

CHAPTER 1 -- PROJECT START-UP

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CHAPTER I

PROJECT START-UP

I. OVERVIEW

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

Key project start-up steps include:

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

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

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

5. **Establish a Management Plan for project administration.** (See Exhibits 1-A, 1-B and 1-C.)
 - a. determine whether a public employee or a private contractor will manage the grant activities (or both);
 - b. comply with federal and state law regarding employment practices and hiring and/or procurement procedures;
 - c. assign responsibilities to individuals for all aspects of project management;
 - d. prepare final schedule for project implementation;
 - e. submit the Project Management Plan and Implementation Schedule to MDOC for CDBG's review and approval.

6. **Submit properly completed copies of the Signature Certification Form (Exhibit 1-D) and the Designation of Depository Form (Exhibit 1-E).**

7. **Secure the firm commitment of any non-CDBG resources to be involved in the project (Exhibit 1-F) and communicate this to CDBG/MDOC.**

8. **Establish the following project files.** Those indicated with an (*) may not be applicable for your project. The files are listed in alphabetical order for ease of reference.
 - Acquisition / Relocation (*)
 - Application
 - Audits
 - Citizen Participation
 - Civil Rights
 - Closeout
 - Construction Contract Management (for Public Facilities Construction or New Housing Construction or for Rehabilitation of a Multi-Family Housing Structure) (*)
 - Department of Commerce Contract -- including, but not limited to:
 - contract and contract amendments
 - certificate of insurance,
 - evidence of workmen's compensation participation, and
 - naming of the State as an additional insured
 - Economic Development (*)
 - Environmental Review
 - Financial Management
 - General Correspondence
 - Housing Rehabilitation or New Housing Construction (*)
 - Labor Standards and Davis-Bacon Compliance (*)
 - Professional Services Agreements and/or Employee Selection (*)
 - Program Income File
 - Project Management
 - Project Monitoring
 - **Proof of Insurance and Workmen's Compensation File**

II. APPLICABLE REQUIREMENTS

A. FEDERAL

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

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

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

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

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

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

B. STATE

1. **The Montana CDBG Program Application Guidelines.** These annual guidelines set out the basic requirements governing an application for CDBG funds and describe the various conditions that attach to projects selected for funding.

2. **The Montana CDBG Program Grant Administration Manual** describes the policies and procedures governing administration of CDBG projects by local grant recipients. Both the CDBG Application Guidelines and Grant Administration Manual have been adopted by the Department of Commerce (MDOC), by reference, as administrative rules under the Montana Administrative Procedure Act. (Cite: ARM 8.97.3702)

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

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

III. STEPS FOR PROJECT START-UP

A. GRANT AWARD LETTER

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

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

B. PREPARING THE CONTRACT

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

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

The negotiation process will include:

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

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

Each contract consists of:

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

example, provisions regarding contract termination, modification and amendment; method of payment; conflict of interest; and compliance with applicable laws and regulations; and

- **provisions specific to the agreement between the MDOC and the grantee** -- for example, provisions regarding the amount of the grant, the scope of services, including the project budget, project implementation schedule, and any special conditions.

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

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

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

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

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

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

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

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

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

C. AMENDING THE CONTRACT

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

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

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

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

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

D. INCURRING START-UP COSTS

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

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

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

1. **Environmental Exemption for Administrative Activities**

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

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

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

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Examples of environmentally exempt administrative activities include the following:

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

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

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

2. **Reimbursement for Activities**

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

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

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

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

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

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

E. ATTENDING A CDBG GRANT ADMINISTRATION WORKSHOP

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

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

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

F. ESTABLISHING A MANAGEMENT PLAN FOR PROJECT ADMINISTRATION

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1. Administration by Public Employees

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

G. ESTABLISHING A PROGRAM INCOME PLAN

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

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

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

H. PREPARING THE PROJECT IMPLEMENTATION SCHEDULE

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

1. Project Start-up Requirements

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

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

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

Background:

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

Underperformance and HUD “At-Risk” Management:

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

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

Failure to Perform and HUD Remediation Plan Status:

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

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

2. Commitment of Non-CDBG Resources

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

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

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

3. Timely Project Completion

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

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

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

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

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

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

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

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

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

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

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

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

I. ADDITIONAL START-UP ACTIVITIES

1. HUD Civil Rights Requirements

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

- **Undertake actions to affirmatively further fair housing**, such as: **adopting a fair housing resolution (Exhibit 5-M, sample *Fair Housing Resolution*)**, posting **fair housing notices and posters (Exhibit 5-N, sample *Fair Housing Poster*)**, and **publicizing affirmative fair housing rights and responsibilities**. Also: Distribute brochures (see **Exhibit 5-O, *Fair Housing Handout and Complaint Pamphlet***, and other brochures available from MDOC) explaining fair housing rights, practices and statutory requirements. **Exhibit 5-P** provides a sample housing program notice.
- **Adopt a Hatch Act Resolution (Exhibit 5-Q, sample *Hatch Act Resolution*)**, and **inform local government officials and CDBG grantee employees of the provisions of the Hatch Act**. Also: Designate a person to disseminate the information and brochure regarding Hatch Act responsibilities.
- **Conduct a Handicapped-Access Self-Evaluation Survey to determine compliance with requirements and prepare a Transition Plan for handicapped access** in publicly-owned buildings and buildings used for public meetings and functions. Review Section 504 of the *Rehabilitation Act of 1973* and the *Americans with Disabilities Act of 1990 (ADA)*.

- **Adopt complaint resolution procedures to ensure compliance with Section 504 of the Rehabilitation Act of 1973 and the Americans with Disabilities Act of 1990 (ADA)**. These procedures must allow for prompt and equitable resolution of charges alleging non-compliance with ADA. (See **Exhibit 5-R, sample *Section 504 and ADA Complaint Resolution Procedures***).

- **CDBG Grantees must ensure accessibility (both structurally and administratively) to programs, services, and benefits for persons with physical and mental disabilities**. Grantees and their contractors may not discriminate against qualified individuals with disabilities.

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

Postponement of Civil Rights Requirements:

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

2. Documentation of Procurement for Professional Services

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

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

3. Budgetary Authority Resolution

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

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

4. Proof of Insurance and Workmen's Compensation

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

J. COMPLETING SIGNATURE AND DEPOSITORY FORMS

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

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

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

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

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

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

K. ESTABLISHING PROJECT FILES

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

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

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

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

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

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

1. Acquisition/Relocation File (*)

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

2. Application File

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

3. Audits File

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

4. Citizen Participation File

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

5. Civil Rights File

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

6. Closeout File

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

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

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

8. Department of Commerce Contract File

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

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

9. Economic Development File (*)

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

10. Environmental Review File

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

11. Financial Management File

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

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

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

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

12. General Correspondence File

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

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

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

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

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

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

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

16. Program Income File

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

17. Project Management File

The project management file should include the following:

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

18. Project Monitoring File

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

19. Proof of Insurance and Workmen's Compensation File

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

CHAPTER 1

EXHIBITS

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

EXHIBIT 1-A

PROJECT MANAGEMENT PLAN GUIDELINES

Preparation of the project management plan does not have to be a difficult task. As part of its CDBG application, each applicant prepared a preliminary management plan (usually using a version of *Appendix M* of the *CDBG Application Guidelines*, available on-line at the CDBG website) which described how the applicant intended to manage its project.

Preparation of the final project management plan (see the examples/samples in *Exhibit 1-B* and *Exhibit 1-C* and also the additional examples provided in the *CDBG Application Guidelines*) is a matter of reviewing the preliminary plan and then more precisely defining how and by whom the project will be administered. The management plan should cover the following four basic areas:

1. Overall Administrative Structure
2. Project Management
3. Financial Management
4. Project Implementation Schedule (= Attachment A of the CDBG contract)

It is not necessary that the plan be divided into these sections, as long as the basic issues are addressed. In addition, the Project Implementation Schedule (Attachment A of the approved/executed CDBG contract) should be included with the Management Plan to demonstrate how the tasks described in the plan will be dealt with chronologically.

1. **Overall Administrative Structure**

This element will describe how your local government will integrate project management with its existing organizational structure. The most common alternatives for management (as discussed in the text of Chapter 1) are either administration by local staff or through a contract with a private consultant. This portion of the plan should include a description of:

- the role of the mayor and council (or county commission) in supervising project administration and the expenditure of project funds and how this will be coordinated with the project manager and the grant recipient's financial officer;
- the role, if any, of the local government's attorney in preparing and reviewing any proposed contracts required for the CDBG project;
- the key persons who will be involved in project administration including the chief elected official, the local government's financial officer, any officials who will be authorized to sign requests for CDBG funds, the project manager, the recipient's attorney, and any other officials or staff who will have a direct role in administering the grant. The list should include names, titles, telephone numbers, and a brief description of their role in the project's administration.

2. Project Management

This element should describe the procedures that will be followed and the persons who will be responsible for overall project management, including assuring documentation of the recipient's compliance with all applicable CDBG Program and contract requirements (other than those pertaining to financial management) such as the environmental review process, civil rights, preparation of regular project progress/update reports and project closeout reports, etc.

For example:

- for a housing rehabilitation project, a Project Management description should address items such as: the role and composition of any advisory board; the procedures for deciding about how grants and/or loan awards will be made to individual households; how housing rehabilitation applications will be accepted from local households and how they will be reviewed; the procedures for soliciting and processing contractor bids for housing rehabilitation work for individuals households; and how contracts for such housing rehabilitation work will be awarded and monitored to assure satisfactory work is accomplished.
-
- for a public facilities project, a Project Management description should address items such as: the role and responsibilities of the project engineer (or project architect) and local staff (or contracted management consultant) for compliance with general CDBG requirements; preparation of construction bid specifications to assure they meet CDBG requirements outlined in Chapter 9 of this Manual: supervising of bidding procedures; conducting pre-construction conferences; determining who will be responsible for weekly review of wages against the applicable federal Davis-Bacon wage rates and for regularly conducting on-site employee interviews with construction personnel to assure Davis-Bacon labor standards compliance (as outlined in Chapter 6 of the Manual); and project inspections.

If the CDBG grant recipient intends to contract with a consultant for project management services, a copy of the draft contract should be referenced in the management plan. All contracts need to be reviewed and approved by CDBG.

3. Financial Management

This portion of the project management plan should describe the procedures that will be used and the officials or staff that will be responsible for assuring proper expenditure of and internal control over the use of CDBG funds (as explained in detail in Chapter 4 of this Manual). The description should:

- address the procedures to be followed for reviewing and approving expenditures, preparing and submitting drawdown requests to MDOC/CDBG, processing payments, etc.;
- identify the persons who will be responsible for maintenance of the required financial records or processing CDBG funds;

- explain any arrangements with financial institutions or contractors which involve management of CDBG funds;
- describe the accounting and management system to be used, such as the Budgetary, Accounting and Reporting System (BARS) or the Town Accounting System (TAS); and
- include the role of the governing body in approving expenditures for the CDBG project.

If the project will include the "targeting" of CDBG assistance for a public facilities project to individual LMI (low or moderate income) households -- for example, by paying their assessment fees or hook-up fees -- the project management plan should a) thoroughly describe the procedures it intends to follow to screen and qualify eligible LMI households who will be recipients of such funds and b) assure that all such targeted CDBG funds will benefit low and moderate income persons/households. If the project intends to use methods such as payment of assessments for a special improvement district or payment of charges for water or sewer hookups, the plan should clearly describe how CDBG funds will be accounted for in local financial records.

If the project will include loans to individuals/households and thus also involve some loan repayments to the local government from those individuals/households and thus result in generating "Program Income" as a result of CDBG project activities, the Management Plan must describe the procedures and policies that will govern the use of those funds during the project and following grant closeout. Communities planning to retain such CDBG Program Income must be prepared to maintain the following records:

- sources of program income including interest earned,
- dates and amounts of program income deposits and disbursements, and
- a description of the activities funded with program income.

EXHIBIT 1-B

SAMPLE MANAGEMENT PLAN FORMAT

FOR A PUBLIC FACILITIES PROJECT ADMINISTERED BY LOCAL GOVERNMENT STAFF

1. Administrative Structure

The City of _____ is an incorporated city with a Mayor-Council form of government. The following persons will have lead responsibility for administering the City's FY____ Community Development Block Grant (CDBG) public facilities project.

Mayor _____, as the City's chief elected official will have responsibility for all official contacts with the Montana Department of Commerce (MDOC). The Mayor and City Council will have ultimate authority and responsibility for the management of project activities and expenditure of CDBG funds. The approval of all contracts and drawdown requests will be the responsibility of the City Council. (Telephone _____)

_____, Clerk-Treasurer, as the City's chief financial officer, will be responsible for management of, and record keeping for, the CDBG funds and other funds involved in the financing of the water project. [...One-fourth...] of this position's time will be devoted to CDBG administration during the term of the project. (Telephone _____)

_____, Director of the City-County Planning Board, will be designated as Project Manager and will be responsible for overall project management and assuring compliance with applicable federal and state requirements for the CDBG project. The Project Manager will serve as the City's liaison with MDOC for the project and will serve as the designated Environmental Certifying Officer and Labor Standards Officer. One-third of this position's time will be devoted to CDBG administration during the term of the project. (Telephone _____)

_____, City Attorney, as the City's legal counsel, will review and advise the Mayor and Council regarding any proposed contractual agreements associated with the CDBG project and provide any other legal guidance as requested. (Telephone _____)

_____, Project Engineer [or Architect], will be responsible for construction-related activities including preparation of preliminary and final engineering [or architectural] design plans and specifications, as well as construction inspection. Contractor compliance, scheduling, and payment requests will also be subject to the Project Engineer's [or Architect's] review and approval. (Telephone_____)

The Mayor, Clerk-Treasurer, and Planning Director will attend the MDOC CDBG Grant Administration Workshop (as required of all CDBG grant recipients).

