



**CITY OF TEMPE
COMMUNITY DEVELOPMENT BLOCK
GRANT**

POLICY MANUAL

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CITY OF TEMPE COMMUNITY DEVELOPMENT BLOCK GRANT

POLICY MANUAL

INTRODUCTION

The following policies have been adopted by the City of Tempe to guide the administration of the Community Development Block Grant (CDBG) program funded by the U.S. Department of Housing and Urban Development (HUD).

Policies may be reviewed and amended as circumstances change or new HUD regulations preempt the topic. Amendments to this document, when required by federal or local statute or regulation, may be made by the City of Tempe as needed.

The information in this policy manual is based on current HUD regulations, 24 CFR Part 570, that govern the CDBG Program, related regulations, HUD Notices and current policies.

WAIVER POLICY

City of Tempe may waive any policy in the manual not required by statute or HUD regulation, unless otherwise stated, whenever it is determined that undue hardship will result from applying the policy and where application of the policy would adversely affect the purposes of the Housing and Community Development Act of 1987.

CDBG OBJECTIVES

The national objectives for the Community Development Block Grant Program can be found at 24 CFR 570.208 and is described below.

Activities benefiting Low- and Moderate-Income Persons

HUD Low- and Moderate-Income Data or HUD approved locally conducted surveys must be used as the primary basis for defining low- and moderate-income benefit. Other sources may be used to substantiate low- and moderate-income benefit if approved by HUD.

Low- and moderate-income Area Benefit

When allocating CDBG funds under the low- and moderate-income area benefit criteria, the project/activity must demonstrate that low- and moderate-income at least 51% of the residents in the area to be benefited by the project/activity will meet HUD's definition of low- and moderate-income (low/mod area benefit).

Low- and moderate-income Limited Clientele

When allocating CDBG funds under the low- and moderate-income limited clientele benefit criteria, the project/activity must demonstrate one of the following:

- At least 51% of the residents to be served by the project/activity will meet HUD's definition of low- and moderate-income (low/mod clientele benefit)
- For housing activities, 100% of the households served by the project/activity will meet HUD's definition of low- and moderate-income (low/mod housing benefit)
- The persons to be served are presumed to be low- and moderate- income. The presumption covers abused children, battered spouses, elderly persons, severely disabled adults, homeless persons, illiterate adults, persons living with AIDS, and migrant farm workers.

Activities which Prevent or Eliminate Slum and Blight

To qualify for CDBG funds for the purpose of eliminating slum and blight, the area and activity proposed to receive CDBG assistance must be either:

- A. An area designated as a slum / blight area according to Arizona Revised Statutes, and either
 - At least 25% of the properties in the area either
 - are abandoned,
 - have physically deteriorated buildings or improvements,
 - have high vacancy or occupancy turnover rates in commercial or industrial buildings,

- have significant declines in property values or abnormally low property values relative to other areas in the City of Tempe, or
- have known or suspected environmental contamination.
- o Or the public improvements throughout the area are in a general state of deterioration.

All documentation showing the area meets the HUD slum and blight area requirements is subject to approval by City of Tempe. The activity must document that it directly addresses one or more of the issues that contribute to the slum / blight declaration.

- B. Activities to address slum or blight on a spot basis that eliminates specific conditions of blight, physical decay, or environmental contamination that are not located in a slum or blighted area. Eligible activities include:

Acquisition clearance; relocation; historic preservation; remediation of environmentally contaminated properties; or rehabilitation of buildings or improvements.

- o Rehabilitation is limited to eliminating conditions detrimental to public health and safety.
- o Acquisition or relocation must be a precursor to another eligible activity (funded with CDBG or other resources) that directly eliminates the specific conditions of blight or physical decay, or the environmental contamination.

HUD regulations limit slum and blight activities to a maximum of 30% of the total CDBG allocation.

Urgent Need

Examples of an urgent need include addressing damage caused by a hurricane, tornado, widespread flooding, or other similar events affecting the health, safety, or welfare of County residents. Projects/activities defined as meeting an urgent need must demonstrate that:

1. The existing conditions present an immediate threat to the health or welfare of the community. The threat is usually documented by an emergency declaration by the appropriate local or state official;
2. The existing conditions are of recent origin or recently became urgent (generally, within the past 18 months);
3. The grantee is unable to finance the activity on its own; and
4. Other sources of funding are not available.

Applications submitted under this national objective that clearly document items 1-4, above will be forwarded to the local HUD office for a final determination if it meets the criteria for urgent need. Applications approved by HUD will be forwarded to and reviewed by City of Tempe.

