

CDBG  
Policies and  
Procedures



**Davis**  
C O U N T Y

Updated October 2024

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*This document is intended to provide general guidance for Davis County and its subrecipients in managing the administration of Community Development Block Grant (CDBG) Entitlement funds and carrying out CDBG-funded projects per 42 U.S.C. 5301 et seq. and 24 CFR 570. To ensure the most up-to-date federal guidance and best practices are followed, these policies and procedures will be updated as necessary to facilitate high quality, compliance, and efficiency in utilizing CDBG funds. It should be noted that this document should not take the place of referencing specific federal laws and regulations for a more detailed explanation of the CDBG program and its requirements.*

# Table of Contents

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Acronyms and Abbreviations	iii
Section 1. Application, Eligibility & Funding Determination Process	1
Section 2. Environmental Review	10
Section 3. Contracting & File Maintenance	20
Section 4. Subrecipient Reporting & Billing	26
Section 5. Subrecipient Monitoring	30
Section 6. Citizen Participation Plan	33
Section 7. Other Federal Requirements: Fair Housing, ADA & Lead-based Paint	34
Section 8. Personal Identifiable Information Policy	46
Section 9. Labor Standards	47
Section 10. Build America, Buy America (BABA)	48
Attachments	50

# Acronyms and Abbreviations

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<b>CAPER</b>	Consolidated Annual Performance and Evaluation Report
<b>CDBG</b>	Community Development Block Grant
<b>CED</b>	Community & Economic Development Department
<b>CENST</b>	Categorically Excluded Not Subject to 58.5
<b>CEST</b>	Categorically Excluded Subject to 58.5
<b>CFR</b>	Code of Federal Regulations
<b>EA</b>	Environmental Assessment
<b>EIS</b>	Environmental Impact Statement
<b>ERR</b>	Environmental Review Record
<b>FONSI</b>	Finding of No Significant Impact
<b>HEROS</b>	HUD Environmental Review Online System
<b>HUD</b>	U.S. Department of Housing and Urban Development
<b>IDIS</b>	Integrated Disbursement and Information System
<b>IT</b>	Information technology
<b>NOI</b>	Notice of Intent
<b>NOFA</b>	Notice of Funding Availability
<b>OMB</b>	Office of Management and Budget
<b>PII</b>	Personal Identifiable Information
<b>ROF</b>	Release of Funds
<b>RROF</b>	Request for Release of Funds
<b>SSBG</b>	Social Services Block Grant
<b>SSN</b>	Social Security Number
<b>USC</b>	United States Code

# Section 1. Application, Eligibility & Funding Determination Process

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## 1.1 Introduction

Davis County receives annual funding from the U.S. Department of Housing and Urban Development's (HUD) Community Development Block Grant (CDBG) Urban County Entitlement Program. Davis County has received these funds since 2010, used specifically for developing viable urban communities within the county.

The Davis County Community & Economic Development Department (CED) administers and distributes CDBG funds to eligible subrecipients to carry out community development activities or projects supporting the goal of developing viable urban communities within the county.

The purpose of this document is to provide guidance to Davis County and its subrecipients regarding:

- Awarding CDBG funds to eligible activities that;
  - Meet one of the National Objectives outlined in Title 24 of the Code of Federal Regulations (CFR) Part 570.208 (*i.e., public services, affordable housing access, public facilities & infrastructure, and job creation primarily benefiting low- and moderate-income persons*);
- Properly classifying and determining the eligibility of such activities and;
- Retaining adequate documentation for each activity per the regulations as outlined in *24 CFR §570.506*.

As the direct recipient of the funds from HUD, Davis County is responsible for ensuring all relevant requirements are met.

This document will be updated as necessary to ensure the most up-to-date federal regulations and guidance are followed. This document provides an overview of the CDBG Urban County Entitlement Program as it pertains to Davis County, as well as relevant county-specific policies and procedures. It does not take the place of referencing specific federal laws and regulations for detailed explanations of the CDBG program and its requirements.

## Program Year Timeline

The Davis County CDBG program year runs annually from July 1 to June 30. Davis County's primary tasks and milestones that fall within each program year are outlined in Table 1.

Table 1. Program Year Timeline\*

Month	Activity
November	Application/NOFA Public Notice (30-day)
December	<b><u>Mandatory</u></b> Pre-Application Meeting
January/February	CDBG Application Open
March	Application Deadline
March	Application Review
April	Annual Action Plan Public Notice (30-day Notice)
May	Action Plan Public Hearing
May	Action Plan Submittal (HUD)
June	Environmental Reviews Complete
June	Subrecipient Agreements
July	Final Billings and Annual Report Due (Previous Years Grant)
August	CAPER Public Notice (15-day notice)
September	CAPER Submittal

\*Program year is July 1 – June 30.

## 1.2 Application Process

The application process begins with a published Notice of Funding Availability (NOFA) to the Davis County Website, public buildings, local newspaper, and the State public notice website. The notice allows CDBG-eligible entities or agencies<sup>1</sup> the opportunity to submit an application to Davis County for CDBG grant funds.

A mandatory pre-application workshop is held in December. This workshop assists potential subrecipients and the County to work together in meeting program goals and understanding HUD requirements when utilizing CDBG funds in their communities.

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<sup>1</sup> CDBG eligible entities or agencies”, means for purposes herein, government entities/agencies, public entities/agencies and IRS designated non-profit,(501(c)3), entities serving low and moderate income residents of Davis County (excluding residents of the cities of Layton and Clearfield), including but not limited to, participating cities within Davis County, including Davis County’s offices, and departments, non-profit and special service districts who serve low and moderate income residents of Davis County.

As shown in Table 1, applications will open in January or February for the public to apply for CDBG funds for the upcoming program year. The application process for the new program year is conducted online using [Neighborly](#).

Public notices are submitted to local newspapers, public buildings, the [Davis County Website](#), and the [State public notice website](#) to provide notification that applications are available, and indicate how to obtain and submit applications and the types of projects/programs that are eligible to receive CDBG funds. All notices are posted at least thirty (30) days in advance of the CDBG application deadline.

**Applications are only accepted online** through [Neighborly](#). The specific time and due date are included in all advertised information. New or revised applications are only accepted during the thirty (30) day application window; no applications are accepted after the submission date. All applications are accepted electronically and are time-stamped to ensure they are submitted within the allowable window. **No mailed or hand delivered applications will be considered.**

### Eligible Activities

The primary goal of the CDBG program is to support the development of viable urban communities. As described in *24 CFR 570.1* and *570.2*, viable communities are achieved by providing decent housing, a suitable living environment, and expanded economic opportunities primarily for persons of low-and moderate-income.

In general, basic CDBG-eligible activities include the following (see [24 CFR 570.201](#) for a full list of eligible activities):

- Acquisition/demolition of real property
- Public facilities and improvements (including acquisition, construction, reconstruction, rehabilitation or installation of public facilities and improvements)
- Public services (with limitations)
- Development of water/sewer facilities and/or streets
- Rehabilitation of residential and non-residential structures
- Construction of public safety buildings
- Affordable housing projects
- Rehabilitation of single/multi-family housing units
- Homeownership assistance

In addition, there are types of activities that are categorically ineligible—construction or acquisition of buildings used for *general conduct of government, general government expenses, and political activities*. In general, any activity not specifically authorized under the provisions of *24 CFR 570.201–570.206* is considered ineligible for CDBG funding. These include such activities as: purchase of construction equipment, operating and maintenance expenses, new housing construction (*with some exceptions*), and particular income payments. It should be noted, however, that sections

24 CFR 570.201–570.209 should be referenced in detail for eligibility of activities, as there are various specifications that determine the details of many activities’ eligibility<sup>2</sup>.

Activities occurring outside of the Urban County, as per 24 CFR 570.309, are not typically funded. The County will fund activities/projects outside the Urban County on a case-by-case basis, but the subrecipient **must** demonstrate that the activity is meeting a National Objective and will serve low- and moderate-income persons who are residents of Davis County.

## National Objectives

Each activity must meet one of the following three CDBG National Objectives. Each National Objective includes criteria subcategories, described below, that provide further detail on how activities are classified and corresponding requirements.

### Benefit Low-and-Moderate Income (LMI) Persons

The focus of this National Objective is to ensure CDBG-funded activities benefit low- and moderate-income persons. Davis County is required to ensure that **at least 70% of CDBG funds utilized over one program year is used for activities that benefit low- and moderate-income (LMI) persons.** Planning and program administration costs are excluded from this calculation [see 24 CFR 570.200(a)(3)]. The criteria subcategories include:

- **Area Benefit (LMA):** Activities available for the benefit of all the residents in a particular area, where at least 51% of those residents are low-moderate income persons. (24 CFR 570.208(a)(1))
- **Limited Clientele (LMC):** 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) at least 51% of whom are low- and moderate-income persons. (24 CFR 570.208(a)(2))
- **Housing (LMH):** Activities carried out for the purpose of providing or improving permanent residential structures that, upon completion, will be occupied by low- and moderate-income households. (24 CFR 570.208(a)(3))

A low- and moderate-income person is defined as a member of a family having an income equal to or less than the Section 8 Housing Assistance Payments Program low-income limits established by HUD, applicable to the size of the person’s family. A family is defined as all persons living in the same household who are related by blood, marriage, or adoption. For all but the “Housing” subcategory, the low-income limits are referring to low- and moderate-income persons. The “Housing” subcategory is based on low- and moderate-income households, and is defined as all persons living in the same household, regardless of relation.

HUD identifies the low-income thresholds each year based on location and median average income. These thresholds are updated annually. The HUD Income thresholds are available on the [Davis County Community & Economic Development website](#), and [HUD](#), and is provided as supporting

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<sup>2</sup> The eligible activities for Davis County are related to the adopted five-year Consolidated Plan and may exclude certain activities. Please check with Program Staff for more information.



documentation in the County Neighborly library during the yearly application process. (See Attachment 1.1)

### *Prevent or Eliminate Slum or Blight*

This National Objective focuses on “*changing the physical environment of a deteriorating area.*”<sup>3</sup>  
The criteria subcategories include:

- **Area Basis (SBA):** 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. (24 CFR 570.208(b)(1))
  - **Spot Basis (SBS):** 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. (24 CFR 570.208(b)(2))

### *Urgent Need*

The Urgent Need National Objective includes activities designed to address community development needs that have a particular urgency because existing conditions pose a serious and immediate threat to the health or welfare of the community for which other funding is not available. A condition will generally be considered to be of recent origin if it is developed or became critical within 18 months preceding the grantee’s certification.<sup>4</sup>

After applications are received, the County determines and documents if and how each proposed activity meets one of the National Objectives. Any activity that fails to meet a logical, documented connection to a National Objective is ineligible for CDBG funding and will be removed from further consideration. Any applicants and/or applications found to be non-compliant with CDBG regulations, or found to be ineligible for funds for other reasons, are informed via emailed letter from the County after the application review is complete.

**Copies of the Neighborly applications and notices of eligibility/ineligibility are documented and kept as electronic files at the County.<sup>5</sup>**

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<sup>3</sup> HUD, *Office of Block Grant Assistance. May 2014. Basically CDBG.*

<sup>4</sup> 24 CFR 570.208(c)

<sup>5</sup> 24 CFR 570.506(a) & (b)

## Categorical Limits

For Hard Cost (CDBG) and/or Soft Cost Community & Support Services Grants (CDBG/SSBG) applications Davis County requires a \$25,000 minimum grant for all submitted grants to the County. The CDBG Review Committee may consider multi-year projects of sufficient scope and size that are of appropriate benefit to the community and meet a qualifying National Objective.

