

CITY OF SAN MARCOS
Infrastructure and Mitigation Projects
Closeout Policies & Procedures



Community Development
Planning & Development Services

Draft Version 1, Revision 0

VERSION POLICY

This manual will be updated as necessary to conform to changes in local or state law, federal regulations, and material changes to the City's organizational structure as these events occur. It will also be revised to incorporate efficiencies and better practices noted documented during the performance of acquisition and relocation activities.

Version history is tracked in the table below, with notes regarding version changes. The dates of each publication are also tracked in the table.

Future substantive policy changes will result in additional revision and the issuance of a new primary version number such as 2.0, 3.0, etc.

Non-substantial changes, such as minor wording and editing or clarification of existing policy that do not affect the interpretation or applicability of the policy, will be included in minor version updates denoted by a sequential number increase behind the primary version number. Such changes would result in a version number such as 2.1, 2.2, etc.

VERSION HISTORY

Version Number	Description of Revisions	Approval Date

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I. Overview

This manual provides direction for the close out of activities and grants managed by the City of San Marcos (City) using Community Development Block Grant – Disaster Recovery (CDBG-DR), or Community Development Block Grant – Mitigation (CDBG-MIT) funding. It covers major tasks for both project closeout and grant closeout, including closeout of contracts, budgets and program income, project termination, DRGR closeout, and overall grant closeout with HUD, as necessary.

A. Purpose and Scope

By receiving CDBG-DR and CDBG-MIT funds, the City of San Marcos have committed to meeting the required timeframes and allocation and/or expenditure requirements for each grant received, and to provide the necessary progress reporting over the duration of the grant term.

Project or activity closeout is the process the Planning and Development and Community Initiative program staff use to determine that all costs for a project paid with CDBG-DR or CDBG-MIT funds have been incurred and were reasonable and necessary, and all work has been completed in accordance to all applicable laws and regulations. Closeout occurs for a project when it can be determined that there are no further performance needs, all requirements related to the funding source have been met, and any required long-term interest in the project (i.e. property use after an acquisition or purchased equipment) is maintained through the required liens or restrictions, and is documented.

Grant closeout occurs when all funds under an executed grant agreement have been expended on eligible activities and no further projects or activities will be allocated under the agreement. For CDBG-DR and CDBG-MIT, HUD provides procedures for grantees to follow to certify overall compliance, determine the grantee met performance requirements, and to close the grant agreement.

It is important for program staff to manage the processes within this guidance for closeout as CDBG-DR and CDBG-MIT activities are completed in order to ensure all documentation and reporting are finalized and in compliance over the term of the grant, which also sets up the Planning and Development Department for the successful closeout of a grant agreement.

B. Disaster Recovery & Mitigation Allocations

1. CDBG-DR

CDBG-DR funding has been provided for the following disaster events through Public Law 114-113:

- **DR-4223** (Severe Storms, Tornadoes, Straight-line Winds and Flooding): An historic flood event, called the "Memorial Day Flood," occurred between May 23 - 25, 2015. The Blanco and San Marcos rivers rose rapidly as a combined result of higher than average rainfall for the month (causing saturated ground) and a heavy rain event, resulting in property damage and loss of life.
- **DR-4245** (Severe Storms, Tornadoes, Straight-line Winds and Flooding): Also an historic flood event, called the "All Saints Flood" on October 30, 2015 that caused flooding from the Blanco and San Marcos rivers, as well as the Cypress Creek in Wimberley (just north

of San Marcos), creating additional property damage and stalling recovery efforts from the May flood.

CDBG-DR funds under Public Law 114-113 must be expended within six years of the date of the executed grant agreement, unless amended by HUD.

2. CDBG-MIT

CDBG-MIT was allocated as supplemental funding for the recovery of DR-4223 and DR-4245 under Public Law 115-123. CDBG-MIT activities are defined as those that increase resilience to disasters and reduce or eliminate the long-term risk of loss of life, injury, damage to and loss of property, and suffering and hardship, by lessening the impact of future disasters.

The CDBG-MIT allocation received through Public Law 115-123 must be 50 percent expended within six years of the date of the executed grant agreement, and be 100 percent expended within 12 years, unless amended by HUD.

II. Project Closeout

The closeout of a project is a process through which the City determines that all applicable administrative and grant requirements of the project were completed. In general, a project is ready for closeout when the following conditions are met:

- All activities under the project are eligible, were completed, and met a national objective;
- Grant funds allocated to the project were expended on necessary and reasonable costs, and any remaining funds are returned to the grant account;
- All reporting requirements were completed and submitted;
- Any special conditions of the grant were met; and
- All audit and monitoring issues affecting the project and/or grant were resolved.

