




STATE OF SOUTH DAKOTA CDBG GRANT ADMINISTRATION MANUAL



SD Governor's Office of Economic Development
711 E Wells Avenue, Pierre, SD 57501

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SD Governor's Office of Economic Development

Section A – Initial Requirements

Requirements to be satisfied prior to the first CDBG drawdown.

Updated
08/2023

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Initial Requirements

Prior to the drawdown of CDBG funds, the Units of General Local Government (UGLGs) must submit the following agreements, statements, and policies to the Governor's Office of Economic Development (GOED):

1. Signed Grant Agreement:

This agreement contains the CDBG award amount, the project description that the subgrantee is committed to carrying out, the percentage of local funds to be used for the project, a detailed budget, and CDBG grant terms and conditions. The agreement must be signed by the chief elected official. The subgrantee retains one signed grant agreement for its files and sends one (signed) to the GOED.

2. Authorizing Governmental Resolution appointing a Project Certifying Officer:

Your UGLG must appoint an official to sign other documents pertaining to the grant. This Certifying Officer should be a member of the unit of local government, preferably an elected official such as the Mayor, Chairman, etc. Other individuals, however, may be authorized if special conditions warrant such. This action will only be recognized if the UGLG passes a resolution authorizing the transfer of administrative responsibilities. Responsibility for use of the federal funds may not be passed to another individual or entity. A sample resolution can be found at the back of this section.

3. Local Match Statement:

The State of South Dakota encourages a "local match" in the CDBG program to promote local interest and effort in the project. The percentage of project costs that must be funded locally varies from grant to grant. CDBG funds cannot be made available until documentation on the match is received. This must be completed on official letterhead and signed by the appropriate official responsible for ensuring the completion of the project.

4. Equal Employment Opportunity Policy:

Your UGLG must adopt an Equal Employment Opportunity Policy within the past 10 years that assures that all its hiring practices are conducted in a manner that will not cause discrimination based on race, creed, color, national origin, religion, sex, handicap, or age. A sample policy can be found at the back of this section.

5. Resolution Assuring Fair Housing

Your UGLG must adopt a Resolution Assuring Fair Housing within the past 10 years that affirms it shall be illegal to deny housing to any person because of race, creed, color, national origin, religion, sex, handicap, or age, and that it will do all within its power to eliminate prejudice, intolerance, disorder, and discrimination in housing. A sample resolution can be found in the back of this section.

6. Code of Conduct Policy

Your UGLG must adopt a Code of Conduct policy within the past 10 years that ensures the efficient, fair, and professional administration of federal funds, and that no officer, employee, or agent of your unit of government will participate in the selection, award, or administration of a contract supported by federal grant funds. It is recommended that this policy be adopted as an ordinance. A sample policy can be found in this section.

7. Operation, Maintenance, and Repair Identification Statement

Your UGLG must establish the amount of reserve funds that will be required to provide operation, maintenance, and repair of the project. This fund should be sufficient to pay for all operation, maintenance, and replacement costs. This must be completed on official letterhead and signed by the appropriate official responsible for OMR upon completion of the project.

8. Relocation, Displacement, and Acquisition Plan

Your UGLG must adopt a Relocation, Displacement, and Acquisition Plan within the past 10 years even if it is not anticipated that displacement will occur. The plan must contain two components: 1. a requirement that it will replace all low/moderate income dwelling units that are demolished or converted to a use other than low/moderate income housing as a direct result of the use of CDBG funds, and; 2. a relocation assistance component. A sample plan can be found at the back of this section.

9. DANR Letter approving Plans and Specifications (if applicable)

The Department of Agriculture & Natural Resources must approve plans and specifications for projects of sanitary significance (water/wastewater projects). A copy of the approval letter must be forwarded to the CDBG project administrator.

10. GOED approval of bid specification books

The bid packet containing all the project specifications must be submitted to GOED. This includes the specifications for general construction, supplies, and materials. The only exception to this requirement is for certain administrative, engineering, and architectural costs. The items that must be included in the packet are explained further in Section E. GOED will notify all parties once it has reviewed and approved the bid packet. **Do not include plans.**

11. Project Status Report

A completed Project Status Report must be sent to GOED immediately after each bid has been awarded. The required form can be found in the back of this section.

12. Certification Regarding Restrictions on Lobbying

Your UGLG must certify within the past 10 years that no federally appropriated funds were or will be used to lobby or influence the making of any federal contract, grant, loan, or cooperative agreement. This applies to any CDBG award exceeding \$100,000. A sample certification can be found in the back of this section.

13. Excessive Force Policy

Your UGLG must adopt an excessive force policy statement within the past 10 years that prohibits the use of excessive force by law enforcement agencies within its jurisdiction against any individuals engaged in non-violent civil rights demonstrations, and enforcing applicable state and local laws against physically barring entrance to or exit from a facility or location which is the subject of such non-violent civil rights demonstration within its jurisdiction. A sample policy can be found in the back of this section.

14. CDBG Disclosure Report

Any UGLG receiving an excess of \$200,000 in HUD funds for a specific project must complete the Disclosure Report. The required forms and directions are located in a separate fillable PDF.

15. SAM Registration

All parties who are receiving federal dollars from the CDBG award must be registered in SAM. This includes the subgrantees, the planning district, and all contractors that will be performing work on the project.

Contractors must affirm their subcontractors are not debarred, suspended, or otherwise ineligible via the relevant forms. As such, subcontractors do not need to register in SAM; however, this does place additional risk on the contractors as those contracts would have to be terminated and they would likely lose funding if it were determined that a subcontractor was ineligible.

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Authorizing Governmental Resolution

PROJECT CERTIFYING OFFICER

Resolution _____

WHEREAS, the (City/County) is a subgrantee of a Community Development Block Grant from the U.S. Department of Housing and Urban Development as administered by the State of South Dakota, and;

WHEREAS, the (City/County) is required to designate a certifying officer for the purpose of signing required documents pertaining to this grant;

NOW THEREFORE, BE IT RESOLVED, that (Name, Title) for the (City/County) be hereby designated as the City's/County's official for the purpose of signing Grant Agreements and Contracts.

AND BE IT FURTHER RESOLVED, that (Name, Title) for the (City/County) be hereby designated as the City's/County's certifying officer for the purpose of signing correspondence, pay requests, and other required documents.

Dated this ___ day of _____, 20xx.

BY: _____
(Signature)

(Printed Name, Title)

ATTEST: _____
(Signature)

(Printed Name, Title)

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Code of Conduct

This sample is for illustration only. Grantees are directed to develop and adopt Individualized Conduct Codes.

PURPOSE

The purpose of this Code of Conduct is to ensure the efficient, fair, and professional administration of federal grant funds in compliance with all applicable federal and state standards, regulations, and laws.

APPLICATION

This Code of Conduct applies to all officers, employees, or agents of the (City/County) engaged in the award or administration of contracts supported by federal grant funds.

REQUIREMENTS

No officer, employee, or agent of the (City/County) shall participate in the selection, award, or administration of a contract supported by federal grant funds, if a conflict of interest, real or apparent, would be involved. Such a conflict would arise when:

- a. The employee, officer, or agent;
- b. Any member of his/her immediate family;
- c. His/her partner; or
- d. An organization that employs or is about to employ any of the above has a financial or other interest in the firm selected for award.

The (City/County) officers, employees, or agents shall neither solicit nor accept gratuities, favors, or anything of monetary value from contractors, potential contractors, or subcontractors.

REMEDIES

To the extent permitted by federal, state, or local laws or regulations, violation of these standards may cause penalties, sanctions, or other disciplinary actions to be taken against the (City's/County's) officers, employees, or agents, or the contractors, potential contractors, subcontractors, or their agents.

EFFECTIVE DATE

This ordinance shall be effective upon publication.

Passed this ____ day of _____, 20xx.

(Signature)

(Chief Elected Official Name, Title)

ATTEST:

(Signature)

(Clerk Name, Title)

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Relocation, Displacement, and Acquisition Plan

This is a sample plan – please adopt it to meet your needs and requirements.

The (City/County) will replace all occupied and vacant occupiable low/moderate-income dwelling units demolished or converted to a use other than as low/moderate-income housing as a direct result of activities assisted with funds provided under the Housing and Community Development Act of 1974, as amended, as described in 24 CFR 570.606 (b)(1).

All replacement housing will be provided within three years of the commencement of the demolition or rehabilitation relating to conversion. Before obligating or expending funds that will directly result in such demolition or conversion, the (City/County) will make public and submit to GOED the following information in writing:

1. A description of the proposed assisted activity;
2. The general location on a map and approximate number of dwelling units by size (number of bedrooms) that will be demolished or converted to a use other than as low/moderate-income dwelling units as a direct result of the assisted activity;
3. A time schedule for the commencement and completion of the demolition or conversion;
4. The general location on a map and approximate number of dwelling units by size (number of bedrooms) that will be provided as replacement dwelling units;
5. The source of funding and a time schedule for the provision of replacement dwelling units; and
6. The basis for concluding that each replacement dwelling unit will remain a low/moderate-income dwelling unit for at least 10 years from the date of initial occupancy.

The (City/County) will provide relocation assistance, as described in 570.606 (b)(2), to each low/moderate-income household displaced by the demolition of housing or by the conversion of a low/moderate-income dwelling to another use as a direct result of assisted activities.

Consistent with the goals and objectives of activities assisted under the Act, the (City/County) will take the following steps to minimize the displacement of persons from their homes:

(Insert steps here)

_____ Signature

_____ Date

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Equal Employment Opportunity Policy

The (City/Town Council or Board of County Commissioners) does hereby declare that it is the fundamental policy of (Name of Subgrantee) to provide equal opportunity to all of its employees and applicants for employment (skilled, unskilled, and professional) and to assure that there shall be no discrimination against any person on the basis of race, color, religion, creed, national origin, sex, age, physical or mental handicap, marital status or political beliefs unless related to a bona fide occupational requirement. To this end, (Name of Subgrantee) will take steps to equalize opportunities for employment at all levels of operation for those classes of people who have traditionally been denied equal opportunity minority group members, women, and the handicapped; and (Name of Subgrantee) recognizes an obligation to make reasonable accommodations to the known physical or mental limitations of an otherwise qualified applicant or employee unless the accommodation imposes an undue hardship.

All applicants for employment with (Name of Subgrantee) will be recruited from the available labor market evaluated on each person's individual qualifications and abilities. All employees shall be afforded equal employment opportunity during their term of employment and are guaranteed protection against retaliation for exercising any legal or administrative procedures to secure right to equal employment or testifying on behalf of someone else doing so.

All administrators and supervisors are responsible for and shall be committed to achieving and promoting equal employment opportunity with (Name of Subgrantee).

(Name and Title) is the equal employment opportunity officer and shall be responsible for coordinating the equal employment opportunity program.

Adoption of this document reaffirms (Name of Subgrantee's) policy of non-discrimination in employment, including but not limited to the following: recruitment, selection, placement, testing, training, promotion, transfer, discipline, demotion, layoff, and termination.

Signature

Chief Elected Official Name, Title

Date

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Resolution Assuring Fair Housing

Resolution: _____

WHEREAS, it is the (City/Town Councils or Board of County Commissioners') firm belief that discrimination in housing not only threatens the rights and privileges of the citizens of (Name of Subgrantee) but also menaces the institutions and foundations of free and democratic society; and,

WHEREAS, this body desires to give meaning to the guarantees of equal rights contained in the Constitution and laws of this State and the United States and to encourage and bring about mutual self-respect and understanding among all citizens and groups in the (City/Town/County); and,

WHEREAS, under the federal fair housing, (Title VIII of the Civil Rights Act of 1968), it is illegal to deny housing to any person because of race, color, religion, sex, or national origin; and,

THEREFORE, BE IT RESOLVED the (Name of Subgrantee), South Dakota, makes a firm commitment to do all within its power to eliminate prejudice, intolerance, disorder, and discrimination in housing.

BE IT FURTHER RESOLVED that the Fair Housing and Equal Opportunity logo will be displayed at (City/Town/County) city/county office and on all official correspondence.

BE IT FURTHER RESOLVED that the following procedures will be used to accomplish the purpose of the resolution:

1. The (City/Town Council/Board of County Commissioners) shall inform all (City/Town/County) employees of the (City/Town/County's) commitment to equal housing.
2. The (City/Town Council/Board of County Commissioners) shall direct all employees to forward immediately to the (Mayor/Chairman) any reports they receive of housing discrimination.
3. The (Mayor/Chairman) shall forward such complaints to the South Dakota Division of Human Rights within 10 days of receipt of said complaint.

Signature _____

Title _____

Date _____

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Project Status Report

If there is more than one bid awarded for this project, please submit a project status report for each awarded bid.

Subgrantee: _____ **CDBG Project #:** _____
Bid Opening Date: _____ **Time:** _____ **Location:** _____

Successful Contractor - Name/address: _____

EIN/TIN: _____ **UEI:** _____ **Phone #** _____

Type of Contract Awarded: ☐ Construction ☐ Materials Only
Amount of the Contract Awarded: \$ _____
Contract Will Cover: ☐ Entire Project ☐ Portion of Project
If Portion Only, What Portion: _____

Davis-Bacon Wage Decision: ☐ Heavy/Highway ☐ Building
Decision Number: _____
Date of Decision: _____
Expiration Date: _____

Percentage of MBE/DBE Participation: _____ %
Contract Amount for MBE/DBE Participation is: \$ _____
Name of MBE/WBE Firm: _____
UEI _____ **EIN/TIN:** _____
Certified By: _____

Percentage of WBE Participation is: _____ %
Contract Amount for WBE Participation is: \$ _____
Name of DBE Firm: _____
UEI Number _____ **EIN/TIN:** _____
Certified By: _____

Construction Start Date: _____ **Completion Date:** _____

Name & Address of Engineer/Consultant: _____

EIN/TIN: _____ **UEI:** _____ **Phone #** _____
Engineer's/Consultant's Contact Person: _____

NOTE FOR CDBG RECIPIENTS: To ensure the continual flow of CDBG funding to your project, you are **REQUIRED** to submit a completed Project Status report to GOED IMMEDIATELY after each bid is awarded. Failure to comply will result in delayed funding.

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Certification Regarding Restrictions on Lobbying

The undersigned certifies, to the best of their knowledge and belief, that:

- (1) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.
- (2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any Federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.
- (3) The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subgrants, and contracts under grants, subgrants, loans, and cooperative agreements) that exceed \$100,000 and that all such subgrantee shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by Section 1352, Title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

BY: _____
(Chief Elected Official Signature)

ATTEST: _____

DATE: _____

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Excessive Force Policy

It is the policy of the (city/county) to prohibit the use of excessive force by law enforcement agencies within its jurisdiction against any individuals engaged in non- violent civil rights demonstrations; furthermore,

The (city/county) will enforce all applicable state and local laws against physically barring entrance to or exit from a facility or location that is the subject of such non-violent civil rights demonstrations within its jurisdiction.

(Mayor or County Commission Chair)

Date

Attest

Date

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SD Governor's Office of Economic Development

Section B – Environmental Requirements

Guidance for Environmental Review & Assessment Processes

Updated
08/2023

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Environmental Requirements

PROJECT CATEGORIZATION

There are four (4) types of environmental review categories which project activities can fall into:

1. **EXEMPT;**
2. **CATEGORICALLY EXCLUDED;**
3. **ENVIRONMENTAL ASSESSMENT;**
4. **ENVIRONMENTAL IMPACT STATEMENT**

Each of these categories entail progressively more detailed requirements and procedures. For example, the environmental review process is more complex for the projects requiring **Environmental Impact Statements** rather than **Exempt** projects. Thus, it is important at the outset for the grantees to determine which review category their project activity(ies) fall into.

PURPOSE

Every project undertaken with state-administered CDBG funds and all activities related to that project are subject to the provisions of the National Environmental Policy Act of 1969 (NEPA). In addition to the NEPA, there are other laws and regulations that contain environmental provisions with which CDBG subgrantees must comply.

The purpose of this section is to provide guidance necessary to prepare the Environmental Review Record (ERR) which is required by NEPA and related laws. In developing the ERR, all activities associated with the project will be assessed with respect to both their beneficial as well as adverse environmental impacts.

SUBGRANTEE RESPONSIBILITIES

There are five (5) basic environmental responsibilities for each CDBG subgrantee. These responsibilities will be further explained in this and subsequent sections. The responsibilities include:

1. **Conducting an Environmental Review.** Subgrantee must determine what type of environmental provisions pertain to its specific project activities. For those that are not EXEMPT or CATEGORICALLY EXCLUDED, the subgrantee will be required to conduct an Environmental Assessment in order to assess what possible environmental impact may be involved.
2. **Maintaining Environmental Review Records.** Subgrantee must establish and maintain an Environmental Review Record (ERR). The ERR will contain all documentation related to determinations, findings, consultation and coordination, certifications, and approvals involved in the environmental review process.

- 3. Providing Public Comment Opportunities.** Except for “exempt” activities, the subgrantee must provide for a period of public comment related to the subgrantee environmental finding and intent to request CDBG funding for affected activities.
- 4. Complying with All Environmental Laws.** Subgrantees must comply with NEPA as well as other related federal law authorities. This compliance responsibility remains for the entire life of the project.
- 5. Environmental Certification and Funding Requests.** The initial environmental review process is not completed until the subgrantee has properly certified its environmental findings and records to the GOED. This certification process also serves as a request for the release of CDBG activity funds.

Glossary of Definitions

- EA** - Environmental Assessment - A determination of the degree of significant impact that an activity will have on the environment and identification of possible alternatives.
- EIS** - Environmental Impact Statement - A detailed investigation of the project's impact on the environment.
- ERR** - Environmental Review Record - Contains all documents related to the environmental review process.
- FONSI** - Finding of No Significant Impact
- FOSI** - Finding of Significant Impact
- GOED** - Governor's Office of Economic Development
- NEPA** - National Environment Policy Act of 1969
- RROF** - Request for Release of Funds

Common Problems With Environmental Reviews

The following are some common problems identified in the environmental review conducted by local grant subgrantee:

1. Getting a late start with the environmental review;
2. Failure to consult all affected agencies;
3. Failure to complete and submit Environmental Review Statutory Checklist (**Form 12**);
4. Incorrect date included in the newspaper notice;
5. Failure to submit a copy of the newspaper clipping of the Notice of Intent to Request Release of Funds (or Concurrent Notice) with Request for Release of Funds;
6. Statement of FONSI not sent to the Environmental Protection Agency or other agencies that were consulted;
7. Failure to address noise, prime agricultural land, or citing near hazardous operation in the review;
8. Failure to properly authorize an Environmental Certifying Officer (**Form 1**);
9. Failure to sign environmental documents such as RROF (**Form 11**), before submitting to GOED; or
10. Failure to make statement of categorical exclusion before declaring exempt status for projects that are categorically excluded and exempt.

Governor's Office of Economic Development Responsibilities

The Governor's Office of Economic Development (GOED) has five (5) primary responsibilities related to the environmental review process.

1. Withholding all CDBG grant funds (not including general administration or planning funds) until the subgrantee has fully and properly certified that all environmental review requirements have been satisfied.
2. Releasing CDBG funds to the subgrantee once the proper environmental certification has been submitted to the GOED and the required comment period has transpired without negative comment or objection. It should be noted that the GOED release of activity funds does not constitute a GOED approval of the subgrantee's findings, but only an acceptance that the certification requirements have been properly satisfied. The subgrantee remains responsible and legally accountable for all environmental findings, even if later any findings are inaccurate or proper review procedures were not followed.
3. If later environmental findings result in a determination that the subgrantee's certification or procedures were inadequate, the GOED is required to withhold further funding to the subgrantee until these findings are resolved. This will require the subgrantee to resubmit its environmental review along with a second public comment period, recertification to the GOED, and a revision to the subgrantee's Environmental Review Record (ERR).
4. The GOED is required to monitor the subgrantee during its project period, including an examination of the subgrantee's environmental review process and ERR.
5. The GOED will provide, to the extent possible and as requested, both guidance and technical assistance to the subgrantee for its environmental review process and ERR.

WHEN TO BEGIN THE ENVIRONMENTAL REVIEW

The subgrantee should begin its environmental review as soon as possible. Since the environmental review processes may become lengthy and complex, it is vital that subgrantees start the process as soon as possible to allow for applicable comment periods and citizen participation. The subgrantee may have to do another environmental review if the process if the project is amended or changed.

PROJECT AGGREGATION

A subgrantee must group together and evaluate as a single project all individual activities which are related either geographically or functionally. For example, several activities carried out in a distinct neighborhood, such as demolition, street paving, and construction of a water line could be grouped together as one project. Grouping activities allow the subgrantee to consider the combined environmental effect of a project, and will lessen the number of ERRs and the accompanying paperwork. The term “project” means an activity, or a group of integrally related activities designed to accomplish, in whole or in part, a specific goal.

SUBGRANTEE ENVIRONMENTAL CERTIFYING OFFICER

When a subgrantee accepts CDBG funding, the subgrantee agrees to assume the legal responsibility as the “responsible Federal Official” as defined by NEPA. The locally appointed official shall serve as the “Environmental Certifying Officer” and accepts full responsibility for the completeness and accuracy of the reviews. Consultants, staff, and/or state resources may provide technical assistance to support local efforts; but the Environmental Certifying Officer retains the responsibility.

The subgrantee’s Environmental Certifying Officer has two principal responsibilities:

1. That of representing the subgrantee for environmental matters and being subject to the jurisdiction of the Federal courts if the subgrantee becomes involved in environmental litigation.
2. That of making sure that all environmental, procedural, and record requirements are fully and properly satisfied and signing all environmental documents.

Subgrantees are required to create and maintain an Environmental Review Record (ERR). This ERR must contain a description of the subgrantee’s program (projects and activities) and a record of all relevant documentation pertaining to the environmental review process and findings. This record should be established at the very beginning of the review process.

The Environmental Review requirements of the NEPA can, at first glance, appear overwhelming; however, when taken step by step, the process can be completed with relative ease. Please keep in mind that, for the most part, activities and projects are unique in their effect on the environment; a project in one community may require a different or more in-depth review than a similar project in a different locality.

Exempt Activities

PROCEDURES:

1. Appoint an Environmental Certifying Officer and submit resolution to GOED. **(Form 1)**
2. Project determined to be exempt.
3. Complete the Documentation of Environmental Exemption form. **(Form 8)**
4. Submit Documentation of Exemption to GOED.
5. GOED notifies the subgrantee of approval.
6. Additional compliance may be necessary to satisfy other CDBG requirements before the drawdown of grant funds.
7. Subgrantee begins the project and may draw down funds.

THE FOLLOWING FORMS MUST BE SUBMITTED TO GOED:

For those projects which were initially declared Exempt:

Form 1 - Environmental Certifying Officer Resolution.

Form 8 - Documentation of Environmental Exemption.

For those projects that were initially declared Categorically Excluded and then declared Exempt:

Form 1 - Environmental Certifying Officer Resolution.

Form 2 - Cover Letter explaining Categorical Exclusion and Exemption.

Form 8 - Documentation of Environmental Exemption.

Form 9 - Documentation of Categorical Exclusion (If applicable).

Form 12 - Environmental Review Statutory Checklist.

EXPLANATION OF “EXEMPT” ACTIVITIES

CDBG activities that fall within one or more of the defined EXEMPT categories below will not require any further environmental review. The exempt categories are:

1. **Environmental Studies.** The reasonable cost of environmental studies, including historic preservation clearances.
2. **Eligible Planning and Urban Environmental Design Costs.** The reasonable cost of comprehensive planning activities or the development of a comprehensive Community Plan or a policy-planning management capacity.
3. **Eligible Administrative Costs.** Payment of reasonable administrative costs and carrying charges related to the planning and execution of Community Development activities financed, in whole or in part, with funds provided under the CDBG program.
4. **Engineering and Design Costs.** If incurred for an activity eligible under the
 - a. South Dakota CDBG program.
5. **Interim Assistance Activities.** Provided assistance is for imminent threats to health and safety, if the assisted activities do not alter environmental conditions and are for temporary or permanent improvements limited to protection, repair, or restoration actions necessary only to control or arrest the effects of imminent threats or physical deterioration.
6. **Other Exempt Activities.** Any of the categorical exclusions listed in the Appendix of this Environmental Section, provided that there are no circumstances which require compliance with the federal laws and authorities identified. The environmental authorities that must be checked are listed in **Form 12**.

REQUIREMENTS

The subgrantee does not need to undertake any environmental review, consultation, or other provisions of law or authorities for the above-referenced exempt activities listed one through five.

A subgrantee does not have to submit a Request for Release of Funds (RROF) and certification to the GOED. However, the subgrantee must document in writing its determination that each activity or project is exempt and meets the conditions specified for such exemption under this section. Approval from the GOED will be needed by the subgrantee for the drawdown of CDBG funds to carry out the exempt activities and projects proposed in the approved application. The form, DOCUMENTATION OF ENVIRONMENTAL EXEMPTION (**Form 8**) activity must be used in documenting the exemption.

The subgrantee needs to be cautioned, however, that if one or more activities within a project are determined to be non-exempt, then the project itself cannot be determined to be exempt. The subgrantee will have to treat a nonexempt project in accordance with the review procedures prescribed for the remaining environmental review categories.

PROCEDURES FOR EXEMPT ACTIVITIES

Once the subgrantee has determined that its activity or project falls into one of the EXEMPT activity categories listed above, the following steps will be followed:

1. Submit its determination of project exemption (**Form 8**) to GOED in writing. This should be accompanied by a **letter** from the subgrantee which must cite the appropriate part under 58.34 of the 24 CFR Part 58 which exempts the local government from the said review. **FORM 2** is a sample letter that fulfills this requirement. **FORM 9** needs to be submitted if applicable.
2. Exempt projects which involve construction, reconstruction, or rehabilitation require sign-off from the State Historical Preservation Officer.
3. Upon receiving this Certification, GOED will prepare a letter to be sent to the subgrantee indicating that this grant payment condition has been satisfied. CDBG funds may not be drawn down until the subgrantee has also satisfied other basic grant payment conditions as explained in Section A of the Grant Administration Guide.

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Categorically Excluded Activities

PROCEDURES:

1. Appoint an Environmental Certifying Officer and submit the resolution to GOED. **(Form 1)**
2. Project determined to be categorically excluded from NEPA environmental review.
3. Complete the Environmental Review Statutory Checklist of environmentally related laws. All determinations made on the checklist must be explained. **(Form 12)**
4. If activities do not impact related laws, the project may be declared exempt. (See Exempt Activities)
5. For all related laws impacted by the activity, contact the appropriate State or Federal agency for clearance.
6. Subgrantee publishes "Notice of Intent to Request Release of Funds" (RROF) in their local newspaper and waits a period of seven days for comments on published RROF. **(Form 7)**
7. After the seven-day comment period expires, the subgrantee sends the Request for Release of Funds and Certification to the GOED. **(Form 11)**
8. After receiving the RROF, the GOED must allow for a 15-day public comment period.
9. If no comments are received by the GOED, the State then notifies the subgrantee of Environmental Clearance and Release of Funds.
10. Additional compliance may be necessary to satisfy other CDBG requirements before the drawdown of grant funds.

THE FOLLOWING FORMS MUST BE SUBMITTED TO THE GOED:

Form 1 - Environmental Certifying Officer Resolution.

Form 3 - Cover letter explaining Categorical Exclusion and RROF.

Form 9 - Documentation of Finding of Categorical Exclusion.

Form 11 - RROF & Certification of Publication for Notice.

Form 12 - Environmental Review Statutory Checklist.

Full tear sheet or Affidavit of Publication of Form 7. The Affidavit is obtained from the publisher of the newspaper.

EXPLANATION OF CATEGORICALLY EXCLUDED ACTIVITIES

A project which is categorically excluded does not need to address the requirements of the NEPA. In general, the NEPA requires an assessment of activities to determine their effects on the environment and what effects the environment will have on the activities. In addition, the NEPA requires the identification of alternative activities.

OTHER ENVIRONMENTAL REQUIREMENTS

Even though a project or activity is categorically excluded from the NEPA requirements, a subgrantee must still comply with the environmental requirements of other related laws and authorities (see **Form 12**). The subgrantee must document its compliance with these other requirements in the Environmental Review Record (ERR).

EXAMPLES OF CATEGORICALLY EXCLUDED ACTIVITIES

The following is a listing of example project types that could qualify as categorically excluded activities. See the environmental regulations in [24 CFR Part 58.35](#) for a more detailed explanation of what projects qualify as categorically excluded projects.

CATEGORICAL EXCLUSIONS SUBJECT TO [58.5](#):

1. Acquisition, construction, reconstruction, rehabilitation, or installation of public facilities and improvements (other than buildings), when the facilities and improvements are in place and will be retained in the same use without change in size or capacity of more than 20 percent (e.g., replacement of water or sewer lines, reconstruction of curbs and sidewalks, repaving of streets).
2. Special projects directed to the removal of material and architectural barriers that restrict the mobility of and accessibility to elderly and handicapped persons.
3. Rehabilitation of buildings and improvements when [certain conditions](#) are met.
4. Acquisition (including leasing) or disposition of, or equity loans on an existing structure, or acquisition (including leasing) of vacant land provided that the structure or land acquired, financed, or disposed of will be retained for the same use.
5. Combination of the above activities.

CATEGORICAL EXCLUSIONS NOT SUBJECT TO [58.5](#):

1. Supportive services including, but not limited to, health care, housing services, permanent housing placement, daycare, nutritional services, short-term payments for rent/mortgage/utility costs, and assistance in gaining access to local, State, and Federal government benefits and services.
2. Operating costs including maintenance, security, operation, utilities, furnishings, equipment, supplies, staff training and recruitment, and other incidental costs.
3. Economic development activities, including but not limited to, equipment purchase, inventory financing, interest subsidy, operating expenses and similar costs not associated with construction or expansion of existing operations.

CIRCUMSTANCES REQUIRING NEPA REVIEW

If a subgrantee determines that an activity or project identified in this section, because of specific circumstances and conditions which exist at the location of the activity or project, may have a significant environmental effect, it shall comply with the NEPA requirements as listed in the Environmental Assessment Section.

PROCEDURES FOR CATEGORICALLY EXCLUDED PROJECTS

Once the subgrantee has determined that its activity/project falls within one or more of the CATEGORICALLY EXCLUDED categories, the following steps will be followed:

1. Complete Environmental Review Statutory Checklist (**Form 12**). When completed, these documents must be made a part of the subgrantee's ERR and available for public review.
2. As the subgrantee proceeds to complete the above form, the subgrantee must consult with the appropriate local, state, and federal agencies that do or might have an environmental interest in the project or activities. The subgrantee must show consultation through documented letters or other forms of written communication. All letters and responses must become a part of the ERR.
3. If the subgrantee has learned through the consultation process that it must comply with certain environmental provisions of other federal environmental laws or regulations, the subgrantee must document in its ERR:
 - A. Which activity(ies) of the project was so affected.
 - B. The nature of compliance required.
 - C. How the subgrantee has or will meet such compliance requirements.
4. If the subgrantee has learned through the consultation process that there are no circumstances that require compliance with the Federal Laws and authorities identified in **Form 12**, then it may declare the project exempt. The subgrantee, however, must proceed with the following steps if there are circumstances that require compliance.

Following the above, the subgrantee must then prepare a public **Notice of Intent to Request Release of Funds (Form 7)**:

1. This notice must be prepared in the manner shown in **Form 7**.
2. At a minimum, this notice must be distributed to the local news media, individuals and groups interested in the project, and appropriate local, state, and federal agencies which must include among them:
 - A. State Historical Preservation Office.
 - B. Regional Office of the U.S. Environmental Protection Agency.
3. This Notice must be published at least once in a general circulation newspaper in the project area. If there is no newspaper, the notice must be prominently displayed at the local post office and also displayed in other public buildings.

4. This Notice must be distributed as explained above and open for public review/comment at least seven (7) days prior to the subgrantee's proceeding with Step 5 below. (Comment period begins the day after the publication or posting of the notice).

At the conclusion of the seven-(7) day period (and assuming there are no adverse comments that require a change to this determination), the subgrantee must then submit to the GOED:

1. A cover letter should accompany these materials. **(FORM 3)**
2. Documentation of Finding of Categorical Exclusion. **(FORM 9)**
3. A copy of the completed Environmental Review Statutory Checklist. **(FORM 12)**
4. Request for Release of Funds and Certification. **(FORM 11)**
5. Full tear sheet or Affidavit of Publication of **FORM 7**. The Affidavit is obtained from the publisher of the newspaper.

After receiving these documents, GOED must allow for a fifteen (15) day public comment period before taking any further action. If no adverse public comments are received by the GOED during this period, the GOED will then send a letter to the subgrantee indicating that the grant condition has been satisfied. CDBG funds may not be drawn down until the subgrantee has also satisfied the other basic grant payment conditions.

Environmental Assessment

PROCEDURES:

1. Appoint an Environmental Certifying Officer and submit the resolution to GOED. **(Form 1)**
2. Project was determined to need a full environmental assessment.
3. Complete the Environmental Assessment Checklist. **(Form 13)** Explanations must be provided for all determinations made.
4. Project found to have No Significant Impact (No Environmental Impact Statement required).
5. Publication of Combined Notice of Finding of No Significant Impact and Notice of Intent to Request Funds. **(Form 5)**
6. Subgrantee waits for 15 calendar days after publication for comments.
7. Subgrantee transmits to GOED Request for Release of Funds (RROF), Certification, and other required documents. **(Form 11)**
8. After receiving the RROF and Certification, GOED must allow for a 15-day public comment period.
9. If no comments are received by GOED, the State then notifies the subgrantee of Environmental Clearance and Release of funds.
10. Additional compliance may be necessary to satisfy other CDBG requirements before drawdown of CDBG funds.

THE FOLLOWING FORMS MUST BE SUBMITTED TO GOED.

Form 1 - Environmental Certifying Officer Resolution.

Form 4 - Cover Letter explaining FONSI and RROF.

Form 10 - Finding of No Significant Impact (FONSI).

Form 11 - Request for Release of Funds (RROF) & Certification of Publication for Notices.

Form 12 - Environmental Review Statutory Checklist.

Form 13 - Environmental Assessment Checklist.

Full tear sheet or Affidavit of publication of Form 5. The Affidavit is obtained from the publisher of the newspaper.

EXPLANATION OF ENVIRONMENTAL ASSESSMENT PROJECTS

If a subgrantee's activity or project is neither EXEMPT nor CATEGORICALLY EXCLUDED from NEPA requirements, the subgrantee will have to undertake an ENVIRONMENTAL ASSESSMENT for the activity or project. An Environmental Assessment (EA) enables the subgrantee and others to determine the degree of significant impact that an activity (by itself or in combination with other activities) may have on the environment.

An Environmental Assessment will permit all interested public agencies, community groups, and individuals to examine the environmental data developed and to comment on the environmental impact findings and course of action determined by the subgrantee.

There is, however, one important exception to the environmental assessment requirement. In some circumstances, the subgrantee may want to forego the EA and proceed directly to the preparation of an ENVIRONMENTAL IMPACT STATEMENT (EIS). An EIS is required for activities/projects that will have a significant impact on the environment. When this determination can be made early, the subgrantee should contact GOED and the EIS process will be explained.

If it is not clearly evident that an EIS is required, then the subgrantee should proceed with the environmental assessment procedures explained in this section.

ENVIRONMENTAL ASSESSMENT PROCESS

The basic documents that subgrantees must prepare for an EA are:

1. Finding of No Significant Impact. **(Form 10)**
2. Environmental Review Statutory Checklist. **(Form 12)**
3. Environmental Assessment Checklist. **(Form 13)**
4. Request for Release of Funds. **(Form 11)**
5. Full tear sheet or Affidavit of Publication of **Form 5**. The affidavit is obtained from the publisher of the newspaper.

If a subgrantee has more than one project, a separate EA will have to be completed for each one. REMEMBER: A project is defined as containing one or more integrally related activities designed to achieve, in whole or in part, a specific program goal.

As the subgrantee begins work on the EA, there are four important procedures to follow:

1. Subgrantees must coordinate their environmental review efforts with all appropriate local, state and federal agencies that have an interest in, or responsibility for, the environmental laws and/or potential impacts of the project.
2. Subgrantees must document the above coordination/consultation and make this documentation a part of the EA and ERR. (Such documentation is normally in the form of written correspondence.)

3. Subgrantees must have in their ERR, all supporting data for analysis and findings (e.g. maps, surveys, charts, tables, technical opinions) contained in the EA.
4. Subgrantees must conclude the Environmental Assessment by indicating the appropriate assessment finding; i.e.,
 - A. **Finding of No Significant Impact** (FONSI), meaning that the project is in compliance with all applicable environmental laws/regulations and that an EIS is not required; or
 - B. **Finding of Significant Impact** (FOSI), meaning that the project may or will have a significant environmental impact, and will require an EIS.

