

## Appendix I: Model Record-Keeping Requirements

### Preface

24 CFR 570.490 of the State CDBG regulations states that the specific record-keeping requirements for the program “shall be as jointly agreed upon by HUD and the states.” At the time these rules became effective (December 1992), HUD and states agreed upon the record-keeping requirements, as follows in this appendix. The State CDBG regulations have been revised several times in the intervening years. At the time of publication of this Guide, HUD anticipates issuing further changes to the State CDBG regulations. Therefore, the record-keeping requirements spelled out in this appendix do not fully address all aspects of the regulations that affect record-keeping requirements. The Financial Management section, for example, contains out-of-date references to OMB and Treasury Circulars that have since been replaced; the language in that section should not be relied on as reflecting current requirements. Where regulatory citations have been superseded, editorial notes indicate the current regulatory citation for that requirement. At some future point, HUD and the states will update the record-keeping requirements.

Another particularly noteworthy area of record keeping not addressed in the following is *compliance with the public benefit standards*. Regulations regarding public benefit standards requirements were issued in the January 5, 1995 CDBG Economic Development rule. 24 CFR 570.482(f)(6) and (g) spell out documentation requirements for demonstrating compliance with the public benefit standards.

### Introduction

Based on Section 104(e) of the Act, 24 CFR 570.491 <NOTE: current citation is 24 CFR 570.490> requires that the state maintain records which are adequate to allow the Secretary to determine whether or not the program is being carried out in accordance with the state's certification, the requirements of the HCDA, and other applicable laws. As required by the Act, the following Model Record-Keeping Requirements were developed for state and local governments in consultation with national associations representing state and local governments. The following are the generic state record-keeping requirements:

### State Requirements for All Compliance Areas

The state is required to conduct reviews of recipients to ensure compliance with applicable laws and Title I requirements. Records must be maintained at the state level that demonstrate that the state has conducted such reviews and that the reviews were sufficient for the state to determine whether recipients are in compliance with the provisions of Title I and other applicable laws.

### Such records should include:

1. A demonstrable state process for review of recipients for each specific compliance area which has been communicated to recipients.
2. A method to select recipients for review.

3. Evidence that the frequency of review is adequate.
4. Evidence that the review by the state examined all necessary items. Evidence should include an identification of items reviewed at the local level, and the methodologies employed to reach the conclusions.
5. Evidence to support the conclusions reached
6. Evidence that the results of reviews, particularly negative findings, were communicated to recipients.
7. Evidence that negative findings were tracked and successfully resolved.

## Eligibility of Activities

### State Record-Keeping

1. Evidence that each activity funded meets the provisions of Section 105(a) of the act.
2. Evidence that for activities eligible under the provisions of Section 105(a)(17), the state has determined that such assistance was necessary or appropriate to carry out economic development activities.

Evidence that during any on-site review, the state reviewed to ensure that:

- a. The activity being carried out is the same as the activity in the application.
- b. If location is involved, evidence that location is the same as approved.

### Local Record-Keeping

1. A full description of each activity being carried out in whole or in part with CDBG funds.
2. A description of the nature and purpose of the activity.
3. The location of the activity (if the activity has a location focus).
4. The amount budgeted for each activity.
5. The amount obligated and expended for each activity.
6. Records that demonstrate that the recipient has made the determinations required as a condition for eligibility of certain activities.
7. Records which demonstrate compliance with 24 CFR 570.505 (NOTE: current citation is 24 CFR 570.489(j) regarding change of use of property acquired or improved with CDBG assistance.)

## National Objectives

These requirements are modeled on the rule published September 6, 1988, at 24 CFR 570.506. However, if the provisions of Subpart I, as published in a final rule, differ from those enunciated here, these requirements will be revised. (NOTE: Subpart I of the State CDBG regulations as published in 1992 do not contain specific record-keeping requirements.)

## State Record-Keeping

- A. State records must contain evidence that demonstrates that each activity meets one of the national objectives. At a minimum, the records must include the following information:
  1. For each activity determined to benefit low- and moderate-income persons based on the area served by the activity:
    - a. The boundaries of the service area.
    - b. A summary of the income characteristics of persons in the service area.
  2. For each direct benefit activity determined to directly benefit low- and moderate-income persons based on the household income of those directly benefiting and where the activity involves the submission of an application or the completion of a personal record, sufficient evidence to ensure such benefits would accrue to low- and moderate-income persons, the income limits applied and the point in time when the benefit was determined.
  3. For each activity determined to benefit low- and moderate-income persons because the activity involves a facility or service designed for use predominantly by low- and moderate-income persons, sufficient evidence to ensure that the predominant users would be low- and moderate-income persons.
  4. For each multi-family rehabilitation activity determined to benefit low- and moderate-income persons, the state should have evidence to ensure the local recipients have:
    - a. Established a local definition of "affordable to low- and moderate-income households" consistent with state standards.
    - b. A system to monitor the rent charged (or to be charged) after rehabilitation, for each dwelling unit in each structure rehabilitated.
    - c. An estimate of the total number of dwelling units rehabilitated in each structure and the percent of units in each structure which are to be occupied by low- and moderate-income households.

