Chapter I
General Information

Section 1: Award and Acceptance of CDBG Funds

Upon approval of an application for Community Development Block Grant (CDBG) funds, the Georgia Department of Community Affairs (DCA) will transmit to the Recipient's certifying representative the following documents:

1. An original and one copy of the Statement of CDBG Award signed by the Commissioner and an original and one copy of a Statement of General and Special Conditions. If applicable, an original and one copy of a Statement of Revisions will also be included.

   The Recipient's certifying representative (Mayor, Chairman of County Commission or other authorized official) should examine these documents closely and understand them before signing and dating all copies. **If "other authorized official", DCA will need a copy of the resolution/certified minutes appointing the authorized official.**

Once signed, the original (white) of the Statement of CDBG Award as well as the original Statement of General and Special Conditions, and Statement of Revisions, if any, must be returned to DCA, Office of Community Development, within thirty (30) days of grant award as evidence of acceptance of the grant.

   The copy (pink) of the Statement of CDBG Award and the copy(ies) of the Statement of General and Special Conditions and Statement of Revisions, if any, should be retained by the Recipient for its files.

2. A **Vendor Management Bank Account Form** is to be completed and returned to DCA along with a voided check indicating the account number and routing number. A voided check, not a deposit slip, is required to set-up the wire transfer process.

3. An **Authorized Signature Card** must be signed by at least two signatories (one of whom must be a local government employee) authorized to request payment (draw down) of funds under the grant agreement. Check the box designating either one (1) or two (2) signatures as required on the Draw Down Request. (NOTE: If the authorized official designates himself/herself for drawdown, the two (2) signatures required box must be checked.) The Recipient's certifying representative should also sign the card to certify that the individuals named are indeed authorized to request payment and that the signatures on the card are theirs. No erasures or corrections may appear on this form. **Important: For draw downs, at least one local government representative's (elected official or employee) signature must be on the drawdown form.**

4. **Civil Rights Compliance Certification:**

   a. The person responsible for the government's personnel practices should complete questions 1 through 8 to indicate compliance with government EEO requirements.

b. For Question 8, list only complaints related directly to the CDBG-funded activity.

c. Have the chief elected official and the person preparing the report sign and date it. Submit the report to DCA, Office of Community Development.

Once signed, the original (white) of the Statement of CDBG Award as well as the original Statement of General and Special Conditions, and Statement of Revisions, if any, must be returned to DCA, Office of Community Development, within thirty (30) days of grant award as evidence of acceptance of the grant.

Samples of all these forms are included in Appendix I.

All correspondence and submissions relating to a CDBG program should be mailed to the following address:

Office of Community Development
Georgia Department of Community Affairs
60 Executive Park South, NE
Atlanta, Georgia 30329-2231
Telephone: (404) 679-1582
Fax: (404) 679-1583

Section 2: General and Special Conditions and Revisions

A Statement of Revisions and/or General and Special Conditions may be attached to and made part of the Statement of CDBG Award. When attached, they must be signed and returned to DCA along with the Statement of CDBG Award.

General Conditions are applicable to all grants and include the requirement for an environmental review before funds are obligated to covered activities.

The Special Conditions will vary from grant to grant and may address a number of different issues. Generally, they will restrict the drawdown of funds until necessary clearances have been obtained. The Recipient should be clearly aware of all Special Conditions attached to its award and should make every effort to clear them as promptly as possible.

Clearance of Special Conditions is given by DCA by issuance of a Grant Adjustment Notice after receipt and approval of evidence of compliance. Official notification of clearance of a Special Condition should be retained by the Recipient in its files.

The Revisions will also vary from grant to grant and will list any changes such as budget revisions made by DCA to the application.

Recipients should be aware of the general environmental condition placed on all grants. Consult Chapter II, Section 2 for detailed information on complying with environmental review responsibilities. **The environmental review must be completed before any project funds are obligated.**

DCA reserves the right to cancel any grant award, temporarily suspend payments, or to

take other actions in the event a CDBG Recipient materially fails to comply with any of the terms of the Grant Award. See section 15: Sanctions.

Policies and Procedures Special Condition for Neighborhood Revitalization and Multi-Activity Grants. Following the award of a neighborhood revitalization or multi-activity grant, no activities may be undertaken until a draft copy of the Policies and Procedures (P/P) has been submitted to DCA for review and approval. Please see the Neighborhood Revitalization Manual and individual Grant Special Conditions for further details regarding this requirement.

Code of Ethics

Please note the following General Condition has been added to all Grant Award Packages.

> The Recipient agrees and certifies that for all activities and endeavors carried out in concert with CDBG monies, the Code of Ethics for Government Service as established within Title 45, Chapter 10 and Section 1 of the Official Code of Georgia Annotated will be strictly adhered to and followed.

Please see the entire text of the Georgia Code of Ethics for Government Service at the front of this Manual.

