



2016 CDBG NOFA and Application Questions and Answers June 28, 2016

Below is a list of frequently asked questions about the 2016 CDBG NOFA and Application.

Note: HCD is re-evaluating its CDBG policies to determine if they can be modified to improve customer satisfaction, the effectiveness of the program, and overall expenditure rate while still remaining in compliance with HUD requirements. This process won't be completed until the Fall.

Application Submittal

How many copies of the CDBG Application do I submit?

A: Submit one original, with original signatures and all attachments, and one copy with all attachments.

Procurement

1. What restrictions would the jurisdiction be subject to if the jurisdiction's engineer wanted to bid on a CDBG funded activity? Please clarify whether there is a conflict of interest if a professional engineer (PE) is procured as a contracted employee to review all engineering related plans and projects for the jurisdiction.

A: State CDBG Management Memo 14-06 provides the following direction:

"... if professional services are required for the implementation of a specific CDBG activity, the federal procurement process involving a formal Request for Proposal (RFP) or Request for Qualifications (RFQ) must be followed and the existing "contracted employee" would not be eligible to submit a proposal for the project.

For example, if the grantee receives CDBG funding to complete the construction of a new water well, a RFQ procurement process would be required to hire an engineer for preparation of the plans and specifications for the project. The grantees' existing contract engineer would be unable to bid on the CDBG-funded water project, as it would be considered a conflict of interest.

Therefore, existing State CDBG policy is that there would be a conflict of interest if the Jurisdiction's existing contracted Professional Engineer (PE) performed the engineering work for the project. The PE would also not be eligible to submit a proposal for the engineering work required for the new CDBG grant.

HCD is re-evaluating this direction to see if it would be possible for a PE selected through a fair, yet not CDBG specific procurement, to do all engineering work, including that required to implement a new CDBG grant, without that being considered a conflict-of-interest situation.



2. My city does not have any engineer, either an employee or a consultant engineer. To maximize points in our CDBG application, we hired an engineer with our own funds to prepare the engineering component of the application. If the CDBG grant application is funded, may this engineer bid on the CDBG funded engineering work?

A: A non-City or County engineer (employee or consultant) who does the work needed for the jurisdiction to submit a CDBG application would be allowed to submit a proposal for the actual engineering work on the CDBG project if the following criteria are met:

- All of the information provided to the engineer and produced by the engineer is made available in the procurement process to hire an engineer with CDBG funds for this project.
- The panel judging responses to an RFP are totally comprised of people who didn't work on the application.
- The jurisdiction's legal counsel determines that there is no conflict of interest in this specific situation.

If the above criteria are met, then that engineer does not have a competitive advantage over others who may be seeking the actual engineering work when the procurement is conducted, and thus this would be allowed. Applicants are advised to clearly document all of the relevant facts in their procurement file.

Meeting a National Objective Urgent Need

1. If a State declaration for drought is removed before the Application due date can State Objective Points be awarded?

A: The declaration must be active at the time of application submittal due date.

2. What is required in the application for evidence of the declared disaster?

A: A copy of the declaration of the disaster is required.

3. What does HCD need to document that no other funding is available for the urgent need national objective?

A: A letter from the jurisdiction is required. It must document that no other funding sources are available or that there is a gap in funding. A resolution is acceptable but is not required.



Low-Mod Benefit

1. **I believe the Low/Mod Income data in The American Community Survey (ACS) is not accurate for my community and in general is difficult to use for communities with small populations when qualifying area benefit activities. Is there an alternative method to use other than the ACS?**

A: The ACS mapping tool can be found at on HUD's webpage. In addition, applicants can conduct an income survey. Refer to *Appendix N* of the NOFA for required survey methodology.

Scoring

1. **Are applications scored by the activity or the application submitted?**

A: HCD scores applications by activity. Applicant projects compete against other projects of the same type (e.g., HCD scores public facilities applications against other public facility applications).

