

CDBG

(Community Development Block Grant)

Administrative

Manual

Revised April 2023

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**ALTERNATIVE FORMATS FOR DISABLED
PERSONS AVAILABLE UPON REQUEST**

PREFACE

The purpose of this Administrative Manual is to assist North Dakota Community Development Block Grant Grantees in implementing their respective grants and comply with Federal rules and regulations associated with all Federal funds as promulgated by the U.S. Treasury and the Federal Office of Management and Budget. These rules and regulations pertain to administrative and financial management responsibilities of Grantees.

This Administrative Manual is intended to serve as a required guide for proper use and accountability of Federal funds. Should questions arise, Grantees should immediately contact the North Dakota Division of Community Services. It is the responsibility of each Grantee to assure that all provisions of this manual, Federal rules and regulations, and Financial Award are complied with and that proper and efficient grant administrative practices are carried out.

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SECTION 1 - AUTHORITY AND ORGANIZATION

A. Legal Authority

The authority for the state administration of the Community Development Block Grant (CDBG) Program is set forth in the Omnibus Reconciliation Act of 1981 (P.L. 97-35), and the Housing and Community Development amendments of 1981 (P.L. 97-35).

B. Governor Has Executive Authority

The executive authority under the above cited Federal law shall be the Governor of the State of North Dakota. The Governor has designated the North Dakota Department of Commerce/Division of Community Services as the agency to administer the CDBG program.

SECTION 2 - FINANCIAL AWARD

The Financial Award consists of the following:

Part I. Basic Information and Signatory Sheet.

This sheet, when signed, provides the necessary authorization for a Grantee to initiate the program described in the grant agreement and provides the authorization to transfer funds.

Part II. General Terms and Conditions.

This section of the grant agreement contains those provisions describing standard administrative requirements that the Grantee must comply with according to Federal and State rules and regulations.

Part III. Programmatic Special Conditions.

This section describes specific programmatic conditions required for program implementation. These conditions are closely monitored by the Division of Community Services (DCS).

Part IV. Scope of Work.

This section describes the activity for which financial assistance is being provided. Included in this section is the administrative budget, that was awarded, if applicable.

Part V. State Assurances.

This section describes specific state and federal compliance requirements applicable to the expenditure of Community Development Block Grant (CDBG) funds. These requirements constitute the major focus for on-site monitoring conducted by the DCS.

Part VI. Anti-Displacement Plan.

This section must be completed along with evidence of official adoption provided as part of acceptance of any Financial Award.

Part VII. Certificate of Job Creation/Documentation Certification. (Economic Development awards only)

This section must be completed to ensure and demonstrate compliance with job creation requirements.

Part VIII. Addendum to Grants and Contracts

Outlines indemnification and insurance requirements of the recipient.

SECTION 3 - GRANT IMPLEMENTATION CHECKLIST

The following checklist is provided as an overall guide for the implementation of your approved CDBG Activities. The checklist is general in nature and some items may or may not be applicable based on the type of grant awarded. In addition to this checklist, some sections of the manual contain specific checklists for your use. This checklist is provided to ensure specific actions have been completed, and it should be used as a reference to specific sections of this Administrative Manual. Should any questions/concerns arise about any aspect of grant implementation procedures, please contact the DCS for guidance before proceeding.

Action	Reference	Yes	N/A
1. Receipt of letter from the DCS		<input type="checkbox"/>	<input type="checkbox"/>
2. Receipt of Financial Award		<input type="checkbox"/>	<input type="checkbox"/>
3. Sign and return Financial Award within 60 days of receipt		<input type="checkbox"/>	<input type="checkbox"/>
4. Develop a Grantee Code of Conduct			
5. Hire a grant administrator (If the Administrator is not a city or county employee, or a member of the Regional Planning Council, the position must be advertised)		<input type="checkbox"/>	<input type="checkbox"/>
		<input type="checkbox"/>	<input type="checkbox"/>
6. Develop an administrative contract (Required if CDBG funds are used to pay for administration)		<input type="checkbox"/>	<input type="checkbox"/>
7. Attend grant administration training			
8. Submit ACH Authorization Form SFN 52477_to the DCS		<input type="checkbox"/>	<input type="checkbox"/>
	Section 5	<input type="checkbox"/>	<input type="checkbox"/>
9. Establish required grant files			
10. Establish a checking account	Section 4	<input type="checkbox"/>	<input type="checkbox"/>
11. Establish an accounting system	Section 5	<input type="checkbox"/>	<input type="checkbox"/>
12. Comply with Special Conditions specified on the Financial Award	Section 5	<input type="checkbox"/>	<input type="checkbox"/>
		<input type="checkbox"/>	<input type="checkbox"/>
13. Obtain a minimum of at least three quotes or use Competitive Negotiation for engineering, architectural, legal, or other professional services	Section 6	<input type="checkbox"/>	<input type="checkbox"/>
14. Contact the DCS for approval of less than three quotes for professional services	Section 5	<input type="checkbox"/>	<input type="checkbox"/>
15. Develop a fixed price contract for professional services which includes all pertinent Federal compliance requirements	Sections 6 & 9	<input type="checkbox"/>	<input type="checkbox"/>
16. Prepare the Environmental Review and retain all pertinent records on file	Section 7	<input type="checkbox"/>	<input type="checkbox"/>
17. Publish Notice of Release of Funds or Combined Notice, whichever is appropriate	Section 7	<input type="checkbox"/>	<input type="checkbox"/>

	Action	Reference	Yes	N/A
18.	Send the results of Environmental Review to all pertinent Federal and State agencies, and the DCS	Section 7	<input type="checkbox"/>	<input type="checkbox"/>
19.	Submit Request for Release of Funds to the DCS	Section 7	<input type="checkbox"/>	<input type="checkbox"/>
20.	Receive Notice of Release of Funds from the DCS	Section 7	<input type="checkbox"/>	<input type="checkbox"/>
21.	Determine applicable Davis-Bacon Wage Rates from the most recent publication	Section 8	<input type="checkbox"/>	<input type="checkbox"/>
22.	Develop a bid package and specification documents	Sections 6 & 9	<input type="checkbox"/>	<input type="checkbox"/>
23.	Properly advertise for bids	Sections 6 & 9	<input type="checkbox"/>	<input type="checkbox"/>
24.	Advertise project as an Equal Opportunity Employer	Section 9	<input type="checkbox"/>	<input type="checkbox"/>
25.	Document efforts to solicit Minority and Women's Businesses	Sections 6 & 9	<input type="checkbox"/>	<input type="checkbox"/>
26.	Properly conduct bid openings in accordance with the North Dakota Century Code		<input type="checkbox"/>	<input type="checkbox"/>
27.	Contact the DCS when less than two bids are received. If the project is under \$100,000 and the Grantee elects to receive quotes, three quotes must be obtained.		<input type="checkbox"/>	<input type="checkbox"/>
28.	Follow proper bonding requirements	Section 5	<input type="checkbox"/>	<input type="checkbox"/>
29.	Review the Excluded Parties List System	Section 8	<input type="checkbox"/>	<input type="checkbox"/>
30.	Develop contracts in accordance with all applicable Federal compliance requirements	Sections 6 & 9	<input type="checkbox"/>	<input type="checkbox"/>
31.	Conduct a pre-construction conference	Section 8	<input type="checkbox"/>	<input type="checkbox"/>
32.	Contractors develop contracts with subcontractors and include applicable Federal compliance requirements	Sections 6 & 9	<input type="checkbox"/>	<input type="checkbox"/>
33.	Collect Direct and/or Indirect Beneficiaries Civil Rights Data	Section 9	<input type="checkbox"/>	<input type="checkbox"/>
34.	Develop local jurisdiction employment policies and procedures	Section 9	<input type="checkbox"/>	<input type="checkbox"/>

Action	Reference	Yes	N/A
35. Ensure all contractors and subcontractors develop written employment policies and procedures	Section 9	<input type="checkbox"/>	<input type="checkbox"/>
36. Ensure contractors advertise as Equal Opportunity Employers	Section 9	<input type="checkbox"/>	<input type="checkbox"/>
37. Develop a schedule for submitting semi-annual reports	Section 14	<input type="checkbox"/>	<input type="checkbox"/>
38. Develop a complaint and appeals process	Section 13	<input type="checkbox"/>	<input type="checkbox"/>
39. Post applicable Equal Opportunity and Department of Labor posters at the job site	Sections 8 & 9	<input type="checkbox"/>	<input type="checkbox"/>
40. Conduct a second public hearing		<input type="checkbox"/>	<input type="checkbox"/>
41. Complete or update Section 504 Self Evaluation/ Transition Plan		<input type="checkbox"/>	<input type="checkbox"/>
42. Submit Final Report	Section 16	<input type="checkbox"/>	<input type="checkbox"/>
43. Identify all property purchased with CDBG funds	Section 11	<input type="checkbox"/>	<input type="checkbox"/>
44. Conduct a close-out audit	Section 16	<input type="checkbox"/>	<input type="checkbox"/>

SECTION 4 - RECORD KEEPING

A. Establishing Project Files

1. Availability

The filing system you establish should be easy to use and provide a historic account of the Grantee's activities for examination and review by the General Accounting Office, the DCS, auditors, and Grantee staff. The CDBG records are subject to the Freedom of Information Act and relevant state laws regarding public availability.

2. Timing and Location

The file system should be established on a program year basis. This may result in duplication of files, but will tie documentation to a given fiscal year and grant. Files should, to the extent possible, be maintained in a central location.

3. Major File Categories

The following list identifies major file categories which should be established in order to permit efficient-grants management practices, and to permit an orderly review and audit of all records.

General Files

a. Grant Application

- Copy of application/business plan
- Correspondence concerning the application

b. Financial Award

- Notice of Award from DCS
- Financial Award
- Related Correspondence
- Amendments

c. Financial Management and Accounting records

- ACH Authorization Form SFN 52477
- Request for Funds Form. This form must be submitted with the Final Request for **Project Funds**.

- Source documentation of all funds (invoices, payrolls, etc.)
- Canceled checks, deposit slips, bank statements, etc.
- Related correspondence

d. Contracts and Subcontracts

- Bid specifications
- Documentation of soliciting quotes and/or bids for administration, legal services, construction, etc.
- Identification of quotes and/or bids accepted, and explanations (if applicable) of acceptance of other than the low quote and/or bid
- Copies of contracts and subcontracts, or as applicable, copies of purchase orders

e. Labor Requirements

- Wage Decisions
- Additional Wage Classifications
- Contractor/Subcontractor Certifications Concerning Labor Standards
- Minutes from the bid opening
- Verification of contractor/subcontractor eligibility
- Notice of Start of Construction
- Weekly payrolls and Statements of Compliance signed by an officer of the company
- Evidence that payrolls were checked against the applicable wage rate decision
- Monthly employee interviews
- Site visit reports
- Evidence of restitution/resolution of identified discrepancies
- Complaints from workers, if any, and actions taken
- Liquidated damages assessed, appeals, if any, and outcome
- Final Wage Compliance Report
- Construction Checklist (optional)

- f. Environmental
 - Exempt
 - Documentation of Exemption
 - Letter Confirming Exempt Status from the DCS
 - Categorically Excluded/Exemption
 - Site Specific Checklist
 - All Accompanying Documentation
 - Historic Preservation Notice
 - SHPO (State Historic Preservation Officer) Response
 - Documentation of Exemption
 - Letter confirming Exempt Status from the DCS
 - All Correspondence Related to the Environmental Review Requirement (ERR) Process
 - Categorically Excluded Subject to 58.5
 - Site Specific Checklist
 - All Accompanying Documentation
 - Historic Preservation Notice
 - SHPO (State Historic Preservation Officer) Response
 - Notice of Intent to Request Release of Funds
 - All Public Comments
 - Grantee Responses to Comments (if any)
 - Request for Release of Funds and Certification Form
 - Division of Community Services Notice of Release of Funds
 - All Correspondence Related to the ERR Process

- Categorically Excluded Not Subject to 58.5
 - Site Specific Checklist
 - All Accompanying Documentation
 - Categorically Excluded Not Subject to 58.5 Form
 - Letter confirming Categorically Excluded Not Subject to 58.5 from the DCS
 - All Correspondence Related to the ERR Process
- Environmental Assessment
 - Environmental Assessment Form
 - Categorical Exclusion Checklist
 - All Accompanying Documentation
 - Historic Preservation Notice
 - SHPO Response
 - Notice of Finding of No Significant Impact
 - All Public Comments
 - Grantee Responses to Comments (if any)
 - Notice of Intent to Request Release of Funds
 - All Public Comments
 - Grantee Responses to Comments (if any)
 - FONSI Distribution List
 - Request for Release of Funds and Certification Form
 - Division of Community Services Notice of Release of Funds
 - All Correspondence Related to the ERR Process

- g. Civil Rights clauses for the Grantee
- Self-Evaluation or Transition Plan
 - Employment Data
 - Equal Employment Opportunity (EEO) Form 4 for entities with 10 or more employees
 - Personnel Policies
 - Affirmative Action
 - Documentation of special efforts to identify, train, involve and/or hire minority and lower-income residents
 - Fair Housing
 - Document efforts to affirmatively further fair housing: provide a copy of fair housing policy
 - Fair Housing Ordinance
 - Counseling services for tenants and landlords
 - Application for other sources of funding for Low-to-Moderate Income (LMI) rehab
 - Assistance to local fair housing groups
 - Informational materials for distribution to parties involved in the sale or rental housing process
 - Other: _____

Displacement and/or Relocation

- Data on race, head of household, age, and income of effected persons
- Copies of Notices and any other applicable information
- Resolution of Excessive Force Plan
- Civil Rights Clauses Found in Contracts (See APPENDIX C of the Administrative Manual)

- Standard Equal Opportunity Clauses and Certifications
- "Section 3" Compliance in the Provision of Training, Employment, and Business Opportunities

Section 3 is a provision of the Housing and Urban Development Act of 1968 (12 U.S.C. 1701u) that is regulated by the provisions of 24 CFR 75. Section 3 regulations ensure that employment and other economic opportunities generated by certain HUD financial assistance shall, to the greatest extent feasible, and consistent with existing Federal, State and local laws and regulations, be directed to low and very low-income persons, particularly those who are recipients of government assistance for housing, and to business concerns which provide economic opportunities to low- and very low-income persons.

- Executive Order 11246

This provides that no person(s) shall be discriminated against, on the basis of race, color, religion, sex, or national origin in any phase of employment during the performance of Federal or Federally assisted construction contracts in the excess of \$10,000.

- Section 109 of the Housing and Urban Development Act of 1974

Provides that no person shall be excluded from participation (including employment), denied program benefits, or subjected to discrimination on the basis of race, color, national origin, and sex under any program or activity funded in whole or in part under Title I (Community Development) of the act.

- Title VI of the Civil Rights Act of 1964

Provides that no person shall be excluded from participation, denied program benefits, subjected to discrimination on the basis of race, color, or national origin under any program or activity receiving Federal financial assistance.

Other Civil Rights Activities

- Minority Business Participation

Documentation of efforts to solicit minority and women-owned businesses. Data must be maintained in regards to the number of contracts and the dollar amounts of those contracts awarded to minority businesses (See Section 14 - Reporting).

- Contractor Compliance

Records of any monitoring trips to the project site, any findings, and copies of contractors' monthly utilization report.

- Project Beneficiaries

Record of applicants, and direct and indirect beneficiaries by race, color, sex, national origin, age, and handicap (See Section 14 - Final Report).

h. Acquisition/Displacement/Relocation

- Data on race, head of household, age and income of effected persons

Acquisition

- Preliminary Acquisition Notice
- Evidence of Invitation to Accompany Appraiser
- Appraisal Report
- Review Appraisal Report
- Written Statement of Just Compensation
- Written Offer to Purchase
- Contract of Sale
- Statement of Settlement Costs
- If Donation, Waiver
- Receipt of Purchase Price
- Notice of Intent not to Acquire
- Waiver of rights, if applicable
- Determination of "voluntary," if applicable

Displacement/Relocation

- Fully Completed Record Form
- Copy of Notice of Displacement or
- Notice to Continue in Occupancy
- Evidence of Receipt of Notice by Relocatee
- Copy of 90 Day Notice
- Evidence of Receipt
- Evidence of Referrals to Replacement Housing
- Record of Inspection of Unit

- Copy of Each Relocation Claim and Supporting Documentation
- Evidence of Verification of Claim
- Appeals
- Correspondence
- Wavier of Rights
- i. Project Monitoring
 - Reports prepared by the Grantee pertaining to project monitoring activities
 - Monitoring letter from the DCS
 - Grantee responses to DCS monitoring findings
 - Relevant Correspondence
 - Quarterly Reports
 - Evidence of low and moderate income persons/households
- j. Grant Close-out
 - Grantee Final Report
 - Close-out letter from the DCS
- k. Audit
 - Relevant Correspondence
 - Final Audit
 - Documentation that all audit findings have been cleared
- l. General Correspondence

Correspondence, incoming and outgoing, that does not fall into any other categories

4. Records Retention

All ND-CDBG records and files must be retained for a period of five (5) years after the date of the administrative closeout.

SECTION 5 - FINANCIAL MANAGEMENT SYSTEM

The financial management section is written to assist officials from small communities and grant administrators to understand and implement financial management systems that comply with the North Dakota Community Development Block Grant program. The procedures outline the reporting and financial management requirements of Office of Management and Budget (OMB) Circular 2 CRF Part 200 Uniform Guidance. The OMB Circular referenced above can be found at: www.whitehouse.gov/omb/circulars.

The following are subsections relating to financial management:

- A. Cash Depositories
- B. Request for Funds
- C. Financial Accounting Standards
- D. Standards of Allowability and Allocability of Grant Funds
- E. Bonding and Insurance
- F. Budget Revisions
- G. Program Income
- H. Audits

A. Establishing a CDBG Bank Account - Requirements

1. Once the Grantee receives its executed Financial Award, arrangements can be made to establish a separate, non-interest bearing bank account to receive and expend CDBG funds. The Grantee will maintain only one bank account for all CDBG funds. Should the Grantee elect to receive CDBG funds as a reimbursement, a separate account is not required. (Any exceptions to the separate bank account or more than one account must receive prior approval from DCS).

The funds must be deposited in a bank with adequate Federal Deposit Insurance Corporation (FDIC) insurance coverage. CDBG funds drawn and deposited in excess of the FDIC coverage must be collaterally secured. FDIC insurance coverage is limited to \$250,000 (any request or any combination of requests that will cause the balance of the CDBG account to exceed \$250,000 must be collaterally secured). A statement from the Bank verifying the required security should be attached to all requests that result in the current balance exceeding FDIC coverage.

The designated depository (Bank) should be aware that the CDBG funds will be transmitted directly from the DCS to the bank in the form of an Automated Clearing House (ACH) transfer. The DCS will notify the Grant Administrator of payments made to Grantees accounts by email.

The Grantee must complete an ACH Authorization Form SFN 52477. The ACH form must be completed and submitted at least two weeks prior to request of funds.

2. Consistent with the national goal of expanding opportunities for minority business enterprises, Grantees are encouraged to use minority banks (a bank which is owned by at least 50 percent of minority members).

B. Request for Funds - Cash Management Requirements

1. Payment requests will be honored only after the DCS has issued a formal Notification of Release of Funds, and the ACH Authorization Form SFN 52477 has been submitted and approved, and any relevant special conditions contained within the Financial Award have been met.

The ACH Authorization form serves as the Certifying Official and Authorized Signature form. The Certifying Official cannot be one of the persons authorized to sign the Request for Funds.

2. The Grantee is allowed to designate two (2) individuals with the authority to request CDBG funds from the DCS. Only one (1) signature is required on the Request for Funds form.
3. The ACH Authorization Form SFN 52477 must be submitted two weeks prior to submission the first payment request. The form must be complete and accurate before the DCS will honor payment requests.
4. Request for funds are to be made on the Request for Funds Form (SFN 4630). Requests for funds must distinguish between project and administrative funds by indicating the amount requested for each in the Amount Requested Block. The DCS will draw Federal funds weekly. Federal funds will be drawn based on approved Request for Funds forms which have been completed accurately and are received in the DCS by noon on Tuesdays. Requests received after 12:00 p.m. on Tuesdays will be drawn the following week. Telephone requests for funds will not be honored. Emailed or faxed requests will be honored. Please do not send the original copy. If sending, emailing or faxing a revised cash request, it must be noted that it is a revised copy to avoid duplicate payments.

The Grantee should allow 6-10 days from the day the DCS requests Federal funds to the receipt of such funds by the designated bank depository.

There may be isolated occasions where payment requests may be unexpectedly delayed in which the DCS has little or no control.

5. Cash drawdowns, with the exception of final requests, should be at least \$5,000. Cash requests above the \$5,000 threshold, should be for the minimum amount of funds needed to meet the Grantee's immediate cash requirements. If excessive amounts are drawn over the minimum needed, the Grantee may be required to return the excess funds to the DCS. No interest can be earned or retained on funds advanced to the Grantee.
6. Grantee Record Keeping. At the time the Grantee prepares the Requests for Funds, the Grantee should attach to its file copy all cost documentation to support the Request for Funds. This procedure establishes a traceable system and simplifies the reviewer's examination of the financial files.

7. Escrow Accounts (Disallowed). Housing rehabilitation projects must adhere to the same cash and financial management standards required by other approved CDBG projects. A Housing Project Summary Form (SFN 52325) is provided for use when submitting Request for Funds on housing projects.
8. Administrative Funds. Ten percent of administrative funds are withheld until the final report has been accepted.

CHECKLIST

- Submission of ACH Authorization Form to DCS.
- Receipt of Release of Funds from DCS prior to initial the request for funds.

C. Financial Accounting Standards - Requirements

CDBG fund recipients must maintain a financial accounting system which is in compliance with various Federal guidelines and provides accurate information, traceable transactions, and accountability of funds. The Grantee must ensure the following:

1. Accurate, current, and complete disclosure of the financial status of each CDBG approved activity. The Financial Award includes a budget attachment describing each approved CDBG activity and the dollar amount authorized for each specific activity. Administration cost also need to be included in the budget summary as a CDBG activity and requires a detailed breakdown (i.e., salary, fringe, etc). As a CDBG Grantee, your accounting records must be established to identify expenditures according to each approved activity. Grantees are required, through semi-annual and final financial status reports, to account for dollar amounts authorized, expended, and obligated by each approved activity. The accounting records should be kept up-to-date and must include approved amendments by the DCS. A separate accounting system need not be established to account for CDBG financial activity if the Grantee's existing system is adaptable to meet the above stated requirements.
2. Effective control over and accountability for all funds, property, and other assets. To ensure adequate internal control, checks must have multiple signatures, appropriate bonding, and proper segregation of grants management duties and responsibilities.
3. Payment must be written to the vendor for equipment, services, etc. For economic development projects, checks should only be written to the business if it is a reimbursement based on documentation that shows payment has been made. If this is not possible, the DCS must be contacted for prior approval.
4. If "Local or Other Funds" have been included in the Financial Award as a part of the total project costs, the Grantee is required to have the proper documentation to support the expenditure of that amount. "Local or Other funds" must be reported on the Financial Status Report. Actual expenditures must be reported in lieu of budgeted amounts.

5. Procedures must be established to minimize the time between the receipt of CDBG funds and their disbursement. The DCS must be contacted immediately if CDBG funds in excess of \$5,000 are on hand for more than three business days.
6. Accounting records must be supported by source documentation. Original invoices, purchase orders, and payroll records must support each payment and remain on file and retained for five years from the approval of the final financial status report or until all audit findings are resolved, whichever is longer, to verify all CDBG expenditures. Payments must not be made without the invoice physically on hand.

When compiling source documentation, please remember that adequate source/supporting documentation answers the questions:

- What was purchased and/or the purpose?
- Who was it purchased from?
- When was it purchased?
- How much was paid for it?

All employees paid in whole or in part from CDBG funds must prepare a time sheet/Performance and Accountability Report (PAR) to indicate the hours worked on the CDBG project for each pay period. The time sheet/PAR should be inclusive of all programs to which an employee devotes time. The amount to be distributed as CDBG payroll charges during a particular period will be based on time sheet/PAR and hourly payroll cost of the employee. (Section 5, Attachment 4.)

7. Grantees must ensure that contractors are in compliance with financial management system requirements.
8. It is suggested that a cash receipts journal, a cash disbursements journal, and general ledger are maintained to track CDBG funds:
 - a. Cash Receipts Journal: This journal is maintained to record the receipt of all funds (local, state, federal) used for program activities. The record must include the date funds are received, the amount of funds received, and the activity to which the funds were transferred.
 - b. Cash Disbursements Journal: This journal must be maintained to record all checks issued for payment of program costs. The record must include the date of payment, the payee, check number, amount, and the account from which the disbursement was made.
 - c. General Ledger: This journal must be maintained to summarize cash receipts and disbursements on a sub-account basis. All entries of the General Ledger must be made from the Cash Receipts and Cash Disbursements Journal.

CHECKLIST

- Necessary accounting journals and ledgers are established and maintained on a current basis.
- Accounting system is established to meet financial reporting requirements. (Budgets in accounting records, current cash balances, etc.)
- Funds are being disbursed upon receipt and excess cash balances are not being held by the Grantee.
- All employees paid with CDBG funds are maintaining accurate time sheets.
- All payments are supported by source documentation.

D. Standards for Allowability and Allocability of Grant Funds

Recipients of CDBG funds are responsible for determining the types of costs that can be charged to a grant in accordance with OMB Circular 2 CFR Part 200 Uniform Guidance and requirements established by the DCS. In summary, costs incurred through CDBG activities are allowable only under the following conditions:

1. Costs are incurred in the effective "Budget/Project Period" as stipulated on Part I of the Financial Award. Therefore, costs incurred (obligated) prior to the project beginning date, Release of Funds, or costs incurred after the effective closing date are not allowed.
2. The only CDBG costs allowable between the time of the Financial Award and formal notification of Release of Funds are reasonable costs associated with the administration of the CDBG grant (including the environmental review procedures). Engineering and architectural costs may be incurred during this time, but the activities are required to be separate line item(s) on the financial award. The source of funding must be from the local match.
3. Costs for approved project activities (activities other than administration, environmental review procedures, and engineering and design costs) can be incurred only after the formal Release of Funds and all other conditions have been satisfied.
4. Costs are incurred only for eligible activities included in the CDBG grant agreement. Generally, only materials, labor costs, and other associated construction costs are deemed eligible as direct charges to CDBG project activities. For housing rehabilitation, however, through proper documentation, costs such as advertising, project inspections, and on-site visits can be charged directly to the activity instead of administration. The charges must be documented by invoices, time records, travel vouchers, and other supporting documentation to verify that it is directly related to the activity. Costs such as office supplies, accounting, secretarial salaries, salaries for overall administration of the grant, and associated overhead costs should be charged to "Administration". Grantees must ensure that direct project activity charges are reasonable and that administrators are accounting for the costs properly. As a guideline, the direct charges to a rehabilitation activity should not exceed \$300 per household for a single family and \$200 per unit for multifamily. Costs in excess of this amount must receive approval by the DCS.

5. All costs charged to the CDBG program are net of credits. Income received must be reported as program income on the semi-annual financial status report and request for funds. (See Program Income.)

Grantees should refer to OMB 2 CFR Part 200 Uniform Guidance to determine the allowability and applicability of costs charged to the CDBG program. The principles outlined in the circular pertain to all levels of recipients of Federal funds, from State to local, and to any subgrants at the local level. This means that if a Grantee decides to contract out the administration responsibilities of the CDBG grant, the Grantee must ensure the administrator also complies with the requirements set forth by the OMB 2 CFR Part 200 Uniform Guidance and the DCS. The Grantee is ultimately responsible for the proper management of the CDBG program.

Travel Costs

Travel costs are eligible as described in this section. Travel expenses should be reimbursed at current State rates.

Current State rates for meals, lodging, mileage and other travel expenses are found in Policy 505 at www.nd.gov/fiscal/policies/.

Mileage may be reimbursed at current federal rates with approval from the entity's governing board.

E. Bonding and Insurance - Requirements

1. Recipients of grants which require contracting for construction or facility improvements for contracts of \$100,000 or less can follow their normal bonding and insurance procedures. If the DCS is certain that the government's interests are adequately protected, the recipient's procedures may be used for contracts larger than \$100,000 if the following minimum requirements are met:
 - a. The bid guarantee from each bidder is equivalent to five percent of the bid price. The "bid guarantee" shall consist of a firm commitment such as a bid bond, certified check, or other negotiable instrument accompanying a bid to provide assurance that the bidder will, upon acceptance of his bid, execute such contractual documents as may be required within the specified time period.
 - b. A performance bond on the part of the contractor is for 100 percent of the contract price. A "performance bond" is one executed in connection with a contract to secure fulfillment of all the contractor's obligations under such a contract.
 - c. A payment bond on the part of the contractor is for 100 percent of the contract price. A "payment bond" is one executed in connection with a contract to assure payment as required by law of all persons supplying labor and material in the execution of the work provided for in the contract.

2. Recipients of CDBG funds (city and/or county) must provide evidence of Surety and Fidelity Bond coverage for all personnel directly involved with the CDBG funds. The bond amount should be in the amount of the largest amount of CDBG funds to be handled at one time by the Grantee.

CHECKLIST

- Request Approval of Bonding Procedures for Contracts in excess of \$100,000.
- Evidence on file of Surety and Fidelity Bond coverage for all personnel involved with CDBG grant funds.

F. Budget Revisions

The financial budget outlined in the Financial Award agreement is the approved financial plan for the CDBG funds necessary to complete the project. The budget is the financial expression of the project as approved during the application and award process and is directly related to program performance and evaluation throughout the project and at close-out.

The Grantee must obtain approval from the DCS for line item revisions in the approved CDBG administrative budget, or the approved CDBG project budget when the revision will exceed 10 percent of the CDBG approved respective budget category. The request must be in writing to the DCS and include all of the requested changes among the budgeted line-items. All amendment requests must be submitted on a Request for Amendment form (SFN 52355).

Program Income

Definition of program income: program income is defined as gross income received by a state, a unit of general local government, or a subrecipient of a unit of general local government that was generated from the use of CDBG funds, except that program income does not include the total amount of funds less than \$25,000 received in a single year that is retained by a unit of general local government and its recipients. When income is generated by an activity that is only partially assisted with CDBG funds, that income is prorated to reflect the percentage of CDBG funds used (e.g., a single loan supported by CDBG funds and other funds; a single parcel of land purchased with CDBG funds and other funds).

1. Proceeds from the disposition by sale or long term lease of real property purchased or improved with CDBG funds.
2. Proceeds from the disposition of equipment purchased with CDBG funds.
3. Gross income from the use or rental of real or personal property acquired by the unit of general local government or a subrecipient of a unit of general local government with CDBG funds, less the costs incidental to the generation of income.

H. Audits

Please refer to Subpart F – Audit Requirements of 2 CFR Part 200 for specific requirements for your agency. Generally, a non-Federal entity that expends \$750,000 or more in federal funds during their own fiscal year must have a single or program-specific audit.

A copy of your audit may be requested during your project application review to determine financial capacity, and to review federal program experience and compliance. After your project has been completed, audit information will be reviewed to verify compliance and ensure that no audit findings were related to CDBG Program funds. Should a finding exist, the Grantee will be required to submit a copy of its corrective action plan.

ACH AUTHORIZATION (Direct Deposit)
NORTH DAKOTA DEPARTMENT OF COMMERCE
DIVISION OF COMMUNITY SERVICES
 SFN 52477 (10/2005)

VENDOR INFORMATION		
Vendor Name		
Address		
City	State	Zip Code
Contact Name (Please print or type)		Telephone Number
E-Mail Address		EIN/SSN

Type of Change (please check one of the following):			
<input type="checkbox"/> New	<input type="checkbox"/> Revised	<input type="checkbox"/> Bank Change	<input type="checkbox"/> Authorized Signature Change

Type of Business (please check one of the following):	
<input type="checkbox"/> Nonprofit or Government Entity	<input type="checkbox"/> Corporation
<input type="checkbox"/> Individual or Sole Proprietorship	<input type="checkbox"/> Other (Please Specify) _____
<input type="checkbox"/> Partnership	

BANK INFORMATION		
Financial Institution Name	Type of Account <input type="checkbox"/> Checking	Is this an interest-bearing account? <input type="checkbox"/> Yes <input type="checkbox"/> No
Financial Institution Routing Number	Vendor Account Number	
Program (please check one)		
<input type="checkbox"/> CDBG <input type="checkbox"/> HOME Funds <input type="checkbox"/> ESGP <input type="checkbox"/> AmeriCorps <input type="checkbox"/> Other _____		

This ACH form will authorize all payments for this program to be automatically deposited into the financial institution listed above.

Signature of Authorizing Vendor	Printed Authorized Vendor	Date
Signature of Authorizing Vendor	Printed Authorized Vendor	Date

I certify that the Signatures above are of the Individuals Authorized to Draw for the Request for Funds. (The Certifying Official cannot be one of the above signatures.)

Signature of Certifying Official (Grantee)	Date
--	------

STATE AGENCIES REQUESTING VENDOR INFORMATION		Vendor Registry Use Only
Send Completed Form to: Department of Commerce 1600 East Century Ave., Suite 2 PO Box 2057 Bismarck, ND 58502-2057 Telephone: (701) 328-5300 Fax: (701) 328-5320	Approved by DOC	Vendor Number
	Location Name	Approved By
		Date
DOC will forward original signed form to North Dakota Registry Office.		

CDBG REQUEST FOR FUNDS

NORTH DAKOTA DEPARTMENT OF COMMERCE
 DIVISION OF COMMUNITY SERVICES
 SFN 4630 (01/22)

Grantee		Request Number	Amount Requested P - _____																			
Prepared By	Phone Number	Is this the Final Request? <input type="checkbox"/> Yes <input type="checkbox"/> No		A - _____ T - _____																		
Bank Name & Address (Payee)		Instrument Number	Date																			
		Grant Begin Date	Grant End Date																			
Bank Account Number		(Cash advances to a grantee will be limited to the minimum amount needed)																				
CASH STATUS REPORT		A	B																			
1. Funds Received to Date																						
2. Total Gross Disbursements to Date																						
3. LESS: Program Income																						
4. Net Disbursements to Date (line 2 less line 3)																						
5. Balance of Cash on Hand (line 1 less line 4)																						
FUND STATUS REPORT		A	B																			
6. Grant Amount																						
7. Funds Received to Date																						
8. Funds Requested, But Not Yet Received																						
9. Amount of this Request																						
10. Total Funds Request To Date (add lines 7, 8, 9)																						
11. Funds Available For Request (lines 6 less line 10)																						
12. Administrative Funds Received to Date		13. Administrative Funds Requested, but Not Yet Received																				
14. Housing Projects Only:	Number of Units Approved	Number of Units Contracted	Number of Units Completed																			
15. Explain below the use of the requested CDBG project funds (See Instructions)																						
APPROVAL BY DIVISION OF COMMUNITY SERVICES		CERTIFICATION OF LOCAL OFFICIAL																				
DCS Authorized Signature -		Date	To the best of my knowledge, the data on this form are correct and all disbursements were made in accordance with grant conditions.																			
<table border="1" style="width:100%; border-collapse: collapse;"> <tr> <td style="text-align:center;"><i>THIS SECTION FOR DCS USE ONLY</i></td> <td style="text-align:center;">Yes</td> <td style="text-align:center;">No</td> </tr> <tr> <td>Release of Funds</td> <td></td> <td></td> </tr> <tr> <td>Special Conditions Released</td> <td></td> <td></td> </tr> <tr> <td>Repayment Schedule & Loan Approved</td> <td></td> <td></td> </tr> <tr> <td>Authorized Signature</td> <td></td> <td></td> </tr> <tr> <td>IDIS Number</td> <td></td> <td></td> </tr> </table>		<i>THIS SECTION FOR DCS USE ONLY</i>	Yes	No	Release of Funds			Special Conditions Released			Repayment Schedule & Loan Approved			Authorized Signature			IDIS Number			Signature		
		<i>THIS SECTION FOR DCS USE ONLY</i>	Yes	No																		
		Release of Funds																				
		Special Conditions Released																				
		Repayment Schedule & Loan Approved																				
		Authorized Signature																				
IDIS Number																						
Name and Title of Authorized Official																						
Date Signed																						

INSTRUCTIONS FOR COMPLETING "REQUEST FOR FUNDS" SFN 4630

GRANTEE - Same as "RECIPIENT" as shown on Financial Award.

REQUEST NUMBER - Begins with number one (1) and follows in numerical sequence for each request submitted to DCS.

AMOUNT REQUESTED - Dollar amount of this request delineated by Program and Administrative funds (i.e. **P** = \$5,000, **A** = \$2,000, **T** = \$7,000). Total to be the same as line 9.

PREPARED BY - Name and telephone number of the individual preparing this request.

BANK NAME AND ADDRESS (PAYEE) - Name and address of the bank that will receive the funds as a direct deposit. (Should be exactly as shown on the ACH).

INSTRUMENT NUMBER - Include the Instrument Number as assigned by DCS on the Financial Award.

DATE - Date Request for Funds is prepared.

GRANT PERIOD - Include the grant period as specified on the Financial Award or as stated in subsequent approved amendments.

CASH STATUS REPORT

1. Include cumulative funds received from DCS at the date of request.
2. Include cumulative cash expenditures to date.
3. Report cumulative program income received to date of request.
4. Line 2 less Line 3. (Program income is applied as a reduction in expenditures for cash status reporting to ensure that program income is expended prior to CDBG funds).
5. Line 1 less Line 4. (Cash received less cash expended equals cash on hand).

FUND STATUS REPORT

6. Include the total grant amount as authorized on the Financial Award or any subsequent approved amendments to the grant.
7. Include cumulative funds received to date. (Same as Line 1, above).
8. Funds previously requested from DCS, but have not been received by grantee. (In transit).
9. Amount of this request. Must be the same as stated above.
10. Add Lines 7, 8 and 9, for total funds requested to date.
11. Line 6 less Line 10 for remaining funds to be drawn.
12. Include cumulative administrative funds received to date.
13. Administrative funds previously requested from DCS, but have not been received by grantee. (In transit).
14. *For Housing Projects Only:* State cumulative number of approved applicants with signed commitments (per special conditions); cumulative number of units which are under contract for work and cumulative number of housing units completed.
15. Briefly identify the work, services, or purchases for which the funds will be used and the amount to be allocated. If necessary, attach an additional sheet.

CERTIFICATION OF LOCAL OFFICIAL: Must be signed by one of the authorized individuals shown on the ACH Authorization Direct Deposit form (SFN 52477).

MAIL COMPLETED FORM TO:
Division of Community Services
1600 East Century Avenue, Suite 6
PO Box 2057
Bismarck, ND 58502-2057
Telephone (701) 328-5300
Fax (701) 328-5320

OR

EMAIL FORM TO BOTH OF FOLLOWING ADDRESSES: mcharlebois@nd.gov and gproffitt@nd.gov

HOUSING PROJECT SUMMARY
 NORTH DAKOTA DEPARTMENT OF COMMERCE
 DIVISION OF COMMUNITY SERVICES
 SFN 52325 (11/16)

ATTACHMENT 3

HOUSING PROJECT SUMMARY				
Request for Funds as of	For City/County		Grant Number	
Applicant	Contract Amount	Amount Received	Amount This Request	Remaining Balance
1.				
2.				
3.				
4.				
5.				
6.				
7.				
8.				
9.				
10.				
11.				
12.				
13.				
14.				
15.				
16.				
17.				
18.				
19.				
20.				
21.				
22.				
23.				
24.				
25.				
Total				
Administration				
Grant Administrator Signature			Date	

TIME SHEET
ND DIVISION OF COMMUNITY SERVICES
 SFN 52326 (05/02)

ATTACHMENT 4

EMPLOYEE _____

DATE _____

DAYS OF THE MONTH

1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23	24	25	26	27	28	29	30	31
				</																										

SECTION 6 - PROCUREMENT METHODS AND CONTRACTS

This section describes the rules and procedures that must be followed when purchasing supplies, equipment, construction, and services (in whole or in part) with CDBG funds. These requirements are established to ensure materials and services are obtained efficiently, economically, and in compliance with the provisions of applicable Federal law and executive orders. The objectives of these regulations are to assure that:

- Unnecessary or duplicate purchases are not made;
- Favorable prices for goods and services are obtained without sacrificing necessary quality;
- Purchases are made on the basis of maximum open and free competition whenever possible; and
- National goals such as equal employment opportunity, stimulation of small and minority-owned businesses, and fair labor standards are encouraged through government purchases.

The requirements of procurement methods and contracts are explained in 2 CFR Chapter 1, Chapter 2, Part 200, at <http://www.gpo.gov/fdsys/pkg/FR-2013-12-26/pdf/2013-30465.pdf>. A thorough working knowledge of 2 CFR requirements is needed to ensure proper grants management.

Grantee in this section shall mean Grantee, Subgrantee, or Subrecipient.

PROCUREMENT STANDARDS

1. Applicability

- a. This Section establishes standards and guidelines for the procurement of supplies, equipment, construction, and services for Federal assistance programs. These standards are provided to ensure materials and services are obtained efficiently and economically, and in compliance with provisions of applicable Federal law and executive orders.
- b. No additional procurement requirements or subordinate regulations will be imposed upon Grantees by executive agencies unless specifically required by Federal law, executive orders, or authorized by the Administrator for Federal Procurement Policy. This prohibition is not applicable to payment conditions issued in accordance with Treasury Circular 1075, individual Grantee requirements pursuant to Section 10 of the basic circular, or the provisions of this document or other OMB circulars.

2. Grantee/Grantor Responsibility

- a. These standards do not relieve the Grantee of any contractual responsibilities under its contracts. The Grantee is responsible, in accordance with sound administrative practice and business judgment, for the settlement of all contractual and administrative issues arising out of procurements entered into support of a grant. These include but are not limited to source evaluation, protests, disputes, and claims. Executive agencies shall not substitute their judgment for that of the Grantee unless the matter is primarily a Federal concern. Violations of law are to be referred to the local, State, or Federal authority with proper jurisdiction.
- b. Grantees will use their own procurement procedures to reflect applicable State and local laws and regulations, provided that procurements for Federal Assistance Programs conform to the standards set forth in this Attachment and applicable Federal law.

3. Grantee Procurement Improvement

Executive agencies awarding Federal grants or other assistance that require or allow for procurement by the recipients are encouraged to assist recipients to improve their procurement procedures by providing them with technical assistance training, publications, and other aid.

4. Procurement System Reviews

- a. The DCS will perform reviews of their Grantees' procurement methods if a continuing relationship with the Grantee is anticipated or a substantial amount of Federal assistance is to be used for procurement and review of individual contracts is anticipated.

The purpose of the review shall be to determine: (1) Whether a Grantee's procurement method meets the standards prescribed by this Section, or other criteria acceptable to the Office of Federal Procurement Policy (OFPP), such provisions of the Model Procurement Code for State and local government; and (2) Whether the Grantee's procurement procedures should be certified by the reviewing agency. Such a review will also give an agency the opportunity to give technical assistance to a Grantee to remedy its procurement system if it does not fully comply. In addition, such a review may provide a basis for deciding whether the Grantee's contracts and related procurement documents should be subject to the DCS's prior approval.

- b. During the procurement system review, Grantor agencies will evaluate a Grantee's procurement system in terms of whether it complies with the standards prescribed by this Attachment and represents a fair, efficient, and effective procurement system. To the extent feasible, reviewers will rely upon State or local evaluations and analysis performed by agencies or organizations independent of the Grantee contract activity.

5. Protest Procedures

Grantor agencies will develop an administrative procedure to handle complaints or protests regarding Grantee contractor selection actions. The procedure shall be limited as follows:

- a. No protest will be accepted by the Grantor agency until all administrative remedies at the Grantee level have been exhausted.
- b. Review is limited to:
 - (i) Violations of Federal law or regulations. Violations of State or local law shall be under the jurisdiction of State or local authorities.
 - (ii) Violations of Grantee's protest procedures, or failure to review a complaint or protest.

6. Grantor Review of Proposed Contracts

Pre-award review and approval of the Grantee's proposed contracts and related procurement documents, such as requests for proposal and invitations for bids, is permitted only under the following circumstances:

- a. The procurement is expected to exceed \$150,000 and is awarded without competition, or only one bid or offer is received in response to the solicitation.
- b. The procurement expected to exceed \$150,000 specifies a "brand name" product; or
- c. The Grantee's procurement procedures or operation fails to comply with one or more significant aspects of this Section.

- d. The procurement is expected to exceed \$150,000 and is not to be awarded to the apparent low bidder under a sealed bid procurement; or
- e. A proposed contract modification changes the scope of a contract, or increases the contract amount by more than \$150,000.

7. Code of Conduct - (See Appendix A)

Grantees will maintain a written code or standards of conduct which governs the performance of their officers, employees, or agents engaged in the award and administration of contracts supported by Federal funds. No employee, officer, or agent of the Grantee will participate in the selection, the award, or the administration of a contract supported by Federal funds if a conflict of interest, real or apparent, would be involved. Such a conflict would arise when:

- a. The employee, officer, or agent;
- b. Any member of his/her immediate family;
- c. His or her partner; or
- d. An organization which employs, or is about to employ, any of the above; has a financial or other interest in the firm selected for the award.

The Grantee's officers, employees, or agents will neither solicit nor accept gratuities, favors, or anything of monetary value from contractors, potential contractors, or parties to subagreements.

Grantees may set minimum rules where the financial interest is not substantial or the gift is an unsolicited item of nominal value.

To the extent permitted by State, local law, or regulations, such standards of conduct will provide for penalties, sanctions, or other disciplinary actions for violations of such standards by the Grantee's officers, employees, agents, or by contractors or their agents.

8. Procurement Procedures

The Grantee will establish procurement procedures to state that proposed procurement actions will be reviewed by Grantee officials to avoid the purchase of unnecessary or duplicate items. Consideration should be given to consolidation or breaking out procurements to obtain a greater economical purchase. When appropriate, an analysis will be made of lease-versus-purchase alternatives, and any other appropriate analysis to determine which approach would be the most economical. To foster greater economy and efficiency, Grantees are encouraged to enter into State and local intergovernmental agreements for procurement or use of common goods and services.

9. Contracting with Small and Minority Firms, Women's Business Enterprise and Labor Surplus Area Firms - (See Appendix E)

- a. Accordingly, affirmative steps must be taken to assure that small and minority businesses, women's business enterprises and labor surplus area firms are utilized when possible as sources of suppliers, equipment, construction, and services. Affirmative steps include the following:
- (1) Inclusion of qualified small and minority businesses, and women's business enterprises on solicitation lists.
 - (2) Assurance that small and minority businesses, and women's business enterprises are solicited whenever they are potential sources.
 - (3) When economically feasible, divide total requirements into smaller tasks or quantities to permit maximum small and minority business and women's business enterprises participation.
 - (4) Where the requirement permits, establish delivery schedules to encourage participation by small and minority business and women's business enterprises.
 - (5) Use the services and assistance of the Small Business Administration, the Office of Minority Business Development Agency of the Department of Commerce and the Community Services Administration as required.
 - (6) If any subcontracts are to be let, require the prime contractor to take the affirmative steps noted in numbers 1 through 5 above.
- b. Grantees shall take similar appropriate affirmative action to support women's business enterprises.
- c. Grantees are encouraged to procure goods and services from labor-surplus areas.
- d. The DCS may impose additional regulations and requirements in the foregoing areas only to the extent specifically mandated by statute or presidential direction.

10. Selection Procedures

- a. All procurement transactions, regardless of whether obtained by sealed bids or negotiation, and regardless of dollar value, will be conducted in a manner that provides maximum open and free competition consistent with this Section. In order to ensure objective contractor performance and eliminate unfair competitive advantage, contactors that develop or draft specifications, requirements, statements of work, and invitations for bids or requests for proposals must be excluded from competing. Procurement procedures shall not restrict or eliminate competition. Examples of restrictive competition may include, but are not limited to:

- (1) Placing unreasonable requirements on firms in order for them to qualify to do business;
 - (2) Noncompetitive pricing practices between firms or between affiliated companies;
 - (3) Organizational conflicts of interest;
 - (4) Unnecessary experience and bonding requirements;
 - (5) Noncompetitive awards to consultants that are on retainer contracts;
 - (6) Specifying only a brand name product instead of allowing an equal product to be offered and describing the performance of other relevant requirements of the procurement; and
 - (7) Any arbitrary action in the procurement process.
- b. The Grantee will possess written selection procedures which will provide, as a minimum, the following procedural requirements:
- (1) Solicitations of offers, whether by competitive sealed bids or competitive negotiation shall:
 - (a) Incorporate a clear and accurate description of the technical requirements for the material, product, or service procured. Descriptions shall not, in competitive procurements, contain features which unduly restrict competition. The description may include a statement of the qualitative nature of the material, product, or service to be procured, and when necessary, shall set forth those minimum essential characteristics and standards to which it must conform if it is to satisfy its intended use. Detailed product specifications should be avoided if at all possible. When it is impractical or uneconomical to make a clear and accurate description of the technical requirements, a “brand name or equal” description may be used as a means to define the performance or other important requirements of a procurement. The specific features of the name brand which must be met by offerors shall be clearly stated.
 - (b) Clearly address all requirements which offerors must fulfill and all other factors to be used in evaluating bids or proposals.
 - (2) Awards shall be made only to responsible contractors who are able to successfully perform under the terms and conditions of a proposed procurement. Consideration will be given to such matters as contractor integrity, compliance with public policy, records of past performance, and financial and technical resources.
 - (3) Grantees will conduct procurements in a manner that prohibits the use of statutorily or administratively imposed in-state or local geographical preferences in the evaluation of bids or proposals, except in cases where applicable Federal statutes

expressly mandate or encourage geographic preference. Nothing in this section preempts State licensing laws. When contracting for architectural and engineering (A/E) services, geographic location may be a selection criteria provided the application provides an appropriate number of qualified firms, given the nature and size of the project, to compete for the contract.

- (4) Grantees will ensure that all pre-qualified lists of persons, firms, or products which are used in acquiring goods and services are current, and include enough qualified sources to ensure maximum open and free competition. Also, Grantees and subgrantees will not preclude potential bidders from qualifying during the solicitation period.

11. Method of Procurement

Procurement under grants are made by one of the following methods, as described herein:

- (a) Micro-purchases (b) Small purchase procedures; (c) Competitive sealed bids (formal advertising); (d) Competitive proposals; and (e) Noncompetitive proposals.
 - a. Micro-purchase is the acquisition of supplies or services, the aggregate dollar amount less than \$10,000 (or \$2,000 in the case of acquisitions for construction subject to the Davis-Bacon Act). To the extent practicable, the non-Federal entity must distribute micro-purchases equitably among qualified suppliers. Micro-purchases may be awarded without soliciting competitive quotations if the non-Federal entity considers the price to be reasonable.
 - b. Small purchase procedures are appropriate for relatively simple, sound and informal procurement methods of services (such as professional consulting, environmental review, or planning), supplies, or other property, with an aggregate cost of at least \$10,000 but less than \$100,000. In general, the small purchase procedures also should not be used to acquire construction contractors. It is recommended that those acquisitions occur under the sealed bid approach outlined below. Grantees shall comply with State or local small purchase dollar limits under \$100,000. If small purchase procedures are used for a procurement under a grant, price, or rate, quotations shall be obtained from a minimum of three (3) qualified sources. Identification of quotes and/or bids accepted, and explanations (if applicable) of acceptance of other than low quote and/or bid must be submitted to DCS before DCS approval.
 - c. In competitive sealed bids (formal advertising), sealed bids are publicly solicited and a firm-fixed-price contract (lump sum or unit price) is awarded to the responsible bidder whose bid, conforming with all the material terms and conditions of the invitation for bids, is the lowest in price. Public Facilities grants of \$200,000 or more must follow all requirements of [North Dakota Century Code Chapter 48-01.2 Public Improvement Bids and Contracts](#). The sealed bid method should be used for all construction contracts or for goods costing \$100,000 or more if the following conditions apply:

- (1) In order for sealed bidding to be feasible, appropriate conditions must be present, including, at a minimum, the following:
 - (a) A complete, adequate, and realistic specification or purchase description is available;
 - (b) Two or more responsible bidders are willing and able to effectively compete for the business; and
 - (c) The procurement lends itself to a firm-fixed-price contract, and selection of the successful bidder can appropriately be made primarily on the basis of price.

- (2) If sealed bids are used for procurement under a grant, the following requirements apply:
 - (a) The invitation for bids will be publicly advertised and bids shall be solicited from an adequate number of known suppliers, providing them sufficient time prior to the date set for opening bids;
 - (b) The invitation for bids, including specifications and pertinent attachments, shall clearly define the items or services needed in order for the bidders to properly respond to the invitation;
 - (c) All bids shall be opened publicly at the time and place stated in the invitation for bids;
 - (d) A firm-fixed-price contract award will be made by writing to the lowest responsive and responsible bidder. Where specified in the bidding documents, factors such as discounts, transportation costs, and life cycle costs shall be considered in determining which bid is lowest. Payment discounts will only be used to determine the low bid when prior experience indicates that such discounts are usually taken advantage of; and
 - (e) Any or all bids may be rejected if there are appropriate documented reason(s).

- d. Procurement by competitive proposals. The technique of competitive proposals are normally conducted when more than one source submits offers, and either a fixed-price or cost-reimbursement type contract is awarded. Competitive proposal is generally used when conditions are not appropriate for the use of sealed bids. If this method is used, the following requirements apply:
 - (1) Requests for proposals will be publicized and identify all evaluation factors and their relative importance. Any response to publicized requests for proposals should be honored to the maximum extent practicable;
 - (2) Proposals must be solicited from an adequate number of qualified sources;
 - (3) The Grantee must create a method for conducting technical evaluations of the proposals received and for selection of contract awards.
 - (4) Awards will be made to the responsible firm whose proposal is most advantageous to the program, with price and other factors considered; and

- (5) Grantees may utilize competitive proposal procedures for qualification-based procurement of architectural/engineering (A/E) professional services. The competitors' qualifications are evaluated and the most qualified competitor is selected, subject to negotiation of fair and reasonable compensation. The method where price is not used as a selection factor can only be used in procurement of A/E professional services. It cannot be used to purchase other types of services, though A/E firms are a potential source to perform the proposed services. Procurement of architectural/engineering professional services using Federal dollars must follow the Brooks Act also known as Qualifications Based Selection (QBS). Under QBS, price quotations are not a consideration in the selection process. See Attachment 1 for further instructions.
- e. Noncompetitive proposals consist of procurements through solicitation of a proposal from a single source, or after solicitation of a number of sources, where competition is determined inadequate. Noncompetitive proposals may be used only when the award of a contract is infeasible under small purchase, sealed bids (formal advertising) or competitive proposals and one of the following circumstances applies:
- (1) The item is available only from a single source;
 - (2) Public emergency or urgent need for the requirement will not permit a delay resulting from competitive solicitation;
 - (3) The DCS authorizes noncompetitive proposals in response to a written request;
or
 - (4) After solicitation of a number of sources, competition is determined inadequate.

The fact that a contractor performs other consultant services for the Grantee is not in itself an adequate justification for a noncompetitive negotiated award.

The Grantee is required to complete a cost analysis and may also be required to submit the proposed procurement to the DCS for review.

12. Contract Pricing

The cost plus a percentage of cost and percentage of construction cost method of contracting is not allowed. Grantees shall perform a cost or price analysis in connection with every procurement action, including contract modifications. Costs or prices based on estimated costs for contracts under grants will be allowed only to the extent that costs incurred or cost estimates included in the negotiated prices are consistent with Federal cost principles. Further guidance can be found at 2 CFR Part 200.323.

13. Grantee Procurement Records

Grantees will maintain sufficient records to detail the significant history of a procurement. These records will include, but are not necessarily limited to, information pertinent to the following: rationale for the method of procurement, selection of contract type, contractor selection or rejection, and the basis for the cost or price.

14. Bonding Requirements

For construction or facility improvement contracts or subcontracts exceeding \$150,000, DCS may accept the bonding policy and requirements of the Grantee provided the DCS has made a determination that the program's interest is adequately protected. If a determination has not been made, the minimum requirements are as follows:

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

15. Contract Provision

In addition to provisions outlining a sound and complete procurement contract, any recipient of Federal grant funds will include the following contract provisions or conditions in all procurement contracts and subcontracts as required by the provision, Federal law, or the DCS. (Appendix II of 2 CFR Part 200)

- a. Contracts other than small purchases will contain provisions or conditions which will allow for administrative, contractual, or legal remedies in instances where contractors violate or breach contract terms, and include appropriate sanctions and penalties.
- b. All contracts in excess of \$10,000 will include a suitable provision for termination by the Grantee including the manner by which it will be effected and the basis for settlement. In addition, such contracts will describe conditions under which the contract may be terminated for default as well as conditions where the contract may be terminated because of circumstances beyond the control of the contractor.
- c. All contracts awarded in excess of \$10,000 by Grantees and their contractors or subgrantees will include a provision requiring compliance with Executive Order 11246, entitled "Equal Employment Opportunity," as amended by Executive Order 11375, and as supplemented in Department of Labor regulations (41 CFR Part 60).
- d. All contracts and subgrants for construction or repair will include a provision for compliance with the Copeland "Anti-Kickback" Act (18 USC 874) as supplemented in Department of Labor regulations (29 CFR, Part 3). This Act provides that each

contractor or subgrantee is prohibited from inducing, by any means, any person employed in the construction, completion, or repair of public work, to give up any part of the compensation to which he/she is otherwise entitled. The Grantee shall report all suspected or reported violations to the Grantor agency.

- e. All construction contracts in excess of \$2,000, or housing rehabilitation projects of eight or more units, must include a provision for compliance with the Davis-Bacon Act (40 USC 276a to a-7) as supplemented by Department of Labor regulations (29 CFR, Part 5). Under this Act contractors are required to pay wages to laborers and mechanics at a rate not less than the minimum wages specified in a wage determination made by the Secretary of Labor. In addition, contractors will be required to pay wages not less than once a week. The Grantee shall place a copy of the current prevailing wage determination issued by the Department of Labor in each solicitation and the award of the contract will be conditioned upon the acceptance of the wage determination. The Grantee is required to report all suspected or reported violations to the Grantor agency.
- f. Where applicable, all contracts awarded by Grantees and subgrantees in excess of \$2,000 for construction contracts and in excess of \$2,500 for other contracts which involve the employment of mechanics or laborers will include a provision for compliance with Section 103 and 107 of the Contract Work Hours and Safety Standards Act (40 USC 327-330) as supplemented by the Department of Labor regulations (29 CFR, Part 5). Under Section 103 of the Act, each contractor is required to compute the wages of every mechanic and laborer on the basis of a standard workweek of 40 hours. Work in excess of the standard workweek is permissible provided that the worker is compensated at a rate of not less than one-half times the basic pay rate for all hours worked in excess of 40 hours in any work week. Section 107 of the Act is applicable to construction work and states that no mechanic and laborer shall be required to work in surroundings or under working conditions which are unsanitary, hazardous, or dangerous to his health and safety as determined under construction, safety, and health standards promulgated by the Secretary of Labor. These requirements do not apply to the purchase of supplies, materials, or articles ordinarily available on the open market, or contracts for transportation or transmission of intelligence.
- g. The contract will include notice of DCS's requirements and regulations pertaining to reporting and patent rights under any contract involving research, development, experimental or demonstration work with respect to any discovery or invention which arises or is developed during the course of, or under such contract, and of Grantor agency requirements and regulations pertaining to copyrights and data rights.
- h. All negotiated contracts (except those awarded by small purchase procedures) awarded by Grantees shall include a provision to the effect the Grantee, the DCS, the Comptroller General of the United States, or any of their duly authorized representatives, shall have access to any books, documents, papers, and records of the contractor which are directly pertinent to that specific contract, for the purpose of making audit, examination, excerpts, and transcriptions.

Grantees shall require contractors to maintain all required records for three years after Grantees make final payments and all other pending matters are closed.

- i. Contracts, subcontracts, and subgrants of amounts in excess of \$100,000 will contain a provision which requires compliance with all applicable standards, orders, or requirements issued under Section 306 of the Clean Air Act (42 USC 1857(h)), Section 508 of the Clean Water Act (33 USC 1368), Executive Order 11738, and Environmental Protection Agency regulations (40 CFR, Part 15), which prohibit the use of non-exempt Federal contracts, grants, or loans of facilities included on the EPA List of Violating Facilities. The provision requires reporting of violations to the grant agency and to the USEPA Assistance Administrator for Enforcement (EN-329).
- j. Contracts will recognize mandatory standards and policies related to energy efficiency contained in the State energy conservation plan issued in compliance with the Energy Policy and Conservation Act (P.L. 94-163).

Grantor agencies are permitted to require changes, remedies, changed conditions, access and record retention, and suspension of work clauses approved by the Office of Federal Procurement Policy.

16. Contract Administration

Grantees will maintain a contract administration system to ensure that contractors perform in accordance with the terms, conditions, and specifications of their contracts or purchase orders.

SECTION 7 - ENVIRONMENTAL REQUIREMENTS

I. Definitions

CDBG – Community Development Block Grant

CE – Categorically Excluded

CENST – Categorically Excluded Not Subject to Review (Part 58.5)

Certifying Officer – Representative or staff member for the State of North Dakota who is certified to sign off on approval or witness to a document on behalf of the State.

CEST – Categorically Excluded Subject to 58.5

Combined Notice – A single notice which includes both the Finding of No Significant Impact (FONSI) and the Notice of Intent to Request Release of Funds (NOI/RROF).

DCS – Division of Community Services

EA – Environmental Assessment

EIS – Environmental Impact Statement

ER – Environmental Review

ERR – Environmental Review Record

FONSI – Finding of No Significant Impact

NEPA - National Environmental Policy Act of 1969

NOI/RROF – Notice of Intent to Request for Release of Funds

Responsible Entity (RE) - General Unit of Local Government.

RROF – Request for Release of Funds

SHPO – State Historic Preservation Office

Subrecipient – General Unit of Local Government allocated CDBG funds to undertake project(s), defined in the CDBG Financial Award as Recipient.

THPO – Tribal Historic Preservation Office

II. Introduction

A. Purpose

Every project undertaken and service provided with state CDBG funds, including all activities related to that project, are subject to the provisions of the National Environmental Policy Act of 1969 (NEPA). In addition to NEPA requirements and considerations, there are other laws and regulations containing environmental provisions with which CDBG Subrecipients must comply.

The purpose of this Section is to describe the state ER process, define roles and responsibilities and provide guidance necessary for the Regional Councils/Subrecipients to prepare the Environmental Review Record (ERR) required by NEPA and related laws. In developing the ERR, all activities associated with the project will be assessed with respect to both their beneficial and adverse environmental impacts.

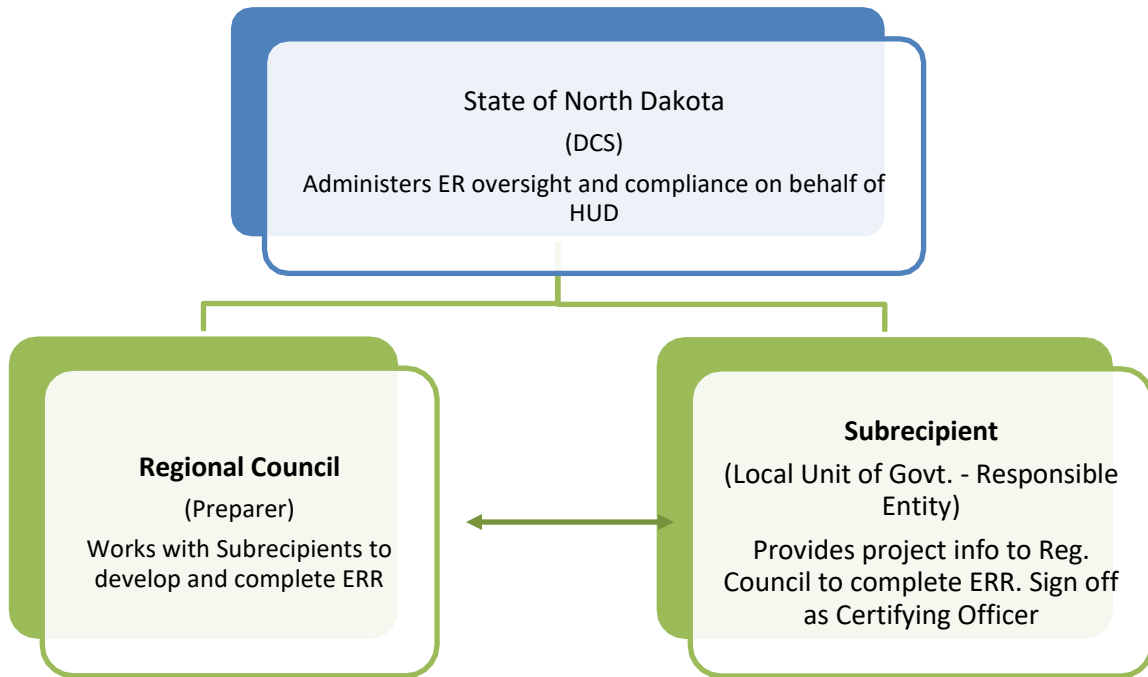
North Dakota, in conformity with the requirements of 24 CFR Part 58.18, must assume HUD responsibilities in its role administering HUD CDBG program funds. In conformance with these regulations the State has designated the Division of Community Services (DCS) as the agency responsible for administrative oversight and compliance with federal environmental regulations on behalf of HUD. In accordance with 58.18 DCS in this role must:

- Develop a monitoring and enforcement program for post-review actions on environmental reviews and monitor compliance with any environmental conditions included in the award.
- Receive public notices, Requests for Release of Funds (RROF), and certifications from recipients; accept objections from the public and from other agencies; and perform other related responsibilities regarding the release of funds.
- Fulfill the state role relative to the time period set for the receipt and disposition of comments, objections and appeals (if any) on particular projects.

B. Roles and Responsibilities

The development and completion of Environmental Reviews is the responsibility of the Regional Councils in the State who review and select individual projects submitted by local units of government or “Subrecipients”. The Regional Councils function as administrators of CDBG funds and are expected to work closely with Subrecipients during the ER process and ensure that all required ER steps are being taken, forms are completed and the ERR assembled in the proper order and format. Each project for each Subrecipient must have an associated ERR. The Regional Councils will be recognized on ER documents as Preparers unless otherwise agreed upon with the Subrecipient. Any Subrecipient in receipt of CDBG funds is recognized and defined as the “Responsible Entity” and must agree to all of the requirements and obligations associated with that title and role. The chart on the following page indicates the hierarchy of oversight and roles associated with the required ERR process.

ER Compliance Roles



1. Division of Community Service Responsibilities

The Division of Community Services (DCS) has seven (7) primary responsibilities related to the environmental review process.

- a. Withholding all CDBG grant funds (not including general administration or planning funds) until a Subrecipient has fully and properly certified all environmental review requirements have been satisfied. This includes receiving and reviewing public notices, Requests for Release of Funds (RROF), and certifications for ERRs.
- b. Provide a review of ERR documents submitted by Regional Councils/Subrecipients to ensure that the Regional Councils/Subrecipients are conducting environmental reviews in compliance with the requirements and guidance of this section.
- c. Accepting objections from the public or agencies regarding any specific items relating to the CDBG funded project during the ER process.
- d. Releasing CDBG funds to Subrecipients once the proper environmental certification has been submitted to the DCS, the required comment period has transpired without negative comment or objection, and other basic grant requirements have been satisfied. The DCS's release of activity funds does not constitute a DCS approval of the Regional Council's findings but only an acceptance that the appropriate documentation has been submitted. The Subrecipient remains legally accountable for its findings, should it be found later that these findings were inaccurate, or that proper review procedures were not followed.

DCS understands, however, that any environmental findings which may result in a repayment to HUD or future withholdings of HUD funds due to noncompliance with environmental requirements may be the responsibility of the State of North Dakota as well as the Subrecipient depending on HUD's determination.

- e. If subsequent findings result in a determination that the Subrecipient's certification or procedures were inadequate, the DCS is required to again withhold further activity funding to the Subrecipient until these findings are resolved, which usually will require the Regional Council/Subrecipient to redo the environmental review along with a second public comment period; recertification to the DCS; and a revision to the ERR.
- f. The DCS is required to monitor Regional Councils/Subrecipients during its project period including an examination of their environmental review processes and ERRs.
- g. The DCS will provide, to the extent possible and as requested, both guidance and technical assistance to the Regional Councils/Subrecipients for the environmental review process and ERR documentation.

2. Regional Council and Subrecipient Responsibilities

There are six (6) basic environmental responsibilities for the Regional Councils and Subrecipients. All work on the ERR must be conducted in coordination between the Regional Council and the local Subrecipient. These responsibilities will be further explained in this and subsequent sections. The responsibilities include:

- a. Conduct an Environmental Review. The Regional Councils must work with Subrecipients to determine what level of environmental review pertain to their specific project/activities. There are 5 different levels of environmental review.
 - 1) Exempt (24 CFR § 58.34)
 - 2) Categorically Excluded NOT Subject to 58.5 (24 CFR § 58.35(b))
 - 3) Categorically Excluded Subject to 58.5 (24 CFR § 58.35(a))
 - 4) Environmental Assessment (24 CFR § 58.36)
 - 5) Environmental Impact Statement (EIS)

The Subrecipients must provide details on all CDBG funded projects and assist the Regional Councils in determining what level of environmental review is required for their specific project/activities.

- b. Prepare the Environmental Review Record. Complete all necessary forms and include all documentation in for all projects being undertaken by Subrecipients. Each project or set of projects for each Subrecipient should have all documents completed and assembled in ERR in the format described in this section.
- c. Provide Public Comment Opportunities. Regional Councils must provide for a period of public comment, in accordance with HUD regulations, related to environmental findings and the intent to request CDBG funding for affected activities.
- d. Environmental Certification and Funding Requests. The environmental review process is not complete until a Regional Council has submitted the ERR to the Subrecipient for confirmation and certification by the proper Subrecipient authority. The Subrecipients must sign and accept the responsibilities as the Responsible Entity for any documents requiring this certification. All necessary documents must then be submitted to DCS for review.
- e. Maintain an Environmental Review Record. Regional Councils and Subrecipients must establish and maintain Environmental Review Records in the format and using the forms provided in this these guidelines. Per 570.490(d), Regional Councils/Subrecipients are required to retain records associated with this project until the closeout of the State grant under which this project was funded, unless otherwise indicated by DCS. This ERR will contain all documentation related to determinations, findings, public notices, consultation, coordination, certifications, and approvals involved in the environmental review process.
- f. Ensure Compliance with All Environmental Laws. Regional Councils must work with Subrecipients to ensure compliance with 24 CFR Part 58, NEPA and all other related Federal law authorities applicable to the HUD CDBG funds. This compliance responsibility remains in effect for the entire life of the program or as long as applicable under HUD programmatic and ER regulations. In some cases, these requirements may exist in perpetuity depending on the nature of the project and its associated environmental requirements such as property reuse limitations posed by HUD funded buyout programs.

NOTE: In some cases, ER compliance may extend after a project is considered “complete”.

NOTE: All Regional Councils and Subrecipients should educate themselves and be aware of the long-term limitations and requirements potentially posed by HUD funded projects as they relate to environmental requirement compliance.

III. Initial Environmental Review Procedure

There are several initial steps that Regional Councils/Subrecipients should take to begin the environmental review process. These steps are important as they will help guide the Regional Councils/Subrecipients with environmental review compliance. Regional Councils/Subrecipients should begin the environmental review process as soon as practically possible. This helps to ensure there is adequate time to complete the ER process and still allow for the full expenditure of funds within DCS timeline for expenditure.

A. Limitations on Activities Pending Clearance

1. Regional Councils, Subrecipients nor any CDBG funded project participant or funding recipient, including public or private nonprofit/for-profit entities or any of their contractors, can commit HUD/CDBG funds until the ER process has been completed. Funds cannot be committed until the State has confirmed the Exempt or Categorically Excluded not subject to 58.5 review project status on an activity or project, or until the State has approved the Subrecipient's Request of Release of Funds for Categorically Excluded subject to 58.5 and Environmental Assessments for projects which require them. In addition, Regional Councils, Subrecipients, nor any CDBG funded project participant or funding recipient, can commit non-HUD/CDBG funds on an activity or project that would have an adverse environmental impact or limits the choice of reasonable alternatives until the State has approved the Subrecipient's Request for Release of Funds.
2. An option agreement on a proposed site or property is allowed prior to the completion of the environmental review if the option agreement is subject to a determination by the Regional Council/Subrecipient on the desirability of the property for the project as a result of the completion of the environmental review and the cost of the option is a nominal portion of the purchase price. The option is only allowed on real property (not prefabricated buildings) and the amount of the option is not reimbursable by CDBG. There is no constraint on the purchase of an option by third parties that have not been selected by HUD/CDBG funding. Third parties have no responsibility for the environmental review and have no say in the approval or disapproval of the project.
3. HUD/CDBG funds may be committed for relocation assistance before the approval of the Subrecipient's Request for Release of Funds provided the relocation assistance is required by 24 CFR part 42.

B. When to Begin the Environmental Review

The Regional Councils/Subrecipients must begin the environmental review process as soon as they receive a copy of the executed grant agreement from the DCS to ensure that no choice limiting actions are taken by the Subrecipients before the ER is complete. Regional Councils/Subrecipients may choose to begin the process at the time an application is submitted since some of the environmental review processes may become lengthy and complex. Due to these factors, it is vital that the ER process be started as soon as possible.

C. Project Aggregation

The term "project" is defined as an activity or a group of integrally related activities designed to accomplish, in whole or in part, a specific goal.

The term "activity" means an action that a Subrecipient takes as part of an assisted project, regardless of whether its cost is borne by CDBG assistance or is an eligible expense under the program.

Regional Councils/Subrecipients must group together and evaluate, as a single project, all individual activities which are related either on a geographical or functional basis or are logical parts of a composite of contemplated actions". For example, the aggregation of several activities carried out in a distinct neighborhood, such as housing rehabilitation, demolition, street paving, and construction of a water line, could be grouped together as a project entitled "NEIGHBORHOOD PRESERVATION".

The purpose of project aggregation is to group together related activities so the responsible entity/Subrecipient can:

1. Address adequately and analyze, in a single environmental review, the separate and combined impacts of activities that are similar, connected and closely related, or that are dependent upon other activities and actions. (See 40 CFR 1508.25(a)).
2. Consider reasonable alternative courses of action.
3. Schedule the activities to resolve conflicts or mitigate the individual, combined and/or cumulative effects.
4. Prescribe mitigation measures and safeguards including project alternatives and modifications to individual activities.

The Regional Councils, in coordination with the Subrecipients, must evaluate each project to determine whether project aggregation is required.

D. Tiering

Tiering, is an environmental review process which can be used when there are many similar projects, or a project which may contain many similar activities, but the specific timing, location, or environmental impacts of those projects/activities may not be known. It is defined in 40 CFR 1508.28 as a means of making the environmental review process more efficient by allowing parties to "eliminate repetitive discussions of the same issues and to focus on the actual issues ripe for decision at each level of environmental review" (40 CFR 1502.20). This process helps to increase efficiency and is designed to "eliminate repetitive discussions of the same issues and to focus on the actual issues ripe for decision at each level of environmental review". Tiering is often used for project such as Housing Rehabilitation Programs or Residential Buyout Programs where specific applicants and properties may not be known until after an intake and application process is completed.

Tiering contains two stages: a broad level review and subsequent site-specific reviews. The broad level review is intended to identify and evaluate the issues that can be fully addressed and resolved, notwithstanding possible limited knowledge of the project. It must establish the standards, constraints, and processes to be followed in the site-specific reviews. The Site-specific reviews evaluate the remaining issues based on the policies established in the broad-level review. Both of these stages must be completed to meet the requirements of the environmental review. Funds cannot be spent or committed on a specific site or activity until both the broad-level review and the site-specific review have been completed for the site.

E. Personnel Roles

1. **Environmental Officer/Preparer** - The Environmental Officer is responsible for conducting the environmental review including such tasks as: writing the project narrative, obtaining maps of the project area, soliciting comments from appropriate local, state, and federal agencies, and facilitating responses to comments received on the environmental findings. For the purposes of the State's ER process the Preparer must be either a Regional Council staff member or a Subrecipient representative tasked with the preparation of the ERR.
2. **Responsible Entity** - Just as many HUD forms require the identification of the ER Preparer; they also require identification and signature of the authorized official for the Responsible Entity (RE). This "official" needs to be someone authorized to "sign off" in confirmation of completed forms and documents on behalf of the Subrecipient. The responsible entity must assume responsibilities for environmental review, decision-making. The RE is responsible for ensuring compliance with NEPA and that the Federal laws and authorities have been achieved, for issuing public notification, for submitting the request for release of funds and certification, when required, and for ensuring the ERR is complete and accurate. This may be the same individual as the Certifying Officer.
3. **Certifying Officer** – When a Subrecipient accepts CDBG funding, the Subrecipient agrees to assume the legal responsibility as the "responsible official" as defined by NEPA. The Certifying Officer ensures compliance with NEPA and the Federal laws and authorities cited at 25 CFR 58.5 has been achieved. This person is usually the chief elected official, chief executive official, or other official designated by formal resolution of the governing body. The certifying officer must have the authority to assume legal responsibility for certifying that all environmental requirements have been followed This environmental duty may not be delegated, although consultant staff and/or state resources may provide technical assistance to support local efforts.

The Subrecipient's Certifying Officer has three principal responsibilities:

- a. Represents the Subrecipient for environmental matters and is subject to the jurisdiction of the Federal courts if the Subrecipient becomes involved in environmental litigation.

- b. Ensures that all environmental, procedural and record requirements are fully and properly satisfied. The Subrecipient must also review and comment on all EIS's prepared for Federal projects that may have an impact on their project.
- c. Ensures and/or performs all necessary coordination functions required for environmental reviews. This includes consultation with all appropriate agencies directly concerned with environmental issues or having environmental responsibilities associated with the Subrecipient's project and the public comment process.

F. Establishing an Environmental Review Record

Subrecipients are required to create and maintain an Environmental Review Record (ERR). In the State of North Dakota environmental reviews for projects involving State CDBG funds are undertaken by Regional Councils with the support of Subrecipients. The ERR must contain a description of the program (projects and activities), and provide a record of all relevant documentation pertaining to the environmental review process and findings. Regional Councils/Subrecipients should begin to establish this record at the beginning of the review process.

Attachment A lists the steps Regional Councils/Subrecipients should follow in conducting environmental reviews for HUD funded projects.

Levels of Environmental Review - There are five (5) levels of environmental reviews which project activities can fall under:

1. Exempt (24 CFR § 58.34)
2. Categorically Excluded NOT Subject to 58.5 (24 CFR § 58.35(b))
3. Categorically Excluded Subject to 58.5 (24 CFR § 58.35(a))
4. Environmental Assessment (24 CFR § 58.36)
5. Environmental Impact Statement (EIS)

Each of these "levels" entails a different set of environmental requirements and procedures. These requirements and procedures involve a progressively more comprehensive, detailed and complex process from the EXEMPT to the ENVIRONMENTAL IMPACT STATEMENT determinations. Regional Councils preparing ERRs must work in coordination with the Subrecipients to determine the proper level of environmental review their project activity(s) falls into. If a Regional Council/Subrecipient, are unsure of the level of review for a project/activity they should utilize the resources in this document to assist in their determination or contact DCS staff assisting with or responsible for CDBG environmental review oversight.

NOTE: An early incorrect determination on the level of environmental review can result in incorrect and/or potentially unnecessary ER activities, time delays and costs incurred. Be sure of your level of review before undertaking ER efforts and document development.

G. Notice and Publication Requirements

The Regional Councils/Subrecipients must publish certain notices as required through the applicable Federal regulations. One such item is the Notice of Intent to Request Release of Funds (NOI/RROF). Regional Councils/Subrecipients must publish an NOI/RROF for any Assessed or Categorically Excluded Activities Subject to 58.5. Upon publication of this notice the Subrecipient must then submit for the DCS approval, the Certification and Request for Release of Funds.

The Subrecipient is not required to publish the Notice of Intent to Request Release of Funds for exempt activities or Categorically Excluded Activities Not Subject to 58.5.

The Subrecipient must complete and submit all environmental review forms and supporting documentation in the format described in this document for DCS review and approval before any funds are expended or choice limiting actions are undertaken.

IV. Environmental Review Record Preparation and Format

All ERRs developed and maintained by the Regional Councils/Subrecipients must be in conformity with the standard described here. This will help for ease of review by the DCS and help to ensure compliance with the requirements of this section and HUD regulations. ERRs must contain the following applicable sections in the order indicated. If documentation is not submitted in the correct format it will not be accepted by the DCS.

A. Cover Page indicating:

1. Document Title: Environmental Review Record
2. Regional Council Name
3. Subrecipient Name
4. Project Name (if only one)
5. Date

B. Environmental Determination Form – Include whichever environmental determination form is applicable to the project/activity. (i.e., Exemption Form, CENST Form, CEST Statutory Checklist, Environmental Assessment Form)

C. *If final determination is Exempt under 58.34(a)(12) also include CE Statutory Checklist utilized for initial determination.*

D. Compliance Documentation (CE and Assessed Activities)

1. Compliance Worksheets – Include all applicable, completed Compliance Worksheets for associated environmental factors (Attachments S1-S18). These worksheets should be provided in the order in which they are listed on the associated environmental determination form.

E. Appendices

1. Compliance Evidence – There should be appendices for each environmental factor identified in CEST and Assessed projects. These appendices should contain any relevant maps, tables, or other data, specific to that environmental factor (i.e., Airport Hazards, Farmlands Protection). verifying appropriate steps were taken in conformance with the HUD regulations and guidance provided in this section to secure compliance for each environmental factor.

- 1) Agency Consultation – The appendices should also include any agency consultation communications and responses.
 - a) Consultation Messages - Include copies of all emails and/or letters sent to environmental contacts and delivery receipts if sent through USPS.
 - b) Agency Response Letters - Include all agency consultation responses immediately after the copy of the applicable consultation message.

- E. Public Notifications – Provide any public notifications including Notice of Request Release of Funds, Combined Notices and any other public notification forms as well as proof of publication.

- F. Request for Release of Funds/Release of Funds – Include a copy of the Request for Release of Funds submitted to DCS for approval as well as the official release notification/confirmation provided by DCS.

V. **Environmental Review Levels**

A. Exempt

1. Exempt Requirements

Exempt activities are specifically identified activities listed in 24 CFR Part 58.34 the responsible entity does not have to comply with the requirements of this part, except for Sec. 58.6 where applicable, or undertake any environmental review, consultation or other action under NEPA and the other provisions of law or authorities cited in Sec. 58.5. Exempt activities, or projects solely comprised of exempt activities, have been predetermined not to result in any environmental impacts that would require environmental review or compliance and therefore, the Regional Councils do not need to undertake any additional environmental

review activities beyond completing and signing the form **Exemption Determination for Activities Listed at 24 CFR §58.34 (Exemption Determination Form - Attachment B)**.

