

I. Income Eligibility Policies and Procedures

1. Income Chart:

The City Marietta requires that all applicants to its housing programs meet current HOME Income Limits (at or below 80 percent (80%) of the area median income, adjusted for family size) based on the number of permanent residents of the household that qualify under the criteria.

Income guidelines are subject to frequent change. Development Department staff will update the limits when the department is notified by HUD of a change in the published limits.

2. Selected Definition of Income and Methodology for Determining Income:

The City of Marietta will use the Section 8 definition of annual income as described in 24 CFR 570.3 (Definitions), *Income* (1)(i), as more fully set forth at <https://www.hud.gov/sites/documents/CALCULATINGATTACHMENT.PDF>.

To apply the Section 8 definition of income to an application, City of Marietta staff will use HUD's CPD income eligibility calculator to work with program applicants through income eligibility questions. The income eligibility calculator is available at <https://www.hudexchange.info/incomecalculator>.

Income qualification will be based on an estimate of annual income of a household by projecting the prevailing rate of income of each person in the household at the time the assistance is provided. Estimated annual income shall include income from all household members, as applicable. The projection shall be forward-looking, based on a determination of what the total household income is likely to be during the next 12-month period.

When using the HUD CPD calculator tool to perform eligibility determinations, staff will perform all of the following steps:

- Assign a unique beneficiary identification number to the application, noting the assigned beneficiary identification number as corresponding to the applicant's name in a master applicant spreadsheet not maintained in the applicant file;
 - For purposes of assigning numbers, staff will use the following naming convention: year of application [dash] triple digit number of applicant relative to other applicants (for example: the first applicant during program year 2022 will be assigned the number 2022-001; the second applicant during program year 2022 will be assigned the number 2022-002; etc.)
- Specify the number of persons in the household in order to separately determine income for each person in the household;

City of Marietta
CDBG Housing Programs Policies and Procedures Manual

- Ask questions relating to the status of each person in the household as guided by the calculator program:
 - Whether the person under consideration is one of the following:
 - Head of household;
 - Co-head of household;
 - Minor under 15 years of age;
 - Child under 18 years of age;
 - Fulltime student age 18 or over;
 - 62 years of age or older; or
 - a person of any age with disabilities.
- Use the calculator to identify the HUD-determined 80% income limit for a household of the applicable size in Washington County, Ohio.
- Answer “no” to the question of whether the income determination is being conducted for housing in which Low Income Housing Tax Credits are involved;
- Select the 24 CFR part 5 Annual Income definition to calculate “annual income”:
 - Select the guided (step-by-step) method;
 - Specify which of the following asset classes the person in question owns (cash, equity, stocks, retirement accounts, pension funds, life insurance, personal property, lump sums, deeds, checking accounts and savings accounts), describe each identified asset, and specify the annual income produced by each asset (if any).
 - In any case where assets are identified which do not produce income, staff will specify \$0.00 as the amount of actual income from that asset.
 - In the case of an employed beneficiary, describe the job, specify whether wages are determined hourly or annually (based on a salary), and describe the pay and any raises anticipated to be earned within a 12-month period.
 - In the case of a beneficiary who receives benefits and/or pensions (including social security), specify the amount of benefits or pensions received, the frequency with which they are received, and describe the type of benefits/pension.
 - In the case of a beneficiary who receives public assistance, specify the amount of assistance, the frequency with which assistance is received, and describe the type of public assistance.
 - In the case of a beneficiary who receives “other income” that does not fall into any of the preceding categories, specify the amount of such other income, the frequency with which it is received, and describe the “other income” received.
- Follow this same process for each member of the applicant household.

Once all household members’ combined income have been determined, staff will export the eligibility calculator result to a PDF, save the PDF file and print a hard copy for the file. Based on a comparison of projected household income with the applicable income limit, staff will make an income qualification determination.

If for any reason the HUD CPD income calculator is not available for use, the same methodology may be conducted in paper format upon proper determination of the applicable income limit for the household size and a full consideration of each household member's income according to the foregoing methodology.

3. Procedures for Working with Applicant Household to Determine Income Eligibility:

Development Department staff will coordinate with the applicant or head of the applicant household all steps of the income eligibility determination. The procedure for such coordination is as follows:

Initial Interview: The Development Department conducts an initial interview with the potential applicant to determine program eligibility. If the applicant indicates he/she meets certain criteria that is income and property related, the Development Department will schedule a meeting with the applicant/head of household to work through an eligibility determination as part of the program assistance application process.

Completion of Application: The Development Department will assist the applicant in completing an application describing the requested assistance, and will accept the applicant's signed and completed application.

Income Verification: The Development Department will ensure that all real estate taxes are paid and current and will secure a copy of the applicant's home insurance (where applicable).

Third Party Documentation: The Development Department will request all needed third-party documentation, securing the applicant's signatures where needed in order to procure certain items. The Development Department will ensure all necessary eligibility documentation has been secured and will also maintain record of all eligibility-related documentation in each project file.

Income Re-verification: The Development Department will re-verify as necessary (to be within the six- (6) month timeframe (180 days) as required) all reported income and ensure that if income has changed, the new documentation is included in the applicant's file. The re-verification process will follow the procedures set forth below under heading 5 (Re-verification Procedures).

4. Procedure to be Followed in Implementing Each Step of the Eligibility Determinations:

All potential applicants meet personally with Development Department staff for an initial intake meeting. It is preferred that applicants are instructed to bring with them to the initial meeting all documentation deemed necessary to make eligibility determinations. If the potential applicant indicates at the initial intake meeting that he/she meets certain income and property related criteria, the Development Department will provide the individual with an application and may follow up on eligibility verification as needed.

A future appointment may also be scheduled for the applicant to bring additional eligibility verification items for verification purposes. The purpose of a future appointment, where necessary and appropriate, is to follow up on any matters not fully verified or documented during the initial meeting. This may include items such as a copy of the applicant's 1040, recent paychecks, a copy of deed to the property, etc.

Any applicant applying for funding to a City's housing program is required to complete and submit an application. On the application, an applicant is required to identify all household members and their ages (which will determine whose income is to be counted), along with all sources of annual household income.

Applicants may be required to provide to the Development Department a copy of their most current IRS Form 1040 filing, if applicable. Where applicable, applicants are asked to declare their 'Female Head of Household' status on the application; the information will be recorded in the IDIS as it is reported on the application.

Household size is determined by counting the number of eligible household members residing in the unit. Individuals generally not counted as household members include: foster children, live-in aides and their children, and children being pursued for legal custody who are not currently living in the household. Unborn children expected within six months shall be counted as a household member.

Third-party income verification documents include items such as documents from employers and/or social agencies; check stubs; award letters/benefit statements from Social Security, Human Services Departments and pension providers.

5. Re-verification Procedures

All documentation obtained at the time of application submission will be subject to re-verification, if necessary. The Development Department will advise an applicant when income eligibility re-verification is necessary. It will be necessary to re-verify all annual household income when the initial income verification is not current (within six months) at the time the work is set to proceed. Re-verification of income will consist of obtaining signed third party-income verification forms as well as supporting income documentation as noted above.

The Development Department will follow the same procedures for assessing income re-verification as were followed during the initial verification. This includes reviewing all documentation submitted for reliability/validity and consistency and projecting the current income over the next 12 months. If income has changed, the new income re-verification documentation is to be included in the applicant's file.

The same eligibility procedures noted above will apply to the re-verification process, applying the income limits in effect at the time of re-verification.

6. Administrative Responsibility

Development Department staff has the primary administrative responsibility associated with the procedures for assessing income eligibility. The Development Director may participate in income eligibility determinations, and shall review eligibility determinations in any case where he/she is not involved in the income eligibility determination process.

II. Required Documentation

Individual Activities in IDIS: Each housing rehabilitation application which is approved for program assistance and proceeds to the selection of a contractor will lead to the creation of a unique, properly-classified corresponding activity in IDIS. The IDIS activity corresponding to a single-unit home rehabilitation will be created under IDIS Matrix Code 14A (Rehab; Single-Unit Residential). Program assistance eligibility is limited to single-unit, owner-occupied homes unless this requirement is waived by the Development Director on review of an exceptional request. If the single-unit requirement is waived, the rehabilitation activity shall be created in IDIS under Matrix Code 14B (Rehab; Multi-Unit Residential). In no case, however, will program assistance be authorized for applications involving non-owner-occupied structures.

Each such 14A or 14B activity will be associated with the corresponding project within the City of Marietta's action plan pertaining to housing rehabilitation programming. Accomplishments will be promptly reported in IDIS upon completion of work, before or concurrent with the final draw of funds to pay for the rehabilitative work.

When any activity delivery cost beyond the core activity (payment of a rehabilitation contractor) is incurred in connection with a rehabilitation activity, a separate activity will be created for each such activity delivery cost. Such an activity will be created under the category of 14H (Rehabilitation Administration). Activity delivery costs in support of a core housing rehabilitation activity (supportive 14H activities) will be set up so that the accomplishments of each supportive 14H activity are reported at the corresponding supported 14A or 14B activity.