2. Project Management

A. The Project Manager will be responsible for:

1. Preparing the Environmental Review Record (ERR) to assure full compliance with the National and Montana Environmental Policy Acts, completion of the statutory checklist, and any other applicable environmental requirements as outlined in Chapter 2 of the CDBG Manual. The Project Manager will also be responsible for preparing any legal notices required to be published for the ERR process and conducting any required public hearings or informational meetings.
2. Preparing a request for release of funds to MDOC (upon completion of the Environmental Review).
3. Developing a contract with MDOC and assisting the City with all requirements related to effective project start-up and implementation.
4. Establishing and maintaining complete and accurate project files and preparing all MDOC documentation and reports incidental to administration of the grant.
5. Assisting the City with selection of the Project Engineer [or Architect], in conformance with CDBG procurement requirements, including the preparation of requests for qualifications/proposals (in accord with CDBG Manual Chapter 3 and the CDBG contract) for publication or other distribution to assure free and open competition.
6. Reviewing all proposed project expenditures or requests for payment to ensure their propriety and proper allocation of expenditures to the CDBG budget.
7. In cooperation with the Clerk-Treasurer, processing payment requests and preparing drawdown requests to MDOC, including the Request for Payment and Status of Funds Report, the Project Progress Report and all other required documentation to substantiate payment requests.
8. Monitoring the contractor selection process, including the bid advertising, tabulation and award process for conformance to CDBG requirements. The manager will review the construction contract provisions for CDBG compliance and will request MDOC clearance (debarment check) of the lowest (and second) lowest bidders before a contract (to be reviews and approved by CDBG) is awarded.
9. Attending the pre-construction conference and monthly (weekly) construction progress meetings.
10. Monitoring all contractors' compliance with applicable requirements.
11. Serving as the City's designated labor standards officer and assuring compliance with all applicable federal and state labor standards requirements. Responsibilities will include the weekly review of weekly payroll reports to assure compliance with federal Davis-Bacon prevailing wage requirements; periodic visits to the construction site to assure that

required equal opportunity, labor standards, and Davis-Bacon wage determinations have been posted; and conducting regular on-site interviews with a representative sample of construction personnel (working for the prime contractor and subcontractors) to assure federal Davis-Bacon labor standards compliance.

12. Assuring compliance with applicable acquisition, civil rights, Section 504/ADA evaluation and labor standards requirements, including the preparation of an equal employment opportunity plan, an ADA compliance plan and a fair housing ordinance, which will be adopted by the City.
13. Supervising the delivery of CDBG financial assistance to low and moderate income households (for water service hookup and meter installation ...).
14. Preparing all required performance reports and project closeout documents for submittal to MDOC
15. Assist the City with the selection of an independent auditor.
16. Attending City Council meetings to provide project status reports and representing the CDBG project at any other public meetings, as deemed necessary by the Mayor.

B. The Project Engineer [or Architect] will be responsible for:

1. Design and construction engineering.
2. Acquisition of all land and easements
3. Preparation of the construction bid package for review (and approval) by CDBG for conformance with applicable CDBG requirements (as outlined in Chapter 9 of the CDBG Manual); supervision of the bid advertising, tabulation, and award process, including the preparation of the advertisements for bid solicitation, conducting the bid opening, securing a state and federal debarment check of tentatively-selected contractor(s) and issuance of the notice to proceed.
4. Conducting the pre-construction conference, with the assistance of the project manager.
5. Supervision of construction work and preparation of inspection reports.
6. Reviewing and approving all contractor requests for payment and submitting the approved requests to the City.

3. Financial Management

A. The Clerk-Treasurer's responsibilities will be as follows:

1. Establishing the CDBG bank account and transferring CDBG funds from that account to the town's treasury for disbursements, based on claims and supporting documents approved by the project manager, project engineer [or architect], and contractor. Note: Since the City uses an interest bearing account for its general disbursements, a separate non-interest bearing account will be used for CDBG funds as required by federal CDBG regulations (as outlined in Chapter 4 of the CDBG Manual). Balances in that account will not exceed \$5,000 for a period of three days.
 2. Entering all project transactions into the City's existing accounting system (BARS), and prepare checks/warrants for approved expenditures.
 3. With the assistance of the Project Manager, preparing the Request for Payment and Status of Funds Reports to be submitted to MDOC. All drawdown requests will be signed by two of the three following persons: Mayor, Clerk-Treasurer, and Council President. No expenditures will be made without the approval of the Council at a regular meeting.
 4. With the assistance of the Project Manager, preparing the final financial reports for project closeout.
- B. The Project Manager and Clerk-Treasurer will review all proposed expenditures of CDBG funds and will prepare drawdown requests, which will be signed by the officials cited above. All disbursements will be handled in accordance with the City's established claim review procedures. Before submitting the claim to the Clerk-Treasurer, the Project Manager will attach a certification to each claim stating that the proposed expenditure is an eligible expense of the City's CDBG project and consistent with the project budget. The Council will review all claims before approving them.
- C. Financial record keeping will be done in conformance with the recommendations of MDOC's Community Development Division as described in Chapter 4 of the CDBG Administration Manual. The original financial documents (claims with all supporting material attached) will be retained in the City's offices.
- D. Hourly timesheets will be maintained by the Project Manager and the Clerk-Treasurer to document all time worked on the CDBG project.
- A project implementation schedule, which outlines the basic steps and timetable involved in the management of the project, is attached.
- E. Weekly timesheets will be maintained by the Project Manager and the Clerk-Treasurer to document all time worked on the CDBG project.
- F. The City's housing and neighborhood revitalization project will generate some program income from loan repayments and the sale of the sites of unsafe, abandoned property acquired and demolished through the CDBG project. Any program income received from these sources will be deposited in the City's

established community development fund. Any program income received prior to project closeout will be used to assist additional households with housing rehabilitation needs. The use of program income received after project closeout will be determined at the discretion of the City Council.

A sample Project Implementation Schedule (also see Attachment A of the CDBG contract), which outlines the basic steps and timetable involved in the management of the project, can be found below.

SAMPLE PROJECT IMPLEMENTATION SCHEDULE

(Also see Attachment A of the CDBG contract)

KEY TO ABBREVIATIONS:

ERR	-	Environmental Review Record
MDOC	-	Montana Department of Commerce
RROF	-	Request for Release of Funds
DEQ	-	Montana Department of Environmental Quality

A. START-UP

1.	Attend MDOC Workshop	City Council	May	2008
2.	Update Management Plan, Budget, & Schedule for the CDBG contract	Council & Project Mg.	March	2008
3.	Establish Public Facilities Project Files	Project Manager	May	2008
4.	Award Engineering Contract	City Council	March	2008
5.	Determine Audit Requirements	Project Manager	May	2008
6.	Schedule Local Govt Audit(s)	Council & Project Mg.	June	2008
7.	Authorize Final Design	City Council	March	2008
8.	Complete ERR/Submit to CDBG	Project Manager	May	2008
9.	Secure MDOC Approval of RROF	Project Manager	June	2008
10.	Complete Final Design	Project Engineer	April	2008

B. IMPLEMENTATION

1.	Submit First Drawdown Request	Clerk-Treasurer	June	2008
2.	Present Final Design for Review	Project Engineer	April	2008
3.	Complete Final Plans	Project Engineer	April	2008
4.	Submit Plans to DEQ and CDBG	Project Engineer	May	2008
5.	Secure Wage Rate Determination	Project Engineer	June	2008
6.	Prepare Construction Bid Documents and Secure CDBG Approval	Project Engineer	June	2008

7.	Advertise For Bids	City Council	June	2008
8.	Bid Opening	Project Engineer	July	2008
9.	Clearance of Low Bidders	Project Engineer	July	2008
10.	Bid Award	City Council	July	2008

C. CONSTRUCTION

1.	Pre-construction Conference	Project Engineer	August	2008
2.	Submit Compliance Documents	Project Engineer	August	2008
3.	Start Construction	Project Engineer	Sept	2008
4.	Weekly Labor Standards Monitoring	Project Manager	Sep-Dec	2008
5.	CDBG on-site monitoring/review (see Chapter 12, Exhibit 12-A)	CDBG Liaison	October	2008
6.	Submit Drawdowns (with Progress Reports) & Qtrly Progress Reports	Project Manager Clerk-Treasurer	Ongoing As Needed	
7.	Final Inspection	Project Engineer	Dec	2008
8.	Final Payment to Contractor	City Council	Jan	2009
9.	In-service System Training	Project Engineer	Dec	2008
10.	Connect Households to System	Project Engineer	Nov	2008
11.	Final Payment to Engineer	City Council	Feb	2009

D. CLOSEOUT

1.	Project Closeout Begins	Project Manager	Dec	2008
2.	Project Completion Report	Project Manager	Jan	2009
3.	Audits are conducted/reviewed	Project Manager & CDBG	Sept	2009

EXHIBIT 1-C

SAMPLE MANAGEMENT PLAN FORMAT

FOR A HOUSING REHABILITATION PROJECT ADMINISTERED WITH THE ASSISTANCE OF A CONTRACTED CONSULTANT

I. Administrative Structure

The City of _____ is an incorporated city with a Mayor-Council form of government. The following persons will have lead responsibility for administering the City's FY____ Community Development Block Grant (CDBG) housing rehabilitation and neighborhood revitalization project.

Mayor _____, as the City's chief elected official will have responsibility for all official contacts with the Montana Department of Commerce (MDOC) and will serve as the Environmental Certifying Officer. The Mayor and Town Council will have ultimate authority and responsibility for the management of project activities and expenditure of CDBG funds. The final approval of all contracts and drawdown requests will be the responsibility of the City Council. (Telephone _____)

_____, Clerk-Treasurer, as the City's chief financial officer, will be responsible for management of, and record keeping for, the CDBG funds and other funds involved in the financing of the water project. One-fourth of this position's time will be devoted to CDBG administration during the term of the project. (Telephone _____)

_____, Contracted Consultant, will be designated as Project Manager and will be responsible for overall project management and insuring compliance with applicable federal and state requirements for the CDBG project. The Project Manager will serve as the City's liaison with MDOC for the project and will serve as the Labor Standards Officer. (Telephone _____)

_____, City Attorney, as the City's legal counsel, will review and advise the Mayor and Council regarding any proposed contractual agreements associated with this MDOC/CDBG project and provide any other legal guidance as requested. (Telephone _____)

The Mayor and Clerk-Treasurer and the Consultant will the MDOC CDBG Administration Workshop (as required of all CDBG grant recipients).

II. Project Management

A. The Project Manager (contracted consultant) will be responsible for:

1. Preparing the Environmental Review Record (ERR) to assure full compliance with the National and Montana Environmental Policy Acts, completion of the statutory checklist, and any other applicable environmental requirements. The Project Manager will also be responsible for preparing any legal notices required to be published for the ERR

process and conducting any required public hearings or informational meetings.

2. Preparing a request for release of funds to MDOC (upon completion of the Environmental Review).
3. Developing a contract with DOC and assisting the City with all requirements related to effective project start-up and implementation.
4. Establishing and maintaining complete and accurate project files and preparing all documentation and reports incidental to administration of the grant.
5. Assuring compliance with applicable acquisition, civil rights, Section 504/ADA evaluation and labor standards requirements, including the preparation of an equal employment opportunity plan, an ADA compliance plan and a fair housing ordinance, which will be adopted by the City.
6. Reviewing all proposed project expenditures or requests for payment to ensure their propriety and proper allocation of expenditures to the CDBG budget.
7. In cooperation with the Clerk-Treasurer, processing payment requests and preparing drawdown requests to DOC, including the Request for Payment and Status of Funds Report and the Project Progress Report.
8. Preparing all required performance reports and closeout documents for submittal to DOC and assist the City with the selection of an independent auditor.
9. Attending City Council meetings to provide project status reports and representing the CDBG project at any other public meetings, as deemed necessary by the Mayor.
10. Under the supervision and with the assistance of local officials, administering and implementing the City's CDBG housing and neighborhood revitalization project, in accordance with all applicable state, federal, and local requirements, with responsibilities to include:
 - a. establishing, at the Consultant's expense, a local housing rehabilitation office, staffed full-time to provide complete housing rehabilitation services including:
 - assisting homeowners and landlords with applications;
 - screening applicants for eligibility;
 - inspecting homes for needed rehabilitation and making recommendations to the project advisory committee;
 - assisting applicants with loan applications and coordinating the loan review process with the borrower and the applicant;

- assisting recipients with contractor negotiations and bid awards;
 - preparation of contractor bid sheets; and
 - assuring title searches, credit reviews, and income verifications.
- b. in cooperation with the project advisory committee, developing a marketing strategy for the project to ensure a high level of participation by eligible households and performing public information activities, including preparation of newspaper advertisements and articles regarding the project; posters, and radio notices;
 - c. negotiating with private lenders and public agencies to stimulate additional housing investment in the project area;
 - d. coordinating services with other agencies, such as Montana Power, the area's HRDC, Senior Citizens Center, and the county health and public assistance/welfare departments, to achieve maximum impact upon the needs of low and moderate income households in the project area;
 - e. securing State Historic Preservation Office clearance for housing rehabilitation activities, as necessary, either by district designation or by a review of individual housing units;
 - f. providing technical assistance to the City for adoption of appropriate codes for the acquisition and/or demolition of unsafe and abandoned property;
 - g. conducting informational meetings for contractors and preparing lists of eligible contractors;
 - h. ensuring that proper inspections are performed, required permits are obtained, and lien waivers signed; and
 - i. serving as staff for meetings of the project advisory committee.

