

**Community Development Block Grant:  
Downtown Revitalization Program**




**2019 Recipient Workshop  
Ankeny, Iowa**

**Ed Basch**, Project Manager  
**Joe Bohlke**, Project Manager

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### Contract Conditions

- » IEDA recommends the following documents be shared with participants as early as possible in the process;
- » Administrative Plan – defines project roles of all players, must be submitted prior to first draw
- » Facade Easement Agreement – property owners maintenance agreement with city for improvements, must be submitted prior to first construction draw, can end at grant closeout
- » Construction Terms Agreement – property owners acknowledgement of property access, prohibition of other work, and acceptance of scope of work, must be submitted prior to first construction draw
- » Prohibition on Other Construction Work (other than emergencies & maintenance)



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### Administrative Plan (contract condition)



- » This document is crucial to a good project
- » Boiled down, here is what we really want to know:
  - Who are all the important "players" in the project
  - What is each person/ entity's specific responsibilities
  - What person, or group, will be the local coordinator
  - How will property owners be engaged, communicated with
  - Need it finalized before first draw



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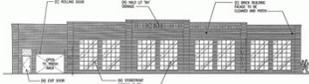
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### Facade Easement Agreement (contract condition)



- » Can be minimally tailored locally but IEDA must approve
- » Defines what constitutes the “facade”; gives legal permission
- » Signatures on easement must be notarized and the document recorded at County, provide evidence of recording to IEDA
- » Outlines how changes to façade are handled *after grant period*
- » See Appendix 7 CDBG Management Guide for a sample Easement Agreement Template
- » Must be in place until project/grant closeout

**IOWA** <sup>4</sup>

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### Construction Terms Agreement (contract condition)



- » This document is intended to spell out the owner’s financial arrangement for the facade work (i.e, amount, timing, lien possibility)
- » Evidence of the owner’s acceptance of the scope of work
- » Can be used to lay out the process for contract change orders
- » Includes that owner can not conduct any other construction work on the building during the grant period (excepting emergency or routine maintenance)
- » See Appendix 7 CDBG Management Guide for a sample Construction Terms Agreement template

**IOWA** <sup>5</sup>

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### Tips For A Successful Program



- » Assign roles and follow them (Admin Plan)
- » Documentation – photographs help
- » Learn owner’s priorities prior to bidding
- » Build alternates beyond basic slum and blight items into the bid specs
- » Monitor projects during construction, (at least weekly visits by someone)
- » Expect to find the unexpected, but consider change orders carefully
- » Let IEDA know of any problems or potential problems
- » Plan for design/bidding to be completed in winter to enable spring construction

**IOWA** <sup>6</sup>

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## The DTR Program Follows All CDBG Provisions



### Some Highlights Of These Regulations:



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## Lead Based Paint Applicability



- » For residential spaces, basically same rules as for the housing rehabilitation program
  - Affects residential units in a mixed-use building (i.e.) second floor apartments
  - Requires testing and interim controls on any residential units for all areas in which painted surfaces will be disturbed
  - Does NOT apply to commercial portion of the structure
  - Applicable residential units must be either occupied or readily occupiable
  - Hard costs cannot exceed \$24,999 unless building is historic
  - The \$24,999 is considered per unit, for example: if you have 2 upstairs apartments and spend \$40,000 on the upper floor of the building, you have spent only \$20,000/unit
  - It is acceptable to subtract out costs that are specifically for commercial improvements, however common spaces must be prorated in costs.



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## Summary On Conflict of Interest

- CODE OF CONDUCT POLICY**
- » No officer, employee, or agent of (Recipient) shall participate in selection, award or administration of a contract when:
    - Such employee, officer or agent;
    - Member of his/her immediate family; or
    - His/her partner
  - Has a financial or other interest in the firm selected for award

**CONFLICT, CFR 570.489(h)**

- » No employee, agent, consultant, officer, elected or appointed official may:
    - Obtain a financial interest or benefit from the activity
    - Have an interest or benefit from the activity
    - Have an interest in any contract, subcontract, or agreement
- Either for themselves or those with whom they have family or business ties, during or within one year after tenure



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## 2 CFR Procurement Policy

- » Applies to any CDBG contracting process in DTR, except general administration by the applicable COG
- » Ensures that sound business judgment is utilized in all procurement transactions and that equipment, construction, and services are obtained in a manner that provides full and open competition.



