



*CITY OF SAN ANTONIO*

*CONSOLIDATED HUMAN DEVELOPMENT SERVICES FUNDING POOL*

**FUNDING GUIDE**



Collaborative Effort  
City of San Antonio Department of Community Initiatives and  
Department of Housing and Community Development  
**FY 2007 and FY 2008**

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## I. OVERVIEW

In an effort to maximize financial resources during fiscal years 2007 and 2008, the City of San Antonio (the "City") through its Departments of Housing and Community Development and Community Initiatives has established a Consolidated Public Service Funding process. Since funds provided are competitively allocated, organizations interested in providing and administering these Public Service activities are encouraged to submit a proposal highlighting their specific programs and detailing current resources available to conduct the anticipated activities. The competitive solicitation period shall begin in January 2006, and effectively culminate in submission of funding recommendations and budget adoption June 2006. Although some funding sources may be available around July 1, 2006, most funding sources shall be available for release on or about October 1, 2006. Other funds, as they may become available throughout FY07 and FY08 for services procured through the consolidated RFP may be awarded at a later date with approval of City Council of the City of San Antonio.

Contractor agrees that funding from the Consolidated Human Development Services Funding Pool and Human Development Services Funds of City Council ("City Funds") shall be limited to not more than 50% of the revenues for all of Contractor's operations and activities that Contractor has budgeted to be expended each fiscal year for FY2007 and FY2008, respectively. Contractor understands and agrees that the 50% limit is not based on the revenues for the Project, but is based upon and determined by, the revenues for all of the Contractor's operations and activities in each contract year. Contractor shall provide to the Managing City Department, acceptable evidence, as determined solely by the Director of the Managing City Department, that Contractor has secured revenues from sources other than from the City ("Non-City Funding") in an amount that meets the required limit no later than December 31, 2006 for Fiscal Year 2007 and no later than December 31, 2007 for Fiscal Year 2008. If Contractor does not provide the Managing City Department with acceptable evidence of the required amount of "Non-City Funding" by December 31 of the respective contract year, then the Contractor understands and agrees that the Director of the Managing City Department may reduce the amount of "City Funds" provided to Contractor in order to comply with this limit without obtaining the approval of the City Council.

Beginning March 31 of each contract year, and at the end of each quarter thereafter during the term of each contract year, Contractor shall provide to the Managing City Department, acceptable evidence, as determined solely by the Director of the Managing City Department, to demonstrate that Contractor has expended a funding amount from "Non-City Funding" equal to or greater than the amount of "City Funds" expended by Contractor. If Contractor does not provide the Managing City Department with acceptable evidence that funds have been expended as required herein, then the Contractor understands and agrees that the Director of the Managing City Department may reduce the amount of "City Funds" provided to Contractor in order to comply with the required one-to-one (1:1) expenditure ratio of "Non-City Funds" to "City Funds," without first obtaining the approval of City Council.

Funds reduced as a result of either of the requirements above may be reprogrammed upon approval by City Council.

Contractor agrees that all amendments to any of the applicable laws in this Contract including the **Funding Guide** and **Federal Compliance Manual** shall be incorporated automatically into the Contract.

## **II. CONTRACT ADMINISTRATION**

### **A. Department of Housing and Community Development Administered Contracts**

All Contracts administered by the Department of Housing and Community Development shall comply with the following Special Provisions:

- 1) Contractor understands and agrees from commencement date of contract execution to gather information and data relative to all programmatic and financial reporting.
- 2) Contractor understands and agrees that it will cooperate with the Department of Housing and Community Development staff in such a way so as not to obstruct or delay its monitoring of Contractor's performance and that it shall designate one of its staff to coordinate the monitoring process as requested by CITY staff.
- 3) Contractor shall ensure that all services are consistent with the City of San Antonio Consolidated Plan located at <http://www.sanantonio.gov/hcd/pdf/Conplan.pdf>. Only CDBG Public Service funds will be distributed through the Request for Proposals generated in connection with this Funding Guide.

## **II. CONTRACT ADMINISTRATION (cont.)**

### **B. Department of Community Initiatives Administered Contracts**

All Contracts administered through the Department of Community Initiatives shall comply with the following Special Provisions:

- 1) Contractor shall comply with the Department of Community Initiatives' policy on Supportive Services as well as any other Department of Community Initiatives policies applicable to Delegate Agencies. Applicable policies shall be provided to Contractor by said Department upon execution of the contract.
- 2) Contractor shall provide family outreach services and/or application assistance for the Children's Health Insurance Program (CHIP). Contractor shall also provide information on the TexCare Partnership program and application assistance for eligible children who are not currently covered under a health insurance plan. Contractor shall also maintain and provide to the City's Department of Community Initiatives, in a monthly report, the following information:
  1. number of eligible children not covered by a health insurance plan; and
  2. information and application assistance provided by the Contractor to eligible families.
- 3) Contractor shall disseminate information on the School Readiness Guidelines (hereinafter referred to as "Readiness Guidelines") program to all program participants and to the general public. Contractor shall maintain records on the amount and type of outreach efforts in its dissemination of information on the Readiness Guidelines, and shall submit on a monthly basis reports of said records to City's Department of Community Initiatives.
- 4) The contractor shall disseminate information to the general public on information about the Women, Infants and Children (WIC) Program. The contractor shall assist families, who may be eligible for WIC services, in locating a WIC program office and provide the necessary referral to the family. The contractor shall provide information about other potential sources of food assistance in the local area to individuals who apply for the WIC program, but who cannot be served because the program is operating at capacity in the local area.
- 5) The contractor shall disseminate information to the general public on information about the Texas Food Stamp Program. The contractor shall assist families, who may be eligible for food stamps, in locating a program office and provide the necessary referral to the family.
- 6) The contractor shall become familiar with other basic health and human service programs offered through the Texas Department of Health, the Texas Department of Human Services, Bexar County, the City of San Antonio or other private/public agencies that assist low income families. The contractor shall be prepared to offer basic referrals to these services based on the individual needs of the family.
- 7) Contractor shall disseminate information to the general public on the benefits and eligibility for the Federal Earned Income Tax and Child Care Credits. Contractor shall provide participants

II. Contract Administration (cont'd)

with referrals to the City of San Antonio, Department of Community Initiatives, and Volunteer Income Tax Assistance (VITA) program. If available, the contractor shall provide office space for VITA volunteers to complete tax returns.

- 8) Contractor shall allow City's Department of Community Initiatives' Community Action staff to train Contractor's staff in certifying participants for SAWS Water Affordability Program in client verification, application processes and monitoring the Campaign. Contractor staff shall provide assistance in the implementation of the SAWS Water Affordability Program Campaign. Contractor shall complete necessary documents and a monthly summary report on the number of households assisted, and forward said monthly reports to the Community Action Office, located at 115 Plaza de Armas, Ste 150, San Antonio, TX 78205. Community Action staff shall provide support for contractor in the execution of these tasks on an on-going basis. Specific instructions on providing these services shall be provided to Contractor upon execution of this contract.
- 9) Contractor agrees that it may be selected to provide eligibility determination services to the City for utility assistance credits through Projects **WARM** (*Winter Assistance Relief Mobilization*) and **REAP** (*Residential Energy Assistance Partnership, Inc.*) to low-income and elderly residents who are City Public Service ("CPS") customers. Contractors may, at the sole discretion of the City, be required to perform these duties.

If selected by City to conduct Project WARM and REAP eligibility determination services, Contractors understand and agree that said services are part of the consideration for the City's award of funds. **Contractors further understand and agree that City may not compensate Contractors for said services. Contractor further understands and agrees that City may not reimburse Contractor for any costs or expenses associated with said services or for Contractor making assistance credit recommendations to City.** Contractor shall allow City's Department of Community Initiatives', Community Action staff, to train Contractor's staff in providing eligibility determination services for Projects **WARM** and **REAP**. Specific instructions on providing these services shall be provided to Contractor upon execution of this contract.

- 10) Contractor agrees that it may be selected to participate in the Homeless Management Information System (HMIS) project of the City of San Antonio funded through the U.S. Department of Housing and Urban Development. Participation in HMIS must meet all requirements of HMIS. Contractors may, at the sole discretion of the City, be required to perform these duties.
- 11) Contractor agrees that it may be selected to participate in the Child Care Single Portal of Entry (SPE) project of the City of San Antonio Participation in SPE must meet all requirements of SPE project rules. Contractors may, at the sole discretion of the City, be required to perform these duties.
- 12) Contractor agrees to make reports to the City of San Antonio, Department of Community Initiatives in the form requested by the City.

### **III. Statutory Guidelines and Special Provisions**

#### **A. COMMUNITY DEVELOPMENT BLOCK GRANT (CDBG)**

CITY has received certain funds from the U.S. Department of Housing and Urban Development (HUD) under Title I of the Housing and Community Development Act of 1974, (**hereinafter referred to as Community Development Act**), as amended for utilization in connection with its Community Development Block Grant (CDBG) Program for Public Service. The federal government defines Public Service programs as “activities directed towards improving employment, crime prevention, child care, health, drug abuse, education, energy conservation, welfare, or recreational needs.”

#### **Income Eligibility Requirements for Community Development Block Grant (CDBG)**

The Community Development Block Grant (CDBG) is a grant provided by the U.S. Department of Housing and Urban Development. The Department of Housing and Community Development (HCD) administers the grant for the City of San Antonio for use in revitalizing neighborhoods, providing affordable housing, expanding economic opportunities, and improving community facilities and services.

#### **National Objectives:**

An activity must meet one of the following CDBG National Objectives to be eligible to receive funds:

- (1) Benefit low- and moderate-income families,
- (2) Prevent or eliminate slums or blight, or
- (3) Meet other urgent community development needs.

#### **Population to be served and Beneficiaries**

In most cases, as direct beneficiaries, clients benefiting from CDBG supported public service activities must be documented as having gross annual household incomes not exceeding 80% of San Antonio’s median income, adjusted for household size in accordance with HUD Section 8 Income Guidelines.

The Department of Housing and Community Development has established a Funding Policy under which each application will be considered. This policy identifies a number of general and activity-specific objectives that must be met in order for an application to receive further consideration.

The Funding Policy also makes clear that the Federal CDBG regulations allow up to 15% of the annual grant to be allocated to public service programs. However, the City will award funds to public services based on current funding priorities. Public services include but are not limited to those programs concerned with employment, crime prevention, childcare, day care, health care, drug abuse prevention, education, mental health, energy conservation, welfare, or recreation.

#### **Contractors receiving contracts administered by the Department Housing and Community Development shall comply with the following Special Provisions:**

- 1) The federal government defines Public Service programs as activities “directed towards improving the community’s public services and/or facilities including, but not limited to, those concerned with employment, crime prevention, child care, health, drug abuse, education, energy conservation, welfare, or recreational needs.” In most cases, as direct beneficiaries, clients benefiting from CDBG supported Public Service activities must be documented as having gross annual household incomes not exceeding eighty-percent (80%) of San Antonio’s median income, adjusted for household size in

accordance with HUD Section 8 Income Guidelines. **In addition, HUD CDBG regulations require the Public Service program to be a new service or demonstrate a quantifiable increase in the level of an existing service.**

2) Successful Proposers funded through CDBG will be subject to the following Special provisions:

- Department of Labor Regulations (29 CFR Part 5, as amended)
- The Copeland Anti-Kickback Act (18 USC 874), as amended, and as supplemented by Department of Labor regulations (29 CFR Part 3, as amended)
- The Contract Work Hours and Safety Standards Act (40 USC 327 et seq.), as amended, and as supplemented by Department of Labor regulations (29 CFR Part 5, as amended)
- Executive Order 11246 (Equal Opportunity), as amended, and as supplemented by Department of Labor regulations (41 CFR, chapter 60, as amended)
- CFR Title 24 CFR, Subpart A, Part 84, Procurement Standards for Non-Profits

3) Contractor shall comply with applicable uniform administrative requirements, as promulgated in Title 24 CFR 570.502.

4) Contractor further assures and certifies that if the regulations and issuances promulgated pursuant to the Community Development Block Grant rules and guidelines are added to, amended or revised, it shall comply with them or notify the City as provided in this Contract. Contractor understands and agrees that if the regulations and issuances promulgated pursuant to the Community Development Act are amended or revised, it shall comply with them or otherwise immediately notify City pursuant to the provisions of Article XXVI (26.1) of this Contract.

5) Contractor understands and agrees that eligible activities funded under the Community Development Block Grant (CDBG) Program, must meet the National Objectives as defined in the Code of Federal Regulations, 570.208 (a)(2)(1)(A), stating that the services provided must be a direct benefit to “low and moderate” income-limited clientele.

6) Contractor assures and certifies that it will comply with the requirements of the Community Development Act and with all applicable Community Development Block Grant (CDBG) regulations promulgated there under as Title 24 570.200 of the Code of Federal Regulations.