5. For single family rehabilitation:
  - a. An estimate of the number of units to be rehabilitated.
  - b. Income characteristics of the area in which the rehabilitation is to be carried out.
  - c. Number of units to be rehabilitated for low- and moderate-income households.
  - d. Amount to be spent on each unit to be rehabilitated for low- and moderate-income households.
  
6. For job creation:
  - a. When demonstrating that at least 51 percent of the jobs created will be available to low- and moderate-income persons, documentation for each assisted business must include:
    - (1) A written commitment by the business that it will make at least 51 percent of the jobs on a full time equivalent basis available to low- and moderate-income persons and will provide training for any of those jobs requiring special skills or education.
    - (2) A listing by job title of employees at the time the application for assistance is submitted.
    - (3) A listing, by job title, of the total permanent jobs to be created, indicating which jobs will be available to low and moderate income persons, which jobs require special skills or education, and which jobs are part-time.
    - (4) Evidence supporting the estimate of the total number of jobs.
    - (5) A description of actions to be taken by the recipient and business to ensure that low- and moderate-income persons will receive first consideration for these jobs.
    - (6) A listing, by job title, race, ethnicity, gender and handicapped status of the permanent jobs created, and which jobs were made available to low- and moderate-income persons, and a description of how first consideration was given to such persons for those jobs. That description should include the hiring process used; the number of low- and moderate-income persons considered for each job; and the number of low- and moderate-income persons actually hired.

- (7) A description of how the low- and moderate-income status of those given first consideration was determined.
  - (8) A description of how, the total number of jobs was determined.
- b. When demonstrating that at least 51 percent of the jobs will be taken by low- and moderate-income persons, documentation for each assisted business must include:
- (1) A written commitment by the business that at least 51 percent of the jobs on a full-time equivalent basis, will be held by low- and moderate-income persons.
  - (2) A listing, by job title, of employees at the time the application for assistance is submitted.
  - (3) A listing, by job title, of the permanent jobs to be created.
  - (4) Evidence supporting the estimated total number of jobs to be created.
  - (5) A listing, by job title, race, ethnicity, gender and handicapped status of the permanent jobs actually created and those initially taken by low- and moderate-income persons.
  - (6) A description of how the low- and moderate-income status of those hired was determined by the state during the review of the recipient.
  - (7) A description of how the total number of jobs was determined.
7. For job retention:
- a. Clear and objective evidence that in the absence of the CDBG assistance the jobs will be lost.
  - b. A written commitment by the business to meet the standard for retained jobs involving the employment of low- and moderate-income persons.
  - c. A listing by job title, race, ethnicity, gender and handicapped status of the employees at the time the assistance is provided.
  - d. Clear and objective evidence that in the absence of the CDBG assistance the jobs will be lost.
  - e. A written commitment by the business to meet the standard for retained jobs involving the employment of low- and moderate-income persons.
  - f. A listing by job title, race, ethnicity, gender and handicapped status of the employees at the time the assistance is provided.

- (1) A listing of each job which has turned over to date, indicating which of those jobs were either taken by, or made available to, low- and moderate-income persons.
  - (2) A description of how first consideration was given to persons for whom the job was made available (consistent with the "available to" standard).
  - (3) A description covering the items identified above as necessary in demonstrating the "taken by" standard.
  - (4) A description of how the state determined jobs were held by, made available to, or taken by low- and moderate-income persons.
8. For each activity determined to benefit low- and moderate-income persons based on jobs to be created for or retained by low- and moderate-income persons:
- a. The number of jobs to be created and the number of additional jobs expected to be created, if any.
  - b. The nature of the jobs created to date (number skilled, semiskilled, and unskilled, and for semi-skilled jobs, any special education or experience required) and the nature of additional jobs expected to be created.
  - c. Any other evidence to support the conclusion that a majority of jobs will be filled by low- and moderate-income persons, such as:
    - (1) Evidence to assure accessibility of the jobs to areas where substantial numbers of low- and moderate-income persons reside.
    - (2) Evidence to support any special outreach and/or training to be directed toward low- and moderate-income persons.
9. For each activity determined to aid in the prevention or elimination of slums or blight based on addressing one or more of the conditions which qualified an area as a slum or blighted area:
- a. The boundaries of the area.
  - b. A description of the conditions which qualified the area at the time of its designation in sufficient detail to demonstrate how the area met the requirements in 24 CFR 570.208(b)(1).
10. For a residential rehabilitation activity determined to aid in the prevention or elimination of slums or blight in a slum or blighted area:
- Assurance that the recipients will adopt a local definition of "substandard."

11. For each activity determined to aid in the prevention or elimination of slums or blight based on addressing one or more of the conditions which qualified an area as a slum or blighted area:

- a. The boundaries of the area.
- b. A description of the condition which qualified the area at the time of its designation in sufficient detail to demonstrate how the area met the requirements in 24 CFR 570.208.

12. For each activity determined to aid in the prevention or elimination of slums or blight based on the elimination of specific conditions of blight or physical decay not located in a slum or blighted area:

For rehabilitation to be carried out under this category, a description of how the threats to public health and safety are to be corrected.