CDBG Eligible Activities

CDBG funds may be allocated for the following types of projects/activities:

- **Public Facilities:** projects/activities such as the construction or rehabilitation of community centers, senior centers, domestic violence shelters, homeless shelters, parks, etc.
- **Public Infrastructure Improvements:** new or replacement waterlines, streets, sidewalks, sewer lines, streetlights, etc.
- **Public Services:** the operation of day care centers, senior centers, counseling services, meal programs for seniors, health clinics, after school programs for children, food banks, homeless shelters, etc.
- **Housing Activities:** housing counseling, home-owner rehabilitation, land acquisition for new housing construction, acquisition and/or rehabilitation of multi-family housing and down-payment assistance to first-time homebuyers. Actual construction costs for new housing are not an eligible activity under CDBG.

All rehabilitation of single-family privately-owned housing will be done in conformance with Maricopa County housing rehabilitation standards or local rehabilitation standards approved by City of Tempe.

- **Economic Development Activities:** job creation; business development; technical assistance to for-profits; commercial / industrial acquisition, construction, rehabilitation, or microenterprise development.
 - The provision of CDBG assistance to a for-profit business shall be limited to loans. Use of the proceeds from repayment of the loans will be negotiated by the grant applicant, the related businesses, and City of Tempe prior to implementation of the project/activity.
 - For job creation projects, "first consideration" will be given to the hiring of low- and moderate-income persons for the jobs available.
- **Planning Activities:** In limited circumstances, the City of Tempe may consider applications for planning activities, such as needs assessments (i.e., development planning for a county island or an unincorporated area), if it is in the best interests of the City. (NOTE: planning projects/activities are eligible only if paid for with City of Tempe administrative funds. Therefore, planning projects/activities must also receive recommendation for funding.)

Evidence to the Contrary

Occasionally, a project/activity may be proposed to address a low/mod income benefit. However, upon closer examination of the area or citizens to be served, there is evidence

to suggest that significant populations other than low/mod income residents will be served by the project/activity in addition to or instead of the targeted population.

Any proposed project/activity in which there is evidence to the contrary to suggest that it will not meet the CDBG low/mod or slum/blight objective as applicable will not be forwarded to City Council for consideration. Funded projects with evidence to the contrary may be recommended to have all CDBG funding revoked.

CITIZEN PARTICIPATION

Tempe Housing Services staff will provide the City Council with guidance on the CDBG program; including the five-year Consolidated Plan, the Annual Action Plan and the Consolidated Annual Performance and Evaluation Report (CAPER), which are the required planning and reporting elements submitted to HUD. City of Tempe will hold public hearings as necessary to meet HUD requirements and will encourage citizens to participate in the planning and implementation processes.

HUD regulations require each local jurisdiction applying for CDBG funds to document that a maximum feasible effort has been made to furnish citizens (particularly low/mod income citizens) within its jurisdiction with information about the CDBG grant. The information must include the national objectives and the range of activities that may be undertaken with CDBG funds.

PLANNING AND REPORTING

Five-Year Consolidated Plan

The Five-Year Consolidated Plan is designed to help local jurisdictions such as City of Tempe to assess their affordable housing and community development needs and market conditions, and to make data-driven, place-based investment decisions.

The City Council will only consider funding for projects/activities that have been identified in the City of Tempe Consolidated Plan. Activities to address the established needs and priorities can be carried out by the communities or with non-profits working within the communities.

During the Consolidated Planning needs assessment process, needs identified in the Consolidated Plan are prioritized as “high” or “low” in accordance with HUD guidance on preparing a Consolidated Plan. “High” priority needs will be given preference for funding over “low” priority needs. If funds are available, activities to address “low” priority unmet needs may be funded.

Non-profit agencies and other interested parties will be expected to work with the City of Tempe during the Consolidated Planning process to ensure all potential needs are identified and prioritized.

Amendments to the Consolidated Plan

The City of Tempe Housing Services will make recommendations, to the City Council once a year regarding any proposed amendments to the Consolidated Plan, if needed. The Tempe Housing Services will allow sufficient time for the City Council to approve the revisions for submission to HUD by May 15th of each year.

The City Council will be required to solicit citizen input according to the Citizen Participation Plan and these policies and procedures. Citizens will be provided with reasonable notice of, and opportunity to comment on, the proposed changes.

Annual Action Plan

The Annual Action Plan is a one-year plan that describes the activities that will be funded and implemented to support needs as described in the Consolidated Plan. The Annual Action Plan describes all the HUD funded activities to be undertaken during the program year. Upon completion of the CDBG application and allocation process, The City of Tempe Housing Services staff will make recommendations to the City Council regarding the projects/activities to be included in the Annual Action Plan.

Substantial Amendments to the Annual Action Plan

The City of Tempe follows the Citizen Participation Plan definition of a substantial amendment which includes:

- A change in funding for existing projects that are more than 20% of the annual CDBG allocation, or
- Funding a new activity that is not in the existing Annual Action Plan.

