

**DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT**  
**DIVISION OF FINANCIAL ASSISTANCE**

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October 27, 2017

**MEMORANDUM FOR:** All Potential Applicants  
 Interested Parties

**FROM:** Lisa Bates, Deputy Director  
 Division of Financial Assistance

*Lisa Bates*

**SUBJECT: AMENDMENT #1 FOR NOTICE OF FUNDING  
 AVAILABILITY - COMMUNITY DEVELOPMENT BLOCK  
 GRANT PROGRAM**

On September 1, 2017, the Department of Housing and Community Development (Department) announced the Community Development Block Grant (CDBG) 2017 Notice of Funding Availability (NOFA) for non-entitlement jurisdictions of approximately **\$35 million** in federal CDBG funding. The application due date is **December 1, 2017 (Friday) at 5:00 p.m. Pacific Standard Time (PST)**. The Department is now announcing the following clarification to the CDBG NOFA and Application Funding Limits and Eligible Activities Chart:

*For grant funds, jurisdictions can submit only one application for one Planning Activity (PTA) and up to two non-PTA activities.*

This clarification has been incorporated into the NOFA (pages 6 and 10), and Application Funding Limits and Eligible Activities Chart.

Should you need immediate assistance, please contact the following CDBG NOFA Unit staff. Otherwise, please forward all questions or concerns to [CDBGNOFA@hcd.ca.gov](mailto:CDBGNOFA@hcd.ca.gov).

|   |                |                         |
|---|----------------|-------------------------|
| Charles Gray, Manager<br>NOFA Unit        | (916) 263-1014 | Charles.Gray@hcd.ca.gov |
| Diane Moroni, Representative<br>NOFA Unit | (916) 263-1675 | Diane.Moroni@hcd.ca.gov |
| Jim Miwa*, Representative<br>NOFA Unit    | (916) 263-1644 | Jim.Miwa@hcd.ca.gov     |

*\*For CDBG Over-the-Counter projects, please contact Jim Miwa.*

Attachment

**COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAM (CDBG)**

**2017 Notice of Funding Availability**



**State of California  
Governor Edmund G. Brown Jr.**

**Alexis Podesta, Secretary Business, Consumer Services  
and Housing Agency**

**Ben Metcalf, Director  
Department of Housing and Community Development**

2020 West El Camino Avenue, Suite 500, Sacramento, CA 95833  
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NOFA Section Email: [CDBGNOFA@hcd.ca.gov](mailto:CDBGNOFA@hcd.ca.gov)

**October 27, 2017**

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# OVERVIEW

## A. NOTICE OF FUNDING AVAILABILITY (NOFA)

The California Department of Housing and Community Development (Department) is pleased to announce the availability of approximately **\$35,000,000** in federal Community Development Block Grant (CDBG) funding of which approximately **\$27,000,000** is allocated for funding year 2017 to the State from the Department of Housing and Urban Development (HUD), pursuant to the Housing and Community Development Act of 1974, as amended.

This NOFA applies to CDBG-eligible activities funded under the Community Development (CD) Allocation and Special Allocations for Economic Development (ED), Colonia, and Native American communities that are non-federally recognized tribes. Funding under each of the following activities and special allocations will primarily benefit low- and moderate-income persons/households in California:

### **Community Development**

1. Housing Assistance
2. Public Facilities
3. Infrastructure and Infrastructure in Support of Housing
4. Public Services
5. Planning and Technical Assistance

### **Special Allocations**

1. Economic Development (Business Assistance and Microenterprise Assistance)
2. Native American Communities
3. Colonias

Upon receipt of funding availability, the Department will apply the statutory percentage requirements for each funding category followed by the percentage formula using the aggregate request of all applications for each activity and the actual amount of available funds. The amount of funds available for Planning and Technical Assistance (PTA), as announced in this NOFA, shall be allocated between CD and ED applications.

In the event of a tie, applications will be ranked by jurisdiction-wide poverty levels, pursuant to tiebreaker criteria in Section 7078(d) (7).

For example, if the aggregate amount of funding requests for Public Facilities is 25 percent of the total amount of funding requested overall, then 25 percent of the NOFA funding will be made available for Public Facilities activity awards.

### 1. **Economic Development (ED)**

California Health and Safety Code 50827 and State CDBG Regulations, Section 7062.1, requires the Department to set-aside 30 percent of the net annual federal CDBG award for ED activities. CDBG Fed Regulations (Section 570.494(b)(1))

require that CDBG funds are committed within 15 months of the State signing its HUD grant agreement. All unused ED funds must roll to the CD activity category for award prior to the 15-month federal deadline. The 30 percent set-aside for ED funding in this NOFA is approximately **\$10,500,000**. The Department shall set aside approximately **\$600,000** for ED PTA activities (see *subsection 5* below), and the remainder will fund Enterprise Fund (Business Assistance and Microenterprise activities) and Over-the-Counter (OTC) activities. For more information, see *What's New in the NOFA, Subsection D*.

## 2. **Community Development (CD)**

The CD activity amount is estimated to be approximately **\$22,900,000**. The CD activity category amount is the balance of funds remaining after subtracting from the annual HUD allocation both the individual set-asides (ED, Native American, and Colonia) and the State's allowed administration funding. This amount includes **\$600,000** being set-aside for CD PTA activities (see *subsection 5* below).

## 3. **Colonias**

Section 916 of the National Affordable Housing Act of 1990, as amended, established an annual set-aside for activities benefiting the residents of Colonias. In accordance with direction from HUD, the State will set aside five percent of the net annual federal allocation in this NOFA estimated to be **\$1,300,000** for eligible Colonia activities. Unused Colonias funding will roll to the CD activity category for funding under this NOFA.

## 4. **Native American (NA)**

Pursuant to Health & Safety Code Section 50831 and State CDBG Regulations, Section 7062, the State annually sets aside 1.25 percent of its net annual federal CDBG award for grants for non-federally recognized tribes within non-entitlement areas of the State. The Native American set-aside amount for this NOFA is expected to be approximately **\$332,000**. Any unused NA funding will roll to the CD activity category for funding under this NOFA.

## 5. **Planning and Technical Assistance (PTA)**

Approximately **\$1,200,000** is available for PTA activities under this NOFA. The Department anticipates this amount will be available for CD and ED PTA grants.

PTAs must meet a national objective of Low/Mod Area benefit (LMA) and be tied to an activity that has "proposed beneficiaries" if implemented. In limited ED cases, the national objective Slum/Blight may be used; however, applicants are strongly encouraged to contact the Department through the [CDBGNOFA@hcd.ca.gov](mailto:CDBGNOFA@hcd.ca.gov) inbox, requesting a review of their situation for any PTA applications that are not LMA.

**Note:**

- *The Department reserves the right, at its sole discretion, to rescind, suspend or amend this NOFA and any or all of its provisions. If such an action occurs, the Department will notify interested parties via its Listserv email tool and website.*
- *It is the applicant's responsibility to ensure that the application submitted is clear, complete and accurate. After the application submittal deadline, CDBG may request clarifying information, provided that such information does not affect the competitive ranking of the application. No information will be solicited or accepted if such information results in a competitive advantage to an applicant. No applicant may appeal the Department's evaluation of another applicant's application.*

## **B. AUTHORIZING LEGISLATION AND REGULATIONS**

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The CDBG Program is authorized by the Housing and Community Development Act of 1974 (HCDA) as amended<sup>1</sup>, and Subpart 1 of the Federal Community Development Block Grant regulations<sup>2</sup>. The requirements of the State CDBG Program are in Health and Safety Code, Sections 50825-50834, and Title 25 of the California Code of Regulations (25 CFR), Sections 7050-7126.

**Note:** *The HCDA was codified as Title 42 of the United States Code, Section 5301, et seq.; thus, those citations are interchangeable and cite the same statute language. For example, the citation of HCDA 105(a)(22) and 42 USC 5305(a)(22) are references to the same statute language.*

## **C. APPLICATION TIMELINES**

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### **1. Key Dates**

|   |                         |
|---|-------------------------|
| NOFA and Application Release                | September 1, 2017       |
| ED Over-the-Counter (OTC) Open Date         | September 1, 2017       |
| <b>Applications due to HCD by 5:00 P.M.</b> | <b>December 1, 2017</b> |
| Awards Announced (non-ED OTC applications)  | March 1, 2018           |
| ED Over-the-Counter (OTC) Close Date        | June 30, 2018*          |

\*based on Funding Availability

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<sup>1</sup> Title I of the Housing and Community Development Act of 1974 as amended. 42 U.S.C. 5301 et seq., Federal Omnibus Budget Reconciliation Act of 1981 (Public Law 97-35).

<sup>2</sup> Title 24 Code of Federal Regulations (CFR), Part 570, Subpart I.

## **2. 2017 CDBG NOFA Application Submittal**

The complete 2017 CDBG NOFA original application and one USB flash drive, that includes a copy of the application with signatures, must be ***received no later than December 1, 2017 (Friday) at 5:00 p.m.*** Pacific Standard Time (PST), by U.S. Mail or private courier. Applications ***will not be accepted*** after 5:00 p.m. on December 1, 2017.

- a) Facsimiles, late, incomplete, revisions to, and electronically transmitted application packages **will not be accepted**.
- b) **Personal deliveries are not accepted.** Please contact the Department if delivery is not completed by fault of the private courier/US Mail.

### **Forward the 2017 CDBG NOFA application to the following address:**

Department of Housing and Community Development  
Division of Financial Assistance  
**NOFA AWARD SECTION (CDBG PROGRAM)**  
2020 W. El Camino Avenue, Suite 500  
Sacramento, CA 95833

***ED OTC applications are not subject to the above deadline.***

## **3. Initial Application Review Process**

- a) The Department will conduct a preliminary review of each application to determine whether the application meets all applicant threshold eligibility criteria.
- b) If an application does not meet all the applicant threshold eligibility criteria, the Department will send a disqualification letter based on the threshold criteria.
- c) Once the pool of eligible applications has been determined, the competitive scoring process commences. Pursuant to 25 CCR 7070 in State regulations, where a description or analysis includes quantified information, the source of the information and the method of computation must be described. If the Department determines that the methods of computation are inaccurate or misleading, it may, after consultation with the applicant, adjust this information during the evaluation process. There will be no further contact between the application review staff and the applicants until the award list has been finalized.
- d) Applications that meet all of the threshold criteria will be reviewed for activity eligibility. If an activity is deemed ineligible, that specific activity in the application will not be scored, though other eligible activities in the application will be scored.
- e) Only eligible activities from eligible applicants will be rated and ranked.



- f) Once all rating and ranking is completed, the award list will be compiled and the Department will call each applicant to inform them of whether or not they were awarded funding.

**4. How to Contact the NOFA Unit**

If you have any questions regarding the 2017 CDBG NOFA, the application, its process or other issues, please submit all inquiries to the CDBG NOFA Unit staff via the email inbox at [CDBGNOFA@hcd.ca.gov](mailto:CDBGNOFA@hcd.ca.gov). Please allow one week for a response. Should your concern need immediate attention, please contact the following staff:

|   |                |                         |
|---|----------------|-------------------------|
| Charles Gray, Manager<br>NOFA Unit        | (916) 263-1014 | Charles.Gray@hcd.ca.gov |
| Diane Moroni, Representative<br>NOFA Unit | (916) 263-1675 | Diane.Moroni@hcd.ca.gov |
| Jim Miwa*, Representative<br>NOFA Unit    | (916) 263-1644 | Jim.Miwa@hcd.ca.gov     |

*\*For CDBG Over-the-Counter projects, please contact Jim Miwa.*

**WHAT'S NEW in This Year's NOFA**

The 2017 CDBG NOFA includes the following changes that allow the Department to manage the program within current resources.

**1. Application Submittal Process**

Applications must be delivered via mail carrier service such as U.S. Postal Service, UPS, FedEx or other carrier services that provide date stamp verification confirming delivery to the Department.

**2. Request for Waiver of the 50 Percent Expenditure Rule (Chapter 552 of 2016)**

As enacted, Chapter 552 of 2016 (Assembly Bill 723) allows applicants to request waivers from the Department's Director to the 50 Percent Expenditure Rule (Rule). The Rule states an applicant shall be ineligible for any additional CDBG funds unless the applicant has expended at least 50 percent of CDBG funds awarded for any standard agreement executed in 2012 or later.

If approved by the Department Director, the Request for Waiver allows jurisdictions to be considered eligible to apply for 2017 CDBG project funding, even though they have not met the Rule. Program activities are not eligible for a waiver. Waivers will only be considered for jurisdictions that submit applications for a project only activity **and** meet either of the following criteria:

- Received 2016 Special Drought and/or Disaster NOFA awards, **or**
- Demonstrate the project is “shovel ready” referenced in *Appendix N*, Request for Waiver of 50 percent Expenditure Rule.

For more information, see the NOFA for application eligibility and the *50 Percent Expenditure Rule* (page 16).

For more information, see the request for waiver and approval process for the *50 Percent Expenditure Rule* created by Chapter 552, Statutes of 2016 (AB 723) (page 18).

### 3. **Application and Activity Grant Limits**

For grant funds, jurisdictions can submit only one application for one Planning Activity (PTA) and up to two non-PTA activities. Further, CDBG application funding limit and the funding amounts for eligible activities increased as referenced in the [2017 CDBG Funding Limits Chart](#), found in *Section A, Funding and Activity Limits*, page 10, and summarized as follows:

The maximum application limit increased from \$2,000,000 to \$5,000,000, excluding applications for ED OTC projects, Colonias and Native American communities’ set-asides.

Activity limits were revised as follows:

Public Improvement projects, Infrastructure in Support of New Housing, and Public Facilities projects: \$5,000,000.

Multifamily Rehabilitation (five units or more), with or without acquisition: \$3,000,000.

Housing Program Activities: \$1,000,000.

Public Services: \$500,000.

Planning and Technical Assistance (PTA): \$100,000, one planning activity only.

### 4. **Public Service Programs**

Public service program funding can be requested under both the competitive or supplemental portions of the application. If requested in the competitive portion, public service programs are limited to two programs, and considered one activity.

Because public services can be funded under the competitive and supplemental portions (see Supplemental Activities, subsection 5 below) of the application, the number of public service programs is limited to three programs per application.

## 5. Supplemental Activities

**For the 2017 CDBG NOFA, the Department will allow applicants to propose one CDBG eligible activity as a Supplemental Activity.**

Allowing supplemental activities to be requested during the application process provides a tool by which the applicant may expend available Program Income (PI) funds first on either a supplemental activity or grant-funded activities. If PI is spent first on grant-funded activities, then any remaining balance of funds in the grant-funded activity can be spent on a supplemental activity identified in the contract. Therefore, at the end of the milestone expenditure period, all PI and grant funds may be expended prior to contract expiration and reduce the need to disencumber grant funds.

One public service activity is allowed as a Supplemental Activity for this NOFA. Previously, the Department implemented a process by which an eligible activity could be included in the application identified as a "Supplemental Activity". These activities are in a separate part of the application and are not competitively rated or ranked. Supplemental Activities must be submitted in the original application and will be reviewed only for eligibility and that they meet a National Objective.

The Department will allow grantees to use PI on any of the activities identified in the contract, either awarded or approved supplemental. On-hand PI may be expended on an approved Supplemental Activity that is ready to commence and has cleared general and special activity-specific conditions. After all PI funds are expended, the grant funds are available to expend on any remaining awarded activities in the contract.

Supplemental Activities will be identified as such in the grant contract. Applicants must fill out the proper Supplemental Activity forms and the Supplemental Activities must be stated in the public participation hearing notice and the applicant's resolution from the governing body.

## 6. State Objective Points

By State CDBG Regulations, Section 7078, Evaluation Criteria, up to a total of one hundred (100) points can be awarded to address priority state objectives. For this 2017 CDBG NOFA, disaster long term planning and furthering outreach for fair housing are priority activities and will be scored as follows:

Up to one-hundred (100) State Objective points shall be awarded for Disaster Resiliency Long-Term Planning to incentivize local jurisdictions to incorporate hazard mitigation and disaster resiliency planning into their general plan, zoning, and other planning policies and procedures.

Up to one hundred (100) State Objective points shall be awarded for jurisdictions that incorporate additional public outreach measures that promote access to decision-making and program implementation for all segments of the community, including special needs populations, disadvantaged communities, and a variety of socio-economic groups (e.g., households across the income and employment spectrum, ethnically and racially diverse households).

For Scoring Details and State Objective criteria, see Appendices L and O.

7. **OMB Super Circular Updates**

On December 26, 2013, Office of Management and Budget (OMB) created Super Circular regulations, which are in 2 CFR Part 200. The Super Circulars supersede, consolidate and streamline requirements from several pre-existing OMB Circulars, including Procurement and Cost Principles, Audits of States, Local Government and other items. The Department has updated this NOFA, particularly in sections that address A-133 Audit requirements and procurement practices, to include information about relevant OMB Super Circulars.

The Super Circular standards are generally consistent with existing requirements.

8. **Capacity Scoring for Submission of Program Income Reports**

According to California State CDBG Regulations, Evaluation Criteria (Section 7078) Capacity Scoring allows up to 200 points maximum for this category. Of these, a sub-category, Reporting and Recordkeeping Capacity, accounts for up to 70 points. In prior years the full 200 points have been awarded. New to this NOFA, Capacity scoring points will be awarded for Reporting and Recordkeeping.

