

### CHAPTER 3.0: OUTLINE OF TRAINER PRESENTATIONS

The next two pages identify the regulations and OMB circulars applicable to subrecipients participating in the CDBG program. Following “the rules of the game” are eight training modules outlining the specific program requirements for each of the administrative areas covered. The presentations are not intended to be structured as rigid speeches or monologues but rather as informal presentations of key issues surrounding subrecipient administrative systems that are addressed in the subrecipient handbook Playing by the Rules. Their purpose is to summarize and/or focus the dialogue with participants on the key learning points for that module.

The outlines are offered as seminar notes to be used with overhead projectors or as PowerPoint presentations.

## THE RULES OF THE GAME

### Applicable CDBG Regulations

*Subpart J (24 CFR 570.500–570.513) covers grant administration*

*Subpart K (24 CFR 570.600–570.613) deals with other program requirements*

### Other requirements that affect administrative systems and procedures:

- Federal regulations governing administrative and audit requirements for grants and cooperative agreements
- Administrative circulars from OMB and Department of the Treasury
- Executive Orders from the Office of the President

### Applicable only to subrecipients that are private, *non-profit entities*

**24 CFR Part 84 “Uniform Administrative Requirements for Grants and Agreements with Institutions of Higher Education, Hospitals, and Other Non-profit Organizations”**

*and*

**OMB Circular A-122 “Cost Principles for Nonprofit Organizations”**

*or*

**OMB Circular A-21 “Cost Principles for Educational Institutions”**

*and*

**OMB Circular A-133 “Audits of States, Local Governments, and Non-profit Organizations”**

**THE RULES OF THE GAME (continued)**

**Applicable to Governmental Subrecipients**

**24 CFR Part 85 “Uniform Administrative Requirements for Grants and Cooperative Agreements to State, Local, and Federally Recognized Indian Tribal Governments” (also known as “the Common Rule”)**

*and*

**OMB A-87 “Cost Principles for State and Local Governments”**

*and*

**OMB-133 “Audits of State, Local Governments, and Non-profit Organizations”**

Title 24 regulations and OMB circulars may be accessed at the HUD Web site at <http://www.hudclips.org/cgi/index.cgi>.

## **Part I: Introduction to Financial Systems**

### **Regulations**

**24 CFR 85.20** – Governmental and public agency subrecipients

**24 CFR 84.20 and 84.21 (as amended by 570.502)** – Private, non-profit subrecipients.\*

### **Purposes**

- 1) Provide control and accountability over funds and assets.
- 2) Identify source and application of Federal funds to activities.
- 3) Allow for accurate and timely financial reporting.
- 4) Minimize time elapsed from transfer of funds to disbursement by subrecipient.

### **Four Areas Covered**

- Internal controls
- Basic accounting records
- Allowable costs
- Source documentation

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\* Community-Based Development Organizations (CBDOs) described at 24 CFR 570.204 are not subrecipients unless so designated by the grantee. Under limited circumstances, certain for-profit entities may qualify as CBDOs. Where CBDOs are designated as subrecipients by the grantee, they are subject to the provisions identified in this guidance for non-profit organizations, regardless of whether they are non-profit or for-profit entities.

## Internal Controls

### Regulations

**24 CFR 85.20(b)(3)** – Governmental and public agency subrecipients

**24 CFR 84.21(a)(3)** – Private, non-profit subrecipients

**Internal controls = people, process, and documents that enable an organization to control its financial assets.**

### Internal controls ensure that:

- Resources are used for authorized purposes.
- Opportunities for waste, mismanagement, or loss are minimized.
- Reliable information on source, amount, and use of resources are secured, up-to-date, and recorded.

