

# CDBG Policy & Procedures Manual



City of Kingston  
Steven T. Noble, Mayor

Office of Community Development  
Community Development Block Grant Program

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## KEY DEFINITIONS

This section provides definitions of key CDBG topics and terms.

**The Act:** The Housing and Community Development Act of 1974 makes funds available to qualified cities to develop viable urban communities, by providing decent housing and a suitable living environment, and expanding economic opportunities.

**Action Plan:** An annual plan that outlines proposed housing and community development objectives, activities, and budget in the City of Kingston. The plan includes information regarding federal, state, and local funding resources; a description of each activity to be implemented; and other actions that the City will take to address barriers to affordable housing, support anti-poverty strategies, and facilitate fair housing.

**Activity Delivery Costs (ADCs):** are reasonable, allowable costs incurred for implementing and carrying out eligible CDBG activities (public services and public facility activities). The ADC helps cover costs of staff directly carrying out the activity in addition to equipment and supplies that are directly necessary for successful completion of the activity. The allowable costs are not to exceed 10 percent (10%) of the sum of the awarded amount to sub-recipient.

**Administrative & Planning Cap:** A maximum of 20 percent (20%) of the sum of the entire entitlement grant plus program income that is received during the program year will be spent on OCD staff-time and overhead costs for planning, general management, oversight, coordination, and implementation of the CDBG program as a whole.

**Affirmatively Furthering Fair Housing Plan (AFFH):** An analysis of fair housing that will assist a community to take meaningful actions to combat discrimination, end segregation, and foster inclusive communities.

**Amending Either the Consolidated or Annual Action Plan** - Upon determination that an amendment to either or both the Five-Year Consolidated or Annual Action Plan is necessary; and consistent with the amendment criteria established herein, the City shall publish, community-wide, a summary of the proposed amendment and provide an opportunity for the affected individuals and or groups to comment on the proposed amendment for a period of no less than thirty (30) calendar days.

**Annual Action Plan:** The Annual Action Plan (AAP) provides a concise summary of the actions, activities, and the specific federal and non-federal resources that will be used each year to address the priority needs and specific goals identified in the Consolidated Plan.

**Application Scope of Project, Program or Activity Modification:** A request submitted in writing to the Office of Community Development (OCD) Staff explaining the need to modify the scope of any project, program or activity. Sub-recipients and Citywide applications must obtain prior approval from OCD staff before implementing any modifications. If modifications have been made and implemented without approval/consent from OCD staff, reimbursement requests shall be denied.

**Budget Modification (Sub-recipient):** A request submitted in writing to the Office of Community Development (OCD) Staff explaining the need and benefit of such request. Sub-recipient(s) must obtain prior approval from OCD staff before implementing any modifications. If modifications have been made and implemented without approval/consent from OCD staff, reimbursement requests shall be denied. Absolutely **NO** budget modification requests will be accepted or made after June 30<sup>th</sup> of the CDBG fiscal year.

**CDBG:** The Community Development Block Grant program is a flexible program that provides communities with resources to address a wide range of unique community development needs. Beginning in 1974, the CDBG program is one of the longest continuously run programs at HUD. The CDBG program provides annual grants on a formula basis to over 1,200 general units of local government and States.

**CDBG Recipient:** Local governments are known as grantees or recipients, and also referred to as units of general local government (UGLG). Under the Entitlement CDBG Program, the City of Kingston receives funding directly from HUD.

**CFR:** The Code of Federal Regulations is the codification of the general and permanent rules and regulations (sometimes called administrative law) published in the Federal Register by the executive departments and agencies of the federal government of the United States. The CFR is divided into 50 titles that represent broad areas subject to federal regulation.

**Citizen:** A person living within the city limits of the City of Kingston. Unless otherwise distinguished by HUD or applicable statute, citizen and resident are used interchangeably.

**Community Development Based Organization (CDBO):** authorized under §570.204 to carry out special activities such as economic development or new housing construction are not sub-recipients unless so designated by the grantee. CBDOs are generally nonprofit organizations that undertake specific kinds of CDBG-funded activities. CBDO's can be for-profit or nonprofit organizations, but cannot be governmental entities. Because CBDOs present some of the same problems as sub-recipients, it is important to make sure they are only conducting eligible activities as laid out in §570.204.

**Community Development Advisory Board (CDAB):** Members include full membership of the Common Council Community Development Committee (CCCDC) and eight residents of the City of Kingston appointed by the Mayor and confirmed by the Common Council. The advisory board encourages a planned and orderly approach to the development of community services and projects in the City of Kingston. The CDAB reviews, evaluates, and makes recommendations to the CCCDC and Mayor on proposals submitted by nonprofit 501(c)(3) organizations seeking CDBG funding; along with recommendations on funding City programs and projects.

**Citizen Participation Plan:** A plan prepared by the City of Kingston in accordance with 24 CFR 570.486, which describes how the City will include and encourage citizen participation, especially by low and moderate income citizens.

**City Program:** An eligible activity or service provided by the City of Kingston through a non-competitive application process.

**City Project:** An eligible public facility or infrastructure project undertaken by the City of Kingston through a non-competitive application process.

**Clawback Clause:** A contractual provision within the sub-recipient agreement, whereby money awarded or already paid to a sub-recipient must be surrendered or returned to the City of Kingston Office of Community Development should the program or activity not be completed per the timeline as agreed upon per the sub recipient agreement or if sub-recipient is unable to carry out the program or activity.

**Conflict of Interest:** When an individual or organization is involved in multiple interests, one of which could corrupt or be perceived as corrupting the fair and objective allocation of funds or procurement of goods and services.

**Consolidated Annual Performance and Evaluation Report (CAPER):** An annual report prepared by the City of Kingston and submitted to HUD in accordance with 24 CFR Part 91, on the objectives, activities, and budget set forth in the Annual Action Plan and the progress on the three-to five year consolidated plan.

**Consolidated Plan:** The Consolidated Plan is a three-to five year strategic plan prepared by the City of Kingston in accordance with 24 CFR Part 91, and describes the needs, resources, priorities and proposed activities to be undertaken with respect to HUD's Office of Community Planning and Development (CPD) formula programs, including CDBG. An approved Consolidated Plan is one which has been approved by HUD.

**Contractors:** A contractor is an entity paid with CDBG funds in return for a specific service (e.g., construction). Contractors are selected through a competitive procurement process.

**Corrective Action Plan:** A plan prepared by a sub-recipient or city partner to correct issues of non-compliance within a specific schedule.

**Cost Allocation:** The identification, aggregation, and assignment of centralized costs.

**Cost Allocation Plan:** A description of a process whereby services provided on a centralized basis (e.g., information technology, purchasing, accounting services) can be identified and assigned to benefitted departments on a reasonable and consistent basis.

**CPD:** The Office of Community Planning and Development is an office within HUD that administers and provides federal oversight of the CDBG program, along with other federal programs that provide decent housing, a suitable living environment, and expand economic opportunities for low and moderate income persons.

**Davis-Bacon Act:** The Davis-Bacon and Related Acts, apply to contractors and subcontractors performing on federally funded or assisted contracts in excess of \$2,000 for the construction, alteration, or repair (including painting and decorating) of public buildings or public works. Davis-Bacon Act and Related Act contractors and subcontractors must pay their laborers and mechanics employed under the contract no less than the locally prevailing wages and fringe benefits for corresponding work on similar projects in the area.

**Draw Down:** Refers to the process of requesting and receiving CDBG funds from HUD. Grantees draw down funds from a line of credit through the U.S. Treasury established by HUD in IDIS. Sub-recipients submit their executed vouchers and supporting documentation for approval at the Office of Community Development (OCD) and City level and upon approval the drawdown process is initiated.

**Economic Development:** Activities to improve the economic health and standard of living within the City of Kingston. Depending on the nature of the activity, eligible economic development activities may be subject to the public services or activity implementation caps.

**Entitlement Community:** A city in a metropolitan area with a population of at least 50,000 or more, a principal city of a metropolitan area, or an urban county with a population of at least 200,000 (excluding the population of metropolitan cities located therein) that receives an annual allocation of CDBG funds directly from HUD under the CDBG Entitlement Program. Entitlement Communities that loses population may still be “grandfathered” into the program and continue to receive grant funding. An Entitlement Community is sometimes referred to by HUD as a grantee or recipient.

**Entitlement Grant:** Federal funds received by an entitlement community in a program year.

**Grant Award Determination:** Following approval, the Department will make a full grant award unless the Secretary has made a determination that the grantee:

- (1) has failed to carry out its CDBG-assisted activities in a timely manner;
- (2) has failed to carry out those activities and its certifications in accordance with the requirements and the primary objectives of Title I of the Housing and Community Development Act of 1974, as amended, and with other applicable laws; or
- (3) lacks a continuing capacity to carry out its CDBG-assisted activities in a timely manner.

**Environmental Review Record (ERR):** An assessment report of the effects a CDBG funded project will have on the environment and must be completed before any funds are expended on a project. The assessment is completed in HEROS and follows the requirements of 24 CFR Parts 50 and 58.

