



State of Georgia Employment Incentive Program (EIP) FY 2015 Manual

Georgia Department of Community Affairs
Office of Economic Development
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INTRODUCTION

This packet contains the information and forms needed by a local government to complete and submit an Employment Incentive Program (EIP) application.

The Employment Incentive Program is a flexible economic-development financing tool. This manual should clearly define the role of the EIP as:

- 1) A financing mechanism which seeks to create employment opportunities for rural Georgia's low- and moderate-income population;
- 2) A method of assisting those businesses that cannot raise all of their financing needs through conventional private sources; and
- 3) A provider of infrastructure funding to local governments with projects that will create the necessary job opportunities, but cannot proceed because of a lack of sufficient infrastructure funding.

Due to the specialized nature of the program's low- and moderate-income hiring requirement, we encourage potential applicants to contact us to discuss their projects.

For Questions About:	Contact:	Email:	Phone:
Infrastructure Projects	Gabriel Morris EIP Program Manager	gabriel.morris@dca.ga.gov	404-679-3174
Loan Projects	Staci Tillman EIP Program Manager	staci.tillman@dca.ga.gov	404-679-0668

Or you may contact us by writing:

Employment Incentive Program
Office of Economic Development
Community Finance Division
Georgia Department of Community Affairs
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<http://www.dca.ga.gov/>

Note: Because of the time and staff limitations within the Office of Economic Development, it is essential that applicants prepare application documents in accordance with the instructions contained herein and as outlined in the regulations. Applications should be clear, thorough and sufficiently detailed so as to provide all information required. This is the responsibility of the applicant whether the applicant prepares the application or whether the application is prepared by a representative, agent or designee.

PART I: GENERAL INFORMATION

Program Definition

The Employment Incentive Program (EIP) is intended to facilitate and enhance job creation and/or retention, principally for low- and moderate-income persons, by providing a flexible and expedient funding cycle that is more responsive to expanding or retaining economic opportunities at the local level. To be considered for funding, potential projects must address the creation and/or retention of jobs or employment opportunities, a minimum of 51% of which must be for persons of low and moderate income.

Before You Submit Your EIP Application

All potential EIP applicants, grant writers, engineers, architects, and other interested parties should be aware the following items in the EIP Manual serve as a supplement to the Community Development Block Grant (CDBG) Applicant's Manual published by the Georgia Department of Community Affairs. For more clarification on the items referenced in this manual as well as other general policies which apply to CDBG economic development projects, please refer to the most current CDBG Applicant's Manual. The most current manual can be found on DCA's website at: <http://www.dca.ga.gov/communities/CDBG/programs/CDBGRegular.asp#appmanuals>

Because economic development projects often run on schedules that are time-sensitive, CDBG/EIP and DCA regulations allow potential applicants to request "pre-agreement cost approval" (PACA) from DCA that authorizes the potential applicant and beneficiary business to commence project activities and maintain project timetables while applying for EIP assistance. Upon DCA's issuance of pre-agreement cost approval, a project may move forward prior to submission of an application or award of funds while maintaining the eligibility of the job-creation and private investment that takes place prior to submission of an application and receipt of a grant award.

In no event will issuance of PACA ensure funding for a proposed project. PACA does not increase an application's competitiveness. All costs incurred by applicants prior to an EIP award are at the applicant's own risk. Please plan your financing accordingly.

As part of the PACA process, and in order to engage communities considering EIP as early as possible, DCA has developed an Initial Project Assessment ("IPA") to determine if projects may be eligible for EIP funding as well as how competitive the proposed project is based on the rating and selection criteria. DCA strongly recommends that potential applicants contact DCA (through our Office of Economic Development in Atlanta or the DCA Economic Development Field Representatives) to schedule an IPA meeting prior to submitting a formal EIP application. If a project appears to be eligible for EIP financing, submission of an IPA will result in DCA issuing pre-agreement cost approval (PACA). Applicants will generally have ninety (90) days from the date of DCA's pre-agreement cost approval letter to submit an EIP application.

Application Overview

Applications are eligible for funding only if they meet the application threshold requirements outlined in the State of Georgia's EIP Regulations. In order to meet the EIP threshold requirements, an application must receive at least 300 points under the EIP Rating and Selection System. Furthermore, the application's review must ensure that all appropriate funding criteria have been considered, and that the project conforms to the objectives of Title I of The Housing and Community Development Act of 1974,

as amended, and can be carried out in compliance with all applicable federal, state, or local laws, regulations or requirements.

The locality submitting the EIP application, prior to the obligation of any project construction, must document that an Environmental Assessment has been completed for the project and the project has met (or will meet) the requirements of the National Environmental Policy Act (NEPA) as specified in Georgia's CDBG/EIP Program Regulations and CDBG Applicant's Manual and CDBG Recipient's Manual. *(Refer to the Appendices of these documents for more information on Environmental Compliance).*

In cases where fundable applications exceed available funds, the application with the highest number of jobs benefiting low- and moderate-income persons will be given priority.

The locality submitting the EIP application must hold a public hearing and comply with the requirements of the State's CDBG and EIP program regulations and guidelines for "Citizen Participation". The public notice and minutes of the hearing should accompany the application. (See "Citizen Participation Requirements" below for details).

In order to meet federal funding requirements, various forms, certifications and documents are required to be submitted with an EIP application. Therefore, applications for the EIP program must be submitted in conformance with the format and applicable instructions specified by the Department of Community Affairs. To be considered complete, an application must contain all the appropriate elements listed on the EIP Application Completeness Checklist including all supplemental documentation requested for the appropriate project type (either public infrastructure or direct assistance to a private, for-profit business) and must include original signatures of the applicant's certifying representative on the EIP Application Summary Form (Form DCA-1EIP), the Certified Assurances Form (Form DCA-10) and the CDBG/EIP Disclosure Report (Form DCA-13). All forms and checklists are included in this packet.

An application must include a discussion in DCA-5 of plans for implementing Section 3 requirements along with other applicable laws and regulations, e.g., the Uniform Act, that may affect program implementation and administration. "First source" hiring agreement(s) will be emphasized as a good way to implement Section 3 requirements. Note that Section 3 requirements are available as an Appendix of the most current year CDBG Applicant's Manual and at the DCA website link - <http://www.dca.ga.gov/communities/CDBG/programs/CDBGforms.asp>

Grant awards will be made to those applications that receive a funding recommendation until all available funds are exhausted.

Maximum Assistance and Annual Set-Aside Amount

Grant amounts under this special program will generally not exceed \$500,000 per award. The maximum grant amount may be increased if warranted by extraordinary public benefit to be achieved by a particular project. Eight (8) million dollars or eleven percent (11%), whichever is greater, from each federal fiscal year's allocation to the Department of Community Affairs for the Community Development Block Grant Program will be set-aside for this program.

Eligible Program Applicants

- ◆ Eligible applicants include units of general-purpose local government that are not metropolitan cities, urban counties and other units of government eligible to participate in HUD's urban counties, or metropolitan cities program.

Ineligible Program Applicants

- ◆ The cities of Acworth, Albany, Alpharetta, Atlanta, Auburn, Austell, Ball Ground, Berkeley Lake, Brunswick, Buford, Canton, Chamblee, Chattahoochee, Clarkston, College Park, Dacula, Dalton, Decatur, Doraville, Duluth, East Point, Fairburn, Forest Park, Gainesville, Grayson, Hapeville, Hinesville, Holly Springs, Johns Creek, Jonesboro, Kennesaw, Lake City, Lawrenceville, Lilburn, Lithonia, Lovejoy, Marietta, Milton, Mountain Park, Norcross, Palmetto, Pine Lake, Powder Springs, Rest Haven, Riverdale, Rome, Roswell, Sandy Springs, Savannah, Smyrna, Sugar Hill, Suwanee, Union City, Valdosta, Waleska, Warner Robins and Woodstock.
- ◆ Cherokee County, Clayton County, Cobb County, DeKalb County, Fulton County and Gwinnett County.
- ◆ The consolidated governments of Athens-Clarke County Unified Government, Augusta-Richmond County, Columbus Consolidated Government and Macon-Bibb County.
- ◆ Any incorporated city within a HUD Entitlement Urban County that has chosen to participate through a Cooperating Agreement with the Urban County in the HUD Entitlement Program or any other community designated by HUD as an entitlement community.

Restrictions on Eligibility for Competition

Local governments with outstanding CDBG/EIP monitoring, audit, and/or other CDBG/EIP program exceptions that involve a violation of federal, state or local law or regulation are ineligible for EIP financing. Under State statutes, applicants must comply with State planning and financial reporting laws. These laws include:

- ◆ The Georgia Planning Act,
- ◆ The Service Delivery Strategy Act (HB 489),
- ◆ The Solid Waste Management Act,
- ◆ DCA Local Government Finance Report requirements, and
- ◆ Local Government Audit Act.

In certain instances of non-compliance, these laws prohibit the Department of Community Affairs from providing grant assistance. For information on a community's Qualified Local Government Status (QLG), i.e., the status of a community's compliance with the first four requirements listed above, please go to the following web site: <http://www.georgiaplanning.com/planners/planreview/default.asp>. For information on a community's compliance with the Local Government Audit Act, please contact the Georgia Department of Audits. (Applicant should report status of conformance with the reporting requirements in the EIP application). ***It should also be emphasized, that to be eligible as a sub-recipient of EIP funding, the business and principals must not appear on the Georgia Department of Revenue's delinquent tax list.***

Joint Applications

An application may be submitted individually by one unit of general-purpose local government, or jointly, by two (2) or more units of general-purpose local government. Joint applications are usually required when less than 51 percent of the beneficiaries are located within the jurisdiction of the applicant unit of general-purpose local government. Activities may serve beneficiaries outside the jurisdiction of the

applicant, provided the unit of general-purpose local government has identified such a need as an overall community-wide economic development need and 51 percent or more of the beneficiaries are within the applicant's jurisdiction. Exceptions may be made in writing by DCA on a case-by-case basis using guidance provided by law and regulation, the applicable local service delivery strategy, and written support for the exception from the county government. **Please consult with DCA for guidance concerning the need for joint applications. Requests for exceptions should be made to DCA as early as possible.**

Joint Applications must include:

- ◆ *A copy of the Cooperating Agreement* entered into by the cooperating units of government. This agreement should designate the unit of local government that will serve as lead applicant. A sample cooperating agreement DCA-11 is included in this Application Packet;
- ◆ Separate "Certified Assurances" (form DCA-10) for each jurisdiction; and
- ◆ Joint applications must also contain evidence of separate public hearings for each jurisdiction. A single public hearing, however, may serve the needs of each jurisdiction, provided that (a) each jurisdiction shares a central location and (b) the hearing is clearly publicized by both (or jointly publicized by each) jurisdictions. If a single hearing is proposed, please contact DCA for guidance. For further information, please refer to "Citizens Participation Requirements" further outlined in this manual.

Special Provisions for the Employment Incentive Program

The following regulations pertain to the State of Georgia Community Development Block Grant (CDBG) Employment Incentive Program (EIP). These regulations also implement the provisions of Resolutions adopted 2/16/83 and 1/8/92 by the Board of Community Affairs and further implement various administrative and regulatory changes mandated by the federal government. The incorporated provisions that affect the Employment Incentive Program (EIP) are as follows:

1. Federal

Title I of The Housing and Community Development Act of 1974, as amended (42 U.S.C. 5300-5320), and those parts of the federal implementing regulations applicable to the State Community Development Block Grant Program (24 CFR Part 570).

2. State

The Department of Community Affairs' Program Regulations for the Georgia Community Development Block Grant Program, as amended.

The Board of Community Affairs' Resolution dated February 16, 1983 which created the Employment Incentive Program.

The Board of Community Affairs' Resolution dated January 8, 1992 which modified certain aspects of the rating and review system, application submission deadlines, and procedures for dealing with program revenue held at the local level.

Eligible Activities

Eligible activities are identified in Section 105 of the Housing and Community Development Act of 1974, as amended. For purposes of the Employment Incentive Program, activities are eligible only to the extent that the funded activity creates tangible employment or employment training/education principally for low- and moderate-income persons. In addition, proposed activities must be based on firm written commitments from eligible subrecipients and/or businesses. The proposed activity may not be speculative in nature. *NOTE:* For purposes of the EIP program, the term “subrecipient” should generally be interpreted as “business.” However, in some cases where EIP funds are to be passed through a local development authority, the development authority itself would also be a “subrecipient” subject to the same rules and regulations as the benefiting business.

Examples of eligible activities which may be funded include, but are not limited to, the following:

1. Activities carried out by units of general local government and/or other local public authorities including: a) acquisition of real property; b) acquisition, construction, reconstruction, rehabilitation, or installation of public facilities (except for buildings for the general conduct of government), site improvements, and utilities, and c) commercial or industrial buildings, structures and other real property improvements.
2. Provision of direct assistance to private for-profit entities, when the assistance is appropriate to carry out an economic development project. However, unless such assistance has been approved by DCA for use in or in conjunction with a DCA approved “secondary market” program that would fund CDBG eligible activities with private rather than public funds, such assistance may not be in the form of outright grants, guarantees, or technical assistance. In addition, financial assistance to private for-profit entities must be made contingent upon firm commitments of financial participation from other private sources such as banks or the private for-profit entities themselves. Such assistance must also create or retain permanent jobs principally for low- and moderate-income persons.
3. Provision of assistance to local governments and/or other local public authorities to fund facilities that assist low- and moderate-income persons to acquire employment, the employment skills, and/or basic educational training to become more effective participants in the local economy. Eligibility for such activities will be limited to “new” activities that have not previously been undertaken by the unit of general local government or local development entity.

Definition of Low-and Moderate-Income

- ◆ A low- and moderate-income person is defined as a member of a family having a combined gross family income (i.e., the full amount of gross income, before deductions, of all family members residing in the household) equal to or less than the Section 8 Housing Assistance Program “lower income limit” established by the U.S. Department of Housing and Urban Development (HUD). Unrelated individuals are considered as separate families.
- ◆ The Section 8 income guidelines are available for each county and are based on 80 percent of the county's median income or 80 percent of the statewide non-metropolitan median income, whichever is greater, with adjustments for family size. Income guidelines are published each spring and are distributed by HUD and the Department of Community Affairs (DCA). Copies of the guidelines for your county may be obtained by contacting DCA at (404) 679-1589 or <http://www.dca.ga.gov/communities/CDBG/programs/CDBGforms.asp> or HUD's website at <http://www.huduser.org/portal/datasets/il/il14/index.html>. A link to the

current version of the HUD family income limits table is found in Appendix C of the most current year CDBG Applicant's Manual.

Low-and Moderate-Income Jobs Criteria

- ◆ With the exception of certain training activities described above in example 3 of **Eligible Activities**, for each activity funded under the Employment Incentive Program, at least 51% of all jobs to be created or retained as a result of the EIP project must be documented to be created for and/or retained by persons defined as low and moderate income by DCA.
- ◆ For an activity or project that retains jobs, the unit of local government and proposed subrecipient(s) must document that jobs would actually be lost without the EIP assistance and that at least 51% of the total existing jobs are currently held by low- and moderate-income persons.
- ◆ For the purposes of determining whether a job is held by or made available to a low- or moderate-income person, the person may be presumed to be low- and moderate-income if the assisted business is located within a census tract that has a poverty rate of at least 20 percent (20%) as determined by the most recently available decennial census information.
- ◆ For employment skill enhancement and/or basic educational training activities/services, at least 51% of the recipients of such services must be documented to have been low- and moderate-income persons at the time such services were provided.
- ◆ The application is **required** to contain a list of prospective full-time permanent jobs along with a breakout of those positions that involve the employment of low- and moderate-income persons. The jobs to be created or retained should be listed by job title, salary or wage scale, and skill requirements.