### Basic elements of an internal controls system:

- Organizational chart
- Written definition of duties of key employees
- Formal system of authorization and supervision
- Separation of duties
- Staff qualifications
- Control over access to assets, blank forms, and confidential documents
- Comparisons of financial records to actual assets and liabilities

## Basic Accounting Records

### Regulations

**24 CFR 85.20(b)(2)** – Governmental and public agency subrecipients

**24 CFR 84.21** – Private, non-profit subrecipients

### Elements of an accounting system:

- Chart of accounts
- Cash receipts journal
- Cash disbursements journal
- Payroll journal
- General ledger

### Sources and uses of funds:

#### Sources

- Grant awards
- Program income

#### Uses

- Current authorizations and obligations
- Unobligated balances
- Assets and liabilities
- Outlays or expenditures

### Maintenance of records:

- Journal entries approved and explained/supported.
- Posting and trial balances performed on a regular basis.
- Fidelity bond coverage obtained for organization officials.

## **Allowable Costs**

### **Regulations**

**24 CFR 85.22** – Governmental and public agency subrecipients

**24 CFR 84.27** – Private, non-profit subrecipients

### **Standards**

**OMB Circular A-87** – Governmental and public agency subrecipients

**OMB Circular A-122** – Private, non-profit subrecipients

**OMB Circular A-21** – Educational institutions

### **Costs are allowable if:**

- Expenditure is necessary, reasonable, and directly related to the grant.
- Authorized by the grantee.
- Expenditure is not prohibited under Federal, state, or local laws.
- Expenditure is consistently treated.
- Cost is allocable to the CDBG program.
- Cost is net of all applicable credits.

## **Source Documentation**

### **Regulations**

**24 CFR 85.20(b)(6)** – Governmental and public agency subrecipients

**24 CFR 84.21(b)(7)** – Private, non-profit subrecipients

**1. Source documentation must explain the basis of the costs incurred:**

#### **Payroll**

- Hiring letters, pay rate authorizations, benefits and employee withholdings, time and attendance records

#### **Space and utilities**

- Rental or lease agreements, utility company bills, canceled checks

#### **Supplies**

- Purchase orders, requisition forms, vendor invoices, canceled checks

- 2. All documentation must be readily available for review by grantee or HUD.**
- 3. Recorded encumbrance/obligation or current information on all obligations.**
- 4. Complete, accurate, and up-to-date record of program income.**

## **Part II: Financial Systems (continued)**

### **Regulations**

**24 CFR 85.20(b), 85.21, and 85.41, paragraphs (c) and (d)** – Governmental and public agency subrecipients

**24 CFR 84.21 and 570.502(b)(3)(I)** – Private, non-profit subrecipients

### **Purposes**

- 1) Provide control and accountability over funds and assets.
- 2) Identify source and application of Federal funds to activities.
- 3) Allow for accurate and timely financial reporting.
- 4) Minimize time elapsed from transfer of funds to disbursement by subrecipient.

### **Three Areas Covered**

- **Budget Controls**
- **Cash Management**
- **Financial Reporting**

## **Budget Controls**

### **Purposes**

- 1) Monitor obligations and expenditures against approved budgets.
- 2) Ascertain whether a formal budget revision will be necessary.

**In order to compare and control expenditures against approved budgets, a subrecipient must:**

- Maintain records of the amounts budgeted for eligible activities.
- Include unexpended/unobligated balances for budgeted categories.
- Compare planned versus actual obligations and expenditures.

## Cash Management

### Regulations

**24 CFR 85.21** – Governmental and public agency subrecipients

**24 CFR 84.21 and 570.502(b)(3)(i)** – Private, non-profit subrecipients

### Two methods available to transfer CDBG grant funds to subrecipients

- Reimbursement method
- Cash advance method

### Cash management requirements:

- Include accurate information in drawdown requests.
- Timely payment of program costs (generally within 3 business days of deposit of funds).
- Return erroneously drawn funds to the grantee in a timely fashion.
- Return interest income earned on advances [570.500(a)(2)].
- Program income must be used for payment of program costs prior to requesting further drawdowns [570.504(b)(2)(ii) and 570.504(c)].
- Program income in a revolving fund must be used for the same activity for which the revolving fund was established before drawing down more funds for that activity. The account must be interest bearing and interest earned on funds held in the account must be remitted to the grantee at least annually [570.500(b) and 570.504(b)(2)(i)].
- Funds held in an escrow account for rehabilitation activities generally must be disbursed within 10 days [570.511(a)(4)].

