

Use of CDBG Funds for Code Enforcement, Webinar 2, 8/21/19

Gloria Coates: -- for code enforcement activities and I just wanted to point out today that we're going to give you a brief overview of the CDBG program, identify statutory and regulatory authority, we're going to eligible activities, national objectives briefly, but more importantly, we're going to identify how CDBG funds can be used for code enforcement activities.

We're going to tell you what it is. We're going to also tell you what its purpose is, we're going to identify eligible and ineligible costs, compliant with the national objectives, how to treat revenue from code enforcement inspections and code enforcement and last but not least recordkeeping requirements. Okay. It's time for a poll and the ICF event will place the poll up for you.

Please answer this question. This will give me an idea of how in-depth if I need to add anything to the CDBG program overview.

Nicole: The poll will be closing in 15 seconds.

Gloria Coates: Excuse me. I see no answer -- what happened to the poll? Looks like no answer had more results than one to five years.

So I'll try to add a little bit additional to the program overview to assist you in understanding CDBG program requirements.

Let's go into a little bit of history. The CDBG program was authorized by Title I, excuse me, of the Housing and Community Development Act of '74 and it has been amended.

The CDBG program is codified at 24 CFR Part 570 of the regulations and the objective of the program, as identified in the statute I just mentioned, the development of viable urban communities, decent housing, a suiting living environment and the expansion of economic development opportunities and these should be carried out principally for low and moderate income persons.

With regard to the CDBG program appropriations, for FY 2019, \$3.3 billion was appropriated for the CDBG program. Seventy percent of that is appropriated by statute to the entitlement communities. These are your larger communities, urban counties of 200,000 or more and cities and towns with 50,000 or more unless so designated by OMB as what we call principle cities.

The remaining 30 percent of the appropriation is awarded to the states and that is so they may award money to what we call non-entitled units of government. These are your very small communities, a city of 1,000 people, a city of maybe 10,000 or 15,000 people. Also, CDBG funds are awarded annually and it's done on a formula basis.

There's formula A and formula B, which is kind of detailed, we won't go there. But the money is awarded on a formula basis, the states, metro cities and urban counties and they're able to implement a variety of community-based activities which they may choose that are directed

towards neighborhood revitalization, economic opportunities and also for public facilities and public services.

Nicole, the thing is not advancing again.

Nicole: No problem, I'll take over and advance the slides.

Gloria Coates: Thank you. Okay. And then we'll move on. I was able to advance it finally.

Every grantee, and there are approximately 1,260 entitlement grantees and of course, with the states, there are 50 states, each grantee that receives CDBG funds are free to determine what activities they will fund and this is usually done through the citizen participation process where they have public hearings and citizens are invited to provide input on activities that will be carried out with CDBG funds, but the activities must be eligible and meet a national objective and they have to meet all of our program requirements and also what we call cross-cutting requirements, such as Davis-Bacon compliance, Section 3 compliance and environmental review requirements.

But primarily, each activity has to be eligible and meet one of three national objectives. Now, with regard to benefit the persons of low or moderate income, there are four categories there.

Under benefits are persons of low or moderate income, they are called area benefit, limited clientele, housing and jobs. And the second one is to aid in the prevention or elimination of slums and blights and the third one is what we usually just call urgent need and it means that you meet community development needs of a particular urgency that you are unable to fund on your own.

Regarding the 70-cent requirements that's identified with benefit of persons to low or moderate income, we also refer to that requirement as the overall benefit requirement and it can be found at 24 CFR 570.200(a)(3) of the regulations.

Over a period of time specified in your certified, whether it's 1, 2 or 3 years, not less than the 70 percent of the aggregate of CDBG fund expenditures must be for activities that benefit low or moderate income persons and since this is a statutory requirement of the program, it cannot be waived or suspended.

Failure to meet this requirement will require repayment of the amount of the shortfall and to give you a brief example, if you have a one-year certification and you only expend 65 percent of your CDBG grant for activities that benefit low or moderate income persons, you will have to repay the 5 percent shortfall to your line of credit for which you drew it.

We're going to do our second and last polling question. This is regarding your experience with code enforcement on a regular basis and I'll give you a moment to address that.

Nicole: The poll will be closing in 15 seconds.

