**CHAPTER 4**

**STATE COMMUNITY DEVELOPMENT BLOCK**

**GRANT (CDBG) PROGRAM**

4-1 APPLICABILITY.

* Chapter 4 is applicable to the review of the State Community Development Block Grant (CDBG) Program ONLY.
* Exhibit 4-9, *Guide for the Review of Colonias Set-aside,* is only applicable to the States of Arizona, California, New Mexico, and Texas. These States are additionally required to comply with Section 916 of the Cranston-Gonzalez National Affordable Housing Act of 1990 (Cranston-Gonzalez).
  1. PURPOSES.
* To ensure that a state’s program is being administered in accordance with applicable statutory and regulatory requirements;
* To provide an early indication of problems or potential problems in meeting applicable program requirements and to avoid fraud, waste, and mismanagement; and
* To promote efficient and effective program participant performance.
  1. REVIEW OF STATE VERSUS REVIEW OF LOCAL GOVERNMENTS.

The review is generally limited to the state’s administration, management and oversight of the CDBG program. The state is considered to be HUD’s program participant or a pass-through entity, whereas the units of general local government funded by a state (local governments) are considered to be their recipients. While local government visits and reviews may be performed during monitoring, state officials must be given the opportunity to participate and the primary focus of a local government review is to test a state’s oversight and documentation systems by verifying state system information against information available in the recipient’s records. If a local government is found to be in noncompliance during the monitoring, a finding would be issued against the state for failure to oversee the program or otherwise carry out its duties as the program administrator.

* 1. APPLICABLE REQUIREMENTS.

**Consider the state’s own requirements**: The state, in many cases, has flexibility to establish its own requirements. For example, the state may use its own fiscal requirements; and 24 CFR 570.489(d) provides a minimum threshold for what those fiscal requirements should contain. Additionally, the states have the authority to interpret the CDBG program rules; 24 CFR 570.480(c) says that HUD will give maximum feasible deference to a state’s interpretation of the regulatory requirements of Subpart I and the requirements of the Housing and Community Development Act. However, there are limits; the state’s interpretation must not be plainly inconsistent with the Act.

When monitoring, the reviewer may issue a finding of noncompliance based on evidence of failure to comply with the State’s own requirements. In such findings, the reviewer would cite the state’s requirement in the Exhibit’s Describe Basis for Conclusion text box, in addition to applicable HUD requirements.

**Find the right requirements**: Finding the right State CDBG requirements can often be confusing. A common mistake is to cite Entitlement CDBG regulations. Citing Entitlement CDBG regulations when reviewing State CDBG is only permissible if the state has adopted that portion of the Entitlement regulations in its own rules and requirements.

Of the regulations at 24 CFR part 570, only the following regulations are directly applicable to the State CDBG program:

* **Subpart I**, *State Community Development Block Grant Program* (24 CFR 570.480 through 497);
* **24 CFR 570.606**, Displacement, relocation, acquisition, and replacement of housing, applies to the State program per 24 CFR 570.488;
* **24 CFR 570.200(j)**, Faith-based activities, applies per 24 CFR 570.480(e);
* **24 CFR 570.707(b)** applies the requirements of Subpart M to State-assisted public entities for the Section 108 Loan Guarantee Program.

Four of the most common questions about State CDBG requirements relate to eligible activities, the public service cap, the record-keeping requirements, and the uniform administrative requirements.

* For a full list of **eligible activities**, State CDBG refers to Section 105 of the HCDA [42 U.S.C. § 5305] and has additional parameters at 24 CFR 570.482. State CDBG does not incorporate the requirements of 24 CFR 570.201 from the Entitlement regulations.
* The **public service cap** for State CDBG is not in 24 CFR 570. It is found at 105(a)(8) of the HCDA [42 U.S.C. § 5305(a)(8)]
* The **record-keeping requirements** for State CDBG are referred to at 24 CFR 570.490(a) as “jointly agreed upon by HUD and the States and sufficient to enable HUD to make the [review and audit] determinations described at §570.493.” Where those jointly agreed upon requirements can actually be found is in Appendix I, *Model Recording-Keeping Requirements*, of the [Guide to National Objectives and Eligible Activities for State CDBG Programs](https://www.hudexchange.info/resource/2179/guide-national-objectives-eligible-activities-state-cdbg-programs/). Reviewers should exercise caution when referencing *Model Record-Keeping Requirements* because, at the time of the issuance of this Handbook chapter (REV-7), the requirements had not been updated.

However, as stated in 24 CFR 570.493(b), a state’s failure to maintain records *may* result in a finding that a state has failed to meet the applicable requirement to which the record pertains. At the reviewer’s discretion, a finding related to a lack of documentation may be based on this citation alone or in conjunction with the citation from another technical compliance area.

The State CDBG program is subject to portions of **2 CFR Part 200**, *Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards*, as further specified in the program regulations in 24 CFR Part 570. More details are provided below in the following section discussing how to use Chapter 34. If reviewing State CDBG grants subject to **24 CFR part 85 and Circular A-133**, and not subject to 2 CFR Part 200 [pursuant to CPD Notice 16-04] then use the prior version of Exhibit 4-7, which can be found in Chg.2 Rev.6 of this Handbook 6509.2

* 1. OTHER MONITORING EXHIBITS.