A. Closeout of a Contract

Subrecipients and contractors are required to submit the following to the City for each contract to complete closeout:

- The final request for funds,
- If applicable, the final products of the grant funding (planning studies, environmental review records, etc.), and

Subrecipients will provide documentation of beneficiaries served or benefited by project activities. Beneficiaries under contractor-based projects will be reported by City program staff.

The City reviews the documentation and processes the final funds request if all provided documentation and the circumstances of the project warrant contract closeout. The Grants Compliance Specialist disencumbers any remaining funds, if applicable, and enters all needed information in DRGR to show the activities and project are “completed.”

Once all documentation has been processed and DRGR has been updated, the City sends a close-out letter to the subrecipient or contractor, outlining all closeout requirements. Subrecipients and contractors are required to retain CDBG-DR records for a period of not less than five years after the fiscal year of their grant in accordance with CDBG-DR record retention requirements. The City notifies subrecipients when the HUD grant has been closed.

If any monitoring concerns or findings, grievances, or discrepancies on quality of work or payment exist, the contract term may end, but the activity may not be completed until all outstanding concerns and interested have been resolved.

B. Property and Equipment Closeout

Prior to activity close-out, the City must ensure any property or equipment acquired as part of the project continues to be used for its intended (and approved) purpose. Assets purchased with CDBG-DR or CDBG-MIT funds must be maintained, inventoried and tracked, and inspected for condition and use regularly, according to the value and amount of funds expended on the property.

Property and Equipment are defined by HUD as the following:

- **Real property:** “real property” means land, including any improvements to and structures located on the land, but excluding any movable machinery or equipment.
- **Personal property:** “personal property” is basically any kind of property other than real property. Personal property can be tangible (such as supplies, furniture, and equipment), or intangible (such as copyrights, patents, and inventions).
 - **Non-expendable personal property**, which generally is considered to include tangible personal property having a useful life of more than 1 year and an acquisition cost of \$300 or more per unit

For real property, the purpose of the property must be maintained for the affordability period required by the grant. Any change of use prior to the grant-set terms, may require recapture of funds, prorated for the time lapsed that the property maintained the approved use.

For non-expendable personal property, an inventory of the purchase must be maintained, with a determination of the useful life of the property. Equipment purchased with CDBG-DR or CDBG-MIT funds must be used by the program or project for which it was acquired, and as long as needed, whether or not the program or project continues to be supported by CDBG funds.

1. Management requirements

For equipment (including replacement equipment) acquired in whole or in part with CDBG funds, the Grants Compliance Specialist will ensure procedures and control systems are in place to keep adequate equipment records, which must include information on:

- Property description,
- Identification,
- Funding source (grant number),
- Title holder,
- Acquisition date and cost,
- Federal share of cost,
- Location, use, and condition,
- Unit acquisition cost,
- Disposition data, and
- Conduct a physical inventory of the property no less often than every 2 years, with a reconciliation of the inventory results with the equipment records.
 - Ensure adequate safeguards for preventing loss, damage, or theft of property

- Maintain the equipment in good condition

2. Disposition

When equipment acquired with CDBG funds is no longer needed for the original project or program or for other activities assisted with Federal funds, the following rules of disposition apply:

- 1) Equipment with a current per-unit fair market value of less than \$5,000 may be retained, sold, or otherwise disposed of.
 - a. If the property is managed by a subrecipient, they must provide notice to the City of their intent to dispose of the equipment and retain the proceeds, which will be considered program income.
- 2) Equipment with a current per-unit fair market value of \$5,000 or more may be retained or sold by the City, with the proceeds of the sale reported as program income.
 - a. If the property is managed by a subrecipient, the subrecipient will provide notice to the City of whether the property will be retained or sold. If the property is sold by the subrecipient, the City has the right to compensation in an amount equal to multiplying the current fair market value or the proceeds from sale by the share of the CDBG investment (percentage) in the original acquisition price of the equipment.

The City may reserve the right to transfer title of the equipment to the Federal Government or a third party (24 CFR 85.32(g)). In addition, per 24 CFR 570.502(a)(8), in all cases when equipment purchased with CDBG funds is sold, the net proceeds are considered program income.

C. Budget Reconciliation

As part of project closeout, the Grants Compliance Specialist ensures all project expenditures have been documented and recorded in the grant account and is in alignment with the approved budget(s) for the CDBG-DR and CDBG-MIT funded activities. For all projects using CDBG-DR and/or CDBG-MIT funds, the Grants Compliance Specialist will verify final costs for the project and ensure all expenditures have been reasonable and eligible for the project and for the grant. Any remaining balance that was not expended by the project at the time of closeout is reallocated to the appropriate CDBG-DR or CDBG-MIT account.