Section 3: Cash Depositories

Funds drawn under CDBG Programs must be deposited as follows:

1. A separate non-interest bearing bank account must be established for each CDBG grant.

   Only CDBG funds should be deposited into this account. Match and other funds should not be deposited into this account.

2. The separate bank account must be established in a financial institution with Federal deposit insurance coverage and the balance exceeding the coverage must be collaterally secured.

3 Consistent with the national goal of expanding the opportunities for minority business enterprises, Recipients are encouraged to use minority banks.

Section 4: Monitoring Program Performance and Compliance

Recipients must constantly monitor performance to ensure that time schedules are being met, projected milestones are being accomplished, and other performance goals are being achieved in accordance with the approved application. In addition, all activities must be conducted in compliance with a host of federal and state requirements.

Problems, delays, or adverse conditions that will affect the Recipient's ability to meet its program objectives or its time schedules should be reported to DCA on the appropriate section of the Quarterly Report form or at any other time, as appropriate.

DCA shall make site visits as frequently as necessary to provide such technical assistance as may be required.

In addition to technical assistance, the Department will, at appropriate times during program activities, review Recipients' records to ensure that all applicable state and federal requirements are being met. The Department's emphasis will be on preventing and correcting problems before they develop into serious obstacles to program implementation. For instance, under normal circumstances, Recipients would be reviewed first for compliance with applicable citizen participation and environmental requirements. At this time, the DCA representative might also offer technical assistance in drafting policies for use in a rehabilitation program or assist the Recipient with acquisition procedures, etc. The next visit by the DCA representative might find the Recipient beginning to implement a rehabilitation project. At that time, a formal rehabilitation review would take place. Program representatives will use the Review Checklists in the appendix to this Manual when reviewing local programs.

Leverage Funds are a component of the rating and ranking of CDBG applications and DCA will verify that the leverage and activities proposed by the local government and counted by DCA has in fact been provided. Grants will not be closed and final payments may not be made prior to this verification.

In addition, the following policy will apply to leveraged funds in the event of cost under-runs and grant deobligations:

1. In the event of cost under-runs/grant de-obligations, the amount of leverage pledged to the amended CDBG grant will be required to be the same amount as pledged under the original grant award unless otherwise approved by DCA.

2. DCA will consider reducing the required amount of leveraged funds upon written request by the Recipient, and DCA will review the petition and take into account the following factors: 1) the impact of the reduction in leverage on the CDBG project and its intended beneficiaries; 2) the impact of the reduction in leverage on the original application score; and 3) other factors that may be pertinent to the situation.

3. In no event will a reduction in leverage be more than an amount that results in the percentage leverage contribution falling below the original percentage leverage contribution as defined in the grant award's Source and Use Statement unless approved by DCA on an exception basis.

Leverage Monitoring. DCA has established a detailed cash match verification/leverage assessment form. (See Appendix II, Project Review Checklists.) The form will be prepared by the field representative prior to the last CDBG draw. The form will also require the field representative to make a recommendation regarding payment of the final CDBG draw in light of progress toward meeting leverage requirements. Match and leverage will again be reviewed/verified at the closeout site visit.

Section 5: Implementation Timeframes

Completion of program activities within the timeframes established in the approved application is extremely important. DCA may choose to exercise its right to recapture all unobligated CDBG funds after twenty-four (24) months of grant award or to take other sanctions described in this Manual.

If, however, for reasons beyond the control of the Recipient, it appears that an extension beyond the approved grant period, as shown on the Statement of CDBG Award, will be necessary, a written request for extension should be sent to DCA before the date of expiration. The extension request should outline the reasons for delay and specify the projected completion date. All approvals of extensions will be made in the form of a Grant Adjustment Notice from DCA.

Section 6: Drawdown of Funds

Recipients shall submit to DCA a "Request for Drawdown of CDBG Funds" whenever necessary, but ordinarily not more frequently than weekly. (See a copy of the form and instructions in Appendix 1.) Prior to initial drawdown of any funds, the Statement of CDBG Award, any Statement of Special Conditions or Revisions, the Vendor Management Bank Account form, a voided check, the authorized Signature Card and the Civil Rights Compliance Certification must have been properly executed and returned to DCA. (See Sections 1 and 2 of this chapter.) In addition, any Special Conditions restricting drawdown of funds must have been satisfied and the environmental review (except for exempt activities) must be completed.

Important: For drawdowns, at least one local government representative's (elected official or employee) signature must be on the drawdown form.

Requests for drawdowns (only) should be mailed to the following address for more efficient handling:

Georgia Department of Community Affairs
Office of Community Development
60 Executive Park South, NE
Atlanta, Georgia 30329

The Recipient must minimize the time elapsing between the receipt of funds and their disbursement. A period of **3 working days or less** shall be considered acceptable for any sum more than $5,000. (See Chapter III, - "Financial Management Systems" - of this Manual.)

