



# City of Lowell

Department of Planning and Development  
Community Development Office

## Program Policies and Operations Manual

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City of Lowell, Department of Planning and Development  
Community Development  
Program Policies and Operations Manual

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## INTRODUCTION

Community development planning and grant administration is a responsibility of the City of Lowell's Department of Planning and Development (DPD). The Community Development Office within DPD is responsible for all aspects of the administration of the City's entitlement grants from the United States Department of Housing and Urban Development (HUD).

The purpose of this document is to outline the policies, procedures, and daily operations of the Federal, U.S. Department of Housing and Urban Development (HUD) Programs – Community Development Block Grant (CDBG), Home Investment Partnership Program (HOME) and the Emergency Solutions Grant (ESG) – administered by the City of Lowell's Department of Planning and Development, Community Development Office.

Policies and procedures listed in this document were developed in accordance with HUD's Federal regulations, as well as state and local laws and ordinances.

The document is divided into sections pertaining to the specific grant programs, program administration, and other federal requirements. An appendix at the end of the document includes sample forms and templates used by the Community Development Office.

HUD's Entitlement Program provides annual grants, on a formula basis, to communities with the purpose of providing decent housing and a suitable living environment, and expanding economic opportunities, particularly for low- and moderate-income persons. While entitlement communities may develop their own programs and funding process, HUD requires that priority be given to activities, which will benefit low- and moderate-income persons. Lowell administers Three HUD entitlement programs: Community Development Block Grant (CDBG), Home Investment Partnership Program (HOME), and Emergency Solutions Grant (ESG). More information about these programs is provided below:

- **Community Development Block Grant (CDBG):** The CDBG program provides grants for activities whose principal beneficiaries are low- to moderate- income households at or below 80% of the area median income. The goals of the program are to carry out a range of community development activities directed toward revitalizing neighborhoods, expanding economic development opportunities, and providing improved community facilities and services. Proposed activities must meet one of three National Objectives of the program: a) provide a benefit to low- and moderate- income persons, b) prevent or eliminate slum and blight, or c) meet an urgent community need that threatens the health or welfare of residents.
- **Home Investment Partnerships Program (HOME):** The HOME program provides grants or loans to a wide range of activities that build, buy, and/or rehabilitate affordable housing for rent or homeownership; or provide direct rental

assistance to low-income people. Projects receiving grants must ensure that HOME-funded housing units remain affordable for a specific length of time (20 years for new construction of rental housing; 5-15 years for construction of homeownership housing and housing rehabilitation, depending on the amount of HOME subsidy).

- **Emergency Solutions Grants (ESG):** The ESG program provides homeless persons with basic shelter and essential supportive services. It can assist with the operational costs of the shelter facility and administration of the grant. ESG also provides short-term homeless prevention assistance to persons at imminent risk of losing their own housing due to eviction, foreclosure, or utility shutoffs; as well as rapid re-housing assistance for homeless individuals or families moving out of shelter into permanent housing.

The Community Development team consists of six staff members under the supervision of the DPD Deputy Director.

The Community Development Director is responsible for the planning, development, and implementation of Lowell’s annual block grant program applications. This position is also responsible for preparation of planning documents and reports associated with various state and federal grant programs managed by DPD; monitoring and documenting compliance with program regulations and maintenance and preparation of reporting databases.

The Community Development Assistant is responsible for assisting in the development and implementation of the City’s Consolidated Plan, the Annual Action Plans, Consolidated Annual Performance and Evaluation Reports, data entry and management, requirements of the HUD Integrated Disbursement and Information Systems (IDIS) and grant management.

The Director of Homelessness Initiatives works with the City’s homeless population and providers to implement the City’s 10 Year Plan to End Homelessness.

The Senior Program Manager serves as the contract administrator and liaison to the various not-for-profit agencies and City Departments that receive grant funds from the entitlement programs.

The Senior Finance Officer oversees all aspects of fiscal grant management and record-keeping for HUD programs; manages budgets and financial activities for all DPD programs, and assists in preparation of the CAPER and other HUD financial reports.

The Financial Specialist position is to focus on the Federal entitlement grant accounts.

The Associate Planner position has been put in place for overall support for the Community Development team.

HUD Entitlement Administration funds also pay all or portions of the salaries of other Economic Development, Housing, and Administrative staff members in the DPD.

An organizational chart for the entire Department of Planning and Development is included with attached documents.

## CHAPTER 1: GRANT PROGRAMS

### 1.1 COMMUNITY DEVELOPMENT BLOCK GRANT

The Community Development Block Grant (CDBG) Program provides grants for activities whose principal beneficiaries are low- to moderate-income households earning at or below 80% of the area median income. The goals of the program are to provide decent, safe, and sanitary housing; provide a suitable living environment; and to expand economic opportunities. The City of Lowell has been an entitlement city under the CDBG program since 1975. The federal regulations governing the CDBG program appear in 24 CFR Part 570.

#### ***Grant Allocation***

HUD awards CDBG funds based on a dual formula that uses the greater of the two amounts of data demonstrating need, from the latest decennial census; including total population, number of persons in poverty, population growth lag, overcrowding, and age of housing stock.

At least 70% of Lowell's CDBG Funds must benefit low- and moderate-income persons, within a three year period. The CDBG program caps the amount of funds that may be spent on administration or planning activities at 20% of each year's grant as well as 20% of the current year's program income. Additional restrictions apply to the use of CDBG funds for Social Service activities. This cap is based on 15% of the annual entitlement amount plus 15% of the program income earned in the previous year. These caps are outlined in each Annual Action Plan. The Community Development Director and Senior Finance Officer review grant funds periodically to ensure that the City remains within these regulatory caps.

#### ***Eligible Activities***

Activities that receive CDBG must be both:

1. Eligible as identified specifically within the program regulations published in the Code of Federal Regulations as 24 CFR Part 570.201-206, and
2. Meet one of the three National Objectives of the program established by Congress found at 24 CFR 570.208.

The CDBG National Objectives are as follows:

- National Objective #1: Activities that benefit low and moderate income persons
- National Objective #2: Activities to prevent or eliminate slums and blight
- National Objective #3: Activities to meet urgent community development needs

The majority of activities funded through Lowell's CDBG program are eligible under National Objective #1 and should be documented as such to ensure that the City meets the CDBG requirement that at least 70% of funds serve LMI persons. On rare occasions a project will be determined to be eligible under National Objective #2.

Applications for activities seeking CDBG funds are reviewed by the Community Development Director and Community Development Assistant for eligibility. Staff may provide technical assistance to applicants to determine how best to meet the needs of the community while ensuring a funded project meets a National Objective and is an eligible activity.

Additionally, CDBG funds are used to support administrative and planning costs including salaries for staff responsible for administering and reporting on CDBG activities as well as plans or studies related to projects that advance the goals of the City's Master Plan and other locally-approved planning documents, and that may or may not be funded through CDBG project funds.

#### Documenting Eligibility

The Community Development Office shall follow the requirements for documenting eligibility under each National Objective outlined in the Federal Register. A general discussion is included here for documenting eligibility under National Objective #1 but HUD's publication: *CDBG Guide for National Objectives and Eligible Activities for Entitlement Communities*, includes much more detail and should be consulted when determining eligibility for any activity under the CDBG program.

#### ***Limited Clientele (LMC)***

The majority of activities funded through Lowell's CDBG program meet the eligibility requirements by serving individuals who earn less than 80% of the area median income. Programs providing CDBG-funded services collect self-declaration of income forms, completed by program participants to document the household size and income. The City provides a template form (referred to as Appendix C of the grant agreement) in each grant agreement. These forms also identify the race and ethnicity of the program participant as well as residential address to confirm that they are Lowell residents. The City provides organizations with the income-limits established HUD each year. This documentation is maintained in the project file. A sample form is included in attached.

*Presumed Benefit:* HUD does not require documentation of LMI status for the following groups of people: Abused Children, Elderly Persons, Battered Spouses, Homeless Persons, Severely Disabled Adults, Illiterate Adults, Persons Living with AIDS, and Migrant Farm Workers. Exact definitions of these categories may be found in the guidebook referenced earlier (*CDBG Guide for National Objectives and Eligible Activities*). For a CDBG-funded activity serving these populations, one of the following types of documentation shall be maintained in the project file:

Documentation showing that the activity is designed to be used exclusively by the presumed benefit population or documentation describing how the nature and location of the activity establishes that it will be used predominately by LMI persons.

#### ***Low- and Moderate-Income Area Benefit (LMA)***

According to 2010 Census (this will be updated as information becomes available) figures more than 51% of Lowell's population has an income at or below 80% of the area median income. There are incidences when a project can claim that it has an outcome

that serves the entire Lowell population (i.e. large scale park project that is utilized by municipal sports programs, summer programming, etc). However the majority of projects meeting the LMA national objective are smaller, neighborhood-based and must demonstrate eligibility based on the service area in which it is located. To document eligibility under LMA the boundaries of the service area need to be defined along with the basis for determining those boundaries. The service area needs to be primarily residential. The percentage of LMI individuals living in the service area should be documented along with the data used to determine the percentage. A checklist has been designed to aid in this determination. A copy of a completed checklist, along with a map produced using GIS to identify the location of the project, is maintained in the project file. A copy of this checklist is included with attached documents.

### ***Low- and Moderate-Income Housing Benefit (LMH)***

- CDBG funds can be utilized to support either rental or owner-occupied housing units, such as providing assistance for homebuyers or housing rehabilitation. Household eligibility is verified at the outset of occupancy upon the completion of CDBG assistance. Unlike similar HOME funded activities, the City of Lowell does not mandate a deed restriction on CDBG-assisted housing projects, ensuring long-term affordability of the unit.

### **To ensure compliance, specific documentation must be maintained in the project file, including:**

- A written agreement with the landlord or developer receiving CDBG assistance, specifying the number of dwelling units in each multi-unit structure assisted and the count of units to be occupied by LMI households' post-assistance.
- Total activity cost, encompassing both CDBG and non-CDBG funding sources.
- For each unit designated for occupancy by an LMI household, details regarding the size and combined income of the household.
- For rental housing exclusively, additional information is required:
- The post-assistance rent for each dwelling unit in every structure.
- Relevant data demonstrating the affordability of the occupied units.
- Furthermore, HUD's guidebook outlines additional documentation requirements when using CDBG funds for purchasing vacant land to build affordable housing, along with specific conditions for multi-family housing.
- Due to the City of Lowell's receipt of HOME entitlement funds and limited CDBG allocations, it infrequently employs CDBG funds for large-scale housing projects

### ***Low- and Moderate-Income Job Creation/Retention (LMJ)***

When assistance is provided to a business for the purpose of creating or retaining jobs, the staff in the City's Economic Development office shall prepare a written agreement with the business in which that business agrees to keep or create a specific number of jobs and identifies each job by type and whether the job will be full- or part-time. The agreement also specifies the actions the business and the city will take to ensure that at

least 51% of the jobs created or retained will benefit LMI persons. Files will also document which jobs were actually created and retained, whether each job was held by or made available to an LMI person, and the full-time equivalency status (FTE) of each job. Additional documentation and record keeping requirements are discussed in HUD's Guidebook referenced earlier in this chapter.

### ***Section 108***

Section 108 Loan Guarantee is a tool available through HUD to increase CDBG resources. The City of Lowell is allowed to borrow up to five times its current approved CDBG entitlement allocation, per Section 108 of the Housing and Community Development Act. Eligible activities include economic development, housing rehabilitation, public facilities, and large-scale physical development projects. The City is required to pledge future CDBG funds to HUD as a contingent of funding source if it cannot repay its debt from other funding sources. Loans have a maximum term of 20 years and are charged interest. The city utilizes the 108 programs on limited occasions and will consult with field staff in the HUD Regional Office in Boston on any future applications for 108 loans.

## 1.2 EMERGENCY SOLUTIONS GRANT

The City of Lowell has been an entitlement grantee of the Emergency Solutions (formerly Shelter) Grant program since 1990. The ESG program is included in the statute: Stewart B. McKinney Homeless Assistance Act of 1987, Title IV, as amended (U.S. Code: 42 USC 11371 et seq.). Regulations governing ESG are in the Code of Federal Regulations at: 24 CFR Part 576. A fact sheet about the ESG program may be found in attached.

The Homeless Emergency Assistance and Rapid Transition to Housing Act of 2009 (HEARTH Act) amended the McKinney-Vento Homeless Assistance Act, including major revisions to the Emergency Shelter Grants program, now the Emergency *Solutions* Grants (ESG) program.

The ESG program is designed to identify sheltered and unsheltered homeless persons, as well as those at risk of homelessness, and provide the services necessary to help those persons quickly regain stability in permanent housing after experiencing a housing crisis and/or homelessness.

The objectives of the ESG program are to 1) engage homeless individuals and families living on the street; 2) improve the number and quality of emergency shelters for homeless individuals and families; 3) help operate these shelters; 4) provide essential services to shelter residents; 5) rapidly re-house homeless individuals and families, and 6) prevent families and individuals from becoming homeless.

### ***Grant Allocation***

ESG funds are awarded by HUD in proportion to the City's previous year's CDBG allocation. While the exact date when HUD announces the entitlement awards is dependent on when Congress passes its federal budget, entitlement awards are generally announced in the spring.

ESG regulations require that Lowell obligates all its funds, except for the amount allocated for administration costs, within 180 days after HUD signs the grant agreement. All ESG grant funds must be expended within 24 months of the grant agreement.

Up to 7.5% of the City's annual ESG allocation is set aside for administrative expenses. While regulations allow ESG grantees to share admin funds with subrecipients, the City of Lowell has elected to retain its admin funds to support the costs associated with managing the ESG program.

According to the ESG regulation 24 CFR § 576.100, the total amount of a recipient's fiscal year grant that may be used for street outreach and emergency shelter activities combined cannot exceed the greater of 60 percent of the recipient's fiscal year grant

### ***Eligible Activities***

ESG funds may be used to support the following 6 types of activities:

- Street Outreach (essential services for unsheltered individuals and families)
- Emergency Shelter (including essential services for sheltered individuals and families; major rehab, conversion, or renovation of a homeless shelter; or shelter operations including maintenance, utilities, etc.)
- Homeless Prevention
- Rapid Re-housing

Note that activities under prevention or rapid re-housing programs may be in the form of housing relocation and stabilization services or short- or medium-term rental assistance.

- Data Collection through a Homeless Management Information System (HMIS)
- Administration (up to 7.5% of City's allocation)

### **Documenting Eligibility**

Consistent with requirements of the HEARTH Act, ESG programs are required to document program participant information in a Homeless Management Information System (HMIS). Lowell's ESG subrecipients utilize an HMIS program managed by the Massachusetts Executive Office of Housing and Livable Communities (EOHLC). The state's HMIS is an online, web-based system. Data is collected annually to create a Housing Gaps Analysis Chart that is used by the community to determine the unmet need within the system for emergency shelters, transitional housing programs and permanent housing sites for homeless persons. Lowell Community Development Staff are given permission by each ESG subrecipient to review data entered into HMIS for funded programs. Additionally, ESG subrecipients must maintain documentation of program eligibility in their files, which are reviewed during on-site monitoring visits conducted by Community Development Staff. A complete list of documentation required for ESG activities is included in the Written Standards.

In addition to documenting the eligibility of program participants and ESG funded activities, HUD also requires that documentation be maintained for those individuals or families determined to be ineligible for ESG assistance. Lowell does not require ESG subrecipients to report ineligible households in HMIS but does require that records be maintained for review.

### ***Match***

ESG regulations require that grant funds are matched with an equal amount of funds from cash or in-kind services (i.e. new staff or volunteer time, donation of material or buildings, or value of any lease on building). Matching sources may include private, local, state, or other federal sources. Federal sources are allowed as long as the use as a match is not prohibited by the funding agency. Funds used toward the match requirements must be used on ESG eligible activities.

The City of Lowell passes its match requirements onto its subrecipients. This match is documented in the grant agreement and later confirmed through letters of support/match that are maintained in the project files.

***Written Standards***

In 2012 the City of Lowell adopted a set of Written Standards governing the use of ESG funds for homelessness prevention and rapid re-housing activities, as part of a substantial amendment to HUD for a second allocation of ESG funds under the HEARTH Act. A copy is included in attached.

***Coordination with CoC***

The housing needs and housing strategies adopted in the City’s Consolidated Plan (see Chapter 2.1) are intended to influence and be linked to Lowell’s Continuum of Care plan, which guides the use of HUD’s other McKinney-Vento Homeless Assistance Programs. These funds are awarded on a competitive basis. Lowell no longer has control of any COC grants they are now administered by the Balance of State-EOHLC.

Like HUD, Lowell believes the best approach for alleviating homelessness is through a coordinated community-based process that provides a comprehensive response to the differing needs of homeless individuals and families. Lowell’s ESG funds will be used as a first step in a continuum of assistance to prevent homelessness and to enable homeless individuals and families to move steadily toward independent living.

A more comprehensive discussion about the McKinney-Vento competitive funds and Lowell’s Continuum of Care is included in Chapter 1.5

### 1.3 HOME INVESTMENT PARTNERSHIP PROGRAM

HOME is the largest Federal block grant local governments design exclusively to create affordable housing for low-income households. HOME is authorized under [Title II of the Cranston-Gonzalez National Affordable Housing Act](#). Program regulations may be found [24 CFR Part 92](#). The City of Lowell has been an entitlement recipient of HOME funds since 1992.

#### ***Grant Allocation***

Program funds are allocated to units of general local government on the basis of a formula that considers the relative inadequacy of each jurisdiction's housing supply, its incidence of poverty, its fiscal distress, and other factors.

Up to 10% of Lowell's annual HOME entitlement plus 10% of any program income incurred during the year may be used for administrative expenses. Entitlement communities are also required to set aside at least 15% of its annual entitlement award for projects administered by a Community Housing Development Organization (additional discussion about CHDOs is included further in this chapter).

Per HOME requirements, communities have 24 months from the date HUD signs the HOME grant agreement, to formally commit each year's allocation to an eligible project through a written agreement. Once funds are committed to an eligible activity, the project needs to begin drawing funds within 12 months and be completed within 4 years. The Community Development Director and Director of Housing monitor the City's HOME funds and progress of projects to ensure Lowell complies with these timelines. Failure to meet these timelines could result in the recapture of funds by HUD.

#### ***Eligible Activities***

The HOME program allows for a broad range of eligible activities, including homeownership assistance or rehabilitation financing assistance to eligible homeowners; build or rehabilitate housing for rent or ownership; or "other reasonable and necessary expenses related to the development of non-luxury housing," including site acquisition or improvement, demolition of dilapidated housing to make way for HOME-assisted development, and payment of relocation expenses.

For rental housing, at least 90 percent of benefiting families must have incomes that are no more than 60 percent of the HUD-adjusted median family income for the area. In rental projects with five or more assisted units, at least 20% of the units must be occupied by families with incomes that do not exceed 50% of the HUD-adjusted median. The incomes of households receiving HUD assistance must not exceed 80 percent of the area median. HOME income limits are published each year by HUD.

Lowell typically funds three major types of HOME activities:

- 1) First Time Homebuyer Down Payment Assistance Program
- 2) Homeowner Rehabilitation
- 3) Multiunit Housing Construction/Renovation

In 2013 the city launched a Tenant Based Rental Assistance (TBRA) Program, for the first time. Lowell’s TBRA program is designed specifically for unsheltered homeless individuals and distributed through a separate competitive Request for Proposal process. Lowell TBRA Program Guidelines, developed in accordance with HUD requirements, as well as a copy of the 2013 RFP is included in Appendix X.

***Community Housing Development Organizations (CHDOs)***

A CHDO is a private nonprofit, community-based service organization whose primary purpose is to provide and develop decent, affordable housing for the community it serves. Certified CHDOs receive certification from a Participating Jurisdiction (PJ) indicating that they meet certain HOME Program requirements and therefore are eligible for HOME funding. The HOME Program definition of a CHDO is found at **24 CFR Part 92.2**.

HOME PJs are required to set aside a minimum of 15% of its annual entitlement award for CHDO-led projects. Lowell has consistently committed well above the 15% minimum in past program years. As a result, Lowell currently exceeds its CHDO commitment requirements by \$1.3M (Per IDIS Report PR27 on March 25, 2013). Nevertheless, Lowell is committed to support community-led housing initiatives and when available, will allocate HOME funds to CHDO projects that meet the housing priorities established in the Five-Year Consolidated Plan.

Significant changes to the eligibility requirements of CHDOs were initiated in the Dec. 2011 new Proposed HOME Rule.

***Match***

The National Affordable Housing Act requires that each HOME PJ make contributions to its HOME-assisted projects equal to 25% of the HOME funds drawn down during each fiscal year. A match obligation is incurred during each Federal fiscal year based on the amount of HOME funds drawn down from the U.S. Treasury account. The match liability at any given time can be determined by running IDIS Report PR33.

The City utilizes an option in the HOME statute permitting contributions to housing that is not assisted with HOME funds, but which would qualify as affordable under the HOME program, to be counted as matching contributions. The City counts funding from the Massachusetts Rental Voucher Program, operated by the Massachusetts Department of Housing and Community Development, as its annual match contribution. This program is administered locally through the Lowell Housing Authority (LHA). To date the City has documented more than \$4million in excess matching funds from prior program years.

A written agreement is executed with the LHA, outlining the applicable requirements of the HOME program. To count as match assistance must comply with the requirements listed in Section 92.219(b).

