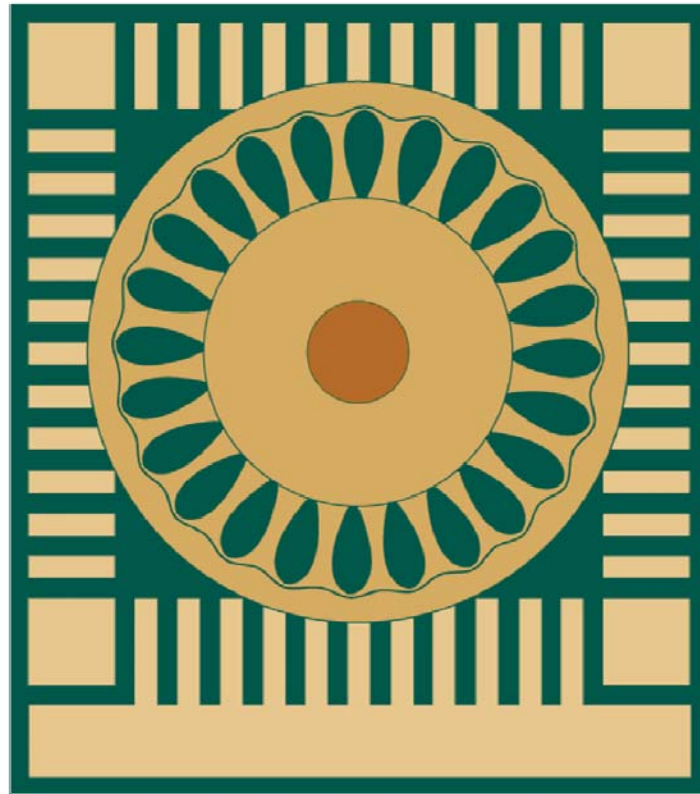


CITY OF
HAYWARD
HEART OF THE BAY



COMMUNITY DEVELOPMENT BLOCK GRANT

COMPLIANCE POLICIES

(Adopted September 16, 2014)

(Updated November 18, 2014)

Department of Library & Community Services

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NATIONAL PROGRAM GUIDELINES

Key Definitions

This section provides definitions of key CDBG topics and terms.

The Act: The [Housing and Community Development Act of 1974](#) makes funds available to qualified cities to develop of viable urban communities, by providing decent housing and a suitable living environment and expanding economic opportunities.

Action Plan: An annual plan that outlines proposed housing and community development objectives, activities, and budget in the City of Hayward. The plan includes information regarding federal, state, and local funding resources, a description of each activity to be implemented, and other actions that the City will take to address barriers to affordable housing, support anti-poverty strategies, and facilitate fair housing.

Adjusted Award: Amount of CDBG funds available to subrecipients after City Programs, administration, fair housing, and audit allocations are deducted

Administrative Cap: A maximum of 20 percent of the sum of the entitlement grant plus program income that is received during the program year may be spent on planning and administration costs.

Alameda County HOME Consortium: A consortium of all Cities in Alameda County, except for the Cities of Oakland and Berkeley, that directly receives HOME Investment Partnership Program (HOME) funds from HUD to expand the supply of decent, safe, sanitary, and affordable housing for very-low and low-income households.

Application Review Committee (ARC): A subcommittee of the Community Services Commission formed to interview applicants and make preliminary funding recommendations.

Capacity Building: Activities that build the capacity of the CDBG program, Sub-recipients, and program delivery to low income Hayward residents. Capacity building activities are subject to the 20 percent administrative cap.

CDBG: The Community Development Block Grant (CDBG) program is a flexible program that provides communities with resources to address a wide range of unique community development needs. Beginning in 1974, the CDBG program is one of the longest continuously run programs at HUD. The CDBG program provides annual grants on a formula basis to 1209 general units of local government and States.

CDBG Recipient: Local governments are known as grantees or recipients, and also referred to as units of general local government (UGLGs). Under the Entitlement CDBG Program, the City of Hayward receives funding directly from HUD.

CFR: The *Code of Federal Regulations* (CFR) is the codification of the general and permanent rules and regulations (sometimes called administrative law) published in the Federal Register by the executive departments and agencies of the federal government of the United States. The CFR is divided into 50 titles that represent broad areas subject to federal regulation.

Citizen: Unless otherwise distinguished by HUD or applicable statute, citizen and resident are used interchangeably.

Citizen Participation Plan: A plan prepared by the City of Hayward in accordance with [24 CFR 570.486](#) which describes how the City will include and encourage citizen participation, especially by low and moderate income citizens.

City Program: An eligible activity or service provided by City of Hayward staff through a non-competitive application process.

Conflict of Interest: When an individual or organization is involved in multiple interests, one of which could corrupt or be perceived corrupt fair and objective allocation of funds or procurement of goods and services.

Consolidated Annual Performance and Evaluation Report (CAPER): An annual report prepared by the City of Hayward in accordance with [24 CFR Part 91](#), on the objectives, activities, and budget set forth in the Annual Action Plan and the progress on the three-to five-year Consolidated Plan.

Consolidated Plan: The Consolidated Plan is a three-to five-year strategic plan prepared by the City in accordance with [24 CFR Part 91](#), and describes needs, resources, priorities and proposed activities to be undertaken with respect to HUD's Office of Community Planning and Development CPD formula programs, including CDBG. An approved Consolidated Plan is one which has been approved by HUD.

Contractors: A contractor is an entity paid with CDBG funds in return for a specific service (e.g., construction). Contractors must be selected through a competitive procurement process.

Community Services Commission (CSC): An advisory body to City Council which encourages a planned and orderly approach to the development of community services in the City of Hayward. The CSC reviews, evaluates, and makes recommendations to the City Council on proposals submitted by agencies seeking City-administered funding, including but

not limited to Community Development Block Grant (CDBG) and Social Services Program Funding.

Corrective Action Plan: A plan prepared by a subrecipient or city partner to correct issues of non-compliance within a specific schedule.

Cost Allocation: The identification, aggregation, and assignment of centralized costs.

Cost Allocation Plan: A description of a process whereby services provided on a centralized basis (e.g., motor pools, computer centers, purchasing and accounting services) can be identified and assigned to benefited departments/agencies (e.g., the department/agency administering the CDBG program) on a reasonable and consistent basis.

CPD: The Office of Community Planning and Development (CPD) is an office within HUD. CPD administers and provides federal oversight of the CDBG program, along with other federal programs that provide decent housing, a suitable living environment, and expand economic opportunities for low and moderate income persons.

Davis-Bacon Act: Establishes the requirement for paying the local prevailing wages and fringe benefits, as determined by the U.S. Department of Labor, laborers and mechanics. It applies to contractors and subcontractors performing on federally funded or assisted contracts in excess of \$2,000.

Draw Down: Refers to the process of requesting and receiving CDBG funds. Grantees draw down funds from a line of credit established by HUD, while subrecipients typically draw down funds from grantees.

Economic Development: Activities to improve the economic health and standard of living in Hayward. Depending on the nature of the activity, eligible economic development activities may be subject to the Public Services or Administrative caps.

Entitlement Community: A city in a metropolitan area with a population of 50,000 or more, a principal city of a metropolitan area, or an urban county with a population of at least 200,000 (excluding the population of metropolitan cities located therein) that receives an annual allocation of CDBG funds directly from HUD under the CDBG Entitlement Program. An Entitlement Community is sometimes referred to by HUD as a grantee or recipient.

Entitlement Grant: Federal funds received by an entitlement community in a program year.

Fiscal Sponsor: A non-profit organization that applies for CDBG funding on behalf of an organization or group, also known as a Fiscal Agent. The fiscal sponsor accepts responsibility

to serve as a fiscal conduit for a City of Hayward-funded project, receiving and disbursing funds related to the grant, and administering the requirements throughout the City of Hayward grant process. The sponsored organization or group completes the project activity.

Funding Cycle: The time period associated with the City of Hayward’s allocation of projected CDBG funds for the upcoming program year(s). The funding cycle is most commonly an annual cycle that begins in August and ends in April.