Gloria Coates: Okay. It looks like most of you have less than a year's experience or up to one to five years as the second category. So please feel free, as I go through the presentations, if you have questions, please save them until the end and send them to the ICF host and as stated, I will try to address the simpler questions, but the more detailed questions will be forwarded to me and I will address them at a future time.

Now, let's dig into how CDBG can be used for code enforcement expenses. First, we're going to define it. It's identified in our regulations and identified as such, dependent on whether it's an entitlement grantee or whether it's the state, primarily these definitions are the same.

They are costs that would be incurred for inspection of code violations and enforcing codes in areas that must be, and I emphasize must be, deteriorated and or deteriorating when such enforcement together with public or private improvements, rehabilitation or services to be provided may be expected to arrest the deterioration of the area.

In other words, improve the area so that it is no longer considered deteriorated or deteriorating. And even as you see the definition here for states note that in the state program, CDBG funds are awarded by states to their smaller units of government and here the areas in which they use code enforcement have to be deteriorated or deteriorating as well and also there have to be follow-up services that will or may be expected to arrest the decline of the area.

I want to point out eligible costs include such things as the salaries and related expenses of code enforcement inspectors and legal proceedings, but it does not include the cost of actually correcting the violations. So the salary of that code inspector and things that are needed for the job, such as, for example, coveralls to cover their clothes or tablets to record what they find and to issue citations, if necessary.

Those type of things are eligible, but we will point out later in more detail that these costs may be incurred only to the proportion of time spent conducting CDBG eligible code enforcement in CDBG eligible areas and these are the areas that are deteriorated or deteriorating. Note that no grantee may use CDBG funds to fund the entire code enforcement program.

This is something usually carried out by a unit of government as a general government expense, however, CDBG may be used only in areas that are deteriorated or deteriorating in accordance with state or local law and we do allow the states to use the entitlement definition if they choose to do so, however, they are not required to do so.

Let's look at just some jurisdictional definitions of code enforcement. Some of them define it as prevention, detection, investigation and enforcement of violations of statutes, regulations, ordinances that regard public health, safety and welfare. Some of these may relate to buildings, some may not. It also may be defined as the maintenance and preservation of the value and appearance of residential, commercial, industrial buildings when it defines code enforcement.

Note that some jurisdictions will focus more on buildings and structures, others may choose to focus more on neighborhood cleanliness, public advertising displays, such as those big

cardboards you see tacked to poles in different areas, lawncare, environmental concerns and motor vehicles, such as abandoned motor vehicles on streets.

Did I go too far? Now, for CDBG program purposes, we get into the definition of code enforcement here. Is the process that the governments use to gain compliance from its citizens with the ordinances and regulations that regard health codes, housing codes, land use codes, zoning ordinances, sign standards, uniform building codes, fire codes and so forth, but for CDBG, the focus of code enforcement that is CDBG assisted should be focused on the health and safety issues that occur in buildings and structures.

And note that supplemental efforts to address the other type of code violations we mentioned before, such as vacant lots, abandoned cars, signs and other things, tall grass are allowed also in conjunction with efforts that involve buildings; however, such code enforcement should only be a minor part of the grantee's code enforcement program rather than the primary focus.

I do want to state that these requirements identified here are not listed in 24 CFR 570.202(c), which is where you will find the code enforcement eligibility, however, these requirements are contained in a notice that was published in 2014 CPD notice 1416, use of CDBG funds for code enforcement activities.

This notice was published to provide guidance to grantees and field offices on how to use CDBG funds for code enforcement. In other words, the regulations don't give you much information on what may constitute code enforcement and how CDBG may be used, however, the notice gives a lot more identifying information that may be useful.

So I highly recommend that you look that information up if you have questions and concerns concerning code enforcement activities. Now, let's talk about the purpose of code enforcement. Like I said, it's usually to gain compliance with health and safety ordinances and so forth and that's because jurisdictions want to protect the public health, safety and welfare of their citizens and the health and safety of persons using buildings, such as public facilities.

Your recreation centers, for example, are public facilities, grocery stores and other places that the public frequents. Also, to encourage homeowners and those renting to maintain the appearance and value of housing units so that the neighborhood does not look run down.

And I want to point out that some of the examples of code enforcement that protect the health and safety and also deal with the appearances but mostly health and safety may be remediation of lead-based paint, buildings that are unstructurally sound with loose bricks, small convenience store on the corner, for example, in an area that's infested with mice or other varmint or recreation center with faulty electrical wiring.

