



## BCC Guidance for Using “Memorandum to File” for Documentation Purposes

### *Documentation and Record Keeping*

The CDBG-DR funds allocated from the U.S. Department of Housing and Urban Development (HUD) must comply with the same documentation requirements as used in the regular CDBG programs under 24 CFR Part 570.

#### **§ 570.490 Recordkeeping requirements.**

(b) *Unit of general local government's record.* The State shall establish recordkeeping requirements for units of general local government receiving CDBG funds that are sufficient to facilitate reviews and audits of such units of general local government under §§570.492 and 570.493. For fair housing and equal opportunity purposes, and as applicable, such records shall include data on the racial, ethnic, and gender characteristics of persons who are applicants for, participants in, or beneficiaries of the program.

#### **§ 570.506 Records to be maintained.**

Each recipient shall establish and maintain sufficient records to enable the Secretary to determine whether the recipient has met the requirements of this part. At a minimum, the following records are needed:

(a) Records providing a full description of each activity assisted (or being assisted) with CDBG funds, including its location (if the activity has a geographical locus), the amount of CDBG funds budgeted, obligated and expended for the activity, and the provision in subpart C under which it is eligible.

The CFR provides specific types of documentation required for each type of activity and national objective being documented. For more specific documentation requirements see 24 CFR 570.506(b)-(j).

### *Missing Documentation*

HUD has a rule of thumb that “if it’s not documented, it didn’t happen”. Therefore, it is very important not to leave any holes in your records or documentation that are required to support a HUD funded activity. One method that has been allowed by HUD for overcoming some types of missing records or documentation is adding a “Memo to File”. The Memo to File is extremely useful for helping the file “tell the story” during an audit or other types of compliance reviews.

HUD (or any other file monitor) has an expectation that they can sit down with a project file and by going through the documentation be able to find and understand the relevant information about what was funded and why it was eligible to be funded with CDBG-DR. In other words, “all the dots need to be connected”. The key information that HUD wants to see documented and tie together include the following:

- What is the unmet need and how was it identified?
- How is the activity or project eligible? For CDBG-DR includes how the project/activity ties back to the disaster.
- Who is the beneficiary and how was this beneficiary determined eligible?
- How much CDBG-DR funding was determined eligible for this activity and how was that dollar amount determined?
- Did the beneficiary receive the funds that were awarded and were those funds spent on the activity which was determined eligible?
- Will procurement be needed to provide the beneficiary with the eligible awarded activity, and if so, was the Federal, State, and local procurement processes followed?
- Do expenditures paid from the beneficiary's award verify that the invoices were reviewed before payment and determined to be necessary, reasonable, and within the scope of the award amounts and eligible activity?

A Memo to File can help to link different documentation together to connect the dots. However, a Memo to File **cannot take the place of a specific required document**. In the instance where a specific required document was not kept, a memo to file can describe what happened and why that documentation is not in the file to help a monitor understand what occurred. However, this does not in any way guarantee that a finding, concern, or recapture of funds would not occur due to the missing document. In some instances, reimbursement may not be possible at all due to the missing document.

#### *Examples of Appropriate and Inappropriate Use of a Memo*

The examples below are in no way fully exhaustive of all appropriate and inappropriate uses of a memo. Specific project circumstances must be taken into account.

Inappropriate use of a memo:

- 1) Inappropriate: Memo in lieu of taking action when said action can still be taken to provide complete file documentation. For example, if photos to verify repairs for DOB credits are able to be taken now, even if after the fact, they should be taken.
  - a) Appropriate use of a memo in this instance: to describe why it is infeasible or impossible to take photos now.
- 2) Inappropriate: Memo in lieu of providing proof of payment.
  - a) Appropriate use of a memo in this instance: to describe anomalies in the documentation and to explain why the alternate document(s) serve the same purpose.
- 3) Inappropriate: Memo in lieu of completing DOB third party verification.
  - a) Appropriate use of a memo in this instance: to describe attempts to gain 3<sup>rd</sup> party verification and how those attempts have exhausted the possibilities of obtaining verification.
- 4) Inappropriate: Memo in lieu of compliance with procurement provisions in 2 CFR 200. For example a memo cannot take the place of a pre-bid estimate or scoring sheets.
  - a) Appropriate use of a memo in this instance: to describe where procurement provisions can be found in a project file if they are in an inconspicuous location, for instance if notice to proceed is embedded in contract language.