- » Requires:
  - Uniform evaluation criteria for review of RFPs/RFQs
  - Code of conduct for any issues that may arise

**IOWA**<sup>10</sup>

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## Method of Procurement - Services

**OPEN PROCUREMENT**

- » Competitive Proposals
  - proposals from adequate number of qualified sources are solicited through a published, formal, written request
  - method and specific criteria for technical evaluations is required
  - RFP - generally used for selection of professional services; including DTR program administrators
    - award is made to the responsible firm whose proposal is most advantageous with price and other factors considered
  - RFQ - when procuring A/E, a qualification-based procedure instead of price-based is preferred
- » Contracts for professional services must be based on an actual set cost; not a percentage of cost or a cost plus a percentage

**IOWA**<sup>11</sup>

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## Method of Procurement – Construction

- » Follow sealed bid process and requirements as outlined in CDBG Management Guide.



- » Labor Standards
  - Davis-Bacon Act
    - Requires wages paid to employees be equal to or higher than the U.S. Department of Labor determination of the prevailing wage rates for applicable job classifications in the project area. Rates must be requested through and issued by IEDA.
  - Copeland "Anti-Kickback" Act
    - Requires payment **once a week**, weekly review of payroll forms, and retaining documents for five years after work completion
  - Contract Work Hours and Safety Standards Act
    - Don't forget overtime payment law

**IOWA**<sup>12</sup>

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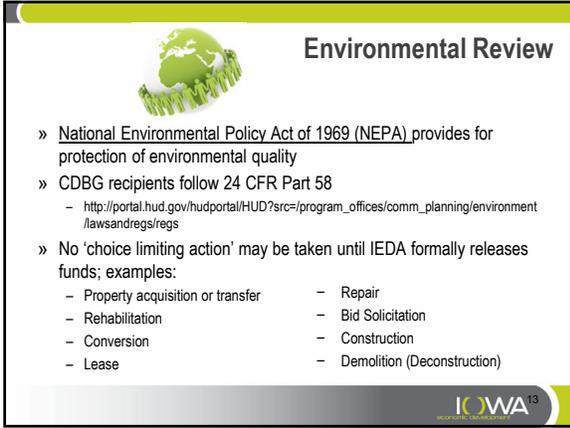
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## Environmental Review

- » National Environmental Policy Act of 1969 (NEPA) provides for protection of environmental quality
- » CDBG recipients follow 24 CFR Part 58
  - [http://portal.hud.gov/hudportal/HUD?src=/program\\_offices/comm\\_planning/environment/lawsandregs/regs](http://portal.hud.gov/hudportal/HUD?src=/program_offices/comm_planning/environment/lawsandregs/regs)
- » No 'choice limiting action' may be taken until IEDA formally releases funds; examples:
 

- Property acquisition or transfer	- Repair
- Rehabilitation	- Bid Solicitation
- Conversion	- Construction
- Lease	- Demolition (Deconstruction)

**IOWA**<sup>13</sup>

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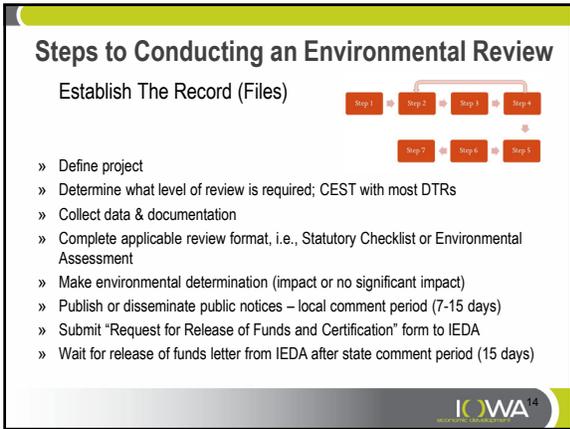
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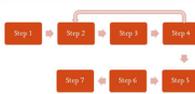
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## Steps to Conducting an Environmental Review

