of 1-3 above) will be adjusted by using the Housing Price Index (HPI) as measured by the Federal Housing Finance Agency. The change in the HPI from the original purchase to the time of sale will be applied to the value of the owner's investment, so that the value of the investments is increased or decreased by the amount of increase or decrease in the housing market overall.

Affordable to range of low-income buyers – The sales price may not exceed a price that is not affordable to households at 80% of area median income (AMI). The City of Missoula defines “affordable price” as a price that is at or below an amount that will allow a low income family to pay no more than 32 percent of their monthly income to pay for mortgage principal and interest, property taxes, and insurance.

Repayment

If homebuyer violates compliance requirements during the period of affordability, the City may enforce a Repayment provision in which homebuyer is responsible for repaying to the City the entire HOME investment.

E. Terms and Acronyms Defined

ADA Americans with Disability Act

ADDI American Dream Downpayment Assistance

Affordable housing accommodations that require no more than 30% of a household's income

AIDS Acquired Immunodeficiency Syndrome

AMI Area Median Income

AP Action Plan

APR Annual Performance Report

ARRA American Recovery and Reinvestment Act of 2009

BROWNFIELDS a program that addresses assessment, cleanup and redevelopment of sites that either are or are perceived to be environmentally contaminated

CAPER Consolidated Annual Performance and Evaluation Report

CBDO Community-Based Development Organization

CDBG Community Development Block Grant

CDBG-R Community Development Block Grant Recovery

CFR Code of Federal Regulations

CHDO Community Housing Development Organization

CP Consolidated Plan

CPD (Office of) Community Planning & Development (HUD)

EA Environmental Assessment

EC Entitlement City (CDBG)

EEO Equal Employment Opportunity

EIS Environmental Impact Statement

EMSA Eligible Metropolitan Statistical Area

EPA Environmental Protection Agency

ERR Environmental Review Record

ESG Emergency Shelter Grant

ESL English as a Second Language

FFY Federal Fiscal Year (Oct.-Sept.)

FHEO Fair Housing/Equal Opportunity

FMR Fair Market Rents

FY Fiscal Year (July – June)

GIS Geographical Information Systems

GPR Grantee Performance Report

HCD Office of Housing and Community Development

HOME Home Investments Partnership Program

HQS Housing Quality Standards

HUD (Department of) Housing and Urban Development

IDIS Integrated Disbursement and Information System

LIHTC Low-Income Housing Tax Credits Program

LIHTF Low-Income Housing Trust Fund

LMI Low/moderate income

MBE/WBE Minority/Women Business Enterprise

MCA Montana Code Annotated

MDOC Montana Department of Commerce

Median Income the midpoint of all incomes in the community (half earns more than the median, half earns less) It is not an average.

MOU Memorandum of Understanding

MSA Metropolitan Statistical Area

NAHRO National Association of Housing and Redevelopment Officials

NSP Neighborhood Stabilization Program

OMB Office of Management and Budget

PHA Public Housing Authority

PI program income

PJ Participating Jurisdiction (HOME)

PY Program Year (July – June)

RFP Request for Proposal

RFQ Request for Qualifications

RLF Revolving Loan Fund

RTC Resolution Trust Corporation

SBA U. S. Small Business Association

Section 202 elderly housing

Section 504 accessibility provision of housing law

SHP Supportive Housing Program

SHPO State Historic Preservation Office

SRO Single Room Occupancy

Subrecipient a nonprofit or public agency delivering all or a portion of a housing program on behalf of the PJ and/or Entitlement Community

URA Uniform Relocation Act

F. City of Missoula HOME-CDBG Required Contract Supplemental Conditions

The following supplemental Conditions are hereby made a part of the contract to which they are appended, thereby supplementing that contract and superseding any of its articles which are in conflict with the Conditions contained herein.

