

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

2020 West El Camino Avenue, Suite 500, Sacramento, CA 95833  
P. O. Box 952054, Sacramento, CA 94252-2054  
(916) 263-2771 / FAX (916) 263-2762  
[www.hcd.ca.gov](http://www.hcd.ca.gov)



August 30, 2016

**MEMORANDUM FOR: ALL POTENTIAL APPLICANTS**

**FROM:** Laura A. Whittall-Scherfee, Deputy Director  
Division of Financial Assistance

**SUBJECT: Special Wildfire Disaster Recovery Notice of Funding Availability – Community Development Block Grant Program for the Federally Declared September 2015 Butte and Valley Wildfires**

The State Department of Housing and Community Development is pleased to announce the availability of **approximately** \$10,400,000 in federal Community Development Block Grant (CDBG) Program funding for recovery efforts relating to the September 2015 Wildfire Disaster, as declared by Governor Brown, and by President Obama in Federal Regulation Notice [DR-4340-CA NR 016].

This NOFA makes funding available to Calaveras and Lake counties who were affected in the 2015 Butte and Valley Wildfires, for activities selected by each county after going through the required public participation process.

**The funding of applications will be on first-come, first-serve basis, until all available funds are exhausted.**

If you have any questions, please contact Jon Diedesch at [Jon.Diedesch@hcd.ca.gov](mailto:Jon.Diedesch@hcd.ca.gov) or (916) 263-2561.

Attachment

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

**2016 Butte and Valley  
Wildfire Disaster Recovery  
Notice of Funding Availability**



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

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

**Laura Whittall-Scherfee, Deputy Director  
Division of Financial Assistance**

NOFA Section, CDBG Program  
2020 West El Camino Avenue, Suite 500, Sacramento, CA 95833  
Telephone: (855) 333-CDBG (2324) / Fax: (916) 263-2762  
Website: [CDBG Current NOFA](#)  
CDBG Program Email: [cdbg@hcd.ca.gov](mailto:cdbg@hcd.ca.gov)

**NOTICE OF FUNDING AVAILABILITY  
COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAM  
WILDFIRE DISASTER RECOVERY**

**Table of Contents**

	<b><u>Page Number</u></b>
<b>OVERVIEW</b>	
A. Notice of Funding Availability	1
B. Authorizing Legislation and Regulations	1
C. Application Timelines	2
<b>FUNDING PARAMETERS</b>	
A. Funding	3
B. Program Administrative and Delivery Costs	3
C. Eligible Applicants, Areas	6
D. Threshold Requirements	7
E. Eligible Activities	8
F. Supplemental Activities	27
G. National Objective and Documenting Beneficiary Requirements	28
<b>APPLICATION REVIEW AND EVALUATION</b>	
A. Evaluation Criteria and Ranking	40
<b>AWARD ANNOUNCEMENTS AND GRANT IMPLEMENTATION</b>	
B. Grant Contract Processing	41
<b>PROGRAM REQUIREMENTS</b>	
A. Federal Overlays	41
B. Public Participation	42
C. Public Records Act	42
D. Relocation Plan Requirement	42
E. Procurement	43
F. Prevailing Wages	43
G. Federal Debarment and Suspension	43

**APPENDICES**

All applicable CDBG appendices can be found on the HCD CDBG website at [California Department of Housing and Community Development \(HCD\)](#).

## OVERVIEW

### A. NOTICE OF FUNDING AVAILABILITY (NOFA)

The Department of Housing and Community Development (Department) is pleased to announce the availability of approximately \$10,400,000 in federal Community Development Block Grant (CDBG) funding for direct disaster recovery activities related to the September 2015 Federal Registrar Disaster declaration [DR-4340-CA NR 016], and related disaster declaration by Governor Brown, in Calaveras and Lake counties.

#### Notes:

- *The Department reserves the right, at its sole discretion, to rescind, suspend or amend this NOFA and any or all of its provisions at any time. If such an action occurs, the Department will notify interested parties via its email subscription list and website.*

### B. AUTHORIZING LEGISLATION AND REGULATIONS

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, Sections 7050-7126. Section 7065.5 of these regulations provides specific authority for this NOFA.

**Reference Note:** *The Act (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.*

Pursuant to **25 CCR 7065.5**, the Department has the authority to issue special NOFAs within any funding cycle.

Pursuant to **25 CCR 7065.5**, when the Governor declares an emergency, the Department may issue Emergency Disaster Assistance funding subject to the following special conditions:

- I. The project or activity shall be designed to alleviate or mitigate existing conditions which pose a serious actual or impending threat to the health or welfare of the community;
- II. The Department will review eligibility documentation for each proposed activity and its associated national objective and ensure no duplication of eligible costs; and

<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.*

- III. The proposed project or activity shall be otherwise eligible for funding under this Subchapter or be eligible pursuant to other HUD eligibility criteria.