The national objective chosen in IDIS for any activity relating to housing rehabilitation will be LMH (Low/Mod Housing).

Eligible Case Files (All Activities): For all activities, each case file for eligible applicants will contain all of the following documents:

- The completed application;
- 'Renovate Right' lead paint hazard brochure receipt signed by the owner;
- Preliminary Qualification Determination form filled out with annual income calculated, with all supporting documentation attached;
- Evidence of ownership of the property, including proof of good title such as by a current property search and/or background check;
- Proof of Homeowner's Insurance in all cases, unless this requirement is waived by the Development Director in writing;
- Because it is HUD's policy that flood insurance is not required for a minor repair project if all aggregated repairs cost less than the National Flood Insurance Program's maximum deductible of \$10,000, documentation of a flood insurance policy is not required (although homeowner applicants in flood zones are encouraged to maintain such insurance);

- If in any case aggregate repair costs exceed \$10,000, proof of Flood Insurance *is* required where the assisted property is located within the 100-year floodplain as shown on a FEMA FIRM Map;
- Copy of a FEMA FIRM map marking location of the property relative to the 100-year floodplain;
- Participant's Agreement document signed by the applicant and Development Department staff;
- Pre-inspection to determine substandard condition (may include photos, inspection reports, etc.);
- Historical (Section 106) review or memo describing the terms of exemption from historical review;
- Environmental review certification page;
- Lead Based Paint hazard reduction documentation or memo describing the exemption from the requirements of the lead-safe housing rule;
- Scope of work document prepared by the Development Department authorizing homeowner to obtain bids within the approved scope of work;
- Documentation of the bid selected by the homeowner;
- Homeowner's Acceptance of Bid;
- Contractor Documentation, if not kept in the contractor's file containing contractor documentation;
- Owner/Contractor Contract;
- Notice to Proceed;
- All applicable loan documents, including mortgages, affidavits, and promissory notes as required under the Finance Mechanism set forth for each activity;
- Any interim inspection reports as may be required to ascertain that approved and contracted rehabilitation work is proceeding properly and satisfactorily;
- Any interim draw requests as may be authorized by the owner and the Development Director;
- Any change orders;
- Any contractor invoices;
- Copies of all disbursements made to the contractor;
- Owner's Statement of Satisfaction;
- Final payment authorization signed by City of Marietta staff upon the Owner's Statement of Satisfaction; and
- Release of Lien signed by the Contractor.

Activity-Specific Documentation: Each activity may have activity-specific documentation required under the terms of the activity. Activity-specific documentation should be kept as necessary.

Contractor Documentation: The following documentation will be kept in the file of all current, active contractors. Individual case files must contain copies of these documents unless they are retained in the contractor's file:

- Evidence that the contractor is not debarred by the City of Marietta, the State of Ohio, or the Federal Government;

- A current copy of the contractor’s general liability insurance policy;
- A current copy of the contractor’s Bureau of Worker’s Compensation Certification;
- A current copy of the Contractor’s EPA-issued Lead Renovation, Repair and Painting (RRP) Firm Certification (if applicable); and
- Copies of each worker’s EPA-issued Lead Renovation, Repair and Painting (RRP) Individual Certification (if applicable).

Lead-Based Paint Hazard Reduction Documentation: In conformance with the requirements of the Lead Safe Housing Rule (24 CFR Part 35) and Ohio Administrative Code Chapter 3701-32, case files for properties at which lead safe renovation or lead abatement activities are carried out will contain the following documents:

- Notice of Presumption or Notice of Evaluation;
- Copy of Lead Risk Assessment Report (if presumption is not the chosen approach), including all supporting documentation (floor plan, lab chain of custody form and lab results, owner questionnaire, building condition form, paint condition form, etc.);
- Lead abatement specifications (abatement projects only);
- Copies of Prior Notification, Occupant Protection Plan (abatement projects only);
- Interim Inspection Report; and
- Clearance Report for each required clearance, including all supporting documentation (which may consist, as determined by the lead inspector, of visual clearance form, clearance examination report, and/or copies of lab results).

Ineligible Case Files: For any “walk away” applicant deemed ineligible on the basis of the income determination, a determination that the property does not qualify for assistance under the program to which the applicant has applied, a determination that the property cannot be brought to an acceptable standard with the resources available, or a determination in the discretion of the Development Department that the applicant is otherwise unsuitable for some reason, the case file shall contain the following:

- A memo to the file detailing the reasons for the determination of ineligibility,
- A copy of a letter notifying the owner of the determination of ineligibility, and
- All application and income verification documentation used in reaching the determination of ineligibility on the basis of income, and/or all documents on the above list used in the determination of property or project ineligibility.

III. Contractor Selection and Construction Management

1. Contractor Requirements for Participation in the City of Marietta’s Housing Programs:

The selection of a contractor(s) is the responsibility of the property owner(s)/program applicant(s). All contractors chosen by the property owner(s)/program applicant(s) to perform work on behalf of the program must meet the following requirements:

- Possess current liability insurance coverage – a copy is to be on file with the City of Marietta;
- Unless a sole proprietor, have current Workman’s Compensation coverage – a copy is to be on file with the City of Marietta;
- Not be listed on the City of Marietta’s Debarment List;
- Not be listed on the State of Ohio Disbarred Contractor List (this will be reviewed by Development Department staff prior to each contract being awarded); and
- Have a Lead Safe Renovator certificate and be registered with the EPA (Lead RRP certification) including the required firm certification, or be licensed with the State of Ohio as a “Lead Abatement Contractor.” This is required for work on properties built before 1978, unless the property built before 1978 involves work that is exempt from the Lead Safe Housing Rule (24 CFR Part 35). Proof of licensure is required and will be kept on file with the City of Marietta. *All contractors bidding on lead-based paint abatement projects must be licensed with the State of Ohio.*

2. Policies and Procedures for Barring Poor Performing Contractors:

In any instance where a contractor’s performance is not acceptable to the City of Marietta or the property owner, that contractor will either be:

- placed on probation, and allowed to receive only one project at a time until the probationary period has ended;
- excluded from performing particular types of rehabilitation;
- suspended from participation in the program for a period of six (6) months; or
- terminated from future participation in the program.

The determination of probation, suspension, or termination will depend upon current performance as well as documented past performance.

If Development Department staff observes or has evidence of serious problems with contractor behaviors/actions/performance, she/he may, at any given point during a project, proceed with immediate:

- suspension of that contractor from participation in the program for a period of six (6) months;
- exclusion of the contractor from performing certain types of work; or
- termination of that contractor from future participation in the program.

The type of sanction employed by the City of Marietta will depend upon the severity of the circumstances. Each instance will be determined on a case-by-case basis as the severity of the circumstances will most likely vary in each instance. Behaviors and actions that might warrant being placed on probation, suspension and/or termination may include (but are not limited to) the following:

- using unapproved and/or substituted material;
- unreasonable and/or unexplained delays;
- being listed on the State of Ohio Contractor Debarment list;
- unprofessional conduct of contractor and/or employees;
- substandard work (not performed in accordance with accepted trade standards);
- failure to follow established program procedures;
- unsatisfactory evaluation scores from homeowner and/or Development Department staff; and
- activities deemed unethical and/or illegal.

Within thirty days prior to the contract signing, Development Department staff will review the federal ‘System for Award Management’ online at <https://sam.gov/content/exclusions> and the Ohio Secretary of State’s Debarred Contractor’s List online at <https://www.sos.state.oh.us/records/debarred-contractors/>. Contractors currently providing work through any of the City’s Housing programs who are on the list will be immediately terminated from program participation regardless of performance in the CDBG program or positive evaluation by the Development Department. Development Department staff will provide notice of termination in writing to the contractor. Development Department staff will also notify the affected homeowner, in writing, of the termination.

3. Policies and Procedures to Ensure Adequate Contractors are Available, and Policies for Recruiting Minority Business Enterprises (MBE)/Women-Owned Business Enterprises (WBE) and Disadvantaged-Owned Business (DOB):

The City of Marietta’s Housing Programs require that the applicant(s) choose contractors to bid on the scope of work. A contractor list containing names of contractors that have participated or have indicated a willingness to participate in the City’s Housing Programs and/or a print or electronic copy of the list of EPA lead-safe certified renovation firms within a 50 mile radius of the City of Marietta’s 45750 zip code (which is available online at <https://cfpub.epa.gov/flpp/pub/index.cfm?do=main.firmSearch>) will be provided to assist the homeowner. The provision of a contractor list or information about lead-safe paint certified contractors shall not constitute a referral or a recommendation for the

contractors whose names appear on the list. Applicants are encouraged to choose qualified contractors not included on the provided list.

All applicants shall be encouraged to solicit bids from MBE, WBE and DOB contractors. Qualified MBE, WBE, and DOB contractors will be added to the contractor list if such a contractor indicates a willingness to participate in the programs. The City of Marietta consistently reviews its Housing Programs in order to promote diverse contractor participation. As needed, the City may send out various notices via newspaper or other announcements to recruit qualified contractors to participate in the program.

