

STATEMENT OF ASSURANCES
Small Communities Program Division

APPLICANT NAME:

The applicant or grantee hereby assures and certifies that:

- (A) It possesses legal authority to apply for the grantee, to execute the proposed program, and meets the general qualifications criteria of Act 179.

LEGAL
AUTHORITY

- (B) Its governing body has duly adopted or passed as an official act, a resolution, motion or similar action authorizing the filing of the application, including all understandings and assurances contained therein, and directing and authorizing the person identified as the official representative of the applicant to act in connection with the application and to provide such additional information as may be required.

OFFICIAL
RESOLUTION

- (C) It has established a citizen participation mechanism which:

CITIZEN
PARTICIPATION

- (1) Provides an opportunity for citizens to participate in the development of the application, encourages the submission of views and proposals, particularly by residents of blighted neighborhoods and citizens of low and moderate income, and provides for timely responses to the proposals submitted.

- (2) Provides citizens with adequate information concerning the amount of funds available for proposed community development and housing activities, the range of activities that may be undertaken, and other important program requirements.

- (3) Provides citizens with an opportunity to submit comments concerning the community development performance of the applicant.

- (4) Provides for one or more public hearings on the proposed application before adoption of a resolution or similar action by the local governing body authorizing the filing of the application.

- (5) Adheres to the Department's CDBG Citizen Participation Plan.

- (6) Provides for a timely written answer to written complaints and grievances, within 15 working days where practicable.

- (7) Identifies how the needs of non-English speaking residents will be met in the case of public hearings where a significant number of non-English speaking residents can be reasonably expected to participate.

- (D) In the event the applicant or grantee wishes to request a major revision to its original application or subsequent grant, the applicant or grantee will provide for public hearings to obtain the views of citizens on community development and housing needs and proposed revisions.

- (E) It will provide citizens with reasonable access to records regarding its CDBG assisted activities and management.

ACCESS TO
INFORMATION

- (F) The program described in the application will continue to give maximum feasible priority to activities which will benefit low and moderate income families or aid in the prevention or elimination of slums or blight; the use of funds may also include activities which the grantee certifies are designed to meet other community development needs having a particular urgency because existing conditions pose a serious and immediate threat to the health or welfare of the community where other financial resources are not available to meet such needs. It will ensure that not less than 70 percent of funds received as a result of this application will be used for activities that principally benefit persons of low and moderate income.

**PROGRAM
PRIORITIES**

- (G) It will comply with the requirements and policies of 24 CFR Part 85 entitled: "Uniform Administrative Requirements for Grantees and Cooperative Agreements to State and Local Governments", as specified in 24 CFR Part 570.502; OMB Circular A-110 entitled: "Uniform Administrative Requirements for Grants and Agreements with Institutions of Higher Education, Hospitals, and Other Nonprofit Organizations"; OMB Circular A-87 entitled: "Cost Principles for State and Local Governments"; OMB Circular A-122 entitled: "Cost Principles for Nonprofit Organizations"; OMB Circular A-128 entitled: "Audits of State and Local Governments", Treasury Circular 1075; and A-21 "Cost Principles for Educational Institutions".

**FINANCIAL
REQUIREMENTS**

- (H) It will comply with the Architectural Barriers Act of 1968, P.L. 90-480, as amended (42 U.S.C. 4151 *et. seq.*). This requires that every building or facility (other than a privately owned residential structure) designed, constructed, or altered with funds provided under this Part to comply with the "American Standard Specifications for Making Buildings and Facilities Accessible to, and Usable by, the Physically Handicapped," Number A-117.1-R 1971, subject to the exceptions contained in 41 CFR 101-19.604. The applicant will be responsible for conducting inspections to ensure compliance with these specifications by the contractor.

**ARCHITECTURAL
BARRIERS**

- (I) It will comply with:

- (1) Title VI of the Civil Rights Act of 1964, P.L. 88-352 (42 U.S.C. 2000d *et. seq.*) and the regulations issued pursuant thereto (24 CFR Part 1), which provides that no persons in the United States shall on the grounds of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity for which the applicant receives Federal financial assistance and will immediately take any measures necessary to effectuate this assurance. If any real property or structure thereon is provided with the aid of Federal financial assistance extended to the applicant, this assurance shall obligate the applicant or in the case of any transfer of such property, any transferee, for the period during which the real property or structure is used for a purpose for which the Federal financial assistance is extended, or for another purpose involving the provision of similar services or benefits.

