

FY 23-24 SUBRECIPIENT GUIDE



**Neighborhood and Community Services
Neighborhood Services Division
100 NW 1st Avenue
Delray Beach, FL 33444**

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I. **The Fundamentals of CDBG**

A. Introduction

The Community Development Block Grant (CDBG) program provides annual grants to States, larger cities, and counties for a broad range of activities that preserve and develop viable urban communities. The program's principal beneficiaries are persons of low and moderate income households. The goals of the program are to:

- Provide decent, safe and sanitary housing,
- Provide a suitable living environment, and to
- Expand economic opportunities

Activities that receive CDBG funding must be both:

- Eligible within the program regulations published in the Code of Federal Regulations at 24 CFR Part 570, and
- Meet one of the three National Objectives of the program established by Congress.

The three National Objectives require that activities must –

- 1) Provide a benefit to low and moderate-income (LMI) persons;
- 2) Prevent or eliminate slum or blight; OR
- 3) Meet an urgent community need that threatens the health or welfare of residents.

Congress placed an overall emphasis on the National Objective that benefits low and moderate-income persons, (defined as households with incomes at or below 80% of the Area Median Income).

The City of Delray Beach is designated by the U. S. Department of Housing and Urban Development (HUD) as an "Entitlement" grantee. To be an "Entitlement" grantee, and receive a formula grant on an annual basis from the CDBG program, a City or County must be one of the following: A central city of a Metropolitan Statistical Area (MSA); a city with a population of at least 50,000; or a qualified Urban County with a population of at least 200,000, excluding the population of any Entitlement cities within its boundaries. HUD awards Entitlement grants only after a grantee has submitted an acceptable Consolidated Plan.

Every five years, each CDBG Entitlement grantee must prepare a comprehensive Consolidated Plan. The Consolidated Plan identifies local needs, resources, and priorities. The City's Five-Year Consolidated Plan was approved on June 8, 2021. Also, each year grantees must prepare and submit an Annual Action Plan that outlines the intended use of all HUD funded resources, including CDBG program funds. In addition to serving as the application for funding, the process of preparing the Annual Action Plan provides a roadmap for grantees to follow when selecting among eligible activities. The activities must be described in sufficient detail – including location – that citizens can determine the extent to which they are affected. Grantees must certify in their Annual Action Plan that they will administer activities in compliance with all the applicable Federal requirements, such as Fair Housing and Equal Opportunity, Labor Standards, Environmental regulations, financial management standards, and the Uniform Relocation Act. The Grantee must also certify that the 70% of CDBG funds will be expended to principally benefit low- to moderate-income persons.

Prior to preparing the Annual Action Plan, The City of Delray Beach's Neighborhood Services Division solicits applications for funding under the CDBG program. Activities that are approved for funding are included in the Annual Action Plan and serve to illustrate The City's housing, community development, and homeless prevention efforts to HUD. HUD uses the activities described in the Annual Action Plan, along with goals and priorities established in the Five-Year Plan, as a basis for measuring performance and program success in the City.

After a draft plan is written, comments are received through public meeting/hearings and as a result of advertisements. These are summarized and added to the Annual Action Plan. The City's Annual Action Plan was submitted to HUD for approval on August 16, 2023. It is estimated that all funds will be targeted to benefit very-low, low- and moderate-income persons.

B. Eligible Activities

CDBG funds may be used for a wide variety of activities that address the need for new or improved public improvements and facilities, economic development opportunities, improving the supply or condition of housing, and public services. Eligible activities can be grouped as:

➤ ***Real Property and Housing-related activities:***

- Acquisition of land and or buildings. 570.201(a)
- Disposition of land or buildings. 570.201(b)

➤ **Real Property and Housing-related activities (cont.):**

- Installation or construction of a public facility – such as a park or shelter for homeless persons – or a public improvement – such as a paved road or water/sewer system. 570.201(c)
- Clearance and demolition. 570.201(d)
- Interim assistance for limited activities in deteriorated areas that require immediate action. 570.201(f)
- Completion of Urban Renewal projects. 570.201(h)
- Housing services in support of the HOME program, such as pre-purchase assistance program. 570.201(k)
- Acquisition, construction, installation, or improvements of privately-owned utilities. 570.201(l)
- Homeownership assistance, such as down payment assistance or mortgage interest subsidy for homebuyers. 570.201(n)
- Rehabilitation of properties, including: 570.201(a)
 - Privately-owned homes
 - Publicly owned residential housing
 - Publicly or privately-owned commercial or industrial buildings
 - Nonresidential buildings owned by nonprofits
 - Manufactured housing when it is part of the permanent housing supply
- Code enforcement. 570.202(c)
- Historic Preservation. 507.202(d)
- Renovation of closed buildings. 570.202(e)
- Lead-based paint testing, evaluation, reduction and clearance. 570.202(f)

