

# Community Development Block Grant Program Policies & Procedures



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# 1. Introduction

- 1.1. The City of Modesto has been a participating jurisdiction in the Community Development Block Grant (CDBG) Program of the U.S. Department of Housing and Urban Development (HUD) since the program was established by Congress in 1974.
  - 1.1.1. HUD distributes federal CDBG funds to states, counties and urban cities to fulfill the goals of the program to:
    - 1.1.1.1. Provide decent, safe, and sanitary housing
    - 1.1.1.2. Provide a suitable living environment, and to
    - 1.1.1.3. Expand economic opportunities principally for low and moderate-income persons.
- 1.2. Minimum requirements applicable to any CDBG funded activity are set forth in CDBG Program Regulations 24 CFR 570. CDBG regulations allow for local discretion as to the use and management of the CDBG program. Local community needs, resources, priorities and procedures for managing the CDBG program are approved by the City Council as part of the City's five-year Consolidated Plan (CP) process. In addition, each year the Modesto City Council reviews and considers approval of an Annual Action Plan (AAP) which includes objectives and outcomes, an evaluation of past performance, and activities to be undertaken in the next program year.
- 1.3. This document is intended to satisfy the requirement for a concise policy and procedures administrative manual in the administration and implementation of CDBG funded activities.

# 2. Background

- 2.1. **U.S. Department of Housing and Urban Development and Office of Community Planning and Development**
  - 2.1.1. The mission of the U.S. Department of Housing and Urban Development (HUD) is "to create strong, sustainable, inclusive communities and quality, affordable homes for all."
  - 2.1.2. The HUD Office of Community Planning and Development (CPD) seeks to develop viable communities by promoting integrated approaches that provide decent housing, a suitable living environment, and expanded economic opportunities for low- and moderate-income persons. These goals come out of the mission of HUD to "create strong, sustainable, inclusive communities and quality, affordable homes for all." The primary means towards this end is the development of partnerships between all levels of government and the private sector, including for-profit and non-profit organizations.

## **2.2. City of Modesto Entitlement Programs**

2.2.1. The City of Modesto is a participating jurisdiction in three (3) Community Planning and Development (CPD) entitlement programs:

2.2.1.1. The Community Development Block Grant (CDBG) program supports public services and improvements that benefit low- and moderate-income individuals, families and neighborhoods. Federal regulations governing the CDBG program are in Title 24 of the Code of Federal Regulations Part 570 (24 CFR 570).

2.2.1.2. The Emergency Solutions Grants Program provides funding to (1) engage homeless individuals and families living on the street; (2) improve the number and quality of emergency shelters for homeless individuals and families; (3) help operate these shelters; (4) provide essential services to shelter residents, (5) rapidly re-house homeless individuals and families, and (6) prevent families/individuals from becoming homeless.

2.2.1.3. The HOME Investment Partnership (HOME) program supports affordable access to homeownership and development of affordable rental housing for low- and moderate-income families. Federal regulations governing the HOME program are in Title 24 of the Code of Federal Regulations Part 92 (24 CFR 92).

## **2.3. Federal Regulations (24 CFR Part 570)**

2.3.1. The City of Modesto will follow the regulations governing the CDBG program which are found in Title 24 of the Code of Federal Regulations (CFR) Part 570, Community Development Block Grants.

## **2.4. Subpart C – Basic Eligible Activities (24 CFR 570.201)**

### **2.4.1. 24 CFR 570 Subpart C**

2.4.1.1. The City of Modesto may assist an activity in whole or in part with CDBG funds for activities which include, but are not limited to the following (all CDBG funded activities shall comply with 24 CFR Subpart C Eligible Activities requirements):

2.4.1.1.1. Acquisition of real property;

2.4.1.1.2. Disposition of real property acquired with CDBG funds

2.4.1.1.3. Construction of public facilities and improvements, such as water and sewer facilities, streets, neighborhood centers, and the conversion of school buildings for eligible purposes

2.4.1.1.4. Clearance and remediation of buildings and improvements;

- 2.4.1.1.5. Public Services within certain limits
  - 2.4.1.1.5.1. Housing Services: Privately owned utilities
  - 2.4.1.1.5.2. Construction of affordable housing
  - 2.4.1.1.5.3. Homeownership assistance within certain limits
  - 2.4.1.1.5.4. Technical Assistance
  - 2.4.1.1.5.5. Rehabilitation of residential and non-residential structures
  - 2.4.1.1.5.6. Special economic development activities

**2.5. Ineligible Activities (24 CFR 570.207)**

- 2.5.1. The general rule is that the City of Modesto’s CDBG funds shall not be used for any activity that is not authorized under the provisions of 24 CFR Parts 570.201–570.206.
  
- 2.5.2. Generally, the following types of activities are ineligible:
  - 2.5.2.1. acquisition, construction, or reconstruction of buildings for the general conduct of government
  - 2.5.2.2. General government expenses
  - 2.5.2.3. Political activities
  - 2.5.2.4. Purchase of equipment
  - 2.5.2.5. Construction equipment
  - 2.5.2.6. Furnishings and personal property
  - 2.5.2.7. Operating and maintenance expenses associated with public facilities
  - 2.5.2.8. New housing construction
  - 2.5.2.9. Subsistence payments made directly to an individual or family

**2.6. Criteria for National Objectives – CDBG**

- 2.6.1. In compliance with CDBG regulations, the City of Modesto strives to utilize the majority of funding in a manner that serves low- and moderate-income persons during each program year, but not less than fifty-one percent (51%) of CDBG funds shall be used for activities that benefit low- and moderate-income persons. When considering funding activities, the City of Modesto will ensure that each activity must meet one of the following National Objectives for the CDBG program.
  - 2.6.1.1. Benefit low and moderate income individuals, families, or neighborhoods;
  - 2.6.1.2. Prevention or elimination of slums or blight; or
  - 2.6.1.3. Address community development needs having a particular urgency because existing conditions pose a serious and immediate threat to the

health or welfare of the community for which other funding is not available.

## **2.7. Selecting Activities that Comply**

2.7.1. While there are many aspects that must be considered in selecting activities to assist under the CDBG program, there are six (6) key steps that City of Modesto Community Development Division (CDD) staff will take into consideration during the early stages of the process of determining if CDBG funds may be used to assist a proposed activity:

2.7.1.1. Determine if the activity falls within a category of explicitly authorized activities in the CDBG statute. Generally, if an activity does not fall within a category of explicitly authorized activities in the statute, the activity is considered ineligible. *HUD's Guide to National Objectives and Eligible Activities* describes all categories of basic eligibility that were authorized at the time of publication:

<https://www.hudexchange.info/resource/89/community-development-block-grant-program-cdbg-guide-to-national-objectives-and-eligible-activities-for-entitlement-communities/>

2.7.1.2. Determine if a proposed activity does not appear to be included in the statute's list of eligible activities, but there is precedent indicating it has been interpreted as eligible under the statute by the CDBG Eligible Activity regulations.

2.7.1.3. Most importantly, determine if the proposed activity can meet one of the national objectives of the program as outlined in 24 CFR 570.208. If an activity cannot meet one of the national objectives, the activity shall be found to be ineligible.

2.7.1.4. Ensure that carrying out the activity with CDBG funds will not result in the City violating its certification that at least 51 percent of CDBG expenditures will be for activities that are considered to benefit Low/Moderate income persons over the one, two, or three consecutive program years specified by the City of Modesto.

2.7.1.5. Review proposed costs of the activity to determine if they appear to be necessary and reasonable and will otherwise conform with the requirements of the following:

- 2.7.1.5.1. OMB Circulars A-87, “Cost Principles for State, Local, and Indian Tribal Governments,”
  - 2.7.1.5.2. A-122, “Cost Principles for Non-Profit Organizations,”
  - 2.7.1.5.3. A-21, “Cost Principles for Educational Institutions,”
  - 2.7.1.5.4. 24 CFR Part 84, “Uniform Administrative Requirements for Grants and Agreements With Institutions of Higher Education, Hospitals, and Other Non-Profit Organizations;” or
  - 2.7.1.5.5. 24 CFR Part 85, “Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments,” as applicable.
- 2.7.1.6. Complete the environmental review and clearance procedures for the project of which the activity is a part as required by 24 CFR Part 58. Federal law prohibits HUD from releasing funds for a CDBG activity until certification is made with respect to environmental review completion.