Basic Compliance Rules for CDBG/EIP

This section of the EIP Applicants' Manual describes some of the critical laws and regulations EIP applicants must consider when planning a CDBG/EIP Project. Note that a complete list of applicable laws and regulations can be found in the most recent CDBG Applicant's Manual, Appendix G.

It is the responsibility of the applicant's certifying official to ensure that the proposed program, activities, goals and timetables are in compliance with all applicable Federal and State laws, regulations and executive orders.

Citizen Participation Requirements

The Housing and Community Development Act emphasizes efforts to involve citizens, especially low- and moderate-income citizens, in all aspects of the CDBG/EIP Programs. Also, see DCA's Language Access Plan in the most recent CDBG Applicant's Manual Appendix R and the Manual's section on Basic Compliance Rules for CDBG for details regarding outreach to those with Limited English Proficiency. Also note the revised Sample Public Hearing Notice below.

As required by the Housing and Community Development Act, the Georgia Department of Community Affairs has adopted a written Citizen Participation Plan, available on the DCA website at <http://www.dca.state.ga.us/communities/CDBG/programs/downloads/CDBGForms/CitizenParticipationPlan.pdf>.

Applicants for and recipients of CDBG/EIP funds certify that they will follow this plan which requires that local units of government will provide for and encourage participation in the planning, implementation and assessment of their CDBG/EIP program.

In order to meet these goals, applicants must, at a minimum, meet the following requirements:

- ◆ Hold at least one (1) public hearing in the locality prior to submission of an application to DCA. The purpose of the hearing will be to obtain citizens' views and to respond to proposals and questions concerning previous CDBG/EIP funded projects (if any) and to obtain citizen participation in the development of new proposals including identification of community needs and proposed activities. The applicant must furnish information including the estimated amount of funds proposed to be used for activities benefiting low- and moderate-income persons and its plan to minimize displacement and assist displaced persons.
- ◆ Hold at least one (1) public hearing to discuss the approved activities within sixty (60) days after acceptance of the grant award; the hearing must include the estimated amount of funds proposed to be used for activities benefiting low- and moderate-income persons and plans to minimize displacement and assist displaced persons.
- ◆ Hold at least one (1) public hearing if a grantee proposes a substantial amendment to the program, as defined in the FFY 2014 Community Development Block Grant Recipient's Manual published by DCA.
- ◆ At the completion of the project, the recipient shall hold a public hearing on its performance and accomplishments of the project. The recipient shall make the report available to the public and solicit comments on performance prior to grant close out.
- ◆ A notice advertising the public hearing must be published not less than five (5) calendar days prior to the date of the hearing in the **non-legal** section of a local newspaper of general circulation. (A sample public hearing notice is included on the next page) Local governments are encouraged to take other actions to provide adequate notice to potentially interested persons.

A full five days must pass from the Public Notice publication date to the public hearing date. The first full day is the day after the Notice is published. For example: If the Notice is published on a Thursday the earliest the Hearing can be held is the following Wednesday. Another example: The hearing is scheduled for a Friday afternoon. Counting backward, day one (1) is Thursday and day five (5) is Sunday. The notice must be in a paper earlier than Sunday, i.e.: Saturday's paper or earlier.

- ◆ A copy of the application as submitted to DCA must be available for public review and the public must be notified of its availability for review.
- ◆ Hearings must be held at times and locations convenient to potential or actual beneficiaries and with accommodations for the disabled. The needs of non-English speaking residents must be met for public hearings where a significant number of non-English speaking residents can be reasonably expected to participate. Contact DCA for any required assistance.
- ◆ Applicant/recipient files must contain documentary evidence that the actions listed in this

section have been taken, including copies of actual notices and minutes of hearings.

- ◆ Applicants and recipients must provide 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 local unit of government.*
- ◆ Citizens must be provided with reasonable and timely access to local meetings, information and records relating to the local government's proposed and actual use of CDBG funds as required by HUD regulations, state law, or DCA policy.
- ◆ **This section should not be construed to restrict the responsibility or authority of the local government for the development and execution of its community development program.**
- ◆ The applicant must certify in the Certified Assurances component of the application (Form DCA-10) that the requirements above have been met.

Sample Public Hearing Notice

The (City or County) of _____ is considering applying to the Georgia Department of Community Affairs (DCA) for an Employee Incentive Program Grant of up to \$_____ (amount)_____. These funds must generally be used for the following purpose:

1. to benefit low- and moderate-income persons; or
2. to aid in the prevention or elimination of slums or blight; or
3. to meet other community development needs having a particular urgency because existing conditions pose a serious and immediate threat to the health or welfare of the community where other financial resources are not available to meet such needs. The applicant must certify and the Georgia DCA must concur that such conditions exist.

The activities for which these EIP funds may be used are in the area of economic development. More specific details regarding eligible activities, plans to assist displaced persons and the estimated amount of funds proposed to be used for activities to benefit low- and moderate-income persons, and the rating system will be provided at a public hearing which will be held at _____ (place/address) _____ on _____ (date) _____, at _____ (time) _____.

The purpose of this hearing will be to inform citizens regarding the development of the application and to review progress on the previous CDBG/EIP grant(s) (if applicable). The (City or County) of (name of City or County) is committed to providing all persons with equal access to its services, programs, activities, education and employment regardless of race, color, national origin, religion, sex, familial status, disability or age. Persons with special needs relating to handicapped accessibility or foreign language shall contact _____ (name/phone) _____ prior to _____ (date) _____. This person can be located at _____ (complete address) _____ between the hours of _____, Monday through Friday, except holidays.

The applicant must maintain detailed minutes of this hearing, a "tear sheet" or affidavit pertaining to the public notice and documentation as to whether or not meeting "special needs" was required and, if applicable, addressed.

Open Records Statute

Georgia Law requires that "all state, county, and municipal records, except those which by order of a court of this state or by law are prohibited from being open to inspection by the general public, shall be open for a personal inspection of any citizen of this state at a reasonable time and place, and those in charge of such records shall not refuse this privilege to any citizen." (O.C.G.A. § 50-18-70). This means that past and current records on the use of CDBG/EIP funds are required to be open for public inspection.

However, certain proprietary information which is required by DCA to be included in an economic development application and must be supplied by a business in order to compete and which constitutes a "trade secret" (O.C.G.A. § 10-1-740 et seq.; 16-8-13(a)(4)) is exempt from disclosure under O.C.G.A. § 50-18-70.

Conflict of Interest Prohibitions

In general, no person who is an elected or appointed official, employee, agent, consultant, officer or any person serving in a similar capacity with any participating public agency, that exercises or has exercised any functions or responsibilities with respect to any CDBG/EIP activities can benefit from a local CDBG/EIP project. Those persons who are in a position to participate in a decision-making process or gain inside information regarding CDBG/EIP proposed or related activities, who may obtain a personal financial interest, or benefit from the project, or have any interest in any contract, subcontract or agreement with respect to any CDBG/EIP project are also prohibited from benefiting from an EIP project. The prohibitions against benefiting from a CDBG/EIP project would apply to the covered individuals or those with whom they have family or business ties, for one (1) year following their tenure in the covered position.

The general conflict of interest prohibition rule at 24 CFR Part 570.489(h)(2) states that:

(2) *Conflicts prohibited.* Except for eligible administrative or personnel costs, the general rule is that no persons described in paragraph (h)(3) of this section who exercise or have exercised any functions or responsibilities with respect to CDBG activities assisted under this subpart or who are in a position to participate in a decision making process or gain inside information with regard to such activities may obtain a financial interest or benefit from the activity, or have an interest or benefit from the activity, or have an interest in any contract, subcontract or agreement with respect thereto, or the proceeds thereunder, either for themselves or those with whom they have family or business ties, during their tenure or for one year thereafter.

(3) *Persons covered.* The conflict of interest provisions for paragraph (h)(2) of this section apply to any person who is an employee, agent, consultant, officer, or elected official or appointed official of the state, or of a unit of general local government, or of any designated public agencies, or subrecipients which are receiving CDBG funds.

The Department of Community Affairs (DCA) interprets this regulation in its broadest sense. DCA applies the ordinary meaning of the term “family or business ties” as follows:

- ◆ **Family:** “A group of people related by ancestry or marriage; relatives.”
- ◆ **Business:** “The buying and selling of commodities and services; commerce, trade.”
- ◆ **Ties:** “Something that connects, binds or joins; bond; link.”

In any situation arguably falling within the conflicts prohibited under 24 CFR Part 570.489(h)(2), as interpreted by DCA, the CDBG/EIP Recipient should immediately contact DCA for guidance.

DCA will make every effort to grant exceptions to the general conflict of interest prohibition, within the authority of 24 CFR Part 489(h)(4) and (h)(5), where prior public disclosure has occurred.

In accordance with 24 CFR Part 489(h)(5), DCA must consider the cumulative effect of the following factors, where applicable, in determining whether to grant an exception:

- a) Whether the exception would provide a significant cost benefit or an essential degree of expertise to the program or project which would otherwise not be available;
- b) Whether an opportunity was provided for open competitive bidding or negotiation;
- c) Whether the person affected is a member of a group or class of low- or moderate-income persons intended to be the beneficiaries of the assisted activity, and the exception will permit such person to receive generally the same interests or benefits as are being made available or provided to the group or class;

- d) Whether the affected person has withdrawn from his or her functions or responsibilities, or the decision-making process with respect to the specific assisted activity in question;
- e) Whether the interest or benefit was present before the affected person was in a position as described in paragraph (h)(3) of this section;
- f) Whether undue hardship will result either to the State or the unit of general local government or the person affected when weighed against the public interest served by avoiding the prohibited conflict; and
- g) Any other relevant considerations.

However, it should be noted that exceptions are not always granted. To avoid the risk of having to make reimbursements to DCA, CDBG/EIP Recipients are advised that requests for exceptions should be submitted and considered by DCA **before** federal funds are expended.

To seek such an exception, a written request for an exception must be submitted by the unit of local government which:

- ◆ Fully discloses the conflict or potential conflict of interest, prior to the unit of government undertaking any action which results or may result in a conflict of interest, real or apparent; and
- ◆ The request must be accompanied by a description as to how the conflict of interest was publicly disclosed and a written opinion of the local government's attorney that the interest for which the exception is sought would not violate state or local law.

For more information on the Conflicts of Interest Regulations and DCA guidance for the CDBG/EIP programs, please consult Appendix F of the most recent CDBG Applicant's Manual.

Residential Anti-displacement and Relocation Assistance Plan

A unit of general local government receiving funds from the State must certify to the State that it has in effect and is following a residential anti-displacement and relocation assistance plan, and that it will minimize displacement of persons as a result of assisted activities. Relocation activities are subject to The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (46 U.S.C. 4601) and regulations at 49 CFR, Part 24. Additionally, Section 104(D) of the Housing and Community Development Act, as amended has two major requirements (see 24 CFR Part 42): (1) the one-for-one replacement of certain housing units demolished, or converted to non-low/moderate income status, as a direct result of a CDBG project, and (2) the expanded relocation assistance benefit payment for certain displaced tenants. This requirement will affect certain program design strategies of any applicant proposing housing demolition and/or relocation activities.

Most economic-development program strategies will not be impacted by this rule; however, DCA will provide detailed guidance at the request of EIP Applicants. The 1987 Act also provides that a grantee receiving a CDBG or EIP grant must certify that it is following a residential anti-displacement and relocation assistance plan. This certification will be required although no residential displacement would normally occur as a result of an EIP program strategy.

Acquisition of Property for Public Facility Projects

The Uniform Relocation Assistance and Real Property Acquisition Act of 1970 (URA), as amended, and as implemented by DOT regulations 49 CFR Part 24, applies whenever a local government recipient of CDBG/EIP needs to acquire property, such as land for a building, easements, Right-of-Way (ROW) for public infrastructure such as water or sewer lines, street paving, or drainage improvements.

The basic requirements are:

- The property owner must be offered the Fair Market Value (FMV) of the property based on an appraisal;
- Prior to the purchase offer, owners must be provided with information concerning their rights under the law; and
- Donations are possible but only after the owner has been informed of the government's obligation to pay FMV and executes a waiver.

URA procedures must be followed for CDBG/EIP projects even if the local government recipient is using other federal funds, its own non-federal funds, or other non-federal funds to pay for the property.

Applicants should address the status of any property needed for the project using Form DCA-5. **Applicants who can identify the specific number of easements or parcels required and the property owners and specific costs based on land values at the time of the application may receive a higher feasibility score than those who are not ready to proceed with the acquisition process.**

Note on Eminent Domain

The State of Georgia has passed legislation (HB 1313) restricting the use of eminent domain by the political subdivisions of the state. Please note these restrictions when planning your CDBG/EIP project. For further information, please review HB 1313. This legislation amended portions of Titles 8, 22, 23, and 36.

The statute appropriating FY2006 funds, and subsequent appropriations, for CDBG (Pub. L. 109–115) included an administrative provision that prohibits the use of FY2006 funds to support any Federal, State, or local project that seeks to use the power of eminent domain, unless that power is sought for certain public uses. Section 726 of the statute indicated that “public use” shall not be construed to include economic development that primarily benefits private entities. Therefore, the restriction exists on the use of CDBG funds for or in connection with applications of eminent domain powers.

Environmental Compliance

There are many federal and state environmental protection laws and regulations to consider when planning and implementing CDBG/EIP funded projects. It is important to note that compliance is often required for all funding sources, public and private, and for all components of the entire project. By planning at the application and predevelopment stages, CDBG/EIP recipients can avoid future compliance complications and time delays.

Form DCA-9 captures some of the important environmental compliance information needed to complete the environmental review required by NEPA.

National Environmental Policies Act of 1969 (NEPA) and HUD regulations implementing NEPA titled “Environmental Review Procedures for Entities Assuming HUD Environmental Responsibilities” (24 CFR Part 58).

All CDBG/EIP projects must take certain actions to comply with this regulation before committing funds for acquisition or construction. This generally includes the completion of an environmental impact assessment, documenting actions taken to comply with other environmental laws (such as those listed in the Appendix G of the most current year CDBG Applicant’s Manual and described below), and public notices.

The assessment is a written document, usually prepared after a grant is awarded, which evaluates both the negative and positive environmental effects of a project. It looks at the human, social and natural environment. At the planning stage, CDBG/EIP applicants should consider potentially negative environmental effects and propose solutions which minimize or mitigate these effects.

New for Environmental Compliance

New Environmental Review Requirement: The environmental review of multi-family housing with five or more dwelling units (including leasing) or the development of non-residential property (buildings such as Head Start Centers, Senior Centers, etc.) must include, as part of the environmental assessment, an evaluation of previous uses of the site or other evidence of contamination on or near the site to ensure that the occupants of proposed sites are not adversely affected by hazardous materials, contamination, toxic chemicals and gases, and radioactive substances. Typically this would be a “Phase One Environmental Assessment” conducted in accordance with American Society for Testing and Materials (ASTM) E1527-05 Standard.