**Fiscal Year (FY):** Is a one year period used for financial reporting and budgeting, the City of Kingston's fiscal year for the CDBG program year begins July 1 and concludes June 30 of the following year.

**Funding Cycle:** The time period associated with the City of Kingston's allocation of projected CDBG funds for the upcoming program year(s). The CDBG fiscal year funding cycle for the City of Kingston is July 1 to June 30.

**Housing Rehabilitation:** Activities that assist income eligible owner occupied homeowners with the repair, rehabilitation, or reconstruction.

**HUD:** CDBG funds are provided by the U.S. Department of Housing and Urban Development (HUD). HUD established the regulations and requirements for the program and has oversight responsibilities for the use of CDBG funds.

**HUD'S Environmental Review Online System (HEROS):** An online system for developing, documenting, and managing environmental reviews. Access to this system is requested from the HUD Region II Environmental Officer.

**HUD Guidelines:** All tools, guidebooks, trainings, notices, and other guiding materials and correspondence provided by HUD or CPD regarding the laws and regulations of CDBG Programs.

**Income:** Gross income for a household as defined by 24 CFR Part 5 is used for all City of Kingston CDBG funded programs.

**Indirect Costs:** Costs that have been incurred for common or joint objectives and cannot be readily identified with a particular final cost objective.

**Indirect Cost Rate:** A device for determining in a reasonable manner the proportion of indirect costs each program should bear. It is the ratio, expressed as a percentage, of the indirect cost rate.

**Indirect Cost Rate Proposal:** The documentation prepared by a governmental unit or subdivision thereof to substantiate its request for the establishment of an indirect cost rate.

**Integrated Disbursement and Information System (IDIS):** An on-line nationwide database that provides HUD with current information regarding program activities and funding data. The City of Kingston uses IDIS to fund and report on its CDBG Program. User identifications and passwords are issued by HUD.

**Low- and Moderate Income:** Low- and moderate income (also referred to in this manual as LMI) means family or household annual income less than the Section 8 Low income Limit, generally 80 percent of the area median income, or a person within such household, as established by HUD. A minimum of 70% of all households receiving services using CDBG funding must have a low-moderate income.

**Low-Income Household/Family:** A household/family having an income equal to or less than the Section 8 Very Low Income limit (50% of the area median income) as established by HUD.

**Minimum Contracting Standards:** A set of standards required before the execution of a sub-recipient Agreement. The standards indicate the minimum administrative and financial framework required to manage public funds.

**Minor Amendments for Activities Stated in the Annual Action Plan:** The OCD, Director can make an amendment(s) to the budget of an activity, or activities, that increases or decreases the budget in an amount less than twenty-five percent (25%) of the activity's originally approved budget. Only approved activities can be funded or de-funded, uploading the changes to IDIS. No additional public participation is needed for this type of amendment.

**Minority Business Enterprise (MBE):** A business concern that is at least 51% owned by one or more individuals who are African American, Hispanic American, Native American, Asian-Pacific American or Asian-Indian American; and whose management and daily business operations are controlled by one or more of these owners.

**Moderate Income Household/Family:** A household/family having an income equal to or less than the Section 8 Low Income limit (80% of area median income) established by HUD, but greater than the Section 8 Very Low Income limit (50% of the area median income) established by HUD.



**Monitoring Visits:** Visits to sub recipient and City partner programs by the Office of Community Development staff to evaluate the progress/performance of the program and/or to provide technical assistance.

**Neighborhood Revitalization Strategy Area (NRSA):** A geographic area approved by HUD that meet certain criteria. The local community can develop comprehensive approaches to address economic development and housing needs. Grantees also receive enhanced flexibility when undertaking economic development, housing and public service activities when using their CDBG funds. Regulatory relief and greater flexibility are the primary benefits. In a HUD-approved NRSA, CDBG funds may be involved in the following incentives:

- **Job Creation/Retention as Low/Moderate Income Area Benefit:** Job creation/retention activities undertaken in an NRSA may be qualified as meeting the area benefit national objective, thus eliminating the need for businesses to track personal income and maintain records for jobs held by or made available to low- and moderate-income persons residing within the NRSA.
- **Aggregate Public Benefit Standard Exemption:** Economic development activities carried out in an NRSA may be exempted from the aggregate public benefit standards. While the public benefit standard for individual projects still applies, exemption from the aggregate standard means that a grantee may offer more assistance to attract companies that will be able to create jobs within an NRSA.
- **Public Service Cap Exemption:** Public services carried out in an NRSA are not subject to the statutory 15% public service cap when such activities are carried out by a designated Community Based Development Organization (CBDO) undertaking a neighborhood revitalization, community economic development, or energy conservation project.

The City of Kingston has designated Midtown (census tracts 9520 & 9521) as an NRSA, a local target area within the Five Year Consolidated Plan.

**Non-Competitive Application:** Under the authority of the City of Kingston, the City's application(s) for a project or program activity will have precedence to be funded as opposed to competing with applications from the general public. Many municipalities choose to only fund their municipality's projects and activities at their discretion.

**OMB:** The Office of Management and Budget (OMB) is the largest office within the Executive Office of the President of the United States. The main function of the OMB is to assist the President in preparing the budget. The OMB issues budget instructions or information, known as circulars, to Federal agencies.

**PR Reports:** Standard CDBG program reports generated in IDIS that provide financial and performance information.

**Presumed Benefit:** Benefit a group of clientele that is presumed to be principally low-moderate income. Presumed benefit groups include abused children, battered spouses, severely disabled adults, homeless persons, illiterate adults, persons with AIDS, migrant farm workers, and elderly persons over 62 years of age.

**Program Income:** Program income is the gross income received by the City of Kingston Office of Community Development and its sub-recipients directly generated from their use of CDBG funds (i.e. sale of a rehabilitated home or property).

**Program Year:** The City of Kingston's program year begins July 1 and concludes June 30 of the following year. All programs and projects should be completed within this timeframe.

**Prorated:** To divide, distribute or assess proportionately. When a project or program activity cannot be completed in full, per the sub-recipients' application and agreement, the actual reimbursable funds will be prorated based on completeness.

Example(s): 1. An applicant cannot state their program will serve fifty (50) youths and actually only serve fifteen (15) then submit for reimbursement expecting to receive the full amount approved based on the original application. 2. If an applicant states their program will be operational during a specific period, they cannot change the scope or timeframe without prior approval and submit for reimbursement expecting to receive said reimbursement.

**Public Service Activity:** Eligible public service activities including, but not limited to those concerning with education, employment, crime prevention, child care, health, senior services and youth services. \*\*The CDBG funding is meant to be "seed money", to be eligible for CDBG assistance, a public service must be either a new service or a have a quantifiable increase in services.

**Public Services Cap:** A maximum of 15 percent (15%) of the sum of the entitlement grant may be spent on public service activities.

**Resident:** Unless otherwise distinguished by HUD or applicable statute, resident and citizen are used interchangeably.

**Section 3:** Section 3 of the Housing and Urban Development Act of 1968 established the Section 3 Program, which requires recipients of HUD financial assistance, to the greatest extent possible, provide job training, employment, and contract opportunities for low- or very-low income residents in connection with projects and activities in their neighborhoods.

**Statement/Scope of Work:** An exhibit of the sub-recipient agreement which must include the project description, the national objective claimed, activity descriptions, intended beneficiaries (number and type), detailed budget and location(s) of program related activity.

**Sub-recipient:** An entity charged with implementation of one or more activities funded with City of Kingston CDBG dollars.

**Sub-recipient Agreement:** A written, legally binding agreement between the City of Kingston and the sub-recipient that is required before CDBG funds are disbursed.

**Substantial Amendment:** Amendments to either the Five-Year Consolidated Plan or Annual Action Plans submitted to HUD that meet the HUD criteria as substantial as per 24 CFR Part 91.505. Amendments that are considered substantial include: changes in allocation priorities, changes in method of distribution of funds, the addition of activities to fund that have not been previously stated in the action plan, changes in the purpose of an activity, a twenty-five percent (25%) or more increase in an activity's originally approved budget, changes in scope, location or beneficiaries of an activity. Substantial amendments require that the Community Development Advisory Board (CDAB) hold public meetings for recommendation to, and approval by, the City of Kingston Common Council via amendment to the resolution authorizing the original award, and requires thirty (30) days public notice.

**Target Areas:** A geographic area within the City limits of the City of Kingston that has a minimum of 51.0% low-moderate income population. The CDAB and City must take formal action to concentrate CDBG funds and programs into the target area(s).

**Technical Assistance:** Assistance to an entity by another entity with more knowledge in the applicable subject field, resulting in increased capacity or knowledge of the assisted entity.

**Timeliness:** Carrying out CDBG funded activities in a timely manner. Awarded allocations to all sub-recipients are to be spent within the City's CDBG fiscal year to meet their timeliness.