<p>NOTE: If any of the procedures above are not followed, this will constitute the grounds for GOED to withhold CDBG funds from the grantee until all procedures are properly satisfied.</p>

If the subgrantee's EA results in a FONSI determination, then the subgrantee should proceed below. If a FOSI determination is made, the subgrantee must prepare an EIS and should contact GOED for further information.

REQUIRED PUBLIC NOTICES

If the subgrantee has concluded its assessment with a Finding of No Significant Impact (FONSI), then there are two types of public notices required:

1. Finding of No Significant Impact Notice - This Notice must be released for public review and comment. An example of this Notice is contained in **Form 6**. Subgrantees should follow this public notice format. In addition, this Notice must:
 - A. At a minimum, be distributed to the local news media, individuals and groups interested in the project, and appropriate local, state, and federal agencies which must include among them:
 - * State Historical Preservation Officer
 - * Regional Office of the U.S. Environmental Protection Agency.
 - B. Be published at least once in a general circulation newspaper in the project area. If there is no newspaper, this notice must be prominently displayed at the local post office and also displayed in other public buildings.
 - C. Be distributed (as explained above) and open for public review/comment at least fifteen (15) days prior to the subgrantee's proceeding to the certification process.
2. Notice of Intent to Request a Release of Funds - This Notice is required to signify the subgrantee's intent to request from the GOED release of its CDBG activity funds. An example of this Notice is contained in **Form 7**. Subgrantees should

follow this public notice format. The issuance of this notice should follow the same procedures as explained above (1). The minimum time required for a public review and comment on this Notice is only seven (7) days.

NOTE 1: Subgrantees are allowed to publish the above two required notices concurrently rather than separately. This is the simplest, fastest, and least costly method. Form 5 presents an example of this combined notice. The method for issuance of this combined notice is the same as explained above. The minimum time required for public review and comment on this combined notice is fifteen (15) days.

NOTE 2: Subgrantees must consider all comments received based on the public notice process. These comments must be made a part of the ERR. If any comments require the grantee to revise its EA Checklist/FONSI, the grantee is responsible for all those revisions.

NOTE 3: Failure by the grantee to follow all the public notice procedures above will cause GOED to withhold the release of CDBG funds until all procedures are properly satisfied.

NEED FOR REASSESSMENTS

There are several situations that will require the subgrantee to re-evaluate and possibly amend or resubmit its Environmental Assessment. The purpose of a reassessment is to determine whether the subgrantee's FONSI is still valid and to update or correct its ERR. The situations that will require reassessments are as follows:

1. The subgrantee substantially changes its project in nature, magnitude, or extent, including new activities not anticipated in the original project scope and/or cost estimates.
2. There are new circumstances and environmental conditions which may affect the project or have a bearing on its impact, such as concealed or unexpected conditions discovered before or during project implementation.
3. The subgrantee selects an alternative not considered in the original EA.

If one of these situations does arise, the subgrantee will be required to do a reassessment following the procedures on the next page.

- A. If the subgrantee has already certified its original EA with GOED, then the subgrantee must inform the Department of the need for a reassessment. GOED will be required to withhold the release of further CDBG activity funds until this reassessment is completed and recertified to the GOED.

- B. If the subgrantee's FONSI is found to be still valid after the reassessment but the data or conditions upon which it was based have changed, the subgrantee must amend its original EA and update its ERR.
- C. If the subgrantee finds that its original FONSI is no longer valid, it will be necessary to prepare a new EA or EIS, whichever is appropriate.
- D. Where an original FONSI is found to be valid or a new ERR is prepared which results in another FONSI, the subgrantee must once again follow the procedures explained above for public notices, as well as those certification procedures to be explained below.

NOTE: The failure to properly comply with those steps above will constitute the grounds for GOED to withhold or recapture CDBG activity funds.

CERTIFYING PROCEDURES

After subgrantees have completed the EA and public notice requirements, the steps below will need to be followed:

1. Submit the following to the State:
 - A. A cover letter should accompany these materials. **(Form 4)**
 - B. Finding of No Significant Impact. **(Form 10)**
 - C. Environmental Review Statutory Checklist. **(Form 12)**
 - D. Environmental Assessment Checklist. **(Form 13)**
 - E. Request for the Release of Funds and Certification. **(Form 11)**
 - F. Full tear sheet or Affidavit of Publication of **Form 5**. The Affidavit is obtained from the publisher of the newspaper.
2. After receiving the above documents, the GOED must allow for a fifteen (15) day public comment period prior to taking any further action.
3. If no comments are received by the GOED during this period, the State will then send to the subgrantee a Notice of Release of Funds.
4. Once the subgrantee has received the above GOED Notice and has satisfied all the other CDBG conditions, the subgrantee may then begin to draw down payment of these funds by using the Request for Payment form (See section F).

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FORM 1 – Authorizing Governmental Resolution

ENVIRONMENTAL CERTIFYING OFFICER

Resolution _____

WHEREAS, the (City/County) is a subgrantee of a Community Development Block Grant from the U.S. Department of Housing and Urban Development as administered by the State of South Dakota, and;

WHEREAS, the (City/County) is required to designate an environmental certifying officer for the purpose of signing required environmental documents pertaining to this grant,

NOW THEREFORE, BE IT RESOLVED, that (Name, Title), for the (City/County) be hereby designated as the (City's/County's) environmental certifying officer for the purpose of signing correspondence and other required documents and forms.

Dated this (DATE) day of (MONTH), (YEAR).

BY: _____ (Signature)
(Typed Name, Title)

ATTEST: _____ (Signature)
(Typed Name, Title)

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FORM 2 – Letter of Categorical Exclusion and Exemption

(Program Administrator)

Governor's Office of Economic Development
711 East Wells Avenue
Pierre, South Dakota 57501-3369

Dear Program Administrator:

It is the finding and judgment of the (Subgrantee Name) that the Construction Activities of its Community Development Block Grant project, CDBG # (Project Number), are categorically excluded from the requirements of National Environmental Protection Agency. The listed activities are also exempt from any additional environmental review for the following reasons:

They are categorically excluded because:

(site the applicable part of 24 CFR Section 58.35(a) - see Environmental Regulation appendices),

They are exempt because:

Any of the categorical exclusions listed in Section 58.35(a) provided that there are no circumstances which require compliance with any other federal laws and authorities cited in section 58.5 can qualify as an exempt activity.

The project judged categorically excluded and exempt is:

(Describe project).

It is the judgment of the (Subgrantee) that the following environmental laws are not applicable to the proposed project:

National Historic Preservation Act of 1966,
National Environmental Policy Act of 1969,
Clean Air Act,
Flood Disaster Protection Act of 1973,
Preservation of Historic and Archeological Data Act of 1974,
Coastal Zone Management Act of 1972,
Safe Drinking Water Act, P.L.93-523,
Endangered Species Act of 1973, P.L.93-205,
Reservoir Salvage Act of 1960,
Wild & Scenic River Act of 1968

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FORM 3 – Categorical Exclusion and Request of Release of Funds

(Program Administrator)

Governor's Office of Economic Development
711 East Wells Avenue
Pierre, South Dakota 57501-3369

Dear Program Administrator:

This letter is to notify the Governor's Office of Economic Development that the (Subgrantee) has determined that its Community Development Block Grant project, CDBG # (Project Number), is categorically excluded from the preparation of an Environmental Assessment. Enclosed is an Environmental Review Statutory Checklist and a Finding of Categorical Exclusion citing the appropriate section of the HUD regulations and listing the activities that have been determined to be Categorical Excluded.

Also enclosed is the Request for Release of Funds and Certification along with the publication of the Notice to the Public for Request for Release of Funds, as specified by HUD regulations 24 CFR Part 58.71.

In addition, the (Subgrantee) hereby states that it has complied with HUD regulations concerning the coordination and compliance of this project with all other Federal and State laws and authorities as specified by 24 CFR Part 58.50 and has documented this compliance in its Environmental File.

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FORM 4 – Finding of No Significant Impact and Request for Release of Funds

(Program Administrator)

Governor's Office of Economic Development
711 East Wells Avenue
Pierre, South Dakota 57501-3369

Dear Program Administrator:

This letter is to advise the Governor's Office of Economic Development that the (Subgrantee) has completed an Environmental Assessment of its Community Development Block Grant project, CDBG # (Project Number) and has determined that the release of funds for the project activities is not an action which would significantly affect the quality of the environment and no Environmental Impact Statement is required.

This conclusion is the result of observations by the environmental Certifying Officer and other individuals and agencies involved in the environmental review. The consensus opinion is that the (description of project) will not negatively affect existing land use or other environmental concerns.

Also, enclosed you will find the Request for Release of Funds and Certification along with the publication for the Notice to the Public for Request for Release of Funds as specified by HUD regulations 24 CFR Part 58.71. In addition, the (Subgrantee) hereby states that it has complied with HUD regulations concerning the coordination and compliance of this project with all other Federal and State laws and authorities as specified by CFR Part 58.5 and has documented this compliance in its Environmental File.

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FORM 5 – Combined Notice of FONSI and Notice of Intent to Request Funds

(Date of Publication)

(Subgrantee)

(Address, City, Zip Code)

(Phone Number)

TO ALL INTERESTED AGENCIES, GROUPS, AND PERSONS:

The purpose of this notice is to identify two separate but related actions to be taken by the (Subgrantee).

On or (date about 15 days after the date of this publication) the above-named (Subgrantee) will request the Governor's Office of Economic Development (GOED) to release Federal funds under Title I of the Housing and Community Development Act of 1974 as amended (PL 97-35) for the following project:

(Project Title or Name)

(Purpose or Nature of the Project)

(Location - City, County, State-of Project)

(Estimated Cost of Project)

It has been determined that such request for release of funds will not constitute an action significantly affecting the quality of the human environment and accordingly the above-named (Subgrantee) has decided not to prepare an Environmental Impact Statement under the National Environmental Policy Act of 1969 (PL 91-190).

The reasons for such decision not to prepare such Statement are as follows:

(Insert reasoning for the decision)

An Environmental Review Record of the project has been made by the (Subgrantee) which documents the environmental review of the project and more fully sets forth the reasons why such Statement is not required. This Environmental Review Record is on file at the above address and is available for public examination and copying upon request at (insert address).

between the hours of _____ and _____. No further Environmental Review of this project is proposed prior to the request for release of Federal funds.

All interested agencies, groups, and persons disagreeing with this decision are invited to submit written comments for consideration by the (Subgrantee) to the (office of the undersigned or other specified place). Comments should specify which notice, Finding of No Significant Impact, or Intent to Request Release of Funds, is being addressed. Such written comments will be received at (the address specified) on or before (date about 15 days after the date of this publication).

All comments received will be considered and the (Subgrantee) will not request the release of Federal funds or take any administrative action on the project prior to the date specified in the preceding sentence.

The (Subgrantee) will undertake the project described herein with Community Development Block Grant funds from the Governor's Office of Economic Development (GOED) under Title I of the Housing and Community Development Act of 1974. The (Subgrantee) is certifying to the Governor's Office of Economic Development that the (Subgrantee) and Chief Executive Officer or other Certifying Officer approved by GOED in their official capacity as Project Environmental Officer consent to accept the jurisdiction of the Federal courts if an action is brought to enforce responsibilities in relation to environmental reviews, decision-making, and action; and that these responsibilities have been satisfied. The legal effect of the certification is that upon its approval the (Subgrantee) may use the Block Grant funds and the State and HUD will have satisfied their responsibilities under the National Environmental Policy Act of 1969.

GOED will accept an objection to its approval only if it is on one of the following basis: (a) that the certification was not in fact executed by the environmental certifying officer or other officer of the applicant approved by the GOED, or (b) that applicant's environmental review record for the project indicates omission of a required decision, finding or step applicable to the project in the environmental review process. Objections may be addressed to the Governor's Office of Economic Development, Community Development Block Grant Program, 711 E. Wells Avenue, Pierre, South Dakota 57501-3369.

Objections to the release of funds on a basis other than those stated above will not be considered by GOED. No objection received after (date***) will be considered by the State.

(Name of Environmental Certifying Officer)

(Address)

(City, State Zip Code)

(Telephone Number)

SPECIAL INSTRUCTIONS CONCERNING DATE:

*** Estimate this date from the time the Subgrantee anticipates GOED will receive the request. The state's 15-day comment period commences the day after receipt of the Request for Release of Funds and Certification.

NOTE: Comment periods begin the day after the notice is published. If you are unsure as to the appropriate length of time to allow, please contact GOED.
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FORM 6 – Notice of FONSI on the Environment

(Date of publication)

(Subgrantee)

(Address)

(City, State Zip Code)

(Telephone Number)

TO ALL INTERESTED AGENCIES, GROUPS, AND PERSONS:

The above-named (Subgrantee) proposes to request the Governor's Office of Economic Development (GOED) to release funds under Title I of the Housing and Community Development Act of 1974, as amended, to be used for the following project:

(Project Title or Name)

(Purpose or Nature of the Project)

(Location - City, County, State-of Project)

(Estimated Cost of Project)

It has been determined that such request for release of funds will not constitute an action significantly affecting the quality of the human environment and, accordingly, the above-named (Subgrantee) has decided not to prepare an Environmental Impact Statement under the National Environmental Policy Act of 1969 (PL 91-190).

The reasons for such decision not to prepare such Statement are as follows:

(State the reasons for the decision)

An Environmental Review Record of the project has been made by the (Subgrantee) which documents the environmental review of the project and more fully sets forth the reasons why such Statement is not required. This Environmental Review Record is on file at the above address and is available for public examination and copying upon request at (insert address) between the hours of [] and []. No further Environmental Review of this project is proposed prior to the request for release of Federal funds.

All interested agencies, groups, and persons disagreeing with this decision are invited to submit written comments for consideration by the (Subgrantee) to the (office of the undersigned or other specified place). Finding of No Significant Impact, or Intent to Request Release of Funds, is being addressed. Such written comments will be received at (the address specified) on or before (date 15 days after date of publication).

All comments received will be considered and the (Subgrantee) will not request the release of Federal funds or take any administrative action on the project prior to the date specified in the preceding sentence.

(Name of Environmental Certifying Officer)

(Address)

(City, State Zip Code)

(Telephone Number)

<p>NOTE: Comment periods begin the day after the notice is published. If you are unsure as to the appropriate length of time to allow, please contact GOED.</p>
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FORM 7 – Notice of Intent to Request the Release of Funds

(Date of publication)

(Subgrantee)

(Address)

(City, State Zip Code)

(Telephone Number)

TO ALL INTERESTED AGENCIES, GROUPS, AND PERSONS:

On or about (date seven (7) days after date of publication) the above named (Subgrantee) will request the Governor's Office of Economic Development to release funds under Title I of the Housing and Community Development Act of 1974, as amended, for the following project:

(Project Title or Name)

(Purpose or Nature of the Project)

(Location - City, County, State-of Project)

(Estimated Cost of Project)

An Environmental Review Record for the project has been made by the (Subgrantee) which documents the environmental review of the project. The Environmental Review Record is on file at the above address and is available for public examination and copying, upon request.

The (Subgrantee) will undertake the project described herein with Community Development Block Grant funds from the Governor's Office of Economic Development under Title I of the Housing and Community Development Act of 1974. The (Subgrantee) is certifying to the Governor's Office of Economic Development that the (Subgrantee) and Chief Executive Officer or other Certifying Officer approved by the Governor's Office of Economic Development in her/his official capacity as Project Environmental Officer consent to accept the jurisdiction of the Federal courts if an action is brought to enforce responsibilities in relation to environmental reviews, decision-making and action; and that these responsibilities have been satisfied. The legal effect of the certification is that upon its approval the (Subgrantee) may use the Block Grant funds and the State and HUD will have satisfied their responsibilities under the National Environmental Policy Act of 1969.

The Governor's Office of Economic Development will accept an objection to its approval only if it is on one of the following basis: (a) that the certification was not in fact executed by the environmental certifying officer or other officer of applicant approved by the GOED, or (b) that applicant's environmental review record for the project indicates omission of a required decision, finding or step applicable to the project in the environmental review process. Objections may be

addressed to the Governor’s Office of Economic Development, Community Development Block Grant Program, 711 E. Wells Avenue, Pierre, South Dakota 57501-3369.

Objections to the release of funds on a basis other than those stated above will not be considered by the GOED. No objection received after ***** (date)** will be considered by the State.

(Name of Environmental Certifying Officer)

(Address)

(City, State Zip Code)

(Telephone Number)

SPECIAL INSTRUCTIONS CONCERNING DATE:

*** Estimate this date from the time the applicant anticipates the GOED will receive the request. This time period for objections received by the GOED does not run concurrently with the local seven (7) day comment period allowed the public. The 15-day objection period of the State commences the day after the GOED receives the “Request for Release of Funds and Certification.”

<p>NOTE: Comment periods begin the day after the notice is published. If you are unsure as to the appropriate length of time to allow, please contact GOED.</p>

FORM 8 – Documentation of Environmental Exemption

DOCUMENTATION OF ENVIRONMENTAL EXEMPTION

1. Name of Subgrantee: (Insert Name)
2. Environmental Certifying Officer: (Printed Name)

Signature: _____ Date: _____
3. Project Name: (Insert Project Name)
4. Activity Description: (List exempt activities here)
5. This activity is being declared exempt pursuant to 24 CFR 58.34(a): (Reference which citations in section [24 CFR 58.34\(a\)](#) at the end of this section prove the above activities are exempt. *Example: Administrative activities are exempt under #3, found here [24 CFR 58.34\(o\)\(3\)](#))*

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FORM 9 – Finding of Categorical Exclusion

FINDING OF CATEGORICAL EXCLUSION

It is the finding and judgment of the (Subgrantee) that the Activities of its Community Development Block Grant project, CDBG # (Project Number) are:

☐ categorically excluded *subject to* 58.5

In accordance with the provisions of law cited in [§ 58.1\(b\)](#), the responsible entity certifies that it has complied with the requirements that would apply to HUD under these laws and authorities and must consider the criteria, standards, policies, and regulations of the laws and authorities as defined in [24 CFR 58.5](#).

☐ categorically excluded *not subject to* 58.5

from environmental review requirements because they are listed as categorical exclusions in Section 58.35 consisting solely of:

(list activities and CFR citations here)

The listed activities are also exempt from any additional environmental review.

The projects judged categorically excluded are: (List projects that are CATEX).

Certification of Completion of Environmental Review Process

I hereby certify that this project has undergone a complete Environmental Review.

(Signature of Environmental Certifying Officer)

(Date)

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FORM 10 – FONSI

CERTIFICATION OF FINDING OF NO SIGNIFICANT IMPACT

On the basis of this review, I find that this project **IS NOT** a major federal action which would significantly affect the quality of the human environment, and an Environmental Impact Statement is not required.

(Signature of Environmental Certifying Officer)

(Date)

CERTIFICATION OF COMPLETION OF ENVIRONMENTAL REVIEW PROCESS:

I hereby certify that this project has undergone a complete Environmental Review.

(Signature of Environmental Certifying Officer)

(Date)

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FORM 11 – Request for Release of Funds and Certification

ENVIRONMENTAL

1. SUBGRANTEE NAME	2. GRANT NO.
3. SUBGRANTEE ADDRESS <i>(Include Street, City, State & Zip)</i>	4. DATE OF REQUEST/CERTIFICATION

5. REQUEST FOR RELEASE OF FUNDS. Release of approved grant funds for the following project is requested:

PROJECT NAME: (Insert Project Name)

6. CERTIFICATION - With reference to said project, it is hereby certified:

- a) That the subgrantee has at least seven (7) days prior to submitting this request for release of funds and certification, published in a newspaper of general circulation in the community affected, a notice to the public (a copy of which is attached hereto).
- b) That the subgrantee has fully carried out its responsibilities for environmental review, decision-making and action pertaining to the project named in the above request for release of funds.
- c) That the level of environmental clearance carried out by the subgrantee in connection did not require the preparation and dissemination of an environmental impact statement.
- d) That the dates upon which all statutory time periods for review, comment, or other response or action in regard to the aforesaid clearance commenced and expired as indicated below; that all such dates which are applicable to the aforesaid clearance are indicated below and that with the expiration of each of the time periods indicated below, subgrantee is in compliance with the requirements of 24 CFR Part 58.

Item	Commence Month/Date/Year	Expire Month/Date/Year
Notice of Finding of No Significant Impact (FONSI) Publication		
FONSI Comment Period		
Notice of Intent to Prepare an Environmental Impact Statement (EIS) Publication		
Draft EIS Comment Period		
Draft EIS 90-Day Period		
Final EIS 30-Day Period		
7-Day Notice of Intent to Request Release of Funds Publication		
15-Day State Decision Period		

That the undersigned office of the subgrantee is authorized to, and does consent to assume the status of responsible federal official, under the National Environmental Policy Act of 1969, insofar as the provisions of said act apply to the state's responsibilities for environmental review, decision-making and action assumed and carried out by the subgrantee; that by so consenting, the undersigned officer of subgrantee assumes the responsibilities, where applicable for the conduct of environmental review, decision-making, and action as to environmental issues, preparation of such statements on behalf of federal agencies other than the state when such agencies consent to such assumption;

That the undersigned officer of the subgrantee is authorized to consent, personally, and on behalf of the subgrantee, to accept the jurisdiction of the federal courts, for the enforcement of all the aforesaid responsibilities; and that the undersigned does so consent, on behalf of the subgrantee and of the undersigned, in the official capacity of the undersigned.

(Signature)
(Printed Name & Title)
(Address)
(City, St, Zip)

FORM 12 – Statutory Checklist

SUBGRANTEE: _____ **GRANT ID NO:** _____
ACTIVITY / PROJECT: _____ **CERTIFYING OFFICER:** _____
DATE: _____

All determinations need explanation. Reference to documentation sources, notes, and correspondence. Attach additional sheets if necessary.

ENVIRONMENTAL AREA

(check only
one box)

No Consultation Required

Consultation Required and Completed

Permit Required and Obtained

Project Consistent with Applicable Plans / Standards

Conditions/Safeguards Mitigation Required

	No Consultation Required	Consultation Required and Completed	Permit Required and Obtained	Project Consistent with Applicable Plans / Standards	Conditions/Safeguards Mitigation Required	
1. HISTORIC PRESERVATION						
2. FLOOD HAZARD PROTECTION						
3. WETLANDS						
4. DRINKING WATER/ GROUNDWATER PROTECTION						
5. ENDANGERED SPECIES						
6. AIR QUALITY						
7. SOLID WASTE						
8. WATER QUALITY						
9. NOISE STANDARDS						

10. HAZARDS						
11. FARMLAND PROTECTION						
12. AIRPORT RUNWAY CLEAR ZONES						

INSTRUCTIONS FOR COMPLETING ENVIRONMENTAL REVIEW STATUTORY CHECKLIST

1. HISTORIC PRESERVATION - *APPLICABLE TO ALL ACTIONS.*

Does the project affect local, state or potential historic, architectural, or archeological resources?
Gather input from:

State Historic Preservation Officer;

Those with local historic interests;

Field screening review of project impact area including sites associated with:

- Events significant to our history;
- The lives of persons significant in our past;
- Distinctive characteristics of a type, period, method of construction, or that represents the work of a master craftsman, or that possess high artistic value;
- Information important in prehistory or history;
- A part of a district that possesses distinctive characteristics, integrity of location, design, setting, materials, workmanship, feeling, and association.

2. FLOOD HAZARD PROTECTION—*APPLICABLE TO ANY ACTIONS PROPOSED FOR CONSTRUCTION IN A FLOODPLAIN.*

Is project affected by or will it modify the base 100-year flood hazard area? (Review Flood Hazard Boundary Map or Flood Insurance Rate Map). If appears applicable, contact U.S. Corps of Engineers.

3. WETLANDS—*APPLICABLE TO ANY ACTION PROPOSED FOR CONSTRUCTION IN OR NEAR A WETLAND.*

Are wetlands affected by project action? If applicable, contact U.S. Fish and Wildlife Service and South Dakota Department of Game, Fish and Parks. Also, if cut and fill occurs in a “waterway” a Corps of Engineers “404” permit may be necessary, particularly if such work may affect wetlands.

4. DRINKING WATER AND GROUNDWATER PROTECTION—*APPLICABLE TO ANY PROJECT THAT MAY CONTAMINATE AN AQUIFER DESIGNATED BY EPA AS A SOLE SOURCE OF DRINKING WATER FOR A COMMUNITY.*

Does project affect aquifer recharge area which is a primary source of local drinking water? Does it adversely affect other groundwater supplies? If applicable, contact South Dakota Department of Environment and Natural Resources, Office of Drinking Water.

5. ENDANGERED SPECIES—*APPLICABLE TO ANY PROJECT WHICH MAY JEOPARDIZE ENDANGERED OR THREATENED SPECIES OR DESTROY CRITICAL HABITAT.*

Are endangered species or wildlife habitat area impacted by project? If natural setting present, consult U.S. Fish and Wildlife Service and South Dakota Department of Game, Fish and Parks.

6. AIR QUALITY—*APPLICABLE TO ALL ACTIONS.*

Does project conform to latest approved State Implementation Plan regarding air quality? Would project induce air pollution concentrations? If housing project, is project impacted by an aggregate of air pollutant sources, i.e., transit terminals, freeway and highways, large scale parking lots and similar line and point sources? If applicable, contact South Dakota Department of Environment and Natural Resources, Office of Air Quality.

7. SOLID WASTE—*APPLICABLE TO ANY ACTIVITY WHICH GENERATES SOLID WASTE.*

Is project adversely affected by sanitary landfill area, abandoned dumps, or other solid waste or hazardous waste disposal site? If applicable, contact the South Dakota Department of Environment and Natural Resources, Office of Solid Waste.

8. WATER QUALITY—*APPLICABLE TO ANY ACTIVITY THAT MAY AFFECT WATER QUALITY.*

Does project conform to State Water Quality Standards and EPA effluent discharge requirements? If water quality is affected, contact the South Dakota Department of Environment and Natural Resources, Office of Water Quality. Does the activity involve disposal or placement of dredged or fill material in navigable water? If so, contact the U.S. Corps of Engineers for 404 permit.

9. NOISE STANDARDS—*APPLICABLE TO ALL ACTIONS.*

Is project affected by or induce noise impacts on residential land use in excess of HUD's exterior standard of 65 DNL or interior standard of 45 DNL?

10. HAZARDS—*APPLICABLE TO ALL ACTIONS.*

Per 24 CFR PART 51 C & D: Is the project to be constructed near hazardous operations handling petroleum products or chemicals of an explosive or flammable nature? If so, calculate Acceptable Separation Distance. Consult with local fire department or State Fire Marshall.

11. FARMLANDS PROTECTION—*APPLICABLE TO ANY ACTIVITY WHERE CONSTRUCTION TAKES PLACE IN OR NEAR PRIME AGRICULTURAL LANDS.*

Is the activity going to encourage the conversion of prime, unique or locally important farmland? Consult with the Soil Conservation Service.

12. AIRPORT RUNWAY CLEAR ZONES—*APPLICABLE TO ANY ACTIONS PROPOSED FOR CONSTRUCTION NEAR A CIVIL AIRPORT OR MILITARY AIRFIELD.*

Is any part of this project located in the Runway Clear Zones at civil airports designated by the FAA as commercial service airports and for Clear Zones and Accident Potential Zones at military airfields. Consult with South Dakota Department of Transportation, Office of Local Government Assistance.

The following is a list of designated commercial service airports covered by 24 CFR Part 51D

Aberdeen	Aberdeen Regional
Brookings	Brookings Municipal
Huron	Huron Regional
Pierre	Pierre Municipal
Rapid City	Rapid City Regional
Sioux Falls	Joe Foss Field
Watertown	Watertown Municipal
Yankton	Chan Gurney Municipal

Military Airfield

Box Elder	Ellsworth Air Force Base
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You may want to consult with the South Dakota Department of Transportation concerning any above-ground construction projects that are near any airports not listed above.

AGENCY ADDRESSES

HISTORIC PRESERVATION:

State Historical Preservation Office
Cultural Heritage Center
900 Governors Drive
Pierre, SD 57501

ENDANGERED SPECIES AND WETLANDS:

U.S. Department of the Interior
U.S. Fish and Wildlife Service
420 S. Garfield Ave., Suite 400
Pierre, SD 57501

South Dakota Department of Game, Fish and Parks
Division of Wildlife
Joe Foss Building
523 East Capitol
Pierre, SD 57501

GROUND/DRINKING WATER QUALITY:

South Dakota Department of Environment and Natural Resources
Division of Environmental Quality
Joe Foss Building
523 East Capitol
Pierre, SD 57501

FLOOD HAZARD:

Flood Plain Management Branch
Planning Division
215 N. 17th Street
Omaha, NE 68102-4978

FONSI DISTRIBUTION:

Director, Federal Agency Liaison Division
Office of Federal Activities (A-104)
Environmental Protection Agency
1200 Pennsylvania Ave NW
Washington, DC 20460

U.S. EPA Region 8
8OC-EISC
1595 Wynkoop St
Denver, CO 80202-1129

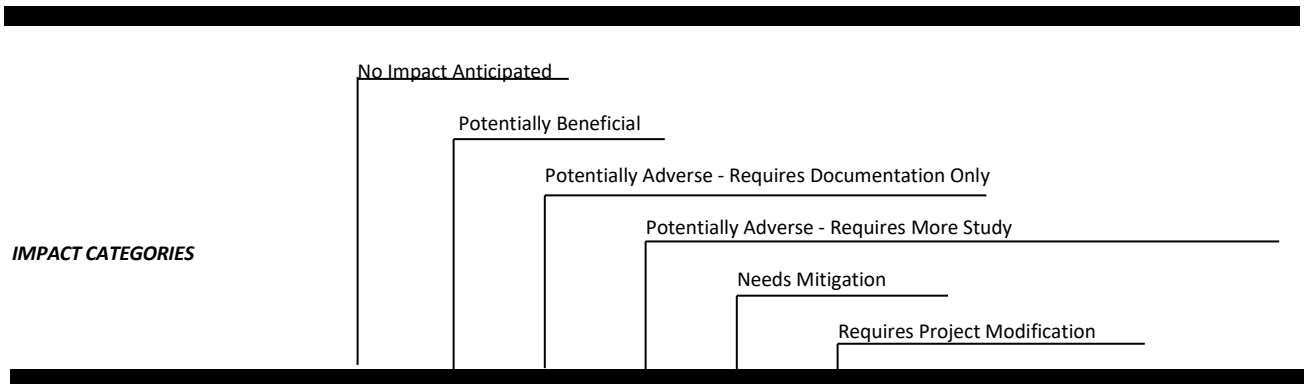
FORM 13 – Environmental Assessment Checklist

SUBGRANTEE: _____

GRANT #: _____

PROJECT: _____

DATE: _____



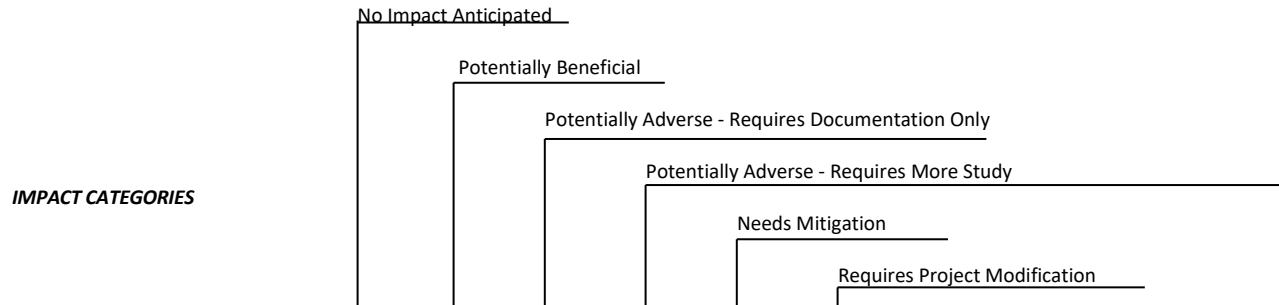
Land Development

Conformance With Comprehensive Plans and Zoning							
Compatibility and Urban Impact							
Slope							
Erosion							
Soil Suitability							
Hazards and Nuisances Including Site Safety - Hud Notice 79 - 33, 24 CFR Part 51 C&D							
Energy Consumption							

Noise

Effects of Ambient Noise on Project and Contribution to Community Noise Levels							
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FORM 13 – Environmental Assessment Checklist Page 2



Air Quality

Effects of Ambient Air Quality on Project and Contribution to Community Levels							
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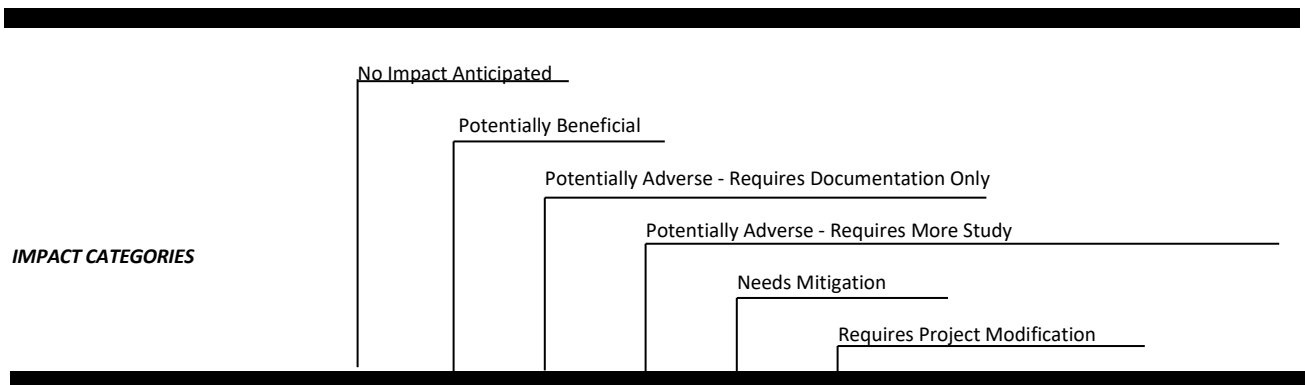
Environmental Design and Historic Values

Visual Quality - Coherence, Diversity, Compatible Use & Scale							
Historical, Cultural, and Archaeological Resource							

Socioeconomic

Demographic / Character Changes							
Displacement							
Employment and Income Patterns							

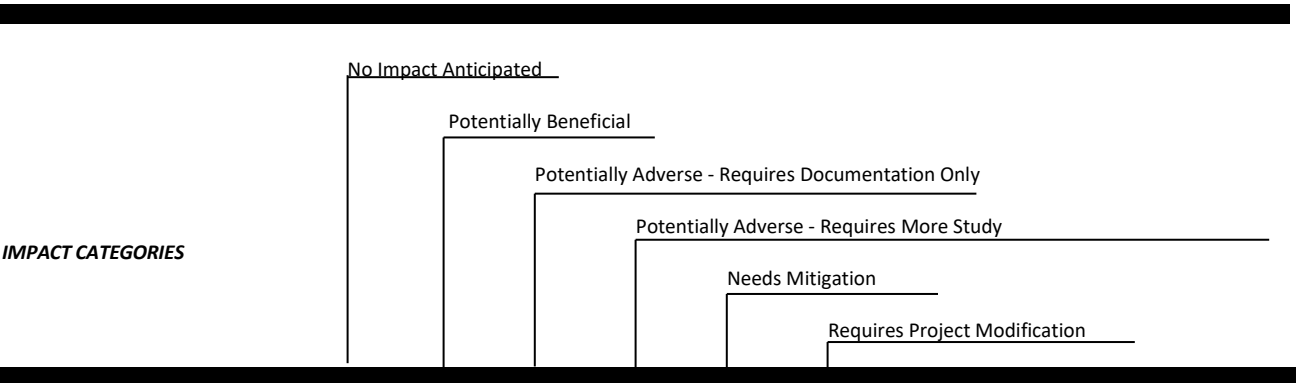
FORM 13 – Environmental Assessment Checklist Page 3



Community Facilities and Services

Educational Facilities							
Commercial Facilities							
Health Care							
Social Services							
Solid Waste							
Wastewater							
Storm Water							
Water Supply							
Public Safety							
Police							
Fire							
Emergency							
Medical							
Open Space & Recreation							
Open Space							
Recreation							
Cultural Facilities							
Transportation							

FORM 13 – Environmental Assessment Checklist Page 4



Natural Features

Water Resources							
Surface Water							
Floodplains							
Wetlands							
Coastal Zone							
Unique Natural Features and Agricultural Lands							
Vegetation and Wildlife							

FORM 13 – Environmental Assessment Checklist Page 5

Summary of Findings and Conclusions:

Summary of Environmental Conditions:

Project Modifications and Alternatives Considered:

Additional Studies Performed (Attach Study or Summary):

Mitigation Measures Needed:

- | | | |
|---|------------------------------|-----------------------------|
| 1. Is the project in compliance with applicable laws and regulations? | <input type="checkbox"/> Yes | <input type="checkbox"/> No |
| 2. Is an EIS required? | <input type="checkbox"/> Yes | <input type="checkbox"/> No |
| 3. A finding of No Significant Impact (FONSI) can be made.
Project will not significantly affect the quality of the human environment. | <input type="checkbox"/> Yes | <input type="checkbox"/> No |

Prepared by:

(Planning District Contact)

(Planning District)

Date: (Date)

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Environmental Regulations

Part I: Environmental procedure for Title I Community Development Block Grant Programs.

