

# Community Development Block Grant Final Guidelines



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## **Article I. General**

### **§ 100. General**

- (a) The Federal Omnibus Budget Reconciliation Act of 1981 provides for state administration of the federal Small Cities Community Development Block Grant (CDBG) program. Pursuant to Health and Safety Code (H.S.C.), Section 50826.1, these guidelines, the Consolidated Plan, and Annual Action Plan, set forth the policies and procedures governing the state's management and use of these funds. In addition to these guidelines, program participants must comply with federal regulations contained in Title 24 of the Code of Federal Regulations (C.F.R.) Part 570, Subpart I; 24 C.F.R. Part 58; and 2 C.F.R Part 200. If Congress or the State Legislature add or amend any requirements concerning the use or management of these funds, grantees shall comply with such requirements upon receipt of notice from the California Department of Housing and Community Development (Department) of the additional requirements. See 24 C.F.R. Section 570.480 for additional general provisions.
- (b) These guidelines are intended to be updated as necessary to address changes in state and federal statutes and federal regulations regarding the CDBG program.

### **§ 101. Primary Objectives**

- (a) The primary objectives of this program are to develop viable communities by the provision of decent affordable housing and a suitable living environment, and to expand economic opportunities, principally for the benefit of low- and moderate-income persons (individuals, families, and households).
- (b) Pursuant to Section 104(a)(1) of the Housing and Community Development Act of 1974, as amended, the Department shall annually prepare a statement of community development objectives and projected uses of funds. This annual statement shall be made available to the public and the Department shall conduct no less than two public hearings at different locations on its contents. The statement shall be available for review for at least 30 days prior to the public hearings.

### **§ 102. Definitions**

- (a) "Act" means Title I of the Housing and Community Development Act of 1974, Title 42 United States Code (U.S.C.) Section 5301, *et seq.*, as amended.
- (b) "Activity" means any single eligible undertaking carried out as part of an applicant's participation in the state CDBG program.

- (c) “Annual Action Plan” or “AAP” means the annual plan required by the Act that describes the actions, activities, and resources to be used each year to address the priority needs and specific goals identified by the Consolidated Plan, including the method of distribution of program funds.
- (d) “Applicant” means any eligible city or county that applies for funds pursuant to this subchapter as set forth in Section 202 of these guidelines.
- (e) “Area Median Income” means the median family income for specific geographic areas, adjusted for household size, as calculated by U.S. Department of Housing and Urban Development (HUD), and published annually by the Department.
- (f) “Award Letter” means the letter sent from the Department indicating that the application has been conditionally approved for funding.
- (g) “Beneficiary” means the person, household, or neighborhood that directly benefits from the grant funded activity.
- (h) “CDBG” means the Community Development Block Grant program as created by the Act.
- (i) “C.F.R.” is the acronym used for the Code of Federal Regulations.
- (j) “City” means any unit of general local government which is classified as a municipality by the U.S. Bureau of the Census, or any other unit of general local government which is a town or township, and which possesses powers and performs functions comparable to these associated with municipalities as defined in 42 U.S.C. 5302(a)(5).
- (k) “Colonia” means a rural community within the United States-Mexico border region that lacks adequate water, sewer, or decent housing, or a combination of all three, as defined by Section 916 of the National Affordable Housing Act of 1990.
- (l) “Community Development” means all activities, other than Economic Development activities, eligible under 42 U.S.C. 5305 and 24 C.F.R. 570.482.
- (m) “Community Development Block Grant Funds,” “CDBG Funds,” “Grant Funds,” or “Program Funds,” means any funds allocated by a Standard Agreement pursuant to these guidelines, or previously funded to nonentitlement jurisdictions by HUD pursuant to their authority under the Act and includes program income receipts and program income receipts dedicated to revolving loan funds.
- (n) “Competitive NOFA” means the process in the Notice of Funding Availability (NOFA) in which applications must be received by a fixed deadline, and applications are rated and ranked competitively.