Program Income, Fifty Percent (50%) Rule, and Other Administrative Questions

1. **In order to meet the fifty percent (50%) rule threshold requirement, do funds need to be drawn-down or do grantees need to simply submit a funds request to HCD's Contract Management Unit?**

A: See Page 15 of the NOFA under "Fifty Percent Rule for Application Eligibility", which includes the NOFA definition of expended: By the NOFA application due date, the work is complete, the invoice has been paid by the applicant, and a Funds Request for reimbursement has been received by the Department.

2. **Can Program Income (PI) be used on an open grant activity, if the use of PI and grant funds will result in exceeding the maximum grant activity cap?**

A: The use of Program Income does not have an impact on the stated maximum grant application amount for the specified activity. This would apply to all activities.

3. **In slide 32 of the workshop presentation, could HCD clarify if the program income amount needs to be indicated in the application?**

A: No, the specific amount of program income is not required in the application.



4. Does the 5% cash match for Planning and Technical Assistance funds have to be in the resolution and does it have to be actual cash or can it be in-kind?

A: Yes, the jurisdiction's commitment of the 5% cash match must be documented in the resolution and it must be cash.

Supplementals

1. Can supplemental activities be a Public Service and/or Public Improvement Activity?

A: Yes, both activities are eligible supplemental activities Per page 5 in the NOFA : “ *Public service programs can now be funded under the competitive portion of the application (maximum of three) and/or under the supplemental portion of the application (maximum of three) as long as the total number of public service programs within the application does not exceed four.*” This is a new policy starting with the 2016 NOFA”.

Eligible Activities

Housing Activities

1. Are laterals eligible as a housing rehabilitation activity?

A: Yes, laterals are one of the eligible costs under Housing Rehabilitation

2. Is the installation of water meters eligible under a Housing Rehabilitation?

A: Yes, this is an eligible use of Housing Rehabilitation funds.

3. For a housing program, what is a pre-screened waiting list?

A: A pre-screened list reviews preliminarily-income qualifications but has not yet completed the Part 5 income determination with third party documentation.



Public Facilities

1. **Can CDBG funds be used to pay for Removal of Architectural Barriers for the “path of travel” from a City parking lot to the City Building Department?**

A: Yes, as long as the activity is for the Removal of Architectural Barriers that restrict accessibility to elderly and disabled persons.

2. **(a) Can CDBG funds be used to remove architectural barriers on County property where County Administrative Offices, and various County services are located?**
(b) If the County Administrative offices are located in an entitlement City, does the City have to pay for their prorated share of the cost?

A: (a) The Removal of Architectural Barriers is CDBG eligible, even if the work is being done in buildings for the general conduct of government. The work must be done on existing facilities (not new construction) to remove barriers that restrict accessibility to elderly and disabled persons. The national objective is benefit to Low/Mod Income under Limited Clientele.

A: (b) Per HUD, no proration or shared cost is required in this scenario because this is an activity for the County, which serves all County residents including the entitlement City in which County buildings are located.

3. **Can a fire suppression system activity (Public Facilities) be carried out under spot blight when identified under a code enforcement activity? The jurisdiction does not have the funds to correct the code violation to bring it into compliance with Health and Safety standards.**

A: No, but the cost of correcting such violations may be eligible for CDBG Assistance under other eligibility categories, such as rehabilitation. CDBG funds may be used for code enforcement only in 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. Eligible code enforcement activities do not include the costs of correcting code violations identified during inspections.



Public Improvement Activities

1. **Are slurry seals for street improvement considered an eligible activity?**

A: No, slurry seal is considered road maintenance, which is not CDBG eligible.