Subrecipients are not required to submit a Request for Release of Funds (RROF) and certification to the DCS. However, Regional Councils/Subrecipients must document, through completion of the Exemption Determination Form, its determination that each activity or project is exempt and meets the conditions specified for such exemption under this section. Approval from the DCS will be needed by Regional Councils/Subrecipients for the commitment and the drawdown of CDBG funds to carry out the exempt activities and projects proposed in the approved application. The ERR for any exempt activity must include a completed Exemption Determination Form, and all supporting documentation, to be submitted to DCS for review and approval in documenting the exemption.

Regional Councils/Subrecipients are cautioned, however, that if one or more aggregated activities within a project are determined to be non-exempt, the project itself cannot be determined to be exempt. Regional Councils/Subrecipients will have to treat a non-exempt project in accordance with the review procedures described in one of the four remaining environmental review categories.

2. Definition of Exempt Activities

CDBG activities that fall under one or more of the defined EXEMPT categories below WILL NOT require any further environmental review. Regional Councils/Subrecipients will follow the procedures in Part 3 of this Section for exempt activities/projects. The exempt activities are:

- a. Environmental and Other Studies. The reasonable cost of environmental and other studies, including historic preservation clearances, necessary to comply with 24 CFR Part 58 (Title I Environmental Review Requirements), including project specific environmental assessments and clearances for eligible activities, resource identification, and development of plans and strategies.
- b. Information and Financial Services. Payment of reasonable costs associated with eligible costs for information and financial services provided as part of a CDBG activity.
- c. Administrative and Management Activities. Payment of reasonable administrative costs and carrying charges related to the planning and execution of Community Development activities financed, in whole or in part with funds provided under the CDBG program.
- d. Public Services. Payment of eligible public service costs that will not have a physical impact or result in any physical changes.

- e. Inspections. Payment of reasonable and eligible costs associated with inspections and testing of properties for hazards or defects, such as Housing Quality Standards Inspections and Lead-Based Paint Inspections.
- f. Purchase of Insurance. Payment of reasonable and eligible insurance purchases financed, in whole or in part, with CDBG funds.
- g. Purchase of Tools. Payment of reasonable and eligible tool purchases. (This does not include equipment purchases).
- h. Engineering and Design Costs. If incurred for an activity eligible under the North Dakota CDBG program.
- i. Technical Assistance and Training. Payment of reasonable and eligible costs associated with technical assistance and training.
- j. Temporary or Permanent Improvements. Assistance for temporary or permanent improvements that do not alter environmental conditions and are limited to protection, repair, or restoration activities necessary only to control or arrest the effects from disasters or imminent threats to public safety including those resulting from physical deterioration. The threat must be to the general public and cannot be satisfied by condemnation alone.
<https://files.hudexchange.info/resources/documents/Environmental-Review-Exemptions-Disasters-Imminent-Threats.pdf>
- k. Principal and Interest Payments. Payment of principal and interest on loans made or obligations guaranteed by HUD.
- l. Other Exempt Activities. Any of the categorical exclusions subject to 58.5 listed in Part IV of this Environmental Section provided there are no circumstances requiring compliance with any other Federal laws and authorities cited in this Section.

In order to qualify for an exemption under this category Regional Councils/Subrecipients must, at a minimum, complete the **Exemption Determination for Activities Listed at 24 CFR §58.34**.

3. Procedures for Exempt Activities

Once a Regional Council/Subrecipient has determined that an activity or project falls into one of the EXEMPT activity categories listed above, the following steps are required:

- Step 1 Prepare and submit to the DCS Exemption Determination Form and any necessary supporting documentation.

Activities or projects which are exempt under 58.34(a)(12) will require all documentation and completed forms relevant to its original Categorically Excluded subject to 58.5 review verifying that there are

no circumstances requiring compliance with any other Federal laws and authorities cited in this Section

Step 2 HUD has determined that the exempt activities listed in 58.34, list under A2 of the previous page do not require a review or compliance determination under the Federal laws and authorities cited in Part 58. If completion of the Exemption Determination Form results in compliance actions with any **Other Requirements** (24 C.F.R. Part 58.6) Regional Councils/Subrecipients must provide documentation of this compliance.

Step 3 Upon receiving this Certification, the DCS will notify both the Regional Council and the Subrecipient that this grant condition has been satisfied. The Notice will indicate the following:

- Subrecipient name
- Regional Council name
- Project name
- Level of review indicated in certification
- Date Certification was approved
- Confirmation that Subrecipient can utilize project funds.

This DCS Notice will NOT be sent, however, until the Regional Council/Subrecipient have also satisfied all other basic grant conditions as explained in the Administrative Manual.

Step 4 Once the Subrecipient has received the DCS Notice, the Subrecipient may then begin to obligate or incur costs and request payment of funds.

B. Categorically Excluded Not Subject to 58.5 (CENST)

1. CENST Requirements

Activities qualifying under this category are treated similarly to exempt activities. Categorically Excluded activities not subject to review under 58.5 are specifically identified activities listed in 24 CFR Part 58.35(b) and have been determined by HUD to not alter any conditions that would require a review or compliance determination under this part, except for Sec. 58.6 where applicable, or undertake any environmental review, consultation or other action under NEPA and the other provisions of law or authorities cited in Sec. 58.5. Categorically Excluded activities not subject to review under 58.5, or projects solely comprised of those activities, have been predetermined to not have an environmental impact and therefore, Regional Councils/Subrecipients do not need to undertake any additional environmental review activities beyond completing and signing the form **Categorically Excluded Not Subject to Section 58.5 Determination for Activities Listed at 24 CFR §58.35(b) (CENST Determination Form - Attachment C)**.

Subrecipients are not required to submit a Notice of Intent to Request for Release of Funds (NOI/RROF) or an RROF and certification to the DCS. However, Regional Councils/Subrecipients must document, through completion of the CENST Determination Form, its determination that each activity or project is Categorically Excluded not subject to review under 58.5 and meets the conditions specified for such determination under this section. Approval from the DCS will be needed by Subrecipients for the commitment and the drawdown of CDBG funds to carry out the CENST activities and projects proposed in the approved application. The ERR for any CENST activity must, at a minimum, include a completed CENST Determination Form to be submitted to DCS for review and approval in documenting the exemption.

Regional Councils/Subrecipients are cautioned, however, that if one or more aggregated activities within a project are determined to be non-CENST, the project itself cannot be determined to be CENST. The Regional Councils/Subrecipients preparing the ERR will have to treat a non-CENST project in accordance with the review procedures described in one of the three remaining environmental review categories.

2. Definition of Categorically Excluded Not Subject to 58.5 Determination

CDBG activities that fall under one or more of the defined CENST categories below WILL NOT require any further environmental review. Regional Councils/Subrecipients will follow the procedures in Part 3 of this Section for CENST activities/projects. The activities are:

- a. Tenant-based rental assistance.
- b. Supportive services including, but not limited to, health care, housing services, permanent housing placement, day care, nutritional services, short-term payments for rent/mortgage/utility costs, and assistance in gaining access to local, State, and Federal government benefits and services.
- c. Operating costs include maintenance, security, operation, utilities, furnishings, equipment, supplies, staff training and recruitment, and other incidental costs.
- d. Economic development activities, including but not limited to, equipment purchases, inventory financing, interest subsidy, operating expenses and similar costs not associated with construction or expansion of existing operations.
- e. Activities to assist homebuyers to purchase existing dwelling units or dwelling units under construction including closing costs and down payment assistance, interest buydowns and similar activities that result in a transfer of title.
- f. Affordable housing predevelopment costs including legal, consulting, developer and other costs related to obtaining site options, project financing,

administrative costs and fees for loan commitments, zoning approvals, and other related activities which do not create a physical impact; and

- g. Approval of supplemental assistance (including insurance or guarantee) to a project previously approved. Approval must be made by the same responsible entity that conducted the environmental review on the original project. Re-evaluation of environmental findings is not required if there is no change in project scope, activities, or environmental conditions.

3. Procedures for CENST Activities

Once a Regional Council/Subrecipient has determined that an activity or project falls into one of the CENST activity categories listed above, the following steps are required:

Step 1 Prepare and complete the **CENST Determination Form (Attachment C)**.

Step 2 HUD has determined that the categorically excluded activities listed in 58.35 (b), list under B2 of the previous page, would not alter any conditions that would require a review or compliance determination under the Federal laws and authorities cited in Part 58. If completion of the CENST Determination Form results in compliance actions with any **Other Requirements** (24 C.F.R. Part 58.6) Regional Councils/Subrecipients must provide documentation of this compliance.

Step 3 Upon receiving this Certification, the DCS will notify both the Regional Council and the Subrecipient that this grant condition has been satisfied. The Notice will indicate the following:

- Subrecipient name
- Regional Council name
- Project name
- Level of review indicated in certification
- Date Certification was approved
- Confirmation that Subrecipient can utilize project funds.

Step 4 Once the Subrecipient have received the DCS Notice, the Subrecipient may then begin to obligate or incur costs and request payment of funds.

4. Circumstances Requiring National Environmental Policy Act Review

If a Regional Council/Subrecipient determines that an activity or project identified in paragraph B2 of this section, as a result of extraordinary circumstances and conditions at, or effecting the location of the activity or project, may have a significant environmental effect, the Regional Council must

comply with all 24 CFR Part 58 requirements in conformity with 24 CFR Part 58.35(C).

C. Categorically Excluded Activities Subject to 58.5 (Categorically Excluded)

1. Categorically Excluded Requirements

Categorically Excluded activities are those activities which don't meet the definition of an Exempt or CENST activities but don't warrant an environmental impact statement or environmental assessment. Additionally, these activities don't require a finding of no significant impact under NEPA except in special circumstances defined in 24 CFR Part 58.2(a)(3). These activities do require compliance with the other applicable Federal environmental laws and authorities listed in 24 CFR Part 58.5. In order to comply with these regulations, Regional Councils must complete the **Environmental Review for Activity/Project that is Categorically Excluded Subject to Section 58.5 (CE Review Form - Attachment D)**. A guide for this form is provided in Attachment F. Regional Councils will also need to complete the associated HUD Environmental Review Compliance Forms including in Attachment S (1-18). These are to be completed and included with the CE Review Form along with all necessary maps and support materials documenting review and compliance with laws and authorities.

2. Definition of "Categorically Excluded" Activities

A project or category of activities which is categorically excluded does not need to address the requirements of the National Environmental Policy Act (NEPA). In general, NEPA requires an assessment of activities to determine their effects on the environment, and what effects the environment will have on the activities. In addition, NEPA requires the identification of alternative activities.

- a. The following activities are categorically excluded under NEPA but are subject to review under authorities listed in 58.5 and included in the DCS Categorically Excluded Activities Subject to 58.5 form.
 - 1) Acquisition, repair, improvement, reconstruction, or rehabilitation of public facilities and improvements (other than buildings) when the facilities and improvements are in place and will be retained for the same use without change in size or capacity of more than 20 percent (e.g., replacement of water or sewer lines, reconstruction of curbs and sidewalks, and repaving of streets).
 - 2) Special projects involving the removal of material and architectural barriers that restrict the mobility of and accessibility to elderly and handicapped persons.
 - 3) Rehabilitation of buildings and improvements when the following conditions are met:

- a) In the case of residential buildings with one to four units:
 - i. The density is not increased beyond four units.
 - ii. The land use is not changed; and
 - iii. If the building is located in a floodplain or in a wetland, the footprint of the building is not increased.
 - b) In the case of multifamily residential buildings:
 - i. Unit density is not changed more than 20 percent.
 - ii. The project does not involve changes in land use from residential to non-residential; and
 - iii. The estimated cost of rehabilitation is less than 75 percent of the total estimated cost of replacement after rehabilitation.
 - c) In the case of non-residential structures, including commercial, industrial, and public buildings:
 - i. The facilities and improvements are in place and will not be changed in size or capacity by more than 20 percent; and
 - ii. The activity does not involve a change in land use, such as from non-residential to residential, commercial to industrial, or from one industrial use to another.
- 4) Individual Actions
- a) An individual action involving up to four dwelling units where there is a maximum of four units on any one site. The units can be four one-unit buildings or one four-unit building or any combination in between; or
 - b) An individual action on a project of five or more housing units developed on scattered sites when the sites are more than 2,000 feet apart and there are not more than four housing units on any one site.
 - c) Paragraphs 4) a) and b) above do not apply to rehabilitation of a building for residential use with one to four units. Paragraph 3) of this section addresses residential rehabilitation.
- 5) Acquisition (including leasing) or disposition of, or equity loans on an existing structure, or acquisition (including leasing) of vacant land provided that the structure or land acquired, financed, or disposed of is retained for the same use; and

6) Combinations of any of the above activities.

3. Procedures for Categorically Excluded Activities Subject to 58.5

Once the Regional Council/Subrecipient has determined that its activity/project falls within one or more of the CATEGORICALLY EXCLUDED Subject to 58.5 categories, the following steps are required:

Step 1 Prepare and complete the **CE Review Form** as well as all of the **HUD Environmental Review Compliance Forms**. In order to complete these forms Regional Councils/Subrecipients must consult with the appropriate local, state, and federal agencies that have an environmental interest in the project or activities. The type of consultation will vary depending on the environmental review level. In some cases direct consultation with Federal, state or local agencies may be necessary in other cases utilization of HUD, FEMA or other digital resources is acceptable. All letters and responses must be included in the ERR as well as any maps or data generated through the utilization of online resources.

a) Projects undergoing a tiered review such as housing rehabilitation projects, will be required to provide the **Broad Level Tiered Environmental Review for Activity/Project that is Categorically Excluded Subject to Section 58.5 (Broad level CE Review Form)** and must complete **Tier II Site Specific Environmental Review CEST and Assessed (Site Specific Review Form)** for all individual activities/projects. Upon completion, all of the documents for both the broad level and site-specific reviews must be included in the ERR.

Step 2 If a Regional Council/Subrecipient learns through the consultation process that they must comply with certain environmental provisions of other Federal environmental laws or regulations, the Regional Council/Subrecipient must document this information in the ERR:

- a) Which activities or project is affected.
- b) The type of compliance required.
- c) How the Regional Council, in coordination with the Subrecipient, has or will meet the compliance requirements

Step 3 Following Steps 1-2, the Regional Council/Subrecipient must prepare a public Notice of Intent to Request a Release of Funds:

a) The Notice must be prepared as described in the **Notice of Intent to Request a Release of Funds – Sample** included in Attachment K.

- b) At a minimum, this Notice must be distributed to local news media, individuals and groups interested in the project, and appropriate local, state and federal agencies which must include:
 - i) State Historical Preservation Office.
 - ii) Regional Office of the US Environmental Protection Agency; and
 - iii) Division of Community Services.

NOTE: See Attachment N for a listing and addresses of these and other Information Source Agencies.

- c) The Notice must be published at least once in a general circulation newspaper in the Subrecipient's community. If there is no newspaper, the Notice must be prominently displayed at the local Post Office (and substations), local government administration building and in other public buildings in the project area.
- d) If published in a newspaper, the public review/comment period will be a minimum of seven (7) days. If posted and mailed, the public review/comment period is a minimum of ten (10) days, prior to the Subrecipient proceeding with Step 5 below.

NOTE: The Comment period begins the day after the publication or posting and mailing of the notice.

Step 4 All comments received during the comment period must be recorded for inclusion in the ERR and considered by the Regional Council/Subrecipient before proceeding. At the conclusion of the seven-day period (assuming no adverse comments require a change to this determination), the Regional Council/Subrecipient must then submit the following to the DCS:

- a) A copy of the **Request for Release of Funds and Certification (Attachment L)**. (Retain a copy for ERR).
- b) A newspaper copy of the public Notice of Intent to Request a Release of Funds to indicate the date of publication or a copy of the Notice and an affidavit of publication along with documented results from Steps One (1) and Two (2). (Retain copies in the ERR).

Step 5 Upon receipt of these submissions, the DCS must allow for a fifteen (15) day public comment period prior to taking any further action.

(NOTE: See Part VII for a discussion of possible adverse public comments and how these are addressed).

Step 6 If no adverse public comments are received by the DCS during this period, the DCS will then send to the Regional Council/Subrecipient the Notice of Release of Funds. However, this Notice will not be sent until the Regional Council/ Subrecipient have also satisfied all other basic grant conditions.

Step 7 Once the Regional Council/Subrecipient have received the DCS Notice in Step 6, the Subrecipient may then begin to obligate or incur costs and request payment of funds.

4. Circumstances Requiring National Environmental Policy Act Review

If a Regional Council/Subrecipient determines that an activity or project identified in paragraph C2 of this section, as a result of extraordinary circumstances and conditions at, or effecting the location of the activity or project, may have a significant environmental effect, the Regional Council/Subrecipient must comply with all 24 CFR Part 58 requirements in conformity with 24 CFR Part 58.35(C).

D. Environmental Assessment

1. Assessed Requirements

If an activity or project is neither EXEMPT nor CATEGORICALLY EXCLUDED (CENST or CEST) from NEPA requirements, Regional Councils/Subrecipients are required to undertake an ENVIRONMENTAL ASSESSMENT for the activity or project. An Environmental Assessment (EA) enables the Regional Councils/Subrecipients and others to determine the degree of significant impact that an activity (by itself or in combination with other activities) may have on the environment.

These activities require an assessment, compliance and finding of no significant impact under NEPA as well as other applicable Federal environmental laws and authorities listed in 24 CFR Part 58.5. In order to comply with these regulation Regional Councils/Subrecipients must complete the **Environmental Assessment Determinations and Compliance Findings for HUD-assisted Projects (Assessment Form -Attachment G)**.

A guide for this form is provided in Attachment H. Regional Councils/Subrecipients will also need to complete the associated HUD Environmental Review Compliance Forms including in Attachment S (1-18). These are to be completed and included with the Assessment Form along with all environmental review documents, maps, support materials, public notices and written determinations or environmental findings documenting review and compliance with laws and authorities.

The EA will permit all interested public agencies, community groups, and individuals to examine the environmental data developed, and to comment on the environmental impact findings and course of action determined by a Regional Council/Subrecipient.

NOTE: If upon initial review, a project or activity appears to have a significant impact on the environment, as defined under E2 of the following section, Subrecipients/Regional Councils should proceed directly to the preparation of an ENVIRONMENTAL IMPACT STATEMENT (EIS). If this determination can be made early, Subrecipients/Regional Councils should skip the EA process and begin immediately with the EIS process.

2. Definition of Assessed Activities

A project or category of activities which is assessed must address the requirements of the National Environmental Policy Act (NEPA). In general, NEPA requires an assessment of activities to determine their effects on the environment, and what effects the environment will have on the activities. In addition, NEPA requires the identification of alternative activities. At a minimum the ERR for an assessed activity or project must:

- a. Describe the project and the activities that the recipient has determined to be part of the project.
- b. Evaluate the effects of the project or the activities on the human environment.
- c. Document compliance with applicable statutes and authorities, in particular those cited in Sec. 58.5 and 58.6; and
- d. Record the written determinations and other review findings required by this part (e.g., exempt and categorically excluded projects determinations, findings of no significant impact).

3. Procedures for Environmental Assessment

The basic document which Regional Councils/Subrecipients must prepare for an EA is the **Assessment Form**. All sections of the document must be completed. A guide for the Assessment form is provided in Attachment H and guidance is included in Attachment W

(<https://files.hudexchange.info/resources/documents/Environmental-Assessment-Factors-Guidance.pdf>). Each of the **HUD Environmental Review Compliance Forms** must also be completed and included with the **Assessment Form** to complete the ERR.

If Regional Councils/Subrecipients are reviewing more than one project, a separate **Assessment Form** will need to be completed for each. REMEMBER: A project is defined as containing one or more integrally related activities designed to achieve, in whole or in part, a specific program goal.

Once the **Assessment Form** is complete, it becomes the core document of the Environmental Review Record (ERR). It also serves as the main document for public review and comment. All other ERR documentation will be related to the information included in the **Assessment Form**.

Projects undergoing a tiered review such as housing buyout/demolition projects, will be required to provide the **Broad Level Tiered Environmental Review for Environmental Assessment** and must complete **Tier II Site Specific Environmental Review CEST and Assessed (Site Specific Review Form)** for all individual activities/projects. Upon completion, all of the document for both the broad level and site-specific reviews must be included in the ERR.

As Regional Councils/Subrecipients begins work on an **Assessment Form** and associated **HUD Environmental Review Compliance Forms**, there are four (4) important procedures to follow:

- a. Regional Councils/Subrecipients must coordinate their efforts with all appropriate local, state, and federal agencies that have an interest in, or responsibility for, the environmental laws and/or potential impacts of the project. A guide to such agencies is provided in Attachment N.
- b. Regional Councils/Subrecipients must document the above coordination/consultation to include as part of the **Assessment Form** and ERR. Such documentation may take the form of written correspondence but may also include Federal and state agency website information.
- c. Regional Councils/Subrecipients must include all supporting data for analyses and findings (maps, surveys, charts, tables, and technical opinions) along with the **Assessment Forms** and **HUD Environmental Review Compliance Forms** in their ERRs.
- d. Regional Councils/Subrecipients must conclude the Environmental Assessment by indicating the appropriate assessment finding:
 - 1) A Finding of No Significant Impact (FONSI): means the project is in compliance with all applicable environmental laws/regulations and an EIS is not required; or
 - 2) A Finding of Significant Impact (FOSI): means the project may or will have a significant environmental impact and requires an EIS.

NOTE: If any of the procedures above are not followed, this constitutes grounds for the DCS to withhold CDBG activity funds from a Regional Council/Subrecipient until all procedures are properly satisfied.

If an EA results in a FONSI determination, Regional Councils/Subrecipients should proceed to item 4 below. If a FOSI determination is made, Regional Councils/Subrecipients must prepare an EIS as explained in Section V.E of this guide.

4. Required Public Notices

If a Regional Council/Subrecipient concludes its assessment with a Finding of No Significant Impact (FONSI), then there are two types of public notices required which are typically published together:

a. Finding of No Significant Impact Notice - This Notice must be released for public review and comment. This Notice must:

- 1) At a minimum, be distributed to local news media, individuals and groups interested in the project, and appropriate local, state and federal agencies including:
 - a) Division of Community Services
1600 East Century Avenue, Suite 6
PO Box 2057
Bismarck, ND 58502-2057
Phone: (701) 328-5300
Fax: (701) 328-5320
 - b) Local newspaper(s)
 - c) State Historical Preservation Officer (SHPO)
 - d) State Health Department
 - e) Regional Offices of the U.S. Environmental Protection Agency
 - f) Agencies with mitigation requirements

NOTE: See Attachment N for addresses of these and other Information Source Agencies.

- 2) Be published at least once in a general circulation newspaper in the Subrecipient's community. If there is no newspaper, this Notice must be prominently displayed at the local Post Office (and any substations), local government administration building and other public buildings in the project area.
 - 3) Regional Councils/Subrecipients may proceed to the certification process Section E after the public is given an opportunity to view and comment on the notice. The Regional Council must allow at least 15 days for comment on published notices and 18 days for comment on posted/mailed notices.
- b. Notice of Intent to Request a Release of Funds - This Notice is required to signify the Subrecipient's intent to request a release of CDBG activity funds from the DCS.

The issuance of this Notice should follow the same procedures explained in Section a above. However, the minimum time required for public review

and comments on this Notice is at least seven (7) days if published, or ten (10) days if posted/mailed.

- c. Combined Notice: Regional Councils/Subrecipients often publish the two required notices concurrently rather than separately. This is the simplest, fastest, and least costly method. The method for issuance of the Combined Notice is the same as explained above. The minimum time required for public review and comment on the Combined Notice is at least fifteen (15) days if published, or eighteen (18) days if posted/mailed. An example of this Notice is included in Attachment L

Combined Notice for Emergencies: If funds are needed on an emergency basis and when adherence to a separate comment period prevents necessary assistance, the Combined Notice of FONSI and the Notice of the Intent to Request Release of Funds (NOI/ROF) may be distributed and/or published simultaneously with the submission of the Request for Release of Funds (RROF).

The Combined Notice of FONSI and NOI/ROF states that funds are needed on an immediate emergency basis due to a Presidentially declared disaster, or during a local emergency. The local emergency must be declared by the chief elected official of the responsible entity who states there is an immediate need for public action to protect public safety, and that the comment periods have been combined. The Request of Release of Funds and Certification should be submitted to the DCS at the time of publication. The Notice also invites commenters to submit their comments to both State and Subrecipient issuing the notice to assure comments receive full consideration.

NOTES:

- a. Regional Councils/Subrecipients must consider all comments received based on the public notice process. These comments must be made a part of the ERR. If no comments are received the Regional Councils/Subrecipients must document this fact in the ERR.
- b. If any comments require a Regional Council/Subrecipient to revise its Assessment/FONSI, the Regional Council/Subrecipient should follow Section 5 below.
- c. Failure by a Regional Council/Subrecipient to follow all of the public notice procedures above will constitute grounds for the DCS to withhold the release of CDBG activity funds until all procedures are completed properly.

5. Time Delays for Extraordinary Circumstances

The term “Extraordinary Circumstances” means that due to unusual conditions, an environmental assessment, or environmental impact statement is required.

There are three (3) circumstances when a Regional Council/Subrecipient must make the FONSI Notice available for public review and comment for a minimum period of 30 days. These circumstances include:

- a. When there is considerable interest, or controversy surrounding the project.
 - 1) When the proposed project is similar to other community development activities that normally require an EIS.
 - 2) When the project is unique and without precedent.

6. Certification Procedures

After a Regional Council/Subrecipient completes an environmental assessment and the public notice requirements, the following steps are required:

Step 1 Subrecipients must submit to the DCS, the Request for Release of Funds and Certification. The Regional Council and Subrecipient must retain a copy of this Certification and include as a part of the ERR.

Step 2 Subrecipients must also submit to the DCS, along with the above Certification, a newspaper copy of the two individual, or one combined public notice(s) that indicates the date of publication or a copy of the notice(s) and affidavit of publication along with a copy of the ERR file.

Step 3 Upon receiving the above submissions, the DCS must allow for a fifteen (15) day public comment period prior to taking any further action.

NOTE: See Part VI for a discussion of adverse public comments.

Step 4 If no comments are received by the DCS during this period, the Department will send to the Regional Council and the Subrecipient an Authority to Use Grant Funds form (Attachment U). However, this Notice will not be sent until the Regional Council and Subrecipient has satisfied all other basic grant conditions.

Step 5 Once a Regional Council/Subrecipient has received the DCS Notice, the Subrecipient may then begin to request payment for these released funds by using the form, Request for Payment.

NOTES: Regional Councils/Subrecipients may submit an initial payment request for the funds to be released concurrently with the Certification in Step 5. The DCS will process this request at the time it sends out notice that basic grant payment conditions have been removed.

In the case of re-evaluations, Steps 1-3 must be followed as a recertification process. The DCS will reply (after the 15-day waiting period) when recertification has been accepted. The DCS can release CDBG activity funds to the Subrecipient upon submission of payment requests (a payment request can be submitted along with the recertification as explained in Step 5).

E. Environmental Impact Statements (EIS)

1. EIS Requirements

An EIS is required when it is determined that an activity or project will have a significant impact on the environment. This determination is made by either the proactive assumption to forego an EA and proceed directly to the preparation of an EIS or as a result of the environmental assessment itself.

Please Note: CDBG funds normally will not be pay for preparation of an EIS. (The exception to this rule will be outlined later). The reason for this exclusion is a matter of financial cost.

Because an EIS is usually associated with large scale developments, the cost in time and money is significant. An EIS may take several months to prepare. The dollar cost can often total tens of thousands of dollars.

These costs arise from the complexity of the process. There is a need to engage in extensive interagency consultation and coordination through all three levels of government. Citizen participation requirements are substantial. Finally, the scope of information for analysis is time consuming. For example, the Regional Councils/Subrecipients must evaluate potential impacts in such areas as:

- Hydrology
- Geology
- Air Quality
- Water Quality
- Noise
- Biology
- Socio-economics
- Energy
- Land Use
- Historic Preservation

It is not unusual for a final EIS to be 150 to 300 pages in length. This does not include the significant number of pages of supporting consultation and coordination documentation required for the Environmental Review Record (ERR). There will be few CDBG grants that involve an EIS because of cost and complexity.

However, there may be some instances where an activity or project may require an EIS, and this requirement may not be difficult to achieve. In these circumstances, CDBG funds may be permitted to cover EIS preparation costs. These circumstances are two-fold in nature:

- a. Regional Councils/Subrecipients may be able to adopt a draft or final EIS prepared by another agency, that applies to a Regional Councils/Subrecipients project situation. The requirement of the Regional Councils/Subrecipients is to properly revise or amend the EIS as needed.
- b. Regional Councils/Subrecipients may be able to use a previously prepared EIS for its project when that EIS has already been approved or is nearly approved and does apply to Regional Councils/Subrecipients proposed project. Once again, Regional Councils/Subrecipients may only need to update this EIS.

2. Definition of Environmental Impact Statement

Undertaking the EIS process for an activity or project is required for activities and projects that have a significant impact on the environment. An EIS could be necessary if a Regional Council/Subrecipient determines early that its activity or project will likely violate or otherwise significantly impact the law or regulations of other Federal environmental provisions. It should be clear, however, that the potential violation is a major one, or that no alternative procedural resolution can be found early to adequately satisfy these other environmental provisions. If this determination can be made early, a Regional Council/Subrecipient should skip the EA process and begin immediately with the EIS process. This decision is based on one or more of the following considerations:

- a. An EIS is required when the project is determined to have a potentially significant impact on the human environment.
- b. An EIS is required under any of the following circumstances:
 - 1) One that provides a site or sites for hospitals and/or nursing homes with a total of at least 2,500 beds;
 - 2) One that removes, destroys, converts, or substantially rehabilitates at least 2,500 existing housing units;
 - 3) One that would construct, install, or provide sites for at least 2,500 housing units; or
 - 4) One that would provide enough additional water and sewer capacity to support 2,500 or more additional housing units.

NOTE: This type of project does not have to be specifically intended for residential use, nor does it have to contain all new construction. If the project is intended to serve non-residential uses (in whole or part), the Regional Council/Subrecipient must determine how many residential units could be served if the entire capacity were to be used for housing. If the answer to this question is 2,500 units or more, the density threshold has been exceeded. If the project is to upgrade service to an existing development, or to service a new development, only that portion of the increased capacity intended to serve the new development is to be considered.

- c. If, on the basis of an EA, a responsible entity determines that the thresholds in paragraph (b) of this section are the sole reason for the EIS, the responsible entity may prepare a FONSI pursuant to 40 CFR 1501.4. In such cases, the FONSI must be made available for public review for at least 30 days before the responsible entity makes the final determination whether to prepare an EIS.

NOTE: EISs are very rare under the CDBG program. Regional Councils/Subrecipients should contact DCS immediately if there is indication an EIS may be necessary.

The DCS may be able to assist Regional Councils/Subrecipients in the decision to do an EIS, and in the preparation itself.

If it is not clearly evident that an EIS is required, Regional Councils/Subrecipients should proceed with the environmental assessment procedures explained in this section.

3. Procedures for an EIS

EIS preparation is both a time consuming and complex process. The requirements and procedures for this process are extensive. Rather than outline those requirement and procedures in this Guide, the DCS will provide Federal regulations as needed.

While the EIS requirements are quite complex, a very simple summary of EIS procedures is provided. Regional Councils/Subrecipients must:

- a. Prepare and publish a notice of intent to prepare an Environmental Impact Statement and include a copy of the notice in the Environmental Review Record.
- b. Distribute the notice.
- c. Describe the scoping (planning) approach of the project and conducting a scoping meeting, if necessary.
- d. If several agencies are involved in the project, choose a lead agency according to Environmental Protection Agency (EPA) guidelines.
- e. Seek out public opinion by mailing out information and conduct public hearings.
- f. Prepare a draft EIS.
- g. File the draft EIS with the EPA, and file draft copies in local offices and libraries.

- h. Prepare, file, and distribute the final EIS.
- i. File a supplemental EIS when substantial changes occur in the proposed project or when significant new information becomes available.
- j. Prepare a Record of Decision. The document must be signed and dated by the Certifying Officer and made part of the Environmental Review Record. The Record of Decision must summarize the monitoring and enforcement program for any mitigation measures called for in the Environmental Impact Statement.
- k. Coordinate and integrate the EIS with other environmental actions taken under related laws and authorities.

To minimize duplication of efforts, recipients can use prior statements and statements filed by other agencies in any of the following situations:

- 1) The current project does not further alter the environment in a significant way.
- 2) The prior Environmental Impact Statement was filed within five (5) years prior to the proposed project and the information is current; and
- 3) There is no pending litigation.

The decision to use prior statements, or those filed by other agencies, must be documented in the Environmental Review Record. Failure to include such documentation may constitute grounds for non-release of funds.

NOTE: Regional Councils must notify the DCS prior to preparation of an EIS. The DCS must approve the preparation of an EIS and approve the use of CDBG funds for this specific purpose.

4. EIS Certification Process

Whether Regional Councils/Subrecipients prepare a new EIS, adopts an EIS prepared by another agency, or uses a previously prepared EIS, the Regional Council must follow the same Certification process to the DCS. This process must be the same as noted in Part V(D)(6) for a FONSI resulting from an environmental assessment.

VI. Need for Re-evaluation (24 CFR 58.47)

A. CEST Projects

- 1. There are several situations which require Regional Councils/Subrecipients to re-evaluate and possibly amend or redo their categorical exclusion assessment. The purpose of a re-evaluation is to determine whether a Regional Council/Grantee's original assessment is still valid, and to update or correct its ERR. The situations that will require a reassessment include:

- a. The Subrecipient substantially changes its project in nature, magnitude, or extent including new activities not anticipated in the original project scope and/or cost estimates.
- b. New circumstances and environmental conditions may occur that affect the project or have a bearing on its impact. (Such as concealed or unexpected conditions discovered before or during project implementation).
- c. The Subrecipient selects an alternative not considered in the original assessment.

If one of these situations does arise, Regional Councils/Subrecipients are required to do a re-evaluation following the procedures outlined below:

- a. If a Regional Council/Subrecipient has already filed its certification of categorical exclusion with the DCS, then the Regional Council must inform DCS of the need for a re-evaluation. The DCS is required to withhold the release of further CDBG activity funds until the re-evaluation is complete and recertified with the DCS.
- b. If a Regional Council/Subrecipient original determination is still valid after the re-evaluation, but the data or conditions upon which it was based have changed, the Regional Council/Subrecipient must amend and update the original ERR.
- c. If a Regional Council/Subrecipient finds that its original environmental determination is no longer valid, a new ERR with the correct determination or EIS, whichever is appropriate, will need to be completed.

NOTE: Failure to properly comply with the steps above will constitute grounds for the DCS's withholding, non-release, or recapture of CDBG activity funds.

B. Assessed Projects

There are situations requiring Regional Councils/Subrecipients to re-evaluate and possibly amend or resubmit its EA. The purpose of a re-evaluation is to determine whether a Regional Council/Subrecipient's FONSI is still valid, and to update or correct its ERR. The situations that require a re-evaluation include:

1. Substantial changes to a project in nature, magnitude, or extent including new activities not anticipated in the original project scope and/or cost estimates.
2. New circumstances and environmental conditions arise which may affect the project, or have a bearing on its impact, such as concealed or unexpected conditions discovered before or during project implementation.
3. The Subrecipient selects an alternative not considered in the original EA.

If one of these situations occurs, the Regional Council/Subrecipient is required to perform a re-evaluation following the procedures below:

1. If a Regional Council/Subrecipient has already certified its original EA with the DCS, the Regional Council/Subrecipient must inform the DCS of the need for a re-evaluation. As such, the DCS is required to withhold the release of further CDBG activity funds until the re-evaluation is complete and recertified to the DCS.
2. If the Regional Council/Subrecipient's FONSI is found to be valid following the re-evaluation, but the data or conditions upon which it was based have changed, the Regional Council/Subrecipient must amend and update its original ERR.
3. If a Regional Council/Subrecipient finds that its original FONSI is no longer valid, a new ERR or EIS is required (whichever is appropriate).
4. Where an original FONSI is found to be valid, or a new ERR is prepared which results in another FONSI, the Regional Council/Subrecipient must again follow the procedures explained above for public notices, as well as the certification procedures.

NOTE: Failure to properly comply with the steps above will constitute grounds for the DCS's withholding, non-release, or recapture of CDBG activity funds.

VII. Objections to Review Determinations

As noted in the previous sections of this Guide, Regional Councils/Subrecipients must certify to the DCS the findings of their environmental reviews. With the exception of EXEMPT AND CATEGORICALLY EXCLUDED ACTIVITIES NOT SUBJECT TO 58.5 activities, the DCS is required to wait fifteen (15) days after receipt of all other certification types before releasing CDBG activity funds. The fifteen-day period is to allow public comment in regards to the Subrecipient's certification.

Of particular concern are any objections raised regarding a Regional Councils/Subrecipient's review process and/or findings. If any such objections are found to be valid, the DCS may not release funds to the effected Regional Council/Subrecipient until the objections are resolved.

A. Permissible Bases for Objections

The DCS must consider objections, and claims of some types of Regional Council/Subrecipient non-compliance with environmental review requirements, based on any of the following grounds:

1. A Regional Council/Subrecipient's certification was not, in fact, executed by the Subrecipient's Certifying Officer.
2. A Regional Council/Subrecipient fails to submit one of two findings, either a Finding of No Significant Impact, or a Finding of Significant Impact.
3. A Regional Council/Subrecipient fails to submit a written determination decision regarding one of the following (as applicable):

- a. A re-evaluation of assessment findings; or
 - b. Use of a prior environmental impact statement; or
 - c. Providing supplemental changes to a draft or final environmental impact statement.
4. A Regional Council/Subrecipient omits one or more procedural steps required for the preparation and completion of an environmental assessment.
 5. A Regional Council/Subrecipient omits one or more procedural steps for the conduct, preparation, and completion of an environmental impact statement.
 6. A Regional Council/Subrecipient or other participants in the development process has committed funds, incurred costs or undertaken activities not authorized before Release of Funds and approval of the Environmental Certification by the State.
 7. Another Federal agency submits a written finding that the project is unsatisfactory from the viewpoint of environmental quality.

B. Procedures for Objections

Objections to a Regional Council/Subrecipient's certification submitted to the DCS must follow the procedures below:

1. Submit the objection in writing to the DCS.
2. Include the name, address, and telephone number of the objecting party or organization (signed by the person or authorized official of the objecting agency).
3. Date and sign the objection.
4. Describe the basis for the objection and the facts or legal authority supporting the objection.
5. State when a copy of the objection(s) was mailed or delivered to the Subrecipient's Certifying Officer.
6. Receipt by the DCS is required during the prescribed fifteen-day comment period.

C. DCS Actions

Once the DCS has received an objection that follows the procedures described in Part B, the DCS must withhold the release of CDBG activity funds to the Subrecipient until a satisfactory resolution is attained:

1. The DCS will notify the Regional Council/Subrecipient of the objections(s) and require the Regional Council/Subrecipient respond to the objection (in writing) to the DCS within ten (10) days.

2. If the Regional Council/Subrecipient cannot adequately document that the objection is invalid, the DCS requires the Regional Council/Subrecipient to properly satisfy the regulation or procedure in question and recertify to the DCS that all review procedures have been complied with. A second fifteen or eighteen-day comment period will be required before the DCS can release CDBG funds.
2. If the Regional Council/Subrecipient documents that the objection is invalid, the DCS will notify the objecting party of this fact and proceed to release CDBG activity funds to the Regional Council/Subrecipient.

VIII. Division of Community Service Oversight Process

The DCS will have dedicated staff members to assist Regional Councils and Subrecipients with the ER process and will be responsible for review of ERR materials submitted by Regional Councils/Subrecipients. They will be the point of contact for Regional Councils and Subrecipients regarding any issues related to the ER process and the submission of ER documents. They will provide guidance and technical assistance as requested to support Regional Councils/Subrecipients in the development and submittal of ERRs. These staff members will also act as the liaison between DCS and HUD regarding ER matters for all CDBG funded project and activities.

CDBG staff will provide ongoing monitoring and enforcement for any post-review actions on environmental reviews and monitor compliance with any environmental conditions included in the award. This will be undertaken through coordination with Regional Councils/Subrecipients who conducted the ER and completed and submitted the required ERR.

- A. DCS will review selected ERR material to monitor whether Regional Councils/Subrecipients are correctly completing key ER forms and to ensure that projects and activities are receiving the correct level of review. DCS staff will NOT review all ERR material but will review select material in order to:
 1. Determine if the correct level of environmental review has been completed. DCS will review the project description, scope, scale, purpose and location of the project to determine if the proper level of review has been selected for the ERR.
 2. Confirm that the correct environmental review forms were completed for the project/activity.
 3. Review comments/findings on submitted forms to ensure environmental review factors were addressed and note any actions that must be taken to ensure compliance.
 4. Determine if the correct notifications were published and public comment periods cited and accounted for.

5. Review public comments and accepting any objections from the public or agencies regarding any specific items relating to the CDBG funded project.
 6. Review funding release requests and ensure all ERR documents requested in Part B below have been submitted.
- B. In order to undertake these activities, at a minimum, the following documents must be submitted by Regional Councils/Subrecipients to DCS for each level of review:
- **Exempt –**
 - Exemption Determination for Activities Listed at 24 CFR §58.34 (Exemption Determination Form - Attachment B).
 - **Categorically Excluded Not Subject to Section 58.5 –**
 - Categorically Excluded Not Subject to Section 58.5 Determination for Activities Listed at 24 CFR §58.35(b) (CENST Determination Form - Attachment C)
 - **Categorically Excluded Subject to Section 58.5 –**
 - Environmental Review for Activity/Project that is Categorically Excluded Subject to Section 58.5 (CE Review Form -Attachment D)
 - Broad Level Tiered Environmental Review for Activity/Project that is Categorically Excluded Subject to Section 58.5 (Broad level CE Review Form – Attachment E). *Only if applicable.*
 - Tier II Site Specific Environmental Review CEST and Assessed (Site Specific Review Form – Attachment J). *Only if applicable.*
 - Floodplain Notices (Attachments P and Q) *Only if applicable.*
 - NOI/RROF (Attachment K)
 - Public Comments
 - RROF (Attachment M)
 - **Environmental Assessment –**
 - Environmental Assessment Determinations and Compliance Findings for HUD-assisted Projects (Assessment Form -Attachment G) and all supporting documentation.
 - Broad Level Tiered Environmental Review for Environmental Assessment (Attachment I). *Only if applicable.*
 - Tier II Site Specific Environmental Review CEST and Assessed (Site Specific Review Form – Attachment J). *Only if applicable.*
 - Floodplain Notices (Attachments P and Q) *Only if applicable.*
 - NOI/RROF (Attachment K)
 - Public Comments
 - FONSI/RROF (Attachment L)

- *EIS – Contact DCS before undertaking any EIS activities.*
- **NOTE: DCS may request additional documents upon preliminary review of the documents listed above. These documents may include HUD Environmental Compliance Forms, maps, data and correspondence to agencies for specific environmental factors, therefore; all documents must be completed and available to DCS upon request.**

Attachments

- Attachment A – Environmental Review Process
- Attachment B - Exemption Determination for Activities Listed at 24 CFR §58.34
- Attachment C - Categorically Excluded Not Subject to Section 58.5 Determination for Activities Listed at 24 CFR §58.35(b)
- Attachment D - Environmental Review for Activity/Project that is Categorically Excluded Subject to Section 58.5
- Attachment E - Broad Level Tiered Environmental Review for Activity/Project that is Categorically Excluded Subject to Section 58.5
- Attachment F - Environmental Review for Activity/Project that is Categorically Excluded Subject to Section 58.5 (**GUIDE**)
- Attachment G - Environmental Assessment
- Attachment H - Environmental Assessment (**GUIDE**)
- Attachment I - Broad Level Tiered Environmental Review for Environmental Assessment
- Attachment J - Tier II Site Specific Environmental Review CEST and Assessed
- Attachment K - Notice of Intent to Request a Release of Funds – **SAMPLE**
- Attachment L - Notice of Finding of No Significant Impact and Notice of Intent to Request a Release of Funds (Combined Notice) – **SAMPLE**
- Attachment M - Request for Release Funds and Certification
- Attachment N - Agencies with Environmental Jurisdiction
- Attachment O - 8-Step Decision Making Process (Executive Order 11988)
- Attachment P - Notice for Early Public Review of a Proposed Activity in Floodplain/Wetlands - **SAMPLE**
- Attachment Q - Final Notice & Public Explanation of a Proposed Activity in Floodplain/Wetlands – **SAMPLE**
- Attachment R - Floodplain 8-Step Decision Making Process Flow Chart

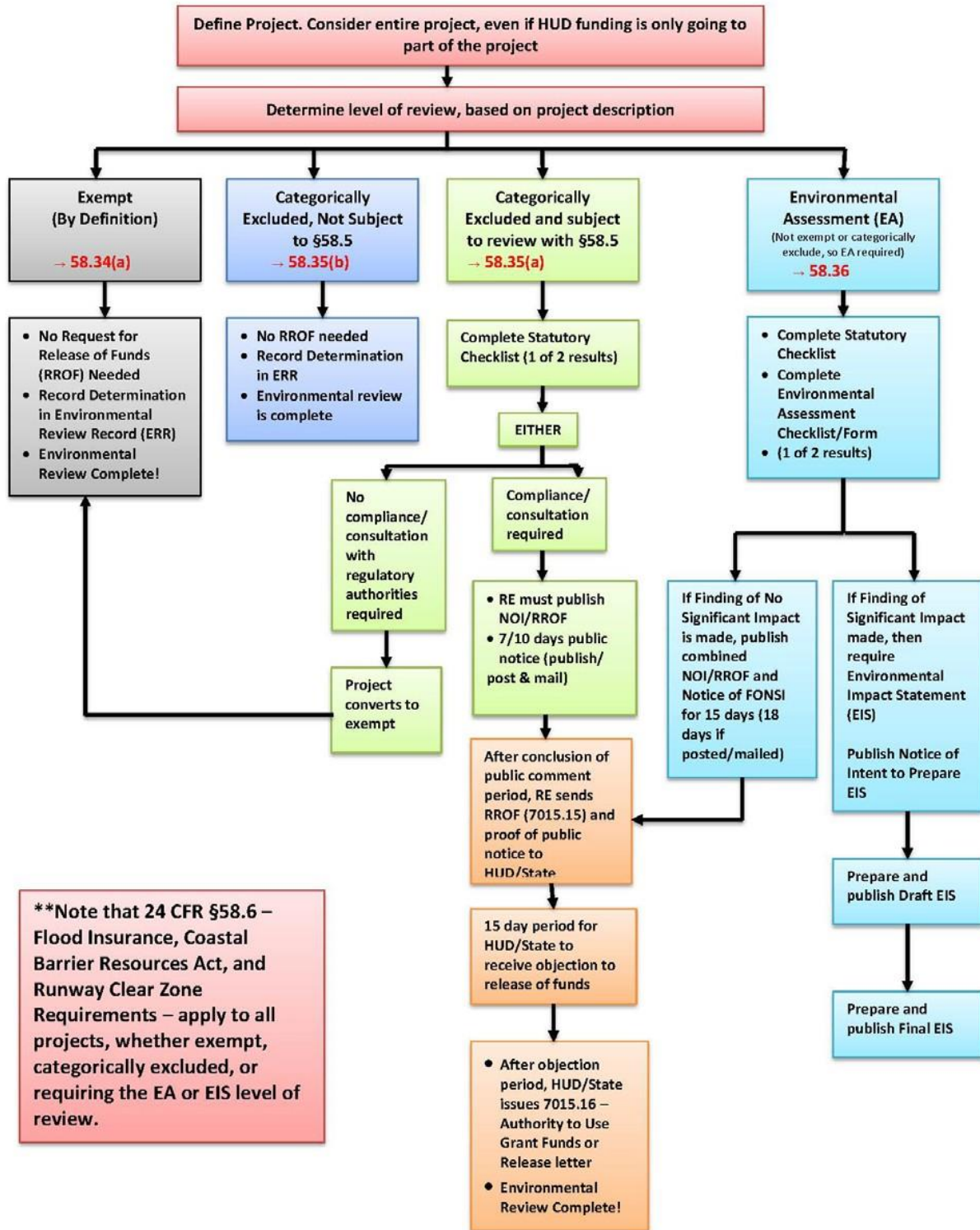
Attachments Continued

- Attachment S - HUD Environmental Review Compliance Forms
 - S1 - Airport Hazard Compliance - Worksheet
 - S2 - Coastal Barrier Resources Compliance - Worksheet
 - S3 - Flood Insurance Compliance - Worksheet
 - S4 - Clean Air Compliance - Worksheet
 - S5 - Coastal Zone Management Compliance - Worksheet
 - S6 - Contamination and Toxic Substances Compliance – Worksheet Single Family Property
 - S7 - Contamination and Toxic Substances Compliance – Worksheet Multi-Family Property
 - S8 - Endangered Species Compliance - Worksheet
 - S9 - Explosive and Flammable Hazards Compliance - Worksheet
 - S10 - Farmland Protection Compliance – Worksheet
 - S11 - Floodplain Management Compliance – Worksheet
 - S12 - Historic Preservation Compliance - Worksheet
 - S13 - Noise Abatement and Control Compliance - Worksheet (CEST)
 - S14 - Noise Abatement and Control Compliance - Worksheet (EA)
 - S15 - Sole Source Aquifers Compliance – Worksheet
 - S16 - Wetlands Protection Compliance - Worksheet
 - S17 - Wild and Scenic Rivers Compliance - Worksheet
 - S18 - Environmental Justice Compliance – Worksheet
- Attachment T - SHPO Consultation Form
- Attachment U - Authority to Use Grant Funds
- Attachment V - DCS ERR Review Form
- Attachment W - Environmental Assessment Factor Guidance

Attachment A

Environmental Review Process

Environmental Review Process (To Be Conducted by Responsible Entity)



Attachment B

Exemption Determination for Activities Listed at 24 CFR §58.34

Exemption Determination for Activities Listed at 24 CFR §58.34

Project Name: _____

Grant Recipient: _____

Responsible Entity (if different than Grant Recipient): _____

Project Location: _____

State/Local Identifier: _____

Preparer: _____

Certifying Officer Name and Title: _____

Consultant (if applicable): _____

Project Description (Include all actions which are either geographically or functionally related):

Level of Environmental Determination:

Activity/Project is Exempt per 24 CFR 58.34(a) _____

Funding Source: CDBG HOME ESG Other _____

Estimated HUD Funding Amount: _____ **Instrument Number:** _____

Estimated Total Project Cost: _____ **Other funding Sources:** _____

I have reviewed and determined that the abovementioned project is Exempt per 24 CFR §58.34 as follows:

<input type="checkbox"/>	58.34(a) (1). Environmental & other studies, resource identification & the development of plans & strategies;
<input type="checkbox"/>	58.34(a) (2) Information and financial services;
<input type="checkbox"/>	58.34(a) (3) Administrative and management activities;
<input type="checkbox"/>	58.34(a) (4) Public services that will not have a physical impact or result in any physical changes, including but not limited to services concerned with employment, crime prevention, child care, health, drug abuse, education, counseling, energy conservation and welfare or recreational needs;
<input type="checkbox"/>	58.34(a) (5) Inspections and testing of properties for hazards or defects;
<input type="checkbox"/>	58.34(a) (6) Purchase of insurance;
<input type="checkbox"/>	58.34(a) (7) Purchase of tools;
<input type="checkbox"/>	58.34(a) (8) Engineering or design costs;
<input type="checkbox"/>	58.34(a) (9) Technical assistance and training;

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<input type="checkbox"/>	58.34(a) (10) Assistance for temporary or permanent improvements that do not alter environmental conditions and are limited to protection, repair, or restoration activities necessary only to control or arrest the effects from disasters or imminent threats to public safety including those resulting from physical deterioration;
<input type="checkbox"/>	58.34(a) (11) Payment of principal and interest on loans made or obligations guaranteed by HUD;
<input type="checkbox"/>	58.34(a) (12) Any of the categorical exclusions listed in §58.35(a) provided that there are no circumstances that require compliance with any other Federal laws and authorities cited in §58.5.

Compliance with 24 CFR §50.4 and §58.6 Laws and Authorities

Record below the compliance or conformance determinations for each statute, executive order, or regulation. Provide credible, traceable, and supportive source documentation for each authority. Where applicable, complete the necessary reviews or consultations and obtain or note applicable permits of approvals. Clearly note citations, dates/names/titles of contacts, and page references. Attach additional documentation as appropriate.

Compliance Factors: Statutes, Executive Orders, and Regulations listed at 24 CFR 50.4 and 58.6	Are formal compliance steps or mitigation required?	Compliance determinations
STATUTES, EXECUTIVE ORDERS, AND REGULATIONS LISTED AT 24 CFR §58.6		
Airport Runway Clear Zones and Accident Potential Zones 24 CFR Part 51 Subpart D	Yes No <input type="checkbox"/> <input type="checkbox"/>	
Coastal Barrier Resources Coastal Barrier Resources Act, as amended by the Coastal Barrier Improvement Act of 1990 [16 USC 3501]	Yes No <input type="checkbox"/> <input checked="" type="checkbox"/>	North Dakota has no Coastal Barriers therefore there is no impact to Coastal Barriers. <i>(Include map)</i> https://www.fws.gov/cbra/maps/Mapper.html
Flood Insurance Flood Disaster Protection Act of 1973 and National Flood Insurance Reform Act of 1994 [42 USC 4001-4128 and 42 USC 5154a]	Yes No <input type="checkbox"/> <input type="checkbox"/>	

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By signing below the Responsible Entity officially determines in writing that all activities covered by this determination are Exempt and meets the conditions specified for such exemption under section 24 CFR §58.34. This document must be maintained in the ERR.

PREPARER:

Preparer Signature _____

Date _____

Preparer Name _____

Preparer Title _____

AUTHORIZED RESPONSIBLE ENTITY OFFICIAL:

Authorized Responsible Entity Signature _____

Date _____

Authorized Responsible Entity Name (printed) _____

Title (printed) _____

This original, signed document and related supporting material must be submitted to DCS for review. A copy of this form must be retained on file by the Responsible Entity in an Environmental Review Record (ERR) for the activity/project (ref: 24 CFR Part 58.38) and in accordance with recordkeeping requirements for the HUD program(s).

Attachment C

**Categorically Excluded Not Subject to Section 58.5 Determination for Activities
Listed at 24 CFR §58.35(b)**

**Categorically Excluded Not Subject to Section 58.5 Determination for Activities
 Listed at 24 CFR §58.35(b)**

Project Name: _____

Grant Recipient: _____

Responsible Entity (if different than Grant Recipient): _____

Project Location: _____

State/Local Identifier: _____

Preparer: _____

Certifying Officer Name and Title: _____

Consultant (if applicable): _____

Project Description (Include all actions which are either geographically or functionally related):

Level of Environmental Determination:

Activity/Project is Categorically Excluded Not Subject To 58.5 per 24 CFR 58.35(b): _____

Funding Source: CDBG HOME ESG Other _____

Estimated HUD Funding Amount: _____ **Instrument Number:** _____

Estimated Total Project Cost: _____ **Other funding Sources:** _____

I have reviewed and determined that the abovementioned project is Categorically Excluded not subject to 58.5 determination per 24 CFR §58.35(b) as follows:

<input type="checkbox"/>	24 CFR Part 58.35(b)(1): Tenant-based rental assistance
<input type="checkbox"/>	24 CFR Part 58.35(b)(2): Supportive services including, but not limited to: Health care Short-term payments for rent/mortgage/utility costs Housing services Permanent housing placement Assistance in gaining access to local, State, and federal government benefits and services Day care Nutritional services
<input type="checkbox"/>	24 CFR Part 58.35(b)(3): Operating costs, including: Maintenance Equipment Security Supplies Operation Staff training/recruitment Utilities Other incidental costs Furnishings

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<input type="checkbox"/>	24 CFR Part 58.35(b)(4): Economic development activities including but not limited to: Equipment purchase Operating expenses Inventory financing Similar costs not associated with the construction Interest subsidy or expansion of operations
<input type="checkbox"/>	24 CFR Part 58.35(b)(5): Activities to assist homebuyers to purchase existing dwelling units or dwelling units under construction, including: Closing costs Similar activities that result in the transfer of title Down payment assistance Interest buy down
<input type="checkbox"/>	24 CFR Part 58.35(b)(6): Affordable housing pre-development costs including: Legal, consulting, developer and other related costs related to obtaining site options, project financing, administrative costs and fees for loan commitments, zoning approvals, and other related activities which do not have a physical impact
<input type="checkbox"/>	24 CFR Part 58.35(b)(7): Approval of supplemental assistance (including insurance or guarantee) to a project previously approved under 24 CFR Part 58 if the approval is made by the same responsible entity that conducted the environmental review on the original.

Compliance with 24 CFR §50.4 and §58.6 Laws and Authorities

Record below the compliance or conformance determinations for each statute, executive order, or regulation. Provide credible, traceable, and supportive source documentation for each authority. Where applicable, complete the necessary reviews or consultations and obtain or note applicable permits of approvals. Clearly note citations, dates/names/titles of contacts, and page references. Attach additional documentation as appropriate.

Compliance Factors: Statutes, Executive Orders, and Regulations listed at 24 CFR 50.4 and 58.6	Are formal compliance steps or mitigation required?	Compliance determinations
STATUTES, EXECUTIVE ORDERS, AND REGULATIONS LISTED AT 24 CFR §58.6		
Airport Runway Clear Zones and Accident Potential Zones 24 CFR Part 51 Subpart D	Yes No <input type="checkbox"/> <input type="checkbox"/>	
Coastal Barrier Resources Coastal Barrier Resources Act, as amended by the Coastal Barrier Improvement Act of 1990 [16 USC 3501]	Yes No <input type="checkbox"/> <input checked="" type="checkbox"/>	North Dakota has no Coastal Barriers therefore there is no impact to Coastal Barriers. <i>(Include map)</i> https://www.fws.gov/cbra/maps/Mapper.html

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<p>Flood Insurance Flood Disaster Protection Act of 1973 and National Flood Insurance Reform Act of 1994 [42 USC 4001-4128 and 42 USC 5154a]</p>	<p>Yes No <input type="checkbox"/> <input type="checkbox"/></p>	
---	--	--

By signing below the Responsible Entity officially determines in writing that all activities covered by this determination are Categorically Excluded not Subject to Section 58.5 and meets the conditions specified for such consideration under section 24 CFR §58.35(b). This document must be maintained in the ERR.

PREPARER:

Preparer Signature _____ Date _____

Preparer Name _____ Preparer Title _____

AUTHORIZED RESPONSIBLE ENTITY OFFICIAL:

Authorized Responsible Entity Signature _____ Date _____

Authorized Responsible Entity Name (printed) _____ Title (printed) _____

This original, signed document and related supporting material must be submitted to DCS for review. A copy of this form must be retained on file by the Responsible Entity in an Environmental Review Record (ERR) for the activity/project (ref: 24 CFR Part 58.38) and in accordance with recordkeeping requirements for the HUD program(s).

Attachment D

**Environmental Review for Activity/Project that is Categorically Excluded Subject to
Section 58.5**

**Environmental Review for Activity/Project that is Categorically Excluded Subject to
Section 58.5**
Pursuant to 24 CFR 58.35(a)

Project Name: _____

Grant Recipient: _____

Responsible Entity (if different than Grant Recipient): _____

State/Local Identifier: _____

Preparer: _____

Certifying Officer Name and Title: _____

Consultant (if applicable): _____

Direct Comments to: _____

Project Location: _____

Project Description (Include all actions which are either geographically or functionally related):

Level of Environmental Determination:

Categorically Excluded per 24 CFR 58.35(a), and subject to laws and authorities at 58.5: _____

Funding Source: CDBG HOME ESG Other _____

Estimated HUD Funding Amount: _____ **Instrument Number:** _____

Estimated Total Project Cost: _____ **Other funding Sources:** _____

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Compliance with 24 CFR 50.4, 58.5, and 58.6 Laws and Authorities

Record below the compliance or conformance determinations for each statute, executive order, or regulation. Provide credible, traceable, and supportive source documentation for each authority. Where applicable, complete the necessary reviews or consultations and obtain or note applicable permits of approvals. Clearly note citations, dates/names/titles of contacts, and page references. Attach additional documentation as appropriate.

Compliance Factors: Statutes, Executive Orders, and Regulations listed at 24 CFR §58.5 and §58.6	Are formal compliance steps or mitigation required?	Compliance determinations
STATUTES, EXECUTIVE ORDERS, AND REGULATIONS LISTED AT 24 CFR 50.4 & 58.6		
Airport Hazards 24 CFR Part 51 Subpart D	Yes No <input type="checkbox"/> <input type="checkbox"/>	
Coastal Barrier Resources Coastal Barrier Resources Act, as amended by the Coastal Barrier Improvement Act of 1990 [16 USC 3501]	Yes No <input type="checkbox"/> <input checked="" type="checkbox"/>	North Dakota has no Coastal Barriers therefore there is no impact to Coastal Barriers. <i>(Include map)</i> https://www.fws.gov/cbra/maps/Mapper.html
Flood Insurance Flood Disaster Protection Act of 1973 and National Flood Insurance Reform Act of 1994 [42 USC 4001-4128 and 42 USC 5154a]	Yes No <input type="checkbox"/> <input type="checkbox"/>	
STATUTES, EXECUTIVE ORDERS, AND REGULATIONS LISTED AT 24 CFR 50.4 & 58.5		
Clean Air Clean Air Act, as amended, particularly section 176(c) & (d); 40 CFR Parts 6, 51, 93	Yes No <input type="checkbox"/> <input checked="" type="checkbox"/>	There are no non-attainment areas in North Dakota. <i>(Include map)</i> Nonattainment Areas for Criteria Pollutants (Green Book) US EPA
Coastal Zone Management Coastal Zone Management Act, sections 307(c) & (d)	Yes No <input type="checkbox"/> <input checked="" type="checkbox"/>	North Dakota has no Coastal Zones therefore there is no impact to Coastal Zones. <i>(Include map)</i> https://www.coast.noaa.gov/czm/mystate/
Contamination and Toxic Substances 24 CFR Part 50.3(i) & 58.5(i)(2)	Yes No <input type="checkbox"/> <input type="checkbox"/>	
Endangered Species Endangered Species Act of 1973, particularly section 7; 50 CFR Part 402	Yes No <input type="checkbox"/> <input type="checkbox"/>	
Explosive and Flammable Hazards 24 CFR Part 51 Subpart C	Yes No <input type="checkbox"/> <input type="checkbox"/>	

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Farmlands Protection Farmland Protection Policy Act of 1981, particularly sections 1504(b) and 1541; 7 CFR Part 658	Yes No <input type="checkbox"/> <input type="checkbox"/>	
Floodplain Management Executive Order 11988, particularly section 2(a); 24 CFR Part 55	Yes No <input type="checkbox"/> <input type="checkbox"/>	
Historic Preservation National Historic Preservation Act of 1966, particularly sections 106 and 110; 36 CFR Part 800	Yes No <input type="checkbox"/> <input type="checkbox"/>	
Noise Abatement and Control Noise Control Act of 1972, as amended by the Quiet Communities Act of 1978; 24 CFR Part 51 Subpart B	Yes No <input type="checkbox"/> <input type="checkbox"/>	
Sole Source Aquifers Safe Drinking Water Act of 1974, as amended, particularly section 1424(e); 40 CFR Part 149	Yes No <input type="checkbox"/> <input checked="" type="checkbox"/>	There are no Sole Source Aquifers recognized in the State of North Dakota therefore there will be no impacts to Sole Source Aquifers. Include map. https://epa.maps.arcgis.com/apps/webappviewer/index.html?id=9ebb047ba3ec41ada1877155fe31356b
Wetlands Protection Executive Order 11990, particularly sections 2 and 5	Yes No <input type="checkbox"/> <input type="checkbox"/>	
Wild and Scenic Rivers Wild and Scenic Rivers Act of 1968, particularly section 7(b) and (c)	Yes No <input type="checkbox"/> <input checked="" type="checkbox"/>	https://www.nps.gov/subjects/rivers/nri-map.htm https://www.rivers.gov/north-dakota.php
ENVIRONMENTAL JUSTICE		
Environmental Justice Executive Order 12898	Yes No <input type="checkbox"/> <input type="checkbox"/>	

Site Visit (Date and completed by): _____

Summary of Findings and Conclusions: _____

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Mitigation Measures and Conditions [40 CFR 1505.2(c)]

Summarize below all mitigation measures adopted by the Responsible Entity to reduce, avoid, or eliminate adverse environmental impacts and to avoid non-compliance or non-conformance with the above-listed authorities and factors. These measures/conditions must be incorporated into project contracts, development agreements, and other relevant documents. The staff responsible for implementing and monitoring mitigation measures should be clearly identified in the mitigation plan.

Law, Authority, or Factor	Mitigation Measure

Determination:

- This categorically excluded activity/project converts to Exempt, per 58.34(a)(12) because there are no circumstances which require compliance with any of the federal laws and authorities cited at §58.5. **Funds may be committed and drawn down after certification of this part** for this (now) EXEMPT project; OR
- This categorically excluded activity/project cannot convert to Exempt because there are circumstances which require compliance with one or more federal laws and authorities cited at §58.5. Complete consultation/mitigation protocol requirements, **publish NOI/RROF and obtain “Authority to Use Grant Funds”** (HUD 7015.16) per Section 58.70 and 58.71 before committing or drawing down any funds; OR
- This project is now subject to a full Environmental Assessment according to Part 58 Subpart E due to extraordinary circumstances (Section 58.35(c)).

PREPARER:

Preparer Signature _____

Date _____

Preparer Name _____

Preparers Title _____

AUTHORIZED RESPONSIBLE ENTITY OFFICIAL:

Authorized Responsible Entity Signature _____

Date _____

Authorized Responsible Entity Name (printed) _____

Title (printed) _____

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This original, signed document and related supporting material must be submitted to DCS for review. A copy of this form must be retained on file by the Responsible Entity in an Environmental Review Record (ERR) for the activity/project (ref: 24 CFR Part 58.38) and in accordance with recordkeeping requirements for the HUD program(s).

Attachment E

Broad Level Tiered Environmental Review for Activity/Project that is Categorically Excluded Subject to Section 58.5

Broad-Level Tiered Environmental Review for Activity/Project that is Categorically Excluded Subject to Section 58.5
Pursuant to 24 CFR 58.35(a)

Project Name: _____

Grant Recipient: _____

Responsible Entity (if different than Grant Recipient): _____

State/Local Identifier: _____

Preparer: _____

Certifying Officer Name and Title: _____

Consultant (if applicable): _____

Direct Comments to: _____

Project Location: _____

Project Description (Include all actions which are either geographically or functionally related):

Level of Environmental Determination:
Categorically Excluded per 24 CFR 58.35(a), and subject to laws and authorities at 58.5: _____

Approximate size of the project area: _____

Length of time covered by this review: _____

Maximum number of dwelling units or lots addressed by this tiered review: _____

Level of Environmental Review Determination:
Categorically Excluded per 24 CFR 58.35(a), and subject to laws and authorities at §58.5: _____

Funding Source: CDBG HOME ESG Other _____

Estimated HUD Funding Amount: _____ **Instrument Number:** _____

Estimated Total Project Cost: _____ **Other funding Sources:** _____

**NORTH DAKOTA DEPARTMENT OF COMMERCE
DIVISION OF COMMUNITY SERVICES**

Compliance with 24 CFR 50.4, 58.5, and 58.6 Laws and Authorities

Record below the compliance or conformance determinations for each statute, executive order, or regulation. Provide credible, traceable, and supportive source documentation for each authority. Where applicable, complete the necessary reviews or consultations and obtain or note applicable permits of approvals. Clearly note citations, dates/names/titles of contacts, and page references. Attach additional documentation as appropriate.

Compliance Factors: Statutes, Executive Orders, and Regulations listed at 24 CFR §58.5 and §58.6	Are formal compliance steps or mitigation required?	Compliance determinations
STATUTES, EXECUTIVE ORDERS, AND REGULATIONS LISTED AT 24 CFR 50.4 & 58.6		
Airport Hazards 24 CFR Part 51 Subpart D	Yes No <input type="checkbox"/> <input type="checkbox"/>	
Coastal Barrier Resources Coastal Barrier Resources Act, as amended by the Coastal Barrier Improvement Act of 1990 [16 USC 3501]	Yes No <input type="checkbox"/> <input checked="" type="checkbox"/>	North Dakota has no Coastal Barriers therefore there is no impact to Coastal Barriers. <i>(Include map)</i> https://www.fws.gov/cbra/maps/Mapper.html
Flood Insurance Flood Disaster Protection Act of 1973 and National Flood Insurance Reform Act of 1994 [42 USC 4001-4128 and 42 USC 5154a]	Yes No <input type="checkbox"/> <input type="checkbox"/>	
STATUTES, EXECUTIVE ORDERS, AND REGULATIONS LISTED AT 24 CFR 50.4 & 58.5		
Clean Air Clean Air Act, as amended, particularly section 176(c) & (d); 40 CFR Parts 6, 51, 93	Yes No <input type="checkbox"/> <input checked="" type="checkbox"/>	There are no non-attainment areas in North Dakota. <i>(Include map)</i> Nonattainment Areas for Criteria Pollutants (Green Book) US EPA
Coastal Zone Management Coastal Zone Management Act, sections 307(c) & (d)	Yes No <input type="checkbox"/> <input checked="" type="checkbox"/>	North Dakota has no Coastal Zones therefore there is no impact to Coastal Zones. <i>(Include map)</i> https://www.coast.noaa.gov/czm/mystate/
Contamination and Toxic Substances 24 CFR Part 50.3(i) & 58.5(i)(2)	Yes No <input type="checkbox"/> <input type="checkbox"/>	
Endangered Species Endangered Species Act of 1973, particularly section 7; 50 CFR Part 402	Yes No <input type="checkbox"/> <input type="checkbox"/>	
Explosive and Flammable Hazards 24 CFR Part 51 Subpart C	Yes No <input type="checkbox"/> <input type="checkbox"/>	

**NORTH DAKOTA DEPARTMENT OF COMMERCE
DIVISION OF COMMUNITY SERVICES**

Farmlands Protection Farmland Protection Policy Act of 1981, particularly sections 1504(b) and 1541; 7 CFR Part 658	Yes No <input type="checkbox"/> <input type="checkbox"/>	
Floodplain Management Executive Order 11988, particularly section 2(a); 24 CFR Part 55	Yes No <input type="checkbox"/> <input type="checkbox"/>	
Historic Preservation National Historic Preservation Act of 1966, particularly sections 106 and 110; 36 CFR Part 800	Yes No <input type="checkbox"/> <input type="checkbox"/>	
Noise Abatement and Control Noise Control Act of 1972, as amended by the Quiet Communities Act of 1978; 24 CFR Part 51 Subpart B	Yes No <input type="checkbox"/> <input type="checkbox"/>	
Sole Source Aquifers Safe Drinking Water Act of 1974, as amended, particularly section 1424(e); 40 CFR Part 149	Yes No <input type="checkbox"/> <input checked="" type="checkbox"/>	There are no Sole Source Aquifers recognized in the State of North Dakota therefore there will be no impacts to Sole Source Aquifers. Include map. https://epa.maps.arcgis.com/apps/webappviewer/index.html?id=9ebb047ba3ec41ada1877155fe31356b
Wetlands Protection Executive Order 11990, particularly sections 2 and 5	Yes No <input type="checkbox"/> <input type="checkbox"/>	
Wild and Scenic Rivers Wild and Scenic Rivers Act of 1968, particularly section 7(b) and (c)	Yes No <input type="checkbox"/> <input checked="" type="checkbox"/>	https://www.nps.gov/subjects/rivers/nri-map.htm https://www.rivers.gov/north-dakota.php
ENVIRONMENTAL JUSTICE		
Environmental Justice Executive Order 12898	Yes No <input type="checkbox"/> <input type="checkbox"/>	

Site Visit (Date and completed by): _____
Summary of Findings and Conclusions: _____

**NORTH DAKOTA DEPARTMENT OF COMMERCE
DIVISION OF COMMUNITY SERVICES**

Mitigation Measures and Conditions [40 CFR 1505.2(c)]

Summarize below all mitigation measures adopted by the Responsible Entity to reduce, avoid, or eliminate adverse environmental impacts and to avoid non-compliance or non-conformance with the above-listed authorities and factors. These measures/conditions must be incorporated into project contracts, development agreements, and other relevant documents. The staff responsible for implementing and monitoring mitigation measures should be clearly identified in the mitigation plan.

Law, Authority, or Factor	Mitigation Measure

Determination:

- This categorically excluded activity/project converts to Exempt, per 58.34(a)(12) because there are no circumstances which require compliance with any of the federal laws and authorities cited at §58.5. **Funds may be committed and drawn down after certification of this part** for this (now) EXEMPT project; OR
- This categorically excluded activity/project cannot convert to Exempt because there are circumstances which require compliance with one or more federal laws and authorities cited at §58.5 and this project remains CEST.
- This project is now subject to a full Environmental Assessment according to Part 58 Subpart E due to extraordinary circumstances (Section 58.35(c)).

PREPARER:

Preparer Signature _____

Date _____

Preparers Name _____

Preparers Title _____

AUTHORIZED RESPONSIBLE ENTITY OFFICIAL:

Authorized Responsible Entity Signature _____

Date _____

Authorized Responsible Entity Name (printed) _____

Title (printed) _____

**NORTH DAKOTA DEPARTMENT OF COMMERCE
DIVISION OF COMMUNITY SERVICES**

This original, signed document and related supporting material must be submitted to DCS for review. A copy of this form must be retained on file by the Responsible Entity in an Environmental Review Record (ERR) for the activity/project (ref: 24 CFR Part 58.38) and in accordance with recordkeeping requirements for the HUD program(s).

Attachment F

(GUIDE)

**Environmental Review for Activity/Project that is Categorically Excluded Subject to
Section 58.5**

**Environmental Review for Activity/Project that is Categorically Excluded Subject to
Section 58.5**

Pursuant to 24 CFR 58.35(a)

Project Name: _____ *(Main Street Road Improvement Program)*

Grant Recipient: _____ *(UGLG)*

Responsible Entity (if different than Grant Recipient): _____ *(Same as Above)*

State/Local Identifier: _____ *(North Dakota)*

Preparer: _____ *(Regional Council Name)*

Certifying Officer Name and Title: *(Municipal Govt. CO Name and Title)*

Consultant (if applicable): _____ *(Consultant Name)*

Direct Comments to: _____ *(UGLG)*

Project Location: *Provide a street address or intersection for your project. If the project affects a large area, such as an infrastructure or community services project, select a representative address and describe the project location in a narrative below. If the project location is sensitive, you may provide an alternative address, such as the address of your city hall or nonprofit in lieu of the exact location of the project.*

Project Description: (Include all actions which are either geographically or functionally related):
Provide a street address or intersection for your project. If the project affects a large area, such as an infrastructure or community services project, select a representative address and describe the project location in a narrative below. If the project location is sensitive, you may provide an alternative address, such as the address of your city hall or nonprofit in lieu of the exact location of the project.

**NORTH DAKOTA DEPARTMENT OF COMMERCE
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Funding Source: CDBG HOME ESG Other _____

Estimated HUD Funding Amount: _____ **Contract Number:** _____

Estimated Total Project Cost: _____ **Other funding Sources:** _____

Compliance with 24 CFR 50.4, 58.5, and 58.6 Laws and Authorities

Record below the compliance or conformance determinations for each statute, executive order, or regulation. Provide credible, traceable, and supportive source documentation for each authority. Where applicable, complete the necessary reviews or consultations and obtain or note applicable permits of approvals. Clearly note citations, dates/names/titles of contacts, and page references. Attach additional documentation as appropriate.

Compliance Factors: Statutes, Executive Orders, and Regulations listed at 24 CFR §58.5 and §58.6	Are formal compliance steps or mitigation required?	Compliance determinations
STATUTES, EXECUTIVE ORDERS, AND REGULATIONS LISTED AT 24 CFR 50.4 & 58.6		
Airport Hazards 24 CFR Part 51 Subpart D	Yes No <input type="checkbox"/> <input type="checkbox"/>	Complete the HUD Airport Hazard Compliance – Worksheet (Attachment S1) and provide summary here. Include all correspondence, documentation, and maps. https://www.hudexchange.info/programs/environmental-review/airport-hazards/
Coastal Barrier Resources Coastal Barrier Resources Act, as amended by the Coastal Barrier Improvement Act of 1990 [16 USC 3501]	Yes No <input type="checkbox"/> <input checked="" type="checkbox"/>	North Dakota has no Coastal Barriers therefore there is no impact to Coastal Barriers. (Include map) https://www.fws.gov/cbra/maps/Mapper.html
Flood Insurance Flood Disaster Protection Act of 1973 and National Flood Insurance Reform Act of 1994 [42 USC 4001-4128 and 42 USC 5154a]	Yes No <input type="checkbox"/> <input type="checkbox"/>	Complete the HUD Flood Insurance Compliance - Worksheet (Attachment S3) and provide summary here. Include all correspondence, documentation, and maps. https://www.hudexchange.info/programs/environmental-review/flood-insurance/
STATUTES, EXECUTIVE ORDERS, AND REGULATIONS LISTED AT 24 CFR 50.4 & 58.5		
Clean Air Clean Air Act, as amended, particularly section 176e & (d); 40 CFR Parts 6, 51, 93	Yes No <input type="checkbox"/> <input checked="" type="checkbox"/>	There are no non-attainment areas in North Dakota. (Include map) Nonattainment Areas for Criteria Pollutants (Green Book) US EPA
Coastal Zone Management Coastal Zone Management Act, sections 307e & (d)	Yes No <input type="checkbox"/> <input checked="" type="checkbox"/>	North Dakota has no Coastal Zones therefore there is no impact to Coastal Zones. (Include map) https://www.coast.noaa.gov/czm/mystate/

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DIVISION OF COMMUNITY SERVICES**

<p>Contamination and Toxic Substances 24 CFR Part 50.3(i) & 58.5(i)(2)</p>	<p>Yes No <input type="checkbox"/> <input type="checkbox"/></p>	<p>Complete the HUD Contamination and Toxic Substances Compliance - Worksheet (Attachment S6/S7) and provide summary here. Include all correspondence, documentation, and maps. https://www.hudexchange.info/environmental-review/site-contamination/</p>
<p>Endangered Species Endangered Species Act of 1973, particularly section 7; 50 CFR Part 402</p>	<p>Yes No <input type="checkbox"/> <input type="checkbox"/></p>	<p>Complete the HUD Endangered Species Compliance - Worksheet (Attachment S8) and provide summary here. Include all correspondence, documentation, and maps. https://www.hudexchange.info/environmental-review/endangered-species/</p>
<p>Explosive and Flammable Hazards 24 CFR Part 51 Subpart C</p>	<p>Yes No <input type="checkbox"/> <input type="checkbox"/></p>	<p>Complete the HUD Explosive and Flammable Hazards Compliance - Worksheet (Attachment S9) and provide summary here. Include all correspondence, documentation, and maps. https://www.hudexchange.info/environmental-review/explosive-and-flammable-facilities/</p>
<p>Farmlands Protection Farmland Protection Policy Act of 1981, particularly sections 1504(b) and 1541; 7 CFR Part 658</p>	<p>Yes No <input type="checkbox"/> <input type="checkbox"/></p>	<p>Complete the HUD Farmland Protection Compliance - Worksheet (Attachment S10) and provide summary here. Include all correspondence, documentation, and maps. https://www.hudexchange.info/environmental-review/farmlands-protection/</p>
<p>Floodplain Management Executive Order 11988, particularly section 2(a); 24 CFR Part 55</p>	<p>Yes No <input type="checkbox"/> <input type="checkbox"/></p>	<p>Complete the HUD Floodplain Management Compliance - Worksheet (Attachment S11) and provide summary here. Include all correspondence, documentation, and maps. https://www.hudexchange.info/environmental-review/floodplain-management/</p>
<p>Historic Preservation National Historic Preservation Act of 1966, particularly sections 106 and 110; 36 CFR Part 800</p>	<p>Yes No <input type="checkbox"/> <input type="checkbox"/></p>	<p>Complete the HUD Historic Preservation Compliance - Worksheet (Attachment S12) and provide summary here. Include all correspondence, documentation, and maps. https://www.hudexchange.info/environmental-review/historic-preservation/</p>
<p>Noise Abatement and Control Noise Control Act of 1972, as amended by the Quiet Communities Act of 1978; 24 CFR Part 51 Subpart B</p>	<p>Yes No <input type="checkbox"/> <input type="checkbox"/></p>	<p>Complete the HUD Noise Abatement and Control Compliance - Worksheet (CEST & EA) (Attachment S13/S14) and provide summary here. Include all correspondence, documentation, and maps. https://www.hudexchange.info/programs/environmental-review/noise-abatement-and-control/</p>
<p>Sole Source Aquifers Safe Drinking Water Act of 1974, as amended, particularly section 1424f; 40 CFR Part 149</p>	<p>Yes No <input type="checkbox"/> <input checked="" type="checkbox"/></p>	<p>There are no Sole Source Aquifers recognized in the State of North Dakota therefore there will be no impacts to Sole Source Aquifers. Include map. https://epa.maps.arcgis.com/apps/webappviewer/index.html?id=9ebb047ba3ec41ada1877155fe31356b</p>

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DIVISION OF COMMUNITY SERVICES**

<p>Wetlands Protection</p> <p>Executive Order 11990, particularly sections 2 and 5</p>	<p>Yes No</p> <p><input type="checkbox"/> <input type="checkbox"/></p>	<p>Complete the HUD <u>Wetlands Protection Compliance - Worksheet</u> (Attachment S16) and provide summary here. Include all correspondence, documentation, and maps.</p> <p>https://www.hudexchange.info/environmental-review/wetlands-protection/</p>
<p>Wild and Scenic Rivers</p> <p>Wild and Scenic Rivers Act of 1968, particularly section 7(b) and (c)</p>	<p>Yes No</p> <p><input type="checkbox"/> <input checked="" type="checkbox"/></p>	<p>Although there are no Wild and Scenic Rivers recognized in ND, there are NRI segments. Complete the HUD Wild and Scenic Rivers Compliance-Worksheet (Attachment S17) and provide summary here. Include all correspondence, documentation, and maps.</p> <p>https://www.nps.gov/subjects/rivers/nri-map.htm https://www.rivers.gov/north-dakota.php</p>
<p>ENVIRONMENTAL JUSTICE</p>		
<p>Environmental Justice</p> <p>Executive Order 12898</p>	<p>Yes No</p> <p><input type="checkbox"/> <input type="checkbox"/></p>	<p>Complete the HUD <u>Environmental Justice Compliance - Worksheet</u> (Attachment S18) and provide summary here. Include all correspondence, documentation, and maps.</p> <p>https://www.hudexchange.info/environmental-review/environmental-justice/</p>

Site Visit (Date and completed by): _____

Summary of Findings and Conclusions: _____

Mitigation Measures and Conditions [40 CFR 1505.2(c)]

Summarize below all mitigation measures adopted by the Responsible Entity to reduce, avoid, or eliminate adverse environmental impacts and to avoid non-compliance or non-conformance with the above-listed authorities and factors. These measures/conditions must be incorporated into project contracts, development agreements, and other relevant documents. The staff responsible for implementing and monitoring mitigation measures should be clearly identified in the mitigation plan.