Grantees shall use current techniques by qualified professionals to undertake any investigations determined necessary (24CFR Part 58.5 (i)(2)(ii).

- ◆ Environmental Professional must be
- ◆ Professional Engineer or Geologist with 3 years of relevant fulltime experience; or
- ◆ Licensed or certified to perform All Appropriate Inquiries (AAI) and three years of relevant fulltime experience; or
- ◆ Engineering of Science Baccalaureate degree or higher and three years of fulltime relevant experience; or
- ◆ The equivalent of 10 years relevant experience.

New Requirement to Consult with Native Americans: On June 15, 2012 HUD published a Notice the states that CDBG/EIP Recipients “must consult with tribes to determine whether a project may adversely affect historic properties of religious and cultural significance, and if so, how the adverse effect could be avoided, minimized or mitigated.” This is applicable to projects on and off tribal lands and to many of Georgia’s CDBG/EIP Recipients. The HUD Notice (CPD-12-006) and the HUD Assessment Tool describe in detail the required protocol. Note that the revised Request for Release of Funds and Certification (form HUD 7015.15) includes a certification that this protocol was followed.

A copy of the Notice and revised RROF/Certification can be found via the following web links:

The HUD Notice (CPD-12-006) may be acquired through the following web-link:

<https://www.hudexchange.info/resource/2448/notice-cpd-12-006-tribal-consultation-under-24-cfr-part-58/>

The revised Request for Release of Funds and Certification (form HUD 7015.15) may be acquired through the following web-link:

<https://www.hudexchange.info/resource/2338/hud-form-701515-request-release-funds-certification/>

Additional tools for compliance can be found at the HUD Environmental Assessment Tool at the following web site:

<https://www.hudexchange.info/environmental-review/federal-related-laws-and-authorities>

Floodplain Protection

HUD has issued regulations (24 CFR Part 55) intended to minimize floodplain development. As part of the overall environmental review process, CDBG/EIP recipients will have to document compliance with this regulation. At the application stage, refer to FEMA floodplain maps to determine if any component of your planned project takes place in the floodplain. For further information on FEMA floodplain maps, please see FEMA's web site at www.fema.gov.

Also a series of Public Notices is required prior to any floodplain disturbing actions. Please see Appendix K of the most current year CDBG Applicant's Manual for samples of the required notices. These notices are not required prior to submission of an application unless the applicant has requested a PACA that requires completion of an environmental review.

In addition, HUD requires any community using CDBG/EIP funds for any activity affecting a FEMA mapped floodplain to be a participating jurisdiction with the federal flood insurance program and to have FEMA approved local floodplain development restrictions. Any CDBG funded activity affecting the floodplain must also be in compliance with these local ordinances.

Wetland Protection

Similar to floodplain development restrictions, the Army Corp of Engineers (ACE) under the authority of Section 404 of the Clean Water Act has authority over "jurisdictional wetlands" and restricts their development. In addition, a Section 404 ACE permit may be required for projects disturbing a wetland. Also a series of Public Notices is required prior to any wetland disturbing actions. Please see Appendix K of the most current year CDBG Applicant's Manual for samples of the required notices. These notices are not required prior to submission of an application unless the applicant has requested a PACA that requires completion of an environmental review. For further information on Section 404 permitting requirements, please see Appendix K of the most current year CDBG Applicant's Manual. Appendix K also contains information concerning the recognition of wetlands and an ACE form to request a determination of ACE jurisdiction over properties applicable to the proposed project. More information can be obtained at Georgia's ACE district office web site at www.sas.usace.army.mil/.

Historic Preservation Compliance Requirements

Section 106 of the National Historic Preservation Act and the implementing regulations of the Advisory Council on Historic Preservation (36 CFR Part 800) require all CDBG/EIP applicants and recipients, in consultation with the State Historic Preservation Office (SHPO), to determine if any buildings, neighborhoods or archeological sites and resources listed or eligible for listing on the National Register of Historic Places are in the "Area of Potential Effect" (APE), and to determine the effect of the project on the APE. If the effect is adverse, the regulation requires the negotiation of ways to minimize or mitigate the effect.

Use Form DCA-9 and its attachment from DNR/HPD to identify eligible and potentially eligible areas and buildings. Photographs keyed to a map (not the same photographs used to document the "severity of need" for the project) should be included with this form. The instructions for this form have more information on the photographic and data needs. Note that there is an attachment to the form with additional information that DNR/HPD needs to review your project in a timely manner.

DCA will send projects under consideration for funding awards to the State Historic Preservation Office at the Department of Natural Resources for review and comments. The results of this review will be included in funding awards as Special Conditions which must be complied with as part of the required Environmental Review. To hasten the process, consider seeking comments from SHPO prior to submitting an application to DCA as part of your own planning and project development.

The additional cost of negotiated mitigation measures is an eligible CDBG/EIP cost.

Relocation Assistance

The Uniform Relocation Assistance and Real Property Acquisition Act of 1970 (URA), as amended, and as implemented by DOT regulations 49 CFR Part 24 applies if tenants or homeowners (regardless of income) are displaced in conjunction with a CDBG/EIP activity. See also the applicability of the URA to property acquisition above.

The purpose of this part is: (a) to ensure that owners of real property to be acquired for Federal and federally-assisted projects are treated fairly and consistently, to encourage and expedite acquisition by agreements with such owners, to minimize litigation and relieve congestion in the courts, and to promote public confidence in Federal and federally-assisted land acquisition programs; (b) to ensure that persons displaced as a direct result of Federal or federally-assisted projects are treated fairly, consistently, and equitably so that such persons will not suffer disproportionate injuries as a result of projects designed for the benefit of the public as a whole; and (c) to ensure that agencies implement these regulations in a manner that is efficient and cost effective. Further guidance is available in HUD Handbook 1378 or DCA staff is available on request to provide technical assistance.

One-for-One Replacement of Demolished Housing Units

Section 104(d) of the Housing and Community Development Act is applicable if rental units are converted to non- "low- and moderate-income dwelling units" or if occupied or occupiable housing units are demolished. This section requires the one-for-one replacement of affected units within a specific timeframe. This section also makes provision for an alternative relocation payment formula for displaced persons who will be provided "tenant-to-tenant" relocation assistance. See HUD regulations at 24 CFR Part 570.606 and 24 CFR Part 42. Further guidance is available in HUD Handbook 1378 or DCA staff is available on request to provide technical assistance.

Federal Labor Standards (Davis-Bacon, etc)

These federal labor standards require the payment of US Department of Labor "prevailing wages" (at a minimum) for most construction projects. There are also extensive reporting and project monitoring requirements.

Civil Rights/Fair Housing and Equal Opportunity (FHEO)

A. General - Fair Housing Laws and Presidential Executive Orders

Fair Housing Act

Title VIII of the Civil Rights Act of 1968 (Fair Housing Act), as amended, prohibits discrimination in the sale, rental, and financing of dwellings, and in other housing-related transactions, based on race, color, national origin, religion, sex, familial status (including children under the age of 18 living with parents or

legal custodians, pregnant women, and people securing custody of children under the age of 18), and disability.

Title VI of the Civil Rights Act of 1964

Title VI prohibits discrimination on the basis of race, color, or national origin in programs and activities receiving federal financial assistance.

Section 504 of the Rehabilitation Act of 1973

Section 504 prohibits discrimination based on disability in any program or activity receiving federal financial assistance.

Section 109 of Title I of the Housing and Community Development Act of 1974

Section 109 prohibits discrimination on the basis of race, color, national origin, sex or religion in programs and activities receiving financial assistance from HUD's Community Development and Block Grant Program.

Title II of the Americans with Disabilities Act of 1990

Title II prohibits discrimination based on disability in programs, services, and activities provided or made available by public entities. HUD enforces Title II when it relates to state and local public housing, housing assistance and housing referrals.

Architectural Barriers Act of 1968

The Architectural Barriers Act requires that buildings and facilities designed, constructed, altered, or leased with certain federal funds after September 1969 must be accessible to and useable by handicapped persons.

Age Discrimination Act of 1975

The Age Discrimination Act prohibits discrimination on the basis of age in programs or activities receiving federal financial assistance.

Title IX of the Education Amendments Act of 1972

Title IX prohibits discrimination on the basis of sex in education programs or activities that receive federal financial assistance.

Executive Order 11063

Executive Order 11063 prohibits discrimination in the sale, leasing, rental, or other disposition of properties and facilities owned or operated by the federal government or provided with federal funds.

Executive Order 11246

Executive Order 11246, as amended, bars discrimination in federal employment because of race, color, religion, sex, or national origin.

Executive Order 12892

Executive Order 12892, as amended, requires federal agencies to affirmatively further fair housing in their programs and activities, and provides that the Secretary of HUD will be responsible for coordinating the effort. The Order also establishes the President's Fair Housing Council, which will be chaired by the Secretary of HUD.

Executive Order 12898

Executive Order 12898 requires that each federal agency conduct its program, policies, and activities that substantially affect human health or the environment in a manner that does not exclude persons based on race, color, or national origin.

Executive Order 13166

Executive Order 13166 eliminates, to the extent possible, limited English proficiency as a barrier to full and meaningful participation by beneficiaries in all federally-assisted and federally conducted programs and activities.

Executive Order 13217

Executive Order 13217 requires federal agencies to evaluate their policies and programs to determine if any can be revised or modified to improve the availability of community-based living arrangements for persons with disabilities.

B. Section 3

Section 3 of the Housing and Development Act of 1968, as amended and as implemented by HUD regulations at 24 CFR Part 135. Section 3 provides that, to the greatest extent feasible, training and employment opportunities shall be made available to lower income residents of the project areas where applicable programs are being carried out and that contracts be awarded to businesses owned in substantial part by lower income residents. The "project area" is the county in which the grant is made. See more details in the Appendices and also see DCA's newly adopted Section 3 Policy in Appendix R of the most current year CDBG Applicant's Manual.

C. Affirmatively Furthering Fair Housing

Local government officials, in agreeing to accept CDBG/EIP funds, certify that they will "affirmatively further fair housing". This section outlines various options available to local government in meeting this grant obligation.

While the law does not specify what type of action recipients must take, it is clear that by virtue of receipt of CDBG/EIP funds, local government recipients are obligated to take some sort of action to affirmatively further the national goal of fair housing.

DCA does not dictate what sort of action recipients must take. DCA must, however, monitor local government recipients to determine what sorts of actions are taken. To accomplish this monitoring DCA has developed a **Fair Housing Checklist** which will be completed by the CDBG/EIP Program Representative as part of the normal project review process. A copy of this checklist is in the *Recipients' Manual*.

In order to document what you have done to affirmatively further Fair Housing, it is important to keep records of actions taken. Copies of brochures provided to relocates, minutes of meetings where fair housing is discussed and any other records must be available for review by your CDBG/EIP Program Representative.

The following checklist of possible fair housing activities is not meant to be all inclusive. It is meant to suggest the range of activities which would satisfy your obligation. Technical assistance is available from DCA if you wish to implement any of these suggestions.

Possible Actions to Affirmatively Further Fair Housing

- Analyze any impediments to fair housing choice which may exist in your community. Contact HUD or DCA for an analysis of any fair housing complaints from your area.

- Review local zoning laws and procedures to determine whether they contribute to, or detract from, progress in fair housing. Establish a collection of zoning and land use planning material to have available for the use of local fair housing groups as well as recipient staff.
- Provide funding for local fair housing groups (eligible under the CDBG Program) or provide financial or technical assistance to citizens wishing to organize such a group.
- Adopt a local Fair Housing Ordinance or a resolution supporting the state and/or federal law.
- Distribute brochures outlining fair housing law to persons attending community meetings or CDBG/EIP Public Hearings.
- Post a fair housing poster at City Hall or Courthouse.
- Require owners of rental property receiving CDBG-assisted rehabilitation loans to sign fair housing agreements as a condition of receiving assistance.
- Develop an active public information and educational campaign to promote fair housing awareness in the community.
- Include a discussion of fair housing in public meeting agendas.
- Provide persons relocated to new housing with fair housing information and referrals.

Remember to document and keep records of everything you do in the area of fair housing.

Fair Housing Resources

- HUD, "Your Housing Rights: Live Where you Want to Live" (Fact Sheet). Copies are available from HUD.
- Fair Housing Poster, available from DCA.
- Sample "Certification of Property Owners Participating in CDBG Rental Rehabilitation Loan Program to Affirmatively Market Vacant Units", available from DCA/CDBG Section.

D. Section 504 Requirements

Local government recipients and sub-recipients must comply with Section 504 of the Rehabilitation Act of 1973, as amended. This requirement is similar to the "Americans with Disability Act" (ADA) which is also applicable. HUD has published implementation regulations at 24 CFR Part 8.

The general requirement is that no otherwise qualified individual with a disability (physical or mental) shall, because a recipient's facilities are inaccessible to or unusable by individuals with disabilities, be excluded from participation in, denied benefits, or otherwise be subjected to discrimination under any program or activity that receives CDBG assistance. The definition of disability includes physical and mental factors and also includes those who may be regarded as handicapped (such as the spouse or children of a person with AIDS). Both building accessibility and employment practices are covered by Section 504.

There are seven (7) specific requirements which have an immediate effect on CDBG Recipients:

1. CDBG/EIP recipients must file an assurance of compliance. The Certified Assurances in the CDBG/EIP Application include this assurance.
2. CDBG/EIP recipients must issue periodic public notices of non-discrimination. This can be accomplished by including appropriate language in public hearing notices. The sample hearing notices included in this Manual reflects this requirement.

3. Employment practices are also covered by Section 504. Any CDBG recipient employing 15 or more persons must:
 - a. Designate at least one person to coordinate efforts to comply with the regulation (Section 504 Coordinator); and
 - b. Adopt formal grievance procedures that incorporate due process standards and that provide for the prompt and equitable resolution of discrimination complaints.
4. Communications: When a recipient communicates with applicants and beneficiaries by telephone, a telecommunication device for deaf persons (TDD's) or an equally effective system is required. The Georgia Relay Service (voice at 1-800-255-0135 or TDD at 1-800-255-0056 or at 711) is also available to provide this service. Georgia Relay makes it easy for Spanish-speaking TTY users and hearing callers to communicate by phone with Spanish Relay, which includes both Spanish-to-Spanish and Spanish-to-English service. To initiate a Spanish Relay call, dial 1-888-202-3972.
5. All meeting and public hearing spaces must be accessible and procedures should be in place to ensure that persons with impaired vision or hearing can notify the local government that assistance is required.
6. The regulations require each recipient to conduct a self-evaluation. The evaluation must be done in consultation with interested persons, including individuals with handicaps or organizations representing such people.
7. When the self-evaluation identifies structural changes as being required, a written transition plan must also be prepared. The transition plan sets forth the steps necessary to complete the changes, including a time schedule. The plan should identify the agency official responsible for implementation of the plan.

E. Limited English Proficiency

Title VI of the Civil Rights Act of 1964, 42 U.S.C. 2000(d) and Executive Order 13166 require that recipients of federal funds take responsible steps to ensure meaningful access by persons with Limited English Proficiency (LEP persons).

LEP means Limited English Proficiency. Persons who do not speak English as their primary language and who have a limited ability to read, write, speak, or understand English, and may be entitled to language assistance with respect to a particular type of service, benefit, or encounter. Note that for the purposes of gathering data for those with LEP, DCA used the U.S. Census definition as any individual who speaks a language at home other than English as their primary language, and who speaks or understands English “not well” or “not at all”.

