

Other Federal Program Requirements

Other Federal Requirements

The Federal requirements listed herein incorporate requirements found in the Housing and Community Development Act of 1987 and the National Affordable Housing Act of 1990. Federal assistance through these Acts is provided in the form of Community Development Block Grant (CDBG) and HOME Investment Partnership (HOME) funding.

The terms “grantee” and “recipient” refer to the City of Tacoma, or any other entity which receives funding directly from the U.S. Department of Housing & Urban Development (HUD). The terms are interchangeable throughout this document. The terms “sub-grantee” and “sub-recipient” refer to any person, household or entity that receives an allocation or award from a grantee or recipient. The terms sub-grantee and sub-recipient are also interchangeable throughout this document.

NON-DISCRIMINATION AND EQUAL ACCESS

No person in the United States shall on the grounds of race, color, national origin, religion or sex be excluded, denied benefits or subjected to discrimination under any program funded in whole or in part by Federal funds. Consequently, recipients must take measures to ensure non-discriminatory treatment, outreach and access to program resources. This applies to employment and contracting, as well as to marketing and selection program participants.

Fair Housing and Equal Opportunity

Recipients of Federal funds and their activities must comply with all of the following Federal laws, executive orders and regulations pertaining to fair housing and equal opportunity. They are summarized below:

- ❖ Title VI of the Civil Rights Act of 1964, as Amended (42 U.S.C. 2000d et seq.): States that no person may be excluded from participation in, denied benefits of, or subjected to discrimination under any program or activity which receives Federal financial assistance on the basis of race, color or national origin. The regulations implementing the Title VI Civil Rights Act provisions for HUD programs may be found in 24 CFR Part 1.
- ❖ The Fair Housing Act (42 U.S.C. 3601-3620): Prohibits discrimination in the sale or rental of housing, the financing of housing or the provision of brokerage services against any person on the basis of race, color, religion, sex, national origin, handicap or familial status. Furthermore, section 104(b)(2) of the Act requires that each grantee certify to the Secretary of HUD that it is affirmatively furthering fair housing. The certificate specifically requires actions to overcome the effects of any impediments identified and maintain records on the analysis, plan and actions in this regard. Regulations implementing the Fair Housing Act for the HUD programs may be found in 24 CFR Part 100-115.

- ❖ Equal Opportunity In Housing (Executive Order 11063, as amended by Executive Order 12259): Prohibits discrimination against individuals on the basis of race, color, religion, sex or national origin in the sale, rental, leasing or other disposition or residential property, or in the use or occupancy of housing assisted with Federal funds. Equal Opportunity in Housing regulations may be found in 24 CFR Part 107.
- ❖ Age Discrimination Act of 1975, as Amended (42 U.S.C. 6101): Prohibits age discrimination in programs receiving Federal financial assistance. Age Discrimination Act regulations may be found in 24 CFR Part 146.
- ❖ Section 109 of Title I of the Housing and Community Development Act of 1974: Requires that no person shall be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity funded with CDBG funds on the basis of race, color, religion, national origin or sex.

Affirmative Marketing

- ❖ Grantees must adopt affirmative marketing procedures and requirements for all federally assisted housing with five or more units. Requirements and procedures must include:
 - Methods for information the public, owners and potential tenants about fair housing laws and the grantee's policies (for example, use of the Fair Housing logo or equal opportunity language);
 - A description of what owners and/or the grantee will do to affirmatively market housing assisted with Federal funds;
 - A description of what owners and/or the grantee will do to inform persons not likely to apply for housing without special outreach;
 - Maintenance of records to document actions taken to affirmatively market Federally-assisted units and to assess marketing effectiveness; and
 - Description of how efforts will be assessed and what corrective actions will be taken when requirements are not met.

Handicapped Accessibility

The Federal regulations also require adherence to the three following regulations governing the accessibility of federally assisted buildings, facilities and programs. The programs are summarized as follows:

- ❖ Americans with Disabilities act (42 U.S.C. 12131; 47 U.S.C. 155, 201, 218 and 225): Provides comprehensive civil rights to individuals with disabilities in the areas of employment, public accommodations, state and local government services and telecommunications. The Act, also referred to as the ADA, also states that discrimination includes the failure to design and construct facilities

(built for first occupancy after January 26, 1993) that are accessible to and usable by persons with disabilities. The ADA also requires the removal of architectural and communication barriers that are structural in nature in existing facilities. Removal must be readily achievable, easily accomplishable and able to be carried out without much difficulty or expense.