Law, Authority, or Factor	Mitigation Measure

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Determination:

- This categorically excluded activity/project converts to Exempt, per 58.34(a)(12) because there are no circumstances which require compliance with any of the federal laws and authorities cited at §58.5. **Funds may be committed and drawn down after certification of this part** for this (now) EXEMPT project; OR

- This categorically excluded activity/project cannot convert to Exempt because there are circumstances which require compliance with one or more federal laws and authorities cited at §58.5. Complete consultation/mitigation protocol requirements, **publish NOI/RROF and obtain “Authority to Use Grant Funds”** (HUD 7015.16) per Section 58.70 and 58.71 before committing or drawing down any funds; OR

- This project is now subject to a full Environmental Assessment according to Part 58 Subpart E due to extraordinary circumstances (Section 58.35(c)).

PREPARER:

(Regional Council Representative)
Preparer Signature

Date

Preparers Name

Preparers Title

AUTHORIZED RESPONSIBLE ENTITY OFFICIAL:

(UGLG. Representative)
Authorized Responsible Entity Signature

Date

Authorized Responsible Entity Name (printed)

Title (printed)

This original, signed document and related supporting material must be submitted to DCS for review. A copy of this form must be retained on file by the Responsible Entity in an Environmental Review Record (ERR) for the activity/project (ref: 24 CFR Part 58.38) and in accordance with recordkeeping requirements for the HUD program(s).

Attachment G
Environmental Assessment

Environmental Assessment
Determinations and Compliance Findings for HUD-assisted Projects
24 CFR Part 58

Project Name: _____

Grant Recipient: _____

Responsible Entity (if different than Grant Recipient): _____

State/Local Identifier: _____

Preparer: _____

Certifying Officer Name and Title: _____

Consultant (if applicable): _____

Direct Comments to: _____

Project Location: _____

Project Description (Include all actions which are either geographically or functionally related):

Statement of Purpose and Need for the Proposal: _____

Existing Conditions and Trends: _____

NORTH DAKOTA DEPARTMENT OF COMMERCE
 DIVISION OF COMMUNITY SERVICES

Funding Source: CDBG HOME ESG Other _____

Estimated HUD Funding Amount: _____ Contract Number: _____

Estimated Total Project Cost: _____ Other funding Sources: _____

Compliance with 24 CFR 50.4, 58.5, and 58.6 Laws and Authorities

Record below the compliance or conformance determinations for each statute, executive order, or regulation. Provide credible, traceable, and supportive source documentation for each authority. Where applicable, complete the necessary reviews or consultations and obtain or note applicable permits of approvals. Clearly note citations, dates/names/titles of contacts, and page references. Attach additional documentation as appropriate.

Compliance Factors: Statutes, Executive Orders, and Regulations listed at 24 CFR §58.5 and §58.6	Are formal compliance steps or mitigation required?	Compliance determinations
STATUTES, EXECUTIVE ORDERS, AND REGULATIONS LISTED AT 24 CFR 50.4 & 58.6		
Airport Hazards 24 CFR Part 51 Subpart D	Yes No <input type="checkbox"/> <input type="checkbox"/>	
Coastal Barrier Resources Coastal Barrier Resources Act, as amended by the Coastal Barrier Improvement Act of 1990 [16 USC 3501]	Yes No <input type="checkbox"/> <input checked="" type="checkbox"/>	North Dakota has no Coastal Barriers therefore there is no impact to Coastal Barriers. <i>(Include map)</i> https://www.fws.gov/cbra/maps/Mapper.html
Flood Insurance Flood Disaster Protection Act of 1973 and National Flood Insurance Reform Act of 1994 [42 USC 4001- 4128 and 42 USC 5154a]	Yes No <input type="checkbox"/> <input type="checkbox"/>	
STATUTES, EXECUTIVE ORDERS, AND REGULATIONS LISTED AT 24 CFR 50.4 & 58.5		
Clean Air Clean Air Act, as amended, particu- larly section 176e & (d); 40 CFR Parts 6, 51, 93	Yes No <input type="checkbox"/> <input checked="" type="checkbox"/>	There are no non-attainment areas in North Dakota. <i>(Include map)</i> Nonattainment Areas for Criteria Pollutants (Green Book) US EPA
Coastal Zone Management Coastal Zone Management Act, sections 307e & (d)	Yes No <input type="checkbox"/> <input checked="" type="checkbox"/>	North Dakota has no Coastal Zones therefore there is no impact to Coastal Zones. <i>(Include map)</i> https://www.coast.noaa.gov/czm/mystate/
Contamination and Toxic Substances 24 CFR Part 50.3(i) & 58.5(i)(2)	Yes No <input type="checkbox"/> <input type="checkbox"/>	

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Endangered Species Endangered Species Act of 1973, particularly section 7; 50 CFR Part 402	Yes No <input type="checkbox"/> <input type="checkbox"/>	
Explosive and Flammable Hazards 24 CFR Part 51 Subpart C	Yes No <input type="checkbox"/> <input type="checkbox"/>	
Farmlands Protection Farmland Protection Policy Act of 1981, particularly sections 1504(b) and 1541; 7 CFR Part 658	Yes No <input type="checkbox"/> <input type="checkbox"/>	
Floodplain Management Executive Order 11988, particularly section 2(a); 24 CFR Part 55	Yes No <input type="checkbox"/> <input type="checkbox"/>	
Historic Preservation National Historic Preservation Act of 1966, particularly sections 106 and 110; 36 CFR Part 800	Yes No <input type="checkbox"/> <input type="checkbox"/>	
Noise Abatement and Control Noise Control Act of 1972, as amended by the Quiet Communities Act of 1978; 24 CFR Part 51 Subpart B	Yes No <input type="checkbox"/> <input type="checkbox"/>	
Sole Source Aquifers Safe Drinking Water Act of 1974, as amended, particularly section 1424c; 40 CFR Part 149	Yes No <input type="checkbox"/> <input checked="" type="checkbox"/>	There are no Sole Source Aquifers recognized in the State of North Dakota therefore there will be no impacts to Sole Source Aquifers. Include map. https://epa.maps.arcgis.com/apps/webappviewer/index.html?id=9ebb047ba3ec41ada1877155fe31356b
Wetlands Protection Executive Order 11990, particularly sections 2 and 5	Yes No <input type="checkbox"/> <input type="checkbox"/>	
Wild and Scenic Rivers Wild and Scenic Rivers Act of 1968, particularly section 7(b) and (c)	Yes No <input type="checkbox"/> <input checked="" type="checkbox"/>	https://www.nps.gov/subjects/rivers/nri-map.htm https://www.rivers.gov/north-dakota.php
ENVIRONMENTAL JUSTICE		
Environmental Justice Executive Order 12898	Yes No <input type="checkbox"/> <input type="checkbox"/>	

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Environmental Assessment Factors [24 CFR 58.40; Ref. 40 CFR 1508.8 &1508.27] Recorded below is the qualitative and quantitative significance of the effects of the proposal on the character, features and resources of the project area. Each factor has been evaluated and documented, as appropriate and in proportion to its relevance to the proposed action. Verifiable source documentation has been provided and described in support of each determination, as appropriate. Credible, traceable and supportive source documentation for each authority has been provided. Where applicable, the necessary reviews or consultations have been completed and applicable permits of approvals have been obtained or noted. Citations, dates/names/titles of contacts, and page references are clear. Additional documentation is attached, as appropriate. **All conditions, attenuation or mitigation measures have been clearly identified.**

Impact Codes: Use an impact code from the following list to make the determination of impact for each factor.

- (1) Minor beneficial impact
- (2) No impact anticipated
- (3) Minor Adverse Impact – May require mitigation
- (4) Significant or potentially significant impact requiring avoidance or modification which may require an Environmental Impact Statement

Environmental Assessment Factor	Impact Code	Impact Evaluation
LAND DEVELOPMENT		
Conformance with Plans / Compatible Land Use and Zoning / Scale and Urban Design		
Soil Suitability/ Slope/ Erosion/ Drainage/ Storm Water Runoff		
Hazards and Nuisances including Site Safety and Noise		
Energy Consumption		

Environmental Assessment Factor	Impact Code	Impact Evaluation
SOCIOECONOMIC		
Employment and Income Patterns		
Demographic Character Changes, Displacement		

Environmental Assessment Factor	Impact Code	Impact Evaluation
COMMUNITY FACILITIES AND SERVICES		
Educational and Cultural Facilities		
Commercial Facilities		

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Health Care and Social Services		
Solid Waste Disposal / Recycling		
Waste Water / Sanitary Sewers		
Water Supply		
Public Safety - Police, Fire and Emergency Medical		
Parks, Open Space and Recreation		
Transportation and Accessibility		

Environmental Assessment Factor	Impact Code	Impact Evaluation
NATURAL FEATURES		
Unique Natural Features, Water Resources		
Vegetation, Wildlife		
Other Factors		

Additional Studies Performed: _____

Site Visit (Date and completed by): _____

List of Sources, Agencies and Persons Consulted [40 CFR 1508.9(b)]: _____

List of Permits Obtained: _____

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DIVISION OF COMMUNITY SERVICES**

Public Outreach [24 CFR 50.23 & 58.43]: _____

Cumulative Impact Analysis [24 CFR 58.32]: _____

Alternatives [24 CFR 58.40(e); 40 CFR 1508.9] _____

No Action Alternative [24 CFR 58.40(e)]: _____

Summary of Findings and Conclusions: _____

Mitigation Measures and Conditions [40 CFR 1505.2(c)]

Summarize below all mitigation measures adopted by the Responsible Entity to reduce, avoid, or eliminate adverse environmental impacts and to avoid non-compliance or non-conformance with the above-listed authorities and factors. These measures/conditions must be incorporated into project contracts, development agreements, and other relevant documents. The staff responsible for implementing and monitoring mitigation measures should be clearly identified in the mitigation plan.

Law, Authority, or Factor	Mitigation Measure

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Determination:

- Finding of No Significant Impact** [24 CFR 58.40(g)(1); 40 CFR 1508.27]
The project will not result in a significant impact on the quality of the human environment.

- Finding of Significant Impact** [24 CFR 58.40(g)(2); 40 CFR 1508.27]
The project may significantly affect the quality of the human environment.

PREPARER:

Preparer Signature _____ Date _____

Preparer Name _____ Preparers Title _____

AUTHORIZED RESPONSIBLE ENTITY OFFICIAL:

Authorized Responsible Entity Signature _____ Date _____

Authorized Responsible Entity Name (printed) _____ Title (printed) _____

This original, signed document and related supporting material must be submitted to DCS for review. A copy of this form must be retained on file by the Responsible Entity in an Environmental Review Record (ERR) for the activity/project (ref: 24 CFR Part 58.38) and in accordance with recordkeeping requirements for the HUD program(s).

Attachment H
(GUIDE)
Environmental Assessment

**Environmental Assessment
Determinations and Compliance Findings for HUD-assisted Projects
24 CFR Part 58**

Project Name: _____

Grant Recipient: _____ (UGLG)

Responsible Entity (if different than Grant Recipient): _____ (Same as Above)

Project Location: *Provide a street address or intersection for your project. If the project affects a large area, such as an infrastructure or community services project, select a representative address and describe the project location in a narrative below. If the project location is sensitive, you may provide an alternative address, such as the address of your city hall or nonprofit in lieu of the exact location of the project.*

Project Description: (Include all actions which are either geographically or functionally related):
Provide a street address or intersection for your project. If the project affects a large area, such as an infrastructure or community services project, select a representative address and describe the project location below. If the project location is sensitive, you may provide an alternative address, such as the address of your city hall or nonprofit in lieu of the exact location of the project.

Statement of Purpose and Need for the Proposal:
The underlying purpose and need to which the agency is responding in proposing the action and its alternatives. Describe how the proposed action is intended to address housing and/or community development needs.

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DIVISION OF COMMUNITY SERVICES**

Existing Conditions and Trends: *Determine existing conditions and describe the character, features, and resources of the project area and its surroundings; identify the trends that are likely to continue in the absence of the project.*

Does this project involve over 200 lots, dwelling units, or beds?

Yes No

Funding Source: CDBG HOME ESG Other _____

Estimated HUD Funding Amount: _____ **Instrument Number:** _____

Estimated Total Project Cost: _____ **Other funding Sources:** _____

Compliance with 24 CFR 50.4, 58.5, and 58.6 Laws and Authorities

Record below the compliance or conformance determinations for each statute, executive order, or regulation. Provide credible, traceable, and supportive source documentation for each authority. Where applicable, complete the necessary reviews or consultations and obtain or note applicable permits of approvals. Clearly note citations, dates/names/titles of contacts, and page references. Attach additional documentation as appropriate.

Compliance Factors: Statutes, Executive Orders, and Regulations listed at 24 CFR §58.5 and §58.6	Are formal compliance steps or mitigation required?	Compliance determinations
STATUTES, EXECUTIVE ORDERS, AND REGULATIONS LISTED AT 24 CFR 50.4 & 58.6		
Airport Hazards 24 CFR Part 51 Subpart D	Yes No <input type="checkbox"/> <input type="checkbox"/>	Complete the HUD Airport Hazard Compliance – Worksheet (Attachment S1) and provide summary here. Include all correspondence, documentation, and maps. https://www.hudexchange.info/programs/environmental-review/airport-hazards/
Coastal Barrier Resources Coastal Barrier Resources Act, as amended by the Coastal Barrier Improvement Act of 1990 [16 USC 3501]	Yes No <input type="checkbox"/> <input checked="" type="checkbox"/>	North Dakota has no Coastal Barriers therefore there is no impact to Coastal Barriers. (Include map) https://www.fws.gov/cbra/maps/Mapper.html
Flood Insurance Flood Disaster Protection Act of 1973 and National Flood Insurance Reform Act of 1994 [42 USC 4001-4128 and 42 USC 5154a]	Yes No <input type="checkbox"/> <input type="checkbox"/>	Complete the HUD Flood Insurance Compliance – Worksheet (Attachment S3) and provide summary here. Include all correspondence, documentation, and maps. https://www.hudexchange.info/programs/environmental-review/flood-insurance/

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STATUTES, EXECUTIVE ORDERS, AND REGULATIONS LISTED AT 24 CFR 50.4 & 58.5		
Clean Air Clean Air Act, as amended, particularly section 176€ & (d); 40 CFR Parts 6, 51, 93	Yes No <input type="checkbox"/> <input checked="" type="checkbox"/>	There are no non-attainment areas in North Dakota. <i>(Include map)</i> Nonattainment Areas for Criteria Pollutants (Green Book) US EPA
Coastal Zone Management Coastal Zone Management Act, sections 307€ & (d)	Yes No <input type="checkbox"/> <input checked="" type="checkbox"/>	North Dakota has no Coastal Zones therefore there is no impact to Coastal Zones. <i>(Include map)</i> https://www.coast.noaa.gov/czm/mystate/
Contamination and Toxic Substances 24 CFR Part 50.3(i) & 58.5(i)(2)	Yes No <input type="checkbox"/> <input type="checkbox"/>	Complete the HUD Contamination and Toxic Substances Compliance - Worksheet (Attachment S6/S7) and provide summary here. Include all correspondence, documentation, and maps. https://www.hudexchange.info/environmental-review/site-contamination/
Endangered Species Endangered Species Act of 1973, particularly section 7; 50 CFR Part 402	Yes No <input type="checkbox"/> <input type="checkbox"/>	Complete the HUD Endangered Species Compliance - Worksheet (Attachment S8) and provide summary here. Include all correspondence, documentation, and maps. https://www.hudexchange.info/environmental-review/endangered-species/
Explosive and Flammable Hazards 24 CFR Part 51 Subpart C	Yes No <input type="checkbox"/> <input type="checkbox"/>	Complete the HUD Explosive and Flammable Hazards Compliance - Worksheet (Attachment S9) and provide summary here. Include all correspondence, documentation, and maps. https://www.hudexchange.info/environmental-review/explosive-and-flammable-facilities/
Farmlands Protection Farmland Protection Policy Act of 1981, particularly sections 1504(b) and 1541; 7 CFR Part 658	Yes No <input type="checkbox"/> <input type="checkbox"/>	Complete the HUD Farmland Protection Compliance - Worksheet (Attachment S10) and provide summary here. Include all correspondence, documentation, and maps. https://www.hudexchange.info/environmental-review/farmlands-protection/
Floodplain Management Executive Order 11988, particularly section 2(a); 24 CFR Part 55	Yes No <input type="checkbox"/> <input type="checkbox"/>	Complete the HUD Floodplain Management Compliance - Worksheet (Attachment S11) and provide summary here. Include all correspondence, documentation, and maps. https://www.hudexchange.info/environmental-review/floodplain-management/
Historic Preservation National Historic Preservation Act of 1966, particularly sections 106 and 110; 36 CFR Part 800	Yes No <input type="checkbox"/> <input type="checkbox"/>	Complete the HUD Historic Preservation Compliance - Worksheet (Attachment S12) and provide summary here. Include all correspondence, documentation, and maps. https://www.hudexchange.info/environmental-review/historic-preservation/
Noise Abatement and Control Noise Control Act of 1972, as amended by the Quiet Communities Act of 1978; 24 CFR Part 51 Subpart B	Yes No <input type="checkbox"/> <input type="checkbox"/>	Complete the HUD Noise Abatement and Control Compliance - Worksheet (CEST & EA) (Attachment S13/S14) and provide summary here. Include all correspondence, documentation, and maps. https://www.hudexchange.info/programs/environmental-review/noise-abatement-and-control/

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<p>Sole Source Aquifers Safe Drinking Water Act of 1974, as amended, particularly section 1424€; 40 CFR Part 149</p>	<p>Yes No <input type="checkbox"/> <input checked="" type="checkbox"/></p>	<p>There are no Sole Source Aquifers recognized in the State of North Dakota therefore there will be no impacts to Sole Source Aquifers. Include map. https://epa.maps.arcgis.com/apps/webappviewer/index.html?id=9ebb047ba3ec41ada1877155fe31356b</p>
<p>Wetlands Protection Executive Order 11990, particularly sections 2 and 5</p>	<p>Yes No <input type="checkbox"/> <input type="checkbox"/></p>	<p>Complete the HUD Wetlands Protection Compliance - Worksheet (Attachment S16) and provide summary here. Include all correspondence, documentation, and maps. https://www.hudexchange.info/environmental-review/wetlands-protection/</p>
<p>Wild and Scenic Rivers Wild and Scenic Rivers Act of 1968, particularly section 7(b) and (c)</p>	<p>Yes No <input type="checkbox"/> <input checked="" type="checkbox"/></p>	<p>Although there are no Wild and Scenic Rivers recognized in ND, there are NRI segments. Complete the HUD Wild and Scenic Rivers Compliance-Worksheet (Attachment S17) and provide summary here. Include all correspondence, documentation, and maps. https://www.nps.gov/subjects/rivers/nri-map.htm https://www.rivers.gov/north-dakota.php</p>
ENVIRONMENTAL JUSTICE		
<p>Environmental Justice Executive Order 12898</p>	<p>Yes No <input type="checkbox"/> <input type="checkbox"/></p>	<p>Complete the HUD Environmental Justice Compliance - Worksheet (Attachment S18) and provide summary here. Include all correspondence, documentation, and maps. https://www.hudexchange.info/environmental-review/environmental-justice/</p>

Environmental Assessment Factors [24 CFR 58.40; Ref. 40 CFR 1508.8 &1508.27] Recorded below is the qualitative and quantitative significance of the effects of the proposal on the character, features and resources of the project area. Each factor has been evaluated and documented, as appropriate and in proportion to its relevance to the proposed action. Verifiable source documentation has been provided and described in support of each determination, as appropriate. Credible, traceable and supportive source documentation for each authority has been provided. Where applicable, the necessary reviews or consultations have been completed and applicable permits of approvals have been obtained or noted. Citations, dates/names/titles of contacts, and page references are clear. Additional documentation is attached, as appropriate. **All conditions, attenuation or mitigation measures have been clearly identified.**

Impact Codes: Use an impact code from the following list to make the determination of impact for each factor.

- (1) Minor beneficial impact
- (2) No impact anticipated
- (3) Minor Adverse Impact – May require mitigation
- (4) Significant or potentially significant impact requiring avoidance or modification which may require an Environmental Impact Statement

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Environmental Assessment Factor	Impact Code	Impact Evaluation
LAND DEVELOPMENT		
Conformance with Plans / Compatible Land Use and Zoning / Scale and Urban Design		<i>Is the project in conformance with established local government Comprehensive planning and zoning practices?</i> <i>Is the project compatible with the surrounding area?</i>
Soil Suitability/ Slope/ Erosion/ Drainage/ Storm Water Runoff		<i>Is there evidence of erosion, subsidence, unstable slope conditions?</i> <i>Is there evidence of fill on the site?</i>
Hazards and Nuisances including Site Safety and Noise		<i>Note any hazards or safety concerns regarding orientation of the site, location of the site, geography of the site, materials on the site, proximity to hazards or incompatible uses, general site concerns.</i>
Energy Consumption		<i>Does the project/site have adequate access to utilities or on-site energy services?</i> <i>Will the project adversely impact utilities in the area?</i>

Environmental Assessment Factor	Impact Code	Impact Evaluation
SOCIOECONOMIC		
Employment and Income Patterns		<i>Will the project adversely impact employment and income patterns?</i>
Demographic Character Changes, Displacement		<i>Will the project adversely impact demographic character in the area?</i>

Environmental Assessment Factor	Impact Code	Impact Evaluation
COMMUNITY FACILITIES AND SERVICES		
Educational and Cultural Facilities		<i>Are adequate educational and cultural facilities available to the project's users?</i> <i>Will the project adversely impact available education or cultural service providers in the area?</i>
Commercial Facilities		<i>Are there adequate commercial facilities to serve the needs of the project's users?</i>
Health Care and Social Services		<i>Are adequate general health care services available to the project?</i> <i>Will the project adversely impact available general health care service providers in the area?</i>
Solid Waste Disposal / Recycling		<i>Is adequate solid waste service available to the project?</i> <i>Will the project adversely impact available solid waste service providers in the area?</i>
Waste Water / Sanitary Sewers		<i>Is adequate sanitary sewer service available to the project?</i> <i>Will the project adversely impact available sanitary sewer service providers in the area?</i>

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Water Supply		<p><i>Is adequate potable and irrigation water service available to the project?</i></p> <p><i>Will the project adversely impact available water service providers in the area?</i></p>
Public Safety - Police, Fire and Emergency Medical		<p><i>Are adequate police and fire protection services available to the project?</i></p> <p><i>Will the project adversely impact available police protection and fire service providers in the area?</i></p> <p><i>Are adequate emergency medical services available to the project?</i></p> <p><i>Will the project adversely impact available emergency medical service providers in the area?</i></p>
Parks, Open Space and Recreation		<p><i>Is adequate open space available to the project's users?</i></p> <p><i>Will the project adversely affect open space in the area?</i></p>
Transportation and Accessibility		<p><i>Is the project accessible to employment, services, recreation and employment?</i></p> <p><i>Is there adequate transportation access for the project?</i></p> <p><i>Will the project adversely affect transportation infrastructure in the area?</i></p>

Environmental Assessment Factor	Impact Code	Impact Evaluation
NATURAL FEATURES		
Unique Natural Features, Water Resources		<p><i>Is the project compatible with unique natural features in the area?</i></p> <p><i>Will the project adversely impact water resources or surface water in the area?</i></p>
Vegetation, Wildlife		<p><i>Is the project near wildlife or wildlife habitat?</i></p> <p><i>Will the project adversely impact wildlife or wildlife habitat in the area?</i></p>
Other Factors		

Additional Studies Performed: _____

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Field Inspection (Date and completed by): _____

List of Sources, Agencies and Persons Consulted [40 CFR 1508.9(b)]: _____

List of Permits Obtained: _____

Public Outreach [24 CFR 50.23 & 58.43]: _____

(Include and public notifications including floodplain notifications)

Cumulative Impact Analysis [24 CFR 58.32]: _____

when this is being used for Tier II site specific reviews)

Alternatives [24 CFR 58.40(e); 40 CFR 1508.9] _____

No Action Alternative [24 CFR 58.40(e)]: _____

Summary of Findings and Conclusions: _____

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Mitigation Measures and Conditions [40 CFR 1505.2(c)]

Summarize below all mitigation measures adopted by the Responsible Entity to reduce, avoid, or eliminate adverse environmental impacts and to avoid non-compliance or non-conformance with the above-listed authorities and factors. These measures/conditions must be incorporated into project contracts, development agreements, and other relevant documents. The staff responsible for implementing and monitoring mitigation measures should be clearly identified in the mitigation plan.

Law, Authority, or Factor	Mitigation Measure

Determination:

- Finding of No Significant Impact** [24 CFR 58.40(g)(1); 40 CFR 1508.27]
The project will not result in a significant impact on the quality of the human environment.

- Finding of Significant Impact** [24 CFR 58.40(g)(2); 40 CFR 1508.27]
The project may significantly affect the quality of the human environment.

PREPARER:

(Regional Council Representative)
Preparer Signature

Date

Preparer Name

Preparer Title

AUTHORIZED RESPONSIBLE ENTITY OFFICIAL:

UGLG Representative
Authorized Responsible Entity Signature

Date

Authorized Responsible Entity Name (printed)

Title (printed)

Attachment I

Broad Level Tiered Environmental Review for Environmental Assessment

**Broad Level Tiered Environmental Assessment
Determinations and Compliance Findings for HUD-assisted Projects
24 CFR Part 58**

Project Name: _____

Grant Recipient: _____

Responsible Entity (if different from Grant Recipient): _____

Location: _____

State/Local Identifier: _____

Preparer: _____

Certifying Officer Name and Title: _____

Consultant (if applicable): _____

Direct Comments to: _____

Project Location: _____

Project Description (Include all actions which are either geographically or functionally related):

Statement of Purpose and Need for the Proposal: _____

Existing Conditions and Trends: _____

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Approximate size of the project area: _____

Length of time covered by this review: _____

Maximum number of dwelling units or lots addressed by this tiered review: _____

Funding Source: CDBG HOME ESG Other _____

Estimated HUD Funding Amount: _____ **Contract Number:** _____

Estimated Total Project Cost: _____ **Other funding Sources:** _____

Compliance with 24 CFR 50.4, 58.5, and 58.6 Laws and Authorities

Record below the compliance or conformance determinations for each statute, executive order, or regulation. Provide credible, traceable, and supportive source documentation for each authority. Where applicable, complete the necessary reviews or consultations and obtain or note applicable permits of approvals. Clearly note citations, dates/names/titles of contacts, and page references. Attach additional documentation as appropriate.

Compliance Factors: Statutes, Executive Orders, and Regulations listed at 24 CFR §58.5 and §58.6	Are formal compliance steps or mitigation required?	Compliance determinations
STATUTES, EXECUTIVE ORDERS, AND REGULATIONS LISTED AT 24 CFR 50.4 & 58.6		
Airport Hazards 24 CFR Part 51 Subpart D	Yes No <input type="checkbox"/> <input type="checkbox"/>	
Coastal Barrier Resources Coastal Barrier Resources Act, as amended by the Coastal Barrier Improvement Act of 1990 [16 USC 3501]	Yes No <input type="checkbox"/> <input checked="" type="checkbox"/>	North Dakota has no Coastal Barriers therefore there is no impact to Coastal Barriers. <i>(Include map)</i> https://www.fws.gov/cbra/maps/Mapper.html
Flood Insurance Flood Disaster Protection Act of 1973 and National Flood Insurance Reform Act of 1994 [42 USC 4001-4128 and 42 USC 5154a]	Yes No <input type="checkbox"/> <input type="checkbox"/>	
STATUTES, EXECUTIVE ORDERS, AND REGULATIONS LISTED AT 24 CFR 50.4 & 58.5		
Clean Air Clean Air Act, as amended, particularly section 176e & (d); 40 CFR Parts 6, 51, 93	Yes No <input type="checkbox"/> <input checked="" type="checkbox"/>	There are no non-attainment areas in North Dakota. <i>(Include map)</i> Nonattainment Areas for Criteria Pollutants (Green Book) US EPA

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<p>Coastal Zone Management Coastal Zone Management Act, sections 307e & (d)</p>	<p>Yes No <input type="checkbox"/> <input checked="" type="checkbox"/></p>	<p>North Dakota has no Coastal Zones therefore there is no impact to Coastal Zones. <i>(Include map)</i> https://www.coast.noaa.gov/czm/mystate/</p>
<p>Contamination and Toxic Substances 24 CFR Part 50.3(i) & 58.5(i)(2)</p>	<p>Yes No <input type="checkbox"/> <input type="checkbox"/></p>	
<p>Endangered Species Endangered Species Act of 1973, particularly section 7; 50 CFR Part 402</p>	<p>Yes No <input type="checkbox"/> <input type="checkbox"/></p>	
<p>Explosive and Flammable Hazards 24 CFR Part 51 Subpart C</p>	<p>Yes No <input type="checkbox"/> <input type="checkbox"/></p>	
<p>Farmlands Protection Farmland Protection Policy Act of 1981, particularly sections 1504(b) and 1541; 7 CFR Part 658</p>	<p>Yes No <input type="checkbox"/> <input type="checkbox"/></p>	
<p>Floodplain Management Executive Order 11988, particularly section 2(a); 24 CFR Part 55</p>	<p>Yes No <input type="checkbox"/> <input type="checkbox"/></p>	
<p>Historic Preservation National Historic Preservation Act of 1966, particularly sections 106 and 110; 36 CFR Part 800</p>	<p>Yes No <input type="checkbox"/> <input type="checkbox"/></p>	
<p>Noise Abatement and Control Noise Control Act of 1972, as amended by the Quiet Communities Act of 1978; 24 CFR Part 51 Subpart B</p>	<p>Yes No <input type="checkbox"/> <input type="checkbox"/></p>	
<p>Sole Source Aquifers Safe Drinking Water Act of 1974, as amended, particularly section 1424e; 40 CFR Part 149</p>	<p>Yes No <input type="checkbox"/> <input checked="" type="checkbox"/></p>	<p>There are no Sole Source Aquifers recognized in the State of North Dakota therefore there will be no impacts to Sole Source Aquifers. Include map. https://epa.maps.arcgis.com/apps/webappviewer/index.html?id=9ebb047ba3ec41ada1877155fe31356b</p>
<p>Wetlands Protection Executive Order 11990, particularly sections 2 and 5</p>	<p>Yes No <input type="checkbox"/> <input type="checkbox"/></p>	
<p>Wild and Scenic Rivers Wild and Scenic Rivers Act of 1968, particularly section 7(b) and (c)</p>	<p>Yes No <input type="checkbox"/> <input checked="" type="checkbox"/></p>	<p>https://www.nps.gov/subjects/rivers/nri-map.htm https://www.rivers.gov/north-dakota.php</p>
<p>ENVIRONMENTAL JUSTICE</p>		
<p>Environmental Justice Executive Order 12898</p>	<p>Yes No <input type="checkbox"/> <input type="checkbox"/></p>	

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Environmental Assessment Factors [24 CFR 58.40; Ref. 40 CFR 1508.8 &1508.27] Recorded below is the qualitative and quantitative significance of the effects of the proposal on the character, features and resources of the project area. Each factor has been evaluated and documented, as appropriate and in proportion to its relevance to the proposed action. Verifiable source documentation has been provided and described in support of each determination, as appropriate. Credible, traceable and supportive source documentation for each authority has been provided. Where applicable, the necessary reviews or consultations have been completed and applicable permits of approvals have been obtained or noted. Citations, dates/names/titles of contacts, and page references are clear. Additional documentation is attached, as appropriate. **All conditions, attenuation or mitigation measures have been clearly identified.**

Impact Codes: Use an impact code from the following list to make the determination of impact for each factor.

- (1) Minor beneficial impact
- (2) No impact anticipated
- (3) Minor Adverse Impact – May require mitigation
- (4) Significant or potentially significant impact requiring avoidance or modification which may require an Environmental Impact Statement

Environmental Assessment Factor	Impact Code	Impact Evaluation
LAND DEVELOPMENT		
Conformance with Plans / Compatible Land Use and Zoning / Scale and Urban Design		
Soil Suitability/ Slope/ Erosion/ Drainage/ Storm Water Runoff		
Hazards and Nuisances including Site Safety and Noise		
Energy Consumption		

Environmental Assessment Factor	Impact Code	Impact Evaluation
SOCIOECONOMIC		
Employment and Income Patterns		
Demographic Character Changes, Displacement		

Environmental Assessment Factor	Impact Code	Impact Evaluation
COMMUNITY FACILITIES AND SERVICES		
Educational and Cultural Facilities		

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Commercial Facilities		
Health Care and Social Services		
Solid Waste Disposal / Recycling		
Waste Water / Sanitary Sewers		
Water Supply		
Public Safety - Police, Fire and Emergency Medical		
Parks, Open Space and Recreation		
Transportation and Accessibility		

Environmental Assessment Factor	Impact Code	Impact Evaluation
NATURAL FEATURES		
Unique Natural Features, Water Resources		
Vegetation, Wildlife		
Other Factors		

Additional Studies Performed: _____

Field Inspection (Date and completed by): _____

List of Sources, Agencies and Persons Consulted [40 CFR 1508.9(b)]: _____

List of Permits Obtained: _____

**NORTH DAKOTA DEPARTMENT OF COMMERCE
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Public Outreach [24 CFR 50.23 & 58.43]: _____

Cumulative Impact Analysis [24 CFR 58.32]: _____

Alternatives [24 CFR 58.40(e); 40 CFR 1508.9] _____

No Action Alternative [24 CFR 58.40(e)]: _____

Summary of Findings and Conclusions: _____

Mitigation Measures and Conditions [40 CFR 1505.2(c)]

Summarize below all mitigation measures adopted by the Responsible Entity to reduce, avoid, or eliminate adverse environmental impacts and to avoid non-compliance or non-conformance with the above-listed authorities and factors. These measures/conditions must be incorporated into project contracts, development agreements, and other relevant documents. The staff responsible for implementing and monitoring mitigation measures should be clearly identified in the mitigation plan.

Law, Authority, or Factor	Mitigation Measure

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Determination:

- Finding of No Significant Impact** [24 CFR 58.40(g)(1); 40 CFR 1508.27]
The project will not result in a significant impact on the quality of the human environment.

- Finding of Significant Impact** [24 CFR 58.40(g)(2); 40 CFR 1508.27]
The project may significantly affect the quality of the human environment.

PREPARER:

Preparer Signature

Date

Preparer Name

Preparer Title

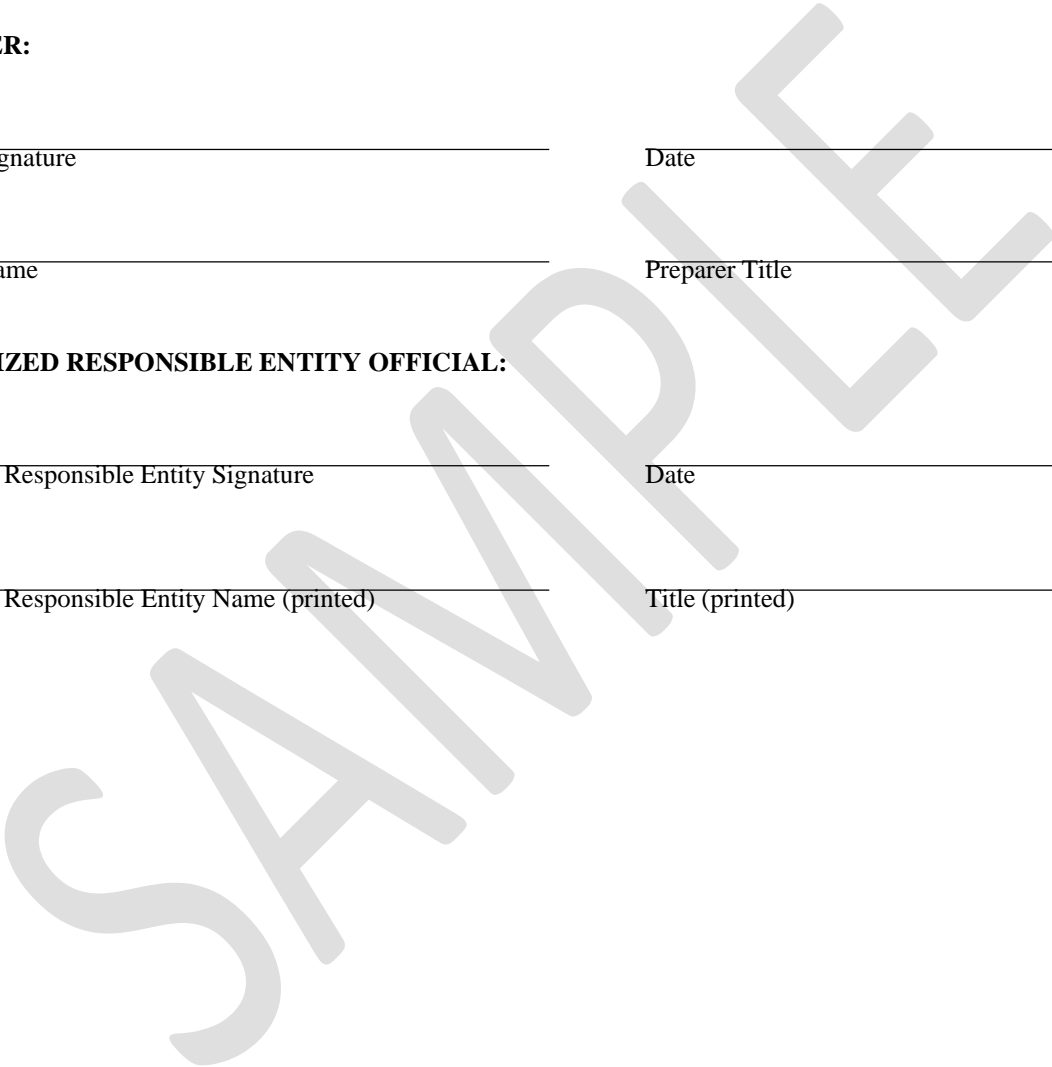
AUTHORIZED RESPONSIBLE ENTITY OFFICIAL:

Authorized Responsible Entity Signature

Date

Authorized Responsible Entity Name (printed)

Title (printed)



Attachment J

Tier II Site Specific Environmental Review CEST and Assessed
(assume Tier I has been completed)

Tier II - Environmental Review
Determinations and Compliance Findings for HUD-assisted Projects
24 CFR Part 58

Project Name: _____

Grant Recipient: _____

Responsible Entity (if different than Grant Recipient): _____

Project Location:

Compliance with 24 CFR 50.4, 58.5, and 58.6 Laws and Authorities

Record below the compliance or conformance determinations for each statute, executive order, or regulation. Provide credible, traceable, and supportive source documentation for each authority. Where applicable, complete the necessary reviews or consultations and obtain or note applicable permits of approvals. Clearly note citations, dates/names/titles of contacts, and page references. Attach additional documentation as appropriate.

Compliance Factors: Statutes, Executive Orders, and Regulations listed at 24 CFR §58.5 and §58.6	Are formal compliance steps or mitigation required?	Compliance determinations
STATUTES, EXECUTIVE ORDERS, AND REGULATIONS LISTED AT 24 CFR 50.4 and 58.6		
Airport Hazards 24 CFR Part 51 Subpart D	Yes No <input type="checkbox"/> <input type="checkbox"/>	
Coastal Barrier Resources Coastal Barrier Resources Act, as amended by the Coastal Barrier Improvement Act of 1990 [16 USC 3501]	Yes No <input type="checkbox"/> <input checked="" type="checkbox"/>	North Dakota has no Coastal Barriers therefore there is no impact to Coastal Barriers. <i>(Include map)</i> https://www.fws.gov/cbra/maps/Mapper.html
Flood Insurance Flood Disaster Protection Act of 1973 and National Flood Insurance Reform Act of 1994 [42 USC 4001-4128 and 42 USC 5154a]	Yes No <input type="checkbox"/> <input type="checkbox"/>	

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STATUTES, EXECUTIVE ORDERS, AND REGULATIONS LISTED AT 24 CFR 50.4 & 58.5		
Clean Air Clean Air Act, as amended, particularly section 176(c) & (d); 40 CFR Parts 6, 51, 93	Yes No <input type="checkbox"/> <input checked="" type="checkbox"/>	There are no non-attainment areas in North Dakota. <i>(Include map)</i> Nonattainment Areas for Criteria Pollutants (Green Book) US EPA
Coastal Zone Management Coastal Zone Management Act, sections 307(c) & (d)	Yes No <input type="checkbox"/> <input checked="" type="checkbox"/>	North Dakota has no Coastal Zones therefore there is no impact to Coastal Zones. <i>(Include map)</i> https://www.coast.noaa.gov/czm/mystate/
Contamination and Toxic Substances 24 CFR Part 50.3(i) & 58.5(i)(2)	Yes No <input type="checkbox"/> <input type="checkbox"/>	
Endangered Species Endangered Species Act of 1973, particularly section 7; 50 CFR Part 402	Yes No <input type="checkbox"/> <input type="checkbox"/>	
Explosive and Flammable Hazards 24 CFR Part 51 Subpart C	Yes No <input type="checkbox"/> <input type="checkbox"/>	
Farmlands Protection Farmland Protection Policy Act of 1981, particularly sections 1504(b) and 1541; 7 CFR Part 658	Yes No <input type="checkbox"/> <input type="checkbox"/>	
Floodplain Management Executive Order 11988, particularly section 2(a); 24 CFR Part 55	Yes No <input type="checkbox"/> <input type="checkbox"/>	
Historic Preservation National Historic Preservation Act of 1966, particularly sections 106 and 110; 36 CFR Part 800	Yes No <input type="checkbox"/> <input type="checkbox"/>	
Noise Abatement and Control Noise Control Act of 1972, as amended by the Quiet Communities Act of 1978; 24 CFR Part 51 Subpart B	Yes No <input type="checkbox"/> <input type="checkbox"/>	
Sole Source Aquifers Safe Drinking Water Act of 1974, as amended, particularly section 1424(e); 40 CFR Part 149	Yes No <input type="checkbox"/> <input checked="" type="checkbox"/>	There are no Sole Source Aquifers recognized in the State of North Dakota therefore there will be no impacts to Sole Source Aquifers. Include map. https://epa.maps.arcgis.com/apps/webappviewer/index.html?id=9ebb047ba3ec41ada1877155fe31356b
Wetlands Protection Executive Order 11990, particularly sections 2 and 5	Yes No <input type="checkbox"/> <input type="checkbox"/>	

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<p>Wild and Scenic Rivers Wild and Scenic Rivers Act of 1968, particularly section 7(b) and (c)</p>	<p>Yes No <input type="checkbox"/> <input checked="" type="checkbox"/></p>	<p>https://www.nps.gov/subjects/rivers/nri-map.htm https://www.rivers.gov/north-dakota.php</p>
<p>ENVIRONMENTAL JUSTICE</p>		
<p>Environmental Justice Executive Order 12898</p>	<p>Yes No <input type="checkbox"/> <input type="checkbox"/></p>	

Environmental Assessment Factors [24 CFR 58.40; Ref. 40 CFR 1508.8 &1508.27]
These items were addressed in the Tier 1 review available on file with the Grantee.

Additional Studies Performed: _____

Field Inspection (Date and completed by): _____

List of Sources, Agencies and Persons Consulted [40 CFR 1508.9(b)]: _____

List of Permits Obtained: _____

Public Outreach [24 CFR 50.23 & 58.43]: _____

Cumulative Impact Analysis [24 CFR 58.32]: _____

Alternatives [24 CFR 58.40(e); 40 CFR 1508.9] _____

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No Action Alternative [24 CFR 58.40(e)]: _____

Summary of Findings and Conclusions: _____

Mitigation Measures and Conditions [40 CFR 1505.2(c)]

Summarize below all mitigation measures adopted by the Responsible Entity to reduce, avoid, or eliminate adverse environmental impacts and to avoid non-compliance or non-conformance with the above-listed authorities and factors. These measures/conditions must be incorporated into project contracts, development agreements, and other relevant documents. The staff responsible for implementing and monitoring mitigation measures should be clearly identified in the mitigation plan.

Law, Authority, or Factor	Mitigation Measure

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Determination CEST Projects (Project must have been determined to be CEST during Tier I Broad Level Review):

- There are no extraordinary circumstances (Section 58.35(c)) effecting this activity/project and this project remains CEST.
- This project is now subject to a full Environmental Assessment according to Part 58 Subpart E due to extraordinary circumstances (Section 58.35(c)) documented in the site specific review.

Determination Assessed Projects (Project must have been determined to be Assessed during Tier I Broad Level Review):

- The activity/project complies with the original **Finding of No Significant Impact** [24 CFR 58.40(g)(1); 40 CFR 1508.27]. The project will not result in a significant impact on the quality of the human environment.
- The activity/project complies with the original **Finding of Significant Impact** [24 CFR 58.40(g)(2); 40 CFR 1508.27] The project may significantly affect the quality of the human environment.
- The activity/project **DOES NOT** comply with the original **Finding of No Significant Impact** [24 CFR 58.40(g)(1); 40 CFR 1508.27]. The project will not result in a significant impact on the quality of the human environment and a separate and requires a compliance with a **Finding of Significant Impact** [24 CFR 58.40(g)(2); 40 CFR 1508.27].

PREPARER:

Preparer Signature _____

Date _____

Preparer Name _____

Preparer Title _____

AUTHORIZED RESPONSIBLE ENTITY OFFICIAL:

Authorized Responsible Entity Signature _____

Date _____

Authorized Responsible Entity Name (printed) _____

Title (printed) _____

Attachment K

Notice of Intent to Request a Release of Funds - Sample

NOTICE OF INTENT TO REQUEST RELEASE OF FUNDS

Date of Notice

Name of Grantee

Address (e.g., Street No. or P.O. Box)

City, State, Zip Code

Telephone Number

On or about *(at least one day after the end of the comment period)* **the** *(name of Grantee)* **will submit a request to the North Dakota Division of Community Services (DCS) for the release of Community Development Block Grant funds under Title I of the Housing and Community Development Act of 1974 (P.L. 93-383), to undertake the following project:**

Project Title: _____

Project Description and Nature of Project: _____

Project Location: _____

Project Cost: _____

(Total project cost, CDBG amount if different)

The activities proposed *(alternative #1: are categorically excluded under HUD regulations at 24 CFR Part 58 from National Environmental Policy Act (NEPA) requirements or alternative #2: comprise a project for which a Finding of No Significant Impact on the environment was [published/posted] on [date of Finding publication/posting]). An Environmental Review Record (ERR) that documents the environmental determinations for this project is on file at (name and address of Grantee office where ERR can be examined and name and address of other locations where the record is available for review) and may be examined or copied weekdays A.M to P.M.*

PUBLIC COMMENTS

Any individual, group, or agency may submit written comments on the ERR to the *(Grantee office responsible for receiving and responding to comments.) All comments received by (if notice is published: notice date plus seven days; if notice is mailed and posted: mailing and posting date plus ten days) will be considered by the (name of Grantee) prior to authorizing submission of a request for release of funds.*

ENVIRONMENTAL CERTIFICATION

The *(name of Grantee)* certifies to North Dakota DCS that *(name of Certifying Officer)* in his/her capacity as *(Official Title)* consents to accept the jurisdiction of the Federal Courts if an action is brought to enforce responsibilities in relation to the environmental review process and that these responsibilities have been satisfied. North Dakota DCS's approval of the certification satisfies its responsibilities under NEPA and related laws and authorities and allows the *(name of Grantee)* to use Program funds.

OBJECTIONS TO RELEASE OF FUNDS

North Dakota DCS will accept objections to its release of fund and the *(name of Grantee)* certification for a period of fifteen days following the anticipated submission date or its actual receipt of the request (whichever is later) only if they are on one of the following bases: (a) the certification was not executed by the Certifying Officer of the *(name of Grantee)*; (b) the *(name of Grantee)* has omitted a step or failed to make a decision or finding required by HUD regulations at 24 CFR part 58; (c) the grant recipient or other participants in the development process have committed funds, incurred costs or undertaken activities not authorized by 24 CFR Part 58 before approval of a release of funds by North Dakota DCS; or (d) another Federal agency acting pursuant to 40 CFR Part 1504 has submitted a written finding that the project is unsatisfactory from the standpoint of environmental quality. Objections must be prepared and submitted in accordance with the required procedures (24 CFR Part 58, Sec. 58.76) and shall be addressed to North Dakota DCS at 1600 East Century Avenue, Suite 6, PO Box 2057, Bismarck, ND 58502-2057. Potential objectors should contact North Dakota DCS to verify the actual last day of the objection period.

Name and Title of RE Certifying Officer

Attachment L

**Notice of Finding of No Significant Impact and
Notice of Intent to Request a Release of Funds (Combined Notice) - Sample**

**NOTICE OF FINDING OF NO SIGNIFICANT IMPACT AND
NOTICE OF INTENT TO REQUEST RELEASE OF FUNDS**

Date of Notice

Name of Grantee

Address (e.g., Street No. or P.O. Box)

City, State, Zip Code

Telephone Number of RE

These notices shall satisfy two separate but related procedural requirements for activities to be undertaken by the *(name of Grantee)*.

On or about *(at least one day after the end of the comment period)* **the** *(name of Grantee)* **will submit a request to the North Dakota Division of Community Services (DCS) for the release of Community Development Block Grant funds under Title I of the Housing and Community Development Act of 1974 (P.L. 93-383), to undertake the following project:**

Project Title: _____

Project Description and Nature of Project: _____

Project Location: _____

Project Cost: _____

(Total project cost, CDBG amount if different)

FINDING OF NO SIGNIFICANT IMPACT

The *(name of Grantee)* **has determined that the project will have no significant impact on the human environment. Therefore, an Environmental Impact Statement under the National Environmental Policy Act of 1969 (NEPA) is not required. Additional project information is contained in the Environmental Review Record (ERR) on file at** *(name and address of Grantee office where ERR can be examined and name and address of other locations where the record is available for review)* **and may be examined or copied weekdays A.M to P.M.**

PUBLIC COMMENTS

Any individual, group, or agency may submit written comments on the ERR to the (Grantee office responsible for receiving and responding to comments.) All comments received by (if notice is published: notice date plus seven days; if notice is mailed and posted: mailing and posting date plus ten days) will be considered by the (name of Grantee) prior to authorizing submission of a request for release of funds. Comments should specify which Notice they are addressing.

ENVIRONMENTAL CERTIFICATION

The (name of Grantee) certifies to North Dakota DCS that (name of Certifying Officer) in his/her capacity as (Official Title) consents to accept the jurisdiction of the Federal Courts if an action is brought to enforce responsibilities in relation to the environmental review process and that these responsibilities have been satisfied. North Dakota DCS's approval of the certification satisfies its responsibilities under NEPA and related laws and authorities and allows the (name of Grantee) to use Program funds.

OBJECTIONS TO RELEASE OF FUNDS

North Dakota DCS will accept objections to its release of fund and the (name of Grantee) certification for a period of fifteen days following the anticipated submission date or its actual receipt of the request (whichever is later) only if they are on one of the following bases: (a) the certification was not executed by the Certifying Officer of the (name of Grantee); (b) the (name of Grantee) has omitted a step or failed to make a decision or finding required by HUD regulations at 24 CFR part 58; (c) the grant recipient or other participants in the development process have committed funds, incurred costs or undertaken activities not authorized by 24 CFR Part 58 before approval of a release of funds by North Dakota DCS; or (d) another Federal agency acting pursuant to 40 CFR Part 1504 has submitted a written finding that the project is unsatisfactory from the standpoint of environmental quality. Objections must be prepared and submitted in accordance with the required procedures (24 CFR Part 58, Sec. 58.76) and shall be addressed to North Dakota DCS at 1600 East Century Avenue, Suite 6, PO Box 2057, Bismarck, ND 58502-2057. Potential objectors should contact North Dakota DCS to verify the actual last day of the objection period.

Name and Title of RE Certifying Officer

Attachment M

Request for Release Funds and Certification

Request for Release of Funds and Certification

U.S. Department of Housing and Urban Development
Office of Community Planning and Development

OMB No. 2506-0087
(exp. 08/31/2023)

This form is to be used by Responsible Entities and Recipients (as defined in 24 CFR 58.2) when requesting the release of funds, and requesting the authority to use such funds, for HUD programs identified by statutes that provide for the assumption of the environmental review responsibility by units of general local government and States. Public reporting burden for this collection of information is estimated to average 36 minutes per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. This agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless that collection displays a valid OMB control number.

Part 1. Program Description and Request for Release of Funds (to be completed by Responsible Entity)

1. Program Title(s)	2. HUD/State Identification Number	3. Recipient Identification Number (optional)
4. OMB Catalog Number(s)	5. Name and address of responsible entity	
6. For information about this request, contact (name & phone number)		
8. HUD or State Agency and office unit to receive request	7. Name and address of recipient (if different than responsible entity)	

The recipient(s) of assistance under the program(s) listed above requests the release of funds and removal of environmental grant conditions governing the use of the assistance for the following

9. Program Activity(ies)/Project Name(s)	10. Location (Street address, city, county, State)
--	--

11. Program Activity/Project Description

Part 2. Environmental Certification (to be completed by responsible entity)

With reference to the above Program Activity(ies)/Project(s), I, the undersigned officer of the responsible entity, certify that:

1. The responsible entity has fully carried out its responsibilities for environmental review, decision-making and action pertaining to the project(s) named above.
2. The responsible entity has assumed responsibility for and complied with and will continue to comply with, the National Environmental Policy Act of 1969, as amended, and the environmental procedures, permit requirements and statutory obligations of the laws cited in 24 CFR 58.5; and also agrees to comply with the authorities in 24 CFR 58.6 and applicable State and local laws.
3. The responsible entity has assumed responsibility for and complied with and will continue to comply with Section 106 of the National Historic Preservation Act, and its implementing regulations 36 CFR 800, including consultation with the State Historic Preservation Officer, Indian tribes and Native Hawaiian organizations, and the public.
4. After considering the type and degree of environmental effects identified by the environmental review completed for the proposed project described in Part 1 of this request, I have found that the proposal did not require the preparation and dissemination of an environmental impact statement.
5. The responsible entity has disseminated and/or published in the manner prescribed by 24 CFR 58.43 and 58.55 a notice to the public in accordance with 24 CFR 58.70 and as evidenced by the attached copy (copies) or evidence of posting and mailing procedure.
6. The dates for all statutory and regulatory time periods for review, comment or other action are in compliance with procedures and requirements of 24 CFR Part 58.
7. In accordance with 24 CFR 58.71(b), the responsible entity will advise the recipient (if different from the responsible entity) of any special environmental conditions that must be adhered to in carrying out the project.

As the duly designated certifying official of the responsible entity, I also certify that:

8. I am authorized to and do consent to assume the status of Federal official under the National Environmental Policy Act of 1969 and each provision of law designated in the 24 CFR 58.5 list of NEPA-related authorities insofar as the provisions of these laws apply to the HUD responsibilities for environmental review, decision-making and action that have been assumed by the responsible entity.
9. I am authorized to and do accept, on behalf of the recipient personally, the jurisdiction of the Federal courts for the enforcement of all these responsibilities, in my capacity as certifying officer of the responsible entity.

Signature of Certifying Officer of the Responsible Entity X	Title of Certifying Officer
	Date signed

Address of Certifying Officer

Part 3. To be completed when the Recipient is not the Responsible Entity

The recipient requests the release of funds for the programs and activities identified in Part 1 and agrees to abide by the special conditions, procedures and requirements of the environmental review and to advise the responsible entity of any proposed change in the scope of the project or any change in environmental conditions in accordance with 24 CFR 58.71(b).

Signature of Authorized Officer of the Recipient X	Title of Authorized Officer
	Date signed

Warning: HUD will prosecute false claims and statements. Conviction may result in criminal and/or civil penalties. (18 U.S.C. 1001, 1010, 1012; 31 U.S.C. 3729, 3802)

Attachment N

Agencies with Environmental Jurisdiction

ADDRESSES OF AGENCIES WITH ENVIRONMENTAL JURISDICTION

Environmental Area	Agency
Historic Preservation	State Historic Preservation Office 612 E. Boulevard Ave. Bismarck, ND 58505 Phone: 328-2666 / Fax: 328-3710
Tribal Historic Preservation See Appendix H for Guidance	Tribal Historic Preservation Office (THPO) Tribal Directory Assessment Tool (TDAT) egis.hud.gov/tdat/
Flood Hazard Protection	State Engineer ND Department of Water Resources 900 East Boulevard Ave. Bismarck, ND 58505-0850 Phone: 328-2750 / Fax: 328-3696
Wetlands Protection	Conservation Division ND Game & Fish Department 100 N Bismarck Expressway Bismarck, ND 58501 Phone: 328.6300 / Fax: 328-6352
Endangered Species	US Fish & Wildlife 3425 Miriam Avenue Bismarck, ND 58501-7926 Phone: 250-4481 / Fax: 355-8513
Air Quality	ND Department of Environmental Quality 4201 Normandy St Bismarck, ND 58503-1324 Phone: 328-5150 / Fax: 328-5200
Farmlands Protection	State Conservationist Natural Resources Conservation Service PO Box 1458 Bismarck, ND 58502-1458 Phone: 530-2000 / Fax: 855.813.7556
	ND Department of Transportation 608 East Boulevard Avenue Bismarck, ND 58505-0700 Phone: 328-2500 / Fax: 328-0310
	ND Parks & Recreation Department 1600 East Century Avenue, Suite 3 Bismarck, ND 58506 Phone: 328-5357 / Fax: 328-5363

Attachment O

8-Step Decision Making Process (Executive Order 11988)

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT:
8-STEP PROCESS EXAMPLE

STEP 1 - DETERMINE IF PROPOSAL IS IN A FLOODPLAIN OR WETLAND: by using Flood hazard Boundary Maps, Community Profiles, Army Corps of Engineers Flood Hazard Inventory (annual), coastal zone maps, and any other relevant information.

STEP 2 - INVOLVE PUBLIC IN DECISION-MAKING PROCESS (NOTICE): Using the notice forms attached, notify the public by publishing in a newspaper in communities which have local newspapers. In all other communities, post the notice on the post office bulletin board for 15 days including postmarks on the notice to document the date it was posted and the date it was removed.

STEP 3 - DETERMINE IF THERE IS A PRACTICABLE ALTERNATIVE: Identify and evaluate at least three alternatives, including when possible, alternative sites outside the floodplain or wetland, alternative actions, and the “no action” option.

STEP 4 - IDENTIFY ADVERSE AND BENEFICIAL IMPACTS: including direct and indirect support of other floodplain and wetland development that might result from the project. Analyze the following factors:

- a. Natural environment (topography, habitat, hazards);
- b. Social concerns (aesthetics, historic and cultural values, land use patterns);
- c. Economic aspects (costs of construction, transportation and relocation); and
- d. Legal considerations (deeds, leases).

STEP 5 - MITIGATE ADVERSE IMPACTS: Minimize the impacts identified and restore and preserve the beneficial values served by floodplains and wetlands.

STEP 6 - RE-EVALUATE ALTERNATIVES: in light of the information gained to determine if the proposed action is still practicable. If new construction is to be located in a floodplain or wetland, apply accepted floodproofing and other measures. To achieve flood protection, wherever practicable elevate the structures above the flood level rather than fill in land.

STEP 7 - ANNOUNCE AND EXPLAIN DECISION TO THE PUBLIC (NOTICE): Using the attached form, again notify the public by publishing in the local newspaper when possible or posting on the bulletin board for seven days, postmarking the notice at posting and at removal.

STEP 8 - IMPLEMENT PROPOSAL WITH APPROPRIATE MITIGATION: Review during site visits to ensure that mitigation measures are fully implemented.

Attachment P

**Sample Notice for Early Public Review of a Proposed Activity in Floodplain/
Wetlands**

**Early Notice and Public Review of a Proposed Activity in a [100-Year/500-year
Floodplain or Wetland]**

[Note: May also be combined with other notices such as state floodplain or wetland notices so long as it contains the required information]

To: All interested Agencies [include all Federal, State, and Local], Groups and Individuals

This is to give notice that [Grantee] has determined that the following proposed action under the Community Development Block Grant Program and [contract number] is located in the [100-year/500-year floodplain/wetland], and [Grantee] will be identifying and evaluating practicable alternatives to locating the action in the [floodplain/wetland] and the potential impacts on the [floodplain/wetland] from the proposed action, as required by Executive Order 11990, in accordance with HUD regulations at 24 CFR 55.20 Subpart C Procedures for Making Determinations on Floodplain Management and Protection of Wetlands.

[Describe the activity, e.g. purpose, type of assistance, the size of the site, proposed number of units, size of footprint, type of floodplain, natural values].

[State the total number of acres of floodplains].

The proposed project(s) is located [at addresses] in [Name of City], [Name of County]. There are three primary purposes for this notice;

First, people who may be affected by activities in [floodplain/wetland] and those who have an interest in the protection of the natural environment should be given an opportunity to express their concerns and provide information about these areas. Commenters are encouraged to offer alternative sites outside of the [floodplain/wetland], alternative methods to serve the same project purpose, and methods to minimize and mitigate impacts.

Second, an adequate public notice program can be an important public educational tool. The dissemination of information about [floodplain/wetland] can facilitate and enhance Federal efforts to reduce the risks associated with the occupancy and modification of these special areas.

Third, as a matter of fairness, when the Federal government determines it will participate in actions taking place in [floodplain/wetland], it must inform those who may be put at greater or continued risk.

Written comments must be received by [Grantee] at the following address on or before [month, day, year] [a minimum 15 calendar day comment period will begin the day after the publication and end on the 16th day after the publication]: [Grantee], [Address] and [phone number], Attention: [Name of Certifying Officer], [Title], during the hours of 9:00 AM to 5:00 PM. Comments may also be submitted via email at [email address].

DATE:

NOTE: According to 24 CRR 55, section 55.2(b)(1), the notice must be bilingual if the affected public is largely non-English speaking. In addition, the notice must be dispersed to federal, state and local public agencies, organizations, and individuals known to be interested in the proposed project.

Attachment Q

**Sample Final Notice & Public Explanation of a Proposed Activity in Floodplain/
Wetlands**

Final Notice and Public Explanation of a Proposed Activity in a [100-Year/500-year Floodplain or Wetland]

[Note: May also be combined with other notices such as state floodplain or wetland notices so long as it contains the required information]

To: All interested Agencies [include all Federal, State, and Local], Groups and Individuals

This is to give notice that [Grantee] has conducted an evaluation as required by Executive Order 11988 and 11990, in accordance with HUD regulations at 24 CFR 55.20 Subpart C Procedures for Making Determinations on Floodplain Management, to determine the potential affect that its activity in the floodplain and wetland will have on the human environment for the Community Development Block Grant Program under [contract number].

**The proposed project(s) is located [at addresses] in [Name of City], [Name of County]. **

[Describe the activity, e.g. purpose, type of assistance, the size of the site, proposed number of units, size of footprint, type of floodplain/wetland, natural values].

[State the total number of acres of floodplains/wetland].

[Grantee] has considered the following alternatives and mitigation measures to be taken to minimize adverse impacts and to restore and preserve natural and beneficial values: *[List (i) ALL of the reasons why the action must take place in a floodplain/wetland, (ii) alternatives considered and reasons for non-selection, (iii) all mitigation measures to be taken to minimize adverse impacts and to restore and preserve natural and beneficial functions (e.g. floodwater storage and conveyance, groundwater discharge or recharge, erosion control, water quality maintenance, and habitat for flora and fauna) and values (e.g. recreational, educational, scientific, historic, and cultural) of the floodplain/wetland].*

[Cite the date of any final or conditional LOMR's or LOMA's from FEMA where applicable] [Acknowledge compliance with state and local floodplain protection procedures]

[Grantee] has reevaluated the alternatives to building in the [floodplains/wetland] and has determined that it has no practicable alternative. Environmental files that document compliance with steps 3 through 6 of Executive Order 11990, are available for public inspection, review and copying upon request at the times and location delineated in the last paragraph of this notice for receipt of comments.

There are three primary purposes for this notice;

First, people who may be affected by activities in [floodplain/wetland] and those who have an interest in the protection of the natural environment should be given an opportunity to express their concerns and provide information about these areas. Commenters are encouraged to offer alternative sites outside of the [floodplain/wetland], alternative methods to serve the same project purpose, and methods to minimize and mitigate impacts.

Second, an adequate public notice program can be an important public educational tool. The dissemination of information about [floodplain/wetland] can facilitate and enhance Federal efforts to reduce the risks associated with the occupancy and modification of these special areas.

Third, as a matter of fairness, when the Federal government determines it will participate in actions taking place in [floodplain/wetland], it must inform those who may be put at greater or continued risk.

Written comments must be received by [Grantee] at the following address on or before [month, day, year] [a minimum 7 calendar day comment period will begin the day after the publication and end on the

8th day after the publication]: *[Grantee]*, *[Address]* and *[phone number]*, **Attention:** *[Name of Certifying Officer]*, *[Title]*, **during the hours of 9:00 AM to 5:00 PM. Comments may also be submitted via email at [email address].**

DATE:

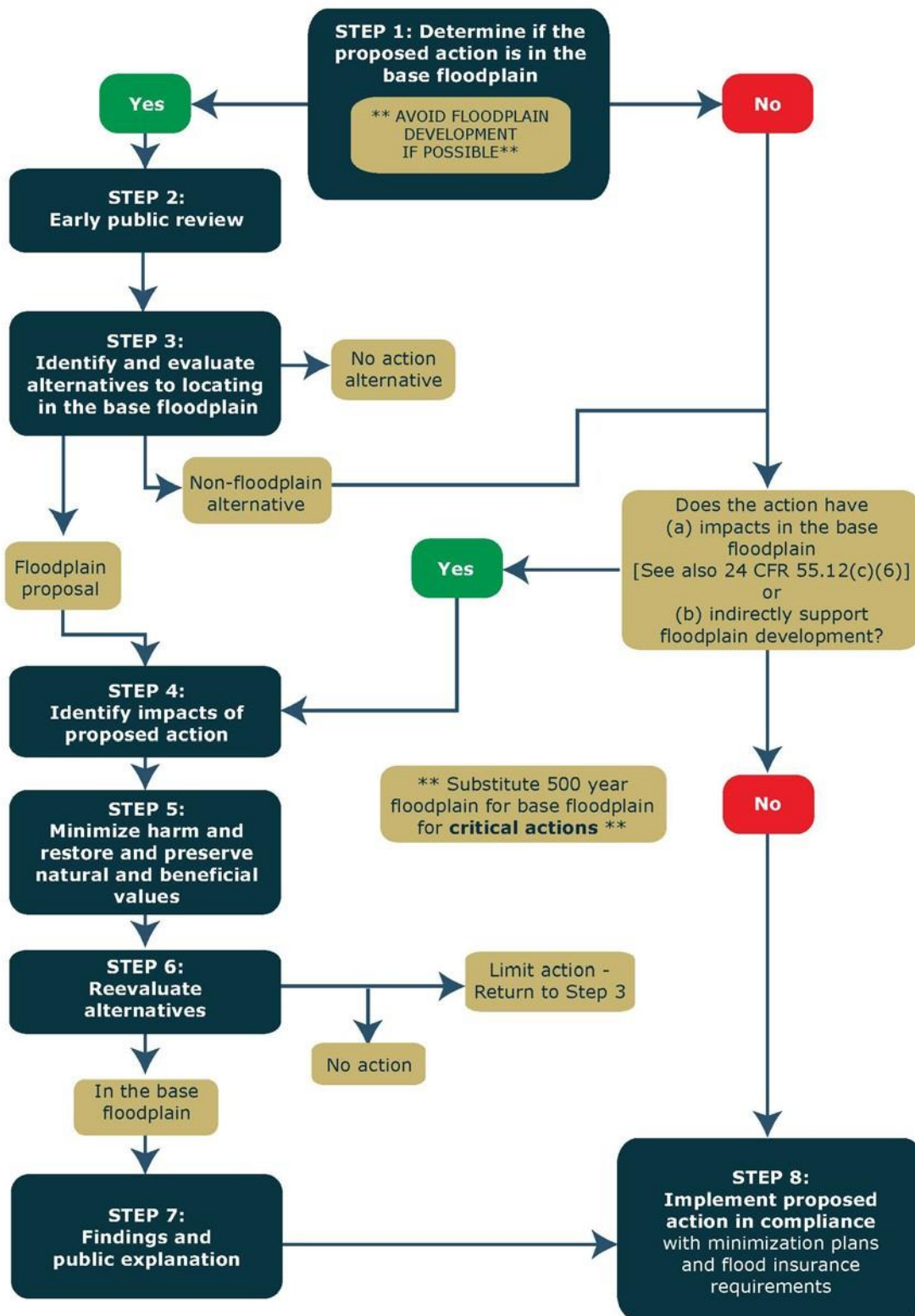
NOTE: According to 24 CRR 55, section 55.2(b)(1), the notice must be bilingual if the affected public is largely non-English speaking. In addition, the notice must be dispersed to federal, state and local public agencies, organizations, and individuals know to be interested in the proposed project.

SAMPLE

Attachment R

Floodplain 8-Step Decision Making Process Flow Chart

8- Step Decision-Making Process for Executive Order 11988



Attachment S

HUD Environmental Review Compliance Forms

Attachment S1

Airport Hazard Compliance - Worksheet



U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
WASHINGTON, DC 20410-1000

Airport Hazards (CEST and EA)

General policy	Legislation	Regulation
It is HUD’s policy to apply standards to prevent incompatible development around civil airports and military air-fields.		24 CFR Part 51 Subpart D
References		
https://www.hudexchange.info/environmental-review/airport-hazards		

1. To ensure compatible land use development, you must determine your site’s proximity to civil and military airports. Is your project within 15,000 feet of a military airport or 2,500 feet of a civilian airport?

- No → *Based on the response, the review is in compliance with this section. Continue to the Worksheet Summary below. Provide a map showing that the site is not within the applicable distances to a military or civilian airport.*
- Yes → *Continue to Question 2.*

2. Is your project located within a Runway Potential Zone/Clear Zone (RPZ/CZ) or Accident Potential Zone (APZ)?

- Yes, project is in an APZ → *Continue to Question 3.*
- Yes, project is an RPZ/CZ → *Project cannot proceed at this location.*
- No, project is not within an APZ or RPZ/CZ
→ *Based on the response, the review is in compliance with this section. Continue to the Worksheet Summary below. Provide a map showing that the site is not within either zone.*

3. Is the project in conformance with DOD guidelines for APZ?

- Yes, project is consistent with DOD guidelines without further action.

Explain how you determined that the project is consistent:

→ *Based on the response, the review is in compliance with this section. Continue to the Worksheet Summary below. Provide any documentation supporting this determination.*



U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
WASHINGTON, DC 20410-1000

No, the project cannot be brought into conformance with DOD guidelines and has not been approved. → *Project cannot proceed at this location.*

Project is not consistent with DOD guidelines, but it has been approved by Certifying Officer or HUD Approving Official.

Explain approval process:

If mitigation measures have been or will be taken, explain in detail the proposed measures that must be implemented to mitigate for the impact or effect, including the timeline for implementation.

rk-

sheet Summary below. Provide any documentation supporting this determination.

Worksheet Summary

Compliance Determination

Provide a clear description of your determination and a synopsis of the information that it was based on, such as:

- Map panel numbers and dates
- Names of all consulted parties and relevant consultation dates
- Names of plans or reports and relevant page numbers
- Any additional requirements specific to your region

Are formal compliance steps or mitigation required?

- Yes
 No

Attachment S2

Coastal Barrier Resources Compliance - Worksheet



Coastal Barrier Resources (CEST and EA)

General requirements	Legislation	Regulation
HUD financial assistance may not be used for most activities in units of the Coastal Barrier Resources System (CBRS). See 16 USC 3504 for limitations on federal expenditures affecting the CBRS.	Coastal Barrier Resources Act (CBRA) of 1982, as amended by the Coastal Barrier Improvement Act of 1990 (16 USC 3501)	
References		
https://www.hudexchange.info/environmental-review/coastal-barrier-resources		

Projects located in the following states must complete this form.

Alabama	Georgia	Massachusetts	New Jersey	Puerto Rico	Virgin Islands
Connecticut	Louisiana	Michigan	New York	Rhode Island	Virginia
Delaware	Maine	Minnesota	North Carolina	South Carolina	Wisconsin
Florida	Maryland	Mississippi	Ohio	Texas	

1. Is the project located in a CBRS Unit?

- No → *Based on the response, the review is in compliance with this section. Continue to the Worksheet Summary below. Provide a map showing that the site is not within a CBRS Unit.*
- Yes → *Continue to Question 2.*

Federal assistance for most activities may not be used at this location. You must either choose an alternate site or cancel the project. In very rare cases, federal monies can be spent within CBRS units for certain exempted activities (e.g., a nature trail), after consultation with the Fish and Wildlife Service (FWS) (see [16 USC 3505](#) for exceptions to limitations on expenditures).

2. Indicate your selected course of action.

- After consultation with the FWS the project was given approval to continue
→ *Based on the response, the review is in compliance with this section. Continue to the Worksheet Summary below. Provide a map and documentation of a FWS approval.*
- Project was not given approval
Project cannot proceed at this location.



Worksheet Summary

Compliance Determination

Provide a clear description of your determination and a synopsis of the information that it was based on, such as:

- Map panel numbers and dates
- Names of all consulted parties and relevant consultation dates
- Names of plans or reports and relevant page numbers
- Any additional requirements specific to your region

Are formal compliance steps or mitigation required?

- Yes
 No

Attachment S3

Flood Insurance Compliance - Worksheet



Flood Insurance (CEST and EA)

General requirements	Legislation	Regulation
Certain types of federal financial assistance may not be used in floodplains unless the community participates in National Flood Insurance Program and flood insurance is both obtained and maintained.	Flood Disaster Protection Act of 1973 as amended (42 USC 4001-4128)	24 CFR 50.4(b)(1) and 24 CFR 58.6(a) and (b); 24 CFR 55.1(b).
Reference		
https://www.hudexchange.info/environmental-review/flood-insurance		

1. Does this project involve financial assistance for construction, rehabilitation, or acquisition of a mobile home, building, or insurable personal property?

No. This project does not require flood insurance or is excepted from flood insurance. → *Continue to the Worksheet Summary.*

Yes → *Continue to Question 2.*

2. Provide a FEMA/FIRM map showing the site.

The Federal Emergency Management Agency (FEMA) designates floodplains. The [FEMA Map Service Center](#) provides this information in the form of FEMA Flood Insurance Rate Maps (FIRMs). For projects in areas not mapped by FEMA, use the best available information to determine floodplain information. Include documentation, including a discussion of why this is the best available information for the site. Provide FEMA/FIRM floodplain zone designation, panel number, and date within your documentation.

Is the structure, part of the structure, or insurable property located in a FEMA-designated Special Flood Hazard Area?

No → *Continue to the Worksheet Summary.*

Yes → *Continue to Question 3.*

3. Is the community participating in the National Flood Insurance Program or has less than one year passed since FEMA notification of Special Flood Hazards?

Yes, the community is participating in the National Flood Insurance Program.

For loans, loan insurance or loan guarantees, flood insurance coverage must be continued for the term of the loan. For grants and other non-loan forms of financial assistance, flood insurance coverage must be continued for the life of the building irrespective of the transfer of ownership. The amount of coverage must equal the total project cost or the maximum coverage limit of the National Flood Insurance Program, whichever is less.



U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
WASHINGTON, DC 20410-1000

Provide a copy of the flood insurance policy declaration or a paid receipt for the current annual flood insurance premium and a copy of the application for flood insurance.

→ *Continue to the Worksheet Summary.*

- Yes, less than one year has passed since FEMA notification of Special Flood Hazards.
If less than one year has passed since notification of Special Flood Hazards, no flood Insurance is required.

→ *Continue to the Worksheet Summary.*

- No. The community is not participating, or its participation has been suspended.
Federal assistance may not be used at this location. Cancel the project at this location.

Worksheet Summary

Compliance Determination

Provide a clear description of your determination and a synopsis of the information that it was based on, such as:

- Map panel numbers and dates
- Names of all consulted parties and relevant consultation dates
- Names of plans or reports and relevant page numbers
- Any additional requirements specific to your region

Are formal compliance steps or mitigation required?

- Yes
 No

Attachment S4

Clean Air Compliance - Worksheet



Air Quality (CEST and EA)

General Requirements	Legislation	Regulation
<p>The Clean Air Act is administered by the U.S. Environmental Protection Agency (EPA), which sets national standards on ambient pollutants. In addition, the Clean Air Act is administered by States, which must develop State Implementation Plans (SIPs) to regulate their state air quality. Projects funded by HUD must demonstrate that they conform to the appropriate SIP.</p>	<p>Clean Air Act (42 USC 7401 et seq.) as amended particularly Section 176(c) and (d) (42 USC 7506(c) and (d))</p>	<p>40 CFR Parts 6, 51 and 93</p>
Reference		
<p>https://www.hudexchange.info/environmental-review/air-quality</p>		

1. Does your project include new construction or conversion of land use facilitating the development of public, commercial, or industrial facilities OR five or more dwelling units?

Yes

→ *Continue to Question 2.*

No

Based on the response, the review is in compliance with this section. Continue to the Worksheet Summary below. Provide any documents used to make your determination.

Air Quality Attainment Status of Project's County or Air Quality Management District

2. Is your project's air quality management district or county in non-attainment or maintenance status for any criteria pollutants?

Follow the link below to determine compliance status of project county or air quality management district:

<http://www.epa.gov/green-book>

No, project's county or air quality management district is in attainment status for all criteria pollutants

→ *Based on the response, the review is in compliance with this section. Continue to the Worksheet Summary below. Provide any documents used to make your determination.*

Yes, project's management district or county is in non-attainment or maintenance status for one or more criteria pollutants.



Describe the findings:

→ *Continue to Question 3.*

3. Determine the estimated emissions levels of your project for each of those criteria pollutants that are in non-attainment or maintenance status on your project area. Will your project exceed any of the *de minimis* or *threshold* emissions levels of non-attainment and maintenance level pollutants or exceed the screening levels established by the state or air quality management district?

No, the project will not exceed *de minimis* or threshold emissions levels or screening levels

→ *Based on the response, the review is in compliance with this section. Continue to the Worksheet Summary below. Explain how you determined that the project would not exceed de minimis or threshold emissions.*

Yes, the project exceeds *de minimis* emissions levels or screening levels.

→ *Continue to Question 4. Explain how you determined that the project would not exceed de minimis or threshold emissions in the Worksheet Summary.*

4. For the project to be brought into compliance with this section, all adverse impacts must be mitigated. Explain in detail the exact measures that must be implemented to mitigate for the impact or effect, including the timeline for implementation.



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Worksheet Summary

Compliance Determination

Provide a clear description of your determination and a synopsis of the information that it was based on, such as:

- Map panel numbers and dates
- Names of all consulted parties and relevant consultation dates
- Names of plans or reports and relevant page numbers
- Any additional requirements specific to your region

Are formal compliance steps or mitigation required?

- Yes
 No

Attachment S5

Coastal Zone Management Compliance - Worksheet



Coastal Zone Management Act (CEST and EA)

General requirements	Legislation	Regulation
Federal assistance to applicant agencies for activities affecting any coastal use or resource is granted only when such activities are consistent with federally approved State Coastal Zone Management Act Plans.	Coastal Zone Management Act (16 USC 1451-1464), particularly section 307(c) and (d) (16 USC 1456(c) and (d))	15 CFR Part 930
References		
https://www.onecpd.info/environmental-review/coastal-zone-management		

Projects located in the following states must complete this form.

Alabama	Florida	Louisiana	Mississippi	Ohio	Texas
Alaska	Georgia	Maine	New Hampshire	Oregon	Virgin Islands
American Samoa	Guam	Maryland	New Jersey	Pennsylvania	Virginia
California	Hawaii	Massachusetts	New York	Puerto Rico	Washington
Connecticut	Illinois	Michigan	North Carolina	Rhode Island	Wisconsin
Delaware	Indiana	Minnesota	Northern Mariana Islands	South Carolina	

1. Is the project located in, or does it affect, a Coastal Zone as defined in your state Coastal Management Plan?

Yes → *Continue to Question 2.*

No → *Based on the response, the review is in compliance with this section. Continue to the Worksheet Summary below. Provide a map showing that the site is not within a Coastal Zone.*

2. Does this project include activities that are subject to state review?

Yes → *Continue to Question 3.*

No → *Based on the response, the review is in compliance with this section. Continue to the Worksheet Summary below. Provide documentation used to make your determination.*

3. Has this project been determined to be consistent with the State Coastal Management Program?

Yes, with mitigation. → *Continue to Question 4.*

Yes, without mitigation. → *Based on the response, the review is in compliance with this section. Continue to the Worksheet Summary below. Provide documentation used to make your determination.*



- No, project must be canceled.
Project cannot proceed at this location.

4. Explain in detail the proposed measures that must be implemented to mitigate for the impact or effect, including the timeline for implementation.

→ Continue to the Worksheet Summary below. Provide documentation of the consultation (including the State Coastal Management Program letter of consistency) and any other documentation used to make your determination.

Worksheet Summary

Compliance Determination

Provide a clear description of your determination and a synopsis of the information that it was based on, such as:

- Map panel numbers and dates
- Names of all consulted parties and relevant consultation dates
- Names of plans or reports and relevant page numbers
- Any additional requirements specific to your region

Are formal compliance steps or mitigation required?

- Yes
 No

Attachment S6

Contamination and Toxic Substances Compliance - Worksheet
Single Family Property



Contamination and Toxic Substances (Single Family Properties)

General requirements	Legislation	Regulations
It is HUD policy that all properties that are being proposed for use in HUD programs be free of hazardous materials, contamination, toxic chemicals and gases, and radioactive substances, where a hazard could affect the health and safety of the occupants or conflict with the intended utilization of the property.		24 CFR 58.5(i)(2) 24 CFR 50.3(i)
Reference		
https://www.hudexchange.info/programs/environmental-review/site-contamination		

1. Evaluate the site for contamination. Were any on-site or nearby toxic, hazardous, or radioactive substances found that could affect the health and safety of project occupants or conflict with the intended use of the property?

Provide a map or other documentation of absence or presence of contamination¹ and explain evaluation of site contamination in the Worksheet below.

No

Explain:

→ Based on the response, the review is in compliance with this section. Continue to the Worksheet Summary below.

Yes

→ Describe the findings, including any recognized environmental conditions (RECs), in Worksheet Summary below. Continue to Question 2.

Check here if an ASTM Phase I Environmental Site Assessment (ESA) report was utilized.

[Note: HUD regulations does not require an ASTM Phase I ESA report for single family homes]

2. Mitigation

¹ Utilize EPA’s Enviromapper and state/tribal databases to identify nearby dumps, junk yards, landfills, hazardous waste sites, and industrial sites, including EPA National Priorities List Sites (Superfund sites), CERCLA or state-equivalent sites, RCRA Corrective Action sites with release(s) or suspected release(s) requiring clean-up action and/or further investigation. Additional supporting documentation may include other inspections and reports.



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Document the mitigation needed according to the requirements of the appropriate federal, state, tribal, or local oversight agency. If the adverse environmental mitigation cannot be mitigated, then HUD assistance may not be used for the project at this site.