- (o) “Consolidated Plan” means the five-year strategic plan that results from the process set by HUD that assesses affordable housing and community development needs and market conditions, allows the prioritization of development needs, and makes data-driven, place-based investment decisions for federal funding provided by HUD.
- (p) “Department” means the California Department of Housing and Community Development.
- (q) “Director” means the Director or acting Director of the Department.
- (r) “Disability” means any disability, including mental or physical disability, that limits a major life activity, including a disability that falls within the definitions in Government Code (G.C.) Sections 11135, 12926, and 12926.1 or within the definition of disability used in the federal Americans with Disabilities Act of 1990, codified at 42 U.S.C. 12102.
- (s) “Economic Development Allocation” means the funds set aside each year for Economic Development pursuant to H.S.C. Section 50827 and Section 200(c) of these guidelines.
- (t) “Economic Development,” and “ED”, for these guidelines, means providing grants to non-entitlement jurisdictions to conduct CDBG-eligible Economic Development activities as defined in 42 U.S.C. 5305.
- (u) “Entitlement Jurisdictions” are those cities and counties that receive CDBG program funding directly from HUD.
- (v) “Federal Regulations” means the federal regulations governing the state administration of the CDBG non-entitlement funds set forth in the C.F.R.
- (w) “Funding” means financial assistance provided in whole or in part for any eligible activity.
- (x) “Funding Cycle” means the annual period during which HUD makes funds available to the state for distribution to local governments pursuant to the Act and includes the period during which the Department solicits applications and makes grant awards.
- (y) “Grantee” means a unit of general local government which has been awarded funds pursuant to this subchapter to carry out a program (directly or through the services of contractors or nonprofits) and has signed a Standard Agreement.
- (z) “Grant Management Manual” means the grant implementation instruction document(s) intended to help grantees manage and operate their CDBG grant(s) and activity(s).
- (aa) “H.S.C.” means the California Health and Safety Code.

- (bb) “Household” means all the people who occupy a housing unit. A household includes the related family members and all the unrelated people, if any, such as lodgers, foster children, wards, or employees who share the housing unit.

A person living alone in a housing unit, or a group of unrelated people sharing a housing unit, such as partners or roomers, is also counted as a household as defined by HUD. The occupants may be a family, as defined in 24 C.F.R. 5.403.

- (cc) “Housing Element” means the part of a city or county's General Plan as required by G.C. Title 7, Division 1, Chapter 3, Article 10.6 (commencing with Section 65580).
- (dd) “HUD” means the U.S. Department of Housing and Urban Development.
- (ee) “Infrastructure” means the physical systems, such as roads, sidewalks, streetlights, water, and sewer facilities, which are necessary to provide basic community services.
- (ff) “Local Assistance” means the net amount of the HUD allocation less administrative funds retained by the Department.
- (gg) “Low-income” persons means individuals, families, and households whose incomes are no more than 50 percent of the median income of the area involved, as set by HUD.
- (hh) “Moderate-income” persons means individuals, families, and households whose incomes are no less than 50 percent and no more than 80 percent of the median income of the area involved, as set by HUD.
- (ii) “NOFA” is the acronym used for Notice of Funding Availability. The NOFA is the document used by the Department to announce that CDBG funds are available, lists eligible applicants and activities, the parameters for applications to be submitted, and the specific criteria and schedules for how funds will be awarded according to specified criteria and schedules.
- (jj) “Over-the-Counter,” also referred to as “OTC,” means the process in a NOFA of applying for funds for specific businesses, infrastructure in support of businesses, multifamily housing rehabilitation, and public facilities or improvement projects, including those in support of housing, that does not use a competitive rating and ranking process to determine awards. In the OTC process, the Department continuously accepts and evaluates applications until funds are exhausted.
- (kk) “PIRA” means the Program Income Reuse Agreement.
- (ll) “Program” means all the state CDBG activities funded in whole or in part under these guidelines.

- (mm) “Program Income” or “PI” means gross income earned by the grantee from grant- and/or program income-funded activities as defined in 24 C.F.R. 570.489(e).
- (nn) “Revolving Loan Funds” or “RLF” means CDBG PI funds that are held in a separate account to carry out CDBG-eligible activities and provided as loans to complete specific CDBG-eligible housing and Economic Development activities. Repaid loans are returned to the RLF for future activities.
- (oo) “Standard Agreement” means the contractual arrangement between the state and the grantee which sets forth the terms and conditions by which state CDBG funds are utilized.
- (pp) “Subrecipient” means a non-federal entity that receives a subaward of program funding from a grantee; “subrecipient” does not mean a beneficiary of the program.
- (qq) “Timely distribution” means obligating funds received by the state as specified in 24 C.F.R. 570.494.
- (rr) “U.S.C.” means United States Code.

### **§ 103. Program and Administrative Requirements**

All Department program administrators, applicants, and grantees must adhere to all federal program statutes, regulations, federal register notices, HUD guidance notices and policy memoranda, Office of Management and Budget (OMB) Uniform Administrative Requirements, Cost Principles, Audit Requirements for Federal Awards, the Federal Uniform Relocation Assistance and Real Property Acquisition Act, California Relocation Assistance Law, and all state and federal nondiscrimination and fair housing requirements. Additionally, Department program administrators, applicants, and grantees must adhere to all California State Administrative Manual requirements, regulations, statutes, award letters, Standard Agreements, and these guidelines; and all state and federal requirements to affirmatively further fair housing, including compliance with G.C. Title 2, Division 1, Chapter 15, beginning with Section 8899.5 and G.C. Title 7, Division 1, Chapter 3, beginning with Section 65583.