13. For each activity determined to meet a community development need having a particular urgency:

- a. The nature and degree of seriousness of the conditions requiring assistance.
- b. Evidence that the recipient certified that the CDBG activity was designed to address the urgent need.
- c. Information on the timing of the development of the serious condition.
- d. Evidence confirming that other financial resources to alleviate the need were not available.

B. Review of localities. The records of state on-site reviews should demonstrate that:

1. Each activity being undertaken is consistent with the activities proposed by the recipient.
2. The locality is carrying out the activities in a timely manner.
3. The information on which the claim to qualify the activity under one of the national objectives is consistent with the information submitted.
4. The level of benefit is consistent with the claim(s) in the application.
5. The information on which to base a determination that the actual results are consistent with those claimed in the application.

## Local Record-Keeping

Recipients shall ensure that the following records are maintained and kept up-to-date:

1. A full description of each activity carried out (or being carried out) in whole or in part with CDBG funds, including the nature and purpose of the activity, its location (if the activity has a geographical location) and the amount of CDBG funds budgeted, obligated and expended for the activity.
2. Records demonstrating that each activity undertaken meets one of the national objectives. At a minimum, such records shall include sufficient information to satisfy the state requirements described in a above, including actual results.

## Financial Management

### State Record-Keeping

1. Records must demonstrate that the state is following:
  - a. Guidelines specified in Treasury Circular 1075. <NOTE: Treasury Circular 1075 has since been subsumed by 31 CFR Section 205.>
  - b. Procedures and standards that are equivalent to those contained in OMB circular A-102, attachments B, C, E, G, H, I, J, L, N, and O. <NOTE: Current citation is 24 CFR Part 85.>
  - c. Cost principles that are equivalent to those contained in OMB circular A-87, attachments A and B.
  - d. Audit standards specified in OMB circular A-128. <NOTE: Current citation is OMB Circular A-133.>
2. To document compliance with financial management and record-keeping, records must include:
  - a. Descriptions of the financial management and record-keeping procedures used in administering the CDBG program.
  - b. Description of procedures for retention and custody of financial management records and reports.
  - c. Data on actual financial transactions.
  - d. Evidence that the state has reviewed its recipients' financial management and record-keeping procedures.

3. To document compliance with the cost allowability requirements, records must include:
  - a. Descriptions of the state's cost principles.
  - b. Evidence that the state's allocation of direct and indirect costs is consistent with the cost principles established by that state.
  - c. Evidence that the state has reviewed its recipients' allocated direct and indirect costs.
4. To document compliance with the bonding and insurance requirements, records must include:
  - a. Descriptions of the state's requirements for bonding and insurance that ensure the completion of CDBG-funded construction contracts and other necessary safeguards.
  - b. Evidence that the state has reviewed its recipients' compliance with bonding and insurance requirements.
5. To document compliance with the program income requirements, records must include:
  - a. Descriptions of state policies concerning disbursement of recaptured income.
  - b. Data on actual receipt of program, including:
    - (1) Sources of program income
    - (2) Amounts of program income
  - c. Evidence that the state has reviewed its recipients' records on the receipt and disbursement of program income.
6. To document compliance with grant payment procedures, records must include:
  - a. Copies of agreements between the state and its recipients, stating that the recipients will follow Treasury Department drawdown requirements.
  - b. Copies of Letter of Credit documents, such as:
    - (1) Signature cards which also indicate depository selected
    - (2) Requests for payment on the Letter of Credit
    - (3) Requests for payments by recipients

- c. Data on drawdowns transaction (for example, from CDBG Federal Cash Register), such as:
    - (1) Grant funds received
    - (2) Disbursements made to recipients
    - (3) Daily cash balances
  - d. Evidence that the state has reviewed its recipients' records for compliance with grant payment procedures specified in Treasury Circular 1075. <NOTE: Treasury Circular 1075 has since been subsumed by 31 CFR Section 205.>
7. To document compliance with grant closeout requirements, state records must include:
- a. Descriptions of procedures used to close out grants.
  - b. Copies of required financial and performance reports.
  - c. An accounting of the final cost determinations and copies of final audit reports in accordance with current audit requirements.
  - d. Written notification to recipients when grant closeout results from noncompliance.
  - e. A description of procedures used to resolve audit findings.
8. To document compliance with the property management standards, records must include:
- a. A description of the standards and procedures used for CDBG property management.
  - b. Inventories listing property acquired in whole or in part with CDBG funds.
  - c. Evidence that the state has reviewed its recipients' records for compliance with the property standards.
9. To document compliance with the procurement requirements, records must include:
- a. A description of the procurement policies and procedures used in the CDBG program.
  - b. Data on contracts awarded, such as:
    - (1) Names of contractors
    - (2) Types of contractors (for example, Small business, minority-owned business, women-owned business, etc.)
    - (3) Amounts of contracts awarded.

- c. Documentation of contract work, including:
  - (1) Copies of award letters
  - (2) Inspection reports
  - (3) Contract amendments
  - (4) Payment log
- d. Evidence that the state has reviewed its recipients' procurement records.