B. The Mayor will appoint a five-member project advisory committee to assist the City with the implementation of the housing rehabilitation project. The committee's responsibilities will include:

1. assuring that the following certifications, plans, policies, and resolutions have been put in place:
 - Hatch Act Resolution;
 - Equal Employment Opportunity (EEO)/Nondiscrimination Policy;
 - Drug Free Workplace Policy;
 - Fair Housing Resolution; and

- Section 504 and ADA Compliance Procedures
 - ADA Transition Plan
2. assisting and providing guidance to the Project Manager relating to the implementation of the City's CDBG project;
 3. preparing terms for financial assistance including eligibility guidelines for LMI households, loan terms, interest rates, and policies on the deferral and/or forgiveness (as appropriate) of loan repayments; these policies will be adopted in final form by the City Council;
 4. reviewing applications for assistance and making recommendations on the form of assistance (loan, grant, loan/grant combination) to be provided;
 5. considering alternatives and recommending actions to be taken in the event of complaints, homeowner-contractor disputes, inadequacy of work quality, or other issues affecting the project;
 6. assisting in the marketing of the project to the low and moderate income residents of the project area; and
 7. recommending administrative policies for the project to the City Council, for its adoption.

III. Financial Management

A. The Clerk-Treasurer's responsibilities will be as follows:

1. Establishing the CDBG bank account and transferring CDBG funds from that account to the town's treasury for disbursements, based on claims and supporting documents approved by the project manager, project engineer, and contractor. Since the City uses an interest bearing account for its general disbursements, a separate non-interest bearing account will be used for CDBG funds. Balances in that account will not exceed \$5,000 for a period of three days.
2. Entering all project transactions into the City's existing accounting system (BARS), and prepare checks/warrants for approved expenditures.
3. With the assistance of the Project Manager, preparing the Request for Payment and Status of Funds Reports to be submitted to MDOC. All drawdown requests will be signed by two of the three following persons: Mayor, Clerk-Treasurer, and Council President. No expenditures will be made without the approval of the Council at a regular meeting.
4. With the assistance of the Project Manager, preparing the final financial reports for project closeout.

B. The Project Manager will review all proposed expenditures of CDBG funds and will prepare drawdown requests, which will be signed by the officials cited above. All

disbursements will be handled in accordance with the City's established claim review procedures. Before submitting the claim to the Clerk-Treasurer, the Project Manager will attach a certification to each claim stating that the proposed expenditure is an eligible expense of the City's CDBG project and consistent with the project budget. The Council will review all claims before approving them.

- C. Financial record keeping will be done in conformance with the recommendations of MDOC's Community Development Division as described in Chapter 4 of the CDBG Administration Manual. The original financial documents (claims with all supporting material attached) will be retained in the City's offices.
- D. To ensure timely payment of housing rehabilitation contractors, an escrow account will be established. Withdrawals from the escrow can be made by the Clerk-Treasurer, in accordance with signed approvals by the Project Manager.
- E. Weekly timesheets will be maintained by the Project Manager and the Clerk-Treasurer to document all time worked on the CDBG project.
- F. The City's housing and neighborhood revitalization project will generate some CDBG "Program Income" from loan repayments and the sale of the sites of unsafe, abandoned property acquired and demolished through the CDBG project. Any Program Income received from these sources will be deposited in the City's established community development fund for CDBG Program Income. Any Program Income received prior to project closeout will be used to assist additional LMI households with housing rehabilitation needs. The use of Program Income received after project closeout will be limited to those activities eligible under the CDBG program and will be determined at the discretion of the City Council.

A sample Project Implementation Schedule (also see Attachment A of the CDBG contract), which outlines the basic steps and timetable involved in the management of the project, can be found below.

SAMPLE PROJECT IMPLEMENTATION SCHEDULE
(Also see Attachment A of the CDBG contract)

KEY TO ABBREVIATIONS:

- ERR - Environmental Review Record
- MDOC - Montana Department of Commerce
- RROF - Request for Release of Funds
- SHPO - State Historic Preservation Office

A. START-UP

1.	Select Consultant (via RFP) to serve as Project Manager	Mayor, City Council	April	2008
2.	Attend MDOC Workshop	City representatives & Project Manager	May	2008
3.	Update Management Plan, Budget, & Schedule for the CDBG contract	City & Consultant	May	2008

4.	Establish Housing Project Files and Housing Policies and Procedures	Consultant Review by CDBG	June-July	2008
5.	Determine Audit Requirements	City	June	2008
6.	Set Schedule for Local Govt Audit	City	June	2008
7.	Complete ERR, consulting with CDBG and SHPO	Consultant	June	2008
6.	Secure MDOC Approval of RROF	Consultant	July	2008

B. IMPLEMENTATION

1.	Start Acquisition Process for a multi-family housing unit to be acquired for rehab as LMI rental housing	Consultant & City	July	2008
2.	Hold LMI Residents Workshops and Rehab Contractor Workshops	Consultant	August	2008
3.	Start Housing Rehab Program	Consultant	Sept	2008
4.	Complete Acquisition (see #1)	Consultant & City	August	2008
5.	Site Bid (see #1, #4) & Award for Rehab. Award contract for rehab of multi-family unit(s)	City & Consultant	Sept	2008
6.	Rehab for Units 1-4 – Contract awarded	Consultant	Sept-Nov	2008
7.	Complete Rehab (items #1, #4, #5)	Consultant	Dec	2008
8.	Rent rehabilitated multi-family unit	Consultant	Dec	2008
9.	Rehab for Units 5-9 – Contract awarded	Consultant	Dec-Feb	2008-9
10.	Rehab for Units 10-14 –Contract awarded	Consultant	Mar-May	2009
11.	CDBG on-site monitoring/review (see Chapter 12, Exhibit 12-A)	CDBG Liaison	May	2009
12.	Rehab for Units 15-16 – Contract awarded	Consultant	June-Aug	2009

C. CLOSEOUT

1.	Project Closeout Begins	Project Manager	Sept	2009
2.	Project Completion Report	Project Manager	Sept	2009
3.	Audits are conducted/reviewed	Project Manager & CDBG	Oct	2009

¹ Signed by Environmental Certifying Officer (see Chapter 2).

EXHIBIT 1-D

SIGNATURE CERTIFICATION FORM

Montana Department of Commerce
Community Development Division, CDBG Program
301 S. Park
P.O. Box 200523
Helena, Montana 59620-0523

This is to certify that the following officials¹ are authorized to sign requests for payment of Montana Community Development Block Grant (CDBG) funds for the (name of grantee: City, Town, or County of _____) FY 200__ CDBG grant:

1.	_____	_____
	Signature	Title
	_____	_____
	Typed Name	
2.	_____	_____
	Signature	Title
	_____	_____
	Typed Name	
3.	_____	_____
	Signature	Title
	_____	_____
	Typed Name	

It is understood that any two of the above signatories must sign each request for payment submitted.

¹Suggested signatories include the chief elected official (Mayor or Chairperson of County Commission), city or county clerk or treasurer and the CDBG project manager. At least three officials should sign; and it is acceptable to have more to assure that at least two signatories will be available to sign requests for CDBG funds.

EXHIBIT 1-E

PREPARATION OF THE DESIGNATION OF DEPOSITORY FORM

Block Number On Form -- and Instructions

- [1] Enter name, address and zip code of depository (bank) designated to receive federal funds.
 - [2] Enter entire CDBG contract number.
 - [3] Enter **non-interest bearing** bank account number where CDBG funds are to be deposited.
 - [4] Enter name of CDBG grant recipient: (City or Town of _____, or _____ County.)
 - [5] Enter complete mailing address of CDBG recipient/grantee.
 - [6]. Signature of Chief Elected Officer (CEO) or Executive Officer of the CDBG grantee.
 - [7] Enter the title of the CEO or Executive Officer for the CDBG recipient (Mayor, City Manager, or Chairperson of the County Commission).
 - [8] Enter date the form was signed by CEO or Executive Officer of CDBG recipient.
 - [9] Enter same account number as in #3 above.
 - [10] Enter the American Bankers' Association (ABA) Routing Number (if you are planning to utilize electronic deposit for CDBG funds).
 - [11] Enter the same name of the depository (bank) as in #1 above.
 - [12] Enter the same address and zip code of the bank where CDBG funds will be sent, as in #1 above.
 - [13] Enter the signature of authorized bank officer.
 - [14] Enter the title of the authorized bank officer for the depository bank.
 - [15] Enter the date form was signed by authorized bank officer.
- NOTE: Mail an original copy to the CDBG liaison and retain a photocopy for your records. It is important that there are no erasures, corrections or correction fluid on either copy. Also, all signatures should be made in ink.

**MONTANA DEPARTMENT OF COMMERCE
COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAM**

DESIGNATION OF DEPOSITORY FOR DIRECT DEPOSIT OF CDBG FUNDS

SECTION 1 (To be Completed by CDBG recipient)

The [1] _____
Name, Address and ZIP Code of Grant Recipient's Bank

has been designated as the depository for all funds to be received from the Montana Department of Commerce resulting from CDBG Contract No. [2] MT-CDBG- for deposit to a non-interest bearing account:

[3] _____
Account Name/Number

[4] _____ [5] _____
Name of Grant Recipient *Address*

[6] _____ [7] _____
Signature of Chief Elected Official *Title of Chief Elected Official*
or Executive Officer *or Executive Officer*

[8] _____
Date

SECTION II (To be completed by the bank)

The account identified in Section I has been established with this bank. All necessary documentation, including a power of attorney where necessary, which will legally enable this depository to receive state warrants from the State Auditor's Office for deposit to:

[9] _____
Account Name and/or Number

[10] _____
ABA (American Bankers' Association) Routing Number for electronic deposit

without the payee's endorsement have been received and are in this depository's custody.

[11] _____ [12] _____
Name of Bank *Address where checks should be mailed*

[13] _____ [14] _____
Signature of Authorized Bank Officer *Title of Authorized Bank Officer*

[15] _____
Date

EXHIBIT 1-F

GUIDELINES ON FIRM COMMITMENT OF NON-CDBG FUNDING

Purpose of Guidelines on Commitment of Funds

There are several reasons why guidelines on committed funds are necessary:

- To comply with MDOC's statutory responsibility to ensure that matching funds are committed for a project before CDBG funding is provided, and subsequently to comply with the terms of the contract between MDOC and the local government.
- To prevent a situation where a project is started but cannot be finished or payment to contractors is delayed because the local government's matching funds are not firmly committed.
- To clearly identify for local governments what must be done to get their matching funds committed.

Deadline for documenting firm commitment of all funds

WITHIN NINE MONTHS of the date of the announcement of the application funding status by the Department, the Grantee will have completed all necessary arrangements to assure that those resources are available for commitment to and participation in the project in order to guarantee timely project completion. Unless the Grantee can demonstrate the existence of unusual or extenuating circumstances that justify an extension of time, the Department will withdraw the tentative award and reallocate the funds.

Procedure

After the completion of the environmental review, at any time that a local government has met start-up conditions delineated in the CDBG contract and can demonstrate a firm commitment for all other funds included in the project budget, CDBG funds can be provided for all eligible project expenses incurred by the local government.

The process for demonstrating a firm commitment of funds is defined as follows for the different types or forms of project funds:

A. Non-CDBG Grants

A letter from the funding agency -- stating that funding has been approved or authorized, or when the project has been split into multiple phases by the funding agency, that a portion of the funding has been approved or authorized and the agency is committed to approving or authorizing the remainder of the funding within a reasonable amount of time -- provides the complete documentation needed to demonstrate that the non-CDBG grants are firmly committed. CDBG will advance funds for all eligible project expenses as they are incurred after the environmental Release of Funds (explained in Chapter 2 of the CDBG Grant Administration Manual).

The letter should indicate the funding agency's approval of a final (full) application for the project (and/or the existence of a signed contract between the funding agency and the local government) indicating when the agency's funds will be available to complete the project in accordance with the approved implementation schedule. When the project has been split into multiple phases by the funding agency, the letter should discuss the phasing of the project and the expected timetable for approving or authorizing the funding for the project.

B. Local Government Pledge of Funds or Budget Increase (Including Cash Reserves or Related Funds)

With a budget or a Budgetary Authority Resolution (see Exhibit 4-A as a model) approved and adopted by the governing body and specifically designating the source of local funds that will be available for the CDBG project, CDBG funds would be provided for all eligible project expenses incurred by the local government.

C. Loans/Bonds (Revenue, General Obligation, Special Improvement Districts, Rural Improvement Districts, Other)

CDBG will advance funds for all eligible project expenses as they are incurred if the conditions as described below are met.

<p>Loans to Municipalities or Counties, which require a vote by only the governing body (e.g., Revenue Bond)</p>	<p>Loans to Districts (Revenue Bonds), <u>or</u> other types of financing, for all types of local governments, which require a vote by the general population or users (e.g., SID, G.O. Bond)</p>
---	--

SRF loan

- | | |
|---|---|
| <ul style="list-style-type: none"> • “Commitment Agreement” or “Letter of Approval for State Revolving Fund Loan Program in Lieu of Commitment Agreement,” adopted by Resolution | <ul style="list-style-type: none"> • “Commitment Agreement” or “Letter of Approval for State Revolving Fund Loan Program in Lieu of Commitment Agreement,” adopted by Resolution • Successful certified debt election results (attach supporting documents) |
|---|---|

RUS loan

- | | |
|---|---|
| <ul style="list-style-type: none"> • “Letter of Conditions” from RUS • “Letter of Intent to Meet Conditions” signed and returned to RUS
<i>FORM: RD 1942-46</i> • “Request for Obligation of Funds”
<i>FORM: RD 1940-1</i> | <ul style="list-style-type: none"> • “Letter of Conditions” from RUS • “Letter of Intent to Meet Conditions” signed and returned to RUS
<i>FORM: RD 1942-46</i> • “Request for Obligation of Funds”
<i>FORM: RD 1940-1</i> • Successful certified debt election results (attach supporting documents) |
|---|---|

D. Other Forms of Funds

- MDOC will evaluate other unique funding sources for the firmness of the commitment on a case by case basis (depending on the funding source and the level of commitment).