Household: All the persons who occupy a housing unit. The occupants may be a single family, one person living alone, two or more families living together, or any groups of related or unrelated persons who share living arrangements.

Housing Rehabilitation: Activities that assist homeowners with the repair, rehabilitation, or reconstruction of owner-occupied units.

HUD: CDBG funds are provided to states through the U.S. Department of Housing and Urban Development (HUD). HUD established the regulations and requirements for the program and has oversight responsibilities for the use of CDBG funds.

HUD Guidelines: All [tools](#), [guidebooks](#), [trainings](#), [notices](#), and other guiding materials and correspondence provided by HUD or CPD regarding the laws and regulations of CDBG Program.

Integrated Disbursement and Information System (IDIS): A nationwide database that provides HUD with current information regarding program activities and funding data. The City of Hayward uses IDIS to fund and report on its CDBG Program.

Income: Adjusted gross income as defined by the IRS Form 1040.

Indirect Costs: Costs that have been incurred for common or joint objectives and cannot be readily identified with a particular final cost objective.

Indirect Cost Rate: A device for determining in a reasonable manner the proportion of indirect costs each program should bear. It is the ratio (expressed as a percentage) of the indirect costs to a direct cost base.

Indirect Cost Rate Proposal: The documentation prepared by a governmental unit or subdivision thereof to substantiate its request for the establishment of an indirect cost rate.

Job Creation/Retention: A mandatory public benefit standard that requires at least one full-time, permanent job per \$35,000 of CDBG funds used be created or retained.

Low – and Moderate Income: Low- and moderate income (also referred to in this manual as LMI) means family or household annual income less than the Section 8 Low Income Limit, generally 80 percent of the area median income, or a person within such household, as established by HUD.

Low-Income Household/Family: A household/family having an income equal to or less than the Section 8 Very Low Income limit (50% of the area median income) as established by HUD.

Microenterprise: A business that has five or fewer employees, one or more of whom own the enterprise.

Minimum Contracting Standards: A set of standards required before the execution of a Subrecipient Agreement. The standards indicate the minimum administrative and financial framework required to manage public funds.

Minority Business Enterprise (MBE): A business concern that is at least 51% owned by one or more individuals who are African American, Hispanic American, Native American, Asian-Pacific American or Asian-Indian American; and whose management and daily business operations are controlled by one or more of these owners.

Moderate-Income Household/Family: A household/family having an income equal to or less than the Section 8 Low Income limit (80% of area median income) established by HUD, but greater than the Section 8 Very Low Income limit (50% of area median income) established by HUD.

Monitoring Visits: Visits to subrecipient and city partner programs by Department of Library and Community Services staff to evaluate the progress/performance of the program and/or to provide technical assistance.

Neighborhood Services: Services that benefit an entire neighborhood and correspond with the neighborhood's or census tract's geographic boundaries.

OMB: The Office of Management and Budget (OMB) is the largest office within the Executive Office of the President of the United States (EOP). The main function of the OMB is to assist the President in preparing the budget. The OMB issues budget instructions or information, known as circulars, to Federal agencies.

PR Reports: Standard CDBG program reports generated in IDIS that provide financial and performance information. 66 different PR reports are available in a noncontiguous range from PR01 to PR95. PR05 and PR07 provide draw down details.

Presumed Benefit: Benefit a group of clientele that is presumed to be principally Low – and moderate income. Presumed benefit groups include abused children, battered spouses, severely disabled adults, homeless persons, illiterate adults, persons with AIDs, migrant farm workers, and elderly persons over 62-years-of-age.

Program Income: Program income is the gross income received by the City and its subrecipients directly generated from the use of CDBG funds.

Program Year: City of Hayward's Program Year begins July 1 and concludes June 30 of the following year.

Public Service Activity: Eligible public service activities including but not limited to those concerned with employment, crime prevention, child care, health, homelessness, drug abuse, education, fair housing counseling, energy conservation, and welfare. To be eligible for CDBG assistance, a public service must be either a new service or a quantifiable increase.

Public Services Cap: A maximum of 15 percent of the sum of the entitlement grant plus program income that is received during the program year may be spent on public service activities.

Resident: Unless otherwise distinguished by HUD or applicable statute, resident and citizen are used interchangeably.

Revolving Fund (RLF): A separate fund established to carryout eligible housing and/or economic development activities which generate program income. The fund reuses program income in making the same types of activities.

Section 3: Section 3 of the Housing and Urban Development (HUD) Act of 1968 established the Section 3 Program, which requires recipients of HUD financial assistance, to the greatest extent possible, provide job training, employment, and contract opportunities for low- or very-low income residents in connection with projects and activities in their neighborhoods.

Small Business: The U.S. Small Business Administration is responsible for defining small businesses. Small Businesses are commonly identified by 500 employees or less for manufacturing and mining industries and \$7.5 million or less in average annual receipts for non-mining industries. However, there are a number of exceptions.

Statement/Scope of Work: An exhibit of the subrecipient agreement which must include the a project description, the national objective claimed, activity descriptions, intended beneficiaries (number and type), detailed budget and location(s) of program-related activity.

Subrecipient: An entity charged with implementation of one or more activities funded with Hayward CDBG dollars.

Subrecipient Agreement: A written agreement between the City of Hayward and the subrecipient that is required before CDBG funds are disbursed.

Substantial Amendment: An amendment to the Action Plan or the Consolidated Plan as required when 25 percent of the original award for an activity or plans to utilize funds under a different activity category are proposed.

Technical Assistance: Assistance to an entity by another entity more knowledgeable in the applicable subject field, resulting in increased capacity or knowledge of the assisted entity.

Timeliness: Carrying out CDBG-funded activities in a timely manner.

Timeliness Spending Test: A test conducted sixty days prior to the end of the current program year, to ensure that the amount of entitlement grant funds available to the City of Hayward under grant agreements but undisbursed by the U.S. Treasury is not more than 1.5 times the entitlement grant amount for the current program year.

Urgent Need: Activities designed to alleviate existing conditions of recent origin (18 months) that pose serious threats to the health and welfare of the community; this objective may only be used if the community cannot finance necessary activities with other sources

Women's Business Enterprise (WBE): A business concern that is at least 51% owned by one or more women and whose management and daily business operations are controlled by one or more of these owners.

Overview

These policies are a combination of federal rules and local policies used to oversee the Community Development Block Grant Program (CDBG) for the City of Hayward. They reflect best practices and policies as set forth by the U.S. Department of Housing and Urban Development (HUD). These policies will be updated on an ongoing basis and shall always reflect a coordination of HUD's National Objectives, Eligible Activities, and City Priorities. HUD regulations, guidebooks, and manuals will supersede any future conflicting policies. The citation reference from [Title 24 Code of Federal Regulations \(CFR\) Part 570 - Community Development Block Grants](#) can be found in parentheses next to each heading below.

While there are many aspects that must be considered in selecting activities to assist under the CDBG program, there are six key steps a grant recipient should take in the early stages of the process of determining if CDBG funds may be used to assist a proposed activity.

1. Determine if the activity falls within a category of explicitly authorized activities in the [CDBG statute](#). Generally, if an activity does not fall within a category of explicitly authorized activities in the statute, the activity is considered ineligible. HUD's [Guide to National Objectives and Eligible Activities](#) describes all categories of basic eligibility that were authorized at the time of publication.
2. Determine if a proposed activity that appears not to be included in the statute's list of eligible activities has actually been interpreted as eligible under the statute by the [CDBG Eligible Activity regulations](#).
3. Determine if the proposed activity can meet one of the national objectives of the program, allotted by the eligible activity.
4. Ensure that carrying out the activity with CDBG funds will not result in the City's certification that at least 70 percent of CDBG expenditures will be for activities that are considered to benefit L/M income persons over the one, two, or three consecutive program years specified by the grant recipient.
5. Review proposed costs of the activity to determine if they appear to be necessary and reasonable and will otherwise conform with the requirements of The Office of Management and Budget (OMB) Circulars [A-87](#), "Cost Principles for State, Local, and Indian Tribal Governments," [A-122](#), "Cost Principles for Non-Profit Organizations," [A-21](#), "Cost Principals for Educational Institutions," [24 CFR Part 84](#), "Uniform Administrative Requirements for Grants and Agreements With Institutions of Higher Education, Hospitals, and Other Non-Profit Organizations;" or [24 CFR Part 85](#),

‘Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments’, as applicable.