And with regard to maintaining the appearance and value of housing units, this is highly recommended and encouraged by jurisdictions, because neighborhoods where homes and buildings are properly maintained not only look good and prevent property values from dropping, but they also reduce crime in a neighborhood.

I mean, think about it, if you have a housing unit with broken windows or some other sign of deterioration and it goes on without being addressed may result in neighborhood break-ins. I mean, they think no one cares about the unit, therefore, they break in and they use it for illicit purposes. So -- also, the purpose of code enforcement is to help reduce crime in a neighborhood.

If you don't have any delapidated structures or structures that look like they're never used or attended to, then it's unlikely that kids and other vandals would frequently break into those type of structures. Now, let's dig a little deeper into what are eligible code enforcement costs.

As I stated before, the code enforcement officers that work on CDBG in CDBG-eligible areas their salaries may be paid with CDBG funds, but only proportionate to the time they spend working in deteriorated or deteriorating areas.

If a grantee does not have a code enforcement department or a department that handles such a thing, another use of CDBG funds may be to procure, under the requirements in 2 CFR Part 200.318 to 200.326, code enforcement inspections, specialists or companies or -- but if they also want to, they can hire another unit of government to perform the code inspections and if they use another unit of government, they do not have to procure it, but if they're going to use specialists or companies, those must be procured.

And if that's the choice, you can hire any unit of government that you choose. They don't have -- I mean, they can be what I call the city next door, for example. It doesn't have to be in your city, but if they can do the job in your area, then they can be selected to carry out code enforcement. Another eligible cost is the lease of vehicles to conduct inspections and/or the use allowances for vehicles that are not purchased with CDBG.

Actually, in the CDBG program, the purchase of vehicles is really not eligible. There's only one instance in which they're eligible and that is if they're an integral part of a public service that is carried out by the grantee and such an example is a Meals on Wheels program or a senior transportation program to provide transportation for them to get to, for example, doctor's appointments and groceries.

Therefore, grantees, you are encouraged to lease rather than purchase a vehicle if you do not have access to a fleet of city government cars or county cars, for example, that may be borrowed to carry out inspections, however, if you do have such a fleet available to use and you do use those cars, you can use CDBG to pay use allowances for those vehicles and additional guidance on how to do so is found at 2 CFR Part 200.436, which is the section on depreciation.

Also, as I stated before, uniforms and coveralls, if they're required for the job, they may be, like I said, to protect the clothing or it could be uniforms that may be required and handheld devices to record information, those can be used with CDBG funds, but please note that any charges that you make to the CDBG program for any of these items has to be in proportion to this time that is spent conducting inspections with CDBG purposes in CDBG-eligible areas.

It can't be used city or county wide. Additional eligible costs, these are regarding mainly enforcing the codes. Generally, when there's a citation issued, the person cited and entitled to a

hearing and due process. So the cost for the grantee for legal expenses and hearings is an eligible cost, but just like with the other expenses they have to be proportionate to the amount of time spent on CDBG-eligible code enforcement.

Also, the cost with processing and issuing the citations and collecting and processing the fines and also the hearing officer salaries may also be eligible as part of the legal proceedings and legal fees paid to attorneys by grantees, but not by the people cited for the violations as part of the legal proceedings are also eligible costs.

Now we will touch on what are considered ineligible code enforcement costs. Any public or private improvements, any rehabilitation, any services that are provided to arrest the deterioration of the area are not eligible under 24 CFR 570.202(c), which is code enforcement. There are other eligibility categories of CDBG, the primary one being rehabilitation may be used to address the problem if a national objective is met.

For example, if it's a public improvement, a public building, improving that building to address the violations may be eligible under 24 CFR 570.201(c), which is public facilities and improvements. Also, if it's a private or commercial/industrial building and it needs improvements to address violations, addressing those may be eligible under 24 CFR 570.202(a)(3).

Any additional improvements that may be needed by these type of structures may be eligible under 24 CFR 570.203(b) and if it's a housing unit, it would be -- the rehabilitation of such a unit would be eligible under 24 CFR 570.202(a)(1). As you see, these are eligible under different categories. They're not eligible under code enforcement.

Therefore, if you make a violation under 202(c), addressing it will fall under another eligibility category, but only if a national objective is met. Otherwise, other funding sources would have to be used to address the violations. Also, what's not eligible is conducting code enforcement inspections in every neighborhood in a jurisdiction.

