

CDBG Financial Management and Procurement

Trainer Guide

[Notes to the trainer are presented in italics.]

Welcome & Introductions: Welcome to the Financial Management and Procurement workshop. *Trainer briefly introduces him/herself. Participants give their names, their positions and, if there are multiple agencies present, the agency and whether they represent an Entitlement or a State CDBG grantee/subrecipient.*

Purpose of the workshop:

The purpose of the workshop is to ensure that every participant:

- is familiar with the applicable OMB Circulars and HUD regulations;
- understands key financial management rules and their application; and
- understands the different types of procurements and the impact of state or local procurement requirements.

Ground Rules: Please--

- Turn off all cell phones and pagers or set them on vibrate.
- Step outside the training room to answer calls.
- No smoking in the training room. There will be breaks when you can smoke.
- Questions are fine at any time, but please keep them to the topic being discussed.

Discussion Questions: There is a set of questions for group discussion at the conclusion of the workshop.

Entitlement vs. State CDBG Program: *Summarize any differences in the applicability of Financial Management principles between the two programs, emphasizing the flow from HUD to the eventual grantee/subrecipient.*

● Overview

This workshop begins with a discussion of the relevant Office of Management and Budget (OMB) Circulars that guide financial management and cost principles across all Federal agencies, as well as state, local and Indian tribal governments, educational institutions,

hospitals and other nonprofit organizations. We will also review the relevant HUD regulations pertaining to financial management, and will use two case studies to illustrate key issues and topics of interest in financial management and procurement.

● Office of Management and Budget (OMB) Circulars

[Slide 4]

- OMB Circular A-87, Cost Principles for State, Local and Indian Tribal Governments
 - Applicability
 - Direct Costs
 - Indirect Costs
 - Cite need to differentiate indirect and direct costs, and the need for an indirect cost allocation plan to support any indirect cost charged.
 - Note the possibility that the local indirect cost allocation plan may need to be reviewed and the rate may be negotiated.

Top Seven Facts About OMB Circular A-87

1. OMB Circular A-87 provides principles used to establish *allowable costs* incurred by state and local governments under grants, cost-reimbursement contracts and other agreements (“Federal Awards”) with the Federal Government; these principles operate under the following assumptions:
 - a. The Federal Government is expected to pay its fair share of the state and local governments’ operating cost in carrying out the Federal awards, as defined in the program rules issued by the Federal agency making the award (e.g., HUD);
 - b. A-87 **does not** prescribe how state or local governments should organize or carry out the work under their Federal awards beyond stating that they should use “sound management practices”;
 - c. A-87 is not applicable to awards or subawards to publicly-financed colleges or universities (OMB Circular A-21, Cost Principles for Educational Institutions, applies to these entities) or hospitals (which are governed by the specific grants awarded to the hospitals);
 - d. Subawards of Federal funds by state or local governments to other entities are subject to the Federal cost principles applicable to the specific type of subgrantee. For example, if the subgrantee is a local government (as in the regular CDBG Program), A-87 would apply, while if the subaward was to a nonprofit organization, OMB Circular A-122 (Cost Principles for Nonprofit Organizations) would apply.

2. According to A-87, to be allowable under Federal awards, costs must:

- a. Be necessary and reasonable to carry out the Federal award;
- b. Be allocable to Federal awards under the rules of A-87 (as detailed in # 3 below);
- c. Be authorized (or not prohibited) under state or local laws or rules;
- d. Conform to other limitations or exclusions in A-87, Federal law or rules, or other governing regulations;
- e. Be consistent with policies and rules applicable to Federal awards and other activities of state or local governments;
- f. Be treated consistently (for example, not assigned as a direct cost if other costs incurred for the same purposes are treated as indirect costs);
- g. Be determined in accordance with generally accepted accounting principles;
- h. Not be used to meet cost sharing or matching requirements of any Federal award (unless the OMB has allowed a specific program to do so, such as the Indian Community Development Block Grant program);
- i. Be net of applicable credits (for example, the agency must take advantage of discounts, rebates, refunds, recoveries and adjustments); and
- j. Be adequately documented.