Tempe Housing Services will make recommendations to the City Council regarding any proposed substantial amendment to the Annual Action Plan. The Tempe Housing Services must allow sufficient time for the City Council to approve the revisions for submission to HUD by May 15.

Consolidated Annual Performance and Evaluation Report (CAPER)

The CAPER is the HUD required annual performance report summarizing the accomplishments and progress toward Consolidated Plan and Annual Action Plan goals achieved by HUD funded activities. The CAPER is required to be submitted to HUD on September 30th each year. The Tempe Housing Services will hold a public hearing and provide comments to the City Council regarding the results of CDBG funded projects/activities as part of the CAPER process.

APPLICATION AND ALLOCATION PROCESS

Annual Funding Application and Allocation Process

The Tempe Housing Services will generally accept applications thru Zoomgrants an online application management system for CDBG funds once a year during the annual grant application process. The grant application, scoring and recommendation process will generally take place between September and April each fiscal year.

Funding Priorities and Scoring Sheet

Prior to the start of the annual CDBG application process the Tempe Housing Services shall identify:

- The annual CDBG Funding Priorities to be used during that year.
- Application scoring sheet to be used by Tempe Housing Services during the allocation process. The scoring sheet will include factors such as funding priorities, project design, accomplishments, and applicant experience. The scoring sheet will be used by Tempe Housing Services to evaluate and rank applications during the allocation process.

Applicant and Application Requirements

CDBG regulations require applicants to be nonprofit organizations or a government entity. Each application must meet all CDBG program requirements to be eligible for consideration by Tempe Housing Services Staff. CDBG requirements include:

- The activity must be an eligible activity as listed in the CDBG regulations
- The activity must meet a national objective, as described in the CDBG regulations
- The activity must not be an ineligible activity in the CDBG regulations such as support for religious activities or general government activities.

City Departments (New procedure as of 06/2021)

City Departments (outside of Housing Services) may need to apply thru Zoomgrants online system for CDBG funds which will be reviewed and scored with all other CDBG applications.

Applicants will identify whether the proposed project/activity will meet a “high” or “low” priority in the Five-Year Consolidated Plan. The Tempe Housing Services will fund “high” priority projects/activities before it funds “low” priority projects/activities; unless it can be demonstrated that the “low” priority project/activity addresses a significant need.

Grant applications must be complete, accurate, and submitted before the application deadline.

- The Tempe Housing Services will not accept incomplete applications. Applications must have all applicable sections completed and include all required attachments.

- Applications for CDBG funds will not be accepted from applicants in violation of the 1.5 Rule (timely implementation). The Tempe Housing Services may waive this requirement if there is an urgent need and if it will not result in a violation of federal regulations.
- The Tempe Housing Services must complete the appropriate environmental review form for the projects. Failure to thoroughly complete the form including all related maps and worksheets may result in the project being denied funding, even after being awarded funding by the City Council.
- Applications received after the deadline date and time will be returned to the applicant and will not be reviewed by Tempe Housing Services Staff.

Allocation Process

The Tempe Housing Services staff will:

- Review all applications received by the application deadline.
- Contact the applicant upon completion of the staff review to inform the applicant of the status of the application and request minor clarifications if needed.
- Forward all complete, eligible applications that meet the requirements in this manual to the Tempe Housing Services for their review.
- Develop the Tempe Housing Services scoresheet and provide to Tempe Housing Services members
- Hold a public hearing where applicants will present their applications and respond to questions from Tempe Housing Services members.
- Individually score the applications using the scoresheet.
- Rank the applications using the average of the Tempe Housing Services member scores and develop CDBG funding recommendations for the City Council based on the application ranking.

Other Funding Resources

It is not the intent of the CDBG program to provide 100% of the funding for proposed projects/activities. While the Tempe Housing Services recognizes that there are times when CDBG funds will be the sole funding resource for a particular project/activity, grant applicants are strongly encouraged to identify and commit other resources to support CDBG funded projects/activities. While it will not be the only criteria, the Tempe Housing Services will take into consideration the availability of other revenue sources when making funding recommendations.

Operation and Maintenance (O&M)

To be considered for CDBG funds, the Tempe Housing Services will expect that any assets generated from a project/activity be appropriately maintained for the useful life of the asset; as defined by the CDBG regulations and contractual requirements. Therefore, applicants proposing a project/activity that will require upkeep and maintenance must

provide a written commitment that they will cover all operation and maintenance (O&M) costs of the project/activity following receipt of the federal funding.

Administrative Costs

Administrative costs include staff time and related costs incurred in order to implement a project/activity. CDBG funds may not be used to cover costs of administering projects/activities.