Per the 2010 American Community Survey, approximately 86.7% of Georgia’s population speaks English, and 13.3% speak a language other than English. Almost 18% of Georgia’s population speaks Spanish or Spanish Creole, and 2.4% speak other indo-European languages and 2.2% speak Asian and Pacific Island Languages. No other ethnicity has a sizeable limited English proficiency.

The State of Georgia has identified 18 counties where LEP populations exceed the Department of Justice’s Safe Harbor 5% threshold¹. These are depicted in the following table:

County	Total Population	Total LEP Population	Language 1 (name)	Language 1 (LEP number)	Language 1 (LEP % of total pop)
Atkinson County	7,600	800	Spanish	800	10.1
Clayton County	238,600	25,600	Spanish	16,400	6.9
Cobb County	634,900	50,400	Spanish	34,300	5.4
Colquitt County	41,300	4,200	Spanish	3,900	9.5
DeKalb County	639,100	57,900	Spanish	33,900	5.3
Echols County	3,700	1,100	Spanish	1,100	30.2
Evans County	10,100	700	Spanish	700	6.9
Gilmer County	26,500	1,600	Spanish	1,600	6
Gordon County	50,600	4,100	Spanish	3,800	7.5
Grady County	23,000	1,400	Spanish	1,300	5.8
Gwinnett County	731,200	116,900	Spanish	70,900	9.7
Habersham County	39,900	2,700	Spanish	2,200	5.6
Hall County	163,700	24,500	Spanish	23,100	14.1
Murray County	36,900	2,600	Spanish	2,500	6.6
Polk County	38,000	2,400	Spanish	2,200	5.7
Telfair County	15,300	1,300	Spanish	1,200	8
Tift County	37,200	2,300	Spanish	2,000	5.3
Whitfield County	92,800	15,900	Spanish	15,200	16.4

¹ Source: Migration Policy Institute Tabulations from the US Census Bureau's pooled 2009-2011 American Community Survey (ACS) and 2007-2011 ACS.

DCA has taken a number of steps to address the needs of its LEP population, including adding the following Special Condition to CDBG grant awards, beginning with 2013:

“Title VI of the Civil Rights Act of 1964, 42 U.S.C. 2000(d) and Executive Order 13166 require that recipients of federal funds take responsible steps to ensure meaningful access by persons with Limited English Proficiency (LEP persons). DCA is a recipient of federal funds for a portion of its programs, and, thus, is obligated to reduce language barriers that can preclude meaningful access by LEP persons to DCA programs. As a recipient of federal CDBG funds under this award, your jurisdiction meets the population threshold requiring public awareness notification in Spanish as well as English. In order to clear this Special Condition, DCA is requiring a certification from the Chief Elected Official that all notices of public hearings or other general public notices regarding the CDBG funded project shall be published in both English and Spanish (including, but not limited to, newspaper published notices, posters, or flyers). Further, that translation services will be available for individuals requesting such services.”

F. For Further Information

Review these HUD websites for more information or for a listing of applicable Fair Housing Laws and Presidential Executive Orders:

- http://portal.hud.gov/hudportal/HUD?src=/program_offices/fair_housing_equal_opp
- http://portal.hud.gov/hudportal/HUD?src=/program_offices/fair_housing_equal_opp/FHLaws

Other Regulations

The following is a short list of other regulations the applicant should be familiar with when applying for or administering a CDBG/EIP grant:

FINANCIAL MANAGEMENT:

- ◆ 24 CFR, Part 85 ("Common Rule").
- ◆ Federal OMB Circular A-133.
- ◆ Federal OMB Circular A-87.

LABOR STANDARDS:

- ◆ The Contract Work Hours and Safety Standards Act (40 U.S.C. 327-330) as supplemented by Department of Labor regulations.
- ◆ The Copeland "Anti-Kickback" Act (18 U.S.C. 874) as supplemented by Department of Labor regulations.

ENVIRONMENTAL:

- ◆ Executive Order 11988, Floodplain Management, May 24, 1977 (42 FR 26951 et. seq.) particularly Sections 2 and 5.
- ◆ Executive Order 11990, Protection of Wetlands, May 24, 1977 (42 FR 56961 et. seq.) particularly Section 2(a).
- ◆ Georgia Air Quality Act of 1978 (O.C.G.A. Section 12-9-1, et. seq.) to regulate air pollution and protect air quality.
- ◆ Georgia Hazardous Waste Management Act (O.C.G.A. 12-8-60, et. seq.).
- ◆ Georgia Health Code (O.C.G.A. 31-3-1, et. seq.) regulates individual sewerage treatment systems.
- ◆ The Safe Drinking Water Act of 1974 as amended; particularly Section 1424(e).
- ◆ The Endangered Species Act of 1973 as amended; particularly Section 7.
- ◆ The Coastal Resources Barriers Act of 1982, as amended.
- ◆ The Wild and Scenic Rivers Act of 1968 as amended; particularly Section 7(b) and (c) (16 U.S.C. 1278(b) and (c)).
- ◆ The Clean Air Act Amendments of 1970 (P.L. 91-604, 42 U.S.C. 7401 et. seq.) as amended, particularly Section 176(c) and (d) (42 U.S.C. 7506(c) and (d)).
- ◆ Georgia Coastal Marshlands Protection Act of 1970 (O.C.G.A. Section 12-5-280, et. seq.) to protect the ecology of marshlands/wetlands.
- ◆ Georgia Groundwater Use Act of 1972 (O.C.G.A. Section 12-5-170, et. seq.).
- ◆ Georgia Safe Drinking Water Act of 1977 (O.C.G.A. Section 12-7-1, et. seq.).

As a reminder, this is not a complete list of all Federal, State and local regulations which will impact a CDBG/EIP project. It is the responsibility of the Applicant's certifying official to ensure that the proposed program, activities, goals, and timetables are in compliance with all applicable Federal and State laws, regulations and executive orders.

Addressing Basic Compliance Rules in Your CDBG Application

In order to maximize an applicant's competitiveness on the Feasibility criterion, applicants should briefly address the major compliance laws, regulations, requirements, or policies that will be important factors in the proper implementation of their proposals. A brief statement (approximately one paragraph) on each of the major compliance areas on DCA 5 (Description of Activities) should convey to reviewers the

applicant's intent to comply with the applicable laws and regulations and should also convey a basic understanding of the requirements.

All applicants should address the following, where applicable:

- Uniform Relocation Assistance and Real Property Acquisition Act of 1970 (URA)
 - Property Acquisition
 - Relocation Assistance
- Section 104(d) of the Housing and Community Development Act
- National Environmental Policies Act (NEPA) and Floodplain and Wetland Protection
- Historic Preservation Compliance
- Labor Standards
- Civil Rights/Fair Housing and Equal Opportunity (FHEO)
 - Section 3
 - Affirmatively Furthering Fair Housing
 - Limited English Proficiency (when applicable)

In addressing these major compliance areas, applicants need to become familiar with recent updates to DCA policies regarding Civil Rights/Fair Housing and Equal Opportunity (FHEO). These updates can be found in Appendix R of the most current CDBG Applicant's Manual. These updates include a new Section 3 Policy adopted on October 31, 2013, and a newly adopted Language Access Plan. Appendix R also includes a listing of applicable civil rights laws, their applicable regulations and coverage. Applicants should also be familiar with the Civil Rights/FHEO information provided in this Manual and in HUD's CPD Grantee Monitoring Handbook that can be found at: <http://www.hud.gov/offices/cpd/library/monitoring/handbook.cfm#22>.

PART II: GENERAL AWARD INFORMATION AND REQUIREMENTS

Pre-Agreement Cost Approval (PACA)

Because projects often run on schedules that are time-sensitive, CDBG/EIP regulations and DCA policy allow potential applicants to request pre-agreement cost approval (PACA) from DCA that authorizes the potential applicant to commence project activities and maintain project timetables while applying for CDBG/EIP assistance. Upon DCA’s issuance of pre-agreement cost approval, a project may move forward prior to submission of an application or award of funds while maintaining the eligibility of the activities that take place prior to submission of an application and receipt of a grant award.

DCA strongly recommends that potential applicants contact DCA (through its Office of Community Development in Atlanta) to discuss pre-agreement cost approval prior to submission of a written request for pre-agreement cost approval.

DCA will only grant pre-agreement cost approvals that are in compliance with 24 CFR §570.489(b) and 24 CFR Part 58. Upon approval of pre-agreement costs, the applicant is eligible for reimbursement of eligible expenses *if* a CDBG/EIP award is made. Eligible expenses in compliance with DCA’s written pre-agreement cost approval may also be counted as leverage.

IN NO EVENT WILL PRE-AGREEMENT COST APPROVALS ISSUED BY DCA ENSURE DCA FUNDING FOR THE REQUESTED PROJECTS. PACA DOES NOT INCREASE AN APPLICATION’S COMPETITIVENESS. ALL COSTS INCURRED BY APPLICANTS PRIOR TO AN EIP AWARD ARE AT THE APPLICANT’S OWN RISK. PLEASE PLAN YOUR FINANCING ACCORDINGLY.

As part of the PACA process, and in order to engage communities considering EIP as early as possible, DCA has developed an Initial Project Assessment (“IPA”) to determine if projects may be eligible for EIP funding as well as how competitive the proposed project is based on the rating and selection criteria. DCA strongly recommends that potential applicants contact DCA (through our Office of Economic Development in Atlanta or the DCA Economic Development Field Representatives) to schedule an IPA meeting prior to submitting a formal EIP application. If a project appears to be eligible for EIP financing, submission of an IPA will result in DCA issuing pre-agreement cost approval (PACA). Applicants will generally have ninety (90) days from the date of DCA’s pre-agreement cost approval letter to submit an EIP application.

Limitation on Administration and Professional Fees

Note: DCA reserves the right to reduce the overall level of administrative or professional fees depending on the scope of the proposed project.

Use the following limits for administrative, engineering and/or architectural costs paid for with EIP funds:

<u>Type of Project</u>	<u>Administrative Cost Limit</u>	<u>Engineering/Architectural Cost Limit</u>
Single Activity (Public Facility or Econ. Dev.)	6% of grant*	-Engineering @ 12% of EIP construction amount -Architectural @ 10% of EIP construction amount

* The 6% administrative cost limitation is applicable whether costs are paid directly to the recipient or

financed as a portion of an EIP subrecipient loan.

The limit for CDBG/EIP engineering and/or architectural services cost is based on construction cost paid for with CDBG/EIP funds. Contingency line items included in Preliminary Engineering and Architectural Reports are not considered construction costs and may not be included in the calculation of maximum engineering and architectural fees.

Note: Up to \$1,000 for financial audit costs are also an allowable CDBG/EIP administrative expense, in addition to the percentages specified above.

It should be noted that any assistance provided to private businesses must be "recaptured" by the local government and shall be considered Program Income. (See Section II. D below). In cases of loan foreclosures, DCA may, on a case-by-case basis, allow for additional administrative and legal expenses to be paid out of the loan and/or foreclosure proceeds.

Procurement for Application Development and other Professional Services

Note that this process is not required when contracting with RCs. These provisions apply, typically, to contracts with private consultants, engineers and architects.

EIP payments for professional services are subject to the "competitive negotiation" requirements of 24 CFR Part 85 (Common Administrative Rule). These provisions apply, typically, to contracts with private consultants, engineers and architects, and are not necessary when contracting with Regional Commissions. Note, however, that RCs that wish to subcontract directly with private consultants must use the procedures in this section and follow the requirements of 24 CFR Part 85 before entering into subcontracts with private consultants. Alternately, the local government may contract with both an RC and private consultant provided the requirements herein are followed for the procurement of the private consultant.

To comply, the applicant government (not the individual or firm proposing to provide services) must:

- ◆ Develop a Request for Proposal (RFP), suitable for any professional services, or a Request for Qualifications (RFQ), suitable for Engineering and/or architects. The RFP/RFQ must include a description of the Scope of Work, "evaluation factors" selected by the applicant to rate the proposals, and explanation of the factors and their relative importance in the process. Geographic location of a service provider may not be a deciding factor. Contact DCA for assistance;
- ◆ Publicize the RFP and/or RFQ. This is most often accomplished by publishing it in the applicant's "legal organ." Allow at least thirty (30) days for response to the advertisement for proposals;
- ◆ Send letter with copy of RFP/RFQ to a number of "known providers". Do not limit the providers just to those that do both grant administration/engineering. When soliciting firms to develop applications/administer projects, RFP's should be sent to at least seven (7) known providers. When soliciting engineering/architectural services, RFQ's should be sent to at least ten (10) known providers. As a service to applicants, recipients and others, DCA maintains a list of professionals who have expressed an interest in proposing on CDBG/EIP projects. This is not an "approved" list. DCA does not approve or disapprove professionals. This is the applicant or recipient's responsibility;

- ◆ RFP's/RFQ's should be evaluated by committee;
- ◆ Negotiate with (preferably with at least two) respondents to the RFP or RFQ.
- ◆ Prepare documentation (file memo, etc.) which evaluates proposals and establishes reasons (based on criteria in RFP/RFQ) for contractual recommendations;
- ◆ Consult city or county attorney with above recommendations and proposed contract; and
- ◆ Based upon established reasons and attorney's recommendation, obtain full council/commission approval and execute contract. Letter(s) thanking unsuccessful respondents for making a proposal should then be sent. Based on evaluation criteria contained in the RFP/RFQ, this letter should state reasons why the respondent was not hired.

Because EIP funds cannot be used to pay application development costs, applicants may (or may not, at their discretion) use this procurement process to select professionals for the preparation of an application. Applicants are cautioned, however, only to obligate CDBG/EIP funds after a grant is awarded. Initial contracts should only obligate the applicant to compensate for costs of application development. (**Note:** this cost is not eligible for reimbursement under the CDBG/EIP Programs.) If the professional is selected to prepare the application and provide additional services upon award, then the procurement process described above must be utilized.

Also, if any time in the past two years a provider has been selected through the proper procurement process for a CDBG/EIP funded project, the grant applicant/recipient may select the same grant administrator for an EIP project without repeating the process. The applicant/recipient may select the same other professional services provider(s) if the project is similar and the activity(ies) are the same (ex: sewer for CDBG and sewer for EIP, but not building for CDBG and sewer for EIP).

See Procurement Standards in most recent CDBG Applicant's Manual.

For procurement processes that result in requests for sole source approval from DCA, the procurement process must be fully documented to DCA's satisfaction before DCA will grant approval, including but not limited to the following: 1) a description of the procurement process; 2) a tear sheet of the Request for Proposals; 3) a list of the active, qualified consultants or engineers/architects that were mailed the Request for Proposals; and 4) certified return receipt documentation that the Request for Proposals was mailed to the required number of active, qualified consultants or engineers/architects, or adequate email documentation that the Request for Proposals was delivered as required.

Application Submission Timetables

Upon receipt of an Initial Project Assessment (IPA) under this program, staff will review the IPA for eligibility and basic threshold criteria and notify the potential applicant regarding general eligibility and perceived competitiveness based on the information provided.