State and Federal funds that have been authorized, but have not yet been completely appropriated, potentially may be viewed as fully committed. Matching funds in this category will be evaluated on a case-by-case basis to determine the firmness of the funds and the likelihood of the funds being received, and the project being able to proceed and be completed.

**EXHIBIT 1-G
PROJECT START- UP REQUIREMENTS CHECKLIST**

Project Start-Up Requirements: to be met before CDBG’S approval of first drawdown.	
Date:	
	a. Date the grant award was announced (as status: “funded”).
	b. Date of CDBG’s authorization to incur administrative costs (environmentally-exempt costs). Effective date for incurring costs: _____.
	c. Date the grant contract was executed.
	d. Official signature form completed.
	e. Official depository form completed.
	f. Project Management Plan was approved by CDBG.
	g. Project Implementation Schedule (contract Attachment A) approved by CDBG.
	h. Notice of Release of Funds issued by CDBG.
	i. All non-CDBG resources to be involved in the project are firmly committed -- <u>nine months from the date in item “a” above.</u>
	j. Interlocal (Sub-recipient or sub-grantee) Agreement, if any. – reviewed and approved by CDBG. – signed by all local parties.
	k. All required start-up Civil Rights resolutions are adopted.
	l. ADA inventory/survey was completed.
	m. ADA transition plan was created.
	n. Documentation of free/open procurement for professional services.
	o. Budgetary Authority Resolution (Exhibit 4-A) was adopted.
	p. All contract start-up terms and conditions (contract Section 17) have been fulfilled.
	q. Documentation of compliance with contract Section 25, Workers’ Compensation coverage requirements, must be received by the Department and must be kept current for the entire term of the contract.
NOTES:	

EXHIBIT 1-H

CONTRACT TEMPLATE FOR A CDBG PROJECT – FOR CITIES AND TOWNS COMMUNITY DEVELOPMENT BLOCK GRANT CONTRACT FOR PUBLIC FACILITIES AND HOUSING PROJECTS

CONTRACT #MT-CDBG-I_PF [HR] -__

This Contract is entered into by _____, Montana, (the Grantee), IRS # _____, and the Montana Department of Commerce, Helena, Montana, (the Department).

The Grantee and the Department hereby agree to the following terms:

Section 1. PURPOSE

The purpose of this Contract is to provide funding for project activities approved by the Department under the Montana Community Development Block Grant Program (CDBG) for FFY 201__.

Section 2. AUTHORITY

This contract is issued under authority of Section 90-1-103, Montana Code Annotated, and the Administrative Rules of Montana, Title 8, Chapter 94, Subchapter 37.

Section 3. APPLICATION INCORPORATED BY REFERENCE

The Grantee's application for CDBG assistance, including any written modifications resulting from the review of the applications by the Department (collectively, the "Project"), is incorporated into this Contract by this reference and the representations made therein are binding upon the Grantee.

Section 4. ACCEPTANCE OF CDBG PROGRAM REQUIREMENTS

- (a) The Grantee will comply with all applicable parts of the Housing and Community Development Act of 1974, as amended, 42 U.S.C. §§ 5301, *et seq.*; the applicable Department of Housing and Urban Development (HUD) regulations, including but not limited to 24 CFR Part 570 and Form HUD-4010, as now in effect or as they may be amended during the term of this contract; all administrative directives and procedures established by the Department, including the most recent version of the CDBG Grant Administration Manual; and all other applicable local, state, and federal laws, regulations, administrative directives, procedures, ordinances, or resolutions.

- (b) The Grantee agrees that all contracts entered into by it for the completion of the activities described in Section 6, SCOPE OF ACTIVITIES, of this Contract will contain special provisions requiring such contractors, subcontractors, or subrecipient entities to also comply with all applicable local, state, and federal requirements.
- (c) The Grantee expressly agrees to repay to the Department any funds advanced to the Grantee under this Contract that the Grantee, its contractors, subcontractors, or subrecipient entities, or any public or private agent or agency to which it delegates authority to carry out portions of this Contract, expends in violation of the terms of this Contract, the statutes and regulations governing the CDBG Program, or any other applicable local, state, or federal requirements.

Section 5. EFFECTIVE DATE AND TIME OF PERFORMANCE

This Contract shall take effect upon execution by the parties and will terminate upon approval of final Project closeout by the Department, unless terminated earlier in accordance with the terms of this Contract. The activities to be performed by the Grantee will be completed according to the implementation schedule attached hereto as Attachment A and specifically incorporated herein by this reference. The Grantee may modify the implementation schedule set forth in Attachment A at any time, so long as it submits a written request to the Department and receives written acknowledgement of such adjustment from the Department. However, delays or other modifications to the implementation schedule in excess of twelve (12) months require formal Department approval and amendment of this Contract.

Section 6. SCOPE OF ACTIVITIES

The Grantee will engage in the activities set forth in the Grantee's application for CDBG assistance, including any written modifications resulting from the review of the applications by the Department. The major components of the Project include the following work for the _____ (City/Town of) Public Facilities / Housing and Neighborhood Renewal Project:

- ...;
- ...;
- ...;
- ...; and
- the administration of this Contract in compliance with the Project Management Plan approved by the Department and as may be amended from time to time by mutual agreement of the parties.

Section 7. BUDGET

- (a) The total amount to be awarded to the Grantee under this Contract will not exceed \$ _____.

- (b) A copy of the preliminary Project budget is attached hereto as Attachment B to this Contract and specifically incorporated herein by this reference. After construction bids are awarded or other major Project activity cost elements are determined, the Grantee may, or if requested by the Department, shall provide the Department with a final Project budget, which, upon receipt and approval by the Department, will supersede the preliminary budget in Attachment B and thereby be incorporated as part of this Contract.
- (c) Budget adjustments must be approved in advance by the Department. For budget adjustments of \$5,000 or less between line items of the CDBG portion of Attachment B, Department approval of the Request for Funds form will constitute approval of the budget adjustment. The Grantee must describe the rationale for a budget adjustment in the Project Progress Report and note the adjustments in the Request for Funds and Status of Funds Report submitted with draws against the grant funding reserve. Budget adjustments in excess of \$5,000 require formal Department approval and the Contract amended.
- (d) Unless otherwise agreed to in writing by the Department, the Grantee must expend substantially all program income it receives before requesting additional CDBG funds. The Department will deduct the amount of program income on hand, shown on the drawdown form, from the amount requested by the Grantee. The Department, at its sole discretion, may allow the Grantee to retain program income received before or after Project closeout, but such income must be treated as additional CDBG funds and subject to all applicable requirements governing the use of CDBG funds. If the Grantee is allowed to retain program income received before Project closeout, the Grantee will record receipt and expenditure of retained program income as part of the financial transactions of the Project. At the end of each calendar year during the term of this Contract, the Department may, at its sole discretion, require remittance of all or any part of any program income balances (including investments thereof) held by the Grantee, its contractors, subcontractors, and subrecipient entities. If the Grantee is allowed to retain program income received after Project closeout, a program income plan in compliance with the most recent version of the Department's Program Income Manual for Revolving Loan Funds must be developed and submitted for review and written approval by the Department at the time of closeout.
- (e) Any authorized funds not expended under this grant or otherwise accounted for in accordance with the provisions of this Section will revert to the Department and will be used to finance other CDBG projects.

Section 8. AMOUNT OF GRANT AND METHOD OF PAYMENT

- (a) The Department will authorize the Grantee to draw up to \$_____ against the funding reserved for it by the Department. In drawing against the reserved amount, the Grantee will follow the instructions supplied by the Department.

- (b) The Department agrees to reimburse the Grantee as set forth in this Section for successfully completing the activities set forth in , 6 SCOPE OF ACTIVITIES, as the Grantee incurs approved, eligible, reasonable, and necessary Project expenses supported by adequate documentation submitted by the Grantee and upon approval by the Department of the Grantee's Request for Funds.
- (c) The Department will not reimburse the Grantee for any costs incurred prior to the date of execution of this Contract, unless previously authorized in writing by the Department, but in no event for costs incurred prior to the date (Date) listed in the tentative grant award letter (Date), for any expenses not included in the budget or an approved adjustment thereto, or for any expenses not clearly and adequately supported by the Grantee's records.
- (d) The reimbursement of approved, eligible, reasonable, and necessary Project expenses incurred is contingent upon the Grantee's completion of Section 17, SPECIAL PROJECT START-UP CONDITIONS.
- (e) The Department will not release any CDBG funds to the Grantee until the Grantee has obtained firm commitments for all other financial resources to be involved in the Project. The Grantee may not expend or obligate any CDBG funds, other than for administrative purposes, until the Department determines that this condition has been satisfied.
- (f) As further set forth in Section 23, TERMINATION OF CONTRACT, in the event the Grantee fails to or is unable to comply with any of the terms and the conditions of this Contract, any costs incurred will be the Grantee's sole responsibility.
- (g) The Department will withhold two percent (2%) of the total authorized grant amount until all tasks outlined in Section 6, SCOPE OF ACTIVITIES, are completed and approved and the Grantee's Project Completion Report is received and approved by the Department. Within 60 days after the completion of the Project, the Grantee will prepare and submit to the Department a Project Completion Report in the form prescribed by the Department. The Department will disburse this withholding upon receipt and approval by the Department of the Grantee's Project Completion Report. Prior to receipt of the Project Completion Report, the Department liaison may authorize release of part or all of the withholding when situations occur that would result in an undue financial hardship on the Grantee, provided the Grantee has demonstrated effective overall management of this Project and, when applicable, satisfactorily managed any earlier CDBG projects. If the Grantee fails to submit a Project Completion Report within the 60 days, the Department may consider whether these remaining funds should be reallocated by the Department to other unfunded or inadequately funded activities, whether or not related to the SCOPE OF ACTIVITIES set forth herein or to the Grantee, or added to the following year's CDBG allocation.

- (h) If actual total cost of completing the Project is less than has been projected by the Grantee in the budget (Attachment B) or an approved adjustment thereto, the Department, at its discretion, may reduce the amount of CDBG grant funds to be provided to the Grantee under this Contract in proportion to the overall savings. If actual construction bids are less than the estimates included in the budget in Attachment B, the construction portion of the budget will be automatically adjusted to reflect the bid price, plus a ten percent contingency. The difference between actual Project costs and the original grant award will be either reallocated by the Department to other unfunded or inadequately funded activities, whether or not related to the SCOPE OF ACTIVITIES set forth herein or to the Grantee, or added to the following year's CDBG allocation.
- (i) The Department of Commerce may, at its discretion, withdraw from the Grantee the commitment of any CDBG funds that remain unobligated 24 months after the date of the announcement of the tentative grant award (_____).
- (j) If needed, the Grantee's travel expenses, meals, and lodging will be reimbursed at the prevailing local rate at the time such expense is incurred.
- (k) Unless otherwise stated herein, the Department is allowed 30 days to process a Request for Funds once the Department has received adequate supporting documentation. The Grantee may be required to provide banking information at the time of Contract execution in order to facilitate electronic funds transfer payments.
- (l) The Department will issue a final Project closeout approval when the grantee has fulfilled all requirements as set forth in the most current version of the CDBG Grant Administration Manual, Chapter 13, Project Closeout.
- (m) If any obligations remain as of the date of Project closeout, the Department shall prepare and the parties shall execute a Closeout Agreement specifying the conditions and requirements governing those remaining obligations, in accordance with the requirements set forth in 24 CFR § 570.509(c).

Section 9. LIAISONS

_____, CDBG Program Specialist, is the Department's liaison with the Grantee regarding all administrative and technical matters concerning this Contract. _____, is the Grantee's liaison with the Department for all administrative and technical matters concerning this Contract. For purposes of this Contract, these liaisons may be contacted as follows:

For the Department:

_____ (or successor)
 CDBG Program Specialist, MDOC
 301 S. Park Ave.

P.O. Box 200523
Helena, MT 59620-0523
406-841-2770

For the Grantee:

(Name,
Title,
Mailing Address,
Business Location,
Phone Number)

Section 10. OWNERSHIP AND PUBLICATION OF MATERIALS

All reports, information, data, and other materials prepared by the Grantee pursuant to this Contract are the property of the Grantee and the Department, which both have the royalty-free, nonexclusive, and irrevocable right to reproduce, publish or otherwise use, and to authorize others to use, in whole or part, such property and any information relating thereto. No material produced in whole or in part under this Contract may be copyrighted or patented in the United States or in any other country without the prior written approval of the Grantee and the Department.

To the extent the funds awarded under this Contract will be used by any small business firm or non-profit organization, as defined in 37 C.F.R. 401.2, such firm(s) or organization(s) are subject to the standard patent rights clause set forth in its entirety in 37 C.F.R. 401.14 and specifically incorporated herein by this reference.

Section 11. ACCESS TO AND RETENTION OF RECORDS

- (a) The Grantee agrees to provide the Department, HUD, Comptroller General of the United States, Montana Legislative Auditor, or their authorized agents access to any records necessary to determine Contract compliance. The Grantee agrees to create and retain records supporting the services rendered or supplies delivered for a period of four (4) years after either the completion date of the Contract or the conclusion of any claim, litigation, or exception relating to the Contract taken by the State of Montana or third party, whichever is later. These records will be kept in the Grantee's offices in _____, Montana.
- (b) The Grantee agrees to include in first-tier subcontracts under this Contract a clause substantially the same as paragraph 11(a).