7) Contractor assures that all contractors and subcontractors receiving funds in connection with a CDBG funded project shall comply with, any and all applicable rules and regulations as contained in the CITY’s Federal Compliance Manual. A copy of said Federal Compliance Manual shall be provided to Contractor as part of every Contract awarded in connection with this Project. **In the event of conflict between this Contract, and the Federal Compliance Manual, the Federal Compliance Manual shall control. Said Manual is attached hereto, and incorporated herein for all purposes as “Exhibit 1” to this Funding Guide.**

8) The following Special Condition Clauses are applicable to **all** CDBG, HOME, ESG and HOPWA Contracts and loan documents:

CONTRACTOR acknowledges, understands and agrees to comply with the following

federal regulations as promulgated in Section 3 Clause of the Housing and Urban Development Act of 1968, as amended:

- A. The work to be performed under this contract is subject to the requirements of Section 3 of the Housing and Urban Development Act of 1968, as amended, 12 U.S.C. 170(1)(u) (Section 3). The purpose of Section 3 is to ensure that employment and other economic opportunities generated by HUD assistance or HUD-assisted projects covered by Section 3, shall, to the greatest extent feasible, be directed to low- and very low income persons, particularly persons who are recipients of HUD assistance for housing.
- B. The parties to this contract agree to comply with HUD's regulations in 24 CFR part 135, which implement Section 3. As evidenced by their execution of this contract, the parties to this contract certify that they are under no contractual or other impediment that would prevent them from complying with the part 135 regulations.
- C. The contractor agrees to send to each labor organization or representative of workers with which the contract has a collective bargaining agreement or other understanding, if any, a notice advising the labor organization or workers' representative of the contractor's commitments under this Section 3 clause, and will post copies of the notice in conspicuous places at the work site where both employees and applicants for training and employment positions can see the notice. The notice shall describe the Section 3 preference, shall set forth minimum number and job titles subject to hire, availability of apprenticeship and training positions, the qualifications for each; and the name and location of the person(s) taking applications for each of the positions; and the anticipated date the work shall begin.
- D. The contractor agrees to include this Section 3 clause in every subcontract subject to compliance with regulations in 24 CFR part 135, and agrees to take appropriate action, as provided in an applicable provision of the subcontract or in this Section 3 clause upon a finding that the subcontractor is in violation of the regulations in 24 CFR part 135. The contractor will not subcontract with any subcontractor where the contractor has notice or knowledge that the subcontractor has been found in violation of the regulations in 24 CFR part 135.
- E. The contractor will certify that any vacant employment positions, including training positions, that are filled (1) after the contractor is selected but before the contract is executed, and (2) with persons other than those to whom the regulations of 24 CFR part 135 require employment opportunities to be directed, where not filled to circumvent the contractor's obligations under 24 CFR part 135.
- F. Noncompliance with HUD's regulations in 24 CFR part 135 may result in sanctions, termination of this contract for default, and debarment or suspension from further HUD-assisted contracts.
- G. With respect to work performed in connection with Section 3 covered Indian housing assistance, Section 7(b) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450e) also applies to the work to be performed under this contract. Section 7(b) requires that to the greatest extent feasible (i) preference and opportunities for training and employment shall be given to Indians, and (ii) preference in the award of contracts and subcontracts shall be given to Indian organizations and Indian-owned

Economic Enterprises. Parties to this contract that are subject to the provision of Section 3 and Section 7(b) agree to comply with Section 3 to the maximum extent feasible, but not in derogation of compliance with Section 7(b).

### **III. Statutory Guidelines and Special Provisions (cont.)**

#### **B. Child Care Development Fund Block Grant (CCDF)**

The City of San Antonio receives CCDF funds through a contract with the Alamo Workforce Development, Inc. hereinafter referred to as Alamo WorkSource. Based on availability, federal matching funds will support local initiatives that improve the quality of early care and education programs for young and school age children through Quality Improvement Activities (QIA) and family strengthening strategies. Funding may be awarded from multiple sources including U.S. Department of Health and Human Services Child Care Development Fund Block Grant (CCDF), Temporary Assistance to Needy Families (TANF), and the U.S. Department of Labor Welfare to Work or Workforce Investment Act (WIA) programs.

1) Contractors funded through CCDF shall comply with the following laws:

- Child Care and Development Block Grant Act of 1990 - CFR Title 45, Sections 98 and 99 contain the regulations for the implementation and operation of the CCDBG
- Title VI of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (HR3734) (Welfare Reform) amends 42 USC 9858 which creates the Child Care Development Fund (CCDF).
- Public Law 104-193
- Public Law 105-33
- USC Title 42, Section 9858 (The Omnibus Reconciliation Act of 1990) created the Child Care and Development Block Grant (CCDBG) and authorizes payment for certain child care and quality improvement activities.
- USC Title 42, Chapter 7, Subchapter II Section 418 – Social Security Act, as amended entitled Federal Old-Age, Survivors, And Disability Insurance Benefits
- USC Title 42, Chapter 7, Subchapter IV, Section 601 through 679 entitled Grants to States for Aid and Services to Needy Families With Children and for Child-Welfare Services
- TAC Title 40 Part 20 – Texas Workforce Commission
- TAC Title 40, Part I, Chapter 73 Subpart A provides the processes and procedures for the administration of all programs and services receiving state financial assistance directly or through contractual arrangement, in accordance with applicable federal civil rights regulations.
- TAC Title 40, Chapter 801 and 809
- Texas Education Code, Section 33.902
- Labor Code, Title 2, Chapters 21, 81, 301 and 302
- Human Resource Code, Chapter 22 (all), Chapter 31, Section 31.0035, Chapter 44 (all), Chapter 73 (all), and Chapter 121 (all)
- Government Code Title 10, Chapters 771 and 2308
- Texas WorkSource Commission Financial Manual for Grants and Contracts – available in hard copy format from the City of San Antonio, Department of Community Initiatives upon request.
- Any other applicable federal, state, and local laws, including City and Alamo WorkSource, Inc. rules regulations, policies, procedures and issuances promulgated under authority of the legislation and specific program requirements.

2) **ADDITIONAL RIGHTS IN DATA**

Alamo WorkSource shall have the right to reproduce, publish or use the copy right of patent or rights in all data produced through this Contract.

3) **ADDITIONAL ETHICS REQUIREMENTS**

- a) No employee of Contractor or Sub-Contractor, no member of Contractor's or Sub-Contractor's governing board or body, and no person who exercises any functions or responsibilities in the review or approval of the undertaking or carrying out of this Contract shall participate in any decision relating to this Contract which affect his/her personal pecuniary interest.
- b) Contractor shall take every reasonable course of action to maintain the integrity of this expenditure of public funds and to avoid favoritism and questionable or improper conduct. This Contract shall be administered in an impartial manner, free from efforts to gain personal, financial or political benefit, tangible or intangible. Contractor, its executive staff and employees, while administering this Contract, shall avoid situations, which could give the appearance that any decision was influenced by prejudice, bias, special interest or desire for personal gain.
- c) Contractor has disclosed any interest, fact or circumstance, which does or may present a potential conflict of interest. Contractor shall immediately inform the City of San Antonio at the address in Article XXVI, Section 26.1 of this Contract and Alamo WorkSource at the address in Section (6) below, in writing of any potential conflict of interest which arises at any time during the term of this Contract.

4) ADDITIONAL COMMUNICATIONS/NOTICES

In addition to the parties listed in Article XXVI, Section 26.1 of this contract, Contractor shall also submit all communications and notices to Alamo WorkSource in the same manner as set forth in Article XXVI, Section 26.1 of the contract to the address below:

Executive Director  
115 Travis, Suite 220  
San Antonio, TX 78205

5) ADDITIONAL AUDIT / RECORDS INSPECTION

In addition to the requirements set forth in Article VII, Section 7.3 and Article VIII, Section 8.1 of this Contract, Contractor further agrees that all records and files with respect to all matters covered by or related to this Contract will be open for inspection and audit at any reasonable time during the term hereof by representatives of Alamo WorkSource and shall continue to be available for a period of three (3) years after the termination date hereof. If at the end of three (3) years, there is litigation or if the audit report covering such agreement has not been accepted, the Contractor shall retain the records until the resolution of such litigation or audit.

6) ADDITIONAL REQUIREMENTS FOR AMENDMENT

In addition to the requirements set forth in Article XXIV, Section 24.1 of this Contract, Contractor further agrees that except when the terms of this Contract expressly provide otherwise, any alterations additions or deletions to the terms hereof shall be by amendment in writing and approved by Managing City Department and Alamo WorkSource.

7) ADDITIONAL REQUIREMENT FOR ASSIGNMENTS

In addition to the requirements set forth in Article XXIII, Section 23.1 of this Contract, Contractor further agrees that Contractor shall not assign or transfer Contractor's interest in this agreement without the written consent of Alamo WorkSource.

#### 8) ADDITIONAL REQUIREMENT FOR SUBCONTRACTING

In addition to the requirements set forth in Article XXV, Section 25.1 of this Contract, none of the work or services covered by this agreement shall be sub-contracted without the prior written consent of Managing City Department and Alamo WorkSource. Any work or services approved for sub-contracting hereunder, however, shall be sub-contracted only by written agreement, and unless specific waiver is granted in writing by Managing City Department and Alamo WorkSource., shall be subject by its terms to each and every provision of this agreement. Compliance by sub-Contractors with this agreement shall be the responsibility of Contractor. Contractor agrees that payment for services of any approved sub-Contractor shall be submitted through Contractor, and Contractor shall be responsible for all payments to sub-Contractors.

### **III. Statutory Guidelines and Special Provisions (cont'd)**

#### **C. Community Services Block Grant (CSBG)**

##### **Applicable Laws**

The City of San Antonio receives CSBG funds through a contract with the Texas Department of Housing and Community Affairs.

1) Contractors funded through CSBG shall comply with the following laws:

- Public Law 103.252 which can be found at [www.ncaf.org/csbg.htm](http://www.ncaf.org/csbg.htm)
- Community Services Block Grant 42 USC Sections 9901 through 9926
- TAC Title 1, Part 1, Chapter 5, Subchapter A, Division 4, Rules § 5.144, §5.145, §5.150 and §5.167 – pertaining to Uniform Grants and Management Standards

2) Persons served through CSBG funds must meet income eligibility guidelines including having incomes at or below 125% of the Federal Poverty Income Level (FPIL) as established by the U.S. Department of Health and Human Services.

3) Contractor agrees to adhere to all the requirements of the Results Oriented Management and Accountability (ROMA) system; a tool designed to measure consistent results of the Contractor's service delivery throughout the Contractor's service delivery period. Texas Department of Housing and Community Affairs (TDHCA) mandates this requirement in accordance with CSBG Policy Issuance 98.12.8.

### III. Statutory Guidelines and Special Provisions (cont'd)

#### D. Emergency Shelter Grant (ESG)

##### Applicable Laws:

The City of San Antonio is the grantee that receives ESG funds through a contract with the U.S. Department of Housing and Urban Development. Through this RFP, the City makes ESG funds available to eligible recipients, which can be either local government agencies or private nonprofit organizations. The Emergency Shelter Grants program provides homeless persons with basic shelter and essential supportive services. It can assist with the operational costs of the shelter facility, and for the administration of the grant. ESG also provides short-term homeless prevention assistance to persons at imminent risk of losing their own housing due to eviction, foreclosure, or utility shutoffs.

ESG funds are available for the rehabilitation or remodeling of a building used as a new shelter, operations and maintenance of the facility, essential supportive services (i.e., case management, physical and mental health treatment, substance abuse counseling, childcare, etc.), homeless prevention, and grant administration.

1) Contractors receiving ESG funds agree to match ESG grant funds dollar for dollar with their own locally generated amounts. These local amounts can come from the contractor or other federal, state and local grants; and from "in-kind" contributions such as the value of a donated building, supplies and equipment, new staff services, and volunteer time. (See paragraph 4 on page 16. Language appears to be a duplication.)

2) Contractors funded through ESG shall comply with the following laws:

- USC Title 42, Section 11301 (1998) - Title IV, Subtitle B of the Stewart B. McKinney Homeless Assistance Act, as amended
- CFR Title 24 CFR, Subpart A, Part 84, Procurement Standards for Non-Profits
- ESG Regulations – CFR Title 24, Part 91, Section 576 can be found at <http://www.hud.gov/offices/cpd/homeless/rulesandregs/regulations/576esg/index.cfm>
- CFR Title 49 which contains the government wide regulations implementing the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (also found at USC Title 42 Sections 4601-4655)

3) Contractor assures that all contractors and subcontractors receiving funds in connection with an ESG funded project shall comply with, any and all applicable rules and regulations as contained in the CITY's Federal Compliance Manual. A copy of said Federal Compliance Manual shall be provided to Contractor as part of every Contract awarded in connection with this Project. **In the event of conflict between this Contract and the Federal Compliance Manual, the Federal Compliance Manual shall control. Said Manual is attached hereto, and incorporated herein for all purposes as "Exhibit 1" to this Funding Guide.**

4) Contractors receiving ESG funds agree to match ESG grant funds dollar for dollar with their own locally generated amounts. These local amounts can come from the contractor or other state and local

grants **and must be in cash or cash equivalent for acquisition, rehabilitation, or new construction projects.** "In-kind" contributions such as the value of a donated building, supplies and equipment, new staff services, and volunteer time **may be used as match for service contracts such as operations of a facility or supportive services.** (Language appears to duplicate language on paragraph 1 of page 15)

5) Contractor shall not discriminate against "Committed Couples" which shall be defined as two adults of the opposite or same sex who may or may not have a marriage license and have been cohabitating prior to requesting services.