The reason for that is there's no one city, state or county in the United States that is considered deteriorated or deteriorating in accordance with state or local law. Most have areas within that may meet the state and local law definition of deteriorated or deteriorating. Therefore, you cannot use CDBG to conduct code enforcement inspections city or county wide.

Also, what is considered ineligible are paying the legal fees for persons cited for code violations as stated before. You can pay for the services for the fees that you incur, like for example, the hearing officer's salary proportionate to the time spent on CDBG-eligible code enforcement. But also, what's ineligible is general government expenses are not eligible as well and that's what paying for code enforcement city or county or statewide would be.

It would be considered a general government expense and those are not eligible in the CDBG program. Let's talk about CDBG-eligible code enforcement areas. I know it sounds like a broken record, but I want to ensure that you understand that the areas that are inspected with CDBG funds must meet this local or state law definition of deteriorated or deteriorating.

Usually, the provision is overlooked and some think that, oh, it just has to be a low or moderate income area and that's not true. It has to meet the definition, the state or local. If there is none, then there are standards at 24 CFR 570.208(b)(1) for entitlements and for states, the citation is 570.483(c)(1) to determine if an area is deteriorated or deteriorating, however, there are limitations.

Those provisions identify the standards that must be met for an activity to meet what we call the slum/blight area national objective and some of those can be used for the purpose of designating an area deteriorated or deteriorating. Do notice that there are limits. Just stating that a public -- that public improvements are in a general state of deterioration would not be sufficient by itself to justify conducting a code enforcement inspection in private property in certain neighborhoods.

You just can't make that statement or designation and there's nothing to show that the area or the actual improvements are in a general state of deterioration. You must have proof of it. Also, local and state definitions of deteriorated or deteriorating may have criteria that have nothing to do with the physical condition of the built environment.

It could be -- have a definition that mentions undeveloped land, inappropriately zoned parcels or like I said before, it could just focus on appearances, like I said, tall grass or weeds or broken-down cars in front of houses or on the property or other things, such as the signs. Recall and remember that CDBG-assisted code enforcement should focus on the condition of buildings and structures primarily rather than on those other appearance issues.

Also, we're going to get into national objective compliance with regard to code enforcement. Now, the primary national objective that's used for CDBG-assisted code enforcement is benefit to low and moderate income persons on an area basis. The citations are here. With this national objective, the area that is defined as the service area for the activity being carried out must be primarily residential and at least 51 percent of the residents of that area must be low or moderate income.

Inspections can be conducted on any type of property. It can be conducted on any type of property. It can be single unit housing, multifamily housing, commercial structures, privately or publicly owned buildings, public facilities and so forth, however, as stated before, they have to be in a primarily residential area to meet this national objective with a minimum of persons that are low or moderate income of 51 percent.

But I want to point out something important, an area that is deteriorated or deteriorating may not meet this national objective if it's not primarily residential. In other words, if you have a commercial area that is deteriorated or deteriorating, which will probably not be primarily residential and also note that an area that is 51 percent low or moderate income may not meet the state or local law definition of deteriorated or deteriorating or the standards that are identified at 570.208(b)(1).

You know, note that an area, just because it's 51 percent LMI, that's not sufficient on its own. The area also has to be primarily residential and meet the state/local law definition of

deteriorated, deteriorating or the standards identified above for entitlements in state at 570.208(b)(1) or 570.483(c)(1), depending on whether it's an entitlement or a state grantee.

These are the standards that I mentioned before that may be used to determine if an area is deteriorated or deteriorating. With limits, if there's no state or local law definition for deteriorated or deteriorating. The first one is the most important: the area has to meet the definition.

In other words, if you don't have what must be developed of a slum/blighted area, deteriorated or deteriorating, even if you don't have a deteriorated or deteriorating but you do have slum and/or blighted, that may suffice, depending on how it -- if it's related to defining structures and buildings. And notice that there are several things listed in the next bullet.

There are several of these and you only have to meet one of them. You don't have to meet all of them. A lot of people use the first one, at least 25 percent of the properties throughout the area must have physical deterioration of buildings and/or improvements and that has to be documented. You know, an area may have a lot of abandoned properties, but it doesn't have to meet everything identified here.

It has to meet at least one of them. And another is the public improvements throughout the area are considered to be in a general state of deterioration.

