

# Chapter 10 - Required Records

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## Basic Federal Requirements (Records Retention)

Units of general local government shall have records sufficient to facilitate reviews and audits by the state. For fair housing and equal opportunity purposes, and as applicable, such records shall include data on the racial, ethnic, and gender characteristics of persons who are applicants for, participants in, or beneficiaries of the Community Development Block Grant program. Records of units of general local government, including supporting documentation, shall be retained for the greater of three years from closeout of the grant to the state or the period required by other applicable laws and regulations. Environmental review records are to be maintained for four years. Source: Summary of federal regulation at 24 CFR part 570.490 and 570.502(a)(16).

**NOTE:** For sub-recipients, the records retention period begins from the date of submission of the state's CAPER in which the specific activity is reported on for the final time.

## State Requirement

The State has implemented a 6-year records retention requirement in the grant contract. We recognize that this may be more restrictive than many of the federal records retention requirements. Please check the

grant contract to verify the amount of time records are required to be retained.

## National Objective and Eligibility Records

Local records must show that all activities funded by the grant are Community Development Block Grant eligible and meet a national objective. For many projects, the necessary documentation may be no more than the information included in the grant application and financial records that show that funds were spent in compliance with the approved project budget. A copy of the complete application should always be in the local project file. Specific records that must be kept for national objective documentation vary by project type and are summarized below. Always check the special conditions in the grant contract and talk to your Oregon Business Development Department Regional Coordinator or Oregon Housing and Community Services representative (Regional Housing Rehabilitation and Housing Centers) to be sure you understand what is required for your project. The Department has examples of forms that can be used to collect and summarize your national objective documentation.

State staff will use the Project Monitoring Checklists in this handbook to monitor the recipient for compliance with these requirements.

**Exhibit 10A** –Public/Community Facilities and Public Works

**Exhibit 10B** – Microenterprise Assistance

**Exhibits 10C** – Regional Housing Rehabilitation

### Area Benefit Activities

Information in the approved grant application will generally be sufficient documentation. Any change in the project area requires additional documentation and in most cases, a grant contract amendment.

### Limited Clientele Activities

Four possible “tests” document that beneficiaries of limited clientele facilities are principally low and moderate income. More than one test may be required for mixed-use community facilities.

### Test 1- Limited Clientele based on Presumed Benefit

**Local records must show that the facility is designed for and used by one or more of the following groups:**

- Abused Children
- Migrant Farm Workers
- Illiterate Adults
- Elderly Persons
- Battered Spouses Homeless Persons
- Severely Disabled Adults
- Persons Living with AIDS

### Test 2 - Limited Clientele based on Family Size/Income

Local records must include data that shows the size and annual income of the family of each person benefiting from the facility/improvements. At least 51 percent of the clientele must be persons whose family income does not exceed the HUD low- and moderate-income limits. The limits change each year. Talk to an Oregon Business Development Department regional coordinator to be sure you are using the correct limits.

### Test 3 - Limited Clientele based on Income Eligibility

For facilities that are limited exclusively to serve low- and moderate-income persons, local records must include data on the family size and annual income of each beneficiary. It is highly important that the recipient use the correct family size and income limits. These limits are updated annually and are available at OBDD or at OHCS.

### Test 4- Limited Clientele based on Nature and Location of the Facility

Information in the approved grant application will generally be sufficient documentation.

**Microenterprise Exception:** Microenterprise projects funded prior to 2007 must meet the microenterprise exception to the 51% rule. These microenterprise assistance projects must serve 100% LMI persons. Microenterprise projects funded in 2007 through 2010 under the public service criteria need only meet the 51% LMI requirement.

## Direct Benefit

Housing rehabilitation cannot use the limited clientele tests to meet a national objective.

These activities are “direct benefit” and must be documented as follows:

- A. **Owner-Occupied Housing** - Local records must include the number of persons and total annual income for all household residents. All assisted households (100%) must meet the low and moderate-income limits.