### Establish The Record (Files)



- » Define project
- » Determine what level of review is required; CEST with most DTRs
- » Collect data & documentation
- » Complete applicable review format, i.e., Statutory Checklist or Environmental Assessment
- » Make environmental determination (impact or no significant impact)
- » Publish or disseminate public notices – local comment period (7-15 days)
- » Submit "Request for Release of Funds and Certification" form to IEDA
- » Wait for release of funds letter from IEDA after state comment period (15 days)

**IOWA**<sup>14</sup>

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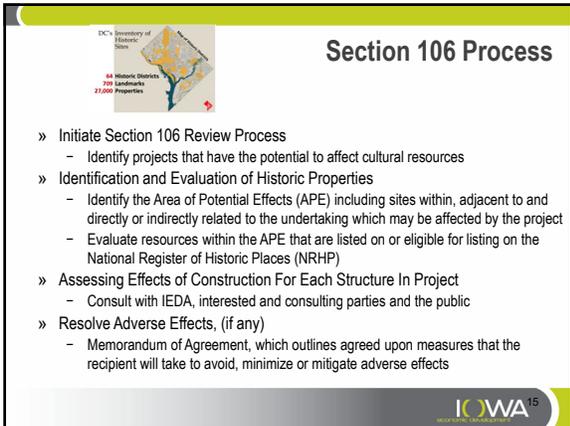
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## Section 106 Process



- » Initiate Section 106 Review Process
  - Identify projects that have the potential to affect cultural resources
- » Identification and Evaluation of Historic Properties
  - Identify the Area of Potential Effects (APE) including sites within, adjacent to and directly or indirectly related to the undertaking which may be affected by the project
  - Evaluate resources within the APE that are listed on or eligible for listing on the National Register of Historic Places (NRHP)
- » Assessing Effects of Construction For Each Structure In Project
  - Consult with IEDA, interested and consulting parties and the public
- » Resolve Adverse Effects, (if any)
  - Memorandum of Agreement, which outlines agreed upon measures that the recipient will take to avoid, minimize or mitigate adverse effects

**IOWA**<sup>15</sup>

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## DTR Grant Implementation & Management



- » **Requires an experienced CDBG grant administrator**
  - Serves as point of contact for IEDA
  - Provides local oversight and is info resource on regulations / requirements.
  - Accesses iowagrants for reporting, draw requests, amendments, etc.
  - Communicates with whomever the city indicates consistent with the Administrative Plan
  - Critical to set up communications and coordination expectations early-on for when design and construction is underway
    - Consider regular update meetings between manager, participants, key stakeholders and all affected parties
- » **Group Discussion on best practices, issues, obstacles, etc??**



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## DTR Process (1)



- » Clear grant conditions as specified in grant award contract
- » Communicate with property owners:
- » Clarify the level of historic review necessary and potential impacts on budget
  - Determine which buildings have to follow Secretary of Interior Standards. Work with IEDA Historic Preservationist.
  - If resources are unevaluated or were evaluated more than 5 years ago, work with a qualified historic preservation consultant to conduct survey



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## DTR Process (2)



- » After consulting with property owners, add a process for alternatives into the bid specifications to enable flexibility in adjusting to actual costs
- » Contract with architect should enable project to be bid within one year of award as this is a grant condition
- » Design based on description and proposed work in application
  - Follow Secretary of Interior standards for specific buildings, or determine that work will not result in Adverse Effect to historic property
  - Detailed specifications will be necessary to satisfy Section 106 and slum and blight eview
  - Property owners should receive updated designs and cost estimates as soon as they are available



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**NATIONAL TRUST FOR HISTORIC PRESERVATION**

### DTR Process (3)

- » IEDA Historic Preservation Specialist Review
- » Submittal must include:
  - Map of where the building is located within the project area
  - An Iowa Site Inventory Form for the address with a determination of eligibility (or not) for listing in the National Register of Historic Places including current condition photographs
  - Print out of the Assessor's page for the property
  - Descriptive architects plans and specifications

The documents should be submitted only to the IEDA Historic Preservation Specialist. Through [iowagrants.gov](http://iowagrants.gov). No documents should be submitted directly to the SHPO from the City, Grant Administrator or Architect.