For scoring details, see Appendix L.

9. **NOFA Application Inquiries**

For consistency and transparency, the Department requires that 2017 NOFA and application inquiries must be submitted through the CDBG NOFA email, [CDBGNOFA@HCD](mailto:CDBGNOFA@HCD). All questions submitted to the CDBG NOFA inbox will be reviewed, researched and FAQ's will be posted on the HCD website.

All inquiries shall include contact information for follow-up or clarification. Please allow one week for responses to be posted. When at all possible, inquiries will be answered through the weekly postings. If there is an immediate need, please contact NOFA Unit staff as referenced on page 5.

NOFA inquiries will only be accepted until November 17<sup>th</sup> to allow for response and posting time for review prior to the December 1, 2017 application due date.

# FUNDING PARAMETERS

## A. FUNDING AND ACTIVITY LIMITS

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### Activity Limits

For grant funds, jurisdictions can submit only one application for one PTA activity and up to two non-PTA activities. Non-PTA activities include any of the following: Housing, Public Improvements (i.e., Infrastructure), Public Facilities, Public Services, and Enterprise Fund.

**Note:** *ED OTC activities, Colonia, and Native American activities are separate and not counted in the two activity maximum or the maximum funding cap of \$5,000,000.*

1. A “Combo Program” of Housing Rehabilitation and Homeownership Assistance counts as one activity.
2. The Multi-Family Residential Rehabilitation (five or more units) activity allows for only one project.
3. An Enterprise Fund “Combo Program” of Business Assistance (BA) and Microenterprise (ME) counts as one activity.
4. A PTA request is limited to one type of planning activity, either Community Development or Economic Development (but not both).

A PTA request included in an application with other activities will be eligible for funding if a jurisdiction scores high enough to be funded on one or more of the competitively scored activities. If a jurisdiction is not funded for any of the scored activities, it will not be funded for the PTA activity.

5. A Public Service activity application may be comprised of no more than two eligible Public Service programs.

### ***Maximum Award Limits for Each Allocation and Activity***

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Maximum total grant award limit is \$5,000,000, including all activities except ED OTC, Colonia, and Native American. ED OTC is a stand-alone application subject to the ED OTC limits noted below and in Appendix E - ED OTC Application Process.

#### 1. **Enterprise Fund (EF) Activity**

**Business Assistance (BA) and Micro-enterprise (ME):** This NOFA allows a single activity to be funded for up to \$500,000. It also allows a combination of BA and ME activities to be funded for up to \$500,000, in any combination of funding under the EF set-aside.

2. **Economic Development Over-the-Counter (ED OTC) Funding**

Per 25 CCR 7062.1(c)(2) of the State CDBG Regulations, awards from the ED OTC Component to a single city or county in a single program year shall not exceed \$3,000,000, regardless of the number of applications. The State statute (Health and Safety Code 50832) provides flexibility on the amount of ED OTC funding which can be awarded to a jurisdiction by allowing multi-year funding and allowing the ED OTC award limit to be waived based upon available economic development funds after September 1 of each year, referenced in State CDBG Regulations, Section 7062.1 (6). TED OTC applications have a minimum funding request is \$300,000.

3. **Housing Activity**

A maximum of \$1,000,000 encompassing the two housing program categories listed below or up to \$3,000,000 for one Multi-Family Housing project (with or without acquisition):

- a) Housing Rehabilitation Program– (1-4 Units) (HR) or Homeownership Assistance Program (HA), or Housing Combo - HA and HR, up to \$1,000,000.
- b) Housing Project - Multi-Family Rental (5 or more Units) Rehabilitation with or without Acquisition, up to \$ \$3,000,000.
- c) Housing Project - Acquisition of Real Property - for Multi-Family Housing Projects, up to \$3,000,000.

4. **Public Improvements or Public Improvements In-Support-Of Housing New Construction (PIHNC) Activity**

A maximum of \$5,000,000 is allowed and only one project per application.

5. **Public Facility Activity**

A maximum of \$5,000,000 is allowed and only one project per application.

6. **Public Service Activity**

A maximum of \$500,000 may be requested for up to two separate public service programs (which includes code enforcement programs). An application containing up to two public service programs counts as one activity in the application.

7. **Planning and Technical Assistance Activity**

Up to \$100,000 in funding is available for a PTA activity. Only one planning activity per application as allowed for this NOFA. The dropdown menu in the Application Summary for PTAs makes it clear if the PTA being applied must be a CD-PTA (20A) or an ED-PTA (20A).

PTAs must meet a national objective of Low/Mod Area (LMA) benefit and be tied to an activity that has “proposed beneficiaries” if implemented. In limited Economic Development circumstances, Slum/Blight may be used; however, applicants should forward inquiry to the CDBG NOFA email, [CDBGNOFA@HCD](mailto:CDBGNOFA@HCD).

#### 8. **Colonias and Native American Communities Allocations**

Applications have the same maximums as noted in all activities above and are in **addition** to any CD or ED activity applications. They are not subject to the \$ 5,000,000 award limit. If a jurisdiction is funded for ED and/or CD activities, plus a Native American or Colonia award, the funding may be in excess of \$ 5,000,000.

The total number of activities awarded may be more than two; however, all awarded activities will be contained in one contract. Activities funded must be expended within 36 months of award letter date. In addition, the 50 percent rule applies to all activities under the contract. The Request for Waiver will be considered for these awardees.

#### 9. **Use of Program Income (PI) for Activities in an Application**

Due to HUD’s PI rules, all PI must be expended prior to drawing down grant funds and may **not** be “set aside” to fund a particular activity awarded in the contract. To use PI on a grant-funded activity, the Department will compare the amount of local PI available, as reported on the Semi-Annual PI Report and the Funds Request, and require PI to be expended first. After all PI has been expended, grant funds may be drawn down.

If a Revolving Loan Fund (RLF) has been established, then RLF funds will be expended first, if the awarded activity has the same program activity as is contained in the approved RLF.

It is important that jurisdictions review and thoroughly understand Program Income Management Memo 14-05, [PI Management Memo 14-05](#). PI expenditures (current balance and future revenue) must be planned for and scheduled as part of implementing activities under a grant activity. If there are outstanding questions or you require further clarification, please forward you inquiry to the CDBG NOFA email, [CDBGNOFA@HCD](mailto:CDBGNOFA@HCD) prior to November 17, 2017.

#### **Limited Number of Awards**

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When there are more funds requested than are available, each activity, **except** for ED-OTC applications, will be competitively rated and ranked. **PTA applications will not be scored**, but will be ranked via the tie-breaker process, if the PTA activity is oversubscribed. Funding will be awarded to applicants that score the highest in each specific activity, until the funding available for that activity is exhausted.

## B. PROGRAM ADMINISTRATIVE AND ACTIVITY DELIVERY COSTS

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### **General Administrative Expenses**

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General Administrative (GA) costs include staff and overhead costs required for overall contract and program management. All awarded activities (other than ED OTC) allow up to 7.5 percent of the total funds awarded for reasonable GA expenses related to the administration of the CDBG Program. This is the same as previous years' calculation method and although there is a detailed discussion of the calculations below, the Summary Application Form is in an Excel format and will calculate these amounts automatically.

### **Calculation of General Administration (GA)**

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Below is the formula to calculate 7.5 percent GA based on the amount of activity funding being requested, including Activity Delivery (AD). GA is calculated on the amount of dollars being requested for each activity, not the entire application. Examples of the calculation are below:

|   |
|---|
| <p><b><u>Formula:</u></b><br/>Activity Total divided by 1.075 = Activity \$ Amount (including AD)<br/>Activity Total – Activity \$ Amount = GA</p>  |
| <p><b><u>Total Application Example:</u></b><br/>Application amount of \$5,000,000<br/><math>\\$5,000,000 / 1.075 = \\$4,651,163</math> available for <u>all</u> Activities (including AD)<br/><math>\\$5,000,000 - \\$4,651,163 = \\$348,837</math> GA<br/><br/>Verification: <math>\\$348,837 / \\$4,651,163 = 7.5\%</math><br/>Also: <math>\\$4,651,163 + \\$348,837 = \\$5,000,000</math></p>                        |
| <p><b><u>Single Activity Example:</u></b><br/>Application for a \$1,000,000 Housing Rehab Program Activity:<br/><math>\\$1,000,000 / 1.075 = \\$930,232.60</math> available for Activity (including AD)<br/><math>\\$1,000,000 - \\$930,232.60 = \\$69,767.44</math> GA<br/><br/>Verification: <math>\\$69,767.44 / \\$930,232.60 = 7.5\%</math><br/>Also: <math>\\$930,232.60 + \\$69,767.44 = \\$1,000,000</math></p> |

***Note:*** In the application review process, a GA amount will be calculated for each activity. However, in the final contract, only one total amount for GA will appear. During the scoring process, it will not be known what the GA award will be since an applicant may or may not be funded for all of the requested activities. Therefore, the Department will calculate the GA for each activity, and add the GA for all the awarded activities. This will result in the amount of GA awarded to the grantee.

### **ED OTC General Administration Expenses**

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GA is calculated at 7.5 percent of requested activity funds (see formula above), not to exceed \$100,000, unless there is a written request submitted for an exception to this maximum including supporting documentation and approved in writing by the Department.



## Activity Delivery (AD) Expenses

A portion of the grant award may be used to pay for the actual costs associated with the delivery of the proposed activity. AD includes costs associated with staff and overhead directly involved with carrying out the activity.

Allowable AD amounts vary depending on the activity category. Maximum amounts/percentages for activities with separate AD budget are as follows:

- Housing Rehabilitation Program (1-4 Units): up to 19 percent
- Multi-Family Housing Rehab Project (5 or more units): up to 15 percent, or \$50,000 (whichever is less)
- Homeownership Assistance: up to 8 percent
- Multi-Family Housing (Acquisition only) up to 8 percent
- Enterprise Fund: Micro Loan/Grant Program: up to 15 percent
- Enterprise Fund: Business Assistance Program: up to 15 percent
- Public Facilities or Public Improvement Projects: up to 12 percent

The following activities incorporate AD costs into the activity budget:

- Enterprise Fund: Micro TA or Support Program: Included in program costs
- ED Over-the-Counter Project: Included in project costs
- Public Service Program: Included in program costs
- PTA: Included in GA costs

**Note:** AD costs are calculated as a percentage of the actual activity amount after GA funds are subtracted. Please note that the formula is similar to the method of calculating GA, wherein AD dollars are based only on the actual activity funding amount. The allowable percentage for each activity category is turned into a numerical “factor,” by which the Activity Funding amount is divided. The quotient is the amount used solely for the activity, which is then subtracted from the Actual Activity Funding Amount (Total Request less GA), and the result is the Allowable AD Amount.

**Formula:**

Activity Total – GA = Activity Funds / AD % Factor = Remaining Activity Amount  
 Activity Funds – Remaining Activity Amount = Allowable AD Amount

**AD Percentage Factors – By Activity:**

|   |       |
|---|-------|
| Enterprise Fund Micro Financing or BA Activities: | 1.15% |
| Housing Rehabilitation Program:                   | 1.19% |
| Homeownership Assistance:                         | 1.08% |
| Public Facilities and Public Improvements:        | 1.12% |

**Single Activity Example:**

For a \$1,000,000 Homeownership Assistance Program with Activity Delivery costs of 8%, AD will be calculated in the Summary Application using the formula above, as follows:

\$ 1,000,000 – \$ 69,767 (7.5% GA using 1.075 Factor) = \$ 930,233; activity funds including AD.  
\$ 930,233 / 1.08 (AD Factor for HA Activity) = \$ 861,326; available solely for the HA Activity.

\$ 930,233 - \$ 861,326 = \$ 68,907; allowable AD Amount

Verification: \$ 68,906 / \$ 861,326 = 8%

Also: \$ 861,326 + 68,907 = \$ 930,233 Activity Amount; and,  
\$ 930,233 + \$69,767 GA = \$ 1,000,000

- *As noted above, the final amount of GA awarded in a contract will be based on activities awarded and will be shown in the contract as a total amount for GA rather than an amount tied to any specific activity.*
- *In the event AD costs are drawn down in the course of implementing an activity, and ultimately the activity does not proceed to its completion and a National Objective is not achieved by the contract expiration date, all expended Activity Funds and Activity Delivery Funds must be returned to the State.*

**Activity Delivery Costs for Housing Combination Program**

The AD costs for the Housing Combination Program will be calculated based on the activity amounts being applied for under each program (HA and HR) using the maximums noted above. If the applicant is awarded funding for a Combo Program, and decides during the term of the grant to transfer funds between the two activities, then the AD allocations will be re-calculated based on activity funds at the time of transfer approval. If AD remains because the AD percentage is less, the remaining AD funds may be added to the activity amount or be disencumbered.

**C. NOFA APPLICATION WORKSHOPS**

The Department will present NOFA workshops in locations around the State in September 2017.

The workshops are designed to review and discuss the NOFA and its components, to assist eligible applicants on important program topics, and discuss how best to assemble and submit a complete application.

Eligible applicants are strongly encouraged to review the NOFA and Application Forms prior to attending a workshop. It is highly recommended that applicants arrive at the workshops with a complete set of NOFA documents and the appropriate Application Forms. The Department will not provide electronic or hard copies of these documents.

NOFA training announcement and registration information will be released separately from this NOFA by the NOFA Unit staff.

## D. ELIGIBLE APPLICANTS, AREAS AND THRESHOLD

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### Eligible Applicants

#### 1. CDBG - Non-Entitlement Cities and Counties

In general, incorporated cities with populations of less than 50,000 and counties with an unincorporated area population of less than 200,000 persons are eligible to participate in the State CDBG Program. The following exceptions apply:

- *If a city with a population of less than 50,000 has entered into a three-year Urban County Cooperation Agreement, that city cannot participate in the State CDBG Program until the expiration of the Agreement.*
- *If a city with a population of less than 50,000 has been declared to be the central city of a Standard Metropolitan Statistical Area (SMSA), it cannot participate in the State CDBG program because it is entitled to receive CDBG funds directly from HUD.*
- *If a jurisdiction is presently debarred, proposed for debarment, suspended, or declared ineligible pursuant to Title 24 CFR, Part 24 and 48 CFR Part 9, Subpart 9.4, the jurisdiction cannot participate in the CDBG Program.*

A listing of the population eligible non-entitlement cities and counties for the CDBG Program is located in **Appendix A**. Jurisdictional debarment status may be obtained by conducting a search at this [website](#). A copy of the search is required to be included in the application. Also, please note the link above is a new web address for the Excluded Parties List System (EPLS). The EPLS is now part of the federal System of Award Management (SAM) system.

The Department will not award any CDBG funds to applicants that are debarred, suspended, proposed for debarment, and declared ineligible or voluntarily excluded from participation from federally-assisted programs.

**Appendix A** also provides the poverty index and the percentage of low- and moderate-income persons for each eligible jurisdiction.

#### 2. Application Eligibility - 50 Percent Expenditure Rule

Pursuant to State CDBG Regulation 25 CCR 7060(a)(3), an applicant with one or more open CDBG contracts, for which the expenditure deadline established in the contract has not yet passed, shall be ineligible to apply for additional CDBG funds unless the applicant has expended at least 50 percent of all CDBG funds awarded. The 50 percent expenditure regulation is known as "The 50 Percent Rule." ***The requirements of this regulation do not apply to ED OTC contracts.***

Simply put, if a jurisdiction has not yet expended 50 percent of **all** funds awarded in **all** open contracts, except for ED OTC, the jurisdiction is not eligible to apply for additional CDBG funds. This 50 Percent Rule does not apply to grant contracts that are past their

36-month expenditure milestone since they can no longer draw any grant funds. Jurisdictions with grant contracts that are past their expenditure milestone date are encouraged to submit grant contract closeout documents prior to application submittal.

**Note:** *If a contract passes the 36-month milestone and receives an extension, then the 50 percent Rule is applicable.*

**“Expended” definition:** *For purpose of the 50 percent Rule, the term expended means that by the NOFA application due date, the work is complete, the invoice has been paid by the applicant, and a Funds Request for reimbursement has been received by the Department. The Department may request evidence of the above to ensure compliance with the 50 Percent Rule.*

**Some examples of expended can include:**

- a) Escrow has closed on a homebuyer assistance loan **and the applicant has the final HUD-1 Settlement Statement;** or,
- b) The work on a single-family rehabilitation project has been completed, inspected, and approved by the applicant and the homeowner, the invoice has been paid, and a funds request for reimbursement has been received by the Department.

### 3. **Applying the 50 Percent Rule**

- The 50 Percent Rule applies to contracts awarded under the 2012 CDBG NOFA and later, with the exception of ED OTC. As an example, if a grantee was awarded \$50,000 for PTAs, \$1,500,000 for an infrastructure project, with a total contract amount of \$1,550,000, the grantee must have expended a minimum of \$775,000 (50 percent of the total \$1,550,000) by the 2017 NOFA application due date.
- Because certain jurisdictions are eligible to receive funds greater than the maximum grant award, it is important to note that if a grantee receives Community Development, Economic Development, Native American, and Colonias funds, they will be all-inclusive in one contract. The jurisdiction is still required to expend 50 per cent of its contract award before being eligible to apply again.