The City of Marietta does not presently authorize program assistance for rehabilitation projects which will require more than \$10,000 of federal program assistance; depending on the type of work involved, the limit of program assistance for some types of projects may be \$5,000 or less. In any case where the homeowner wishes to select a bid of \$10,000 or less which is not obviously unreasonable (considering experience, purchase history, research or other information), the City of Marietta will not require the homeowner to obtain more than one bid in consideration of the fact that the homeowner is the selecting party. However, multiple bids for comparative purposes will in all cases be encouraged, regardless of whether required.

If a contractor proposal attempted to be selected by the homeowner is determined by the City to be unreasonable or not to conform to the approved scope of work, the homeowner notwithstanding any emergency will be instructed to seek further competitive proposals.

In any project implicating program assistance over \$10,000 (although such an amount of program assistance is not presently authorized under these policies and procedures), the applicant(s) will be required to secure a minimum of 3 bids on the scope of work provided by the Development Department in order to select the winning bid.

4. **Policies for the Procurement of Consultants, Risk Assessors, Clearance Technicians, and Other Contracted Parties Involved, Including Those Involved in Conducting Testing and Inspections:**

When the City is the Procuring Party

Procurement of consultants, risk assessors, clearance technicians, and other contracted individuals/entities involved in the administration/implementation of the CDBG activity will take place in a manner that is locally and federally compliant. The Development Department will use a suitable method of selection appropriate to the type of contract involved, consistent with the City of Marietta's federal procurement policy.

When the Property Owner is the Procuring Party:

The Property Owner will never act as the Procuring Party in the procurement of consultants, risk assessors, clearance technicians, and other contracted individuals/entities involved in the administration/implementation of the CDBG activity.

5. Policies for the Procurement of Contractors, Including Special Requirements for Emergencies, the Award of Bids and Procedures for Dealing with Delay of Start Date:

- a. *The selection of a contractor(s) is the responsibility of the homeowner(s).*
Development Department staff will ensure that all program policies are adhered to and all federal, state and local laws and requirements are followed. The following procedures are followed in the course of procuring a contractor:

Once the owner has been approved for program assistance and is ready to begin the procurement process, the Development Department will issue to the owner, on behalf of the City, a Scope of Work describing the activities approved for program assistance. The City of Marietta requires the applicant(s) to choose the contractors bidding on the scope of work. Resources in list form as discussed in III.3. above will be provided to assist the homeowner in identifying contractors, but the provision of a list does not constitute a referral or a recommendation for the contractors whose names appear on the list. An applicant is encouraged to choose a qualified contractor not included on any provided list. In order to ensure adequate bids are received, the homeowner will make best efforts to secure no less than three (3) bids for all work to be done. However, because Federal procurement requirements do not apply to contractors selected by the applicant, a single bid under \$10,000 may be selected for any project unless the bid is obviously unreasonable.

Homeowners are encouraged to consider soliciting bids from Minority Business Enterprises and Women Business Enterprises, obtain references from all contractors submitting bids, gather information regarding each contractor's work history including the number of years of experience each contractor has, and request information on any special qualifications each contractor may have that would enable successful completion of the project.

Once the homeowner has obtained bids and selected a prospective contractor, the homeowner will submit all relevant bids and the contract information of the prospective selected contractor to Development Department staff. The Development Department will review the prospective selected contractor's proposal to ensure that it will conform to the authorized scope of work, and will ensure that the contractor file contains full information about the contractor.

Development Department staff will handle any change orders and payment requests. The homeowner and Development Department staff must approve any change order from the contractor before any change takes place. All parties are to sign the change order, which will describe the work change and the cost. Only changes necessary and/or appropriate to complete the project and which are consistent with Federal regulation and /or state and local code requirements will be approved. In general, change orders which would require a change in the environmental review of a project or activity should not be approved.

After the homeowner(s)/applicant(s) selects a contractor, the documents will be signed by the homeowner and contractor to formalize the bid award.

Development Department staff may schedule a pre-construction conference including both the homeowner and contractor. At this time, all aspects of the project may be discussed, including:

- The payment process;
- The homeowner's, contractor's and Housing Program's specific responsibilities;
- Housing Program policies and guidelines;
- The lead-based paint reduction work; and
- Other rehabilitation-related issues necessary to ensure the safety of the household and program compliance.

b. *Contractors are expected to start the rehabilitation work as soon as possible.*

Development Department staff will monitor all projects to ensure that the project is proceeding according to a reasonable project timeline. Development Department staff will be available to provide any needed support/guidance to the homeowner in the event that expected start deadlines are not met. Development Department staff will maintain an open line of communication with the homeowner and contractor throughout the project.

6. Policy for Pre-bid Conference, Including Discussion of Scheduling, Attendance, and Policy for Amending Specifications or Addressing Alternative Scopes of Work:

The pre-bid conference entails a meeting between the homeowner and Development Department staff, so both parties must be in attendance. The initial application intake appointment should be scheduled so as to satisfy the requirement of the pre-bid conference. If all issues to be addressed in a pre-bid conference are not adequately covered during the initial appointment, an additional pre-bid conference shall be scheduled.

At the pre-bid conference, the homeowner and Development Department staff will discuss the appropriate scope of work, and after initial inspection a written scope of work document will be formally prepared after an on-site inspection by City of Marietta staff. Also during the pre-bid conference, a notification letter advising that lead-based paint may be present and a brochure entitled will be provided by Development Department staff to the homeowner. If there are children aged 7 years or younger living in the home, a letter will be provided by the Development Department to the homeowner recommending that the child be tested for elevated lead blood levels.

All contractors chosen by the homeowner to bid on the work should participate in an on-site pre-bid walk through with the homeowner prior to placing said bid.

Any changes requested by the homeowner or contractor must be reviewed and approved by the Development Department, the homeowner and the contractor before any change actually takes place. Only those changes deemed necessary and/or appropriate and consistent with Federal law and regulation and/or state and local code requirements for satisfactory completion of the project will be approved.

7. Policy Related to Housing Program Contracts:

Housing Program contracts should cover all issues anticipated to be relevant to completion of the project, which may include as appropriate:

- Project start and completion dates;
- Cost of the work (line item pricing);
- Payment schedule (method and breakdown of disbursements);
- Retainage, release of liens (CDBG funds cannot be escrowed);
- Scope of work (detailed) and (by reference) the work specifications;
- Subcontracting requirements (if applicable);
- Daily property maintenance and site clean-up provisions;
- An outline of procedures for inspections and changes in the scope or costs of work (change orders);
- Requirements regarding the obtaining of all required permits and inspections;
- Any applicable conflict resolution process;
- All appropriate federal, state and local provisions such as non-discriminatory requirements and WBE/MBE provisions, Ohio Mechanics Lien Provisions, liability insurance requirements, worker's compensation coverage requirements, non-collusion certification, and debarred and suspended contractor provisions.
- One-year warranty on all work (contractor should provide the owner(s) with any manufacturer's warranties on installed materials);
- Signatures of contractor(s) and owner(s);
- Signed bids;
- Change order policy;
- Termination for cause;
- Lead-based paint work clearance schedule (if applicable, submitted by the contractor and made a part of the contract); and
- Notice to proceed.

8. Policy Regarding Involvement of Owners Doing All or a Portion of Construction Work:

The City of Marietta's Housing Program does not permit homeowners to perform rehabilitation on their own property.

9. Policy Covering Management of the Construction Process, Including Interim and Final Inspections:

City of Marietta
CDBG Housing Programs Policies and Procedures Manual

- a. Contractor Performance: Each participating contractor is responsible for performing all work to meet requirements of the most recently adopted version of the Residential Code of Ohio (RCO) and the International Property Maintenance Code (IPCM) as adopted by reference by the City of Marietta Codified Ordinances. The RCO code sets forth technical specifications for the repair methods and materials to be used to achieve the grantee's performance standards, while the IPCM specifies what property conditions are "up to code". Any specifications prepared by the Development Department shall only override the most recently adopted version of the RCO or IPMC when the Development Department's specifications are more stringent; otherwise, the RCO and IPMC standards shall control.
- b. Work Write-ups (also referred to as the "Specifications"): Clearly written, well-organized work write-ups will be prepared by Development Department staff. Work write-ups should clearly define the work to be undertaken. Each work-write up is created specific to a given project, containing only the items to be addressed in a given project. A work write-up should be detailed enough to identify each item to be assigned a cost for bidding. When optional work is appropriate, these items should be identified separately as optional or alternative work items. A work write-up should also include the location, quantity and quality of the work to be performed for any given project.
- c. Property Inspection Policies:

Initial Inspections: Pre-inspections are conducted by City of Marietta personnel using a field inspection form. The person performing the inspection may determine that the inspection services of another party either employed by or external to the city are necessary to make a final determination in special instances where the source of a condition of concern is not clear or a significant volume of sub-standard conditions are present.

Interim Inspections: Depending on the scope of work, City of Marietta personnel may perform interim inspections at various times during the rehabilitation to ensure that the work is being done in a timely manner and in accordance with applicable Federal regulations, state and local codes and program guidelines. Interim inspections will be conducted as necessary. An interim project inspection report is completed by the person conducting the inspection at the time of each interim inspection and retained in each project file.