## **§ 104. Nondiscrimination**

No person shall, on the grounds of race, color, religion, sex, gender, gender identity, gender expression, sexual orientation, marital status, national origin, ancestry, familial status, source of income, disability, age, medical condition, genetic information, citizenship, primary language, immigration status (except where explicitly prohibited by federal law), arbitrary characteristics, and all other classes of individuals protected from discrimination under federal or state fair housing laws, individuals perceived to be a member of any of the preceding classes, or any individual or person associated with any of the preceding classes, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity funded in whole or in part with CDBG funds made available pursuant to these guidelines.

All grantees shall comply with the requirements contained in 24 C.F.R. 570.487, 570.601, 570.602, 570.607, and 570.614; as well as the Americans with Disabilities Act, the Fair Housing Amendments Act, the California Fair Employment and Housing Act, the Unruh Act, G.C. Section 11135, Section 504 of the Rehabilitation Act, and regulations promulgated pursuant to those statutes, including 24 C.F.R. 100, 24 C.F.R. 8, and 28 C.F.R. 35, in all of the grantee's activities.

## **Article 2. Method of Distribution**

### **§ 200. Allocations**

- (a) At least 70 percent of all CDBG funds must be used for activities that benefit low- and moderate-income individuals, families, and households pursuant to 24 C.F.R. 570.484.
- (b) At least 51 percent of all CDBG funding available, less the Department administrative funds, shall be made available for activities providing housing for low- and moderate-income individuals, families, and households pursuant to H.S.C. 50828, providing or improving housing opportunities for individuals, families, and households of low- or moderate-income, or for purposes directly related to the provision or improvement of housing opportunities for individuals, families, and households of low- or moderate-income, including, but not limited to, the construction of infrastructure.
- (c) The Department shall set aside an amount equal to 30 percent of the total amount available, less Department administrative funds, for grants to eligible cities and counties for ED activities pursuant to H.S.C. 50827. Applications submitted under this section must comply with all the requirements of these guidelines. ED Allocation funds shall be awarded through a NOFA process for eligible activities listed in 24 C.F.R. 570.482 and in Section 105(a) of the Act.
- (d) Awards made for public services may not exceed 15 percent of the total amount of CDBG funds available pursuant to 42 U.S.C. 5305 (a)(8).



The total amount of CDBG funds expended statewide for public service activities must not exceed 15 percent of the state's total annual CDBG program expenditures.

- (e) Awards for local administration and all planning grants may not exceed 17 percent of the total amount of CDBG funds available. The total amount of CDBG funds expended statewide for all Department and local administration expenses and planning activities may not exceed 20 percent of the aggregate amount of the Department's annual HUD CDBG grant, plus program income received pursuant to 24 C.F.R. 570.489(a)(3)(ii).
- (f) Pursuant to Section 916 of the National Affordable Housing Act of 1990, up to 10 percent of the total amount of CDBG Local Assistance made available shall be for Colonia activities. Funding maximums from the Colonia set-aside shall be as set forth in the NOFA. An application for this set-aside may be in addition to another application submitted by an eligible city or county pursuant to Section 202 of these guidelines. Applications submitted under this subsection will be independently evaluated without regard to the rating of an application submitted pursuant to another section of these guidelines.
- (g) Pursuant to H.S.C. 50831, 1.25 percent of the total amount of CDBG Local Assistance available shall be for Native American activities for non-federally recognized tribes. An application for this set-aside may be in addition to another application submitted by an eligible city or county pursuant to Section 202 of these guidelines. Applications submitted under this section will be independently evaluated without regard to the rating of an application submitted pursuant to another section of these guidelines.
- (h) Notwithstanding any other provision of these guidelines, the Director may alter the order by which applications received Over-the-Counter are reviewed for applicants requesting funds for an immediate need, such as an imminent plant closure, a failing water system, or an emergency recognized by the state. The Director's decision to alter the order by which an application is reviewed will be in writing and made part of the application file.
- (i) If there is insufficient demand for an identified set-aside, the Department may make awards to other qualifying activities to meet federal timely distribution of funds requirements.

## **§ 201. Eligible Activities**

- (a) Eligible Activities: Activities eligible for funding under the CDBG program are those described in 24 C.F.R. 570.482 and in Section 105(a) of the Act (42 U.S.C. 5305).
- (b) Each activity must meet the benefit requirements of 24 C.F.R. 570.483.

