
CHAPTER 1. GENERAL INFORMATION

- 1-1 **PURPOSE.** The purpose of this Handbook is to provide guidance for closing out Urban Development Action Grant (UDAG) projects. It includes a discussion of closeouts, terminations, closeouts in lieu of completion, and post-closeout monitoring procedures. It is intended to be used to supplement and clarify regulations at 24 CFR Part 570 Subpart G - Urban Development Action Grants.

The roles of HUD and the Recipient have been expanded since the April 4, 1983 edition of this Handbook. HUD Headquarters will now review certain changes to the contract terms and conditions after the project is closed out but before completion. The HUD Field Office, in addition to reviewing changes to those terms and conditions, will provide greater emphasis on technical assistance to the Recipient in all areas of post-approval management. Certain Recipients have expanded reporting requirements.

- 1-2 **APPLICABILITY.** These procedures shall apply to the Closeout of all UDAG projects, including projects which were fully carried out in accordance with the Grant Agreement and those that were not. The procedures which apply to projects that were carried out in accordance with the Grant Agreement include those for preparing a Closeout Agreement, issuing a Certificate of Completion and meeting all reporting requirements.

The procedures which apply when projects were not completed in accordance with the Grant Agreement include those for issuing documents regarding Closeout in Lieu of Completion, Termination for Cause, and Termination for Mutual Convenience.

- 1-3 **RELATIONSHIP TO MONITORING.** All UDAG projects are monitored in accordance with Chapter 14 of the CPD Monitoring Handbook (6509.2 REV-4), issued June 1989. Grant Closeout of a UDAG project should occur only if there has been an on-site monitoring visit in the past twelve months and any findings based on the monitoring have been resolved. A review of Recipient financial records by HUD financial management staff should occur prior to Grant Closeout.

- 1-4 **DEFINITIONS.**

A. Amendment Reduction shall mean an amendment to the Grant Agreement which reduces the amount of UDAG funds obligated to a project due to a reduction in the size, scale, scope or cost of the project.

- B. Annual Post Grant Closeout Report shall mean the report completed by a Recipient each year after execution of the Grant Closeout Agreement pursuant to instructions in Section 3-4.
- C. Cancellation shall mean:
1. From a programmatic view, the withdrawal of preliminary approval at any time prior to the execution of a Grant Agreement; or
 2. For accounting purposes, funds from a project which are obligated and deobligated in the same fiscal year and are returned to Headquarters.

This is done by the Regional Accounting Division (RAD) completing an Inter-Office Transfer Voucher (IOTV) and returning the funds to Headquarters via the Program Accounting System (PAS).
- D. Certificate of Completion shall mean a document issued by HUD to Recipient when all requirements for project completion contained in the Closeout or Closeout in Lieu of Completion Agreement have been satisfied.
- E. Closeout in Lieu of Completion (CLOC) shall mean a special closeout to be used in cases where the project may or may not be 100% physically constructed or operational, some or all UDAG funds have been expended for eligible activities, but the Developer or other Participating Parties can no longer continue certain contractual obligations relating to the Project, as set forth in the Grant Agreement and as determined by both the Recipient and HUD.
- F. Completion of UDAG Funded Recipient Activities shall mean the point in time when the activities for which the UDAG funds are drawn down is completed. (See also definition of UDAG-Funded Recipient Activities at JJ.)
- G. Cost Incurred shall mean that a legal obligation to pay is due or has been made by Recipient and/or any authorized agency or subrecipient and which cost is authorized to be paid with Grant funds by the Grant Agreement in accordance with procedures from the Treasury for advances under Federal programs.
- H. Default shall mean either of the following:
1. The use of Grant funds for any purpose other than as authorized in the Grant Agreement; or

2. Any breach of any covenant, agreement, provision, or warranty:
 - a. The Recipient made in the Grant Agreement;
 - b. The Recipient made in any agreement entered into between the Recipient and any Participating Party relating to the Project;
 - c. Any Participating Party made in an agreement which is specified in the Exhibit part of the Grant Agreement;
or
 - d. In the performance schedule as set forth in the Grant Agreement.