## **Financial Reporting**

### **Regulations**

**24 CFR 85.20(b) and 85.41(c) and (d)** – Governmental and public agency subrecipients

**24 CFR 84.21 and 570.502(b)(3)(i)** – Private, non-profit subrecipients

**Financial reports must be accurate, timely, and current.**

### **Basic elements of financial reports:**

- Amount budgeted
- Advances/reimbursements received to date
- Program income and other miscellaneous receipts
- Actual expenditures/disbursements
- Current encumbrances/obligations in addition to disbursements
- Unpaid requests for payment

### **Other Requirements:**

- Loan Servicing
- Cash Depositories
- Real Property

## **Part III: Procurement and Contracting**

### **Regulations**

**24 CFR 85.36** – Governmental and public agency subrecipients

**24 CFR 84.40-48** – Private, non-profit subrecipients

### **Purposes**

To ensure that supplies, equipment, construction, and services are:

- 1) Obtained as efficiently and economically as possible.
- 2) Procured in a manner that provides open and free competition.

### **Four Areas Covered**

- **General Procurement Requirements**
- **Four Permitted Approaches**
- **Bonding**
- **Use of Local, Small, and Women- and Minority-Owned Businesses (MBE/WBEs)**

## **General Procurement Requirements**

### **General requirements for procurement:**

- Maintain records on significant history of procurement.
- Pre-qualified list of vendors/contractors must be current.
- Exclude contractors that develop or draft specifications.
- No awards made to debarred, suspended, or ineligible parties.
- Written selection procedures for transactions.
- Do not use “cost plus a percentage of cost” contracts.
- Have procedures for protest in place.
- Documented system of contract administration.
- Written code of conduct for award or administration of contracts.

## **Permitted Approaches to Procurement**

### **Regulations**

**24 CFR 85.36(d)(1-4)** – Governmental and public agency subrecipients

**24 CFR 84.44** – Private non-profit subrecipients

### **Methods of procurement available:**

- 1) Small purchases (\$100,000 or less in aggregate)
- 2) Competitive sealed bids (formal advertisement)
- 3) Competitive proposals
- 4) Noncompetitive proposals/sole source procurement
  - Used in limited circumstances

## Bonding

### Regulations

**24 CFR 85.36(h)** – Governmental and public agency subrecipients

**24 CFR 84.31 and 84.48(c)** – Private, non-profit subrecipients

### Requirements for bonding:

- 1) Construction or facility improvement contracts over \$100,000: **Must meet the following minimal Federal requirements:**
  - Bid guarantee equal to 5 percent of bid price.
  - Performance bond for 100 percent of contract price.
  - Payment bond for 100 percent of contract price.
  
- 2) Construction contracts equal to or less than \$100,000
  - Non-profits follow own policies, although Subrecipient Agreement may mandate that both non-profit and governmental subrecipients comply with grantee policies.

## **Use of Local, Small, and Women- and Minority-Owned Businesses**

### **Regulations**

**24 CFR 85.36(e)** – Governmental and public agency subrecipients

**24 CFR 84.44(b)** – Private, non-profit subrecipients

**24 CFR 570.607(b)** and **24 CFR Part 135**

### **Efforts must be made to use such businesses through:**

- Inclusion in solicitation lists.
- Ensuring that such businesses are solicited.
- Dividing procurement requirements when appropriate.
- Requiring prime contractors to take affirmative steps to select such firms as subcontractors.