### **Local Record-Keeping**

- 1. To document compliance with the state's financial management requirements, recipients' records must:
  - a. Provide data on actual financial transactions.
  - b. Provide data on the allocation of direct and indirect costs.
  - c. Present evidence that state-established bonding and insurance requirements have been followed.
  - d. Provide data on the receipt and disbursement of program income, including:
    - (1) Source of program income, and
    - (2) Amounts of program income
- 2. Present evidence that state policies and procedures for CDBG procurement have been followed. Documentation may include:
  - a. The procurement process used (for example, small purchase, and competitive bids).
  - b. Contractor data (for example, small business, minority-owned business, and women-owned business).
  - c. Contractor file (for example, Inspection reports, contract amendments, payment logs, labor standards information, closeout information, and the contract itself to ensure it includes governmental requirements, time payments and conditions).

## Civil Rights

### State Record-Keeping

1. Data on employment in each of the state's operating units carrying out activities funded in whole or part with CDBG funds. The data must be maintained in the categories prescribed on the equal employment opportunity commission's EEO-4 form.
2. Records that show that the state has reviewed the civil rights performance of its recipients. These records, in addition to the requirements of state record-keeping for all compliance areas, would include:
  - a. Information on the procedures and systems that the state uses for determining the adequacy of civil rights performance. Records describing the state's review process must be in sufficient detail to assure HUD that the states have made such reviews as may be necessary and appropriate in each civil rights area. The methodology shall consist of either one of the following: (1) a summary of the factual basis upon which each determination rests; or (2) the quantitative or other appropriate standard used to make such determination.
  - b. For each recipient, summary data, by activity, on benefit by race, ethnicity, gender of head of household and, where applicable, benefits by handicapped persons.
3. Records demonstrating the manner in which the state has handled complaints of discrimination involving the State CDBG program including: a record of each complaint received; how and when it was referred to HUD; and, the state's response to any civil rights complaint investigations conducted by HUD in connection with the state's CDBG program.
4. Records showing the state's actions to affirmatively further fair housing, including funds allocated, if any, for these actions.
5. On a voluntary basis, states may choose to keep records that demonstrate state efforts to increase the use of minority and women-owned businesses and a summary of the results of such efforts.

### Local Record-Keeping

1. Documentation of the action(s) the recipient has carried out (or is carrying out) to affirmatively further fair housing, including records on funds provided, if any, for such actions.
2. For direct benefit activities, data on the extent to which persons have participated in or benefited from any program or activity funded in whole or in part with CDBG funds. *Records must* be kept by race, ethnicity, handicapped status and gender of heads of households. For area-wide activities, documentation on: the area and the services being provided to the area; and, the race and ethnicity of the service area.

3. Data on employment in each of the local government's operating units carrying out an activity funded in whole or in part with CDBG funds. The data must be maintained in the categories prescribed on the equal employment opportunity commission's EEO-4 form.
4. Data indicating the race and ethnicity of households, and handicapped status of persons displaced as a result of CDBG activities, including the address to which each displaced household relocated. Where activities cause a significant level of displacement of businesses, data indicating the impact on businesses owned by minorities and women.
5. Documentation of actions undertaken to meet the requirements of Section 3 of the Housing and Urban Development Act of 1968. <NOTE: HUD has published Section 3 regulations – see 24 CFR Part 135.>
6. Data indicating the racial/ethnic character of each business entity that receives a contract or subcontract of \$10,000 or more paid, or to be paid, with CDBG funds. Data indicating which of those entities are women's business enterprises as defined in Executive Order 12138 and the amount of the contract or subcontract.
7. Documentation of the affirmative actions the local government has taken to overcome the effects of prior discrimination as determined through a formal compliance review or court proceeding, where the recipient has previously discriminated against persons on the ground of race, color, national origin or sex in administering a program or activity funded in whole or in part with CDBG funds.

## **Labor Standards**

### **State Record-Keeping**

In addition to the requirements in state record-keeping for all compliance areas, records must demonstrate that:

1. The state obtains current wage decisions from DOL and distributes them to recipients.
2. The state obtains wage rates for additional job classifications.

### **Local Record-Keeping**

1. Contract documents that contain actual wage rates used and which were included in the solicitation and award documents.
2. Contracts containing proper and applicable labor standards provisions. File may also include certification from contractor.
3. Evidence that the recipient inquired and was informed that the prime contractor was not on a list of ineligible contractors.

4. Actual payrolls submitted and evidence that payrolls were reviewed in a timely manner.
5. Evidence that worker interviews were conducted.
6. Evidence that an enforcement report was submitted to the state and HUD where restitution of \$1,000 or more was required.
7. Evidence of preconstruction conference.