- (c) All activities, except program administration, must meet the overall benefit requirements of 24 C.F.R. 570.484.
- (d) No activity or portion of a program assisted by these funds may exclude from its benefits the lowest income groups. Individual activities shall meet one of the following three national objectives:
  - (1) The development of viable communities by providing decent housing, a suitable living environment, and expanding economic opportunities, principally for individuals, families, and households of low and moderate income;
  - (2) Aiding in the prevention or elimination of slums or blight pursuant to 24 C.F.R. 570.483(c) and H.S.C. 33031; or
  - (3) Meeting other community development needs having an urgency pursuant to 24 C.F.R. 570.483(d).
- (e) All housing activities must comply with the terms and conditions required by state and federal law, including the Americans with Disabilities Act, the Fair Housing Amendment Act, the Housing and Community Development Act of 1974 (42 U.S.C. 5301 *et seq.*), the California Fair Employment and Housing Act, the Unruh Act, G.C. Section 11135, the California Building Standards Code Chapter 11B, Section 504 of the Rehabilitation Act, and the regulations promulgated pursuant to those statutes, including 24 C.F.R. 100, 24 C.F.R. 8, and 28 C.F.R. 35.
- (f) All public facility construction and rehabilitation activities must meet the accessibility requirements in 2 C.F.R. 8.21.

## **§ 202. Eligible Applicants**

- (a) The applicant shall have met the following requirements when the application is submitted:
  - (1) Any city or county is eligible to apply for CDBG program funding except a city or county which participates in the HUD-administered CDBG Entitlement Program. Incorporated cities located in an urban county as defined by 42 U.S.C. 5302(a)(6) must formally elect to be excluded from participation in the urban county entitlement status. HUD must be notified that the city has elected to be excluded from the urban county participation as per 24 C.F.R. 570.307(g) for the city to be eligible for the state CDBG program.

- (2) Any applicant with one or more current and open CDBG Standard Agreements for which the expenditure deadline established in the agreement(s) has not yet passed shall be ineligible to apply for any additional CDBG funds for the same type of activity(s) included in those open CDBG Standard Agreement(s) unless the applicant has expended at least 50 percent of CDBG funds previously awarded (the "50 Percent Rule") for that activity, or unless a waiver to the rule has been approved by the Director. The requirements of this subsection do not apply to OTC awards. State CDBG funds that have been repurposed in response to a disaster will be subject to the 50 Percent Rule unless a waiver is issued as part of the NOFA. Exceptions will be reviewed on a case by case basis and waivers will be published in the NOFA as applicable.
  - (3) The applicant must demonstrate to the satisfaction of the Department that it is in compliance with the single audit requirements of 2 C.F.R. 200.501.
  - (4) The applicant must have complied with all the Housing Element requirements listed in H.S.C. 50829 and 50830.
  - (5) The applicant must be in good standing with the State of California, as defined in the NOFA.
- (b) Applications may be submitted by individual eligible applicants or by groups of eligible applicants in any of the forms specified in this subsection. Except as provided in subsection (c) below, no eligible applicant may be included in more than one application that provides direct program benefits to that political subdivision. Applications for eligible activities outside the applicant's jurisdiction must include a legally binding agreement, acceptable to HCD, with the city or county in which the eligible activity is located.
    - (1) An eligible applicant may apply on its own behalf.
    - (2) An eligible applicant may apply on its own behalf and in the same application on behalf of one or more other eligible applicants.
    - (3) Two or more eligible applicants which share a program may submit a joint application.
  - (c) In addition to activity and application limits identified in the NOFA, an eligible applicant may apply for activities in target areas within or outside of the applicant's jurisdiction when there are concentrations of Native Americans or where there is a designated Colonia as described in Section 200 of these guidelines, provided the concentration is within an eligible city or county.

### **§ 203. Funding Availability**

- (a) Within a funding cycle, the Department may issue one or more NOFAs.

- (b) The Department will notify all eligible cities and counties of the anticipated level of funding for the program and will provide them with a schedule for filing applications as indicated in the AAP.
- (c) The NOFA will specify, among other things, the amount of funds available, eligible activities, the time frame for submittal of applications, the application requirements pursuant to Section 205 of these guidelines, the allocation of rating points pursuant to the AAP, the matching contribution requirements pursuant to Section 207, any prohibitions of use of funds, the availability of administrative funds, and the general terms and conditions of funding allocations. Applications must be received by the closing date and time in order to be considered.
- (d) In order to comply with any set-aside or special allocation established by HUD or the Department, the Department may do one or more of the following:
  - (1) Issue a special NOFA;
  - (2) Specify in each NOFA the reservation of a portion of the funds for various set-asides or special allocations; and
  - (3) Specify in each NOFA any waivers to requirements granted by HUD or the Department in connection with the funds.