1. **INDEPENDENT CONTRACTOR.** It is understood by the parties hereto that the Contractor is an independent contractor and as such neither it nor its employees, if any, are employees of the HOME/CDBG Subrecipient for purposes of tax, retirement system, or social security (FICA) withholding. It is further understood that pursuant to Section 39-71-401, *Montana Code Annotated (MCA)*, the Contractor has obtained, and will maintain at its expense for the duration of this Contract, coverage in a workers' compensation plan for its principles and employees for the services to be performed hereunder.
2. **CONTRACTOR REGISTRATION.** Under the provisions of Section 39-9-201, *Montana Code Annotated*, each construction contractor shall register with the Department of Labor and be issued a Certificate of Registration upon compliance with registration requirements. Independent contractors without employees and architects, civil or professional engineers licensed in Montana and acting solely in a professional capacity are exempt from registering (Section 39-9-211, *MCA*). An independent contractor may voluntarily elect to register.
3. **ELIGIBILITY.** The Contractor certifies that the Contractor's firm and the firm's principals are not debarred, suspended, voluntarily excluded, or otherwise ineligible for participation in federally assisted contracts under Executive Order 12549, "Debarment and Suspension" [2 *CFR* 200.213].
4. **CONFLICT OF INTEREST.** The Contractor covenants that it presently has no interest and will not acquire any interest, direct or indirect, in the HOME/CDBG project that would conflict in any manner or degree with the performance of its services hereunder. The Contractor further covenants that, in the performance of this Contract, it will employ no person who has any such interest.
5. **DOCUMENTS INCORPORATED BY REFERENCE.** The Grantee's HOME and/or CDBG application(s) to the City of Missoula for HOME and/or CDBG funding, dated _____, 20____, and all applicable federal and state statutes and regulations are incorporated into this Contract by this reference and are binding upon the Contractor.
6. **COMPENSATION.** Neither the cost plus a percentage of cost method nor the percentage of construction cost method will serve as the basis for compensating the Contractor for its services provided under this Contract.

7. **PLACE OF PERFORMANCE, CONSTRUCTION, AND VENUE.** This Contract will be construed under and governed by the laws of the State of Montana. In the event of litigation concerning it, venue is the 4th Judicial District in and for the County of Missoula, State of Montana.
8. **BREACH OF CONTRACT.** (*Applicable to contracts in excess of \$100,000; otherwise remove paragraph*) In the event of breach of Contract by the Contractor, the HOME/CDBG Subrecipient may at its option, engage the services of another contractor to complete the work and deduct the cost of the completion from the amount due to the Contractor. In the event if either the HOME/CDBG Subrecipient or Contractor do not fulfill performance under this agreement, then the affected party may pursue all legal remedies available for breach of contract.
9. **TERMINATION OF CONTRACT.** This Contract may be terminated as follows:
- (a) **Termination due to loss of funding.** This Contract will terminate, in whole or in part, at the discretion of the HOME/CDBG Subrecipient in the event that the City of Missoula reduces or terminates payments under the HOME/CDBG Program so as to prevent the HOME/CDBG Subrecipient from paying the Contractor with HOME/CDBG funds. In this event, the HOME/CDBG Subrecipient will give the Contractor advance written notice which sets forth the effective date of the termination and explains that the termination is due to a loss or reduction of the HOME/CDBG Program grant.
- (b) **Termination for cause.**
- (i) If the HOME/CDBG Subrecipient determines that the Contractor has failed to comply with the terms and conditions of the Contract, it may terminate this Contract in whole or in part at any time before the date of completion. If the Contractor fails to comply with any of the terms and conditions of this Contract, the HOME/CDBG Subrecipient may give notice, in writing, to the Contractor of any or all deficiencies claimed. The notice will be sufficient for all purposes if it describes the default in general terms. If all defaults are not cured and corrected within a reasonable period to be specified in the notice, the HOME/CDBG Subrecipient may, with no further notice, declare this Contract to be terminated. The Contractor will thereafter be entitled to receive payment for those services reasonably performed to the date of termination, less the amount of reasonable damages suffered by the HOME/CDBG Subrecipient by reason of the Contractor's failure to comply with this Contract.
- (ii) Notwithstanding the above, the Contractor is not relieved of liability to the HOME/CDBG Subrecipient for damages sustained by the HOME/CDBG Subrecipient by virtue of any breach of this Contract by the Contractor, and the HOME/CDBG Subrecipient may withhold any payments to the Contractor for the purpose of set off until such time as

the exact amount of damages due the HOME/CDBG Subrecipient from the Contractor is determined.