**Timeliness Spending Test:** "Timely performance" means compliance with the requirement that a CDBG Entitlement grantee, or Hawaii non entitlement county grantee, must carry out its program in a timely manner, as measured by the rate of expenditure of funds from the grantee's Line of Credit (LOC). A CDBG Entitlement grantee, in accordance with the CDBG regulations at 24 CFR 570.902, must have a balance no greater than one and one-half (1.5) times its annual grant remaining in the Line of Credit, 60 days prior to the end of the program year (May 2<sup>nd</sup> ). HUD has a longstanding policy of reducing the next year's grant allocation of a grantee that continues to be untimely. Progress can be monitored in IDIS, through the PR 56 report.

**Urgent Need:** Activities designed to alleviate existing conditions of recent origin (18 months) that pose serious threats to the health and welfare of the community. This objective may only be used if the community cannot finance necessary activities with other sources.

**Women’s Business Enterprise (WBE):** A business concern that is at least 51% owned by women and/or minorities in New York State. Any business that is at least 51% owned, operated, and controlled primarily by women or minorities in New York State.

## **CDBG PROGRAM OVERVIEW**

The City of Kingston receives a yearly Community Development Block Grant (CDBG) entitlement from the U.S. Department of Housing & Urban Development (HUD). To continue participation in this program, the City contractually agrees with HUD to implement the Housing & Community Development Act of 1974 and related CDBG program regulations in 24 CFR 570. All CDBG allocations are subject to the regulations detailed in 2 CFR Part 200 (formerly, OMB Circulars A-110 (2 CFR Part 225), OMB Circulars A-110 and A-122 (2 CFR Part 230)).

### NATIONAL OBJECTIVES

1. At least 70% of the program participants must have low or moderate income as defined by HUD.
2. The project must eliminate slum and blight as defined by HUD.
3. Meet an urgent need designated as an emergency by the City of Kingston Common Council.

### ELIGIBLE ACTIVITIES

1. Acquisition of real property for any public purposes other than the general conduct of government.
2. Disposition of property acquired with CDBG funds.
3. Acquisition, construction, rehabilitation, or installation of public facilities and improvements carried out by the City of Kingston or other public or private non-profit entities. Generally, this does not apply to new construction.
4. Public services (limited to a maximum of 15% of the City of Kingston’s total CDBG entitlement) which are directed toward improving the community’s public services and facilities, including, but not limited to, those concerned with employment, education, , senior services and youth services.
5. Removal of architectural barriers, which restrict the mobility of elderly and/or persons with disabilities. All publicly and privately owned buildings and facilities are eligible for funding.
6. Rehabilitation and preservation for:
  - a. Low and moderate-income owner-occupied houses.
  - b. Low and moderate income public housing.
  - c. Publicly owned non-residential buildings and improvements otherwise eligible for assistance.

- d. Publicly or privately owned historic buildings.
  - e. Commercial or industrial facility for job creation or retention.
  - f. Public facilities.
  - g. Affordable housing or mixed-income housing.
  - h. Low and moderate-income senior housing.
  - i. Businesses that agree to hire, retain and/or serve low and moderate-income persons.
7. Activities designed to create or retain jobs. All jobs created within the applicant's program are required to be permanent and at least 51.0% of the total must be for persons of low and moderate income.

#### INELIGIBLE ACTIVITIES

1. Buildings for the general conduct of government. This includes operating and maintenance expenses. Exceptions are operation and maintenance associated with public service activities, interim assistance and CDBG program staff.
2. General government expenses except to carry out the CDBG program staff.
3. Political or religious activities.
4. Construction equipment.
5. Fire protection equipment unless part of a public facility.
6. Personal furnishing or property.
7. Food not related to direct service delivery to clients.
8. Furnishings that are not integral structural fixtures.
9. New housing construction except for land acquisition and other specific circumstances.
10. Income payments and other subsistence payments made to individual or a family.

#### SPENDING RESTRICTIONS

##### ***Public Service Cap***

No more than 15.0% of the sum of the annual entitlement grant on public service programs and of those awarded allocations no more than fifteen percent (15%) will be used to implement program delivery for the public service/activity.

##### ***Planning and Administration Cap***

No more than 20.0% of the sum of the annual entitlement grant plus any grant program income received in during the grant year may be spent on planning studies or administration.

### ***Low and Moderate-Income Benefit Requirement***

At least 70.0% of the City of Kingston's non-administration CDBG spending is required to benefit low and moderate income people. The 70.0% threshold should be exceeded each year to maintain compliance; however HUD rules allow grantees to use spending during a fixed three-year period to calculate.

### **SPENDING TIMELINESS**

HUD requires the City of Kingston to use the CDBG funds it receives in a timely manner. HUD determines if the City of Kingston is spending down its CDBG entitlement in a timely manner by checking to see what the unspent balance is on May 2 of each year. HUD requires the amount of unspent funds to be no more than 150.0% of the entitlement amount for the current year. The best method to review the City of Kingston's timeliness is to refer to the Integrated Disbursement and Information System (IDIS) program report number 56 (PR56).

### **INCOME RESTRICTIONS**

At least 51.0% of the program's participants must be low and moderate income as determined by HUD income limits for the County of Ulster. To determine if a client qualifies as low or moderate income, household size must be determined first, followed by the total income of the household. If the total household income falls below the 80.0% of median income, the client can be counted towards the 51.0% required participation of low and moderate income residents. Clients above this threshold may participate in a CDBG funded activity if these participants comprise no more than 49.0% of the total participants. However, programs should be designed to ensure the maximum participation by low and moderate income persons.

The CDBG Program recognizes three methods to determine a household's income:

- Annual income as defined by 24 CFR Part 5 (Part 5 Annual Income also formerly known as the "Section 8" Income);
- Annual income as reported under the Census long form for the most recent decennial census; and
- Adjusted gross income as defined for purposes of reporting under Internal Revenue Service (IRS) Form 1040 series for individual Federal annual income tax purposes.

Any one of the three methods can be used for any CDBG funded program and activity, provided that only one (1) method is used exclusively for that program or activity.

The preferred method of determining income eligibility for all City of Kingston programs is the "Part 5 Annual Income."

The following link will provide updated income limits from HUD:

<https://www.huduser.gov/portal/datasets/il/il2020/2020sum>

PY 2020 INCOME LIMITS  
Kingston, NY MSA  
Issued by HUD

| FY 2020<br>Income Limit<br>Area | Median<br>Family<br>Income | FY 2020<br>Income Limit<br>Category               | Persons in Family |        |        |               |        |        |        |        |
|---------------------------------|----------------------------|---|-------------------|--------|--------|---------------|--------|--------|--------|--------|
|                                 |                            |   | 1                 | 2      | 3      | 4             | 5      | 6      | 7      | 8      |
| Kingston, NY<br>MSA             | \$83,700                   | <b>Very Low<br/>(50%) Income<br/>Limits (\$)</b>  | 29,300            | 33,500 | 37,700 | <b>41,850</b> | 45,200 | 48,550 | 51,900 | 55,250 |
|                                 |                            | <b>Extremely<br/>Low Income<br/>Limits (\$) *</b> | 17,600            | 20,100 | 22,600 | <b>26,200</b> | 30,680 | 35,160 | 39,640 | 44,120 |
|                                 |                            | <b>Low (80%)<br/>Income Limits<br/>(\$)</b>       | 46,900            | 53,600 | 60,300 | <b>66,950</b> | 72,350 | 77,700 | 83,050 | 88,400 |

MEDIAN FAMILY INCOME

Estimates of median family income for metropolitan and non-metropolitan areas are developed as follows:

1. A special tabulation of Median Family Income (MFI) estimates from the 2014-2018 5-year ACS was prepared by the U.S. Census Bureau and used by HUD as the basis for calculating HUD's FY2020 MFIs. Estimates of MFI from this tabulation are used if they are determined to be statistically reliable. For FY2020, the test for reliability is whether the margin of error for the estimate is less than 50% of the estimate itself and whether the ACS estimate is based on at least 100 survey cases.

**Note:** HUD began using the count indicator in assessing statistical reliability beginning with the FY 2020 Fair Market Rent estimates. HUD does not receive the exact number of survey cases in this special tabulation, but rather a categorical variable known as the count indicator, indicating a range of cases. An estimate based on at least 100 cases corresponds to a count indicator of 4 or higher.

If an area does not have a reliable 2014-2018 5-year estimate, HUD checks whether the area has had minimally reliable estimates in any of the past 3 years (a minimally reliable estimate is an estimate where the margin of error for the estimate is less than 50% of the estimate itself). If so, the FY2020 MFI is the average of the inflated ACS estimates. In order to use as much local data as possible, HUD averages the minimally reliable estimates from the last three 5-year ACS estimates.

If an area has not had a minimally reliable estimate in the past 3 years, HUD checks whether the area has had minimally reliable estimates in any of the past 2 years. If so, the FY2020 MFI is the average of the inflated ACS estimates. In order to use as much local data as possible, HUD averages the minimally reliable estimates from the last two 5-year ACS estimates.