## **Relocation, Replacement Housing, and Real Property Acquisition**

### **State Record-Keeping**

1. Evidence demonstrating that prior to approval of a grant the state received a certification from each recipient funded that it would comply with the URA and the federal implementing regulations and was following a residential anti-displacement and relocation assistance plan in accordance with Section 104(d) of the HCDA and implementing regulations at 24 CFR 570.496a(b). <NOTE: Current citations are 24 CFR 570.488 and 570.606.>
2. Evidence demonstrating that applicable regulations contained in 24 CFR 570.496a <NOTE: Current citations are 24 CFR 570.488 and 570.606>, policies (including policies implementing the URA, Sections 104(d) and (k) and 105(a)(11) of the HCDA) and record-keeping requirements that would demonstrate compliance with applicable statutes and regulations were communicated to recipients (for example, training, technical guides, information booklets, claim forms, designation of state person to contact for advice).
3. Evidence demonstrating that state approval of a grant is based on consideration of an identified acquisition and displacement workload and a reasonable estimate of related costs (usually in the application).
4. Evidence demonstrating that monitoring reviews were sufficient to determine compliance with applicable statutes and regulations. This includes evidence that reviews:
  - a. Were of appropriate depth and frequency. (All recipients should be reviewed in a timely manner).
  - b. Reflected representative samples as to number and type of cases examined.
  - c. Included interviews with displaced persons/former owners and inspection of replacement housing, as appropriate.
  - d. Assessed timeliness and completeness of each required notice (for example, the general information notice, notice of eligibility, 90-day notice, vacate notice).

- e. Ensured that the recipient made accurate determinations of person's eligibility for assistance.
  - f. Determined adequacy of referrals to comparable replacement housing and suitable business locations and other advisory services.
  - g. Determined timeliness and accuracy of relocation payments. (The records should include a worksheet or copy of claim form for cases examined. If payment was limited by the cost of a comparable replacement dwelling, the records should identify the location of, cost of, and the date of referral to such housing).
  - h. Assessed recipient selection of appraisers and the acceptability of the recipient's appraisal reviews.
  - i. Determined that the recipient acquisition process met applicable laws and regulations (for example, Invited owner to accompany appraiser, promptly offered just compensation for property and paid all incidental expenses).
  - j. Verified receipt of relocation and acquisition payments.
  - k. Determined that recipient determinations on appeals/complaints were accurate and persons were informed of their right to appeal to state.
5. Statement of policies on the scope of appeals by displaced persons/property owners to state and evidence of appropriate state responses to appeals/complaints.

### **Local Record-Keeping**

Recipients shall maintain records of relocation, replacement housing and acquisition activities in sufficient detail to demonstrate compliance with applicable statutes and regulations. The relocation and acquisition records shall be retained for at least three years after each owner of a property and each person displaced from the property has received the final payment to which he or she is entitled. The basic documentation requirements are:

1. Replacement of low/moderate income housing
  - a. The location and number of dwelling units by size (number of bedrooms) that have been or will be demolished or converted to a use other than as low and moderate-income dwelling units as a direct result of an assisted activity.
  - b. A time schedule for the commencement and completion of the demolition or conversion.
  - c. The location and number of dwelling units by size (number of bedrooms) that have been or will be provided as replacement dwelling units.

- d. The source of funding and a time schedule for the provision of replacement dwelling units.
- e. The basis for concluding that each replacement dwelling unit will remain a low- and moderate-income dwelling unit for at least 10 years from the date of initial occupancy.

## 2. Displacement

Evidence of steps taken to minimize the displacement of persons from their homes.

## 3. Relocation

- a. Identification of person, displacement property, racial/ethnic group classification, age and sex of all household members, monthly rent and utility costs for displacement and replacement housing, type of enterprise, relocation needs and preferences.
- b. Evidence that the person received a timely statement describing available relocation payments and basic eligibility conditions, available advisory services, and the right to comparable replacement housing (or suitable replacement housing under Section 104(k) policies).
- c. Evidence that the person received timely written notice informing him or her of entitlement to relocation assistance under the URA or Sections 104(d) or (k) and the location and cost of the comparable replacement dwelling used to establish the upper limit of the replacement housing payment.
- d. Evidence and dates of personal contacts and a description of services provided.
- e. Identification of actual replacement property, sale price or rent/utility cost (if dwelling), date of relocation.
- f. Copy of 90-day notice and vacate notice, if issued.
- g. Identification of referrals to replacement properties, date of referral, sale price or rent/utility costs (if dwelling), date of availability, and reasons) for declining referral.
- h. Replacement dwelling inspection report and the date of inspection.
- i. Copy of each approved claim form and related documentation; evidence that the person received payment.
- j. Copy of any appeal or complaint filed and recipient's response.

#### 4. Acquisition

- a. Identification of property and property owner(s).
- b. Evidence that the owner was informed on a timely basis about the acquisition and his or her rights.
- c. Copy of each appraisal report, including the review appraiser's report, and evidence that owner was invited to accompany each appraiser on the appraiser's inspection of property.
- d. Copy of the written purchase offer and summary statement of the basis for the determination of just compensation; date of delivery to owner.
- e. Copy of purchase contract and documents conveying property.
- f. Copy of settlement statement identifying incidental expenses and evidence that the owner received net proceeds due from sale.
- g. Copy of any appeal or complaint filed and the recipient's response.