## 1.4 HOUSING OPPORTUNITIES FOR PERSONS WITH AIDS

The Housing Opportunities for Persons with AIDS (HOPWA) program is the only Federal program dedicated to the housing needs of people living with HIV/AIDS. Under the HOPWA program, HUD makes grants to local communities, States, and nonprofit organizations for projects that benefit low-income persons medically diagnosed with HIV/AIDS.

Currently Lowell is no longer the largest metropolitan city in Middlesex County. However, if Lowell's population overtakes Cambridge, then the following would apply:

As the largest metropolitan city in Middlesex County the City of Lowell is an entitlement community for the HOPWA program. Lowell has administered HOPWA funds since 2004 and allocates resources to programs that serve eligible recipients countywide. Funds are typically targeted to organizations whose service areas include the urban centers within the County including Lowell, Cambridge, Somerville, and Framingham, where the greatest percentage of persons with HIV/AIDS reside.

The federal regulations governing the HOPWA program may be found at 24 CFR 574.3-655.

Each year HUD's Office of HIV/AIDS Housing publishes operating instructions for HUD Field Offices managing HOPWA formula grantees. This memorandum is a useful reference to confirm compliance with HOPWA requirements. A copy of the 2015 Memorandum is included with attached documents.

### ***Grant Allocation***

HUD uses a statutory formula that relies on AIDS statistics (cumulative AIDS cases and area incidence) from the Centers for Disease Control and Prevention (CDC) to determine how HOPWA funds are allocated. Three quarters of HOPWA formula funding is awarded to qualified States and Metropolitan areas with the highest number of AIDS cases. One quarter of the formula funding is awarded to metropolitan areas that have a higher-than-average per capita incidence of AIDS.

Per federal requirements the City must obligate its HOPWA funds within two years of the start of the fiscal year and spend within five years.

The City of Lowell may use up to 3% of its annual allocation to cover administrative expenses. HOPWA Project Sponsors (subrecipients) may use up to 7% of their award for indirect/admin costs.

Since the adoption of the 2010-2015 Consolidated Plan the City of Lowell has committed the majority of its HOPWA funds through 5-year grant agreements. In an effort to help provide some consistency to project sponsors in designing their programs and planning project budgets, the City changed its RFP process for the 2010-11 program year that allowed applicants to submit proposals for the use of HOPWA funds over a five-year

term beginning July 1, 2010. The City drafted grant agreements with selected project sponsors, eligible for renewal each year, over the course of five years, subject to availability of funds and compliance with reporting requirements. Annual HOPWA appropriation to a selected activity is adjusted to correspond with the City's annual allocation from HUD. For example, if the City's allocation decreases by 2% in year three of a five-year award, the activity award will likewise decrease by 2%.

In order to provide room for flexibility, encourage new innovative projects, and respond to emerging needs, the City holds some funds aside each year to award to a new program that may not have historically received Lowell HOPWA funds or that can demonstrate a strong need for additional support to an existing program. These funds are awarded through a rolling application process.

### ***Eligible Activities***

Low-income persons (at or below 80 percent of area median income) that are medically diagnosed with HIV/AIDS, and their families, are eligible to receive HOPWA-funded assistance.

HOPWA funds may be used for a wide range of housing, social services, program planning, and development costs. These include, but are not limited to, the acquisition, rehabilitation, or new construction of housing units; costs for facility operations; rental assistance; and short-term payments to prevent homelessness. An essential component in providing housing assistance for this targeted special needs population is the coordination and delivery of support services. Consequently, HOPWA funds also may be used for services including (but not limited to) assessment and case management, chemical dependency treatment, mental health treatment, nutritional services, job training and placement assistance, and assistance with daily living.

### **Documenting Eligibility**

The HOPWA program has significant requirements in place to ensure program participants and activities are eligible. These requirements vary depending on the type of eligible activity performed and are detailed in the HOPWA grant agreements.

Community Development Staff conduct both remote and on-site monitoring visits to ensure programs comply with HOPWA requirements.

HUD's [HOPWA Program Administrative Toolkit](#) provides sample forms, templates, and checklists that may be utilized to manage HOPWA activities.

### ***Confidentiality Policy***

Community Development Staff ensure that the confidentiality of program participants is maintained by complying with a confidentiality policy. Project Sponsors are also required to comply with a confidentiality policy, as explained in their HOPWA grant agreements with the City. The City drafted a policy for project sponsors but allows organizations to draft their own if it includes stricter language. A copy of both Lowell's

confidentiality policy as well as a sample project sponsor policy is included with attached documents.

## 1.5 MCKINNEY-VENTO / CONTINUUM OF CARE

The Homeless Emergency Assistance and Rapid Transition to Housing Act of 2009 (HEARTH Act) amended the McKinney-Vento Homeless Assistance Act. Among the changes, the HEARTH Act consolidates the three separate McKinney-Vento homeless assistance programs (Supportive Housing program, Shelter Plus Care program, and Section 8 Moderate Rehabilitation SRO program) into a single grant program known as the Continuum of Care (CoC) Program. The HEARTH Act also codifies into law the Continuum of Care and the year-round planning requirements that have long been encouraged as part of HUD's annual, competitive application for funding to assist homeless persons.

The CoC Program is designed to assist individuals (including unaccompanied youth) and families experiencing homelessness and to provide the services needed to help such individuals move into transitional and permanent housing, with the goal of long-term stability. More broadly, the program is designed to promote community-wide planning and strategic use of resources to address homelessness; improve coordination and integration with mainstream resources and other programs targeted to people experiencing homelessness; improve data collection and performance measurement; and allow each community to tailor its program to the particular strengths and challenges within that community.

### *Continuum of Care*

Like HUD, Lowell believes the best approach for alleviating homelessness is through a coordinated community-based process that provides a comprehensive response to the differing needs of homeless individuals and families. The intent of the Continuum of Care approach is to develop the capacity to envision, organize, and plan comprehensive and long-term solutions to address the problem of homelessness. This approach prioritizes gaps in the housing and services available for homeless people and develops long-term strategies and action plans to address these gaps using homeless funds from HUD as well as other mainstream resources.

The CoC serves two main roles:

- 1) An application to HUD for homeless-targeted housing and services resources; and
- 2) A strategic plan for addressing homelessness in Lowell, based on identified needs of homeless individuals and families, the availability and accessibility of existing housing and services, and the opportunities for linkages with non-homeless mainstream housing and services resources.

The Homeless Emergency Assistance and Rapid Transition to Housing Act of 2009 (HEARTH Act) amended the McKinney-Vento Homeless Assistance Act, including major revisions to the Emergency Shelter Grants program, now the Emergency Solutions Grants (ESG) program. The HEARTH Act incorporated many of the lessons learned from the implementation of the Homelessness Prevention and Rapid Re-Housing Recovery Act Program (HPRP) into the new ESG program, including placing a stronger emphasis on homelessness prevention and rapid re-housing assistance. While still an

eligible cost-type under these funds, the new ESG places less of an emphasis on providing shelter operating costs or essential shelter services to subrecipients. In line with HUD’s national homelessness policy as outlined in Opening Doors: Federal Strategic Plan to Prevent and End Homelessness, federal programs aimed at ending homelessness have shifted away from providing shelter support and are now geared towards providing stable, permanent housing opportunities for the homeless and at-risk homeless.

Additionally, The City of Lowell’s 10-Year Plan to End Homelessness: Partnership for Change: Action Plan to Ending Homelessness, adopted in July 2008, was used for a guide in developing these standards. The 10-Year Plan provides a broad roadmap to assess the current system of “managing” homelessness and explore the new, more innovative and cost effective “prevention” and “housing first” approaches that are greatly reducing and/or eliminating homelessness in the community. The new ESG program allows each city and town administering these funds to set priorities based on the individualized needs of the community. These standards serve to outline the specific guidelines and priorities that will be used by the City of Lowell’s Department of Planning and Development in awarding and administering ESG funding.

The City of Lowell COC merged with the Balance of State COC. Thus, EOHLC is now the Collaborative Applicant for the COC. The City’s Department of Planning and Development’s ESG and CoC staff participate as part of the CoC’s Planning Workgroup. Following Federal guidelines, the CPW has developed the CoC’s Governance Charter that includes strategies and objectives for the coordination and allocation of ESG and CoC funds; and performance standards to evaluate project outcomes and activities have been implemented for projects assisted by ESG funds. The CPW, in coordination with the State’s HMIS, has also implemented an HMIS Data Quality Plan that includes policies, procedures and performance measures for participation in Lowell’s State-administered HMIS.

“CoC Planning Workgroup”

- Alternative House
- Bridge well, Inc./ Pathfinder
- Community Teamwork, Inc.
- Crescent House
- House of Hope, Inc.
- Lowell Housing Authority
- Lowell Transitional Living Center
- The Princeton House
- United Teen Equality Center
- Vinfen

*Please note that the HEARTH Act of 2009 requires that the CoC, in coordination with ESG subgrantees, develop a set of written policies and procedures for homeless assistance programs. In addition to the procedures outlined in this document, an ESG/CoC manual will include discussion about a centralized coordinated assessment system, homeless participation policy, and specific standards for operating eligible*

*activities. The City of Lowell, in coordination with CoC member organizations is in the process of developing a comprehensive policy manual for its homelessness programs. A copy will be included as an addendum to this document when it is complete.*

## 1.6 OTHER GRANT PROGRAMS

In addition to the four entitlement grants and the McKinney-Vento/CoC programs described previously, the Community Development Office may assist in the application, reporting, monitoring, and/or other administrative duties associated with other federal and state grant programs as the need arises or as opportunities become available.

These may include other HUD programs such as the Lead-Based Paint Hazard Control Grant; grants through the U.S. Departments of Energy, Transportation, or Commerce; or state grants through the Department of Housing and Community Development.

In these instances, the administrative procedures described in this policy manual will be followed, as appropriate, and any additional requirements of the specific grant program may be incorporated as needed.

## CHAPTER 2: PROGRAM ADMINISTRATION

### 2.1 CONSOLIDATED PLAN REQUIREMENTS

As required by federal regulations at 24 CFR 91, the City is required to prepare consolidated submissions that state its plans to pursue goals of the community planning and development and housing programs. It is these goals against which HUD will evaluate the plan and the City's performance under the plan. The Community Development Director and Community Development Assistant are chiefly responsible for preparing the following documents for submission, with input from other Community Development and Finance Staff, as well as DPD offices.

#### *Five-Year Consolidated Plan*

The Consolidated Plan provides a basis and strategy for the use of federal funds granted to the City of Lowell by the U.S. Department of Housing and Urban Development (HUD) under the Community Development Block Grant (CDBG), Home Investment Partnership (HOME), Emergency Solutions Grant (ESG), and Housing Opportunities for Persons with AIDS (HOPWA) programs If applicable. Programs and activities described in the plan are intended to primarily benefit low-income and moderate-income residents of the City of Lowell, neighborhoods with high concentrations of low-income and moderate-income residents, and the city as a whole. HOPWA funds are distributed to eligible activities throughout Middlesex County. The city also uses the plan to coordinate with the Continuum of Care, other federal, state grants, and local initiatives.

The Consolidated Plan is submitted to HUD every five years. Included in the document is identification of the City's five-year priority needs, a housing needs assessment, citizen participation plan, and monitoring guidelines. A complete Consolidated Plan consists of the information required in CFR 91.205 through 91.230.

In 2012, the HUD's Office of Community Planning and Development introduced the eCon Planning Suite, a collection of new online tools to assist grantees in creating market-driven, leveraged housing and community development plans. One of these tools, the Consolidated Plan Template, allows grantees to develop and submit their Five-Year Consolidated Plans and Annual Action Plans online. The city currently uses this tool.

#### *Analysis of Impediments to Fair Housing Choice (AI)*

Among several Certifications of the Consolidated Plan is the Certification to Affirmatively Further Fair Housing, which requires the city to undertake Fair Housing Planning. The Analysis of Impediments to Fair Housing Choice (AI) takes a comprehensive review of policies, practices, and procedures that affect the location, availability, and accessibility of housing and current residential patterns and conditions. The document also identifies any impediments to fair housing choice and recommends actions to address them. The AI is submitted to HUD along with the Consolidated Plan every five years.

In July 2013, the U.S. Department of Housing and Urban Development (HUD) introduced a proposed rule aimed at enhancing the commitment to affirmatively further fair housing. A key aspect of this proposed rule involves replacing the existing Assessment of Fair Housing (AFH) with a standardized version, as opposed to the current ambiguous and unstandardized Affirmatively Furthering Fair Housing (AFFH) process, which lacks a defined format or standards. Please note that further updates will be provided in this section upon the official adoption of a final rule by HUD and the issuance of additional guidance pertaining to the AFH.

### ***Annual Action Plan***

The Annual Action Plan outlines the activities which will be undertaken during the identified program year using Federal funds and how they meet the priority needs identified in the Consolidated Plan. 24 CFR 91.220 provides a complete list of plan contents. The Action Plan also identifies and summarizes the activities awarded federal funds through the RFP process.

The Action Plan is approved by the City Council and submitted to HUD in mid-May and generally approved before July 1<sup>st</sup>.

### ***Consolidated Annual Performance and Evaluation Report (CAPER)***

The CAPER delineates the initiatives carried out in the prior program year through the utilization of Federal funds. It assesses the City's endeavors in aligning with the objectives outlined in the Action Plan, detailing the allocation of funds to address these goals. Additionally, the report incorporates an analysis of efforts to overcome impediments to fair housing as identified in the AI.

HUD Form 40110-D is completed as part of a separate HOPWA CAPER.

The CAPER is due 90 days after the completion of the City's program year and is submitted to HUD by September 30<sup>th</sup>.

*As defined in the Citizen Participation Plan, a public comment period on the draft version of these documents is required. With the exception of the CAPER, drafts of these documents are available for a 30-day comment period. The CAPER draft is available for 15 days. Comments received during the comment periods are included in the final versions of the documents along with responses from the City.*

*Copies of both the draft and final versions of these documents are made available at the DPD Offices, City Clerk's Office, and Pollard Memorial Library. Electronic versions of the documents are available on the City's website.*

### ***Other Reporting Requirements***

In addition to the documents described above, HUD requires the submission of additional reports to comply with federal requirements.

**1. Annual Financial Audit** – Per the federal Office of Management and Budget (OMB Circular A-133), as a recipient of more than \$500,000 in federal funds, the City of Lowell is required to complete a single audit covering both federal funds and all financial statements in a fiscal year. The City hires an outside independent auditing agency to complete this report. The audit is coordinated through the City’s Auditor’s Office with the Financial Specialist in the Auditor’s Office responsible for collecting any materials requested of the City’s entitlement grant programs. The Annual Audit should be submitted to HUD in April of each year. The City Auditor uploads an electronic version of the City’s Audit to the Federal Clearinghouse.

During the application process, the city will verify if an agency submitted a single audited if required. The community development assistant will check the following website [Welcome to the Federal Audit Clearinghouse \(fac.gov\)](http://www.fedclearinghouse.gov), to determine if an audit was submitted.

**2. Semi-Annual Labor Standards Enforcement Report (HUD 4710)** – Also known as the Davis Bacon Report. This form applies to contracts of \$2,000 or more in Federal Funds and tracks the use of Federal Wage Decisions in contracts for physical projects. The first report for each year covers the period October 1 through March 31; the second report covers April 1 through September 30. The Senior Program Manager is responsible for coordinating and submitting this report.

**3. MBE/WBE Contract and Subcontract Activity (HUD 2516)** – Completed annually Minority Business Enterprise (MBE) / Women Business Enterprise (WBE) Reports track contracts and subcontracts with more than \$10,000 in Federal Funds. The report captures information on women and minority owned businesses and is submitted once every fall. The Community Development Assistant is responsible for coordinating and submitting this report.

**4. Section 3 Summary Report (HUD 60002)** – Submitted to HUD annually to track economic opportunities for low- and very-low income persons. Applies to contracts with more than \$200,000 and subcontracts with more than \$100,000 in Federal Funds. The Community Development Director and/or Community Development Assistant is responsible for coordinating and submitting this report. The Section 3 report is submitted electronically through hud.gov by September 30<sup>th</sup> of each program year.

**5. Federal Accountability and Transparency Act (FFATA)** – As a federal grantee, the City of Lowell must meet the terms and conditions of the Federal Funding Accountability and Transparency Act of 2006 (FFATA), and requirements established by the Office of Management and Budget (OMB). FFATA requires that the City report into an electronic system, ([www.FSRS.gov](http://www.FSRS.gov)) on first-tier sub-awards that receive more than \$25,000 in federal funds. These awards should be entered within 30 days after the month in the which the award agreements are signed. The Community Development Assistant is responsible for coordinating and completing this report.

6. Any other future reporting programs would go here.

The table below provides target due dates for the documents discussed in this chapter.

| <b>DOCUMENT</b>                                | <b>TARGET DUE DATE</b>        |
|--|-------------------------------|
| Draft Consolidated Plan                        | 4th Week in March*            |
| Final Consolidated Plan                        | 3rd Week in May*              |
| Draft AI                                       | 4th Week in March*            |
| Final AI                                       | 3rd Week in May*              |
| Draft Annual Action Plan                       | 4th Week in March             |
| Final Annual Action Plan                       | 3rd Week in May               |
| City's Financial Audit Report                  | 2nd Week in April             |
| Semi-Annual Labor Standards Enforcement Report | 2nd Week in April             |
| Draft CAPER                                    | 2nd Week in Sept.             |
| Final CAPER                                    | 4th Week in Sept.             |
| Section 3 Summary Report                       | 4 <sup>th</sup> Week in Sept. |
| Semi-Annual Labor Standards Enforcement Report | 3rd Week in Oct.              |
| Contract and Subcontract Activity Report       | 3rd Week in Oct.              |

\* Required every five years. All other reports in the above table are required annually

In addition, periodic reporting on the progress of block grant funded activities is required through HUD’s Integrated Disbursement and Information System (IDIS). IDIS tracks the drawdown of CDBG, ESG, HOME, and HOPWA funds, as well as the activity accomplishments produced through these programs. Discussion about the drawdown and reporting process is included in Chapter 2.5.

ESG and McKinney-Vento projects also track beneficiary data on program participants assisted through a Homeless Management Information System (HMIS). Further discussion about this reporting system is included in Chapter 2.9.

## 2.2 PROJECT SELECTION PROCESS

The proposal selection process for CDBG, ESG, HOME, and HOPWA includes the announcement of Request for Proposals, public hearings, and final award notification. The following schedule is an example of key dates and deadlines of this process.

Discussion about the distribution of funds under the McKinney-Vento program is included in Chapter 1.3.

| WHAT   | WHEN  | WHERE   | PURPOSE   |
|--|---|---|---|
| Request for Proposals (RFP) Released   | November 12:00 PM<br>Noon   | Department of Planning and Development (DPD)  | Availability of RFP - applications for HUD Annual Action Plan   |
| PUBLIC HEARING #1  | 1 <sup>st</sup> or 2 <sup>nd</sup> Week in<br>December 6:00 PM<br>(CDBG, HOME, ESG,<br>HOPWA)   | Lowell TBD  | Provide technical assistance on submission of RFP, review performance of current year projects, and obtain input on housing and community development needs.                                  |
| DEADLINE FOR PROPOSALS   | 2 <sup>nd</sup> or 3 <sup>rd</sup> Week in<br>December (Typically 30-<br>45 Days after release) | DPD   | Deadline for RFP submissions  |
| PUBLIC HEARING #2<br><br><b>*Applicants are strongly encouraged to attend.</b> | January 6:00 PM (CDBG<br>Public Services, ESG)  | Lowell TBD  | Opportunity for applicants to present their proposals to the Project Review Committee before the project selection process begins   |
| Draft Annual Action Plan Released<br><br>*30 day citizen comment period begins | March at 12:00 PM,<br>Noon  | DPD, City Clerks Office, Pollard Memorial Library, <a href="http://www.lowellma.gov">www.lowellma.gov</a> | The Draft Annual Action Plan and a tentative list of acceptable proposals will be available at the locations listed. Citizens may submit written comments to be included in the final plan.   |
| PUBLIC HEARING #3  | April at 6:00 PM<br>(CDBG, HOME, ESG,<br>HOPWA)   | Lowell STBD   | Citizens are invited to provide input on the Draft Annual Action Plan   |
| 30 Day citizen comment period ends   | Last week in April at<br>5:00 PM  | DPD   | End of the citizen comment period.  |
| City Council Meeting   | First or second Tuesday<br>in May   | City Council Chambers,<br>Lowell City Hall  | The final Annual Action Plan will be presented to the City Council for their approval before the plan is sent to HUD. The public may register with the City Clerk to speak on the Final Plan. |
| Award letters mailed   | Mid-May   | DPD   | Award letters will be mailed to all applicants accepted for funding.  |
| Funding authorized by HUD  | July 1st  | HUD   | HUD will review final plan and comments. Funding will be authorized upon HUD's acceptance.  |

### ***Applications and Guidelines***

The initial step of each Annual Action Plan’s development process typically begins in November with the advertisement of the planning process, availability of funds, and the Request for Proposal (RFP). Notice of the availability of Federal funds and the RFP is advertised according to the City’s Citizen Participation Plan. A schedule of the Annual Action Plan process and RFP is made available to all interested parties through an advertisement in *The Sun* newspaper, on the City’s website, and through public postings. This is available in English, Spanish, Portuguese, and Khmer at the Department of Planning and Development (DPD). It can also be found at the Pollard Library and with the City Clerk. The notification regarding the availability of the Request for Proposal (RFP) is sent via email to all existing subrecipients. For those subrecipients who do not have email access, notification is conveyed through telephone communication. Notice of the availability of a separate HOPWA RFP is also advertised in the *Boston Globe*, which serves the larger Middlesex County HOPWA jurisdiction.

