



## **Disaster Recovery**

### **Desk Guide to Implement Infrastructure Investments Programs (Infrastructure & Public Facilities & Planning Studies)**

**\$750 Community Development Block Grant Mitigation (CDBG-MIT) Grant**

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## **Introduction**

On February 9, 2018, the U.S. Department of Housing and Urban Development's Community Development Block Grant Mitigation (CDBG-MIT) program to provide financial assistance with funds appropriated under the Further Additional Supplemental Appropriations for Disaster Relief Requirements Act, 2018 (Public Law 115-123) was enacted, for necessary expenses for Actives authorized under Title I of the Housing and Community Development Act of 1974 (42 U.S.C. § 5301 et seq.). This SOPs/Training Desk Guild is written to help Project Monitors to understand and navigate through the CDBG-MIT project implementation process in the Infrastructure Investment Division.

On August 30, 2019, HUD allocates over \$4.2 billion in CDBG-MIT funding to the State of Texas and instructed the State to create an Action Plan for the funding, which was approved by HUD March 31, 2020.

On March 18, 2022, HUD approved an amendment to the CDBG-MIT Action Plan submitted by the GLO, allocating a direct allocation of \$750,000,000.00 in CDBG-MIT funds to Harris County.

## **I. Agreements, Orders, and Amendments Review Process and Placement on the Commissioners Court Agenda**

Upon receipt of Authority to Use Funds from GLO/HUD the project enters into the agreement development phase. HCCSD staff drafts project specific agreements detailing project scope and budget utilizing information detailed in the approved RFP/Application and any subsequent information received from the sub recipient. The agreements are executed by the sub recipient and sent to Commissioners Court for final approval.

### *File Records*

Grant File – copy of executed agreement, copy of any review documents and any correspondence with the sub recipient and their representatives pertaining to the agreement development phase.

### *Steps for Agreements and Orders Process*

- Submit to Manager for review and approval along with Grant file; project specific changes must be highlighted for easy reference.
- Upon approval from Manager submit to Finance for review along with Contract Review Finance Processing Form (via email).
- Upon receipt from Finance and incorporating appropriate changes forward to Manager indicating that document is ready for submittal to County Attorney (via email).
- For Amendments include in the email PDF copies of the previously approved agreements/orders/amendments.
- Upon receipt from County Attorney of final document obtain Sub recipient signatures.
- Upon receipt from Sub recipient with signatures forward to Manager for placement on the Commissioners Court Agenda.
- After Commissioners Court, the Transmittal Memo and Approved Agreement/ Order should be sent to Precinct/ Sub recipient no later than a week after receipt of Copy on the P Drive and approved by manager.

## **II. Court Items and Schedule**

- Submit to Manager 2 Tuesday before Court date by 9:00 AM for review.
- Submit to Assistant Director 2 Wednesday before Court date by 9:00 AM (forwarded by Manager).
- Submit to Community Development Director (and Executive Director) Thursday by 9:00 AM (forwarded by Assistant Director).

## **III. Correspondence and Communication with Sub recipient and their Representatives**

- Proofread and spell check document prior to submittal.
- Submit to Manager for review and approval correspondence (letters, emails) prior to sending it.
- Telephone log, meeting notes, and reports must be kept current and maintained in the appropriate project files.

- Responses to Sub recipient are due within **20 days** from the date HCCSD received their letter/request; or sooner, if requested by Sub recipient to meet board meeting or other time sensitive event.

#### **IV. Letters for Assistant Director Signature**

- Submit to Manager for review and approval **3 days** prior to the intended send out date by **1:00 PM**; project files may be requested to assess background.
- Submit to Assistant Director for review and approval **2 days** prior to the intended send out date by **1:00 PM** (forwarded by Manager).

#### **V. Letters for Chief Recovery Officer and Executive Director Signatures**

- Submit to Manager for review **4 days** prior to the intended send out date by **1:00 PM**; project files may be requested to assess background.
- Submit to Assistant Director for review and approval **3 days** prior to the intended send out date by **1:00 PM** (forwarded by Manager).

#### **VI. Pre-Bid Phase Monitoring Procedures**

This guide includes monitoring tools designed to assist HCCSD staff to conduct efficient monitoring to assure compliance and proper file documentation during the Pre-Bid Phase monitoring.

##### **A. Request for Qualifications for Planning Studies Consultants and Architecture/ Engineer Services**

If federal funds are utilized to retain consultants, the sub recipient must advertise Request for Qualification Statement (RFQ) or Request for Proposals (RFP) and follow the 2 CFR 200 regulation and requirements. The sub recipient shall submit the draft RFQ /RFP to HCCSD staff for review and approval prior to advertisement. The responding consultant’s SF254 qualification statements and Contractor’s Qualification, RFQ/RFP scores, tabulation and recommendation must be submitted for review and approval to HCCSD and PID prior to commissioning the consultants. Interviews might be conducted in order to ensure a fair and transparent selection of consultant services. The interviewer panel consists of representatives from HCCSD, PID (Only for Engineering Projects) and the sub recipient. Purchasing scoring guidelines are utilized to evaluate interviewees. The DRAFT contract between sub recipient and selected consultant must be submitted to HCCSD for review and approval as to form prior to execution for all non-Harris County subrecipients; for all others the contracts will be approved by Purchasing and the County Attorney.

##### *File Records*

File – copy of RFQ advertisement including affidavit, copy of submitted RFQs, copy of responding consultant’s SF254 qualification statements and Contractor’s Qualifications, copy of all scored evaluations, tabulations and recommendation, copy of award letter, and any other pertinent documentation.

### *Monitoring of Planning Studies Consultants and Architecture/ Engineer Services Status and Invoices*

The Project Monitor will request monthly status correspondence and interim study reports, as applicable and Invoices for all Consultant services, in order to track the progression of design or planning study.