#### **§ 204. Special Disaster or Emergency Supplemental Assistance NOFAs**

- (a) Notwithstanding any provision in these guidelines to the contrary, in the event of a special appropriation of emergency supplemental assistance or a presidential declaration of disaster, or the Governor proclaims either a “state of emergency” or a “local emergency”, as those terms are defined in G.C. Section 8558, the Department may issue a special NOFA. The special NOFA will make CDBG program funds available to eligible state applicants located in the areas covered by the federal or state disaster or emergency proclamation pursuant to the following special conditions:
  - (1) The project or activity shall be designed to alleviate or mitigate existing conditions that pose a serious actual, or impending, threat to the health or welfare of the community;
  - (2) The Department will review eligibility documentation for each proposed activity and its associated national objective and ensure there is no duplication of eligible costs; and
  - (3) The proposed project or activity shall be otherwise eligible for funding under these guidelines or be eligible pursuant to other HUD eligibility criteria.

- (b) In order to address the most serious emergent health, safety, and general welfare needs, the Director may direct funding awards to a designated project(s) or activity type(s) or area(s). These measures may include, but are not limited to:
  - (1) Limiting a NOFA to a designated type of project, activity, or geographic area related to the federal or state disaster or emergency proclamation;
  - (2) Awarding bonus points within a NOFA to a designated type of project, activity, or geographic area;
  - (3) Reserving a portion of funds in a NOFA for a designated type of project, activity, or geographic area;
  - (4) Establishing maximum award amounts per applicant, type of project, or type of activity; and
  - (5) Making funds available through an OTC process, meaning the Department continuously accepts and evaluates applications until funds are exhausted.
- (c) To the extent necessary to address serious emergent health, safety, and general welfare needs, and to expedite the process of making awards, the Director may alter or waive state-required criteria set forth in the NOFA. H.S.C. Section 50833.1(b) allows for the waiver of H.S.C. Sections 50831, 50832, and 50833. Federal requirements cannot be waived without express written authority from HUD.

## **§ 205. Contents of the Application**

Applications must be submitted on prescribed forms and consist of the items identified in the NOFA, and any other information deemed necessary by the Department, to evaluate the application. This information provides the basis for the assessment identified in the NOFA and includes the assurances and agreements necessary for compliance with these guidelines, H.S.C. 50825, *et seq.*, 24 C.F.R. 570, and 2 C.F.R. Part 200.

## **§ 206. Evaluation Criteria**

- (a) For those eligible applications received in a competitive NOFA process, individual activity types will be evaluated according to criteria identified in the AAP and NOFA. Where demand for a particular activity exceeds the amount of funds available, the applications for that activity will be rated and ranked according to the rating criteria set forth in the AAP, NOFA, and application. Activities will be funded in rank order, with the highest rated activities within each activity type funded first until all funds allocated for that activity, pursuant to Section 200 of these guidelines, have been awarded.

- (b) For those eligible applications received in an OTC NOFA process, individual projects will be evaluated for funding on a first-come, first-served basis as set out in the AAP and NOFA, unless the order of review is changed pursuant to subsection 200(h) of these guidelines.
- (c) Tiebreaker criteria and methodology will be specified in the AAP and NOFA.
- (d) Applications for each eligible activity shall be evaluated on the criteria identified in the NOFA.

## **§ 207. Award of Funds**

- (a) Pursuant to H.S.C. 50828 and Section 203 of these guidelines, funds will be awarded based on the actual application demand expressed as a dollar amount requested in response to the initial NOFA of a funding cycle.
- (b) In the event the amount of funds available is insufficient to fund an applicant's whole activity, the applicant may be offered the amount of funds available, provided:
  - (1) There are additional other funds to complete the activity, or
  - (2) The activity is reduced enough in scope to be completed using the funds available.
- (c) The Department may condition its award of funds to achieve the purposes of these guidelines and to ensure compliance with applicable state and federal law, including commitment and expenditure deadlines, and milestones.
- (d) For planning activities, the required cash match amount may be up to 25 percent of the amount of the planning grant requested in the application. The amount of the required cash match will be identified in the NOFA. Technical assistance activities do not require a cash match.

## **§ 208. Administrative Cost Limitation**

Grantees may expend a portion of the grant amount for administrative costs as specified in the NOFA and Standard Agreement, provided that such amounts are justified for the type and complexity of the program, and that there are records to satisfactorily document these charges. Administrative costs may include, but are not limited to, the following categories:

- (a) General administrative activities. Such costs for administration include:
  - (1) Salaries, wages, and related costs of the grantee's staff engaged in activities associated with the CDBG program, including general management, general legal services, accounting, and auditing.

- (2) Travel costs incurred in carrying out the general management of the program.
  - (3) Administrative services performed under third-party contracts, including contracts for such services as general legal services, accounting services, and audit services; and
  - (4) Other costs for goods and services related to the general management of the program, including rental and maintenance of office space, insurance, utilities, office supplies, and rental or purchase of office equipment.
- (b) Costs incurred in providing information and resources to individuals, families, and households in the low- and moderate-income group; and to citizen organizations participating in the planning, implementation, or assessment of the grantee's program.
  - (c) Fair housing activities in compliance with the requirements of Section 103 of these guidelines. If a cost cannot be associated with one of the above listed groups and cannot be associated with direct project costs, the Department will, upon the grantee's request, decide of whether it is an administrative cost, an activity delivery cost, or an ineligible cost according to the process contained in the Grant Management Manual. The use of PI for administrative costs will be included in the PIRA.

