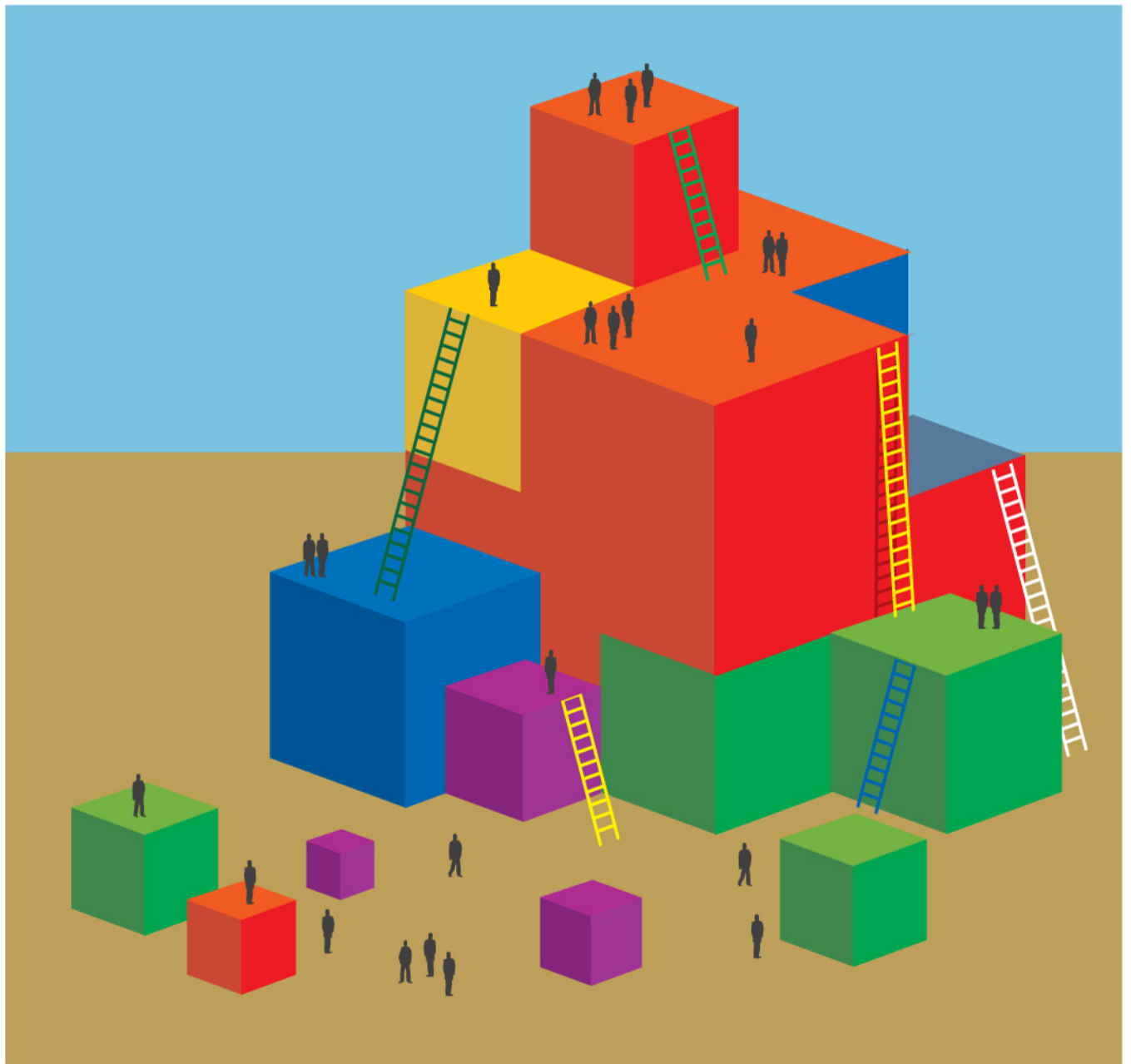




Mayor's Office of Housing and Community Development Capital Division

City & County of San Francisco

CAPITAL IMPLEMENTATION MANUAL



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The MOHCD Construction Process: An Overview

This Capital Implementation Manual will help you implement your community facility capital grant from the Mayor's Office of Housing and Community Development Capital Division (MOHCD). The procedures and standards for carrying out work programs discussed in this manual are based on your grant agreement with the City and the controlling federal, state and local regulations. These procedures may not be modified unless first approved in writing by MOHCD. This Manual is to be used for all construction contracts funded in whole or in part with Community Development Block Grant (CDBG), State Grant, General Funds Grant, Emergency Solutions Grant (ESG), or Housing Opportunities for Persons with AIDS (HOPWA) funds. These procedures may be modified at MOHCD's discretion. Except where noted, this Manual is applicable to professional services, construction, and equipment purchasing contracts. In the event of any conflict between the material contained within this Manual and the terms of the Grant Agreement executed between the City and the MOHCD Grantee, the terms of the Grant Agreement prevail.

You may **NOT** spend any MOHCD CDBG, State, General Funds Grant, ESG, or HOPWA funds prior to certification of the Grant Agreement, unless their expenditure has been previously approved in writing by MOHCD via the Request for Contract Approval/Change Order Approval form (MOH-14). Failure to comply with this requirement can result in financial obligations which MOHCD will not reimburse.

The MOHCD Grantee is responsible for ensuring that the architect or the design or construction professional administering the construction project is aware of all the provisions in this Manual. Regardless of whether there is an architectural services contract approved by MOHCD, the MOHCD Grantee shall be solely responsible for complying with the Manual.

Capital projects supported with funds from MOHCD are typically implemented in the following sequence.

1. Employment of Design Professionals and Submission of Proof of Insurance
2. Submission and Approval of Phase I Preliminary Plans
3. Submission of Plans to Mayor's Office on Disability for ADA Review
4. Receive MOD Approval of Submitted Plans for inclusion in Phase II Submittal
5. Obtain a Federal/State Wage Determination
6. Submission and Approval of Phase II Plans Including Project Manual
7. Submission of Project Manual/Plans in a Sharable Electronic Folder for Advertisement on the City Purchaser's Website
8. Solicitation of Contractors and Good Faith Outreach to MBE/WBE and Section 3 Contractors (Federal Only)
9. Cost Reasonable Assessment (Federal Funds Only)
10. Pre-Construction Conference (Office of Labor Standards Enforcement)
11. Register Project With the CA Dept. of Industrial Relations – Public Works Contracts Licensing
12. Set up project in LCPTracker for Wage Reporting

13. Preparation of Construction Contract
14. MOHCD Approval of Construction Contract
15. Start of Construction
16. Submit Invoices and Completed MOH-15 Request for Payment
17. Submit Payment Request in GMS
18. Submit Certificate of Completion and Demographic Information Sheet

1. Employment of Design Professional

- If MOHCD grant funds are used to hire the design professional, please use “Acquiring Architectural & Other Consultant Services,” which is available from the MOHCD Project Manager.
- MOHCD’s insurance requirements are detailed in the Grantee’s grant agreement for design professionals and apply regardless if the consultant is paid from MOHCD grant funds or not. These include Professional Liability Insurance for negligent acts and errors or omissions with respect to professional or technical services with limits not less than one million dollars (\$1,000,000) for each claim. Proof of insurance is satisfied by submitting a certificate of insurance that lists the City and County of San Francisco as an additional insured.

