



Community Development Block Grant (CDBG) Subrecipient Policy City of Newburgh 2021

PURPOSE

The purpose of this policy is to provide basic information about the City of Newburgh Community Development Block Grant (CDBG) program in relation to the award of funds to a Subrecipient. Policy related to award of CDBG funds to a Contractor is identified in the City of Newburgh CDBG Procurement Policy.

Contractor of Subrecipient?

Generally, a Contractor is a procurement relationship (buyer/seller):

1. Provides goods and services within normal business operations;
2. Provides similar goods and services to many different purchasers;
3. Normally operates in a competitive environment;
4. Provides goods and services that are ancillary to the operation of the federal program;
and
5. Is not subject to compliance requirements of the Federal program because of the agreement.

Generally, a Subrecipient is an entity authorized to assist the City of Newburgh in administering an eligible CDBG activity:

1. Determines who is eligible to receive what Federal assistance;
2. Has its performance measured in relation to whether a national objective was met;
3. Has responsibility for programmatic decision making;
4. Is responsible for adherence to applicable Federal program requirements specified in the Federal award;
5. Uses Federal funds to carry out a program for a public purpose specified in the authorizing statute; and
6. Does not provide goods or services for the benefit of the pass-through entity.

2 CFR 200 DEFINITIONS

Non-Federal Entity: Non-Federal entity means a state, local government, Indian tribe, institution of higher education (IHE), or nonprofit organization that carries out a Federal award as a recipient or Subrecipient.

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Pass-Through Entity: Pass-through entity means a non-Federal entity that provides a subaward to a Subrecipient to carry out part of a Federal program.

- *A pass-through entity is providing financial assistance to a non-federal entity to run an eligible program on its behalf.*
- *The pass-through entity is not required to select Subrecipient through a competitive procurement process.*

Subaward: an award provided by a pass-through entity to a Subrecipient for the Subrecipient to carry out part of a Federal award received by the pass-through entity. It does not include payments to a contractor or payments to an individual that is a beneficiary of a Federal program. A subaward may be provided through any form of legal agreement, including an agreement that the pass-through entity considers a contract.

Subrecipient: (Defined in 2 places)

(2 CFR 200) A non-Federal entity that receives a subaward from a pass-through entity to carry out part of a Federal program; but does not include an individual that is a beneficiary of such program. A Subrecipient may also be a recipient of other Federal awards directly from a Federal awarding agency. (Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards.)

24 CFR 570.500(c) A public or private nonprofit agency, authority, or organization, or a for-profit entity authorized under §570.201(o), receiving CDBG funds from the recipient or another Subrecipient to undertake activities eligible for such assistance under subpart C of this part. (CDBG and HOME regulations.)

THE CDBG PROGRAM

The primary objective of the CDBG program is the development of viable urban communities through the provision of decent housing, a suitable living environment and expanded economic opportunities principally for persons of low-moderate income, defined as a person residing in a household with income at or below 80% of area median income. This is achieved by providing the following, principally for persons of low and moderate income.

1. Decent housing
2. A suitable living environment
3. Expanded economic opportunities

All CDBG subawards must meet a National Objective and be an eligible activity.

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NATIONAL OBJECTIVES

To be eligible for CDBG funding, each activity must meet one of HUD's three National Objectives. The National objectives are:

1. Benefiting low- and moderate-income persons,
2. Preventing or eliminating slums or blight, or
3. Meeting other community development needs having a particular urgency because existing conditions pose a serious and immediate threat to the health or welfare of the community and other financial resources are not available to meet such needs.

ELIGIBLE ACTIVITIES

In accordance with 24 CFR 570.201, CDBG funds may be used for the following activities:

- Acquisition
- Disposition
- Public facilities and improvements
- Clearance and remediation activities
- Public services
- Interim assistance
- Payment of non-Federal share
- Urban renewal completion
- Relocation
- Loss of rental income
- Housing services
- Privately owned utilities
- Construction of housing
- Homeownership assistance
- Technical assistance
- Assistance to institutions of higher education

INELIGIBLE ACTIVITIES

In accordance with 24 CFR 570.207, the following activities may not be assisted with CDBG funds:

- Buildings or portions thereof, used for the general conduct of government
- General government expenses

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- Political activities

The following activities may not be assisted with CDBG funds unless authorized under provisions of § 570.203 or as otherwise specifically noted herein or when carried out by an entity under the provisions of § 570.204:

- Purchase of equipment
- Operating and maintenance expenses
- New housing construction
- Income payments

SUBRECIPIENT

A Subrecipient is a public or private nonprofit agency, authority or organization, or an entity described in 24 CFR 570.204(c). The City of Newburgh may allocate CDBG funds to a Subrecipient for use in carrying out eligible CDBG activities.