#### **§ 209. Activity and Activity Delivery Costs**

- (a) Activity costs are those costs directly related to a specific project, such as materials and labor for the construction of a public facility, or the amount of financial assistance provided as down-payment assistance.
- (b) Activity delivery costs directly related to a specific activity are not part of the general administrative costs. For example, the legal costs relating to property acquisition are activity delivery costs, not general administration.
- (c) If a cost cannot be associated with direct project costs, the Department will, upon the grantee's request, make a determination of whether it is an administrative cost, an activity delivery cost, or an ineligible cost according to the process contained in the Grant Management Manual.

#### **§ 210. Reimbursement of Pre-Agreement Costs**

Pre-agreement costs are those costs associated with a specific project that are incurred prior to an award of program funds (grant, PI, or RLF), provided that the costs are eligible, and the activities were undertaken in accordance with the requirements of 24 C.F.R. 570.489(b), 24 C.F.R. 58.34, and 2 C.F.R. 200.458. The Department will announce the details for pre-agreement costs (those costs incurred prior to award of CDBG grant or PI funds) in each NOFA.

Jurisdictions that have been awarded grant funds or have been approved for the use of PI or RLF funds for projects that include pre-agreement costs will be reimbursed for those costs after the execution of a Standard Agreement or PIRA, and the Department has issued a clearance of any conditions listed in a Standard Agreement or PIRA. A pre-agreement cost contract may be required by the Department for any pre-agreement costs.

### **§ 211. Special Grant Amendments for Disasters or Emergencies**

- (a) A grantee may make a written request to the Department to amend or replace a project or activity set forth in an active Standard Agreement with a project or activity which would alleviate or mitigate existing conditions which pose a serious actual or impending threat to the health or welfare of the community.
- (b) Notwithstanding any other provision of these guidelines, the Department may approve such a request, and amend the Standard Agreement accordingly, if the Department makes the following findings in writing:
  - (1) The grantee is in an area for which a presidential declaration of disaster has been made, or the Governor has proclaimed either a “state of emergency” or a “local emergency” as those terms are defined in Government Code Section 8558; and
  - (2) The amended or replacement project or activity is designed to alleviate or mitigate existing conditions which pose a serious actual or impending threat to the health or welfare of the community; and
  - (3) The amendments have necessary eligibility documentation for each activity and its associated national objective and there is no duplication of eligible costs; and
  - (4) The amended or replacement project or activity is otherwise eligible for funding under these guidelines.
- (c) Any activities funded under this Section must be considered in the calculation of the 70 percent benefit test pursuant to 24 C.F.R. 470.484.

### **§ 212. Section 108 Loan Guarantee Pledges**

Any commitment of future federal allocations of CDBG funds to the state (state pledges) by the Department as collateral for federal guarantees of notes or other obligations issued by eligible cities and counties (loan guarantees) pursuant to Section 108 of the Act (42 U.S.C. Sec. 5308) and 24 C.F.R. Subchapter C, Part 570, Subpart M commencing with Section 570.700 (collectively, “Section 108”) shall be as specified in the AAP and the NOFA.



## **Article 3. Grant Administration**

### **§ 300. Standard Agreements**

- (a) An applicant that receives an award letter will be issued a Standard Agreement pursuant to 24 C.F.R. 570.503 to be executed by both the local authorized representative and the Department.
- (b) The Standard Agreement will obligate monies from the CDBG allocation in an amount approved for funding by the Department pursuant to Section 207 of these guidelines.
- (c) The Standard Agreement will include all items required in 24 C.F.R. 570, Subpart I, 2 C.F.R. Part 200, Appendix II, and all applicable sections in Articles 1 and 3 of these guidelines.

### **§ 301. Cash Depositories**

Grantees must establish and maintain all CDBG funds accounts in accordance with 24 C.F.R. 570.489(d)(2)(iii) and 2 C.F.R. Part 200.

### **§ 302. Bonding**

Grantees shall comply with all bonding requirements described in 2 C.F.R. 200.325.

### **§ 303. Retention and Custodial Requirements for Records**

The grantee must retain financial records, supporting documents, statistical records, and all other records pertinent to a grant in accordance with 24 C.F.R. 570.490 and 2 C.F.R. 200.333. See the Grant Management Manual for additional information.

### **§ 304. Program Income**

The use of PI must comply with all federal requirements pursuant to 24 C.F.R. 570.489(e) and (f), 24 C.F.R. 570.504, and the applicable sections of 2 C.F.R. Part 200.