Interim inspections (referred to as "Payment Inspections") may be conducted to ensure that all work completed to date was done satisfactorily and in compliance with Federal regulations, state and local codes. The frequency of these inspections will occur upon the contractor requesting payment. Without interim inspections, no interim payments should be issued.

Final Inspections: City of Marietta personnel will conduct all final inspections in the homeowner's presence. The work write-up should be referenced during this

inspection to ensure that the cumulative work was satisfactorily completed. The final payment will not be issued until the final inspection has been conducted.

Lead Hazard Control Clearance Examination: All work will be performed in conformance with all of the requirements of 24 CFR Part 35, sub-parts B-R (HUD's 'Lead Safe Housing Rule'), 40 CFR Part 745 (The EPA's 'Renovation, Repair, and Painting Rule), and Ohio Administrative Code Chapter 3701-32 (the Ohio Department of Health's regulations governing lead licensure and activities carried out by licensed risk assessors and licensed abatement contractors).

All lead risk assessments will be completed by a licensed Lead Risk Assessor in conformance with all applicable federal and state requirements. A copy of the Lead Risk Assessment report will be provided to the owner by the Risk Assessor as required by law. In addition, a copy of the Risk Assessment Report will be kept in each project file.

Lead Abatement Specifications will be prepared by a licensed Lead Abatement Contractor in conformance with all applicable federal and state requirements. All work designated as Lead Abatement by the lead abatement contractor preparing the specifications will be completed by a properly licensed Lead Abatement Contractor. The Lead Abatement Contractor performing the work will be responsible for maintaining and preparing the necessary documents (including the Occupant Protection Plan and the Worker Protection Plan) to maintain compliance with the State of Ohio Department of Health rules on each project.

All contractors performing work that is not designated as Lead Abatement on property built before 1978 must have current EPA RRP certification for each worker as well as firm certification as required by the EPA "Renovation, Repair, and Painting" Rule. The exception to this would be in a case where an exemption from the Lead Safe Paint Rule is appropriately documented in the project file.

d. Change Orders and Time Delays:

Change Orders: Any change orders requested by the homeowner or contractor must be reviewed and approved by the City of Marietta, homeowner and contractor prior to the requested change taking place. Only those changes deemed to be necessary and/or appropriate and consistent with Federal regulations and/or state and local code requirements for satisfactory completion of the project will be approved. Change orders which would increase the total cost of the project over the approved program assistance limit will not be approved.

Time Delays: Contractors are expected to start the work within thirty days of the issuance of a notice to proceed listed in the Agreement. Any delay beyond this period will require a written statement as to the reason for the delay. This written statement will be provided to the homeowner by the contractor for review/approval, and a copy should be provided to the Development Department to be kept in the project file.

Development Department staff will monitor all projects to ensure that all timelines are being met satisfactorily.

- e. Pre-bid Meeting: The pre-bid conference entails a meeting with the homeowner and Development Department staff, both of which are required to be in attendance. The pre-bid conference will involve a discussion of specifications for the project, which will result in the creation of a scope of work to be used by the homeowner in seeking contractor bids. The City of Marietta's Housing Programs require the applicant to choose the contractors bidding on the scope of work. One or more contractor lists will be provided upon request to assist the homeowner, but provision of a list does not constitute a referral or a recommendation for the contractors whose names appear on the list. Applicants are encouraged to choose qualified contractors not included on the provided list.
- f. Pre-Construction Conferences: A pre-construction conference may be scheduled as appropriate after the applicant's selection of a contractor. If a pre-construction conference is scheduled, a meeting will be held at the site of the given rehabilitation property with the following persons required to be in attendance: the homeowner, Development Department staff, and all contractors involved in the project.
- g. Formalization and Communication: Before the work commences, a number of important components of the work should be formalized and communicated. The scope of the work should be discussed in detail and the details of the selected contractor's bid should be reviewed by, discussed with and signed by the homeowner; the Owner/Contractor contract to proceed upon the city's forgivable loan of funds to the homeowner should be reviewed, discussed and signed by the homeowner and contractor; all required permits should be obtained; if lead-based paint work is being done, there should be a discussion regarding what is required of members of the household during the work as well as when the work will begin and approximate date of completion; the contractor and homeowner should also be advised of when and how invoices may be processed for payment; timelines and policies related to inspections should also be discussed.
- g. Quality Control: City of Marietta staff is responsible for initial, interim, final inspections and the overall construction management of all City housing programs.

10. Initial Inspections and Work Write-ups:

Once the applicant is determined to be eligible, an initial inspection as necessary to determine the eligibility of the property or project for the program and to draft a scope of work is scheduled with the homeowner. At this time, the City of Marietta may further discuss with the homeowner(s) any special needs that may be required.

After the inspection is conducted, a determination is made deciding if the property issue to be addressed is eligible to be addressed through the housing program to which the

owner applied. If not, the property will be considered a “Walk-Away,” making it ineligible for program participation.

If the property is found to be acceptable for rehabilitation work, the Development Department will either presume the presence of lead-based paint or request a lead-based paint inspection by a licensed lead-based risk assessor in the case of any property built before 1978. The Marietta Development Department will prepare a work write-up describing the scope of work, all based upon the specific project needs. Once the scope of work has been drafted, the homeowner will be issued, by the Development Department, a copy of the scope of work to be used in soliciting bids. A copy of the scope of work is kept on file with the City and also given to all contractors by the homeowner for the purpose of developing bids.

11. Policy Concerning Rehabilitation Involving Lead-based Paint:

For all Housing Rehabilitation activities on properties built before 1978, lead based paint hazard is a federally regulated issue. How lead based paint hazards are addressed in the program depends upon the total dollar amount of rehabilitation assistance, assuming no exemption from the lead based paint requirements can be documented to apply.

Calculating amount of assistance:

The lead based paint standards that apply depend on the total rehabilitation assistance amount. Total rehabilitation assistance is calculated as the lesser of:

- The total federal assistance per assisted dwelling unit (*i.e.*, all federal funds assisting the project regardless of the use of the funds), or
- The average hard costs of rehabilitation per unit (*i.e.*, all hard costs paid from any source of funds, but excluding the costs of lead-based paint hazard evaluation and hazard reduction activities such as costs of site preparation, occupant protection, relocation, interim controls, abatement, clearance and waste handling).

Using the lesser of the two standards, it must be determined by City of Marietta staff whether total rehabilitation assistance is less than or equal to \$5,000, or greater than \$5,000. (Because program assistance above \$10,000 per unit is not authorized under the program policies and procedures, the lead paint standards which apply to jobs over \$25,000 do not apply to this program.)

Example: In the case of a single-unit rehabilitation project paid completely from program funds and supplemented by no other source of funds, the hard costs of rehabilitation will always be the lower (and therefore applicable) standard. Applying that standard, the question that will determine the applicable lead paint requirements is whether the hard costs of rehabilitation are under \$5,000 or over \$5,000.

Up to \$5,000:

In the case of a residential unit where total rehabilitation assistance is less than or equal to \$5,000, there are two possible approaches to addressing lead based paint hazards:

- **Conduct testing** of the painted surfaces to be disturbed or replaced during rehabilitation activities.
 - If paint testing indicates that painted surfaces are not coated with lead-based paint, safe work practices and clearance are not required.
 - Document the negative results of the paint testing for the project file, and the work can then proceed without safe work practices.
 - If paint testing indicates that painted surfaces contain lead, implement safe work practices during the rehabilitation as provided by law and repair any paint that is disturbed in the project site.
 - After completion of any rehabilitation disturbing painted surfaces, a clearance examination of the worksite must be performed as provided by law (unless the rehabilitation did not disturb painted surfaces totaling more than 20 square feet on exterior surfaces, 2 square feet in any one interior room or space, or 10 percent of the total surface area on an interior or exterior type of component with a small surface area such as window sills, baseboards, and trim).
 - Document for the project file the positive results of the paint testing, the safe work practices implemented, and the results of the clearance examination.
- **Presume** the presence of lead-based paint
 - Implement safe work practices during the rehabilitation as provided by law and repair any paint that is disturbed in the project site.
 - After completion of any rehabilitation disturbing painted surfaces, a clearance examination of the worksite must be performed as provided by law (unless the rehabilitation did not disturb painted surfaces totaling more than 20 square feet on exterior surfaces, 2 square feet in any one interior room or space, or 10 percent of the total surface area on an interior or exterior type of component with a small surface area such as window sills, baseboards, and trim).
 - Document for the project file the use of the presumption, the safe work practices implemented, and the results of the clearance examination.

Regardless of the approach (testing or presumption) chosen in a less than \$5,000 rehabilitation project, the key principle is to do no harm. The worksite must either be confirmed to be lead paint-free, or else the work must proceed according to the applicable lead paint protocols which ensure safe work practices and worksite clearance and which prevent the creation of lead paint contamination by the work.