3. Allocation of Costs: OMB Circular A-87 defines acceptable methods of allocating costs for central service administration and indirect costs. Typical central administrative costs may include central accounting services, information technology services, human resources functions, general program management and oversight. Generally, the costs of these central functions are shared by several programs, and agencies must develop a cost allocation plan to show how those costs will be shared among the various programs. The cost allocation plan must ensure that:

- a. The cost is allocated in accordance with relative benefits received;
- b. All activities that benefit from the state or local government's indirect cost (including unallowable activities and services) receive an appropriate allocation of indirect cost; and
- c. Any cost that may be allocated under A-87 may not be charged to other Federal awards to overcome fund deficiencies or any other reasons (for example, if one Federally funded program does not have sufficient funds to cover its share of indirect costs, those costs may not be charged to another Federal program).

Central services provided to a program funded by a Federal award can either be billed on a fee-for-service basis (such as for computer services, transportation, fringe benefits), or on an allocated basis (such as for general accounting, procurement or personnel administration services).

4. Direct Costs: Under OMB Circular A-87, certain direct costs are billable to Federal awards. Listed below are the types of direct costs allowed under A-87. However, there are a number of further restrictions placed on eligible activities or costs under the CDBG program, and all CDBG expenditures must comply with both requirements. A-87 allowable costs include:
 - a. Salaries or wages to employees for time devoted to the performance of the award;
 - b. Materials and supplies bought and used specifically for the purpose of the award;
 - c. Equipment and other approved capital expenditures (consistent with the rules of the specific Federal program) – after all, most equipment costs *not* eligible under CDBG;
 - d. Travel expenses incurred to carry out the award (e.g., to attend training on some aspect of program requirements under the award) consistent with government per diem rates and airfare restrictions.
5. When a cost allocation plan or indirect cost proposal is required by OMB Circular A-87, it must be certified to by the chief financial officer of the governmental unit and maintained on file for review. The method used to distribute costs of services must be documented and retained for review. Agencies should review the plan regularly (at least annually) to ensure that the actual allocations are adequate. Attachment E to OMB Circular A-87 provides specific instructions on the methods used to establish indirect cost rates, and how proposals for indirect cost rates will be developed, submitted and documented.
6. When services are provided by one department to another within a governmental unit, it is permitted to include both allowable direct costs plus a pro-rated share of indirect costs. Ten percent of direct salary/wage for providing the service may be used instead of determining actual indirect cost. For example, in a large CDBG Entitlement community, the Community Development Department may “purchase” its Environmental Reviews from the Environmental Protection Department. The actual costs of conducting the review along with a ten percent indirect cost could be paid by CDBG to the Environmental Protection Department for each Environmental Review conducted.
7. Attachment B to A-87 provides 27 pages of specific guidance on what elements of a wide range of cost categories are allowable; it also identifies categories of expenses that are not allowable. The following are selected items of cost:
 - Advertising and Public Relations
 - Allowed: recruitment of personnel; procurement of services; general liaison with news media and government public relations officers related to matters of public concern.
 - Not allowed: meeting costs; displays; promotional items.

- Advisory Councils
 - Allowed: May be allowed as direct cost (if authorized) or indirect cost.
- Alcoholic Beverages
 - Not allowed at all.
- Audit Costs
 - Allowed: costs for audit performed in accordance with A-133; other audit costs specifically approved.
- Communications
 - Allowed: telephone, postage, messenger, electronic transmittal services.
- Contingency Provisions
 - Not allowed: Contributions to a contingency reserve made for events the occurrence of which cannot be foretold with certainty as to time, intensity, or an assurance of their happening.
- Depreciation and Use Allowances
 - Allowed: depreciation or use allowance on buildings, major components of buildings (plumbing, etc.), equipment, etc.
 - Not allowed: cost of land; cost of buildings and equipment borne by or donated by the Federal Government; cost of buildings and equipment contributed in satisfaction of a matching requirement.
- Employee Morale, Health and Welfare costs
 - Allowed: employee counseling, first aid clinics, etc.
- Entertainment Costs
 - Not allowed: costs of entertainment, including amusement, social, or diversion, and related costs.
- Equipment and Other Capital Expenditures
 - Allowed: Special purpose equipment are allowed as direct costs (items costing \$5,000 or more require prior approval)
 - General purpose equipment, buildings and land are generally unallowable as direct charges, unless approved in advance.
- General Government Expenses

