



# Low / Mod National Objective & Income Determination

**2019 CDBG-DR Problem Solving Clinic**

**Kansas City – Overland Park | July 30 – August 1, 2019**

# Welcome and Speakers

- Session Objectives

- Explain how to document compliance with the Low-and-Moderate Income (LMI) National Objective and Overall Benefit test
- Discuss income determination requirements and best practices

- Speaker

- Tyler Bridges, HUD
- Kevin O'Neill, HUD
- Shawna LaRue Moraille, ICF



# Agenda

- Low-and-Moderate Income (LMI) National Objective
- Overall Benefit
- Income Determination
- Resources



# LMI National Objective



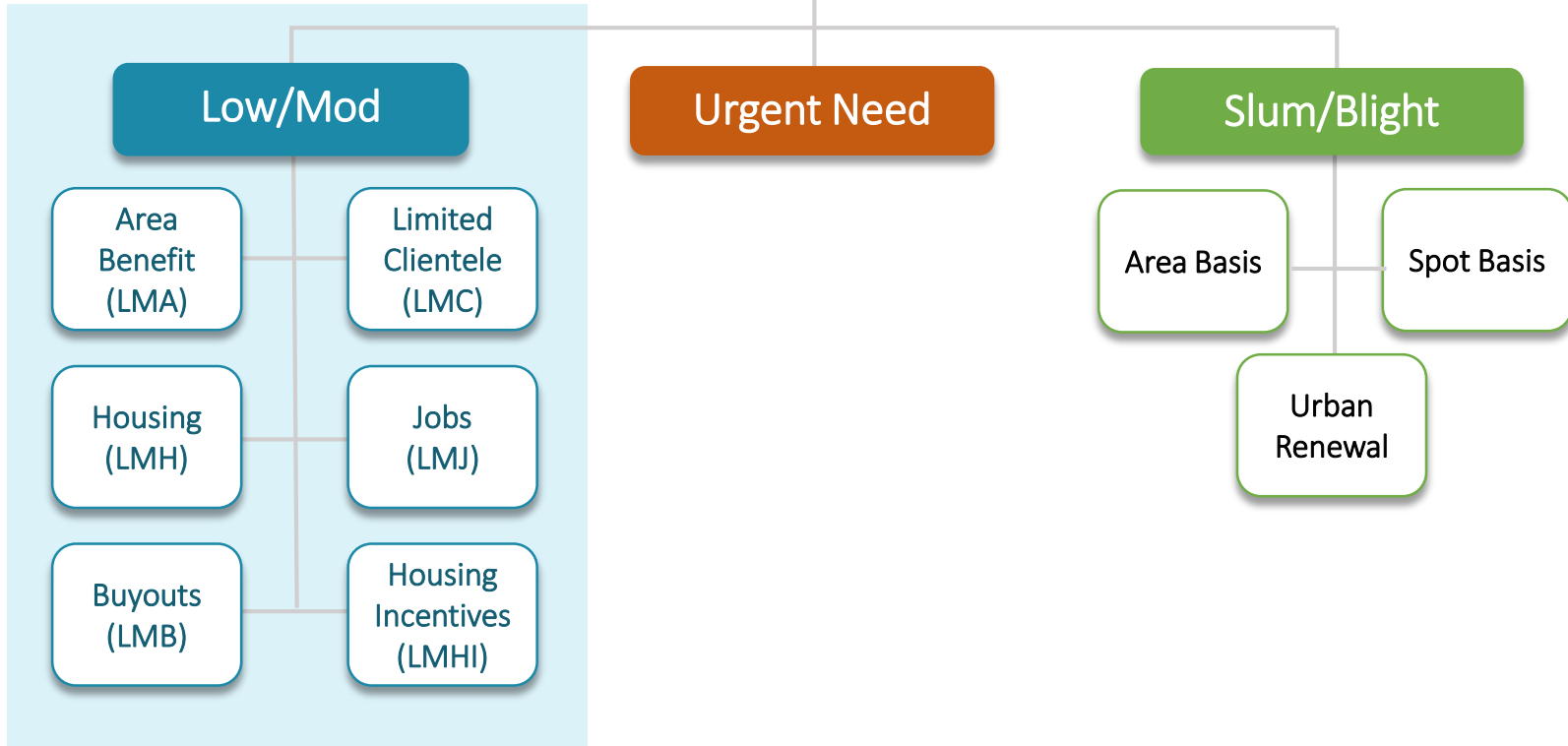
# CDBG Regulations/HCDA

- Housing and Community Development Act (HCDA)
  - Sections 101(c), Section 104(b)(3), 105
- Regulations:

	States	Entitlements
Recordkeeping for National Objectives	§570.490	§570.200(a)(2), §570.506
National Objectives and Overall Benefit	§570.483, §570.484	§570.208



# National Objectives



# LMI Overall Benefit

- The HCDA requires that 70% of all CDBG expenditures benefit LMI persons
  - Newest CDBG-DR allocations maintain this requirement
  - Prior CDBG-DR allocations lowered the requirement to 50%
  - Grantees may seek a waiver to reduce the overall benefit percentage
- Grantees must document how CDBG-DR expenditures benefit LMI persons



# LMI Overall Benefit Calculation

- Based on actual CDBG-DR expenditure (drawdown) when the LMI national objective is met
- Includes program income receipts and expenditures
- Does not include planning and administration expenditures
- Housing activities that include units occupied by non-LMI households (e.g., multifamily rehab): only the prorated amount expended on units occupied by LMI households 570.200(a)(3)(iv), 570.484(b)(4)

(Grant Award + Program Income generated) –  
(Amount spent on Planning and Administration) **X** 70%





# Documenting LMI: Direct vs. Area Benefit

- Direct Benefit

- Housing rehab, economic development loans, public services, etc.
- Must use the current income limits
- <https://www.hudexchange.info/resource/5334/cdbg-income-limits/>

- Area Benefit

- Water/sewer lines, parks, public facilities
- Census (ACS) or survey method
- At least 51% must be LMI persons (unless exception grantee)
- <https://www.hudexchange.info/programs/cdbg/cdbg-low-moderate-income-data/>



# Low and Moderate Income Area (LMA)

- Service area do's:
  - Must be primarily residential
  - Based on reasonable assumptions of the area that will be serviced by the CDBG-DR investment
- Service area don'ts:
  - Cannot pro-rate or split block groups
  - Cannot intentionally exclude higher-income areas
  - Cannot be limited to the census tract or block group where the investment is located



# Low and Moderate Income Housing (LMH)

- Structures *must be occupied* by low/mod households
  - One-unit structures occupied by LMI
  - One of two duplex units occupied by LMI
  - More than two units require 51% units occupied by LMI, unless a waiver is granted
- Some grantees may be allowed to serve those at or below 120% of AMI for homebuyer assistance



# New CDBG-DR National Objectives

For appropriations since 2013

- Low/Mod Buyout (LMB)
  - Used for a buyout award to acquire housing owned by a LMI household, where the award amount (including optional relocation assistance) is greater than the post-disaster (current) fair market value of that property
- Low/Mod Housing Incentive (LMHI)
  - Tied to the voluntary buyout or other voluntary acquisition of housing owned by a LMI household, for which the housing incentive is for the purpose of moving outside of the affected floodplain or to a lower-risk area
  - OR when the housing incentive is for the purpose of providing or improving residential structures that will be occupied by an LMI household



# Low and Moderate Income Clientele (LMC)

- Most often used for public services activities
  - Benefit specific populations (e.g., services for seniors; homeless shelters; micro loan programs)
- Methods to document compliance with LMC
  - Verifiable self-certification
    - 51% of participants are documented as LMI
    - Participation is limited to LMI persons only
  - Presumed clientele (activity must exclusively serve elderly, severely disabled adults, homeless persons, illiterate adults, etc.)
  - Nature and location indicate low/mod benefit



# Low and Moderate Income Jobs (LMJ)

- Verifiable self certification allowed
  - CDBG-DR waivers allow some grantees to count only the income of the employed person instead of the household
- May presume person is LMI if:
  - Lives in Census tract with 70% LMI
  - Lives in Census tract area with poverty rate of 20% and no Central Business District (CBD) (unless 30% poverty) and evidences pervasive poverty and general distress
  - Business/job is in area with poverty rate of 20% and no CBD (unless 30% poverty) and evidences pervasive poverty and general distress



# What is a Verifiable Self Certification?

- Permissible pursuant to 24 CFR 570.506(b)
  - Grantees can "substitute a copy of a verifiable certification from the assisted person that his or her family income does not exceed the applicable income limit established in accordance with §570.3"
- Requirements
  - Applicant must be informed the self-certification is subject to verification
  - Grantee must implement a policy for random sampling
  - Applicant must list all members of the household and their projected income
  - All adult members of the households must sign and date the self-certification
  - Include the following statement "*falsification of a certification is a violation of federal law and subject to prosecution*"



# Example Self Certification Form

## Beneficiary Information

Last Name:	Beneficiary ID (if applicable):
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## Member Information

First Names:	Member IDs (if applicable):	HH	CH	DIS	62+	S≥18	<18	<15
1								
2								
3								
4								
5								
6								

HH = Head of Household; CH = Co-Head of Household; DIS = Person with disabilities; 62+ = Person 62 years of age or older; S≥18 = Fulltime student age 18 or over; <18 = Child under the age of 18 years; <15 = Minor under the age of 15 years

## Contact Information

Address Line 1:	City:
Address Line 2:	State: Zip Code:

## Income Information

Annual gross income (total of all members) = \$ \_\_\_\_\_

## Certification

I/we certify that this information is complete and accurate. I/we agree to provide, upon request, documentation on all income sources to the HUD Grantee/Program Administrator.