### **B. Architectural and Engineering Plans**

The preliminary drawings must be within the project scope, which is detailed in the approved agreement between Harris County and the sub recipient. All construction projects must comply with Harris County requirements and the policies and procedures of PID, Harris County's Purchasing Agent, Auditor and HCCSD. Sub recipient submits to HCCSD and PID one set of drawings and specifications for review and approval. HCCSD and PID review and approval time frame is approximately 4 to 6 weeks at various phases of design. HCCSD and PID transmit to sub recipient review comments, while sub recipient resubmits revised plans and specifications for final approval and permitting. All building projects shall be designed and constructed in accordance with the County's policy on LEED buildings and/or the Harris County Low Impact Development & Green Infrastructure Design Criteria for Storm Water Management.

Sub recipient submits to HCCSD a detailed cost estimate for review. If necessary, HCCSD staff conducts a cost estimate analysis to assess cost reasonableness with respect to industry-wide trends. The construction cost estimate analysis is recorded in the Budget Monitor workbook and a copy is maintained in the project's Construction File. PID assists HCCSD with the construction cost estimate analysis, if necessary. If construction cost estimates exceed the approved budget, sub recipient submits to HCCSD and PID for review and approval a revised or reduced scope to bring project within the approved budget or submits in writing commitment of leverage funds covering the excess cost. To conduct a thorough review, HCCSD staff may utilize any number of monitoring tools such as budget and cost estimate analyses, and record their review, analyses and recommendations in an Internal Memorandum to properly document the project file. HCCSD informs the sub recipient in writing of the final decision and request for further actions, as needed.

#### *File Records*

Construction File – final design plans, construction cost estimates, cost estimate analysis, Internal Memoranda, revised scopes and/or budgets and any communication with the sub recipient and their representatives and any other pertinent documentation.

### **C. Bid Specifications**

On or about two calendar weeks (15 calendar days) prior to the intended date of project bid-out, HCCSD staff provides sub recipient and HC Purchasing Department provides Engineering/Consultant if it is HC Precinct or HC Department with the HUD and HCCSD Bid Specifications to incorporate into the final bid specifications package. The HUD and Harris County Bid Specifications are provided two weeks prior to the intended bid-out date in order to ensure that any and all updates to compliance forms and the wage scale determination are incorporated into the final bid specifications.

The complete bid package identifies the following items:

- Scope of work per approved contract documents
- Work to be performed internally by sub recipient
- Work to be performed externally by contractors and subcontractors
- Technical requirements
- Administrative requirements
- Special conditions – this includes HUD and Harris County Bid Specifications
- 

If federal funds are utilized to cover construction-related labor costs it is HCCSD policy to not allow *force account work* to be completed during the implementation phase of the project. That is, the sub recipient cannot utilize own employees to conduct project specific construction related work. All construction work shall be procured through the bid-out process.

**Exceptions:** Work completed by Harris County employees (force account work) on a project financed in whole or in part with CDBG-DR funds, is not subject to Davis-Bacon requirements.

This is to ensure that all federal requirements are met and business opportunities are made available via a fair and competitive process, to the greatest extent feasible and practical, to women owned businesses, to minority-owned businesses, to Section 3 individuals and to businesses providing employment to Section 3 individuals. See HCCSD policies and procedures for implementing women and minority owned business opportunities and Section 3 requirements.

No volunteer work can be performed on any portion of the work under contract to a subcontractor or any lower tier subcontractor; volunteers may work on aspects of the contract which are not technical or construction in nature.

The final bid specification package must conform to the standards of the Construction Specifications Institute (CSI) 16 divisions.

#### *File Records*

Construction File – a copy of correspondence to Sub recipient transmitting the HUD and Harris County Bid Specifications, a copy of the HUD and Harris County Bid Specifications including the approved wage decision and copy of the complete and final project bid specifications including plans and drawings.

#### **D. Bid-Out (Solicitations) Process**

All project procurements must follow the 2 CFR 200 regulations and requirements. Sub recipient through their representative submits to HCCSD for review and approval draft advertisement or public notice soliciting bids. Upon written approval of the public notice, sub recipient must publish, and/or post, and mail it to groups and organizations such as the Small Business Bureau, Minority Business Organization interested in the project. At a minimum, the sub recipient publishes the project in the Houston Chronicle; however, if the project is located in one of the

cooperative cities, sub recipient is encouraged to publish in the local newspaper in addition to the Houston Chronicle.

At a minimum, sub recipient must advertise the project over two consecutive weekends. It is not necessary for the advertisement to appear on both weekend days; the advertisement may only appear once over the weekend.

Any changes to the bid-out plans and specifications must be documented via an addendum or addenda, as needed.

NOTE: Ten (10) days before the bids are received and opened HCCSD staff checks the DOL wage decision web link to assure that the issued wage decision is still current. In case modifications occurred to the wage decision, HCCSD staff issues the modified wage decision and informs potential contractors of the changes via a bid addendum. A copy of the current wage decision must be physically included in all bid specifications and every subsequent contract and subcontract. Wage decision modifications published later than 3 days (or 72 hours) before bid opening and after bid opening will not be effective unless there is reasonable time in which to notify bidders and the construction contract has not been awarded within 90 days after the bid opening date. The bid open date “locks in” the issued wage decision if the contract was awarded within 90 days of the bid open date. Otherwise, HCCSD must issue the most current wage decision for the project replacing the previous one and must be physically incorporated into the construction contract.

The following HUD and GLO documents are due with each bid (see CDBG-DR bid specs).