The County reserves the right to consider and/or reject requests from any agency requesting funds for multiple activities in one program year. For the County to determine if it is appropriate to fund an activity, the agency must be able to demonstrate the following to the County, to meet eligibility:

1. The Agency must have and submit a program/project budget
  - a. Detailed budget narrative
2. Identify the population served
  - a. Identify how the population served will be tracked demonstrating how National Objectives are being met
3. Agency must demonstrate the need for the activity
  - a. The activity must have identifiable outcomes that meet County goals
4. Capacity to carry out multiple activities within a single program year
  - a. The requesting entity must be able to carry out the activity in the program year without having to request a contract amendment

Some project categories have a limitation on the amount of CDBG funds that may be used. For example, CDBG funds obligated for Public Service activities in each program year may not exceed 15% of the total entitlement grant for that program year, plus 15% of the program income received during the preceding program year (see *24 CFR 570.201(e)(1)*). The County assesses each project to ensure adherence to the 15% cap.

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

## **Matching Funding Requirements**

Davis County has discretion as to the amounts required by organizations submitting applications for CDBG funds. The County encourages matching funds from organizations as part of the process, and may require funds to increase the impact of community development projects, but it is up to the organization to determine the amount of funds that will increase the overall impact of the project. The review committee takes into consideration factors such as the amount of matching funds as part of the review process.

## 1.3 Application Review and Eligibility Determination & Review Criteria

Applications are reviewed by County staff and consultants for eligibility in the CDBG program. Various characteristics of the proposed project or activity are analyzed to determine eligibility and to help identify which applicants will receive awards. The following general items are taken into consideration during this process:

- Does the activity address an established need?
- Is the proposed plan for carrying out the activity realistic?
- Does the organization have the capacity to do the work, and in a timely manner?
- Are there any potential conflicts of interest?
- How many Davis County residents will be served within the Davis county Entitlement Area?
- Is the requested funding in proportion to the number of Davis County residents served, compared to the overall funding for the project?
- Does the project align with the goals and objectives outlined in the Consolidated Plan?
- Do the estimated costs of the activity seem necessary, reasonable, and conform to cost-specific regulations?

If the project is located outside Davis County's jurisdiction, the County undertakes additional analysis to determine if:

- 1) The activity provides reasonable benefits to Davis County residents; and
- 2) The activity is necessary to further Davis County's community development objectives.

The basis for this determination is documented prior to awarding CDBG funds, and includes identifying the number of Davis County residents served in relation to the total number of clients served to ensure that the portion of the total project cost funded through the County would be proportionate to the number of Davis County residents served compared to the total number of clients served.

In addition, the County documents if and how the activity is necessary to further the purposes of the County's community development objectives, including the following:

- How does the activity meet or support the goals identified in the 5-year Consolidated Plan?
- Does the activity support any broader objectives to enhance the County's community development efforts?
- Are these needs currently being met through other means within Davis County?
- Are there other resources within the jurisdiction that could meet these needs?

## Review Committee

The Davis County CDBG Review Committee is composed of six members from various County departments. A County Commissioner (Chair); CED grants administrator, CED Economic Development Director, one representative from the auditor's office, one from the attorney's office and one from the Davis County Health Department. The Davis County Commissioner over CED Chairs the Review Committee

The Review Committee meets annually in February/March timeframe to review, discuss and make funding recommendations for the CDBG grant applications. The Committee may meet during the year to discuss policy and give direction on funding changes to the County Commission as per the Citizen Participation Plan.

## 1.4 Funding Determination and Notice of Award Funding Determination

The County reviews each application against the criteria listed in Section 1.3, specifically ensuring that a National Objective is met and that the project is aligned with the goals and objectives outlined in the adopted Consolidated Plan.

CED staff compile a summary of the eligible applications into a staff report on each CDBG application for the Review Committee. The Review Committee meets to review current programs funded, submits any questions to County staff, and meets to make funding recommendations. The applications and funding recommendations are then passed on to the County Commission for review and approval as part of the Annual Action Plan process. In addition, the CDBG Review Committee may take this opportunity to ask questions about specific applicants and/or applications.

In February/March, the Review Committee makes the final funding decisions, which are approved. Because the recommendations are typically made before budget appropriations are granted, language is incorporated into the letters stating that the allocations are based on the County's allocation amount from the previous year, and if there is a change to the CDBG allocation, each program will see either an increase or decrease in their funding proportionate to the final allocation. The funding decisions are compiled by the County CDBG Staff in the first draft of the upcoming program year's Annual Action Plan.

In April, a public notice advertising the funding recommendations and requesting public comments on the Annual Action Plan is posted in the local newspaper, County website, and the [State public notice website](#). The notice indicates the thirty (30) day duration of the comment period, and provides the contact information to provide written comments.

A public hearing is held before the County Commission, with the opportunity for public comment regarding any of the proposed activities/projects. A public hearing notice is submitted to the local newspapers, public buildings is posted on the [Davis County Website](#), and to the [State public notice website](#). The public notice is advertised thirty (30) days before the public hearing, and includes all

eligible projects that have requested funds, the date and time for the public hearing, and information about how and when to submit written comments.

### **Notice of Award**

In April/May, each applicant is notified by the County of approval of CDBG funding, the allocation amount, and documentation needed to move forward with the contract process. Contract periods generally run for the term of the program year and expire on June 30 of the following year.

## Section 2. Environmental Review

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### 2.1 Introduction

This section provides the Davis County guidance on conducting and documenting environmental reviews in compliance with 24 CFR 58. An environmental review is required for every HUD-assisted project to certify that the grant recipient has met its responsibilities with respect to environmental protection—that services will not negatively affect the surrounding environment and that the site itself will not have adverse effects on users. When conducting any environmental review or developing an Environmental Review Record (ERR), refer to 24 CFR 58 for a detailed understanding of the environmental review process and requirements.

**Completion of the environmental review process is mandatory for any activity before taking physical action on a site, or making a commitment or expenditure of HUD or non-HUD funds for property acquisition, rehabilitation, conversion, lease, repair, or construction activities. Neither Davis County nor its subrecipients is allowed to commit or spend funds on physical activities, including acquisition, until the review is complete.**<sup>6</sup>

Davis County works closely with the participating cities on projects that are being funded with CDBG. When applicable, the cities will conduct a joint environmental review on a single, shared project.

### 2.2 Program Year Environmental Review Timeline

The County CDBG Staff conduct a high-level, cursory review of projects to identify any activities that may need more substantial environmental clearance (*i.e.*, *Environmental Assessment (EA) or greater*). The objective is to determine what environmental clearance will be needed and if that project is feasible within the CDBG program year. If an organization requires an EA or Environmental Impact Statement (EIS), the applicant will be notified and a course of action will be mapped.

The timeline for more substantial environmental documentation is determined on a case-by-case basis, with the disclaimer that the applicant will not be able to draw down CDBG funds until the County has completed the necessary environmental review process.

For projects that are exempt or categorically excluded, Davis County completes the following environmental review process over the course of approximately sixty (60) days (beginning in April/May):

- County Staff/consultant(s) determine level of review for each project (*confirming any preliminary environmental review determinations made during the application process*).

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<sup>6</sup> *Environmental Review approval is required prior to starting any CDBG project; subrecipients who begin work prior to Environmental Review will result in choice limiting actions impacting the ability of the project to draw CDBG funds.*

- County Staff/consultant(s) complete ERR for each project and create a digital copy to be kept on file.
- County Staff/consultant(s) provide final ERR to subrecipient to maintain with other CDBG documentation.

## 2.3 Determining the Level of Environmental Review

The environmental review procedures identified in *24 CFR 58* must be completed for each activity (or project as defined in *24 CFR 58*), as applicable. The Davis County assesses each activity to determine the applicable procedure that must be followed to obtain environmental clearance and/or a Release of Funds (ROF).

**Contracts will not be executed with subrecipients, and expenditures for County-managed projects will not be approved, until the environmental review is complete.** Environmental review forms and documents must be completed and signed by the appropriate County staff.

The environmental review aids CDBG recipients in developing the appropriate level of ERR that complies with federal regulations. Davis County is responsible for making a formal determination on the level of environmental review based upon the subrecipient's proposed activities and projects.

Activities fall into the following five categories, which require different level of review, public notification, and HUD review. These classifications, relevant activities, and the appropriate process to follow for each one are included in Table 2 on page 14:

- Exempt [*see 24 CFR 58.34*]
- Categorically Excluded Subject (CEST) to *24 CFR 58.5* [*see 24 CFR 53.35(a)*]
- Categorically Excluded Not Subject (CENST) to *24 CFR 58.5* [*see 24 CFR 58.35(b)*]
- Environmental Assessment (EA) [*see 24 CFR 58.36*]
- Environmental Impact Statement (EIS) [*see 24 CFR 58.37*]

Environmental review forms for the first four categories are included as Attachments 2.1 to 2.4.

It is the policy of HUD to reject proposals that have significant adverse environmental impacts and to encourage the modification of projects in order to enhance environmental quality and minimize environmental harm. As such, if it is determined that an EIS may be required (*i.e., when an activity is determined to have a potential significant impact on the environment*), the applicant and/or subrecipient will be notified by County staff to discuss the appropriate course of action and timing.

The County will contact HUD to determine the complete required process under the following circumstances:

- Project provides a site or sites for, or results in construction of, hospitals or nursing homes containing 2,500 or more beds
- Project removes, demolishes, converts, results in construction or installation of, or substantially rehabs 2,500 or more housing units or housing sites

- Project provides additional water and sewer capacity in the county to support 2,500 or more new housing units or comparable development

### Aggregating Related Activities

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.

If relevant, Davis County will group all individual activities that will take place in order to complete the project, and will evaluate them together as a single project. This includes activities not assisted by HUD, but aggregated in accordance with 24 CFR 58.32, including activities that are:

- Related on geographic basis (site specific or functional basis [activity specific])
- Logical parts of a larger project
- Funded by several federal programs
- Partially funded with non-federal sources

When aggregating activities, the environmental review must state if the proposed activity will receive multiple year funding, identify all sources of funds, and address all aspects of the project. In addition, public notices should identify sources of all other funds.

### Tiered Environmental Reviews

Per 40 CFR 1508.28, the County analyzes projects to determine if a tiered review is appropriate. To make this determination, the County considers groups of projects that would fund the same or similar activities, such as housing repair and rehabilitation activities, but where the specific sites are not yet known. The County evaluates if the similar activities will occur within a defined local geographic area, or will occur repeatedly within a particular timeframe (*up to five years*). Once it is determined a tiered review is appropriate, the County completes both broad-level (**Tier 1**) and site-specific (**Tier 2**) reviews, as described below, before spending or committing funds on a specific site or activity.

**Broad-Level (Tier 1) Review:** The broad-level (Tier 1) review is conducted to identify and address issues that can be resolved on a broad level, and define the processes and standards through which the site-specific reviews will be completed. Based on the level of review, the County evaluates each of the relevant environmental laws and authorities that require compliance. If the full scope of the project including all potential activities is determined to comply with an environmental law, that specific compliance topic is documented and considered resolved at that broad level.

Where compliance cannot be determined because details are not yet known for each activity or site, the County defines a protocol for how compliance will be achieved at the site-specific level, including describing the procedures to be followed to determine compliance, mitigate impacts, etc. As is the case for other types of environmental review, the requirements depend on the level of review (see Table 2). Tiered reviews that are Categorically Excluded Subject to Section 58.5 (CEST) are most common for projects in Davis County; these reviews must include an analysis of all related



laws and authorities listed in *24 CFR 58.5* and *58.6* (see Attachment 2.3 for an example broad-level (Tier 1) CEST form).

The County provides public notice in the local newspapers, on the County's website, and on the State public notice website regarding tiered reviews. These public notices include a clear description of the project, as well as an explanation of the scope of the activities that will be covered as part of the tiered review.

**Site-Specific (Tier 2) Reviews:** When an individual site or activity is identified, the County completes the site-specific (Tier 2) review prior to committing HUD funds to the project. Per *40 CFR 1508.28*, the site-specific review focuses on the issues that were not resolved in the broad-level review and follows the processes established in the broad-level review.

**Record Maintenance and ERR:** The broad-level review and all site-specific reviews collectively make up a complete environmental review for tiered projects. The County follows the same protocol for maintenance of the ERR as is followed for other environmental reviews. Since tiered reviews are not complete without full documentation from both levels of review, the County takes special care to maintain full documentation for both levels of review within the same record.