## HEAD OF HOUSEHOLD

Signature	Printed Name	Date
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## OTHER BENEFICIARY ADULTS\*

Signature	Printed Name	Date
Signature	Printed Name	Date
Signature	Printed Name	Date
Signature	Printed Name	Date
Signature	Printed Name	Date

**WARNING:** The information provided on this form is subject to verification by HUD at any time, and Title 18, Section 1001 of the U.S. Code states that a person is guilty of a felony and assistance can be terminated for knowingly and willingly making a false or fraudulent statement to a department of the United States Government.

<https://www.hudexchange.info/resource/4786/cdbg-selfcertification-of-annual-income-form/>





# Income Determination



# CDBG Regulations/ HCDA

- Housing and Community Development Act (HCDA)
  - Sections 104(b)(3), 105
- Regulations:

	States	Entitlements
Definitions	§570.490	§570.3
National Objectives and Eligible Activities	§570.483	§570.208



# Two Definitions of Income

## Part 5 (Section 8) Definition of Income (24 CFR 5.609 (b)& (c))

Income inclusions and exclusions, and assets & Imputed asset calculation

<https://www.hudexchange.info/resource/5180/part-5-section-8-income-inclusions-and-exclusions/>

## IRS 1040 Definition of Income

Taxable amount of income & asset inclusions and 1040 adjustments

Instructions - <https://www.irs.gov/pub/irs-pdf/i1040gi.pdf>

<https://www.irs.gov/newsroom/irs-provides-safe-harbors-to-help-taxpayers-suffering-property-losses-including-losses-from-hurricanes>

What's New - helpful each year to review



# Comparing Definitions of Income

## Part 5 (Section 8) Definition of Income (24 CFR 5.609 (b)& (c))

- Includes gross amount of social security
- Includes child support received
- Includes alimony payments received

## IRS 1040 Definition of Income

- Includes taxable amount of social security
- Excludes child support received
- Includes alimony payments received, but also allows for deduction of alimony payments and other deductions for student loans, etc.
- Excludes assets unless they are taxable



# Income Determination Workflow

1

## Select Method

- Grantees must select one method per program. Program policies and procedures, written agreements, etc. must identify the method used

2

## Applicant Intake

- A full determination is not necessary at this stage
- Applicants must submit a self-certification form to report household size, and income of each household member. Begin to collect documentation

3

## Income determination

- Collect remaining documentation from all adult household members to project household income over the next 12 months. 24 CFR 570.3
- Documentation must be current; the income limits in affect at the time of the income determination must be used
- Grantees may use income calculator:  
<https://www.hudexchange.info/incomecalculator/>

4

## Recertify, if necessary

- Income determinations must be recertified if completed more than 12 months prior to date of assistance (e.g. execution of grant agreement)




# How to document household income

- Collect most recent documentation available
- Use a calculation worksheet or the CPD Income Calculator
- Documentation includes, but is not limited to:
  - Pay stubs - review several for patterns; verify overtime, tips and bonuses
  - Social Security award letters
  - Tax returns
    - Are acceptable if income likely to remain same next year)
    - Use to determine income sources (e.g. self employment, rental income, etc.)
    - If sole documentation: obtain free certified IRS copy (Form 4506 or 4506T)
  - Forms - release from household, third party forms, etc.



# Income Calculator

*Resources and assistance to support HUD's community partners*

 **HUD EXCHANGE**  
Secretary Ben Carson

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## CPD Income Eligibility Calculator and Income Limits

Welcome to CPD's Income Eligibility Calculator, an interactive tool that makes determining the income eligibility and assistance amounts for beneficiaries of CPD programs as easy as 1-2-3. Simply enter the requested data and this calculator will work behind the scenes to generate a summary of results for each beneficiary. You should then print out the summary and include it as part of the beneficiary's file.