- Statement of Bidder’s Qualifications
- Contractor Certifications: Certification of Bidder Regarding Civil Rights Laws and Regulations
- Policy of Non-Discrimination of the Basis of Disability
- Concerning Labor Standards and Prevailing Wage Requirements
- Non-Collusion Affidavit of Prime Bidder
- Contractor’s Local Opportunity Plan
- Section 3 Employment and Minority Business Plan
- Contractor Certification of Efforts to Fully Comply with Employment and Training Provisions of Section 3

The following document is required to be submitted by the awarded bidder:

- Attorney’s Review Certification

#### *File Records*

Construction File – copy of bid advertisement and affidavit, and bid addendum or addenda, as needed.

### **E. Pre-Bid Conference**

#### *Pre-Bid Conference*

Sub recipient through their representative holds a pre-bid conference. The purpose of the pre-bid conference is three-fold: (1) to discuss with interested parties the technical and administrative requirements of the project scope; (2) for HCCSD staff to inform that the project receives federal



funds and it is subject to DBRA compliance; and (3) to answer any questions. All questions asked during the pre-bid conference and all other questions submitted in writing within 72 hours prior to the bid due date are answered in writing and published as an addendum to the bid specifications. Sub recipient, at their discretion, may hold mandatory pre-bid conferences, which means that submitted bids may only be accepted from those who attended the mandatory pre-bid conference. HCCSD staff attends the pre-bid conference and prepares the pre-bid conference meeting notes.

#### *File Records*

Construction File – copy of Pre-bid Conference Meeting Notes and attendance roster.

#### *Bid Opening*

The County and Subrecipients (ex: MUD Districts, Non-Profits, Small Cities, and etc.) shall follow the Uniform Guidance 2 CFR 200.320(B)(1)(ii)(c). All bidder information (i.e. bid advertisement or bid packet/ Information for Bid) shall list the date, time, and location of the Bid Opening and all bids shall be open publicly.

- Virtual Bid Opening
  - Due to COVID the County and Subrecipients will have to pivot to Virtual Bid Openings that still adhere to the Uniform Guidance 2 CFR 200.320(B)(1)(ii)(c). In these cases, the County or the Subrecipient will post on its website the link to the opening within 72 hours of the Virtual Bid Opening.

### **F. Bid Analysis, Tabulation and Award**

Sub recipient through their representative receives bids, at a minimum, one week after the pre-bid conference. Sub recipient through their representative submits to HCCSD for review and approval copy of all bids including bid bond, bid analysis, tabulation and recommendation to award.

The recommendation to letter contract shall identify the most responsible bidder who submitted the lowest and most responsive bid. In the event that the sub recipient recommends awarding bid to a contractor other than the lowest bidder, the sub recipient justifies in writing the reason for their recommendation.

HCCSD staff conducts a review of the submitted documentation and verifies the debarment status of contractors utilizing OFAC (Office of Foreign Assets Control) list (<https://sanctionssearch.ofac.treas.gov/>) and System for Award Management (<https://sam.gov/portal/SAM/##11>) websites. The results of HCCSD review are recorded in the Budget Monitor workbook and maintained in the project's Construction File.

Upon written approval from HCCSD, sub recipient proceeds with the Notice of Award and letting of the construction contract.

#### *File Records*

Construction File – copy of all bids, copy of bid bonds, bid tabulation, bid analysis and recommendation, HCCSD's bid review, debarment status verification, copy of Notice of Award, and any other pertinent documentation.

## **G. Bonding, Construction Contract (aka Project Manual), Schedule of Values and Construction Schedule**

HCCSD staff is responsible to obtain and review the following items:

- *DRAFT Construction Contract* – HCCSD staff reviews the format of this document to ensure that it conforms to industry-wide accepted format, it adequately details the project scope, technical and administrative specifications and allotted time to complete project, it provides for the enforcement of liquidated damages, and it references all applicable federal, state, and local regulations.
- *Copy of Payment and Performance Bonds and their corresponding “Certificate of Authority”* HCCSD staff reviews these documents to ensure that they adequately cover the project and meet the requirements detailed in the agreement between Harris County and the sub recipient and that the “Certificate of Authority” is issued by the State Board of Insurance of Texas for the surety company; see web address <https://www.tdi.texas.gov/>.
- *Schedule of Values* – HCCSD staff reviews the Schedule of Values to ensure that it follows the standard Construction Specifications Institute (CSI) format (16 divisions) and that the work items are listed separately with their corresponding material and labor costs including overhead and profit for each work item. Additionally, the Schedule of Values must reflect the same items detailed in the bid form.
- *Construction Schedule (Critical Path Method or Bar Chart)* – HCCSD staff reviews the construction schedule to assess the sequence of construction events to adequately monitor progress and conduct DBRA compliance monitoring and interviews.

### *File Records*

Construction File – copy of performance and payment bonds and their corresponding “Certificates of Authority,” ORIGINAL copy of the executed Construction Contract, copy of Schedule of Values, copy of Construction Schedule, and any other pertinent documents and correspondence.

## **VII. Planning Studies Monitoring**

Below are the implementation steps that will need to be followed by Project Monitors in order to monitor compliance of Planning Studies.

1. If federal funds will be used to retain consultants, Project Monitors must ensure that all procurements follow the 2 CFR 200 requirements, the advertisement for Request for Qualification Statement (RFQ). Subrecipients will submit the draft RFQ for approval to ensure scope of work conforms to the approved scope of work approved in the agreement/order with the subrecipient prior to advertisement. Upon approval by the Non-Housing Assistant Director and Project Monitor, the Subrecipient may proceed with the procurement process and retain consultant(s).