**NOTE:** *Only the housing rehabilitation program gathers data by household size and household income. Household size and income is an aggregate of multiple families residing within the residence. To determine LMI status, the household size and income is compared against the family size and income chart contained in the Method of Distribution.*

## Slums and Blight (Spot Basis)

Information in the approved grant application will generally be sufficient documentation.

## Slums and Blight (Area Basis)

Information in the approved grant application will generally be sufficient documentation.

## Financial Management Records

Local financial records must be sufficient to show an auditor or the department’s Regional Coordinator that the requirements described in Chapter 4 of this handbook are met. The records must document that the recipient has established the following in its financial management system:

1. Budget controls;
2. Regular financial reporting;
3. Internal controls;
4. Provision for checking allowable costs;
5. Source documentation for all grant expenditures;
6. Accountability for real and personal property;
7. Cash management procedures;
8. Proper administration of a revolving fund, where applicable; and
9. Accountability for program income.

## Procurement Records

Local procurement records must document that the property and services purchased with Community Development Block Grant funds were obtained in compliance with state laws and the policies described in Chapter 5 of this handbook.

## Civil Rights Records

The current requirements for local record keeping in the areas of fair housing and equal opportunity are described in Chapter 7. Refer to the information about federal requirements and state standards for specific actions that must be documented.

## Tenant Assistance, Relocation, Acquisition and Replacement of Lower Income Housing Records

Recipients with projects involving tenant assistance, relocation, acquisition and replacement of lower income housing will receive individual assistance from the state to establish appropriate records as explained in more detail in Chapter 8. In all cases, they

must maintain the records for at least three years after the latest of:

- The date by which all required relocation and acquisition payments have been issued;
- The date the project is completed; or
- The date by which all issues resulting from litigation, negotiation, audit or other action are resolved.

### Labor Standards Records

For each project subject to federal labor standards provisions, local records must have evidence demonstrating that: (These are explained in more detail in Chapter 6. Another good reference is Labor Relations Letter 2006-02.)

1. Bid solicitations and contract documents contain the appropriate federal wage determination and the federal labor standards provisions (HUD 4010);
2. General contractor's eligibility was verified before contract award;
3. Federal labor standards were covered at the preconstruction conference or meeting with the general contractor;
4. Original certified payroll reports were received in a timely manner from the prime contractor for each construction employer (prime contractor and subcontractors);
5. All payroll reports were reviewed by a representative of the recipient in a timely manner;
6. On site employee interviews were conducted with construction employees and the information collected was compared to the payroll reports;

7. Discrepancies or violations disclosed during payroll reviews or on site interviews were resolved;
8. Worker complaints are investigated in a timely manner and any violations are resolved. Investigations of potential criminal violations are referred to the state for further referral to HUD;
9. Requests for approval to use volunteers are made to the state for further referral to HUD, if necessary;
10. Labor standards enforcement reports are submitted to the state; and
11. All labor standards administration and enforcement files will be maintained for at least three years following the completion of the project.

### Environmental Review Records

Chapter 3 of this handbook explains the environmental review procedures and records in more detail. Recipients must maintain an environmental review record (ERR) that includes:

- Description of project and activities;
- All environmental reviews including their findings and documents;
- Public notices;
- Written determinations; and
- Oregon Business Development Department or Oregon Housing and Community Services Release of Funds, if required.

## Applicant and Beneficiary Data Basic Federal Requirements

Section 562 of the Housing and Community Development Act of 1987 requires HUD to assess compliance with federal fair housing requirements by collecting, not less than annually, data on the racial and ethnic characteristics of persons eligible for, assisted or otherwise benefiting under Community Development Block Grant and other programs.

Section 808(e)(6) of the Fair Housing Act requires HUD to report annually to the Congress and to make available to the public, data on the race, color, religion, sex, national origin, age, handicap, and family characteristics of persons and households who are participants, beneficiaries, or potential beneficiaries of Community Development Block Grant and other program assistance.

