

## **APPENDIX E**

### **2017 ECONOMIC DEVELOPMENT OVER-THE-COUNTER (ED OTC) APPLICATION PROCESS**

The Economic Development Over-the-Counter (ED OTC) project application process is separate from the competitive application process used to award funds for most CDBG eligible activities. CDBG ED OTC applications are accepted throughout the funding year, on a first-come first-served basis (based on when the “Project” is submitted to the Internal Loan Committee). ED OTC application forms, including the Project Inquiry Form, are provided on the [CDBG Current NOFA](#) page. The ED OTC application process is illustrated in the flow chart at the end of this document.

#### **PROJECT INQUIRY FORM SUBMITTAL**

The first formal step in determining the feasibility of applying for ED OTC funding is submitting a Project Inquiry Form. This form must be completed and signed by a State CDBG eligible Jurisdiction. See NOFA Appendix A for a list of eligible Jurisdictions.

The ED OTC Project Inquiry Form is submitted directly to the CDBG Economic Development (ED) representative listed on the form. Upon receipt of a Jurisdiction’s Inquiry Form, the ED staff will review the project information for CDBG eligibility. This document outlines the application process overview and contains items to consider when applying for ED OTC funds.

*Note: While a jurisdiction may only apply for one Project within an ED OTC application, a jurisdiction may be eligible to submit multiple ED OTC applications each funding year.*

#### **CONFERENCE CALL AND THRESHOLD REVIEW**

Once the ED team reviews the Project Inquiry Form, ED staff will complete the initial project threshold review and schedule a follow up telephone conference call with the Jurisdiction. The purpose of the call is to review the ED OTC process and go over roles, responsibilities, and details involved in funding CDBG ED projects.

On the call, OTC discussion topics will include: 1) documentation required for submittal of the CDBG OTC application; 2) requirements for compliance with CDBG ED standards; and 3) federal overlay compliance.

In the event the Jurisdiction decides to proceed with the ED OTC application, ED staff will complete a threshold review of project eligibility. ED staff may request additional information and schedule a second conference call as part of the threshold review. The Department will issue a written decision on project eligibility based on the inquiry form and conference call(s) (see Written Confirmation of Project Eligibility below).

If the Jurisdiction decides they do not wish to proceed with the application or if it is clear the project is not eligible for CDBG funding, ED staff will send written confirmation of the decision not to proceed with the application.

## **WRITTEN CONFIRMATION OF PROJECT ELIGIBILITY**

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ED staff will compile the project threshold information, make a determination of eligibility, and present a recommendation to CDBG program management to either issue an Invitation to Apply, deny an application, or request additional information to determine final eligibility. Based on one of the three (3) recommendations, the Jurisdiction will receive written notification from the Department of the ED OTC application eligibility. If approved, the letter will invite the jurisdiction to submit an ED OTC application. Upon issuing a written Invitation to Apply, the ED staff will schedule a project site visit.

Census maps can also be obtained by visiting the American Fact Finder website at [American Fact Finder - Maps](#).

*Note:* The Invitation to Apply initiates the “federalization” of the project including federal overlays that may trigger choice-limiting actions affecting the ability to utilize CDBG funds for the project.

## **PROJECT SITE VISIT**

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ED staff will arrange a meeting with the Jurisdiction at the project site. This will provide an opportunity to validate the information provided about the proposed project. It will also allow the ED staff to meet the project’s business owner/developer and discuss details of the proposed project.

Additional information is provided and CDBG requirements are reviewed, including roles and responsibilities, timelines, application preparation and process, and federal overlay requirements.

## **DEVELOPING AND SUBMITTING AN ED OTC APPLICATION**

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As with all CDBG funding proposals, the Jurisdiction must follow the required public participation process. This consists of at least one, but preferably two, public hearings. See the *NOFA Appendix D Citizen Participation* for detailed guidance on compliance with this requirement.

ED OTC application activity forms are included on the CDBG website under the current funding year’s NOFA. The ED OTC Application Invitation Letter will indicate the project specific activity forms to be completed.

The OTC application process includes similar forms to those contained in the competitive application received annually by the Department. The applicant must complete an Application Summary, which includes requirements for threshold, certifications, statements of assurances, and submittal of a resolution with public hearing requirements. The applicant must complete activity forms, which highlight crucial parts of the project. The applicant must provide source documentation to substantiate the project meets all HUD requirements. All project information required for Department staff to present the funding proposal to the Department’s ILC must be provided as part of the application.

ED OTC applications are accepted on a continuous basis until all funds are awarded for the funding year. Upon receipt of an application, the Department will review the application to consider:

**Completeness:** The application will first be reviewed for completeness. A written response outlining and explaining any deficiencies in the application requiring correction prior to resubmission will be provided to the applicant within thirty days of receipt.