➤ **Public Services activities. 570.201(e)**

- A non-exhaustive list of eligible public services includes:
 - Job training/education programs
 - Public safety services/crime prevention
 - Childcare
 - Services for the elderly
 - Health care
 - Drug abuse counseling/treatment
 - Fair housing counseling
 - Homeownership assistance
 - Energy conservation counseling and testing
 - Recreation programs
 - Education programs
 - Services for homeless persons
 - Emergency subsistence-type grants for up to three months *paid directly to the provider of such services, and*
 - Operating and maintenance costs for the portion of a facility in which public services are delivered is also eligible, even if the services themselves are not CDBG-assisted.
 - Purchase or lease of furnishings, equipment, or other personal property needed for an eligible public service is eligible.

➤ ***Economic Development activities. 570.203, 570.204, and 570.201(o).***

- Examples of special economic development activities include:
 - Acquisition, construction, rehabilitation, or installation of commercial or industrial buildings or railroad spurs
 - Grants, loans, loan guarantees, interest subsidies to businesses
 - Administrative costs directly related to economic development projects
 - Special activities by CDBOs that are part of a broader effort to revitalize a neighborhood
 - Assistance to micro-enterprises, such as
 - ✓ Loan, grants, technical assistance, or supportive services

➤ ***Planning and Administration. Pursuant to 24 CFR sections 570.205 and 570.206 (24 CFR section 570.200(g)).***

- Examples of activities eligible under this category are:
 - Preparation of general plans such as the Consolidated Plan
 - Functional plans such as housing plans
 - Neighborhood plans and general historic preservation plans
 - Policy planning, management, and capacity building activities
 - General program administration
 - ✓ Does not include costs to directly deliver a specific project
 - ✓ Includes general management, office expenses, travel, legal services, and salaries
 - ✓ Includes public information, Fair Housing activities, indirect costs, and preparation of application for federal funds.

➤ ***Other types of Assistance***

- Payment of the non-Federal share of funds required by another Federal grant. Funds must be used for CDBG-eligible activities and the other grant must be part of CDBG activities. 570.201(g)
- Urban Renewal completion. 570.201(h)
- Relocation costs incurred by displacement from CDBG projects. 570.201(i)
- Loss of rental income by owners holding units for persons displaced by CDBG projects. 570.201(j)
- Technical assistance to public or non-profit entities to increase their capacity to undertake eligible neighborhood revitalization or economic development activities. 570.201(p)
- Assistance to institutions of higher education when the grantee determines that they are capable and eligible to carry out CDBG eligible activities.

C. Eligible Program Players

- Eligible activities may be undertaken by:
 - The Grantee, referred to as the “recipient” in the regulations, *or*
 - Contractors; *or*
 - Subrecipients; *or*
 - Community Based Development Organizations (CDBOs).

“Contractors” are entities selected through a competitive procurement process to perform a specific service. These could include construction contractors or consultants selected to prepare a product, such as the Consolidated Plan.

“Subrecipients” are governmental agencies, private or public non-profit organizations, including institutions or higher education and private for-profit entities, designated by the Grantee to undertake selected CDBG activities.

Note: Subrecipients do not have to be selected through a competitive procurement process.

“Community Based Development Organizations (CDBOs)” are designated non-profit or for-profit organizations that must meet special qualifications. After designation, they may undertake eligible activities, including special economic development activities and new construction of housing. (CDBOs are the only entities that may construct new rental or homeownership units.)

If a Grantee provides program funds to a subrecipient, and the subrecipient fails to meet one of the three National Objectives, or undertakes an ineligible activity, HUD will hold the Grantee accountable.

D. Limitations on Expenditures

Because Congress intended that low- and moderate-income (LMI) persons primarily benefit from the CDBG program, 70% of funds expended for activities (including program income) must benefit them. Only funds for planning and administration (subject to a 20% cap) are excluded from the calculation of LMI benefit.

Public services are subject to a 15% cap. The cap is based on 15% of the amount of the annual Entitlement grant.