- A. Subrecipient will submit all study documentation prepared by the consultant for the project for approval by Project Monitor.
  - B. Consultants retained by the Subrecipient to include in the project specifications project study time limits to ensure timely completion of the project.
2. The Subrecipient shall advertise for RFQ and award contracts in compliance with the Texas Administrative Code - Statewide Procurement Rules (34.TAC.20) adopted January 20, 2017 and the following subsections of 2 C.F.R. §200:
- |                 |   |
|-----------------|---|
| Section 200.302 | “Financial Management,” except subparagraph a |
| Section 200.318 | “General Procurement Standards”               |
| Section 200.333 | “Retention Requirements for Records”          |
| Section 200.366 | “Access to Records”                           |
3. Prior to award of contract, the Project Monitor will review the RFQ proposal documents, the bidder's qualification statements, minority business plan and financial statements to ensure that the consultant has a good contracting record, adequate capitalization, and personnel to successfully complete the project, meets minority participation goals and that the consultant has not been debarred by HUD from working on federal contracts.
4. The Subrecipient, the consultant, and the Project Monitor shall conduct a pre-submittal meeting, if applicable.
5. All change orders must be approved in writing by the Project Monitor prior to any alterations or modifications of the work or specifications. The Subrecipient will be responsible for any increase in cost based on any change order required due to errors and/or omissions.
6. The Subrecipient must submit the following documentation to the Project Monitor **prior** to sending Notice of Award to a proposed consultant and execution of the contract.

Prior to sending Notice of Award:

- Copy of the RFQ advertisement.
- Copy of the RFQ tabulations.
- Copy of scoring sheets
- Copies of all proposals submitted.
  
- Request authorization from CSD Disaster Recovery Non-Housing Section to award project to consultant.

Prior to execution of contract:

- Copy of DRAFT Contract with consultant for the Project Monitor review and approval.
- Copy of proposed subcontractor list.
- Section 3 Employment and Minority Business Plan – completed by the contractor.
- Section 3 compliance documents.

- Certificates for Contracts, Grants, Loans and Cooperative Agreements – signed by the contractor.

**(iii) Other Reports**

- Section 3 Employment and Minority Business Plan;
- Certificate for Contracts, Grants, Loans and Cooperative Agreements;
- Section 3 Certificate forms.

In addition, the following schedule is included in all Orders/Agreements for Planning Studies:

ACTIVITIES, SCHEDULE, AND REQUIRED DOCUMENTS

No.	Activity Name	Schedule	Reports and Compliance Documents
<b>I.</b>	<b>Study</b>		
<b>1.</b>	<b>Request for Proposal (RFP) and Award of Contract</b>		
a.	Draft RFP	The Grantee Sponsor shall submit to the Grantee Department the draft RFQ advertisement for review and approval.	Copy of draft RFP
b.	RFP Advertisement	The Grantee Department’s written approval of the RFQ advertisement, the Grantee Sponsor shall proceed with the RFP process.	Copy of RFP advertisement with affidavit
c.	RFP Response	After receipt of RFP responses, the Grantee Sponsor shall submit to the Grantee Department a copy of all consultant qualifications received along with the date, time and location to conduct applicant interviews.	Copy of all RFP responses
d.	Selection of Consultant	After receipt of RFP responses, the Grantee Sponsor in coordination with the Grantee Department shall conduct consultant interviews.	N/A
e.	RFP Interview Scores, Tabulation and Recommendation	After consultant interviews, the Grantee Sponsor shall forward the compliance documents to the Grantee Department for review and approval.	Copy of all RFP Interview Scores, Tabulation and Recommendations
f.	Award of Consultant Agreement	After the Grantee Department’s written approval of the Grantee Sponsor’s recommendations of the selected consultant, <b>but not later than one hundred and twenty (120) days from the date of this Order</b> , the Grantee Sponsor shall proceed with the letting of the contract for architectural/engineering services.	Original copy of the executed Contract for Design Services
g.	Assign Tasks/Research to Consultant for Completion	Ongoing during the course of the study.	Assigned by <b>insert Subrecipient or Grantee Sponsor name</b>
h.	Project Status Updates and Interim Reviews		Monthly Provide status updates
i.	Completion of Assigned Task		
j.	Drafting of Study		Submit for review to CSD and <b>insert Subrecipient or Grantee Sponsor name</b>
k.	Review of Final Document and Feedback/ Edits		Submit for review to CSD and <b>inser Subrecipient or Grantee Sponsor name</b>

1.	Acceptance of Final Study Documents and all Data Compiled to Complete Task		Submit final document to CSD and insert Subrecipient or Grantee Sponsor name
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## VIII. Construction Monitoring

This guide includes monitoring tools designed to assist HCCSD staff to conduct efficient monitoring to assure compliance and proper file documentation during the Construction Phase monitoring.

### A. Pre-Construction Conference

Upon execution of the construction contract the sub recipient through their representative holds a pre-construction conference for the purpose of establishing the ground rules to administer and implement the construction activities of the project and establishing the Construction Start Date. The pre-construction conference includes representatives from the sub recipient, project architect/engineer, general contractor, HCCSD and PID. Project architect/engineer discusses technical aspects and the sub recipient’s administrative requirements, HCCSD staff discusses HUD and HCCSD administrative requirements and distributes the pre-construction packet including the DBRA compliance documents and provides an overview of compliance requirements, and the PID staff discusses inspection ground rules and other engineering administration requirements.

#### A.1 Shop Drawings

The sub recipient, through their representative, submits shop drawings to HCCSD and PID for approval. Final shop drawings incorporating any changes requested by PID shall be forwarded to HCCSD for file.

#### File Records

Construction File – copy of correspondence evidencing submittal of shop drawings; this might also be documented in the Project Progress Meeting Notes.

