



Chapter 4: Additional Grantee Requirements

Overview

Grantees are responsible for several requirements that extend beyond administering the Community Development Block Grant project. These requirements include steps that local governments must take **before** applying for a grant and steps that may not be directly related to completing the project. For example, public participation requirements must be fulfilled before submitting an application and all Grantees must undertake annual actions to further fair housing even if their projects are not assisting or improving housing.

Fair housing and civil rights laws impact many aspects of CDBG projects. Nondiscrimination must be shown with relation to any benefits created with a Grantee's public facilities projects. In addition, the Grantee will be expected to show that the community in general is committed to nondiscrimination, equal opportunity, and affirmative action.

Grantee Responsibilities

- Follow public participation requirements and adopt a public participation plan, that is inclusive of all residents, regardless of language spoken, employment hours, etc.
- Affirmatively further fair housing by adopting a Fair Housing resolution
- Implement fair housing activities to affirmatively further fair housing on a consistent basis
- Implement the CDBG project in a non-discriminatory manner which includes accessible communications and adopting a non-discrimination resolution
- Maintain records that document project beneficiaries
- Demonstrate compliance with fair housing, accessibility, and civil rights objectives

This chapter discusses these requirements, imposed by Federal laws and regulations, in the following sections:

- 4.1 California Housing-Element Law
- 4.2 Public Participation Requirements
- 4.3 Affirmatively Furthering Fair Housing (AFFH)



- 4.4 Accessibility
- 4.5 Limited English Proficiency
- 4.6 Equal Employment Opportunity (EEO) Compliance
- 4.7 Economic Opportunity – (Section 3 Requirements)
- 4.8 Conflict of Interest
- 4.9 Excessive Force Resolution
- 4.10 Drug-Free Workplace Policy
- 4.11 Complaints and Appeals Procedures
- 4.12 Project Signage

Section 4.1 California’s Housing-Element Law

Since 1969, California has required that all local governments (cities and counties) adequately plan to meet the housing needs of everyone in the community.

[Housing Element
Completeness Check](#)

California’s local governments meet this requirement by adopting housing plans as part of their “general plan” (also required by the State). General plans serve as the local government’s “blueprint” for how the city and/or county will grow and develop and include seven elements: land use, transportation, conservation, noise, open space, safety, and housing. The law mandating that housing be included as an element of each jurisdiction’s general plan is known as “housing element law.”

California’s housing element law acknowledges that, in order for the private market to adequately address the housing needs and demand of Californians, local governments must adopt plans and regulatory systems that provide opportunities for (and do not unduly constrain), housing development. As a result, housing policy in California rests largely on the effective implementation of local general plans and, in particular, local housing elements.

Jurisdictions are required to submit an [Annual Progress Report \(APR\)](#) on the status and progress in implementing the housing element to HCD. More information on the reporting requirements can be found in *Chapter 10: Reporting and Recordkeeping*.

Detailed information on the required housing element can be found on the [HCD Regional Housing Needs Allocation and Housing Elements](#) webpage.



Eligibility for Award of State CDBG Funds

Pursuant to Health and Safety Code (HSC) Section 50829, applicants must submit the Housing Element of their General Plan to the Department to be eligible for the State CDBG Program. Specifically, an applicant must at least:

1. Submit a draft,
2. Consider the Department's findings,
3. Adopt the housing element in accordance with Government Code Section 65585; and
4. Meet ongoing reporting and compliance requirements.

At a minimum, step 1 above must be completed with evidence of submittal by the date specified in the NOFA. While no application for funds shall be denied because of the content of the housing element, applicants with growth controls are generally not eligible to receive funds unless meeting conditions specified in Health and Safety Code section 50830, such as a Housing Element found in substantial compliance by the Department.

Failure to complete the Housing Element compliance process will result in future program ineligibility and may result in a breach of the Standard Agreement for funds awarded through the State CDBG program. Jurisdictions who fail to complete the Housing Element compliance process in a timely manner will be ineligible for funding until the Housing Element is brought into compliance.

Applicants should verify the status of their Housing Element and the impact of growth control measures prior to submitting their application.

For more information about how growth controls and zoning can contribute to inequitable outcomes, see *Appendix B: Equity and Belonging Toolkit*.

Definition of Growth Control Measure HSC §50830

A general plan, ordinance, or other measure that directly limits the number of:

1. building permits that may be used for residential construction; or
2. buildable lots that may be developed for residential purposes.

Statutory Authority for Compliance

HSC §§50829 and 50830.



