



Implementation Manual

Appendix A–Definitions

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TEXAS GENERAL LAND OFFICE

Community Development and Revitalization Department

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The GLO-CDR Implementation Manual provides guidance for CDBG-DR and CDBG-MIT subrecipients and should not be construed as exhaustive instructions.

APPENDIX A—DEFINITIONS

A

Acquisition—

- a. Purchase of supplies or services (including construction); or
- b. Activities to obtain an interest in, and possession of, real property.

Administrative Cost—Costs of overall program management, budgeting, coordination, monitoring, reporting, and evaluation. This includes salaries and benefits for personnel engaged in these activities, as well as the costs of administrative services performed under third-party contracts or agreements, including general legal services, accounting services, and audit services. It can also include the costs of goods and services required for program administration, including the rental or purchase of equipment, insurance, utilities, office supplies, and the rental and maintenance (but not purchase) of office space.

Aggregate Cost—The total cost to complete the project, job, and/or service. Allowable Cost—Costs that meet the criteria of 2 CFR 200.403.

Architect/Engineer Services—

- a. Professional services of an architectural or engineering nature, as defined by State law, that are required to be performed or approved by a person licensed, registered, or certified to provide those services;
- b. Professional services of an architectural or engineering nature that are associated with research, planning, development, design, construction, alteration, or repair of real property; or
- c. Other professional services of an architectural or engineering nature, or incidental services, that members of the architectural and engineering professions (and individuals in their employ) may logically or justifiably perform, including studies, investigations, surveying and mapping, tests, evaluations, consultations, comprehensive planning, program management, conceptual designs, plans and specifications, value engineering, construction phase services, soils engineering, drawing reviews, preparation of operating and maintenance manuals, and other related services"

B

Bid or Sealed Bid—An offer, enclosed in a sealed envelope, submitted in response to invitation to bid.

Brownfield Redevelopment Area—An abandoned, idled, or underused property where expansion or redevelopment is complicated by real or potential environmental contamination.

Building Construction—Generally is the construction of sheltered enclosures with walk-in access for the purpose of housing persons, machinery, equipment, or supplies. It includes all construction such as structures, residential structures greater than four (4) stories, the installation of utilities and the installation of equipment, both above and below grade level, as well as incidental grading, utilities and paving. Additionally, such structures need not be “habitable” to be building construction. The installation of heavy machinery and/or equipment does not generally change the project’s character as a building.

C

Change Order—A written order, signed by the contracting officer, directing the contractor to make an authorized change to order without the contractor’s consent.

Citizen Participation—An open process in which the rights of the community to be informed, to provide comments to the Government and to receive a response from the Government are met through a full opportunity to be involved and to express needs and goals.

Code of Federal Regulations—Identifies rules and regulations published in the Federal Register.

Colonia—A rural community or neighborhood located within 150 miles of the U.S.-Mexican border that lacks adequate infrastructure and frequently also lacks other basic services.

Component Purchases—Purchases of the component parts of an item that in normal purchasing practices would be purchased in one purchase.

Contract—A mutually binding legal relationship obligating the seller to furnish supplies or services (including construction) and the buyer to pay for them. It includes all types of commitments that obligate the subrecipients to an expenditure of appropriated funds and, except as otherwise authorized, are in writing. In addition to bilateral instruments, contracts include but are not limited to awards and notices of awards; job orders or task letters issued under basic ordering agreements; letter contracts; orders, such as purchase orders, under which the contract becomes effective by written acceptance or performance; and bilateral contract modifications. Contracts do not include grants and cooperative agreements covered by 31 U.S.C. 6301, et seq.

Contracting—Purchasing, renting, leasing, or otherwise obtaining supplies or services from non- federal sources. Contracting includes the description of supplies and services required, selection and solicitation of sources, preparation and award of contracts, and all phases of contract administration. It does not include making grants or cooperative agreements.

Contractor—An entity that receives a contract as defined above.

Copeland "Anti-kickback" Act—A U.S. labor law and act of Congress that supplemented the Davis– Bacon Act of 1931 that prohibits contractor or subcontractor from inducing an employee into giving up any part of the compensation that he or she is entitled to under the

terms of his or her employment contract and requires employers to file weekly compliance reports.

Cost Analysis—The review and evaluation of the separate cost elements and profit in an offeror's or contractor's proposal (including cost or pricing data or information other than cost or pricing data), and the application of judgment to determine how well the proposed costs represent what the cost of the contract should be, assuming reasonable economy and efficiency.

Cost-Reimbursement Contract—Provides for payment of allowable incurred costs, to the extent prescribed in the contract.

Critical Actions—Any activity for which even a slight chance of flooding might be too great because such flooding might result in a loss of life, injury to persons, or damage to property.

