

CHAPTER 10 -- CDBG Non-competitive Housing Rehabilitation

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CHAPTER 10

CDBG Housing Rehabilitation

OVERVIEW

For those grantees working specifically on housing rehabilitation projects, please note that the entire CDBG / NSP *Grant Administration Manual* (GAM) is for the use of the rehabilitation program. Because most CDBG requirements are addressed in other chapters, housing rehabilitation projects should use all the other GAM chapters to meet the requirements of the project. However, this chapter specifically focuses on housing rehabilitation requirements that may not be addressed in another chapter.

This chapter has been designed with the user in mind. Each GAM chapter will be discussed to clearly outline where there are updates specific to the housing rehabilitation. Additionally, following the narrative of this chapter, there are a number of specific exhibits that are solely for the administration of housing rehabilitation project.

A. Chapter 1 Project Start-Up

Please use Chapter 1 of the Grant Administration Manual regarding the project start up steps that may not be addressed below for the housing rehab project.

Process to secure firm commitment of housing rehab funds

Once the grantee has received certification approving access to CDBG housing rehabilitation funds, the grantee can begin working toward securing funding on individual units. In order to receive a firm, fixed amount of funds, the grantee should submit a Project Request Form (exhibit found at end of chapter). The grantee must follow the rehab property specific checklist provided in the exhibit at the end of this chapter. This checklist provides a general guide for specific items that must be submitted in order to firmly award funds and carryout project activities. Also once the individual project has been identified, a general and detailed project budget must be submitted as part of securing firm commitment of funds through the Project Request Form. The general budget is an overview of the use of funds impacting the entire project, while the detailed budget identifies specific health and safety items associated with rehabilitation activities (exhibits found at the end of this chapter).

To further assist CDBG Rehab grantees with the collection of necessary documentation requested by staff before funds are secured on site-specific units involving acquisition, staff will use the pre-acquisition property specific checklist to guide the firm commitment of funds. Additional forms, as required on the checklist, are also included in the exhibits at the end of this chapter.

To reduce the risk of recipients obligating funds, without the firm commitment of funds from MDOC, applicants should communicate that all award of bids or assistance that is provided is contingent upon an individual property contract executed with MDOC. Please note that it is very important that any individual or property that is being considered receive the URA General Information Notice, which is more thoroughly discussed in Chapter 7, but is also provided as an exhibit at the end of this chapter.

For proposed new construction, infill development projects, Commerce may require the grantee to commission a Preliminary Architectural Report (PAR). The PAR needs to be submitted and reviewed before the Project Request Form.

B. Chapter 2 Environmental Review

The housing rehab program does not necessitate any changes to this chapter of the Grant Administration Manual. Please use the existing chapter for relevant guidance as there is no updated housing rehabilitation guidance.

C. Chapter 3 Procurement Standards

The housing rehab program does not necessitate any changes to this chapter of the Grant Administration Manual. Please use the existing chapter for relevant guidance as there is no updated housing rehabilitation guidance.

D. Chapter 4 Financial Management

The housing rehab program does not necessitate any changes to this chapter of the Grant Administration Manual. Please use the existing chapter for relevant guidance along with the two specific notes below.

Program Income Plan

The Program Income plan must be approved prior to contracting any individual units under the housing rehab program.

Affordability and Income Eligibility Reporting

Because the housing rehab funds require affordability periods on all assisted housing units, MDOC requires annual reporting on the use of funds until the expiration of the affordability periods, which can be completed in conjunction with the program income report.

E. Chapter 5 Civil Rights

The housing rehab program does not necessitate any changes to this chapter of the Grant Administration Manual. Please use the existing chapter for relevant guidance as there is no updated housing rehabilitation guidance.

F. Chapter 6 Labor Standards

The housing rehab program does not necessitate any changes to this chapter of the Grant Administration Manual. Please use the existing chapter for relevant guidance as there is no updated housing rehabilitation guidance.

G. Chapter 7 Acquisition & Relocation

The following guidance should be used in addition to Chapter 7 of this Grant Administration Manual.

I. Guidance on Rehabilitation work – Voluntary Agreements

Owner-occupied units are eligible for housing rehab funding, however, no construction activities are allowed to take place until voluntary agreements regarding the proposed work activities are signed by the homeowner (exhibits found at the end of this chapter). CDBG grant funds are subject to the Uniform Relocation Act (URA). The implementing regulations in 49 CFR Part 24 are more fully discussed in chapter 7. These regulations and exhibits are intended to help clearly communicate the agreed upon actions taken with housing rehab funds between the grantee and beneficiary.

