

New York State LEGISLATIVE MEMBER ITEM PROGRAM



**Homes and
Community Renewal**

OFFICE OF COMMUNITY RENEWAL

ANDREW M. CUOMO, GOVERNOR
DARRYL C. TOWNS, COMMISSIONER

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Community Renewal**

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Legislative Member Item Program Manual

Program Summary

The Legislative Member Item Program (MIP) is funded by the New York State Legislature to support the efforts of the not-for-profit companies, municipalities, and other organizations found eligible by the Legislature. **This program has not been funded in the budget for several years. Awards currently being funded are from past fiscal years. Upon disbursement of funds for these past awards MIP is expected to close.**

New York State Homes and Community Renewal's (HCR) Office of Community Renewal (OCR) administers MIP awards relating to housing, community development, community renewal, preservation, or promotional activities such as newsletters or community meetings. MIP funds are generally used for administration, planning, capital programs, and other costs necessary for initiating or continuing specified community-based activities. **All recipients of MIP awards must comply with the procedures set forth in this Manual.**

This Manual provides: 1) general requirements applicable to all awardees; 2) procedures for awards \$14,999 and under; 3) procedures for awards in an amount \$15,000 up to \$49,999; and 4) procedures for awards \$50,000 and over.

Awardees should also refer to their MIP Agreement and direct all questions to the OCR staff before undertaking activities where there are questions or concerns. Failure to follow these instructions in the administration of a MIP award may result in the repayment, recapture, or de-obligation of funds awarded, and may adversely impact the future eligibility of an awardee to receive other program funds awarded by NYS Homes & Community Renewal (HCR).

This Manual establishes procedures for the administration of the MIP. As you review this manual please be reminded that:

- The MIP awards are funded at three levels:
 - under \$14,999;
 - \$15,000 - \$49,999;
 - \$50,000 and over.
- **The contract documents required are different for the three funding levels.** Please pay careful attention to the contract package requirements for the funding level of your organization's award.
- All awardees will enter into a contract with HCR. The awardee will complete all contract documents and return the contract package to the OCR for execution.

Legislative Member Item Program information may be found at:
<http://www.nyshcr.org/Programs/LegislativeMemberItem/>.

All MIP forms are available for download by award recipients at:
<http://www.nyshcr.org/Forms/LegislativeMemberItem/>. Forms are available in PDF only.

If after reviewing this manual an award recipient has questions regarding the administration of the MIP please contact the OCR staff at:

Legislative Member Item Program
NYS Homes and Community Renewal
Office of Community Renewal
The Hampton Plaza
38-40 State Street
Albany, NY 12207
Phone: (518) 474-2057
Email: OCRinfo@nyshcr.org

General Requirements Applicable to All Awardees

The requirements set forth in this section apply to all organizations participating in the MIP. Organizations must meet the requirements of this section and the requirements of the funding level section based on award amount.

1. Notification

Upon receipt of notification of a MIP award from the NYS Senate Finance Committee or the NYS Assembly Ways and Means Committee, the OCR will mail an award notification letter containing the necessary contract package documents to the award recipient.

2. First Time Awardees

Before receiving any MIP funds, an awardee must demonstrate that it exists as a corporation, a municipality, an unincorporated organized group, or other entity found eligible by the Legislature. Incorporated award recipients may be required to provide incorporation documents that demonstrate the award recipient is authorized to perform the proposed activities.

First time award recipients may be required to submit the following information along with their contract package:

- 1) Award recipient's legal status, including Certificate of Incorporation and By-laws;
- 2) List of Board of Directors and their residences, if appropriate;
- 3) Federal Tax Identification Number (FEIN);
- 4) New York State Vendor Identification number; and
- 5) New York State Charities Registration number, if appropriate.

If the award recipient is not incorporated it may be necessary to submit a written explanation describing the organization. The explanation should include:

- 1) How long the organization has been in existence;
- 2) Activities the organization performs; and
- 3) Names and residences of organization officers, staff, and volunteers.

An organization that has not previously contracted with New York State may be required to submit a Substitute Form W-9: Request for Taxpayer Identification Number & Certification along with the other required MIP documents. The Substitute W-9 is available at http://www.osc.state.ny.us/vendors/forms/ac3237s_fe.pdf.