- Not allowed: general costs of government (including salaries); costs of judiciary branch; costs of prosecutorial activities; costs of fire and police, unless provided as a direct cost under a program statute.
- Insurance and Indemnification
 - Allowed: cost of insurance, with certain parameters.
- Lobbying
 - Not allowed: costs of influencing activities associated with obtaining grants, contracts, cooperative agreements, or loans.
- Maintenance, Operations and Repairs
 - Allowed: utilities, insurance, security, janitorial services, normal maintenance and repair.
- Materials and Supplies
 - Allowed: materials, supplies, and fabricated parts used to carry out the Federal award.
 - Not allowed: materials and supplies not related to the Federal award.
- Meetings and Conferences
 - Allowed: meetings/conferences to disseminate technical information, including meals, transportation, facility rental, speakers' fees, and other incidental items.
 - Not allowed: entertainment related costs at the meeting.
- Memberships, Subscriptions and Professional Activity Costs
 - Allowed: membership in business, technical, professional organizations; subscriptions to business, professional or technical periodicals.
 - Not allowed: membership costs in organization substantially engaged in lobbying.
- Pre-award Costs
 - Allowed: costs directly pursuant to the negotiation of the award and necessary to comply with the deliverable schedule or period of performance, with prior written approval.
- Professional Service Costs
 - Allowed: professional and consultant services; limited legal and related services.

- Publication and Printing Costs
 - Allowed: printing, distribution, promotion, mailing, general handling.
- Rental Costs
 - Allowed: to the extent that rates are reasonable.
- Travel Costs
 - Allowed: general travel costs for transportation, lodging, subsistence, and related items while on official business.
 - Not allowed: airfare costs in excess of the standard commercial airfare, Federal Government contract fare, or lowest commercial discount airfare, unless certain circumstances apply.
- Training Costs
 - Allowed: training for employee development

In addition to OMB Circular A-87, several other Circulars are pertinent for financial management of the CDBG program. These include A-133, A-21, and A-122.

- **OMB Circular A-133, Audits of State, Local Governments, and Nonprofit Organizations**

[Slide 5]

- Applicability
- Frequency of Audits
- Audit Costs
- Auditee Responsibilities
- Procuring an Auditor
- Understanding Audit Information
- Audit Findings
- Audit Clearinghouse

[Slide 6]

- **OMB Circular A-122, Cost Principles for Nonprofit Organizations (State and Entitlement programs)**

- Applicability
- Major differences between A-122 and A-87

- **OMB Circular A-21, Cost Principles for Educational Institutions (State and Entitlement programs)**

- Applicability
- Major differences between A-21 and A-87

- **Case Study #1 “Subgrantees: Which Rules are Followed?”**

[Slide 7]

[Page 1 of the Case Study is in the participants’ packets.]

The Town of Darby applied for and was awarded a CDBG grant through its State and Small Cities CDBG Program. Darby has been awarded grants in the past and the staff of the Darby Office of Economic and Community Development (ECD) is well versed in the financial management and procurement requirements of the CDBG grants. In the past, the Darby staff either performed the work themselves or, through its procurement policy, obtained services and materials directly from vendors.

