AGENDA ITEM or FINAL CONTRACT REVIEW SUBMITTAL FORM

Agenda Item:

Action Requested: Board of County Commissioners' Signature

Parties to the Agreement:

Term Begins: **Term Ends:** **Grant Contract #:**

Summary:

Please see attached Region 10; Community Development Block Grant (CDBG) Application

Fiscal Impact:

Submitted by: Liz Mense **Submitter's Email Address:** EMense@gunnisoncounty.org

Finance Review: (●) Required ( ) Not Required

Comments:
No concerns. ln

Reviewed by: GUNCOUNTY1\lNienhueser Discharge Date: 10/10/2018

County Attorney Review: (●) Required ( ) Not Required

Comments:
ok db 10/10/18

Reveiwed by: GUNCOUNTY1\dBaumgarten Discharge Date: 10/10/2018 Certificate of Insurance Required Yes ( ) No (●)

County Manager Review:

Comments:

Reveiwed by: GUNCOUNTY1\mbirnie Discharge Date: 10/10/2018

( ) Consent Agenda (●) Regular Agenda ( ) Worksession Time Allotted: 15

Agenda Date: 11/6/2018

Revised April 2015

Please forward the completed application to:

Colorado Office of Economic Development
and International Trade
Robert Todd
1625 Broadway, Suite 2700
Denver, Colorado 80202
Phone: (303) 892-3840
Fax: (303) 892-3848
TDD: 1-800-659-2656

Grantee DUN's # 149163032

APPLICATION FORMS
FOR COMMUNITY DEVELOPMENT BLOCK GRANT
BUSINESS LOAN FUND

Applicant: Montrose County as Lead County for Delta, Gunnison, Hinsdale, Montrose, Ouray and San Miguel Counties.

Date: July 31, 2018

Address: 317 South 2nd Street
Phone: (970) 249-7755
City, State, Zip: Montrose, CO 81401
Contact: Keith Caddy
Title: Chairman, Board of County Commissioners
Duns Number _____

Sub-Grantee: Region 10 League for Economic Assistance and Planning
Address: 145 S. Cascade Avenue
Phone:970-249-2436
City, State, Zip: Montrose, CO 81401
Contact: Michelle Haynes
Title: Executive Director
Duns Number #149163032

Service Area: Delta, Gunnison, Hinsdale, Montrose, Ouray and San Miguel Counties in Western Colorado, including eighteen municipalities in those counties

Funds Requested: $ 350,000

Proposed CDBG Budget:

	Activity	Amount	Source	Status
1.	Assistance to Businesses: Proposed Leverage	$294,000	CDBG	Applied For
2.	Administration: Proposed Match	$56,000	CDBG	Applied For

3. Other: (describe if any) N/A

4. Please outline the proposed *administrative* budget for *each* year of the proposed business loan fund contract term as follows:

BLF BUDGET

A.

		CDBG Funds Requested	Other Funds	Source of Other Funds
Personnel				
Salary	$ 141,104.00	$ 29,632.00	$ 111,472.00	Interest/Fees/other grants
Fringe	$ 44,448.00	$ 9,334.00	$ 35,114.00	Interest/Fees/other grants
SUBTOTAL	$ 185,552.00	$ 38,966.00	$ 146,586.00	
Operations				
Postage/Shipping	$ 600.00	$ 126.00	$ 450.00	Interest/Fees/other grants
Software Fees	$ 640.00	$ 134.00	$ 480.00	Interest/Fees/other grants
Legal Fees	$ 3,600.00	$ 756.00	$ 2,700.00	Interest/Fees/other grants
Supplies/Other Expenses	$ 17,080.00	$ 3,759.00	$ 13,321.00	Interest/Fees/other grants
Consulting Fees	$ 6,000.00	$ 1,260.00	$ 4,740.00	Interest/Fees/Other Grants
Contractual Services	$ 12,000.00	$ 2,520.00	$ 9,480.00	Interest/Fees/Other Grants
SBA Loan Interest	$ 4,400.00	$ 924.00	$ 3,476.00	Interest/Fees/other grants
Loan Expenses	$ 7,200.00	$ 1,512.00	$ 5,688.00	Interest/Fees/other grants
Bad Debt/Write off	$ 10,800.00	$ 2,268.00	$ 8,532.00	Interest/Fees/other grants
Travel	$ 18,000.00	$ 3,780.00	$ 14,220.00	Interest/Fees/other grants
SUBTOTAL	$ 80,320.00	$ 17,039.00	$ 63,087.00	
TOTAL	$ 265,875.00	$ 56,000.00	$ 209,673.00	