All applications should be submitted to DCA within ninety (90) days of the issuance of a PACA letter. We suggest that applications that are mailed be sent by certified or registered mail. Applicants must submit an original application and five (5) unbound copies (set of 6). Please be sure at least 2 of the 6 copies have **original photographs**. DCA requires that all sets of photographs be in color. The mailing address is as follows:

Administrative Secretary
Office of Economic Development
Georgia Department of Community Affairs
60 Executive Park South, NE
Atlanta, Georgia 30329-2231

Upon receipt of an application, the rating and selection factors shall be those specified below, using any additional and/or supplemental information, data, analyses, documentation, commitments, assurances, etc. as may be required or requested by DCA for purposes of evaluating, rating, and selecting applicants under this program. Applications that contain insufficient information or documentation to be evaluated and rated may be returned to the locality for further information. DCA will send a “completeness letter” to the Applicant within ten (10) days of receipt of the application, requesting additional items or indicating the application is complete.

Once an application is complete, DCA staff will evaluate the application against the various rating and selection factors set forth in this application packet and the EIP regulations. For purposes of this program, the rating and selection factors shall be those specified under Section II.B (below), and any additional and/or supplemental information, data, analyses, documentation, commitments, assurances, etc. as may be required or requested by the Department for purposes of evaluating, rating, and selecting applicants under this program.

The staff may conduct site visits and hold discussions with applicants and proposed subrecipients and/or beneficiaries for the purposes of confirming and evaluating information contained in the application. The staff may consult with other appropriate government and private entities in the course of reviewing and evaluating information contained in applications.

The scores obtained for the various selection factors will be totaled. Applications/projects with scores of at least 300 points will be funded, unless funding has been exhausted. Applications/projects must also meet all appropriate funding criteria, conform to the objectives of Title I of the Housing and Community Development Act of 1974, as amended, and be able to be carried out in compliance with all applicable federal, state or local law, regulations or requirements.

Grant commitments will be forwarded to local units of government whose applications are approved for funding. In general, EIP funding announcements will be made within approximately 45 days from receipt of a complete application. In cases where fundable applications exceed available funds, the applicant with the highest number of jobs benefiting low- and moderate-income persons will be given priority.

Application Review Process

Overview of Rating and Selection System

The scores obtained for the various selection factors will be totaled and applicants with scores of at least 300 points will be awarded grants. In cases where fundable applications exceed available funds, the applicant with the highest number of jobs benefiting low- and moderate-income persons will be given priority.

EIP applications will be rated and scored based on the following factors:

	Maximum Points
Demographic Need	120
Program Feasibility	110
Program Strategy	110
Project Impact	110
Bonus (for Return of RLF Assets)	25
Total Points	475

Rating Factors

Demographic Need (120 Points)

Rating factors will be assigned in the following manner:

- ◆ **Demographic Need - absolute number of people in poverty:** Applicants will be compared in terms of the number of persons in the entire jurisdiction whose incomes are below the poverty level. Scores will be obtained by dividing each applicant's number of persons in poverty by the greatest number of persons in poverty of any applicant in the group and multiplying by 40.
- ◆ **Demographic Need - percent of people in poverty:** Applications will be compared in terms of the percentage of population below the poverty level in the entire jurisdiction. Scores will be obtained by dividing each applicant's percentage of persons in poverty by the highest percentage of persons in poverty of any applicant in the group and multiplying by 40.
- ◆ **Demographic Need - per capita income:** Applicants will be compared in terms of their per capita income for the entire jurisdiction. Scores will be obtained by dividing each applicant's per capita income into the lowest per capita income of any applicant in the group and multiplying by 40.

Note: Demographic Scores are calculated by DCA.

Feasibility (110 Points)

CDBG Program Feasibility: Applicants will be compared in terms of project feasibility. The following factors are considered:

- ◆ The organizational status of the development agency or sub-recipient business:
 - Reputable history for business and all related entities
 - Credit history
 - Litigation
 - Government findings, sanctions, etc.
- ◆ The proposed business or development concept/product/service is proven and does not represent an untried business model.
- ◆ As applicable, the development agency's or sub-recipient business' historical performance and standing is secure in the following areas: capital management, debt capacity, management character and experience, collateral value, economic and market conditions.

- ◆ As applicable, the development agency’s or sub-recipient business’ proposed development or business plan is reasonable and uses reasonable assumptions in the following areas: capital investment, debt service capacity, management ability, collateral value, industry analysis, response to future economic and market conditions.
- ◆ For real–estate projects, the proposed development team has a successful record of accomplishment. (i.e. Developer, Contractor, Architect, Leasing Agent, Property Manager, Syndicator, Construction Manager, Interim and Permanent Lenders)
- ◆ As applicable, the proposed project complies with the CDBG/EIP regulations and guidelines for “appropriateness”, underwriting, and public benefit.
- ◆ All project costs are reasonable and verified through original source documents, architectural and engineering reports, or a MAI or other certified appraisal acceptable to DCA.
- ◆ The balance of all financing sources is verified and committed in writing, with supporting documentation.
- ◆ As applicable, all required real estate is available, has clear title, and is under proper option or control.
- ◆ The development agency and sub-recipient’s investment and job commitment letter is in the proper format.
- ◆ All needed architectural plans, engineering reports, plans and specifications are completed and approved by appropriate authorities in support of the proposed project.
- ◆ The project can be carried out in accordance with all applicable federal, state, and local law, regulation and permitting requirements.
- ◆ Where applicable, review of any proposed recipient’s or subrecipient’s ability to provide administrative capacity or to undertake an approved activity.
- ◆ If all project timetables for completion are reasonable.
- ◆ Wetland and floodplain maps should be included with the application to assist DCA in determining project feasibility in addition to USGS topographic maps from the 7.5 minute, 1:24,000-scale quadrangle series. All Preliminary Engineering Reports and Preliminary Architectural Reports should include an original signature and the appropriate professional stamp. Points may be deducted for feasibility without these features.

A staff review panel will award points for feasibility in accordance with the criteria above, based on how well the applicant addresses the feasibility factors.

Level One (Poor)	0.0
Level Two (Below Average)	27.5
Level Three (Average)	55.0
Level Four (Good)	82.5
Level Five (Excellent)	110.0

Strategy (110 Points)

CDBG Program Strategy: Applicants will be compared in terms of program strategy. The following factors are considered:

- ◆ The ratio of private funds to EIP funds (To receive maximum points a minimum ratio of at least 1 to 1 is generally required);
- ◆ As applicable, the local government's financial condition and ability to participate in project costs;
- ◆ Documentation illustrating the public benefits to be achieved are reasonable and to the extent practicable EIP funds will not substitute for other available funds;
- ◆ As applicable, the reasonableness of financing strategy (adequacy of equity injection, collateral, and loan terms);
- ◆ As applicable, the relationship between the sub-recipient's infrastructure needs and the size and capacity of any infrastructure to be provided;
- ◆ The validity of sub-recipient's commitment to fulfill hiring and investment commitments (has sub-recipient agreed to provide acceptable surety to "bond" its performance);
- ◆ As applicable for direct loans, the severity of the business' or subrecipient's need for financial assistance;
- ◆ As applicable, project's utilization of existing land and/or buildings already served by public infrastructure;
- ◆ The utilization of available funds within local revolving loan funds capitalized by CDBG/EIP;
- ◆ A project's conformance to federal, state, and local laws and regulations; and
- ◆ The relationship to overall objectives of the EIP and CDBG Program, including the extent of benefit to persons of low and moderate income.
- ◆ **Conformance with Georgia Planning Act:** One of the review factors considered as a project strategy question is the conformance of the proposal with the locally adopted Comprehensive Plan, as approved by DCA. In order to demonstrate conformance, applicants should discuss on Form DCA-5 how the proposal conforms to the Plan including citations or quotes from pertinent pages of the Plan.
- ◆ **Service Delivery Strategy (O.C.G.A. §36-70-20):** In addition, state law requires that all projects funded be consistent with the community's adopted Service Delivery Strategy (O.C.G.A. §36-70-20). The appropriate citation of the Strategy along with any attachments and service area maps should be included in the application, along with a signed certification that the project is consistent with the Strategy. If the project is not covered by the adopted Strategy, a statement to that effect should be included in the certification.

A staff review panel will award points for strategy, in accordance with the criteria above, based on how well the applicant addresses the strategy factors.

Level One (Poor)	0.0
Level Two (Below Average)	27.5
Level Three (Average)	55.0
Level Four (Good)	82.5
Level Five (Excellent)	110.0

Impact (110 Points)

Program Impact: Applicants will be compared in terms of program impact. The following factors will be considered:

- ◆ The number of jobs/beneficiaries created and/or retained;
- ◆ The EIP/CDBG cost per job/beneficiary;
- ◆ The availability of jobs or benefit to low/mod income persons;
- ◆ The project’s impact on the benefiting population’s quality of life, living environment or opportunities for economic advancement;
- ◆ An analysis of the documented severity of need;
- ◆ As applicable, the quality of jobs and employee benefits (health insurance, retirement, leave, etc.);
- ◆ The project's impact on local unemployment rates and other needs of the community; and
- ◆ As applicable, the project’s impact on blighting conditions that threaten public health and safety or impede economic development.

A staff review panel will award points for impact, in accordance with the criteria above, based on how well the applicant addresses the impact factors.

Level One (Poor)	0.0
Level Two (Below Average)	27.5
Level Three (Average)	55.0
Level Four (Good)	82.5
Level Five (Excellent)	110.0

Bonus for Return of RLF Assets (25 points)

- ◆ Localities which have a local Revolving Loan fund (RLF) or loan receivable capitalized with EIP or CDBG proceeds may, at their discretion, return the RLF assets to the State in exchange for greater consideration and access to future EIP financing for eligible projects. The consideration will consist of an extra 25 points for use in any one EIP funding decision. In order to receive the points, a locality must return all RLF assets to the state to remove itself from the administrative requirements of the RLF program. This will generally require that a locality "sell" its loan receivable and return all cash on hand to DCA. For projects that would otherwise not score sufficient points to be funded, Bonus Points may be awarded at the

discretion of the EIP application review panel.

Any assets returned to the state will be added to the state's existing CDBG/EIP allocation, or used to capitalize a statewide revolving loan fund and used to fund additional economic development projects.

In order to receive consideration for bonus points, bonus points should be claimed on DCA-5. A brief narrative should be included in DCA-5 stating the bonus points claimed and the rationale for claiming the points. In addition, DCA-5 should clearly reference all documentation attached to the application that demonstrates accomplishment of the bonus point thresholds outlined above.

Final Ranking

The scores obtained for the various selection factors will be totaled. Applications/projects with scores of at least 300 points will be funded, unless funding has been exhausted. Applications/projects must also meet all appropriate funding criteria, conform to the objectives of Title I of the Housing and Community Development Act of 1974, as amended, and be able to be carried out in compliance with all applicable federal, state or local law, regulations or requirements.

Disposition of Applications

Grant commitments will be forwarded to local units of government whose applications are approved for funding. In general, EIP funding announcements will be made within approximately 45 days from receipt of a complete application. In cases where fundable applications exceed available funds, the applicant with the highest number of jobs benefiting low- and moderate-income persons will be given priority.

Site Visits

The Department of Community Affairs may make site visits of applicants' projects during the application review process. Due to time and staff limitations, all applicants may not be visited. The purpose of the visits will be to verify information contained in the application.

Special Provisions for EIP Capitalized Local Revolving Loan Funds (RLFs)

- 1) The Department may permit localities that have or will receive revenue (or "program income," i.e., principal, interest or other payments) from EIP or other CDBG loans or leases to retain that revenue so long as it is used for an eligible CDBG/EIP activity and is also used in accordance with the requirements of this regulation and any other applicable federal, state, or local laws, regulation, contract, guidance manual or memoranda.
- 2) For localities that will retain program income, the Department will require that such revenue be deposited into a separate revolving loan fund (RLF) and used to carry out specific Title I eligible activities. The RLF must be created by a local resolution and implemented by local policies and procedures approved by the Department.
- 3) In order to assist local governments in creating and maintaining a local RLF, the Department publishes regulations and an RLF manual ("Guidelines for the Administration of Local Revolving Funds") which contains detailed information on the creation and management of an EIP-capitalized RLF.
- 4) If a locality is successful in obtaining an EIP grant that will generate program income, the locality will be required to formally adopt RLF policies and procedures prior to drawing down any EIP funds. The

locality will also be responsible for completing a semi-annual report that notifies DCA of the current RLF fund balance and specific uses on which RLF monies have been spent. Recipients will be provided copies of the report format and instructions at the time of grant award.

- 5) Localities that are allowed to retain program income must ensure that the RLF is adequately managed. The Department will categorize the RLF as being adequately managed so long as the following responsibilities are being met:
 - a) maintenance of an accounting and financial management system that complies with generally accepted accounting principles and the Department's guidelines for RLF financial management systems;
 - b) compliance with the Department's reporting requirements for local RLFs;
 - c) operation of the local RLF in accordance with DCA-approved policies, procedures, and federal, state, and local law, regulation, contracts, guidance manuals and memoranda;
 - d) maintenance of an application review and selection committee which has the capacity to review and analyze funding requests and determine whether such requests represent prudent investments as defined by generally accepted underwriting criteria;
 - e) maintenance of a loan or grant packaging and structuring capacity which meets appropriate underwriting standards for security and documentation;
 - f) maintenance of a loan servicing and monitoring capacity which ensures that loan payments are collected, that loan covenants are enforced, and that loan security is maintained;
 - g) maintenance of a loan portfolio which represents investments in businesses engaged in sound business purposes that have demonstrated tangible employment of low- and moderate-income persons as defined by DCA; and
 - h) attendance at DCA sponsored training workshops that will be held periodically for purposes of training local RLF administrators.

- 6) In order to assist with the financing of a local RLF program's administrative cost, DCA will allow (on an annual basis) the greater of 5% or \$2,500 of interest earned by the RLF to be used for administration and audit costs. In certain foreclosure and/or hardship situations, DCA may allow additional amounts to be expended for administrative, audit or legal costs.

- 7) Localities that are allowed to retain program income must also ensure that the RLF is utilized in a timely and efficient manner. The Department will categorize an RLF as being adequately utilized so long as the following criteria are met:
 - a) The RLF is used only for eligible CDBG economic development activities described in 42 U.S.C. 5305(a) sections: (1), (14), (17), (22) or other code section as may be specifically approved by DCA; and
 - b) The RLF's cash assets (on average) do not exceed 30% of total RLF assets or \$125,000, whichever is more.

Should a locality be unable to utilize the RLF in accordance with 7a and 7b above, the locality may request the DCA to waive the 7a and 7b provisions. The Department may grant waivers when it is

determined that sufficient future activity is probable or the locality is taking steps to ensure future activity. However, in general a locality may not retain unused revenue any longer than the full term of the original EIP loan.

NOTE: Please refer to the current Consolidated Plan of the State of Georgia for the Special Provisions for EIP Capitalized Local RLFs. The RLF Guidelines will be available upon request, but normally provided with a grant award package involving a direct loan.

