

CHAPTER 1

ADMINISTRATION & REPORTING

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CHAPTER 1

ADMINISTRATION & REPORTING

This chapter highlights the steps in getting started and implementing your TxCDBG contract for successful project management. Prior to implementing a project, a Locality should put systems in place that will allow it to track and report on its activities as required by its contract with TDA.

1.1 Project Startup

1.1.1 Pre-Agreement

Pre-award costs are those incurred by the Grant Recipient prior to the contract start date of the TxCDBG grant award directly pursuant to the negotiation and in anticipation of the TxCDBG grant award, where such costs are necessary to comply with the proposed delivery schedule or period of performance. Such costs are allowable only to the extent that they would have been allowable if incurred after the contract start date of the TxCDBG award and only with the written approval of TDA.

The Grant Recipient may request written approval to utilize the Pre-Agreement Policy in order to pursue early implementation of the project. TDA, in its sole discretion, may approve the written request. If the Grant Recipient receives an award and the Pre-Agreement Policy has been requested and approved, the award letter sent by TDA to Grant Recipient will grant authorization to incur Pre-Agreement expenses. Fund specific requirements and restrictions on the type of activities eligible as pre-agreement costs are addressed in the grant application guidelines.

In order to be eligible for TxCDBG grant funding or match funding, or both, costs incurred during the pre-agreement phase must be incurred:

- 1) after the TDA pre-agreement date (application due date or other date specific to the funding category);
- 2) after the administrative/engineering services contract award date (formal approval by elected body); AND
- 3) during the contract period identified in the administrative/engineering services contract ("Time of Performance" in the Implementation Manual Appendix D and E, sample contract) - the services contract period may begin prior to the date that the services contract was executed.

TDA will allow the Grant Recipient to incur costs for CDBG activities before the TxCDBG contract start date and to charge these pre-agreement costs to the grant, provided that the activities are eligible costs, meet the objectives of the program, and are authorized pursuant to applicable state and/or federal law. Procurement for grant expenditures must be specific to the project described in the application and must be supported by adequate documentation. All requests for reimbursement of pre-award costs are subject to review by TDA for determination of whether such expenses are allowable and eligible costs. Failure to meet all contract obligations will result in the required repayment of any pre-agreement expenses which were reimbursed by TDA.

The Grant Recipient may not incur costs or expend any contract funds for project construction prior to:

- Meeting the Environmental Review requirements in the TxCDBG contract (see Chapter 3); and
- Meeting all special condition requirements in Exhibit D of the TxCDBG contract that are required to release construction funds (see Chapter 4).

1.1.2 Contract Execution

The Grant Recipient must have an executed contract with TDA before funds can be drawn down through the State of Texas' Purchase Voucher system. An example of the contract is found on the TDA website.

Besides the contractual obligations owed between the State and the Grant Recipient, the contract specifies the following as Exhibits:

1. Exhibit A - the Performance Statement - Outlines the scope of the work to be performed under this contract by activity;
2. Exhibit B - the Budget – Specifies the contract budget line item by line item, which is used in the drawdown process. This Exhibit also includes all “Other” funds involved that are necessary to complete the Performance Statement specifics of this contract;
3. Exhibit C – Project Implementation Schedule – Specifies a timetable for milestones in project implementation.
4. Exhibit D – Special Conditions – Details the specific requirements for the release of construction funding

The chief local elected official for the Grant Recipient and the TDA Deputy Commissioner both must sign the contract before the contract is considered fully executed.

Ready to Proceed Rule

Prior to executing the contract, TDA will ensure that existing contracts are in good standing and will require that the following are resolved to TDA's satisfaction within ninety (90) days after the contract award date:

- “Readiness to proceed” issues regarding the current award; and
- Outstanding issues on existing contracts regarding compliance with program requirements.

If the issues identified by TxCDBG staff at the time of the funding award are not addressed within the required 90 days, the TDA Deputy Commissioner will not execute the contract and the TxCDBG funds awarded will be withdrawn and reallocated.

1.1.3 Establish a Local Administrative Structure

Each Grant Recipient must establish a local administrative structure to complete the grant. The Eligible Activity and National Objective requirements are not met until the project is completed, and there is sufficient documentation to ensure that the project is consistent with the designated National Objective.