Section 4.2 Public Participation Requirements

Local governments must provide reasonable opportunities for public participation, meetings, and access to information with respect to local community development programs. Certain public participation requirements are required to be met prior to application submission while other requirements apply throughout the course of the project. Grantees are expected to take whatever actions are appropriate to encourage the participation of all its residents, including members of historically marginalized communities and persons with limited English proficiency, as well as persons with disabilities. (Section 4.5 below addresses required steps to assist limited-English proficient persons.)

Citizen Participation Plan

All local governments receiving CDBG funds from the State of California, Department of Housing and Community Development (HCD) must adhere to the Citizen Participation Requirements set forth in the State's Citizen Participation Plan and adopt it. Throughout this document, HCD refers to Citizen Participation as public participation to be inclusive of all residents, including people who do not have citizenship but are community members and could be impacted by or participating in CDBG projects and programs. For more information on inclusive public participation and outreach, please see Appendix B: Equity and Belonging Toolkit.

[HCD Citizen Participation Plan](#)

Each Grantee must meet the following requirements:

1. Solicit input on local community development needs and proposed activities particularly from low- and moderate-income persons (LMI) who reside within the local jurisdiction in which the grant funds are proposed to be used;
2. Promote public comment on the proposed application and community development activities via a minimum of two public meetings (more if any substantial change is proposed);
3. Provide special technical assistance to groups representative of LMI persons;
4. Identify the needs of persons with limited English proficiency residents and reasonable accommodation for persons with disabilities;
5. Provide a timely, appropriate, and effective written answer to inquiries, complaints, and grievances;



6. Provide local residents with reasonable and timely access to information, including the amount of funds available, the range of eligible activities, the activities being applied for, and amount of funds requested.

Required Public Participation

Local governments should pay particular attention to the Public Participation Component of the Grant Process. No application will be reviewed if the Grantee has not complied with the procedures established and outlined below for public notices and meetings. Two (2) public meetings are required at separate phases of the project. (Additional meetings may be required if substantial changes or amendments occur.)

[24 CFR 570.486](#)

1. Notice of public meeting must be posted as a printed legal notice in four unique public places within the local government. Notices should be placed in a diversity of locations. Grantees must publicize these meetings in a meaningful way to engage potential program users and beneficiaries. Appendix 4-1 is a sample format for the public notice. Publication of notices in languages other than English might be required based on results of the Four Factor Analysis (see Section 4.5 for more information). Such places may include:

[Appendix 4-1:
Sample Public Notice
\(English\)](#)

[Appendix 4-1:
Sample Public Notice
\(Spanish\)](#)

1. A newspaper of general circulation in the local government. For example, the Fresno Bee is such a daily newspaper serving many communities of the Central Valley.
2. Weekly papers including non-English language newspapers
3. Social media accounts such as Facebook, X, and/or Next Door.
4. Website calendars that announce public events (may be the official municipal website or other web-based calendars used by community residents, particularly LMI and non-English speaking community members).
5. Local libraries
6. Local nonprofit websites such as Main Street organizations.
7. Local church bulletins
8. Local radio stations



2. The notice must be published or posted no less than 10 days prior to the date of the public meeting. When counting the 10-day period, you may NOT count the first date of publication or posting or the day of the meeting.
3. Notice of the public meeting must include a contact person including name, telephone number, and email address. Local residents should be advised to contact that individual, so the jurisdiction can provide accommodations for any persons with disabilities and provide assistance if a significant number of persons with limited English proficiency are expected. See Section 4.5 in this chapter for requirements regarding Limited English Proficiency (LEP).
4. The notice must identify a means for written comments and complaints to be submitted to the unit of local government.
5. Meetings must be scheduled during a time when local residents, specifically potential program beneficiaries, are generally available to attend (such as evenings and weekends). Morning or early afternoon sessions are generally not good times for members of the public to attend.
6. Grantees planning on earning Program Income (PI) or having PI on hand must provide adequate information about the use of PI at this meeting. More information on Program Income can be found in *Chapter 6: Financial Management*.

In addition to the required notices, applicants must also make every effort to inform people who might not be reached through the posted and/or published legal notices that the public meeting is to be held. Such efforts might include the distribution of leaflets; posting notices on bulletin boards at town hall; notices to local organizations, clubs, and churches; and/or personal contact. These efforts should especially be conducted in the neighborhoods affected by the proposed project. More information about centering equity in public participation can be found in *Appendix B: Equity and Belonging*.