1. The grantee must ensure that the owner/beneficiary is fully informed that their participation in this program is completely voluntary but will result in a lien on their property. If the owner chooses not to participate in the program, they will not be provided assistance. Exhibits are provided at the end of this chapter to clearly communicate the voluntary participation in the program and the voluntary agreement with potential construction work items.
2. If CDBG Rehab funds are used to acquire a home or residential property (other than through donation), the grantee must ensure that the purchase price is established by an appraisal that meets the following requirements:
 - a. The appraisal must be completed within 60 days of the offer made for the property (we advise that an initial offer can be made, subject to the completion of the appraisal within 60 days of a final offer).
 - b. The appraisal must meet the URA definition of an appraisal (see 49 CFR 24.2(a)(3) and the five following requirements (see 49 CFR 24.103(a)(2)):
 - i. An adequate description of the physical characteristics of the property being appraised (and, in the case of a partial acquisition, an adequate description of the remaining property), including items identified as personal property, a statement of the known and observed encumbrances, if any, title information, location, zoning, present use, an analysis of highest and best use, and at least a 5-year sales history of the property.
 - ii. All relevant and reliable approaches to value. If the appraiser uses more than one approach, there shall be an analysis and reconciliation of approaches to value used that is sufficient to support the appraiser's opinion of value.
 - iii. A description of comparable sales, including a description of all relevant physical, legal, and economic factors such as parties to the transaction, source and method of financing, and verification by a party involved in the transaction.
 - iv. A statement of the value of the real property to be acquired and, for a partial acquisition, a statement of the value of the damages and benefits, if any, to the remaining real property, where appropriate.

- v. The effective date of valuation, date of appraisal, signature, and certification of the appraiser.
 - c. The appraiser shall disregard any decrease or increase in the fair market value of the real property caused by the project for which the property is to be acquired or by the likelihood that the property would be acquired for the project, other than that due to physical deterioration within the reasonable control of the owner.
 - d. If the owner of a real property improvement is permitted to retain it for removal from the project site, the amount to be offered for the interest in the real property to be acquired shall be not less than the difference between the amount determined to be just compensation for the owner's entire interest in the real property and the salvage value (defined at §24.2(a)(24)) of the retained improvement.
3. The grantee has a legitimate role in contributing to the appraisal process, especially in developing the scope of work and defining the appraisal problem. The scope of work and development of an appraisal under these requirements depends on the complexity of the appraisal problem. HUD's guide to preparing an appraisal scope of work under the URA is available in HUD Handbook 1378- Appendix 19 or through the following link:
- <http://www.hud.gov/offices/adm/hudclips/handbooks/cpdh/1378.0/1378x19CPDH.pdf>
4. The grantee shall establish criteria for determining the minimum qualifications and competency of appraisers. Qualifications shall be consistent with the scope of work for the assignment. The grantee shall review the experience, education, training, certification/licensing, designation(s) and other qualifications of appraisers, and use only those determined by the grantee to be qualified.

II. Uniform Relocation Act (URA) Notices

Voluntary Acquisition

The grantee is required to provide written notice to the owner (Real Estate Owned (REO) title holder) that the terms of the acquisition comply with the URA voluntary acquisition requirements (49 CFR 24.101(b)(1)-(5)). These requirements apply to anyone who uses CDBG funds (or any Federal financial assistance) to acquire property including any Agency, non-profit, or individual homebuyer who uses federally-funded down-payment or other financial assistance. To convey voluntary acquisition in accordance with the URA, the owner of record must be notified in writing that Federal financial assistance will be used in the transaction and that if agreement cannot be reached through negotiation, the acquisition will not take place; and be informed of the estimated market value of the property. Agencies with the power of eminent domain must also document that the property is not a necessary part of a proposed project and is not part of an intended, planned, or designated project area where substantially all of the property within the area is to be acquired.