6. Complete the environmental review and clearance procedures for the project of which the activity is a part. Law prohibits HUD from releasing funds for a CDBG activity until the grant recipient certifies that it has met its responsibilities with respect to environmental protection.

National Objectives

([24 CFR 570.208](#))

Statutory Citations Section [101\(c\)](#), [Section 104\(b\)\(3\)](#), [105\(c\)](#) of the Act

Challenge to presumption: The program rules state that an activity that meets the specified criteria for a national objective will be presumed to have met that objective. However, it should be noted that, although it is presumed that all CDBG-assisted activities may involve some benefit to LMI persons or households, the regulations provide that in any case where there is substantial evidence that an activity might not principally benefit LMI persons, even though the activity conforms to a literal reading of LMI Benefit criteria, the presumption that the activity meets the national objective may be rebutted by HUD.

In order to be considered eligible for funding, activities must meet one of three CDBG national objectives

1. Low & Moderate Income (LMI) Benefit

- Area Benefit: activities available for the benefit of all the residents in a particular area, where at least 51 percent of those residents are low-moderate income persons.
- Limited Clientele: activities benefiting low-moderate income residents, as defined by annually established HUD income limits, or a specific group with Presumed Benefit (e.g. abused children, elderly persons, battered spouses) as indicated in 24 CFR [570.208\(2\)\(a\)](#), at least 51 percent of whom are LMI persons.
- Housing: activities carried out for the purpose of providing or improving permanent residential structures that, upon completion, will be occupied by LMI households.
- Job Creation/Retention: activities designed to create or retain permanent jobs where at least 51 percent of the jobs involve the employment of LMI persons.

2. Slum & Blight Removal

- Area Basis: activities undertaken to eliminate specific conditions of blight, physical decay, or environmental contamination that are located in a designated area of distress, including acquisition, clearance, relocation, historic preservation, remediation of environmentally contaminated properties, or rehabilitation. Rehabilitation must

eliminate conditions that are detrimental to public health/safety; acquisition and relocation must be precursors to other activities that eliminate blight.

- Spot Basis: activities undertaken to eliminate specific conditions of blight, physical decay, or environmental contamination at specific sites not located in designated blighted areas, including acquisition, clearance, relocation, historic preservation, remediation of environmentally contaminated properties, or rehabilitation. Rehabilitation must eliminate conditions that are detrimental to public health/safety; acquisition and relocation must be precursors to other activities that eliminate blight.

3. Urgent Need

- Activities designed to alleviate existing conditions of recent origin (18 months) that pose serious threats to the health and welfare of the community; this objective may only be used if the community cannot finance necessary activities with other sources.

Categorical Limits

([24 CFR 570.200](#) and [570.201](#))

At least 70 percent of CDBG funds utilized during three consecutive program years, as specified by the grantee, must be expended for LMI benefit; the costs of planning and program administration are excluded from this calculation. (24 CFR 570.200(a)(3))

The amount of CDBG funds obligated for public service activities in each program year may not exceed 15 percent of the total entitlement grant for that program year, plus 15 percent of the program income received during the preceding program year. (24 CFR 570.201(e)(1))

The amount of CDBG funds obligated for planning and administration activities in each program year may not exceed 20 percent of the total entitlement grant for that program year plus the program income received during that program year. (24 CFR 570.200(g))

Program Income

([24 CFR 570.500](#) and [570.504](#))

Unless the funds are in a Revolving Fund (RLF), program income funds must be used before requesting additional drawdowns of entitlement funds.

The City may reuse any revenue generated from projects undertaken with CDBG funding towards any other eligible activities within the entitlement community. The City shall prioritize one-time City infrastructure projects for these funds. Furthermore, any program income earned by a subrecipient or City Program may be retained by the subrecipient or City Program provided the income is treated as additional CDBG funds and thus subject to all applicable federal and local requirements.

Program Income Defined: Program income is the gross income received by the City and its subrecipients directly generated from the use of CDBG funds.

Program income includes:

- Proceeds from the sale or lease of property purchased or improved with CDBG funds;
- Proceeds from the sale or lease of equipment purchased with CDBG funds;
- Gross income from the use or rental of real or personal property acquired, constructed or improved by the City less costs incidental to the generation of income;
- Payments of principal and interest on loans made using CDBG funds;
- Proceeds from the sale of loans or obligations secured by loans made with CDBG funds;
- Interest earned on an RLF pending its disposition;
- Interest earned on program income;
- Funds collected through special assessments on properties not owned and occupied by LMI households in order to recover the CDBG portion of a public improvement.
- Subgrantee income from an ownership interest in a for-profit entity that was assisted with CDBG.

Program income does not include:

- Any income received in a single year by the City's subrecipients, that does not exceed \$25,000; and
- Amounts generated by activities that are financed by a loan guaranteed under [section 108 of the Act](#); and
- proceeds from fund raising activities carried out by subrecipients receiving CDBG assistance; and

- funds collected through special assessments used to recover the non-CDBG portion of a public improvement; and
- proceeds from the disposition of real property acquired or improved with CDBG funds when the disposition occurs after the applicable time period specified in [24 CFR 570.503\(b\)\(7\)\(i\)](#) for subrecipient-controlled property, or [in 24 CFR 570.505](#) for recipient-controlled property.

Program income paid to the City is always program income and is not subject to the \$25,000 exclusion and must be distributed under the method of distribution. The program income should be distributed, as feasible, prior to additional draws from Treasury.

Program income retained by the City is treated as additional CDBG funds subject to all CDBG requirements.

Program income that is held in a revolving fund does not have to be used before grant funds are drawn down for a different type of CDBG project. However, program income in a revolving fund must be used before additional grant funds are drawn down for revolving fund activities.

Cost Principles

OMB [Circulars A-87](#) (state and local governments) and [A-122](#) (nonprofits) provide basic guidelines for determining whether a cost is allowable.

To be allowable under CDBG (and other federal programs), cost must meet the following general criteria:

- Be necessary and reasonable for proper and efficient performance and administration of the federal award;
- Be allocable to the federal award under the provisions of the OMB circulars (see below);
- Be authorized or not prohibited under state or local laws or regulations;
- Conform to any limitations or exclusions set forth in the OMB circulars, federal laws, terms and conditions of the federal award, or other governing regulations as to types or amounts of cost items;
- Be consistent with policies, regulations and procedures that apply uniformly to both federal awards and other activities of the governmental unit;
- Be accorded consistent treatment; a cost may not be assigned to the CDBG program as a direct cost if any other cost incurred for the same purpose in like circumstances has been allocated to the program as an indirect cost;
- Be determined in accordance with generally accepted accounting principles;
- Not be included as a cost or used to meet cost sharing or matching requirements of any other federal award in either the current or a prior period, except as specifically provided by federal law or regulation;
- Be the net of applicable credits (that is, any credits such as discounts or price adjustments must be deducted from the total costs charged); and
- Be adequately documented.

The OMB circulars also contain a “selected” list of costs that are allowable or unallowable. However, the fact that an item of cost is not included does not mean it’s unallowable. Rather the cost’s allowability is determined by reference to the basic guidelines.

Cost Allocation

Costs charged to CDBG must also be allocable to the CDBG program.

A cost is allocable if it is treated consistently with other costs incurred for the same purpose in like circumstances (i.e., states/ units of general local government must treat costs consistently for all grant programs); and:

- Is incurred specifically for the CDBG program;
- Benefits both the CDBG program and other work and can be distributed in reasonable proportion to the benefits received; or
- Is necessary to the overall operation of the organization, although a direct relationship to any particular cost objective cannot be shown.