24 CFR Part 58 Subpart D.

Title 24: Housing and Urban Development

PART 58—ENVIRONMENTAL REVIEW PROCEDURES FOR ENTITIES ASSUMING HUD

ENVIRONMENTAL RESPONSIBILITIES

Subpart D—Environmental Review Process: Documentation, Range of Activities, Project Aggregation and Classification

§58.30 Environmental review process.

(a) The environmental review process consists of all the actions that a responsible entity must take to determine compliance with this part. The environmental review process includes all the compliance actions needed for other activities and projects that are not assisted by HUD but are aggregated by the responsible entity in accordance with §58.32.

(b) The environmental review process should begin as soon as a recipient determines the projected use of HUD assistance.

§58.32 Project aggregation.

(a) A responsible entity must group together and evaluate as a single project all individual activities which are related either on a geographical or functional basis or are logical parts of a composite of contemplated actions.

(b) In deciding the most appropriate basis for aggregation when evaluating activities under more than one program, the responsible entity may choose: *functional aggregation* when a specific type of activity (e.g., water improvements) is to take place in several separate locales or jurisdictions; *geographic aggregation* when a mix of dissimilar but related activities is to be concentrated in a fairly specific project area (e.g., a combination of water, sewer and street improvements and economic development activities); or *a combination of aggregation approaches*, which, for various project locations, considers the impacts arising from each functional activity and its interrelationship with other activities.

(c) The purpose of project aggregation is to group together related activities so that the responsible entity can:

(1) Address adequately and analyze, in a single environmental review, the separate and combined impacts of activities that are similar, connected and closely related, or that are dependent upon other activities and actions. (See 40 CFR 1508.25(a)).

(2) Consider reasonable alternative courses of action.

(3) Schedule the activities to resolve conflicts or mitigate the individual, combined and/or cumulative effects.

(4) Prescribe mitigation measures and safeguards including project alternatives and modifications to individual activities.

(d) *Multi-year project aggregation—(1) Release of funds.* When a recipient's planning and program development provide for activities to be implemented over two or more years, the responsible entity's environmental review should consider the relationship among all component activities of the multi-year project regardless of the source of funds and address and evaluate their cumulative environmental effects. The estimated range of the aggregated activities and the estimated cost of the total project must be listed and described by the responsible entity in the environmental review and included in the RROF. The release of funds will cover the entire project period.

(2) When one or more of the conditions described in [§58.47](#) exists, the recipient or other responsible entity must re-evaluate the environmental review.

[§58.33](#) Emergencies.

(a) In the cases of emergency, disaster or imminent threat to health and safety which warrant the taking of an action with significant environmental impact, the provisions of [40 CFR 1506.11](#) shall apply.

(b) If funds are needed on an emergency basis and adherence to separate comment periods would prevent the giving of assistance during a Presidentially declared disaster, or during a local emergency that has been declared by the chief elected official of the responsible entity who has proclaimed that there is an immediate need for public action to protect the public safety, the combined Notice of FONSI and Notice of Intent to Request Release of Funds (NOI/RROF) may be disseminated and/or published simultaneously with the submission of the RROF. The combined Notice of FONSI and NOI/RROF shall state that the funds are needed on an emergency basis due to a declared disaster and that the comment periods have been combined. The Notice shall also invite commenters to submit their comments to both HUD and the responsible entity issuing the notice to ensure that these comments will receive full consideration.

[61 FR 19122, Apr. 30, 1996, as amended at 68 FR 56129, Sept. 29, 2003]

[§58.34](#) Exempt activities.

(a) Except for the applicable requirements of [§58.6](#), the responsible entity does not have to comply with the requirements of this part or undertake any environmental review, consultation or other action under NEPA and the other provisions of law or authorities cited in [§58.5](#) for the activities exempt by this section or projects consisting solely of the following exempt activities:

- (1) Environmental and other studies, resource identification and the development of plans and strategies;
- (2) Information and financial services;
- (3) Administrative and management activities;
- (4) Public services that will not have a physical impact or result in any physical changes, including but not limited to services concerned with employment, crime prevention, child care, health, drug abuse, education, counseling, energy conservation and welfare or recreational needs;
- (5) Inspections and testing of properties for hazards or defects;

- (6) Purchase of insurance;
- (7) Purchase of tools;
- (8) Engineering or design costs;
- (9) Technical assistance and training;
- (10) Assistance for temporary or permanent improvements that do not alter environmental conditions and are limited to protection, repair, or restoration activities necessary only to control or arrest the effects from disasters or imminent threats to public safety including those resulting from physical deterioration;
- (11) Payment of principal and interest on loans made or obligations guaranteed by HUD;
- (12) Any of the categorical exclusions listed in [§58.35\(a\)](#) provided that there are no circumstances which require compliance with any other Federal laws and authorities cited in [§58.5](#).

(b) A recipient does not have to submit an RROF and certification, and no further approval from HUD or the State will be needed by the recipient for the drawdown of funds to carry out exempt activities and projects. However, the responsible entity must document in writing its determination that each activity or project is exempt and meets the conditions specified for such exemption under this section.

[61 FR 19122, Apr. 30, 1996, as amended at 63 FR 15271, Mar. 30, 1998]

[§58.35](#) Categorical exclusions.

Categorical exclusion refers to a category of activities for which no environmental impact statement or environmental assessment and finding of no significant impact under NEPA is required, except in extraordinary circumstances (see [§58.2\(a\)\(3\)](#)) in which a normally excluded activity may have a significant impact. Compliance with the other applicable Federal environmental laws and authorities listed in [§58.5](#) is required for any categorical exclusion listed in paragraph (a) of this section.

(a) *Categorical exclusions subject to §58.5.* The following activities are categorically excluded under NEPA, but may be subject to review under authorities listed in [§58.5](#):

(1) Acquisition, repair, improvement, reconstruction, or rehabilitation of public facilities and improvements (other than buildings) when the facilities and improvements are in place and will be retained in the same use without change in size or capacity of more than 20 percent (e.g., replacement of water or sewer lines, reconstruction of curbs and sidewalks, repaving of streets).

(2) Special projects directed to the removal of material and architectural barriers that restrict the mobility of and accessibility to elderly and handicapped persons.

(3) Rehabilitation of buildings and improvements when the following conditions are met:

(i) In the case of a building for residential use (with one to four units), the density is not increased beyond four units, and the land use is not changed;

(ii) In the case of multifamily residential buildings:

(A) Unit density is not changed more than 20 percent;

(B) The project does not involve changes in land use from residential to non-residential; and

(C) The estimated cost of rehabilitation is less than 75 percent of the total estimated cost of replacement after rehabilitation.

(iii) In the case of non-residential structures, including commercial, industrial, and public buildings:

(A) The facilities and improvements are in place and will not be changed in size or capacity by more than 20 percent; and

(B) The activity does not involve a change in land use, such as from non-residential to residential, commercial to industrial, or from one industrial use to another.

(4)(i) An individual action on up to four dwelling units where there is a maximum of four units on any one site. The units can be four one-unit buildings or one four-unit building or any combination in between; or

(ii) An individual action on a project of five or more housing units developed on scattered sites when the sites are more than 2,000 feet apart and there are not more than four housing units on any one site.

(iii) [Paragraphs \(a\)\(4\)\(i\)](#) and [\(ii\)](#) of this section do not apply to rehabilitation of a building for residential use (with one to four units) (see [paragraph \(a\)\(3\)\(i\)](#) of this section).

(5) Acquisition (including leasing) or disposition of, or equity loans on an existing structure, or acquisition (including leasing) of vacant land provided that the structure or land acquired, financed, or disposed of will be retained for the same use.

(6) Combinations of the above activities.

(b) *Categorical exclusions not subject to §58.5.* The Department has determined that the following categorically excluded activities would not alter any conditions that would require a review or compliance determination under the Federal laws and authorities cited in [§58.5](#). When the following kinds of activities are undertaken, the responsible entity does not have to publish a NOI/RROF or execute a certification and the recipient does not have to submit a RROF to HUD (or the State) except in the circumstances described in [paragraph \(c\)](#) of this section. Following the award of the assistance, no further approval from HUD or the State will be needed with respect to environmental requirements, except where [paragraph \(c\)](#) of this section applies. The recipient remains responsible for carrying out any applicable requirements under [§58.6](#).

(1) Tenant-based rental assistance;

(2) Supportive services including, but not limited to, health care, housing services, permanent housing placement, day care, nutritional services, short-term payments for rent/mortgage/utility costs, and assistance in gaining access to local, State, and Federal government benefits and services;

(3) Operating costs including maintenance, security, operation, utilities, furnishings, equipment, supplies, staff training and recruitment and other incidental costs;

(4) Economic development activities, including but not limited to, equipment purchase, inventory financing, interest subsidy, operating expenses and similar costs not associated with construction or expansion of existing operations;

(5) Activities to assist homebuyers to purchase existing dwelling units or dwelling units under construction, including closing costs and down payment assistance, interest buydowns, and similar activities that result in the transfer of title.

(6) Affordable housing pre-development costs including legal, consulting, developer and other costs related to obtaining site options, project financing, administrative costs and fees for loan commitments, zoning approvals, and other related activities which do not have a physical impact.

(7) Approval of supplemental assistance (including insurance or guarantee) to a project previously approved under this part, if the approval is made by the same responsible entity that conducted the environmental review on the original project and re-evaluation of the environmental findings is not required under [§58.47](#).

(c) *Circumstances requiring NEPA review.* If a responsible entity determines that an activity or project identified in [paragraph \(a\)](#) or [\(b\)](#) of this section, because of extraordinary circumstances and conditions at or affecting the location of the activity or project, may have a significant environmental effect, it shall comply with all the requirements of this part.

(d) The Environmental Review Record (ERR) must contain a well-organized written record of the process and determinations made under this section.

[61 FR 19122, Apr. 30, 1996, as amended at 63 FR 15272, Mar. 30, 1998; 68 FR 56129, Sept. 29, 2003; 78 FR 68734, Nov. 15, 2013]

[§58.36](#) Environmental assessments.

If a project is not exempt or categorically excluded under §§58.34 and 58.35, the responsible entity must prepare an EA in accordance with [subpart E of this part](#). If it is evident without preparing an EA that an EIS is required under §58.37, the responsible entity should proceed directly to an EIS.

[§58.37](#) Environmental impact statement determinations.

(a) An EIS is required when the project is determined to have a potentially significant impact on the human environment.

(b) An EIS is required under any of the following circumstances, except as provided in paragraph (c) of this section:

(1) The project would provide a site or sites for, or result in the construction of, hospitals or nursing homes containing a total of 2,500 or more beds.

(2) The project would remove, demolish, convert or substantially rehabilitate 2,500 or more existing housing units (but not including rehabilitation projects categorically excluded under §58.35), or would result in the construction or installation of 2,500 or more housing units, or would provide sites for 2,500 or more housing units.

(3) The project would provide enough additional water and sewer capacity to support 2,500 or more additional housing units. The project does not have to be specifically intended for residential use nor does it have to be totally new construction. If the project is designed to provide upgraded

service to existing development as well as to serve new development, only that portion of the increased capacity which is intended to serve new development should be counted.

(c) If, on the basis of an EA, a responsible entity determines that the thresholds in paragraph (b) of this section are the sole reason for the EIS, the responsible entity may prepare a FONSI pursuant to [40 CFR 1501.4](#). In such cases, the FONSI must be made available for public review for at least 30 days before the responsible entity makes the final determination whether to prepare an EIS.

(d) Notwithstanding paragraphs (a) through (c) of this section, an EIS is not required where [§58.53](#) is applicable.

(e) *Recommended EIS Format.* The responsible entity must use the EIS format recommended by the CEQ regulations ([40 CFR 1502.10](#)) unless a determination is made on a particular project that there is a compelling reason to do otherwise. In such a case, the EIS format must meet the minimum requirements prescribed in [40 CFR 1502.10](#).

[§58.38](#) Environmental review record.

The responsible entity must maintain a written record of the environmental review undertaken under this part for each project. This document will be designated the “Environmental Review Record” (ERR) and shall be available for public review. The Departmental Environmental Clearance Officer (DECO) shall establish a prescribed format that the responsible entity shall use to prepare the ERR. The DECO may prescribe alternative formats as necessary to meet specific program needs.

(a) *ERR Documents.* The ERR shall contain all the environmental review documents, public notices and written determinations or environmental findings required by this part as evidence of review, decision making and actions pertaining to a particular project of a recipient. The document shall:

(1) Describe the project and the activities that the recipient has determined to be part of the project;

(2) Evaluate the effects of the project or the activities on the human environment;

(3) Document compliance with applicable statutes and authorities, in particular those cited in §58.5 and 58.6; and

(4) Record the written determinations and other review findings required by this part (e.g., exempt and categorically excluded projects determinations, findings of no significant impact).

(b) *Other documents and information.* The ERR shall also contain verifiable source documents and relevant base data used or cited in EAs, EISs or other project review documents. These documents may be incorporated by reference into the ERR provided that each source document is identified and available for inspection by interested parties. Proprietary material and special studies prepared for the recipient that are not otherwise generally available for public review shall not be incorporated by reference but shall be included in the ERR.

[61 FR 19122, Apr. 30, 1996, as amended at 79 FR 49229, Aug. 20, 2014]

SD Governor's Office of Economic Development

Section C - Civil Rights

Requirements for civil rights compliance.

Updated
08/2023

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Civil Rights

All CDBG recipients are required to comply with the provisions of several civil rights mandates in the administration of their projects. For the most part, activity in civil rights compliance will entail record-keeping and assurances. The grant recipient must always demonstrate compliance with the pertinent civil rights requirements.

CDBG staff requires local governments to document their efforts to assure civil rights compliance by adopting an EQUAL EMPLOYMENT OPPORTUNITY POLICY and a RESOLUTION ASSURING FAIR HOUSING. A copy should be retained in the grant recipient's CDBG file.

The requirements for taking affirmative action in soliciting minority-owned and women-owned businesses are thoroughly addressed in Contract Documents, Bidding, and Procurement. (Section E)

Before the project is closed out, the CIVIL RIGHTS COMPLIANCE CERTIFICATION must be completed, signed, and submitted to GOED. Furthermore, EEO-4 Reporting must be completed by each grant recipient with 100 or more full-time employees.

The following is a list of the Federal laws, policies, and Executive Orders that pertain to civil rights and their basic requirements.

TITLE VI OF THE CIVIL RIGHTS ACT OF 1964 (P.L. 88-352)

This generally provides that no person shall be excluded from participation, denied benefits, or subjected to discrimination on the basis of race, color, or national origin under any program or activity receiving federal financial assistance. (Further requirements are specified in 24 CFR Part 1.)

TITLE VIII OF THE CIVIL RIGHTS ACT OF 1968, AS AMENDED

This generally prohibits discrimination in housing on the basis of race, color, religion, sex, or national origin. (Further requirements are specified in 24 CFR Part 115.)

SECTION 109 OF TITLE I OF THE HOUSING AND COMMUNITY DEVELOPMENT ACT OF 1974, AS AMENDED (42 U.S.C. 5309),

This generally provides that no person shall be excluded from participation (including employment), denied program benefits, or subjected to discrimination on the basis of race, color, national origin, or sex under any program or activity funded in whole or in part under Title I of this Act. (Further requirements are specified in 24 CFR 570.601.)

THE AGE DISCRIMINATION ACT OF 1975, AS AMENDED (42 U.S.C. 6101 et seq.),

This generally 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 funds.

SECTION 504 OF THE REHABILITATION ACT OF 1973, AS AMENDED (P.L. 93-112),

This generally provides that no otherwise qualified individual shall, solely by reason of his or her handicap, be excluded from participation, denied program benefits or subjected to discrimination on the basis of age under any program or activity receiving federal funds.

SECTION 3 OF THE HOUSING AND URBAN DEVELOPMENT ACT OF 1968, AS AMENDED (12 U.S.C. 1701u)

It provides that, to the greatest extent feasible, opportunities for training and employment that arise through HUD-financed projects shall be given to lower-income residents of the project area. Section 3 also provides that contracts awarded in connection with such projects be awarded to businesses owned, in substantial part, by residents of the project area.

EXECUTIVE ORDER 11063

It generally provides that no person shall, on the basis of race, color, religion, sex or national origin, be discriminated against in housing and related facilities provided with federal assistance, or discriminated against in lending practices with respect to residential property when such practices are connected with loans insured or guaranteed by the federal government (further requirements are specified in 24 CFR Part 107).

EXECUTIVE ORDER 11246 and 11375

This will require specific language to be included in all subgrantee subcontracts of more than \$10,000. This is already included in the CDBG Conditions (see the Chapter entitled Contract Documents and Bidding.)

AFFIRMATIVE ACTION IN FAIR HOUSING

In addition to complying with Title VIII of the Civil Rights Act of 1968, recent amendments to the federal CDBG legislation now require that all subgrantees will take affirmative action to further fair housing opportunities in their communities.

Subgrantees under 2,500 in population can meet this requirement by publishing a notice that the subgrantee will assist any person, who believes that he/she is aggrieved in a fair housing action, in filing a complaint with the U.S. Department of Housing and Urban Development.

Subgrantees of over 2,500 in the population are required to take additional action to affirmatively further fair housing. An example of activities that can fulfill this requirement include the adoption of a fair housing ordinance; the use of the equal opportunity slogan and logo on city letterhead; and the creation of a local housing authority.

AFFIRMATIVE ACTION IN SOLICITING MINORITY-OWNED AND WOMEN-OWNED BUSINESSES

All subgrantees should make every effort to solicit the participation of minority and women-owned businesses in its contracting under their CDBG Program. Subgrantees should include qualified minority and women-owned businesses on its solicitation lists and solicit their participation whenever they are potential sources. Subgrantees should keep documentation of their efforts in soliciting minority-owned and women-owned businesses. (See Section entitled Contract Documents and Bidding for additional requirements on soliciting minority- and women-owned businesses.)

TELECOMMUNICATIONS DEVICE FOR THE DEAF (TDD)

The Department of Housing and Urban Development (HUD) regulations at 24 CFR, Section 8.6 (A)(2) require that all recipients and subgrantees have a TDD or an equally effective communication alternative. The Communication Service for the Deaf in Sioux Falls has available the South Dakota relay service for hearing-impaired persons. This relay service is designed to enable a person using a TDD to communicate with another person who does not use a TDD.

The telephone numbers for the South Dakota Relay Service are:

1-800-877-1113	State Wide Toll-Free
1-605-339-6464	Sioux Falls area
1-605-339-6464	Outside of South Dakota

EXCESSIVE FORCE POLICY

To receive Title I funds, your local unit of government must adopt and enforce an excessive force policy statement that will prohibit the use of excessive force by law enforcement agencies within its jurisdiction against any individuals engaged in non-violent civil rights demonstrations; and enforce applicable state and local laws against physically barring entrance to or exit from a facility or location which is the subject of such non-violent civil rights demonstrations within its jurisdiction. This may be done in the form of a motion at a regularly scheduled commission meeting.

LOBBYING

As recipients of CDBG funds, your UGLG must adopt a certification regarding Restrictions on Lobbying. This certifies that no federally appropriated funds have or will be paid to influence the making of this grant.

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Civil Rights Compliance Certification

SUBGRANTEE _____ CDBG PROJECT NUMBER _____

PART A - Please answer the following questions regarding the **Subgrantee's** employment data:

1. Do you follow equal opportunity guidelines in advertising employment vacancies in your government? ☐ Yes ☐ No
2. Do you have written employment/personnel policies and are practices available for review? ☐ Yes ☐ No
3. Do you have employment records available? ☐ Yes ☐ No
4. Is your employment data detailed enough to determine your staff composition by:
 - Sex? ☐ Yes ☐ No
 - Race? ☐ Yes ☐ No
 - Handicap Status? ☐ Yes ☐ No
 - National Origin? ☐ Yes ☐ No
5. Is your position/salary information detailed enough to access hiring, training, promotion, and compensation practices? ☐ Yes ☐ No
6. Does your employment data indicate any deficiencies in providing employment opportunities to any group? ☐ Yes ☐ No
If yes, briefly describe: (insert explanation)
7. Do you have 100 or more employees? (Do not count elected officials.) If yes, you must complete Form EEO-4. ☐ Yes ☐ No

PART B – Please answer the following questions regarding Civil Rights compliance on your **CDBG funded activities**:

1. Do you maintain complete records for each activity, including:
 - Descriptions of project type? ☐ Yes ☐ No
 - Expenditures? ☐ Yes ☐ No
 - Location of project? ☐ Yes ☐ No
 - Dates of project? ☐ Yes ☐ No
2. Can you provide an identification of and summary counts of individuals who received direct services or assistance for each activity by:
 - Minority Group Status? ☐ Yes ☐ No
 - Sex? ☐ Yes ☐ No
 - Income Status? ☐ Yes ☐ No
3. Can you provide the calculation of benefits by various population groups for the CDBG Project by:
 - Proportion each group represents in total population receiving the benefits. ☐ Yes ☐ No
 - Proportion each group represents to total population. ☐ Yes ☐ No

4. Do you maintain demographic and economic data to permit the calculation of benefits to various groups from project area activities? ☐ Yes ☐ No
5. Do you maintain calculations of such benefits for:
- | | | |
|---------------------|------------------------------|-----------------------------|
| Minorities? | <input type="checkbox"/> Yes | <input type="checkbox"/> No |
| Women? | <input type="checkbox"/> Yes | <input type="checkbox"/> No |
| Low-Income Persons? | <input type="checkbox"/> Yes | <input type="checkbox"/> No |

If yes, complete the following.

Project Beneficiary Information

	# Total	# Hispanic
White:		
Black/African American:		
Asian:		
American Indian/Alaskan Native:		
Native Hawaiian/Other Pacific Islander:		
American Indian/Alaskan Native & White:		
Asian & White:		
Black/African American & White:		
Am. Indian/Alaskan Native & Black/African Am.:		
Other Multi-Racial:		
Total Number Benefiting from Activity:		
Single Parent-Headed Household:		

If you answered NO to any of the questions 1-5, in Part B, use the space below to provide an explanation as to why you answered in this manner. Also state what action you will take to make the data available.

(Insert explanation here)

The undersigned certifies that the information presented in this report is correct.

Chief Elected Official: (Printed Name) _____

Signature: _____

Title: (Title) _____

Date: (Date) _____

SD Governor's Office of Economic Development

Section D – Professional Services

Guidance for professional services payments and contracts.

Updated
08/2023

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Payment for Professional Services

Costs incurred for engineering and other professional services will be allowed as eligible costs for reimbursement from the CDBG funds if those costs are incurred **after** the following:

1. The grant agreement between the State and the applicant has been completed.
2. The environmental review for the project has been completed.
3. The grant recipient has followed the procurement procedures detailed in 24 CFR PART 85 as contained in this Administration Manual.

Costs incurred before the completion of the above items will be ineligible for local share and reimbursement with CDBG funds.

If the grant recipients determine that waiting for the completion of the environmental review will delay planning studies or the design of the project, then the recipient may write an environmental exemption for the services needed to design the project. The exemption is explained in the Environmental Review section of this manual under Exempt Activities. Contact GOED for information or assistance on this exemption.

Contracts for professional services **may not** include the percentage of construction agreements.

Agreements that are eligible include:

1. Lump Sum Contracts; and
2. Cost Plus Fixed Fee Contracts.

Applications for CDBG assistance, if applicable, must contain estimates for professional costs. The contracts must contain a financial and monetary breakdown of the major work items to be performed. The State reserves the right to review contracts in order to assure reasonable costs and appropriate work items are included in the contract.

Billings for professional services shall be supported with sufficient documentation in order to allow the responsible payment agency and final project audit firm to verify costs.

NOTE: The Provisions on the following pages must be included in all professional service contracts.

Professional Services Contracts

Equal Employment Opportunity

During the performance of this contract, the Consultant agrees as follows:

The Consultant will not discriminate against any employee or applicant for employment because of race, creed, sex, color, or national origin. The Consultant will take affirmative action to ensure that applicants are employed and that employees are treated during employment, without regard to their race, creed, sex, color, or national origin. Such action shall include, but not be limited to the following: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The Consultant agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the city setting forth the provisions of this nondiscrimination clause.

The Consultant will, in all solicitation or advertisements for employees placed by or on behalf of the Consultant, state that all qualified applicants will receive consideration for employment without regard to race, creed, color, sex, or national origin.

The Consultant will cause the foregoing provisions to be inserted in all subcontracts for any work covered by this Contract so that such provisions will be binding upon each subcontractor, provided that the foregoing provisions shall not apply to contracts or subcontracts for standard commercial supplies or raw materials.

Civil Rights Act of 1964

Under Title VI of the Civil Rights Act of 1964, no person shall, on the grounds of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance.

Section 109 of the Housing and Community Development Act of 1974

No person in the United States shall on the grounds of race, color, national origin, or sex be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity funded in whole or in part with funds made available under this title.

“Section 3” Compliance in the Provision of Training, Employment and Business Opportunities

The work to be performed under this contract is on a project assisted under a program providing direct Federal financial assistance from the Department of Housing and Urban Development and is subject to the requirements of Section 3 of the Housing and Urban Development Act of 1968, as amended, 12 U.S.C. 1701u. Section 3 requires that to the greatest extent feasible opportunities for training and employment be given lower income residents of the project area and contracts for work in connection with the project be awarded to business concerns which are located in or owned in substantial part by persons residing in the area of the project.

The parties to this contract will comply with the provisions of said Section 3 and the regulations issued pursuant thereto by the Secretary of Housing and Urban Development set forth in 24 CFR Part 570, and all applicable rules and order of the Department issued thereunder prior to the execution of this contract. The parties to this contract certify and agree that they are under no contractual or other disability which would prevent them from complying with these requirements.

The contractor will send to each labor organization or representative of workers with which he has a collective bargaining agreement or other contract or understanding, if any, a notice advising the said labor organization or workers' representative of his commitments under this Section 3 clause and shall post copies of the notice in conspicuous places available to employees and applicants for employment or training.

The contractor will include this Section 3 clause in every subcontract for work in connection with the project and will, at the direction of the applicant for or recipient of Federal financial assistance, take appropriate action pursuant to the subcontract upon a finding that the subcontractor is in violation of regulations issued by the Secretary of Housing and Urban Development, 24 CFR Part 135. The contractor will not subcontract with any subcontractor where it has notice or knowledge that the latter has been found in violation of regulations under 24 CFR Part 135 and will not let any subcontract unless the subcontractor has first provided it with a preliminary statement of ability to comply with the requirements of these regulations.

Compliance with the provisions of Section 3, the regulations set forth in 24 CFR Part 135, and all applicable rules and orders of the Department issued hereunder prior to the execution of the contractor, shall be a condition of the federal financial assistance provided to the project, binding upon the applicant or recipient for such assistance, its successors and assigns. Failure to fulfill these requirements shall subject the applicant or recipient, its contractors and subcontractors, its successors and assigns to those sanctions specified by the grant or loan agreement through which federal assistance is provided, and to such sanctions as are specified by 24 CFR Part 135.

Section 504 Handicapped (if \$2,500 or Over) Affirmative Action for Handicapped Workers.

The contractor will not discriminate against any employee or applicant for employment because of physical or mental handicap in regard to any position for which the employee or applicant for employment is qualified. The contractor agrees to take affirmative action to employ, advance in employment and otherwise treat qualified handicapped individuals without discrimination based upon their physical or mental handicap in all employment practices such as the following: employment, upgrading, demotion or transfer, recruitment, advertising, layoff or termination, rates of pay or other forms of compensation, and selection for training, include apprenticeship.

The contractor agrees to comply with the rules, regulations, and relevant orders of the Secretary of Labor issued pursuant to the Act.

In the event of the contractor's noncompliance with the requirements of this clause, actions for noncompliance may be taken in accordance with the rules, regulations, and relevant orders to the Secretary of Labor issued pursuant to the Act.

The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices in a form to be prescribed by the Director, provided by or through the contracting officer. Such notices shall state the contractor's obligation under the law to take affirmative action to employ and advance in employment qualified handicapped employees and applicants for employment, and the rights of applicants and employees.

The contractor will notify each labor union or representative of workers with which it has a collective bargaining agreement or other contract understanding, that the contractor is bound by the terms of Section 503 of the Rehabilitation Act of 1973, and is committed to take affirmative action to employ and advance in employment physically and mentally handicapped individuals.

The contractor will include the provisions of this clause in every subcontract or purchase order to \$2,500 or more unless exempted by rules, regulations, or orders of the Secretary issued pursuant to Section 503 of the Act, so that such provisions will be binding upon each subcontractor with respect to any subcontract or purchase order as the Director of the Office of Federal Contract Compliance Programs may direct to enforce such provisions, including action for noncompliance.

SD Governor's Office of Economic Development

Section E – Bid Manual

Guidance and templates for the bid process.

Updated
08/2023

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Summary of Bidding Procedures

The appropriate State and Federal Procurement Standards must be complied with when procuring contractual services for CDBG projects. These include the South Dakota statutes on bidding procedures as well as the requirements set forth in HUD Regulations 2 CFR Part 200. A brief outline of the proper bidding procedure is provided below.

1. Assure that the proper CDBG Conditions and Contract Documents are included in your bidding documents. The conditions must also contain the proper MBE/WBE goals and most recent Davis-Bacon wage rates;
2. Subgrantees sponsoring projects of sanitary significance must comply with ARSD Chapter 74:53:04 and Chapter 74:53:05. A letter of approval from the Department of Agriculture and Natural Resources on the project plans and specifications will be necessary for these projects. Works of sanitary significance are defined as any activity that significantly impacts a public water supply, such as a wastewater conveyance, or a treatment facility. The term public is defined as “that which is available to the people at large or to any considerable number of members of the public indiscriminately”.
3. Submit a copy of all project specifications (bid document only, not a copy of the plans) to the GOED.
4. Advertise for bids twice (at least 10 days prior to bid opening);
Advertise the first time in the subgrantee’s official newspaper.
5. Conduct pre-bid meeting (recommended to explain CDBG special provisions);
6. Hold bid opening;
7. Award contracts; and
8. Conduct pre-construction meeting.

THE FOLLOWING ITEMS SHOULD BE INCLUDED IN THE SUBGRANTEE’S PERMANENT FILE

1. Affidavit of Publication (Bid Advertisement);
2. All project plans and specifications;
3. Engineer’s/architect’s estimate;
4. Certified bid tabs;
5. Resolution of intent to award contract;
6. A copy of the executed contract;
7. Bid, Performance, and Payment bonds;
8. Sub-contracts with DBE/MBE/WBE firms;
9. MBE assurance form and certification of non-segregated facilities;
10. Section 3 documentation; and
11. BABA documentation.

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List of Contract Documents

FOR CONSTRUCTION OF FEDERALLY ASSISTED PROJECTS

CONTRACT FORMS

FORM 1: Advertisement for Bids	Page 6
FORM 2: Information for Bidders	Page 8
FORM 3: Bid Proposal	Page 11
FORM 4: Bid Bond	Page 14
FORM 5: Agreement	Page 20
FORM 6: Performance and Payment Bond	Page 22
FORM 7: Notice of Award	Page 28
FORM 8: Notice to Proceed	Page 30
FORM 9: Change Order	Page 32

CDBG SPECIAL PROVISIONS – Instructions to Bidders

Part A: Nondiscrimination in Employment	Page 34
Part B: DBE & WBE Requirements	Page 42
Part C: DBE & WBE Assurance	Page 50
Part D: Section 3	Page 54
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Part F: Labor Provisions	Page 64
Part G: Certification of Nondiscrimination	Page 72
Part H: Segregated Facilities	Page 74
Part I: Suspended or Debarred Contractors Certification	Page 76
Part J: Contractor Excise Tax License	Page 78
Part K: Payments to Contractors	Page 80
Part L: Construction Progress Schedule	Page 82
Part M: Wage Determination	Page 84
Part N: Access	Page 86
Part O: Buy America Preference (BABA) Provisions	Page 88
Part P: Procurement Methods	Page 90
Part Q: Additional Labor Forms	Page 92

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FORM 1 – Advertisement for Bids

Owner:

(Owner)

(Address)

(City St Zip)

Notice is hereby given that sealed bids will be received by the (Subgrantee) for construction of (Project Name). Project scope will include the following:

- (briefly describe nature, scope, and major elements of the work)

The Bids must be prepared on bid forms supplied in the Bidding Documents and filed with office of the (Subgrantee name & Address) not later than (time, timezone), (date), at which time and place all Bids will be publicly opened and read aloud in the presence of the Bidders and their representatives. No bids will be received after the specified hour and date, and Bids that are not prepared and filed in accordance with “Instructions to Bidders” may be rejected.

A complete set of paper Drawings, Specifications, and Bidding Documents may be examined at the following location(s): (Engineer/Architect Name, Address, phone number), or may be ordered online from (website if applicable) upon a **non-refundable** payment in the amount of \$XXX.XX including taxes for each set of Bidding Documents. Electronic copies are available and can be ordered and downloaded from the above website for a \$XX.XX **non-refundable** fee.

Upon request, in accordance with South Dakota Codified Law 5-18B-1, one copy of **electronic or paper** Plans and Specifications shall be furnished, without charge, to each Prime Contractor resident in South Dakota who intends, in good faith, to submit a bid to the (Subgrantee).

Additionally, if a paper copy is provided under the conditions of SDCL 5-18B-1, in consideration of the documents being provided at no charge, unsuccessful bidders agree to return the documents to the office of (Engineer/Architect), at the address listed above, within thirty (30) days after the bid opening.

A pre-bid conference will be held at (time, time zone) on (date) at the (address of pre-bid conference).

The low responsive bidder will be required to certify the following:

- (insert project-specific conditions and provisions here)
- Build America Buy America and related acts provisions apply to this project. All provisions relative to those acts must be met.
- Davis-Bacon and related acts provisions apply to this project. All provisions relative to those acts must be met. Davis Bacon wage rates must be used.
- All contractors must be registered in SAM (System for Award Management). It is the Bidder’s responsibility to ensure any subcontractors are not on the debarred contractors list.
- Bidders must comply with the requirements of Public Law 115-232, Section 889, Prohibition of Certain Telecommunications and Video Surveillance Services or Equipment.

Payment for all work shall be in cash based on monthly estimates.

Bids may not be withdrawn after the time fixed for opening them. The Owner reserves the right to reject any and all bids, and to waive any irregularities therein.

By: (Subgrantee)

Date: (Date)

FORM 2 – Information for Bidders

BIDS will be received by (Subgrantee) (herein called the "OWNER"), at (Subgrantee Name/Address) no later than (time, timezone), (date), at which time and place all Bids will be publicly opened and read aloud in the presence of the Bidders and their representatives.

Each BID must be submitted in a sealed envelope. Each sealed envelope containing a BID must be plainly marked on the outside as BID for (Project Name). The envelope should also bear on the outside the name and address of the BIDDER. If forwarded by mail or other delivery system, the sealed envelope containing the Bid must be sealed in another envelope, with the notation "BID ENCLOSED" on the face thereof, and addressed to (Subgrantee & address).

All BIDS must be made on the required BID form. All blank spaces for BID prices must be filled in, in ink or typewritten, and the BID form must be fully completed and executed when submitted. Only one copy of the BID form is required.

The OWNER may waive any informalities for minor defects or reject any and all BIDS. Any BID may be withdrawn prior to the above scheduled time for the opening of BIDS or authorized postponement thereof. Any BID received after the time and date specified shall not be considered. No BIDDER may withdraw a BID until 30 days after the actual date of the opening thereof, if no contract has been awarded in that time. Should there be reasons why the contract cannot be awarded within the specified period, the time may be extended by mutual agreement between the OWNER and the BIDDER.

BIDDERS must satisfy themselves of the accuracy of the estimated quantities in the BID Schedule by examination of the site and a review of the drawings and specifications including ADDENDA. After BIDS have been submitted, the BIDDER shall not assert that there was a misunderstanding concerning the quantities of WORK or of the nature of the WORK to be done.

The successful bidder— including any contractors and their subcontractors on the project, must be registered in SAM (System for Award Management).