The RFP is released at 12:00 Noon on the advertised day. Hard and electronic copies may be requested through an on-line request form at the City’s website (<http://www.lowellma.gov/depts/dpd/rfp>) or via email at either [communitydevelopment@lowellma.gov](mailto:communitydevelopment@lowellma.gov) or [esg@lowellma.gov](mailto:esg@lowellma.gov). Potential applicants must leave their contact information when requesting an application. Should any changes or addendums be made to the RFP, Community Development staff will be able to contact all potential applications prior to the due date.

The City does not typically have a confirmed dollar amount from HUD for the upcoming fiscal year when RFPs are issued. Because of this, estimated available funds are listed in the RFPs. In order to ensure a more transparent process, the RFP also identifies funds committed for administration costs and multi-year commitments made in previous years. Evaluating past trends in program income and input from HOME and CDBG project managers helps to determine the approximate funding available for distribution.

All Requests for Proposals (RFPs) encompass the following key components:

1. **Schedule:** Outline of the RFP and annual action plan process.
2. **Program Details:** Description of Federal grant programs, eligibility requirements, and the goals and objectives outlined in the City's 5-Year Consolidated Plan.
3. **Application Guidelines:** Clear specifications on application requirements and submission instructions.
4. **Selection Criteria:** Details on the proposal selection process, evaluation criteria, and a discussion on project performance and outcome measurements.
5. **Application Form:** Inclusion of the actual application form.

In addition to the application form, applicants are requested to submit one copy of the agency's most recent financial audit and one copy of its 501(c)3 Letter of Tax Determination Status from the IRS, if applicable.

DPD staff members provide technical assistance to applicants during the RFP process and encourage potential applicants to discuss the eligibility of proposed projects. This not only ensures that applicants understand the application process but also ensures the submission of well-designed and eligible proposals. The first of three public hearings is held to provide applicants with an opportunity to ask questions about the RFP process and discuss the goals and priorities identified in the Consolidated Plan. Community Development Staff also provide technical assistance during the 1<sup>st</sup> public hearing and during the RFP open submission process.

Three separate RFPs are issued each year:

CDBG and ESG Applications: The deadline for submitting applications for CDBG and ESG funds usually falls within 30-45 days after the electronic and hard copy announcement of fund availability. Completed applications must be received and time-stamped at the DPD office by the specified deadline. Each application is sequentially time-stamped upon receipt, assigned a unique number, and subsequently reviewed by DPD staff to assess project eligibility.

The order in which applications are received translates into the order in which applicants may present their proposal to the Project Review Committee during the second Public Hearing outlined in the schedule above.

Submitted applications are recorded in a spreadsheet identifying past awards and accomplishments, contact information, and HUD eligibility information. This spreadsheet also contains information about the project, which, should it be funded, is used to set up the project in IDIS and to complete the Annual Action Plan. Copies of all applications are organized by funding source and HUD priority and compiled into electronic folders

These electronic applications are made available to Community Development staff, the DPD Director, and members of the Project Review Committee (PRC). More discussion about the PRC is included below.

Also beginning with the 2012-2013 program year, the City established a technical review committee to evaluate proposals for projects applying under the CDBG non-Social Service cap and ESG projects. Most projects funded under this pool of CDBG are sponsored by DPD or other City departments and include economic development programs, housing rehabilitation, park and infrastructure improvements, and public facility renovations. These projects often use CDBG funds as a match to secure other federal and state support. ESG funds are mostly used for shelters, homelessness prevention and or domestic violence. The selection process includes a more vigorous review of proposals to ensure that applicants have the capacity to administer some of the complexities of economic development and construction-related projects including local

permitting requirements and project financing. A selection committee made up of staff from DPD’s Housing, Planning, and Community Development offices review proposals and make funding recommendations to the City Manager and City Council.

HOME: During the 2010-11 program year a rolling application for HOME funds was introduced. This change allows the City to consider qualified proposals that are presented throughout the year, depending on availability of funds and provides some flexibility for potential developers. In addition, a more complex application process was designed to correspond with the One Stop applications required for state funding through the Massachusetts Department of Housing and Community Development. This process reduces some of the burden for applicants and ensures that applicants have the capacity of understanding some of the complexities of affordable housing development. A selection committee made up of staff from DPD’s Housing, Planning, and Community Development offices review proposals and make funding recommendations to the City Manager and City Council.

HOPWA: A separate selection process is held for HOPWA program funds. In an effort to help provide some consistency to project sponsors in designing their programs and planning project budgets, the City changed its RFP process during the 2010-11 program year that allowed applicants to submit proposals for the use of HOPWA funds over a five-year term beginning July 1, 2010. This change also allows the city to help predict the level of accomplishments that may be achieved over the five-year Consolidated Plan period and helps to reduce the paperwork associated with annual applications and grant agreements. Grant agreements were drafted with selected project sponsors, eligible for renewal each year over the course of the five- year period, subject to availability of funds and compliance with federal program requirements. Annual HOPWA appropriation to a selected activity is adjusted to correspond with the City’s annual allocation from HUD. For example, if the City’s HOPWA entitlement decreases by 2% in year three of a five-year award, the activity award will likewise decrease by 2%.

In order to provide room for flexibility and encourage new, innovative projects, the City holds some HOPWA funds aside each year to award to a new program that may not have historically received Lowell HOPWA funds. These funds may be awarded annually. Applications for these funds will be reviewed on a rolling basis, as funding is available.

Additional discussion on the project selection process for all four entitlement programs is discussed below and in the Citizen Participation Plan included in Chapter 2.8.

### ***Project Review Committee***

The Project Review Committee (PRC) acts in an advisory capacity to the City Manager and reviews submitted proposals for Federal funds. The PRC attends public meetings and reviews applications before making funding recommendations to the City Manager.

The PRC is made up of five city staff to review proposals under the CDBG Social Service Cap. A separate PRC, with members from Lowell and other communities in Middlesex County, review proposals for the HOPWA program. Non-Social Service projects will be reviewed by city staff who are knowledgeable about construction standards.

Members of the PRC are required to comply with the City’s Conflict of Interest Policy as required by HUD, in addition the State’s Open Meeting Laws and Ethics Laws. A copy of this policy is included in attached. Additional discussion about the PRC is included in the Citizen Participation Plan in Chapter 2.8.

### ***Project Selection Process***

The official selection process begins for the CDBG Social Service cap funds and ESG funds at a public hearing scheduled the following month after the application submission deadline. During the hearing applicants have an opportunity to make a three-minute presentation about their proposed project before members of the PRC and DPD staff. The PRC also has an opportunity to directly ask applicants questions about their programs and proposed activities. The meeting is officiated by DPD staff. Following this public hearing, DPD staff schedule a series of public meetings to review proposals and select organizations, based on criteria identified in the RFP, for Federal funding awards.

Due to the small number of applicants and familiarity of their programs, a large public hearing like the one described above is not held for the HOPWA program. Instead, HOPWA PRC members meet with DPD staff to review applications and recommend funding amounts. Applicants for CDBG non-Social Service funds and HOME funds are also not required to attend this second public hearing. As discussed earlier, applications for these funds are reviewed by a separate, internal selection committee.

Once the PRC makes their funding recommendations, the Assistant City Manager/DPD Director submits the Committees’ suggestions to the City Manager. Following the Manager’s review, a tentative list of awards is advertised in *The Sun* and published on the City’s website, as well as a copy of the Draft Annual Action Plan. This list, as well, as the entire Draft Plan, is subject to a 30-day citizen comment period during which written comments are received and addressed by DPD staff. A third, and final public hearing is held during this time to solicit comments on the Draft Plan and to allow the public to ask questions of the PRC members.

After the 30-day comment period, the Final Annual Action Plan, including a final list of awards is presented to the City Council, who ultimately approves the plan.

### ***Notification of Awards***

After the Lowell City Council approves the final version of the Annual Action Plan, DPD staff send out award letters to applicants notifying them of their funding allocation for the upcoming fiscal year. There are typically three types of notification letters distributed during this time:

Conditional Award Letter – Environmental Review Required: Contains the same information as the Award Letter but notifies applicant that a grant agreement cannot be fully executed until all environmental review requirements are completed.

Denial Letter: A denial letter is submitted to all applicants not recommended for funding.

Sample letters are included with attached documents.

Chapter 2.3 includes more information about the forms and data collected for the development of new contracts/grant agreements.

At this time Community Development Staff also contact those agencies with tentative awards to update their anticipated number of accomplishments. This number may or may not change based on final funding levels, but accomplishment numbers are confirmed in order to report a more accurate proposed accomplishment in the Final Action Plan.

A Final Award Letter is sent to confirm the actual final award approved by the Lowell City Council and included in the Final Annual Action Plan. This letter accompanies the signed contract and purchase order.

## 2.3 CONTRACT PREPARATION PROCESS

To distribute federal grant program funds to qualified recipients, the City of Lowell must enter into a contract or agreement. Contracts are composed as soon as City Council approves the award but not sent for execution until the ERR's are completed and grant agreement is signed by HUD. The Planning Associate is responsible for preparing and monitoring grant agreements associated with McKinney-Vento funded programs. The Director of Housing prepares HOME written agreements and associated documentation. More information about the HOME and CoC program agreements are included in Chapters 1.3 and 1.5 respectively.

For the CDBG, ESG, HOME & HOPWA programs, a signed project staff is responsible for preparing and monitoring grant agreements along with the corresponding purchase orders and invoices. In addition to outlining the scope of services the subrecipients will perform under the grant, and establishing requirements for compliance with all applicable regulations, these agreements outline the procedure subrecipients must follow in order to receive reimbursement for their authorized expenses outlined in their individual budgets.

### ***Contract/Agreement Types***

The city will follow 2 CFR 200.331 for making a case-by-case determination to determine whether an organization is a sub-recipient or contractor.

The regulations are as follows:

**§ 200.331 Subrecipient and contractor determinations.**

The non-Federal entity may concurrently receive Federal awards as a recipient, a subrecipient, and a contractor, depending on the substance of its agreements with Federal awarding agencies and pass-through entities. Therefore, a pass-through entity must make case-by-case determinations whether each agreement it makes for the disbursement of Federal program funds casts the party receiving the funds in the role of a subrecipient or a contractor. The Federal awarding agency may supply and require recipients to comply with additional guidance to support these determinations provided such guidance does not conflict with this section.

(a) **Subrecipients.** A subaward is for the purpose of carrying out a portion of a federal award and creates a federal assistance relationship with the subrecipient. See definition for *Subaward* in [§ 200.1 of this part](#). Characteristics which support the classification of the non-Federal entity as a subrecipient include when the non-Federal entity:

- (1) Determines who is eligible to receive what Federal assistance.
- (2) Has its performance measured in relation to whether objectives of a federal program were met.
- (3) Has responsibility for programmatic decision-making.
- (4) Is responsible for adherence to applicable Federal program requirements specified in the Federal award; and
- (5) In accordance with its agreement, uses the Federal funds to carry out a program for a public purpose specified in authorizing statute, as opposed to providing goods or services for the benefit of the pass-through entity.

(b) **Contractors.** A contract is for the purpose of obtaining goods and services for the non-Federal entity's own use and creates a procurement relationship with the contractor. See the definition of *contract* in [§ 200.1 of this part](#). Characteristics indicative of a procurement relationship between the non-Federal entity and a contractor are when the contractor:

- (1) Provides the goods and services within normal business operations.
- (2) Provides similar goods or services to many different purchasers.
- (3) Normally operates in a competitive environment.
- (4) Provides goods or services that are ancillary to the operation of the Federal program; and
- (5) Is not subject to compliance requirements of the Federal program as a result of the agreement, though similar requirements may apply for other reasons.

(c) **Use of judgment in making determination.** In determining whether an agreement between a pass-through entity and another non-Federal entity casts the latter as a subrecipient or a contractor, the substance of the relationship is more important than the form of the agreement. All of the characteristics listed above may not be present in all cases, and the pass-through entity m

Four types of contract documents are used with federal funds:

1. Cooperation Agreement: An agreement between DPD and another City department (i.e. Department of Public Works or Division of Neighborhood Services).
2. Grant Agreement: An agreement between DPD and a subrecipient or project sponsor, such as a non-profit organization performing a social service activity.
3. Loan Agreement: An agreement between DPD and another organization, in which Federal funds are to be re-paid by the subrecipient by a specified date.
4. Contract: An agreement between DPD and an outside vendor for services or materials associated with a project. These typically are for for-profit companies, such as consultants, contractors or subcontractors and/or other laborers.

All agreements are signed by the City Solicitor, the sub-recipient, the Auditor, the Assistant City Manager/ DPD Director, the City Manager, and the City Clerk. Note that the Auditor will only sign agreements that include the MUNIS account # assigned to the subrecipient. MUNIS accounts are set up by the Financial Specialist in the Auditor's Office. More discuss about this process is included in Chapter 2.5.

Three signed, original copies of the document are distributed to the following:

1. Vendor/Subrecipient
2. City Clerk's Office
3. DPD – Community Development Office

Additionally, electronic copies of the signed agreements are stored on a shared drive accessible to the auditing office, law department, and project managers.

### ***Contract Guidelines***

The City's program year technically begins July 1 however a reserve clause in Lowell's Code of Ordinances prohibits the City from paying costs incurred prior to the date of a purchase order. Contracts and purchase orders cannot be executed until the City has signed its grant agreement with HUD. Contracts typically begin in August or September depending on when the City receives its grant agreement from HUD.

*Note that no formal agreements can be signed until the Environmental Review process is complete.*

For the majority of CDBG Social Service, ESG, and HOPWA activities, grant agreements are set up expiring June 30<sup>th</sup>. This allows the City enough time to collect the necessary paperwork to reimburse for eligible costs and meet internal Auditing procedures before the close of the fiscal year. It is the City's policy not to extend contracts for Social Service activities beyond the program year in order to ensure compliance with HUD's 15% cap on Social Service expenditures in a fiscal year. McKinney-Vento agreements are typically set up for a period of 12 months.

In some cases, physical or capital projects funded by CDBG, and HOME assisted housing project may have different start dates and can be extended beyond the one year.

### Performance Based Contracts

To facilitate the assessment of performance and tracking of program results, Lowell’s grant agreements include a uniform performance measurement system consistent with HUD’s three statutory objectives: provide decent housing, provide a suitable living environment, and expand economic opportunities.

The City of Lowell utilizes logic models, incorporating outcome measures in program planning, project application, and contracts. Grant agreements for CDBG-Social Service and ESG programs are drafted to tie reimbursements more specifically to accomplishments. When possible, the focus will be on outcome accomplishments rather than output accomplishments. All reimbursement requests will still require documentation as proscribed in the appropriate Federal regulations and City policies.

Lowell’s grant agreements comply with federal, state, and local procurement laws. To ensure compliance with CDBG regulations the City consults Chapter 3: Subrecipient Agreements from HUD’s Managing CDBG: A Guidebook for CDBG Grantees on Subrecipient Oversight. Federal requirements for subrecipient agreements are included in a checklist with attached documents.

## 2.4 AMENDMENTS

The following policy applies to any changes (whether minor or substantial) to a Grant or Cooperation Agreement and/or to the City’s Five-Year or Annual Action Plan. Whenever possible, these procedures should be followed so as to ensure a complete system for tracking and recording changes.

For the purpose of this document an amendment shall be defined as a modification to a grant/cooperation agreement or to an adopted plan. An amendment may change the scope of service, grant award, or other component of an adopted plan or signed agreement and may be considered either minor or substantial depending on how significant of a change is proposed.

Minor Amendment: A modification to a signed agreement or adopted plan, which does not significantly alter the scope, service, or total grant award.

Substantial Amendment: A modification to a signed agreement, which significantly alters a project’s scope of services and/or the total grant award. A substantial amendment may also apply to a modification to an adopted plan which proposes a transfer between two or more Plan activities that is greater than 50% of the ESG program funds, 30% of the HOME program funds, and 33% of the CDBG program funds.

## **Amendments to Five-Year Consolidated and/or Annual Action Plans:**

### Minor Amendments

Amendments to grant or cooperation agreements that meet the following conditions are considered minor and require the filing of an Amendment Request Form:

- An adjustment to the budget line item/s on Appendix B: Budget Cost Control Reporting Statement (only if the amount of the total grant award is unaffected); or
- A minor revision that does not warrant an amendment to the Consolidated or Annual Action Plans; or
- An extension to the expiration date of a cooperation agreement. (This type of change is considered minor because advertising requirements do not apply, however the filing process for minor amendments to adopted plans (described in sect. 3 below) does apply.)

Three (3) original copies of the Amendment Request Form, signed by the Subrecipient, the Asst. City Solicitor, DPD Project Manager, and DPD Director, are required to file a minor amendment to a grant agreement or cooperation agreement. Copies are distributed to Auditor's Office, Subrecipient, and DPD file. The Amendment is considered effective and can be implemented as of the date attached to the DPD Director's signature. A copy of this form may be found with attached documents.

Note: No advertising is required for minor amendments to grant/cooperation agreements. It is not necessary to notify HUD nor to include in the City of Lowell's Consolidated or Annual Action Plan or CAPER.

### Substantial Amendments

Amendments to a grant or cooperation agreement is considered substantial when it meets the following conditions:

- Proposed change alters a project's scope of services and/or the total grant award
- An amendment to a contract for goods or services advertised or solicited under procurement processes.

All substantial amendments to a grant/cooperation agreement must follow the steps defined below for substantial amendments to the Consolidated or Annual Action Plan. The Amendment must be made public by advertising in the local newspaper, and posted at the Pollard Memorial Library, City Clerk's Office, and the DPD office. It can also be found on the city's website at [lowellma.gov](http://lowellma.gov). Notification must be submitted to HUD and included in the City's CAPER for the appropriate fiscal year. The Amendment may be implemented immediately after submitting it to HUD and making it public.

### Substantial Amendments

Amendments to an approved plan is considered substantial when it meets the following condition:

- A transfer between two or more Plan activities that is greater than 50% of the ESG program funds, 30% of the HOME program funds, and 33% of the CDBG program funds.

A substantial amendment to an adopted plan must be presented to the Project Review Committee and to the Lowell City Council for their review and approval. The Amendment must be made public by advertising in the local newspaper, and posted at the Pollard Memorial Library, City Clerk’s Office, and the DPD office. It can also be found on the city’s website at [lowellma.gov](http://lowellma.gov). The advertising of the amendment will trigger a thirty- (30) day public comment period, during which time the City will consider comments or view of citizens received in writing or orally.

The City Manager will submit to HUD, a letter authorizing the amendment after the 30-day comment period, along with any comments received. The amendment may be implemented upon submitting notification to HUD.

#### ***Amendment Request/Approval Process***

Two forms are used internally in DPD to request an amendment for Federal funds. These forms are used by both Community Development Staff and Finance Staff to ensure that all the necessary information is collected to amend/create a contract and to amend/set up activities in IDIS and the City’s MUNIS accounting system.

Project Managers complete the Amendment Request Form for any projects proposed during the fiscal year (outside of the RFP process), or any increase in funding or change in scope for an existing project. This request should be approved by either the Deputy DPD Director or the Assistant City Manager/DPD Director.

If the amendment is approved, the project manager will submit a copy of the completed form to both Finance and Community Development Staff who will take care of setting up the contract, purchase order and public notification. The Environmental Officer should also be notified at this time to ensure that any environmental review is conducted prior to the execution of any formal contract.

For any new projects proposed during the year, the IDIS Set Up form, should accompany the Amendment request. Project Managers should complete the top section of this form and circulate it to Community Development and Finance Staff to complete the amendment process. Copies of both forms are attached with attached documents

## **2.5 FINANCIAL POLICIES AND PROCEDURES**

The following policies and procedures have been established and adopted to ensure effective control and accountability over the management of federal grant funds and related program income. These policies govern allocation, expenditure, and documentation of federal funds for community development programs. They are designed to incorporate proper segregation of duties and administrative controls which prevent mismanagement or misappropriation of funds. These policies are the City of

Lowell DPD’s local supplement to controlling legislation and regulations of the federal government and the Commonwealth of Massachusetts.

In addition to the individual grant program regulations, HUD and the federal Office of Management and Budget (OMB) have established regulations governing the use of federal funds by both grantees and the non-profit organizations acting as subrecipients. 2 CFR 200 Uniform Administrative Requirements, Cost Principals and Audit Requirements. Copies of these regulations are included with attached documents.

### **Responsible Staff**

As discussed earlier in this document, there are several key staff members who are responsible for various aspects of the management of federal program funds granted to the City of Lowell DPD.

The Assistant City Manager/DPD Director and DPD Deputy Director are authorized to sign financial and other documents related to the internal management of Lowell’s grant programs.

The Community Development Director is responsible for the planning, development and implementation of the city’s entitlement grants.

The Community Development Assistant is responsible for assisting in the development of the Annual Action Plan and the Consolidated Plan.