Whenever cash on hand exceeds $5,000 and appears to exceed the next 3 working days' needs, the excess should be immediately returned to DCA.

When a Recipient demonstrates an inability to establish procedures to minimize the time elapsing between cash advances and disbursements, cannot adhere to laws, regulations or special conditions, engages in the improper award and administration of contracts, or is unable to submit reliable and/or timely reports, DCA may terminate drawdowns and/or require operation of the program on a reimbursement basis only, and take additional actions as described in this Manual.

Generally, CDBG draws are prepared on Tuesdays and Thursdays. The funds should be in your bank seven days from the day DCA processes your request.

It is the Recipient's responsibility to anticipate cash needs and to submit draw requests to allow sufficient time for timely receipt of funds.

Section 7: Reporting Requirements

1. Quarterly Expenditures and Progress Report:

Recipients must submit a Quarterly Expenditures and Progress Report on the prescribed form to DCA. A report shall be due within 30 days from the close of each calendar quarter, beginning 30 days after the end of the first full calendar quarter and ending when all activities are completed and all benefit to low- and moderate-income persons has been reported.

No drawdown of funds shall be authorized by DCA if one or more reports are delinquent.

Quarterly Reports are to be submitted using the Web Quarterly Reporting system (located at http://communityfinance.dca.ga.gov/cdfd.html). A sign-up form to register for using the online system is available and a sample completed Report is in Appendix I. If technical difficulties prevent users from completing quarterly reports online, the reports may be submitted by paper. Detailed instructions for completing the Quarterly Reports are available online at:

http://communityfinance.dca.ga.gov/cdfd.html

Recipients should contact their Program Representative if assistance is needed in the preparation of the reports. Assistance in using the Web Quarterly Reporting system is available by sending email to cdfdadm@dca.ga.gov or contacting Robert Shaw at (404) 679-4806.

Financial reports, including those required for internal management and those that must be submitted to DCA should be prepared in a timely manner. Financial reports submitted to DCA should be prepared using the accrual basis of accounting, which recognizes revenue when earned and expenses when incurred, regardless of when cash is actually paid out. Account records need not be maintained on the accrual method on a day-to-day basis; however, it must be possible to accumulate the necessary accrual information when the financial reports are prepared. Typically, these would include receivables and payables, in addition to accruals for interest and salaries. Quarterly Reports must be fully supported by accounting records.

2. Labor Compliance Reports:

Federal Labor (Davis Bacon, etc.) compliance and reporting requirements are described in Chapter II, Section 3, and include a Final Wage Report.

3. Beneficiary and Civil Rights Data Reports:

Throughout a project's progress, data will be required on the number of persons benefiting from the project and the number of these persons who are low- and moderate-income. Data will also be required on race, ethnicity and other demographic characteristics as required by HUD. This data is needed to report program accomplishments to Congress, HUD and citizens. Beneficiary data will be reported on Quarterly Reports as they occur as well as on the Actual Accomplishments form.

4. Other Reports:

The Recipient should review General Condition Number 2 which states that additional reports may be required. For example, information on the number of acquisitions, by type, and amounts paid for acquisition parcels may be required from time to time.

Section 8: Citizen Participation Requirements

The Housing and Community Development Act places emphasis on efforts to involve citizens, especially low- and moderate-income citizens, in all aspects of the CDBG Program.

As required by the Act, DCA has adopted a written Citizen Participation Plan as part of the Consolidated Planning process. This Plan is also applicable to applicants for and Recipients of CDBG funds.

Applicants for and Recipients of CDBG certify that they will follow this plan which requires that local units of government will provide for and encourage citizen participation in the planning, implementation and assessment of their CDBG program.

Applicants and Recipients must, at a minimum, meet the following requirements.

1. At least one (1) public hearing must be held in the locality before submission of an application to DCA. The purpose of this hearing is to obtain citizen views, respond to proposals, and answer questions concerning previous CDBG funded projects (if any) and to obtain citizen participation in the development of new proposals including identification of community needs and proposed activities.

2. **At least one (1) public hearing must be held to discuss the approved activities within 60 days of the grant award.** This hearing must include the estimated amount proposed to be used for the activities that will benefit low- and moderate-income persons and the Recipient's plans for minimizing the displacement of persons as a result of CDBG-funded activities and to assist persons actually displaced as a result of such activities. (See sample notice in Appendix.)

3. At least one (1) public hearing must be held if a grantee proposes a substantive amendment to the program, as defined in Section 9 of this Manual.

4. At the completion of the project, the Recipient shall prepare a detailed Final Quarterly Report, which describes the accomplishments of the project. The Recipient shall make the report available to the public and solicit comments on performance before grant close-out. A Public Notice must be published stating the availability of the Report and soliciting comments. This Notice can be combined with the "close-out" Public Hearing. (See Appendix I.)