If an area has not had a minimally reliable estimate in the past two years, the estimate from the next larger encompassing geography is used. For example, sub-areas of metropolitan areas would be assigned the MFI estimate of the entire metropolitan area and for non-metropolitan counties, the estimate from all non-metropolitan portions of the State (state non-metropolitan).

2. If there is a statistically reliable 2018 1-year ACS estimate of median family income available, HUD replaces the 5-year data with the 1-year data. For FY2020, the special tabulation of 2017 1-year ACS MFI estimates provided to HUD by the U.S. Census Bureau for the **Kingston, NY MSA** was statistically reliable.



3. Once the appropriate 2018 ACS data has been selected, an inflation factor based on the CBO projection of the national CPI for FY2020 is calculated to inflate the estimate from 2018 to April, 2020 (or mid FY2020). **Note:** The CPI projection used in this calculation is from the CBO's January 2020 release of its 10- Year Economic Projections.

#### PRESUMED BENEFIT

Some activities do not require collection of individual client or household income data.

#### BENEFIT/AFFORDABILITY TIMEFRAME REQUIREMENTS

CDBG that funds projects must ensure that those activities continue to carry out the intended benefit for a minimum number of years depending on the type of activity and the amount of funding allocated. The City of Kingston may determine longer benefit or affordability timeframes are needed.

- Access Housing Rehabilitation – 10 years
- Owner-Occupied Emergency Housing Rehabilitation – 10 years
- Owner-Occupied Full-Home Housing Rehabilitation – 10 years

#### AFFIRMATIVELY FURTHERING FAIR HOUSING PLAN

According to the HUD Fair Housing Planning Manual, the broad objectives of Affirmatively Furthering Fair Housing can be interpreted to mean:

- Analyze and eliminate housing discrimination in the jurisdiction.
- Promote fair housing choice for all persons.
- Provide opportunities for racially and ethnically inclusive patterns of housing occupancy.
- Promote housing that is physically accessible to, and usable by, all persons, particularly persons with disabilities.
- Foster compliance with the nondiscrimination provisions of the Fair Housing Act.

The City of Kingston prepared its most recent Analysis of Impediments to Fair Housing (AI) in 2019. The City attempts to address each of these areas every year, an updated AI is needed, and required by HUD.

The six impediments the 2019 report found include:

1. Dissemination of Fair Housing Laws, Policies and Local Challenges.
2. Tracking and Interpreting Housing Trend Data.
3. Onerous State Regulatory and Approval Process (SEQR)
4. Imbalance between Cost and Value.
5. Shortage of Funding to Modernize Public Housing Units.
6. Quantity of New Housing Units Being Developed.

The City of Kingston's Fair Housing Plan can be found by following this link: [https://kingston-ny.gov/filestorage/8399/8469/8547/2019\\_Analysis\\_of\\_Impediments\\_to\\_Fair\\_Housing\\_-\\_Fair\\_Housing\\_Plan.pdf](https://kingston-ny.gov/filestorage/8399/8469/8547/2019_Analysis_of_Impediments_to_Fair_Housing_-_Fair_Housing_Plan.pdf)

#### FUNDING REQUESTS FROM FAITH-BASED ORGANIZATIONS

In 2004, HUD issued guidelines for ensuring equal treatment of faith-based organizations. Faith-based organizations are encouraged to apply for CDBG funds provided that the activities funded with CDBG comply with the guidance outline in HUD CPD Notice 04-10 of September 29, 2004.

Broadly, the notice provides the following rules:

1. Organizations may not use direct HUD funds to support inherently religious activities such as worship, religious instruction, or proselytization. Faith-based organizations may use HUD funds to support non-religious social services that are separate in time or location from their inherently religious activities.
2. Faith-based organizations, like all organizations implementing HUD-funded programs, must serve all eligible beneficiaries without regard to religion. Faith-based organizations may not require participants to attend or take part in any religious activities that take place at a different time or location; but these participants must be reassured that their decision to participate or not will not affect their ability to receive being provided with HUD funds.
3. Faith-based materials, supplies, literature may not be acquired or distributed with HUD funds.
4. Faith-based organizations may use HUD funds to pay the salary to staff or members of a faith-based organization, provided that the staff or members do not engage in religious activities while being paid with public dollars.

The complete guidelines can be found at:

[http://portal.hud.gov/hudportal/documents/huddoc?id=DOC\\_15282.pdf](http://portal.hud.gov/hudportal/documents/huddoc?id=DOC_15282.pdf)

#### **CITY OF KINGSTON'S CDBG PROGRAM OPERATIONS**

The City of Kingston's CDBG Program is staffed by the Office of Community Development Director, who reports directly to the Mayor. The Director, an Administrative Assistant and Housing Rehabilitation Specialist are primarily responsible for the operation of the program. Other City departments coordinate efforts to comply with various federal and state regulations, such as, but not limited to: 24 CFR 570, 24 CFR 85, 24 CFR 91, and 2 CFR Part 200.

### **CITIZEN PARTICIPATION PLAN**

The City of Kingston is a participating entitlement jurisdiction with HUD in receiving CDBG funding. As such, citizens, public agencies and other interested parties are guaranteed a role in the development and review of plans and performance reports and further, shall have access to certain records and technical assistance. The Citizen Participation Plan (CPP) sets forth those procedures.

#### ENCOURAGEMENT OF CITIZEN PARTICIPATION

The plan will encourage:

- Citizens, public agencies and other interested parties to participate in the development and review of the Consolidated Plan, and its amendments; Annual Action Plan, and its substantial amendments; Environmental Review Record; and Consolidated Annual Performance and Evaluation Report.
- Participation by low and moderate income persons living in slum and blighted areas and in areas where CDBG funds are proposed to be used and residents of predominately low and moderate income neighborhoods.
- Participation of all citizens of the City, including minorities and non-English speaking persons, as well as persons with disabilities.
- In conjunction with the Kingston Housing Authority (KHA), participation of residents in public and assisted housing developments in the process of developing and implementing the consolidated plan, along with other low income residents of targeted revitalization areas in which the developments are located. The City will provide information to the KHA about its Consolidated Plan activities related to its developments so that the KHA can make this information available to their residents.
- The Mayor may designate target areas within the City of Kingston which have 51.0% or more low to moderate income individuals.

#### COMMUNITY DEVELOPMENT ADVISORY BOARD

The objective and purpose of the Community Development Advisory Board (CDAB) of the City of Kingston shall primarily be to administer the citizen participation requirements of the Housing and Community Development Act of 1974, as amended. Further, it shall: recommend grant applications for CDBG funding to the Mayor, Common Council Community Development Committee (CCDC) and Common Council. The advisory board encourages a planned and orderly approach to the development of community services and projects in the City of Kingston. The CDAB reviews, evaluates, and makes recommendations to the CCDC and Mayor on proposals submitted by nonprofit 501(c)(3) organizations seeking CDBG funding; along with recommendations on funding City programs and projects

#### Structure of the Community Development Advisory Board (CDAB):

- The CDAB includes full membership of the Common Council Community Development Committee (CCDC) and eight (8) residents of the City of Kingston appointed by the Mayor and confirmed by the Common Council.
- Membership to the CDAB should represent the following groups: residents, lower income, minority, elderly, and disabled.
- Terms – the term of CDAB members shall be at the discretion of the Mayor, subject to annual re- appointment by the Mayor.
- In the event that any CDAB member misses three (3) consecutive meetings and upon the recommendation of the CDAB Chairperson, the Mayor may remove that member and fill the vacancy. Generally, if any such member represents a specific interest group, he/she shall be replaced by a person representing the same group. Voluntary resignations shall be handled in a similar manner.
- If any member of the CDAB ceases to be eligible for membership in said Committee, the Mayor shall appoint a new member to fill the vacancy.

#### Organization of the CDAB

- The Committee shall select a Chairperson and a Vice-Chairperson.
- The Committee will have regular meetings, and will meet during the development of the Consolidated Plan/Annual Action Plan and the Consolidated Annual Performance and Evaluation Report. Additional meetings may be conducted on an as-needed basis.
- The Community Development Department shall be the staff for the CDAB.

#### Role of the CDAB

- At their meetings, the CDAB shall be responsible for encouraging of citizen participation from all citizens, public agencies and other interested parties including minorities, low/moderate income persons and non-English speaking persons.
- The CDAB shall be responsible for citizen participation prior to making recommendations to the Mayor and CCDC on the following items, including but not limited to:
  - a. The Five-Year Consolidated Plan, including the identification of community development and housing needs and the setting of priorities.
  - b. Annual Action Plan of projects that are consistent with the Consolidated Plan.
  - c. Substantial amendments to approved programs in the Consolidated Plan and Annual Action Plan.
  - d. The annual CDBG Program and CDBG budget through participation in the application process.

- All meetings of the CDAB shall be conducted in an open manner, with freedom of access to all interested persons. Dates, times and locations of all meetings shall be printed in the *Daily Freeman*, and with the City of Kingston's City Clerk in a manner consistent with the New York State Freedom of Information Act, as amended.