Table 2. Levels of Environmental Review & Documentation Required in ERR

LEVEL OF ENVIRONMENTAL REVIEW				
<p><b>24 CFR 58.34 – Exempt</b></p>	<p><b>24 CFR 58.35(b) – Categorically Excluded NOT Subject to 58.5</b></p>	<p><b>24 CFR 58.35(a) – Categorically Excluded AND Subject to 58.5: “A”</b> checked for all on statutory checklist</p>	<p><b>24 CFR 58.35(a) -- Categorically Excluded AND Subject to 58.5: “B”</b> checked for one or more on statutory checklist</p>	<p><b>24 CFR 58.36 – National Environmental Policy Act EA</b></p>
<p>Requires only a written determination of the exemption in the ERR.</p>	<p>Requires a written determination of the exclusion with documentation in the ERR.</p>	<p>Requires a written determination of the exclusion with documentation in the ERR and a complete statutory checklist.</p>	<p>Requires a written determination of the exclusion with documentation in the ERR, a complete statutory checklist, 7-day Notice of Intent (NOI) to Request Release of Funds (RROF), and HUD approval.</p>	<p>EA required for all other activities that are not considered exempt or categorically excluded and that do not require the completion of an EIS. EAs require a written determination with documentation in the ERR, a complete statutory checklist, a complete EA checklist, a complete Finding of No Significant Impact (FONSI), a 15-day combined Notice of FONSI and NOI/RROF, and HUD approval.</p>
TYPE OF ACTIVITIES				

Table 2. Levels of Environmental Review & Documentation Required in ERR

<ul style="list-style-type: none"> <li>● Environmental and other studies</li> <li>● Resource identification</li> <li>● Development of plans and strategies</li> <li>● Information and financial services</li> <li>● Administrative and management activities</li> <li>● Public services (i.e., employment, crime prevention, child care, health, drug abuse, education, counseling, energy conservation, welfare, recreational needs)</li> <li>● Inspections and testing for hazards or defects</li> <li>● Purchase insurance and tools</li> <li>● Engineering or design costs</li> <li>● Technical assistance and training</li> <li>● Temporary or permanent improvements that do not alter environmental conditions and are limited to protection, repair, or restoration activities to control or arrest the effects from disasters or imminent threats to public safety, including those resulting from physical deterioration</li> </ul>	<ul style="list-style-type: none"> <li>● Tenant-based rental assistance</li> <li>● Supportive services such as healthcare, housing services, permanent housing placement, daycare, nutritional services, short-term payments for rent, mortgage, or utilities, assistance in gaining access to government benefits</li> <li>● Operating costs including maintenance, furnishings, security, equipment, operation, supplies, utilities, staff training and recruitment</li> <li>● Economic development activities including equipment purchase, inventory financing, interest subsidy, operating costs, and other expenses not associated with construction or expansion</li> <li>● Activities to assist homeownership of existing dwelling units or units under construction, including closing costs and down payment assistance to homebuyers, interest buy-downs or other actions resulting in transfer of title</li> <li>● Affordable housing pre-development costs: legal consulting, developer and other site-option costs, project financing, administrative costs for loan commitments, zoning approvals, and other activities which don't have a physical impact</li> </ul>	<p>Acquisition, repair, improvement, reconstruction, or rehabilitation of public facilities and improvements (other than buildings) when the facilities and improvements are already in place and will be retained in the same use without change in size or capacity of more than 20%, including:</p> <ul style="list-style-type: none"> <li>● Replacement of water or sewer lines</li> <li>● Reconstruction of curbs and sidewalks</li> <li>● Repaving of streets</li> </ul> <p>Special projects directed toward the removal of material and architectural barriers that restrict the mobility of and accessibility to the elderly and handicapped.</p> <p>Single Family Housing Rehab</p> <ul style="list-style-type: none"> <li>● Unit density is not increased beyond 4 units</li> <li>● Project does not involve change in land use from residential to non-residential</li> <li>● The footprint of the building is not increased in a floodplain or a wetland</li> </ul> <p>Multifamily Housing Rehab</p> <ul style="list-style-type: none"> <li>● Unit density change is not more than 20%</li> <li>● Project does not involve change in land use from residential to non-residential</li> <li>● Cost of rehabilitation is less than 75% of the estimated cost of replacement after rehab</li> </ul> <p>Non-Residential Structures</p> <ul style="list-style-type: none"> <li>● Facilities and improvements were in place and will not be changed in size or capacity by more than 20%</li> </ul>	<p>Activities not exempt or categorically excluded.</p> <p>Generally, new construction of five or more homes, and conversion from one type of land use to another.</p>
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Table 2. Levels of Environmental Review & Documentation Required in ERR

<ul style="list-style-type: none"> <li>• Payments of principal and interest on loans or obligations guaranteed by HUD</li> </ul>	<ul style="list-style-type: none"> <li>• Approval of supplemental assistance (including insurance or guarantee) to a project previously approved under Part 58, if: approval is by same the Responsible Entity, and re-evaluation is not required, per Part 58.47</li> </ul>	<ul style="list-style-type: none"> <li>• Activity does not involve change in land use from non-residential to residential, commercial to industrial, or one industrial use to another</li> </ul> <p>Individual action (e.g., disposition, new construction, demolition, acquisition) on a one- to four-family dwelling; or individual action on five or more units scattered on sites more than 2,000 feet apart and no more than four units per site.</p> <p>Acquisition (including leasing) or disposition of, or equity loans on an existing structure or acquisition (including leasing) of vacant land provided that the structure or land acquired or disposed of will be retained for the same use.</p> <p>Combinations of the above activities.</p>		
<b>DOCUMENTATION REQUIRED IN ERR</b>				
<p>Describe activity and make a written determination of exemption.</p> <p>Also, determine compliance with 24 CFR 58.6:</p> <ul style="list-style-type: none"> <li>• National Flood Insurance Program</li> <li>• Coastal Barrier Resource Act</li> <li>• Runway Clear Zones</li> </ul>	<p>Describe activity and make a written 58.35(b) determination.</p> <p>Also, determine compliance with 24 CFR 58.6:</p> <ul style="list-style-type: none"> <li>• National Flood Insurance Program</li> <li>• Coastal Barrier Resource Act</li> <li>• Runway Clear Zones</li> </ul>	<p>Complete statutory checklist (58.5) and indicate converts to exempt.</p> <p>Also, determine compliance with 24 CFR 58.6:</p> <ul style="list-style-type: none"> <li>• National Flood Insurance Program</li> <li>• Coastal Barrier Resource Act</li> <li>• Runway Clear Zones</li> </ul>	<p>Complete statutory checklist (58.5), NOI/RROF Notification RROF and Certification (Form 7015.15) Authority to Use Grant Funds (Form 7015.16)</p> <p>Also, determine compliance with 24 CFR 58.6:</p>	<p>Environmental Assessment (including statutory checklist) FONSI and NOI/RROF Notification Form 7015.15 Form 7015.16</p> <p>Also, determine compliance with 24 CFR 58.6:</p> <ul style="list-style-type: none"> <li>• National Flood Insurance Program</li> <li>• Coastal Barrier Resource Act</li> </ul>

*Table 2. Levels of Environmental Review & Documentation Required in ERR*

	<ul style="list-style-type: none"><li>• National Flood Insurance Program</li><li>• Coastal Barrier Resource Act</li><li>• Runway Clear Zones</li></ul>	<ul style="list-style-type: none"><li>• Runway Clear Zones</li></ul>
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## 2.4 Preparing the Environmental Review Record

Davis County prepares and maintains a well-organized written record of environmental review for each project, **including exempt activities** such as administrative or design costs, and tenant-based rental assistance. This file is called the ERR and provides decision makers with sufficient information on which to base choices. The ERR should clearly outline the proposed action and projects and be made available for public review<sup>7</sup> so that the affected community may understand the action's intent and all associated environmental concerns. A preliminary environmental review, including source documentation, must be conducted prior to contacting applicable agencies for comment. Agencies must be provided ample project information, maps, and source documentation to make determination of compliance with applicable laws.

The ERR will vary in length and content depending upon the level of review required for the categories of activities. The ERR contains all the environmental review documents, public notices (and proof of their publication), and written determinations or environmental findings required by *24 CFR 58* as evidence of review, decision making, and actions pertaining to a particular project.

Davis County documents and maintains the ERR, in coordination with the subrecipient as necessary. Potential tasks to develop the ERR include writing the project narrative; obtaining maps of the project area; soliciting comments from appropriate local, state, and federal agencies; and facilitating responses to comments received on environmental findings. The ERR should:

- Describe the project and each of the activities comprising the project, regardless of individual activity funding source.
- Evaluate the effects of the project or the activities on the human environment.
- Document compliance with applicable statutes and authorities.
- Record the written determinations and other review findings required by *24 CFR Part 58*.
- Fully document any public comments, concerns, and appropriate resolutions in the ERR.
- Include all required public notices, public comments (if any), the Request for Release of Funds and Certification (*RROF/C, Form 7015.15*) and HUD's Authority to Use Grant Funds (*Form HUD 7015.16*).

### Program Descriptions

The ERR must describe a project and its activities in enough detail to include the nature, scope, scale, and location of the project. Depending on the project, the ERR should include maps and aerial photos that identify the location of the project and key features (*e.g., historic districts, major roads, railroads, airports, floodplains, natural areas*), site plans, elevations, renderings, photographs, budgets, schedules, and other pertinent information to supplement the description of the proposed project and existing conditions. The project description must be full and complete and aggregate all activities, both HUD and non-HUD funded.

Programmatic-level projects being cleared through a tiered review (*such as housing rehabilitation*) need to describe if the program occurs Countywide or within a limited geographic area of the

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<sup>7</sup> *24 CFR 58.38*

County. If occurring within a limited area, the project boundaries need to be described in both narrative and maps. Housing programs should specifically describe: the proposed action (*e.g., minor repair, major rehabilitation, new construction*), an estimated number of housing units to be assisted, the type of housing (*one to four unit or multi-family*), tenancy (*rental or owner occupied*), average and maximum amount of HUD assistance per home, estimated total cost of the program, and whether assistance will be provided as a grant or loan.

**If the project undergoes change or modification after the environmental review has been approved, the original environmental review must be re-evaluated<sup>8</sup> to determine if the findings and determinations remain valid.** Such changes include a change in the project's nature, magnitude or extent, including the addition of new activities not anticipated in the original scope, or there are new circumstances and environmental conditions which may affect the project or have a bearing on its impact. The re-evaluation must include documentation in the ERR that describe the proposed project changes and the results of the re-evaluation.

### Other Supporting Documentation

The ERR must contain all documentation of the review process:

- Environmental determination for each activity and its level of clearance finding
- Copies of any public notices
- Evidence of compliance with related provisions for historic preservation and floodplains/wetlands
- All other federal laws and authorities

Davis County maintains ERRs primarily in electronic formats (*and hard copy upon request*), available for public review and monitoring. All environmental documentation will be retained by the County in hard copy format for five (5) years, and electronic format thereafter. EAs and EISs will be stored in the County's records system. It is important to note that environmental documentation expires after five (5) years and a new environmental record will need to be completed if an applicant requests project funding that triggers an EA or EIS review.

### Central Data File

The County maintains documentation that is community-wide in nature in a central data file to provide efficiencies and consistency among data that is common to all projects. Individual ERRs reference the central data file for the support documentation. Examples of central data files include documentation regarding compliance with sole source aquifer provisions, threatened and endangered species, and airport information. The central data file is reviewed and updated on a yearly basis when environmental reviews are conducted for the upcoming program year.

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<sup>8</sup> 24 CFR 58.47

## Section 3. Contracting & File Maintenance

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### 3.1 Introduction

Appropriate file maintenance and recordkeeping is critical in managing CDBG funded activities and projects. Thorough management will also aid in reporting processes and requirements with Davis County.