**CIVIL
RIGHTS**

Title VI states that:

"No person in the United States shall, on the ground of race, color, or national origin be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance."

Section 1.4b(2)(i) of the regulations issued pursuant to Title VI requires that

"A recipient in determining the types of housing accommodations facilities, services, financial aid, or other benefits which will be provided under any such program or activity, the class of persons to whom, or the situations in which, such housing, accommodation, facilities, services, financial aid, or other benefits will be provided under any such program or activity, or the class of persons to be afforded an opportunity to participate in any such program or activity, may not directly or through contractual or other arrangements, utilize criteria or methods of administration which have the effect of subjecting persons to discrimination because of their race, color, or national origin or have the effect of defeating or substantially impairing accomplishments of the objectives of the program or activity as respect to persons of a particular race, color, or national origin."

- (2) Title VIII of the Civil Rights Act of 1968, as amended by Fair Housing Amendments Act of 1988 (42 U.S.C. 3601-20) which states that no person shall be subjected to discrimination because of race, color, religion, sex, handicap, familial status, or national origin in the sale, rental, or advertising of dwellings, in the provision of brokerage services, or in the availability of residential real estate-related transactions; and requires that grantees administer all programs and activities related to housing and community development in a manner to affirmatively further fair housing.

FAIR
HOUSING

Executive Order 11063 and the regulations contained in 24 CFR Part 107 requires that all action necessary and appropriate be taken to prevent discrimination because of race, color, religion (creed), sex, or national origin in the sale, rental, leasing, or other disposition of residential property and related facilities or in the use or occupancy thereof where such property or facilities are owned or operated by the Federal Government or provided with Federal assistance by HUD and in the lending practices with respect to residential property and related facilities of lending institutions insofar as such practices relate to loans insured, guaranteed or purchased by the Federal Government.

- (3) Section 109 of the Housing and Community Development Act of 1974, P.L. 93-383 (42 U.S.C. 5309) and the regulations issued pursuant thereto (24 CFR Part 570.602), which provide that no person in the United States shall, on the grounds of race, color, national origin, or sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity funded in whole or in part with funds provided under this Part.

EQUAL
OPPORTUNITY

- (4) Age Discrimination Act of 1975, P.L. 94-135 (42 U.S.C. 6101 *et seq.*).

AGE

- (5) §504 of the Rehabilitation Act of 1973, P.L. 95-602 (29 U.S.C. 794) and HUD implementing regulations at 24 CFR Part 8.

HANDICAPPED
PERSONS

- (6) Executive Order 11246, Equal Opportunity in Federal Employment, September 24, 1965 (30 FR 12319), as amended by Executive Order 12086, October 5, 1978 (43 FR 46501), and the regulations issued pursuant thereto (24 CFR Part 130 and 41 CFR Chapter 60), which provides that no person shall be discriminated against on the basis of race, color, religion, sex or national origin in all phases of employment during the performance of Federal or Federally assisted construction contracts. Contractors and subcontractors on Federal and Federally assisted construction contracts shall take affirmative action to ensure fair treatment in employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination, rates of pay or other forms of compensation and selection for training and apprenticeship.

(7) Executive Order 11625, October 13, 1971 which prescribes additional arrangements for developing and coordinating a national program for Minority Business Enterprise (36 FR 9967).

(8) Executive Order 12138, May 18, 1979 (44 FR 29637) which creates a National Women's Business Enterprise Policy.

(9) Pennsylvania Human Relations Act of October 27, 1957, P.L. 744, (43 P.S. 951-963) which provides that no employee, applicant for employment, independent contractor, or any other person shall be discriminated against because of race, color, religious creed, ancestry, national origin, age, or sex.