For example, if a jurisdiction receives an award for \$1,500,000 for a Public Improvement Project, \$500,000 for a Business Assistance Program, and \$600,000 under the Native American Allocation, the jurisdiction is in contract for \$2,600,000; therefore, must have expended \$1,300,000 (50 percent) to be eligible to apply for any additional CDBG funding, with the exception of ED OTC.

- The 50 Percent Rule applies to all CDBG contracts, excluding ED OTC contracts that have not passed their expenditure deadline at the time of the NOFA application due date. If there are two “active” contracts, the jurisdiction would need to add both contracts together and divide by two to get to the amount to be expended prior to the application due date.

#### 4. Request for Waiver of the 50 Percent Expenditure Rule

For the 2017 CDBG NOFA, Chapter 552, Statutes of 2016 (AB 723) allows the Director to waive the 50 percent Expenditure Rule, under given circumstances. Waivers will only be granted to those applicants that timely submit a Request for Waiver Form and either:

- a) Received a 2016 Special Drought and/or Disaster NOFA award; **or**
- b) Submit an application to fund a “**shovel ready**” project (see Appendix N)

The Request for Waiver Form is located in the *CDBG Application*, Subsection H, *Tab 12* (Request for Waiver to the 50 Percent Expenditure Rule).

Under no circumstances shall a waiver be granted for a shovel ready project without it being requested as part of the 2017 CDBG application. For waiver requirements and instructions, **see Appendix N**.

### Eligible Areas

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#### 1. Eligibility Issues Related to Serving Areas Outside a Jurisdiction’s Boundaries

Given the CDBG Final Rule at 24 CFR 570.486(b) and (c) posted below, the Department issued [CDBG Management Memo 13-06](#), which details the federal language and the resulting associated Department policy. Please review the Memo to ensure eligibility of a proposed activity serving areas outside a jurisdiction’s boundaries.

Final Rule at 24 CFR 570.486(b) and (c):

**“(b) Activities serving beneficiaries outside the jurisdiction of the unit of general local government** - Any activity carried out by a recipient of State CDBG program funds must significantly benefit residents of the jurisdiction of the grant recipient, and the unit of general local government must determine that the activity is meeting its needs in accordance with section 106(d)(2)(D) of the Act. For an activity to significantly benefit residents of the recipient jurisdiction, the CDBG funds expended by the unit of general local government must not be unreasonably disproportionate to the benefits to its residents.”

**“(c) Activities Located in Entitlement Jurisdictions** - Any activity carried out by a recipient of State CDBG program funds in entitlement jurisdictions must significantly benefit residents of the jurisdiction of the grant recipient, and the State CDBG recipient must determine that the activity is meeting its needs in accordance with Section 106(d)(2)(D) of the Act. For an activity to significantly benefit residents of the recipient jurisdiction, the CDBG funds expended by the unit of general local government must not be unreasonably disproportionate to the benefits to its residents. In addition, the grant cannot be used to provide a significant benefit to the entitlement jurisdiction, unless the entitlement grantee provides a meaningful contribution to the project.”

Housing and Community Development Act, 106(d)(2)(D) states:

*“To receive and distribute amounts allocated under paragraph (1), the State shall certify that each unit of general local government to be distributed funds will be required to identify its community development and housing needs, including the needs of low and moderate income persons, and the activities to be undertaken to meet such needs.”*

It is incumbent upon each applicant to provide proposed beneficiary documentation showing that their citizens will significantly benefit from the activity being applied for. As part of the eligible activities review process, the Department will review the documentation to ensure all activities meet the above requirements.

## 2. **Native American Set-Aside - Eligible Areas and Activities**

Eligible jurisdictions may apply for Native American Set-Aside funds in addition to any other CDBG activity funding in this NOFA without invoking the program funding caps. Jurisdictions are encouraged to include activities benefiting eligible Native American communities in their application for CDBG funds. These communities must be properly identified to be eligible. Requests for funding under the Native American Set-Aside must be included in the jurisdiction’s application and, if awarded, will be included in the same grant contract as all other activities/funding awarded.

- a) Pursuant to State CDBG Regulation, Section 7062, grant funds may be awarded to “eligible applicants for identifiable geographic areas within eligible cities and counties comprised of high concentrations of Native Americans not recognized as Indian Tribes, as defined in Section 102(a)(17) of the Act.”
- b) Eligible cities/counties may apply for Native American Set-Aside funds on behalf of **non-federally recognized** Native American communities up to the maximum activity amount available, as defined in this NOFA, for Housing activities or Public Infrastructure in support of new or existing housing.
- c) Further, pursuant to State CDBG Regulation, Section 7062 “identifiable geographic areas comprised of high concentrations of Native Americans” means: “identifiable geographic areas comprised of no less than 51 percent Native Americans not recognized as an Indian Tribe by the Act. An identifiable geographic area may be defined by locally accepted social, historical, physical, political, or past programmatic boundaries.” Additionally, the identifiable geographic area cannot be located on a Rancheria of a federally-recognized Tribe.
- d) Eligible activities are limited to housing and infrastructure that supports housing. Pursuant to California Health and Safety Code 50831, the Department shall utilize these funds *for the same purposes as those specified in Section 50828*. Section 50828 states that *not less than 51 percent of the funds be used for the purpose of providing or improving housing opportunities for person and family of low or moderate-income, or for purposes directly related to the provision or improvement of housing opportunities for persons and families of low or moderate-income, including, but not limited to the construction of infrastructure.*

- e) Applicants applying for Special Allocation of Native American Set Aside funds are encouraged to submit an inquiry, by November 17, 2017, to HCD NOFA staff, [CDBGNOFA@HCD](mailto:CDBGNOFA@HCD) to confirm the targeted community and proposed activity are eligible.

**Note:** *If funding for this set-aside is not fully awarded, funds will be reallocated to fund additional Community Development activities.*

### 3. **Colonias Set-Aside - Eligible Areas and Activities**

Eligible jurisdictions which contain Colonia communities, as defined by the National Affordable Housing Act of 1990, may apply for these funds. A “Colonia” is:

- a) Any identifiable community that is located within 150 miles of the border between the United States and Mexico, **except** within any standard metropolitan statistical area that has a population exceeding 1,000,000; **and**,
- b) Any identifiable community that is designated by the State in which it is located as Colonias.
- c) Any identifiable community that is determined to be a Colonia on the basis of objective criteria, including the lack of potable water supply, lack of adequate sewage systems, and lack of decent, safe, and sanitary housing; **and**,
- d) Any identifiable community that was in existence and generally recognized as a Colonia before the enactment of the National Affordable Housing Act of 1990.

In compliance with HUD’s CPD Notice 12-008, the availability of Colonia Set-Aside funds pursuant to this NOFA is limited to eligible jurisdictions that propose eligible Colonia-specific activities within designated Colonias that directly improve residential concerns associated with: (1) a lack of potable water; (2) lack of adequate sewage systems; and, (3) lack of decent, safe and sanitary housing.

All other eligible activities may be applied for from the CD allocation and may be carried out within Colonia boundaries, provided the Colonia area is also an eligible non-entitlement area and the activities meet the National Objectives of Low/Mod or Low/Mod Area benefit.

### **Threshold Requirements**

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Pursuant to State CDBG Regulations, Section 7060, in order to be eligible to submit a funding application, an applicant shall have met the following requirements at the time of application submittal:

1. City or county must be a Non-Entitlement Jurisdiction (see Appendix A for list of Non-entitlement jurisdictions), or must not currently be party to an Urban County Agreement or participate in or be eligible to participate in the HUD administered CDBG Entitlement Program.



2. The applicant shall submit all the application information required in State CDBG Regulations, 7062.1, 7070, 7072 and 7078, as applicable for the activities and funding allocations being requested.

By the NOFA application due date, the applicant must demonstrate to the satisfaction of the Department that it is in compliance with the State and federal submittal requirements of OMB Super Circular and Circular A-133, Single Audit Report.

The Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards (Uniform Guidance) [2 CFR 200.501](#) requires non-federal entities that expend \$750,000 or more in Federal awards in a fiscal year to have a single or program-specific audit conducted for that fiscal year. Guidance on determining Federal awards expended is provided in [2 CFR 200.502](#). The dollar threshold was previously \$500,000 under OMB Circular A-133 for fiscal years beginning prior to December 26, 2014.

Local Governments that expend \$750,000 or more in federal funds during the fiscal year are required to submit an *OMB A-133 Single Audit Report* and *OMB Super Circular, 2 CFR Part 200, [2 CFR — Part 200](#)*, audit compliance package to the California State Controller's Office (SCO).

Jurisdictions that are exempt from filing an A-133 Audit because the level of federal funds they expend is below the threshold must submit with their CDBG application a copy of the letter to SCO notifying of their exempt status. The SCO has [more information](#) on the required content of the letter.

*It is strongly recommended that each applicant check with SCO to confirm receipt of a complete A-133 submission by the NOFA application due date, and that the submission is properly reflected on SCO's status list.*

Per the State Administrative Manual (SAM) Section 20070, the State Controller's Office (SCO) is the Pass-Through Entity for California and is responsible for coordinating Single Audit compliance with local governments for all Pass-Through Federal Funding (State CDBG Program funding is pass-through funding). SCO determines if the submitted A-133 is complete.

*For purposes of eligibility under this NOFA, the Department requires that a "complete" A-133 be submitted to the SCO for the most recently ended fiscal year.*

The OMB Super Circulars 2 CFR Part 200, consolidate OMB Circular A-133 requirements in 200.331. This section addresses pass-through funds requirements, and most of the requirements are the same.

*For more information, access **SCO** at [http://www.sco.ca.gov/aud\\_single\\_audits.html](http://www.sco.ca.gov/aud_single_audits.html).*

**Applicants deemed by SCO to be out of compliance with the A-133 submission requirement by the application filing deadline for this NOFA will not be eligible for funding.**



3. Pursuant to State CDBG Regulation, Section 7080, applications must be in compliance with federal CDBG Public Participation regulations to be eligible for funding. Refer to Appendix D for requirements and sample governing body resolutions.
4. The applicant must have complied with all the requirements listed in Health and Safety Code Sections 50829 and 50830 regarding Housing Element law. State regulations 25 CCR 7060 allow jurisdictions to be eligible applicants when they have (1) submitted their draft housing element to the Department for comment, (2) received and considered findings, and (3) adopt the housing element by the application due date. Pursuant to the law, CDBG will not reject an application based on either the content of the housing element or the Department's findings on the element, except as may otherwise be provided in Section 50830 of the Health and Safety Code. The determination of housing element compliance will be made by the Department's Division of Housing Policy Development (HPD).

The Department strongly recommends contacting Paul McDougall, Section Chief, HPD, at (916) 263-7420 or [Paul.McDougall@hcd.ca.gov](mailto:Paul.McDougall@hcd.ca.gov) to verify housing element compliance with CDBG requirements. For Housing Element and Growth Control Requirements, refer to **Appendix B**.

## **E. ELIGIBLE ACTIVITIES**

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### **Overview**

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- Pursuant to the Housing and Community Development Act of 1974 [HCDA Section 105(a)], CDBG funds may be used for activities as discussed below.
- For an activity to be eligible, it must be a HUD eligible activity as outlined and defined in the subsections below, and must also meet a National Objective, pursuant to 24 CFR 570.483.
- PTA is an eligible activity and may be applied for and funded for either ED or CD purposes (but not both). Details on planning activity eligibility are discussed in Funding Parameters Section, Item E (13).

### **1. Ineligible Activities**

The general rule is that any activity that is not authorized under the provisions of 42 U.S. Code (USC) 5305 is ineligible to be assisted with CDBG funds.

This section identifies specific activities that are ineligible and provides guidance in determining the eligibility of other activities frequently associated with housing and community development.

a) The following activities may not be assisted with CDBG funds:

- 1) ***Buildings or portions thereof used for the general conduct of government*** cannot be assisted with CDBG funds. This does not include, however, the removal of architectural barriers involving any such building. Also, where

acquisition of real property includes an existing improvement which is to be used in the provision of a building for the general conduct of government, the portion of the acquisition cost attributable to the land is eligible, provided such acquisition meets a National Objective.

- 2) **General government expenses:** Except as otherwise specifically authorized in this subpart or under, *OMB Super Circular*, [2 CFR — Part 200](#), expenses required to carry out the regular responsibilities of the unit of general local government are not eligible for assistance under this part.
  - 3) **Political activities:** CDBG funds shall not be used to finance the use of facilities or equipment for political purposes or to engage in other partisan political activities, such as candidate forums, voter transportation, or voter registration. However, a facility originally assisted with CDBG funds may be used on an incidental basis to hold political meetings, candidate forums, or voter registration campaigns, provided all parties and organizations have access to the facility on an equal basis, and are assessed equal rent or use charges, if any.
- b) CDBG may not fund the following activities unless authorized under provisions in Special Economic Development (and in some cases Public Services) as otherwise specifically noted herein.
- 1) **Purchase of equipment:** The purchase of equipment with CDBG funds is generally ineligible.
    - (i) **Construction equipment:** The purchase of construction equipment is ineligible, but compensation for the use of such equipment through leasing, depreciation, or use allowances pursuant to *OMB Super Circular* [2 CFR — Part 200](#), as applicable for an otherwise eligible activity is an eligible use of CDBG funds. However, the purchase of construction equipment for use as part of a solid waste disposal facility is eligible since it is an integral part of a public facility.
    - (ii) **Fire protection equipment:** Fire protection equipment is considered for this purpose to be an integral part of a public facility and thus, purchase of such equipment would be eligible.
    - (iii) **Furnishings and personal property:** The purchase of equipment, fixtures, motor vehicles, furnishings, or other personal property not an integral structural fixture is generally ineligible. CDBG funds may be used, however, to purchase or to pay depreciation or use allowances (in accordance with *OMB Super Circular*, [2 CFR — Part 200](#), as applicable for such items when necessary for use by a recipient or its subrecipients in the administration of activities assisted with CDBG funds, or when eligible as firefighting equipment, or when such items constitute all or part of a public service.

- 2) **Operating and maintenance expenses:** The general rule is that any expense associated with repairing, operating or maintaining public facilities, improvements and services is ineligible. Specific exceptions to this general rule are operating and maintenance expenses associated with public service activities, interim assistance, and office space for program staff employed in carrying out the CDBG program. For example, the use of CDBG funds to pay the allocable costs of operating and maintaining a facility used in providing a public service would be eligible, even if no other costs of providing such a service is assisted with such funds. Examples of ineligible operating and maintenance expenses are:
- (i) Maintenance and repair of publicly owned streets, parks, playgrounds, water and sewer facilities, neighborhood facilities, senior centers, centers for persons with disabilities, parking, and other public facilities and improvements. Examples of maintenance and repair activities for which CDBG funds may not be used include the filling of potholes in streets, repairing of cracks in sidewalks, the mowing of recreational areas, and the replacement of expended street light bulbs; and
  - (ii) Payment of salaries for staff, utility costs and similar expenses necessary for the operation of public works and facilities.
- 3) **New housing construction:** For the purpose of this paragraph, certain provisions of site improvements, public improvements and housing pre-construction costs are not considered as activities to subsidize or assist new residential construction and therefore are eligible. These include activities in support of the development of low- or moderate-income housing including clearance and site assemblage. CDBG funds **may not** be used for the construction of new permanent residential structures or for any program to subsidize or assist such new construction, except:
- (i) As provided under the last resort housing provisions set forth in 24 CFR Part 42;
  - (ii) As authorized under 42 USC 5305(2) that will meet the National Objectives of Low/Mod Housing (LMH) or Limited Clientele (LMC).
- 4) **Income payments:** The general rule is that CDBG funds may not be used for income payments. For purposes of the CDBG Program, “income payments” means a series of subsistence-type grant payments made to an individual or family for items such as food, clothing, housing (rent or mortgage), or utilities, but excludes emergency grant payments made over a period of up to three consecutive months to the provider of such items or services on behalf of an individual or family.

### **1. Enterprise Fund**

#### **a. Business Financial Assistance Program**

Funds under this activity are provided to eligible for-profit businesses as loans. Projects funded under this program fall under HUD's Special Economic Development Activities as per HCDA 105(a)(17). Eligible loans are underwritten with standards and documentation similar to those used by private commercial lenders including credit scores, equity contributions, historic income, projected income, collateral, and debt coverage. In addition, loans must be underwritten using HUD underwriting standards per 24 CFR 570.482(e). Businesses funded can be existing or startup companies. Loan funds are restricted to certain eligible activity costs as listed below.

#### **1) Eligible Uses of Funds**

- Paying for program marketing, loan threshold review, federal overlay compliance, business underwriting and loan approval (referred to as activity delivery and subject to public benefit standard).
- Financing of working capital to pay for marketing costs, operating expenses, and inventory.
- Financing of furniture, fixtures, and equipment (FF&E). Also, purchase and installation of manufacturing equipment.
- Financing of interior and exterior repairs and property improvements to owner and renter occupied commercial properties (including permits, engineering, and architectural costs). These improvements may include American with Disabilities Act (ADA) accessibility improvements.
- Financing real property acquisition costs.
- Financing of demolition and reconstruction or repair of blighted buildings where the business will operate.
- Financing may be used for refinancing existing business indebtedness.
- Financing of relocation costs of any displaced persons due to project development are also eligible under this program.
- Financing of some offsite public improvements.