10. **CIVIL RIGHTS ACT OF 1964 [42 U.S.C. 2000d]**. The Contractor will abide by the provisions of the *Civil Rights Act of 1964* which states that under *Title VI*, no person may, on the grounds of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving federal financial assistance.
11. **EQUAL EMPLOYMENT OPPORTUNITY**. Except as otherwise provided under 41 CFR Part 60, all contracts that meet the definition of “federally assisted construction contract” in 41 CFR Part 60-1.3 must include the equal opportunity clause provided under 41 CFR 60-1.4(b), in accordance with Executive Order 11246, “Equal Employment Opportunity” (30 FR 12319, 12935, 3 CFR Part, 1964-1965 Comp., p. 339), as amended by Executive Order 11375, “Amending Executive Order 11246 Relating to Equal Employment Opportunity,” and implementing regulations at 41 CFR part 60, “Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor.”

41 CFR 60-1.4 (b) Federally assisted construction contracts. (1) Except as otherwise provided, each administering agency shall require the inclusion of the following language as a condition of any grant, contract, loan, insurance, or guarantee involving federally assisted construction which is not exempt from the requirements of the equal opportunity clause:

The applicant hereby agrees that it will incorporate or cause to be incorporated into any contract for construction work, or modification thereof, as defined in the regulations of the Secretary of Labor at 41 CFR Chapter 60, which is paid for in whole or in part with funds obtained from the Federal Government or borrowed on the credit of the Federal Government pursuant to a grant, contract, loan, insurance, or guarantee, or undertaken pursuant to any Federal program involving such grant, contract, loan, insurance, or guarantee, the following equal opportunity clause:

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

(1) The contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, sexual orientation, gender identity, or national origin. The contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to their race, color, religion, sex, sexual orientation, gender identity, or national origin. Such action shall include, but not be limited to the following:

Employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation;

and selection for training, including apprenticeship. The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided setting forth the provisions of this nondiscrimination clause.

(2) The contractor will, in all solicitations or advertisements for employees placed by or on behalf of the contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, sexual orientation, gender identity, or national origin.

(3) The contractor will not discharge or in any other manner discriminate against any employee or applicant for employment because such employee or applicant has inquired about, discussed, or disclosed the compensation of the employee or applicant or another employee or applicant. This provision shall not apply to instances in which an employee who has access to the compensation information of other employees or applicants as a part of such employee's essential job functions discloses the compensation of such other employees or applicants to individuals who do not otherwise have access to such information, unless such disclosure is in response to a formal complaint or charge, in furtherance of an investigation, proceeding, hearing, or action, including an investigation conducted by the employer, or is consistent with the contractor's legal duty to furnish information.

(4) The contractor will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice to be provided advising the said labor union or workers' representatives of the contractor's commitments under this section, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

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

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

(7) In the event of the contractor's noncompliance with the nondiscrimination clauses of this contract or with any of the said rules, regulations, or orders, this contract may be canceled, terminated, or suspended in whole or in part and the contractor may be declared ineligible for further Government contracts or federally assisted construction contracts in accordance with procedures

authorized in Executive Order 11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.

(8) The contractor will include the portion of the sentence immediately preceding paragraph (1) and the provisions of paragraphs (1) through (8) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to section 204 of Executive Order 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The contractor will take such action with respect to any subcontract or purchase order as the administering agency may direct as a means of enforcing such provisions, including sanctions for noncompliance:

Provided, however, that in the event a contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the administering agency, the contractor may request the United States to enter into such litigation to protect the interests of the United States.