The Senior Finance Officer is responsible for the financial management, record-keeping, and reporting associated with the entitlement grant programs.

The Senior Program Manager serves as the contract administrator and liaison to the various not-for-profit agencies and City Departments that receive grant funds from the entitlement programs.

The Associate Planner is responsible for data entry management and IDIS grant management, tracking the funds from the ESG grant programs and assists with planning activities.

The Financial Specialist is housed in the Office of the City Auditor and is the staff member of that department who is responsible for all federal funds.

### **Budgets**

#### Program Year Budgets

Every five years, the Lowell City Council adopts a five-year Consolidated Plan which outlines priorities and strategies for the use of federal grant program funds to address key goals and objectives for the benefit of Lowell’s low- and moderate-income residents, neighborhoods, and the businesses that serve and employ them. On an annual basis, the

Lowell City Council adopts an Annual Action Plan which outlines the specific activities and projects which will be undertaken in the next program year to achieve the goals and objectives of the Consolidated Plan. The program year corresponds to the City’s fiscal year, which begins on July 1 and ends on June 30 of the following calendar year. Once these plans are approved by HUD, the Annual Action Plan forms the basis for the budget expenditure of funds for the program year.

Prior to adoption by the Lowell City Council, the projects and activities, and the related spending plans are recommended by Project Review Committees, reviewed by DPD staff for compliance with program regulations, and reviewed and approved by the Lowell City Manager for submission to the Lowell City Council.

Projects and activities listed in the Annual Action Plan are individually budgeted in HUD’s IDIS system and the corresponding budget amounts are set up in the city’s MUNIS system, according to the chart of accounts, to assure proper accounting. The chart of accounts identifies the various orgs and objects with their respective descriptions:

- the org represents the funding source
- the object represents the service provided

Budgets are established for grants to subrecipients, allocations of funds to other City Departments by cooperative agreements, project delivery activities, and individual administrative and planning activities by the Division of Planning and Development.

#### MUNIS System

The MUNIS budgets (org, object and program year) are initiated by the Department of Planning and Development’s (DPD) Senior Finance Officer and submitted to the City Auditor’s Office for review and approval by the designated Financial Specialist. The Financial Specialist is responsible for internal auditing associated with HUD’s federal programs and is identified as the designated “central contact” person in the Auditor’s office in a cooperation agreement between DPD and Auditing. When the Financial Specialist has verified that the budget line items and amounts are accurate, the budget entries are made. Once budgeted funds are reflected in the MUNIS system, purchase orders (POs) can be entered, invoices can be processed against the POs and payroll expenditures can be charged against the appropriate budgeted line items. At any time, the resources used cannot exceed the resources authorized.

#### IDIS

When entering projects and activities in IDIS at the beginning of each fiscal year, the Senior Finance Officer also enters the corresponding MUNIS grantee identification number, consisting of the org, object and respective program year, to allow for an easy cross-reference between the two accounting systems. In IDIS, this number is referred to as the grantee activity number.

Once budgets are in place in both IDIS and MUNIS, a list of activities by program year and project is generated in IDIS (PR02 Report) and a corresponding year-to-date report

can also be generated in the city’s MUNIS system by listing org, object and program year, so that there is a dual accounting system maintained by both HUD and the City.

Every quarter the Financial Specialist in the Senior Finance Officer reviews the budgets, expenditures/drawdowns and account balances. In both Programs IDIS and MUNIS and reconcile any inaccuracies.

### **Purchasing Requisitions/Orders**

Under the Code of Ordinances of the City of Lowell, Massachusetts, the city operates under a “reserve system,” which is outlined in Section 7 of said Code. Under this system, no obligation is incurred by the City for any purchase or service rendered prior to or in the absence of a properly issued and approved purchase order. The purchase order process outlined below applies to sub-grants provided to subrecipients and cooperative agreements for the use of federal funds by other City departments as well as to more traditional procurement of services and purchases.

Purchase order requisitions can be entered for either a one-time vendor or a “blanket” requisition can be entered for a vendor, such as a utility company or a local locksmith, the city/department utilizes frequently for indefinite quantities of goods or services. The requisition can be for supplies or services.

Requisitions must be signed/approved by the Department Head and then returned to the person responsible for entering and releasing the requisition into the computer system, which is either the Head Administrative Clerk if the requisition pertains to the administrative budget, or the Senior Program Manager if the requisition pertains to a specific program or activity. At the point of requisition entry by the originating department into the MUNIS system, the dollar amount is immediately deducted from the available budget amount.

The original, signed, paper requisition must be submitted to the Purchasing Department. For all new vendors, a W-9 Form must be completed and signed by the vendor to certify the taxpayer identification number, company name, and address – it should be attached to the original, signed, paper requisition when submitted to the Purchasing Department.

The Chief Finance Officer electronically approves all city requisitions released by each department and forwards them to Purchasing for approval; they, in turn, review all “signed” requisitions and electronically approve and forward them to Auditing for processing and conversion to an approved purchase order reflecting the system generated Purchase Order number. Purchasing mails, a copy to the vendor and distributes the file copy to originating department with a yellow receiving form for each PO, along with any corresponding attachments as required.

For Service Orders (SO), the vendor copy is forwarded with the originating department file copy. Each department is responsible for mailing the vendor copy, along with any corresponding attachments as required for all service POs, to the vendor.

A signed contract is required for all goods and services valued at over \$5000. Contracts are typically prepared by the Senior Program Manager and approved by the City Solicitor. Contracts are then signed by the vendor, the Department Head, the City Manager, and the City Clerk (attesting to the City Manager’s signature). Contracts must be fully executed prior to the issuance of a PO.

### **Procurement of Goods and Services**

The procurement of goods and services using federal funds or funds from other sources by the City of Lowell is generally governed by the provisions of Massachusetts General Laws Chapter 30B. Other provisions of the Massachusetts General Laws govern the procurement of design and construction services for capital projects. The DPD mandates that the requirements of these procurement regulations are followed as applicable. The Commonwealth of Massachusetts Office of the Inspector General has published manuals which outline these requirements. *Municipal, County, District, and Local Authority Procurement of Supplies, Service, and Real Property* and *Designing and Constructing Public Facilities* are provided to City staff for guidance and are incorporated into this policy document by reference.

If services procured are for “the furnishing of labor, time or effort by a contractor, not involving the furnishing of a specific end product or other than reports,” Massachusetts prevailing wage laws will apply. Additionally, if the proposed activity involves construction and the expenditure of \$2000 or more in federal funds, Davis Bacon Act federal labor standards apply. Any applicable prevailing wage or Davis Bacon rates must be requested prior to obtaining quotes or bids and incorporated into the solicitation materials.

The City of Lowell has established a Purchasing Department and named a Chief Procurement Officer, who is responsible for all purchasing of goods and services for the City. Under the City’s system, procurement responsibilities for goods and services typically procured have been delegated to other departments, including DPD. In these cases, a “Procurement of Services” form must be completed and signed by the Department Head to attest that Chapter 30B requirements are being observed. If the authority to procure the good or service being sought has not been delegated, the Department Head must also request a delegation approval from the Chief Procurement Officer/Purchasing Agent in order to carry out services under Chapter 30B.

### **Invoices and Payments**

A DPD staff member with appropriate expertise to oversee the scope of the project is assigned to every project funded with federal funds at the start of the fiscal year. This project manager monitors the progress of the activity as well as the performance of vendors and subrecipients, if applicable, to ensure compliance with all applicable regulations. The Senior Program Manager reviews all CDBG Social Service and ESG activities.

### **Vendor Payments**

Vendors seeking payment for goods or services submit invoices to the assigned responsible DPD project manager. The project manager reviews the invoices to confirm that the goods and services have been provided and the invoice is consistent with all applicable contract terms. Approved invoices are then forwarded to either the Head Administrative Clerk or the Senior Program Manager. The invoices are reviewed and submitted to the Auditing Department if complete. The Department Head then approves the batches of invoices to be paid to vendors.

#### Subrecipient Payments

For the CDBG & ESG programs, the assigned staff is responsible for preparing and monitoring all sub-recipient grant agreements along with the corresponding purchase orders and invoices. The HOME program is overseen by the Housing. In addition to outlining the scope of services the subrecipients will perform under the grant, and establishing requirements for compliance with all applicable regulations, these agreements outline the procedure sub-recipients must follow in order to receive reimbursement for their authorized expenses outlined in their individual budgets. All agreements are reviewed and approved by the City Solicitor, the sub-recipient, the DPD Director, the City Manager, City Auditor, and the City Clerk (attesting to the City Manager's signature).

Sub-recipients are required to submit their reimbursement to the sign project staff on a monthly or quarterly basis. Such requests must include:

- A. Budget Cost Control Reporting Statement (included with the grant agreement as Appendix B) detailing the amount being requested for reimbursement against the established budgets in the grant agreement
- B. All pertinent backup documentation for these charges (i.e., payroll records, time sheets, copies of paid invoices, utility bills, etc.) to establish that the expenses were eligible under the grant agreement and all applicable regulations and statutes.
- C. Statistical information on clients served (if required by the applicable program regulations)
- D. A narrative of program activity and accomplishments for the month covered

When a reimbursement request is received, it is time stamped and then reviewed by the Senior Program Manager for eligibility and accuracy. All charges are crosschecked with authorized expenditures in the agreement and for regulatory compliance. The purchase order is verified (both manually in the sub-recipient's file and in the MUNIS System) to confirm there are available funds to process the request.

- a. If everything is *acceptable* and in order, the assigned staff will approve and date the request. A note is made in the corresponding file advising the date processed, amount of request and balance of funding remaining on the purchase order. The

reimbursement request is then forwarded for further review and payment by the Financial Specialist.

- b. If a reimbursement request is *not acceptable* for any reason (i.e., lack of backup documentation, ineligible charges, incorrect figures, etc.), the Senior Program Manager will contact the sub-recipient and advise them of the error. Once the problem is resolved, the request will be processed as stated above.

### ***IDIS Drawdowns***

When CDBG, HOME, or ESG funds are used, expenditures are made after drawing down funds through the IDIS system. All drawdowns are entered into IDIS by one employee and approved by a second. There are only a few employees who can enter or approve HUD drawdowns. Even though any of them can both enter and approve drawdowns, no individual can approve a draw that he/she created.

- The Financial Specialist is responsible primarily for *creating* and *entering* HUD drawdowns in IDIS.
- The Director of CD and/or Associate Planner are responsible primarily for *approving* the entered drawdowns.
- The DPD Senior Finance Officer can perform the necessary function in the absence of either of the aforementioned positions.

The drawdown is entered not more than two (2) days prior to the scheduled payment date of the approved invoices or the payroll checks - this 48-hour window allows enough time for HUD funds to be deposited into the city's account prior to the city distributing checks. All available program income on hand at the time of the draw will be disbursed prior to drawing any entitlement funds.

The Financial Specialist creates a drawdown form for payroll expenditures on a weekly basis as back-up for the actual amount of funds to be drawn in IDIS – the voucher numbers are listed on the drawdown form. The amount of the draw is equal to the payroll expenditure amount reflected on the weekly MUNIS Earnings and Deductions Report for DPD, generated by the Auditor's Office. The drawdown amount is entered in IDIS, and the original "paper" drawdown is submitted to the Treasurer's office to record proper accountability of grant receipts in the city's MUNIS system; a copy is kept in the Financial Specialist's file.

A drawdown form is created on a weekly basis for invoices, scheduled for payment every two weeks, as back-up for the actual amount of funds to be drawn in IDIS – the voucher numbers are listed on the drawdown form. The amount of the draw is equal to the total amount of all individual bill draft sheets. The Financial Specialist creates an excel spreadsheet that lists the IDIS assigned voucher number, the vendor's name, amount being paid and corresponding activity numbers from which the grant funds are to be drawn in IDIS. The drawdown amount is entered in IDIS, and the drawdown is

submitted to the Treasurer’s office to record proper accountability of grant receipts in the city’s MUNIS system; a copy is kept in the Financial Specialist’s file.

In order to ensure compliance with the expenditure requirements of each entitlement grant, the City will draw funds at least quarterly. Physical projects that are dependent on securing other funding sources, weather conditions, and local permitting process may not draw funds as often, but project managers will be encouraged to submit payment requests as frequently as possible.

### ***Payroll***

Each employee is required to complete a weekly time sheet reflecting the number of hours worked for the week, identifying the distribution of time by the grant appropriation line item that corresponds to the project/activity and/or administration funding source to be charged. Each funding source is identified by its MUNIS line item. The time sheet is signed by the employee and their supervisor, indicating approval of the hours worked. All time sheets are then forwarded to the DPD Head Administrative Clerk no later than Wednesday at noon.

### **Biweekly Leave Spreadsheet**

The DPD finance office maintains a “DPD-Weekly Leave Spreadsheet” that lists all employees and his/her updated “leave” hours used to date and balance of accumulated “leave” hours. All hours listed on the individual time sheet other than regular hours worked, such as personal, sick, vacation, etc. are subtracted from each individual’s accumulated personal, sick, vacation, etc. hours to be sure that the “leave” hours do not exceed the accumulated hours in each respective category. All signed weekly paper timesheets are maintained on file to enable these records to be reconstructed.

The majority of DPD personnel belong to one of two unions, American Federation of State County and Municipal Employees (AFSCME) Locals 1705 and 2532; there are also a few employees that are City of Lowell ordinance employees, who are not covered by collective bargaining agreements. The employee’s sick/vacation/personal time is governed by his/her corresponding bargaining agreement or ordinance.

### **Biweekly Distribution Spreadsheet**

Once the “DPD-Weekly Leave Spreadsheet” is updated, the “Weekly Distribution Spreadsheet” is also updated. This spreadsheet lists all employees, alphabetically, with all their weekly pay period hours distributed as shown on each individual time sheet for that pay period. When that has been completed, the total calculation of hours and dollars is confirmed related to sick, vacation, personal and comp hours before the payroll is entered in the MUNIS system. A final comparison of total weekly dollars and hourly distribution is performed between the Weekly Distribution Spreadsheet and the MUNIS Earnings and Deductions Report for accuracy, prior to releasing payroll to the Auditor’s Office.

The Auditor’s Office verifies and confirms payroll hours and dollars for all the city’s departments on a weekly basis. Once the entire city’s payroll is balanced, departmental

weekly timesheets and signature sheets are distributed from the Auditor’s Office to all departments for the department head’s signature. When Auditing is in receipt of all the departments’ signed weekly time sheets and signature sheets the city Auditor signs the payroll warrant, then payroll checks can be released by the Treasurer’s Office.

On a quarterly basis, fringe benefits reimbursement, including medical, dental, life insurance, etc. is submitted to Human Relations. Reimbursements are calculated based on actual fringe benefits expenses paid by the City of Lowell for employees whose primary sources of salary and benefits funding are federal grants.

### **Travel Reimbursement**

Employees are reimbursed for actual expenses incurred for transportation (including mileage and parking), lodging, registration and conference and seminar fees, and similar costs associated with approved job-related travel. In-state travel requires approval by employee’s supervisor and the Department Head prior to submitting the employee’s monthly reimbursement form to Human Relations along with all original receipts attached. Out-of-state travel requires pre-approval by Department Head, City Manager and City Council.

For each month during which they have traveled for job-related reasons, employees prepare a travel reimbursement request form. Separate forms are used for in-state travel and out-of-state travel. These forms, along with required supporting paperwork, are submitted to the DPD Finance Office once they have been signed as approved by the employee’s supervisor and the Department Head. The DPD Finance Office staff reviews the submitted paperwork and forwards these reimbursement requests to Human Relations for review and approval. Human Relations establishes a pre-scheduled monthly pay date for all reimbursable in-state travel. The schedule identifies the date required for Human Relations to receive all reimbursement paperwork. Once Human Relations has approved the reimbursement requests, they are submitted to Auditing for final review and approval for payment on the scheduled date.

The reimbursable mileage rate is equal to the established IRS reimbursable rate set as of January 1<sup>st</sup> of each calendar year, subject to change. Distance for the mileage is calculated from City Hall to destination and return. In addition to mileage, employees may be reimbursed for public transportation fares, parking fees, tolls, and training/seminar registration expenses for in-state travel.

### Out-of-state Travel

For out-of-state travel, employees may also be reimbursed for lodging and other transportation expenses. On out-of-state overnight travel, employees are entitled to a \$50 per diem fee for meals and incidentals. Employees are not reimbursed directly for meal costs. Reimbursement requests for out-of-state travel must include a copy of the pre-approval letter signed by the City Manager. If the reimbursement is for a meeting, training or seminar, a copy of the schedule or brochure should be submitted along with the reimbursement request.

### In-State Travel

For in-state travel reimbursement, blanket purchase orders are established by the DPD Finance Office to cover anticipated upcoming travel reimbursement requests. For out-of-state travel, employees must inform the DPD Finance Office when approval is obtained and the DPD Finance Office will establish purchase orders to cover the costs of the travel. Purchase orders must be in place before the travel occurs to ensure that reimbursement can occur. Employees are not reimbursed for meals during in-state travel.

### **Program Income/Cash Receipts**

The CDBG and HOME Programs generate Program Income when activities funded from these sources generate income. Program income receipts are primarily from loan repayments or loan payoffs. Occasionally program income is received from other miscellaneous sources, such as mortgage discharge fees or the sale of property purchased or improved using CDBG or HOME funds. The City does not typically fund activities under the ESG Program that generates program income.

The city does not allow subrecipients to keep program income.

### Loan Servicing

The city has a loan servicing agreement with a local bank to manage the City's loans that have a monthly repayment schedule. The bank also provides monthly reports to the city, including; New Loan Report, listing all new loans established during the month; Trial Balance Report, listing account numbers, borrower name, current balance, interest due, date opened, rate, payment amount and escrow balance, if any; Past Due Report and Loan Status Report. The city Treasurer receives the loan repayments from the bank on a weekly basis and records them in the appropriate MUNIS revenue account. The Financial Specialist will receive a copy of the payments and record the amount in IDIS.

### Forgivable Loans

Forgivable loans and those due only on sale/refinance do not require servicing. Records of these loans are maintained in the Economic Development and Housing offices at the DPD.

- **Economic Development Loans**  
Economic Development loans are usually structured as forgivable provided that the assisted business meets certain job creation targets and other performance measures that are monitored by the Economic Development staff.
- **Housing Rehabilitation/Lead Abatement Loans**  
Housing rehabilitation and lead-paint abatement loans are generally deferred without payments due to the City until sale, refinance, or transfer of the property. These loans are secured by a mortgage that is recorded at the Middlesex North Registry of Deeds. Upon sale, refinance, or transfer, the DPD is notified and the DPD Housing Office calculates a payoff amount for inclusion at the property closing. At the closing, DPD

receives a loan payoff check. The check is submitted with a turn-in sheet directly to the Treasurer’s Office to record the revenue amount in MUNIS and the Financial Specialist will receive a copy of the check and turn-in and record the revenue amount in IDIS.

Other miscellaneous income is treated in the same manner as the loan payoff - a check, or cash, is submitted with a turn-in sheet directly to the Treasurer’s Office to record the revenue amount in MUNIS and the Financial Specialist will receive a copy of the check and turn-in in order to record the revenue amount in IDIS. Copies of the turn-in records are also maintained in the DPD finance office.

The MUNIS and IDIS program income/cash receipts accounts are reconciled on a monthly basis by both the Financial Specialist and the Senior Finance Specialist at DPD. Any discrepancies between these reconciliations are then identified and resolved.

### **Recaptured/Unspent Funds**

In some cases, an approved activity may not spend all of its budgeted funds in a program year, or it could become cancelled before funds are expended. This is typically the result of a project identifying additional funding sources to replace Federal funds. When this happens, unspent funds are recaptured by the IDIS and MUNIS systems, making it available for other activities in the same grant program.

To recapture or de-obligate funds in IDIS, the activity status is changed to “complete” or “cancel” on the Setup Activity screen. This step is typically completed by the Senior Finance Officer. IDIS will automatically de-obligate any remaining funds and return them to the *parent grant*. IDIS also automatically reduces the estimated amount on the setup activity.

The corresponding MUNIS account will reflect a budget adjustment entry reducing the budget by the same amount de-obligated in IDIS. The project manager or Senior Finance Officer will direct the Financial Specialist to transfer the amount from the corresponding MUNIS account to the account entitled *unobligated appropriation* for that fiscal year. If there’s a purchase order encumbered in MUNIS that is associated with the project/activity, then the purchase order balance must be cancelled before funds can be recaptured.

In both systems, budgets, expenditures and balances are reconciled prior to recapturing funds.

### **Financial Record Keeping**

The Finance Office shall keep adequate records that comply with the applicable requirements of 2 CFR 200 Uniform Administrative Requirements, Cost Principles and Audit Requirements for Federal Awards. The financial records that must be maintained include:

- A chart of accounts that lists all names and numbers assigned to each account
- Accounting journals and ledgers
- Source documentation that costs were eligible and paid (invoices, purchase orders, canceled checks, etc.)
- An inventory of real property
- Bank account records
- Records regarding revolving loan fund activities
- Drawdown requests
- Payroll records and reports
- Documentation of other administrative costs charged
- Financial reports
- Audit files
- Financial correspondence

## 2.6 EQUIPMENT MANAGEMENT

### Federal Requirements

Procedures must be in place for managing equipment, acquired in whole or in part with Federal grant funds, until disposition, as required by the federal regulation at 2 CFR 200 Uniform Administrative Requirements, Cost Principals and Audit Requirements.