The Grant Recipient must:

- Establish a record-keeping system to document compliance with all federal, state, local, and program requirements.
 - Grant files must be kept at city or county offices or buildings in which government records are maintained and accessible to the public throughout the contract period.
 - Records shall be retained for the greater of three years from closeout of the grant to the state, or the period required by other applicable federal and state laws and regulations.
- Review local charters, resolutions, ordinances, and policies that may be relevant to the project;
- Determine whether day-to-day administration of the project will be conducted by local staff or by a certified third-party consultant, and which party will conduct each administrative activity;

Texas Community Development Block Grant Program recipients have the final legal responsibility for the locally maintained grant files, the timely submission of reports, and compliance with program guidelines.

Best Practice: TxCDBG recommends that the Grant Recipient review the *Administrative Activities Checklist (Form A102)* item-by-item, and identify the activities that will be performed by Grant Recipient staff and those that will require outside assistance. It is also helpful to walk each staff member responsible for implementing the contract through the TxCDBG's program requirements.

1.1.4 Administrative Thresholds

For Release of Funds:

A. The 12-Month Rule for Release of Construction Funds

The Grant Recipient must submit all Start-up Documentation & Basic Federal Requirement Documentation (Group A) and Construction documentation (Group B) listed in Chapter 2 of this manual within 12 months of the contract start date. (See also TxCDBG contract, Exhibit D, Special Conditions.)

If a Grant Recipient fails to meet this requirement, TDA will begin the process of contract termination.

The TxCDBG contract ensures that the Grant Recipient will have an opportunity to resolve the deficiency as a part of the termination proceedings. For non-compliance with the 12-month rule:

- The Grant Recipient may submit a response to TDA within 30 days of the notice that termination proceedings have begun, providing a justification for the delay and a schedule for completing the Group A and Group B requirements.
- All required documentation must be submitted within 90 days of the termination notice, or the date determined by TDA during the review of the Grant Recipient's response.

For Applications after the Award of a TxCDBG contract:

The applicant must demonstrate progress in all current open contracts to be eligible to submit an application. See the following example progress threshold requirements for all TxCDBG fund categories. (Applicant thresholds included in each Application Guide may vary from the example table below; the Application Guide thresholds will supersede this chapter.)

Fund Category	Contract Period	Example Progress Threshold #1	Example Progress Threshold #2
State Urgent Need Fund	18 months	Obligate 50% of TxCDBG contract funds at 12 months	Construction complete, PCR and final draw submitted at 18 months
Disaster Relief Fund	12 months	Obligate 50% of TxCDBG contract funds at 9 months	Construction complete, PCR and final draw submitted at 12 months
FAST Fund	18 months	Obligate 50% of TxCDBG contract funds at 9 months	Construction complete, PCR and final draw submitted at 18 months
Community Development Fund	24 months	Obligate 50% of TxCDBG contract funds at 12 months	Construction complete, PCR and final draw submitted at 24 months
Downtown Revitalization/ Main Street Fund	24 months	Obligate 50% of TxCDBG contract funds at 12 months	Construction complete, PCR and final draw submitted at 24 months
Colonia Fund (Except Self-Help)	24 months	Obligate 50% of TxCDBG contract funds at 12 months	Construction complete, PCR and final draw submitted at 24 months
Planning Capacity Building Fund	24 months	Obligate 50% of TxCDBG contract funds at 12 months	Construction complete, PCR and final draw submitted at 24 months
Community Enhancement Fund	24 months	Obligate 50% of TxCDBG contract funds at 12 months	Construction complete, PCR and final draw submitted at 24 months
TCF Infrastructure/Real Estate	36 months	Obligate 50% of TxCDBG contract funds at 18 months	Construction complete, PCR and final draw submitted at 36 months

- A. **Applicant Threshold #1 Requirement** - This rule requires applicants for future TxCDBG funding with existing TxCDBG contracts to obligate at least fifty percent (50%) of the total TxCDBG funds awarded under an open TxCDBG contract within the number of months (specified in the applicable fund Application Guide) from the start date of the contract. This means that 50% of the TxCDBG funds **must be obligated** through executed contracts for administrative services, engineering services, acquisition, construction, materials purchase, etc. in order to be eligible to receive funding for new CDBG projects. The TxCDBG contract activities do not have to be 50% completed, nor do 50% of the TxCDBG contract funds have to be expended to meet this threshold.