### **Section 3 of Housing and Community Development Act of 1968**

- Use business concerns located in/owned by residents of target area.

## **Part IV: Property Management and Disposition**

### **Regulations**

**24 CFR 570.503(b)(7)** – All subrecipients

**24 CFR 85.32, as modified by 570.502(a)(8), and 85.33–85.34** – Governmental and public agency subrecipients

**24 CFR 84.30–33, 84.34 as modified by 570.502(b)(3)(v) and (vi) and 84.35-37** – Private, non-profit subrecipients

### **Property Categories:**

- 1) Real property (land/buildings)
- 2) Personal property
  - Tangible (expendable/nonexpendable)
  - Intangible

### **Four Areas Covered**

- **General Responsibilities**
- **Real Property Use**
- **Personal Property**
- **Property Disposition and Program Income**

## **General Responsibilities**

### **General requirements for property management:**

- Property can only be acquired for a specific purpose.
- Property must be used for approved purpose.
- Keep accurate records.
- Control use of property and care for property.
- Follow rules for disposing of property.

## Real Property Use

### Regulations

**24 CFR 570.505** – All entitlement grantees

**24 CFR 570.503(b)(7)** – All subrecipients

**During the life of the Subrecipient Agreement and for at least 5 years thereafter, the use of property acquired or improved using CDBG funds in excess of \$25,000 cannot change without:**

- Meeting a national objective.

**If a national objective is not met, the subrecipient must:**

- Reimburse the grantee the current fair market value of the property minus any pro-rata share attributable to non-CDBG funding.

**Grantee agency subrecipients (570.505) cannot change the use of property without:**

- Citizen notification and opportunity to comment on any proposed change.
- Meeting a national objective.

**If a national objective is not met, the grantee must:**

- Reimburse its CDBG account the current fair market value minus the pro-rata share attributable to non-CDBG funding.

## **Personal Property**

### **Regulations**

**24 CFR 85.32 and 85.33** – Governmental and public agency subrecipients

**24 CFR 84.34 as modified by 570.502(b)(3)(vi) and 84.35** – Private, non-profit subrecipients

### **Governmental and Non-profit Subrecipients**

#### 1) Equipment

- To be used in project for which intended and as long as needed.
- Follow management requirements.

#### 2) Supplies

- Tangible personal property other than equipment.

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## Personal Property Disposition

### Regulations

**24 CFR 570.503** – All subrecipients

**24 CFR 85.32–33 as modified by 570.502(a)(8)** – Governmental and public agency subrecipients

**24 CFR 84.34(g) as modified by 570.502(b)(3)(vi) and 84.35** – Private, non-profit subrecipients

### Governmental Subrecipients

#### 1) Equipment

- Value less than \$5,000.
- Value of \$5,000 or more.
- Grantee reserves right to transfer title.
- In all cases, net proceeds are program income.

#### 2) Supplies

- Compensate grantee for unused inventory exceeding \$5,000.

### Non-profit Subrecipients

#### 1) Equipment

- Transfer inventory to grantee or compensate grantee.
- In all cases, proceeds are program income.

## 2) Supplies

- Value greater than \$5,000.
- Transfer inventory to grantee or compensate grantee.
- In all cases, proceeds are program income.

## **Part V: Record-Keeping and Reporting Requirements**

### **Regulations**

**24 CFR 570.506** – All subrecipients

### **Purposes**

- 1) Verify National Objective & Eligible Activities.
- 2) Check/Report Progress and Track Performance.
- 3) Check Regulatory Compliance.