#### A.2 Project Sign

HCCSD staff is responsible for reviewing and approving the Project sign. See bid-specs and pre-construction packet for Project Sign template.

### B. Monitoring Construction Standards

Sub recipient, through their representative, furnishes the necessary inspection personnel to assure itself of compliance with the construction contract and any applicable regulations. PID representative inspects the project work on behalf of HCCSD to assure compliance with construction contract and all federal, state and local applicable regulations and code requirements. In case of dispute, PID representative holds final authority in decisions pertaining to construction.

HCCSD staff reviews and maintains the following documents in the project file:

- Daily Field Reports- submitted by PID inspection staff (if applicable)
- Change Orders
- Project Progress Meetings
- Full and Partial Lien Waivers
- Request for Information (RFI)
- Plans, specifications and changes issued via an addendum
- Other documents deemed necessary to document project progress and completion
- Progress pictures
- Final pictures (at the completion of construction)
- GLO Closing Documents

Sub recipient, through their representative, is responsible for securing all building permits and complying with all local, state, and federal applicable codes.

*Certificates of Payment* – the sub recipient, through their representative, is responsible for preparing monthly pay requests to be reviewed by the consultant (architect/engineer of record), HCCSD and PID prior to submittal for payment. Preparation may consist of a meeting at the project location with the contractor, consultants, sub recipient, HCCSD and PID to determine accurately the percentage of completion of various components of the work and time used. The Certificate of Payment is executed by the sub recipient, the contractor, the consultant, and the PID representative prior to being processed for payment. HCCSD reimburses sub recipient for costs associated with construction activities, as detailed in the agreement between Harris County and the sub recipient for the subject project.

*Schedule of Values* – each Certificate of Payment must be accompanied by the Schedule of Values, which includes, but is not limited to the following information:

- Work items number (Division) and description
- Type of unit
- Quantities
- Unit Price
- Total price per work divisions and per the submitted and accepted bid
- Work complete this period, total completed to date, balance in contract and retainage.
- Change Orders, if any

*Contract Time* – all construction contracts must track allotted time in calendar days. The construction contract must stipulate the time given to achieve substantial completion and final completion; that is, all construction contracts affix a Start Date via the Notice to Proceed (NTP) and an End Date. **Open-ended construction contracts are not acceptable.** Additionally, the construction contract must include provisions for liquidated damages for each day the contractor did not complete work timely.

*Daily Filed Reports* – these are inspection reports completed by PID. HCCSD maintains records of these reports on file and utilizes them to cross reference and conduct desk monitoring of project status and DBRA compliance.

*Change Orders* – all Change Orders must be approved in writing by the sub recipient, the consultant, HCCSD and PID prior to any alterations or modifications to the work, plan specifications, and amount. The sub recipient is responsible for any increase in cost due to errors and/or omissions on plans and drawings. Pursuant to Texas Local Government Code Section 252.048 (d) and 262.031 (b) the total aggregate increase in the Construction Contract shall not exceed twenty-five percent (25%) of the original contract amount awarded to the lowest and most responsible bidder that submitted the best bid; and the total aggregate decrease in the Construction Contract may not exceed twenty-five percent (25%) without the consent of the contractor. All Change Orders must be accurately reflected in the Schedule of Values.

The unit prices submitted with the bid govern any additions to, or deductions from, the construction price. If materials or labor are required for which no unit price was bid, the price shall be that reached by agreement by the HCCSD, PID, sub recipient, consultant, and the contractor after definite evidence is furnished by the contractor that the price is the current prevailing price in the area. Price quotes and Request for Information (RFI) on cost methods may be used to gather cost data.

No reimbursement is allowed under a Change Order for any person not actively engaged in the performance of the specified work.

No extra work is paid for without an approved Change Order.

If additional time is required by reason of the Change Order, the number of days for completion provided for in the contract shall be adjusted at the time the Change Order is approved, and if no adjustment is made on the Change Order form, any additional time is considered waived by the contractor.

Any extension of time given shall not release the contractor or the surety from their Performance and Payment Bonds or from all obligations hereunder, which shall remain in full force and effect until the discharge of the contract.

All time limits stated in the construction documents are of the essence of the construction contract.

Final quantities and sums must be correctly reflected on the Schedule of Values and be accompanied by an executed Change Order.

*Project Progress Meetings* – the sub recipient through their representative conducts regular project progress meetings. HCCSD staff and PID representatives attend the project progress meetings to assess project progress, assist in resolving any issues and provide technical assistance, if necessary, and ensure overall compliance.

*Full and Partial Lien Waivers* – these items are submitted by the sub recipient through their representative when submitting requests for reimbursement. HCCSD staff reviews these items when processing requests for reimbursement for construction activities.

*Request for Information (RFI)* – these items are reviewed during project progress meetings, as the need arises. RFIs are issued by the general contractor seeking clarification of work items and/or costs.

#### *File Records*

Construction File – all of the above described documents are maintained in the construction file.

## **IX. Project Close-out Phase**

### **A. Construction Closeout Monitoring Phase**

Sub recipient shall submit and HCCSD shall review and maintain the following documents to evidence completion of project scope, initiate project closeout monitoring and submitted with the Final Pay Estimate and Release of Retainage:

- Copy of Owner’s Acceptance Letter- (from Precinct or Sub recipient)
- Copy of PID, Engineer’s or Architect’s Acceptance Letter
- Copy of Warranty Documents
- As-Built Drawings via CD Disk or UBS Drive
- Substantial Completion Certificate
- Final Completion Certificate
- GLO Certificate of Completion –Form 6-9
- Copy of Certificate of Occupancy, copy of Fire Marshall Certificate for buildings only

HCCSD conducts a final review of all project files to ensure all pertinent documents are on file and all pending issues had been resolved.

