



## TEXAS DEPARTMENT OF AGRICULTURE COMMISSIONER SID MILLER

August 19, 2015

Texas Community Development Block Grant Program

Re: 2015 Revisions to the Texas CDBG Implementation Manual

Dear Stakeholders –

The Texas Department of Agriculture (TDA) has prepared a draft of the 2015 Texas CDBG Implementation Manual (hereinafter “2015 TxCDBG Manual”) which includes several policy changes and revisions.

The most significant change to the 2015 TxCDBG Manual includes the adoption of several sections published by the Office of Management and Budget (OMB) of the final guidance to the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards, codified at 2 CFR Part 200. The purpose of 2 CFR 200 is to streamline the Federal Government’s guidance on administrative requirements, cost principles, and audit requirements. 2 CFR 200 supersedes and consolidates requirements from eight OMB Circulars (including 24 CFR 85 which codified OMB Circular A-102).

Besides the adoption of the majority of 2 CFR 200, several other policy revisions or clarifications are included to assist Grant Recipients in complying with all federal rules and regulations.

Once the TxCDBG Implementation Manual is adopted, effective date October 1, 2015, these new rules will apply to all current contracts.

An overview of the most important revisions is discussed below.

### **Highlights of 2 CFR 200 Adopted Revisions (Cites to 2 CFR 200 & draft 2015 TxCDBG Implementation Manual)**

- a. Disallows contractors that develop or draft specifications including RFP’s for TxCDBG funding from competing for such procurements. *See 2 CFR 319(a) and Ch. 5, pg. 5-4.*
- b. New category of micro-purchases less than \$2K added to the types of procurements. For micro-purchases, paperwork is streamlined and no bids are required. *See 2 CFR 200.320 and Ch. 5, pg. 5-3, 5-9.*
- c. Requires Grant Recipient to negotiate profit as a separate element of price for contracts greater than \$ 50,000 (where cost analysis is performed) and contracts are not competitively procured. *See 200.323(b) and Ch. 5, pg. 5-2, 5-11, 5-17.*

- d. Provides for required contractual terms of construction contracts found in Appendix II, 2 CFR 200. *See 2 CFR 200.326, Appendix II, 2 CFR 200, and Ch. 5, pg. 5-14.*
- e. Requires new certification language for annual and final fiscal reports or vouchers which may subject signatories to criminal, civil or administrative penalties for fraud, or false statements. *See 2 CFR 200.415 and form: Requests for Payments A203 and Project Completion Reports A1200.*
- f. Allows Grant Recipients to use their own forms for Force account reporting upon the approval by TDA and in accordance with the requirements of 2 CFR 200.430(i). *See 2 CFR 200.430(i) and Ch. 8, pgs. 8-6, 8-7.*
- g. Raises the threshold for the requirement of a Single Audit or Program Specific Audit from \$500,000 to \$750,000, effective for Grant Recipients' Fiscal Year-End of beginning December 27, 2015. *See 2 CFR 200.501(a) and Ch. 14, pg. 14-2.*
- h. Allows TDA to require adequate fidelity bond coverage if the level of bonding is not considered acceptable to protect the Federal Government's interest. *See 2 CFR 200.304 and Ch. 2, 2-3.*
- i. Requires that Grant Recipients and their contractors procure those recovered materials, designated in the EPA guidelines at 40 CFR Part 247, for purchases greater than \$10,000 for the fiscal year, that contain the highest percentage of recovered materials practicable, while adhering to competitive bidding processes. Certain construction materials, like cement and concrete including concrete products such as pipe, are included on the list of designated items. *See 2 CFR 200.322 and 40 CFR 247; see also Ch. 5, 5-17.*
- j. New conflict of interest language added (extended to employees whose companies may benefit). *See 2 CFR 200.318(c)(1) and Ch. 5, pgs. 5-3, 5-4.*

### **Other Noted Revisions to draft 2015 TxCDBG Implementation Manual**

#### **Ch. 2 Financial Management Procedures**

- a. Adjusts the threshold requirements for administrative and engineering expenses. *See Ch. 2, pgs. 2-4, 2-5, and 2-6.*
- b. Eliminates requirement that construction contracts in excess of \$400,000 enter any retainage in excess of five percent into an interest bearing account.
- c. Revises what determines qualifying matching funds if property owned by Grant Recipient. (Ex: easements and donations of property.) *See Ch. 2, pgs. 2-9.*
- d. Eliminates Form A205. If additional funding is obtained, the Grant Recipient must notify TDA and submit the funding award notification and/or other documentation to TDA within thirty (30) days of any change. *See Ch. 2, pg. 2-10.*