Over \$5,000:

In the case of a residential unit where the total rehabilitation assistance exceeds \$5,000 (up to the authorized program limit of \$10,000), the difference in protocol is that lead-based paint protocols apply to the entire residential unit (not only the affected worksite). As a result, **it is not possible in this cost bracket to limit lead paint clearance efforts to the worksite**. In cases where the scope of work would result in disturbance of more than a *de minimis* lead painted surface, the two possible compliance approaches are as follows:

- **Conduct lead based paint testing** of the painted surfaces to be disturbed or replaced during rehabilitation activities **and perform a risk assessment of the entire unit**. Apply the interim controls identified as acceptable methods in a current risk assessment report (see 24 CFR 35.1330 for the full list of interim controls). While the need for interim controls will be unit-wide, the breadth of issues to be addressed through interim controls will be limited to the issues identified during the risk assessment. Interim controls may include:
 - Paint stabilization interim controls:
 - Repair physical defects in substrate (dry rot, rust, moisture-related defects, crumbling plaster, missing siding or other components not securely fastened) of a painted surface or component before treating the surface or component;
 - Remove all loose paint from the surface to be treated using acceptable methods (generally including wet scraping, wet sanding, and power sanding performed in conjunction with a properly operated HEPA filtered local exhaust attachment – dry sanding / scraping is only permitted for electrical safety reasons or for specified minor amounts of work);
 - Apply a new protective coating or paint after surface substrate dries and is protected from future moisture damage;
 - Do all of the foregoing using safe work practices (24 CFR 35.1350).
 - Friction and impact surfaces interim controls (only necessary under specific circumstances listed in 24 CFR 35.1330(c)):

- Friction surfaces interim controls eliminate friction points or treat the friction surface so that the paint is not subject to abrasion.
- Impact surfaces interim controls protect the paint from impact.
 - Interim controls for impact or friction surfaces does not include covering a friction surface with a coating or other treatment that does not protect lead paint from impact or abrasion.
- Chewable surfaces interim controls (only necessary where there is evidence of teeth marks indicating that a child has chewed on a painted surface). Interim control treatment requires making the lead-painted surface inaccessible for chewing, such as by creating enclosures or coatings that cannot be penetrated by teeth.
- Dust-lead hazard control:
 - Thoroughly clean all horizontal surfaces, such as interior window sills, window troughs, floors and stairs. Ensure that horizontal surfaces which are rough, pitted or porous are covered with a smooth, cleanable covering or coating such as metal coil stock, plastic, polyurethane or linoleum.
 - Carpeted surfaces if not removed are to be cleaned where feasible, including with a HEPA vacuum or other method of equivalent efficacy. If removed, any carpeting and padding is to be thoroughly vacuumed with a HEPA vacuum (or equivalent), with protective measures (including misting and sealing prior to removal) being employed to prevent the spread of dust during removal.
- Soil-lead hazard control:
 - Soil with more than 5,000 micrograms of lead per gram must be abated.
 - Impermanent surface coverings containing not more than 400 micrograms of lead per gram and land use controls are acceptable interim control methods. Adequate controls to prevent erosion should be used in conjunction with impermanent surface coverings. Land use controls which effectively control access to areas with soil-lead hazards may also be used (but only if residents have reasonable alternatives to using the land to be controlled) to reduce exposure to soil-lead hazards.

- While implementing interim controls, protect occupants of dwelling units as provided in 24 CFR 35.1345, including potential temporary relocation.
- Perform a clearance examination at the conclusion of the lead hazard reduction activities.
- **Presume** the presence of lead-based paint and **use standard treatments on all lead-based paint hazards** in the unit. (Standard treatments are a series of hazard reduction measures that are designed to reduce *all lead-based paint hazards in a dwelling unit, both interior and exterior*, without the benefit of a risk assessment or other evaluation.)
 - Standard treatments will include all of the following (24 CFR 35.1335) requirements:
 - Stabilize all deteriorated paint inside and outside the unit in accordance with interim control protocols, including protection of occupants (24 CFR 35.1330(a) & (b)).
 - Abatement may be used as an alternative to stabilization (24 CFR 35.1325).
 - Ensure that all uncarpeted horizontal surfaces are smooth and easily cleanable, such as by application of polyurethane or installation of linoleum.
 - Correct dust-generating conditions on friction and impact surfaces (24 CFR 1330(c)(4)-(6)).
 - Treat bare residential soil unless it is found not to be a lead hazard (24 CFR 35.1330; also see 24 CFR 1320(b)).
 - Implement the use of safe work practices (24 CFR 35.1350).
 - Perform a clearance examination at the conclusion of any lead hazard reduction activities (24 CFR 35.1340).
 - It must be emphasized that if the presence of lead-based paint is presumed, standard treatments must be applied throughout the entire dwelling unit (in both interior and exterior areas).

All interim controls and standard treatments are to be performed by a person trained in accordance with the hazard communication standard for the construction industry issued by the Occupational Safety and health Administration of the U.S. Department of Labor at 29 CFR 1926.59 who has either completed successfully an approved lead-safe work

practices course, or else is supervised by a certified lead-based paint abatement supervisor.

If it is found, due to lead paint hazards, that the rehabilitation will exceed established program cost guidelines, the project will be considered a “Walk-Away,” making it ineligible for program involvement. In the event the “Walk-Away” policy comes into effect, Development Department staff will notify the applicant in writing of said ineligibility. Wherever possible, the letter will include information about other, similar assistance currently available from other agencies.

Because of the extreme cost and practical difficulty of complying with the whole-unit standard of lead paint compliance, these policies and procedures limit total federal assistance to \$5,000 in any case where a lead paint exemption cannot be identified.

12. Compliance with Bids Meeting Labor Standard Provisions:

The City’s CDBG-funded Housing Programs do not assist properties exceeding seven (7) total units, precluding them from the provisions of local labor standards.

13. Review of Pre-bid Packages for Labor Standard Provisions:

The City’s CDBG-funded Housing Programs do not assist properties exceeding seven (7) total units, precluding them from the provisions of local labor standards.

14. Coordination with Labor Standards Officer:

The City’s CDBG-funded Housing Programs do not assist properties exceeding seven (7) total units, precluding them from the provisions of local labor standards.

IV. Disbursement of Funds

1. Procedures for Disbursing Funds:

The City of Marietta follows accepted accounting practices as well as applicable federal rules and regulations. All disbursements must only be for obligations incurred in the performance of CDBG activities and must be supported by contracts, invoices, vouchers and other records evidencing the necessity of the expenditures.

Development Department staff prepares purchase orders for all contractors, consultants, clients and any other parties providing services for the housing programs. The purchase orders are then sent to the Development Director for review and authorization. Upon authorization, forms are then presented to the City Auditor's Office for review and authorization, enabling the funds to be encumbered for payment toward future invoices.

Contractors, consultants, clients and any other parties providing services for the housing programs are to submit invoices for payment. The homeowner is required to sign an authorization form indicating satisfaction with the work that was performed and authorizing payment for said work. City staff will also perform an inspection. If all is in order, Development Department staff then prepares a drawdown request form, attaching it to the invoice, and forwarding these items to the Development Director for review and authorization. The authorized drawdown request form and accompanying invoice is then sent to the City Auditor's office for review and final authorization. Thereafter, if all is in order, it is processed for payment.

Any work must be inspected prior to authorizing payment. Payments must not be made if the work is not complete or if the work is not included on the contractor's invoice. City staff will use the Field Inspection form in inspecting the work prior to authorization of payment.

Interim payments made prior to completion of the entire job shall be for completed items only and the payment amount will be based on the amount provided on the contractor's itemized specifications. Under no circumstances can payment be made for work that has not been completed.

In relation to work involving lead-based paint, no payment for required lead abatement work will be issued until the Lead Risk Assessor has provided certification that the project has successfully passed a clearance test.

In any cases where the property owner is providing a portion of the funds, the owner will provide their portion at the time of the first pay request. The Development Department will instruct the property owner to refrain from making any payment prior to completion of the required inspections. All relevant payment records will be kept in the project file.

2. Policy to Ensure Timely Payment of Invoices:

Prior to commencement of the job, the homeowner and contractor (or other party providing service) should be advised of the procedure for payment. It is the responsibility of Development Department staff to ensure that payment requests are processed promptly and in compliance with program guidelines.

3. Administrative Responsibility Associated with the Procedures for the Disbursement of Funds:

Development Department staff is responsible for generating all purchase orders and payment requests. Development Department staff is also responsible for gathering all appropriate invoices and other sources of documentation (as set forth above) necessary for the disbursement of funds. Any and all interim inspections to ensure that the work items were completed satisfactorily must also be conducted prior to any payment authorization. The Development Director will review all purchase orders and payment requests, ensuring the appropriate documentation is attached, and that payment is only made for services satisfactorily provided and only provided for obligations incurred in the performance of the grant. If all is in order, the Development Director has the responsibility of authorizing said requests so that they may be forwarded to the Auditor's Office for review and final authorization. If all is in order, the Auditor's Office will issue payment.