In this case, if this national objective is being used, the area that is being inspected does not have to be primarily residential, but that is a requirement to meet the area benefit national objective, however, an area that has been designated as slum and/or blighted or deteriorated or deteriorating has to be reviewed every 10 years so that the area can continue to be designated as slum and/or blighted.

It's possible that the improvements that will be made in the area over such a period of time will mean that the area will no longer meet any definition of slum, blighted, deteriorated or deteriorating and in that case, that national objective can no longer be used in that area. This is the urgent need national objective mentioned earlier.

Generally, this national objective is used when there's been a disaster, whether it's presidentially declared or not presidentially declared, your hurricanes, your tornados, your floods, high winds and other damage that may occur and the citations are here for entitlement to the states, but to use this national objective for code enforcement, the inspections have to be carried out in an area that experienced some type of disaster or some type of storm or tornado or some other type of disaster.

They also have to certify that the existing conditions pose a serious and immediate threat to the health and welfare of the community and one example of that is if you've had a tornado or hurricane, you may have large trees and branches and so forth in the roads and that means that ambulances can't get around to attend to people who may need urgent medical assistance.

So that is something that would pose a serious and immediate threat to health and welfare of persons in the area so affected. The disaster's occurrence must be a recent origin and here it's stated 18 months or less time or it must have recently become urgent.

Now, notice that for presidentially declared disasters, FEMA normally is the first line of assistance for jurisdictions and CDBG funds can be used in these jurisdictions for other activities, but it's important to note that the FEMA funds must be exhausted first before CDBG funds can be used. If there's still FEMA money that can be spent, then CDBG money cannot be used for an activity that would meet the urgent need national objective.

Just to state it, I guess I went a little too fast, but these are additional requirements for meeting the urgent need national objective. You have to be able to certify that you can't finance the code enforcement on your own and that you don't have any other financial resources available to do so and for states, since the units of government actually carry out the activities, they have to certify and the state has to make the determination that the conditions identified in the first bullet are there.

Grantees, you must also be able to document that the inspections for the violations and enforcement of codes were designed to address the urgent need, not just for activities in general, but only those that were designed to address the urgent need and at the 18-month or less requirement and also there must be documentation in the file that no other financial resources were available to address the urgent need.

Now we're going to talk about how to treat revenue from code inspections and enforcement of codes. Generally, fines are assessed to property owners that have code violations and you may ask, how do you treat these fines, first and foremost, I want to point out that fines are not considered program income and the definition of program income is at 24 CFR 570.500(a).

Depending on the intended purpose of the fines, why they're being imposed, will determine how the fines are treated, whether they can be treated as applicable credits to the program or as general revenue. Let's talk about applicable credits first. This is the definition from Part 200 for applicable credits.

There are usually receipts and reductions of expenditure type transactions that offset or reduce expense items allocable to federal awards and what that means is that it's similar to getting a rebate for something. It reduces the cost of carrying out an activity with federal funds; in this case, CDBG funds.

If grantees incur applicable credits or the fines are treated as applicable credits, they have to be credited to the CDBG award for code enforcement either as a cost reduction for carrying it out or as a cash refund as appropriate. Generally, it'll be a cost reduction. And here are the requirements for code enforcement fines to be considered applicable credits.

Excuse me. The cost of the inspections and the enforcement, the salaries, the activity delivery costs, such as the coveralls and the pads and the legal hearings and so forth have to be the wholly or partially paid for with CDBG and it has to state that the intended purpose for the fine is to

recover the cost incurred for the code enforcement activities without regard to the source of funds that was used to pay for the code enforcement activity.

But the first one is the most important that it has to be CDBG funds that were used to pay these costs for the code enforcement inspections and enforcement of codes from CDBG and if they are applicable credits, they have to be used to reduce the costs. I'll give you a simple example -- because you can't simply just add the amounts that you collect from the fines to your usual draw that you probably make annually if you -- for code enforcement if they -- if you actually carry out that activity.

Let's use a simple example. Let's say every year you spend about \$100,000 on -- in CDBG for CDBG-eligible code enforcement and let's say you collected \$1,000 in fines, so next year when you make your draw for code enforcement, because you have \$1,000 in fines, you would only draw down \$99,000 since you have that \$1,000 in fines to offset the cost of carrying out the code enforcement with CDBG funds.