Other Funding Considerations

Joint Requests With Other Entitlements

Tempe Housing Services understands that there may be projects/activities undertaken jointly with other CDBG recipients. The Tempe Housing Services staff will work closely with the other recipients to ensure that the federal regulations are complied with, and that the project/activity will meet Local and State standards. While the City of Tempe may rely on the other recipients' work for compliance with the regulations, this will not replace the City's responsibility to see that recipients comply with all federal requirements under the grant.

Interim Applications

If sufficient unprogrammed CDBG funds become available during the year (i.e., unused grant funds are returned to the City of Tempe or sufficient program income is received), Tempe Housing Services has the option of accepting applications on a limited basis during the year. See the Reallocation for Additional Projects section for more information.

Tempe Housing Services has discretion to accept applications for urgent need projects, if necessary, at any time throughout the year.

PROGRAM REQUIREMENTS FOR CDBG FUNDED PROJECTS

Timely Implementation

Tempe Housing Services will encourage grant applicants to thoroughly plan projects/activities prior to applying for CDBG funds to ensure feasibility and timely implementation of projects.

Tempe Housing Services will make funding recommendations with the understanding that the projects/activities will be implemented in a timely manner. Projects/activities should commence within 90 days of the beginning of the program year or upon receipt of the authorization to expend funds from HUD; whichever date is more appropriate.

If the 90-day commencement date is not met or whenever the completion of a funded project/activity is behind on its contractual completion date by 90 days or more, grant

awardees will be notified of the reasons for failure to start or complete the project within the stipulated time frame. In addition, a corrective action plan and revised timeline must be presented to the Tempe Housing Services. If the corrective action plan and revised timeline are not acceptable, the project/activity could be terminated.

If a project/activity is terminated, or implementation of an approved project/activity is later determined not to be feasible, Tempe Housing Services will reprogram the unspent funds for another eligible project/activity in accordance with the Reallocation section in this Manual.

Progress Reports

Tempe Housing Services will receive quarterly progress reports on all open projects/activities. To facilitate this, grant applicants will be expected to submit complete, accurate, and timely progress reports as required in the project's CDBG funding agreement.

Monitoring

Tempe Housing Services will receive annual updates from grant awardees regarding any significant findings or concerns noted during the annual monitoring process of grant recipients. For current grant recipients that have submitted an application for CDBG funding, any significant outstanding monitoring issues will be noted during the funding allocation process.

Program Income

Tempe Housing Services understands that projects/activities funded through CDBG funds may generate program income under the federal regulations. Applicants will identify in grant applications whether the proposed project/activity is expected to generate program income, and, if so, will identify the intended use of the program income generated.

Grant recipients will inform Tempe Housing Services of any program income generated by approved projects/activities. Program income shall be returned to the City, unless, with City's approval, the grant recipient is allowed to retain the program income earned. Program income retained by the grant recipient must be used only for eligible activities in accordance with all applicable CDBG requirements.

Tempe Housing Services is required to keep accurate records of program income earned to meet HUD guidelines. Grant recipients are required to account for and report program income to City in accordance with the funding agreement for that project.

Fair Housing

HUD regulations require all cities to affirmatively further fair housing within their communities. All other grant applicants are encouraged to conduct fair housing activities within their communities and support regional fair housing activities.

Grant Recipients

Tempe Housing Services expects all grant applicants, particularly those applying for housing assistance projects/activities, to comply with fair housing requirements. Upon award of funding, these fair housing requirements are outlined in their funding agreement. Grant applicants will work closely with Tempe Housing Services staff to ensure that the current City of Tempe Fair Housing Plan is implemented to HUD's satisfaction. Tempe Housing Services will annually contact applicants with requests for information regarding activities undertaken to comply with the affirmatively furthering fair housing requirements.

City Fair Housing Activities

In addition to mandating that CDBG grantees affirmatively further Fair Housing, the Tempe Housing Services Division designates an employee as the Fair Housing Coordinator (FHC). The FHC is responsible for educating the Tempe community about the Fair Housing Act and its implications for Tempe residents. Tempe Housing Services distributes Fair Housing brochures to all recipients of our housing programs and provides Fair Housing education in all briefings for our housing programs.

The FHC is available to meet with Tempe residents who believe they have been discriminated against in the housing market. The FHC assists, when requested, Tempe residents in filing Fair Housing complaints with both HUD and the Arizona Attorney General's Office. The FHC also works with local property owners/landlords to educate them about the Fair Housing Act and how to avoid Fair Housing complaints. The FHC tracks the complaints that come into this office.

The FHC participates in regional efforts to affirmatively further Fair Housing, including being a member of the Arizona Fair Housing Partnership, a group of stakeholders from across the state. The Arizona Fair Housing Partnership coordinates and implements an Annual Symposium in April to celebrate Fair Housing month; the symposium brings together state-wide representatives to discuss trends in Fair Housing.