In accordance with 2 CFR 200.400(c), "The non-Federal entity, in recognition of its own unique combination of staff, facilities, and experience, has the primary responsibility for employing whatever form of sound organization and management techniques may be necessary in order to assure proper and efficient administration of the Federal award."

As such, a Subrecipient does not need to be selected through a competitive process. Selection of a City of Newburgh Subrecipient may be through one of the following, based on the need to ensure proper and efficient administration of City of Newburgh CDBG funds:

1. Formal applications or Requests for Proposal (RFP); or
2. Direct solicitation of qualified organizations; or
3. Review existing Subrecipient's' performance and continue to fund existing programs when warranted.

In accordance with 2 CFR 200, factors to consider when selecting a qualified Subrecipient organization include:

- Prior award experience
- Prior audit experience
- Staffing and internal systems
- The extent of any prior federal (or pass-through entity) monitoring
- Is the Subrecipient listed in any of the Federal databases? (e.g. SAM.gov)

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WRITTEN AGREEMENT

Prior to the release of CDBG funds from the City of Newburgh, a written agreement must be executed with the Subrecipient. The Subrecipient Agreement remains in effect during the duration of the period the Subrecipient is operating a program in which City of Newburgh CDBG funds utilized.

A written agreement must be entered into between the City of Newburgh and all entities receiving CDBG funds. The written agreement forms the basis for the obligation between the parties to fund and implement the activity or program. The agreement will indicate responsibilities attributable to each party, and shall outline in exact measure the scope of services to be provided, methods of accountability, and a schedule for payment. Execution of the agreement binds the Subrecipient for a specific period of time, and may be revised only upon written authorization from the City of Newburgh.

Prior to agreement execution, all Subrecipients must have the needed support, confirmed matching resources, sufficiently developed plans, a program site, and budget to start the proposed program after the funding approval and complete the program within one year after start up. Programs should be able to begin on January 1st, the beginning of the City's Fiscal Year. Funds must be spent in a timely manner.

Subrecipients are expected to spend at least 50% of the allocated funds prior to September 30th and 100% by December 31st, unless otherwise specified by the City of Newburgh. Unspent funds cannot be carried forward; therefore, are subject to potential reprogramming to other eligible programs.

IMPORTANT: Once the Subrecipient agreement is fully executed, the Subrecipient becomes a non-federal entity subject to the same stipulations of 2 CFR 200 as the grantee (City of Newburgh).

If the Subrecipient experiences key staff changes, such as, new Executive Director, other key staff, program or financial staff, the Subrecipient must contact the City of Newburgh Department of Planning & Development in writing within 30 days:

City of Newburgh
Department of Planning & Development
83 Broadway
Newburgh, NY 12550

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SUBRECIPIENT RESPONSIBILITIES

Subrecipients are required to comply with all applicable federal rules and regulations governing the use of CDBG funds 24 CFR Part 570 – CDBG Code of Federal Regulations as well as Office of Management and Budget (OMB) Circular 2 CFR Part 200.

Financial Management

The requirements for financial management systems and reporting are found in 24 CFR Part 85.20 for governmental Subrecipients and in 24 CFR Part 84.21-28 as amended by 570.502, for non-profit Subrecipients. The purpose of these requirements is to ensure that the City of Newburgh Subrecipient has a financial management system sufficient to:

- a) Provide effective control over and accountability for all funds, property, and other assets.
- b) Identify the source and application of funds for federally sponsored activities, including verification of the “reasonableness, allowability, and allocability” of costs and verification that the funds have not been used in violation of any of the restrictions or prohibitions that apply to this Federal assistance.
- c) Permit the accurate, complete, and timely disclosure of financial results in accordance with the reporting requirements of the grantee or HUD.
- d) Minimize the time elapsing between the transfer of funds from the U.S. Treasury and disbursement by the Subrecipient.