6) The following Special Condition Clauses are applicable to all CDBG, HOME, ESG and HOPWA Contracts and loan documents:

CONTRACTOR acknowledges, understands and agrees to comply with the following federal regulations as promulgated in Section 3 Clause of the Housing and Urban Development Act of 1968, as amended:

- A. The work to be performed under this contract is subject to the requirements of Section 3 of the Housing and Urban Development Act of 1968, as amended, 12 U.S.C. 170(1)(u) (Section 3). The purpose of Section 3 is to ensure that employment and other economic opportunities generated by HUD assistance or HUD-assisted projects covered by Section 3, shall, to the greatest extent feasible, be directed to low- and very low income persons, particularly persons who are recipients of HUD assistance for housing.
- B. The parties to this contract agree to comply with HUD's regulations in 24 CFR part 135, which implement Section 3. As evidenced by their execution of this contract, the parties to this contract certify that they are under no contractual or other impediment that would prevent them from complying with the part 135 regulations.
- C. The contractor agrees to send to each labor organization or representative of workers with which the contract has a collective bargaining agreement or other understanding, if any, a notice advising the labor organization or workers' representative of the contractor's commitments under this Section 3 clause, and will post copies of the notice in conspicuous places at the work site where both employees and applicants for training and employment positions can see the notice. The notice shall describe the Section 3 preference, shall set forth minimum number and job titles subject to hire, availability of apprenticeship and training positions, the qualifications for each; and the name and location of the person(s) taking applications for each of the positions; and the anticipated date the work shall begin.
- D. The contractor agrees to include this Section 3 clause in every subcontract subject to compliance with regulations in 24 CFR part 135, and agrees to take appropriate action, as provided in an applicable provision of the subcontract or in this Section 3 clause upon a finding that the subcontractor is in violation of the regulations in 24 CFR part 135. The contractor will not subcontract with any subcontractor where the contractor has notice or knowledge that the subcontractor has been found in violation of the regulations in 24 CFR part 135.
- E. The contractor will certify that any vacant employment positions, including training positions, that are filled (1) after the contractor is selected but before the contract is

- executed, and (2) with persons other than those to whom the regulations of 24 CFR part 135 require employment opportunities to be directed, where not filled to circumvent the contractor's obligations under 24 CFR part 135.
- F. Noncompliance with HUD's regulations in 24 CFR part 135 may result in sanctions, termination of this contract for default, and debarment or suspension from further HUD-assisted contracts.
  - G. With respect to work performed in connection with Section 3 covered Indian housing assistance, Section 7(b) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450e) also applies to the work to be performed under this contract. Section 7(b) requires that to the greatest extent feasible (i) preference and opportunities for training and employment shall be given to Indians, and (ii) preference in the award of contracts and subcontracts shall be given to Indian organizations and Indian-owned Economic Enterprises. Parties to this contract that are subject to the provision of Section 3 and Section 7(b) agree to comply with Section 3 to the maximum extent feasible, but not in derogation of compliance with Section 7(b).

### III. Statutory Guidelines and Special Provisions (cont'd)

#### E. Housing Opportunities for Persons with AIDS (HOPWA)

##### Applicable Laws

The City of San Antonio receives Housing Opportunity for Persons With Aids (HOPWA) entitlement funds through a contract with the U.S. Department of Housing and Urban Development (HUD). The HOPWA Program was established by (HUD) to address the specific needs of persons living with Human Immunodeficiency Virus (HIV/AIDS) and their families. HOPWA makes grants to local communities, States, and nonprofit organizations for projects that benefit low-income persons medically diagnosed with (HIV/AIDS), and their families. HOPWA funding provides housing assistance and related supportive services as part of HUD's Consolidated Planning initiative that works in partnership with communities and neighborhoods in managing federal funds appropriated to HIV/AIDS programs. HOPWA grantees are encouraged to develop community-wide strategies and form partnerships with area non-profit organizations.

1) Contractors funded through HOPWA shall comply with the following laws:

- HOPWA Regulations – CFR Title 24, Part 91, Section 574 can be found at <http://www.hud.gov/offices/cpd/aidshousing/lawsregs/regs/index.cfm>
- Americans with Disabilities Act at USC 42 12101-12213 as codified under CFR Title 28
- CFR Title 49 which contains the government wide regulations implementing the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (also found at USC Title 42 Sections 4601-4655)

2) Contractor assures that all contractors and subcontractors receiving funds in connection with a HOPWA funded project shall comply with, any and all applicable rules and regulations as contained in the CITY's Federal Compliance Manual. A copy of said Federal Compliance Manual which shall be provided to Contractor as part of every Contract awarded in connection with this Project. **In the event of conflict between this Contract, and the Federal Compliance Manual, the Federal Compliance Manual shall control. Said Manual is attached hereto, and incorporated herein for all purposes as "Exhibit 1" to this Funding Guide.**

3) Contractor shall not discriminate against "Committed Couples" which shall be defined as two adults of the opposite or same sex who may or may not have a marriage license and have been cohabitating prior to requesting services.

4) The following Special Condition Clauses are applicable to all CDBG, HOME, ESG and HOPWA Contracts and loan documents:

CONTRACTOR acknowledges, understands and agrees to comply with the following federal regulations as promulgated in Section 3 Clause of the Housing and Urban Development Act of 1968, as amended:

- A. The work to be performed under this contract is subject to the requirements of Section 3 of the Housing and Urban Development Act of 1968, as amended, 12 U.S.C. 170(1)(u) (Section 3). The purpose of Section 3 is to ensure that employment and other economic opportunities generated by HUD assistance or HUD-assisted projects covered by Section 3, shall, to the greatest extent feasible, be directed to low- and very low income persons, particularly persons who are recipients of HUD assistance for housing.
- B. The parties to this contract agree to comply with HUD's regulations in 24 CFR part 135, which implement Section 3. As evidenced by their execution of this contract, the parties to this contract certify that they are under no contractual or other impediment that would prevent them from complying with the part 135 regulations.
- C. The contractor agrees to send to each labor organization or representative of workers with which the contract has a collective bargaining agreement or other understanding, if any, a notice advising the labor organization or workers' representative of the contractor's commitments under this Section 3 clause, and will post copies of the notice in conspicuous places at the work site where both employees and applicants for training and employment positions can see the notice. The notice shall describe the Section 3 preference, shall set forth minimum number and job titles subject to hire, availability of apprenticeship and training positions, the qualifications for each; and the name and location of the person(s) taking applications for each of the positions; and the anticipated date the work shall begin.
- D. The contractor agrees to include this Section 3 clause in every subcontract subject to compliance with regulations in 24 CFR part 135, and agrees to take appropriate action, as provided in an applicable provision of the subcontract or in this Section 3 clause upon a finding that the subcontractor is in violation of the regulations in 24 CFR part 135. The contractor will not subcontract with any subcontractor where the contractor has notice or knowledge that the subcontractor has been found in violation of the regulations in 24 CFR part 135.
- E. The contractor will certify that any vacant employment positions, including training positions, that are filled (1) after the contractor is selected but before the contract is executed, and (2) with persons other than those to whom the regulations of 24 CFR part 135 require employment opportunities to be directed, where not filled to circumvent the contractor's obligations under 24 CFR part 135.
- F. Noncompliance with HUD's regulations in 24 CFR part 135 may result in sanctions, termination of this contract for default, and debarment or suspension from further HUD-assisted contracts.
- G. With respect to work performed in connection with Section 3 covered Indian housing assistance, Section 7(b) of the Indian Self-Determination and Education Assistance Act

(25 U.S.C. 450e) also applies to the work to be performed under this contract. Section 7(b) requires that to the greatest extent feasible (i) preference and opportunities for training and employment shall be given to Indians, and (ii) preference in the award of contracts and subcontracts shall be given to Indian organizations and Indian-owned Economic Enterprises. Parties to this contract that are subject to the provision of Section 3 and Section 7(b) agree to comply with Section 3 to the maximum extent feasible, but not in derogation of compliance with Section 7(b).

## IV. GLOSSARY OF TERMS

**Amendment** – An agreement executed by all parties to a Contract subsequent to the original execution date of such Contract which modifies provisions of such Contract.

**Audit** - A systematic review by a CPA or other duly certified and licensed individual or organization to determine and report whether Contractor's financial operations are being properly conducted, financial reports are being presented fairly and applicable laws and regulations are being complied with. All contractors must submit an audit of the program funded under this agreement as is further delineated herein. For purposes of this Funding Guide, an Audit shall mean an OMB Circular A-133 Audit or an audit conducted in accordance with State of Texas or other applicable federal agency requirements.

**AWS** - The Alamo WorkSource, Inc.

**AWDB** - The Alamo Workforce Development Board

**City** - City of San Antonio, a Texas municipal corporation

**Contractor** - A service provider or program operator under contract with the City of San Antonio.

**CCDF** – Child Care Development Funds

**CSBG** - Community Services Block Grant

**ESG** – An acronym for the Emergency Shelter Grant from HUD

**Family:** See definition in 24 CFR 812.2 (The National Affordable Housing Act definition required to be used in the Consolidated Plan differs from the Census definition). The Bureau of Census defines a family as a householder (head of household) and one or more other persons living in the same household who are related by birth, marriage of adoption.

**Federal Poverty Income Limits (FPIL)** – see Poverty Level

**General Fund** - Funds that originate from the tax base or fees and fines collected by the City of San Antonio. These funds are generally adopted for expenditure in the City's budget through an ordinance.

**Grantor** – The organization that provides grant funds to the City.

**HHS** – U.S. Department of Health and Human Services

**HOPWA** – Housing Opportunities for Persons with AIDS grant from HUD

**Household:** One or more persons occupying a housing unit.

**HUD** – U.S. Department of Housing and Urban Development

**HUD Income Definitions** - Annual income as defined under the Section 8 Housing Assistance Payments program at (24 CFR 813.106) or Annual Income as reported under the Census long-form for the most recent available decennial Census. This definition includes:

- A. Wages, salaries, tips, commissions, etc;
- B. Self-employment income from own non-farm business, including proprietorships and partnerships
- C. Farm self-employment income
- D. Interest, dividends, net rental income, or income from estates or trusts;
- E. Social Security or railroad retirement;
- F. Supplemental Security Income, Aid to Families with Dependent Children, or other public assistance or public welfare programs;
- G. Retirement, survivor, or disability pensions; and
- H. Any other sources of income received regularly, including Veterans' (VA) payments, unemployment compensation, and alimony; or

Adjusted gross income as defined for purposes of reporting under Internal Revenue Service (IRS) Form 1040) for individual Federal annual income tax purposes.

**Low- and moderate-income household** - a household having an income equal to or less than the Section 8 income guideline limits established by HUD.

**Low- and moderate-income person** - a member of a family having an income equal to or less than the Section 8 low-income limit established by HUD. Unrelated individuals will be considered as one-person families for this purpose.

**Moderate-income household** - a household having an income equal to or less than the Section 8 low-income limit and greater than the Section 8 very low-income limit, established by HUD.

**Moderate-income person** - a member of a family that has an income equal to or less than the Section 8 low-income limit and greater than the Section 8 very low-income limit, established by HUD. Unrelated individuals shall be considered as one-person families for this purpose.

**Monitoring** - The process of observing and/or reviewing performance which may include on-site observation, review of paperwork and files, interviews with staff or customers, telephone conversations, and formal evaluation of compliance elements.

**Ordinance** - A law enacted by the City Council of the City of San Antonio

**Participant** - An individual who has been determined eligible for and who is receiving program services.

**Policies** - Guidelines for management of programs that have been developed using relevant federal and state laws, state rules, funding limitations, information from grantors, the public, and the goals of the individual programs.

**Poverty Level** - The annual income threshold at or below which families are considered to live in poverty as established by the U.S. Department of Health and Human Services. 2006 Poverty level is listed below. The Federal government changes/updates the Federal Poverty Income Levels (FPIL) annually. Updated FPIL can be found at <http://www.hhs.gov/>

<b>Persons in Family or Household</b>	<b>48 Contiguous States and D.C.</b>	<b>Alaska</b>	<b>Hawaii</b>
1	\$ 9,800	\$12,250	\$11,270
2	13,200	16,500	15,180
3	16,600	20,750	19,090
4	20,000	25,000	23,000
5	23,400	29,250	26,910
6	26,800	33,500	30,820
7	30,200	37,750	34,730
8	33,600	42,000	38,640
For each additional person, add	3,400	4,250	3,910

**Procedures** - A document that specifies the way to perform an activity and identifies the position responsible for its performance.