Equal Access Rule

HUD's Equal Access Rule requires equal access to Department of Housing and Urban Development (HUD) programs without regard to a person's actual or perceived sexual orientation, gender identity, or marital status. Housing providers that receive HUD funding or have HUD-insured loans are subject to these Rules, which require that HUD-assisted housing, including all housing funded by the Office of Community Planning and Development, and housing insured by FHA be made available to individuals and families without regard to actual or perceived sexual orientation, gender identity, or marital status. The City of Tempe has incorporated the Equal Access Rule into our emergency shelter policies and procedures.

Environmental Review Requirements

Tempe Housing Services will make funding recommendations contingent upon the completion of the appropriate environmental review for each project/activity in accordance with the environmental review requirements of 24 CFR Part 58.

Environmental Review Record

Tempe Housing Services will be responsible for completing and maintaining the appropriate written record of the environmental review undertaken. Tempe Housing Services will expect grant applicants to work closely with staff to ensure sufficient, accurate information with which to conduct the environmental review.

If the grant applicant does not cooperate fully with the environmental review process, Tempe Housing Services shall recommend that funding for the project/activity be revoked.

If the project/activity site contains hazardous materials, Tempe Housing Services shall recommend that the project/activity site not be funded with federal funds.

Release of Funds

No grant funds may be encumbered or expended prior to receipt of a written statement from HUD indicating that funds have been released for that particular project. All funds encumbered or expended prior to City of Tempe's release of funds notice are the responsibility of the grant recipient and will not be reimbursed with grant funds.

Acquisition and Disposition of Property

Acquisition of Property

The process of acquiring all real property shall be subject to the approval of Tempe Housing Services. Grant recipients will not pay in excess of 10% of the appraised value of any property.

Disposition and/or Change in Use

The Tempe Housing Services will require grant applicants receiving CDBG funds for public facility projects to submit an annual certification, which states that the properties funded with CDBG are still being used for the original eligible purpose for the time period required in the CDBG regulations, or the period specified in the contract; whichever is longer. Current CDBG requirements are:

- Nonprofit grant recipients must use CDBG assisted property for the original use for at least 5 years.

A change in the use of any such property and/or disposition of property funded in whole or in part with CDBG funds requires prior approval by HUD. A change in use that does not comply with the HUD requirements or doesn't receive HUD approval may result in funds being repaid to the County.

UNALLOCATED AND CONTINGENCY FUNDS

When a project/activity is completed or cancelled, unused CDBG funds will be returned to City of Tempe and accounted for as unallocated funds. Program income received may also be classified as unallocated funds until applied against program expenditures.

Contingency Fund

Tempe Housing Services will ensure that there is a Contingency Fund in an amount equal to at least 5% of the current year's CDBG grant allocation on hand on July 1 of any fiscal year. It shall be funded using a combination of unallocated funds and funds from cancelled or completed projects.

The City of Tempe will consider the number, type and status of existing grant projects/activities, and the time remaining in the fiscal year when determining the amount of funds to be retained in the Contingency Fund balance throughout the fiscal year.

Unallocated Funds

Any amount of unallocated funds not in the Contingency Fund may be utilized as follows:

- Unallocated CDBG funds may be used to fund additional projects/activities if the Tempe Housing Services and the City Council deems it appropriate. The reallocation requirements in this Manual shall govern.
- Unallocated CDBG funds may be accumulated by the Tempe Housing Services throughout the year and will be added to CDBG allocation(s) for the acquisition/development/preservation of affordable housing in accordance with the listed Mayor and Council priorities.

REALLOCATION OF GRANT FUNDS

Tempe Housing Services will make recommendations to the City Council regarding the reallocation of CDBG funds.

Funding reallocations will be subject to the Citizen Participation Plan adopted as part of the Five-Year Consolidated Plan. Significant reallocations may require a revision to the Annual Action Plan. Increases in the project scope or funding amount may also require an additional environmental review.

Funding reallocations can take several forms:

- Rescoping: Revising the quantity or dimension of work identified in the original project/activity scope of work as presented to the Tempe Housing Services Staff
- Transfers: Moving funds from one approved grant project to another approved grant project

- **Additional Funding Requests:** Requesting additional funds to cover unanticipated cost overruns. The request should cover project costs within the original scope of work that are reasonable and could not have been anticipated at the time of the original grant award. This would include costs that are unpredictable or are of an emergency or urgent need.
- **Reprogramming:** Moving unallocated funds (i.e., funds released due to program income received, unused funds at the end of a completed project, funds returned to the program due to cancellation of a project/activity, etc.) from a previously approved project/activity to a new project/activity.

Completion of existing projects/activities will take precedence over initiation of new projects/activities.

Reallocation for Existing Projects

The Tempe Housing Services will review all requests for reallocation, except as otherwise noted, and make recommendations to the City Council if required.