Any costs allocable to a particular federal award or cost objective (such as CDBG) may not be charged to other federal awards to overcome funding deficiencies, to avoid restrictions imposed by law or the terms of the federal award, or for other reasons.

Indirect Costs – State and Local Governments

[OMB Circular A-87](#) (State and Local Governments)

[OMB Circular A-87](#) requires that governmental entities support indirect costs with a cost allocation plan or an indirect cost proposal prepared in accordance with the circular. Indirect costs should be allocated in a manner which will result in the grant program bearing its fair share of total indirect costs.

A central service cost allocation plan is required if the local government has indirect costs resulting from centralized services that will be charged to federal awards.

A central service cost allocation plan, for the purposes of local governments, refers to a description of a process whereby services provided on a centralized basis (e.g., motor pools, computer centers, purchasing and accounting services) can be identified and assigned to benefited departments/agencies (e.g., the department/agency administering the CDBG program) on a reasonable and consistent basis.

Refer to [Attachment C of OMB Circular A-87](#) for additional information.

An indirect cost rate proposal is required if the local government has indirect costs resulting from centralized services that will be charged to federal awards and other indirect costs originating in various departments/agencies carrying out federal awards.

An indirect cost rate proposal is the documentation prepared by a governmental entity to substantiate its request for the establishment of an indirect cost rate. This rate, expressed in percentage terms, is applied to direct costs in order to determine the amount of reimbursement a state can obtain for indirect costs.

Indirect Costs - Nonprofits

OMB Circular A-122 (Nonprofits)

Under OMB Circular A-122, there are three methods nonprofits are required to utilize for allocating indirect costs. Each method is applicable to certain specific circumstances.

Simplified allocation method:

- Used when a nonprofit organization has only one major function, or where all its major functions benefit from its indirect costs to approximately the same degree.
- The indirect cost rate is calculated by separating the organization's total costs for the base period (e.g., fiscal year) as either direct or indirect, and dividing the total allowable indirect costs by an equitable distribution base (total direct costs, direct salaries or other equitable distribution base).

Multiple allocation base method:

- Used when major functions benefit in varying degrees from indirect costs.
- Costs are separated into distinct groupings, and each grouping is then allocated to benefiting functions by means of a base which best measures relative benefits. An indirect cost rate must be developed for each grouping.

Direct allocation method:

- This method may be used for those nonprofits that treat all costs as direct costs except general administration and general expenses.
- These joint costs are prorated individually as direct costs to cost objectives using a base most appropriate to the particular cost being prorated. The base must be established in accordance with reasonable criteria and must be supported by current data.
- Indirect cost rates determined through one of the three prescribed methods must be submitted to and approved by the federal agency that provides the largest dollar value of funds to the nonprofit.
- A written agreement is executed between the nonprofit and the approving federal agency signifying the approval of the proposed indirect cost rate.

Standards for Financial Management Systems

The City must have financial management systems in place to comply with the following standards:

- Provide effective control over and accountability for all funds, property and other assets;
- Identify the source and application of funds for federally-sponsored activities, including records and reports that:
 - Verify the “reasonableness, allowability and allocability” of costs; and
 - Verify that funds have not been used in violation of any of the restrictions or prohibitions that apply to the federal assistance (through the use of budget controls and adequate accounting records).
 - Permit the accurate, complete and timely disclosure of financial results in accordance with HUD reporting requirements or, for City, state reporting requirements.
 - Minimize the time elapsing between the transfer of funds from the U.S. Treasury and disbursement by the state or City.

Accounting Records

The City is required to have accounting records that sufficiently identify the source and application of CDBG funds provided to them.

To meet this requirement, the City's accounting system should include at least the following elements:

- Chart of accounts - This is a list of account names and the numbers assigned to each of the account names. The names provide a description of the type of transactions that will be recorded in each account (e.g., an account titled "cash" denotes that only transactions affecting cash should be recorded in that account). The account number is required by most accounting software programs and is assigned to an account name to group similar types of accounts. For example, all asset accounts will begin with a "#1" and all liability accounts will begin with a "#2". A typical chart of accounts will generally include the following categories: assets, liabilities, net assets/fund balance, revenues and expenses.
- Cash receipts journal - A cash receipts journal documents, in chronological order, when funds were received, in what amounts and from what sources.
- Cash disbursements journal - A cash disbursements journal documents, in chronological order, when an expense was incurred, for what purpose, how much was paid and to whom it was paid.
- Payroll journal - A payroll journal documents payroll and payroll related benefit expenses on salaries and benefits, including distinguishing between categories for regulatory purposes.
- General ledger - A general ledger summarizes, in chronological order, the activity and financial status of all the accounts of an organization. Information is transferred to the general ledger after it is entered into the appropriate journal. Entries transferred to the general ledger should be cross-referenced to the applicable journal to permit the tracing of any financial transaction.

All journal entries must be properly approved and supported by source documentation.

Documentation must show that costs charged against CDBG were:

- Incurred during the effective period of the agreement with HUD or, for Units of general local government, with the State;
 - Actually paid out (or properly accrued);
 - Expended on eligible items; and
 - Approved by the appropriate official(s) within the organization.

- Source documentation must explain the basis of the costs incurred and the actual dates of the expenditure. For example:
 - Source documentation for payroll would include employment letters, authorizations for rates of pay and benefits and time and attendance records.
 - Source documentation on supplies would include purchase orders or purchase requisition forms, invoices from vendors, canceled checks made to vendors, information on where the supplies are stored and the purpose for which they are being used.
- The City must ensure that their accounting records include reliable, up-to-date information on the sources and uses of CDBG funds, including:
 - Amount of federal funds received;
 - Current authorization of funds;
 - Obligations of funds;
 - Unobligated balances;
 - Assets and liabilities;
 - Program income; and
 - Actual expenditures broken down by the grant program and year for which the funds are derived and the activity on which the funds were used.

Environmental Review Procedures

([24 CFR 570.604](#))

The environmental review procedures must be completed for each CDBG subrecipient and City Program activity, as applicable.

Environmental Review Record

The City must prepare and maintain a written record of the environmental review undertaken for each project. This written record or file is called the Environmental Review Record (ERR), and it must be available for public review upon request.

The ERR shall contain all the environmental review documents, public notices (and proof of their publication), and written determinations or environmental findings required by [24 CFR Part 58](#) as evidence of review, decision making and actions pertaining to a particular project.

The document shall:

- Describe the project and each of the activities comprising the project, regardless of individual activity funding source; and
- Evaluate the effects of the project or the activities on the human environment;
- Document compliance with applicable statutes and authorities; and
- Record the written determinations and other review findings required by [24 CFR Part 58](#).

The ERR will vary in length and content depending upon the level of review required for the categories of activities.

Public comments, concerns and appropriate resolution by the recipient are extremely important and must be fully documented in the ERR.

The four environmental classifications are:

- Exempt Activities,
- Categorically Excluded Activities,
- Activities Requiring an Environment Assessment, or
- Activities Requiring an Environmental Impact Statement.

Regardless of the number of activities associated with a project, a single environmental review is required. Aggregating related activities ensures the recipient adequately addresses and analyzes the separate and combined impacts of a proposed project.

Faith-Based Activities

[\(24 CFR 570.200\)](#)

Religious or faith-based organizations are eligible to participate in the CDBG program. Local government representatives and CDBG program administrators shall not discriminate against an organization on the basis of its religious affiliation.

Report Submission Requirements

[\(24 CFR 570.302\)](#)

CDBG entitlement communities must submit the following documents:

1. Action Plan
2. Consolidated Annual Performance and Evaluation Report (CAPER)
3. Consolidated Plan three to five years, as chosen by the entitlement community

Creation of these documents must follow HUD requirements for content and citizen participation (see [24 CFR 570.486\(a\)](#) and the City of Hayward [Citizen Participation Plan](#)).