- ❖ Fair Housing Act: Multi-unit family dwellings must also meet the design and construction requirements at 24 CFR 100.205, which implement the Fair Housing Act (42 U.S.C. 3601-19).
- ❖ Section 504 of the Rehabilitation Act of 1973: Prohibits discrimination in federally assisted programs on the basis of handicap. Section 504 imposes requirements to ensure that “qualified individuals with handicaps” have access to programs and activities that receive federal funds. Under Section 504, recipients and sub-recipients are defined more broadly than under either the CDBG or HOME Investment Act (HOME) programs. Section 504 recipients and sub-recipients include any entity that receives federal funding. The specific requirements under Section 504 are summarized as follows:
 - For the recipient or sub-recipient principally involved in housing or social services, all of the activities of the agency and not just those directly received Federal assistance, are covered under Section 504.
 - Contractors and vendors are subject to Section 504 requirements only in the work they do on behalf of a recipient or sub-recipient.
 - The ultimate beneficiary of the federal assistance is not subject to Section 504 requirements.
 - Recipients and sub-recipients are not required to take actions that create undue financial and administrative burdens or alter the fundamental nature of the program.
- ❖ The Architectural Barriers Act of 1968 (42 U.S.C. 4151-4157): Requires certain federal and federally funded buildings and other facilities to be designed, constructed or altered in accordance with standards that ensure accessibility to, and use by, physically handicapped people.

EMPLOYMENT AND CONTRACTING

Compliance with the following regulations is required by CDBG and HOME to ensure equal opportunity for employment, labor requirements and contracting/procurement procedures.

Equal Opportunity

Grantees must comply with the following regulations that ensure equal opportunity for employment and contracting.

- ❖ Equal Employment Opportunity, Executive Order 11246, as Amended: Prohibits discrimination against any employee or applicant for employment because of race, color, religion, sex or national origin in all phases of employment during the performance of Federal or federally-assisted construction contracts. Contractors and sub-contractors must take affirmative action to ensure fair treatment in employment, upgrading, demotion or transfer, recruitment or recruitment advertising, layoff or termination, rates of pay, or other forms of compensation and selection for training and apprenticeship. Implementing regulations may be found at 41 CFR Part 60.
- ❖ Section 3 of the Housing and Urban Development Act of 1968: Requires that, to the greatest extent feasible, opportunities for training and employment arising from CDBG/HOME funded activities will be provided to low-income persons residing in the program service area. Also, to the greatest extent feasible, contract(s) for work (all types) to be performed in connection with Federal funds will be awarded to business concerns that are located in or owned by persons residing in the program service area.
- ❖ Minority/Women's Business Enterprise: Under Executive Order 11625, 12432 and 12138, grantees must prescribe procedures acceptable to HUD for a minority outreach program to ensure the inclusion, to the maximum extent possible, of minorities and women, and entities owned by minorities and women, in all contracts (see 24 CFR 85.36(e)).

Labor Requirements

Grantees must comply with certain regulations on wage and labor standards. For CDBG, every contract for construction, including rehabilitation and installation, triggers the requirements (in the case of residential construction, projects with a total of eight (8) or more units). For contracts assisted with HOME funds, the construction of housing, whether new or rehabilitation, that contains twelve (12) or more units assisted with HOME fund triggers the requirements.

- ❖ Davis-Bacon and Related Acts (40 U.S.C. 276(A)-7): Ensures that mechanics and laborers employed in construction work under federally assisted contracts are paid wages and fringe benefits equal to those that prevail in the locality where the work is performed. This Act also provides for the withholding of funds to ensure compliance, and excludes from the wage requirements apprentices enrolled in bona fide apprenticeship programs.
- ❖ Contract Work Hours and Safety Standards Act, as Amended (40 U.S.C. 327-333): Provides that mechanics and laborers employed on federally-assisted construction jobs are paid time and one-half for work in excess of 40 hours per week, and provides for the payment of liquidated damages if violations occur. This Act also addresses safe and healthy working conditions.

- ❖ Copeland (Anti-kickback) Act (40 U.S.C. 2776c): Governs the deductions from paychecks that are allowable. The Act makes it a criminal offense to induce anyone employed on a federally assisted project to relinquish any compensation to which he/she is entitled, and requires all contractors to submit weekly payrolls and statements of compliance.
- ❖ Fair Labor Standards of 1938, as Amended (29 U.S.C. 201, et seq.): Establishes the basic minimum wage for all work and requires the payment of overtime at the rate of at least time and one-half. It also requires the payment of wages for the entire time that an employee is required or permitted to work, and establishes child labor standards.

Contracting and Procurement Practices

Both the CDBG and HOME programs are subject to certain Federal procurement rules. In addition, Grantees must take measures to avoid hiring debarred or suspended contractors or sub-recipients and conflict of interest situations.

- ❖ Procurement: For the City of Tacoma, procurement standards of 24 CFR 85.36 apply. For nonprofit organizations receiving Federal funds, the procurement requirements of 24 CFR Part 84 apply.
- ❖ Conflict of Interest: Federal regulations require recipients of Federal funds to comply with two different sets of conflict-of-interest provisions. The first set of provisions comes from 24 CFR Parts 84 and 85. The second, which applies only in cases not covered by 24 CFR Parts 84 and 85, is set forth in the CDBG and HOME regulations. In general, no person who is an employee, agent, consultant, officer, or elected official or appointed official of the recipient, or of any designated public agencies, or sub-recipients who may exercise or have exercised any functions or responsibilities with respect to activities assisted with Federal funds or who are in a position to participate in a decision-making process or gain inside information with regard to such activities may obtain a personal or financial interest or benefit from a federally-assisted activity, or have an interest in any contract, subcontract or agreement with respect thereof, or the proceeds thereunder, either for themselves or those with whom they have family or business ties, during their tenure or for one year thereafter. Conflict of interest, with regards to the procurement of supplies, equipment, construction and services by recipients and sub-recipients is also covered by OMB Circular A-110.
- ❖ Uniform Administrative Requirements and Cost Principles: The recipient and sub-recipients shall comply with the policies, guidelines and requirements of OMB Circular Nos. A-87, Revised A-110, A-128 and A1-22, as applicable, as they related to the acceptance and use of Federal funds.
- ❖ Debarred and Suspended Contractors: Federal funds may not be used to directly or indirectly employ, award contracts to or otherwise engage the services of any contractor or subrecipient during any period of debarment, suspension or