Reallocation requests must be in writing, and must include the following information:

- The sequence of steps and decisions leading to the request
- The current justification for the request
- The precise changes in the budget and/or scope of work
- Any change in the impact on the project beneficiaries
- If required by the City Council, a certification that the citizen participation process was followed. If appropriate, at least one public hearing may be necessary to comply with this process.

The reallocation request must meet all the standards of an initial application for CDBG funds. If the proposed reallocation results in significant changes from the original funding request, a new application may be required.

Written requests for reallocation should be submitted to at least ten (10) days prior to the next regularly scheduled City's Council meeting. Any public meetings, public hearings, bid openings or other related events must take place early enough to ensure compliance with this timeline. If the written request is not submitted on time, bids or other documentation supporting the information in the request may lapse or become invalid; further delaying the project/activity.

Reallocation requests resulting in an increase in funding to the grant recipient will not be considered unless the applicant is in compliance with the 1.5 rule and all other current contractual requirements.

Reallocation Thresholds

Tempe Housing Services Staff:

The Tempe Housing Services may approve reallocation requests of more than \$10,000 up to 20% of the original grant award without obtaining City Council action. The Tempe Housing Services may also approve any rescoping requests and extensions of project completion dates without City Council action provided that the entire scope of the original project is not changed.

City Council

The City Council must approve any reallocation requests in excess of 20% of the original grant amount and must approve any actions in which the entire scope of the project is changed.

Tempe Housing Services and City Council will not consider reallocation requests in excess of 30% of the Contingency Fund balance during the fiscal year, unless the request specifically addresses an urgent need as defined in these policies.

Reallocation for Additional Projects

If the City has a large amount of CDBG funds unallocated for any reason, the Tempe Housing Services may:

- Recommend that the City Council award these funds to a project/activity that was not recommended for funding during the normal application process within the last 12 months. This would include applications that were received but not funded due to funding shortfalls. Applications that were denied by the Tempe Housing Services for other reasons may not be considered. Or
- Conduct a special application process or a Request for Proposal process to solicit projects/activities for the unused funding. Applications/proposals received through a special process must meet all the criteria established for the normal grant application process as identified in this Manual, or
- Accept specific requests from the City Council for funding allocations. Such requests must meet all of the criteria established for the normal grant application process as identified in this Manual, or
- Combine the unallocated funds with future HUD allocations when making funding recommendations during the annual grant application process.

Funding recommendations made through a special allocation process must receive City Council approval and may result in an amendment to the Annual Action Plan.

Tempe Housing Services will review applications/proposals received through a special allocation process and make recommendations regarding the funding requests.

The funding recommendations will be presented at the next regularly scheduled Tempe City's Council meeting.

ASSISTANCE TO SMALL, MINORITY, WOMEN AND OTHER BUSINESS ENTERPRISES

Policy

Consistent with Presidential Executive Orders 11625, 12138, and 12432, and Section 3 of the

HUD Act of 1968,¹ It is the policy of the City to take affirmative steps to utilize small and minority-owned businesses (MBE), women's business enterprises (WBE), and disabled business enterprises (DBE) to the greatest extent possible, feasible and legally permissible in all contracts for service, and as sources for supplies, equipment, construction and services. This Policy is guided by the preceding federal regulations and all other related federal and state laws and regulations governing discrimination, equal opportunity and affirmative action pertaining to federally funded contract and subcontract activities. The City of Tempe's Procurement Department defines this business group as Historically Underutilized Businesses (HUB) suppliers, which is a group is made up of small business, woman-owned, minority-owned, and disabled-owned companies, partnerships and sole proprietorships.

The City requires all contractors or persons doing business with or soliciting the same from the City to abide by provisions of this Policy and to make every effort to obtain small, minority, women and other business owned enterprises participation when contracting opportunities are federally funded. Failure to provide required MBE/WBE/DBE information to the City as required or requested in bid solicitations will result in a determination by the City that the bidder is not a responsible bidder.

This Policy include the following affirmative steps:

1. Including qualified small business, WBEs, MBEs and DBEs on solicitation lists. The City of Tempe has a Supplier Registration List that allows these HUB businesses to register to be on the city's solicitation lists as a small business, WBE, MBE or DBE;
2. Assuring that small business, WBE, MBE and DBE are solicited whenever they are potential sources. Businesses on the City's solicitation lists automatically receive an email addressed to the appropriate contact person when a new solicitation opportunity becomes available;
3. When economically feasible, dividing total requirements into smaller tasks or quantities so as to permit maximum small and WBE, MBE and DBE participation;
4. Establishing delivery schedules, where the requirement permits, which encourage participation by small business, WBE, MBE and DBE;

¹ The City currently has no Section 3 Projects.