V. Conflict Resolution

1. Complaint Procedure:

The purpose of the City's *Complaint Procedure* is to proactively identify and, where possible, resolve conflicts that may arise between homeowners and contractors.

Where possible, Development Department personnel should encourage the informal resolution of conflicts brought to the attention of the Development Department. Where appropriate, the Development Director may mediate disputes to attempt to achieve consensus. Where informal mediation is inappropriate to the circumstances or fails to resolve the conflict, the Development Department should encourage the complaining party to formalize a complaint.

Any initial complaint must be in writing and submitted to the attention of the Development Department. Upon receipt, Development Department staff will inform the Development Director that a complaint has been received. Thereafter, Development Department staff will review and investigate all aspects of the complaint. The investigation will likely require meetings with the contractor and homeowner, and may require further meetings with the City Law Director and/or the Safety Service Director to make the most informed decision regarding the complaint.

Once the complaint investigation is complete, Development Department staff will respond to the complaint in writing within 10 business days after receipt.

In those instances where contract breach has occurred, the City will take appropriate actions as necessary to ensure the project can successfully be completed. This may include providing the homeowner guidance on how to provide a contractor with written notice of contract breach, or in extreme circumstances, how to proceed in terminating said contract. Where applicable, the City would initiate contractor debarment procedures.

In instances where contractor breach cannot be documented (homeowner-contractor disputes not related to performance or contract conformance), the City will provide guidance to the complainant regarding local dispute mediation resources where Development Department mediation was unsuccessful in resolving the dispute.

VI. Relocation

1. **Copy of Log to Track Personal and Real Property Acquired or Disposed:**

Not applicable.

2. **Process of Acquiring Property:**

Not applicable.

3. **Disposition Plan:**

Not applicable.

4. **Process to Ensure No Displacement Occurs:**

The City of Marietta will not undertake a project where displacement may take place.

Policy on Temporary or Permanent Relocation and Voluntary and Involuntary Acquisition:

Generally, by program design, the City of Marietta will not be permanently relocating any individuals. The only type of relocation that could ever occur would be temporary relocation in the case of a property where lead-based paint has been discovered or presumed.

Applicants to Marietta Housing rehabilitation programs apply voluntarily. As voluntary participants in Federally-assisted programming, housing program applicants are not considered by definition to be displaced persons with rights under the Uniform Relocation Act (URA). Accordingly, applicants who are approved for program assistance will be required to sign a written waiver of their displacement rights under the Uniform Relocation Act in consideration of their status as voluntary applicants and as a condition of program participation. In the case of any rehabilitation which would require lead paint interim controls or abatement, the homeowner is required to make private arrangements to stay elsewhere until the unit is cleared. All homeowners are first encouraged to seek temporary accommodations with friends and/or family. If this is not possible for the homeowner(s) who have voluntarily sought program assistance, they will be responsible for bearing the cost for their lodging and meals during the temporary period when they must vacate the unit.

Program assistance is limited to units occupied by owners. Because the program involves assistance for rehabilitation rather than acquisition or demolition and is limited to owners, Section 104(d) rights are not implicated in this programming.

VII. Environmental Reviews

1. Administrative Roles and Responsibilities of Staff Conducting, Maintaining Compliance and Providing Record Keeping for Environmental Review Record:

The City of Marietta assumes responsibility for environmental review and maintaining an environmental review record. City staff is responsible for the preparation of the tier one review including all advertising, preparation of a documented Environmental Review Record, and ensuring that all releases for funds are obtained.

City staff is also responsible for conducting tier two reviews on each project. Tier two includes coordination with SHPO and any other consulting parties and flood evaluation. All tier two reviews will be placed in the City of Marietta's Environmental Review Record file maintained in HUD's HEROS system.

Site Specific Reviews will ensure compliance with the following laws, authorities, or factors:

1. Airport Hazards Requirements.
2. Coastal Barrier Resources Act.
3. Flood Insurance Requirements.
4. Clean Air Act.
5. Coastal Zone Management Act.
6. Contamination and Toxic Substances Requirements.
7. Endangered Species Act.
8. Explosive and Flammable Hazard Requirements.
9. Farmland Protection Policy Act.
10. Executive Order 11988 (Floodplains).
11. Section 106 (Historic Preservation/SHPO).
12. HUD's Noise Regulations without Mitigation.
13. Sole Source Aquifer Requirements.
14. Executive Order 11990 (Wetlands).
15. Wild and Scenic Rivers Act.
16. Executive Order 12898 (Environmental Justice).

Compliance with the above laws, authorities, or factors shall be documented with explanations and/or supportive documentation at a level which satisfies or exceeds minimal HUD environmental review guidelines. Documentation in HUD's HEROS system should be created to meet or exceed the environmental review finding documentation and justification standards explained in the City of Marietta Community Development Block Grant (CDBG) Program Policies and Procedures Manual, Appendix 8.

On an annual basis, Development Department staff will prepare a Section 106 State Historic Preservation Office (SHPO) report listing all properties exempt from review

under the terms of the City's Programmatic Agreement (PA) with SHPO, including a description of each activity undertaken along with the age of the property.

2. Maintaining Capacity to Conduct Environmental Reviews:

Staff will maintain the capacity to conduct reviews for the City of Marietta by attending and completing available training.

3. Process to Ensure Environmental Review is Completed Prior to Start of Rehabilitation:

The City of Marietta has established the policy that the environmental review is to be completed immediately following the initial inspection of the applicant's property. Prompt environmental review is important to advance the project since federal regulation prevents funds from being committed to a property prior to full environmental clearance (whether through certification of exemption or through publication of a request for release of funds).

4. Policy for Obtaining Historical Preservation Clearance on Properties Subject to Section 106 Review:

All properties over 50 years old and receiving assistance for rehabilitation work any aspect of which is not exempt under the Programmatic Agreement will require coordination with the State Historic Preservation Office (SHPO). Once the Scope of Work has been determined, the City will propose a finding as to whether such work will adversely affect a historic property. That proposed finding will be submitted by Development Department staff to SHPO along with a detailed description of the work to be done, a location map, photos of the property, and any other records or items which may be useful to SHPO in a determination relating to concurrence in the City's finding. As per the Programmatic Agreement, SHPO has 30 days to respond.

In the event SHPO determines that the originally proposed work has the potential to adversely affect a historic property, Development Department staff will review the scope of work needed to obtain approval from SHPO. If approval cannot be obtained or the subsequent costs of the project to meet Section 106 would exceed program limits, the project will be determined a "Walk-Away," making it ineligible for program participation.

5. Policy for properties located within a Special Flood Hazard Area as defined by FEMA:

Any properties located within a Special Flood Hazard Area (100-year floodplain) shall be carefully screened for participation in the program. The position of each property relative to the 100-year floodplain shall be located on a FIRM map to be placed in the project file and uploaded to the Environmental Review Record. If it is determined that an applicant

property is not located within a Special Flood Hazard Area by reference to the FIRM map, no further screening will be required.

If it is determined that an applicant property is located within a Special Flood Hazard Area, the property will be ineligible for program assistance if it is a five-plus family property. If the property is a one-to-four family property, it must be determined whether the work involves a substantial improvement. A finding that the aggregate assistance will result in “substantial improvement” will result in ineligibility for program assistance. The definition of “substantial improvement” provided in 24 CFR 55.2 must be used to answer this question.

Because “substantial improvement” is generally defined by reference to the cost of the improvement relative to the market value of the structure and to expansion of the structure’s footprint, program assistance up to \$10,000 will usually not lead to “substantial improvement” of the property. A determination should be documented and placed in the project file as to whether the aggregate program assistance should be classified as a “minor repair/improvement” or “substantial improvement.” This determination will be in lieu of the floodplains decision-making process which would otherwise be applicable under 24 CFR 55.20 and 24 CFR 55.12.

The final issue to be considered in the housing programs environmental clearance process relating to Special Flood Hazard Areas is the necessity for flood insurance. It is HUD policy that flood insurance is not required for a federal project consisting of minor repairs if all aggregated repairs cost less than the National Flood Insurance Program’s (NFIP) maximum deductible of \$10,000. However, in any case which would involve aggregate repair costs over \$10,000 and where the benefitting property is within the 100-year floodplain, flood insurance must be obtained prior to a binding commitment of funds.

Where flood insurance is required, the details of the insurance depend on whether assistance is offered as a grant or a loan. If the assistance is in the form of a grant, the amount of flood insurance coverage must equal at least the total project cost or the maximum coverage limit of the NFIP, whichever is less, and must be continued for the life of the assisted structure irrespective of the transfer of ownership. If the assistance is in the form of a loan, the amount of flood insurance coverage must equal at least the outstanding principal balance of the loan or the maximum limit of coverage available under the NFIP. (Marietta housing programs provide assistance in the form of forgivable loans.)

VIII. Davis-Bacon Compliance

Any public improvement/construction project utilizing federal funds (e.g. CDBG) valued in excess of \$2,000 is generally subject to Davis-Bacon compliance, but there is a regulatory exception for rehabilitation assistance involving seven units or less. For the purpose of City of Marietta housing programs, any property with eight or more units requires compliance with Davis-Bacon. Any property with seven or fewer units is exempt from Davis-Bacon.