## 2) **Ineligible Uses of Funds**

- Projects that do not meet any Public Benefit or National Objective standard.
- Projects that assist housing development.
- Projects which are “speculative in nature”, high risk, with no firm basis for sales projections and loan repayment.
- Payment of project costs incurred prior to loan approval and National Environmental Policy Act (NEPA) review completion.
- Projects which violate HUD job pirating prohibition (using CDBG funds to encourage a business to move from one labor market to another).

*Reference: ED Assistance to For-Profit Business: HCDA 105(a)(17)*

### b. **Microenterprise (ME) Assistance Program**

Funds under this activity may be provided as three different services to eligible ME persons and businesses. ME activities can provide (1) Technical Assistance Services; (2) Financial Assistance; and, (3) Support Services. Eligible ME businesses and persons, once qualified, are eligible for these three services for up to three years, per 24 CFR 570.483(b)(2)(iv). MEs can be funded as existing or start-up companies. Financial assistance must be provided only after underwriting and confirmation that the ME participant and their business are financially viable. Costs for the three services are restricted to certain eligible activity costs as listed below.

#### 1) **Eligible Use of Funds**

Technical Assistance (must be an income-qualified participant using the Department’s current [Income Self Certification Form](#) posted on its website):

- One example: Technical Assistance classes, which provide business training and capacity building.
- Technical Assistance may be provided in the form of one-on-one training to help businesses develop financial management tools and inventory controls for their company or help develop a specific marketing plan. This does not include one-on-one application preparation for financial assistance noted below.

Financial Assistance (must be an income-qualified participant using the Part 5 method):

- Using grant or loan financing to pay for working capital or to pay for marketing costs, operating expenses, and inventory.

- Financing for furniture, fixtures, and equipment (FF&E). Also, purchase and installation of equipment.
- Financing for payment of interior repairs and property improvements to owner and renter occupied commercial properties (including permits, engineering and architectural costs). These improvements may include ADA accessibility improvements.
- Funds for relocation of any displaced persons due to CDBG project development are also eligible under this program.
- Assistance to non-profit agencies, only for the purpose of real property acquisition and/or construction.

Support Services Assistance (must be an income-qualified participant using the Department's [Income Self Certification Form](#) :

- Funds for payment of transportation costs to allow ME participants to travel to and from classes and technical assistance.
- Funds for payment of child care services to support the ME Program participant in attending technical assistance activities.

## **2) Ineligible Uses of Funds**

- Projects that assist development of housing.
- Payment of project costs incurred prior to NEPA review completion.
- Financial assistance to persons/families above 80 percent Adjusted Median Income (AMI) by county, adjusted for household size.
- Assistance to a business with more than five (5) employees including the owners.

*Reference: HCDA 105(a)(22)*

## **2. Economic Development Over-the-Counter (OTC)**

ED OTC funding is provided to a specific project and as a CDBG-eligible activity, normally falls under HUD's Special Economic Development Activities.

*Reference: HCDA 105(a)(14) and 105(a)(17)*

An OTC project can consist of financial assistance to a single business or a large number of assisted businesses served by common infrastructure. The most common form of an OTC project is a single business with a single project where funds are provided as a loan from the jurisdiction/grantee to an eligible borrower. The more complex OTC project occurs when OTC funds are used to pay for infrastructure

improvements in support of a commercial development (shopping center or industrial park) that has multiple businesses. All businesses associated with or served by the infrastructure must be underwritten and qualified as part of the CDBG OTC funding proposal.

a. **Eligible Uses of Funds**

- Financing may be used to cover any offsite public improvements required as part of project development.
- Financing may be used for working capital to pay for marketing costs, operating expenses and inventory.
- Financing may be used for furniture, fixtures and equipment (FF&E). Also, purchase and installation of manufacturing equipment.
- Financing may be used for payment of interior and exterior repairs and property improvements to owner and tenant occupied commercial properties (including permits, engineering and architectural costs). These improvements may include ADA accessibility improvements.
- Financing may be used for payment of demolition and reconstruction or repair of blighted buildings where the business will operate.
- Financing may be used for refinancing existing indebtedness.
- Financing used for relocation of any displaced persons due to CDBG project development funding is also eligible under this program.

b. **Ineligible Uses of Funds**

- Projects that do not meet any Public Benefit or National Objective.
- Projects that assist housing development.
- Projects speculative in nature with no firm basis for sales projections and loan repayment.
- Project costs incurred prior to NEPA review completion.
- Projects which violate HUD job pirating prohibition (using CDBG funds to encourage a business to move from one labor market to another).

**Note:** Financing to non-profits is limited to payment for acquisition of real property or construction costs.

GA costs for an ED - OTC application is capped at 7.5 percent of the requested activity funds, but not to exceed \$100,000, unless there is a written request submitted for an exception to this maximum with supporting documentation and approved in writing by the Department.

## **Community Development**

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### **Housing Definitions for Single-Family Residential and Multifamily Residential**

Single-Family Residential, as applied to eligible **program** activities such as Housing Rehabilitation program, is defined as one to four residential unit(s) on a single property.

Multi-Family Residential applies to the eligible **project** activities of Multi-Family Housing (MFH) Rehabilitation and MFH Acquisition/Rehabilitation, and is defined as five residential units or more on a single property or within a single development complex.

While the number of units served is an important aspect of the distinction between Single-Family and MFH activities, the more important distinctions, from an eligibility and compliance standpoint are that:

- Housing Rehabilitation and Homeownership Assistance are programs where, at the time of application, there are no specific addresses assigned to the funding and guidelines are required.
- Multi-Family Housing Acquisition and/or Rehabilitation are project activities where, at the time of application, there is a specific address assigned to the funding and no guidelines are needed, but more involved oversight by the Department is required (e.g., underwriting, feasibility studies, expanded environmental review, Davis-Bacon, etc.).

These are critical differences when applying for these activities, as the application requirements and scoring criteria are significantly different. Programs require Program Guidelines to be submitted as part of the application, whereas Projects do not. Please follow the instructions in the Application for these activities and provide the specific documents and information required.

#### **1. Housing Project - Property Acquisition for Multi-Family Housing**

##### **a. Eligible Uses of Funds**

This activity is intended only for the acquisition of property for the purposes of housing projects. If the applicant is interested in non-housing property acquisition, the applicant should apply under the activity that corresponds to the proposed use of the property (i.e., when proposing to acquire a public facility or the land upon which to build one, the applicant should apply under the Public Facility activity).

Eligible uses of funds include the following:

- Acquisition of existing rental housing, the majority (51 percent) of units of which are occupied by low- or moderate-income residents.
- Resident purchase, with or without rehab, of mobilehome parks.



- Acquisition of vacant land as part of an affordable housing development project.
- Temporary and permanent relocation costs provided to existing tenants/“persons”, e.g., business, non-profit, farm, or family, displaced by an assisted project, and can be provided as grant funds to a project that is using CDBG funding for development costs.

*Reference: Section 105(a)(1) of the Housing and Community Development Act of 1974.*

***Note:*** For this activity, the correct application to use is the *Housing Rehabilitation Project – Multi-Family Application Form*. **Further, this activity can only be eligible if the acquisition results in housing units being built that are occupied by low/mod beneficiaries such that a National Objective will be met.**

**b. Ineligible Uses of Funds**

- Acquisition of property that is to be donated or sold for less than the purchase price to the same entity from which the property was originally purchased.
- Acquisition of newly-constructed housing or an interest in the construction of new housing, **unless** such housing is already constructed and for sale on the open market at the time that a commitment is made to use CDBG funds for such a purchase.
- A jurisdiction providing CDBG funding as a grant to a rental housing project owner to pay for eligible CDBG project acquisition or site improvement costs. This includes a “forgivable loan”, which is considered a grant by the Department.

**2. Housing Program - Homeownership Assistance (HA)**

**a. Eligible Uses of Funds**

Housing Assistance programs provide direct assistance to Low- or Moderate-Income (LMI) homebuyers for the acquisition of an existing housing unit. New housing units must be completed prior to the homebuyer submitting an offer to purchase. **Low/Mod is defined as total income that is at or below 80 percent of Area Median Income (AMI) adjusted for family size.**

Assistance may be used to:

- Subsidize interest rates and mortgage principal amounts;
- Finance the acquisition by Low/Mod homebuyers of housing that will be occupied by the homebuyers;
- Acquire guarantees for mortgage financing obtained by Low/Mod homebuyers from private lenders;
- Provide up to 50 percent of any down payment required from the Low/Mod homebuyer; or,

- Pay reasonable closing costs incurred by Low/Mod homebuyers.

**b. Ineligible Uses of Funds**

- HA that would benefit a *non*-Low/Mod person or household or assistance to a homebuyer that does not occupy the home.
- HA on a unit that is not yet built, and would thus be considered *housing new construction*. HA under CDBG is intended for existing homes, not new construction.

*Reference: HCDA 105(a)(24)*

**3. Housing Rehabilitation Program (1-4 units) (HR)**

**a. Eligible Uses of Funds**

- Financing of the costs of repairs and general property improvements to owner- and renter-occupied units, including repair or replacement of principal fixtures and components of existing structures (e.g., the heating system).
- Demolition and reconstruction of dwelling units (under certain, limited circumstances).
- Loans for refinancing existing indebtedness secured by a property rehabilitated with CDBG funds, if such financing is determined by the grantee to be necessary or appropriate to achieve the locality's community development objectives.
- Water or sewer laterals from the main water line to the dwelling if done in conjunction with the rehabilitation of the unit itself, regardless if the main water line or any part of the lateral is located in a public right of way.
- Installation of water meters, if done in conjunction with the rehabilitation of the unit itself.
- Improvements to increase the efficient use of energy in structures through such means as installation of storm windows and doors, wall and attic insulation, and conversion/modification/replacement of heating and cooling equipment, including the use of solar energy equipment.
- Improvements to increase the efficient use of water through such means as water saving faucets, water saving showerheads, and the repair of water leaks.

- Temporary relocation payments for homeowners are optional and, if allowed, must be explained in program guidelines. Temporary relocation payments are required for tenants that need a motel short term apartment and/or require storage services during rehabilitation or construction. Tenants not allowed to return to their original units will be eligible for permanent relocation benefits, so loan documents should mandate that landlord allow tenants to return. Relocation payments are available for projects that use CDBG funds for project development costs.

**b. Ineligible Uses of Funds**

- Any action that results in what would be considered *housing new construction*.
- Creation of a secondary housing unit attached to a primary unit.
- Installation of luxury items, such as a swimming pool.
- Costs of equipment, furnishings or other personal property which are not integral structural fixtures, such as a window air conditioner, washer or dryer, etc.
- Labor costs for owners to rehabilitate their own property.
- Assistance to homeowners that would benefit a *non*-Low/Mod person or household.
- A jurisdiction providing CDBG funds as a grant to a rental housing project owner to pay for eligible CDBG project construction costs. This includes, “forgivable loan” which is considered by the Department as a grant.

**c. Other Considerations**

The HR (1-4 Units) activity is a **program** involving single-family residential properties that are one to four units.

HR programs require guidelines adopted in accordance with required citizen participation and a formal resolution by the governing body of the jurisdiction.

Further, should the jurisdiction choose to include tenant-occupied HR in their program, the guidelines **must** separate out the rules for renter-occupied units (also called owner-investor) and owner-occupied units.

*Reference: HCDA 105(a)(1), 105(a)(4)*

**4. Housing Projects - Multi-Family Rental Rehabilitation - with or without Acquisition**

**a. Eligible Uses of Funds**

- Financing of the costs of repairs and general property improvements to renter-occupied units, including repair or replacement of principal fixtures and components of existing structures (e.g., the heating system).

- Loans for refinancing existing indebtedness secured by a property being rehabilitated with CDBG funds, if such financing is determined by the grantee to be necessary or appropriate to achieve the locality's community development objectives.
- Improvements to increase the efficient use of energy in structures through such means as installation of storm windows and doors, wall and attic insulation, and conversion/modification/replacement of heating and cooling equipment, including the use of solar energy equipment.
- Improvements to increase the efficient use of water through such means as water saving faucets and showerheads and the repair of water leaks.
- Conversion of commercial properties into housing units.
- Conversion of a non-residential structure (closed school building, closed military facility, etc.) to residential (adaptive reuse).
- Projects with at least 51 percent of the units occupied by or restricted for Low/Mod households.
- Temporary and permanent relocation costs provided to existing tenants / "persons" e.g., business, non-profit, farm or family, displaced by an assisted project, can be provided as grant funds to the project when CDBG funds are used for development costs.

b. **Ineligible Uses of Funds**

- Installation of luxury items, such as a swimming pool.
- Costs of equipment, furnishings, or other personal property that are not integral structural fixtures, like a window air conditioner, washer or dryer, etc.
- Labor costs for owners to rehabilitate their own property.
- Projects with less than 51 percent of the units occupied by or restricted for low/mod households.
- A jurisdiction providing CDBG funds as a grant to a project developer to pay for eligible CDBG project costs. This includes, "forgivable loan" which is considered by the Department as a grant.

c. **Other Considerations**

Housing Projects - Multifamily (MFH) are for properties with five or more units, and formal *program guidelines* are not applicable. There must be a clear need for CDBG funds for a MFH project. As stated in this NOFA and corresponding application package, only one MFH Rehab project is allowed per application.

*Reference: HCDA 105(a)(1), 105(a)(4)*

## 5. Housing – Combo – Applying for both Homeownership Assistance (HA) and Housing Rehabilitation (1-4 Units) (HR)

### a. Eligible Uses of Funds

This activity allows jurisdictions to apply for funding for both HA and HR Programs. It provides greater flexibility by allowing grantees to transfer CDBG funds between the two programs without having to execute a formal contract amendment. Grantees will need to inform the Department in writing each time funds are moved, and written approval for transfer between the two programs will be required.

For details on eligible and ineligible activities, please refer to the aforementioned HA and HR sections.

***Note:*** The “Combo” program is merely a means to apply for both programs together; however, both programs cannot be used on the same address. In other words, CDBG funds cannot be used to acquire, rehabilitate and resell 1-4 Unit properties. **Furthermore, a housing combination program application requires forms and supporting documentation for both activities.**

### b. Ineligible Uses of Funds

For ineligible activities, please refer to HA and HR sections.

*Reference: HCDA 105(a)(4) and HCDA 105(a)(24)*

## 6. Housing - Housing New Construction

### a. Very Limited Eligible Uses of Funds

For the State CDBG Program, the Housing and Community Development Act (HCDA) of 1974, as amended, states that any activity not specifically listed in section 105 is not eligible. Thus, the construction of new, permanent, housing structures is **ineligible** for CDBG assistance, except under the following limited circumstances:

Construction of **last resort** housing is when a jurisdiction is providing a displaced person with a comparable replacement dwelling unit, and this can only be accomplished by new construction. Last resort housing provisions are set forth in federal regulations Title 24 CFR, Part 42, Subpart I, [24 CFR Part 42](#). Documentation demonstrating the efforts to relocate individuals must be submitted with the application if last resort housing or displacement is part of the application.

***Note:*** Generally, activities in support of housing new construction projects are eligible under Public Improvements In-Support-of Housing New Construction or purchase of real property, or abatement/demolition activities required for the project.

b. **Other Considerations**

- **Project Completion**: Construction of all housing units must be completed and the housing units must be occupied **prior to the expiration of the CDBG Grant Agreement**.
- Conversion of a non-residential structure to residential (adaptive reuse) is *not* considered a housing new construction activity, and is eligible under Multi-Family Housing project.

*Reference: HCDA 105(a)(4), 105(a)(6)*

7. **Public Improvements**

a. **Eligible Uses of Funds**

The costs of construction, reconstruction, rehabilitation, or installation of a public improvement project, including water and sewer facilities, flood and drainage facilities, street improvements (including sidewalks, curbs, and gutters), and utilities.

*For Public Improvements to be eligible under the Community Development funding category, the project must be located in and serve a predominantly residential area. The applicant must attach a map indicating the use of all properties in the service area of the project.*

b. **Ineligible Uses of Funds**

- Costs of operating and maintaining public improvements.
- Costs of purchasing construction equipment.