2. Submission and Approval of Phase I Preliminary Plans

- The Grantee submits preliminary schematic plans and a statement of projected itemized construction costs to the MOHCD Project Manager consistent with the line items of the approved Project Budget contained in the Grantee's Grant Agreement. Schematic Plans and Project Budget are to be prepared by a building design professional. The documents necessary for MOHCD Phase I approval include:
 - Request for Plans Approval Form (MOH-1)
 - Preliminary Schematic Plans. These drawings should provide sufficient detail so that MOHCD Project Manager can determine whether the project conforms to the budget approved in the grant agreement. Do not submit final, working drawings at this time.
 - Cost Estimate. Estimates should be based upon the architect's own calculations and must be based on the drawings that are being prepared for the project.
 - MOHCD will either approve these Phase I documents or return them for revision.

3. Submission of Plans to Mayor's Office on Disability for ADA Review

- Unless exempted under the California Building Code or ADA Accessibility Guidelines, all MOHCD projects for which building permits are required must be reviewed by the Mayor's Office on Disability (MOD).

- MOD must sign-off on your plans before MOHCD will approve Phase II plans.

The Grantee will be charged by MOD for this review. It is the responsibility of the Grantee to understand and follow the MOD review procedure. This procedure is described in detail on the MOD's website.

- Please ensure that the project architect and project manager are familiar with the MOD review process. Start the MOD review process immediately upon receiving MOHCD Phase I approval. For further information, contact MOD at 415-554-6789 or <https://sfgov.org/mod>.

4. Submission of Plans to City Department of Building Inspection for Plan Check Review

- The City's Department of Building Inspection (DBI) must sign-off on your plans before MOHCD will approve Phase II plans. The Grantee will be charged by DBI for this plan check review. It is the responsibility of the Grantee to understand and follow the DBI plan check review procedure. This procedure is described in detail on the DBI's website: <https://sfgov.org/dbi/>

5. Application for a Federal/State Wage Determination for Publicly Funded Projects

- After the plans have been approved by MOD, the next step is to obtain a Federal Wage and/or/both State Wage Determination. These determinations are required

for all federally/state funded capital (Public Works) projects greater than \$1,000.00 for State funding or \$2,000.00 for Federal funding. The Wage Determination lists the minimum wages that must be paid to construction workers in the San Francisco Bay Area.

- To obtain the Wage Determinations, contact Angie Lee at angie.lee@sfgov.org to get the Notice of Intent To Solicit Bids form (MOH-2) for transmittal to the Office of Labor Standards Enforcement (OLSE). OLSE will direct you to the current wage determinations which are online from the United States Department of Labor and the State of California Department of Industrial Relations. The Wage Determination must be downloaded and included with the bid documents that the Grantee will make available to potential bidders.
- For **Federally funded projects**, the MOHCD Grantee or its architect shall contact OLSE at least 10 calendar days before the bid opening date to determine whether any modifications to the Federal Determination has been published. If a modification has been published, it shall be transmitted to all holders of bid documents as an addendum. Keep a list that documents contractors who informed you that they have downloaded, printed or picked up the bid package. The list should include names, addresses and phone numbers. **The federal wage determination that is in effect ten days before the bid opening date is the wage determination which governs the wages to be paid to construction workers on the project.** Modifications published less than ten days before bid opening will not be attached to the contract.

- Volunteers cannot be used on Federally funded contracts. For locally or State funded projects, if volunteers are going to perform any construction work at the project site during the same time period, it will be necessary to request a written waiver of the Federal Labor Standards Provisions for those volunteers. The same requirement also applies to project governed by State prevailing wage rates. Whether it be State or Federal wages, the higher set of wages will be used for the project.

6. Submission and Approval of Phase II Final Plans and Bid Documents

- Upon receipt of the Wage Determination, the next step is to submit the MOH 1 and Phase II final plans and bid documents to MOHCD Project Manager for approval.
- Phase II documents include final plans and a project bid manual, which contains specifications and MOHCD forms with bidding requirements. The Grantee, works with a Design Professional to prepare a project bid manual which contains working drawings, project specifications and MOHCD bid forms with local, state and federal requirements. The required MOHCD bid forms are located on the MOHCD Capital Projects web page: <https://sfmohcd.org/capital-projects-information>. The Grantee submits the working drawings and the project bid manual to MOHCD Project Manager. Included in the project bid manual are final plans, specifications, a statement of projected itemized construction costs, including alternates if any, and MOHCD forms that list federal, state and local

bidding requirements. Use the Request for Plans Approval form (MOH-1) as transmittal for submission of Phase II documents.

- Written approval from MOHCD must be obtained before soliciting/advertising the project for bids.

- All specifications for materials and services are to be based upon a clear and accurate description of the technical requirements for work to be performed. Specifications and drawings may not contain features that unduly restrict competition (which are requirements that place unreasonable limits on small business competition). The description must include a statement of the qualitative nature of the materials and services to be procured, and where necessary set forth those minimum essential characteristics and standards to which it must conform. Sheet numbers of the plans should be listed here.

- The project manual has two parts:
 - The bidding and contract documents, and
 - The technical specifications provided by your architect.

- Everything needed to assemble your project manual is included in this Capital Implementation Manual with the exception of technical specifications and drawings, which are provided by the architect and the Federal/State Wage Determination, which is obtained from United States Department of Labor and the State of California Department of Industrial Relations.

- A draft of the project manual should be submitted to MOHCD Project Manager with the Request for Plans Approval form (MOH-1) before printing or publishing the final version. Once MOHCD Project Manager has approved the manual, the final version of the project manual may be assembled.
- Once the final drawings are complete and MOHCD Project Manager approves the Phase II plans, the MOHCD Grantee should immediately file for a building permit if one is required. The architect, if one is working on the project, shall assist the MOHCD Grantee in applying for the building permit. Grantees should not wait until bidding is complete before filing for a permit. Typically, the owner pays for the cost of filing for the permit and Contractor pays for the Building Permit.