5. At the completion of the project, the Recipient shall also hold a Public Hearing. See Chapter I, Section 11: "Close-Out Procedures".

6. The public hearings required by this section shall be held only after publication of a notice not less than <u>five (5) full days prior to said hearing</u> in the <u>non-legal</u> section of

a local newspaper of general circulation. Local governments are encouraged to provide for other forms of public notice to persons known to be interested in the project.

A full five days must pass from the Public Notice publication date to the public hearing date. The first full day is the day after the Notice is published. For example: If the Notice is published on a Thursday the earliest the Hearing can be held is the following Wednesday. Another example: The hearing is scheduled for a Friday afternoon. Counting backward, day one (1) is Thursday and day five (5) is Sunday. The notice must be in a paper earlier than Sunday, i.e.: Saturday's paper or earlier.

7. Hearings must be held at times and locations convenient to potential or actual beneficiaries and with accommodation for the handicapped. Public hearing notices should include information to accommodate special needs.

8. The needs of non-English speaking residents must be met in the case of public hearings where a significant number of non-English speaking residents can be reasonably expected to participate.

9. Recipient files must contain documenting evidence that the actions listed in this section have been taken, including copies of actual notices and minutes of hearings.

10. Applicants and Recipients must provide technical assistance to groups representative of persons of low- and moderate-income that request such assistance in developing proposals, with the level and type of assistance to be determined by the local unit of government.

11. Citizens must be provided with reasonable and timely access to local meetings, information and records relating to the local government's proposed and actual use of CDBG funds as required by HUD regulations and state law.

12. In the event the local government receives a written complaint or grievance concerning the CDBG program, a timely written response must be made within 15 working days, where practical.

13. This section may not be construed to restrict the responsibility or authority of the local government for the development and execution of its community development program.

In case of receipt of a citizen complaint by DCA, the following procedure is established:

1. DCA shall respond to written complaints only and then only if evidence indicates that relief has previously been sought at the local level;

2. Upon receipt of a complaint, DCA shall transmit a copy of the complaint to the Recipient and request a response within fifteen (15) calendar days;

3. If the response indicates the Recipient is in noncompliance with law or regulation, DCA shall require corrective action and advise the complainant of its decision;

4. DCA will only take action if complaints indicate noncompliance with law or regulation.

Other complaints about the program should be handled on the local level.

Location of Program Records:

Although Recipients may designate the location of the program records, DCA must be officially informed of their location. In addition, in order to ensure citizen access to CDBG program records, if the location of the records is different from the Recipient's normal place of business, the following minimum information must be on file in a designated place at the Recipient's normal place of business and be available for public inspection:

- The application;
- The citizen participation plan (if different from the State's Plan);
- The standard performance/financial reports, including Quarterly Reports;
- Other pertinent information deemed appropriate by the Recipient, such as engineering plans;
- The environmental review record; and
- CDBG bank account statements, invoices, canceled checks, and all program accounting records.
- See Chapter 2, Section 5 for information regarding Home Owner Participant files for CDBG-funded housing rehabilitation and reconstruction activities.

Section 9: Program Amendments, Budget Revisions or Other Adjustments

Recipients must request a program amendment and receive prior approval from DCA in the following instances:

1. If the addition of a new activity or the deletion of an approved activity is proposed.

2. If a decrease in excess of 10% in the scope of an approved activity is proposed.

3. If any activity is proposed in an area other than the approved target area. This includes a proposed change in location or use of any building proposed to be constructed with CDBG assistance.

4. If a budget revision is proposed that will result in a transfer between approved activities or in a change in any activity's allocation of an accumulative amount in excess of 10% of the grant award.

Before approving any budget revision, the Department may also review the revision's effect on locally committed match or leverage.

If a substantive amendment to the program is proposed, at least one (1) public hearing must be held. Recipients are advised to modify the format of the post award public briefing notice to advise the public of the status of the on-going grant as well as the amendment proposed. (See Section 8 of this chapter.) Substantive amendments may include, but are not limited to, new or amended target areas, elimination of activities, significant changes in project scope, and adverse impacts on proposed beneficiaries.

A request for program amendment must provide sufficient narrative information to adequately explain and justify the proposed amendment and must include: 1) a copy of the public hearing notice and minutes of the meeting (in cases of substantial amendments); 2) a revised map; 3) a revised Low and Moderate-Income Calculation form (DCA-6); 4) a revised Proposed Accomplishments form (DCA-2); and 5) a revised budget reflecting the proposed transfers using the Budget Summary Form (DCA-7) and the Budget Analysis Form (DCA-8).

Keep in mind that in most instances, program amendment narratives need to be supported by an engineer's summary of proposed changes as well as engineering cost estimates.

All forms should reflect **all grant and match and leverage** funds and all beneficiaries, rather than those funds subject only to the amendment request.