3. Contracting with HCR

All award recipients must enter into a contract with the HCR to receive funds. Contract package documents will be sent to the award recipient with the award notification letter. Awardees of \$49,999 and lower will have one (1) year to complete contract activities. Awardees of \$50,000 and over will be allowed up to two (2) years to complete contract activities.

Contract package documents must be completed in full and returned to the OCR for contract execution. Incomplete contract packages or packages with errors will be returned to the award recipient for correction. A copy of the executed contract will be sent to the award recipient.

Contract extensions are not granted for the MIP.

Electronic versions of contract package documents are available on the MIP Forms web page at <http://www.nyshcr.org/Forms/LegislativeMemberItem/>.

4. Charities Registration

All award recipients must comply with the charities registration and filing requirements under Article 7-A of the Executive Law and administered by the NYS Office of the Attorney General Charities Bureau. Award recipients must file for a charities registration number if the organization solicits or receives contributions in excess of \$25,000 annually or pays for fundraising functions regardless of the amount of contributions solicited or received. If your organization received less than \$25,000 the award recipient must apply for a charities registration exemption.

Information regarding charities registration is available at the NYS Attorney General's Charities Bureau website <http://www.charitiesnys.com/home.jsp>. Award recipients can find information about the registration process and search for their own organization on the Charities Bureau Registry Search.

5. Grants Gateway

Award recipients that are not-for-profit organizations must be prequalified under the Grants Gateway system prior to receiving MIP award funds. An award recipient that does not typically do business with New York State does not need to register with the Grants Gateway. For example, a tenant association receiving a one-time MIP award that otherwise does not receive state funding for tenant association activities is NOT required to obtain prequalification in the Grants Gateway.

Effective August 1, 2013, not-for-profit organizations must be prequalified in order to do business with New York State. In order to prequalify, not-for-profit organizations must submit an online Prequalification Application through the Grants Gateway. The Prequalification Application is comprised of five components to gauge your organizational structure and the types of services you provide. The required forms and document uploads are all part of the Grants Gateway Document Vault. Resources to complete the application and associated document vault can be found in the Quick Links Section of the Grants Gateway page at <http://grantsreform.ny.gov/>.

Prequalification is designed as a way for not-for-profits to interact more directly with State agencies before they compete for State contracts, enabling them to make adjustments and answer concerns prior to entering a competitive bid process. Once they have been prequalified, multiple State agencies will have ready access to the prequalification materials, eliminating redundant submissions of such information by the vendor. Not-for-profits will only have to formally prequalify every 3 years, with the responsibility to keep their information current throughout the 3 year period.

6. Insurance Requirements

During the term of the contract, the award recipient must maintain insurance with an insurer licensed to transact business in the State of New York. Proof of insurance must be provided upon request to the OCR program staff. Each policy must provide that the insurer will give HCR 30 days notice of cancellation, non-renewal, or change in coverage.

Liability Insurance

Comprehensive General Liability – a minimum liability of \$500,000 combined single limit (bodily injury and property damage) containing the following coverage:

- Premises and operations;
- Independent contractors;
- Contractual liability;
- Liability for owned, non-owned, and hired vehicles.

Fire and Casualty Insurance

Coverage is required for real and personal property owned by the award recipient.

Workers Compensation and Disability Benefits Insurance

Workers Compensation and Disability insurance must be provided by the employer for all employees performing work related to the award recipient's project. Workers Compensation and Disability is required with the submission of the Vendor Responsibility Form. The Certificate Holder/Name of Entity Requesting Proof of Coverage must state "*NYS Homes and Community Renewal, Hampton Plaza, 38-40 State Street, Albany, NY 12207*".

Award recipients can get more information on obtaining the Workers Compensation certificate at <http://www.wcb.ny.gov/content/onlineforms/obtainC105.jsp>. Information on the Disability Insurance certificate is available at <http://www.wcb.ny.gov/content/onlineforms/obtainDB120-1.jsp>.

7. Conflict of Interest

The award recipient is responsible for identifying and notifying the OCR in writing of any potential conflict of interest arising under the Conflict of Interest provisions contained in Appendix I of this Manual. All voting members of the Board of Directors and the Executive Director are required to certify compliance with the Conflict of Interest provisions.