7. Solicitation of Contractors and Good Faith Outreach to Minority-Owned Business Enterprises and Woman-Owned Business Enterprises (MBE/WBE) and Section 3 Contractors (Section 3 Contractors are Businesses that Provide Economic Opportunities and Training to Low and Very Low-Income Persons)

- The process for solicitation of construction contractors depends upon the amount of the contract to be awarded. There are three solicitation models for MOHCD funded construction contracts. The selection of the appropriate model is determined by the total contract amount for the project in question. Determine the

level of your contract and follow the solicitation procedure described for that level of contract in this manual.

Regardless of the total amount of the contract, there are several regulatory and statutory guidelines that must be complied with in the solicitation and award of construction contracts using federal/state funds. These guidelines must be followed during the contract solicitation process and incorporated into all contracts awarded when using MOHCD grant funds. These requirements include, but are not limited to:

- Federal affirmative action guidelines;
- Outreach to Minority, Women and Section 3 and Local Business Enterprises;
- Federal labor standards provisions for all construction contracts over \$2,000;
- State labor standards provisions for all construction contracts over \$1,000;
- San Francisco Administrative Code provisions requiring the hiring of local residents by contractors and prohibitions against discrimination; and
- Supplementary General Conditions, Federal and Local Requirements for Construction Contracts attachment, which is included with the MOHCD forms.

Public Works Contractor Registration Requirement (SB 854)

Contractors who wish to submit bids for publicly funded projects must be registered as Public Works Contractors with the California Department of Industrial Relations (DIR). Registration requirements and procedures are on the California Department of Industrial Relations web site: <https://www.dir.ca.gov/Public-Works/PublicWorks.html>.

Some contractors are exempt from the state public works contractor registration requirement:

Contractors who work exclusively on small public works projects are not required to register as a public works contractor or file electronic certified payroll reports for those projects. Contractors are still required to maintain certified payroll records on a continuous basis, and provide them to the Labor Commissioner's Office upon request.

The small project exemption applies for all public works projects that do not exceed:

- \$25,000 for new construction, alteration, installation, demolition or repair
- \$15,000 for maintenance

Contracts Less Than \$10,000 no informal or formal bidding requirements apply

- If the total construction contract is less than \$10,000, no bidding, either formal or informal, is required. The Grantee is required to obtain prior approval of MOHCD before awarding the contract.
- Additionally, MOHCD Grantees must comply with all other requirements applicable to the contract as described in this manual, including MOHCD wage, subcontracting and insurance requirements. Grantee is required to submit the Request for Contract Approval form (MOH-14) for approval.

Contracts from \$10,000 and below \$250,000.00

- Even though the Grantee is not required to publicly advertise for bids for contracts in this range, it must publish notice of the opportunity in the Bids and Contract Opportunities List maintained by the City and County of San Francisco. This list is published online daily at City Partners Bid Opportunities web page: <https://sfcitypartner.sfgov.org>. To publish the opportunity on this list, prepare an

electronic shared folder like Google Folders or DropBox and share the link with the MOHCD Project Manager. Your Bid Package will be reviewed by MOHCD and if complete, posted by MOHCD to the City Partners webpage

<https://sfcitypartner.sfgov.org>.

- The Grantee must maintain a list of all contractors solicited in order to document that good faith efforts have been made to solicit bids from MBE/WBE and Section 3 and local businesses. The San Francisco Human Rights Commission maintains a database of MBE and WBE businesses that can be accessed at this link: http://mission.sfgov.org/hrc_certification/. Document the firms you have contacted using the Good Faith Efforts Tracking Sheets (MOH-17) included with the MOHCD forms. In addition, the Grantee must collect contact information of all contractors who express an interest in submitting bids.

- The Cover Letter to Bidders/Invitation to Bid form (MOH-5) is required for all contracts of \$10,000.00 or more. Grantee can modify and use the MOH-5 form provided on the MOHCD Capital Projects Web Page. The MOH-5 form notifies potential bidders of the project and lists all applicable forms or documents necessary for MOHCD to approve and process contractual documents. It should be completed prior to soliciting bids for the project and should be posted with the bid manual.

- The Grantee completes the Instructions to Bidders (MOH-6) form that must contain the following:
 - The due date for bids

- The mandatory walk-through date; allowed with mask and social distancing
- The location where bids are to be submitted or email address for electronic bids
- If it is necessary for the construction to start and be complete within certain dates, indicate these requirements here as well as in the specifications.

Contracts \$250,000 or More

- Formal bidding is required for construction contracts in this range.
- Newspaper Advertisement. For construction contracts of \$250,000 or more, you must publicly advertise for competitive sealed bids. A publicly advertised bid is defined as one which appears in at least one local newspaper or periodical of general circulation. Grantees may use the Public Notice of Invitation to Bid form (MOH-3) for the format of the advertisement. It provides suggested wording for bid advertisements. The advertisement MUST be placed at least once in the Public Notices section of a citywide newspaper. A copy of the ad or a Proof of Publication must be submitted to your MOHCD Project Manager. These items are submitted to MOHCD when the construction contract is submitted to MOHCD for approval.
- The Instructions to Bidders (MOH-6) form must contain the following information:
 - A clear set of procedures for submitting bids (place, date, and time for obtaining bidding document and opening of sealed bids).

- Notice that a contractor must hold his or her bid good for at least 60 days.
The MOHCD Grantee may decide that a longer period is necessary.
 - Required start and completion dates, if necessary.
 - Date for a mandatory inspection tour for contractors.
-
- *Non-refundable Deposit.* The MOHCD Grantee may require a non-refundable deposit (\$35 maximum for large projects and \$15 minimum for smaller projects) from prospective bidders for obtaining the bidding documents. These funds can be used to offset printing and reproduction costs.
 - *Bid Period.* The bid period is the interval between the first day of the publication of the invitation to bid and the bid opening date. The bid period length must be a minimum 14 day to twenty-one calendar days. Coordinate the bid period with your MOHCD Project Manager. For renovation projects of \geq \$250,000, the bid period must be no less than thirty (30) calendar days. If an insufficient number of bidders has picked up the bid documents, the bid due date may be extended to encourage submission of more bids. Please contact your MOHCD Project Manager regarding extensions to the bid due date.

*Good Faith Efforts for Outreach to Minority and Women Owned and Section 3**Businesses*

- In accordance with HUD regulations, the MOHCD Grantee must conduct good faith efforts to solicit minority and women, and Section 3 owned firms. Failure to comply with this requirement may be a basis for rebidding the project.
- Compliance with the good faith efforts requirements includes providing the Cover Letter to Bidders form (MOH-5) to all applicable MBE/WBE contractors listed in the S. F. Human Rights Commission database of MBE/WBE businesses:
http://mission.sfgov.org/hrc_certification. Document the firms you have contacted using the Good Faith Efforts Tracking Sheets (MOH-17) included with the MOHCD forms.