**Profit** - An amount in excess of the cost necessary to operate a program. Profit is allowable to the extent it is reasonable as determined during contract negotiations and not in excess of 10% of grant funds. It includes that amount which is associated with proprietary materials included in the cost of the program. Profit may be allocated among the cost categories for WIA (need to spell out what WIA stands for) related costs and may be treated differently for other funding sources. Profit may only be earned by private for-profit organizations. Profit is not allowable with City of San Antonio General Funds.

**Program Income** - For purposes of this Contract, "program income" shall mean earnings of Contractor realized from activities resulting from this Contract or from Contractor's management of funding provided or received hereunder. Such earnings shall include, but shall not be limited to, interest income; usage or rental/lease fees; income produced from contract-supported services of individuals or employees or from the use of equipment or facilities of Contractor provided as a result of this Contract; and payments from clients or third parties for services rendered by Contractor pursuant to this Contract. Contractor shall include this language, in its entirety, in all of its sub-contracts involving income-producing services or activities.

**Section 8 Income Guidelines** - Income limits established by the Department of Housing and Urban Development (HUD). The newest limits can be found at the HUD website [www.hud.gov](http://www.hud.gov)

HUD 2005 Section 8 Income Guidelines

<b>Family Size</b>	<b>Low Income (80% of Median)</b>	<b>Very Low Income (50% of Median)</b>	<b>Extremely Low Income (30% of Median)</b>
<b>1</b>	<b>\$29,750</b>	<b>\$18,600</b>	<b>\$11,150</b>
<b>2</b>	<b>\$34,000</b>	<b>\$21,250</b>	<b>\$12,750</b>
<b>3</b>	<b>\$38,250</b>	<b>\$23,900</b>	<b>\$14,350</b>
<b>4</b>	<b>\$42,500</b>	<b>\$26,550</b>	<b>\$15,950</b>
<b>5</b>	<b>\$45,900</b>	<b>\$28,650</b>	<b>\$17,250</b>
<b>6</b>	<b>\$49,300</b>	<b>\$30,800</b>	<b>\$18,500</b>
<b>7</b>	<b>\$52,700</b>	<b>\$32,900</b>	<b>\$19,800</b>
<b>8</b>	<b>\$56,100</b>	<b>\$35,050</b>	<b>\$21,050</b>

**Service Provider** - Also referred to as the contractor.

**Supportive Services** - May include the following: linkages to community services, assistance with transportation costs, assistance with child care, assistance with housing costs, referrals to medical services, and assistance with uniforms, work related attire, and work related tool costs including eyeglasses.

## V. REFERENCES

The following list of resources may be used to find the laws, rules, regulations, and policies referenced in this document. If you are unable to access via the link provided, please copy the link and paste into your browser address line.

- **Age Discrimination in Employment Act** of 1967 (Public Law 90-202) as amended  
<http://www.eeoc.gov/policy/adea.html>
- **Americans with Disabilities Act**, Public Law 101-336, enacted July 26, 1990  
<http://www.eeoc.gov/policy/ada.html>
- **City Charter of the City of San Antonio**  
<http://www.sanantonio.gov/atty/reference/charter.htm>
- **City of San Antonio Ethics Code**  
<http://www.sanantonio.gov/atty/Ethics/codetext.htm>
- **Civil Rights Act** of 1991 (Public Law 102-166)  
<http://www.eeoc.gov/laws/cra91.html>
- Title VII of the **Civil Rights Act** of 1964 (Public Law 88-352)  
<http://www.eeoc.gov/policy/cra91.html>
- **Code of Federal Regulations (CFR)**  
<http://www.hudclips.org/cgi/index.cgi> for CDBG, ESG and HOPWA funded activities  
<http://www.gpoaccess.gov/cfr/index.html> for all other federally funded activities
- Title IX of the **Education Amendments** of 1972 (USC Title 20, Sections 1681-1688)  
<http://www.dol.gov/oasam/regs/statutes/titleix.htm>  
<http://www.usdoj.gov/crt/cor/coord/titleixstat.htm>
- Federal **Drug-Free Workplace Act** of 1988 as adopted by the Texas Worker's Compensation Commission Rules Chapter 169  
[http://www4.law.cornell.edu/uscode/html/uscode41/usc\\_sup\\_01\\_41\\_10\\_10.html](http://www4.law.cornell.edu/uscode/html/uscode41/usc_sup_01_41_10_10.html)  
<http://www.ci.league-city.tx.us/documents/Human%20Resource/DRGPOLIC.htm>
- **Equal Pay Act** of 1963 (Public Law 88-38)  
<http://www.eeoc.gov/types/epa.html>
- **Employee Retirement Income Security Act (ERISA)** of 1974 (Public Law 93-406)  
[http://www.efast.dol.gov/ebsa/compliance\\_assistance.html](http://www.efast.dol.gov/ebsa/compliance_assistance.html)
- **Fair Labor Standards Act** of 1938, as amended  
<http://www.dol.gov/esa/regs/statutes/whd/0002.fair.pdf>
- **Internal Revenue Service (IRS)**  
<http://www.irs.gov/index.html> or

<http://www.irs.gov/newsroom/article/0,,id=151226,00.html> (for mileage rates)

- **Occupational Safety and Health Act** regulations

<http://www.osha.gov/comp-links.html>

- **OMB Circulars**

<http://www.whitehouse.gov/omb/circulars/index.html>

- **Public Laws**

<http://www.gpoaccess.gov/plaws/index.html>

**NOTE:** For most public laws listed in this document, you will need to go to the section of the website entitled “Previous Congresses -- 104th (1995-96) through 108th (2003-04) Congress” then click Search. You search by the number of congress that is the first three numbers in the number of the Public Law. Example: Public Law 104-193 is found in the 104<sup>th</sup> Congress. Then type in the Public Law number and press Submit. When you get the Search Results simply look in the Hits until you find the Public Law you want to review.

- Sections 501 and 505 of the **Rehabilitation Act** of 1973 (Public Law 93-112)

<http://www.eeoc.gov/policy/rehab.html>

- Sections 501 through 509 of the **Rehabilitation Act** of 1973

<http://www.access-board.gov/enforcement/Rehab-Act-text/title5.htm>

- Section 504 of the **Rehabilitation Act** of 1973 for CDBG, ESG and HOPWA contracts

<http://www.hud.gov/progdesc/s-504.cfm>

- For CSBG and CCDF contracts

<http://www.hhs.gov/ocr/504.html>

- Texas Administrative Code TAC)

[http://info.sos.state.tx.us/pls/pub/readtac\\$ext.ViewTAC](http://info.sos.state.tx.us/pls/pub/readtac$ext.ViewTAC)

- ■ **Texas Comptroller of Public Accounts** (for State Agency mileage rates)

<https://fm.xcpa.state.tx.us/fm/travel/milerate/index.php>

<http://www.window.state.tx.us/fm/statewise/05/10/5.html> (for State Agency per diem rates)

- **Texas Statutes (Codes)**

<http://www.capitol.state.tx.us>

**NOTE:** The web link takes you to the Texas Legislature Online. On the left menu, click on Texas Statutes for a list of Codes.

- **Texas WorkSource Commission** <http://www.twc.state.tx.us/>

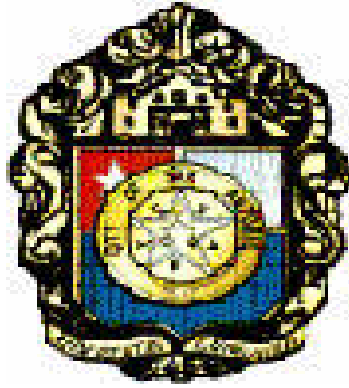
- **Worker’s Compensation** statutory regulations

<http://www.tdi.state.tx.us/wc/referencesandforms.html>

- **Unemployment Insurance** statutory regulations

<http://www.twc.state.tx.us/customers/rpm/rpmsub1.html>

- **United States Code (USC)**  
<http://uscode.house.gov/search/criteria.shtml>
- **United States General Services Commission** (travel per diem rates)  
[http://www.gsa.gov/Portal/gsa/ep/contentView.do?contentId=17943&contentType=GSA\\_BASIC](http://www.gsa.gov/Portal/gsa/ep/contentView.do?contentId=17943&contentType=GSA_BASIC)



**CITY OF SAN ANTONIO**  
**DEPARTMENT OF HOUSING AND COMMUNITY**  
**DEVELOPMENT**  
**FEDERAL COMPLIANCE MANUAL**

*Revised April 2005*

## *Introduction*

As sub-grantees you are an indispensable part of the City's federal grant program. You provide the City of San Antonio and the U.S. Department of Housing and Urban Development (HUD) with assurance that the diverse communities, groups and individuals whom the federal program is intended to serve are in fact reached by the program.

Procedures established for administration of the City of San Antonio and U.S. Department of Housing and Urban Development supported grant programs require adherence to several applicable Federal Regulations. To aid in the identification of those regulations and to establish uniformity in policies and procedures utilized for compliance with them, the Department of Housing and Community Development has compiled the "Federal Compliance Manual". This manual is not meant to constitute a complete compilation of all duties imposed upon sub-grantees by law or administrative ruling or to narrow the standards to which sub-grantees must adhere.

Certain requirements defined in this manual may not be the direct duty of the sub-grantee. Nevertheless the sub-grantee has ultimate responsibility for seeing that the requirement is met. All City departments, agencies and other contractors receiving federal funds for the operation of a project are required to adhere to all applicable regulations included in this manual.

## **DISCLAIMER**

The views and materials presented herein are those of the City of San Antonio's Department of Housing and Community Development and not those of HUD. The recommendations and interpretations offered in this manual are meant to supplement, not replace, the formal regulations and policies of the Community Development Block Grant and HOME Entitlement Program. In areas of doubt, readers are advised to consult the specific program regulations.

**I. Record Keeping**

Accurate record keeping is crucial to the successful management of City funded activities. Insufficient documentation is likely to lead to monitoring findings, and these findings will be more difficult to resolve if records are *missing*, inadequate or inaccurate.

- A. The requirements for financial management systems and reporting are found in 24 CFR Part 85.20 for governmental and public agency sub-grantees, and in OMB Circular A-122 Attachment F, for non-profit sub-grantees. The purpose of these requirements are to ensure that a sub-grantee receiving federal funds has a financial management system sufficient to:
1. Provide effective control over and accountability for all funds, property, and other assets;
  2. Identify the source and application of funds for federally sponsored activities, including verification of the reasonableness, allowability, allocability of costs, and verification that funds have not been used in violation of the restrictions or prohibitions that apply to this federal assistance; and
  3. Permit the accurate, complete, and timely disclosure of financial results, in accordance with the reporting requirements of the City or HUD.
- B. The soundness of any organization's financial management structure is determined by its system of internal controls. Internal controls consist of a combination of procedures, specified job responsibilities, qualified personnel, and records which together create accountability in an organization's financial system and safeguard its cash, property, and other assets. Through its system of internal controls, an agency's management can ensure that:
1. Resources are used for authorized purposes and in a manner consistent with applicable laws, regulations, and policies;
  2. These resources are protected against waste, mismanagement or loss; and
  3. Reliable information on the source, amount and use of resources is secured, maintained up-to-date, and disclosed in appropriate records and reports.
- C. Some of the basic elements that a sub-grantee should consider in developing its system of internal controls include:
1. An organizational chart setting forth the actual lines of responsibility of individuals involved in approving or recording financial transactions.
  2. Written definition of the duties of key employees.