## C. APPLICATION TIMELINES

---

### I. Key Dates

NOFA and Application Release:	August 30, 2016
<b>HCD Starts Accepting Applications on:</b>	<b>September 1, 2016</b>
<b>Applications Deadline:</b>	September 1, 2017

*Awards will be announced upon Department Over-the-Counter Application Approval, Loan Committee Approval and Directors Award Letter.*

### II. Application Process

#### 1. Submitting the Application to the Department

The Department will accept applications through a mail carrier service such as the U.S. Postal Service, United Parcel Service (UPS), Federal Express (FEDEX) or other mail carrier services that provide a date stamp verification confirming the date of delivery/arrival of the application package at the Department by the application due date. The Department will allow applications to be delivered in person during regular business hours, from 8:00 A.M. to 5:00 P.M. *Note: This is different than other Department funding application receipt policies.*

#### 2. Delivery Address for Application

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

#### 3. Application Must Include/Contain

- At least one original of the application signed by the Authorized Representative must be received by the Department.
- All the information required in the NOFA and shall contain a certified resolution adopted by the governing body of the eligible jurisdiction (for sample resolution, see **Appendix A**).
- Tele-faxed or e-mail transmitted applications will **not** be accepted.
- Only the eligible activity included in this NOFA will be considered for funding.

For further information about this NOFA, please contact Jon Diedesch at [Jon.Diedesch@hcd.ca.gov](mailto:Jon.Diedesch@hcd.ca.gov) or (916) 263-2561.

# FUNDING PARAMETERS

## A. FUNDING

Funds have been allocated by County based on the proportion of destroyed single-family homes in each county, as identified by [FEMA](#):

Factor	Calaveras	Lake
Number of destroyed single family homes	475	1280
Percentage of destroyed single family homes	27%	73%
CDBG Wildfire allocation	\$2,808,000	\$7,592,000

Funds will be reserved for each county for up to one year following the date of this NOFA release. If there are unused funds after one year, then the oversubscribed county will be given additional funding to the extent the county can demonstrate a need for the funds. If there are unused funds and no demand for them, the unused funds will go back to the department.

Other than the allocations by County, there is no maximum application amount and there are no special allocations for Economic Development, Native American communities, or Colonias.

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

- a. PI on hand, including any Housing Revolving Loan Funds (if wildfire disaster funds are used for the same activity), must be spent before any grant funds may be drawn down.

## B. PROGRAM ADMINISTRATIVE AND DELIVERY COSTS

### I. General Administrative (GA) Expenses

GA costs include staff and related costs required for overall contract and program management, coordination, monitoring, reporting and evaluation. For all contracts, grantees are allowed up to 7.5 percent of the total of all activity funds requested and awarded for reasonable GA expenses related to administering the activity.

### II. Calculation of General Administration

Below is the formula to be used to calculate 7.5 percent GA based solely on the amount of activity funding being requested (activity funding includes Activity Delivery (AD)). In essence, GA is calculated only on the amount of dollars being requested for the activity.

Examples of the calculation are below:

<p><b><u>Formula:</u></b>          Activity Total divided by 1.075 = Activity \$ Amount (including AD)          Activity Total – Activity \$ Amount = GA</p>
<p><b><u>Single Activity Example:</u></b>          Assuming an application for a \$600,000 Housing Rehab Program Activity:  <math>\\$600,000 / 1.075 = \\$558,139</math> available for Activity (including AD)  <math>\\$600,000 - \\$558,139 = \\$41,861</math> GA</p> <p>Verification: <math>\\$41,861 / \\$558,139 = 7.5\%</math>          Also: <math>\\$558,139 + \\$41,861 = \\$600,000</math></p>

### III. **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.

<p>Allowable AD amounts vary depending on the activity category. Maximum amounts/percentages for activities with separate activity delivery budget are as follows.</p>	
Housing Rehabilitation Program (1-4 Units)	• Up to 19%
Multi-Family Housing Rehab Project (5 or more units)	• Up to 15% or \$50,000 (whichever is less)
Homeownership Assistance	• Up to 8%
Multi-Family Housing (Acquisition only)	• Up to 8%
Enterprise Fund: Micro Loan/Grant Program	• Up to 15%
Enterprise Fund: Business Assistance Program:	• Up to 15%
Public Facilities or Public Improvement Projects	• Up to 12%

<p>The following activities incorporate activity delivery costs into the activity budget.</p>	
Enterprise Fund: Micro TA or Support Program	Included in program costs
ED Over-the-Counter Project	Included in project costs
Public Service Program	Include in program costs
PTA	Included in general admin cots

**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 or Multi-family Housing:	1.08%
Public Facilities and Public Improvements:	1.12%

**Single Activity Example:**

For a \$300,000 Homeownership Assistance Program with Activity Delivery costs of 8% AD will be calculated in the Summary Application using the formula above, as follows:

$\$300,000 - \$20,930$  (7.5% GA using 1.075 Factor) =  $\$279,070$  (activity funds including AD)

$\$279,070 / 1.08$  (AD Factor for HA Activity) =  $\$258,398$  available solely for the HA Activity

$\$279,070 - \$258,398 = \$20,672$  Allowable AD Amount

**Verification:**  $\$20,672 / \$258,398 = 8\%$

**Also:**  $\$258,398 + \$20,672$  AD =  $\$279,070$  Activity Amount; and,  
 $\$279,070 + \$20,930$  GA =  $\$300,000$

- *As noted above, the final amount of GA awarded in a contract will be based on activities awarded, 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 Department.*

**IV. 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 approval.



## C. ELIGIBLE APPLICANTS, AREAS AND THRESHOLD

---

### I. ELIGIBLE APPLICANTS

#### 1. CDBG - Non-Entitlement Counties of Calaveras and Lake in California

##### Non-Entitlement Definition:

In general, incorporated cities under 50,000 in population and counties with an unincorporated area population of under 200,000 persons are considered “Non-Entitlement Cities and Counties” and are therefore eligible to participate in the State CDBG Program. Eligible cities and counties may apply for funds under each Program component. The following exceptions apply:

- a. *If a city under 50,000 in population 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.*
- b. *If a city under 50,000 in population has been declared the central city of a Standard Metropolitan Statistical Area, it cannot participate because it is entitled to receive CDBG funds directly from HUD.*
- c. *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.*

Jurisdictional debarment status may be obtained by conducting a search at <https://www.sam.gov/portal/public/SAM/>. This information will be required at the time of application. **Note: The link provided 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.**

##### Funding Beyond a Grantee’s Jurisdictional Boundaries

Given the CDBG Final Rules at **24 CFR 570.486(b) and (c)**, the Department issued CDBG Management Memo 13-06 which details the federal language and the resulting associated Department policy.

As part of the eligible activities review process, the Department will review the documentation to ensure all activities meet the above requirements.

## D. THRESHOLD REQUIREMENTS

---

- I. State CDBG Regulations, Section 7060, lists the requirements that must be met at the time of submission for a regular State CDBG application to be considered eligible. Some of these provisions have been waived. Please note the following requirements/waivers:
  1. City or County must be a Non-Entitlement Jurisdiction, and 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 of the application information required in State CDBG Regulations 7070 and 7072, as applicable, for the activities and funding allocations being applied for.
  3. Per **25 CCR 7065.5**, the HCD Director has waived for this NOFA only compliance with State CDBG Regulations at **25 CCR 7060(a)(3)** pertaining to the 50% Rule.
  4. Although State regulations require that the Single Audit Act is followed, there is no audit submittal requirement for this NOFA.
  5. Standard public participation requirements, identified at **25 CCR Section 7080**, apply to this NOFA. For more details, refer to Appendices A and B of this NOFA, or Chapter 18 of the CDBG Grant Management Manual at <http://www.hcd.ca.gov/fa/cdbg/manual/chapter18.html>.
  6. Section 50829 of the Health and Safety Code requires housing element compliance as a condition of funding. However, the housing element threshold requirement at **25 CCR 7060** has been waived by the Director. Thus, communities not in housing element compliance may apply in response to this NOFA, and may receive an award and a Standard Agreement, but may not receive any payments until the jurisdiction achieves housing element compliance per **25 CCR 7060**.
  7. At time of application submission, the Department will review all applications from eligible applicants to ensure that there is sufficient documentation substantiating a direct link between the September 2015 Wildfires and requested activity.
- II. Commitment to Long Term Resiliency Standards:
  1. Applicants must commit to meet immediate and long-term resiliency standards in rebuilding homes destroyed by the wildfires identified in this NOFA (see Appendix C).

## E. ELIGIBLE ACTIVITIES

---

### I. Overview

1. Pursuant to the Housing and Community Development Act of 1974 [HCDA Section 105(a)], CDBG funds may be used for activities as discussed below.
2. 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**.
3. Planning and Technical Assistance (PTA) is an eligible activity and may be applied for and funded for either ED or CD purposes. Details on planning activity eligibility are discussed in Funding Parameters Section, Item E.

### II. Ineligible Activities

The general rule is that any activity that is not authorized under the provisions of 42 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.

1. The following activities may not be assisted with CDBG funds:
  - a. **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.
  - b. **General government expenses:** Except as otherwise specifically authorized in this subpart or under OMB Circular A-87, expenses required to carry out the regular responsibilities of the unit of general local government are not eligible for assistance under this part.
  - c. **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.

2. 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.
  - a. **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 Circulars A-21, A-87 or A-122 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 Circular A-21, A-87 or A-122, 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.
  - b. **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 are 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 pot holes 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.

- c. ***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).
- d. ***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.

### III. **Enterprise Fund**

#### 1. **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.

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

- i. 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).
- ii. Financing of working capital to pay for marketing costs, operating expenses, and inventory.
- iii. Financing of furniture, fixtures, and equipment (FF&E). Also, purchase and installation of manufacturing equipment.

- iv. 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 ADA accessibility improvements.
- v. Financing real property acquisition costs.
- vi. Financing of demolition and reconstruction or repair of blighted buildings where the business will operate.
- vii. Financing may be used for refinancing existing business indebtedness.
- viii. Financing of relocation costs of any displaced persons due to project development are also eligible under this program.
- ix. Financing of some offsite public improvements.

a. **Ineligible Uses of Funds**

- i. Projects that assist development of housing.
- ii. Payment of project costs incurred prior to NEPA review completion.
- iii. Financial assistance to persons/families above 80% AMI by county, adjusted for household size.

Reference: HCDA 105(a)(22)

2. **Microenterprise 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 startup 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.

a. **Eligible Use of Funds**

- i. Technical Assistance (must income-qualify participant using Department's current Income Self-Certification Form posted on website):
  - 1) One example: Technical Assistance classes, which provide business training and capacity building.
  - 2) 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. Financial Assistance (must income-qualify participant using the Part 5 method).
  - 3) Using grant or loan financing to pay for working capital or to pay for marketing costs, operating expenses, and inventory.
  - 4) Financing for furniture, fixtures, and equipment (FF&E). Also, purchase and installation of equipment.