1. Program Income

Program income waivers and alternative requirements may vary by appropriation; therefore, the Federal Register Notice contains requirements for the specific grant on program income. The use of program income is often subject to the CDBG-DR grant's alternative requirements and waivers until grant closeout. Upon closeout of a project, any program income on hand or received subsequently generally becomes part of the CDBG-DR or CDBG-MIT grant to be used for current or planned eligible projects. The City should ensure that it maintains an inventory of acquired real property and equipment during the duration of the grant and properly reports program income in DRGR.

D. Closeout of an Individual Activity (DRGR)

Individual elements of the CDBG-DR grant may be closed out as a course of program completion. Closeout of individual activities will be coordinated between the City and CDBG-DR subrecipients. Upon completion of the activity, the Disaster Recovery Reporting System (DRGR) must be updated with the project status.

As individual activities of the grant are closed, the Grants Compliance Specialist reviews and updates the following in DRGR:

- The total amount of funds drawn down for the activity,
- The activity type,
- The national objective, and
- The grant activity accomplishments.

Individual activity completion should also be reflected in the Quarterly Progress Report (QPR).

III. Project Termination

All contracts in excess of \$10,000 must address termination for cause and for convenience by the City, including how termination would be determined and the basis for settlement. The following summarizes the actions of the Planning and Development Services Department in addressing the termination of a project for cause or for convenience, but does not reflect the full scope or means of the contract terms or laws and statutes required under the City of San Marcos or the State of Texas.

A. Termination for Cause

The City of San Marcos may terminate any activity in whole, or in part, at any time before the date of completion, whenever it is determined that the responsible department, contractor or subrecipient has failed to comply with the conditions of the grant and/or the executed agreement for work using grant funds. If termination for cause is determined to be a necessary step in maintaining compliance with the grant, the Planning and Development Services Director shall promptly notify the recipient in writing of the termination and the reasons for the termination, together with the effective date. If the project is department-lead and funds were used for expenditures by city staff, the Director will address the issue with the project department's director and City leadership, as necessary.

Funds expended through payments to a contractor or subrecipient under a project terminated for cause shall be in accordance with the legal rights and liabilities of the parties. For this type of termination, the City of San Marcos may make the determination to not honor any costs depending on the terms of the contract and the cause for termination. If funds have been paid to the project, contractor or subrecipient, the City may seek to recapture the payments and reimburse funds to the grant.

Funds expended on city-lead projects may need to be reimbursed to the grant through local sources, especially if it is determined that costs were not eligible, and cannot be related to another eligible grant project.

B. Termination for Convenience

The City may terminate any activity in whole, or in part, when the continuation of a project would not result in the desired outcomes with the available allocation of CDBG-DR or CDBG-MIT funds. Planning and Development Services and the recipient of the agreement, which may be another city department, contractor, or subrecipient, shall agree upon termination conditions, including the effective date and, in the case of partial terminations, the portion to be terminated. The recipient shall not incur new obligations for the terminated portion after the effective date, and shall cancel as many outstanding obligations as possible.

Planning and Development Services will review funds expended for the activity, and consider all circumstances under which an activity is to be terminated. The recipient may be requested to provide a cost analysis of funds received for the project and the benefits provided for eligible activities. The Planning and Development Services Director and program staff may use this to compare the costs of completing the remaining elements of the project, and determine, on a case-by-case basis, if any eligible, incurred costs will be honored or may require recapture.

C. Unavailable Funding

All grant funded activities are contingent upon the appropriation and release of sufficient funds to the City of San Marcos to fulfill the requirements of the grant. If the appropriate authorities fail to approve and provide an adequate budget to the City to fulfill the requirements of the grant, the activity may be terminated by the City. If a contracted activity is terminated due to lack of funding, the City will follow the terms of the agreement to determine if any eligible, incurred costs for authorized services performed prior to termination may be provided.

IV. Grant Closeout

A. Criteria for Closeout

The City will verify all activities within the program have completed a final project/activity closeout and that expenditures for each activity are accurate in DRGR.