### **3. Subpart J – Grant Administration (24 CFR Part 570.501)**

#### **3.1. 24 CFR 570 Subpart J**

#### **3.2. Responsibility for Grant Administration**

- 3.2.1. The City of Modesto Community and Economic Development Department (CEDD) has been designated to administer the activities assisted under the CDBG program. The City of Modesto CEDD is responsible for ensuring that CDBG funds are used in accordance with all program requirements. The City of Modesto will adhere to all administrative requirements covered by Subpart J (24 CFR 570.500-570.513), which includes general responsibilities for grant administration, including uniform administrative requirements, provisions of subrecipient agreements, program income, use of real property, recordkeeping and reporting, and closeout procedures.
- 3.2.2. Applicability of Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards §570.502
- 3.2.3. The City of Modesto and its subrecipients shall follow Office of Management and Budget’s (OMB) Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards (also known as the Super Circular) codified at 2 CFR 200. The Super Circular guidance superseded and consolidated the requirements from OMB Circulars A-21, A-87, A-110, A-122, A-89, A-102, A-133, and A-50.

The City will ensure that all subrecipients (agencies and organizations that receive grant funds from the City) are in compliance with *OMB Super Circular requirements*.

### **3.3. Written Agreements**

3.3.1. A written agreement must be entered into between the City and all entities receiving CDBG funds. The written agreement forms the basis for the contractual obligation between the parties to fund and implement the activity or program. The written agreement will identify responsibilities attributable to each party, and shall outline in exact measure the scope of services to be provided, methods of accountability, and a schedule for payment. At a minimum, the written agreement will include provisions concerning the following:

3.3.1.1. **Statement of Work:** The written agreement will include a description of the work to be performed, a schedule for completing the work, and a budget. These items will be in sufficient detail to provide a sound basis for the City of Modesto to effectively monitor performance under the agreement.

3.3.1.2. **Records and Reports:** The City of Modesto will specify in the written agreement the particular records entity must maintain and the particular reports the entity must submit in order to assist the City of Modesto in meeting its recordkeeping and reporting requirements.

3.3.1.3. **Program Income (PI):** The agreement will include the PI requirements set forth in §570.504(c). The written agreement will also specify that, at the end of the calendar year, the City of Modesto may require remittance of all or part of any PI balances (including investments thereof) held by the sub-recipient (except those needed for immediate cash needs, cash balances of a revolving loan fund, cash balances from a lump sum drawdown, or cash or investments held for section 108 security needs).

3.3.1.4. **Uniform Administrative Requirements:** The written agreement will require entity to comply with applicable uniform administrative requirements, as described in §570.502.

3.3.1.5. **Other Program Requirements:** The written agreement will require the entity to carry out each activity in compliance with all Federal laws and regulations described in 24 CFR 570 Subpart K of the regulations, except that:

- 3.3.1.5.1. The entity does not assume the City of Modesto’s environmental review (ER) responsibilities described at §570.604; and
- 3.3.1.5.2. The entity doesnot assume the City of Modesto’s responsibility for initiating the review process under the provisions of 24 CFR part 52.
  
- 3.3.1.6. **Suspension and Termination:** The written agreement will specify that, in accordance with 24 CFR 85.43, suspension or termination may occur if the entity materially fails to comply with any term of the award, and that the award may be terminated for convenience in accordance with 24 CFR 85.44.
  
- 3.3.1.7. **Reversion of Assets:** The written agreement will specify that upon its expiration the entity shall transfer to the City of Modesto any CDBG funds on hand at the time of expiration and any accounts receivable attributable to the use of CDBG funds. It will also include provisions designed to ensure that any real property under the entity’s control that was acquired or improved in whole or in part with CDBG funds (including CDBG funds provided to the entity in the form of a loan) in excess of \$25,000 is either:
  - 3.3.1.7.1. Used to meet one of the national objectives in §570.208 (formerly §570.901) until five (5) years after expiration of the agreement, or for such longer period of time as determined to be appropriate by the City of Modesto; or
  - 3.3.1.7.2. Used in accordance with paragraph (b)(7)(i) of this section, in which event the entity shall pay to the City of Modesto an amount equal to the current market value of the property less any portion of the value attributable to expenditures of non-CDBG funds for the acquisition of, or improvement to, the property. The payment is program income to the City of Modesto.

## 4. Program Income

- 4.1. Treatment of Program Income and Revolving Loan Funds (RLFs) Per the 24 CFR 570.500 definitions.
  
- 4.2. § 570.500 Definitions.

- 4.2.1. For the purposes of this subpart, the following terms shall apply:
- 4.2.1.1. **(a) Program income** means gross income received by the recipient or a subrecipient directly generated from the use of CDBG funds,
- 4.2.1.2. **(b) Revolving fund** means a separate fund (with a set of accounts that are independent of other program accounts) established for the purpose of carrying out specific activities which, in turn, generate payments to the fund for use in carrying out the same activities. Each revolving loan fund's cash balance must be held in an interest-bearing account, and any interest paid on CDBG funds held in this account shall be considered interest earned on grant advances and must be remitted to HUD for transmittal to the U.S. Treasury no less frequently than annually. [Interest paid by borrowers on eligible loans (e.g. – Homeowner Rehabilitation Loan Interest portion payments made from the revolving loan fund) shall be program income and treated accordingly. Receipted as program income, not as RLF.]
- 4.2.2. Program income in the form of repayments to, or interest earned on, a revolving fund as defined in § 570.500(b) shall be substantially disbursed from the fund before additional cash withdrawals are made from the U.S. Treasury for the same activity. (This rule does not prevent a lump sum disbursement to finance the rehabilitation of privately owned properties as provided for in § 570.513.)
- 4.2.3. Substantially all other program income shall be disbursed for eligible activities before additional cash withdrawals are made from the U.S. Treasury.
- 4.2.4. The City of Modesto will estimate program income to include interest paid by borrowers on eligible loans made from the Revolving Loan Fund(s), repaid funds, and recaptured funds incorporating all into the upcoming AAP.

## 5. Use of real property

### 5.1. Section 570.505

- 5.1.1. The City of Modesto will comply the standards described 24 CFR 570.505 with relation to the use of real property within the City of Modesto's control acquired or improved in whole or in part using CDBG funds in excess of \$25,000.

## 6. Records to be maintained

### 6.1. Section 570.560

- 6.1.1. The City of Modesto will establish and maintain sufficient records to enable HUD to determine whether the City of Modesto has met the CDBG program requirements for activities administered by the City of Modesto under the CDBG program. At a minimum, the following records will be maintained:
- 6.1.2. Records providing a full description of each activity assisted (or being assisted) with CDBG funds, including its location (if the activity has a geographical locus), the amount of CDBG funds budgeted, obligated and expended for the activity, and the provision in subpart C under which it is eligible.
- 6.1.3. Records demonstrating that each activity undertaken meets one of the criteria set forth in §570.208 (Criteria for National Objectives).
- 6.1.4. Records that demonstrate that the City of Modesto has made the determinations required as a condition of eligibility of certain activities, as prescribed in §570.201(f)-interim assistance, 570.201(i)(2) - emergency, 570.201(p) - technical assistance, 570.201(q) - higher education institutions, 570.202(b)(3) - rehabilitation loans, 570.206(f) - Submission of applications for federal programs, 570.209 - economic development, 570.210 - prohibition employee relocation, and 570.309 - restriction on location.
- 6.1.5. Records which demonstrate compliance with §570.505 - regarding any change of use of real property acquired or improved with CDBG assistance.
- 6.1.6. Records that demonstrate compliance with the citizen participation requirements prescribed in 24 CFR part 91, subpart B, for entitlement recipients.
- 6.1.7. Records that demonstrate compliance with the requirements in §570.606 regarding acquisition, displacement, relocation, and replacement housing
- 6.1.8. Fair housing and equal opportunity records containing:
  - 6.1.8.1. Documentation of the analysis of impediments and the actions the City of Modesto has carried out with its housing and community development and other resources to remedy or ameliorate any impediments to fair housing choice in the City of Modesto's community.
  - 6.1.8.2. Data on the extent to which each racial and ethnic group and single headed households (by gender of household head) have applied for, participated in, or benefited from, any program or activity funded in

whole or in part with CDBG funds. Such information shall be used only as a basis for further investigation as to compliance with nondiscrimination requirements. The City of Modesto is not required to attain or maintain any particular statistical measure by race, ethnicity, or gender in covered programs.