DCA shall inform the Recipient of the approval or denial by using a Grant Adjustment Notice after review of the proposed changes.

Whenever a program amendment is proposed, Recipients should review Chapter II, Section 2 concerning the re-evaluation of environmental assessment findings and review Chapter 3, Section 4 regarding compliance with applicable procurement requirements.

Note that if prior approval is not received, DCA may disallow use of CDBG funds for the unapproved costs.

Special Provisions for Housing and Multi-Activity Grants. See the Rehabilitation Manual for detailed requirements regarding grant modifications and extension requests for housing activities. Please note that extension and amendment requests must indicate why an extension/amendment is required AND provide a synopsis as to the status of all proposed units.

Section 10: Retention of Records

Financial records supporting documentation for all transactions required by law, whether financial or programmatic and all other records pertinent to a CDBG program must be kept for 3 years from the date of issuance of notification by DCA that close out procedures are complete, except that:

1. If any litigation, claim or audit is begun before the expiration of the 3 year period, the records must be kept until all litigation, claims or audit findings involving the records have been resolved.

2. Records for non-expendable property (as defined in Chapter III, Section 5 - "Property Management Standards" - of this Manual) must be kept for 3 years after final disposition of the property.

   The Georgia Department of Community Affairs, the U.S. Department of Housing and Urban Development and the Comptroller General of the United States or any of their authorized representatives shall have access to any pertinent books, documents, papers, and records of CDBG Recipients and Sub-recipients to make audits, examinations, excerpts and transcripts. In addition, public access to grant records

shall not be restricted unless the Recipient can demonstrate exception from disclosure under the Georgia Open Records Act (Title 50, Chapter 18, Article 4, Georgia Code).

Section 11: Close-Out Procedures

1. Within 30 days of project completion, the Recipient should inform DCA that the CDBG program is ready for close-out and advise us when the next annual audit is scheduled.

2. DCA will conduct a review to ensure that any monitoring findings are resolved, and that any excess grant funds have been refunded.

3. Local governments should have data on persons receiving benefit available for monitoring. Data should be in a form that makes it possible to determine demographic characteristics of persons benefiting, such as persons with a disability, female head of household, ethnic classification, etc. See the Quarterly Report Form and Instructions for data requirements.

   Note that for housing direct benefit activities in which a person submits an application to the government or implementing agency and receives a financial benefit (such as housing rehabilitation or relocation assistance) this data must be available both for Applicants and Recipients of the assistance. In addition, this data for direct benefit activities must also be categorized by four family income levels: Very Low Income (up to 30% of median), Low Income (up to 50%), Moderate Income (up to 80%) and Above Moderate Income (above 80%). DCA will provide appropriate income limits to make these determinations.

4. Recipients are required to hold a Public Hearing at project completion to review accomplishments and to receive citizen comments. The Hearing must be publicized in a manner similar to other Public Hearings as described in Georgia's CDBG Citizen Participation Plan. Certified minutes must be kept. (A sample hearing notice is found in Appendix I.)

Your Program Representative **must** be notified at least one week before the Hearing.

   The Hearing and Notice can be combined with the requirement to publicize the Final Quarterly Report. (See Section 8, Paragraph 4)

   At program close-out, the Actual Accomplishments form should be provided to your Program Representative.

5. After review and final resolution of any findings, DCA will notify the Recipient of conditional close-out pending receipt of an acceptable audit.

6. A final close-out letter will be issued after the final audit accounting for all funds has been issued and accepted by DCA.

Section 12: Conflict Of Interest Prohibition

There are two situations involving prohibited Conflicts of Interest (COI) which should be avoided:

1) When a local government CDBG Recipient contracts for the procurement of goods and services, the Conflict of Interest provision in the "Common Rule" (24 CFR 85.36) are applicable. See Chapter III, Section 3: *Procurement Standards* of this Manual. **These rules prohibit local officials and staff from being a party to any contract assisted with CDBG funds.**

2) In addition, the Conflict of Interest prohibition at 24 CFR Part 570.489 (h) (see Appendix II for a complete copy) is applicable to all CDBG grants and activities. This rule generally prohibits elected officials, and staff who are in a position to influence decisions, from receiving any benefit in a CDBG-assisted project. This includes the benefit from living or owning property in a CDBG target area that receives CDBG improvements.

The following summarizes this regulation:

A. **Conflicts prohibited**. No persons described in paragraph B. below who exercise or have exercised any functions or responsibilities with respect to activities assisted with CDBG funds or who are in a position to participate in a decision making process or gain inside information with regard to these activities, may obtain a financial interest or benefit from a CDBG-assisted activity, or have an interest in any contract, subcontract or agreement with respect thereto, or in the proceeds thereunder, either for themselves or those with whom they have family or business ties, during their tenure or for one year thereafter.