Upon completion and acceptance of construction work, HCCSD reimburses the sub recipient for the final payment and release of retainage to contractor and proceeds to reconcile budget, de-obligate unused balance, if any, and close the project activity in the TIGR System.

HCCSD sends a letter formally acknowledging completion of construction, renovation or rehabilitation activities and instructing the sub recipient of its long-term compliance obligations pursuant to program regulations and requirements.

### **B. GLO Close-out File Documents**

The following GLO forms must be completed and placed in the file and a signed final copy uploaded to the project drive:

- Form 4-3 (Financial Interest Report)
- Form 6-1 (Appointment of Labor Standards Officer)
- Form 6-2 (Wage Rate Insurance Notice)
- Form 6-3 (Ten- Day Confirmation Form)
- Form 6-4 (Pre-Construction Conference Report)
- Form 6-6 (Labor Standards Report)
- Form 6-9 (Certificate of Construction Completion)
- Form 6-10 (Final Wage Compliance Report)



## C. File Checklist

After the project is completed, staff will conduct a file review of all project files and complete the File Checklist document and submit to the Infrastructure Program Manager for review.

## X. Pay Estimates and Budget Monitor

### A. Pay Estimates (PE)

- Received, logged (also by Finance) and forwarded to the assigned Project Monitor for review and processing.
- Submit to Manager for review and approval within **2-5 days** of receipt of PE along with updated Project Budget Monitor.
- Upon approval from Manager forward original to Finance and retain copy for Construction file and Project Drive.

#### A.1 Checklist for ***Harris County*** Sub recipient Pay Estimates Documents

- CSD Pay Estimate Cover Sheet
- Budget Monitor
- CSD Schedule of Values
- Davis-Bacon Approval Sheet
- County Auditor's Form 1252A
- PID Work Daily Reports
- Important Supporting Documentation Applicable to **Final Payment**
  - Owner Acceptance Letter – (from Precinct of Sub recipient)
  - Copy of PID, Engineer's or Architect's Letter
  - Copy of Warranty Documents
  - Substantial Completion Certificate
  - Final Completion Certificate

#### A.2 Checklist for ***Non-Harris County*** Sub recipient Pay Estimates Documents

- Cover letter in the Sub recipient's letterhead to CSD Director that mentions:
  - Pay Estimate number
  - Amount
  - Any pertinent support documentation
- Copy of check- Sub recipient payment to the vendor
- AIA G702- Application and Certificate for Payment (Notarized) or a comparable document
- AIA G703- Work Completed or Updated Schedule of Values (SOV)
- Important Supporting Documentation:
  - Notice to Proceed – First Payment
  - Partial Waiver and Partial Release of Line of General Contractor and/or Sub contractor (Notarized)
- Important Supporting Documentation Applicable to **Final Payment**
  - Owner Acceptance Letter – (from Precinct of Sub recipient)
  - Copy of PID, Engineer's or Architect's Letter

- Copy of Warranty Documents
- Substantial Completion Certificate
- Final Completion Certificate
- AIA G706- Contractor's Affidavit of Payment of Debts and Claims
- AIA G706A- Contractor's Affidavit of Release of Liens
- Contractor's Release or Waiver of Liens

**B. Budget Monitor** contains the following tabs to monitor project activities:

- Budget – to be utilized when drafting Agreements and Orders.
- 1st Amended Budget – to be utilized when the budget is modified/amended (if subsequent amendments occur, then insert additional tab and utilize the same format).
- Bid-Tabulation – to be utilized to verify bids, tabulation, and recommendation as received from the Sub recipient, and in preparation of the concurrence letter.
- RFQ Score Tabulation – to be utilized to compile all individual scores and summarize results and recommendations of the panel members, as submitted by the Sub recipients or their representative.
- Budget Update – must reflect approved project budget, including any budget modifications, and all approved payments, including corrections made by Finance.
- Pay Estimate or Reimbursement Request Review – to be utilized when processing payments; to insert additional tabs for all subsequent payments.
- Schedule of Values – to be utilized to verify pay estimate amounts.
- Design Schedule – to be utilized and customized to meet project needs to track design.
- Change Order Sheet- to be utilized to track change orders

## **XI. Budget Modifications and Change Orders**

Submit to Manager Budget and Change Order Memorandums for review and approval within **5 days** of receipt of request conveying your analysis and recommendations that include, but are not limited to the following:

- Copy of Sub recipient's formal request with appropriate justification.
- The approved budget, as subsequently amended.
- Updated Project Budget Monitor reporting current balance.
- Amount encumbered in PO with Sub recipient and, if applicable, amount encumbered in PO with other vendors, e.g. testing company, evidencing available funding.
- Indicate if the amounts in the affected line items are part of the PO with the Sub recipient or if they are part of a separate PO with another vendor.
- The original contract price may not be increased pursuant to Texas Local Government Code Section 252.048 (d) and 262.031 (b) by more than 25 Percent.
- Indicate if the Change Order addresses an increase or decrease in quantity for approved work items or additional work items, and if the proposed changes are within the approved projects' scope of work
- Each Change Order Memorandum will consist of the following:
  - Change Order Memorandum document
  - Change Order Tracker Worksheet
  - No Environmental Reassessment Email

- Budget Monitor Spreadsheet
  - Change Order Back-up
- Note that after CSD approves Change Orders for Harris County Projects; Harris County Engineering or Harris County Flood Control is responsible for placement on Commissioner Court.
  - Note that after CSD approves Change Orders for Non-Harris County Projects (Small Cities, Municipal Utilities Districts, Non-Profit, etc.); they do not go on Commissioners Court but are reviewed and approved by CSD and forward to entity for their records.
  - Budget changes requiring Commissioners Court approval via an amendment to the agreement or order are, as follows:
    - Increase or decrease in the total amount allocated per the approved AAP.
    - Allocation or reallocation of funds to new budget line items.
  - Budget changes involving reallocation of approved funds among approved budget line items require Commissioners Court approval.