Financial Management Area	Description		
Internal controls	Resources are used for authorized purposes and in a manner consistent with applicable laws, regulations, and policies. Examples include: an organizational chart, written definition of the duties, a formal system of authorization and supervision.		
Accounting records	<p>Subrecipients are required to have accounting records that adequately identify the source and application of CDBG funds provided to them. Examples include: A chart of accounts, cash receipts journal, general ledger, etc.</p> <table border="1" style="width: 100%;"> <tr> <td style="width: 50%;">Accounting records must contain reliable and up-to-date information about the sources and uses of funds:</td> <td style="width: 50%;"> <ul style="list-style-type: none"> • Federal grant awards (or subgrant allocations) received by the organization, • Current authorizations and obligations of CDBG funds, • Unobligated balances (funds remaining available for distribution), • Assets and liabilities, • Program income, • Actual outlays or expenditures - grant program from which the funds are </td> </tr> </table>	Accounting records must contain reliable and up-to-date information about the sources and uses of funds:	<ul style="list-style-type: none"> • Federal grant awards (or subgrant allocations) received by the organization, • Current authorizations and obligations of CDBG funds, • Unobligated balances (funds remaining available for distribution), • Assets and liabilities, • Program income, • Actual outlays or expenditures - grant program from which the funds are
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		derived, The “eligible activity” (ex. Public Service)
Allowable costs	A cost is allowable under the CDBG program if:	<ul style="list-style-type: none"> • Expenditure is necessary, reasonable, and directly related to the grant; • Expenditure has been authorized by the grantee; • Expenditure is not prohibited under federal, state, or local laws or regulations; • Expenditure is consistently treated, in the sense that the Subrecipient applies generally accepted accounting standards in computing the cost, and utilizes the same procedures in calculating costs as for its non-Federally assisted activities; • Cost must be allocable to the CDBG program; • Cost is net of all applicable credits (The Subrecipient is not allowed to make a profit from any costs charged to CDBG funds.)
Source documentation	Supporting documentation is necessary to show that the costs charged against CDBG funds were incurred during the effective period of the Subrecipient’s agreement with the grantee, were actually paid out (or properly accrued), were expended on allowable items, and had been approved by the responsible official(s) in the Subrecipient organization.	
Budget controls	Subrecipients must have procedures in place to monitor obligations and expenditures against their approved budget(s) for CDBG-funded activities.	
Cash management	Subrecipients are required to have procedures in place to minimize the time elapsed between receipt of funds from the grantee and the actual disbursement of those funds.	
Financial reporting	Financial reports prepared by a subrecipient must be accurate, timely, current, and represent a complete disclosure of the financial activity and status in each Federal grant program under which assistance is received.	
Audits	A 2 CFR Part 200 audit is required if your organization expends more than \$750,000 in federal funds during your fiscal year.	

IMPORTANT!

The Subrecipient must segregate Federal funds from other sources of revenue. A Chart of Accounts is important to meet the following requirement:

§200.303(b)(3) requires records that “adequately” identify the source of all Federal funds – and how they are spent – supported by source documentation.

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Adequate identification would include the CFDA number for each Federally-funded subaward.

INVOICES

Invoices must be provided on a regular basis to ensure timely project management. For most projects, regular invoicing is expected on at least a monthly basis. Invoices and accompanying back-up must be submitted along with a signed City of Newburgh payment voucher. All invoices must include proof of payment (ex. Copy of canceled check, credit card receipt, etc.)

FINAL INVOICE

When submitting its final invoice, the Subrecipient must comply with §200.415(a).

(a) To assure that expenditures are proper and in accordance with the terms and conditions of the Federal award and approved project budgets, the annual and final fiscal reports or vouchers requesting payment under the agreements must include a certification, signed by an official who is authorized to legally bind the non-Federal entity, which reads as follows):

“By signing this report, I certify to the best of my knowledge and belief that the report is true, complete, and accurate, and the expenditures, disbursements and cash receipts are for the purposes and objectives set forth in the terms and conditions of the Federal award. I am aware that any false, fictitious, or fraudulent information, or the omission of any material fact, may subject me to criminal, civil or administrative penalties for fraud, false statements, false claims or otherwise. (U.S. Code Title 18, Section 1001 and Title 31, Sections 3729-3730 and 3801-3812).”

Record Keeping

Record keeping is important for all federal grant recipients, including CDBG Subrecipients. The general CDBG standard for record keeping is that records must be **accurate, complete and orderly**.

Every Subrecipient is required to establish and maintain at least three major categories of records:

- ✓ Administrative records: These are files and records that apply to the overall administration of the Subrecipient’s CDBG activities. They include the following:
 - Personnel files.
 - Property management files.

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- General program files: files relating to the Subrecipient's application to the grantee, the Subrecipient Agreement, program policies and guidelines, correspondence with grantee and reports, etc.
- Legal files: articles of incorporation, bylaws of the organization, tax status, board minutes, contracts and other agreements.
- ✓ Financial records: These include the chart of accounts, a manual on accounting procedures, accounting journals and ledgers, source documentation (purchase orders, invoices, canceled checks, etc.), procurement files, bank account records, financial reports, audit files, etc.
- ✓ Project/case files: These files document the activities undertaken with respect to specific individual beneficiaries, property owners, and/or properties.