B. OTHER FUNDS REQUESTED OR COMMITTED: N/A

Please describe how the proposed BLF policies address the following required elements:

1. Job Creation/Retention (and National Objective):

All borrowers for the CDBG or MEP Creation/Retention Method will be required to demonstrate how they will create or retain jobs. One full time equivalent (FTE) job is based on a 40-hour week, and part time jobs are converted to FTEs on that 40-hour basis. The number of jobs projected to be created depends on the type of business and is based on prevalent practices in each industry. However, the cost per job is not anticipated to exceed $20,000. On that basis, a minimum of 12 jobs will be created. Borrowers are generally required to create the jobs within 12 months of loan closing and must report results to Region 10 at least quarterly. In accordance with the National Objective, Region 10 will certify that at least 51% of the jobs will be taken by low or moderate income persons.

Although the primary purpose of this program is to develop and create new jobs, a secondary priority will be job retention. The retention of jobs can only be used to qualify for BLF financing if a business can satisfactorily demonstrate that jobs will be lost if the financing is not provided.

Job creation for the MEP will not be required under the Limited Clientele Method.

2. Business Types:

The purpose of the BLF is to support business activities – for which credit is not otherwise available – with terms and conditions that would permit completion and/or successful operation, accomplishment of a business objective, or creation and/or retention of job opportunities primarily for persons from low and moderate-income households. Loans to both for-profit and not-for-profit businesses will be considered

Generally, the BLF targets businesses proposing to move into local opportunity markets, export a value-added product, or bring new revenue from outside the region. Some consideration is given to local priorities such as tourism or retail development. However, the BLF will consider assistance to any type of business where jobs are created or retained. Categories and priorities are as follows:

(a) **Expansion of existing business**: Projects receiving the highest priority are expansions of existing, successful businesses. Within this category, businesses that have the potential to hire low to moderate-income persons will be given a higher priority. Usually, this type of business is looking to increase working capital, acquire or upgrade fixed assets, expand inventories, introduce a new product or penetrate a new market with existing products or services.

(b) **Retention of existing business employment**: Projects receiving the next priority are existing businesses that need assistance to retain jobs. Businesses receiving priority would be the firms involved in value-added product or service export bringing revenue to the region, those filling an available niche in the local economy and those generating significant tax revenue for the local community. Retention situations may involve upgrading plant or equipment, and/or working capital necessary to regain competiveness or increase market share.

A business requesting BLF support for retention purposes must be able to demonstrate a history of effective management, viable markets for its products and services, and importance to the local economy. In some instances, a portion of a the work force scheduled for layoff may be retained in connection with an expansion loan, enabling the business to undertake larger products and create new jobs. Other combinations of advantages to the region may also be considered.

(c) **Start up or new-to-the-region businesses**: The next priority will be given to start up and new businesses within the region. Start up and new businesses involve a higher degree of risk. In response to this situation, a higher ratio of private capital will usually be required. Locally owned companies, or those with local management, are preferred. Loans to companies with non-local ownership will be considered if other criteria are met and the employment impact is significant.

Other factors considered are:

(a) The primary characteristics of the business, including the character of the borrower, credit worthiness, adequate cash flow, sufficient collateral, and the capacity to repay the note.
(b) Projects owned or managed by minorities and women, are subject to the same review standards as other projects. However, women and minority owned business enterprises are specifically encouraged to apply for BLF assistance.
(c) Businesses identified as having significant growth potential may be given additional technical assistance, provided that significant market research and planning can be demonstrated by the borrower, leveraging from other sources is strong, and other benefits of the proposed project are attainable in the near term.
(d) Encouragement will be given to businesses that will build the tourism and service sectors of the regional economy. Encouragement is also given to manufacturing industries that add value to local natural resources, or businesses that help build Colorado's energy economy.
(e) Where a BLF loan can help add or stabilize the region's tax base through real estate, capital equipment, and sales taxes generated by increased business and employee spending, additional consideration is warranted.

3. Minimum & Maximum Amounts of loans to be made:

For CDBG loans, the minimum loan amount is $5,000. There is no maximum loan amount, though most loans will not exceed $250,000. All loan requests are open to consideration and discussion. For MEP loans, the maximum loan amount is $100,000. The maximum technical assistance amount for these loans will be lesser of 5% or $5,000. The total value of loan and technical assistance provided will not exceed $100,000.