Adequate recordkeeping will ensure the subrecipient is meeting a National Objective and that CDBG funds are being used for the activities that were approved by the County and defined in the contract scope of work. Insufficient documentation and reporting by the subrecipient may lead to serious monitoring findings, which are likely to be much more difficult to resolve in cases where records are missing, inaccurate, or otherwise deficient. The general CDBG standard recommended by *24 CFR 570.502* advises that records be accurate, complete, orderly and maintained for five (5) years.

### 3.2 Contracting

Subrecipient grant agreements are written for the County and sent to subrecipients one to two months prior to the start of the program year (see Attachment 3.1 for example contract). Per *24 CFR 570.503(b)(2)*, specific requirements for recordkeeping are established in the subrecipient agreement. The scope of services description is taken from the subrecipients' submitted applications, and any other restrictions the County may have identified are also included. Contracts are sent to the subrecipients, along with income limits (see Attachment 1.1) and a checklist of supporting contract documents that must be kept on file. **Subrecipients must submit all requested supporting contract documents before funds are released.**

The subrecipient grant agreement(s) are reviewed and approved by the County Attorney each program year before being submitted to subrecipients for signature.

The signed contract is submitted to the County CBDG office, at which point the information is verified and all necessary information and documentation is submitted and forwards the contract to auditing for budget review. The contract is then presented by CDBG staff to the Board of County Commissioners. Once approved, copies of the contract are kept: one by the County, and one is mailed to the subrecipient. The County and subrecipient are required to maintain an electronic copy of the contract for five (5) years.

### 3.3 Contract Amendments

Either party may request a contract amendment for the current program year contract to amend their contract for the following reasons: budget changes, changes to activity, increase or decrease in CDBG allocation, changes to the National Objective, and/or cancellation of the contract.



## 3.4 File Maintenance

Both Davis County and subrecipients must adhere to record keeping and reporting requirements of the CDBG program; sufficient records must be maintained to demonstrate that the requirements specified in *24 CFR 570.506* have been met.

Records should be retained in hard copy or electronic format for five (5) years from the date of submission of Davis County's Consolidated Annual Performance and Evaluation Report (CAPER) in which each activity is reported for the last time.<sup>9</sup> Documentation should also be readily accessible by Davis County representatives, HUD, the Comptroller General of the United States, and other authorized governmental agencies. These entities have the right of access to any pertinent records of a subrecipient to make audits, examination, excerpts, and transcripts.<sup>10</sup> The subrecipient must also provide citizens with reasonable access to records on their past use of CDBG funds.<sup>11</sup>

### Administrative Records

Administrative records include files and documentation that apply to the overall administration of the subrecipient's defined CDBG activities or project. These include:

- Personnel files
- Property management files
- General program files
  - Files relating to the subrecipient's application to the grantee (e.g., subrecipient agreement, program policies and guidelines, correspondence with the grantee and reports, etc.)
  - Davis-Bacon documentation
  - Environmental documentation (see Section 2 for appropriate documentation)
- Legal files
  - Articles of incorporation, bylaws of the organization, tax status, board minutes, contracts and other agreements.

Adequate recordkeeping of administrative records aids reimbursement requests of CDBG funds. These should be retained in the event a monitoring is conducted and administration will be reviewed.

### Project and Case Files

Subrecipients must maintain documentation that provides a full description of each activity assisted with CDBG funds. Records must include the location where the activities occur; the amount of CDBG funds budgeted, obligated, and expended for the activity; and the regulatory provision under which the activity is eligible. Although total records will vary from activity to activity, each project should include documentation of the National Objective<sup>12</sup> being met<sup>13</sup>, the characteristics and

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<sup>9</sup> *24 CFR 84.53(b) and 2 CFR 200*

<sup>10</sup> *24 CFR 84.56(e) and 2 CFR 200*

<sup>11</sup> *24 CFR 570.508*

<sup>12</sup> *See Section 1 for additional National Objective information.*

<sup>13</sup> *24 CFR 570.208 and 570.506(b)(1) – (12)*

location of beneficiaries of the activity or program, the eligibility of the activity<sup>14</sup>, the compliance with special program requirements, the allowability of the costs, and the status of the case/project.

Subrecipients should also retain intake forms for clients for five (5) years to ensure compliance with recordkeeping regulations. In addition, subrecipients will maintain documentation of quarterly and yearly reports indicating the number of Davis County residents living in the designated entitlement area who are served, demographic information, income per low- and moderate-income requirements, and fair housing activities and equal opportunity compliance.

The County will maintain documentation of compliance with the program rules regarding any change of use of real property acquired or improved with CDBG assistance, acquisition, displacement, relocation and replacement housing.<sup>15,16</sup>

**For projects located outside Davis County’s jurisdiction:** Upon review of the potential subrecipient’s application, the County will determine and document that the activity is necessary to further the County’s community development activities (see Section 1.3) and that the activity provides reasonable and proportionate benefit to Davis County residents, while meeting HUD’s National Objectives<sup>17</sup>. Upon completion of the activity, the County will maintain documentation verifying the realized benefits. Subrecipients must maintain clear documentation of public services supported by the project.

## Financial Records

Financial record management will be particularly important as the reimbursement requests and monitorings are conducted. Appropriate financial documentation should include:

- **Accounting Records:**
  - **Cash Receipts Record:** Receipts for all funds used for program activities, including local, state, and federal alternative funds, must be kept on record. The record must include the date funds were received, the amount of funds received, the source of the funds, and the accounts into which funds were assigned.
  - **Cash Disbursement Record:** Any and all checks issued for payment of program costs must be maintained within the Cash Disbursement Record. The record must include the payment date, the payee, the check number, the amount and the account from which the disbursement was made.
  - **General Ledger:** This Ledger is meant to summarize cash receipts and disbursements on a sub-account basis. All entries to the General Ledger must be made from the Cash Receipts and Cash Disbursements Journal.
  - **Other relevant files including:** a chart of accounts, payroll journals, payable and receivable ledgers, and job cost journals (*if involved in construction*).
- **Source Documentation:** Up-to-date files of original source documentation (*e.g. receipts, invoices, canceled checks, etc.*) for all financial transactions, including those

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<sup>14</sup> 24 CFR 570.201(f); 570.201(i)(2); 570.201(p), 570.202(b)(3); 570.204; 270.206(f); or 570.209

<sup>15</sup> 24 CFR 570.505 and 570.503(b)(7)(i) and (ii)

<sup>16</sup> 24 CFR 570.606

<sup>17</sup> 24 CFR 570.309

involving obligation incurred and the use of CDBG program income should be filed in the agency's database or server for future use or reference.

- **Budget Controls and Reporting Documents:** Subrecipients must maintain an up-to-date budget for all funded activities while regularly comparing their progress toward the achievement of goals and the rate of expenditure of program funds. Agencies should be able to provide accurate, current, and complete disclosure of financial results.

## SAM Registration and Debarment Policy and Procedure

### 1. Purpose.

All entities, except for individual persons, that apply for or receive awards of CDBG funds from Davis County or that receive subawards directly from subrecipients of those awards must have and maintain an active SAM ([www.sam.gov](http://www.sam.gov)) registration until closeout of their program or project.

- A. All types of business entity formations, including sole proprietorships and non-profit organizations, are considered entities under the federal regulations and must be registered in SAM
- B. Entities applying for CDBG funds must provide the following to the County to be eligible for CDBG funding:
  - i. UEI
  - ii. CAGE Code
- C. Davis County will verify all subrecipients currently have an active SAM account with corresponding CAGE Code/ UEI number upon registration through Neighborly.

### 2. Registration Requirements for Entities.

- A. All units of general local government and non-profit organizations that receive awards from Davis County to carry out CDBG programs or projects must have active SAM registrations.
  - i. SAM registration needs to be renewed annually;
  - ii. Grantees and subrecipients need to maintain their registrations before they expire and/or lapse, as their programs and projects are ineligible for CDBG funding without active registrations.
- B. Procurement contracts with program and project administrators, design and engineering firms, construction contractors and subcontractors, and the like are not considered subawards, and entities providing those services do not need to be registered with SAM.gov.

### 3. Debarment

- A. Businesses and individuals that have been excluded for egregious offenses ranging from national security violations to tax fraud are improperly receiving federal contracts and other funds.
- B. The General Services Administration (GSA), a federal agency, is required by the Federal Acquisition Regulation (FAR) to compile and maintain a list of parties debarred, suspended, or disqualified by federal agencies. Contractors as well as recipients of federal financial assistance must be registered at Sam.gov. To determine if a proposed contractor is debarred, Davis County and all subrecipients must check the [federal SAM database](#).

- C. **Active registration in SAM is required to submit an application as a subrecipient or contractor and for Davis County to make a payment utilizing HUD funding.** In addition to checking the name of the contracting firm, the name of the president and owner of the firm must also be checked. Staff should also review any state and local debarment lists. **Website printouts must be placed in the file.**
- D. Per the SAM User Guide, the **No Active Exclusions field on the SAM Entity summary indicates whether the entity has a current debarment.** SAM.gov will check the exclusions list for the UEI number of your entity and indicate whether any exclusion records exist. If an active exclusion record exists for your entity, this question will default to “Yes,” meaning that the contractor is debarred. No Record Found means that the entity is not registered or has let its registration lapse. Davis County will ensure that the email address is current in SAM.gov so that when automated reminders are sent to renew registration each year that this reminder does not go into spam due to an obsolete email address.
- This applies to any CDBG-assisted contract at any tier in the process
  - ALL subrecipients and contractors receiving funding from Davis County CDBG funds must be **checked for debarment annually** and before the execution of a contract. The entity listing in SAM must show “No Active Exclusions.”
  - No funds from CDBG are to be paid to entities that have been debarred or who do not have a record in SAM.
- E. All subrecipients must also ensure that any contractor that receives HUD CDBG funding from Davis County is listed in SAM and shows “No Active Exclusions.”

## 3.4 Program Income Policy & Procedure

### Overview

Program income is defined in 2 CFR 200.80 as gross income earned by the subrecipient that is directly generated by a federally sponsor-supported activity or earned as a direct result of a federal sponsored project during the period of performance.

### Policy & Procedure

Each subrecipient is responsible for ensuring that any program income related to the CDBG funded sponsored project is identified and tracked according to the Federal requirements (identified above) and this policy.

- A. **Program Income (24 CFR 570.426).** The County may reuse any revenue generated from projects undertaken with CDBG funding towards other eligible activities within the “urban county,” (i.e., Davis County). Furthermore, any program income earned by a subrecipient may be retained by the subrecipient provided that the income is treated as additional CDBG funds and thus subject to all applicable Federal and local requirements.
- B. **Sources of Program Income.** The County CDBG program may allow subrecipients to retain program income from housing rehabilitation and homebuyer assistance activities; provided the same activities that generated the income(s) are continued. Other eligible program income producing activities must return program income to the County.

- C. Maximum Returned. Subrecipients must expend all program income funds prior to requesting regular CDBG program funds from the County. The County allows an accumulation of up to \$35,000 in any subrecipient's program income account. If an extended period of time elapses between when utilizations are made for this purpose, the account may be allowed to increase beyond this limit.
- a. The County requires that a current bank statement and/or accounting documentation showing the program income account be submitted with each quarterly request for funds. Separate accounts may be necessary to simplify subrecipient recordkeeping. All such documentation is necessary for monitoring and audit by the County.

## Section 4. Subrecipient Reporting & Invoicing

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### 4.1 Introduction

Detailed, timely reporting ensures CDBG funds are being used appropriately in benefitting the community, and enables Davis County to verify that is the case. The subrecipient agreement between Davis County and subrecipients specifies reporting requirements (see *24 CFR 570.503(b)(2)*), which are consistent with *2 CFR 200*, as relevant. In general, three kinds of reports are requested: information on drawdown requests, quarterly progress reports, and CAPER data.