The award recipient must certify that all consultants and sub-grantees paid with MIP funds are in compliance with the Conflict of Interest provisions and their certifications must be available for inspection by the OCR staff.

If the OCR determines that a conflict of interest may exist, a determination will be requested from the appropriate Legislative finance committee.

8. Work Plans

All award recipients must complete a work plan as part of the contract package. The work plan must describe what will be accomplished with the award funds. A program budget detailing how funds will be spent is part of the work plan and must be completed. The work plan must conform to the description of the award as provided by the NYS Legislature.

Electronic versions of contract package documents, including the work plan can be found on the MIP Forms web page at <http://www.nyshcr.org/Forms/LegislativeMemberItem/>.

9. Work Plan Modifications

The MIP award is to be used solely for the purpose that is delineated on the Legislative Initiative Form. This description is part of the awardee's work plan.

If, during the term of the contract, it is determined that an award recipient will not be able to complete all contract work plan activities or if the nature of the activities changes, then a Work Plan Modification must be submitted to the OCR.

The OCR will only approve a Work Plan Modification if the modification supports the Legislative intent of the award. If the proposed modification does not support the Legislative intent of the award the awardee must obtain approval from the appropriate NYS Senate Finance Committee or NYS Assembly Ways and Means Committee. Approval by the appropriate Committee must be obtained prior to submitting the Work Plan Modification to the OCR. Electronic versions of the Work Plan Modification can be found on the MIP Forms web page at <http://www.nyshcr.org/Forms/LegislativeMemberItem/>.

10. MIP Contract Disbursements

Payments are made to award recipients after all contract documents have been reviewed by the OCR staff and the contract is executed by the OCR President. Information on payments can be tracked using eSupplier at the NYS Office of the State Comptroller's (OSC) Vendor Management Unit website at http://www.osc.state.ny.us/vendor_management/index.htm.

Award recipients that prefer electronic delivery of funds must opt-in by updating their information through the Vendor Portal of the Statewide Financial System at <http://www.sfs.ny.gov/>.

11. Use of Award Funds – Eligible Expenses

MIP funds may be used for, but are not limited to:

- Payment of salaries and wages to employees of the award recipient who are involved in providing MIP funded activities;
- Consultant and professional fees for planning and performing MIP funded activities;
- Costs and expenses directly related to employees, consultants, and professionals planning and performing the MIP funded activities; or
- Community improvement, development or preservation activities and other activities as set forth in the approved Legislative Initiative Form.

The following are examples of expenses ineligible under the MIP:

- Entertainment;
- Contributions to other organizations; and
- Lobbying or political activities.

The list of ineligible expenses is not exhaustive. More information on the eligibility of expenses may be obtained by contacting the OCR program staff.

12. Use of Award Funds – Interest

Any interest earned on MIP funds may be retained by the award recipient but may only be used for activities related to the MIP as stated in the Legislative Initiative Form.

13. Recordkeeping and Retention

All award recipients, or any entity that administers the award on behalf of an award recipient, must establish and maintain complete and accurate general and subsidiary ledgers, records, documents, accounts and other evidence directly pertinent to performance under the MIP contract. Records must be retained for the balance of the calendar year in which they were made and for six (6) additional years thereafter.

The related records and documentation must be maintained in the award recipient's office and must be available for inspection and review by the OCR staff during normal business hours. The OCR reserves the right to request copies of some or all records pertaining to the MIP contract at any time during the records retention period. Records must include, but are not limited to, the following:

- Legislative Member Item Program records such as contract documents; property, personnel, and financial records; consulting agreements or contracts, any documentation of MIP activities;
- Accounting records such as cash receipts, invoices and disbursement journals; general and subsidiary ledgers;
- Timesheet records of all employees and consultants receiving salaries, wages, and compensation in providing MIP activities.

All records must be kept in accordance with generally accepted accounting standards and HCR requirements. All records related to the MIP award are subject to HCR review.

14. Reporting

All awardees are required to submit a final report detailing the use of the MIP funds, activities completed, and goals or objectives achieved.

The reporting forms required for the MIP can be found on the MIP Forms web page at <http://www.nyshcr.org/Forms/LegislativeMemberItem/>.

15. Change of Address or Signatory

The award recipient must notify the OCR of any change of address, signatory or changes to Executive Director and Board President. Notification must be made in writing and must be submitted to the OCR no more than ten (10) calendar days after the changes are made effective.