#### RESPONDING TO CITIZEN COMMENTS, VIEWS AND OBJECTIONS

- A. Program Recommendations, Requests and Objections
- Recommendations, requests and/or objections may be submitted to the CDAB for consideration from interested citizens, agencies and/or organizations at any time during the program year.
  - Written responses shall be made to these written recommendations, requests and/or objections within fifteen (15) working days after a determination by the CDAB at its meeting.
  - Written comments, requests, and/or inquiries which require a response to general information and/or clarification of the CDBG program can be handled by staff in the Community Development Department. The response time shall be within the guidelines of the New York State Freedom of Information Act; but not more than fifteen (15) working days of the receipt of the written comment, request and/or inquiry, where practicable.
  - All written responses to written recommendations, requests and/or objections shall state reasons for action taken or, in the case of staff response, shall make specific reference to pertinent sections of CDBG legislation.
  - Whenever practical, responses should be made prior to the end of the comment period as stated in the advertisements and announcements on the development of the Consolidated Plan, Annual Action Plan, Environmental Review Record, and/or the Consolidated Annual Performance and Evaluation Report for which the written recommendation, request and/or objection was offered.
  - Written recommendations, requests and/or objections not offered at officially called meetings of the CDAB, shall be addressed to the City of Kingston Office of Community Development, 420 Broadway, Kingston, NY 12401
- B. Objections may also be made, in writing, to HUD. HUD will consider objections only on the following grounds:
- The applicant's description of needs and objectives is plainly inconsistent with available facts and data; or
  - The activities to be undertaken are plainly inappropriate to meeting the needs and objectives identified by the applicant; or
  - The applicant does not comply with the requirements of HUD or other applicable laws; or
  - The application proposes activities which are ineligible.

- Objections sent to HUD shall be sent to: U.S. Department of Housing and Urban Development, Office of Community Planning and Development, 26 Federal Plaza #3541, New York, NY 10278

Objections shall include identification and documentation of requirements not met and where data is objected to, new data shall be offered.

Objections to a particular application should be submitted within thirty (30) days of the publication of the combined Notice of Release of Funds and Finding of No Significant Impact.

C. Citizen Comment to Federal and State Agencies

- HUD will consider citizen objections to the CDBG Program at any time.
- Citizens may comment to HUD at any time concerning the City of Kingston's failure to comply with any of the Citizen Participation Requirements of the Citizen Participation Plan

D. The Office of Community Development shall make available a copy of the Citizen Participation Plan, the proposed and approved Consolidated Plan and Annual Action Plans, and the most recent Consolidated Annual Performance and Evaluation Report. .

E. Technical Assistance Shall be Offered to Facilitate Citizen Participation

- Assistance shall be provided to citizen organizations, groups of low/moderate income persons, groups of residents in existing neighborhood target areas and nonprofit agencies who provide a service to low and moderate income individuals.
- Requests for assistance shall be made, in writing, to the CDAB or Office of Community Development, specifying the type of assistance required and the reasons for assistance.
- The extent of assistance offered shall be determined by the Mayor and Common Council. Such determination may be made at the recommendation of the CDAB or Chair of the CDAB.
- The Mayor and Common Council shall consider all the resources of the City of Kingston and shall generally not overextend staff or budgets when offering assistance.

#### AVAILABILITY OF RECORDS

- A. The City of Kingston will provide the Consolidated Plans, ad adopted, substantial amendments, and the performance reports will be available to the public, including the availability of materials in a form accessible to persons with disabilities, non-English speaking residents, upon request where practical.
- The City of Kingston shall maintain records pertaining to the CDBG Program in the Municipal Building for a period of five (5) years.

- Documents on file with the Office of Community Development shall include:
  - a. All mailings and promotional information.
  - b. Records of hearings and meetings of the CDAB.
  - c. All key documents, including but not limited to: letters of approval, grant agreements, the citizen participation files, performance reports, evaluation reports, other reports as required along with the proposed and final statements for the current year.
  - d. CDBG regulations and issuances governing the program.
  - e. other important program requirements such as contracting procedures, environmental policies, fair housing and other equal opportunity requirements and relocation provisions.
  - f. copies of all construction contracts.
  - g. All financial data indicating expenditures of CDBG funds.
- All records shall be available for inspection between the hours of 10:00 a.m. and 3:00 p.m. during normal working days.

### **CITY OF KINGSTON'S CDBG CALENDAR**

The Fiscal Year (FY) begins on July 1 and each new FY a calendar is developed that includes the timeline of when applications are made available to the public; when meetings and public hearings will be held and when public comment periods will be begin. The aforementioned calendar will be made available to the public and posted on the OCD webpage on the City of Kingston website <https://kingston-ny.gov/content/8399/8469/8547/default.aspx>

### **CONSOLIDATED PLAN ADOPTION**

Prior to adoption of a Five Year Consolidated Plan, the City of Kingston will make available to interested citizens, agencies, groups and other interested parties the following:

- Information that includes the amount of grant funds and program income it expects to receive.
- The range of activities that may be undertaken.
- The estimated amount that will benefit persons of low and moderate income.
- Publication of the proposed Consolidated Plan in a manner that affords all citizens a reasonable opportunity to examine its contents and submit comments.
- Publish the proposed Consolidated Plan or its Summary on the *City of Kingston's website*. The Summary will describe the contents and purpose of the proposed Consolidated Plan and include a list of locations where copies of the entire proposed Consolidated Plan may be examined.

- Provide a thirty (30) day period of review and to receive comments from interested citizens, agencies and/or groups on the proposed Consolidated Plan.
- The City of Kingston shall consider any comments or views of interested citizens, agencies and/or groups received in writing and/or orally at the public hearing, in preparation of the final Consolidated Plan. A summary of comments and views received and a summary of comments and views not accepted and the reasons therefore, shall be attached to the final Consolidated Plan. Public hearings will be held at the City of Kingston Common Council Chambers, which is accessible to those with disabilities. Upon request, non-English speaking residents will be met in the case of a public hearing where a significant number of non- English speaking residents can be reasonable expected to participate, where practical.
- Provide a copy of the proposed Consolidated Plan and Summary on the Office of Community Development’s page on the City of Kingston’s website.
- Provide a copy of the approved Consolidated Plan and Summary on the Office of Community Development’s page on the City of Kingston’s website.

The CDAB shall conduct public meetings with interested citizens, agencies and/or groups and at least one public hearing prior to the development of the Five Year Consolidated Plan.

- Meetings shall be held to encourage the submission of views and recommendations prior to the formulation of the Consolidated Plan.
- There shall be a thirty (30) day review period from the date of notice in the newspaper for interested citizens, agencies and/or groups to submit their comments.
- Public meetings may be held at selected sites convenient to the residents of the City of Kingston, including the handicapped, with particular emphasis on participation by low and moderate income residents.
- Following the conduct of the public hearing on the development of the Consolidated Plan, the City of Kingston must certify that the following assurances have been met:
  - a. The City of Kingston has prepared and followed a written Citizen Participation Plan that meets the requirements of the Federal Regulations.
  - b. The City of Kingston has provided adequate notices of public hearings as required by the Citizen Participation Plan.
  - c. The City of Kingston has held a hearing on the proposed Consolidated Plan before adoption of a resolution by the City of Kingston’s Common Council for submission to HUD.
- The Consolidated Plan must be submitted to the HUD New York Office of Community Planning and Development for review and approval at least forty-five (45) days before the start of the City of Kingston’s program year, which is May 15. The City of Kingston’s program year is July 1 to June 30.



### ANNUAL ACTION PLAN

1. The CDAB shall solicit views of all citizens, agencies and other interested parties; particularly low and moderate income persons, so as to enable them to be meaningfully involved in important discussions at various stages of the Consolidated Plan and Annual Action Plan process.
2. The CDAB shall determine, based on the Consolidated Plan and public comments, what portion of the CDBG funding will be:
  - Administrative – The maximum 20.0% of the CDBG grant will be used for administrative purposes.
  - Public Service Funding – The maximum 15.0% of the CDBG funds will be used to provide program services to low and moderate income residents. At any given time, at the discretion of the Mayor, public service activities may be non-competitive and only funding programs offered by the City of Kingston.
  - Public Facilities Funding – At any given time, at the discretion of the Mayor, public facility projects may be non-competitive and only funding facility and infrastructure projects offered by the City of Kingston.
  - Carry-Over Funding – These funds will be held from previous program years to complete projects that have been approved, but not yet completed.
  - Applications will be available in November.

### DEVELOPMENT OF THE ANNUAL ACTION PLAN

Annually in January, the CDAB shall meet to review applications for funding. The CDAB, at its next meeting(s), will make CDBG funding recommendations to the Mayor and the CCCDC, recommendations are then brought before the City of Kingston Common Council. Upon approval of the City of Kingston Common Council, staff in the Office of Community Development will prepare the Annual Plan for submission to HUD.