- 5) 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.
  - 6) Funds for relocation of any displaced persons due to CDBG project development are also eligible under this program.
  - 7) Assistance to non-profit agencies, only for the purpose of real property acquisition and/or construction.
- ii. Support Services Assistance (must income-qualify using Department Income Self-Certification Form):
- 1) Funds for payment of transportation costs to allow ME participants to travel to and from classes and technical assistance.
  - 2) Funds for payment of child care services to support the ME Program participant in attending technical assistance activities.

**b. Ineligible Uses of Funds**

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

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

**3. 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 as per 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**

- i. Financing may be used to cover any offsite public improvements required as part of project development.
- ii. Financing may be used for working capital to pay for marketing costs, operating expenses and inventory.
- iii. Financing may be used for furniture, fixtures and equipment (FF&E). Also, purchase and installation of manufacturing equipment.

- iv. 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.
- v. Financing may be used for payment of demolition and reconstruction or repair of blighted buildings where the business will operate.
- vi. Financing may be used for refinancing existing indebtedness.
- vii. 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**

- i. Projects that do not meet any Public Benefit or National Objective.
- ii. Projects that assist housing development.
- iii. Projects speculative in nature with no firm basis for sales projections and loan repayment.
- iv. Project costs incurred prior to NEPA review completion.
- v. 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.*

General administration (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.

#### IV. **Community Development**

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

Single-Family Residential, as applied to eligible **program** activities such as Housing Rehabilitation programs, is defined as one (1) to four (4) residential unit(s) on a single property.

Multifamily Residential applies to the eligible **project** activities of Multifamily 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:

- a. 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.



- b. Multifamily 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., 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.

## **2. Housing Project - Property Acquisition for Multifamily 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:

- i. Acquisition of existing rental housing, the majority (51 percent) of units of which are occupied by low- or moderate-income residents.
- i. Resident purchase, with or without rehab, of mobile home parks.
- i. Acquisition of vacant land as part of an affordable housing development project.
- ii. 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 corresponding application to use is the Housing Project – Multifamily application package. See Eligible Activity #4 below.

**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**

- i. 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.

- ii. 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.
- iii. 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.

1. **Housing Program - Homeownership Assistance**

a. **Eligible Uses of Funds**

Housing Assistance (HA) **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. **LMI 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:

- i. Subsidize interest rates and mortgage principal amounts;
- ii. Finance the acquisition by LMI homebuyers of housing that will be occupied by the homebuyers;
- iii. Acquire guarantees for mortgage financing obtained by LMI homebuyers from private lenders;
- iv. Provide up to 50 percent of any downpayment required from the LMI homebuyer; or,
- v. Pay reasonable closing costs incurred by LMI homebuyers.

b. **Ineligible Uses of Funds**

- i. HA that would benefit a *non*-LMI person or household or assistance to a homebuyer that does not occupy the home.
- ii. 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)*

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

a. **Eligible Uses of Funds**

- i. 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).
- ii. Demolition and reconstruction of dwelling units (under certain, limited circumstances).

- iii. 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.
- iv. 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.
- v. Installation of water meters, if done in conjunction with the rehabilitation of the unit itself.
- vi. 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.
- vii. Improvements to increase the efficient use of water through such means as water saving faucets, water saving showerheads, and the repair of water leaks.
- viii. Initial homeowner warranty premiums when rehabilitation is carried out with CDBG funds.
- ix. Hazard insurance premiums when rehabilitation is carried out with CDBG funds, except where assistance is provided in the form of a grant.
- x. Flood insurance premiums for properties covered by the Flood Disaster Protection Act of 1973 and for which the rehabilitation is carried out with CDBG funds.
- xi. 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 rehab 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**

- i. Any action that results in what would be considered *housing new construction*.
- ii. Creation of a secondary housing unit attached to a primary unit.
- iii. Installation of luxury items, such as a swimming pool.
- iv. Costs of equipment, furnishings or other personal property which are not integral structural fixtures, such as a window air conditioner, washer or dryer, etc.
- v. Labor costs for owners to rehabilitate their own property.
- vi. Assistance to homeowners that would benefit a non-LMI person or household.
- vii. 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 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)*

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

a. **Eligible Uses of Funds**

- i. 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).
- ii. Demolition and reconstruction of dwelling units (under certain circumstances).
- iii. 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.
- iv. 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.
- v. Improvements to increase the efficient use of water through such means as water saving faucets and shower heads and the repair of water leaks.
- vi. Conversion of commercial properties into housing units.
- vii. Conversion of a non-residential structure (closed school building, closed military facility, etc.) to residential (adaptive reuse).
- viii. Projects with at least 51 percent of the units occupied by or restricted for low/mod households.
- ix. 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 the project when CDBG funds are used for development costs.

b. **Ineligible Uses of Funds**

- i. Installation of luxury items, such as a swimming pool.
- ii. Costs of equipment, furnishings, or other personal property that are not integral structural fixtures, like a window air conditioner, washer or dryer, etc.
- iii. Labor costs for owners to rehabilitate their own property.
- iv. Projects with less than 51% of the units occupied by or restricted for low/mod households.
- v. 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)*

4. **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 their 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, refer to the aforementioned HR and HA 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 the HR and HA sections.

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

## 5. Housing - Housing New Construction

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

For the State CDBG Program, the Housing and Community Development Act of 1974, as amended (HCDA) 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. 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 new housing 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**

- i. 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.**
- ii. Conversion of a non-residential structure to residential (adaptive reuse) is not considered a housing new construction activity, and is eligible under HR.