The OWNER shall provide to BIDDERS prior to BIDDING, all information that is pertinent to, and delineates and describes, the land owned and rights-of-way acquired or to be acquired.

The CONTRACT DOCUMENTS contain the provisions required for the construction of the PROJECT. Information obtained from an officer, agent, or employee of the OWNER or any other person shall not affect the risks or obligations assumed by the CONTRACTOR or relieve him from fulfilling any of the conditions of the contract.

Each BID must be accompanied by a BID BOND payable to the OWNER for ten percent of the total amount of the BID. As soon as the BID prices have been compared, the OWNER will return the BONDS of all except the three lowest responsible BIDDERS. When the Agreement is executed, the bonds of the two remaining unsuccessful BIDDERS will be returned. The BID BOND of the successful BIDDER will be retained until the PAYMENT BOND and PERFORMANCE BOND have been executed and approved, after which it will be returned. A certified check, cashier's check, or bank draft in the amount of five percent (5%) of the total sum of the BID may be used in lieu of a BID BOND.

A PERFORMANCE BOND and a PAYMENT BOND, in the amount of 100 percent of the CONTRACT PRICE with a corporate surety approved by the OWNER will be required for the faithful performance of the contract.

Attorneys-in-fact who sign BID BONDS or PAYMENT BONDS and PERFORMANCE BONDS must file with each BOND a certified and effective dated copy of their power of attorney.

The party to whom the contract is awarded will be required to execute the Agreement and obtain the PERFORMANCE BOND and PAYMENT BOND within ten (10) calendar days from the date when NOTICE OF AWARD is delivered to the BIDDER. The NOTICE OF AWARD shall be accompanied by the necessary Agreement and BOND forms. In case of failure of the BIDDER to execute the Agreement, the OWNER may at his option consider the BIDDER in default in which case the BID BOND accompanying the proposal shall become the property of the OWNER.

The OWNER within ten (10) days of receipt of acceptable PERFORMANCE BOND, PAYMENT BOND, and Agreement signed by the party to whom the Agreement was awarded shall sign the Agreement and return to such party an executed duplicate of the Agreement. Should the OWNER not execute the Agreement within such period, the BIDDER may by WRITTEN NOTICE, withdraw his signed Agreement. Such notice of withdrawal shall be effective upon receipt of the notice by the OWNER.

The NOTICE TO PROCEED shall be issued within ten (10) days of the execution of the Agreement by the OWNER. Should there be reasons why the NOTICE TO PROCEED cannot be issued within such period, the time may be extended by mutual agreement between the OWNER and CONTRACTOR. If the NOTICE TO PROCEED has not been issued within the ten (10) day period or within the period mutually agreed upon, the CONTRACTOR may terminate the Agreement without further liability on the part of either party.

The OWNER may make such investigations as he deems necessary to determine the ability of the BIDDER to perform the WORK, and the BIDDER shall furnish to the OWNER all such information and data for this purpose as the OWNER may request. The OWNER reserves the right to reject any BID if the evidence submitted by, or investigation of, such BIDDER fails to satisfy the OWNER that such BIDDER is properly qualified to carry out the obligations of the Agreement and to complete the WORK contemplated therein.

A conditional or qualified BID will not be accepted. Award will be made to the lowest responsible BIDDER.

All applicable laws, ordinances, and the rules and regulations of all authorities having jurisdiction over construction of the PROJECT shall apply to the contract throughout.

Each BIDDER is responsible for inspecting the site and for reading and being thoroughly familiar with the CONTRACT DOCUMENTS. The failure or omission of any BIDDER to do any of the foregoing shall in no way relieve any BIDDER from any obligation in respect to his BID.

Bidders are advised that a fully executed copy of the Disadvantaged/Minority Business Enterprise Assurance Form (Part C of the Special Provisions) must be submitted with the bid. In addition, appropriate DBE/WBE documentation must be submitted with the bid.

NONDISCRIMINATION IN EMPLOYMENT

Bidders on this work will be required to comply with the President's Executive Order Nos. 11246 as amended, 11518, and 11625 as amended. The requirements for bidders and contractors under these orders are explained in the specifications.

WORKFORCE GOALS

The following goals for minority and female utilization shall be included in all Federal and federally-assisted construction contracts and subcontracts in excess of \$10,000. The goals are applicable to the contractor's aggregate on-site construction workforce, not merely that part of the workforce that is performing work on a Federal or Federally-assisted contract or subcontract.

WORKFORCE GOALS FOR ALL CRAFTS – DISADVANTAGED/MINORITY PERSONS.....	0.8%
WORKFORCE GOALS FOR ALL CRAFTS – WOMEN’S BUSINESS PERSONS.....	6.9%

The workforce goals as shown above are based on the total number of new positions created to complete the work generated by the contract.

GOALS FOR DBE/MBE AND WBE PARTICIPATION

Bidders on this work will be required to comply with Title 40 CFR 33.240 and Executive Order 12138. The requirements for bidders and contractors under this regulation which concerns utilization of Disadvantaged/Minority Business Enterprises (DBE/MBE) and Women's Business Enterprises (WBE) are explained in the specifications.

PROJECT GOALS – DISADVANTAGED/MINORITY ENTERPRISES.....	4.0%
PROJECT GOALS – WOMEN’S BUSINESS ENTERPRISES	2.0%

The project goals as shown above are based on the total dollar value of the contract to be awarded.

Bidders shall submit a fully executed Disadvantaged/Minority Business Enterprise Assurance with their proposal, including all supporting documentation (See pages 42-52 of this document).

FAILURE TO DO SO MAY RENDER THE BID NULL AND VOID. The award of the contract, if awarded, will be made to the lowest responsive, responsible bidder who is able to demonstrate that good faith efforts were made to meet or exceed the contract goals. Meeting or exceeding the contract goals shall conclusively establish that the bidder has made such good faith efforts.

The low BIDDER shall supply the names and addresses of major material SUPPLIERS and SUBCONTRACTORS when requested to do so by the OWNER.

ENGINEER / ARCHITECT INFORMATION

(Engineer/Architectural Firm)

(Contact Person)

(Address)
(City, State, Zip)

INSPECTION TRIPS

Inspection trips for prospective BIDDERS will leave from the office of the (insert location) on (Date) at (time, time zone).

FORM 3 – Bid Proposal

Proposal of (**BIDDER Name**) (hereinafter called "BIDDER"), organized and existing under the laws of the State of (**State**), doing business as (**insert as applicable: "a corporation", "a partnership", or "an individual"**). To the __ (hereinafter called "OWNER").

In compliance with your advertisement for Bids, BIDDER hereby proposes to perform all WORK for the construction of (**Project Name**) in strict accordance with the CONTRACT DOCUMENTS, within the time set forth therein, and at the prices stated below.

By submission of this BID, each BIDDER certifies, and in the case of a joint BID, each party thereto certifies as to his own organization, that this BID has been arrived at independently, without consultation, communication, or agreement as to any matter relating to this BID with any other BIDDER or with any competitor.

BIDDER hereby agrees to commence WORK under this contract on or before a date to be specified in the NOTICE TO PROCEED and to fully complete the PROJECT within **XXX** consecutive calendar days thereafter. BIDDER further agrees to pay as liquidated damages, the sum of **\$X,XXX.XX** for each consecutive calendar day thereafter as provided in Part K, of the CDBG Special Provisions.

BIDDER acknowledges receipt of the following ADDENDUM: (**Insert Addendums as applicable**)

BID SCHEDULE

BIDS shall include sales tax and all other applicable taxes and fees.

BIDDER agrees to perform all the work described in the CONTRACT DOCUMENTS for the following unit prices or lump sum:

➤ BID ITEM NUMBER	QUANTITY	UNIT	UNIT BID PRICE	TOTAL PRICES
TOTAL OF BID				\$XX,XXX,XXX.XX
➤ LUMP SUM BID PRICE (if applicable):				\$XX,XXX,XXX.XX

The bidder must comply with the goals established for Disadvantaged/Minority Business enterprises (DBE/MBE) and Women's Business Enterprises (WBE) participation. The goal for DBE/MBE participation on this project is 4% and the goal for WBE participation on this project is 2% of the total dollar value of the construction contract. The bidder shall submit a fully executed Disadvantaged/Minority Business Enterprise Assurance Form (Part C of the Special Provisions) with this Bid Proposal to indicate the DBE/MBE and WBE goal achievement and/or good faith effort. **FAILURE TO DO SO MAY RENDER THE BID NULL AND VOID.**

The undersigned bidder hereby expressly acknowledges his understanding of and his agreement to comply during the performance of any work under any contract resulting from this bid with all

equal opportunity obligations as set forth in 41 CFR Part 60:1 and Part 60:4 and 40 CFR Part 8.

Respectfully submitted:

Signature

(Address)

(Title and Date)

License Number (if applicable)

(SEAL – if BID is by a corporation)

ATTEST: _____

FORM 4 – Bid Bond

KNOW ALL PERSONS BY THESE PRESENTS, that we, the undersigned, _____ as Principal, and _____ as Surety, are hereby held and firmly bound unto (Subgrantee) as OWNER in the penal sum of \$XX,XXX,XXX.XX for the payment of which, well and truly to be made, we hereby jointly and severally bind ourselves, successors, and assigns.

Signed, this (day) day of (Month), 20xx. The Condition of the above obligation is such that whereas the Principal has submitted to a certain BID, attached hereto and hereby made a part hereof to enter into a contract in writing, for the:

NOW, THEREFORE,

If said BID shall be rejected, or

If said BID shall be accepted and the Principal shall execute and deliver a contract in the Form of Contract attached hereto (properly completed in accordance with said BID) and shall furnish a BOND for his faithful performance of said contract, and for the payment of all persons performing labor or furnishing materials in connection therewith, and shall in other respects perform the agreement created by the acceptance of said BID

then this obligation shall be void, otherwise the same shall remain in force and effect; it being expressly understood and agreed that the liability of the Surety for any and all claims hereunder shall, in no event, exceed the penal amount of this obligation as herein stated.

The Surety, for value received, hereby stipulates and agrees that the obligations of said Surety and its BOND shall be in no way impaired or affected by any extension of the time within which the OWNER may accept such BID; and said Surety does hereby waive notice of any such extension.

IN WITNESS WHEREOF, the Principal and the Surety have hereunto set their hands and seals, and such of them as are corporations have caused their corporate seals to be hereto affixed and these presents to be signed by their proper officers, the day and year first set forth above.

Principal

Surety

BY: _____

NOTE: Surety companies executing BONDS must appear on the Treasury Department's most current list (Circular 570 as amended) and be authorized to transact business in the state where the project is located.

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**ACKNOWLEDGMENT OF PRINCIPAL
(Individual)**

State of _____)

County of _____) ss

On this day of __, 20__, before me personally appeared, _____, known to me to be the individual described in and who executed the foregoing instrument and acknowledged to me that he executed the same.

Notary Public

My commission expires the ____ day of __, 20__.

**ACKNOWLEDGMENT OF PRINCIPAL
(Partnership)**

State of _____)

County of _____) ss

On this day of __, 20__, before me personally appeared, _____, who acknowledged himself to be one of the partners of _____, a partnership, and that he, as such partner, being authorized so to do, executed the foregoing instrument for the purposes therein contained, by signing the name of the partnership by himself as a partner.

Notary Public

My commission expires the _____ day of _____, 20__.

**ACKNOWLEDGMENT OF PRINCIPAL
(Corporation)**

State of _____)

County of _____) ss

On this day of __, 20__, before me personally appeared, _____, who acknowledged himself to be the _____ of _____, a corporation, and that he, as such _____ being authorized so to do, executed the foregoing instrument for the purposes therein contained, by signing the name of the corporation by himself as _____.

Notary Public

My commission expires the _____ day of _____, 20__.

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ACKNOWLEDGMENT OF SURETY
(Corporate Officer)

State of _____)

County of _____) ss

On this _____ day of, 20____, before me, a Notary Public in and for said County, personally appeared _____ personally known to me, who being by me duly sworn, did say that he is the aforesaid officer of the _____ of _____, a corporation duly organized and existing under the laws of the State of _____, that the seal affixed to the foregoing instrument is the corporate seal of said corporation, that the said instrument was signed, sealed and executed in behalf of said corporation by authority of its Board of Directors, and further acknowledges that the said instrument and the execution thereof to be the voluntary act and deed of said corporation.

IN WITNESS WHEREOF, I hereunto subscribed my name and affixed my official seal at _____, the day and year last above written.

Notary Public

My commission expires the _____ day of _____, 20____.

ACKNOWLEDGMENT OF SURETY
(Attorney-In-Fact)

State of _____)

County of _____) ss

On this _____ day of, 20____, before me personally appeared, _____, known to me or satisfactorily proven to the person whose name is subscribed as attorney-in-fact for _____, and acknowledged that he executed the same as the act of his principal for the purpose therein contained.

IN WITNESS WHEREOF, I hereunto subscribed my name and affixed my official seal at _____, the day and year last above written.

Notary Public

My commission expires the _____ day of _____, 20____.

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FORM 5 – Agreement

THIS AGREEMENT, made this _____ day of _____, 20____,
by and between _____ (Name of Owner), hereinafter called
"OWNER" and _____ doing business as (an individual) or (a
partnership) or (a corporation) hereinafter called "CONTRACTOR".

That for and in consideration of the payments and agreements hereinafter mentioned:

1. The CONTRACTOR will commence and complete the construction of _____

2. The CONTRACTOR will furnish all of the material, supplies, tools, equipment, labor, and other services necessary for the construction and completion of the PROJECT described herein.
3. The CONTRACTOR will commence the work required by the CONTRACT DOCUMENTS within _____ calendar days after the date of the NOTICE TO PROCEED and will complete the same within _____ calendar days unless the period or completion is extended otherwise by the CONTRACT DOCUMENTS.
4. The CONTRACTOR agrees to perform all of the WORK described in the CONTRACT DOCUMENTS and comply with the terms therein for the sum \$ _____ or as shown in the BID schedule.
5. The term "CONTRACT DOCUMENTS" means and includes the following:
 - A. ADVERTISEMENT FOR BIDS
 - B. INFORMATION FOR BIDDERS
 - C. BID
 - D. BID BOND
 - E. AGREEMENT
 - F. CDBG SPECIAL PROVISIONS
 - G. SUPPLEMENTAL GENERAL CONDITIONS
 - H. SPECIAL CONDITIONS
 - I. PAYMENT AND PERFORMANCE BOND
 - J. NOTICE OF AWARD
 - K. NOTICE TO PROCEED
 - L. CHANGE ORDER

- M. DRAWINGS prepared by _____
numbered _____ through _____, and dated __, 20__.
- N. SPECIFICATIONS prepared or issued by _____ dated __, 20__.
- O. ADDENDA:
No. _____, dated _____, 20__
No. _____, dated _____, 20__
No. _____, dated _____, 20__

6. The OWNER will pay to the CONTRACTOR in the manner at such times as set forth in the General Conditions such amounts as required by the CONTRACT DOCUMENTS.

7. This Agreement shall be binding upon all parties hereto and their respective heirs, executors, administrators, successors, and assigns.

IN WITNESS WHEREOF, the parties hereto have executed, or caused to be executed by their duly authorized officials, this Agreement in (Number of copies) each of which shall be deemed an original on the date first above written.

ATTEST

OWNER

NAME _____

TITLE _____

(SEAL) _____

BY _____
(Please Type)
NAME _____

TITLE _____

ATTEST

CONTRACTOR

NAME _____

TITLE _____

(SEAL) _____

BY _____
(Please Type)
NAME _____

TITLE _____

FORM 6 – Performance and Payment Bond

KNOW ALL PERSONS BY THESE PRESENTS, THAT WE, _____
(Contractor) hereinafter call the "Principal," and __ (Surety) a corporation, organized and existing under the laws of the State of _____, and duly authorized to transact business in the State of South Dakota, Surety, hereinafter called "Surety", are held and firmly bound unto the _____ as obligee and hereinafter called "Obligee," in the just and full sum of __ dollars (_____) lawful money of the United States of America to be paid to the said _____ which payment well and truly to be made, we bind ourselves, our heirs, administrators, executors, successors and assigns, jointly and severally, firmly by these presents.

The condition of this obligation is such that:

WHEREAS, The above Principal has entered into the Contract with the said obligee, dated this ____ day of _____, 20____, for the construction of _____

which Contract is herein referred to and made a part hereof as fully and to the same extent as if the same were entirely written herein, and

WHEREAS, it was one of the conditions of the award of the said Obligee pursuant to which said Contract was entered into, that these presents should be executed.

PROVIDED, FURTHER, that the said Surety, for value received hereby stipulated and agrees that no change, extension of time, alteration or addition of the terms of the Contract or to the work to be performed thereunder or the Specifications accompanying the same shall in any wise affect its obligation on this bond, and it does hereby waive notice of any such change, extension of time, alteration or addition to the terms of the Contract or to the work or to the Specifications.

PROVIDED, FURTHER, that no final settlement between the Owner and the Contractor shall abridge the right of any beneficiary hereunder, whose claim may be unsatisfied.

NOW THEREFORE, if the above Principal shall in all respects comply with the terms and conditions of said Contract, and his (their or its) obligations thereunder, including the specifications therein referred to and made a part thereof, and such alteration as may be made in such Specifications and herein and therein provided for, then this obligation to be avoid, or otherwise to be and remain full force, effect and virtue.

And the further condition of this bond is that in the event said Principal shall fail to pay all just claims and demands on the part of any employee, person, firms or corporations for labor and materials furnished for or used in connections with the prosecution of the work under said Contract, or pay all taxes which may accrue to the State of South Dakota under the provisions of the "Use Tax Act of 1939 and the Excise Tax on Realty Improvements under SDCL 10-46A," and Sections 5-21-3 and 5-21-4 of the South Dakota Compiled Laws of 1967, as amended, then this

bond and the sureties thereon shall be responsible to such persons, firms or corporations, and the State of South Dakota for the full payment of the full value of such labor and materials so furnished including the payment of South Dakota Use Tax and the Excise Tax on realty improvements.

Signed and sealed this day _____ of _____, 20____.

In the presence of:

WITNESSES:

1. _____
2. _____
3. _____

INDIVIDUAL PRINCIPAL:

as to _____ (SEAL)
as to _____ (SEAL)
as to _____ (SEAL)

ATTEST:

Affix Corporate Seal

CORPORATE PRINCIPAL

Business Name

Business Address

By _____
Title _____

ATTEST:

Affix Corporate Seal

CORPORATE SURETY

Business Name

Business Address

By _____
Title _____

Countersigned by _____

South Dakota Resident Agent

ACKNOWLEDGMENT OF PRINCIPAL
(Individual)

State of _____)

County of _____) ss

On this day of __, 20__, before me personally appeared, _____, known to me to be the individual described in and who executed the foregoing instrument and acknowledged to me that he executed the same.

Notary Public

My commission expires the ____ day of __, 20__.

ACKNOWLEDGMENT OF PRINCIPAL
(Partnership)

State of _____)

County of _____) ss

On this day of __, 20__, before me personally appeared, _____, who acknowledged himself to be one of the partners of _____, a partnership, and that he, as such partner, being authorized so to do, executed the foregoing instrument for the purposes therein contained, by signing the name of the partnership by himself as a partner.

Notary Public

My commission expires the _____ day of _____, 20__.

ACKNOWLEDGMENT OF PRINCIPAL
(Corporation)

State of _____)

County of _____) ss

On this day of __, 20__, before me personally appeared, _____, who acknowledged himself to be the _____ of _____, a corporation, and that he, as such _____ being authorized so to do, executed the foregoing instrument for the purposes therein contained, by signing the name of the corporation by himself as _____.

Notary Public

My commission expires the _____ day of _____, 20__.

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ACKNOWLEDGMENT OF SURETY
(Corporate Officer)

State of _____)

County of _____) ss

On this _____ day of, 20____, before me, a Notary Public in and for said County, personally appeared _____ personally known to me, who being by me duly sworn, did say that he is the aforesaid officer of the _____ of _____, a corporation duly organized and existing under the laws of the State of _____, that the seal affixed to the foregoing instrument is the corporate seal of said corporation, that the said instrument was signed, sealed and executed in behalf of said corporation by authority of its Board of Directors, and further acknowledges that the said instrument and the execution thereof to be the voluntary act and deed of said corporation.

IN WITNESS WHEREOF, I hereunto subscribed my name and affixed my official seal at _____, the day and year last above written.

Notary Public

My commission expires the _____ day of _____, 20____.

ACKNOWLEDGMENT OF SURETY
(Attorney-In-Fact)

State of _____)

County of _____) ss

On this _____ day of, 20____, before me personally appeared, _____, known to me or satisfactorily proven to the person whose name is subscribed as attorney-in-fact for _____, and acknowledged that he executed the same as the act of his principal for the purpose therein contained.

IN WITNESS WHEREOF, I hereunto subscribed my name and affixed my official seal at _____, the day and year last above written.

Notary Public

My commission expires the _____ day of _____, 20____.

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FORM 7 – Notice of Award

TO: _____

PROJECT Description: (Insert project description)

The OWNER has considered the BID submitted by you for the above described WORK in response to its Advertisement for Bids dated (month, day), 20xx, and Information for Bidders.

You are hereby notified that your BID has been accepted for items in the amount of \$_____

.

You are required by the Information for Bidders to execute the Agreement and furnish the required CONTRACTOR'S Performance BOND, Payment BOND, and certificates of insurance within ten (10) calendar days from the date of this Notice to you.

If you fail to execute said Agreement and to furnish the BONDS within ten (10) calendar days from the date of this Notice, said OWNER will be entitled to consider all your rights arising out of the OWNER'S acceptance of your BID as abandoned and as a forfeiture of your BID BOND. The OWNER will be entitled to such other rights as may be granted by law.

You are required to return an acknowledged copy of this NOTICE OF AWARD to the OWNER.

Dated this ____ day of _____, 20__.

(Owner)

By _____

Title _____

ACCEPTANCE OF NOTICE

Receipt of the above NOTICE OF AWARD is hereby acknowledged by _____
this ____ day of __, 20__.

By _____

Title _____

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FORM 8 – Notice to Proceed

Date: (DATE)

Project: (PROJECT NAME)

(WINNING BIDDER)

(ADDRESS)

(CITY ST ZIP)

You are hereby notified to commence WORK in accordance with the Agreement dated _____, 20____, on or before_____, 20____, and you are to complete the WORK within (days) consecutive calendar days thereafter. The date of completion of all WORK is therefore_____, 20____.

(Owner)

By_____

Title_____

ACCEPTANCE OF NOTICE

Receipt of the NOTICE TO PROCEED is hereby acknowledged by _____
this_____ day of_____, 20_____.

By_____

Title_____

DATE WORK COMMENCED

The contractor commenced work on_____, 20_____.

(Owner)

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FORM 9 – Change Order

Order No.:

Date:

Agreement Date:

NAME OF PROJECT: (PROJECT NAME)

OWNER: (OWNER/SUBGRANTEE)

CONTRACTOR: (CONTRACTOR)

THE FOLLOWING CHANGES ARE HEREBY MADE TO THE CONTRACT DOCUMENTS:

Justification: (INSERT JUSTIFICATION)

Change to CONTRACT PRICE: \$XXX,XXX.XX

Original CONTRACT PRICE: \$XX,XXX,XXX.XX

Current CONTRACT PRICE adjusted by previous CHANGE ORDER \$XX,XXX.XX

The CONTRACT PRICE due to this CHANGE ORDER will be (increased/decreased) by \$XX,XXX.XX

The new CONTRACT PRICE including this CHANGE ORDER will be \$XX,XXX.XX

Change to CONTRACT TIME (INSERT JUSTIFICATION)

The CONTRACT TIME will be (increased/decreased) by (DAYS) calendar days.

The date for completion of all work will be (date).

APPROVALS REQUIRED

To be effective, this Order must be approved by the appropriate state or Federal agencies if it changes the scope or objective of the PROJECT, or as may otherwise be required by the SUPPLEMENTAL GENERAL CONDITIONS.

Requested by: (REQUESTED BY)

Recommended by: (RECOMMENDED BY)

Ordered by: (ORDERED BY)

Accepted by: (ACCEPTANCE)

Agency Approval (where applicable): (AGENCY)

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CDBG Special Provisions

PART A – Nondiscrimination in Employment

Requirements for Contractor's Aggregate Work Force

The policy of the South Dakota Community Development Block Grant (HUD) program is to increase awareness of federal requirements for contracts and agreements awarded under CDBG (HUD) grants. This implements the OMB positive efforts standards, conforms to Presidential direction and outlines the requirements.

The following notice shall be included in, and shall be a part of, all solicitations for offers and bids on all Federal and Federally assisted construction contracts or subcontracts in excess of \$10,000, to be performed in geographical areas designated by the Director pursuant to Subpart 60-4.6 of this part (See 41 CFR 60-4.2(a)):

NOTICE OF REQUIREMENT FOR AFFIRMATIVE ACTION TO ENSURE EQUAL EMPLOYMENT OPPORTUNITY (EXECUTIVE ORDER 11246)

The Offeror's or Bidder's attention is called to the "Equal Opportunity Clause" and the "Standard Federally Equality Employment Opportunity Construction Contract Specifications" set forth herein.

The goals and timetables for disadvantaged/minority and female participation, expressed in percentage terms for the contractor's aggregate workforce in each trade on all construction work in the covered area, are to be listed and made available in contractor's records.

These goals are applicable to all the contractor's construction work (whether or not it is Federal or Federally assisted) performed in the covered area.

The Contractor's compliance with the Executive Order and the regulations in 41 CFR Part 60-4 shall be based on its implementation of the Equal Opportunity Clause, specific affirmative action obligations required by the specifications set forth in 41 CFR 60-4.3(a), and its efforts to meet the goals established for the geographical area where the contract resulting from this solicitation is to be performed. The hours of disadvantaged/minority and female employment and training must be substantially uniform throughout the length of the contract, and in each trade, and the contractor shall make a good faith effort to employ minorities and women evenly on each of its projects. The transfer of disadvantaged/minority or female employees or trainees from contractor to contractor or from project to project for the sole purpose of meeting the contractor's goals shall be a violation of the contract, the Executive Order, and the regulations in 41 CFR Part 60-4. Compliance with the goals will be measured against the total work hours performed.

The contractor shall provide written notification to the Director of the Office of Federal Contract Compliance Programs within 10 working days of award of any construction subcontract in excess of \$10,000 at any tier for construction work under the contract resulting from this

solicitation. The notification shall list the name, address and telephone number of the subcontractor; employer identification number; estimated dollar amount of the subcontract; estimated starting and completion dates of the subcontract; and the geographical area in which the contract is to be performed.

As used in this Notice, and in the contract resulting from this solicitation, the "covered area" is:

(Insert description of the geographical areas where the contract is to be performed giving the state, county, and city, if any.)

THE WORKFORCE GOALS FOR THE PROJECT ARE:

Disadvantaged/Minority	.8 %
Women	6.9 %

EQUAL OPPORTUNITY CLAUSE AND EEO CONSTRUCTION CONTRACT SPECIFICATIONS

The following (1) Equal Opportunity Clause and (2) Equal Employment Opportunity Construction Contract Specifications are to be included in all Federally assisted construction contracts and subcontracts which are not exempt from its requirements.

1. EQUAL OPPORTUNITY CLAUSE FOR FEDERALLY ASSISTED CONTRACT

During the performance of this contract, the contractor agrees as follows:

- A. The contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex or national origin. The contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to their race, color, religion, sex, or national origin. Such action shall include, but not be limited to the following: Employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided setting forth the provisions of this equal opportunity (federally assisted construction) clause.
- B. The contractor will, in all solicitations or advertisements for employees placed by or on behalf of the contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, or national origin.
- C. The contractor will send to each labor union or representative of workers, with which he has a collective bargaining agreement or other contract or understanding, a notice to be provided advising the said labor union or workers' representative of the contractor's commitments under this section, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.
- D. The contractor will comply with all provisions of Executive Order No. 11246 of September 24, 1965 as amended and of the rules, regulations, and relevant orders of the Secretary of Labor.

- E. The contractor will furnish all information and reports required by Executive Order No. 11246 of September 24, 1965, and by the rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the administering agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.
- F. In the event of the contractor's non-compliance with the equal opportunity (federally assisted construction) clause of this contract or with any of the said rules, regulations, or orders, this contract may be cancelled, terminated, or suspended, in whole or in part, and the contractor may be declared ineligible for further Government contracts or federally assisted construction contracts in accordance with procedures authorized in Executive Order No. 11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order No. 11246 of September 24, 1965, or by rule, regulations, or order of the Secretary of Labor, or as provided by law.
- G. The contractor will include this equal opportunity (federally assisted construction) clause in every subcontract or purchase order unless exempted by the rules, regulations, or orders of the Secretary of Labor issued pursuant to Section 204 of Executive Order No. 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The contractor will take such action with respect to any subcontract or purchase order as the administering agency may direct as a means of enforcing such provisions, including sanctions for non-compliance. Provided, however, that in the event a contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor, as a result of such direction by the administering agency, the contractor may request the United States to enter into such litigation to protect the interests of the United States.
- H. The applicant further agrees that it will be bound by the above equal opportunity clause with respect to its own employment practices when it participates in federally assisted construction work, provided, that if the applicant so participating is a State or local government, the above equal opportunity clause is not applicable to any agency, instrumentality or subdivision of such government which does not participate in work on or under the contract.
- I. The applicant further agrees that it will assist and cooperate actively with the Agency and the Secretary of Labor in obtaining the compliance of contractors and subcontractors with the equal opportunity clause and the rules, regulations, and relevant orders of the Secretary of Labor; that it will furnish the Agency and the Secretary of Labor such information as they may require for the supervision of such compliance; and that it will otherwise assist the Agency in the discharge of its primary responsibility for securing compliance.
- J. The applicant further agrees that it will refrain from entering into any contract or contract modification subject to the Order with a contractor debarred from or who has not demonstrated eligibility for government contracts and federally assisted construction contracts pursuant to the Order and will carry out such sanctions and penalties for violation of the equal opportunity clause, as may be imposed upon contractors and subcontractors by the Agency or the Secretary of Labor pursuant to Part II, Subpart D of the Order. In addition, the applicant agrees that if it fails or refuses to comply with these undertakings, the Agency may take any or all of the following actions: Cancel, terminate or suspend in whole or part this grant (contract, loan, insurance, guarantee); refrain from extending any further assistance to the applicant under the program with respect to which the failure or refusal occurred until satisfactory assurance of future compliance has been received from such applicant; and refer the case to the Department of Justice for appropriate legal proceedings.

2. STANDARD FEDERAL EQUAL EMPLOYMENT OPPORTUNITY CONSTRUCTION CONTRACT SPECIFICATIONS (EXECUTIVE ORDER 11246)

As used in these specifications:

- A. "Covered area" means the geographical area described in solicitation from which this contract resulted;
 - 1. "Director" means Director, Office of Federal Contract Compliance Programs, United States Department of Labor, or any person to whom the Director delegates authority;
 - 2. "Employer identification number" means the Federal Social Security number used on the employer's quarterly Federal Tax Return, U.S. Treasury Department Form 941.
 - 3. "Disadvantaged/minority" includes:
 - i. Black (all persons having origins in any of the Black African racial groups not of Hispanic origin);
 - ii. Hispanic (all persons of Mexican, Puerto Rican, Cuban, Central or South American or other Spanish Culture or origin, regardless of race);
 - iii. Asian and Pacific Islander (all persons having origins in any of the original peoples of the Far East, Southeast Asia, the Indian Subcontinent, or the Pacific Islands); and
 - iv. American Indian or Alaskan Native (all persons having origins in any of the original peoples of North America and maintaining identifiable tribal affiliations through membership and participation or community identification).
- B. Whenever the contractor, or any subcontractor at any tier, subcontracts a portion of the work involving any construction trade, it shall physically include in each subcontract in excess of \$10,000 the provisions of the specifications and the Notice which contains the applicable goals for disadvantaged/minority and female participation and which is set forth in the solicitations from which this contract resulted.
- C. If the contract is participating (pursuant to 41 CFR 60-4.5) in the Hometown Plan approved by the U.S. Department of Labor in the covered area either individually or through an association, its affirmative action obligations on all work in the Plan area (including goals and timetables) shall be in accordance with that Plan for those trades which have unions participating in the Plan. Contractors must be able to demonstrate their participation in and compliance with the provisions of such Hometown Plan. Each contractor or subcontractor participating in an approved Plan is individually required to comply with its obligations under the EEO clause, and to make a good faith effort to achieve each goal under the Plan in each trade in which it has employees. The overall good faith performance by other contractors or subcontractors toward a goal in an approved Plan does not excuse any covered contractor's or subcontractor's failure to take good faith efforts to achieve the Plan goals and timetables.
- D. The contractor shall implement the specific affirmative action standards provided in these specifications. The goals set forth in the solicitation from which this contract resulted are expressed as percentages of the total hours of employment and training of disadvantaged/minority and female utilization the contractor should reasonably be able to achieve in each construction trade in which it has employees in the covered area. The contractor is expected to make substantially uniform progress toward its goals in each craft during the period

specified.

- E. Neither the provisions of any collective bargaining agreement, nor the failure by a union with whom the contractor has a collective bargaining agreement, to refer either minorities or women shall excuse the contractor's obligations under these specifications, Executive Order 11246, or the regulations promulgated pursuant thereto.
- F. In order for the nonworking training hours of apprentices and trainees to be counted in meeting the goals, such apprentices and trainees must be employed by the contractor during the training period, and the contractor must have made a commitment to employ the apprentices and trainees at the completion of their training, subject to the availability of employment opportunities. Trainees must be trained pursuant to training programs approved by the U.S. Department of Labor.
- G. The contractor shall take specific affirmative actions to ensure equal employment opportunity. The evaluation of the contractor's compliance with these specifications shall be based upon its effort to achieve maximum results from its actions. The contractor shall document these efforts fully, and shall implement affirmative action steps at least as extensive as the following:
 - 1. Ensure and maintain a working environment free of harassment, intimidation, and coercion at all sites, and in all facilities at which the contractor's employees are assigned to work. The contractor, where possible, will assign two or more women to each construction project. The contractor shall specifically ensure that all foremen, superintendents and other on-site supervisory personnel are aware of and carry out the contractor's obligation to maintain such a working environment, with specific attention to disadvantaged/minority or female individuals working at such sites or in such facilities.
 - 2. Establish and maintain a current list of disadvantaged/minority and female recruitment sources, provide written notification to disadvantaged/minority and female recruitment sources and to community organizations where the contractor or its unions have employment opportunities available, and maintain a record of the organization's responses.
 - 3. Maintain a current file of the names, addresses, and telephone numbers of each disadvantaged/minority and female off-the-street applicant and disadvantaged/minority or female referral from a union, a recruitment source or community organization and of what action was taken with respect to each such individual. If such individual was sent to the union hiring hall for referral and was not referred back to the contractor by the union or, if referred, not employed by the contractor, this shall be documented in the file with the reason therefor, along with whatever additional actions the contractor may have taken.
 - 4. Provide immediate written notification to the Director when the union or unions with which the contractor has a collective bargaining agreement has not referred to the contractor a disadvantaged/minority person or woman sent by the contractor, or when the contractor has other information that the union referral process has impeded the contractor's efforts to meet its obligations.
 - 5. Develop on-the-job training opportunities and/or participate in training programs for the area which expressly include minorities and women, including upgrading programs and apprenticeship and trainee programs relevant to the contractor's employment

needs, especially those programs funded or approved by the Department of Labor. The contractor shall provide notice of these programs to the sources compiled under G(2) above.

6. Disseminate the contractor's EEO policy by providing notice of the policy to unions and training programs and requesting their cooperation in assisting the contractor in meeting its EEO obligations; by including it in any policy manual and collective bargaining agreement; by publicizing it in the company newspaper, annual report, etc.; by specific review of the policy with all management personnel and with all disadvantaged/minority and female employees at least once a year; and by posting the company EEO policy on bulletin boards accessible to all employees at each location where construction work is performed.
7. Review, at least annually, the company's EEO policy and affirmative action obligations under these specifications with all employees having any responsibility for hiring, assignment, layoff, termination or other employment decisions including specific review of these terms with on site supervisory personnel such as superintendents, general foremen, etc., prior to the initiation of construction work at any job site. A written record shall be made and maintained identifying the time and place of these meetings, persons attending, subject matter discussed, and disposition of the subject matter.
8. Disseminate the contractor's EEO policy externally by including it in any advertising in the news media, specifically including disadvantaged/minority and female news media, and providing written notification to and discussing the contractor's EEO policy with other contractors and subcontractors with whom the contractor does or anticipates doing business.
9. Direct its recruitment efforts, both oral and written, to disadvantaged/minority, female and community organizations, to schools with disadvantaged/minority and female students and to disadvantaged/minority and female recruitment and training organizations serving the contractor's recruitment area and employment needs. Not later than one month prior to the date for the acceptance of applications for apprenticeship or other training by any recruitment source, the contractor shall send written notification to organizations such as the above, describing the openings, screening procedures, and tests to be used in the selection process.
10. Encourage present disadvantaged/minority and female employees to recruit other disadvantaged/minority persons and women and, where reasonable, provide after school, summer and vacation employment to disadvantaged/minority and female youth both on the site and in other areas of a contractor's workforce.
11. Validate all tests and other selection requirements where there is an obligation to do so under 41CFR Part 60-3.
12. Conduct, at least annually, an inventory and evaluation of all disadvantaged/minority and female personnel for promotional opportunities and encourage these employees to seek or to prepare for, through appropriate training, etc., such opportunities.
13. Ensure that seniority practices, job classification, work assignments and other personnel practices, do not have a discriminatory effect by continually monitoring all personnel and employment related activities to ensure that the EEO policy and the

contractor's obligations under these specifications are being carried out.