Section 12. PROJECT MONITORING

- (a) The Department or any of its authorized agents may monitor and inspect all phases and aspects of the Grantee's performance to determine compliance with the SCOPE OF

ACTIVITIES, and other technical and administrative requirements of this Contract, including the adequacy of the Grantee's records and accounts. The Department will advise the Grantee of any specific areas of concern and provide the Grantee opportunity to propose corrective actions acceptable to the Department.

- (b) Failure by the Grantee to proceed with reasonable promptness to take necessary corrective actions shall be a default. If the Grantee's corrective actions remain unacceptable, the Department may terminate this Contract in whole or in part, pursuant to the provisions of Section 23, TERMINATION OF CONTRACT.

Section 13. REPORTING REQUIREMENTS

(a) **QUARTERLY UPDATE REPORT**

- i) During the term of this Contract, the Grantee will submit a quarterly update report. This report shall follow the report format specified in the most recent version of the CDBG Grant Administration Manual, and shall describe the status of the Project with respect to the activities set forth in Section 6, SCOPE OF ACTIVITIES, including, at a minimum, the percentage complete, costs incurred, funds remaining, and projected completion date. The report must also describe any significant problems encountered and any necessary scope of implementation or budget modifications requested.
- (ii) The Grantee will submit the quarterly update report to the Department fifteen (15) days prior to the close of each calendar quarter. The Department will not honor claims for payment until the required quarterly update report has been submitted to and approved by the Department.

(b) **PROJECT PROGRESS REPORTING**

During the term of this Contract, the Grantee will submit a Project Progress Report with any Requests for Funds. The report will describe the use of the funds requested for each administrative and activity line item. The report should also describe any anticipated changes in the budgeted amounts.

(c) **STATUS OF FUNDS REPORTING**

During the term of this Contract, the Grantee will submit a Status of Funds Report with any Requests for Funds.

Section 14. COMPLIANCE WITH NONDISCRIMINATION LAWS

The Grantee must, in performance of work under the Contract, fully comply with all applicable federal, state, or local nondiscrimination laws, rules, and regulations, including but not limited to the

Montana Human Rights Act, the Civil Rights Act of 1964, the Age Discrimination Act of 1975, the Americans with Disabilities Act of 1990, Section 109 of the Housing And Community Development Act of 1974, Section 3 of the Housing and Urban Development Act of 1968, Executive Order 11246 of Sept. 24, 1965, and Section 504 of the Rehabilitation Act of 1973. Any contracting, subletting, or subcontracting by the Grantee subjects contractors, subcontractors, and subrecipient entities to the same provision. In accordance with Mont. Code Ann. § 49-3-207, the Grantee agrees that the hiring of persons to perform the Contract will be made on the basis of merit and qualifications and there will be no discrimination based upon race, color, religion, creed, political ideas, sex, age, marital status, physical or mental disability, or national origin by the persons performing the Contract.

Section 15. AVOIDANCE OF CONFLICT OF INTEREST

The Grantee will comply with the provisions of the applicable HUD regulations of 24 C.F.R. Parts 84, 85, and 570.611, and with sections 2-2-121, 2-2-201, 7-3-4256, 7-3-4367, 7-5-2106, and 7-5-4109, MCA, (as applicable) regarding the avoidance of conflict of interest.

Section 16. ASSIGNMENT, TRANSFER, AND SUBCONTRACTING

The Grantee may assign, transfer, or subcontract any portion of this Contract, however, Grantee accepts responsibility for the adherence to the terms of this Contract by such contractors, subcontractors, or subrecipient entities and by any public or private agents or agencies to which it delegates authority to carry out any portion(s) of this Contract.

Section 17. SPECIAL PROJECT START-UP CONDITIONS

- (a) The Grantee will not obligate or utilize funds for any activities provided for by this Contract until:
 - (i) The Grantee completes an Environmental Review Record and the Department issues a Notice of Release of Funds; however, upon receiving written authorization from the Department, the Grantee may incur administrative costs necessary for the preparation of the Environmental Review Record and for planning activities defined as exempt under 24 CFR Part 58.34.
 - (ii) The Grantee submits to the Department evidence of the firm commitment of the other financial resources necessary for the completion of the Project as defined in Section 6, SCOPE OF ACTIVITIES, and Attachment A, within the budget set forth in Attachment B.
 - (iii) The Grantee submits to the Department and the Department approves an acceptable Project Management Plan and Implementation Schedule.

(iv) The Grantee completes the civil rights activities described in Chapter 5, "Civil Rights," of the current version of the Department's CDBG Grant Administration Manual. The Department, at its sole discretion, may approve a deferral of certain elements of this requirement.

(v) **[For projects with subgrantees/subrecipients]** The Grantee submits to the Department an acceptable interlocal / subrecipient agreement executed between the Grantee, _____ County / City, and _____ (water/sewer district or other subgrantee/subrecipient entity).

(vi) **[Other conditions, as needed ...]**

(b) Within nine (9) months of the date of the announcement of the tentative grant award letter issued by the Department (**Date**), the Grantee shall have completed all necessary arrangements to assure that the other financial resources necessary for the completion of the Project are available for commitment to and participation in SCOPE OF ACTIVITIES in order to guarantee timely Project completion. If the Grantee fails to secure the commitment of all other financial resources for the Project within this timeline, the Department will withdraw the tentative award and reallocate the funds, unless the Grantee can demonstrate the existence of unusual or extenuating circumstances that justify an extension of time.

Section 18. JURISDICTION AND VENUE

The laws of Montana govern this Contract. The parties agree that any litigation concerning the Contract must be brought in the First Judicial District in and for the County of Lewis and Clark, State of Montana, and each party shall pay its own costs and attorney fees.

Section 19. DEBARMENT

The Grantee certifies and agrees to ensure during the term of this Contract that neither it nor its principals, contractors, subcontractors, or subrecipient entities are debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in the Contract by any governmental department or agency. If the Grantee cannot certify this statement, attach a written explanation for review by the Department.

The Grantee certifies and agrees to ensure during the term of this Contract that neither it nor its principals, contractors, subcontractors, or subrecipient entities are debarred, suspended, or otherwise excluded from or ineligible for participation in Federal assistance programs under Executive Order 12549, "Debarment and Suspension."

Section 20. HOLD HARMLESS AND INDEMNIFICATION

The Grantee agrees to protect, defend, and save the State, its elected and appointed officials, agents, and employees, while acting within the scope of their duties as such, harmless from and against all claims, demands, causes of action of any kind or character, including the cost of defense thereof, arising in favor of the Grantee's employees or third parties on account of bodily or personal injuries, death, or damage to property arising out of services performed or omissions of services or in any way resulting from the acts or omissions of the Grantee and/or its agents, employees, representatives, assigns, subcontractors under the Contract.

Section 21. INSURANCE [...for contracts with Cities and Towns...]

- (a) General Requirements. Grantee shall maintain and shall assure that its representatives, assigns, and subcontractors maintain for the duration of the Contract, at their own cost and expense, liability insurance against claims for injuries to persons or damages to property which may arise from or in connection with the performance of the duties and obligations in the Contract by Grantee, its agents, employees, representatives, assigns, or subcontractors. This insurance shall cover such claims as may be caused by any negligent act or omission. The State, its officers, officials, employees, and volunteers are to be covered as additional insureds for all claims arising out of the use of grant proceeds provided by the State of Montana.
- (b) General Liability Insurance. At its sole cost and expense, the Grantee shall purchase occurrence coverage with minimum combined single limits of \$1 million per occurrence and \$2 million aggregate per year, or as established by statutory Tort limits of \$750,000 per claim and \$1,500,000 per occurrence as provided by a self-insurance pool insuring counties, cities, or towns, as authorized under Section 2-9-211, MCA.
- (c) Professional Liability Insurance. Grantee shall assure that any representatives, assigns, and subcontractors performing professional services under this Contract purchase occurrence coverage with combined single limits for each wrongful act of \$1,000,000 per occurrence and \$2,000,000 aggregate per year. Note: if "occurrence" coverage is unavailable or cost prohibitive, the Contractor may provide "claims made" coverage provided the following conditions are met: (1) the commencement date of the contract must not fall outside the effective date of insurance coverage and it will be the retroactive date for insurance coverage in future years; and (2) the claims made policy must have a three (3) year tail for claims that are made (filed) after the cancellation or expiration date of the policy.
- (d) Property Insurance. At its sole cost and expense, the Grantee shall maintain property and hazard insurance, including course of construction coverage, and earthquake insurance in areas where there is a shaking level above 10g (see map at <http://rmtd.mt.gov/aboutus/publications/files/NEHRP.pdf>) for loss or damage for any building and all related improvements and contents therein on the premises on a replacement cost basis throughout the term of the contract.

- (e) General Provisions. All insurance coverage shall be placed with a carrier licensed to do business in the State of Montana or by a domiciliary state and with a Best's rating of at least A-, or by a public entity self-insured program either individually or on a pool basis as provided by Title 2, MCA. All certificates and endorsements are to be received by the Department prior to beginning any activity provided for under the Contract. Grantee shall notify the Department immediately of any material change in insurance coverage, such as changes in limits, coverage, change in status of policy, etc. The Department reserves the right to request complete copies of Grantee's insurance policy at any time, including endorsements.

Section 22. CONTRACT AMENDMENT

- (a) Except as otherwise set forth herein, this Contract may not be enlarged, modified, or altered except upon written agreement by all parties to the Contract.
- (b) The Department will agree to an amendment only if the Grantee clearly demonstrates that the modification is justified and will enhance the overall impact of the original Project. The Department will consider each request to determine whether the modification is substantial enough to necessitate reevaluating the Project's original ranking. If warranted, the Department will analyze the impact of the proposed modification on the scores assigned to the Grantee's application in the original grant competition.
- (c) The Department will not approve amendments to the SCOPE OF WORK or the BUDGET that will affect high priority activities or improvements that would materially alter the circumstances under which the original application was ranked by the Department.
- (d) If the Department determines that a proposed amendment represents a substantial change in the Project activities proposed in the original application for CDBG funds, the Grantee will hold a local public hearing on the amendment with reasonable notice and may require further environmental review.

Section 23. PROPERTY MANAGEMENT

Title to real property or equipment acquired under this Contract or a subcontract thereto will vest, upon acquisition, in the Grantee or subgrantee, respectively. The Grantee or subgrantee shall use, manage, and dispose of this property or equipment in accordance with the applicable requirements set forth in 24 CFR Parts 85 and 570. All real property within the Grantee's control that was acquired or improved in whole or in part using the CDBG funds awarded pursuant to this Contract shall be subject to the standards set forth in 24 C.F.R. § 570.505 during the duration of this Contract term and for five years after closeout of the Project. In all cases in which equipment acquired pursuant to this Contract is sold, the proceeds shall be program income.

Section 24. TERMINATION OF CONTRACT

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[INSERT NAME OF GRANTEE. DUNS # _____]

Community Development Block Grant Program
Montana Department of Commerce

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This Contract may only be terminated in whole or in part as follows:

- (a) The Department may, by written notice to the Grantee, terminate this Contract in whole or in part at any time the Grantee or any of its contractors, subcontractors, or subrecipient entities fails to perform this Contract or materially fails to comply with any term of this Contract, whether stated herein or in any applicable local, state or federal law, regulation, administrative directive, procedure, ordinance, or resolution. Upon such failure(s), the Department may take one or more of the following actions, as appropriate in the circumstances:
- i) Temporarily withhold cash payments pending correction of the deficiency by the Grantee or more severe enforcement action by the Department;
 - ii) Disallow all or part of the cost of the activity or action not in compliance;
 - iii) Wholly or partly suspend or terminate the grant for the Project;
 - iv) Withhold further grants to the Project or to the Grantee;
 - v) Take other remedies that may be legally available.

Any costs or expenses incurred by the Grantee from obligations arising during a suspension or after termination of the grant pursuant to this Section are not allowable unless the Department expressly authorizes them in the notice of suspension or termination or subsequently in writing thereafter. Other necessary and not reasonably avoidable Grantee costs incurred during suspension or after termination are allowable if:

- 1) They result from obligations properly incurred by the Grantee before the effective date of suspension or termination, are not in anticipation of it, and in the case of a termination, noncancellable; and
 - 2) The costs would be allowable if the award were not suspended or expired normally at the end of the funding period in which the termination takes effect.
- (b) The Department may terminate this Contract in whole or in part at any time with the consent of the Grantee, in which case the parties shall agree upon the termination conditions, including the effective date and, in the case of partial termination, the portion of the Contract to be terminated;
- (c) The Grantee may terminate this Contract in whole or in part at any time upon written notification to the Department, setting forth the reasons for such termination, the effective date, and in the case of partial termination, the portion of the Contract to be

terminated. However, if, in the case of a partial termination, the Department determines that the remaining portion of the award will not accomplish the purposes for which the award was made, the Department may terminate the award in its entirety under paragraph (a) of this section.

- (d) The Department may, at its sole discretion, terminate or reduce the scope of the Contract if available funding is eliminated or reduced for any reason. If a termination or modification is required, the Department will, to the extent permitted by available CDBG funds, compensate the Grantee for eligible work elements the Grantee has completed and for approved, eligible, reasonable, and necessary expenses incurred by the Grantee as of the revised termination date. The Department will give the Grantee written notice of the effective date of the modification or termination of this Contract and, if a reduction in funding is required, will provide the Grantee with a modified Project budget.