### Environment

#### State Record-Keeping

In addition to the requirements of state record-keeping for all compliance areas, the state records must include:

1. Evidence that at least 15 days elapsed from the time of RROF receipt to the release of funds (24 CFR 58.18(a)(2) and 58.73).
2. Record of any objections received (24 CFR 58.18(b), 58.73, and 58.75).
3. Record of approval or disapproval (24 CFR 58.18(b), 58.73, and 58.77).
4. Evidence that it has monitored recipients for project compliance with 24 CFR Part 58, NEPA, and related laws (24 CFR 58.18(a)(1)(i) and 58.77(c))

#### Local Record-Keeping

1. For every project, the recipient must maintain an environmental review record (ERR) that includes:
  - a. Description of project and activities.
  - b. All environmental reviews including their findings and documents.
  - c. Public notices.

- d. Written determinations.
  - e. State's approval of environmental certification and request for release for funds.
2. Project consisting solely of exempt activities (24 CFR 58.34):
- (Note: project is defined as one or more activities described in Section 105 of the Housing and Community Development Act.)
- Written documentation signed by certifying officer that project meets qualifications for exemption. (24 CFR 58.34(b)). See also 3c below.
3. Project Consisting of Categorical Exclusions (24 CFR 58.35):
- a. Written documentation signed by certifying officer that project activities meet the requirements for categorical exclusion (24 CFR 58.35(a)) or exemption (24 CFR 58.34) from NEPA requirements (24 CFR 58.35(a)).
  - b. Written documentation of compliance with environmental requirements of other related laws at 24 CFR Part 58.5 determined to be applicable to the project; documentation showing completion of procedures and actions required under applicable laws and authorities (24 CFR 58.35(b)).
  - c. Where designated laws and authorities do not apply to the project, a written determination signed by certifying officer that project is exempt (24 CFR 58.34(a)(10)). See item 2 above and omit "d" and "e" below (24 CFR 58.34(b)).
  - d. Evidence that Notice of Intent to Request Release of Funds (NOI/RROF) was published at least 7 calendar days before submitting RROF to state, using the HUD format or an equivalent. Record of comments and how they have been taken into account (24 CFR 58.70).
  - e. Evidence that RROF and environmental certification were submitted to state (24 CFR 58.71).
4. Environmental Assessment for Projects Not Classified as Exempt or Categorically Excluded:
- a. Consultation with Other Agencies
- Evidence of completion of actions required under other applicable laws and authorities (24 CFR 58.40(f)).
- b. For projects requiring an environmental assessment (EA), evidence that EA has been completed using HUD format or equivalent (24 CFR 58.40).

- c. If FONSI determination was made, evidence that a separate FONSI Notice and a separate NOI/RROF or combined notice of both, (using HUD format(s) or equivalent) were prepared and sent to:
    - (1) EPA headquarters and appropriate regional offices.
    - (2) Interested individuals and groups.
    - (3) Appropriate local, state, federal agencies.
    - (4) State CDBG agency (24 CFR 58.43).
  - d. Evidence that notices were published at least once in a local area-wide newspaper. (For exceptions, see 24 CFR 58.43.)
  - e. Evidence that the 15-day comment period provided for combined FONSI Notice and NOI/RROF or for separate FONSI Notice. Record of comments received and how they have been taken into account (24 CFR 58.43(c) and 58.45). Records of any determination extending comment period or providing for 30-day FONSI Notice instead of the normal 15-day comment period (24 CFR 58.46).
  - f. Where separate notices are issued, evidence that 7 calendar days between publication and the end of the comment period were provided for NOI/RROF before submitting the RROF to the state, including a record of all 24 CFR 58.70 comments received and how they have been taken into account (24 CFR 58.45).
  - g. Evidence that RROF and certifications were submitted to the state (24 CFR 58.71).
  - h. If there is a finding of significant impact, a copy of the finding signed by the certifying officer and a copy of Notice of Intent to Prepare an EIS (24 CFR 58.55).
5. Environmental Impact Statement:
- a. Evidence that NOI/EIS was published and distributed, using HUD format or equivalent (24 CFR 58.55 and 58.43). Where applicable, documentation of a determination to adopt other federal agency EIS (24 CFR 58.52) or to reuse prior EIS (24 CFR 58.53).
  - b. Record of the scoping process and determination to hold scoping meeting (NEPA regulation 1501.7 and 24 CFR 58.56).
  - c. Draft EIS prepared according to HUD format and Section 1502.10 of NEPA regulations (24 CFR 58.60).

- d. Record of any decision to hold public hearings. If hearing held, a record of the proceedings, any comments received and how these were taken into account (24 CFR 58.59).
  - e. Evidence that DEIS filed with EPA headquarters and regional offices (24 CFR 58.60). Documentation of the distribution of DEIS or summary (24 CFR 58.60).
  - f. Record of preparation of the final EIS according to 40 CFR 1502, using HUD format or equivalent. Evidence that it was filed with EPA and distributed to HUD and other parties who have commented on DEIS or requested copies (24 CFR 58.60). Record in FEIS of any response to comments received during the comment period and public hearing if any was held (NEPA regulations, Parts 1502 and 1505).
  - g. Record of Supplemental DEIS and FEIS prepared, if any.
  - h. "Record of Decision" which includes: lead agency decisions whether to proceed with project; alternative considered; and mitigation, monitoring and enforcement measures to be undertaken, using HUD format or equivalent (NEPA regulations, Parts 1505.2 and 24 CFR 58.60(e)).
  - i. Evidence of compliance with related laws and authorities applicable to the project in the DEIS and FEIS (24 CFR 58.60).
  - j. Record of the date that FEIS was filed with EPA and the final list for distribution to agencies and public.
  - k. Evidence that at least seven calendar days before submitting RROF and certification to the state, the recipient published and disseminated NOI/RROF in the same manner as a FONSI. See III C-E (24 CFR 58.70, 58.43, and 58.45).
6. Release of Fund and Certification Approval:
- a. Date of ROF and certification submitted to the state.
  - b. Record of objections received from agencies or the public, if any received during the state ROF process, and their disposition (24 CFR 58.76 and 58.77(a)(b)).
  - c. Copy of the state notification of the release of funds and approval of certification.
  - d. Record of the implementation of environmental review decisions.