- 6.1.8.3. Data on employment in each of the City of Modesto's operating units funded in whole or in part with CDBG funds, with such data maintained in the categories prescribed on the Equal Employment Opportunity Commission's EEO-4 form; and documentation of any actions undertaken to assure equal employment opportunities to all persons regardless of race, color, national origin, sex or handicap in operating units funded in whole or in part under this part.
- 6.1.8.4. Data indicating the race and ethnicity of households (and gender of single heads of households) displaced as a result of CDBG funded activities, together with the address and census tract of the housing units to which each displaced household relocated. Such information shall be used only as a basis for further investigation as to compliance with nondiscrimination requirements. The City of Modesto is not required to attain or maintain any particular statistical measure by race, ethnicity, or gender in covered programs.
- 6.1.8.5. Documentation of actions undertaken to meet the requirements of §570.607(b) which implements Section 3 of the Housing Development Act of 1968, as amended (12 U.S.C. 1701U) relative to the hiring and training of low and moderate income persons and the use of local businesses.
- 6.1.8.6. Data indicating the racial/ethnic character of each business entity receiving a contract or subcontract of \$25,000 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, the amount of the contract or subcontract, and documentation of recipient's affirmative steps to assure that minority business and women's business enterprises have an equal opportunity to obtain or compete for contracts and subcontracts as sources of supplies, equipment, construction and services. Such affirmative steps may include, but are not limited to, technical assistance open to all businesses but designed to enhance opportunities for these enterprises and special outreach efforts to inform

them of contract opportunities. Such steps shall not include preferring any business in the award of any contract or subcontract solely or in part on the basis of race or gender.

6.1.8.7. Documentation of the affirmative action measures the City of Modesto has taken to overcome prior discrimination, where the courts or HUD have found that the City of Modesto 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.

6.1.8.8. Financial records, in accordance with the applicable requirements listed in **§570.502** - uniform administrative requirements - including source documentation for entities not subject to parts 84 and 85 of the regulation. The City of Modesto will maintain evidence to support how the CDBG funds provided to such entities are expended. Such documentation will include, to the extent applicable, invoices, schedules containing comparisons of budgeted amounts and actual expenditures, construction progress schedules signed by appropriate parties (e.g., general contractor and/or a project architect), and/or other documentation appropriate to the nature of the activity.

6.1.9. Records required to be maintained in accordance with other applicable laws and regulations set forth in subpart K of 24 CFR Part 570.

6.1.10. Subrecipient record retention requirements will be established within subrecipient agreements.

## 7. Required Annual Reports

### 7.1. § 570.507

### 7.2. Preparation of Annual Action Plan

7.2.1. CDBG regulations at 24 CFR 91.15(a)(1) requires entitlement jurisdictions (City of Modesto) to submit its Consolidated Plan or Action Plan at least 45 days before the start of its program year. The City of Modesto will begin to plan for the development of the Annual Action Plan (AAP) as early as October of the year prior to the beginning of its next fiscal year – July 1. For purposes of planning the Annual Action Plan, an Annual Action Plan schedule may be developed in the

month of October outlining all pertinent deadlines related to the development and adoption of the Annual Action Plan.

7.2.2. The following will be general milestone targets of the City of Modesto’s Annual Action Plan tentative schedule (efforts will be made to follow the outlined schedule as close as possible, however, variables outside the City’s control may contribute to changes on the actual schedule):

7.2.2.1. **Oct./Nov: Develop AAP schedule**

7.2.2.2. **December: Release CDBG/ESG Public Services Notice of Funding Availability (NOFA)**

7.2.2.2.1. Host Mandatory Technical Workshop and Open Public Service Application Period

7.2.2.2.2. Begin Draft AAP

7.2.2.3. **January: Continue Draft AAP**

7.2.2.3.1. CDBG/ESG Public Services Application Deadline

7.2.2.3.2. Application Technical Review Notifications (for ineligible applications)

7.2.2.3.3. Deadline for Appeals of Technical Review Determination

7.2.2.4. **February: RFP Presentations to CH&CDC and Application Evaluation**

7.2.2.5. **March/April: Finalize Draft AAP.**

7.2.2.5.1. If official entitlement amounts are not known, a Draft Annual Acton Plan using projected entitlement award amounts will be prepared.

7.2.2.5.2. Draft AAP with funding recommendations to CH&CDC

7.2.2.5.3. Draft AAP to CH&CDC; Open 30 day public comment period –

7.2.2.5.4. Conduct Citizen Participation outreach in compliance with Citizen Participation Plan

7.2.2.5.5. Update AAP with official HUD entitlement allocations for CDBG, ESG, and HOME programs.

- 7.2.2.5.6. Update Draft AAP during 30 day comment period as needed. Insert comments received during public comment period/citizen participation process.
- 7.2.2.6. Draft subrecipient agreements per activities identified in the Draft AAP. The City Attorney shall annually review the draft CDBG sub recipient and capital projects agreements to ensure compliance with federal, state and City codes and regulations, including non-discrimination clauses and City insurance requirements.
- 7.2.2.7. **May/June: Final AAP to City Council.**
  - 7.2.2.7.1. Following the Citizen Participation process, the City of Modesto will submit the Annual Action Plan to the San Francisco Field Office no later than May 15 of each year (45 days prior to the start of the program year) if HUD has announced official program allocations.
  - 7.2.2.7.2. Per HUD CPD Notice CPD-16-18, HUD has directed entitlement communities to not submit the Annual Action Plan until after the fiscal year allocations have been announced. Entitlement communities may delay submission of its action plan to HUD until 60 days after the date allocations are announced, or until August 16 of the respective fiscal year, whichever comes first. This delay will give the entitlement communities time to revise its Annual Action Plan to incorporate actual allocation amounts, and to conduct any additional citizen participation, if necessary.
  - 7.2.2.7.3. For example, if HUD were to announce the FY allocation amounts to grantees on April 28: For grantees with July 1 and August 1 program year start dates, their normal plan submission date would be less than 60 days after HUD's announcement of allocation amounts. These grantees would also be able to postpone submission of their consolidated plan/action plan until June 26.
  - 7.2.2.7.4. Once HUD informs grantees of their fiscal year funding allocation amounts, the City of Modesto, prior to submission, will ensure that the fiscal year funding allocation amounts are reflected in the form SF-424, in the

description of resources and objectives, and in the description of activities to be undertaken.

7.2.2.7.5. Upon City Council adoption, contracts will be prepared and executed.

7.2.2.8. **July 1 Beginning of Program Year**

7.2.2.9. In no case may a Consolidated Plan/Action Plan be submitted to HUD later than August 16 of the respective fiscal year.

7.2.2.10. Throughout the development of the Annual Action Plan, the City of Modesto will comply with all Citizen Participation plan requirements to ensure proper public noticing, citizen participation, and public hearings are conducted. The City of Modesto’s Citizen Participation Plan may be found at <https://www.modestogov.com/1848/Publications-Reports>.

## **8. Preparation of the Consolidated Annual Performance Evaluation Report (CAPER)**

**8.1.** CDBG regulations at 24 CFR 91.520 requires entitlement jurisdictions (City of Modesto) to submit an Annual Performance Report within 90 days of the close of the entitlement jurisdiction’s program year. This is in accordance with the Consolidated Plan regulations at 24 CFR Part 91.

**8.2.** The City of Modesto will begin to plan for the development of the Consolidated Annual Performance Evaluation Report (CAPER) in June of the year after the end of its next fiscal year – June 30. For purposes of planning the CAPER, a CAPER schedule may be developed in the month of June outlining all pertinent deadlines related to the development and adoption of the CAPER.