All bidding and bid solicitation activities are to be conducted in such a manner as to provide, to the maximum extent practical, open and free competition. Good faith efforts are required to utilize women and/or minority-owned and Section 3 enterprise sources for supplies and professional services. A list of women and minority-owned and Section 3 construction firms can also be obtained from the S. F. Human Rights Commission MBE/WBE webpage: http://mission.sfgov.org/hrc_certification

- Additionally, Grantees should keep in mind that federal laws and regulations governing the CDBG, ESG and HOPWA programs require that affirmative steps be taken to assure that minority firms, women's business enterprises, and labor

surplus area firms are used when possible (24 C.F.R. §85.36(e)). In accordance with the federal regulations, affirmative steps include:

- (1) Placing qualified minority businesses and women's business enterprises on solicitation lists;
- (2) Assuring that minority businesses, and women's business enterprises are solicited whenever they are potential sources;
- (3) Dividing total requirements, when economically feasible, into smaller tasks or quantities to permit maximum participation by minority business, and women's business enterprises;
- (4) Establishing delivery schedules where the requirement permits, and encourages participation by minority business and women's business enterprises;
- (5) Using the services and assistance of the Small Business Administration, and the Minority Business Development Agency of the Department of Commerce; and
- (6) Requiring the prime contractor, if subcontracts are to be let, to take the affirmative steps listed in subparagraphs (1) through (5) above.

Examination of Bid Documents and Site Visit

- Before submitting a bid, bidders should carefully examine the bid documents; visit the site of the project during the inspection tour; and fully inform themselves of existing conditions and limitations, including all items described in the bid

documents. No consideration will be granted for any alleged misunderstanding of the materials to be furnished, work to be performed or actual considerations at the site; it being understood that the tender of a bid carries with it the agreement to complete all work and comply with all conditions specified herein and indicated in the bid documents. If a bidder finds discrepancies, ambiguities, or conflicts in the bid documents, or should there be any doubt as to the meaning of a provision or requirement, the bidder shall immediately notify the MOHCD Grantee in writing. MOHCD Grantee will respond to all questions received prior to 5 days before the bid opening date. Questions received less than 5 days prior to the bid opening date may not be considered or answered.

Inspection Tour

- The MOHCD Grantee is required to hold at least one inspection tour at the project site for bidding contractors on a pre-selected date. The purpose of the inspection tour is to familiarize bidders with site conditions and to clarify any questions on specifications and/or plans.

Objections to Specifications

- If a bidder objects on any ground to any bid specification or legal requirement imposed by the bidding documents (Project Manual) he or she shall provide written notice to the MOHCD Grantee within 10 calendar days after the day the Project Manual was first made available to the public. Failure of a bidder to object in the manner set forth in this paragraph shall constitute a complete and irrevocable waiver of any such objection.

Bid Package Addenda

- Addenda to the bidding documents must be in writing and in graphic form. Addenda must be hand-delivered, emailed or sent by certified mail. They must be received by each holder of bid documents not later than seven working days before the scheduled bid opening date.

Sets of Plans at Job Site and at Architect's Office

One set of plans and bidding documents shall be made available by the MOHCD Project Manager on the City Partners website, <https://sfcitypartner.sfgov.org>

- The Grantee shall make the list of the general contractors who respond to the Bid Advertisement available to subcontractors interested in submitting bids by the agency. This provides an opportunity for subcontractors to submit their bids to contractors bidding for the prime contract. Plans are available for inspection without purchase on the SF Citypartner website.

Bid Form

- Each bidding contractor must complete the Bid Form (MOH-7) and submit it with his or her bid. The dollar amount of the bid and alternates, if any, are communicated to the MOHCD Grantee on this form. The bidding contractor must sign this form. The base bid is not necessarily the low base bid. The low bid is the combination of the base bid and alternates chosen. If an alternate bid form is submitted instead of the MOH-7 Bid Form, it will be considered nonresponsive and rejected.

Alternates

An Alternate is a defined portion of the Work that is priced separately, providing an option for the owner in determining the final scope of the Project.

- Alternates are to be listed on the Bid Form (MOH-7). They may be additive or deductive. Bidders should bid all alternates identified. Failure to bid any of the alternates that the Grantee later selects will be cause for rejection of a bid. The alternate price shall include such amounts as the bidder deems appropriate for overhead and profit. The bidder agrees that, should additional construction funds become available to the City, alternates not selected by the MOHCD Grantee at the time of award may be incorporated into the contract by Change Order, based on the Bidder's original alternate amount named on the Schedule of Bid Prices.

List of Subcontractors

- The List of Subcontractors form (MOH-8) is to be completed by each bidding contractor and submitted with the bid. It lists the subcontractors the contractor will subcontract with if awarded the job. The bidding contractor signs the form. If subcontractors are added after MOHCD approves the construction contract, then the general contractor shall notify the MOHCD Project Manager for review and approval and then notify OLSE.

Good Faith Efforts Tracking

- The MOHCD Grantee must submit the Good Faith Efforts Tracking Sheet (MOH-17) to the MOHCD Project Manager. It should be submitted within five (5) business days upon the award of contract.

Bid Opening

- The MOHCD Grantee, with the assistance of its architect, project manager or consultant, shall conduct the bid opening, whether publicly advertised or informally solicited, at a designated location and time. Sealed bids shall be opened in the presence of bidders, and the general public, with COVID protocols in place and shall be read aloud. During the bid opening, the MOHCD Grantee and its architect, project manager or consultant shall record all bids and relevant documents received on the Bid Tabulation Sheet (MOH-12). Once submitted, bid documents are considered public documents and must be made available to members of the public upon request. Reasonable charge for the cost of copying is permitted.

Timely Selection of Bids

- The MOHCD Grantee should either select the lowest qualified bidder or reject all bids within ten (10) working days after the bid opening. Bid(s) may be rejected if there is evidence of collusion between contractors or if the contractor is not qualified or lacks the competence to successfully perform the work as specified.

Review of Bids

- There are two stages of the review process.

First Stage: The MOHCD Grantee and the architect, project manager or consultant, should review all the bids for appropriateness of amount, completeness, qualifications of the bidders, and the bid items of the prime bidders and subcontractors.

Second Stage: The Grantee and architect will conduct further review of the qualifications and work experience of the low bidders. The contractor should be requested to submit evidence of insurance, licenses, and bonding capacity (if required). The MOHCD Grantee and the architect may wish to meet with the contractor to review the entire job, verify costs, determine a construction schedule, and to inquire further about the contractor's qualifications and personnel. Although MOHCD cannot make recommendations on the contractor's qualifications, your MOHCD Project Manager can provide information on previous MOHCD-funded projects in which that contractor participated. The MOHCD Grantee will then determine whether the contractor is qualified to be awarded the contract.