4. Leveraging:

For CDBG loans, the overall leveraging target for CDBG funds will be 1:1. Meaning the BLF loans will not exceed 50% of the overall financing in aggregate. The 1:1 ratio may be exceeded for an individual loan if the overall average leveraging of the existing portfolio has achieved the 1:1 required leveraging. Assistance will be provided to all borrowers in securing other sources of financing. This assistance will consist of introductions to local banks and other state and federal lending programs. Borrowers without an identified source for their outside financing will be encouraged to seek commercial financing from banks within the region. Documentation of the commitment for outside financing shall seek commercial financing from banks within the region. Documentation of the commitment for outside financing shall be provided to the BLF Director with acknowledgment of the BLF loan portion including the proposed BLF loan terms.

For MEP loans, leveraging is not required.

5. **Rates & Terms:**

The BLF Director will utilize an interest rate for CDBG and MEP loans under guidelines established by the BLF Committee. The minimum interest charged for CDBG funds will be zero (0%) per annum. The maximum interest rate on the CDBG loans will not exceed 2% above the prime interest rate as published by the *Wall Street Journal*, at the time the loan is approved.

The maximum interest rate on the MEP will be twenty-one percent (21%) per annum. A loan at maximum rate will be rare though, since typical loans average around three percent (3%) above prime. MEP loans may be made with a variable interest rate.

Loan terms for CDBG and MEP loans can range from a minimum of 1 year to a maximum of 10 years depending on the borrower's cash flow projections and the nature of the security provided and its

depreciable life. Interest and/or principal payments may be deferred up to a maximum of two years as necessary for individual loans. Although the maximum loan term is 10 years, a loan can be amortized for a period of up to 20 years with a provision for a balloon payment or an adjustment of the interest rate at the end of the loan period.

6. Fees:

The following fees for the CDBG and MEP programs shall be charged:

- Up to 2% of the loan amount may be charged as an origination fee to assist in loan package preparation, at the discretion of the BLF Director

7. **Use of Proceeds**:

Loan funds from the CDBG and MEP programs may be used to finance the following:

- Capital equipment
- Inventory
- Working capital
- Purchase of existing buildings
- Other fixed assets
- Equity participation in exchange for business shares or royalty payments
- Refinance of existing debt (must demonstrate special need)
- Construction of new facilities and renovation of interiors and exteriors (discouraged due to Davis-Bacon Act and other federal requirements)

8. **Collateral Requirements**:

All CDBG and MEP loans will require collateral as well as personal guarantee(s) from the borrower(s). The loan will not exceed 100% of the market value of the collateral.

9. Types of Assistance: (loans, equity, guarantees, etc.)
Most assistance will be provided through loans with the potential of equity positions. No loan guarantees are anticipated.

10. **Past Performance**: **ALL CONTRACTS (7)**

CDBG Funds Received:	$4,965,104
Program Income Generated:	$0
Miscellaneous Income Generated	$0
Other Funds Received:	$474,821
Administration	$474,821
Loans	$0
Total Funds Loaned:	$4,523,283
Number of Loans Made:	43
Amount Defaulted:	$204,055
Number of Loans Defaulted:	5
Total Funds Lost:	$204,055
Number of Jobs Created/Retained	459
Number of L/M Jobs Created/Retained	642

Management:

1. **Please describe your proposed administrative structure. Specify who is responsible for completing defined tasks. Be specific.**

Region 10 will administer the CDBG and MEP loan programs. The BLF Director will provide overall management of the program under the direct supervision of the Executive Director. The BLF Director will evaluate borrower applications and financial statements and prepare the loan packages, including the assurance of loan contract compliance, environmental review, loan analysis, loan packaging, loan closing, and loan servicing. The Accountant and Administrative Assistance will provide administrative support in filing, correspondence, preparation of loan documentation, loan servicing, and other clerical support as necessary. The Accountant will receive payments, prepare vouchers, prepare deposits, prepare checks, post expense for general ledger, prepare quarterly financial statements, and required reports and drawdown documentation.

2. **Describe the composition of your loan committee. Describe its relationship to the governing board**.

The BLF Committee is a twelve-member group, two from each of the six counties, appointed by the County Commissioners of each County. The BLF Committee establishes lending criteria for all loans; also, they approve individual loans of more than $50,000. The membership of the loan committee represents the banking/lending industry and general business community of the region. Region 10's Bylaws outline all BLF Committee member responsibilities and procedures.

The BLF Committee meets quarterly, and more often as necessary. In order to promptly review loan applications, meetings of the BLF Committee may be held via phone conference, in which materials are emailed in advance. A quorum for the BLF Committee meeting shall be a majority of the appointed members present in person or via telephone. In the event a quorum is attained, decisions may be ratified through ballots emailed to and returned by sufficient BLF Committee members.

The Region 10 Bylaws also outline the relationship and oversight provided by the Board of Directors. The BLF Director provides monthly reports to the Region 10 Board or Executive Committee. The BLF Committee appoints a Chairman. The Chairperson of the BLF Committee is a member and officer of the Region 10 Board of Directors. The Board of County Commissioners of each county appoints BLF Committee members representing that county for two-year terms. There is no limit to the number of terms a committee person may serve.