Can adverse environmental impacts be mitigated?

Adverse environmental impacts cannot feasibly be mitigated

→ Project cannot proceed at this location.

Yes, adverse environmental impacts can be eliminated through mitigation.

→ *Provide all mitigation requirements² and documents. Continue to Question 3.*

3. Describe how compliance was achieved. Include any of the following that apply: State Voluntary Clean-up Program, a No Further Action letter, use of engineering controls³, or use of institutional controls⁴.

If a remediation plan or clean-up program was necessary, which standard does it follow?

Complete removal

Risk-based corrective action (RBCA)

Other

→ *Continue to the Worksheet Summary.*

Worksheet Summary

Compliance Determination

Provide a clear description of your determination and a synopsis of the information that it was based on, such as:

² Mitigation requirements include all clean-up actions required by applicable federal, state, tribal, or local law. Additionally, provide, as applicable, the long-term operations and maintenance plan, Remedial Action Work Plan, and other equivalent documents.

³ Engineering controls are any physical mechanism used to contain or stabilize contamination or ensure the effectiveness of a remedial action. Engineering controls may include, without limitation, caps, covers, dikes, trenches, leachate collection systems, signs, fences, physical access controls, ground water monitoring systems and ground water containment systems including, without limitation, slurry walls and ground water pumping systems.

⁴ Institutional controls are mechanisms used to limit human activities at or near a contaminated site, or to ensure the effectiveness of the remedial action over time, when contaminants remain at a site at levels above the applicable remediation standard which would allow for unrestricted use of the property. Institutional controls may include structure, land, and natural resource use restrictions, well restriction areas, classification exception areas, deed notices, and declarations of environmental restrictions.



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- Map panel numbers and dates
- Names of all consulted parties and relevant consultation dates
- Names of plans or reports and relevant page numbers
- Any additional requirements specific to your region

Are formal compliance steps or mitigation required?

- Yes
 No

Attachment S7

Contamination and Toxic Substances Compliance - Worksheet
Multi Family Property



Contamination and Toxic Substances (Multifamily and Non-Residential Properties)

General requirements	Legislation	Regulations
It is HUD policy that all properties that are being proposed for use in HUD programs be free of hazardous materials, contamination, toxic chemicals and gases, and radioactive substances, where a hazard could affect the health and safety of the occupants or conflict with the intended utilization of the property.		24 CFR 58.5(i)(2) 24 CFR 50.3(i)
Reference		
https://www.hudexchange.info/programs/environmental-review/site-contamination		

1. How was site contamination evaluated? ⁵ Select all that apply.

- ASTM Phase I ESA
- ASTM Phase II ESA
- Remediation or clean-up plan
- ASTM Vapor Encroachment Screening
- None of the above

→ Provide documentation and reports and include an explanation of how site contamination was evaluated in the Worksheet Summary.

Continue to Question 2.

⁵ HUD regulations at 24 CFR § 58.5(i)(2)(ii) require that the environmental review for multifamily housing with five or more dwelling units or non-residential property include the evaluation of previous uses of the site or other evidence of contamination on or near the site. For acquisition and new construction of multifamily and nonresidential properties HUD strongly advises the review include an ASTM Phase I Environmental Site Assessment (ESA) to meet real estate transaction standards of due diligence and to help ensure compliance with HUD's toxic policy at 24 CFR §58.5(i) and 24 CFR §50.3(i). Also note that some HUD programs require an ASTM Phase I ESA.



2. Were any on-site or nearby toxic, hazardous, or radioactive substances found that could affect the health and safety of project occupants or conflict with the intended use of the property? (Were any recognized environmental conditions or RECs identified in a Phase I ESA and confirmed in a Phase II ESA?)

No

Explain:

→ *Based on the response, the review is in compliance with this section. Continue to the Worksheet Summary below.*

Yes.

→ *Describe the findings, including any recognized environmental conditions (RECs), in Worksheet Summary below. Continue to Question 3.*

3. Mitigation

Document the mitigation needed according to the requirements of the appropriate federal, state, tribal, or local oversight agency. If the adverse environmental effects cannot be mitigated, then HUD assistance may not be used for the project at this site.

Can adverse environmental impacts be mitigated?

Adverse environmental impacts cannot feasibly be mitigated

→ Project cannot proceed at this location.

Yes, adverse environmental impacts can be eliminated through mitigation.

→ *Provide all mitigation requirements⁶ and documents. Continue to Question 4.*

4. Describe how compliance was achieved. Include any of the following that apply: State Voluntary Clean-up Program, a No Further Action letter, use of engineering controls⁷, or use of institutional controls⁸.

⁶ Mitigation requirements include all clean-up actions required by applicable federal, state, tribal, or local law. Additionally, provide, as applicable, the long-term operations and maintenance plan, Remedial Action Work Plan, and other equivalent documents.

⁷ Engineering controls are any physical mechanism used to contain or stabilize contamination or ensure the effectiveness of a remedial action. Engineering controls may include, without limitation, caps, covers, dikes, trenches, leachate collection systems, signs, fences, physical access controls, ground water monitoring systems and ground water containment systems including, without limitation, slurry walls and ground water pumping systems.

⁸ Institutional controls are mechanisms used to limit human activities at or near a contaminated site, or to ensure the effectiveness of the remedial action over time, when contaminants remain at a site at levels above the applicable remediation standard which would allow for unrestricted use of the property. Institutional controls may include structure, land, and natural resource



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5. Describe how compliance was achieved. Include any of the following that apply: State Voluntary Clean-up Program, a No Further Action letter, use of engineering controls⁹, or use of institutional controls¹⁰.

If a remediation plan or clean-up program was necessary, which standard does it follow?

- Complete removal
→ *Continue to the Worksheet Summary.*
- Risk-based corrective action (RBCA)
→ *Continue to the Worksheet Summary.*

use restrictions, well restriction areas, classification exception areas, deed notices, and declarations of environmental restrictions.

⁹ Engineering controls are any physical mechanism used to contain or stabilize contamination or ensure the effectiveness of a remedial action. Engineering controls may include, without limitation, caps, covers, dikes, trenches, leachate collection systems, signs, fences, physical access controls, ground water monitoring systems and ground water containment systems including, without limitation, slurry walls and ground water pumping systems.

¹⁰ Institutional controls are mechanisms used to limit human activities at or near a contaminated site, or to ensure the effectiveness of the remedial action over time, when contaminants remain at a site at levels above the applicable remediation standard which would allow for unrestricted use of the property. Institutional controls may include structure, land, and natural resource use restrictions, well restriction areas, classification exception areas, deed notices, and declarations of environmental restrictions.



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Worksheet Summary

Compliance Determination

Provide a clear description of your determination and a synopsis of the information that it was based on, such as:

- Map panel numbers and dates
- Names of all consulted parties and relevant consultation dates
- Names of plans or reports and relevant page numbers
- Any additional requirements specific to your region

Are formal compliance steps or mitigation required?

- Yes
 No

Attachment S8

Endangered Species Compliance - Worksheet



Endangered Species Act (CEST and EA)

General requirements	ESA Legislation	Regulations
Section 7 of the Endangered Species Act (ESA) mandates that federal agencies ensure that actions that they authorize, fund, or carry out shall not jeopardize the continued existence of federally listed plants and animals or result in the adverse modification or destruction of designated critical habitat. Where their actions may affect resources protected by the ESA, agencies must consult with the Fish and Wildlife Service and/or the National Marine Fisheries Service (“FWS” and “NMFS” or “the Services”).	The Endangered Species Act of 1973 (16 U.S.C. 1531 <i>et seq.</i>); particularly section 7 (16 USC 1536).	50 CFR Part 402
References		
https://www.hudexchange.info/environmental-review/endangered-species		

1. Does the project involve any activities that have the potential to affect species or habitats?

No, the project will have No Effect due to the nature of the activities involved in the project.

→ *Based on the response, the review is in compliance with this section. Continue to the Worksheet Summary below. Provide any documents used to make your determination.*

No, the project will have No Effect based on a letter of understanding, memorandum of agreement, programmatic agreement, or checklist provided by local HUD office.

Explain your determination:

→ *Based on the response, the review is in compliance with this section. Continue to the Worksheet Summary below. Provide any documents used to make your determination.*

Yes, the activities involved in the project have the potential to affect species and/or habitats. → *Continue to Question 2.*

2. Are federally listed species or designated critical habitats present in the action area?

Obtain a list of protected species from the Services. This information is available on the [FWS Website](#) or you may contact your [local FWS](#) and/or [NMFS](#) offices directly.

No, the project will have No Effect due to the absence of federally listed species and designated critical habitat.

→ *Based on the response, the review is in compliance with this section. Continue to the Worksheet*



Summary below. Provide any documents used to make your determination. Documentation may include letters from the Services, species lists from the Services' websites, surveys or other documents and analysis showing that there are no species in the action area.

Yes, there are federally listed species or designated critical habitats present in the action area. →
Continue to Question 3.

3. What effects, if any, will your project have on federally listed species or designated critical habitat?

No Effect: Based on the specifics of both the project and any federally listed species in the action area, you have determined that the project will have absolutely no effect on listed species or critical habitat.

→ *Based on the response, the review is in compliance with this section. Continue to the Worksheet Summary below. Provide any documents used to make your determination. Documentation should include a species list and explanation of your conclusion, and may require maps, photographs, and surveys as appropriate.*

May Affect, Not Likely to Adversely Affect: Any effects that the project may have on federally listed species or critical habitats would be beneficial, discountable, or insignificant.

→ *Continue to Question 4, Informal Consultation.*

Likely to Adversely Affect: The project may have negative effects on one or more listed species or critical habitat.

→ *Continue to Question 5, Formal Consultation.*

4. Informal Consultation is required

Section 7 of ESA (16 USC. 1536) mandates consultation to resolve potential impacts to endangered and threatened species and critical habitats. If a HUD-assisted project may affect any federally listed endangered or threatened species or critical habitat, then compliance is required with Section 7. See 50 CFR Part 402 Subpart B Consultation Procedures.

Did the Service(s) concur with the finding that the project is Not Likely to Adversely Affect?

Yes, the Service(s) concurred with the finding.

→ *Based on the response, the review is in compliance with this section. Continue to Question 6 and provide the following:*

- (1) A biological evaluation or equivalent document*
- (2) Concurrence(s) from FWS and/or NMFS*
- (3) Any other documentation of informal consultation*

Exception: If finding was made based on procedures provided by a letter of understanding, memorandum of agreement, programmatic agreement, or checklist provided by local HUD office, provide whatever documentation is mandated by that agreement.



No, the Service(s) did not concur with the finding. → *Continue to Question 5.*

5. Formal consultation is required

Section 7 of ESA (16 USC 1536) mandates consultation to resolve potential impacts to federally listed endangered and threatened species and critical habitats. If a HUD assisted project may affect any endangered or threatened species or critical habitat, then compliance is required with Section 7. See 50 CFR Part 402 Subpart B Consultation Procedures.

→ *Once consultation is complete, the review is in compliance with this section. Continue to Question 6 and provide the following:*

- (1) *A biological assessment, evaluation, or equivalent document*
- (2) *Biological opinion(s) issued by FWS and/or NMFS*
- (3) *Any other documentation of formal consultation*

6. For the project to be brought into compliance with this section, all adverse impacts must be mitigated. Explain in detail the proposed measures that will be implemented to mitigate for the impact or effect, including the timeline for implementation.

Mitigation as follows will be implemented:

No mitigation is necessary.

Explain why mitigation will not be made here:

Worksheet Summary

Compliance Determination

Provide a clear description of your determination and a synopsis of the information that it was based on, such as:

- Map panel numbers and dates



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- Names of all consulted parties and relevant consultation dates
- Names of plans or reports and relevant page numbers
- Any additional requirements specific to your region

Are formal compliance steps or mitigation required?

Yes

No

Attachment S9

Explosive and Flammable Hazards Compliance - Worksheet



Explosive and Flammable Hazards (CEST and EA)

General requirements	Legislation	Regulation
HUD-assisted projects must meet Acceptable Separation Distance (ASD) requirements to protect them from explosive and flammable hazards.	N/A	24 CFR Part 51 Sub-part C
Reference		
https://www.hudexchange.info/environmental-review/explosive-and-flammable-facilities		

1. Is the proposed HUD-assisted project itself the development of a hazardous facility (a facility that mainly stores, handles or processes flammable or combustible chemicals such as bulk fuel storage facilities and refineries)?

No

→ Continue to Question 2.

Yes

Explain:

→ Go directly to Question 5.

2. Does this project include any of the following activities: development, construction, rehabilitation that will increase residential densities, or conversion?

No

→ Based on the response, the review is in compliance with this section. Continue to the Worksheet Summary below.

Yes

→ Continue to Question 3.

3. Within 1 mile of the project site, are there any current *or planned* stationary aboveground storage containers that are covered by 24 CFR 51C? Containers that are NOT covered under the regulation include:

- Containers 100 gallons or less in capacity, containing common liquid industrial fuels OR
- Containers of liquified petroleum gas (LPG) or propane with a water volume capacity of 1,000 gallons or less that meet the requirements of the 2017 version of National Fire Protection Association (NFPA) Code 58.



If all containers within the search area fit the above criteria, answer “no.” For any other type of aboveground storage container within the search area that holds one of the flammable or explosive materials listed in Appendix I of 24 CFR part 51 subpart C, answer “yes.”

No

→ *Based on the response, the review is in compliance with this section. Continue to the Worksheet Summary below. Provide all documents used to make your determination.*

Yes

→ *Continue to Question 4.*

4. Visit HUD’s website to identify the appropriate tank or tanks to assess and to calculate the required separation distance using the [electronic assessment tool](#). To document this step in the analysis, please attach the following supporting documents to this screen:

- **Map identifying the tank selected for assessment, and showing the distance from the tank to the proposed HUD-assisted project site; and**
- **Electronic assessment tool calculation of the required separation distance.**

Based on the analysis, is the proposed HUD-assisted project site located at or beyond the required separation distance from all covered tanks?

Yes

→ *Based on the response, the review is in compliance with this section. Continue to the Worksheet Summary below.*

No

→ *Go directly to Question 6.*

5. Is the hazardous facility located at an acceptable separation distance from residences and any other facility or area where people may congregate or be present?

Please visit HUD’s website for information on calculating Acceptable Separation Distance.

Yes

→ *Based on the response, the review is in compliance with this section. Continue to the Worksheet Summary below. Provide map(s) showing the location of the project site relative to residences and any other facility or area where people congregate or are present and your separation distance calculations.*

No

→ *Provide map(s) showing the location of the project site relative to residences and any other facility or area where people congregate or are present and your separation distance calculations.*

Continue to Question 6.



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- 6. For the project to be brought into compliance with this section, all adverse impacts must be mitigated. Mitigation measures may include both natural and manmade barriers, modification of the project design, burial or removal of the hazard, or other engineered solutions. Describe selected mitigation measures, including the timeline for implementation, and attach an implementation plan. If negative effects cannot be mitigated, cancel the project at this location.** Note that only licensed professional engineers should design and implement blast barriers. If a barrier will be used or the project will be modified to compensate for an unacceptable separation distance, provide approval from a licensed professional engineer.



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Worksheet Summary

Compliance Determination

Provide a clear description of your determination and a synopsis of the information that it was based on, such as:

- Map panel numbers and dates
- Names of all consulted parties and relevant consultation dates
- Names of plans or reports and relevant page numbers
- Any additional requirements specific to your region

Are formal compliance steps or mitigation required?

- Yes
 No

Attachment S10

Farmland Protection Compliance - Worksheet



Farmlands Protection (CEST and EA)

General requirements	Legislation	Regulation
The Farmland Protection Policy Act (FPPA) discourages federal activities that would convert farmland to nonagricultural purposes.	Farmland Protection Policy Act of 1981 (7 U.S.C. 4201 et seq.)	7 CFR Part 658
Reference		
https://www.hudexchange.info/environmental-review/farmlands-protection		

1. Does your project include any activities, including new construction, acquisition of undeveloped land or conversion, that could convert agricultural land to a non-agricultural use?

Yes → Continue to Question 2.

No

Explain how you determined that agricultural land would not be converted:

→ Based on the response, the review is in compliance with this section. Continue to the Worksheet Summary below. Provide any documentation supporting your determination.

2. Does “important farmland,” including prime farmland, unique farmland, or farmland of statewide or local importance regulated under the Farmland Protection Policy Act, occur on the project site? You may use the links below to determine important farmland occurs on the project site:

- Utilize USDA Natural Resources Conservation Service’s (NRCS) Web Soil Survey <http://web-soilsurvey.nrcs.usda.gov/app/HomePage.htm>
- Check with your city or county’s planning department and ask them to document if the project is on land regulated by the FPPA (zoning important farmland as non-agricultural does not exempt it from FPPA requirements)
- Contact NRCS at the local USDA service center <http://offices.sc.egov.usda.gov/locator/app?agency=nrcs> or your NRCS state soil scientist <http://soils.usda.gov/contact/state-offices/> for assistance

No → Based on the response, the review is in compliance with this section. Continue to the Worksheet Summary below. Provide any documents used to make your determination.

Yes → Continue to Question 3.



3. Consider alternatives to completing the project on important farmland and means of avoiding impacts to important farmland.

- Complete form **AD-1006**, "Farmland Conversion Impact Rating" http://www.nrcs.usda.gov/Internet/FSE_DOCUMENTS/stelprdb1045394.pdf and contact the state soil scientist before sending it to the local NRCS District Conservationist.

(NOTE: for corridor type projects, use instead form **NRCS-CPA-106**, "Farmland Conversion Impact Rating for Corridor Type Projects: http://www.nrcs.usda.gov/Internet/FSE_DOCUMENTS/stelprdb1045395.pdf.)

- Work with NRCS to minimize the impact of the project on the protected farmland. When you have finished with your analysis, return a copy of form AD-1006 (or form NRCS-CPA-106 if applicable) to the USDA-NRCS State Soil Scientist or his/her designee informing them of your determination.

Document your conclusion:

- Project will proceed with mitigation.

Explain in detail the proposed measures that must be implemented to mitigate for the impact or effect, including the timeline for implementation.

→ *Based on the response, the review is in compliance with this section. Continue to the Worksheet Summary below. Provide form AD-1006 and all other documents used to make your determination.*

- Project will proceed without mitigation.

Explain why mitigation will not be made here:

→ *Based on the response, the review is in compliance with this section. Continue to the Worksheet Summary below. Provide form AD-1006 and all other documents used to make your determination.*



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Worksheet Summary

Compliance Determination

Provide a clear description of your determination and a synopsis of the information that it was based on, such as:

- Map panel numbers and dates
- Names of all consulted parties and relevant consultation dates
- Names of plans or reports and relevant page numbers
- Any additional requirements specific to your region

Are formal compliance steps or mitigation required?

Yes

No

Attachment S11

Floodplain Management Compliance - Worksheet



Floodplain Management (CEST and EA)

General Requirements	Legislation	Regulation
Executive Order 11988, Floodplain Management, requires Federal activities to avoid impacts to floodplains and to avoid direct and indirect support of floodplain development to the extent practicable.	Executive Order 11988	24 CFR 55
Reference		
https://www.hudexchange.info/environmental-review/floodplain-management		

1. Does [24 CFR 55.12\(c\)](#) exempt this project from compliance with HUD's floodplain management regulations in Part 55?

Yes

Provide the applicable citation at 24 CFR 55.12(c) here. If project is exempt under 55.12(c)(7) or (8), provide supporting documentation.

→ Based on the response, the review is in compliance with this section. Continue to the Worksheet Summary below.

No → Continue to Question 2.

2. Provide a FEMA/FIRM or ABFE map showing the site.

The Federal Emergency Management Agency (FEMA) designates floodplains. The FEMA Map Service Center provides this information in the form of FEMA Flood Insurance Rate Maps (FIRMs) or Advisory Base Flood Elevations (ABFEs). For projects in areas not mapped by FEMA, use the best available information to determine floodplain information. Include documentation, including a discussion of why this is the best available information for the site.

Does your project occur in a floodplain?

No → Based on the response, the review is in compliance with this section. Continue to the Worksheet Summary below.

Yes

Select the applicable floodplain using the FEMA map or the best available information:

Floodway → Continue to Question 3, Floodways



- Coastal High Hazard Area (V Zone) → *Continue to Question 4, Coastal High Hazard Areas*
- 500-year floodplain (B Zone or shaded X Zone) → *Continue to Question 5, 500-year Floodplains*
- 100-year floodplain (A Zone) → *The 8-Step Process is required. Continue to Question 6, 8-Step Process*

3. **Floodways**

Is this a functionally dependent use?

- Yes

The 8-Step Process is required. Work with your HUD FEO to determine a way to satisfactorily continue with this project. Provide a completed 8-Step Process, including the early public notice and the final notice.

→ *Continue to Question 6, 8-Step Process*

- No

Federal assistance may not be used at this location unless a 55.12(c) exception applies. You must either choose an alternate site or cancel the project at this location.

4. **Coastal High Hazard Area**

Is this a critical action?

- Yes

Critical actions are prohibited in coastal high hazard areas. Federal assistance may not be used at this location. Unless the action is excepted at 24 CFR 55.12(c), you must either choose an alternate site or cancel the project.

- No

Does this action include construction that is not a functionally dependent use, existing construction (including improvements), or reconstruction following destruction caused by a disaster?

- Yes, there is new construction.

New construction is prohibited in V Zones ((24 CFR 55.1(c)(3)).

- No, this action concerns only a functionally dependent use, existing construction (including improvements), or reconstruction following destruction caused by a disaster.

This construction must have met FEMA elevation and construction standards for a coastal high hazard area or other standards applicable at the time of construction.

→ *Continue to Question 6, 8-Step Process*



5. 500-year Floodplain

Is this a critical action?

- No → *Based on the response, the review is in compliance with this section. Continue to the Worksheet Summary below.*
- Yes → *Continue to Question 6, 8-Step Process*

6. 8-Step Process.

Does the 8-Step Process apply? Select one of the following options:

- 8-Step Process applies.
Provide a completed 8-Step Process, including the early public notice and the final notice.
→ *Continue to Question 7, Mitigation*
- 5-Step Process is applicable per 55.12(a)(1-3).
Provide documentation of 5-Step Process.
Select the applicable citation:
- 55.12(a)(1) HUD actions involving the disposition of HUD-acquired multifamily housing projects or “bulk sales” of HUD-acquired one- to four-family properties in communities that are in the Regular Program of the National Flood Insurance Program (NFIP) and in good standing (i.e., not suspended from program eligibility or placed on probation under 44 CFR 59.24).
 - 55.12(a)(2) HUD's actions under the National Housing Act (12 U.S.C. 1701) for the purchase or refinancing of existing multifamily housing projects, hospitals, nursing homes, assisted living facilities, board and care facilities, and intermediate care facilities, in communities that are in good standing under the NFIP.
 - 55.12(a)(3) HUD's or the recipient's actions under any HUD program involving the repair, rehabilitation, modernization, weatherization, or improvement of existing multifamily housing projects, hospitals, nursing homes, assisted living facilities, board and care facilities, intermediate care facilities, and one- to four-family properties, in communities that are in the Regular Program of the National Flood Insurance Program (NFIP) and are in good standing, provided that the number of units is not increased more than 20 percent, the action does not involve a conversion from nonresidential to residential land use, the action does not meet the thresholds for “substantial improvement” under § 55.2(b)(10), and the footprint of the structure and paved areas is not significantly increased.
 - 55.12(a)(4) HUD's (or the recipient's) actions under any HUD program involving the repair, rehabilitation, modernization, weatherization, or improvement of existing nonresidential buildings and structures, in communities that are in the Regular Program of the NFIP and are in good standing, provided that the action does not meet the thresholds for “substantial improvement” under § 55.2(b)(10) and that the footprint of the structure and paved areas is not significantly increased.
- *Continue to Question 7, Mitigation*



8-Step Process is inapplicable per 55.12(b)(1-4).

Select the applicable citation:

- 55.12(b)(1) HUD's mortgage insurance actions and other financial assistance for the purchasing, mortgaging or refinancing of existing one- to four-family properties in communities that are in the Regular Program of the National Flood Insurance Program (NFIP) and in good standing (i.e., not suspended from program eligibility or placed on probation under 44 CFR 59.24), where the action is not a critical action and the property is not located in a floodway or coastal high hazard area.
- 55.12(b)(2) Financial assistance for minor repairs or improvements on one- to four-family properties that do not meet the thresholds for "substantial improvement" under § 55.2(b)(10)
- 55.12(b)(3) HUD actions involving the disposition of individual HUD-acquired, one- to four-family properties.
- 55.12(b)(4) HUD guarantees under the Loan Guarantee Recovery Fund Program (24 CFR part 573) of loans that refinance existing loans and mortgages, where any new construction or rehabilitation financed by the existing loan or mortgage has been completed prior to the filing of an application under the program, and the refinancing will not allow further construction or rehabilitation, nor result in any physical impacts or changes except for routine maintenance.
- 55.12(b)(5) The approval of financial assistance to lease an existing structure located within the floodplain, but only if—
 - (i) The structure is located outside the floodway or Coastal High Hazard Area, and is in a community that is in the Regular Program of the NFIP and in good standing (i.e., not suspended from program eligibility or placed on probation under 44 CFR 59.24);
 - (ii) The project is not a critical action; and
 - (iii) The entire structure is or will be fully insured or insured to the maximum under the NFIP for at least the term of the lease.

→ *Based on the response, the review is in compliance with this section. Continue to the Worksheet Summary below.*

7. Mitigation

For the project to be brought into compliance with this section, all adverse impacts must be mitigated. Explain in detail the exact measures that must be implemented to mitigate for the impact or effect, including the timeline for implementation.



Which of the following mitigation/minimization measures have been identified for this project in the 8-Step or 5-Step Process? Select all that apply.

- Permeable surfaces
- Natural landscape enhancements that maintain or restore natural hydrology
- Planting or restoring native plant species
- Bioswales
- Evapotranspiration
- Stormwater capture and reuse
- Green or vegetative roofs with drainage provisions
- Natural Resources Conservation Service conservation easements or similar easements
- Floodproofing of structures
- Elevating structures including freeboarding above the required base flood elevations
- Other

→ *Based on the response, the review is in compliance with this section. Continue to the Worksheet Summary below.*

Worksheet Summary

Compliance Determination

Provide a clear description of your determination and a synopsis of the information that it was based on, such as:

- Map panel numbers and dates
- Names of all consulted parties and relevant consultation dates
- Names of plans or reports and relevant page numbers
- Any additional requirements specific to your region



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Are formal compliance steps or mitigation required?

Yes

No

Attachment S12

Historic Preservation Compliance - Worksheet



Historic Preservation (CEST and EA)

General requirements	Legislation	Regulation
Regulations under Section 106 of the National Historic Preservation Act (NHPA) require a consultative process to identify historic properties, assess project impacts on them, and avoid, minimize, or mitigate adverse effects	Section 106 of the National Historic Preservation Act (16 U.S.C. 470f)	36 CFR 800 "Protection of Historic Properties"
References		
https://www.hudexchange.info/environmental-review/historic-preservation		

Threshold

Is Section 106 review required for your project?

- No, because a Programmatic Agreement states that all activities included in this project are exempt. (See the [PA Database](#) to find applicable PAs.)

Either provide the PA itself or a link to it here. Mark the applicable exemptions or include the text here:

→ *Continue to the Worksheet Summary.*

- No, because the project consists solely of activities included in a No Potential to Cause Effects memo or other determination [36 CFR 800.3(a)(1)].

Either provide the memo itself or a link to it here. Explain and justify the other determination here:

→ *Continue to the Worksheet Summary.*

- Yes, because the project includes activities with potential to cause effects (direct or indirect). → *Continue to Step 1.*



The Section 106 Process

After determining the need to do a Section 106 review, HUD or the RE will initiate consultation with regulatory and other interested parties, identify and evaluate historic properties, assess effects of the project on properties listed on or eligible for the National Register of Historic Places, and resolve any adverse effects through project design modifications or mitigation.

Step 1: Initiate consultation

Step 2: Identify and evaluate historic properties

Step 3: Assess effects of the project on historic properties

Step 4: Resolve any adverse effects

Step 1 - Initiate Consultation

The following parties are entitled to participate in Section 106 reviews: Advisory Council on Historic Preservation; State Historic Preservation Officers (SHPOs); federally recognized Indian tribes/Tribal Historic Preservation Officers (THPOs); Native Hawaiian Organizations (NHOs); local governments; and project grantees. The general public and individuals and organizations with a demonstrated interest in a project may participate as consulting parties at the discretion of the RE or HUD official. Participation varies with the nature and scope of a project. Refer to HUD's website for guidance on consultation, including the required timeframes for response. Consultation should begin early to enable full consideration of preservation options.

Use the [When To Consult With Tribes checklist](#) within [Notice CPD-12-006: Process for Tribal Consultation](#) to determine if you should invite tribes to consult on a particular project. Use the [Tribal Directory Assessment Tool \(TDAT\)](#) to identify tribes that may have an interest in the area where the project is located. Note that consultants may not initiate consultation with Tribes.

Select all consulting parties below (check all that apply):

- State Historic Preservation Officer (SHPO)
- Advisory Council on Historic Preservation
- Indian Tribes, including Tribal Historic Preservation Officers (THPOs) or Native
- Hawaiian Organizations (NHOs)

List all tribes that were consulted here and their status of consultation:

- Other Consulting Parties

List all consulting parties that were consulted here and their status of consultation:



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Describe the process of selecting consulting parties and initiating consultation here:

Provide all correspondence, notices, and notes (including comments and objections received) and continue to Step 2.

Step 2 - Identify and Evaluate Historic Properties

Define the Area of Potential Effect (APE), either by entering the address(es) or providing a map depicting the APE. Attach an additional page if necessary.

Gather information about known historic properties in the APE. Historic buildings, districts and archeological sites may have been identified in local, state, and national surveys and registers, local historic districts, municipal plans, town and county histories, and local history websites. If not already listed on the National Register of Historic Places, identified properties are then evaluated to see if they are eligible for the National Register.

Refer to HUD's website for guidance on identifying and evaluating historic properties.

In the space below, list historic properties identified and evaluated in the APE.

Every historic property that may be affected by the project should be listed. For each historic property or district, include the National Register status, whether the SHPO has concurred with the finding, and whether information on the site is sensitive. Attach an additional page if necessary.

Provide the documentation (survey forms, Register nominations, concurrence(s) and/or objection(s), notes, and photos) that justify your National Register Status determination.



Was a survey of historic buildings and/or archeological sites done as part of the project?

If the APE contains previously unsurveyed buildings or structures over 50 years old, or there is a likely presence of previously unsurveyed archeological sites, a survey may be necessary. For Archeological surveys, refer to HP Fact Sheet #6, [Guidance on Archeological Investigations in HUD Projects](#).

- Yes → *Provide survey(s) and report(s) and continue to Step 3.*

Additional notes:

- No → *Continue to Step 3.*

Step 3 - Assess Effects of the Project on Historic Properties

Only properties that are listed on or eligible for the National Register of Historic Places receive further consideration under Section 106. Assess the effect(s) of the project by applying the Criteria of Adverse Effect. ([36 CFR 800.5](#)) Consider direct and indirect effects as applicable as per HUD guidance.

Choose one of the findings below - No Historic Properties Affected, No Adverse Effect, or Adverse Effect; and seek concurrence from consulting parties.

- No Historic Properties Affected

Document reason for finding:

- No historic properties present. → *Provide concurrence(s) or objection(s) and continue to the Worksheet Summary.*
- Historic properties present, but project will have no effect upon them. → *Provide concurrence(s) or objection(s) and continue to the Worksheet Summary.*

If consulting parties concur or fail to respond to user's request for concurrence, project is in compliance with this section. No further review is required. If consulting parties object, refer to ([36 CFR 800.4\(d\)\(1\)](#)) and consult further to try to resolve objection(s).

- No Adverse Effect

Document reason for finding:



Does the No Adverse Effect finding contain conditions?

Yes

Check all that apply: (check all that apply)

- Avoidance
- Modification of project
- Other

Describe conditions here:

→ *Monitor satisfactory implementation of conditions. Provide concurrence(s) or objection(s) and continue to the Worksheet Summary.*

No → *Provide concurrence(s) or objection(s) and continue to the Worksheet Summary.*

If consulting parties concur or fail to respond to user's request for concurrence, project is in compliance with this section. No further review is required. If consulting parties object, refer to [\(36 CFR 800.5\(c\)\(2\)\)](#) and consult further to try to resolve objection(s).

Adverse Effect

Document reason for finding:

Copy and paste applicable Criteria into text box with summary and justification.

Criteria of Adverse Effect: [36 CFR 800.5](#)]

Notify the Advisory Council on Historic Preservation of the Adverse Effect and provide the documentation outlined in [36 CFR 800.11\(e\)](#). The Council has 15 days to decide whether to enter the consultation (Not required for projects covered by a Programmatic Agreement).

→ *Continue to Step 4.*

Step 4 - Resolve Adverse Effects

Work with consulting parties to try to avoid, minimize or mitigate adverse effects. Refer to HUD guidance and [36 CFR 800.6 and 800.7](#).



Were the Adverse Effects resolved?

Yes

Describe the resolution of Adverse Effects, including consultation efforts and participation by the Advisory Council on Historic Preservation:

For the project to be brought into compliance with this section, all adverse impacts must be mitigated. Explain in detail the exact measures that must be implemented to mitigate for the impact or effect, including the timeline for implementation.

→ *Provide signed Memorandum of Agreement (MOA) or Standard Mitigation Measures Agreement (SMMA). Continue to the Worksheet Summary.*

No

The project must be cancelled unless the “Head of Agency” approves it. Either provide approval from the “Head of Agency” or cancel the project at this location.

Describe the failure to resolve Adverse Effects, including consultation efforts and participation by the Advisory Council on Historic Preservation and “Head of the Agency”:

Explain in detail the exact conditions or measures that must be implemented to mitigate for the impact or effect, including the timeline for implementation.



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→ Provide correspondence, comments, documentation of decision, and “Head of Agency” approval. Continue to the Worksheet Summary.

Worksheet Summary

Compliance Determination

Provide a clear description of your determination and a synopsis of the information that it was based on, such as:

- Map panel numbers and dates
- Names of all consulted parties and relevant consultation dates
- Names of plans or reports and relevant page numbers
- Any additional requirements specific to your region

Are formal compliance steps or mitigation required?

- Yes
- No

Attachment S13

Noise Abatement and Control Compliance - Worksheet (CEST)



Noise (CEST Level Reviews)

General requirements	Legislation	Regulation
HUD's noise regulations protect residential properties from excessive noise exposure. HUD encourages mitigation as appropriate.	Noise Control Act of 1972 General Services Administration Federal Management Circular 75-2: "Compatible Land Uses at Federal Airfields"	Title 24 CFR 51 Subpart B
References		
https://www.hudexchange.info/programs/environmental-review/noise-abatement-and-control		

1. What activities does your project involve? Check all that apply:

- New construction for residential use

NOTE: HUD assistance to new construction projects is generally prohibited if they are located in an Unacceptable zone, and HUD discourages assistance for new construction projects in Normally Unacceptable zones. See 24 CFR 51.101(a)(3) for further details.
→ *Continue to Question 4.*

- Rehabilitation of an existing residential property

NOTE: For modernization projects in all noise zones, HUD encourages mitigation to reduce levels to acceptable compliance standards. See 24 CFR 51 Subpart B for further details.
→ *Continue to Question 2.*

- A research demonstration project which does not result in new construction or reconstruction, interstate, land sales registration, or any timely emergency assistance under disaster assistance provisions or appropriations which are provided to save lives, protect property, protect public health and safety, remove debris and wreckage, or assistance that has the effect of restoring facilities substantially as they existed prior to the disaster
→ *Based on the response, the review is in compliance with this section. Continue to the Worksheet Summary below.*

- None of the above

→ *Based on the response, the review is in compliance with this section. Continue to the Worksheet Summary below.*

2. Do you have standardized noise attenuation measures that apply to all modernization and/or minor rehabilitation projects, such as the use of double glazed windows or extra insulation?

- Yes

Indicate the type of measures that will apply (check all that apply):



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- Improved building envelope components (better windows and doors, strengthened sheathing, insulation, sealed gaps, etc.)
- Redesigned building envelope (more durable or substantial materials, increased air gap, resilient channels, staggered wall studs, etc.)
- Other

Explain:

→ *Based on the response, the review is in compliance with this section. Continue to the Worksheet Summary below and provide any supporting documentation.*

No

→ *Continue to Question 3.*

3. Complete the Preliminary Screening to identify potential noise generators in the vicinity (1000' from a major road, 3000' from a railroad, or 15 miles from an airport).

Describe findings of the Preliminary Screening:

→ *Continue to Question 6.*



4. Complete the Preliminary Screening to identify potential noise generators in the vicinity (1000' from a major road, 3000' from a railroad, or 15 miles from an airport).

Indicate the findings of the Preliminary Screening below:

There are no noise generators found within the threshold distances above.
→ *Based on the response, the review is in compliance with this section. Continue to the Worksheet Summary below. Provide a map showing the location of the project relative to any noise generators.*

Noise generators were found within the threshold distances.
→ *Continue to Question 5.*

5. Complete the Noise Assessment Guidelines to quantify the noise exposure. Indicate the findings of the Noise Assessment below:

Acceptable: (65 decibels or less; the ceiling may be shifted to 70 decibels in circumstances described in §24 CFR 51.105(a))

Indicate noise level here:

→ *Based on the response, the review is in compliance with this section. Continue to the Worksheet Summary below. Provide noise analysis, including noise level and data used to complete the analysis.*

Normally Unacceptable: (Above 65 decibels but not exceeding 75 decibels; the floor may be shifted to 70 decibels in circumstances described in 24 CFR 51.105(a))

Indicate noise level here:



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Is the project in a largely undeveloped area¹¹?

No

→Your project requires completion of an Environmental Assessment (EA) pursuant to 51.104(b)(1)(i). Elevate this review to an EA-level review. Provide noise analysis, including noise level and data used to complete the analysis.
Continue to Question 6.

Yes

→Your project requires completion of an Environmental Impact Statement (EIS) pursuant to 51.104(b)(1)(i). Elevate this review to an EIS-level review. Provide noise analysis, including noise level and data used to complete the analysis.
Continue to Question 6.

Unacceptable: (Above 75 decibels)

Indicate noise level here:

Your project requires completion of an Environmental Impact Statement (EIS) pursuant to 51.104(b)(1)(i). You may either complete an EIS or provide a waiver signed by the appropriate authority. Indicate your choice:

Convert to an EIS

→ Provide noise analysis, including noise level and data used to complete the analysis.
Continue to Question 6.

Provide waiver

→ Provide an Environmental Impact Statement waiver from the Certifying Officer or the Assistant Secretary for Community Planning and Development per 24 CFR 51.104(b)(2) and noise analysis, including noise level and data used to complete the analysis.
Continue to Question 6.

¹¹ A largely undeveloped area means the area within 2 miles of the project site is less than 50 percent developed with urban uses or does not have water and sewer capacity to serve the project.



6. HUD strongly encourages mitigation be used to eliminate adverse noise impacts. Explain in detail the exact measures that must be implemented to mitigate for the impact or effect, including the timeline for implementation. This information will be automatically included in the Mitigation summary for the environmental review.

Mitigation as follows will be implemented:

→ *Provide drawings, specifications, and other materials as needed to describe the project's noise mitigation measures.
Continue to the Worksheet Summary.*

No mitigation is necessary.

Explain why mitigation will not be made here:

→ *Continue to the Worksheet Summary.*



Worksheet Summary

Compliance Determination

Provide a clear description of your determination and a synopsis of the information that it was based on, such as:

- Map panel numbers and dates
- Names of all consulted parties and relevant consultation dates
- Names of plans or reports and relevant page numbers
- Any additional requirements specific to your region

Are formal compliance steps or mitigation required?

- Yes
 No

Attachment S14

Noise Abatement and Control Compliance - Worksheet (EA)



Noise (EA Level Reviews)

General requirements	Legislation	Regulation
HUD's noise regulations protect residential properties from excessive noise exposure. HUD encourages mitigation as appropriate.	Noise Control Act of 1972 General Services Administration Federal Management Circular 75-2: "Compatible Land Uses at Federal Airfields"	Title 24 CFR 51 Subpart B
References		
https://www.hudexchange.info/programs/environmental-review/noise-abatement-and-control		

1. What activities does your project involve? Check all that apply:

- New construction for residential use

NOTE: HUD assistance to new construction projects is generally prohibited if they are located in an Unacceptable zone, and HUD discourages assistance for new construction projects in Normally Unacceptable zones. See 24 CFR 51.101(a)(3) for further details.

→ *Continue to Question 2.*

- Rehabilitation of an existing residential property

NOTE: For major or substantial rehabilitation in Normally Unacceptable zones, HUD encourages mitigation to reduce levels to acceptable compliance standards. For major rehabilitation in Unacceptable zones, HUD strongly encourages mitigation to reduce levels to acceptable compliance standards. See 24 CFR 51 Subpart B for further details.

→ *Continue to Question 2.*

- A research demonstration project which does not result in new construction or reconstruction, interstate, land sales registration, or any timely emergency assistance under disaster assistance provisions or appropriations which are provided to save lives, protect property, protect public health and safety, remove debris and wreckage, or assistance that has the effect of restoring facilities substantially as they existed prior to the disaster
- *Based on the response, the review is in compliance with this section. Continue to the Worksheet Summary below.*

- None of the above

→ *Based on the response, the review is in compliance with this section. Continue to the Worksheet Summary below.*

2. Complete the Preliminary Screening to identify potential noise generators in the vicinity (1000' from a major road, 3000' from a railroad, or 15 miles from an airport). Indicate the findings of the Preliminary Screening below:



There are no noise generators found within the threshold distances above.
→ *Based on the response, the review is in compliance with this section. Continue to the Worksheet Summary below. Provide a map showing the location of the project relative to any noise generators.*

Noise generators were found within the threshold distances.
→ *Continue to Question 3.*

3. Complete the Noise Assessment Guidelines to quantify the noise exposure. Indicate the findings of the Noise Assessment below:

Acceptable: (65 decibels or less; the ceiling may be shifted to 70 decibels in circumstances described in §24 CFR 51.105(a))

Indicate noise level here:

→ *Based on the response, the review is in compliance with this section. Continue to the Worksheet Summary below. Provide noise analysis, including noise level and data used to complete the analysis.*

Normally Unacceptable: (Above 65 decibels but not exceeding 75 decibels; the floor may be shifted to 70 decibels in circumstances described in 24 CFR 51.105(a))

Indicate noise level here:

If project is rehabilitation:

→ *Continue to Question 4. Provide noise analysis, including noise level and data used to complete the analysis.*

If project is new construction:

Is the project in a largely undeveloped area¹²?

No

→ *Continue to Question 4. Provide noise analysis, including noise level and data used to complete the analysis, and any other relevant information.*

Yes

→ *Your project requires completion of an Environmental Impact Statement (EIS) pursuant to 51.104(b)(1)(i). Elevate this review to an EIS-level review.*

Unacceptable: (Above 75 decibels)

¹² A largely undeveloped area means the area within 2 miles of the project site is less than 50 percent developed with urban uses or does not have water and sewer capacity to serve the project.



Indicate noise level here:

If project is rehabilitation:

HUD strongly encourages conversion of noise-exposed sites to land uses compatible with high noise levels. Consider converting this property to a non-residential use compatible with high noise levels.

→ Continue to Question 4. Provide noise analysis, including noise level and data used to complete the analysis, and any other relevant information.

If project is new construction:

Your project requires completion of an Environmental Impact Statement (EIS) pursuant to 51.104(b)(1)(i). You may either complete an EIS or provide a waiver signed by the appropriate authority. Indicate your choice:

Convert to an EIS

→ Provide noise analysis, including noise level and data used to complete the analysis.

Continue to Question 4.

Provide waiver

→ Provide an Environmental Impact Statement waiver from the Certifying Officer or the Assistant Secretary for Community Planning and Development per 24 CFR 51.104(b)(2) and noise analysis, including noise level and data used to complete the analysis.

Continue to Question 4.

4. HUD strongly encourages mitigation be used to eliminate adverse noise impacts. Explain in detail the exact measures that must be implemented to mitigate for the impact or effect, including the timeline for implementation. This information will be automatically included in the Mitigation summary for the environmental review.

Mitigation as follows will be implemented:



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→ Provide drawings, specifications, and other materials as needed to describe the project's noise mitigation measures. Continue to the Worksheet Summary.

No mitigation is necessary.

Explain why mitigation will not be made here:

→ Continue to the Worksheet Summary.

Worksheet Summary

Compliance Determination

Provide a clear description of your determination and a synopsis of the information that it was based on, such as:

- Map panel numbers and dates
- Names of all consulted parties and relevant consultation dates
- Names of plans or reports and relevant page numbers
- Any additional requirements specific to your region



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Are formal compliance steps or mitigation required?

- Yes
- No

Attachment S15

Sole Source Aquifers Compliance – Worksheet



Sole Source Aquifers (CEST and EA)

General requirements	Legislation	Regulation
The Safe Drinking Water Act of 1974 protects drinking water systems which are the sole or principal drinking water source for an area and which, if contaminated, would create a significant hazard to public health.	Safe Drinking Water Act of 1974 (42 U.S.C. 201, 300f et seq., and 21 U.S.C. 349)	40 CFR Part 149
Reference		
https://www.hudexchange.info/environmental-review/sole-source-aquifers		

- 1. Does your project consist solely of acquisition, leasing, or rehabilitation of an existing building(s)?**

Yes → *Based on the response, the review is in compliance with this section. Continue to the Worksheet Summary below.*

No → *Continue to Question 2.*
- 2. Is the project located on a sole source aquifer (SSA)¹³?**

No → *Based on the response, the review is in compliance with this section. Continue to the Worksheet Summary below. Provide documentation used to make your determination, such as a map of your project (or jurisdiction, if appropriate) in relation to the nearest SSA and its source area.*

Yes → *Continue to Question 3.*
- 3. Does your region have a memorandum of understanding (MOU) or other working agreement with EPA for HUD projects impacting a sole source aquifer?**

Contact your Field or Regional Environmental Officer or visit the HUD webpage at the link above to determine if an MOU or agreement exists in your area.

Yes → *Provide the MOU or agreement as part of your supporting documentation. Continue to Question 4.*

No → *Continue to Question 5.*
- 4. Does your MOU or working agreement exclude your project from further review?**

Yes → *Based on the response, the review is in compliance with this section. Continue to the Worksheet Summary below. Provide documentation used to make your determination and document where your project fits within the MOU or agreement.*

¹³ A sole source aquifer is defined as an aquifer that supplies at least 50 percent of the drinking water consumed in the area overlying the aquifer. This includes streamflow source areas, which are upstream areas of losing streams that flow into the recharge area.



No → Continue to Question 5.

5. Will the proposed project contaminate the aquifer and create a significant hazard to public health?

Consult with your Regional EPA Office. Your consultation request should include detailed information about your proposed project and its relationship to the aquifer and associated streamflow source area. EPA will also want to know about water, storm water and waste water at the proposed project. Follow your MOU or working agreement or contact your Regional EPA office for specific information you may need to provide. EPA may request additional information if impacts to the aquifer are questionable after this information is submitted for review.

No → *Based on the response, the review is in compliance with this section. Continue to the Worksheet Summary below. Provide your correspondence with the EPA and all documents used to make your determination.*

Yes → *Work with EPA to develop mitigation measures. If mitigation measures are approved, attach correspondence with EPA and include the mitigation measures in your environmental review documents and project contracts. If EPA determines that the project continues to pose a significant risk to the aquifer, federal financial assistance must be denied. Continue to Question 6.*

6. In order to continue with the project, any threat must be mitigated, and all mitigation must be approved by the EPA. Explain in detail the proposed measures that can be implemented to mitigate for the impact or effect, including the timeline for implementation.

→ *Continue to the Worksheet Summary below. Provide documentation of the consultation (including the Managing Agency's concurrence) and any other documentation used to make your determination.*

Worksheet Summary

Compliance Determination

Provide a clear description of your determination and a synopsis of the information that it was based on, such as:

- Map panel numbers and dates
- Names of all consulted parties and relevant consultation dates
- Names of plans or reports and relevant page numbers
- Any additional requirements specific to your region



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Are formal compliance steps or mitigation required?

Yes

No

Attachment S16

Wetlands Protection Compliance - Worksheet



Wetlands (CEST and EA)

General requirements	Legislation	Regulation
Executive Order 11990 discourages that direct or indirect support of new construction impacting wetlands wherever there is a practicable alternative. The Fish and Wildlife Service's National Wetlands Inventory can be used as a primary screening tool, but observed or known wetlands not indicated on NWI maps must also be processed. Off-site impacts that result in draining, impounding, or destroying wetlands must also be processed.	Executive Order 11990	24 CFR 55.20 can be used for general guidance regarding the 8 Step Process.
References		
https://www.hudexchange.info/environmental-review/wetlands-protection		

1. Does this project involve new construction as defined in Executive Order 11990, expansion of a building's footprint, or ground disturbance?

The term "new construction" includes draining, dredging, channelizing, filling, diking, impounding, and related activities and construction of any structures or facilities begun or authorized after the effective date of the Order.

No → *Based on the response, the review is in compliance with this section. Continue to the Worksheet Summary below.*

Yes → *Continue to Question 2.*

2. Will the new construction or other ground disturbance impact an on- or off-site wetland?

The term "wetlands" means those areas that are inundated by surface or ground water with a frequency sufficient to support, and under normal circumstances does or would support, a prevalence of vegetative or aquatic life that requires saturated or seasonally saturated soil conditions for growth and reproduction. Wetlands generally include swamps, marshes, bogs, and similar areas such as sloughs, potholes, wet meadows, river overflows, mud flats, and natural ponds. Wetlands under E.O. 11990 include isolated and non-jurisdictional wetlands.

No, a wetland will not be impacted in terms of E.O. 11990's definition of new construction.
→ *Based on the response, the review is in compliance with this section. Continue to the Worksheet Summary below. Provide a map or any other relevant documentation to explain your determination.*

Yes → there is a wetland that be impacted in terms of E.O. 11990's definition of new construction.
→ *You must determine that there are no practicable alternatives to wetlands development by completing the 8-Step Process.*



Provide a completed 8-Step Process as well as all documents used to make your determination, including a map. Be sure to include the early public notice and the final notice with your documentation.

Continue to Question 3.

- 3. For the project to be brought into compliance with this section, all adverse impacts must be mitigated. Explain in detail the exact measures that must be implemented to mitigate for the impact or effect, including the timeline for implementation.**

Which of the following mitigation actions have been or will be taken? Select all that apply:

- Permeable surfaces
- Natural landscape enhancements that maintain or restore natural hydrology through infiltration
- Native plant species
- Bioswales
- Evapotranspiration
- Stormwater capture and reuse
- Green or vegetative roofs with drainage provisions
- Natural Resources Conservation Service conservation easements
- Compensatory mitigation



U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
WASHINGTON, DC 20410-1000

Worksheet Summary

Compliance Determination

Provide a clear description of your determination and a synopsis of the information that it was based on, such as:

- Map panel numbers and dates
- Names of all consulted parties and relevant consultation dates
- Names of plans or reports and relevant page numbers
- Any additional requirements specific to your region

Are formal compliance steps or mitigation required?

- Yes
 No

Attachment S17

Wild and Scenic Rivers Compliance - Worksheet



Wild and Scenic Rivers (CEST and EA)

General requirements	Legislation	Regulation
The Wild and Scenic Rivers Act provides federal protection for certain free-flowing, wild, scenic and recreational rivers designated as components or potential components of the National Wild and Scenic Rivers System (NWSRS) from the effects of construction or development.	The Wild and Scenic Rivers Act (16 U.S.C. 1271-1287), particularly section 7(b) and (c) (16 U.S.C. 1278(b) and (c))	36 CFR Part 297
References		
https://www.hudexchange.info/environmental-review/wild-and-scenic-rivers		

1. Is your project within proximity of a NWSRS river as defined below?

Wild & Scenic Rivers: These rivers or river segments have been designated by Congress or by states (with the concurrence of the Secretary of the Interior) as wild, scenic, or recreational

Study Rivers: These rivers or river segments are being studied as a potential component of the Wild & Scenic River system.

Nationwide Rivers Inventory (NRI): The National Park Service has compiled and maintains the NRI, a register of river segments that potentially qualify as national wild, scenic, or recreational river areas

No

→ *Based on the response, the review is in compliance with this section. Continue to the Worksheet Summary below. Provide documentation used to make your determination, such as a map identifying the project site and its surrounding area or a list of rivers in your region in the Screen Summary at the conclusion of this screen.*

Yes, the project is in proximity of a Nationwide Rivers Inventory (NRI) River. →
Continue to Question 2.

2. Could the project do any of the following?

- Have a direct and adverse effect within Wild and Scenic River Boundaries,
- Invade the area or unreasonably diminish the river outside Wild and Scenic River Boundaries, or
- Have an adverse effect on the natural, cultural, and/or recreational values of a NRI segment.

Consultation with the appropriate federal/state/local/tribal Managing Agency(s) is required, pursuant to Section 7 of the Act, to determine if the proposed project may have an adverse effect on a Wild & Scenic River or a Study River and, if so, to determine the appropriate avoidance or mitigation measures. _



Note: Concurrence may be assumed if the Managing Agency does not respond within 30 days; however, you are still obligated to avoid or mitigate adverse effects on the rivers identified in the NWSRS

No, the Managing Agency has concurred that the proposed project will not alter, directly, or indirectly, any of the characteristics that qualifies or potentially qualifies the river for inclusion in the NWSRS.

→ *Based on the response, the review is in compliance with this section. Continue to the Worksheet Summary below. Provide documentation of the consultation (including the Managing Agency's concurrence) and any other documentation used to make your determination.*

Yes, the Managing Agency was consulted and the proposed project may alter, directly, or indirectly, any of the characteristics that qualifies or potentially qualifies the river for inclusion in the NWSRS.

→ *Continue to Question 3.*

3. For the project to be brought into compliance with this section, all adverse impacts must be mitigated. Explain in detail the proposed measures that must be implemented to mitigate for the impact or effect, including the timeline for implementation.

→ *Continue to the Worksheet Summary below. Provide documentation of the consultation (including the Managing Agency's concurrence) and any other documentation used to make your determination.*

Worksheet Summary

Compliance Determination

Provide a clear description of your determination and a synopsis of the information that it was based on, such as:

- Map panel numbers and dates
- Names of all consulted parties and relevant consultation dates
- Names of plans or reports and relevant page numbers
- Any additional requirements specific to your region



U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
WASHINGTON, DC 20410-1000

Are formal compliance steps or mitigation required?

- Yes
- No

Attachment S18

Environmental Justice Compliance - Worksheet

Environmental Justice (CEST and EA)

General requirements	Legislation	Regulation
Determine if the project creates adverse environmental impacts upon a low-income or minority community. If it does, engage the community in meaningful participation about mitigating the impacts or move the project.	Executive Order 12898	
References		
https://www.hudexchange.info/environmental-review/environmental-justice		

HUD strongly encourages starting the Environmental Justice analysis only after all other laws and authorities, including Environmental Assessment factors if necessary, have been completed.

1. Were any adverse environmental impacts identified in any other compliance review portion of this project’s total environmental review?

Yes → *Continue to Question 2.*

No → *Based on the response, the review is in compliance with this section. Continue to the Worksheet Summary below.*

2. Were these adverse environmental impacts disproportionately high for low-income and/or minority communities?

Yes

Explain:

→ *Continue to Question 3. Provide any supporting documentation.*

No

Explain:

→ *Continue to the Worksheet Summary and provide any supporting documentation.*

3. All adverse impacts should be mitigated. Explain in detail the proposed measures that must be implemented to mitigate for the impact or effect, including the timeline for implementation.

Mitigation as follows will be implemented:

→ Continue to Question 4.

4. Describe how the affected low-income or minority community was engaged or meaningfully involved in the decision on what mitigation actions, if any, will be taken.

→ Continue to the Worksheet Summary and provide any supporting documentation.

Worksheet Summary

Provide a full description of your determination and a synopsis of the information that it was based on, such as:

- Map panel numbers and dates
- Names of all consulted parties and relevant consultation dates
- Names of plans or reports and relevant page numbers
- Any additional requirements specific to your program or region

Are formal compliance steps or mitigation required?

Yes

No

Attachment T

SHPO Consultation Form

CDBG/HOME SECTION 106 CLEARANCE
NORTH DAKOTA DEPARTMENT OF COMMERCE/DCS
 SFN 52654 (12/14)

THIS FORM MUST BE SUBMITTED TO THE SHPO FOR SECTION 106 DETERMINATIONS	
Identify funding source for project(s): _____	
Project Description: (use attachment if necessary)	
Location: Rural Areas: Township _____, Range _____, Section _____, 1/4 Section _____ Cities - Street Address _____ (Only if there is no street system, use lot, block and addition (never USPS Box #, Route #, etc.))	
Attach Map: Plot APE on map (city map or USGS topographic map for rural areas): Attached: _____ (check)	
Areas Indirectly Affected: Attached location and maps for affected areas outside APE, (i.e., borrow sources, disposal areas, relocation sites, facilities to be abandoned, etc.)	
Year Built: _____ (use the oldest part of the building, do not give age as 50+)	
Requirements for buildings/structures 50+ years or if age unknown:	
Digital or 35mm photos: Take obliquely (showing front & side) of each building/structure. If rehabilitation is involved, send photo close-ups of affected areas such as windows or doors. <u>Send actual photos, not photocopies.</u> _____ (check)	
Historic Associations: Describe associations between the property and any persons/events of historic significance. List references (local historian, centennial book, etc.)	
Based on the information collected, the type of SHPO concurrence you are requesting (check one only): <input type="checkbox"/> No Historic Properties Affected <input type="checkbox"/> No Adverse Effect (If rehab of historic properties will occur, review the Secretary of Interiors Standards for Rehabilitation of Historic Properties prior to developing a work plan. Note - For Historic Properties, a No Adverse Effect determination requires conforming with the Secretary of Interiors Standards.) <input type="checkbox"/> Adverse determination Effect (A MOA will be prepared)	
FOR SHPO USE ONLY: No Historic Properties Affected The described undertaking will not affect any historic properties, per 36CFR800.4(d). If the project description changes, this recommendation is void. Review and Compliance Coordinator _____, ND SHPO Date _____ In Response Please Reference: SHPO# _____	
Additional Information: Send additional information relevant to the Section 106 determination. If the project involves properties listed on, or eligible for the National Register, additional information may be required. Send form with all attachments to: Attn: Review and Compliance ND State Historic Preservation Office 612 E. Boulevard Ave. Bismarck, ND 58505-0830	Form should be returned to: _____ Name _____ Agency & Phone Number _____ Address _____ City, State, Zip _____ Signature _____ Date _____

Attachment U

Authority to Use Grant Funds

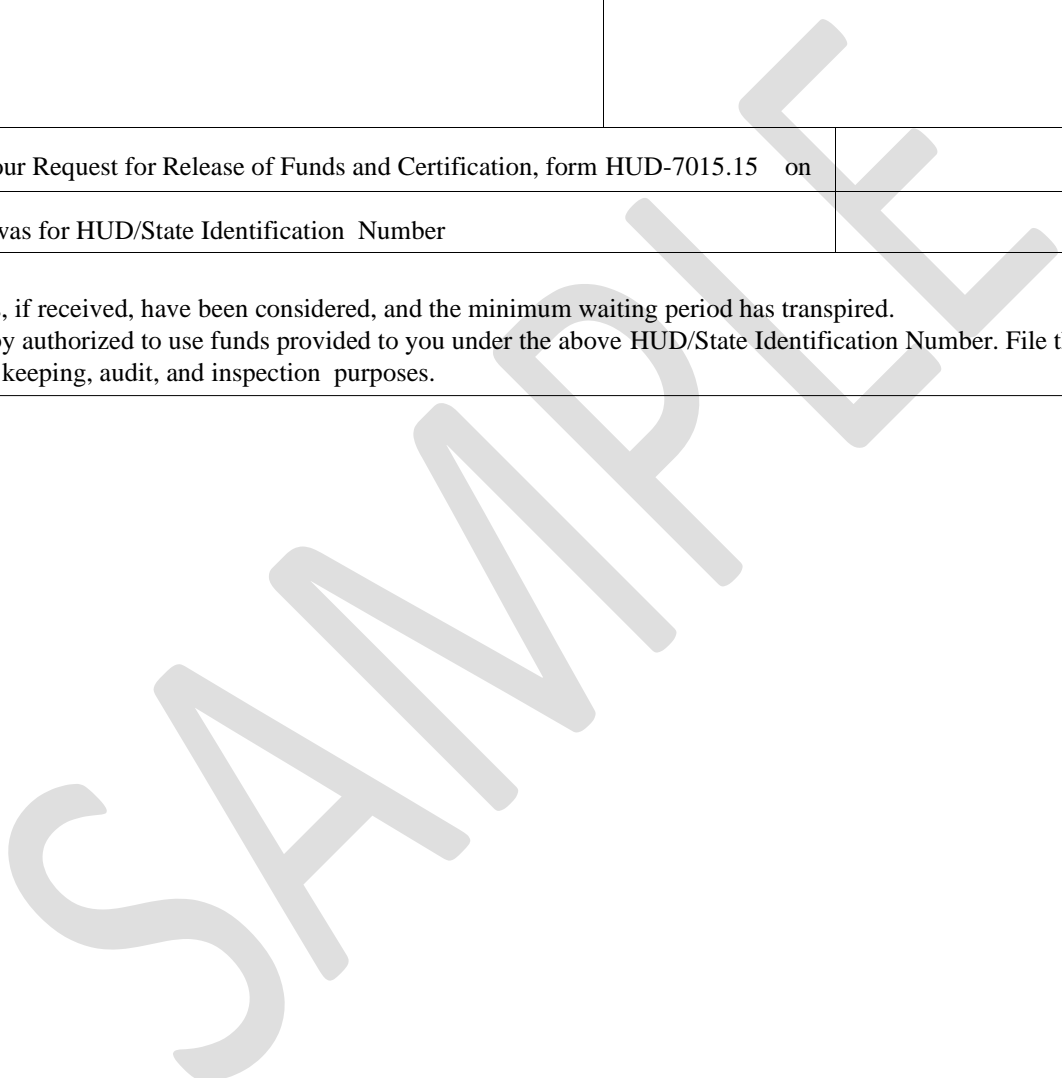
Authority to Use Grant Funds

U.S. Department of Housing and Urban Development Office of Community Planning and Development

To: (name & address of Grant Recipient & name & title of Chief Executive Officer)	Copy To: (name & address of Subrecipient)
--	--

We received your Request for Release of Funds and Certification, form HUD-7015.15 on	
Your Request was for HUD/State Identification Number	

All objections, if received, have been considered, and the minimum waiting period has transpired. You are hereby authorized to use funds provided to you under the above HUD/State Identification Number. File this form for proper record keeping, audit, and inspection purposes.



Typed Name of Authorizing Officer	Signature of Authorizing Officer	Date (mm/dd/yyyy)
Title of Authorizing Officer	X	

form **HUD-7015.16** (2/94)
ref. Handbook 6513.01

Previous editions are obsolete.

Attachment V
DCS ERR Review Form

North Dakota DCS ERR Review Form

Regional Council:

Subrecipient Name:

Project Name:

Project Description: (use attachment if necessary)

Project Location:

City/County: _____

Does the project have a single identifiable address?

Yes No

If No above, please provide geographic description:

Street Address or Nearest Road Location:

(If there is no street system, use lot, block and addition) Block: _____, Lot: _____.

Category of Environmental Review:

- Exempt
- Categorically Excluded not Subject to 58.5
- Categorically Excluded Subject to 58.5
- Assessment
- Environmental Impact Statement (EIS)

Was the ERR Submitted in the DCS Approved Format?

Yes No

(If No, the ERR will be returned to the preparer for completion and resubmittal in the correct format.)

1. Is the Correct ER Level of Review Identified for the Project?

Yes (If Yes, proceed to #2) No

If No, Explain:

If No, Is Corrective Action Needed? Yes No

If Corrective Action is Required, Describe:

2. If project was CENST or Exempt, was the Proper ER form Submitted?

- Yes(If Yes, proceed to #3) No
 Project was neither CENST or Exempt (proceed to #4)

If No, Is Corrective Action Needed? Yes No

If Corrective Action is Required, Describe:

3. Were the Forms Signed by the Proper Authorities?

- Yes(If Yes, proceed to #4) No

If No, Is Corrective Action Needed? Yes No

If Corrective Action is Required, Describe:

4. Does the Project Utilize a Tiered ER Process? Yes No (If No, proceed to #5)

If Yes, Is Broad Level Review (Tier I) Documentation Provided? Yes No

If Yes, Are Site Specific Review (Tier II) Documents Provided? Yes No

Is Corrective Action Needed to Address Issues with Tiering? Yes No

If Corrective Action is Required, Describe:

5. If Project is CEST were the Proper ER Forms Submitted?

- Yes(If Yes, proceed to #6) No Project is not CEST (proceed to #7))

If No, Is Corrective Action Needed? Yes No

If Corrective Action is Required, Describe:

6. Were the Forms Signed by the Proper Authorities? Yes(If Yes, proceed to #7) No

If No, Is Corrective Action Needed? Yes No

If Corrective Action is Required, Describe:

7. If Project is Assessed were the Proper ER Forms Submitted?

- Yes(If Yes, proceed to #8) No Project was not Assessed (proceed to #9)

If No, Is Corrective Action Needed? Yes No

If Corrective Action is Required, Describe:

8. Were the Forms Signed by the Proper Authorities? Yes(If Yes, proceed to #9) No

If No, Is Corrective Action Needed? Yes No

If Corrective Action is Required, Describe:

9. If Project is CEST or Assessed, were the Proper Notifications Published (NOI/RROF, FONSI, Floodplain Notices, 8-Step Decision Making Process)?

Yes(If Yes, proceed to #10) No Project is neither CEST or Assessed (proceed to #10)

If No, Is Corrective Action Needed? Yes No

If Corrective Action is Required, Describe:

10. Did the Project Require Submittal of an RROF? Yes No

If Yes, What was the Date RROF was Received by DCS? _____.

If Yes, Were the Proper Forms Submitted to DCS? Yes(If Yes, proceed to #11) No

If Proper Forms Were Not Submitted is Corrective Action Needed? Yes No

If Corrective Action is Required, Describe:

11. Does DCS Require Additional Documents, Explanation or Information from the Regional Council to Complete Review of the Project? Yes No

If Yes, Describe:

DCS Reviewer

Name: _____ Title: _____
Print

Name: _____ Date: _____
Signature

DRAFT

Attachment W

Environmental Assessment Factor Guidance

Environmental Factors

The following are questions to take into consideration when evaluating whether the following environmental assessment factors have an environmental impact under NEPA. Do not limit the review to only the questions provided and address each question as applicable. Please provide details and documentation where necessary.

Land Development:

Conformance with Plans / Compatible Land Use and Zoning / Scale & Urban Design

Conformance with Plans

Overview

It is important that a proposed project be consistent with a community's long-range goals and policies as articulated in its comprehensive plans. Most cities and communities, and even some neighborhoods, have medium (5-year) to long-range (25-year) plans that express the community's vision for development.

Comprehensive or land use plans are intended to encompass plans and goals relating to a wide variety of areas including, but not limited to, transportation, housing improvement, recreation, adequate capacity in schools, sufficient emergency service levels, coastal zone restrictions, health, economic development, and utilities; and serve as a basis for rezoning or special use requests. These plans are prepared by a variety of agencies and boards, including municipal and county government, special districts, area-wide planning agencies and state agencies. These and potentially other municipal interests may have overlapping land use requirements; meaning, the need to comply with all appropriate land use reviews may entail approvals from more than just a single unit of government. An assessment of the degree of conflict or consistency with local and regional plans must take into account the decentralized preparation and implementation of plans, both on a geographic and an administrative or governmental basis. Some communities require that local zoning be consistent with adopted plans.

Experts to Contact

- Local and Regional Planning Agency
- Zoning Review Officer or Administrator
- Planning Commission/Director

Questions to Consider

1. Consider how the proposed project is consistent with the community's comprehensive plan. Where appropriate, provide the plan's name, date of approval, and upload the relevant page(s).
2. Will the project be unduly influenced by a planned transition of land uses?

Compatible Land Use and Zoning

Overview

The man-made environment consists of differing types of land use: commercial, industrial, residential, recreation, and open space. It also takes place in areas of differing land use density. Central city areas contain higher densities of development than rural areas, small towns or newer western communities. In terms of residential uses, density is measured by number of dwelling units or people per unit per land area (people/unit/acre). In most communities density is governed by the local zoning ordinance. Issues to consider under this category are:

- Urban impact—certain types of federally assisted activities can have an adverse impact on the economic viability of a city's central business district. For example, situating a HUD-assisted shopping center at the fringe of a city could undermine the financial stability of downtown commercial establishments. Similarly, HUD-funded infrastructure improvements made at the edge of an urbanized area (e.g. sewer and water lines) could induce sprawled development in undeveloped portions of a community resulting in environmental and social costs. The impacts of induced development to achieve managed growth through the efficient use of available and publicly-funded infrastructure are consistent with federal sustainability objectives. HUD-funded infrastructure improvements made in the inner city may stimulate private investment and thereby help revitalize a lagging section of a community.
- Land use compatibility—certain types of land uses may be incompatible with one another. For example, it may be incompatible to locate a new housing development in a newly industrialized area.

A community's zoning ordinance is the principal legal tool available for the implementation of its comprehensive plan and for the definition of the community's land use policies. Zoning regulates development patterns including construction, alteration, and use of buildings, structures, or land.

Land uses are single-family (1-4 unit) residential, multi-family residential, office, commercial, light industrial, heavy industrial, institutional (e.g., hospital, city hall), recreational, agricultural, or open space. Existing land uses do not always conform to the current zoning classification and may indicate the need to obtain local approval. For example, a vacant gas station (commercial use) may be currently zoned for residential use; a proposed commercial use may not be currently compatible with the existing land use.

A proposed project may not be in conformance with existing zoning but may be consistent with the community's general development plans and policies. Such projects may require either a change in the zoning or a special permit through an appeals process. The need for a change in the zoning should not, by itself, be interpreted as an adverse environmental effect. However, failure to thoroughly secure appropriate land use approval by municipal interests will prevent development from proceeding.

Certain land uses are inherently incompatible and, in some circumstances and when co-located without adequate buffering and mitigation, could cause a significant impact. HUD-funded projects must consider how the project will be adversely impacted by ill-suited land uses or, alternatively, how the project itself could impose or create adverse impacts. An example of this is - if the proposed project is an industrial use, locating it near residential uses could impose noise, odors, and other adverse impacts upon the residential uses.

Experts to Contact

- Local and Regional Planning Agency
- Zoning Review Officer or Administrator
- Planning Commission/Director

Questions to Consider

1. What is the current zoning classification of the project location?
2. What is the existing land use at the project location?
3. How does the project relate to the existing land uses of the adjacent and surrounding properties?

Scale & Urban Design

Overview

Visual quality can be defined as the impact of the project on the visual character of its surroundings and ultimately, on the residents, users and/or visitors of the project. Visual quality derives from the way elements of the natural and built environment relate to each other to create a sense of harmony. Ideally, the overall effect of these elements is to give the viewer a sense of orientation and comprehension, and to enable the viewer to orient himself in the area. Visual impact should be examined in terms of the surrounding area of the project. Examine the project in view of how it fits in with its man-made and natural surroundings. Will the project add to the attractiveness of the area or detract from it? Where changes are required, beneficial effects should be designed into the project (e.g., landscaping).

Elements that comprise the natural environment include the natural contours of the land, bodies of water, vistas of the sky, and trees and plants. These provide contrast to the built environment and create visual interest.

Any kind of physical construction related to the project will affect the natural elements. Construction which is not adapted to the contours of the land is out of character with the site. Buildings that block views or cast shadows, cut and fill operations that ignore natural contours, the filling of wetlands, removal of trees and vegetation are other examples of site use insensitivity.

Elements of the built environment include the surrounding buildings and streets. The different styles and types of buildings and their materials, colors, shapes, sizes, facades, details and density all add to the character of the area. Their placement in relation to the street and to each other can help provide a sense of harmony or create interesting skylines and views.

Streets and streetscapes are another major component of the built environment. Variables here are the size, width, paving and curb materials, lighting fixtures, signs and street furniture such as benches. The vitality of activity strongly affects the character of an area. Projects that are closed, windowless or undifferentiated at the sidewalk level may seriously mar the public perception of safety and livability of the surrounding area.

A number of factors should be examined in determining the compatibility of a new building with the existing area. Buildings which open up views or block or degrade them or which become themselves focal points will affect the visual quality. Other factors include the size, design, materials, and siting of the building or buildings. However, buildings which do not copy their neighbors in materials or design are not necessarily incompatible.

Experts to Contact

- City Architect, Urban Design staff
- Local American Institute of Architects, American Society of Landscape Architects or American Planning Association
- Local Conservation and Historic Commissions

Questions to Consider

1. How will the project alter the land form? Will the project demonstrably destroy or alter the natural or man-made environment? For example, will there be clearance of trees or buildings or alteration of the geomorphic form of the land?
2. How does the project “fit” or conform within the surrounding and established built environment, in terms of overall scale, density, size, and mass?
3. Will there be intrusion of elements out of character or scale with the existing physical environment?
4. Does the proposed building represent a significant change in size, scale, placement, or height in relation to neighboring structures in an inappropriate manner?
5. Does the project affect building density in the community?
6. Are the changes resulting from any induced development regarded by the community as beneficial or negative?
7. How does the project’s design relate to the context of its surroundings?
8. Are levels of activity reduced or detrimentally increased? Does the project enhance street-level activity and community interaction?
9. Is signage and street furniture in character with existing architectural styles? Does it differ in materials, color, or style from its neighbors in an inappropriate manner?
10. Does the project conform to locally adopted design guidelines?

Soil Suitability/ Slope/ Erosion/ Drainage/ Storm Water Runoff:

Soil Suitability

Overview

Soil suitability is the physical capacity of a soil to support a particular land use. To be suitable for a building, for example, the soil must be capable of adequately supporting its foundation without settling or cracking. The soil should be well drained so that basements remain dry and septic systems can be installed in localities not served by sewers. Soil depth is an important factor and must be adequate for the excavation of basements, sewers, and underground utility trenches. Surface soils need to be capable of supporting plantings. How well a soil is able to support development is a function of several factors including its composition, texture, density, moisture content, depth, drainage, and slope. Surface and bedrock geological conditions also affect site suitability for development.

Development Issues: Some soils have poor drainage or poor permeability qualities. Some soils have high shrink-swell, frost action, or side seepage potential. Each of these characteristics may cause problems for development if appropriate mitigation measures are not included in project design. Problems for development can also arise with soil characteristics combined with other features of the site including height of the water table, slope stability, and potential of subsidence or settling of soils due to the extraction of mineral and geological deposits beneath the surface.

Soil conditions which are adverse to development can be overcome by installation of drainage, replacement with structural fill, or use of special foundations; however, these measures can significantly add to project costs or conflict with resource management goals such as preservation of floodplains or farmlands. In certain urban areas the high cost of available land may justify the high cost and potential resource impacts associated with these measures. In suburban and rural localities these factors may justify the selection of an alternative development site.

Resources to Reference/Experts to Contact

- USDA Soil Survey available at the county/parish USDA service center or online at <http://web-soilsurvey.nrcs.usda.gov/app/HomePage.htm>
- Architect/engineer - local building department, HUD field office
- Soil conservationist - Soil Conservation Service county office
- Highway department soils engineer
- Geologist-Soils specialist

Questions to Consider

1. Is there evidence of ground subsidence, seismic activity, a high water table, or other unusual conditions on the site?
2. Is there any visible evidence of soil problems (foundation cracking or settling, basement flooding, etc.) in the neighborhood of the project site?
3. Were structural borings or a dynamic soil analysis / geotechnical study needed and conducted? If so, please discuss the findings of the report.
4. Are there visual indications of filled ground? If your answer is yes, was a 79(g) report / analysis submitted?
5. Will the project site significantly affect or be affected by unsuitable soil conditions?
6. Will the project significantly affect soils that may be better suited for natural resource management activities such as farming, forestry, unique natural area preservation, etc.?

Slope

Overview

Slope refers to changes in the physical features of the land: elevation, orientation, and topography. Such alteration is associated with construction on hillsides where changes in the visual character of the site may occur and where slope instability, erosion, and/or drainage problems may result. In some localities, hillsides are likely to house native plant communities which could be lost as a result of topographic alteration.

Improper grading will often alter the surface water flow and may cause flooding for the site and the surrounding property owners.

Excessive grading will often alter the groundwater level, which may cause the slow death of trees and ground cover and in turn destroy wildlife habitat.

Since erosion, slope stability, and drainage characteristics depend not only on the steepness of the slope but also on the material composition, soil suitability needs to be considered in any analysis of slope conditions.

Resources to Reference/Experts to Contact

- USDA Soil Survey available at the county/parish USDA service center or online at <http://websoilsurvey.nrcs.usda.gov/app/HomePage.htm>
- USGS topographic maps available through various map providers
- Civil engineer
- Geologist
- Soils scientist

Slope Suitability for Urban Development Slopes Suitable for Development by Land Use Type

Limitations	Suitability Rating	Residential	Commercial	Industrial Park
Slight	Optimum	0-6%	0-6%	0-2%
Moderate	Satisfactory	6-12%	6-12%	2-6%
Severe	Marginal	12-18%	12-18%	6-12%
Very Severe	Unsatisfactory	18 + %	18 + %	12 + %

Adapted from: Kiefer, Ralph W. "Terrain Analysis for Metropolitan Fringe Area Planning," Journal of the Urban Planning Division, Proceedings of the American Society of Civil Engineers, December 1967.

Moechnig, Howard, Inventory and Evaluation of Soils for Urban Development (St. Paul HRA C.P. District 6 -North End), Ramsey Soil and Water Conservation District.

Questions to Consider

1. Is the site on a slope? If so please define: slight, moderate, severe, or very severe (see chart above).
2. Is there a history of slope failure in the project area?
3. Is there visual indication of previous slides or slumps in the project area, such as cracked walls, tilted trees, or fences?
4. Will the project site significantly affect or be affected by slope conditions? If so, does its design plan include measures to overcome potential slope stability problems?
5. Will slope modification activities remove micro-climatic conditions that facilitate the growth of unique natural habitats (e.g., northwest facing slopes occupied by plant communities from cooler regions)?
6. Will the slope modification activities affect social and cultural resources?

Erosion

Overview

Erosion, transport, and sedimentation are the processes by which the land surface is worn away (by the action of wind and water), moved, and deposited in another location. While commonly considered an agricultural problem, erosion in the urban context resulting from land clearance and construction can be equally serious. In urbanized areas, erosion can cause structural damage in buildings by undermining foundation support. It can pollute surface waters with sediment and increase the possibility of flooding by filling river or stream channels and urban storm drains.

Erosion results from the interaction of physical characteristics (topography, soil type, and groundcover), wind and water action, and human use at any one site. Some soils are less stable than others and are consequently more susceptible to erosion. Loosely consolidated soils (e.g., sands) and those of small particle size (e.g., fine silts) are more susceptible to erosion. By contrast, soils with high moisture and clay content are more resistant to erosion. Wind erosion is most likely to occur in arid or semi-arid regions where the low moisture content reduces the cohesiveness of indigenous soils.

A key factor in erosion is the land cover. Undisturbed vegetated areas are less susceptible to erosion than surfaces which have been exposed. Steep slopes (often defined as 123/4 +) increase the velocity of runoff, so erosion is more likely with greater slope.

Resources to Reference/ Experts to Contact

- USDA Soil Survey available at the county/parish USDA service center or online at <http://web-soilsurvey.nrcs.usda.gov/app/HomePage.htm>
- City or county engineer
- Soil conservationist—Soil conservation service county office
- Landscape architect
- Soils engineer—State or local highway department

Questions to Consider

1. Is there evidence of erosion or sedimentation?
2. If site clearance is required, explain if it includes removal or vegetation, its effects, and how erosion will be managed and controlled.
3. Is an erosion control plan included as part of construction and the construction contract?
4. Will the project site significantly affect or be affected by erosion or sedimentation conditions? If so, does the design plan include measures to overcome potential erosion problems?

Drainage/ Storm Water Runoff

Overview

Stormwater management and its relationship to a proposed new development can be an essential determinant of whether a project is to be constructed. Stormwater is usually removed from an impermeable surface (e.g., pavement and buildings) by natural flow, storm sewers, or combined (storm and sanitary) sewers. It is discharged into a surface water body, a permeable recharge area, or temporary storage areas. In assessing impacts to stormwater service facilities, two factors must be considered: 1) the proximity of the system to the site and 2) the capacity of the system to accommodate the project.

Resources to Reference/ Experts to Contact

- USDA Soil Survey available at the county/parish USDA service center or online at <http://web-soilsurvey.nrcs.usda.gov/app/HomePage.htm>
- USGS topographic maps available through various map providers.
- Engineer—City/county public works or engineering department or local/district stormwater management/disposal agency
- Engineer/planner—HUD field office or local planning department
- State and regional natural resource management agencies

Questions to Consider

1. Is there indication of cross-lot runoff, swales, or drainage flows on the property?
2. Are there visual indications of filled ground, active rills, or gullies on site?
3. Will existing or planned storm water disposal and treatment systems adequately service the proposed development? Will the proposed project be adversely affected by proximity to these facilities?
4. If the public storm sewer is not available, how will storm water drainage be handled?
5. Is state/regional/local permitting required to control stormwater run-off, e.g., a National Pollution Discharge Elimination System (NPDES) permit? If so, what conditions will be required by the permit?
6. Will the project itself cause or substantially contribute to off-site pollution by stormwater run-off, leaching of chemicals, or other pollutants?
7. Will the project site significantly affect or be affected by drainage and stormwater conditions? If so, does its design plan include measures to overcome potential runoff problems?

Hazards and Nuisances/ Including Site Safety and Noise:

Overview

This category is concerned with ensuring that a project is located and designed in a manner which reduces any potential risk to the public or project users from both natural and man-made risks to people or property damage. Accordingly, a number of possible hazards to health and safety have been identified below. Many of these hazards may be subject to municipal regulation. For example, standards for adequate light and air, building density, construction materials, structural integrity, maintenance, and cleanliness are contained in local zoning, building, and health codes. Their enforcement is often independent of environmental assessment procedures. The environmental assessment should particularly include those areas which are not covered by code requirements. Many can be corrected through proper siting, sound planning, and good project design.