- I. Economic Development Component shall mean a major project element which cannot be undertaken separately but which generates its own cash flow separate from other components of the project, exclusive of publicly owned infrastructure and parking.

- J. Eligible Activities shall mean:
 1. When using Action Grant funds:
 - a. Any activity specified in Subpart C of 24 CFR Part 570, with the exception of those specifically excluded pursuant to 570.456, which supports economic recovery and is specifically set forth as an authorized use of Action Grant funds in the Grant Agreement; and
 - b. Any other activity which is not eligible under Subpart C, but has been determined by HUD to meet the requirements of 570.455, and is specifically set forth in the Grant Agreement as an authorized use of Action Grant funds, with the exception of those specifically excluded pursuant to 570.456.

 2. When using repayment of Action Grant loan funds:
 - a. Any activity which is eligible for funding under the Urban Development Action Grant Program or Section 105 of the Housing and Community Development Act of 1974, and complies with the provisions contained in the Rider to Sections 2.04, 9.01, 9.02 and 9.03 of the Grant Agreement.

- b. The definition of eligible activities when using repayment funds varies depending on whether the repaid funds are defined as program income or miscellaneous revenues. See Chapter 2 paragraph 2-2.

K. Escrow Accounts shall mean either:

- 1. Accounts set up by the Recipient to receive repayment of UDAG loans and other payments; or
- 2. Accounts set up by the Recipient for other purposes as authorized in the Grant Agreement.

L. Evidentiary Materials (also called Legally Binding Commitments or LBCs) shall mean legally enforceable written obligations made by private and/or public Participating Parties to complete specified activities which are part of the UDAG project and as specified in the Grant Agreement.

M. Evidentiary Materials Approval (also called LBC approval) shall mean that HUD Headquarters and Field Office Counsels have reviewed and determined that the evidentiary materials submitted by the Recipient as required in Exhibit E of the Grant Agreement are satisfactory and meet the requirements of the Grant Agreement.

N. Executed Grant Agreement shall mean a UDAG Grant Agreement that has been signed by authorized officials of both HUD and the Recipient.

O. Grant Closeout shall mean:

- 1. A determination by HUD, in consultation with the Recipient, that the following benchmarks have been met or will be met within 60 days:
 - a. The UDAG loan and all loan documents have been executed and the liens have been recorded.
 - b. All construction as set forth in the Grant Agreement has been completed.
 - c. All Recipient activities per Exhibit B have been accomplished and completed.
 - d. All of the Developer's equity has been expended in the project per Exhibits C, D and E.

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- e. All bonds have been sold and proceeds disbursed into

the project and the lien(s) securing them have been recorded per Exhibits B, C, D and E.

- f. All equipment has been purchased, installed and is operational per Exhibits D and E.
 - g. All of the lender's funds have been disbursed into the project and the lien(s) recorded, per Exhibits C, D and E.
 - h. All other Non-Recipient activities have been accomplished and/or completed per Exhibit C.
 - i. All budgets and costs of the project have been examined and approved per Exhibit D.
 - j. All costs to be paid with Grant funds have been incurred, with the exception of any unsettled third-party claims against the Recipient.
 - k. All outstanding OIG audit-related findings and concerns have been closed or closed on promised action.
2. The Recipient's completion and HUD's acceptance of the:
- a. Grant Closeout Status Report; and
 - b. Financial Status Report.
3. The execution of either: a) a Grant Closeout Agreement between HUD and the Recipient; or b) a Grant Closeout in Lieu of Completion Agreement between HUD and the Recipient.
- P. Grant Closeout Agreement shall mean a document prepared and issued by HUD to the Recipient upon a determination that the Financial Status Report and Grant Closeout Status Report have been found to be acceptable and any outstanding monitoring findings have been either resolved or can be addressed in the Closeout Agreement.
- Q. Grant Closeout in Lieu of Completion Agreement shall mean a document prepared and issued by HUD to the Recipient upon a determination that, while the project may or may not be 100% physically constructed or operational and some or all UDAG funds have been spent for eligible activities, the Developer

contractual obligations relating to the project, as set forth in the Grant Agreement. In addition, the Financial Status Report and the Closeout Status Report have been found to be acceptable and any outstanding monitoring findings have been either resolved or can be addressed in the Closeout in Lieu of Completion Agreement.