Disqualification of Low Bidder

- If the MOHCD Grantee wishes to disqualify the low bidder it must first contact via email the MOHCD Project Manager. The Grantee must then notify the low bidder in writing explaining the reasons for the pending disqualification. The written

explanation must inform the low bidder that he or she has one week to respond in writing. If the disqualified bidder responds within the time limit, the Grantee shall respond in writing within three days of the bidder's response. To formally disqualify the low bidder the Grantee must send a copy of the above written explanation and any response along with a written explanation to the MOHCD Project Manager requesting disqualification and explaining the reasons therefore. After MOHCD concurs, the Grantee shall notify the disqualified bidder in writing of its action.

Withdrawal of Lowest Bidder

- If the lowest bidder wishes to withdraw, the bidder must submit a letter of withdrawal signed by the same person who signed the Bid Form (MOH-7). The MOHCD Grantee shall acknowledge receipt of the withdrawal and provide a copy of the bidder's letter to MOHCD.

Notification by Mail/Email

- When a bid is either accepted or rejected, the MOHCD Grantee, as the awarding agency, shall notify all bidders by mail/email. Copies of all letters/emails shall be sent to the MOHCD Project Manager. If the MOHCD Grantee rejects all bids, contractors may wish to rebid on a new bid opening date. If MOHCD Grantee cannot award the contract shortly after bid opening, written notice of this fact and the reasons therefore should be sent to all bidders.

Bid Protest

A Bid Protest alleges a violation of a procurement statute or regulation.

- If the MOHCD Grantee receives a written protest, it shall respond within three business days of receipt of the protest to the protesting bidder. Protests must be received within five days of bid opening. No protest letters will be accepted after this date. A copy of the protest letter and response shall be sent to MOHCD.

Rebidding

- In some instances, it may be necessary to rebid the project. A project may need to be rebid if inadequate bids are received; if all bids exceed the available funds; if no bidder was qualified to be awarded the contract; or if a significant defect is found in the bid documents. The MOHCD Grantee shall consult with MOHCD Project Manager on the procedures for rebidding the project. If the project scope of work is modified and reduced, the revised plans or any addenda must be submitted to MOHCD for review as in the Phase II Plans Approval. A new wage determination potentially will have to be incorporated. Use the Project Manual Content Checklist (MOH-4) for guidance in assembling the bidding documents.

8. Cost Reasonableness Assessment (Federal Projects Only)

- The MOHCD Grantee shall submit the three lowest bids to the San Francisco Study Center, fiscal sponsor of AND Architecture + Community Planning. AND Architecture + Planning has been retained by MOHCD to determine if the

proposed costs are reasonable, according to the guidelines stipulated by the Office of Management and Budget Circular A-87, Cost Principles for State, Local, and Indian Tribal Governments, Attachment A, Paragraph C. Contact Steve Suzuki at 415/575-0423 or ssuzuki@andnet.org .

9. Preparation of Construction Contract

- Whether the project is publicly advertised or bids are solicited without advertising, the construction contract must include the following materials which are described in detail or included with the Bid Manual.

Contractor's Requirements (MOH-9): This lists the licensing, bonding, insurance and eligibility requirements for contractors.

Owner-Contractor Agreement with General Conditions (MOH-10): The Agency has the responsibility to purchase and use American Institute of Architects (AIA) Contract Documents: Use AIA Contract Form A105 2017 for projects under \$150,000; use AIA Contract Form A104 2017 for projects between \$150,000 up to \$599,999; use AIA Contract Form A101 2017 with A201 2017 General Conditions for contracts \$600,000 and above. A Sample AIA Contract Document with **REQUIRED** MOHCD provisions (MOH-10) is included with the MOHCD Capital Project forms. The latest versions of these documents (obtained from the American Institute of Architects or your

architect) should be used. Do not photo copy the sample AIA agreement form that is included with the MOHCD forms. Please note the additional MOHCD provisions are to be added onto the AIA sample Contract Document provided with the MOHCD forms. **You must include these additional MOHCD provisions** in whichever construction contract form you use. Please note that the sample AIA agreement is **NOT** available in electronic format from MOHCD; however, the additional MOHCD provisions are included in the Contractor's Requirements (MOH-9) and the Instructions for Preparing Owner-Contractor Agreement (MOH-11).

Supplementary General Conditions, Federal and Local Requirements for Construction Contracts. These are included with the MOHCD forms.

Federal Labor Standards Provisions (Form HUD-4010) for all construction contracts over \$2,000). This form is included with the MOHCD forms.

State Department of Industrial Relations (Public Works SB 854 Notice, March 24, 2015) for all construction contracts over \$1,000). This form is included with the MOHCD forms.

Federal Provisions for Affirmative Action and Equal Opportunity. Federally assisted construction contracts of \$10,000 or more must comply with Executive Order 11246 and the enabling regulations as enforced by the United States

Department of Labor, which govern Affirmative Action and Equal Opportunity. These regulations require contractors and subcontractors on federally assisted construction projects to demonstrate good faith efforts to meet affirmative action goals for the employment of minorities and women and prohibit contractors from discrimination based on race, color, religion, sex, national origin, disability or covered veteran status. These provisions are expressly included in federally assisted construction contracts and subcontracts even if they are not physically incorporated in the contract document. AA/EEO Provisions are included with the MOHCD forms.

San Francisco Administrative Code: Portions of the Code are incorporated by reference. Local non-discrimination laws and the hiring of local residents by contractors are incorporated by reference in all contracts. On the Standard AIA Contract Form add “See MOH-9 and MOH-11” to the “Other Conditions or Provisions” Section of the Standard AIA Contract Form.

First Source Hiring Program: This program applies only to construction contracts in excess of \$350,000. First Source materials are distributed only to those Grantees whose grant meets the threshold amount. This San Francisco program establishes requirements for contractors to hire qualified, economically disadvantaged individuals for entry-level positions.

If the contractor selected by the awarding agency has a base bid and alternates that are in excess of three hundred and fifty thousand dollars (\$350,000), the contractor and its subcontractors are required to comply with San Francisco Administrative Code Chapter 83 and to participate in the City's First Source Hiring Program. MOHCD will notify those agencies that are required to participate in the First Source Hiring Program to inform them of their responsibilities under the law.

Section 3 Requirements: For CDBG, ESG and HOPWA-funded projects, Section 3 rules and regulations require that contracts and opportunities for job training and employment be given to low and very low- income residents in connection with projects in their neighborhoods to the greatest extent feasible. Successful bidders for contracts over \$100,000 and their respective subcontractor's (collectively, the "Contractors") are required to comply with all federal regulations relating to providing employment opportunities for resident businesses and individuals as set forth in Section 3 (as implemented by 24 CFR 135).