NOTE: If a meeting is cancelled, the public noticing process must repeat. It is recommended that all public notices include potential rescheduling dates to avoid this situation.

First Public Meeting Content

The first public meeting is an opportunity to educate and inform local residents about the project, to provide a forum for resident input, and to identify any housing and community development needs. This meeting must be held **prior** to submission of the application to HCD. The following information should be made available at public meetings:



1. Goals and objectives of the CDBG program, including the definition of LMI,
2. Total amount of CDBG funds available,
3. Community development and housing needs of the applicant,
4. Proposed activities for the project and the amount to be requested; estimated beneficiaries (such as approximate number of homes to be rehabbed, dwelling units connected to infrastructure, persons served), qualification requirements, how the program is managed, role of Grantee and consultant, if any, type of improvements or construction proposed, timeframe to complete the project,
5. Proposed amount of funds to be used to benefit LMI people,
6. Amount and source of local funds to be expended on the project, and
7. Adoption or update of a Residential Anti-displacement and Relocation Assistance Plan, as necessary per [24 CFR 42.325](#).
8. Review status of the local housing element.

[Sample Residential Anti-displacement and Relocation Assistance Plan](#)

A copy, scan, photograph or digital attachment of the four publications and/or posting locations for the first public meeting must be included as part of the application submitted to HCD. The date that the posting was published must be clear on any submitted copy. If the document, such as a undated photograph, does not show a posting date an Affidavit of Posting may be submitted along with the photographs. Also, a copy of the meeting minutes or notes from the first public meeting must be included with the grant application. The Grantee should retain the same information for the second or any additional meetings held prior to project completion for monitoring by HCD. The minutes from the public meetings and the final draft of the application must be made available to the public.

Second Public Meeting Content

The second public meeting is for the Grantee to review the results of the project with local residents and to take comments about the local governments' performance. The public meeting must be held prior to the close out of the grant, but no earlier than the projected mid-point, to provide status of the program. The following information should be made available at the public meeting

1. Project progress/status of completion and expected timeframe to completion



2. Results to date and projected totals, such as number of beneficiaries assisted, housing units completed, portion of project in service, or persons served.
3. Funds expended, balance of funds available, and budget expectations to completion.

When a Grantee is planning to conduct a final meeting from one grant in conjunction with the first meeting for a new grant, the public notice language must be clear in the dual purpose of the meeting.

Additional Public Meetings Content

If the Grantee is required or chooses to hold additional public meetings, they must provide local residents with reasonable advance notice of, and opportunity to comment on, proposed changes to activities in an application to the state as described in the required notices for the first and second meeting. Grantees that propose substantial changes are required to hold an additional meeting. Substantially changed means changes to:

- Purpose
- Scope, adding or removing an activity
- Location
- Increase or Decrease funding by 25% or more
- Beneficiaries

The content of the additional public meeting would encompass all of the same elements of the first meeting with two changes. Replace item #3 Community development and housing needs of the applicant with “3. Explanation for the change(s).” Then, all other content items from the original meeting should be revisited and discussed in comparison to the proposed revision or amendment to the project.

Complaints and Appeals

Occasionally Grantees receive complaints regarding their projects and activities. In order to respond, Grantees must develop procedures for responding to complaints. See Section 4.11 Complaints and Appeals in this chapter.



Section 4.3 Affirmatively Furthering Fair Housing (AFFH)

All recipients of CDBG funds, including subrecipients and contractors, must assure that they do not discriminate or permit others to discriminate in provision of housing for every individual. Below is a list of groups with specific anti-discrimination protections under federal laws:

- Race
- Color
- Ancestry/National Origin
- Religion
- Sex
- Familial Status
- Disability
- Age (≥62)

HUD has expanded upon this list of federally protected groups for all HUD assisted activities via regulations and notices to include:

- Sexual Orientation
- Gender Identity
- Persons who use service or support animals

[24 CFR 5.403](#)

[Fact Sheet on HUD
Assistance Animals
Notice](#)

Additionally, California state law adds the following to the list of protected classes within the state:

- Age (≥40)
- Citizenship/Immigration Status
- Primary Language
- Source of Income
- Military or Veteran Status
- Genetic Information
- Medical Condition
- Sex/Gender (including pregnancy, childbirth, breastfeeding, or related medical conditions)

[California Protected
Classes - Housing](#)



Every Grantee must promote fair housing practices within its jurisdiction for anyone within these protected classes.