5. Using the services and assistance of Tempe Chamber of Commerce, Local First Arizona, the Pacific Southwest Minority Supplier and Development Council, National Association of Minority Contractors (Arizona Chapter), the local Arizona State Capitol Chapter of the National Institute of Governmental Purchasing (NIGP), and the Small Business Administration, and the Minority Business Development Agency of the Department of Commerce to disseminate information about upcoming opportunities to small business and MBE/WBE/DBE and HUB suppliers;
6. Including in contracts where Section 3 is implicated, to the greatest extent feasible, a clause requiring contractors, to provide opportunities for training and employment for lower income residents of the project area and to award subcontracts for work in connection with the project to business concerns which provide opportunities to low-income residents, as described in 24 CFR Part 135 (so-called Section 3 businesses);
7. Publishing bids and Request for Proposals notices in local newspapers, minority media outlets as required;
8. If any subcontracts are to be let, requiring the prime contractor to take affirmative steps in 1 through 5 above;
9. Following up with entities initially contacted to ensure they are aware of the opportunity by re-sending the "notice of solicitation" and provide again provide the solicitation and provide contact information for the Procurement Officer assigned to the solicitation so that suppliers can contact the Officer with any questions; and
10. Maintaining documentation of any good faith negotiations with those interested in the solicitation by keeping a log of names, addresses and contact information; a copy of the solicitation and the information provided to the suppliers that were notified; and any scoring and considerations made by procurement or the scoring committee as part of the evaluation process.

Bid solicitations shall indicate that the activity is a federally funded CDBG or HOME activity where participation by MBE/WBE firms is crucial. The City will continue to use its website and other media to advertise bid opportunities.

A successful bidder does not have to be a member of a small and minority business and/or women's business enterprise group. What the City is attempting to do is make every possible effort to ensure the participation of MBE/WBE firms in federally funded contracting opportunities. This does not preclude the participation of firms that are not MBE/WBE.

Prime contractors (bidders) are required to make reasonable effort to ensure that a minimum of 15% of their total contract is awarded to MBE companies and that 5% of their total contract is awarded to WBE companies. However, the MBE/WBE performing or providing services must not act merely as a passive conduit. In the event the City has reason to question the authenticity of ownership of an MBE/WBE, the burden of proof is on the claimant and/or contracting party to provide documentation to substantiate the ownership and management of a particular MBE or WBE.

Documentation

The City maintains records sufficient to detail the significant history of each procurement action.

These records shall include, but shall not necessarily be limited to, the following:

1. Rationale for the method of procurement (if not self-evident);
2. Rationale of contract pricing arrangement (also if not self-evident);
3. Reason for accepting or rejecting the bids or offers;
4. Basis for the contract price;
5. A copy of the contract documents awarded or issued and signed by the Contracting Officer;
6. Basis for contract modifications; and
7. Related contract administration actions.

The level of documentation should be commensurate with the value of the procurement.

Records are to be retained for the period of time set forth in the Arizona State Library, Archives and Public Records; General Retention Schedule.

Definitions

Minority and women business enterprises are defined as any financial institution, business, service, contracting business which is solely owned and operated by a minority group member or women or that at least 51% owned by minority group members or women. If the enterprise is publicly owned, the minority/women members or stockholders must have at least 51% interest and possess control over management, capital, and earnings.

Minority Group Member: Black, Hispanic, Asian or Pacific Islander, American Indian or Alaskan Native, women, et.al.

Historically Underutilized Businesses: A group is made up of small business, woman-owned, minority-owned, and disabled-owned companies, partnerships, and sole proprietorships.

Black: A person with origins in any of the black racial groups of Africa.

Hispanic: A person of Mexican, Puerto Rican, Cuban, Central or South American descent and Spanish culture. Portuguese are excluded from the Hispanic category and are classified according to their race.

Asian or Pacific Islander: A person having origins in the Far East, Southeast Asia, Indian subcontinent, or Pacific Islands.

American Indian or Alaskan Native: A person with origins in original peoples of North America, and who maintain cultural identifications through tribal affiliation or community recognition.

Small Business Enterprise: A business which meets the definition of minority business enterprise or women business enterprise, and in addition, meets the small business size standards of the Small Business Administration.

Contractor/Subcontractor/Supplier: The individual, partnership, corporation, or other legal entity entering into a contract with the City or the City's contractor to perform a portion of the work.

EMPLOYEE CERTIFICATIONS AND PERSONAL IDENTIFYING INFORMATION

Employee Certifications

Human Services staff must also annually certify they are in compliance with the standard of conduct established for employees and that neither the employee or any family connection constitutes a conflict of interest in relation to their position with the Human Services Department.