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

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

The applicant further agrees that it will refrain from entering into any contract or contract modification subject to Executive Order 11246 of September 24, 1965, with a contractor debarred from, or who has not demonstrated eligibility for, Government contracts and federally assisted construction contracts pursuant to the Executive Order and will carry out such sanctions and penalties for violation of the equal opportunity clause as may be imposed upon contractors and subcontractors by the administering agency or the Secretary of Labor pursuant to Part II, Subpart D of the Executive Order. In addition, the applicant agrees that if it fails or refuses to comply with these undertakings, the administering agency may take any or all of the following actions: Cancel,

terminate, or suspend in whole or in part this grant (contract, loan, insurance, guarantee); refrain from extending any further assistance to the applicant under the program with respect to which the failure or refund occurred until satisfactory assurance of future compliance has been received from such applicant; and refer the case to the Department of Justice for appropriate legal proceedings.

12. **NONDISCRIMINATION AND EQUAL OPPORTUNITY.** The Contractor will abide by the Federal requirements set forth in *24 CFR 5.105(a), Nondiscrimination and equal opportunity*, as these apply to the HOME/CDBG program and activities:
- a) requirements of the *Fair Housing Act [42 U.S.C. 3601-20]* and *Executive Orders 11063 and 12259* (regarding Equal Opportunity in Housing);
 - b) prohibitions against discrimination on the basis of age under the *Age Discrimination Act of 1975 [42 U.S.C. 6101-07]*;
 - c) prohibitions against discrimination against an otherwise qualified individual with a physical or mental disability, as provided in *Section 504 of the Rehabilitation Act of 1973 [42 U.S.C. 794]*; and
 - d) *Executive Order 11246*, as amended, regarding Equal Employment Opportunities.
13. **SECTION 3 OF THE HOUSING AND URBAN DEVELOPMENT ACT OF 1968 [12 U.S.C. 1701u].** The Contractor will ensure that, to the greatest extent feasible, opportunities for training and employment arising in connection with this HOME/CDBG-assisted project will be extended to lower income project area residents. Further, Contractor will, to the greatest extent feasible, utilize business concerns located in or substantially owned by residents of the project area, in the awarding of contracts and purchasing of services and supplies.
14. **MINORITY AND WOMEN'S BUSINESS ENTERPRISES [Executive Orders 11625, 12432, 12138, and 11246].** The Contractor will take affirmative steps to assure that minority and women-owned businesses are used when possible as sources of supplies, equipment, construction and services. Additionally, the Contractor must document all affirmative steps taken to solicit the participation of minority and women-owned businesses, and will forward this documentation (along with the names of the minority subcontractors and suppliers) to the HOME/CDBG Subrecipient.

In accordance with 2 CFR 200.321 the Contractor must take all necessary affirmative steps to assure that minority businesses, women's business enterprises, and labor surplus area firms are used when possible.

Affirmative steps must include:

- (1) Placing qualified small and minority businesses and women's business enterprises on solicitation lists;
- (2) Assuring that small and minority businesses, and women's business enterprises are solicited whenever they are potential sources;
- (3) Dividing total requirements, when economically feasible, into smaller tasks or quantities to permit maximum participation by small and minority businesses, and women's business enterprises;
- (4) Establishing delivery schedules, where the requirement permits, which encourage participation by small and minority businesses, and women's business enterprises;
- (5) Using the services and assistance, as appropriate, of such organizations as the Small Business Administration and the Minority Business Development Agency of the Department of Commerce; and

15. **NONDISCRIMINATION.** The Contractor will not discriminate against any employee or applicant for employment on the basis of race, color, religion, creed, political ideas, sex, age, marital status, physical or mental disability, or national origin.

16. **LOBBYING PROVISIONS.** The Contractor certifies that no Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement. Contractor must also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award.