NOTE: Housing designed to meet the physical and/or social needs of senior citizens, and in compliance with California laws governing senior housing, may exclude households with minor children. Similar provisions are provided for senior citizen mobile home parks under federal fair housing laws.

The [California Civil Rights Department \(CRD\)](#) is a state agency established for the purpose of eliminating discrimination in employment, public accommodations and the sale or rental of housing or commercial property due to any of the above listed protections. The DFEH has the power to receive and investigate complaints of illegal discrimination. Grantees can consider coordinating their work to address discrimination with this state agency.

Going beyond prohibitions of discrimination, receipt of HUD funds requires that Grantees affirmatively further fair housing. While there are many ways that Grantees can promote fair housing practices, HCD has implemented the following practices: the following guidelines have been adopted by HCD:

Step 1: Impediments to Fair Housing

Pursuant to AB 686, which amended Housing Element Law when it was passed in 2017, all local agencies are required to ensure that their laws, programs and activities affirmatively further fair housing. To comply with these requirements, all local governments are required to conduct a robust public outreach, a housing needs assessment, a site inventory, identification and prioritization of contributing factors, and goals and actions as components of their Housing Element. More information on the requirements of AB 686 can be found at: <https://www.hcd.ca.gov/community-development/affh/index.shtml>.

Under federal law, Grantees are not required to perform their own Analysis of Impediments (AI) to Fair Housing but may use the analysis performed by HCD, a project partner, or by an adjacent entitlement community. The State completed a Housing Assessment in 2020 to comply with federal and state requirements. It can be found on the HCD's website. In concert with the locally prepared Housing Element components that comply with AB 686, these documents are useful to help determine actions in Step 3.

[California 2020
Analysis of
Impediments](#)



Step 2: Implement Activity that Affirmatively Furthers Fair Housing

As a threshold requirement at application, each CDBG Grantee must select and implement at least one activity that affirmatively furthers fair housing (AFFH) pursuant to the State Objectives as described in *Appendix 4-2*. If a Grantee receives multiple grants in the same year, only one activity is required per year. If a Grantee receives grant awards in sequential or nearly sequential years, the AFFH Activity selected by the Grantee must be a different one each program year. Grantees must complete an AFFH Activity even if their projects do not entail housing activities. *Appendix 4-2* provides Sample AFFH Activities.

[Appendix 4-2: HCD
Sample AFFH
Activities](#)

AFFH Activities must be sufficiently documented. For each completed action, Grantees must submit a description of the documentation type (e.g., resolution), relevant links and additional description, if necessary. Relevant links includes links to planning documents, zoning codes and other documents that demonstrate the action was completed. Additional description should be added only if necessary and provides additional information about the completed action. For example, additional description may include the location of a project to demonstrate investment in an area of low resource opportunity or may include detail about a policy type such as general plan policy number or title of a zoning ordinance.

Where appropriate, Grantees shall use Opportunity maps provided by the California Tax Credit Allocation Committee (TCAC) or HCD to show where strategies and efforts are implemented to affirmatively further fair housing. In cases where opportunity maps may not be applicable or efforts might be city-wide, Grantees should include that information in the additional description column or select that the pertinent type of resource opportunity area does not exist in the community. HCD will consider the use of local data and knowledge on a case-by-case basis.

Each year that a Grantee applies for CDBG funds, it must complete the supplemental section of the eCivis grant application that pertains to State Objective of Affirmatively Furthering Fair Housing certifying the implementation of applicable activities from the list in *Appendix 4-2*.

Step 3: Display the Applicable Fair Housing Logo and Required Posters

The Grantee and its grant administrator are responsible for placing the applicable fair housing posters in conspicuous locations of public buildings, including municipal offices, and the posters must always be displayed at the job site. The required

[HUD Fair Housing
Posters](#)



fair housing posters may be found on the HUD website. Other posters required for Equal Employment Opportunity are described in Section 4.6 of this chapter.

All housing-related notices, advertising, and brochures must include the fair housing logo. HCD also recommends that the logo be displayed on all jurisdiction stationary.

Grantees must post the following documentation at the town/city hall in a prominent place for viewing by the general public:

- California Civil Rights Laws Certification
- Fair Housing Policy Statement with Discrimination Complaint Procedure (Local Resolution)
- Americans with Disabilities Act (ADA) Notice
- ADA Grievance Procedure
- Fair Housing Posters in both English and Spanish, or other languages as required by the Four Factor Analysis
- Equal Employment Opportunity posters in both English and Spanish, or other languages as required by the Four Factor Analysis

See Section 4.5 on Limited English Proficiency in this chapter for more information on required language access. HUD provides the required fair housing posters in several languages, which can be found in the link above. Grantees may be required to translate documents in other languages based on the Four Factor Analysis.