## System for Ensuring Fundability of Activities

The purpose of this system is to ensure that each activity funded and carried out is eligible under Sections 105(a) and (c) and meets a national objective under Section 104(b)(3). This standard must also be met for planning only grants also.

1. Pre-Approval: Does the state's system include a:
  - a. Means of determining if an activity is eligible.
  - b. Means of determining eligibility when the assistance is to for-profit entities under Section 105(a)(17) by making the necessary or appropriate determination.
  - c. Means of identifying which national objective is being addressed by each activity.
  - d. Method of communicating standards to applicants.
  - e. Process for checking applications to ensure sufficient data are available to support claims.
  - f. Means to verify claims made, when appropriate.
  - g. Method to ensure that claims are reviewed consistently by staff.
  - h. Oversight by higher level management.
  - i. Method to maintain a count on total amount of funds benefiting low- and moderate-income persons for the period selected.
2. Post Approval: Does the state's system include a:
  - a. Method to determine whether or not activities carried out are the same as those approved.
  - b. Method to review and approve amendments which includes standards for determining when it is an amendment.

## System for States' Review of Their Recipients

The HCDA requires states to conduct such reviews and audits as may be necessary or appropriate to determine whether recipient units of general local governments:

1. Have carried out activities in a timely manner.
2. Have carried out activities in accordance with the primary objectives of the HCDA and other applicable laws.
3. Have a continuing capacity to carry out activities in a timely manner.

Experience indicates that for the CDBG program on-site reviews are an essential part of such a system. Too often, however, we forget that on-site reviews are not the only way, or we believe that merely visiting communities is sufficient. The following description of a system is intended to direct attention to the critical elements, and the factors to be considered in setting up a system sufficient to enable a state to meet its Section 104(d) responsibilities.

Such a system would generate data on the total inventory of grants as well as each specific grant. The nature and extent of this information would be sufficient to enable the state to make determinations, consistent with its statutory responsibilities, and to ensure that those responsibilities are fully met.

4. What is monitoring? Why do it?

a. Principal means to carry out Section 104(d) responsibilities:

(1) Section 104(d) requires states to conduct reviews of their recipients.

(2) Monitoring is a system to see if recipients are carrying out programs in compliance with Title I and other applicable laws.

b. Assist recipients in improving performance, developing self-reliance and increasing management capacity.

(1) Can develop constructive working relationships – opens the door to being the service provider.

(2) An ongoing process to make judgments over a period of time to determine where improvements are needed.

(3) Must encourage management improvements if the review effort is to be successful.

(4) Need to focus on major issues and systemic problems – are there adequate systems in place?

c. Ensures funds are being used in a way to avoid fraud, waste and mismanagement:

(1) This is not a different agenda than compliance monitoring.

(2) Emphasis should be on prevention – rather than detection and correction (Get out there before someone else does and embarrasses you – puts the state in the funny papers or wins a "Golden Fleece" award).

- d. Keeps well informed about effectiveness of local programs:
  - (1) What is going on? What is the program achieving?
  - (2) It is important to know what is happening overall in a community – what are they really trying to achieve? Are they?
- 5. Developing a Monitoring Strategy – the first step
  - a. Why do it?
    - (1) Save resources.
    - (2) Target to cities where potential problems exist.
    - (3) Look at the right things during the review.
  - b. What is it? It is a system which decides:
    - (1) who to visit
    - (2) what to look at
    - (3) when to visit.
  - c. It is a combination of:
    - (1) On site reviews.
    - (2) Reporting requirements.
    - (3) Desk or off-site reviews.
    - (4) Other management tools, such as training, handbooks, etc.
  - d. Factors to consider:
    - (1) Number of grant recipients.
    - (2) Staff available.
    - (3) Kinds of programs.
    - (4) Other available information.