3. A formal system of authorization and supervision sufficient to provide accounting control over assets, liabilities, receipts, and expenditures. This should include:
    - a. Maintenance of a policy manual specifying approval authority for financial transactions and guidelines for controlling expenditures; and
    - b. Written procedures for the recording of transactions as well as an accounting manual and a chart of accounts.
  4. Adequate separation of duties so no one individual has authority over an entire financial transaction. In organizations with very limited staff it may be difficult to achieve optimal separation of duties. In such instances, the most critical functional areas are separation between custody of cash, record keeping for cash, and control of assets easily converted to cash. Separation of duties specifically involves the separation of three types of functional responsibilities:
    - a. Authorization to execute a transaction;
    - b. Recording of the transaction; and
    - c. Custody of the assets involved in the transaction.
  5. Hiring policies to ensure that staff qualifications are commensurate with job responsibilities.
  6. Physical access to records, blank forms, cash and other assets should be limited to authorized personnel only. For example, access to accounting records should be limited to only those individuals having record-keeping or supervisory responsibility for them.
  7. Periodic comparisons of financial records to actual assets and liabilities, with corrective action taken in response to any discrepancies. As with separation of duties, it is a crucial exercise to uncover and correct inadvertent record-keeping errors in a timely manner. It is also essential for identifying potential weaknesses in an organization's system for safeguarding resources, as well as possible instances of fraud or misuse of assets.
- D. The system of authorizations should provide a way for management to ensure supervisory approval of transactions, and documentation of these transactions for accounting purposes. A system of authorizations can be general - as in a procedure manual which explains how accounting functions are to be performed - or very specific, as in identifying who has the authority to sign a contract on behalf of the organization or to sell a piece of equipment.
- E. Sub-grantees are required to have accounting records that adequately identify the source and application of City funds provided to them. To meet this requirement, a sub-grantee's accounting system should include at least the following elements:

1. A chart of accounts. This is a list of names and the numbering system for the individual accounts that contain the basic information about particular classifications of financial transactions for the organization.
  2. Cash receipts journal. This journal documents (in chronological order) when funds were received, in what amounts, and from what sources.
  3. A cash disbursements journal. This journal documents the expenditures of the organization in chronological order (e.g., when the expense was incurred, how much was spent, to whom it was paid, and for what purpose).
  4. A payroll journal. This journal documents the organization's expenses for salaries and benefits, and distinguishes different categories for regulatory purposes.
  5. A general ledger. After a transaction is entered in a journal, that information also should be transferred to the proper accounts contained in the general ledger. The general ledger summarizes in chronological order the activity and financial status of all the accounts of an organization. The entries in the journal and ledger should be crossed-indexed to permit the tracing of any recorded transaction (i.e., an audit trail).
- F. For the City's programs, these accounting records must contain reliable and up-to-date information about the source and uses of funds, including:
1. Federal grant awards (or sub-grantee allocations) received by the organization;
  2. Current authorization and obligations of City funds;
  3. Un-obligated balances (funds remaining available for distribution);
  4. Assets and liabilities;
  5. Program income;
  6. Actual outlays or expenditures, with further breakdown by:
    - a. The grant program from which the funds are derived;
    - b. The eligible activity classifications (housing and rehabilitation, economic development, public facilities, public service, etc.) or similar classifications that clearly indicate use of program funds for eligible activities.
- G. The internal control requirements provide for the separation of duties and the secure storage of accounting records in limited access areas. In maintaining these accounting records a sub-grantee should also ensure that:
1. Journal entries are properly approved and explained/supported;
  2. Posting and trial balances are performed on a regular basis; and
  3. Fidelity bond coverage is obtained for responsible officials of the organization.

H. The standards for determining the reasonableness, allowability, and allocability of costs incurred as part of federally financed activities are found in 24 CFR Part 85 for governmental sub-grantees, and in OMB A-122 for nonprofit sub-grantees. According to basic guidelines contained within these OMB circulars, a cost is allowable under the federal program if:

1. The expenditure is necessary, reasonable and directly related to the grant. This standard applies equally to such items as salaries and administrative services contracts, as well as to real property and equipment purchases or leases, travel, and other administrative expenditures. In determining the reasonableness of a given cost, consideration shall be given to:
  - a. Whether the cost is of a type generally recognized as ordinary and necessary for the operation of the organization or performance of the award;
  - b. The restraints or requirements imposed by such factors as generally accepted sound business practices, arms length bargaining, federal and state laws, and regulations, terms, and conditions of the award;
  - c. Whether the individuals concerned acted with prudence in the circumstances, considering their responsibilities to the organization, its members, employees and clients, the public at large, and the government; and
  - d. Significant deviations from the established practices of the organization that may unjustifiably increase the award costs.
2. The expenditure has been authorized by the City, generally through approval of the budget for activity. The City, based upon the provision of the contract, may disallow any expenditure by sub-grantee on such activities exceeding the approved amount.
3. The expenditure is not prohibited under federal, state, or local laws, or regulations.
4. The expenditure is consistently treated, in the sense that the sub-grantee applies generally accepted accounting standards in computing the cost, and utilizes the same procedures in calculating costs as for its non-federally assisted activities.
5. The cost must be allocable to the federal program. A cost is allocable to a particular cost objective (e.g., grant, program or activity) in proportion to the relative benefits received by that objective. This means that:
  - a. If an office is utilized by two programs during the same hours, the costs of the office must be allocated between the two programs on an equitable basis.
  - b. The same expense cannot be claimed against more than one account (e.g., double billing is prohibited).
  - c. A cost originally allocable to a particular program cannot be shifted to another program in

order to overcome deficiencies, to avoid restrictions imposed by the funding source or by law, or for any other reason;

- d. The composition of direct and indirect costs must be clear. Direct costs must be identified specifically with a particular activity. Indirect costs are those incurred for common objectives, which benefit more than one activity. A sub-grantee's indirect costs must be supported by an indirect cost proposal/cost allocation plan.
6. The cost is net of all applicable credits. Any credits such as purchase discounts or price adjustments must be deducted from total costs charged. The sub-grantee is not allowed to make a profit from any costs charged to City funds.
- I. The general standard is that all accounting records must be supported by source documentation. Supporting documentation is necessary to show that the costs charged against City funds were incurred during the effective period of sub-grantee's contract with the City, were actually paid (or properly accrued), were expended on allowable items, and had been approved by the responsible officials in the sub-grantee's organization.
    1. The source documentation must explain the basis of the costs incurred, as well as showing the actual dates and amount of expenditures.
      - a. With respect to payroll, source documentation includes employment letters and all authorizations for rates of pay, benefits, and employee withholdings. For staff time charged to the program activity, time and attendance records must be available.
      - b. With respect to the cost of space and utilities, space costs must be supported by documentation such as rental or lease agreements. The bills from the utility companies will support payment of utilities. Both types of expenses will be supported by canceled checks, if the cost of space or utilities is split between City funds and other funding sources, there must be a reasonable method in place to allocate the charges fairly among the sources.
      - c. With respect to supplies, documentation includes purchase orders or requisition forms initiated by an authorized representative of the sub-grantee, an invoice from the vendor (which has been signed and dated by the sub-grantee) indicating the goods were received and the canceled check from the vendor demonstrating that payment was made, and information regarding where the supplies are being stored, and for what cost objectives they are being used.
    2. All source documentation does not have to be located in the Department of Housing and Community Development's project files, but it must be readily available for review by the City, HUD or other authorized representatives at all times.

3. The sub-grantee must ensure that either (a) an encumbrance/obligation is recorded whenever a contract is signed or purchase order is issued, or (b) up-to-date information on the status of all obligations is otherwise readily accessible.
  4. The sub-grantee must maintain a complete, accurate and up-to-date record of the receipt and use of City generated program income.
- J. Sub-grantees must have procedures in place to monitor obligations and expenditures against their approved budget(s) for City funded activities. The City is under no obligation to reimburse a sub-grantee for expenditures that exceed approved budget line items or the overall budget for City assisted activities. Therefore, the sub-grantee must have an on-going system to compare actual receipts, encumbrances, and expenditures with the City program budget in order to ascertain in a timely fashion whether it will be necessary to initiate a formal budget revision. In addition, since the budget reflects the sub-grantee's best estimate of the resources necessary to accomplish the project scope of services, any pattern of line item overruns should prompt a careful re-assessment of whether the available resources will still be sufficient to achieve the agreed-upon objective.
- K. Sub-grantees are required to have procedures in place to minimize the time elapsed between receipt of funds from the City and the actual disbursement of those funds.
1. The City operates under the cost reimbursement method that entails a transfer of City funds to the sub-grantee based on actual expenditures or incurred cost by the sub-grantee prior to the request for funds.
  2. Sub-grantee must include accurate information in its reimbursement requests. This requirement is intended to address the intentional falsification of reimbursement information.
  3. Sub-grantee must return erroneously reimbursed funds to the City in a timely fashion.
  4. Program income (other than program income deposited in a City authorized revolving fund) must be disbursed in payment of program costs prior to requesting further reimbursements from the City. (24 CFR 570.504(b)(2)(ii) and 570.504 (c)).
- L. Financial reports prepared by a sub-grantee must be accurate, timely, current, and represent a complete disclosure of the financial activity and status in each program under which assistance is received. A sub-grantee's accounting and record-keeping system must be able to support the data included in (a) its reimbursement requests, (b) its other financial and progress reports, and (c) any submission necessary for the sub-grantee's performance reports.

## **II. Procurement and Contracting**

This section outlines the requirements for using Federal funds to purchase materials, products or

services under the CDBG and HOME Entitlement programs. Whether you are a small agency purchasing occasional office supplies or a large organization contracting for millions of dollars of construction services, the requirements governing the purchasing process are designed to ensure free and open competition. You should seek to buy with City funds only what is necessary under the terms of your contract and no more. You should also be able to ensure the integrity of your purchasing decisions, to document the history, results and decisions behind your purchases, to follow the rules for certain kinds of transactions and to offer opportunities to low and disadvantaged firms to respond to your purchasing needs. By following these requirements you are helping to guarantee the fairness and the vitality of our free market system, and to ensure that taxpayer resources are not being wasted.

Sub-grantees will maintain a written code of conduct governing the performance of their employees engaged in the award and administration of contracts. No employee, officer or agent of the sub-grantees shall participate in selection, or in the award or administration of a contract supported by Federal funds if a conflict of interest, real or apparent, would be involved. Such a conflict would arise when: (i) The employee, officer or agent, (ii) Any member of his/her immediate family, (iii) His/her partner, or (iv) An organization which employs, or is about to employ, any of the above, has a financial or other interest in the firm selected for award. The sub-grantee's officers, employees or agents will neither solicit nor accept gratuities, favors or anything of monetary value from contractors, potential contractors, or parties to subcontracts. Sub-grantees may set minimum rules where the financial interest is not substantial or the gift is an unsolicited item of nominal intrinsic value. To the extent permitted by State or local law or regulations, such standards of conduct will provide for penalties, sanctions, or other disciplinary actions for violations of such standards by the sub-grantee's officers, employees, or agents, or by contractors or their agents. The City/County may by regulation provide additional prohibitions relative to real, apparent, or potential conflicts of interest.

#### A. Grantee Responsibilities.

This section covers general information about the procurement requirements:

1. General provisions
2. Summary of Federal requirements
3. Bonding and insurance
4. Use of local, small, minority and/or women-owned businesses
5. Procurement Options
  - a. Small Purchases
  - b. Competitive Sealed Bid
  - c. Competitive Proposals

d. Non-competitive Proposals/Sole Source

6. Other Options for Performing the work
7. Continuing with a previously-selected contractor

B. General Provisions

The standards and procedures for procurement are intended to ensure that supplies, equipment, construction, and other services acquired in whole or part with federal funds are:

- Obtained as efficiently and economically as possible; and
  - Procured in a manner that provides, to the maximum extent practical, open and free competition.

Solicitations must explain all the requirements that the bidder/offeror has to meet for his or her bid/offer to be evaluated by the sub-grantee. Solicitations for goods and services must be based on a clear and accurate description of the material, product, or service to be procured, and cannot contain features which unduly restrict competition. Some of the situations considered to be restrictive of competition include, but are not limited to:

- Placing unreasonable qualifying requirements on firms;
- Requiring unnecessary experience and excessive bonding;
- Specifying only “brand name” products instead of allowing an “equal” product;
- Non-competitive pricing practices between firms or affiliated companies; and
- Non-competitive awards to consultants on retainer contracts.

Awards are to be made to the bidder/offeror whose bid/offer is responsive to the solicitation and is most advantageous to the sub-grantee, price and other factors considered. Any and all bids may be rejected when it is in the sub-grantee’s interest to do so. The sub-grantee must ensure that the award is made only to responsible contractors possessing the ability to perform successfully under the terms and conditions of the proposed procurement. Consideration should be given to such matters as contractor integrity, compliance with public policy, record of past performance, and financial and technical resources.

C. Summary of Federal requirements

1. Records and files. According to 24 CFR 85.36(b)(9), the sub-grantee must maintain records to detail the significant history of a procurement. The sub-grantee must maintain files on the rationale for selecting the methods of procurement used, selection of contract type, the contractor selection/rejection process, and the basis for the cost or price of a contract. (See Chapter 7 for more on recordkeeping.)

2. Pre-qualified lists of vendors/contractors. If such lists are used, they must be current, developed through open solicitation, include adequate numbers of qualified sources, and must allow entry of other firms to qualify at any time during the solicitation period (24 CFR 85.36(c)(4)).
3. Unfair competitive advantage. To eliminate unfair competitive advantage, if the sub-grantee has used a contractor to develop or draft specifications, requirements, statements of work, invitations for bids, and/or requests for proposals, the sub-grantee should exclude that contractor from the competition for such.
4. Debarred/ineligible contractors. The sub-grantee must ensure that awards are not made to any party which is debarred or suspended or is otherwise excluded from or ineligible for participation in federal assistance programs under Executive Order 12549, "Debarment and Suspension" (24 CFR 85.35).
5. Written procedures for contractor selection. The sub-grantee must have written selection procedures for procurement transactions, adequate to ensure that:
  - a. The purchase of unnecessary or duplicate items is avoided. Where appropriate, an analysis should be made of lease vs. purchase alternatives (24 CFR 85.36(b)(4));
  - b. Whenever possible, use of federal excess and surplus property, or of intergovernmental agreements for procurement or use of common goods and services should be considered as a way to foster greater economy and efficiency (24 CFR 85.36(b)(5) and (6));
  - c. All purchase orders (and contracts) are signed by the sub-grantee's authorized official(s);
  - d. Items delivered and paid for are consistent with the purchase order and/or contract for the goods or services;
  - e. Timely payment to vendors occurs once the order is delivered, inspected, accepted, and payment authorized;
  - f. A cost or price analysis is performed for every procurement action, including contract modifications, and documentation to that effect is maintained in the sub-grantee's files. The method and degree of analysis is dependent on the facts surrounding the particular procurement situation, but as a starting point, the sub-grantee must make independent estimates before receiving bids or proposals (24 CFR 85.36(f)); and,
  - g. Profit or fee is negotiated separately from price where competition is lacking or a cost analysis is performed. To establish a fair and reasonable profit, consideration will be given to the complexity of the work to be performed, the risk borne by the contractor, the contractor's investment, the amount of subcontracting, the quality of past performance, and industry rates for the area (24 CFR 85.36(f)(2)).