D

Direct Cost – Costs that can be identified specifically with a particular final cost objective, such as a federal award, or other internally or externally funded activity, or that can be directly assigned to such activities relatively easily with a high degree of accuracy.

Disaster Risk Reduction Area—An area which is located outside of floodways or floodplains that is established by the subrecipients to reducing risks from the hazard that led to its designation in accordance with the buyout requirements of the approved action plan and Federal Register Notices. A designated area is 1) that is located outside of floodways or floodplains and 2) that runs the risk of disaster hazards. A Disaster Risk Reduction Area is subject to the Buyout Program's requirements per the action plan and the Federal Register Notices. The subrecipients designate the area.

Displacement—Activity where any household, business, farm, or nonprofit organization moved permanently from real property as a direct result of a CDBG-assisted rehabilitation, demolition, or acquisition activity.

E

Employee—Anyone who performs services for you is your employee *if you can control what will be done and how it will be done*. This is so even when you give the employee freedom of action. What matters is that you have the right to control the details of how the services are performed. Determining whether a worker is an employee vs. an independent contractor depends on many factors including the nature and degree of control by the principal/payer. (see IRS 20 Point Checklist for Independent Contractors).

Equipment—Tangible personal property (including information technology systems) having a useful life of more than one year and a per-unit acquisition cost which equals or exceeds the lesser of the capitalization level established by the non-Federal entity for financial statement purposes, or \$5,000.

F

Favored Activity—An economic development activity that is of important National interest.

Firm-Fixed-Price Contract—Provides for a price that is not subject to any adjustment on the basis of the contractor's cost experience in performing the contract.

Float Funded—An eligible activity carried out using CDBG funds that were also programmed for one or more other activities at the time the funds were committed to the new activity. Activities financed with float loans must generate sufficient program income within an established time frame to enable the subrecipients to carry out the activities that were initially programmed.

Force Account—Professional services, construction, rehabilitation, repair, or demolition that is performed by municipal or county employees.

G

General Land Office—Texas agency whose mission is to serve the schoolchildren, veterans, and the environment of Texas. The agency does so by preserving our history, maximizing state revenue through innovative administration, and through the prudent stewardship of state lands and natural resources.

General Land Office-Community Development & Revitalization—GLO Division that works to rebuild Texas communities by putting Texans back in their homes, restoring critical infrastructure and mitigating future damage through resilient community planning. This task is based on the Governor's order of 2011 which designated the GLO as the agency charged with administering CDBG-DR funds.

H

Heavy Construction—Construction projects that are not properly classified as either building, highway or residential.

Highway Construction—Construction projects that include the construction, alteration or repair of roads, streets, highways, runways, taxiways, alleys, trails, sidewalks, paths, parking areas, and other similar projects not incidental to building or heavy construction.

Historic Preservation Area—An area designated for historic preservation by local, state, or federal officials.

I

Indirect Cost—Cost not directly identified with a single final cost objective but identified with two or more final cost objectives or with at least one intermediate cost objective.

L

Low-Income Person—Persons or families whose total household incomes do not exceed 50 percent of the median income for the area.

Low-Moderate Income Person—Persons or families whose total household incomes do not exceed 80 percent of the median income for the area.

M

Mitigation (MIT)—Those activities that increase resilience to disasters and reduce or eliminate the long-term risk of loss of life, injury, damage to and loss of property, and suffering and hardship, by lessening the impact of future disasters.

Multi-Unit Housing—Activity involves two or more units per structure. N

New Hires (as it relates to payrolls)—Full-time employees for permanent, temporary, or seasonal employment opportunities.

O

Offer—A general term for a response to a solicitation. See also: bid, proposal, and quote.

One for One Replacement Housing—The activity being assisted results in the conversion or demolition of one or more dwelling units that must be replaced.

P

Presidentially Declared Major Disaster Area—An area declared a major disaster under Subchapter IV of the Robert T. Stafford Disaster Relief and Emergency Assistance Act.

Price Analysis—The process of examining and evaluating a proposed price without evaluating its separate cost elements and proposed profit.

Program Income—Gross income received by the subrecipients directly generated by a grant supported activity or earned only as a result of the grant contract during the grant period.

Project Cost—Total of CDBG-DR funds, local or other matching funds, and total business investment in the project.

Project Delivery Cost—Allowable costs incurred for implementing and carrying out eligible CDBG activities.

Proposal—A response to a request for proposals, Q

Quote—A response to a request for quotations (small purchase) solicitation. R

Real Property—Real property or real property interest means any interest in land and any improvements thereto, including fee and less-than-fee interests such as: temporary and permanent

easements, air or access rights, access control, options, and other contractual rights to acquire an interest in land, rights to control use or development, leases, and licenses, and any other similar action to acquire or preserve rights-of-way for a transportation facility.