Subrecipients, where applicable, should anticipate having to maintain records sufficient to:

- ✓ Provide a full description of each activity assisted with CDBG funds, including:
 - the location where the activities occur; and
 - the amount of CDBG funds budgeted, obligated, and expended for the activity and the regulatory provision under which the activity is eligible.
- ✓ Demonstrate that each activity undertaken meets one of the National Objectives for the CDBG program (24 CFR 570.208 and particularly the record-keeping requirements at 570.506(b)(1) - (12)). **(To be provided by the City of Newburgh)**
- ✓ Show that the Subrecipient has made all necessary determinations required for the eligibility of certain activities under the CDBG program, including but not limited to
 - interim assistance [24 CFR 570.201(f)],
 - relocation [570.201(i)(2)],
 - technical assistance [570.201(p)],
 - loans to refinance existing indebtedness secured by a property being rehabilitated [570.202(b)(3)],
 - activities carried out by CBDOs [570.204],
 - preparation of applications for other Federal programs [570.206(f)], and
 - special economic development activities [570.209].
- ✓ Document compliance with the program rules regarding any change of use of real property acquired or improved with CDBG assistance (24 CFR 570.505 and 570.503(b)(7)(i) and (ii)).
- ✓ Demonstrate compliance with the program requirements regarding acquisition, displacement, relocation, and replacement housing (24 CFR 570.606).
- ✓ Detail the Subrecipient's fair housing activities and equal opportunity compliance.

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- ✓ Maintain all necessary information relative to the other program requirements specified in Subpart K of 24 CFR Part 570 (which includes labor standards; national flood insurance; employment and contracting opportunities; lead-based paint; use of debarred, suspended, or ineligible contractors or Subrecipients; and conflict of interest).

Subrecipients are not responsible for providing documentation for the initial environmental review of an activity, because they cannot assume the grantee's environmental responsibilities (24 CFR 570.503(b)(5)). However, actions that a Subrecipient provides to the grantee in order for it to carry out these responsibilities and other actions the Subrecipient takes to abate or address environmental findings must be documented.

For each type of activity undertaken, a Subrecipient in consultation with the grantee should determine the comparable data that must be maintained in the individual case files and establish a system for ensuring that every file contains the necessary information. Although the list will vary from activity to activity, each project or case file should include documentation of the National Objective being met, the characteristics and location of beneficiaries, the eligibility of the activity, the compliance with special program requirements, the allowability of the costs, and the status of the case/project.

Record Retention

The retention period for Subrecipient for individual CDBG activities shall be **the longer of 3 years after the expiration or termination of the Subrecipient agreement under § 570.503, or 3 years after the submission of the annual performance and evaluation report, as prescribed in § 91.520 of this title, in which the specific activity is reported on for the final time.** Records for individual activities subject to the reversion of assets provisions at § 570.503(b)(7) or change of use provisions at § 570.505 must be maintained for as long as those provisions continue to apply to the activity. Records for individual activities for which there are outstanding loan balances, other receivables, or contingent liabilities must be retained until such receivables or liabilities have been satisfied.

Subrecipients must maintain records in accordance with the City of Newburgh Record Retention Policy, City of Newburgh Code "Chapter 88 Records Retention."

Access to Records

Representatives of the grantee, HUD, the Comptroller General of the United States, or of other authorized governmental agencies have the right of access to any pertinent records of a Subrecipient to make audits, examinations, excerpts, and transcripts. (24 CFR 85.10 (e) and 84.53 (e)). The Subrecipient also must provide citizens with reasonable access to records on the past use of CDBG funds (24 CFR 570.508).

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Even after closeout, Subrecipients have on-going responsibilities:

- ✓ Record retention;
- ✓ The obligation to open the files and their books;
- ✓ Any audit requirements that may pertain; and
- ✓ To return Federal funds if the grantee disallows costs or if CDBG funds are found to have been used for ineligible expenses.

OTHER ADMINISTRATIVE AND PROGRAM REQUIREMENTS

Federal regulations mandate that all CDBG-funded activities conducted by grantees and Subrecipients must be eligible and must meet one of three National Objectives noted above:

1. Benefiting low- and moderate-income persons,
2. Preventing or eliminating slums or blight, or
3. Meeting other community development needs having a particular urgency because existing conditions pose a serious and immediate threat to the health or welfare of the community and other financial resources are not available to meet such needs.

Additional documents are provided in the following attachments:

- An Internal Controls Checklist
- Glossary of Terms
- Subrecipient Checklist

CLOSEOUT

§200 Closeout Responsibilities

Within 90 calendar days after the end date of the activity, the Subrecipient must (if applicable):

- Submit all reports and records required by terms of the Subrecipient Agreement;
- Liquidate all obligations incurred in connection with the subaward;
- Refund any Federal fund balances remaining if the pass-through entity advanced cash for the activity; and
- Account for any real or personal property acquired with subaward funds.