Experts to Contact

- Seismologist
- District officers of the Army Corps of Engineers or Federal Emergency Management Agency (FEMA)
- Local fire departments

Questions to Consider

1. Will the project be affected by any of the following hazards? Natural hazards, including, but not limited to:

- Earthquakes - faults, fracture
- Volcanoes
- Landslides
- Fire-prone areas
- Droughts
- Floods
- Cliffs, bluffs, crevices
- Wind / sand storm concerns
- Hazardous terrain
- Poisonous plants, insects, animals

Man-made site hazards, including, but not limited to:

- Recreational areas located next to freeway or other high traffic way
- Dangerous intersection
- Inadequate separation of pedestrian / vehicle traffic
- Hazardous cargo transportation routes
- Unfenced railroads or highways
- Unfenced water bodies
- Unfenced construction sites
- Shadows
- Inadequate street lighting
- Uncontrolled access to lakes and streams
- Improperly screened drains or catchment areas
- Quarries or other excavations
- Dumps/sanitary landfills or mining
- Reclaimed phosphate land (radioactive)
- Hazards in vacant lots
- Chemical tank-car terminals
- Other hazardous chemical storage
- High-pressure gas or liquid petroleum transmission lines on site
- Overhead transmission lines
- Oil or gas wells
- Industrial operations
- Gas, smoke, or fumes

Air pollution generators, including but not limited to:

- Heavy industry
- Incinerators
- Power generating plants
- Rendering plants
- Fugitive dust
- Cement plants
- Large parking facilities (1000 or more cars)
- Heavy travelled highway (6 or more lanes)

- Oil refineries
2. Will the project be affected by any of the following nuisances?
 - Gas, smoke, fumes
 - Odors
 - Vibration
 - Glare from lighting from industrial or commercial uses or parking lots
 - Vacant / boarded-up buildings
 - Unsightly land uses
 - Front lawn parking
 - Abandoned vehicles
 - Vermin infestation
 3. Is the project itself a noise-generating facility in a noise-sensitive area, such as a site in close proximity to schools and housing?

Energy Consumption:

Overview

Energy is a scarce and valuable resource. It has become increasingly important to both design and to locate new facilities in a way which minimizes energy usage.

Maximizing opportunities for energy efficiency can be incorporated in nearly all phases of project planning, location selection, site planning, and building design. The location of new facilities in central areas with close proximity to mass transportation, employment, shops, schools and services can reduce energy consumed for transportation. The reuse of existing buildings can both cost less and save more energy than new construction. Site planning should take into account the role which trees and topography can play in sheltering a structure from climatic extremes (wind, heat, and cold). Southward-facing sites receive maximum solar input, an important consideration in northern climates during the colder months. The final consideration is the incorporation of energy saving measures in building design, such as the usage of extra insulation, use of efficient heating, cooling, and hot water systems (possibly solar), use of double-glazed windows which open and close, and use of fluorescent rather than incandescent lights. Other measures include the reduction in the number of parking spaces provided to encourage carpooling and/or transit usage.

Experts to Contact

It may be necessary to consult with an engineer, architect and/or energy auditor/rater to determine if the design fully exploits potential energy saving measures. Qualified energy efficiency consultants may include those certified under the Home Energy Rating System (HERS) training and certification program. Direct contact with utility companies is suggested to determine the availability of rebates and incentives. Local utility companies and, in some cases, public works staff can assist in determining adequacy of available power service to meet the need of the proposal.

Questions to Consider

1. If the project entails residential new construction or substantial rehabilitation of single-family housing or multi-family buildings up to three-stories, is the project being designed and constructed to meet the current version of the Energy Star performance standard?

2. Have the architectural plans and building orientation taken full advantage of potential energy saving measures related to climate, sun and wind? Are Energy Star appliances, lighting heating, cooling and hot water systems to be installed? Does the project include programmable thermostats, occupancy sensors in common areas, water filters, insulated hot water pipes, and/or point-of-use/tankless hot water heaters?
3. Is the proposal being rated under LEED, Enterprise Green Communities, or other green standard or sustainability program?
4. Is the location of the project in close proximity to transit, shopping, services and employment locations?
5. Are state and federal rebates, tax incentives for energy efficiency strategies, and renewable energy components being considered?
6. For multi-family projects, is there individual metering for utilities or a tenant energy efficiency education program?
7. Is there an opportunity to enter into an energy performance contract?
8. What is the estimated energy consumption of the proposal, and are the energy resources of the utility provider sufficient to support the proposal?
9. Are renewable energy strategies being implemented in this project? If this is a rural project, was on-site energy generation considered (wind, fuel cell, or solar) in lieu of or in addition to a grid connection?
10. What are the projected greenhouse gas (GHG) emissions of the project upon full occupancy? Are they significant?
11. Does the estimated energy consumption of the proposal require a significant increase in energy production for the energy provider?

Socioeconomic:

Employment and Income Patterns

Overview

Employment-related impacts of a project can be grouped into three broad categories: temporary jobs created in construction, permanent jobs created and the job requirements of new residents.

Employment and income patterns can be measured by identifying the occupations and income levels characteristic of an area's resident population or by identifying major employers within the area. Some of the measures commonly used include resident income, resident occupational distribution, unemployment levels, and job types of major employers.

Experts to Contact

- Local industrial development authority
- Economist at state employment service
- Planner/administrator at local planning or employment agency
- Chamber of Commerce

Questions to Consider

1. Will the project either significantly increase or decrease temporary and/or permanent employment opportunities?
2. What is the profile of new jobs created by the project? What is the distribution across the skills and income scale? How do these relate to the skills and income profile of project area residents?
3. Will the new jobs likely go to area residents, low-income, unemployed, and minority group members?
4. If the jobs don't go to area residents, where are the new employees likely to come from (i.e., inner city, suburbs)?

Demographic Character Changes, Displacement:

Demographic Character Changes

Overview

Community is a term which commonly refers to people living within a defined geographic area such as a neighborhood or a small town. Communities can be highly diverse or highly homogeneous places, they can be strictly residential or characterized by mixed land uses. HUD programs are primarily intended to benefit low- and moderate-income households with the objective of increasing housing opportunities for low-income/minority households.

Central to the definition of community is both the presence of a residential population and a sense of common bond and collective identity which defines the community as distinct from other neighborhoods or communities. Community is often a difficult term to define because it carries a physical, social, and a psychological dimension. The physical dimensions are the quality and type of housing units and commercial, public, and social services. The social dimensions include demographic characteristics such as the population size, density, age, ethnic and minority composition, household size and composition, and income and employment characteristics. Much of this data is found in the U.S. Census.

Another dimension of community is the residents' sense of community—their perceived relationship with their surroundings. It can be measured from resident attitudes, and the strength of organizational ties, both formal and informal. It should be observed, however, that change per se is not a negative or positive thing. In doing this assessment, it is important to be aware of the social networks and institutions which characterize a neighborhood. In many cities neighborhoods exist where residents have strong ties to the area, each other, local stores, and institutions. Often these are ethnic areas where residents share a common cultural and religious heritage. It is important that HUD activities not destroy the social networks and institutional ties in these areas.

Experts to Contact

- Neighborhood planner at local planning department
- Director of local neighborhood organizations
- Housing code compliance office/local health or building department
- Local community action agencies
- Local advocacy groups and/or organizations

Questions to Consider

1. What is/are the identifiable community(ies) within the sphere of likely impact of the proposed project? What are the factors which contribute to the character of the community(ies)?
2. Does the proposed project contribute to reducing or significantly altering the racial, ethnic, or income segregation of the area's housing?
3. Will the proposed project result in physical barriers or difficult access which will isolate a particular neighborhood or population group, making access to local services, facilities, and institutions or other parts of the city more difficult?
4. Does the proposed project at this site create a concentration of low income or disadvantaged people, in violation of HUD site and neighborhood standards and HUD Environmental Justice policies?

Displacement

Overview

Displacement refers to the dislocation of people, businesses, institutions, or community facilities as a result of a project. Direct displacement is involuntary displacement of a person who occupies property that is acquired, rehabilitated, or demolished for a HUD-funded activity, vacated to comply with HUD-assisted code enforcement, or specifically identified in a grant application as the site of a leveraged activity. Only displacement as a result of acquisition by a public agency is covered by the Uniform Relocation Act. Indirect displacement is involuntary displacement caused by an activity or event that is not HUD-assisted but which is supported by concentrated HUD activities. For example, this would include displacement caused by rapidly increasing rents made possible by revitalization of an area in which HUD-funded rehabilitation or street improvements are taking place.

Experts to Contact

- Relocation specialist at local community development agency
- Relocation specialist at HUD Field Office

Questions to Consider

1. Will the project directly displace individuals or families? How many persons? Is the displacement covered by the Uniform Relocation Act and are funds available for payment?
2. Will the project destroy or relocate existing jobs, community facilities, or any business establishments? Is the displacement covered by the Uniform Relocation Act, and are funds available for payments?
3. Are replacement facilities or housing units available within the community or in a nearby neighborhood? What will be the effect of the relocation on these neighborhoods?
4. Will the project result in probable indirect displacement? If so, have measures been planned to alleviate the hardship on those affected whose displacement is not covered under the Act?

Community Facilities and Services:

Educational and Cultural Facilities

Overview

There are two fundamental considerations regarding a HUD activity's relationship to and/or impact on elementary, junior, and senior high schools: adequate capacity for children in the school(s) and safe access. In order to accurately establish the extent to which these two criteria should apply, an initial calculation must be made detailing the projected increase in student population to be created by the proposed development. This calculation can be accomplished by contacting the developer or sponsor for mix of unit types (i.e., 1-bedroom, 2-bedroom dwellings), and contacting the school administrator or superintendent for an estimated average number of school-age children per unit type.

If the proposed project will overcrowd the schools consider such alternative options as:

- Building additions to existing schools
- Locating classroom space in nearby buildings (i.e., community centers or other commercial facilities, possibly owned by the developer)
- Providing transportation to other schools

Safe access takes into account the possible need for transportation to school and attention to potential traffic hazards. Specific issues include:

- Existence of all-weather walking paths and proximity to bus stop(s), schools, and crosswalks
- Crossing guards (especially for elementary school children)
- Clearly marked intersections near school or bus stop(s)

Experts to Contact

- School superintendent
- Developer or sponsor of proposed HUD project
- Traffic department

Questions to Consider

1. What is the projected increase in student population to be created by the proposed development?
2. Will the additional school age children exceed the capacity of the existing or planned school facilities? If so, what measures will be taken to resolve potential problems/conflicts?
3. Does the potentially affected school(s) have adequate and safe access facilities (i.e. walking paths, bus routes, crosswalks and guards) given any calculations done for projected population increase? Are these adequate both in terms of safety and access?
4. Will additional or alternative facilities have to be provided to ensure safety and suitable access?

Commercial Facilities

Overview

There are two key considerations in assessing commercial facilities. The first is an evaluation of the

adequacy of existing commercial facilities to service the development. Are these facilities located conveniently to the proposed development? Are the available retail goods within the income capacity of the proposed project users or residents? Are there serious gaps in range of available goods and services?

The second analysis involves the impact which a proposed development will likely have on surrounding commercial establishments. For example, a new commercial development might displace existing small scale retail establishments which become uncompetitive when compared to new and larger enterprises.

There are generally three types of retail areas which are recognized by type and function. Any of these might be affected by the proposed project.

Neighborhood—consists of small businesses usually within 5-10 minutes travel time which include food, drug, cleaners, and convenience stores. The neighborhood shopping site is usually organized around a supermarket.

Community (or central business district)—contains multi-functional economic and service enterprises (banks, specialty stores, etc.) with access provided either by auto or public transit. In larger metropolitan areas, a food store is often not included.

Regional—may be either the central business district of a metropolitan area or may be a regional shopping center, usually with two or more department stores and various specialty stores.

Experts to Contact

- Local chamber of commerce
- Commercial realtor
- Commercial development specialist
- Local planning agency

Questions to Consider

1. Do local retail services meet the needs of project occupants/users? Are they affordable, and is the range of services adequate?
2. Is there adequate and convenient access to retail services? In the case of elderly, this means that shopping for essential items as food and medicine is within three blocks and banks and other convenience shopping are within walking distance.
3. In areas not readily serviced by retail services, is public transportation that can carry commuters to retail services within one-half hour available? If public transportation is not available will readily available transportation services be provided?
4. Will existing retail and commercial services be adversely impacted or displaced by the proposed project?

Health Care and Social Services:

Health Care

Overview

Relevant issues to be considered regarding a proposed project's impact on health care services are:

- Adequate access to hospitals, emergency facilities, clinics, and physician services

- Potential effect of the proposed development on existing health care services' capacity and ability to accommodate an increase in use
- Adequate health services to accommodate the special needs of a potentially diverse population, i.e., families, elderly, and handicapped.

Health care services can be defined as those regular and emergency dental and medical care services provided for by private doctors, dentists, and other trained medical staff at a hospital, outpatient clinic, public, private or community health facility, home-care medical programs, or an emergency treatment facility (trauma unit, special cardiac pulmonary resuscitation [CPR] unit).

Experts to Contact

- Area health systems agency—can provide the area-wide health system plan which is an inventory of institutional health services and projected demand within the area.
- Local public health department—can provide information on local demand for, and quality of healthcare.
- Council on aging—can provide information on size and location of the local elderly population.
- Local Red Cross—can be valuable resource for medical needs of the area.

Questions to Consider

1. Will the increase in population from the proposed development increase the need for area health care services beyond current capacities?
2. Are non-emergency health care services located within a reasonable proximity to the proposed project (less than a half-hour drive or commute away)?
3. Are emergency health services available within approximately three to five minutes? Such services can often be provided by police and fire personnel as well as by ambulance staff.
4. Is the number of doctors, dentist, nurses, and other trained medical staff realistic in proportion to an increase in residents/users? If not, can provisions be made for additional skilled staff?
5. Will project residents/users require special medical services or skills such as geriatric clinics?

Social Services

Overview

Social services can be defined as those services provided by governmental social service agencies or public or private groups, including but not limited to programs for drug addiction, alcoholism, and mental disorders; halfway houses and drop-in centers, family counseling centers, day care centers; services for senior citizens and the handicapped; nutrition centers, Meals on Wheels; income maintenance, and manpower programs, etc.

Social services, by definition must, cater to, and be easily accessible to, those who need them. Therefore, access and adequacy are important considerations. Factors to consider regarding a proposed project's impact on an area's social services include:

- Availability and accessibility of day care, elderly centers, and neighborhood centers to accommodate existing and future residents.
- If appropriate social services centers are not located within a reasonable proximity to the proposed development, alternate space and services may need to be developed to accommodate new residents/users.

Experts to Contact

- Planner—local planning department
- Administrator/planner—social services department
- Administrator/planner—public welfare office
- Administrator/planner—council on aging
- Administrator/planner—Social Security Office
- Administrator/planner—half-way house(s) in area
- Administrator/planner—drop-in center(s) in area
- Administrator—child care or daycare center
- Administrator/planner—Local Council of Voluntary Human Service Agencies

Questions to Consider

1. Are the social services located onsite or within a convenient and reasonable distance to residents of the proposed project? Or, is adequate public transportation available from the project to these services?
2. Will social services be overtaxed or negatively impacted by the proposed project?
3. Will the provision of additional social services at this site create a concentration of the disadvantaged in violation of HUD site and neighborhood standards?

Solid Waste Disposal/Recycling:

Overview

Solid waste disposal is regarded as an essential service in urban areas. Its availability for supporting a newly proposed development can be an essential determinant of whether a project can be constructed. Solid waste materials are generally transported by trucks to a common, usually remote site for either recycling, incineration (where allowed), or burial/disposal in a sanitary landfill.

For proposed demolition projects, the ability of the solid waste centers to contain the demolition material should be considered. In some cases the material from the demolition activity may overwhelm the existing solid waste capacity and the need to obtain additional solid waste capacity may justify the cost of rehabilitating the structure, particularly if the structure serves as an important historic or cultural resources.

For all projects, proper disposal of hazardous material should be considered. This may include solid porous materials, such as cement, that may have absorbed hazardous materials.

Experts to Contact

- Engineer—Local solid waste disposal agency, or city/county engineering department
- Engineer/planner—HUD field office or local planning department
- Engineer, planner/environmental specialist—Regional EPA office

Questions to Consider

Construction Period

1. What types and amounts of waste are to be generated as construction debris?
2. What solid waste disposal system or company will handle the construction debris? Does it have the capacity to handle the amount of debris?

Solid Waste Disposal/Recycling

3. What types of solid waste (including hazardous waste, if any) will be generated by the completed project?
4. What is the name of the solid waste servicing company or landfill and what is the distance from the proposed project site?
5. Is solid waste permitting required for the project, and/or will the completed project require solid waste permitting and when?
6. If hazardous waste, does the servicing company/landfill accept hazardous waste? If yes, attach documentation.
7. What organization will handle garbage collection, composting, and recycling?
8. Does this organization have the capacity to handle the garbage, composting and recycling, and is the service affordable?
9. Will the waste from the proposal exceed the capacity of the waste system or landfill?

Waste Water/Sanitary Sewers:

Overview

Wastewater treatment and disposal is an essential service for all new development. The availability of adequate wastewater disposal service can be a determinant of whether or not a project is constructed. Wastewater is usually collected in urban areas through a system of sanitary sewers which convey the waste to a treatment facility located "downstream" from the city. After treatment the effluent is either recycled (rarely) or is discharged into surface water or a permeable recharge area for an underground aquifer. In less developed areas, on-site septic systems or package treatment plants are used. Generally, 80 gallons of sewage is generated per capita per day.

Resources to Reference/ Experts to Contact

- For areas where septic systems may be required the USDA Soil Survey available at the county/parish USDA service center or online at <http://websoilsurvey.nrcs.usda.gov/app/HomePage.htm> can be used to identify areas that are likely to be unsuited for septic systems.
- Engineer—local sanitary district/agency, city/county engineering department, 208 planning agency
- Engineer/planner—local planning department
- Soils scientist—U.S. Soil Conservation Service
- Engineer—state health and/or environmental quality agency

Questions to Consider

1. What kind of wastewater/sewer system will provide satisfactory service to the proposal?
2. Does the existing or proposed sewer system have the capacity to adequately service the proposed development?

On-site septic systems

3. If the sanitary sewers and wastewater disposal systems are non-municipal, has an acceptable system been approved or permitted by appropriate authorities and agencies?
4. Has a report of the soil conditions suitable for on-site septic systems been submitted?
5. Are soil conditions suitable for on-site septic systems? Is there a large variance in the water table elevation? (A high seasonal water table can prevent proper functioning of septic tanks drain fields).
6. Have septic disposal systems been properly designed, installed, and maintained, as appropriate, to prevent effluent from contaminating soil or groundwater, including sole source aquifers?

Water Supply:

Overview

Adequate water supply refers to the delivery to a project site of sufficient quantities of potable water under adequate pressure at affordable cost. Approximately 100 gallons per day is the average urban domestic per capita water consumption rate.

Experts to Contact

- Municipal or private utility water supply planners and engineers
- Local public health agency staff

Questions to Consider

1. What private company or public organization or system will provide sufficient quantity of clean water needed for the proposal?
2. Will either the municipal or private water utility or on-site water supply be adequate to serve the proposed project?
3. In the water supply quality safe from a chemical and bacteriological standpoint?
4. If the water supply is non-municipal, has an acceptable system been approved by appropriate authorities and agencies?
5. Will the project water requirements of the proposal result in a significant consumption of the community's available water supply or result in a significant deterioration of water quality?

Public Safety - Police, Fire and Emergency Medical:

Overview

Fire, police, and ambulance services are concerns that should be considered in terms of the adequacy of existing services for the project site. Although many communities have sophisticated protective services, the consistency of adequate service is different from place to place. Within communities, one site may be better served than another.

Factors in the variability of protective services include the availability of funds for additional coverage and the degree to which building and growth are coordinated with provision of new municipal services. Key variables within each city are emergency equipment, emergency service personnel, response time, and access. These factors influence the availability and adequacy of emergency services that may be required at a proposed project.

Experts to Contact

- Chief of local fire department
- Local chapter or national Office of the National Fire Protection Association (NFPA)
- Chief of local police department
- Administrator of local emergency medical agency such as the ambulance corps in the Department of Health or the local rescue squad
- Local medical society

Questions to Consider

1. What police services are located within reasonable proximity to the proposed project?
What is the approximate response time?
2. What fire fighting protection located within reasonable proximity to the proposed project?
What is the approximate response time?
3. Is the fire fighting protection service adequate and equipped to service the project?
4. What emergency health care providers are located within reasonable proximity to the proposed project?
What is the approximate response time?
5. Will the project create a significant burden on police, fire or health care providers in terms of manpower and/or equipment?

Parks, Open Space and Recreation:

Overview

The development of community services such as open space and recreational and cultural resources has become a necessary component of community development. These facilities can be operated by government, such as public parks and libraries, or they can be operated by private entities such as YMCAs and privately owned museums.

Recreation and open space resources include active recreation such as ballfields, passive recreation such as nature trails, and gardens.

Cultural resources include art galleries, libraries, dance facilities, museums, theatres, community centers and other facilities for artistic and cultural purposes. These usually receive both public and private support.

Demand and supply for both specific recreation and cultural facilities is a function of factors which include the size of the community, density of development, income, and demography. Wealthier communities have these services and facilities more often than poorer communities. Communities with a large percentage of children have greater needs for active recreational facilities than communities with a large number of elderly or handicapped persons who may prefer passive recreation. High density communities with little

private open space have a greater need for access to public parks and recreation areas than small towns with ample open spaces or suburban areas where the homes have large yards.

Experts to Contact

- Planner at local parks and recreation department
- Administrator of social services agency
- Administrator of local cultural commission
- Local American Society of Landscape Architects
- State arts office or association
- Administrators of agencies such as YMCAs, YWCAs, museums, libraries, etc.
- State liaison officer
- Heritage Conservation & Recreation Service
- Department of Interior
- National Park Service
- Bureau of Land Management

Questions to Consider

1. Are open space and recreational and cultural facilities within reasonable walking distance to the project area, or is adequate public transportation available from the project to these facilities?
2. Are there special recreational/cultural needs of certain population groups to be satisfied, such as small children, the elderly, or the handicapped?
3. If the development is family housing, has space for informal play for children been included on-site? Have areas for recreation for adults and elderly been provided including places for passive recreation?
4. Will the proposed project overload existing open space, recreational or cultural facilities?

Transportation and Accessibility:

Overview

Assessing transportation impacts involves analyzing four sub-elements of transportation. These are:

Access—The user must be able to reach a destination within reasonable limits of time, cost and convenience.

Balance—A balanced transportation system offers and encourages choice of travel mode, namely, by automobile, bicycle, walking, public transit or combination thereof.

Safety—System design plays a strong role in safety, particularly elements such as traffic signals, turning lanes, bicycle lanes and signage, and railroad grade crossings.

Level of Service—LOS measures operational factors including speed, travel delay, freedom to maneuver, safety, and frequency/hours of operation.

Experts to Contact

- Planner at the regional transportation planning agency
- Planner at regional transportation authority
- Planner at the state highway department
- Local transit authority

- Local traffic department
- Local parking authority
- Federal Highway Administration Division Office in each state
- Urban Mass Transportation Administration Regional Office

Questions to Consider

1. Does the project require a traffic study? Has one already been performed? Are there any actions identified in the study that need to be taken?
2. Is the project served by safe and adequate public transportation services?
3. Is the project safely accessible to vehicles and is vehicle parking adequate, including parking for moving vans/trucks?
4. Does the project facilitate pedestrian movement (e.g., sidewalks, pavement markings, landscaping, pedestrian-activated signal lights or pedestrian overpasses)?
5. Is the project area served by bicycle lanes or trails and does the project provide parking for bicycles, including covered, secure parking for employees and residents?
6. Overall, will the existing and reasonably foreseeable transportation facilities and services be adequate to meet the needs of the project?
7. Will the project itself cause a significant adverse impact on the local or regional transportation system (e.g., by reducing the level of service of roadways)?
8. Are there any barriers to emergency vehicle access?
9. Is the project accessible to the elderly and disabled (e.g., wheelchair ramps, traffic light timing, handicapped parking, shuttle services)?
10. Are there special transportation issues (e.g., bridge clearances for trucks) which have not been adequately addressed?

Unique Natural Features, Water Resources:

Unique Natural Features

Overview

Unique natural features are primarily geological features which are unique in the sense that their occurrence is infrequent or they are of special social/cultural, economic, educational, aesthetic, or scientific value. Development on or near them may render them inaccessible to investigators or visitors or otherwise limit potential future use and appreciation of these resources.

Examples of unique natural features include: sand dunes, waterfalls, unique rock outcroppings, caves with limestone or gypsum deposits, canyons, and petrified forests. Also included are unique stands of trees, such as redwoods, or unique colonies of animals, such as a prairie dog town.

The key criterion in defining a unique natural feature is the comparative rareness of the feature, a characteristic often recognized by local landmarks. Another characteristic is information content. Some unique natural features contain a great deal of information concerning natural history, such as geologic evolution.

Experts to Contact

- State and federal park service, naturalists and/or geologists
- State natural heritage programs
- State wildlife resource management agencies
- Local university natural scientists, geologists, and Sierra Club or Audubon Society Representatives
- State resource conservationist
- Natural Resources Conservation Service (NRCS) - USDA
- District conservationist, NRCS
- County planner, county planning department or conservation district

Questions to Consider

1. Will the project location, construction, or its users adversely impact unique or locally important natural features on or near the site (e.g., caves, cliffs, vistas/viewsheds, canyons, waterfalls, sand dunes, or tree stands)?
2. Will the project destroy or isolate from public or scientific access the unique natural feature?

Water Resources

Overview

Water resources can be divided into two subcategories: ground water and surface water.

Groundwater refers to all of the water found below the ground's surface. While most groundwater comes directly from rainwater, some results from seepage from the sides and bottoms of lakes and streams. The water usually passes down through a layer of partially saturated material to a zone of saturation in which all of the pore spaces between the soil or rock particles are filled with water. The water table is the upper level at which this saturation occurs. The area in which the groundwater is stored is called an aquifer. Aquifers vary widely in size and depth, some cover hundreds of miles and are used extensively for drinking water and irrigation, such as the Ogallala Aquifer in the Great Plains.

The supply of groundwater depends upon a balance between the amount of water entering the ground and the amount being withdrawn. Urban land development reduces recharge to aquifers by precipitation. Excessive pumping can cause wells to run dry, increased concentration of dissolved minerals, salt water intrusion if near the ocean, and land subsidence. The depth of the water table can vary tremendously from year to year and seasonally depending on the amount of rainfall. High water tables can result in basement flooding and surface puddles. Discharge from poorly designed, installed, or maintained septic systems to drinking water wells can cause health hazards.

Some areas have experienced ground subsidence due to the pumping of ground water and the dewatering of the underground strata including aquifers. In Gulf Coast communities such as New Orleans excessive pumping has lowered the ground level and has made the area more prone to coastal flooding.

In many types of surficial geological formations, groundwater quantity and quality is related to the quality and presence of surface waters. Excessive well pumping can induce infiltration from streams and ponds, causing surface water levels to drop. If these surface waters are polluted, groundwater quality will be degraded. Often, groundwater flows discharge to streams. Polluted groundwater can thus degrade the

quality of otherwise unaffected surface waters.

Surface water plays an important role in nearly every community, as a source of drinking water, as a means of transportation, as a recreational resource, as a source of water for irrigation, and as a fishery.

Surface waters can range from very large rivers and lakes to small ponds and streams. Urban development can, however, have a serious negative impact on water quality. Surface waters, chiefly rivers and large lakes, frequently suffer from the effects of pollution generated by factories, urban sewerage systems, power plants, and agricultural runoff. Degraded surface water quality can have short-term and long-term human health implications, affect aquatic habitats and species, and have aesthetic and olfactory consequences.

While most water quality problems are due to effluents from sewerage treatment plants, sewer system overflows, and industrial waste outfalls, new commercial and residential developments can also have an adverse effect on surface water quality. The chief source of such pollution is from urban runoff, chiefly from impervious surfaces such as streets, parking lots, and sidewalks from which oil and gasoline are carried by rain into surface water. Landscaped areas treated with insecticides and fertilizer can also introduce polluted runoff into surface water. Also, failing septic systems and other sources of polluted groundwater (landfills and waste disposal areas) can seep untreated sewage and other wastes to surface waters.

Experts to Contact

- Planner and/or engineer—"Section 208" area-wide planning agency
- Water Quality Scientist – "Section 401" water quality agency
- Hydrologist—USGS Geological Survey or State Geological Survey
- Soil scientist—U.S. Soil Conservation Service
- State wildlife resource management agency
- State natural heritage program
- Engineer—city and/or county engineering department

Questions to Consider

1. Is the site subject to rapid water withdrawal problems that change the depth or character of the water table or aquifer? Are there a large number of wells or wells that pump large quantities of water from the water table near the proposed project site?
2. Will the project use groundwater for its water supply? If so, is the groundwater safe for use for the intended purposes?
3. Will the project use a septic system? If so, is the system in proximity to sensitive natural receptors (e.g., wetlands) that could be adversely impacted by the design or location? Is there a large variance in the water table? (A high seasonal water table can prevent proper functioning of septic tank drain fields.)
4. Are there visual or other indications of water quality problems on or near the site (e.g., algae blooms or state listing as an impaired stream/waterway)? Will the riparian buffer (i.e., natural wooded buffer adjacent to a stream) be maintained in a conservation easement or, conversely, diminished, damaged or destroyed?
5. Will the project involve a substantial increase in impervious surface area? Have runoff control measures and/or permeable surfaces been included in the design?
6. Will the project substantially reduce groundwater recharge due to increase in impervious surface area? If so, are sensitive groundwater dependent features (e.g., rare wetlands) present that

could be affected? If yes, have appropriate measures been included in the design to promote groundwater recharge.

7. Is the project located in a state or locally designated sensitive watershed area? If so, have appropriate run-off control measures been included in the design (e.g., the storm-year design is increased from 10-years to 25-years, buffers are placed along surface waters, etc.)
8. Is the project located in the watershed of a particularly sensitive natural area (e.g., a unique wetland). If so, have additional run-off control measures been included in the design (e.g., the storm-year design is increased from 10-years to 50-years, buffers are placed along surface waters, etc.)

Vegetation and Wildlife:

Vegetation

Overview

The abundance and survival of both plant and animal species is dependent upon the existence of a favorable environment and their ability to adjust to conditions created by man. Urbanization has seriously altered natural ecosystems. In and near heavily urbanized areas, much of the native plant and animal species have been destroyed and have been replaced by species which are more successful in the urban environment, to the extent that it is often inappropriate to talk of native species in urban environments.

The impact of man on the environment through urbanization often results in water, air, and land pollution endangering many natural plant and animal species. Development which changes a sensitive ecosystem may adversely affect the diversity of species present, the productivity of the system, or the rate of nutrient recycling.

Experts to Contact

It is often best to consult an expert such as a biologist/ecologist from either a university or a state natural resources agency, or state natural heritage program. In more rural areas representatives of the state forestry department or the USDA Soil Conservation Service may also provide useful expert judgment.

Questions to Consider

1. Will the project create problems by introducing nuisance or non-indigenous species of vegetation that may be ecologically disruptive, be invasive, threaten survival of indigenous plant habitats, or disrupt agricultural or silvicultural activities
2. Will the project damage or destroy existing remnant or endemic plant communities, especially those containing nationally, regionally or locally rare species (e.g., prairie grasslands, ice-age disjuncts, local soil-type endemics, etc.)?
3. Will the project damage or destroy plant species that are legally protected by state or local ordinances?
4. Will the project damage or destroy trees without replacement and landscaping?

Wildlife

Overview

An animal's habitat is the environment in which it normally lives and the one which meets its basic need for food, water, cover, breeding space, and group territory. Urbanization has generally been at odds with the maintenance of natural habitats. Urban habitats are often found in neglected and unused areas such as along riverbanks and railroad alignments, in parks, institutional grounds, and in vacant tracts of land. The protection of wildlife habitats can be at odds with urban development. However, certain actions can be taken to avoid undue disruption and to protect species, particularly those of concern to local, state, tribal or the federal government. Please note that species listed as proposed, threatened or endangered by the federal government must be considered under the Endangered Species Act. However, compliance with certain federal statutes should be considered under this factor, including, for example, the Migratory Bird Treaty Act and the Bald Eagle Protection Act.

Experts to Contact

Technical studies can be supplemented with field observation of the site for signs of the likely presence of particular species. Consultation with biologists/ecologists with either local, tribal, state or Federal agencies may be helpful. The Fish & Wildlife Service of the Department of Interior can also be contacted for information.

Questions to Consider

The questions on animal life encompass the five following topics: disruption, habitat alteration or removal, rare species (including those that are considered threatened or endangered), pest species, and game species.

1. Will the project create special hazards for animal life? What types and numbers of animals will be affected and how?
2. Will the project impact migratory birds? (Most birds protected by the federal Migratory Bird Treaty Act are not included in the Endangered Species Act, yet are protected by similar protections against a "taking" of bird nest or eggs. Consultation with the U.S. Fish and Wildlife Service may be required. Construction activities should occur outside the migratory bird nesting season; alternatively, the site should be surveyed for migratory bird nest prior to construction.)
3. Does the project site host any species that are monitored or listed by local, state, tribal or the federal government?
4. Will the project damage or destroy existing wildlife habitats (e.g., removal or blockage of wildlife corridors, such as a riparian buffer?)
5. Will excessive grading alter the groundwater level and thus cause death of trees and ground cover which in turn diminishes animal habitat?
6. Will the project damage game fish habitat or spawning grounds? When answering this question off-site damage resulting from erosion and stormwater run-off should be considered.
7. Will the project create conditions favorable to the proliferation of pest species?
8. Will the project create conditions (e.g., generate excessive noise, introduce pesticide usage) that could harm or harass wildlife species that are nationally, regionally or locally rare or protected by state or local ordinance?

SECTION 8 - LABOR REGULATIONS

A. Introduction

Communities that implement projects involving construction contracts in excess of \$2,000 (except rehabilitation of residential property designed for use by less than eight families) must comply with the following Federal labor laws:

- Davis-Bacon Act;
- Copeland Anti-Kickback Act; and
- Contract Work Hours and Safety Standards Acts or Fair Labor Standards Act.

All construction contracts (including construction contracts paid with special assessments using CDBG funds) are required to comply with Labor Standard Provisions.

B. Summary of Applicable Laws

1. Davis-Bacon Act

Davis-Bacon Act provides that all laborers and mechanics employed by contractors or subcontractors in the performance of construction work (financed in whole, or in part with grants received under this title, in this case the State CDBG program) be paid wages at rates not less than those prevailing on similar construction projects in the locality as determined by the Secretary of Labor.

Construction contracts in excess of \$2,000 awarded by recipients under the CDBG program shall include a provision for compliance with Davis-Bacon and associated Department of Labor regulations. The principal requirements include the following:

- a. Recipients must include a copy of the current prevailing wage rate decision in each Invitation for Bids (IFB), Request for Proposal (RFP), and Purchase Order (PO) when applicable.
- b. Recipients may only award contracts to eligible contractors and subcontractors who have accepted the wage rate decision, and sign a certification to pay wages on that basis, and agree to comply with other required labor standards.
- c. Contractors must pay laborers the wage rate determined by the Secretary of Labor as the prevailing rate in that labor market.
- d. Contractors must submit weekly payrolls.
- e. Recipients are required to report all suspected, reported, or confirmed violations to the DCS (who may investigate these alleged violations).

- f. Three special employee classes may be utilized on projects subject to Davis-Bacon Wage Rates and compensated at less than the Davis-Bacon prevailing wages. These classes include:
- (1) Apprentices - provided they are individually registered in a bona fide apprenticeship program in which the contractor participates, and is approved by the Department of Labor (DOL). Apprentices must also satisfy other conditions specified in the Labor Standards Contract Provisions.
 - (2) Trainees - provided they are in a DOL-approved training program and satisfy other conditions as specified in the Labor Standards Contract Provisions.
 - (3) Volunteers - the use of Volunteers on a CDBG project must meet the criteria found in 24 CFR Part 70. Please contact the DCS for further guidance if volunteers will be utilized.

When any of these employee classes appear on the Contractor's weekly payrolls, it is the Contractor's responsibility to provide the documentation necessary to permit the administrator to determine compliance with the Davis-Bacon wage rate determination.

2. Copeland Anti-Kickback Act

The Copeland Anti-Kickback Act criminally prohibits any person to induce, by any manner whatsoever, any person employed in the construction, prosecution, completion, or repair of any public building, public work, or building or work financed (in whole or in part) by loans or grants from the United States, to give up any part of compensation to which he/she is entitled under his/her contract of employment. The Act also provides for the submission of weekly certified payroll reports (CPRs) by all contractors and subcontractors.

All contracts for construction, reconstruction or repair (over \$2,000) must include the following prohibition statement:

“No contractor or subcontractor shall induce, by any means, any person employed in such publicly-funded construction, reconstruction or repair to give up any part of the compensation to which he is otherwise entitled except for authorized payroll deductions.”

Recipients should conduct confidential interviews with employees to assure compliance with the terms of this law, and the contractor is required to maintain payroll records, and to submit weekly certified payrolls, documenting compliance.

3. Contract Work Hours and Safety Standards Acts (over 100,000) or Fair Labor Standards Act

Contract Work Hours and Safety Standards Act and Fair Labor Standards Act provides that no contract work (which may require or permit laborer or mechanic) in any workweek in which he/she is employed with such work, to work in excess of 40 hours in a workweek, unless the laborer or mechanic receives compensation at a rate not less than one-and-one-half times his basic rate pay for all hours worked in a workweek, whichever is greater. In the event of violations, the contractor or subcontractor shall be liable to any effected employee for his/her unpaid wages as well as to the United States government for liquidated damages.

All construction contracts in excess of \$2,000 and other contracts in excess of \$2,500 involving the employment of mechanics or laborers must comply with the following provisions of this law:

- a. Contractors shall compute the wages of each laborer and mechanic on the basis of a standard workweek of 40 hours.
- b. Work in excess of this standard is permitted, provided that compensation for the amount of work in excess of the standard workweek is calculated at a rate not less than one-and-one-half times the basic rate of pay.
- c. Contractors may not require any laborer or mechanic to work in surroundings or under working conditions that are unsanitary, hazardous, or dangerous to his/her health or safety as determined under construction safety or health standards published by the Department of Labor.

C. Grantee Administration of Labor Standards Requirements

The laws and regulatory implementation note a number of Federal requirements and procedures for CDBG contracting agencies. The basic steps to Grantee compliance are as follows:

1. Labor Officer

The Grantee will designate an appropriate staff person to act as a Labor Officer to ensure compliance with all requirements and as the primary contact person for the State.

2. Wage Decision Approval

At least 15 days prior to solicitation of bids, the Labor Officer should complete the Wage Decision Approval form to verify the most recent wage decisions for their projects. Approval from the DCS must be received prior to advertising for bids.

3. Wage Decision Modifications

Project wage decisions may be modified to remain current. A wage decision modification may specify only the items being changed, or may be in the form of a Supersedeas Wage Decision, to replace the entire wage decision. All actions modifying a project wage decision received by the Grantee before the contract award will remain in effect except under the following conditions:

For contracts entered into pursuant to competitive bidding procedures, wage decision modifications received by the Contracting Officer less than ten days before the bid opening shall be effective unless the Contracting Officer finds there is not reasonable time available before the bid opening to notify all bidders. If it is determined that sufficient time is not available to notify bidders, documentation to this effect must be contained in the CDBG labor files.

When advertising for bids on a CDBG funded project, the advertisement must contain a statement informing potential contractors that all work done on the project is subject to prevailing Davis-Bacon Wage Rates.

The actual wage decision must be included in all bid specifications and contract documents. If prevailing wages rates have been modified, the Grantee must notify each prospective bidder of these changes. The current wage decision must be posted in a visible location at the project work site(s).

4. Contractor Clearance

Prior to the award of any contract, including housing rehabilitation, the Grantee must verify the eligibility status of all prime contractors used. The eligibility status must be verified by checking at <https://www.sam.gov>. A printed copy of the results must be placed in the contract file(s). See the chart below for further explanation:

Requirement	CPD
Must register in SAM.gov:	Grantee, sub-recipient, sub-grantee, contractor, subcontractor, and UGLG
Does <i>not</i> have to register:	Beneficiary (individual citizen who benefits from grant/loan, such as a homeowner); and contractors/subcontractors selected and hired by beneficiary to complete scope of work awarded by grant/loan from grantee/subrecipient/subgrantee/UGLG
Debarment Check:	Grantee, subrecipient, subgrantee, contractor, UGLG, subcontractor
No debarment check needed:	Beneficiary (individual citizen who benefits from grant/loan, such as a homeowner)
How to perform debarment check:	(a) Checking www.sam.gov ; or (b) Collecting a certification from that person; or (c) Adding a clause or condition to the covered transaction with that person.

5. Additional Classifications

If after the construction contract is awarded, and any classification not identified on the Wage Decision is needed, a request by the Prime Contractor for those classifications must be made to the DCS. The request must be made on the Report of Additional Classification and Rate Form. The additional classification wage decision must be posted in a visible location at the project worksite(s).

The Grantee must include the March 22, 2013, memo from the U.S. Department of Labor in all contracts, subcontracts, and any lower-tier subcontracts along with all bid documents. Inclusion by reference is not accepted.

6. Federal Labor Standard Provisions

The Grantee must include the Federal Labor Standard Provisions in all contracts, subcontracts, and any lower-tier subcontracts and in all bid documents. Inclusion by reference is not accepted. Use the most updated Form 4010.

7. Preconstruction Conference

A Preconstruction Conference with the prime contractor and subcontractor(s) is required to discuss the applicable federal and/or state labor standards and requirements. SFN 62299 CDBG Pre-construction Conference Checklist/ Minutes must be kept and maintained in the Grantee files. All instructions and pertinent information for guidance on how to conduct a preconstruction conference are found in Appendix F.

8. Apprentice and Trainees Required

Only apprentices and trainees, under bona fide programs, approved by the U.S. Department of Labor, Manpower Administration, Bureau of Apprenticeship and Training, may be used on the job. The correct status of all proposed apprentices or trainees should be verified prior to the start of construction.

9. Labor Standards Information

A notice of "Labor Standards Information" is required for all projects covered by labor standards provisions. The notice must include the contract award date, project name and location, contractor's name, all applicable wage decisions, and the date of the preconstruction conference. The Labor Standards Information form must be used to provide this information and submitted to the DCS prior to the first drawdown of funds.

10. Payroll Review and Compliance

Each contractor and subcontractor must submit weekly payrolls to the Grantee. It is recommended that the contractor use the Department of Labor Form WH-347. If this form is not used, the contractor must report all items of information requested on that form and must attach the original signed Department of Labor (DOL), Statement of Compliance. It is the Grantee's responsibility to review weekly payrolls to determine compliance with labor standards requirements. The Grant Administrator should initial and date each payroll as evidence of review.

Employers (prime contractors and subcontractors) must maintain the current address and full Social Security Number for each employee and must provide this information upon request to the contracting agency or other authorized representative responsible for federal labor standards compliance monitoring.

Payroll forms are compared to the wage decision to assure that wages are being paid as set by law. The Compliance Statement contains certifications that:

- a. The information covers the proper payroll period and is complete and accurate;
- b. Each worker has been paid the proper wages and benefits, ensuring no “rebates” have been taken; and
- c. Deductions are only those permitted by law and approved by the worker.

11. Field Inspections

The project administrator should understand that the enforcement of labor standards is as important as other requirements of the contract specifications. Failure to comply with the provisions of the labor standards must be corrected by the contractors and subcontractors. Failure to comply may result in serious sanctions and penalties.

Periodic field inspections by the Grant Administrator at the job site are to be completed to establish compliance with labor requirements, identify violations, and for the following purposes:

- a. Ensure that the wage decision is posted in a prominent place;
- b. Ensure a poster is conspicuously displayed informing employees of their rights; and
- c. Conduct employee interviews to determine that the wages they are receiving are the same as reported on the weekly payroll report.

12. Violations

Serious violations (those representing underpayments greater than \$1,000) are to be reported immediately to the DCS. Technical assistance will be provided to assure proper resolution of the issue. Violations less than \$1,000 which are not deemed willful will be dealt with as follows:

- a. Require the contractor to prepare a correction payroll to make appropriate restitution to affected employees;
- b. Assess liquidated damages for non-payment of overtime and require a separate correction payroll. (If the City Withholding (CWH) & Social Security Administration (SSA) applies, those violations carry a liquidated damage penalty of \$10 per day per each violation).
- c. If contractors refuse to comply with these requirements, the recipient must withhold sufficient amounts to make restitution. This amount is to be recorded on the Contractor's Obligation/Liquidation Record and the DCS is to be notified immediately.

WAGE DECISION APPROVAL

NORTH DAKOTA DEPARTMENT OF COMMERCE
DIVISION OF COMMUNITY SERVICES
SFN 60437 (7/21)

Instructions: Submit to Division of Community Services (DCS) prior to advertising for bids or obtaining quotes. You must receive approval back from DCS prior to advertising for bids. Modifications issued less than ten days before the bid opening shall be effective unless the contracting officer finds that there is not reasonable time available before bid opening to notify all bidders. If it is determined that sufficient time is not available in which to notify bidders, documentation to this affect must be contained in the Community Development Block Grant (CDBG) labor files.

Recipient	County	Instrument Number		
If Economic Development Project - Business Name				
Project Description				
Wage Decision Number	Modification Number	Publication Date		
Construction Type <input type="checkbox"/> Residential <input type="checkbox"/> Building <input type="checkbox"/> Highway <input type="checkbox"/> Heavy				
Planned Advertising Date(s)	Planned Bid Opening Date	Planned Bid Closing Date	Planned Quote Date	Release of Funds Date
Will contract be awarded within 90 days of bid opening/quote date? <input type="checkbox"/> Yes <input type="checkbox"/> No If not, the wage decision MUST be updated as of the date of the award.				

Agency Providing Labor Standards Information

Agency	Labor Officer			
Telephone Number	Email Address	Date		

DCS approval MUST be received prior to advertising for bids or obtaining quotes.

Approved By	Date
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REPORT OF ADDITIONAL CLASSIFICATION AND RATE

NORTH DAKOTA DEPARTMENT OF COMMERCE
 DIVISION OF COMMUNITY SERVICES
 SFN 52337 (05/12)

General Decision Number	Modification Number	Modification Date
County		Contract Award Date
Project Name		Project Number
SUBCONTRACTOR		
Name	Address	
City	State	ZIP Code
Contact Person	Phone Number	
PRIME CONTRACTOR		
Name	Address	
City	State	ZIP Code
Contact Person	Phone Number	
Work Classification(s) Requested	Hourly Wage Rates	
	Basic Wage	Fringe Benefits <i>(if any)</i>
<p>Check all that Apply</p> <p><input type="checkbox"/> The work to be performed by the additional classification(s) is not performed by a classification in the applicable wage decision.</p> <p><input type="checkbox"/> The proposed classification is utilized in the area by the construction industry.</p> <p><input type="checkbox"/> The proposed wage rate(s), including any bona fide fringe benefits, bears a reasonable relationship to the wage rates contained in the wage decision.</p> <p><input type="checkbox"/> The interested parties, including the employees or their authorized representatives, agree on the classification(s) and wage rate(s).</p> <p><input type="checkbox"/> Supporting documentation attached, such as a labor agreement.</p>		
Signature of Prime Contractor		Date
North Dakota Division of Community Services		Date
Additional classifications needed for work not included within the scope of classifications listed in the DOL wage decision may be added after award only as provided in the labor standards contract clauses [29 CFR 5.5 (a)(1)(ii)].		

Federal Labor Standards Provisions

U.S. Department of Housing
and Urban Development
Office of Labor Relations

Applicability

The Project or Program to which the construction work covered by this contract pertains is being assisted by the United States of America and the following Federal Labor Standards Provisions are included in this Contract pursuant to the provisions applicable to such Federal assistance.

A. 1. (i) Minimum Wages. All laborers and mechanics employed or working upon the site of the work will be paid unconditionally and not less often than once a week, and without subsequent deduction or rebate on any account (except such payroll deductions as are permitted by regulations issued by the Secretary of Labor under the Copeland Act (29 CFR Part 3), the full amount of wages and bona fide fringe benefits (or cash equivalents thereof) due at time of payment computed at rates not less than those contained in the wage determination of the Secretary of Labor which is attached hereto and made a part hereof, regardless of any contractual relationship which may be alleged to exist between the contractor and such laborers and mechanics. Contributions made or costs reasonably anticipated for bona fide fringe benefits under Section 1(b)(2) of the Davis-Bacon Act on behalf of laborers or mechanics are considered wages paid to such laborers or mechanics, subject to the provisions of 29 CFR 5.5(a)(1)(iv); also, regular contributions made or costs incurred for more than a weekly period (but not less often than quarterly) under plans, funds, or programs, which cover the particular weekly period, are deemed to be constructively made or incurred during such weekly period.

Such laborers and mechanics shall be paid the appropriate wage rate and fringe benefits on the wage determination for the classification of work actually performed, without regard to skill, except as provided in 29 CFR 5.5(a)(4). Laborers or mechanics performing work in more than one classification may be compensated at the rate specified for each classification for the time actually worked therein: Provided, That the employer's payroll records accurately set forth the time spent in each classification in which work is performed. The wage determination (including any additional classification and wage rates conforming under 29 CFR 5.5(a)(1)(ii) and the Davis-Bacon poster (WH-1321) shall be posted at all times by the contractor and its subcontractors at the site of the work in a prominent and accessible place where it can be easily seen by the workers.

(ii) (a) Any class of laborers or mechanics which is not listed in the wage determination and which is to be employed under the contract shall be classified in conformance with the wage determination. HUD shall approve an additional classification and wage rate and fringe benefits therefor only when the following criteria have been met:

- (1) The work to be performed by the classification requested is not performed by a classification in the wage determination; and
 - (2) The classification is utilized in the area by the construction industry; and
 - (3) The proposed wage rate, including any bona fide fringe benefits, bears a reasonable relationship to the wage rates contained in the wage determination.
- (b) If the contractor and the laborers and mechanics to be employed in the classification (if known), or their representatives, and HUD or its designee agree on the classification and wage rate (including the amount designated for fringe benefits where

appropriate), a report of the action taken shall be sent by HUD or its designee to the Administrator of the Wage and Hour Division, Employment Standards Administration, U.S. Department of Labor, Washington, D.C. 20210. The Administrator, or an authorized representative, will approve, modify, or disapprove every additional classification action within 30 days of receipt and so advise HUD or its designee or will notify HUD or its designee within the 30-day period that additional time is necessary. (Approved by the Office of Management and Budget under OMB control number 1215-0140.)

(c) In the event the contractor, the laborers or mechanics to be employed in the classification or their representatives, and HUD or its designee do not agree on the proposed classification and wage rate (including the amount designated for fringe benefits, where appropriate), HUD or its designee shall refer the questions, including the views of all interested parties and the recommendation of HUD or its designee, to the Administrator for determination. The Administrator, or an authorized representative, will issue a determination within 30 days of receipt and so advise HUD or its designee or will notify HUD or its designee within the 30-day period that additional time is necessary. (Approved by the Office of Management and Budget under OMB Control Number 1215-0140.)

(d) The wage rate (including fringe benefits where appropriate) determined pursuant to subparagraphs (1)(ii)(b) or (c) of this paragraph, shall be paid to all workers performing work in the classification under this contract from the first day on which work is performed in the classification.

(iii) Whenever the minimum wage rate prescribed in the contract for a class of laborers or mechanics includes a fringe benefit which is not expressed as an hourly rate, the contractor shall either pay the benefit as stated in the wage determination or shall pay another bona fide fringe benefit or an hourly cash equivalent thereof.

(iv) If the contractor does not make payments to a trustee or other third person, the contractor may consider as part of the wages of any laborer or mechanic the amount of any costs reasonably anticipated in providing bona fide fringe benefits under a plan or program, Provided, That the Secretary of Labor has found, upon the written request of the contractor, that the applicable standards of the Davis-Bacon Act have been met. The Secretary of Labor may require the contractor to set aside in a separate account assets for the meeting of obligations under the plan or program. (Approved by the Office of Management and Budget under OMB Control Number 1215-0140.)

2. Withholding. HUD or its designee shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld from the contractor under this contract or any other Federal contract with the same prime contractor, or any other Federally-assisted contract subject to Davis-Bacon prevailing wage requirements, which is held by the same prime contractor so much of the accrued payments or advances as may be considered necessary to pay laborers and mechanics, including apprentices, trainees and helpers, employed by the contractor or any subcontractor the full amount of wages required by the contract. In the event of failure to pay any laborer or mechanic, including any apprentice, trainee or helper, employed or working on the site of the work, all or part

of the wages required by the contract, HUD or its designee may, after written notice to the contractor, sponsor, applicant, or owner, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds until such violations have ceased. HUD or its designee may, after written notice to the contractor, disburse such amounts withheld for and on account of the contractor or subcontractor to the respective employees to whom they are due. The Comptroller General shall make such disbursements in the case of direct Davis-Bacon Act contracts.

3. (I) Payrolls and basic records. Payrolls and basic records relating thereto shall be maintained by the contractor during the course of the work preserved for a period of three years thereafter for all laborers and mechanics working at the site of the work. Such records shall contain the name, address, and social security number of each such worker, his or her correct classification, hourly rates of wages paid (including rates of contributions or costs anticipated for bona fide fringe benefits or cash equivalents thereof of the types described in Section I(b)(2)(B) of the Davis-Bacon Act), daily and weekly number of hours worked, deductions made and actual wages paid. Whenever the Secretary of Labor has found under 29 CFR 5.5 (a)(1)(iv) that the wages of any laborer or mechanic include the amount of any costs reasonably anticipated in providing benefits under a plan or program described in Section I(b)(2)(B) of the Davis-Bacon Act, the contractor shall maintain records which show that the commitment to provide such benefits is enforceable, that the plan or program is financially responsible, and that the plan or program has been communicated in writing to the laborers or mechanics affected, and records which show the costs anticipated or the actual cost incurred in providing such benefits. Contractors employing apprentices or trainees under approved programs shall maintain written evidence of the registration of apprenticeship programs and certification of trainee programs, the registration of the apprentices and trainees, and the ratios and wage rates prescribed in the applicable programs. (Approved by the Office of Management and Budget under OMB Control Numbers 1215-0140 and 1215-0017.)

(II) (a) The contractor shall submit weekly for each week in which any contract work is performed a copy of all payrolls to HUD or its designee if the agency is a party to the contract, but if the agency is not such a party, the contractor will submit the payrolls to the applicant sponsor, or owner, as the case may be, for transmission to HUD or its designee. The payrolls submitted shall set out accurately and completely all of the information required to be maintained under 29 CFR 5.5(a)(3)(i). This information may be submitted in any form desired. Optional Form WH-347 is available for this purpose and may be purchased from the Superintendent of Documents (Federal Stock Number 029-005-00014-1), U.S. Government Printing Office, Washington, DC 20402. The prime contractor is responsible for the submission of copies of payrolls by all subcontractors. (Approved by the Office of Management and Budget under OMB Control Number 1215-0149.)

(b) Each payroll submitted shall be accompanied by a "Statement of Compliance," signed by the contractor or subcontractor or his or her agent who pays or supervises the payment of the persons employed under the contract and shall certify the following:

(1) That the payroll for the payroll period contains the information required to be maintained under 29 CFR 5.5 (a)(3)(i) and that such information is correct and complete;

(2) That each laborer or mechanic (including each helper, apprentice, and trainee) employed on the contract during the payroll

period has been paid the full weekly wages earned, without rebate, either directly or indirectly, and that no deductions have been made either directly or indirectly from the full wages earned, other than permissible deductions as set forth in 29 CFR Part 3;

(3) That each laborer or mechanic has been paid not less than the applicable wage rates and fringe benefits or cash equivalents for the classification of work performed, as specified in the applicable wage determination incorporated into the contract.

(c) The weekly submission of a properly executed certification set forth on the reverse side of Optional Form WH-347 shall satisfy the requirement for submission of the "Statement of Compliance" required by subparagraph A.3.(ii)(b).

(d) The falsification of any of the above certifications may subject the contractor or subcontractor to civil or criminal prosecution under Section 1001 of Title 18 and Section 231 of Title 31 of the United States Code.

(III) The contractor or subcontractor shall make the records required under subparagraph A.3.(I) available for inspection, copying, or transcription by authorized representatives of HUD or its designee or the Department of Labor, and shall permit such representatives to interview employees during working hours on the job. If the contractor or subcontractor fails to submit the required records or to make them available, HUD or its designee may, after written notice to the contractor, sponsor, applicant or owner, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds. Furthermore, failure to submit the required records upon request or to make such records available may be grounds for debarment action pursuant to 29 CFR 5.12.

4. Apprentices and Trainees.

(I) Apprentices. Apprentices will be permitted to work at less than the predetermined rate for the work they performed when they are employed pursuant to and individually registered in a bona fide apprenticeship program registered with the U.S. Department of Labor, Employment and Training Administration, Office of Apprenticeship Training, Employer and Labor Services, or with a State Apprenticeship Agency recognized by the Office, or if a person is employed in his or her first 90 days of probationary employment as an apprentice in such an apprenticeship program, who is not individually registered in the program, but who has been certified by the Office of Apprenticeship Training, Employer and Labor Services or a State Apprenticeship Agency (where appropriate) to be eligible for probationary employment as an apprentice. The allowable ratio of apprentices to journeymen on the job site in any craft classification shall not be greater than the ratio permitted to the contractor as to the entire work force under the registered program. Any worker listed on a payroll at an apprentice wage rate, who is not registered or otherwise employed as stated above, shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any apprentice performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. Where a contractor is performing construction on a project in a locality other than that in which its program is registered, the ratios and wage rates (expressed in percentages of the journeyman's hourly rate) specified in the contractor's or subcontractor's registered program shall be observed. Every apprentice must be paid at not less than the rate specified in the registered program for the apprentice's level of progress, expressed as a percentage of the

journeymen hourly rate specified in the applicable wage determination. Apprentices shall be paid fringe benefits in accordance with the provisions of the apprenticeship program. If the apprenticeship program does not specify fringe benefits, apprentices must be paid the full amount of fringe benefits listed on the wage determination for the applicable classification. If the Administrator determines that a different practice prevails for the applicable apprentice classification, fringes shall be paid in accordance with that determination. In the event the Office of Apprenticeship Training, Employer and Labor Services, or a State Apprenticeship Agency recognized by the Office, withdraws approval of an apprenticeship program, the contractor will no longer be permitted to utilize apprentices at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

(ii) Trainees. Except as provided in 29 CFR 5.16, trainees will not be permitted to work at less than the predetermined rate for the work performed unless they are employed pursuant to and individually registered in a program which has received prior approval, evidenced by formal certification by the U.S. Department of Labor, Employment and Training Administration. The ratio of trainees to journeymen on the job site shall not be greater than permitted under the plan approved by the Employment and Training Administration. Every trainee must be paid at not less than the rate specified in the approved program for the trainee's level of progress, expressed as a percentage of the journeyman hourly rate specified in the applicable wage determination. Trainees shall be paid fringe benefits in accordance with the provisions of the trainee program. If the trainee program does not mention fringe benefits, trainees shall be paid the full amount of fringe benefits listed on the wage determination unless the Administrator of the Wage and Hour Division determines that there is an apprenticeship program associated with the corresponding journeyman wage rate on the wage determination which provides for less than full fringe benefits for apprentices. Any employee listed on the payroll at a trainee rate who is not registered and participating in a training plan approved by the Employment and Training Administration shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. In addition, any trainee performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. In the event the Employment and Training Administration withdraws approval of a training program, the contractor will no longer be permitted to utilize trainees at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

(iii) Equal employment opportunity. The utilization of apprentices, trainees and journeymen under 29 CFR Part 5 shall be in conformity with the equal employment opportunity requirements of Executive Order 11246, as amended, and 29 CFR Part 30.

5. Compliance with Copeland Act requirements. The contractor shall comply with the requirements of 29 CFR Part 3 which are incorporated by reference in this contract

6. Subcontracts. The contractor or subcontractor will insert in any subcontracts the clauses contained in subparagraphs 1 through 11 of this paragraph A and such other clauses as HUD or its designee may by appropriate instructions require, and a copy of the applicable prevailing wage decision, and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for the compliance by any subcontractor or lower tier subcontractor with all the contract clauses in this paragraph.

7. Contract termination; debarment. A breach of the contract clauses in 29 CFR 5.5 may be grounds for termination of the contract and for debarment as a contractor and a subcontractor as provided in 29 CFR 5.12.

8. Compliance with Davis-Bacon and Related Act Requirements. All rulings and interpretations of the Davis-Bacon and Related Acts contained in 29 CFR Parts 1, 3, and 5 are herein incorporated by reference in this contract

9. Disputes concerning labor standards. Disputes arising out of the labor standards provisions of this contract shall not be subject to the general disputes clause of this contract. Such disputes shall be resolved in accordance with the procedures of the Department of Labor set forth in 29 CFR Parts 5, 6, and 7. Disputes within the meaning of this clause include disputes between the contractor (or any of its subcontractors) and HUD or its designee, the U.S. Department of Labor, or the employees or their representatives.

10. (i) Certification of Eligibility. By entering into this contract the contractor certifies that neither it (nor he or she) nor any person or firm who has an interest in the contractor's firm is a person or firm ineligible to be awarded Government contracts by virtue of Section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1) or to be awarded HUD contracts or participate in HUD programs pursuant to 24 CFR Part 24.

(ii) No part of this contract shall be subcontracted to any person or firm ineligible for award of a Government contract by virtue of Section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1) or to be awarded HUD contracts or participate in HUD programs pursuant to 24 CFR Part 24.

(iii) The penalty for making false statements is prescribed in the U.S. Criminal Code, 18 U.S.C. 1001. Additionally, U.S. Criminal Code, Section 1 01 0, Title 18, U.S.C., "Federal Housing Administration transactions", provides in part: "Whoever, for the purpose of . . . influencing in any way the action of such Administration . . . makes, utters or publishes any statement knowing the same to be false . . . shall be fined not more than \$5,000 or imprisoned not more than two years, or both."

11. Complaints, Proceedings, or Testimony by Employees. No laborer or mechanic to whom the wage, salary, or other labor standards provisions of this Contract are applicable shall be discharged or in any other manner discriminated against by the Contractor or any subcontractor because such employee has filed any complaint or instituted or caused to be instituted any proceeding or has testified or is about to testify in any proceeding under or relating to the labor standards applicable under this Contract to his employer.

B. Contract Work Hours and Safety Standards Act. The provisions of this paragraph B are applicable only where the amount of the prime contract exceeds \$100,000. As used in this paragraph, the terms "laborers" and "mechanics" include watchmen and guards.

(1) Overtime requirements. No contractor or subcontractor contracting for any part of the contract work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic in any workweek in which he or she is employed on such work to work in excess of 40 hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of 40 hours in such workweek.

(2) Violation; liability for unpaid wages; liquidated damages. In the event of any violation of the clause set forth in subpara-

graph (1) of this paragraph, the contractor and any subcontractor responsible therefor shall be liable for the unpaid wages. In addition, such contractor and subcontractor shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to such District or to such territory), for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth in subparagraph (1) of this paragraph, in the sum of \$10 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of 40 hours without payment of the overtime wages required by the clause set forth in sub paragraph (1) of this paragraph.

(3) Withholding for unpaid wages and liquidated damages. HUD or its designee shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld, from any moneys payable on account of work performed by the contractor or subcontractor under any such contract or any other Federal contract with the same prime contract, or any other Federally-assisted contract subject to the Contract Work Hours and Safety Standards Act which is held by the same prime contractor such sums as may be determined to be necessary to satisfy any liabilities of such contractor or subcontractor for unpaid wages and liquidated damages as provided in the clause set forth in subparagraph (2) of this paragraph.

(4) Subcontracts. The contractor or subcontractor shall insert in any subcontracts the clauses set forth in subparagraph (1) through (4) of this paragraph and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in subparagraphs (1) through (4) of this paragraph.

C. Health and Safety. The provisions of this paragraph C are applicable only where the amount of the prime contract exceeds \$100,000.

(1) No laborer or mechanic shall be required to work in surroundings or under working conditions which are unsanitary, hazardous, or dangerous to his health and safety as determined under construction safety and health standards promulgated by the Secretary of Labor by regulation.

(2) The Contractor shall comply with all regulations issued by the Secretary of Labor pursuant to Title 29 Part 1926 and failure to comply may result in imposition of sanctions pursuant to the Contract Work Hours and Safety Standards Act, 40 USC 3701 et seq.

(3) The Contractor shall include the provisions of this paragraph in every subcontract so that such provisions will be binding on each subcontractor. The Contractor shall take such action with respect to any subcontract as the Secretary of Housing and Urban Development or the Secretary of Labor shall direct as a means of enforcing such provisions.

LABOR STANDARDS INFORMATION

NORTH DAKOTA DEPARTMENT OF COMMERCE
 DIVISION OF COMMUNITY SERVICES
 SFN 52338 (05/17)

Recipient		County	If Economic Development Project - Business Name			
Instrument Number	Wage Decision Number		Modification Number	Publication Date		
Project Description						
Construction Type <input type="checkbox"/> Residential <input type="checkbox"/> Building <input type="checkbox"/> Highway <input type="checkbox"/> Heavy (water and sewer lines only) <input type="checkbox"/> Heavy (industrial/processing plants and refineries) <input type="checkbox"/> Heavy (excluding sewer & water line construction & drainage projects) <input type="checkbox"/> Heavy (including sewer & water line construction & drainage projects & excluding industrial/processing plants & refineries)						
Name and Mailing Address of Contractor(s)			License Number	Amount of Contract	SAM Clearance Date	*C or NC
Name and Mailing Address of Subcontractor(s)			License Number	Amount of Contract	SAM Clearance Date	*C or NC
*C = Construction Contract NC = Non-construction Contract Non-construction contracts include architectural, engineering, legal, accounting or any other services related to rehabilitation, construction or infrastructure.						
Advertising Date(s)	Bid Opening Date	Bid Closing Date		Release of Funds Date		
Contract Award Date	Pre-Construction Conference Date		Start of Construction Date			
Procurement Method Used (check one) <input type="checkbox"/> Small Purchase <input type="checkbox"/> Competitive Sealed Bids <input type="checkbox"/> Competitive Proposals <input type="checkbox"/> Non Competitive Proposals						
Number of Bids Received _____ (contact DCS if less than 2 bids are received) Number of Quotes Received _____ (minimum of 3 required)						
List Each Minority Business Enterprise			List Each Women-Owned Business Enterprise			
List Section 3 Contractors						
AGENCY PROVIDING LABOR STANDARDS INFORMATION						
Agency		Labor Officer		Telephone Number		
Address		City	State	ZIP Code	Date	

Remit to DCS prior to the first draw of CDBG project funds.

PAYROLL FORM

NORTH DAKOTA DEPARTMENT OF COMMERCE

DIVISION OF COMMUNITY SERVICES

SFN 52339 (01/10)

U.S. DEPARTMENT OF LABOR WAGE AND HOUR DIVISION		PAYROLL					Form Approved Budget Bureau No. 44-R1093												
Name of Contractor <input type="checkbox"/> or Subcontractor <input type="checkbox"/>						Address			City	State	Zip Code								
Payroll No.		For Week Ending				Project and Location				Project or Contract No.									
(1) Name and Individual Identifying Number (e.g., Last four digits of Social Security Number) of Worker	(2) No. of Withholding Exemptions	(3) Work Classification	OT or ST	(4) Day and Date							(5) Total Hours	(6) Rate of Pay	(7) Gross Amount Earned	(8) Deductions					(9) Net Wages Paid For Week
				Hours Worked Each Day	FICA	Withholding Tax		Other	Total Deductions										
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Date

I, _____, (Name of signatory party), _____ (Title)

Do hereby state:

(1) That I pay or supervise the payment of the persons employed by _____ on the _____ Contractor of Subcontractor) _____ (Building or Work)

_____; that during the payroll period commencing on the _____ day of _____, 20____, and ending the _____ day of 20____, all persons employed on said project have been paid the full weekly wages earned, that no rebates have been or will be made either directly or indirectly to or on behalf of said _____ from the full weekly wages earned _____ (Contractor or Subcontractor)

by any persons and that no deductions have been made either directly or indirectly from the full wages earned by any persons, other than permissible deductions as defined in Regulations, Part 3 (CFR Subtitle A), issued by the Secretary of Labor under the Copeland Acts, as amended (48 Stat. 948, 63 Stat. 108, 72 Stat. 357; 40 U.S.C. 276c), and described below;

(2) That any payrolls otherwise under this contract required to be submitted for the above period are correct and complete; that the wage rates for laborers or mechanics contained therein are not less than the applicable wage rates contained in any wage determination incorporated into the contract; that the classifications set forth therein for each laborer or mechanic conform with the work he performed.

(3) That any apprentices employed in the above period are fully registered in a bona fide apprenticeship program registered with a State apprenticeship agency recognized by the Bureau of Apprenticeship and Training, United State Department of Labor, or if no such recognized agency exists in a State, are registered with the Bureau of Apprenticeship and Training, United States Department of Labor.

(4) That:

(a) WHERE FRINGE BENEFITS ARE PAID TO APPROVED PLANS, FUNDS, OR PROGRAMS

— In addition to the basic hourly wage rates paid to each laborer or mechanic listed in the above referenced payroll, payments of fringe benefits as listed in the contract have been or will be made to appropriate programs for the benefit of such employees, except as noted in Section 4(c) below.

(b) WHERE FRINGE BENEFITS ARE PAID IN CASH

— Each laborer or mechanic listed in the above referenced payroll has been paid, as indicated on the payroll, an amount not less than the sum of the applicable basic hourly wage rate plus the amount of the required fringe benefits as listed in the contract, except as noted in Section 4 (c) below.

(c) EXCEPTIONS

Exception (Craft)	Explanation

Remarks

Name and Title	Signature
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THE WILFUL FALSIFICATION OF ANY OF THE ABOVE STATEMENTS MAY SUBJECT THE CONTRACTOR OR SUBCONTRACTOR TO CIVIL OR CRIMINAL PROSECUTION. SEE SECTION 1001 OF TITLE 18 AND SECTION 231 OF TITLE 31 OF THE UNITED STATES CODE.

Instructions for Completing Payroll Form SFN 52339

General: SFN 52339 has been made available for the convenience of contractors and subcontractors required by their Federal or Federally-aided construction-type contracts and subcontracts to submit weekly payrolls. Properly filled out, this form will satisfy the requirements of Regulations, Parts 3 and 5 (29 C.F.R., Subtitle A), as to payrolls submitted in connection with contracts subject to the Davis-Bacon and related Acts.

While completion of the SFN 52339 is optional, it is mandatory for covered contractors and subcontractors performing work on Federally financed or assisted construction contracts to respond to the information collection contained in 29 C.F.R. §§ 3.3, 5.5(a). The Copeland Act (40 U.S.C. § 3145) requires contractors and subcontractors performing work on Federally financed or assisted construction contracts to "furnish weekly a statement with respect to the wages paid each employee during the preceding week." U.S. Department of Labor (DOL) Regulations at 29 C.F.R. § 5.5(a)(3)(ii) require contractors to submit weekly a copy of all payrolls to the Federal agency contracting for or financing the construction project, accompanied by a signed "Statement of Compliance" indicating that the payrolls are correct and complete and that each laborer or mechanic has been paid not less than the proper Davis-Bacon prevailing wage rate for the work performed. DOL and federal contracting agencies receiving this information review the information to determine that employees have received legally required wages and fringe benefits.

Under the Davis-Bacon and related Acts, the contractor is required to pay not less than prevailing wage, including fringe benefits, as predetermined by the Department of Labor. The contractor's obligation to pay fringe benefits may be met either by payment of the fringe benefits to bona fide benefit plans, funds or programs or by making payments to the covered workers (laborers and mechanics) as cash in lieu of fringe benefits.

This payroll provides for the contractor to show on the face of the payroll all monies to each worker, whether as basic rates or as cash in lieu of fringe benefits and provides for the contractor's representation in the statement of compliance on the payroll (as shown on page 2) that he/she is paying for fringe benefits required by the contract and not paid as cash in lieu of fringe benefits. Detailed instructions concerning the preparation of the payroll follow:

Contractor or Subcontractor: Fill in your firm's name and check appropriate box.

Address: Fill in your firm's address.

Payroll No.: Beginning with the number "1", list the payroll number for the submission.

For Week Ending: List the workweek ending date.

Project and Location: Self-explanatory.

Project or Contract No.: Self-explanatory.

Column 1 - Name and Individual Identifying Number of Worker: Enter each worker's full name and an individual identifying number (e.g., last four digits of worker's social security number) on each weekly payroll submitted.

Column 2 - No. of Withholding Exemptions: This column is merely inserted for the employer's convenience and is not a requirement of Regulations, Part 3 and 5.

Column 3 - Work Classifications: List classification descriptive of work actually performed by each laborer or mechanic. Consult classification and minimum wage schedule set forth in contract specifications. If additional classifications are deemed necessary, see Contracting Officer or Agency representative. An individual may be shown as having worked in more than one classification provided an accurate breakdown or hours worked in each classification is maintained and shown on the submitted payroll by use of separate entries.

Column 4 - Hours worked: List the day and date and straight time and overtime hours worked in the applicable boxes. On all contracts subject to the Contract Work Hours Standard Act, enter hours worked in excess of 40 hours a week as "overtime".

Column 5 - Total: Self-explanatory

Column 6 - Rate of Pay (Including Fringe Benefits): In the "straight time" box for each worker, list the actual hourly rate paid for straight time worked, plus cash paid in lieu of fringe benefits paid. When recording the straight time hourly rate, any cash paid in lieu of fringe benefits may be shown separately from the basic rate. For example, "\$12.25/.40" would reflect a \$12.25 base hourly rate plus \$0.40 for fringe benefits. This is of assistance in correctly computing overtime. See "Fringe Benefits" below. When overtime is worked, show the overtime hourly rate paid plus any cash in lieu of fringe benefits paid in

the "overtime" box for each worker; otherwise, you may skip this box. See "Fringe Benefits" below. Payment of not less than time and one-half the basic or regular rate paid is required for overtime under the Contract Work Hours Standard Act of 1962 if the prime contract exceeds \$100,000. In addition to paying no less than the predetermined rate for the classification which an individual works, the contractor must pay amounts predetermined as fringe benefits in the wage decision made part of the contract to approved fringe benefit plans, funds or programs or shall pay as cash in lieu of fringe benefits. See "FRINGE BENEFITS" below.

Column 7 - Gross Amount Earned: Enter gross amount earned on this project. If part of a worker's weekly wage was earned on projects other than the project described on this payroll, enter in column 7 first the amount earned on the Federal or Federally assisted project and then the gross amount earned during the week on all projects, thus "\$163.00/\$420.00" would reflect the earnings of a worker who earned \$163.00 on a Federally assisted construction project during a week in which \$420.00 was earned on all work.

Column 8 - Deductions: Five columns are provided for showing deductions made. If more than five deductions are involved, use the first four columns and show the balance deductions under "Other" column; show actual total under "Total Deductions" column; and in the attachment to the payroll describe the deduction(s) contained in the "Other" column. All deductions must be in accordance with the provisions of the Copeland Act Regulations, 29 C.F.R., Part 3. If an individual worked on other jobs in addition to this project, show actual deductions from his/her weekly gross wage, and indicate that deductions are based on his gross wages.

Column 9 - Net Wages Paid for Week: Self-explanatory.

Totals - Space has been left at the bottom of the columns so that totals may be shown if the contractor so desires.

Statement Required by Regulations, Parts 3 and 5: While the "statement of compliance" need not be notarized, the statement (on page 2 of the payroll form) is subject to the penalties provided by 18 U.S.C. § 1001, namely, a fine, possible imprisonment of not more than 5 years, or both. Accordingly, the party signing this statement should have knowledge of the facts represented as true.

Items 1 and 2: Space has been provided between items (1) and (2) of the statement for describing any deductions made. If all deductions made are adequately described in the "Deductions" column above, state "See Deductions column in this payroll." See "FRINGE BENEFITS" below for instructions concerning filling out paragraph 4 of the statement.

Item 4 FRINGE BENEFITS - Contractors who pay all required fringe benefits: If paying all fringe benefits to approved plans, funds, or programs in amounts not less than were determined in the applicable wage decision of the Secretary of Labor, show the basic cash hourly rate and overtime rate paid to each worker on the face of the payroll and check paragraph 4(a) of the statement on page 2 of the payroll form to indicate the payment. Note any exceptions in section 4(c).

Contractors who pay no fringe benefits: If not paying all fringe benefits to approved plans, funds, or programs in amounts of at least those that were determined in the applicable wage decision of the Secretary of Labor, pay any remaining fringe benefit amount to each laborer and mechanic and insert in the "straight time" of the "Rate of Pay" column of the payroll an amount not less than the predetermined rate for each classification plus the amount of fringe benefits determined for each classification in the application wage decision. Inasmuch as it is not necessary to pay time and a half on cash paid in lieu of fringe benefits, the overtime rate shall be not less than the sum of the basic predetermined rate, plus the half time premium on basic or regular rate, plus the required cash in lieu of fringe benefits at the straight time rate. In addition, check paragraph 4(b) of the statement on page 2 the payroll form to indicate the payment of fringe benefits in cash directly to the workers. Note any exceptions in section 4(c).

Use of Section 4(c), Exceptions

Any contractor who is making payment to approved plans, funds, or programs in amounts less than the wage determination requires is obliged to pay the deficiency directly to the covered worker as cash in lieu of fringe benefits. Enter any exceptions to section 4(a) or 4(b) in section 4(c). Enter in the Exception column the craft, and enter in the Explanation column the hourly amount paid each worker as cash in lieu of fringe benefits and the hourly amount paid to plans, funds, or programs as fringe benefits. The contractor must pay an amount not less than the predetermined rate plus cash in lieu of fringe benefits as shown in section 4(c) to each such individual for all hours worked (unless otherwise provided by applicable wage determination) on the Federal or Federally assisted project. Enter the rate paid and amount of cash paid in lieu of fringe benefits per hour in column 6 on the payroll. See paragraph on "Contractors who pay no fringe benefits" for computation of overtime rate.

EMPLOYEE INTERVIEW RECORD (LABOR STANDARDS)

NORTH DAKOTA DEPARTMENT OF COMMERCE/DCS

SFN 52341 (05/14)

CONFIDENTIAL

Project Name		Contractor or Subcontractor (Employer)	
Project Number		Employee Name	
Employee Identifying Number		Employee Phone Number	
Employee Home Address		City	State ZIP Code
How long have you worked for this Company?		How long on this job?	
Hours for starting and stopping normal work?		Daily/Weekly hours worked normally?	
How many hours did you work last week?		Hourly rate of pay?	
Verification of Identification?	<input type="checkbox"/> Yes <input type="checkbox"/> No	Do you have a pay stub with you?	<input type="checkbox"/> Yes <input type="checkbox"/> No
Fringe Benefits			
Vacation <input type="checkbox"/> Yes <input type="checkbox"/> No		Medical <input type="checkbox"/> Yes <input type="checkbox"/> No	
Pension <input type="checkbox"/> Yes <input type="checkbox"/> No		Other <input type="checkbox"/> Yes <input type="checkbox"/> No	
What deductions other than taxes and social security are made from your pay?			
Your job classification(s) (list all)			
Your duties			
Tools or equipment used			
Are you an apprentice or trainee?		<input type="checkbox"/> Yes <input type="checkbox"/> No	
Are you paid for all hours worked?		<input type="checkbox"/> Yes <input type="checkbox"/> No	
Are you paid at least time and 1/2 for all hours worked in excess of 40 in a week?		<input type="checkbox"/> Yes <input type="checkbox"/> No	
Have you ever been threatened or coerced into giving up any part of your pay?		<input type="checkbox"/> Yes <input type="checkbox"/> No	
Employee Signature		Date	
Duties observed by the Interviewer (Please be specific.)			
Remarks			
Interviewer Name (please print)		Signature of Interviewer	Date of Interview
Payroll Examination			
Remarks			
Signature of Payroll Examiner		Date	

SECTION 9 - CIVIL RIGHTS

A. OVERVIEW

This section contains regulation summaries and civil rights requirements, fair housing, and equal opportunity laws applicable to the administration of the North Dakota CDBG program.

Civil rights laws, related laws, and regulations are designed to protect individuals from discrimination on the basis of:

1. Race
2. National Origin
3. Religion
4. Color
5. Sex
6. Age
7. Disability

As they apply to the North Dakota CDBG program, these laws protect individuals from discrimination in:

1. Housing
2. Benefits created by CDBG projects
3. Employment
4. Business Opportunities

Population groups specifically protected by these laws include:

1. Minorities (specifically - Blacks, Hispanics, Asians and Pacific Islanders, American Indians and Alaskan Natives)
2. Women
3. Groups distinguished by age
4. Persons with Disabilities
5. Family Status

The applicable laws and regulations provide for:

1. Nondiscrimination
2. Equal Opportunity
3. Affirmative Action (to reduce past discrimination)

Definitions, Acronyms or Terminology

Please refer to the following terms for information on commonly used names, acronyms, and phrases used within this section:

1. Contractor - An entity selected in accordance with the procurement requirements at 2 CFR Part 200. In accordance with 2 CFR Part 200, such procurement actions must be conducted in a manner that promotes free and open competition.
2. New hires (as it relates to payrolls) - Full-time employees for permanent, temporary or seasonal employment opportunities.
3. Low-Income Person - Persons or families whose total household income does not exceed 80 percent of the median income for the project area.
4. Very Low-Income Person – Person(s) or families whose total household incomes do not exceed 50 percent of the median income for the project area.
5. Section 3 - See Appendix B
6. Service Area – an area within one mile of the Section 3 project or, if fewer than 5,000 people live within one mile of a Section 3 project, within a circle centered on the Section 3 project that is sufficient to encompass a population of 5,000 people according to the most recent U.S. Census.

B. CIVIL RIGHTS REQUIREMENTS - LAWS & STATUTES

Civil Rights laws applicable to North Dakota CDBG programs are set forth in the statutes and Executive Orders as follows:

Statute/Executive Order	Description
Title VI of the Civil Rights Act of 1964	No person shall be excluded from participation, denied program benefits, or be subjected to discrimination on the basis of: <ol style="list-style-type: none"> 1. Race; 2. Color; or 3. National Origin
Section 3 of the Housing and Urban Development Act of 1968 (as amended)	Section 3 is a provision of the Housing and Urban Development Act of 1968 (12 U.S.C. 1701u) that is regulated by the provisions of 24 CFR 75. Section 3 regulations ensure that employment and other economic opportunities generated by certain HUD financial assistance shall, to the greatest extent feasible, and consistent with existing Federal, State and local laws and regulations, be directed to low and very low-income persons, particularly those who are recipients of government assistance for housing, and to business concerns which provide economic opportunities to low- and very low-income persons.