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

## 6. 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**

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

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

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

a. **Eligible Uses of Funds**

- i. 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**

- i. Costs of operating and maintaining public improvements.
- ii. Costs of purchasing construction equipment.
- iii. Off-site improvements that are not a condition of approval for the new housing development.
- iv. 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)*

8. **Public Facilities**

a. **Eligible Uses of Funds**

- i. 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.

- ii. 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:
  - 1) Blighted, deteriorated, deteriorating, undeveloped or inappropriately developed from the standpoint of sound community development and growth;
  - 2) Appropriate for rehabilitation or conservation activities; ***or***,
  - 3) The acquisition of land for use as a park serving primarily a residential neighborhood that is predominantly low- to moderate-income.
- iii. 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.
- iv. 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 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.*

- v. If a public facility contains multiple uses, including eligible and ineligible uses, it could still receive CDBG assistance if:
  - 1) *The portion of the building which will house the eligible uses will occupy a designated and specific area demonstrated by building drawings/plans.*
  - 2) *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**

- i. 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 on next page regarding Section 504 compliance).



- ii. 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.
- iii. 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.
- iv. Permanent housing.
- v. Time-sharing of eligible and non-eligible uses for the same space.
- vi. 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).*

9. **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:

<ul style="list-style-type: none"> <li>• Child Care</li> <li>• Health Care</li> <li>• Crime Prevention</li> <li>• Job Training</li> <li>• Recreation Programs</li> <li>• Education Programs</li> <li>• Fair Housing Counseling</li> <li>• Credit Counseling Services</li> <li>• Public Safety Services</li> </ul>	<ul style="list-style-type: none"> <li>• Services for Senior Citizens</li> <li>• Services for Homeless Persons, including Coordinated Entry Activities</li> <li>• Drug and Alcohol Abuse Counseling and Testing</li> <li>• Transportation Services</li> <li>• Nutrition Services</li> <li>• Energy Conservation Counseling and Testing</li> <li>• Emergency Assistance Payments</li> <li>• Neighborhood Cleanup</li> </ul>
---	--

**b. Ineligible Uses of Funds**

- i. Political Activities;
- ii. Religious Services;
- iii. Governmental Operations;
- iv. Ongoing Grants or non-emergency payments to individuals for the food, clothing, rent, utilities or other income payments (subsistence payments) — beyond three months; and
- v. Activities for the general promotion of the community, i.e. 100 year anniversary celebration.

**c. Other Considerations**

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

- i. 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; ***or***,
- ii. 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.
- iii. The service is **currently funded with CDBG grant funds** and the service will remain at substantially the same level.
- iv. 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.** *This eligibility requires an exception from HUD. 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.*

**Note:** *The State CDBG allocation for Public Services cannot exceed 15 percent of the total award to the State.  
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, sign 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 actually a Public Service Activity, it is a stand-alone activity under 42 USC 5305(a)(3) with IDIS Matrix Code 15. However, CDBG State NOFA currently provides for the activity under the Public Services section of the regulations for scoring, like job training programs.*

### **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**

- i. CDBG funds may be used to provide Code Enforcement of state and/or local codes.
- ii. 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**

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

#### **c. Other Considerations**

To be eligible, the Code Enforcement Activity must:

- i. 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*.
- ii. Clearly *identify measurable outcomes and supported by documented success*.
- iii. 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.

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

## **12. 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:

- i. Studies;
- ii. Analysis;
- iii. Data gathering;
- iv. Preparation of plans;
- v. Identification of action that will implement plans;
- vi. Preliminary plans and specifications; and
- vii. 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 above mentioned 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 aforementioned National Objectives.

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

- i. Be consistent with the work product applied for in the PTA application;
- ii. Be submitted to the Department at time of grant closeout; and
- iii. Meet either the Low/Mod Area, Limited Clientele or other Low/Mod qualification.

If the work-product produced by the PTA grant is:

- i. Not consistent with the work-product approved in the original application and as described in the contract;
- ii. Will not, if implemented, meet a National Objective; or,
- iii. Is not submitted at the time of grant closeout; *the activity may be deemed ineligible and the funding shall be returned to the Department.*

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. Call your CDBG representative if you have any questions about eligible PTA activities.

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

- i. Planning and capacity building activities do not include:
  - 1) Final engineering, architectural plans and design costs related to a project (for example, detailed engineering specifications and working drawings);
  - 2) The costs of implementing plans, including grant application preparation; or,
  - 3) Providing technical assistance to a non-profit for capacity building.

- ii. In addition, the list below gives examples of activities that are ineligible, with possible exceptions. *CDBG encourages applicants to contact your CDBG NOFA/Awards staff if there are any eligibility questions.*
  - 1) **Ineligible: Income Survey** costs. The cost of conducting an Income Survey is not an eligible CDBG cost.
  - 2) **Ineligible: Housing Element** preparation for jurisdictions in which fewer than 51 percent of residents are Low/Mod as documented by the federal 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 50833. Per Title 25,*

Section 7058(a)(5)(A), all jurisdictions applying for a PTA activity will be required to commit **5 percent** of the total funding amount 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**

---

If the applicant submitted eligible Supplemental Activities, any contract funds that get supplanted by PI funds may be used to fund Supplemental Activities.