**8.3.** The following will be general milestone targets of the City of Modesto’s CAPER tentative schedule (efforts will be made to follow the outlined schedule as close as possible, however, variables outside the City’s control may contribute to changes on the actual schedule):

**8.3.1. June - Develop CAPER schedule**

**8.3.2. July - Compile Data for Draft CAPER**

8.3.2.1. Begin Draft CAPER

**8.3.3. August - Present Draft CAPER to CH&CDC**

8.3.3.1.1. Open 15 day Public Comment Period

8.3.3.1.2. Conduct Citizen Participation Process

**8.3.4. September Present CAPER to City Council**

8.3.4.1.1. Submit CAPER to HUD

**8.4.** Throughout the development of the CAPER, the City of Modesto will comply with all Citizens' Participation Plan requirements to ensure proper public noticing, citizen participation, and public hearings are conducted. The City of Modesto's Citizen Participation Plan may be found at <https://www.modestogov.com/1848/Publications-Reports>.

## **9. Program and Financial Reporting**

**9.1.** Throughout the fiscal year, the City of Modesto will comply with all reporting requirements. All attempts will be made to submit each report by the respective deadline. The following is a list of reports that the City of Modesto is required to submit as a recipient of HUD funds:

- 9.1.1. SF 425 – Federal Financial Report and SF 425-A – Federal Financial Report Attachment
- 9.1.2. HUD-92010 Equal Employment Opportunity Certification – if applicable (HUD/EEO-4)
- 9.1.3. Form HUD-60002-Section 3 Summary Report: Section 3 reports will be submitted in the SPEARS system on or before September 30 each year.
- 9.1.4. HUD-2516 Contract and Subcontract Activity (MBE Report) – Due to HUD by November 15 each year.
- 9.1.5. HUD-4710 Semi-Annual Labor Standards Enforcement Report – Due to HUD by April 15 and October 15
- 9.1.6. All other reports/information HUD determines necessary

**9.2.** The City of Modesto will work with all subrecipients to ensure that they understand reporting requirements, with the understanding that the City and subrecipients share joint responsibility for carrying out permitted activities in conformance with federal requirements.

**9.3.** Subrecipients shall provide documentation that demonstrates the achievement of program goals and the completion of activities on quarterly basis at a minimum. All requests for reimbursement shall have adequate documentation, as determined by the City of Modesto, of how federal funds were used and that funds were used only for

eligible activities. Complete records, and accurate and timely reporting, are essential to successful CDBG programs for the City and all subrecipients.

- 9.4. The City of Modesto Housing and Urban Development subdivision will ensure that expenditures of CDBG funds shall be drawn down using the Integrated Disbursement and Information System (IDIS) on a regular basis and not less than monthly.

## 10. Application & Award Process for CDBG Funds

### 10.1. Capital Projects (Housing, Public Facilities, and Economic Development)

#### 10.1.1. Approaches to Solicitation and Selection of Projects for CDBG Funds:

10.1.1.1. Depending on funding availability, the City of Modesto will consider project proposals on an ongoing basis throughout the Program Year; or

10.1.1.2. The City, at its choice, may also award project funds via a Request for Proposals (RFP) and/or by working directly with entities to identify eligible projects to be included in the Annual Action Plan;

10.1.2. All project proposals shall consist of the submission of all items listed on the City of Modesto's "Project Application Proposal Form";

10.1.3. If an RFP is issued, applicants shall pay close attention to the RFP guidelines when preparing their project proposal/application. The RFP Guidelines will include key information including but not limited to eligible activities, eligible applicants, organizational capacity, consistency with Consolidated Plan, and Evaluation Criteria. Further, the RFP Guidelines will provide a calendar of events that will include the following information: Application Period, Mandatory Technical Workshop, Application Deadline, Proposal Presentations, Public Comment Period Opening, Public Comment Period Closing, and Annual Action Plan Submittal to HUD.

#### 10.1.4. Project Information

10.1.4.1. For purposes of providing a detailed project description in the Integrated Disbursement and Information System (IDIS), project proposals must provide detailed project information. At a minimum, a detailed project description will consist of including but not limited to the following information (which shall be used, in whole or in part, to enter a project description in IDIS):

#### 10.1.5. Statement of Need:

10.1.6. Detailed project narrative regarding the Community Need or Problem the project is designed to address. This should be supported with any relevant history, data/statistics, or gap information.

10.1.7. Urgency of Need or Problem and how the project will address the Need or Problem.

10.1.8. Target population to be served by the project, and target service area, if applicable.

**10.1.9. Project Description:**

10.1.10. Detailed description of the proposed project (i.e. number of housing units, new construction, rehabilitation, rental housing, homebuyer housing, cost per unit, etc)

10.1.11. Proposed project timeline

10.1.12. Proposed project budget

10.1.13. Project Match sources and amounts

**10.1.14.**

**10.2. Public Services Application Release and Schedule**

10.2.1. HUD allows the City of Modesto to procure, select, and fund activities in accordance with local community development goals and objectives. With respect to CDBG and ESG Public Services, the City of Modesto will annually release a Notice of Funding Availability (NOFA) to solicit public service program proposals that align with Consolidated Plan needs and objectives. The CDBG/ESG Public Services NOFA schedule will align with the development of each year's Annual Action Plan (see Section 7.2 above for information about each year's NOFA schedule).

10.2.2. With respect to Public Service funding, the City of Modesto will make available up to fifteen percent (15%) of the total CDBG allocation for the program year for Public Services.

10.2.3. For ESG award purposes, the City of Modesto will competitively award 82.5% of the ESG allocation for the program year to Homeless Service Providers and 10% to HMIS eligible activities. The remaining 7.5% of the ESG allocation will be used for ESG City of Modesto administrative purposes in accordance with ESG regulations.

**10.3. Solicitation of Public Service Applications for CDBG Funds**

10.3.1. In order to ensure maximum participation, the City of Modesto will issue a Notice of Funding Availability (NOFA) and distribute via email to established email groups, mail, and/or the City of Modesto's website. Whenever necessary, the City of Modesto may publish notices in the local newspaper (The Modesto Bee/Vida en el Valle) and/or issue a press release to the local media.

10.3.2. Prospective applicants shall pay close attention to the NOFA Guidelines when preparing their project proposal/application. The NOFA Guidelines will include

key information including but not limited to eligible activities, eligible applicants, organizational capacity, consistency with Consolidated Plan, and Evaluation Criteria. Further, the NOFA Guidelines will provide a calendar of events that will include the following information: Application Period, Mandatory Technical Workshop, Application Deadline, Proposal Presentations, Public Comment Period Opening, Public Comment Period Closing, and Annual Action Plan Submittal to HUD.

#### **10.4. Application Requirements**

- 10.4.1. Applicants must apply for funds during the open application period using a web-based application program (e.g. - ZoomGrants™) as indicated by the City of Modesto. All applicants must submit a Master application detailing the proposed program, goals, measurable objectives and agency/program finances.
- 10.4.2. As part of the application packet, all applicants must submit sufficient documentation within the various required exhibits to substantiate the applicant's ability to comply with the stringent CDBG requirements if an award is granted.
- 10.4.3. All applicants must submit all requested documents within the web-based system including but not limited to the documents listed in this section. Any application lacking the following documentation and/or the criteria described for each will be considered incomplete and may be disqualified from the application process:
  - 10.4.3.1. **Completed Web-Based Application:** All questions must be completed in their entirety.
  - 10.4.3.2. **Executive Summary:** Executive summary of project proposal. Must include detailed information about the project purpose, target population, service area, proposed objectives, performance indicators, proposed outcomes. The executive summary must discuss the level of involvement and agency's role within the Focus on Prevention efforts as well as the level of coordination with other service providers to reduce duplication of services.
  - 10.4.3.3. **Board of Directors Agenda and Minutes:** Board of Directors minutes must specifically authorize applicant to submit an application to the City of Modesto and specify application type (i.e. CDBG/ESG/HOME). In compliance with internal control requirements per 24 CFR 85.20(b)(3)to(b)(6) and 84.21(a)(3), Board of Directors must not include

members acting as staff or in any other capacity that may be perceived as a conflict of interest.