The Annual Plan shall include:

- Form Application – Standard Form 424
- Federal and Other Resources Available
- Activities to be Undertaken
- Geographic Distribution
- Homeless and Other Special Needs Activities
- Other Actions
  - Address obstacles in meeting underserved needs, such as foster and maintain affordable housing, remove barriers to affordable housing, evaluate and reduce lead-based paint hazards, reduce the number of poverty level families, develop institutional structure and enhance coordination between public and private housing and social service agencies and foster public housing improvements and resident initiatives.

- Reference to the annual revisions of the action plan prepared for the CDBG funds expected to be available during the program year including any program income that will have been received before the start of the next program year and that has not yet been programmed.
- Amendments to the Consolidated Plan.

The Annual Plan is due at HUD no less than forty-five (45) days before the start of the City of Kingston's program year, which is May 15. An advertisement shall be published in the Daily Freeman, no less than 30-days before the CCCDC makes their final CDBG funding recommendation to the City of Kingston Common Council. This will provide a thirty (30) day period for review and to receive comments from interested citizens, groups and/or agencies on the proposed Annual Plan. The City of Kingston shall consider any comments or views of citizens, agencies and/or groups received in writing and/or orally at the public hearing(s), in preparation of the final Annual Plan. A summary of comments and views received and a summary of comments and views not accepted and the reasons therefore, shall be attached to the final Annual Plan. Public hearings will be held in venues accessible for those with disabilities. Upon request, non-English speaking residents will be met in the case of a public hearing where a significant number of non-English speaking residents can be reasonable expected to participate, where practical.

#### PROGRAM AMENDMENTS

Prior to making any additions, deletions, or changes to the CDBG Program Consolidated Plan, the following determination will be made on the amendment:

If the proposed change is a minor amendment defined as an amendment to the activity that results in a change of less than 25.0% of the total current year grant and only affects an activity previously described in the Consolidated Plan and Annual Action Plan

OR

The proposed change is a substantial amendment when:

- a. The amendment to the activity that results in a change of 25.0% or more; or
- b. The amendment makes changes in its allocation priorities or a change in the method of distribution of funds; or
- c. The amendment carries out an activity, using funds from any program covered by the Consolidated Plan (including program income), not previously described in the action plan; or
- d. The amendment changes the purpose, scope, location or beneficiaries of an activity.

Once a determination has been made, based on the above criteria, one of the two following procedures will be undertaken:

1. Minor Amendment – The staff of the Office of Community Development will make minor amendment to the City of Kingston’s CDBG Program and will be noted in the Annual Plan.
2. Substantial Amendment – The staff of the Office of Community Development will, pursuant to the CDBG Regulations (24 CFR 570), undertake the following amendment process for any proposed substantial amendment to the Consolidated Plan;
  - a. Provide a reasonable notice of public hearing on the proposed amendment to the Consolidated Plan by publishing a display ad in the *Daily Freeman*.
    - i. The notice shall provide a description of the amendment.
    - ii. Be published at least thirty (30) days prior to the public hearing.
  - b. Allow citizens, agencies and/or groups the opportunity to comment on the proposed amendment in writing and/or verbally at a public hearing which will be held by the CDAB. Public hearings will be held in venues accessible for those with disabilities. Upon request, non-English speaking residents will be met in the case of a public hearing where a significant number of non-English speaking residents can be reasonable expected to participate, where practical.
  - c. Consider interested citizens, agencies and/or group’s comments when finalizing the proposed amendment.
  - d. Seek approval from the CDAB on the proposed activity(ies) which comprise the proposed amendment; and seek subsequent approval from the City of Kingston Common Council.
  - e. Forward a descriptive amendment to the Consolidated Plan on the adopted amendment with a signed transmittal letter signed by the Mayor to HUD.
3. All substantial amendments require the approval of the City of Kingston Common Council. The CDAB and CCCDC only has the authority to provide recommendations.

#### CONSOLIDATED ANNUAL PERFORMANCE AND EVALUATION REPORT

The Consolidated Annual Performance and Evaluation Report (CAPER), which is a requirement of HUD pursuant to 24 CFR Part 91, is due for submission at HUD within ninety (90) days of the close of the City of Kingston’s program year, which is the 29th day of September each year. The purpose of the CAPER is to provide HUD with necessary information to assess the City of Kingston’s ability to carry out its programs in compliance with applicable regulations and requirements; provide information necessary for HUD to report to Congress; and, provide the City of Kingston with an opportunity to describe its program achievements to interested citizens, agencies and/or groups.

A display advertisement shall be published in the Daily Freeman no later than the 7<sup>th</sup> day of September stating that a draft of the CAPER is available for review. This will provide a fifteen (15) day period for review and to receive comments from interested citizens, agencies and/or groups on the proposed CAPER. A summary of comments and views received and a summary of comments and views not accepted and the reasons therefore, shall also be attached to the final CAPER.

The City of Kingston shall consider any comments or views of citizens, agencies and/or groups received in writing and/or orally at the public hearing conducted by the CDAB, in preparation of the CAPER. The public hearing time and location will be included in the advertisement mentioned in the previous paragraph. A summary of comments and views received and a summary of comments and views not accepted and the reasons therefore, shall be attached to the final CAPER.

#### APPLICATION EVALUATION CRITERIA

A new criteria of the CDAB activity evaluation process includes scoring the applications on a 25 point scale. The scoring system is a starting point for the award decision. Other factors such as the presentation to the committee and the availability of funds affect the ultimate decision.

**\*\*** Applications are scored on:

1. Community Need and Program Benefit – 10 points maximum
2. Project Soundness – 5 points maximum
3. Organizational Capacity – 5 points maximum
4. Financial Feasibility – 5 points maximum

Within the application, all applicants must provide their Data Universal Numbering System (DUNS) number, which is assigned by Dun and Bradstreet, Inc.

#### SUBRECIPIENT AGREEMENTS & REPORTING PROCESS

1. Environmental reviews for each program will be completed for each activity.
2. Obtain authorized signatures on the approved agreements.
3. Signed copies of the agreement will be forwarded to the public service agency sub-recipient for review and signature.
4. Sub-recipient will return one agreement that has been signed by the agency and the City of Kingston.
5. Reporting forms will be sent to the sub-recipients after the signed agreement is returned to the Office of Community Development.
6. Sub-recipients are required to submit periodic progress reports. The frequency of report submissions will be in the sub-recipient agreement.

7. Sub-recipient agencies must be current with their periodic progress reports in order to receive reimbursement of expenses.
8. An on-site monitoring visit will be completed after a periodic report is submitted. All major violations must be corrected before the reimbursement is made. A monitoring visit will be based upon HUD's Monitoring Workbook.

### **ENVIRONMENTAL REVIEW RECORD**

The City of Kingston must prepare and maintain a written record of the environmental review undertaken for each project. This written record or file is called the Environmental Review Record (ERR), and it must be available for public review upon request.

The ERR shall contain all of the environmental review documents, public notices (and proof of their publication if necessary), and written determinations or environmental findings required by 24 CFR Part 58 as evidence of review, decision making and actions pertaining to a particular project.

The document shall:

- Describe the project and each of the activities comprising the project, regardless of individual activity funding source; and
- Evaluate the effects of the project or the activities on the human environment; and
  
- Document compliance with applicable statutes and authorities; and
- Record the written determinations and other review findings required by 24 CFR Part 58.

The ERR will vary in length and content depending upon the classification level of review required for the classification of activities.

The four environmental classification levels are:

- Exempt Activities,
- Categorically Excluded Activities,
- Activities Requiring an Environmental Assessment, or
- Activities Requiring an Environmental Impact Statement.

All activities' ERR must be completed before it can be funded in IDIS.

- For public service grant activities, the environmental review record must be completed and placed in the file before a grant agreement may be signed.
- For projects that require the solicitation of bids, the environmental review record must be completed and placed in the file before the bid document(s) are released.

Environmental review records are created through HUD's Environmental Review Online System (HEROS), which is a part of HUD's Integrated Disbursement & Information System (IDIS). All users of HEROS must obtain a user identification and initial password from HUD's Region V Environmental Officer.

### **PROCUREMENT POLICIES**

The procurement of goods and services by government entities at a minimum must follow the standards and procedures set forth in 2 CFR 200, Subpart D: Procurement Standards.

The City of Kingston chooses to follow their procurement policy which is more strict than that of HUD's procurement standards. <https://kingston-ny.gov/Purchasing>

The following regulations must also be followed:

- 24 CFR Part 85: Administrative Requirements for Grants and Cooperative Agreements to State, Local and Federally Recognized Indian Tribal Governments
- 24 CFR Part 84: Uniform Administrative Requirements for Grants and Agreements with Institutions of Higher Education, Hospitals, and Other Non-Profit Organizations.
- City of Kingston Building Safety & Zoning Enforcement

These standards are to ensure that purchases of materials and services are obtained efficiently, economically, and in compliance with the provisions of applicable federal law.

The procurement of contractors for the Housing Rehabilitation Program shall be completed by the Housing Rehabilitation Specialist, and shall be completed by a competitive procurement process.