- R. Legally Binding Commitments (LBCs or evidentiary materials) shall mean legally enforceable written obligations made by private and/or public Participating Parties to complete specified activities which are a part of the UDAG project.
- S. Legally Binding Commitments Approval (LBC or evidentiary materials approval) shall mean that HUD Headquarters and Field Office Counsels have reviewed and determined that the evidentiary materials submitted by the Recipient as required in Exhibit E of the Grant Agreement are satisfactory and meet the requirements of the Grant Agreement.
- T. Miscellaneous Revenues shall mean UDAG loan repayments and other payments and income received by the Recipient either:
 - 1. After completion of UDAG-funded Recipient activities if the project was funded before FY 1989; or
 - 2. After execution of the Closeout Agreement for a project funded during FY 1989.

The regulatory provisions regarding miscellaneous revenues are found at Part 570.461(e).

- U. Non-Recipient Activities shall mean those activities of the project to be carried out by Participating Parties other than the Recipient or an agent or agency of the Recipient, as described in the Grant Agreement, typically in Exhibit C.
- V. Obligation Date shall mean the date when the UDAG funds are specifically assigned to a particular project which has previously received preliminary approval. It coincides with the date HUD signs the original Grant Agreement.
- W. Other Payments shall mean other project payments which are typically made to Recipients, depending on the type of project. These may include additional or contingent interest payments ("kickers"), also called participation in cash flow; participation(s) in net and/or gross proceeds of capital events such as project sale, refinancing, or syndication; and ground and/or other lease(s).

- X. Participating Party shall mean any person, firm, corporation or entity identified as such in the Grant Agreement and responsible for completing a specified activity necessary for project completion.
- Y. Preliminary Approval shall mean the first step of the Grant approval process by which the Secretary announces the award of UDAG funds and authorizes the preparation of the Grant Agreement.
- Z. Program Income shall mean UDAG loan repayments as well as other payments and revenues received by the Recipient either:
 - 1. Prior to completion of UDAG-funded Recipient activities if the project was funded before FY 1989; or
 - 2. Prior to execution of the Closeout Agreement for projects funded during FY 1989.

The regulatory provision regarding program income is found at Part 570.461(e).

NOTE: If the Recipient has also made a loan to the Developer with CDBG funds, any repayments under the terms of the CDBG loan are considered program income as defined in Part 570.500(a). The requirements governing the utilization of such program income differ from the requirements governing utilization of UDAG program income and miscellaneous revenues. Therefore, the Recipient must be able to separately account for program income received from CDBG loans and UDAG program income and miscellaneous revenues.

- AA. Project shall mean the group of integrally related activities which are to be carried out by the applicant and all public and private Participating Parties, as listed in the Grant Agreement.
- BB. Project Completion shall mean:
 - 1. All benchmarks for grant closeout have been met;
 - 2. The receipt of an approved audit performed in accordance with OMB Circular A-128, "Audits of State and Local Governments" (Implemented at 24 CFR Part 44) (hereinafter referred to as OMB Circular A-128) which covers the last year in which costs were paid with UDAG funds;

made as a result of audits carried out under OMB A-128 have been closed.

3. All responsibilities, such as acquisition and relocation, and requirements under the Grant Agreement and applicable laws and regulations have been carried out satisfactorily; and
 4. Any performance requirements as called for in the Grant Closeout Agreement have been met, including the following, as applicable:
 - a. Any funds escrowed pursuant to the Grant Agreement as defined in K.2 above are disbursed;
 - b. Any recorded third-party claims are settled;
 - c. A final inspection has been performed by the Recipient;
 - d. Employment requirements are completed or best efforts are documented;
 - e. 90% of the housing units are occupied; and
 - f. Project has been assessed for tax purposes or PILOT reviewed.
 5. When the above requirements of subparagraph BB 1-4 are met, HUD issues a Certificate of Completion to the Recipient.
- CC. Recaptured Funds shall mean those funds from projects that are obligated in one fiscal year and deobligated in a later fiscal year. These funds are returned to Headquarters via the HUD Program Accounting System (PAS) by the Regional Accounting Division (RAD).
- DD. Recipient Activities shall mean those activities of the project to be carried out by the Recipient or an agent or agency of the Recipient, as described in the Grant Agreement, typically in Exhibit B.
- EE. Repayments shall mean the income received by the Recipient generally as proceeds from a loan made with UDAG funds to another Participating Party. These funds consist of fixed