Location of Activities

[\(24 CFR 570.309\)](#)

CDBG funds may be awarded to an activity outside the jurisdiction of the entitlement community only if it can be determined that the activity directly benefits the entitlement community's residents.

Documentation of these benefits must be provided before CDBG funds are awarded for the activity.

Conflict of Interest

([24 CFR 570.611](#))

There are two sets of conflict of interest provisions applicable to activities carried out with CDBG funding. The first set, applicable to the procurement of goods and services by subrecipients, is the procurement regulations located at [24 CFR 84.44](#) and [85.36](#). (See [24 CFR 570.611\(a\)\(1\)](#).) The second set of provisions is located at [24 CFR 570.611\(a\)\(2\)](#). These provisions cover situations not covered by parts [84](#) and [85](#).

With respect to procurement activities, the subrecipient must maintain written standards of conduct governing the performance of its employees engaged in the award and administration of contracts. At a minimum, these standards must:

- Require that no employee, officer, or agent may participate in the selection, award, or administration of a contract supported by Federal funds if a real or apparent conflict would be involved.

Such a conflict would arise when any of the following parties has a financial or other interest in the firm selected for an award:

- an employee, officer, or agent of the subrecipient;
 - any member of an employee's, officer's, or agent's immediate family;
 - an employee's, agent's, or officer's partner; or
 - an organization which employs or is about to employ any of those in the preceding section.
- Require that employees, agents, and officers of the subrecipient neither solicit nor accept gratuities, favors, or anything of value from contractors, or parties to subagreements. However, subrecipients may set standards for situations in which the financial interest is not substantial or the gift is an unsolicited item of nominal value. Provide for disciplinary actions to be applied for any violations of such standards by employees, agents, or officers of the subrecipient.

With respect to all other CDBG-assisted activities, the general standard is that no employee, agent, or officer of the subrecipient, who exercises decision-making responsibility with respect to CDBG funds and activities, is allowed to obtain a financial interest in or benefit from CDBG activities, or have a financial interest in any contract, subcontract, or agreement regarding those activities or in the proceeds of the activities. Specific provisions include that:

- This requirement applies to any person who is an employee, agent, consultant, officer, or elected or appointed official of the grantee, a designated public agency, or a subrecipient, and to their immediate family members, and business partner(s).
- The requirement applies for such persons during their tenure and for a period of 1 year after leaving the grantee or subrecipient organization.
- Upon written request, exceptions may be granted by HUD on a case-by-case basis, after consideration of the cumulative effect of various factors listed at [24 CFR 570.611\(d\)](#), and only with: (a) full disclosure of the potential conflict, and (b) a legal opinion of the grantee's attorney that there would be no violation of state or local laws in granting the exception. (Exceptions cannot be made retroactively.)

Operating Problems and Non-Compliance

All Department of Library and Community Services personnel are responsible for communicating any CDBG problems and/or noncompliance issues with laws and regulations upward and in writing. Divisional staff will report to the Community Services Manager, and the Community Services Manager will communicate to the Director of Library and Community Services for guidance. The Director of Library and Community Services will communicate to the City Manager and/or the City Attorney to provide direction to staff as to next steps and corrections.

Notification of Illegal Acts or Irregularities

All City of Hayward personnel and subrecipients are responsible for immediately notifying the Community Services Manager and the Director of Library and Community Services of any illegal acts or irregularities associated with the CDBG program by recipient or subrecipient staff. It shall be required that staff conduct an investigation of written allegations and if found to be true or unverifiable, HUD shall be notified and staff shall request guidance as to follow-up action. In the event that staff is conducting illegal acts or irregularities, HUD should be immediately notified at (415) 489-6597.

LOCAL PROGRAM GUIDELINES

Overview

These local guidelines expand on and clarify how the national guidelines are applied to the City of Hayward's CDBG Program, which has operated since 1975 as an entitlement grantee. The [Housing and Community Development Act of 1974](#) makes funds available to qualified cities to develop of viable urban communities, by providing decent housing and a suitable living environment and expanding economic opportunities. The exact amount of CDBG funding allocated to the City is based on a formula that incorporates several urban characteristics including population, age and condition of the City's housing stock, demographics, and incidence of poverty.

Local program guidelines are intended to guide City staff in program implementation and provide a framework for operating the program in compliance with federal statutes, best practices, and local policies. These guidelines are elastic to allow for expansion and contraction of policies as activities, community needs, interpretations, guidance, and statutes change and/or as clarification is required.

Program Oversight

The City Council, composed of six Council Members and one Mayor, serves as the governing body to authorize and approve CDBG program activities in the City of Hayward. Executive authority for the execution of CDBG contractual agreements and expenditure of CDBG funds rests with the City Manager, as authorized by the City Council.

CDBG program administration is provided by the Department of Library and Community Services. The Director of Library and Community Services and/or their designee shall make presentations and provide recommendations to the City Council regarding the CDBG program.

The Community Services Commission serves as the citizen advisory body to the CDBG program, in fulfillment of [Citizen Participation Plan](#).

The Director of Library and Community Services may propose one-time CDBG-eligible City infrastructure projects to the City Manager for previously allocated but unspent CDBG funding. The City Manager may bring such one-time projects directly to the City Council for authorization as deemed necessary and appropriate for the timely expenditure of CDBG funds.

All public hearings are reasonably noticed as required by [24 CFR 570.486\(a\)](#), with a minimum 14-day Public Hearing Notice.

Annual Allocation of CDBG Funding

The City of Hayward's Program Year begins July 1 and concludes June 30 of the following year. Each program year, administration, audit and fair housing costs will be subtracted from the annual entitlement award amount to determine the adjusted award. The adjusted award will first be available to City of Hayward Departments/Programs/ component units that wish to undertake projects. After the City allocation process is complete, any remaining funds may be allocated to eligible community partner and public services applicants at the discretion of the Council. The City of Hayward may from time to time exercise the option to use a two or three year Funding Cycle in conjunction with a multi-year budget if the time frame fits within the Consolidated Plan.

The Community Services Commission will begin its funding process in the fall. This includes a call for applications, review of applications, interviews, and then funding deliberations.

City Program Allocation Process

City of Hayward Departments will have the opportunity to submit CDBG funding proposals for activities. Priority will be given to Housing Rehabilitation, Neighborhood Services, and Economic Development. All City proposals will include information relating to goals, outputs, budget/financing, detailed activity descriptions, capacity and performance. Community Services staff, per HUD rules and regulations, will perform an administrative review of each proposal to ensure that:

Proposed activities are included within the listing of eligible activities ([24.CFR.570.201](#))
Proposed activities do not fall within a category of explicitly ineligible activities ([24.CFR.570.207](#))

Proposed activities will meet one of the national objectives of the program ([24.CFR.570.200](#)), allotted by the eligible activity.

Proposed activities will address priority needs as identified in the Consolidated Plan

Upon completion of the administrative review, the proposals will be presented to the Community Services Commission for review, with funding amounts previously determined. These proposals will be submitted to the City Council in conjunction with the Commission's recommended Adjusted Award Allocations.

Subrecipient Allocation Process

The subrecipient application process will begin after staff's administrative review of proposals and determination of funding amounts for city programs and end with recommended allocations being announced. Applications will be made available for approximately one month and be received online. All applications must be received by the announced deadline; no exceptions will be made. Department of Library and Community Services staff will perform an administrative review of each proposal, per HUD rules and regulations, to ensure the standards listed in [24.CFR.570](#), will be met if proposed activities are funded, and that entities are eligible recipients.

Upon completion of the administrative review, the applications will be presented to the Community Services Commission which will review and make funding recommendations for each subrecipient proposal. Department of Library and Community Services staff will make separate recommendations to City Council in conjunction with the Commission's recommendations.

The Community Services Manager will facilitate meetings with this Commission to offer guidance on evaluation and analysis of currently funded CDBG activities. Commission members will have the opportunity to sign up to serve on categorical Application Review Committees (ARCs) to conduct applicant interviews. Commissioners will be presented with an overview of the federal CDBG Program, a summary of each proposal, and an explanation of the proposal process. Following the interviews, recommendations by each ARC will be made to the Commission. The entire Commission will deliberate the recommendations of each ARC, comments will be collected by Department of Library and Community Services staff who will compile all results. A subsequent meeting of the Commission, as calendared, will be held to finalize funding recommendations based on Commission deliberations, community needs and funding availability.