The calculator currently performs income eligibility and assistance amount calculations for the following HUD CPD programs:



- Brownfield Economic Development Initiative (BEDI)
- Community Development Block Grant Program (CDBG)
- Housing Opportunities for Persons with AIDS (HOPWA)
- Housing Trust Fund (HTF)
- Neighborhood Stabilization Program (NSP)

### Related Materials

- [Income Eligibility Calculator User Manual \(PDF\)](#)
- [CDBG Income Limits](#)
- [ESG Income Limits](#)
- [HOME Income Limits](#)
- [HTF Income Limits](#)
- [HOPWA Income Limits](#)



# Part 5 Income Inclusions

- Wages, salaries, overtime, commissions, tips, and bonuses
- Net income from operation of a business or profession
- Periodic payments (Social Security, annuities, regular contributions to income)
- Payments in lieu of earnings (Unemployment, TANF, etc.)
- Welfare assistance (not food stamps)
- Periodic and determinable allowances, alimony and child support
- All regular pay, special and allowances for armed forces (not hostile fire)
- Earnings of temporarily absent household members





# Part 5 Income Exclusions

- Earned income of minors under age 18 [unearned income (e.g., child support, SSI) is counted]
- Income of live-in aides
- Payments for foster care/legal kinship guardians
- Lump sum additions to assets (e.g., inheritances, lottery winnings)
- Reimbursement of medical expenses
- Student financial assistance (scholarships, student loans) paid directly to the student or to the educational institution (NOTE: unless Section 8 household over age 23 with dependent children)
- Hostile fire pay for active military
- Training programs funded by HUD (e.g., under Section 3)
- Sporadic or temporary income (including gifts)



# Part 5 Income Exclusions

- Earnings over \$480 for full-time students (adults 18 years of age and older, who is not the head, spouse or co-head of household)
- Adoption assistance over \$480 per adopted child
- Deferred payments of SSI and veterans benefits (lump sum payments)
- Refunds/rebates by state or local law
- State agency payment for care of developmentally disabled member
- Various Federal statutes exclude, for example:
  - Food stamps
  - Payments to volunteers (VISTA, AmeriCorps, etc.)
  - Title V of Older American Act
  - Earned income tax credits



# Part 5 Assets

- CDBG programs count actual income earned on an asset
  - For example, income earned on a savings account
- CDBG programs do not use the imputed asset calculation
- No asset limitation in CDBG Program
  - Program administrators may have own policy on limitation



# IRS 1040 Definition of Income

- Use IRS Long Form –1040EZ no longer used as of 2018
  - Must use current IRS 1040 form and instructions on definition
- Certain kinds of income are added together to get gross income
- Certain deductions are then taken to arrive at adjusted gross income figure
  - This is not “adjusted income”
  - Use most current 1040 deductions
- Use IRS 1040 adjusted gross income to determine program eligibility
- Program administrators must use the most recent IRS 1040 Instructions



# IRS 1040 Definition of Income

- Subtract applicable deductions from gross income to obtain the household's adjusted gross income
- Schedule 1 deductions include, for example:
  - Educator expenses
  - Certain business expenses of reservists, performing artists, and fee-basis government officials (form 2106)
  - IRA deduction
  - Health savings account payments (form 8889)
  - Moving expenses for members of the Armed Forces (form 3903)
  - Deductible part of self-employment tax (Schedule SE)
  - Self-employed SEP, SIMPLE, and qualified plans
  - Self-employed health insurance deduction
  - Penalty on early withdrawal from savings
  - Alimony paid (need recipient SSN)
  - Student loan interest deduction



# IRS 1040 Definition of Income

- Inclusions for gross income
  - Taxable interest
  - Dividends
  - Taxable amount of Social Security, IRAs, pensions and annuities
  - Schedule 1 Additional Income
    - Taxable refunds, credits, etc.
    - Alimony received
    - Business and/or farm income (or loss)
    - Capital gains or losses
    - Rental real estate, royalties, partnerships, S corporations, etc.
    - Unemployment Compensation



# Other Resources

## **CDBG-DR Website at HUD Exchange:**

<https://www.hudexchange.info/programs/cdbg-dr/>

## **Guide to National Objectives and Eligible Activities:**

States: <https://www.hudexchange.info/resource/2179/guide-national-objectives-eligible-activities-state-cdbg-programs/>

Entitlements: <https://www.hudexchange.info/resource/89/community-development-block-grant-program-cdbg-guide-to-national-objectives-and-eligible-activities-for-entitlement-communities/>

## **Relevant supplemental appropriations law(s) and Federal Register Notice(s)**

<https://www.hudexchange.info/programs/cdbg-dr/cdbg-dr-laws-regulations-and-federal-register-notices/>



# Find us in the Resource Room!





# Thank you! Questions?

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