**Threshold:** Upon passing the completeness process, the application will undergo a minimum-threshold test. If the application fails this test, it will be returned to the applicant with a written explanation of deficiencies that must be corrected prior to resubmission. The threshold review is conducted according to criteria specified in State CDBG Regulations, Section 7062.1(c)(9). The application must attain at least 50 of the 80 threshold points.

FACTOR	MAXIMUM NUMBER OF POINTS
<ul style="list-style-type: none"> <li>• Percent of countywide unemployment relative to the statewide average</li> </ul>	25
<ul style="list-style-type: none"> <li>• Ratio of CDBG funds per unit of Public Benefit: A maximum of \$35,000 per job created or retained; or,</li> <li>• \$350 per low-/moderate-income person served</li> </ul>	15
<ul style="list-style-type: none"> <li>• Ratio of private funds to CDBG funds</li> </ul>	15
<ul style="list-style-type: none"> <li>• Quality of applicant's past performance of CDBG ED grants</li> </ul>	15
<ul style="list-style-type: none"> <li>• Percent of funds allocated to applicant's general administrative costs</li> </ul>	10
<b>Total Points Possible:</b>	<b>80</b>

ED staff will work closely with the Jurisdiction’s ED OTC development team to guide them through the documentation and underwriting process. Jurisdiction staff will always be the principal contact and have primary responsibility for coordinating the application process and completing the application. Completion of the OTC application is a joint effort of all parties including ED staff, jurisdiction staff, jurisdiction’s underwriter, business owner/developer, and other sources of financing (if applicable).

Note: Any project “work” started before contract execution and the clearance of all conditions, regardless of the source of the funds is a risk to the project. It is highly recommended all project team members stay in contact with ED staff to ensure federal overlay compliance requirements do not affect the completion of the project.

Cost of compliance with federal overlays is an eligible CDBG expense. The Jurisdiction may request the Department’s written approval to proceed with the environmental review prior to submitting the CDBG application for funding. Obtaining NEPA clearance first allows the business to proceed with their project. The jurisdiction and business would be proceeding at their own risk that the CDBG funding may not be approved. The Department must provide written approval prior to the costs being incurred. Please contact your CDBG NOFA Representative if you have any questions.

Note: All project costs incurred are at the sole discretion and risk of the Jurisdiction.

Once the application is completed, including the activity forms, project review, and financial underwriting, the application is presented to the Jurisdiction’s governing body for approval via a

formal resolution. Approval of the OTC application by the Jurisdiction's governing body must follow the same process as other CDBG applications, including, properly noticed citizen participation public hearing(s); adoption of a resolution approving submittal of the application and; properly completed and signed application summary forms and certifications. All information regarding the public hearing process and application summary and certification forms is contained in the current NOFA and Application located on the [CDBG Current NOFA](#).

## **DEPARTMENT APPROVAL OF OTC APPLICATION**

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Upon submittal of the full application, resolution, and Summary Application form, ED staff will review the submittal for compliance with CDBG program requirements and HUD underwriting standards and determine the suitability for presentation to the Department's Internal Loan Committee (ILC). The ILC may require additional specific conditions for approving the funding of the project. The ILC prepares and presents a funding recommendation to the Director for final approval.

Subsequent to final approval the Department award letter is issued and ED staff will commence with the preparation of the State Standard Agreement contract.

## **CONTRACT EXECUTION AND DISBURSEMENT OF CDBG FUNDS**

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The Standard Agreement will contain [General Conditions](#) (via an on-line checklist) and may include specific Special Conditions unique to the project. The Jurisdiction must clear all conditions prior to disbursement of CDBG funds.

Once all conditions of the grant agreement have been satisfied, the Department will issue a letter to the Jurisdiction stating eligible CDBG costs paid for by the Jurisdiction may be submitted to the Department for reimbursement.

*Note:* ANY program income on hand must be spent on the reimbursement of project costs prior to disbursing any CDBG grant.

## **IMPORTANT CONSIDERATIONS**

- ✓ ED OTC Projects are processed on a first-come first-served basis (based on when application is presented to the ILC) and are not competitively rated and ranked.
- ✓ ED OTC Projects can take up to six months to move through the review and approval process (from submission of the inquiry form to receiving an award letter). The more complex the project, the longer the review time.
- ✓ CDBG federal overlay compliance requirements, if not fully considered, can slow down the project timeline, or result in choice-limiting actions.
- ✓ ED OTC Projects are unique. The current application forms provide a general “framework” for review of projects. Each project will require information specific to the project.
- ✓ ED OTC Project financial review is based on HUD underwriting standards.
- ✓ ED OTC Projects will require the submittal of detailed project information to the Department for review as part of documenting project and financial feasibility and compliance with CDBG requirements and federal overlays
- ✓ ED OTC Projects will require CDBG underwriting capacity. The underwriter must be knowledgeable in commercial underwriting standards, CDBG project analysis, HUD underwriting standards, and CDBG federal overlay requirements.

# Economic Development Over-the-Counter (OTC) Application Flowchart