14. Ensure that all facilities and company activities are non-segregated except that separate or single-user toilet and necessary changing facilities shall be provided to assure privacy between the sexes.
 15. Document and maintain a record of all solicitations of offers for subcontractors from disadvantaged/minority and female construction contractors and suppliers, including circulation of solicitations to disadvantaged/minority and female contractor associations and other business associations.
 16. Conduct a review, at least annually, of all supervisors' adherence to and performance under the contractor's EEO policies and affirmative action obligations.
- H. Contractors are encouraged to participate in voluntary associations, which assist in fulfilling one or more of their affirmative action obligations (1 through 16 as stated above). The efforts of a contractor association, joint contractor - union, contractor - community, or other similar group of which the contractor is a member and participant, may be asserted as fulfilling any one or more of its obligations under (1 through 16, as stated above), of these specifications provided that the contractor actively participates in the group, makes every effort to assure that the group has a positive impact on the employment of minorities and women in the industry, ensures that the concrete benefits of the program are reflected in the contractor's disadvantaged/minority and female workforce participation, makes a good faith effort to meet its individual goals and timetables, and can provide access to documentation which demonstrates the effectiveness of actions taken on behalf of the contractor. The obligation to comply, however, is the contractor's and failure of such a group to fulfill an obligation shall not be a defense for the contractor's noncompliance.
- I. A single goal for minorities and a separate single goal for women has been established. The contractor, however, is required to provide equal employment opportunity and to take affirmative action for all disadvantaged/minority groups, both male and female, and all women, both disadvantaged/minority and non-minority. Consequently, the contractor may be in violation of the Executive Order 11246 if a particular group is employed in a substantially disparate manner.
- J. The contractor shall not use the goals and timetables or affirmative action standards to discriminate against any person because of race, color, religion, sex, or national origin.
- K. The contractor shall not enter into any subcontract with any person or firm debarred from government contracts pursuant to Executive Order 11246.
- L. The contractor shall carry out such sanctions and penalties for violation of these specifications and of the Equal Opportunity Clause, including suspension, termination and cancellation of existing subcontracts as may be imposed or ordered pursuant to Executive Order 11246, as amended, and its implementing regulations, by the Office of Federal Contract Compliance Programs. Any contractor who fails to carry out such sanctions and penalties shall be in violation of these specifications and Executive Order 11246, as amended.
- M. The contractor, in fulfilling its obligations under these specifications, shall implement specific affirmative action steps, at least as extensive as those standards prescribed in paragraph G of these specifications, so as to achieve maximum results from its efforts to ensure equal employment opportunity. If the contractor fails to comply with the requirements of the Executive Order, the implementing regulations, or these specifications, the Director shall proceed in accordance with 41 CFR Part 60-4.3.

- N. The contractor shall designate a responsible official to monitor all employment related activity to ensure that the company EEO policy is being carried out, to submit reports relating to the provisions hereof as may be required by the government and to keep records. Records shall at least include for each employee the name, address, telephone numbers, construction trade, union affiliation if any, employee identification number when assigned, social security number, race, sex, status (e.g., mechanic, apprentice, trainee, helper, or laborer), dates of changes in status, hours worked per week in the indicated trade, rate of pay, and locations at which the work was performed. Records shall be maintained in an easily understandable and retrievable form; however, to the degree that existing records satisfy this requirement, contractors shall not be required to maintain separate records.
- O. Nothing herein provided shall be construed as a limitation upon the application of other laws which establish different standards of compliance or upon the application of requirements for the hiring of local or other area residents (e.g., those under the Public Works Employment Act of 1977 and the Community Development Block Grant Program).

PART B – Guidance for DBE/MBE/WBE Business Enterprise Requirements

The policy of the South Dakota Community Development Block Grant program is to ensure increased participation in contracts and subcontracts awarded under HUD grants for construction for Disadvantaged Business Enterprise (DBE), Minority Business Enterprise (MBE), and Women's Business Enterprise (WBE), as defined by [13 CFR 124.1001](#). This conforms to Presidential direction and furthers the requirements of Title VI of the Civil Rights Act of 1964. This guidance provides suggestions for carrying out affirmative steps required by HUD Regulation [2 CFR 200.321](#).

The State will assure opportunities for immediate participation of competent DBE(s)/WBE(s) in work performed under grants and promote the development of new minority firms through a variety of business arrangements.

This policy describes the minimum positive efforts that are required of Subgrantees, A&E Firms and Contractors. Use of the DBE/WBE goal-oriented system is a condition of all Community Development Block Grants for construction. This program should not be misconstrued as a mandatory set-aside policy.

At the time of Bid Opening the DBE(s)/WBE(s) must be certified. To be certified or to check on a certification, contact one or all of these agencies: Civil Rights Program, Department of Transportation, Phone: (605) 773-4906; Small Business Administration (SBA), Sioux Falls, Phone: (605) 330-4231; Bureau of Indian Affairs, Aberdeen, Phone: (605) 226-7426; Indian Health Services, Phone: (605) 226- 7567; or your CDBG project administrator.

DEFINITIONS

1. DISADVANTAGED / MINORITY BUSINESS ENTERPRISE (DBE/MBE)

A business, at least 51 percent of which is owned by minority group members who exercise actual day-to-day management and control of the business. (From this point on, whenever Minority is stated Disadvantaged/Minority is implied.)

2. MINORITY GROUP MEMBERS

Black Americans, Hispanic Americans, Asian Americans, American Indians, American Eskimos, American Aleuts, and Native Hawaiians, and persons certified as socially and economically disadvantaged. (Bona Fide minority membership shall be established on the individual's proven claim that he or she is a member of a minority group and is so regarded by that particular minority community.)

3. WOMEN'S BUSINESS ENTERPRISE (WBE)

A business which is an independent business concern that is at least 51 percent owned by a woman or women who also control and operate it. Determination of whether a business is at least 51 percent owned by a woman or women shall be made without regard to community property laws. For example, an otherwise qualified WBE which is 51 percent owned by a married woman in a community property state will not be

disqualified because her husband has a 50 percent interest in her share. Similarly, a business that is 51 percent owned by a married man and 49 percent owned by an unmarried woman will not become qualified WBE by virtue of his wife's 50 percent interest in his share of the business.

4. QUALIFICATIONS FOR OWNERSHIP AND CONTROL

- A. The minority or woman ownership's interest in the firm must be real, substantial and continuing. Such interest may include:
 - i. Risk of loss/share of profit commensurate with the proportional ownership; and
 - ii. Receipt of the customary incidents of ownership, such as salary and/or intangible benefits.
- B. A minority or woman owner must have and exercise the authority to independently control the business. The minority or woman owner need not be continually present to be deemed in control. Characteristics of control may include:
 - 1. Authority to sign bids and contracts;
 - 2. Making decisions in price negotiations;
 - 3. Incurring liabilities for the firm;
 - 4. Making final staffing decisions;
 - 5. Policy-making; and
 - 6. Making general company management decisions.
- C. Only those firms performing a useful business function according to custom and practice in the industry are qualified as DBE's or WBE's. Acting merely as a passive conduit of funds to some other, non-minority firm where such activity is unnecessary to accomplish the project does not constitute a useful business function according to custom and practice in the industry.

5. RECIPIENT

A party receiving CDBG financial assistance pursuant to a grant or cooperative agreement.

6. PROJECT

The scope of work from which a cooperative agreement, grant agreement is awarded.

7. BIDDER

A party seeking to obtain a contract with a recipient through a competitive, advertised, sealed bid process.

8. OFFEROR

A party seeking to obtain a contract with a recipient through a negotiation procurement process.

9. DOCUMENTATION

A certified letter and receipt, written correspondence or written telephone log or required forms (whichever applies).

INFORMATION CONCERNING THE OVERALL PROJECT DBE/MBE AND WBE GOALS

Bidders on this work will be required to comply with the President's Executive Orders No. 11246, as amended, 11625 as amended, and 12138. The requirements for bidders and contractors under these orders are explained in the specifications.

Bidders shall submit a fully executed Minority Business Enterprise Assurance with their proposal, including any necessary documentation (See Page 49 of this Document). Failure to do so will render the bid null and void. The award of contract, if awarded, will be made to the lowest responsive, responsible bidder that is able to demonstrate that good faith efforts were made to meet or exceed the contract goals. Meeting or exceeding the contract goals shall conclusively establish that the bidder has made such good faith efforts.

The goal for minority business participation on this project is four (4) percent of the total dollar value of the job. The WBE goal is two (2) percent of the total dollar value of the job.

SUBGRANTEE RESPONSIBILITIES IN OBTAINING DBE/MBE AND WBE GOALS

The subgrantee has the primary responsibility as a condition of the grant award to ensure that the requirements of the DBE/WBE policy are met. All applicants/subgrantees are required to take positive efforts to use DBE/WBE firms and shall document these efforts in writing. This is a precondition to the approval of the contract for construction and such documented information shall be made available to the State. Positive efforts include, at the minimum, the following:

1. Providing a source list of DBE/WBE firms to all prospective consultants or contractors as part of the bidding documents.
2. Making a list of plan holders of record available to minority-owned firms upon request.
3. Informing consulting firms of their DBE/WBE responsibilities and the DBE/WBE goal to be included in the construction contracts.
4. Contacting local and State Minority Business Development Agencies to inform them of the project and the goal set for DBE/WBE participation. Keeping them informed of pre-bid conferences, bid opening dates, and requesting their assistance when needed.

CONSULTING FIRM RESPONSIBILITIES IN OBTAINING DBE/MBE AND WBE GOALS

All consulting firms are responsible for ensuring opportunity for all minority business enterprise participation at all phases of the project. Consulting firms play a key role in assisting the subgrantee and construction contractor in carrying out their DBE/WBE responsibilities. Consulting engineers shall document in writing their positive efforts. Positive efforts at a minimum will include:

1. Making plan holders aware of the DBE/WBE goals by publishing the goals in all bid notices, including bidding documents, where it is easily and quickly visible, and stating at any pre-bid and pre-award conferences that there are goals for DBE/WBE and the steps to be taken to meet the goal.
2. Keeping records of all awards and proposed awards of contracts to DBE/WBEs, any contract changes, and the names, addresses, dollar amounts, etc., of any DBE/WBEs to be used on the projects.

<p>NOTE: Approval of any construction contract will not be made until the DBE/WBE requirements have been met.</p>
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PRIME CONTRACTOR RESPONSIBILITIES IN OBTAINING DBE/MBE AND WBE GOALS

All prospective prime contractors are responsible for ensuring opportunity for DBE/WBE participation in the construction of South Dakota HUD-funded projects. Prospective prime contractors shall document in writing their positive efforts taken to meet the DBE/WBE goal and submit the documents (DBE/WBE Assurance form Part C of this document) prior to the time of bid opening with the sealed bid. Failure to do so may render the bid null and void. Minimum good faith efforts include:

1. Placing qualified small and minority businesses and women's business enterprises on solicitation lists;
2. Assuring that small and minority businesses, and women's business enterprises are solicited whenever they are potential sources;
3. Dividing total requirements, when economically feasible, into smaller tasks or quantities to permit maximum participation by small and minority business, and women's business enterprises;
4. Establishing delivery schedules, where the requirement permits, which encourage participation by small and minority business, and women's business enterprises; and
5. Using the services and assistance of the agencies listed on the minority business certification form located at the end of this section.

ADDITIONAL PRIME CONTRACTOR RESPONSIBILITIES

In addition to the preceding, the prime contractor shall submit to the owner/subgrantee within ten (10) calendar days of the actual award of any DBE/WBE subcontract (or purchase order), data as to the DBE/WBE firm's name, address, type of work to be performed, contract amount, date of award and the Project Number.

INTERPRETATION OF GOAL PERCENTAGE ACHIEVED

The goal may be achieved, and the bidder considered responsible, when a list of DBE/WBE contractors and suppliers, including the minimum dollar value of each contract, and the type of work each will be performing is submitted in writing with the bid prior to the time of the bid opening, with the sealed bid, and one or more of the following conditions is met:

1. The bidder is a joint venture, of which at least one-member firm is a DBE/WBE and at least the contract goal percentage of the contract work will be performed by the DBE(s)/WBE(s). A copy of the joint venture agreement must be submitted to the owner/subgrantee within five (5) working days following bid opening. A joint venture consisting of minority and majority business enterprises, functioning as prime contractor, will be credited with minority participation on the basis of percentage of the dollar amount of the work to be performed by the DBE/WBE. For example, if a minority- majority joint venture proposes to perform 50% of a project quoted at \$1,000,000 and 50% of the work is to be performed by the minority partner in the joint venture, minority participation will be credited as 25% of the work or \$250,000.
2. Subcontracts or purchases totaling at least the contract goal percentage of the total contract work will be awarded to DBE(s)/WBE(s). This may be achieved through competitive or negotiated contracts. Deviation from the submitted list, which would result in reducing DBE/WBE participation, requires prior approval of the owner/subgrantee. Failure to receive prior approval will be considered a breach of contract and the contractor will be subject to the Non-Compliance Enforcement as outlined in this Attachment. A DBE/WBE bidder will be credited with minority participation for the portion of the contract which they perform, and that portion subcontracted to minority firms. For example, if a DBE/WBE bidder proposes to perform a project quoted as \$1,000,000 and subcontracts 25% to a majority firm and 25% to a minority firm, minority participation will be credited as 75% or \$750,000.
3. Any combination of (1) and (2) as stated above meet the percentage goal for DBE/WBE participation.

STATE ASSISTANCE IN OBTAINING DBE/MBE AND WBE GOALS AND WITH COMPLIANCE

The CDBG program provides DBE/WBE assistance to all subgrantees, contractors, and consultants. This assistance may be obtained by contacting the Community Development Block Grant Program at 773-3301. Further DBE/WBE Assistance in South Dakota may be obtained at the following address:

**Civil Rights Program
SD Department of Transportation
Pierre, South Dakota 57501-2586
Phone (605) 773-4906**

STATE'S RESPONSIBILITY IN OBTAINING DBE/MBE AND WBE GOALS

The State will actively monitor contractors' and subcontractors' performance and will:

1. Provide contractors, A&E firms, and subgrantees with names of minority-owned construction contractors and minority-owned supply and service firms upon request.
2. Review contract awards to evaluate the sufficiency of positive efforts made by the contractors.
3. Review and determine the adequacy of the positive efforts after the subgrantee has selected an apparent low bidder.

SUBGRANTEE ENFORCEMENT OF NON-COMPLIANCE WITH DBE/MBE AND WBE REQUIREMENTS

After an apparent low bidder has been selected, the subgrantee may request in writing, evidence of the legitimacy of the DBE/WBE firms used by the low bidder in meeting the goals. Such information should be submitted to the subgrantee within 10 days of the date the request was mailed. If such evidence is not submitted, or if upon review of the information submitted, the subgrantee determines that there is still a failure to objectively demonstrate positive efforts to meet the goals, the bidder may be found to be nonresponsive.

The subgrantee must also promptly advise the bidder or offeror, in writing, of the basis for the nonresponsive determination. The State, upon review of any proposed contract award, may request a subgrantee to take enforcement action. A finding of no responsiveness shall not prejudice the right of that bidder or offeror to submit bids or proposals on other CDBG-funded projects.

EXCEPTIONS

In limited situations, approval of a contract where a bidder or offeror has not demonstrated positive efforts may be justified. For example, where a delay incident to re-solicitation will cause substantial harm to the subgrantee, the State may concur in the recommended award where at least one of the following provisions is included in the contract:

1. Specific and defined positive efforts for DBE participation during contract performance;
2. A penalty, such as termination or agreed upon liquidated damages, for failure to undertake and complete these efforts; or
3. The withholding of progress payments until such time as the positive effort's requirements have been complied with to the satisfaction of the subgrantee.

POST-AWARD CONTRACT COMPLIANCE

Consultants or contractors are required to execute and submit to the subgrantee, copies of all subcontracts with DBE/WBE within ten (10) days after prime contract award, and, from time to time, advise the subgrantee of the status of its compliance with appropriate requirements. In the event that a consultant or contractor fails to conform to its DBE/WBE obligation, it shall explain, in writing to the subgrantee the reasons. The subgrantee shall require corrective efforts by the consultant or contractor unless the consultant or contractor can demonstrate good cause for its inability to comply.

DBE/WBE (SUB) CONTRACTORS FAILURE TO PERFORM SUCCESSFULLY

If the prime contractor finds that a DBE/WBE (sub)contractor is unable to perform successfully, the contractor shall make sufficient reasonable efforts to replace the DBE/WBE with another DBE/WBE. All substitutions of DBE/WBE subcontractors shall be approved by the subgrantee.

STATE OR LOCAL LAWS

Nothing in this policy prevents a subgrantee from imposing more stringent DBE/WBE requirements on work procured under Community Development Block Grant grants, including procurement obligations which pertain to bid responsiveness, where provided for State or local law or ordinances.

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PART C – State DBE/MBE/WBE Business Enterprise Assurance Form

Project No. _____ County _____

STATE POLICY CONCERNING DBE/MBE AND WBE OPPORTUNITY GOALS

It is the policy of the State of South Dakota that Disadvantaged/Minority Business Enterprises (DBE) and Women Business Enterprise (WBE) shall have the maximum opportunity to participate in the performance of contracts financed in whole or in part with Federal funds under this agreement. Consequently, the DBE and WBE requirements of [2 CFR 200.321](#) apply to this agreement.

CONTRACT GOALS

It is the goal of the State that DBE/MBE and WBE firms will contract for the following percentages of the total dollar amount of this contract:

- Disadvantaged/Minority Business Enterprises (DBE/MBE) (4)%
- Women's Business Enterprises (WBE) (2)%

PRIME CONTRACTOR DBE/MBE/WBE OBLIGATIONS

The prime contractor bidding on projects financed in whole or in part with Federal funds through and for the State Community Development Block Grants program, agrees to ensure that Disadvantaged/Minority Business and Women Enterprises, as defined by [13 CFR 124.1001](#), have the maximum opportunity to participate in the performance of contracts or subcontracts financed in whole or in part with the Federal funds. The prime contractor shall not discriminate on the basis of race, color, national origin, or sex in the bidding process or the performance of contracts.

PRIME CONTRACTOR'S ASSURANCE OF COMPLIANCE

I, acting in my capacity as officer of the undersigned bidder, or bidders if a joint venture, hereby assure the State and the subgrantee that if awarded the contract on this project my company will provide DBE/WBE participation, with that participation being with Business Enterprises owned or controlled by disadvantaged/minorities or women as defined in Special Provisions for Disadvantaged/Minority Business Enterprises, in the following percentages:

Anticipated Disadvantaged (DBE)/Minority Business Enterprises (MBE) _____%

Anticipated Women Business Enterprises (WBE) _____%

I have listed below the names of the DBE/MBE/WBE's, the Item No(s). or work description, and the dollar value of the subcontract work to be awarded.

INTENDED DBE/MBE PARTICIPATION

Name of Firm Contact Person	Item Number(s) or Work Description	Dollar Value of Proposed Subcontract
_____	_____	_____
_____	_____	_____
_____	_____	_____
Total Dollar Value of Proposed Subcontracts		\$ _____
Contract Bid Total		\$ _____
Percent of Contract Bid to be Subcontracted to DBE/MBE firms.....		_____ %

INTENDED WBE PARTICIPATION

Name of Firm Contact Person	Item Number(s) or Work Description	Dollar Value of Proposed Subcontract
_____	_____	_____
_____	_____	_____
_____	_____	_____
Total Dollar Value of Proposed Subcontracts		\$ _____
Contract Bid Total		\$ _____
Percent of Contract Bid to be Subcontracted to WBE firms.....		_____ %

DBE/MBE/WBE SUBSTITUTION

I understand that if a DBE/MBE or WBE subcontractor is unable to perform successfully for any part of the intended work my company is required to make sufficient reasonable efforts to subcontract the work to an alternate DBE/MBE or WBE firm(s) and that I must document such efforts prior to subcontract approval.

WHEN THE DBE/MBE/WBE PERCENTAGES ARE NOT MET

I understand that if the above percentages are less than the DBE/MBE or WBE participation goals shown under contract goals on page 49, I must establish that my company has made a good faith effort to solicit DBE/MBE/WBE participation by:

1. Identifying the actual percentage of DBE/WBE participation attained, including a list of DBE/WBE subcontractors and suppliers, the approximate dollar value of each subcontract or purchase order and the type of work each will be responsible to perform.
2. Documentation - certified letters and mail receipts, written correspondence or a written telephone log requesting bids from DBE/MBE and WBE firms.
3. Using the services and assistance of the certifying agencies listed on the back of the Minority Business Certification form.
4. If a bidder has rejected or considered as nonresponsive any DBE/WBE sub-bidder, a complete documented explanation must be provided to the owner/subgrantee.

Company

By: Name

NOTE: Failure to list the company name, sign, or submit all required documentation with their bid as stated herein may render the bid null and void.

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PART D – Section 3

Section 3 compliance reporting pertains to all workers who are employed on an awarded contract which will be paid with HUD funds. Any entity receiving over \$200,000 in HUD funding for construction-related projects must comply with Section 3. Additionally, any of the recipients' contractors receiving contracts in excess of \$100,000 must also comply. Compliance with Section 3 includes, but is not limited to the following:

- Notifying Section 3 residents of employment and training opportunities;
- Notifying contractors and local governments of Section 3 requirements;
- Facilitating training opportunities for Section 3 residents.

Congress established Section 3 of the Housing and Urban Development Act of 1968, amended, 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.

Section 3 applies to training, employment, contracting, and other economic opportunities arising in connection with the expenditure of housing and community development assistance used for housing rehabilitation, lead hazard abatement, housing construction, and other public construction projects.

Contractors are required to keep accurate records of the following for the duration of the project:

- Total Labor Hours
- Section 3 Worker Hours
- Targeted Section 3 Worker Hours

The following forms are provided in this section for reporting purposes:

- HUD Form 4736A – Employer Certification Form
- Employers may certify individual workers as Section 3 or Targeted Section 3 workers per the local income limits, provided by Project Administrator.
- Section 3 Worker and Section 3 Targeted Worker Self-Certification Form: Contractors may opt to have their employees voluntarily complete a self-certification form.
- Section 3 PRIME CONTRACTOR Reporting Form: The final report the contractor will be required when the project is substantially complete.
- Tracking Spreadsheets: Project Administrators will have labor hours tracking spreadsheets (known as 4737 and 4737A) available for contractors to use to track Section 3 hours. Please contact your Project Administrator for a template.

The Section 3 Clause follows on the next page.

All section 3 covered contracts shall include the following clause ([24 CFR 135.38](#) (Jan. 3, 2017) referred to as the section 3 clause):

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. 1701u](#) (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 contractor 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, were 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 future 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 provisions 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).

Section 3 Housing and Community Development Employer Certification Form	U.S. Department of Housing and Urban Development Office of Field Policy and Management	HUD FORM 4736A OMB Approval Number 2501-0041 (Exp. 04/30/2025)
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(In compliance with Section 3 of the HUD Act of 1968 and 24 CFR Part 75)

Public reporting for this collection of information is estimated to average 0.5 hours per response, including the time for reviewing instructions, searching existing data sources, gathering, and maintaining the data needed, and completing and reviewing the collection of information.

Section 3 of the Housing and Urban Development Act of 1968, as amended by the Housing and Community Development Act of 1992 (Section 3), and 12 U.S.C. § 1701u ensure that employment and other economic opportunities generated by Federal financial assistance for housing and community development programs are, to the greatest extent feasible, directed toward low- and very low-income persons, particularly those who receive government assistance for housing. The regulations are found at 24 CFR Part 75. This collection of information is required in order to ensure that a worker can be certified as an eligible Section 3 worker as outlined in 24 C.F.R. § 75.31. The information will be used by the Department to ensure compliance with Section 3 of the HUD Act of 1968 employer certification requirements listed in 24 CFR § 75.31, to assess the results of the Department's efforts to meet the statutory objectives of Section 3, to prepare reports to Congress, and by recipients to ensure they are complying with their recordkeeping requirements found in the regulation, and as a self-monitoring tool.

Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions to reduce this burden, to Anna P. Guido, Reports Management Officer, QDAM, Department of Housing and Urban Development, 451 7th Street, SW, Room 4176, Washington, DC 20410-5000. When providing comments, please refer to OMB Approval No. 2501-0041. HUD may not conduct and sponsor and a person is not required to respond to, a collection of information unless the collection displays a valid control number. No assurances of confidentiality are provided for this information collection.

The purpose of this form is to comply with Section 3 of the HUD Act of 1968 employer certification requirements listed in 24 CFR § 75.31. To qualify as a Section 3 worker, the United States legal resident's annual income must not exceed the HUD income limits for the year before the worker was hired, or the individual's current income annualized on a full-time basis for the year must be below the HUD income limit. Additionally, an individual can qualify as a Section 3 worker and Targeted Section 3 worker if an employee of a Section 3 Business Concern. To qualify as a Targeted Section 3 worker, an employer can confirm that the employee lives within the service area or neighborhood of the project.

Please provide the following information about the business/employer:

Name of Business:

Street Address:

City, State Zip:

Phone #:

Email:

Please Provide the following information about the worker/employee:

Printed Name of Worker:
Street Address (*No PO Box*)
City, State, Zip
Phone #:
Email:

Please indicate which of the following is true for the worker listed above: (*Select all that apply*)

<input type="checkbox"/> Worker's income from your employment is below the income limit based on a calculation of what the worker's wage rate would translate to if annualized on a full-time basis* <input type="checkbox"/> Worker is employed by a Section 3 Business Concern (Select if your business qualifies as a Section 3 Business Concern) <input type="checkbox"/> Worker's residence is within the service area or neighborhood of the project	80% Income limits for City/County of [locality] \$XX,XXX
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**Currently or at the time of hire if hired within the past 5 years.*

See <https://www.huduser.gov/portal/datasets/il.html> for most recent income limits.

I/We, the undersigned, certify under penalty of perjury that the information provided above is true and correct and certifies that the worker identified above meets the definition of a Section 3 worker. WARNING: Anyone who knowingly submits a false claim or makes a false statement is subject to criminal and/or civil penalties, including confinement for up to 5 years, fines, and civil and administrative penalties. (18 U.S.C. §§ 287, 1001, 1010, 1012; 31 U.S.C. §3729, 3802)

Signature

Date

Section 3 Worker and Targeted Section 3 Worker Self-Certification Form

The purpose of HUD's Section 3 program is to provide employment, training, and contracting opportunities to low-income individuals, particularly those who are recipients of government assistance for housing or other public assistance programs. **Your response is voluntary, confidential, and has no effect on your employment.**

Eligibility for Section 3 Worker or Targeted Section 3 Worker Status

A Section 3 worker seeking certification shall self-certify and submit this form to the recipient contractor or subcontractor, that the person is a Section 3 worker or Targeted Section 3 Worker as defined in 24 CFR Part 75.

Instructions: Enter/select the appropriate information to confirm your Section 3 worker or Targeted Section 3 Worker status.

Employee Name: _____

1. Are you a resident of public housing or a Housing Choice Voucher Holder (Section 8)? ☐ YES ☐ NO
2. Are you a resident of the [City/County]? ☐ YES ☐ NO
3. In the field below, select the amount of individual income you believe you earn on an annual basis.

<input type="checkbox"/> Less than \$10,000	<input type="checkbox"/> \$30,001 - \$40,000	<input type="checkbox"/> More than \$60,000
<input type="checkbox"/> \$10,001 - \$20,000	<input type="checkbox"/> \$40,001 - \$50,000	
<input type="checkbox"/> \$20,001 - \$30,000	<input type="checkbox"/> \$50,001 - \$60,000	

Select from **ONE** of the following two options below:

I qualify as a:

- ☐ Section 3 Worker (as defined on page 2 of Section 3 Worker Certification Form)
- ☐ Targeted Section 3 Worker (as defined on page 2 of Section 3 Worker Certification Form)

Employee Affirmation

I affirm that the above statements (on frontside of this form) are true, complete, and correct to the best of my knowledge and belief. I hereby certify, under penalty of law, that the following information is correct to the best of my knowledge.

Employee Address: _____

Print Name: _____ Date Hired: _____

Signature: _____ Date: _____

The **City/County of (insert locality here)** Section 3 Income Limits & Eligibility Guidelines

PLEASE NOTE: THE WORKER'S INCOME MUST BE AT OR BELOW THE AMOUNT PROVIDED BELOW FOR AN INDIVIDUAL (HOUSEHOLD OF 1) REGARDLESS OF ACTUAL HOUSEHOLD SIZE.

INDIVIDUAL INCOME LIMITS FOR **CITY/COUNTY OF (INSERT LOCALITY HERE)** FY 20 **(INSERT YEAR HERE)**

Income Limits Category	FY 20 (enter year here) Income Limits
Extremely Low Income Limits (30%)	
Very Low Income Limits (50%)	
Low Income Limits (80%)	

See <https://www.huduser.gov/portal/datasets/il.html> for most recent income limits.

Section 3 Worker Definition:

- A low or very low-income resident (the worker's income for the previous or annualized calendar year is below the income limit established by HUD); or
- Employed by a Section 3 business concern; or
- A YouthBuild participant.

Targeted Section 3 Worker Definition (for housing and community development):

- Employed by a Section 3 business concern or
- Currently meets or when hired met at least one of the following categories as documented within the past five years:
 - Living within the service area or the neighborhood of the project, as defined in 24 CFR 75.5
 - A YouthBuild participant.

FOR ADMINISTRATIVE USE ONLY

Is the employee a Section 3 worker based upon their self-certification? ☐YES ☐NO

Is the employee a Targeted Section 3 worker based upon their self-certification? ☐YES ☐NO

Was this an applicant who was hired as a result of the Section 3 project? ☐YES ☐NO

If Yes, what is the name of the company? _____

What was the date of hire? _____

EMPLOYERS MUST RETAIN THIS FORM IN THEIR SECTION 3 COMPLIANCE FILE FOR FIVE

Section 3 PRIME CONTRACTOR Reporting Form

This form is to be completed at the time the project is **substantially complete** and returned to the Project Administrator. Prime contractors are responsible for collecting data from their subcontractors.

Contractor: _____

Project Name: _____

Date of Substantial completion: _____

Please provide information about the job classifications of your employees and hours worked in the following table:

Job Category	Total Employees	Section 3 Employees	Total Project Labor Hours	Section 3 Worker Hours	Targeted Section 3 Worker Hours
Construction Hours:					
Professional Services:					

How did you attempt to recruit **Section 3 Workers** and **Section 3 Business Concerns**? (Check all that apply.)

- | | |
|--|---|
| <ul style="list-style-type: none"> <input type="checkbox"/> Outreach efforts to generate job applicants from “Targeted Workers,” posting “Help Wanted” signs: <ul style="list-style-type: none"> <input type="checkbox"/> near public housing. <input type="checkbox"/> at the job site. <input type="checkbox"/> Direct, on-the-job training (including apprenticeships) <input type="checkbox"/> Indirect training such as arranging for, contracting for, or paying tuition for, off-site training. <input type="checkbox"/> Technical assistance to help Section 3 workers compete for jobs (e.g., coaching) <input type="checkbox"/> Outreach efforts to identify and secure bids from Section 3 business concerns. <input type="checkbox"/> Technical assistance to help Section 3 business concerns understand and bid on contracts. <input type="checkbox"/> Division of contracts into smaller jobs to facilitate participation by Section 3 business concerns. <input type="checkbox"/> Provided or connected residents with assistance in seeking employment including drafting resumes, preparing for interviews, finding job opportunities, or connecting residents to job placement services. <input type="checkbox"/> Held one or more job fairs. | <ul style="list-style-type: none"> <input type="checkbox"/> Provided or connected residents with supportive services that can provide <ul style="list-style-type: none"> <input type="checkbox"/> direct services or referrals. <input type="checkbox"/> work readiness health screenings, interview clothing, uniforms, test fees, or transportation. <input type="checkbox"/> Assisted residents with finding childcare. <input type="checkbox"/> Assisted residents to apply for/attend: <ul style="list-style-type: none"> <input type="checkbox"/> college. <input type="checkbox"/> vocational/technical training. <input type="checkbox"/> financial literacy training/coaching. <input type="checkbox"/> Bonding assistance, guarantees, or other efforts to support viable bids from Section 3 business concerns. <input type="checkbox"/> Provided/connected residents with training on computer use or online technologies. <input type="checkbox"/> Promoted the use of a business registry designed to create opportunities for disadvantaged or small businesses. <input type="checkbox"/> Outreach, engagement, or referrals with the state's one-stop system. <input type="checkbox"/> Other. Specify: |
|--|---|

I attest the above information to be true.

Signed: _____ Date: _____

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PART E – Labor Standards

Contractors performing work on construction projects which have been provided grant assistance by the State of South Dakota must fulfill the requirements of the Labor Standards Provisions for federally assisted construction contracts. These standards are located at the end of this section.

WEEKLY CONTRACTOR PAYROLLS

Each week as work progresses, the contractor must submit to the Owner a copy of all weekly payrolls and required attachments stipulated therein. Sample suggested payrolls may be obtained from the Owner of the CDBG office upon request. All weekly payrolls shall contain or have attached the following:

1. Name of each employee and last four digits of the social security number.
2. Classification of employees (same as shown on wage determination).
3. Rate of pay not less than that shown on the wage determination.
4. Hours worked each day and total for each week for each employee.
5. All deductions made.
6. Net amount paid to employee.
7. The following certification:

"I certify that the payroll is correct and complete, that the wage rates contained therein are not less than the applicable rates contained in the Wage Determination decision of the Secretary of Labor and that the classification set forth for each laborer or mechanic conform with the work he performs."

(Signature)

(Title)

COMPLIANCE WITH THE COPELAND (ANTI-KICKBACK) ACT

The following anti-kickback statement must be submitted with each set of weekly payrolls:

"I, (name of signatory party), (title), do hereby state: That I pay or supervise the payment of the persons employed by (contractor or subcontractor) on the (work or building); that during the payroll period commencing on the _____day of_____, 20____, and ending the ____day of _____, 20____, all persons employed on said project have been paid the full weekly wages earned, that no rebates have been or will be made either directly or indirectly from the full weekly wages earned by any person, other than permissible deductions, as defined in Regulations, Part 3 (CFR Part 3) issued by the Secretary of Labor under the Copeland Act, as amended (48 Stat. 948; 63 Stat. 108; 72 Stat. 967; and 40 U.S.C. 276c), and described below: (Paragraph describing deductions, if any)"

(Signature)

(Title)

All prime contractors shall include the wage determination and all the labor standards provisions in all subcontracts as herein specified.

The Contractor shall make employment records available for inspection by authorized representatives of the State of South Dakota and the Department of Labor, and will permit employees to be interviewed during working hours by these representatives. Payroll records will be maintained during the course of the work by the Prime Contractor, including a copy of the payroll of each Subcontractor and they shall be preserved for a period of three years thereafter.

Each monthly engineering estimate must be accompanied by the following certificate executed by each Prime Contractor employing mechanics and laborers at the site on work in which the Federal government is to participate:

Principal Contractor:

Project Name:

Project No. SD:

I, _____, as official representative of the above named principal contractor do hereby certify as follows:

- ☐ All Labor Standards Requirements have been fulfilled by principal contractor and all subcontractors under this contract; or
- ☐ There is an honest dispute regarding the required provisions.

Explanation:

(Signature)

(Title)

In the event of a violation of the Labor Standards provisions of the contract by the Prime Contractor or any Subcontractor, the owner may, after notice to the Contractor, suspend further payments or proceed to terminate the contract as provided in the Labor Standards section of the Contract.

PART F – Federal Labor Standards Provisions

Applicability

The Project or Program to which the construction work covered by this contract pertains is being assisted by the United States of America and the following Federal Labor Standards Provisions are included in this Contract pursuant to the provisions applicable to such Federal assistance.