II. **Working with Subrecipients**

A. Subrecipient Agreements

Grantees are responsible for determining to what extent it will work with subrecipients, CDBOs, and contractors. Once that decision is made, there must be a process to evaluate potential partners. Through the formal application process, a determination can be made as to whether the proposed activity is eligible, if it meets a National Objective, and is consistent with the Grantee’s priorities in the Consolidated Plan.

Before disbursing funds to any subrecipient that will be undertaking activities on behalf of the Grantee, a written agreement must be approved by City Commission and signed by both parties. The Neighborhood Services Division uses a standard contract that incorporates Federal and City requirements. Every agency has a slightly different contract based on the type of activity being funded.

By accepting Federal grant funds, the subrecipient accepts accountability for all the terms, conditions, regulations and documents that accompany the grant award. Therefore, the subrecipient must be familiar with the terms of the grant and must keep an original copy of the contract on its premises.

The CDBG regulations at 24 Part 570.503 list the things that must be included in the written agreement. At a minimum, the written agreement should include the following provisions taken from the regulations:

- Statement of Work/Scope of Services
- Records and Reports
- Program Income
- Uniform Administrative Requirements
- Other Program Requirements
- Conditions for Religious Organizations
- Suspension and Termination
- Reversion of Assets

The Statement of Work or Scope of Services is probably the most important part of the agreement. It details the work to be performed, or services to be provided. It should include a schedule for completing the work and the budget for the grant. These items must be described in sufficient detail to allow the Neighborhood Services Division to successfully monitor the grant.

The type of activity and National Objective cited will determine how the work is described and the numerical goals that are set to evaluate achievement of the National Objective. For example, a Direct Benefit project will identify the number of people to be served as a goal and require documentation that those people are low/moderate income (see attached Annual Income Limits) while an Area Benefit project will require census data to document that the area served is low/moderate income.

The City also requires that **all** subrecipients provide proof of insurance to remain in effect for the entire time that the subrecipient has control over CDBG funds. At a minimum, the City of Delray Beach requires \$1,000,000 per occurrence combined single limit coverage for bodily injury liability and property damage liability. The City must be listed as a certificate holder **and** as an additional insured “as its interests may apply.” The coverage must also provide for 30 days’ notice of cancellation, non-renewal or adverse change in coverage.

Any amendment(s) to the contract – changes in the funding amount, a substantial change in the scope of services, and an extension of time must be approved by the City Commission.

B. Documentation and Reporting Requirements

Records must be kept for five years after project completion. HUD does not specify who must keep the records – but the Grantee is responsible that someone keeps them for the required period of time. The type(s) of records each subrecipient must keep may vary, depending on the type of activity.

C. Fiscal Requirements and Invoice Preparation

The Neighborhood Services Division requires **all** subrecipients to submit a Detailed Narrative Report each month or as designated per agreement. This report gives the opportunity to describe accomplishments and highlight problems. Each section should be completed even if there is no activity to report. Subrecipients conducting Direct Benefit projects must also submit the Grantee Performance Report Form, a unified data collection sheet that summarizes all individuals or households receiving direct services each month and documents the eligibility of persons served. Monthly reporting assists the Neighborhood Services Division in complying with its reporting requirements to HUD. Reports will be

provided if awarded as a subrecipient. If you encounter delays in the project that will affect the rate of expenditure, please notify the Neighborhood Services Division immediately.

III. Other Federal Requirements

A. Financial Management

In addition to the program regulations, Entitlement Grantees must comply with certain requirements set by HUD in 24 CFR Part 85. There are different, but similar requirements for non-profit organizations acting as subrecipients found in 24 CFR Part 84. Additional administrative and financial requirements for CDBG grants are found in the following Office of Management and Budget (OMB) Circulars:

- OMB Circular A-21 “Cost Principles for Institutions of Higher Education
- OMB Circular A-122 “Cost Principles for Non-Profit Organizations
- OMB Circular A-133 “Audits of States, Local Governments, and Non-Profit Organizations” applies to **both CDBG Entitlement Grantees and non-profit organizations.**

Subrecipients must comply with the Single Audit Act. Please see the Audit section for more information. Audits made in accordance with OMB Circular A-133 can be more expensive than an audited financial statement. Check with your accountant now to determine if you will have to pay for this next year.

B. Labor Standards

Labor Standards requirements include the Davis-Bacon Act, Copeland “Anti-Kickback Act” and Contract Work Hours and Safety Standards Act. Usually these requirements are referred to as “Davis-Bacon and Related Acts.” These Acts require that:

- Contractors with a history of non-compliance cannot participate in federally assisted projects
- Workers must be paid weekly wages set by the Department of Labor and get overtime at time-and-a-half for hours worked beyond a forty-hour week
- No laborer or mechanic may be forced by their employer to work in conditions that are unsanitary, hazardous, or dangerous to the worker’s health
- The Grantee’s Labor Compliance Officer must monitor compliance through contractor reports and on-site interviews with workers.