B. **Persons Covered**. The conflict of interest provisions of paragraph A. above apply to any person who is an employee, agent, consultant, officer, or elected official or appointed official of the state, or of a unit of general local government, or of any designated public agencies, or subrecipients which are receiving or administering CDBG funds.

C. **Definition of Family or Business Ties**. DCA defines the meaning of the term "family or business ties" as follows:
   - Family: "A group of people related by ancestry or marriage; relatives."
   - Business: "The buying and selling of commodities and services; commerce, trade."
   - Ties: "Something that connects, binds or joins; bond; link."

D. **Exceptions:** Upon written request, **DCA may grant an exception** to the provisions of paragraph A above, on a case-by-case basis, **before federal funds are expended. Exceptions can only be granted when DCA determines that the exception will serve to further the purposes of the CDBG Program** and the effective and efficient administration of the CDBG program or project. To seek an exception, **a written request for an exception must be submitted** by the unit of local government to DCA which:

   - Fully discloses the conflict or potential conflict of interest, prior to the unit of government undertaking any action which results or may result in a conflict of

interest, real or apparent;

- Describes how the conflict of interest was publicly disclosed;
- Includes a map showing the location of any target area property owned by the covered official;
- Includes a written opinion of the local government's attorney that the conflict of interest for which the exception is sought would not violate state or local law; and.
- Includes a written statement signed by the Chief Elected Official, Authorized Representative, city or county attorney, or by the official designated by the governing body to sign such statement addressing the factors DCA must consider when allowing a prohibited conflict of interest. See item G below for more information on the factors DCA must take into account.

E. Public Disclosure: The request for an exception must include a description of how the conflict of interest was publicly disclosed. DCA requires at a minimum that the recipient include a complete description of the COI on the agenda for the public meeting where the COI will be disclosed, that the agenda be posted/advertised as required by law, that the COI be fully disclosed at a public meeting, and that the discussion of the COI be included in the minutes of the meeting. Note that state law requires the agenda to be posted prior to public meetings. The description of the method of disclosure, the public meeting announcement and the minutes of the public meeting must be included with the request for an exception.

F. Non-Involvement: One of the factors DCA must include in our decision to grant exception is whether or not the involved officials have abstained from involvement with the grant. The request for an exception must include an explanation of the extent of involvement of covered persons with any votes or discussion of the grant. Officials should abstain from any involvement as soon as any COI is foreseen.

G. **Factor to be considered for exceptions:** In determining whether to grant a requested exception after the local government CDBG Recipient has satisfactorily met the requirement of paragraph D. above, DCA will consider the cumulative effect of the following factors, where applicable:

1. Whether the exception would provide a significant cost benefit or an essential degree of expertise to the program or project which would otherwise not be available;

2. Whether the person affected is a member of a group or class of low-income persons intended to be the beneficiaries of the assisted activity, and the exception will permit such person to receive generally the same interests or benefits as are being made available or provided to the group or class;

3. Whether the affected person has withdrawn from his or her function or responsibilities, or the decision-making process with respect to the specific assisted activity in question;

4. Whether the interest or benefit was present before the affected person was in a position as described in paragraph (B) above;

5. Whether undue hardship will result either to the participating jurisdiction or to the person affected when weighed against the public interest served by avoiding the

prohibited conflict; and

6. Any other relevant considerations presented to DCA.

H. **Owners and Developers of Housing:** No owner, developer or sponsor of a project assisted with CDBG funds (or officer, employee, agent or consultant of the owner, developer or sponsor) whether private, for profit or non-profit, may occupy a CDBG assisted affordable housing unit in a project. Any exceptions must be approved in advance by DCA and then only when the local government CDBG Recipient can demonstrate to DCA that the exception will serve to further the purposes of the CDBG program.

This provision does not preclude an income-eligible, volunteer/owner participating in the construction of a single-family dwelling unit as part of a self-help homeownership program (e.g. Habitat for Humanity) when the individual is not an official, employee, agent, or consultant of the developer.

NOTE: *If you have any questions regarding who may or may not be covered under the conflict of interest provisions above, please call DCA immediately to discuss such matters* ***prior to*** *entering into contracts or disbursing money.*

Section 13: Residential Anti-displacement and Relocation Assistance Certification

Section 104(d) of the Housing and Community Development Act requires that CDBG Recipients certify that they are following a "residential anti-displacement and relocation assistance plan". The plan has three components: (1) Identification of the steps it will take to minimize the displacement of persons from their homes as a result of an assisted project; (2) A plan to replace all occupied and "vacant occupiable" low/moderate-income dwellings that are converted to another use or demolished; and (3) A plan to provide relocation assistance to low/moderate-income families and individuals displaced as a direct result of the project.