If they are to be treated as general revenue, first and foremost, the purpose of the fine cannot be to recover the cost of the code inspections, then enforcement and if there was no CDBG used to pay for any code enforcement or the amount of the fine exceeds the cost paid with CDBG funds, then the fines collected would be considered general revenue.

Now we're going to talk about the recordkeeping requirements. These are important, because this is an area that has been troublesome in the past with some grantees.

Usually, what happens is that there's a lack of time distribution records and documentation that shows the use of CDBG for code enforcement in eligible areas and if, as grantees, you don't have complete and accurate documentation, when you're monitored by HUD, there may be monitoring findings and disallowed costs and some may require repayment of the amounts expended.

So to keep this from happening, you must ensure that your records and your documentation show eligible activities, like I said, the costs for enforcing the codes, for the inspections and so forth, actually have to show national objective compliance, you have to show the allowability of the costs and if they're reasonable, because costs must be reasonable in accordance with 2 CFR 200.404.

As grantees, you're also responsible for ensuring that the time distribution records are accurate. Some people spend some of their time on CDBG-assisted code enforcement and non-CDBG and it's important that you have to track the time spent on CDBG-assisted code enforcement to show that the costs that you're charging to the CDBG program are eligible and reasonable.

For the entitlement program, the regulations at 570.506 tell you what records you must keep to show that the activity is eligible and meets the national objective and this is for all activities, including code enforcement activities. The language at 570.506 states that you must be able to show it's eligible and how -- and it breaks out by each national objective what documentation you must have in your files to show that the activity met one of those national objectives.

For the state program, the regulations are in a different place, 570.490(a) and (b) and they identify the records that the states and the units of government that they award funds to have to maintain and have available. One of the most important records that has to be in a file for code enforcement is the state and local law definitions of deteriorated and deteriorating that was used as a basis for determining that an area was eligible for CDBG code enforcement.

Attached to these may also be pictures that show the conditions of the areas where CDBG-assisted code enforcement was carried out. Here this identifies what documentation you must have in your files for whichever national objective that you choose to use for your CDBG-assisted code enforcement and as I stated, there are three.

The primary one is area benefit and remember that 70 percent requirement for having to use CDBG funds on activities that benefit low and moderate income persons and also here the slum/blight area national objective criterion is identified as long as the criteria for meeting the urgent need national objective it falls in line with what was identified in the slides presented earlier on the documentation that must be maintained.

Now, remember that part of regulations at 570.202(c) said that along with improvements that may be identified to arrest deterioration of the area. So they have to identify what those activities are. Whether they will be a CDBG-assisted or not, it doesn't matter. They don't have to be CDBG-assisted, but whether -- it's usually rehabilitation that will show how the decline of the areas is being addressed.

Also, salary records for code enforcement inspectors pay with CDBG funds and the descriptions of the areas that they're responsible for inspecting. Those descriptions should match and be identified with the areas that have been identified by state and local law to be deteriorated or deteriorating.

Also, if there are legal proceedings and CDBG funds is used, for example, to pay for the hearing officer, the cost for those proceedings have to be documented and the costs must be reasonable and any salary costs. So usually for the code enforcement inspectors have to be shown by time distribution records and the time records have to contain something that shows what was done during the time that was being charged to CDBG.

So let's say if a person spends 40 percent of their time doing code inspections in CDBG-eligible areas that means that 40 percent of their salary can be paid with CDBG funds, but the records also must show the duties that the person had and where.

For example, you can say person X spent 3 hours conducting code enforcement inspections of 10 units in the 500 Block of Main Street, 10 units in the 600 Block of Orange Street and 4 units in the 700 Block of whatever street and also attach a map showing that these streets are in the identified areas -- I mean, in the areas that have been identified as deteriorated or deteriorating.

The more documentation, the better. Last but not least, these are links that are being provided to assist you in your use of CDBG funds to carry out code enforcement and some are just helpful links. The notice that gives the guidance that I identified earlier is the most important one than

the one you may need to access the most and that's the link to access that notice if you don't have one handy.

We also provide a list of exception grantees. These are grantees that are allowed to spend less CDBG funds for activities that benefit less than 51 percent low or moderate income persons, because they do not have a sufficient population of low or moderate income persons and there are some areas they even have low or moderate income exception percentages as low as 30 percent, some even up to 40 percent.