- 10.4.3.4. **Articles of Incorporation:** Articles of Incorporation Stamped by the Secretary of State of the State of California.
- 10.4.3.5. **Organization By-Laws:** Organization By-Laws (with Secretary's Certificate/Signature).
- 10.4.3.6. **California Franchise Tax Board Tax Exempt Status Letter**
- 10.4.3.7. **Internal Revenue Service (IRS) Federal Tax-Exempt Status Letter**
- 10.4.3.8. **Certified Audit and/or Financial Statement (most recent):** Must be prepared by a Certified Public Accountant/Independent Auditor.
- 10.4.3.9. **IRS 990:** IRS 990 Tax Return for the most recently ended fiscal year. If the 990 Tax Return has not been completed by the time of the open Application Period, applicant can submit a copy of their extension form.
- 10.4.3.10. **City of Modesto Business License:** Business License must be current and its use must comply with City of Modesto Municipal Code of Ordinances.
- 10.4.3.11. **Organization Chart:** Most recent/updated organizational chart.
- 10.4.3.12. **Board of Directors Roster:** Most recent/updated Board of Directors roster.
- 10.4.3.13. **Certifications/Fingerprinting Clearance:** All CDBG/ESG funded staff working with children must be fingerprinted. Provide copies of applicable licenses, evidence of fingerprinting clearance, if applicable, and/or certifications pertaining to the project or component that will use CDBG/ESG funds.
- 10.4.3.14. **NEPA Environmental Review Form:** Completed NEPA environmental review form with original signature.
- 10.4.3.15. **Fee Schedule (if applicable):** Charging fees is generally discouraged when program is funded by CDBG/ESG. If fees are charged, provide a copy of fee schedule. Failure to submit the fee schedule for a fee-based project will render application as disqualified.

- 10.4.3.16. **Site Control Documentation:** Documentation/evidence of site control (i.e. lease, MOU, or other form of legal agreement). Evidence of site control must be current and meet the current City business permitting guidelines.
- 10.4.3.17. **Service Area Map:** If the project provides service on an area basis, attach a map showing the area to be served that includes the eligible Census Tracts and Block Groups being served.
- 10.4.3.18. **Staff Resumes:** Copies of resumes for program staff who will be involved in operating/implementing the CDBG/ESG program.
- 10.4.3.19. **Proof of Insurance:** Copy of evidence of insurance as required by the City of Modesto. If awarded, insurance requirements must be met as outlined on the templates provided.
- 10.4.3.20. **Disclosure of City Relationships:** List any employees or board members of the applicant agency who are elected official, appointed members of a City of Modesto Commission/Committee, or a City employee if applicable. If not applicable, upload a note on company letterhead indicating “Not Applicable”.
- 10.4.3.21. **Professional References:** Provide contact information of three (3) partner agencies, non-profits, service providers, or public/private agencies. Any letters of support must be dated within the last 30 days.
- 10.4.3.22. **Budget Detail and Support:** If needed, provide additional budget detail and supporting documentation for costs and sources of funds. This may be used to further support/explain the proposed program budget. If not applicable, upload a note on company letterhead indicating “Not Applicable”.

**10.5. Contracting Conditions of Eligibility**

- 10.5.1. Debarred/Suspended Search:
  - 10.5.1.1. It is the City of Modesto’s policy not to conduct business with entities who are excluded/debarred from conducting business with any federal agency.
  - 10.5.1.2. Upon application submission, the Community Development Program Specialist shall ensure that the prospective applicant entity is not

excluded/debarred from conducting business with any federal agency by conducting a search on the federal System for Award Management website at [www.sam.gov](http://www.sam.gov).

- 10.5.1.3. To comply with this requirement, applicants must provide their DUNS number on the grant application.
- 10.5.1.4. Applicants who do not have a DUNS number at time of application submittal must request one by accessing the following website: <http://fedgov.dnb.com/webform/displayHomePage.do>
- 10.5.1.5. Upon conducting the [www.sam.gov](http://www.sam.gov) search, if it is determined that any applicant is excluded/debarred, the applicant will be notified, in writing, that their application is ineligible and their application will be withdrawn.
- 10.5.1.6. The Community Development Program Specialist shall print the search results and place a copy in the project file.
- 10.5.1.7. Requirements under this section shall apply to all applicant types (i.e. public service subrecipients,, housing developers, and/or private contractors) and shall apply across all HUD programs (i.e. CDBG, ESG, HOME, etc).

## **10.6. Technical Assistance to Public Service Applicants**

- 10.6.1. A mandatory Application Orientation/Technical Assistance workshop is held for all prospective applicants each year. The purpose of the workshop is to explain the NOFA Guidelines, any program changes, the application process, and answer any questions relating to funding requirements, criteria, and priorities.
- 10.6.2. Community Development Programs staff will present and answer questions on program guidelines, applicant and activity eligibility requirements, the National Objectives for the programs, local objectives and priority activities in the City's five-year Consolidated Plan, and application requirements.
- 10.6.3. Staff will be available for technical assistance from the beginning of the application period until 4:00 p.m. on the deadline date for submission.

## **10.7. Technical Review of Applications by City Staff**

- 10.7.1. City of Modesto staff will conduct a technical review of all applications upon submission to ensure that:
  - 10.7.1.1. Applications are complete;

- 10.7.1.2. Program proposal meets one of the CDBG National Objectives; and
- 10.7.1.3. Consistency with City of Modesto Consolidated Plan
- 10.7.2. The technical review will include a review of the applicant organization to ensure that the applicant is an eligible nonprofit organization. This will generally be determined by
  - 10.7.2.1. Reviewing the documentation within the various required exhibits to substantiate the applicant’s ability to comply with the stringent CDBG requirements if an award is granted.
  - 10.7.2.2. Ensuring that the applicant is not excluded from conducting business with any federal agency by conducting a search on the federal System for Award Management website at [www.sam.gov](http://www.sam.gov).
- 10.7.3. Upon technical review completion, City of Modesto staff will notify the applicant and provide an opportunity correct any errors or omissions on their application. Applicants will be given a specific timeframe to make corrections and finalize application. After the final deadline, further access to the application by the applicant will be blocked.
- 10.7.4. City staff will provide a technical review summary to the Application Review Committee that will reflect applicant responsiveness to application requirements.

**10.8. Application Review Committee: Citizens Housing and Community Development Sub-Committee (CHCDC)**

- 10.8.1. A subcommittee composed of five (5) members of the Citizens Housing and Community Development Committee (CHCDC) will act as the Application Review Committee. The Application Review Committee will review and score all application submissions.
- 10.8.2. CHCDC members may volunteer or be appointed by the Chairperson of the CHCDC to the Application Review Committee.
- 10.8.3. The Application Review Committee shall review applications thoroughly and shall evaluate the proposals on the basis of:
- 10.8.4. Past Performance, if funded in previous years. City Staff will provide past performance reports to the Application Review Committee which will include but will not be limited to:
  - 10.8.4.1. The amount of CDBG/ESG funds received by an applicant organization from the City in the past three (3) years, if any;

- 10.8.4.2. The extent to which previously-funded organizations have met program objectives, satisfied contract obligations, and expended allocated funds in an efficient, appropriate and timely manner;
- 10.8.4.3. Information provided in the application;
- 10.8.4.4. Information provided in the applicant presentation/interview;
- 10.8.4.5. Rating Criteria;
- 10.8.5. Application Review Committee members judge applications solely on the merits of the application and the objective criteria. Members should not be influenced by their personal convictions or viewpoints. If a member feels that she/he cannot judge an application fairly and impartially, conflict of interest provisions as discussed in this manual shall apply.

**10.9. Conflict of Interest Declarations**

- 10.9.1. Before discussion of applicant organizations and agencies, Application Review Committee members shall declare relationships, if any, with applicant organizations or persons associated with the applicants.
- 10.9.2. This may include:
  - 10.9.2.1. Serving as a Board member of or volunteer in an applicant agency or organization;
  - 10.9.2.2. Membership or participant in activities of an applicant agency or organization;
  - 10.9.2.3. Direct contributor to an applicant agency or program;
  - 10.9.2.4. Beneficiary of the activities or services of an application agency or program; and
  - 10.9.2.5. Any connection with the applicant that would constitute or that could be perceived to constitute a conflict of interest.
- 10.9.3. When a member has a perceived or real conflict of interest with an applicant organization, the member shall refrain from ranking the application and shall withdraw from the interview with the applicant and any discussion of the merits of the application.
- 10.9.4. Members shall also declare any personal interest in an organization that is in direct competition with an applicant organization that may cause them to rank the application other than strictly on the merits of the application.
- 10.9.5. Committee members who have been involved with the preparation of an application shall withdraw from consideration of that application.