3. **Describe the relationship between the BLF and the unit of local government who is sponsoring this application.**

The Montrose County Board of County Commissioners has entered into a Memorandum of Agreement with Region 10 for the implementation and administration of the CDBG portion of the BLF. Region 10 shall establish and maintain a loan committee as outlined in the above section to oversee all loan decisions. The BLF Committee will make final loan decisions except in the case of an appeal or when a waiver is needed of the loan underwriting guidelines. In these latter situations, the Region 10 Executive Committee or Board of Directors shall make the final decision pending state approval. The Memorandum of Agreement will outline the services that the county will provide including accounting for grant funds and grant audit. Region 10 shall be allowed to receive all fees, interest, and other miscellaneous income generated from the operation of the BLF. Both parties acknowledge that the BLF will be a source of ongoing revenues for the administrative expenses of Region 10.

4. Describe the relationship between the BLF and lending institutions in the service area.

The BLF Committee maintains a minimum of two representatives from the local lending institutions in its membership. In cooperation with the Small Business Development Center at Western State Colorado University, the BLF Director maintains good communications with the most local lending institutions. As a former banker in the region, the BLF Director is on excellent terms with regional banks, the Small Business Administration, the Colorado Lending Source, and other financing institutions.

5. How does the BLF relate and coordinate with other economic development activities in the area?

As part of an Economic Development Administration designated and funded district, the BLF maintains good communications with local economic development organizations, such as the Montrose Economic Development Corporation (MEDC), Delta County Economic Development (DCED), Small Business Development Center (SBDC). In the last 2 years, Region 10 BLF has maintained a relationship with the following groups as a funding and Technical Assistance resource: Engage – Delta Incubator, Gunnison Ice Lab, and the Telluride Venture Accelerator.

6. **Please attach a proposed project list**. The list should include: type of project; amount requested; and status.

Region 10			
Projected Loan Queue			
Industry	**Request**	**Dollar Request**	**Status**
Manufacturing	Equipment/Working Capital	$ 150,000.00	Pending
Technology	Equipment/Working Capital	$ 100,000.00	Pending
Service	Equipment	$ 15,000.00	Pending
Hotel	Improvements	$ 50,000.00	Pending
Restaurant	Start-Up	$ 125,000.00	Pending
Service	Working Capital	$ 35,000.00	Pending
Total		$ 475,000.00	

7. Please attach a copy of your Loan Policy for Regular and Micro Enterprise Loans.

To the best of my knowledge and belief, statements and data in this application are true and correct and their submission has been duly authorized by the governing body of all participating jurisdictions.

_____ C. Douglas Atchley, Chairman, Board of County Commissioners	Delta County Jurisdiction	_____ Date
_____ Phil Chamberland, Chairman Board of County Commissioners	Gunnison County Jurisdiction	_____ Date
_____ Susan Thompson, Chairman Board of County Commissioners	Hinsdale County Jurisdiction	_____ Date
_____ Keith Caddy, Chairman Board of County Commissioners	Montrose County Jurisdiction	_____ Date
_____ Don Batchelder, Chairman Board of County Commissioners	Ouray County Jurisdiction	_____ Date
_____ Kris Holstrom, Chairman Board of County Commissioners	Sand Miguel County Jurisdiction	_____ Date

APPLICANT STATEMENT OF ASSURANCES AND CERTIFICATIONS
FOR COMMUNITY DEVELOPMENT BLOCK GRANT
BUSINESS LOAN FUNDS

The applicant hereby assures and certifies that:

(A) It:

(1) Possesses legal authority to apply for the grant and to execute the proposed project, and its governing body has duly adopted or passed as an official act a resolution, motion or similar action authorizing the filing of the application, including all understandings and assurances contained therein, and directing and authorizing the applicant's chief executive officer and/or other designated official representatives to act in connection with the application and to provide such additional information as may be required; and

(2) Has developed its application, including its projected use of funds, so as to give maximum feasible priority to activities which will benefit low and moderate income persons or aid in the prevention or elimination of slums or blight. (The requirement for this certification will not preclude the State from approving an application where the applicant certifies and the State determines, that all or part of the proposed project activities are designed to meet other community development needs that have arisen during the preceding twelve-month period and have particular urgency because existing conditions pose a serious and immediate threat to the health or welfare of the community and where other financial resources are not available to meet such needs.) Furthermore:

(A) With respect to activities it claims benefit low and moderate income persons, it has determined and documented that not less than fifty-one percent (51%) of the beneficiaries of the activity are low and moderate income persons; and