A. Minimum Wages

1. Minimum Wages

- a. All laborers and mechanics employed or working upon the site of the work (or under the United States Housing Act of 1937 or under the Housing Act of 1949 in the construction or development of the project), will be paid unconditionally and not less often than once a week, and without payroll deductions as are permitted by regulations issued by the Secretary of Labor under the Copeland Act (29CFR Part 3), the full amount of wages and bona fide fringe benefits (or cash equivalents thereof) due at time of payment computed at rates not less than those contained in the wage determination of the Secretary of Labor which is attached hereto and made a part hereof, regardless of any contractual relationship which may be alleged to exist between the contractor and such laborers and mechanics. Contributions made or costs reasonably anticipated for bona fide fringe benefits under Section 1(b)(2) of the Davis-Bacon Act on behalf of laborers or mechanics are considered wages paid to such laborers or mechanics, subject to the provisions of 29 CFR 5.5(a)(1)(iv); also, regular contributions made or costs incurred for more than a weekly period (but not less often than quarterly) under plans, funds, or programs, which cover the particular weekly period, are deemed to be constructively made or incurred during such weekly period. Such laborers and mechanics shall be paid the appropriate wage rate and fringe benefits on the wage determination for the classification of work actually performed, without regard to skill, except as provided in 29 CFR Part 5.5(a)(4). Laborers or mechanics performing work in more than one classification may be compensated at the rate specified for each classification for the time actually worked therein; Provided, That the employer's payroll records accurately set forth the time spent in each classification in which work is performed. The wage determination (including any additional classification and wage rates conformed under 29 CFR Part 5.5(a)(1)(ii) and the Davis-Bacon poster (WH-1321) shall be posted at all times by the contractor and its subcontractors at the site of the work in a prominent and accessible place where it can be easily seen by the workers.
- b.
 - i. Any class of laborers or mechanics which is not listed in the wage determination and which is to be employed under the contract shall be classified in conformance with the wage determination. HUD shall approve an additional classification and wage rate and fringe benefits therefore only when the following criteria have been met:
 1. The work to be performed by the classification requested is not performed by a classification in the wage determination; and
 2. The classification is utilized in the area by the construction industry; and

3. The proposed wage rate, including any bona fide fringe benefits, bears a reasonable relationship to the wage rates contained in the wage determination.
- ii. If the contractor and the laborers and mechanics to be employed in the classification (if known), or their representatives, and HUD or its designee agree on the classification and wage rate (including the amount designated for fringe benefits where appropriate), a report of the action taken shall be sent by HUD or its designee to the Administrator of the Wage and Hour Division, Employment standards Administration, U.S. Department of Labor, Washington, D.C. 20210. The Administrator, or an authorized representative, will approve, modify, or disapprove every additional classification action within 30 days of receipt and so advise HUD or its designee or will notify HUD or its designee within the 30-day period that additional time is necessary. (Approved by the Office of Management and Budget under OMB control number 1215-0140.)
- iii. In the event the contractor, the laborers or mechanics to be employed in the classification or their representatives, and HUD or its designee do not agree on the proposed classification and wage rate (including the amount designated for fringe benefits where appropriate), HUD or its designee shall refer the questions, including the views of all interested parties and the recommendation of HUD or its designee, to the Administrator for determination. The Administrator, or an authorized representative, will issue a determination within 30 days of receipt and so advise HUD or its designee or will notify HUD or its designee within the 30-day period that additional time is necessary. (Approved by the Office of Management and Budget under OMB control Number 1215-0140.)
- iv. The wage rate (including fringe benefits where appropriate) determined pursuant to subparagraphs (1)(b) or (c) of this paragraph, shall be paid to all workers performing work in the classification under this contract from the first day on which work is performed in the classification.
- c. Whenever the minimum wage rate prescribed in the contract for a class of laborers or mechanics includes a fringe benefit which is not expressed as an hourly rate, the contractor shall either pay the benefit as stated in the wage determination or shall pay another bona fide fringe benefit or an hourly cash equivalent thereof.
- d. If the contractor does not make payments to a trustee or other third person, the contractor may consider as part of the wages of any laborer or mechanic the amount of any costs reasonably anticipated in providing bona fide fringe benefits under a plan or program, Provided, That the Secretary of Labor has found, upon the written request of the contractor, that the applicable standards of the Davis-Bacon Act have been met. The Secretary of Labor may require the contractor to set aside in a separate account asset for the meeting of obligations under the plan or program. (Approved by the Office of Management and Budget under OMB Control Number 1215-0140.)

2. Withholding.

HUD or its designee shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld from the contractor under this contract or any other Federal contract with the same prime contractor, or any other Federally-assisted contract

subject to Davis-Bacon prevailing wage requirements, which is held by the same prime contractor so much of the accrued payments or advances as may be considered necessary to pay laborers and mechanics, including apprentices, trainees, and helpers, employed by the contractor or any subcontractor the full amount of wages required by the contract. In the event of failure to pay any laborer or mechanic, including any apprentice, trainee, or helper, employed or working on the site of the work (or under the United States Housing Act of 1937 or under the Housing Act of 1949 in the construction or development of the project), all or part of the wages required by the contract, HUD or its designee may, after written notice to the contractor, sponsor, applicant, or owner, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds until such violations have ceased. HUD or its designee may, after written notice to the contractor, disburse such amounts withheld for and on account of the contractor or subcontractor to the respective employees to whom they are due. The Comptroller General shall make such disbursements in the case of direct Davis-Bacon Act contracts.

3. Payrolls and basic records

- a. Payrolls and basic records relating thereto shall be maintained by the contractor during the course of the work preserved for a period of three years thereafter for all laborers and mechanics working at the site of the work (or under the United States Housing Act of 1937 or under the Housing Act of 1949, in the construction or development of the project). Such records shall contain the name, address, and social security number of each such worker, his or her correct classification, hourly rates of wages paid (including rates of contributions or costs anticipated for bona fide fringe benefits or cash equivalents there of the types described in Section 1(b)(2)B of the Davis-Bacon Act), daily and weekly number of hours worked, deductions made and actual wages paid. Whenever the Secretary of Labor has found under 29 CFR 5.5 (a)(1)(iv) that the wages of any laborer or mechanic include the amount of any costs reasonably anticipated in providing benefits under a plan or program described in Section 1(b)(2)(b) of the Davis-Bacon Act, the contractor shall maintain records which show that the commitment to provide such benefits is enforceable, that the plan or program is financially responsible, and that the plan or program has been communicated in writing to the laborers or mechanics affected, and records which show the costs anticipated or the actual cost incurred in providing such benefits. Contractors employing apprentices or trainees under approved programs shall maintain written evidence of the registration of the apprentices and trainees, and the ratios and wage rates prescribed in the applicable programs. (Approved by the Office of Management and Budget under OMB control Numbers 1215-0140 and 1215- 0017.)
- b.
 - i. The contractor shall submit weekly for each week in which any contract work is performed a copy of all payrolls to HUD or its designee if the agency is a party to the contract, but if the agency is not such party, the contractor will submit the payrolls to the applicant, sponsor, or owner, as the case may be, for transmission to HUD or its designee. The payrolls submitted shall set out accurately and completely all of the information required to be maintained under 29 CFR Part 5.5(a)(3)(i). This information may be submitted in any form desired. Optional Form WH-347 is available for this purpose and may be purchased from the Superintendent of documents (Federal Stock Number 029-005-00014-1), U.S. Government Printing Office, Washington, D.C. 20402. The

prime contractor is responsible for the submission of copies of payrolls by all subcontractors. (Approved by the Office of management and Budget under OMB Control Number 1215-0149.)

- ii. Each payroll submitted shall be accompanied by a "Statement of compliance," signed by the contractor or subcontractor or his or her agent who pays or supervises the payment of the persons employed under the contract and shall certify the following:
 - 1. That the payroll for the payroll period contains the information required to be maintained under 29 CFR Part 5.59(a)(3)(i) and that such information is correct and complete;
 - 2. That each laborer or mechanic (including each helper, apprentice, and 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 29 CFR Part 3.
 - 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.
- iii. The weekly submission of a properly executed certification set forth on the reverse side of Optional Form WH-347 shall satisfy the requirement for submission of the "Statement of compliance" required by paragraph A.3(ii)(b) of this section.
- iv. 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.
- c. The contractor or subcontractor shall make the records required under paragraph A.3(i) of this section available for inspection, copying, or transcription by authorized representatives of HUD or its designee or the Department of Labor, and shall permit such representatives to interview employees during working hours on the job. If the contractor or subcontractor fails to submit the required records or to make them available, HUD or its designee may, after written notice to the contractor, sponsor, applicant, or owner, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds. Furthermore, failure to submit the required records upon request or to make such records available may be grounds for debarment action pursuant to 29 CFR Part 5.12.

4. Apprentices and trainees.

- a. **Apprentices.** Apprentices will be permitted to work at less than the predetermined rate for the work they performed when they are employed pursuant to and individually registered in a bona fide apprenticeship program registered with the U.S. Department of Labor, Employment and Training Administration, Bureau of Apprenticeship and Training, or with a State Apprenticeship Agency recognized by the Bureau, or if a person is employed in his or her first 90 days of probationary employment as an apprentice in such

an apprenticeship program who is not individually registered in the program, but who has been certified by the Bureau of Apprenticeship and Training or a State Apprenticeship Agency (where appropriate) to be eligible for probationary employment as an apprentice. The allowable ratio of apprentices to journeymen on the job site in any craft classification shall not be greater than the ratio permitted to the contractor as to the entire work force under the registered program. Any worker listed on a payroll at an apprentice wage rate, who is not registered or otherwise employed as stated above, shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any apprentice performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. Where a contractor is performing construction on a project in a locality other than that in which its program is registered, the ratios and wage rates (expressed in percentages of the journeyman's hourly rate) specified in the contractor's or subcontractor's registered program shall be observed. Every apprentice must be paid at not less than the rate specified in the registered program for the apprentice's level of progress, expressed as a percentage of the journeymen hourly rate specified in the applicable wage determination. Apprentices shall be paid fringe benefits in accordance with the provisions of the apprenticeship program. If the apprenticeship program does not specify fringe benefits, apprentices must be paid the full amount of fringe benefits listed on the wage determination for the applicable classification. If the Administrator determines that a different practice prevail for the applicable apprentice classification, fringes shall be paid in accordance with that determination. In the event the bureau of Apprenticeship and Training, or a State Apprenticeship Agency recognized by the Bureau, withdraws approval of an apprenticeship program, the contractor will no longer be permitted to utilize apprentices at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

- b. **Trainees.** Except as provided in 29 CFR 5.16, trainees will not be permitted to work at less than the predetermined rate for the work performed unless they are employed pursuant to and individually registered in a program which has received prior approval, evidenced by formal certification by the U.S. Department of Labor, Employment and Training Administration. The ratio of trainees to journeymen on the job site shall not be greater than permitted under the plan approved by the Employment and Training Administration. Every trainee must be paid at not less than the rate specified in the approved program for the trainee's level of progress, expressed as a percentage of the journeyman hourly rate specified in the applicable wage determination. Trainees shall be paid fringe benefits in accordance with the provisions of the trainee program. If the trainee program does not mention fringe benefits, trainees shall be paid the full amount of fringe benefits listed on the wage determination unless the Administrator of the Wage and Hour Division determines that there is an apprenticeship program associated with the corresponding journeyman wage rate on the wage determination which provides for less than full fringe benefits for apprentices. Any employee listed on the payroll at a trainee rate who is not registered and participating in a training plan approved by the Employment and Training Administration shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. In addition, any trainee performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually

performed. In the event the Employment and Training Administration withdraws approval of a training program the contractor will no longer be permitted to utilize trainees at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

- c. **Equal employment opportunity.** The utilization of apprentices, trainees, and journeymen under this part shall be in conformity with the equal and employment opportunity requirements of executive order 11246, as amended, and 29 CFR Part 30.
5. **Compliance with Copeland Act requirements.** The contractor shall comply with the requirements of 29 CFR Part 3, which are incorporated by reference in this contract.
6. **Subcontracts.** The contractor or subcontractor will insert in any subcontracts the clauses contained in 29 CFR 5.5 (a)(1) through (10) and such other clauses as HUD or its designee may by appropriate instructions require, and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for the compliance by any subcontractor or lower tier subcontractor with all the contract clauses in 29 CFR Part 5.5.
7. **Contract termination; debarment.** A breach of the contract clauses in 29 CFR 5.5 may be grounds for termination of the contract, and for debarment as a contractor and a subcontractor as provided in 29 CFR 5.12.
8. **Compliance with Davis-Bacon and Related Act Requirements.** All rulings and interpretations of the Davis-Bacon and Related Acts contained in 29 CFR Parts 1, 3, and 5 are herein incorporated by reference in this contract.
9. **Disputes concerning labor standards.** Disputes arising out of the labor standards provisions of this contract shall not be subject to the general disputes clause of this contract. Such disputes shall be resolved in accordance with the procedures of the Department of Labor set forth in 29 CFR Parts 5, 6, and 7. Disputes within the meaning of this clause include disputes between the contractor (or any of its subcontractors) and HUD or its designee, the U.S. Department of Labor, or the employees or their representatives.
10. **Certification of Eligibility**
 - a. By entering into this contract, the contractor certifies that neither it (nor he or she) nor any person or firm who has an interest in the contractor's firm is a person or firm ineligible to be awarded Government contracts by virtue of Section 3(a) of the Davis- Bacon Act or 29 CFR 5.12(a)(1) or to be awarded HUD contracts or participate in HUD programs pursuant to 24 CFR Part 24.
 - b. No part of this contract shall be subcontracted to any person or firm ineligible for award of a Government contract by virtue of Section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1) or to be awarded HUD contracts or participate in HUD programs pursuant to 24 CFR Part 24.
 - c. The penalty for making false statements is prescribed in the U.S. Criminal Code, 18 U.S.C. 1001. Additionally, U.S. Criminal Code, Section 1010, Title 18, U.S.C., "Federal Housing Administration transactions", provides in part "Whoever, for the purpose of...influencing in any way the action of such Administration...makes, utters or publishes any statement, knowing the same to be false...shall be fined not more than \$5,000 or imprisoned not more than two years or both."

11. **Complaints, Proceedings, or Testimony by Employees.** No laborer or mechanic to whom the wage, salary, or other labor standards provisions of this Contract are applicable shall be discharged or in any other manner discriminated against by the Contractor or any subcontractor because such employee has filed any complaint or instituted or caused to be instituted any proceeding or has testified or is about to testify in any proceeding under or relating to the labor standards applicable under this Contract to his employer.
- B. **Contract Work Hours and Safety Standards Act.** As used in this paragraph, the terms "laborers" and "mechanics" include watchmen and guards.
1. **Overtime requirements.** No contractor or subcontractor contracting for any part of the contract work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic in any workweek in which he or she is employed on such work to work in excess of forty hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of forty hours in such workweek, whichever is greater.
 2. **Violation: liability for unpaid wages: liquidated damages.** In the event of any violation of the clause set forth in subparagraph (1) of this paragraph, the contractor and any subcontractor responsible therefore shall be liable for the unpaid wages. In addition, such contractor and subcontractor shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to such District or to such territory), for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic including watchmen and guards, employed in violation of the clause set forth in subparagraph (1) of this paragraph in the sum of \$10 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of forty hours without payment of the overtime wages required by the clause set forth in subparagraph (1) of this paragraph.
 3. **Withholding for unpaid wages and liquidated damages.** HUD or its designee shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld from any moneys payable on account of work performed by the contractor or subcontractor under any such contract or any other Federal contract with the same prime contract or any other Federally-assisted contract subject to the Contract Work Hours and Safety Standards Act, which is held by the same prime contractor such sums as may be determined to be necessary to satisfy any liabilities of such contractor or subcontractor for unpaid wages and liquidated damages as provided in the clause set forth in subparagraph (2) of this paragraph.
 4. **Subcontracts.** The contractor or subcontractor shall insert in any subcontracts the clauses set forth in subparagraph (1) through (4) of this paragraph and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in subparagraphs (1) through (4) of this paragraph.
- C. **Health and Safety**
1. No laborer or mechanic shall be required to work in surroundings or under working conditions which are unsanitary, hazardous, or dangerous to his health and safety as determined under construction safety and health standards promulgated by the Secretary of Labor by regulation.
 2. The Contractor shall comply with all regulations issued by the Secretary of Labor pursuant to Title 29 Part 1926 (formerly part 1518) and failure to comply may result in imposition of sanctions pursuant to the Contract Work Hours and Safety Standards Act (Public Law 91- 54,83 Stat.96).

3. The Contractor shall include the provisions of this Article in every subcontract so that such provisions will be binding on each subcontractor. The Contractor shall take such action with respect to any subcontract as the Secretary of Housing and Urban Development or the Secretary of Labor shall direct as a means of enforcing such provisions.

PART G – Certification of Nondiscrimination

TO: (EMPLOYEES OF CONTRACTORS)

The undersigned currently holds contract(s) with (Name of Applicant) involving funds or credit of the U.S. Government or (a) subcontract(s) with a prime contractor holding such contract(s).

You are advised that under the provisions of the above contract(s) or subcontract(s) and in accordance with Executive Order 11246, Section 202, as amended, the undersigned is obliged not to discriminate against any employee or applicant for employment because of race, color, creed, or national origin. This obligation not to discriminate in employment includes, but is not limited to the following:

**Hiring, Placement, Upgrading, Transfer to Demotion, Recruitment, Advertising,
Or Solicitation For Employment Training During Employment, Rates Of Pay Or
Other Forms Of Compensation, Selection For Training Including Apprenticeship,
Layoff Or Termination.**

This notice is furnished you pursuant to the provisions of the above contract(s) or subcontract(s) and Executive Order 11246.

Copies of this notice will be posted by the undersigned in conspicuous places available to employees or applicants for employment.

(CONTRACTOR OR SUBCONTRACTOR)

(DATE

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PART H – Elimination of Segregated Facilities

Prior to the award of any nonexempt Government contract or subcontract or Federally assisted construction contract or subcontract, the Department or the applicant shall require the prospective prime contractor, and each prime contractor and subcontractor shall require each subcontractor to submit a certification, in the form approved by the Director, that the prospective prime contractor or subcontractor does not and will not maintain any facilities he provides for his employees in a segregated manner, or permit his employees to perform their services at any location under his control where segregated facilities are maintained; and that he will obtain a similar certification in the form approved by the Director, prior to the award of any nonexempt subcontractor.

NONSEGREGATED FACILITIES CERTIFICATION

The contractor certifies that he does not and will not maintain any facilities he provides for his employees in a segregated manner or permit his employees to perform their services at any location under his control where segregated facilities are maintained; and that he will obtain a certification similar to this one, prior to the award of any nonexempt subcontract.

As used in this certification, the term "segregated facilities" means any waiting rooms, work areas, rest rooms and wash rooms, restaurants and other eating areas, time clocks, locker rooms and other storage or dressing areas, parking lots, drinking fountains, recreation or entertainment areas, transportation, and housing facilities provided for employees which are segregated by explicit directive or are in fact segregated on the basis of race, creed, color, or national origin, because of habit, local custom, or otherwise. The Federal assisted construction contractor agrees that (except where he has obtained identical certifications from proposed subcontractors from specific time periods) he will obtain identical certifications from proposed subcontractors prior to the award of subcontracts exceeding \$10,000 which are not exempt from the provisions of the Equal Opportunity clause, and that he will retain such certifications in his files.

Signature

Date

Typed Name and Title of Signer

NOTE: The penalty for making false statements in offers is prescribed in 18 U.S.C. 1001.

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PART I – Suspended or Debarred Contractors Certification

2 CFR part 200 prohibits non-Federal agencies from awarding vendor contracts in excess of \$100,000 or awarding any subgrantee contracts to organizations or principals who are suspended or debarred. In order to meet this compliance requirement, 2 CFR part 200 requires contractors who receive federal assistance from non-Federal agencies to certify that the organization is not suspended or debarred. The non-Federal entities may rely upon the certification unless it knows that the certification is erroneous.

THIS MUST BE COMPLETED PRIOR TO AWARDING BID

CERTIFICATION REGARDING DEBARMENT, SUSPENSION, INELIGIBILITY, AND VOLUNTARY EXCLUSION

The contractor certifies that neither the firm nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency.

Signature:_____

Date:_____

Typed Name & Title:_____

NOTE: The penalty for making false statements in offers is prescribed in 18 U.S.C. 1001.

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PART J – Contractor Excise Tax License

No public corporation may award any contract for the construction of any public improvement unless the contractor has a South Dakota Contractors' Excise Tax License.

PLEASE COMPLETE THE FOLLOWING:

1. Owner Name: _
2. Business Name: _____
3. South Dakota Tax Permit Number: ____
4. If you applied for a Contractors' Excise Tax License but have not received the license, please list your federal identification number and date license applies for:

EIN _____ Application Date _____

I certify that to the best of my knowledge, the above information is accurate and complete.

Contractor Signature

Date

- If the contractor indicates a license has been applied for but not received, please call the South Dakota Department of Revenue at 1-800-829-9288 to verify the status of the application.
- An application for a Contractors' Excise Tax License may be obtained from the South Dakota Department of Revenue's website <https://dor.sd.gov/> or by calling 800-829- 9188.

THIS FORM MUST BE SUBMITTED WITH THE CONTRACTORS' BID

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PART K – Payments to Contractors

POLICY

It is State policy that prompt progress payments shall be made by subgrantees to prime contractors and by prime contractors to subcontractors and suppliers for eligible construction, material and equipment costs, including those of undelivered specifically manufactured equipment, incurred under a contract.

CONDITIONS OF PROGRESS PAYMENTS

For purposes of this section, progress payments are defined as follows:

1. Payments for work in place.
2. Payments for materials or equipment which have been delivered to the construction site, or which are stockpiled in the vicinity of the construction site, in accordance with the terms of the contract, when conditional or final acceptance is made by or for the subgrantee. It is the subgrantee's responsibility to ensure that items for which progress payments have been made are adequately insured and are protected through appropriate security measures.
3. Payments for undelivered specifically manufactured items or equipment (excluding off-the-shelf or catalog items), as work thereon progresses. Such payments must be made if provisions therefore are included in the bid and contract documents. Such provisions may be included at the option of the subgrantee only when all of the following conditions exist:
 - a. The equipment is designated in the project specifications;
 - b. The equipment to be specifically manufactured for the project could not be readily utilized on nor diverted to another job; and
 - c. A fabrication period of more than six months is anticipated.

PROTECTION OF PROGRESS PAYMENTS MADE FOR MANUFACTURED EQUIPMENT SPECIFICALLY

The subgrantee will assure protection of the State's interest in progress payments made for items or equipment referred to in this section. This protection must be acceptable to the subgrantee and must take the form of securities negotiable without recourse, condition or restrictions; progress payment bond; or an irrevocable letter of credit provided to the subgrantee through the prime contractor by the subcontractor or supplier.

CONTRACT PROVISIONS

Where applicable, appropriate provisions regarding progress payments must be included in each contract and subcontract. Subgrantees must use clauses acceptable to the State.

IMPLEMENTATION OF POLICY

The foregoing progress payments policy should be implemented in invitations for bids. If provision for progress payments is made subsequent to contract award, it must be for consideration which the subgrantee deems adequate.

RETENTION OF PROGRESS PAYMENTS

The subgrantee may retain a portion of the amount otherwise due the contractor. Except as state law otherwise provides, the amount retained by the subgrantee shall be limited to the following:

1. Withholding of 10 percent of the payment claimed until the work is 50 percent complete;
2. When work is 50 percent complete, the 10 percent retainage that has been withheld will continue to be held, however, the subsequent withholding can be reduced to 5 percent of the dollar value of work remaining;
3. When the work is substantially complete (operation or beneficial occupancy), the withholding percentage for subsequent payments can be further reduced to below 5 percent and the contractor can be paid the full previous retainage minus the value of any work remaining at the time of substantial completion. The contractor may be paid all retainage amounts when the subgrantee makes final payment on the project;
4. The subgrantee may reinstate up to 10 percent withholding if the subgrantee determines, at its discretion, that the contractor is not making satisfactory progress or there is other specific cause for such withholding; and
5. The subgrantee may accept securities negotiable without recourse, condition or restrictions, a release of retainage bond, or an irrevocable letter of credit provided by the contractor in lieu of all or part of the cash retainage.

Appropriate provisions to ensure compliance with this policy must be included in the bid documents for such projects initially or by addendum prior to the bid submission date and as a special condition in the grant agreement or in a grant amendment. For all previous active projects, the policy may be implemented by the subgrantee through contract amendment upon written request to the subgrantee by the contractor upon consideration which the subgrantee deems adequate.

LIQUIDATED DAMAGES

For each consecutive calendar day that any part of the work remains uncompleted after the expiration of the time allowed for completion of the work stipulated in the contract, the contractor will pay to the subgrantee any expenses incurred by it on account of said contractor requiring such additional time, which expense shall include additional cost for Engineering, inspection and legal work caused by such delay. Such costs are not to be considered as penalties. A predetermined amount may be agreed upon prior to the signing of the contract.

The assessment of liquidated damages for failure to complete the work within the contract period shall not constitute a waiver of the contracting authority's right to collect any additional damages which the contracting authority may sustain by failure of the contractor to carry out the terms of the contract.

The damages stipulated above are to be deducted from any monies due the contractor as liquidated damages for the loss to the subgrantee on account of the expense due to the employment of Engineers and their assistants and to any other expenses after the expiration of the completion time set forth by the Engineer.

PART L – Construction Progress Schedules

SCHEDULE REQUIREMENTS

Prior to the first partial payment estimate, the contractor shall submit to the subgrantee, construction progress schedules showing the order in which it is proposed to carry on the work, including dates at which various parts of the work will start, estimated date of completion of each part, and, as applicable:

1. The dates at which special detail drawings will be required.
2. Respective dates for submission of shop drawings, the beginning of manufacture, the testing and the installation of materials, supplies, and equipment.
3. The contractor shall also submit a schedule of payments that it is anticipated will be earned during the course of the work. The payment schedule may be in conjunction with the progress chart or separately, if desired.
4. These schedules shall be updated on a monthly basis. The schedule shall be revised whenever actual progress varies by 10% or more and also when a time extension is granted.

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PART M – Wage Determination

DAVIS-BACON WAGE DETERMINATIONS

The latest applicable Davis Bacon Wage Determination is inserted within the following pages.

The Wage Determination **must** be verified by the Subgrantee 10 days prior to the opening of BIDS, including the 10th day. If there are any modifications, those shall be published in an addendum to the Bid Documents and sent to all prospective bidders.

Davis Bacon Wage Determinations can be found at <https://sam.gov/>.

PRE-BID/PRE-AWARD

Look at the Wage Determination:

- Compare classifications on the wage determination with anticipated work to be performed to identify missing classes that may be needed.
- If virtually all the work is to be performed by a single missing classification, use Standard Form (SF) 308 to request an appropriate predetermined wage rate for incorporation in the bid specifications.

Identify possible need to request additional classes and rates after award:

- During pre-bid/pre-award conferences discuss criteria to advise contractors concerning how requests for additional classifications are processed and proposed wage rates will be evaluated.
- Call the Planning District for guidance where questions/disputes arise regarding proper application of Davis-Bacon wage determinations to specific upcoming projects.

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PART N – Access

ACCESS TO PROJECT

The subgrantee must ensure that representatives of the State will have access to the project work sites whenever it is in preparation or progress. The subgrantee must ensure that a party to a subcontract will afford access to such project work sites.

ACCESS TO RECORDS AND DOCUMENTS

The subgrantee must provide proper facilities for such access and inspection. The sub-recipient must allow the State agency, or any authorized representative, to have access to any books, documents, plans, reports, papers, and other records of the contractor which are pertinent to the project for the purpose of making audit, examination, excerpts, copies, and transcriptions thereof. The subgrantee must ensure that a party to a subcontract will afford access to such project documents and records.

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PART O – Buy America Preference (BABA) Provisions

This section describes the rules and procedures that must be followed to comply with the Build America, Buy America (BAB) Act, 41 USC 8301 note, and all applicable rules and notices as may be amended, for all federal projects funded with Community Development Block Grant funds. These requirements are established to ensure that materials and services are obtained efficiently and economically and in compliance with the provisions of applicable Federal law and executive orders. Build America Buy America has no expiration date.

Build America, Buy America Act provisions apply to Federal financial assistance awards made after November 14, 2022 that will be used to construct, alter, maintain, or repair infrastructure in the United States. Infrastructure includes projects with public functions, such as roads, highways, bridges, public transportation facilities, dams, ports, harbors, railroads, freight and intermodal facilities, airports, water systems, electrical transmission facilities and systems (including structures, facilities, and equipment that generate, transport, and distribute energy, including electric vehicle charging facilities), broadband infrastructure, and buildings.

The following conditions apply to Federal financial assistance obligations for infrastructure made with CDBG funds beginning with the FY23 State CDBG Grant:

- FY23 - All iron or steel items (including the iron/steel manufacturing processes) used in covered projects must be produced in the United States.
- FY24 – Specifically listed construction materials must be produced in the United States: an article, material, or supply that is or consists primarily of non-ferrous metals; plastic and polymer-based products (including polyvinylchloride, composite building materials, and polymers used in fiber optic cables); and lumber.
- FY25 – Any manufactured products and all other construction materials must be produced in the United States: glass (including optic glass); drywall; other construction materials.

Exclusions

- Construction materials exclude cement and aggregates (stone, sand, gravel).
- Tools, equipment, and supplies brought to a construction site and removed at or before the completion of the project or to equipment and furnishings (such as chairs) used at or within the finished infrastructure project and are not affixed to the project.

HUD General Waivers for Buy America Preference (BAP)

- Exigent Circumstances: BAP may be waived if projects must be completed immediately to protect life, ensure safety, or prevent the destruction of property. *Effective until November 23, 2028.*
- De Minimis, Small Grants, and Minor Components: BAP is waived for projects with total federal financial assistance of \$250,000 or less. BAP is waived for a de minimis portion that comprises no more than 5 percent of the total cost of covered materials used in a project, up to \$1 million. *Effective until November 23, 2028.*

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PART P – Procurement Methods

This section describes the rules and procedures that must be followed when purchasing supplies, equipment, construction, and services in whole or in part with Community Development Block Grant funds. These requirements are established to ensure that materials and services are obtained efficiently and economically and in compliance with the provisions of applicable Federal law and executive orders. The objectives of these regulations are to assure that:

- Unnecessary or duplicate purchases are not made;
- Favorable prices for goods and services are obtained without sacrificing needed quality;
- Purchases are made based on maximum open and free competition whenever possible; and
- National goals such as equal employment opportunity, stimulation of small and minority-owned businesses, and fair labor standards are encouraged through government purchases.

The requirements of procurement methods and contracts are delineated in 2 CFR Part 200, subpart D.

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PART Q – Additional Labor Forms

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Conformance and Additional Wage Classification Request Process

Davis-Bacon wage determinations must be shown in the bid packet, and discussed at both the pre-bid and pre-construction conferences.

PRE-BID/PRE-AWARD

Look at the Wage Determination:

- Compare classifications on the wage determination with anticipated work to be performed to identify missing classes that may be needed.
- If virtually all the work is to be performed by a single missing classification, use Standard Form (SF) 308 to request an appropriate predetermined wage rate for incorporation in the bid specifications.

Identify the possible need to request additional classes and rates after award:

- Ensure that the most recent Davis-Bacon clauses are in the solicitation, including the conformance criteria. (See 29 C.F.R. § 5.5(a) and FAR at 48 C.F.R. §§ 22.407 and 52.222-6(c).)
- During pre-bid/pre-award conferences discuss criteria to advise contractors concerning how requests for additional classifications are processed and proposed wage rates will be evaluated.
- Call the Planning District for guidance where questions/disputes arise regarding proper application of Davis-Bacon wage determinations to specific upcoming projects.

POST-AWARD

Identify Additional Classes that May Be Needed:

- Discuss the wage determination and conformance criteria in pre-construction conference.
- Consider subcontractor inquiries about missing classifications/rates.
- Consider complaints by employees/unions/competitors.

Submit conformance request for DOL review and ruling:

- Include the following:
 - Completed [SF-1444](#) (*link points to current form*)
 - Box 2: Reporting Office is UGLG
 - Bottom section is completed by Project Certifying Officer, shown as the “Contracting Officer”
 - Related documentation and UGLG recommendation.
 - Copy of contract wage determination(s). WHD policy requires the submission of the contract wage determination with the conformance request.
- Submit by e-mail to: WHD-CBACONFORMANCE_INCOMING@dol.gov. Please scan the completed form and all supporting documents into a PDF file and attach to the email. Include the Contracting Officer's name, address, telephone, and email address. An automated confirmation response will be generated upon receipt of your submission.
- The BCWD responds to most requests within 30 days.

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Record of Employee Interview Instructions

U.S. Department of Housing and Urban
Development
Office of Davis-Bacon and Labor Standards

OMB Approval No. 2501-0009
(exp. 12/31/2024)

Instructions

General:

This form is to be used by HUD and local agency staff for recording information gathered during on-site interviews with laborers and mechanics employed on projects subject to Federal prevailing wage requirements. Typically, the staff that will conduct on-site interviews and use this form are HUD staff and fee construction inspectors, HUD Labor Standards staff, and local agency labor standards contract monitors.

Information recorded on the form HUD-11 is evaluated for general compliance and compared to certified payroll reports submitted by the respective employer. The comparison tests the veracity of the payroll reports and may be critical to the successful conclusion of enforcement actions in the event of labor standards violations. The thoroughness and accuracy of the information gathered during interviews is crucial.

Note that the interview itself and the information collected on the form HUD-11 are considered confidential. Interviews should be conducted individually and privately. All laborers and mechanics employed on the job site must be made available for interview at the interviewer's request. The employee's participation, however, is voluntary. Interviews shall be conducted in a manner and place that are conducive to the purposes of the interview and that cause the least inconvenience to the employer(s) and the employee(s).

Completing the form HUD-11:

Items 1a - 1c: Self-explanatory

Items 2a – 2d: Enter the employee's full name, a telephone number where the employee can be reached, and the employee's home address. Many construction workers use a temporary address in the locality of the project and have a more permanent address elsewhere from which mail may be forwarded to them. Obtain a more permanent address, if available. Ask the employee for a form of identification (e.g., driver's license) to verify their name.

Items 3a – 4c: Enter the employee's responses. Ask the employee whether they have a pay stub with them; if so, determine whether the pay stub is consistent with the information provided by the employee.

Items 5 – 7: Be certain that the employee's responses are specific. For example, job classification (#5) must identify the trade involved (e.g., Carpenter, Electrician, Plumber) – responses such as "journeyman" or "mechanic" are not helpful for our purposes.

Items 8 – 12b: Self-explanatory

Items 13 – 15c: These items represent some of the most important information that can be gathered while conducting on-site interviews. Please be specific about the duties you observed the employee performing. It may be easiest to make these observations before initiating the interview. Please record any comments or remarks that may be helpful. For example, if the employee interviewed was working with a crew, how many workers were in the crew? Was the employee evasive?

The level of specificity that is warranted is directly related to the extent to which interview(s) or other observations indicate that there may be violations present. If interviews indicate that there may be underpayments involving a particular trade(s), the interviewer is encouraged to interview as many workers in that trade(s) that are available.

Items 16 – 17b: The information on the form HUD-11 may be reviewed for general compliance, initially. For example, are the job classification and wage rate stated by the employee compatible with the classifications and wage rates on the applicable wage decision? Are the duties observed by the interviewer consistent with the job classification?

Item 18: Please place here any additional information you may want to document or continuing information from other lines that do not fit in their block space.

Once the corresponding certified payroll reports are received, the information on the HUD-11 shall be compared to the payroll reports. Any discrepancies noted between the HUD-11 information and that on the payroll report shall be noted in Item 16, Remarks. If discrepancies are noted, follow-up actions to resolve the discrepancies must be taken.

Record of Employee Interview

U.S. Department of Housing and Urban Development Office of Davis-Bacon and Labor Standards

OMB Approval No. 2501-0009

(exp. 12/31/2024)

The public reporting burden estimate for this collection of information is 15 minutes per response on average. This includes reviewing instructions, searching existing data sources, gathering, and maintaining the data, and completing the collection of information. This information may not be collected, nor are you required to provide, the information requested unless it displays a currently valid OMB control number. The information collected ensures compliance with the Federal labor standards through recording interviews with construction workers. The information collected assists HUD in compliance monitoring of Federal labor standards. Any information collected is covered by the Privacy Act of 1974 and by 29 CFR 5.6(a)(5). Individuals and agencies collecting this information must maintain these records in a manner that protects the individuals on whom the information is maintained. The information collected herein is voluntary, and any information provided shall be kept confidential, but failure to provide the information collected may delay enforcement of any possible Federal labor standards violations if the information would have identified any. Comments concerning this burden statement, or this collection should be sent to: National Director, Office of Davis-Bacon and Labor Standards, 451 7th Street SW, Room 7108, Washington, DC 20410. When providing comments, please refer to OMB Approval 2501-0009

Pursuant to 5 U.S.C. § 552a(e)(3), this Privacy Act Statement serves to inform you of the following concerning the collection of the information on this form.