Because the City of Marietta housing programs exist to assist individual homeowners who are unlikely to reside in structures with eight units or more, it is unlikely that an application for City of Marietta housing program assistance will ever trigger Davis-Bacon applicability. **To ensure compliance with Davis-Bacon requirements, program assistance for applicants who reside in structures containing eight or more units is prohibited under these policies and procedures unless the Development Director specifically waives this prohibition in writing and documents the justification for waiver of the prohibition.**

Development Department staff is responsible for determining which projects have the potential to require compliance with Davis-Bacon. The Development Director reserves the right to determine if resources are available to adequately oversee projects which would potentially be subject to Davis-Bacon compliance. Unless the Development Director specifically determines that the City has the resources to successfully manage a housing rehabilitation project requiring compliance with Davis-Bacon, the City's Walk-away Policy is by default effective.

In the event that any housing program activity is undertaken which requires Davis-Bacon compliance and the Walk-away Policy is not applied, the City will follow the approach to Davis-Bacon compliance which is set forth in the City of Marietta CDBG Program Policies and Procedures Manual (see discussion of Labor Standards under 24 CFR 570.603).

IX. Confidentiality Regarding Public Records Requests

24 CFR 570.508 specifically states that records shall only be provided in a manner which is "consistent with applicable State and local laws regarding privacy and obligations of confidentiality." To protect privacy, it shall be the city's policy to limit information released to the public about completed projects to only include general information such as street names, types of assistance, and amount of assistance.

Public records that are determined to potentially contain confidential information must be requested in writing to the Development Department. All written requests must be approved by the City Law Director before any records are released to verify that the request does not violate state and or local laws regarding privacy and obligations of confidentiality.

X. Program Applicant Restrictions

To prevent any potential conflicts of interests, current City of Marietta employees are not eligible to apply for assistance. Also, anyone related to a City employee or individual with funding, decision making, supervising, or approval authority is not eligible to apply for assistance.

XI. Loan Forgiveness and Non-Compliant Loans (Default & Delinquencies)

Marietta housing programs assistance is provided in the form of a forgivable loan which carries 0% interest. The term of full loan forgiveness is five years, with 20% of the loan amount being forgiven each year on the anniversary of the original disbursement of funds. The City's security interest in a program loan consists of a lien which is recorded against the title of the property. At the end of a successful five-year loan forgiveness period, the lien is released.

If the recipient of a loan through Marietta housing programs wishes to have the lien released prior to the expiration of the five-year forgiveness period for any reason, the recipient of the loan must repay to the City of Marietta the full current balance of unforgiven assistance. Upon receipt, such repayment shall be recorded and appropriately accounted for as program income. No lien will be released prior to the required full repayment of the loan balance.

Loans may sometimes be found to no longer be in compliance with the original terms, conditions, policies, and/or procedures of the program (such as may occur when the owner/occupant moves from the assisted property, or when a required program environmental mitigation condition is abandoned). In the case of any loan found to no longer be in compliance, the issue will be forwarded to the City Law Director for review. It shall be the housing programs policy to follow the recommendation of the Law Director for each such individual matter. If found appropriate by the law director, any and all legal remedies may be pursued to seek repayment of the unforgiven balance of the loan.

XII. CDBG Emergency Repair Program

1. Purpose

The City of Marietta's Emergency Repair Program provides forgivable loans to assist qualified low-to-moderate income resident homeowners with repairs necessary to correct a condition which is immediately necessary to safeguard against imminent danger to human life, health or safety, or to protect property from further structural damage which might be reasonably anticipated from an uncorrected property condition. In the case of an approved application, the program will provide the resources necessary to correct one failing system within an owner-occupied home which meets the criteria for emergency assistance. All determinations of eligibility are in the discretion of the Development Department.

The Emergency Repair Program provides a one-time loan in an aggregate amount of up to \$5,000 to pay for approved repairs with the potential to affect a painted service in a residential unit built prior to 1978, and up to \$10,000 to pay for approved repairs which will not affect a painted surface in a residential unit built prior to 1978. In the case of a residential unit built since 1978, the amount of assistance is up to \$10,000 regardless of the potential to affect a painted surface. The minimum amount of the loan is \$500. A loan through the program will be secured by a mortgage which will be forgiven in the amount of 20% of the total loan each year until the loan is either forgiven in full or the loan balance is required to be repaid.

Only one emergency or minor repair loan will be awarded for a dwelling during a five-year period. Once an emergency or minor repair loan is fully forgiven, the property will become eligible to re-apply to the program.

Eligible emergency repairs will generally include:

- Repair (not replacement) of unsafe porches, broken/unsafe doors, broken/unsafe windows or broken/unsafe stairs as long as any new materials match existing feature in composition, design, color, texture, and other visual and physical qualities.
- Repair (not replacement) of exterior siding which allows water to enter the housing unit or damage other structural components of the housing unit.
- Repair or replacement of asphalt, fiberglass, and asbestos shingle roof covering with the same materials as long as the shape of the roof is not changed, in order to repair serious roof problems threatening health or safety of the residents.
- Repair or replacement of metal gutters and downspouts which fail in such a manner as to create an emergency condition affecting health, safety, or structural integrity.
- Installation of new furnace, or furnace repair, in winter (October 1st to May 15th) when a homeowner's heating system breaks down.

City of Marietta
CDBG Housing Programs Policies and Procedures Manual

- Installation of new boiler or water heater, or boiler/water heater repair, particularly during the wintertime (October 1st to May 15th).
- Repair or upgrade of electrical systems as long as no alteration is made to structural or decorative features, so as to address an inadequate electrical problem that creates either a fire or safety hazard.
- Repair of a plumbing system in need of immediate repair to avoid serious water damage to the structure, or in order to maintain a clean and safe source of water, so long as no alteration is made to structural or decorative features.
- Repair of air conditioning systems in summer (May 16th to September 30th) with a written letter from a licensed physician stating that air conditioning is medically required.

Ineligible repairs include but are not limited to the following:

- Any repairs of a cosmetic nature.
- Any repairs to storage buildings, garages, or any other structure not attached to the living unit.
- Any general maintenance such as changing furnace filters or service calls for a repair technician.
- Minor plumbing repairs such as leaking faucets, running toilet tank, water or gas leaking due to a loose connection, clogged sink or bathtub drain line, etc.
- Any physical activities such as removal of trash and debris, landscaping of any kind, grass cutting, painting, etc.

Any application involving a request for assistance involving any type of project not listed as either eligible or ineligible will be reviewed and determined on a case-by-case basis. However, even in the case of a project listed as eligible, no person has any right to participate in or receive assistance through the City of Marietta's housing programs. The privilege of participating in assisted programming depends on many factors (including risk-worthiness related to the potential for ultimate repayment of unforgiven loan balances), and determinations on applications for assistance are in the discretion of the Marietta Department of Development as the program administrative authority.

2. Authority

The legal authority for this emergency repair program comes from the federal Community Development Act of 1974, 24 CFR 570.202(b)(2) and any other applicable federal, state and local laws.

3. Program Resources

Funding for the program comes from a U.S. Department of Housing and Urban Development Community Development Block Grant. Assistance provided through the program is in the form of a loan and is subject to availability of CDBG funding budgeted for the city's housing programs.

4. Applicable Laws

The City of Marietta, contractors, subcontractors, vendors and applicants for program assistance are required to abide by a number of state and federal laws (including the regulations applicable to CDBG funding), and are required to sign documents certifying their compliance.

5. Eligibility Requirements – Applicants

The applicant must satisfy the following criteria to be eligible for program assistance:

- A. The applicant must be the owner of the property to be repaired and must have resided in the dwelling for not less than one year. Evidence of ownership and residency is required for program participation. Residence in a state of serious code violation (such as when an applicant moves into a fundamentally defective unit in a state of code violation and later requests public rehabilitative assistance to correct that preexisting code violating property issue) does not satisfy this residency requirement.
- B. The applicant must complete an application and provide all requested information and supporting documentation. Applications will be accepted on an ongoing basis and repairs will be done on a first-come, first-served basis as long as CDBG funding is available.
- C. To qualify for program assistance, the applicant's household income must be classified as low (80% or less of Area Median Income) as defined by HUD Section 8 income requirements. City of Marietta Development Department staff will refer to the latest published AMI chart adjusting household income by household size to make income eligibility determinations.
- D. The applicant must voluntarily apply for assistance. Participation in City of Marietta housing programs is voluntary on both the behalf of the applicant and the City. This relationship may be terminated by the applicant or by the City. If program participation is terminated by the applicant after program costs have been incurred, the applicant will be responsible for immediate reimbursement of those costs.
- E. The applicant must not have received emergency or minor repair assistance from the City of Marietta within the previous five years. Total assistance, including the assistance being applied for and any other housing program assistance, may not exceed \$25,000 per applicant over any period of time.