The CDBG grant can be closed out when the following criteria have been met:

- 1) All activities are eligible, were completed and met a national objective.
- 2) The City did not expend more than:
 - a. 20 percent of its grant on eligible planning and general administrative activities with administrative activities not exceeding 5 percent; and
 - b. 15 percent of its grant on public services.
- 3) In addition, specific to CDBG-DR and CDBG-MIT:
 - a. **CDBG-DR:** Not less than 70 percent of the CDBG-DR funds allocated under Public Law 114-113 may be expended to meet the LMI National Objective.
 - b. **CDBG-MIT:** No less than 50 percent of the CDBG-MIT funds allocated under Public Law 115-123 may be expended to meet the LMI National Objective.
- 4) All grant funds were expended in full or all remaining funds are to be returned to HUD.

- 5) All reporting requirements were completed and submitted (except for the final report that is submitted during the closeout process, if applicable)
- 6) Any special conditions were met.
- 7) All audit and monitoring issues affecting the grant were resolved.

B. Closeout Readiness

Upon determination that at least 90 percent of the funds have been drawn down and most activities are reporting accomplishments, the City will address the closeout process with HUD.

Once the City and HUD staff jointly determine that the City is prepared to being the closeout process, HUD will inform the grantee that the closeout process has commenced and of the next steps to be taken. The City must complete and return a Grantee Closeout Certification¹ and Closeout Checklist² to HUD.

1. Closeout Checklist

The Closeout Checklist accounts for:

- Program income on hand,
- The eligibility of CDBG-DR or CDBG-MIT activities consistent with the federal register notices governing the grants,
- Unused grant funds to be cancelled by HUD,
- Draw down caps for admin, planning, and public services,
- Regulatory expenditure requirements for the LMI national objective, accounting for all activities as eligible and meeting a national objective, monitoring and oversight of subrecipients,
- HUD monitoring findings,
- OIG audit findings,
- Citizen complaints,
- Reporting systems, and
- Compliance with applicable certifications to the Federal Register Notice.

2. Grantee Closeout Certification

HUD will complete and execute the Grantee Closeout Certification after HUD determined that the criteria for closeout were met.

The City certifies that: (1) the grant as described in the approved application has been performed in accordance with the terms and conditions of the Grant Agreement and that there are no known outstanding programmatic or financial issues; and (2) all data provided on the Grantee Closeout Certification form fairly reflect costs and sources of funds of the CDBG-DR grant and are taken from HUD-approved reports and other project-related documents.

¹ CDBG-DR Grantee Closeout Certification, HUD Form 40156 - <https://www.hud.gov/sites/documents/40156.pdf>

² CDBG-DR Closeout Checklist, HUD Form 40157 - <https://www.hud.gov/sites/documents/40157.pdf>

C. Closeout in DRGR

DRGR reports for the City and HUD to verify readiness for closeout:

- 1) Fin Report 01
 - a. Verify the CDBG-DR or MIT Grantee has not exceeded the following Disbursement caps: Administrative 5 percent, Administrative + Planning 20 percent, and Public Services 15 percent
 - b. Verify the CDBG-DR or MIT Grantee has disbursed sufficient CDBG-DR or MIT funds to satisfy the low- and moderate-income overall benefit requirement, as stipulated in the relevant CDBG-DR or CDBG-MIT Federal Register Notice.
- 2) Fin Report 06a
 - a. Verify all CDBG-DR or CDBG-MIT funds have been disbursed or identify amount of proposed recapture.
- 3) Fin Report 07b
 - a. Verify each CDBG-DR or CDBG-MIT activity is marked "Complete", fully disbursed, and fully expended.
- 4) Perf Report 06
 - a. Verify FHEO units reported equal total units assisted. The City must report FHEO performance for all CDBG-DR or CDBG-MIT assisted units, therefore, FHEO units must equal total assisted units.
- 5) Perf Report 01
 - a. Verify each activity is reported "Complete" or "Cancelled" and minimum required Performance data is entered according to the Minimum Performance Metrics Chart in the DRGR Guidance Manual.

D. Closeout Action

To ensure that the criteria for closeout have been met, the HUD office will review the closeout documents submitted by the City for consistency with the following HUD files and systems.

1. **Line of Credit.** Check to determine if the City has any remaining funds in the line of credit. Any remaining funds will be cancelled through the closeout process.
2. **Audit Reports and Monitoring Letters.** Review the files to determine if there are any HUD unresolved monitoring findings, OIG audit findings, Single Audit findings, and/or citizen complaints.
3. **DRGR Reports or Financial Status Reports.** Check to determine all grant funds have been drawn down and all activities have been completed. Reconcile the DRGR reports listed above.

Within 90 days of the Closeout Certification execution, the City shall submit its final performance report in the DRGR system. If the City has already submitted its final performance report, no additional report is required to be submitted. If an acceptable report is not submitted, an audit of the City's activities may be conducted by HUD.