Public Services Activities

1. **What are some examples of fair housing public service activities that can be funded under the NOFA?**

A: Examples include, but are not limited to:

- **Outreach, Counseling, and Referral.** CDBG funds may pay the costs of outreach, counseling, or referral services to assist persons seeking housing outside areas containing a high proportion of low-income persons.
- **Fair Housing Counseling.** Grantees may fund fair housing counseling programs in the community. Such programs provide information on fair housing rights and on the availability of housing in a wide variety of locations, emphasizing housing choice.
- **Modification of Ordinances.** CDBG funds may be used to pay the administrative costs of modifying local ordinances and/or land-use measures in the pursuit of housing opportunities.
- **Information Programs.** Grantees may support training and education programs for real estate agents, housing managers, city officials, and others to increase knowledge of techniques for promoting economically and racially integrated housing. They may also carry out promotional activities to initiate housing proposals in areas outside those with a high proportion of lower-income persons.
- **Enforcement.** Grantees may undertake efforts to improve the enforcement of fair housing laws and ordinances and in complaint resolution mechanisms.
- **Cooperation.** As an administrative activity, grantees may enlist the participation of local real estate brokers and mortgage lenders in promoting open housing and in reviewing mortgage credit analysis and underwriting criteria to determine whether they may have an adverse impact on housing opportunities for minorities and women.



- **Testing.** The use of testing may assist in the enforcement of fair housing laws, and in identifying the existence or extent of discriminatory housing practices in the community. Testing may include the use of testers to ensure that members of protected classes such as minorities, persons with disabilities, or families with children are not victims of housing discrimination and that there is full compliance with fair housing laws.

2. If a non-profit loses federal funding for a public service (not a new service), could a jurisdiction apply for CDBG funding?

A: Yes, this is eligible. If a federal source of funds was discontinued, the use of CDBG funds would not be considered as supplanting of local or State funds.

3. Do Public Services activities allow activity delivery costs?

A: No, in the case of Public Services, activity delivery is the delivery of the service.

Planning and Technical Assistance

1. Can PTA funds be used for preliminary engineering?

A: Yes, preliminary engineering and design work is allowed per HUD.

Federal Overlays

NEPA

1. How long is a NEPA review effective? When must it be completed again?

A: HUD has provided guidance of 5 years, unless during that time there are changes to environmental conditions or the project at which point an updated NEPA review is required.

2. Please clarify the definition of a “choice limiting action” under NEPA.

A: “Choice limiting actions” include but are not limited to executing a sales or lease agreement or purchase of land or executing a construction contract prior to conducting an environmental review. An option to purchase or lease is an allowable action, if it is conditioned on the Responsible Entity's determination to proceed with, modify, or cancel the project based on the results of a subsequent environmental review, and the receipt of an



“Authority to Use Grant Funds” from HCD. The cost to secure the site control document must also be a nominal portion of the purchase price.

3. Is a soils analysis a “choice limiting action” if conducted prior to the NEPA?

A: No, testing with minimal ground disturbance is allowed.

Others (Audit Submission Requirement, Public Hearing, Definition of Senior)

1. What date is the OMB-133 Audit due to State Controller’s Office?

A: Annually, on March 31.

2. What date does the OMB-133 Audit have to have submitted to SCO to be eligible to apply for the 2016 NOFA?

A: By the application due date of July 27, 2016.

3. What is the time-period between the design public hearing and the application submittal public hearing? What are the acceptable methods for public noticing?

A: HCD recommends 30 days. Less may be acceptable, but this could result in a monitoring finding.

4. What are the acceptable methods for public noticing?

A: HCD recommends newspaper notices, although public posting (e.g. post office, library, city hall, etc.) is acceptable if it has been the common practice of the jurisdiction.

5. The 2016 CDBG NOFA (page 53) defines seniors as persons 62 years old and above. Is this correct?

A: Per Management Memo 15-01, dated January 21, 2015, an elderly person (senior) is defined as any person age 60 years and older. The definition of senior in the NOFA is incorrect.



Financial Management

1. **Can a grantee use grant funds first to fund a Supplemental Activity if the grantee has no Program Income on hand?**

A: No, however Program Income can be used first on Supplemental Activities if the Supplemental Activities are ready to go prior to the grant activities.

2. **May applicants add program income to an open grant project or program?**

A: Yes, both are acceptable; however, adding program income to a project requires HCD approval.