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repayments of the UDAG loan, inclusive of principal and

interest (debt service) payments, if applicable, as well as any prepayment(s) of the loan received by the Recipient. Some Grant Agreements may also provide for other types of repayments such as "usage" charges in the case of payments on public infrastructure or a ground lease payment. An analysis of repayments in a project should take them into account as well. Repayments are classified as either program income or miscellaneous revenues depending on when they are received by the Recipient in relationship to completion of UDAG-funded Recipient activities or execution of the Closeout Agreement.

- FF. Significant Amendment shall mean new activities or alterations thereof which will change the scope, location, scale or beneficiaries of such activities or which, as a result of a number of smaller changes, add up to an amount that exceeds ten percent of the UDAG grant.
- GG. Termination for Cause shall mean that no UDAG funds have been drawn down or that UDAG funds have been drawn down and, upon the determination by the Secretary of a default that has not been cured within a reasonable time period, all obligations of the Secretary pursuant to the Grant Agreement shall cease and the Recipient shall not have any rights whatsoever with respect to the UDAG funds under the Grant Agreement.
- HH. Termination for Mutual Convenience shall mean an Agreement between HUD and the Recipient that no UDAG funds have been drawn down, the activities of the project cannot go forward as specified in the Grant Agreement, and all obligations of the Secretary pursuant to the Grant Agreement shall cease and the Recipient shall not have any rights whatsoever with respect to the UDAG funds under the Grant Agreement.
- II. Transaction shall mean a major project element which can be undertaken separately and can be evaluated on its own merits.
- JJ. UDAG-Funded Recipient Activities shall mean the granting of funds to the Recipient, the Recipient's making a loan to the Developer (or otherwise expending the UDAG funds, as appropriate to the terms of the Grant Agreement), and the UDAG funds being drawn down by the Recipient for use by the Developer or the Recipient in the project. The completion of UDAG-funded Recipient activities occurs when the activity for which the UDAG funds are drawn down is completed.
- KK. Unpaid Costs shall mean any eligible project-related expense for which payment has not yet been made.

LL. Unsettled Third-Party Claims shall mean liabilities which are contingent on the outcome of disputes involving the Recipient and third parties, such as contractors and relocatees.

1-5 ROLES. The CPD Office of Economic Development (OED) in Headquarters manages the UDAG program in close consultation with the Field Offices and Regional Offices. The term, "Headquarters", as used in this Handbook, refers to the Office of Economic Development.

A. Role of Headquarters. The role of Headquarters in UDAG grant closeout proceedings is to: 1) provide technical assistance to The Field Office in closeout administration; 2) execute necessary amendments to the Grant Agreement, and/or accompanying reductions if applicable; 3) approve changes in the terms and conditions reserved in the Closeout Agreement; 4) resolve appeals from Recipients; 5) consider administrative waivers as requested by the Field Office; 6) execute terminations; and 7) monitor UDAG repayments.

In addition, Headquarters shall be responsible for approving the recapture of UDAG funds, following consultation with the Field and Regional Offices.

B. Role of Regional Office. The Regional Administrator, through the Office of CPD, is responsible for:

1. Ensuring that grant closeouts are occurring on a timely basis; and
2. Overseeing the performance of the Field Office in meeting its annual grant closeout goals in accordance with the guidelines for grant closeout procedures set forth in this Handbook.

In addition, the RAD is responsible for accounting matters related to the Line of Credit Control System (LOCCs) and the Program Accounting System (PAS); and the Regional Inspector General for Audit (RIGA) is responsible for approval of the audit(s) as called for under OMB Circular A-128.