17. **OWNERSHIP AND PUBLICATION OF MATERIALS.** All reports, information, data, and other materials prepared by the Contractor pursuant to this Contract are to be the property of the HOME/CDBG Subrecipient and the City of Missoula Office of Housing and Community Development (HCD) which have nonexclusive and unrestricted authority to release, publish or otherwise use, in whole or in part, information relating thereto. Any reuse without written verification or adaptation by Contractor for the specific purpose intended will be at the Owner's sole risk and without liability or legal exposure to the Contractor. No material produced in whole or in part under this Contract may be subject to copyright or patent in the United States or in any other country without the prior written permission of the HOME/CDBG Subrecipient and HCD.

18. REPORTS AND INFORMATION. The Contractor will maintain accounts and records, including personnel, property and financial records, which are adequate to identify and account for all costs pertaining to this Contract; and such other records as may be deemed necessary by the HOME/CDBG Subrecipient to assure proper accounting for all project funds, both federal and non-federal shares. These records will be made available for audit purposes to the HOME/CDBG Subrecipient or its authorized representative, and will be retained by the Contractor for five years after the expiration of this Contract.

The contractor, at such times and in such forms as the owner may require, shall furnish the owner such periodic reports as it may request pertaining to the work or services undertaken pursuant to this contract, the costs and obligations incurred or to be incurred in connection therewith, and any other matters covered by this contract.

19. ACCESS TO RECORDS. It is expressly understood that the Contractor records relating to this Contract will be available during normal business hours for inspection by the HOME/CDBG Subrecipient, City of Missoula Office of Housing and Community Development (HCD), the U.S. Department of Housing and Urban Development, the U.S. Comptroller General, and, when required by law, the Montana Legislative Auditor.

20. INDEMNIFICATION. The Contractor waives any and all claims and recourse against the HOME/CDBG Subrecipient, including the right of contribution for loss and damage to persons or property arising from, growing out of, or in any way connected with or incident to the Contractor's performance of this contract, except for liability arising out of concurrent or sole negligence of the HOME/CDBG Subrecipient or its officers, agents or employees. Further, the Contractor will indemnify, hold harmless, and defend the HOME/CDBG Subrecipient against any and all claims, demands, damages, costs, expenses or liability arising out of the Contractor's performance of this Contract except for liability arising out of the concurrent or sole negligence of the HOME/CDBG Subrecipient or its officers, agents or employees. In the event that the HOME/CDBG Subrecipient is named as a co-defendant in any action relating to activities to be performed by the Contractor or a subcontractor under this Contract, the Contractor will notify the HOME/CDBG Subrecipient of this fact and will represent the HOME/CDBG Subrecipient in the legal action unless the HOME/CDBG Subrecipient undertakes to represent itself as a co-defendant, in which case the HOME/CDBG Subrecipient will bear its own litigation costs, expenses, and attorneys' fees.

21. LEGAL FEES. In the event either party incurs legal expenses to enforce the terms and conditions of this Contract, the prevailing party is entitled to recover reasonable attorney's fees and other costs and expenses, whether the same are incurred with or without suit.