In completing their funding recommendation, the Commission will utilize an estimated CDBG entitlement award dollar amount, which will be calculated based on past awards and available information on HUD's future funding strategies. The Commission's recommendations will be presented to City Council in a work session and a public hearing. All public hearings are reasonably noticed as required by [24 CFR 570.486\(a\)](#), with a minimum 14-day Public Hearing Notice. City Council-approved recommended CDBG allocations will be announced by May.

Estimated vs. Actual Entitlement Award

If there is any differential between the estimated award presented during the application process and the actual award as announced by HUD, the Director of Library and Community Services shall make a determination for administratively resolving any differential.

Agreement/Memorandum of Understanding

Subrecipients of CDBG funds must enter into a subrecipient agreement with the City of Hayward. Written agreements are required before any CDBG funds will be disbursed. This subrecipient agreement serves as a formal contract addressing the various policies outlined in this document, in addition to contract amount/term, reimbursement requests, quarterly reporting, monitoring, financial management guidelines, uniform administrative requirements, suspension and termination, reversion of assets, conflict of interest, and additional federal standards, including lead-based paint regulations and the Davis Bacon Act. Furthermore, each City Program receiving CDBG funds must sign a Memorandum of Understanding (MOU) indicating an understanding of the items above.

Statement/Scope of Work

All subrecipients and City Programs shall submit a concise Statement/Scope of Work that illustrates an implementation plan for their CDBG activity. This Statement, which will be attached to the subrecipient agreement/MOU includes: national objective claimed, activity descriptions, intended beneficiaries (number and type), detailed budget and location(s) of program-related activity.

Report Submissions

All subrecipients and City Programs are required to submit Quarterly Activity Reports by the 15th of the month following the end of each quarter. If said reports are not received by the requested date, future payments will be withheld, and entities will not be recommended for future funding. In the instance that reports are not being submitted correctly, or in a timely manner, a subrecipient or City Program may be called to address the Community Services Commission on reasoning behind the tardiness.

Examination of Records/Monitoring

The subrecipient and City Program shall maintain records (including books, documentation and other evidence) pertaining to the costs of carrying out their activity to the extent of detail that will adequately reflect net costs, direct and indirect labor, materials, equipment, supplies/services, and other expenses. Authorized representatives of the City or HUD shall have access to subrecipient and City Program records at reasonable times of the business day for inspection, audit or reproduction. Subrecipients and City Programs must make these records available throughout the program year and four years after it expires. Furthermore, Department of Library and Community Services staff may schedule monitoring visits with the subrecipient to evaluate the progress/performance of the program and provide technical assistance. Staff may also conduct monitoring reviews of a subrecipient at any time, without prior notification. Subrecipients that receive CDBG funds for multiple consecutive program years are subject to on-site monitoring reviews every two years, at minimum.

Procurement

The HUD Procurement Policy found in 24 CFR [Part 84](#) and [85](#) applies to all CDBG activities, including both City Programs and subrecipients that involve the purchase of equipment, materials, supplies and/or services. A copy of this policy will be distributed to all subrecipients.

City Programs and subrecipients are encouraged to make positive efforts to use small businesses, minority-owned firms (MBE), and women's business enterprises (WBE) in procuring services of all types. It is not required that program participants use MBE/WBE financial institutions, but it is encouraged.

City Programs and subrecipients are encouraged to make positive efforts to use Section 3 businesses in procuring services of all types. Good faith efforts must be documented for all construction projects. [Section 3 of the Housing and Urban Development Act of 1968](#) is designed to increase local job opportunities for low income individuals.

Local Categorical Limits

The following limits expand upon federal categorical limits associated with the CDBG program:

- At least 70 percent of CDBG funds utilized during a single program year must be expended for LMI benefit; this excludes planning/CDBG administration activities.
- The amount of CDBG funds obligated for public service activities shall be based on [HUD guidelines](#).
- Program Income used toward other eligible activities outside of the funding process may not exceed 15 percent in the year program income is committed
- The amount of CDBG funds obligated for planning/CDBG administration activities in each program year shall be based on [HUD guidelines](#).
- Any single award will not be less than \$10,000.

Program Administration

HUD requires entitlement communities to provide for efficient and adequate administration of CDBG programming. Administration costs include: salary/fringe, necessary training/travel, supplies and telephone/postage, in addition to fair housing services and audit costs. The necessary amount for fulfilling this requirement will be identified by the Director of Library and Community Services and the Director of Finance.

This amount will be deducted from the estimated amount available for the program year and not included in the estimates of the adjusted award. For additional internal control of program administration, a detailed description of these costs will be presented in the City's Budget.

Other administrative costs are associated with Technology, Professional Services, Cost Allocation and other necessary services. This may include costs of external service providers contracted by the City to perform necessary functions such as online application and data processing services. Examples of external service providers include EveryOne Home Homeless Management Information System (HMIS) and CityData Services.

Services will be procured in accordance with procurement policies in [24 CFR Part 85](#). City preference is for all subrecipients, including fair housing activities and those seeking funding for technical assistance to businesses (not in connection with other special economic development activities) and capacity building, to meet a national objective and not be funded from the administrative cap.

Economic Development

Special Economic Development Projects ([24 CFR 570.203](#))

CDBG funds may be used for special economic development activities in addition to other activities. Selection of economic development activities will follow all guidelines outlined in [24 CFR 570.209](#).

Special economic development activities include:

Acquisition, construction, reconstruction, rehabilitation or installation of commercial or industrial buildings, structures, and other real property equipment and improvements
Assistance to a private for-profit business, including, but not limited to, grants, loans, loan guarantees, interest supplements, technical assistance, and other forms of support, for any activity where the assistance is appropriate to carry out an economic development project

Economic development services, including, but not limited to, outreach efforts; screening of applicants; reviewing/underwriting applications; preparation of all necessary agreements; management of activities; and the screening, referral, and placement of applicants for employment.

Public Benefit Standards for Special Economic Development

The City of Hayward will apply aggregate standards of public benefit to individual special economic development projects. Projects must create or retain at least one full-time equivalent, permanent job per \$35,000 of CDBG funds used; or provide access to goods and services to at least one low-moderate income person per \$350 of CDBG funds used.

MicroEnterprise

The City of Hayward will allow Economic Development funds to be used as grants and/or loans for the development of Microenterprises.

Program Income

Any program income (as defined under [24 CFR 570.500\(a\)](#)) gained from any activity of the subrecipient may be retained by the subrecipient or City Program provided the income is treated as additional CDBG funds subject to all applicable requirements governing the use of CDBG funds. Anticipated program income must be documented and described in the subrecipient or City Program proposal/application. Furthermore, any and all program income received must be reported to the Department of Library and Community Services, unless otherwise specified in the subrecipient's contract.

Drawdown Procedures

Overview

The City of Hayward is on a reimbursement basis with HUD for the CDBG program. Similarly, subrecipients and contractors are on a reimbursement basis with the City for expenses incurred in CDBG program activities. As the City or its subrecipients incur expenses, claims for payment are submitted, reviewed and approved for payment by appropriate CDBG program staff who then sends claims for payment to the Finance Department. After checks have been issued for these claims, drawdowns of these expenses are completed in Integrated Disbursement & Information System (IDIS).