C. Role of Field Office.

1. The Field Office has the lead role and overall responsibility for initiating and accomplishing grant closeouts of UDAG projects. These tasks include:
 - a. Interpreting program standards, procedures, policies and regulations;

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- b. Providing technical assistance to Recipients during and after the closeout process;
 - c. Monitoring and assessing actual Recipient performance against that required in the Grant Agreement and the subsequent Grant Closeout Agreement; and
 - d. Monitoring and providing technical assistance to Recipients regarding the collection, management and timely use of UDAG repayments.
2. More specifically, the Field Office has the following responsibilities:
- a. To execute grant Closeout documents. Often unutilized funds remain in the Line of Credit at closeout. The Field Office in coordination with Headquarters will recapture those funds at the time of completion by transmitting the Certificate of Completion to the appropriate RAD.
 - b. To review proposed amendments to Grant Agreements and Closeout Agreements and forward such reviews along with its recommendations to Headquarters;
 - c. To review changes to the terms and conditions of the Closeout Agreements. The Field Office should forward copies of such requests along with its recommendations to Headquarters;
 - d. To coordinate both Terminations for Mutual Convenience and for Cause with Headquarters; and
 - e. To keep the Regional Office informed of all UDAG closeouts, CLOCs and terminations.

D. Role of Recipient. The Recipient is responsible for:

1. Maintaining and submitting all required grant closeout reports and documentation to the Field Office or Headquarters as needed in accordance with this Handbook;
2. Initiating the audit required under OMB Circular A-128;
3. Ensuring compliance by all Participating Parties with performance requirements of the Grant Agreement, including the repayment of UDAG funds and compliance with legally binding commitments;

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4. Implementing activities specified in a Grant Closeout Agreement; and
 5. Meeting reporting requirements throughout the project and after the issuance of a Certificate of Completion.
- E. Role of Participating Parties. Participating Parties are responsible for performance in accordance with the terms of the Grant Agreement, for maintaining project records as necessary to document performance, and for making such records available to the Recipient and HUD as required.

1-6 DISTRIBUTION

- A. Distribution of Grant Closeout, CLOC and Certificate of Completion Documents. Executed grant closeout documents shall be distributed by the Field Office in the following manner:
1. Headquarters Office of Economic Development. The Field Office shall forward one original copy each of the Financial Status Report, the Grant Closeout Status Report, Grant Closeout Agreement or Closeout in Lieu of Completion (CLOC) Agreement and the Certificate of Completion to:

U.S. Department of Housing and Urban Development
Office of Economic Development, CPD
451 Seventh Street, S.W.
Washington, D.C. 20410
Attention: Grants Management Division
 2. CPD Division of the Field Office. The Field Office shall retain one copy of the Financial Status Report, the Grant Closeout Status Report, the Grant Closeout Agreement or Closeout in Lieu of Completion Agreement, and the Certificate of Completion. These documents shall be retained for three years after the issuance of the Certificate of Completion.
 3. Regional Accounting Division (RAD). The Field Office shall forward one copy of the Financial Status Report and the Certificate of Completion to the appropriate RAD.
 4. Regional CPD Office. The Field Office shall forward one copy of the Financial Status Report, the Grant Closeout Status Report, the Closeout or CLOC Agreement, and the Certificate of Completion to its Regional CPD Division.

- B. Distribution of Annual Post Grant Closeout Report. The Field Office shall retain one copy and forward one copy of all Annual Post Grant Closeout Reports by November 30 of each year to:
1. U.S. Department of Housing and Urban Development
Community Planning and Development
Office of Management
Data Systems and Statistics Division
451 Seventh Street, S.W.
Washington, D.C. 20410
 2. Regional CPD Division

The Field Office shall also forward one copy of the Annual Post Grant Closeout Report to the appropriate Regional Office.
- C. Distribution of Termination and Reduction Documents. Headquarters OED shall retain one copy and shall forward copies of all terminations and/or reduction documents to the Field Office CPD Division. The Field Office CPD Division will send the necessary deobligation documents to the Regional Office CPD Division which, in turn, sends them to the RAD.