Title VIII of the Civil Rights Acts of 1968, as amended (Fair Housing Act)	Prohibits discrimination in housing on the basis of: 1. Race; 2. Color; 3. Religion; 4. Sex; or
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	<p>5. National Origin</p> <p>6. Also requires HUD to administer its programs to affirmatively promote fair housing</p>
Section 504 of the Rehabilitation Act of 1973, as amended	<p>No otherwise qualified individual shall, solely, by reason of his or her handicap be:</p> <ol style="list-style-type: none"> 1. Excluded from participation (including employment) 2. Denied program benefits 3. Subjected to discrimination
Section 109 of the Housing and Urban Development Act of 1974, as amended	<p>Under any program or activity funded in whole or in part under Title I or Title II of the act (regardless of contract's dollar value), no person shall be excluded from participation (including employment), denied program benefits or subjected to discrimination on the basis of:</p> <ol style="list-style-type: none"> 1. Race; 2. Color; 3. National Origin; or 4. Sex
The Age Discrimination Act of 1975, as amended	<p>No person shall be excluded from participation, denied program benefits, or be subjected to discrimination on the basis of age.</p>
Executive Order 11063	<p>No person shall, on the basis of race, color, religion, sex, or national origin be discriminated against in:</p> <ol style="list-style-type: none"> 1. Housing (and related facilities) receiving federal assistance. 2. Lending practices with respect to residential practices when such practices are connected with loans insured or guaranteed by the federal government.
Executive Order 11246, as amended	<p>No person shall be discriminated against, on the basis of race, color, religion, sex, or national origin in any phase of employment during the performance of federal or federally assisted construction contracts in excess of \$10,000.</p>
Equal access to HUD-assisted or Insured Housing §5.105(a)(2)(i-ii)	<p>Requires equal access to housing in HUD programs, regardless of sexual orientation, gender identity, or marital status. (New regulation effective 3/5/12)</p>
Human Rights Acts of North Dakota	<p>Prohibits discrimination on the basis of race, color, religion, sex, national origin, age, presence of any mental or physical disability, status with regard to marriage or public assistance; and protects individuals from discrimination in employment, public accommodations, housing, state and local government services, and credit transactions.</p>

C. STRATEGIES AND PROCEDURES

This section outlines strategies and procedures for compliance with various civil rights, equal opportunity and affirmative action laws, regulations and requirements outlined in the preceding section.

CDBG Grant recipients must ensure that all CDBG-funded activities are conducted in a manner that does not discriminate on the basis of race, creed, color, national origin, religion, sex, disability or age.

The following information can be used in whole, or applicable part to assure conformity with required civil rights laws and regulations, and promote affirmative action policies.

1. Nondiscrimination, Equal Opportunity and Affirmative Action in Employment

- a. Maintain employment data to indicate staff composition by race, sex, disability status and national origin (See Attachment 1).
- b. Develop or review existing personnel policies to ensure compliance with nondiscrimination, and equal opportunity requirements.
- c. Advertise as an equal opportunity employer.
- d. Publish an annual statement of nondiscrimination and/or include such statement in any publicity on CDBG program(s).
- e. Develop a network of information resources that serve minorities, elderly, women, disabled, and ethnic groups (in addition to newspaper/public service channels).
- f. Utilize resources in the community to advertise employment opportunities.
- g. Develop or implement an Affirmative Action Plan.
- h. Develop a Section 3 plan.
- i. Display Equal Opportunity posters in high-visibility locations.
- j. Implement affirmative action to overcome the effects of past discrimination.

2. Nondiscrimination, Equal Opportunity and Affirmative Action in Contracting

- a. Advertise as an equal opportunity employer in bid solicitations.
- b. Solicit bids from minorities, women, and locally-owned businesses.
- c. Maintain a list of locally-owned businesses that were awarded contracts.
- d. Require a Section 3 clause in all contracts.

- e. Inform contractors of equal opportunity requirements during the pre-construction conference.
 - f. Require contractor(s) to submit monthly utilization reports.
 - g. Monitor contractor compliance at the worksite.
3. Nondiscrimination, Equal Opportunity and Affirmative Action in Housing
- a. Information concerning housing services and activities should be sent to agencies and organizations that routinely provide services to protected groups.
 - b. If necessary, contract documents used by Grantees and lending institutions participating in local programs should be reviewed and revised to eliminate any discriminatory intent or practice.
 - c. Criteria for selecting recipients of housing assistance should be evaluated for any discrimination.
 - d. Acceptable Fair Housing Activities:
 - (1) Publicize that the recipient will assist persons experiencing discrimination in housing.
 - (2) Development and adoption of a fair housing policy with statements to support enforcement.
 - (3) Provide housing counseling services to assist minorities and women seeking housing outside areas of concentration.
 - (4) Work with local real estate brokers to create a Voluntary Area-wide Marketing Agreement.
 - (5) Work with local banks to post "equal lending opportunity" advertisements.
 - (6) Use the "equal housing opportunity" slogan and logo on city letterhead.
 - (7) Sponsor fair housing seminars and campaigns.
 - (8) Work with minority and women leaders in the project area to promote housing development and to increase minority and female participation.
 - (9) Assist local housing developers to develop outreach programs to attract minorities and females.

- (10) Review zoning ordinances and comprehensive plans to ensure the promotion of special deconcentration of assisted housing units.
- (11) Create a local housing authority.
- (12) Publicly advertise the city as a "fair housing city."
- (13) Adopt a code enforcement ordinance to urge landlords to keep their units safe and sanitary for tenants.

4. Beneficiaries

- a. Identify the needs of low-to moderate-income persons, minorities, and women.
- b. Develop and maintain a database for the project area to include information in regards to population characteristics, (sex, race, age, head of household, etc.).
- c. Maintain data on direct and indirect beneficiaries for the project which include characteristics noted in Section 4b. (See Section 16)

D. FAIR HOUSING

The Federal Fair Housing Law provides that "...no person shall be subjected to discrimination because of race, color, religion, sex, handicap, familial status, or national origin in the sale, rental, or advertisement of dwellings, the provision of brokerage services, or the availability of residential real estate-related transactions to include lenders, builders, and homeowners insurance companies" (24 CFR 100.5). (See https://portal.hud.gov/hudportal/HUD?SrC=program_offices/fair_housing_equal_op/FHLaws/-- Fair Housing Laws and Presidential Executive Orders).

Grantees must agree to administer all programs and activities related to housing and community development in a manner to affirmatively support and carry out the policies of the Fair Housing Act (42 U.S.C.3608(e)(5)) (E.O.12259(1-202));(24 CFR 570.601). This is achieved by promoting and publicizing Fair Housing laws as explained below. Grantees must also agree to develop and maintain records of their efforts undertaken to assure fair housing.

**Fair housing laws, provisions and regulations apply to the community as a whole
– Not just to CDBG-supported housing projects.
Such laws are an essential part of the community's CDBG responsibilities.**

- 1. Under the Fair Housing Act, the following actions are illegal when based on race, color, national origin, sex, religion, familial status, or disability:
 - a. Refusal to sell, rent, negotiate, or otherwise make housing unavailable.
 - b. Falsely state that the housing is unavailable.
 - c. Provide different services or facilities.
 - d. Imposition of different terms and conditions (including qualifications, fees, pricing,

rules, etc.)

- e. Advertising or making statements to express limitation(s) or preferences
- f. Steering, exclusionary zoning, blockbusting, or redlining
- g. Retaliation against anyone exercising her/his rights under the Fair Housing Act (includes intimidation and coercion)
- h. Refusal to provide a reasonable accommodation or modification for someone with a disability

2. Affirmatively Furthering Fair Housing

- a. Analysis of Impediments to Fair Housing Choice (AI). In exchange for federal funds, entitlement jurisdictions are required to submit certification of affirmatively furthering fair housing to the HUD. This certification has three required elements:
 - (1) Complete an AI;
 - (2) Take actions to overcome the effects of any impediments identified; and
 - (3) Maintain records to reflect the actions taken in response to the analysis.
- b. HUD provides a definition of impediments to fair housing choice as:
 - (1) Any actions, omissions, or decisions taken with regard to race, color, religion, sex, disability, familial status, or national origin to restrict housing choices or the availability of housing choices; and
 - (2) Any actions, omissions, or decisions that restrict housing choices, or the availability of housing choices, on the basis of race, color, religion, sex, disability, familial status, or national origin.

An AI was conducted May 11, 2015 for the State of North Dakota. The final document is available on the Department of Commerce, Division of Community Services website at: <http://www.communityservices.nd.gov/communitydevelopment/Resources/AnalysisofImpedimentstoFairHousingChoice/>

The AI identified several private and public sector impediments to fair housing choice. Private sector impediments assigned a severity ranking of medium or high included discriminatory terms and conditions in rental and home purchase markets, refusal to rent, failure to make reasonable accommodations, preferential statements in advertising, and the issuance of predatory type home loans. Public sector impediments include inadequate fair housing outreach and education, lack of sufficient fair housing testing and enforcement, and NIMBYism.

The State has begun to address these impediments primarily through outreach and education efforts. Presentations provide specific information on what fair housing is, housing laws, and how the Department of Labor handles specific housing complaints. Also included is an overview of the Department of Labor's relationship with HUD and

how the State's laws are substantially equivalent to the Federal Fair Housing Law. CDBG Grantees are required to affirmatively further fair housing in their community when soliciting renters, determining eligibility, and all business transactions.

- c. Data and Documentation. The CDBG Grantee must document steps taken to promote fair housing. Keep records in the CDBG Civil Rights File.

When developing a fair housing/affirmative marketing program, it is important for the Grantee to **document all of the actions taken as well as the results of those actions.** If these efforts are not documented, DSC is unable to demonstrate to HUD that Grantees meet fair housing obligations.

DCS and CDBG Grantees with housing projects are to assess affirmative marketing efforts of owners by comparing predetermined occupancy goals (based on the area from which potential tenants will come) to actual occupancy data the owner is required to maintain. Outreach efforts on the part of the owner will also be evaluated by review of marketing efforts.

- d. Resources

High Plains Fair Housing Center, located in Grand Forks, ND, is a private, non-profit organization dedicated to the reduction and eradication of housing discrimination in the state:

High Plains Fair Housing Center
Michelle Rydz, Executive Director
PO Box 5222
Grand Forks, ND 58206
701-203-1077
Toll Free 866-380-2738
www.highplainsfhc.org

- e. Housing Complaints

The Human Rights Division of the Department of Labor and Human Rights is responsible for enforcing the North Dakota Human Rights Act ([N.D.C.C. Chapter 14-02.4](#)) and the North Dakota Housing Discrimination Act ([N.D.C.C. Chapter 14-02.5](#)). These responsibilities include investigation of complaints alleging discriminatory practices, education in regards to human rights laws, and study the nature and extent of discrimination in North Dakota.

Complaints must be referred directly to:

North Dakota Department of Labor
Human Rights Division
600 E. Boulevard Ave., Dept. 406
Bismarck, ND 58505-0340
Phone - (701) 328-2660 locally or;
1-800-582-8032 (toll free in North Dakota)

TTY (Relay ND) - 1-800-366-6888 or
Voice 1-800-366-6889
Spanish Users 1-800-435-8590
Fax - (701) 328-2031
E-mail - humanrights@nd.gov
Website – www.nd.gov/humanrights

The name(s) of complainants and the name(s) of the respondent(s) must not be disclosed to any entity other than the ND Department of Labor. The DCS is to be notified that a complaint has been registered.

To learn more about the complaint process, use the following link.
<http://www.nd.gov/labor/publications/docs/housing.pdf>

E. SECTION 504

Compliance with the provisions of Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. 754) requires local Grantees to operate each program or activity receiving Federal financial assistance so the program or activity (when viewed in its entirety) is readily accessible to and usable by handicapped individuals.

Section 504 provides that "No otherwise qualified individual with handicaps in the United States shall, solely by reason of his handicap, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance". The local Grantee is responsible for compliance with Section 504 by the developer in economic development programs.

1. Citizen Participation

- a. Recipients must make affirmative efforts to involve racial and ethnic minorities, people with disabilities, and female head of households in the citizen participation process. Below is a link to the ND Citizen Participation Plan:
<http://www.communityservices.nd.gov/uploads/17/CitizenParticipationPlanSFN52662.pdf>

2. Limited English Proficiency

- a. CDBG Grantees have an obligation under Title VI to reduce language barriers that prevent meaningful access by person(s) with limited English proficiency (LEP) to programs, services, and activities.
 - (1) Written translations of vital documents must be provided for each LEP language group totaling 1,000 persons or 5% of the population.

3. Section 504 Non-discrimination Notice

- a. Recipients must provide a Section 504 non-discrimination notice in printed informational materials the Recipient makes available to participants, beneficiaries, applicants, and employees.

- b. The notice must include the name and contact number of the Section 504 Coordinator.

(1) A sample notice can be found in the **Section 504/ADA Technical Assistance Handbook**

4. Physical Accessibility

In new multifamily housing projects, a minimum of five percent of the total dwelling units or at least one unit (whichever is greater) must be made accessible for persons with mobility impairments [24 CFR § 8.22(b)].

An additional two percent (or at least one unit, whichever is greater) must be made accessible for persons with hearing or vision impairments [24 CFR § 8.22(b)].

5. Program Accessibility

- a. A recipient must operate each housing and non-housing program, or activity receiving federal assistance so the program or activity is readily accessible to and usable by handicapped individuals (when viewed in its entirety).
- b. A recipient is not necessarily required to make each of its existing facilities accessible to and usable by individuals with handicaps.

6. Reasonable Accommodation

Is a change, exception, or adjustment to a rule, policy, practice, or service that may be necessary for a disabled person to have equal opportunity to use and enjoy a dwelling (including public and common use areas).

- a. The requested accommodation must be reasonable.
- b. The accommodation does not impose an undue financial and administrative burden on the housing provider.
- c. The accommodation does not fundamentally alter the nature of the housing provider's operations.
- d. The determination of undue financial and administrative burden is determined on a case-by-case basis.

(1) Section 504 requires recipients to provide and pay for reasonable accommodations that involve structural modifications to units or public and common areas.

7. Equal Access Rule

HUD's Equal Access to Housing in HUD Programs Regardless of Sexual Orientation or Gender Identity Rule went into effect on March 3, 2012.

- a. Housing assisted by HUD shall be made available without regard to actual or perceived sexual orientation, gender identity, or marital status (24 CFR Section 5.015(a)(2).
- b. Clarification of “family” definition includes persons regardless of actual or perceived sexual orientation, gender identity, or marital status.
- c. Prohibits inquiries of an applicant or occupant’s sexual orientation or gender identity for the purpose of determining eligibility or otherwise making housing available.
- d. Prohibits FHA-approved lenders from basic eligibility determinations for FHA-insured loans based on actual or perceived sexual orientation or gender identity.

8. Requirements for All Grantees

In order to comply with Section 504, the following actions must be carried out:

- a. Each Grantee will submit an assurance to DCS that the CDBG Program will operate in compliance with Section 504 requirements (24 CFR 8.50(a)). This assurance obligates the Grantee during the period which federal financial assistance is extended. This assurance must be submitted prior to receipt of the executed contract with DCS.
- b. Each Grantee will complete a self-evaluation of current policies and practices with respect to communications, employment, and program/physical accessibility to determine whether, in whole or in part, they do not meet the requirements of being accessible to disabled individuals. The self-evaluation must be complete before the final request for funds of any grant award.
- c. The self-evaluation shall designate all buildings and structures as “new” or “existing” depending on whether the building was constructed or altered after July 1988 (24 CFR 8.51(a)). The self-evaluation determines whether buildings and structures that house programs and services for the public can be approached, entered, and used by persons with disabilities. At minimum the following items should be addressed in the self-evaluation Parking (Spaces, Curbs, Ramps, Routes and Pathways) Slopes, Levels, Ramps, Notices, Entrance Ways (Widths and Heights) Interiors (Door Grasp, Pressure, Pathways, Elevators) Service (Counter Heights, Notices, and Auxiliary Services) Telephones, Restrooms, and Drinking Fountains.
- d. Each Grantee is required to modify any policies and practices that do not meet the requirements for program accessibility (24 CFR 8.51). Because compliance with 504 does not necessarily require a recipient to make each of its existing facilities accessible to and usable by handicapped individuals, or require a recipient to take any action that would result in a fundamental alteration in the nature of its program or activity, or undue financial and administrative burdens. A recipient may comply with the requirements of this section in its programs and activities receiving Federal financial assistance through such means as relocation of programs, assignment of aids to beneficiaries, home visits, or any other method that makes its program or activity accessible to handicapped individuals. A recipient is not required to make structural changes to existing facilities where other methods achieve compliance with section

(24 CFR 8.21(i)).

- e. Each Grantee must ensure that members of the population eligible to be served or likely to be effected directly by a federally assisted program who have visual or hearing impairments are provided the information necessary to understand and participate in the program. Methods to ensure participation include, but are not limited to, qualified sign language and oral interpreters, readers, or the use of taped and Braille materials.
- f. Each Grantee must maintain data for the DCS showing the extent to which individuals with disabilities benefit from federally assisted programs.

9. Other Section 504 Requirements, as Applicable

If structural changes to non-housing facilities are undertaken to achieve program accessibility (see notes below), the recipient must develop a transition plan with input and assistance from interested persons (including handicapped individuals or organizations representing handicapped individuals) for those areas that cannot be made accessible administratively (24 CFR 8.21 (4)).

The construction activities identified in the transition plan must have been/must be completed within three years of completion of the self-evaluation that was before the final request for funds for any grant award made after July 1988 (24 CFR 8.21(c) 3 - see #2 above). The transition plan must be made available for public inspection, and, at a minimum:

- a. Identifies all physical obstacles that limit the accessibility of programs and activities to individuals with disabilities;
- b. Describes in detail the method used to make the facility accessible;
- c. Set a schedule for completion of modifications. If the schedule exceeds one (1) year, recipients must identify the actions to be taken during each year of the transition period;
- d. Identifies the individual responsible for implementation of the plan; and
- e. Identifies the persons or groups with whose assistance the plan was prepared.

NOTE: Unless the Grant recipient has recently acquired a facility that was constructed prior to 1988 (that will house programs and services available to the public, and intends to make physical alterations to this facility) the three-year construction period to meet the accessibility requirement for existing facilities under this regulation is considered expired.

NOTE: New non-housing facilities (designed, constructed, or altered after July 11, 1988) will be designed and constructed to be readily accessible to and usable by individuals with handicaps (24CFR 8.32).

- f. If the Grantee employs 15 or more persons:
- (1) A responsible employee must be designated to coordinate the community's efforts to comply with Section 504;
 - (2) The community must adopt grievance procedures to incorporate appropriate due process standards and provide for prompt and equitable resolution of complaints alleging any prohibited action. Such procedures do not have to be established with respect to complaints from applicants for employment, or from applicants for admission to housing covered by this part.
 - (3) The Grantee is required to publish a statement of compliance to notify participants, beneficiaries, applicants, and employees (including those with impaired vision or hearing, and unions or professional organizations holding collective bargaining or professional agreements with the Grantee) that it does not discriminate on the basis of handicap in violation of this part. The notification will state, where appropriate, that the Grantee does not discriminate in admission or access to, or treatment or employment in, its federally assisted programs and activities. The notification will also include an identification of the responsible employee designated above. A Grantee will make the initial notification required by this paragraph within 90 days of receipt of the executed contract with DCS. Methods of initial and continuing notification may include the posting of notices, publication in newspapers and magazines, placement of notices in recipients' publications, and distribution of memoranda, or other written communication.
 - (4) The Grantee must maintain a file available for public inspection, and provide to the responsible civil rights official, upon request: (1) a list of interested persons consulted; (2) a description of areas examined in the self-evaluation and any problems identified; and (3) a description of any modifications made and any remedial steps taken.
- g. To assist you with Section 504 compliance, please refer to the "Section 504/ADA Technical Assistance Handbook".

The regulation requires the availability of a TDD (telecommunications device for the deaf), or equally an effective method to communicate with hearing-impaired persons. North Dakota has an approved relay service to utilize. In order to use the relay system, the Grantee must have a policy indicating the use of the relay system by the Grantee and publish the telephone numbers in the newspaper. The numbers are: 1) TTY Users 1-800-366-6888, 2) Voice Users 1-800-366-6889, and 3) Spanish Users 1-800-435-8590. This service is free of charge. Recently the number "711" has been approved by the FCC for use in contacting the relay service. This number works for both TTY and voice telephones and while it is applicable in most states, you are still required to list the "800" numbers presented above.

If you are a recipient of prior CDBG funds and have a completed self-evaluation (and if applicable, a transition plan) the three-year time period to complete the construction activities specified in a transition plan for most Grantees has expired. For “existing” buildings and facilities that house programs and services for the public and are not accessible recipients must adopt policies and/or modified practices to achieve accessibility. Prior Grantees should prepare a summary of their past compliance activities.

F. SEE APPENDIX C FOR COMPLIANCE

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION STATE AND LOCAL GOVERNMENT INFORMATION (EEO-4) EXCLUDE SCHOOL SYSTEMS AND EDUCATIONAL INSTITUTIONS (Read attached instructions prior to completing this form)		
A. TYPE OF GOVERNMENT B. IDENTIFICATION AND CERTIFICATION		
Name of Agency, Department or Institution		
Certification. I Certify That the Information Given in this Report Is Correct and True to the Best of My Knowledge and Was Reported in Accordance with Accompanying Instructions. (Willfully False Statements on this Report Are Punishable by Law, U.S. Code, Title 18, Section 1001.)		
Name of Person to Contact Regarding this Form		Title
Address (Number and Street, City, State, Zip Code)		Telephone Number (Area Code)
Date	Typed Name/Title of Authorized Official	Signature
C. FUNCTION (Check one box to indicate the function(s) for which this form is being submitted. Data should be reported for all departments and agencies in your government covered by the function(s) indicated. If you cannot supply the data for every agency within the function(s), please attach a list showing name and address of agencies whose data are not included.		
1. FINANCIAL ADMINISTRATION. Tax assessing, tax billing and collection, budgeting, purchasing, central accounting and similar financial administration carried on by a treasurer's, auditor's or comptroller's office and GENERAL CONTROL. Duties usually performed by boards of supervisors or commissioners, central administrative offices and agencies, central personnel or planning agencies, all judicial offices and employees (judges, magistrates, bailiffs, etc.)	8. HEALTH. Provision of public health services, out-patient clinics, visiting nurses, food and sanitary inspections, mental health, alcohol rehabilitation services, etc.	
	9. HOUSING. Code enforcement, low rent public housing, fair housing ordinance enforcement, housing for elderly, housing rehabilitation, rent control.	
2. STREETS AND HIGHWAYS. Maintenance, repair, construction and administration of streets, alleys, sidewalks, roads, highways and bridges.	10. COMMUNITY DEVELOPMENT. Planning, zoning, land development, open space, beautification, preservation.	
3. PUBLIC WELFARE. Maintenance of homes and other institutions for the needy; administration of public assistance. (Hospitals and sanatoriums should be reported as items 7.)	11. CORRECTIONS. Jails, reformatories, detention homes, half-way houses, prisons, parole and probation activities.	
4. POLICE PROTECTION. Duties of a police department, sheriff's, constable's, coroner's office, etc., including technical and clerical employees engaged in police activities.	12. UTILITIES AND TRANSPORTATION. Includes water supply, electrical power, transit, gas, airports, water transportation and terminals.	
5. FIRE PROTECTION. Duties of the uniformed fire force and clerical employees. (Report any forest fire protection activities as item 6.)	13. SANITATION AND SEWAGE. Street cleaning, garbage and refuse collection and disposal. Provision, maintenance and operation of sanitary and storm sewer systems and sewage disposal plants.	
6. NATURAL RESOURCES. Agriculture, forestry, forest fire protection, irrigation drainage, flood control, etc., and Parks and Recreation. Provision, maintenance and operation of parks, playgrounds, swimming pools, auditoriums, museums, marinas, zoo, etc.	14. EMPLOYMENT SECURITY	
7. HOSPITALS AND SANATORIUMS. Operation and maintenance of institutions for inpatient medical care.	15. OTHER (Specify)	

D. EMPLOYMENT DATA AS OF JUNE 30
 (Do not include elected/appointed officials. Blanks will be counted as zero)

1. FULL-TIME EMPLOYEES (Temporary employees not included)

Annual Salary (In Thousands 000)	Total (columns) B-K A	Male					Female				
		Non-Hispanic Origin		Hispanic D	Asian or Pacific Islander E	American Indian or Alaskan Native F	Non-Hispanic Origin		Hispanic I	Asian or Pacific Islander J	American Indian or Alaskan Native K
		White B	Black C				White G	Black H			
1. \$ 0.1-7.9											
2. 8.0-11.9											
3. 12.0-15.9											
4. 16.0-19.9											
5. 20.0-24.9											
6. 25.0-32.9											
7. 33.0-42.9											
8. 43.0-PLUS											
9. \$ 0.1-7.9											
10. 8.0-11.9											
11. 12.0-15.9											
12. 16.0-19.9											
13. 20.0-24.9											
14. 25.0-32.9											
15. 33.0-42.9											
16. 43.0-PLUS											
17. \$ 0.1-7.9											
18. 8.0-11.9											
19. 12.0-15.9											
20. 16.0-19.9											
21. 20.0-24.9											
22. 25.0-32.9											
23. 33.0-42.9											
24. 43.0-PLUS											
25. \$ 0.1-7.9											
26. 8.0-11.9											
27. 12.0-15.9											
28. 16.0-19.9											
29. 20.0-24.9											
30. 25.0-32.9											
31. 33.0-42.9											
32. 43.0-PLUS											
33. \$ 0.1-7.9											
34. 8.0-11.9											
35. 12.0-15.9											
36. 16.0-19.9											
37. 20.0-24.9											
38. 25.0-32.9											
39. 33.0-42.9											
40. 43.0-PLUS											
41. \$ 0.1-7.9											
42. 8.0-11.9											
43. 12.0-15.9											
44. 16.0-19.9											
45. 20.0-24.9											
46. 25.0-32.9											
47. 33.0-42.9											
48. 43.0-PLUS											

D. EMPLOYMENT DATA AS OF JUNE 30 (Cont.)
 (Do not include elected/appointed officials. Blanks will be counted as zero)

1. FULL-TIME EMPLOYEES (Temporary employees not included)

Annual Salary (In Thousands 000)	Total (columns) B-K A	Male					Female				
		Non-Hispanic Origin		Hispanic D	Asian or Pacific Islander E	American Indian or Alaskan Native F	Non-Hispanic Origin		Hispanic I	Asian or Pacific Islander J	American Indian or Alaskan Native K
		White B	Black C				White G	Black H			
49.	\$ 0.1-7.9										
50.	8.0-11.9										
51.	12.0-15.9										
52.	16.0-19.9										
53.	20.0-24.9										
54.	25.0-32.9										
55.	33.0-42.9										
56.	43.0-PLUS										
57.	\$ 0.1-7.9										
58.	8.0-11.9										
59.	12.0-15.9										
60.	16.0-19.9										
61.	20.0-24.9										
62.	25.0-32.9										
63.	33.0-42.9										
64.	43.0-PLUS										
65. Total Full Time (Lines 1-64)											

2. OTHER THAN FULL-TIME EMPLOYEES (Include temporary employees)

66. Officials/Admin.											
67. Professionals											
68. Technicians											
69. Protective Serv.											
70. Para-Professional											
71. Admin. Support											
72. Skilled Craft											
73. Serv./Maint.											
74. Total Other Than Full Time (Lines 66-73)											

3. NEW HIRES DURING FISCAL YEAR (Permanent full time only)

July 1 - June 30

75. Officials/Admin.											
76. Professionals											
77. Technicians											
78. Protective Serv.											
79. Para-Professional											
80. Admin. Support											
81. Skilled Craft											
82. Serv./Maint.											
83. Total New Hires (Lines 75-82)											

SECTION 10 - ACQUISITION AND RELOCATION

Prior to acquiring real property or attempting to undertake a relocation project, a determination must be made as to whether or not the requirements of the Uniform Relocation Assistance and Real Property Acquisition Act of 1970 (as amended in 1986) apply. Requirements for acquisition and relocation activities are described in the Department of Housing and Urban Development's Handbook 1378.

Whether or not particular requirements of the Act pertain to specific projects based on the determination of the proposed acquisition and/or relocation activity(s) is voluntary or involuntary. If such activities have not been addressed in the grant application, or if the DCS has not made a determination at the time of writing the Financial Award, recipients must contact the DCS for guidance.

In order to provide initial guidance, however, the following federal documents are found in this section:

HUD Handbook 1378 "Tenant Assistance, Relocation and Real Property Acquisition"
http://portal.hud.gov/hudportal/HUD?src=/program_offices/administration/hudclips/handbooks/cpd/13780

Fixed Residential Moving Cost Schedule
https://www.fhwa.dot.gov/real_estate/uniform_act/relocation/moving_cost_schedule.cfm

Overview of Section 104(d)
http://portal.hud.gov/hudportal/HUD?src=/program_offices/comm_planning/affordablehousing/training/web/relocation/section104d

The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970
(Uniform Act)
http://portal.hud.gov/hudportal/HUD?src=/program_offices/comm_planning/affordablehousing/training/web/relocation/overview

Attached is HUD's URA Review that must be completed for all acquisition, demolition or rehabilitation projects.

URA Review

Complete for all projects involving acquisition, demolition, or rehabilitation during any phase

Site Acquisition Section

1. Did the applicant own the site prior to the initiation of the current project? If so, indicate when the property was acquired and proceed to Question 4, below.
2. Does the purchase meet one of the voluntary acquisition exceptions of 49 CFR 24.101(b)(1)-(5) (identify which exception is being met)? If no, complete a basic acquisition policies review (see 49 CFR 24.102-24.108) and proceed to Question 4.
3. In obtaining site control, did the applicant/buyer provide the seller with voluntary, readily available transaction information?
4. Does the project site represent undeveloped land, or has the property been unoccupied for at least 90 days (prior to the purchase offer or application if no acquisition), with no person having been made to move for the project?

Yes No **If yes, omit the Tenant Information Section.**

Tenant Information/Relocation Section

5. Has the applicant identified all persons who moved from the site within the past three months and explained the reason for such moves?

 Yes No
6. Has the applicant identified all persons (families, individuals, businesses, and nonprofit organizations) by race/minority group, and status as owners or tenants occupying the property on the submission date of the application (or initial site control, if at a later date)?

Persons occupying the property include:

	Number Not to be Displaced	Number Temporarily Displaced	Number Permanently Displaced
Households (families and individuals)			
Business and Nonprofit Organizations			
Farms			
Totals			

7. Has the applicant indicated the estimated cost of relocation payments, other services, and the basis for the estimate?

 Yes No

8. Are the estimated costs for relocation reasonable (Note: relocation costs vary substantially, but a national average for permanent displacement is approximately \$10,000/household)?

Yes No

9. Has the applicant indicated the source of funds used to pay relocation costs?

Yes No

Comments:

10. If relocation costs are funded from sources other than HOME or CDBG, has the applicant provided evidence of a firm commitment for the funds?

Yes No N/A

Comments:

11. Has the applicant identified the staff to carry out the relocation activities?

Yes No N/A

Comments:

12. Were all persons occupying the site issued a General Information Notice (personally acknowledged or sent certified mail, return receipt requested) at the time of the application submission (or when the option to acquire the property was executed, if at a later date)? (Retain copies of such communication)

Yes No

Comments:

13. Is the applicant prepared to issue each tenant at the time of the contract award either a Notice of Eligibility for relocation assistance (including information on comparable replacement housing) or a Notice of Non-Displacement?

Yes No N/A

Comments:

14. Is the applicant/property owner prepared to issue move-in notices to all new tenants?

Yes No

104(d) REVIEW – CDBG AND HOME PROJECTS

1. Will the project (in any phase) demolish housing units that rent (or would rent) at or below Fair Market Rents (FMR), or convert such units to a use other than lower income housing?
 Yes No (Project is not subject to 104(d) – Stop here)

2. Do any of the housing units meet the definition of vacant occupiable dwelling units (see 24 CFR 42.305)?
 Yes No (Explain the basis for a “No” conclusion and proceed to Question 4)

3. Has the information required by 24 CFR 42.375(c) been made public, along with a copy submitted to HUD (to be completed prior to the contract execution)?
 Yes No

4. Is any tenant low-to moderate-income?
 Yes No

5. Is the applicant prepared to offer all displaced lower income tenants the choice of relocation assistance at 104(d) levels (see 24 CFR 42.350 and Chapter 7 of HUD Handbook 1378) or URA levels?
 Yes No (Follow up with the applicant prior to contract execution)

Home Opportunity Program

Sponsored By _____



Seller's Occupancy Certification

Address of Property _____ City, State _____ Zip Code _____

Complete the table below for all individuals that have occupied the property from ninety (90) days prior to the date of the **purchase offer** to the present date:

Last Name, First Name of Occupant	Owner(s)?	Currently Residing in the Property?
	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No
	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No
	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No
	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No
	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No
	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No
	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No
	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No
	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No
	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No
	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No

As indicated in the purchase offer, no tenant may be permitted to occupy the property before the sale is completed.

I hereby declare that the preceding statement and occupancy list is accurate to the best of my knowledge and belief, and is submitted for the purpose of preventing conflict with the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970.

If I fail to provide accurate occupancy information for the above mentioned property, (Name of Subrecipient) or the _____ may demand repayment for up to amount of the cost of relocation as required by the act and any legal costs incurred.

Seller please sign below:

Seller _____ Date _____

Co-Seller _____ Date _____

SECTION 11 - PROPERTY MANAGEMENT STANDARDS

A. Purpose

The following section describes the uniform standards governing the use of property furnished by North Dakota CDBG funds. Grantees are encouraged to use their own property management systems in conjunction with these standards.

B. Definitions

1. Real Property:

Real property is land, land improvements, structures, and appurtenances. Real Property does not include movable machinery and equipment.

2. Personal Property:

Personal property is any kind of property except real property, as defined above. Personal property may be tangible (having physical existence) or intangible (having no physical existence such as patents or copyrights).

3. Expendable Personal Property:

Expendable personal property is personal property normally used up or consumed in service. Expendable personal property is also referred to as consumable supplies or supplies.

4. Nonexpendable Personal Property:

Nonexpendable personal property is tangible personal property having a useful life of more than one year and an acquisition cost of \$300 or more per unit.

5. Acquisition Cost:

Acquisition cost of nonexpendable personal property is the net invoice unit price of the property including the cost of modifications, attachments, accessories, or auxiliary apparatus necessary to make the property usable for the purpose for which it was acquired. Other charges over and above the net invoice price may be included or excluded from the unit acquisition cost as long as it is consistent with the Grantee's regular accounting practices.

C. Property Management Standards for Nonexpendable Property

The Grantee's property management system for nonexpendable personal property must include the following requirements:

1. Property Records:

Accurate property records are required and must include:

- a. A description of the property.
- b. The manufacturer's serial number, model number, or other identification number.
- c. The acquisition date and cost.
- d. The source or origin of funds used to acquire the property.
- e. The location, use, and condition of the property, and date the information was recorded.
- f. The unit acquisition cost.
- g. The ultimate disposition date, including the date of disposal and sales price or the method to determine current fair market value.

2. Property Identification:

All property acquired in connection with the North Dakota CDBG program must be clearly marked to indicate ownership.

3. Control System:

A control system must be instituted to ensure adequate safeguards to prevent loss, damage, or theft of property. Any loss, damage, or theft of nonexpendable property must be investigated and fully documented.

4. Maintenance Schedule:

A regular maintenance schedule must be followed in order to keep the property in good condition.

5. Disposal of Property:

Where the Grantee is authorized to sell the property, proper sales procedures must be followed to provide for adequate competition resulting in the highest possible return.

6. Property Inventory:

A physical inventory of property must be taken at the time of grant close-out. The results must be reconciled with the property records. Any differences between quantities determined by the physical inspection and those shown in the accounting records must be investigated to determine the cause of the differences. The Grantee must, in connection with the inventory, verify the existence, current utilization, and continued need for the property.

D. Use of Tangible, Nonexpendable Property

1. Preferred Property Usage:

The Grantee must use the property in the project or program for which it was acquired for as long as it is needed, regardless of whether or not the project or program continues to be supported by North Dakota CDBG funds.

2. Alternate Property Usage:

When the property is no longer needed for the original project or program, the Grantee must use the property in connection with other community development activities in the following order:

- a. Other activities sponsored by the North Dakota CDBG program.
- b. Other community development activities sponsored by: (1) The Grantee, (2) The State of North Dakota, or (3) The Federal Government.
- c. Other activities sponsored by the DCS.
- d. Activities sponsored by another State agency.

3. Priority Usage:

During the time that the property is maintained for use on the project or program for which it was acquired, the Grantee may make it available for use by other activities if it does not interfere with the work on the project, or program for which the property was originally acquired.

E. Acquisition and Disposition of Tangible, Nonexpendable Property

1. Acquisition Process:

A Grantee must request permission from the DCS before acquiring any tangible nonexpendable property having net invoice unit price of \$750 or more that was not approved in the grant award. Permission must be requested in writing, and must include a description of the property to be acquired, intended use of the property, cost of the property, and the reason why the property is needed.

2. Disposal Process:

A Grantee may, with permission from the DCS, dispose of tangible, nonexpendable property acquired with North Dakota CDBG funds. Permission may be given when the Grantee can document that a need no longer exists to maintain the property.

SECTION 12 - MONITORING MONITORING POLICIES, GUIDELINES, AND FORMATS

A. Program Monitoring Policies and Guidelines

Monitoring and evaluation of recipients of CDBG, HOME, and ESG funds is a requirement of the HUD. Monitoring is the responsibility of the DCS staff, Grant recipients, and Grant administrators. These guidelines and policies pertain to the monitoring performed by the DCS staff.

The DCS is required to monitor Grant recipients for proper grant administration. Monitoring includes financial administration, compliance with special conditions, and compliance with federal and state provisions. In addition, the DCS is mandated to physically visit project sites to verify implementation, environmental mitigations (if any), and actual program beneficiaries.

Because of the large number of active grants and our limited staff resources, the DCS received approval from HUD to institute a new process to monitor administrative records beginning in 1995. Rather than monitoring on a grant-by-grant basis, the DCS focuses on the administrative agency and its processes to assure effective grant administration. Jurisdictions administering their own grants will be considered as a grant administrative agency (in the same context as a Regional Planning Council, Community Action Agency, Community Housing Development Organization, the Housing Finance Agency, or other non-profit entity).

All grant administrative entities will be scheduled for review from December through May each year unless circumstances warrant a revision to this schedule. Even if an administering agency no longer has an active grant, it will be monitored if it has not been previously monitored. Monitoring visits will be scheduled on an annual basis. Follow-up visits will be scheduled as necessary.

To perform monitoring, the DCS will send a team consisting of a minimum of one person to review programmatic requirements, and one to review financial records. The team will provide, in advance of its scheduled visit, a list of all grants that may be subject to partial or full review during the monitoring process. This list may include active grants, as well as closed out grants not reviewed under the DCS's previous monitoring procedures.

The DCS team will assess how the administering entity and staff administer grants. Each entity must identify at least one person to be interviewed. That person should have general knowledge of office-wide procedures for grants management. If the entity has written policies and procedures, these should be presented as supporting documentation. The interview questions will focus only on grants management issues pertaining to their grants. Following this initial interview, the DCS staff will review answers to the questions and subjectively identify a high, medium, or low confidence level for the procedures in place, and general knowledge of grant administration requirements. Using those rankings, or the rankings based on past monitoring visits, the staff will select the grants to be reviewed, in terms of types of activity and the number to be reviewed by each programmatic area.

As individual records are reviewed, the DCS staff may decide to perform an in-depth monitoring if problems have been identified. The intent of this is to monitor the overall process of grants management, and the knowledge and adherence to process management.

Once the DCS staff completes the monitoring, a conference call will be arranged to discuss the results. This is not the final step in the monitoring process.

The grant administrator will have 30 days from the conference call date to submit documentation to clarify any findings prior to a written monitoring report.

For the purpose of reporting monitoring results, the following definitions will apply:

1. A “concern” is declared when areas identified as not fully in compliance that don't involve funds, and for areas the DCS staff feels should be given more attention or effort to prevent non-compliance. If a concern is identified for two consecutive years, it becomes a deficiency.
2. A “deficiency” is declared when areas identified as being in non-compliance, but do not involve funds, or are consistently in non-compliance. If a deficiency is identified for two consecutive years, it becomes a finding.
3. A “finding” is declared if it is discovered that there is consistent, or material non-compliance with any part of the grant agreement, programmatic requirements, or financial accountability.
 - a) Findings of ineligible project costs include, but are not limited to, the following actions:
 - Committing or spending CDBG funds before the release of funds.
 - No construction contract(s).
 - Expenditures without supporting documentation.
 - Contracts with unlicensed contractors.
 - Contracts with debarred contractors.
 - The project does not meet a National Objective.
 - b) Findings that do not cause project costs to be ineligible, but cannot be cleared, include, but are not limited to:
 - Improper or no wage rates in the contracts.
 - No labor provisions in bid solicitation.
 - No labor provisions in contracts.
 - Improper procurement.
 - Cash on hand in excess of \$5,000.

c) Findings that can be cleared, include, but are not limited to:

- Depositing CDBG funds in an interest bearing account.
- Not collecting and verifying contractor payrolls.
- Not requesting additional classifications.
- Not investigating/resolving labor violations.

In reporting monitoring results, the DCS staff will clearly describe any problems and the solution required of the grant administrative entity. All findings and deficiencies must be responded to within 45 days of the date of the monitoring report. If problems arise, the grant administrator must contact the DCS to make other arrangements. Failure to respond within 45 days may result in not being able to drawdown funds, and may result in the Grantee being unable to apply for and receive future funds until all findings and deficiencies are resolved.

B. Non-compliance Remedies

1. A grant administrator receiving three findings that cause project/project expenditure(s) to be ineligible will no longer be allowed to administer CDBG grants; or
2. A grant administrator receiving three or more findings that do not cause a project/project expenditure(s) to be ineligible, but cannot be resolved, will no longer be allowed to administer CDBG grants; or
3. For a period of any three years, a grant administrator receiving three or more of the same findings will no longer be allowed to administer CDBG grants.

C. On-site Monitoring

The DCS will visit each project site to verify implementation according to the grant agreement, program beneficiaries, work write-ups for housing, and the results of the environmental review. Each grant administrator is required to accompany DCS staff for all housing projects. The need to accompany staff to public facilities and economic development projects will be determined on a case-by-case basis.

Upon completion of on-site visits, the DCS staff will prepare the report.

The results of all monitoring is maintained in a file for each respective grant administrative entity in order to develop a history of administrative practices. This history will be used by the DCS staff, in conjunction with the initial review, to determine the scope and depth of monitoring.

- D. Attached are the monitoring guides the DCS staff will use. The first series of forms contain the general questions for overall management activities, and each administrative area. The second series are the actual checklists that will be used to review all records.

The following monitoring forms are used:

First Series

- General Overview
- Financial Overview
- Environmental Overview
- Labor Overview
- Civil Rights Overview
- Procurement Overview
- Acquisition/Relocation Overview
- Property Management Overview

Second Series

- Financial Management
- Special Conditions
- Labor
- Civil Rights
- Procurement
- Acquisitions in Excess of \$2,500
- Relocation - Monitoring by Grantee
- Relocation - Monitoring of Displaced Households
- Property Management
- On-site Visit
- Questions for the Direct Beneficiary

SECTION 13 - COMPLAINTS AND APPEALS

A. Local Complaints

Resolving local complaints is the responsibility of the local units of government. Grantees are required by Federal regulations to establish a procedure for handling complaints that deal with local program administration, management, or operational procedures. The DCS is responsible for monitoring to ensure that a judicious procedure for handling local complaints is in place and utilized as necessary.

B. Grantee Complaints

Grantees may initiate complaints against the DCS which relate to the CDBG Program. Complaints must be forwarded to the DCS Director. Initially, the complaint will be addressed through informal communication between the parties. The Director will respond in writing to the complaint. The decision of the Director is final.

C. Appeals

Deviations from the DCS's established policies and procedures are appealable actions under the ND-CDBG Program. Unfunded applications are not appealable.

An appeal must be in writing and addressed to the DCS Director. The notice of appeal must indicate an appeal is intended, and must contain the relevant facts – who is involved, what the issue involves, when the issue occurred, and where the issue took place. The notice of appeal must be signed personally by the person or representative of the body or unit of government making the appeal.

1. Appeals of Deviation of Established Policies and Procedures

- a. Grantees may appeal substantive policy and procedure actions taken by the DCS or its agent within thirty (30) days of the grant award date.
- b. The DCS Director will consider any action(s) to be taken. The Director's decision is final.

2. Appeals of Denied Amendments

Amendments to Grantee programs may be denied by the DCS. Grantees may appeal grant amendment denials to the DCS Director. The appeal must be in writing and must be received within thirty (30) days of the date of the notice of denial. The DCS Director will make the final determination concerning the appeal, and the Grantee will be notified of the decision.

SECTION 14 - REPORTING

The Semi-Annual report must be submitted on a semi-annual basis by the 30th of the following month. For the period ending June 30th the report is due July 30th and for the period ending December 31st the report is due January 30th.

Each grant recipient will receive a reminder notice from the DCS of the due date of each report.

CDBG SEMI-ANNUAL PROGRESS REPORT

NORTH DAKOTA DEPARTMENT OF COMMERCE
 DIVISION OF COMMUNITY SERVICES
 SFN 52342 (11/17)

Grantee	Instrument Number		
Address	City	State	ZIP Code

Budget/Project Period (mm/dd/yyyy) From: To:	Period Covered by Report (mm/dd/yyyy) From: To:
--	---

Report Prepared by	Telephone Number
--------------------	------------------

Project Description *(description must include any changes to the originally approved description)*

SAMPLE

Chief Elected Official (typed name)	Title
-------------------------------------	-------

Signature of Chief Elected Official	Date
-------------------------------------	------

DCS USE ONLY

Reviewed By	Date
-------------	------

SEMI-ANNUAL PROGRESS REPORT

Answer the questions on additional sheets.

1. List those activities that have been accomplished to date. (Specify the type of activity, i.e., environmental review completed, Notice of Release of Funds received, contracts awarded, income eligibility determined, number of households rehabilitated, etc.)
2. Have any problems arisen which will delay grant completion? If yes, explain the problem and the amount of delay.
3. List activities to be accomplished in the next six months.
4. Do you anticipate requesting any amendments? If yes, explain.
5. Do you require any technical assistance from the DCS? If yes, explain.
6. Program Beneficiaries to date:
 - a. Jobs Created LMI _____ Non-LMI _____
 - b. Homes Rehabilitated LMI _____ Non-LMI _____
 - c. LMI Special Assessments Paid _____
 - d. Elderly _____ FHOH _____ Handicapped _____
 - e. Race
 - White (11) _____
 - Black/African American (12) _____
 - Asian (13) _____
 - American Indian/Alaskan Native (14) _____
 - Native Hawaiian/Other Pacific Islander (15) _____
 - American Indian/Alaskan Native & White (16) _____
 - Asian & White (17) _____
 - Black/African American & White (18) _____
 - American Indian/Alaskan Native & Black/African American (19) _____
 - Other Multi-Racial (20) _____
 - Of the total above, how many have a Hispanic ethnicity _____

FINANCIAL STATUS REPORT

NORTH DAKOTA DEPARTMENT OF COMMERCE

DIVISION OF COMMUNITY SERVICES

SFN 52343 (11/17)

NORTH DAKOTA COMMUNITY DEVELOPMENT BLOCK GRANT		
Financial Status Report as of	Date Submitted	Signed by
I. RECIPIENT DATA	II. FINANCIAL STATUS	III. COMPLIANCE DATA
1) Instrument Number:	1) Total Award \$	1) Report Number:
2) Recipient:	2) CDBG Receipts (+) \$	2) Project Begin Date:
3) Address:	3) Program Income (-) \$	3) Project End Date:
	4) CDBG Disbursements (-) \$	
4) Contact:	5) <u>EQUALS</u> Cash Balance (=) \$	<input type="checkbox"/> Semi-Annual <input type="checkbox"/> Final
5) Telephone: (701)	6) Funds Available to Draw (1-2): \$	

IV. ACTIVITY BUDGET

Activity	CDBG	HOME	ESGP	HOPWA	Other Federal	State/Local	Private	Other*	Total
Administration									
TOTAL									

*Source of Other Funds _____

V. ACTIVITY EXPENSES

ACTIVITY	CDBG	HOME	ESGP	HOPWA	Other Federal	State/Local	Private	Other*	Total
Administration									
TOTAL									
*Source of Other Funds (if different from Budget) _____									

VI. REMAINING BUDGET BALANCE

ACTIVITY	CDBG	HOME	ESGP	HOPWA	Other Federal	State/Locals	Private	Other*	Total
Administration									
TOTAL									
*Source of Other Funds (if different from Budget) _____									

VII. TOTAL OUTSTANDING OBLIGATIONS

ACTIVITY	CDBG	HOME	ESGP	HOPWA	Other Federal	State/Locals	Private	Other*	Total
Administration									
TOTAL									
*Source of Other Funds (if different from Budget) _____									

INSTRUCTIONS

I. RECIPIENT DATA

- 1) CDBG Instrument Number
- 2) Recipient
- 3) Address
- 4) Contact Person
- 5) Telephone

II. FINANCIAL STATUS

- 1) Total Award - Including Approved Amendments
- 2) Receipts - Cash Received to Date from DCS
- 3) Program Income - Program Income Generated to Date
- 4) Disbursements - Cash Disbursements to Date
- 5) Cash Balance - Cash on Hand (2+3-4)
- 6) Funds Available to Draw (1-2)

III. COMPLIANCE DATA

- 1) Report Number - Numerical Order Starting with #1
- 2) Project Begin Date
- 3) Project End Date

IV. ACTIVITY BUDGET

Activity - Same as Part IV of Financial Award including approved amendments.
Amounts budgeted under each category.

V. ACTIVITY EXPENSE

Activity - Same as Budget. Formulas have been created so retyping the Activity will not be necessary.

VI. REMAINING BUDGET BALANCE

Activity - Same as Budget. Formulas have been created.

VII. OUTSTANDING OBLIGATIONS

Activity - Same as Budget. Formulas have been created so retyping will not be necessary.
Outstanding obligations under each category - dollars currently under contract which have not be paid.

SECTION 15 - GRANT AMENDMENTS

This section lists the types of grant amendments that may be requested, a definition of each type of amendment, a description of the procedures for submitting an amendment request, and the form needed to request an amendment.

A. Types of Amendments

1. Extension of Time
2. Budget Revisions
3. Scope of Work
4. Special Conditions

B. Definitions

1. Extension of Time: This type of amendment must be requested when the Grantee determines that all grant work cannot be completed prior to the grant expiration date.
2. Budget Revisions: This type of amendment must be requested when:
 - a. A need exists for line item revisions within the administration budget which exceeds 10 percent of the total CDBG administration budget.
 - b. The Grantee wants to transfer administrative funds to an approved grant activity.
 - c. The Grantee decides not to implement an approved activity.
 - d. The Grantee wants to transfer unobligated funds from a completed activity to another activity.
 - e. A need exists to make line item revisions that exceed 10 percent of the total CDBG project budget, excluding administration.
3. Scope of Work

This type of amendment must be requested when expanding or reducing the approved scope of work to be performed. For instance, if a grant was approved to rehabilitate 20 homes, but the Grantee has enough funds to rehabilitate an additional 5 homes, an amendment must be submitted.

4. Special Conditions

This type of amendment must be submitted if a Grantee seeks approval to modify, eliminate, or extend the time of a special condition on the grant award.

C. Procedures for Submitting and Acting on Request for Amendment

1. Request for Amendments, especially for an extension of time, should be submitted no later than 30 days prior to the grant expiration date.
2. All amendments must be submitted on the Request for Amendment form and must be signed by the Chief Elected Official and the Regional Council Director.
3. If an amendment request is approved by the DCS, the Request for Amendment form will be returned to reflect a signed approval. If the request is disapproved, a letter of explanation will be forwarded with the Request for Amendment form. Should the request be for an increase or decrease in the amount of total authorized funding, the approval will be transmitted on a new Part I to the Financial Award which must be signed. All approved amendments will become a part of the original Financial Award and will be subject to all applicable conditions and assurances.

If the DCS finds that a Request for Amendment is for an action that has already taken place, the amendment will not be approved.

REQUEST FOR AMENDMENT

NORTH DAKOTA DEPARTMENT OF COMMERCE
 DIVISION OF COMMUNITY SERVICES
 SFN 52355 (11/11)

1. Recipient Name & Address	2. Instrument Number	3. Amendment Number							
	4. Approved Grant Period	5. Date of Request							
6. Type of Amendment A. <input type="checkbox"/> Special Condition B. <input type="checkbox"/> Budget Revisions C. <input type="checkbox"/> Scope of Work D. <input type="checkbox"/> Extension of Time - Revised Date _____									
7. Explanation for Request (Attach Additional Page if Necessary)									
Approved # of Units _____ Revised # of Units _____									
9. Effect of Request									
a. Approved Budget	CDBG	HOME	ESGP	HOPWA	Other Federal	State/Local	Private	Other*	Total
Administration									
Total									
Source of Other Funds:									

b. Additions and Deletions	CDBG	HOME	ESGP	HOPWA	Other Federal	State/Local	Private	Other*	Total
Administration									
Total									

*Source of Other Funds (if different from Budget) _____

c. Revised Budget	CDBG	HOME	ESGP	HOPWA	Other Federal	State/Local	Private	Other*	Total
Administration									
Total									

*Source of Other Funds (if different from Budget) _____

10. Submitted By (Chief Elected Official)		11. Regional Council Concurrence		12. Action Taken (DCS USE ONLY)	
Signature _____	Signature _____	Approved <input type="checkbox"/> Disapproved <input type="checkbox"/>	Signature _____	Signature _____	
Name _____	Name _____		Name _____	Name _____	
Title _____	Title _____		Title _____	Title _____	
Date _____	Date _____		Date _____	Date _____	

REQUEST FOR AMENDMENT DIRECTIONS

- Block 1: Enter the official mailing address of the Grantee.
- Block 2: Enter the DCS assigned Instrument Number from the Financial Award.
- Block 3: Amendment requests are to be numerically accounted for locally. Indicate the appropriate request number.
- Block 4: Enter the Approved Budget/Project Period from the Financial Award.
- Block 5: Enter date of the preparation of the Request for Amendment.
- Block 6: Place a mark in the appropriate space to reflect the type of amendment being requested.
- Block 7: Provide a detailed explanation of the amendment, to include the reason and the results. For instance, if the request is for an increase in the number of homes to be rehabilitated, indicate the number of homes completed, the number of additional homes to be rehabilitated, the amount of funds available to rehabilitate the additional homes, and provide an explanation of why additional funds are available.
- Block 8: To be completed if a change in the number of homes to be rehabilitated occurs.
- Block 9: To be completed if a change in the Authorized Budget occurs.
- a. Approved Budget
 - b. Revisions to the Budget including Additions and Deletions
 - c. Revised Budget
- Block 10: Enter the name and title of the Chief Elected Official. This is the individual who signed the Financial Award.

SECTION 16 - GRANT CLOSE-OUT PROCEDURES

This section describes the close-out procedures used by the DCS and the Grantee.

A. Initiation of Close-out

The Grantee will notify the DCS of its grant completion through the submission of the Final Report. A grant may be contingently closed-out when all costs to be paid with grant funds have been incurred (with the exception of close-out costs such as payment for the final audit, and any unsettled third-party claims against the recipient). Costs are incurred when goods and services are received and/or contract work is performed.

B. Final Grantee Performance Report

Grantees must file a Final Performance Report within 30 days of project completion. Failure by the Grantee to submit a report as required will not preclude the DCS from closing out a grant when such action is determined to be in the best interest of both parties. The failure or refusal by a Grantee to comply with such requirements will be taken into account in the performance determination by the DCS in reviewing any future grant applications from the Grantee. Any excess grant amount which is otherwise authorized to be retained by the Grantee must be refunded to the DCS in the event of the recipient's failure to furnish the report.

C. Close-out

A grant may be closed-out when all other responsibilities of the Grantee under the grant agreement have been carried out satisfactorily, or there is no further State interest in keeping the grant agreement open for the purpose of securing performance.

Upon approval of the final report, a grant close out letter will be issued to the Grantee notifying the Grantee that the project is considered complete and the grant file is closed.

Annually, the DCS will survey Grantees on the amount of federal fund expenditures it had in the most recent fiscal year. The DCS staff will review audits of Grantees expending more than \$750,000 in federal funds. This may be accomplished through the Grantee's submission of its audit to the Federal Audit Clearinghouse, or a copy of the audit may be requested by the DCS. Corrective action plans must be submitted to the DCS for any audit finding related to CDBG Program funds.

The DCS must be notified of any audit finding relating to CDBG Program funds contained in audits that are not required to be filed with the Federal Audit Clearinghouse. Notification must take place within 90 days of the Grantee's receipt of its audit.

D. Disposition of Program Income

All program income must be returned to the DCS, unless a pre-agreement is in place between the Grantee and the DCS.

E. Disposition of Property

1. **Disposition of tangible personal property.** The Grantee will account for all tangible personal property acquired with grant funds.
2. **Disposition of real property.** Proceeds resulting after the close-out from the disposition of real property acquired with grant funds are subject to the program income requirements.

F. Refund of Excess Grant Funds

The Grantee shall refund to the DCS any cash advanced in excess of the final grant costs identified in the final report.

G. Grant Suspension and Termination

1. Suspension

When a Grantee fails to comply with the grant award stipulations, standards, or conditions of its grant, the DCS may suspend the grant, withhold further payments, or prohibit the Grantee from incurring additional obligations using grant funds, pending corrective action.

2. Termination

- a. **Termination for Cause.** The DCS may terminate any grant in whole, or in part, at any time before the date of completion, when it is determined the Grantee has failed to comply with the conditions of the grant. The DCS shall promptly notify the Grantee in writing of the termination and the reasons for the termination, along with the effective date. Payments made to a Grantee or a recovery by the DCS under grants terminated for cause will be in accordance with the legal rights and liabilities of the parties. For this type of termination, the DCS will not honor any costs. If funds have been paid to the Grantee, they must be repaid to the DCS.
- b. **Termination for Convenience.** The DCS or the Grantee may terminate grants in whole, or in part, when both parties agree that continuation of the project would not produce beneficial results with further expenditure of funds. The two parties shall agree upon termination conditions (including the effective date and, in the case of partial terminations, the portion to be terminated). The Grantee will not incur new obligations for the terminated portion after the effective date, and will cancel as many outstanding obligations as possible. The DCS will consider all circumstances under which a grant is to be terminated on a case-by-case basis to determine if any eligible, incurred costs will be honored.

Final Report Checklist

Economic Development Projects: The report should be submitted as soon as all jobs are created or retained, and the final public hearing has been held.

- Final Performance Report (SFN 52344)
- Financial Status Report (SFN 52343)
- Employment Report – Job Creation (SFN 52345) or Employment Report – Job Retention (SFN 54032)
- Civil Rights Compliance Report (SFN 52350). Do not submit this form if you did not check “yes” to the displacement question on the final report cover page.
- Contract and Subcontract Activity Report (SFN 52351). For construction projects only. This form must be submitted with the Final Request for **Project Funds**.
- Labor Standards Enforcement Report (SFN 52352). If a complaint was filed against a contractor(s) or wage restitution (back pay) was paid by a contractor(s).
- Equipment Inventory (SFN 52353). If equipment was purchased.
- Confidential Job Applicant Income Survey (SFN 52665) forms. If the project created jobs.
- Confidential Job Retention Income Survey (SFN 52666) forms. If the project retains jobs.
- Final Public Hearing Notice and Minutes.

Public Facilities Area Benefit Activities: The report should be submitted upon project completion and the final public hearing has been held.

- Final Performance Report (SFN 52344)
- Financial Status Report (SFN 52343)
- Direct/Indirect Benefit Activities Report (SFN 52347) with supporting documentation
- Civil Rights Compliance Report (SFN 52350). Do not submit this form if you did not check “yes” to the displacement question on the final report cover page.
- Contract and Subcontract Activity Report (SFN 52351). For construction projects only. This form must be submitted with the Final Request for **Project Funds**.
- Labor Standards Enforcement Report (SFN 52352). If a complaint was filed against a contractor(s) or wage restitution (back pay) was paid by a contractor(s).
- Project Completion Certification (SFN 52354). For construction projects only.
- Equipment Inventory (SFN 52353). If equipment was purchased.
- Final Public Hearing Notice and Minutes.

Public Facilities Limited Clientele Activities: The report should be submitted upon project completion and the final public hearing has been held.

- Final Performance Report (SFN 52344)
- Financial Status Report (SFN 52343)
- Direct/Indirect Benefit Activities Report (SFN 52347) with supporting documentation
- Civil Rights Compliance Report (SFN 52350). Do not submit this form if you did not check “yes” to the displacement question on the final report cover page.
- Contract and Subcontract Activity Report (SFN 52351). For construction projects only. This form must be submitted with the Final Request for **Project Funds**.
- Labor Standards Enforcement Report (SFN 52352). (If a complaint was filed against a contractor(s) or wage restitution (back pay) was paid by a contractor(s).
- ADAAG Conformance Statement (SFN 19701). If the project is a removal of architectural barriers project.
- Final Public Hearing Notice and Minutes.
- Project Completion Certification (SFN 52354). For Construction projects only

Housing Rehabilitation/Relocation/Creation: The report should be submitted upon project completion and the final public hearing has been held.

- Final Performance Report (SFN 52344)
- Financial Status Report (SFN 52343)
- Direct/Indirect Benefit Activities Report (SFN 52347). For creation only.
- Housing for Conversion, New, or Substantial Rehabilitation (SFN 60108). For Conversion, New Construction, and Rehabilitation projects.
- Housing for Relocation (SFN 52349). For relocation projects only.
- Civil Rights Compliance Report (SFN 52350). Do not submit this form if you did not check “yes” to the displacement question on the final report cover page.
- Contract and Subcontract Activity Report (SFN 52351). For construction projects with 8 or more units only. This form must be submitted with the Final Request for **Project Funds**.
- Labor Standards Enforcement Report (SFN 52352). If a complaint was filed against a contractor(s) or wage restitution (back pay) was paid by a contractor(s).
- Equipment Inventory (SFN 52353). If equipment was purchased.
- Final Public Hearing Notice and Minutes.

FINAL PERFORMANCE REPORT

FINAL PERFORMANCE REPORT

NORTH DAKOTA DEPARTMENT OF COMMERCE

DIVISION OF COMMUNITY SERVICES

SFN 52344 (11/17)

CDBG FINAL PERFORMANCE REPORT			
RECIPIENT		INSTRUMENT NUMBER	
BUDGET/PROJECT PERIOD		PERIOD COVERED BY REPORT	
FROM (Month, Day, Year)	TO (Month, Day, Year)	FROM (Month, Day, Year)	TO (Month, Day, Year)
REPORT PREPARED BY		PHONE NUMBER	
PROJECT DESCRIPTION (DESCRIPTION MUST INCLUDE ANY CHANGES TO THE ORIGINALLY APPROVED DESCRIPTIO			
DID DISPLACEMENT OCCUR ON THIS PROJECT? IF YES, COMPLETE THE CIVIL RIGHTS COMPLIANCE REPORT FOUND IN THIS SECTION			<input type="checkbox"/> YES <input type="checkbox"/> NO
BY SIGNING THIS REPORT, I CERTIFY TO THE BEST OF MY KNOWLEDGE AND BELIEF THAT THE REPORT IS TRUE, COMPLETE, AND ACCURATE, AND THE EXPENDITURES, DISBURSEMENTS AND CASH RECEIPTS ARE FOR THE PURPOSES AND OBJECTIVES SET FORTH IN THE TERMS AND CONDITIONS OF THE FEDERAL AWARD. I AM AWARE THAT ANY FALSE, FICTITIOUS, OR FRAUDULENT INFORMATION, OR THE OMISSION OF ANY MATERIAL FACT, MAY SUBJECT ME TO CRIMINAL, CIVIL OR ADMINISTRATIVE PENALTIES FOR FRAUD, FALSE STATEMENTS, FALSE CLAIMS OR OTHERWISE.			
TYPE NAME CHIEF ELECTED OFFICIAL		TITLE	
SIGNATURE		DATE	
DCS USE ONLY			
REVIEWED BY _____		DATE _____	
<input type="checkbox"/> SECOND PUBLIC HEARING	<input type="checkbox"/> MINUTES TO PUBLIC HEARING	<input type="checkbox"/> 504 SELF EVALUATION	
<input type="checkbox"/> INCOME SURVEY FORMS	<input type="checkbox"/> ADAAG FORM	CLOSED ON IDIS _____	

FINANCIAL STATUS REPORT
 NORTH DAKOTA DEPARTMENT OF COMMERCE
 DIVISION OF COMMUNITY SERVICES
 SFN 52343_(11/17)

NORTH DAKOTA COMMUNITY DEVELOPMENT BLOCK GRANT		
Financial Status Report as of	Date Submitted	Signed by
I. RECIPIENT DATA	II. FINANCIAL STATUS	III. COMPLIANCE DATA
1) Instrument Number:	1) Total Award \$	1) Report Number:
2) Recipient:	2) CDBG Receipts (+) \$	2) Project Begin Date:
3) Address:	3) Program Income (-) \$	3) Project End Date:
	4) CDBG Disbursements (-) \$	
4) Contact:	5) <u>EQUALS</u> Cash Balance (=) \$	<input type="checkbox"/> Semi-Annual <input type="checkbox"/> Final
5) Telephone: (701)	6) Funds Available to Draw (1-2): \$	

IV. ACTIVITY BUDGET

Activity	CDBG	HOME	ESGP	HOPWA	Other Federal	State/Local	Private	Other*	Total
Administration									
TOTAL									

*Source of Other Funds _____

V. ACTIVITY EXPENSES

ACTIVITY	CDBG	HOME	ESGP	HOPWA	Other Federal	State/Local	Private	Other*	Total
Administration									
TOTAL									
*Source of Other Funds (if different from Budget) _____									

VI. REMAINING BUDGET BALANCE

ACTIVITY	CDBG	HOME	ESGP	HOPWA	Other Federal	State/Locals	Private	Other*	Total
Administration									
TOTAL									
*Source of Other Funds (if different from Budget) _____									

VII. TOTAL OUTSTANDING OBLIGATIONS

ACTIVITY	CDBG	HOME	ESGP	HOPWA	Other Federal	State/Locals	Private	Other*	Total
Administration									
TOTAL									
*Source of Other Funds (if different from Budget) _____									

INSTRUCTIONS

I. RECIPIENT DATA

- 1) CDBG Instrument Number
- 2) Recipient
- 3) Address
- 4) Contact Person
- 5) Telephone

II. FINANCIAL STATUS

- 1) Total Award - Including Approved Amendments
- 2) Receipts - Cash Received to Date from DCS
- 3) Program Income - Program Income Generated to Date
- 4) Disbursements - Cash Disbursements to Date
- 5) Cash Balance - Cash on Hand (2+3-4)
- 6) Funds Available to Draw (1-2)

III. COMPLIANCE DATA

- 1) Report Number - Numerical Order Starting with #1
- 2) Project Begin Date
- 3) Project End Date

IV. ACTIVITY BUDGET

Activity - Same as Part IV of Financial Award including approved amendments.
Amounts budgeted under each category.

V. ACTIVITY EXPENSE

Activity - Same as Budget. Formulas have been created so retyping the Activity will not be necessary.

VI. REMAINING BUDGET BALANCE

Activity - Same as Budget. Formulas have been created.

VII. OUTSTANDING OBLIGATIONS

Activity - Same as Budget. Formulas have been created so retyping will not be necessary.
Outstanding obligations under each category - dollars currently under contract which have not been paid.

EMPLOYMENT REPORT - JOB CREATION
 NORTH DAKOTA DEPARTMENT OF COMMERCE
 DIVISION OF COMMUNITY SERVICES
 SFN 52345_(03/09)

**COMMUNITY DEVELOPMENT BLOCK GRANT
 FINAL REPORT – JOB CREATION**

Project Name _____

1. Indicate in the table below, the number of jobs created as a result of CDBG assistance.

Type of Employment	Total Number of Jobs Created		Total Number of LMI Jobs Created*			Annual Wage Range
	Full-Time	Part-Time	Full-Time 0 - 30% Limit	Part-Time 31 - 50% Limit	Full-Time 51 - 80% Limit	
Officials & Managers						
Professional						
Technicians						
Sales						
Office & Clerical						
Craft Workers (skilled)						
Operatives (semi-skilled)						
Laborers (unskilled)						
Service Workers						
Totals						

*Low and moderate income (LMI) jobs are those positions filled by persons whose total household income did not exceed 80 percent of the median income for all households residing in the community at the time of being hired due to the business receiving CDBG funds.

2. Complete the table below for those positions reflected in #1.

	Total Number
a. White (11)	
b. Black/African American (12)	
c. Asian (13)	
d. American Indian/Alaskan Native (14)	
e. Native Hawaiian/Other Pacific Islander (15)	
f. American Indian/Alaskan Native & White (16)	
g. Asian & White (17)	
h. Black/African American & White (18)	
i. American Indian/Alaskan Native & Black/African American (19)	
j. Other Multi-Racial (20)	
Total	

3. Of the total above, the number with Hispanic Ethnicity _____

4. Number of jobs with employer sponsored health care benefits _____

5. Number of unemployed prior to taking jobs created under this assistance _____

6. If employment levels are less than initially proposed, explain reductions or indicate when proposed staffing goals will be met.

Signature of President or CEO	Date
Report Prepared By	Telephone Number of Business

EMPLOYMENT REPORT- JOB RETENTION

NORTH DAKOTA DEPARTMENT OF COMMERCE

DIVISION OF COMMUNITY SERVICES

SFN 54032_(04/07)

**COMMUNITY DEVELOPMENT BLOCK GRANT
FINAL REPORT – JOB RETENTION**

Project Name

1. Indicate in the table below, the number of jobs created as a result of CDBG assistance.

Type of Employment	Total Number of Jobs Retained		Total Number of LMI Jobs Retained*						Annual Wage Range
	Full-Time	Part-Time	Full-Time	Part-Time	Full-Time	Part-Time	Full-Time	Part-Time	
			0 - 30% Limit		31-50% Limit		51-80% Limit		
Officials & Managers									
Professional									
Technicians									
Sales									
Office & Clerical									
Craft Workers (skilled)									
Operatives (semi-skilled)									
Laborers (unskilled)									
Service Workers									
Totals									

*Low and moderate income (LMI) jobs are those positions filled by persons whose total household income did not exceed 80 percent of the median income for all households residing in the community at the time of being retained in a job due to the business receiving CDBG funds.

2. Complete the table below for those positions reflected in #1.

	Total Number
a. White (11)	
b. Black/African American (12)	
c. Asian (13)	
d. American Indian/Alaskan Native (14)	
e. Native Hawaiian/Other Pacific Islander (15)	
f. American Indian/Alaskan Native & White (16)	
g. Asian & White (17)	
h. Black/African American & White (18)	
i. American Indian/Alaskan Native & Black/African American (19)	
j. Other Multi-Racial (20)	
Total	

3. Of the total above, the number with Hispanic Ethnicity

4. Number of jobs with employer sponsored health care benefits

5. If employment levels are less than initially proposed, explain reductions or indicate when proposed staffing goals will be met.

Signature of President or CEO

Date

Report Prepared By

Telephone Number of Business

INSTRUCTIONS FOR DIRECT/INDIRECT BENEFIT ACTIVITIES REPORT

Definition of Direct Benefit Activity: A direct benefit activity is defined as an activity which requires the beneficiary to submit an application or complete a personal record as an integral part of receiving the benefit of an activity. For example, in a housing rehabilitation program, an application is an essential part of determining need and eligibility. Other types of direct benefit activities would include relocation and payment of special assessments. Report by household.

Definition of Indirect Benefit Activity: An indirect benefit activity is defined as an activity for which an individual receives direct benefit but is not required to apply for the benefit. This would include residents on a street that is reconstructed or households hooked-up to a new water main. The activity is directed to the benefit of everyone, and no one is singled out to receive specific assistance. Other types of indirect benefit activities would include removal of architectural barrier projects, senior citizen projects, and area-wide activities in which at least 51% of the persons or households to be served are low and moderate income. In most cases data will be reported by persons.

Grant Recipient: Enter the name of the grant recipient.

Instrument Number: Enter the instrument number assigned by the DCS.

Benefit Activity: Data is being reported by either household or persons (check one).

Number of Female Head of Household: Enter the number of female head of household served by the project.

Number of Male Head of Household: Enter the number of Male head of household served by the project.

Number of Households with Children under 18: Enter the number of Households with Children under 18 served by the project.

Number of Elderly: Enter the number of elderly served by the project.

Total Number of Direct or Indirect Beneficiaries: Enter the total number of direct or indirect beneficiaries being served by the project.

Number of Disabled: Enter the number of disabled persons being served by the project.

Number of Low and Moderate Income: Enter the total number of low and moderate income persons or households being served by the project.

Percent of LMI Benefit: Enter the percent of LMI persons or LMI households benefitting. (Number of low and moderate income divided by total number of direct or indirect beneficiaries)

Race/Ethnicity: Enter the number of households or persons to benefit by race category (a-j) in the total number column. Enter the number of household or persons reported in the total number column with a Hispanic ethnicity in the number of Hispanic column.

Total: Must equal the total number of people or households in the service area.

Additional CDBG Beneficiary Data: If this project is Payment of Special Assessments, Construction of Rental Units, Acquisition/ Construction of New Homeowner Units, Direct Financial Assistance to Homebuyers, or Short-term Rental Assistance, complete the appropriate section of the form titled "Additional CDBG Beneficiary."

ADDITIONAL CDBG BENEFICIARY DATA

Payment of Special Assessments -Supplemental A

1. Of the Total Households, the Number:
- a. Extremely Low Income (< 30% of Median) _____
 - b. Low Income (31-50% of Median) _____
 - c. Moderate Income (51-80% of Median) _____

Construction of Rental Units - Supplemental B

1. Of the Total Rental Units, the Number:
- a. Affordable Units _____
 - b. Section 504 Accessible Units _____
 - c. Units Qualified as Energy Star _____
2. Of the Total Number of Affordable Units:
- a. Units Occupied by Elderly _____
 - b. Years of Affordability _____
 - c. Units Subsidized with Project-based Rental Assistance by Another Federal, State or Local Program _____

Acquisition/Construction New Homeowner Units - Supplemental C

1. Of the Total Owner Units, the Number:
- a. Affordable Units _____
 - b. Years of Affordability Guaranteed _____
 - c. Units Qualified as Energy Star _____
 - d. Section 504 Accessible _____
 - e. Households Previously Living in Subsidized Housing _____
2. Of the Number of Affordable Units, the Number:
- a. Occupied by Elderly _____
 - b. Units Specifically Designated for Persons with HIV/AIDS _____
 - 1) of Those, the Number Specifically for Chronically Homeless _____
 - c. Units Specifically Designated for Homeless _____
 - 1) of Those, the Number Specifically for Chronically Homeless _____

Direct Financial Assistance to Homebuyers - Supplemental D

1. Of the Total Units, Specify the Following:

- a. Number of First-time Homebuyers _____
 - 1) of Those, the Number Receiving Housing Counseling _____
- b. Number Receiving Downpayment Assistance/closing Costs _____

Short-term Rental Assistance - Supplemental E

1. Of the Total Households Assisted, the Number:

- a. Receiving Short-term Rental Assistance (Not More than 3 Months) _____
- b. Number of Households Assisted Previously Homeless _____
 - 1) of Those, the Number of Chronically Homeless Households _____

HOUSING FOR CONVERSION, NEW OR SUBSTANTIAL REHABILITATION

NORTH DAKOTA DEPARTMENT OF COMMERCE

DIVISION OF COMMUNITY SERVICES

SFN 60108 (09/16)

Households and Persons Assisted with Housing (<i>check one</i>)														<input type="checkbox"/> Conversion	<input type="checkbox"/> New	<input type="checkbox"/> Substantial Rehabilitation
Name of Recipient							Instrument Number									
Assistance Provided by Income Group	Renters					Owners				Homeless*		Non-Homeless Special Needs (L)	Total (M)	Total Section 215 (N)		
	Elderly 1 & 2 Member Households (A)	Small Related (2 to 4) (B)	Large Related (5 or More) (C)	All Other Households (D)	Total Renters (E)	Elderly (F)	1st Time Homebuyers		Total Homeowners (I)	Individuals (J)	Families (K)					
							With Children (G)	All Others (H)								
1. Extremely Low Income (0 to 30% MFI)**																
2. Very Low Income (31 to 50% MFI)**																
3. Other - Low Income (51 to 80% MFI)*																
4. Non - Low Moderate (> 80% MFI)																
5. Total - Low Income (Lines 1 + 2 + 3 + 4)																
* Homeless families and individuals assisted with transitional or permanent housing																
** Or, based upon HUD adjusted income limits, if applicable																
6. Additional Information						# Units	7. Lead Paint						# Units			
Of the Total Rental Units:						Applicable Lead Paint Requirement										
Affordable Units						Housing constructed before 1978										
Number of Units Meeting Section 504 for Mobility Disability						Exempt: housing constructed 1978 or later										
Number of Units Meeting Section 504 for Hearing and Visual Disabilities						Exempt: hard costs < = \$5,000										
Number Qualified as Green Building Standards						Otherwise exempt										
Identify which Program _____						Total										
Of the Total Affordable Units:																
Units Occupied by the elderly						Lead Hazard Remediation Actions: (For rehabilitation only)										
Years of Affordability Guaranteed						Lead Safe Work Practices (24 CFR 35.930(b)) (Hard cost < = \$5,000)										
Number Subsidized with Project-Based Rental Assistance by Another Federal, State or Local Program						Interim Controls or Standard Practices (24 CFR 35.930(c)) (Hard costs \$5,000-\$25,000)										
Number Designated for Persons with HIV/Aids Including Number Receiving Assistance for Operations						Abatement (24 CFR 35.930(d)) (Hard cost > = \$25,000)										
Of the Units Designated for Persons with HIV/Aids, Number specifically for Chronically Homeless						Total										
Permanently Housing Units Designated for Homeless Persons and Families, Including Units Receiving Assistance for Operations																
Of Permanent Housing Units Designated for Homeless Number for the Chronically Homeless																

8. Racial/Ethnic Composition of Low Income	Total Number	Number of Hispanic
a. White (11)		
b. Black/African American (12)		
c. Asian (13)		
d. American Indian/Alaskan Native (14)		
e. Native Hawaiian/Other Pacific Islander (15)		
f. American Indian/Alaskan Native & White (16)		
g. Asian & White (17)		
h. Black/African American & White (18)		
i. American Indian/Alaskan Native & Black/African American (19)		
j. Other Multi-Racial (20)		
k. TOTAL		
Of the Total in 8K, Number that are Female Head of Household		

SAMPLE

INSTRUCTIONS FOR HOUSEHOLDS AND PERSON ASSISTED WITH HOUSING FOR CONVERSION OR NEW UNITS

Definitions:

Assisted Household or Person - For the purpose of identification of goals, an assisted household or person is one which during the period covered by the annual plan will receive benefits through the investment of Federal funds, either alone or in conjunction with the investment of other public or private funds. The program funds providing the benefit(s) may be from any funding year or combined funding years. A renter is benefitted if the household or person takes occupancy of affordable housing that is newly acquired (standard housing), new rehabilitated, or newly constructed, and/or receives rental assistance through new budget authority. An existing homeowner is benefitted during the year if the home's rehabilitation is completed. A first-time homebuyer is benefitted if the home is purchased during the year. A homeless person is benefitted during the year if the person becomes an occupant of transition or permanent housing. A non-homeless person with special needs is considered as being benefitted, however, only if the provision of rental services is linked to the acquisition, rehabilitation, or new construction of a housing unit and/or the provision of rental assistance during the year. Households or person who will benefit from more than one program (e.g., a renter who receives rental assistance while occupying newly rehabilitated housing) must be counted only once. To be included in the goals, the household's housing unit must at a minimum, satisfy the HUD Section 8 Housing Quality Standards (see, e.g., 24 CFR Section 882.109).

Section 215 Affordable Housing

1. Rental Housing

A rental housing unit is considered to be an affordable housing unit if it is occupied by a low income household or individual and bears a rent that is the lesser of (1) the Existing Section 8 Fair Market Rent (FMR) for comparable units in the area or, (2) 30 percent of the adjusted income of a household whose income equals 65 percent of the median income for the area, except that HUD may establish income ceilings higher or lower than 65 percent of the median because of prevailing levels of construction costs or fair market rents, or unusually high or low family incomes.

2. Homeownership

- (a) Housing that is for purchase (with or without rehabilitation) qualifies as affordable housing if it (1) is purchased by a low-income, first-time homebuyer who will make the housing his or her principal residence; and (2) has a sale price which does not exceed the mortgage limit for the type of single family housing for the area under HUD's single family insuring authority under the National Housing Act.
- (b) Housing that is to be rehabilitated, but is already owned by a household when assistance is provided, qualifies as affordable if the housing (1) is occupied by a low-income household which uses the housing as its principal residence, and (2) has a value, after rehabilitation, that does not exceed the mortgage limit for the type of single family housing for the area, as described above.

Note: These definitions apply for the purposes of enumerating the number of households assisted with housing meeting the 215 affordable housing definition regardless of the Federal funding source used in support of that housing.

General Instructions:

In completing this Table, report the number of households (or in the case of the homeless, families with children or individuals) which received assistance during the reporting period for each of the categories indicated.

The number of households assisted is to be provided by:

- Income category (i.e., very low-income at or below 30 percent income [Line 1]; very low-income above 30 percent of income, but at or below 50 percent of income [Line 2]; and other low-income [Line 3]);
- Housing type (i.e. renters [Columns A through D] and homeowners--both existing homeowners [Column F], and first-time buyers [Columns G and H]).

The number of homeless families with children or individuals assisted (Columns J & K) shall only be provided by income category. All persons who were homeless prior to being provided transitional or permanent housing assistance are to be reflected in Column J & K, even if the assistance resulted in them becoming renters or homeowners.

Of the total number of very low or other low-income households or homeless persons assisted (Column M), the number of households which occupied units meeting the “Section 215 Affordable Housing” criteria is to be entered in Column N.

The sum of the numbers entered in each line under Column E (Total Renters) and Column I (Total Homeowners) and Column J & K (Homeless) and Column L (non-homeless persons with special needs) should always equal the number entered under Column M (Total Goals).

Column M, Line 4 reflects the total number of low-income households and persons assisted during the reporting period. The grantee must break out that total number by racial\ethnic composition and enter the totals for each of the six racial\ethnic groups indicated on Line 5 (Racial\Ethnic Composition of Total Assisted Household-Line 4, Column M).

Specific Instructions:

Renters Assisted:

Column A - Elderly 1 or 2 Member Renter Households.

Line 1 - Enter the number of **extremely low-income** 1 or 2 member elderly renter households with incomes **at or below 30 percent** of the median income for the area, as adjusted by HUD, who were assisted during the performance period (elderly renter households with more than 2 members should be entered under Columns B, C, or D, as appropriate.)

Line 2 - Enter the number of **very low-income** 1 or 2 member elderly renter households with incomes **above 30 percent, but at or below 50 percent** of the median income for the area, as adjusted by HUD, who were assisted during the performance period (elderly renter households with more than 2 members should be entered under Columns B, C, or D, as appropriate.)

Line 3 - Enter the number of **other low-income** 1 or 2 member elderly renter households assisted during the performance period (elderly renter households with more than 2 members should be entered under Columns B, C, or D, as appropriate.)

Line 4 - Enter the number of **non low-mod income** 1 or 2 member elderly renter households assisted during the performance period (elderly renter households with more than 2 members should be entered under Columns B, C, or D, as appropriate.)