**10.10. Applicant Presentation/Interviews**

- 10.10.1. Applicants will have the opportunity to provide a 10-minute presentation before the Application Review Committee to explain their proposed program and funding request.
- 10.10.2. Following the applicant presentation, there will be a five (5) minute question and answer period. While questions will be primarily driven by the Application Review Committee, City program staff may also ask clarifying questions relevant to the application proposal to further assist the Application Review Committee in the proposal evaluation.
- 10.10.3. Following the five (5) minute question and answer period, the Application Review Committee will have 5 minutes to score the proposal and prepare for the following presentation.
- 10.10.4. Time will be strictly enforced as feasibly possible to be fair to all participants and to stay on schedule.

**10.11. Rating Criteria**

- 10.11.1. Upon reviewing and conducting application presentation and interview, the Application Review Committee will use an application scoring sheet prepared by CEDD staff that include the following rating factors to objectively evaluate and score each application proposal
  - 10.11.1.1. URGENCY/PERSISTENCE OF NEED
  - 10.11.1.2. DESIGN
  - 10.11.1.3. BUDGET/FINANCIAL MANAGEMENT CAPACITY
  - 10.11.1.4. FUND DEVELOPMENT
  - 10.11.1.5. COLLABORATION
- 10.11.2. Specific criteria definitions will be provided within the Notice of Funding Availability Guidelines released annually.
- 10.11.3. From time to time, there may be a need to incorporate additional application scoring criteria corresponding to local initiatives or special programs (i.e. bonus points for applicant willingness to carry out special program components). In every case, the NOFA Guidelines will specify if additional criteria applies and will be disclosed during the Mandatory Technical Workshop.

**10.12. Application Review Committee Funding Recommendations**

- 10.12.1. At the conclusion of Application Review Committee's rating of all applications, City staff will compile scoring results and will share scoring results with the Application Review Committee on the same day.
- 10.12.2. All applications with a score of 70 points or greater will be funded by multiplying the amount requested times the application score, as a percent [i.e. Amount requested = \$30,000; Score = 92.2 (\$30,000 x 92.2% = \$27,660)]. This method will be applied beginning with the highest score down to the 70 point mark or until funds are exhausted.
- 10.12.3. Any remaining funds after the 70 point score threshold will be used to fund Community Based Public Service needs identified by community groups and relayed to City staff during community meetings/ Citizen Participation outreach process.
- 10.12.4. Draft scoring and funding results will be presented to the CHCDC at the monthly meeting following the Applicant Presentations/Interviews.
- 10.12.5. The CHCDC will deliberate on the Subcommittee's recommendations. Final recommendations will be approved by majority vote. City staff will present these CHCDC recommendations to Modesto City Council, which will ultimately determine funding awards.
- 10.12.6. In years when CDBG entitlement amount is not known, an estimated amount will be used. The amount of funds awarded may be adjusted per City Council-approved contingency plan. This plan will be utilized when the CDBG entitlement differs from the estimate. The plan ensures the City does not exceed the fifteen percent (15%) public services cap.

### **10.13. CDBG/ESG Public Service Award and Denial Notification and Appeal Process**

- 10.13.1. CDBG/ESG applicants will be notified in writing of the Application Review Committee funding recommendations upon release of the Draft Annual Action Plan. The written notification will provide each applicant application rank and score information and whether or not application will be recommended for funding.
- 10.13.2. **Appeal Process**

- 10.13.2.1. Any applicant that maintains its proposal has been wrongly determined to be ineligible may submit a written response to the Community Development Manager within seven (7) business days of notification. The written response must include specific details that address/cure the ineligibility determination(s) issued.
- 10.13.2.2. City Staff will schedule an in person meeting (Technical Assistance) with applicant representatives to discuss the factors/compliance issues that have deemed the application ineligible in the view of the Application Review Committee. City Staff will use this opportunity to provide technical assistance to be considered by the applicant in future funding cycles. After meeting with the applicant, staff will confirm the discussion in writing by sending a follow up letter outlining the Technical Assistance points of discussion.
- 10.13.2.3. This appeal process does not provide an opportunity to revise proposals, nor does it guarantee that determinations will be overturned.

**10.14. Public Participation and City Council Action**

- 10.14.1. Responsibility for the appropriation of all CDBG/ESG funds resides with the City Council, which considers the advisory input of the CHCDC, however HUD regulations require a certain level of public participation. Public participation will be accomplished through a series of public meetings and an opportunity for public comment on the annual Action Plan prior to the submission of the plan to HUD. The City will follow its Citizen Participation Plan to comply with HUD Citizen Participation requirements.

## **11. Subpart K – Other Program Requirements**

- 11.1.** Subpart K sets forth certain additional program requirements which are determined to be applicable to CDBG grants provided as a matter of administrative discretion. The Community Development Programs Staff shall incorporate the following additional program requirements as per § 570.600 through § 570.614 as applicable.

**11.2. Affirmatively Furthering Fair Housing/Non-discrimination**

- 11.2.1. § 570.601**
- 11.2.2. The City as a recipient of CDBG funds shall ensure that subrecipients comply with Title VI of the Civil Rights Act of 1964 (prohibiting race, color, and national origin

discrimination including language access for limited English proficient persons), Section 504 of the Rehabilitation Act of 1973 (prohibiting disability discrimination), Title IX of the Education Amendments of 1972 (prohibiting sex discrimination in education and training programs), the Age Discrimination Act of 1975 (prohibiting age discrimination in the provision of services), and a variety of program-specific statutes with nondiscrimination requirements.

- 11.2.3. Programs may target particular groups for services without violating guidelines regarding equal access to services, so long as any member of the particular group - e.g., any senior for a senior services program, any school-age child for a neighborhood-based afterschool program - is able to participate in the program.
- 11.2.4. The City shall ensure that provisions of Executive Order No. 11246 of September 24, 1965, as amended, regarding Equal Employment Opportunity are carried out on all CDBG funded projects or activities, and that subrecipients agree to and abide by federal (FHEO) and state (CA DFEH) fair housing and equal opportunity requirements for non-discrimination with regard to access to services or housing provided by a subrecipient.
- 11.2.5. The City will further ensure that provisions of Executive Order 13166, "Improving Access to Services by Persons with Limited English Proficiency," are carried out by subrecipients to improve access to CPD programs and activities by eligible persons with limited English proficiency (LEP).

**11.3. Section 109 - Prohibitions against Discrimination**

- 11.3.1. § 570.602
- 11.3.2. The City and all subrecipients shall adhere to Section 109 of the Act which requires that no person in the United States shall on the grounds of race, color, national origin, religion, or sex be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance made available pursuant to the Act. Section 109 also directs that the prohibitions against discrimination on the basis of age under the Age Discrimination Act and the prohibitions against discrimination on the basis of disability under Section 504 shall apply to programs or activities receiving Federal financial assistance under Title I programs.

**11.4. Labor Standards**

- 11.4.1. § 570.603
- 11.4.2. Whenever CDBG funds in excess of \$2,000 are allocated for construction projects (excluding homeowner occupied residential rehabilitation and first-time homebuyer activities), the City, subrecipient and any contractor(s) shall abide by

requirements of Davis Bacon and Related Acts (DBRA) for prevailing wages and of Section 3 economic opportunities for low and very low-income persons. The City shall provide appropriate guidance to both subrecipient and contractor regarding DBRA requirements, including wage determinations, and Section 3 requirements as applicable to all CDBG-funded projects.

**11.4.3. Labor Standards Enforcement**

11.4.3.1. The City of Modesto Community Development Division has developed Federal Labor Standards Enforcement Guidelines. These guidelines will be provided to the respective City Department, subrecipient, or contractor responsible for contract oversight. The Federal Labor Standards Enforcement Guidelines will be enforced throughout the implementation of any applicable HUD funded activities by City of Modesto Community Development Division staff.

**11.5. Environmental Review**

**11.5.1. 24 CFR part 58 § 570.605 § 570.604**

11.5.1.1. The environmental review procedures set forth at 24 CFR part 58 must be completed for each activity (or project as defined in 24 CFR part 58), as applicable. Contracts will not be executed with subrecipients and expenditures for City-managed projects will not be approved until environmental review is complete. State (CEQA) environmental regulations requirements will also be considered. Environmental review forms and documents must be signed by the appropriate staff preparing the environmental review and the Certifying Officer.