Section 25. COMPLIANCE WITH WORKERS' COMPENSATION ACT

Grantees are required to comply with the provisions of the Montana Workers' Compensation Act while performing work for the State of Montana in accordance with Sections 39-71-401, 39-71-405, and 39-41-417, MCA. Proof of compliance must be in the form of workers' compensation insurance, an independent contractor's exemption, or documentation of corporate officer status. Neither the Grantee nor its employees are employees of the State. This insurance/exemption must be valid for the entire term of the Contract. Proof of compliance and renewal documents must be sent to the Department.

CONTRACTS WILL BE TERMINATED PURSUANT TO THE PROVISIONS OF SECTION 24, TERMINATION OF CONTRACT, IF THE GRANTEE FAILS TO PROVIDE THE REQUIRED DOCUMENTATION.

Coverage may be provided through a private carrier or through the State Compensation Insurance Fund (406) 444-6500. An exemption can be requested through the Department of Labor and Industry, Employment Relations Division (406) 444-1446. Corporate officers must provide documentation of their exempt status.

Section 26. FORCE MAJEURE

Neither party shall be responsible for failure to fulfill its obligations due to causes beyond its reasonable control, including without limitation, acts or omissions of government or military authority, acts of God, materials shortages, transportation delays, fires, floods, labor disturbances, riots, wars, terrorist acts, or any other causes, directly or indirectly beyond the reasonable control of the non-performing party, so long as such party is using its best efforts to remedy such failure or delays.

Section 27. SEPARABILITY

A declaration by any court, or any other binding legal source, that any provision of the Contract is illegal and void shall not affect the legality and enforceability of any other provision of the Contract, unless the provisions are mutually dependent.

Section 28. NOTICE

All notices required under the provisions of the Contract must be in writing and delivered to the parties' liaisons as identified herein either by first class mail or personal service.

Section 29. REFERENCE TO CONTRACT

The Contract number must appear on all invoices, reports, and correspondence pertaining to the Contract.

Section 30. NO ARBITRATION

Unless otherwise agreed to in writing or provided for by law, arbitration is not available to the parties as a method of resolving disputes that would arise under this Contract.

Section 31. NO WAIVER OF BREACH

No failure by the Department to enforce any provisions hereof after any event of breach shall be deemed a waiver of its rights with regard to that event, or any subsequent event. No express failure of any event of breach shall be deemed a waiver of any provision hereof. No such failure or waiver shall be deemed a waiver of the right of the Department to enforce each and all of the provisions hereof upon any further or other breach on the part of the Grantee.

Section 32. INTEGRATION

The Contract contains the entire agreement between the parties, and no statements, promises, or inducements of any kind made by either party, or the agents of either party, not contained herein or in a properly executed amendment hereto are valid or binding.

IN WITNESS OF THE TERMS SET OUT ABOVE, the parties have executed this Contract.

(Name), (Mayor) _____ Date
(Local Government)

ATTEST: _____
(Name), Clerk and Recorder

APPROVED AS TO FORM: _____
(Name), (Local Government) Attorney

Department of Commerce:

Dore Schwinden, Director _____ Date
Montana Department of Commerce

ATTACHMENT A: Date: _____
QUARTERLY PROJECT IMPLEMENTATION SCHEDULE
Contract # MT-CDBG-I_PF[HR]-__ [City, Town of...]

TASK	QUARTERS, 2011				QUARTERS, October 2013			
	1st	2nd	3rd	4th	1st	2nd	3rd	4th
<u>PROJECT START UP</u>								
Sign contract with MDOC/CDBG.								
Attend CDBG grant administration workshop.								
CDBG letter (.../.../10) of authorization to incur costs (effective as of (.../.../10).								
Conduct environmental review and cultural resource survey.								
Secure CDBG's Environmental Release of Funds.								
Secure and document firm commitment and approval of other funding.								
Identify audit requirements. Establish audit schedule for the project's duration. Include the project in upcoming audits (State Fiscal Years 2010, 2011, October 2013 as applicable).								
Submit progress reports (CDBG Exhibit 4-F) with each drawdown request.								
Submit quarterly update reports (CDBG Exhibit 4-N).								
<u>PROJECT DESIGN</u>	1st 2011	2nd	3rd	4th	1st Octo ber 2013	2nd	3rd	4th
Advertise (RFQ) for and select engineer/architect.								
Commence design.								
Complete project design.								
Prepare construction bid documents.								
Secure CDBG's (and other funding agencies') approval of bid documents.								

<u>PROJECT DESIGN... continued</u>	1st 2011	2nd	3rd	4th	1st Octo ber 2013	2nd	3rd	4th
Finalize acquisition of land to be used.								
Submit progress reports (CDBG Exhibit 4-F) with each drawdown request.								
Submit quarterly update reports (CDBG Exhibit 4-N).								
<u>ADVERTISEMENT FOR CONSTRUCTION BIDS</u>	1st 2011	2nd	3rd	4th	1st Octo ber 2013	2nd	3rd	4th
Review CDBG contract requirements.								
Publish bid solicitation advertisement after securing CDBG's and other funding agencies' approval.								
Open bids and examine proposals.								
Request CDBG state and federal debarment/eligibility review of selected contractor and its principals (lowest responsible bidder) and of all subcontractors.								
Award contract to selected contractor.								
Send a complete copy of the signed contract and contract package to the project's CDBG liaison.								
Submit progress reports (CDBG Exhibit 4-F) with each drawdown request.								
Submit quarterly update reports (CDBG Exhibit 4-N).								
<u>PROJECT CONSTRUCTION</u>	1st 2011	2nd	3rd	4th	1st Octo ber 2013	2nd	3rd	4th
Conduct pre-construction conference.								
Issue the Notice to Proceed.								
Begin construction.								
Monitor engineer and other contractors.								

<u>PROJECT CONSTRUCTION</u>	1st 2011	2nd	3rd	4th	1st Octo ber 2013	2nd	3rd	4th
Conduct labor compliance reviews:								
... Complete Weekly payroll reviews (with a copy to CDBG with drawdown requests)								
... Conduct Contractors' employee interviews								
Hold construction progress meetings.								
Final Inspection.								
CDBG staff conducts on-site monitoring of the project. (See CDBG Manual Exhibit 12-A, CDBG Monitoring Guide.)								
Submit progress reports (CDBG Exhibit 4-F) with each drawdown request.								
Submit quarterly update reports (CDBG Exhibit 4-N).								
<u>PROJECT CLOSE OUT</u>	1st 2011	2nd	3rd	4th	1st Octo ber 2013	2nd	3rd	4th
Submit CDBG project completion report. (See CDBG Manual Chapter 13, Project Closeout, and Chapter 13 Exhibits).								
Submit CDBG <u>conditional</u> closeout certification.								
CDBG approves conditional closeout.								
Submit progress reports with each drawdown request. Submit quarterly update reports.								
Include the project in upcoming audits (State Fiscal Years 2011, October 2013, 2013 as applicable).								
Submit CDBG <u>final</u> closeout certification, final audit and final drawdown request.								
CDBG approves final closeout.								

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[INSERT NAME OF GRANTEE. DUNS # _____]

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ATTACHMENT B: Date: _____
BUDGET FORM FOR MONTANA COMMUNITY DEVELOPMENT BLOCK GRANT
PROGRAM (CDBG)
Contract MT-CDBG-_____ [City, Town of...]

ADMINISTRATIVE/ FINANCIAL COSTS	SOURCE:	SOURCE:	SOURCE:	SOURCE:	TOTAL
Personnel Costs					
Office Costs					
Professional Services					
Legal Costs					
Audit Fees					
Travel & Training					
Loan Fees					
Loan Reserves					
Interim Interest					
Bond Cost					
TOTAL ADMINISTRATIVE/ FINANCIAL COSTS					
ACTIVITY COSTS:					
Preliminary Engineering					
Final Engineering Design					
DEQ Plan Review					
Construction Inspection					
Construction					
Contingency					
TOTAL ACTIVITY COSTS					
TOTAL PROJECT COSTS					

EXHIBIT 1-I

CONTRACT TEMPLATE FOR A CDBG PROJECT – FOR COUNTIES

**COMMUNITY DEVELOPMENT BLOCK GRANT CONTRACT
FOR PUBLIC FACILITIES AND HOUSING PROJECTS**

CONTRACT #MT-CDBG-I_PF[HR]-__

This Contract is entered into by _____, Montana, (the Grantee), IRS # _____, and the Montana Department of Commerce, Helena, Montana, (the Department).

The Grantee and the Department hereby agree to the following terms:

Section 1. PURPOSE

The purpose of this Contract is to provide funding for project activities approved by the Department under the Montana Community Development Block Grant Program (CDBG) for FFY 201__.

Section 2. AUTHORITY

This contract is issued under authority of Section 90-I-103, Montana Code Annotated, and the Administrative Rules of Montana, Title 8, Chapter 94, Subchapter 37.

Section 3. APPLICATION INCORPORATED BY REFERENCE

The Grantee's application for CDBG assistance, including any written modifications resulting from the review of the applications by the Department (collectively, the "Project"), is incorporated into this Contract by this reference and the representations made therein are binding upon the Grantee.

Section 4. ACCEPTANCE OF CDBG PROGRAM REQUIREMENTS

- (a) The Grantee will comply with all applicable parts of the Housing and Community Development Act of 1974, as amended, 42 U.S.C. §§ 5301, et seq.; the applicable Department of Housing and Urban Development (HUD) regulations, including but not limited to 24 CFR Part 570 and Form HUD-4010, as now in effect or as they may be amended during the term of this contract; all administrative directives and procedures established by the Department, including the most recent version of the CDBG Grant Administration Manual; and all other applicable local, state, and federal laws, regulations, administrative directives, procedures, ordinances, or resolutions.

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[INSERT NAME OF GRANTEE. DUNS # _____]

- (b) The Grantee agrees that all contracts entered into by it for the completion of the activities described in Section 6, SCOPE OF ACTIVITIES, of this Contract will contain special provisions requiring such contractors, subcontractors, or subrecipient entities to also comply with all applicable local, state, and federal requirements.
- (c) The Grantee expressly agrees to repay to the Department any funds advanced to the Grantee under this Contract that the Grantee, its contractors, subcontractors, or subrecipient entities, or any public or private agent or agency to which it delegates authority to carry out portions of this Contract, expends in violation of the terms of this Contract, the statutes and regulations governing the CDBG Program, or any other applicable local, state, or federal requirements.

Section 5. EFFECTIVE DATE AND TIME OF PERFORMANCE

This Contract shall take effect upon execution by the parties and will terminate upon approval of final Project closeout by the Department, unless terminated earlier in accordance with the terms of this Contract. The activities to be performed by the Grantee will be completed according to the implementation schedule attached hereto as Attachment A and specifically incorporated herein by this reference. The Grantee may modify the implementation schedule set forth in Attachment A at any time, so long as it submits a written request to the Department and receives written acknowledgement of such adjustment from the Department. However, delays or other modifications to the implementation schedule in excess of twelve (12) months require formal Department approval and amendment of this Contract.

Section 6. SCOPE OF ACTIVITIES

The Grantee will engage in the activities set forth in the Grantee's application for CDBG assistance, including any written modifications resulting from the review of the applications by the Department. The major components of the Project include the following work for the _____ (County) **Public Facilities / Housing and Neighborhood Renewal** Project:

- ...;
- ...;
- ...;
- ...; and
- the administration of this Contract in compliance with the Project Management Plan approved by the Department and as may be amended from time to time by mutual agreement of the parties.

Section 7. BUDGET

- (a) The total amount to be awarded to the Grantee under this Contract will not exceed \$_____.

- (b) A copy of the preliminary Project budget is attached hereto as Attachment B to this Contract and specifically incorporated herein by this reference. After construction bids are awarded or other major Project activity cost elements are determined, the Grantee may, or if requested by the Department, shall provide the Department with a final Project budget, which, upon receipt and approval by the Department, will supersede the preliminary budget in Attachment B and thereby be incorporated as part of this Contract.
- (c) Budget adjustments must be approved in advance by the Department. For budget adjustments of \$5,000 or less between line items of the CDBG portion of Attachment B, Department approval of the Request for Funds form will constitute approval of the budget adjustment. The Grantee must describe the rationale for a budget adjustment in the Project Progress Report and note the adjustments in the Request for Funds and Status of Funds Report submitted with draws against the grant funding reserve. Budget adjustments in excess of \$5,000 require formal Department approval and the Contract amended.
- (d) Unless otherwise agreed to in writing by the Department, the Grantee must expend substantially all program income it receives before requesting additional CDBG funds. The Department will deduct the amount of program income on hand, shown on the drawdown form, from the amount requested by the Grantee. The Department, at its sole discretion, may allow the Grantee to retain program income received before or after Project closeout, but such income must be treated as additional CDBG funds and subject to all applicable requirements governing the use of CDBG funds. If the Grantee is allowed to retain program income received before Project closeout, the Grantee will record receipt and expenditure of retained program income as part of the financial transactions of the Project. At the end of each calendar year during the term of this Contract, the Department may, at its sole discretion, require remittance of all or any part of any program income balances (including investments thereof) held by the Grantee, its contractors, subcontractors, and subrecipient entities. If the Grantee is allowed to retain program income received after Project closeout, a program income plan in compliance with the most recent version of the Department's Program Income Manual for Revolving Loan Funds must be developed and submitted for review and written approval by the Department at the time of closeout.
- (e) Any authorized funds not expended under this grant or otherwise accounted for in accordance with the provisions of this Section will revert to the Department and will be used to finance other CDBG projects.