- (a) Each grantee will be required to execute a PIRA. This includes any grantees that have PI on hand (including PI in an RLF), have undertaken activities that could generate PI, or that anticipate receiving PI, including grantees with an open Standard Agreement.
- (b) PI includes any and all income received in a single year by a grantee and its subrecipients when the total receipts exceed \$35,000. Grantees must notify the Department on the first PI report for the 12-month reporting period if they anticipate receiving less than \$35,000 in the current fiscal year.

All PI and RLF funds received must be identified and maintained in a separate fund and must have a set of accounts that are independent of all other program accounts.

- (c) All grantees that have used CDBG funds since 1983, excluding those notified by the Department of a reporting exception and including those that have no activity, must submit PI reports according to the terms of the PIRA. The reporting period is July 1 through June 30, which is the state fiscal year.
- (d) As part of the PIRA approval process, the Department must review and evaluate each grantee's capacity to carry out the PI activities (programs and projects) contained in the PIRA.
- (e) PI may only be used for eligible CDBG projects or programs that comply with federal requirements. PI must be expended on at least one completed eligible project or program with reportable beneficiaries within a period identified in the PIRA.
- (f) Any grantee with PI on hand or anticipates having PI on hand that does not have a PIRA in place and does not have an open Standard Agreement with a commitment to expend the PI funds on an activity identified in the Standard Agreement will be required to remit all PI (the amount on hand and any future receipts) to the Department.
- (g) Any grantee with PI on hand that does not have an ongoing PI program and has an open Standard Agreement must expend available PI on hand prior to requesting grant funds.

For additional information, refer to the PIRA, the Standard Agreement and the Grant Management Manual.

### **§ 305. Standards for Grantee Financial Management Systems**

Grantees must establish and maintain their financial management systems for CDBG Grants in accordance with 2 C.F.R. Part 200, Subpart D; any conditions in the Standard Agreement; and as specified in the Grant Management Manual.

### **§ 306. Financial and Performance Reporting Requirements**

Grantees must report at least annually on financial matters and program performance as required by 2 C.F.R. 200.328. The Standard Agreement, the PIRA, and the Grant Management Manual may require additional reporting.

### **§ 307. Monitoring of Program Performance, Real Property, and Subrecipient Activities**

Grantees must monitor the performance of CDBG Grant supported activities on an ongoing basis, according to the monitoring terms of the Standard Agreement, to assure that time schedules and expenditures are being met and the milestones in the work schedule are being accomplished. This review must be made for each subrecipient and each activity in the approved Standard Agreement and/or PIRA, pursuant to 24 C.F.R. 570.489 and 570.489(m), 2 C.F.R. 200.331 through 200.329, and as specified in the Grant Management Manual.

### **§ 308. Grant Payment Requirements**

- (a) Payment methods shall minimize the time elapsing between the disbursement by a grantee and the transfer of funds from the Department to the grantee pursuant to 24 C.F.R. 570.489(c) and as specified in the Grant Management Manual.
- (b) The Department shall not withhold payments for allowable charges made by grantees at any time during the grant period unless:
  - (1) a grantee has failed to comply with the Standard Agreement, or
  - (2) the grantee is indebted to the Department and collection of the indebtedness will not impair accomplishment of the objectives of any grant program sponsored by the Department.
- (c) In the event that payments are to be withheld in accord with the criteria established in Section 308(b) above, the Department may, upon 15 days' notice, inform the grantee that payments will not be made for obligations incurred after a specified date until the noncompliance is resolved or the indebtedness to the state is liquidated.

### **§ 309. Lump Sum Drawdown for Property Rehabilitation Financing**

Subject to the conditions prescribed in this Section, grantees may draw funds from the Department in a single lump sum to establish a rehabilitation fund in one or more private financial institutions for the purpose of financing the rehabilitation of privately-owned properties as a part of the grantee's program. The conditions prescribed for lump sum drawdown accounts are described in 24 C.F.R. 570.480(c) and 2 C.F.R. 200.305.

### **§ 310. Revision Procedures**

The grantee may not amend the program or activity in a manner which is inconsistent with the original basis for the award without the Department's written approval of the change.

In addition, grantees shall request prior written approval from the Department when a program or budget revision of an amount greater than 10 percent will be necessary pursuant to the Standard Agreement and/or PIRA, as specified in the AAP, the NOFA, and the Grant Management Manual.