The procurement of other goods and services, other than office supplies shall be completed by the City of Kingston Comptroller's Office – Purchasing Department.

### **DEBARRED CONTRACTOR SEARCH**

The U.S. Government provides a list of Parties Excluded from Federal Procurement or Non-Procurement Programs (aka Debarred List) at the following website: [www.sam.gov](http://www.sam.gov).

Each bidder should be searched and reviewed prior to bid opening. If a bidder is found to be on the debarment list, the City of Kingston will not open the bid; will not do business with that person or company; and the City of Kingston will not reimburse the bidder for any costs.

### SECTION 3 – WOMEN AND MINORITY OWNED BUSINESSES

It is a national policy to award a fair share of contracts to small, women and minority business firms. Accordingly, affirmative steps must be taken to assure that small and minority/women businesses are utilized when possible as sources of supplies, equipment, construction and services.

### DAVIS-BACON WAGE RATES

The Davis-Bacon Act requires the payment of prevailing wage rates, which are determined by the U.S. Department of Labor, to all laborers and mechanics on Federal government construction projects in excess of \$2,000. Construction includes alterations and/or repair, including painting and decorating of public buildings or public works.

### CONFLICT OF INTEREST

All City of Kingston staff need to ensure that a conflict of interest does not exist.

A conflict would arise when any of the following has a financial or other interest in a firm selected for a contract:

- An employee, agent or officer of the City of Kingston;
- Any member of an employee's, agent's or officer's immediate family;
- Any employee's, agent's or officer's partner; or
- An organization that employs or is about to employ an employee, agent, or officer of the City of Kingston.

City of Kingston will not hire or do business with a person or firm where a conflict of interest exists. City of Kingston's attorneys can assist whether a conflict of interest exists.

### HOUSING REHABILITATION PROJECTS

Quote documents provided to a list of pre-approved rehabilitation contractors.

1. Contractors are to have inspected the property to assure themselves they have accurate information, are aware of the materials and labor required, and that this Scope of Work is inclusive enough to complete the project in a proper, timely, and professional manner.
2. Rehabilitation Specialist verifies that all quote submitters are not listed on the federal debarred contractor listing located at: [www.sam.gov](http://www.sam.gov).
3. If no bids are within 10% of the cost estimate, the work description is reviewed, possibly modified and resent to eligible contractors.
4. If only debarred contractors submit quotes, then the Community Development Department will work with the City of Kingston Building Safety & Zoning Enforcement Department and Comptroller's Office to find eligible contractors.
5. Rehabilitation Memorandum of Understanding (MOU) are entered into by the property owner and contractor.
6. Copies of the Scope of Work will be placed in the property owners file.

7. Copies of the signed MOU's will be placed in property owners file.
8. Copies of approved change orders will be placed in property owners file.
9. Copies of Mortgages are placed in property owners file.

### **HOUSING REHABILITATION MOU AMENDMENTS**

The City of Kingston Office of Community Development will consider making amendments to MOU's on a case-by-case basis. The City of Kingston Office of Community Development will not consider amendments that significantly alter the scope of the project. The City of Kingston Office of Community Development will only consider amendments prior to the expiration of the MOU.

Steps needed to extend or amend Housing Rehabilitation MOU's:

1. Decision to extend/amend a housing rehabilitation MOU is made by the Housing Rehabilitation Specialist.
2. Prior to the expiration of the MOU, a written request to extend/amend an MOU must be submitted to the Housing Rehabilitation Specialist. It shall include the reason the extension/amendment is needed, the proposed changes, and the timeframe needed to complete the project.
3. The Housing Rehabilitation Specialist may request additional information to make the decision.
4. If the MOU is not extended or amended, the Housing Rehabilitation Specialist will notify the contractor in writing.
5. If the MOU is extended or amended, the Housing Rehabilitation Specialist will write the extension/amendment MOU.
6. The extension/amendment must be signed by the property owner, contractor, and the Housing Rehabilitation Specialist.

### **SUB-RECIPIENT AGREEMENT AND/OR OTHER CONTRACTUAL AMENDMENTS**

The City of Kingston Office of Community Development will consider making amendments to sub-recipient agreements and /or other contracts on a case-by-case basis. The City of Kingston Office of Community Development will not consider amendments that significantly alter the scope of the project. The City of Kingston Office of Community Development will only consider amendments prior to the expiration of the sub-recipient agreements (June 30) and/or other contracts.

Steps needed to amend sub-recipient agreements or to extend or amend other contractual agreements:

1. Decision to extend/amend a CDBG funded project is made by the City of Kingston Office of Community Development.



2. Prior to the expiration of the sub-recipient agreement or contract, a written request to extend/amend a sub-recipient agreement or a contract must be submitted to the Office of Community Development Director. It shall include the reason the extension/amendment is needed, the proposed changes, and the timeframe needed to complete the project.
3. The Office of Community Development Director may request additional information.
4. If the sub-recipient agreement or contract is not extended or amended, the Community Development Director will notify the sub-recipient in writing.
5. If the contract is extended or amended, the Community Development Director will write the sub-recipient extension/amendment agreement.
6. The extension/amendment must be signed by the sub-recipient, contractor (if applicable), and the City of Kingston.

### **CHECK REQUEST AND DRAWDOWN PROCEDURES**

1. Invoice and back-up documents submitted by either Administrative Assistant or Housing Rehabilitation Specialist to the Community Development Director.
2. For housing rehabilitation projects, the files will be reviewed for completeness, including change order documentation and final inspection report.
3. Administrative Assistant or Housing Rehabilitation Specialist reviews invoice for accuracy, documentation and for project completion, then forwards to Community Development Director for review and approval.
4. Vouchers along with back-up documentation are then forwarded to the City Comptroller and/or the Mayor for review and approval.
5. After vouchers are returned to OCD, a draw down is initiated and then approved by the OCD Director and Administrative Assistant.
6. Once funds have been wired into CDBG bank account payment is processed and the checks are signed by either the Mayor, Comptroller or OCD Director in this order. Two signatures are required on all CDBG checks.
7. Checks and vouchers along with back-up documentation are returned to either the Administrative Assistant or the Rehabilitation Specialist who then get payment to the sub-recipient, contractor or vendor and then file the documents in the respective folders.

### **REPORTING ACCOMPLISHMENTS**

At least 70% of the CDBG funds spent must benefit low-moderate income persons and families. The City of Kingston and any agency receiving CDBG funds through a sub-recipient agreement are required to maintain a system that accurately accounts for and/or fully documents all program activities undertaken with CDBG funds.

Sub-recipients receiving CDBG funds shall submit the reports to the City of Kingston Office of Community Development at the times indicated, and in the format prescribed by the Office of Community Development. Deviations from this requirement must be approved by the Community Development Director.

At a minimum, all reporting should be completed quarterly. Data and information from the periodic reporting shall be entered into IDIS by the Office of Community Development.

Sub-recipients that provide direct individual client services shall keep records on each client served by the project under the agreement. The actual design of the project data system is at the discretion of the Agency. However, the project data system shall include the following at the minimum and be reported to the City of Kingston Office of Community Development as described in the agreement.

1. Primary Records

Records shall be maintained by the project to record services provided directly to, or on behalf of, the project client. Primary records are typically the client case files. All client case files maintained by the project shall be clearly identified as “CDBG Files” and must not be reported to any other funding source with regard to the services listed in the City of Kingston Office of Community Development Agreement. All projects providing direct services shall have primary records containing the following information on all clients receiving services:

- A. Client’s name and identification number assigned by the project
- B. Referring agency when applicable
- C. Client’s family size
- D. Client’s head of household status
- E. Client’s gender
- F. Client’s race and ethnic origin
- G. Client’s parent’s name when applicable
- H. Client’s address
- I. Client’s phone number and message number if available
- J. Client’s age or date of birth
- K. Client’s annual or monthly income, or that of the family if client is a dependent
- L. Problem statement
- M. Proposed description of services to be provided
- N. Proposed frequency and length of services to be rendered
- O. Description of actual services rendered
- P. Date, type and method of all client contacts and contacts made on behalf of the client

- Q. Approximately length of each contact
  - R. Reassessment of client's problem (halfway through services) to determine how well client is responding to services
  - S. Termination date
  - T. Reason for termination
  - U. Planned follow-up date(s)
  - V. Actual follow-up date(s) and outcomes of follow-up contact (Follow-up shall be attempted on all clients after termination of client services, unless otherwise stipulated in the Scope of Services.)
2. Secondary Records
- Examples are project logs, sign-in/attendance sheets, appointment book, etc. Sub-recipients who do not provide direct services to individual clients shall maintain secondary records to document the services provided to the targeted population. Sub-recipients providing services in group settings shall also maintain secondary records. In addition, written records documenting project volunteer activities shall be maintained as secondary records.

### DOCUMENTING INCOME

HUD requires documentation to verify income of households served. Different activities and status of income require different documentation standards.

The "Section 8," also known as the "Part 5" income verification method can be used to determine income for the housing rehabilitation programs.