Step 4: Contract Provisions

Include provisions for non-discrimination in all contracts issued to all recipients of CDBG funds, including businessmen, developers, contractors, and homeowners. Contractors should include non-discrimination language in any subcontract issued for a CDBG project as well. A Grantee should keep a copy of such provisions in its project file, along with any additional information documenting its own compliance. See Chapter 5: *Procurement*.

Step 5: Affirmative Marketing Plans

Affirmative marketing plans must be developed and implemented for all CDBG-assisted housing with five or more units. An affirmative marketing plan must include:

- Methods for informing the public, property owners, and potential tenants about fair housing laws and the local governments' policies (for example, use of the fair



housing logo or equal opportunity language);

- Description of what owners and/or the Grantee/subrecipient will do to affirmatively market housing assisted with CDBG funds;
- Description of what property owners and/or the Grantee/subrecipient will do to inform persons not likely to apply for housing without special outreach;
- Maintenance of records to document actions taken to affirmatively market CDBG-assisted units and to assess marketing effectiveness; and
- Description of how efforts will be assessed and what corrective actions will be taken where requirements are not met.

Grantees and local administrators should assist municipal officials to become thoroughly familiar with the Fair Housing Activity undertaken and other fair housing provisions since the local government is ultimately responsible for ensuring compliance with fair housing requirements. Failure to do so can result in the Grantee being ineligible to apply for a grant in the future. Grantees may enlist public participation in carrying out the Fair Housing Activity and post information so that it is made available to the general public.

The Grantee must pledge to carry out the Fair Housing Activity to overcome the identified impediments to fair housing choice. Too often, local governments have made statements in contract assurances that they will fight housing discrimination but in actuality have done nothing to overcome housing discrimination or segregation in their communities.

[HUD Fair Housing Planning Guide](#)

For more information, please see the *HUD Fair Housing Planning Guide*. This document is a useful resource in understanding fair housing law and requirements.

Section 4.4 Accessibility

This section of the chapter reviews the requirements Grantees must follow to be in compliance with accessibility requirements of the Fair Housing Act, Americans with Disabilities Act (ADA), and Section 504 of the Rehabilitation Act of 1973 (Section 504). Collectively, the accessibility laws and implementing regulations prohibit discrimination based on disability and establish requirements for physical accessibility in connection with federally funded housing and non-housing activities. Section 504 provides that no otherwise qualified individual shall, solely by reason of their disability, be excluded from participation in (including employment), denied program benefits, or subjected to discrimination under any program or activity receiving federal funding assistance. Specifically, Section 504 imposes

[ADA Guide for Small Towns](#)



requirements related to:

- Program accessibility;
- Communications;
- Accessible design and construction for certain housing and non-housing activities;
- Grantee self-evaluation of programs, services, and activities to ensure programmatic and physical accessibility to persons with disabilities; and
- Nondiscrimination in employment.

Program Accessibility

Existing housing and non-housing programs administered by the Grantee and its funded entities (e.g., subrecipients, developers) must be accessible to persons with disabilities. Program accessibility means that a program, when viewed in its entirety, is readily accessible to and usable by persons with disabilities. This means that persons with disabilities must:

- 1) have an equal opportunity to participate in and benefit from the program, and
- 2) be offered equitable choices and amenities as those offered to persons that do not have disabilities.

Grantees ensure that their programs and services are readily accessible to and usable by persons with disabilities to the maximum extent feasible. In other words, the Grantee must take steps to provide the necessary access to persons with disabilities, unless the actions would constitute an undue financial and administrative burden or require a fundamental alteration in the nature of the program.

More information on steps Grantees can take to ensure program accessibility can be found in *Appendix B: Equity and Belonging Toolkit*.

Communication

Communication is an important component of program accessibility. Persons with impairments to hearing, vision, speech, mobility, or other disabilities may have special communication needs. To the maximum extent feasible, Grantees must provide program information in ways to ensure that persons with disabilities that impact communication are able to access and enjoy the benefits of any program or activity receiving CDBG funds.

CDBG recipient must furnish auxiliary aids and services as necessary, which may include:

For persons with hearing impairments:

- Qualified sign language interpreters,



- Note takers,
- Telecommunication devices for deaf persons (TDDs)¹,
- Telephone handset amplifiers,
- Assertive listening devices (devices that increase the sound in large group settings),
- Flashing lights (where aural communication is used, such as warning bells),
- Video text displays (devices that display text that is simultaneously being spoken can be used where a public address system provides information),
- Transcription services, and
- Closed and open captioning.