The County works closely with subrecipients to ensure that the 5:1 ratio is maintained, and that funds are being drawn in a timely manner. If a project is not expending funds, the County provides technical assistance to the subrecipient to determine a course of action to expend the project funds. If a program does not expend its funds within the CDBG program year, those funds may be recaptured by the County and reallocated to another project per the County's determination.

### 4.2 Subrecipient Reporting and Request for Payment

To obtain funds obligated for an approved project, Davis County requires subrecipients to submit through Neighborly the following to the Davis County CDBG office:

- **Financial Support Documentation:** Any and all documents that support the cost reimbursement being requested from the County should be included (e.g. payroll reports, paystubs, contractor invoices with copies of checks showing payment, etc).
- **Invoices:** Any and all labor and materials utilized for the CDBG activity must be documents in an invoice to the County. The amount of grant time for activities must also be shown using a separate sheet to delineate all grant programs that the subrecipient is utilizing to pay for staff (*i.e., if staff members are paid through multiple grants to deliver programmatic activities this must be shown on a worksheet indicating hours, days and amount billed to the CDBG and other funding sources*).<sup>18</sup>
- **Progress Report:** When submitting an invoice, the subrecipient must have all activity/project narrative, with a demographic report submitted in Neighborly with accomplishments and a factual and complete explanation of the need for funds as represented by the Invoice. A Request for Payment will not be processed without a submitted Progress Report in Neighborly.

#### Drawdown Requests (Invoices)

When applicable, subrecipients should submit an invoice to the County on a quarterly basis. These quarterly reimbursement requests should include (for each activity) the amount of:

- Funds budgeted
- Funds received in drawdowns to date
- Funds obligated in most recent period and to date

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<sup>18</sup> 24 CFR 570.502

- Funds expended in most recent period and to date
- Previous drawdowns requested but not yet received

Subrecipients are also requested to provide information on the financial status of the CDBG project or activity's operations. **All reimbursement requests must be submitted to the County no later than fifteen (15) days after the program year expires. The County reserves the right to refuse reimbursement until all requested documentation is submitted to verify program is meeting National Objectives. Subrecipients will receive reimbursement after documentation is received and by the County.**

## Progress Reports

Subrecipients are all required to submit quarterly and annual reports indicating the number of Davis County residents served, demographic data, and income information for each client that is served with Davis County CDBG funds. These numbers must be accurate, tracked via an intake form and available to the County. **The quarterly reports are imperative to determine the subrecipient is meeting a National Objective; funds will not be released to a subrecipient if reports are not completed<sup>19</sup>.** (*See Attachment 4.1 for a template for a standard Davis County quarterly report.*)

Quarterly reports will be submitted using Neighborly. This provides the County a mechanism to easily track the subrecipients' progress and provides electronically generated report reminders to the subrecipient.

Davis County requires program and activity data from subrecipients in connection with Davis County's input into HUD's Integrated Disbursement and Information System (IDIS) in preparation of their CAPER, which will be submitted to HUD after the end of each program year. For some subrecipients, progress reports may sufficiently provide necessary data needs; however, others may need to supplement these through special reports which will be determined by CDBG representatives at Davis County. The County will provide the following information in IDIS and in its CAPER for each CDBG-funded activity:

- The activity's name, matrix code, description, location of activity, contract and project number.
- The National Objective being met. (see 24 CFR 570.201)
- The amount expended during the program year.
- The total cost of each multi-unit housing.
- The amount of unliquidated obligations for each public service and planning and administration activity of CDBG funds are not disbursed during the 90 days after the end of the grantee's program year.
- Activity status and specific units of accomplishments, including compliance with the applicable National Objective, during each program year.
- The number of Davis County residents assisted at the facility and the number of Davis County residents served with CDBG funds residing in the entitlement area.

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<sup>19</sup> See 24 CFR 570.208(a); 24 CFR 570.506(b); 24 CFR 570.309

It is the responsibility of the County to collect and retain this data; however, proper reporting by subrecipients is crucial in submitting accurate and sufficient information to HUD.

### 4.3 Invoice Process

Subrecipients submit invoices to the County staff for reimbursement through Neighborly for approved expenses. Invoices notices are received and reviewed for compliance with the approved scope of expenditures in the signed contract. **If the expenditures are not in the budget, or if any required documentation is missing, payment will not be made to the subrecipient.** An amendment to the contract and/or a change in funds to a program may be made, but the requested expenditures still must be eligible for CDBG funds and must be approved and signed by the County Commission.

Once the invoice has been approved, the invoice is printed with supporting documentation and submitted to the CED Administrative Assistant to create a payment voucher using County Funds. The Auditor department then reviews the request, with the attached Neighborly Invoice, Contract number(s), budget and supporting documentation and the payment is processed for Commission approval. Once payment is approved, the Auditor's office processes the payment to the subrecipient.

HUD Funds are drawn only after the County has paid the subrecipient and the check/invoice has been processed through the Commission. The Clerk/Auditor's office then notifies CED with the confirmation (invoice/check) that payment was made to the subrecipient; CED staff then initiate an **IDIS draw to reimburse the County for the amount(s) paid to subrecipient for the budgeted CDBG activities.**

The County CDBG office prepares the IDIS draw, including the name of the projects, the date of the draw, the reference number, and amount drawn. After a draw is made CED staff notify Audit staff with the IDIS Voucher number(s) and the contract number(s) and project number(s). Coordination is conducted on a monthly basis between the CED Staff conducting the drawdowns and the County Auditing Staff for reconciliation.

For year-end closeout, requests are emailed to the subrecipients for an annual performance report and for submittal of any final bills so the year-end can be closed. All funds allocated for public services not spent in the year awarded are recaptured and allocated in the next year's CDBG process. CDBG funds do not carry over in the next fiscal year, unless specified in the contract.

### 4.4 Program Year Closeout

Davis County CDBG staff begin the subrecipient program year closeout process approximately forty-five (45) days prior to the end of the program year. A notice is sent to subrecipients with remaining CDBG funds to submit any remaining reimbursement requests and documentation.

A meeting is coordinated with the County Auditor or designee to complete fund draws in IDIS, after which vouchers are approved in Tyler-Munis. The approved draw initiates the CDBG reimbursement with the County's account. Reports PR02 and PR05 are generated from IDIS to verify the funds have



been paid by HUD. Annual report data and any fund requests are verified as complete in IDIS. After verifying the completion of these items, the projects are closed out in IDIS.

HUD Standard Form 425 is completed quarterly, signed by the CED staff, and submitted to HUD. In the event a large construction project was undertaken during the program year, HUD Form 2516 is completed and submitted.

Subrecipients are responsible for ensuring quarterly reports and funding reimbursement requests are submitted in a timely manner throughout the year to help minimize end-of-year delays. County staff verifies that all information needed for the annual CAPER is correct and complete. Public notice for review of the draft CAPER is posted in August, at least fifteen (15) days prior to availability of the draft CAPER. After the comment period closes, the CAPER is finalized and submitted to HUD no later than ninety (90) days after the end of the program year.

## Section 5. Subrecipient Monitoring

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### 5.1 Introduction

As stated in CDBG regulations (24 CFR 570.501-503 & 2 CFR 200.328), it is Davis County's responsibility to ensure CDBG funds are used in accordance with all program requirements, to determine the adequacy of performance under subrecipient agreements, and to take appropriate action when performance problems are identified. Davis County CDBG staff does so through a combination of regular onsite monitorings and year-round desk monitorings to ensure:

- Compliance with applicable federal requirements
- That performance goals are being achieved in terms of program performance, financial performance, and regulatory performance
- That performance objectives are completed on schedule and within budget
- That the project or activity also accomplishes its goal

CDBG programs depend upon cooperative, problem-solving relationships between grantees and subrecipients. Too often, program monitoring requirements and other regulations seem to set up an “us-them” adversarial situation between the monitor and the entity being reviewed, leading to “management by intimidation.”

This is unnecessary and can be destructive. Monitoring that focuses largely on uncovering errors and assigning blame tends to make subrecipients defensive or resentful; it increases their resistance to taking corrective action or improving their performance. This often means that grantees spend more time “looking for mistakes” and less time solving problems. It can also mean that subrecipients spend more energy hiding problems, than finding solutions. It is far better to fix the problem than to fix the blame. Subrecipients are partners.

An effective service and support strategy also requires open and consistent communications. It begins with a complete understanding of the County's objectives and also what subrecipients want to achieve, and what the rules of the program are. It ends with recognition for achievement and acknowledgement of mistakes. A centerpiece of the management process is to remove barriers to communication.

Successful subrecipient programs begin with plans that anticipate potential problems before they occur and with management strategies that emphasize prevention, not cure.

This means:

- **Pre-Award Screening, Risk Assessment, and Orientation**  
Implementing strong subrecipient screening, risk assessment, selection, and orientation procedures (before awarding funds);
- **Strong Written Agreements**  
Negotiating a consistent and thorough **award agreement** with every subrecipient;
- **Performance Standards**  
Establishing a clear and coherent set of **performance standards** for tracking the accomplishment of each activity described in the agreement.

Performance standards define how progress will be measured, accomplishments rewarded, and (by implication) when and how sanctions may be imposed. With clear agreements and appropriate

performance standards monitoring will be less burdensome and more effective for achieving both performance objectives and regulatory compliance.

## 5.2 Risk Assessment and Scheduling

Monitorings are an ongoing process and vary in frequency depending on the characteristics of each CDBG activity and project. Onsite and/or desk monitorings are conducted for each subrecipient every year, or more frequently on an as-needed basis. These monitorings are scheduled at the beginning of each program year based on the subrecipient's potential level of risk.

The Davis County CDBG staff conducts a risk assessment (Attachment 5.1) at the beginning of each program year to assign a level of risk to each subrecipient. This level of risk determines the frequency of onsite monitorings conducted for each subrecipient. Subrecipients who are determined to be higher risk—based on such criteria as first-time subrecipients, previous compliance or performance problems, or those undertaking multiple or complex CDBG activities within the program year—may be subject to additional monitorings within the program year.

## 5.3 Monitoring Process

Regular contact: email, phone calls as often as needed to ensure that projects are monitored on an ongoing basis.

Drawdown requests and Quarterly Reporting: To assure validity the County has established practices referenced in section 4.2

Desk Audit: Include reviews of project file, progress reports, and financial information, provided by the subrecipient. If questions are raised from this type of audit or through the Risk Assessment process, additional information will be gathered and documented through phone, email and/or a site visit.

Site Visit: All active projects may receive an on-site monitoring at least once during the program year.

A notification letter and email are sent to subrecipients at least two weeks prior to Davis County's visit. The notification letter includes:

- A confirmation of the dates and scope of the monitoring visit
- A description of the information that will be reviewed
- A list of people to be interviewed
- The expected duration of the monitoring visit

The onsite monitoring includes a review of all files, documenting and acquiring data during the visit per the Onsite Monitoring Visit Checklist; conducting any necessary interviews with subrecipient staff; and performing an exit interview to present tentative conclusions, request information to clarify any concerns, and suggest improvements. A copy of the Onsite Monitoring Visit Checklist and a formal letter with final conclusions is sent to the subrecipient within thirty (30) days of the visit. This letter either commends the subrecipient on a good job or details deficiencies along with regulation

citations. Recommendations or requirements for improvements are listed with any possible consequences for failure to comply within a reasonable timeframe.

The year-round desk monitorings include regular reviews of quarterly reports and reimbursement requests for every subrecipient to ensure program compliance. Any questions or issues identified through this process are documented in the subrecipient's file, and solutions are coordinated with the subrecipient as issues are identified.<sup>20</sup> (*See Attachment 5.2*)

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<sup>20</sup> 24 CFR 570.501(b); 2 CFR 200.328

## Section 6. Citizen Participation Plan

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Davis County must develop and follow a Citizen Participation Plan to receive federal funds for the CDBG program. Davis County's Citizen Participation Plan encourages citizen participation, outlines the public's involvement in the five-year Consolidated Plan process, the Annual Action Plan, each year's CAPER and any amendments to the Consolidated Plan, its Annual Action Plans, or CAPER. The Citizen Participation Plan is developed as a document with the requirements set forth at *24 CFR 91.105* and is amended as needed. The Citizen Participation Plan is available on the County Website and at the CED Office during normal business hours for public viewing (*See Attachment 6.1*).