## 6. Selection of Recipients for Review

- a. Assumption
- b. All recipients probably cannot be reviewed on-site each year because of limited staff and travel resources.
- c. Criteria for Selecting Recipients for On-Site Reviews:
  - (1) Localities experiencing serious problems. Consider recent audit findings, investigations, monitoring findings, complaints, issues retraining from a performance review or any other indication of failure to meet program requirements.
  - (2) Recipients with no previous CDBG experience.
  - (3) Recipients with no monitoring visits during the previous year.
  - (4) Complexity and size of programs and grants.
  - (5) Extensive use of subcontractors in carrying out activities.
  - (6) An allocation of a high percentage of grant funds for rehabilitation loans.
  - (7) An allocation of a high percentage of grant funds for job creation/retention activities or other aid to for-profit entities for economic development.
  - (8) Significant amounts of program income.
- d. Choosing an approach: (other options are possible)
  - (1) Option one: List applicants and then check which criteria each meets. Those that address the most criteria can be selected for monitoring, within the staff available.
  - (2) Option two: Weight each of the criteria. List the cities and check which criteria each meets. Those scoring highest can be selected for monitoring within the staff available.

## 7. Determining Number of Recipients for Review

- a. The extent to which compliance can be assured through a system that includes the items listed below will influence the extent to which on-site reviews are required. However, some on-site visits are necessary, even with the best system, to ensure data obtained through other means are adequate and accurate. Each city must be visited at least once on-site before close out (except possibly planning only grants). The content of a system would include:

- (1) Contract – a written, legally binding contract or other agreement, executed by the state and the recipient. The extent to which specific requirements and responsibilities are spelled out or referenced affects what can normally be expected of a recipient.
  - (2) A method to issue additional requirements, policies or procedures to recipients and ensure such requirements are satisfied.
  - (3) A system, such as training, to ensure recipients are fully acquainted with all statutory provisions.
  - (4) A system to require adequate records which can demonstrate compliance with all requirements.
  - (5) A system to ensure records are, in fact, being maintained.
  - (6) A periodic reporting system which contains information which can be used to demonstrate compliance.
  - (7) A system to disburse funds which includes information that can be used to demonstrate progress or demonstrate compliance with other requirements.
  - (8) A system that provides for frequent contact and technical assistance, other than through on-site visits. Issues raised and resolved are documented.
  - (9) An audit system which includes selection of who to review, when, what is to be covered and a method of follow-up. A written record demonstrating results, issues and problem resolution should be available.
- b. The number of recipients to be monitored on-site is a function of the overall management system described above.
  - c. The state program design impacts the review function.
    - (1) Determines types of cities to be funded.
    - (2) Determines kinds of activities to be funded.
8. When to visit
- a. Timing of monitoring visits is also a part of the strategy. The monitoring visits should be made at a time when enough activities have been initiated so a valid judgment can be made, yet sufficiently early to avoid major problems.
  - b. Early visits – an on-site technical assistance visit is encouraged for all new recipients.
  - c. Some form of training is encouraged for all recipients receiving a new grant.

9. What Activities to Review (selection of types of activities)

Selection of types of activities – a method must be devised to select among the activities that, by their nature, have a higher risk potential. The review of the activities, once selected, would focus on the regulatory and statutory requirements.

- (1) Rehabilitation activities (particularly those with lump sum).
- (2) Activities involving subcontractors.
- (3) Economic development activities, with emphasis on those assisting private for-profit businesses or having job creation/job retention features.
- (4) Activities with outstanding audit findings.
- (5) Activities generating significant amounts of program income.
- (6) Activities about which the state has received complaints, including objections to the release of funds from environmental conditions or possible civil rights problems.
- (7) Activities using the most Block Grant dollars.
- (8) Activities not previously monitored.
- (9) Activities which are dependent upon partial funding from other federal or state programs or other sources.
- (10) Activities involving relocation.

10. Documentation of On-Site Review

- a. Records that demonstrate the state has reviewed all items necessary to determine whether or not recipients are in compliance. (Identify each compliance area reviewed).
- b. Evidence to demonstrate the adequacy of review:
  - (1) Identification of items reviewed at the local level for each compliance area.
  - (2) Methodology employed to reach a conclusion in each compliance area.

11. Other Components of the Management System

- a. A system to ensure a standardized approach to monitoring which includes the scope of review for each compliance area.
- b. Defined areas of responsibility (geographically and functionally).

- c. A system to ensure conclusions are properly documented.
- d. A system to track findings and secure successful resolution (without this, the whole effort is meaningless).
- e. Adequate oversight of the whole system by higher level management.

## 12. Techniques for Pre-Visit Preparation

- a. Review data available in house to:
  - (1) Ensure effective use of time on-site.
  - (2) Focus on the right issue(s).
  - (3) Know what is supposed to be happening (what was approved), for example, Have contracts been let?
  - (4) Be aware of potential problems.
- b. Sources of information:
  - (1) Application (most useful) – what activities, national objectives, schedules, etc.
  - (2) Recipient files – correspondence, results of previous reviews, etc.
  - (3) Grant Agreements – any special terms or conditions?
  - (4) Performance and Evaluation Reports.
  - (5) Requests for Payments – should reflect status of activities and should trigger certain compliance areas for review.
  - (6) Audits.
  - (7) Citizens' complaints.
  - (8) Newspapers.

## 13. Conclusion

- a. Monitoring is a major responsibility placed on states by the HCDA.
- b. Ensures program is doing what the state expects it to do.
- c. Audits may become less and less useful – need to rely on monitoring.
- d. Finding problems should be expected. They can be corrected. The problems not found are the ones that can really hurt.
- e. Monitoring is complex and needs to be approached systematically.