For persons with vision impairments:

- Qualified readers,
- Written materials translated into alternative formats (i.e. Braille, audio tape, large print),
- Aural communication (Bells or other sounds used where visual cues are necessary), and
- Audio description services (through a headset, a narrator describes what the visually impaired person cannot see).

The Grantee must ensure effective communication with persons with all types of disabilities in all activities, to the greatest extent feasible. Where the Grantee communicates with applicants and beneficiaries by phone, a TDD is required, or an equally equivalent system must be available. To be equally effective, aids, benefits, and services do not have to produce identical results, but must afford equal opportunity to obtain the same result in the most integrated setting appropriate ([34 CFR §104.4\(b\)\(2\)](#)).

[HUD Checklist to Determine Whether System is Equally Effective Alternative to TTY](#)

CDBG recipients must communicate in such a manner that people with disabilities may obtain the information they need regarding the recipient's programs. All public meetings

¹ The [Deaf and Disabled Telecommunications Program \(DDTP\)](#) is a public program mandated by the California State Legislature and administered by the California Public Utilities Commission ([CPUC](#)). The DDTP has two components: the California Relay Service (CRS), which includes Speech to Speech, and the California Telephone Access Program (CTAP) which provides assistive telecommunications equipment. The mission of the program is to provide access to basic telephone service for Californians who have difficulty using the telephone.



must be held in locations accessible to people with disabilities. Recipients must provide a sign language interpreter or make reasonable accommodations for people with disabilities to participate in public meetings.

Grantees may require that persons with disabilities provide advance notice that they need a particular auxiliary aid or service. All communications must clearly outline the specific procedure, which must be followed if an individual with disabilities intends to request an auxiliary aid and/or service. If for some reason effective communication as requested by the individual cannot be provided, the recipient must notify the individual immediately of the specific reasons why their request cannot be granted, why the decision was made, and what alternative accommodation could be made.

NOTE: HCD recommends that Grantees limit advance notice requirements to no more than 24-48 hours. Advance notice in excess of 48 hours may cause undue burden for persons with disabilities.

Self-Evaluation and Transition Plan

HCD requires each of its Grantees to conduct a self-evaluation as well. If a Grantee has not already performed a Section 504 self-evaluation of programs, services, and activities to determine if they are programmatically and physically accessible to people with disabilities, they must conduct such evaluation and document all needs. If a Grantee has already performed a self-evaluation, a new one is not required, unless facilities have been altered.

[Appendix 4-3: CDBG Section 504 Plan and Guidance](#)

HCD has provided *Appendix 4-3: CDBG Section 504 Plan and Guidance* to assist Grantees in the self-evaluation process.

Section 4.5 Limited English Proficiency

Federally assisted Grantees are required to make reasonable efforts to provide language assistance to ensure meaningful access for persons with Limited English Proficiency (including people who do not know English, and/or for whom English is a second language) to the Grantee's programs and activities. In compliance with Executive Order 13166, HCD has conducted the four-factor analysis for statewide purposes and developed the following Language Access Plan (LAP) for Limited English Proficiency (LEP) persons.

In certain situations, failure to ensure that persons who have limited English proficiency



can effectively participate in, or benefit from, federally assisted programs may violate the federal prohibition against national origin discrimination.

All local governments are required to follow the measures outlined below for each CDBG assisted project or program.

Step 1: Conduct Analysis

Conduct the *Four Factor Analysis* prior to advertising the initial public meeting. The steps for a Four Factor Analysis are included in Appendix 4-4.

[Appendix 4-4: Four Factor Analysis for Limited English Proficiency](#)

Step 2: If Required, Provide Language Assistance during Application Process

If the Four Factor Analysis reveals one or more LEP populations (an LEP population of five percent but at least 50 persons or a LEP population of 1,000 or more persons) within the local government or other factor in the analysis dictates the need for language assistance, the Grantee will provide appropriate language assistance by 1) posting notices of the CDBG application public meetings in areas frequented by LEP persons of the threshold population(s) in the language(s) spoken, and 2) providing translation services at public meetings if requested to do so by LEP persons.

Promoting the availability of language assistance is considered best practice and more information can be found in *Appendix B: Equity and Belonging Toolkit*.