The Contractors (including professional services consultants) must assure that lower income project area residents have the maximum opportunity for employment and training on the project; and that small businesses located in the project area, or owned in substantial part by or which employ lower income

persons/residents in the project area, will be utilized to the fullest extent possible as recipients of contracts.

Section 3 requires documentation of actions undertaken by the City to meet the requirements of hiring and training of low and moderate-income persons and the use of local businesses within the project area. The MOHCD Grantee will be asked to assist the contractor and subcontractors in meeting their obligations under Section 3. MOH provides technical assistance and monitoring of each Contractor's compliance with Section 3 requirements. For more information on Section 3 please refer to the MOH Section 3 Guide, which is included with the MOHCD forms.

Standards of Conduct: Recipients of CDBG, ESG and HOPWA funds must comply with the Standards of Conduct published by the U.S. Department of Housing and Urban Development (HUD). An informational notice from HUD on appropriate standards of conduct for MOHCD Grantees is included with the MOHCD forms. As a recipient of federal funds, your agency must maintain standards of conduct governing conflicts of interest for its employees, officers, agents, and members of its board of directors. The grant agreement stipulates that except for approved eligible administrative or personnel costs, “No persons who (a) is an employee, agent, consultant, officer, or elected official or appointed official of City (including MOHCD/OEWD and the Citizens’ Committee on Community Development), or of any designated

public agencies, or of Grantee that is receiving CDBG/ESG/HOPWA funds and (b) exercises or has exercised any functions or responsibilities with respect to CDBG/ESG/HOPWA activities assisted under this part, or who is 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 a CDBG/ESG/HOPWA-assisted activity, or have a financial interest in any contract, subcontract, or agreement with respect to a CDBG/ESG/HOPWA-assisted activity, or with respect to the proceeds of the CDBG/ESG-assisted activity, either for themselves or those with whom they have business or immediate family ties, during their tenure or for one year thereafter.”

Supplementary General Conditions To implement these standards MOHCD Grantees must incorporate the Supplementary General Conditions - Federal and Local Requirements for Construction Contracts in all contracts and subcontracts relating to activities assisted under the Grant Agreement, including architectural and engineering contracts. The Supplementary General Conditions are included with the MOHCD forms. Incorporation of the Supplemental General Conditions into all contracts and subcontracts relating to the grant will satisfy the conflict of interest provisions of this chapter. The MOHCD Grantee is responsible for ensuring compliance with these provisions by the parties with whom it contracts. In the event of a breach, the MOHCD Grantee shall take prompt and diligent action to remedy the breach and restore compliance.

10. Pre-Construction Conference

- Pre-construction conferences with contractors and subcontractors are conducted by the Office of Labor Standards Enforcement (OLSE) **prior** to submittal of the final construction contract to MOHCD for approval. The purpose of the pre-construction conference is to familiarize the contractor and subcontractors with the requirements of the Federal Davis Bacon and State Labor Standard. A representative of the MOHCD Grantee must participate in these conferences to become familiar with the reporting requirements of the contractors. The OLSE will schedule pre-construction conference.
- The OLSE staff will provide the chosen contractor with the General Construction Questionnaire. The chosen contractor will complete the Questionnaire and send it to the MOHCD Capital Projects Prevailing Wage Monitor, Angie Lee at angie.lee@sfgov.org. Ms. Lee will use the completed Questionnaire to facilitate the registration of the project with the California Dept. of Industrial Relations. Construction activity **SHALL NOT** begin until the pre-construction conference is completed and the construction contract is approved by MOHCD.

11. MOHCD Approval of Construction Contract

- After the pre-Construction Conference meeting with OLSE, the selected contractor shall submit the original contract or a certified copy to MOHCD for approval along with the Request for Contract Approval form (MOH-14)

Transmittal, and the other required documents to MOHCD. The City **WILL NOT** reimburse for work or purchases made prior to MOHCD's written approval.

- Contracts between the Grantee and construction contractor will not be approved by MOHCD in cases where the amount of the contract exceeds the MOHCD funding, unless the conditions listed below are met. When the construction contract amount is estimated to be greater than the MOHCD grant, the MOHCD Grantee must submit documented proof that it has the ability to fund a construction contract in excess of the allotted MOHCD grant amount. This proof shall be in the following form:
 - (a) Checking or other financial account statements showing deposits which are restricted for the purpose of funding construction contracts above the amount of the MOHCD grant award; or
 - (b) A letter from another granting agency or foundation, which makes a firm commitment for an amount of funds which will cover construction contract amounts in excess of the allocated MOHCD grant amount. The letter should state that the funds are committed for construction and are immediately available for progress payments; or
 - (c) Letter of credit or proof of an approved loan from a lending institution which is committed to making progress payments up to the amount needed to cover the full construction contract less allocated MOHCD grant amount and other private funds.

The two sections dealing with matching funds are part of the Request for Contract Approval form (MOH-14). On the front side, there is a column in which

the matching fund amounts committed to the project are indicated. On the reverse side, information regarding the source of the matching funds is requested. Documentation of the source(s) must also be attached.

The MOHCD Grantee shall pay its pro rata share of each progress payment under this contract. The City will only process its pro rata share of contract payments in the Grants Management System, including the retention, until the project is completed. Pro rata share means the proportion of the contract amount which MOHCD has agreed to fund.

All proposed work approved in the MOHCD Grantee's Project Budget is normally contracted out to only **ONE** prime contractor. Separate contracts will be considered in certain situations, and then only with the prior approval of MOHCD.

Grantees are required to submit to MOHCD information showing the identity of their contractors and subcontractors and amounts paid under these contracts with their invoices (via AIA G703 or similar form). In addition, contractors may not substitute subcontractors without obtaining MOHCD's prior approval and otherwise complying with applicable laws governing the substitution of subcontractors. If a change in subcontractors is necessary, the MOHCD Grantee and the prime contractor must continue to identify minority and women-owned and Section 3 subcontractors, as well as outreach efforts taken in accordance with the above federal regulations.

12. Other Requirements and Approvals

- The items listed below are typical additional requirements and expenses associated with a MOHCD-funded renovation or construction projects. The MOHCD Grantee is expected to pay these costs when due. There are two ways to pay these costs (except printing costs) from the grant. The first is to save the receipts and submit them with the final payment request for the construction contractor at the end of the project, if grant funds are available. The second is to write a letter to MOHCD explaining severe hardship and the need of funds for these expenses. Such requests will be handled on a case-by-case basis. These miscellaneous expenses usually average around \$500 per project

Printing of Bidding Documents, Plans and Specifications. The MOHCD Grantee will pay these costs. If the architect pays the costs to facilitate movement of the project, then the MOHCD Grantee must reimburse the architect. The MOHCD Grantee may bid the architectural work with these costs to be paid by the architect, in which case the architect would receive reimbursement as part of his/her payments. Contractors should be charged a non-reimbursable fee for each set of bidding documents, including plans. This will help pay for the reproduction costs. The charge to the contractor may not exceed the actual cost of reproducing the bidding documents. Or the contractor is allowed to download electronic plans and specifications.