There are URA exception criteria, referred to as voluntary acquisition, to be used to demonstrate that the purchase will be conducted through terms of negotiation with no threat of eminent domain. Specific URA voluntary acquisition requirements that must be met, depending on whether or not the buyer has the power of eminent domain and will not use it (see 49 CFR 24.101(b)(1)(i)-(iv)), or if the buyer does not have the power of eminent domain (see 49 CFR 24.101(b)(2)). Any acquisition under possible threat of eminent domain, cannot be considered a "voluntary acquisition" (even if the seller is willing to negotiate). MDOC has stated that as a state agency it will not exercise its power of

eminent domain, nor will any funds be contracted with a local government who intends to exercise its power of eminent domain.

To assist grantees with the written notice HUD has developed a number of sample guide forms to assist grantees in meeting these requirements. MDOC requires that one of the following notice(s) be sent to the REO holder for each property acquired (staff will provide guidance as to which notice is appropriate):

- Voluntary Acquisition Notice of Foreclosed Property, Agencies/Persons Without Eminent Domain Authority
- Voluntary Acquisition Notice of Foreclosed Property, Agencies/Persons With Eminent Domain Authority

General Information Notice

To assist grantees with the written General Information Notice (GIN) (discussed in further detail in chapter 7 of this GAM), there is an exhibit at the end of this chapter that can be specifically used for housing rehab and must be sent to all residents of an occupied structure. Please use the GIN notice. Documentation of the date and confirmed delivery of this notice must be placed in the grantees project files and sent to MDOC.

H. Chapter 8 Economic Development

This chapter does not apply to the CDBG Rehab projects.

I. Chapter 9 Construction Management

The housing rehab program does not necessitate any procedural changes to this chapter of the Grant Administration Manual. Please use the existing chapter for relevant guidance as there is no updated housing rehabilitation guidance.

Please note the updated sub-recipient agreement exhibit from chapter 9 has been modified for the housing rehab program. This exhibit is included at the end of this chapter.

J. Chapter 10 Housing

I. Eligible Households

a. Income Certification

All households assisted with housing rehab funds or who become occupants or owners of a CDBG-assisted housing unit must be determined as eligible according to the HUD income guidelines. All projects must provide documentation of eligibility as outlined in the income verification checklist (exhibit found at the end of this chapter).

Grantee project files must contain documentation that certification of the residents income occurred prior to rehab work beginning or at the initial purchase or occupancy (if the assisted property is sold). These files must be kept throughout the period of

affordability and at least 3 years after the expiration of the period of affordability.

b. Homebuyer Counseling Courses

New Homeowners or owners of occupied housing will need to complete and provide a certificate, from a HUD-approved housing counseling agency, that they have attended the homeowner counseling course. Grantees will be expected to maintain copies of these certificates to demonstrate compliance with this requirement.

c. Continued Affordability

MDOC is requiring that CHDO's provide assistance to all beneficiaries to ensure that all financial requirements, necessary to clearly place recapture restrictions on individual properties for the period of affordability, are carried out. Each grantee must identify the type of affordability restrictions for the entire program, including recapture processes and procedures. Individual recapture agreements must be reviewed and approved prior to execution with the beneficiary. At a minimum, all CDBG assisted rehabilitation projects must adhere to the affordability requirements listed below.

Homebuyer Long-Term Affordability

All homebuyer units assisted with CDBG Rehab funds must include provisions for long-term affordability restrictions meeting at least the following requirements:

Subsidy Amount <i>(amount of CDBG Rehab assistance provided to a homebuyer)</i>	Minimum Affordability Period	Minimum Restriction
Under \$15,000	5 years	Subsidy recapture, 20% forgiveness each year
\$15,000 – \$40,000	10 years	Subsidy recapture, 10% forgiveness each year
Over \$40,000	15 years	Subsidy recapture, 6.6% forgiveness each year
New Construction or Acquisition of Newly Constructed Single Family Housing (any \$ amount)	20 years	Subsidy recapture, 5% forgiveness each year

While these are minimum requirements, the applicant may choose to implement more stringent affordability requirements than the minimum listed here to ensure that the properties remain affordable for as long as possible.

An abstract of the agreement must be recorded on each property assisted with housing rehab funds. A sample abstract agreement is available at the end of this chapter. Documentation of recorded agreement must be provided.

II. Rehabilitation Standards

MDOC has established the following Rehabilitation Standards for the CDBG rehabilitation program. "Rehabilitation" includes using funds to make improvements to substandard residential structures. Housing

rehabilitation or related redevelopment projects focus on bringing housing units up to basic code standards by addressing structural deficiencies, improving electrical systems, plumbing and roofing, and incorporating energy conservation measures.