Step 3: Develop Language Access Plan (LAP)

If an application is funded and if the *Four Factor Analysis* dictates, the community will be required to develop a LAP and provide a description of outreach efforts. Particular attention will be given to plan details for projects including acquisition, relocation or housing rehabilitation. Guidance to develop a Language Access Plan has been included in this Implementation Guide as *Appendix 4-5*.

[Appendix 4-5: Language Access Plan Template for LEP](#)

Step 4: Documentation of LAP

If a LAP is required, the LAP will include certifications that Plans have been developed, adopted, and will be implemented for all CDBG funded projects. The Grantee's LAP will include:

- an identification of all LEP populations exceeding 1,000 or five percent of total local government population, whichever is less, or other factor requiring language



assistance,

- the identification of materials to be made available to LEP persons,
- the means by which the materials will be made available to LEP persons, and
- the identification of any other translation services which may be necessary.

Grantees will be monitored for implementation of their LAP.

Section 4.6 Equal Employment Opportunity (EEO) Compliance

Local governments are required by Title VI of the Civil Rights Act of 1964 to prohibit discrimination on the basis of race, color, or national origin in all federal assisted programs. This law and Executive Order 11246, as amended, specifically prohibits discrimination in employment practices. This Executive Order, applicable to any business or organization that has a federal contract/subcontract or multiple contracts totaling greater than \$10,000, also imposes requirements for affirmative action. When procuring goods, construction contractors, or professional services, Grantees should incorporate equal opportunity in employment clauses in solicitation (bidding) and contract documents.

Executive Order 11246 and other statutes require Grantees, subrecipients, contractors, and subcontractors to prohibit discrimination based on the following:

- Race/Color
- Religion/ Creed
- Sex
- Sexual Orientation
- Gender Identity
- Ancestry/National Origin
- Age (≥ 62)
- Disability, mental and physical
- Genetic Information
- Military History

Additionally, California state law adds the following to the list of protected classes within the state:

- Age (≥ 40)
- Gender Identity, gender expression
- Marital Status
- Medical Condition
- Sex/Gender (including pregnancy, childbirth, breastfeeding or related medical conditions)

[California Protected
Classes -
Employment](#)



EEO Posters must be displayed at the Grantee and all job sites supported with CDBG funds. It is the responsibility of the grant administrator to provide the posters to the Grantee, as well as any subrecipient of CDBG funds, and to verify that the posters are displayed at the job site. See DOL website for required Equal Employment Opportunity Posters.

[DOL Equal Employment Opportunity Posters](#)

Section 4.7 Economic Opportunity (Section 3 Requirements)

Section 3 of the Housing and Urban Development Act of 1968 imposes requirements pertaining to employment/training opportunities and contracting arising from CDBG assistance, or other HUD funds, expended for rehabilitation, physical improvements, and public construction projects, both residential and non-residential.

Congress established Section 3 to ensure that the employment and other economic opportunities generated by federal financial assistance for housing and community development programs shall, to the greatest extent feasible, be directed toward low and very-low-income persons, particularly those who are recipients of government assistance for housing.

The requirements of Section 3 are discussed in greater detail in *Chapter 5: Procurement*, *Chapter 7: Labor Standards*, and *Chapter 11: Reporting and Recordkeeping*.

Section 4.8 Conflict of Interest

HCD policy requires that conflicts of interest on CDBG projects be disclosed. These requirements apply to:

[24 CFR §570.611](#)

[24 CFR §570.489\(h\)](#)

- procurement of supplies, equipment, construction services and professional services,
- the acquisition or disposition of real property, and
- providing direct benefits to municipal officials, subrecipient officials, or persons administering the CDBG project.

Federal and state guidelines stipulate that no person who performs any CDBG function or who has any CDBG responsibility, who is in a decision-making position, or who has inside information may obtain a financial interest or benefit from an activity funded in whole or in part with CDBG funds.

In general, a conflict of interest would exist if any municipal employee or person in a program decision-making capacity signs a contract funded with any portion of the CDBG State Program – including rehabilitation and consulting. This follows from the local



government's signed assistance agreement and from HUD regulations at 24 CFR §570.611.