Contents of Preliminary Engineering Reports

Preliminary planning and engineering reports generally include, but are not limited to, the following:

Executive Summary

- Brief description of Project Area needs, Conclusions and Recommendations

Introduction

- Purpose and Scope (project objectives and methodology of evaluation)
- Authorization
- Previous Studies

Background

- Target Area description
- Plans and photos of Target Area
- Population density
- Population projections (if available)
- Narrative describing existing conditions including description of needs to be addressed
- Map of existing conditions, particularly of existing conditions to be addressed with CDBG funds, including pipe sizes and other relevant measures of existing infrastructure

Evaluation of Alternatives

- Descriptions of alternatives considered, including cost estimates of each alternative (capital, operation and maintenance & user fees)
- Street and road projects should include the advantages and disadvantages of alternative typical sections (curb and gutter versus shoulder and ditch section)
- Assessment of impacts on Target Area residents & property owners (land, right-of-way and easement acquisition requirements)

Description of Proposed Project

- Identification of applicable federal, state and local design standards
- Drainage projects should include site specific preliminary hydrologic and hydraulic calculations for each drainage shed
- Drainage projects should include a description of project outfall(s) and consideration of downstream impacts
- Required Permits
- Operation and maintenance requirements, responsible party (Grantee, GaDOT, other) and operation and maintenance capability (available staff, equipment and expertise)
- Narrative describing the proposed improvements including a description of the impact of the proposed improvements on the quality of life of target area residents
- Map of proposed improvements, including pipe sizes and other relevant measures of proposed infrastructure

Detailed Project Budget

- Construction and material costs
- Design and oversight fees

- Grant Administration
- Funding sources
- Projected Operating Revenues and Expenses (if applicable)
- Projected User Fees (if applicable)

Project Schedule

All Preliminary Engineering Reports should include an original signature and an engineering stamp. Points may be deducted for feasibility without these required features.

Contents of Preliminary Architectural Reports

Preliminary Architectural Reports generally take the following format.

Executive Summary

- Brief description of Project Area needs, Conclusions and Recommendations

Introduction

- Purpose and Scope
- Authorization
- Previous Studies

Background

- Project Area conditions including description of needs to be addressed
- Description of existing facilities, if any, including existing floor plan with all dimensions and descriptive labels for all rooms.
- Projections of future needs

Evaluation of Alternatives

- Descriptions of alternative solutions considered (new construction, renovation, additions to existing structures), including cost estimates for each alternative
- Site selection criteria
- Location relative to population served
- Adequacy of infrastructure (access, water, fire protection, sanitary sewer, storm drainage)
- Soil conditions, and topographic constraints
- Assessment of impacts on existing residents & property owners, if any

Description of Proposed Project

- Identification of applicable federal, state and local design standards
- Preliminary Site Plan showing proposed ingress – egress, vehicle circulation on-site, drop-off area, regular parking and accessible parking, service access (dumpster location with truck access, mechanical room access), extensions of utilities (water, sanitary, electric, telephone), access road improvements, emergency vehicle access
- Description of storm drainage outfall(s) and consideration of downstream impacts
- Description of proposed/improved facilities, including preliminary floor plan with all dimensions and descriptive labels for all rooms
- Required permits

Detailed Project Budget

- Construction and material costs
- Design and oversight fees
- Grant Administration
- Funding sources
- Projected Operating Revenues and Expenses (if applicable)

Project Schedule

All Preliminary Architectural Reports should include an original signature and an architectural stamp. Points may be deducted for feasibility without these required features.

PART III: INSTRUCTIONS FOR COMPLETING APPLICATION FORMS

Note that all required forms are available at the DCA web site:

<http://www.dca.ga.gov/economic/financing/programs/employmentincentive.asp>

Form DCA-1: Application Summary

Please complete DCA 1 in the following manner:

- ◆ **Items 1 - 6:** Enter name of applicant, official mailing address, DUNS number, census tract(s) and block group(s), project address, e-mail, and telephone number and area code of the city or county who is making the application. Enter the State House and Senate District(s) of the locality.
- ◆ **Item 7 - 10:** Enter name, job title, agency, mailing address, e-mail, and telephone number and area code of the grant writer/contact person regarding the application. This person may be contacted during the review process to answer direct questions or to provide additional information regarding the application.
- ◆ **Items 11 - 14:** Enter the name of the proposed subrecipient business of the application. This business may be contacted during the review process to answer direct questions or to provide additional information regarding the application. *Identify the numbers of the Census Tract and Block Group in which the business is located or locating.*
- ◆ **Item 15:** Briefly title the program (e.g. "Target Area Water Improvements") and provide a brief description of project activities. Please include all activities and briefly quantify the described activities. A needs description is not necessary for this item. An example of a brief title and description might be:

***Widget, Inc. Expansion Project** - Timbuktu County requests \$200,000 in EIP funds to provide a loan to Widget, Inc. The loan funds will be used along with a private investment of \$800,000 to add a 15,000 square foot facility and purchase new machinery and equipment to add two new production lines. The project will support the creation of 100 new jobs at the facility, 83 of which will be available to low and moderate income persons. The loan will be secured by a second lien on the new facility and a first lien on the machinery and equipment and repaid to Timbuktu County.*
- ◆ **Items 16 - 19:** Please check the appropriate box.
- ◆ **Item 20:** An unscheduled visit to the project site will be conducted by DCA staff on all top-ranked applications that identify specific site(s) or targeted neighborhoods. Maps should be designed clearly and accurately so that the site visit team can locate the proposed target area, the existing conditions and all activities.
- ◆ **Items 21 & 22:** Enter the number of months that you anticipate implementation will require, together with beginning and ending dates for the program. A start date 30 days from the date of submission of the CDBG/EIP application may be used. **Note that CDBG/EIP program requirements expect completion of all projects within 24 months.**

- ◆ **Item 23:** Enter amount of CDBG/EIP funds requested. **This amount must match the amounts on forms DCA-7 and DCA-8.**
- ◆ **Item 24:** Check box to indicate application type.
- ◆ **Items 25 & 26:** Application must be executed by chief elected official or other person authorized by resolution to submit the application. **Attach resolution.**

Form DCA-2: Proposed Accomplishments

The purpose of this form is to provide a quantified summary of the accomplishments proposed by the applicant to be undertaken with CDBG/EIP funds. Note that a similar form will be used at project completion to collect data on actual accomplishments.

- ◆ **Header:** Indicate the name of the jurisdiction for which the application has been prepared. Check whether this is an Original Application form or an Amended form. Include date of amendment if applicable. DCA will write in the project number if funded. This number should be included on any amended forms.
- ◆ **Activity and Measure Columns:** The column labeled "Activity" is a list of various possible CDBG/EIP funded activities. The column labeled "Measure" is the corresponding units of measurement used to quantify proposed accomplishments.
- ◆ **Proposed Accomplishments Column:** Here the applicant must enter the actual data corresponding to each CDBG/EIP funded activity and the corresponding measure.

For example, if an applicant proposes to request either a grant for public infrastructure or a loan to directly assist the business, the following entry would be made based on the business committing to create 100 new jobs and make a private investment of \$5,000,000 (see form DCA-2):

Activity	Measure	Accomplishments
Economic Development	# of Businesses Assisted	1
	# of Loans	1
	# of Jobs Created	100
	# of New Jobs for Low/Mod Persons	51
	# of Jobs Retained Low/Mod Persons	
	Funds Leveraged - Private	\$5,000,000
	Funds Leveraged - Public	\$ 750,000

- ◆ **Note:** See instructions for DCA-6 for detailed information on counting persons to benefit.

Form DCA-3: Community-wide Needs Assessment

This form is no longer required.

Form DCA-4: Description of Needs to be Addressed

This form asks you to describe the target area's overall community development needs and the needs being addressed by your grant request. The next form, DCA-5, is where you describe how those needs will be addressed through the activities funded by the grant and through other local efforts. Please keep this distinction in mind when filling out these two forms.

- ◆ **Header:** Indicate the name of the jurisdiction for which the application has been prepared. Check whether this is an Original Application form or an Amended form. Include date of amendment if applicable.
- ◆ For all applicants, describe the economic development needs which have been identified. In order to be competitive, all existing conditions of the proposed target area should be described including but not limited to: housing conditions, street, drainage, water system, sewer system, etc. Identified needs not met under the program (if any) should be explained.
- ◆ Items which should typically be included on this form include:
 - ✓ Community description (location of project, demographics, economic conditions, etc.)
 - ✓ Proposed business information (history, products, other locations/offices/facilities, etc.)
 - ✓ Brief justification of the work which will be described in DCA-5

Form DCA-5: Description of Activities

- ◆ **Header:** Indicate the name of the jurisdiction for which the application has been prepared. Check whether this is an Original Application form or an Amended form. Include date of amendment if applicable. DCA will write in the project number if funded. This number should be included on any amended forms.
- ◆ **Do not repeat information included on form DCA-4.** Describe in detail each activity, identifying each activity by name and number, to be undertaken with CDBG/EIP funds. This description should be specific and provide sufficient detail concerning the nature, scope, location and purpose of activities and how they are designed in accordance with applicable law, regulation and how they relate to each other. Ownership, operation and maintenance should also be addressed.
- ◆ Applicants are instructed to list administration as the last activity. No description is necessary for contingencies. Architectural design or engineering, and related activities should be considered as a component of each activity and not as a part of the program's administrative costs. Please refer to the description of eligible activities in Part I of this Manual and/or contact DCA staff for further guidance.
- ◆ DCA will consider activity line item (not administrative) budget requests for "extraordinary compliance or administrative measures" when the applicant can demonstrate that administrative allowances are insufficient to adequately compensate for costs such as archeological surveys, archival photographs or other unforeseen costs of complying with the Programmatic Agreement on Historic Preservation, environmental impact statements, etc., or other compliance or administrative measures necessary due to a high number of complex and complicated cases relative to property that must be acquired in order for the project to proceed. DCA will consider such requests as outlined above on a case-by-case basis and may deny or amend the request. DCA recommends that such requests be

discussed with DCA prior to application submission.

- ◆ Applicants should be aware that DCA may request reviewing comments from State, Federal and other agencies involved financially or with any other interest in the proposed project. Any comment with significant adverse impact upon project feasibility or strategy may reduce the score. Applicants may choose, therefore, to solicit reviewing agency comments at the outset, and, as necessary, incorporate reviewing comments into application narratives, engineering reports, etc., prior to application submission.
- ◆ Applicants are further advised to discuss the impact proposed activities will have upon the needs identified in DCA-4. Applicants are encouraged to address 100% of the needs identified in Form DCA-4.
- ◆ Applicants are encouraged to include information (including dates accomplished) related to some of the following items: procurement, public hearings, environmental compliance, Historic Preservation consultation, other financial assistance, right-of-way acquisition, general property acquisition and permits required/received.

Applicants should also include a project implementation schedule with Form DCA-5.

The following example is included for guidance.

<u>Activity</u>	<u>Initiate</u>	<u>Completion date</u>
Award	N/A	October 2015
Complete environmental, floodplain & historic assessment etc.	November 2015	January 2016
Design water system	December 2015	April 2016
Acquisition titles & plats for easements	December 2015	February 2016
Design approvals	May 2016	June 2016
Bidding	July 2016	August 2016
Award and Construction	September 2016	March 2017
Initiate & complete close-out	April 2017	June 2017

Conformance with the **Georgia Planning Act**: One of the review factors considered as a project strategy question is the conformance of the proposal with the locally adopted Comprehensive Plan, as approved by DCA. In order to demonstrate conformance, applicants should discuss on Form DCA-5 how the proposal conforms to the Plan, including citations or quotes from pertinent pages of the Plan.

In addition, state law requires that all projects funded demonstrate that the project is not inconsistent with the community's adopted **Service Delivery Strategy (O.C.G.A. §36-70-20)**. The appropriate citation of the Strategy along with any attachments and service area maps should be included in the application, along with a signed Certification that the project is not inconsistent with the Strategy. If the project is not covered by the adopted Strategy, a statement to that effect should be included in the Certification.

The “Local Governments Currently Ineligible” list in the DCA plan review portal can assist with application development related to local government and development authority compliance with state planning requirements (<http://www.dca.ga.gov/LocalGovStatus/planning.asp>).

Also, indicate the applicant’s status with regard to Financial Survey, Solid Waste Plan, State Audit and any other reporting requirements to State and/or Federal Agencies.

Form DCA-6: Low/Moderate Income Benefit and Civil Rights Data Calculation

All EIP applications are required to have at least a 51% benefit to low- and moderate-income persons for each activity (administrative and contingency budgets are excluded). **The applicant may request median income levels adjusted for family size by SMSA and/or county from DCA.**

Each step of the calculation is described below. Applicants must use Form DCA-6 for display of the information.

- ◆ In column 1 list each CDBG funded activity number. Do not include administration or contingency. If the same activity will be implemented in different areas of the community, provide a separate line for each component (i.e., Area 1 and Area 2). See Note on Activity Numbering System preceding the forms, and the numbering scheme on DCA-7.
- ◆ In column 2 show the total number of persons that the activity will serve.
- ◆ In column 3 provide the total number of minorities who will be served by the activity. "Minority" is defined as any non-white (including Hispanic) person.
- ◆ In column 4 provide the total number of non-minority persons who will be served by the activity. A "non-minority" is defined as a white person. The sum of columns 3 and 4 should equal column 2.
- ◆ In column 5 show the number of low- and moderate-income persons that the activity will serve.
- ◆ In column 6, divide column 5 by column 2 to show the percent of low- and moderate-income persons that the activity will serve.
- ◆ In column 7 show the amount of CDBG funds requested for the activity.
- ◆ In column 8 multiply column 7 by column 6 to show the amount of the funds for the activity that will be used to benefit low- and moderate-income persons.
- ◆ At the bottom of column 7 show the total amount of funds requested by adding up the amounts for each activity.
- ◆ At the bottom of column 8 show the total amount of funds that will benefit low- and moderate-income persons by adding up the amount of funds to benefit low- and moderate-income persons for each activity.
- ◆ In box 9 determine the overall benefit to low- and moderate-income persons by dividing the total of column 8 by the total of column 7 and enter the percent in the "Total Benefit".

- ◆ Describe the methodology used to determine the number of minorities/ non-minorities and the number of low and moderate-income persons to be served by each activity. Attach additional sheets if needed and include a copy of any survey form used to determine benefit.

Applications may be considered ineligible for competition without a complete, appropriate and acceptable description of the method used.

Job Creation and Retention Methodology for EIPs

Requesting the newly hired employees to complete a certification form is the easiest method to obtain required income information. The form on the following page will provide sufficient documentation on a person's low/mod status to fulfill the EIP program's requirements.

Completion of the form must be voluntary and cannot be a pre-requisite of employment. In addition, to protect the privacy of the new employee, the forms must be kept separate from the job recipient's personnel file. The local government should also keep a copy of each form.

Contact the EIP staff if you have questions on how the certification form is to be completed or if you need the low/mod income thresholds for your county.

Form DCA-7: Budget Summary

- ◆ **Part A** of this form should include an assessment of CDBG/EIP funds budgeted for the project. Please review the Eligible Activities section in Part I of this manual for guidance on budgeting within appropriate line items. It is also important that each activity budget on Form DCA-7 be consistent with activity and cost summaries outlined on forms DCA-5 (activities summary) and DCA-8 (budget analysis).
 - ✓ In column (d), enter the amount allocated for each type of activity being undertaken to deal with economic development need(s), if any.
 - ✓ In column (e), enter the sum of amounts shown in column (d) for each type of activity listed.
 - ✓ Please refer to the Eligible Activities section in Part I for assistance in determining the eligibility of specific activities. Common economic development (or EIP) activities are shown. All regular round CDBG categories have been eliminated from this form.
 - ✓ General Administration (line 50) - Enter the eligible CDBG/EIP costs of general administration on line 50. **Do not include** Project Delivery Costs with administrative costs on line 50. These costs are to be included with line item costs for activities that are eligible for PDC's.
 - ✓ Contingencies may not exceed 10% of the grant amount shown in Part A, Line 52.
- ◆ **Part B** of this form is used to identify the total funds available (including in-kind contributions) to complete the program.
 - ✓ Line 1: Enter the CDBG/EIP grant requested from DCA.
 - ✓ Line 2: Enter the amount of program income expected to be received (if any) and applied

to program activity costs. This would include any income received from previous CDBG projects that is not reserved, by DCA approved local policy, for economic development activities.