Section 8. AMOUNT OF GRANT AND METHOD OF PAYMENT

- (a) The Department will authorize the Grantee to draw up to \$_____ against the funding reserved for it by the Department. In drawing against the reserved amount, the Grantee will follow the instructions supplied by the Department.
- (b) The Department agrees to reimburse the Grantee as set forth in this Section for successfully completing the activities set forth in , 6 SCOPE OF ACTIVITIES, as the Grantee incurs approved, eligible, reasonable, and necessary Project expenses supported by adequate documentation submitted by the Grantee and upon approval by the Department of the Grantee's Request for Funds.
- (c) The Department will not reimburse the Grantee for any costs incurred prior to the date of execution of this Contract, unless previously authorized in writing by the Department, but in no event for costs incurred prior to the date (Date) listed in the tentative grant award letter (Date), for any expenses not included in the budget or an approved adjustment thereto, or for any expenses not clearly and adequately supported by the Grantee's records.
- (d) The reimbursement of approved, eligible, reasonable, and necessary Project expenses incurred is contingent upon the Grantee's completion of Section 17, SPECIAL PROJECT START-UP CONDITIONS.
- (e) The Department will not release any CDBG funds to the Grantee until the Grantee has obtained firm commitments for all other financial resources to be involved in the Project. The Grantee may not expend or obligate any CDBG funds, other than for administrative purposes, until the Department determines that this condition has been satisfied.
- (f) As further set forth in Section 23, TERMINATION OF CONTRACT, in the event the Grantee fails to or is unable to comply with any of the terms and the conditions of this Contract, any costs incurred will be the Grantee's sole responsibility.
- (g) The Department will withhold two percent (2%) of the total authorized grant amount until all tasks outlined in Section 6, SCOPE OF ACTIVITIES, are completed and approved and the Grantee's Project Completion Report is received and approved by the Department. Within 60 days after the completion of the Project, the Grantee will prepare and submit to the Department a Project Completion Report in the form prescribed by the Department. The Department will disburse this withholding upon receipt and approval by the Department of the Grantee's Project Completion Report. Prior to receipt of the Project Completion Report, the Department liaison may authorize release of part or all of the withholding when situations occur that would result in an undue financial hardship on the Grantee, provided the Grantee has demonstrated effective overall management of this Project and, when applicable, satisfactorily managed any earlier CDBG projects. If the Grantee fails to submit a

Project Completion Report within the 60 days, the Department may consider whether these remaining funds should be reallocated by the Department to other unfunded or inadequately funded activities, whether or not related to the SCOPE OF ACTIVITIES set forth herein or to the Grantee, or added to the following year's CDBG allocation.

- (h) If actual total cost of completing the Project is less than has been projected by the Grantee in the budget (Attachment B) or an approved adjustment thereto, the Department, at its discretion, may reduce the amount of CDBG grant funds to be provided to the Grantee under this Contract in proportion to the overall savings. If actual construction bids are less than the estimates included in the budget in Attachment B, the construction portion of the budget will be automatically adjusted to reflect the bid price, plus a ten percent contingency. The difference between actual Project costs and the original grant award will be either reallocated by the Department to other unfunded or inadequately funded activities, whether or not related to the SCOPE OF ACTIVITIES set forth herein or to the Grantee, or added to the following year's CDBG allocation.
- (i) The Department of Commerce may, at its discretion, withdraw from the Grantee the commitment of any CDBG funds that remain unobligated 24 months after the date of the announcement of the tentative grant award (_____).
- (j) If needed, the Grantee's travel expenses, meals, and lodging will be reimbursed at the prevailing local rate at the time such expense is incurred.
- (k) Unless otherwise stated herein, the Department is allowed 30 days to process a Request for Funds once the Department has received adequate supporting documentation. The Grantee may be required to provide banking information at the time of Contract execution in order to facilitate electronic funds transfer payments.
- (l) The Department will issue a final Project closeout approval when the grantee has fulfilled all requirements as set forth in the most current version of the CDBG Grant Administration Manual, Chapter 13, Project Closeout.
- (m) If any obligations remain as of the date of Project closeout, the Department shall prepare and the parties shall execute a Closeout Agreement specifying the conditions and requirements governing those remaining obligations, in accordance with the requirements set forth in 24 CFR § 570.509(c).

Section 9. LIAISONS

_____, CDBG Program Specialist, is the Department's liaison with the Grantee regarding all administrative and technical matters concerning this Contract. _____, is the Grantee's liaison with the Department for all administrative and

technical matters concerning this Contract. For purposes of this Contract, these liaisons may be contacted as follows:

For the Department:

_____ (or successor)
CDBG Program Specialist, MDOC
301 S. Park Ave.
P.O. Box 200523
Helena, MT 59620-0523
406-841-2770

For the Grantee:

(Name,
Title,
Mailing Address,
Business Location,
Phone Number)

Section 10. OWNERSHIP AND PUBLICATION OF MATERIALS

All reports, information, data, and other materials prepared by the Grantee pursuant to this Contract are the property of the Grantee and the Department, which both have the royalty-free, nonexclusive, and irrevocable right to reproduce, publish or otherwise use, and to authorize others to use, in whole or part, such property and any information relating thereto. No material produced in whole or in part under this Contract may be copyrighted or patented in the United States or in any other country without the prior written approval of the Grantee and the Department.

To the extent the funds awarded under this Contract will be used by any small business firm or non-profit organization, as defined in 37 C.F.R. 401.2, such firm(s) or organization(s) are subject to the standard patent rights clause set forth in its entirety in 37 C.F.R. 401.14 and specifically incorporated herein by this reference.

Section 11. ACCESS TO AND RETENTION OF RECORDS

- (a) The Grantee agrees to provide the Department, HUD, Comptroller General of the United States, Montana Legislative Auditor, or their authorized agents access to any records necessary to determine Contract compliance. The Grantee agrees to create and retain records supporting the services rendered or supplies delivered for a period of four (4) years after either the completion date of the Contract or the conclusion of any claim, litigation, or exception relating to the Contract taken by the State of Montana or third party, whichever is later. These records will be kept in the Grantee's offices in _____, Montana.

- (b) The Grantee agrees to include in first-tier subcontracts under this Contract a clause substantially the same as paragraph 11(a).

Section 12. PROJECT MONITORING

- (a) The Department or any of its authorized agents may monitor and inspect all phases and aspects of the Grantee's performance to determine compliance with the SCOPE OF ACTIVITIES, and other technical and administrative requirements of this Contract, including the adequacy of the Grantee's records and accounts. The Department will advise the Grantee of any specific areas of concern and provide the Grantee opportunity to propose corrective actions acceptable to the Department.
- (b) Failure by the Grantee to proceed with reasonable promptness to take necessary corrective actions shall be a default. If the Grantee's corrective actions remain unacceptable, the Department may terminate this Contract in whole or in part, pursuant to the provisions of Section 23, TERMINATION OF CONTRACT.

Section 13. REPORTING REQUIREMENTS

(a) QUARTERLY UPDATE REPORT

- i) During the term of this Contract, the Grantee will submit a quarterly update report. This report shall follow the report format specified in the most recent version of the CDBG Grant Administration Manual, and shall describe the status of the Project with respect to the activities set forth in Section 6, SCOPE OF ACTIVITIES, including, at a minimum, the percentage complete, costs incurred, funds remaining, and projected completion date. The report must also describe any significant problems encountered and any necessary scope of implementation or budget modifications requested.
- (ii) The Grantee will submit the quarterly update report to the Department fifteen (15) days prior to the close of each calendar quarter. The Department will not honor claims for payment until the required quarterly update report has been submitted to and approved by the Department.

(b) PROJECT PROGRESS REPORTING

During the term of this Contract, the Grantee will submit a Project Progress Report with any Requests for Funds. The report will describe the use of the funds requested for each administrative and activity line item. The report should also describe any anticipated changes in the budgeted amounts.

(c) STATUS OF FUNDS REPORTING

During the term of this Contract, the Grantee will submit a Status of Funds Report with any Requests for Funds.

Section 14. COMPLIANCE WITH NONDISCRIMINATION LAWS

The Grantee must, in performance of work under the Contract, fully comply with all applicable federal, state, or local nondiscrimination laws, rules, and regulations, including but not limited to the Montana Human Rights Act, the Civil Rights Act of 1964, the Age Discrimination Act of 1975, the Americans with Disabilities Act of 1990, Section 109 of the Housing And Community Development Act of 1974, Section 3 of the Housing and Urban Development Act of 1968, Executive Order 11246 of Sept. 24, 1965, and Section 504 of the Rehabilitation Act of 1973. Any contracting, subletting, or subcontracting by the Grantee subjects contractors, subcontractors, and subrecipient entities to the same provision. In accordance with Mont. Code Ann. § 49-3-207, the Grantee agrees that the hiring of persons to perform the Contract will be made on the basis of merit and qualifications and there will be no discrimination based upon race, color, religion, creed, political ideas, sex, age, marital status, physical or mental disability, or national origin by the persons performing the Contract.

Section 15. AVOIDANCE OF CONFLICT OF INTEREST

The Grantee will comply with the provisions of the applicable HUD regulations of 24 C.F.R. Parts 84, 85, and 570.611, and with sections 2-2-121, 2-2-201, 7-3-4256, 7-3-4367, 7-5-2106, and 7-5-4109, MCA, (as applicable) regarding the avoidance of conflict of interest.

Section 16. ASSIGNMENT, TRANSFER, AND SUBCONTRACTING

The Grantee may assign, transfer, or subcontract any portion of this Contract, however, Grantee accepts responsibility for the adherence to the terms of this Contract by such contractors, subcontractors, or subrecipient entities and by any public or private agents or agencies to which it delegates authority to carry out any portion(s) of this Contract.

Section 17. SPECIAL PROJECT START-UP CONDITIONS

(a) The Grantee will not obligate or utilize funds for any activities provided for by this Contract until:

(i) The Grantee completes an Environmental Review Record and the Department issues a Notice of Release of Funds; however, upon receiving written authorization from the Department, the Grantee may incur administrative costs necessary for the preparation of the Environmental Review Record and for planning activities defined as exempt under 24 CFR Part 58.34.

(ii) The Grantee submits to the Department evidence of the firm commitment of the other financial resources necessary for the completion of the Project as defined in Section 6, SCOPE OF ACTIVITIES, and Attachment A, within the budget set forth in Attachment B.

(iii) The Grantee submits to the Department and the Department approves an acceptable Project Management Plan and Implementation Schedule.

(iv) The Grantee completes the civil rights activities described in Chapter 5, "Civil Rights," of the current version of the Department's CDBG Grant Administration Manual. The Department, at its sole discretion, may approve a deferral of certain elements of this requirement.

(v) **[For projects with subgrantees/subrecipients]** The Grantee submits to the Department an acceptable interlocal / subrecipient agreement executed between the Grantee, _____ County / City, and _____ (water/sewer district or other subgrantee/subrecipient entity).

(vi) **[Other conditions, as needed ...]**

(b) Within nine (9) months of the date (Date) of the announcement of the tentative grant award letter issued by the Department, the Grantee shall have completed all necessary arrangements to assure that the other financial resources necessary for the completion of the Project are available for commitment to and participation in SCOPE OF ACTIVITIES in order to guarantee timely Project completion. If the Grantee fails to secure the commitment of all other financial resources for the Project within this timeline, the Department will withdraw the tentative award and reallocate the funds, unless the Grantee can demonstrate the existence of unusual or extenuating circumstances that justify an extension of time.

Section 18. JURISDICTION AND VENUE

The laws of Montana govern this Contract. The parties agree that any litigation concerning the Contract must be brought in the First Judicial District in and for the County of Lewis and Clark, State of Montana, and each party shall pay its own costs and attorney fees.

Section 19. DEBARMENT

The Grantee certifies and agrees to ensure during the term of this Contract that neither it nor its principals, contractors, subcontractors, or subrecipient entities are debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in the

Contract by any governmental department or agency. If the Grantee cannot certify this statement, attach a written explanation for review by the Department.

The Grantee certifies and agrees to ensure during the term of this Contract that neither it nor its principals, contractors, subcontractors, or subrecipient entities are debarred, suspended, or otherwise excluded from or ineligible for participation in Federal assistance programs under Executive Order 12549, "Debarment and Suspension."

Section 20. HOLD HARMLESS AND INDEMNIFICATION

The Grantee agrees to protect, defend, and save the State, its elected and appointed officials, agents, and employees, while acting within the scope of their duties as such, harmless from and against all claims, demands, causes of action of any kind or character, including the cost of defense thereof, arising in favor of the Grantee's employees or third parties on account of bodily or personal injuries, death, or damage to property arising out of services performed or omissions of services or in any way resulting from the acts or omissions of the Grantee and/or its agents, employees, representatives, assigns, subcontractors under the Contract.

Section 21. INSURANCE *[...for CBDG contracts with Counties...]*

- (a) General Requirements. Grantee shall maintain and shall assure that its representatives, assigns, and subcontractors maintain for the duration of the Contract, at their own cost and expense, primary liability insurance against claims for injuries to persons or damages to property, including contractual liability, which may arise from or in connection with the performance of the duties and obligations in the Contract by Grantee, its agents, employees, representatives, assigns, or subcontractors. This insurance shall cover such claims as may be caused by any negligent act or omission. The State, its officers, officials, employees, and volunteers are to be covered as additional insureds for all claims arising out of the use of grant proceeds provided by the State of Montana.
- (b) Primary Insurance. Grantee's insurance coverage shall be primary insurance with respect to the State of Montana, its elected or appointed officers, officials, employees, or volunteers and shall not contribute with it.
- (c) General Liability Insurance. At its sole cost and expense, the Grantee shall purchase occurrence coverage with minimum combined single limits of \$1 million per occurrence and \$2 million aggregate per year, or as established by statutory Tort limits of \$750,000 per claim and \$1,500,000 per occurrence as provided by a self-insurance pool insuring counties, cities, or towns, as authorized under Section 2-9-211, MCA.
- (d) Professional Liability Insurance. Grantee shall assure that any representatives, assigns, and subcontractors performing professional services under this Contract purchase

occurrence coverage with combined single limits for each wrongful act of \$1,000,000 per occurrence and \$2,000,000 aggregate per year. Note: if "occurrence" coverage is unavailable or cost prohibitive, the Contractor may provide "claims made" coverage provided the following conditions are met:

- (1) the commencement date of the contract must not fall outside the effective
- (2) the claims made policy must have a three
- (3) year tail for claims that are made (filed) after the cancellation or expiration date of the policy.