There are different thresholds for CDBG assisted projects. The following activities trigger Davis-Bacon requirements:

- CDBG-funded construction or rehabilitation of properties with eight (8) or more residential units.
- Other construction projects using over \$2,000 in CDBG funds. This could include public improvements to neighborhoods or housing projects, such as streets or sidewalks.

- Clearance of land or site improvements with CDBG funds which will ultimately result in eight or more units (or homes) being built on the project site or which will be used for public improvements such as a part or parking lot.

“Construction” is broadly defined and includes the “hard costs” of rehabilitation, repairs, painting, decorating and the installation of equipment when installation costs are more than incidental.

There are two other Federal Requirements that apply to construction contracts: Executive Order 11246 and the Section 3 Clause. The following is a summary of what they contain:

- Equal Employment Opportunity, Executive Order 11246, as amended prohibits discrimination against any employee or applicant for employment because of race, color, religion, sex or national origin. Language regarding this prohibition must be included in **all construction contracts over \$10,000.** Implementing regulations are found in CFR Part 60.
- Section 3 of the Housing and Urban Development Act of 1968

The purpose of Section 3 of the Housing and Urban Development Act of 1968, as amended, is to ensure that employment and other economic opportunities generated through the use of federal funds (CDBG) shall, to the greatest extent feasible, and consistent with existing federal, state, and local laws and regulations, be directed to low- and very-low income persons, particularly those who are recipients of government assistance for housing, and to business concerns which provide economic opportunities to low- and very-low income persons.

Section 3 applies to training, employment, contracting, and other economic opportunities arising in connection with expenditures of CDBG funds. Covered projects that are funded in part or in whole with CDBG funds include contracts, subcontracts, and professional service agreements awarded for:

- construction, reconstruction, conversion, or rehabilitation of housing (including reduction and abatement of lead-based paint hazards).
- public construction which includes buildings or improvements regardless of ownership.

The above includes management and administrative jobs including architectural, engineering or related professional services (required to prepare plans, drawings, specifications, or work write-ups, and jobs directly related to administrative support of these activities, e.g., construction manager, relocation specialist, payroll clerk, etc.

Exclusions from the above are:

- contracts awarded under HUD’s procurement program which are governed by the Federal Acquisition Regulation System (48 CFR, Chapter 1)

- contracts for the purchase of supplies and materials. However, whenever a contract for materials (or equipment) includes the installation, the contract constitutes a Section 3 covered project, and is consequently not excluded.

C. Environmental Concerns

Projects/Activities approved via the Annual Consolidated Plan, under the Community Development Block Grant (CDBG) Program, must comply with 24 CFR Part 58, which establishes regulations concerning Environmental Review Procedures for applicable U.S. Department of Housing and Urban Development (HUD) Programs. Under Part 58, the City of Delray Beach assumes the responsibility that would otherwise apply to HUD under the National Environmental Policy Act (NEPA), in addition to whatever other responsibilities the City may have to comply with (local, state, and federal environmental laws and authorities).

- All activities must undergo an environmental review (potentially impacting the activity cost), unless the activity is exempt. An example of an exempt activity would be the payment of salaries;
- Funds cannot be expended prior to clearing the activity environmentally; and
- If the activity requires mitigation measures to proceed, those mitigation measures must be incorporated by the subrecipient (potentially impacting the activity cost). If applicable, information outlining specific mitigation requirements will be provided to the subrecipient by the Neighborhood Services Division.

D. Procurement Requirements (Construction, Supplies, Services)

Non-profit subrecipients: Refer to City of Delray Beach Purchasing Ordinance, as well as Federal Management Circulars A-21, A-122, A-133, and 24 CFR Part 84.

F. Problems/Constraints:

Example:

The resignation of two staff members, one clerical and one counselor, hampered the agency's operation. Temporary assistance was received through Workforce Development. Two summer workers were placed with the agency. The agency is experiencing difficulty in getting information from its clients.

G. Technical Assistance Needed and/or Requested:

Example:

Technical assistance is needed to get information from clients.