In certain circumstances, HCD may grant an exception to conflict of interest, upon request, if specific criteria are met:

1. A disclosure of the nature of the conflict, including an assurance that there has been public disclosure of the conflict and a description of how the public disclosure was made.
2. A legal opinion (from local Counsel) is submitted stating that the potential for conflict of interest is minimal, and that the situation does not violate either local or state conflict statutes or rulings.
3. The person applying for the waiver meets other program requirements. For example, low/moderate income guidelines for housing rehabilitation.
4. The person applying for the waiver is not in a decision-making position in the CDBG Program, either with the local government or subrecipient.
5. The local government must certify to all of the above, and also demonstrate that a system has been established to guarantee that no preferential treatment to the applicant has occurred. This might require a numbered and dated system for accepting and processing applications, for example.
6. Finally, the local government must submit a formal request to HCD seeking a waiver of conflict-of-interest requirements based on the above criteria. The waiver request should describe the circumstances for all five elements above. See Appendix 4-6 for the HCD Request for Exception Form.

[Appendix 4-6:
Request for Exception
to Conflict of Interest](#)

After review of the supporting documentation, if HCD agrees that the potential for conflict of interest is minimal and if the applicant meets the above criteria for a waiver, staff will recommend approval.

Section 4.9 Excessive Force Resolution

In accordance with Section 104(1) of the Housing and Community Development Act, as amended, Grantees must adopt an excessive force resolution that prohibits the use of excessive force against non-violent civil rights

[Appendix 4-7: Sample
Excessive Force
Resolution](#)



demonstrations. (See also State’s Certification Requirements at 24 CFR 91.325(b)(6)).

When Grantees sign the Standard Agreement they certify that they will pass and enforce a resolution prohibiting the use of excessive force by law enforcement agencies within its jurisdiction against any individuals engaged in non-violent civil rights demonstrations.

The minimum requirement to comply with the federal Excessive Force requirements are noted in the Appendix 4-7: Sample Excessive Force Resolution. However, Grantees are encouraged to coordinate with local law enforcement to develop comprehensive policing policies related to the use of force. More information can be found in *Appendix B: Equity and Belonging Toolkit*.

Section 4.10 Drug-Free Workplace Policy

A Drug-Free Workplace Policy must be formally adopted by the Grantee, if one does not exist. The policy should include procedures for providing a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited in the Grantee's workplace and specifying the actions that will be taken against employees for violation of such prohibition.

[SAMHSA Drug-Free Workplace Toolkit](#)

Grantees should work with their solicitor or other appropriate counsel to develop such a policy. Each local government is likely to have differing circumstances to consider in developing the procedures in its own local policy. The U.S. Department of Health and Human Services, Substance Abuse and Mental Health Services Administration (SAMHSA) provides guidance and information to help develop and sustain a successful drug-free workplace via its website toolkit.

Section 4.11 Complaints and Appeals Procedures

Several federal regulatory compliance requirements instruct Grantees to develop and implement grievance procedures to address complaints or disputes that arise in administering CDBG or federal funds in general. The types of complaints include:

- discrimination
- public participation/public input
- contract and procurement disputes
- other program requirements such as acquisition and relocation actions or labor standards
- decisions about eligibility and providing assistance



Grantees must develop grievance procedures to address these situations. *Appendix 4-8* contains Sample Complaints Procedures that local governments can adopt to cover any of these complaints. Each complaint and the resolution of the complaint should be well documented in the Grantee's files.

[Appendix 4-8: Sample Complaints Procedures](#)

If the Grantee chooses to create its own procedure, the Grantee must provide beneficiaries with the name, address, and phone number of a contact person who can receive and respond to complaints. Complaints related to the scope and work of the project should be addressed by the Grantee. Where practical, the Grantee should respond to any complaints within 15 working days of its receipt. Complaints, appeals and all legal proceedings will be handled by the Grantee. HCD will forward any complaints it receives about a project to the Grantee. HCD will notify the person filing the complaint that it has been forwarded to the Grantee and will direct the complainant to follow up directly with the Grantee. It is the responsibility of the Grantee to address the complaints regardless of whether a subrecipient or consultant is managing the local project.

Section 4.12 Project Signage

All HCD contracts require that HCD's logo be displayed on all signage listing project funders. This signage informs local residents that the project is being funded by HCD's CDBG Program, as well as listing the sponsor, architect and/or engineer, and contractor, as applicable.

When signs are posted, both the HCD and the HUD logos must be used for any project signage. The HCD and HUD logos may not be any smaller than 50% of the size of the largest logo displayed.

This signage requirement can be waived if *no other* partner/entity requires worksite signage and creating signage solely for HCD poses a hardship. Alternatively, if none of these are applicable/feasible, an alternative display of the HCD logo or public recognition must be approved by HCD.

[HCD logo](#)
[HUD Fair Housing logo](#)

Photographic evidence of the signage must be made available at monitoring.