**Accurate record keeping and reporting are keys to success.**

### **Four Areas Covered**

- **Three Basic Categories (Administrative/Financial/Project)**
- **File Organization and Maintenance**
- **Retention of Records**
- **Access and Reporting Requirements**

## **Basic Categories of Records**

### **Three basic categories of records:**

- Administrative records
- Financial records
- Project/case files

**General CDBG standard = records must be accurate, complete, and orderly.**

## **File Organization and Maintenance**

### **Each activity should have a project or case file that includes:**

- A full description of the activity, including the location, amount of CDBG funds budgeted, obligated, and expended.
- The provision under which the activity is eligible.
- Records demonstrating compliance with a national objective.
- Characteristics and numbers of beneficiaries.
- Determinations required for eligibility.
- The amount budgeted for the activities.
- Compliance with other program requirements; i.e., lead-based paint, fair housing, and equal opportunity, etc.
- Status of case/project.

### **Effective methods for:**

- Compiling cumulative data
- Including data in periodic reports
- Logs for recording and totaling programmatic data

## Retention of Records

### Regulations

**24 CFR 570.503(b)(2)** – All subrecipients

**24 CFR 85.42 as modified by 570.502(a)(16)** – Governmental and public agency subrecipients

**24 CFR 84.53 as modified by 570.502(b)(3)(ix)** – Private, non-profit subrecipients

### Purposes

- 1) Avoid monitoring findings.
- 2) Facilitate audit reviews.
- 3) Resolution of litigation or audit findings.

**General Rule: Records are to be retained for *at least* 4 years after last expenditure report is submitted (i.e., 4 years after submission of the Consolidated Annual Performance and Evaluation Report [CAPER] in which activity is reported as complete).**

## Access and Reporting Requirements

### Regulations

**24 CFR 570.503(b)(2)** – All subrecipients

**24 CFR 85.40 (a) and (e), 85.41(c) and (d)** – Governmental and public agency subrecipients

**24 CFR 84.53(e)** – Private, non-profit subrecipients

### Parties with rights to access:

- HUD (including IG)
- Grantee
- Comptroller General of the United States (GAO)
- Citizens

### Typical reports to grantees:

- Information on drawdown requests
- Progress reports (with accomplishments)
- Annual Performance Report

## **Part VI: Other Administrative and Program Requirements**

### **Fourteen Requirements of 24 CFR Part 570, Subparts J and K**

- 1) Program Income
- 2) Programmatic and Budget Changes
- 3) Civil Rights, Fair Housing, Employment and Contracting Opportunities, Affirmatively Furthering Fair Housing
- 4) Labor Standards
- 5) Environmental Requirements
- 6) Historic Preservation
- 7) National Flood Insurance Program
- 8) Floodplain Management
- 9) Relocation, Real Property Acquisition, and One-for-One Housing Replacement
- 10) Lead-Based Paint
- 11) Political Activity
- 12) Conflict of Interest
- 13) Program Monitoring
- 14) Suspension and Termination

**NOTE: Chapter 6.0 of Playing by the Rules should be consulted for an overview of the requirements in each of the above areas.**

## **Part VII: Audits**

### **Regulations**

**Single Audit Act of 1984** – All subrecipients

**OMB Circular A-133** – Audits of States, Local Governments, and Non-profit Organizations

**24 CFR 85.26** – Governmental and public agency subrecipients

**24 CFR 84.26** – Private, non-profit subrecipients

### **Purposes**

To determine if your agency has adequate systems in place to ensure that:

- 1) Goals and objective are met.
- 2) Resources are safeguarded.
- 3) Laws and regulations are followed.
- 4) Reliable data are obtained, maintained, and accurate (full disclosure).

### **Five Areas Covered**

- **Types of Audits and General Requirements**
- **Internal Control and Compliance Review**
- **Audit Reports**
- **Auditor Selection, Procurement, and Costs**
- **Audit Review and Resolution**

## **Types of Audits and General Requirements**

### **Types of Audits**

- Financial audits
- Performance audits

### **General requirements:**

- Expend \$500,000<sup>1</sup> or more annually in total Federal assistance = independent audit.
- Less than \$500,000\* annually = exempt from Federal audit requirements for that year.

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<sup>1</sup> Threshold was \$300,000 for fiscal years ending prior to December 31, 2003.