- ✓ Line 3: Enter the amount of other Federal grants or loans, such as Rural Development or ARC funds which will be provided in support of the program. Provide documentation of commitment from the Federal agency whenever possible to enhance competitiveness and for calculation of the leverage score.
- ✓ Line 4: Enter the amount of local funds to be provided by the applicant (including required match amount) in support of the program. Provide documentation of commitment.
- ✓ Line 5: Enter the amount of other State funds to be provided in support of the program. Provide documentation of commitment from the State agency whenever possible to enhance competitiveness and for calculation of the leverage score.
- ✓ Line 6: Enter and identify private lender contributions or commitments
- ✓ Line 7: Enter and identify other funds, such as private commitments in support of the program. Provide documentation of private commitment. If numerous financing sources are used, please attach a schedule which lists each individual source.

Form DCA-8: Budget Analysis

◆ **General Information**

The purpose of this form is to allow applicants to describe, in detail, the resources available, or to be made available, for each activity. Applicants are encouraged to provide sufficient quantifiable data and to describe supporting efforts for the proposed program. Form DCA-8 should be backed-up by credible estimates of program cost prepared by individuals and agencies qualified to provide them.

◆ **Line item instructions**

- ✓ In **column 1**, list the activity name and number. See note on numbering system on page 46.
- ✓ In **column 2**, briefly itemize EIP funds allocated for each activity, consistent with Section A of the Budget Summary (Form DCA-7). **These brief summaries can reference additional detail that may be included in architectural or engineering reports and attached to Form DCA-8.** The applicant should separate EIP vs. non-EIP costs, and include the budget detail on an attached cost estimate. If cost estimates are included in reports included with the application, please duplicate the pages which include cost detail and attach them to this form.

Total engineering and architectural costs must be itemized here and shown in columns 3 through 6.

Sufficient detail should be provided in this column to support proposed engineering and inspection fees. Such data should include detail on proposed services, as well as estimated fees for design services, conferences, travel, resident and periodic inspections, tests, surveys, printing and reproduction, additional services, etc. Please

refer to Part II of this manual that addresses *Limitations on Administrative and Professional Fees*.

Preliminary (pre-award) fees and project costs are not reimbursable. Also, **fees paid for the preparation of an application are not eligible reimbursement.**

- ✓ In **column 3** reference the EIP cost, if any, for each item shown in column 2. If the item in column 2 will not be paid for with EIP funds, indicate by placing a -0- in column 3.
- ✓ In **column 4** reference the [Reserved] cost, if any, for each item shown in column 2. If the item in column 2 will not be paid for with [Reserved] funds, indicate by placing a -0- in column 4.
- ✓ In **column 5a** show the amount of "other funds" (**non- EIP**) that will be used to pay for itemized costs. The source of these funds should be identified on **column 5b**
- ✓ For competitive reasons, applicants are encouraged to obtain credible estimates for all costs. Examples of "other funds" could be: a) local government, b) federal agency, c) private sector, d) program income or e) state agency.
- ✓ In **column 6**, enter the total amount of funds available to carry out the proposed activity. On each page of DCA-8 use **block 7a** to subtotal columns 4, 5 and 6. On the final page, use block 7b to total all pages.
- ✓ For an explanation of contributions or other actions in support of the project, please use block 8 (the space at the bottom of Form DCA-8). Be specific. Attach clear commitments from the appropriate agencies. Examples could be local government supplied site preparation, or other applicant in-kind efforts. Be sure to be specific in this description.

The following is an example of how Form DCA-8 may be completed:

<u>1</u> <u>Name/Number</u>	<u>2</u> <u>Itemized Unit</u> <u>Cost</u>	<u>3</u> <u>CDBG</u> <u>Funds</u>	<u>4</u> <u>[Reserved]</u> <u>Funds</u>	<u>5a</u> <u>Other Funds</u>	<u>5b</u> <u>(Source)</u>	<u>6</u> <u>Total</u>
A-03j-01 Waterlines	Construction	\$300,000 (see Eng. Report)		\$10,000 (Local Cash)		\$310,000
	Engineering and inspection, etc. (See Eng. Report)	\$30,000		-0-		\$30,000
	Administration & Audit	\$13,000		-0-		\$13,000
	Resurfacing at culvert locations by DOT (see DOT letter)	-0-		\$10,000	GA DOT	\$10,000
	Machinery/ Equipment	-0-		\$57,000,000	Company XYZ	\$57,000,000
	ROW Restoration, etc.	-0-		\$10,000	City of Any Town	\$10,000
7.	Totals	\$343,000	-0-	\$30,000		\$57,373,000
8.	Narrative for Match and Leverage Funds: The City of Any Town will use its crews to perform fine grading and grassing, right of way restoration, clean-up, etc. This cost is estimated at \$10,000. Please see attached letter. Also see attached letter committing local cash and the attached letter from GA DOT. Also attached Company Commitment Letter.					

Form DCA-9: Environmental Review Checklist

Note: This form is self-explanatory.

Form DCA-10: Certified Assurances

Note: This form is self-explanatory. Be sure to attach a description of any possible conflict of interest situation and a copy of the resolution authorizing submittal of the application. **BE SURE THAT THE CHIEF ELECTED OFFICIALS THOROUGHLY REVIEWS THIS DOCUMENT BEFORE HE OR SHE SIGNS IT.**

Form DCA-11: Cooperating Agreement

Note: *This form is self-explanatory.*

Form DCA-12: Maps

Applicants must submit map(s) that are clearly legible and will enable DCA staff to find the proposed activity site(s) without local assistance during a site visit.

All map(s) must include a scale, north arrow and legend. More than one scale of map may be used to show detail, but all scale(s) must be indicated on the respective maps. A larger community-wide map should indicate the boundary of the area represented by more detailed maps. More than one type of requested information can be included on a map if it is clearly legible. A legend must be included to indicate what different colors or patterns represent. **In addition, applicants should provide complete source information for all data provided on their submitted maps.**

NOTE: *U.S.G.S. 7.5 minute topographic maps are an excellent resource to use for the larger community-wide maps.*

Maps must, at a minimum, include the following information:

- ◆ Project activity location(s). Show the locations of facilities proposed, together with the location(s) of facilities to be replaced. For centers, show existing and proposed locations;
- ◆ Project activity service area(s) for public facilities activities;
- ◆ For the applicant's jurisdiction, the location of areas of concentration of low- and moderate-income persons, including number and percentage of these persons, if available;
- ◆ For the applicant's jurisdiction, the location of areas of concentrations of minorities, including number and percentage, if available; and
- ◆ For the applicant's jurisdiction, the location of areas of concentration of substandard and deteriorated housing, including number and percentage, if available.

Note: In cases when low- and moderate-income persons, substandard housing units and/or minority people are dispersed throughout the community, indicate this on the map's legend; and 1) display the location of the proposed activity(s) and its service area; 2) indicate the numbers and percent of L/M income families, minorities and substandard housing located within the jurisdiction making application; and 3) provide the same data for the EIP service area(s).

In order for review panels to assess feasibility, strategy and compliance with floodplain and wetland requirements, applicants are encouraged to submit with their applications USGS topographic maps from the 7.5 minute, 1:24,000-scale quadrangle series.

Form DCA-13: CDBG Disclosure Report

All applicants must complete and submit Parts I and II of the Disclosure Report. At the completion of Part II of the report, some applicants will find that they must complete Parts III, IV, V and VI of the Report.

Part I requires the applicant's name, address, phone number; indication as to whether this is an initial report or an update; the amount of CDBG/EIP funds being requested; the amount of any CDBG/EIP program income that will be used with the CDBG/EIP grant; and the total amount of CDBG/EIP assistance.

Part II asks two questions. If the answer to both questions is "no," the applicant must provide the certification at the end of Part II but is not required to complete the remainder of the report. If the answer to either question is "yes" then the applicant must complete the remainder of the Report.

Part III requires information on any other Federal, State and/or local assistance that is to be used in conjunction with the CDBG/EIP project.

Part IV requires the identification of interested parties. Interested parties are persons and entities with a reportable financial interest in the project. If an entity (such as a corporation, partnership, etc.) is being disclosed, the disclosure in Part IV must include an identification of each officer, director, principal stockholder or other official of the entity. Please indicate if the person or entity is a "sole proprietorship." All consultants, developers or contractors involved in the application for CDBG/EIP assistance, or in the planning, development or implementation of the project, must be identified as an interested party. Also, any other person or entity that has a pecuniary interest in the project that exceeds \$50,000 or ten (10) percent of the CDBG/EIP assistance, whichever is lower, must be listed as an interested party. Pecuniary interest means any financial involvement in the project, including (but not limited to) situations in which a person or entity has an equity interest in the project, shares in any profit on resale or any distribution of surplus cash or other assets of the project or receives compensation for any goods or services provided in connection with the project. (The following are not considered interested parties: local CDBG/EIP administrative staff, recipients of housing assistance, and rehabilitation contractors as long as the rehabilitation agreement is between the property owner and the contractor.)

Part V requires applicants to identify the sources and uses of all funds to be used in conjunction with the CDBG/EIP funded project. The sources and uses must include all the other assistance identified in Part III as well as the CDBG/EIP funds identified in Part I, items 3a, and 3b).

Part VI requires the certification of the Chief Elected Official.

Form: Civil Rights Compliance Certification

All applicants must complete the form and submit a signed certification with the application

Form: System for Award Management (SAM)

All applicants must ensure they have a current SAM account and submit the certification with the application. An applicant can check the status of their registration by going to the SAM website: <https://www.sam.gov/portal/SAM/>

Form: Supplemental Information

All applicants must complete and submit the Supplemental Information Worksheet for all EIP infrastructure projects and loans.

Part I requires the applicant's name; the amount of CDBG/EIP funds being requested; and the total project cost, including CDBG/EIP funds.

Part II asks for more detailed information. Please complete Part II in the following manner:

- ◆ **Item 1:** Enter the total number of existing jobs. As it pertains to your project, enter the total number of jobs created, the total number of jobs retained, the number of jobs created for low/moderate income persons, the number of jobs retained for low/moderate income persons. The percentages and CDBG dollar per job information should automatically populate.

In the space provided, please describe the methodology for ensuring the number of jobs for low and moderate income persons. *If the project is located in a less developed Census Tract and/or Block Group, in accordance with 24 CFR570.483(B)(4), please indicate this information in this field.*

- ◆ **Item 2:** Enter the total number of unemployed persons and the percent of unemployed persons for the county where the jobs will be created/retained. Please indicate the source of the information.

In the space provided, please give a brief description of the impact on unemployment of the proposed project.

- ◆ **Items 3:** Enter the total amount of private investment, the ratio of private investment to CDBG/EIP funds, and the ratio of private investment to public funds (including CDBG/EIP). The private investment percentage should automatically calculate.

In the space provided, briefly indicate the sources of all private investment funds (i.e. bank loan, bond financing, company funds, etc.).

- ◆ **Item 4:** Enter the amount of other public investment for the project. The percentage of public investment should automatically calculate.

In the space provided, briefly list the sources of other public investment (i.e. USDA, OneGeorgia, EDA, Development Authority, etc.).

- ◆ **Items 5:** Enter the estimated local, state, federal and any other taxes to be generated by the proposed project. *Data should reflect **one year** of estimated tax revenues.* Total taxes and taxes per CDBG dollar should automatically calculate.

In the space provided, briefly describe the methodology for calculating the estimated tax from each source.

- ◆ **Item 6:** Describe elements of the grant repayment as well as what entity will be responsible for the CDBG/EIP loan.

- ◆ **Items 7:** Indicate what party will be responsible for the oversight of any program income as well as any proposed use.

- ◆ **Item 8:** Indicates the need for all applications to be accompanied by letters of commitment from all funding sources public and private.

Form: Source and Use - Infrastructure

Please complete the Source and Use – Infrastructure form in the following manner:

- ◆ **Project Activity:** Please list all funding activities for the proposed projects, excluding contingencies, grant administration and engineering (which have designated line items).
- ◆ **Funding Source:** Please enter the name of each funding source for the proposed project. The first column is designated for the proposed business beneficiary. The second column is for CDBG/EIP funds. The following columns are for all other public funding sources (i.e. USDA, EDA, City/County, Development Authority, etc.). If there are more than three local sources, the state/federal source boxes may be utilized and vice versa.
- ◆ **Source and Use Grid:** Enter the amount of funding each proposed source will be providing for the respective project activity. Totals should automatically calculate.
- ◆ Enter the amount of contingencies, grant administration and engineering cost for each funding source.
- ◆ **Summary Grid:** Enter the total amount provided by each funding category. The private investment and EIP values should automatically populate.
- ◆ **Notes:** provide any notes which may be necessary for the application review staff.

Form: Source and Use - Loan

Please complete the Source and Use – Loan form in the following manner:

- ◆ For each use of proceeds listed, please provide the source of funds, the total amount of funds provided, the number of years indicated in the terms for repayment, the interest rate, the monthly payment and the annual debt service value. Totals for financing sources will automatically calculate at the bottom of the page for all necessary values.

Form: Schedule of Existing Debt

Please complete the Schedule of Existing Debt form in the following manner:

- ◆ Please use this form to list, in detail, your business indebtedness. Complete each column for each creditor, i.e. bank loans, equipment loans, supplier or trade credit converted into loans, owner loans- all term debt or installment loans (short or long term). **Do Not Add Short Term Expenses Such As Accounts Payable Or Other Current Liabilities Such As Accruals, Taxes Due, Etc.** Please fill out this form as completely as possible.
- ◆ Attach additional sheets as necessary.

Note on Activity Numbering System

The activity number is used in this application on the Description of Activities (DCA-5), Low- and Moderate-Income Benefit and Civil Rights Data Calculation (DCA-6), the Budget Summary (DCA-7), and the Budget Analysis (DCA-8). In all instances, the activity should be referred to both by the activity number and activity name, as it appears on the Budget Summary (DCA-7).

The activity number system has two components:

- The prefixes indicate the purpose of the activity as follows:
 - A = Administration
 - C = Contingencies
 - E = Economic Development
 - T = Engineering
 - S = Architecture

- The second component is the budget code. The codes can be found on the Budget Summary Form (DCA-7). Every code is comprised of three (3) alpha or numeric characters followed by a hyphen and then two (2) additional numeric characters. This code indicates the type of activity.