**IOWA**<sup>19</sup>

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### DTR Process (4)

- » *After IEDA review and approval but Prior to issuing construction bids*
  - Incorporate IEDA recommendations in Construction Documents
  - Submit Iowa Green Streets Document, (Appendix C in Management Guide),
  - Discuss draft easements and construction agreements with property owners. Projects are required to be out to bid within one year of the contract award
- » *After Bid is Selected, Before Construction Begins*
  - Facade Easement Agreements and Construction Terms Agreements with property owners executed and submitted to IEDA for approval.
  - Easement Agreements subsequently recorded

**IOWA**<sup>20</sup>

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### DTR Process (5)

<p><b>CHANGES IN BUILDINGS</b></p> <ul style="list-style-type: none"> <li>» Added side facades require approval of IEDA</li> <li>» Changes in addresses &amp; owners in IowaGrants/Cost Estimates section           <ul style="list-style-type: none"> <li>- New replacement buildings must meet slum and blight criteria (in designated area, also be poor or fair condition)</li> </ul> </li> <li>» Changes in total number of buildings through Project Amendment in IowaGrants, change of performance measure           <ul style="list-style-type: none"> <li>- Amendment must explain total construction cost estimates changes</li> </ul> </li> </ul>	<p><b>CHANGES IN FUNDING</b></p> <ul style="list-style-type: none"> <li>» Changes in <u>sources</u> of local match would rarely require IEDA approval but do require notification</li> <li>» Change in <u>amount</u> of local match (increase or decrease) must occur through Budget Amendment in IowaGrants.</li> <li>» Obviously, any change in amount of CDBG dollars requires a budget amendment</li> </ul>
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**IOWA**<sup>21</sup>

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### DTR Process (6)

- » **After construction begins, through completion**
  - Set up consistent communication channels
  - Work closely with businesses and contractors to minimize disruption
  - Monitor to ensure no additional construction work is occurring
  - Grant Administrator will conduct contractor employee interviews and review contractor pay rolls
  - Be prepared for unexpected scope of work changes, especially when major façade components removed
  - Take pictures to capture before, in-progress, after images
  - Good publicity never hurts

**IOWA**<sup>22</sup>

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### Grant Monitoring

- » On-site monitoring normally scheduled at 50%+ drawdown level
- » Monitoring checklist posted in "site visit" component of iowagrants 2 weeks prior to the visit
- » Use checklist to prepare your responses and documentation before the IEDA visit
- » The grant administrator must be present at visit and ensure that persons able to answer financial and other questions for the city are readily available; elected city officials can attend
- » Any issues, with timeframe for correction, will be provided to city/administrator

**IOWA**<sup>23</sup>

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### Monitoring - Common Issues

- » **Procurement Documentation**
  - Administrator & Architect Contracts - CDBG Provision Language In ALL- Even Subs or Professional Services (i.e.) Asbestos
- » **Davis Bacon and Labor**
  - Payrolls must be submitted, reviewed and certified weekly!
  - Other deductions need employee agreement form
  - Written authorization to sign payrolls required if not an officer or owner in corporation
  - Use of Independent Contractor/Sole Proprietor must be carried under the General Davis Bacon and Labor
  - > Will look at one draw in detail – have vendors, checks, invoices, and dates ready.

**IOWA**<sup>24</sup>

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### Steps to Closeout

- » Incur **all** costs prior to ending date
- » Be sure there are no further costs to come prior to submitting final drawdown (i.e.) punch list items
- » Final draw and any other uploads must be in within 60 days of grant ending date
- » Take pictures of full facades when work is 100% complete
- » Submit both **before and after** photos of full facades with matching identifying addresses for each completed project



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### Questions?

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