Permit Application and Plan Checking and MOD Fee. The MOHCD Grantee should apply for the building permit and pay for the application fee. The San Francisco Department of Building Inspection web page is located at <https://sfdbi.org>. The San Francisco Mayor's Office on Disability web page is located at <https://sfgov.org/mod/>. The permit itself, when approved, should be picked up and paid for by the contractor. The project manual must clearly state that the contractor is responsible for paying for the permit. If the architect pays the filing fee, then the MOHCD Grantee should reimburse the architect immediately.

Public Notices/Advertisements for Construction Bidding for contract \geq \$250,000. One-time insertion is sufficient for these projects.

Planning Department

The MOHCD Grantee should review the proposed project to make sure that except for the building permit and environmental review, it does not require other governmental or licensing approval. MOHCD Grantees should review the plans and building history with the architect to determine whether a City Planning Commission Conditional Use or Zoning Variance is required. MOHCD staff will make the determination of the need for an Environmental Review, including whether a Certificate of Appropriateness for landmarks is required. A review of all previous building permits will indicate whether the current or proposed use of the facility is permitted under current zoning.

If an application for Conditional Use or Zoning Variance is required, the MOHCD Grantee should file promptly to minimize delays during the building permit approval process. The Department of City Planning should be contacted for specific requirements. The San Francisco Planning Department web page is at <https://sfplanning.org> Fees for obtaining these approvals shall be paid by the MOHCD Grantee (not from the grant). However, the plan checking fee and the filing fee may be paid from the grant. The contractor shall pay the permit fee (except project funded with Complete Neighborhood grants). This should be specified in the bid package.

School District Commercial and Residential Use Permit Fee

MOHCD Grantees and their architects should be aware that for certain building permits, the San Francisco Unified School District (SFUSD) imposes a fee based on square footage of added commercial and residential type space. This fee is in addition to the regular Department of Building Inspection plans check and permit fee. If you think that the type of rehabilitation work you have planned may fit into this residential category, contact SFUSD Administrative Offices for more information at 415-241-6090. Their offices are located at 555 Franklin Street San Francisco, CA 94102. The web page for SFUSD is <https://www.sfusd.edu/>.

13. Construction

Site Visits by MOHCD Project Manager

- After construction starts, the MOHCD Grantee shall notify their MOHCD Project Manager of all draw meetings. The draw meeting is intended to provide an

opportunity to review construction progress and to present the owner with a pay application. The MOHCD Project Manager will participate in a minimum of two draw meetings for the purpose of conducting site visits of the construction site.

Substitution or Addition of a Contractor, Subcontractor or Vendor

- Should the MOHCD Grantee wish to add or substitute a contractor, it must obtain prior written approval of MOHCD. If the contractor voluntarily withdraws, a letter must be submitted from the firm. If the contractor is being terminated, the MOHCD Grantee must provide due process which is defined as fair treatment through the procurement or termination process and document the reason for termination. If a prime contractor wishes to add or substitute a subcontractor/vendor, prior written approval must be obtained from MOHCD.

Progress and Final Payments

- The MOHCD Grantee and the architect or project manager must confirm that the contractor has submitted the proper information for work completed with each request for payment. The MOHCD Grantee must not issue any payment to the prime contractor until all applicable documents described in this section have been received, reviewed and approved by the MOHCD Project Manager and OLSE, Labor Standard Compliance Officer.
- If payments are issued to the prime contractor before the receipt, review and approval of these forms by MOHCD and OLSE, MOHCD will delay processing

the payment until the appropriate forms are received, reviewed and approved.

The MOHCD Grantee assumes all liability for the payment if it fails to follow this procedure.

- Failure to follow these instructions may cause payment to be delayed or a portion of the total request to be withheld. The contractor should send all invoices directly to the Grantee except for payroll reports which are reviewed electronically in the LCPTracker database by the OLSE. The MOHCD Grantee and architect are responsible for reviewing the forms for each payment request, to insure proper payments are made to the listed contractor/vendor and to avoid the levying of liens or issuing of stop payment notices on the Grantee's property.
- All requests for payments including architectural and permit application or plan checking fees must be submitted to the MOHCD Project Manager with the Request for Payment form (MOH-15). The architect's original invoice should be signed and dated by the MOHCD Grantee and submitted with the request for payment. The contractor should submit each billing request on AIA Document G702/703, Application and Certificate for Payment/Continuation Sheet. Alternative forms are acceptable if they include the same information required by the AIA forms. Contractors' invoices must be itemized by trades and subcontracts for easy verification.

- A minimum retention of 10% must be withheld from all progress payments unless other arrangements are made between the MOHCD Grantee and MOHCD. The retention or final payment can be requested 30 days after satisfactory completion of all work. Payment of the amount retained may be requested by submitting the Request for Payment form (MOH-15), the final invoice signed by the architect, the Certification of Work and Contract Completion form (MOH-16) and a current Demographic Information form.
- For prime contracts in excess of \$100,000, the reverse side of the Request for Payment form (MOH-15) must be completed.
- For projects with extended periods of construction, when phases of completion can be clearly identified, or when certain incomplete work areas can be clearly isolated from the rest of the project, the MOHCD Grantee can request that a portion of the retention be released prior to the issuance of Certificate of Work and Contract Completion. MOHCD will review such requests on a case-by-case basis.
- Upon verification by MOHCD, the City will process the payment to the MOHCD Grantee. To avoid delays in payment to the contractor, the MOHCD Grantee should submit all the required documents to MOHCD as soon as possible. The MOHCD Grantee is reminded to upload into GMS insurance renewal certificates to MOHCD to prove that expired policies have been renewed. The City will not be

responsible for any penalties or interest that contractors may charge for late payment. A labor standards compliance review through the LCPTracker database will be made by OLSE before each payment is approved. The contractor will be informed during the pre-construction conference conducted by OLSE that they must submit weekly payroll reports through the LCPTracker electronic payroll reporting system. The General Contractor is responsible for all subcontractor invoices submitted into the LCPTracker electronic payroll reporting system. If a subcontractor's invoice is not in compliance with federal or state labor standards, that invoice can be subtracted from the general contractor's invoice which could then be resubmitted by the general contractor for processing.