For the 2016 NOFA a maximum of **three** Supplemental Activities may be requested. Supplemental Activities may be requested by filling out the Supplemental Activities tab on the Application Summary and by submitting the Supplemental Activity Form and any required documentation that corresponds to the type of activity(ies) being requested (Project or Program). Public service programs may be used for Supplemental Activities. Each public service program counts as one Supplemental Activity. As such, an applicant can propose up to three public service programs as Supplemental Activities. Supplemental Activities cannot include Planning Activities. The reason for this is that Planning Activities are part of the General Admin expenditure cap. Supplemental Activities are not applicable to ED OTC applications.

The Department will review these documents for eligibility and will 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 supplemental activities or competitively awarded activities, as long as PI is spent prior to drawing down grant funds.

***Important Considerations:***

- I. Supplemental Activities must be an eligible activity and meet a National Objective; otherwise they will not be added to the grant contract.
- II. Supplemental Activities must be able to be completed by the end of the expenditure milestone period of the contract.
- III. All Supplemental Activities being 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**

---

### **I. 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; or,*
- *Prevention or elimination of slums or blight; or,*
- *Urgent Need, which is meeting 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 Urgent Need National Objective is allowed under this NOFA.*

CDBG statutes and regulations allow for three National Objectives to be met by eligible activities. The most commonly used is benefit to low- and moderate-income individuals or households (LMI), 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 State CDBG Program, see the HUD Guide to National Objectives and Eligible Activities at [HUD Guide to National Objectives and Eligible Activities for State and 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 a number of different ways to meet the National Objective of benefit to LMI persons, based on the proposed activities. 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.

ED activities documentation for meeting Public Benefit requirements is discussed in the Application Review Section, Item A.

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 (LMI)**

As noted in the “What’s New” section, beginning in July 2014, HUD began using the American Community Survey (ACS) data to calculate Low/Mod percentages by census tract/block groups and by Census Data Place. This data is in **Appendix A**.

For those service areas that are not jurisdiction-wide and that do not fall neatly within the census tract/block group(s) model, HUD has provided Summary level 160 which is titled “Local Government Summaries by State” and can be found at <https://www.hudexchange.info/manage-a-program/acs-low-mod-summary-data-block-groups-places>. This Summary level also provides low/mod data for Census Designated Place (CDP) areas. HUD provides a very useful tool, which combines mapping of Census Tract/Block Groups with LMI Area Data (FY’14) by Block Group, Place, County Subdivision and County for use by CDBG grantees to assist with Low Moderate Income Area Benefit compliance determinations. This tool along with a video tutorial can be found [here](#). 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. **LMI Subcategories**

#### i. **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 LMI persons on an area basis, the activity must serve the needs of LMI persons residing in an area where at least 51 percent of the residents are LMI persons. The benefits of this type of activity are available to all residents in the area regardless of income.



ii. **Examples of LMA Benefit activities include:**

- 1) Public Infrastructure Projects
- 2) Public Facilities
- 3) 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.*

iii. **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:

- 1) Exclusively benefit a clientele who are generally **presumed** by HUD to be principally LMI persons, such as:
  - Abused Children;
  - Elderly Persons;
  - Battered Spouses;
  - Homeless Persons; or
  - Adults Meeting the Bureau of Census' Definition of Severely Disabled Adults (see <http://www.census.gov/prod/2012pubs/p70-131.pdf>).
    - Illiterate Adults
    - Persons Living with AIDS
    - Migrant Farm Workers

**Note:** *This presumption may be challenged in a particular situation if there is substantial evidence that the persons in the actual group that the activity is to serve are most likely not principally LMI persons.*

- 2) 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.
- 3) Be of such nature and in such location that it may be reasonably concluded that the activity's clientele will primarily be LMI persons. For example, a day care center that is designed to serve residents of a public housing complex.
- 4) 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.
- 5) 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 LMI persons. (**Note:** *Once a person is determined to be LMI, 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 eligibility process must be in the project file. Additionally, evidence of 5 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.

iv. **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 LMI persons only to the extent that the housing is occupied by LMI persons. Thus, for an activity under housing to qualify under the LMI Benefit National Objective, it must result in housing that will be **occupied** by an LMI household upon completion.

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

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

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

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

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

- 1) *All assisted single unit* structures must be occupied by LMI households;
- 2) An assisted *two-unit* structure (duplex) must have *at least one* unit occupied by a LMI household; and,
- 3) An assisted structure containing *more than two units* must have *at least 51 percent* of the units occupied by LMI households. For this NOFA, multifamily housing activity applicants must show that at least 51 percent of the present tenants in the project have household income meeting the LMI requirement.

**Other Considerations:**

**Condominiums** - Where rehabilitation of one or more units in a multi-unit building, that are owned on a condominium basis, is limited to the particular unit(s) and does not involve rehabilitation of a portion of the property that are held in common ownership, the unit(s) are considered to be separate structure(s).

**Important Tips:**

- 1) For any Housing Activity, compliance with the LMI benefit using LMH National Objective is based on meeting Part 5 Income Determination,

using the Income Manual. Housing activities considered *programs* (HR 1-4 units, and HA) must address this requirement in their Guidelines as a program requirement.