24 CFR Part 570.490 (State Community Development Block Grant Program Rule) requires the state to establish record keeping requirements for units of general local government that include data on the racial, ethnic, and gender characteristics of persons who are applicants for, participants in, or beneficiaries of the Community Development Block Grant program.

24 CFR 570.483 Addressing National Objectives (State Community Development Block Grant Program Rule) requires local governments with projects that qualified for funding based on the national objective of principal benefit to persons of low and moderate income to document that no less than 51 percent of the project beneficiaries meet the federal income limits.

## Activity Type Determines Data Source

HUD has informed the states that data must be collected only from those individuals and households applying for direct assistance (e.g., Housing Rehabilitation grants and loans). HUD does not expect recipients to collect information on beneficiaries of area wide projects (e.g., most Public Works projects) or some limited clientele activities (e.g., Handicapped Accessibility). Data from the recent Census for the project area, or an Oregon Business Development Department approved local survey, is acceptable for those activities.

### ***Definition of “Applicant”***

HUD currently defines “applicant” as one who submits an application, request, plan or statement required to be approved by an official as a condition of eligibility for Federal financial assistance.

## Data to be collected for all projects qualifying under the low and moderate income national objective

### **All projects:**

1. Total number of persons benefiting from each project activity.
2. Total number of low- and moderate-income persons benefiting from each project activity.

### **Direct benefit activities:**

For direct-benefit activities (e.g., Housing Rehabilitation projects):

1. Race/Ethnicity of the head of household for all persons or households that are applicants for, participants in, or beneficiaries of each project activity. The categories include: White, not Hispanic; Black, not Hispanic; Hispanic; Asian or Pacific Islander; and American Indian/Alaskan Native.
2. Gender of the head of household for all persons or households that are applicants for, participants in, or beneficiaries of direct benefit activities.

### Area-wide benefit activities

For area-wide benefit activities (e.g., citywide public works projects), there is no data collection requirement. The Project Completion Report will include a section for data from the recent Census that describes the Race/Ethnicity of residents of the project area.

### Limited clientele activities

Data describing the characteristics of the project area can be used. In addition, recipients are encouraged to collect the following race and ethnicity information from each user of facilities such as childcare centers, residential treatment centers and domestic violence shelters. Use the table below to assist with this data entry:

Race	Total #	Ethnicity (# of Hispanic)
White		
Black/African American		
Asian		

American Indian/Alaskan Native		
Native Hawaiian/Alaskan Native		
American Indian/Alaskan Native & White		
Asian & White		
Black/African American & White		
American Indian/Alaskan Native & Black/African American		
Other Multi-Racial		
Total number of persons benefiting		

### Privacy Issue

No law or regulation requires Community Development Block Grant project applicants and beneficiaries to provide personal information, but recipients must attempt to obtain the data for direct and LMC benefit activities. If a person does not voluntarily provide the information, HUD suggests that an interviewer note what he or she thinks is true (e.g., what race the person is).

### Forms for Collecting Data

Forms for collecting this data are available by contacting OBDD or by using the forms contained in the Method of Distribution. Recipients are encouraged to build the data questions into other program documents such as housing rehabilitation grant/loan applications.

## Monitoring

The goal of monitoring is to encourage completion of projects within the contract period while ensuring that project objectives are met. Monitoring is an ongoing, two way communication process between the state and recipients. Successful monitoring involves frequent telephone contacts, written communications, analysis of reports and audits, and periodic meetings. Monitoring is the principal means by which the state:

- Carries out its responsibility to review recipient performance in administering the grant project in compliance with state and federal regulations;
- Assures that federal funds are being managed properly and are not being wasted or used for fraudulent purposes; and
- Documents the effectiveness of programs administered by the department.