- B. **Applicant Threshold #2 Requirement** - This rule requires the Grant Recipient to complete its TxCDBG project prior to applying for future TxCDBG funding. For purposes of meeting the Applicant Threshold #2, funds are considered expended prior to the application deadlines if:
 - All activities in the TxCDBG contract Performance Statement (Exhibit A) are complete;
 - A Request for Payment for all remaining TxCDBG funds (excluding the audit costs) has been submitted; and
 - The *Project Completion Report (PCR)* (**Form A1200**) has been submitted.

Applicant Threshold #2 = Complete the project described in the contract; submit Project Completion Report (PCR) and final draw.

The PCR includes the Certificate of Expenditure to document compliance with Applicant Threshold #2. Any funds other than final audit costs reserved on the PCR beyond the application deadline must be approved in writing by TxCDBG staff.

In those very limited instances in which the Grant Recipient cannot meet this requirement, please refer to Chapter 12, Section 12.2.5, Conditional Project Completion, of this Manual.

This threshold will not prevent an eligible applicant from receiving TxCDBG State Urgent Need Fund assistance when the applicant meets the eligibility criteria for the TxCDBG State Urgent Need Fund.

1.1.5 Public Participation

A key component of the program is the opportunity for local residents to express needs and concerns regarding TxCDBG-funded projects to the Grant Recipient.

- Public Hearings, as required in Chapters 11 and 12, and Section B, must comply with the following:
- Hearing must be held in a location convenient to the project beneficiaries.
 - Hearing must be held on or after 5 p.m. on a weekday or on a Saturday or Sunday;
 - Grant Recipient must provide accommodation for citizens with disabilities;
 - Hearings should be conducted in a manner to meet the needs of non-English speaking residents where a significant number of non-English speaking residents can be reasonably expected to participate. The Grant Recipient must adhere to its Limited English Proficiency Plan (see Chapter 10).
 - Grant Recipient must provide notice of the Hearing to citizens at least seventy-two (72) hours (3 days) prior to the scheduled hearing, including the date, time, and location of the hearing and the topics to be considered.
 - Records related to the Hearing must be made available to the public as required by Texas Government Code, Chapter 552. Required documentation includes the public hearing notice, sign in sheet (with a list of attendees), the minutes of the hearing, and a summary of public comment(s).

Public Notices are required at several stages of the grant, as described in Chapters 3, 10, 11, and 12, and Section B.

- Public Notice may be given in one of three ways:
 - Publish the notice in a newspaper of general circulation;
 - Post the notice in at least two public places accessible to the general public at the time of the posting – must include the courthouse/city hall and a location within the target area (if applicable); OR
 - Post the notice in one public place accessible to the general public at the time of the posting, such as the courthouse/city hall, AND post on Grant Recipient's website.
- Posted notices must be in a location accessible to the general public at the time of the posting.
- The Public Notice must include all required information in English and any other appropriate language(s) per the recipient's Limited English Proficiency plan (See Chapter 10 Civil Rights).
- The Grant Recipient must retain documentation of the Public Notice:
 - Published notices: TDA will accept either a copy of the notice or the full newspaper page on which the notice occurred. The publication text, title, date of publication, name of the newspaper, and page number must be clear and readable, and may not be cut and pasted together. The original newspaper tearsheet or a photocopy of the notice and a publisher's affidavit must be kept with the Grant Recipient's local file for the public, TDA monitors and other state or federal inspectors.
 - Website notices: screen shots of the posting must be retained as documentation of the posting.
 - Posted notices: legible photographs showing the location of the posting are required.
 - Posted notices must be supported by affidavit (Sample Affidavit of Posting - Form A101).

1.2 Reporting and Recordkeeping

1.2.1 Establish a Record-Keeping System

The Grant Recipient must establish a record-keeping system to document compliance with all federal, state, local, and program requirements.

- Grant files must be kept at city or county offices or buildings in which government records are maintained and accessible to the public throughout the contract period. Any alternate record storage location must be approved by TDA. All records included in **Form A103** Recommended Filing System must be included in the local records.
- Records shall be retained for a minimum of three years from closeout of the grant to the state. TDA will announce the closeout of each state grant and the individual grant contracts that may begin the three year retention period.
- Documents to be submitted to TDA cannot be uploaded nor accessed on such platforms as Google docs, Dropbox, etc. due to security risks and such action is considered a violation of security policy.