This time, however, Darby is going a different route. For the CDBG grant just awarded, Darby is going to enter into a subrecipient agreement with the Darby Central City Economic Development Coalition (DCCEDC), a newly formed nonprofit organization. DCCEDC is comprised of two staff members who understand economic development issues but have little knowledge of working with Federal grants. They will be working with the local community to develop a comprehensive economic development program for the downtown neighborhood.¹

ECD is working with DCCEDC to build the organization’s capacity in working with Federal grants as well as delivering the programs planned in the grant. ECD staff will train and monitor DCCEDC’s compliance with Federal financial rules

1. Which set of Federal financial rules will apply to DCCEDC?
 - *OMB Circular A-133 (Audits of State, Local Governments and Nonprofit Organizations)*
 - *OMB Circular A-122 (Cost Principles for Nonprofit Organizations)*
2. What steps should ECD staff take to ensure that DCCEDC staff meet the Federal financial rules?

Each OMB Circular contains lengthy descriptions of allowable costs. Part of ECD’s focus in training the DCCEDC staff should be to go through each of the allowable cost items listed in A-122 to ensure that there was a clear understanding by the DCCEDC staff of the costs that would be allowed. ECD should focus on those costs that DCCEDC is expected

¹ Please refer to 24 CFR 570 for details regarding eligible CDBG activities.

to incur in the project they were undertaking. ECD should also inform the staff that if unallowable expenditures are made, DCCEDC will have to reimburse Darby for the costs.

3. How should DCCEDC handle indirect costs?

There are two main categories of indirect costs: facilities and administration. "Facilities" includes depreciation and allowances on buildings, equipment and capital improvements, interest on debt associated with certain buildings, and operations and maintenance expenses. "Administration" includes general administration and general expenses, such as the director's office, accounting and personnel. DCCEDC will need an indirect cost allocation plan to document how the costs are applied to multiple programs.

Note to Trainer: Refer to A-122 for methods for allocating indirect costs against multiple programs.

● HUD Regulations

[Slides 8-10]

This section of the training highlights some of the key regulations governing financial management for CDBG grantees.

- 2 CFR Part 225: Cost Principles For State, Local, and Indian Tribal Governments (OMB Circular A-87)
- 2 CFR Part 230: Cost Principles for Non-Profit Organizations (OMB Circular A-122)
- 24 CFR Part 84, Uniform Administrative Requirements for Grants and Agreements with Institutions of Higher Education, Hospitals, and Other Non-Profit Organizations
- 24 CFR Part 85, Administrative Requirements for Grants and Cooperative Agreements to State, Local and Federally Recognized Indian Tribal Governments (CDBG Entitlement and some State program components); 24 CFR 570.489, Program Administrative Requirements (State Program)
 - Applicability
 - Types of procurements
 - Debarment
 - Required documentation
- 24 CFR Part 570.489, Program Administrative Requirements (CDBG State Program)
- 24 CFR Part 570.502, Applicability of Uniform Administrative Requirements (CDBG Entitlement)

There are a number of different financial management rules that apply to the CDBG program. The following is a brief summary of the key rules.

● Top Nine Financial Management Rules to Apply

[Slides 11-16]

CDBG Entitlement jurisdictions are required to follow the regulations found in 24 CFR Part 85.20 (Subpart C), which provides standards for financial management systems. State CDBG programs are expected to meet similar financial management standards, but the specific program regulations at 24 CFR 570 are much less detailed relative to financial management requirements. *[NOTE: A policy decision by OMB – not a statute – exempts CDBG State Grantees from Part 85.20.]*

State CDBG programs are required to have fiscal and administrative requirements sufficient to:

- Show that uses of funds comply with all applicable statutory and regulatory requirements;
- Document that all funds received have been spent only for reasonable and necessary costs of program operation; and
- Demonstrate that program funds have not been used for general expenses of State or local government.