*Reference: HCDA 105(a)(2)*

8. **Public Improvements In-Support-Of Housing New Construction (PIHNC)**

a. **Eligible Uses of Funds**

- The following are eligible uses of CDBG funds **in conjunction with** the actual construction of new permanent housing: Off-site improvements such as utilities, streets, curbs and gutters, sidewalks, and flood and drainage improvements are eligible **only where specifically required as a condition of the housing project approval and where the improvement is necessary to the development.**

If the proposed improvements are not a ***Condition of Approval***, then the activity will be deemed a non-specific Public Improvement Project and the applicant should use the Public Improvement application for that activity rather than PIHNC. The non-specific Public Improvement application will be evaluated for eligibility and scored based on area benefit.

b. **Ineligible Uses of Funds**

- Costs of operating and maintaining public improvements.
- Costs of purchasing construction equipment.
- Off-site improvements that are not a condition of approval for the new housing development.
- On-site improvements.

c. **Other Considerations**

Project Completion: The construction of all housing units must be completed and the housing **must be occupied** (regardless of any other funding sources in the project) **prior to the expiration of the CDBG Standard Agreement.**

*Reference: HCDA 105(a)(2)*

9. **Public Facilities**

a. **Eligible Uses of Funds**

- Acquisition, rehabilitation, or new construction of buildings and grounds used to provide one or more eligible CDBG public service: Public services, such as employment training, health services, education, recreation, nutrition, shelter, day care, temporary housing, and fire protection. For a public facility to be eligible, it must be used for public purposes, or provide eligible public services as described in this section.
- The acquisition of real property (including air rights, water rights, easements, rights-of-way, and other interests therein) is eligible if the property meets any of the following criteria:
  - Blighted, deteriorated, deteriorating, undeveloped, or inappropriately developed from the standpoint of sound community development and growth;
  - Appropriate for rehabilitation or conservation activities; ***or,***
  - The acquisition of land for use as a park serving primarily a residential neighborhood that is predominantly low- to moderate-income.
- Temporary Housing: For housing-related activities to be eligible as a Public Facility, both the facility and the services therein must be designed for use in providing temporary shelter for persons having special needs. Such shelters would include, but not be limited to, nursing homes, convalescent homes, and shelters for victims of domestic violence, shelters and transitional facilities for the homeless, halfway houses for runaway children or drug offenders or parolees, group homes for the developmentally disabled, and seasonal housing for migrant farmworkers.

- Permanent relocation costs can be provided to existing tenants / “persons” (e.g., business, non-profit, farm or family, displaced by an assisted project, and can be provided as grant funds to the project). Projects must be using CDBG funds for development costs.

***Note:*** *Costs for design features which promote the energy efficiency of the proposed Public Facility activity may be included.*

- If a public facility contains multiple uses, including both eligible and ineligible uses, it can still receive CDBG assistance if:
  - *The portion of the building which will house the eligible uses will occupy a designated and specific area demonstrated by building drawings/plans; and*
  - *The applicant can determine the costs attributable to the portion of the facility proposed for assistance as separate and distinct from the overall costs of the multi-use building.*

**b. Ineligible Uses of Funds**

- Buildings used for the general operation of local government are not eligible as public facilities, except that the removal of architectural barriers from such buildings is an eligible activity (see note below regarding Section 504 compliance).
- The costs of maintaining or operating a public facility, including furniture fixtures, are not eligible as a public facility activity, but may be eligible under a public service program activity.
- Refinancing loans on existing public facility buildings is not an eligible use of CDBG funds, unless the refinancing takes place in conjunction with the rehabilitation of the building.
- Permanent housing.
- Time-sharing of eligible and non-eligible uses for the same space.
- A jurisdiction providing CDBG funds as a grant to a project developer to pay for eligible CDBG project costs. This includes, “forgivable loan” which is considered by the Department as a grant.

**c. Other Considerations**

**Use Limitation Agreement:** For property acquired or improved in whole or in part using CDBG funds, a Use Limitation Agreement will be required to be in effect for at least five years after the close out of the CDBG contract to ensure that the eligible public services will continue to be provided.

*Reference: HCDA 105(a)(2)*



**Note: Government Building Exception: Section 504 Compliance:**

Rehabilitation of buildings used for the general operation of local government is not eligible **unless the rehabilitation is to remove architectural barriers** and must comply with the requirements detailed in Section 504 of the Rehabilitation Act of 1973, including obtaining a certificate of compliance from the architect documenting that the facility meets Section 504 accessibility requirements (see **Appendix G**).

*Reference: Section 504 of the Rehabilitation Act of 1973 and HCDA 105(a)(5).*

## **10. Public Services**

### **a. Eligible Uses of Funds**

CDBG funds may be used to provide public services including labor, supplies, materials and other costs. Funding operating and maintenance costs in the facility providing the service is allowed under this category. Public Services include, but are not limited to:

- Child Care
- Health Care
- Crime Prevention
- Job Training
- Recreation Programs
- Education Programs
- Fair Housing Counseling
- Credit Counseling Services
- Public Safety Services
- Services for Senior Citizens
- Services for Homeless Persons, including Coordinated Entry activities
- Drug and Alcohol Abuse Counseling and Testing
- Transportation Services
- Nutrition Services
- Energy Conservation Counseling and Testing
- Emergency Assistance Payments
- Neighborhood Cleanup

### **b. Ineligible Uses of Funds**

- Political Activities
- Religious Services
- Governmental Operations
- Ongoing Grants or Non-emergency payments to individuals for the food, clothing, rent, utilities or other income payments (subsistence payments) beyond three months
- Activities for the general promotion of the community, e.g. a 100-year anniversary celebration

### c. Other Considerations

**Limited Funding for Public Service Activities.** Federal statute [42 USC 5305(a)(8)] limits the expenditure of **public service funds to no more than 15 percent** of the State's annual CDBG funding award from HUD and is calculated each year based on actual public service expenditures.

Federal statute allows for the use of CDBG funds for Public Services only under any of the following four circumstances:

- 1) The service must be **new**, in that it has not been provided before, or has been discontinued for more than 12 months prior to the final filing date of the application;
- 2) The proposed service must show a **quantifiable increase** in the level of service with the costs having never been incurred or paid for by a funding source; or
- 3) The service is **currently funded with CDBG grant funds** and the service will remain at substantially the same level; or
- 4) The service was previously **funded by another source and that source is no longer available. The loss of this funding must be documented in the application.** *The applicant will be required to show that CDBG funds are not being substituted for other state or local funds and that the loss of current funding is out of the applicant's control. CDBG funding may not supplant other state and local funding. If the applicant intends to apply under this eligibility, please call your CDBG Representative to discuss prior to preparing the application.*

*Reference: HCDA 105(a)(8)*

## 11. Code Enforcement

Code enforcement is defined as a process whereby local governments gain compliance with ordinances and regulations regarding health and housing codes, land-use and zoning ordinances, design standards, and uniform building and fire codes. Code enforcement may only take place in primarily residential areas where 51 percent of the residents are low- and moderate-income.

**Note:** *Code Enforcement is not a Public Service Activity. It is a stand-alone activity under 42 USC 5305(a)(3) with IDIS Matrix Code 15. However, CDBG State Regulations allow for this activity to be considered a Public Services and scored accordingly, like job training programs.*

## 12. Jurisdiction-wide Code Enforcement

Grantees may not use CDBG funds to pay for code enforcement in every area or neighborhood or **for a grantee's entire jurisdiction** (e.g., city- or county-wide). In addition, Code Enforcement **cannot** qualify under the Slums & Blight National Objective – it can only qualify under Low/Mod Area Benefit, provided that it is well documented (see Application for required documentation).

a. **Eligible Uses of Funds**

- CDBG funds may be used to provide Code Enforcement of state and/or local codes.
- It *must only pay* for the *enforcement* of state and/or local codes which is limited to staff salaries for Code Enforcement Officers issuing citations for code violations.

b. **Ineligible Uses of Funds**

- Costs of correcting code violations; and
- Code Enforcement work outside of the defined residential service area.

c. **Other Considerations**

To be eligible, the Code Enforcement Activity must:

- Only be carried out in *deteriorating or deteriorated areas* where such enforcement, together with public or private improvements, rehabilitation or services to be provided, *may be expected to arrest the decline of the area*.
- Clearly *identify measurable outcomes* and be *supported by documented success*.
- CDBG-funded code enforcement activities can trigger the Uniform Relocation Act (URA) and its Section 104(d) if the follow-up activity involves the acquisition, rehabilitation or demolition of property with other federal *or private funding*, and requires that individuals move on a temporary or permanent basis. Applicants engaging in Code Enforcement activities that may or will cause the relocation and displacement of persons must provide a project-specific relocation plan. This plan must outline how they will manage the relocation and displacement activities for the project and estimate what relocation benefits will be required.

*Reference: HCDA 105(a)(3)*

### **13. Planning and Technical Assistance (PTA)**

a. **Eligible Uses of Funds**

CD planning studies focus on research, analysis, and planning for community needs concerning housing, public improvements, community facilities, public services, and local planning issues. PTA funds can be used for planning activities to support homeless prevention and rapid rehousing activities such as Point in Time Count, planning for coordinated entry, planning for improved data collection, and other costs eligible under the categories listed below. Planning study final products must show a connection to assisting with an eligible CDBG activity that, if implemented, meets a National Objective.

ED planning studies focus on business development and job creation or retention through analysis of business development opportunities. ED planning grants also help develop analysis of needs and impediments to growth of local businesses (lack of infrastructure or financing). Planning grants for ED can assist in the development of long term local economic development strategies, like County Economic Development Strategies (CEDs) required by Federal Economic Development Agency (EDA). Downtown economic development plans to guide the growth and revitalization of a downtown area are also eligible and could qualify as helping to develop a BA program for the downtown area which would create jobs for Low/Mod persons.

Planning-only grants or activities can meet the Low/Mod Income Benefit objective if it can be shown that at least 51 percent of the persons who would benefit from implementation of the plan are Low/Mod-income persons. Such a determination is not dependent on the planned-for activity or project actually being implemented at some point.

*Reference: 24 CFR 570.483(b)(5). Meeting Low/Mod Income benefit for planning grants includes use of "Limited Clientele".*

Per HCDA 105(a)(12), PTA funding may only be spent on:

- Studies
- Analysis
- Data gathering
- Preparation of plans
- Identification of action that will implement plans
- Preliminary plans and specifications, and/or
- Comprehensive plans

Comprehensive planning is allowed if the planning is carried out in a geographic area in which 51 percent or more of the residents are Low/Mod-income as documented by the federal census or income survey completed within the last five years, and the applicant can document that the comprehensive plan will primarily benefit Low/Mod-income persons.

***Note: Grant/application writing, including ED OTC activities, is not an eligible use of PTA funding.***

Further, *the application must document* that the work-product to be produced by the PTA award, if implemented, **will** meet the National Objective of Low/Mod Benefit. The Department will evaluate each PTA for eligibility based on the application's supporting documentation confirming the PTA will meet one of the National Objectives.

If awarded, the work product produced by the PTA award **must**:

- 1) meet either the Low/Mod Area, Limited Clientele, or other Low/Mod qualification;
- 2) be consistent with the work product applied for in the PTA application; and
- 3) be submitted to the Department at time of grant closeout.

The activity may be deemed ineligible and funding shall be returned to the Department if the work-product produced by the PTA grant is:

- 1) not consistent with the work-product approved in the original application;
- 2) not as described in the contract;
- 3) if implemented, will not meet a National Objective; or,
- 4) is not submitted at the time of grant closeout.

Grant writing may be funded through a jurisdiction's GA funding; **however, CDBG GA can only be spent on preparing applications for federal funding.**

Under HCDA Section 105(a) (14), planning activities may also be carried out by public or private nonprofit entities. Applicants are directed to forward PTA eligible activity inquiries to CDBG NOFA Unit staff through the email address at [CDBGNOFA@HCD](mailto:CDBGNOFA@HCD).

b. **Ineligible Uses of Funds**

1) Planning and capacity building activities do not include:

- Final engineering, architectural plans and design costs related to a project (for example, detailed engineering specifications and working drawings);
- The costs of implementing plans, including grant application preparation; or,
- Providing technical assistance to a non-profit for capacity building.

2) In addition, the list below gives examples of activities that are ineligible, with possible exceptions. Applicants are directed *to forward PTA eligible activity inquiries to CDBG NOFA Unit staff through the email address at [CDBGNOFA@HCD](mailto:CDBGNOFA@HCD)*.

- **Ineligible: Income Survey** costs. The cost of conducting an Income Survey is not an eligible CDBG cost.
- **Ineligible: Housing Element** preparation for jurisdictions in which fewer than 51 percent of residents are Low/Mod as documented by the federal American Census Survey (ACS) census data.

**Exception:** *Costs incurred for the preparation of that portion of the Housing Element in which affordable housing is addressed is eligible.*

*Reference: HCDA 105(a)(12); HCDA 105(a)(14); and, HCDA 105(a)(19)*

c. **Other Considerations**

**Cash Match Requirements** - The PTA activity requires local matching funds to be committed to the activity, per Health and Safety Code Section 50833. Per 25 CCR Section 7058(a)(5)(A), all jurisdictions applying for a PTA activity will be required to commit **five percent** of the total funding amount - including GA - as a required cash match. For more information on this requirement, see **Appendix I** and the PTA activity section of the Application.

**F. SUPPLEMENTAL ACTIVITIES**

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If the applicant submits an application for an eligible Supplemental activity, any contract funds that are supplanted by PI funds may be used to fund Supplemental Activities.

For the 2017 NOFA **only one** Supplemental Activity may be requested. A Supplemental Activity may be requested by filling out the Supplemental Activity tab on the Application Summary, and submitting the Supplemental Activity Form and any required documentation that corresponds to the type of activity being requested (Project or Program). Public service programs are eligible as a Supplemental Activity; however, only one public service program is allowed as a Supplemental Activity. Supplemental Activities cannot include Planning Activities. The reason for this is that Planning Activities are part of the GA expenditure cap. Supplemental Activities are not applicable to ED OTC applications.

The Department will review these documents for eligibility and confirm that a National Objective will be met. If the activities are determined to be eligible and will meet a National Objective when implemented, they will be added to the grant contract. Once part of the contract, the grantee may choose to spend PI first on a supplemental activity or competitively awarded activities, as long as PI is spent prior to drawing down grant funds.

***Important Considerations:***

1. Supplemental Activity must be an eligible activity and meet a National Objective; otherwise they will not be added to the grant contract.
2. Supplemental Activity must be able to be completed by the end of the expenditure milestone period of the contract.
3. Supplemental Activity applied for must be included, by name, in the applicant's citizen participation process prior to application submittal.

**G. NATIONAL OBJECTIVES AND DOCUMENTING BENEFICIARY REQUIREMENTS**

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**Meeting a National Objective**

According to 24 CFR Section 570.483, to be eligible for funding, every CDBG-funded activity must meet one of the following three National Objectives of the program. The National Objectives are:

- *Benefit to low- and moderate-income persons;*
- *Prevention or elimination of slums or blight; or,*

- *Urgent Need, which is meeting other community development needs having a particular urgency because of existing conditions that pose a serious and immediate threat to the health or welfare of the community (requires state or federal disaster declaration) and other financial resources are not available to meet such needs.*

The most commonly used is the benefit to low- and moderate-income individuals or households, which is allowable for both CD and ED activities. Elimination and prevention of slums and blight on a spot basis is only allowed for certain ED project activities.

For more information of the State CDBG Program, see the HUD Guide to National Objectives and Eligible Activities at [HUD Guide to National Objectives and Eligible Activities for State CDBG](#).

**If an eligible activity is not documented in the application as meeting one of the allowable CDBG National Objectives, then the activity will be deemed ineligible and the jurisdiction will be ineligible for funding of that activity.** As such, the application must clearly document how the CDBG National Objective will be met.

There are four ways to meet the National Objective to benefit low-to-moderate income households based on the proposed activities. Benefit can be based on area benefit; serving a limited clientele; involving housing; and involving employment (jobs). Each of these methods is designed to document that households benefiting from CDBG eligible activities are at or below the Department's annual published limits of 80 percent or less of county median income, adjusted for family size. Below is a description of how documentation for meeting the National Objective to benefit low- and moderate-income persons is achieved.

Refer to **Appendix F** for the National Objective Matrix. The Department encourages applicants to review and print this document.

#### 1. **Benefit to Low- and Moderate-Income Persons (Low/Mod)**

Beginning in July 2014, HUD began using the ACS data to calculate Low/Mod percentages by census tract/block groups and by Census Designated Place. The data for eligible cities and counties is in **Appendix A**.

For those service areas that are not jurisdiction-wide and that do not fall within the census tract/block group(s) model, HUD provides "2016 LMISD by State" based on the 2006-2010 ACS and can be found at <https://www.hudexchange.info/manage-a-program/acs-low-mod-summary-data-block-groups-places>. This provides low/mod data for Census Designated Place (CDP) areas. HUD's LMISD Map Application can be found [here](#) and HUD's updated LMISD Excel data files are posted at [HUD's Low/Mod Summary Data](#) page. For more details on defining service area, see **Appendix J**.

Seventy percent of all CDBG funding must be spent for the benefit of persons, families or households with incomes at or below 80 percent of their county's median income, adjusted for family size. The criteria for how an activity may be considered to benefit LMI persons are divided into four subcategories: Low/Mod Area (LMA); Limited Clientele (LMC); Low/Mod Housing (LMH); and Low/Mod Job (LMJ); detailed below.

Further, there is also a ***restriction on benefit to moderate-income persons***. The regulations require grant recipients to ensure that moderate-income persons are not benefitted to the exclusion of low-income persons (see 24 CFR 570.483(b)). This does not mean that each CDBG-assisted activity must involve both low- and moderate-income beneficiaries. However, it does mean that the grant recipient's CDBG program, as a whole, must *primarily benefit low-income persons*, and that moderate-income persons do not benefit to the exclusion of low-income persons.

a. **Low/Mod Subcategories**

1) **Low/Moderate-Income Area (LMA) Benefit**

An LMA Benefit activity is an activity that is available to benefit all the residents of an area that is primarily residential. In order to qualify as addressing the National Objective of benefit to Low/Mod persons on an area basis, the activity must serve the needs of Low/Mod persons residing in an area where at least 51 percent of the residents are Low/Mod persons. The benefits of this type of activity are available to all residents in the area regardless of income.