And also, there's information for limited English proficient information and guidance for persons who have limited English proficiency as well as the state guide, which is a little different from the entitlement guide on recordkeeping. Additional ones to help you understand the program a little better, we have a link to the entitlement program on the HUD Exchange as well as the state program, also our laws and our regulations and a list of all of your field offices.

Your field offices are usually your first line of contact if you have questions or concerns about any CDBG-assisted activity and code enforcement is just but one of those eligible activities. This concludes the presentation. Are there any questions?

Nicole: We had a few questions come in and if anyone has additional questions, you can send them to the Q&A box and time permitting we'll be able to answer some of the more -- the shorter ones.

So the first question we have is, "How are areas defined? Can an area be just a single property?"

Gloria Coates: That's considered deteriorated or deteriorating?

Nicole: Yes.

Gloria Coates: No. General, it's a total area. It's not one, because usually, if you have one dilapidated property and an area that's not slum and/or blighted, usually, something like that would be under the slum/blight spot national objective and code enforcement, that's not one of the national objectives that can be used.

I meant to point out earlier that slum/blight can be the slum/blight area, slum/blight spot or slum/blight urban renewal and there are a few grantees remaining that do have -- still have urban renewal properties and urban renewal plans and in that case, they can use CDBG to address it, but for code enforcement, generally, it would be the slum/blight area national objective.

Nicole: Great. And how would -- I know we talked about this a little bit at the beginning, but how would we define deteriorated or deteriorating or where can people find that definition?

Gloria Coates: It should be contained in your state or local law. I mean, most jurisdictions have legal counsel, either city attorney or county attorney or someone that they can consult to obtain that definition if they cannot find it in their local ordinances or statutes or even down to if it's a

county, perhaps a town ordinance or city ordinance or something like that or even a county ordinance.

Nicole: Great. If the entire area meets the deteriorated definition, can code enforcement then be the majority-funded using CDBG or would that be considered a general government expense?

Gloria Coates: Most areas in any jurisdiction are not deteriorated or deteriorating, they're usually pockets of areas within a jurisdiction and those are the only areas where CDBG can be used for code enforcement. Any code enforcement conducted outside of an area that -- excuse me, that is considered deteriorated or deteriorating would be considered a general government expense.

Nicole: Great. "Can the detailed timesheets be maintained electronically or must they be printed paper copies?"

Gloria Coates: If you can maintain in -- electronically, you may do so, however, if you're ever monitored by HUD, you will have to make the information readily available and usually, that means paper and if they're monitoring using Exhibit 34.1, which is a financial exhibit, they may have to -- they may ask for copies of time records and supporting documentation for those records. So they have to be readily available to be printed out.

Nicole: Okay. Thank you. "Can you talk a little bit about the 51 percent and under threshold and then the 70 percent requirement of benefit -- that it will benefit persons of low and moderate income?"

Gloria Coates: Yes. Let's start with the overall benefit requirement. The primary purpose of the program is to assist persons of low or moderate income and that -- and to address that, that's why the statute requires that for a period of certification of either one, two or three years, the grantee is free to select whether it's one, two or three years, whatever that period is 70 percent of the funds expended that year must be for activities that benefit low or moderate income persons.

So if you're doing code enforcement and you find that it can meet area benefit and slum/blight area, it's best to choose area benefit, because that's a national objective of benefit to low or moderate income persons and it will help with ensuring that, what we call, the overall benefit requirement is met, because if that's not met, then whatever money is not spent for under 70 percent will have to be repaid. There's no other way to remedy that.

Nicole: Great. Thank you. "Can you hire a general-funded code enforcement inspector to conduct an inspection in a CDBG-eligible area?"

Gloria Coates: Yes, if you do not have a code enforcement department or an area in your unit of government that handles code enforcement inspections. If it's another unit of government, let's say you live in a county and you are a city of maybe 500 and -- or 1,000 or a couple -- few thousand and the city next to you is probably 20,000 and they actually have a code enforcement, you can actually hire their code inspector without procuring him to come and conduct code enforcement in your area.

Nicole: Great. "Are costs for securing a vacant and blighted home eligible and are costs for demolition-ing blighted properties eligible?"

Gloria Coates: Yes, they are, but they're not eligible under code enforcement. It depends on the circumstances. I mean, can you give me a little bit more?