### City of Lowell Requirements

As a grantee of Federal entitlement funds, the City of Lowell shall regularly monitor and inspect the use and condition of equipment purchased with Federal funds. The following procedures shall be followed to ensure proper management of equipment (including replacement equipment) and will be applied to property acquired by the City of Lowell as well its subrecipients.

Note: Equipment management as set forth in this policy shall not apply to supplies. For the purpose of this policy, supplies shall be considered those items used for general operation of the program, which are incidental or disposable (i.e. stationary and other office supplies). If there is a residual inventory of unused supplies exceeding \$5,000 in total aggregate fair market value upon termination or completion of the award, and if supplies are not needed for any other federally sponsored programs or projects, the City or subrecipient shall reimburse the awarding agency for its share. The disposition process described in Massachusetts General Law Chapter 30B shall apply for City-owned supplies in excess of \$5,000.

- **Property Records**

Property records shall be maintained by the City for all equipment purchased with Federal funds and shall include at a minimum, the following information:

- Serial number or other identification number
- Description of the property and its intended use
- Location and primary operator/user
- Condition of property/Required maintenance if any
- Source and acquisition date
- Acquisition cost
- Funding source
- Percent of Federal funds used to purchase
- Title holder
- Disposition date, and sale price if applicable

A label identifying the items serial number and source of funds used to purchase the property shall be affixed to the equipment.

- **Physical Inventory**

At least once every two years, a physical inventory of property shall be taken, and the property records updated. This inventory could coincide with on-site monitoring visits to subrecipients, if logistically feasible.

The City of Lowell, Office of Management Information Systems (MIS) maintains a citywide inventory of all equipment through its Track It! Software. DPD Staff coordinate with staff from MIS to ensure that proper information is collected and stored in this inventory system.

- Maintenance

All computer equipment, used by the City, regardless of funding source is covered in a blanket contract with Retrofit, Inc. for any maintenance or repairs. DPD coordinates with MIS to ensure proper maintenance. This contract is provided through MIS.

Subrecipients who purchase equipment with Federal funds should develop adequate maintenance procedures to keep property in good condition.

Any required maintenance should be reported during a physical inventory and updated in the property records.

- Property Loss

The City is self-insured and does not carry insurance on computer equipment. Equipment should be secured in such a way to prevent theft, such as stored in a locked office or building when not in use.

Subrecipients should have control systems in place to ensure adequate safeguards to prevent loss, damage, or theft of property purchased with Federal funds.

Equipment made available for public use, as part of an eligible federally funded activity, should be secured in such a way that prevents theft or damage.

- Disposition

Equipment shall be used by the City of Lowell or its subrecipients in the program or project for which it was acquired as long as needed, whether or not the program or project continues to be supported by Federal funds. When no longer needed for the original program or project, the equipment may be used in other activities currently or previously supported by a federal agency.

When original or replacement equipment acquired under a grant is no longer needed for the original project or program or other activities currently or previously supported by a Federal agency, disposition of the equipment shall be made as follows:

- a. Equipment with a current per-unit fair market value of less than \$5,000 may be retained, sold, or otherwise disposed of with no further obligation to the awarding agency.
- b. Equipment with a current per unit fair market value in excess of \$5,000 may be retained or sold and the awarding agency shall have a right to an amount calculated by multiplying the current market value or proceeds from the sale by the awarding agency's share of the equipment.

- c. Equipment with a current per unit fair market value in excess of \$5,000 that is owned by the city must follow Massachusetts General Law Chapter 30B Disposition processes.

In cases when equipment is replaced, upgraded, or declared obsolete it shall be declared surplus and stored or disposed of through the Purchasing Department

A copy of an Equipment Inventory form is included with attached documents. The Senior Program Manager or Community Development Assistant shall provide this form to any City Department or subrecipient organization using entitlement grant funds to purchase equipment. Completed forms should be collected before final reimbursement of funds for the equipment is made. Forms shall be maintained in the project folder and all equipment information entered into an equipment inventory database.

## 2.7 PROGRAM MONITORING

The City of Lowell’s Department of Planning and Development (DPD) is committed to the successful coordination and oversight of CDBG, ESG, HOME, and McKinney programs. Monitoring is an important and required component of this process as it determines if a grant recipient is carrying out an approved activity in a timely manner, ensures compliance with federal regulations and provides technical assistance and guidance to program recipients.

DPD is responsible for oversight of all designated recipients of HUD programs and will perform the following tasks:

- Distinguish between subrecipients, contractors, and other entities.
- Execute written agreements containing all required elements before providing funds to grant recipients.
- Periodically review grant recipients in order to determine that program requirements are being met; and
- Take effective corrective and remedial actions toward grant recipients that do not comply.

DPD Staff have developed a monitoring handbook and forms to use in monitoring public service, physical improvement/construction, economic development, and housing related projects. A copy of the handbook is included with attached documents.

### ***Recipient Monitoring***

In order for the city to monitor itself, DPD has developed an internal management plan to assure the proper and timely implementation of the Consolidated Plan and Annual Action Plans. Procedures are in place to ensure proper compliance with all program requirements for HUD entitlement programs and the McKinney-Vento program.

DPD also monitors the amount of available funding utilizing HUD’s Integrated Disbursement and Information System (IDIS) and the City’s MUNIS accounting system to track individual activity drawdowns and ensure that uncommitted and expended funding does not exceed HUD-recommended levels.

On the last business day of each month the Community Development Director runs several reports in IDIS including the PR01, PR02, PR49 and PR59 to review commitment and expenditure rates and program income, and to monitor the accomplishments of activities.

### **Subrecipient/Project Monitoring**

The chief responsibility for project monitoring lies with the Community Development Director, the Senior Program Manager and the Community Development Assistant. In some cases, projects or activities may be assigned to other DPD Staff. These Project

Managers will be responsible for monitoring their assigned projects with assistance from the Community Development Assistant.

At least quarterly “desk audits” of funded programs will be conducted with each reimbursement request. These reviews allow project managers to track the timeliness of expenditures and review progress reports. Reimbursement requests for construction-related activities will not be processed without authorization from the Project Manager. This authorization confirms that a physical inspection of the work was satisfactory and that any required prevailing wage documentation has been submitted.

On-site monitoring is conducted in the fall or midway through the execution of the subrecipient agreement less often but provides an opportunity to ensure that subrecipients are in compliance with federal regulations and are actively working to achieve the objectives outlined in their grant agreement and the Annual Action Plan. Site visits allow DPD staff to provide direct technical assistance and provide feedback about program administration. The risk analysis checklist to make this determination will be viewed in Appendix B.

All HOME and CDBG physical activities are reviewed periodically throughout the duration of a project. A project manager is required to sign off any reimbursement requests, often conducting an on-site inspection to confirm work was completed as described in submitted reports. Onsite monitoring visits are typically monitored every two years but more often if the activity is experiencing problems in meeting compliance requirements or expending grant funds.

Due to the volume of subrecipients, DPD Staff are not typically able to visit every ESG, or CDBG Social Service activity in a program year. For projects funded under these grant programs a risk assessment will be conducted to identify the subrecipients which require a comprehensive onsite monitoring. The extent and results of previous HUD monitoring, if the subrecipient receives funds from HUD directly will all be considered as part of the risk analysis. High-risk subrecipients might include:

- Subrecipients new to the CDBG, of ESG programs.
- Subrecipients that have experienced turnover in key staff positions or a change in goals or direction.
- Subrecipients with previous compliance or performance problems including failure to meet schedules, submit timely reports, or clear monitoring or audit findings.
- Subrecipients carrying out high-risk activities (such as economic development).
- Subrecipients undertaking multiple CDBG or ESG funded activities for the first time.
- 

At the start of each program year, a monitoring schedule shall be prepared based on this risk assessment. Depending on the number of projects funded during a program year the

City may also conduct remote monitoring's which require subrecipients to submit samples of material that would be reviewed during an on-site visit, to the DPD Project Manager. This allows project managers to conduct a thorough review beyond what would be looked at during a monthly desk audit.

Further discussion about HOME project monitoring is included in Chapter 1.3. A complete Monitoring Handbook is included with attached documents. This handbook includes sample letters and checklists used in conjunction with on-site monitoring visits.

### **Timeliness**

As both public and private resources decline, the City is mindful of the importance in allocating and spending its Consolidated Plan program funds on projects that can quickly achieve their goals to meet the underserved needs of Lowell's low- and moderate-income residents while complying with applicable federal grant requirements.

To ensure CDBG Social Service cap funds are spent in a timely manner DPD implemented a new policy in 2011 that called for grant agreements to be set up for a period of no more than 10 months. This requirement ensures that the City is able to adhere to its own internal financial policies as proscribed by the Auditor's Office and provides additional controls to ensure that the City does not spend more than the 15% cap allowed on Social Service activities.

Most non-Social Service activities including infrastructure public improvements and housing projects use CDBG and HOME funds as seed money to leverage additional resources. As a result, these projects are not held to the same 10-month window to spend down their grant; however, they are required to break ground and begin incurring eligible costs within 12 months of receiving an award. This policy allows projects some time to secure other funding while ensuring that federal dollars are not assigned to a project that is not in a position to move forward. Department prefers to fund project that are close to shovel ready.

Finally, Community Development Assistance and Senior Program Manager will review open activities in IDIS quarterly and communicate with project managers about any timeliness concerns. This review ensures that accomplishment goals are achieved in order to meet a National Objective and ensures that funds are spent and drawn down in a timely manner.

To ensure that all HOME compliance deadlines are met, a database of housing projects is maintained. The Community Development Director, in consultation with the Director of Housing, reviews the project development schedule and expenditure rate to ensure commitment, expenditure, and completion deadlines are met.

## **2.8 CITIZEN PARTICIPATION PLAN**

As required by the Department of Housing and Urban Development (HUD) Rules and Regulations, the City of Lowell complies with regulation 24 CFR 91.105, Citizen

Participation Plan for local governments as outlined. The City has adopted a citizen's participation plan that sets forth the City's policies and procedures for citizen participation.

Citizen and community participation in the process of developing this Five-Year Consolidated Plan has been outlined in the discussion of the plan development process above.

### **Encouragement of Citizen Participation**

The City of Lowell will enable citizens of the city to participate in the development of its Consolidated Plan, annual Action Plan, and any substantial amendments to the Consolidated Plan and required Consolidated Annual Performance and Evaluation Report (CAPER). The City will encourage participation by low and moderate-income persons, particularly those living in slum and blighted areas of Lowell, as defined by HUD, and in areas where CDBG funds are proposed to be used. Although a majority of residents throughout the City of Lowell are classified as low or moderate income by the Department of Housing and Urban Development as of the 2010 Census, particular efforts will be made to encourage participation by residents of predominantly low- and moderate-income neighborhoods, which currently include the following census tracts:

| <u>Neighborhood</u> | <u>2010 Census Tract</u>  |
|---------------------|---------------------------|
| Acre                | 3107, 3111, 3883          |
| Back Central        | 3119, 3120                |
| Downtown Lowell     | 3101                      |
| Centreville         | 3102, 3103, 3104          |
| Highlands           | 3113, 3114*, 3115*, 3116* |
| Lower Highlands     | 3112, 3117, 3118          |
| Lower Belvidere     | 3124                      |
| Pawtucket Ville     | 3105, 3106.01*, 3106.02*  |
| Sacred Hearth       | 3121*, 3122*              |
| South Lowell        | 3123*                     |

*(\*indicates that only selected block groups in these tracts are classified as having low- and moderate-income persons, based upon the 2000 Census data.)*

Note that the 2010 Decennial Census did not collect income information. Going forward, income information will be available at the Census Tract level only, through the annual American Community Survey. HUD has advised that it will provide data on income eligibility at the census tract level in 2013. Until that time, the City will continue to rely on the 2010 block group level information to prioritize the use of its Entitlement funds.

In addition, it is expected the city will take steps to encourage the participation of all its citizens, including minorities and non-English speaking persons, as well as persons with disabilities, consistent with the City's Limited English Proficiency (LEP) Plan. The city will provide translation services for any public meeting or public hearing, if the request

for such services is requested four days in advance of the meeting. In addition, all meetings will be conducted in areas that are accessible to persons with disabilities. The city will also partner with the Lowell Association for the Blind, Inc. to make accommodations for individuals with impairments.

The City will encourage the Lowell Housing Authority (LHA) and its tenants to participate in the process of developing and implementing the City’s Consolidated Plan and annual Action Plan, along with other low- income residents of targeted revitalization areas in which the developments are located. The City shall provide information to the LHA about the consolidated plan activities related to its developments so that the LHA can make this information available at their annual public hearing.

### **Project Review Committee**

#### Committee Composition

The Committee will be a 5-member team that includes DPD staff and other city staff. Anyone applying for CDBG funds is not permitted on this committee.

#### Committee Duties and Responsibilities

The PRC shall act in an advisory capacity to the City Manager and shall conduct Public Hearings, Public Meetings, solicit proposals, review all evidence, testimony, and proposals given at the hearings, meetings, or through other methods of communication to formulate and recommend to the City Manager, a spending plan for all discretionary Community Development Block Grant Program (CDBG), and Emergency Shelter Grant Program (ESG) funds available each program year under the City’s Annual Action Plan.

Funding under these programs that is designated for specific purposes (including multi-year commitments, municipal public facilities projects, and specific targeted areas) in the five-year Consolidated Plan has been reviewed by the PRC and DPD as part of the development of this five-year plan but will not be revisited by the PRC and DPD on an annual basis.

### **Citizen Participation Plan Requirements**

#### Citizen Input

The City, on an annual basis, through its Project Review Committee DPD, will make available to citizens, public agencies, and other interested parties, information that includes the amount of assistance the City expects to receive, including specific grant funds, available unspent prior years funds, and related program income. The City will also disclose the range of activities that may be undertaken including the estimated amount that will benefit persons of low and moderate income.

The City will make available to citizens, public agencies, and other interested parties, on an annual basis, the following information through the indicated means:

#### Information

Amount of assistance

#### Source

Written notice, public hearing

|                       |                                |
|-----------------------|--------------------------------|
| Range of activities   | Written notice, public hearing |
| Amount to benefit L/M | Written notice, public hearing |
| Displacement          | Public hearing                 |

City’s Notification Requirement Regarding Draft Plan Availability

A notification will be advertised a minimum of two (2) times in a local newspaper of general circulation to inform the public that a draft Consolidated Plan, or draft annual Action Plan is available to examine and subject to public comment. Such notification will also occur to notify the public of the availability of funding and public hearings. Notices should appear two weeks prior and one day prior to the start of an activity requiring public notice. The notification will provide a summary of the proposed Consolidated Plan, or annual Action Plan, and describe the contents and purpose of the particular plan. The notice will also be posted on the City’s home page ([www.lowellma.gov](http://www.lowellma.gov)) and on bulletin boards at the locations below. The public notice will state that copies of the particular Plan will be available for review on the City’s website and at the following locations for thirty days:

Department of Planning and Development  
JFK Civic Center, 2nd Floor  
50 Arcand Drive  
Lowell, MA 01852

Pollard Memorial Library  
385 Merrimack Street  
Lowell, MA 01852

Office of the City Clerk  
City Hall  
375 Merrimack Street  
Lowell, MA 01852

Citizen Response Time Frame

The City will make the Plan public, and upon request in a format accessible to persons with disabilities. The city will provide the citizens a reasonable opportunity to comment on the Plan, and on any amendments to the Plan as defined by this Citizen Participation Plan.

The city will consider any comments or views of citizens received in writing, or orally, at any of the public hearings, or during the 30-day public review and will address those comments in the preparation of the final consolidated plan or annual action plan. The city will include any written or oral comments in the final Consolidated Plan or Annual Action Plan submitted to HUD.

The city will also make copies of the draft plan, and Final Plan available to the general public, on the City’s website ([www.lowellma.gov](http://www.lowellma.gov)). Hard copies will also be available at the Pollard Library, City Clerk office, and at the Division of Planning and Development

upon request. A draft plan will also be given to the Public Housing Authority for comment. The Consolidated Plan that covered the preceding five years will also be available on the City’s website.

### ***Amendments***

The City will amend its approved plan whenever it makes one of the following decisions:

1. To make a change in the goal, priority, or activity of the Consolidated Plan; or
2. To carry out an activity, using funds from any program covered by the Consolidated Plan (including program income), not previously covered in the Action Plan; or
3. To change the purpose, scope, location, or beneficiaries of an activity project included in the annual action plan.

Each amendment must be authorized by the City Manager or his designee and submitted to HUD. All amendments will also be made public by posting at the City Clerk’s Office, the Pollard Memorial Library, the DPD, and on the City of Lowell’s website ([www.lowellma.gov](http://www.lowellma.gov)). All substantial amendments will be advertised in the local newspaper. The amendment may be implemented immediately after making it public. A list of amendments will be submitted to HUD each quarter.

A **substantial amendment** to the Consolidated Plan or annual Action Plan is defined by the City as a transfer between two or more Plan activities that is greater than 50% of the ESG program funds, 30% of the HOME program funds, and 33% of the CDBG program funds.

**Substantial amendments** to the Plan will need to be presented to the Project Review Committee and the Lowell City Council for their review and approval. The public will also be notified by advertising the amendment in the local newspaper. The advertising of the substantial amendment will begin a thirty (30) day citizen review and comment period. The city will consider any comments or views of citizens received in writing or orally during the comment period, and will be submitted to HUD, and made available at the Pollard Library, City Clerk’s Office, and the DPD. The City Manager will submit to HUD, a letter authorizing the amendment after the thirty-day comment period and will implement the amendment at that time.

### ***Performance Report***

At the end of each program year, as required by HUD, a Comprehensive Annual Performance and Evaluation Report (CAPER) must be submitted to HUD by September 30th. The CAPER gives an actual account of activities, which occurred during the previous program year, and how the City maintained and expended funds, which were outlined in the annual Action Plan for that program year.

Upon completion of the CAPER, and at least fifteen (15) days prior to its submission to HUD, the City will make the Report available to the general public for a fifteen (15) day

review and comment period. Any comments received from the general public will be included in CAPER submitted to HUD.

The city will provide a notice in the local newspaper for the availability of the CAPER, which will begin a fifteen-day review and comment period. A public notice will be advertised at least one week in advance and published on two occasions prior to the review period. The notice and the draft CAPER will also be made available to the public via the City's website ([www.lowellma.gov](http://www.lowellma.gov)).

### ***Public Hearing Requirements***

The City, with its Project Review Committees, will provide at least two (2) public hearings during the fiscal year to obtain citizens' views and to respond to proposals and questions related to the CDBG, HOME, and ESG programs.

The first hearing will be held at the beginning of the development process for the Annual Action Plan and will be conducted in December early in the calendar year, at approximately the time HUD announces the annual entitlement amount for the CDBG, HOME, and ESG programs to the city. The goal of this hearing will be to review the City's most recent CAPER report and obtain views from citizens on housing and community development needs and activities, including priorities for non-housing community development needs. The citizen input during this meeting will directly shape the needs and priorities to be addressed by the spending plan in the Consolidated Annual Action Plan for the program year beginning July 1st of that year.

The second hearing will be held when the Draft Annual Action Plan has been completed and has been advertised as available for the required 30-day public review and comment period.

All public hearings will be advertised by publication at least twice prior to the hearing date in a newspaper of general circulation throughout the area(s) eligible to receive funds under the programs advertised. The first notice must be published no later than two weeks prior to the hearing date. All public hearing notices will also be posted on the City of Lowell's website ([www.lowellma.gov](http://www.lowellma.gov)), and at the City Clerk's Office at least two weeks prior to the hearing date. The city will consider any comments or views of citizens received in writing or orally at a public hearing. Each hearing will be held in the evening at facilities that are handicapped accessible. (Locations may include the Lowell Senior Center, the Lowell Housing Authority's Armand P. Mercier Community Center, and the Pollard Memorial Library. All of these locations are convenient to potential and actual beneficiaries and will accommodate persons with disabilities.)

Each public hearing notice must include the availability of an interpreter if a significant number of non-English speaking or hearing-impaired persons are expected to participate at the hearing. Public hearing notices will be translated into Spanish, Khmer, and Portuguese. It will be the responsibility of the residents to notify the city at least four days in advance of the hearing if interpreter services are needed. Each public hearing notice will indicate this policy and provide a telephone number to contact the City.

In the course of developing their recommendation for a spending plan for the Annual Action Plan, the Project Review Committees and DPD may hold a series of additional public meetings to both provide information on the solicitation of proposals and the review of all proposals for consideration for funding. All public meetings of this nature will be advertised in accordance with the applicable provisions of the Massachusetts Open Meeting Law (Mass. General Law c. 34B, § 1), including postings of public notice of the meeting.

### **Access to Records**

The City will provide citizens, public agencies and other interested parties (including persons with disabilities) access to information and records relating to the City's Consolidated Plan and the City's use of funds for the CDBG, HOME, and ESG funds for the preceding five years. Citizens must allow the staff of DPD up to twelve working days to compile and provide the information requested by the citizen.

### **Technical Assistance**

The DPD will provide technical assistance to the Project Review Committee and groups representative of persons of low and moderate income that request such assistance in developing proposals for funding assistance under any of the federal or state programs covered by the Consolidated Plan. The level and type of assistance will be determined by the DPD but shall not include the provision of funds to any person, group, or agency.