**Examples of LMA Benefit activities include:**

- Public Infrastructure Projects
- Public Facilities
- Public Services

For detailed information on determining Service Area, see **Appendix J**.

**Note:** *Applicants using this National Objective will be required to submit a map of the service area should the service area be greater or lesser than the jurisdictional boundaries.*

2) **Low/Moderate-Income Limited-Clientele (LMC)**

A LMC activity is an activity that provides benefit to a specific group of persons rather than everyone in an area generally.

To qualify under this subcategory, a LMC activity **must meet one** of the following tests:

- a) Exclusively benefit a clientele who are generally **presumed** by HUD to be principally Low/Mod persons, such as:
- Abused Children
  - Elderly Persons



- Battered Spouses
- Homeless Persons
- Adults Meeting the Bureau of Census' Definition of Severely Disabled Adults, such as Illiterate Adults, Persons Living with AIDS, Migrant Farm Workers.

For further details, see <http://www.census.gov/prod/2012pubs/p70-131.pdf>.

**Note:** *This presumption may be challenged if there is substantial evidence that the Low/Mod persons in the actual group are most likely not principally Low/Mod persons.*

- b) Be a Public Service/Facility that is not open to all. For example, Youth Services or a Youth facility, or other income qualified beneficiary activity. In this instance, see *Income Calculation and Determination Guide for Federal Programs* on the Department's website at [Income Manual](#), Chapter 7 - Self-Certification.
- c) Be of such nature and in such location that it may be reasonably concluded that the activity's clientele will primarily be *Low/Mod* persons. For example, a day care center designed to serve residents of a public housing complex.
- d) Be an activity that serves to remove material or architectural barriers to the mobility or accessibility of elderly persons or of adults meeting the Bureau of Census' definition of "severely disabled," **provided** it is restricted to the extent practicable, to the removal of such barriers by assisting:
  - The reconstruction of a public facility or improvement, or portion thereof, that does not qualify under LMA benefit criteria;
  - The rehabilitation of privately-owned nonresidential building or improvement that does not qualify under the LMA benefit criteria or the LMJ criteria; or
  - The rehabilitation of the common areas of a residential structure that contains more than one dwelling unit and that does not qualify under the LMH criteria.
- e) Be a Microenterprise (ME) Assistance activity carried out in accordance with HCDA 105(a)(22) or 24 CFR 570.482(c) with respect to those owners of microenterprises and persons developing microenterprises assisted under the activity during each program year who are Low/Mod persons.

**Note:** *Once a person is determined to be Low/Mod, he/she may be presumed to continue to qualify as such for up to a three-year period, but only when the activity is ME Technical Assistance or Services.*

**Other Important Considerations Regarding ME:** The benefit types for ME Program services are divided into indirect benefit and direct benefit, and each have different income eligibility requirements and different income documentation requirements for beneficiaries of the program services.

**Indirect Benefit:** ME Technical Assistance and Support Services. Support Services provide indirect benefit; and, as such, the service beneficiaries must be documented as income eligible using the Department's Income Self-Certification Form in *Income Calculation and Determination Guide for Federal Programs* on the Department's website at [Income Manual](#). This is similar to Public Service activities funded under CD funding category.

**Direct Benefit:** ME Financial Assistance (loans and grants) are considered direct benefit; and, as such, each beneficiary must be documented as income eligible using the Part 5 process as detailed in the [Income Calculation and Determination Guide for Federal Programs](#) on the Department's website at [Income Manual](#). ME Financial Assistance income documentation using Part 5 is the same process as that used for HR activities funded under the CD funding category.

**Documentation:** Prior to providing services or funding to a ME Program participant, an original signed income Self-Certification Form or completed Part 5 Income Qualification eligibility process must be in the project file. Additionally, evidence of five or few employees, including the owners, must be in the file.

**Important Tip:** Should the indirect benefit (Technical Assistance) result in direct benefit (Financial Assistance) at a later date, the self-certifications from the indirect benefit activity are no longer sufficient, and each financially assisted beneficiary must be subject to full Part 5 Income Qualification.

### 3) **Low/Mod-Income Housing (LMH)**

HCDA 105(c)(3) requires that an activity which assists in the acquisition, construction or improvement of permanent, residential structures, and HA, may qualify as benefiting Low/Mod persons only to the extent that the housing is occupied by Low/Mod persons. Thus, for an activity under housing to qualify under the Low/Mod Benefit National Objective, it must result in housing that will be **occupied** by a Low/Mod household upon completion.

The housing can be **either** owner- or renter-occupied and can be a single-family or a multi-family structure. When housing is to be rented in order for a dwelling unit to be considered to benefit a Low/Mod household, it must be occupied by the household at **affordable rents** [24 CFR 570.483(b)(3)].

Further, LMH benefit is based on *households*, not *persons*. Thus, **total household income** must be at or below 80 percent of median income for the residing county, adjusted for family size.

**Examples of activities that must meet LMH benefit standards include:**

- Acquisition of property to be used for permanent housing;
- Rehabilitation of permanent housing;
- Conversion of nonresidential structures into permanent housing;
- Assistance to a household to enable it to acquire ownership of a home (HA); and,
- Hookups to connect residential structures to water and sewer systems.

**Occupancy Rule:** Occupancy of the assisted housing by Low/Mod households under LMH is determined using the following general rules:

- All assisted single unit structures must be occupied by LMI households;
- An assisted *two-unit* structure (duplex) must have *at least one* unit occupied by a Low/Mod household; and,
- An assisted structure containing *more than two units* must have *at least 51 percent* of the units occupied by Low/Mod households.

**Other Considerations:**

Condominiums - Where rehabilitation of one or more units in a multi-family building are individually owned, such as a condominium, rehabilitation is limited to the particular unit(s) and shall not involve rehabilitation of any property held as common area ownership.

**Important Tips:**

- For any Housing Activity, Low/Mod benefit is based on using LMH National Objective in compliance with Part 5 Income Determination, using the [Income Manual](#). Housing activities that are considered *programs* (HR 1-4 units, and HA) must address this requirement in their Guidelines as a program requirement.
- Tenant Occupied Units (1-4 units or multi-family projects) must use the income self-certification process for tenants occupying the units at the time of application to verify that at least 51 percent of the tenants will meet the LMH requirement. Once “assisted,” the units, at occupancy, must meet the full Part 5 Income Qualification requirement until the Rent Limitation Agreement terminates.
- Eligibility for HA at HCDA 105(a)(24) requires that only Low/Mod households be assisted. No other, less restrictive National Objective may be used for this activity.

#### 4) **Low/Mod Income Jobs (LMJ)**

This National Objective applies *only* to ED BA (BA) – which includes both EF BA activities and ED OTC projects (the only differences, essentially, are the sizes of the loans/grants, and the application process.). ME, as noted above, is 100 percent LMC, so job creation/retention is not necessary.

ED BA activities are generally undertaken for the purpose of job creation or retention; thus, most of the time, job creation or retention activities are classified as eligible under one of several economic development-oriented eligibility categories.

Per HCDA 105(c)(1), one of the ways that LMI can be met is to “Involve the employment of persons, the majority (51 percent) of whom are Low/Mod persons,” which is what allows the LMJ National Objective subcategory to meet the LMI requirement.

#### **Examples of Activities That Could Be Expected to Create or Retain Jobs:**

- EF BA or OTC project that finances the expansion of a plant or factory (job creation).
- EF BA or OTC project for financial assistance to a business which has publicly announced its intention to close; but, through the CDBG ED loan, can update its machinery and equipment and thus remain open instead (job retention).
- OTC project upgrading an access road to serve a new distribution warehouse being built by a firm.

A *LMJ activity* is one which creates or retains permanent jobs. At least 51 percent of these, on a full-time equivalent (FTE) basis, must be either held by Low/Mod persons (retention) or held by Low/Mod persons at the time of being hiring (creation).

#### **What Jobs Can Be Counted:**

- Part-time jobs must be converted to full-time equivalents (FTE). State regulation 24 CCR Section 7054 Definitions, “Permanent job” allows for a maximum of two part-time jobs to be aggregated to one FTE.
- Only permanent FTE job count consists of job hours equal to 1,750 hours for full time, 875 hours for part-time and must be considered permanent. No temporary jobs will counted for job creation.
- Seasonal jobs are considered to be permanent for this purpose only if the season is long enough for the job to be considered the employee’s principal occupation.

**Note:** *Jobs indirectly created or retained by an assisted activity may not be counted.*

### **Jobs “Held By” Low/Mod Persons:**

A job is considered to be held by a Low/Mod person if the person is a member of a family whose income falls at or below 80 percent of county median income, adjusted for family size, *at the time their employment commences* (job creation). The entire family’s income must be counted.

### **Special Rules for Retained Jobs:**

In order to consider jobs *retained* as a result of CDBG assistance, there must be clear and objective evidence that permanent jobs will be lost without CDBG assistance. For these purposes, “clear and objective” evidence that jobs will be lost can include:

- Evidence that the business has issued a notice to affected employees or made a public announcement to that effect.
- Analysis of relevant financial records which clearly and convincingly shows that the business is likely to have to cut back employment in the near future without the planned intervention.
- To meet the LMJ standard, at least 51 percent of the retained jobs must be known to be held by Low/Mod persons at the time CDBG assistance is provided.

**Note:** *In both retained and created jobs, the [Income Manual](#) must be used by using the Self-Certification Income Forms.*

**Provisions for Aggregating Jobs:** See Application Review and Evaluation Section, Public Benefit Requirements.

## 5) **Low/Mod Benefit Scoring for Applications**

In scoring activities that are 100 percent income-qualified or LMC, Need/Benefit will be scored based on jurisdiction-wide HUD Low/Mod percentage. These percentages are listed in **Appendix A**.

If the jurisdiction uses a service area that is greater or less than the applicant’s jurisdictional boundaries, for the purpose of proving LMA eligibility (51 percent or greater Low/Mod percentage) on activities that are not 100 percent income-qualified or LMC, the Department will score Need and Benefit on the same service area; and, therefore, the applicant will be required to submit maps and Low/Mod data per HUD’s Low/Mod data at the Census Tract and Block Group levels. For more information on HUD’s Low/Mod data, see **Appendix H**.

When the service area (Low/Mod area) is the whole jurisdiction, the Department will use the jurisdictional data within **Appendix A**.

## **Documentation Requirements**

Each application must contain a discussion of how the proposed project will principally benefit the Low/Mod-Income group. The Department has provided jurisdiction-wide Low/Mod information in **Appendix A**. For activities using LMA benefit (for service area other than jurisdiction-wide), applicants should use HUD Low/Mod data by census tract and census block group (see **Appendix H**), or a valid income survey to document benefit. Links to the HUD website are provided at the end of **Appendix A and in Appendix H**.

**Note:** *The use of Income Surveys may not be acceptable documentation of meeting Low/Mod Area (LMA). Applicants are strongly encouraged to discuss the Income Survey that will be used by the applicant to meet the National Objective of LMA by submitting an inquiry to the CDBG NOFA Unit staff at [CDBGNOFA@HCD](mailto:CDBGNOFA@HCD).*

## 2. **Prevention/Elimination of Slums and Blight**

The State CDBG Program allows this National Objective to be used generally in conjunction with Special ED activities under an OTC project. HUD is very careful to make clear that this National Objective results in clearly eliminating specific conditions of blight, physical decay, or environmental contamination. Spot blight is for specific projects not located in an area that has been designated as blighted.

**Note:** *The State defines Slum and Blight at Health and Safety Code Sections 33030-33039.*

### a. **Slums & Blight – Area Basis**

Currently, the Department will not allow Slums & Blight National Objective to be used on an Area-wide Basis for any activity.

### b. **Slums & Blight – Spot Basis (Aid in the Prevention or Elimination of Slums or Blight (24 CFR 570.483(c)(2))**

**Examples of Activities Designed to Address Blight on a Spot Basis:**

- Historic preservation of a blighted public facility;
- Demolition of a vacant, deteriorated, abandoned building; or,
- Removal of environmental contamination or other public hazard from a property to enable it to be redeveloped for a specific use.

The elimination of specific conditions of blight or deterioration on a spot basis is to be used for the prevention of blight, on the premise that such action(s) serve to prevent the spread of blight to adjacent properties or areas.

To comply with the National Objective of Elimination or Prevention of Slums or Blight on a Spot Basis (i.e., outside a slum or blight area), an activity must meet the following criteria:

- 1) The activity must be designed to eliminate specific conditions of blight or physical decay, not located in a designated slum or blighted area; and,
- 2) The activity must be limited to one of the following:
  - Acquisition (see Other Considerations)
  - Clearance/demolition
  - Relocation
  - Historic Preservation
  - Rehabilitation of buildings, but only to the extent necessary to eliminate specific conditions detrimental to public health and safety.

*Reference: 24 CFR 570.483(c)(2)*

### **Other Important Considerations**

To be considered **detrimental to public health and safety**, a specific condition must pose a threat to the public in general. Public improvements cannot qualify under this standard, except for rehabilitation of public buildings (other than buildings for the general conduct of local government) and historic preservation or public property that is blighted.

As a general rule, National Objective compliance for the acquisition of real property must be based on the use of the property after the acquisition takes place. The initial determination is based on the *planned* use of the property, but the final determination is based on the *actual* use. **However**, when a property is acquired for the purpose of *clearance* to remove specific conditions of blight or physical decay, the **clearance is considered to be the actual use** of the property; but, any subsequent use made of the property following clearance, must be considered to be a “change of use” under 24 CFR 570.489(j).

In this case, the CDBG-funded ED project must not be in a documented area of blight. However, the project must be formally documented as blighted (i.e., having serious health and safety violations) by the jurisdiction. In addition, the CDBG funds must pay for the correction of the code violations and eliminate the blighted conditions. This is a way to use the elimination of slums and blight on a project by project basis. Department staff should be consulted as part of making a final determination of project compliance with this National Objective.

## **Documentation**

- a) For **Spot Blight**, the application must include:
- Documentation that the project site meets HUD's definition of blighted; and
  - Documentation that the CDBG funds will pay to eliminate the project's blighted conditions.
- b) It is highly recommended that the documentation include, but not be limited to, date-stamped photographs showing the condition(s).

### **3. Urgent Need**

As noted at the beginning of this section, Urgent Need is now an eligible National Objective per 25 CFR 570.483(d) under this NOFA. The Department addresses Urgent Need in real-time on a case-by-case basis rather than only once a year under an annual NOFA. If an applicant intends to use Urgent Need in their application, please consult with HCD NOFA staff, prior to November 17, 2017, at [CDBGNOFA@HCD](mailto:CDBGNOFA@HCD).

To comply with the National Objective of meeting community development needs having a particular urgency, an activity must be designed to alleviate existing conditions which the local government certifies and State determines:

- Pose a serious and immediate threat to the health or welfare of the community;
- Are of recent origin or recently became urgent;
- The local government is unable to finance the activity on its own; and
- Other sources of funding are not available to carry out the activity, as certified by both the Department and the jurisdiction.

*Reference: 24 CFR 570.483(d)*

### **4. National Objective Specific to PTA Activities**

PTA activity funds must be spent on studies that meet the CDBG National Objective listed below, as required by federal statutes and regulations. Any PTA activity must document compliance with:

- a. Benefit to Low- or Moderate-Income (Low/Mod) Persons or Households, specifically for planning only grants that are not associated with a specific project. By documenting that at least 51 percent of the persons who would benefit from the implementation of the plan being studied by the PTA are Low/Mod income, the planning study will meet Low/Mod National Objective. In some cases, a community wide study may benefit the community as a whole, so Low/Mod Area Benefit (LMA)



must be documented. In other cases, the study may be for persons under presumed benefit or “limited clientele” (e.g. homeless or farmworkers or seniors) whom are categorized as Low/Mod persons. **Note:** LMJ cannot be used as the National Objective for ED PTA.

## **Documentation**

Each application must contain a discussion of how the proposed study would principally benefit the Low/Mod-income group. For activities using LMA benefit, applicants should refer to **Appendix H**, Census Tract/Block Group data, or to prepare a valid income survey, reference, [CDBG Grants Management Manual](#).

## **Beneficiaries**

Beneficiaries may be measured using people, housing units, households, or jobs. The type of beneficiary associated with an activity is stated within each specific Activity Application Package. When defining who the beneficiaries are, please also include a breakdown by Non-Low/Mod Income, Low/Mod Income, Very Low Income, and Extremely Low-Income, as requested in the Application.

- **Non-Low/Mod Income** refers to individuals or households whose incomes are above 80 percent of county area median household income, adjusted for family size.
- **Low/Mod Income** refers to individuals or households whose incomes are between 80 and 51 percent of county area median household income, adjusted for family size.
- **Very Low Income** refers to individuals or households whose incomes are between 50 and 31 percent of county area median household income, adjusted for family size.
- **Extremely Low Income** refers to individuals or households whose incomes are below 30 percent of county area median household income, adjusted for family size.