## **XII. Project Files**

The Grant, Construction, Demolishing, and Designs Files will be set up based on the File Checklist spreadsheet (see attachment). Documents will follow the order top to bottom on the position on the list.

## **XIII. Acquisitions**

Acquisition of property, right-of-way, and easement is conducted in partnership with the Harris County Real Property Division. Property acquired by grant funds will, if applicable, comply with the URA statute and implementing regulations at 49 CFR Part 24.

### **Acquisition and Settlements**

Fair market appraisals are made to furnish the best possible estimate of the amount of compensation due each property owner because of the acquisition. The appraisal shall be the basis upon which an offer of purchase is made. In order to be in compliance with 49 CFR §24.102, the County, or its representative, shall make an effort to address any counteroffer for the purchase of the real property presented by an owner.

The Real Property Division shall request the owner to submit the counteroffer in writing and include the basis for the counteroffer including any pertinent facts the owner feels are supportive of their counteroffer. After the counteroffer and all supporting documentation has been obtained, the documentation is reviewed. If the information presented by the owner, or a material change in the character or condition of the property indicates the need for an update to the value, or if a significant delay (12 months) has occurred since the time of the appraisal(s) of the property, the County shall have the appraisal(s) updated or obtain a new appraisal(s). If the latest appraisal information indicates that a change in the purchase offer is warranted, the County shall promptly reestablish just compensation and offer that amount to the owner in writing.

In certain cases, facts and circumstances may develop during the negotiation process showing that

the appraisal is too low and, in such cases, administrative settlements varying from the appraisal may be accepted. The administrative settlement will contain enough information to support compensation to the property owner in excess of the approved offer amount.

If the County agrees to any increase above the approved offer amount an administrative settlement shall be prepared for the file in accordance with 49 CFR §24.102(i). A written justification shall be prepared by the acquisition agent, which states what available information, including but not limited to trial risks, and supports such a settlement. (See 49 CFR Part 24, Appendix A, § 24.102(i).) The justification needs to explain and provide support as to why such a settlement is reasonable, prudent and in the best public interest. The administrative settlement will be submitted to the Harris County Community Services Department (HCCSD) for review and, if County agrees with the settlement and supporting data, final approval. If the administrative settlement is approved by the County, the parcel will proceed to closing in the normal manner.

If, after negotiations of the offer, an agreement is not reached, the property will be submitted to the County Attorney's Office for eminent domain and a Special Commissioner's Hearing. At the hearing, the owner can present additional information directly relating to the fair market value. The hearing is before a court appointed panel that includes three special commissioners. The special commissioners must determine the amount of compensation the County owes for the taking of the property. Once the Special Commissioner's award of value is accepted by the Judge, the County will deposit the amount of the award with the court and take possession of the property.

If the property owner or County is unsatisfied with the compensation awarded by the special commissioners, or if there are questions whether the taking of the property was proper, the property owner or County has the right to a trial by judge or jury. The County and owner are required to continue negotiations and try to reach a settlement before trial. If the owner is dissatisfied with the trial court's judgment, the owner may appeal that decision with a higher court at law up to and including the Texas Supreme Court.

## **Documentation**

The following acquisition documents shall be uploaded into the system of record (note that some documents may be non-applicable based on the acquisition:

1. Appraisal and Review Appraisal
2. Offer of Just Compensation and Summary Statement
3. Signed Offer or Documentation of Transfer to County Attorney for Eminent Domain proceedings
4. Justification for Administrative Settlement, if Applicable
5. Title Report
6. HUD 1 Settlement Statement (if applicable) and Closing Documents (if applicable)
7. Special Hearing/Court Records for Eminent Domain, if applicable
8. Title and Covenant

## **XIV. Post Construction/ Long Term Compliance Monitoring Procedures**

HCCSD follows the monitoring procedures detailed in the *Sub recipient Monitoring Plan, as revised 2016* when conducting the annual compliance site visits for completed projects receiving federal funding.

This Guild includes monitoring tools designed to assist HCCD staff to conduct efficient monitoring to assure compliance and proper file documentation during the Post Construction/ Long Term Compliance Monitoring.

- **CDBG**
  - Public facility projects receiving CDBG assistance are monitored for 5 years after completion of construction, renovations, or rehabilitation activities or when all funds have been disbursed, whichever occurs latter. The purpose of post construction monitoring is to assure that improvements to properties assisted in whole or in part with CDBG funds meet the following CDBG program requirement criteria detailed at 24 C.F.R. 570.505.
  - HCCSD maintains a Long-Term Compliance Monitoring Plan report, conducts annual site visits to assess compliance and identifies those completed projects receiving HCCSD assistance for public Services.
  - The CDBG 5-year compliance period and end date are calculated as follow:
  - Date of project completion or date of final drawdown
    - + [365 days for initial occupancy and use of facility]
    - + [365 days x 5 years for long term compliance]
    - = end date of the 5-year compliance period
  - For low/moderate income clientele (LMC) projects the following items are monitored:
    - Use and maintenance of facility
    - Posted of hours of operation
    - Section 504 and ADA compliance
    - Observing whether or not any political or religious activities are conducted at the facility
    - Facility inspection (common areas, offices, bathrooms, exterior, maintenance, health and safety)
    - Interview clients to assess use of facility
    - Review of program activities offered

## **XV. Definitions**

- *Texas Local Government Code* contains provisions governing all aspects of local government affairs including but not limited to organization of municipalities and counties; form of

government; finances; records; land use; acquisition, sale or lease of property; public buildings and grounds; parks and other recreational resources; public safety; planning and development; water and utilities; parking and transportation; annexations, local ordinances, public construction, construction contracts, retainage, change orders, etc.