- 22. MODIFICATION AND ASSIGNABILITY OF CONTRACT.** This Contract contains the entire agreement between the parties, and no statements, promises, or inducements made by either party, or agents of either party, which are not contained in the written Contract, are valid or binding. This Contract may not be enlarged, modified or altered except upon written agreement. The Contractor may not subcontract or assign its rights (including the right to compensation) or duties arising hereunder without the prior written consent of the HOME/CDBG Subrecipient. Any subcontract or assignee will be bound by the terms and conditions of this contract.
- 23. COPELAND ANTIKICKBACK ACT.** The Contractor shall not induce, by any manner whatsoever, any person employed in the construction, prosecution, completion, or repair of any building or work financed in whole or in part by loans or grants from the United States, to give up any part of the compensation to which (s)he is entitled under contract of employment.
- 24. ACCESSIBILITY REQUIREMENTS.** All design specifications for the construction of any building shall comply with the applicable accessibility requirements of the *Fair Housing Amendments Act of 1988 (Fair Housing Act)*; the *Uniform Federal Accessibility Standards* adopted by HUD in *24 CFR Part 8* (implements *Section 504 of the Rehabilitation Act of 1973*); and the accessibility requirements of the *Americans with Disabilities Act*.
- 25. CERTIFICATION OF COMPLIANCE WITH FEDERAL CLEAN AIR AND WATER ACTS.** (Applicable to federally assisted construction contracts and related sub-contracts exceeding \$100,000; otherwise remove paragraph) During the performance of this contract, the contractor and all subcontractors shall comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act (42 U.S.C. 7401-7671q) and the Federal Water Pollution Control Act as amended (33 U.S.C. 1251-1387) and the regulations of the Environmental Protection Agency with respect thereto, at *40 CFR 15*, as amended.. Violations must be reported to the Federal awarding agency and the Regional Office of the Environmental Protection Agency (EPA).
- 26. PRECONSTRUCTION CONFERENCE.** After the construction contract(s) for the project contemplated by this Contract have been awarded, but before the start of construction, a conference will be held for the purpose of familiarizing the successful bidder with the federal and State requirements which apply to projects funded in whole or in part by a HOME/CDBG Grant. Additionally, discussions will take place on such matters as project supervision, coordination with city or county officials, on-site inspections, progress schedules and reports, payrolls, payments to contractors, contract change orders, insurance, safety and other items pertinent to the project. The Contractor may be responsible for conducting this conference. The contractor shall arrange to have all supervisory personnel connected with the project on hand to meet with representatives of the engineer and owner to discuss any problems anticipated

27. FEDERAL LABOR STANDARDS PROVISIONS. (required for construction contracts which include 12 or more HOME-assisted units or 8 or more total housing units when CDBG funding is involved; otherwise remove.)

(Attach and Reference [HUD-4010](#) form that by this reference is made a part hereof, if applicable.)

28. SCHEDULE OF MINIMUM HOURLY WAGE RATES. (required for construction contracts which include 12 or more HOME-assisted units or 8 or more units when CDBG funding is involved; otherwise remove.)

(Attach and Reference Davis-Bacon Wage Determination that by this reference is made a part hereof.)

G. Required Contract Clauses

1. EMPLOYMENT OF CONTRACTOR. (*Grantee name*) agrees to engage the Contractor and the Contractor agrees to provide the following services:
2. SCOPE OF SERVICES. The Contractor will perform the following services: (Here, or in an exhibit to the contract, explicitly and completely list the services and products the grant recipient expects of the Contractor, including the timetable for completion of key tasks. Consult with your HOME liaison as to the specific services that may be appropriate for each grant category.)
3. LIAISON. The Grantee's designated liaison with the Contractor is _____. The Contractor's designated liaison with the Grantee is _____.
4. EFFECTIVE DATE AND TIME OF PERFORMANCE. This Contract takes effect on _____. The services to be performed by the Contractor will be completed no later than _____.
5. COMPENSATION. For the satisfactory completion of the services to be provided under this Contract, the Grantee will pay the Contractor a sum not to exceed \$_____, which the Grantee agrees to pay as set forth on the attached Attachment _____ which by this reference is made a part hereof.

Compensation for services will be provided in installments, based on actual work performed. Payment will be based upon the completion of key components of the adopted project implementation schedule (and/or on the basis of a set hourly rate). Contractor requests for payment may be submitted monthly, and must be accompanied by a written narrative report which adequately describes and documents the work performed during that period relative to the adopted implementation schedule for the project. (The exhibit should describe the maximum amount payable under the contract, the procedures for approving payment, the terms of payment, and the performance measures to be used to determine contractor compliance.)

6. CONDITIONAL AGREEMENT. (*only if applicable*) It is expressly understood by the parties hereto that this Contract is dependent and conditional upon the receipt by the Grantee of Home Investment Partnership Program (HOME) Grant funds from the City of Missoula, and that in the event that said funds are not provided, the Grantee incurs no responsibilities or liabilities under this Contract.