## Section 7. Other Federal Requirements: Fair Housing, ADA & Lead-based Paint

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### 7.1 General Responsibilities

The CDBG program triggers several additional federal “cross-cutting” requirements that affect CDBG projects. These requirements include:

1. Fair Housing
2. Handicapped Accessibility (Americans with Disabilities Act or ADA)
3. Lead-based Paint (applies to residential housing projects/programs)

Summary information about compliance with each of these requirements can be found in this chapter. In order to assure compliance with these requirements, the CDBG agreements entered into for each project spell out several duties and obligations of the project owner with respect to federal regulations.

### 7.2 Fair Housing Act

Project subrecipients are responsible for taking necessary and appropriate actions to prevent discrimination in federally assisted housing and lending practices related to loans insured or guaranteed by the Federal government. Further, subrecipients should strive to promote a strategy for increasing the choice of housing opportunities for low and moderate income persons including minorities and female-headed households. Possible actions which project subrecipients, particularly municipalities or public agencies, can take are as follows:

- Review zoning, building, and housing codes and revise if necessary to encourage equal opportunity in housing;
- Consider Fair Housing priorities when developing land use plans, public facilities, and housing;
- Develop or strengthen Land Use Priorities for public facilities and housing;
- Strengthen local partnerships to identify Fair Housing Strategies;
- Require Housing Developers to use HUD Affirmative Marketing and Advertising practices; and
- Promote the availability of “**Fair Housing; It’s the Law**” Brochure.

### 7.3 Accessibility for People with Disabilities

#### Americans with Disabilities Act

The ADA provides comprehensive civil rights to individuals with disabilities in the areas of employment, public accommodations, state and local government services and telecommunications. The Act, also referred to as the ADA, also states that discrimination includes the failure to design and

construct (*built for first occupancy after January 26, 1993*) that are accessible to and usable by persons with disabilities. The ADA also requires the removal of architectural and communication barriers that are structural in nature in existing facilities. Removal must be readily achievable, easily accomplishable and able to be carried out without much difficulty or expense.

## Section 504 Handicap Accessibility Policy

Section 504 was enacted as part of the Rehabilitation Act of 1973. It prohibits discrimination on the basis of handicap in all programs and activities receiving federal assistance and, in 1978, it was amended to apply to all programs conducted by the Federal Government. This regulation provides that no qualified individual with handicaps shall, because a recipient's facilities are inaccessible to or unusable by individuals with handicaps, be denied the benefits of, be excluded from participation in, or otherwise be subjected to discrimination under any program or activity that receives federal financial assistance. Davis County provides a TDD phone for the hearing impaired upon request, 48 eight hours prior to any meeting at (801.451.3200) and will provide sign and other interpreters for public meetings upon request for CDBG program accessibility. All public meeting sites are handicap accessible and auxiliary aids are available for those individuals requesting them.

Structures built or rehabilitated must be made handicapped accessible. Structures designed, built, or altered (*rehabilitated*) with CDBG funds shall conform to the Uniform Federal Accessibility Standards, which was published in the *Federal Register* on August 7, 1984 (*49 CFR 13518*). The Uniform Federal Accessibility Standards technical requirements meet or exceed comparable provisions of *ANSI 117.1-1980 Specifications for Making Buildings and Facilities Accessible to, and Useable by Physically Handicapped People.*

## 7.4 Lead Policy and Procedure

Whenever Federal funds, such as CDBG, are used to assist housing built before 1978, steps must be taken to address lead hazards. All housing units in a project assisted with CDBG funds must comply with the regulations found at **24 CFR Part 35**.

The lead-based paint regulations consolidate all lead-based paint requirements for HUD- assisted housing. The purpose of the regulation is to identify and address lead-based paint hazards before children are exposed to lead.

The regulation is divided into subparts, of which the following apply to the CDBG program:

- Subpart A: Disclosure;
- Subpart B: General Requirements and Definitions;
- Subpart J: Rehabilitation;
- Subpart K: Acquisition, Leasing, Support Services, and Operations; and
- Subpart R: Methods and Standards for Lead-Based Paint Hazard Evaluation and Reduction

For CDBG projects, the lead-based paint requirements established by the regulation fall into the three major categories listed below:

## Notification

Recipients must meet four notification requirements:

1. **Lead Hazard Information Pamphlet** - Occupants, owners, and purchasers must receive the EPA/HUD/Consumer Product Safety Commission (CPSC) lead hazard information pamphlet, or an EPA-approved equivalent. ([Lead Hazard Information Pamphlet](#))

- **Pamphlets are provided to all households at time of application.** Households must complete an acknowledgement form and sign to document they received and understood the pamphlet. A copy of this acknowledgment form should then be placed in the file. ([English/Spanish](#))
2. **Disclosure** - Check that property owners have provided purchasers and lessees with available information or knowledge regarding the presence of lead-based paint and lead-based paint hazards prior to selling or leasing a residence. ([English/Spanish](#))
    - A disclosure notice must be provided to purchasers before closing so that they are aware that there may be lead in the home they are purchasing. A copy of the disclosure notice must be placed in the file.
    - Tenants must receive a disclosure notice before moving into the unit. Ideally, they should receive a disclosure notice at time of application so they can make an informed decision when choosing housing for their household. A copy of the disclosure notice should be kept by the landlord in the tenant's file.
  3. **Notice of Lead Hazard Evaluation or Presumption** - Occupants, owners, and purchasers must be notified of the results of any lead hazard evaluation work or the presumption of lead-based paint or lead hazards. A copy of this notice must be provided to owners and tenants within 15 days of the evaluation. A copy of this notice should be kept in the project file.
  4. **Notice of Lead Hazard Reduction Activity** - Occupants, owners, and purchasers must be notified of the results of any lead hazard reduction work. A copy of this notice must be provided to owners and tenants within 15 days of the project achieving clearance. A copy of this notice should be kept in the project file.

**Lead Hazard Assessment/Evaluation:** Assessment/evaluation methods include visual assessments, paint testing, and risk assessments. Each method has specific requirements (defined in Subpart R of the regulation) and must be done by qualified professionals. The specific method required depends on the activity undertaken.

**Lead Hazard Reduction:** Lead hazard reduction may include paint stabilization, interim controls, standard treatments, or abatement. Each method has specific requirements (defined in Subpart R of the regulation) and must be done by qualified professionals. The specific method required depends on the activity undertaken.

## Exemptions

Some CDBG projects may be exempt from the Lead Safe Housing Rule if they meet the criteria listed below:

- Housing units constructed after 1978.
- Emergency repairs to the property are being performed to safeguard against imminent danger to human life, health or safety, or to protect the property from further structural damage due to natural disaster, fire or structural collapse. The exemption applies only to repairs necessary to respond to the emergency.
- The property will not be used for human residential habitation. This does not apply to common areas such as hallways and stairways of residential and mixed-use properties.
- Housing “exclusively” for the elderly or persons with disabilities, with the provision that children less than six years of age will not reside in the dwelling unit.
- An inspection performed according to HUD standards found the property contained no lead-based paint.
- According to documented methodologies, lead-based paint has been identified and removed, and the property has achieved clearance.
- The rehabilitation will not disturb any painted surface.
- The property has no bedrooms.



- The property is currently vacant and will remain vacant until demolition.

Grantees administering emergency repair programs should pay particular attention to the exemption “The rehabilitation will not disturb any painted surfaces.” Many emergency repair programs replace only water heaters or roofs where no painted surfaces are disturbed and thus may be exempt from the Rule. **All exemptions must be documented in the project file.**

## Requirements for Rehabilitation Projects

CDBG funds may be used for rehabilitation of existing units. When such an activity is undertaken using Federal funds on a unit built before 1978, the Lead Safe Housing Rule applies. In short, compliance with the Lead Safe Housing Rule for such rehabilitation projects will affect the project planning, timeline, scope of work, contracting and budget. This section briefly describes the relevant requirements.

## Calculating the Level of Assistance

The lead hazard evaluation and reduction activities required for rehabilitation projects depend on the level of rehabilitation assistance received by the project. This level of assistance is determined by taking the lower of:

- Per unit rehabilitation hard costs (regardless of source of funds); or
- Per unit Federal assistance (regardless of the use of the funds).

To make this determination, it helps to understand several terms:

- **Rehabilitation Hard Costs.** The rehabilitation costs are calculated using only hard costs. They do not include soft costs or the costs of lead hazard evaluation and reduction, as described below.
- **Lead Hazard Evaluation and Reduction Costs.** Lead hazard evaluation and reduction costs include costs associated with site preparation, occupant protection, relocation, interim controls, abatement, clearance, and waste handling attributable to lead-based paint hazard reduction.
- **Federal Assistance.** Federal assistance includes all Federal funds provided to the rehabilitation project, regardless of whether the funds are used for acquisition, construction, soft costs or other purposes. This also includes funds from program income, but excludes low-income housing tax credit funds (LIHTC), Department of Energy Weatherization Program funds, or non-Federal HOME Program match funds.

## Requirements for Projects Receiving Rehabilitation Assistance Up to and Including \$5,000 per Unit

### **The goal is to “do no harm.”**

Therefore, all work must be conducted using lead safe work practices. Workers must be trained in lead safe work practices.

Rehabilitation projects where the level of assistance is less than or equal to \$5,000 per unit, workers must be trained in safe work practices, notices must be provided to owners and tenants, and clearance must be achieved.

Projects where the level of rehabilitation assistance is less than or equal to \$5,000 per unit must meet the following requirements:

- **Lead Hazard Evaluation.** Paint testing must be conducted to identify lead-based paint on painted surfaces that will be disturbed or replaced. Alternatively, grantees may presume that these surfaces contain lead-based paint.
- **Lead Hazard Reduction.** Grantees must repair all paint that will be disturbed during rehabilitation, unless such paint is found not to be lead-based paint.

- **If lead-based paint is detected or presumed, safe work practices must be used during rehabilitation.**
- **Clearance is required by a certified clearance examiner.**

**Notices must be provided to owners and tenants:**

- [The Lead Hazard Information pamphlet](#);
- [The Notice of Evaluation](#) (if paint testing is performed) or Notice of Presumption (if paint testing is not performed); and
- [The Notice of Lead Hazard Reduction](#).

## Requirements for Projects Receiving Rehabilitation Assistance between \$5,000-\$25,000 per Unit

**The goal is to “identify and address lead hazards.”**

Projects where the level of [rehabilitation assistance is between \\$5,000 and \\$25,000 per unit](#) must meet the following requirements. A risk assessment is required to identify lead hazards and identified hazards must be addressed by interim controls.

- **[Lead Hazard Evaluation](#).** A risk assessment must be conducted by a qualified professional prior to rehabilitation to find lead-based paint hazards in assisted units, in common areas that service those units, and on exterior surfaces. The risk assessment must include paint testing of any surfaces to be disturbed by the rehabilitation.
- **Lead Hazard Reduction.** If the risk assessment identifies lead-based paint hazards interim controls must be implemented to address lead-based paint hazards.
- Interim controls must be performed by qualified professionals using safe work practices.
- **Clearance**, conducted by a qualified clearance examiner, is required when lead hazard reduction activities are complete.

**Options.**

**There are two options, as follows:**

1. **The grantee is permitted to presume that lead-based paint is present and that lead-based paint hazards exist.** In such cases, evaluation is not required. The grantee must perform standard treatments in lieu of interim controls on all applicable painted surfaces and presumed lead-based paint hazards.
2. **The grantee is also permitted to conduct a lead hazard screen instead of a risk assessment.** The lead hazard screen has more stringent requirements and is only recommended in units in good condition. If the lead hazard screen indicates that there is no lead contamination, no lead hazard reduction is required. If the lead hazard screen indicates the presence of lead hazards, the grantee/subrecipient must then conduct a risk assessment.
3. (Note: Passing a lead hazard screen, or a risk assessment, does not eliminate the requirement to perform interim controls on lead-based paint hazards created as a result of the rehabilitation work.)