Nicole: I'm not sure. I think that might be a more detailed question. Where would you recommend that people reach out to to answer these questions that are -- or to ask these questions that are a bit more detailed?

Gloria Coates: I understand that you are collecting them for me so that I can address them. So I will address the questions that are more detailed in length in writing, but if you have questions -- I think there was one that was a two-part question, I think I only identified half of it. It was overall benefit. What was the other?

Nicole: The 51 percent threshold.

Gloria Coates: Okay. Exception grantees, there are some areas in the country that are wealthier than others and they don't have what we would call a sufficient number of low and moderate income persons for the area to be compliant with the area benefit national objective by having 51 percent low or moderate income persons.

So they are allowed to have less than 51 percent and it's called the upper quartile. It's a mathematical formula that's used to determine what their exception percentage would be. Let me see if I can remember an example. I think at one point, Oakland County in Michigan had an exception percentage of 36 percent, because that was the highest quartile of low or moderate income persons that was found in the county, however, the City of --

I can't remember the name of the city off the top of my head, but there's a city located within it that's its own separate entitlement that had a much larger population of low or moderate income persons and when it -- oh, the City of Pontiac.

So when Pontiac decided to give up its entitlement status and join the county, that significantly changed the county's demographics so that it was no longer 36 percent low or moderate income, because once they were added, then the entire area then changed so that it was maybe 45 or 46 percent low or moderate income. So their exception percentage went from 36 percent to like 45 percent.

Nicole: Thank you for that explanation. "Do you have to be a rehabilitation program -- do you have to have a rehabilitation program in place in order to use CDBG funds on code enforcement?"

Gloria Coates: No. You do not. If you do not have one and let's say you inspect homes and sign violations, if you have another program that can address them that is not CDBG, you can use those funds, local funds to address the violations if you don't have a CDBG-assisted housing

rehab program and depending on how bad the violations may be and what's needed, grantee may also use HOME funds if it receives HOME funds for the rehabilitation of the property.

Nicole: Great. "Is a general cleanup in an eligible area covered under code enforcement?"

Gloria Coates: No. General cleanup of an area is considered a public service under 570.201(e) and as such, it is subject to the 15 percent public service cap.

Nicole: Great. I think we're nearing the end of the questions. If participants have questions that they think of after the webinar, who should they reach out to?

Gloria Coates: You can send them to me.

Nicole: Okay. Sounds good. And I just wanted to say that a recording and the slides will be posted on the HUD Exchange after the webinar. Oh, we have another question that just came in. "What if no rehabilitation program exists from no other funding sources besides CDBG?"

Gloria Coates: Well, actually, since the property owner is responsible for addressing the violations -- I mean, the violations do not have to be addressed by the grantee with CDBG funds or another funding source, because the violations or correcting them are the responsibility of the property owner.

So if they don't have a rehabilitation program or some other program in place, then that will assist an owner, especially a low or moderate income owner, then that person will have to turn to another source to have the house fixed and it could be a different federal program, it could be a different local program.

Nicole: Great. Another couple questions have come in. One is, "Are the service costs to operate tablets or computers an eligible CDBG expense?" And I'm guessing that has to be more specific to code enforcement. So how does technology fall into eligibility in code enforcement?

Gloria Coates: Okay. Usually, when the code inspectors go out to do the inspections, they have to have a way of recording their findings and I mean, some may use old-fashioned pen and paper, but in this day and time, most use some form of electronic device, such as an iPad or a tablet or something of that sort to input their findings and in turn, that can generate a citation, if necessary or a warning or whatever is needed to make the person aware that there are violations and that they have to be addressed.

Nicole: Great. Thank you so much. Do you have any closing thoughts or comments that you'd like to give about code enforcement in general or anything that you find important to reiterate from today's presentation?

Gloria Coates: Nothing but to be mindful that if you use CDBG funds for code enforcement, it must be an area that's deteriorated or deteriorating, whether or not that area is 51 percent low or moderate income, however, whenever possible, you should seek to meet the area benefit national objective, because it does assist with compliance with the overall benefit requirement unless you

carry out little to no activities that meet the slum/blight spot or area national objective or urgent need.

Nicole: All right. Well, thank you so much for giving this presentation today.

Gloria Coates: Well, you're welcome and I look forward to addressing the questions.

Nicole: All right. Have a great day.

Gloria Coates: You too. Thank you. Bye.

(END)