6. Contract pricing. The sub-grantee must not use “cost plus a percentage of cost” pricing for contracts (24 CFR 85.36(f)(4)); in addition, the sub-grantee should use “time and material” type contracts only after a determination is made that no other contract is suitable and the contract includes a ceiling price that the contractor exceeds at its own risk (24 CFR 85.36(b)(10)).
7. Protest procedures. The sub-grantee must have protest procedures in place to handle and resolve disputes relating to procurement (24 CFR 85.36(b)(12)).
8. Documenting contractor performance. The sub-grantee must have a documented system of contract administration for determining the adequacy of contractor performance (24 CFR 85.36(b)(2)).
9. Code of conduct. The sub-grantee must have a written code of conduct governing employees, officers, or agents engaged in the award or administration of contracts (24 CFR 85.36(b)(3)).

D. Bonding and insurance

For construction or facility improvement contracts or subcontracts exceeding \$100,000, the sub-grantee must ensure that its procurement meets the minimum federal requirements (24 CFR 85.36(h)) for bid guarantees, performance bonds, and payment bonds. These include:

1. A bid guarantee from each bidder equivalent to 5% of the bid price. The bid guarantee must be a firm commitment in the form of a bid bond, certified check or other negotiable instrument as assurance that the bidder is prepared to execute a contract within the time specified for the bid amount;
2. A performance bond from the (sub)contractor for 100% of the contract price to secure the (sub)contractor’s fulfillment of all obligations under the contract; and,
3. A payment bond from the (sub)contractor for 100% of the contract price, to assure payment of all persons supplying labor and material under the contract.

E. Use of local, small, minority and/or women-owned businesses

1. Federal regulations make it very clear that sub-grantees should make every effort to use local business firms and contract with small, minority- owned, and women-owned businesses in the procurement process. Specifically, the sub-grantee must take affirmative steps to use small firms, minority-owned firms, women-owned firms, or labor surplus area firms in the grantee’s CDBG-financed activities (24 CFR 85.36(e)). For example, the sub-grantee should:
  - a. Incorporate such businesses in solicitation lists whenever they are potential sources;
  - b. Ensure that such businesses are solicited when identified as potential sources;
  - c. Divide procurement requirements, when economically feasible, to permit maximum participation of such businesses; and

- d. Require prime contractors, when subcontracts are let, to take affirmative steps to select such firms.
2. In conformance with the requirements of Section 3 of the Housing and Community Development Act of 1968, to the greatest extent feasible, the sub-grantee must award contracts for work to be performed to eligible business concerns located in or owned by residents of the target area to ensure that the employment and other economic opportunities generated by federal financial assistance for housing and community development programs shall, to the greatest extent feasible, be directed toward low- and very-low income persons, particularly those who are recipients of government assistance for housing (see 24 CFR 570.607(b)).

Note, however, that the desire to award contracts to local firms is not a legitimate excuse for avoiding an open and competitive procurement process.

3. The City of San Antonio, as a public employer, has a policy to ensure equal employment opportunity and the City carries out affirmative action programs to fulfill that policy in the allocation of City of San Antonio contracts. It shall be the purpose of the Small Business Economic Development Advocacy (SBEDA) Program to increase minority business enterprise utilization in the awarding of City of San Antonio contracts for professional services, construction, and procurement, and, to better assist small business enterprise in competitively bidding on City projects or procurement. This program shall also assist business enterprises owned and controlled by women and business enterprises owned and controlled by handicapped individuals.
  - a. It is the policy of the City of San Antonio that Small and/or Minority Business Enterprises shall have a maximum practicable opportunity to participate in the awarding of City contracts.
  - b. The contractor agrees to use its best efforts to carry out this policy through award of sub-contracts to small and/or minority business enterprises to the fullest extent consistent with the efficient performance of the contract to which this Manual is attached and/or to which it relates.
  - c. To the greatest extent feasible, sub-grantees shall adhere to the herein described SBEDA participation and utilization policies and provisions.

In the event of the contractor's failure or refusal to comply with this SBEDA clause, either during the bidding process or at any time during the term of a contract, the contract may be cancelled, terminated or suspended in whole or in part by the City of San Antonio.

## F. Procurement Options

**Contracted:** If the sub-grantee wants to contract out for services, the sub-grantee must go through a procurement process. If the total cost of the project from all funding sources is less than \$100,000, the sub-grantee can procure services using one of several options discussed below. If the total cost of the project exceeds \$100,000, the sub-grantee may not use the small purchase method.

**No loss leader arrangements:** The intent of federal regulations is to require maximum open and free competition. Any “loss leader” type of arrangement in which a consultant offers to provide free services before an applicant receives a grant in return for a future contract is prohibited by federal regulations.

**Note about the procurement methods:** Among the procurement approaches described below, the competitive sealed bid resulting in a firm, fixed price contract is the preferred procurement approach when there are numerous available and qualified providers, when the requirements and specifications are thoroughly detailed and are unlikely to change, and where the sub-grantee has the opportunity to make the provider assume a large share of the risk for non-performance.

HUD allows grantees to follow either their local small purchase procurement policy or the federal policy. If the local policy is used, it must be at least as stringent as the federal policy, described below.

### 1. Small Purchase

The small purchase method may be used for procurement of \$100,000 or less in the aggregate, pursuant to 24 CFR 85.36(d) (1). A procurement of more than \$100,000 may not be inappropriately broken up into smaller components solely to qualify for the small purchase approach. Competition is sought through oral or written price quotations. The grantee must document the receipt of an adequate number (usually three) of price or rate quotations from qualified vendors.

### 2. Competitive Sealed Bid [24 CFR 85.36 (d)(2)]

The competitive sealed bid is the preferred method for procuring construction services. This method must lend itself to a firm, fixed price contract (lump sum or unit price) where the selection can be made principally on the basis of price.

- a. The sub-grantee must advertise the Invitation for Bid (IFB) in publications of general circulation;
- b. The IFB must include complete and accurate specifications and pertinent attachments, and clearly define items or services needed, in sufficient detail for the bidders to properly respond;
- c. Bids must be opened publicly at the time and place stated in the IFB;

- d. The sub-grantee must receive at least two or more responsible bids for each procurement transaction; and
- e. If awarded, the contract must be given to the lowest responsive and responsible bidder. The sub-grantee can, however, decide not to make the award to any of the bidders.

### 3. Competitive Proposals [24 CFR 85.36(d)(3)]

This method has two sub-parts—the Request for Proposal and the Request for Qualifications.

#### Request for Proposals

- a. The Request for Proposals (RFP) must clearly and accurately state the technical requirements for the goods and services required;
- b. The sub-grantee must publicize the RFP, and to the maximum extent practicable, honor reasonable requests by parties to have an opportunity to compete;
- c. Proposals must be solicited from an adequate number of qualified sources, consistent with the nature and requirements of the procurement;
- d. The sub-grantee must conduct a technical evaluation of the submitted proposals to identify the responsible offerors;
- e. As necessary, the sub-grantee must conduct negotiations with those offerors who are deemed responsive and responsible and fall within a competitive price range, based on the sub-grantee's evaluation of the bidders' pricing and technical proposals. After negotiations, these bidders may be given the opportunity to submit a "best and final" offer; and
- f. The sub-grantee must award the contract to the most responsive and responsible offeror after price and other factors are considered through scoring the proposals or "best and final" offers according to predetermined evaluation criteria. The successful proposal/offeror must clearly be the most advantageous source of the goods and services.

#### Request for Qualifications

For procurement involving architecture or engineering services, the sub-grantee may use the Request for Qualifications (RFQ) competitive proposal procedure whereby competitors' qualifications are evaluated and the most qualified competitor is selected, subject to negotiation of fair and reasonable compensation. In these instances, price is not used as a selection factor.

Once the most qualified firm is identified, only that firm is asked for a price proposal that is subject to negotiation of a fair and reasonable price. If negotiations with the selected firm are unsuccessful, this process is repeated with the next highest-ranked firm, until a fair and reasonably priced contract can be awarded. The sub-grantee must take care to document the basis for its

determination of the most qualified competitor and the reasonableness of the contract price. This qualifications-based approach to the competitive proposals method may not be used to purchase types of services other than architectural and engineering services (24 CFR 85.36(d)(3)(v)).

For applicants' information, the above-cited federal rule relating to the procurement of architectural and engineering (A/E) services is quoted verbatim:

“Grantees and sub-grantees may use competitive proposal procedures for qualifications-based procurement of architectural/engineering (A/E) professional services whereby competitors' qualifications are evaluated and the most qualified competitor is selected, subject to negotiation of fair and reasonable compensation. The method, where price is not used as a selection factor, can only be used in procurement of A/E professional services. It cannot be used to purchase other types of services though A/E firms are a potential source to perform the proposed effort.”

This means that:

- ▶ Qualifications-based procurement can be used only for A/E services.
- ▶ A Request for Qualifications may be issued.
- ▶ The competitors' qualifications are evaluated and the most qualified competitor is selected, subject to negotiation of fair and reasonable compensation.
- ▶ An RFQ cannot be used to purchase other types of services, even though A/E firms are potential sources to perform other types of services.

In addition, the federal procurement regulations generally discourage the use of local geographical preferences in the evaluation of bids or proposals except where mandated by federal statutes, due to the restrictions on open competition that result. However, in procuring architectural and engineering services, geographic location is permitted as a selection criteria provided this criterion leaves an appropriate number of qualified firms (24 CFR 85.36(c)(2)).

4. Non-Competitive Proposals/Sole Source [24 CFR Part 85.36 (d) (4)]

This method may be used only under very limited circumstances and the sub-grantee must obtain the Department of Housing and Community Development's approval before using this method.

When requesting permission to use this method, the sub-grantee will have to show that another method of procurement was not feasible because:

- a. The item or service was only available from a single source;

- b. A public emergency or condition requiring urgency existed which did not permit the use of competitive procurement; or
- c. Competition was determined to be inadequate after solicitation of proposals from a number of sources.

G. Continuing with a previously selected contractor.

If the jurisdiction has a consultant under a pre-existing, multi-year contract, it is permissible to continue to use that consultant for the new grant as long as the activity to be carried out was outlined in the original scope of work used to procure the consultant, and the process used to procure the consultant met Federal requirements.

Please note that multi-year contracts should be limited to three years and to one specialty area, such as housing, public works, or economic development. A single RFP for CDBG administrative services including housing, public works, and economic development is not consistent with federal procurement requirements. That is, an RFP of such broad scope would place unreasonable requirements on firms in order for them to qualify to do business. Therefore, the Department of Housing and Community Development restricts three-year contracting to specific specialty areas. A single RFP to carry out all CDBG and HOME housing-related activities or all CDBG economic development-related activities is acceptable.

### **III. Civil Rights and Fair Housing, Employment and Contracting Opportunities**

For a more complete explanation of the standard and procedures relevant to any particular requirement, refer to the federal regulations, to the executive orders or laws cited, and to your written contract with the City of San Antonio.

The sub-grantee must certify that it will administer its federal funds in compliance with the following laws and Executive Orders:

- A. Title V of the Civil Rights Act of 1964 (Public Law 88-352): This law states that no person shall be refused on the grounds of race, color, or national origin, or be excluded from, participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving federal financial assistance.
- B. The Fair Housing Act - Title VIII of the Civil Rights Act of 1968 (Public Law 90-284): This law prohibits discrimination in the sale, rental, and financing of housing and the provisions of brokerage services because of race, color, religion, sex, national origin, handicap, or familial status.
- C. Executive Order 11063, as amended by Executive Order 12259 (implemented in 24 CFR Part

107): This order and its implementing regulations require the Department of Housing and Community Development to take all actions necessary to prevent discrimination because of race, color, religion, sex, or national origin in the use, occupancy, sale, leasing, rental or other disposition of residential property assisted with federal loans, advances, grants or contributions.