### ***Complaints***

Citizens with complaints related to the Consolidated Plan, amendments, and the annual performance report must submit the complaint in writing to:

Department of Planning and Development  
JFK Civic Center  
50 Arcand Drive  
Lowell, Massachusetts 01852  
Attention: Director

If the complaint is given orally, the person initiating the complaint must schedule a meeting with the Community Development Director at the above-mentioned address and a formal complaint letter will be transcribed. The person must sign the letter and submit an address for response.

Upon receipt of the written complaint, the DPD will respond to the complaint in writing within fifteen working days. A meeting to discuss the complaint must be scheduled by the person initiating the complaint.

### **Use of the Citizen Participation Plan**

The requirements for citizen participation do not restrict the responsibility or authority of the jurisdiction in the development and execution of the City's Consolidated Plan.

### **Anti-displacement and Relocation Plan**

The City of Lowell has as a goal, the non-displacement of any person(s) currently residing in standard housing (housing that does or will meet the HUD Housing Quality Standards with minimal improvements). However, the city also has a goal to not allow any person(s) to reside in dangerous and/or substandard housing. When the health and safety of any person is threatened due to the condition of their current housing, the City, when notified of the condition, will attempt to assist the property owner in bringing the housing up to Housing Quality Standards, remove such substandard housing, or recommend temporary or permanent displacement of the person(s) residing therein.

Under the **Optional Relocation Assistance Policy and Program for the CDBG Program** which was established in December 1997, the City will provide, if funds are available, relocation assistance, relocation payments, and rental assistance payments to any person(s) who is displaced, permanently and involuntarily, from any existing housing unit as a direct result of the enforcement of Article II of the Massachusetts State Sanitary Code.

If the City provides, or proposes to provide, any CDBG, HOME, or other HUD-funded assistance to acquire, demolish, bring any existing housing units up to the minimum local health and building code requirements, or any action results in the direct permanent displacement of any legal resident(s), it will comply with the procedures, and provide the benefits, outlined in the *Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (42 U.S.C. 4601), as amended*; the implementing regulations issued by the Department of Transportation at 49 CFR 24; and *Section 104(d) of the Housing and Community Development Act of 1974 [42 U.S.C. 5304(d)]*.

Prior to any action that will result in the displacement of any existing resident(s) of existing housing unit(s), the city will notify all affected residents of the intended displacement action, and the extent of the benefits that will be available to each impacted person as outlined in 42 U.S.C. 4601 and 5304(d), and 49 CFR 24.

### **Efforts to Broaden Citizen Participation**

The components of the citizen participation plan discussed above have been designed with the explicit intention of accommodating and encouraging participation by low- and moderate-income residents, residents of low- and moderate-income neighborhoods, members of minority groups, persons with limited English skills, and persons with disabilities.

In addition to these efforts, as was discussed above, the City of Lowell completed and adopted a twenty-year Master Plan. That plan was guided in large part by the results of an extensive public opinion research process. This process included a 1001 household telephone survey conducted in five languages (Spanish, Khmer, Portuguese, and Brazilian Portuguese in addition to English) with careful scientific sampling techniques used to ensure proportional representation among various minority, geographic, age, and income groupings. Survey respondents included 273 households earning below \$30,000

annually and 233 households earning between \$30,000 and \$49,999 annually. The Master Plan outreach effort also included an extensive telephone survey of businesses, several resident focus groups, and interviews with 60 community leaders, all of which included proportional participation by minority and low-income residents.

In the development of the 2020-2025 Consolidated Plan the City released an on-line survey using similar questions as were used in the 2003 Master Plan. The availability of the survey was announced on the City's website as well as via email to more than 50 social service agencies, the Lowell Housing Authority, and neighborhood groups. Residents without internet access were encouraged to utilize computers at the Pollard Memorial Library or the Lowell Senior Center.

Finally, plan development included targeted outreach to service providers, sub-recipients, and their clients involved in the delivery of eligible program activities to eligible populations as well as numerous neighborhood groups and small business owners. These consultations necessarily involved the active participation of members of minority groups, low and moderate-income individuals, persons with limited English skills, and individuals with disabilities.

## 2.9 DOCUMENTING AND REPORTING REQUIREMENTS

### **General Record Keeping**

Consistent with Massachusetts record retention laws, records will be kept for seven years after project completion. In cases where entitlement funds are used to provide a loan and/or projects such as lead based paint abatement, records are maintained for much longer. HOME project files are required to be maintained for the entire affordability period of a project. These requirements are passed down to any grant recipient and included in grant agreements and contracts. Subrecipients or contractors are responsible for maintaining their records.

Project files for individual Social Service activities (including CDBG public services and ESG) are maintained in the DPD offices for at least the five years covered by the active Five-Year Consolidated Plan.

The following types of records are required to be maintained:

- Individual activity or project records – including a description of the project, amount of assistance provided; sources and uses of funds; compliance with eligibility requirements of the grant program.
- CBDO and CHDO records – evidence that any organization applying for a CBDO or CHDO designation meets requirements of CDBG or HOME program.
- Documentation of citizen participation – this is typically completed by including copies of sign-in sheets, written and verbal comments, and other evidence of public input in the planning of the Consolidated Plan, Annual Action Plan, and CAPER.
- Fair Housing and Equal Opportunities Records – includes efforts to address impediments identified in the AI, section 3 compliance, affirmative actions to include minority/women owned businesses: data on race/ethnicity, gender, and disabilities of individuals seeking and receiving assistance from grant programs.
- Compliance with other federal requirements including environmental review, labor standards, and conflict of interest
- Financial records – see Chapter 2.5 for a complete list

### Confidentiality

Confidentiality – Agencies shall furnish all information and reports required by the City. Agencies shall permit access to books, records, and accounts by City staff, the U.S. Department of Housing and Urban Development, and the Office of the Inspector General for the purposes of evaluation to ascertain compliance with all applicable rules, regulations, and orders and for the purpose of monitoring programs' performance. Individual client information provided to the City for monitoring purposes will be kept confidential as required by law.

**§ 200.303 Internal controls.**

The non-Federal entity must:

- (a) Establish and maintain effective internal control over the Federal award that provides reasonable assurance that the non-Federal entity is managing the Federal award in compliance with Federal statutes, regulations, and the terms and conditions of the Federal award. These internal controls should be in compliance with guidance in “Standards for Internal Control in the Federal Government” issued by the Comptroller General of the United States or the “Internal Control Integrated Framework”, issued by the Committee of Sponsoring Organizations of the Treadway Commission (COSO).
- (b) Comply with the U.S. Constitution, Federal statutes, regulations, and the terms and conditions of the Federal awards.
- (c) Evaluate and monitor the non-Federal entity's compliance with statutes, regulations and the terms and conditions of Federal awards.
- (d) Take prompt action when instances of noncompliance are identified including noncompliance identified in audit findings.
- (e) Take reasonable measures to safeguard protected personally identifiable information and other information the Federal awarding agency or pass-through entity designates as sensitive or the non-Federal entity considers sensitive consistent with applicable Federal, State, local, and tribal laws regarding privacy and responsibility over confidentiality.

If any member of the public wishes to request documents. they must provide a FOIA request through the RAO using the following procedures:

There are several ways to request a copy of a public record:

- Send an email to the RAO via [RAO@LowellMA.gov](mailto:RAO@LowellMA.gov).
- Submit an online request using [lowellma.gov](http://lowellma.gov).
- Submit a request in writing as follows: City Hall Law Department, Attn: RAO, 375 Merrimack Street 3rd Floor, Lowell MA 01852.
- Call the RAO via 978-674-4050.
- Fax a request to the RAO via 978-453-1510.

***IDIS Reporting***

The Integrated Disbursement and Information System (IDIS) serves two purposes:

- Manage and track disbursement of entitlement grant funds, and
- Collect, consolidate, and report information on performance

As discussed earlier, the Senior Program Manager and Associate Planner are responsible for setting up and funding each project/activity in IDIS. These staff members, along with the Financial Specialist draw funds through IDIS on a weekly basis.

The Senior Program Manager and Community Development Assistant are responsible for updating accomplishments and beneficiary data in IDIS on a quarterly basis.

The Community Development Director will run IDIS-generated reports on the last business day of each month, as a tool to manage any problems in meeting expenditure deadlines, delays in reporting accomplishments, or identify any activities at risk. The following reports will be generated each month. Additional reports may be run when more information about a particular grant or project is needed or to comply with HUD requests for information throughout the year.

- PR01 Grants and Program Income
- PR02 Activities
- PR49 HOME Deadline Compliance
- PR59 CDBG Activities at Risk

### ***HMIS Data Standards***

The City of Lowell's grant programs use a Homeless Management Information System (HMIS) to report on funded activities. These programs follow the data standards proscribed by HUD including collection of Universal Data Elements for all individuals assisted through ESG or McKinney funds.

### ***SAM/UEI Registration***

The Federal Funding Accountability and Transparency Act described in Chapter 1 in this document requires that, as a recipient of federal funds, the City of Lowell register in the System for Award Management (SAM) at [www.sam.gov](http://www.sam.gov). Annual renewal in the system is required in order to apply and receive any federal grant.

The Community Development Director has some limited access in SAM; however the primary points of contact are the Treasurer and Assistant Treasurer. These individuals are authorized to update the City's records.

In addition to having an active registration in SAM, the City, as well as any of its grant subrecipients is required to register SAM.GOV to obtain a Unique Entity Identifier (UEI) number.

## **CHAPTER 3: OTHER PROGRAM REQUIREMENTS**

### **3.1 ENVIRONMENTAL REVIEW (ER)**

All federal grant programs require compliance with a number of laws relating to the environment. No federal funds can be spent – or even committed to the project – until administrators have gone through a regulatory process that ensures compliance with these laws. ER will be started as soon as council approve federal funding or as soon as project is approved, if not included in AAP.

The regulations that define HUD’s environmental review process are found in 24 CFR Part 58 of the Federal Register.

In most cases, activities funded under the CDBG-Social Service Cap, ESG, and McKinney-Vento programs are exempt from these rules because no construction or physical work is taking place.

#### ***Applicable Laws and Executive Orders***

The environmental laws most commonly applicable to HOME or CDBG projects are:

- The National Environmental Policy Act of 1969 (NEPA)
- Various Executive Orders, policies and laws covering historic properties, flood plains, wetlands, and noise abatement
- These related laws and authorities are identified in 24 CFR 58.5 and 58.6 and those that program administrators will deal with most frequently are:
  - The National Historic Preservation Act of 1966 (Historic Properties)
  - Executive Order 11593 (Protection and Enhancement of the Cultural Environment)
  - Executive Order 11988 (Floodplain Management)
  - Executive Order 119900 (Wetland Protection)
  - The Coastal Zone Management Act of 1972 (Coastal Area Protection and Management) and the Coastal Barrier Resource Act of 1982
  - The Endangered Species Act of 1973
  - The Flood Disaster Protection Act of 1973
  - The Clean Air Act
  - Wild and Scenic Rivers Act
  - Farmland Protection Policy Act
  - Noise Control Act
  - Safe Drinking Water Act
  - Resources Conservation and Recovery Act

#### **Summary of Environmental Requirements**

The City of Lowell’s Environmental Officer is responsible for ensuring compliance with HUD’s environmental requirements and is the designated “Certifying Officer”.

Beginning with the release of each Draft Annual Action Plan and throughout the year as new projects are funded, the Associate Planner shall provide a list of funded activities along with award amounts and project descriptions to the Environmental Officer to aid in the completion of the environmental review.

The Environmental Officer shall assess funded projects to determine if activities are exempt from environmental laws or if they are not exempt. The assessment requires the completion of an Environmental Review Record (ERR) for each project to support the conclusions and actions. Copies of the ERRs and any subsequent review documentation are included in the project files. Copies are also kept on file with the Environmental Officer. Or they are contained in the HEROES (HUD Environmental Review Online System) Database.

The Environmental Review and Request for Release of Funds must be completed before committing funds for any project other than an “exempt” activity. The Environmental Officer shall take the following steps as part of this process:

- 1) Determination: A project will fall under one of the following classifications
  - Exempt from NEPA (require no environmental review before proceeding)
  - Categorically excluded from NEPA and Statutory/Regulatory Requirements (require no environmental review but determination must be documented in the Environmental Review Record)
  - All other activities not mentioned above are subject to both NEPA and a statutory/regulatory review
  
- 2) Documentation:
  - For exempt activities, documentation of finding should be included in the ERR and project may proceed
  - For categorically excluded activities:
    - Send notification letters to the agencies with applicable regulatory authority for laws, other than NEPA, that apply to the type of project being undertaken. Note that for the purposes of historic review, the City’s Historic Board has a programmatic agreement with the State Historic Preservation Office (Mass Historic Commission) to conduct local reviews. The Environmental Officer shall provide a list of projects under review to the Historic Board Administrator for comment and feedback as part of the environmental review process.
    - If project does not trigger coverage under the laws listed in Part 58.35, prepare a certification of compliance and a Notice of Intent to Request Release of Funds (NOI/RROF)
    - Send the NOI/RROF to all interested agencies and parties and public in *The Sun*
    - The notice should include notice of a 7- day comment period

- Following the comment period, a copy of the published notice and affidavit of publication should be sent to HUD, along with a Request for Release of Funds (RROF) and certification.
  - HUD will wait an additional 15 days after receiving the RROF for objections before releasing the funds at which time the project may proceed
- For all other activities:
    - Send notification letters to the agencies with applicable regulatory authority for laws, other than NEPA, that apply to the type of project being undertaken. Note that for the purposes of historic review, the City’s Historic Board has a programmatic agreement with the State Historic Preservation Office (Mass Historic Commission) to conduct local reviews. The Environmental Officer shall provide a list of projects under review to the Historic Board Administrator for comment and feedback as part of the environmental review process.
    - Begin the Environmental Assessment by completing the Statutory Checklist and assess responses from interested agencies
    - Keep copies of letters and other documentation in the Environmental Review file
    - Issue either a Finding of Significant Impact on the Environment (FONSI) or a Finding of Significant Impact (FOSI)
    - **If FOSI is made, contact HUD before proceeding**
    - If a FONSI is made, publish at the same time as a NOI/RROF or prepare a notice that combines the two
    - The notices should be sent to all interested parties/agencies and published in The Sun
    - The comment period for a FONSI is 15 days
    - Once comment period is over, RROF may be sent to HUD
    - HUD will wait an additional 15 days after receiving the RROF for objections before releasing the funds at which time the project may proceed

The official release of funds date is the actual date HUD’s approved letter is signed unless it states otherwise.

### 3.2 LABOR STANDARDS/DAVIS-BACON AND RELATED ACTS

Labor Standards requirements include the Davis-Bacon Act, Copeland “Anti-Kickback” Act and Contract Work Hours and Safety Standards Act. Requirements under these acts are collectively referred to as the Davis-Bacon and Related Acts (DBRA).

CDBG Social Service activities, and \projects serving the homeless activities that do not involve construction, do not trigger the requirements under DBRA.

CDBG: The following activities trigger DBRA requirements:

- CDBG-funded construction or rehabilitation of properties with 8 or more residential units, regardless of how many are assisted with CDBG
- Other construction projects using over \$2,000 in CDBG funds
- Clearance of land or site improvements with CDBG funds which will ultimately result in 8 or more units (or homes) built on the project site or which will be used for public improvements such as a park or parking lot

“Construction” is broadly defined to include “hard costs” for rehabilitation, repairs, painting, decorating, and installation of equipment when installation costs are more than incidental.

HOME: HOME funded construction or rehabilitation of 12 or more units in the same project trigger DBRA.

Note that the number of HOME assisted units is the determining factor, not the total number of units in the project.

*If CDBG and HOME funds are both involved in a project, the lower CDBG threshold trigger DBRA requirements applies.*

Exemptions: Federal labor standards do not apply to:

- Owners, supervisors and managers of the construction company
- Bona-fide self-employed contractors
- Government employees involved with the project (i.e. DPW employees)
- Utilities work performed by utility companies
- Construction work that is determined to not be a part of the CDBG or HOME-assisted project or building
- Volunteers, students, and forced labor (from Dept. of Corrections)

Documentation of exemptions should be included in the project file

#### Compliance

The Senior Program Manager, Director of Housing, Construction Manager and Project Managers play a responsibility in overseeing projects that require DBRA compliance. These staff meet with the subrecipient/contractor before the start of a project to review the DBRA requirements. Staff will conduct site visits, conduct employee interviews, and

check weekly payroll forms to ensure accuracy and compliance with all DBRA requirements.

All grant and loan agreements, for projects that trigger DBRA, include the following:

- HUD Form 4010 – Federal Labor Standards Provisions
- HUD Form 2992 – Certification Regarding Debarment and Suspension
- Appropriate Wage Determination pertaining to the funded project
- A copy of the “Notice to all Employees” poster, with instructions to post at the job site
- A copy of the “Contractor’s Guide to Prevailing Wage Requirements for Federally Assisted Construction Projects,” which is to be provided to the prime contractor

The Project Manager is responsible for collecting and reviewing weekly payrolls to compare against the wage determinations included in the contract. Signed original payrolls shall be kept in the project file.

The Construction Manager is responsible for conducting employee interviews during a project, to ensure employees are paid appropriate wage rates and the project complies with other DBRA requirements.

Note: The State of Massachusetts also has Prevailing Wage requirements governing projects using state or local funds. For projects where both the State Prevailing Wage and DBRA apply, the contractor shall comply with whichever wage rates are higher for the same job type. In most cases, the State Prevailing Wage is higher. In any case, if HOME or CDBG funds are used in a project, the federal DBRA payroll sheets will need to be completed.

### Reporting

The Senior Program Manager is responsible for completing HUD Form 4710, the semi-annual Davis Bacon report. This report is submitted to HUD’s Regional Labor Relations Office in the Boston Field Office.

### 3.3 FAIR HOUSING AND EQUAL OPPORTUNITY

#### ***Fair Housing***

Fair Housing choice is the ability of persons of similar income levels to have available to them the same housing choices regardless of race, color, religion, sex, handicap, familial status, or national origin. In an effort to end housing segregation, the U.S. Congress passed Title VIII of the Civil Rights Act of 1968 making acts of housing discrimination based on race, sex, national origin, religion, or ethnicity illegal. Congress amended this landmark legislation in 1988 making actions of discrimination against families with children and people with mental or physical illness equally unlawful. Under Massachusetts law it is also unlawful to discriminate against an individual based on his/her sexual orientation or source of income (i.e. recipients of public assistance, including assistance in the form of housing certificates or vouchers). Additionally, in 2012, HUD passed the Equal Access Rule which sets policy to ensure its core programs are open to eligible individuals or families regardless of their sexual orientation, gender identity, or marital status.

#### Applicable Laws

The following federal laws pertain to fair housing. These provisions are included in all subrecipient agreements.

- Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d et seq)
- The Fair Housing Act (42 U.S.C. 3601-3620)
- Equal Opportunity in Housing (EO 11063)
- Age Discrimination Act of 1975 (42 U.S.C 6101)
- HUD’s Equal Access Rule of 2012

#### Analysis of Impediments to Fair Housing

As a condition of receiving HUD entitlement funds the City of Lowell certifies that the City will “affirmatively further fair housing.” To achieve this, the City completes an Analysis of Impediments to Fair Housing Choice (AI) report every five years. The AI also achieves one of the components of the City’s Fair Housing Planning requirements under the 1990 National Affordable Housing Act. More discussion about this document is included in Chapter 2.1.

The Community Development Director, with input from the Director of Housing, will be chiefly responsible for conducting and recording any actions taken throughout the year to eliminate impediments identified in the AI. These actions will be documented, and records maintained in the Fair Housing file. They will also be reported to HUD as part of the CAPER.

#### ***Section 504/Accessibility Requirements***

HUD program regulations also require adherence to the following three regulations governing the accessibility of federally assisted buildings, facilities, and programs:

- American Disabilities Act
- Fair Housing Act

- Section 504

### General Requirements

In general, Section 504 requires the removal of physical barriers in multifamily rental properties.

- For new construction or substantial rehabilitation in multifamily rental properties 5% of units in the project must be accessible to individuals with mobility impairments and an additional 2% must be accessible to individuals with sensory impairments.
- When less extensive rehabilitation is undertaken, alteration to *each* unit must make the unit accessible to the maximum extent feasible until 5% of the units in the project are fully accessible to people with mobility impairments.
- Alterations to common spaces must always make the project accessible to the maximum extent feasible

Section 504 requirements are included in written agreements for applicable projects. The Director of Housing and the Construction Manager will be responsible to ensuring housing projects subject to Section 504 meet these requirements.

### Program Accessibility

Programs funded through HUD entitlement grants shall have policies in place to ensure that activities and programs are accessible. Individuals with handicaps must be able to find out about, apply for, and participate in federally assisted programs or activities.

All public hearings pertaining to the Consolidated Plan and Annual Action Plan are held at the Lowell Senior Center. Not only is this building located in the City's Acre neighborhood which has a high concentration of low-income and minority residents and residents of public housing, it also handicapped accessible. Additionally, the City makes accommodations for interpretive services for the hearing or visually impaired as well as in multiple languages for written and/or oral presentations, upon request.

Furthermore, written agreements with subrecipients including requirements that policies and procedures are non-discriminatory in either housing or Social Service-related activities.