Beneficiaries of grant funding must receive the benefit prior to expiration of the grant contract. The funded project or program must be benefitting the intended beneficiaries prior to contract expiration in order to demonstrate that the National Objective benefit has been met.

In order to meet the National Objective benefit for PIHNC, the housing units to be serviced by the infrastructure must be occupied. Completion of the infrastructure construction is not sufficient to meet benefit. Additionally, the completion of a facility in which no services are provided prior to the expiration of the grant contract shall be considered to have no National Objective benefit.

### **a. Determination of LMJ Beneficiaries**

The Public Benefit requirement is met through the creation or retention of full-time (1,750 hours per year) and/or two part-time aggregated jobs yielding a full-time equivalent (FTE), such that the activity does not exceed a \$35,000 per job created/retained ratio. This is an aggregation required by State regulation, Title 25, CCR Section 7054, Definitions, “Permanent job”.

**Documentation of ED Beneficiaries:** BA and ME program applications do not require that documentation of beneficiaries be submitted at time of application. Beneficiaries of these programs are not known at time of application. According to the ME and BA Program Guidelines, documentation of beneficiaries is required after funding award and general conditions are cleared for eligible projects.

b. **Determination of Low/Mod Beneficiaries**

- 1) Each application must provide information on the proposed beneficiaries for each activity.
- 2) Beneficiaries whose incomes are 80 percent or less of the county median income, adjusted for family size, are determined to be Low/Mod.

Department charts showing county median incomes based on family size can be found at [2017 Income Limits](#).

c. **Presumed Benefit (Limited-Clientele)**

HUD has determined that some beneficiaries are generally presumed to be principally low- and moderate-income persons. The following exclusively served groups of persons are presumed to be Low/Mod:

- *Severely disabled adults\* – (very low-income)*
- *Illiterate adults – (very low-income)*
- *Persons living with AIDS – (very low-income)*
- *Battered spouses – (very low-income)*
- *Abused children – (extremely low-income)*
- *Migrant farmworkers – (very low-income)*
- *Homeless persons – (extremely low-income)*

*Activities that benefit seniors are also presumed to have Low/Mod benefit and are discussed in Subsection d, below.*

\*Defined as: Adults meeting the Bureau of the Census Current Population Reports definition of “severely disabled”.

**Note:** *Presumed benefit may be challenged if there is substantial evidence that the persons in the actual group that the activity is to serve are most likely not principally Low/Moderate-income persons.*

d. **Documenting Beneficiaries in NOFA Applications**

Each Activity Application Package has a section for Documentation of Beneficiaries. When filling out an activity application, please complete the tables as required. The table shown on the next page is the same as what is in each application. Each proposed activity must show the intended beneficiaries by income category, as noted below. An activity must benefit all residents of the intended service area who

are income qualified up to 80 percent of the county area median income (AMI), adjusted for family size. An activity cannot solely benefit only one specific level of Low/Mod beneficiary listed above. Thus, an activity cannot only benefit the 51-80 percent Low/Mod Group in the service area.

Further, in the instance of senior citizen activities, beneficiary income levels are counted as follows:

- Seniors (60 years old and above) – If assistance is to acquire, construct, convert, and/or rehabilitate a senior center, or to pay for providing senior services located at a senior citizen center, for reporting purposes, this group is considered Low/Mod (51-80 percent AMI).
- Seniors (60 years old and above) – If assistance is for other public services exclusively for seniors that are provided away from a senior citizen center (such as a Meals-on-Wheels program), for reporting purposes, this group is considered Very Low Income (31 to 50 percent AMI).
- If an activity serves a combination of these groups, estimate the number under each group and report those numbers under the appropriate income levels.

If an activity assists seniors for housing, HUD defines ‘seniors’ as 62 years and older. If you have questions about meeting the presumed Limited-Clientele national objective for different activity types, [please click this link to review CDBG Management Memo 15-01](#). This memo reviews the State CDBG program and Senior Activities.

| <b><u>81% AND ABOVE</u></b><br><b><i>(Non-Low/Mod)</i></b> | <b><u>BETWEEN 51 - 80%</u></b><br><b><i>(Low/Mod)</i></b> | <b><u>BETWEEN 31 - 50%</u></b><br><b><i>(Very Low Income)</i></b> | <b><u>AT OR BELOW 30%</u></b><br><b><i>(Extremely Low Income)</i></b> | <b><u>TOTALS</u></b><br><b>Number of People</b> |
|--|---|---|---|---|
| <b>-A-</b>   | <b>-B-</b>  | <b>-C-</b>  | <b>-D-</b>  | <b>-E-</b>                                      |

**Explanation of Income Levels:**

Box A - Non-Low/Mod: Enter the proposed number of beneficiaries with incomes 81 percent and above (non-Low/Mod) of the county median income. If CDBG funds will be used on a project where non-Low/Mod will benefit, then show those non-Low/Mod numbers on this chart. If non-Low/Mod will not benefit from a CDBG activity, enter a zero in column A.

Box B - Low/Mod: Enter the proposed number of beneficiaries with incomes between 51 and 80 percent of the county AMI.

Box C - Very Low Income: Enter the proposed number of beneficiaries with incomes between 31 and 50 percent of the county AMI. Applicants may not enter a zero in this column. Proposed activities may not exclude benefit to the Very Low Income group.

Box D - Extremely Low Income: Enter the proposed number of beneficiaries with incomes less than 30 percent of the county AMI.

Box E - Totals: Enter the total number of beneficiaries.

Contact the CDBG NOFA Unit staff through the email address at [CDBGNOFA@HCD](mailto:CDBGNOFA@HCD), to determine how this may apply to your activity.

**>>For further instructions on Beneficiaries, refer to the Application Instructions<<**

## **APPLICATION REVIEW AND ACTIVITY EVALUATION**

### **A. PUBLIC BENEFIT REQUIREMENTS**

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ED Projects are required to meet **both** the Low/Mod Jobs (LMJ) National Objective *and* Public Benefit requirements. However, some Business Assistance (BA) (which includes ED OTC) are not required at the time of application to create jobs, if the project can meet the National Objective using area benefit (LMA). If you have questions regarding Public Benefit requirements, please review Appendix E (ED OTC Application Process) or contact Jim Miwa at [Jim.Miwa@hcd.ca.gov](mailto:Jim.Miwa@hcd.ca.gov) or (916) 263-1644.

#### **1. Public Benefit for Special ED Activities (Assistance to For-Profit Businesses) and Over-the-Counter Projects**

The Public Benefit requirement for these CDBG ED activities is typically met through documenting the creation or retention of one permanent full-time equivalent job position for each \$35,000 in CDBG funds provided directly to an ED project. Public Benefit standard is separate from National Objective standards, so it will apply to an ED project regardless of which of the three National Objectives the project is meeting. A permanent full-time equivalent (FTE) position is defined in state regulation Title 25 CCR Section 7054. Definitions, under “Permanent job” as the number of annual hours worked by a staff in that position, specifically defined as 1,750 hours per year. An FTE may be made of up to two permanent part-time job positions, where each part time position requires at least 875 hours annually. Owners of the company cannot be included in the count for number of jobs being created. Seasonal jobs are considered to be permanent for this purpose only if the season is long enough for the job to be considered the employee’s principal occupation.

Public Benefit standard applies to all project costs, loan origination soft costs (often referred to as “activity delivery”) and project implementation hard costs. This is true for both BA and OTC projects. As such, sources and uses tables for ED projects need to include both soft and hard costs and all these costs are subject to the current Public Benefit standard of providing up to \$35,000 in CDBG assistance per each new permanent full-time position created or retained by the business.

It is important to understand that Public Benefit standard compliance happens at the loan origination stage. Based on the financial underwriting of the ED project, the jurisdiction documents the “proposed” Public Benefit standard, not to exceed the \$35,000 maximum. After loan execution and project completion, if the “actual” Public Benefit standard is less than proposed, then there is not a risk of CDBG repayment by the jurisdiction for non-compliance (as long as some Public Benefit was achieved and a national objective was met). However, if the jurisdiction originates a number of ED loans and a significant number of those loans do not meet the proposed Public Benefit standard, then the Department may review the jurisdiction’s project underwriting process to determine why most projects are not meeting the proposed Public Benefit standard.

Additionally, it is important for jurisdictions to be aware, that **in addition to the \$35,000 per job requirement**, the federal regulations allow ED Public Benefit to be calculated in another way for a business providing goods or services, as follows below in Section 2, *For the Aggregate Activity Calculation*.

## 2. **For the Aggregate Activity Calculation**

On a project proposing to meet the Low/Mod Area (LMA) Benefit (i.e., providing goods or services to residents within its service area, which is documented as primarily LMA), the Public Benefit calculation is based on the number of Low/Mod persons being served. Specifically, CDBG assistance of up to \$350 per Low/Mod person in the service area may be provided to the business.

Because of the risk of repayment of CDBG funds for Special ED Projects, the Department holds these projects to a higher level of financial feasibility review than other project activities. The Department requires applicants using CDBG funds for Special ED Activities to assist with the expansion or retention of for-profit businesses to document how the loan program or OTC project will ensure compliance with HUD Public Benefit and National Objective requirements.

For applications requesting BA funds, the Department shall require submittal of BA Program Guidelines that includes language requiring compliance with Public Benefit and National Objectives. The program guidelines shall describe how the local loan program administrator shall implement processes to document compliance of each project.

ED OTC applicants must develop their project application and complete the project underwriting by qualified jurisdiction/applicant staff. The Department will provide technical assistance during the underwriting process, and will review and approve the final loan package and underwriting and analyses.

## 3. **Documentation**

Documentation of Public Benefit requires the business be profitable. Projecting and documenting the potential success of a business is critical in determining the proposed business will meet the Public Benefit requirement. At a minimum, three to five years of projections are required as part of the application package. If assumptions about future growth of the business are not properly calculated and documented during the

underwriting process, the business may be unable to support the permanent full-time job positions required in order to meet the Public Benefit requirement. As a result, the Department oversees CDBG ED underwriting process.

## **ACTIVITY EVALUATION CRITERIA AND SCORING POINTS**

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### **1. Overview of Method for Scoring Applications**

Applications that have passed eligibility threshold review are rated according to the criteria in the State CDBG Regulations, Section 7078.

- Applications will be evaluated for activity eligibility based on documentation of meeting National Objective and Beneficiary requirements.
- Each application will be scored using an individual activity scoring system, which will rate and rank each activity against applications for the same activity. No blending of scores for multiple activities will take place.
- For applications that request more than one activity within a single activity category (i.e., Housing Combo, more than one Public Service or EF Combo), each individual activity will be scored; then, all the scores in that category will be averaged together to get a single category score (i.e., the scores for the ME application and BA application will be averaged together to come up with one total EF score). Averaging will occur only in the categories of Housing, Public Services and EF, as applicable.
- A jurisdiction will be awarded or denied funding based on scores for each activity. For example, it is possible to be awarded funds for one activity, but not another.
- Points for this funding round will be awarded in four main scoring categories:
  - Need
  - Readiness
  - Jurisdictional Capacity/Past Performance
  - State Objectives
- Each of the four scoring categories will be applied to all activities in the application, although the type and weighting of the criteria within each category may differ for each activity.
- State CDBG Regulations state that an application can receive a maximum of 1,000 points per Activity, depending whether the Activity has State Objective points or not. This includes EF applications.

*For Scoring criteria, refer to Appendix L.*

## **Economic Development – Enterprise Fund**

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Applications may seek funding for one of the following: BA Program, ME Assistance Program, or both. A combined application will be scored using the scores for both BA and ME added together and averaged, regardless of the dollar amounts for each activity.

Each application will be:

- *Evaluated and scored;*
- *Assigned a numerical score; and,*
- *Ranked against all the other EF applications that have been scored.*

### **Need/Benefit: (Up to 400 Points)**

Need (up to 350 points out of 400) – includes unemployment percentage and market analysis.

Benefit (up to 50 points out of 400) – includes poverty percentage.

### **Readiness: (Up to 300 Points)**

Readiness includes program description, description of program operators, and program operator status (what their role will be).

### **State Objectives: (Up to 100 Points maximum)**

1. Up to one hundred (100) State Objective points shall be awarded for Disaster Resiliency Long-Term Planning to incentivize local jurisdictions to incorporate hazard mitigation and disaster resiliency planning into their general plan, zoning, and other planning policies and procedures.
2. Up to one hundred (100) State Objective points shall be awarded for jurisdictions that incorporate additional public outreach measures that promote access to decision-making and program implementation for all segments of the community, including special needs populations, disadvantaged communities, and a variety of socio-economic groups (e.g., households across the income and employment spectrum, ethnically and racially diverse households).

*For scoring details and State Objective criteria, see Appendices L and O.*

### **Jurisdictional Capacity – Up to 200 Points**

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Capacity/Performance includes timely clearance of special conditions, jurisdictional capacity, report timeliness and accuracy, and cooperation/compliance in clearing monitoring and/or audit findings. **This score will be determined for each applicant and will be added to each activity scored for a total applicant score.**



**Note:** In previous CDBG application scoring, applicants received the full 200 points for Capacity. For this years' 2017 NOFA, applicants shall be awarded 130 Capacity points of the possible 200 maximum; however, the remaining 70 points will only be awarded for timely submission of the three 2016 Program Income reports: Semi-annual 1, Semi-annual 2, and the Annual Report.

For scoring details, see Appendix L.

## ***Economic Development – Over-the-Counter***

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**Appendix E** of this 2017 NOFA provides an overview of the OTC application process. For further detail, see **Appendix E** of this NOFA.

## ***Community Development***

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Criteria for evaluating applications includes (1) Threshold Review; and, (2) Review for Activity Eligibility. Threshold Review results in a determination of jurisdictional eligibility. Eligible applicants/applications will then receive an activity eligibility review and scoring.

Threshold requirements are listed in the Funding Parameters Section, *Eligible Applicants, Areas and Threshold*. Documentation supporting compliance with these requirements must be included in all applications, regardless of the activities requested.

Applications proposing eligible activities which meet a National Objective will be reviewed based on their proposed activities. The threshold review and evaluation/scoring process will produce a proposed funding list for each activity, with applicants listed according to their score, from highest to lowest. The Department will fund approved requests based on highest scores in each activity.

The Department ***will not*** score or fund applications if ***all*** activities in the application are found to be ineligible. However, if some of the activities in the application are eligible, the Department may, at its sole discretion, disregard ineligible activities and continue to score the eligible activities.

The Department may apply a tie-breaker process (if needed) to the PTA activity to determine PTA funding order, eligibility, and amounts. This process will be followed until all funds in the PTA activity allotment have been exhausted. There is no guarantee that all PTA applications will be funded, either fully or partially.

### **1. Scoring Criteria and Totals**

The process of scoring includes the following:

- Points will be awarded in four main categories: Need, Readiness, and Jurisdictional Capacity/Past Performance, and State Objective points.
- Each category will be applied to all activities, although the type and weighting of the criteria within each category may differ for each activity.



Discussion of the point allocations is below. Additional details regarding scoring and the documentation required to substantiate each criterion are explained in **Appendix L** and each activity Application.

### **Homeownership Assistance (HA)**

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#### **Need/Benefit: (Up to 400 Points)**

Need (up to 250 out of 400 points) – includes overcrowding and home ownership rate for HA.

Benefit (up to 150 out of 400 points) – includes Low/Mod percentage (jurisdiction-wide only) and poverty percentage (jurisdiction-wide only). The applicant pool will set the range of points for Low/Mod and poverty.

#### **Readiness: (Up to 300 Points)**

Readiness includes activity specific operator experience, adopted program guidelines, and waiting list of pre-screened applicants.

#### **Capacity/Performance: (Up to 200 Points)**

Capacity/Performance includes timely clearance of general and special conditions, jurisdictional capacity, timely and accurate reporting, and cooperation/compliance in clearing monitoring and/or audit findings.

***Note:*** *In previous CDBG application scoring, applicants received the full 200 points for Capacity. For this years' 2017 NOFA, applicants shall be awarded 130 Capacity points of the possible 200 maximum; however, the remaining 70 points will only be awarded for timely submission of the three 2016 Program Income reports: Semi-annual 1, Semi-annual 2, and the Annual Report.*

***For scoring details, see Appendix L.***

#### **State Objectives: (Up to 100 Points)**

1. Up to one hundred (100) State Objective points shall be awarded for Disaster Resiliency Long-Term Planning to incentivize local jurisdictions to incorporate hazard mitigation and disaster resiliency planning into their general plan, zoning, and other planning policies and procedures.
2. Up to one hundred (100) State Objective points shall be awarded for jurisdictions that incorporate additional public outreach measures that promote access to decision-making and program implementation for all segments of the community, including special needs populations, disadvantaged communities, and a variety of socio-economic groups (e.g. households across the income and employment spectrum, ethnically and racially diverse households).

***For scoring details and State Objective criteria, see Appendices L and O.***

## **Housing Rehabilitation (1-4 Units) (HR)**

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### **Need/Benefit: (Up to 400 Points)**

Need (up to 250 out of 400 points) – includes overcrowding and age of housing.