- *Texas Private Property Code* contains provisions governing various aspects of personal property including but not limited to contractor’s or mechanic’s or materialman’s liens, retainage, Texas Residential Construction Commission Act, conveyances, nature of property, taxation, public records, exemptions, liens, actions and remedies, restrictive covenants, fair housing practices, etc.
- *Construction-* is defined as new construction, rehabilitation, alteration, reconstruction, modification, repair, painting and decorating, installation at the work site of items fabricated off site, manufacturing or furnishing and transportation between the actual construction site and facility dedicated to such construction and deemed a part of the work of public buildings or public works funded in whole or in part with federal funds.
- *Building Construction-* is defined as construction of sheltered enclosures/structures with walk-in access for the purpose of housing persons, machinery, equipment, or supplies. It includes all construction of such structures, the installation of utilities and the installation of equipment, both above and below grade level, as well as incidental grading, utilities and paving. Additionally, such structures need not be “habitable” to be building construction. The installation of heavy machinery and/or equipment does not generally change the project’s character as a building. Table 1 lists some examples of building construction.

Apartment building 5 stories and above	City Halls	Libraries	Warehouses
Arena	Civic Centers; e.g. Community Centers	Museums	Water Treatment Plants (buildings only)
Auditorium	Hospitals	Schools	Sewer Treatment Plants (buildings only)
Automobile parking garages	Industrial Buildings	Power Plants	

- *Public Facilities Construction-* is defined as construction of buildings (see above definition of building construction), parks and installation of park equipment. It includes all construction of park structures, the installation of utilities and the installation of equipment both below and above grade level, as well as incidental grading, utilities and paving.
- *Residential/ Housing Construction-* is defined as new construction, alteration, rehabilitation, reconstruction, repair of single-family houses or apartment buildings of no more than 4 stories in height. This includes all incidental items such as site work, parking areas, utilities, streets and sidewalks. Table 2 lists some examples of residential construction.

<b>Table 2. Residential/ Housing Construction</b>		
Apartment Buildings 4 stories or less	Mobile home development	Single family houses
Married student housing	Multi-family houses	Town or row houses

- *Single Room Occupancy*- is defined as housing (consisting of single room dwelling units) that is the primary residence of its occupant or occupants. The unit must contain either food preparation or sanitary facilities (and may contain both) if the project consists of new construction, conversion of non-residential space, or reconstruction. The acquisition or rehabilitation of an existing residential structure or hotel, neither food preparation nor sanitary facilities are required to be in the unit. If the units do not contain sanitary facilities, the building must contain sanitary facilities that are shared by tenants.
- *Heavy (infrastructure) Construction* - is defined as projects that due to their character do not fall under the building construction classification or under the residential classification. Table 3 lists some examples of heavy construction.

<b>Table 3. Heavy Construction</b>			
Antenna towers	Docks	Pipelines	Water main systems
Bridges	Drainage projects	Reservoirs	Waterway construction
Breakwaters	Dredging projects	Railroads	Water supply lines (not incidental to buildings)
Canals	Electrification projects	Sewage collection systems	Water treatment plants (not buildings)
Channels	Flood control projects	Sewer lines (sanitary, storm water, etc.)	Sewage treatment plants (not buildings)
Chemical complexes or facilities	Industrial incinerators	Storage Tanks	Well
Dams	Irrigation projects	Swimming pools (outdoor)	
Demolition, which is not incidental to construction	Levees	Tunnels	
Dikes	Oil refineries	Viaducts (other than highway)	

- *Highway Construction*- is defined as construction projects involving construction, alteration, repair of structures aiding in transportation such as streets, roads, highways, runways, taxiways, alleys, trails, paths, parking areas, and other similar projects not incidental to building or construction. Table 4 lists some examples of highway construction.

<b>Table 4. Highway Construction</b>			
Alleys	Excavation and embankment for road construction only	Parking lots	Storm sewer incidental to road construction
Base courses	Fencing (highway)	Parkways	Street construction and paving
Bituminous treatments	Grade crossing elimination (overpasses or underpasses)	Resurfacing streets and highways	Surface courses
Bridle paths	Guard rails on highway or trail paths	Roadbeds, roadways, runways	Taxiways
Concrete pavement	Highway bridges (overpasses; underpasses; grade separation)	Shoulders	Trails (park hick and bike trails)
Curbs	Median	Stabilizing courses	

- *Public buildings/ facilities/ infrastructure/ public works*- are defined as the construction, prosecution, completion, or repair of a building or infrastructure work implemented by authority of or with funds from a public agency (federal, state, or local).
- *Construction site/ construction location*- is defined as the actual site where construction is carried out; excludes the permanent home offices of all third-party contractors.
- *Project area*- is defined as the area surrounding the construction site/ construction location; the project area is usually a 5-mile radius around the construction site/ construction location.
- *Construction Contract*- is defined as the legal document detailing the terms of agreement between the owner and the contractor for the prosecution of the construction work. The construction contract details the scope of work and it includes the forms of bid, bid specifications, plans drawings, construction documentation, bid bond, payment and performance bonds, other assurances of completion, provisions for liquidated damages, time of performance, general conditions, administrative requirements, HCCSD bid specifications, which include HUD and DBRA requirements, provisions for change orders, and modifications.



## **XVI. Monthly Activity Status Report**

Staff will use weekly projects update status spreadsheet to input information into the HUD Monthly Report and Mitigation Monthly Report, which is due to the GLO on the 5th day of the month as per the contract with the GLO.