Line 5 - Enter the sum of Lines 1, 2, 3 and 4.

Columns B, C, and D.

Columns B through D are to be filled out in the same manner as Column A. Columns B through C pertain to renter households with 2 or more members of the household related by blood, marriage, or adoption, and excludes 1 or 2 person elderly households. Column D is for all other renter households not entered under Columns B through C.

Column E - Total Renters

Enter for each Line the sums of Columns A, B, C, and D.

Homeowners Assisted:

Column F - Elderly Assisted.

Enter the number of homeowners which, at the time of receiving assistance, are elderly. Column F is to be filled out for Lines 1, 2, 3, 4 and 5 in the same manner as the preceding columns.

Columns G and H - First-time Homebuyers Assisted.

For Column G enter the number of households assisted to become first-time homebuyers (unless the persons were homeless prior to being assisted) who have minor children residing with the household. For Column H enter the number of households assisted to become first-time homebuyers without minor children residing with the household.

Column I - Total Homeowners.

Enter for each line the sums of Columns F, G and H.

Homeless Assisted:

Columns J and K - For Lines 1, 2, and 3, enter the total number of homeless families with children or individuals assisted with transitional and/or permanent housing during the reporting period and enter the total of these three lines on Line 4.

Column L - For Lines 1, 2, and 3, enter the total number of non-homeless persons with special needs who received supportive services and occupied newly acquired, newly rehabilitated, or newly constructed affordable housing and/or received rental assistance.

Total Households and Homeless Families with Children/Individuals Assisted:

Column M - Total Households and Homeless Families/Individuals Assisted.

Line 1 - Enter the total number of very low-income households and homeless families with children/individuals (with incomes at or below 30 percent of median income for the area, as adjusted by HUD) in Column M. This total is derived by adding Line 1 totals from Column E, Column I, and Columns J, K & L.

Line 2 - Enter the total number of very low-income households and homeless families/individuals (with incomes above 30 percent, but at or below 50 percent of median income for the area, as adjusted by HUD) in Column M. This total is derived by adding Line 2 totals from Column E, Column I, and Columns J, K & L.

Line 3 - Enter the total number of other low-income households and homeless families/individuals in Column M. This total is derived by adding Line 3 totals from Column E, Column I, and Columns J, K & L.

Line 4 - Enter 0

Line 5 - Enter the total number of low-income households and homeless families/individuals in Column M. This total is derived by adding Line 3 totals from Column E, Column I, and Columns J, K & L.

Column N - Number of Households Occupying Units Meeting the Section 215 Definition.

Line 1 - Enter the total number of very low-income households with incomes at or below 30 percent of the median income for the area, as adjusted by HUD, from Line 1, Column M that occupy housing units meeting the definition of "Section 215 Affordable Housing."

Line 2 - Enter the total number of very low-income households with incomes above 30 percent, but at or below 50 percent of the median income for the area, as adjusted by HUD, from Line 2, Column M that occupy housing units meeting the definition of "Section 215 Affordable Housing."

Line 3 - Enter the total number of very low-income households from Line 3, Column M that occupy housing units meeting the definition of "Section 215 Affordable Housing."

Line 4 - Enter 0

Line 5 - Enter the sum of Lines 1, 2, and 3, Column M.

6. Additional Information:

Enter the additional information required.

Green Building Standards – attach documentation. Energy Star, Enterprise Green Communities, LEED, ICC-700 National Green Building Standard, EPA Indoor AirPlus or any other equivalent comprehensive green building program.

7. Lead Base-Paint – Enter the lead-based paint information.

8. Racial/Ethnic Composition of Low Income:

Total Number - enter the total number from #5, Column M, by race category.

No. of Hispanic - enter the number of people reported in the Total Number Column with a Hispanic ethnicity.

Of the **total** in 8K., number that are Female Head of Household

HOUSING FOR RELOCATION

NORTH DAKOTA DEPARTMENT OF COMMERCE

DIVISION OF COMMUNITY SERVICES

SFN 52349_(04/07)

Households and Persons Assisted with Housing for Relocation														
Name of Recipient							Instrument Number							
Assistance Provided by Income Group	Renters					Owners				Homeless*		Non-Homeless Special Needs (L)	Total (M)	Total Section 215 (N)
	Elderly 1 & 2 Member Households (A)	Small Related (2 to 4) (B)	Large Related (5 or More) (C)	All Other Households (D)	Total Renters (E)	Existing Homeowners (F)	1st Time Homebuyers		Total Homeowners (I)	Individuals (J)	Families (K)			
							With Children (G)	All Others (H)						
1. Very Low Income (0 to 30% MFI)**														
2. Very Low Income (31 to 50% MFI)**														
3. Other-Low Income (51 to 80% MFI)*														
4. Total-Low Income (Lines 1 + 2 + 3)														
* Homeless families and individuals assisted with transitional or permanent housing ** Or, based upon HUD adjusted income limits, if applicable							5. Racial/Ethnic Composition of Low Income					Total Number	No. of Hispanic	
							a. White (11)							
							b. Black/African American (12)							
							c. Asian (13)							
							d. American Indian/Alaskan Native (14)							
							e. Native Hawaiian/Other Pacific Islander (15)							
							f. American Indian/Alaskan Native & White (16)							
							g. Asian & White (17)							
							h. Black/African American & White (18)							
							i. American Indian/Alaskan Native & Black/African American (19)							
							j. Other Multi-Racial (20)							
							k . Total							
							Of the total in 5K., number that are Female Head of Household							
6. Rehabilitation Activity by Household														
Plumbing _____ Electrical _____ Heating _____ Weatherization _____ Other _____														

INSTRUCTIONS FOR HOUSEHOLDS AND PERSON ASSISTED WITH HOUSING FOR REHABILITATION AND RELOCATION

Definitions:

Assisted Household or Person - For the purpose of identification of goals, an assisted household or person is one which during the period covered by the annual plan will receive benefits through the investment of Federal funds, either alone or in conjunction with the investment of other public or private funds. The program funds providing the benefit(s) may be from any funding year or combined funding years. A renter is benefitted if the household or person takes occupancy of affordable housing that is newly acquired (standard housing), new rehabilitated, or newly constructed, and/or receives rental assistance through new budget authority. An existing homeowner is benefitted during the year if the home's rehabilitation is completed. A first-time homebuyer is benefitted if the home is purchased during the year. A homeless person is benefitted during the year if the person becomes an occupant of transition or permanent housing. A non-homeless person with special needs is considered as being benefitted, however, only if the provision of rental services is linked to the acquisition, rehabilitation, or new construction of a housing unit and/or the provision of rental assistance during the year. Households or person who will benefit from more than one program (e.g., a renter who receives rental assistance while occupying newly rehabilitated housing) must be counted only once. To be included in the goals, the household's housing unit must at a minimum, satisfy the HUD Section 8 Housing Quality Standards (see, e.g., 24 CFR Section 882.109).

Section 215 Affordable Housing

1. Rental Housing

A rental housing unit is considered to be an affordable housing unit if it is occupied by a low income household or individual and bears a rent that is the lesser of (1) the Existing Section 8 Fair Market Rent (FMR) for comparable units in the area or, (2) 30 percent of the adjusted income of a household whose income equals 65 percent of the median income for the area, except that HUD may establish income ceilings higher or lower than 65 percent of the median because of prevailing levels of construction costs or fair market rents, or unusually high or low family incomes.

2. Homeownership

- (a) Housing that is for purchase (with or without rehabilitation) qualifies as affordable housing if it (1) is purchased by a low-income, first-time homebuyer who will make the housing his or her principal residence; and (2) has a sale price which does not exceed the mortgage limit for the type of single family housing for the area under HUD's single family insuring authority under the National Housing Act.
- (b) Housing that is to be rehabilitated, but is already owned by a household when assistance is provided, qualifies as affordable if the housing (1) is occupied by a low-income household which uses the housing as its principal residence, and (2) has a value, after rehabilitation, that does not exceed the mortgage limit for the type of single family housing for the area, as described above.

Note: These definitions apply for the purposes of enumerating the number of households assisted with housing meeting the 215 affordable housing definition regardless of the Federal funding source used in support of that housing.

General Instructions:

In completing this Table, report the number of households (or in the case of the homeless, families with children or individuals) which received assistance during the reporting period for each of the categories indicated.

The number of households assisted is to be provided by:

- Income category (i.e., very low-income at or below 30 percent income [Line 1]; very low-income above 30 percent of income, but at or below 50 percent of income [Line 2]; and other low-income [Line 3]);
- Housing type (i.e. renters [Columns A through D] and homeowners--both existing homeowners [Column F], and first-time buyers [Columns G and H]).

The number of homeless families with children or individuals assisted (Columns J & K) shall only be provided by income category. All persons who were homeless prior to being provided transitional or permanent housing assistance are to be reflected in Column J & K, even if the assistance resulted in them becoming renters or homeowners.

Of the total number of very low or other low-income households or homeless persons assisted (Column M), the number of households which occupied units meeting the "Section 215 Affordable Housing" criteria is to be entered in Column N.

The sum of the numbers entered in each line under Column E (Total Renters) and Column I (Total Homeowners) and Column J & K (Homeless) and Column L (non-homeless persons with special needs) should always equal the number entered under Column M (Total Goals).

Column M, Line 4 reflects the total number of low-income households and persons assisted during the reporting period. The Grantee must break out that total number by racial\ethnic composition and enter the totals for each of the six racial\ethnic groups indicated on Line 5 (Racial\Ethnic Composition of Total Assisted Household-Line 4, Column M).

Specific Instructions:

Renters Assisted:

Column A-Elderly 1 or 2 Member Renter Households.

Line 1-Enter the number of **very low-income** 1 or 2 member elderly renter households with incomes **at or below 30 percent** of the median income for the area, as adjusted by HUD, who were assisted during the performance period (elderly renter households with more than 2 members should be entered under Columns B, C, or D, as appropriate.)

Line 2-Enter the number of **very low-income** 1 or 2 member elderly renter households with incomes **above 30 percent, but at or below 50 percent** of the median income for the area, as adjusted by HUD, who were assisted during the performance period (elderly renter households with more than 2 members should be entered under Columns B, C, or D, as appropriate.)

Line 3- Enter the number of **other low-income** 1 or 2 member elderly renter households assisted during the performance period (elderly renter households with more than 2 members should be entered under Columns B, C, or D, as appropriate.)

Line 4-Enter the sum of Lines 1, 2, and 3.

Columns B, C, and D.

Columns B through D are to be filled out in the same manner as Column A. Columns B through C pertain to renter households with 2 or more members of the household related by blood, marriage, or adoption, and excludes 1 or 2 person elderly households. Column D are for all other renter households not entered under Columns B through C.

Column E-Total Renters

Enter for each Line the sums of Columns A, B, C, and D.

Homeowners Assisted:

Column F-Existing Homeowners Assisted.

Enter the number of homeowners which, at the time of receiving assistance, owned their existing homes. Column F is to be filled out for Lines 1, 2, 3, and 4 in the same manner as the preceding columns.

Columns -G and H-First-time Homebuyers Assisted.

For Column G enter the number of households assisted to become first-time homebuyers (unless the persons were homeless prior to being assisted) who have minor children residing with the household. For Column H enter the number of households assisted to become first-time homebuyers without minor children residing with the household.

Column I-Total Homeowners.

Enter for each line the sums of Columns F, G and H.

Homeless Assisted:

Columns J and K-For Lines 1, 2, and 3, enter the total number of homeless families with children or individuals assisted with transitional and/or permanent housing during the reporting period and enter the total of these three lines on Line 4.

Column L-For Lines 1, 2, and 3, enter the total number of non-homeless persons with special needs who received supportive services and occupied newly acquired, newly rehabilitated, or newly constructed affordable housing and/or received rental assistance.

Total Households and Homeless Families with Children/Individuals Assisted:

Column M-Total Households and Homeless Families/Individuals Assisted.

Line 1-Enter the total number of very low-income households and homeless families with children/individuals (with incomes at or below 30 percent of median income for the area, as adjusted by HUD) in Column M. This total is derived by adding Line 1 totals from Column E, Column I, and Columns J, K & L.

Line 2-Enter the total number of very low-income households and homeless families/individuals (with incomes above 30 percent, but at or below 50 percent of median income for the area, as adjusted by HUD) in Column M. This total is derived by adding Line 2 totals from Column E, Column I, and Columns J, K & L.

Line 3-Enter the total number of other low-income households and homeless families/individuals in Column M. This total is derived by adding Line 3 totals from Column E, Column I, and Columns J, K & L.

Line 4-Enter the total number of low-income households and homeless families/individuals in Column M. n N-Number of Households Occupying Units Meeting the Section 215 Definition.

Line 1-Enter the total number of very low-income households with incomes at or below 30 percent of the median income for the area, as adjusted by HUD, from Line 1, Column M that occupy housing units meeting the definition of "Section 215 Affordable Housing."

Line 2-Enter the total number of very low-income households with incomes above 30 percent, but at or below 50 percent of the median income for the area, as adjusted by HUD, from Line 2, Column M that occupy housing units meeting the definition of "Section 215 Affordable Housing."

Line 3-Enter the total number of very low-income households from Line 3, Column M that occupy housing units meeting the definition of "Section 215 Affordable Housing."

Line 4-Enter the sum of Lines 1, 2, and 3, Column M.

Line 5-For Line 5 identify the number of Hispanic households, as well as the number of non-Hispanic households by the five non-Hispanic racial/ethnic categories identified below, which were assisted during the reporting period. The State's entered amounts must total Line 4, Column M.

Racial/Ethnic Composition of Low Income:

Total Number - enter the total number from #4, Column M by race category.

No. of Hispanic - enter the number of people reported in the Total Number Column with a Hispanic ethnicity.

Of the total in 5K., number that are Female Head of Household.

Rehabilitation Activity by Household:

Enter the total number of households by specific category of rehabilitation activity.

NOTE: Other Accomplishments for rehabilitation activities that do not result in a housing unit being brought up to standard condition (e.g., emergency rehab or weatherization programs), activities undertaken without Federal funds, or activities assisting homeless and non-homeless persons with special needs and not linked to the provision of supportive, transitional or permanent housing, may be reported separately at the bottom of this table or on a separate page.

CIVIL RIGHTS COMPLIANCE REPORT
 NORTH DAKOTA DEPARTMENT OF COMMERCE
 DIVISION OF COMMUNITY SERVICES
 SFN 52350 (06/12)

NORTH DAKOTA CDBG PROGRAM CIVIL RIGHTS COMPLIANCE REPORT DISPLACEMENT OF LOW AND MODERATE INCOME HOUSEHOLDS		
1. Recipient	2. Instrument Number	
3. Attach Narrative Description of Actions Taken to Mitigate Adverse Effects		
4. Community or Project Area (indicate if activity is city-wide or is in a designated target area. If a target area, indicate location)		
5. Low and Moderate Income Households Displaced During the Program	Total Number	Total Hispanic
a. White (11)		
b. Black/African American (12)		
c. Asian (13)		
d. American Indian/Alaskan Native (14)		
e. Native Hawaiian/Other Pacific Islander (15)		
f. American Indian/Alaskan Native & White (16)		
g. Asian & White (17)		
h. Black/African American & White (18)		
i. American Indian/Alaskan Native & Black/African American (19)		
j. Other Multi-Racial (20)		
Totals		
6. Low and Moderate Income Households Relocated During the Completed Program		
<i>(Displaced Households Relocating Out of the Community or Project Area)</i>	Total Number	Total Hispanic
a. White (11)		
b. Black/African American (12)		
c. Asian (13)		
d. American Indian/Alaskan Native (14)		
e. Native Hawaiian/Other Pacific Islander (15)		
f. American Indian/Alaskan Native & White (16)		
g. Asian & White (17)		
h. Black/African American & White (18)		
i. American Indian/Alaskan Native & Black/African American (19)		
j. Other Multi-Racial (20)		
Totals		
<i>(Displaced Households Remaining in the Community or Project Area)</i>	Total Number	Total Hispanic
a. White (11)		
b. Black/African American (12)		
c. Asian (13)		
d. American Indian/Alaskan Native (14)		
e. Native Hawaiian/Other Pacific Islander (15)		
f. American Indian/Alaskan Native & White (16)		
g. Asian & White (17)		
h. Black/African American & White (18)		
i. American Indian/Alaskan Native & Black/African American (19)		
j. Other Multi-Racial (20)		
Totals		

**INSTRUCTIONS FOR COMPLETING DISPLACEMENT OF
LOW AND MODERATE INCOME HOUSEHOLDS**

1. Recipient. City or County
2. Instrument Number. State Assigned Number
3. Narrative. Describe actions to assist displaced persons to remain in neighborhood when they prefer, and to mitigate adverse effects resulting from displacement.
4. Community or Project Area. Indicate if activity is city-wide or is in a designated target area. If in a target area, indicate location.
5. Low and Moderate Income Households Displaced. Enter amount for each category (a-j) in the total number column. Enter amount for each category (a-j) with Hispanic origin in total Hispanic column.
6. Low and Moderate Income Households Relocated. Enter the number of displaced households relocating out of the community or project area for each category (a-j) in total number column and enter the amount for each category (a-j) with Hispanic origin in total Hispanic column. Enter the number of displaced households remaining in the community or project area for each category (?-?). In the total number column and enter the amount for each category (?-?) with Hispanic origin in the total Hispanic column.

CONTRACT AND SUBCONTRACT ACTIVITY

NORTH DAKOTA DEPARTMENT OF COMMERCE

DIVISION OF COMMUNITY SERVICES

SFN 52351 (08/17)

**U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
CONTRACT AND SUBCONTRACT ACTIVITY**

(1) Recipient Name					(2) Contact Person				(3) Date Submitted			
(4) Grant Begin Date				(5) Grant End Date			(6) Telephone Number			(7) Instrument Number		
Amount of Contract (8)***	Section 3 Contractor (9)	Type of Trade (1-3)* (10)	Business Code (11)		Contractor Federal ID Number (12)	Subcontractor Federal ID Number (13)	ND Contractor License Number (14)	Name (15)	Street	City	State	Zip
			1-6**	Y/N								
* 1. Construction 2. Education/ Training 3. Other				** 1. White 2. Black Americans 3. Native Americans 4. Hispanic Americans 5. Asian/Pacific Americans 6. Hasidic Jews				*** Total Amount of Contract(s) must equal Final Activity Expenses less Administration.				

INSTRUCTIONS

This report is to be used by grantees to report contract and subcontract activities under the Community Development Block Grant and HOME program. Grantees should also include contracts entered into by recipients of HOME rehabilitation assistance. Business racial/ethnic code is to be used to designate the racial/ethnic character of the business entity receiving a contract or subcontract. To be classified in a particular racial/ethnic category, a business entity must be 51% or more owned and controlled by the racial/ethnic groups members of the category. When a business is not 51% or more owned and controlled by a single racial/ethnic group, enter the code for the group which seems most appropriate.

The contractor's ID Number is to be shown on all prime contracts and on all subcontracts. On subcontracts, the subcontractor's ID Number is also to be shown. When entering a subcontract show only the amount of the subcontract and the "type of trade" and "business racial/ethnic code" of the subcontractor. The form is to be completed as follows:

1. **Recipient Name.** Enter the name of the unit of government or grant recipient submitting report of contract/subcontract activity.
2. **Contact Person.** Enter name and phone number of person responsible for maintaining and submitting contract data.
3. **Date Submitted.** Enter date the report is submitted to Area Office.
4. **Grant Begin Date.** Enter the grant begin date.
5. **Grant End Date.** Enter the grant end date.
6. **Telephone Number.** Enter the telephone number.
7. **Instrument Number.** Enter the DCS Community Development Block Grant or HOME Identification Number.
8. **Amount of Contract.** Enter the dollar amount of the contract or subcontract. Round the figures to the nearest thousand dollars. If subcontractor ID Number is provided, the dollar figure would be for the subcontract only – not the prime contract.
9. **Section 3 Contractor.** If the recipient received an award of \$100,000 and awarded any single contract in excess of \$100,000 the contract would be a Section 3 covered contract. If the contract was not a Section 3 covered contract, indicate with an N/A. If it is a Section 3 covered contract, enter Yes, if a Section 3 contractor was hired or no if a Section 3 contractor was not hired. (Refer to your Administrative or Pre-Construction manual for the definition of a Section 3 contractor.
10. **Type of Trade.** Enter the numeric code (1 through 3) which best indicates the contractor's/ subcontractor's service. If Subcontractor ID Number is provided, the type of trade code would be for the subcontractor only – not the prime contractor. The other category includes supply, professional services and all other activities except construction and education/ training activities.
11. **Business Code.** Enter the code (1 through 10) which indicates the ethnic background of the contractor/subcontractor, also enter in Y (yes) or N (no) if the business is a women business enterprise. If the Subcontractor ID Number is provided, the code would apply to the Subcontractor not the prime contractor.
12. **Prime Contractor Federal ID Number.** Enter Employer (IRS) Number of the Prime Contractor as the unique identifier for prime recipient of HOME or CDBG funds. Note that the Employer Number must be provided for each contract/ subcontract award.
13. **Subcontractor Federal ID Number.** Enter Employer (IRS) Number of the Subcontractor as the unique identifier for each subcontract awarded from HOME or CDBG funds. When Subcontractor ID Number is provided, the respective Prime Contractor ID Number must also be provided.
14. **ND Contractor License Number.** Enter the North Dakota Contractor License Number for each contractor/subcontract that worked on the project.
15. **Contractor/Subcontractor Name and Address.** Enter the name and address information for each firm receiving contract/subcontract activity. This information need be provided only one time on each report for each firm.

PROJECT COMPLETION CERTIFICATION

NORTH DAKOTA DEPARTMENT OF COMMERCE

DIVISION OF COMMUNITY SERVICES

SFN 52354 (04/15)

**COMMUNITY DEVELOPMENT BLOCK GRANT
PROJECT COMPLETION CERTIFICATION**

This form needs to be completed and submitted with the Final Report for all projects.

I certify that the City/County of _____

Community Development Block Grant project, Instrument # _____

for _____

has been completed according to the Financial Award Activity Description. Construction commenced on _____ and was completed on _____.

Mayors Signature

General Contractors Signature

Date

Mayor

General Contractor

Date

If Applicable Engineers Signature

Engineering Firm

Date

LABOR STANDARDS ENFORCEMENT REPORT
NORTH DAKOTA DEPARTMENT OF COMMERCE/
DIVISION OF COMMUNITY SERVICES
 SFN 52352 (04/15)

This form must be completed for all construction projects

LABOR STANDARDS ENFORCEMENT REPORT			
Recipient		Instrument Number	
1. List employers (contractors) against whom labor complaints were received:			
Employer/Contractor		Federal ID Number	
2. List cases referred to HUD or DOL for investigation or a 5.11 hearing:			
Employer/Contractor	Federal ID Number	To HUD or DOL	Invest or Hear
3. Number of workers for whom wage restitution was disbursed			
4. Total amount of straight time wage restitution disbursed			
5. Total amount of overtime wage restitution disbursed			
6. Total amount of liquidated damages collected			

CDBG EQUIPMENT INVENTORY

NORTH DAKOTA DEPARTMENT OF COMMERCE

DIVISION OF COMMUNITY SERVICES

SFN 52353 (11/21)

Company		Address				City	
Equipment Description	Manufacturer	Model Number	Serial Number	Date of Purchase	Purchase Price	Location	Verification Date
I certify that I have physically inspected and verified that the above stated equipment is on site at the above company.							
					Signature		

EQUIPMENT VERIFICATION

For a project that involves the use of CDBG or HOME funds to purchase equipment, the recipient is responsible for verifying the purchase. At a minimum, verification procedures must include one on-site visit to determine that the purchase of equipment was made in accordance with the Financial Award and loan agreements. In addition, the recipient must develop and maintain (for three years following grant close-out for CDBG; for five years following grant close-out for HOME) equipment inventory records identifying the equipment purchased with CDBG or HOME funds.

In order to provide guidance on the type of inventory record to develop and maintain, we have developed a CDBG/HOME Equipment Inventory form. This form is to be submitted to the Division of Community Services (DCS) with the Final Report. The following information is to be documented on the inventory form:

- Equipment Description
- Manufacturers
- Model Number
 - Serial Number
- Date of Purchase
- Purchase Price
- Location
- Initials of Person Verifying Equipment Location

CODE OF CONDUCT

NORTH DAKOTA DEPARTMENT OF COMMERCE
DIVISION OF COMMUNITY SERVICES
SFN 52357 (06/02)

APPENDIX A

**SAMPLE FORM OF ORDINANCE
CODE OF CONDUCT**

CAVEAT

This sample is for purposes of illustration only. Grantees are directed to develop and adopt individualized Conduct Codes as specified in OMB Circular A-102, Attachment O, Paragraph 7.

PURPOSE

The purpose of this Code of Conduct is to ensure the efficient, fair, and professional administration of federal grant funds in compliance with federal Office of Management and Budget (OMB) Circular A-102, Attachment O, Paragraph 7 and other applicable federal and state standards, regulations, and laws.

APPLICATION

This Code of Conduct applies to all officers, employees, or agents of the (City of/County) engaged in the award or administration of contracts supported by federal grant funds.

REQUIREMENTS

No officer, employee, or agent of the (City of/County) shall participate in the selection, award, or administration of a contract supported by federal grant funds, if a conflict of interest, real or apparent, would be involved. Such a conflict would arise when:

- a. the employee, officer, or agent;
- b. any member of his/her immediate family;
- c. his/her partner; or
- d. an organization which employs, or is about to employ any of the above

has a financial or other interest in the firm selected for award.

The (City of/County) officers, employees, or agents shall neither solicit nor accept gratuities, favors, or anything of monetary value from contractors, potential contractors, or subcontractors.

REMEDIES

To the extent permitted by federal, state or local laws or regulations, violation of these standards may cause penalties, sanctions, or other disciplinary actions to be taken against the (City of/County's) officers, employees, or agents, or the contractor's, potential contractors, subcontractors, or their agents.

EFFECTIVE DATE

This ordinance shall be effective upon publication.

Passed this _____ day of _____, _____.

(Signature)

Mayor (Typed Name)

ATTEST:

(Signature)

Clerk - (Typed Name)



SECTION 3 COMPLIANCE MANUAL

**North Dakota Department of Commerce
Division of Community Services
1600 East Century Avenue, Suite 6
PO Box 2057
Bismarck, North Dakota 58502-2057
(701) 328-5300 Phone
(701) 328-5320 Fax**

Updated January 2022



Overview of Section 3 Requirements

A. WHAT IS SECTION 3?

Section 3 is a provision of the Housing and Urban Development Act of 1968 (12 U.S.C. 1701u) that is regulated by the provisions of 24 CFR 75. Section 3 regulations ensure that employment and other economic opportunities generated by certain HUD financial assistance shall, to the greatest extent feasible, and consistent with existing Federal, State and local laws and regulations, be directed to low and very low-income persons, particularly those who are recipients of government assistance for housing and to business concerns which provide economic opportunities to low- and very low-income persons.

B. PURPOSE OF THIS DOCUMENT

This plan outlines how the North Dakota Department of Commerce, Division of Community Services and its Grantees, grant administrators, contractors and subcontractors will comply with HUD's Section 3 requirements in implementing North Dakota Department of Commerce, Division of Community Services' CDBG program. Grantees will, to the greatest extent feasible, ensure that employment and other economic opportunities are directed to low- and very low-income persons (Section 3 workers and Targeted Section 3 workers) and to eligible businesses (Section 3 Businesses) and requires the same of its contractors.

North Dakota Department of Commerce, Division of Community Services may amend its Section 3 Policies and Procedures document as necessary to ensure continued compliance with HUD's requirements and/or to reflect updated Section 3 guidance and outreach strategies.

C. APPLICABILITY

For CDBG financial assistance, this plan applies to housing rehabilitation, housing construction, and other public construction projects that exceed \$200,000 or more of housing and community development financial assistance from one or more HUD programs. Applicability is determined at the project level.

This plan also applies to projects that include multiple funding sources. Multiple funding source projects include projects that include public housing financial assistance, housing and community development financial assistance for single or multiple recipients.

Section 3 requirements do not apply to: 1) Material Supply Contracts - § 75.3(b), 2) Indian and Tribal Preferences - § 75.3(c), and 3) Other HUD assistance and other Federal assistance not subject to Section 3 §75.3 (d). However, for financial assistance that is not subject to Section 3, recipients are encouraged to consider ways to support the purpose of Section 3.

Section 3 Coordinator

North Dakota Department of Commerce, Division of Community Services' Section 3 Coordinator serves as the central point of contact for Section 3 compliance for Grantees and its subrecipients, contractors and subcontractors supporting the program. Subrecipients, contractors, subcontractors and others are encouraged to reach out to North Dakota Department of Commerce, Division of Community Services' Section 3 Coordinator with questions regarding Section 3 compliance.

Employment, Training, and Contracting Goals

A. SAFE HARBOR COMPLIANCE

Grantees will be considered to have complied with the Section 3 requirements and met safe harbor, if they certify that they followed the required prioritization of effort and met or exceeded the Section 3 benchmarks, absent evidence of the contrary.

Prior to the beginning of work, contractors and subcontractors will be required to certify that they will follow the required prioritization of effort for Section 3 workers, Targeted Section 3 workers, and Section 3 business concerns as outlined below in the Section 3 Acknowledgement form (SFN 62112).

If the contractor and subcontractor does not meet the safe harbor requirements, they must provide evidence that they have made qualitative efforts to assist low and very low-income persons with employment and training opportunities.

B. SAFE HARBOR BENCHMARKS

The North Dakota Department of Commerce, Division of Community Services has established employment and training goals that Grantee's, contractors, and subcontractors should meet in order to comply with Section 3 requirements outlined 24 CFR Part 75.19. The safe harbor benchmark goals are as follows:

- 1) Twenty-five (25) percent or more of the total number of labor hours worked by all workers on a Section 3 project are Section 3 workers;

$$\text{Section 3 Labor Hours/Total Labor Hours} = 25\%$$

And

- 2) Five (5) percent or more of the total number of labor hours worked by all workers on a Section 3 project are Targeted Section 3 workers, as defined at 24 CFR Part 75.21.

$$\text{Targeted Section 3 Labor Hours/Total Labor Hours} = 5\%$$

HUD establishes and updates Section 3 benchmarks for Section 3 workers and/or Targeted Section 3 workers through a document published in the Federal Register, not less frequently than once every 3 years. Given that the Section 3 benchmarks are subject to change every three years or sooner, The North Dakota Department of Commerce, Division of Community Services will review and update the Section 3 Plan every 3 years, as needed.

It is the responsibility of contractors to implement efforts to achieve Section 3 compliance. Any contractor that does not meet the Section 3 benchmarks must demonstrate why meeting the benchmarks were not feasible. All contractors submitting bids or proposals to the Grantee are required to certify that they will comply with the requirements of Section 3.

C. CERTIFICATION OF PRIORITIZATION OF EFFORT FOR EMPLOYMENT, TRAINING, AND CONTRACTING

EMPLOYMENT AND TRAINING

Under the North Dakota Department of Commerce, Division of Community Services' Section 3 Program, contractors and subcontractors should make best efforts to provide employment and training opportunities to Section 3 workers in the priority order listed below:

- 1) Business concerns that provide economic opportunities to Section 3 workers residing within the metropolitan area (or nonmetropolitan county) in which assistance is located in the following order of priority:
 - a) Section 3 business concerns that provide economic opportunities to Section 3 workers residing within the service area or the neighborhood of the project; and
 - b) YouthBuild programs.

Contractors and subcontractors will be required to certify that they will and have made best efforts to follow the prioritization of effort requirements prior to the beginning work and after work is completed.

Section 3 Eligibility and Certifications

Individuals and businesses that meet Section 3 criteria may seek Section 3 preference from North Dakota Department of Commerce, Division of Community Services or its contractors/subcontractors for training, employment, or contracting opportunities generated by CDBG funds.

To qualify as a Section 3 worker, Targeted Section 3 worker or a Section 3 business concern, each must self-certify that they meet the applicable criteria, utilizing the form(s) below:

Section 3 Business Concern Certification form (SFN 62111)
Section 3 Worker Self-Certification form (SFN 62110)

Businesses who misrepresent themselves as Section 3 business concerns and report false information to The North Dakota Department of Commerce, Division of Community Services may have their contracts terminated as default and be barred from ongoing and future considerations for contracting opportunities.

A. SECTION 3 WORKER AND TARGETED SECTION 3 WORKER CERTIFICATION

A Section 3 worker seeking certification shall submit self-certification documentation to the recipient contractor or subcontractor, that the person is a Section 3 worker or Targeted Section 3 worker as defined in 24 CFR Part 75. For the purposes of Section 3 worker eligibility, North Dakota Department of Commerce, Division of Community Services will use individual income rather than family/household income to determine eligibility. The income limits will be determined annually using the guidelines published at <https://www.huduser.org/portal/datasets/il.html>.

Persons seeking the Section 3 worker preference shall demonstrate that it meets one or more of the following criteria currently or when hired within the past five years, as documented:

- 1) A low or very low-income resident (the worker's income for the previous or annualized calendar year is below the income limit established by HUD); or
- 2) Employed by a Section 3 business concern; or
- 3) A YouthBuild participant.

Persons seeking the Targeted Section 3 worker preference shall demonstrate that it meets one or more of the following criteria:

- 1) Employed by a Section 3 business concern or

- 2) Currently meets or when hired met at least one of the following categories as documented within the past five years:
 - a) Living within the service area or the neighborhood of the project, as defined in 24 CFR Part 75.5; or
 - b) A YouthBuild participant.

Section 3 workers and Targeted Section 3 workers who are seeking preference in training and employment must submit the Section 3 Worker Self Certification Form (SFN 62110).

PROJECTS INVOLVING MULTIPLE SOURCES OF FUNDING

In cases where Section 3 covered projects include multiple sources of funds, including public housing financial assistance and housing and community development assistance, the Grantee must follow the definition of Targeted Section 3 worker and priorities as outlined in subpart C of Part 75.

B. SECTION 3 BUSINESS CONCERN CERTIFICATION

The North Dakota Department of Commerce, Division of Community Services encourages contractors and subcontractors to make best efforts to award contracts and subcontracts to Section 3 business concerns.

Businesses that believe they meet the Section 3 Business requirements can self-register in the HUD Business registry, here: <http://www.hud.gov/Sec3Biz>. Businesses may seek Section 3 Business Concern preference by demonstrating that it meets one or more of the following criteria:

- 1) At least 51 percent of the business is owned and controlled by low- or very low-income persons;
- or
- 2) At least 51 percent of the business is owned and controlled by current public housing residents or residents who currently live in Section 8-assisted housing; or
 - 3) Over 75 percent of the labor hours performed for the business over the prior three-month period are performed by Section 3 workers.

Businesses that seek Section 3 preference shall certify, or demonstrate to the North Dakota Department of Commerce, Division of Community Services, contractors or subcontractors, that they meet the definitions provided in the above. Businesses may demonstrate eligibility by submitting the Section 3 Business Concern Certification Form (SFN 62111).

Section 3 Business Concern Certification Forms must be submitted at the time of bid/proposal. If the North Dakota Department of Commerce, Division of Community Services previously approved the business concern to be Section 3 certified, then the certification can be submitted along with the bid, as long as the form is submitted within the prescribed expiration date. The Section 3 Business Concern Certification Form will expire after 12 months.

Establishing a 12 month certification of eligibility period allows the North Dakota Department of Commerce, Division of Community Services the ability to assess contractor performance to ensure the business is striving to meet the required goals.

Assisting Contractors with Achieving Section 3 Goals

In an effort to assist contractors with meeting or exceeding the Section 3 goals, the Grantee will do the following:

- 1) Share Section 3 Plan with contractors and subcontractors and explain policies and procedures
- 2) Require contractors wishing to submit a bid/offer/proposal to attend pre-bid meeting
- 3) Require contractor to sign the Section 3 Plan at pre-construction conference
- 4) Review Section 3 benchmarks and prioritization of effort with contractors and subcontractors to ensure that the goals are understood. It is not intended for contractors and subcontractors to terminate existing employees, but to make every effort feasible to meet Section 3 benchmark goals by utilizing existing qualified workforce and by considering qualified eligible Section 3 workers and Targeted Section 3 workers (per the prioritization of effort outlined in Section #3) before any other person, when hiring additional employees is needed to complete proposed work to be performed with CDBG.
- 5) At the time of bid, require the contractor to present a list, of the number of total labor hours, Section 3 worker labor hours, and Targeted Section 3 worker labor hours expected to be generated from the initial contract and a list of projected number of available positions, to include job descriptions and wage rates.
- 6) Maintain a local Section 3 worker/Targeted Section 3 worker database and provide the contractor with a list of interested and qualified Section 3 workers and Targeted Section 3 workers and contact information.
- 7) Inform contractors about the HUD Section 3 Opportunity Portal <https://hudapps.hud.gov/OpportunityPortal/>
- 8) Require contractors to notify Section 3 Coordinator of their interests regarding employment of Section 3 workers prior to hiring.
- 9) Encourage local business to register on the HUD Business Registry and direct contractors to the HUD Section 3 Business Registry <https://www.hud.gov/section3businessregistry>

Section 3 Outreach

A. OUTREACH EFFORTS FOR EMPLOYMENT AND TRAINING

When training opportunities are available, contractors and subcontractors should, to the greatest extent feasible:

- 1) Attend training opportunities when available
- 2) Provide information/handouts about Section 3 training opportunities to potential Section 3 workers and Targeted Section 3 workers

Contractors and subcontractors should employ several active strategies to notify Section 3 workers and Targeted Section 3 workers of Section 3 job opportunities, including but not limited to:

- 1) Clearly indicating Section 3 eligibility on all job postings with the following statement: "This job is a Section 3 eligible job opportunity. We encourage applications from individuals that are low income and/or live in Public Housing and/or receive a Section 8 voucher".
- 2) Including the Section 3 Worker and Targeted Section 3 Worker Self-Certification Form in all job postings.
- 3) Working with the Section 3 Coordinator to connect Section 3 worker and Targeted Section 3 workers in the [Section 3 Opportunity Portal](#) to find qualified candidates.

- 4) Establishing a current list of Section 3 eligible applicants.
- 5) Contacting local community organizations and provide them with job postings for Section 3 eligible applicants; and
- 6) Coordinating a programmatic ad campaign, which results in widespread job posting across diverse ad networks including:
 - a) Advertising job opportunities via social media, including LinkedIn and Facebook.
 - b) Advertising job opportunities via flyer distributions and mass mailings and posting ad in common areas of housing developments and all public housing management offices.
 - c) Contacting resident councils, resident management corporations, and neighborhood community organizations to request their assistance in notifying residents of available training and employment opportunities.

B. OUTREACH EFFORTS FOR CONTRACTING

When contracting opportunities arise in connection with the CDBG program, Grantees will employ the following strategies to notify Section 3 Business Concerns of Section 3 contracting opportunities, including but not limited to:

- 1) Adding the Section 3 Clause to all RFPs, procurement documents, bid offerings and contracts
- 2) Coordinating mandatory pre-bid meetings to inform Section 3 Business Concerns of upcoming contracting opportunities.
- 3) Advertising contracting opportunities in local community papers and notices that provide general information about the work to be contracted and where to obtain additional information.
- 4) Providing written notice of contracting opportunities to all known Section 3 Business Concerns. The written notice will be provided in sufficient time to enable business concerns the opportunity to respond to bid invitations.
- 5) Coordinating with the prime contractor to publicize contracting opportunities for small businesses.
- 6) Coordinating with the Grantee's Business/Economic Development Department and all other business assistance agencies and contractor associations to inform them of contracting opportunities and request their assistance in identifying Section 3 business concerns. Could include local community development organizations, business development agencies (Chamber of Commerce), and minority contracting associations.
- 7) Connecting Section 3 business concerns with resources to support business development to assist in obtaining contracting opportunities (e.g., bonding and insurance assistance, etc.). Contractors will also be encouraged to collaborate with the [recipient/grantee] as subcontract opportunities arise in an effort to notify eligible Section 3 business concerns about the contracting opportunities.

Section 3 Contracting Policy and Procedure

The Grantee will incorporate Section 3 in its existing Procurement Policy and adopt a Section 3 Contracting Policy and Procedure to be included in all procurements generated for use with HUD funding.

This policy and procedure contain requirements for making efforts to award contracts to Section 3 Business Concerns

All contractors/businesses seeking Section 3 preference must, before submitting bids/proposals to the Grantee be required to complete certifications, as appropriate. Such certifications shall be

adequately supported with appropriate documentation as referenced in this Manual's Appendices.

Section 3 Provisions/Contract Language

Grantees will include the Section 3 Clause in all of its contracts to ensure compliance with regulations in 24 CFR Part 75. Grantee's will take appropriate actions upon finding that a contractor is in violation of 24 CFR Part 75 and does not knowingly contract with any contractor that has been found in violation of the Section 3 regulations. On a periodic basis the Section 3 Coordinator will audit Grantee's contractors for compliance with the minimum Section 3 requirements outlined in the Section 3 Plan.

In addition, contractors and subrecipients are required to include language in all Section 3 covered contracts or agreements for subcontractors to meet the requirements of 24 CFR Part 75.19.

For businesses, noncompliance with HUD's regulations in 24 CFR part 75 may result in sanctions, termination of this contract for default, and debarment or suspension from future HUD assisted contracts.

Reporting Requirements

- Section 3 Business Concern Certification (SFN 62111)
- Section 3 Worker Self-Certification (SFN 62110)
- Section 3 Acknowledgment (SFN 62112)
- Section 3 Work Hours and Outreach Efforts (SFN 62109)

Internal Section 3 Complaint Procedure

In an effort to resolve complaints generated due to non-compliance through an internal process, the Grantee encourages submittal of such complaints to its Section 3 Coordinator as follows:

- 1) Complaints of non-compliance should be filed in writing and must contain the name of the complainant and brief description of the alleged violation of 24 CFR Part 75.
- 2) Complaints must be filed within 45 calendar days after the complainant becomes aware of the alleged violation.
- 3) An investigation will be conducted if complaint is found to be valid. The North Dakota Department of Commerce will conduct an informal, but thorough investigation affording all interested parties, if any, an opportunity to submit testimony and/or evidence pertinent to the complaint.
- 4) The North Dakota Department of Commerce will provide written documentation detailing the findings of the investigation. The Grantee will review the findings for accuracy and completeness before it is released to complainants. The findings will be made available no later than 90 days after the filing of complaint. If complainants wish to have their concerns considered outside of the North Dakota Department of Commerce a complaint may be filed with:

The HUD program office responsible for the public housing financial assistance or

the Section 3 project, or to the local HUD field office. These offices can be found through the HUD website, www.hud.gov/.

Complainants may be eligible to bring complaints under other federal laws. The U.S. Equal Employment Opportunity Commission (EEOC) is responsible for enforcing federal laws that make it illegal to discriminate against a job applicant or an employee because of the person's race, color, religion, sex (including pregnancy), national origin, age (40 or older), disability or genetic information (medical history or predisposition to disease). For more information about complainant rights, please contact EEOC at: www.EEOC.gov.

The Department of Labor Office of Federal Contract Compliance Programs (OFCCP) enforces, for the benefit of job seekers and wage earners, the contractual promise of affirmative action and equal employment opportunity required of those who do business with the Federal government. More information about the services they provide can be obtained at: <http://www.dol.gov/ofccp/>.

SECTION 3 ACKNOWLEDGMENT

NORTH DAKOTA DEPARTMENT OF COMMERCE
 DIVISION OF COMMUNITY SERVICES
 SFN 62112 (1/2022)

Section 3 is a provision of the Housing and Urban Development Act of 1968 that promotes local economic development and individual self-sufficiency for projects funded by the U.S. Department of Housing and Urban Development (HUD).

Section 3 requires that, to the greatest extent possible, economic opportunities that are generated by the use of federal funds be made available to very-low or low-income persons, particularly those who receive federal financial assistance for housing and those residing in communities where the financial assistance is expended. Section 3 established benchmark goals of 25 percent of total labor hours worked by Section 3 Workers, and 5 percent of total labor hours worked by Targeted Section 3 Workers, as those terms are defined in North Dakota Department of Commerce Section 3 Compliance Manual, Notice: CPD-21-09, and Section 3 Final Rule 24 CFR part 75.

Person Completing the Form (Grant Administrator)	Recipient/Contractor(s)
Name of HUD-funded Project and Instrument #	City Project is Located

Therefore, I, the person named above, on behalf of Recipient/Contractor(s) hereby certify that upon being awarded a contract to participate in the HUD-funded project named above, the Recipient/Contractor(s):

1. Has received, read, and understands the Manual and all of its Attachments.
2. Has read the Section 3 regulations at 24 CFR Part 75.
3. Is under no contractual or other impediment that would prevent it from complying with the Section 3 requirements.
4. Will comply with HUD's Section 3 regulations at 24 CFR Part 75.
5. Will comply with all policies and procedures outlined in the Manual.
6. Will ensure that the ND Department of Commerce promptly receives all required Section 3 documentation identified in the Manual.
7. Will include the Section 3 Clause in every contract related to this Project.
8. Will not contract with any entity that has been found in violation of any provision of 24 CFR Part 75 or has not registered with the System for Award Management at SAM.gov.
9. Will provide a copy of the Manual to all entities with which Recipient/Contractor(s) contracts to work on the Project.
10. Understands that draw requests will be delayed until all Section 3 requirements are met.

Print Name	Signature	Date
Title Grant Administrator	Company	

SECTION 3 BUSINESS CONCERN CERTIFICATION

NORTH DAKOTA DEPARTMENT OF COMMERCE

DIVISION OF COMMUNITY SERVICES

SFN 62111 (11/2021)

BUSINESS INFORMATION

Name of Business		SAM Registration DUNS Number	
Address	City	State	ZIP Code
Contact Name	Telephone Number	Email Address	

Please check all that apply:

<input type="checkbox"/> This business is at least 51 percent owned and controlled by low- or very low- income persons, defined as those with household income at or below 50 percent of the HUD-defined area median income. This business meets the definition of a Section 3 Business Concern.
<input type="checkbox"/> More than 75 percent of the labor hours performed for the business over the previous 3-month period are performed by Section 3 Workers. This business meets the definition of a Section 3 Business Concern.
<input type="checkbox"/> This business is at least 51 percent owned and controlled by current residents of public housing or Section 8-assisted housing. This business meets the definition of a Section 3 Business Concern.
<input type="checkbox"/> None of the above. This business does not meet the definition of a Section 3 Business Concern.

North Dakota Department of Commerce encourages Section 3 Business Concerns to register on the National Section 3 Business Registry at www.hud.gov/sec3biz.

Organization Name	
Representative Name	Title
Signature	Date

SECTION 3 WORKER SELF-CERTIFICATION

NORTH DAKOTA DEPARTMENT OF COMMERCE
 DIVISION OF COMMUNITY SERVICES
 SFN 62110 (11/2021)

EMPLOYEE INFORMATION

Name		Date Hired (mm/yyyy)	
Permanent Address	City	State	ZIP Code

Check all that apply:

- My income, annualized for the current calendar year or for the previous calendar year, is/was below the published HUD-defined area median income (see income chart)
- I was hired within the last five years, when hired my income was below the HUD-defined area median income. (see attached income chart)

I meet the definition of a Section 3 Worker.

- I live within the Neighborhood Service Area* of the project.

I meet the definition of a Section 3 Worker and a Targeted Section 3 Worker.

- I am employed by a Section 3 Business Concern. (Confirm with your Employer)

I meet the definitions of a Section 3 Worker and a Targeted Section 3 Worker.

- I am a YouthBuild participant, either currently or when I was hired in the last five years.

I meet the definitions of a Section 3 Worker and a Targeted Section 3 Worker.

- None of the above.

I do not meet the definition of a Section 3 Worker or of a Targeted Section 3 Worker.

*Neighborhood Service Area: An area within one mile of the Section 3 Project or, if fewer than 5,000 people live within one mile, within a circle centered on the Section 3 Project that is sufficient to encompass a population of 5,000 people according to the most recent U.S. Census.

I certify that the statement(s) above are true and correct.

Signature	Date
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INCOME CHART

Income Chart must be completed by the Grant Administrator and verified by North Dakota Department of Commerce. For the most recent income limits:

See HUD's Income Limit Dataset: <https://www.huduser.gov/portal/datasets/il.html>

OR

North Dakota Department of Commerce, CDBG website:
<https://www.communityservices.nd.gov/communitydevelopment/Programs/CommunityDevelopmentBlockGrant/>

Employers must retain this Form in their Section 3 Compliance File for 5 Years

The worker's income must be at or below the amount provided below for an individual (household of 1) regardless of actual household size.

Individual Income Limits

FY ____ Income Limit Area	Income Limits Category	FY____ Income Limits
County Name:	Very-Low Income Limits (30%)	\$
	Low Income Limits (50%)	\$

SECTION 3 CLAUSE

06/21

All Section 3 covered contracts must include the following Section 3 clause:

- A. The work to be performed under this contract is subject to the requirements of Section 3 of the Housing and Urban Development Act of 1968, as amended, 12 U.S.C. 1701u (Section 3). The purpose of Section 3 is to ensure that employment and other economic opportunities generated by HUD assistance shall, to the greatest extent feasible, be directed to low- and very low-income persons, particularly persons who are beneficiaries of HUD housing assistance or who reside in the communities where the HUD funding is expended.
- B. The parties to this contract agree to comply with HUD's regulations in 24 CFR Part 75, which implement Section 3. As evidenced by their execution of this contract, the parties to this contract certify that they are under no contractual or other impediment that would prevent them from complying with the Part 75 regulations.
- C. The contractor agrees to include this Section 3 clause in every subcontract subject to compliance with regulations in 24 CFR Part 75, and agrees to take appropriate action, as provided in an applicable provision of the subcontract or in this Section 3 clause, upon a finding that the subcontractor is in violation of the regulations in 24 CFR Part 75. The contractor will not subcontract with any subcontractor where the contractor has notice or knowledge that the subcontractor has been found in violation of the regulations in 24 CFR Part 75.
- D. Noncompliance with HUD's regulations in 24 CFR Part 75 may result in sanctions, termination of this contract for default, and debarment or suspension from future HUD assisted contracts.

**SECTION 3 WORK HOURS AND OUTREACH EFFORTS
FOR EACH FINANCIAL DRAW**

NORTH DAKOTA DEPARTMENT OF COMMERCE
DIVISION OF COMMUNITY SERVICES
SFN 62109 (11/2021)

Contractor Name		Time Period Covered (mm/dd/yyyy) to	
Name of Project		Location of Project (City/County)	
Person Completing Form	Telephone Number	Email Address	

PART I: TIME LOG (Attach additional sheets if necessary.)

Attach Section 3 Worker Self Certification form for each employee listed below who has not already completed a Section 3 Worker Self Certification form.

Employee Name	Number of Hours Worked on the Project Since Last Report	Is the employee a Section 3 Worker? <input type="checkbox"/> Yes <input type="checkbox"/> No	Is the employee a Targeted Section 3 Worker? <input type="checkbox"/> Yes <input type="checkbox"/> No
		<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No
		<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No
		<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No
		<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No
		<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No
		<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No
		<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No
		<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No
		<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No
		<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No
		<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No
		<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No
	Total Hours this Period	Total Sec 3 Worker Hours	Total Targeted Sec 3 Worker Hrs.

SECTION 3 WORKER BENCHMARK CALCULATION

1: Total Number of Hours Worked on the Project by this Company this Period	
2: Total Number of Hours Worked by Section 3 Workers this Period	
Percent of Hours Worked by Section 3 Workers (Line 2 Divided by Line 1)	

TARGETED SECTION 3 WORKER BENCHMARK CALCULATION

A: Total Number of Hours Worked on the Project by this Company this Period	
B: Total Number of Hours Worked by Section 3 and Targeted Section 3 Workers this Period	
Percent of Hours Worked by Section 3 and Targeted Section 3 Workers (Line B Divided by Line A)	

PART II: OUTREACH EFFORTS

Indicate the efforts made, **since the last report**, to direct employment and other economic opportunities toward low-income persons, particularly those who reside near the project or are recipients of government assistance for housing. Please provide detailed explanations for each effort selected. Proof of these efforts must be submitted as part of the required documentation. (Check all that apply.)

<input type="checkbox"/> No efforts made since last report. Explain:
<input type="checkbox"/> Posted job on HUD's Section 3 Opportunity Portal (https://hudapps.hud.gov/OpportunityPortal/). Explain:
<input type="checkbox"/> Searched for potential job applicants and subcontractors on HUD's Opportunity Portal (https://hudapps.hud.gov/OpportunityPortal/). Explain:
<input type="checkbox"/> Informed Job Service North Dakota of job opportunities. Explain:
<input type="checkbox"/> Advertised employment or contracting opportunities in local media. Explain:
<input type="checkbox"/> Searched for potential subcontractors on HUD's Section 3 Business Registry (http://www.hud.gov/Sec3Biz). Explain:
<input type="checkbox"/> Participated in a job fair. Explain:
<input type="checkbox"/> Conducted on-the-job training (including apprenticeships). Explain:
<input type="checkbox"/> Assisted indirect training through our support of off-site training opportunities. Explain:
<input type="checkbox"/> Targeted advertising for training and employment specifically to residents of public housing. Explain:
<input type="checkbox"/> Connected Section 3 Workers with supportive services such as education or financial literacy. Explain:
<input type="checkbox"/> Provided technical assistance to Section 3 Workers for job readiness. Examples include resume assistance, coaching, interview clothing, test fees, transportation, assistance with college or vocational education, assistance in securing childcare. Explain:
<input type="checkbox"/> Provided technical assistance to Section 3 Business Concerns. Examples include providing bonding assistance, guaranties, or other efforts to help Section 3 Business Concerns provide viable bids. Explain:
<input type="checkbox"/> Maintained a file of eligible qualified Section 3 Workers for future employment positions. Explain:
<input type="checkbox"/> Targeted advertising for training and employment to the Neighborhood Service Area (usually defined as within one-mile) of the project. Explain:
<input type="checkbox"/> Consulted with agencies administering YouthBuild and other federally funded training programs. Explain:
<input type="checkbox"/> Consulted with probation and parole agencies, unemployment compensation programs, and community organizations which serve Section 3 Workers. Explain:

Employed a job coordinator or contracted with a business that is licensed in the field of job placement, that will undertake on our behalf the efforts to match eligible and qualified Section 3 Workers with training and employment positions.

Explain:

Other efforts made.

Explain:

The undersigned, being duly authorized on behalf of the above-named company, hereby declares and affirms that the information contained herein is, to the best of his/her knowledge and belief, in all things complete, true, and correct. Misrepresentation of any kind will be grounds for appropriate sanctions under 24 CFR Part 75.

Representative Name	Title
Signature	Date

SAMPLE

DEFINITIONS OF TERMS ON THIS FORM FROM FEDERAL REGULATION (24 CFR Part 75)

Section 3 Worker means (24 CFR 75.5):

Any worker who currently fits or when hired within the past five years fit at least one of the following categories, as documented:

- (i) Is a low- or very low-income worker that fell below HUD income limits for the previous or annualized calendar year.
- (ii) The worker is employed by a Section 3 Business Concern (defined below).
- (iii) The worker is a YouthBuild participant.

Targeted Section 3 Worker means (24 CFR 75.21):

A Targeted Section 3 Worker is a Section 3 worker who is:

- (1) A worker employed by a Section 3 business concern; or
- (2) A worker who currently fits or when hired fit at least one of the following categories, as documented within the past five years:
 - (i) Living within the service area or the neighborhood of the project, as defined in 24 CFR 75.5; or
 - (ii) A YouthBuild participant.

Section 3 Business Concern means (24 CFR 75.5):

A Section 3 business concern is defined in 24 CFR 75.5 as a business that meets at least one of the following criteria, documented within the last six-month period:

- 1. At least 51 percent owned and controlled by low- or very low-income persons,
- 2. More than 75 percent of the labor hours performed for the business over the previous 3-month period are performed by Section 3 workers, or
- 3. At least 51 percent owned and controlled by current residents of public housing or Section 8-assisted housing.

Neighborhood Service Area means (24 CFR 75.5):

An area within one mile of the Section 3 project or, if fewer than 5,000 people live within one mile of a Section 3 project, within a circle centered on the Section 3 project that is sufficient to encompass a population of 5,000 people according to the most recent U.S. Census.

SECTION 3 COMPLIANCE QUICK REFERENCE

(06/21)

What are the Grant Administrator, Contractor and Subcontractors' Responsibilities?

	Construction Start	Each Draw
Grant Administrator	<ul style="list-style-type: none"> Section 3 Acknowledgement form Section 3 Business Concern Certification form 	The Grant Administrator should coordinate the collection of the items listed below, ensure they are complete, and compile and submit them to North Dakota Department of Commerce.
General Contractor	<ul style="list-style-type: none"> Section 3 Acknowledgement form Section 3 Business Concern Certification form Schedule of Contracts; total must match the General Contract total. Contract with Section 3 clause. 	<p>If paid by the current draw request, regardless of source of funds:</p> <ul style="list-style-type: none"> Section 3 Work Hours and Outreach Efforts for Each Financial Draw form for the period since the last Section 3 Work Hours and Outreach Efforts for Each Financial Draw form submission. Section 3 Worker Self Certification form for each employee listed on the Section 3 Work Hours and Outreach Efforts for Each Financial Draw form that has not already submitted a Section 3 Worker Self Certification form.
Subcontractors	<ul style="list-style-type: none"> Section 3 Acknowledgement form Section 3 Business Concern Certification form. Schedule of Contracts (if applicable). Total must match. Contract with Section 3 clause. 	<p>If paid by the current draw request, regardless of source of funds:</p> <ul style="list-style-type: none"> Section 3 Work Hours and Outreach Efforts for Each Financial Draw form for the period since the last Section 3 Work Hours and Outreach Efforts for Each Financial Draw form submission. Section 3 Worker Self Certification form for each employee listed on the Section 3 Work Hours and Outreach Efforts for Each Financial Draw form that has not already submitted a Section 3 Worker Self Certification form.

*Proof of all efforts to identify and provide training and employment opportunities to Section 3 Workers and Section 3 Business Concerns should be sent to North Dakota Department of Commerce as soon as it is available. Examples include but are not limited to: advertisements in media, flyers, signs, contact with employment agencies, housing authorities or local community development agencies.

CIVIL RIGHTS – PROVISIONS

The provisions on the following pages must be included in all contracts.

For Section 3 covered projects, refer to Appendix B.

Equal Employment Opportunity.

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

- a. The Consultant will not discriminate against any employee or applicant for employment because of race, creed, sex, color or national origin. The Consultant will take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, creed, sex, color or national origin. Such action shall include, but not be limited to the following: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The Consultant agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the city setting forth, the provisions of this non-discrimination clause.
- b. The Consultant will in all solicitation or advertisements for employees placed by or on behalf of the Consultant, state that all qualified applicants will receive consideration for employment without regard to race, creed, color, sex, or national origin.
- c. The Consultant will cause the foregoing provisions to be inserted in all sub-contracts for any work covered by this Contract so that such provisions will be binding upon each subcontractor, provided that the foregoing provisions shall not apply to contracts or subcontracts for standard commercial supplies or raw materials.

Civil Rights Act of 1964.

Under Title VI of the Civil Rights Act of 1964, no person shall, on the grounds of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance.

Section 109 of the Housing and Community Development Act of 1974.

- a. No person in the United States shall on the ground of race, color, national origin, or sex be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity funded in whole or in part with funds made available under this title.

Section 504 Handicapped (if \$2,500 or Over) Affirmative Action for Handicapped Workers.

- a. The contractor will not discriminate against any employee or applicant for employment because of physical or mental disability in regard to any position for which the employee or applicant for employment is qualified. The contractor agrees to take affirmative action to employ, advance in employment and otherwise treat qualified disabled individuals without discrimination based upon their physical or mental disability in all employment practices such as the following: employment, upgrading, demotion or transfer, recruitment, advertising, layoff or termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship.

- b. The contractor agrees to comply with the rules, regulations, and relevant orders of the Secretary of Labor issued pursuant to the Act.
- c. In the event of the contractor's noncompliance with the requirements of this clause, actions for noncompliance may be taken in accordance with the rules, regulations, and relevant orders of the Secretary of Labor issued pursuant to the Act.
- d. The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices in a form to be prescribed by the Director, provided by or through the contracting officer. Such notices shall state the contractor's obligation under the law to take affirmative action to employ and advance in employment qualified disabled employees and applicants for employment, and the rights of applicants and employees.
- e. The contractor will notify each labor union or representative of workers with which it has a collective bargaining agreement or other contract understanding, that the contractor is bound by the terms of Section 503 of the Rehabilitation Act of 1973, and is committed to take affirmative action to employ and advance in employment physically and mentally disabled individuals.
- f. The contractor will include the provisions of this clause in every subcontract or purchase order of \$2,500 or more unless exempted by rules, regulations, or orders of the Secretary issued pursuant to Section 503 of the Act, so that such provisions will be binding upon each subcontractor with respect to any subcontract or purchase order as the Director of the Office of Federal Contract Compliance Programs may direct to enforce such provisions, including action for noncompliance.

SPECIAL EQUAL OPPORTUNITY PROVISIONS

Activities and Contracts Not Subject to Executive Order 11246, as Amended.

(Applicable to Federally assisted construction contracts and related subcontracts \$10,000 and under)

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

- a. The Contractor shall not discriminate against any employee or applicant for employment because of race, color, religion, sex, or national origin. The Contractor shall take affirmative action to ensure the applicants for employment are employed, and that employees are treated during employment, without regard to their race, color, religion, sex, or national origin. Such action shall include, but not be limited to, the following: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship.
- b. The Contractor shall post in conspicuous places, available to employees and applicants for employment, notices to be provided by Contracting Officer setting forth the provisions of this nondiscrimination clause. The Contractor shall state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, or national origin.
- c. Contractors shall incorporate foregoing requirements in all subcontracts.

Section 109 of the Housing and Community Development Act of 1974. (All Contracts).

- a. No person in the United States shall on the ground of race, color, national origin, or sex be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity funded in whole or in part with funds made available under this title.

24 CFR Part 75. This clause **must** be included in all Section 3 covered Contracts and Subcontracts.

- A. The work to be performed under this contract is subject to the requirements of Section 3 of the Housing and Urban Development Act of 1968, as amended, 12 U.S.C. 1701u (Section 3). The purpose of Section 3 is to ensure that the employment and other economic opportunities generated by HUD assistance or HUD-assisted projects covered by Section 3, shall, to the greatest extent feasible, be directed to low and very low income persons, particularly persons who are recipients of HUD assistance for housing.
- B. The parties to this contract agree to comply with HUD's regulations in 24 CFR Part 75, which implement Section 3. As evidenced by their execution of this contract, the parties to this contract certify that they are under no contractual or other impediment that would prevent them from complying with the Part 75 regulations.

- C. The contractor agrees to send to each labor organization or representative of workers with which the contractor has a collective bargaining agreement or other understanding, if any, a notice advising the labor organization or workers' representative of the contractor's commitments under this Section 3 clause, and will post copies of the notice in conspicuous places at the work site where both employees and applicants for training and employment positions can see the notice. The notice shall describe the Section 3 preference, shall set forth minimum number and job titles subject to hire, availability of apprenticeship and training positions, the qualifications for each; and the name and location of the person(s) taking applications for each of the positions; and the anticipated date the work shall begin.
- D. The contractor agrees to include this Section 3 clause in every subcontract subject to compliance with regulations in 24 CFR Part 75, and agrees to take appropriate action, as provided in an applicable provision of the subcontract or in this Section 3 clause, upon a finding that the subcontractor is in violation of the regulations in 24 CFR Part 75. The contractor will not subcontract with any subcontractor where the contractor has notice or knowledge that the subcontractor has been found in violation of the regulations in 24 CFR Part 75.
- E. The contractor will certify that any vacant employment positions, including training positions, that are filled (1) after the contractor is selected but before the contract is executed; and (2) with persons other than those to whom the regulations of 24 CFR Part 75 require employment opportunities to be directed, were not filled to circumvent the contractor's obligations under 24 CFR Part 75.
- F. Noncompliance with HUD's regulations in 24 CFR Part 75 may result in sanctions, termination of this contract for default, and debarment or suspension from future HUD assisted contracts.
- G. With respect to work performed in connection with Section 3 covered Indian housing assistance, Section 7(b) of the Indian Self-Determination and Education Assistance Act (24 U.S.C. 450e) also applies to the work to be performed under this contract. Section 7(b) requires that to the greatest extent feasible (i) preference and opportunities for training and employment shall be given to Indians, and (ii) preference in the award of contracts and subcontracts shall be given to Indian organizations and Indian-owned Economic Enterprises. Parties to this contract that are subject to the provisions of Section 3 and Section 7(b) agree to comply with Section 3 to the maximum extent feasible, but not in derogation of compliance with Section 7(b).

Segregated Facilities (All Contracts Over \$2,000).

The Contractor or Subcontractor will not maintain any facility which is provided for their employees in a segregated manner or permit their employees to perform their services at any location under their control where segregated facilities are maintained except that separate or single user toilet and necessary changing facilities shall be provided to assure privacy between the sexes.

Section 504 Handicapped (If \$2,500 or Over).

Affirmative Action for Handicapped Workers

- a. The contractor will not discriminate against any employee or applicant for employment because of physical or mental disability in regard to any position for which the employee or applicant for employment is qualified. The contractor agrees to take affirmative action to employ, advance in employment and otherwise treat qualified disabled individuals without discrimination based upon their physical or mental disability in all employment practices such as the following: employment, upgrading, demotion or transfer, recruitment, advertising, layoff or termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship.
- b. The contractor agrees to comply with the rules, regulations, and relevant orders of the Secretary of Labor issued pursuant to the Act.
- c. In the event of the contractor's noncompliance with the requirements of this clause, actions for noncompliance may be taken in accordance with the rules, regulations, and relevant orders of the Secretary of Labor issued pursuant to the Act.
- d. The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices in a form to be prescribed by the Director, provided by or through the contracting officer. Such notices shall state the contractor's obligation under the law to take affirmative action to employ and advance in employment qualified disabled employees and applicants for employment, and the rights of applicants and employees.
- e. The contractor will notify each labor union or representative of workers with which it has a collective bargaining agreement or other contract understanding, that the contractor is bound by the terms of section 503 of the Rehabilitation Act of 1973, and is committed to take affirmative action to employ and advance in employment physically and mentally disabled individuals.
- f. The contractor will include the provisions of this clause in every subcontract or purchase order of \$2,500 or more unless exempted by rules, regulations, or orders of the Secretary issued pursuant to Section 503 of the Act, so that such provisions will be binding upon each subcontractor or vendor. The contractor will take such action with respect to any subcontract or purchase order as the Director of the Office of Federal Contract Compliance Programs may direct to enforce such provisions, including action for noncompliance.

Executive Order 11245 (Contracts/Subcontracts \$10,000 and Above).

1. Section 202 Equal Opportunity Clause

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

- a. The contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex or national origin. The contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during

employment, without regard to their race, color, religion, sex, or national origin. Such action shall include, but not be limited to the following: employment, upgrading, demotion, or transfer; recruitment, or recruitment advertising; layoff or termination, rates of pay or other forms of compensation; and selection for training, including apprenticeship. The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided setting forth the provisions of this nondiscrimination clause.

- b. The contractor will, in all solicitations or advertisements for employees placed by or on behalf of the contractor, state that all qualified applicants will receive consideration without regard to race, color, religion, sex, or national origin.
- c. The contractor will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice to be provided by the Contract Compliance Officer advising the said labor union or workers' representatives of the contractor's commitment under this section, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.
- d. The contractor will comply with all provisions of Executive Order 11246 of Sept. 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.
- e. The contractor will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by rules regulations and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the Department and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and others.
- f. In the event of the contractor's noncompliance with the nondiscrimination clauses of this contract or with any of the said rules, regulations, or orders, this contract may be canceled, terminated, or suspended in whole or in part and the contractor may be declared ineligible for further Government contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.
- g. The contractor will include the provisions of the sentence immediately preceding paragraph (1) and the provisions of paragraphs (1) through (7) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to Section 204 of Executive Order 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The contractor will take such action with respect to any subcontract or purchase order as the Department may direct as a means of enforcing such provisions, including sanctions for noncompliance. Provided, however, that in the event a contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the Department, the contractor may request the United States to enter into such litigation to protect the interest of the United States.

2. Notice of Requirement for Affirmative Action to Ensure Equal Employment Opportunity (Executive Order 11246). (Applicable to contracts/subcontracts exceeding \$10,000.)

- a. The Offeror's or Bidder's attention is called to the "Equal Opportunity Clause" and the "Standard Federal Equal Employment Opportunity Construction Contract Specifications" set forth herein.
- b. If this is a Section 3 project, the goals and timetables for minority and female participation, expressed in percentage terms for the Contractor's aggregate work force in each trade on all construction work in the covered area, are as follows:

Timetables	Goals for minority participation in for each trade	Goals for female participation in each trade
	Insert goals for each year	Insert goals for each year

These goals are applicable to all the Contractor's construction work (whether or not it is Federal or federally assisted) performed in the covered area.

The Contractor's compliance with the Executive Order and the regulations in 41 CFR Part 60-4 shall be based in its implementation of the Equal Opportunity Clause, specific affirmative action obligations required by the specifications set forth in 41 CFR 60-4.3 (a), and its efforts to meet the goals established for the geographical area where the contract resulting from this solicitation is to be performed. The hours of minority and female employment and training must be substantially uniform through-out the length of the contract, and in each trade, and the contractor shall make a good faith effort to employ minorities and women evenly on each of its projects. The transfer of minority or female employees or trainees from Contractor to Contractor or from project to project for the sole purpose of meeting the Contractor's goals shall be a violation of the contract, the Executive.

Order and the regulations in 41 CFR Part 60-4. Compliance with the goals will be measured against the total work hours performed.

- c. The Contractor shall provide written notification to the Director of the Office of Federal Contract Compliance Programs within 10 working days of award of any construction subcontract in excess of \$10,000 at any tier for construction work under the contract resulting from this solicitation. The notification shall list the name, address and telephone number of the subcontractor; employer identification number; estimated dollar amount of the subcontract; estimated starting and completion dates of the subcontract; and the geographical area in which the contract is to be performed.
- d. As used in this Notice, and in the contract resulting from this solicitation, the "covered area" is (insert description of the geographical areas where the contract is to be performed giving the state, county, and city, if any).

Standard Federal Equal Employment Opportunity **Construction** Contract Specifications
(Executive Order 11246).

1. As used in these specifications:
 - a. "Covered area" means the geographical area described in the solicitation from which this contract resulted;
 - b. "Director" means Director, Office of Federal Contract Compliance Programs, United States Department of Labor, or any persons to whom the Director delegates authority;
 - c. "Employer identification number" means the Federal Social Security number used on the Employer's Quarterly Federal Tax Return, U.S. Treasury Department Form 941.
 - d. "Minority" includes:
 - (i) Black (all persons having origins in any of the Black African racial groups not of Hispanic origin);
 - (ii) Hispanic (all persons of Mexican, Puerto Rican, Cuban, Central or South American or other Spanish Culture or origin, regard less of race);
 - (iii) Asian and Pacific Islander (all persons having origins in any of the original peoples of the Far East, Southeast Asia, the Indian Subcontinent, or the Pacific Islands); and
 - (iv) American Indian or Alaskan Native (all persons having origins in any of the original peoples of North America and maintaining identifiable tribal affiliations through membership and participation or community identification).
2. Whenever the Contractor, or any Subcontractor at any tier, subcontracts a portion of the work involving any construction trade, it shall physically include in each subcontract in excess of \$10,000 the provisions of these specifications and the Notice which contains the applicable goals for minority and female participation and which is set forth in the solicitations from which this contract resulted.
3. If the Contractor is participating (pursuant to 41 CFR 60-4.5) in a Hometown Plan approved by the U.S. Department of Labor in the covered area either individually or through an association, its affirmative action obligations on all work in the Plan area (including goals and timetables) shall be in accordance with that Plan for those trades which have unions participating in the Plan. Contractors must be able to demonstrate their participation in and compliance with the provisions of any such Hometown Plan. Each Contractor or Subcontractor participating in an approved Plan is individually required to comply with its obligations under the EEO clause, and to make a good faith effort to achieve each goal under the Plan in each trade in which it has employees. The overall good faith performance by other Contractors or Subcontractors toward a goal in an approved Plan does not excuse any covered Contractor's or Subcontractor's failure to take good faith efforts to achieve the Plan goals and timetables.

4. The Contractor shall implement the specific affirmative action standards provided in paragraphs 7a through p of these specifications. The goals set forth in the solicitation from which this contract resulted are expressed as percentages of the total hours of employment and training of minority and female utilization the Contractor should reasonably be able to achieve in each construction trade in which it has employees in the covered area. The Contractor is expected to make substantially uniform progress toward its goals in each craft during the period specified.
5. Neither the provisions of any collective bargaining agreement, nor the failure by a union with whom the Contractor has a collective bargaining agreement, to refer either minorities or women shall excuse the Contractor's obligations under these specifications, Executive Order 11246, or the regulations promulgated pursuant thereto.
6. In order for the nonworking training hours of apprentices and trainees to be counted in meeting the goals, such apprentices and trainees must be employed by the Contractor during the training period, and the Contractor must have made a commitment to employ the apprentices and trainees at the completion of their training, subject to the availability of employment opportunities. Trainees must be trained pursuant to training programs approved by the U.S. Department of Labor.
7. The Contractor shall take specific affirmative actions to ensure equal employment opportunity. The evaluation of the Contractor's compliance with these specifications shall be based upon its effort to achieve maximum results from its actions. The Contractor shall document these efforts fully, and shall implement affirmative action steps at least as extensive as the following:
 - a. Ensure and maintain a working environment free of harassment, intimidation, and coercion at all sites, and in all facilities at which the Contractor's employees are assigned to work. The Contractor, where possible, will assign two or more women to each construction project. The Contractor shall specifically ensure that all foremen, superintendents, and other on-site supervisory personnel are aware of and carry out the Contractor's obligation to maintain such a working environment, with specific attention to minority or female individuals working at such sites or in such facilities.
 - b. Establish and maintain a current list of minority and female recruitment sources, provide written notification to minority and female recruitment sources and to community organizations when the Contractor or its unions have employment opportunities available, and maintain a record of the organizations' responses.
 - c. Maintain a current file of the names, addresses and telephone numbers of each minority and female off-the-street applicant and minority or female referral from a union, a recruitment source or community organizations and of what action was taken with respect to each such individual. If such individual was sent to the union hiring hall for referral and was not referred back to the Contractor by the union or, if referred, not employed by the Contractor, this shall be documented in the file with the reason therefore, along with whatever additional actions the Contractor may have taken.

- d. Provide immediate written notification to the Director when the union or unions with which the Contractor has a collective bargaining agreement has not referred to the Contractor a minority person or woman sent by the Contractor, or when the Contractor has other information that the union referral process has impeded the Contractor's efforts to meet its obligations.
- e. Develop on-the-job training opportunities and/or participate in training programs for the area which expressly include minorities and women, including upgrading programs and apprenticeship and trainee programs relevant to the Contractor's employment needs, especially those programs funded or approved by the Department of Labor. The contractor shall provide notice of these programs to the sources compiled under 7b above.
- f. Disseminate the Contractor's EEO policy by providing notice of the policy to unions and training programs and requesting their cooperation in assisting the Contractor in meeting its EEO obligations; by including it in any policy manual and collective bargaining agreement; by publicizing it in the company newspaper, annual report, etc.; by specific review of the policy with all management personnel and with all minority and female employees at least once a year; and by posting the company EEO policy on bulletin boards accessible to all employees at each location where construction work is performed.
- g. Review, at least annually, the company's EEO policy and affirmative action obligations under these specifications with all employees having any responsibility for hiring, assignment, layoff, termination or other employment decisions including specific review of these items with on-site supervisory personnel such as Superintendents, General Foremen, etc., prior to the initiation of construction work at any job site. A written record shall be made and maintained identifying the time and place of these meetings, persons attending, subject matter discussed, and disposition of the subject matter.
- h. Disseminate the Contractor's EEO policy externally by including it in any advertising in the news media, specifically including minority and female news media, and providing written notification to and discussing the Contractor's EEO policy with other Contractors and Subcontractors with whom the Contractor does or anticipates doing business.
- i. Direct his recruitment efforts, both oral and written, to minority, female and community organizations, to schools with minority and female students and to minority and female recruitment and training organizations serving the Contractor's recruitment area and employment needs. Not later than one month prior to the date for the acceptance of applications for apprenticeship or other training by any recruitment source, the Contractor shall send written notification to organizations such as the above, describing the openings, screening procedures, and tests to be used in the selection process.
- j. Encourage present minority and female employees to recruit other minority persons and women and, where reasonable, provide after school, summer and vacation employment to minority and female youth both on the site and in other areas of a Contractor's work force.
- k. Validate all tests and other selection requirements where there is an obligation to do so under 41 CFR Part 60-3.

- l. Conduct, at least annually, an inventory and evaluation at least of all minority and female personnel for promotional opportunities and encourage these employees to seek or to prepare for, through appropriate training, etc., such opportunities.
 - m. Ensure that seniority practices, job classifications, work assignments and other personnel practices, do not have a discriminatory effect by continually monitoring all personnel and employment related activities to ensure that the EEO policy and the Contractor's obligations under these specifications are being carried out.
 - n. Ensure that all facilities and company activities are nonsegregated except that separate or single-user toilet and necessary changing facilities shall be provided to assure privacy between the sexes.
 - o. Document and maintain a record of all solicitations of offers for subcontractors from minority and female construction contractors and suppliers, including circulation of solicitations to minority and female contractor associations and other business associations.
 - p. Conduct a review, at least annually, of all supervisors' adherence to and performance under the Contractor's EEO policies and affirmative action obligations.
8. Contractors are encouraged to participate in voluntary associations which assist in fulfilling one or more of their affirmative action obligations (7a through p). The efforts of a contractor association, joint contractor-union, contractor-community, or other similar group of which the contractor is a member and participant, may be asserted as fulfilling any one or more of its obligations under 7A through p of these Specifications provided that the contractor actively participates in the group, makes every effort to assure that the group has a positive impact on the employment of minorities and women in the industry, ensures that the concrete benefits of the program are reflected in the Contractor's minority and female work force participation, makes a good faith effort to meet its individual goals and timetables, and can provide access to documentation which demonstrates the effectiveness of actions taken on behalf of the Contractor. The obligation shall not be a defense for the Contractor's noncompliance.
9. A single goal for minorities and a separate single goal for women have been established. The Contractor, however, is required to provide equal employment opportunity and to take affirmative action for all minority groups, both male and female, and all women, both minority and non-minority. Consequently, the Contractor may be in violation of the Executive Order if a particular group is employed in a substantially disparate manner (for example, even though the Contractor has achieved its goals for women generally, the Contractor may be in violation of the Executive Order if a specific minority group of women is underutilized).
10. The Contractor shall not use the goals and timetables or affirmative action standards to discriminate against any person because of race, color, religion, sex, or national origin.

11. The Contractor shall not enter into any Subcontract with any person or firm debarred from Government contracts pursuant to Executive Order 11246.
12. The Contractor shall carry out such sanctions and penalties for violation of these specifications and of the Equal Opportunity Clause, including suspension, termination and cancellation of existing subcontracts as may be imposed or ordered pursuant to Executive Order 11246, as amended, and its implementing regulations, by the Office of Federal Contract Compliance Programs. Any contractor who fails to carry out such sanctions and penalties shall be in violation of these specifications and Executive Order 11246, as amended.
13. The Contractor, in fulfilling its obligations under these specifications, shall implement specific affirmative action steps, at least as extensive as those standards prescribed in paragraph 7 of these specifications, so as to achieve maximum results from its efforts to ensure equal employment opportunity. If the Contractor fails to comply with the requirements of the Executive Order, the implementing regulations, or these specifications, the Director shall proceed in accordance with 41 CFR 60-4.8.
14. The Contractor shall designate a responsible official to monitor all employment related activity to ensure that the company EEO policy is being carried out, to submit reports relating to the provisions hereof as may be required by the Government and to keep records. Records shall at least include for each employee the name, address, telephone numbers, construction trade, union affiliation if any, employee identification number when assigned, social security number, race, sex, status (e.g., mechanic, apprentice trainee, helper, or laborer), dates of changes in status, hours worked per week in the indicated trade, rate of pay, and locations at which the work was performed. Records shall be maintained in an easily understandable and retrievable form; however, to the degree that existing records satisfy this requirement, contractors shall not be required to maintain separate records.
15. Nothing herein provided shall be construed as a limitation upon the application of other laws which establish different standards of compliance or upon the application or requirements for the hiring of local or other area residents (e.g., those under the Public Works Employment Act of 1977 and the Community Development Block Grant Program).

HOUSING CONTRACT PROVISION

Lead-Based Paint

Any grants or loans for the rehabilitation of residential structures with assistance from the Department of Housing and Urban Development shall include provisions for the elimination of lead-based paint hazards under Subpart J of HUD Lead-Based Paint Regulations 24 CFR Part 35. If lead-based paint hazards are identified in a structure receiving assistance, contractors, subcontractors and/or their employees must show documentation that they have completed one of the HUD or EPA approved courses listed under 24 CFR Part 35.1330 (4).

WHAT A CITY/COUNTY MUST INCLUDE IN ALL BID DOCUMENTS AND CONTRACTS FOR THE NORTH DAKOTA COMMUNITY DEVELOPMENT BLOCK GRANT

CDBG Grantee Implementation Tips

CDBG recipients must take special care to make sure that their CDBG construction bid package includes all applicable provisions. This article will address compliance with federal regulations that relate to bid specifications, bid letting, and contracts for CDBG projects.

An architect or engineer will normally prepare the technical bid packages which will include bid specifications, CDBG related terms and conditions, and applicable state and local bid requirements. The bid specifications must provide a clear and accurate description of the technical requirements for materials, products and/or services to be provided and under which the work is to be performed.

The grantee or engineer must also prepare CDBG related terms and conditions for inclusion in the bid document. These terms and conditions refer to Civil Rights and Labor Standards Provisions and Equal Opportunity Regulations.

The first requirement is that the Grantee utilize an applicable wage rate decision. Ten days before bid opening the grantee should contact the Division of Community Services to make sure that the wage decision is current. If modifications have been published, the grantee must secure these and include them in contracts. When contracts have been awarded, the grant administrator and the contractors need to determine if any additional wage classifications are required. This can be done by completing and submitting to the DCS a Request for Additional Classification found in Section 8.

All bid announcements and requests for quotes must be sent to the businesses on the DBE/ACDBE Certified Directory on the same day they are sent to the local paper for publication. Only send to businesses that provide goods and/or services consistent with the project needs. Documentation must be placed in the project file. See Appendix E for more information.