(B) With respect to activities it claims aid in the elimination of slums or blight, it has determined and documented:

(i) For activities to address slums or blight on an area basis:

(I) The area meets a definition of a slum, blighted, deteriorated or deteriorating area under State or local law;

(II) Throughout the area, at least twenty-five percent (25%) of the buildings are in a state of deterioration or two or more types of public improvements are in a state of deterioration;

(III) Documentation is being maintained on the boundaries of the area and the condition which qualified the area at the time of its designation;

(IV) The assisted activity addresses one or more of the conditions which contributed to the deterioration of the area; and

(V) Rehabilitation will only be undertaken on residential structures which are not occupied by low and moderate income persons if such structures are substandard under local definition, and provided that all deficiencies making such structure substandard must be corrected before less critical work on the structure may be

undertaken.

(ii) For activities to address slum or blight on a spot basis, the activities must be designed to eliminate specific conditions of blight or physical decay and must be limited to acquisition, clearance, relocation, historic preservation and rehabilitation of buildings, but only to the extent necessary to eliminate specific conditions detrimental to public health and safety.

(B) It is following a detailed citizen participation plan which:

(1) Provides for and encourages citizen participation with particular emphasis on participation by persons of low and moderate income who are residents of slum and blight areas and of areas in which Community Development Block Grant (CDBG) funds are proposed to be used;

(2) Provides citizens with reasonable and timely access to local meetings, information, and records relating to its proposed and actual use of CDBG funds;

(3) Provides for technical assistance to groups representative of persons of low and moderate income that request such assistance in developing proposals with the level and type of assistance to be determined by the applicant;

(4) Provides for public hearings to obtain citizen views and to respond to proposals and questions at all stages of the community development program, including at least the development of needs, the review of proposed activities, and review of program performance, which hearings shall be held after adequate notice at times and locations convenient to potential or actual beneficiaries, and with accommodation for the handicapped;

(5) Provides for a timely written answer to written complaints and grievances, within 15 working days where practicable; and

(6) Identifies how the needs of non-English speaking residents will be met in the case of public hearings where a significant number of non-English speaking residents can be reasonably expected to participate.

In the case of a multi-jurisdictional application, all directly participating jurisdictions are required to have a Citizen Participation Plan and to submit it with the application.

(C) It has provided for and encouraged citizen participation, with particular emphasis on participation by persons of low and moderate income who are residents of slum and blight areas and of areas in which CDBG funds are proposed to be used, by:

(1) Furnishing citizens information concerning the amount of funds available for proposed community development and housing activities and the range of activities that may be undertaken, including the estimated amount proposed to be used for activities that will benefit persons of low and moderate income and its plans for minimizing displacement of persons as a result of activities assisted with CDBG funds and to assist persons actually displaced as a result of such activities;

(2) Publishing a proposed project plan/application in such a manner to afford citizens an opportunity to examine its content and to submit comments on the proposed project plan/application and on the community development performance of the jurisdiction(s);

(3) Holding one or more public hearings, as indicated below, to obtain citizen views and to

respond to proposals and questions related to community development and housing needs, proposed activities and past CDBG performance. All hearings will be held no sooner than five days after notice, at times and locations convenient to potential or actual beneficiaries, and with accommodation for the handicapped and for the needs of non-English speaking residents where a significant number of such residents may reasonably be expected to participate.

Applicant's Public Hearing	Date	Time	Location

(4) As applicable, providing citizens with reasonable and timely access to local meetings, information and records regarding its proposed and past use of CDBG funds;

(5) In preparing its project plan/application, considering any such comments and views and, if deemed appropriate, modifying the proposed project plan/application;

(6) Making the final project plan/application available to the public; and

(7) Identifying its community development and housing needs, including the needs of low and moderate-income persons, and the activities to be undertaken to meet such needs.

In the case of a multi-jurisdictional application, all directly participating jurisdictions are required to have a Citizen Participation Plan and to submit it with the application.

(D) In the event it is awarded CDBG funds by the State it will:

(1) Follow a residential anti-displacement and relocation assistance plan which shall:

(a) In the event of such displacement, provide that:

(i) Governmental agencies or private developers shall provide within the same community comparable replacement dwellings for the same number of occupants as could have been housed in the occupied and vacant occupiable low and moderate income dwelling units demolished or converted to use other than for housing for low and moderate income persons, and provide that such replacement housing may include existing housing assisted with project based assistance provided under Section 8 of the United States Housing Act of 1937;

(ii) Such comparable replacement dwellings shall be designed to remain affordable to persons of low and moderate income for 10 years from the time of initial occupancy;

(iii) Relocation benefits shall be provided for all low or moderate income persons who occupied housing demolished or converted to a use other than for low or moderate income housing, including reimbursement for actual and reasonable moving expenses, security deposits, credit checks, and other moving-related expenses, including any interim living costs; and, in the case of displaced persons of low and moderate income, provide either:

compensation sufficient to ensure that, for a 5-year period, the displaced families shall not bear, after relocation, a ratio of shelter costs to income that exceeds 30 percent; or

(iv) if elected by a family, a lump-sum payment equal to the capitalized value of the benefits available under sub-clause (I) to permit the household to secure participation in a housing cooperative or mutual housing association.