- 2) Tenant Occupied Units (1-4 units or multifamily projects) must use the income self-certification process for tenants occupying the units at the time of requesting assistance (to determine if at least 51 percent of the tenants will meet the LMH requirement). Once “assisted,” the units, at occupancy, must meet the full Part 5 requirement until the Rent Limitation Agreement ends.
- 3) Eligibility for HA at HCDA 105(a)(24) requires that only LMI households be assisted. No other, less restrictive National Objective may be used for this activity.

v. **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 L/M persons,” which is what allows the LMJ National Objective subcategory to meet the LMI requirement.

vi. **Examples of Activities That Could Be Expected to Create or Retain Jobs**

- 1) EF BA or OTC project that finances the expansion of a plant or factory (job creation).
- 2) EF BA or OTC project for financial assistance to a business which has publically announced its intention to close; but, through the CDBG ED loan, it can update its machinery and equipment and thus remain open instead (job retention).
- 3) 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 which, on a full-time equivalent (FTE) basis, are either held by LMI persons (retention) or who are LMI persons at the time of being hired (creation).

vii. **What Jobs Can Be Counted**

- 1) 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.

- 2) Only permanent jobs count consisting of job positions that require 1,750 hours for full time or 875 hours for part time are considered permanent; temporary jobs may not be included.
- 3) 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.*

viii. **Jobs “Held By” LMI Persons**

A job is considered to be held by a LMI 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.

ix. **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:

- 1) Evidence that the business has issued a notice to affected employees or made a public announcement to that effect.
- 2) 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.
- 3) To meet the LMJ standard, at least 51 percent of the retained jobs must be known to be held by LMI 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.**

x. **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 L/M 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**.

xi. **Documentation Requirements**

Each application must contain a discussion of how the proposed project will principally benefit the LMI 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 with their CDBG Contract Representative.***

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- 33030-33039.**

a. **Slums & Blight – Area Basis**

Until the State Regulations are revised to provide sufficient clarity on the issue of Slums & Blight, **the Department will not allow the Slums & Blight National Objective to be used on an Area 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:**

- 1) Historic preservation of a blighted public facility;
- 2) Demolition of a vacant, deteriorated, abandoned building; or,
- 3) 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 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:

- The activity must be designed to eliminate specific conditions of blight or physical decay, not located in a designated slum or blighted area; and,
- The activity must be limited to one of the following:
  - Acquisition (see Other Considerations);
  - Clearance/demolition;
  - Relocation;
  - Historic Preservation; or,
  - 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**

- 1) For **Spot Blight**, the application must include:

- Documentation that the project site meets HUD’s definition of blighted; and
- 1) Documentation the CDBG funds will pay to eliminate the project’s blighted conditions.
- 2) 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, the NOFA staff should be consulted prior to application submittal.

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:

- a. Pose a serious and immediate threat to the health or welfare of the community;
- b. Are of recent origin or recently became urgent;
- c. The local government is unable to finance the activity on its own; and
- d. 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 must be documented. In other cases, the study may be for persons under presumed benefit or “limited clientele” (homeless or farmworkers or seniors) whom are categorized as Low/Mod persons.

#### b. **Documentation**

Each application must contain a discussion of how the proposed study would principally benefit the LMI group. For activities using LMA benefit, Census Tract/Block Group data (**Appendix H**) or valid income survey (see <http://www.hcd.ca.gov/fa/cdbg/manual/>) must be included.



## 5. 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, Low/Mod, 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; and **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 have received the benefit prior to expiration of the grant contract. The funded project or program must be in use by the intended beneficiaries prior to contract expiration to demonstrate that the benefit has been met. Under the Public Improvements In-Support-Of Housing New Construction (PIHNC) activity, completion of the infrastructure construction is not sufficient to meet benefit; the housing units associated with the project must be occupied. Additionally, the completion of a facility in which no services were provided before the expiration of the contract would also be considered not to have met 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:** Documentation of beneficiaries of BA and ME programs is not required in the application, because they are future beneficiaries and are not known at the time of application submittal. Documentation of beneficiaries is required after funding award, general conditions are cleared and eligible projects are processed, per ME and BA Program Guidelines.

### b. **Determination of LMI Beneficiaries**

#### **Low/Mod Group (Low/Mod) Determination:**

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

HCD charts showing county median incomes based on family size can be found at [2016 Income Limits](#).

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

HUD has determined that some beneficiaries are generally presumed to be principally low- and moderate-income persons. Activities that exclusively serve a group of persons in any one of the following categories may be presumed to be Low/Mod:

Beneficiaries with **Presumed 100 percent** Low/Mod Benefit:

- i. *Severely disabled adults\** – (very low-Income)  
\*defined as adults meeting the Census Bureau Current Population reports definition of “severely disabled”.
- ii. *Illiterate adults* – (very low-income)
- iii. *Persons living with AIDS* – (very low-income)
- iv. *Battered spouses* – (very low-income)
- v. *Abused children* – (extremely low-income)
- vi. *Migrant farmworkers* – (very low-income)
- vii. *Homeless persons* – (extremely low-income)

**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 Income Level table is the same as what is in each application. Each proposed activity must show the intended beneficiaries by income category, as shown on the Income Level table. An activity must benefit all residents of the intended service area who are income qualified up to a county area median income, adjusted for family size (AMI) of 80 percent. An activity cannot solely benefit only one specific level of LMI beneficiary listed above. Thus, an activity cannot only benefit the 51-80 percent Low/Mod Group in the service area, for example.

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

- i. Seniors (62 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 to 80 percent AMI).
- ii. Seniors (62 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).

- iii. If an activity serves a combination of these groups, estimate the number under each group and report those numbers under the appropriate income levels.