#### **Ch. 3 Federal Environmental Review**

- a. Environmental assessments are required on both private/public investments, per HUD guidance. *See Ch. 3, pg. 3-3.*
- b. Advises that the environmental review process should begin as soon as the Grant Recipient determines the projected use of HUD assistance which includes any formal action taken by the Grant Recipient (Responsible Entity) to prepare for or file an

application directly with TDA for TxCDBG funding. *See 24 CFR 58.30 and Ch. 3, pg. 3-3.*

- c. Gives clarification that HUD will not fund projects in a floodway, regardless of the presence of water, unless certain HUD conditions are met. *See Ch. 3, pg. 3-3.*
- d. Reiterates that exempt projects must not be located in a floodplain, a known critical habitat for endangered species, an historic property, or a known hazardous site. *See Ch. 3, pg. 3-3.*

#### Ch. 4 Special Conditions

- a. Requires that Grant Recipients re-survey first-time service beneficiaries prior to bidding construction to identify all households that will be connected, a list of those households refusing service, as well as identifying LMI households eligible for TxCDBG-funded yardlines. *See Ch. 4, pg. 4-4.*

#### Ch. 5 Procurement

- a. Requires that all contractors be verified through SAM.gov prior to any formal action by Grant Recipient authorizing the award of the contract to the contractor. *See Ch. 5, 5-7, 5-9, 5-10, 5-11, 5-13, 5-18.*

#### Ch. 6 Federal Acquisition

- a. Clarifies the steps for Involuntary and Voluntary Acquisition.

#### Ch. 8 Force Account

- a. Removes the requirement that rental costs for equipment may not exceed the relevant FEMA rate. *See Ch. 8, pg. 8-5, 8-6.*
- b. Eliminates the cap of 50% reimbursement for equipment use based on original purchase price. *See Ch. 8, pg. 8-5.*
- c. Allows for incidental costs up to \$250 for safety equipment. *See Ch. 8, pg. 8-6.*
- d. Eliminates Form A805 Force Account Request for Payment.
- e. Provides an alternative excel spreadsheet - Form 800 - which combines Forms A801, A802, and A804 for personnel and equipment costs.

#### Ch. 10 Civil Rights Requirements

- a. Streamlines the approach and notice requirements of civil rights, including Equal Opportunity and Citizen Participation requirements.
- b. Requires that every resolution must be associated with a TxCDBG contract. Provides that all policies and/or resolutions must be adopted or reaffirmed for every contract. *See Ch. 10, pg. 10-4, 10-8.*
- c. Clarifies Limited English Proficiency requirements and includes safe harbor federal guidelines. Requires Grant Recipients to establish a plan for determining if there is a need for LEP services within the community and, if applicable, how appropriate language assistance will be given. *See Ch. 10, pg. 10-4, 10-8, 10-17.*

Section C – Housing Rehabilitation

- a. Provides for reconstruction of housing units and increases the allowable cost per unit rehabilitated or reconstructed to \$50,000. *See Section C, pg. C-2, C-3, C-4, C-8, C-9.*
- b. Allows the cost of site evaluations and inspections to be considered in the rehabilitation costs. *See Section C, pg. C-3, C-4.*
- c. Outlines the methods for calculating the level of rehabilitative assistance required for lead-based paint. *See Section C, pg. C-6 thru C-8.*

Section F – STEP

- a. Moves guidance for STEP projects (previously found in Section A, Chapter 9) to a Fund specific section.

TDA welcomes feedback on this draft document. Please send any comments to Vada Dillawn at [Vada.Dillawn@TexasAgriculture.gov](mailto:Vada.Dillawn@TexasAgriculture.gov) prior to September 11, 2015. The changes listed above and other relevant program information will be included in the 2015 TxCDBG Implementation Workshops, held September 15 - 23.

Thank you for your efforts to assist rural Texas communities!

Sincerely,



Suzanne Barnard  
Director for CDBG Programs