placement of ineligible status. All contractors, subcontractors, lower-tier contractors and sub-recipients should be checked against the Federal publication that lists debarred, suspended and ineligible contractors. Further information may be found at 24 CFR Part 24 570.609.

ENVIRONMENTAL REQUIREMENTS

The City of Tacoma is responsible for meeting a number of environmental requirements, including environmental reviews, flood insurance and site and neighborhood standards.

- ❖ National Environmental Policy Act of 1969: Section 104(g) of this Act expresses the intent that the policies of the National Environmental Policy Act of 1969 (NEPA) and other provisions of law which further purposes of the Act be most effectively implemented in connection with the expenditure of funds under the Act. This Section also provides that, in lieu of the environmental protection procedures otherwise applicable, the Secretary of HUD may provide for the release of funds for particular projects to grantees who assume all the responsibilities for environmental review, decision-making and action pursuant to NEPA and the other provisions of law specified by the Secretary, as described above, that would apply to the Secretary were he/she to undertake such projects as Federal projects.
- ❖ Environmental Responsibilities: Grantees assume environmental review, decision making and action responsibilities by executive of grant agreements with the Secretary of HUD. The procedures for carrying out such environmental responsibilities are contained in 24 CFR Part 58. Private citizens and organizations may object to the releases of funds on federally-funded project on certain procedural grounds relating to the environmental review (24 CFR 58.70-77).
- ❖ Section 202 of the Flood Disaster Projection Act of 1973 (42 U.S.C. 4106): Requires that Federal funds shall not be provided to an area that has been identified by the Federal Emergency Management Agency (FEMA) as having special flood hazards unless:
 - The community is participating in the National Flood Insurance Program, or it has been less than a year since the community was designated as having special flood hazards; and
 - Flood insurance is obtained in accordance with Section 102(a) of the Act.
- ❖ Site and Neighborhood Standards: Housing assisted with the HOME program must promote a greater choice of housing opportunities. Specific rules are as follows:
 - HOME-assisted housing must be suitable from the standpoint of facilitating and furthering full compliance with the Title IV of the Civil Rights Act of 196, the Fair Housing Act and Executive Order 11063.

- Requires new construction rental projects to meet site and neighborhood standards for 24 CFR 98.36(b), which places limiting conditions on building in areas of “minority concentration” and that are “racially mixed”.
- ❖ Lead-based Paint Poisoning Prevention Act (42 U.S.C. 4831(b)): Section 401(b) of the Act directs the Secretary of HUD to prohibit the use of lead-based paint in residential structures constructed or rehabilitated with Federal assistance.
- ❖ Residential Lead-based Paint Hazard Reduction Act of 1992: Is also known as Title X of the Housing and Community Development Act of 1992 and amended the Lead-Based Paint Poisoning Prevention Act of 1971. Requirements under the regulation differ depending on the nature of the activity, amount of Federal funding, and the duration of the Federal government’s relationship with the grantee. The lead-based paint regulations are implemented in sections 1012 and 1013 of this Act. The effective date of these requirements was September 15, 2000.

DISPLACEMENT, RELOCATION, ACQUISITION AND REPLACEMENT OF HOUSING

Federally assisted projects involving acquisition, rehabilitation or demolition may be subject to the provisions of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, and more commonly referred to as the Uniform Relocation Act (URA).

- ❖ Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (URA) (42 U.S.C. 4601 and 24 CFR Part 42): Apply to the acquisition of real property by a grantee or sub-grantee for an activity assisted under this part and to the displacement of any family, individual, business, nonprofit organization or farm that results from such acquisition. Detailed guidance on compliance with URA and Section 104(d) requirements may be found in HUD Handbook 1378.
- ❖ Residential Anti-displacement and Relocation Assistance Plan: Under Section 104(d) of the Housing and Community Development Act of 1987, each grantee must adopt, make public and certify that it is following a residential anti-displacement and relocation assistance plan consistent with other goals and objections to minimize the displacement of persons from their homes as a result of any activities assisted with Federal funds, including the provision of one-for-one replacement units and relocation assistance.
- ❖ Section 104(k) Relocation Requirements: Section 104(k) of the Act requires that reasonable relocation assistance be provided to persons (families, individuals, businesses, nonprofit organizations or farms) who are permanently and involuntarily displaced as a result of the use of assistance received under this part to acquire or substantially rehabilitate property.