11.5.1.2. The City will ensure that all *Finding of No Significant Impact* (FONSI) and *Request for Release of Funds* (RROF) requirements are completed for capital improvement projects and housing rehabilitation projects prior to initiation of project activities.

**11.6. Citizen Participation**

11.6.1. Throughout the implementation of HUD grant programs, the City of Modesto will comply with all Citizen Participation plan requirements to ensure proper public noticing, citizen participation, and public hearings are conducted. The City of Modesto's Citizen Participation Plan may be found at <https://www.modestogov.com/1848/Publications-Reports>.

**11.7. Relocation**

11.7.1. §570.606

- 11.7.1.1. In the event of any temporary or permanent relocation of residents or businesses as a result of CDBG-funded activity, the City will follow § 570.606 - Displacement, relocation, acquisition, and replacement of housing as applicable and/or its Relocation Plan as set forth in the Citizen Participation Plan. The Plan shall be updated as needed to adhere to HUD Handbook 1378, *Real Estate Acquisition and Relocation Policy and Guidance*.

**11.8. ADA Requirements**

- 11.8.1. The City will abide by HUD regulations in Section 504, HUD's implementation of the American with Disabilities Act, to ensure that no qualified individual with a disability should, only by reason of his or her disability, be excluded from the participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving CDBG funds. The City will include monitoring for Section 504 compliance as part of the annual monitoring of HUD Entitlement funded programs/projects. Monitoring will include inspection of facilities in which CDBG- funded program are offered to ensure that the facilities are accessible to persons with disabilities.

**11.9. Financial Management**

- 11.9.1. The City will comply with record keeping requirements as outlined in 2 CFR Part 200.302(b)(1):
  - 11.9.1.1. The financial management system of the City will provide for the following:
    - 11.9.1.1.1. Identification, in its accounts, of all Federal awards received and expended and the Federal programs under which they were received. Federal program and Federal award identification will include, as applicable, the CFDA title and number, Federal award identification number and year, name of the Federal agency, and name of the pass-through entity, if any.
  - 11.9.2. Vendors (this includes subrecipients, vendors, or contractors) will be paid on a reimbursement basis upon receipt of a Request for Funds reimbursement form with all supporting documentation.
  - 11.9.3. All reimbursement requests must be accompanied by the “**Invoice Checklist**” including all required items listed on the invoice checklist for an invoice to be processed by the City’s Finance Department.

- 11.9.4. Payment to Vendors and reimbursement from HUD will occur only after Community Development staff has verified that the work, for which reimbursement is being issued, has been completed.
  - 11.9.4.1. Verification of work completion will take place by conducting onsite inspections and including an inspection report (if applicable) reflecting a "pass".
- 11.9.5. Reimbursement of funds to contractors for capital projects will be paid directly to the contractor or vendor with whom a contractual agreement has been entered into with.
- 11.9.6. Reimbursement payments will be made only upon presentation of invoices from the contractor or vendor and approved for payment by the Community Development Program Staff responsible for Labor Standards review (if applicable).
- 11.9.7. Final payments to Vendors will be made only upon submission of final program reports that document the achievement of program goals and satisfactory completion of the CDBG-funded activity.
- 11.9.8. Each request for payment must have adequate documentation for the costs incurred such as payroll records, purchase orders, copies of canceled checks, timesheets reflecting time spent directly on CDBG activities, etc. Requests must be only for costs directly related to the approved activity and included in the approved budget attached to the contract.
- 11.9.9. Subrecipients may not use CDBG funds for general administrative costs or "overhead" costs, unless the subrecipient has established a cost allocation for such costs, applicable to all subrecipient activities regardless of funding source.
- 11.9.10. Subrecipients will be required to submit requests for reimbursement on a quarterly basis, unless otherwise approved by Community Development Division staff.
- 11.9.11. The City will not request CDBG funds in advance or as "float" funds from the U.S. Treasury.

#### **11.10. HMIS Participation**

- 11.10.1. CDBG/ESG-funded projects designed to assist persons experiencing homelessness or designed to prevent homelessness are required to participate in the Homeless

Management Information System (HMIS) of the Stanislaus County Continuum of Care (CoC) and regularly attend CoC meetings and participate in CoC related matters. Furthermore, subrecipients are required to execute an HMIS Data Sharing Agreement to share HMIS Universal Data Elements to more effectively utilize and enhance HMIS data quality.

**11.11. CDBG Sponsored Identification Requirement**

11.11.1. Sub-recipients and subcontractors receiving CDBG funds from the City of Modesto shall ensure that all CDBG-funded programs and activities are clearly identified to participants and the public as those of the CDBG program, and that these programs and activities do not appear to be an extension of the programs and activities of any private organization or public institution. To comply with this requirement, a notification to be worded as follows shall be clearly posted or otherwise displayed: “This project is funded in whole or in part with Community Development Block Grant (CDBG) Program funds provided by the U.S. Department of Housing and Urban Development (HUD).

**11.12. Section 3 Compliance**

11.12.1. The requirements for Section 3 of the Housing and Urban Development Act of 1968, as amended (Section 3) applies to capital projects and housing development projects that exceed \$200,000 in HUD funding. Subcontractors receiving an excess of \$100,000 from projects required to comply with Section 3 shall also be required to comply with Section 3 requirements. These requirements are listed in the CDBG Agreement.

**11.13. Single Audit Report (SAR) compliance**

11.13.1. The City of Modesto will ensure any corrective action plans identified as a result of any Single Audits are carried out in accordance with the Single Audit Act.

11.13.1.1. To comply with corrective action plans, the City will develop a table listing of corrective actions identified with the respective finding number, list of planned corrective actions, identify an anticipated completion date, and identify a responsible contact person.

**11.14. Cost Reasonableness and Scope of Work**

11.14.1. As a CDBG recipient, the City of Modesto is held accountable for all funds, property and assets of the CDBG program. The City of Modesto must maintain a financial accounting system for grants that meets the CDBG regulations, 24 CFR Part 84 and OMB Circulars A-

87 and A-133. This includes requirements pertaining to financial management systems and records, allowable costs and audits.

- 11.14.1.1. The City of Modesto is required to ensure that CDBG funds are spent only on reasonable and necessary costs associated with approved grant activities and must have a procedure for determining the reasonableness, allowability and allocability of costs.
  - 11.14.1.1.1. For all assisted projects, the procedure for determining reasonableness will include the preparation of a detailed scope of work and an independent cost estimate.
    - 11.14.1.1.1.1. A detailed Scope of Work will identify project milestones, reports, deliverables, and end products that are expected to be provided by the performing party. The Scope of Work will also include a timeline for all deliverables.
    - 11.14.1.1.1.2. An independent cost estimate will be established utilizing local market data and published cost guidelines.
    - 11.14.1.1.1.3. The project manager and supervisor will work with the appropriate parties to develop the independent cost estimate to ensure the cost estimate is reasonable based on local market data.
- 11.14.2. To comply with cost reasonableness requirements, the City of Modesto will review all requests for payments to ensure that costs are allowable under regulations, approved in the CDBG grant application, allocated to the correct program activity and are reasonable.
- 11.14.3. A cost is reasonable if, in its nature and amount, it does not exceed that which would be incurred by a prudent person under the circumstances prevailing at the time the decision was made to incur the cost.
  - 11.14.3.1. In determining reasonableness of a given cost, consideration shall be given to whether the cost is of a type generally recognized as ordinary and necessary to address the housing condition being considered for repair.
  - 11.14.3.2. A cost analysis of the scope of work items shall be made and documented in the project file. Cost analysis is the review and evaluation of each element of cost to determine reasonableness, allocability, and allowability.
  - 11.14.3.3. Cost analysis may be accomplished in various ways, including the comparison of price quotations submitted, market prices and similar indicia, together with discounts.

- 11.14.3.4. All change orders will be subject to a cost reasonableness evaluation by the project manager and approval by the HUD Supervisor.
- 11.14.4. Cost reasonableness shall be determined by comparing the bids received with the cost estimate prepared by the project manager.
- 11.14.5. Comparable estimates may also be considered, when optimal, for utilization of services that may have limited providers of services (e.g. – a sole source provider) for work to be performed.
- 11.14.6. The project manager will work to manage project/vendor costs through the most efficient and economically feasible project/vendor contracting model.
- 11.14.7.