## Monitoring Policy

Every project will be monitored formally at least once during the project period, when approximately 50% of the grant has been drawn down by the recipient. Most projects, except Technical Assistance (TA) and Public Works Planning and Engineering grants, will be monitored on site. Some projects may be monitored through a desk review after the department's Regional Coordinator makes a determination that this level of review is appropriate. A decision to make a desk review or on site review will depend on the following risk factors:

- Whether the recipient has successfully completed a Community Development Block Grant project in the past;

- Whether the grant administrator has successful experience with previous Community Development Block Grant projects;
- The record for the particular project (timely submission of required information, project on schedule, accurately prepared cash requests, cooperative relationship with recipient, etc.); and
- Housing Rehabilitation projects will always be monitored on site.

More than one on site monitoring visit will be made if the department determines this is necessary. Factors will include: program complexity, local grant administration capacity, recent problems with the project, past monitoring findings and projects with "high risk" activities. "High risk" includes projects generating large amounts of program income, housing rehabilitation and projects that are far behind schedule.

## Sources of Information

The state will use the following sources of information for conducting on site and in house desk reviews:

- Recipient files, including all project related correspondence;
- Grant contracts, including approved applications, project budgets and special conditions;
- Cash requests and periodic reports on the progress of the project;
- Recipient monitoring file including checklists, monitoring letters and letter closing monitoring findings;
- Financial files, including drawdowns; and
- Citizen complaint files.

## Areas to be monitored

The state's current monitoring checklists are included in **Exhibits 10A, 10B and 10C**. These are changed occasionally to reflect new regulations or to streamline the monitoring process. The following exhibits will be used for all Community Development Block Grant recipients:

- Overall Management and Project Progress
- Eligibility and National Objective
- Financial Management
- Procurement Checklist
- Management of Real Property
- Environmental (Part 58) Procedures – Limited Review
- Labor Standards (if construction is involved)
- Employment Practices
- Section 3
- Actions to Affirmatively Further Fair Housing
- Program Benefits
- Section 504

Additional checklists will be used for projects involving these activities:

- Housing Rehabilitation Program
- Acquisition of Real Property
- Relocation
- One for One Replacement Housing
- Program Income

Staff may require other information from recipients if necessary to document compliance with program requirements.

## Monitoring Scheduling

Monitoring, whether on site or desk review, will be timed to coincide with the various phases of the implementation cycle of each project. Formal monitoring will normally be

performed once during the project. Final drawdowns from the grant will not be approved until the monitoring has been performed and all findings resolved in order to ensure the project met all contractual requirements.

## Monitoring Letters

The Oregon Business Development Department will send a monitoring letter to the recipient with the results of the review. This monitoring letter and report will be mailed to the recipient within 30-days after completion of the on-site or desk review. Those areas in which the recipient has done well will be noted. The letter will also describe monitoring findings or concerns and will include a deadline for a response to all findings. If there were findings, the recipient will have 30 days from the date of the monitoring letter to resolve the findings. Once the recipient resolves the findings the department will mail out a Findings Cleared letter to the recipient.

## Findings

A Finding is made when the monitoring review shows that the recipient is not in compliance with federal laws and regulations or contract requirements. The letter will include specific actions the recipient must take to come into compliance. Failure to respond to the finding will result in sanctions.

## Concerns

The monitoring letter may identify a "concern" when there is no violation of federal law but where the Department



believes a problem may be developing. The letter may include suggestions to prevent a noncompliance finding in the future. A recipient is not required to respond to items identified as “concerns” unless specifically requested.

## Quick Checklist for Required Records

Checklists for this chapter is provided under three different exhibits of this chapter

	Exhibit 10A - <i>Project Monitoring Checklist For Public Works &amp; Community Facilities Projects</i>
	Exhibit 10B - <i>Project Monitoring Checklist For Microenterprise Projects</i>
	Exhibit 10C - <i>Project Monitoring Checklist For Housing Rehabilitations Projects</i>