States and local governments may comply with these requirements in one of three ways:

- The state may use its own fiscal and administrative requirements applicable to its own funds;
- The state may adopt new fiscal and administrative requirements; or
- Apply the principles of 24 CFR Part 85 (listed below in the discussion of CDBG Entitlement communities). *[NOTE: If the State uses Part 85, they can pick & choose different sections to follow – they need not follow it in its entirety.]*

In adhering to the regulations found in 24 CFR Part 85.20 (Subpart C), CDBG Entitlement jurisdictions must have financial systems sufficient to:

1. Provide adequate, current and complete disclosure of the financial results (regular financial reporting) of all financially assisted activities, in accordance with the programmatic requirements of the grant or sub-grant. The results will enable grantees to prepare the required financial reports such as the Consolidated Annual Performance and Evaluation Report (CAPER) and the Performance and Evaluation Report (PER);
2. Document that funds have been used only for permitted purposes. For CDBG this would include not only eligible activities but that the funded projects meet a national objective and were approved in the grant award;

3. Maintain accounting records that show the sources and uses of funds, displaying funds authorized, obligated and unobligated balances, assets, liabilities, outlays or expenditures and income;
4. Establish effective internal controls over all cash, real and personal property and other assets acquired with program funds;
5. Track actual program cost against program budget in a manner that relates to program productivity and accomplishments;
6. Use OMB Circular A87 Cost Principles for State, Local and Indian Tribal Governments to determine whether program costs are reasonable, allowable, and can be allocated, either directly or indirectly;
7. Maintain source documentation for accounting records;
8. Implement procedures for cash management that permit the timely disbursement to subgrantees and complete and accurate monitoring and reporting; and
9. Comply with OMB Circular A-133 rules on audits.

In addition, although not explicitly stated in the regulations, all CDBG grantees must ensure that the information in the Integrated Disbursement and Information System (IDIS) is consistent with paper data submissions and financial records maintained by the grantee. Complete and accurate data in IDIS also facilitates completion of the Consolidated Annual Performance and Evaluation Report (CAPER).

● **Top Five Methods to Document Procurements**

[Slides 17-24]

Every agency should keep procurement records that allow an auditor or other interested party to track the specific nature of the goods or services bought with public funds, and the entire process used to purchase those goods and services. The purpose of this documentation is to show that the public body obtained high quality goods and services at the lowest possible price through an open, competitive process.

CDBG Entitlement jurisdictions must develop policies and procedures for procurement that comply with both 24 CFR Part 85 rules and any stricter state or local standards, and keep the following records:

1. For procurements defined as “small purchases” (i.e., those with a value less than both the Federal threshold of \$100,000 or any lower state or local thresholds that may apply), keep a record of:
 - Description of the materials, supplies, or equipment to be purchased (including drawings and specifications, if applicable);

- The name and title of the person who obtained price quotes;
- The date(s) price quotes were obtained;
- The source of all price quotes (name of firm, name and title of person contacted, price quoted);
- If written or faxed quotes are obtained, the actual quotes need to be retained;
- If telephone quotes are obtained, a record of the telephone solicitation needs to be retained;
- The source selected for the procurement;
- Purchase requisition/Purchase Order;
- Price paid and source of funds; and
- Date materials, supplies or equipment received.

2. For procurements that are over the applicable “small purchase” threshold and require sealed bidding (e.g., construction projects), keep a record for each such procurement that includes:

- Invitation to bid;
- Affidavit of publication from the newspaper that the procurement was published in the legal notices section of the newspaper;
- Copy of the complete bid package, including
 - Plans and specifications;
 - General conditions and special conditions;
 - Section 3 requirements;
 - Equal Opportunity submissions;
 - Bid bond requirements, including performance and payment bond requirements;
 - Wage rates [if applicable];
 - Submission requirements;
 - Information on the pre-bid conference (if the agency decided to hold a pre-bid conference) and whether participation was mandatory;
- List of firms/individuals who picked up bid packages;
- Notes of pre-bid conference, if the agency held one;
- Questions received from bidders (if any) and how the agency responded;
- Amendments to bidding documents (if any);

- List of firms/individuals who filed bids;
- Record of the bid opening (including bids received, bid amount, responsive and non-responsive bidders);
- Non-collusive affidavits (if applicable) in which bidders certify that the bid is genuine and not collusive or sham and that the bid was not assembled in coordination with any other organization in an attempt to fix the price of the work;
- Staff notes on responsive bidders' reference checks;
- Copy of staff memo recommending selection and contract award;
- Official action awarding contract (resolution when applicable [explain]);
- Copy of contract awarded; and
- Information on compensation approach, including documentation about how the compensation structure was selected.