City of Lowell – Section 504 related concerns as well as non-discrimination policies are managed through the City's Human Resources office

### **Limited English Proficiency Plan**

In 2011 the Community Development office adopted a Limited English Proficiency Plan in an effort to take affirmative steps to communicate with people qualifying for federally assisted programs and services who need services or information in a language other than English. These persons are referred to as Persons with Limited English Proficiency. Lowell's LEP Plan was developed in accordance with the "Final Guidance to Federal Financial Assistance Recipients Regarding Title VI Prohibition Against National Origin

Discrimination Affecting Limited English Proficiency Persons” as published in the January 22, 2007, Federal Register.

LEP is defined as persons who do not speak English as their primary language and who have a limited ability to read, write, speak or understand English. For the purposes of this plan, LEP persons are individuals who serve to benefit from federally assisted programs and services offered by The Department of Planning and Development.

A complete copy of Lowell’s LEP Plan is included with attached documents.

### **3.4 MBE/WBE**

Contracts in excess of \$10,000 in federal funds are required to report whether the recipient of funds is a minority- or women-owned business. The City is proactive in encouraging MBE/WBE businesses to respond to RFPs for grant funded projects by publishing notices of the availability of funds in multiple languages, and publishing requests for contractor qualifications for lead abatement and housing rehab activities in minority publications. The Director of Housing maintains a list of qualified construction contractors that are minority- or women-owned businesses. This list is made available to property owners who receive assistance through the City’s entitlement grant programs.

Contracts issued to minority- or women-owned businesses are reported in HUD Form 2516 (CDBG Program) and HUD-40107 (HOME Program) and submitted to HUD along with the City’s CAPER report each fall. The Community Development Assistant is responsible for preparing and submitting this report.

### 3.5 UNIFORM RELOCATION ACT

The City of Lowell has as a goal, the non-displacement of any person(s) currently residing in standard housing (housing that does or will meet the HUD Housing Quality Standards with minimal improvements). However, the city also has a goal to not allow any person(s) to reside in dangerous and/or substandard housing. When the health and safety of any person is threatened due to the condition of their current housing, the City, when notified of the condition, will attempt to assist the property owner in bringing the housing up to Housing Quality Standards, remove such substandard housing, or recommend temporary or permanent displacement of the person(s) residing therein.

Under the **Optional Relocation Assistance Policy and Program for the CDBG Program** which was established in December 1997, the City will provide, if funds are available, relocation assistance, relocation payments, and rental assistance payments to any person(s) who is displaced, permanently and involuntarily, from any existing housing unit as a direct result of the enforcement of Article II of the Massachusetts State Sanitary Code.

If the City provides, or proposes to provide, any CDBG, HOME, or other HUD-funded assistance to acquire, demolish, bring any existing housing units up to the minimum local health and building code requirements, or any action results in the direct permanent displacement of any legal resident(s), it will comply with the procedures, and provide the benefits, outlined in the *Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (42 U.S.C. 4601), as amended*; the implementing regulations issued by the Department of Transportation at 49 CFR 24; and *Section 104(d) of the Housing and Community Development Act of 1974 [42 U.S.C. 5304(d)]*.

Prior to any action that will result in the displacement of any existing resident(s) of existing housing unit(s), the city will notify all affected residents of the intended displacement action, and the extent of the benefits that will be available to each impacted person as outlined in 42 U.S.C. 4601 and 5304(d), and 49 CFR 24.

The purpose of the **Uniform Relocation Act** is to provide displaced persons with fair, equitable treatment and protection from disproportionate injury by projects designed to benefit the public as a whole.

Three major types of requirements cover relocation and acquisition in HUD programs:

- The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970.
- Section 104(d) of the Housing and Community Development Act of 1974; and
- Individual HUD program regulations.

The URA applies to the following types of activities:

- Displacement (permanent) as a direct result of acquisition, demolition, or rehabilitation of a federally assisted project.

- Acquisition of real estate for HUD-assisted projects, whether privately or publicly undertaken.
- Temporary relocation of persons who are required to move for a relatively short time because of a federally assisted project, but who may return to the building once the work is complete.

Temporary relocation actions take place typically during lead-abatement or extensive housing rehabilitation activities to bring a housing unit up to code. Due to the complexities of the URA the City typically hires a relocation specialist or consultant when a CDBG or HOME funded project is expected to result in permanent displacement.

Relocation requirements are also passed onto grant recipients if the actions taken by their funded activities are expected to displace individuals.

### 3.6 SECTION 3

#### ***Federal Requirements***

Employment and other economic opportunities generated by HUD assistance or HUD-assisted projects covered by Section 3, shall to the greatest extent feasible, be directed to low- and very low-income persons, particularly persons who are recipients of HUD assistance for housing. Applicable grant agreements with recipients of Federal funds will be subject to the requirements of Section 3 of the Housing and Urban Development Act of 1968 (12 USC 1701u) as amended, the HUD regulations issued pursuant thereto at 24 CFR, Part 135, and any applicable rules and orders of HUD.

A section 3 resident is defined as a person considered low- or very low-income based on area median income levels.

A section 3 business is defined as a business that meets one of the following criteria:

- (1) Is 51% or more owned by section 3 residents: or
- (2) Whose permanent, full-time employees includes persons, at least 30% of whom are currently section 3 residents, or within three years of the date of first employment with the business were section 3 residents: or
- (3) Demonstrates a commitment to award more than 25% of the dollar amount of all subcontracts to businesses that fall within (1) or (2) above.

#### **City of Lowell Requirements**

As a grantee of Federal entitlement funds, the City of Lowell is responsible to HUD for the enforcement of the provisions of Section 3. The City's Department of Planning and Development Office has established a policy governing the projects subject to Section 3.

#### **Applicability**

As a direct recipient of federal funds in excess of \$200,000, the City of Lowell is required to comply with Section 3. Section 3 applies to recipients of housing and community development assistance expended for:

- Housing rehabilitation (including reduction and abatement of lead-based paint hazards);
- Housing construction; or
- Other public construction projects.

Section 3 also applies to any contractor or subcontractor (including contractors who supply professional services, but not including contractors who only furnish materials or equipment and do not undertake the work of installing the materials or operating the equipment) who perform work on a project when the amount of the contract or subcontract exceeds \$100,000.00.

*If this Appendix appears in the grant agreement/contract, it is because the City of Lowell, acting by and through its Department of Planning and Development, has determined that Section 3 applies.*

### ***Preferences***

In housing and community development programs, contractors and subcontractors shall direct their efforts, to the greatest extent feasible, as follows

Section 3 residents in training and employment opportunities:

In the case of *newly* created, full-time jobs for permanent, temporary, and/or seasonal employees, priority consideration for hiring shall be given, where feasible, as follows:  
Low or very low-income residents residing in the service area or neighborhood in which the section 3 covered project is located;

Participants in HUD Youth build programs;

Other low- or very low-income residents of Lowell;

Where the section 3-related project with McKinney Act funds, homeless persons residing in the service area or neighborhood in which the section 3 covered project is located shall be given the highest priority

Any person or business seeking preference in hiring shall, if requested, submit documentation (such as evidence of receipt of public assistance or of participation in a public assistance program) demonstrating eligibility for the preference. (See Exhibit B: Resident Certification Form)

Nothing in this part shall be construed to require the employment of a section 3 resident who does not meet the qualifications of the position to be filled.

Section 3 business concerns in contracting opportunities:

With respect to businesses, priority shall be given as follows:

- Businesses that provide economic opportunities for low- or very low-income residents in the service area or neighborhood in which the section 3 covered project is located;
- Applicants selected to carry out HUD Youth build programs;
- Other low- or very low-income residents of Lowell;
- Where the section 3-related project with McKinney Act funds, homeless persons residing in the service area or neighborhood in which the section 3 covered project is located shall be given the highest priority

A business seeking to qualify for a section 3 contracting preference shall certify or submit evidence, if requested, that it is a section 3 business. (See Exhibit C: Business Certification Form)

A Section 3 business shall show that it has the ability to successfully carry out the terms and conditions of the proposed contract -- which shall include, among other factors, a demonstrated history of compliance with public policy requirements, including Section 3.

The City of Lowell will not continue to award contracts to a particular contractor when the City has knowledge or has received notice that the contractor or the contractor's subcontractor is not in compliance with Section 3. The City will respond to complaints made by low- and very low-income persons and Section 3 business concerns that a contractor or subcontractor is not in compliance; and the City will cooperate with HUD in obtaining compliance when such allegations are supported by evidence

### **Numerical Goals for Meeting the Greatest Extent Feasible Requirement**

In the absence of evidence to the contrary, any contractor which meets the minimum numerical goals set forth in this section will be considered to be in compliance with Section 3 hiring preference requirements. These goals are not to be construed as requirements, quotas, set-asides, or a cap on hiring or contracting with low- and very low-income persons (e.g., recipients and contractors are not to set aside or reserve ten percent of available jobs for low- and very low-income persons). Consistent with the "greatest extent feasible" requirement, HUD hopes that recipients will exceed these goals. If met, however, the goals constitute a "safe harbor" for contractors on the issue of compliance with Section 3 (absence evidence to the contrary, as discussed above). The minimum numerical goals are:

- for low- and very low-income persons: 30% of the aggregate number of new hires for each fiscal year; and
- for contractors and subcontractors: at least 10% of the total dollar amount of all Section 3 covered contracts for building trades work arising in connection with housing rehabilitation, housing construction, and other public construction; and at

least 3% of the total dollar amount of all other Section 3 covered contracts must be awarded to Section 3 compliant businesses.

Failure to meet the minimum numerical goals does not automatically trigger sanctions against the contractor. However, if challenged on the issue of compliance with Section 3, the contractor should be ready to demonstrate what actions were taken to hire or contract with low- and very low-income persons, what impediments were encountered, and what alternative economic opportunities were provided in lieu of strict compliance with Section 3 (such as the use of "upward mobility", "bridge" and trainee positions to fill vacancies; or the hiring of low- and very low-income persons in part-time, as opposed to full-time, positions; or in the case of contractors and subcontractors, the formation of joint ventures with a Section 3 business concern, provided there is a written agreement for the specific business venture and the Section 3 business (i) is responsible for a clearly defined portion of the work to be performed and holds management responsibilities in the joint venture, and (ii) performs at least 25% of the work and is contractually entitled to compensation proportionate to its work.)

### ***Good Faith Effort***

At a minimum, the following tasks must be completed to demonstrate a good faith effort with the requirements of Section 3. The contracting party and each contractor or subcontractor seeking to establish a good faith effort as required should be filling all training positions with persons residing in the target area.

1. Send notices of job availability subcontracting opportunities subject to these requirements to recruitment sources, trade organizations and other community groups capable of referring eligible Section 3 applicants, including the Department of Labor.
2. Include in all solicitations and advertisements a statement to encourage eligible Section 3 residents to apply.
3. When using a newspaper of major circulation to request bids/quotes or to advertise employment opportunities to also advertise in minority-owned newspapers
4. Offer job training opportunities to Youth build Program participants
5. Maintain a list of all residents from the target area who have applied either on their own or by referral from any service, and employ such persons, if otherwise eligible and if a trainee position exists. (If the contractor has no vacancies, the applicant, if otherwise eligible, shall be listed for the first available vacancy). A list of eligible applicants will be maintained for future vacancies.

The contractor must certify that any vacant employment positions, including training positions, that are filled (1) after the contractor is selected but before the contract is executed, and (2) with persons other than those to whom the regulations 24 CFR Part 135 require employment opportunities to be directed were not filled to circumvent the contractor's obligation under 24 CFR Part 135.

### ***Section 3 Clause***

The Subrecipient/Contractor agrees to abide by the Section 3 clause set forth below and will also include this Section 3 Clause in any subcontracts entered into with third parties for work covered by this **Grant Agreement/Contract**.

The Section 3 clause, set forth in 24 CFR, 135.20(b) provides:

*A. The work to be performed under this **Grant Agreement/Contract** is subject to the requirements of Section 3 of the Housing and Urban Development Act of 1968, as amended, 12 U.S.C. 1701u (Section 3). The purpose of Section 3 is to ensure that employment and other economic opportunities generated by HUD assistance or HUD-assisted projects covered by Section 3, shall, to the greatest extent feasible, be directed to low- and very low-income persons, particularly persons who are recipients of HUD assistance for housing.*

*B. The parties to this contract agree to comply with HUD's regulations in 24 CFR Part 135, which implement Section 3. As evidenced by their execution of this contract, the parties to this contract certify that they are under no contractual or other impediment that would prevent them from complying with the part 135 regulations.*

*C. The **Subrecipient/Contractor** agrees to send to each labor organization or representative of workers with which the contractor has a collective bargaining agreement or other understanding if any, a notice advising the labor organization or workers' representative of the contractor's commitments under this Section 3 clause, and will post copies of the notice in conspicuous places at the work site where both employees and applicants for training and employment positions can see the notice. The notice shall describe the Section 3 preference, shall set forth minimum number and job titles subject to hire, availability of apprenticeship and training positions, the qualifications for each; and the name and location of the person(s) taking applications for each of the positions; and the anticipated date the work shall begin.*

*D. The contractor agrees to include this Section 3 clause in every subcontract subject to compliance with regulations in 24 CFR part 135, and agrees to take appropriate action, as provided in an applicable provision of the subcontract or in this Section 3 clause, upon a finding that the subcontractor is in violation of the regulations in 24 CFR part 135. The contractor will not subcontract with any subcontractor where the contractor has notice or knowledge that the subcontractor has been found in violation of the regulations in 24 CFR Part 135.*

*E. The **Subrecipient/Contractor** will certify that any vacant employment positions, including training positions, that are filled (1) after the **Subrecipient/Contractor** is selected, but before the **Grant***

*Agreement/Contract is executed, and (2) with persons other than those to whom the regulations of 24 CFR part 135 require employment opportunities to be directed, were not filled to circumvent the contractor's obligations under 24 CFR part 135.*

*Noncompliance with HUD's regulations in 24 CFR Part 135 may result in sanctions, termination of this contract for default, and debarment or suspension from future HUD assisted contracts.*

*F. With respect to work performed in connection with Section 3 covered Indian housing assistance, Section 7(b) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450e) also applies to the work to be performed under this contract. Section 7(b) requires that to the greatest extent feasible (i) preference and opportunities for training and employment shall be given to Indians, and (ii) preference in the award of contracts and subcontracts shall be given to Indian organizations and Indian-owned Economic Enterprises. Parties to this contract that are subject to the provisions of Section 3 and section 7(b) agree to comply with Section 3 to the maximum extent feasible, but not in derogation of compliance with section 7(b).*

## **Reporting Requirements**

### Subrecipient/Contractor:

The subrecipient/contractor agrees to complete *Exhibit A: Assurance of Compliance Form* and submit before final execution of a grant agreement/contract for CDBG or HOME funds with the City of Lowell.

Completion of this form acknowledges that the subrecipient/contractor is aware that the funded project is subject to Section 3 relative to all training, employing, and contracting opportunities. (Exhibits E through G provide examples of efforts to provide these opportunities.)

The subrecipient/contractor agrees to complete the *Exhibit B: Section 3 Annual Reporting Form* and submit to the Department of Planning and Development no later than June 30<sup>th</sup> of each year. This report shall cover the hiring and training of all new employees as well as both construction and non-construction contracts related to the funded project.

Final invoices on a project may be held until receipt of this report.

*Exhibits C: Section 3 Resident Certification Form* and *D: Section 3 Business Certification Form* along with all relevant supporting documentation shall accompany the completed Annual Reporting Form.

City of Lowell – Department of Planning and Development  
Community Development Office – Program Policies and Operations Manual

**SECTION CONTRACT CLAUSE - EXHIBIT A**  
**ASSURANCE OF COMPLIANCE (SECTION 3, HUD ACT OF 1968)**  
**TRAINING, EMPLOYMENT AND CONTRACTING OPPORTUNITIES FOR**  
**BUSINESSES AND LOWER INCOME PERSONS**

- A. The work to be performed under this contract is subject to the requirements of section 3 of the Housing and Urban Development Act of 1968, as amended, 12 U.S.C. 1701u (section 3). The purpose of section 3 is to ensure that employment and other economic opportunities generated by HUD assistance or HUD-assisted projects covered by section 3, shall, to the greatest extent feasible, be directed to low- and very low-income persons, particularly persons who are recipients of HUD assistance for housing.
- B. The parties to this contract agree to comply with HUD's regulations in 24 CFR part 135, which implement section 3. As evidenced by their execution of this contract, the parties to this contract certify that they are under no contractual or other impediment that would prevent them from complying with the part 135 regulations.
- C. The contractor agrees to send to each labor organization or representative of workers with which the contractor has a collective bargaining agreement or other understanding, if any, a notice advising the labor organization or workers' representative of the contractor's commitments under this section 3 clause, and will post copies of the notice in conspicuous places at the work site where both employees and applicants for training and employment positions can see the notice. The notice shall describe the section 3 preference, shall set forth minimum number and job titles subject to hire, availability of apprenticeship and training positions, the qualifications for each; and the name and location of the person(s) taking applications for each of the positions; and the anticipated date the work shall begin.
- D. The contractor agrees to include this section 3 clause in every subcontract subject to compliance with regulations in 24 CFR part 135, and agrees to take appropriate action, as provided in an applicable provision of the subcontract or in this section 3 clause, upon a finding that the subcontractor is in violation of the regulations in 24 CFR part 135. The contractor will not subcontract with any subcontractor where the contractor has notice or knowledge that the subcontractor has been found in violation of the regulations in 24 CFR part 135.
- E. The contractor will certify that any vacant employment positions, including training positions, that are filled
- (1) after the contractor is selected but before the contract is executed, and
  - (2) with persons other than those to whom the regulations of 24 CFR part 135 require employment opportunities to be directed, were not filled to circumvent the contractor's obligations under 24 CFR part 135.

F. Noncompliance with HUD's regulations in 24 CFR part 135 may result in sanctions, termination of this contract for default, and debarment or suspension from future HUD assisted contracts.

G. With respect to work performed in connection with section 3 covered Indian housing assistance, section 7(b) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450e) also applies to the work to be performed under this contract. Section 7(b) requires that to the greatest extent feasible

(i) preference and opportunities for training and employment shall be given to Indians, and

(ii) preference in the award of contracts and subcontracts shall be given to Indian organizations and Indian-owned Economic Enterprises. Parties to this contract that are subject to the provisions of section 3 and section 7(b) agree to comply with section 3 to the maximum extent feasible, but not in derogation of compliance with section 7(b).

Date: \_\_\_\_\_

Applicant \_\_\_\_\_

Address \_\_\_\_\_

\_\_\_\_\_

Authorized Signature \_\_\_\_\_

**SECTION 3 CONTRACT CLAUSE - EXHIBIT B**  
**SECTION 3 ANNUAL REPORTING FORM**

Organization/Contractor Name: \_\_\_\_\_

Project Name: \_\_\_\_\_ Date: \_\_\_\_\_

**Part I: Employment & Training**

| Job Category             | Number of New Hires | Number of New Hires that are Sec. 3 Residents | % of Section 3 New Hires | % of Total Staff Hours for Section 3 Employees (Optional) | Number of Section 3 Trainees |
|--------------------------|---------------------|---|--------------------------|---|------------------------------|
| Professionals            |                     |   |                          |   |                              |
| Technicians              |                     |   |                          |   |                              |
| Office/Clerical          |                     |   |                          |   |                              |
| Officials/Managers       |                     |   |                          |   |                              |
| Sales                    |                     |   |                          |   |                              |
| Craft Workers (skilled)  |                     |   |                          |   |                              |
| Operatives (semiskilled) |                     |   |                          |   |                              |
| Laborers (unskilled)     |                     |   |                          |   |                              |
| Service Workers          |                     |   |                          |   |                              |
| Other (List)             |                     |   |                          |   |                              |
|                          |                     |   |                          |   |                              |
| <b>Total</b>             |                     |   |                          |   |                              |

**Part II: Contracts Awarded**

**A. Construction Contracts**

|   |    |
|---|----|
| Total CDBG/HOME funds awarded to construction contracts on the project                          | \$ |
| Total CDBG/HOME funds awarded to Section 3 businesses for construction contracts on the project | \$ |
| Total number of Section 3 businesses receiving construction contracts                           |    |

**B. Non-Construction Contracts**

|   |    |
|---|----|
| Total CDBG/HOME funds awarded to non- construction contracts on the project                         | \$ |
| Total CDBG/HOME funds awarded to Section 3 businesses for non-construction contracts on the project | \$ |
| Total number of Section 3 businesses receiving non-construction contracts                           |    |

***Please attach completed Section 3 Resident Certification (Exhibit C) and Business Certification (Exhibit D) Forms and relevant back up documentation to this report.***

**SECTION 3 CONTRACT CLAUSE - EXHIBIT C**  
**SECTION 3 RESIDENT CERTIFICATION FORM**

A Section 3 resident seeking the preference in training and employment as defined in the Section 3 regulation at 24 CFR Part 135, shall certify to the subrecipient, contractor or subcontractor that they meet the criteria of a Section 3 resident.

1. Please circle the number of family and non-family members living in your household below, and then circle the corresponding annual household income level .