- F. As participation in the program is voluntary, any applicant for program assistance must sign a waiver relinquishing any claim to Uniform Relocation Act (URA) benefits and acknowledging that private resources (family/friends or other arrangements) are readily available if temporary relocation becomes necessary during the construction phase of the emergency repair project. **Generally, existing residents are not required to relocate during rehabilitation activities; however, if relocation is necessary due to these activities, all costs associated with displacement will be the sole responsibility of the property owner.**
- G. Objective evidence of past involvement in significant neighborhood nuisance, criminal behavior or bad citizenship may, in the discretion of the Development Department, result in the denial of an application to participate in the program.

6. Eligibility Requirements – Property

The following eligibility requirements apply to properties which are proposed to be repaired through the emergency repair program:

- A. The dwelling unit must be located within the city limits of Marietta, Ohio.
- B. The dwelling unit must require repairs which are immediately necessary to correct a condition presenting imminent danger to human life, health or safety, or to protect the property from further structural damage which might be reasonably anticipated from the defective property condition if left uncorrected.
- C. The dwelling unit must not have received funds from the Marietta Department of Development for emergency repair within the last five years, and the applicant must not have any open loans or other current assistance through the Marietta Department of Development.
- D. Property taxes on the applicant's property must be fully paid and current.
- E. Standard property insurance must be maintained on the property with coverage adequate to insure the City's lien position.

7. Other Loan Conditions

Specific terms and conditions are incorporated in the application and the contract documents. The applicant agrees to comply with all terms in the application and the contract documents, and additionally to:

- A. Allow inspection of the property by the City whenever the City determines that such inspection is necessary in conjunction with the project;

- B. Furnish complete, truthful and proper documentation and information as necessary to determine eligibility for program assistance;
- C. Permit the contractor to use, at no cost, reasonable existing utilities such as gas, water and electricity which are necessary to the performance and completion of the work;
- D. Cooperate fully with the City and the contractor to ensure that the emergency repair work will be carried out promptly;
- E. Defend, indemnify and hold harmless the City, its officials, employees and assigns, from all claims, demands, damages, actions, expenses, attorney's fees and causes of action that may arise from an act of God or nature during the rehabilitation of the property;
- F. Agree to maintain the property in a clean, neat and sanitary condition;
- G. Comply and facilitate the City's compliance with all other policies, procedures, laws, regulations and sources of authority which apply to City of Marietta housing programs.

8. Emergency Repair Specifications

The City of Marietta is responsible for determining if the repairs requested fit the criteria for the Emergency Repair Program. When the Development Department is contacted by a homeowner, the City will:

- A. Assist the homeowner with the application process, following the policies and procedures generally applicable to City of Marietta housing programs;
- B. Inspect the property as described in the City of Marietta housing programs policies and procedures;
- C. Conduct an environmental review of the proposed project on an expedited basis;
- D. Make an expedited decision as soon as reasonably possible (bearing in mind the potential need to consult with outside entities on environmental or other factors) as to whether the assistance requested meets the criteria of the emergency repair program;
- E. Consult with and advise the homeowner of the scope of work approved for program assistance;
- F. Provide resources for the homeowner to use in the identification of contractors for the purpose of soliciting bids without making any contractor recommendations (although any debarred or disqualified contractors may be identified to homeowners);

- G. Facilitate the contract between the homeowner and the homeowner's chosen qualified contractor as described in more detail elsewhere in the housing programs policies and procedures;
- H. Inspect the repair work in progress as necessary and when it is completed in all cases, as described in more detail elsewhere in the housing programs policies and procedures.

9. Contractors

The City will attempt to recruit contractors on an ongoing basis. Contractors who are identified as wishing to participate in the program will be placed on a list maintained by the Development Department for distribution to program applicants.

When a homeowner qualifies for assistance, the homeowner will solicit contractor bids and select a qualified contractor to perform the approved work as detailed more fully elsewhere in the housing policies and procedures.

10. Insurance

Before commencing work, the contractor shall submit to the City of Marietta a certificate of insurance as evidence of the coverage required:

- A. The contractor shall carry or require that there be carried Worker's Compensation Insurance for all employees and those of subcontractors engaged in work at the site in accordance with applicable Worker's Compensation laws;
- B. The contractor shall carry or require that there be carried a policy of liability insurance.

XIII. CDBG Minor Repair Program

1. Purpose

The City of Marietta's Minor Repair Program is to provide forgivable loans to assist qualified low-to-moderate income resident homeowners with minor repairs which do not rise to the level of substantial improvement and which do not qualify as emergencies. In the case of an approved application, the program will provide the resources necessary to conduct approved minor repair activity within an owner-occupied home. All determinations of eligibility are in the discretion of the Development Department.

The Minor Repair Program provides a one-time loan in an aggregate amount of up to \$5,000 to pay for approved minor repairs with the potential to affect a painted service in a residential unit built prior to 1978, and up to \$10,000 to pay for approved minor repairs none of which will affect a painted surface in a residential unit built prior to 1978. In the case of a residential unit built since 1978, the amount of assistance for minor repairs is up to \$10,000 regardless of the potential to affect a painted surface. The minimum amount of the loan is \$500. A loan through the program will be secured by a mortgage which will be forgiven in the amount of 20% of the total loan each year until the loan is either forgiven in full or the loan balance is required to be repaid.

Only one minor or emergency repair loan will be awarded for a dwelling during a five-year period. Once a minor or emergency repair loan is fully forgiven, the property will become eligible to re-apply to the program.

Eligible minor repairs may include:

- Any category of activity eligible through the Emergency Repair Program which does not implicate residential health or safety or unit structural integrity.
- Rebuilding existing wheelchair ramps, or installing new ramps on a secondary building elevation where the building is not located on a corner lot.
- Repair (not replacement) of porches, cornices, exterior siding, doors, windows, balustrades, shutters, stairs, or other trim as long as any new materials match existing feature in composition, design, color, texture, and other visual and physical qualities.
- Exterior scraping with non-destructive means and painting of wood siding, features, and trim; exterior painting of masonry, if existing surfaces are already painted. This does not apply to the use of encapsulant paint. No abrasive cleaning is permitted for the removal of any building materials.
- Caulking, reglazing and weather-stripping.

City of Marietta
CDBG Housing Programs Policies and Procedures Manual

- Repair or replacement of asphalt, fiberglass, and asbestos shingle roof covering with the same materials as long as the shape of the roof is not changed.
- Replacement of a flat roof not visible from a public right-of-way as long as the shape of the roof is not changed.
- Repair or replacement of metal gutters and downspouts; and relining, repainting and repair (but not replacement) of box gutters.
- Repair of existing basement floors or the installation of new basement floors.
- Installation of attic insulation.
- Repair (not replacement) of existing interior walls, floors, ceilings, doors, decorative plaster or woodwork provided the work is limited to repainting, in-kind patching, refinishing or repapering.
- Installation of new furnace, boiler or water heater; or furnace cleaning or repair.
- Installation or repair of all electrical, plumbing, heating, ventilation, and air conditioning systems as long as no alteration is made to structural features or decorative features.

In the minor repair program, approved improvements may be undertaken singly or in combination. Note, however, the possibility that not all required improvements will be approved, either because the estimated cost of such bundled improvements would exceed program limits or because certain requested repairs would result in potentially noncompliant work.

Any application involving a request for assistance with any type of project not listed as eligible will be reviewed and determined on a case-by-case basis. However, even in the case of a project listed as eligible, no person has any right to participate in or receive assistance through the City of Marietta's housing programs. The privilege of participating in assisted programming depends on many factors (including risk-worthiness related to the potential for ultimate repayment of unforgiven loan balances), and determinations on applications for assistance are in the discretion of the Marietta Department of Development as the program administrative authority.

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- C. Permit the contractor to use, at no cost, reasonable existing utilities such as gas, water and electricity which are necessary to the performance and completion of the work;

- D. Cooperate fully with the City and the contractor to ensure that the minor repair work will be carried out promptly;
- E. Defend, indemnify and hold harmless the City, its officials, employees and assigns, from all claims, demands, damages, actions, expenses, attorney's fees and causes of action that may arise from an act of God or nature during the rehabilitation of the property;
- F. Agree to maintain the property in a clean, neat and sanitary condition;
- G. Comply and facilitate the City's compliance with all other policies, procedures, laws, regulations and sources of authority which apply to City of Marietta housing programs.

8. Minor Repair Specifications

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- A. Assist the homeowner with the application process, following the policies and procedures generally applicable to City of Marietta housing programs;
- B. Inspect the property as described in the City of Marietta housing programs policies and procedures;
- C. Conduct an environmental review of the proposed project;
- D. Make a decision in the normal course of business (on a non-expedited basis) as to whether the assistance requested meets the criteria of the minor repair program;
- E. Consult with and advise the homeowner of the scope of work approved for program assistance;
- F. Provide resources for the homeowner to use in the identification of contractors for the purpose of soliciting bids without making any contractor recommendations (although any debarred or disqualified contractors may be identified to homeowners);
- G. Facilitate the contract between the homeowner and the homeowner's chosen qualified contractor as described in more detail elsewhere in the housing programs policies and procedures;
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- B. The contractor shall carry or require that there be carried a policy of liability insurance.