### **§ 311. Closeout Procedures**

- (a) All grant, PI, and RLF activities are subject to closeout procedures.
- (b) The following definitions shall apply for the purpose of this Section.
  - (1) “Closeout” is the process by which the Department determines that all applicable administrative actions and all required work of the Standard Agreement and/or PIRA have been completed by the grantee and the Department, as specified in 24 C.F.R. 570.490(o) and 2 C.F.R. 200.343.
  - (2) “Date of completion” for an activity is the date when all work as described in the Standard Agreement or PIRA, or any amendment thereto, has been completed, and the appropriate expenditure, beneficiary, and national objective data has been reported to and accepted by the Department.
  - (3) “Termination of a grant” means the cancellation of funding and/or the termination of the request for funding, in whole or in part, at any time prior to the date of completion.
  - (4) “Suspension of a grant” is an action by the Department which temporarily suspends funding under the grant pending either corrective action by the grantee or a decision by the Department to terminate the grant.
  - (5) “Disallowed costs” are those charges to a grant which the Department determines to be unallowable as per eligible costs identified in the Standard Agreement and according to the cost principles of 2 C.F.R. 200 Subpart E.
- (c) The grant closeout procedures include the following:
  - (1) Upon request, the Department shall make payments to a grantee for allowable reimbursable costs under the grant being closed out, subject to the Standard Agreement.
  - (2) The grantee shall refund to the Department any balance of unobligated cash advanced to the grantee that is not authorized to be retained by the grantee.
  - (3) Within 90 days after the date of completion of the grant the grantee shall provide the Department with all financial, performance, and other reports required as a condition of the grant. The Department may grant time extensions for cause when requested by the grantee.

- (4) When authorized by the Standard Agreement, the Department may make a settlement for any upward or downward adjustments to the state's share of costs after the reports are received.
  - (5) The grantee shall account for any property acquired in whole or in part with grant funds, PI, or RLF in accordance with the provisions of Section 312, pertaining to property management, and Section 304, pertaining to program income.
  - (6) In the event a final audit has not been performed prior to the closeout of the grant, the Department shall retain the right to recover the amount of disallowed costs after fully considering the recommendations of the final audit.
- (d) PI projects, including those implemented in PI or RLF activity programs, will be closed individually. The PI project closeout procedure is described in the PIRA.
  - (e) When a grantee fails to comply with the Standard Agreement or PIRA, the Department may, after notifying the grantee in writing, suspend the grant and/or PIRA and withhold further payments, or prohibit the grantee from incurring additional obligations of grant, PI, or RLF funds, pending corrective action by the grantee or a decision to terminate in accordance with subdivision (f). The Department shall allow costs which the grantee could not avoid during the period of suspension, provided that the costs meet the provisions of 2 C.F.R. Part 200.
  - (f) Grants may be terminated as follows:
    - (1) Termination for cause. The Department may unilaterally terminate any grant, in whole or in part, at any time before the date of completion, whenever the Department determines that the grantee has failed to comply with the terms or conditions of the Standard Agreement or PIRA executed in connection therewith. The Department shall promptly notify the grantee in writing of the determination, the reasons for the termination, and the effective date.
    - (2) Termination for convenience. The Department or the grantee may terminate a grant, in whole or in part, when both parties agree that the continuation of the project would not produce beneficial results commensurate with the further expenditure of funds. The two parties shall agree upon the termination conditions and the portion of the grant to be terminated. The grantee shall not incur new obligations for the terminated portion after the effective date of the termination and shall cancel as many outstanding obligations as possible.
  - (g) For additional information and closeout procedures, see the Grant Management Manual.

## **§ 312. Property Management Standards**

- (a) Grantees must adhere to the property management standards described in 2 C.F.R. 200.310 to 200.316 and 24 C.F.R. 570.489(j).
- (b) Program assets are those properties (real, personal, and intangible) acquired or improved with CDBG Funds (in whole or in part). Program assets also include promissory notes and deeds of trust for properties assisted with CDBG funds.
- (c) Grantees may not change the use or planned use of any real property within the grantee's control (including activities undertaken by subrecipients) that was acquired and/or improved with CDBG funds for five years after closeout of the unit of general local government's grant pursuant to 24 C.F.R. 570.489(j). Grantees must have a method to enforce and manage this requirement, such as a recorded use restriction or covenant. Activity and Activity Delivery funds associated with any assets liquidated prior to the five-year period must be repaid to the Department pursuant to 24 C.F.R. 570.489(j)(2).

## **§ 313. Procurement Standards**

Grantees must adhere to the requirements of 2 C.F.R. 200.318 to 200.326. See the Grant Management Manual for additional information.

## **§ 314. Audit Requirements**

Grantees must arrange for independent audits on all CDBG grants consistent with 2 C.F.R. 200.500 to 200.512.

## **§ 315. Conflicts of Interest**

Grantees must enforce standards for conflicts of interest which govern the performance of their officers, employees, or agents engaged in the award and administration of state CDBG funds. The standards for conflicts of interest shall prohibit any conflict of interest as defined in 24 C.F.R. 570.611, which is hereby incorporated by reference. The Department will use the criteria and standards set forth in 24 C.F.R. 570.611 and any applicable California conflicts of interest rules in evaluating questions concerning potential conflicts of interest.