The required Certification is a part of the Certified Assurances included in the CDBG applications and applies, **regardless of the type of project.** Recipients using funds to demolish any dwelling unit or rehabilitate rental units or convert the use of any low and moderate income dwelling unit will need to submit the additional information described in Number 2 below, prior to undertaking the activity.

1. **One-for-One Replacement Unit:** All occupied and "vacant occupiable" "low/moderate-income dwellings units" that are demolished or converted in conjunction with the project must be replaced with another housing unit. "Vacant occupiable" includes units in standard condition or in substandard condition but suitable for rehabilitation. "Vacant occupiable" units also include units in **any** condition which are occupied at any time within the period beginning three (3) months before the date of execution of the rehabilitation or demolition contract.

   A "low/moderate income dwelling unit" is defined as a unit with a market rental, including utility costs, that does not exceed the applicable Fair Market Rent (FMR)

for existing housing under the HUD Section 8 Program.

Replacement units must be provided during the period beginning one year prior to the date of submission of the plan and within three (3) years of the demolition or conversion, and must be:

- Designed to remain low/moderate income units for at least 10 years;
- At least equal to the number of bedrooms removed and sufficient in number of bedrooms and size to house at least the number of occupants that could have been housed in the unit(s) demolished or converted, as determined in accordance with local codes,
- Provided in standard condition, and
- Located in the Recipient's jurisdiction.

Note: Rehabilitated units that were vacant for three (3) months prior to date of construction contract and those in which the previous tenant was not displaced as a direct result of an assisted activity will qualify if all the above are met.

Replacement units can include Public Housing units, Section 8 existing units, and/or vacant units that have been raised from substandard to standard condition (if vacant three months prior to execution of the construction contract and no one was displaced as a direct result of the rehabilitation).

Before obligating funds for an activity covered by this rule, the local Recipient must make public and submit to DCA a specific Anti-displacement and Replacement Housing Plan, including a schedule for replacement.

2. **Relocation Assistance under Section 104(d):** The second part of the rule provides that each low/moderate income tenant household displaced as a direct result of a CDBG activity must be provided with a **choice of relocation assistance** under the Uniform Act rules or under the Section 104(d) rules. Persons choosing to rent must be offered either (1) a Section 8 voucher or certificate (with referrals to **available** units) or (2) cash assistance.

Section 14: Financial Interest Disclosure Requirements

Section 102 of the HUD Reform Act of 1989, as amended, is intended to ensure accountability and integrity in the way in which HUD assistance is made available.

A "Disclosure Report Form" is a part of application for CDBG assistance (Form 13) and must be kept up to date by Recipients.

A full Disclosure Report must be made by:

- Any Applicant/Recipient of more than $200,000 of CDBG funds, or
- Any Applicant/Recipient of less than $200,000 of CDBG funds, but who has received or expects to receive other covered HUD assistance which, when added to the CDBG amount, exceeds $200,000.

The initial Disclosure Report included in the application must disclose the following:

- Other governmental assistance (Federal, State, or Local) that is to be used with the CDBG project.

- The identification of persons and entities with a reportable financial interest in the project. If an entity is being disclosed, the disclosure must include an identification of each officer, director, principal stockholder, or other official of the entity. **All consultants, developers, or contractors involved in the application for CDBG assistance, or in the planning, development or implementation of the CDBG project, must be disclosed as an interested party.**

- The pecuniary interest of any other person in the project which exceeds $50,000 or 10% (whichever is lower) of the CDBG assistance. Pecuniary interest is defined as any financial involvement in the project, including (but not limited to) situations in which a person or entity has an equity interest in the project, shares in any profit or resale or any distribution of surplus cash or other assets of the project or receives compensation for any goods or services provided in connection with the project.

- The source and use of all funds to be used in the project.

Note that the following are not considered interested parties: Local government CDBG staff, Recipients of housing rehabilitation assistance, and Rehabilitation contractors, as long as the rehabilitation agreement (contract) is between the property owner and the contractor.

An **Updated Disclosure Report** (Found in the Appendix) must be submitted if any of the following conditions apply:

- Additional persons or entities can be identified as interested parties, such as when a contract is awarded.

- There is an increase in the amount of pecuniary interest of a person or entity identified in the last report, if this increased interest is more than $50,000 or 10% (whichever is lower) of the pecuniary interest (for that person or entity) listed in the initial or last updated report.

- There is a change in other governmental assistance. An updated report is required when the total amount of other assistance reported in the initial or last update has increased by $250,000 or 10% (whichever is lower).

- There is a change in the source and/or use of funds from that which was provided in the initial or last updated report that exceeds the amount of all previously disclosed sources and/or uses by $250,000 or 10% (whichever is lower).

An updated report must be submitted within 30 days of any change that meets the criteria listed above. This requirement ends when the grant is closed.

An "Updated" Disclosure Report is included in Appendix I. Only submit those pages that must be updated. Instructions are on the form.