1.2.2 Progress Reports and Requests for Payment

Progress reports of the status of each project shall no longer be made on a quarterly basis but instead will be provided by the Grant Recipient with each draw request. See Request for Payment (**Form A203**). Such reporting requirement ensures that TxCDBG contract specialists will be given timely notice of the status of each project. Request for Payment (Form A203) must be downloaded from the TDA website. Please follow instructions found in Form A203 regarding data entry.

The Request for Payment (Form A203) **shall** be submitted electronically to:
CDBG_Draws@TexasAgriculture.gov.

In addition, TxCDBG Contract Specialists may request updated progress information as needed. Failure to respond to such requests, as well as unresolved programmatic issues, monitoring findings, and/or audit findings will result in the contract being considered out of compliance. The contract shall remain out of compliance until all issues have been satisfactorily resolved. Non-compliance could affect future funding for a locality and may result in holds on submitted draw requests.

1.2.3 Four Month Call/Meeting

No later than four months after the contract start date, the grant recipient **shall** schedule a conference call / meeting with all members of the Project Team to discuss the project requirements and potential project issues based on the Performance Statement (Exhibit A to the TxCDBG contract), such as acquisition, special permitting, etc.

- The “Project Team” participants must include the chief local elected official (or authorized representative), project administrator, and project engineer. Administrative and engineering consultants must be properly procured before being considered part of the Project Team.
- The conference may take place no later than four months after the contract start date and may occur during the pre-agreement period, so long as all necessary professional services and administration providers have been procured or local staff has been assigned to administrative and engineering tasks.
- The Grant Recipient shall notify the assigned TxCDBG Contract Specialist of the date and time of the conference **at least one week prior to** the call/meeting; the Contract Specialist may participate in the conference at his/her discretion.
- The date of the conference must be reported on the first Request for Payment (A203) and minutes of the conference must be submitted to TDA within fourteen (14) days after the conference.
- The Grant Recipient may request an exception to the conference requirement if the construction contract has been executed within 4 months of the contract start date AND the construction contract (base bid) substantially agrees with the TxCDBG Performance Statement.

4-Month Conference Call Required Agenda Items

- 1) Review TxCDBG contract Performance Statement (Exhibit A) and Budget (Exhibit B);
- 2) Review TxCDBG contract Project Implementation Schedule (Exhibit C) milestone dates and early progress toward these dates;
- 3) Review 12 Month Rule requirements (TxCDBG contract);
- 4) Identify the need for Acquisition of Real Property and review URA requirements (The **Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (Uniform Act)**); and
- 5) Identify and report potential project issues or delays.

1.2.4 Technical Assistance for Contracts Behind Schedule

Grant Recipients submitting a Request for Payment (**A203**) that indicates the project is more than three months behind schedule shall:

- Submit a revised timeline for completion using the TxCDBG contract Exhibit C milestones – the target dates identified for each milestone should allow the project to be completed within the contract period to the extent feasible;
- At the discretion of parties to the TxCDBG grant contract, a conference call with the Project Team may be requested with the assigned Contract Specialist, and any appropriate TDA program area specialists to discuss the revised schedule (the Contract Specialist may schedule an on-site technical assistance visit in lieu of a conference call).
- Approval will be given by the TDA contract specialist.

Grant Recipients submitting a Request for Payment (**A203**) that indicates the project is more than three months behind the revised schedule approved by TDA shall:

- Submit a narrative Plan of Action including a brief description of the project, identification of obstacles preventing progress, a summary of actions taken to reduce delays, and actions planned to resolve those issues – all members of the Project Team must sign the Plan of Action;
- Submit a revised timeline for completion - all members of the Project Team must sign the revised schedule;
- At TDA's discretion, schedule an on-site technical assistance visit with the Project Team, assigned Contract Specialist, TDA manager, and any appropriate TDA program area specialists;
- Conduct monthly conference calls with the Project Team to discuss the project milestones.

Contracts that continue to fall behind schedule and do not meet the target dates established by the Plan of Action timeline may be subject to termination and deobligation of funds. In very limited circumstances, extension requests for such projects will be considered where extenuating circumstances beyond the control of the Grant Recipient exist and the Grant Recipient demonstrates diligent efforts to resolve the issues preventing progress on the projects.

1.2.5 Other Technical Assistance

TDA will provide technical assistance at the Grant Recipient's request and as considered appropriate by TxCDBG staff. Technical assistance may include:

- Email correspondence;
- Individual and conference phone calls; and/or
- On-site visits and meetings.