(J) It will comply with Section 3 of the Housing and Urban Development Act of 1968, P.L. 90-448, as amended (12 U.S.C. 1701(u)) requiring that to the greatest extent feasible opportunities for training and employment be given to low and moderate income residents of the applicant's county and contracts for work in connection with the project be awarded to eligible business concerns which are located in, or owned in substantial part by, persons residing in the applicant's county.

(K) It certifies that it has developed and adopted a residential antidisplacement and relocation assistance plan.

(L) It will comply with the Uniform Relocation Assistance Real Property Acquisition Policies Act of 1970, as amended by (42 U.S.C. 4601) and the regulations at 42 CFR Part 24 which apply to the acquisition of real property by a State agency for an activity assisted with CDBG funds and to the displacement of any family, individual, business, nonprofit organization or farm that results from such acquisition; and

Will comply with Section 104(k) of the Housing and Community Development Act of 1974, as amended which requires that (i) reasonable relocation assistance be provided (at a minimum, the assistance shown in 24 CFR Part 570.606(c) shall be provided) to persons displaced as a result of the use of CDBG funds to acquire or substantially rehabilitate property and (ii) will develop, adopt and provide to persons to be displaced a written notice of the relocation assistance for which they are eligible; and

Will comply with the Eminent Domain Code Act of June 22, 1964, Special Session, P.L. 84, as amended, 26 P.S. 1-101 *et seq.*

(M) It will not attempt to recover any capital costs of public improvements assisted in whole or in part by CDBG funds or with amounts resulting from a guarantee under Section 108 of the 1974 Housing and Community Development Act by assessing any amount against properties owned and occupied by persons of low and moderate income, including any fee charged or assessment made as a condition of obtaining access to such public improvement, unless (i) CDBG funds are used to pay the proportion of such fee or assessment that relates to the capital costs of such public improvements that are financed from revenue sources other than under this title; or (ii) for purposes of assessing any amount against properties owned and occupied by persons of moderate income who, the grantee certified to the State, as the case may be, that it does not have sufficient CDBG funds to pay the assessments in behalf of all of the low and moderate income owner-occupant persons.

(N) It will comply with the provisions of the Hatch Act, P.L. 85-554 (5 U.S.C. 1501 *et seq.*) which limits the political activity of employees.

EMPLOYMENT

DISPLACEMENT

ACQUISITION/ RELOCATION

BENEFIT ASSESSMENTS FOR PUBLIC IMPROVEMENTS

HATCH ACT

(O) It will comply with the labor standards set forth in Section 110 of the Housing and Community Development Act of 1974, as amended, and HUD's implementing regulations. The standards include, where applicable, the following:	LABOR STANDARDS
(1) The Davis-Bacon Act, P.L. 86-624, as amended (40 U.S.C. 276a-276a-5).	
(2) Contract Work Hours & Safety Standards Act, P.L. 87-581 (40 U.S.C. 327 <i>et seq.</i>).	
(3) Copeland "Anti-kickback" Act (40 U.S.C. 276c).	
(4) 29 CFR Parts 1, 3, 5, 6, and 7.	
(P) Its chief executive officer or other appropriate officer/officers consents to assume the status of a "responsible federal official" under the National Environmental Policy Act of 1969 (NEPA) P.L. 91-190 (42 U.S.C. 4321 <i>et seq.</i>). The applicant will assume responsibility for environmental review, decision-making and action under NEPA and HUD regulations at 24 CFR Part 58. The applicant further certifies that it has complied with and will comply with 24 CFR Part 58 and the statutes and authorities contained in 24 CFR Part 58.5 in the administration of its project.	ENVIRONMENTAL CLEARANCE
(Q) It will ensure that the facilities under its ownership, lease or supervision which shall be utilized in the accomplishment of a program are not listed on the Environmental Protection Agency's (EPA) list of Violating Facilities and that it will notify HUD of the receipt of any communication from the Director of the EPA Office of Federal Activities indicating that a facility to be used in the project is under consideration for the listing by the EPA.	VIOLATING FACILITIES LIST
(R) It will establish safeguards to prohibit employees from using positions for a purpose that is or gives the appearance of being motivated by a desire for private gain for themselves or others, particularly those with whom they have family, business, or other ties.	CONFLICT OF INTEREST
(S) It will comply with Title IV of the Lead Base Paint Poisoning Prevention Act, P.L. 91-695, as amended, (42 U.S.C. 4831) and the regulations issued pursuant thereto (24 CFR Part 35).	LEAD BASED PAINT
(T) It will comply with the Cost Effective Energy Conservation and Effectiveness Standards, P.L. 95-557 (42 U.S.C. 1425(b) and the regulations issued pursuant thereto (24 CFR Part 39).	ENERGY CONSERVATION
(U) It will comply with the Pennsylvania Flood Plain Management Act 166 (32 P.S. §697.101 - 679.601) and the regulations issued pursuant thereto (Title 16, Chapter 38).	FLOOD PLAIN
(V) It will comply with the Pennsylvania Steel Products Procurement Act of March 3, 1978, (P.L. 6, No. 3, §1, 73 P.S. §1881 <i>et seq.</i>).	STEEL PRODUCTS
(W) It will comply with the Separations Act of May 1, 1913, P.L. 155, 1, as amended, December 22, 1981, P.L. 546, No. 159, §1, 53 P.S. §1003, as applicable.	SEPARATIONS ACT
(X) It will comply with Section 6002 of the Resource Conservation and Recovery Act of 1976 (42 U.S.C. 6962) and the regulations issued pursuant thereto (40 CFR Part 249) for the procurement of materials composed of the highest percentage of recovered material practicable.	RESOURCE CONSERVATION