<b>INCOME LEVELS</b>				
<b><u>81% AND ABOVE</u></b> <i>(Non-Low/Mod)</i>	<b><u>BETWEEN</u></b> <b><u>51 - 80%</u></b> <i>(Low/Mod)</i>	<b><u>BETWEEN</u></b> <b><u>31 - 50%</u></b> <i>(Very Low Income)</i>	<b><u>AT OR BELOW</u></b> <b><u>30%</u></b> <i>(Extremely Low Income)</i>	<b><u>TOTALS</u></b> <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 Representative assigned to your jurisdiction if you need more information on how this may apply to your activity.

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

**APPLICATION REVIEW AND EVALUATION**

**A. EVALUATION CRITERIA**

**I. Method of Ranking Eligible Applications:**

This NOFA is over-the-counter and, as such, funding will be provided on a first come, first served basis pursuant to emergency regulation **25 CCR 7065.5(b)(5)** whereby the HCD Director has authorized making funds available through an over the counter process.

## B. GRANT CONTRACT PROCESSING

---

All funded applications will be processed through 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. Applicants may be permitted to incur GA costs upon receiving their award letter, provided the Grantee has requested and *obtained written approval from Department.*

*Grantees must obtain clearance or approval for any special conditions prior to beginning a CDBG-funded activity. This requirement also applies to activities which may include non-CDBG funding. Beginning the activity prior to obtaining written clearance from the Department may cause the activity and any associated costs to become ineligible.*

**Term of Agreement:** The Standard Agreement shall expire no later than 36 months from the date of award; however, the expenditure deadline will be no more than 30 months from the date of the award.

## 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](#).

- I. Environmental Standards (based on National Environmental Policy Act of 1969 (NEPA). Note: NEPA requirements vary depending on the nature of the overall activity, not just the CDBG-funded laterals. If the overall activity includes development of a new water system, or an expansion of an existing system, an Environmental Assessment will generally be required. However, if the water system is already in place, and there is already a water distribution line adjoining the residence property, and the only activity is the lateral and related costs, then the normal NEPA clearance required for Housing Rehabilitation applies.
- II. Labor Standards (Davis-Bacon and Related Laws). Note: The guidance provided by HUD on Page 24, in "Making Davis Bacon Work: A Practical Guide for States, Indian Tribes and Local Agencies" indicates that unless there are 8 single-family units located on contiguous lots and operated as a single rental property, Davis Bacon labor standards do not apply.
- III. Achieving a HUD National Objective
- IV. Public Participation Requirements
- V. Fair Housing and Affirmatively Furthering Fair Housing
- VI. Equal Opportunity and Non-Discrimination in Federal Grant Programs

- VII. Federal Procurement Guidelines
- VIII. National Flood Insurance Program Compliance
- IX. Relocation and Displacement Requirements
- X. Employment and Contracting Opportunities
- XI. Lead-Based Paint Requirements
- XII. No Use of Debarred, Ineligible or Suspended Contractors or Subrecipients
- XIII. Uniform Administrative Requirements and Cost Principles
- XIV. Conflict of Interest Prohibitions
- XV. Compliance with the Architectural Barriers Act and the Americans with Disabilities Act
- XVI. Compliance with Eligibility Restrictions for Certain Resident Aliens
- XVII. Federal Reporting Requirements
- XVIII. Grant and Subrecipient Monitoring Requirements

## **B. PUBLIC PARTICIPATION**

---

Pursuant to State CDBG Regulation, Section 7080, all applications must be in compliance with federal CDBG Public Participation regulations to be eligible for funding. A minimum of one public hearing is required prior to submitting an application. Refer to Appendix A for requirements and sample Public Notice.

## **C. PUBLIC RECORDS ACT**

---

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.

## **D. RELOCATION PLAN REQUIREMENT**

---

Applicants engaging in project-specific 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. When operating a single-family rehabilitation program, which could cause temporary relocation of persons, the applicant must also provide a locally-adopted temporary relocation plan that outlines relocation benefits for owner-occupants and tenants.

This activity should not cause the displacement of any households since it will result in a permanent potable water source for the housing unit. However, if temporary relocation is considered necessary the applicant must submit documentation justifying the need for relocation.

## **E. PROCUREMENT**

---

**Procurement of Administrators** - If a Grantee chooses not to administer the activity in-house, it is required to follow the normal process for procuring activity administrators. However, if a Grantee is already under contract with a program operator for operation of its Housing Rehabilitation Program, it may administer the activity.

**Procurement of Contractors** - Grantees will be allowed to conduct a tiered procurement process, whereby a Grantee releases a Request for Proposal (RFP) to solicit contractors meeting specific criteria in order to create an “eligible contractor panel.” Once the panel is established, Grantees will use the small-purchase procurement process (the lowest bid must be selected) for securing contractors for jobs that will install water laterals on up to 7 properties. The construction contract(s) are executed between the individual property owners and the selected contractor, since work will be predominantly taking place on private property.

#### **F. PREVAILING WAGES (DAVIS-BACON)**

---

According to federal CDBG regulations, a construction project that involves 8 housing units or more will trigger federal prevailing wages. This trigger is based on the actual contract executed with the contractor, and not on the total amount of units assisted by a jurisdiction.

#### **G. FEDERAL DEBARMENT AND SUSPENSION**

---

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 at <https://www.sam.gov/portal/public/SAM/>; print and maintain evidence of the search results.

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