Employees who deal with federal grants receive the following and must certify that they have read and understand the following policies:

- Employee and Familial Participation - Conflict of Interest
- Program Procedures for Conflict of Interest
- Telecommuting Guidelines
- CDBG Manual

These employees also certify that they have completed the following trainings:

- Enterprise Income Verification (EIV) Training Day One part 1 and 2, EIV Training Day Two part 1 and 2
- DOD Security Training
- Program Procedures for Conflict of Interest
- HUD PIH Notice 2015-06
- FOIA_REF_GUIDE
- 24 CFR 15
- OMB M-07-16
- HUD RULES OF BEHAVIOR FOR USE OF Enterprise Income Verification (EIV) INFORMATION

Personal Identifying Information

The City of Tempe Human Services provides training to Human Services employees who deal with federal grants on the importance of maintaining the confidentiality of client records, information, and all related personal identifiable information (PII) and civil and criminal penalties that may result from the unauthorized disclosure of this information. Employees receive training (see above) on 24 C.F.R. 15.107 – Documents generally protected from disclosure, which includes the nine (9) Freedom of Information Act exemptions; Rules of Behavior for Use of Enterprise Income Verification (EIV) Information; OMB M-07-16; and HUD PIH Notice 2015-06.

The HUD Privacy Policy pertains to HUD's collection and handling of personal information. HUD follows certain exceptions outlined in the Privacy Act of 1974. The Privacy Act requires that federal agencies maintain only such information about individuals that is relevant and necessary to accomplish its purpose. The Privacy Act also requires that the information, such as personally identifiable information (PII), be maintained in systems or records electronic and paper that have the appropriate administrative, technical, and physical safeguards to protect the information. This responsibility extends to contractors and third-party business partners, such as Public Housing Authorities, who are required to maintain such systems of records by HUD.

PII is defined in OMB M-07-16 as “information which can be used to distinguish or trace an individual’s identity, such as their name, social security number, biometric records, etc. alone, or when combined with other personal or identifying information which is linked or linkable to a specific individual, such as date and place of birth, mother’s maiden name, etc.” HUD requires strict PII handling guidelines for employees and contractors due to the nature of the data collected and the risk to individuals if this PII were to be released or otherwise compromised.

PII may be distributed or released to other individuals only if: (1) it is within the scope of the recipient’s official duties; (2) the recipient has an official, role-based need to know; and (3) sharing information is done in a secure manner. When in doubt it is recommended that PII must be treated as sensitive and any transmission of PII must be kept to a minimum, even when it is protected by secure means.

RECORDS RETENTION POLICIES AND PUBLIC RECORDS

Retention

Recipients of CDBG funds are required to maintain files necessary to demonstrate compliance with Title I of the Housing and Community Development Act of 1974, as amended, and any other policies or regulations required by HUD or the State. Under the Uniform Administrative Requirements of the CDBG regulations, grantees and subrecipients are required to retain CDBG records for a period of not less than four years.

The City, including all its departments, divisions, sections, and offices (hereafter simply departments”), must also comply with all of the applicable Arizona State Library, Archives and Public Records (AZLAPR) mandatory retention periods for different types of records. Records must only be kept for their approved retention period and should never be retained only because "someone might need them someday."

The approved retention period differs depending on the nature and content of the record not based on the format it is in or the technology used to create it. The AZLAPR has created a Records Retention and Disposition that provide general schedules that are comprised of record series that are common to all departments. The general retention and disposition schedules ensure consistent and standardized retention periods for similar record series from various departments. If necessary, departmental schedules list record series that are specific to a particular department’s function and are in addition to the general schedules. Each department is responsible for the records produced in the course of their duties within their department and division.

Public Records

The City of Tempe values openness. Therefore, it is the City’s policy to comply with its obligations under the Arizona public records law timely, accurately, and completely. The City of Tempe has a Public Records Handbook which was designed to assist City of Tempe departments and divisions with complying with the City’s policy in processing public records requests. This handbook attempts to outline the public records law, the types of documents that must be disclosed, and the method for disclosure.

The Arizona public records law is found in the Arizona Revised Statutes at § 39-121, et seq. The law applies to all public entities, including the City of Tempe. The City of Tempe values integrity and transparency. One of the purposes of the public records law is to ensure that government entities are trustworthy and accountable to the public by giving the public a right of access to records concerning an official’s or a public agency’s activities.

The Freedom of Information Act (FOIA) is the federal version of the public records law. It is not applicable to local entities such as the City. Courts have stated, however, that FOIA and the cases interpreting it are helpful in construing the state public records laws. HUD has also provided guidance in the past if there is a conflict between federal and state law relating to the confidentiality of records, the federal law, such as the Federal Privacy Act of 1974, would preempt the Arizona public records law.

FOIA contains nine (9) exemptions which authorize federal agencies to withhold information. The pertinent exemptions for records which may be held by Human Services are the following:

- Information that is prohibited from disclosure by another federal law;
- Information involving matters of personal privacy.

Amended by Tempe Housing Services - December 2021
Approved by Human Services Director – April 2022