(v) Persons displaced shall be relocated into comparable replacement housing that is:

(1) decent, safe, and sanitary;

(2) adequate in size to accommodate the occupants;

(3) functionally equivalent; and

(4) in an area not subject to unreasonably adverse environmental conditions.

(b) Persons displaced shall have the right to elect, as an alternative to the benefits under this subsection to receive benefits under the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 if such persons determine that it is in their best interest to do so; and

(c) Where a claim for assistance under subparagraph (A)(iv) is denied by grantee, the claimant may appeal to the State, and that the decision of the State shall be final unless a court determines the decision was arbitrary and capricious.

In the case of a multi-jurisdictional application, all directly participating jurisdictions are required to have a Residential Anti-displacement and Relocation Assistance Plan and to submit it with the application.

(2) Comply with the provisions of the above paragraph (1) except that paragraphs (A)(i) and (A)(ii) shall not apply in any case in which the Secretary of the U.S. Department of Housing and Urban Development finds, on the basis of objective data, that there is available in the area an adequate supply of habitable affordable housing for low and moderate income persons. A determination under this paragraph is final and non reviewable.

(3) Provide citizens with reasonable notice of, and opportunity to comment on, any substantial change proposed to be made in the use of CDBG funds from one eligible activity to another by following the same procedures required in paragraph (c) for the preparation and submission of the final project plan/application.

(E) It will:

(1) Minimize displacement of persons as a result of activities assisted with CDBG funds and provide for reasonable benefits to any person involuntarily and permanently displaced as a result of the use of CDBG funds to acquire or substantially rehabilitate property.

(2) Affirmatively further fair housing in addition to conducting and administering its project in conformity with Public Law 88-352 and Public Law 90-284 as certified in paragraph (h) hereinafter.

In the case of a multi-jurisdictional application, all directly participating jurisdictions are required to affirmatively further fair housing.

(3) Not attempt to recover any capital costs of public improvements assisted in whole or part with CDBG funds by assessing any amount against properties owned and occupied by persons of low and moderate income, including any fee charged or assessment made as a condition of obtaining access to such public improvements, unless:

(a) CDBG funds are used to pay the proportion of such fee or assessment that relates to the capital costs of such public improvements that are financed from revenue sources other than the CDBG program, or

(b) for purposes of assessing any amount against properties owned and occupied by persons of moderate income who are not persons of low income, it certifies that it lacks sufficient CDBG funds to comply with the requirements of subparagraph (A).

(F) Its chief executive officer or other officer of the applicant approved by the State:

(1) Consents to assume the status of responsible Federal official under the National Environmental Policy Act of 1969 (NEPA) and other provisions of Federal law, as specified in 24 CFR Part 58, which further the purposes of NEPA, insofar as the provisions of such Federal law apply to the Colorado Community Development Block Grant (CDBG) Program; and

(2) Is authorized and consents on behalf of the applicant and himself/herself to accept the jurisdiction of the Federal courts for the purpose of enforcement of his/her responsibilities as such an official.

(G) It will comply with the financial management regulations, policies, guidelines and requirements set forth in the CDBG Direct Economic Development Projects and Business loan funds' Guidebook.

(H) It will comply with:

(1) **Section 110 of the Housing and Community Development Act of 1974**, as amended, and any State regulations regarding the administration and enforcement of labor standards.

(2) **Davis-Bacon Fair Labor Standards Act (40 USC 276a - 276a-5)** requiring that, on all prime contracts which exceed $2,000 for federally-assisted construction, alteration or rehabilitation, laborers and mechanics employed by contractors or subcontractors shall be paid wages at rates not less than those prevailing on similar construction in the locality as determined by the Secretary of Labor. (This requirement applies to the rehabilitation of residential property only if such property is designed for use of eight or more families.)

(3) **Contract Work Hours and Safety Standards Act of 1962 (40 USC 327 et seq.)** requiring that mechanics and laborers employed on federally-assisted contracts which exceed $2,000 be paid wages of not less than one and one-half times their basic wage rates for all hours worked in excess of forty in a work week.