## 12. Contract Monitoring

- 12.1. The City of Modesto (the recipient) and any entities it enters into contract with must have written policies and procedures to ensure that CDBG, HOME, and ESG funds are used in accordance with HUD requirements and sufficient records to enable HUD, and the recipient to determine whether CDBG, ESG or HOME requirements are being met. [24 CFR 576.500(a)]
- 12.2. As the lead agency for HUD Entitlement funds, the City of Modesto will monitor all contract types (e.g. Sub-recipient, Developer, Construction/Contractor, collectively referred to as hereafter “Entity”) on a regular basis through written contacts, phone conversations, electronic information transfers, face-to-face monitoring visits (at least once annually), and project file review, pursuant to applicable regulation.
- 12.3. Monitoring will be conducted to ensure statutory and regulatory requirements are being met and that information submitted to City of Modesto is accurate and complete.
- 12.4. Monitoring will normally be conducted utilizing a three (3) tiered approach, depending upon the risk involved:
  - 12.4.1. **Limited Review**
    - 12.4.1.1. A limited review will be conducted of all contracts and projects on an annual basis. The timing of this monitoring will be in alignment with an organization’s submittal of a Quarterly Performance Report and an

Invoice for Payment for expenses incurred against their City grant over the previous 90 days.

- 12.4.1.2. At least one quarter review will focus on the year-end financial statement or audit, and where applicable, the Single Audit. If the Single Audit contains audit findings or contains a management letter, the contract recipient will be selected for an in depth review. The goal of a Limited Review is to provide clarification to a specific unknown submission that cannot be determined from the reports, and to identify areas of technical assistance needed by each contract recipient.

#### **12.4.2. On-Site Monitoring Review**

- 12.4.2.1. An on-site monitoring review will be a site visit to a contract program assisted with HUD funds and will achieve a balance between programmatic and fiscal reviews, and much documentation review can be done prior to the on-site visit. The on-site monitoring includes a tour of the program facilities as appropriate, an explanation of the services provided, discussions with program and administrative staff, and introduction to one or more actual beneficiaries, if possible. As a result of this visit, staff will determine whether an in-depth review is needed for further clarification of one or more issues identified during the on-site visit.
- 12.4.2.2. **A Program review** will focus on the specific contracted program activities. Program staff may be asked to define the strategic plans for the related programs and, as applicable, how those plans are used to help clients in those programs.
- 12.4.2.3. **A Financial review** will make the connections between the program budget, expenditures and actual beneficiaries assisted, including evidence of case managers time in client files, reviewing payroll documents for the period clients are reported, determining eligibility of clients based on income documentation in client files, the general relationship between the contents of client files (excluding Attorney Client or HIPAA confidential data) and benefit data reported by the Entity on the same clients.
- 12.4.2.4. **The number of case files** to be reviewed will reflect approximately 10% of the total clients served in the program, or more if there appear to be any

systemic issues that need to be addressed.

12.4.2.4.1. Case files selected for review shall be selected randomly directly from contractor's file storage cabinets or other place of storage.

12.4.2.5. **Invoices** may be randomly selected for review and traced back from City reimbursement to the original organization's advance expenditure and client assisted (if appropriate). For example, exact dollars billed for housing accessibility modifications can be traced directly to one client. Conversely, a different review model is required when dollars billed provided case management for multiple homeless individuals. It is expected that staff will review original invoices, cancelled checks, and other such documentation evidencing the expenditure, the relationship to the CDBG program objective, the appropriate proportion of CDBG expenditure in comparison to other funding, and accounting receipt of the federal grant funds.

12.4.3. In-Depth Review

12.4.4. An in-depth review will be a concentrated and focused review around a particular activity or program area. This will typically be a concentrated review of a known high-risk area or critical function, such as but not limited to:

- 12.4.4.1.1. Financial review for expenditures for ineligible activities,
- 12.4.4.1.2. Financial review for expenditures that cannot be traced through supporting documentation,
- 12.4.4.1.3. A program which requires donations as a condition of receiving service,
- 12.4.4.1.4. Management practices in affordable housing,
- 12.4.4.1.5. Section 504 and ADA compliance reviews upon receipt of a complaint from a person with disabilities,
- 12.4.4.1.6. A fair housing complaint from a home seeker treated differently while trying to obtain housing from the Entity,
- 12.4.4.1.7. Denial of services for no valid reason, or
- 12.4.4.1.8. Failure to meet prevailing wage requirements in construction activities subject to Davis Bacon, etc.

## 12.5. Administrative Process for Monitoring

12.5.1. Monitoring will be conducted in two phases. File review will generally confirm compliance with reporting requirements, financial submittals, and contract

provisions and much of it will be completed prior to the onsite visit. On-site reviews will focus more on the beneficiary documentation and services provided, including quantitative performance outcomes to local and federal objectives, and financial processes and documentation only available at the program site.

12.5.2. Staff will use the risk analysis criteria identified in Section 12.4 to determine the type of monitoring approach for each Entity. Upon the arrangement of mutual date and time with the Entity, staff will send letters at least two (2) weeks in advance of the date the monitoring is to be held. The monitoring policies and checklist may be provided to the Entity and the letter may emphasize any specific areas of compliance to be reviewed and how files will be selected for review, as applicable.

12.5.3. At the conclusion of the monitoring visit, staff will send each Entity written documentation of the site visit, summarizing what was reviewed, and indicating any findings of regulatory non-compliance or concerns of program weaknesses. Additionally, staff will provide technical assistance to correct any deficiencies noted, and will acknowledge the performance level of the program, and whether they will either meet or fall short of contract goals.

## **12.6. Findings, Concerns & Noncompliance**

### **12.6.1. Findings**

12.6.1.1. Where an identified deficiency results in a finding of non-compliance with CDBG/ESG rules, the finding will be communicated to the Entity citing the finding/violation, regulatory or statutory requirement not met, and the corrective action with a deadline.

12.6.1.2. The monitoring letter should also provide timelines for response and corrections, as well as actions the City may take if the Entity fails to make corrections in a timely manner.

### **12.6.2. Concerns**

12.6.2.1. Monitoring concerns will be brought to the Entity's attention. City staff will suggest or recommend actions that the Entity may take to address a concern, based on sound management principles or other guidelines. Corrective actions are not **required** for concerns; however City staff may offer specific recommendations and/or requests for improvement. Non-responsiveness to these concerns may impact current and future funding

recommendations.

### **12.6.3. Actions for Non-Compliance**

12.6.3.1. Entities that are found to be in non-compliance and receive a finding as a result of their monitoring will be provided with technical assistance towards resolution, and actions taken by the City to achieve compliance may include, but not be limited to, withholding further disbursements of CDBG funds until satisfactory compliance with applicable regulations are achieved.

12.6.3.2. City staff will offer technical assistance to Entities when monitoring indicates less than complete compliance with CDBG regulations or contract requirements. Such assistance may include, but is not limited to, providing applicable copies of Office of Management and Budget (OMB) circulars, in particular OMB Circular No. A-122 *Cost Principles for Nonprofit Organizations*. In addition, the latest edition of *Playing by the Rules* guidance for CDBG subrecipients may be provided.

## **13. CDBG Timeliness**

**13.1.** Entitlement jurisdictions that receive CDBG funds, such as the City of Modesto, are required to use CDBG funds in a timely manner. Per 24 CFR 570.902, the HUD standard requires that entitlement jurisdictions not have more than 1.5 of its annual grant in its line of credit 60 days prior to the close of the program year. That date is April 30th for the City of Modesto.

**13.2.** The penalty for noncompliance may include sanctions, such as the loss of future CDBG funding. As such, CDBG funds are subject to reprogramming by the City if a City Project or sub-recipient activity is no longer feasible and/or there is lack of activity and expenses within the first six months of the date of the allocation.

## **14. Playing by the Rules Handbook**

**14.1.** Sub-recipients receiving CDBG funds shall adhere to all other requirements set forth in the Playing by Rules Handbook, as provided through the City of Modesto's CDBG Program: <https://www.hudexchange.info/resource/687/playing-by-the-rules-a-handbook-for-cdbg-subrecipients-on-administrative-systems/>