Public service programs are allowed to have their clients self-certify their income or use the "Section 8" method of verifying income.

### **MONITORING**

As a recipient of federal CDBG funds, the City of Kingston Office of Community Development is responsible for managing the day- to-day operations of all CDBG funded activities and ensuring that CDBG funds are used within all applicable requirements. Monitoring is the primary tool to ensure that this happens.

The three primary goals of monitoring are:

1. Ensure production and accountability.
2. Ensure compliance with CDBG and other federal requirements.
3. Evaluate organizational and project performance.

At the end of every grant year, an outside agency completes an audit of the City of Kingston Office of Community Development financial system. As part of the auditing process, a “single audit” is completed per 2 CFR 200 (formerly OMB Circular A-133), for the federal funds that the City of Kingston Office of Community Development received during the previous fiscal year.

Any outside agency that receives funds through a sub-recipient agreement will also be subject to periodic monitoring. Each social service agency must submit periodic progress reports along with their reimbursement request for a desk-top review before any reimbursement will occur. City of Kingston Office of Community Development staff also conducts an on-site monitoring visit to all social service agencies receiving CDBG funding. This monitoring occurs after the agency submits their first progress report and before any reimbursement of funds is made. Monitoring forms from the HUD Community Planning and Development Monitoring Handbook – 6509.2 Rev-6 are used. The forms, and any updates can be found here:

<https://www.hudexchange.info/resource/290/hud-community-planning-and-development-monitoring-handbook-65092-rev6/>

### **SUSPENSION/PROBATION AND TERMINATION**

The City of Kingston Office of Community Development may place a sub-recipient/City partner on probation, suspend, or terminate the sub-recipient agreement as accorded by 24 CFR 85.43 and 24 CFR 85.44. When minor compliance issues exist, an informal approach via telephone calls and e-mail may occur first and funds may be held until compliance is met. If compliance of the minor issue is not met within ten business days or if another compliance issue exists, a certified letter requiring a Corrective Action Plan will be sent to the Executive Director and/or other contact person shown in the contract. In the case of suspension or probation, depending upon the severity of the compliance problem, City of Kingston Office of Community Development staff shall provide not less than two and not more than ten business days to submit a Corrective Action Plan. If the agency does not implement the Corrective Action Plan according to the approved schedule, that will be grounds for termination.

If a sub-recipient/City partner fails to fulfill its obligations, the City of Kingston Office of Community Development Director may terminate the contract, in whole or part, by providing written notice of the termination and specifying the effective date, at least five days before the effective date of such termination. If funds were used in a non-eligible manner, the staff liaison will include written documentation of the determination and the sum due for repayment or deduction from undisbursed funds as appropriate.

The sub-recipient/City partner and the City of Kingston Office of Community Development Director may terminate the contract for any reason upon giving at least thirty days written notice prior to the effective date.

### **ADMINISTRATIVE COST ALLOCATIONS**

In order to receive federal grant funding, the City of Kingston Office of Community Development must adhere to various local, state, and federal financial principles. The following OMB circulars have been incorporated into the newly adopted 2 CFR 200 and have new regulation numbers.

- A-87: Cost Principles for State, Local, and Indian Tribal Governments
- A-102: Grants and Cooperative Agreements with State and Local Governments
- A-110: Grants and Agreements with Institutions of Higher Education, Hospitals, and other Non-Profit Organizations
- A-122: Cost Principles for Non-Profit Organizations
- A-133: Audits of States, Local Governments and Non-Profit Organizations

The following regulations must also be followed:

- 24 CFR Part 85: Administrative Requirements for Grants and Cooperative Agreements to State, Local and Federally Recognized Indian Tribal Governments
- 24 CFR Part 84: Uniform Administrative Requirements for Grants and Agreements with Institutions of Higher Education, Hospitals, and Other Non-Profit Organizations.

### **OTHER POLICIES AND INFORMATION**

#### **DAVIS-BACON SEMI-ANNUAL REPORT**

The U.S. Department of Labor regulations 29 CFR 5.7(b) require Federal agencies administering programs subject to Davis-Bacon and Related Acts (DBRA) and Contract Work Hours and Safety Standards Act (CWHSSA) labor standards to furnish a Semi-Annual Labor Standards Enforcement Report to the Administrator of the Wage and Hour Division. As a HUD entitlement community that completes construction projects over \$2,000 in cost, City of Kingston Office of Community Development is required so semi-annually submit this report on HUD Form 4710, to HUD's Labor Relations Specialist.

#### **SECTION 3 ANNUAL REPORT**

Pursuant to 24 CFR Part 135.90, direct recipients of HUD financial assistance should submit reports to HUD for the purpose of determining the effectiveness of Section 3. Direct recipients include public housing authorities, entitlement communities, states, and certain NOFA grantees that utilize HUD funding for construction and rehabilitation activities.

Within 3 months of the end of a fiscal year, the City of Kingston Office of Community Development must annually submit HUD Form 60002 through HUD's on-line system Section 3 – Performance Evaluation and Registry System (SPEARS). A copy of this report must also be included and submitted to HUD CPD with the CAPER.

SPEARS can be access on the following webpage:

[http://portal.hud.gov/hudportal/HUD?src=/program\\_offices/fair\\_housing\\_equal\\_opp/section3/section3/spears](http://portal.hud.gov/hudportal/HUD?src=/program_offices/fair_housing_equal_opp/section3/section3/spears)

### RETENTION OF RECORDS

As a general rule, records are to be retained for at least 5 years after the last expenditure report is submitted (i.e., 5 years after the submission of the CAPER in which activity is reported as complete.

This applies to administrative records, financial records and project records. Records must also be accurate, complete and orderly.

Each activity should have a project or case file that includes:

- A full description of the activity; including the location; and amount of CDBG funds budgeted, obligated and expended.
- The provision under which the activity is eligible.
- Records demonstrating compliance with a national objective.
- Characteristics and numbers of beneficiaries.
- Determinations required for eligibility.
- The amount budgeted for the activities.
- Compliance with other program requirements, i.e., lead-based paint, fair housing, equal opportunity, etc.
- Status of case/project.

### PROGRAM INCOME

The City of Kingston Office of Community Development sometimes has income generated from activities that are only partially funded with CDBG funds, the income must be pro-rated to reflect the percentage of CDBG funds used.

Program income on hand must be used for any authorized activity before drawing down additional grant funds.

### FEDERAL CASH TRANSACTION REPORT

The City of Kingston Office of Community Development is required to submit HUD Form SF-425, Federal Cash Transaction Report on a quarterly basis.

### CONFLICT OF INTEREST

City of Kingston Office of Community Development and City Officials are bound by various federal, state and local ethics and conflict of interest regulations.

Subgrantees are bound by federal law, 24 CFR 84.42 and 570.611 upon accepting a CDBG award and the provisions are reiterated in the sub-recipient agreement the agency has with the City of Kingston Office of Community Development that states:

#### Conflict of Interest

The Sub-recipient agrees to abide by the provisions of 24 CFR 84.42 and 570.611, which include, but are not limited to the following:

- a. The Sub-recipient shall maintain a written code or standards of conduct that shall govern the performance of its officers, employees or agents engaged in the award and administration of contracts supported by Federal funds.
- b. No employee, officer or agent of the Sub-recipient shall participate in the selection, or in the award, or administration of, a contract supported by Federal funds if a conflict of interest, real or apparent, would be involved.
- c. No covered persons who exercise or have exercised any functions or responsibilities with respect to CDBG-assisted activities, or who are in a position to participate in a decision-making process or gain inside information with regard to such activities, may obtain a financial interest in any contract, or have a financial interest in any contract, subcontract, or agreement with respect to the CDBG-assisted activity, or with respect to the proceeds from the CDBG-assisted activity, either for themselves or those with whom they have business or immediate family ties, during their tenure or for a period of one (1) year thereafter. For purposes of this paragraph, a "covered person" includes any person who is an employee, agent, consultant, officer, or elected or appointed official of the Grantee, the Sub-recipient, or any designated public agency.

USE OF DEBARRED, SUSPENDED, OR INELIGIBLE CONTRACTORS/VENDORS

No contract shall be made to parties listed on the General Services Administration's List of Parties Excluded from Federal Procurement or Non-procurement Programs List, found online at: <https://www.sam.gov/portal/public/SAM/>

Sub-recipients shall procure in accordance with Executive Orders 12549 and 12689, "Debarment and Suspension," as set forth at 24 CFR part 24.

DISPUTES

Any dispute concerning a question of fact arising under a sub-recipient program or City of Kingston Office of Community Development Program shall be resolved by the City of Kingston Office of Community Development Director, who shall relay his/her decision in writing to the sub-recipient or City program, in addition to furnishing a copy to the CDAB. The decision of the Community Development Director shall be final and conclusive unless the sub-recipient or City program furnishes a written appeal to the CDAB within ten (10) days of the date of receipt of such copy. The decision of the CDAB in such appeals shall be final and binding.