- If the MOHCD Grantee is required to pay a pro-rata share of all progress payments (split payments) the Request for Payment form (MOH-15) shall indicate the split fiscal information showing the amounts to be paid by the MOHCD Grantee and by the City. There are two columns on the request form to show these amounts. The MOHCD Grantee shall pay its pro rata share of each and every progress payment under this contract. The City will only pay its pro rata share of contract payments in the Grants Management System, including the retention, until the project is completed.

Prompt Payment Issues and Sub-Contractor Participation Report

- Sub-contracting firms depend upon timely receipt of payment. If there is any delay in the processing of the request for payment or if full payment is not made

within the agreed period, the MOHCD Grantee must notify the prime contractor, sub-contractors, vendors, and MOHCD of the status of the payment.

- If a prime contractor wishes to file a complaint of non-payment for work performed, the firm should first contact the MOHCD Grantee. If the matter cannot be resolved between them, MOHCD should be notified.
- If a sub-contractor or vendor wishes to file a complaint of non-payment for work performed or materials supplied, the firm should first contact the prime contractor, then the MOHCD Grantee, and then MOHCD

Change Orders

- If a change order is required during construction, it must be submitted to MOHCD for approval on AIA Document G701 or a similar document accompanied by the Request for Contract Approval form (MOH-14), before beginning the additional work. MOHCD Grantee staff or the project architect should notify their MOHCD Project Manager immediately upon becoming aware of the need of the change order. The change order must list each additional improvement item and individual cost along with a written explanation or justification detailing the necessity of the change order. Your architect must independently verify the cost of each item for reasonableness. All change orders must include this statement: "This Change Order is subject to prior written approval of the Mayor's Office of Housing and Community Development prior to commencement of work."

If the change order brings the contract sum over the amount of available MOHCD grant funds, the MOHCD Grantee will be responsible for the excess. For the amount of the contract sum above the grant amount, the MOHCD Grantee must show that funding is available to cover that amount.

The MOHCD Grantee should forward to the MOHCD Project Manager all supporting documentation for a change order along with the actual change order (AIA G-701) and the Request for Contract Approval form (MOH-14). The documentation required for a change order includes the following:

- Reason for the change: design error or omission, scope of change by MOHCD Grantee, unforeseen condition, or building code issue.
- Description of the scope of the change order.
- Cost of the change order: preliminary estimate, rough order of magnitude estimate, engineer's estimate.
- Schedule delays, if any, which may result from the change order.

Procedures for Reviewing Change Orders, Modifications, and Amendments

- 10% or More: MOHCD Grantee must notify MOHCD of all change orders, modifications, and amendments that cumulatively result in an increase or decrease of the original contract award of more than 10%. The prime contractor shall submit the change order within 10 days of approval of the change order to

the MOHCD Grantee, who will submit it to the MOHCD Project Manager.

Submissions may be mailed or emailed to your MOHCD Project Manager.

- 20% or More: For construction service contracts \$50,000 and over, the MOHCD Grantee must notify MOHCD when cumulative change orders result in an increase or decrease of 20% or more to the original contract. The following documents must be submitted to the MOHCD Project Manager for review:
 1. Copies of change order/amendment/modifications
 2. A spreadsheet identifying the firms (including prime), MBE/WBE and Section 3 status, scope of work, contract amount and what percent of the contract each change order/amendment/modification represents. If the specific trade of the firms is unknown, identify the scope of work and contract amounts.

- Failure to submit all of the above-mentioned information will delay approval of the change order by MOHCD.

Fiscal Control Requirements

- Under the Grant Agreement with the City, the MOHCD Grantee is required to maintain proper fiscal control of all expenditures, contract obligations, and payments. The MOHCD Grantee shall designate a staff person to maintain all fiscal information relating to the MOHCD grant. Attentive accounting is necessary to minimize errors in requesting contract approvals and contract payments.

14. Certification of Completion

- When the MOHCD Grantee is requesting final construction/consultant payment under the Grant Agreement, it must complete the Certification of Work and Contract Completion form (MOH-16), in addition to a current Demographic Information Sheet, the Building Permit sign off and Notice of Completion that an owner of property files with the County Recorder in accordance with the mechanics' lien laws of California. The date of the certification sets the beginning of the Tenure Period specified in the Grant Agreement and the Demographic Information Sheet documents the number of clients currently being served. The MOHCD Grantee will be required to submit annual reports to MOHCD on the facility's operation and provision of social services during this Tenure Period.
- For CDBG grants, the Tenure Period is the period of time that starts with either the purchase of the applicable real property or the completion of the improvements and ends (5/10/20/30) years thereafter depending on the grant amount.
- For ESG grants, the building renovated with ESG funds must be maintained as a shelter for homeless individuals and families for not less than a period of ten (10/20) years, depending on the grant amount. The Tenure Period is the period of time that starts on the date the building is first occupied by a homeless

individual or family after the completed renovation and that ends (10/20) years thereafter.

- For HOPWA grants, the building assisted with HOPWA funds must be maintained as a facility to provide housing or assistance for individuals with acquired immunodeficiency syndrome or related diseases for a minimum period of (10/20/30) years, depending on the grant amount, unless otherwise specified by the terms of the Grant Agreement. The Tenure Period is the period of time that starts with either the purchase of the applicable building or the completion of the improvements and that ends (10/20/30) years thereafter.

During the Tenure Period, the MOHCD Grantee must annually certify that the CDBG, ESG or HOPWA-funded facility continues to provide the same service(s) as specified in the Work Program and in the Demographic Information Sheet.

During the Tenure Period, prior to MOHCD Grantee quitting, vacating, transferring, selling, or surrendering the real property, or electing or becoming unable to continue the use of said property as specified in the Work Program, the MOHCD Grantee must notify MOHCD. MOHCD will determine (i) if the property continues to meet a CDBG national objective as required under 24 C.F.R. 570.208, or to be maintained as a shelter for homeless individuals and families, or to be maintained as a facility to provide housing or assistance for individuals with acquired immunodeficiency syndrome or related diseases; and (ii) whether a proposed new use meets the City priority, which the Grantee initially agreed to as a condition for receiving such City funding.

If the Improved Property ceases to be used to meet a CDBG national objective as required under 24 C.F.R. 570.208, Grantee shall immediately pay to MOHCD/OEWD the higher of: (1) the fair market value of the Improvements less any portion of the value attributable to expenditures of non-CDBG/HOPWA/ESG funds to such Improvements; or (2) the Grant Amount.

In cases where the Improved Property continues to meet a CDBG national objective as required under 24 C.F.R. 570.208 but the proposed new use is determined by MOHCD/OEWD to not be consistent with the City priority initially agreed to be met by the Grantee, then Grantee shall immediately pay to MOHCD/OEWD the higher of: (1) the fair market value of the Improvements , less any portion of the value attributable to expenditures of non-CDBG/HOPWA/ESG funds to such Improvements ; or (2) the Grant Amount.