LOBBYING

(Y) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

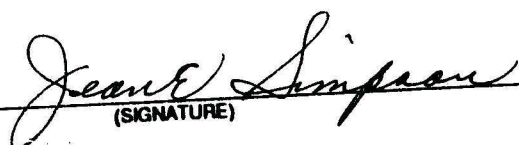
If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants and contracts under grants, loans and cooperative agreement) and that all subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

(Z) It has adopted and will enforce a policy prohibiting the use of excessive force by law enforcement agencies within its jurisdiction against any individuals engaged in nonviolent civil rights demonstrations and a policy of enforcing state and local laws against physically barring entrance to or exit from a facility or location which is the subject of such non-violent civil rights demonstrations within its jurisdiction.

EXCESSIVE FORCE


(SIGNATURE)

JANUARY 9, 1995
(DATE)

JEAN E. SIMPSON, BOROUGH COUNCIL PRESIDENT
(NAME/TITLE)

GETTYSBURG,
(MUNICIPALITY)

ADAMS
(COUNTY)

APPENDIX H
SAMPLE MINORITY BUSINESS ENTERPRISE PLAN

TABLE OF CONTENTS

SECTION	PAGE
Definitions	i
Policy Statement	1
Procedures - Invitations for Bids (IFB) or Request for Proposals (RFP)	2
Advertisement - IFB Only	2
Notification of MBE/WBE - IFB and RFP	2
Participation Requirements for Minority/Women Business Enterprise (MBE/WBE) and Socially/Economically Restricted Businesses (SERBs)	3
Procedures - Contractor Compliance Process	7
Contract Provisions	7
Grantee Compliance Procedures	9
Records and Reports	9

EXHIBITS

Exhibit 1 -	MBE/WBE Contact/Solicitation and Commitment Statement Form STD-168
Exhibit 2 -	Prime Contractor's Quarterly Utilization Report
Exhibit 3 -	Subcontractor's Quarterly Utilization Report
Exhibit 4 -	Letter to Prime Contractor Regarding Reporting Requirement
Exhibit 5 -	Letter to Subcontractors Regarding Reporting Requirement
Exhibit 6 -	RFP Evaluation Checklist
Exhibit 7 -	Evaluation and Determination Examples - Responsive Bids
Exhibit 8 -	Evaluation and Determination Examples - Not Responsive Bids

DEFINITIONS

For the purpose of these requirements, the following terms, as defined below, shall apply:

1. **GRANTEE** - Municipality under contract with the Commonwealth for receipt of DCA funds.
2. **ADMINISTERING AGENCY** - The agency responsible for administering the grants for the Grantee.
3. **BIDDER RESPONSIVENESS** - Actions taken by prime contract bidders to seek participation by MBE/WBE suppliers, manufacturers, and subcontractors. Responsiveness includes submission of Form STD-168, MBE/WBE Contract/Solicitation and Commitment Statement, and if needed; an explanation for failure to achieve minimum levels of participation, including demonstration that the bidder has not engaged in discriminatory practices.
4. **BIDDER RESPONSIBILITY** - Non-discrimination in the selection of subcontractors, suppliers, and manufacturers. Non-discrimination is presumed if minimum levels of participation are achieved. Non-discrimination can also be demonstrated by submitting Form STD-168 and supplemental evidence that failure to achieve minimum levels of participation was not motivated by consideration of race or gender; that MBEs/WBEs were not treated less favorably than others; and that solicitation and commitment decisions were not based upon policies which disparately affect MBEs/WBEs.
5. **BUSINESS ENTERPRISE** - Any legal entity which is organized in any form other than as a joint venture (e.g., sole proprietorship, partnership, corporation, etc.) to engage in lawful commercial transactions.
6. **CONTRACTOR/SUBCONTRACTOR** - One who participates, through a contract, subcontract, or lease agreement, in any manner covered by the grantee's MBE/WBE Program.
7. **CONTROL** - The exclusive or ultimate and sole control of a business including, but not limited to, capital investment and all other financial, property, acquisition, contract negotiation, and legal matters, officer-director-employee selection and comprehensive hiring, operating responsibility, cost-control matters, income and dividend matters, financial transactions, and rights of other shareholders or joint partners. Control shall be real, substantial, and continuing, not pro forma. Control shall include the power to direct or cause the direction of the management and policies of the business and to make the day-to-day as well as major decisions in matters of policy, management, and operations. Control shall be exemplified by possession of the requisite knowledge and expertise to run the particular business and control shall not include majority or absentee ownership. Further, control by a minority individual or woman shall not be deemed to exist in any case where any non-minority owner or employee of the business is disproportionately responsible for the operation of the firm.

8. **MINORITY BUSINESS ENTERPRISE (MBE)** - A business concern that is:
- a. a sole proprietorship, owned and controlled by a minority; or
 - b. a partnership or joint venture controlled by minorities in which 51% of the beneficial ownership interest is held by minorities; or
 - c. a corporation or other entity controlled by minorities in which at least 51% of the voting interest and 51% of the beneficial ownership interest are held by minorities.
9. **MINORITY PERSON** - Persons who are citizens of the United States and who are Black Americans, Hispanic Americans, Native Americans, or Asian-Pacific Americans.
- a. **Black (African) Americans** - Persons having origins from any of the Black groups of Africa. The term includes persons having origins in any of the original peoples of the Cape Verde Islands.
 - b. **Hispanic Americans** - Persons having their origins from one or more of the Spanish-speaking peoples of Mexico, Puerto Rico, Cuba, Central or South America or the Caribbean Islands.
 - c. **Native Americans** - Persons having origins from one or more of the original peoples of North America and who are recognized as an Indian by a tribe or tribal organization.
 - d. **Asian-Pacific Americans** - Persons having origins from one or more of the original peoples of the Far East, Southeast Asia or the Pacific Islands, including China, Japan, Korea, Samoa, and the Philippine Islands.
10. **SOCIALLY/ECONOMICALLY RESTRICTED BUSINESS (SERB)** - SERBs are businesses whose economic growth and development has been restricted based on social and economic bias. Such businesses are MWBE certified minority and women owned businesses and certain restricted businesses whose development has been impeded because their primary or headquarter facility is physically located in an area designated by the Commonwealth as being in an enterprise zone. Businesses will not be considered socially/economically restricted if one of the conditions listed below exists:
- a. The business has gross revenues exceeding four million dollars annually; or
 - b. The concentration of an industry is such that 50 percent of the market is controlled by the same type of SERB (MBE\WBE) or businesses within designated enterprise zones.
11. **WOMEN'S BUSINESS ENTERPRISE (WBE)** - A business concern that is:
- a. a sole proprietorship, owned and controlled by a woman; or