1.0 Drawdown Responsibilities

- 1.1. Analyst I will prepare drawdown spreadsheet titled FY XX-XX Drawdown #Y (e.g., FY 12-13 Drawdown #1). Any other description can be added after the draw number; e.g. timeliness draw. By using this nomenclature for the title, the reviewer will know exactly what this particular drawdown spreadsheet contains.
- 1.2. Analyst I will email the drawdown packet, with will include the drawdown spreadsheet and all backup documentation for the period that verifies expenditures in this draw. That email will go to the Community Services Manager and the Director of Library and Community Services for approval prior to any draw being initiated. After the first draw is made, the PR07 report will also be included in this email so that the reviewer/approver can see exactly how much has been drawn from IDIS for all periods within the Fiscal Year.
- 1.3. The Community Services Manager and the Director of Library and Community Services will review and approve the drawdown spreadsheet within two (2) business days of receipt unless there is a problem with the spreadsheet. If there are any questions, problems or issues, the Analyst I will respond and revise the drawdown spreadsheet as appropriate prior to approval.
- 1.4. Analyst I will input approved drawdown data into IDIS.
- 1.5. Analyst II will review that data against the drawdown spreadsheet and approve the drawdown in IDIS.

2.0 Preparation of drawdown spreadsheet

- 2.1. The Monday following the last Friday of the month, Analyst I will begin to cross reference source documentation with the general ledger. If any discrepancies exist, Analyst I will research that discrepancy and a note will be made in the drawdown packet explaining the discrepancy and any required follow up. Source documentation will consist of subrecipient reimbursement spreadsheets maintained in citydataservices.net, and other sources as needed.
- 2.2. Analyst I will prepare the drawdown spreadsheet. Analyst I will complete the drawdown detail and program income detail worksheets before confirming accuracy or making any changes to the open activity and drawdown spreadsheet worksheets.

3.0 Drawdowns

3.1. Requirements:

- 3.1.1. All activity setup screens must be complete.
- 3.1.2. Activities must have funds committed from one or more funding sources.
- 3.1.3. Program income must be used before requesting additional entitlement funds.
- 3.1.4. Analyst I will follow [the IDIS Online Training for CDBG Entitlement Communities](#) Chapters 5 through 7 to perform monthly drawdowns. Program income must be receipted in IDIS as the first step of performing the drawdown. Program income must then be used to fund activities. As necessary, previously committed Entitlement funds may be reduced using the Funding/Drawdown tab in IDIS in order to commit the PI funds.
- 3.1.5. Payments reimbursed with HUD grant funds MUST have an IDIS number.

3.2. Drawdown Approval

- 3.2.1. Two people required for completion of the drawdown in IDIS. Analyst I creates drawdown. Analyst II approves drawdown.

3.3. *Drawdown Revisions*

- 3.3.1. Repayments include excessive draws and ineligible uses.
- 3.3.2. When amounts are small (less than \$100,000) and can be used to satisfy immediate cash needs, then net available cash out of next draw requests, just like program income.
- 3.3.3. Use revise drawdown to move all or a portion of a drawdown to activity that will use the money. Example: We did not really spend \$500 on Activity X. We actually spent \$400 on Activity X and this \$100 was used for Activity Y.

3.4. *IDIS passwords*

Each person entitled to utilize IDIS shall have a unique password. These passwords shall be kept confidential and known only to the person using them for IDIS access. At no time shall anyone else have access to that password.

3.5. *Keeping track of IDIS draws*

- 3.5.1. All drawdowns, with complete spreadsheet detail and backup documentation, will be maintained electronically on the City of Hayward network server under “T Drive: CDBG Plans & Reports/Drawdowns/ FY ___-___/ #___”.
- 3.5.2. A drawdown file will be maintained with hard copy Administrative files for the Fiscal Year. As draws are done for actual cleared expenses, and may include multiple years, the file does not represent the expenses for the Fiscal Year in which is it maintained. Documentation for each draw will include the signed drawdown spreadsheet, the PR07 Report for the vouchers associated with the draw showing “completed” voucher status, and other relevant documentation as determined by Analyst I. PR05 will be included at the end after the last draw for all relevant program years.

3.6. *Monthly drawdowns.*

City staff shall complete the approval for the monthly drawdowns by the second Friday of the following month. .

Audit Requirements

The Office of Management and Budget ([OMB Circular A-133 – Audits of States, Local Governments, and Non-Profit Organizations](#)) and [OMB Circular A-133 Compliance Supplement](#) and the [State Single Audit Guidelines](#) require major state programs (awards over \$100,000) and federal programs (awards over \$500,000) to complete a single audit. The necessary amount for fulfilling these requirements will be identified by the Department of Finance and the City's independent auditors. This amount will be deducted from the estimated amount available for the program year and not included in the estimates of the adjusted award. Cost allocations will be associated with the most current Cost Allocation Schedule adopted by the Hayward City Council. The City will not fund any outside agency audits with CDBG money unless the outside agency receives not less than \$500,000 in federal funds.

The City of Hayward must ensure that all subrecipients and City Programs maintain accurate records of their CDBG funds expended. Thus, all subrecipients and City Programs are required to complete an independent fiscal audit prior to submitting an application, unless an alternate arrangement has been made to use a fiscal sponsor. Fiscal sponsors, agencies willing to provide an umbrella for non-audited agencies, shall have a current independent fiscal audit, and may receive up to 10% of the applicant's award. . Audits shall be conducted by qualified personnel in a manner which meets the audit standards of the Comptroller General of the U.S. Government Accountability Office (GAO). Applications without audits will be deemed ineligible without review. All audits will be reviewed by administrative staff for compliance.

Unspent Grant Funds

Any uncommitted CDBG funds remaining at the end of the program year will be reprogrammed for use in the subsequent program year, unless the reprogramming of said funds would inhibit the City's ability to meet the timeliness spending test. In order to demonstrate funds are committed, all subrecipients and City Programs must present documentation to demonstrate that funds are indeed contracted for a specific project. If funds are not under contract, but designated for a specific project, a carryover request, including both substantial documentation of plans for expending funds and a timeline for the expenditure, should be submitted to the Director of Library and Community Services for approval three months prior to the end of the Fiscal Year. If the carryover request is approved, monthly progress reports on spend down must be filed with the Department of Library and Community Services, which will present them as information items to the Community Services Commission. Any unspent grant funds not under contract after June 30, will be recouped by the City and reprogrammed for use in the subsequent program year.

If the carry forward of unspent grant funds would inhibit the City's ability to meet the timeliness spending test, allocations of CDBG funding in total amounts less than \$250,000 in a single Program Year may be directed toward eligible City Projects/Programs within the same category of the unspent allocation. The Director of Library and Community Services may propose one-time CDBG-eligible City infrastructure projects to the City Manager for such previously allocated but unspent CDBG funding. Depending on project size and scope, the City Manager may bring such one-time projects directly to the City Council for authorization as deemed necessary and appropriate for the timely expenditure of CDBG funds. This eliminates the need for a public hearing for previously allocated funds less than \$250,000 and creates a more efficient process for meeting future timeliness. Reallocations of unspent CDBG funding in total amounts greater than \$250,000 in a single Program Year shall be presented to the City Council in a Public Hearing, and if approved by Council, submitted to HUD as a Substantial Amendment. All public hearings are reasonably noticed as required by [24 CFR 570.486\(a\)](#), with a minimum 14-day Public Hearing Notice.

Financial Management Systems

Subrecipients and City Programs must employ financial management systems that are capable of generating regular financial status reports indicating the dollar amount allocated (including budget revisions), amount obligated, and amount expended for each activity. The system must permit the comparison of actual expenditures and revenues against budgeted amounts. The City must be able to isolate/trace every CDBG dollar received. This system must be compliant with the Federal Guidelines, including but not limited to OMB Circulars [A-21](#), [A-87](#), [A-122](#), and [A-133](#); [24 CFR Parts 570, 84](#), and [85](#).

Payment Requests

Subrecipients will submit written requests for payment with attached supporting documentation to the Department of Library and Community Services. Payment requests shall be allowed on a reimbursement basis (i.e. only after expenditures have been incurred and cleared) and shall be reviewed to ensure the expenditures are in conformity with the use of funds as described in the Statement of Work.

If source documentation is deemed inadequate or incorrect by Staff, all payments will be withheld until all required documents have been submitted. Payment requests received and approved will be processed and a check issued in accordance with the Department of Finance payment processes.