The award recipient must also contact the Vendor Management Unit at the NYS Office of the State Comptroller (OSC). More information on OSC vendor requirements can be found at <http://www.osc.state.ny.us/vendors/vendorguide/guide.htm>.

16. Program Default

Award recipients not in compliance with any terms set for in the MIP Contract or in this Program Manual will be considered in default of program requirements. Accordingly, the OCR will issue a default letter to the organization with notification to the Senate Finance Committee and/or Assembly Ways and Means Committee as appropriate. The award recipient will have 30 days to cure the default. If the default is not cured within 30 days the OCR may withhold payments and may, as appropriate, refer the matter to the NYS Office of the Attorney General (AG).

Requirements Applicable for Awards up to \$14,999

The OCR will mail an award notification letter containing the necessary contract package documents to the award recipient. Along with the notification letter the award recipient will receive:

- 1) Contract Signature Page
- 2) State of New York Agreement
- 3) Appendix A – Standard Clauses for NYS Contracts
- 4) Appendix A1 – Member Item Program
- 5) Appendix A1-A – Additional Contract Information (completed by OCR)
- 6) Appendix D – Contract Work Plan
- 7) Certification Appendix (under \$50,000)
- 8) Initiative Form
- 9) NYS Claim for Payment Form

The award recipient must complete and have notarized the Certification Appendix. The NYS Claim for Payment form must also be completed and signed. The OCR will complete Appendix A1-A; Additional Contract Information. **All agreements are for a period of one (1) year.**

The award recipient must complete and submit the contract package with all required documents to the OCR within 30 calendar days of receipt.

Incomplete packages will not be accepted by the OCR. If the award recipient submits an incomplete package the OCR may issue a default letter identifying the missing or incorrect documents. The recipient will have 30 days to cure a default. If the default is not cured within 30 days the OCR may notify the NYS Senate Finance Committee and/or the NYS Assembly Ways and Means Committee of the recipient's non-compliance with the OCR application process and that the award will not be processed.

Disbursements

The award recipient must submit a NYS Claim for Payment Form to the OCR. A line item budget must be included under Part 6 of the NYS Claim for Payment Form. All documents must be signed by a designated signatory. Disbursements under \$14,999 will be made in one payment to award recipient.

Final Report

Awards up to \$14,999 are required to submit a Final Report to the OCR. The Report is due upon the completion of the activities but no later than 30 days after the end of the contract term. The Final Report must indicate how the funds were spent including a budget-to-actual analysis. The Report must also include program activities completed and goals or objectives accomplished. Copies of documentation supporting the expenses listed in the Final Report (i.e., receipts, cancelled checks, general ledger record) must be kept on file by the award recipient. All supporting documentation is subject to review by the OCR.

Failure to submit the Final Report may result in the OCR issuing a default letter to the recipient. The OCR will also notify the appropriate Legislative Committee of the recipient's failure to comply with program requirements. The OCR may refer the matter to the NYS Office of the Attorney General (AG) if the default is not cured within 30 days.

Requirements Applicable for Awards \$15,000 - \$49,999

The OCR will mail an award notification letter containing the necessary contract package documents to the award recipient. Along with the notification letter the award recipient will receive:

- 1) Contract Signature Page
- 2) State of New York Agreement
- 3) Appendix A – Standard Clauses for NYS Contracts
- 4) Appendix A1 – Member Item Program
- 5) Appendix A1-A – Additional Contract Information (completed by OCR)
- 6) Appendix D – Contract Work Plan
- 7) Appendix G – MWBE (\$25,001 and above for service/commodities contracts & construction contracts over \$100,000)
- 8) Certification Appendix (under \$50,000)
- 9) Initiative Form
- 10) NYS Claim for Payment Form
- 11) Charities Registration documents*

*Note: Charities Registration documents include Instructions CHAR500; Registration Statement CHAR410; and Request for Registration Exemption, Schedule E, if award recipient is not in compliance.

The award recipient must complete and have notarized the Certification Appendix. The NYS Claim for Payment form must also be completed and signed. The OCR will complete Appendix A1-A; Additional Contract Information. **All agreements are for a period of one (1) year.**

The award recipient must complete and submit the contract package with all required documents to the OCR within 30 calendar days of receipt.