For example:

- E-17B-00 = Public Facilities and Improvements
- E-18A-00 = Assistance to Private For-Profit Entities
- A-21A-00 = Grant Administration for any CDBG/EIP project
- C-022-00 = Contingencies for any CDBG/EIP project grants
- T-17B-00 = Engineering fees for Public Facilities and Improvements
- S-17B-00 = Architectural fees for Public Facilities and Improvements

PART IV: APPLICATION FORMS

Index to Forms

<i>Form</i>	<i>Title</i>	<i>Page</i>
DCA-1 EIP	Application Summary	DCA-1 EIP
DCA-2 EIP	Summary of Proposed Accomplishments	DCA-2 EIP
DCA-4 EIP	Description of Needs to be Addressed	DCA-4 EIP
DCA-5 EIP	Description of Activities	DCA-5 EIP
DCA-6 EIP	Low- and Moderate-Income Benefit and Civil Rights Data Calculation	DCA-6 EIP
DCA-7 EIP	Budget Summary	DCA-7 EIP
DCA-8 EIP	Budget Analysis	DCA-8 EIP
DCA-9 EIP	Environmental Review Information	DCA-9 EIP
DCA-9A EIP	DNR/HPD Environmental Review Form	DCA-9A EIP
DCA-9B EIP	When to Consult with Tribes	DCA-9B EIP
DCA-10 EIP	Certified Assurances	DCA-10 EIP
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DCA-12 EIP	Map(s)	DCA-12 EIP
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	Civil Rights Compliance Certification Form	
	System for Award Management (SAM) Certification Form	

PART V: APPENDICES

Appendix A

Conflict of Interest Regulations

Excerpt from 24 CFR, Part 85, Section 85.36(b)(3), "Code of Conduct":

Grantees shall maintain a written code of standards of conduct which shall govern the performance of their officers, employees or agents engaged in the award and administration of contracts supported by Federal funds. No employee, officer or agent of the grantee shall participate in selection, or in the award or administration of a contract supported by Federal funds if a conflict of interest, real or apparent, would be involved. Such a conflict would arise when:

- a. The employee, officer or agent;
- b. Any member of his immediate family;
- c. His or her partner; or
- d. An organization which employs, or is about to employ, any of the above, has a financial or other interest in the firm selected for award.

The grantee's officers, employees or agents shall neither solicit nor accept gratuities, favors or anything of monetary value from contractors, potential contractors, or parties to subagreements.

Grantees may set minimum rules where the financial interest is not substantial or the gift is an unsolicited item of nominal intrinsic value.

To the extent permitted by State or local law or regulations, such standards of conduct shall provide for penalties, sanctions, or other disciplinary actions for violations of such standards by the grantee's officers, employees, or agents, or by contractors or their agents.

HUD Regulations, Section 570.489(h), "Conflict of Interest"

(a) Applicability -

- (1) In the procurement of supplies, equipment, construction, and services by recipients, and by subrecipients (including those specified at Section 570.204(c)), the conflict of interest provisions in 24 CFR, Part 85, Section 85.36(b)(3) (the above provisions), shall apply.
- (2) In all cases not governed by 24 CFR, Part 85, Section 85.36(b)(3), the provisions of this section shall apply. Such cases include the acquisition and disposition of real property and the provision of assistance by the recipient by its subrecipients, or to individuals, businesses and other private entities under eligible activities which authorize such assistance (e.g., rehabilitation, preservation, and other improvements of private properties or facilities pursuant to Section 570.202, or grants, loans and other assistance to businesses, individuals and other private entities pursuant to Sections 570.203, 570.204 or 570.455).

(b) Conflicts prohibited -

Except for approved eligible administrative or personnel costs, the general rule is that no persons described in paragraph (c) of this section who exercise or have exercised any functions or responsibilities with respect to EIP activities assisted under this Part or who are in a position to participate in a decision making process or gain inside information with regard to such activities may obtain a personal or financial interest or benefit from the activity, or have an interest in any contract, subcontract or agreement with respect thereto, or the proceeds thereunder, either for themselves or those with whom they have family or business ties, during their tenure or for one year thereafter.

(c) Persons covered -

The conflict of interest provisions of paragraph (b) of this section apply to any person who is an employee, agent, consultant, officer, or elected official or appointed official of the recipient, or of any designated public agencies, or subrecipients under Section 570.204, which are receiving funds under this part.

(d) Exceptions: threshold requirements -

Upon the written request of the recipient, HUD may grant an exception to the provisions of paragraph (b) of this section on a case-by-case basis when it determines that such an exception will serve to further the purposes of the Act and the effective and efficient administration of the recipient's program or project. An exception may be considered only after the recipient has provided the following:

- (1) A disclosure of the nature of the conflict, accompanied by an assurance that there has been public disclosure of the conflict and a description of how the public disclosure was made; and
- (2) An opinion of the recipient's attorney that the interest for which the exception is sought would not violate State or local law.

(e) Factors to be considered for exceptions -

In determining whether to grant a requested exception after the recipient has satisfactorily met the requirements of paragraph (d) of this section, HUD shall consider the cumulative effect of the following factors, where applicable:

- (1) Whether the exception would provide a significant cost benefit or an essential degree of expertise to the program or project which would otherwise not be available:
- (2) Whether an opportunity was provided for open competitive bidding or negotiation:
- (3) Whether the person affected is a member of a group or class of low or moderate income persons intended to be the beneficiaries of the assisted activity, and the exception will permit such person to receive generally the same interests or benefits as are being made available or provided to the group or class:
- (4) Whether the affected person has withdrawn from his or her functions or responsibilities, or the decision making process with respect to the specific assisted activity in question:
- (5) Whether the interest or benefit was present before the affected person was in a position as described in paragraph (b) of this section:
- (6) Whether undue hardship will result either to the recipient or the person affected when weighed against the public interest served by avoiding the prohibited conflict; and
- (7) Any other relevant considerations.

Appendix B

GEORGIA CODE OF ETHICS FOR GOVERNMENT SERVICE

§ 45-10-1. Establishment and text of code of ethics for government service generally: There is established for and within the state and for and in all governments therein a code of ethics for government service which shall read as follows:

CODE OF ETHICS FOR GOVERNMENT SERVICE

Any person in government service should:

- I. Put loyalty to the highest moral principles and to country above loyalty to persons, party, or government department.
- II. Uphold the Constitution, laws, and legal regulations of the United States and the State of Georgia and of all governments therein and never be a party to their evasion.
- III. Give a full day's labor for a full day's pay and give to the performance of his duties his earnest effort and best thought.
- IV. Seek to find and employ more efficient and economical ways of getting tasks accomplished.
- V. Never discriminate unfairly by the dispensing of special favors or privileges to anyone, whether for remuneration or not, and never accept, for himself or his family, favors or benefits under circumstances which might be construed by reasonable persons as influencing the performance of his governmental duties.
- VI. Make no private promises of any kind binding upon the duties of office, since a government employee has no private word which can be binding on public duty.
- VII. Engage in no business with the government, either directly or indirectly, which is inconsistent with the conscientious performance of his governmental duties.
- VIII. Never use any information coming to him confidentially in the performance of governmental duties as a means for making private profit.
- IX. Expose corruption wherever discovered.
- X. Uphold these principles, ever conscious that public office is a public trust.

Appendix C

CDBG/EIP Program: Family Income Limits

FISCAL YEAR 2014

http://www.huduser.org/portal/datasets/il/il14/ga_RevSec8.pdf

Appendix D

Section 3 Requirements and Guidelines for Implementation

http://www.dca.ga.gov/communities/CDBG/programs/downloads/CDBG_Applications/Manual/Appendix%20P%20-%20Section%203%20Requirements%20and%20Guidelines.pdf

Appendix E

Exhibits

EIP APPLICATION SUPPLEMENTS FOR PUBLIC INFRASTRUCTURE PROJECTS

EXHIBITS WHICH SHOULD BE INCLUDED:

- A. Local Government's Most Recently Audited Financial Statement.**
- B. Source and Use Statement** (see sample format).
- C. Design Development Report and/or Plans and Specifications** (as applicable).
Approved by DNR/EPD, DOT and/or other permitting agency and certified by engineer or architect.
- D. Cost Estimate** certified by engineer or architect.
- E. Commitment Letters** **1)** from business(es) indicating the number of full-time jobs to be created/retained, the percentage of jobs that will be held for low and moderate income persons and the private investment; **2)** from participating financial institution(s) indicating the amount, rate, term, and any contingencies associated with financing being made available to the participating business; and **3)** from any other financing source(s) indicating funds available for the balance of the infrastructure cost (if any).
(see sample formats)
- F. Business Synopsis:** Provide a brief history and description of the business that will benefit from the project. Also, indicate: **who** will receive benefits from the infrastructure; **what** endeavors the business will undertake as a result of the provision of the infrastructure; **where** it will undertake the endeavor; **when** it will undertake the project; and **how** it will finance the project.
- G. Description of New Jobs** created by salary range and skill level required (include benefits available, such as health, retirement, leave, etc.).
- H. Documentation** that the business has control of all real estate needed for the implementation of the project (i.e., Purchase Options or Sales Agreement, etc.).
- I. Draft Documentation** of all agreements necessary for implementation of the project (i.e., Intergovernmental Agreement, Siding Agreement, Rail Spur Lease Agreement, etc.).

NOTE:

If ultimately funded, private for profit businesses that will benefit from an EIP financed public facility or infrastructure investment will be required to purchase and have issued to DCA an irrevocable letter of credit (L/C) or some other instrument of surety acceptable to DCA, which will warrant the businesses' commitments to invest and create employment opportunities. The L/C or surety amount will be equal to the EIP grant amount and will collateralize an economic development agreement which will be required if the project is funded. For further information on the requirement, contact the Employment Incentive Program Manager at (404) 679-3174.

ECONOMIC DEVELOPMENT PROGRAM
SAMPLE COMPANY COMMITMENT LETTER FOR PUBLIC INFRASTRUCTURE

COMMITMENT TO CREATE/RETAIN JOBS
(to be completed on company letterhead and addressed to applicant)

DATE

Dear _____:

Contingent only upon the receipt of a grant award under the Employment Incentive Program and availability of the same to (developer, industry, company, business, corporation, etc.) as provided for in the application of (local government applicant) the (developer, industry, company, business, corporation, etc.) hereby commits to the (local government applicant) to (describe proposed project, specify construction, expansions, etc.) at a total investment cost of approximately \$ (amount). The proposed financing sources are (name each source and dollar amount). The \$ (amount) in EIP Funds will be used to (describe use of funds) as provided for in the application.

(Developer, industry, company, business, corporation, etc.) further commits (select one: to create, to retain, or to create and retain) (number; if both new and retained jobs are involved, please specify the number of each) full-time (or full-time equivalent) permanent jobs, (number) of which will be available to low and moderate income persons. We will initiate project activities on or about (date) and complete the same on or about (date). We will provide the applicant with a construction schedule upon initiation of project activities and documentation of hiring, including evidence of low and moderate income hiring within ninety (90) days of project completion.

(Developer, industry, company, business, corporation, etc.) also hereby commits, as beneficiary of an EIP financed public facility or infrastructure, to provide (an Irrevocable Standby Letter of Credit (L/C) or Surety/Performance Bond) in the amount of the grant award, should the public infrastructure project be funded. We understand that the purpose of the (L/C or Surety) is to warrant our commitments to invest and create employment opportunities.

Sincerely,

(signature of official or officer
authorized to make commitment)

EIP APPLICATION SUPPLEMENTS FOR DIRECT LOANS

EXHIBITS WHICH SHOULD BE INCLUDED:

- A. Synopsis of Project;** Indicate: *who* will receive benefits of EIP financing; *what* the EIP proceeds will be used for; the amount of financing needed to implement the total project; *where* the project will take place; *when* the project will be implemented; and *how* the EIP financing will be packaged and administered.
- B. Business Plan:** Provide a business plan and brief history and description of the business. Include information concerning: the type of business, products, marketing information, major customers, competitive position in the industry, size of the market, primary competitors, stability of the market, seasonality of the market, price/quality of product, major distribution channels, etc.
- C. Source and Use Statement** (see sample format).
- D. Purchase Option or Sales Agreement** on any real estate needed to undertake the project.
- E. Appraisal(s)** of any real estate to be financed.
- F. Plans, Written Cost Estimates and Proposals** on all proposed construction, renovation. For machinery & equipment purchases include **Price Quotes** from appropriate vendors.
- G. Financial Commitment Letter(s)** from participating financial institution(s). The letter(s) should indicate the amount, rate, term, and any contingencies associated with the financial institution's loan. (See sample format)
- H. Commitment Letter(s)** from participating business(es). The letter(s) should indicate the number of full-time jobs that will be created/retained and the percentage of the jobs that will be held for low- and moderate-income persons. (See sample format)
- I. Description of New Jobs** by salary range and skill level required (include benefits available, such as health, retirement, leave, etc.).
- J. List of Available Collateral** with prior liens and mortgages noted.
- K. Financial Statements:** Provide balance sheets and income statements for the past three years. Also provide a pro-forma balance sheet and projected income statements for one year or until break-even point is achieved. If financial statements are unaudited, also provide copies of company's federal tax returns and related schedules.
- L. Interim Financial Statements** (less than 90 days old).
- M. Cash Flow Projections.**
- N. List of Affiliates or Subsidiaries:** Organizational documents for the applicant company and Certificate of Existence on corporations from Secretary of State's Office.
- O. Resumes of Principals & Key Management Personnel** (include Social Security Number(s)).
- P. Personal Financial Statement** of the owner or each partner or stockholder owning 20% or more of the voting stock in the corporation.
- Q. Schedule of Existing Debt** (see sample format).

ECONOMIC DEVELOPMENT PROGRAM
SAMPLE COMPANY COMMITMENT LETTER FOR DIRECT LOAN

COMMITMENT TO CREATE/RETAIN JOBS
(to be completed on company letterhead and addressed to applicant)

DATE

Dear _____:

Contingent only upon the receipt of a grant award under the Employment Incentive Program and availability of the same to (developer, industry, company, business, corporation, etc.) as provided for in the application of _____ (local government applicant) the (developer, industry, company, business, corporation, etc.) hereby commits to the (local government applicant) to (describe proposed project, specify construction, expansions, etc.) at a total investment cost of approximately \$ (amount). The proposed financing sources are _____ (name each source and dollar amount). The \$ (amount) in EIP Funds will be used to (describe use of funds) as provided for in the application.

(Developer, industry, company, business, corporation, etc.) further commits (select one: create, retain, or create and retain) (number; if both new and retained jobs are involved, please specify the number of each) full-time (or full-time equivalent) permanent jobs, (number) of which will be available to low and moderate income persons. We will initiate project activities on or about (date) and complete the same on or about (date). We will provide the applicant with a construction schedule upon initiation of project activities and documentation of hiring, including evidence of low and moderate income hiring within ninety (90) days of project completion.

(Developer, industry, company, business, corporation, etc.) also hereby commits to repay the \$(amount) in EIP funds as provided for in the application.

Sincerely,

(signature of official or officer
authorized to make commitment)

ECONOMIC DEVELOPMENT PROGRAM
SAMPLE LENDER COMMITMENT LETTER

(to be completed on the letterhead of the lending institution and addressed to the developer, industry, company, business, corporation, etc.)

DATE

Dear _____:

Please be advised that we have reviewed your financial statements and project proposal regarding financing for (describe proposed project, specify construction, expansion, etc.) in (location). It is our understanding that (applicant) has applied for \$ (amount) in Community Development Block Grant funds (under the "Employment Incentive Program") to (describe use of funds) as part of the project.

Based on the financial and project feasibility information provided, we feel the CDBG funds for (describe project) would make this a viable project and hereby commit to provide (describe amount and type of financing) for (describe purpose of financing). This commitment has been approved by our (loan committee board, etc.) and is subject to the following terms and conditions: (specify terms and conditions: receipt of the grant award can be a condition).

Sincerely,

(signature of official or officer
authorized to make commitment)