All payment requests must contain an original signature. Requests can be submitted online, but must be scanned and uploaded with the original signature. City Programs shall request payment via the departmental approval process. The request subject to approval by the Director of Library and Community Services to ensure that reimbursements reflect the original activity for which funds were awarded. Failure to provide accurate documentation violates the subrecipient agreement.

Consolidated Plan Submission

The City of Hayward has elected to submit a Consolidated Plan to HUD every five years, and is required to submit the Consolidated Plan to HUD a minimum of 45 days before the start of a new plan period. The [Citizen Participation Plan](#) provides for and encourages citizens to participate in the development of the Consolidated Plan, which will begin approximately one year before the required submittal date.

City Definitions

- Subrecipient - an entity charged with implementation of one or more activities funded with Hayward CDBG dollars
- City program - an eligible activity or service provided by City of Hayward staff through a non-competitive application process.
- Adjusted Award - the amount of CDBG funds available to subrecipients after City Programs, administration, fair housing, and audit allocations are deducted

Analysis of Impediments to Fair Housing Choice

Funding for production/updating of the [City of Hayward Analysis of Impediments to Fair Housing Choice](#) will be approved every five years, and performed in conjunction with the Alameda County HOME Consortium and Consolidated Planning process. (See [Federal Fair Housing Requirements](#)).

Change of Use

If a subrecipient or City Program wishes to utilize a portion of funds for an activity not identified on their original application, they are required to submit a detailed letter to the Director of Library and Community Services explaining the reasoning for and amount of the proposed change. Changes will be reviewed for eligibility and require administrative approval by the Director of Library and Community Services. Changes involving an amount greater than 25 percent of the original award for that activity or plans to utilize funds under a different activity category shall require a Substantial Amendment.

Displacement/Relocation

Due to the potential liability for long-term assistance and burdens placed on affected tenants, the City of Hayward will avoid funding CDBG projects that involve permanent residential displacement or business relocation unless displacement/relocation prove to be the only means available to correct a public health/safety hazard or other critical condition. In such cases, the City of Hayward will follow Real Estate Acquisition and Relocation Policy and Guidance set forth in [HUD handbook 1378](#).

Disputes

Any dispute concerning a question of fact arising under a subrecipient program or City Program shall be resolved by Community Services Division staff, who shall relay his/her decision in writing to the subrecipient or City Program, in addition to furnishing a copy to the City Manager. The decision of Community Services Division staff shall be final and conclusive unless the subrecipient or City Program furnishes a written appeal to the City Manager within ten days of the date of receipt of such copy. The decision of the City Manager in such appeals shall be final and binding.

Suspension/Probation and Termination

The City may place a subrecipient/city partner on probation, suspend, or terminate the Agreement/MOU, as accorded by [24 CFR 85.43](#) and [24 CFR 85.44](#). When minor compliance issues exist (such as failure to maintain Minimum Contracting Standards), an informal approach via phone calls and e-mail may occur first and funds may be held until compliance is met. If compliance of the minor issue is not met within 10 business days or if another compliance issue exists, a certified letter requiring a Corrective Action Plan will be sent to the Executive Director, Chief Operating Officer, Board of Director's and/or Department Director's attention. In the case of suspension or probation, depending upon the severity of the compliance problem, city staff shall provide not less than two (2) and not more than 10 business days to submit a Corrective Action Plan. If the agency does not implement the Corrective Action Plan according to the approved schedule, that will be grounds for termination.

If a subrecipient/city partner fails to fulfill its obligations, the City Manager may terminate the contract, in whole or part, by providing written notice of the termination and specifying the effective date, at least five (5) days before the effective date of such termination. If funds were used in a non-eligible manner, the staff liaison will include written documentation of the determination and the sum due for repayment or deduction from undisbursed funds as appropriate.

The subrecipient/city partner and the City Manager may terminate the contract for any reason upon giving at least 30 days written notice prior to the effective date. In the case of partial termination, the portion to be terminated must be specified in the notice. If the staff liaison determines that the partial termination will prevent the program from accomplishing the purpose of the award, the City Manager may completely terminate the contract.

CDBG Collection Procedures

Upon any condition of loan default: 1) nonpayment; 2) lack of insurance; 3) violation of rent limitations; 4) failure to report on use or continued eligibility; 5) change in title or use without approval; 6) default on senior loans; 7) any other reason as defined by the loan agreement, the Lender or hired loan servicer will send out a letter to Borrower notifying them of the default situation. A monthly report of defaulted loans will be submitted to the City Manager.

Active collection efforts will begin on any loan that is in default for 31 or more days. Attempts will be made to assist borrower in bringing and keeping the loan current. Letters to Borrower will be sent the Borrower every 30 days, documenting attempts. These attempts will be conveyed in an increasingly urgent manner until default has reached 90 days in default, at which time the Lender may consider aggressive collection proceedings to recover funds: 1) foreclosure; 2) claim collateral; 3) civil or criminal lawsuits; 4) sell debt to a collections agency; and 5) any other available judicial procedure to recover funds owed. Lender's staff will consider the following factors before initiating any of these measures:

1. Can the loan be cured and can the rates and terms be adjusted to correct default, avoid aggressive collection proceedings and best protect funds? Can a work out plan be initiated?
2. Can the Borrower refinance with a private lender and pay off the Lender?
3. Can the Borrower sell the property and pay off the Lender?
4. Does the balance warrant aggressive collection proceedings? Will it be more costly to pursue recovery than to bad-debt the loan?
5. Will collection of collateral cause individuals to be displaced or become homeless?
6. Will the sales price of the property "as is" cover the principal and interest owed, costs of necessary advances (i.e. fire insurance premiums, monthly yard maintenance, monthly space rents if a mobile home, property taxes, inspections to prevent vandalism, etc.), and costs of aggressive collection proceedings (i.e. foreclosure, disposition, legal fees, marketing, procurement of services, consultants, etc.)?

Lender's staff or hired loan servicer will consider all the above factors, and prepare a recommendation to pursue aggressive collection proceedings or bad debt the loan. Recommendations for bad debts under \$10,000 may be administratively approved by the Director of Library and Community Services. Recommendations of \$10,000 or more require

approval by the Director of Library and Community Services, Director of Finance, City Attorney, City Manager, and City Council. City Council makes the final decision on all aggressive collection proceedings and bad debt write-offs on CDBG loans over \$10,000, and is advised of any bad debt write-off on CDBG loans under \$10,000.

If aggressive collection proceedings are approved, the Borrower be notified, by certified mail, a thirty-day notification of foreclosure or other proceeding. This notification must include the exact amount of funds to be remitted to the Lender to prevent foreclosure or other action. Lawsuits and other judicial proceedings will be handled by the City's Attorney's office or outside counsel, at the discretion of the City Attorney.

At the end of thirty days, the Lender or hired loan servicer will contact a reputable foreclosure service or local title company, procured in compliance with [24 CFR Part 85](#), to prepare and record documents and make all necessary notifications to the owner and other lenders. The service will advise the Lender of all required documentation to initiate foreclosure or other actions (Note and Deed of Trust usually) and funds required from the owner to cancel foreclosure or other proceedings. The service will keep the Lender informed of the progress of the foreclosure or other proceedings. When the process is completed, the Lender will recover funds by selling collateral at auction.

Following administrative or City Council approval, as appropriate, bad debts will be removed from the inventory or control records and any necessary reconveyance documentation will be prepared and filed. All documentation will be maintained by CDBG staff and copies will be provided to the Finance Department - Revenue Division for availability during audits.

City of Hayward Operated Programs

All CDBG Funded Programs may maintain program specific guidelines, so long as they are in agreement with these Community Development Block Grant Compliance Policies and all other applicable local, state, and federal laws and statutes. Program specific guidelines for City of Hayward operated programs, either by the Department of Library and Community Services or other Departments, are included by reference. Current program specific guidelines include:

1. [Housing Rehabilitation Program Guidelines and Thresholds](#)
2. [Small Business Revolving Loan Fund Program Guidelines](#)