(e) Property Insurance. At its sole cost and expense, the Grantee shall maintain property and hazard insurance, including course of construction coverage, and earthquake insurance in areas where there is a shaking level above 10g (see map at <http://rmtd.mt.gov/aboutus/publications/files/NEHRP.pdf>) for loss or damage for any building and all related improvements and contents therein on the premises on a replacement cost basis throughout the term of the contract.

(f) General Provisions. All insurance coverage shall be placed with a carrier licensed to do business in the State of Montana or by a domiciliary state and with a Best's rating of at least A-, or by a public entity self-insured program either individually or on a pool basis as provided by Title 2, MCA. All certificates and endorsements are to be received by the Department prior to beginning any activity provided for under the Contract. Grantee shall notify the Department immediately of any material change in insurance coverage, such as changes in limits, coverage, change in status of policy, etc. The Department reserves the right to request complete copies of Grantee's insurance policy at any time, including endorsements.

Section 22. CONTRACT AMENDMENT

- (a) Except as otherwise set forth herein, this Contract may not be enlarged, modified, or altered except upon written agreement by all parties to the Contract.
- (b) The Department will agree to an amendment only if the Grantee clearly demonstrates that the modification is justified and will enhance the overall impact of the original Project. The Department will consider each request to determine whether the modification is substantial enough to necessitate reevaluating the Project's original ranking. If warranted, the Department will analyze the impact of the proposed modification on the scores assigned to the Grantee's application in the original grant competition.
- (c) The Department will not approve amendments to the SCOPE OF WORK or the BUDGET that will affect high priority activities or improvements that would materially

alter the circumstances under which the original application was ranked by the Department.

- (d) If the Department determines that a proposed amendment represents a substantial change in the Project activities proposed in the original application for CDBG funds, the Grantee will hold a local public hearing on the amendment with reasonable notice and may require further environmental review.

Section 23. PROPERTY MANAGEMENT

Title to real property or equipment acquired under this Contract or a subcontract thereto will vest, upon acquisition, in the Grantee or subgrantee, respectively. The Grantee or subgrantee shall use, manage, and dispose of this property or equipment in accordance with the applicable requirements set forth in 24 CFR Parts 85 and 570. All real property within the Grantee's control that was acquired or improved in whole or in part using the CDBG funds awarded pursuant to this Contract shall be subject to the standards set forth in 24 C.F.R. § 570.505 during the duration of this Contract term and for five years after closeout of the Project. In all cases in which equipment acquired pursuant to this Contract is sold, the proceeds shall be program income.

Section 24. TERMINATION OF CONTRACT

This Contract may only be terminated in whole or in part as follows:

- (a) The Department may, by written notice to the Grantee, terminate this Contract in whole or in part at any time the Grantee or any of its contractors, subcontractors, or subrecipient entities fails to perform this Contract or materially fails to comply with any term of this Contract, whether stated herein or in any applicable local, state or federal law, regulation, administrative directive, procedure, ordinance, or resolution. Upon such failure(s), the Department may take one or more of the following actions, as appropriate in the circumstances:
- i) Temporarily withhold cash payments pending correction of the deficiency by the Grantee or more severe enforcement action by the Department;
 - ii) Disallow all or part of the cost of the activity or action not in compliance;
 - iii) Wholly or partly suspend or terminate the grant for the Project;
 - iv) Withhold further grants to the Project or to the Grantee;
 - v) Take other remedies that may be legally available.

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Any costs or expenses incurred by the Grantee from obligations arising during a suspension or after termination of the grant pursuant to this Section are not allowable unless the Department expressly authorizes them in the notice of suspension or termination or subsequently in writing thereafter. Other necessary and not reasonably avoidable Grantee costs incurred during suspension or after termination are allowable if:

- 1) They result from obligations properly incurred by the Grantee before the effective date of suspension or termination, are not in anticipation of it, and in the case of a termination, noncancellable; and
 - 2) The costs would be allowable if the award were not suspended or expired normally at the end of the funding period in which the termination takes effect.
- (b) The Department may terminate this Contract in whole or in part at any time with the consent of the Grantee, in which case the parties shall agree upon the termination conditions, including the effective date and, in the case of partial termination, the portion of the Contract to be terminated;
- (c) The Grantee may terminate this Contract in whole or in part at any time upon written notification to the Department, setting forth the reasons for such termination, the effective date, and in the case of partial termination, the portion of the Contract to be terminated. However, if, in the case of a partial termination, the Department determines that the remaining portion of the award will not accomplish the purposes for which the award was made, the Department may terminate the award in its entirety under paragraph (a) of this section.
- (d) The Department may, at its sole discretion, terminate or reduce the scope of the Contract if available funding is eliminated or reduced for any reason. If a termination or modification is required, the Department will, to the extent permitted by available CDBG funds, compensate the Grantee for eligible work elements the Grantee has completed and for approved, eligible, reasonable, and necessary expenses incurred by the Grantee as of the revised termination date. The Department will give the Grantee written notice of the effective date of the modification or termination of this Contract and, if a reduction in funding is required, will provide the Grantee with a modified Project budget.

Section 25. COMPLIANCE WITH WORKERS' COMPENSATION ACT

Grantees are required to comply with the provisions of the Montana Workers' Compensation Act while performing work for the State of Montana in accordance with Sections 39-71-401,

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39-71-405, and 39-41-417, MCA. Proof of compliance must be in the form of workers' compensation insurance, an independent contractor's exemption, or documentation of corporate officer status. Neither the Grantee nor its employees are employees of the State. This insurance/exemption must be valid for the entire term of the Contract. Proof of compliance and renewal documents must be sent to the Department.

CONTRACTS WILL BE TERMINATED PURSUANT TO THE PROVISIONS OF SECTION 24, TERMINATION OF CONTRACT, IF THE GRANTEE FAILS TO PROVIDE THE REQUIRED DOCUMENTATION.

Coverage may be provided through a private carrier or through the State Compensation Insurance Fund (406) 444-6500. An exemption can be requested through the Department of Labor and Industry, Employment Relations Division (406) 444-1446. Corporate officers must provide documentation of their exempt status.

Section 26. FORCE MAJEURE

Neither party shall be responsible for failure to fulfill its obligations due to causes beyond its reasonable control, including without limitation, acts or omissions of government or military authority, acts of God, materials shortages, transportation delays, fires, floods, labor disturbances, riots, wars, terrorist acts, or any other causes, directly or indirectly beyond the reasonable control of the non-performing party, so long as such party is using its best efforts to remedy such failure or delays.

Section 27. SEPARABILITY

A declaration by any court, or any other binding legal source, that any provision of the Contract is illegal and void shall not affect the legality and enforceability of any other provision of the Contract, unless the provisions are mutually dependent.

Section 28. NOTICE

All notices required under the provisions of the Contract must be in writing and delivered to the parties' liaisons as identified herein either by first class mail or personal service.

Section 29. REFERENCE TO CONTRACT

The Contract number must appear on all invoices, reports, and correspondence pertaining to the Contract.

Section 30. NO ARBITRATION

Unless otherwise agreed to in writing or provided for by law, arbitration is not available to the parties as a method of resolving disputes that would arise under this Contract.

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Section 31. NO WAIVER OF BREACH

No failure by the Department to enforce any provisions hereof after any event of breach shall be deemed a waiver of its rights with regard to that event, or any subsequent event. No express failure of any event of breach shall be deemed a waiver of any provision hereof. No such failure or waiver shall be deemed a waiver of the right of the Department to enforce each and all of the provisions hereof upon any further or other breach on the part of the Grantee.

Section 32. INTEGRATION

The Contract contains the entire agreement between the parties, and no statements, promises, or inducements of any kind made by either party, or the agents of either party, not contained herein or in a properly executed amendment hereto are valid or binding.

IN WITNESS OF THE TERMS SET OUT ABOVE, the parties have executed this Contract.

(Name), (County Commissioner) Date
(Local Government)

ATTEST: _____
(Name), Clerk and Recorder

APPROVED AS TO FORM: _____
(Name), (Local Government) Attorney

Department of Commerce:

Dore Schwinden, Director Date
Montana Department of Commerce

ATTACHMENT A: Date: _____
QUARTERLY PROJECT IMPLEMENTATION SCHEDULE
Contract # MT-CDBG-I_PF[HR]-__ [County of...]

TASK	QUARTERS, 2011				QUARTERS, October 2013			
	1st	2nd	3rd	4th	1st	2nd	3rd	4th
<u>PROJECT START UP</u>								
Sign contract with MDOC/CDBG.								
Attend CDBG grant administration workshop.								
CDBG letter (.../.../10) of authorization to incur costs (effective as of (.../.../10).								
Conduct environmental review and cultural resource survey.								
Secure CDBG's Environmental Release of Funds.								
Secure and document firm commitment and approval of other funding.								
Identify audit requirements. Establish audit schedule for the project's duration. Include the project in upcoming audits (State Fiscal Years 2010, 2011, October 2013 as applicable).								
Submit progress reports (CDBG Exhibit 4-F) with each drawdown request.								
Submit quarterly update reports (CDBG Exhibit 4-N).								
<u>PROJECT DESIGN</u>	1st 2011	2nd	3rd	4th	1st October 2013	2nd	3rd	4th
Advertise (RFQ) for and select engineer/architect.								
Commence design.								
Complete project design.								
Prepare construction bid documents.								
Secure CDBG's (and other funding agencies') approval of bid documents.								

<u>PROJECT DESIGN... continued</u>	1st 2011	2nd	3rd	4th	1st Octo ber 2013	2nd	3rd	4th
Finalize acquisition of land to be used.								
Submit progress reports (CDBG Exhibit 4-F) with each drawdown request.								
Submit quarterly update reports (CDBG Exhibit 4-N).								
<u>ADVERTISEMENT FOR CONSTRUCTION BIDS</u>	1st 2011	2nd	3rd	4th	1st Octo ber 2013	2nd	3rd	4th
Review CDBG contract requirements.								
Publish bid solicitation advertisement after securing CDBG's and other funding agencies' approval.								
Open bids and examine proposals.								
Request CDBG state and federal debarment/eligibility review of selected contractor and its principals (lowest responsible bidder) and of all subcontractors.								
Award contract to selected contractor.								
Send a complete copy of the signed contract and contract package to the project's CDBG liaison.								
Submit progress reports (CDBG Exhibit 4-F) with each drawdown request.								
Submit quarterly update reports (CDBG Exhibit 4-N).								
<u>PROJECT CONSTRUCTION</u>	1st 2011	2nd	3rd	4th	1st Octo ber 2013	2nd	3rd	4th

Conduct pre-construction conference.								
Issue the Notice to Proceed.								
Begin construction.								
Monitor engineer and other contractors.								

<u>PROJECT CONSTRUCTION</u>	1st 2011	2nd	3rd	4th	1st Octo ber 2013	2nd	3rd	4th
Conduct labor compliance reviews:								
... Complete Weekly payroll reviews (with a copy to CDBG with drawdown requests)								
... Conduct Contractors' employee interviews								
Hold construction progress meetings.								
Final Inspection.								
CDBG staff conducts on-site monitoring of the project. (See CDBG Manual Exhibit 12-A, CDBG Monitoring Guide.)								
Submit progress reports (CDBG Exhibit 4-F) with each drawdown request.								
Submit quarterly update reports (CDBG Exhibit 4-N).								
<u>PROJECT CLOSE OUT</u>	1st 2011	2nd	3rd	4th	1st Octo ber 2013	2nd	3rd	4th
Submit CDBG project completion report. (See CDBG Manual Chapter 13, Project Closeout, and Chapter 13 Exhibits).								
Submit CDBG <u>conditional</u> closeout certification.								
CDBG approves conditional closeout.								
Submit progress reports with each drawdown request. Submit quarterly update reports.								
Include the project in upcoming audits (State Fiscal Years 2011, October 2013, 2013 as applicable).								
Submit CDBG <u>final</u> closeout certification, final audit and final drawdown request.								
CDBG approves final closeout.								

ATTACHMENT B: Date: _____
BUDGET FORM FOR MONTANA COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAM
(CDBG)
Contract MT-CDBG-I_PF[HR]- ___ [County of...]

ADMINISTRATIVE/ FINANCIAL COSTS	SOURCE:	SOURCE:	SOURCE:	SOURCE:	TOTAL
Personnel Costs					
Office Costs					
Professional Services					
Legal Costs					
Audit Fees					
Travel & Training					
Loan Fees					
Loan Reserves					
Interim Interest					
Bond Cost					
TOTAL ADMINISTRATIVE/ FINANCIAL COSTS					
ACTIVITY COSTS:					
Preliminary Engineering					
Final Engineering Design					
DEQ Plan Review					
Construction Inspection					
Construction					
Contingency					
TOTAL ACTIVITY COSTS					
TOTAL PROJECT COSTS					