(4) **Copeland "Anti-Kickback" Act of 1934 (40 USC 276 (c))** prohibiting and prescribing penalties for "kickbacks" of wages in federally- financed or assisted construction activities.

(I) It will comply with:

(1) **Title VI of the Civil Rights Act of 1964 (Pub. L. 88-352; 42 USC 2000 (d))** prohibiting discrimination on the basis of race, color, religion or religious affiliation, or national origin in any program or activity receiving federal financial assistance.

(2) **The Fair Housing Act (42 USC 3601-20)**, as amended, prohibiting housing discrimination on the basis of race, color, religion, sex, national origin, handicap, and familial status.

(3) **Section 109 of the Housing and Community Development Act of 1974 (42 USC 5309)**, as amended, providing that no person shall be excluded from participation (including employment), denied program benefits or subjected to discrimination on the basis of race, color, national origin or sex under any program or activity funded in whole or in part under Title I (Community Development) of the Housing and Community Development Act.

(4) **Executive Order 11063 (1962)**, as amended by Executive Order 12259, requiring equal opportunity in housing by prohibiting discrimination on the basis of race, color, religion, sex or national origin in the sale or rental of housing built with federal assistance.

(5) **Executive Order 11246 (1965)**, as amended by Executive Order 11375, prohibiting discrimination on the basis of race, color, religion, sex or national origin in any phase of employment during the performance of federal or federally-assisted contracts in excess of $2,000.

(6) **Section 3 of the Housing and Community Development Act of 1968 (12 USC 1701 (u))**, as amended, providing that, to the greatest extent feasible, opportunities for training and employment that arise through HUD-financed projects, will be given to lower-income persons in the project area, and that contracts be awarded to businesses located in the project area or to businesses owned, in substantial part, by residents of the project area.

(7) **Section 504 of the Rehabilitation Act of 1973 (29 USC 793)**, as amended, providing that no otherwise qualified individual shall, solely by reason of a handicap, be excluded from participation (including employment), denied program benefits or subjected to discrimination under any program or activity receiving federal funds. Effective communication with persons of all types of disabilities must be ensured.

(8) **Age Discrimination Act of 1975, (42 USC 6101)**, as amended, providing that no person shall be excluded from participation, denied program benefits or subjected to discrimination on the basis of age under any program or activity receiving federal funds.

(J) It will comply with:

(1) **Section 104(d) of the Housing and Community Development Act of 1974, as amended (42 USC 5301)**, known as the **"Barney Frank Amendment," and the HUD implementing regulations at 29 CRF Part 570**, requiring that local grantees follow a residential anti-displacement and relocation assistance plan which provides for the replacement of all low/moderate-income dwelling units that are demolished or converted to another use as a direct result of the use of CDBG funds, and which provides for relocation assistance for all low/moderate-income households so displaced.

(2) **Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended -- Title III, Real Property Acquisition (Pub. L. 91-646 and HUD implementing regulations at 49 CFR Part 24)**, providing for uniform and equitable treatment of persons displaced from their homes, businesses, or farms by federal or federally- assisted programs and establishing uniform and equitable land acquisition policies for federal assisted programs. Requirements include bona fide land appraisals as a basis for land acquisition, specific procedures for selecting contract appraisers and contract negotiations, furnishing to owners of property to be acquired a written summary statement of the acquisition price offer based on the fair market price, and specified procedures connected with condemnation.

(3) **Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended -- Title II, Uniform Relocation Assistance (Pub. L. 91-646 and HUD implementing regulations at 49 CFR Part 24)**, providing for fair and equitable treatment of all persons displaced as a result of any federal or federally-assisted program. Relocation payments and assistance, last-resort housing replacement by displacing agency, and grievance procedures are covered under the Act. Payments and assistance will be made pursuant to state or local law, or the grant recipient must adopt a written policy available to the public describing the relocation payments and assistance that will be provided. Moving expenses and up to $22,500 or more for each qualified homeowner or up to $5,250 or more for each tenant are potential costs.

(K) It will comply with:

(1) **National Environmental Policy Act of 1969 (42 USC 4321 et seq.)**, as amended, and the implementing regulations of HUD (24 CFR Part 58) and of the Council on Environmental Quality (40 CFR Parts 1500 - 1508) providing for establishment of national policy, goals, and procedures for protecting, restoring and enhancing environmental quality.

(2) **National Historic Preservation Act of 1966 (16 USC 470 et seq.)**, as amended, requiring consideration of the effect of a project on any district, site, building, structure or object that is included in or eligible for inclusion in the National Register of Historic Places.