In addition to the Exhibits in Chapter 4, the following list addresses other Exhibits that may be used when monitoring State CDBG grantees.

* **Chapter 3**, *Community Development Block Grant (CDBG) Entitlement, Small Cities, Non-Entitlement CDBG Grants in Hawaii, and Insular Areas Programs*, is **not generally applicable** to State CDBG. Chapter 3 may be used for review of State CDBG only if the state has adopted that portion of the Entitlement CDBG regulations. Otherwise, Chapter 3 may only serve as interpretative guidance and the Entitlement regulations cannot be used to support a Finding of Noncompliance under the State CDBG program. Additionally, Chapter 3 contains guidance on the review of activities under the HUD Small Cities/Hawaii nonentitlement and Insular Areas CDBG Programs.
* **Chapter 19**, *Citizen Participation,* contains monitoring Exhibits 19-2 and 19-4, which are **applicable** to State CDBG under 24 CFR 91.115. Additionally, 24 CFR 570.486(a) has specific requirements for citizen participation by local governments, which are addressed in monitoring Exhibit 4-4.
* **Chapter 21**, *Environmental Monitoring*, is **applicable** to State CDBG.
* **Chapter 22**, *Fair Housing and Equal Opportunity*, is **applicable** to State CDBG.
* **Chapter 23**, *Labor Standards Administration*, is **applicable** to State CDBG.
* **Chapter 24**, *Lead-based Paint Compliance*, is **applicable** to State CDBG.
* **Chapter 25**, *Relocation and Real Property Acquisition*, is **applicable** to State CDBG.
* **Chapter 27**, *Flood Insurance Protection*, is **applicable** to State CDBG.
* **Chapter 34** monitoring Exhibits contain portions that apply to State CDBG and portions that do not. Limited sections in 2 CFR Part 200, *Uniform Administrative Requirements, Cost Principles, And Audit Requirements For Federal Awards*, apply to the State CDBG program. The following list summarizes the applicability:
  + Applicable: Subpart A, *Acronyms and Definitions* (2 CFR 200.0 through 200.99);
  + Applicable: Subpart B, *General Provisions* (2 CFR 200.100 through 200.113);
  + Partially Applicable: Subpart D, *Post Federal Award Requirements* (2 CFR 200.330, 331, 332 and 343 are applicable [see 24 CFR 570.489(m) and (o)]);
  + If adopted by the State to demonstrate compliance with 24 CFR 570.489(d)&(g): *Post Federal Award Requirements* (2 CFR 200.300 through 200.345). Therefore, **Sections A-J of Exhibit 34-1, and all of Exhibit 34-4, are not applicable** to State CDBG grantees, unless the grantee has chosen to apply this portion of 2 CFR part 200 to satisfy the requirement for fiscal controls and accounting procedures pursuant to 24 CFR 570.489(d). Additionally, **Exhibit 34-3 is not applicable** to State CDBG grantees, unless the grantee has chosen to apply this portion of 2 CFR part 200 to satisfy the requirement for procurement policies and procedures pursuant to 24 CFR 570.489(g);
  + **Applicable with modifications**: Subpart E, *Cost Principles* (2 CFR 200.400 through 475), and **Exhibit 34-2**, are made applicable by 24 CFR 570.489(p) which also states that all cost items that require Federal agency approval are allowable without prior approval of HUD, except for the following: Depreciation methods for fixed assets; Fines, penalties, damages, and other settlements; Costs of housing, housing allowances, and personal living expenses; and Organization costs. Additionally, pursuant to 24 CFR 570.489(a)(3)(iv), funds from any State CDBG grants may be used to pay planning and program administrative costs associated with any other State CDBG grant; therefore, planning and administration costs are not required to be allocated to a particular CDBG grant;
  + **Applicable**: Subpart F, *Audit Requirements* (2 CFR 200.500 through 512) found in **Section K of Exhibit 34-1**.
  1. FILE SELECTION AND SAMPLING.

As described in Chapter 2, the risk analysis process will be used to determine which states and areas should be reviewed. Once that process has been completed, the HUD reviewer should consider the following factors when determining which specific files within an area should comprise the review sample for the selected state. In general, initial file selection should be made using a random selection method. The reviewer would consider adding more files to this selection or using a non-random selection in order to:

* Examine files from each category of activity being reviewed (e.g., economic development, public facilities);
* Include a file(s) from each state staff person responsible for oversight of state recipients;
* Expand the sample, if possible, to include additional files with the same characteristics, if indicated by the severity or nature of any problems(s) noted during the initial selection’s review (for example, same problem category, same state staff person, same activities or other characteristics). This expanded sampling aids in determining whether problems were isolated events or represent a systemic problem; or
* Expand the sample to include new types of activities, activities considered high risk, and unresolved past problems.