Section 15: Sanctions

Whenever DCA determines that a unit of local government Recipient of CDBG assistance has failed to comply with the requirements of the CDBG Program, including those requirements listed in this Manual, DCA shall notify the Chief Elected Official of the unit of local government of the noncompliance and shall request appropriate compliance action.

Noncompliance includes failure to implement the proposed project as described in the approved CDBG application or violation of applicable laws or regulations. If within a reasonable period the local government fails or refuses to comply, then DCA may:

(1) Terminate payments to the Recipient;
(2) Require repayment of funds spent improperly;
(3) Reduce payments to the Recipient by an amount equal to the amount of such payments which were not expended in accordance with the requirements of the CDBG Program;
(4) Prohibit the city or county from participation in one or more future CDBG competitions;
(5) Limit the availability of payments to programs or activities not affected by such failure to comply;
(6) Refer the matter to the Attorney General with a recommendation that an appropriate action be instituted; or
(7) Take such other action as may be provided by law or regulation.

Opportunity for a consultation: Prior to a reduction, withdrawal, or adjustment of a grant or other appropriate action, taken pursuant to this section, the Recipient shall be notified of such proposed action and given an opportunity, within a reasonable prescribed time period, for an informal consultation.

Non-compliance of CDBG Professionals

Whenever DCA determines that a Recipient has failed to comply with the requirements of the CDBG Program, including those requirements listed in this Manual, causing delays in implementation or findings, due to the actions or inaction of its Grant Administrator, Engineer/Architect, or other CDBG Professional, DCA shall notify the Recipient of the CDBG Professional's noncompliance and shall require appropriate action by the Recipient.

Noncompliance includes failure to implement the proposed project as described in the approved CDBG application or violation of applicable laws or regulations. If within a reasonable period the CDBG Professional fails or refuses to comply, then DCA may take actions such as:

(1) Temporarily or permanently terminate payments to the Recipient for administrative/professional activities;
(2) Require the Recipient to repay some or all the CDBG payments made to the Recipient for CDBG administrative/professional activities;
(3) Refer the matter to the Attorney General with a recommendation that an appropriate action be instituted; or
(4) Take such other action as may be provided by law or regulation.

Opportunity for a consultation: Prior to one or more appropriate actions taken pursuant to this section, the Recipient shall be notified by DCA and the Recipient will be given an opportunity, within a reasonable, prescribed time period, for an informal consultation.

Section 16: Continued Use of Facilities

Every CDBG award for a new or rehabilitated facility will have a Special Condition requiring the Recipient to submit a certification regarding the use of the facility over a 20-year period. The following language must be included on a Certification signed by the Recipient and submitted to DCA prior to drawdown any CDBG funds.

"DCA expects facilities constructed or improved in whole or in part with CDBG funds are to be used for the approved use throughout the life of the facility. DCA should be contacted immediately if there is a proposed change in use or beneficiaries. Prior to DCA consideration of the request the local government must hold a Public Hearing to afford affected citizens an opportunity to comment on the proposed change. DCA will determine if in fact the new use is an eligible and appropriate activity. DCA will generally require and the CDBG Recipient agrees to the repayment of grant funds to the State if the facility is converted to an ineligible use as determined by DCA. The repayment will be based on 20-year straight-line depreciation, except 100% repayment of the grant funds will be required to be repaid during the first 5 years after the Grant Close-out Date. Local governments that violate the agreement and fail to respond to a DCA finding with regards to an inappropriate change of use of a facility will be sanctioned and face penalties up to and including loss of their CDBG eligibility."

Section 17: Limitations on Use of Administration Funds

The CDBG Applicants' Manual explains in detail limitations on administrative and professional fees. (See Part II: General Award Information and Requirements.). In addition, the following requirements are applicable to all new and existing CDBG Recipients, regardless of time of award, unless otherwise noted:

1. Recipients may not draw down more than 25 percent of their administrative funds prior to clearance of all special conditions.

2. The last 10 percent of administrative funds may not be drawn down until all other CDBG funds have been expended.

Exceptions will only be approved on a case-by-case basis. The Department may require an acceptable certification from the Recipient stating that it will provide the additional administrative funds necessary to allow the project to proceed in a timely fashion.

Section 18: Requirements for All Administrative Contracts

Recipients at a minimum must include in all administrative contracts the following:

1. A clear description of the scope of work to be performed by the consultant or other service provider.

2. A listing of specific responsibilities, tasks, goals, and milestones along with dates and deadlines that are clearly described in the contract along with provisions for recourse if the consultant or other service provider fails to perform by the deadlines imposed.

3. A reference to the applicable CDBG Applicant's or Recipient's Manual and a statement requiring the consultant or other service provider to adhere to all requirements in the manuals (including all requirements referenced in the manuals) as well as to other directives issued by DCA.

4. Applicable dates of the contract and provisions for termination.