Incomplete packages will not be accepted by the OCR. If the award recipient submits an incomplete package the OCR may issue a default letter identifying the missing or incorrect documents. The recipient will have 30 days to cure a default. If the default is not cured within 30 days the OCR may notify the NYS Senate Finance Committee and/or the NYS Assembly Ways and Means Committee of the recipient's non-compliance with the OCR application process and that the award will not be processed.

Disbursements

Award recipients may receive disbursements under \$49,999 in one payment. However, the OCR reserves the right to make up to three disbursements: advance, progress, and completion. If more than one disbursement is required, the OCR will notify award recipients of the disbursement schedule. If more than one disbursement is required, the award recipient must submit the first request for disbursement with the completed contract package. The *advance payment* of up to 25 percent of the total award amount may be requested. *Progress payments* may be requested during

the contract period as work progresses. The total advance and progress payments may not exceed 90 percent of the total funding award. The *final payment* is the remaining 10 percent balance of the total award and will be processed only after all activities have been completed and a Final Report has been submitted and approved by the OCR staff.

No more than three (3) payments will be made for awards funded at the \$15,000 - \$49,999 level.

Final Report

Awards of \$15,000 - \$49,999 are required to submit a Final Report to the OCR. The report is due upon the completion of the activities but no later than 30 days after the end of the contract term. The Final Report must indicate how the funds were spent including a budget-to-actual analysis. The Report must also include program activities completed and goals or objectives accomplished. Copies of documentation supporting the expenses listed in the Final Report (i.e., receipts, cancelled checks, general ledger record) must be kept on file by the award recipient. All supporting documentation is subject to review by the OCR.

Failure to submit the Final Report may result in the OCR issuing a default letter to the recipient. The OCR will also notify the appropriate Legislative Committee of the recipient's failure to comply with program requirements. The OCR may refer the matter to the NYS Office of the Attorney General (AG) if the default is not cured within 30 days.

Requirements Applicable for Awards \$50,000 and Over

The OCR will mail an award notification letter containing the necessary contract package documents to the award recipient. Along with the notification letter the award recipient will receive:

- 1) Contract Signature Page
- 2) State of New York Agreement
- 3) Vendor Responsibility Questionnaire
- 4) Appendix A – Standard Clauses for NYS Contracts
- 5) Appendix A1 – Member Item Program
- 6) Appendix A1-A – Additional Contract Information (completed by OCR)
- 7) Appendix A2 – Boundaries
- 8) Appendix B – Budget (taken from Work Plan)
- 9) Appendix C – Payment and Reporting Schedule
- 10) Appendix D – Contract Work Plan
- 11) Appendix G – MWBE (\$25,001 and above for service/commodities contracts & construction contracts over \$100,000)
- 12) Appendix X (left blank)
- 13) Certification Appendix (\$50,000 and above)
- 14) Initiative Form
- 15) NYS Claim for Payment Form
- 16) Workers Compensation & Disability Insurance
- 17) Charities Registration documents*

*Note: Charities Registration documents include Instructions CHAR500; Registration Statement CHAR410; and Request for Registration Exemption, Schedule E, if award recipient is not in compliance.

The award recipient must complete Appendix A2: Boundaries; Appendix B: Budget (as part of the work plan); and Appendix D: Work Plan Activities. The award recipient must complete and have notarized the Contract Signature Page; the Vendor Responsibility Questionnaire; and the Certification Appendix. The NYS Claim for Payment form must also be completed and signed. The OCR will complete Appendix A1-A; Additional Contract Information. **All agreements are for a period of two (2) years.**

The award recipient must complete and submit the contract package with all required documents to the OCR within 30 calendar days of receipt.

Incomplete packages will not be accepted by OCR. If the award recipient submits an incomplete package the OCR may issue a default letter identifying the missing or incorrect documents. The recipient will have 30 days to cure a default. If a default is not cured within 30 days the OCR may notify the NYS Senate Finance Committee and/or the NYS Assembly Ways

and Means Committee of the recipient's non-compliance with the OCR application process and that the award will not be processed.