(3) **Executive Order 11593, Protection and Enhancement of the Cultural Environment, May 13, 1971 (36 FR 8921 et seq.)** requiring that federally-funded projects contribute to the preservation and enhancement of sites, structures and objects of historical, architectural or archaeological significance.

(4) **The Archaeological and Historical Data Preservation Act of 1974, amending the Reservoir Salvage Act of 1960 (16 USC 469 et seq.)**, providing for the

preservation of historic and archaeological data that would be lost due to federally-funded development and construction activities.

(5) **Executive Order 11988, Floodplain Management, May 24, 1977 (42 FR 26951 et seq.)** prohibits undertaking certain activities in flood plains unless it has been determined that there is no practical alternative, in which case notice of the action must be provided and the action must be designed or modified to minimize potential damage.

(6) **Executive Order 11990, Protection of Wetlands, May 24, 1977 (42 FR 26961 et seq.)** requiring review of all actions proposed to be located in or appreciably affecting a wetland. Undertaking or assisting new construction located in wetlands must be avoided unless it is determined that there is no practical alternative to such construction and that the proposed action includes all practical measures to minimize potential damage.

(7) **Safe Drinking Water Act of 1974 (42 USC 201, 300 f et seq., 7401 et seq.)**, as amended, prohibiting the commitment of federal financial assistance for any project which the Environmental Protection Agency determines may contaminate an aquifer which is the sole or principal drinking water source for an area.

(8) **The Endangered Species Act of 1973 (16 USC 1531 et seq.)**, as amended, requiring that actions authorized, funded, or carried out by the federal government do not jeopardize the continued existence of endangered and threatened species or result in the destruction or modification of the habitat of such species which is determined by the Department of the Interior, after consultation with the State, to be critical.

(9) **The Wild and Scenic Rivers Act of 1968 (16 USC 1271 et seq.)**, as amended, prohibiting federal assistance in the construction of any water resources project that would have a direct and adverse affect on any river included in or designated for study or inclusion in the National Wild and Scenic Rivers System.

(10) **The Clean Air Act of 1970 (42 USC 1857 et seq.)**, as amended, requiring that federal assistance will not be given and that license or permit will not be issued to any activity not conforming to the State implementation plan for national primary and secondary ambient air quality standards.

(11) **HUD Environmental Criteria and Standards (24 CFR Part 51)** providing national standards for noise abatement and control, acceptable separation distances from explosive or fire prone substances, and suitable land uses for airport runway clear zones.

(L) It will:

(1) Comply with **The Lead-Based Paint Poisoning Prevention Act -- Title IV (42 USC 4831)** prohibiting the use of lead-based paint in residential structures constructed or rehabilitated with federal assistance, and requiring notification to purchasers and tenants of such housing of the hazards of lead-based paint and of the symptoms and treatment of lead-based paint poisoning.

(2) Comply with the **Armstrong/Walker "Excessive Force" Amendment, (P.L. 101-144) & Section 906 of Cranston-Gonzalez Affordable Housing Act of 1990**, which requires that a recipient of HUD funds must certify that they have adopted or

will adopt and enforce a policy prohibiting the use of excessive force by law enforcement agencies within their jurisdiction against individuals engaged in nonviolent civil rights demonstrations; or fails to adopt and enforce a policy of enforcing applicable state and local laws against physically barring entrance to or exit from a facility or location which is the subject of such non-violent civil rights demonstration within its jurisdiction.

(3) Comply with the **"Government-wide Restriction on Lobbying, (P.L. 101-121)**, which prohibits spending CDBG funds to influence or attempt to influence federal officials; which requires the filing of a disclosure form when non-CDBG funds are used for such purposes; which requires certification of compliance by the state; and which requires the state to include the certification language in grant awards it makes to units of general local government at all tiers and that all sub-recipients shall certify accordingly as imposed by Section 1352, Title 31, U.S. Code. Any person who fails to file the required certification shall be subject to civil penalty of not less than $10,000 and not more than $100,000 for each failure.

(4) Comply with the **Department of Housing and Urban Development Reform Act of 1989 (24 CFR part 12)** requiring applicants for assistance for a specific project or activity from HUD, to make a number of disclosures if the applicant meets a dollar threshold for the receipt of covered assistance during the fiscal year in which an application is submitted. An applicant must also make the disclosures if it is requesting assistance from HUD for a specific housing project that involves assistance from other governmental sources.

(5) Give the State, the U.S. Department of Housing and Urban Development (HUD), and any authorized representatives access to and the rights to examine all records, books, papers or documents related to the application and grant.

(M) It will comply with all parts of Title 1 of the Housing and Community Development Act of 1974, as amended, which have not been cited previously as well as with other applicable laws and regulations.