Such improvements must meet or exceed requirements contained in current editions of the HUD Section 8 Housing Quality Standards (or FHA equivalent standards) and the following most current codes adopted by the Building Codes Bureau of the Montana Department of Labor and Industry (MDLI):

- International Building Code,
- International Residential Code, (one and two-family dwellings and townhouses up to three stories in height)
- International Existing Building Code,
- Uniform Plumbing Code,
- International Mechanical Code,
- International Fuel Gas Code,
- National Electrical Code,
- International Energy Conservation Code; and
- American Society of Engineers, Boiler and Pressure Vessel Code.

Note on Energy Conservation: Communities proposing rehabilitation or new construction of residential housing units should pay particular attention to the most current edition of the International Energy Conservation Code. This code was adopted by the Building Codes Bureau of the Montana Department of Labor and Industry. The code establishes energy conservation standards for improvements to existing residential structure or construction of new residential housing units, as well as standards for other types of construction.

For all areas permits must be obtained from the MDLI, Building Codes Bureau for electrical and/or plumbing work unless the grant recipient has been certified by the Bureau to enforce the codes cited above. In such cases, some permits will be obtained locally. The Building Codes Bureau maintains a listing of Montana counties and incorporated municipalities, which are certified to enforce building, electrical, mechanical, and plumbing codes. In those cases where the Building Codes Bureau has not certified the grant recipient, permits must be obtained from the Bureau when rehabilitation involves structures with five or more units, or any commercial or public buildings.

Grantees will be responsible for assuring that proper authorities inspect such work and an inspection report is provided to the beneficiary and MDOC once completed. Options to provide code inspection may include agreements with governments that have existing building departments, arrangements with MDLI's Building Codes Bureau, or by contracting with qualified, private sector persons. Where possible, to preserve independence, local governments are encouraged to utilize the services of a separate individual to perform inspection services. All electrical and/or plumbing work must be done only by electricians and/or plumbers licensed by the State of Montana.

For further information, please contact:

Building Codes Bureau/Montana Dept of Labor & Industry
301 South Park, Room 430 -- P.O. Box 200517
Helena, MT 59620-0517
Phone: (406) 841-2300

Website: http://mt.gov/dli/bsd/bc/bs_index.asp

K. Chapter 11 Involving the Public

The housing rehab program does not necessitate any changes to this chapter of the Grant Administration Manual. Please use the existing chapter for relevant guidance as there is no updated housing rehabilitation guidance.

L. Chapter 12 Project Monitoring

The housing rehab program does not necessitate any changes to this chapter of the Grant Administration Manual. Please use the existing chapter for relevant guidance as there is no updated housing rehabilitation guidance.

M. Chapter 13 Project Closeout

The housing rehab program does not necessitate any changes to this chapter of the Grant Administration Manual. Please use the existing chapter for relevant guidance as there is no updated housing rehabilitation guidance.

N. Chapter 14 Project Audits

The housing rehab program does not necessitate any changes to this chapter of the Grant Administration Manual. Please use the existing chapter for relevant guidance as there is no updated housing rehabilitation guidance.

CHAPTER 10

EXHIBITS

- 10-A Sample Abstract of Sub Recipient Agreement**
- 10-B CDBG PAR Guidance**
- 10-C CDBG Pre-Acquisition Checklist**
- 10-D CDBG Property Specific Rehab Checklist**
- 10-E Sample CDBG Rehab Project Request**
- 10-F CDBG Rehab Income Verification Form**
- 10-G Sample CDBG Rehab Sub Recipient Agreement**
- 10-H Sample CDBG Rehab Detailed Site Budget**
- 10-I Sample CDBG Rehab Preliminary General Site Budget**
- 10-J Sample CDBG Rehab Property Specific Implementation Schedule**
- 10-K Sample CDBG Rehab URA GIN Notice**
- 10-L Sample Voluntary Construction Statement for Rehab by Homeowner**
- 10-M Sample Voluntary Rehab Participation Form**
- 10-N Sample CDBG Rehab Owner Notice of Voluntary Acquisition – No Eminent Domain**
- 10-O Sample CDBG Rehab Owner Notice of Voluntary Acquisition – with Eminent Domain Authority**