A. AUTHORITY: Collection of the information solicited on this form is authorized by the Davis-Bacon Act as promulgated through Department of Labor Regulations under 29 CFR Part 5.

B. PURPOSE: The primary purpose for soliciting this information is to determine if the wages paid by an employer on a project covered by the Davis-Bacon Act are in compliance with federal labor standards.

C. ROUTINE USES: The information collected ensures compliance with the Federal labor standards through recording interviews with construction workers on topics related to wages paid on the project. The information is reviewed by HUD authorized personnel to ensure compliance with Federal labor standards under the Davis-Bacon Act on covered projects. If violations are found, the information collected is used to conduct enforcement actions to ensure restitution is paid to workers of covered projects are paid proper wages under the Davis-Bacon Act.

D. CONSEQUENCES OF FAILURE TO PROVIDE INFORMATION: The information collection is voluntary. Refusing to give information will not impact your status with your employer or the government. Failure to provide the information will limit the ability of HUD to determine if you were paid proper wages under the Davis-Bacon Act, and will limit the ability for HUD to seek restitution for you in the event a violation is found.

1a. Project Name			2a. Employee Name		
1b. Project Number			2b. Employee Phone Number (including area code)		
1c. Contractor or Subcontractor (Employer)			2c. Employee Home Address & Zip Code		
			2d. Verification of identification? Yes No		
3a. How long on this job?	3b. Last date on this job before today?	3c. No. of hours last day on this job?	4a. Hourly rate of pay?	4b. Fringe Benefits? Vacation Yes No Medical Yes No Pension Yes No	4c. Pay stub? Yes No
5. Your job classification(s) (list all) --- continue in block 18 if necessary					
6. Your duties --- continue in block 18 if necessary					
7. Tools or equipment used --- continue in block 18 if necessary					
8. Are you an apprentice or trainee? Yes No		10. Are you paid at least time and ½ for all hours worked in excess of 40 in a week? Yes No			
9. Are you paid for all hours worked? Yes No		11. Have you ever been threatened or coerced into giving up any part of your pay? Yes No			
12a. Employee Signature			12b. Date		
13. Duties observed by the Interviewer (Please be specific.)					
14. Remarks --- continue in block 18 if necessary					
15a. Interviewer Name (Please Print)		15b. Signature of Interviewer			15c. Date of Interview
Payroll Examination					
16. Remarks --- continue in block 18 if necessary					
17a. Signature of Payroll Examiner				17b. Date	

18. Additional Remarks

CONFIDENTIAL

CDBG Project In-Kind Time Sheet

Grantee _____

CDBG # _____

In-Kind

Laborer Name _____

Last

First

M

Week Ending _____

	Sun	Mon	Tue	Wed	Thur	Fri	Sat			
Type of Work Performed	Date							Total Hours	Wage Rate	Total Wages
Bricklayer										
Carpenter										
Electrician										
Laborer										
Painter										
Plumber										
Truck Driver										
Backhoe Driver										
Other _____										
Other _____										
Other _____										
Total										

I hereby certify that I, the IN-KIND Laborer, worked to the equivalent of these wages.

IN-KIND Laborer Signature:

I hereby certify that the IN-KIND Laborer worked equivalent to these wages.

Supervisor Signature:

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DBE Certifying Agencies

Small Business Administration

8a Program
2329 N. Career Avenue #105
Sioux Falls, South Dakota 57107
605-330-4243

Department of Transportation

Civil Rights Office
700 Broadway
Pierre, South Dakota 57501
605-773-4906

Bureau of Indian Affairs

Contracting Officer
Federal Building, Room 309
Aberdeen, South Dakota 57401
605-226-7567

Indian Health Services

Contracting Officer
Federal Building, Room 309
Aberdeen, South Dakota 57401
605-226-7567

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SD Governor's Office of Economic Development

Section F – CDBG Pay Requests

Payment request requirements and guidance, payment template, and contractor certification for payment examples.

Updated
08/2023

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CDBG Pay Request Procedures

REQUIREMENTS

Payments may be requested only after the Initial Requirements have been satisfied. (See Section A)

1. Signed Grant Agreement
2. Resolution appointing Project Certifying Officer
3. Resolution appointing an Environmental Certifying Officer
4. Notice of Environmental Release
5. GOED approval of Bid Specification Books
6. Project Status Report (for construction projects)
7. Statement that local match has been received or is in place
8. Equal Employment Opportunity Policy
9. Resolution Assuring Fair Housing
10. Code of Conduct Policy
11. Operation, Maintenance, and Repair Identification Statement
12. DANR Letter Approving Plans and Specifications (if applicable)
13. Relocation, Displacement & Acquisition Plan
14. Certification Regarding Restrictions on Lobbying (if applicable)
15. Excessive Force Policy
16. CDBG Updated Disclosure Report (if applicable)

COMPLETING THE CDBG PAYMENT REQUEST FORM

Instructions for completing the top and middle portion of the CDBG Payment Request form

- Input the Grant ID number as assigned in the grant agreement.
- Input the drawdown request number.
- The subgrantee name and address must match the W-9 as submitted to the State.
- Pay request expenses itemized relative to the original budget request submitted.

Instructions for the “CERTIFICATION” section

1. Input the CDBG percentage portion of the project in the space provided (shown in the grant agreement under Section A, #4 “Basis for Subaward Amounts” on page 2).
2. Input the dollar amount requested in the space provided.
3. Input the percentage of physical completion of the project in the space provided.
4. Must have original signatures of authorized certifying official.

Supporting Documentation

- Includes the planning district’s ledger tracking all project expenses.
- Submit a copy of the “APPLICATION AND CERTIFICATE FOR PAYMENT” that includes labor costs. A similar form may be substituted in lieu of the examples included in this manual.

Submission

Draw requests may be submitted via mail or electronically to the address shown below. The electronic version must show original signatures.

Governor's Office of Economic Development
711 East Wells Avenue
Pierre, South Dakota 57501-3369
Stephanie.Deyo@sdgoed.com

ADDITIONAL INFORMATION

The amount requested on the CDBG PAYMENT REQUEST **MUST** represent either eligible reimbursed expenses or the immediate cash requirements for the project. Only grant-eligible costs which have been incurred, or for which expenditures have been made as of the request date, can be claimed. Any amount, up to the total grant award, can be claimed if supporting invoices are submitted.

The amounts requested for each cost classification may not exceed the amount budgeted for CDBG in the grant agreement for that cost classification.

If the grantee is using CDBG funds to pay contractors (as opposed to requesting reimbursement for contractor pay requests), the funds must be disbursed within three banking days after the receipt from the State funding transaction. At no time should the money requested be more than what can be expended in this three-day limit. If it becomes apparent that a cash balance has been accumulated, its return will be required.

CDBG Payment Request Form

CDBG Project Number #:		Drawdown Request #:		
Subgrantee: Address: City, St, Zip:		Date:		

Cost Classification	CDBG Budget Amounts	CDBG Funds Received To Date	Amount of This Request	Balance Remaining
1. Administration Expense				
2. Land, Structure, Right of Way				
3. Architectural Engineering Basic Fees				
4. Other Architectural Engineering Fees				
5. Project Inspection Fees				
6. Site Preparation				
7. Relocation Expenses				
8. Demolition and Removal				
9. Construction and Project Improvement				
10. Other (Identify):				
TOTALS				

CERTIFICATION

1. I hereby certify the CDBG amount does not exceed the % of the total eligible project expenditures as stated in the grant agreement.

2. Based on the terms of the grant agreement, I request \$ of CDBG funds.

3. Percentage of Physical Completion of Project is %.

4. I declare and affirm under penalties of perjury that this payment request has been examined by me, and to the best of my knowledge and belief, is in all things true and correct.

Signature of Authorized Certifying Official

Typed or Printed Name

Date

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INSTRUCTION SHEET

AIA DOCUMENTS G702a/G703a

A. GENERAL INFORMATION:

AIA Document G702, *Application and Certificate for Payment*, is to be used in conjunction with AIA Document G703 *Continuation Sheet*. These documents are designed to be used on a project where a Contractor has a direct Agreement with the Owner. Procedures for their uses are covered in AIA Document A201, *General Conditions of the Contract for Construction*. 1976 Edition

B. COMPLETING THE G702 FORM:

After the Contractor has completed AIA Document G703, *Continuation Sheet*, summary information should be transferred to AIA Document G 702, *Application and Certificate for Payment*.

The Contractor should sign the form, have it notarized and submit it, together with G703 to the Architect.

The Architect should review it and, if it is acceptable, complete the Architect's Certificate for Payment on this form. The completed for should be forwarded to the Owner.

C. COMPLETING THE G703 FORM:

Heading: Complete the information here consistent with similar information on AIA Document G702, *Application and Certificate for Payment*.

Columns A, B & C: These columns should be completed by identifying the various portions of the project and their scheduled value consistent with the schedule of values submitted to the Architect at the commencement of the project or as subsequently adjusted. The breakdown may be by sections of the Work or by Subcontractors and should remain consistent throughout the Project. Multiple pages should be used when required.

Column C should be subtotaled at the bottom when more than one page is used and totaled on the last page. Initially, this total should equal the original Contract Sum. The total of Column C may be adjusted by Change Orders during the project.

Column D: Enter in this column the amount of completed Work covered by the previous application. This is the sum of columns D and E from the previous application. Values from column F (Materials Presently Stored) from prior payments should not be entered in this column.

Column E: Enter here the value of Work completed until the time of this application, including the value of materials incorporated in the project which were listed on the previous Application and Certificate for Payment under Materials Presently Stored (column F).

Column F: Enter here the value of Materials Presently Stored for which payment is sought. The total of the column *must* recalculated at the end of each pay period. This value covers both materials newly stored for which payment is sought and materials previously stored which are not yet incorporated into the Project. Mere payment by the Owner for stored materials does not result in a deduction from this column. Only as materials are incorporated into the Project is their value deducted from this column and incorporated into column E (Work Completed-This Period).

Column G: Enter the total of columns D, E & F. Calculate the percentage completed by dividing column G by column C.

Column H: Enter here the difference between column C (Scheduled Value) and column G (Total Completed and Stored to Date).

Column I: This column is normally used only for contracts where variable retainage is permitted on a line-item basis. It need not be completed on project where a constant retainage is withheld from the overall contract amount.

Change Orders: Although Change Orders could be incorporated by changing the schedule of values each time a Change Order is added to the Project, this is not normally done. Usually, Change Orders are listed separately, either on their own G703 form or at the end of the basic schedule. The amount of the original contract adjusted by Change Orders is to be entered in the appropriate location on the G70 form.

D. MAKING PAYMENT

The owner should make payment directly to the Contractor based on the amount certified by the Architect on AIA Document G702, *Application and Certificate for Payment*. The completed form contains the name and address of the Contractor. Payment should not be made to any other party unless specifically indicated on this form.

APPLICATION AND CERTIFICATE FOR PAYMENT

AIA DOCUMENT G702 (Instructions on reverse side)

TO (OWNER):

PROJECT:

APPLICATION NO:

Distribute to:

FROM (CONTRACTOR):

VIA (ARCHITECT)

PERIOD TO:

ARCHITECT'S

PROJECT NO:

- ☐ OWNER
☐ ARCHITECT
☐ CONTRACTOR
☐ STATE

CONTRACT FOR:

CONTRACT DATE:

CONTRACTOR'S APPLICATION FOR PAYMENT

Application is made for Payment, as shown below, in connection with the Contract.
Continuation Sheet, AIA Document G703, is attached

CHANGE ORDER SUMMARY		
Change Orders Approved In Previous months by Owner TOTAL		ADDITIONS
DEDUCTIONS		
Approved this Month		
Number	Date Approved	
TOTALS		
Net Change by Changes Orders		

The undersigned Contractor certifies that to the best of the Contractor's knowledge, information and belief the Work covered by this Application for Payment has been completed in accordance with the Contract Documents, that all amounts have been paid by the Contractor for Work for which previous Certificates for Payment were issued and payments received from the Owner, and that current payment shown herein is now due.

CONTRACTOR:

By: _____

Date: _____

ARCHITECT'S CERTIFICATE FOR PAYMENT

In accordance with the Contract Documents, based on on-site observations and the data comprising the above application, the Architect certifies to the Owner that to the best of the architect's knowledge, information and belief the Work has progressed as indicated, the quality of the Work is in accordance with the Contract Documents and the Contractor is entitled to payment of the AMOUNT CERTIFIED.

1. ORIGINAL CONTRACT SUM.....\$ _____
2. NET change by Change Orders.....\$ _____
3. CONTRACT SUM TO DATE (Line 1+/- 2).....\$ _____
4. TOTAL COMPLETED & STORED TO DATE.....\$ _____
(Column G on G703)
5. RETAINAGE:
 - a. ____ % of Completed Work \$ _____
(Column D + E on G703)
 - b. ____ % of Stored Material \$ _____
(Column F on G703)
- Total Retainage (Line 5a + 5b or
Total in Column I of G703.....\$ _____
6. TOTAL EARNED LESS RETAINAGE.....\$ _____
(Line 4 less Line 5 Total)
7. LESS PREVIOUS CERTIFICATES FOR
PAYMENT (Line 6 from prior Certificate).....\$ _____
8. CURRENT PAYMENT DUE.....\$ _____
9. BALANCE TO FINISH, PLUS RETAINAGE.....\$ _____
(Line 3 less Line _____)

Owner Signature:

By: _____

Date: _____

Amount Certified\$ _____

(Attach explanation if the amount certified differs from the amount applied for)

ARCHITECT:

By: _____ Date: _____

This Certificate is not negotiable. The AMOUNT CERTIFIED is payable only to the Contractor named Herein. Issuance, payment, and acceptance of payment are without prejudice to any rights of the Owner or Contractor under this Contract.

CONTINUATION SHEET

AIA DOCUMENT G703

AIA DOCUMENT G702, APPLICATION AND CERTIFICATE FOR PAYMENT, containing Contractor's signed Certification is attached.
In tabulation below, amounts are stated to the nearest dollar.
Use Column I on Contracts where variable retainage for line items may apply.

APPLICATION NUMBER:
APPLICATION DATE:
PERIOD TO:
ARCHITECT'S PROJECT NO:

A	B	C	D	E	F	G		H	I
ITEM NO.	DESCRIPTION OF WORK	SCHEDULED VALUE	WORK COMPLETED FROM PREVIOUS APPLICATION (D & E)	WORK COMPLETED THIS PERIOD	MATERIALS PRESENTLY STORED (NOT IN "D" OR "E")	TOTAL COMPLETED AND STORED TO DATE (D + E + F)	% (G / C)	BALANCE TO FINISH (C – G)	RETAINAGE

Certificate For Payment v1

ISSUE DATE _____

CERTIFICATE NO. _____

Name of Contractor: _____

Period From: _____ To: _____

Name of Owner: _____

Date of Contract: _____

Description of Job _____

Estimated Percentage of Job Complete ____ %

Is Contractor's Construction
Progress on Schedule? ☐ Yes ☐ No

Date of Construction Start _____

Time of Completion: (Days)
Balance-start of period _____
Days used this period _____
Days extended this period _____
Balance-end of period _____

Contract Amount:

ORIGINAL CONTRACT SUM \$ _____

Change Orders approved in
Previous months by Owner –
Total

Addition Deductions
\$- _____ \$ _____

Change Order No. _____
Change Order No. _____
Change Order No. _____

\$ _____ \$ _____
\$ _____ \$ _____
\$ _____ \$ _____
\$ _____ \$ _____

Totals

Total Additions \$ _____

Sub-Total \$ _____

Total Deductions \$ _____

CERTIFICATE OF APPROVAL

OWNER

BY _____

Date _____ 20 _____

TOTAL OF CONTRACT TO DATE \$ _____

Work to Finish (this Date) \$ _____

Due Contractor to date \$ _____

Less Retainage _____ % \$ _____

Less Previous Payments \$ _____

THIS CERTIFICATE \$ _____

Accepted by FmHa Representative:

The Review and Acceptance of Partial Pay Estimates
by FmHa does not Attest to the Correctness of the
Quantities shown or that the work has been
performed in accordance with the Plans and Specifications.

I hereby certify that I have carefully inspected the
work and as a result of my inspection and to the best
of my knowledge and belief, the quantities shown in
this estimate are correct and the work has been
performed in accordance with the contract documents

FARMERS HOME ADMINISTRATION

Name of Engineering Firm _____

By _____

By _____

Date _____ 20 _____

Date _____ 20 _____

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Certificate For Payment v2

Issue Date: _____ Certificate No.: _____

Contractor: _____ Period From: _____ To: _____

Owner: _____ Date of Contract: _____

Project: _____ Date of Construction Start: _____

Est. Percent of Job Complete: _____ Completion Date: _____

Is Contractor's Construction Progress on Schedule: _____

Original Contract Sum: _____

Previous Change Orders: _____

Current Change Order No.: _____

Current Contract Amount: _____

Due Contractor to Date: _____

Less Retainage: _____

Less Previous Payment: _____

THIS CERTIFICATE: _____

Contractor's Certificate:

The undersigned Contractor certifies that (1) all previous payments by Owner have been used to pay for obligations of the Contractor under this contract; (2) title to all materials and equipment incorporated in the Work or stored at the site will pass the Owner at the time of payment free and clear of any liens or claims; (3) the work has been completed in accordance with the Contract Documents; (4) all Labor Standards Requirements have been fulfilled by the Contractor and all subcontractors under this contract; and (5) Contractor is entitled to payment under the terms of the Contract.

BY: _____ DATE: _____

Engineer's Certificate:

I hereby certify that I have reviewed this Certificate for Payment and that, based on on-site observations and to the best of my knowledge and belief, the quantities shown in this estimate are correct and the Work is in accordance with the Contract Documents.

BY: _____ DATE: _____

Owner's Certificate:

I hereby certify that I have reviewed this Certificate for Payment and that payment of the amount shown for this Certificate has been approved by the governing body of the Owner.

BY: _____ DATE: _____

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SD Governor's Office of Economic Development

Section G – Financial Reporting

Guidance and requirements for annual and final financial reporting on the project.

Updated
08/2023

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Financial Reporting Requirements

After the grant agreement has been signed, the subgrantee is required to submit an annual interim report. Upon closeout, the subgrantee must submit a final financial statement recording total expenditures for the project from all funding sources, including local.

Annual Reporting

Please report CDBG and local expenditures incurred on the project only within the calendar year. Leave this section blank if there are no project expenditures during said calendar year.

The status of the project should include the accomplishments for the reported calendar year. It should include details such as anticipated completion date, percent of completion, the reason for the delay of the project, anticipated start date, the reason for no expenditures, legal matters, etc.

The Interim Report is required to be submitted to the Governor's Office of Economic Development (GOED) no later than **JANUARY 31**.

Final Reporting

The Final Financial Statement should be filed with GOED with all closeout documentation within **NINETY (90) DAYS** of the project's completion.

Submission

Reports may be mailed or emailed to the address shown below by the applicable due date or timeline:

Governor's Office of Economic Development
711 East Wells Avenue
Pierre, South Dakota 57501-3369
Stephanie.Deyo@sdgoed.com

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CDBG Interim Report

Due January 31

Subgrantee Name (SUBGRANTEE) Grant Number (GRANT NUMBER) Calendar Year (YEAR)

	A	B	C	D	E	F	G	H
Cost Classification	CDBG	LOCAL						Total Funds A thru G
1. Administration Expense								
2. Land, Structure, Right-of-Way								
3. Architectural/Engineering Basic Fees								
4. Other Architectural/Engineering Fees								
5. Project Inspection Fees								
6. Site Preparation								
7. Relocation Expenses								
8. Demolition and Removal								
9. Construction and Project Improvement								
10. Other								
11. Total								

Status of Project: *(Include anticipated completion date, % completed, reason for delay, start date, accomplishments, etc.)*

(INSERT PROJECT STATUS)

It is hereby certified that all costs represented here have been made in accordance with the grant agreement and the applicable Federal regulations. These figures represent a true and accurate listing of the project expenditures in full by the subgrantee as undersigned.

Signature of Certifying Officer

Date

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CDBG Final Financial Statement

Subgrantee Name: (SUBGRANTEE) Grant Number: (GRANT NUMBER) Closeout Date: (DATE)

	A	B	C	D	E	F	G	H
Cost Classification	CDBG	Local						Total Funds A thru G
1. Administration Expense								
2. Land, Structure, Right-of-Way								
3. Architectural/Engineering Basic Fees								
4. Other Architectural/Engineering Fees								
5. Project Inspection Fees								
6. Site Preparation								
7. Relocation Expenses								
8. Demolition and Removal								
9. Construction and Project Improvement								
10. Other								
11. Total								

It is hereby certified that all costs represented here have been made in accordance with the grant agreement and the applicable Federal regulations. These figures represent a true and accurate listing of the project expenditures in full by the subgrantee as undersigned.

Signature of Certifying Officer

Date

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SD Governor's Office of Economic Development

Section H - Recordkeeping

Guidance to recordkeeping requirements and a checklist of documents to keep on file.

Updated
08/2023

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Recordkeeping

PURPOSE

This section details the records that must be maintained at the local level for the various aspects of the program. The GOED and the U.S. Department of Housing and Urban Development shall have access to these records. In addition, the public shall have access to the records unless the subgrantee can demonstrate an exception from disclosure under the Freedom of Information Act (5 U.S.C. 552).

All records and supporting documents, whether financial or programmatic, and all other records pertinent to a CDBG project must be kept for **three (3) years** from the date of the notification from GOED that the close-out procedures for the project are complete ([24 CFR 570.490\(d\)](#)). It may be necessary to retain the records for a longer period if any litigation, claim, or audit is started before the expiration of the five-year period. In this case, records must be maintained until all litigation claims or audit findings involving the records have been resolved.

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CDBG Project Recordkeeping Checklist

GRANT APPLICATION AND AWARD

- ☐ Grant Application
- ☐ Notice of Public Hearing Prior to CDBG Application
- ☐ Community Development and Housing Needs, including summary
- ☐ Income Determination/Survey Documents
- ☐ Blighted Condition Documentation
- ☐ Signed CDBG Agreement
- ☐ Grant Award Letter
- ☐ Grant Amendments
- ☐ Administrative Agreement

INITIAL REQUIREMENTS

- ☐ Notices of Public Hearing
 - ☐ First Public Hearing
 - ☐ Second Public Hearing
- ☐ Statement of Local Match
- ☐ Operation, Maintenance, and Repair Statement
- ☐ DANR Letter Approving Plans and Specs (if applicable)
- ☐ Resolutions
 - ☐ Project Certifying Officer
 - ☐ Environmental Certifying Officer
 - ☐ Equal Employment Opportunity Policy
 - ☐ Fair Housing Assurance
 - ☐ Code of Conduct
 - ☐ Excessive Force Policy
 - ☐ Political Activity Policy
- ☐ Relocation, Displacement, and Acquisition Plan
- ☐ Project Status Report
- ☐ Disclosure Form
- ☐ Debarred Contractor Check

ENVIRONMENTAL REVIEW RECORD

- ☐ Documentation of Environmental Review & Determination
- ☐ Form 8 Release Letter from GOED
- ☐ Public Notice of Environmental Release
- ☐ Public Notice of Intent to RROF
- ☐ Agency Letters Sent to Appropriate Agencies with Responses
- ☐ RROF Approval Letter from GOED

CONSTRUCTION DOCUMENTS

- ☐ Engineering/Architect Service Agreement
- ☐ Other Service Agreements
- ☐ Stamped Plans and Specs
- ☐ GOED Approval of Specs
- ☐ Bid Notices with Publication Dates
- ☐ Davis Bacon Wage Determination and Follow-up prior to bid date
- ☐ Pre-Bid Conference Minutes
- ☐ Bid Tabs
- ☐ Log of Bids by Time and Date Received
- ☐ Bids Proposals as Received
- ☐ Notice of Award
- ☐ DBE/MBE/WBE Documentation showing Good Faith Efforts
- ☐ Bid Bonds
- ☐ Signed Contract Documents with Addendums, both Prime and Subs
- ☐ Signed Contractors Certifications and General Conditions
- ☐ Notice to Proceed
- ☐ Pre-Construction Conference Minutes
- ☐ Change Orders
- ☐ Payroll Logs (Local CDBG)
- ☐ Worker Interviews
- ☐ Project Inspection Reports
 - ☐ Correspondence from Engineer/Architect
 - ☐ Project Progress Reports
- ☐ Section 3 Compliance Documentation
- ☐ BABA Compliance Documentation

FINANCIAL DOCUMENTS

- ☐ Local Source Documentation
- ☐ CDBG Pay Requests and Supplemental Documentation
- ☐ Interim Financial Statements

CLOSEOUT DOCUMENTS

- ☐ Civil Rights Compliance Certification
- ☐ EEO-4 Form (100 or more employees)
- ☐ Notice of Acceptance of Work
- ☐ Job Documentation for Economic Development Grants
- ☐ Final Financial Statement
- ☐ Administrative Closeout Form
- ☐ Satisfactory audit of Subgrantee
- ☐ Certificate of Completion

SD Governor's Office of Economic Development

Section I - Monitoring

Guidance on monitoring requirements and a listing of all documents to be monitored.

Updated
08/2023

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Monitoring

OVERVIEW

Subgrantees under the South Dakota Community Development Block Grant (CDBG) program are responsible for selecting, planning, and administering their CDBG projects and activities in accordance with the Federal and State statutory and regulatory requirements set forth in the grant contract executed between the State and the subgrantee. This office has the responsibility to ensure that subgrantees are carrying out their projects in accordance with these requirements.

This office will provide maximum feasible delegation of responsibility and authority to subgrantees under the CDBG program. To this end, this office will help subgrantees identify problems in project implementation and will assist in identifying possible causes and corrective measures. GOED monitoring of CDBG subgrantees will be conducted in a positive, assistance-oriented manner. Whenever possible, deficiencies will be rectified through constructive discussion, negotiation, and assistance, and in a manner, which preserves local discretion.

A project monitoring session will be conducted at the conclusion of the project, after closeout documentation has been received at the GOED office.

PURPOSE OF MONITORING

The purpose of monitoring is to determine whether subgrantees have:

- Carried out their CDBG project activities as described in their applications and/or contracts;
- Carried out their project activities in a timely manner, in accordance with adopted project schedules;
- Charged costs to the projects which are eligible under applicable regulations;
- Complied with the requirements and primary objectives of the CDBG program and other applicable laws, and with the terms of the contract;
- Conducted the program in a manner which minimizes the opportunity for fraud, waste and mismanagement; and
- Had a continued capacity to carry out community development activities in a timely manner.

Monitoring is also intended to assist subgrantees in improving performance, developing self-reliance, and increasing management capacity.

TYPES OF MONITORING

This office may conduct up to two types of monitoring: desk monitoring, and project monitoring.

Desk Monitoring

Desk monitoring is an ongoing process in which the project administrator responsible for overseeing the subgrantee's project uses all available information to review the subgrantee's

performance in carrying out the approved project. Among the sources of information available for desk review and analysis are:

- The grant contract and application.
- The subgrantee's financial reports and drawdown requests.
- The subgrantee's submissions related to the environmental clearance process.
- Audit reports and subgrantee responsibilities.
- On-site monitoring reports and subgrantee responses.
- Citizen complaints.
- Information supplied by other Federal and State agencies.

Analysis of this and other appropriate information may result in follow-up with the subgrantee regarding any problem areas identified and/or may result in an on-site technical assistance visit or on-site monitoring visit in order to more thoroughly review identified problem areas.

Project Monitoring

Project monitoring is a structured review conducted by the project administrator regarding project activities that have been carried out and/or where project records are maintained. It involves the use of the monitoring guides/checklists contained in this Section.

Project monitoring may be conducted on-site or virtually via Zoom or Microsoft Teams. The documents as shown in the CDBG Monitoring Guide are required to be presented during the monitoring session. For virtual sessions: documents may either be shown in the camera, through screensharing, or via document sharing link from sites such as DropBox or SharePoint. For on-site sessions: please have the physical file available. The State will give reasonable notice prior to each upcoming monitoring session.

Please note: On-site visits by staff that do not involve use of these monitoring guides/checklists are technical assistance visits, not project monitoring visits.

FREQUENCY AND TIMING OF PROJECT MONITORING

Additional reviews may be triggered by indications of noncompliance found by office staff while conducting desk or other monitoring. Subgrantees may be selected for additional reviews in certain compliance areas based on the likelihood and consequences of noncompliance in carrying out their specific project activities.

In some cases, it may be necessary to conduct reviews in certain performance and compliance areas (e.g. Eligibility of Activities, National Objectives, Environmental Review, etc.) more than once during the course of a project. The following should be considered in determining whether more frequent reviews may be necessary:

- Known or potential problems, e.g., previous monitoring findings, audit findings, citizen complaints, and slowness in use of funds.
- The extent of the subgrantee's previous experience with the CDBG program.
- The type, number, scale and complexity of project activities.
- The extent to which subcontractors are used in carrying out project activities.
- The extent to which program income, if any, is generated.

PROJECT MONITORING PROCEDURES

Prior to the Project Monitoring Session

Prior to conducting a project monitoring session, the project administrator will contact the Planning District of the subgrantee jurisdiction to arrange a date and time for the session.

During the Project Monitoring Session

When conducting a project monitoring session, the project administrator is expected to:

- Discuss the purpose, scope, and schedule for the visit;
- Discuss the current status of CDBG project activities;
- Utilize the appropriate monitoring forms and examine, on a sample basis, Planning District's records;
- Visit/inspect project site(s), when appropriate;
- Discuss any discrepancies among data and information from reports, files examined, interviews, inspections, and other sources; and
- Discuss the positive and negative findings of the monitoring session, and to advise them of post-visit procedures.

POST-MONITORING PROCEDURES

The monitoring session will conclude the project file. Upon a satisfactory compliance review of the project file, the project administrator will sign and issue the administrative close-out letter to the UGLG. All documentation and correspondence related to the monitoring visit will be placed in the project file.

Monitoring Findings

If the project administrator finds the subgrantee noncompliant per State and Federal regulations, the subgrantee will be issued a letter requiring corrective action(s) along with a deadline for completion for document submission and additional information, as necessary.

Per Section A.5. of the grant agreement, the State has the authority to apply remedies, including but not limited to temporary withholding payments, disallowances, suspension or termination of the federal award, suspension of other federal awards received by Subgrantee, debarment, or other remedies including civil and/or criminal penalties as appropriate.

Follow-up Action

If the subgrantee fails to meet a target date for any required corrective action:

- The subgrantee will be contacted by telephone and reminded of the need for action;
- If there is no response within seven calendar days of the telephone reminder, a written reminder will be sent to the subgrantee; and

- Upon notice to the subgrantee, remedies such as repayment of the CDBG grant funds, suspension of other federal awards received by subgrantee, debarment, or other remedies including civil and/or criminal penalties as appropriate.

The subgrantee's proposed corrective action will be reviewed by responsible office staff. If the review indicates that the corrective action was less than satisfactory, a letter will be sent to the subgrantee which specifies additional action which is needed and the due date.

A new due date may be established subject to good faith efforts by the subgrantee to resolve the findings. A follow-up visit may be necessary to verify corrective action or to provide technical assistance in resolving or correcting the problem.

When all reviews of documentation indicate satisfactory subgrantee corrective action, a letter will be sent to the subgrantee stating that the findings are resolved.

CDBG Project Monitoring Form

Subgrantee:	<hr/>
Grant Number:	<hr/>
Award Date:	<hr/>
Project Title:	<hr/>
Monitored By:	<hr/>
Date Monitored:	<hr/>
Interviewed:	<hr/>
	<hr/>
	<hr/>

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INITIAL REQUIREMENTS

Initial requirements are required in order for the subgrantee to request funds to be drawn down. The requirements were met on _____ (Date). These items will not be reviewed again during the final monitoring visit.

	<u>YES</u>	<u>NO</u>	<u>N/A</u>
Signed grant agreement:	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Resolution appt. project certifying officer:	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Resolution appt. environmental certifying officer:	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Project Status Report:	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Local Match:	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Community Development & Housing Needs Assessment:	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Equal Employment Opportunity Policy Statement:	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Resolution Assuring Fair Housing:	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Code of Conduct Policy:	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Operation, Maintenance, & Repair Statement:	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
DANR Plans & Specs Approval (If necessary):	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Relocation, Displacement, & Acquisition Plan:	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Excessive Force Policy:	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Certification on Lobbying:	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Updated Disclosure Report:	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Debarred Contractor Check:	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

If any items are marked "NO," identify required subgrantee action(s):

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ENVIRONMENTAL REVIEW

Environmental review is required in order for the subgrantee and State to execute the grant agreement. The requirements were met on _____ (Date). These items will not be reviewed again during the final monitoring visit.

	<u>YES</u>	<u>NO</u>	<u>N/A</u>
1. <u>Exempt Activities</u>			
A. Is there a signed and dated copy of the Finding of Exemption?(Form 8)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
B. Is the finding of exemption based upon appropriate source references?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
C. Is there an acknowledgement letter from GOED for the exempt activities?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
D. Date of Release for Admin., Design, & Eng. _____			
2. <u>Categorically Excluded Activities</u>			
A. Has the determination of Categorical Exclusion been appropriately determined in accordance with HUD regulations? (Form 9)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
B. Has the determination of Categorical Exclusion been signed and dated by the preparer?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
C. Is there documentation to substantiate the statements in the Environmental Review Statutory checklist?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
D. Source Documentation _____			
E. Date of Release for Categorical Exclusion/Exempt. _____			
3. <u>Environmental Assessment Activities</u>			
A. Is there documentation to substantiate the statements made in the Environmental Review Statutory checklist? (Form 12)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
B. Is there documentation to substantiate the statements in the Environmental Assessment Checklist? (Form 13)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
C. Source Documentation for 3a & 3b. _____			
D. Was an 8-step process completed for Flood Plain? Publication Dates: _____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
E. Was an 8-step process completed for Wetlands? Publication Dates: _____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

4. Publications Required for Environmental Assessment and Categorically Excluded Activities:

	<u>YES</u>	<u>NO</u>	<u>N/A</u>
A. Is there a copy of the Finding of No Significant Impact and evidence of its publication? (Environmental Assessment Activities only)(Form 10)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
B. Is there evidence of notification of appropriate agencies of the Finding of No Significant Impact and Notice of Intent to Request Release of Funds?(Form 5)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
C. Is there a copy of the Notice of Intent to Request Release of Funds publication?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
D. Is there a copy of the Request for Release of Funds and Certification Form? (HUD 7015.15)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
E. Were public comments received during the notice period?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
If yes, is there evidence of consideration and resolution of the comments received?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
F. Is there a copy of the Release of Funds from GOED?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
If yes, what is the date of release? _____			
G. Is there evidence that any funds were obligated prior to the Release of Funds?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

PROJECT CONSTRUCTION

	<u>YES</u>	<u>NO</u>	<u>N/A</u>
1. Is there a copy of a contract with the engineer or architect ?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Date of Contract _____			
2. Are the plans and specs stamped by a registered engineer/architect?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
3. Have plans and specs been reviewed by subgrantee's attorney?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
4. Is there a copy of the Bid Advertisement?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
If yes, does it include the following:			
A. Evidence of publication including dates?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
_____ 1 st Publication			
_____ 2 nd Publication			
B. Evidence that bidders were allowed a minimum of two weeks to respond?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Bid Opening Date: _____			
5. Are there minutes of the Bid Opening?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
If yes, do they include the following:			
A. Tabulation of bids?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
B. Is the chosen contractor the low bidder?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
C. If not, is there a copy of a statement of justification sent to the low bidder?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
D. Is there a copy of the Notice of Award in the file?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
E. Has anything been omitted to render the bid null and void?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
F. Percentage of contractors or subcontractors that qualify as:			
MBE ____ % Certified By: _____ Good faith effort?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
WBE ____ % Certified By: _____ Good faith effort?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
6. Does the awarded contractor's bid include:			
A. Evidence of Bid Bond?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
B. Evidence of Payment Bond?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
C. Evidence of Performance Bond?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
D. Contractor's Certifications?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
E. General conditions for the construction contract?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
F. Form I – Suspended or Debarred Contractor Certification?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
G. Bid proposal forms?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

	YES	NO	N/A
H. Evidence that amendments are included in contractors bid?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
7. Was a pre-construction conference held?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
A. Is there a copy of the minutes of the conference?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
B. Were the following items discussed?			
1. Weekly payrolls and statements of compliance?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
2. Conforming to and posting the wage rate decision?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
3. Overtime pay provisions?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
4. Payroll deductions?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
5. Employee interviews?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
8. Is there a copy of the executed contract between the subgrantee and the contractor for the project?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
9. Is there a copy of the notice to proceed?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
10. Is there a copy of the Davis-Bacon prevailing wage determination?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
A. What is the wage decision number and date?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Decision number: _____ Date: _____			
B. Was the wage determination current when the contract was signed?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
C. Was there evidence of follow-up of the wage determination 10 days prior to bid opening?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
If yes, date of request for wage determination update: _____			
D. Were payrolls submitted and kept on file?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
E. Is there evidence that payrolls were reviewed in in a timely manner?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
F. Were worker interviews conducted, documented and compared to appropriate payroll data?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
G. Were Section 3 requirements met?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

General Comments:

Deficiencies Noted:

Suggested Corrective Actions:

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FINANCIAL MANAGEMENT

	<u>YES</u>	<u>NO</u>	<u>N/A</u>
1. Are Interim and Final Financial Status Reports accurate and submitted?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
2. Has interest been earned on CDBG funds prior to disbursement by the subgrantee?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
A. If yes, what is the amount earned? \$ _____			
B. If required, has the subgrantee been notified that it must be returned to the state?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Date subgrantee informed? _____			
3. Have payments received from the state been used as requested?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
4. Is there evidence that the CDBG funds were expended or otherwise transferred in three (3) days of receipt by:	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
A. The subgrantee?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
If no, how long were the funds held? _____ days _____ mos			
B. Subgrantee or other responsible party?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
If no, how long were the funds held? _____ days _____ mos			
5. Has local match been spent in accordance with the subgrantee's budget sheet?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
If no, explain:			

6. Was the grant passed to the subgrantee?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
If yes, is an audit required of the subgrantee?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
7. Checks tested:			
Drawdown # _____			
State Warrant/ACH # _____			
Subgrantee Check # _____			
Date Received from GOED: _____			
Date expended: _____			

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CIVIL RIGHTS COMPLIANCE

	<u>YES</u>	<u>NO</u>	<u>N/A</u>
<u>Employment and Contracting Compliance:</u>			
1. Are files maintained that contain civil rights information?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
2. Does the Subgrantee have written employment and personnel policies and practices with equal opportunity guidelines?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
3. Does the subgrantee's employment records provide sufficiently detailed data to allow assessment of those hired by:			
Sex?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Race?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Handicapped?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
National Origin?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<u>Section 3 Compliance</u>			
1. Does the subgrantee have records of labor hours for section 3 workers and targeted section 3 workers to total project hours?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
2. Are there records or correspondence from Section 3 workers/businesses regarding training, employment, or contracting opportunities?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
3. Were Section 3 grievances addressed, resolved, and documented, if applicable?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
4. Is there evidence of outreach efforts to recruit Section 3 workers?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
5. Is there evidence of outreach efforts to recruit Section 3 business concerns?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<u>Contractor Compliance with Civil Rights Requirements:</u>			
1. Are standard equal opportunity clauses and certifications included in solicitations and contracts?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
2. Have any complaints been lodged against a contractor by applicants or employees?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
If yes to question 2, what is the current status?			