Based on the information in the final performance report and other relevant information, HUD will prepare a closeout agreement. Any obligations remaining as of the date of the closeout shall be covered by the terms of a closeout agreement. The agreement shall be prepared by the HUD field office in consultation with the City, must be executed by the City and the appropriate HUD official, and will be forward to the applicable HUD Accounting Center.

E. Program Income

Under the City's CDBG-DR and CDBG-MIT Action Plans, the City does not anticipate generating program income from the activities utilizing the CDBG-DR or CDBG-MIT grants. In the event program income is generated, the City will comply with HUD requirements found in 24 CFR 570.489 and any additional Federal requirements found in 2 CFR 200.307. In the event the activities generate program income, those funds, will be distributed before the City made additional drawdowns in DRGR.

1. Transfer of Program Income Funds

Should any program income funds be generated and remain at the time HUD approves the City to proceed with closeout of CDBG-DR and CDBG-MIT grants, the City will transfer the program income funds to the City's CDBG Entitlement program. HUD must approve the program income transfer prior to the City initiating this action.

Any program income generated by CDBG-DR and CDBG-MIT funds transferred to CDBG becomes CDBG and is subject to all CDBG rules and regulations.

The following process will be followed to transfer the program income from the Disaster Recovery Reporting System to the Integrated Information and Disbursement System (IDIS).

- 1) *Reconcile Program Income* – The City will reconcile program income balances before the local HUD Field Office approves a request to transfer CDBG-DR and/or CDBG-MIT funds to the CDBG program.
- 2) *Request Transfer from HUD Field Office* – Once the City has reconciled its CDBG-DR or CDBG-MIT program income receipts and drawdown in DRGR with corresponding internal financial records, the City will submit a written request to the local Field Office for the transfer of CDBG-DR and/or CDBG-MIT program income to its CDBG program. This request is to include the following:
 - a. Grant number, specific appropriation, and activity number(s) associated with the CDBG-DR or CDBG-MIT activity that generated the program income;
 - b. Amount of available CDBG-DR or CDBG-MIT program income, including:
 - The amount of program income receipted and drawn in DRGR and the remaining DRGR program income balance;
 - The amount of program income that has not been receipted in DRGR;
 - The amount of CDBG-DR or CDBG-MIT program income to be transferred for this request. *Note: only program income on-hand (receipted and not receipted) at the time of the request may be transferred.*
 - A copy of the CDBG-DR or CDBG-MIT program income reconciliation record;
 - A statement that DRGR agrees with the City's internal financial records less any CDBG-DR or CDBG-MIT program income on-hand that has yet to be receipted in DRGR; and
 - Compliance with program caps should be performed after subtracting the CDBG-DR or CDBG-MIT program income that is proposed to transfer to the CDBG program.

Following Field Office review and approval, the City must scan and upload HUD's written response to the Administrative Activity in the DRGR Action Plan module as documentation of authorizations. In addition, the City must note in its current Quarterly Performance Report (QPR):

- 1) HUD's approval,
- 2) Date of approval,
- 3) The amount of CDBG-DR or CDBG-MIT program income approved for transfer, and
- 4) The activity number(s) associated with the CDBG-DR or CDBG-MIT activity(ies) that generated the program income in the Overall Narrative Section of the QPR.

The CDBG-DR or CDBG-MIT program income transfer is to be completed promptly after the date of receipt of HUD's authorization. The Grants Compliance Specialist will then cancel all DRGR program income receipts that will be received in IDIS as part of the transfer.

CDBG program income will be accounted for in the CDBG Annual Action Plan of the year that the program income was received by the CDBG program.

Funds not transferred to the CDBG program must continue to be used for CDBG-DR or CDBG-MIT purposes and meet the relative reporting and compliance requirements for the applicable DR and MIT regulations before and after the closeout.

The City is required to submit to HUD its written policies and procedures outlining the option for transfer of CDBG-DR and/or CDBG-MIT program income, and will comply with all applicable HUD program procedures to transfer program income funds from DRGR to IDIS. In all cases, the City is responsible for reporting all program income received and either transferred to CDBG or received and used for CDBG-DR or CDBG-MIT activities.

F. Recordkeeping

Unless provided otherwise in an applicable Federal Register Notice, the City will maintain all records and documents pertaining to this grant for a period of 5 years after execution of the closeout agreement with HUD to ensure that all applicable record retention requirements are met.

The City will maintain files documenting its certifications, the eligibility and national objective classification for each funded activity, and all financial records. The City will also maintain documentation of compliance with the unique requirements applicable to each allocation of disaster recovery or mitigation supplemental funds.