**Notices must be provided to owners and tenants:**

1. The Lead Hazard Information pamphlet;
2. The Notice of Evaluation (if a risk assessment is performed) or Notice of Presumption (if a risk assessment is not performed); and
3. The Notice of Lead Hazard Reduction.

## Requirements Projects Receiving Rehabilitation Assistance over \$25,000 per Unit

### **The goal is to “identify and eliminate lead hazards.”**

Projects where the level of rehabilitation assistance is over \$25,000 per unit must meet the following requirements. A risk assessment is required to identify hazards and any identified hazards must be abated by a certified abatement professional.

**Lead Hazard Evaluation.** A risk assessment must be conducted prior to rehabilitation to find lead based paint hazards in assisted units, in common areas that service those units, and on exterior surfaces. The risk assessment must include paint testing of any surfaces to be disturbed by the rehabilitation or grantees may assume that lead-based paint hazards exist. (See Exhibit 7.3)

### **Lead Hazard Reduction.**

To address hazards identified:

- Abatement must be conducted to reduce all identified lead-based paint hazards except those described below. Abatement must be conducted by a certified abatement contractor.
- If lead-based paint hazards are detected during the risk assessment on the exterior surfaces that are not to be disturbed by rehabilitation, interim controls may be completed instead of abatement to reduce these hazards.
- Clearance is required when lead hazard reduction activities are complete.

Options. There are two options, as follows:

- **The grantee is permitted to presume that lead-based paint hazards exist.** In such cases, a risk assessment is not required. The grantee must abate all applicable painted surfaces that will be disturbed during rehabilitation and all presumed lead hazards.
- **The grantee is permitted to conduct a lead hazard screen instead of a risk assessment.** The lead hazard screen has more stringent requirements and is only recommended in units in good condition. If the lead hazard screen indicates that there is no lead contamination, no lead hazard reduction is required. If the lead hazard screen indicates the presence of lead hazards, the grantee/subrecipient must then conduct a risk assessment.

**(Note: Passing a lead hazard screen, or a risk assessment, does not eliminate the requirement to perform abatement on lead-based paint hazards created as a result of the rehabilitation work.)**

Notices must be provided to owners and tenants:

- **The Lead Hazard Information pamphlet;**
- **The Notice of Evaluation** (if a risk assessment is conducted) or Notice of Presumption (if a risk assessment is not conducted); and
- **The Notice of Lead Hazard Reduction.** In short, compliance with the Lead Safe Housing Rule for such rehabilitation projects will affect the project planning, timeline, scope of work, contracting, and budget. In particular, it involves the engagement of a certified abatement contractor.

## Compliance

Failure to comply with the lead-based paint requirements under the regulation will subject a recipient to sanctions authorized under the Federal funding programs providing assistance to the property, and violations may be subject a recipient to other penalties available under state or local law. Notifying owners, purchasers, or occupants of possible lead-based paint hazards does not relieve recipients of their responsibilities under the new regulation.

Not complying may expose households and contractors with potentially dangerous levels of lead dust and debris that can cause life threatening illnesses and developmental delays.

## Certified Inspection, Risk Assessment, and Abatement Firms

### *The National Lead Information Center*

The [National Lead Information Center \(NLIC\)](#) provides the general public and professionals with information about lead, lead hazards and their prevention. The NLIC operates under a contract with the U.S. Environmental Protection Agency (EPA), with funding from EPA and the U.S. Department of Housing and Urban Development (HUD).

### Definitions.

**The Act** means the Residential Lead-Based Paint Hazard Reduction Act of 1992, [42 U.S.C. 4852d](#).

**Agent** means any party who enters into a contract with a seller or lessor, including any party who enters into a contract with a representative of the seller or lessor, for the purpose of selling or leasing target housing. This term does not apply to purchasers or any purchaser's representative who receives all compensation from the purchaser.

**Available** means in the possession of or reasonably obtainable by the seller or lessor at the time of the disclosure.

**Common area** means a portion of a building generally accessible to all residents/users including, but not limited to, hallways, stairways, laundry and recreational rooms, playgrounds, community centers, and boundary fences.

**Contract for the purchase and sale of residential real property** means any contract or agreement in which one party agrees to purchase an interest in real property on which there is situated one or more residential dwellings used or occupied, or intended to be used or occupied, in whole or in part, as the home or residence of one or more persons.

**EPA** means the Environmental Protection Agency.

**Evaluation** means a risk assessment and/or inspection.

**Foreclosure** means any of the various methods, statutory or otherwise, known in different jurisdictions, of enforcing payment of a debt, by the taking and selling of real property.

**Housing for the elderly** means retirement communities or similar types of housing reserved for households composed of one or more persons 62 years of age or more at the time of initial occupancy.

**Inspection** means:

- (1) A surface-by-surface investigation to determine the presence of lead-based paint as provided in section 302(c) of the Lead-Based Paint Poisoning and Prevention Act [[42 U.S.C. 4822](#)], and
- (2) The provision of a report explaining the results of the investigation.

**Lead-based paint** means paint or other surface coatings that contain lead equal to or in excess of 1.0 milligram per square centimeter or 0.5 percent by weight.

**Lead-based paint free housing** means target housing that has been found to be free of paint or other surface coatings that contain lead equal to or in excess of 1.0 milligram per square centimeter or 0.5 percent by weight.

**Lead-based paint hazard** means any condition that causes exposure to lead from lead-contaminated dust, lead-contaminated soil, or lead-contaminated paint that is deteriorated or present in accessible surfaces, friction surfaces, or impact surfaces that would result in adverse human health effects as

established by the appropriate Federal agency.

**Lessee** means any entity that enters into an agreement to lease, rent, or sublease target housing, including but not limited to individuals, partnerships, corporations, trusts, government agencies, housing agencies, Indian tribes, and nonprofit organizations.

**Lessor** means any entity that offers target housing for lease, rent, or sublease, including but not limited to individuals, partnerships, corporations, trusts, government agencies, housing agencies, Indian tribes, and nonprofit organizations.

**Owner** means any entity that has legal title to target housing, including but not limited to individuals, partnerships, corporations, trusts, government agencies, housing agencies, Indian tribes, and nonprofit organizations, except where a mortgagee holds legal title to property serving as collateral for a mortgage loan, in which case the owner would be the mortgagor.

**Purchaser** means an entity that enters into an agreement to purchase an interest in target housing, including but not limited to individuals, partnerships, corporations, trusts, government agencies, housing agencies, Indian tribes, and nonprofit organizations.

**Reduction** means measures designed to reduce or eliminate human exposure to lead-based paint hazards through methods including interim controls and abatement.

**Residential dwelling** means:

1. A single-family dwelling, including attached structures such as porches and stoops; or
2. A single-family dwelling unit in a structure that contains more than one separate residential dwelling unit, and in which each such unit is used or occupied, or intended to be used or occupied, in whole or in part, as the residence of one or more persons.

**Risk assessment** means an on-site investigation to determine and report the existence, nature, severity, and location of lead-based paint hazards in residential dwellings, including:

1. Information gathering regarding the age and history of the housing and occupancy by children under age 6;
2. Visual inspection;
3. Limited wipe sampling or other environmental sampling techniques;
4. Other activity as may be appropriate; and
5. Provision of a report explaining the results of the investigation.

**Seller** means any entity that transfers legal title to target housing, in whole or in part, in return for consideration, including but not limited to individuals, partnerships, corporations, trusts, government agencies, housing agencies, Indian tribes, and nonprofit organizations. The term “seller” also includes:

1. An entity that transfers shares in a cooperatively owned project, in return for consideration; and
2. An entity that transfers its interest in a leasehold, in jurisdictions or circumstances where it is legally permissible to separate the fee title from the title to the improvement, in return for consideration.

**Target housing** means any housing constructed prior to 1978, except housing for the elderly or persons with disabilities (unless any child who is less than 6 years of age resides or is expected to reside in such housing) or any 0-bedroom dwelling.

**TSCA** means the Toxic Substances Control Act, [15 U.S.C. 2601](#).

**0-bedroom dwelling** means any residential dwelling in which the living area is not separated from the sleeping area. The term includes efficiencies, studio apartments, dormitory housing, military barracks, and rentals of individual rooms in residential dwellings.

## Section 8. Personal Identifiable Information Policy

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### 8.1 Introduction

The CED Personal Identifiable Information (PII) Policy provides guidance for compliance in handling and protecting PII for the Community Services (CDBG/SSBG) and Hard Costs (CDBG) Grant Programs the department administers.

This policy applies to the CDBG and SSBG programs, their administrative staff, contractor staff, subgrantees, subrecipients, and any other individuals or groups involved in the handling and protecting of PII per governing guidelines including federal law, Office of Management and Budget (OMB) guidance, the U.S. Department of Labor, Davis County employee training and administrative policies, as well as any relevant State of Utah, Davis County and/or other local requirements.

As part of grant activities, CED program administrative staff, contractor staff, subgrantees, subrecipients and other individuals or groups may have in their possession PII relating to their organization, staff, subgrantee, partner organizations and individual program participants. This information is generally found in personnel files, participant data sets, performance reports, program evaluations, grant and contract files and data other sources.

Federal law, OMB guidance, federal, state and local policies require that PII and other sensitive information is protected<sup>21</sup>. To ensure compliance with these policies/regulations, PII and sensitive data developed, obtained or otherwise associated with grantee funding must be secured and protected at all times.

1. All parties must take the steps necessary to ensure the privacy of all PII obtained from participants and/or other individuals and to protect such information from unauthorized disclosure;
2. All parties must ensure that PII used during the performance of their grant has been obtained in conformity with applicable Federal and state laws governing the confidentiality of information;
3. All parties must acknowledge that all PII data obtained through their program activity shall be stored in an area that is physically safe from access by unauthorized persons at all times and be managed with appropriate information technology (IT) services and designated locations. Accessing, processing and storing of PII data on personally owned equipment at off-site locations (*e.g. employee's home, and non-grantee managed IT services such as third-party email services*) is strictly prohibited;
4. All parties who will have access to sensitive/confidential/proprietary/private data must be advised of the confidential nature of the information, the safeguards required to protect the

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<sup>21</sup> U.S. Dept. of Labor Training and Employment Guidance Letter (TEGL) No. 39-11; 2 CFR 200.303(e); 24 CFR 570.502(a)

information, and that there are civil and criminal sanctions for noncompliance with such safeguards within the Federal and state laws;

5. All parties who have access to PII acknowledge the confidential nature of the data and must comply with safe and secure management of the data. By acknowledging this as part of the grant application process this will be maintained as part of the application file with the program service contractor for monitoring review at the request of the CED.
6. All parties must acknowledge their understanding of the confidential nature of the data and the safeguards with which they must comply in their handling of such data, as well as the fact that they may be liable to civil and criminal sanctions for improper disclosure.
7. Access to any PII through program and grant activity must be restricted to only those employees of the grant, subrecipient/subgrantee, who need it in their official capacity to perform duties in connection with the scope of work in the grant agreement.
8. All PII data must be processed in a manner that will protect the confidentiality of the records/documents and is designed to prevent unauthorized persons from retrieving such records by computer, remote terminal or any other means.
9. To ensure that PII is not transmitted to unauthorized users, all PII and other sensitive data transmitted via email or stored on CDs, DVDs, thumb drives, etc., must be encrypted.
10. All PII data must be retained to satisfy all required record retention requirements. Thereafter, all PII data must be destroyed, including the degaussing of magnetic tape files and deletion of electronic data.
11. With regard to personally identifiable information handled during the provision of CED, procedure must be followed as developed and implemented by the subrecipient/subgrantee, this procedure will be reviewed annually by CED.

## 8.2 Definitions

Personal Identifiable Information (PII): The OMB defines PII as information that can be used to distinguish or trace an individual's identity, either alone or when combined with other personal or identifying information that is linked or linkable to a specific individual.