## **Internal Control and Compliance Review**

### **Compliance testing:**

- Allowability of costs.
- Intended beneficiaries served.
- Limitations on public services and administrative costs met.
- Financial reports, requests for reimbursement supported.
- Use and recordation of program income.
- Expenses in accord with cost principles and administrative requirements.

## Audit Reports

### Elements of audit reports:

- Financial statements and schedule of Federal assistance.
- Evaluation of the subrecipient's internal control system.
- Report on compliance.
- Schedule of findings and questioned costs.

**Due to grantee within 30 days of the audit.**

**Maintain copies for *a minimum of 4 years*.**

## Auditor Selection, Procurement, and Costs

### Regulations

**24 CFR 85.36** – Governmental and public agency subrecipients

**24 CFR 84.40** – Private, non-profit subrecipients

Small firms owned by disadvantaged individuals and women should have maximum opportunity.

Individual or firm selected must be sufficiently qualified.

Audit costs are allowable costs to Federal programs.

## Audit Review and Resolution

**Establish a system for timely and appropriate resolution of audit findings.**

**Management's response to audit findings:**

- If subrecipient agrees, define actions to correct.
- If subrecipient does not agree, basis for belief of inaccuracy.

**Repeat finding** = an area of noncompliance appearing in more than one audit.

- Will be viewed very seriously by the grantee.

**A cost may be questioned if:**

- Inadequate documentation.
- Expenditure does not appear to be related to project.
- Incurred outside effective period of Subrecipient Agreement.
- Unallowable under program regulations.
- Required prior approval of grantee.

**Disallowed Cost** = when questioned cost can not be resolved/proven allowable.

- Requires reimbursement from non-Federal funds.

## **Part VIII: Closeout Procedures**

### **Regulations**

**24 CFR 570.509** – Often used by grantees as a standard for the closeout of subrecipients

**Closeout** = all required work under agreement has been completed, outstanding obligations resolved, and other responsibilities have been met.

**Key to closeout** = CLARITY.

- **Full documentation of financial and program activities.**

### **Four Areas Covered**

- **General Requirements**
- **The Closeout Process**
- **Adjustments to Cost and Cash**
- **Continuing Subrecipient Responsibilities**

## **General Requirements**

- 1. Administrative and performance issues resolved to satisfaction of both parties.**
- 2. Lack of specific Federal requirements for subrecipients.**

## **The Closeout Process**

### **Closeout initiated when:**

- All CDBG costs have been incurred.
- Work has been completed.
- Other responsibilities under agreement have been met (e.g., national objective has been met).

### **Reports requested by grantee:**

- Final performance or progress report.
- Financial status report (including all program income).
- Final request for payment.
- Final inventory of property/equipment.

### **Closeout agreement:**

- Any closeout costs subject to CDBG payment.
- Amount of unused funds.
- Responsibilities after closeout.

## **Adjustments to Cost and Cash**

### **Regulations**

**24 CFR 570.503(b)(7) – All subrecipients**

**Based on reports, grantee will adjust allowable costs.**

**Grant money must be refunded to grantee if:**

- Held by the subrecipient at agreement expiration.
- Unobligated balances.
- Assets not authorized to be retained.

## **Continuing Subrecipient Responsibilities**

### **Regulations**

**24 CFR 85.50 and 85.51**– Governmental and public agency subrecipients

**24 CFR 84.72 and 84.73** – Private, non-profit subrecipients

### **Closeout does not affect:**

- Grantee right to disallow costs or recover funds.
- Obligation to return funds due to grantee.
- Responsibilities for records retention.
- CDBG property management and disposition requirements.
- Audit requirements.

## **Part IX: Summary of Requirements: Key Themes**

- **Joint Responsibility with Grantee**
- **Performance *and* Compliance**
- **Documentation, Documentation, Documentation**
- **Commitment to Effective Management**