Benefit (up to 150 out of 400 points) – includes Low/Mod percentage (jurisdiction-wide only) and poverty percentage (jurisdiction-wide only). The applicant pool will set the range of points for Low/Mod & Poverty.

### **Readiness: (Up to 300 Points)**

Readiness includes activity specific operator experience, adopted program guidelines, and waiting list of pre-screened applicants.

### **Capacity/Performance: (Up to 200 Points)**

Capacity/Performance includes timely clearance of special conditions, jurisdictional capacity, report timeliness and accuracy, and cooperation/compliance in clearing monitoring and/or audit findings.

***Note:*** *In previous CDBG application scoring, applicants received the full 200 points for Capacity. For this years' 2017 NOFA, applicants shall be awarded 130 Capacity points of the possible 200 maximum; however, the remaining 70 points will only be awarded for timely submission of the three 2016 Program Income reports: Semi-annual 1, Semi-annual 2, and the Annual Report.*

*For scoring details, see Appendix L.*

### **State Objectives: (Up to 100 Points)**

1. Up to one hundred (100) State Objective points shall be awarded for Disaster Resiliency Long-Term Planning to incentivize local jurisdictions to incorporate hazard mitigation and disaster resiliency planning into their general plan, zoning and other planning policies and procedures.
2. Up to one hundred (100) State Objective points shall be awarded for jurisdictions that incorporate additional public outreach measures that promote access to decision-making and program implementation for all segments of the community, including special needs populations, disadvantaged communities, and a variety of socio-economic groups (e.g., households across the income and employment spectrum, ethnically and racially diverse households).

*For scoring details and State Objective criteria, see Appendices L and O.*

## ***Housing Project – Multifamily Housing Acquisition, Rehabilitation or Acquisition and Rehabilitation***

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**Note:** *Multifamily Housing projects may not be included in a Housing Combo program. A Multifamily Housing application cannot include more than one project.*

### **Need/Benefit: (Up to 400 Points)**

Need (up to 250 out of 400 points) – includes overcrowding and rental vacancy rate.

Benefit (up to 150 out of 400 points) – includes jurisdiction-wide Low/Mod percentage.

### **Readiness: (Up to 300 Points)**

Readiness includes activity specific operator experience, all funding in place and site control.

### **Capacity/Performance: (Up to 200 Points)**

Capacity/Performance includes timely clearance of special conditions, jurisdictional capacity, report timeliness and accuracy, and cooperation/compliance in clearing monitoring and/or audit findings.

**Note:** *In previous CDBG application scoring, applicants received the full 200 points for Capacity. For this years' 2017 NOFA, applicants shall be awarded 130 Capacity points of the possible 200 maximum; however, the remaining 70 points will only be awarded for timely submission of the three 2016 Program Income reports: Semi-annual 1, Semi-annual 2, and the Annual Report.*

*For scoring details, see Appendix L.*

### **State Objectives: (Up to 100 Points)**

1. Up to one hundred (100) State Objective points shall be awarded for Disaster Resiliency Long-Term Planning to incentivize local jurisdictions to incorporate hazard mitigation and disaster resiliency planning into their general plan, zoning, and other planning policies and procedures.
2. Up to one hundred (100) State Objective points shall be awarded for jurisdictions that incorporate additional public outreach measures that promote access to decision-making and program implementation for all segments of the community, including special needs populations, disadvantaged communities, and a variety of socio-economic groups (e.g., households across the income and employment spectrum, ethnically and racially diverse households).

*For scoring details and State Objective criteria, see Appendices L and O.*

## **Public Improvements**

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**Note:** *Scoring for public improvement projects will be on a sliding scale like previous years. Cease & Desist or Boil Water Order documentation gets full points.*

### **Need/Benefit: (Up to 400 Points)**

Need (up to 250 out of 400 points) – includes points for severity of health and safety threat.

Benefit (up to 150 out of 400 points) – includes Low/Mod percentage for either the jurisdiction-wide or target area, and poverty percentage, jurisdiction-wide.

**Note:** *The applicant pool will set the point range for both Low/Mod percentage and poverty percentage.*

*For further details, see Appendix L.*

### **Readiness: (Up to 300 Points)**

Readiness includes point accumulation for activity specific operator experience/experienced in-house staff ready to start the procurement process, project approval status, site control, and all funding in place.

### **Capacity/Performance: (Up to 200 Points)**

Capacity/Performance includes timely clearance of special conditions, jurisdictional capacity, report timeliness and accuracy. Also includes cooperation/compliance in clearing monitoring and/or audit findings.

**Note:** *In previous CDBG application scoring, applicants received the full 200 points for Capacity. For this years' 2017 NOFA, applicants shall be awarded 130 Capacity points of the possible 200 maximum; however, the remaining 70 points will only be awarded for timely submission of the three 2016 Program Income reports: Semi-annual 1, Semi-annual 2, and the Annual Report.*

*For scoring details, see Appendix L.*

### **State Objectives: (Up to 100 Points)**

1. Up to one hundred (100) State Objective points shall be awarded for Disaster Resiliency Long-Term Planning to incentivize local jurisdictions to incorporate hazard mitigation and disaster resiliency planning into their general plan, zoning, and other planning policies and procedures.
2. Up to one hundred (100) State Objective points shall be awarded for jurisdictions that incorporate additional public outreach measures that promote access to decision-making and program implementation for all segments of the community, including special needs populations, disadvantaged communities, and a variety of socio-economic groups (e.g. households across the income and employment spectrum, ethnically and racially diverse households).

*For scoring details and State Objective criteria, see Appendices L and O.*

## **Public Improvements in Support of Housing New Construction**

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### **Need/Benefit: (Up to 400 Points)**

Need (up to 250 out of 400 points) – includes condition of approval for the project, and renter overpayment, vacancy rate, overcrowding, and Council of Governments (COG) Data.

Benefit (up to 150 out of 400 points) – includes jurisdiction-wide Low/Mod percentage and poverty percentage.

**Note:** *The applicant pool will set the point range for both Low/Mod percentage and poverty percentage.*

### **Readiness: (Up to 300 Points)**

Readiness includes activity specific operator experience/ experienced in-house staff ready to start the procurement process, project approval status, site control, and all funding being in place.

### **Capacity/Performance: (Up to 200 Points)**

Capacity/Performance includes timely clearance of special conditions, jurisdictional capacity, report timeliness and accuracy. Also includes cooperation/compliance in clearing monitoring and/or audit findings.

**Note:** *In previous CDBG application scoring, applicants received the full 200 points for Capacity. For this years' 2017 NOFA, applicants shall be awarded 130 Capacity points of the possible 200 maximum; however, the remaining 70 points will only be awarded for timely submission of the three 2016 Program Income reports: Semi-annual 1, Semi-annual 2, and the Annual Report.*

*For scoring details, see Appendix L.*

### **State Objectives: (Up to 100 Points)**

1. Up to one hundred (100) State Objective points shall be awarded for Disaster Resiliency Long-Term Planning to incentivize local jurisdictions to incorporate hazard mitigation and disaster resiliency planning into their general plan, zoning, and other planning policies and procedures.
2. Up to one hundred (100) State Objective points shall be awarded for jurisdictions that incorporate additional public outreach measures that promote access to decision-making and program implementation for all segments of the community, including special needs populations, disadvantaged communities, and a variety of socio-economic groups (e.g. households across the income and employment spectrum, ethnically and racially diverse households).

*For scoring details and State Objective criteria, see Appendices L and O.*

## ***Public Facilities***

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### **Need/Benefit: (Up to 400 Points)**

Need (up to 300 out of 400 points) – score includes severity of problem, extent of solution, and third party documentation supporting both.

Benefit (up to 100 out of 400 points) – includes Low/Mod percentage in the service area, and poverty percentage, jurisdiction-wide.

### **Readiness: (Up to 300 Points)**

Readiness includes activity specific operator experience/ experienced in-house staff ready to start the procurement process, project approval status, site control, and all funding being in place.

### **Capacity/Performance: (Up to 200 Points)**

Capacity/Performance includes timely clearance of special conditions, jurisdictional capacity, report timeliness and accuracy, and cooperation/compliance in clearing audit findings.

***Note:*** *In previous CDBG application scoring, applicants received the full 200 points for Capacity. For this years' 2017 NOFA, applicants shall be awarded 130 Capacity points of the possible 200 maximum; however, the remaining 70 points will only be awarded for timely submission of the three 2016 Program Income reports: Semi-annual 1, Semi-annual 2, and the Annual Report.*

*For scoring details, see Appendix L.*

### **State Objectives: (Up to 100 Points)**

1. Up to one hundred (100) State Objective points shall be awarded for Disaster Resiliency Long-Term Planning to incentivize local jurisdictions to incorporate hazard mitigation and disaster resiliency planning into their general plan, zoning, and other planning policies and procedures.
2. Up to one hundred (100) State Objective points shall be awarded for jurisdictions that incorporate additional public outreach measures that promote access to decision-making and program implementation for all segments of the community, including special needs populations, disadvantaged communities, and a variety of socio-economic groups (e.g. households across the income and employment spectrum, ethnically and racially diverse households).

*For scoring details and State Objective criteria, see Appendices L and O.*

## **Public Services (and Code Enforcement)**

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### **Need/Benefit: (Up to 400 Points)**

Need (up to 300 out of 400 points) – score includes severity of problem, extent of solution and third party documentation supporting both.

Benefit (up to 100 out of 400 points) – includes Low/Mod percentage in the service area and poverty percentage, jurisdiction-wide.

### **Readiness: (Up to 300 Points)**

Readiness includes point accumulation for operator experience/program readiness, and site control of facility for service; or, means to conduct the service.

### **Capacity/Performance: (Up to 200 Points)**

Capacity/Performance includes timely clearance of special conditions, jurisdictional capacity, report timeliness and accuracy, and cooperation/compliance in clearing monitoring and/or audit findings.

**Note:** *In previous CDBG application scoring, applicants received the full 200 points for Capacity. For this years' 2017 NOFA, applicants shall be awarded 130 Capacity points of the possible 200 maximum; however, the remaining 70 points will only be awarded for timely submission of the three 2016 Program Income reports: Semi-annual 1, Semi-annual 2, and the Annual Report.*

*For scoring details, see Appendix L.*

### **State Objectives: (Up to 100 Points)**

1. Up to one hundred (100) State Objective points shall be awarded for Disaster Resiliency Long-Term Planning to incentivize local jurisdictions to incorporate hazard mitigation and disaster resiliency planning into their general plan, zoning, and other planning policies and procedures.
2. Up to one hundred (100) State Objective points shall be awarded for jurisdictions that incorporate additional public outreach measures that promote access to decision-making and program implementation for all segments of the community, including special needs populations, disadvantaged communities, and a variety of socio-economic groups (e.g. households across the income and employment spectrum, ethnically and racially diverse households).

*For Scoring details and State Objective criteria, see Appendices L and O.*

**Note:** Code Enforcement scoring uses the scoring categories above; but, applies points to different applicable criteria where appropriate.



## ***Planning and Technical Assistance***

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**Only one planning study may be funded under the grant agreement for this NOFA, not to exceed \$100,000.**

Applicants may apply for the PTA activity in addition to the two maximum activities applied for within the application. A PTA activity cannot be funded unless an activity is funded.

The cash match required for all applicants, per Title 25, Section 7058(a)(5)(A), is five percent of the total amount requested. See **Appendix I** for more information on the Cash Match requirement.

### ***PTA Tie Breaker Process***

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In the event of over-subscription for the PTA activity, a tie breaker process will be used. Specifically, PTA applications will be ranked according to jurisdiction-wide poverty levels. This may occur for PTA applications for one activity in a multi-activity application.

In the event PTAs are not over-subscribed, any funds remaining in the CD and/or ED PTA funding category will be rolled over to the respective allocation. The funds will, thereafter, be prorated into the activities in the same percentages as the overall demand for activity funding.

## **AWARD ANNOUNCEMENTS AND GRANT IMPLEMENTATION**

### **A. AWARD ANNOUNCEMENTS**

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The Department anticipates Awards will be announced within 90 days of the application deadline. Until awards are announced, the CDBG staff will be unable to discuss the status of a jurisdiction's application.

Unsuccessful applicants will have the opportunity to request, **within 60 days from the award announcement date**, an exit interview to discuss their application score. Applications and Agreements are public information and are available for review upon request. Applicants are advised that information submitted to the Department may be made available to the public under the Public Records Act.

### **B. GRANT CONTRACT PROCESSING AND RELEASE OF FUNDS**

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**Standard Agreement:** All funded applications will receive a Standard Agreement (Agreement). The Agreement will contain information about the terms and General Conditions, as well as Special Conditions (activity specific) of the award. Per AB 325, the Department will provide an Agreement for the Grantee to sign/execute within 60 days of funding award.



**Release of General Administration Funds:** Applicants may be permitted to incur GA costs upon receiving their award letter only if they have first requested and obtained written approval from Department.

**Release of Activity Funds:** Grantees must obtain written clearance of the General Conditions Checklist for each activity funded under the Agreement, including any special conditions or environmental requirements, prior to incurring CDBG eligible costs. These General Conditions Checklists are a complete and final list of items that need to be addressed before starting an activity. The restriction on incurring costs also applies to non-CDBG funds being used on an activity. Beginning any program or project activity prior to obtaining written clearance from the Department may cause the activity to become ineligible.

**Term of Agreement:** The Agreement shall expire no later than 60 months from the effective date of Agreement; however, the contract expenditure deadline for all activities under the Agreement will be no more than 36 months from the effective date of the Agreement.

## PROGRAM REQUIREMENTS

### A. FEDERAL OVERLAYS

The CDBG Program is administered under the rules and regulations promulgated primarily in Title 24 of the Code of Federal Regulations (CFR), Part 570. These primary regulations are known as the Federal Overlays, and form the basis of the programmatic requirements. The Department incorporates all Federal Overlays into the State CDBG Program, and the regulations in Part 570 are translated into required actions on the part of all grantees of the State Program.

The link to 24 CFR Part 570 is: [24 CFR Part 570](#)

This list gives a summarized explanation of the Federal Overlays:

1. Environmental Standards (based on National Environmental Policy Act of 1969 [NEPA]);
2. Labor Standards (Davis-Bacon and Related Laws);
3. Achieving a HUD National Objective;
4. Public Participation Requirements;
5. Fair Housing and Affirmatively Furthering Fair Housing;
6. Equal Opportunity and Non-Discrimination in Federal Grant Programs;
7. Federal Procurement Guidelines;
8. National Flood Insurance Program Compliance;
9. Relocation and Displacement Requirements;
10. Employment and Contracting Opportunities;
11. Lead-Based Paint Requirements;
12. No Use of Debarred, Ineligible or Suspended Contractors or Subrecipients;
13. Uniform Administrative Requirements and Cost Principles;
14. Conflict of Interest Prohibitions;

15. Compliance with the Architectural Barriers Act and the Americans with Disabilities Act;
16. Compliance with Eligibility Restrictions for Certain Resident Aliens;
17. Federal Reporting Requirements; and
18. Grant and Subrecipient Monitoring Requirements.

## **B. PUBLIC RECORDS ACT**

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Applications and Agreements are public information and are available for review upon request. Applicants are advised that information submitted to the Department may be made available to the public under the Public Records Act.

## **C. RELOCATION PLAN REQUIREMENT**

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Applicants engaging in project-specific activities that may or will cause the temporary or permanent relocation and displacement of persons must provide a project-specific relocation plan as part of meeting General Conditions Checklist, i.e. prior to start of the project activity. Applicant should include relocation costs in project budget and sources and uses. They are also encouraged to provide General Information Notices (GIN) to persons that may be displaced if the activity in the grant application is funded. This plan must outline how the grantee will enforce and manage the project's temporary relocation and displacement activities for the project and estimate what relocation benefits will be required so those benefit costs can be included in the project's development budget.

## **D. PROCUREMENT**

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Pursuant to 24 CFR Section 570.489(g), all grantees must comply with federal procurement requirements. The Department will review the grantee's procurement documents for services (i.e., administrative sub-contractor, Davis Bacon consultant) at time of monitoring. Please reference CDBG [Procurement Chapter 8](#) in the grant management manual.

The OMB Super Circulars, 2 CFR Part 200.317-200.326, cover procurement standards. HUD states that these standards are generally consistent with the previous requirements. [This link to the electronic Code of Federal Regulations \(e-CFR\)](#) lists the Super Circulars.

Grantees are advised to contact the Department or defer to the CDBG Procurement Chapter in the grant management manual when determining what they will need for proper procurement requirements.

## **E. FEDERAL DEBARMENT AND SUSPENSION**

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Pursuant to 24 CFR, Part 5, all CDBG grantees are required to verify they and their principals, or any/all persons, contractors, consultants, businesses, sub-recipients, etc., that are conducting business with the grantee are not presently debarred, proposed for debarment, suspended, declared ineligible, or voluntarily excluded from participation in the covered transaction or in any proposal submitted in connection with the covered

transaction. Applicants must check the [Excluded Parties List](#): print and maintain evidence of the search results. In the event that the search results indicate a prior or current debarment or suspension of the applicant, include the printout in the application.

The Department will not award any CDBG funds to applicants that are debarred, suspended, proposed for debarment, and declared ineligible or voluntarily excluded from participation from federally-assisted programs.