- D. Section 104 (b) of Title I of the Housing and Community Development Act of 1974, as amended: This law provides that any grant under section 106 shall be made only if the sub-grantee certifies to the satisfaction of the Secretary of HUD that the sub-grantee will, among other things, affirmatively further fair housing.
- E. Section 109 of Title I of the Housing and Community Development Act of 1974, as amended: This section mandates that no person on the grounds of race, color, national origin, sex, or religion shall be excluded from participation, denied the benefits of, or otherwise be subject to discrimination under any activity funded in whole or in part with federal funds.
- F. Section 504 of the Rehabilitation Act of 1973, as amended: This section specifies that no otherwise qualified individual shall, solely by reason of his or her handicap, be excluded from participation (including employment), denied program benefits, or subjected to discrimination under any program or activity receiving federal assistance.
- G. Americans with Disabilities Act of 1990: This law prohibits discrimination on the basis of disability in employment, state and local government services, and in public accommodation and commercial facilities. The Act defines the range of conditions that qualify as disabilities, and the reasonable accommodations that must be made to assure equality of opportunity, full participation, independent living, and economic self-sufficiency for persons with disabilities.
- H. The Age Discrimination Act of 1975, as amended: This law provides that no person shall be excluded from participation, denied program benefits, or subjected to discrimination on the basis of age under any program or activity receiving federal assistance.
- I. Executive Order 11246 (as amended by Executive Order 11375 and 12086) Equal Opportunity Under HUD Contracts and HUD assisted Construction Contracts: This order requires that grantees and sub-grantees, and their contractors and subcontractors, agree not to discriminate against any employee or applicant for employment because of race, color, creed, religion, sex, or national origin.
  - 1. Exemptions to Equal Opportunity Clause (41) CFR Chapter 50:
    - a. Contracts and subcontracts not exceeding \$10,000 (other than government bills of lading) are exempt. The total amount of the contract, rather than the amount of the federal financial assistance, shall govern in determining the applicability of this exemption.

- b. Except in the case of subcontractors for the performance of construction work at the site of construction, the clause shall not be required to be inserted in subcontracts below the second tier.
    - c. Contracts and subcontract not exceeding \$100,000 for standard commercial supplies or raw materials are exempt.
  2. Anyone contracting with the City for federally funded projects must insert the above clauses in all applicable subcontracts.
  3. The subcontractor will submit a quarterly report to the Department of Housing and Community Development three months after the start of work on the contract and every three months thereafter. Said report shall be made on HUD Form 3 (Economic Opportunities for Low and Very Low Income Persons in Completion with Federally Assisted Project) and the New Hire Form.
  4. Should the Department of Housing and Community Development determine a contractor to be in non-compliance with the equal opportunity requirements, procedures to “show cause” why funds should not be withheld will be reported with a copy of the report going to HUD.
- J. Section 3 of the Housing and Community Development Act of 1968 requires that to the greatest extent feasible, a sub-grantee must:
  1. Ensure opportunities for training and employment arising in connection with housing rehabilitation (including reduction and abatement of lead-based paint hazards), housing reconstruction, or other public construction project are given to low and very low-income persons residing within the metropolitan area in which the federally funded project is located; where feasible, priority should be provided to low and very low-income residents within the service area of the project or the neighborhood in which the project is located, and to low and very low-income participants in other HUD programs; and
  2. Award contracts for work undertaken in connection with a housing rehabilitation (including reduction and abatement of lead-based paint hazards), housing reconstruction, or other public construction projects to business concerns that provide economic opportunities for low and very low-income persons residing within the metropolitan area in which the federally funded project is located; where feasible, priority should be given to business concerns which provide economic opportunities to low and very low-income residents within the service area of the project or the neighborhood in which the project is located, and to low and very low- income participants in other HUD programs.

#### **IV. Labor Standards**

Sub-grantees are strongly encouraged to consult closely with the City during the planning of any construction or rehabilitation projects in order to assure that all the requisite labor standards will be properly observed.

##### **A. Statutory provisions.**

1. The Davis-Bacon Act, the Contract Work Hours and Safety Standards Act and the Copeland (Anti Kickback) Act apply to construction being assisted with federal funds except that housing rehabilitation projects with less than eight units do not trigger these requirements. The Fair Labor Standards Act (relating to minimum wages) will be applicable in most cases whether or not the previous acts apply. Sub-grantees must include provisions relating to the foregoing listed acts as more particularly described below in each application contract.
2. Davis-Bacon and Related Act (40 USC 276 (A)-7) ensures that mechanics and laborers employed in construction work under federally assisted contracts are paid wages and fringe benefits equal to those which prevail in the locality where the work is performed. This act also provides for the withholding of funds to ensure compliance and excludes from the wage requirements apprentices enrolled in bona fide apprenticeship programs.
3. The Copeland (“Anti Kickback”) Act (40 USC 276c) governs the deductions from paychecks which are allowable and makes it a criminal offense to induce anyone employed on a federally assisted project to relinquish any compensation to which he/she is entitled, and requires all contractors to submit weekly payrolls and statements of compliance.
4. The Contract Work Hours and Safety Standards Act, as amended (40 USC 327-333) provides that mechanics and laborers employed on federally assisted construction jobs are paid time and one-half for work in excess of 40 hours per week, and provides for the payment of liquidated damages where violations occur. This act also addresses safe and healthy working conditions.
5. Fair Labor Standards Act of 1938, as amended (29 USC 201, etc. seq.) Establishes the basic minimum wage for all work and requires the payment of overtime at the rate of at least time and one-half. It also requires the payment of wages for the entire time that an employee is required or permitted to work and establishes child labor standards.

#### **V. Davis-Bacon Act Compliance Requirements**

The Davis-Bacon Act was enacted in 1931, amended in 1935 and 1964, to protect communities and workers from the economic disruption caused by competition arising from non-local contractors coming into an area and obtaining federal construction contracts by underbidding local wage levels.

The Davis-Bacon Act requires payment of locally “prevailing wages” and benefits to laborers or mechanics employed on direct federal contracts in excess of \$2,000 for construction, alteration, or repair (including painting and decorating) of public buildings or public works.

A complete copy of the Davis-Bacon and Related Acts is on file and available for review in the City’s Department of Housing and Community Development.

- A. All laborers and mechanics employed or working on the site of the work shall be paid unconditionally and not less often than once a week the full amount of wages and bona fide fringe benefits computed at rates not less than those contained in the wage determination.
  - 1. Employers who do not make contributions or payments to bona fide fringe benefits funds, plans, or programs shall pay an amount equivalent to the fringe benefit rate (if any) required on the wage determination directly to the employee added to the basic hourly rate of pay.
    - a. The employer may make payroll deductions as permitted by the Department of Labor (DOL) Regulations 29 CFR Part 3. These regulations prohibit the employer from requiring employees to “kick back” any of their earnings. Deductions may include employee obligations for income taxes, Social Security payments, insurance premiums, retirement, savings accounts, and any other legally permissible deduction authorized by the employee. Deductions may also be made for payments on judgments and other financial obligations legally imposed against the employee.
    - b. Each laborer and mechanic shall be classified in accordance with the work classification listed on the wage determination and the actual type of work he/she performs and shall be paid the appropriate wage rate and fringe benefits for the classification regardless of the level of skill.
    - c. Laborers and mechanics that perform work in more than one classification may be compensated at the rate specified for each classification provided that the employer maintains time records that accurately set forth the time spent in each classification in which work was performed. If accurate time records are not maintained, the employee shall be compensated at the highest of all wage rates for the classifications in which work was performed.
    - d. If the wage determination does not include a work classification needed for the construction of the project, HUD may approve an additional classification and wage rate.
  - 2. Apprentices and trainees may be compensated at rates less than prescribed by the wage determination for their craft only in accordance with the following parameters.
    - a. The apprentice or trainee shall be individually registered in a bona fide certification

- program.
- b. Each apprentice and trainee shall not be paid less than the specified rate in the registered program for his/her level of progress. If the rate specified is represented as a percentage of the journeyman rate for that craft, the percentage shall be applied to the corresponding wage rate contained in the applicable wage determination.
  - c. The maximum number of apprentices or trainees employed on the site of work may not exceed the ratio of apprentices or trainees to journeymen permitted to the employer in the certified program. Apprentices or trainees, who are employed at the site in excess of the allowable ratio, shall be paid the wage rate contained on the applicable wage determination for classification of work actually performed. Compliance with the allowable ratio shall generally be met on a day-to-day basis.
  - d. In the event approval of an apprenticeship or trainee program is withdrawn, the employer shall no longer be permitted to utilize apprentices/trainees at less than the predetermined rate for the type of work performed, unless or until an acceptable program is approved.
3. Payrolls and basic records to such payrolls shall be maintained by each employer with respect to his/her workforce employed on the site of the work. The principal contractor shall maintain such records relative to all laborers and mechanics working on the site of the work. Payrolls and related records shall be maintained during the course of the construction work and preserved by the contractor and all employers for at least 3 years following the completion of the work. Such records shall contain:
- a. The name, address and social security number of each laborer and mechanic;
  - b. His or her correct work classification(s);
  - c. Hourly rates of pay including rates of contributions or costs anticipated for fringe benefits;
  - d. Daily and weekly number of hours worked, including any overtime hours;
  - e. Deductions made and actual net wages paid;
  - f. Evidence pertaining to any fringe programs;
  - g. Evidence of the approval of any apprenticeship or trainee program, the registration of each apprentice or trainee and the ratios and wages contained in the program.
4. Certified weekly payroll reports (CPRs) shall be submitted with respect to each week any contract work is performed. The principal contractor is responsible for full compliance with regard to its own workforce and with regard to the compliance of every subcontractor. For this reason, all CPRs and any related records are submitted to the CITY through the principal contractor.

- a. CPR information may be submitted in any form provided that the CITY can reasonably interpret the information to monitor employer compliance with the labor standards.
- b. CPRs shall be submitted for each contractor/subcontractor (employer) beginning with the first week such employer performs work on the site of the work. CPRs shall be submitted promptly following the close of each such pay week.
- c. CPRs for each employer shall be numbered sequentially beginning with "1". The CPR for the last week of work performed on the project by each employer shall be clearly marked "final."
  - (1) The first payroll on which each employee appears shall contain the employee's name, address and social security number. Thereafter, the address and social security only need to be reported if there is a change in such information.
  - (2) The first payroll on which any apprentice or trainee appears shall be accompanied with a copy of that apprentice's or trainee's registration in an approved program. A copy of the approved program pertaining to the wage rates and ratios shall also accompany the first CPR on which the first apprentice or trainee appears.
  - (3) The division of hours worked in different classifications shall be accurately maintained and clearly reported. The employer may list the employee once for each classification, distributing the hours of work accordingly, and reflecting the rate of pay and gross earnings for each classification. Deductions and net pay may be based upon the total gross amount earned for all classifications.
  - (4) The CPR should reflect only hours worked at the site of work. If an employee performs work at job sites other than the project for which the CPR is prepared, those hours should not be reported on the CPR. In these cases the employer should list employee's name, classification and the hours for this project only, and the rate of pay and gross earnings on this project. Deductions and net pay may be reflected based upon the employee's total earnings (for all projects) for the week.
- d. Employers are not required to submit CPRs for weeks during which no work was performed on the site of the work, provided that the CPRs are numbered sequentially or that the employer has provided written notice that its work on the project has been suspended.
- e. Each weekly payroll shall be accompanied by a "Statement of Compliance". The Statement of Compliance shall be executed by the original signature of the principal executive of the contractor/subcontractor, or of a person authorized in writing by the principal. The

statement shall certify to the following:

- (1) That the payroll period documents contain the information required to be maintained and that the information is correct and complete;
  - (2) That each laborer or mechanic (including each helper, apprentice, or trainee) employed on the contract during the payroll period has been paid the full weekly wages earned, without rebate, either directly or indirectly, and that no deductions have been made either directly or indirectly from the full wages earned, other than permissible deductions as set forth in federal regulation 29 CFR 3; and
  - (3) That each laborer or mechanic has been paid not less than the applicable wage rates and fringe benefits or cash equivalents for the classification of work performed as specified in the applicable wage determination incorporated into the contract.
- f. The falsification of any of the above certifications may subject the contractor or subcontractor to civil or criminal prosecution under Section 1001 of Title 18 and Section 231 of Title 31 of the United States Code.
- (1) Each employer shall make the required records (CPRs and related documents) available for inspection copying or transcription by authorized representatives of the CITY, HUD, or DOL. In addition, each employer shall permit authorized representatives to interview employees during work hours on the job site.
  - (2) Failure by an employer to submit the required records or to make them available, or permit on-site employee interviews may, after written notice to the contractor, cause a suspension of any further payment, advance or guarantee of funds. In addition, failure to submit the records on request or to make them available may be grounds for debarment action pursuant to 29 CFR 5.12.
  - (3) In order to protect the personal privacy interests of employees, copies of weekly payrolls shall not be released to outside parties and may be withheld under Exemption 6 of the Freedom of Information Act (FOIA) unless the employees' personal identifiers (e.g., name, address, and social security number) are first deleted.
  - (4) The identity of any person providing information concerning the labor standards compliance of any contractor or subcontractor shall not be disclosed in any manner to anyone other than authorized City or Federal officials unless written consent is provided in advance by such person. Additionally, any portions of a statement or written document provided by such person that would reveal the identity of the source shall not be disclosed without prior written consent. Disclosure of such statements and

documents shall be governed by the provisions of the Freedom of Information Act and the Privacy Act of 1974.