If applicable, the following terms and conditions that the grantee must prepare and include in the bid documents are:

- Civil Rights Provisions (See Appendix C)
- Special Equal Opportunity Provisions (See Appendix C)
- Section 3 Provisions (See Appendix B)
- The Davis-Bacon Act, if contract is over \$2,000
- Copeland Anti-Kickback Act
- Contract Work Hours and Safety Standards
- Conflict of Interest
- Access to Records
- Contractor Clearance (Sam.gov)
- Flood Insurance, if in a flood plain
- Clean Air and Water, if over \$100,000
- 2 CFR Part 200

The Davis-Bacon Act

40 U.S.C. 276a Rate of wages for laborers and mechanics

- (a) The advertised specifications for every contract in excess of \$ 2,000 to which the United States or the District of Columbia is a party, for construction, alteration, and/or repair, including painting and decorating, of public buildings or public works of the United States or the District of Columbia within the geographical limits of the States of the Union or the District of Columbia, and which requires or involves the employment of mechanics and/or laborers shall contain a provision stating the minimum wages to be paid various classes of laborers and mechanics which shall be based upon the wages that will be determined by the Secretary of Labor to be prevailing for the corresponding classes of laborers and mechanics employed on projects of a character similar to the contract work in the city, town, village, or other civil subdivision of the State in which the work is to be performed, or in the District of Columbia if the work is to be performed there; and every contract based upon these specifications shall contain a stipulation that the contractor or his subcontractor shall pay all mechanics and laborers employed directly upon the site of the work, unconditionally and not less often than once a week, and without subsequent deduction or rebate on any account, the full amounts accrued at time of payment, computed at wage rates not less than those stated in the advertised specifications, regardless of any contractual relationship which may be alleged to exist between the contractor or subcontractor and such laborers and mechanics, and that the scale of wages to be paid shall be posted by the contractor in a prominent and easily accessible place at the site of the work; and the further stipulation that there may be withheld from the contractor so much of accrued payments as may be considered necessary by the contracting officer to pay to laborers and mechanics employed by the contractor or any subcontractor on the work the difference between the rates of wages required by the contract to be paid laborers and mechanics on the work and the rates of wages received by such laborers and mechanics and not refunded to the contractor, subcontractors, or their agents.
- (b) As used in this Act the term "wages", "scale of wages", "wage rates", "minimum wages", and "prevailing wages" shall include-
- (1) the basic hourly rate of pay; and
 - (2) the amount of-
 - (A) the rate of contribution irrevocably made by a contractor or subcontractor to a trustee or to a third person pursuant to a fund, plan, or program; and
 - (B) the rate of costs to the contractor or subcontractor which may be reasonably anticipated in providing benefits to laborers and mechanics pursuant to an enforceable commitment to carry out a financially responsible plan or program which was communicated in writing to the laborers and mechanics affected, for medical or hospital care, pensions on retirement or death, compensation for injuries or illness resulting from occupational activity, or insurance to provide any of the foregoing, for unemployment benefits, life insurance, disability and sickness insurance, or accident insurance, for vacation and holiday pay, for defraying costs of apprenticeship or other similar programs, or for other bona fide fringe benefits, but only where the contractor or subcontractor is not required by other Federal, State, or local law to provide any of such benefits:
Provided, That the obligation of a contractor or subcontractor to make payment in accordance with the prevailing wage determinations of the Secretary of Labor, insofar as this Act and other Acts incorporating this Act by reference are concerned may be discharged by the making of

payments in cash, by the making of contributions of a type referred to in paragraph (2)(A), or by the assumption of an enforceable commitment to bear the costs of a plan or program of a type referred to in paragraph (2)(B), or any combination thereof, where the aggregate of any such payments, contributions, and costs is not less than the rate of pay described in paragraph (1) plus the amount referred to in paragraph (2).

In determining the overtime pay to which the laborer or mechanic is entitled under any Federal law, his regular or basic hourly rate of pay (or other alternative rate upon which premium rate of overtime compensation is computed) shall be deemed to be the rate computed under paragraph (1), except that where the amount of payments, contributions, or costs incurred with respect to him exceeds the prevailing wage applicable to him under this Act, such regular or basic hourly rate of pay (or such other alternative rate) shall be arrived at by deducting from the amount of payments, contributions, or costs actually incurred with respect to him, the amount of contributions or costs of the types described in paragraph (2) actually incurred with respect to him, or the amount determined under paragraph (2) but not actually paid, whichever amount is the greater.

Copeland Anti-Kickback Act

All contracts for construction, reconstruction or repair (over \$2,000) must include the following prohibition statement:

“No contractor or subcontractor shall induce, by any means, any person employed in such publicly funded construction, reconstruction or repair to give up any part of the compensation to which he is otherwise entitled except for authorized payroll deductions.”

TITLE 18, U.S.C.

Sec. 874. Kickbacks from public works employees

Whoever, by force, intimidation, or threat of procuring dismissal from employment, or by any other manner whatsoever induces any person employed in the construction, prosecution, completion or repair of any public building, public work, or building or work financed in whole or in part by loans or grants from the United States, to give up any part of the compensation to which he is entitled under his contract of employment, shall be fined under this title or imprisoned not more than five years, or both.

[18 U.S.C. 874 (June 25, 1948, ch. 645, Sec. 1, 62 Stat. 740 and 862, eff. Sept. 1, 1948) replaced the former sec. 1 of the Copeland Act of June 13, 1934 (48 Stat. 948). Prior to 1948, Section 1 of the Copeland Act was codified as 40 U.S.C. 276b. P.L. 103-322, (Sept. 13, 1994, 108 Stat. 2147), substituted “fined under this title” for “fined not more than \$5,000”.]

TITLE 40, U.S.C.

Sec. 3145. Regulations governing contractors and subcontractors

- (a) In General. - The Secretary of Labor shall prescribe reasonable regulations for contractors and subcontractors engaged in constructing, carrying out, completing, or repairing public buildings, public works, or buildings or works that at least partly are financed by a loan or grant from the Federal Government. The regulations shall include a provision that each contractor and subcontractor each

week must furnish a statement on the wages paid each employee during the prior week.

- (b) Application. - Section 1001 of title 18 applies to the statements.

[Section 2 of the original Act of June 13, 1934, as amended prior to 2002, and codified as 40 U.S.C. 276c, was repealed, revised and codified as 40 U.S.C. 3145 by P.L. 107-217 (Aug. 21, 2002, 116 Stat. 1152, 1304,1309, 1313, 1315).]

Contract Work Hours and Safety Standards Acts (CWHSSA)

In Accordance with [40 USC §3701 et seq.](#) and [29 CFR Part 5](#), Contract Work Hours and Safety Standards Act and Fair Labor Standards Act provides that no contract work (which may require or permit laborer or mechanic) in any workweek in which he/she is employed with such work, to work in excess of 40 hours in a workweek, unless the laborer or mechanic receives compensation at a rate not less than one-and one-half times his basic rate pay for all hours worked in a workweek, whichever is greater. In the event of violations, the contractor or subcontractor shall be liable to any effected employee for his/her unpaid wages as well as to the United States government for liquidated damages.

All construction contracts in excess of \$2,000 and other contracts more than \$2,500 involving the employment of mechanics or laborers must comply with the following provisions of this law:

- a. Contractors shall compute the wages of each laborer and mechanic on the basis of a standard workweek of 40 hours.
- b. Work in excess of this standard is permitted, provided that compensation for the amount of work in excess of the standard workweek is calculated at a rate not less than one-and-one-half times the basic rate of pay.
- c. Contractors may not require any laborer or mechanic to work in surroundings or under working conditions that are unsanitary, hazardous, or dangerous to his/her health or safety as determined under construction safety or health standards published by the Department of Labor.

Conflict of Interest

24 CFR § 570.611 Conflict of interest.

(a) ***Applicability.***

- (1) In the *procurement* of supplies, equipment, construction, and services by [recipients](#) and by sub [recipients](#), the conflict of interest provisions in [2 CFR 200.317](#) and [200.318](#) shall apply.
- (2) In all cases not governed by [2 CFR 200.317](#) and [200.318](#), the provisions of this section shall apply. Such cases include the acquisition and disposition of real property and the provision of assistance by the [recipient](#) or by its subrecipients to individuals, businesses, and other private entities under eligible activities that authorize such assistance (e.g., rehabilitation, preservation, and other improvements of private properties or facilities pursuant to § 570.202; or grants, loans, and other assistance to businesses, individuals, and other private entities pursuant to § 570.203, 570.204, 570.455, or 570.703(i)).

- (b) ***Conflicts prohibited.*** The general rule is that no persons described in [paragraph \(c\)](#) of this section who exercise or have exercised any functions or responsibilities with respect

to CDBG activities assisted under this part, or who are in a position to participate in a decision making process or gain inside information with regard to such activities, may obtain a financial interest or benefit from a CDBG-assisted activity, or have a financial interest in any contract, subcontract, or agreement with respect to a CDBG-assisted activity, or with respect to the proceeds of the CDBG-assisted activity, either for themselves or those with whom they have business or immediate family ties, during their tenure or for one year thereafter. For the UDAG program, the above restrictions shall apply to all activities that are a part of the UDAG project, and shall cover any such financial interest or benefit during, or at any time after, such person's tenure.

- (c) ***Persons covered.*** The conflict of interest provisions of paragraph (b) of this section apply to any person who is an employee, agent, consultant, officer, or elected official or appointed official of the recipient, or of any designated public agencies, or of subrecipients that are receiving funds under this part.
- (d) ***Exceptions.*** Upon the written request of the recipient, HUD may grant an exception to the provisions of paragraph (b) of this section on a case-by-case basis when it has satisfactorily met the threshold requirements of (d)(1) of this section, taking into account the cumulative effects of paragraph (d)(2) of this section.
 - (1) ***Threshold requirements.*** HUD will consider an exception only after the recipient has provided the following documentation:
 - (i) A disclosure of the nature of the conflict, accompanied by an assurance that there has been public disclosure of the conflict and a description of how the public disclosure was made; and
 - (ii) An opinion of the recipient's attorney that the interest for which the exception is sought would not violate State or local law.
 - (2) ***Factors to be considered for exceptions.*** In determining whether to grant a requested exception after the recipient has satisfactorily met the requirements of paragraph (d)(1) of this section, HUD shall conclude that such an exception will serve to further the purposes of the Act and the effective and efficient administration of the recipient's program or project, taking into account the cumulative effect of the following factors, as applicable:
 - (i) Whether the exception would provide a significant cost benefit or an essential degree of expertise to the program or project that would otherwise not be available;
 - (ii) Whether an opportunity was provided for open competitive bidding or negotiation;
 - (iii) Whether the person affected is a member of a group or class of low- or moderate income persons intended to be the beneficiaries of the assisted activity, and the exception will permit such person to receive generally the same interests or benefits as are being made available or provided to the group or class;
 - (iv) Whether the affected person has withdrawn from his or her functions or responsibilities, or the decision-making process with respect to the specific assisted activity in question;
 - (v) Whether the interest or benefit was present before the affected person was in a position as described in paragraph (b) of this section;
 - (vi) Whether undue hardship will result either to the recipient or the person affected when weighed against the public interest served by avoiding the prohibited conflict; and

- (vii) Any other relevant considerations.

Access to Records

- a. Representatives of the grantee, HUD, the Comptroller General of the United States, or of other authorized governmental agencies have the right of access to any pertinent records of a subrecipient to make audits, examinations, excerpts, and transcripts. (24 CFR 85.10 (e) and 84.53 (e))
- b. Consistent with applicable state and local laws regarding privacy and obligations of confidentiality, the subrecipient also must provide citizens with reasonable access to records on the past use of CDBG funds (24 CFR 570.508).

Contractor Clearance (Sam.gov)

All grant recipients, contractors, subrecipients, subgrantees, and local units of government must be registered in SAM.gov in order to receive federal funds and meet the requirements of 24 CFR 570.489(l).

HUD/OLSE guidance in Handbook 1344.1 Rev-2, Chapter 5-4 titled, “Verification of contractor eligibility and termination of ineligible contractors”, states that:

No contract may be awarded to any contractor that is debarred, suspended or otherwise ineligible to participate in Federal or Federally-assisted contracts or programs. The labor standards clauses (e.g., forms HUD-4010; HUD-52531B; HUD-5370; HUD-5370-EZ; HUD-92554M6) inserted in the contract include a certification of eligibility such that the holder of the contract, the prime contractor and all subcontractors, certify that they are eligible for award. The LRS/LCA shall verify the eligibility of all prime contractors prior to initial closing or contract award by reviewing the Excluded Parties List available on-line at: www.sam.gov The LRS/LCA shall make a record of the verification in the project files. Any contract awarded to a prime contractor or subcontractor that is found to be ineligible for award must be terminated immediately.

The General Services Administration (GSA), a federal agency, is required by the Federal Acquisition Regulation (FAR) to compile and maintain a list of parties debarred, suspended, or disqualified by federal agencies. Contractors as well as recipients of federal financial assistance must be registered at Sam.gov. To determine if a proposed contractor is debarred, grantees should check the federal SAM database. Active registration in SAM is required to apply for an award and for HUD to make a payment. In addition to checking the name of the contracting firm, the name of the president and owner of the firm should also be checked. Staff should also review any state and local debarment lists. Website printouts must be placed in the file.

Per the SAM User Guide, the No Active Exclusions field on the SAM Entity summary indicates whether the entity has a current debarment. SAM.gov will check the exclusions list for the DUNS number of your entity and indicate whether any exclusion records exist. If an active exclusion record exists for your entity, this question will default to “Yes,” meaning that the contractor is debarred. No Record Found means that the entity is not registered or has let its registration lapse. The entity should ensure that the email address is current in SAM.gov so that

when automated reminders are sent to renew registration each year that this reminder does not go into spam due to an obsolete email address.

The Grantee shall comply with requirements established by the Office of Management and Budget (OMB) concerning the Dun and Bradstreet Data Universal Numbering System (DUNS), the System for Award Management (SAM) (SAM replaces CCR), and the Federal Funding Accountability and Transparency Act (FFATA), including Appendix A to Part 25 of the Financial Assistance Use of Universal Identifier and Central Contractor Registration, 75 Fed. Reg. 55671 (Sept. 14, 2010) (to be codified at 2 CFR part 25) and Appendix A to Part 170 of the Requirements for Federal Funding Accountability and Transparency Act Implementation, 75 Fed. Reg. 55663 (Sept. 14, 2010) (to be codified at 2 CFR part 170).

Flood Insurance

The Flood Disaster Protection Act of 1973 (42 U.S.C. 4012a) requires that projects receiving federal assistance and located in an area identified by the Federal Emergency Management Agency (FEMA) as being within a Special Flood Hazard Areas (SFHA) be covered by flood insurance under the [National Flood Insurance Program \(NFIP\)](#). In order to be able to purchase flood insurance, the community must be participating in the NFIP. If the community is not participating in the NFIP, federal assistance cannot be used in those areas.

For loans, loan insurance or guarantees, the amount of flood insurance coverage must at least equal the outstanding principal balance of the loan or the maximum limit of coverage made available under the National Flood Insurance Program, whichever is less. For grants and other non-loan forms of financial assistance, flood insurance coverage must be continued for the life of the building irrespective of the transfer of ownership. The amount of coverage must at least equal the total project cost or the maximum coverage limit of the National Flood Insurance Program, whichever is less. If the community is not participating, or if its participation has been suspended, federal assistance may not be used for projects in the Special Flood Hazard Area.

Clean Air and Water

Contracts, subcontracts, and sub grants of amounts in excess of \$100,000 will contain a provision which requires compliance with all applicable standards, orders, or requirements issued under Section 306 of the Clean Air Act (42 USC 1857(h)), Section 508 of the Clean Water Act (33 USC 1368), Executive Order 11738, and Environmental Protection Agency regulations (40 CFR, Part 15), which prohibit the use of non-exempt Federal contracts, grants, or loans of facilities included on the EPA List of Violating Facilities. The provision requires reporting of violations to the grant agency and to the USEPA Assistance Administrator for Enforcement (EN-329).

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early notification about the requirements allows the potential applicant to decide not to apply or to take needed actions before receiving the Federal award. The announcement need not include all of the terms and conditions of the Federal award, but may refer to a document (with information about how to obtain it) or Internet site where applicants can see the terms and conditions. If this funding opportunity will lead to Federal awards with some special terms and conditions that differ from the Federal awarding agency's usual (sometimes called "general") terms and conditions, this section should highlight those special terms and conditions. Doing so will alert applicants that have received Federal awards from the Federal awarding agency previously and might not otherwise expect different terms and conditions. For the same reason, the announcement should inform potential applicants about special requirements that could apply to particular Federal awards after the review of applications and other information, based on the particular circumstances of the effort to be supported (e.g., if human subjects were to be involved or if some situations may justify special terms on intellectual property, data sharing or security requirements).

3. *Reporting—Required.* This section must include general information about the type (e.g., financial or performance), frequency, and means of submission (paper or electronic) of post-Federal award reporting requirements. Highlight any special reporting requirements for Federal awards under this funding opportunity that differ (e.g., by report type, frequency, form/format, or circumstances for use) from what the Federal awarding agency's Federal awards usually require.

G. FEDERAL AWARDING AGENCY CONTACT(S)—REQUIRED

The announcement must give potential applicants a point(s) of contact for answering questions or helping with problems while the funding opportunity is open. The intent of this requirement is to be as helpful as possible to potential

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applicants, so the Federal awarding agency should consider approaches such as giving:

- i. Points of contact who may be reached in multiple ways (e.g., by telephone, FAX, and/ or email, as well as regular mail).
- ii. A fax or email address that multiple people access, so that someone will respond even if others are unexpectedly absent during critical periods.
- iii. Different contacts for distinct kinds of help (e.g., one for questions of programmatic content and a second for administrative questions).

H. OTHER INFORMATION—OPTIONAL

This section may include any additional information that will assist a potential applicant. For example, the section might:

- i. Indicate whether this is a new program or a one-time initiative.
- ii. Mention related programs or other upcoming or ongoing Federal awarding agency funding opportunities for similar activities.
- iii. Include current Internet addresses for Federal awarding agency Web sites that may be useful to an applicant in understanding the program.
- iv. Alert applicants to the need to identify proprietary information and inform them about the way the Federal awarding agency will handle it.
- v. Include certain routine notices to appli-

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cants (e.g., that the Federal government is not obligated to make any Federal award as a result of the announcement or that only grants officers can bind the Federal government to the expenditure of funds).

APPENDIX II TO PART 200—CONTRACT

PROVISIONS FOR NON-FEDERAL ENTITY CONTRACTS UNDER FEDERAL AWARDS

In addition to other provisions required by the Federal agency or non-Federal entity, all contracts made by the non-Federal entity under the Federal award must contain provisions covering the following, as applicable.

(A) Contracts for more than the simplified acquisition threshold currently set at \$150,000, which is the inflation adjusted amount determined by the Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council (Councils) as authorized by 41 U.S.C. 1908, must address administrative, contractual, or legal remedies in instances where contractors violate or breach contract terms, and provide for such sanctions and penalties as appropriate.

(B) All contracts in excess of \$10,000 must address termination for cause and for convenience by the non-Federal entity including the manner by which it will be effected and the basis for settlement.

(C) Equal Employment Opportunity. Except as otherwise provided under 41 CFR Part 60, all contracts that meet the definition of "federally assisted construction contract" in 41 CFR Part 60–1.3 must include the equal opportunity clause provided under 41 CFR 60–1.4(b), in accordance with Executive Order 11246, "Equal Employment Opportunity" (30 FR 12319, 12935, 3 CFR Part, 1964–1965 Comp., p. 339), as amended by Executive Order 11375, "Amending Executive Order 11246 Relating to Equal Employment Opportunity," and implementing regulations at 41 CFR part 60, "Office of Federal Contract

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Compliance Programs, Equal Employment Opportunity, Department of Labor."

(D) Davis-Bacon Act, as amended (40 U.S.C. 3141–3148). When required by Federal program legislation, all prime construction contracts in excess of \$2,000 awarded by non-Federal entities must include a provision for compliance with the Davis-Bacon Act (40 U.S.C. 3141–3144, and 3146–3148) as supplemented by Department of Labor regulations (29 CFR Part 5, "Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction"). In accordance with the statute, contractors must be required to pay wages to laborers and mechanics at a rate not less than the prevailing wages specified in a wage determination made by the Secretary of Labor. In addition, contractors must be required to pay wages not less than once a week. The non-Federal entity must place a copy of the current prevailing wage determination issued by the Department of Labor in each solicitation. The decision to award a contract or subcontract must be conditioned upon the acceptance of the wage determination. The non-Federal entity must report all suspected or reported violations to the Federal awarding agency. The contracts must also include a provision for compliance with the Copeland "Anti-Kickback" Act (40 U.S.C. 3145), as supplemented by Department of Labor regulations (29 CFR Part 3, "Contractors and Subcontractors on Public Building or Public Work Financed in Whole or in Part by Loans or Grants from the United States"). The Act provides that each contractor or subrecipient must be prohibited from inducing, by any means, any person employed in the construction, completion, or repair of public work, to give up any part of the compensation to which he or she is otherwise entitled. The non-Federal entity must report all suspected or reported violations to the Federal awarding agency.

(E) Contract Work Hours and Safety Standards Act (40 U.S.C. 3701–3708). Where applicable, all contracts awarded by the non-Federal entity in excess of \$100,000 that involve the employment of mechanics or laborers must include a provision for compliance with 40 U.S.C. 3702 and 3704, as supplemented by Department of Labor regulations (29 CFR Part 5). Under 40 U.S.C. 3702 of the Act, each contractor must be required to compute the wages of every mechanic and laborer on the basis of a standard work week of 40 hours. Work in excess of the standard work week is permissible provided that the worker is compensated at a rate

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of not less than one and a half times the basic rate of pay for all hours worked in excess of 40 hours in the work week. The requirements of 40 U.S.C. 3704 are applicable to construction work and provide that no laborer or mechanic must be required to work in surroundings or under working conditions which are unsanitary, hazardous or dangerous. These requirements do not apply to the purchases of supplies or

materials or articles ordinarily available on the open market, or contracts for transportation or transmission of intelligence.

(F) Rights to Inventions Made Under a Contract or Agreement. If the Federal award meets the definition of “funding agreement” under 37 CFR §401.2 (a) and the recipient or subrecipient wishes to enter into a contract with a small business firm or nonprofit organization regarding the substitution of parties, assignment or performance of experimental, developmental, or research work under that “funding agreement,” the recipient or subrecipient must comply with the requirements of 37 CFR Part 401, “Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements,” and any implementing regulations issued by the awarding agency.

(G) Clean Air Act (42 U.S.C. 7401–7671q.) and the Federal Water Pollution Control Act (33 U.S.C. 1251–1387), as amended—Contracts and subgrants of amounts in excess of \$150,000 must contain a provision that requires the non-Federal award to agree to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act (42 U.S.C. 7401–7671q) and the Federal Water Pollution Control Act as amended (33 U.S.C. 1251–1387). Violations must be reported to the Federal awarding agency and the Regional Office of the Environmental Protection Agency (EPA).

(H) Mandatory standards and policies relating to energy efficiency which are contained in the state energy conservation plan issued in compliance with the Energy Policy and Conservation Act (42 U.S.C. 6201).

(I) Debarment and Suspension (Executive Orders 12549 and 12689)—A contract award (see 2 CFR 180.220) must not be made to parties listed on the governmentwide Excluded Parties List System in the System for Award Management (SAM), in accordance with the OMB guidelines at 2 CFR 180 that implement Executive Orders 12549 (3 CFR Part 1986 Comp., p. 189) and 12689 (3 CFR Part 1989 Comp., p. 235), “Debarment and Suspension.” The Excluded Parties List System in SAM contains the names of parties debarred, suspended, or otherwise excluded by agencies, as well as parties declared ineligible under

statutory or regulatory authority other than Executive Order 12549.

(J) Byrd Anti-Lobbying Amendment (31 U.S.C. 1352)—Contractors that apply or bid for an award of \$100,000 or more must file the required certification. Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract,

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grant or any other award covered by 31 U.S.C. 1352. Each tier must also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the non-Federal award.

(K) See §200.322 Procurement of recovered materials.

APPENDIX III TO PART 200—INDIRECT (F&A) COSTS IDENTIFICATION AND ASSIGNMENT, AND RATE DETERMINATION FOR INSTITUTIONS OF HIGHER EDUCATION (IHES)

A. GENERAL

This appendix provides criteria for identifying and computing indirect (or indirect (F&A)) rates at IHES (institutions). Indirect (F&A) costs are those that are incurred for common or joint objectives and therefore cannot be identified readily and specifically with a particular sponsored project, an instructional activity, or any other institutional activity. See subsection B.1, Definition of Facilities and Administration, for a discussion of the components of indirect (F&A) costs.

1. Major Functions of an Institution

Refers to instruction, organized research, other sponsored activities and other institutional activities as defined in this section:

a. *Instruction* means the teaching and training activities of an institution. Except for research training as provided in subsection b, this term includes all teaching and training activities, whether they are offered for credits toward a degree or certificate or on a non-credit basis, and whether they are offered through regular academic departments or separate divisions, such as a summer school division or an extension division. Also considered part of this major function are departmental research, and, where agreed to, university research.

(1) *Sponsored instruction and training* means specific instructional or training activity established by grant, contract, or cooperative agreement. For purposes of the cost principles, this activity may be considered a major function even though an institution’s accounting treatment may include it in the instruction function.

(2) *Departmental research* means research, development and scholarly activities that are not organized research and, consequently, are not separately budgeted and accounted for. Departmental research, for purposes of this document, is not considered as a major function, but as a part of the instruction function of the institution.

b. *Organized research* means all research and development activities of an institution that are separately budgeted and accounted for. It includes:

(1) *Sponsored research* means all research and development activities that are sponsored by Federal and non-Federal agencies and organizations. This term includes activities involving the training of individuals in research techniques (commonly called research training) where such activities utilize the same facilities as other research and development activities and where such activities are not included in the instruction function.

(2) *University research* means all research and development activities that are separately budgeted and accounted for by the institution under an internal application of institutional funds. University research, for purposes of this document, must be combined with sponsored research under the function of organized research.

c. *Other sponsored activities* means programs and projects financed by Federal and non-Federal agencies and organizations which involve the performance of work other than instruction and organized research. Examples of such programs and projects are health service projects and community service programs. However, when any of these activities are undertaken by the institution without outside support, they may be classified as other institutional activities.

d. *Other institutional activities* means all activities of an institution except for instruction, departmental research, organized research, and other sponsored activities, as defined in this section; indirect (F&A) cost activities identified in this Appendix paragraph B, Identification and assignment of indirect (F&A) costs; and specialized services facilities described in §200.468 Specialized service facilities of this Part.

Examples of other institutional activities include operation of residence halls, dining halls, hospitals and clinics, student unions, intercollegiate athletics, bookstores, faculty housing, student apartments, guest houses, chapels, theaters, public museums, and other similar auxiliary enterprises. This definition also includes any other categories of activities, costs of which are "unallowable" to Federal awards, unless otherwise indicated in an award.

2. *Criteria for Distribution*

a. *Base period.* A base period for distribution of indirect (F&A) costs is the period during which the costs are incurred. The base period normally should coincide with the fiscal year established by the institution, but in any event the base period should be so selected as to avoid inequities in the distribution of costs.

b. *Need for cost groupings.* The overall objective of the indirect (F&A) cost allocation process is to distribute the indirect (F&A) costs described in Section B, Identification and assignment of indirect (F&A) costs, to

MINORITY AND WOMEN'S BUSINESS ENTERPRISES

A. Introduction

This appendix should be used to bring minority and women-owned businesses to the bidder's table.

Inclusion of an enterprise in this appendix is for informational purposes only and does not constitute the endorsement of those listed. Exclusion of any names of possible MBEs or WBEs does not necessarily mean that those firms are not bona fide MBE/WBE business enterprises.

B. Determination of a Bona Fide Minority and/or Women's Business

North Dakota Department of Transportation (NDDOT) defines Disadvantaged Business Enterprises (DBE) as a for-profit small business concern that is at least 51 percent owned by one or more individuals who are both socially and economically disadvantaged. In the case of a corporation, 51 percent of the stock is owned by one or more such individuals, and whose management and daily business operations are controlled by one or more of the socially and economically disadvantaged individuals who own it.

Applications for certification may be made by completing the online certification application for North Dakota Department of Transportation (NDDOT) DBE/ACDBE Certification Application located at this link: [Civil Rights Certification and Compliance System - North Dakota Department of Transportation \(diversitycompliance.com\)](https://diversitycompliance.com)

All bid announcements and requests for quotes need to be emailed to the businesses on the DBE/ACDBE Certified Directory, located at this link: [Civil Rights Certification and Compliance System - North Dakota Department of Transportation \(diversitycompliance.com\)](https://diversitycompliance.com). The directory is continually updated. Use the most updated directory. Prior to emailing, ensure the business(es) provides goods and/or services consistent with the project need(s) as described in the bid by checking the Capability column on the directory.

C. Documentation

Keep in the project file:

- A copy of the directory utilized for the project
- Emails sent and responses received

Pre-Construction Conferences

There is no longer a federal requirement for a pre-construction conference, however the conference is a requirement of the State of North Dakota CDBG Program. This ensures that the applicable federal and/or state labor standards and requirements are discussed with the general (prime) contractor and subcontractor(s) before the start of construction. The discussion must take place at a pre-construction conference between the grant recipient and the general contractor and subcontractor(s) before any work is performed. The purpose of the pre-construction conference is to explain contractual requirements and performance schedules.

The grant administrator should prepare an agenda and utilize and distribute SFN 62299 CDBG Pre-construction Conference Checklist/ Minutes as a guide to ensure that all areas are properly addressed. The grant administrator should clearly present the federal statutory compliance requirements as well as performance expectations. A copy of the minutes should be signed by all parties to the contract and placed in the project files.

Items that should be covered at the pre-construction conference include, but are not limited to:

- Explain to the contractor and subcontractor(s) their responsibilities with respect to labor standards and equal opportunity requirements as well as the technical job requirements.
- Explain that the contractor and subcontractor(s) must submit weekly payrolls and statements of compliance signed by an officer of the company or person authorized by owner/officer, and that the prime contractor is responsible for securing, checking, and reviewing payrolls and Statements of Compliance from all subcontractors.
- Explain that wages paid must conform to those included in the wage rate decision included in the contract. Discuss the classifications to be used. If additional classifications are needed, the contractor and subcontractor(s) can request them using the [Report of Additional Classification and Rate \(SFN 52337\)](#).
- Explain that employee interviews will be conducted on-site during the project to ensure compliance with prevailing wage requirements.
- Emphasize that both a copy of the wage rate decision and the wage rate poster "Employee Rights under the Davis Bacon Act" must be posted in clear view of all employees at the job site.
- Explain that apprentice or trainee rates cannot be paid unless the apprentice or training program is registered and approved by the U.S. Department of Labor.
- Foremen or supervisors that spend more than 20% of their time performing covered construction work must be paid at least the prevailing hourly rate for the time spent performing such work.
- Indicate that failure to pay workers at least time and a half whenever overtime occurs violates the Contract Work Hours and Safety Standards law (more than 40 hours per week) and makes the contractor and subcontractor(s) liable for not only restitution but also liquidated damages. See web link for current liquidated damages amount: <https://www.dol.gov/agencies/whd/government-contracts/cwhssa>
- Explain that no payroll deductions can be made that are not specifically listed in the Copeland Anti-Kickback Act provisions as permissible payroll deductions. In addition, some of the permissible deductions require written permission of the employee. An unidentified payroll deduction is a method used by unethical contractors to get their workers to "kickback" a portion of their pay. Unspecified payroll deductions are a serious discrepancy and should be resolved prior to further contractor and subcontractor(s) payments.

- Explain the possibility of federal debarment for violation of labor standards and equal opportunity requirements. Obtain any outstanding documents including Contractor/Subcontractor Eligibility Certifications Regarding Debarment, Suspension and Other Responsibilities.
- Provide contractor with posters for the site, including "Employee Rights under the Davis Bacon Act," as well as other worksite posters such as "Notice to All Employees Working on Federal or Federally Financed Construction Projects," "Safety and Health Protection on the Job," and "Equal Employment Opportunity is the Law." These posters are available in English and other languages via the DOL website:

<https://www.dol.gov/general/topics/posters>

- If the project will receive more than \$200,000 in CDBG or other HUD financial assistance, explain the contractor and subcontractor(s) requirements for Section 3 compliance. Detailed information on Section 3 can be found in the Section 3 Compliance Manual, located in Appendix B of this manual and linked below:

[Section 3 Compliance Manual](#)

- Inform the contractor that it is their responsibility to employ only eligible subcontractors who have certified eligibility in a written subcontract containing all required CDBG contract provisions, including all federal labor standards and equal opportunity provisions.
- Provide handouts explaining everything covered and obtain the contractor and subcontractor's signature to document receipt in Pre-Construction Meeting Checklist.
- The grantee should also describe the compliance review that will be conducted during the project and indicate that any discrepancies and underpayments identified because of the compliance review must be resolved prior to making further payment to the contractor. Remind the contractor that labor standards provisions are as legally binding.

**COMMUNITY DEVELOPMENT BLOCK GRANT (CDBG)
 PRE-CONSTRUCTION CONFERENCE CHECKLIST/MINUTES**
 NORTH DAKOTA DEPARTMENT OF COMMERCE
 DIVISION OF COMMUNITY SERVICES
 SFN 62299 (03/23)

(This document will serve as minutes to the conference. Please add any additional pages as necessary.)

Grantee		
Instrument Number	Date	Time
Project Name		Project Amount
Engineer or Architect		
Grant Administrator		
Contractor/Subcontractor		Contract Amount
Represented By		
Contractor/Subcontractor		Contract Amount
Represented By		
Contractor/Subcontractor		Contract Amount
Represented By		

Conference Representation – The following entities should have representation at the meeting.			
Check the box for each entity represented. Attendance list required.			
<input type="checkbox"/> Contractors	<input type="checkbox"/> Engineer or Architect	<input type="checkbox"/> Grantee	<input type="checkbox"/> Utility Companies (if applicable)
<input type="checkbox"/> Subcontractor(s)	<input type="checkbox"/> Grant Administrator		

Each item must be initialed by the meeting facilitator as discussed, completed/understood.

1. Labor Laws and Requirements	
This federally funded project is subject to the following labor laws and regulations:	
	Davis-Bacon and Related Acts require the payment of prevailing wage rates to all laborers and mechanics working on the construction site. The prevailing wages for this project are listed in the contract documents. Prevailing wages include a basic hourly rate of pay and in most cases a fringe benefit payment.
	The Copeland Act makes it a crime for anyone to require any laborer or mechanic to kickback any part of their wages. Consequently, the only deductions that can be taken out of an employee's paycheck are those required by law or those authorized by the employee in writing. The Copeland Act also requires that every contractor pay their employees weekly and submit weekly certified payroll reports (CPRs).
	The Contract Work Hours and Safety Standards Act (CWHSSA) requires time and one-half pay for hours worked over 40 in any workweek. The time and one-half is computed on the basic hourly wage and then the fringe amount is added to it. CWHSSA violations carry a liquidated damages penalty of ten dollars per day per violation. Intentional violations of CWHSSA standards are considered a federal criminal misdemeanor

2. Additional Classifications	
	If the work classifications needed do not appear on the wage decision, a request for additional classification and wage rate will be needed. The contract administrator can assist you in this process. These additional classifications and rates must be approved by the U.S. Department of Labor.
3. Job Site Postings	
The contractor is required to display, in a conspicuous place , the following:	
	The Wage Decision for this project which is: _____ with ____ modifications, dated _____
	<p>Appropriate Posters to be Posted at the Job Site (State & Federal)</p> <p>1. Notice to Employees Davis Bacon (English): https://www.dol.gov/whd/regs/compliance/posters/fedprojc.pdf Davis Bacon (Spanish): https://www.dol.gov/sites/dolgov/files/WHD/legacy/files/davispan.pdf</p> <p>2. Minimum Wage Federal Minimum Wage (English): https://www.dol.gov/whd/regs/compliance/posters/flsa.htm Federal Minimum Wage (Spanish): https://www.laborposters.org/federal/86-federal-minimum-wage-spanish-poster.htm#PDF</p>
4. Payrolls	
A.	Original payrolls must be submitted weekly by all contractors and subcontractors.
B.	Contractors are not required to use Payroll Form WH-347, but the payroll used must contain all information required on the WH-347; and the Statement of Compliance must be the exact same wording as on the reverse of WH-347. https://www.dol.gov/whd/forms/wh347.pdf
C.	Payroll information needed:
	Number of payrolls (mark last payroll final).
	All mechanics and laborers employed on the site must be listed on the payroll.
	Employee name, and last four digits of social security number.
	Correct work classification taken from the wage decision or approved classification.
	Hourly wage paid and fringe if paid in cash (see below for fringe paid to a plan).
	Daily and weekly total number of hours worked (only hours worked on this project).
	Gross pay for this project.
	Allowable deductions (those required by law or authorized by the employee in writing).
	Net pay.
	Reverse of WH-347 completed, box "a" or "b" checked, and the certification signed.
D.	Payroll deductions must be made according to DOL Regulations 29 CFR Part 3. These regulations prohibit the employer from requiring employees to "kick-back" any of their earnings. Allowable deductions include employee obligations for income taxes, Social Security payments, insurance premiums, retirement, savings account and any other legally permissible deduction authorized by the employee . Deductions may also be Made for payments on judgments and other financial obligations legally imposed against the employee. Non-permissible deductions are tools, gas and similar items.
E.	If fringe benefits are paid to a plan instead of in cash, the hourly contribution must be determined. Documentation of the plan and the amount paid into the plan per employee must be submitted with the first payroll. Fringe benefits include health insurance and retirement. They do not include employer payments or contributions required by other federal, state, or local laws, such as the employer's contribution to Social Security or some disability insurance payments.
F.	If payrolls are not numbered sequentially by the respective contractor or subcontractor, then submit a letter or the "No Work" form to the contract administrator for the period that work is not performed so that a continuous record is maintained. One form may be submitted for extended period of inactivity on the job.
G.	General and all subs submit Signature Authorization Form stating who is designated to sign payrolls if someone other than the owner signs them.

	H.	<p>Payrolls must be submitted to the Grant Administrator indicated below within seven (7) days after the payroll period ends.</p> <p>Grant Administrator <input data-bbox="289 174 1268 254" type="text"/></p>
5. Split Classification		
	<p>If employees perform work in more than one classification during the workweek, the wage rates specified for each classification can be paid only if accurate time records are maintained showing the amount of time spent in each classification of work. If there is a dispute, the contractor will be asked to provide the employee time records. If accurate time records are not maintained, the employees must be paid the highest wage rate of all the classifications for work performed.</p>	
6. Proper Designation of Trade		
	<p>The classification of each employee must be selected from the wage decision, or an approved Additional Classification based on the actual type of work performed. Each worker must be paid no less than the wage rate on the wage decision for that classification regardless of their level of skill. In other words, if someone is performing carpentry work on the project, they must be paid no less than the wage rate on the wage decision for Carpenters, even if they aren't considered by the contractor to be fully trained as a Carpenter. The only people who can be paid less than the rate for their craft are apprentices registered with the U.S. Department of Labor or approved program.</p>	
7. Foremen		
	<p>Foremen or supervisors who regularly spend more than 20% of their time performing construction work are covered laborers and mechanics (workers, employees) for labor standards purposes and must be paid the designated wage for the classification in which they work.</p>	
8. Relatives		
	<p>Relatives are not exempt from Davis-Bacon requirements and must be paid the prevailing wage rate for the classification of work performed.</p>	
9. Apprenticeship Provisions		
	1.	<p>Documentation of Apprentice registration must be submitted with the first payroll on which he appears. If the papers are not submitted, the employee must be paid the mechanic rate for the classification of work being performed. The apprentice must be registered prior to going to work on the job.</p>
	2.	<p>The Journeyman-Apprentice ratio must be observed. If more apprentices per journeymen are used than permitted, the extras must be paid at the journeyman's rate.</p>
10. Wage Interviews		
	<p>Every contractor must make their employees available for interviews at the job site. Interviews should be conducted individually and in private. Each employee should be informed that the information given is confidential, and that their identity will not be disclosed to the employer without the employee's permission.</p>	
11. Working Subcontractors		
	<p>In the event the general contractor or the subcontractor hires a self-employed proprietor (someone who has no employees so will perform all the work themselves), the Davis-Bacon rate must be paid and the following procedure must be followed:</p>	
	1.	<p>Report the self-employed proprietor on the certified payroll of whoever hired them.</p>
	2.	<p>Provide their name, address and social security number.</p>
	3.	<p>State their classification of work (i.e. "finish carpenter").</p>
	4.	<p>Indicated daily hours of work, by date, and the total hours per week.</p>
	5.	<p>Show the hourly rate of pay, with the gross amount earned in the week.</p>
	6.	<p>Enter "self-employed" and their contracting license number, where the payroll asked for "deductions."</p>

12. Truck Drivers	
	Truck drivers employed by a construction contractor or subcontractor are not covered by Davis-Bacon prevailing wage requirements while engaged in transporting materials or supplies to or from (BUT NOT DIRECTLY ON) the site of the work. These truck drivers must be paid Davis-Bacon rates for time spent while employed "directly upon the site of the work;" and while hauling between the project site and any special facilities established exclusively for the project (i.e., "dedicated facilities" under 29 CFR 5.2(1)(2)).
13. Violations	
	Violations of state/federal prevailing wage requirements can result in withholding of funds, termination of the contract or contractor debarment.
14. Equal Employment Opportunity	
	The utilization of any worker, including apprentices, trainees and journeymen shall be in conformity with the equal employment opportunity requirements of Executive Order 11246, as amended, and 29 CFR Part 30.
15. Section 3 Hiring and Contracting Activity	
1.	Section 3 is mandatory for all housing rehabilitation, housing construction, and other public construction projects that exceed \$200,000 or more of housing and community development financial assistance from one or more HUD programs. Under Section 3, Grantees, contractors, and subcontractors must actively work to employ Section 3 Workers and Targeted Section 3 Workers and direct economic opportunities to Section 3 Business Concerns.
2.	The prime contractor and all subcontractors must receive, read, and understand the Section 3 Compliance Manual and all of its attachments.
3.	Contractors and subcontractor(s) must make a good faith effort to utilize Section 3 Workers and Targeted Section 3 Workers as trainees and employees in connection with the project.
4.	Contractors and subcontractors(s) must make a good faith effort to award contracts to Section 3 business concerns for work in connection with the project.
5.	Contractors and subcontractor(s) must keep records documenting good faith efforts taken and results of these efforts.
6.	Contractors must complete and submit all documentation required to comply with Section 3 as stated and included in the Section 3 Compliance Manual .
16. Changes	
1.	All work on a CDBG project must remain in the project area identified in the grant application and the environmental review record. Grant funds are awarded based upon strict criteria according to HUD National Objectives.
2.	CDBG funds may only be used for activities approved in the project application and award. Changes to the project must be approved by DCS through a Request for Amendment, and include information about the reason for the request, an official change order, and meeting minutes approving the change order. The project cannot continue, and expenses cannot be paid prior to DCS approval of the Request for Amendment.
3.	Additional work performed by the contractor not specifically required for the approved project must be deducted from the contractor's invoice and only eligible activities will be considered when requesting CDBG funds. By not verifying the approved activities and contract amounts, CDBG funds may be used for ineligible activities. This scenario would make the project ineligible and may require repayment of the funds.

17. Materials Provided

The following materials were provided to the Prime Contractor on this project.

- Wage Determination

Determination Number	Modification Number	Dated
----------------------	---------------------	-------
- Payroll Form <http://www.dol.gov/whd/forms/wh347instr.htm>; <http://www.dol.gov/whd/formsw347.pdf>
- Federal Labor Standards Provisions (4010) <https://www.hud.gov/sites/documents/UPDATED4010.PDF>
- HUD-11, Record of Employee Interview (Spanish and English) <https://www.hud.gov/sites/documents/11.PDF>
- Davis-Bacon and Labor Standards: Agency/Contractor Guide and Contractor Addendum <https://www.hudexchange.info/news/davis-bacon-and-labor-standards-agencycontractor-guide-and-contractor-addendum-now-available/>

18. Additional Topics Discussed – check all that apply, include notes.

- Project Schedule
- Shop Drawings and Approval of Materials
- Status of Bonds/Insurance
- Public Safety
- Easements
- Location of Utilities
- Clean up
- Status of Permits
- Communication Process
- Pay Request Process
- Recordkeeping
- Notice to Proceed *as closing of meeting*
- Any mitigations specified in approved environmental review record
- Other:
- Other:

19. Notes/Comments

20. CERTIFICATION – Signatures Required

It is acknowledged that the above-mentioned Labor Standards Regulations information was discussed, and all required material was remitted to:

Name	Agency
Contractor/Subcontractor Representative	Contractor/Subcontractor Company
Contractor/Subcontractor Signature	Date
Contractor/Subcontractor Representative	Contractor/Subcontractor Company
Contractor/Subcontractor Signature	Date
Contractor/Subcontractor Representative	Contractor/Subcontractor Company
Contractor/Subcontractor Signature	Date
Grant Administrator Signature	Date
Grantee Representative Signature	Date

Grant Administrator to retain original signed copy and provide a copy of the signed document to each representative indicated above.

A copy of this checklist must be kept in the project file. See *Section 6: Procurement* and *Section 4: Recordkeeping* for more information on documentation requirements.

Sample Request for Audit Proposal

Summary Letter

INTERESTED PARTIES:

You are invited to submit a proposal in accordance with the requirements of Request for Proposal # _____ for the (_____ year) audit of the (_____ City/County _____). If interested, please contact (_____ name and address of designated office _____) attention: (_____ name and title of designated official _____) by (_____ date _____).

Instructions to Offerors

1. Requests for any information concerning this solicitation are to be referred to
(_____ name and title of designated official _____), (phone number _____)
The (City/County _____) expects to make a decision of contract award by (date _____).
2. A total of (number of copies _____) of each proposal must be addressed to (_____
name and address of designated office), attention: (_____
name and title of designated official _____), by (time _____), (month _____),
(day _____), (year _____).
3. The proposal must be signed by an official authorized to bind the Offeror and it shall contain a statement to the effect that the proposal is firm for a period of at least sixty (60) days from the date of the receipt by the (City/County _____).
4. The Offeror's proposal must adequately address the Technical Proposal Instructions as well as the Business Proposal.
5. The (City/County _____) intends to award the contract based on the Offeror's proposal as submitted. Therefore, the proposal should be submitted initially on the most favorable terms, from both a price and technical standpoint. The (City/County _____) reserves the right to reject all proposals.

Proposed Contract Provisions

I. Scope of Services

The Offerer shall conduct a financial and compliance audit of the entire (City/County) unless the election is made to cover only each department which received Federal financial assistance during the fiscal year.

II. Statement of Work

A. The Offeror, through the audit process, shall determine:

1. If the financial statements present fairly the financial position and are in accordance with generally accepted accounting principles.
2. If there is an internal control system in place which will provide assurance that Federal funds are being properly accounted for.
3. If there has been compliance with laws and regulations for each major Federal assistance project that may have a material effect upon the financial statements.

B. The Offeror shall apply its own audit standards and procedures and those developed by the American Institute of Certified Public Accountants (AICPA), "Generally Accepted Auditing Standards", and those developed by the US General Account Office, "Standards for Audit of Governmental Organization, Programs, Activities and Functions", and AICPA "Audits of State and Local Government Units", industry audit guide. The Offeror shall be familiar with the Single Audit Act and Circular A-128. It shall be determined that the CDBG/HOME program complies with rules and regulations as described in the CDBG/HOME Program Statement and CDBG/HOME Administrative Manual.

III. Standards of Reporting

- A. The audit report shall include a statement that the audit was made in accordance with the provisions of Circular A-128.
- B. The Offeror shall identify the statements examined and the period covered, identify the various programs under which the organization received Federal and State funds along with the awards received.
- C. The Offeror shall perform sufficient work to issue an opinion as to whether the financial statements are in accordance with generally accepted accounting principles, consistently applied, and present fairly the financial position for the period ended.

D. The Offeror’s report shall identify compliance and internal controls designed to provide reasonable assurance that Federal programs comply with laws and regulations:

- Including comments on weaknesses and noncompliance with systems of internal control.
- Any comments on corrective action taken or planned.

IV. Exit Conference

The Offeror shall hold an “Exit Conference” with representatives of the (_____ (City /County) _____) to discuss the audit report.

V. Specific Terms and Conditions

A. Access to Working Papers

The authorized representatives of the (_____ City/County _____), its cognizant agency or its designees, and the General Accounting Office or its designees shall have free and unrestricted access to the work papers, records, other supportive documentation, and reports prepared or in the process of being prepared in connection with audits performed under this contract for three (3) years from date of submission or until any litigation has been resolved, if later.

B. Funding Limitation

This RFP will result in an amount payable based on time expended not to exceed a maximum of total price bid.

C. Key Personnel

All audit work is to be performed directly by the contracting firm or individual, and no function shall be subcontracted to any firm or individual. The Offeror shall not under any circumstances remove or direct key persons without prior written authorization by the (_____ City/County _____). The key personnel are as follows:

<u>Name</u>	<u>Title</u>
_____	_____
_____	_____

Minimum Qualification to Bid

1. The auditor or audit staff assigned to perform the audit must possess adequate professional proficiency for the work required.
 - a. The Offeror must be a Certified Public Accounting firm licensed on or before December 31, 1970.
2. The Offeror must be completely independent from the proposed work scope.

Technical Proposal Instructions

The Offeror shall submit a separate enclosure entitled "Technical Proposal Instructions". It shall be organized according to the specified criteria below, and shall include, but not be limited to, the following:

A. Personnel Qualifications and Experience

- Resumes covering the qualifications of the proposed staff
- Education accomplishments
- Years and types of experience
- Experience in auditing Federally-assisted programs

B. Organizational Resources and Project Management Plan

- Description of the organizational structure of the firm
- Staffing plan for fulfilling the contract
- Provide a list of the firms clients for which audit services of this nature have been provided including names and telephone numbers of the clients representative for reference contracts.

C. Understanding the Scope of Work and Approach to Audit

- A narrative must be included to demonstrate the Offeror's technical understanding of the work to be performed.
- The Offeror must include a statement specifying that the firm will meet the audit deadline.

Business Proposal

The Offeror shall submit a pricing proposal to include:

- A. The Offeror's total audit fee
- B. Data should be included to support the fee which is adequate to establish the reasonableness of the Auditor's overall bid.

Evaluation Procedures

Enclosure 6 is an example of a method of evaluating proposals. The evaluation formula and the values assigned to the criteria given are for illustration only. The City/County should design formulas and criteria that meet their own needs.

Although cost is a significant factor, it should not be the dominant factor. Cost should be given more importance when all the other evaluation criteria are relatively equal.

Evaluation Procedures

Each proposal will be evaluated based on the following criteria and evaluation formula.

A. Technical Factors

1. Responsiveness of the proposal in clearly stating an understanding of the work to be performed.
 - Appropriateness and adequacy of proposal procedures
 - Necessity of procedures
 - Reasonableness of time estimates
 - Appropriateness of assigned staff levels
 - Timeliness of expected completion
2. Technical experience of the firm
3. Qualification of staff
4. Size and structure of the firm

B. Cost Factors

1. Cost of work to be performed

Total scores will be determined by adding the points received for technical qualifications (**maximum of 75 points**) to the points received for the cost of the audit (**maximum of 25 points**). The total score will be determined by the following formula:

$$\frac{\text{Technical Score for this Firm}}{\text{Highest Technical Score Received}} \times (75) = \text{Technical Score}$$

$$\frac{\text{Lowest Bid of All Bids}}{\text{Cost of Bid for this Firm}} \times (25) = \text{Cost Score}$$

While the total score will be significant factor, the City/County receives the right to make a final selection.



U.S. Department of Housing and Urban Development
Community Planning and Development

Special Attention of:

All Regional Directors
All Field Office Directors
All CPD Division Directors
All Regional Environmental Officers
All Responsible Entities
All Housing Directors
All PIH Division Directors
All Program Environmental Clearance Officers

Notice: CPD-12-006

Issued: June 15, 2012

Expires: This Notice is effective until amended, superseded, or rescinded.

Cross References:

**SUBJECT: Process for Tribal Consultation in Projects That Are Reviewed
Under 24 CFR Part 58**

I. Purpose

The "Environmental Review Procedures for Entities Assuming HUD Environmental Responsibilities," 24 CFR Part 58, outlines the review process for many projects assisted with HUD programs, including those funded through CDBG, HOME, HOPE VI, HOPWA, Emergency Shelter Grants, certain Indian Housing programs, Public Housing Capital Fund, and Economic Development Initiative grants, and certain loans guaranteed by HUD. Part 58 covers many environmental areas, including historic resources. It references the "Section 106" review process for historic resources, which requires federal agencies to consult with federally-recognized Indian tribes on projects that may affect historic properties of religious and cultural significance to tribes. Under Part 58, local, state, or tribal governments become Responsible Entities (REs) and assume the federal agency's environmental review authority and responsibility for projects within their jurisdiction, including those for which they are grantees. The RE must consult with tribes to determine whether a proposed project may adversely affect historic properties of religious and cultural significance, and if so, how the adverse effect could be avoided, minimized or mitigated. This applies to projects on and off tribal lands. This Notice clarifies the steps that REs should follow in the tribal consultation process. Following this protocol ensures compliance with the requirement for certification of tribal consultation on the Request for Release of Funds and Certification (form HUD 7015.15).

II. Background

Section 106 of the National Historic Preservation Act (*16 U.S.C. 4701*) and its implementing regulations (36 CFR Part 800) direct federal agencies to undertake an open, consultative process to consider the impact of their projects on historic and archeological resources. The review must

be completed before an agency approves and/or commits funds to a project. In projects that are reviewed under 24 CFR Part 58, the Responsible Entity (RE), acting as HUD, consults with the State Historic Preservation Officer (SHPO), local government, individuals and organizations with demonstrated interest, the public, and representatives of federally-recognized Indian tribes and Native Hawaiian Organizations, including Tribal Historic Preservation Officers (THPOs). This Notice focuses on tribal consultation and project impacts to historic properties of religious and cultural significance to tribes. If a project includes activities that may affect such properties, the RE must consult with tribes to identify the property(ies) and consider ways to avoid, minimize or mitigate possible adverse effects to them. For guidance on consulting with Native Hawaiian Organizations, see "Consultation with Native Hawaiian Organizations in the Section 106 Review Process: A Handbook" published by the Advisory Council on Historic Preservation in June 2011.

Effective tribal consultation begins at the earliest possible stages of a project and is carried out to meet project timeframes. It fosters meaningful dialogue that strives to protect historic properties of religious and cultural significance to tribes. As noted in 36 CFR 800.2(c)(2)(ii)(B): "Consultation with Indian tribes should be conducted in a sensitive manner respectful of tribal sovereignty. Nothing in this part alters, amends, repeals, interprets, or modifies tribal sovereignty, any treaty rights, or other rights of an Indian tribe, or preempts, modifies, or limits the exercise of any such rights." Additional guidance on working with tribal representatives is available. REs may engage cultural resource specialists to assist in the process as needed, but REs remain ultimately responsible for initiating consultation with tribes.

Further details on the Statutory and Regulatory Requirements for tribal consultation are included in Section VI. Definitions are included in Section VII.

III. Required Actions by Responsible Entities

A. Determine if Section 106 Review is Required

Not all projects require Section 106 review. Some are exempted through regulation or Programmatic Agreements between the RE and the SHPO. If Section 106 review is not required, tribal consultation is not required.

1. Exempt Activities

If project activities are limited to those listed in 24 CFR 58.34 (a) (1-11) as Exempt Activities and those listed in 24 CFR 58.35 (b), as Categorical Exclusions not subject to §58.5, no further review and no consultation are required. The listed Activities and Exclusions have "No Potential to Cause Effects." Examples include: maintenance activities, tenant-based rental assistance, operating costs, affordable housing pre-development costs, studies and plans.

2. Programmatic Agreement

If the funded activity is covered by an existing Programmatic Agreement (PA), the PA may contain more Exempt activities in addition to the ones above. [Link to PA database] Follow the review process in the PA, including appropriate tribal consultation. If the PA does not

contain a section on tribal consultation, and the activity is not Exempt, follow the process in III. C., below.

3. Projects Involving Multiple Federal Agencies

If the project involves multiple federal agencies, the RE may defer to another federal agency as the lead agency to undertake the Section 106 review. Generally, the agency with the largest stake in the project acts as the lead agency. Document the lead agency agreement in writing and retain it in the Environmental Review Record (ERR). The agreement must contain provisions for appropriate tribal consultation. If adverse effects are involved, the RE must sign the Memorandum of Agreement that resolves the adverse effect(s). Contact the HUD Federal Preservation Officer to discuss questions about a specific case.

B. Determine if Tribal Consultation is Required

Not all projects that require Section 106 review require consultation with Indian tribes. Consultation with federally-recognized tribes is required when a project includes activities that have the potential to affect historic properties of religious and cultural significance to tribes. These types of activities include: ground disturbance (digging), new construction in undeveloped natural areas, introduction of incongruent visual, audible, or atmospheric changes, work on a building or structure with significant tribal association, or transfer, lease or sale of historic properties of religious and cultural significance.

1. Checklist on When to Consult With Tribes

Use the When to Consult With Tribes Under Section 106 checklist (Appendix A) to determine if the project includes types of activities that have the potential to affect historic properties of religious and cultural significance. [[Link to checklist](#)] If not, tribal consultation is not required. Keep a copy of the checklist in the Environmental Review Record (ERR). If needed, you may seek technical assistance from the HUD Field Environmental Officer (FEO). If consultation is required, follow the steps below.

Through written agreement with a tribe, an RE may modify the process outlined below. [See [36 CFR 800.2\(c\)\(2\)\(ii\)\(E\)](#)] An RE may also choose to incorporate into their consultation effort any relevant provisions in existing agreements between SHPOs and tribes and in other SHPO and THPO written guidance regarding tribal consultation.

C. Consult With Tribes

If a project includes the types of activities that may affect historic properties of religious and cultural significance, the RE must consult with the relevant tribe(s) to identify any such properties in the project's Area of Potential Effect (APE). If they are present, consultation continues with evaluation of the eligibility of the properties for the National Register of Historic Places and assessment of the possible effects of the project on Register-eligible properties. The goal is to avoid adverse effects if possible.

Steps 1-4 below correspond to the steps commonly used to describe the Section 106 process in other guidance: Initiate Consultation (Step 1); Identify and Evaluate Historic Properties (Step 2); Assess Effects (Step 3); and Resolve Adverse Effects (Step 4). For the sake of efficiency, Steps

2, 3 and 4 may be treated together in consultation discussions and comments. [See 36 CFR 800.3(g) Expediting consultation J

Step1. Identify federally-recognized tribes with an interest in the project area and initiate consultation

The RE can use the Tribal Directory Assessment Tool (TDAT) to identify tribes with a current or ancestral interest in the county where the project is located. TDAT is a web-based directory of federally-recognized tribes and their geographic areas of interest. Tribes may have an interest in counties far from their current location, counties where the tribe lived centuries or millennia ago.

a. Tribal Directory Assessment Tool (TDAT)

Type the project address into the locator box in TDAT and it will return a list of tribes with interest in the area, with contact names, addresses, e-mail addresses, fax numbers and phone numbers. You can export the list as an Excel spreadsheet for mail merge in g. below. If TDAT shows no federally-recognized tribes with an interest in the area, document the result in the ERR; consultation is complete unless a previously unidentified, federally-recognized tribe expresses a desire to consult.

b. Tribe as Grant Recipient

If a tribe is a grant recipient in a HUD project and assumes the role of RE and conducts the Section 106 review, that tribe is responsible for inviting other tribes to consult if other tribes also have a religious or cultural interest in the project area. Additional guidance is available.

c. Non-federally Recognized Tribes

Although REs are only required to consult with federally-recognized tribes, the RE may invite non-federally recognized tribes with a demonstrated interest in the project to consult as additional consulting parties. They may also participate as members of the public. [See pages 9-11 of Consultation with Indian Tribes in the Section 106 Review Process: A Handbook]

d. Contact federally-recognized tribe(s) and invite consultation

Once the RE has identified tribes with a potential interest in the project area, the RE mails a letter to each tribe to invite consultation. The letter(s), on RE letterhead, may be transmitted by email. Keep a copy of the letter(s) in the Environmental Review Record (ERR) for monitoring purposes.

e. Historic Properties of Religious and Cultural Significance

The letter that invites consultation should contain a request for assistance in identifying historic properties of religious and cultural significance in the project area - archeological sites, burial grounds, sacred landscapes or features, ceremonial areas, traditional cultural places, traditional cultural landscapes, plant and animal communities, and buildings and structures with significant tribal association - and any initial concerns with impacts of the project on those resources.

f. Tribal Historic Preservation Officer (THPO)

Some tribes have both a tribal leader and a Tribal Historic Preservation Officer (THPO) listed in TDAT. Send letters to both and ask that the tribe's response indicate a single point of contact if possible. On tribal lands, a THPO may have assumed authority for Section I 06 review in lieu of the State Historic Preservation Officer (SHPO). On non-tribal lands, the THPO may have been delegated by the tribe to represent them in Section I 06 reviews, but their participation does not take the place of consultation with the SHPO. [See page 6 of *Consultation with Indian Tribes in the Section 106 Review Process: A Handbook*]

g. Template Letter

Send a letter to the tribe(s) using TDAT contact info mail merged with the template letter. The RE may customize the template letter if desired. [[Link to template letter](#)]

You must add a description of the project into the letter by editing the template. The description should include, as applicable: the location and size of the property; type of project; type and scale of new building(s) or structures; construction materials; number of housing units; depth and area of ground disturbance; introduction of visual, audible or atmospheric changes; or transfer, lease or sale of property. [[Link to sample project descriptions](#)]

The RE -- not a contractor, lender, sponsor, sub-recipient or other grantee -- must sign the letter to the tribe(s). The RE is required to conduct government-to-government consultation.

h. Map

Enclose a map showing the location of the project and the Area of Potential Effect (APE), which may be larger than the project property. For urban sites, a map generated from a site like Google Earth is preferred. [[Link to Google Earth](#)] For rural sites, a USGS topographic map is preferred. [[Link to topo map site](#)]

i. Timeframes

HUD's policy is to request a response to the invitation to consult within 30 days from the date the tribe receives the letter. For gauging the beginning and end of the 30 day period, an RE may assume that an emailed letter is received on the date it is sent. For a hard copy letter, an RE may send the letter certified mail, or, if mail delivery is predictable and reliable, the RE may assume a 5-day delivery period, and assume that the period ends 35 days after the letter is mailed.

If a tribe wishes to be a consulting party, the tribe must provide within 30 days an indication of their desire to consult. The tribe does not need to actually provide information about historic properties of religious and cultural significance within 30 days; that may take longer. If a tribe responds that they do not want to consult, document the response in the ERR. If a tribe does not respond to the invitation to consult within 30 days, the RE should document the invitation and lack of response in the ERR; further consultation is not required.

j. Tiered Review

If a project is utilizing a Tiered review, consultation should usually begin in the Tier I broad level review. If a tribe expresses interest in further consultation on specific sites, the Tier I review should include a written strategy for continuing consultation on site specific reviews in Tier 2. [See [24 CFR 58.15](#)]

Step 2. Consult with the tribe(s) to identify and evaluate historic properties of religious and cultural significance

Theoretically, the consultation process first identifies potential historic properties, then evaluates which ones are eligible for the National Register of Historic Places, and then assesses the impact(s) of the project on those resources. In practice, those efforts often occur simultaneously. It is important to remember though, that only historic properties of religious and cultural significance that are eligible for or listed on the National Register are protected under Section 106. If no such properties are present, refer to the "No Historic Properties Affected" finding in Step 3 below.

a. Consultation Meeting(s)

After receiving a response that a tribe wants to consult, contact the tribe(s) to arrange further consultation which may take place by phone, web meeting, or face-to-face meeting. Try to accommodate a tribe's preferences as to meeting location and method of communication .. If needed, a site visit is an eligible project expense. If more than one tribe wants to consult, consult jointly if possible. Integrate tribal consultation with consultation with other non-tribal parties, including the SHPO, as possible and appropriate. Recognize that some tribes may not want to consult jointly, particularly where there are concerns for confidentiality of information.

b. Evaluation of Historic Properties for the National Register of Historic Places

Gather information on known historic properties from the tribe, SHPO, consultants, and other repositories. Discuss with the tribe whether known properties appear eligible for the National Register of Historic Places. HUD acknowledges that tribes possess special expertise in evaluating the eligibility of religious and cultural properties for the National Register. Generally, if the RE disagrees with a tribe's opinion, the RE or the tribe may ask the Advisory Council on Historic Preservation to enter the consultation. The tribe may also ask the Council to request the RE to obtain a formal determination of eligibility from the Keeper of the National Register.

c. Surveys to Identify Additional Historic Properties

If a convincing case is made by the tribe(s) and/or SHPO that National Register eligible historic properties potentially exist on the site, and that they may be affected by the project, the grantee may approve funding for an archeological survey as part of the project. Consult HUD's HP Fact Sheet #6, [Guidance on Archeological Investigations in HUD Projects](#). [Link to HP Fact Sheet #6]

Sometimes, consultation results in modification of project plans to avoid potential effects on historic properties of religious and cultural significance. If effects are avoided, e.g. by designating a sensitive area as undisturbed green space, it is generally not necessary to fully identify and document resources with an archeological survey.

An RE is not required to pay for consultation. However, an RE may choose to negotiate payment to a tribe for detailed survey documentation on historic properties of religious and cultural significance to the tribe, similar to payment to a consultant. If agreed upon ahead of time, this payment may be an eligible project expense.

d. Confidentiality of Information

Tribes may be hesitant to share information on the location, character, and use of historic properties of special religious and cultural significance. Discuss with the tribe(s) ways to protect confidentiality of such information. The RE should strive to ensure confidentiality when requested. 36 CFR 800.11(c) outlines a formal process for obtaining federal authority to withhold sensitive information, in the event that practical means or state authority are not available.

Step 3. Consult with the tribe(s) to evaluate the effects of the project on identified and potential historic resources

After discussing the possible effects of the project on historic properties of religious and cultural significance to tribes, the RE determines the appropriate finding: "No Historic Properties Affected"; "No Adverse Effect"; or "Adverse Effect". The RE will also be consulting with other parties, like the SHPO, to determine effects of the project on these and other types of resources, like historic buildings with no tribal association. It is desirable to consolidate findings of effect for all types of historic properties in one letter. Ultimately, a project has one overall finding of effect. Tribes have 30 days to object to a finding of effect.

a. Criteria of Adverse Effect

Consult with the tribe(s) and other consulting parties to apply the Criteria of Adverse Effect, and determine if the project may have an adverse effect.

b. "No Historic Properties Affected" Finding

If there are no known or potential historic properties in the project area that are listed on or eligible for the National Register of Historic Places, or if such properties exist but there will be no effect on them, notify the tribe(s) and other consulting parties of your determination of "No Historic Properties Affected." Describe which of the above circumstances applies. It is not necessary to fully identify and document resources if they will not be affected by the project.

c. "No Adverse Effect" Finding

If the project will have an effect, but it will not be adverse, notify the tribe(s) and other consulting parties of your determination of "No Adverse Effect." They have 30 days to object. If a tribe objects, the RE should consult to resolve the objection. The tribe or the RE may also ask the Advisory Council on Historic

Preservation to review the determination. The request must be made within the 30-day period and must include the documentation listed in 36 CFR 800.11 (e).

d. "Adverse Effect" Finding

If the project will affect National Register listed or eligible historic properties in any of the ways outlined in the Criteria of Adverse Effect, notify the tribe(s) and other consulting parties of your determination of "Adverse Effect" and consult to resolve the adverse effects. Typical activities that could adversely affect historic properties of religious and cultural significance include: ground disturbance (digging), new construction in undeveloped natural areas, introduction of incongruent visual, audible, or atmospheric changes, work on a building or structure with significant tribal association, or transfer, lease or sale of historic properties of religious and cultural significance.

Step 4. Consult to resolve adverse effects

If there are possible "Adverse Effects", consult with the tribe(s) and other consulting parties to consider alternatives that would avoid or minimize adverse effects, including possible mitigation measures.

a. Notification of Advisory Council

The RE must notify the Advisory Council on Historic Preservation (ACHP) about the adverse effect and give them an opportunity to enter the consultation. The Council will decide whether to enter the consultation based on established criteria that include whether a project "Presents issues of concern to Indian tribes or Native Hawaiian organizations." The Advisory Council must respond within 15 days of receipt of the request. [See link to on-line ACHP notification system - pending]

b. Consideration of Alternatives

Consult with the tribe(s) and other consulting parties about possible ways to modify a project to avoid adverse effects. If initial discussion does not resolve the issue(s), a site visit with consulting parties and project developers is often helpful. An agreed upon alternative may be stipulated with "conditions" in a revised "No Adverse Effect" finding for the project.

c. Consideration of Mitigation Measures

If adverse effects cannot be fully resolved, and there is a compelling need for the project to proceed despite the adverse effect(s), consider ways to mitigate or compensate for the harm to the historic property(ies). Mitigation measures may include data recovery, documentation, research, publication, education, interpretation, curation, off-site preservation, and/or monitoring and may relate to the specific resource that is being affected, or other historic properties in a similar location or of a similar type.

d. If needed, prepare and execute a Memorandum of Agreement (MOA)

An MOA stipulates the agreed upon measures to minimize and/or mitigate adverse effects. It is a legally binding document that obligates all named parties

to the agreement. The RE is responsible for ensuring that the measures required by the MOA are satisfactorily carried out. Model language is available. At the discretion of the RE, where deemed necessary, an MOA may also be used to codify agreed upon measures to avoid an adverse effect, in conjunction with a conditional "No Adverse Effect" finding.

e. Execution of the MOA

The MOA must be executed prior to the decision point for the project -- as applicable, prior to the dissemination or publication of public notices required by 24 CFR Part 58 (e.g., notice of finding of no significant impact (§58.43), and notice of intent to request the release of funds (§58.70)). The RE should send a digital copy of the MOA to the HUD Field Environmental Officer (FEO) who will file it in the MOA file in the central HUD shared drive. A copy must also be provided to the Advisory Council on Historic Preservation and the consulting tribe(s).

f. Signatories to the MOA

The Responsible Entity may invite the tribe(s) to sign the MOA as a consulting party. The tribal leader and the THPO may sign the MOA. For projects on tribal lands, if the tribe has a THPO who has assumed Section 106 responsibilities for the tribe, the THPO must be a signatory.

HUD does not sign Section 106 agreement documents covered by 24 CFR Part 58. HUD does sign agreements covered by 24 CFR Part 50. If a project is subject to both, HUD may sign as long as the agreement states the appropriate program reference. [See CPD Memo on HUD Environmental Regulations and Section 106 Agreement Documents.]

g. Completion of MOA requirements

The RE must ensure that the stipulations and mitigation measures in the MOA are carried out and inform the tribe(s) of completion. Document completion in the Environmental Review Record (ERR).

h. Termination of Consultation

If consulting about properties on tribal lands, a THPO may determine that further consultation will not be productive and terminate consultation. Likewise, an RE, SHPO, or, if participating, the Advisory Council on Historic Preservation, may terminate consultation. Termination of consultation is detailed at 36 CFR 800.7. A tribe that is consulting about properties off tribal lands may decline an invitation to sign an MOA, but does not have a right to terminate consultation under 36 CFR 800.7.

IV. **Record of Compliance**

Include evidence of compliance with this protocol in the Environmental Review Record (ERR), including notes, letters, e-mails, reports, etc.

Failure to consult with tribes per this protocol may lead to HUD issuing a finding of non-compliance with 36 CFR Part 800, the regulations that implement Section 106. If HUD makes a finding, HUD may initiate sanctions, corrective actions, or other remedies specified in program regulations or agreements or contracts with the RE which may include terminating grants where appropriate and repayment of funds expended with non-federal funds. (See 24 CFR 58.77)

A. Request for Release of Funds (RROF) (Form 7015.15)

REs and grantees must certify on the Request for Release of Funds and Certification (form HUD 7015.15) that they have consulted with federally-recognized tribes per this protocol. [See Part 2, #3 of fom1J

V. Discoveries During Construction

Whenever previously unknown below ground historic properties of religious and cultural significance are discovered during construction, excavation in the area of the resources must immediately stop until tribal consultation can occur. The RE must notify tribes (including the THPOs), the Advisory Council on Historic Preservation, and the SHPO within 48 hours of the discovery. [See 36 CFR 800.13{b}J Contact the tribes identified in Step I and reenter consultation which should take place under an accelerated timeframe. A site visit with the RE, tribe(s), and SHPO (as appropriate) is recommended to resolve any potential adverse effect(s) to the historic property(ies) of religious and cultural significance.

A. Human Remains

If the discovery includes human remains, they should be respectfully covered over and secured, and the RE should contact law enforcement authorities as well as tribes and other consulting parties. If the human remains are determined to be Indian burials, the RE should follow the guidance in the "Advisory Council on Historic Preservation Policy Statement Regarding Treatment of Burial Sites, Human Remains and Funerary Objects."

B. Native American Graves Protection and Repatriation Act (NAGPRA)

In undertakings on federal or tribal lands, the Native American Graves Protection and Repatriation Act (NAGPRA) (*25 U.S.C. 3001 et seq*) requires that cultural items excavated or inadvertently discovered be returned to their respective peoples. Cultural items include human remains, funerary objects, sacred objects, and objects of cultural patrimony. More information is available.

VI. Statutory and Regulatory Requirements

Federal law directs federal agencies to consult with tribes when there is a potential for a federally-funded project to affect a historic property of religious and cultural significance to tribes.

Section 106 of the National Historic Preservation Act (*16 U.S.C. 4700*) requires that prior to approving the expenditure of funds for a project, a federal agency must take into account the effect of the undertaking on historic resources.

Section 101 (d)(6)(A) and (B) of the National Historic Preservation Act identifies the types of properties to be considered and the obligation to consult. The Act provides that properties of traditional religious and cultural importance to an Indian tribe or Native Hawaiian organization may be determined to be eligible for inclusion in the National Register of Historic Places. In carrying out its responsibilities under Section 106 of the Act, a Federal agency is required to consult with any Indian tribe or Native Hawaiian organization that attaches religious and cultural significance to such properties. In projects that are reviewed under 24 CFR Part 58, the Responsible Entity (RE) assumes the role of the Federal agency, including tribal consultation. [See 24 CFR 58.4]

The regulations that implement Section 106 of the Act, 36 CFR Part 800 - "Protection of Historic Properties," define "Indian tribe" as federally-recognized tribes, and limit the need to consult to projects that have the potential to affect historic properties of religious and cultural significance to tribes.

36 CFR 800.2 (c)(2)(ii)

Consultation on historic properties of significance to Indian tribes and Native Hawaiian organizations.

Section 101(d)(6)(B) of the act requires the agency official to consult with any Indian tribe or Native Hawaiian organization that attaches religious and cultural significance to historic properties that may be affected by an undertaking ...

36 CFR800.3

(a) *Establish undertaking.* The agency official shall determine whether the proposed Federal action is an undertaking as defined in § 800.16(y) and, if so, whether it is a type of activity that has the potential to cause effects on historic properties.

(1) *No potential to cause effects.* If the undertaking is a type of activity that does not have the potential to cause effects on historic properties, assuming such historic properties were present, the agency official has no further obligations under section 106 or this part.

Therefore, the consultation process outlined in this Notice starts by first establishing whether the project includes a type of activity that has the potential to affect historic properties of religious and cultural significance to tribes. If it does, it outlines the steps to consult with tribes to identify and evaluate resources, and to assess the effects of the project on the resources.

VII. Definitions

Definitions of some of the terms used in this Notice may be found in 24 CFR Part 58 and 36 CFR Part 800, "Protection of Historic Properties", and are repeated here for convenience.

The definition of **Responsible Entity** is found in 24 CFR 58.2(a)(7).

Responsible Entity. Responsible Entity means:

(i) With respect to environmental responsibilities under programs listed in §58.1(b)(1), (2), (3)(i), (4), and (5), a recipient under the program.

(ii) With respect to environmental responsibilities under the programs listed in §58.1(b)(3)(ii) and (6) through (12), a state, unit of general local government, Indian tribe or Alaska Native Village, or the Department of Hawaiian Home Lands, when it is the recipient under the program. Under the Native American Housing Assistance and Self-Determination Act of 1996 (25 U.S.C. 4101 *et seq.*) listed in §58.1(b)(10)(i), the Indian tribe is the responsible entity whether or not a Tribally Designated Housing Entity is authorized to receive grant amounts on behalf of the tribe. The Indian tribe is also the responsible entity under the Section 184 Indian Housing Loan Guarantee program listed in §58.1(b)(11). Regional Corporations in Alaska are considered Indian tribes in this part. Non-recipient responsible entities are designated as follows:

(A) For qualified housing finance agencies, the State or a unit of general local government, Indian tribe or Alaska native village whose jurisdiction contains the project site;

(B) For public housing agencies, the unit of general local government within which the project is located that exercises land use responsibility, or if HUD determines this infeasible, the county, or if HUD determines this infeasible, the State;

(C) For non-profit organizations and other entities, the unit of general local government, Indian tribe or Alaska native village within which the project is located that exercises land use responsibility, or if HUD determines this infeasible, the county, or if HUD determines this infeasible, the State;

Definitions of some other parties in the Section 106 process are found in 36 CFR 800.16.

Council means the Advisory Council on Historic Preservation or a Council member or employee designated to act for the Council.

Indian tribe means an Indian tribe, band, nation, or other organized group or community, including a native village, regional corporation, or village corporation, as those terms are defined in section 3 of the Alaska Native Claims Settlement Act (43 U.S.C. 1602), which is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians.

Native Hawaiian organization means any organization which serves and represents the interests of Native Hawaiians; has as a primary and stated purpose the provision of services to Native Hawaiians; and has demonstrated expertise in aspects of historic preservation that are significant to Native Hawaiians.

Native Hawaiian means any individual who is a descendant of the aboriginal people who, prior to 1778, occupied and exercised sovereignty in the area that now constitutes the State of Hawaii.

State Historic Preservation Officer (SHPO) means the official appointed or designated pursuant to section IOI (b)(1) of the act to administer the State historic preservation program or a representative designated to act for the State historic preservation officer.

Tribal Historic Preservation Officer (THPO) means the tribal official appointed by the tribe's chief governing authority or designated by a tribal ordinance or preservation program who has assumed the responsibilities of the SHPO for purposes of section I 06 compliance on tribal lands in accordance with section IOI(d)(2) of the act.

Other relevant definitions found in 36 CFR 800.16 include:

Area of potential effects means the geographic area or areas within which an undertaking may directly or indirectly cause alterations in the character or use of historic properties, if any such properties exist. The area of potential effects is influenced by the scale and nature of an undertaking and may be different for different kinds of effects caused by the undertaking.

Consultation means the process of seeking, discussing, and considering the views of other participants, and, where feasible, seeking agreement with them regarding matters arising in the section I 06 process. The Secretary's "Standards and Guidelines for Federal Agency Preservation Programs pursuant to the National Historic Preservation Act" provide further guidance on consultation.

Effect means alteration to the characteristics of a historic property qualifying it for inclusion in or eligibility for the National Register.

Eligible for inclusion in the National Register includes both properties formally determined as such in accordance with regulations of the Secretary of the Interior and all other properties that meet the National Register criteria.

Historic property means any prehistoric or historic district, site, building, structure, or object included in, or eligible for inclusion in, the National Register of Historic Places maintained by the Secretary of the Interior. This term includes artifacts, records, and remains that are related to and located within such properties. The term includes properties of traditional religious and cultural importance to an Indian tribe or Native Hawaiian organization and that meet the National Register criteria.

Memorandum of agreement means the document that records the terms and conditions agreed upon to resolve the adverse effects of an undertaking upon historic properties.

National Register means the National Register of Historic Places maintained by the Secretary of the Interior.

Programmatic agreement means a document that records the terms and conditions agreed upon to resolve the potential adverse effects of a Federal agency program, complex undertaking or other situations in accordance with §800.14(b).

Tribal lands means all lands within the exterior boundaries of any Indian reservation and all dependent Indian communities.

Undertaking means a project, activity, or program funded in whole or in part under the direct or indirect jurisdiction of a Federal agency, including those carried out by or on behalf of a Federal agency; those carried out with Federal financial assistance; and those requiring a Federal permit, license or approval.

Acronyms Used in This Notice

ACHP	Advisory Council on Historic Preservation (federal)
APE	Area of Potential Effect
CPD	Community Planning and Development Office
ERR	Environmental Review Record
FEO	Field Environmental Officer
HUD	U.S. Department of Housing and Urban Development
MOA	Memorandum of Agreement
NAGPRA	Native American Graves Protection and Repatriation Act
PA	Programmatic Agreement
RE	Responsible Entity
REO	Regional Environmental Officer
RROF	Request for Release of Funds and Certification
SHPO	State Historic Preservation Officer
TDAT	Tribal Directory Assessment Tool
THPO	Tribal Historic Preservation Officer

Appendix A

When To Consult With Tribes Under Section I.06 Checklist

Yolanda Chavez
Deputy Assistant Secretary for Grant
Programs

Appendix A

When To Consult With Tribes Under Section 106

Section 106 requires consultation with federally-recognized Indian tribes when a project may affect a historic property of religious and cultural significance to the tribe. Historic properties of religious and cultural significance include: archeological sites, burial grounds, sacred landscapes or features, ceremonial areas, traditional cultural places, traditional cultural landscapes, plant and animal communities, and buildings and structures with significant tribal association. The types of activities that may affect historic properties of religious and cultural significance include: ground disturbance (digging), new construction in undeveloped natural areas, introduction of incongruent visual, audible, or atmospheric changes, work on a building with significant tribal association, and transfer, lease or sale of properties of the types listed above.

If a project includes any of the types of activities below, invite tribes to consult:

- D significant ground disturbance (digging)**
Examples: new sewer lines, utility lines (above and below ground), foundations, footings, grading, access roads

- D new construction in undeveloped natural areas**
Examples: industrial-scale energy facilities, transmission lines, pipelines, or new recreational facilities, in undeveloped natural areas like mountaintops, canyons, islands, forests, native grasslands, etc., and housing, **commercial, and industrial facilities in such areas**

- D incongruent visual changes**
Examples: construction of a focal point that is out of character with the surrounding natural area, impairment of the vista or viewshed from an observation point in the natural landscape, or impairment of the recognized historic scenic qualities of an area

- D incongruent audible changes**
Examples: increase in noise levels above an acceptable standard in areas known for their quiet, contemplative **experience**

- D incongruent atmospheric changes**
Examples: introduction of lights that create skyglow in an area with a dark night sky

- D work on a building with significant tribal association**
Examples: rehabilitation, demolition or removal of a surviving ancient tribal structure or village, or a building or structure that there is reason to believe was the location of a significant tribal event, home of an important person, or that served as a tribal school or community hall

- D transfer, lease or sale of a historic property of religious and cultural significance**
Example: transfer, lease or sale of properties that contain archeological sites, burial grounds, sacred landscapes or features, ceremonial areas, plant and animal communities, or buildings and structures with significant tribal association

- D None of the above apply**

Project

Reviewed By

Date

When To Consult With Tribes Under Section 106

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Example: transfer, lease or sale of properties that contain archeological sites, burial grounds, sacred landscapes or features, ceremonial areas, plant and animal communities, or buildings and structures with significant tribal association

- D None of the above apply**

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