Rental Housing—A housing development comprised of individual units located on a single or scattered site owned by an individual or a legal entity other than the resident. In consideration of an agreed upon monthly rental rate for an agreed upon term, the resident is entitled to occupancy of the premises.

Request for Qualifications (RFQs)—Competitive procurement method that requires offerors to submit qualifications in response to the request for architectural and engineering services. This procurement method allows for negotiation.

Requests for Proposals (RFPs)—Competitive procurement method that requires offerors to submit a proposal in response to the solicitation. This procurement method allows for negotiation.

Residential Construction (as it relates to Davis-Bacon)—Construction projects involving the construction, alteration, or repair of single-family houses or apartment buildings of no more than four (4) stories in height. This includes all incidental items such as site work, parking areas, utilities, streets, and sidewalks.

Revolving Loan Fund—Activity funded through a revolving loan fund with a set of accounts that are independent of other program accounts.

S

Sealed Bidding—Competitive procurement method that requires offerors to submit sealed bids in response to the solicitation's requirements. This procurement method does not allow for negotiation.

Section 3 Business Concern—A business (1) that is at least 51 percent or more owned by Section 3 residents; (2) whose permanent, full-time employees include persons, at least 30 percent of whom are currently Section 3 residents, or within 3 years of the date of first employment with the business were Section 3 residents; or (3) that provides evidence of a commitment to subcontract in excess of 25 percent of the dollar award of all subcontracts to be subcontracted to business concerns that meet the qualifications in Nos. 1 or 2 above.

Section 3 Covered Activity—Any activity which is funded by Section 3 covered assistance.

Section 3 Covered Assistance—Assistance provided under any CDBG program that is expended for work arising in connection with housing rehabilitation, housing construction, or other public construction projects.

Section 3 Covered Contract—A contract or subcontract (including a professional service contract) awarded by a recipient or contractor for work generated by the expenditure of Section 3 covered assistance, or for work arising in connection with a Section 3 covered project. This does

not include contracts for the purchase of materials and supplies unless the contract includes purchasing of materials and installation of these materials and supplies.

Section 3 Covered Project—The construction, reconstruction, conversion, or rehabilitation of housing and other public construction assisted with CDBG funds as related to Section 3 of the HUD Act of 1968.

Section 3 Resident—A public housing resident or an individual who resides in the metropolitan area or non-metropolitan county in which the Section 3 of the HUD Act of 1968 covered assistance is expended and who meets the definition of low-moderate or very low-income person.

Separate Purchases—Purchases, made separately, of items that in normal purchasing practices would be purchased in one purchase.

Sequential Purchases—Purchases, made over a period, of items that in normal purchasing practices would be purchased in one purchase.

Sole Source Acquisition—A contract for the purchase of supplies or services that is entered into or proposed to be entered into by a subrecipient after soliciting and negotiating with only one source.

Solicitation—Any request to submit offers or quotations to the subrecipients. Solicitations under sealed bid procedures are called “invitations for bids”. Solicitations under negotiated procedures are called “requests for proposals.” Solicitations under small purchase procedures may require submission of either a quotation or an offer.

Special Assessment—A public improvement activity for which a special assessment will be levied.

Special Flood Hazard Areas—The land area covered by the floodwaters of the base flood on NFIP maps. The SFHA is the area where the NFIP's floodplain management regulations must be enforced and the area where the mandatory purchase of flood insurance applies.

Subcontract—Any contract, as defined above, entered into by a subcontractor to furnish supplies or services for performance of a prime contract or subcontract. It includes but is not limited to purchase orders and changes and modifications to purchase orders.

Subcontractor—Any supplier, distributor, vendor, or firm that furnishes supplies or services to or for a prime contractor or another subcontractor.

Subrecipient Agreement—Agreement between GLO and subrecipient.

T

Taxpayer Identification Number (TIN)—The number required by the IRS to be used by the offeror in reporting income tax and other returns. The TIN may be either a Social Security Number or an Employer Identification Number.

U

United States Code (USC)—A consolidation and codification by subject matter of the general and permanent laws of the United States.

Urgent Need—Those activities that alleviate emergency conditions. (See 24 CFR 570.483(d) for further details).

Urgent need qualified activities must meet the following criteria:

- The existing conditions must pose a serious and immediate threat to the health or welfare of the community;
- The existing conditions are of recent origin or recently became urgent. A condition will generally be considered to be of recent origin if it developed or became critical within 18 months preceding the state grant recipient's certification.
- The subrecipient certifies and the state determines that:
 - The subrecipient is unable to finance the activity on its own;
 - Other sources of funding are not available.

V

Very Low-Income Person—Persons or families whose total household incomes do not exceed 30 percent of the median income for the area.