

## 2010 Applicants' Workshop

### CDBG COMPLIANCE

## Compliance Agenda

- **Prohibited Conflict of Interest**
- **Procurement of Professional Services**
- **Property Acquisition Requirements**
- **Equal Opportunity Requirements**

## Compliance Agenda



- **Acceptable Survey Methodology**
  - Area Benefit
- **Environmental Review Requirements**
  - Form DCA-9
  - Section 106
  - Historic Preservation Division Presentation

## Prohibited Conflict of Interest

- **No Contracting Interest**
- **No Personal Benefit**
  - Elected Officials and Family Members
  - Key Staff
- **Unless:**
  - Public Disclosure
  - Abstain from any votes and discussion
  - Attorney Opinion on State and Local Laws
  - Include in Application

## Prohibited Conflict of Interest

- Review Appendix F and DCA-10
- It is an Exception to the regulation and not a Waiver of the regulation

## Procurement Standards for Professional Services

- **Grant Writers**
- **Grant Administrators**
- **Architects and Engineers**

## Professional Services Procurement

- HUD Regulation 24 CFR Part 85 (Common Administrative Requirements)
  - <http://www.access.gpo.gov/ecfr/>
- 2010 CDBG Applicants' Manual

## Professional Services Procurement

- **Competitive Negotiation**
- **Requires RFP or RFQ (architects or engineers only)**
- **Applicable if CDBG/CHIP funds are to finance activity**
- **Remember CDBG/CHIP can not pay for grant application cost (Pre-agreement Costs)**
- **Not Applicable to agreements with RC**

## Professional Services Procurement

### Free, Open and Equitable Competition

- **Solicit** from known providers
- **Publicize** RFP or RFQ
- **Evaluate** proposals received
- **Negotiate** with more than one
- **Document** process and reasons for selection

## Request for Proposals or Qualifications

**Identify Scope of Work...what you want and when you need it**

- **List evaluation factors, how you will apply them and their relative importance**
- **Reminder: Price does not have to be a factor using the RFQ (Architects and Engineers) but must be for RFP (Grant Administrators)**

## RFP/RFQ Solicitation

- **Send directly to “known providers”**
- **DCA Standard:**
  - 7 or more for Grant Administrators
  - 10 or more for Engineers or Architects
- **Documentation of process and letters sent**
- **Be sure to provide submittal deadline**
  - 30 day minimum

## Publicize RFP/RFQ

- Local paper, legal section is acceptable
- Regional city paper is preferable
- Clearly state what is being requested
- Provide deadline for proposals/qualification statements
  - 30 days minimum

## Evaluation of Proposals or Qualification Statements

- **Committee review**
- **File memorandum explaining final choice**
- **Notify unsuccessful applicants**
- **Award Contract for Service to successful professional**

## Other Considerations

- **Contract price can not be a percentage of construction cost**
- **If you are requesting both grant management *and* architectural/ engineering services, the Advertisement and Solicitation must be clear that the same firm does not have to provide both services**

## Other Considerations

- **Unsuccessful grant applicants from previous years can use same engineer or architect if:**
  - Must be for previous application cycle
  - Followed acceptable procurement process
  - Application must be for same (improved!!) project

## Professional Services Procurement

- **Failure to comply may result in DCA disallowing the use of CDBG funds to pay for the professional activity**

## Acquisition of Property

- **Applicable Law: Uniform Real Property Acquisition and Relocation Assistance Policies Act of 1970 (URA)**
- **Applicable Regulation**
  - 49 CFR Part 24 (DOT)

## Acquisition of Property

- **Applicability**
  - Purchase of land for building
  - Rights-of Way (ROW) for Streets
  - Easements for water, sewer, drainage, etc.
  - All acquisitions for CDBG Project
    - Regardless of Source of Funds
      - i.e. Local funds

## Acquisition of Property

- **Basic Requirements**
  - Preliminary Notice of Intent to Acquire and URA Protections Brochure Provided to Owner
  - Amount Paid Must be Based on Appraised Value
  - Donations Acceptable But Only With Waiver
  - Owner Must be Offered Fair Market Value
  - Written Purchase Offer

## Acquisition of Property

- **Indicate ownership status of property needed for project**
- **# of parcels and estimated cost**
- **Indicators of Readiness to proceed**

## Equal Opportunity

- **Applicable Civil Rights Laws and Regulations**
  - Section 109 of the Housing and Community Development Act of 1974
  - Section 504 and the Americans with Disabilities Act (ADA)
  - Fair Housing
  - Ethnic and Racial Reporting Requirements

## Equal Opportunity

- **Section 109**
  - Can not discriminate in CDBG or CHIP Programs on basis of:
    - Race
    - Ethnicity
    - Sex
    - Age
    - Family Status
    - Disability
  - HUD/FHEO will investigate complaints