Sensitive Information: Any unclassified information whose loss, misuse or unauthorized access to or modification of could adversely affect the interest or the conduct of federal programs or the privacy to which individuals are entitled under the Privacy Act.

Protected PII and Non-Sensitive PII: The Department of Labor has defined two types of PII, protected PII and non-sensitive PII. The differences between protected PII and non-sensitive PII are primarily based on an analysis regarding the "*risk of harm*" that could result from the release of the PII.

1. Protected PII is information that if disclosed could result in harm to the individual whose name or identity is linked to that information. Examples of protected PII include, but are not limited to, social security numbers (SSNs), credit card numbers, bank account numbers, home telephone numbers, ages, birthdates, marital status, spouse names, educational history, biometric identifiers (fingerprints, voiceprints, iris scans, etc.), medical history, financial information and computer passwords.
2. Non-sensitive PII, on the other hand, is information that if disclosed, by itself, could not reasonably be expected to result in personal harm. Essentially, it is stand-alone information that is not linked or closely associated with any protected or unprotected PII.
3. Examples of non-sensitive PII include information such as first and last names, e-mail addresses, business addresses, business telephone numbers, general educational credentials, gender or race. However, depending on the circumstances, a combination of these items could potentially be categorized as protected or sensitive PII.

An example of the connection between non-sensitive PII and protected PII: the disclosure of a name, business email address or business address most likely will not result in a high degree of harm to an individual. However, a name linked to a SSN, a date of birth and mother's maiden name could potentially result in identity theft. This example demonstrates why protecting the information of our program participants is so important.

### 8.3 Recommendations

- Before collecting PII or sensitive information from participants, have participants sign releases acknowledging the use of PII for grant purposes only.
- Whenever possible, use unique identifiers for participant tracking instead of SSNs. While SSNs may initially be required for performance tracking purposes, a unique identifier could be linked to each individual record. Once the SSN is entered for performance tracking, the unique identifier would be used in place of the SSN for tracking purposes. If SSNs are to be used for tracking purposes, they must be stored or displayed in a way that is not attributable to a particular individual, such as using a truncated SSN.
- Use appropriate methods for destroying sensitive PII in paper files (i.e., shredding) and securely deleting sensitive electronic PII and encrypting all emails with any PII.
- Do not leave records containing PII open and unattended.
- Store documents containing PII in locked cabinets when not in use.
- Immediately report any breach or suspected breach of PII.
- Computer terminal access must be secured at all times when unattended, (*i.e., office locked or terminal secured when not in use*)

### 8.4 Personal Identifiable Information Procedures

Any staff member providing any services related to CDBG/SSBG outside of a comprehensive site will ensure that they follow CED's Personally Identifiable Information (PII) Policy. All organizations



receiving CDBG/SSBG funds must attest through ZoomGrants that their staff understand the PII Policy and are responsible for its implementation. In addition, staff will comply with the following procedures to ensure PII protection while delivering any services requiring data collection in the community.

### Participant File Protection

Participant files will stay in appropriate files, computers and onsite of subrecipients. CED staff will maintain electronic copies of documents containing PII and store them on a computer, versus transporting the documents and will use electronic signature equipment to drastically reduce and eventually eliminate the need for printing and transporting documents. Any exception to this policy must be reviewed on a case-by-case basis and granted in writing by CED staff.

If an exception is granted, participant files (and any other documents containing PII) may only be transported in a visibly locked filing box. No other methods of paper file protection will be recognized as compliant with these procedures. A file check-out form must be completed and left in place of the file in its original location. Additionally, the file transport must be tracked on a document control summary form easily accessed by other staff at the file's original comprehensive site. When the file is returned, the file check-out form may be removed and filed with the document control summary form. The return of the file must be acknowledged on both the check-out form and the document control summary.

### Confidential Interaction

Staff will be cognizant of the fact that they are having confidential conversations including PII and sensitive information with participants in sometimes public places and will ensure discretion is used at all times. Some methods of employing discretion in a public setting include keeping voices at a low volume or pointing to, writing, or typing sensitive information instead of speaking aloud.

Sometimes, forms must be printed for participants to fill out. These forms should be scanned after they are completed, and the original given to the participant to ensure it is not accessible by anyone else. These original forms are not to be transported, and must be destroyed per record retention policy.

### Equipment Protection

Staff will use secure computers, printers and scanners provided while working with any participants in the community situations. Please protect any computer equipment and never leave it unattended and/or available for unauthorized use. Do not share passwords. If any equipment is missing, please report the product, equipment ID#, and a description of the situation to your manager immediately, even before taking further steps to retrieve the equipment.

## Section 9. Labor Standards

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All construction and rehabilitation projects must meet Davis-Bacon standards. The County has a process for subrecipients to follow and expects that this process must be followed (*see Attachment 9.1*).

The Davis-Bacon and Related Acts apply to contractors and subcontractors performing on federally funded or assisted contracts in excess of \$2,000 for the construction, alteration, or repair (including painting and decorating) of public buildings or public works. Davis-Bacon Act and Related Act contractors and subcontractors must pay their laborers and mechanics employed under the contract no less than the locally prevailing wages and fringe benefits for corresponding work on similar projects in the area. The Davis-Bacon Act directs the Department of Labor to determine such locally prevailing wage rates. The Davis-Bacon Act prevailing wage provisions apply to the “Related Acts,” under which federal agencies assist construction projects through grants, loans, loan guarantees, and insurance.<sup>22</sup>

Staff are available to provide technical assistance to subrecipients and work with contractors to ensure that compliance with federal labor and contracting standards are met.

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<sup>22</sup> See (<https://www.dol.gov/agencies/whd/government-contracts/construction>)

## Section 10. Build America, Buy America

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### 10.1 Introduction

Build America, Buy America Act (BABA) requires any “infrastructure project” funded by any “Federal Financial Assistance” (FFA) apply a domestic content procurement preference, meaning that all iron, steel, manufactured products, and construction materials used in the infrastructure project have been produced in the United States, unless the awarding agency has issued a waiver of this requirement. This is called the “Buy American Preference” (BAP)<sup>23</sup>.

### 10.2 Application

BABA applies to all CDBG “infrastructure” projects and requires that all iron, steel, manufactured products, and construction materials used in an “infrastructure project” must be produced in the United States, unless the awarding Federal Agency (HUD) has issued an applicable waiver.

Infrastructure projects are defined as structures, facilities, and equipment for, in the United States— (A) roads, highways, and bridges; (B) public transportation; (C) dams, ports, harbors, and other maritime facilities; (D) intercity passenger and freight railroads; (E) freight and intermodal facilities; (F) airports; (G) water systems, including drinking water and wastewater systems; (H) electrical transmission facilities and systems; (I) utilities; (J) broadband infrastructure; (K) buildings and real property; and (L) structures, facilities, and equipment that generate, transport, and distribute energy including electric vehicle (EV) charging.

### 10.3 Phased Implementation

Depending on the timing of Davis County’s grant agreement with HUD, BABA has a phased implementation for CDBG funded projects in terms of applicable materials that must be sourced in the United States. See the chart below for the timing of when specific materials must be sourced in the United States.

Iron and Steel	Construction Materials- Specifically Listed	Construction Materials- Not Listed	Manufactured Products
CDBG program year beginning July 1, 2023 (Davis County had no projects in PY 23)	CDBG program year beginning July 1, 2024 (current program year and includes Iron & Steel)	CDBG program year beginning July 1, 2025	CDBG program year beginning July 1, 2025

**Construction materials specifically listed include:** (1) Non-ferrous metals, (2) Plastic and polymer-based products (including polyvinylchloride, composite building materials, and polymers used in

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<sup>23</sup> See [2 CFR 184](#)

fiber optic cables), (3) Glass (including optic glass), (4) Fiber optic cable (including drop cable), (5) Optical fiber, (6) Lumber, (7) Engineered wood, and (8) Drywall.

**Construction materials not listed.** The term “not listed construction materials” refers to the category of construction materials that are subject to the BAP, but not included in HUD’s specifically listed construction materials.

**Manufactured products.** (1) Articles, materials, or supplies that have been: (i) processed into a specific form and shape; or (ii) combined with other articles, materials, or supplies to create a product with different properties than the individual articles, materials, or supplies.

## 10.4 Waivers

HUD has approved several general applicability waivers for specific public interest circumstances as summarized below. When the circumstances of any public interest general waiver are applicable to an infrastructure project, BABA’s domestic content procurement preference does not apply.

### Small Grants

BABA requirements do not apply to infrastructure projects whose total cost is equal to or less than the current Simplified Acquisition Threshold of \$250,000. This waiver is currently in effect as of November 23, 2022.

### De Minimis

BABA requirements do not apply for a De Minimis portion of an infrastructure project, meaning a cumulative total of no more than 5 percent of the total cost of the iron, steel, manufactured products, and construction materials, up to a maximum of \$1 million. This waiver is currently in effect as of November 23, 2022.

### Exigent Circumstances

This waiver applies when there is an urgent need by a grantee to immediately complete an infrastructure project because of a “exigent circumstances,” or a threat to life, safety, or property of residents and the community. This waiver is currently in effect as of November 23, 2022.

### Additional Waivers

If none of the general applicability waivers apply to your project, Davis County and the subrecipient can apply for an additional waiver from HUD in the following circumstances. However, work on the project cannot commence until a waiver is granted. If not waiver is granted, the project may be cancelled.

- A waiver is in the public interest (Public Interest Waiver);
- The types of iron, steel, manufactured products, or construction materials are not produced in the United States in sufficient and reasonably available quantities or satisfactory quality (Nonavailability Waiver); or,

- The application of the domestic content preference would increase the cost of the overall project by more than 25% (Increased Cost Waiver).

## 10.5 Compliance

To maintain compliance, you must be sourcing compliant materials or requiring your contractor to do so. You may have to conduct market research to find domestic products. You may identify domestic products that comply with [BABA definitions](#) through working with [Hollings Manufacturing Extension Partnership \(MEP\)](#), trade associations, and local manufacturers/stores.

The MEP has provided guidance on how to find domestic suppliers [here](#). You may [contact the NIST MEP supplier scouting team](#) for assistance to help you complete the opportunity synopsis and answer any questions. For MEP supplier scouting needs that are limited to state-based identification of potential manufacturers within an individual state, versus on a national scale, please contact the [local MEP Center](#) for that state.

Grantees must keep proper documentation to demonstrate compliance with BABA for purchased products covered by the Act, which may include either documentation that the products are BABA compliant or manufactured in the U.S. For projects that are co-funded, there may be other requirements from other funding providers.

If the purchase of the products was covered under a General Waiver, keeping documentation is not required. If no existing waiver applies, but you believe that one of the other exemptions covers your project or products, you may apply to waive the domestic content procurement preference. If the waiver is granted, you should keep proper documentation of that as well.

# Attachments

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Attachment 1.1	HUD Income Limits FY25
Attachment 1.3	Davis County CDBG Map
Attachment 2.1	Exempt – CENST Form
Attachment 2.2	CEST Form
Attachment 2.3	CEST Form – Broad-Level Tiered Environmental Review
Attachment 2.4	EA Form
Attachment 3.1	Template Subrecipient Agreement
Attachment 4.1	Quarterly Report Template (Invoice/Labor)
Attachment 5.3	Eligible Activities HUD Matrix Codes
Attachment 6.1	Citizen Participation Plan
Attachment 7.4	Lead Safe Housing Rule-Toolkit Forms
Attachment 9.1	Davis County Labor Standards Practice (Davis-Bacon)
Attachment 9.2	Davis County Housing Rehabilitation Standards

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Bob Stevenson  
Chair  
Davis County Board of Commissioners  
Date: \_\_\_\_\_

ATTEST:

\_\_\_\_\_  
Brian McKenzie  
Davis County Clerk  
Date: \_\_\_\_\_

APPROVED AS TO FORM:

\_\_\_\_\_  
Davis County Attorney