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INTENTIONALLY

FISCAL REQUIREMENTS AND INVOICE PREPARATION

Invoice Cover Letter

- A. Cover Letter (your agency letterhead) attached to all invoices.
 - 1. Address to Ferline F. Mesidort, Neighborhood Services Administrator
 - 2. Invoice #
 - 3. Amount of Invoice
 - 4. Period Covered
 - 5. Signed by Director of Program

Invoice Breakdown For Reimbursement

- A. Documentation **must** accompany all items for reimbursement.
- B. Copy of checks must be attached to each invoice submitted for reimbursement (i.e. insurance, rental space, professional service contracts, etc.).
- C. Pay stubs **must** be included as backup for salary reimbursement.

CITY OF DELRAY BEACH
Neighborhood Services Division

Audit Requirements

What is the Single Audit Act?

The Single Audit Act of 1984 (with amendment in 1996) and OMB Circular A-133 ("Audits of State, Local Governments, and Non-Profit Organizations") provide audit requirements for ensuring that these funds are expended properly.

Who must have an audit conducted?

All non-Federal entities that expend \$500,000 or more of Federal awards in a year (\$300,000 for fiscal year ending on or before December 30, 2003) are required to obtain an annual audit in accordance with the Single Audit Act Amendments of 1996 (pdf), OMB Circular A-133, the OMB Circular Compliance Supplement and Government Auditing Standards. A single audit is intended to provide a cost-effective audit for non-Federal entities in that one audit is conducted in lieu of multiple audits of individual programs. However, records must be available for review by HUD, and the entity must send a letter to the Neighborhood Services Division certifying it is exempt for that fiscal year.

The change in the audit threshold means that a large number of subrecipients will be exempt from the audit requirement, but this does not negate the Neighborhood Services' Division responsibility for ensuring that the funds it manages are administered responsibly by subrecipients. In addition, subrecipients also have a responsibility to their funders – whether donors or taxpayers – to show that their accounting and administrative practices are sound and have their financial statements audited annually. Therefore, entities exempt from the audit requirement should submit audited financial statements to the Neighborhood Services Division. The Neighborhood Services Division reserves the right to conduct "limited scope audits" of subrecipients as defined by A-133.

What is Involved?

The Single Audit Act requires that an independent auditor determine and report on whether the organization has internal control systems to provide reasonable assurance that it is managing Federal assistance programs in compliance with applicable laws and regulations. In addition to audited financial statements, the auditor will obtain an understanding of the internal control structure, test the controls to evaluate the effectiveness of policies and procedures, and test financial transactions from federal awards, among other tests.

What does it cost, and who pays for it?

An audit made in accordance with OMB Circular A-133 will cost more than for audited financial statements, sometimes as much as twice the cost.

An audit made in accordance with Circular A-133 is an allowable cost to federal awards. However, the amended Single Audit Act specifically states that grantees (e.g., City of Delray Beach) can only reimburse subrecipients for the cost of the audit if the subrecipient is required to submit a single audit. In other words, Neighborhood Services may not reimburse subrecipients that expend less than \$500,000 in Federal funds in a year for any audit costs. The Neighborhood Services Division is permitted to conduct limited scope audits as part of its monitoring responsibility (at the Neighborhood Services Division's expense), and language to this effect has been added to the subrecipient agreement.

When are audit reports due?

The subrecipient agreement states that an audit report is due to the Neighborhood Services Division no later than six months after the end of the subrecipient’s fiscal year. This means that by the deadline listed below the Neighborhood Services Division must receive one of the following from your organization:

- 1) An audit report, including any management letter
- 2) A letter certifying that your organization is exempt from the Single Audit Act. The letter should include the reason for the exemption and be accompanied by audited financial statements. The final determination is subject to approval of the Director of Community Improvement.

If your fiscal year ends:

March 31, 2023

June 30, 2023

September 30, 2023

December 31, 2023

Your audit report is due:

September 28, 2023

December 28, 2023

March 30, 2024

June 29, 2024

How can I get copies of these circulars?

Office of Management and Budget (OMB) circulars and recent legislation can be downloaded at <https://www.whitehouse.gov/omb> or 2CFR Part 200, Appendix XI Compliance Supplement at <https://www.whitehouse.gov/wp-content/uploads/2023/05/2023-Compliance-Supplement-%E2%80%932-CFR-Part-200-Appendix-XI.pdf>

Instructions or information issued by OMB to Federal agencies. These are expected to have a continuing effect of two years or more. To obtain circulars that are not available on-line, please call the Office of Management and Budget's information line at (202) 395-3080. OMB Office of Administration, Publications Office, Room 2200, New Executive Office Building, Washington, DC 20503, telephone (202) 395-7332.