**FY2021 - 2022 Median Family Income** (figures will be updated each fiscal year)

| <b>Household Size</b> | <b>Very Low-Income (0% - 30%)</b> | <b>Low-Income (31% - 50%)</b> | <b>Other (51% or more)</b> |
|-----------------------|-----------------------------------|-------------------------------|----------------------------|
| 1 →                   | \$0-\$23,700                      | \$23,701-\$39,550             | \$39,551+                  |
| 2 →                   | \$0-\$27,100                      | \$27,101-\$45,200             | \$45,201+                  |
| 3 →                   | \$0-\$30,500                      | \$30,501-\$50,850             | \$50,851+                  |
| 4 →                   | \$0-\$33,850                      | \$33,851-\$56,450             | \$56,451+                  |
| 5 →                   | \$0-\$36,600                      | \$36,601-\$61,000             | \$61,001+                  |
| 6 →                   | \$0-\$39,300                      | \$39,301-\$65,500             | \$65,501+                  |
| 7 →                   | \$0-\$42,000                      | \$42,000-\$70,000             | \$77,001+                  |
| 8 →                   | \$0-\$44,700                      | \$44,701-\$74,550             | \$74,551+                  |

2. Do you currently reside in public housing provided by the Lowell Housing Authority?  
 No     Yes (Attach copy of lease, or other evidence of public assistance)

3. Name and address of your current employer \_\_\_\_\_  
 \_\_\_\_\_

4. Position and date of hire: \_\_\_\_\_

**I certify that the above information is true and correct to the best of my knowledge.**

Signature: \_\_\_\_\_ Date: \_\_\_\_\_

Print Name: \_\_\_\_\_ Phone: \_\_\_\_\_

Permanent Address: \_\_\_\_\_

**For Community Development  
 Office Use Only**

Resident Name: \_\_\_\_\_

**SECTION 3 CONTRACT CLAUSE - EXHIBIT C (cont.)**  
**SECTION 3 RESIDENT CERTIFICATION FORM**

**In order to demonstrate that you meet the income requirements to qualify as a Section 3 resident, please attach the following documentation, as applicable:**

- Proof of residency in a public housing development
- A copy of your section 8 voucher certificate or voucher
- Evidence of your eligibility or participation in a federally-assisted program for low- and very low-income persons (e.g. Job Corps, etc.)
- Evidence of your eligibility or participation in a State or Local Assistance Program for low- or very low-income persons
- Income tax records
- Other \_\_\_\_\_ -

**SECTION 3 CONTRACT CLAUSE - EXHIBIT D**  
**SECTION 3 BUSINESS CERTIFICATION FORM**

Your Company is eligible for Section 3 Certification if any one of the following applies:  
**Please circle all that apply.**

1. Fifty-one percent (51%) or more of your Company is owned by Section 3 qualified persons.
2. Thirty percent (30%) or more of your permanent, full-time employees are Section 3 qualified persons.
3. You can provide evidence of a commitment to subcontract in excess of 25% of the amount of all subcontractors to other Section 3 certified companies.

Note: A Section 3 qualified person must:

1. Reside in the City of Lowell, and
2. Currently or within the first three years of the date of hire meet or fall below the following income limits (FY2010). *Figures will be updated each fiscal year.*

| Size of Family  | 1        | 2        | 3        | 4        | 5        | 6        | 7        | 8        |
|-----------------|----------|----------|----------|----------|----------|----------|----------|----------|
| Very low-income | \$23,700 | \$27,100 | \$30,500 | \$33,850 | \$36,600 | \$39,300 | \$42,000 | \$44,700 |
| Low-income      | \$39,550 | \$45,200 | \$50,850 | \$56,450 | \$61,000 | \$65,500 | \$70,000 | \$74,550 |

Please check the appropriate box below.

- I would like to self-certify my Company as being Section 3 qualified, in accordance to the category indicated above. (Provide evidence as described on the following page)
- My Company is not Section 3 qualified.

Signature: \_\_\_\_\_ Date: \_\_\_\_\_

Print Name: \_\_\_\_\_

Business Name: \_\_\_\_\_

Mailing Address: \_\_\_\_\_

Phone: \_\_\_\_\_ Fax: \_\_\_\_\_

E-mail: \_\_\_\_\_

For Community Development  
 Office Use Only

**SECTION 3 CONTRACT CLAUSE - EXHIBIT D (cont.)**  
**SECTION 3 BUSINESS CERTIFICATION FORM**

**Certification for businesses seeking Section 3 preference in contracting and demonstration of capability**

**Attach the following documentation as evidence of status:**

**For business claiming status as a Section 3 resident-owned enterprise:**

- Signed Exhibit B Form (Section 3 Resident Certification Form)

**For business entity as applicable:**

- |  |   |
|--|---|
| <input type="checkbox"/> Copy of Articles of Incorporation                                 | <input type="checkbox"/> Certificate of Good Standing             |
| <input type="checkbox"/> Assumed Business Name Certificate                                 | <input type="checkbox"/> Partnership Agreement                    |
| <input type="checkbox"/> List of owners/stockholders and % ownership of each               | <input type="checkbox"/> Corporation Annual Report                |
| <input type="checkbox"/> Organization chart with names & titles & brief function statement | <input type="checkbox"/> Latest Board minutes appointing officers |
|  | <input type="checkbox"/> Additional documentation                 |

**For business claiming Section 3 status by subcontracting 25% of the dollar awarded to qualified Section 3 businesses**

- List of subcontracted Section 3 business(es) and subcontract amount

**For business claiming Section 3 status, claiming at least 30% of their workforce are currently Section 3 residents or were Section 3 eligible residents within 3 years of date of first employment with the business:**

- |   |   |
|---|---|
| <input type="checkbox"/> List of all current full-time employees                            | <input type="checkbox"/> List of employees claiming Section 3 status                                  |
| <input type="checkbox"/> PHA/IHA Residential lease less than 3 years from day of employment | <input type="checkbox"/> Other evidence of Section 3 status less than 3 years from date of employment |

**Evidence of ability to perform successfully under the terms and conditions of the proposed contract:**

- Current financial statement
- Statement of ability to comply with public policy
- List of owned equipment
- List of all contracts for the past two years

**SECTION 3 CONTRACT CLAUSE - EXHIBIT E**  
**EXAMPLES OF EFFORTS TO OFFER TRAINING EMPLOYMENT**  
**OPPORTUNITIES TO SECTION 3 RESIDENTS**

24 CFR Part 135, Appendix I

1. Entering into "first source" hiring agreements with organizations representing Section 3 residents.
2. Sponsoring a HUD-certified "Step-Up" employment and training program for Section 3 residents.
3. Establish training programs, which are consistent with the requirements of the Department of Labor for public and Indian housing residents, and other Section 3 residents in the building trades.
4. Advertising the training and employment positions by distributing flyers (which identify the positions to be filled, the qualifications required, and where to obtain additional information about the applications process) to every occupied dwelling unit in the housing development or developments.
5. Advertising the training and employment positions by posting flyers (which identify the positions to be filled, the qualifications required, and where to obtain additional information about the application process) in the common areas or other prominent areas of the housing development or developments.
6. Contacting resident councils, resident management corporations, or other resident organizations, where they exist, in the housing development or developments and community organizations in HUD-assisted neighborhoods, to request the assistance of these organizations in notifying residents of the training and employment positions to be filled.
7. Sponsoring (scheduling, advertising, financing or providing in-kind services) a job informational meeting to be conducted by a housing authority or contractor representative or representatives at a location in the housing development.
8. Arranging assistance in conducting job interviews and completing job applications for residents of the housing developments or developments and in the neighborhood or service area in which a Section 3 project is located.
9. Arranging for a location in the housing development or developments where category 1 persons reside, or the neighborhood or service area of the project where job applications may be delivered to and collected by a recipient or contractor representative or representatives.

- 10.** Contracting agencies administering HUD Youthbuild programs, and requesting their assistance in recruiting HUD Youthbuild programs participating for the Housing Authorities or contractor's training and employment positions.
- 11.** Consulting with State and local agencies administering training programs funded through JTPA or JOBS, probation and parole agencies, unemployment compensation programs, community organizations and other officials or organizations to assist with recruiting Section 3 residents for the Housing Authorities or contractor's and employment positions.
- 12.** Advertising the jobs to be filled through the local media, such as community television networks, newspapers of general circulation, and radio advertising.
- 13.** Employing a job coordinator, or contracting with a business concern that is licensed in the field of job placement (preferably one of the Section 3 business concerns identified in part 135) that will undertake, on behalf of the Housing Authorities, other recipients or contractor, the efforts to match eligible and qualified Section 3 residents with the training and employment positions that the Housing Authorities or contractor intends to fill.
- 14.** For a Housing Authority, employment of Section 3 residents directly on either a permanent or a temporary basis to perform work generated by Section 3 assistance. (This type of employment is referred to as "force account labor" in HUD's Indian housing regulations. See 24 CFR 905.102, and 905.201(a) (6).)
- 15.** Where there are more qualified Section 3 residents than there are positions to be filled, maintaining a file of eligible qualified Section 3 residents for future employment positions.
- 16.** Undertaking job counseling, education and related programs in association with local educational institutions.
- 17.** Undertaking such continued job training efforts as may be necessary to ensure the continued employment of Section 3 residents previously hired for employment opportunities.
- 18.** After selection of bidders but prior to contract execution, incorporating into the contract a negotiated provision for a specific number of public housing or other Section 3 residents to be trained or employed on the Section 3 covered assistance.
- 19.** Coordinating plans and implementation of economic development (e.g. job training and preparation, business development assistance for residents) with the planning for housing and community development.

**SECTION 3 CONTRACT CLAUSE - EXHIBIT F**  
**EXAMPLES OF EFFORTS TO AWARD CONTRACTS TO SECTION 3**  
**BUSINESS CONCERNS**

24 CFR Part 135, Appendix II

1. In determining the responsibility of potential contractors, consider their record of Section 3 compliance as evidenced by past actions and their current plans for the pending contract.
2. Contacting business assistance agencies, minority contractors associations and community organizations to inform them of contracting opportunities and requesting their assistance in identifying Section 3 businesses which may solicit bids or proposals for contracts for work in connection with Section 3 covered assistance.
3. Advertising contracting opportunities by posting notices, which provide general information about the work to be contracted and where to obtain additional information in the common area or other prominent areas of the housing development or developments owned and managed by the HA.
4. For HAs, contacting resident councils, resident management corporations, or other resident organizations, where they exist, and requesting their assistance in identifying eligible business concerns.
5. Providing written notice to all known Section 3 business concerns of the contracting opportunities. This notice should be in sufficient time to allow the Section 3 business concerns to respond to the bid invitations or request for proposals.
6. Following up with Section 3 business concerns that have expressed interest in the contracting opportunities by contacting them to provide additional information on the contracting opportunities.
7. Coordinating pre-bid meetings at which Section 3 business concerns could be informed of upcoming contracting and subcontracting opportunities.
8. Carrying out workshops on contracting procedures and specific contract opportunities in a timely manner so that Section 3 business concerns can take advantage of upcoming contracting opportunities, with such information being made available in language other than English where appropriate.
9. Advising Section 3 business concerns as to where they may seek assistance in overcoming limitations such as inability to obtain bonding, lines of credit, financing, or insurance.
10. Arranging solicitations, times for the presentation of bids, quantities, specifications, and delivery schedules in ways to facilitate the participation of Section 3 business concerns.

- 11.** Where appropriate, breaking out contract work items into economically feasible units to facilitate participation by Section 3 business concerns.
- 12.** Contacting agencies, administering HUD Youthbuild programs, and notifying these agencies of the contracting opportunities.
- 13.** Advertising the contracting opportunities through trade association papers and newsletters, and through the local media, such as community television networks, newspapers of general circulation and radio advertising.
- 14.** Developing a list of eligible Section 3 business concerns.
- 15.** For Housing Authorities, participating in the "Contracting with Resident-Owned Business" program provided under 24 CFR part 963.
- 16.** Establishing or sponsoring programs designed to assist residents of public or Indian housing in the creation and development of resident-owned businesses.
- 17.** Establishing numerical goals (number of awards and dollar amount of contracts) for award of contracts to Section 3 business concerns.
- 18.** Supporting businesses that provide economic opportunities to low-income persons by linking them to the support services available through the Small Business Administration (SBA), the Department of Commerce and comparable agencies at the State and local levels.
- 19.** Encouraging financial institutions, in carrying out their responsibilities under the Community Reinvestment Act, to provide low- income loans by providing working capitals and other financial business needs.
- 20.** Actively supporting joint ventures with Section 3 business concerns.
- 21.** Actively supporting the development or maintenance of business incubators that assist Section 3 business concerns.

**SECTION 3 CONTRACT CLAUSE - EXHIBIT G**  
**EXAMPLES OF PROCUREMENT METHODS TO CONTRACT WITH**  
**SECTION 3 BUSINESS CONCERNS**

24 CFR Part 135, Appendix III

Small Purchase (<\$25,000)

- Contract based on lowest price – award to the qualified section 3 business with the lowest responsive quotation, if reasonable and no more than 10% higher than the lowest responsive bid from any qualified source. (If no responsive bid by qualified section 3 business within 10% of lowest responsive bid, award to lowest bidder.)
- Contract based on factors other than price – rating system with assignment of points on all factors to be considered, including price, and provide for 15% to 25% of total points to be set aside for preference to section 3 businesses.

Sealed Bid

- Award contract to qualified section 3 business with highest priority ranking and lowest responsive bid if that bid....
  - a. is within maximum total contract price established by contracting party, and
  - b. is not more than “x” higher than lowest responsive bid from any responsible bidder. “X” is determined by the chart below.
- If no responsive bid by a section 3 business concern meets the requirements, the contract shall be awarded to a responsible bidder with the lowest responsive bid

| <b>"X" is determined as follows:</b>                  | <b>"X" equals the lesser of:</b>                        |
|---|---|
| When the lowest responsive bid is less than \$100,000 | 10% of that bid or \$9,000                              |
| When the lowest responsive bid is:                    |   |
| At least \$100,000, but less than \$200,000           | 9% of that bid, or \$16,000                             |
| At least \$200,000 but less than \$300,000            | 8% of that bid, or \$21,000                             |
| At least \$300,000, but less than \$400,000           | 7% of that bid, or \$24,000                             |
| At least \$400,000, but less than \$500,000           | 6% of that bid, or \$25,000                             |
| At least \$500,000, but less than \$1 million         | 5% of that bid, or \$40,000                             |
| At least \$1 million, but less than \$2 million       | 4% of that bid, or \$60,000                             |
| At least \$2 million, but less than \$4 million       | 3% of that bid, or \$80,000                             |
| At least \$4 million, but less than \$7 million       | 2% of that bid, or \$105,000                            |
| \$7 million or more                                   | 1.5% of the lowest responsive bid, with no dollar limit |

**SECTION 3 CONTRACT CLAUSE - EXHIBIT F (cont.)**  
**EXAMPLES OF PROCUREMENT METHODS TO CONTRACT WITH**  
**SECTION 3 BUSINESS CONCERNS**

24 CFR Part 135, Appendix I & II

Request for Proposals – Competitive Procurement Method using RFP

- One factor shall address both –
  - a. preference for section 3 business concerns, and
  - b. section 3 strategy – employment & subcontracting
- Provide 15% - 25% of total points for these two components
- Establish preference for section 3 businesses in the order of priority ranking (per 24 CFR 135.36)
- Require disclosure of contractor’s section 3 strategy – section 3 training and employment preference, or contracting preference, or both, if applicable
- Determination of contractor’s responsibility will include acceptable section 3 strategy
- Contract to responsible firm (either Section 3 or non-section 3 business) whose proposal is most advantageous, considering price and all other factors specified in the RFP

## ***Appendix A CARES Act Funding and Scoring***

**The CARES Act (Covid-19) grant recommendation subcommittee for CDBG and ESG is composed of members of the City’s Department of Planning and Development. The process for allocating these funds began in May with the advertisement of the availability of funds and the request of proposals for CDBG and ESG Grant funds. The Schedule and process is advertised in the Lowell Sun and on the City Community Development Webpage. CDBG and ESG Funding is based on priorities of the City’s need to address the COVID -19 pandemic.**

Applications were made available online via the City’s website at [www.lowellma.gov](http://www.lowellma.gov) and through numerous email blasts. Completed applications were due in June. Recommendation subcommittee will review proposals and make funding recommendations to the City Manager and a tentative award list is released as for a period of 5days for public comment. A final award list is submitted to the City Council in July for final approval before the Plan is sent to HUD

**Evaluation Criteria** Consists of four main areas: COVID-19 Impact, Project Description, Measureable Results, and Project Budget.

**Scoring** Applications will be evaluated and ranked (scored) using an objective point system with 100 being the highest number of points possible and 0 being the lowest number of points possible. Applications will be funded based upon score. Applications receiving the same score will be ranked based upon date and time of application receipt. Evaluation scoring criteria will be based as described below.

### **COVID-19 Impact 25 points maximum**

- 15-25 points: The project identifies in detail a significant increase in demand for existing services or need for a new service directly as a result of COVID-19; and includes the number of people served pre-COVID-19 vs the number of currently served.
- 0-14 points: The project implies there is an increase in demand or need as a result of COVID-19.

### **Project Description 25 points maximum**

- 11-25 points: The project meets a CDBG national objective; will help prevent, prepare for, and respond to the COVID-19 through life-sustaining activities; is clearly defined and detailed; and provides a clear and realistic timeline for completion.
- 6-10 points: The project meets a CDBG national objective; will help prevent, prepare for, and respond to the COVID-19 through life-sustaining activities; is defined; and provides a timeline for completion.
- 0-5 points: The project meets a CDBG national objective; and will help prevent, prepare for, and respond to the COVID-19 through life-sustaining activities.

### **Measureable Results 25 points maximum**

- 11-25 points: The project serves 100% low-to moderate-income persons with the majority of persons at or below 50% AMI; includes measurable results/outcomes; the number of

persons/households to be served is clearly stated; and the organization is based in Lowell and only serves Lowell residents.

- 6-10 points: The project serves at least 51% low-to moderate-income persons (28.32% if area benefit project) with some persons at or below 50% AMI; includes measurable results/outcomes; the number of persons/households to be served is clearly stated; and at least 80% of clients served are Lowell residents.
- 0-5 points: The project serves at least 51% LMI (28.32% if area benefit project); includes results/outcomes; the number of persons/households to be served is stated; and at least 55% of the clients served are Lowell residents.

**Project Budget 25 points maximum**

- 19-25 points: The budget provides a detailed explanation and breakdown of costs.

**Appendix B Subrecipient Monitoring Risk Assessment**

| Subrecipient Name: | Application ID:                      | IDIS Activity Number:   |            |          |
|--------------------|--------------------------------------|---|------------|----------|
| Risk ID            | Risk Factor                          | Conditions of Risk  | Risk Score | Comments |
| 1                  | Type of Organization                 | For profit entity (3) Non-profit (2) Unit of General Local Government (1) | 1          |          |
| 2                  | Prior experience with similar awards | No (1) Yes (0)  | 0          |          |
| 3                  | New Subrecipient                     | Yes (1) No (0)  | 0          |          |
| 4                  | Award Amount                         | ≥100,000 (2) \$50,001-\$99,999 (1) 0-\$50,000 (0)                         | 0          |          |
| 5                  | Matching Funds if Needed             | No (1) Yes (0)  | 0          |          |
| 6                  | Number of Scope Changes              | ≥ 2 (2) 1 (1) 0 (0)   | 0          |          |
| 7                  | Financial Reporting                  | 2 Untimely Reports (2) 1 Untimely Submission (1) 0 Untimely Report (0)    | 0          |          |
| 8                  | Documentation Issues                 | Missing or incomplete reimbursements requests (1) No issues (0)           | 0          |          |

City of Lowell – Department of Planning and Development  
Community Development Office – Program Policies and Operations Manual

|    |                           |  |   |
|----|---------------------------|--|---|
| 9  | Progress Reports          | 2 Untimely Reports (2) 1 Untimely Submission (1) 0 Untimeley Report (0)  | 0 |
| 10 | Indpented Single Audit    | no and Federal Expenditures ≥750,000 (2) no and Federal Expenditures ≤ \$750,000 (1) Yes (0)   | 0 |
| 11 | Single Audit Opinion      | Adverse, Disclaimer, Going Concern (2) Qualified (1) Unqualified (0)   | 0 |
| 12 | Financial Reporting       | Last financial reports over year old (1) Current year 990 (0)  | 0 |
| 13 | Equipment Expenditure     | Yes (1) No (0)   | 0 |
| 14 | Income Verification Forms | Never submits in a timely manner (2) Submitted on time with payment request but with issues (1) Submitted on time with no issues (0) | 0 |

City of Lowell – Department of Planning and Development  
 Community Development Office – Program Policies and Operations Manual

|    |   |  |   |
|----|---|--|---|
|    |   | No Monitoring visit performed<br>(2) Monitoring visits is 2 or more years old<br>(1) Monitoring visits less than 2 years old (0) | 0 |
| 15 | Received an On-site Review                  |  |   |
|    | Previous monitoring finds                   | Yes (1) No (0)   | 0 |
| 16 | Attended Grant Orientation                  | No (1) Yes (0)   | 0 |
| 17 | Key staff turnover during or prior to grant | Yes (1) No (0)   | 0 |
| 18 | Total Score                                 |  | 1 |

Score of 15 or more gets automatic on site review  
 Score of 7-15 will get either get off site or on site review  
 Score of 1-6 gets no monitoring  
 CD team will provide more TA to agencies with Key Staff Turnover.