Disbursements

There may be up to three disbursements: advance, progress, and completion. Award recipients must submit the first request for disbursement with the completed contract package. The *advance payment* of up to 30 percent of the total award amount may be requested. *Progress payments* may be requested during the contract period as work progresses. The total advance and progress payments may not exceed 90 percent of the total funding award. The *final payment* is the remaining 10 percent balance of the total award and will be processed only after all activities have been completed and a Final Report has been submitted and approved by the OCR staff.

No more than three (3) payments will be made for awards funded at the \$50,000 and above level.

The disbursement process requires all payments of \$50,000 or more to receive a waiver from the Division of Budget (DOB) prior to the payment being released.

Final Report

Awards of \$50,000, and above are required to submit a Final Report to the OCR. The Report is due upon the completion of the activities but no later than 30 days after the end of the contract term. The Final Report must indicate how the funds were spent including a budget-to-actual analysis. The Report must also include program activities completed and goals or objectives accomplished. Copies of documentation supporting the expenses listed in the final report (i.e., receipts, cancelled checks, general ledger record) must be kept on file by the award recipient. All supporting documentation is subject to review by the OCR.

Failure to submit the Final Report may result in the OCR issuing a default letter to the recipient. The OCR will also notify the appropriate Legislative Committee of the recipient's failure to comply with program requirements. The OCR may refer the matter to the NYS Office of the Attorney General (AG) if the default is not cured within 30 days.

Financial Report

Award recipients must retain on file an Agency Audit or Cost Certification. If submitting a Cost Certification please review the NYS Housing Trust Fund Corporation's Capital Programs Manual section on Cost Certifications. Agency audits must follow generally accepted audited standards. These documents should be completed 120 days after the end of the agency's fiscal year.

Appendix I – Conflict of Interest

CONFLICT OF INTEREST

Section 2601.3 Conflict of Interest.

- (a) The following are restricted from holding voting Board membership, serving as officers of the Company and/or in staff management positions, except where otherwise stated by statute:
1. State legislators and members of their staff who hold policy making positions;
 2. Commissioners and chairpersons of State departments and their deputies and assistants (including members or directors of public authorities, public benefit corporations, Boards, Commissions, and Councils);
 3. Staff of the New York State Homes and Community Renewal;
 4. Statewide elected officials, including the Governor, Lieutenant Governor, Attorney General and Comptroller, and members of their staff who hold policy making positions;
 5. Chief executive officials and members of the legislative bodies of counties having a population of 275,000 or more, within which the project is located, or cities, towns and villages having a population of 20,000 or more, within the county in which the project is located, except where Board membership for such persons is mandated by other relevant Federal or State statutes; and
 6. Political party chairpersons, party organization leaders and members of their executive committees in the State, counties having a population of 275,000 or more, within which the project is located, or cities, towns and villages having a population of 20,000 or more, within the county in which the project is located.
- (b) The following shall not receive any compensation whatsoever from a recipient organization, directly or indirectly, for services or goods rendered to such organization unless the goods or services are provided pursuant to an award or contract let, unless otherwise required, after a good faith effort to obtain competitive prices is made, the results of which were reported in writing prior to the award of the contract and were approved by New York State Homes and Community Renewal, which approval shall be based on comparison to arm's length transactions and the needs of the project:

1. State legislators and members of their staff who hold policy making positions;
2. Commissioners and chairpersons of State departments and their deputies and assistants (including members or directors of public authorities, public benefit corporations, Boards, Commissions, and Councils);
3. Staff of the New York State Homes and Community Renewal;
4. Statewide elected officials, including the Governor, Lieutenant Governor, Attorney General and Comptroller, and members of their staff who hold policy making positions;
5. Chief executive officials and members of legislative bodies of counties, cities, towns and villages, in which county the project is located;
6. Political party chairmen, party organization leaders and members of their executive committees in the State, counties, cities, towns and villages in which county the project is located;
7. Voting Board members and officers, except for salary payments of officers which shall require the approval of the Commissioner, which approval shall be granted if the duties assigned to the officer correspond to the duties normally assigned to an executive director;
8. Staff members of the recipient organization, except for salary payments;
9. The immediate families of persons in paragraphs (1)-(8) of this subdivision; and
10. Any firm, association, corporation or partnership in which any individual listed in subdivision (a) or (b) of this section holds an interest of ten percent or more.

(c) These provisions apply to all persons and entities whether or not their involvement with, or compensation from, a recipient organization is related to the project funded pursuant to this program.