## **VI. Labor Standards Administration, Compliance Monitoring and Enforcement**

Routine monitoring of projects, Certified Payroll Records and related documentation is performed to ensure compliance of all employers with the applicable labor standards provisions. Monitoring identifies possible misunderstandings on the part of the employers, discrepancies in the records, and violations. Written monitoring reports to the principal contractor advise the contractor of the status of compliance, provide clarification where misunderstanding may exist, and informs the contractor of any additional submissions, which may be required to correct discrepancies or to complete the record.

- A. The City is responsible for the administration and enforcement of labor standards provisions for HUD assisted programs administered by the City. For each program and proposed project or contract the City shall:
1. Determine the specific labor standard parameters applicable to the project.
  2. Obtain the Davis-Bacon wage and hour determination and labor standards provisions applicable to the project from the HUD Labor Relations Field staff and ensure incorporation of the same in the project specifications.
  3. Ensure that the wage determination is still current at bid opening or other appropriate wage determination effective date.
  4. Verify the eligibility of the principal contractor.
  5. Conduct a Pre-construction Conference to inform and instruct the contractor and subcontractors concerning their wage and reporting obligations.
  6. Identify and initiate requests for additional classifications and wage rates needed for the construction of the project.
  7. Perform timely routine monitoring reviews of CPRs and related submissions for compliance with labor standards.
  8. Notify the principal contractor in writing of any labor standards deficiencies and required corrective actions.
  9. Investigate complaints of underpayment or other labor standards violations.
  10. Prepare and submit to HUD reports on all enforcement activity.
  11. As necessary, refer cases for administrative hearing (29 CFR, Part 5, 5.11) and/or makes recommendations for debarment (29 CFR, Part 5,5.12).
  12. As necessary, require escrow accounts to ensure the payment of outstanding wage or liquidated

damages liability.

13. Dispose of any escrow accounts established for labor standards purposes.

14. Establish and maintain full documentation of all labor standards administration and enforcement activities.

B. The City is responsible for the creation, maintenance and preservation of labor standards enforcement files for each project. The files shall be kept up-to-date, maintained in a consistent manner, and secured for the life of the active monitoring of the project and preserved for at least three (3) years following the completion of the project and the final disposition of any compliance issues. The City shall establish a system of labor standards enforcement files for each covered project.

C. The City is responsible for the following monitoring activities:

1. Interviews of workers will be conducted on a regular basis and will include a broad sampling of the work classifications being employed on the project. (Record of Employee Interviews Form (form HUD-11)).
2. On-site inspections will be made to ensure that the required notices are posted.
3. Weekly payrolls will be reviewed and compared with employee interviews and wage rates to verify compliance with applicable labor standards and requirements (e.g. payment of minimum wages, payment of overtime, no ineligible deductions, etc.)
4. Once the project is completed, a final wage compliance report shall be filed with HUD.

D. For each construction contract, the Sub-grantee shall maintain a file with the following documentation:

1. Copy of wage rate request;
2. Copy of wage rate, along with any additional classifications;
3. Bid/contract documents with labor standards provision included;
4. Contractor eligibility verification;
5. Ten-day call verification;
6. Pre-construction conference minutes/sign-in sheet;
7. Payrolls, with evidence of their review;
8. Notice of start of construction;
9. Employee interviews;
10. Evidence of any violations and corrective actions;
11. Final wage compliance reports; and
12. Monthly employment utilization reports, where applicable.

- E. Violations of the labor standards and requirements must be corrected. Failure to pay sufficient overtime wages will result in the assessment of liquidated damages in the amount of \$10 per worker per day. Only HUD and the Department of Labor are authorized to reduce or waive these liquidated damages. The contractor must be notified of his or her liability. Then, if appropriate, he or she may request a waiver.
- F. Debarred, Suspended and Ineligible Contractors and Sub-recipients. Federal cannot be used to directly or indirectly employ, award contracts to, or otherwise engage the services of any contractor or sub-recipient during any period of debarment, suspension or placement of ineligibility status. CITY will check all contractors, subcontractors, lower tier contractors and sub-grantees against the Federal publication that lists debarred, suspended and ineligible contractors.

## VII. Environmental Requirements

In its use of federal funds, the City is required to assume responsibility for environmental review, decision-making and other actions that would otherwise apply to HUD under the National Environmental Policy Act of 1969 and other provisions of law. The Federal regulations explicitly prohibit Sub-grantees from assuming the City's environmental responsibilities.

However, under the applicable regulations, Sub-grantees are not allowed to incur program expenses until the City has completed an environmental review of the proposed activities, received the release of funds, and provided the Sub-grantee with formal clearance with directives for any action necessary to mitigate negative environmental impacts.

## VIII. Historic Preservation

Sub-grantees must comply with the provisions of the Historic Preservation Act and related laws and Executive Orders. Before any commitments are made for any physical improvements, alterations or demolition of any building, a sub-grantee must receive assurances from the City that they are in compliance.

Part of the City's responsibility is to consult with the State Historic Preservation Officer as to: (1) whether the property is or could be declared a historic property; (2) if the property is located in a historic district or an area which could be declared a historic district; (3) if the proposed changes to the property could adversely affect historic properties or neighborhoods which could be declared historic.

If properties can be adversely affected, prior to initiating project work, an agreement must be reached on appropriate mitigating measures with all parties identified. (36 CFR Part 800)

## **IX. National Flood Insurance Program**

If a community has had notice for more than a year that an area has been identified by the Federal Emergency Management Agency (FEMA) as having special flood hazards, federal funds cannot be used for acquisition or construction purposes in the area unless the community is participating in the National Flood Insurance Program and such insurance has been purchased for the properties in question.

## **X. Relocation, Real Property Acquisition and One-for-One Housing Replacement**

A sub-grantee must comply with (a) the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended (URA) and 24 CFR 570.606(b); and (b) the requirements of 24 CFR 570.606(c) governing the Residential Anti-displacement and Relocation Assistance Plan (Plan) under section 104(d) of the HCD Act. The policies and requirements of these laws are described in HUD Handbook 1378, Tenant Assistance, Relocation and Real Property Acquisition.

Under URA and the Plan, the sub-grantee must provide relocation assistance to persons (families, individuals, businesses, non-profit organizations and farms) that are permanently displaced as a direct result of acquisition, rehabilitation, demolition or conversions for a federally assisted project. All property occupants must be issued certain notices on a timely basis. (Failure to issue timely notices may result in unnecessary expenses.)

The Plan also requires one-for-one replacement of any occupied or vacant low/moderate income housing that is demolished or converted to another non-residential use in connection with a federally assisted project. Finally, the Plan requires the identification of the steps that will be taken to minimize displacement.

## **XI. Lead-Based Paint**

There is a general prohibition against the use of lead-based paint in connection with any federally funded activities involving the construction or rehabilitation of residential structures. In addition:

- A. For properties constructed prior to 1978, the sub-grantee must notify applicants for rehabilitation assistance, and tenants or purchasers of properties owned by the sub-grantee or City and acquired or rehabilitated with federal funds, of the hazards of lead-based paint poisoning and the other specific information set out in 24 CFR 570.608(b)(2)(I) through (vi).
- B. According to 24 CFR 570.608(c)(3), for housing built prior to 1978 that is being rehabilitated with federal funds which may be occupied or frequented by families with children under seven years of

age, the sub-grantee must undertake steps to ensure that such housing is inspected for defective paint and those surfaces found to be defective must be tested for the presence of lead paint. If lead-based paint is detected, all interior and exterior chewable surfaces found to contain lead must be treated in accordance with 24 CFR 570.608(c)(4).

## **XII. Political Activity**

Sub-grantees are prohibited from using federal funds to finance the use of facilities or equipment for political purposes, or to engage in other partisan political activities, such as sponsoring candidate forums, brochures, voter transportation, or voter registration.

## **XIII. Conflict of Interest**

Except for the use of federal funds to pay for salaries and other related administrative or personnel costs, the general standard is that no employee, agent, or officer of the sub-grantee, who exercises decision making responsibility with respect to the funds and activities, is allowed to obtain a financial interest in or benefit from the activities, or have a financial interest in any contract, subcontract or agreement regarding those activities or in the proceeds of the activities. Specific provisions include these requirements:

- A. Applies to any person who is an employee, agent, consultant, or officer, or elected or appointed official of the grantee, designated public agency, or sub-recipient, and their immediate family members, and business partner(s).
- B. Applies for such person during their tenure and for a period of one year after leaving the grantee or sub-grantee organization.
- C. Is applicable to the procurement of supplies, equipment, construction, and services; acquisition and disposition of real property; provision of assistance to individuals, businesses and other private entities for all eligible activities (24 CFR 570.201-204); and provision of loans to individuals, businesses, and other private entities.

### **Part 570.611 Conflict of Interest.**

#### **(a) *Applicability.***

- i. In the procurement of supplies, equipment, construction, and services by sub-recipients, the conflict of interest provisions in 24 CFR 85.36 shall apply (see below).
- ii. In all cases not governed by 24 CFR 85.36, the provisions of this section shall apply. Such cases include the acquisition and disposition of real property and the provision of assistance

by the sub-grantee to individuals, businesses, and other private entities under eligible activities that authorize such assistance (e.g., rehabilitation, preservation, and other improvements of private properties or facilities).

- (b) *Conflicts prohibited.* The general rule is that no persons described in paragraph (c) of this section who exercise or have exercised any functions or responsibilities with respect to CDBG/HOME activities assisted under this part, or who are in a position to participate in a decision-making process or gain inside information with regard to such activities, may obtain a financial interest or benefit from a CDBG/HOME-assisted activity, or have a financial interest in any contract, subcontract, or agreement with respect to a CDBG/HOME-assisted activity, or with respect to the proceeds of the CDBG/HOME-assisted activity, either for themselves or those with whom they have business or immediate family ties, during their tenure or for one year thereafter.
- (c) *Persons covered.* The conflict of interest provisions of paragraph (b) of this section apply to any person who is an employee, agent, consultant, officer, or elected official or appointed official of sub-grantee that is receiving funds under this part.
- (d) *Exceptions.* (May happen in rare circumstances; see regulations for specifics).

Upon written request, exceptions may be granted by HUD, through the City, after consideration of the cumulative effect of various factors on a case-by-case basis and only with: (a) full disclosure of the potential conflict, and (b) a legal opinion of the sub-grantee's attorney that there would be no violation of state or local laws in granting the exception.

#### **XIV. Citizen Participation**

The citizen participation segment of the federal funding process must provide citizens with adequate information and notification regarding the amount of funds available for community development and housing activities, the range and scope of activities eligible, as well as other important program requirements as specified in the City of San Antonio Consolidated Plan Budget. Sponsors may submit proposals for projects that address priorities and needs as identified during the citizen participation process.

## **XV. Resident Aliens**

Certain newly legalized aliens are not eligible to apply for benefits under covered activities handled by the CDBG and HOME programs. “Covered activities” are activities meeting requirements of 24 CFR 570.208(a) that either (1) have income requirements limiting benefits exclusively to low and moderate income persons, or (2) are targeted geographically or otherwise to primarily benefit low and moderate income persons (except for activities that benefit the public at large), and provide benefits on the basis of an application.

## **XVI. References**

- 24 CFR 85, referred to as the "HUD common rule," establishes administrative requirements for grants to local government. 24 CFR 85.36 specifically addresses procurement. This chapter is largely based on the language contained in 24 CFR 85.36.
- 24 CFR 570.502(a)(12) invokes the "HUD common rule" for the State CDBG program.
- Federal Circular OMB A-87 establishes principles and standards for determining costs applicable to grants, contracts, and other agreements with state and local governments.
- Section 3 of the Housing and Urban Development Act of 1968, as amended, provides that to the greatest extent feasible, opportunities for training and employment that arise through State CDBG-financed projects shall be given to lower-income residents of a project area, and that contracts awarded in connection with such projects be awarded to businesses located in the project area or businesses owned, in substantial part, by residents of the project area.
- Section 109 of the Housing and Community Development Act of 1974, as amended, provides that no person shall be excluded from participation or employment, or be denied benefits, or be subjected to discrimination on the basis of race, color, national origin, or sex under any program or activity funded in whole or in part by the CDBG Program.
- Title VII, Civil Rights Act of 1964, provides that no person shall be excluded from participation, denied program benefits, or subjected to

discrimination based on race, color, or national origin under any program or activity receiving federal financial assistance.

- Executive Order 11246, as amended, provides that no person shall be discriminated against on the basis of race, color, religion, sex, or national origin in any phase of employment during the performance of federal or federally assisted construction contracts.

**EXHIBIT F**

**APPLICATION FORMS**

**Application Forms are on the City's website in Microsoft Word Format and must be downloaded separately from this document.**