## Section 109

- **Choice of Beneficiaries and Target Areas must be equitable**
  - DCA-6 (Benefit) asks for number of minority and non-minority beneficiaries

## ADA and Section 504

- **Public Hearing locations must be accessible**
- **Public Information must be accessible (TDD and GA Relay Service)**

## Fair Housing

- **Affirmatively Further Fair Housing Certification**
- **Public Information and Education is an eligible activity**
- **See HUD Notice in Appendix**

## Documentation of Benefit Two Methods

- **Direct count based on client records**
  - Housing
  - Job Creation
  - Limited Clientele for Buildings for Community Service
    - Health Centers, Senior Centers, etc.
- **Area income survey**
  - Public Utility and other Area Benefit projects

## Limited Clientele Benefit

- **Some people can be assumed to be LMI**
  - Only need a count of the # of people
  - Assumed LMI (Not for Area benefit)
    - Elderly
    - Severely Disabled
    - Homeless
    - Battered or Abused Men, Women or Children
    - Migrant Workers
    - Persons living with AIDS
    - Illiterate

## Limited Clientele Benefit

- **If clients are not on this list (i.e. Health facility, etc.) the documentation of the number of persons to benefit must include family size and income data**

## Documentation of Benefit

### Area Surveys

- **Area Benefit**
  - Water and sewer
  - Streets, drainage or sidewalks, etc
- **Count everyone in area to benefit**
  - All residents on street
  - Separate areas...one very low income area can not qualify a non-low and moderate income area even if overall benefit exceeds 70% minimum

## Documentation of Benefit Area Surveys

- **Accurate if done properly**
- **100% vs. Sample Survey**
- **Guidebook is available (Appendix C)**
- **Two Important Considerations**
  - **Who to Survey or Selecting the “Sample”**
  - **How to Survey or Implementation Considerations**

## Documentation of Benefit Area Surveys

- **Prefer 100% survey for a small area**
- **Large area may require a sample survey**
  - **Water Storage Facility**
  - **Treatment Facility**
- **The goal of a sample survey is to be able to make an accurate inference about a population based on a survey of a smaller or sample group**
- **Can be accurate if done properly**

## Documentation of Benefit Area Surveys

- **Sample Standards**
  - Must be large enough based on population to be sampled
  - Table B (Page 9 of Guide) gives required minimum sample size based on population or “universe”
  - Example:
    - 100 to 115 residents requires a sample of at least 90 residents
    - 651 to 1200 requires a minimum sample of 300.

## Documentation of Benefit

### Area Surveys

- **Must be a systematic and random selection of families to be survey so that each family has an equal chance of being selected**
- **Going door to door until you accumulate enough surveys to meet the minimum sample size is not random.**
- **Guide provides more information of random selection methods**

## Documentation of Benefit

### Area Surveys: Implementation

- **Acceptable Survey Form Must Ask**
  - # Family Members
  - Gross Family Income
  - Racial and Ethnic data
- **Avoid “leading” questions which may bias respondent**
- **Test the Survey**
- **Publicity**
- **Go at all hours and days of week**

## DCA Form 6

- **Must describe detail on how the information was determined (survey methodology)**

## DCA Form 6

- **If a survey is used, DCA-6 must include:**
  - How sample was chosen
  - # of families in area
  - # of families surveyed
  - # of persons in families surveyed
  - # of LMI families surveyed
  - How the survey was conducted (Who and When)
  - Copy of a survey form used
- **Prior to funding decisions we may ask for copies of all surveys completed**
- **Must keep all information for DCA review**

**HUD Website for LMI estimates for all cities  
and counties.**

**<http://www.hud.gov/offices/cpd/systems/census/lowmod/index.cfm>**

## Who is a low and moderate income person?

- “A member of a family having an annual gross family income equal to or less than the Section 8 lower income limit, adjusted for family size”.



## Environmental Review Requirements for CDBG/CHIP Applications

- **Obligation of CDBG Recipients:**
  - Comply with environmental and historic preservation laws (Big List)
  - Assess and evaluate environmental effects
  - Minimize and mitigate any adverse effects
  - Public Notification
  - Do Not Obligate Funds Until E.R. Release of Funds
- **Recipients' Workshop Training**
- **HUD 2 and 3 day session**

## Environmental Review Requirements for CDBG Applications

- **As you plan your project consider:**
  - Neighborhood impacts
  - Historic Preservation
    - Demolition
    - Reuse and Rehabilitation of Historic Resources
    - New building in a Historic Neighborhood

## Environmental Review Requirements for CDBG/CHIP Applications

- **Form DCA-9 Environmental Review Information**
  - Floodplain and Wetland
  - Cultural and Historic Resources
    - Archaeological
    - Building and Structure Information
- **Environmental Grant Special Conditions**
  - Information from DCA-9
  - DNR/HPD Comments

## Historic Presentation Division

- **Presentation by Betsy Shirk**

# **Compliance Requirements**

## **Questions?**

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# Good Luck