3. Are equal opportunity posters prominently displayed?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Fair Housing:

Has the subgrantee taken the following actions to further promote fair housing:

- | | <u>YES</u> | <u>NO</u> | <u>N/A</u> |
|--|--------------------------|--------------------------|--------------------------|
| 1. Adopted a fair housing resolution? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| 2. Adopted land development, zoning or site selection policies? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| 3. Provided informational materials to persons involved in the sale or rental of houses? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |

Beneficiaries

Does the subgrantee maintain demographic data on the number and characteristics of beneficiaries of the project for the following:

	<u># Total</u>	<u># Hispanic</u>
White:	<input type="text"/>	<input type="text"/>
Black/African American:	<input type="text"/>	<input type="text"/>
Asian:	<input type="text"/>	<input type="text"/>
American Indian/Alaskan Native:	<input type="text"/>	<input type="text"/>
Native Hawaiian/Other Pacific Islander:	<input type="text"/>	<input type="text"/>
American Indian/Alaskan Native & White:	<input type="text"/>	<input type="text"/>
Asian & White:	<input type="text"/>	<input type="text"/>
Black/African American & White:	<input type="text"/>	<input type="text"/>
Am. Indian/Alaskan Native & Black/African Am.:	<input type="text"/>	<input type="text"/>
Other Multi-Racial:	<input type="text"/>	<input type="text"/>
 Total Number Benefiting from Activity:	<input type="text"/>	<input type="text"/>
 Single Parent-Headed Household:	<input type="text"/>	<input type="text"/>

ELIGIBILITY OF ACTIVITY

1. List project activity:

YES NO N/A

2. Are the activities being carried out the same as the activities approved in the grant contract?

☐ ☐ ☐

If no, explain how they are different and whether this difference affects eligibility.

3. Are the activities being carried out in the same location(s) as approved in the grant contract?

☐ ☐ ☐

If no, explain whether this affects eligibility.

4. Has the subgrantee changed the use of any CDBG funds?

☐ ☐ ☐

If yes:

A. Has the subgrantee provided citizens with reasonable notice of and opportunity to comment on changes?

☐ ☐ ☐

B. Does the new use meet all applicable CDBG requirements, including those related to eligibility and national objectives?

☐ ☐ ☐

C. Has or is the subgrantee required to reimburse the state?

☐ ☐ ☐

D. Is the project still eligible?

☐ ☐ ☐

5. Were there substantial changes in the scope of the project?

☐ ☐ ☐

If yes, were the changes compared to the original Environmental Review and revised accordingly?

☐ ☐ ☐

6. What records, evidence, source of information was reviewed to support conclusions reached?

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NATIONAL OBJECTIVES

YES NO N/A

1. Indicate the proposed low and moderate income (LMI) benefit and national objective; indicate the actual LMI benefit and whether the proposed national objective is actually addressed or met.

_____ Proposed LMI

_____ Actual LMI

National Objective:

____ Benefit to low and moderate income persons

____ Area Benefit

____ Limited Clientele

____ Job Creation/Retention

____ Elimination of slum and/or blight conditions

____ Area Basis

____ Spot Basis

____ Urgent Need

Was the National Objective actually met?

☐ ☐ ☐

2. For each activity determined to benefit LMI persons based on the area served by the activity:

A. Are the boundaries of the service area consistent with the application?

☐ ☐ ☐

B. Indicate data source or survey format.

3. Is the project accessible by LMI persons?

☐ ☐ ☐

4. Activities meeting the LMI Limited Clientele National Objective. For each activity, one of the following five types of documentation must be kept.

A. Documentation showing that the activity is designed to be used exclusively by a segment of the population presumed by HUD to be LMI persons.

B. Documentation describing how the nature and location of the activity establishes that it will be used predominantly by LMI persons.

- C. Data showing the size and annual income of the family of each person receiving benefit.

- D. Data showing that barriers to mobility or accessibility have been removed and how the barrier removal was restricted to the extent feasible to one of the particular cases authorized under this subcategory.

- E. Documentation showing that the activity qualifies under the special conditions regarding job services where less than 51 percent of the persons benefiting are LMI persons.

5. Activities in a Designated Blighted Area.

YES NO N/A

- A. Has a blighted district been established by the subgrantee's governing body?

☐ ☐ ☐

If yes, is a copy of the resolution on file?

☐ ☐ ☐

- B. Does the blighted condition conform to state law?

☐ ☐ ☐

- C. Does the boundary and description of the project area conform to state requirements?

☐ ☐ ☐

- D. Is the project designed to address one or more of the conditions that contributed to the deterioration of the area?

☐ ☐ ☐

6. Activities designated as Blight on a spot basis.

- A. Is there a description of the specific condition of blight or physical decay to be treated?

☐ ☐ ☐

- B. Was there rehabilitation completed for other than LMI households?

☐ ☐ ☐

If yes, describe the scope of CDBG assisted rehabilitation completed and approximate cost:

	<u>YES</u>	<u>NO</u>	<u>N/A</u>
C. Is there a pre-rehabilitation inspection report describing the specific conditions detrimental to public health and safety?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
 7. Urgent Need.			
A. Did the nature and degree of seriousness pose an immediate threat to the health or welfare of the community?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<p>If yes, what agency has certified the urgent need?</p> <p>_____</p> <p>_____</p> <p>_____</p>			
B. Is there evidence that the CDBG activity was designed to address the urgent need?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
C. Is there documentation that the condition developed or became critical within 18 months preceding the application for CDBG funds?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
D. Is there evidence confirming that other financial resources to alleviate the condition were not available?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
 8. Note any deficiencies and the follow-up actions that are required.			

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ECONOMIC DEVELOPMENT

FOR PROJECTS PROVIDING ASSISTANCE TO FOR-PROFIT BUSINESSES:

	<u>YES</u>	<u>NO</u>	<u>N/A</u>
1. Does the Subgrantee maintain project files that contain:			
A. Evidence of financial history or projections of the business seeking assistance?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
B. Evidence of leveraged funds, if any?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
2. Have all parties been informed of their CDBG obligations?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
3. Is there written documentation?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
4. Are there written agreement(s) regarding the CDBG funded activities between:			
A. The subgrantee and the business? Date of agreement: _____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
B. The subgrantee and subgrantee? Date of agreement: _____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
C. The subgrantee and the business? Date of agreement: _____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
If yes, do they contain:			
1) Duration of agreement? If yes, from _____ to _____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
2) Amount of Assistance to be provided? If yes, \$ _____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
3) Use of Funds including project description, intention, and location? _____			
4) Amount of leveraged funds, if any? _____			
5. Number of jobs to be created/retained?			
A. Within 12 months _____			
B. Within 18 months _____			
C. Within 24 months _____			

6. Number of jobs for low/moderate income persons?

- A. Within 12 months _____
- B. Within 18 months _____
- C. Within 24 months _____

7. For each activity determined to benefit LMI persons based on the retention or creation of jobs:

- A. What is the number of jobs created to date? _____
- B. What is the number of LMI jobs created to date? # _____
- C. The number of additional jobs expected to be created? # _____

	<u>YES</u>	<u>NO</u>	<u>N/A</u>
8. Were employee interviews conducted?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

By whom? _____

9. Was an offer made to enter into an agreement with the One Stop Career Center?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
--	--------------------------	--------------------------	--------------------------

10. How are LMI persons being documented?

State survey sheets	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Work Force Investment Act sheets	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

SD Governor's Office of Economic Development

Section J - Grant Amendments

Guidance and requirements to submit amendments to the grant agreement in place.

Updated
08/2023

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Grant Amendments

This section lists the type of grant amendments that may be requested, defines each type of amendment, determines whether an amendment is minor or substantial, describes the procedure for submitting a request, and includes the form on which to request an amendment.

Types of Amendments

1. Extension of Time

This type of amendment is determined as a MINOR amendment and must be requested when the subgrantee determines that all grant work cannot be completed prior to the grant expiration date.

2. Budget Revisions

This type of amendment must be requested when the subgrantee needs to make changes to either the CDBG grant funding or the total project budget.

MINOR amendments include:

- Change in total project costs of 20% or less.
- Adjusting the CDBG allocation percentage on the original grant agreement to correct the actual allocation on eligible expenses.
- Additional CDBG funding of 10% or less of the original award.

SUBSTANTIAL amendments: Any changes outside of the revisions under “minor” would require a substantial amendment further discussed on the next page.

3. Scope of Work

This type of amendment must be requested when expanding or reducing the approved scope of work to be performed.

MINOR amendments include:

- Any change of scope that results in project changes of 20% or less. *(i.e.: a grant was approved for a 4,000 sq ft building, and the subgrantee decided to add an additional 700 sq ft room.)*

SUBSTANTIAL amendments include:

- Any activity that results in a substantial change from the project that was originally applied for and approved in the grant agreement. *(i.e.: a grant was approved to construct 20 blocks of water and sewer mains, but the subgrantee is only going to construct 15 blocks of water and sewer mains, a substantial amendment must be submitted.)*

4. Special Conditions

This type of amendment must be submitted if a subgrantee wishes to seek approval to modify, eliminate, or extend a special condition on the grant award. Seek guidance from the Program Manager to discuss this request.

PROCEDURES FOR SUBMITTING AND ACTING ON REQUEST FOR AMENDMENT

1. Minor amendments must be submitted at least 30 days prior to the grant expiration date.
2. Substantial Amendments require following the Citizen Participation Plan prior to submitting requests. A public hearing must be conducted to receive comments from interested parties on the proposed activities before an amendment may be submitted.
 - a. A notice of the required public hearing should be given through an advertisement in a newspaper that is widely read by the persons who will be affected by the project. The notice should be published and posted in a public place 15 days prior to the public hearing. The notice must contain:
 - i. The topic of discussion (the proposed project).
 - ii. The date and time of the meeting.
 - iii. The place of the meeting.
 - iv. The amendment details proposed.
 - b. Citizens must be given a 15-day comment period after the hearing before submitting the **REQUEST FOR AMENDMENT**.

Notice is hereby given that (Grantee) will hold a public hearing on (date) at (time) at (location) to solicit public input on local community development and needs in relation to the Community Development Block Grant (CDBG) funding for a project in our community.

The (Grantee) is requesting to amend the Scope/Budget/Special Conditions for the CDBG grant to be used for the project in progress because _____.

Information related to this project will be available for review prior to the public hearing as of (date) at (Grantee address), between the hours of (9am-4pm Monday-Friday). Interested citizens are invited to provide comments regarding these issues either at the public hearing or by prior written statement. Written comments should be submitted to (contact name and address), no later than (date and time) to ensure placement of such comments in the official record of the public hearing proceedings. A plan to minimize displacement and provide assistance to those displaced has been prepared by the (Grantee) and is also available to the public. This project will/will not result in the displacement of any persons or businesses.

Persons with disabilities or non-English speaking persons who wish to attend the public hearing and need assistance should contact (local contact name) at (address and telephone) no later than 48 hours prior to the meeting date to allow for necessary arrangements. Every effort will be made to make reasonable accommodations for these persons.

For additional information or to submit written comments, send to (local contact name, title, address, telephone number). Comments should be postmarked by (date).

3. All amendments must be submitted on the **REQUEST FOR AMENDMENT** form and must be signed by the Chief Elected Official.
4. Approval of Amendments by GOED
 - a. Minor Amendments: if the request is approved by GOED, the **REQUEST FOR AMENDMENT** form will be returned reflecting signed approval.
 - b. Substantial Amendments: if the request is approved by GOED, the approval will be transmitted on an updated Grant Agreement that must be signed.
 - c. All approved amendments will become a part of the original Grant Agreement and will be subject to all applicable conditions and assurances.

Request For Amendment Form Instructions

- Block 1 – Enter the official name, mailing address and UEI number of the subgrantee.
- Block 2 – Enter the GOED number assigned on the Grant Agreement.
- Block 3 – Amendment requests are to be numerically accounted for locally. Indicate the appropriate request number.
- Block 4 – Enter the approved Budget/Project Period from the Grant Agreement.
- Block 5 – Enter the date of the preparation of the **REQUEST FOR AMENDMENT**.
- Block 6 – Place a mark in the appropriate space to reflect the type of amendment being requested.
- Block 7 – Provide a detailed explanation of the amendment, to include the reason and the results and attach all necessary documents to support the request.
- Block 8 – Enter the name and title of the Chief Elected Official.
- Block 9 – For GOED use only.

Please email or mail your REQUEST FOR AMENDMENT form to:

Governor's Office of Economic Development
Community Development Block Grant Program
711 E. Wells Avenue
Pierre, South Dakota 57501-3369
Stephanie.Deyo@sdgoed.com

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Request For Amendment Form

1. Subgrantee Name & Address UEI #	2. Grant Agreement Number	3. Request Number
	4. Approved Grant Period _____ to _____	5. Date of Request

6. Type of Amendment

- ☐ Extension of Time ☐ Budget Revisions*
- ☐ Scope of Work* ☐ Special Conditions*

7. Explanation of Request and Effect (Attach Additional Page if Necessary)

** Please attach copy of revised budget sheet(s), copy of public notice of the hearing and affidavit or full tear sheet, public hearing minutes, listing of concerns (if any), and methods selected to satisfactorily address those concerns.*

8. Submitted by: (Chief Elected Official)

Name _____ Title _____

Signature _____ Date _____

9. ACTION TAKEN (GOED USE ONLY)

- ☐ APPROVED
- ☐ DENIED – Reason for Denial: _____

Name _____ Title _____

Signature _____ Date _____

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SD Governor's Office of Economic Development

Section K - Closeout Process

Overview and requirements for the CDBG grant closeout process.

Updated
08/2023

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CDBG Closeout Process

1. Subgrantees must begin the Administrative Closeout Process when the following conditions are met:
 - All CDBG funds have been drawn down and the project is complete.
 - Final project inspection and monitoring reports are complete.
 - The grantee's governing body has formally accepted and signed off on the work.
 - Any adjustments to the grant agreement were made.
2. Once the above conditions have been met, the following closeout documents must be submitted by the subgrantee to GOED within **NINETY (90) DAYS**:
 - Civil Rights Compliance Certification
 - EEO-4 (if the grantee has 100 or more employees)
 - Final Financial Statement
 - Job Documentation for Economic Development Projects
 - Acceptance of work
 - Administrative Closeout
 - Certificate of Completion
3. As soon as the office receives the closeout documentation from the subgrantee, GOED will notify the subgrantee by letter that the **Administrative Closeout** has been approved, subject to the findings of an audit and final closeout.
4. After all the audits are completed and approved, GOED will notify the subgrantee by letter that the **Certificate of Completion** has been approved and the CDBG grant is formally closed out.
5. Files must be maintained by the grantee for **three (3) years** after the Certificate of Completion has been approved ([24 CFR 570.490\(d\)](#)).

NOTE: The GOED reserves the right to re-open the grant and recover CDBG funds if the final audit identifies any findings not consistent with the Grant Agreement or shows any other discrepancies.

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Administrative Closeout Form

A. Subgrantee	Grant No.	C. Chief Elected Official	
B. Address		D. Certifying Officer	
E. FINAL STATEMENT OF COST			
	To Be Completed by the Subgrantee		To Be Completed by the State
	CDBG	Non-CDBG Funds	TOTAL
			Approved TOTAL Costs
1. Administration Expense			
2. Land Structures, Right-of-Way			
3. Architectural & Engineering Basic Fees			
4. Other Architectural Engineering Fees			
5. Project Inspection Fees			
6. Site Preparation			
7. Relocation Expense			
8. Demolition & Removal			
9. Construction & Project Improvements			
10. Other			
11. TOTAL			
F. COMPUTATION OF GRANT BALANCE			
	To Be Completed by the Subgrantee		To Be Completed by the State
1. Grant Award Amount	\$		\$
2. Unused Funds to be Cancelled	\$		\$
3. Final Grant Amount (Subtract Line 2 from Line 1)	\$		\$
4. Grant Funds Received	\$		\$
5. Balance of Grant Payable (Subtract Line 4 from Line 3)*	\$		\$
<i>*If line 4 exceeds line 3, enter amount of excess on line 5 as a negative amount. This amount shall be repaid to the State of South Dakota.</i>			
G. REMARKS			

G. REMARKS (CONTINUED)

H. CERTIFICATION OF RECIPIENT

It is hereby certified that all activities undertaken by the Recipient with funds provided under the grant agreement identified on page 1, have, to the best of my knowledge, been carried out in accordance with the grant agreement; that the State of South Dakota is under no obligation to make any further payment to the Recipient under the grant agreement in excess of the amount identified in Balance of Grant Payable hereof; and that every statement and amount set forth in this instrument is, to the best of my knowledge true and correct as of this date.

It is hereby certified that one of the three mandatory National Objectives has been met and that verification documenting compliance with the National Objective is on file and available for inspection. I also certify that any expenditure or activity identified in a subsequent audit as ineligible or improper will be either refunded to the State of South Dakota or corrected by the Recipient.

Typed Name of Certifying Officer

Signature of Certifying Officer

Date

I. STATE APPROVAL

This Administrative Close-Out is hereby approved. Therefore, I authorize the cancellation of the unused contract commitment and related funds reservation and obligation of \$_____, less \$_____ previously authorized for cancellation.

Typed Name of State Official

Signature of State Official

Date

Certificate of Completion

A. Subgrantee:	Grant No.	C. Chief Elected Official:		
B. Address:		D. Certifying Officer		
E. FINAL STATEMENT OF COSTS				
	To Be Completed by the Subgrantee		To Be Completed by the State	
	CDBG	Non-CDBG Funds	TOTAL	Approved TOTAL Costs
1. Administration Expense				
2. Land Structures, Right-of-Way				
3. Architectural & Engineering Basic Fees				
4. Other Architectural Engineering Fees				
5. Project Inspection Fees				
6. Site Preparation				
7. Relocation Expense				
8. Demolition & Removal				
9. Construction & Project Improvements				
10. Other				
11. TOTAL				
F. COMPUTATION OF GRANT BALANCE				
	To Be Completed by the Subgrantee		To Be Completed by the State	
1. Grant Award Amount	\$		\$	
2. Unused Funds to be Cancelled	\$		\$	
3. Final Grant Amount (Subtract Line 2 from Line 1)	\$		\$	
4. Grant Funds Received	\$		\$	
5. Balance of Grant Payable (Subtract Line 4 from Line 3)*	\$		\$	
<i>*If line 4 exceeds line 3, enter amount of excess on line 5 as a negative amount. This amount shall be repaid to the State of South Dakota.</i>				
G. REMARKS				

G. REMARKS (CONTINUED)			
H. AUDIT REQUIREMENTS			
	<u>CY</u>	<u>YES</u>	<u>NO</u>
List the calendar year(s) in which CDBG project activity spending occurred. Mark yes or no if the subgrantee spent more than \$750,000 in the total of all federal funds in any year beginning in 2015 and thereafter.	_____	<input type="checkbox"/>	<input type="checkbox"/>
	_____	<input type="checkbox"/>	<input type="checkbox"/>
	_____	<input type="checkbox"/>	<input type="checkbox"/>
I. CERTIFICATION OF RECIPIENT			
<p>It is hereby certified that all activities undertaken by the Recipient with funds provided under the grant agreement identified on page 1, have, to the best of my knowledge been carried out in accordance with the grant agreement; that the State of South Dakota is under no obligation to make any further payment to the Recipient under the grant agreement in excess of the amount identified in Balance of Grant Payable hereof; and that every statement and amount set forth in this instrument is, to the best of my knowledge true and correct as of this date.</p> <p>It is hereby certified that one of the three mandatory National Objectives has been met and that verification documenting compliance with the National Objective is on file and available for inspection. I also certify that any expenditure or activity identified in a subsequent audit as ineligible or improper will be either refunded to the State of South Dakota or corrected by the Recipient.</p>			
_____ Typed Name of Certifying Officer	_____ Signature of Certifying Officer	_____ Date	
J. STATE AUDIT APPROVAL			
<p>The independent audit for this project has been reviewed and accepted by the South Dakota Governor's Office of Economic Development.</p>			
_____ Typed Name of State Official	_____ Signature of Authorized State Official	_____ Date	
K. STATE APPROVAL			
<p>This Certificate of Completion is hereby approved. Therefore, I authorize the cancellation of the unused contract commitment and related funds reservation and obligation of \$_____, less \$_____ previously authorized for cancellation.</p>			
_____ Typed Name of State Official	_____ Signature of Authorized State Official	_____ Date	

SD Governor's Office of Economic Development

Section L – Audit Requirements

Guidelines and requirements for audits of subgrantees.

Updated
08/2023

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Audit Requirements

AUDIT POLICY

CDBG subgrantees that expend \$750,000 or more in a year in federal awards must have an audit conducted in accordance with [2 CFR Part 200, Subpart F—Audit Requirements](#) except when they elect to have a program-specific audit conducted. A program audit is an audit of one federal program (such as CDBG). A program-specific audit is allowed when the subgrantee expends federal awards under only one federal program. A single audit is an audit that includes both an entity's financial statements and its federal awards (from all applicable federal programs). If a subgrantee expends less than \$750,000 a year in federal awards, it is exempt from the audit requirements for that year; however, records must be available for review or audit by appropriate officials of the federal agency, the State, and the Government Accountability Office.

Subgrantees should contact the Department of Legislative Audit concerning audit requirements.

Department of Legislative Audit
427 S. Chapelle
Pierre, SD 57501
605-773-3595

Once the audits are received by GOED, they will be reviewed for compliance. If an unresolved audit question occurs that involves a violation of applicable state or federal law, GOED may recall all, or any portion of, the affected CDBG monies, may request corrective action, or may declare the subgrantee to be ineligible for future grants or loans or future installments of an existing grant or loan. Any monies recalled or withheld would then be returned to the pertinent federal agency or redistributed by GOED as allowed.

After all the audits are completed and accepted, GOED will notify the subgrantee by letter that the **Certificate of Completion** has been approved and the CDBG grant is formally closed out. See Section K – Closeout Process for information and forms.

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SD Governor's Office of Economic Development

Section M – Economic Development Projects

Guidelines and forms required for demolition, building rehabilitation, job creation projects, and other economic development.

Updated
08/2023

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Economic Development Projects

BLIGHT REQUIREMENTS

HUD regulations require that States expend at least 70% of their annual CDBG funds on activities that benefit low- and moderate-income (LMI) people. Because the Slum/Blight national objective is not subject to the standard 51% LMI requirements, there is limited funding available for blight removal-only projects. Economic development activities that aid in the prevention or elimination of blight in a designated area or on a specific building must follow the State's requirements and conditions. Demolition may be included in regular CDBG projects and tied to LMI beneficiaries. The conditions below still apply. Please contact GOED with questions.

Blighted Area

The designated area in which the activity occurs must meet the definition of a slum, blighted, deteriorated, or deteriorating area under state law ([SD Codified Law §11-8-3 \(2019\)](#)) or local law. Additionally, the area must meet either one of the two conditions specified below:

- Public improvements throughout the area are in a general state of deterioration.
- At least 25 percent of the properties throughout the area exhibit one or more of the following:
 - a. Physical deterioration of buildings/improvements.
 - b. Abandonment of properties.
 - c. Chronic high occupancy turnover rates or chronic high vacancy rates in commercial or industrial buildings.
 - d. Significant declines in property values or abnormally low property values relative to other areas in the community.
 - e. Known or suspected environmental contamination.

Documentation must be maintained by the grantee on the boundaries of the area and the conditions that qualified the area at the time of its designation. The designation of an area as slum or blighted must be re-determined every 10 years for continued qualifications.

Spot Blight

Under the Spot Basis category of the Slum/Blight national objective, activities such as acquisition, clearance, and building rehabilitation may be undertaken. When rehabilitation is categorized under the Spot Basis category, it must meet the following requirements:

- The rehabilitation must eliminate specific conditions of blight or physical decay on a spot basis, i.e., not be located in a designated slum and blight area; and
- The rehabilitation must be limited to only those conditions that are detrimental to public health and safety.

State CDBG Blight Program Minimum Requirements (other provisions may apply)

To be eligible under the State CDBG Blight program, the following conditions must be met:

- The subgrantee must pass a Resolution designating the building or area as blighted (samples are given in this section).
- The subgrantee must own or take ownership of the building prior to demolition/rehabilitation.

JOB DOCUMENTATION

There are several guidelines that must be adhered to for Economic Development projects concerning job creation. Fifty-one percent (51%) of all the jobs created must be taken by or made available to low- and moderate-income persons.

The business must document the jobs that it has created and that those jobs were taken by or made available to low- and moderate-income persons. The **Employee Income Survey** found in this section must be completed for each employee before the grant can be closed. This form should be filled out at the time the person is hired. The total family income must be used for the completion of this form.

Only permanent jobs may be considered in determining benefits to low- and moderate-income persons; temporary jobs such as construction jobs may not be counted. Permanent, part-time jobs are to be reported as total weekly hours.

The **CDBG Employee Income Surveys** are compiled and reported on the **Job Certification Form**. This form is submitted with the closeout documents. The **Employee Income Surveys** are kept on file by the business.

Blighted Area Resolution

(CITY/TOWN/COUNTY) OF _____
RESOLUTION # _____

WHEREAS, the (city/town) of GRANTEE desires to eliminate blighted areas within the corporate limits of (city/town), South Dakota, and

WHEREAS, identifying such areas is necessary for effective action to eliminate blighting conditions, and

Choose One or More of the following:

- WHEREAS, public improvements such as (insert specific things in need of improvement) have severely deteriorated, contributing to blighting conditions, and
- WHEREAS, the area has experienced a cessation of private investment since DATE, and
- WHEREAS, () percent of first floor commercial space, () percent of second floor commercial space, and () percent of total commercial space in the area is currently vacant, and
- WHEREAS, () percent of buildings are deteriorated as evidenced by (insert specific information regarding the cause of deterioration),

WHEREAS, the project activities are designed to address blight on an area basis as defined by 24 CFR 570.483(c)(1),

BE IT RESOLVED by the GRANTEE that the following areas of GRANTEE hereby be designated as an area in need of redevelopment as defined by [SD Codified Law §11-8-3 \(2019\)](#): (insert specific boundaries of the area).

WHEREUPON, This Resolution is declared passed and adopted on this ___ day OF ___, 20__

Attach the following:

- ☐ Map of the area boundaries or designated parcel.
- ☐ Map showing location of all buildings and public improvements that are deteriorated.
- ☐ Inventory and description of public improvements, and/or
- ☐ Inventory and description of deteriorated buildings which do not comply with local codes.

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Spot Blight Resolution

(CITY/TOWN/COUNTY) OF _____
RESOLUTION # _____

WHEREAS, the (city/town) of **GRANTEE** desires to eliminate blighted structures within the corporate limits of (city/town), South Dakota, and

WHEREAS, the structure located at **ADDRESS** has experienced a cessation of private investment since **DATE**, and

WHEREAS, deterioration of the structure has taken place as evidenced by (insert specific description of deterioration),

WHEREAS, the project activities are designed to address blight on a spot basis as defined by 24 CFR 570.483(c)(2),

BE IT RESOLVED by the **GRANTEE** that the following property located in **GRANTEE**, hereby be designated as a structure in need of redevelopment as defined by SD Codified L § 11-7-5 (2022) and SD Codified Law §1-19B-27: (insert legal address of property (can be found on deed and/or mortgage documents).

WHEREUPON, This Resolution is declared passed and adopted on this ___day OF __, 20__.

Attach the following:

- ☐ Photographs of the designated parcel.
- ☐ Aerial map showing location of the designated parcel.
- ☐ Inventory and description of specific physical decay or environmental contamination that are considered blighting conditions.

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CDBG Employee Income Survey

One of the federal requirements of the state-administered Community Development Block Grant (CDBG) program is the documentation of household income levels. Since your employer benefited from CDBG dollars, it is necessary to collect the following information. All records remain confidential.

PLEASE TYPE OR PRINT IN INK

Employee Name _____

Number of family members in household _____

Are you: ☐ Male ☐ Single ☐ Head of Household
 ☐ Female ☐ Married ☐ Handicapped

Please indicate your racial group:

_____ White	_____ Hispanic
_____ Black/African American	_____ Hispanic
_____ Asian	_____ Hispanic
_____ American Indian/Alaskan Native	_____ Hispanic
_____ Native Hawaiian/Other Pacific Islander	_____ Hispanic
_____ American Indian/Alaskan Native & White	_____ Hispanic
_____ Asian & White	_____ Hispanic
_____ Black/African American & White	_____ Hispanic
_____ Am. Indian/Alaskan Native & Black/African Am.	_____ Hispanic
_____ Other Multi-Racial	_____ Hispanic

Classification of position:

_____ Official/Manager
_____ Professional
_____ Technician
_____ Sales
_____ Office/Clerical
_____ Craft Worker (skilled)
_____ Operative (semi-skilled)
_____ Laborer (unskilled)
_____ Service Worker

Were you unemployed at the time you applied for this job? Yes ☐ No ☐

Were you homeless at the time you applied for this job? Yes ☐ No ☐

Were you hired through a job training program? Yes ☐ No ☐

Number of hours you will be working per week? _____

Before I was hired here, I hereby certify that my Adjusted Gross Income for **ALL** family living in my home (**income after business and farm expenses, but before personal deductions**) was ☐ above or ☐ below \$_____.

I understand this information is subject to verification.

Employee Signature Date Hiring Date

I hereby certify that the employee identified above is employed by _____
Name of Business
on this date_____.

Employer Signature Date

Job Certification Form

This document must be filed with the closeout documents.

Date _____

Number of Jobs Created:

Full-time Jobs Created _____ Part-time (Total Weekly Hrs) Created _____

Number benefiting LMI* _____ Part-time (Total Weekly Hrs) LMI _____

% benefiting LMI _____ Part-time % (Total Weekly Hrs) LMI _____

Number of Jobs Retained:

Full-time Jobs Retained _____ Part-time (Total Weekly Hrs) Retained _____

Number benefiting LMI* _____ Part-time (Total Weekly Hrs) LMI _____

% benefiting LMI _____ Part-time % (Total Weekly Hrs) LMI _____

Did you hire employees through a One-Stop Career Center? Yes ☐ No ☐

Number of persons hired through the WIA** program _____

Number of created jobs with employer-sponsored health care benefits _____

Number unemployed prior to taking jobs created under this activity _____

Type of Jobs:

of Jobs

Racial Characteristics Totals:

Officials and Managers	_____	White	_____	Hispanic	_____
Professional	_____	Black/African American	_____	Hispanic	_____
Technicians	_____	Asian	_____	Hispanic	_____
Sales	_____	Am. Indian/Alaskan Native	_____	Hispanic	_____
Office and Clerical	_____	Asian & White	_____	Hispanic	_____
Craft Workers (skilled)	_____	Black/African Am. & White	_____	Hispanic	_____
Operatives (semi-skilled)	_____	Am. Indian/Alaskan Native			
Laborers (unskilled)	_____	& Black/African Am.	_____	Hispanic	_____
Service Workers	_____	Other Multi-Racial	_____	Hispanic	_____

Company Name _____

Authorized Official _____

Signature of Authorized Official _____

* LMI: Low- and Moderate- Income

** WIA: Workforce Investment Act

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SD Governor's Office of Economic Development

Section N – Grievance Procedures

Grievance procedures for the CDBG program.

Updated
08/2023

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CDBG Grievance Procedures

This Grievance Procedure is intended to reflect most circumstances relative to the CDBG Program in which any person believes that he or she was unjustly treated in the operation of a CDBG Program by the Unit of General Local Government (UGLG) or any CDBG subgrantee based on any applicable federal, state, or local laws.

This Grievance Procedure is the GOED's complaint process for the CDBG program and meets the standards of the CDBG citizen participation regulations. An aggrieved person need not be a participant in the CDBG program.

This grievance procedure will be followed by the CDBG program staff for all CDBG projects unless the procedure's scope is clearly limited relative to a new project in which case the UGLG retains the right to expand the procedure.

1. Citizens may submit grievances in writing to the Governor's Office of Economic Development, Attention CDBG Program Grievance, 711 East Wells Ave, Pierre, SD. 57501 for review and response. Grievances shall include a description of the matter causing the grievance along with the person's contact information including name, phone number, and mailing address.
2. A letter acknowledging receipt of the grievance will be provided to the person submitting it at the address provided, including the timeline for GOED's response as outlined below.
3. Upon receipt of a written grievance by the GOED, the CDBG Program Manager, in his or her sole discretion, may designate a planning district staff person (designee) to review the matter. The designee will review the circumstances, conduct an investigation, and prepare a written report for the CDBG Program Manager within fifteen (15) working days of receipt. The report should include:
 - a. A summary of the issues/list of relevant facts
 - b. All documents provided by the aggrieved person
 - c. Any summary response from the program/project manager (subgrantee)
 - d. Any documents available supporting relevant facts
 - e. All other pertinent file documents including
 - i. Any consultant recommendations or special determinations
 - ii. All applicable Federal regulations, HUD policy, and State of South Dakota policy
4. A determination, to include any findings and response, completed by the CDBG Program Manager will be rendered within thirty (30) working days of receipt of the grievance. A copy of the CDBG Manager's determination shall be provided to the person submitting the grievance at the address provided.
5. Persons who believe they are victims of discrimination in housing or other services may also contact the U.S. Department of Housing and Urban Development (HUD) to file a complaint, without first filing a grievance under this procedure, by contacting the Denver Office of the U.S. Department of Housing and Urban Development (HUD) at 1670 Broadway, Denver, CO 80202, (303) 672-5440.

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