3. When state law prescribes Qualification Based Selection (QBS), usually in the case of selection of an architect, engineer, planner or urban designer, or when the CDBG Entitlement jurisdiction is doing procurement through competitive proposals, keep a record of such procurements that includes:

- Invitation to submit Statements of Qualification;
- Submission package that includes qualification forms used, description of the work to be awarded, rating factors to be used for award, etc.;
- List of the firms that pick up qualification packages;
- List of the firms that submit qualification packages;
- Record of the opening of the qualification packages, including the names of the firms, bid amounts (if applicable), responsive and non-responsive submissions;
- List of the names and titles of persons participating on the rating committee;
- Notes of the meetings of the rating committee in sufficient detail to document the order of firms selected;
- Notes of the negotiating sessions with the firms selected (in order of selection, if the first firm is not contracted);
- Copy of contract awarded; and
- Information on the nature of the compensation structure, including documentation of how the compensation structure was selected.

4. When using noncompetitive proposals, Federal rules require additional documentation that:

- The item or service procured is available only from a single source; or

- Public exigency or an emergency will not permit a competitive procurement; or
- After soliciting a number of sources, a determination is made that competition is inadequate; AND
- The awarding agency (in this case, HUD) approves a noncompetitive procurement.

The agency also must perform a cost analysis to determine that the price to be paid is reasonable.

5. State CDBG programs use the state’s procurement laws and policies:

For State CDBG programs, the guiding principles for procurements are those of applicable state law, although the program rules at 24 CFR part 570.489(g) require that the state establish policies and procedures for fair and open competition that address all the methods of procurement cited above: small purchases, sealed bidding, competitive proposals and non-competitive proposals. Per 24 CFR 570, so called “cost plus” contracts are forbidden; moreover, the state’s policies and procedures are required to address employee conduct in awarding and administering contracts.

Generally, the documentation requirements described above for the CDBG Entitlement programs will be adequate for State CDBG programs and subgrantees.

● Case Study #2 “Managing the Procurement Process”

[Slide 25]

[Page 1 of the Case Study is in participants’ packets.]

Group the participants by table (between 6-10 per table) and provide page 1 of the Case Study “Managing the Procurement Process”. Provide approximately 20 minutes for the exercise and let each table present.

● Discussion Questions

[Slides 26-27]

1. Match the OMB Circular with the appropriate organization(s):

a. A-87	1. State, Local Governments and Nonprofit Organizations (c)
b. A-21	2. State, Local Governments and Indian Tribal Governments (a)
c. A-133	3. Nonprofit Organizations (b)
d. A-122	4. Educational Institutions (d)

2. What HUD regulation governs procurement for CDBG Entitlement communities? What about for the State CDBG program?

24 CFR Part 85 applies to Entitlement communities. State CDBG programs are subject to the regulations in 24 CFR Part 570.489, but may choose to follow Part 85, or sections thereof.

3. Under what conditions can sole source procurement be used?

Sole source procurement can be used when the award of a contract is infeasible under small purchase procedures, sealed bids or competitive proposals, AND one of the following circumstances applies:

- *The item is available only from a single source;*
- *The public exigency or emergency for the requirement will not permit a delay resulting from competitive solicitation;*
- *After solicitation of a number of sources, competition is determined inadequate; and*
- *The awarding agency authorizes noncompetitive proposals.*

4. In a sealed bid procurement, can the contract be awarded to a firm that did not provide the lowest bid? Under what circumstances?

In a sealed bid procurement, a contract may be awarded to a firm that did not provide the lowest bid if the firm that provided the lowest bid was non-responsive or there were reference check problems.

5. If the CDBG State subgrantee is a local jurisdiction, what is the guiding document on cost principles?

OMB Circular A-87, Cost Principles for State, Local, and Indian Tribal Governments

6. What website should you use to determine if a vendor is debarred from doing business with HUD?

<http://epls.gov/>